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SENATE—*Tuesday, June 16, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God of power and providence, we begin this day of work in the Senate with Your assurance: "I will not leave you nor forsake you. Be strong and of good courage."—Joshua 1:5–6. You have chosen to be our God and elected us to be Your servants. You are the Sovereign Lord of this Nation and have destined us to be a land of righteousness, justice, and freedom. Your glory fills this historic chamber. Today has challenges and decisions that will test our knowledge and experience. We dare not trust in our own understanding. In the quiet of this moment, fill our inner wells with Your Spirit. Our deepest desire is to live today for Your glory and by Your grace.

We praise You that it is Your desire to give good gifts to those who ask You. You give strength and courage when we seek You above anything else. You guide the humble and teach them Your way. We open our minds to receive Your inspiration. Astound us with new insight and fresh ideas we would not conceive without Your blessing.

Help us to maintain unity in the midst of differing solutions to the problems that we must address together. Guide our decisions. When the debate is ended and votes are counted, enable us to press on to the work ahead of us with unity. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. MACK. Mr. President, this morning, the Senate will begin a period for the transaction of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the tobacco bill with a Gorton amendment pending regarding attorneys' fees. It is expected that a time agreement will be reached with respect to the Gorton amendment, with a vote occurring on, or in relation to, the amendment this afternoon. Following disposition of the Gorton amendment, it is hoped that further amendments will be offered and debated during today's session. Therefore, rollcall votes are possible throughout today's session as the Senate continues to make progress on the tobacco bill.

As a final reminder to all Members, the official photo of the 105th Congress will be taken today at 2:15 p.m. in the Senate Chamber. All Senators are asked to be in the Chamber and seated at their desks immediately following the weekly party luncheons. I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the distinguished Senator from Florida, Mr. MACK, is recognized to speak for up to 15 minutes.

Mr. MACK. Mr. President, thank you.

INDIA-CHINA

Mr. MACK. Mr. President, I rise today to express my concern with the handling of United States foreign policy on the eve of President Clinton's second summit with the People's Republic of China. American foreign policy should promote freedom, democracy, respect for human dignity, and the rule of law. It is hard for me to imagine that the President would reward inappropriate actions by the Chinese Communist Party leaders while simultaneously sanctioning the democratic leaders in India.

Over India's 50-year history, U.S. relations have been hot and cold. But we cannot deny the reality that today, India is the largest democracy in the world. India recently held the largest democratic elections in the history of the world. And democracy is more than just a word. We have a common bond with the Indian people based upon a commitment to democracy, freedom, and the rule of law. They are a people who have struggled for freedom from a colonial power in order to gain independence. We share that struggle in our histories.

India has many friends in the United States, and many Americans proudly claim Indian heritage. But our relationship with India has been neglected, and unfortunately, we find ourselves in a difficult bind. Due to India's recent decision to detonate nuclear devices on May 11 and May 13, we have instituted sanctions. I deeply regret the circumstances regarding India's decision to detonate nuclear devices. But the increased instability has been caused by China's proliferation policies, a U.S. foreign policy which favors China over India, and the licensing of technologies by the United States which enhances China's military capabilities.

Let me review some of the facts.

India has broken no international laws or agreements by choosing to test nuclear devices.

India is not a known proliferator of weapons or weapons technology.

India's 50-year history demonstrates peaceful intent exercised within a democratic society.

India has been a nuclear power since it conducted its first nuclear tests in 1974; this status did not change with last month's tests.

Although not at war, India's borders are considered "hot spots" for several reasons.

Since independence in 1947, India and Pakistan have been disputing borders.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Also since independence, India has understood the importance of good relations with China for its own security.

Relations were clouded by China's occupation in 1950 of Tibet, which had been independent until then and served as a stable buffer between the two countries. This occupation brought Chinese expansion to India's border.

India sought renewed cooperative relations on the basis of a policy that recognized Tibet's genuine autonomy under Chinese sovereignty in order to maintain a buffer between India and China.

Relations completely changed, however, following China's military buildup in Tibet beginning in 1956 and 1957. During this period, China began the systematic oppression of Tibetan religion and culture, forcing the mass migration of Tibetans. The Dalai Lama and thousands of Tibetans were given refuge in India in 1959. After forty years, the Tibetan oppression continues, the military occupation of Tibet continues, and nearly 200,000 Tibetans remain in India.

Between 1957 and 1962, India's relations with China were marred by Beijing's huge territorial claims amounting to 50,000 square miles, and its illegal use of force to occupy 15,000 square miles of that claimed area.

Indian attempts to reach a border settlement through negotiations with China failed in 1961, and its attempts to prevent further Chinese encroachment into Indian territory was met by a massive Chinese invasion in 1962.

To this day, China continues to occupy 15,000 square miles of Indian territory in Ladakh and it claims sovereignty over the entire 35,000 square miles of India's Northeastern most province [Arunachal Pradesh]. This source of tension and deep concern has not been removed despite several rounds of Sino-Indian diplomatic negotiations to resolve the border dispute since 1981.

China conducted its first nuclear test in October 1964, within 2 years of the outbreak of the Sino-Indian War. In 1966, China tested its first medium range ballistic missile, and tested again in 1970.

India decided to develop its nuclear weapons program in 1970. It conducted its first tests, declaring its capability to the world, in 1974.

India did not join the Nuclear Nonproliferation Treaty—known as the "NPT"—in 1968 because the treaty sought to ensure an arms control system that would allow the five powers alone—China, France, the United Kingdom, Russia, and the United States—to possess nuclear weapons. That meant that China, the internally oppressive and undemocratic occupying force on India's border, would be permitted to have nuclear weapons while India, fearful and insecure, would be denied any recourse to such weapons.

India has not signed the Comprehensive Test Ban Treaty because the treaty seeks to prevent India from conducting further tests without limiting China's ability to do the same. Like the NPT, India refuses to join this treaty as a nonnuclear power unless China and the other powers agree to disarm.

Between 1974 and 1998, India experienced sanctions by the United States on nuclear energy, space, computer, and other technologies.

Following India's first nuclear tests in 1974, it did not conduct further tests, until now.

India has not been a proliferator of nuclear weapons and missiles but China, a nuclear power, has proliferated.

Some estimates indicate 90 percent of China's weapons sales go to states which border India. Of particular concern is Chinese proliferation of such weapons and technologies to Pakistan.

Between 1974 and 1998, India has tried to break through the difficulties with China and Pakistan. India had not conducted any further tests, even though China had. India had not illegally proliferated weapons—China had. But India has been denied the same nuclear and technical cooperation which we have accorded to the PRC.

India's commercial electricity needs are among the largest in the world, similar to China's. We have recently signed a nuclear cooperation agreement with the PRC, but maintain restrictions on nuclear power agreements with India.

India's testing in 1974 and in 1998, again, violated no agreements. North Korea expelled international inspectors in 1993, in direct violation of the NPT. We "rewarded" the brutal dictatorship in North Korea with a classic appeasement plan—free fuel oil and $4 billion worth of the top of the line nuclear reactors in exchange for their promises to do what they didn't do under an internationally binding agreement.

China may be too preoccupied today to directly threaten India, but they need only employ Pakistan as a surrogate belligerent to jeopardize India's security.

Mr. President, the United States is helping the largest single-party authoritarian government in the world suppress the development of the largest democracy in the world. I submit that China's behavior against students on Tiananmen Square, resistance to freedom and democratic reforms, abysmal human rights record, and dangerous and irresponsible proliferation activities deserve America's scorn more than India's legal actions taken in defense of its own national interests. There is something inherently wrong with sanctioning a democracy legally acting in its perceived national interests while rewarding a single party communist state which threatens regional security in violation of international law.

India watched carefully as the United States has led the world in a policy of engagement with China. From the U.S.-China relationship, India has learned some important lessons. First, look at the rationale the U.S. gives for its policy toward China. We must "engage" with China because it is the most populous country, an enormous potential market, a major trading nation, a member of the permanent five at the United Nations Security Council, and China is a nuclear power with a modernizing military. With these qualifications China has been able to get top priority and attention from U.S. Government and business leaders. In spite of posing a potential threat to the United States and being among the world's worst human rights violators, China gets the perks of enormously favorable trade and investment flows and top level diplomatic treatment, including presidential visits, while India gets sanctioned. This makes no sense—it is strange—and it's just wrong.

The United States largely overlooks India despite its 950 million people, its democratic government, and the largest middle class in the world. Demographers predict that India's population will surpass that of China sometime during the next century. Thus, the only attribute India lacks when compared with its sometimes-aggressive neighbor, in this administration's definition of importance, is acceptance into the "nuclear club." The message sent by the Clinton foreign policy team has encouraged India to conclude the most effective way to ensure its interests are protected from an increasingly powerful Asian superpower, and garner greater diplomatic and commercial attention from the West, is to remind the world of its nuclear deterrent capability.

What lessons are we to learn? First, the United States should be more cautious with our definition of "engagement." By overlooking China's proliferation activities—not imposing sanctions when required by law—we are rewarding the wrong behavior. Second, understanding that India considered its security environment to be precarious enough to risk global condemnation and economic sanctions, the U.S. should take a closer look to assess whether India's fears and actions were justified. And finally, we must base our foreign policies upon the principles of freedom, democracy, respect for human dignity, and the rule of law. We must look to our friends first in this endeavor, and work together to "engage" those who would oppose freedom in the world. India, along with Japan, Korea, the Philippines, and other Asian democracies should form the foundation from which our engagement in Asia begins. Working with the democracies of the world, we should engage China and bring the 1.2 billion Chinese people into the community of free nations.

A foreign policy devoid of principle has led us to the point where we are rewarding dictators and punishing democracies. The President's visit to China this month represents another opportunity to define the United States' role in the world. The President must clearly articulate which behavior deserves praise, and which does not. He must demonstrate strong leadership on behalf of the American people. We must all understand, the behavior which the United States rewards is likely to be the behavior we will see more of in the future.

Mr. President, I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I ask, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. BINGAMAN. I ask unanimous consent to speak for up to 8 minutes in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE TOBACCO BILL

Mr. BINGAMAN. Mr. President, let me just say a few words about the tobacco bill which we have been on here for a couple, 3 weeks now in the Senate.

In my opinion, this tobacco bill is a historic piece of legislation. And I have complimented personally the Senator from Arizona, Senator McCAIN, for his leadership in the Commerce Committee and here on the Senate floor in bringing this bill here and pushing for its enactment. I believe very strongly that when historians look back on the 105th Congress and ask, What did the 105th Congress accomplish? if we are able to pass tobacco legislation, significant tobacco legislation, that will be the single item they will point to as a substantial and major accomplishment by this Congress. So the time we are spending on this tobacco bill is time well spent.

I firmly believe that since I have been here in the Senate—and I have been here now nearly 16 years—during that time there has been a dramatic change in public opinion on the issue of smoking and tobacco use in this country, particularly on the issue of young people beginning to smoke.

What I see this legislation as is an effort to bring our public policy into line with our public opinion, because public opinion has changed dramatically. Our public policy has not changed to the same extent, and we need to get on with the business of changing public policy to mirror and reflect what the American people want to see done. That is why the legislation is so important.

We have spent many hours discussing this legislation. We have had several amendments offered and debated, and several adopted. I think all of that is to the good. And I think anyone who has watched the Senate operate for any period of time would have to acknowledge that, although we have spent substantial time on the tobacco bill, so far we have not seen a concerted effort by the leadership to bring this issue to a close, to bring the debate to a close, to get a defined list of amendments that need to be concluded before we can finish the bill and move on to another item.

So, clearly, that is our agenda for this week. I believe very strongly we can finish this bill this week, or certainly if not this week, we can finish it next week. We owe it to the American people to do that.

I know there are others in the Senate who have different opinions on that. We have heard a lot of public statements over the recent weeks and months about how this bill is dead and how the bill is dead on arrival. And I have thought, if I had a dollar for every statement that has been uttered about how this bill is dead, I would be a rich man today. Mark Twain was famous for his statement that the news reports of his demise were exaggerated. And I think that the news reports about this bill being dead are exaggerated as well.

I think there is ample support here in the Senate to pass this bill. There is ample support in this Senate to pass a strong bill, to send it to conference, and I hope that there is support in the House of Representatives to do the same thing. Time will tell whether that turns out to be the case.

So I believe very strongly we need to go ahead and get a cloture motion filed again. I hope Senator McCAIN, the lead sponsor of the bill, will take that initiative. I think we need to get a defined list of amendments that still need consideration once that cloture motion is completed, and then we need to go ahead and conclude action on the bill.

I believe the best thing we can do for the American people before the Fourth of July break—and the Fourth of July break will begin the Friday after this Friday—the most important thing we can do for the American people is, prior to that date, going ahead and passing this historic legislation and sending it to conference.

I urge the majority leader to use the power of his position, which is substantial, to move the bill forward. I compliment all my colleagues who have voted for cloture in the previous efforts to bring closure to the debate and to get a limited list of amendments for further consideration. But I urge everyone, this week, to vote for cloture. I hope we can get that done. I hope we can pass a bill with a strong bipartisan vote and send it to conference. I think the American people will thank us for that action, and we owe that to them.

Mr. DORGAN. I wonder if the Senator from New Mexico would yield?

Mr. BINGAMAN. I am happy to yield to my colleague from North Dakota.

Mr. DORGAN. Mr. President, the Senator from New Mexico makes a point that I feel strongly about. If we don't finish this product now, if we don't get a tobacco bill completed in the Senate, in my judgment, we probably will never get it done.

We have come a long, long ways. We are, I think, close. I don't think there is any question but if the tobacco bill were voted on by the full Senate, it would pass. I don't think there is much question about that.

There are some in the Senate, however, who are intent on trying to kill the legislation. So we have been tied up here in legislative knots, going through some amendments, but going through a process that has led some to conclude that maybe this bill ought to get pulled, maybe we ought to go to something else.

I ask the Senator from New Mexico, as it was stated this weekend by the majority leader that perhaps we have to move to some other legislation, is it the belief of the Senator from New Mexico that if we don't get this bill completed now, it is likely we will never get this piece of legislation?

Mr. BINGAMAN. Mr. President, I respond to the question by just saying I believe we have this week and we have next week. There is no more important activity we can commit that time to than completing action on this bill. I think the momentum for moving ahead on the bill will be lost if we don't get it done before we break for the Fourth of July recess.

Clearly, the notion of giving up on this and moving to another piece of legislation—I don't know of any other piece of legislation that is so urgent or so important that it would justify going off of this bill. I am not aware of anything on the Senate's schedule that would justify that action.

Mr. DORGAN. Mr. President, if the Senator would yield further, I point out that I, and I think a number of others in this Chamber, would resist strongly an attempt to move to some other piece of legislation. That would require a motion to proceed, which obviously some of us would resist strenuously. We think it is important to finish this bill.

I think that some have missed the point. You go through this process and have a debate. Some have missed the point. The point here is about trying to prevent children from smoking in this country and trying to prevent the tobacco industry from targeting kids with their tobacco products. That is not rocket science. We can do that.

The piece of legislation that is before the Senate is a good piece of legislation which has a series of things in it which are very important—smoking cessation programs, counteradvertising programs, prohibitions against advertising in ways that will target children, getting rid of vending machines in areas where children have access to cigarettes—a whole series of things that try to make certain that in the future we will not have the tobacco industry able to target kids to addict them to cigarettes.

We know every day 3,000 kids start smoking in this country. We know 1,000 of those 3,000 will die. We know 300,000 to 400,000 people in this country die every year from smoking and smoking-related causes. We also know that smoking cigarettes and the use of tobacco products is legal for adults and will always remain legal. No one is suggesting that it be illegal. But we are saying with this piece of legislation that we ought not have a tobacco industry get its new customers from teenagers.

I read yesterday and the day before a whole series of statements we have now unearthed from the bowels of the tobacco companies which demonstrate that they understood that their customers are teenagers, their future customers come from teenagers. If you don't get them when they are young, you don't get them. The industry's own documents suggest that—that if you don't get them when they are kids, almost never will they reach age 30 and try to evaluate, What am I missing from life? come up with the idea they are missing smoking, and go out and start getting addicted to cigarettes. That almost never happens.

I say to the Senator from New Mexico, and I ask him this question, it seems to me we have kind of lost our way here on this bill as it has been on the floor of the Senate for some weeks now. It seems to me that we have, through amendments, gone zigzagging across the landscape here and forgotten what the central premise of this piece of legislation is; that the central premise, is it not, is to try to make certain that we are not having an industry targeting our kids to smoke, and also providing a whole series of steps—smoking cessation programs, investment in health research, counteradvertising, and a range of other things—to try to make sure that will not happen in the future; is that not the case?

Mr. BINGAMAN. Mr. President, I think that is clearly the case.

I think although there have been some far-reaching amendments added to the bill, the central core of the bill remains the same. It remains an effort to deal with the problem of young people beginning to smoke. And, of course, it is a public health issue.

That is the reason I believe this legislation is historic, because it goes directly at dealing with the major public health issue that is before this country today and that can be dealt with. So, I think it is extremely important we move ahead.

I understand there are particular provisions of the bill and particular provisions of some of the amendments that various Members don't like, but it is almost ironic because you hear people come to the floor and support amendments to the bill and then use the fact that those amendments have been adopted as a reason for claiming that the bill is now so loaded down that we can't support the bill. To my mind, the right course is for us to go ahead and pass the bill, consider remaining amendments, adopt those that have the votes there to adopt, pass the bill in that form, get it to conference, and hopefully the House will do the same.

I believe that the same people who are urging me as a Senator to take action on this important public health issue are urging Congressmen from my State to take action on this important public health issue as well. I hope that if we do the right thing before the Fourth of July break, the House will come back in July and do the right thing by passing a responsible bill and then we will be able to get a conference and get something that we can send to the President before we adjourn this fall. That is what is important. We have a historic opportunity here. I hope very much we will rise to the occasion.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, we started debate on this bill weeks and weeks ago here on the floor of the Senate. We started action on this bill months ago in the Commerce Committee. I think we may have forgotten that we started real action nearly a year ago. It was on June 20 of last year that there was an agreement announced between the attorneys general and the tobacco industry. That was the basis that led Congress to act. We are talking 1 year. On June 20 of 1997, the attorneys general entered into an agreement with the tobacco industry.

Here we are, June 16 of 1998, and we still haven't acted. Now some are saying we shouldn't act. The majority leader said over the weekend that he thought this bill was dead. Well, he has said that about every week. About every week there is an announcement by the majority leader, the bill is dead. He said that when it was still in the Commerce Committee, yet it came out of the Commerce Committee on a 19-1 vote.

Mr. President, I remind my colleagues that this has been going on for a year because that has special importance. We are talking about 3,000 young people who take up the habit every day—3,000. Over a year, that is over a million kids who have taken up the habit of smoking and the use of tobacco products.

And we know that one-third of them will die prematurely as a result. That is, over 300,000 children are going to die prematurely because they have taken up the habit in the one year since the settlement between the attorneys general of the various States and the tobacco industry. They entered into an agreement to fundamentally transform policy toward tobacco in this country. And now the question is, Is Congress going to act, or are we going to have an enormous leadership failure here in the U.S. Senate? That is the question.

I don't think anybody wants to have that kind of failure on their hands. The fact is, it is very interesting that when people have a chance to vote, things are much different than when they are just talking with the newspapers. We have seen that over and over and over. In the Budget Committee, in the Finance Committee, when people had a chance to vote, they did vote, and the outcome was often much different than what was predicted.

Let's look at the bill before us. We are talking about seeing the price increase $1.10 a pack over the next 5 years. Why is that important? Well, every single expert that has come and testified, every element of the public health community has said that a significant price increase is important in order to reduce youth smoking. That is not the only part of reducing youth smoking, but it is an important part. Second, we voted on look-back provisions. Look-back provisions are the penalties to be imposed on the industry for the failure to reduce youth smoking in line with the goals provided for in the legislation.

We made a significant change here on the floor of the Senate. Before, most of the fee was going to be charged to the industry on an industry-wide basis. Some of us didn't think that made much sense, because what happens when you do that is you put the good in with the bad. Those companies that have accomplished the goal pay the industry penalty just as those companies who have failed to reach the goal. What sense does that make? That is not fair. Instead, we think most of the fee ought to be placed on the companies which are the ones that failed to meet the goal. They are the ones that ought to be held accountable, the ones that ought to pay, and so that change was made here on the floor.

Third, we dealt with the question of liability. Out of the Commerce Committee, just as in the proposed settlement, there was special protection for this industry—protection never given any other industry in our history. The vast majority of us on the floor of the Senate said, no, that is not right; we should not be giving special protection to this industry. That is not appropriate. So that was changed.

There have been other significant changes on the floor of the Senate. A third of the revenue will now go for tax relief. Some of it is designed to relieve the marriage penalty. In addition, there will be other tax relief as well. So about a third of the revenue now goes for tax relief. Many of us thought it was appropriate to have some of the money go toward tax relief in this package, and now fully a third of it does.

In addition, there are provisions to deal with illegal drugs. That is a matter that is now included in the legislation. Not only are we dealing with tobacco, tobacco products, but also illegal drugs. There are very strong provisions which have now been included in this legislation that relate to that. There is also the question of FDA authority. FDA has been given the authority to regulate this drug as they regulate other drugs in our society.

We still have several matters left to resolve. One is the whole question of agriculture, how tobacco farmers will be treated.

The PRESIDING OFFICER. The time allotted to the Senator has expired.

Mr. CONRAD. How much time is left on our side?

The PRESIDING OFFICER. The Senator from North Dakota, Mr. DORGAN, has 8 minutes remaining.

Mr. CONRAD. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. I thank the Chair.

We have important matters left to resolve. How are tobacco farmers going to be treated? What are we going to do about the question of attorneys' fees. Obviously, none of us wants to see attorneys unjustly enriched by these tobacco settlements. In the underlying bill, the McCain bill, which came out of the Commerce Committee on a 19–1 vote, they provided for arbitration. Many of us think that is the best way to resolve this matter—to have parties get together and resolve, on an arbitration basis, differences over attorneys' fees so attorneys are not unjustly enriched by these settlements.

Mr. President, most important is that I think we ought to stay on this bill until it is finished. We have spent 3 weeks of the Senate's time so far on this legislation. Let's finish the course. Let's get this bill resolved. I think that makes sense. I think it would be an enormous leadership failure if this Senate didn't take final action on this legislation. Some are saying the House isn't going to have a bill. Well, none of us can tell that until we act. We have taken a lead on this question in the U.S. Senate; we ought to complete our action and then let the House decide what it does. Let them be accountable for their action—or their failure to act.

Mr. President, I hope we will stay on this bill until we finish this bill. That ought to be our message. The reason is very important. We have delay, and this delay is costing people's lives. As I indicated, we are in a circumstance in which, since the industry entered into a settlement with the attorneys general nearly 1 year ago, 1 million kids have taken up the habit. Fully a third of them are going to die prematurely—over 300,000 young people.

Let me just close by saying the tobacco companies tell you in their paid advertising—they describe this bill in unfavorable terms. Let's remember their background. They have misrepresented this issue repeatedly.

I thank the Chair.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from North Dakota, Mr. DORGAN, is recognized.

Mr. DORGAN. Mr. President, let me take another minute or so of my time. I know the Senator from Kansas wishes to seek the floor.

Virtually everything we do represents a series of choices. We have a choice now here in the Senate; we can choose to succeed, or we can choose to fail on this tobacco legislation. As Senator CONRAD has indicated, we have come a long way, and we have had people all along the way who are detractors. I can remember how controversial it was just to put a warning label on the side of a pack of cigarettes. Do you remember how controversial that was? It was the right thing to do, obviously. Would someone vote now to take the warning label off? I don't think so.

The legislation before the Senate is very important. We as Senators and as a body can choose to succeed or fail. To those who want to choose to fail and say this bill cannot become law, we are going to pull the bill and go to something else, we simply want to say that some of us will resist that with great effort. We will resist every decision to move to other legislation before we complete work on this legislation. We hope the bipartisan leadership of the Senate will decide that this bill is important enough to finish, and it can be finished, in my judgment, this week or next week. We have traveled too far a distance on this to fail in the final week on a piece of legislation this important to our country.

Mr. President, I yield the floor.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Senator from the State of Kansas.

NATIONAL SECURITY AND ECONOMIC WELL-BEING

Mr. ROBERTS. Mr. President, in his remarks in this body last Friday, our colleague from Nebraska, the distinguished Senator, Mr. HAGEL, issued what I considered to be a most important wake-up call to this body.

Senator HAGEL said:

> I am very concerned that this Congress is not paying enough attention to what is going on around the world. I am concerned that we are not linking it, we are not interconnecting the dots. I find it remarkable that on the floor of the U.S. Senate, over the last few weeks, we have been consumed with billions of dollars of new taxes and building a larger government when essentially half of the world is burning.

And Senator HAGEL went on to say:

"I hope that our colleagues take a serious look at what is going on around the world," and he cited the ever worsening Asian economic crisis—it now also threatens China; a serious recession in Japan; the immense and growing economic problems in regard to Russia; the resulting loss of investor confidence in world markets; and a very direct signal to all of us that "something is wrong." That certainly has been reflected in the recent decline in the stock market.

Mr. President, one thing that certainly is wrong is the inordinate amount of time that we are spending on tobacco legislation. I think the majority leader was certainly right when he said yesterday—and to a certain extent I agree with my colleagues who have just spoken before me on the floor—that we need to either end debate, or pass the bill, or actually defeat the bill, or set the bill aside.

It is not my intent to discuss the merits of what has evolved out of the tobacco briar-patch debate. I want to say that I personally support—strongly support—the efforts to address the problem of teenage smoking and addiction. I do not question the intent of supporters of what has been produced so far. But I do believe the bill has serious flaws and we have gone far afield from the original goal, more especially in regard to the problem of teenage smoking and addiction. And I would say that as we each individually shine the light of truth into the darkness in debating the tobacco bill, let us remember that our flashlights are somewhat dimmed by partisan overtones and personal finger pointing.

If Nero fiddled while Rome burned, the Senate has certainly huffed and puffed for weeks on a tobacco bill—I am not trying to perjure it—while issues of national and economic security are not being addressed.

As we debated yet another tobacco amendment yesterday, warplanes from the United States and Europe roared over the mountains of Albania and Macedonia, a direct threat to Serbian leaders to end the growing and expanding violence around Kosovo.

Twenty-seven U.S. warplanes took part in the 6-hour exercise that was called Determined Falcon. I don't know how determined that Falcon is. Three hundred and fifty U.S. soldiers are already stationed in Macedonia. NATO commanders have been asked to propose additional contingency operations.

The only response that I am aware of that has come from the Senate in regard to the growing possibility that we become directly involved in yet another ethnic civil war—an expansion of Bosnia—is the warning delivered by the distinguished chairman of the Appropriations Committee, Senator STEVENS, to Secretary of State Madeleine Albright in a recent briefing just last week.

The chairman pointed out that our military is already stretched, it is stressed, it is overcommitted, and we simply do not have the men and women and material to do that job. We have an urgent need to increase our commitment to national security.

We have an urgent need to act on the defense authorization bill so we can do that, and so we may discuss and debate and act on our involvement in Bosnia, in the Gulf, and in Kosovo. Every single day that this stalemate on tobacco legislation continues, a pay raise is held up for America's fighting men and women around the world who continue to suffer from low morale and a lack of interest in reenlistment.

Mr. President, I have heard there could be some 90 amendments to the defense authorization bill raising matters the Senate should address. We have the potential nuclear confrontation between India and Pakistan, the administration's nonproliferation policy, and the impact of ill-advised sanctions. Sanctions? Sanctions? My word, as the Senator from Nebraska pointed out in his remarks on Friday, we have sanctions on over 70 nations around the world involving two-thirds of the world's population. Our exports have declined. We have a growing crisis in agriculture, as referred to by the Senator from North Dakota, the "stealth crisis." It is no stealth. It is real. We must address that problem.

As a result of sanctions, agriculture is going through a necessary hardship. And we have all sorts of problems in farm country—not only in the northern plains. We have disease, we have overproduction in other parts of the world, we have declining exports, we have unfair trading practices, and we have a trade policy that is yet to be determined. We have a real problem in farm country.

We can address the sanctions bill in the agriculture appropriations bill, which is waiting in the tobacco wings. In that bill we have the sanctions reform legislation of Senator LUGAR, the distinguished chairman of the Senate Agriculture Committee, more especially in regards to Pakistan and India, and key agricultural exports programs. We need to act. We need to act, Mr. President.

From that standpoint, I would be happy to yield to the distinguished Senator from Nebraska for any comments he would make. I thank him for issuing a wake-up call to the Senate as of last Friday.

I yield to the Senator.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President. I thank my friend and colleague from Kansas.

Mr. President, Senator ROBERTS has touched upon some of the most important core issues in the debate that we have had over the last 4 weeks on the tobacco bill.

I would find it interesting again to recite what has really happened in the world since we began consideration of the tobacco bill on Monday, May 18th. This is our fourth week now on the debate on this bill.

What has happened in the course of the last 4 weeks is we have seen India and Pakistan test for nuclear explosions, we have seen a new wave of an Asian market crisis begin, we have seen Asian stocks plummet, we have seen the Japanese yen drop precipitously, and leading now to China's warnings that it may devaluate its currency. We have also found Japan officially entering a severe recession, the first since the early 1970s.

As my distinguished colleague from Kansas referred to a few minutes ago, Kosovo has erupted into flames with NATO exercises now fully engaged on the borders of Albania and Kosovo. There is a very real possibility of a war spreading further south into the Balkans, engaging Macedonia, Greece, and other nations.

Russia has entered a severe economic problem.

Our U.S. agricultural foreign markets are shrinking due to economic problems.

Abroad U.S. exports are down.

And, as my friend from Kansas pointed out, we have a military that for the 15th year in a row finds its budget dropping, all at the same time that we are asking our military to do more with less—more deployments, longer deployments.

Something, Mr. President, is going to have to give here.

But what has the Senate done? The Senate continues to talk about higher taxes and more government and more regulation. We let all of these other important issues that affect every American, our future, and the course of the world hang suspended like it is not there. We ignore these issues. We ignore these issues at our peril and at the world's peril.

This U.S. Senator is ready to say let's move the tobacco bill caucus off the track, and let's get to what is real in this country. Let's get to the real issues facing our Nation—not just the farmers and the ranchers in Nebraska, and exporters all over the world, but our national defense issues, our trade policy, the sanctions issues, and all of the other issues that we have talked about. That is what is real.

That is what the greatest deliberative body in the world should be dealing with and talking about—not increasing taxes by hundreds of billions of dollars and bringing to the American people more government and more regulation.

I again appreciate very much the thoughts and comments of my distinguished colleague from Kansas, Senator ROBERTS, and his remarks.

I yield the floor.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 45 seconds remaining.

Mr. ROBERTS. I shall not take all of the time.

I want to thank my distinguished friend and colleague for his contribution. I want to pay particular credit to Senator HAGEL for his work in enabling the Senate to move on IMF legislation. The Senator worked extremely hard with leadership of the Congress on both sides to implement serious reforms in the IMF bill, and to move ahead with the IMF bill. I hope the House of Representatives will simply address that legislation.

The Senator mentioned the most-favored-nation status for China, which is simply regular trading status that is exceedingly important. I have already indicated my concern about sanctions reform.

I think we ought to move on fast-track legislation. I was talking to the majority leader yesterday and he agrees with that. There are going to be 12 major farm organizations and commodity groups coming to the Hill to visit with us on Thursday. We would like to change the whole attitude and the whole situation in regard to trade.

It seems to me if we could really recommit to that, it would be most helpful—especially in agriculture. Our whole economy relies on exports. I have never seen this Congress more insular, more protectionist, and more consumed with legislation that tends to be either ideological or attempts to legislate morality. It is just as important to prevent bad legislation from passing as it is to enact good legislation. And I am not trying to point any fingers at any Member who has strong feelings about tobacco legislation. I do. I have youngsters who are teenagers, and I am concerned about this just as much as every Member of the Senate, but this has gone far afield from a bill to really direct itself at real answers to teenage smoking and addiction. And, in the meantime, we have these problems that are extremely serious.

And so I would simply quote again the majority leader who is not trying to perjure the bill. He was right when he said, "We must end debate. Either pass, defeat, or set the bill aside." And let's move and get on with the business that directly affects the livelihood and the pocketbook of virtually every American when things such as world peace are hanging in the balance.

Mr. HAGEL. If my colleague will yield for a moment.

Mr. ROBERTS. I would be happy to yield.

Mr. HAGEL. I would like to report on a comment made this morning by a senior World Bank official warning of a looming global recession. He says, "We are probably at the end of the first cycle of a crisis and we are entering into a deep recession. And you could even use the term 'depression'."

The point here is IMF funding and MFN status and fast track, all of these combine together to be essential components of a trade policy, of a foreign policy, of a national defense policy that directs this Nation and directs the world. We can't just pick and choose—maybe this, maybe not this. But it has to be debated and viewed and acted on in total. So I appreciate again my colleague's comments on this, and I yield.

Mr. ROBERTS. In closing, I am reminded of an old Mills Brothers' tune—that really dates me—and it was, "I Don't Want to Set the World on Fire." I want to make it clear, I don't want to set the tobacco bill on fire; I just want to light a flame in the heart of our national security and our economic wellbeing. And with that rather dubious reference as to what we are about, Mr. President—we need to act on other matters—I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, may I inquire how much time is remaining in morning business?

The PRESIDING OFFICER. There are 7 minutes remaining in morning business.

Mr. CRAIG. Mr. President, then I will use some of that time. I thank the Chair.

THE TOBACCO BILL

Mr. CRAIG. Mr. President, I certainly want to echo the statements of my colleagues from Kansas and Nebraska about the importance of dealing with our agricultural situation in this country. Last week, in my State of Idaho, wheat hit $1.90 as a result of the impact of the sanctions that are being imposed by this administration in reaction to laws that were passed by Congress a good number of years ago.

I say this this morning to refocus us to understand that much of what we need to do is not getting done. Now, my colleagues on the other side, I have a feeling, would like to spend a lot more time on the tobacco issue. Somehow they think they are gaining points in the political arena that is warming up out there for many of our colleagues in the coming days through to November. I would like to suggest they look at the polling data of recent, that they talk with the American people just a little bit, that they ask teenagers in this country where the real problems are, and maybe they would agree with us that it is time we deal in some degree of finality with S. 1415, the tobacco bill.

I know it is great politics, or at least many thought it was great politics, to be antitobacco, anti-teen smoking, and to raise a heck of a lot of money to do a lot of different things from the government level. It is important that this Congress be anti-teen smoking. It is important that we express our frustration and, if necessary, our anger with the tobacco companies on what they have done, and I think we can do that and should do that. But you do not do it by sucking the life out of lower-income Americans, raising taxes, shoving this commodity that we dislike into the black market and saying you have solved the problem by creating great new bureaucracies that we know will spend the money and get very little done.

For the moment, let's do a reality check. We have been debating this bill now for upwards of 3 weeks. We have been adding a lot of amendments. Everybody has been pounding their chest on all of the good things we are going to do if we pass the bill. Here are the good things we have not done. Let me analyze for you the revenue flow over this multibillion-dollar bill.

S. 1415, major revenues: 5 years, $55-plus billion; floor amendments costing $35 billion; original 1415 spending, $65 billion; total spending commitments, $100 billion.

Whoops, Mr. President, whoops. We have already overspent $35 billion in the first 5 years. What does that tell you about a Congress that is trying to be fiscally responsible and balance its budget? When it comes to feeding at the trough of American politics, we do not care, do we? Or at least somebody does not care, because S. 1415 is now badly out of line with the revenues it proposes and the moneys it plans to spend.

By this action, is this Senate proposing that we raise another $35 billion or $40 billion over the next 5 years in revenues to fund all of these great new government programs that are going to take all of our kids off smoking, or at least 35 or 45 or 55 or 60 percent over the next decade? Have we talked to our kids recently about that? Have we asked teenage America that if we raise the price of a pack of cigarettes another $2 a pack or $3, are they going to quit smoking?

Well, I will tell you they don't think so. Neither do their parents. Last week, I was in the Chamber with a poll by the American Viewpoint polling group, a reputable group. You have read the poll. It has been talked about in the national press. Fifty-nine percent of the parents recognize that peer pressure and friends of their teenage sons and daughters are those who are the greatest influence on them when it comes to smoking.

Guess what the biggest problem is out there. It is not smoking. It is drugs. It is the concern by our parents, the parents of America that their kids might somehow get associated with drugs. Why? Because drugs kill immediately. That is why. And that is the greatest concern. And yet we have stumbled down the road for 3 weeks and done one good thing: convinced the American people that we are slipping back into our old, bad habits of big government and great programs and lots of new money to spend. And in the meantime, they have become convinced that the bill before us ought to be defeated by a great number. That is the reality of what we are doing.

Let me close by saying one more time, S. 1415 over the 5-year period has a deficit in money now of $35 billion. Is the other side proposing to raise that in new taxes in some form from the working men and women of this country to fund the panacea of big, new government? I hope they do not. I will not vote for that.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). Morning business is now closed.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent, with the indulgence of my colleagues, that I be allowed to speak for 5 minutes as in morning business.

Mr. GORTON. Mr. President, reserving the right to object, I will not have any objection. The Senator from Minnesota was most generous with me last night. He did not have an opportunity to finish his remarks. I am happy to have him do so before we start.

The PRESIDING OFFICER. Without objection, the Senator from Minnesota is recognized for 5 minutes.

Mr. WELLSTONE. Mr. President, I thank my colleague from Washington for his graciousness.

LOW-LEVEL RADIOACTIVE WASTE COMPACT

Mr. WELLSTONE. Mr. President, last night, I spoke about the Texas/Maine/Vermont Compact bill, H.R. 629, that is now going to conference committee. It has to do with low-level radioactive waste being dumped in the community of Sierra Blanca, TX. It is a compact between Maine and Vermont that affects the people of Sierra Blanca.

Last night, we sent instructions to conferees to insist on two amendments that had been agreed upon by the Senate. One amendment says that if the people of Sierra Blanca, disproportionately poor and Latino, are able to prove disparate impact—that they are disproportionately affected, that they have been targeted because of low income, because they are a poor community, because of the color of their skin—then they have every right to challenge the dump. I don't know why we don't at least give people that chance. That amendment has now been approved by the Senate. It is terribly important, because all too often when it comes to the location of these sites, we dump them—no pun intended—right on the heads of poor people and communities of color.

The second amendment—and I had a chance to speak about this last night—I call a protection clause. It is very similar to the amendment offered by Congressman DOGGETT which passed in the House. Basically, it says that if the compact waste is only supposed to come from Maine and Vermont, then let's affirm this with an amendment which makes it clear that the waste will only come from Maine and Vermont. Otherwise, there is a very good chance that the people of Hudspeth County and Sierra Blanca will become a national depository for nuclear waste from all over the country. That is the last thing I think the people in Texas want. That is certainly the last thing that the people in the community of Sierra Blanca want.

The reason I mention both of these amendments is that we now have instructions to our conferees to insist on these amendments in conference committee. This is a battle that has been going on for over a year in the Senate. I raised questions about this starting a year ago. What I said was that, as a Senator from Minnesota, I am concerned about this issue of environmental injustice and, if we have to approve this compact, let us make sure there is some fairness to this and some justice to it.

My colleagues in the Senate have gone on record in favor of both of these amendments. The House of Representatives has gone on record as being in favor of the Doggett amendment, which is also a Wellstone amendment, that says, indeed, the waste will only come from Maine and Vermont.

As we go to conference, I want to emphasize one point to my colleagues, and that is, don't strip these amendments from this bill in conference committee. That is what the nuclear utilities would like conferees to do, but it will make a mockery of the House and Senate. It will, in fact, give people not only in Texas but from around the country reason to think this is another example of a back-room deal, another example of the legislative process at its worst, another example of big utility companies riding roughshod over poor communities and, for that matter, regular citizens in this country.

I want to make it clear to colleagues that it is extremely important that the conferees live up to our instructions and that these amendments become part of this bill. If they do not, it will be a striking example of unequal access to political power, which is, I think, the reason we have too much environmental discrimination all across the country in the first place.

I make this plea to my colleagues, to the conferees: We have voted to keep these amendments in this bill. The Senate is on record unanimously as saying that these amendments should be part of this compact and therefore it is extremely important that these amendments not be stripped out. The issue of environmental justice deserves better than that, the people of Sierra Blanca deserve better than that, and people in our country have a right to expect a higher standard of conduct from their elected representatives than to try to knock this out in the dark of night.

I say to colleagues, I have tried to work with my colleagues, even those who are in disagreement with me. But if these amendments are taken out of the conference committee—and I hope that they will not be, I pray that they will not be—but if they are, I will take advantage of every procedural means at my disposal to make sure that this does not happen, and to make sure that there is some environmental justice when it comes to this compact which all of us are going to have to vote on as Members of the U.S. Senate.

I thank my colleague from Washington for letting me have an opportunity to speak from the floor to give colleagues a sense of where we are on this compact. I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

Gorton amendment No. 2705 (to amendment No. 2437), to limit attorneys' fees.

AMENDMENT NO. 2705

Mr. GORTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 2705 by the Senator from Washington.

Mr. GORTON. Thank you, Mr. President.

Mr. President, this will mark the third occasion on which the Senate has debated a limitation on attorneys' fees in connection with the litigation that led to this debate on tobacco legislation. As a consequence, I do not believe this debate need last for as extended a period of time as did those on the earlier Faircloth amendments, and I believe the leadership is attempting to reach a time agreement on this amendment, with a vote to take place perhaps right after the official Senate photograph early this afternoon. On the other hand, I do not have any official notification about a formal time agreement, but I will proceed on the basis that this Gorton amendment can be debated relatively expeditiously.

I have examined the debate on the last amendment on attorneys' fees that took place on June 11, less than a week ago, and I believe that the rationale for passing legislation with some limits on attorneys' fees in connection with this litigation was so well stated by the Senator from North Carolina, Senator FAIRCLOTH, and by the Senator from Alabama, Senator SESSIONS, and by others that I do not need to repeat in detail their scholarly approach and analyses of the subject.

Mr. President, you may say, agreeing with their rationale, why is it that this Senator voted against both the first and the second Faircloth amendments? The answer to that is simple. I believe that it is appropriate for the Congress to limit attorneys' fees in connection with this litigation for reasons that I will outline briefly in the course of these comments. At the same time, I did not believe that the particular limitations contained in the two earlier Faircloth amendments were fair or just. So, with some regret but with firmness, I voted to table each of those amendments.

The fundamental reason for my opposition to those two amendments was the fact that they treated all attorneys in all tobacco cases as being subject to the same cap or the same limitation. Whether that litigation and those attorneys were involved from the very beginning with the States of Mississippi and Minnesota, at a time at which tobacco companies had not lost any litigation at all, when those initial attorneys came up with what were novel and difficult theories of law and took a tremendous risk in the litigation in which they were hired, those attorneys were treated the same in the two earlier amendments as attorneys who have just recently gotten into litigation on this issue after it was obvious that, at the very least, settlements were available to all of the plaintiffs and, for that matter, were treated the same as any attorney who brings litigation in the future when both the States and this bill have so substantially changed the burden of proof in tobacco litigation that one may almost say that an attorney who loses a tobacco case will be exposed to malpractice litigation thereafter.

Mr. President, that is fundamentally unfair. And so the amendment that I have put before the Senate today, for our vote, treats attorneys' fees differently depending on when the litigation was commenced. I have adopted all of the considerations for judges to use in determining the amount of attorneys' fees that are fair in a given case that were a part of the second Faircloth amendment. They, in turn, are an expanded version of considerations that the Supreme Court of the United States has articulated as used when the question of reasonable attorneys' fees has come before the Supreme Court.

So the dollar figures that we use per hour in this amendment are ceilings; they are not floors. If, in any case, the courts or others who make judgments in this connection feel that those figures are too high—and I think there will be many instances in which they do—they may be reduced below that ceiling. We simply set a ceiling.

The ceiling, unlike the $1,000 ceiling in the last Faircloth amendment which was mitigated by allowing a cost recovery greater than the actual cost expenditures, is simply this. For lawyers who are part of litigating cases that began before 1995, the ceiling will be $4,000 an hour—four times that in the Faircloth amendment. For lawyers as a part of litigation that was brought after the beginning of 1995 but before April of 1997, the maximum figure, the ceiling, will be $2,000 an hour. Why, you may ask, April 1997, 2 months before the tobacco settlement was announced? That was the date, the time, that Liggett gave up—in effect, turned state's evidence—turned all of the internal memoranda, which show the horrendous way, the unprincipled way, the tobacco companies had acted, over to the general public, to all of the lawyers.

So after that date, after a date at which tobacco litigation was not only unprecedented and of extraordinary difficulty but really quite simple and easy, the maximum figure will be the $1,000 an hour—in this case, identical to the overall limit in that Faircloth amendment, but only a recovery of actual costs.

And, finally, beginning on a date that roughly corresponds with the beginning of this debate on the floor of the Senate, in the anticipation that even the rules of evidence will be lower and lesser if this bill should pass, the ceiling will be $500 an hour—actually lower than the Faircloth amendment itself.

It seems to this Senator, Mr. President, that that is more nuanced and more fair than the one-size-fits-all proposition that was contained in the two earlier amendments on which we voted.

As a consequence, this amendment is suggested to all of my colleagues here in the Senate, both those who felt that a lower limit was appropriate but were unsuccessful in getting a majority and those who, like myself, objected to the two earlier Faircloth amendments.

I believe it is very difficult to stand for the proposition that there should be no limitation under any set of circumstances. That might be an appropriate position for Members of the U.S. Senate if we were not engaged in this debate. If the very people whose clients have come before us asking us to pass that bill—ratify the settlement made by the great majority of States of the United States—had not come here to Congress to ask us to pass this legislation, we would have no business simply debating attorneys' fees in the abstract in this connection. But they are here. They have used up, as the Senator from Idaho said, too much of our time already, time which might more profitably have been devoted to other legislation.

But it has been a serious debate. It has been a debate in which we have examined every single element not only of the litigation that led to this debate but of the whole relationship between tobacco, the tobacco industry, and the farmers, teenagers, adults, health care, and the like. And to say that the only aspect of tobacco policy that we cannot and should not examine is the fees of the attorneys who are involved in this litigation, to me, Mr. President, is an unsupportable proposition.

Mr. President, a couple of weeks ago I came across a short essay by Stuart Taylor, Jr., which appears in the May 30 edition of the National Journal. I ask unanimous consent that that essay be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORTON. Mr. President, Mr. Taylor, in stating the case for limitations on lawyers' fees, sets up the five fundamental arguments against doing so and deals with each of those five.

The first is, "Don't mess with the marketplace"—that these were accounts freely entered into. In the first place, I am not sure that there was a great deal of "marketplace" in connection with litigation much of which was solicited by the lawyers themselves.

But in any event, the marketplace disappears with this legislation. There is no real marketplace for tobacco products anymore. It will be the most regulated marketplace for any legal commodity in the United States, far exceeding the degree of regulation applied to alcohol and alcoholic beverages, for example. So if we can regulate the marketplace for tobacco, we can regulate the marketplace for tobacco lawyers.

The second objection that is brought up is that these are sacrosanct contract rights. But, of course, these are contract rights that are subject to review by the courts, by the judges who are dealing with this litigation. There have already been judgments made in that connection. The law is clear that attorneys' fees must be reasonable. And when they are unreasonable or overreaching, the courts, with their equity powers, said, "We can intervene." Well, then, Mr. President, it seems to me that we can intervene as well. We represent the conscience of the people of the United States. And I believe overwhelmingly the people of the United States will reject the kind of attorneys' fees running up into the billions of dollars that seem clearly possible and perhaps close to certainty should we not intervene in this aspect of the marketplace.

The third objection is States rights—that all of this litigation was brought by the States; we ought to stay out of it. Again, Mr. President, a good argument had the States not come to us and asked us to pass this legislation, because literally, in the case of most of them, they could not reach the goals they sought without the assistance of the President and the Congress of the United States.

The fourth reason—and it has been expressed on this floor—is that these lawyers deserve these big, huge fees. I was presiding, Mr. President, when Senator HOLLINGS eloquently made that case, that whatever they get they earn. Well, I suppose one can make that argument, but I do not believe that most of the American people believe that lawyers, under any circumstances, should earn $10,000 or $50,000 or $92,000 or $200,000 an hour for their work, no matter how imaginative and how successful that work may be.

I think there are very few Members of this body who believe firmly that they deserve fees larger than the $4,000 cap that is included in this amendment.

The final argument that Mr. Taylor set out in his essay 2 or 3 weeks ago was that $250 an hour was not enough. That, of course, was a reference to the first Faircloth amendment, and I agreed with Mr. Taylor, $250 was not enough for those who had begun this litigation by any stretch of the imagination. I don't think, myself, $1,000 was enough.

That is why, with a bit more reluctance, I voted against the second Faircloth amendment. But I certainly believe that the staged amount that we have in this amendment is enough and is enough for each of the four different categories of lawyers to whom it applies. It is for that reason that I have placed this proposal before the Senate once more in a different fashion than the fashion in which it previously appeared.

This is a legitimate part of the debate over tobacco legislation. We should reflect the conscience of the American people in this connection. We should try to see to it the maximum amount of money, consistent with fairness, that changes hands in one respect or another as a result of this legislation goes to the social and mostly antismoking purposes for which it is intended. We don't need to make billionaires out of lawyers simply because they were lucky enough or even wise enough to get into this field at an opportune time. We particularly don't need to do that for those lawyers who didn't either bother or have enough imagination to get into it until this kind of litigation was a slam dunk.

This is perhaps one element of our system of justice that increasingly disturbs the American people. We have dealt with it a little bit at a time in tort reform legislation. I hope that the Senate will take up a product liability bill and I hope now we can get a bipartisan degree of support here on the Senate floor and get a signature from the President on a modest attempt to reform our legal system.

I voted for all such reforms that have come before the Senate while I have been here in the last 7 years. I am not generally considered to be someone who defends trial lawyers. I found it a little bit awkward to vote against the first two Faircloth amendments, but I think even with respect to people with whom I disagree, with whom many of us disagree, fairness is vitally important. I have designed this amendment in a way to be fair and to be equitable, to treat people in different circumstances differently. I submit it to the consideration of the Senate on that basis.

EXHIBIT 1

[From the National Journal, May 30, 1998]

(Stuart Taylor Jr.)

TOBACCO FEES: THE REWARDS OF WINNING COULD BE STUNNING

It's an estimate, but perhaps not all that far-fetched: In some cases, lawyers suing the tobacco companies could make as much as $100,000 an hour if the cozy contingency fee deals they have signed with state attorneys general and others are left intact.

That helps explain why some in Congress are pressing to add curbs on lawyers' fees to the $515 billion tobacco bill sponsored by Sen. John McCain, R-Ariz.

In Texas, five leading plaintiffs lawyers would split a pot of $2.3 billion over the next 25 years—15 percent of a $15.3 billion statewide settlement—under a contingency fee deal signed by Democratic state Attorney General Dan Morales for a lawsuit to recover health care costs attributable to tobacco.

The five lawyers did not keep track of the hours they worked. Nor have they specified how much of the money they would share with the dozens of other lawyers who helped them. But professor Lester Brickman of Benjamin Cardozo Law School, an expert witness in a court challenge brought by Texas' Republican Gov. George W. Bush against the fee deal, says the lawyers' hourly rates come to at least $92,000, based on his estimate that they almost surely put in no more than 25,000 hours on the cases.

In Florida, West Palm Beach Circuit Judge Harold J. Cohen invalidated as "unconscionable" a deal that would give the state's 12 lead private lawyers $2.8 billion—25 per cent of a similar, $11.3 billion statewide tobacco settlement. But his decision was overturned on May 18, on procedural grounds, and sent back for further action.

The total cut for the plaintiffs lawyers in all current and future tobacco cases covered by the McCain bill could run as high as $5 billion a year, with the biggest bucks coming from future class action suits on behalf of sick smokers and their families.

The plaintiffs lawyers and their champions—one of them Sen. Ernest F. Hollings, D-S.C.—make no serious efforts to knock down the numbers. In fact, they dismiss the dollar figures as irrelevant. "Don't give me this billable hours or $180,000 an hour or $5 an hour or whatever it is," Hollings declared in a May 19 debate. "This isn't any hourly thing. . . . They deserve every dime of it and more."

Hollings was speaking against an attempt by Sen. Lauch Faircloth, R-N.C., to amend the McCain bill by capping the anti-tobacco lawyers' fees at $250 an hour. Faircloth's rider was rejected, 39-58. The bipartisan majority's objections were essentially these:

DON'T MESS WITH THE MARKETPLACE

Congress does not curb the gargantuan compensation packages of, say, tobacco executives, other corporate fat cats, actors or star athletes. So why should it selectively restrict the fees of the entrepreneurs of litigation—especially those who take on Big Tobacco?

CONTRACT RIGHTS

Any move by Capitol Hill to override contingency fee deals would interfere with the lawyers' contract rights. "A deal is a deal," in the words of Sheldon Schlessinger, one of the Florida lawyers pressing for a full 25 per cent cut.

STATES' RIGHTS

In the many cases in which attorneys general and other state officials have retained private lawyers to sue tobacco companies, federal fee-capping legislation would interfere with the states' rights to sign whatever contingency fee deals they choose.

THEY DESERVE BIG FEES

The plaintiffs' lawyers are entitled to generous rewards because they took extraordinary risks—which even state governments could not take on their own—and used their expertise, financial resources and entrepreneurial flair to bring to their knees the mighty tobacco companies, which until recently had seemed invincible.

$250 IS NOT ENOUGH

While it may seem a princely wage to most people, $250 an hour is barely half the rate tobacco companies and other corporate clients pay their highest-paid lawyers. And those lawyers are paid whether they win or lose. Contingency fee layers, on the other hand, get nothing when they lose. So when they win, they should get more—far more, in some cases—to compensate for their risks.

This last point is so clearly, well, on the money, that by itself it warrants rejection of Faircloth's $250-an-hour cap, which smacked of standard conservative Republican lawyer bashing.

But what about a fairer, more realistic curb on fees in tobacco cases covered by the McCain measure? Brickman—a leading scholar on contingency fees and a fierce critic of excessive ones—proposes an upper limit of $2,000 an hour, several times the rates charged by the tobacco companies' lawyers.

Although some of the points noted thus far could be raised against a $2,000-an-hour fee cap, the counterarguments seem more persuasive.

Don't mess with the marketplace? Precious little evidence suggests that many contingency fee lawyers engage in the kind of competition for business that is the essence of a health marketplace—perhaps because most smokers and other individual plaintiffs don't have the time or expertise to bargain or shop around for better fee deals.

And even some of the fee deals signed by presumably astute state attorneys general, such as Dan Morales, seem remarkably unsophisticated (at best), with the same fixed percentage of the award going to the lawyers no matter how large the award. Noting that Morales (like many other politicians) got campaign contributions from some of the same lawyers, Bush and Brickman have suggested that he either sold out or was snookered or both. (Morales, returning the fire, has called Bush a lackey of the tobacco companies.)

Be that as it may, the McCain bill would not leave much freedom in any corner of the tobacco marketplace. It would subject tobacco products, advertising and litigation alike to pervasive federal regulation, in a manner somewhat analogous to the government's Medicare and Medicaid systems, which of course impose strict limits on doctors' fees.

The McCain measure would also make winning a lawsuit against tobacco companies far easier (by superseding key state tort law rules), while at the same time giving the companies strong financial incentives to offer plaintiffs generous settlements rather than fighting tort suits and class actions all the way to trial. For a Congress that would thus be enriching both plaintiffs and their lawyers—by eliminating much of the risk of litigation and enabling them to win with relatively little effort—it would be a bit odd to ignore the matter of how much money the lawyers should be able to take off the top.

Contract rights? As fiduciaries, lawyers everywhere are subject to ethical rules barring them from charging "excessive" or "unreasonable" fees. So Brickman's proposed fee cap would clash with the contract rights of only those who can show that they can reasonably demand more than $2,000 an hour.

Individual lawyers should be free to try to make such a showing, on a case-by-case basis, and, if they are successful, obtain an exemption from the $2,000-an-hour cap. But few would (or should) succeed. And a requirement that lawyers present justifications in court for such exceptionally high fees would

> have the wholesome effect of spurring judges to put teeth into the seldom-enforced ethics rules against unreasonable fees.
>
> States' rights? The McCain bill would virtually take over—at the behest of the states themselves—the pending state lawsuits to recover tobacco-related costs incurred by combined state-federal Medicaid programs. In this context, on what basis could any state official object to attaching a $2,000-an-hour fee cap, especially one that would benefit the state's citizens?
>
> While some opponents of any fee cap assert that the main beneficiaries would be the merchants of death (aka the tobacco companies), it seems more likely to affect only the split between the merchants of litigation (aka the trial lawyers) and their clients—the states themselves, smokers and others.
>
> Do the lawyers really deserve more than $2,000 an hour? Many surely do not, because their risk of loss has diminished, and will diminish even more if the McCain bill passes. Fred Levin, a Florida lawyer, helped illustrate this point by boasting on ABC's *20-20* program not long ago that he not only had brokered the contingency fee deal between the state and its private lawyers for his "good friend" Democratic Gov. Lawton Chiles, but also had the lawsuit against the tobacco companies "a slam dunk," by slipping through the state Legislature obscure amendments that virtually guaranteed victory to the state.
>
> Not much risk there. Could even so stalwart a champion of the trial lawyers as Sen. Hollings explain why, for such lawyers, $2,000 an hour is not enough?

Mr. McCAIN. Mr. President, first of all, I say the Senator from Idaho came to the floor to argue that the tobacco legislation now spends more money than it takes in. The argument neglects one fundamental fact, and that is the legislation can't spend more than it takes in because the authorizations, including the drug amendment, come from the trust fund only. You can earmark all you want to, but unless the money is in the trust fund, it can't be spent. That is, obviously, up to the appropriators.

Having only been here for 12 years, I have, time after time after time, observed authorizations of large amounts of money which are then reduced by the appropriators, as which is their job, to fit into the overall budget. These authorizations that are a result—the drug amendment, prevention, cessation, counterads, research, et cetera—that are authorized, cannot be appropriated unless the money is there in the trust fund.

By the way, those who would argue that we need to reduce the size of this bill by about $100 billion, I say that is a very likely outcome if we are successful in reducing teen smoking, because the volume of cigarettes sold in America, if we are successful, would be reduced significantly, which would, first of all, mean less revenues and less payments into the trust fund which is set up, and over time, obviously, would then reduce the amount of money that can be spent. Most experts believe that if this legislation is enacted that we could effectively reduce teen smoking in America.

So I say to my friend from Idaho when he comes to the floor, when we come to the floor in a day or so with a defense authorization bill which greatly exceeds the amount that is budgeted, I hope that he will make the same arguments that we exceeded in practically every other authorization bill. As the Senator from Idaho well knows, the way we do business around here is we authorize a certain amount of expenditures and then that is subject to the appropriators who are guided by the budget—in this case, guided by the amount of money that will be in the trust fund. I think it is important that be mentioned.

I think most of us agree it is time we made a decision on this bill. I want to comment on the Gorton amendment. I think it is important. I think it is a good amendment. I think Senator GORTON, Senator SESSIONS, and Senator FAIRCLOTH have great credibility in this body—both Senator GORTON and Senator SESSIONS having been former attorneys general. I believe that it is appropriate if we are going to designate how the money is spent that comes from the increase in the price of a pack of cigarettes, then there should also be some limitation on the amount of money that is paid for legal expenses.

Senator GORTON's amendment calls for initially $4,000 an hour and scales down as to what time in the calendar the legal entities entered into these settlements. I think most Americans would believe that $4,000 an hour is a rather generous wage. In fact, there are very few Americans who are compensated to the tune of $4,000 an hour.

The argument will be made on the other side that we are dictating something that should be left up to the States, should be left up to arbitration. We have just passed several amendments that come from that side that dictate exactly what the States should do. We just passed one that said a certain amount of money had to go to early child development. We passed one that said a certain amount had to go to a specific kind of research.

In all due respect to the arguments that somehow we are interfering with some kind of States rights here, then obviously an amendment should be supported that says the States can do whatever they want to with any of the money that goes to them, which contemplated in the original bill is some 30 to 40 percent of the entire amount of money that is collected.

Most Americans, when asked if $4,000 per hour is adequate compensation to anyone—there may be some exception to that, perhaps brain surgery—but for legal services I think the overwhelming majority of Americans would view $4,000 per hour as more than generous compensation. In fact, if we pass the Gorton amendment, there will be some who will complain that this is far too generous. I remind observers that this is the third iteration we have attempted to try to bring some restraint to what many Americans are appalled to discover—that a single law firm, in the case of the Florida settlement, could make a couple of billion dollars.

I don't think that is appropriate, and I believe that we ought to act overwhelmingly in favor of the Gorton amendment.

We have been told of two possible substitute amendments—one by Senator HATCH and the other by Senators GRAMM and DOMENICI. I hope and expect that if those amendments are to be offered, we can move to them shortly.

As I said, the Senate has adopted several significant amendments, particularly with respect to how funding under this bill is apportioned. I thought it might be helpful to recap for the Senate where the bill stands in that regard.

The Joint Tax Committee estimates that under the managers' amendment, $52 million would be available in the trust fund in the first 4 years and an additional $72 billion in the following 5 years, producing a 9-year total of $124 billion.

The Senate adopted amendments to the bill to provide $3 billion to assist veterans with smoking-related diseases and $46 billion in tax cuts, leaving a total of $75 billion over 9 years for apportionment to the four major accounts authorized under the bill—the State account, the public health account, the research account, and the farmer assistance account.

Under the bill, 40 percent of the money, or $30 billion over the next 9 years, would be made available to the States to settle their Medicaid and legal claims against the tobacco industry. This would mean a payout of approximately $3.3 billion per year, or an average of $66 million per State per year, to compensate State taxpayers.

And 22 percent of the money, or $16.5 billion over 9 years, would be made available for public health programs, including counteradvertising, smoking prevention and cessation services, as well as for drug control programs authorized under the Coverdell-Craig amendment. As the bill currently stands, the precise amounts and selected purposes would be subject to appropriations.

This means an amount of approximately $1.8 billion available for public health and subject to drug control purposes. Under the bill, 90 percent of the money reserved for public health is to be block-granted to the States.

Another 22 percent of the funds, or $16.5 billion over 9 years, would be made available for health research at the National Institutes of Health and Centers for Disease Control. This would mean a payout of nearly $1.8 billion per year for advanced medical research.

As you know, Mr. President, lately the public health groups have complained about some of the reductions as a result of setting aside $3 billion for veterans' treatment of tobacco-related illness as a result of tax cuts and as a result of an anti-illegal drug program. It still provides $1.8 billion per year for advanced medical research. I would say that is a significant amount of money.

The bill designates 16 percent of the fund to tobacco farmer and farm community assistance. Also, Mr. President, $1.8 billion is available for public health. And $1.8 billion is, I think, a sizable amount of money. This is a total of $12 billion over 9 years, or a yearly payout of $1.3 billion.

The farm provisions still have to be worked out. I hope we can accomplish that end expeditiously and in a manner that is fair and appropriate.

I remind my colleagues again that the bill, as modified, contains measures of enormous benefit to the Nation, including vital anti-youth smoking initiatives that will stop 3,000 kids a day from taking up a habit that will kill one-third of them, critical funding for groundbreaking health research, and assistance to our Nation's veterans who suffer from smoking-related illnesses.

I would like to mention again, Mr. President, that for reasons that are still not clear to me, money was taken to use for highways that should have been used for treating veterans who suffer from tobacco-related illnesses. This provision of the bill is an effort to provide some funding for veterans who were encouraged to smoke during the period of time they were serving this Nation.

The bill will also fund a major anti-drug effort to attack the serious threat posed by illegal drugs, and it contains one of the largest tax decreases ever to eliminate the marriage penalty for low- and moderate-income Americans, and achieve 100 percent deductibility of health insurance for self-employed individuals. In fact, every penny raised above the amount agreed to by the industry last June is returned to the American people in the form of a tax cut.

Let me repeat that, Mr. President. I think it is rather important. It happens that this tax cut takes into consideration all of the additional funds above that which were agreed to by the attorneys general and the industry last June.

The bill provides the opportunity to settle 36 pending State cases, collectively, efficiently, and in a timely fashion. I argue that it is now time to finish our business and move the process forward.

There are those who labor under the unfortunate misapprehension that if we do nothing, the issue will go away. I don't believe that is correct. I don't believe it is correct because the facts won't go away. Mr. President, 3,000 kids take up the habit every day, teen smoking is on the rise, and that probably won't stop unless we do something.

Mr. President, 418,000 Americans die of smoking-related illnesses every year—the No. 1 cause of preventable disease and death in America by far. This death march won't stop unless we do something. The taxpayers must shell out $50 billion a year to pay for smoking-related health care costs—nearly $455 per household. That number is increasing because the number of youth smokers is rising. I want to again repeat, those who call this a "big tax bill"—and I congratulate the tobacco industry for doing polling and finding that most Americans understandably are opposed to "big tax increases," but I argue that the tobacco industry is responsible for one of the biggest tax increases in the history of this country. That tax increase is what taxpayers have to pay to treat tobacco-related illnesses. Those tobacco-related illnesses are directly related to the sale of their product.

If the bill disappears—which would be much to the industry's delight—the State suits will not disappear with it. If we fail to act, the States will continue their suits and they will win judgments and the price of cigarettes will increase sharply. So please don't be misled by those who would have the public believe that killing this bill would eliminate taxes or relieve smokers of an undue price increase. Following the Minnesota settlement, the price of a pack of cigarettes went up 5 cents, on an average, throughout the country, not just in Minnesota.

Mr. President, we have a tendency to throw around polling data quite frequently. Recently, there was a poll paid for by the tobacco companies, and some of the opponents took great heart in that the American people somehow did not support legislation to attack the problem of kids smoking. There was another telephone survey conducted by Market Facts TeleNation, which is an independent polling firm, and this poll was paid for by the Effective National Action to Control Tobacco. Mr. President, these polls' questions are always very important because how they shape the question quite often dictates the answer. We know very well how highly paid pollsters are.

Here is the question:

As you may know, the Congress is currently considering the McCain tobacco bill, which creates a national tobacco policy to reduce tobacco use among kids. Based on what you know about the bill, do you favor or oppose Congress passing the McCain bill?

Registered voters in favor were 62 percent. It is broken down: 45 percent strongly favor; 17 percent somewhat favor; strongly oppose, 23 percent; somewhat oppose, 9 percent. All adults who favor are 62 percent; oppose, 30 percent.

Question: The McCain bill includes public education to discourage kids from smoking, help for smokers to quit, enforcement of laws to prevent tobacco sales to kids and increases in the price of tobacco products to discourage use by kids. There would also be strict limitations on tobacco advertising and marketing to kids, as well as authority for the Food and Drug Administration to regulate tobacco like it does other consumer products. These programs would be funded by increasing the price of a pack of cigarettes by $1.10 over the next 5 years. Knowing this about the McCain bill, do you favor or oppose the bill?

This is what we call usually a "push question." And the number goes up to 66 percent registered voters strongly favor, and about 4 percent oppose.

Question: If two candidates for Congress were otherwise equal, but one supported the McCain bill and the other opposed it, would you be * * *

More likely to support the candidate who supports the bill, 44 percent more likely; more likely to support the candidate who opposes the bill, 18 percent; 37 percent would say no effect on their vote: 44 percent would most likely support the candidate who supports the bill.

Question: Some in Congress have proposed amendments to the McCain bill that address issues other than tobacco use—like tax reductions and the war on illegal drugs. Which of the following statements do you agree with most?

The tobacco bill should address issues only, and other issues should be dealt with in separate legislation, 79 percent.

Mr. President, I ask unanimous consent that this poll be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFECTIVE NATIONAL ACTION TO CONTROL TOBACCO: A PUBLIC HEALTH COALITION

TOBACCO SURVEY RESULTS

Telephone survey using a random digit sample, commissioned by the Campaign for Tobacco-Free Kids and conducted June 12-15, 1998 by Market Facts' TeleNation, an independent polling firm. The poll included 924 adults and 784 registered voters. Responses below are based on the full sample of respondents unless otherwise noted. Margin of error is +/−3.2 percent for all adults and +/−3.5 percent for registered voters.

Question: As you may know, the Congress is currently considering the McCain tobacco bill which creates a national tobacco policy to reduce tobacco use among kids. Based on what you know about the bill, do you favor or oppose Congress passing the McCain bill?

	Registered voters (percent)	All adults (percent)
Favor (Net)	62	62
Strongly Favor	45	44
Somewhat Favor	17	17
Oppose (Net)	31	30
Strongly Oppose	23	22
Somewhat Oppose	9	8
DK/Refused	7	8

Question: The McCain bill includes public education to discourage kids from smoking, help for smokers to quit, enforcement of laws to prevent tobacco sales to kids and increases in the price of tobacco products to discourage use by kids. There would also be strict limitations on tobacco advertising and marketing to kids, as well as authority for the Food and Drug Administration to regulate tobacco like it does other consumer products. These programs would be funded by increasing the price of a pack of cigarettes by $1.10 over the next five years. Knowing this about the McCain bill, do you favor or oppose the bill?

	Registered voters (percent)	All adults (percent)
Favor (Net)	66	65
Strongly Favor	50	49
Somewhat Favor	17	17
Oppose (Net)	32	33
Strongly Oppose	24	24
Somewhat Oppose	9	8
DK/Refused	1	2

Question: If two candidates for Congress were otherwise equal, but one supported the McCain bill and the other opposed it, would you be:

	Registered voters (percent)	All adults (percent)
More Likely to Support The Candidate Who Supports The Bill (Net)	44	44
Much Mpre Likely	30	31
Somewhat More Likely	14	13
More Likely to Support The Candidate Who Opposes The Bill (Net)	18	19
Much More Likely	14	13
Somewhat More Likely	5	5
No Effect On Vote	36	37
DK/Refused	1	1

Question: Some in Congress have proposed amendments to the McCain bill that address issues other than tobacco use—like tax reductions and the war on illegal drugs. Which of the following statements do you agree with the most?

Randomized	Registered voters (percent)	All adults (percent)
The tobacco bill should address tobacco issues only, and other issues should be dealt with in separate legislation	79	79
Issues such as tax reduction and illegal drugs are so important that they should be addressed in the tobacco bill even if it means reducing funds for programs to combat tobacco use among kids	18	18
DK/Refused	4	4

Question: Now let me ask you about a couple of specific amendments to the tobacco bill. Please tell me which of the following positions you agree with most.

	Registered voters (percent)	All adults (percent)
Some in Congress want to amend the bill to use money intended for tobacco prevention to reduce the so-called marriage tax for couples with incomes under $50,000 because these couples currently pay somewhat more in income taxes than two individuals who are not married	22	22
Others say the marriage tax should not be addressed in the tobacco bill and that it takes too much of the money intended for programs to reduce tobacco use among kids	69	69
DK/Refused	9	9

Question: Which of the following positions do you agree with most?

	Registered voters (percent)	All adults (percent)
Some in Congress want to take much of the revenue generated by tobacco price increases that is intended for programs to reduce tobacco use among kids and use it instead to add to the funds the government has for fighting illegal drugs	21	22
Others say the money raised by the tobacco bill should be used first and foremost to address the tobacco problem, and that if more money is needed to fight illegal drugs, it should come from other source	75	74
DK/Refused	4	4

Question: Please tell me whether you favor or oppose spending the revenues from the McCain tobacco bill for each of the following.

Do you (strongly/somewhat) favor or oppose spending the revenues from the McCain tobacco bill for?

Randomized	Registered voters (percent)	All adults (percent)
Reimbursing the states for the money they have spent treating sick smokers (favor (Net))	43	43
Funding health and medical research (favor (Net))	78	78
Funding programs designed to reduce tobacco use among kids like public education campaigns, school-based programs, and enforcement of laws prohibiting tobacco sales to minors (favor (Net))	84	85
Providing money and other assistance to tobacco farmers to help them in the transition to other ways of making a living (favor (Net))	62	62
Reducing the marriage tax for couples making under $50,000 (favor (Net))	34	35
Adding funding to the government's budget for fighting illegal drugs (favor (Net))	46	46
Funding for states to provide expanded child care services (favor (Net))	46	48

Question: And which of those uses of the McCain tobacco bill's revenues is the most important in your mind?

Randomized	Registered voters (percent)	All adults (percent)
Reimbursing the states for the money they have spent treating sick smokers	6	6
Funding health and medical research	16	15
Funding programs designed to reduce tobacco use among kids like public education campaigns, school-based programs, and enforcement of laws prohibiting tobacco sales to minors	48	48
Providing money and other assistance to tobacco farmers to help them in the transition to other ways of making a living	7	8
Reducing the marriage tax for couples making under $50,000 (favor (Net))	5	5
Adding funding to the government's budget for fighting illegal drugs (favor (Net))	8	8
Funding for states to provide expanded child care services (favor (Net))	7	7

Question: Amendments passed so far to the McCain tobacco bill have removed virtually all funds dedicated to tobacco prevention programs. Funds remain in the bill for medical research, tobacco farmers, child care, reimbursement of state medical costs, the marriage tax reduction, and additional funds to fight illegal drugs.

Do you favor or oppose restoring the money in the bill for tobacco prevention efforts even if it means reducing the funds available for these other purposes?

	Registered voters (percent)	All adults (percent)
Favor (Net)	61	61
Strongly Favor	37	36
Somewhat Favor	24	25
Oppose (Net)	33	33
Strongly Oppose	17	17
Somewhat Oppose	16	16
DK/Refused	6	6

Question: Other things equal, if one candidate for Congress supported restoring the money for tobacco prevention programs in the McCain bill and the other candidate opposed restoring the money, would you be:

	Registered voters (percent)	All adults (percent)
More Likely to Support The Candidate Who Supported Restoring The Tobacco Prevention Money (Net)	54	53
Much More Likely	30	29
Somewhat More Likely	25	23
More Likely To Support The Candidate Who Opposed Restoring The Tobacco Prevention Money (Net)	14	14
Much More Likely	4	3
Somewhat More Likely	10	11
No Effect On Vote	26	26
DK/Refused	7	7

Question: How much do you trust each of the following to do the right thing on national tobacco policy?

How much do you trust Democrats in Congress to do the right thing on national tobacco policy? Do you:

	Registered voters (percent)	All adults (percent)
Trust (Net)	47	47
Trust a lot	11	11
Trust somewhat	36	37
Distrust (Net)	49	49
Distrust a lot	23	23
Distrust somewhat	27	26
DK/Refused	3	4

How much do you trust Republicans in Congress to do the right thing on national tobacco policy? Do you:

	Registered voters (percent)	All adults (percent)
Trust (Net)	46	45
Trust a lot	9	8
Trust somewhat	37	37
Distrust (Net)	51	51
Distrust a lot	25	25
Distrust somewhat	25	26
DK/Refused	4	4

How much do you trust President Clinton to do the right thing on national tobacco policy?

	Registered voters (percent)	All adults (percent)
Trust (Net)	51	52
Trust a lot	21	19
Trust somewhat	31	32
Distrust (Net)	48	47
Distrust a lot	32	31
Distrust somewhat	16	16
DK/Refused	1	2

Question: If the McCain bill to reduce tobacco use among kids is not passed by the Congress, who will be most responsible for it not passing?

	Registered voters (percent)	All adults (percent)
Democrats in Congress	16	16
Republicans in Congress	40	37
President Clinton	13	14
All of the above	11	12
None of the above	4	4
DK/Refused	16	17

Question: Which of the following describes your use of tobacco products?

	Registered voters (percent)	All adults (percent)
Current regular smoker or regular smokeless tobacco user	25	26
Former regular smoker or regular smokeless tobacco user, or	25	25
Never smoked cigarettes regularly or used smokeless tobacco regularly	49	48

Question: Do you generally consider yourself a Republican or a Democrat?

	Registered voters (percent)	All adults (percent)
Republican	37	35
Democrat	39	39
Independent	17	17
Other	5	6
DK/Refused	2	3

Question: Are you currently registered to vote in the state where you live?

	Registered voters (percent)	All adults (percent)
Yes	100	86
No		14
DK/Refused		1

Mr. McCAIN. Mr. President, as we do battle of the polls, there is one today that I think in many ways supports the argument that the American people want to do something about the issue. The other argument that I hear quite often is the American people do not care, that they care more about illegal drugs, that they care more about crime, that they care more about education. I agree with that. But they also care about tobacco.

After this issue is taken up, I understand there will be efforts to take up the issue of patients' rights under the present health management regime in America. I haven't seen that in any polls. That is one of the most important issues. Yet, I think Members of this body think that it is of great importance. We are going to take up the defense bill, of which there will be several controversial issues, such as ballistic missile defense, our sanctions on China, et cetera.

I haven't seen those in any polls either. But yet I think the American people care about our Nation's security, especially our ability to defend the Nation.

Should we do something about illegal drugs? Yes. I hope we will. I believe that this bill has been improved by that.

Should we do something about education? I believe that we have had significant and substantial debate on the floor of the Senate regarding that issue. The very excellent bill of Senator COVERDELL was passed after a very difficult process.

Should we do things about crime? Yes.

But, Mr. President, I think we should also do something about this issue as well.

As I began my comments, I believe that we are in an important period of time. I say the best way to proceed is to have a cloture vote proposed by the majority leader, which is the way we do business around here. If the Senate, in its wisdom, decides by 40 votes, and we don't have enough votes to conclude debate after being here in this fourth week, then we should go on to other issues. If there are sufficient votes, 60 votes to invoke cloture, I urge both proponents and opponents of the legislation to try to complete action on this legislation this week.

We all know we have 13 appropriations bills; perhaps product liability reform; perhaps other issues that are important to the American people as well.

I don't mind staying here all summer, if I may borrow a phrase from another leader of a different magnitude than I. But I believe that we have discussed and debated this issue at great length, and it is now time for us to make a decision as to whether we move forward on this bill or not, or throw the issue back to the States. Thirty-six attorneys general voted for it. Larger and larger settlements, and larger and larger legal fees will occur. But most importantly, as I have said on a number of occasions on the floor, today 3,000 kids will start to smoke, and tomorrow, and the next day, and the next day.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague, Senator McCAIN, for his remarks and putting some of this argument back in perspective.

I want to address briefly the amendment of the Senator from Washington, Senator GORTON. I know there are other colleagues waiting to speak on this question.

Mr. President, I understand the strong feeling that we want to limit lawyers' fees. I don't think there is a Member of this body that isn't concerned about seeing lawyers get windfall results for themselves as a result of this litigation.

We have in the McCain legislation, the bill that came out of the Commerce Committee on a 19-to-1 vote, a strong bipartisan vote, a means of addressing that problem.

What is in the bill is a provision for arbitration panels to determine what are the appropriate legal fees.

I think probably that is the best answer, as imperfect as it is.

The problem with the our taking action is, What action do you take? I think Senator GORTON has probably the best chance of prevailing. But it has problems. I think his is probably the most thoughtful provision before us.

But I say to my colleague from Washington, I think there are real problems with what he has proposed. Under Senator GORTON's proposal, fees would be limited to $4,000 an hour for actions filed before 12-31 of 1994. The problem is that may be way too much. It is even conceivable in certain circumstances that it is too little, but I think it is more likely that it is too much.

He also provides $2,000 an hour for actions filed between 12-31 1994 and 4-1 1997.

I tell you, my own view is that may well be too much. It is hard to say because it is an arbitrary cap. That is the problem with what the Senator from Washington is offering. In many cases, it may be way too much.

He says it establishes a cap, not a floor. But I think we all understand what happens in these cases. Very often what is intended is a cap which then becomes a floor. What we may find out is that people being compensated at $4,000 an hour do not deserve a fraction of that. Or we may find that we have attorneys who file actions between 12-31 1994 and 4-1 1997 who are capped at $2,000 an hour. That may be far in excess of what they should receive.

He also provides for $1,000 an hour for actions filed between 4-1 1979, and 6-15 of 1998; $1,000 an hour.

Again, because this is arbitrary, it can wind up being too much in one case when it goes down to $500 for actions filed after 6-15 of 1998. Those would be new cases.

That may be appropriate for those who have just gone out and made a copy of the previous actions filed by others, but if it is a new action, taking on the tobacco industry on a new theory where a law firm has to put up substantial resources of its own to bring an action, $500 may not be enough.

The point is we don't know. Sitting here in this Chamber, how do we make a decision about what is an appropriate legal fee for literally thousands of cases across this country. I don't think it is possible for us to make this judgment. That is why some of us believe an arbitration panel is the appropriate resolution. Let's leave it up to the parties at issue. They each name somebody on their behalf, and those two name a third, and they reach a conclusion on what the appropriate fees are in a particular case. But to have us sit in Washington and try to decide what a contract ought to be in the State of Minnesota is really pretty far-fetched. We often say we are engaged in too much micromanagement from here in Washington. In fact, our friends on the other side of the aisle say that frequently, and frequently they are right. If there was ever a case of micromanagement, this is it. We are deciding what legal fees should be in the State of Washington, the State of Minnesota, the State of North Dakota. I don't think so. I tell you what an appropriate legal fee in North Dakota is and what an appropriate legal fee in New York is are probably not the same.

For us just to put in an arbitrary amount that applies across the country is meddling at a level that I think is counterproductive.

Now, we have heard, gee, some of these cases that are settled are going to lead to a windfall for the attorneys at issue. I tell you, I am very concerned about that. That is why I have supported arbitration, because where there is a difference between those who hired the lawyers and those who have been hired, there ought to be a way of resolving it so lawyers do not enjoy windfall returns.

We have heard a lot of discussion about Florida. There has been the suggestion that law firms down there are going to get $2 billion. I tell you, that is outrageous, absolutely outrageous—$2 billion for a case in Florida. But I am not the only one who thinks it is outrageous. The State court in Florida thinks it is outrageous. In fact, they have said it is unconscionable in the State of Florida, and they have not approved it.

So why are we substituting our judgment for the judgment of courts in the individual States and the judgment of the attorneys general in the various States who are the ones who have hired lawyers on a contingency basis? Because that is why we have the problem. We have the problem because individual attorneys general did not, by themselves, have the resources to go take on the tobacco industry. They did not have the resources to do that. We all understand, before this series of cases, the tobacco industry had never lost a case and they had the best legal talent in the country.

By the way, as I understand it, the proposal of the Senator from Washington only applies to plaintiffs' attorneys. It does not apply to the tobacco industry's attorneys. So you have kind of an uneven fight here: The tobacco industry has no limitation, and the plaintiffs' lawyers, those who sue on behalf of the victims, are capped. And the caps that apply under the amendment of the Senator from Washington may be way too much. In fact, I think in virtually every case $4,000 an hour is way too much; $2,000 an hour for a different set of classes based on the time that they were filed may be way too much; $500 an hour for new cases may be too little if the law firm has to put up substantial resources of its own in order to bring the action and successfully take on the multibillion-dollar tobacco industry, especially given the tobacco industry's rate of success.

Mr. President, in the task force that I headed for our side, the conclusion we came to as the appropriate resolution is not to have us try to determine appropriate legal fees. The Senate of the United States is not equipped, frankly, to reach into the facts, the different fact patterns of hundreds of different cases, even thousands of different cases across this country, and determine what are the appropriate legal fees.

I think that is a profound mistake, and it sets a precedent. Are we going to start to determine the legal fees in cases that involve the automobile industry? Are we going to start to get involved in what the legal fees should be in the medical industry?

Boy, I tell you, I do not think that is a road we want to go down, because I do not think this body is equipped to determine the legal fees. I think we may make very serious mistakes, and I can easily see under the amendment offered by the Senator from Washington that we could wind up with a scheme in which lawyers were compensated far more than they should be.

Now, if we look at what has happened around the country, I think we will see that, in fact, the individual States are responding to these challenges. We are seeing in State after State that they are not accepting these outrageous contingency agreements that were entered into. They are not accepting 25 percent contingency agreements. In State after State they have changed what was proposed.

In Minnesota, outside counsel agreed to accept 7.5 percent instead of the 25 percent fee as called for in the original contract. In Mississippi, both the State and their counsel have agreed to submit a decision on fees and expenses to an arbitration panel. In both Texas and Florida, where there is a dispute over fees, the attorneys' fees and expenses will be decided either through agreement, arbitration, or court order. In each case, mechanisms are now in place to determine the amount of the attorneys' fees.

In Texas, a State court ruled that a 15 percent contingency fee called for in the contract between the State attorney general and the attorneys was reasonable but refused to award a specific dollar amount. In that State, the Governor has now petitioned the court to reconsider its decision and has asked for an evidentiary hearing. The decision is not expected until later this year.

In Florida, as I indicated, the State court rejected as unconscionable the fee request of the attorneys. Well, good for the court in Florida; they should have rejected it as unconscionable. But that is where the decision ought to be made. It should not be made here in this Chamber where we are not privy to the facts in each of these cases and not in the position to determine what are the appropriate legal fees.

Let me say further that the Gorton amendment would interfere in private contracts. That is a very serious matter. Where a State attorney general has entered into an agreement with an outside law firm, I think it is highly questionable for the Senate to reach behind that contract and say we know better, we know what the appropriate legal fees should be, and we divide it on this arbitrary basis as is called for in the Gorton amendment. I do not think I have ever heard our colleagues on the other side of the aisle call for interference in private contracts. I do not think that is a precedent that stands much scrutiny.

I am going to have more to say about this amendment as we go forward. I would say that Senator GORTON, I think, has done the most serious job of trying to address this vexing question, to try to prevent windfalls to attorneys, but I am afraid it fails at least the test that I would apply for something that can meet the very different standards one sees all across the country in the literally thousands of different cases where legal fees apply.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Washington.

Mr. GORTON. Mr. President, the Senator from North Dakota finds himself on the horns of a delicious dilemma. He feels there may be cases in which the amendment I propose would result in attorneys' fees being awarded that are too great, and so his answer is to reject the amendment and allow attorneys' fees in any amount. Attorneys' fees in one case, in Texas, I believe, have already been approved by the court in an amount more than 10 times higher than the highest amount in this amendment. I am afraid the Senator from North Dakota misreads the amendment.

The heart and soul of the amendment is a set of criteria for determining reasonable attorneys' fees, listing a wide range of factors, some of which we have discussed here, but leaving the matter to the discretion of the court. There is a limitation imposed on the discretion of the court by the amendment in the amounts that we have stated and debated. This is a cap and by no means a floor.

The Senator from North Dakota says that the better system is the system that is included in this bill, a system of arbitration. But, and the current Presiding Officer has read this very carefully, this is some kind of arbitration. This arbitration is to be decided under the bill by three arbitrators—one appointed by the plaintiff's trial lawyer himself, one appointed by the plaintiff, and a third appointed by the first two. The plaintiff has already signed an agreement—the plaintiff in most of these major cases is the State—they have signed an agreement, in some cases, for a 25-percent contingency fee on billions of dollars' worth of recoveries. Who is going to represent the public interest in this arbitration? No, Mr. President, there isn't anyone there to do that.

Mr. CONRAD. Will the Senator yield for a quick point?

Mr. GORTON. Sure.

(Mr. COATS assumed the Chair.)

Mr. CONRAD. I think the Senator misspoke himself. The Senator indicated in the arbitration panel one would be appointed by the plaintiff, one by the plaintiff's lawyer, and then one by the two. I am sure the Senator will acknowledge it is one by the defendant, one by the plaintiff, and the two of them determine the third member. Section 1413 provides how the arbitration panel will work. Obviously, the two sides at issue each pick one, and the two of them pick the third. That is the standard means of establishing an arbitration panel.

Mr. GORTON. I am reading section 1413. It says:

> . . . In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

That is not plaintiff and defendant. That is a fixed deal. In any event, to say that because it is possible that this sets a ceiling, that a $4,000 fee or a $2,000 fee might be too great a ceiling, we should, therefore, have no ceiling at all, we should, therefore, allow attorneys' fees that have already been approved in far larger amounts, is, I think, a difficult argument to make.

The Senator from North Dakota makes it very well. But, in fact, the Congress of the United States has set attorneys' fees in all kinds of cases. They were discussed a few days ago by the Senator from Alabama and by others. There are many forms of litigation against the government itself in which we have set attorneys' fees that now, I think, are rather modest with the passage of time.

This is not unprecedented by any stretch of the imagination. What is unprecedented is the generosity of the proposal that I have put before the Senate. It is not unprecedented from the point of view of whether or not we have done it. No, we either have to say that because the States of these attorneys have come to us and have asked us to regulate tobacco in every conceivable, possible fashion, because they have asked us for a bill—this bill that makes it almost impossible for them to lose a case in the future because it totally changes the burden of proof—that we can say there is a certain level beyond which the conscience just simply doesn't allow attorneys' fees to go, or you have to take the position that we can regulate everything with respect to tobacco to the minutest degree, but we dare not touch attorneys' fees, personally, I think that is a very, very difficult argument to make.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. CONRAD. Will the Senator from Minnesota yield for just one moment?

Mr. WELLSTONE. I will be pleased to yield if I can have the floor.

The PRESIDING OFFICER. The Senator is entitled to yield for a question in order to regain the floor.

Mr. CONRAD. I ask unanimous consent, so I can get recognition, that the Senator from Minnesota be recognized right after I finish. I will take 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I want to clear up this confusion about the arbitration panel. On page 438 of the bill it says:

> * * * the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff—

In this case, the State, who has hired the attorney—

> one of whom shall be chosen by the attorney—

That would be the claimant for the fees—

> and one of whom shall be chosen jointly by those 2 arbitrators.

That is the standard method of setting up an arbitration panel. Nothing new, nothing unusual here. That is the way of setting up an arbitration panel to get a result that is fair to both parties.

I say to my colleague from Washington, for us to decide we have better judgment than the State courts that administer the cases that are before them, I think, is a huge mistake. We talk about micromanagement. When we start deciding legal fees in this Senate Chamber, we are making a mistake. We do need to be worried about windfalls to attorneys; absolutely we do. That is why arbitration panels were included in the legislation that came out of the Commerce Committee on a 19 to 1 bipartisan vote. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, my colleague from North Dakota has spoken to the arbitration provision in the legislation. I shall not do so. I just want to present a Minnesota perspective for just a moment.

I come from a State where we just went through a very important trial. The lawyers in my State, working with the attorney general, were able to unearth 33 million pages of documents—33 million pages of documents. This was during a discovery process that went from August 1994 to the end of 1997. Many of those documents have had an enormous impact, not just on the settlement in Minnesota, which was a very important settlement, but also directly on the debate in the U.S. Congress. Thirty-nine thousand pages of those documents were ordered produced by the Minnesota judge and were ultimately subpoenaed by the House of Representatives and made public on the Internet.

What I want to do is speak to the part of this amendment that concerns me the most. I have had some discussion with my colleague from Alabama, and I have said to him, "Why don't you, in fact, not make this retroactive," when he had his similar amendments on the floor, because I don't think we should be taking action here that reaches back to the Minnesota settlement, which has already been entered into and has been declared final by the court. We already have an arrangement between the State and the Attorney General and the lawyers who represented our State. Congress should not disturb that.

I think the amendment of my colleague from the State of Washington has a different weakness and that is its lack of evenhandedness. What I want to see at a bare minimum is to have the same kind of caps or limits put on those attorneys representing the tobacco companies. I say to colleagues, when you vote on this amendment, the thing you ought to fasten your attention on is that we don't have the same kind of ceiling, the same kind of caps put on fees that go to lawyers representing the tobacco companies. I see nothing here that does that, in which case I would argue that we are hardly talking about a level playing field.

I think the problem with the amendment is that it just simply lacks balance. I cannot support an amendment that puts caps on the fees of plaintiffs' attorneys representing consumers and representing the attorney general from a State, but at the same time puts no cap at all on the fees of attorneys hired by tobacco companies or other big corporations with their corporate lawyers working with these companies, but there is no cap on the fees. That just simply makes no sense to me from a kind of elementary standard of fairness, and that is why I think the amendment is fatally flawed.

HOMOSEXUALITY AND THE NOMINATION OF JAMES HORMEL

Mr. WELLSTONE. Mr. President, before I give up my time on the floor, I just want to take 1 minute also to mention another matter that has something to do with fairness. I am going to do this with a tremendous amount of sensitivity, but I just want to take a minute to mention this.

There were a number of newspaper articles today which report on the majority leader's comments about homosexuality. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 16, 1998]

LOTT SAYS HOMOSEXUALITY IS A SIN AND COMPARES IT TO ALCOHOLISM

(By Alison Mitchell)

WASHINGTON, June 15—In an interview about his personal beliefs, Senator Trent

Lott, the majority leader, told a conservative talk show host today that homosexuality is a sin and then compared it to such personal problems as alcoholism, kleptomania and "sex addiction."

The Mississippi Republican made his remarks in a 40-minute taped interview conducted by Armstrong Williams for the America's Voice network, a cable television network. The interview—part of a series on some of the nation's political leaders—was timed for Father's Day and is scheduled for broadcasting over the weekend or next week.

Mr. Lott and Mr. Williams explored a range of social topics from Mr. Lott's thoughts on disciplining children (he said that on occasion he used a belt) to his opposition to abortion to his views on the role of men and women in marriage. He described his childhood growing up in Mississippi in the late 1950's and early 1960's as a "good time for America."

Mr. Lott has made his views on homosexuality known in the past, speaking out in 1996 against a bill, narrowly defeated by the Senate, that would have banned discrimination against homosexuals in the work place. At the time he called the legislation "part of a larger and more audacious effort to make the public accept behavior that most Americans consider dangerous, unhealthy or just plain wrong."

Asked today by Mr. Williams whether homosexuality is a sin, Mr. Lott replied, "Yes, it is." He added that "in America right now there's an element that wants to make that alternative life style acceptable."

Mr. Lott said: "You still love that person and you should not try to mistreat them or treat them as outcasts. You should try to show them a way to deal with that." He said his own father had had a problem with alcoholism, adding: "Others have a sex addiction or are kleptomaniacs. There are all kinds of problems and addictions and difficulties and experiences of this kind that are wrong. But you should try to work with that person to learn to control that problem."

With the investigation of President Clinton's connection to a former White House intern as a backdrop, Mr. Lott also spoke about his marriage to his wife, Tricia. He said he had never been unfaithful in their 34 years of marriage "because I love her and because I believe that's wrong."

Asked if he was ever tempted, he allowed: "Sure I was. I'm a human being." But he said he took great care to insure that his behavior was beyond reproach. When he travels in his Mississippi district with a woman who works for him as a field worker, he said, "I would never get in a situation where it was just the two of us in a car." He said he took that precaution "because just the appearance bothered me."

Mr. Lott said his opposition to abortion was taught to him by his mother. He remembered coming home from high school and telling his mother he thought abortion might be acceptable under certain conditions, only to see her drop a dish towel and burst into tears. "She started crying and said, 'If I have raised you to have no moral respect for human life then I have failed,'" he said.

Mr. Lott, who is a Southern Baptist, stepped carefully when asked about the Southern Baptist Convention's declaration that a woman should "submit herself graciously" to her husband's leadership. He said that he felt "very strongly" about his faith, but said he would speak of marriage roles "in different terms." Spouses, he said, should "serve each other."

[From the Washington Post, June 16, 1998]

LOTT: GAYS NEED HELP "TO DEAL WITH THAT PROBLEM"

Senate Majority Leader Trent Lott (R–Miss.) said yesterday that he believes homosexuality is a sin and that gay people should be assisted in dealing with it "just like alcohol . . . or sex addiction . . . or kleptomaniac."

While taping an interview for "The Armstrong Williams Show," a cable television program, Williams asked Lott if he believed homosexuality is a sin. The senator replied, "Yeah, it is."

Lott added: "You should still love that person. You should not try to mistreat them, or treat them as outcasts. You should try to show them a way to deal with that problem, just like alcohol . . . or sex addiction . . . or kleptomaniacs.

"There are all kinds of problems, addictions, difficulties, experiences of things that are wrong, but you should try to work with that person to learn to control that problem," he said.

Lott's comments show "how the extreme right wing has a stranglehold on the leadership" of Congress, said Winnie Stachelberg, political director of the Human Rights Campaign, the nation's biggest gay political organization. Stachelberg also said Lott is "out of step" with scientific studies of the causes of homosexuality.

Some groups believe homosexuality is a chosen lifestyle and have searched for a "cure" for being gay. Many in the gay community, however, insist that homosexuality is a matter of biology.

"The medical community, the mental health community for 20 years now has known homosexuality is not a disorder," Stachelberg said.

Lott spokeswoman Susan Irby declined to comment on Stachelberg's remarks.

Williams, the television program host, said the interview probably will be aired this week.

Mr. WELLSTONE. Mr. President, the majority leader, when asked whether or not homosexuality is a sin, stated, "Yes, it is." He added that "in America right now there's an element that wants to make that alternative lifestyle acceptable." Then he went on to say, "Others have a sex addiction or are kleptomaniacs. There are all kinds of problems and addictions and difficulties and experiences of this kind that are wrong. But you should try to work with that person to learn to control that problem."

He also said—to be fair to the majority leader—"You still love that person and you should not try to mistreat them or treat them as outcasts. You should try to show them a way to deal with that." That was the beginning of the quote. I do not want to take anything out of context.

Mr. President, I am concerned about calling homosexuality a sin, comparing it to the problems of alcoholism or other diseases. I am concerned because of the medical evidence. I am concerned because I think that in many ways this statement takes us back quite a ways from where we are.

We do not bash each other here; and there is civility here. That is what I like best. So let me just simply say, the majority leader is entitled to his view and he is entitled to his vote. But I am concerned. I have been on the floor of the Senate week after week talking about the nomination of James Hormel. I really believe that, given this statement by the majority leader, and given other statements that have been made, the U.S. Senate would be better off if we bring this nomination to the floor.

It was literally back in November of last year, November 4, 1997, that Mr. Hormel was voted out of the Senate Foreign Relations Committee by a 16–2 vote. There have been holds on the nomination. We ought to bring it to the floor so that we can have an honest discussion. The majority leader is entitled to his opinion and he is entitled to his vote, but the rest of us are also entitled to our opinions and we are entitled to our votes.

I think it is extremely important that this nomination be brought to the floor; that we have an honest discussion. No acrimony whatsoever, but please let us deal with this issue, and let us give Mr. Hormel the fairness that he deserves. I will not talk more about him right now. I will not talk about his very distinguished career. But I must say, given the majority leader's statements, it makes me stronger in my belief that we need to bring this nomination to the floor, and we need to have a discussion about this question.

It will be a civil discussion. It will be an honest discussion. I think the vast majority of Senators are ready to vote for Mr. Hormel. I will have an amendment that I will put on a bill that will deal with this question, probably the first bill after the tobacco bill. But where I want to get to is to bring this nomination to the floor. Otherwise I worry about a climate that is going to become increasingly polarized, increasingly poisonous, and we do not want that to happen. We do not want that to happen.

So I am hopeful that the U.S. Senate, in a spirit of civility and honesty with one another, and honesty with Mr. James Hormel, will bring this to the floor.

I thank my colleagues for letting me also mention this matter. I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. SESSIONS. Mr. President, I would like to thank——

Mr. GORTON. Will the Senator yield?

Mr. SESSIONS. I will.

AMENDMENT NO. 2705, AS MODIFIED

Mr. GORTON. Mr. President, I have a modification of my amendment at the desk. And I take it that I have the right to modify the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the pending amendment, add the following:

SEC. LIMIT ON ATTORNEYS' FEES.

(a) Fees Covered by This Section.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, attorneys' fees for—

(1) representation of a State, political subdivision of a state, or any other entity listed in subsection (a) of Section 1407 of this Act;

(2) representation of a plaintiff or plaintiff class in the Castano Civil Actions described in subsection (9) of Section 701 of this Act;

(3) representation of a plaintiff or plaintiff class in any "tobacco claim," as that term is defined in subsection (7) of Section 701 of this Act, that is settled or otherwise finally resolved after June 15, 1998;

(4) efforts expended that, in whole or in part resulted in or created a model for programs in this Act,

shall be determined by this Section.

(b) Attorneys' Fees.

(1) Jurisdiction.—Upon petition by any interested party, the attorneys' fees shall be determined by the last court in which the action was pending.

(2) Criteria.—In determining an attorney fee awarded for fees subject to this section, the court shall consider—

(A) The likelihood at the commencement of the representation that the claimant attorney would secure a favorable judgment or substantial settlement;

(B) The amount of time and labor that the claimant attorney reasonably believed at the commencement of the representation that he was likely to expend on the claim;

(C) The amount of productive time and labor that the claimant attorney actually invested in the representation as determined through an examination of contemporaneous or reconstructed time records;

(D) The obligations undertaken by the claimant attorney at the commencement of the representation including—

(i) whether the claimant attorney was obligated to proceed with the representation through its conclusion or was permitted to withdraw from the representation; and

(ii) whether the claimant attorney assumed an unconditional commitment for expenses incurred pursuant to the representation;

(E) The expenses actually incurred by the claimant attorney pursuant to the representation, including—

(i) whether those expenses were reimbursable; and

(ii) the likelihood on each occasion that expenses were advanced that the claimant attorney would secure a favorable judgment or settlement;

(F) The novelty of the legal issues before the claimant attorney and whether the legal work was innovative or modeled after the work of others or prior work of the claimant attorney;

(G) The skill required for the proper performance of the legal services rendered;

(H) The results obtained and whether those results were or are appreciably better than the results obtained by other lawyers representing comparable clients or similar claims;

(I) The reduced degree of risk borne by the claimant attorney in the representation and the increased likelihood that the claimant attorney would secure a favorable judgment or substantial settlement based on the progression of relevant developments from the 1994 Williams document disclosures through the settlement negotiations and the eventual federal legislative process;

(J) Whether this Act or related changes in State law increase the likelihood of the attorney's success;

(K) The fees paid to claimant attorneys that would be subject to this section but for the provisions of subsection (3);

(L) Such other factors as justice may require.

(3) Effective date.—Notwithstanding any other provision of law, this section shall not apply to attorneys' fees actually remitted and received by an attorney before June 15, 1998.

(4) Limitation.—Notwithstanding any other provision of law, separate from the reimbursement of actual out-of-pocket expenses as approved by court in such action, any attorneys' fees shall not exceed a per hour rate of—

(A) $4000 for actions filed before December 31, 1994;

(B) $2000 for actions filed on or after December 31, 1994, but before April 1, 1997, or for efforts expended as described in subsection (a)(4) of this section which efforts are not covered by any other category in subsection (a);

(C) $1000 for actions filed on or after April 1, 1997, but before June 15, 1998;

(D) $500 for actions filed after June 15, 1998.

(c) Severability.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstances shall not be affected thereby.

Mr. GORTON. I thank the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Washington for his legislation, which I am pleased to support.

I suppose it is round four in this battle. This is the fourth vote we will have had on it. I think the Senator from Washington has attempted in good faith to deal with some of the complaints that have been raised about capping attorneys' fees.

Our last vote was at $1,000 an hour. He has come in and said, well, if you establish certain things, and you started early, and you worked hard on this and are one of the people who really deserve credit for this litigation, you could get up to $4,000—that is up to $4,000. So it should not be criticized as a guarantee of $4,000 per hour. I think these judges would decide on that. But he caps it at that amount. For other people who were involved less in the case, it would be capped later.

And to my good friend, the Senator from Minnesota, he talked about the Minnesota perspective. I believe Minnesota has been at this some time. They worked a number of hours on this case. They would be paid at least $2,000, and I believe up to perhaps $4,000 per hour for their work, depending on how much the judge were to give them. I think that is a very generous legal fee. As a matter of fact, it goes beyond what I would consider within the mainstream.

As a matter of fact, I was just called off the floor a few minutes ago and met a group of young people from my home State. And I asked them if they thought $4,000 an hour—how would they feel about that to pay an attorney for doing legal work. And they did not think I was serious. They thought it was a joke. Talking about $4,000 an hour—that is a lot of money. So I think we have to deal with this.

Let me talk briefly about the fact that Senators on the other side have suggested, well, we have an arbitration process. The arbitration process is not between the people who are paying the fees or the defendants in the litigation. The arbitration process is between the plaintiffs, which in this case are the States represented by the attorneys general, and their attorneys, the plaintiffs' lawyers, the attorneys. And what it says is, if they are unable to agree; that is, the attorney general and the lawyer he hired and who agreed to a certain fee, if those two are unable to agree with respect to any dispute that may arise between them regarding the fee agreement—regarding the fee agreement—then the matter goes to arbitration, then the matter goes to arbitration. Under the fee agreement, they are talking about a 25 percent, 20 percent, 15 percent contingent fee, which would enrich these lawyers to an extraordinary degree.

What the Senator from Washington has understood—and I think his legislation recognizes—is that a lot of the attorneys in this litigation have done little or no work. A few of these cases were started early on; a lot of legal work was done; a lot of attorney investment and time and some personal funds were expended on behalf of this litigation. And that is one thing.

But as the time went by, other States joined. Many of them joined in a matter of weeks or a matter of months before the settlement by the tobacco companies was offered. Those lawyers now want to walk in and claim 25 percent of what is being paid in, and they worked only a very few hours on this case.

Some of these lawyers, it has been estimated, according to a professor from Cardozo Law School, are to receive as much as $92,000 per hour—$92,000 per hour—unless something is done about it. So I think we have to act now. We have a responsibility to act. And I am certain of that.

Mr. GORTON. Will the Senator from Alabama yield?

Mr. SESSIONS. I certainly will.

Mr. GORTON. Is the Senator from Alabama aware of the fact that the U.S. district court of Texas has determined that a legal fee of $2.3 billion would be reasonable?

Mr. SESSIONS. I am aware of that. And I am glad the Senator from Washington made that insightful observation.

Mr. GORTON. Does not the Senator from Alabama agree that is a matter in which we here in the Congress, dealing with this bill, can be interested in saying, no, that is too high?

Mr. SESSIONS. I certainly do.

Mr. GORTON. I thank my friend from Alabama.

Mr. SESSIONS. With regard to the Florida case, the trial judge found it was unconscionable, as I hope this body finds these fees are unconscionable. But that case has been reviewed at a higher court and that opinion has been withdrawn.

So we don't know yet whether the lawyers in Florida will get $2.8 billion that they request or not. In fact, Mr. Montgomery, the lead attorney in the case, said he fully expects to be paid what his fee agreement said. He expects to prevail. He says he has a contract.

How can we violate contracts? We violate contracts all the time in this body. We are telling the tobacco companies they can't advertise. Many of them have advertising contracts extended for years. We are changing the whole way of doing business about tobacco. Everything about the tobacco business is being changed by this legislation. It is a comprehensive legislation in which we deal with almost every aspect of it. One of those aspects ought to be how much these fees should count for.

I was in Alabama recently to see one of the finest and biggest industrial announcements in the history of the State and one of the largest in the country. Boeing is going to build a rocket plant near Decatur. It is 50 acres under one roof. They told me with great pride that the cost of that building and facility and land and construction would be $450 million. We are talking about attorneys in Florida asking $2.8 billion, five or six times that much, five or six times the cost of one of the largest industrial announcements in America by one of the world's largest corporations. That is the extent of the fees we are talking about in Alabama. The general fund of the noneducation budget is less than $1 billion. These attorneys are asking for more than that.

As a matter of fact, a professor from Cardozo Law School estimates that it will make 20 to 25 attorneys in America billionaires. I had my staff check. I believe the Fortune Magazine that rates America's richest people, the world's richest people, listed 60 billionaires in the United States. This litigation, unless we act, could create 20 more billionaires, many of whom have worked less than a year, maybe even only a few months, on the cases with which they are dealing.

Now, I am not against a contingent fee. I support that concept. But the attorneys and the attorneys general have come to the Congress and asked us to legislate. The plaintiff attorneys have and the attorneys general have asked us to comprehensively review this entire process and litigate on it. This is an unusual type of case because we have never seen these kind of moneys before and we have never seen these kind of fees before.

It is perfectly appropriate for us to contain them. As the Senator from Washington said, we limit fees to $125 an hour in equal access to justice cases. Appointed criminal attorneys in Federal court get paid $75 an hour. I think $2,000, $4,000 an hour is enough. It will make them rich beyond all imagining, just that alone. If they haven't done any work on the case and don't have any hours into the case, they ought not be made any more rich than they are.

Mr. CONRAD. Will the Senator yield?

Mr. SESSIONS. I yield.

Mr. CONRAD. In the Senator's previous amendment, didn't the Senator have a cap of $1,000 an hour?

Mr. SESSIONS. Yes.

Mr. CONRAD. How can this Senator justify supporting an amendment now that goes to $4,000 an hour?

Mr. SESSIONS. I am glad to answer that. First of all, if we don't cap it at $4,000 an hour, we are likely to end up as in Texas at $92,000 an hour. A judge has approved that fee in Texas. It is going to go through. So certainly this is better than nothing.

No. 2, the fee is capped at $4,000 an hour. A judge must consider the skill, the expertise, the commitment, and the value of the contribution of that attorney. Some flunky in the firm isn't going to be paid $4,000 an hour. The lead lawyers, the ones who have demonstrated the greatest skill and leadership and effectiveness, would have the opportunity to reach that high but no higher.

So it is certainly a step in the right direction and preferable to nothing, although, as you well know, I was very supportive of the $1,000-per-hour cap.

Mr. CONRAD. Could I ask the Senator a further question?

Mr. SESSIONS. Certainly.

Mr. CONRAD. Is it not the case in the Texas matter that there has not been a dollar paid and there is no final resolution of that matter, that that matter is on appeal, and the Governor has interceded in that case?

Mr. SESSIONS. That is correct. But the suggestion that judges are going to somehow guarantee that these exorbitant, as you indicated, unconscionable fees will not occur is not clear from that case because the judge has, in fact, affirmed that case.

The Governor, George Bush of Texas, is doing everything he can to resist the payment of those exorbitant fees, but he has not yet prevailed. We don't need to have litigation in every State in America. We ought to comprehensively legislate this legislation with all of the others in this case.

Mr. CONRAD. One final question I ask of the Senator. Isn't the Senator concerned, as I am, that the $4,000-per-hour fee cap that is supposed to be a cap, supposed to be a ceiling, could well turn into a floor, and the fact is that we will see unconscionable attorneys' fees under this amendment?

The Senator viewed $1,000 an hour as a limit and now this has $4,000 an hour as a limit. Isn't it possible that we will see absolutely unconscionable attorneys' fees out of an amendment like this?

Mr. SESSIONS. Let me respond with a question. Does the Senator from North Dakota believe there should be no cap on the attorneys' fees?

Mr. CONRAD. The Senator from North Dakota believes that the Senate is ill equipped to reach into the thousands of cases across the country and determine what is an appropriate fee. The Senator from North Dakota is the author of the arbitration provisions that are in this bill because I concluded after listening to witnesses on all sides that we could see truly outrageous returns to attorneys, windfall profits for attorneys under the cases that are across the country. The best way to stop that was arbitration panels. Any time we fix an arbitrary fee amount, it may be way too much or may turn out to be too little.

I must say, I can't imagine any circumstance in which $4,000 an hour is too little. I can imagine a circumstance in which, as a previous amendment had $250 an hour proposed, I can imagine for those firms that went out on their own nickel and took on the tobacco industry, that they faced a very tough circumstance, $250 an hour may be too little.

I really am very concerned when we say $4,000 an hour and we put our stamp of approval on that. For every case that was filed back before 1994, we will wind up with a circumstance where people get unjustly enriched.

Mr. SESSIONS. I understand that, but the point clearly is this is a cap of $4,000 per hour. It is not a guarantee of $4,000 per hour. I preferred a cap of $1,000 per hour. The Senator from North Dakota opposed that. So we raised the figure now. I don't see how anybody can complain about this cap.

As to this arbitration agreement, it either does one of two things: It either violates the contracts and, therefore, the legislation written by the Senator from North Dakota has, in fact, undertaken to override the fee written agreement between the attorneys general and their plaintiff lawyers; or it does not.

I am afraid, however, that it doesn't do what the Senator from North Dakota suggests, because the way I read it, the only complaint that can be made is when the attorney general disagrees with the amount of the fee with the lawyer he hired. The exact language is:

> With respect to any dispute that may arise between them regarding the fee agreement, the matter shall be submitted to arbitration.

So, I am not sure that this arbitration agreement has any impact whatever on attorneys' fees. The only thing that would happen is some judges may find it unconscionable and just refuse to enforce it. That is obvious to us, that many of these agreements are unconscionable and ought not to be enforced.

With regard to the Florida fee where the judge held it to be unconscionable, those lawyers have worked a pretty good while on that case. They have done a pretty good amount of work.

The lawyers in Mississippi and Texas have put in a lot of work. The lawyers in Minnesota have put in a lot of work. But there are quite a number of States where the attorneys have done almost no work and they expect to receive a billion dollars. A lawyer, Mr. Angelos, who I believe owns the Baltimore Orioles, had a 25 percent agreement with the State of Maryland. After the case collapsed and they agreed to pay the money—and I don't know how long after he filed the lawsuit, but he certainly wasn't one of the early hard workers on the litigation—he agreed to cut his fee in half to 12.5 percent. That was real generous of him. As I read that in the newspapers, that was a billion dollars. That 12.5 percent was over a billion dollars. And he has done almost nothing.

These are fees the likes of which the world has never seen in history. The amount of work that went into obtaining these fees is minuscule in many cases, and as we are going about tobacco legislation, we simply ought not to allow it to happen. I can't say how strongly I believe that is true. No bill should come out of this Congress that does not have a realistic cap on attorneys' fees. To do so would be to dishonor the taxpayers of this country. And to argue, as some have, that it is being paid by the lawyers or the tobacco companies, and therefore not paid by the citizens of the country, is likewise an improper and unacceptable argument.

The truth is that any way you look at it, it is money paid by the tobacco companies to settle the lawsuit. It is sort of unwise and unhealthy, in my opinion, for it to be structured this way. Well, the plaintiff lawyers who are representing the State of Alabama, or the State of Mississippi, say: State of Mississippi, you don't have to pay my fee; I will just take my fee over here from the tobacco companies; they will pay it.

Well, one of the classic rules of law is that a person who pays your fee is the one you have loyalty to. It creates an impermissible conflict of interest, in my view, between the attorney and his true client—the State—that he is representing. So sometimes they argue that it doesn't count because it was paid by the tobacco companies. That is bad from an ethical point of view, in my opinion. It is also an unjustified argument, because the tobacco company doesn't care whether the money they pay goes to the attorneys' fees or to the State, they just want the lawsuit to end, so they will pay some of it over there and some over there. They just say, "Tell me where you want me to pay it, State of North Dakota, and I will write the check. Do you want me to write a billion dollars to the attorneys? I will do it. Or I will write you a check for $4 billion. Whatever you say." It is just money to settle a lawsuit to them. Certainly that billion dollars could have been put in for health care, tax reductions, and other good things. So that argument, to me, is very unhealthy.

In the history of litigation throughout the entire world, we have never seen the kind of enrichment possibilities that exist for attorneys as it exists in this case. With regard to the Florida case, although the trial judge found it unconscionable and he tried his best to eliminate it, his opinion has been withdrawn and is not the final court opinion. The attorney who stands to gain the money still asserts he hopes to get those fees exactly as he was promised. With regard to Texas, a judge has approved a $2.3 billion attorney fee already. I don't know if Governor Bush can succeed in turning that around or not. He is doing all he can to do so, as well he should, because when you consider how much Texas could use $2.3 billion, as any State could, he ought to resist the loss of that revenue for the people of Texas.

I think the Senator from Washington has worked hard on this amendment. He has listened to the objections from the other side, and he has sought to draft a piece of legislation that would meet those objections. It pays a little more than I think is necessary, but it would have a significant impact in containing the most unconscionable fees that are likely to occur in this matter. I think he has done a good job with it. It certainly does not mandate $4,000-per-hour fees. A judge has to justify those kinds of fees in a finding. That should mean that young lawyers who may have just done basic background work, or a little research and other types things, won't be paid $4,000; only the very best will.

I think it is a good step forward. We will now see who wants to pay these attorneys a legitimate wage for their work. This is a legitimate wage for their work. I expect that we would have bipartisan support for Senator GORTON's amendment. It is a good amendment. It is a generous amendment for the trial lawyers. It rewards them to a degree that is unheard of for their work. I don't know of any fees I have ever heard of at $4,000 per hour. It ought to bring this matter to a conclusion. Again, I don't believe we will have any legislation on tobacco that does not contain a limitation on attorneys' fees, and that certainly represents my opinion.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, this is a well-intentioned amendment but it is a profound mistake—absolutely profound. The Senator from Alabama said the courts would have to justify paying the $4,000 an hour provided for in this amendment. We have just provided the justification. If you read the amendment, it says, "The amendment sets the following limits on attorney's fees: $4,000 an hour for actions filed before 12/31/94."

Well, guess what? If you file an action before 12/31/94, you just hit the gusher, you get $4,000 an hour. And the U.S. Senate has said that is OK. I don't think the Senate of the United States should say OK to $4,000 an hour for every case filed before 12/31/94. How can we possibly justify that on the floor of the U.S. Senate?

This amendment says that you get $2,000 an hour for any action filed between 12/31/94 and 4/1/97—$2,000 an hour. Again, you hit the jackpot. It is almost like playing instant lotto and you are a guaranteed winner, because if you filed a case before 12/31/94, you get $4,000 an hour, and the U.S. Senate says that is an appropriate fee. Well, this Senator is not going to say that is an appropriate fee, and this Senator is not going to say it is an appropriate fee to provide $2,000 an hour if you filed any time between 12/31/94 and 4/1/97—absolutely not.

The Senator from Washington argued persuasively on the last amendment, which had a $1,000 cap, that it might be too much or it might be too little. Now we have $4,000. Well, I can guarantee you that, in most cases, that is far too much. Yet, the U.S. Senate will be on record as saying that is an appropriate legal fee. I don't think it is an appropriate legal fee. As one Senator, I am not going to endorse that.

Mr. SESSIONS. Will the Senator yield?

Mr. CONRAD. Yes.

Mr. SESSIONS. Would the Senator recognize that the language that he quoted starts off and says, "attorneys' fees as approved by the court in such action" and "any attorneys' fees shall not exceed the per hour rate of . . ." Then there is a set of criteria for the judge to consider what the hourly fee should be. I suggest that very few will justify reaching that rate. But whatever, it will be decided by judges on a case-by-case basis.

As the Senator suggested, he believes that some cases are different. This allows flexibility.

Would the Senator not agree with that?

Mr. CONRAD. No; the Senator would not agree with that, because this is the exact criterion that is included in the bill with respect to reforming the arbitration panel decisions—the exact same criterion. I know what is going to happen. The courts out there are going to see that the U.S. Senate says that it is appropriate to bill $4,000 an hour if your action was filed before 12-31-94. That is what is intended—is the ceiling is going to become a floor. And we are going to see case after case where the attorneys are unjustly enriched at $4,000 an hour.

That is exactly what is wrong with this kind of an amendment. It is arbitrary, it is capricious, it sets a limit that allows for unjust enrichment, and it will have the stamp of endorsement of the U.S. Senate. That is a profound mistake. We shouldn't be in the business of deciding what the legal fees are in any case. That is not our business. That is overreach. That is the kind of micromanagement that people on the other side of the aisle have warned us against. It is the kind of thing that people resent, because they know we can't possibly know the factual matter in each and every case that is before a court in every jurisdiction in this country. For us to substitute our judgment for State judges' determinations of what are the appropriate legal fees in a case is a profound mistake. We shouldn't do it.

I go on to point out in the amendment that the Senator from Washington just changed his amendment. The change he made is very interesting. He just sent a modification to the desk that says, upon petition by any interested party, the attorneys' fees shall be determined by the last court in which the action was pending.

Those words don't seem to really mean much. But do you know, they mean a lot. They mean a lot. What they mean is that in the four cases that have already been resolved where the tobacco industry has agreed to pay the attorneys, that now they would be able to come in the back door and challenge the fees that they already agreed to. That is what this language could do. This little modification was just sent so quietly to the desk and received no explanation. "Any interested party." That means Philip Morris might challenge the attorneys' fees of the attorneys that brought the case against Philip Morris. That is a pretty good deal.

That is exactly the kind of thing we shouldn't be doing. That is not the kind of thing we should be allowing. That isn't the kind of thing that should be permitted here on the floor of the U.S. Senate.

Let me say to my colleagues who are well intended on the other side, to put in a stamp of approval by the U.S. Senate that $4,000 an hour is an appropriate legal fee is just a profound mistake. We embarrass this Chamber, we embarrass this Congress, by putting our stamp of approval and say $4,000 an hour is OK. I don't believe the Senator from Alabama believes $4,000—I mean, I think it is preposterous, and yet we are about to vote seriously on an amendment that says $4,000 an hour is OK. I don't think it is OK. I don't think it should be approved.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, here we go again.

There are people who hate trial lawyers just intuitively and instinctively. I guess the fact that I used to be one before I was elected to the House of Representatives, I kind of take exception to that observation.

But I can recall times in my legal practice when people would walk into my office who were literally dirt poor. They didn't have any money. They had been injured, or they had some claim. And, frankly, the only opportunity they had to go to court was if an attorney said, "OK, we will take it on a contingency-fee basis. If we can win the case, then you pay a part of the winnings. If we don't win, you don't pay anything." Contingency fee, trial lawyers—for a lot of people, it is their only ticket to the courthouse.

Who in the world can come up with $50,000 or $100,000 to pay some lawyer or some legal firm when they need representation? A lot of Americans just can't do that.

So this is really a system of justice which gives the plaintiff a ticket to the door of the courthouse on a contingent basis: "If we win, you pay the lawyer. If we lose, the lawyer gets nothing."

Take the case of the tobacco companies. Imagine, if you will, 42 State attorneys general who said, "We want to sue the tobacco companies, the largest corporations in America, the most politically powerful, a group that never loses a lawsuit. How are we going to do that?" You can't stop the business of representing the attorney general of Illinois or California. The only way you can do this is by going to the private sector, to private attorneys, and saying to them, "Will you give us a contingent-fee deal here?" In other words, "Will you join the State attorneys general in suing the tobacco companies? And, if we win—if we win—you will be paid. If we lose, you won't get anything." Contingency fee basis. Trial lawyers.

And imagine the tobacco company executives when finally it dawned on them that 42 States had found these law firms around the country willing to take on the risk, willing to take the gamble. Was it a gamble, or was this a sure thing? History tells us it was the biggest legal gamble in the history of America. The tobacco companies had never lost a lawsuit—never. Yet, these law firms came forward and said, "We will help the State attorneys general. We will sign on a contingency-fee basis. Win or lose, let's see what happens." We know what happened. It ended up that the tobacco companies came to the realization that they couldn't win. They sat down about a year ago with the States' attorneys general and tried to hammer out some kind of an agreement. Part of that agreement has to be, "How are we going to pay these attorneys? We agreed we would pay them for what they were going to do if we won."

Now come the tobacco companies and those people who have no use for trial lawyers to the floor of the U.S. Senate and say, "We want to have a voice in this process. We want to rewrite these agreements. We want to decide what was fair and unfair."

I don't think this is a fundamentally sound amendment. I think we should defeat this amendment. Let me give you one basic reason why we should defeat this amendment: Because the critics of the trial lawyers, the critics of the attorneys who brought these lawsuits against the tobacco companies, have done it again, ladies and gentleman. They have come in and said it is an outrage to pay lawyers this amount of money, an absolute disgrace, if they are plaintiffs' lawyers, if they are lawyers representing people who died of cancer, if they are representing people in the State of Illinois who paid out millions of dollars in taxes. But did they put any limit whatsoever on the fees paid to tobacco company lawyers? Not one word.

Take a look at this amendment. It is disgraceful for us to stand up here and say this is a matter of justice, that we are not going to allow these attorneys to be paid that amount of money, and to exempt the tobacco companies' lawyers. Make no mistake: In these lawsuits, these law firms representing tobacco companies have been raking in millions and millions and millions of dollars for decades. Now we know, because of the suit in Minnesota, for example, that there has been an effort to hide important documents behind the attorney-client privilege. We know these lawyers have been complicit in this effort. Do we punish them with this amendment? No, no, no, no. Our anger for lawyers is reserved only for those lawyers who sue tobacco companies, not for the lawyers who defend tobacco companies.

Let me tell you that I think this is fundamentally unfair. It is fundamentally unfair for us to step in at this stage in the proceedings, not only because of the injustice which it does to the lawsuits which have been filed but because if this amendment passes, it applies to future lawsuits as well. Who will stand up in the future and tackle the billionaire giant tobacco companies with the prospect of limitation of legal fees of this magnitude? Four thousand dollars sounds so exceedingly generous until you wonder and speculate what is at risk here. How would a law firm decide to dedicate all of its resources and all of its time for an entire year or more to try to get to trial against the tobacco companies? What a gamble. What a risk. And the people who are pushing this amendment want to make certain that couldn't happen again. They want to close the courthouse doors to make sure that people who head up tobacco companies are not going to be intimidated by these lawsuits.

We would not be here today on the floor of the Senate, we would not be discussing a tobacco bill, if it were not for the initiative of the State attorneys general and were it not for the cooperation of these private attorneys who got involved in the lawsuit.

You hear a lot of speculation: "You know these lawyers get paid billions of dollars. Isn't that too much?" Yes; I think it is. But that is my judgment. The judgment in the bill says it will be made by arbitration panels. We will have people sit down and decide what is fair. And in States, they have dramatically reduced the attorneys' fees that would have come to these private firms with these judges' decisions and arbitration panels. And that will continue. That is the right thing to do. But for us to step up as the U.S. Senate to intervene in this debate and say that we know best, to say that the firms that came forward to have the courage to take on the tobacco companies should now be ignored and their agreements be ignored, their contracts pushed off the table, we know best here in the U.S. Senate, I think it is an outrage. It is an outrage for us, and it is an outrage for those in the future who count on this mechanism, who count on the opportunity to go into court and to plead their case in order to find justice.

How many times in the history of this country have this Congress and the President failed to act and relied on the courts? So many times in my lifetime. I can recall the civil rights struggle. It generally started in the courts. It wasn't until the important cases in the 1950s that finally Congress could muster the courage to deal with this thorny issue. And the same thing is true on tobacco. I have been fighting these tobacco companies as long as I have been in Congress.

I have had some victories and I have had some defeats. They are tough customers, and they have a lot of money. And boy do they have a lot of friends in the House and Senate. They found out there was one group they could not buy, the judicial system. They found out that when lawyers could come into court before a jury of peers and argue the case about their deadly product and what they were doing with it, they could not win. A year ago they threw in the towel and said, "We are ready to settle. We are ready to make big changes in the way we market our product."

That never would have happened were it not for the judicial system, I am sorry to say. And now we have those who resent that system, the tobacco companies, critics of trial lawyers, who say, "Isn't it a shame that this happened the way it did. We are going to rewrite history. We are going to change the terms for these attorneys."

We cannot let them do it because, ladies and gentlemen, we do not know where the next argument is going to be and where the next case will be. These were 42 cases brought on behalf of 42 different States. In my home State of Illinois, Attorney General Jim Ryan, a Republican, a man I admire for the courage in filing this lawsuit, stood up for our taxpayers. Michael Moore in Mississippi was the man who initiated that action.

And now we come to the question, Are we going to close the door in the future to this opportunity? Which will be the group that wants to take on the tobacco companies? How will they muster the resources? How will they put together the lawsuit and the case law to prevail? If this amendment passes, we are tying their hands. We are saying to them that in the future you will not have the same chance as these 42 different attorneys general.

That is fundamentally unfair. To do this and tie the hands of the plaintiffs' attorneys, the attorneys representing the people, while saying that the tobacco lawyers can continue to rake it in, millions of dollars deceiving, millions of dollars defending, that is fundamentally wrong. I stand in opposition to this amendment.

We have an important bill here, a bill that can reduce the number of deaths in America from tobacco. It is a shame that we are diverted now in a battle against trial lawyers. This should be a battle against the tobacco company tactics that lure our children into a nicotine addiction, which for one out of three of them means an early grave. That is what this bill is really about. It is not about lawyers. It is about our kids. I sincerely hope my colleagues on both sides of the aisle will join me in opposing this amendment.

I yield back the remainder of my time.

Mr. CONRAD. Mr. President, I thank the Senator from Illinois for his really superb presentation. He makes many important points about what this amendment is about. I just want to direct my final remarks to those who may think, as I do, that some lawyers are in line for unjust enrichment. I tell you it makes my blood boil to hear lawyers in Texas may get $2 billion. That is outrageous. That is unconscionable. I do not believe it is going to happen. That matter is on appeal.

In Florida, when the lawyers there submitted bills like that, the court said it was unconscionable and told them to forget it. That is what every State court ought to do when presented with unconscionable claims by lawyers in these cases.

I have to say to my colleagues who are thinking about voting for this amendment, you are going to have to be able to go back home and justify the Senate of the United States saying $4,000 an hour is OK. I do not believe it is. I do not believe you can justify going back home and saying, yes, I voted for an amendment that would provide $4,000 an hour for any case filed before 12-31 of 1994. I do not think people in my State would think the Senate ought to say, well, $4,000 an hour is OK for every case filed before 12-31 of 1994. Boy, I tell you, the best lawyers in my State bill about $150 an hour. And now we would be saying, well, in a tobacco case, if you just happened to file before this magical date of 12-31-94, you get $4,000 an hour. And the Senate has said that is OK. Boy, I tell you, I think that would be a profound mistake.

Let me just say the Senator from Illinois is also correct; there are circumstances where some of the limits are not enough. The $500 an hour which is provided for in this amendment for cases filed after 6-15 of 1998 may be too little. If we discover, going through the documents, that there is some new legal theory to take on the tobacco industry but we say to firms across America you are limited to $500 an hour when you do not have any idea whether you are going to win or not and you may have to put millions of dollars into making the case and then the Senate, in its wisdom, says you are limited to $500 an hour, that is probably too little. What law firm is going to take the case?

And then, as the Senator from Illinois has pointed out, interestingly enough, this amendment applies to one set of lawyers, the lawyers for the people who are hurt by these products. The lawyers for the families of somebody who has contracted cancer or has lung disease or has heart disease, they are limited but the tobacco industry lawyers are not. And the bizarre thing is the limits that are put on here may well be far too much. I really cannot see justifying $4,000 an hour. I don't know how that gets justified. And $2,000 an hour if you filed between 12-31-94 and 4-1-97; $1,000 an hour for actions filed before 4-1-97 and 6-15-98, those are pretty fancy numbers where I come from. So I just think this amendment is a mistake and ought to be rejected by our colleagues.

I thank the Chair and yield the floor.

Mr. McCONNELL. Mr. President, I rise today to speak, yet again, on the issue of limiting tobacco trial lawyer fees to a reasonable level.

Unfortunately, the Senate has repeatedly refused to limit the fees to a reasonable wage. And, now we are forced to consider an amendment to allow tobacco trial lawyers to earn as much as $4,000 an hour!

But—Mr. President—$4000 an hour is better than the alternative and it's about all we have left. We've tried to cap the fees at a reasonable level, and that's been rejected. A cap of $4000 an hour is our last alternative. If we fail to pass the Gorton amendment, then we will be allowing attorneys to make as much as $88,000 an hour!

Let me remind my colleagues of how we got to $4000 an hour. First, we tried to limit the fees to $250 an hour—nearly 50 times the minimum wage. This attempt was soundly rejected by the Senate. $250 an hour was simply not enough for the trial lawyers.

So, Senator FAIRCLOTH, Senator SESSIONS and I got together to regroup and try again. We discussed how much is enough for the trial lawyers? $500/hour? $750/hour?

We debated these amounts—and frankly—it turned our stomachs to think about the federal government approving a bill to give tobacco trial lawyers $500 an hour or $750 an hour. Especially when you consider that the average lawyer in America only earns about $48 an hour and the average doctor only earns about $100 an hour.

But, we knew that it would be difficult to get the friends of the trial bar to agree to any limit at all. So, we held our noses and introduced a new amendment to cap the lawyer fees at $1000 an hour! Surely, $1000 an hour would be considered a fair wage for the trial bar.

Mr. President, was $1,000 an hour enough for the friends of the trial bar? No, absolutely not. They needed much more. They wanted to maintain the status quo. They wanted the Senate to keep the National Trial Lawyer Enrichment Bill intact.

The friends of the trial bar wanted us to continue to allow: lawyers in Minnesota to earn $4,500 an hour; lawyers in Florida to earn $7,000 an hour—assuming of course that these Florida lawyers worked 24 hours a day for three-and-a-half years; lawyers in Mississippi to earn $10,000 an hour; and lawyers in Texas to earn $88,000 an hour.

So, we tried to cap the fees at $1000 an hour and we lost 50–45. We got closer, but still not enough.

So Senator GORTON has put together a comprehensive outer-limits amendment that says—$4,000 an hour is better than $88,000 an hour. Surely, we can get 51 Senators to agree to that notion.

Now, let me take a minute to address two or three issues raised by the proponents of unlimited billionaire fees for trial lawyers.

Billionaire Lawyer Argument No. 1: "We're just businesspeople, like anybody else":

First, Senator DASCHLE argued a few days ago that the Senate should not limit plaintiff's lawyer fees because "[a] lawyer is a legal businessperson." So, Senator DASCHLE is effectively arguing that we should no longer see lawyers as lawyers, but rather we should see them as businessmen and venture capitalists—a few good men looking to make a buck.

With all due respect, I could not disagree more. Lawyers are not supposed to be businessmen and businesswoman out to make a buck. It is this type of make-a-buck-at-any-cost mentality that drives so much wasteful and frivolous litigation in our society. Too often, litigation is about enriching the lawyer, not compensating the client.

Mr. President, every first-year law student is taught that he or she is not some businessperson out to make a buck. I remember my days in law school where our professors taught us that we were supposed to be fiduciaries—representing the interests of our client, not our own selfish, profit-making interests.

In fact, legal ethics prohibit attorneys from charging fees that are not "reasonable." As Professor Lester Brickman explained in today's Wall Street Journal: "If the standard of reasonableness has any meaning, it is surely violated by fees of tens of thousands of dollars an hour?"

Moreover, Professor Brickman concluded:

> The public has a compelling interest in preserving legal ethics, including th[e] rule that fees must be reasonable. The higher the fees tort lawyers get, the greater the share they take of injured clients' recoveries. Moreover, the higher the fees, the more tort litigation and the more costs that are imposed on society. The civil justice system, which generates the fees that Mr. Daschle does not want curbed, exists to serve citizens. Lawyers are not businesspeople; they are professionals entrusted with the people's businesses.

So, Mr. President, every lawyer in America knows that he or she has no constitutional right to charge excessive and unreasonable fees. We must pass the Gorton amendment as our last best hope of ensuring that the fees get somewhere near reasonable and rational.

Billionaire Lawyer Argument No. 2: "Private Contracts Can Never Be Altered":

Second, the proponents of unlimited lawyer fees argue that the federal government cannot interfere with private contracts in any way, shape or form.

This argument is absolutely nonsensical. The tobacco bill is full of provisions that may force tobacco companies to abrogate contracts with retailers and advertisers—among others. The Supreme Court has made clear that "Congress may set minimum wages, control prices, or create causes of action that did not previously exist."

Furthermore, the Court has made clear that private parties may not preempt governmental action by simply entering a contract. Can you imagine if every time that we passed a new minimum wage law, we exempted all employers who have a previous contract with their employees to pay at a level lower than the new minimum wage? Can you imagine the outcry in the Senate if we exempted private parties from a new minimum wage law whenever those parties had a contract "preempting" Congressional action?

I also find it curious that my colleagues on the other side of the aisle argue on the one hand that the right of contract is inviolate and above Congressional action—yet on the other hand, argue that the right of contract may be violated by some unknown arbitration panel.

So, the friends of plaintiffs bar argue that an unknown arbitration panel may modify contracts, but the United States Senate—the elected representatives of the people—may not modify fee contracts.

Which one is it? Can we adjust these contracts or can we not adjust contracts? Mr. President, we can't have it both ways. We can't say out of one side of our mouths that the fees and contracts can be adjusted by an arbitration panel, and then say out of the other side of our mouth that the fees and contracts are a done deal and may not be adjusted by Congressional action.

The bill as currently written says that all types of contracts can be adjusted by this sweeping Federal regulatory bill. In particular, the bill says that lawyer fee contracts can be adjusted by an arbitration panel.

So, frankly, I am tired of hearing that contracts cannot be adjusted and that fees cannot be made reasonable. If we are giving the arbitration panel the ability to adjust contracts and fees, then it is perfectly consistent to establish a fee ceiling and a frame of reference for adjusting these contracts and fees.

Billionaire Lawyer Argument No. 3: "$4,000 Is Too Generous":

I was amazed this morning to hear those who carry the water for the trial bar arguing that $4,000/hour is too much money for their friends to earn. Yes, Mr. President, you heard me right. Some of the friends of the trial bar are now arguing that $4,000 an hour is too much money for the trial bar.

So, let me get this straight. $250 an hour is not enough money for the lawyers. But, $4,000 an hour is too much money for the lawyers.

What about something in between $250 and $4,000? Oh, say, $1,000 an hour. What about $1,000 an hour as a midpoint? Oh wait a minute, the Senate rejected that amount too.

So $250 an hour is not enough. $4,000 an hour is too much. And, $1,000, I suppose, just doesn't feel right.

If $4,000 an hour is too high, then what is $88,000 an hour?

I'll tell you what $88,000 an hour is—it's how much money we are going to allow the attorney general to pay the lawyers in Texas if we don't pass the Gorton amendment.

We must pass the Gorton amendment. It deals with every possible permutation and takes into account any variation in degrees of risk assumed by the plaintiffs' lawyers.

It provides a cap of $4,000 an hour for all the attorneys who suited up and led the fight to kill tobacco in the earliest stages of the war.

It provides a cap of $2,000 an hour for those who signed up when the war was coming to a close in the national settlement last spring and summer.

It then provides a cap of $1,000 an hour for any lawyer who ran onto the battlefield after the settlement was signed, and a cap of $500 an hour for all lawyers who will rush straight to the courthouse as soon as we pass this fee cap.

Senator GORTON has covered the waterfront here. I hope that we can pass this amendment as the last best hope for a fee cap.

Mr. FAIRCLOTH. Mr. President, I am shocked that the Senate rejected two prior attempts to limit these attorneys' fees, and I am amazed that we are here to debate whether a $4,000 per hour cap is enough for the trial lawyers.

Over the past few days, a number of constituents asked me how we could possibly condone paying these lawyers more than $250 per hour, which was the rate in my original amendment.

Where I come from, Mr. President, $250 is an incredible amount of money. That is a weekly wage for a lot of working people. These are the same working people, I might add, whose taxes we are raising to pay these lawyers' fees. This bill is an unparalleled transfer of wealth from the poor to the super-rich.

My constituents were upset about $250 per hour and $1,000 per hour payments to lawyers, but I explained that the Texas lawyers expect to make $92,000 per hour, and my constituents enthusiastically agreed that these caps were better than $92,000 per hour. The Texas lawyers have already been paid $90 million and expect more than $2.2 billion more.

In fact, the Attorney General of Texas is so intent on paying them their $2.3 billion in fees that he filed a lawsuit against the Governor because the Governor tried to intervene on behalf of the taxpayers who will foot the bill. Yes, the taxpayers, because the Attorney General admitted to the New York Times on May 27 that part of the attorneys' fees will come from the Federal Government.

It is a betrayal of the American people, the taxpayers, to raise their taxes to pay lawyers $4,000 per hour. That's more than most families make in a month. That is outrageous. Working Americans—people scraping to pay the mortgage—being asked to pay for more luxury houses and yachts for billionaire trial lawyers. It's an abuse of the taxpayers. Yes, the taxpayers, that's what the Texas Attorney General said.

It is important to note that this is a cap, not a flat fee, so few lawyers should expect to be paid at the top end of these categories. The amendment limits the number of cases that fall within the top category to just a handful. That is a critical distinction, Mr. President, and one that makes this amendment more attractive to those of us shocked by these numbers.

However, as the Senate rejected my previous two amendments to limit fees, I have no alternative but to vote for these higher dollar numbers. These outrageous numbers are testament to the strength of the ultimate Washington special interest, the special interest most inclined to put personal interest above national interest, the trial lawyers.

Mr. President, I will vote for this amendment, but I do so only because some limitation is better than no limitation on these predatory and, I might add, unethical attorneys' fees payments.

Mr. LEVIN. Mr. President, I cannot support the Gorton amendment. This amendment would create a complicated, bureaucratic and arbitrary set of criteria for establishing payments to the plaintiffs' lawyers while leaving the fees of the tobacco companies' lawyers without restriction. The amendment would set forth unusually high hourly amounts for attorneys' fees which could lead to higher payments. The underlying legislation establishes a preferable process by setting up a three-person arbitration board to resolve disputes regarding the attorneys' fees. The board would have a representative of the plaintiff, a representative of the attorney, and a third party chosen jointly by those two arbitrators.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand, we have an order for adjournment at 12:30?

The PRESIDING OFFICER. The Senate is to adjourn at 12:30.

Mr. KENNEDY. I ask unanimous consent that we might extend that for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

Mr. President, as Senator DURBIN and Senator CONRAD have pointed out, the current amendment is not really about saving money for the States. The amendment is one more backhanded attempt to protect the tobacco industry. It is the third amendment offered on attorneys' fees. The prior two were rejected by a substantial majority. It is a transparent effort to distract attention from the enormous public health issues on which the American people want us to focus. Let's defeat this amendment and turn our attention to stopping youth smoking.

The Senate has debated this landmark youth smoking reduction bill for a month. Each of us has had an ample opportunity to state our views. The Senate should commit to vote on final passage this week. We owe it to the children who are being entrapped into a life of addiction and premature death by the tobacco industry every day.

The opponents of this legislation have used every parliamentary tool at their disposal to extend the debate and divert attention to an unrelated issue. They want to talk about every subject but the impact of smoking on the Nation's health. However, the real issue cannot be obscured by their verbal smokescreen. It is time for us to move from talking to voting. Each day that the opponents delay final Senate passage of the bill, 3,000 more children begin to smoke and a third of these children will die prematurely from lung cancer, emphysema, heart disease, and other smoking-caused illnesses.

Each day that we delay, the price of a pack of cigarettes will continue to be affordable to the Nation's children and more and more of them will take up this deadly habit. And each day that we delay, tobacco will continue to target children with billions of dollars in advertising and promotional giveaways that promise popularity, excitement, and success for young men and women who start smoking. Each day that we delay, millions of nonsmokers will be exposed to secondhand smoke. According to the Environmental Protection Agency, secondhand smoke causes 3,000 to 5,000 lung cancer deaths each year in the United States—more than all other regulated hazardous air pollutants combined. Secondhand smoke is also responsible for as many as 60 percent of cases of asthma, bronchitis, and wheezing among young children.

Each day that we delay, tobacco will remain virtually the only product manufactured for human consumption that is not subject to federal health and safety regulations, despite the fact that it causes over 400,000 deaths a year.

Preventing this human tragedy should be the Senate's first order of business. With so much at stake for so many of our children, it is truly irresponsible for the opponents of this legislation to practice the politics of obstruction. Let the Senate vote.

The public supports this bill overwhelmingly, despite the tobacco industry's extravagantly funded campaign of misinformation.

A new poll released this morning shows that the American people want the McCain bill to pass by a margin of two to one; 62 percent support the legislation, while only 31 percent oppose it. The American people can see through the tobacco industry's smokescreen, why can't the Senate?

The same survey shows that the public knows who will be responsible if the McCain bill does not pass. By a 2½ to 1 margin, the American people say the Republicans in Congress will be most responsible if the bill dies. By a similar margin, voters say they would be more likely to vote for a candidate who supported the McCain bill, and less likely to vote for a candidate who opposed it.

This bill will do an effective job of providing that protection for our children. It will save 5 million of today's children from a lifetime of addiction and premature death. It contains a series of strong provisions that have withstood repeated attempts to weaken them:

It contains a substantial price increase to keep children from starting to smoke.

It gives the FDA strong authority to regulate tobacco like the drug it is.

It has tough restrictions on advertising, to stop tobacco companies from cynically targeting children.

It contains a strong lookback provision that requires large additional payments by tobacco companies if they fail to meet the targets in the bill for reducing youth smoking in the years ahead.

It gives no immunity from liability to the tobacco companies for the illnesses they have caused.

We can reach a reasonable accommodation on how best to protect tobacco farmers, and how best to use the revenues obtained from the tobacco industry. There is no excuse for further delay. The Senate should pass this bill this week, and send it to the House. Senators who refuse to act will pay a high price for abdicating their responsibility.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that we postpone the recess for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, in an informal discussion with the Senator from North Dakota, each of us has expressed a hope that we may be able to vote on my amendment shortly after the recess and perhaps after the official photograph of the Senate. I will simply summarize arguments that the Presiding Officer has made so eloquently on each of the amendments on this subject that has been before us and that I made earlier.

It does seem to me curious that the two opponents of the amendment made dramatically opposite statements in opposing this amendment. The Senator from North Dakota said in spite of the clear language of the amendment, that instead of a ceiling of so many thousands of dollars an hour, depending on when the litigation began that is the thrust of my amendment, that, in fact, it will be considered a floor.

One can take that position only by not reading the amendment and all the considerations that are included in it, but he was afraid that it would mean in many cases we would be paying too much.

The Senator from Illinois felt it was terrible to limit lawyers even to $4,000 an hour, because many of them had made agreements under which they would get more. And indeed, as the Presiding Officer said in response to a question from me, we already have one example of one set of attorneys already being awarded well over $2 billion for representing one State, the State of Texas, in litigation of this sort and the attorney general of Texas bitterly opposing the attempt by the Governor of Texas to get a more reasonable set of attorneys' fees.

We want to end those debates, and the adoption of this amendment will end those debates, because it will provide a ceiling, I think a highly reasonable ceiling. In fact, I had some of my colleagues tell me privately that they don't like my amendment because it is too much. They can't explain even these amounts. In the abstract, that, of course, is the case, but as against $2.3 billion, as against many of the contingent fee agreements, one can explain these limitations and they are just that; they are ceilings and not anything else.

For those who feel that the sky should be the limit, that no matter how many billions of dollars attorneys have contracted for, no matter how much they have pled with us to pass this legislation, no matter how much minute regulation they are asking us to impose on every aspect of the tobacco industry—the farmers, the manufacturers, the wholesalers, the retailers—more regulation than the Congress of the United States has ever imposed on any other legal business in history, that, nonetheless, one aspect of the contracts between States and other plaintiffs and their lawyers should be entirely free of any concern on our part whatsoever.

Mr. President, I just can't see how anyone can justify this bill, hundreds of pages of detailed regulations, and say nothing about attorneys' fees other than an arbitration in which the only people represented are the plaintiffs' lawyers and the plaintiffs who have signed the contracts in the first place. No, that is not balance; that is not fair.

As the Presiding Officer knows, I disagreed with his previous amendment because it seemed to me that there were certain circumstances under which it was too low. I think we ought to do justice to lawyers who have done an extraordinary job, who have in some cases come up with new theories and have been successful with those theories, but I think we have the right to say enough is enough. This amendment, Mr. President, says enough is enough. And in the future, when tobacco litigation will be very, very easy, a much smaller enough is going to be enough.

Probably the long-term result of this amendment would be not dissimilar in the total amount of attorneys' fees paid from the Faircloth amendment that came so close to adoption late last week. This amendment, however, would see to it the lion's share of those recoveries would go to the attorneys who actually earned them and not those who have gotten in very late.

I commend this to my colleagues, both Republicans and Democrats, as being reasonable and as being something that should be a part of any overall pattern that we pass, and that is to put us at the heart of the whole debate over tobacco. If we can regulate everyone else, we can regulate the attorneys. We do it fairly in this amendment, and I trust as soon as we come to an agreement on the time it will be voted on, that it will be adopted and we can go on to other important developments in this bill.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:38 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the President Pro Tempore.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The distinguished able majority leader is recognized.

OFFICIAL PHOTOGRAPH OF THE 105TH CONGRESS

Mr. LOTT. Mr. President, for the information of all Senators, if they would go ahead and be seated if they are in the Chamber—I note that there are a number of our colleagues who are still not here—we will go into a quorum call momentarily to allow Senators to reach the Chamber and be seated.

Also, those who are here, I want to note that the camera is located in this corner over to your right. So I ask that all Senators turn their chairs toward the camera. We need to be able to see the camera. The photographer will then take eight pictures, so there will be eight flashes.

Once we get started, it should not take very long. But it would be helpful if the Senators who are in the Chamber would take their seats so that when the others arrive we will be able to go straight to the pictures.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, if all Senators would take their seats, we could get a more accurate count of who might be absent.

I also want to note once again, as I did earlier, the camera that will be taking the picture is over my right shoulder here in the corner. If both sides of the aisle would adjust chairs where you can see the camera, we could get a good shot. The photographer will take 8 pictures with 8 flashes. Once we get all Senators in their chairs, it shouldn't take but just a few minutes to get that done.

After the photograph is taken, we will go, I believe immediately without any intervening debate, to a vote on the Gorton amendment. Then we will go to the next Democrat amendment.

Those of you that are due to be at a bill signing ceremony about 3 o'clock should be able to make it. If all Senators would take their seats we should be ready to go momentarily.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 2:26 p.m., recessed until 2:31 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2705, AS MODIFIED

The PRESIDING OFFICER. The pending question is the Gorton amendment, No. 2705, as modified.

Mr. LOTT. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mrs. BOXER (when her name was called). Present.

Mr. LOTT (when his name was called.) Present.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—49

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Byrd
Campbell
Chafee
Coats
Collins
Coverdell
Craig
Dodd
Domenici
Dorgan
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lieberman
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Bennett
Biden
Bingaman
Breaux
Bryan
Bumpers
Cleland
Cochran
Conrad
D'Amato
Daschle
DeWine
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Torricelli
Wellstone
Wyden

ANSWERED "PRESENT"—2

Boxer
Lott

NOT VOTING—1

Specter

The amendment (No. 2705), as modified, was agreed to.

Mr. McCAIN. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPLANATION OF VOTE

Mrs. BOXER. Mr. President, I wish to inform the Senate of the reason I voted "present" on the Gorton amendment related to limits on attorneys' fees in tobacco cases.

I abstained on this vote because my husband's law firm is co-counsel in several lawsuits against tobacco companies filed in California state court by health and welfare trust funds.

The Ethics Committee has advised me that voting on an amendment such as this "would not pose an actual conflict of interest" under the Senate Code of Conduct.

However, I decided that this vote could create the appearance of a conflict of interest and therefore I abstained by voting "present."

EXPLANATION OF ABSENCE

Mr. DURBIN. Mr. President, I would like to take a moment to explain my absence during vote number 159 last night. I was returning to Washington from Chicago when the airplane I was on was delayed by weather problems. While the vote was going on, the plane was in the air over the Washington area as we waited for the airport to reopen so that we could land.

Had I been present, I would have voted 'nay' on the motion to table the Reed amendment to the tobacco bill. I am a cosponsor of the Reed amendment and I believe it should be part of the final tobacco legislation.

The tobacco industry has been targeting kids with its advertisements and marketing gimmicks for far too long. The tobacco bill would re-promulgate the FDA's regulations, currently on hold, that seek to restrict tobacco advertising and marketing that appeals to children.

The Reed amendment adds new teeth to the restrictions by linking each tobacco company's tax deduction for advertising expenses to its compliance with the regulations. As long as a tobacco company obeys the law and complies with the FDA regulations, the company can continue to deduct its expenses for permissible advertising. But, under the Reed amendment, if a tobacco company violates these restrictions, the company's privilege of deducting its advertising expenses for tax purposes would be lifted for all of its advertising expenses for the year in which the violation occurred.

This amendment, as with the lookback amendment, is about accountability. If a tobacco company decides to try to skirt the FDA regulations, to keep advertising or marketing in ways that appeal to children, that company will face not just a regulatory action by the loss of its advertising deduction. With this amendment, taxpayers will no longer help foot the advertising bill for companies that continue to market to children. Tobacco companies will no longer get a tax break for advertising expenses if any of the company's advertising violates the FDA's regulations for protecting children.

It's a simple amendment with a simple point. Its message is that we are serious when we say to the tobacco companies: no more advertising to children. This amendment deserves the support of the Senate.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Arizona.

Mr. McCAIN. Mr. President, the Senator from Kentucky has been waiting very patiently to propose his amendment. I just want to sum up what we just passed here, and I think it is very important.

We passed limits on attorneys' fees of $4,000 per hour for actions filed before 12–31–94; $2,000 per hour for actions filed between 12–31–94 and 4–1–97; $1,000 per hour for actions filed between 4–1–97 and 6–15–98; and $500 per hour for actions filed after 6–15–98.

Before the Senator from Washington leaves the floor, I would like to thank him for his amendment. I thank him for his persuasive arguments in a very close vote. Obviously, it was the effort of the Senator from Washington that tilted the vote in favor of this amendment, albeit by one vote. So I express my appreciation to the Senator from Washington.

Mr. President, I just go on to say, it does not apply to any fees paid to attorneys that are defending tobacco companies. It does not apply to any fees actually remitted and received by an attorney before 6–15–98, nor to reimbursement of actual out-of-pocket expenses approved by a court in such actions.

It applies to all actions brought on behalf of a State or political subdivision, the Castano civil actions, and all tobacco actions brought on behalf of private litigants that are settled or "finally resolved" after June 15, 1998.

It directs the courts to consider the following factors in determining an attorney's fee as: likelihood of success; time and labor invested; expenses incurred; novelty of the legal issues involved; skill required to prosecute the action; and results obtained.

It permits the tobacco companies to petition to reduce fees that they had already agreed to pay to plaintiffs' attorneys in the States that have already settled.

Mr. President, I think it is an important amendment. I do believe that my friend from Massachusetts would agree with me that really it is as outstanding as the agricultural issue, the farmers issue.

We can go through iterations—and there are maybe hundreds of amendments filed—but except for the agriculture issue, we have pretty well resolved the outstanding issues that are associated with this legislation. And I would like to first express optimism that we can address that issue. I still hope we can reach a compromise between the two—the LEAF Act and the so-called Lugar Act. But in addition to that, I believe that we can invoke cloture and dispense with this bill this week.

I thank my colleagues for their cooperation, and I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me say on behalf of my colleagues, that with respect to the last amendment, their vote was a reflection, I know, of grave concerns on our side of the aisle about the Senate putting its stamp of approval on a $4,000-per-hour fee.

Some may think that is a fee that they are willing to attach automatically based on a date, but I think a lot of people felt very strongly that the independence of the judiciary and its capacity to be able to analyze according to the very same standards in the Gorton amendment—the Gorton amendment borrowed from our bill each of the categories of evaluation that would be applied by the courts. So in effect, they are really mandating an outcome which may or may not fit for one case or another case.

I know I heard colleague after colleague suggest to me that, as a Senator, they did not want to approve of a $4,000-an-hour fee. So that is the distinction here. Some were willing to put their approval on it; some were not. But the fact is, the amendment carried by one vote, and that is the will of the Senate.

We now find ourselves—I want to express my agreement with the Senator from Arizona—we have traveled a 3-week journey, and we have waded through the most difficult issues. The closeness of the votes on some of them clearly indicates the difficulty of trying to come to agreement, but nevertheless, the Senate has spoken on those.

We have resolved the most significant issues—the liability issue, the question of look-back amendments. The bill was strengthened in those regards. We resolved the marriage penalty. Again, for some, the bill was strengthened by providing a certain component of a tax cut and a drug program. So those are the fundamental components of this legislation—together with an FDA regulatory process that is essential to the capacity to deal with tobacco.

Therefore, that brings us to the point now where the Senator from Kentucky is about to tackle the really last tough issue with respect to this legislation. Speaking on behalf of the Senators on our side of the aisle, there are more than 40 Senators that I know of prepared to vote for this legislation now. More than 40 Senators are prepared to vote to end debate now, and more than 40 Senators are prepared to vote for the legislation in order that we can move it to the House and ultimately to a conference.

So the real test before the Senate this week is the test of whether or not the members of the Republican Party are going to join those 40 to create the critical mass necessary to pass tobacco legislation. If we pass it, it will be because we come together as a Senate. If we fail to pass it, it will be because the Republicans decided they did not want to pass it. Given the number of Democrats in our caucus—45—to have more than 40 prepared to vote now on a bill is significant.

So that is where we find ourselves. I hope that in the next hours we will resolve the farm issue satisfactorily. To the degree there are any amendments left on the Democrat side, we are prepared to enter very short time agreements if indeed there will be those amendments. So we have the ability on this side of the aisle to move rapidly; not to tie up the Senate in knots, but to pass competent tobacco legislation. And it is my fervent hope that in the interests of the last 3½ or 3 weeks-plus, and the several years of labor that has been engaged in by a number of different people in the Senate before this bill ever came to the Commerce Committee, that we would be able to do that. I think the Senator from Arizona shares that hope.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I say very briefly that what the Senator from Arizona and the Senator from Massachusetts have said is exactly on point. We really now have one major outstanding issue, and that is the question of how tobacco farmers are treated in this legislation. Hopefully, that could be resolved in a way that would be acceptable to both sides.

We understand discussions are under way, and we hope that they could be concluded. But really that is the one major issue left. Then we get on to a whole series of amendments that many Senators would like to offer. I can say for myself I have a number of amendments pending that I am willing to withhold in the interest of advancing this legislation.

I have had lots of colleagues come to me this morning and say they, too, would be willing to withhold their amendments if that would advance actually reaching conclusion on this bill. We are in the fourth week. We have dealt with contentious issue after contentious issue. Now is the time to reach conclusion. I urge our colleagues on both sides, if they can, withhold amendments that they have pending so that after the farmer issue is resolved we can move to final passage.

I thank the Chair, and I thank my colleagues who have been so patient.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 2707 TO AMENDMENT NO. 2437

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 2707 to amendment No. 2437.

Mr. FORD. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following:

SEC. . INAPPLICABILITY OF TITLE XV.

The provisions of Title XV shall have no force and effect.

SEC. . ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, from amounts made available under section 451(d), the Secretary of Agriculture shall use up to $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income during any of the 1997 through 2004 crop years, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

(c) EFFECT ON OTHER PAYMENTS.—None of the payments made under this section shall limit or alter in any manner the payments authorized under section 1021 of this Act.

Mr. FORD. Mr. President, we will discuss this amendment, I am sure, at great length. We have here a system for producers who are experiencing farm income loss which we feel is only fair and will help farmers all across the country.

Members have heard two of our distinguished colleagues and the chairman of the Commerce Committee saying that they hope we can move forward with passage of this bill this week. I do, too.

I also want to say I have a lot to say about this amendment I have just offered because it goes to the heart of this bill for me and for my constituents and it deals directly, it deals most directly, with how my constituents are treated. Very briefly, if the quota is removed, you make the tobacco companies another $1 billion a year. If you remove the tobacco quota, the value of the land in Kentucky to my farmers is reduced up to $7 billion. A farmer could go to bed tonight having a mortgage that was completely covered by the land he owned or had mortgaged, and we take the tobacco quota away from him and he wakes up the next morning and he doesn't have enough value for that land to cover his mortgage, and his mortgage is called.

So I think it is important that we begin to look at the ramifications of losing the tobacco program as we know it. We have tried to put into this amendment the transition from where we are today as it relates to the tobacco program to what might come in the future if we reduce underage smoking. I am very much for the reduction of underage smoking. Let's put that up front. I have no problem with that. But in the fact of reducing teen smoking or underage smoking, it is pretty tough to put people out of business.

So we will be discussing this amendment for some time. My colleague and friend from Virginia, Senator ROBB—and there will be other Senators on our side—will be supporting this amendment, and I think there will be some Senators on the other side of the aisle who may want to speak, who will be supporting this amendment.

What I do under this amendment is to strike title XV, and that is doing away with the tobacco program and using 69 percent of all the moneys in this bill for health programs, for research, and for child care. It is very, very important not only to the farmers of my State but those health groups. We have 24 health groups in this country that have endorsed the LEAF program. The smoke-free kids—there is a letter on your desk that shows that they support the LEAF Act. ENACT supports the LEAF Act. All farmer organizations, practically, that have some longevity to them support the LEAF Act.

Let me summarize the main reasons why title XV must not remain in this bill. Now, title XV is designed, whether on purpose or not, to save tobacco companies $1 billion a year. So you get down and the vote ultimately will be: Are you going to vote for the farmers? Are you going to vote for the cigarette manufacturers? Are you going to take $1 billion off the backs of the tobacco farmers and give that saving to the cigarette manufacturers? Make no mistake, title XV forces Senators to choose between the tobacco companies and the tobacco farmers. Unless we want to save tobacco companies $1 billion per year at the expense of the tobacco farmer, the motion to strike must be supported.

Now, title X, not title XV, is supported overwhelmingly by a majority of tobacco farm organizations. I have a list of all those and probably will insert those in the RECORD or read them later. Title XV is not supported by the public health community. The public health community supports the LEAF Act. They support retaining the program. They support keeping control over the growth of tobacco and the prices high. So, it is heartening that the health groups and the tobacco groups have gotten together and signed the core principles. Those core principles are to reduce underage smoking, to keep the tobacco program. All these principles are out there.

If this motion passes, the public health programs and health research programs in this bill, if my amendment passes, we save 69 percent of all the moneys that would go into the health research and development. Title XV eats up 47 percent of the funds in the bill over the first 3 years. Title XV, known as the Lugar-McConnell amendment, already has an amendment at the desk, and that amendment says that all the money in this bill, up to 47 percent, will go to that program in the first 3 years. So 40 percent to the States, 47 percent to this program; that is 87 percent of all the money. Where are you going to get the marriage penalty? How are you going to do the drug amendment that Senator COVERDELL put up?

So, we will talk about how title X was developed. I think my colleague from Virginia wishes to make some remarks.

PRIVILEGE OF THE FLOOR

Mr. FORD. Mr. President, I ask unanimous consent that Rob Mangas and Dave Regan be admitted to the floor during debate and vote of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I rise in strong support of the motion to strike the amendment offered by the Senator from Indiana, title XV. I have a very high regard for Senator LUGAR. He and I have worked closely together on the Foreign Relations Committee, and we have fought to open foreign markets and to promote free trade. I share his tenacious belief in the free market. Harnessing the drive that motivates individuals to succeed yields the benefits of a free market. But government has a role in checking the excesses that can flow from an unfettered free market.

The market won't educate children. The market won't protect workers. The market won't check monopolies. And the market won't safeguard our natural resources. Left completely unchecked, the free market will always seek the lowest cost, even at the expense of other social goals. So our charge, as policymakers in a capitalist economy, is to allow individuals and entrepreneurs and businesses the freest rein possible while safeguarding society's other concerns.

Defining those concerns and implementing those safeguards without destroying the benefits we achieve from the free market is one of the most difficult tasks we face. The Lugar-McConnell provision eliminates the Federal program that limits the amount of tobacco that can be produced in the United States.

Arguments advanced for killing the supply-limiting program center on the desire to see a free market in tobacco. Since the argument is to create a free market, we ought to examine just what benefits we would gain from such a system. Economists estimate that going to a system allowing unlimited production of tobacco would likely increase the amount of tobacco grown in the United States by 50 percent.

This increased supply would cause the price of tobacco to decrease by approximately 30 percent. Without a tobacco program, tobacco could be grown anywhere in the United States, so it is likely that tobacco would be grown in many more States than it is grown in today. That production would migrate from where it exists in many areas today with hilly terrain and small farms to larger, flatter farms.

So the benefits to be gained from going to a free market would be cheaper tobacco, more tobacco production, dislocated communities, and unregulated production. The small farmer would not be able to produce enough volume at the lower price to make the farming operation economical. Without some certainty as to price, it is unlikely that any financial institution would extend the credit so necessary for small farming operations to survive. Therefore, if the tobacco program were to be wiped away, the only true beneficiaries would be large corporate farms and tobacco companies, because tobacco would then become cheaper.

The public health community has increasingly focused on what would happen if we eliminated a program to restrict the amount of tobacco production in the United States and has concluded that the benefits are simply not worth the costs. They note that it would be the height of irony if—in the same bill where we increased the regulation of the manufacture, marketing, advertising and retailing of tobacco—we deregulated the production of tobacco, which is why the public health community, including the Campaign for Tobacco-Free Kids, the American Heart Association, the American Cancer Society, the American Public Health Association, and the American College of Preventive Medicine all support retaining a supply-limiting program.

In fact, these public health groups, and a number of tobacco grower associations, have been meeting for a number of years, which has admittedly intensified since June 20 of last year, to see whether they could find common ground.

I am proud to say that these discussions have been under the auspices of the University of Virginia and involved a number of growers from Virginia.

From these discussions, the groups were able to agree on a set of core principles. The first of these core principles is that a tobacco production control program, which limits supply and which sets minimum purchase prices, is in the best interests of the public health community and the tobacco producer community.

The public health groups support controls on production because they cannot support what would happen without them: Uncontrolled tobacco production, plummeting tobacco prices, devastated farm families and farming communities, and enormous benefits for the tobacco companies.

Despite the opposition of both the grower community and the public health community, there are those who continue to insist that the market in tobacco must be unfettered and uncontrolled.

The argument for eliminating the supply-limiting program is a philosophical one, focusing on the natural benefits of a free market regardless of the consequences. But the aim of a free market system is to insure that the consumer efficiently gets the lowest-cost product.

We want consumers to be able to get the highest quality, lowest-cost products, like cotton shirts and cereal, and anything else you can think of.

The argument for a free market in cotton, wheat, corn, or any other commodity, is to lower cost to benefit consumers and increase exports. This tobacco legislation, however, is seeking exactly the opposite goal. The very heart of this legislation is to have the Government interfere in the free market by raising prices to reduce consumption.

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It is highly ironic that some of those calling for a free market for tobacco voted a couple of weeks ago to have the Government add the cost of $1.50 to the price of a pack of cigarettes. That is not a free market, Mr. President. In fact, the entire aim of the comprehensive tobacco legislation is to increase the cost to consumers, not decrease them.

Eliminating a tobacco program to achieve a free market system would destroy existing communities and the livelihood of existing farmers without realizing the goal of a free market, which is to increase efficiency and lower costs to the consumer.

There is no other agricultural product that faces this unique situation, where the Government's policy is to increase the costs to the consumer, not decrease them.

Tobacco is simply unlike any other commodity covered by the Freedom to Farm Act. The Freedom to Farm Act did not authorize the Government to run advertisements telling people not to use the farmers' products.

The Freedom to Farm Act did not tax cotton shirts, or cereal, or ethanol to raise the revenues that went to make the payments to farmers. The Freedom to Farm Act did not limit the Government's ability to open foreign markets.

In short, there are few parallels that can be drawn between the commodities covered by the Freedom to Farm and tobacco, other than that the commodities are all grown by decent, hardworking, dedicated people whose lives are profoundly affected by what we do.

Tobacco is also different in another crucial respect, which bears directly on the question of whether eliminating the tobacco program would in fact produce a free market, which is the stated aim of the proponents of the Lugar-McConnell provision.

A market that is dominated by a limited number of buyers, by definition, is not a free market. And that is the situation with tobacco. There are four buyers in the marketplace who purchase 98 percent of the tobacco produced by our Nation's 124,000 tobacco farmers.

The economists, of course, have a name for such a controlled market. It is called an "oligopsony." According to the Encyclopedia of Economics, "oligopsony exists when a few buyers of a commodity or service deal with a large number of sellers." According to this text, this "situation can lead to tacit collusion among buyers to depress their buying prices generally at the expense of the sellers who supply them." One of the examples they give for an oligopsony is "markets for leaf tobacco."

Webster's New Collegiate Dictionary defines oligopsony as "a market situation in which each of a few buyers exerts a disproportionate influence on the market."

So that is the market that these farmers would face if they had to deal individually with each of the four major buyers. This would not be a free market. This would be a market where the buyers would dictate the price to the sellers and reap the rewards.

In fact, the USDA estimates that by "terminating quotas and phasing out price supports, cigarette manufacturers and leaf exporters are projected to have windfall gains of about $800 million annually . . . The cigarette manufacturers would continue to receive this windfall over time once the price support system is phased out. Over 25 years, this windfall could amount to $20 billion or more."

The money the companies save would be money that formerly went to tobacco farmers. Eliminating the program would result in a transfer of money from farm families to cigarette manufacturers of about $800 million annually.

In the face of all this, why do some still want to eliminate a production controlling program?

One of the arguments I have heard is that tobacco is bad and so the Government shouldn't be involved in it.

Mr. President, this whole bill, however, is about Government involvement in tobacco. It makes little sense to have the Government involved in controlling every aspect of cigarette making and selling except the production of the key ingredient. The Government is not promoting tobacco, it is restricting it.

A supply-limiting program limits supply. That does not promote tobacco. The fact that farm families benefit from that restriction, in my view, is not a reason to abolish the program, because without the program, it is not the public's health that would benefit, it is the companies'.

There are those who advocate reducing the number of tobacco farmers in this country. Under the LEAF Act, we provide a voluntary buyout, which we believe will encourage but not force tobacco farmers to move to other pursuits. We believe that is a sounder and much more humane approach than the one advocated by proponents of the Lugar-McConnell bill which simply pulls the rug out from under farm families after 3 years and forces them to scramble for survival.

In fact, the comprehensive legislation we are considering is likely to be incentive enough for many farmers to make a transition out of tobacco farming. As consumption falls over time, as counter advertising mounts, and as economic development funds start creating infrastructure in tobacco communities, there will be migration out of the tobacco fields.

Tobacco farming is hard work, and while it is more lucrative than growing other crops, it does not make the average tobacco farmer rich. In fact, the average farm income of a tobacco farmer is less than $22,000 a year. If we can create opportunities in tobacco growing communities for children to pursue other paths, that is what we need to do. But that cannot be done in 3 years, and I believe it would be cruel to try.

There are those who support the Lugar-McConnell provision because they foresee the death of the tobacco program. Programs, however, do not die of natural causes. They have to be killed. And those who vote for the Lugar-McConnell provision are voting to kill the program. So do not be fooled by those who vote for the Lugar-McConnell provision saying they support the program while voting to kill it.

Finally, I strongly oppose the Lugar-McConnell provision because I believe it holds out false hope. Under the provision, farmer compensation would be paid out over 3 years. Under the LEAF Act, farmer payments would be paid out over 10 years. In order to make the payout over 3 years, we would have to dedicate over 40 percent of the proceeds from the legislation to farmers during those first 3 years. That 40 percent is more than the share to the States, more than the share to medical research, and more than the share to public health. And when you consider that we have already diverted funds away from these accounts, with the addition of the Coverdell amendment and the Gramm amendment, the addition of a mandatory 3-year buyout under the Lugar-McConnell provision would collapse this bill's budget.

I urge my colleagues to look at the numbers. In the first year after this bill is approved, the National Tobacco Trust Fund would receive total revenues of $14.4 billion. Yet, to make the payout over 3 years, as the Lugar-McConnell provision mandates, we would have to spend over $17.2 billion in the first year. And that is without spending a single dime on medical research or public health programs.

Are those who support the Lugar-McConnell provision willing to take away money from medical research and public health programs to finance a 3-year buyout? Are they willing to eliminate the so-called marriage penalty tax cut or the antidrug programs offered by Senator COVERDELL to pay for this plan? Because voting to retain the Lugar-McConnell provision will make it impossible to fund each of these other programs contained in this bill.

The LEAF Act, in contrast, recognizes the funding constraints of the underlying legislation and would not take funds away from the other programs contained in this bill. This is not to say that I wouldn't very much like to be able to pay the growers over 3 years, and, in fact, a number of us tried to figure a way to get compensation to growers in less than 10 years. Unfortunately, there were simply too many other competing demands on the funds.

In conclusion, Mr. President, I oppose in the strongest terms elimination of controls on the production of tobacco. It would destroy small family farms, decrease tobacco prices, increase tobacco production, and transfer wealth from growers to the companies, all without any discernible benefit to the people.

For these reasons, Mr. President, I urge my colleagues to support the motion made by the Senator from Kentucky, Senator FORD, to strike the Lugar-McConnell amendment and to support the LEAF Act.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that my name be added as a cosponsor to the Ford amendment striking title XV.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let me harken how we began June a year ago and explain my objection to the procedure.

With respect to a year ago, what really occurred was that the tobacco companies were spending a goodly fortune defending class actions and individual causes of action due to tobacco smoking causing certain injury and death.

These are very responsible companies. They have very responsible boards of directors. Right to the point, they had the urge to try to regain credibility for their overall operation. Philip Morris, for example, sells not only tobacco cigarettes but, of course, it is into Kraft foods and many other allied endeavors. R.J. Reynolds down in North Carolina is in the Ritz cracker business, plus other different businesses. They were getting pilloried, so to speak, in the courtrooms of America. They were successful. They weren't losing. They had won every case. There was not a jury verdict against a tobacco company. But looking at the bottom line, as good businessmen and operators, they were spending around $500 million to $600 million a year in legal fees.

This crowd up here in Washington is worried about trial lawyers. If you really want to get taken to the cleaners, get one of these corporate lawyers. I suggest to the distinguished Chair that if he ever gets into trouble, for gosh sakes, don't get General Motors's lawyer or IBM's lawyer. You had better get a real lawyer who is used to getting in the courtrooms.

This crowd sort of works with themselves on billable hours. That is the ailment that has taken over. The billable hours, the defenses, and all were costing them about $500 million to $600 million. More than anything else, it was depressing their stock.

The lawyers themselves had not won any cases. They were moving with the States' attorneys general. So, with the States' attorneys general, they got together. They had been meeting on opposite sides of the table in courtrooms all over America. As I understand it, they got together on an agreed settlement. The agreed settlement would, No. 1, increase taxes.

The reason I emphasize this, Mr. President, is if you go home and turn on your television or listen to the radio, the "scoundrel Congress" up here is the one that is trying to increase taxes on poor America, middle America, and whatever America. There is no suggestion that this idea came from the tobacco companies, the ones who are paying for the advertising, and in a luxurious amount. But this is the reality. The idea of increasing taxes originated with the tobacco companies themselves, in the so-called Global Tobacco Settlement.

I worked with the defense appropriations bill. And that amounts to $250 billion. When I heard on TV and then later read in the newspaper $368 billion, I still thought it was a mistake—$368 billion. I said, "Where in the world would they get all of that money?" Well, if you reasoned out 25 years and so much per year as it goes up, yes, you can get to that amount, or get to $1.10, as the present Commerce Committee bill now envisions. You get around $500 billion.

But the real initiative of raising taxes was by the companies themselves—not the squealing, crying, moaning, and groaning on national TV about, "This terrible Congress is going awry." Not so. They came up and said, "All right, we will put this money up, and for you States and States' attorneys general, what we will do is, we will pay in a good 40 percent of it to the States to take care of the Medicaid costs, the health costs, and everything, as an incidence, a result, of tobacco smoking and ailments and death that was caused by tobacco smoking." So that would take care of the States. The States' attorneys general got together and agreed on that.

Another part of the agreement, of course, was to try to control tobacco smoking and discourage young people from smoking. The children, instead of getting Joe Camel, were getting the adverse ads, the warnings, not just on the pack of cigarettes but on national TV—how injurious to health it could be. We found out in the early 1970s that these negative-type ads worked. We tried it before. I don't know whether the price increase would work. They say in downtown London, where they have a pack of cigarettes at $4.30 and up, it has not worked with respect to deterring children from starting to smoke.

But in any event, it was good intent, a good purpose, and a good provision that they would do it, and do it in all honesty and sincerity. In fact, to back up their pledge, they hit on the unique "look-back provision." I had never heard of that before in all the years I have been up here. But they had a look-back provision whereby they said, "We will measure it each year with the diminution of tobacco smoking with respect to children," and if they don't comply with a certain percentage decrease each year, they will pay more multimillion-dollar, almost billion dollars, or maybe over a billion dollars, in penalties, penalizing themselves.

There was not any question about the sincerity of the purpose. They had it all worked out. The White House agreed to it. The health community was in conference from time to time on this particular agreement. And it was announced. The first thing that hit this Senator when it was announced was not only the $368 billion, an enormous amount, but what is in there for the man who is making a living— namely, the tobacco farmer. When the Pilgrims landed here in the earliest of days, they found the Indians, who were smoking tobacco. Are we now going to really have prohibition? No. We tried that once before with alcoholic beverages, and it corrupted the entire society and crime went through the roof. So we learned the hard lesson and repealed that 18th amendment.

Certainly with respect to tobacco smoking and everything else of that kind, we realize there are certain realistic considerations: One, that we are not going to have an embargo or prohibit the production itself; two, that when it comes to advertising, there is that First Amendment right and we are not going to be able to force-feed—the companies have to agree with respect to the limitation on advertising or the agreement to negatively advertise against smoking, those kinds of things, and then the allocation of the money to have to come about with respect to the matter of the States, and not only that, but with respect to the health community. Necessarily, we all want to increase the research out at the National Institutes of Health on the injurious effect of tobacco smoking.

I have had hearings over 30-some years now with the doctors out there at the Cancer Institute, not only on how cancer is caused but how a pack-a-day smoker can rejuvenate the health of his lungs after 5 years and really recover from it if he stops.

I might add, Mr. President, that more people have stopped smoking than are smoking today. I repeat: There are more people who have stopped smoking than are smoking today. So when they get to the victims and the matter of habit forming and addictiveness and everything else, that is a jury question that the jurors of America have never gone along with. They have never gone along with it until this recent verdict down here of a little six-man jury in Florida, and we don't know what will happen with that on appeal. But that is a pretty solid record. We have Senators running up and down knocking over the chairs and desks saying, "Why give this industry immunity?"

Well, Mr. President, the jurors of America, far more savvy with respect to the actual facts before them, have given the tobacco companies immunity—not the distinguished Presiding Officer, not this Senator from South Carolina, but over the many, many years, the jurors, the people of America, have given them immunity because for 33 years we have had an advertisement that they are injurious to your health.

Now, I looked in that global tobacco settlement, and I said wait a minute—something is wrong here. We don't have any provision in there for a large segment of the economy of South Carolina. We have over 2,000 tobacco farms in South Carolina involving some 40,000 jobs with the warehousemen, the equipment dealers and everything else of that kind, with a $1 billion impact on the communities, veritable tobacco towns. If you want to start Tobacco Road, which we have seen in the Depression, pass this title XV that the distinguished Senator from Kentucky, Mr. FORD, wants to strike. I commend his leadership on this score because he has been in the forefront looking out for an important segment of our society and important communities in my State and his and in the several surrounding States.

How they could get together on an agreement and not even consider tobacco farmers is beyond me. But we were told immediately, oh, no, no, no, no, don't worry about that; we will take care of the farmers. I wondered in October when the distinguished Senator from Indiana put in the Lugar, what he called transition bill, which is a bankruptcy act—an elimination bill is what it was because in just a 3-year period bam, bam, bam, the farmers would be gone. Nothing for the warehousemen, nothing for the fertilizer dealer, nothing for the community with respect to the bank making the loan or the automobile loan, nothing for various other parts of the society itself, the families to adjust and take care of themselves.

Under the leadership of Senator FORD, the LEAF Act was developed when we saw this particular Indiana initiative. I remember recently seeing where the Attorney General of Indiana, who, incidentally, was in on the original agreement, said, "We had no idea of taking care of the farmer."

Well, that is not what they told us. Everybody said, on both sides of the aisle, in a bipartisan fashion, "Of course, we have got to take care of the farmer," and the White House, along with the Congress itself, said, "Yes, we have got to take care of the farmer."

So the LEAF Act was developed in a studied fashion with respect not only to the holder of the particular quota but the actual farmer who farmed the crop. It took care of the warehousemen. It took care of the fertilizer and equipment dealer. It took care of the communities. And we put it out at the very beginning of the year as an amendment, the LEAF Act.

Of course, when the distinguished Senator from Arizona, the chairman of our Commerce Committee, came to me, he said, "Now, the majority leader has suggested that our committee put out the tobacco agreement as a commerce bill. And I would like it to be bipartisan." I told Senator MCCAIN I would like it to be bipartisan also, but, of course, we had to take care of the farmer. Well, that is the first time I really began to doubt about this "take care of the farmer" because the distinguished chairman of the committee turned to me and he said, "No, we can't put that on." I was wondering why. That was the first time I had ever heard that nobody wanted to take care of the farmer.

When he told me that, I said, "Well, it's going to be very partisan, because I am not going to stand by and let this go through committee, without bringing up this important segment of the economy." Yes, we are trying to stop little children from smoking. Yes, we are trying to take care of those who have been injured from smoking. Yes, we are trying to get research. And, yes, we are trying to control the advertising. But everybody, from the word go in June of last year, said, "We are going to take care of the farmer," and the LEAF Act did. The Senator from Arizona said no, he didn't think he could do that. Several days later, he came back and said, "Yes, you are right, we ought to make it bipartisan, and we will take care of the farmer."

As a result, we spent a marathon session with the staffs of all the Senators involved on both sides of the aisle in the Commerce Committee, the White House, Dr. Koop, Dr. Kessler, and the various entities against children smoking, checking back and forth. There is no question that the distinguished Senator from Arizona did an outstanding job to get a bill that we could all agree upon by a vote of 19 to 1. We did agree on the tobacco bill, and it included the LEAF Act.

As we were ready to bring this bill to the floor, we were given notice that what we ought to do in order to get this bill passed was not to spend too much time with respect to amendments; let's see what amendments are going to carry immediate and recognizable weight and see if we can't agree to put those on now, cut the time involved, because the leader wants to handle this in a couple of days, at the most 3 days, and we have to get together with the White House. We don't want to put in a bill without knowing that it will be approved.

So we did. We had five sessions with the White House—Senator McCAIN and Senator MACK on that side of the aisle and Senator KERREY and myself on our side of the aisle. We kept meeting with them, and I kept checking with them to guarantee the LEAF Act was intact. I kept asking everybody—not to worry, they told me.

We had those five sessions, the last one being in my own office here in the Nation's Capital. At 4 o'clock it broke up, and about an hour or so later, about 6 o'clock, I heard a rumor about the Lugar bill. I said, "Come on, somebody is way off. They might want to put it on, but it can't be on our Commerce bill."

They said, "No; that's what the leader is going to do."

I said, "How does that occur?"

The bill itself, which is title XV, had one hearing, according to the best check I have made on it. It had one hearing last fall and has not had any hearings since that time, has not had any markup, no committee report, no report out of the committee. It was just an individual Senator's bill—we all will agree, one of the most respected Senators and one of the most powerful in that he is the chairman of our Agriculture Committee.

I knew if there was any real intent or force behind it or interest, that he long since would have had that bill reported out of his committee and we could have studied it, and if there had been any differences with the LEAF Act, they could have been reconciled.

But, Mr. President, it was the most dastardly procedure I have ever seen when the majority leader stood up and said, "Oh, no, I'm putting the Lugar bill on your committee bill."

I said, "You can't do that without the committee."

He said, "Well, the committee is on here; we have a majority."

I said, "You can't have a majority without the distinguished Senator from Arizona."

The Senator from Arizona and I had traveled together to Florence, SC. We notified every quota holder, every equipment dealer, and we had around 2,500 or 3,000 who met in the hockey arena there. We both made our little pitches. The Congressmen made their talks. We answered questions for over an hour's time, and we met with the press for over a half-hour and reaffirmed again and again our support for the LEAF Act. We explained it, why it was there, how it was worded, the difference between burley tobacco and flue-cured tobacco and why we worded different things. Because of this effort, and the Senator's sincerity, I just couldn't believe anyone could make representations then changing the tobacco bill, putting the bill just summarily on another bill.

I am not sure that the committee met, but you have to take the majority leader's word. He said they met and that they voted, 11 Senators; it was under the rules. That is the procedure that I object to. If for no other reason, this ought to be voted down. We ought not to sanction this kind of conduct on the working arrangements. Everybody is talking about the confrontational nature and how the club is breaking up and how we are just all politics. We have to trust each other, Mr. President, and we can't endanger that trust by having an understanding throughout 10 days of a heated markup, through five separate sessions with the White House, through a gathering of our tobacco farmers in our backyard, and being assured again and again in explaining the bill was it, and then to put this up and fix the vote on the other side of the aisle. That is what I understand has occurred.

That is my first and foremost reason for opposing the Lugar amendment. My foremost reason was to take care of the farmers. My foremost reason now is to take care of the Senate. If that is the way we are going to conduct business, so be it. We can all play that game, with rule and ruin and trickery and everything else of that kind.

Let me show you exactly where we are now and take stock with respect to this Lugar amendment.

What we have done with this kind of handling of the bill is, we have added on the payments to the States of 40 percent. Of course, that is $5.76 billion. We have added on the marriage penalty of $3.1 billion and the Coverdell drug provision—that is $2 billion—for a total of $10.86 billion. The cost of the Lugar amendment, title XV—to be stricken, I hope—is $6.4 billion. That is a sum total of $17.26 billion the first year, whereas a total estimation for the first year in the bill we have before us—and I raise it for the Senators to see—this S. 1415 allocates $14.4 billion to the National Tobacco Trust Fund, but we have already spent $17.26 billion.

Unless you strike—I wish this was a session of the Budget Committee, because we could have a budget point of order. This is totally without the budget, but it has gotten to be a habit where it is getting into all committees now. If you go along with title XV, you have then expended $2.86 billion—$2,860,000,000—more than what the bill will bring in. Yet, the tobacco companies are talking about how they are being devastated. They haven't seen anything yet. If they don't adopt this amendment and go forward with ideas on the House side, they will learn just exactly what has happened.

But, of course, the tobacco companies said, "Let the Senator from South Carolina talk along, because here under Senator LUGAR's proposal there's a real winner for us companies," because in 1999 Senator LUGAR's plan cuts the price support for tobacco by 25 percent, from $1.68 a pound to $1.22 a pound. "This equates to a savings for us tobacco companies"—now I am posturing myself so you will understand it. If I am a tobacco company, I love this title XV, because the first year I really make $987 million, just out a billion bucks. So I am a billion bucks to the good with this Lugar amendment.

And then in 2000, this proposal cuts the price support by another 10 percent, from $1.22 a pound to $1.10 a pound. "This equates to a savings to us tobacco companies now. We are in business. And we know how to get amendments passed—sneak them on at the last minute. Don't ever debate them. Don't ever have a committee report it out one way or the other. Just forget about the bill last year, but get the majority leader to sneak the bill on"—$1.276 billion.

And then in the year 2001—a 3-year program—what happens in that third year? This proposal cuts the price support by another 10 percent, from $1.10 to 99 cents a pound. This equates to a savings by the company of another $1,543,500,000.

So the total savings—total savings, Mr. President—by the tobacco companies on this title XV, if it is not stricken over the next 3 years, is $3,804,500,000. I did not realize it was that much—$3,804,500,000.

Of course, that leaves nothing for health care, not a thing for public health, nothing for health research or anything else of that kind.

To come in with this at the last minute and take all this money is like when they used to organize the insurance companies when I was Governor down there in South Carolina. And they had one company—Capital Life was looking for a new slogan, and they finally came up with the winning slogan, after considering all their friends' suggestions. They said, "Capital Life will surely pay if the small print on the back doesn't take it away."

I know that is exactly what has happened. They said that we are going to have all this money to do the various programs—health care, research, and what-have-you, moneys for the attorneys general, and everything else like that—and the tobacco companies, with a last minute strike, come up with $3,804,500,000, and the farmers are left high and dry.

If you want to see the Tobacco Road that we had during the days of the Depression, with the dust and the filth and the desperation and the despair, keep the Lugar amendment in here, and not Senator FORD's LEAF amendment, and we are goners—we are goners. There is no question in my mind.

Now, there has been some confusion. The tobacco companies, like to put the spin that we in the Congress are raising taxes when it was their idea just a year ago—no Congressman was at the table; no Senator was at the table—it was the tobacco companies at the table that came out with this scheme, and now they are putting the twist on that we are raising taxes. They are the ones who raised the tax.

Now they are trying to put on here the twist that the farmers are going to be taken care of, and at the last minute put on the Lugar amendment, fix the vote, and leave them high and dry. I do not like it. And you can tell by the tone of my voice it should not be liked.

I have been around. I have worked with everybody throughout the years here and have had good bipartisan support. We handled the Telecommunications Act, got 95 votes for it. I handled Gramm-Rudman-Hollings on this side of the aisle on 14 votes up and down, and got a majority of the Democrats, over the objection of the leader at that time and the chairman of the Budget Committee. But we got the majority of Democrats to support that particular budget initiative.

I have had success over the years working in a bipartisan fashion. This is in the most treacherous fashion I can possibly think of, to take a matter that had not completed the hearings—yet to be reported, yet to have a vote on, no committee report to read or study, no conversation on the contrary—all conversation, all representations: "Don't worry, the LEAF Act is fine." We go down, even before the farmers, and tell them that, and everything else like that, and then go along at the last minute with this ambush.

This is ambushing my farmers, Mr. President. And we will have more to say about it. But I think that the RECORD ought to show exactly what has occurred here. We have a studied bill. We have the tobacco farmers taken care of with respect through the payments that are made now on the average yield for those in flue-cured tobacco, for the quota holders, because the existing system is eliminated. What we have is a system of permits to do away with the quotas. And, incidentally, they wanted to argue—and you are going to hear this ad infinitum—that with all the other farm programs gone, why should we support this? This is the one crop that has had its production limited. And it is a very sensitive crop, and it was here when we landed over 200-some years ago.

So we have been handling it over the years in a clean, responsible, productive fashion. And we have created the communities, we have created the fertilizer dealers, we have created the warehouses and the warehousing, as well as the farmers.

So in order to be sure that we do not just turn them over to welfare and say that in 2 years they can come and get retraining, we must not abandon them. Incidentally, Mr. President, let me talk about that retraining just one moment. We had down in my backyard the Oneida knitting mills that made nothing but little T-shirts. Anybody could make them, but at one time they had 487 there. The age average was 47 years. They were a very productive company, complying, if you please, with all the requirements—clean air, clean water, Social Security, Medicare, Medicaid, minimum wage, safe working place, safe machinery, plant closing notice, parental leave, on and on and on —that Republicans and Democrats said before you open up you have to comply with. That goes into the cost of production. So the plant moved to Mexico, for 58 cents an hour and none of those requirements.

So Washington is so keen on how to get things done, they say: "Retrain, global economy, global competition. We're moving into the age of technology, retrain, skills."

Well, don't tell this Senator about it. I am the author of the Advanced Technology Program. I am the author of the manufacturing extension centers known as Hollings Centers. I fought to keep those programs going. I instituted technical colleges and special schools back 38 years ago in my own home State. So I am appreciative of technology and its needs.

But assume the 487 are immediately retrained the Washington way tomorrow morning, and you have 487 computer operators. Are you going to hire the 47-year-old computer operator or the 21-year-old computer operator? It is quite obvious, Mr. President, that their community of Andrews will be high and dry and out of luck. And that has happened all over the U.S. since NAFTA was passed. And we have lost a fell sum of 24,000 textile and apparel jobs in my State alone. So that next sum, while we have gotten in the BMWs, the Fujis, the Hoffmann-La Roches, and the Hondas—and we are proud of it—the net loss is this, that we have lost 12,400 jobs since NAFTA was passed.

Now we are coming up with a very "wise," as they would call it, "assault," I call it, upon the tobacco farmer to put him out of business in a studied fashion over 3 years: take all the money and run with it, devastate the health program and the research program, and the several States are not going to get their money and everything else. And yet it is on there and it hasn't been discussed.

I see now the distinguished Senator from Indiana is with us and I am delighted to hear from him. I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. LUGAR. Mr. President, I ask unanimous consent that Mary Dietrich, a detailee to the Agriculture Committee from the General Accounting Office, be granted privilege of the floor during the pendency of the tobacco farmer amendment.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I rise to support a program that will end tobacco subsidies, give fair compensation to farmers now rather than many years from now, make an extra $10 billion available for public health and other worthy purposes, and provide some degree of certainty for tobacco farmers, for agricultural America, with regard to our policies that would pertain with greater fairness to all farmers.

Let me simply cite, at the outset my discussion of these issues, what I perceive to be the significant differences between the Lugar amendment, which I favor and which the distinguished senior Senator from Kentucky has chosen through his amendment now to strike from the bill, and, in fact, the amendment provided by the distinguished Senator from Kentucky, the distinguished Senator from South Carolina and others who have supported their point of view.

The basic differences come down to, first of all, should the U.S. Government support tobacco? That is a very fundamental issue. The debate, which now is in its third week on this subject, suggests that the American people are not prepared for their Federal Government to support a crop, a set of products, which they find injurious to health. Indeed, much of our debate has been about how we can protect the health of children, how we can pay for the difficulties in health that citizens of all ages have experienced.

If it were not for these health issues which are serious for tens of millions of Americans and prospectively for many more, this debate would not be so intense; clearly, the remedy suggested would not be so severe. It really begs understanding of this issue as to how the same government that may legislate severely with regard to tobacco, could at the same time decide to support the price of tobacco, to support the industry, the warehousing, the infrastructure, as the current tobacco program does and has done for almost six decades.

That is the first issue. Do we want the U.S. Government to support tobacco? And my judgment is we should not support tobacco. The legislation that I have suggested does not give prioritization to tobacco. Rather, it says that tobacco, so long as it is a legal crop, can be produced in America on the same terms as corn, wheat, soybeans, same freedom to farm that all other farmers have, same tests of the market, same tests of efficiency, of production.

That, it seems to me, is the only way this can be rationalized, with those in agricultural America asking, Why special treatment for tobacco? Why specific situations that support that price, to support those farmers? There is no good answer to that. I understand the constituency problems of the distinguished Senators who have many tobacco farmers, and I am certainly mindful of approximately 10,000 farms in Indiana, albeit smaller ones than in Kentucky and in North Carolina and some other States, but nevertheless tobacco farmers who are impacted significantly by this debate. I have visited with them extensively. They support my amendment for good reason.

Why would they support my amendment if I am prepared to say the Federal Government ought not to support tobacco? They do so because the Lugar amendment provides payment to those who hold tobacco quota, the certificates distributed principally in the 1930s, that allow people in this country to produce tobacco. We are prepared in my amendment to purchase those rights in a 3-year period of time.

My amendment is attractive because the money comes to the tobacco farmers, but even more importantly, to the holders of quota certificates who are frequently elderly people, people no longer involved in production. They lease and rent the certificates to others. They really have no desire to continue in the tobacco business. On a one-time basis they can receive capital for pensions, for scholarships, money in the communities that are impacted—substantial money—and they can receive it quickly in a 3-year period of time. That is why tobacco growers in most States have indicated through their organizations that they support the Lugar approach.

The Senate as a whole has to ask which of the two approaches, the Ford-Hollings or the Lugar approach, costs more. Clearly, the Ford-Hollings costs at least $10 billion more than the Lugar approach. It has a great deal more in it in terms of community development for States and localities that have tobacco farmers over the years. It is simply a very different approach which retains the tobacco program and some of the apparatus that has been associated with it over the years.

I make that point because in the course of these remarks the statement has been made that somehow or other the Lugar approach will subtract money from health causes or other important objectives of the legislation, but in fact it will subtract $10 billion less than the Ford-Hollings amendment. There is no getting around that.

I simply say, finally, that to argue—I believe almost disingenuously—that health groups would prefer a situation where $10 billion less is left in the general fund of this bill for health or anything else is to, I suppose, deny common sense. Many health groups perhaps were misled by the thought that in the event we went to freedom-to-farm tobacco, the price of tobacco would go down. The price of tobacco probably will go down.

We have had testimony before the Senate Agriculture Committee and we have had extensive hearings, as a matter of fact, on tobacco issues from which the Lugar amendment came. Essentially, the testimony was that the price of tobacco might fall by as much as 25 percent, perhaps more, depending upon how competitive American tobacco is in the world markets, and competitive abilities have been in decline. Most Americans are not aware that 40 percent of the tobacco now used in the production of American cigarettes comes from abroad, not from here. It comes from abroad because of questions of price and quality, normal economic questions. That deterioration of the American tobacco demand has been continuing at a fairly rapid pace.

So, Mr. President, let me just state it fairly simply. If a pack of cigarettes now costs $2 before this bill, it will cost a great deal more after this bill. Approximately 6 cents of that $2 might be attributed to the tobacco in the package. If in fact that goes down by a quarter, maybe a cent or a cent and a half is at stake. To suggest that somehow this brings either unconscionable profits to tobacco companies or enormous new demands by young people taking up smoking is, I think, to defy both economics and logic in the midst of our raising the price of a pack of cigarettes by at least $1 or $2, or whatever the bill finally comes out to be with the overhead and all the economic costs associated.

As a matter of fact, Mr. President, health groups for a long time have centered in on the fundamental issue I began with: Should the Federal Government be supporting tobacco at all? What kind of a signal does that give when we give official sponsorship and economic support to the price and warehousing and infrastructure of tobacco? I don't think the signal is very good. As a matter of fact, it is so ambiguous that it borders upon hypocrisy. At some stage, we will have to make a choice as to which of these two general thrusts in life we are for—health or support of tobacco.

Mr. President, let me just say, finally, that we are going to have to come to grips with the issue that is posed by the distinguished Senator from Kentucky in his striking of my amendment. I appreciate that. The parliamentary situation is that the Ford-Hollings approach and the Lugar approach are both in the bill. I suggested that one or the other of us might, at some point in this debate, move to strike the other, and the Senator from Kentucky, my good friend, has decided he would move to strike my situation.

So that is the issue before us. Members have to make a choice. I simply say to the distinguished Senator from Kentucky, who is on the floor, that it would not be my purpose to delay the choice. My feeling is, essentially, by this time, if Members are not aware of the issues, they never will be. My feeling is that we ought to get on with it and resolve it. I stated up front that this will not be a long speech and, if there are not many more, we might come to a conclusion.

Let me say that in defense of what we have been doing in the Agriculture Committee, in my own point of view, I rise to affirmatively support the Lugar approach, which has been moved by the Senator from Kentucky to be stricken. I believe that it is important to adopt my approach, to keep it alive by voting "no" on the motion to strike, because we will end tobacco subsidies, we will end the tobacco program.

Mr. President, to be quite frank, this is the major point that I make, the reason I am in this debate. I believe that agricultural policy ought to be based upon supply and demand. I believe that all farmers producing crops in this country ought to be treated equally. We had a revolution in agriculture in 1996 in which we said freedom to farm means that a farmer may decide to plant whatever he or she wants to plant on their land, have full control of that, without the Federal Government dictating how many pounds, how many acres, how many bushels. The only signals would be market signals, and they are now world market signals. They are important to America because agriculture is the thing we do best, and our surplus and balance of trade is the greatest in that area.

But freedom to farm also means taking risks. It means there is no warehouse for wheat, or for corn, or for soybeans, no props, no passing on from one generation to the next the right to grow corn or wheat. We really have to get over that, Mr. President. I understand why it came about in the 1930s because essentially people felt that if you let farmers have freedom, they would inevitably plant too much, they would do too much, they would be too ingenious, and, as a result, supplies would be horrendous, prices would fall, agricultural communities would fail. The New Deal policy was one of killing little pigs, knocking out rows of corn, to dramatically change the supply and to bring the price up. Whatever may have been the rationalization in those days, it was convenient to carry this on for about six more decades.

Many people in America would still like the idea of being guaranteed a price for a bushel of whatever they are producing. They would like to be guaranteed that their neighbor could not do more. But at the same time, most farmers in agricultural America resent the Federal Government's control. They resent the fly-overs, the measurement of fields, the endless sign-ups—and rightly so. So we came to a revolution of sorts, Mr. President, and we went to freedom to farm, except in the area of tobacco, for example, where persons in that industry said that, "Notwithstanding everything else going on in agricultural America, we want to retain the same program we have had."

Now, Mr. President, my own view is that the program is deteriorating. I am not one who would predict the month, the year, or even the decade where it will finally collapse. I just say that tobacco farmers coming to my office from my State, and also from Kentucky, North Carolina, Georgia, and from South Carolina, I have said during the past year, although we had quota and the right to produce tobacco and to sell it and to have a price, we were cut back 10 percent in what we could do. Furthermore, they believe they are going to be cut back 15 percent this coming year regardless of what we do on this bill. That is a big cut. That is a deteriorating program. No wonder they were attracted by my thought that they might receive $8 per pound for quota, so many of them could get out of the business altogether. Now, a good number said they want to stay in the business, but they realize they are going to have to do so on the basis of supply and demand. That is the way the world works—without all the apparatus, the warehousemen, and so forth. That is fair enough.

My bill provides that you continue right on producing, if you want to, and take money for quota, if you had it. If you are renting, fair enough, you have a transition of 3 years with some payments in support, the same as do corn farmers, wheat farmers, rice and cotton farmers, in the freedom to farm bill. It is a transition period. I think that is important, Mr. President. But at least we bring to an end an era that, I think, is coming to an end anyway.

Now, what if we don't pass the tobacco bill? What if, in fact, the idea of the Senator from Kentucky, or mine—either one—is not a part of the final picture? That is a real problem for tobacco farmers. It is a problem that should have been contemplated by the attorneys general when they were working this situation out last year. But, as a matter of fact, at that time they left the whole grower issue aside. That is why we had hearings in the Agriculture Committee and why Senator FORD and others have been working in the Commerce Committee—to say, what do we do about this very important group of people; namely, growers, holders of quota, holders of equity property out there in at least 10 States in substantial numbers?

Now, Mr. President, my guess is that one or the other of our amendments may prevail, but I am not confident of that. It could very well be that the Senate will decide they don't want either one. It could be that if we argue this long enough, people will begin to raise questions. What is an acre of tobacco worth? In some cases, 10 times what an acre of corn might be worth on this same farm, as is the case in my home State of Indiana. One reason is because it is a very special privilege. And as Americans take a look at this, they won't like what they have to see.

In the Agriculture Committee for years, I witnessed—at least during the 21-plus years that I have been a member of the committee—people protecting each other. There were a lot of special deals. People got on the committee often to make certain they protected their deal and their farmers in their State. I understand that. Most did a good job of it. Now there are fewer special deals. There really is a very short list of situations that need to be tidied up, and this is one of them.

So I come, Mr. President, to the floor to suggest that this is a good time, while there is a general settlement going on, money on the table, lots of money. The question has been raised, Does the grower money subtract from health? No. The Senate doesn't want to subtract. They simply provided any sequence of years we wanted. But when Members come to the floor and they talk about $300 billion, $400 billion, $500 billion, $600 billion, the $18 billion I am talking about in the Lugar bill is a very small part of that money. If people are worried about whether it comes upfront, my advice would be to provide money upfront. If you want to provide more money for health at the same time, do it. This bill is as fluid as any piece of legislation I have ever seen. Nothing is engraved in stone as to which dollar comes where.

All I am saying is if you are serious about tobacco farmers and their plight, you give them their money upfront. You do it promptly, and those that want to leave, leave. Those that want to stay, stay, and react like farmers in almost any other sphere, including sometime the same farmers are producing corn as well as tobacco on the same farm.

Mr. President, that is the first big issue: The end of the tobacco program, the end of official U.S. Government sponsorship of all of this.

Let me say, secondly, that my plan costs less. One could argue that in the course of all of this we have bandied about these hundreds of billions of dollars that perhaps we have lost track altogether as to how money is going to be spent. But I hope not. If there are any Members who are interested in cost, they will vote for an $18 billion bill, the Lugar bill, as opposed to a $28 billion Ford bill.

In addition, I am advised that the bill of the Senator from Kentucky now includes special relief for problems in North Dakota, or perhaps other States that have been afflicted by unusual weather problems. I am hopeful that in the course of the debate all of that will be explained. But it is another unusual addition to an already belabored situation.

All I am saying is that if you are interested in cost, you will be for the Lugar alternative. It is less. Obviously, Mr. President, the money gets to the tobacco farmers sooner. If you are a tobacco farmer, the Lugar bill gets money to you more rapidly. Time is money—money upfront, money that could be used for capital for other farming, for pension, for scholarships, for other things that people have a quota for, or who are farmers where that quota can be utilized, and I think that is an important issue.

Finally, let's be very clear on the health issues. I go back over that again.

The fact is that the health groups of the United States—major proponents of this legislation—have analyzed these bills, and some have come out one way and some another. But I would just say simply that the money for health is finally going to be the determination of this Senate in this bill in whatever amounts that we want to provide for.

Some have accused the President of the United States for asking for a number of things in the health area. He cited some in the State of the Union Address, and on this side of the aisle many of us have said we ought not to be funding the State of the Union Address in the tobacco bill. But having said that, we are funding a good number of proposals that the President or the administration and its various Secretaries have made at some point. We do so because the problems of health attributed to tobacco have badly afflicted tens of millions of Americans. These problems have created enormous public costs in the Medicare Program, Medicaid, and various other ways, and compounded black lung disease and other difficult health problems in our country.

Mr. President, the logic has been that if we are going to have a tobacco bill, there ought to be some compensation to States. In fact, some States have not waited for compensation. Lawsuits have been proposed and some have been successful. Thus, the attorneys general came together and said perhaps we can have a comprehensive settlement. Many in the Congress found that to be intriguing. It would have been helpful if the President of the United States, last fall, had offered a bill as opposed to general guidelines. It might have been helpful, as a matter of fact, if there had been a comprehensive bill here that had embraced at least what I know have been seemingly contradictory strains on occasion. I certainly do not fault the managers of the bill. They have had a difficult time.

But we have come now to a point where the one item, one significant item mentioned by everybody that was omitted—namely the growers, the farmers—has to be addressed. I believe it should be addressed. I don't believe it should be omitted. It is not specifically a health issue, and one can argue it competes with health issues. But inequity to farmers in these 10 States, and to tobacco farmers in particular, my intent and that of the Senators from Kentucky and South Carolina has been to take that very seriously. Although we may differ upon the amounts of money and the continuation of the tobacco program and various particulars in terms of expenditures in the States for community development and other aspects, we do not differ on very serious equity problems for farmers and for holders of quota.

So we must address that issue. I am simply hopeful that this issue will not be seen as a subtraction or addition to health per se. It is a narrow issue of compensation to farmers and to their communities.

I hope the Senate will accept the fact that there is equity in doing that. The so-called narrow version of the tobacco legislation—that principle—might not be accepted.

So we are expanding today what the attorneys general and the State governments in their wisdom tried to negotiate last year. We are doing it so deliberately. Testimony before the Senate Agriculture Committee said essentially the attorneys general, health groups, and everyone else anticipated the Senate at some point would act in behalf of growers, as we are doing, and, in fact, explicitly or implicitly endorsed that activity.

Mr. President, I will rest my case for the time simply on the basis that I believe I have outlined why the Lugar approach is the best. Members will have a choice, either shortly or in the long term, depending upon how much debate Members wish to hear or endure on this subject. But I will not stymie progress of the bill. This is an issue that needs to be resolved. Members will have to make an overall judgment, I believe, on the bill on the basis of all factors, this one included.

I hope at least in the course of this debate that we eliminate those issues that Members want to grasp, want to hear, and will be helpful in reaching a conclusion.

I thank the Chair.

Mr. CLELAND addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CLELAND. Mr. President, I rise in support of Senator FORD's amendment to strike title XV of the Lugar-McConnell tobacco farming provision and to express my support for the Long-term Economic Assistance for Farmers Act, or LEAF Act.

First, I would like to thank my distinguished colleagues, the chairman, Senator MCCAIN, and ranking member, Senator HOLLINGS, for their superb leadership of this bill, the principal aim of which is the vitally important objective of curbing youth smoking. Also, I would like to extend my sincerest appreciation to Senator FORD for his time and energy in crafting a bill that effectively looks out for the interests of the tobacco farmers and their communities' interests, which were all ignored until he spoke out so forcefully and effectively. Senator FORD's integrity and honesty and courage will be sorely missed when he leaves this Chamber, and I, like many of my Senate colleagues, will deeply miss the opportunity to seek his counsel on the important issues about which the Senator has tremendous knowledge and passion. Certainly there has been no finer, more consistent friend of family tobacco farmers than the distinguished senior Senator from Kentucky. I ask my colleagues to remember this fact as we debate on this matter.

In my personal review of the tobacco settlement legislation, I have had two main objectives—to prevent our children from smoking and to ensure that tobacco farmers and their communities are taken care of.

Now, I am sure that all of my colleagues are committed to this first objective, but I want to make sure that the second objective of promoting and protecting tobacco farmers is actually provided for in this bill. I fully support the LEAF Act and, indeed, was an original cosponsor, and I want to state my reasons for favoring the LEAF approach over the proposal offered by the distinguished Senator from Indiana, Mr. Lugar.

First, I do not support Senator Lugar's proposal, because I think it provides for quick termination of the Federal tobacco program. I have a concern about who the actual beneficiaries of this action will be. Is it tobacco farmers, is it the taxpayer, or is it the tobacco industry?

According to an Agriculture Department analysis, if the tobacco price support program ends, as it would under the Lugar plan, the price of flue-cured tobacco would drop from $1.72 per pound to $1.15 while burley tobacco would drop from $1.89 to $1.15. Accordingly, if these estimates prove to be accurate, this would save cigarette companies approximately $1 billion every year; that is, $1 billion annually, Mr. President.

Considering the fact that the tobacco program is a no-net-cost program to taxpayers and tobacco farmers will be receiving a 35 percent reduction in farm income, I think it is pretty obvious who will be benefiting under Senator Lugar's proposal—the tobacco industry, period. Then where are we? What have we accomplished? What good will be our efforts to eliminate underage smoking by raising the price of cigarettes if the tobacco companies receive a $1 billion windfall every year at the expense of tobacco farmers? This is a crucial question that I believe must be answered before the Senate contemplates letting the Lugar proposal remain in the legislation.

Second, while it provides more in buyout payments over a shorter timeframe, the Lugar proposal provides for substantially less in assistance for farm families and community assistance than the LEAF bill. Senator Lugar's proposal eliminates nearly $10 billion in funds for this type of transitional aid. It eliminates funding earmarked to provide higher education opportunities for tobacco farmers and their families, for transition payments to tobacco industry workers who lose jobs, as well as billions of dollars in funds to provide grants to communities for agricultural and economic development in tobacco-producing counties.

I can understand the appeal that a quick buyout for tobacco quota might have for a tobacco farmer, but I am extremely concerned that the buyout proposal included in the Lugar bill is actually nonattainable. The funding level contemplated in Senator Lugar's bill is $18 billion over 3 years. At this level, it would require Congress to provide $6 billion a year for this one purpose, which is three times—three times—the amount available under this bill during this period.

So what happens if this money is not fully delivered? I will tell you, Mr. President, what I think could happen. We will have left the tobacco farmer and their communities with an unfulfilled promise. In my home State of Georgia, farmers, including those who grow tobacco, have experienced extremely hard times over the last few years and are anxious to hear any good news. Then they hear about something called a buyout with large payments over 3 years, and understandably some get excited. But in order to deliver this amount of funds in this timeframe, we would have to cut the amount of funds available for public health programs and research by almost 75 percent.

Now, I ask you, Mr. President, is this likely? Can we legitimately expect that we are going to eliminate 75 percent of the funding for counteradvertising, child care, NIH research, and cancer clinical trials? Can we honestly believe that these buyout funds will be available? In this Senator's opinion, the answer is clearly no. Let us not make false promises to tobacco farmers and their communities. Let us be honest. I implore my colleagues to carefully review the impact of each of these proposals as well as our ability to achieve them.

I urge you to oppose the proposal offered by Senator LUGAR and support the LEAF Act.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I thank my friend from Georgia for his eloquent remarks and hope that our colleagues were listening and they understand well what drives us who are more familiar maybe with the tobacco farmer, the small farmer.

The distinguished Senator from Indiana laid out how he arrived at where he is as it relates to his position on the tobacco farmer. It is ideology with him more than it is fact for the farmer. He just does not believe that Government ought to help people, and so therefore he thinks everybody ought to be out there scratching on their own. And maybe that is the correct way. But I have always thought that government is here to serve people, and if it does not serve people, then we do not need government.

I guess the Senator from Indiana understands that what he is about to do is just put people out of business. Under the Freedom to Farm Act, we are paying for millions of acres—millions of acres—and under the tobacco program there are less than a million total. Under the Freedom to Farm Act, the purpose there was to increase production. What Senator LUGAR will do, if his amendment is agreed to, will be to put people out of business.

I have sat on a good many front porches, Mr. President; I have been in many kitchens having a cup of coffee with the farmer, his wife, and family; I have been in seven States talking to farmers—as we would say, to the people who put the tobacco on the stick. I think I understand their hopes and their dreams and their aspirations, and all have been based on history and what they expect the future to bring.

I have a statement here from the National Commission on Small Farms. The National Commission on Small Farms said:

> The tobacco program for more than 50 years has cushioned small farmers, African American farmers, new and beginning farmers, by providing them a degree of economic certainty. It's not the tobacco crop for which there is no alternative but the tobacco program itself.

There is a strange thing in the Lugar amendment that was put on after the committee had met and sent the bill to the floor. The Lugar amendment does away with the program. That means the tobacco farmer can grow all the tobacco he wants to grow from year 1, but the Lugar amendment keeps the price support in for 3 years.

Now, think about that. Here I am, a farmer growing 10,000 pounds of tobacco. They do away with the program. I can grow all the tobacco I want, as we would say at home, fencerow to fencerow. They keep the tobacco support program in place for 3 years, and so I grow twice the amount of tobacco, get the price support, and nobody wants my tobacco, so it goes to the so-called pool or into surplus. You do that for 3 years. At the end of 3 years, it is all gone. The pool is lying there with hundreds of millions of pounds of tobacco. Then what happens? The general fund will pick up that tab. Oh, there is a provision in here that says we will pay so much to try to offset that, but it doesn't work.

And you know something that didn't happen as a result of the Freedom to Farm Act that we hear Senator LUGAR was a strong supporter of. In my State, if we lose the tobacco program, it will reduce the value of the farmland up to $7 billion.

If you take the program away from the farmers, you have four companies that control 98 percent of tobacco, and the farmers don't have a thing to fight with, other than the program. What do you think the price of tobacco is going to do? It is going to decline rapidly, and it will make a minimum, under this bill—well, beginning the first year—a minimum average to the tobacco manufacturers of $1 billion a year off the backs of a few farmers. All we are talking about is 124,000.

So the vote comes down to: Are you going to vote to support the farmer, or are you going to support Senator LUGAR's bill that gives $1 billion a year to the tobacco manufacturers?

(Mr. HAGEL assumed the Chair.)

Mr. FORD. Mr. President, it is pretty tough when you have gone to the bank and borrowed money based on the value of your property, your farm, and overnight—overnight—the value of your property is reduced several hundred dollars per acre because you have lost your tobacco program that is of value.

You go to bed tonight with a loan from the bank and your property will cover that loan, and in the morning, you have no program; the price of your property has been reduced and your mortgage is called. This is what I call a taking, Mr. President. We hear a lot about takings around here, about taking property, but you are taking the value of the land of this small farmer.

As we say down in West Kentucky where I come from, "Something about that ain't right."

What do we do? We hear a lot about the buyout and money upfront and the older people who would like to sell out. Under the LEAF Act, that occurs. Anyone who wants to buy out at $8 a pound, the tenant, the lessee can sell. They can offer their crop for a buyout, and it will be done. It also says that one quota holder can sell to another quota holder. But it also says that if you want to continue under the present program, you can't.

All agricultural economies—and I am sure a lot of folks here understands it—agribusiness says that it takes 10 to 15 years, and leans toward the 15 years, for a community to transform from one economic aspect to the other.

We see under Senator LUGAR's amendment—which was never voted on by the committee while the hearings were going on or when we had the regular markup; it was done here on the Senate floor by checking the majority on the Commerce Committee and the majority leader putting it in. I thought I had helped the chairman, Senator HOLLINGS, and others get this bill out of the Commerce, Science and Transportation Committee and on to the Senate floor.

If you wonder how much money the Lugar amendment will take, they have submitted an amendment which is at the desk which will take 47 percent of all the money. If that amendment to this bill, which is at the desk and has not been called up yet, is adopted, I believe it is 47 percent, maybe 48 percent of all the money will go to this one project. If 40 percent of the money goes to the States, that is 88 percent of all the money. What we find is that those health programs that we want to fund have become discretionary. They are not part of the budget process; they are not part of the estimated amount coming in under this bill. They will be discretionary, and they will be subject to appropriations.

When you live with these people, having been one of them, having been a farmer, and you see them every day, it seems a little bit ironic that we are telling them what is good for them, because this year they voted 97 and 98 percent to keep the program. Yet, we are saying to them, "You don't know what you are talking about; you don't know what you voted for; we're going to change it; we're going to do away with that program that 98 percent of the farmers said they want to keep."

We say to them, "You don't know, we know better than you do," and that is what I said earlier. One of the reasons this place isn't liked is because we get 98 percent of a group of people who say we want to keep this, and we say, "No, we know better than you do, so we're going to take it away from you."

Oh, you can go out there and get all kinds of polls. You can get the fellow who grows 600,000 pounds of tobacco a year, and he sure would like to have 4.8 million. They say under the Lugar bill you can keep growing. Sure, but at what price?

My Agriculture Department estimates that the 65,000 farm families in Kentucky will be reduced to less than 10 percent. Only the big farmers can contract with the manufacturers who will be getting $1 billion more a year. Do you want to vote for the farmer, or do you want to vote for the tobacco manufacturers? It comes down to that.

Just think, you will be reducing farm values in my State by up to $7 billion. I have heard a lot from the other side of the aisle and some on this side about property rights. I have talked to my home builders and others who worry about takings. Under this one amendment, if this one amendment is adopted, up to $7 billion in farm value will be lost. That is almost one-third of the farm value in my State. Approximately $20 billion is the assessed value of the farm property in Kentucky. So we are reducing the value of that land and the ability of that farmer to secure a loan.

It doesn't make any difference how much money you give him. Our average is about 3,000 pounds, and you want to pay it over 3 years. That is $24,000. Then, you are going to pay tax on it. Boy, that is really going to be great. Only the large farmers are the ones who have the voice. The small farmer down there working depends on others. But Hamilton said in these Halls, meaning the House and the Senate, "The people's voice shall be heard by their immediate representative." I am that immediate representative. And I am trying to bring the voice of the small farmer to the attention of my colleagues here in the Senate.

Is this emotional for me? Of course it is. In my last few months here in the Senate, I ought to be over there taking care of constituents, packing up my papers, getting them to the university, getting ready to go home and spend some time with my family. But, no; the worst political question of my career, the toughest one I have ever had, is now in the last 6 months of my service in the U.S. Senate.

You sit on the front porch with these farmers. You sit in the kitchen and drink coffee with them and their families. From back in June of 1997, last year, June 20, the farmers have been on a roller coaster ever since.

Let me try to describe a little better where I come from with my LEAF Act. Tobacco farmers tried to get in on the negotiations between the Attorney General, the tobacco companies, and public health groups. They were not let in the room. They were not even let in the room. I tried to find out what was going on. It was private. It was quiet. It was closed. But the White House was there. The health groups were there. The attorneys general were there. The tobacco companies were there. But the ones who are going to get hurt the most were not there. Now we are trying to hurt them even more.

The June 20 settlement did not include one dime for the tobacco farmer. But there is $750 million in there for NASCAR and rodeos. And I didn't hear anybody say, "Take that out." No. "Take it away from the farmer. Don't take it away from NASCAR. Don't take it away from rodeos. Let them advertise at rodeos. Let them advertise at NASCAR."

I am for the Winston 500. I do not have any problem with that. But I have not heard a word in here, or from the other side, that they gave too much to NASCAR, that they gave too much to rodeos. But, boy, you sure are taking away from the farmer down there who has labored all his life and has produced a superior product.

Alben Barkley, on this floor in 1939, put in the tobacco program. It took him 3 years—1936 through 1939. Alben Barkley was a pretty good legislator. He was a mighty fine Vice President. I think he understood his people as well as anybody. And it hasn't changed. I wish I had the ability that Alben Barkley had to speak and to convince people that what I am trying to do is right.

But sitting on those front porches, sitting in the kitchens and talking to the farm families, I told them to get to work and come up with something that they felt would be acceptable. And to work they went. They developed a comprehensive plan not just for individual tobacco farms but for their communities as well. We have not thought about Russellville or Horse Cave or Glasgow or Springfield or Carrollton. They are small farm communities that depend on tobacco. And their banks depend on tobacco. Their businesses depend on tobacco. Fifty percent of their income comes from tobacco.

The average, in my State, is 25 percent is farm income. There are loans because the value of the property is there. The banker understands as long as the program is there, it gives them financial stability.

And so last October, after months and weeks of work, we introduced the Long-Term Economic Assistance for Farmers Act, what we call the LEAF Act. And, you know, even the night before I introduced that—and we all sat around, made one change—we all shook hands and got up and left, that this is what we are going to support. And it was cosponsored by nine tobacco State Senators—myself, Senator HELMS, Senator FAIRCLOTH, Senator MCCONNELL, Senator HOLLINGS, Senator THURMOND, Senator FRIST, Senator CLELAND, and Senator COVERDELL. All of us agreed that this was in the best interest of the tobacco farmers and the communities and the welfare of our States.

Since that time, we have worked hard to broaden our consensus, including changes sought by Senators ROBB and WARNER of Virginia and their tobacco growers. We made those changes. We accepted a broader consensus. This modified version of the LEAF Act is now included in the bill before the Senate in title X. Title XV, on the other hand, was inserted into the bill at the last minute after we got to the floor. It was never debated in the Commerce Committee. It was never debated during the markup. And all of a sudden here it comes—after we had an agreement. And the chairman went and explained the bill to farmers and what was in it.

It provides buyout payments for tobacco farmers who want to leave the program. And they keep using, against this bill, that, "You take our money and you can keep on growing." Well, if you keep the program and you sell out, that reduces—you no longer can grow, you don't want to grow. It may be the widow who has the quota. It may be the elderly couple who can no longer perform. But remember this: 69 percent of all the farmers in Kentucky, 69 percent of all the quota holders in Kentucky, have another job. This is a husband, wife, and family operation; 3,000 pounds, 3,100 pounds. Instead of hiring help, they do it themselves. And that money is theirs. They buy a major appliance. They paint the house. They get a new truck, pay on the mortgage, help send the kids to school.

What are we saying to those families now? "In 36 months you're gone." Three thousand pounds is the average. That is $24,000; $8,000 a year. And you are going to pay tax on it. Hasn't anybody said whether there is going to be capital gains or regular taxes? If it is capital gains, it is 20 percent. So you take $1,600 out of that right off the top. I have not heard whether it is going to be capital gains or regular taxes. Maybe some people who understand the tax program better than I do can come up here and say how great it is going to be, and they will not have to pay any.

There are buyout payments for tobacco farmers who want to leave the program. But under the Lugar amendment, the program is gone. And for 3 years you still pay them so much per pound, and they can grow all they want to. So it costs the taxpayers lots and lots of money, and nothing will go to the farmer, it will go to the pool. And then after the 3 years, there is nothing. And who owns it? Who is going to pay for it? I think I know, and I think the Senator from Indiana knows.

It reforms and maintains a tobacco-supplied management program. We have a core principle statement by about 24 health groups and the tobacco groups that they support—whatever—to reduce youth smoking. But they also support keeping the program. It maintains a tobacco-supplied management program. Without a tobacco-supplied management program, the 124,000 tobacco farm families in this country—which their average tobacco growing in various States varies, the amounts—have absolutely no bargaining power to deal with the four largest tobacco corporations.

We are getting to a point where everybody is getting down to just a small group controlling everything. Four tobacco manufacturers control 98 percent of the tobacco grown in this country. The Senator from Indiana says about 40 percent of the tobacco in cigarettes now are foreign. I think that is a little high. Of course, if you are for something it is less, and if you are against something it is higher. I find somewhere in the middle might be about right. We do have GATT and GATT limits the amount of tobacco that can be imported into this country. I know that was about 150,000 metric tons and the tobacco companies have first choice.

So when you are going up against the small group of companies that control the 98 percent of everything, you don't have much bargaining power unless you have a program. So we say as you reduce the quota based on 1995, 1996 and 1997, that we will take the difference in that as we transition out into the future. Most agricultural economists say that it takes 10 to 15 years, and closer to 15 years, to transition into a new economic stream.

So as we look here at the bill itself we are under what the bill says will go to agriculture. What the Senator from Indiana has to do with his amendment, if passed and accepted, he has to correct the bill to say he will get almost 48 percent of all money for the next 4 years, where we will only get 16. At the end of 10, we only get 4. Talk about saving money—it costs $10 billion more. The bill is for 25 years. My amendment is for 25 years. If you want to shorten it some, that is all right. If you are willing to talk, I am willing to talk, too, but I am not willing to give up what the farmers have earned.

The Campaign for Tobacco-Free Kids—they have been very active in this—supports a continuation of the tobacco program. They said the following:

> Legitimate concerns have been raised that in the absence of some sort of a program, tobacco production may, in fact, increase; that tobacco will be grown in other States that presently do not produce tobacco and the tobacco companies and the tobacco leaf dealer will gain control over the production and move to contract production, keeping tobacco farmers and their communities at risk.

The Senator from Indiana knows that. He knows that. But no, he wants to say here is the money, you get it upfront, you pay your taxes on it, you get it over 3 years and I will only get 48 percent of all money for the next 3 years. I am not sure he can get that. When you have the marriage penalty in here, you have Senator COVERDELL and his drugs, vouchers and the veterans—we have done a lot of work here. To do everything but take care of the farmer and to try to stop underage smoking does not make sense. What is going to stop underage smoking in this act?

I think you lose control of the production of tobacco under the Lugar amendment. You have no way of controlling it except by price. When prices go down and tobacco companies make $1 billion more a year, you will vote for the farmer; you will vote for the manufacturer. I hope you will vote for that hard-working family, hard-working, God-fearing family.

Under the LEAF Act, it requires that tobacco companies pay all the administrative costs associated with the tobacco program, assuring that no general taxpayer funds will be used for the tobacco program. Right now, the only cost to the Federal Government under the tobacco program is the administration of the program and the poor old tobacco farmer out there pays a deficit budget fee. I doubt if anybody here has ever heard of a deficit budget fee paid by a farmer who grows a legitimate crop. Last season they paid in over $30 million, about $32-34 million.

The tobacco farmer pays a deficit reduction fee before he gets his check from the warehouse. Think about that now. You have assessed him out there about everything you can assess him for and he has paid everything but the administrative fee, and now we are willing to take care of that. Somehow or another that poor tobacco farmer down there has been beat on and beat on and beat on. Somebody has got to stand up for him against the big manufacturers.

Whether Senator LUGAR knows it or not, he is playing into the hands of the tobacco manufacturers by saving them $1 billion a year. When you take the controls off, they are then in control of how much tobacco they want and what they will pay for it. If we don't deal with this, if we want to get around GATT, I am sure that will be the next one—they want to increase the amount of imports from 150,000 metric tons to whatever so they can bring foreign tobacco in here that has no control over pesticides or anything else, no environmental control and bring those on in, so it will be 100 percent. You are going to get it coming up from Mexico, you are going to get it coming down from Canada. I understand Marlboro Lights in Mexico are around 90 cents. We have tens of thousands of cartons of cigarettes being made every month on Indian reservations. This is playing into their hands—they don't want to pay State taxes. All these things are happening, but there is no control under Senator LUGAR's amendment of the growth of tobacco.

The LEAF Act, or title X of the bill provides economic development funding to tobacco-growing States which must deal with the impact of settlement legislation. We understand that if this bill ever becomes law, and the way it is going now and what the House says and Speaker GINGRICH says, we are just flipping our lips here because it isn't going anywhere when it gets there. We are spinning our wheels. There hasn't been anything added to this piece of legislation to stop underage smoking—maybe $1.10. But you get a $185 pair of Nike shoes and some kind of jacket with all the designs on it and all that, and $3 or $4 for a pack of cigarettes, I don't think it bothers anybody too much. But then you ruin the farmer. You ruin the farmer.

So we try somehow as we reduce the use of tobacco, and hopefully we do, we just try to say to that community—and I can go down community after community and say to them that we are going to try to help you with infrastructure, with economic development, with loans for new business, to try to make up for the loss. And it all comes out of the tobacco company. It is not a taxpayer fund. It is not coming out of the general fund anyhow, but it comes out of the money developed from the tobacco companies.

One thing I found, that the love of the tobacco farmer or the farmer for his family is hard to improve upon. They are out there in the country and they get up early, work hard, go to school, come back, work hard, study.

One thing that a farm family wants is to see that their children have a good education. If we put him out of business—and 90 percent of them, my university estimates, will be—and there is no income, how do they do it? We keep the program and we say, then, that as the time goes by, and in a certain period, in a certain amount, we will give the tobacco-growing families who wish to provide our* education assistance for their children. What is wrong with that? I don't see anything wrong with it. Others may. They say, well, you are trying to do too much. Well, if you are going to put somebody out of business and that is not his or her choice, something has to be done.

Everybody around here voted for NAFTA—I didn't, but most of them did. What do you do about dislocated workers? I had about 25,000 in my State in the textile industry, and all of those jobs have gone to Mexico after NAFTA.

What do you do with 25,000 idle workers? Under the law, you try to train them and get them prepared for another job. That is what we said here. We provide assistance for dislocated workers from tobacco warehouses, processing and manufacturing facilities, who lose their jobs as a result of this tobacco legislation. What is wrong with that? We do it every place else. You say you don't want to do it for this industry. Well, not a farmer had a document, not a farmer was in on the advertising, and not a farmer did anything except try to support the tobacco program.

I think that we have developed an approach that looks not just at the farmer, but at the entire community that will be impacted by this legislation. This approach is included in title X of what we call the McCain bill. I can understand the large farmers wanting their money and then being allowed to grow all they want. They will be the only ones that can contract with the manufacturers. They will be the ones that will get the big money and membership on the board of some outfit down there. Not one of them grow less than 200,000 pounds of tobacco a year, and so they get anywhere from $1.6 million to around $4.8 million—just those four people. So they will get around maybe $10 million, $11 million, or $12 million. No wonder. Those four who raised about 1.2 million pounds are big enough. They are big enough to deal with the manufacturers. But we have just paid them a good deal of money and told them "you are out on your own." They like that. They have money. But you are going to pay it over 3 years, and they are going to have to pay tax on it, so it is going to stick them a little bit.

Title XV, on the other hand, promises tobacco farmers the same amount of money, but over 3 years instead of 9. It would allow for the unlimited and largely unregulated production of tobacco. Title XV saves tobacco companies $1 billion per year for the next 25 years. Title XV requires somewhere between 46—I wanted to look at the amendment, and I am sure the Senator will correct me. It is 46 or 48 percent of all the money—that is in the amendment at the desk—to pay for the Lugar amendment in the next 3 years, where under the bill it says it can only have 16 percent. At the end of 9 years, we only get 4 percent. Something about that in the transition, it seems to me, ought to be done.

So let's remember that title XV is a billion dollars per year windfall for the tobacco companies. It is $1 billion a year windfall for the tobacco companies. Are you going to vote for the farmer or the tobacco companies? I think that question is pretty clear. Each year, tobacco companies pay based on the program. Most of the time, they pay above the average. So we take the average and knock 70 cents a pound off. That is going in. You can't pay people to grow it, fertilize it, for the equipment and all that, and come out as a small farmer. So roughly one-third will be reduced. Over the course of 25 years, the Lugar amendment saves the tobacco manufacturers a minimum of $25 billion. Do you want to take the manufacturers over the farmers? I hope not.

And the Lugar amendment takes away the money that the Leaf Act would spend to try to spur economic development, to try to give them technical advice, to go from one crop to the other, which is not in the Lugar amendment. It takes away the education. It doesn't even talk about educating kids. We are just going to put you out of business and give you some money and let you go on your own. We are going to reduce the value of your land—in my State, $7 billion. How is that going to reflect on the taxes that are paid in the counties and the cities and the State? Are they going to raise taxes on a smaller amount of value? You know, this thing has ripples.

I don't believe the Senator from Indiana has thought all these through. If he has, I don't believe he would be this harsh on tobacco farmers. I am sure there would be a rebuttal, but you can't rebut if you take the quota away and it reduces the value of the land. That is a taking. You go to bed with the value of the land, and you wake up and the program is gone; tomorrow the value of your land is gone. They can foreclose on you because you don't have enough value to cover your mortgage.

Mr. LUGAR. Will the Senator yield for a question?

Mr. FORD. I will be glad to yield. I wondered how long you were going to sit there and take all this.

Mr. LUGAR. I respect the Senator from Kentucky. I wanted to inquire of the Senator. The discussion is very important.

Mr. FORD. I respect the Senator from Indiana, also.

Mr. LUGAR. I wonder if the Senator planned to continue his discussion until the end of the session, or whether at some point I might seek recognition to speak.

Mr. FORD. I will be glad to give the Senator an opportunity to speak as long as he doesn't make a motion. When we get to a vote on this, I would like to have some agreement, if we could, as it relates to a vote.

Mr. LUGAR. If the Senator would consider allowing me to speak, I pledge to the Senator not to make a motion with regard to disposition of this bill during today's session.

Mr. FORD. The Senator's word is as good as gold. I have no problem with that. All I want to do is, after you get through, I imagine I will have something else to say, and then it will probably be dinnertime.

I yield the floor, Mr. President.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I hope the Senator will understand this observation. Clearly, the strongest thing going for the Ford amendment is the Senator himself. As he has pointed out, he has long service to the people of Kentucky and his arguments on behalf of farm families with whom he has visited, and clearly all Senators have affection for the distinguished senior Senator from Kentucky. It is my hope and had been my hope that I could persuade him that it is in the best interest of these farmers—the people with whom he has visited on the porches, who really have very real needs—and that is true of any tobacco farmers in the communities—and we want to support them.

I know they are not as numerous as those in the Senator's State, but it is still very important to me. Our argument is really over what the future holds for them. I come into this business having conducted hearings, not claiming extensive knowledge like the Senator from Kentucky, but nevertheless understanding the predicament, it seems to me, of the tobacco program. I believe that it is a deteriorating and failing program. To give any other impression is not to give a very good forecast of the future. I hope the Senator from Kentucky agrees with me that, given that predicament, this particular piece of comprehensive legislation is almost a heaven-sent opportunity and has a lot to do with farmers who are tobacco farmers and those in those communities. I believe that if the opportunity passes, so will the opportunity for many of those families. That concerns both of us.

Let me just say for the record that the Senator from Kentucky mentioned that an amendment I had planned to offer at the desk would provide for 46 percent of the farmers' money coming in the first year. That is correct. Let me point out, this is 46 percent of the money dedicated to farmers, not 46 percent of all of the money in the bill.

Mr. FORD. Will the Senator yield for a question at that point?

Mr. LUGAR. Certainly.

Mr. FORD. Is that 46 percent of 16 percent?

Mr. LUGAR. Yes.

Mr. FORD. You only take 8 percent of the tobacco money.

Mr. LUGAR. No. The amount of money in the Lugar bill for farmers is about, as I recall, $16 billion or $17 billion. And 46 percent of that would come in the first year.

Mr. FORD. Then you have to get the money from somewhere. As I read the amendment, I say to my friend, that would take 46 percent of the money raised by the tobacco bill. So the States get 40 percent and you get 46 percent. That is 86 percent of all the money.

Mr. LUGAR. I will not argue with the Senator's arithmetic. I suggest there is even a worse predicament; namely, as the Senator has pointed out, a marriage penalty, and the drug program. Other things have been added in since we started the argument. My thought—this was at least in the working with the health community—was to try to stake out the farmers' claims before various other claims of the health community and various others that might come along. Clearly, the amounts of money in the amendment of the Senator from Kentucky in this bill will have to be expanded. And in conference they surely will be expanded. It appeared to me to stake out the farmers' interest in this way was prudent. The amendment has not been offered. The Senator has an amendment on the floor to strike my section which is the pending business. So we may never come to that point.

Mr. FORD. I hope.

Mr. LUGAR. That was my motivation. My general logic still is about the same—that we have a very crowded situation up front. But that is not precluding either one of us from arguing for the farmers' interests up front as opposed to downstream, and a long way down the stream in the case of the Senator's amendment.

Let me just try to clarify another point that has arisen along the way; namely, that the Lugar plan would be of great benefit to cigarette companies. The distinguished Senator from Kentucky has frequently said, "Are you for the companies, or the farmers?" I am for the farmer. I have made no mistake about that for years. The distinguished Senator from Kentucky will recall that I have been attempting to wrap up the tobacco program for many years—it is not a new endeavor—because I don't believe it is good agricultural policy. But leaving that aside, the charge is made that under the Lugar plan the tobacco prices would drop dramatically and the companies would, therefore, make more profit on each pack of cigarettes. Let me try to address that as carefully as I can.

Dr. Blake Brown of North Carolina State University, one of the Nation's most respected tobacco economists, studied what would happen if cigarette prices rose $1.50 cents a pack and the tobacco program were ended. As we know, the amendment to raise the price to $1.50 a pack failed. It is $1.10 a pack. So, to that extent, we have a problem with Dr. Brown's analysis. But, nevertheless, follow me if you will. He said that prices would not fall as much as opponents of the Lugar amendment assert. He projected a decline of 20 percent to 25 percent at around 35 cents to 40 cents, not the 60 cents or 70 cents claimed by some. Notwithstanding that, he said the price would fall but production would increase.

The Senator from Kentucky has made that point—and he is correct, according to Dr. Brown—that, in fact, a more efficient tobacco industry is likely to arise under the Lugar amendment. This should not be surprising.

Essentially, the tobacco program now brings about a very inefficient tobacco situation in the United States. I am not a proponent of tobacco, but I would say freedom to farm would be good for tobacco. In essence, the price will fall, more will be produced, exports will increase because price-wise—I would argue quality-wise—and it would be more competitive. Revenue is not simply price; it is price multiplied by volume. As a matter of fact, Dr. Brown estimates the total dollar value of tobacco sales would fall by just 2.8 percent, or $74 million, a year. By contrast, the Commerce Committee bill raises about $500 billion from the tobacco companies.

Mr. President, it is my analysis that, in fact, the tobacco companies conceivably have $74 million of economy a year, not a billion a year that the Senator from Kentucky has mentioned. You multiply that by 25—I am asserting it is more like $74 million perhaps, and conceivably less than that, as a matter of fact.

That is a very different ball park to argue the situation one way or another for the tobacco companies. But I would simply say that the tobacco companies are more likely to buy American tobacco under this situation. It is unlikely to lead to a GATT crisis, simply because the market works. One reason the tobacco companies do not buy as much American tobacco now is that normally the quality of much of it is not very good. The price of it is abnormally high. They have substituted purchases from abroad.

There are so many mixed motivations in this bill that some Senators might argue we do not want a more efficient tobacco industry. As a matter of fact, we want to make it as inefficient as possible, as few sales as possible of American tobacco, the least rationalization economically of it all. But you can't carry water on both shoulders on this issue.

I am suggesting that this is a good time simply to get the governmental apparatus out of it, which, in my judgment, is not very helpful either to the tobacco farmers, or the tobacco companies, or to anybody involved, and clearly it leads to a balance of trade problem for America generally.

Let me get into the health and research question again, because some Senators may be tempted to support the amendment of the Senator from Kentucky because they believe that health programs might be disturbed in the redistribution of these funds.

Let me just point out that the technical details of Senator FORD's proposal are important to know. For example, in the amendment that he has presented—and it is part of this bill now—the Ford plan costs will immediately explode by design, because payments are accelerated if the tobacco program ends. These costs could be over $10 billion in a single year.

Why do I mention this? I mention it because I would guess, having witnessed action on the floor for several years, that in some year some Senator is going to propose the end of the tobacco program. That may not occur tonight or tomorrow. It could, if the Senate passes my amendment. But for some reason, because of sentiment for the distinguished Senator from Kentucky to continue this process, after the distinguished Senator has left the floor and left the Senate, my prediction is that some Senator will say this doesn't make sense, for the Federal Government to be prescriptive with regard to tobacco and here we are supporting tobacco in this way by governmental fiat.

So at some point in a farm bill, or without a farm bill, my guess is the program will come to an end. The Senator has thought of that and says if that should be the case, immediately payments of all sorts come to tobacco farmers. In other words, there is a ticking time bomb there to suggest it is very expensive for anybody to try to end the tobacco program. Members need to understand that. They are buying not only a continuation of the tobacco program but a rather huge payment, if anyone should dare to tamper with the program.

The health community people need to understand that. This is not a benign amendment with regard to the health of the American people.

Let me point out, Mr. President, that the charge that we will give a $1 billion gift to cigarette manufacturers, taking it out of the farmers' pockets, just simply does not hold water. We have cited Dr. Brown of North Carolina State before. I cite Dr. Brown again. He estimates, as we have suggested, that farmers' total revenue might decline by 15 percent. He said this decline assumed a $1.50-a-pack price, but even at the $1.10 we finally adopted, the increase in their loss of revenue could still be severe—maybe not 15 percent but something in that neighborhood. Keeping the current program means lower total revenues for American tobacco farmers because noncompetitive U.S. prices well encourage a continued uptrend in imports and reduce exports while domestic demand is stagnant or falling.

I made the point, Mr. President, that it is conceivable through protectionist legislation on top of this that Senators might decide to try to keep foreign tobacco out of the country, might try to amend the GATT at the World Trade Organization meetings when they come along next year. That would add, I suppose, double jeopardy to the whole situation—Federal sponsorship of tobacco, compounded by protectionist legislation enveloping even that.

That does not make sense. This is not the way the world works. It is not the way the policies of this country are headed. Why in the particular instance of tobacco is there a blind spot with regard to the successful economic operation of our country including this specific industry? In fact, I would suggest that the families who, under the Lugar amendment, will be collecting $8 a pound for quota will use that money, many of them, to make investments and to earn money on them that are substantially more sound and more lucrative than the investments they have in tobacco. The tobacco industry is not a winner in terms of current investment either as a farmer, warehouseman or a manufacturing concern. It is not a winner because this legislation is in the Chamber and the impact of this legislation is going to be very depressing to tobacco people wherever they are.

The intent of the distinguished Senator from Kentucky and myself is to not only cushion that blow for farmers and those communities, but it is to provide, upfront and quickly, capital for those farmers to have a pension or money to invest in other operations, agricultural or otherwise, or money for scholarships. And I share the enthusiasm of the distinguished Senator from Kentucky for education of young people in those areas where tobacco is produced, as well as elsewhere. But I would seriously question whether the educational opportunities of those students are going to be enhanced by continuation of the tobacco program, a program that will mean less income for their families annually as far as the eye can see, from an industry and a general area, that of tobacco, in which demand will be depressed, in which sales and the amount of quota given annually will be depressed and in which, one after another, these families will in fact leave the business.

I am not trying to legislate anyone out of business. I am as sensitive as the distinguished Senator from Kentucky that in a deteriorating situation people are leaving farming in general, but they are leaving tobacco farming in particular because it is particularly depressed and does not have even the liberation of freedom to farm, the ability to farm or to plant what he wants to maximize his or her production in this country.

If, in fact, we are talking about the health and welfare of tobacco farmers—and that is our intent today—and the distinguished Senator from Kentucky is correct, that we were not at the table when the attorneys general of the various States met with the tobacco companies—and, in fact, testimony before the Agriculture Committee by at least one witness was that settlement for growers was deliberately left out. It was, to quote one of them, a deal breaker. Others have said that all along they expected Congress would act, and, indeed, we are attempting to do that.

Mr. President, if we do not act or if we had not acted by bringing these amendments to the floor, I think it is clear to the tobacco farmers in my State they will be on a losing course with tobacco for the rest of their lives without any recourse or any particular funds.

Finally, Mr. President, I would suggest as to the critical issue that has been suggested; namely, is there credible evidence that farmers will receive their money, the distinguished Senator from Kentucky has pointed out that certainly my plan looks attractive to farmers who anticipate receiving $8 per pound of quota in the first 3 years after enactment; that my plan looks attractive to farmers who want to continue on and receive transition payments comparable to those of freedom to farm for corn and beans and wheat and cotton and rice, and my plan looks attractive, as a matter of fact, to communities that receive at least modest amounts of community development funds. The Senator from Kentucky has pointed out the value of these funds.

I believe my amendment is attractive for all of these reasons, and this is why it is attractive to grower organizations in most States that have a lot of tobacco—a great deal of support, resolutions of support directly, editorial support in newspapers. It is not because people in those States necessarily favored my desire to end the tobacco program. It is because they came to a recognition the program is ending. It will be gone. This is the one opportunity in which some compensation might occur. It is an opportunity not to be missed.

Now, if it is to be ceased in terms of the family, the money upfront makes sense. It is very important to understand that and to understand why that injection of capital and expenditure and buying power into tobacco communities is important in the short run. It is important to understand why, when a conference occurs with the House, if they pass a bill, growers need to have a strong position at the table, which our bill gives them. I think it is very important, as a matter of fact, to the success of this legislation as a whole that there be a provision such as the one I have suggested and which the distinguished Senator from Kentucky has now moved to strike—that my provision be there. It is a strong reason for Senators to vote for the overall legislation.

I would say correspondingly, if in fact the tobacco program is to continue on forever, and if the expenditures the distinguished Senator from Kentucky has pointed out are very generous to his State and a few others are to be a part of that, many Senators will raise the question as to why the rest of the United States of America ought to subsidize these few States or these few counties. What equity is there, as a matter of fact, in such a transfer of money over the course of time? And Americans will clearly ask, Is it not hypocritical to maintain that entire apparatus if the point of tobacco legislation is to discourage smoking, discourage consumption, to help improve the health of the American people and the desire of young people to become committed to smoking at all.

For these reasons, I am hopeful that as Members ponder their decision—and it may be a decision they will have to ponder throughout the evening or will make at some point in the morning, because I have pledged to the distinguished Senator now to make a motion. I had indicated earlier in the afternoon I was perfectly willing for a quick vote, and that situation did not materialize.

There is no one here stopping progress. I will just simply say, at some point this has to be resolved, and I hope the Senators will resolve it in favor of the Lugar amendment, because I believe this is the best course for tobacco farmers, for tobacco communities, and for our national policy.

I thank the Chair, and I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, it has been a good debate, and I have enjoyed it. I am not learned in debate. Whatever skills I might have come from experience. I have been around here a little longer than the Senator from Indiana. This is my 24th year, and I believe this is maybe his 21st or 22nd. Of course, he was mayor of Indianapolis; I believe, one of the favorite mayors at that time. He said after I leave the Senate, the tobacco program is gone. Can you believe one Senator can be that strong? The first thing I learned when I came here was that every Senator is independent. Every Senator has one vote. He controls that out here and nobody controls him. I just can't believe it, but it is in the RECORD, and I might cut it out of the RECORD and frame that statement from a Member of the other side.

I was sitting here thinking about the money and how much is available. If the Senator's amendment stays in, this amendment will have to go beyond the 16 percent. But, if you get 46 percent in the first year, that is where you need 60 percent of the first year's money. That is $8 billion that you will have to pay out the first year. That is 60 percent. I suggest it will be close to 60 percent in the second year and the third year. If the Senator wins, he might want to change the percentage on that amendment.

The Senator says that public health groups say regulation of tobacco will be less efficient. I believe that is his statement. On the one hand, he says funding is not important; on the other hand, he says there is a ticking time bomb of explosion. I don't quite understand that money is not important. He says funding is not important but, on the other hand, there is a ticking time bomb.

Senators should know that Senator LUGAR is promoting his proposal because it would increase tobacco production. He said that—increase tobacco production, going to make it more efficient, all those good things. But he is promoting the increase in tobacco production.

Ask the public health groups what they think about that. Ask a small farmer what he thinks about that: a production increase for big farmers, fine, while the small ones are out of business. I don't believe the Senator would like it if he was back in his home in Indiana, and he has value of land—they talk about the money up front and they can make an investment, but when you lose hundreds of dollars per acre in value of your farm, I am not sure how well you come out in this, and they put them out of business. At least 90 percent of my small farmers in Kentucky are gone, and that is a conservative estimate, not a liberal estimate, but a conservative estimate.

We are getting to the point where it is very difficult for me to understand, and I think the Senator is having a hard time defending his position when he is wanting to increase the growth of tobacco, reduce the price and save the tobacco companies a billion dollars. I say to the Senator, that is true, and it may be even more than that, because four companies control 98 percent of the growth of tobacco. We have a hard time exporting tobacco because other countries are growing it, and companies have promoted some of that. So we limit it. Like everybody else, we limit it, and it is a pretty large limit on imports, to 150,000 metric tons or more.

Somebody has to be thinking through all of this as much as we are, and those people who are thinking through this are the health groups that have been fighting so long as it relates to reducing the use of tobacco by underage children.

Something quite remarkable, I say to the Senator from Indiana, occurred on March 16 of this year. Remember that date, March 16. On that day, March 16, 16 tobacco farming groups and 24 public health groups came together to agree on a common set of core principles. You talk about health groups now. Here are 16 tobacco farm groups and 24 public health groups that came together to agree on a common set of core principles to guide the debate—to guide the debate—on tobacco legislation. Both sides and all 40 groups agreed that "a tobacco control program which limits supply and which sets a minimum purchase price is in the best interest of the public health community."

That is a pretty strong statement by the health groups, and in conjunction with the tobacco interests. According to the Campaign for Tobacco-Free Kids in a letter dated May 13, "those public health groups who signed the core principles remain committed to the principles outlined in them, including maintenance of a supply limiting tobacco program."

What we are doing here is—I believe it is under title IV of the bill, and I am sure the Senator knows what title IV is, but that limits the amount of money that can be spent for agricultural purposes under this bill. The LEAF Act is under that limit. The Senator's amendment is about three times or four times over that limit. But we are within that limit. This is approved by the health groups. Instead of cutting them off at the knees in 36 months, we give them a little more time to phaseout. They can sell out, they can buy out.

I have a list of all of the groups that signed the core principles, such as the American Heart Association, the American Cancer Society, Americans for Nonsmokers Rights, American College of Chest Physicians, Association of Schools of Public Health, the Oncology Nursing Society, Partnership for Prevention, National Hispanic Medical Association—I can go down all these groups that think keeping the program is the right thing to do and saving $18 billion. I might say to my colleagues, saving $18 billion for the use for research and health care and all these other things.

Mr. President, I ask unanimous consent that a list of the public health groups that signed the core principles be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

The following public health groups signed the "Core Principles":

American Heart Association
American Public Health Association
American Cancer Society
Americans for Nonsmokers Rights
American Association for Respiratory Care
American College of Cardiology
American College of Chest Physicians
American School Health Association
American College of Preventative Medicine
Association of Schools of Public Health
Interreligious Coalition on Smoking OR Health
Campaign for Tobacco Free Kids
Oncology Nursing Society
Family Voices
Partnership for Prevention
National Hispanic Medical Association
Coalition for Health and Agriculture Development (KY)
Kentucky Action
American Cancer Society (KY)
American Heart Association (KY)
American Lung Association (KY)
Kentucky Dental Association (KY)
Kentucky Medical Association
Kentucky Parent Teachers Association
Kentucky Society for Respiratory Care
American Heart Association
American Lung Association
Kentucky Smokeless States Project
Albermarle County (VA) Medical Society
Virginia Public Health Association
Georgia Public Health Association

Mr. FORD. I thank the Chair.

Mr. President, I understand that the distinguished Senator from South Carolina wishes to make a statement. And I am more than willing to yield to him.

Mr. THURMOND. Thank you.

Mr. FORD. I understand he needs about 5 minutes.

Mr. THURMOND. About 6 or 7.

Mr. FORD. Well, that is pretty close. So, Mr. President, I ask unanimous consent that the distinguished President pro tempore be recognized for what time is necessary, and that after he has completed his statement, that I be recognized.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from South Carolina.

Mr. THURMOND. I wish to thank the distinguished Senator for his courtesy.

Mr. FORD. I appreciate you being a cosponsor on my LEAF Act, too.

Mr. THURMOND. Mr. President, thank you.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2176 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THURMOND. Mr. President, I yield the floor.

Again, I wish to thank the able Senator from Kentucky.

Mr. FORD. I thank the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky is recognized.

Mr. FORD. I do not know that there are a great deal of additional thoughts that we need to discuss. I could go down—one of the things that I want people to understand is that we are not just doing away with the tobacco quota. Oh, we are paying them some money, but the average, I don't think, is going to be much over $20,000, divided by 3 years. And the taxes are paid.

Anywhere from 15 to 20 percent of the value of Kentucky farmland is based on the tobacco quota. In rural Kentucky, banks will not lend to farmers unless they know the value of their tobacco quota. Real estate does not sell without disclosing the amount of tobacco quota on a farm. You can't sell a farm without disclosing that. That is an important feature.

If you read the real estate section of the Kentucky newspapers, you will see the amount of tobacco quota advertised with the sale of the farmland. So if the program is done away with, then the value of the land is reduced anywhere from 15 to 20 percent, and that is up to $7 billion. So we are not only taking away the livelihood, we are also reducing the value of the product this farmer has worked all his life to hold.

There is something here that I believe is fundamental—fairness. And under the Lugar bill, that is not fair. So this will have major, devastating consequences on the tax base in rural Kentucky—all because of the hostility of title XV toward the small tobacco farm.

The Lugar alternative is really no alternative at all when you look at what happens to that tobacco farmer. It gives him a little money, and he is out. And we reduce the value of his land. He pays big sums of tax on it. If it is 20 percent, fine, but he has to figure some way.

So, Mr. President, I do not know what the majority leader or the Democratic leader would like to do. I understand we have a joint meeting tonight, with both sides, beginning at 6:30. We are getting reasonably close to that. So in order to find out if it is all right with the Senator from Indiana, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LUGAR. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHITE HOUSE SIGNING CEREMONY FOR THE BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

Mr. CAMPBELL. Mr. President, today is a very special day for both our nation's serving law enforcement officers and myself.

At 3:00 this afternoon, Arapahoe County Sheriff Pat Sullivan and I were at the White House attending a ceremony where the President signed into law the Bulletproof Vest Partnership Grant Act of 1998. The enactment of this bill is near and dear to my heart.

During the years I served as a Deputy Sheriff in Sacramento County, California, I gained a first-hand understanding of the dangers our law enforcement officers face in the line of duty. Our brave men and women wearing a badge simply never know what life threatening dangers each new day may bring. We must do everything we can to help these officers acquire the equipment they need to stay alive while they are going about the job of protecting the American people and preserving the peace.

The Bulletproof Vest Partnership Grant Act will help get one of the most critical and effective pieces of life saving equipment, namely body armor, into the hands of thousands of cops who would not otherwise have the resources to access it. Simply put, this bill will save many, many lives. This bill will help prevent wives from becoming widows, husbands from becoming widowers, and children from being raised without their father or mother.

On this special day, it is fitting to pay a tribute to one very special law enforcement officer who was killed recently while serving in the line of duty. Officer Bruce VanderJagt was killed by a hail of bullets in Denver, Colorado in November, 1997. His untimely death left his wife, Anna Marie, without her husband, and his two-year-old daughter, Hayley Louise, without her devoted father. Officer Bruce VanderJagt is remembered for his charm, his exceptional humility, his wit and intelligence as exemplified by the two master's degrees he earned, and the courage that earned him two distinguished service crosses. He will be missed.

We must do all we can to protect law enforcement officers like Bruce VanderJagt. If even one law enforcement officer's life is saved by a bullet proof vest that would not have been available without this law, all of our hard work that went into getting this bill through Congress and today enacted into law, will have been well worth it.

MESSAGES FROM THE HOUSE

At 12 noon, a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2888. An act to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees.

H.R. 3494. An act to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2888. An act to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees; to the Committee on Labor and Human Resources.

H.R. 3494. An act to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes; to the Committee on the Judiciary.

The following bill, previously received from the House of Representatives for the concurrence of the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 1023. An act to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated antihemophilic factor, and for other purposes; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-460. A joint resolution adopted by the Legislature of the State of Colorado; ordered to lie on the table.

SENATE JOINT RESOLUTION 98-005

Whereas, legislation has been introduced in the United States House of Representatives (H.R. 2625) and the United States Senate (S. 1297) to rename the Washington National Airport as the "Ronald Reagan Washington National Airport"; and

Whereas, this federal legislation is intended to honor one of the greatest and most loved presidents of the United States; and

Whereas, president Ronald Reagan left the United States and the world a legacy of prosperity and freedom; and

Whereas, naming the gateway to the nation's capital after President Ronald Reagan is a fitting tribute to his contributions to our nation and to the world; and

Whereas, this dedication should be completed in honor of President Reagan's eighty-seventh birthday on February 6, 1998; Be it

Resolved by the Senate of the Sixty-first General Assembly of the State of Colorado, the House of Representatives concurring herein: That we, the members of the Colorado General Assembly, encourage the President and the Congress of the United States to enact legislation to rename the Washington National Airport as the "Ronald Reagan Washington National Airport".

Be it further resolved That the Secretary of the Senate transmit copies of this resolution to the President of the United States, the Vice-President of the United States, the Speaker of the United States House of Representatives, and to each member of the Colorado delegation to the Congress of the United States.

POM-461. A resolution adopted by the House of the Legislature of the Commonwealth of Massachusetts; to the Committee on Appropriations.

RESOLUTIONS

Whereas, the Land and Water Conservation Fund, conceived in 1964 as a Federal-State partnership program, was created to expand the Nation's park and recreation system through funds received from off-shore oil leasing fees; and

Whereas, since 1995, the Land and Water Conservation Fund has not been funded, thereby denying States the opportunity to provide recreational facilities for families; and

Whereas, this lack of funding has hampered the States ability to effectively protect its valuable natural resources; and

Whereas, over $127,000,000 could have been leveraged through the Land and Water Conservation Fund for the States of Massachusetts, Connecticut, New Hampshire, Rhode Island and Vermont had the stateside funding been available; and

Whereas, the reinstatement of this funding will directly affect the quality of life we can provide to our citizens and the protection we can give to our natural resources; therefore be it

Resolved, that the Massachusetts House of Representatives urges the Congress of the United States to reinstate full stateside funding of the Land and Water Conservation Fund to give States the means necessary to preserve their natural resources and open space from urban centers to coastal zones; and be it further

Resolved, that a copy of these resolutions be forwarded by the clerk of the House of Representatives to the presiding officer of each branch of Congress and to the Members thereof from this Commonwealth.

POM-462. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Appropriations.

SENATE RESOLUTION NO. 172

Whereas, our country is strongly committed to equality of opportunity. An important government body working to put this commitment into action is the Equal Employment Opportunity Commission (EEOC), the nation's leading civil rights enforcement agency; and

Whereas, the EEOC currently has a backlog of 65,000 cases of discrimination to investigate to pursue justice for individual citizens victimized by unfair and illegal practices. The EEOC needs to direct its resources to these individuals, rather than to the pursuit of trying to find new instances of possible problems. It is much more prudent to handle specific cases of discrimination than to direct energies to test employers by using decoy job applicants to look for discriminatory behavior; and

Whereas, the administration's recommendation of increased spending for the EEOC is appropriate if the increased funds are targeted to address the backlog of discrimination cases that need to be investigated. The men and women victimized by discrimination deserve the protection of the EEOC and should not be made to wait longer while resources are directed to less productive activities; now, therefore, be it

Resolved by the Senate, that we memorialize the Congress of the United States to increase funding to the Equal Employment Opportunity Commission to handle the backlog of individual cases; and be it further

Resolved, that copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-463. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Commerce, Science, and Transportation.

LEGISLATIVE RESOLVE NO. 56

Whereas overcapitalization of fish harvesting capacity in the Bering Sea has resulted in highly compressed, derby-style fisheries; and

Whereas overcapitalized fisheries typically lead to excessive exploitation of a fishery resource, often resulting in a precipitous decrease in the economic yield of the fishery resource; and

Whereas the State of Alaska values sustainable fishery management principles, which include minimizing bycatch and waste, maximizing utilization of the fishery resources harvested, minimizing adverse effects of fishing gear on fish habitat, and maximizing economic returns on the public fishery resource for the benefit of Alaska communities and the citizens of the United States on the whole; and

Whereas Senator Ted Stevens of Alaska has, with the cosponsorship of Senators Murkowski, Breaux, and Hollings, introduced S. 1221, "American Fisheries Act"; and

Whereas S. 1221 would effectively limit fishing capacity in the Bering Sea fishing fleet through vessel size limitations and ownership requirements; and

Whereas S. 1221 would limit the maximum length, tonnage, and shaft horsepower of vessels engaging in domestic fisheries in the United States navigable waters and exclusive economic zone; and

Whereas S. 1221 would require that at least 75 percent of the controlling interest of a vessel engaged in the fisheries in the United States navigable waters and exclusive economic zone be owned by citizens of the United States; and

Whereas S. 1221 would correct a loophole in the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 that allowed vessels that were rebuilt in foreign shipyards to enter the fisheries off Alaska; and

Whereas S. 1221 would permanently prohibit federal loan guarantees for any vessel intended for use as a fishing vessel that does not meet size, tonnage, horsepower, and domestic ownership criteria; and

Whereas S. 1221 would effectively promote further Americanization of the fisheries of the United States;

Be it resolved, That the Alaska State Legislature supports those provisions of S. 1221, the "American Fisheries Act," that would reduce the fishing capacity of the Bering Sea fishing fleet and promote the Americanization of the fisheries of the United States; and be it

Further Resolved, That the Alaska State Legislature respectfully requests the Congress to pass S. 1221.

Copies of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM-464. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION 149

Whereas, in February 1997, the Federal Aviation Administration announced an initiative to demonstrate, validate, and deploy an air traffic management system in response to recommendations made by the White House Commission on Aviation Safety and Security, a plan known as Flight 2000, to accelerate the National Airspace System modernization, and is scheduled for demonstration in the year 2000 with deployment in 2005; and

Whereas, Flight 2000, a five-year program projected to cost $400,000,000, will employ new technology, advanced communications, navigation, surveillance, and air traffic management capabilities to provide improved safety, security, capacity, and efficiency at affordable costs and will involve the integration of navigation satellites, digital communications, weather processors, cockpit displays, and air traffic control and flight planning tools; and

Whereas, Hawaii and Alaska, due to their geographic isolation, fixed quantity of aircraft operating exclusively in their respective areas, and relatively low cost of equipage, have been initially selected as demonstration sites that offer a controlled environment allowing a full scale evaluation involving all classes of aviation operators and all categories of airspace; and

Whereas, Hawaii's favorable weather, prominent topographic features, and need for few ground stations for support, offer the simplest, lowest risk, least costly, and safest evaluation site ideally suited to test Flight 2000 for intercity travel for improvement in services to pilots, to evaluate safety benefits and navigation systems reliability; and

Whereas, both sites are essential to evaluate different aspects of Flight 2000's total system capabilities; and

Whereas, the Oakland Air Route Traffic Control Center will also be involved in Flight 2000 in evaluating oceanic airspace operational improvements between Hawaii and the transition to domestic airspace; and

Whereas, as a test site, the Federal Aviation Administration will fund the upgrade of Hawaii's air traffic management infrastructure and the test aircraft equipment to provide the necessary communications, navigation, and surveillance equipment including the purchase, installation, and repair of aircraft avionics and multi-functional display equipment; and

Whereas, the Flight 2000 plan has been delayed by one year because federal funding did not materialize for fiscal year 1998 and there are indications that budget constraints may necessitate reducing the cost of Flight 2000 and placing the project back to its projected schedule by diminishing Hawaii's role as a test site and to conduct the evaluation exclusively in Alaska and in Oakland; and

Whereas, Hawaii has a key role in Flight 2000 in accelerating the operational deployment of technology to the rest of the nation and the world, toward increased flight safety and efficiency into the twenty-first century; and

Whereas, Hawaii and its citizens virtually depend on air transportation for the State's economic well-being, and Hawaii needs modern and efficient aviation systems to progress and develop its full resource potential; now, therefore, be it

Resolved by the House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, the Senate concurring, that the Federal Aviation Administration, the U.S. Senate Committee on Commerce, Science and Transportation and the U.S. House Committee on Transportation and Infrastructure promote actions to ensure that Hawaii remains a test site in the Flight 2000 demonstration project; and

Be it further resolved, That Hawaii's congressional delegation is strongly urged to assist the Federal Aviation Administration and the Senate and House committees in their efforts to promote Hawaii as a test site; and

Be it further resolved, That certified copies of this concurrent Resolution be transmitted to the Federal Aviation Administration, the U.S. Senate Committee on Commerce, Science and Transportation, the U.S. House Committee on Transportation and Infrastructure and Hawaii's congressional delegation.

POM–465. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

HOUSE JOINT RESOLUTION 39

Whereas the Antiquities Act of 1906 (16 U.S.C. 431–433) grants authority to the President of the United States to establish national monuments; and

Whereas the Antiquities Act was intended to preserve only historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest; and

Whereas the Antiquities Act has been misused repeatedly to set aside enormous parcels of real property; and

Whereas the establishment in 1906 of the Grand Staircase-Escalante National Monument in southern Utah set aside 1,700,000 acres of land, despite the objections of public officials in the State of Utah, making it the largest national monument in the continental United States; and

Whereas this designation clearly violates the spirit and letter of the Antiquities Act that requires monument lands to "be confined to the smallest area" necessary to preserve and protect historical areas or objects; and

Whereas the creation of the Grand Staircase-Escalante National Monument has resulted in the loss of significant economic resources for the public schools and the taxpayers of the State of Utah; and

Whereas the power to establish national monuments can be checked only in limited circumstances; and

Whereas, in 1950, the State of Wyoming obtained statutory relief from the further establishment of national monuments without the express authorization of the Congress (16 U.S.C. 431a); be it

Resolved, That the Alaska State Legislature respectfully requests that the United States Congress enact legislation prohibiting the President of the United States from further extending or establishing national monuments without the express authorization of the Congress; and be it further

Resolved, That the Alaska State Legislature encourages the Governor to take action to encourage the federal government to provide the state with statutory relief from the establishment of national monuments in Alaska.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the Honorable Thomas Daschle, Minority Leader of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Dick Armey, Majority Leader of the U.S. House of Representatives; the Honorable Richard A. Gephardt, Minority Leader of the U.S. House of Representatives; the Honorable Orin Hatch and the Honorable Robert Bennett, U.S. Senators of the Utah delegation; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM–466. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

HOUSE JOINT RESOLUTION 49

Whereas the Clinton Administration has directed the United States Department of Agriculture to establish an interim policy regarding roadless areas in national forests; and

Whereas the United States Department of Agriculture, Forest Service, is considering a proposed two-year moratorium on the building of roads in those roadless areas; and

Whereas the National Forest Management Act of 1976 requires that amendments to a forest plan be done in accordance with regulations that, among other things, allow the public to participate in the development, review, and revision of land management plans for national forests such as the Tongass National Forest and the Chugach National Forest; and

Whereas the Chugach National Forest land management plan revision was initiated in April of 1997, and this plan revision process is the appropriate venue for addressing road building and roadless area issues in the Chugach National Forest; and

Whereas, after an extensive public process, the Tongass Land Management Plan has already considered the management of roadless areas on the Tongass National Forest; and

Whereas the application of such a moratorium to the Tongass National Forest would be a unilateral amendment to the Tongass Land Management Plan, which the Forest Service has just revised at a cost to taxpayers exceeding $13,000,000; and

Whereas, under the Tongass Land Management Plan, the United States Department of Agriculture, Forest Service, plans to offer an average of only 200,000,000 board feet of timber annually, which is far below the 300,000,000 board feet needed for the timber industry as determined by the Governor's Timber Task Force; and

Whereas the proposed moratorium could eliminate the timber industry that remains in Southeast Alaska by reducing the allowable sale quantity on the Tongass National Forest to nearly zero; and

Whereas application of the proposed moratorium in the state also violates the spirit of the "no more" provision of the Alaska National Interest Lands Conservation Act (ANILCA), which prohibits federal agencies from establishing new wilderness areas in the state without an act of Congress; be it

Resolved, That the Alaska State Legislature opposes any moratorium on the development of the roadless areas of national forests that overrides the forest planning process provided for by the National Forest Management Act of 1976, which allows full public participation in decisions affecting the multiple use of national forest lands; and be it further

Resolved, That the Alaska State Legislature opposes any moratorium, restriction, or unilateral amendment to the Tongass Land Management Plan and the Chugach Land Management Plan that overrides the forest planning process required by the National Forest Management Act of 1976, which allows full public participation in decisions affecting the multiple use of national forest lands.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Dan Glickman, Secretary of Agriculture; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Dan Young, U.S. Representative, members of the Alaska delegation in Congress.

POM–467. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Energy and Natural Resources.

HOUSE JOINT RESOLUTION 98–1039

Whereas, In 1997, the United States Bureau of Land Management (BLM) initiated in Colorado a wilderness reinventory of public lands beginning in western Colorado and including lands in Moffat, Mesa, Rio Blanco, Garfield, Montrose, Eagle, Delta, Fremont, Teller, El Paso, Chaffee, Montezuma, Hinsdale, Pitkin, San Miguel, Dolores, Conejos, and Gunnison counties; and

Whereas, To date, six areas in western Colorado have been reinventoried by the BLM for roadless or wilderness designation potential and are being managed to protect the potential, but not necessarily identified, wilderness values as the review process proceeds; and

Whereas, By managing lands as de facto wilderness areas, the BLM has determined to hold oil and gas leasing in abeyance and to limit other discretionary multiple uses on such lands until Congress determines whether the areas qualify for wilderness designation under the federal "Wilderness Act"; and

Whereas, Numerous questions have been raised regarding the BLM's authority to reinventory these lands for wilderness designation, and what, if any, meaningful public review has or will occur; and

Whereas, All Colorado BLM lands were reviewed under the initial wilderness study process as directed under the wilderness provisions of Section 603 of the federal "Land Policy Management Act" (FLPMA) and officially completed in November 1980, and after numerous opportunities for public input and comment, including public hearings, over 800,000 acres were designated Wilderness Study Areas, only then to be managed as wilderness under the interim wilderness management guidelines, with 400,000 acres subsequently recommended to the President for designation as wilderness; and

Whereas, Under Section 603 of FLPMA, the BLM completed the wilderness study and made its recommendations to the President in 1991 and the President submitted his recommendations for wilderness to Congress in 1993; and

Whereas, The lands currently selected for wilderness reinventory in 1997 were rejected by the BLM in the 1980's as not meeting wilderness criteria; and

Whereas, The BLM appears to be reinterpreting its roadless criteria in order to increase the amount of land eligible for consideration for wilderness designation by reevaluating approximately one million acres of land even though such land did not previously meet wilderness criteria and no significant new information has been presented to the BLM on these land issues; and

Whereas, The BLM is continuing to reinventory such lands prematurely before Congress has acted on the President's recommendations; and

Whereas, The BLM is holding in abeyance multiple use activities on lands included as part of the reinventory resulting in detrimental economic impacts to the citizens of Colorado; now, therefore, be it

Resolved by the House of Representatives of the Sixty-first General Assembly of the State of Colorado, the Senate concurring herein:

That we, the members of the Colorado General Assembly, hereby request:

(1) That BLM lands continue to be managed to allow for multiple uses in accordance with existing resource management plans until such time as plan amendments have been lawfully adopted; and

(2) That the United States Congress place a moratorium on any further funding to the BLM for the purpose of carrying out such roadless or wilderness reinventories until Congress acts on the President's 1993 recommendations.

Be it further resolved, That copies of this Joint Resolution be transmitted to the President of the United States, the United States Secretary of the Interior, the Director of the United States Bureau of Land Management, the Bureau of Land Management's Colorado State Director the President of the United States Senate the Speaker of the United States House of Representatives, and to each member of Colorado's delegation in the United States Congress.

POM-468. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Environment and Public Works.

SENATE JOINT RESOLUTION 15

Whereas the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) substantially revamped the federal-aid highway program and the federal transportation program; and

Whereas ISTEA gave more flexibility to state and local governments to apply innovative solutions to the transportation problems that they face; and

Whereas ISTEA has shifted the focus of the federal surface transportation program toward preservation of highway and transit systems, increased efficiency of existing transportation networks, and integration of transportation modes to enhance efficiency of the transportation system; and

Whereas the states and regional and local governments have invested time and energy in making ISTEA work and this investment should not be lost by significantly altering the programs initiated by ISTEA; and

Whereas the ISTEA programs can be strengthened by allowing greater flexibility between programs and within programs, by allowing greater flexibility to address maintenance needs, by reducing time-consuming federal reviews, mandates, and sanctions, and by allowing self-certification at the state level; and

Whereas the Federal Highway Administration has adopted a regulation requiring that a major investment study be undertaken by metropolitan planning organizations whenever the need for a major metropolitan transportation investment is identified; and

Whereas the major investment study requirement overlaps and duplicates planning and project development processes that are already in place under requirements for long-range planning and congestion management systems; and

Whereas Congress should retain the critical role of the federal government to help fund highway, bridge, ferry, and transit projects and to focus the national transportation policy on mobility, connectivity, integrity, safety, and economic competitiveness; and

Whereas the state of Alaska receives money under ISTEA for construction and improvement of roads, highways, and the marine highway system and for bridge replacement and rehabilitation, state and metropolitan transportation planning, transit programs, highway safety programs, and enforcement of truck and bus safety requirements; and

Whereas the state also receives assistance under ISTEA for transportation projects to alleviate air pollution in two areas of the state where air quality does not meet national ambient air quality standards; and

Whereas 4,300 miles, or about 32 percent of the total mileage, of roads in the state are eligible for federal assistance under ISTEA; and

Whereas the State of Alaska has relied heavily on federal assistance to support construction and improvement of the surface transportation system in the state; and

Whereas continued federal assistance is essential to the establishment of the surface transportation system in the state; and

Whereas the existing surface transportation system in Alaska needs significant repair and maintenance in order to remain a safe and efficient system; and

Whereas surface transportation in Alaska is subject to extreme Arctic and sub-Arctic climate and soil conditions; and

Whereas the State of Alaska cannot maintain or expand the surface transportation system in Alaska without continued federal assistance; and

Whereas the funding authorizations for federal assistance and transportation programs under ISTEA expired September 30, 1997; be it

Resolved, That the Alaska State Legislature respectfully requests the Congress to reauthorize the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) as soon as possible; and be it further

Resolved, That the Alaska State Legislature respectfully requests the Congress to authorize increased funding for surface transportation projects under ISTEA, if possible, but, in any case, to maintain the current levels of funding available under ISTEA; and be it further

Resolved, That the Alaska State Legislature respectfully requests the Congress to allow for a portion of the enhancement set aside funds to be used to maintain or improve pioneer access trails and historical roadways; and be it further

Resolved, That the Alaska State Legislature respectfully requests the Congress to allow for a portion of the enhancement set aside funds to be used to maintain trails and other facilities that are constructed under that program; and be it further

Resolved, That the Alaska State Legislature respectfully requests the Congress to authorize greater use of ISTEA funds for maintenance and repair of existing roads and highways; and be it further

Resolved, That the Alaska State Legislature respectfully requests the Congress to eliminate the requirement for major investment studies under 23 C.F.R. 450.318 as part of the reauthorization of ISTEA; and be it further

Resolved, That the Alaska State Legislature respectfully requests the Congress to authorize grater flexibility in the construction of low volume roads suited to Alaska's remoteness and sub-Arctic and Arctic environment.

Copies of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable John McCain, Chair, Committee on Commerce, Science, and Transportation, U.S. Senate; and the Honorable Bud Shuster, Chair, Committee on Transportation and Infrastructure, U.S. House of Representatives; the Honorable Rodney E. Slater, Secretary, U.S. Department of Transportation; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM-469. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION 161

Whereas, a safe and efficient highway system is essential to the nation's international competitiveness, key to domestic productivity, and vital to our quality of life; and

Whereas, Hawaii has critical highway investment needs that cannot be addressed with current financial resources. The Federal Highway Administration rates 313 miles of Hawaii's most important roads in either poor or mediocre condition and judges 51 per cent of our bridges to be deficient; and

Whereas, the current level of federal funding for the nation's highway system is inadequate to meet rehabilitation needs, to protect the safety of the traveling public, to begin solving congestion and rural access problems, to conduct adequate transportation research, and to keep the United States competitive in a global economy; and

Whereas, the federal highway program is financed by dedicated user fees collected from motorists to improve the highway system and deposited into the federal Highway Trust Fund. The Taxpayer Relief Act of 1997 transferred all federal motor fuel taxes into the Highway Trust Fund but provided no mechanism to ensure the funds are spent; and

Whereas, the 1998 congressional budget would constrain federal highway spending well below the level of highway tax receipts, allowing the Highway Trust Fund's cash balance to grow from just over $22 billion today to more than $70 billion by 2003; and

Whereas, Hawaii and other states will be prohibited from obligating any federal highway funds after April 30, 1998, unless Congress and the President enact new highway legislation by that date; and

Whereas, without federal highway funds, many states will be forced to delay life-saving safety improvements, congestion relief projects, and other road and bridge improvements; now, therefore, be it

Resolved by the Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, the House of Representatives concurring, That the United States Congress enact legislation reauthorizing the federal highway program by May 1, 1998; and be it further

Resolved, That the reauthorization bill should fund the federal highway program at the highest level that the user-financed Highway Trust Fund will support; and be it further

Resolved That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and Hawaii's congressional delegation.

POM-470. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance.

SENATE JOINT MEMORIAL 98-001

Whereas, in 1996, the Congress of the United States enacted Public Law 95-104, which amended title 4 of the United States Code to limit state taxation of certain pension income; and

Whereas, section (1)(a) of Public Law 95-104, codified at 4 U.S.C. sec. 114, prohibits states from imposing an income tax on any retirement payments made by an employer of such state to an individual who has terminated employment in and who is not a resident of such state; and

Whereas, severance payments and termination payments made by an employer to a nonresidential individual are not accorded the same tax treatment as retirement income under 4 U.S.C. sec. 114 and are therefore subject to the income tax of the state where the employer making such severance payments and termination payments is located; and

Whereas, the result of this inconsistent tax treatment of similar retirement payments is that severance payments and termination payments may be taxable to the employee in both the state of the employee's former residence and the state in which the employee currently resides; and

Whereas, subjecting severance payments and termination payments to different tax treatment than other retirement payments and income results in inconsistent and inequitable treatment of severance payments and termination payments to taxpayers that have relocated to another state after terminating their employment; and

Whereas, the enactment of federal legislation that prohibits a state from imposing an income tax on severance payments and termination payments to an individual that is not a resident of that state will result in the tax treatment of such payments that is consistent with the tax treatment of other retirement income; now, therefore, be it

Resolved by the Senate of the Sixty-first General Assembly of the State of Colorado, the House of Representatives concurring herein. That the Congress of the United States is hereby memorialized to adopt legislation amending 4 U.S.C. sec. 114 to include severance payments and termination payments within the retirement income of a nonresidential individual upon which states may not impose income tax.

Be It Further Resolved, That copies of this Joint Memorial be sent to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of Colorado's congressional delegation.

POM-471. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

SENATE RESOLUTION NO. 169

Whereas, there is a proposal under discussion promoting a new special tax on sport utility vehicles (SUVs). Media reports indicate that environmental groups are advocating a new federal excise tax on these popular vehicles as a means of raising revenue for conservation purposes. The campaign is centered on the need to preserve threatened natural resources; and

Whereas, while the need for responsible actions on the environment is inarguable, the link to new taxes on sport utility vehicles is clearly invalid. Contrary to the belief of some, sport utility vehicles are used for off-road driving by only a very small percentage of owners. The image of all of these vehicles damaging the environment through off-road use is inaccurate. The proposed new tax is, instead, unfairly targeted to penalize a certain segment of the market and take advantage of the popularity of SUVs. In Michigan, people using vehicles for off-road purposes already finance outdoors recreation through a licensing program; and

Whereas, special purpose taxes that are not based on clear logic and fairness serve to erode public confidence in government. The idea of taxing a certain category of vehicles—used almost entirely in the same manner as automobiles of any size or description—based on misconceptions and inaccuracies is wrong; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to refrain from imposing any special taxes on sport utility vehicles; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-472. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Finance.

HOUSE RESOLUTION NO. 12

Whereas, the North American Free Trade Agreement (NAFTA) enabling legislation was approved by the United States House of Representatives by a vote of 234-200 on November 17, 1993, and by the United States Senate, 61-38, on November 20, 1993; and

Whereas, NAFTA enabling legislation was signed into law by President Clinton on December 8, 1993; and

Whereas, NAFTA is a 20,000-page, multilateral trade agreement between the United States, Canada, and Mexico; and

Whereas, multilateral managed trade agreements like NAFTA are exporting middle-class jobs from Michigan to Third World countries like Mexico; and

Whereas, the Mexican peso collapsed in a financial crisis following NAFTA's approval; and

Whereas, NAFTA's supporters engineered a $50 billion dollar bailout of the Mexican peso paid for by American taxpayers; and

Whereas, the bailout of the peso enriched wealthy owners of peso-dominated debt instruments at the expense of middle-class American taxpayers; and

Whereas, Argentina and Chile have experienced financial instability and currency devaluations in the last decade; and

Whereas, lacking a sound monetary system, the potential for financial instability persists in other Latin American countries like Argentina and Chile under a multilateral managed trade agreement; and

Whereas, working families believe that expanding trade is good for a healthy economy, but American workers have learned from the NAFTA experience that, without protections, job loss, wage reductions, and a weaker voice in the workplace are the result; and

Whereas, as the country continues to remove barriers to trade through new agreements, those agreements must protect worker rights, labor standards, and environmental quality in all countries that are a party to the agreement; and

Whereas, any grant of trade negotiating authority to the administration that gives up Congress's ability to make changes in trade agreements submitted for its approval must also contain strong provisions for addressing worker rights, labor standards, and environmental protection. These provisions must be part of the core agreement and must be subject to the same dispute settlement procedures available to other covered issues; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to oppose extension of the North American Free Trade Agreement (NAFTA) to other Latin American countries; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and members of the Michigan congressional delegation.

POM-473. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Finance.

SENATE JOINT RESOLUTION NO. 705

Whereas, the State of Tennessee is almost entirely within the service area of the Tennessee Valley Authority ("TVA"), and, with one exception, all electric power in Tennessee is generated by the TVA and distributed by public power companies or electric cooperatives; and

Whereas, the TVA has provided electric power to the State of Tennessee and to the Tennessee Valley since its inception in 1933; and

Whereas, in the last few years, considerable interest has arisen in the deregulation of the sale of electricity in the United States; and

Whereas, each state, including Tennessee, has unique electric power supply sources and demand requirements that cannot readily be accommodated by a federally mandated national time period for full competition; and

Whereas, wholesale or retail electric power competition in the Tennessee Valley is possibly completely dependent upon congressional decision with regard to the TVA; and

Whereas, the General Assembly of the State of Tennessee has created a special study committee for the review of issues arising from the possible deregulation of the electric power industry in Tennessee; and

Whereas, the Electric Deregulation Study Committee has devoted many hours over the last year to the study of the potential impact of the deregulation of the electric power industry in Tennessee; and

Whereas, it has become clear to the members of the Electric Deregulation Study Committee that the federal government does not have the knowledge or resources necessary to determine completely the particular needs of the consumers of electric power in the State of Tennessee; now, therefore,

Be it Resolved by the Senate of the One-Hundredth General Assembly of the State of Tennessee, the House of Representatives Concurring, That the members of this General Assembly strongly urge the Congress of the United States not to take action to mandate competition in the retail or wholesale of electricity without special and careful consideration of the interests of the people of the Tennessee Valley.

Be it further resolved, That the timing for deregulation be left to the General Assembly of the State of Tennessee, consistent with the congressional action necessary to allow competition in the Tennessee Valley.

Be it further resolved, That an appropriate copy of this resolution be prepared for presentation to the President of the United States Senate, the Speaker of the United States House of Representatives, each

United States Senator and each United States Representative representing the State of Tennessee, the Secretary of the United States Department of Energy and to the President and Vice President of the United States.

POM-474. A resolution adopted by the Senate of the Legislature of the State of Tennessee; to the Committee on Finance.

SENATE RESOLUTION NO. 148

Whereas, maintaining patient access to affordable, quality health care is of paramount concern to the well-being of all Americans; and

Whereas, recently proposed regulations by members of Congress to implement the 1993 amendments to the "Stark" law as they affect the provision of chemotherapy in the physician office setting pose a serious threat to the health of cancer patients in this country; and

Whereas, these proposed regulations, if enacted, would reduce chemotherapy reimbursement to acquisition costs, while failing to adequately pay for other activities needed to provide and support patient chemotherapy in outpatient settings; and

Whereas, such regulations would make it financially impossible to treat cancer patients in offices; in addition, significant concerns exist as to how the Health Care Financing Administration would implement Ambulatory Patient Categories and whether the Administration would attempt to severely limit chemotherapy reimbursements in hospitals; and

Whereas, the administration of outpatient chemotherapy in physician office settings is a safer, more convenient and more cost-effective method for patients to receive their chemotherapy treatments; and

Whereas, many of these patients will suffer needlessly if forced to travel long distances to treatment sites rather than being able to utilize the services of their local physicians; and

Whereas, these amendments, if adopted, would threaten the very existence of community cancer care as we know it, not to mention its impact on community oncology in offices, clinics, groups and hospitals, which strive to ensure that cancer patients receive the quality care they deserve; and

Whereas, although the oncology community and Congress agreed in the Balanced Budget Act to set reimbursement for physician-administered chemotherapy and supportive therapies at AWP minus 5%, the HCFA has advocated such amendments to the Stark II regulations within days of the congressional agreement's implementation, without waiting to determine the impact of the agreement; and

Whereas, with 70% of all chemotherapy being delivered outside hospital settings in physician offices and clinics, most of these locations would be forced to close if these amendments were adopted, resulting in the dismissal of oncology nursing staff that patients rely on to accurately deliver chemotherapy, and the loss of quality control in the mixing of chemotherapy and supervision of its administration by trained physicians and nurses; and

Whereas, while the HCFA believes that eliminating the margin on chemotherapy in office settings will create a major windfall, the proposed amendments to the Stark II regulations will only serve to harm those persons in greatest need of medical assistance; now, therefore, be it

Resolved by the Senate of the One-Hundredth General Assembly of the State of Tennessee, That we respectfully urge the Congress of the United States to address this important issue by not adopting the proposed amendments to the Stark II regulations.

Be it further resolved, That appropriate copies of this resolution be transmitted forthwith to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the Tennessee Congressional Delegation.

POM-475. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Foreign Relations.

SENATE JOINT RESOLUTION 98-023

Whereas, the United States is a signatory to the 1992 United Nations Framework Convention on Global Climate Change ("FCCC"); and

Whereas, a proposed protocol to expand the scope of the FCCC was negotiated in December 1997 in Kyoto, Japan ("Kyoto Protocol"), potentially requiring the United States to reduce emissions of greenhouse gases by 7 percent from 1990 levels during the period 2008 to 2012, with potentially larger emission reductions thereafter; and

Whereas, President William J. Clinton pledged on October 22, 1997, "That the United States not assume binding obligations (in Kyoto) unless key developing nations meaningfully participate in this effort"; and

Whereas, on July 25, 1997, the United States Senate adopted Senate Resolution No. 98 by a vote of 95-0, expressing the sense of the Senate that "The United States should not be a signatory to any protocol or other agreement regarding the Framework Convention on Climate Change . . . which would require the advice and consent of the Senate to ratification, and which would mandate new commitments to mitigate greenhouse gas emissions for the developed country parties unless the protocol or other agreement also mandates specific scheduled legally binding commitments within the same compliance period to mitigate greenhouse gas emissions for developing country parties."; and

Whereas, developing nations are exempt from greenhouse gas emission limitation requirements in the FCCC, and refused in the Kyoto negotiations to accept any new commitments for greenhouse gas emission limitations through the Kyoto Protocol; and

Whereas, emissions of greenhouse gases such as carbon dioxide are caused primarily by the combustion of oil, coal, and natural gas fuels by industries, automobiles, homes, and other use of energy; and

Whereas, the United States relies on carbon-based fossil fuels for more than ninety percent of its total energy supply; and

Whereas, achieving the emission reductions proposed by the Kyoto Protocol would require an approximately thirty-eight percent reduction in projected United States carbon emissions during the period 2008 to 2012; and

Whereas, developing countries exempt from emission limitations under the Kyoto Protocol are expected to increase their rates of fossil fuel use over the next two decades, and to surpass the United States and other industrialized countries in total emissions of greenhouse gases; and

Whereas, studies prepared by the economic forecasting group WEFA, Inc., estimate that legally binding requirements for the reduction of United States greenhouse gases below 1990 emission levels would result in the loss of more than 29,500 Colorado jobs, with the unemployment rate approaching five percent in 2010, while subjecting Colorado's citizens to higher energy, housing, medical, and food costs that would reduce Colorado tax revenue by $420 million; and

Whereas, the failure to provide for commitments by developing countries in the Kyoto Protocol creates an unfair competitive imbalance between industrial and developing nations, potentially leading to the transfer of jobs and industrial development from the United States to developing countries; and

Whereas, increased emissions of greenhouse gases by developing countries would offset any environmental benefits associated with emissions reductions achieved by the United States and by other industrial nations; now, therefore, be it

Resolved by the Senate of the Sixty-first General Assembly of the State of Colorado, the House of Representatives concurring herein:

(1) That we, the members of the General Assembly, strongly urge the President of the United States not to sign the Kyoto Protocol to the FCCC;

(2) That, if the President does sign the Kyoto Protocol, we strongly urge the United States Senate not to ratify the treaty; and

(3) That we request that no federal or state agency take any action to initiate strategies to reduce greenhouse gases as required by the Kyoto Protocol until it is revised to include specific scheduled commitments for developing countries to mitigate greenhouse gas emissions within the same compliance period required for developed countries.

Be it further resolved, That copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Colorado's delegation in the United States Congress.

POM-476. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Governmental Affairs.

SENATE CONCURRENT RESOLUTION 172

Whereas, in a period of resource constraints, citizens still want to improve Hawaii's quality of life; and

Whereas, Hawaii's citizens have come together to adopt benchmarks representing public goals, and indicators of progress towards meeting those goals; and

Whereas, formation of performance partnerships with the federal government, local government, and the private sector offer the possibility of achieving results through collaborative means without additional state funds; and

Whereas, performance management requires measuring progress towards benchmarks on a regular systematic basis; and

Whereas, partners should be rewarded for success evidenced by both high performance and improved performance; and

Whereas, the federal government is exploring rewarding additional funds as an incentive to states that make improvement; and

Whereas, the federal government is exploring rewarding high performing states with additional flexibility or reduced matching requirements; and

Whereas, the Office of the Governor has invited the National Performance Review, under the direction of Vice President Al Gore, to explore mutual goals for reinventing government and improving intergovernmental service delivery; and

Whereas, National Performance Review staff visited Hawaii in November 1997 and met with community-government partnerships, legislators, and groups of concerned citizens that support a shift to measuring performance results to chart progress towards public goals; now, therefore, be it

Resolved by the Senate of the nineteenth Legislature of the State of Hawaii, Regular Session of 1998, the House of Representatives concurring, That the Office of the Governor is requested to proceed with discussions which may lead to a letter of agreement with the National Performance Review committing both the state and federal governments to explore reducing barriers to reinventing government by shifting to performance management and performance partnerships to achieve public goals; and be it further

Resolved, That the federal government be requested to assign a liaison from the National Performance Review to assist Hawaii in creating performance partnerships with communities, the non-profit sector, and the business community to improve results on achieving public goals, such as the Good Beginnings Alliance, the proposed Waipahu partnership and partnership efforts in other communities; and be it further

Resolved, That a steering committee composed of representatives nominated by the Legislature, the Hawaii Community Services Council's Ke Ala Hoku project, the Hawaii Business Roundtable, The Chamber of Commerce of Hawaii, and persons with experience in management, re-engineering of service delivery, fiscal, and governance systems, and assessment be convened to advise the governor on the goals of the National Performance Review partnership; and be it further

Resolved, That the steering committee is requested to develop plans for the following:

(1) A *results measurement system* which provides regular reports on progress towards achieving outcomes to policy makers and the public;

(2) A *performance partnership development mechanism* which convenes the stakeholders in achieving individual benchmarks to develop new program, fiscal, and governance strategies;

and be it further

Resolved, That the Governor is requested to report on the progress made in developing performance management mechanisms with the assistance of the National Performance Review twenty days prior to the start of the 1999 Legislative Session; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the Governor, Vice President Al Gore, the National Performance Review, the Aloha United Way Board of Directors, the Hawaii Community Services Council, the Hawaii Community Foundation, the Hawaii Business Roundtable, and The Chamber of Commerce of Hawaii.

SENATE CONCURRENT RESOLUTION NO. 50

POM-477. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary.

HOUSE CONCURRENT MEMORIAL 2009

Whereas, criminal defendants are afforded numerous federal rights and procedural protections; and

Whereas, victims of crime are not afforded any federal rights or protections; and

Whereas, the people of this state believe in the individual rights and liberties of all persons and have amended the Constitution of Arizona to provide crime victims with rights.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Congress of the United States propose to the people an amendment to the Constitution of the United States that provides rights to crime victims and that embodies the following principles:

(a) The right to be informed of and not excluded from any public proceedings relating to the crime.

(b) The right to be heard regarding any release from custody and to consideration for the safety of the victim in determining any release.

(c) The right to be heard regarding the acceptance of any negotiated plea or sentence.

(d) The right to receive notice of release or escape.

(e) The right to a trial that is free from unreasonable delay.

(f) The right to restitution.

(g) The right to receive notice of victims' rights.

2. That any amendment to the Constitution of the United States to establish rights for crime victims grant standing to victims of crime to assert all rights established by the Constitution.

3. That the state legislature have the power to implement and enforce the rights in the Arizona criminal justice system.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM-478. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

ASSEMBLY JOINT RESOLUTION NO. 66

Whereas, during World War II, the United States government orchestrated, financed, and directed the mass arrest and deportation of 2,264 men, women, and children of Japanese ancestry from various Latin American countries to United States internment camps, according to a 1983 Congressional report; and

Whereas, the United States government carried out this program to use these civilians in prisoner exchanges for Americans held by the Japanese during the war; and

Whereas, twelve Latin American governments—Bolivia, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, and Peru—supported this mass arrest and deportation; and

Whereas, in violation of basic human rights, the United States abducted those persons without charges, hearings, or any kind of due process and forcibly transported them to Immigration and Naturalization Service detention facilities in a country and culture foreign to them, far away from their homes; and

Whereas, over 860 Japanese Latin Americans were sent to Japan in prisoner-of-war exchanges, while about 1,400 remained incarcerated in United States internment camps until the end of the war; and

Whereas, Congress passed the Civil Liberties Act of 1988 (50 U.S.C. Sec. 1989 et seq.), which provided an official apology and restitution to Japanese American internees; and

Whereas, The Japanese Latin American internees and their families seek the same official apology and restitution provided the Japanese American internees; and

Whereas, the Japanese Latin American internees and their families seek the United States government's acknowledgment of this tragic and largely unknown experience; and

Whereas, a federal class action lawsuit was filed on August 28, 1996, challenging the denial of redress to the Japanese Latin American internees and their families under the Civil Liberties Act of 1988; and

Whereas, more than 80 Members of Congress from across the country have publicly expressed their support for redress for the Japanese Latin American internees; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports the granting of an official apology and restitution to World War II Japanese Latin American internees pursuant to federal law; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM-479. A concurrent resolution adopted by the Legislature of the State of Oklahoma; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 50

Whereas, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

Whereas, under the United States Constitution, the states are to determine public policy; and

Whereas, it is the duty of the judiciary to interpret the law, not to create law; and

Whereas, federal district courts, with the acquiescence of the United States Supreme Court, continue to order states to levy or increase taxes to comply with the federal courts' interpretation of federal law; and

Whereas, the federal courts have strayed from the intent of our founding fathers and the United States Constitution through inappropriate judicial tax mandates; and

Whereas, these mandates by way of judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

Whereas, these court actions violate the United States Constitution and the legislative process; and

Whereas, the time has come for the people of this great nation and their duly elected representatives in state government to reaffirm, in no uncertain terms, that the authority to tax under the United States Constitution is retained by the people who, by their consent alone, do delegate such power to tax explicitly to themselves or those duly elected representatives being directly responsible and accountable to those who have elected them; and

Whereas, several states have petitioned the United States Congress to propose an amendment to the United States Constitution; and

Whereas, the amendment was previously introduced in the United States Congress; and

Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes: Now, therefore, be it

Resolved by the Senate of the 2nd session of the 46th Oklahoma Legislature, the House of Representatives concurring therein, That the United States Congress prepare and submit to the several states an amendment to the United States Constitution to add a new article providing as follows:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or a political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes."

That the Secretary of State is hereby directed to distribute copies of this resolution to the President and Vice President of the United States, the Presiding Officer in each house of the legislature in each of the states of the Union, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate and to each member of the States of Oklahoma Congressional Delegation.

POM–480. A resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on Labor and Human Resources.

House Resolution No. 443

Whereas, it is estimated that 26,800 new cases of ovarian cancer developed in the United States in 1997; and

Whereas, ovarian cancer caused approximately 14,200 deaths in 1997; and

Whereas, ovarian cancer ranks second among gynecological cancers in the number of new cases each year and causes more deaths than any other cancer of the female reproductive system; and

Whereas, approximately 78% of ovarian cancer patients survive longer than one year after diagnosis and more than 46% of these patients survive longer than five years after diagnosis; and

Whereas, if diagnosed and treated before the cancer spreads outside of the ovary, the five-year survival rate is 92%, but approximately only 24% of all cases of ovarian cancer is detected at this stage; and

Whereas, ovarian cancer research is desperately needed to serve as encouragement to more women to undergo screening tests earlier as well as to reduce the medical costs associated with later discovery; and

Whereas, H.R. 953 in the House of Representatives of the United states, to be known as the Ovarian Cancer Research and Information Amendments of 1997, would authorize $90 million to conduct ovarian cancer research; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President of the United States and the Congress of the United States to enact H.R. 953, the Ovarian Cancer Research and Information Amendments of 1997; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ALLARD (for himself, Mr. Brownback, and Mr. DeWine):

S. 2170. A bill to amend the Internal Revenue Code of 1986 to eliminate the temporary increase in unemployment tax; to the Committee on Finance.

By Mr. BUMPERS:

S. 2171. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas; to the Committee on Energy and Natural Resources.

By Mr. GREGG (for himself and Mr. Stevens):

S. 2172. A bill to authorize the National Fish and Wildlife Foundation to establish a whale conservation fund, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND:

S. 2173. A bill to amend the Rehabilitation Act of 1973 to provide for research and development of assistive technology and universally designed technology, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM:

S. 2174. A bill to amend the Wagner-Peyser Act to clarify that nothing in that Act shall prohibit a State from using individuals other than merit-staffed of civil service employees of the State (or any political subdivision thereof) in providing employment services under that Act; to the Committee on Labor and Human Resources.

By Mr. CRAIG:

S. 2175. A bill to safeguard the privacy of certain identification records and name checks, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMPSON (for himself, Mr. Byrd, Mr. Thurmond, Mr. Lott, and Mr. Roth):

S. 2176. A bill to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the "Vacancies Act" to clarify statutory requirements relating to vacancies in and appointments to certain Federal offices, and for other purposes; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 2177. A bill to express the sense of the Congress that the President should award a Presidential unit citation to the final crew of the U.S.S. INDIANAPOLIS, which was sunk on July 30, 1945; to the Committee on Armed Services.

By Mr. KOHL (for himself and Mr. D'Amato):

S. 2178. A bill to amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages for the acquisition, construction, or substantial rehabilitation of child care and development facilities and to establish the Children's Development Commission to certify such facilities for such insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MOSELEY-BRAUN:

S. 2179. A bill to amend the International Emergency Economic Powers Act to clarify the conditions under which export controls may be imposed on agricultural products; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LOTT (for himself and Mr. Daschle):

S. 2180. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated;

By Ms. MOSELEY-BRAUN (for herself and Mr. Durbin):

S. Res. 249. A resolution to congratulate the Chicago Bulls on winning the 1998 National Basketball Association Championship; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLARD (for himself, Mr. Brownback, and Mr. DeWine):

S. 2170. A bill to amend the Internal Revenue Code of 1986 to eliminate the temporary increase in unemployment tax; to the Committee on Finance.

LEGISLATION TO REPEAL TEMPORARY UNEMPLOYMENT TAX

Mr. ALLARD. Mr. President, today I introduce legislation to repeal the "temporary" 0.2 percent Federal Unemployment Tax (FUTA) surtax.

The "temporary" surtax was enacted by Congress in 1976 to repay the general fund of the Treasury for funds borrowed by the unemployment trust fund. While the borrowings were repaid in 1987, Congress has continued to extend the surtax in tax bill after tax bill.

Since 1987, Congress has used extension of the surtax to help pay for tax packages. In fact, the surtax was most recently extended to help pay for the 1997 tax bill.

This is unfair to small business which has been told repeatedly that the surtax was temporary and would be repealed when it was no longer needed to finance the unemployment tax system.

The reason for the FUTA surtax no longer exists. The economy is experiencing the highest level of employment in decades, and all state unemployment funds have surpluses.

It is inappropriate for the government to continue to raise surplus unemployment taxes and use those surpluses for purposes totally unrelated to the unemployment tax system.

The FUTA surtax hits small businesses hardest because they are often labor intensive. Any payroll tax is added directly to the employer's payroll costs, and payroll taxes must be paid whether the business has a profit or loss.

Mr. President, prior to my election to the House of Representatives in 1990, I ran a small business. I am well aware of payroll taxes and the burden that they can place on a business.

The unemployment surtax was in place when I ran my small business.

I suspect that my view of the surtax is similar to the view of most small business owners. It is one thing to have a surtax when unemployment is high. It is totally unjustified when unemployment is at the lowest level in three decades.

What really upsets small business owners is the fact that the government is breaking its commitment that the surtax would be temporary. This is not the way the federal government should do business.

Repeal of the 0.2 percent surtax will reduce the tax burden on employers and workers by $6 billion over the next five years.

Lower payroll taxes mean higher wages for workers. While the employer appears to fully pay the unemployment surtax and other payroll taxes, the economic evidence is strong that the cost of payroll taxes is passed on to workers in form of lower wages.

Consistent tax relief will help to ensure that our economy remains the strongest and most competitive in the world. Low taxes reduce unemployment and help ensure that future surtaxes are unnecessary.

Mr. President, I ask that the text of the bill be printed in the RECORD along with several charts showing the level of State Unemployment System Reserves from 1991–1997.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF TEMPORARY UNEMPLOYMENT TAX.

Section 3301 of the Internal Revenue Code of 1986 (relating to rate of unemployment tax) is amended—

(1) by striking "2007" in paragraph (1) and inserting "1998";and

(2) by striking "2008" in paragraph (2) and inserting "1999".

STATE UNEMPLOYMENT COMPENSATION SYSTEM RESERVES AND RATIO OF RESERVES TO TOTAL WAGES BY STATE AND YEAR, 1991–1995

State	Net reserves as of Dec. 31 of each year (thousands)					Ratio of year-end reserves to total wages (percent)				
	1995	1994	1993	1992	1991	1995	1994	1993	1992	1991
Alabama	$534,470	$551,842	$570,118	$550,280	$585,725	1.61	1.77	1.94	1.96	2.24
Alaska	201,017	210,563	227,911	232,320	243,155	3.56	3.81	4.32	4.57	4.98
Arizona	534,640	432,449	368,782	372,423	437,667	1.48	1.33	1.26	1.36	1.71
Arkansas	200,866	169,795	134,432	81,340	103,629	1.12	1.02	0.87	0.55	0.76
California	2,104,220	2,092,695	2,450,402	2,786,713	4,190,197	0.68	0.72	0.87	0.99	1.52
Colorado	480,582	434,482	390,435	339,246	312,036	1.22	1.21	1.15	1.10	1.09
Connecticut	116,692	3,311	1,062	(653,215)	(353,767)	0.27	0.01	0.00	0.00	0.00
Delaware	271,807	244,013	225,943	218,719	223,685	3.24	3.14	3.05	3.04	3.20
District of Columbia	68,636	41,141	5,937	(19,286)	12,465	0.57	0.35	0.05	0.00	0.12
Florida	1,806,432	1,621,614	1,505,570	1,443,603	1,691,814	1.53	1.47	1.45	1.47	1.84
Georgia	1,453,118	1,281,507	1,094,999	965,870	962,324	2.03	1.95	1.79	1.68	1.81
Hawaii	213,496	232,859	310,155	362,123	420,991	2.07	2.26	3.01	3.57	4.39
Idaho	243,090	245,096	247,823	240,141	243,573	2.88	3.14	3.49	3.67	4.09
Illinois	1,629,210	1,247,066	851,918	847,622	1,172,283	1.22	0.99	0.71	0.74	1.08
Indiana	1,228,070	1,132,343	1,024,658	941,632	899,139	2.16	2.11	2.05	1.99	2.02
Iowa	725,149	708,450	655,066	615,474	594,626	3.10	3.23	3.20	3.16	3.27
Kansas	704,008	735,717	658,053	605,827	571,904	2.77	3.20	3.03	2.89	2.91
Kentucky	470,826	425,682	402,311	364,287	357,940	1.61	1.55	1.57	1.49	1.58
Louisiana	1,003,378	868,819	689,382	600,917	559,975	3.15	2.92	2.47	2.22	2.15
Maine	95,289	74,621	51,403	35,108	77,553	1.06	0.87	0.62	0.44	1.01
Maryland	605,415	408,994	219,071	145,839	224,970	1.36	0.96	0.54	0.37	0.59
Massachusetts	527,273	184,933	(115,987)	(379,918)	(234,742)	0.70	0.26	0.00	0.00	0.00
Michigan	1,497,688	866,906	364,530	(72,492)	(166,509)	1.45	0.90	0.42	0.00	0.00
Minnesota	459,621	369,776	257,584	224,091	309,473	0.94	0.80	0.59	0.54	0.80
Mississippi	551,318	490,392	410,259	345,352	348,593	3.19	2.98	2.74	2.48	2.69
Missouri	196,933	118,466	(7,749)	3,101	199,473	0.40	0.26	0.00	0.01	0.30
Montana	122,242	110,910	104,415	96,370	91,119	2.08	1.95	1.91	1.87	1.91
Nebraska	194,283	188,365	171,938	160,713	146,184	1.45	1.51	1.49	1.46	1.42
Nevada	297,866	289,804	238,398	233,667	295,919	1.69	1.70	1.68	1.79	2.46
New Hampshire	250,884	211,580	164,455	129,582	127,995	2.25	2.06	1.71	1.38	1.46
New Jersey	1,987,790	1,947,033	1,965,236	2,439,970	2,564,278	2.06	2.12	2.23	2.86	3.16
New Mexico	354,874	317,264	271,194	238,999	220,932	3.25	3.13	2.91	2.77	2.73
New York	248,978	190,467	129,409	213,914	1,191,450	0.12	0.10	0.07	0.12	0.69
North Carolina	1,531,117	1,555,329	1,514,674	1,387,170	1,373,719	2.27	2.49	2.60	2.52	2.70
North Dakota	57,415	58,641	56,267	50,306	50,914	1.41	1.55	1.59	1.51	1.64
Ohio	1,600,533	1,166,837	845,054	602,464	647,410	1.46	1.13	0.88	0.65	0.74
Oklahoma	521,683	474,866	437,800	418,907	426,398	2.32	2.21	2.13	2.10	2.24
Oregon	905,985	994,533	1,096,695	1,054,524	1,043,810	3.21	3.86	4.63	4.71	4.98
Pennsylvania	1,914,777	1,518,999	1,105,425	807,828	1,155,988	1.78	1.48	1.12	0.84	1.26
Puerto Rico	634,291	674,663	730,873	749,255	750,020	6.71	7.54	8.39	9.05	9.64
Rhode Island	110,086	119,262	119,294	104,498	143,617	1.33	1.51	1.56	1.41	2.03
South Carolina	556,650	502,237	467,494	433,442	455,097	1.84	1.79	1.77	1.73	1.92
South Dakota	51,622	51,208	49,773	50,416	49,701	1.09	1.16	1.23	1.34	1.45
Tennessee	822,821	747,477	672,261	603,130	612,653	1.66	1.62	1.58	1.50	1.67
Texas	584,866	480,322	445,633	586,472	942,734	0.34	0.30	0.30	0.41	0.69
Utah	468,030	411,411	366,524	342,146	327,893	2.93	2.86	2.82	2.83	2.96
Vermont	206,720	195,418	183,025	180,730	192,675	4.51	4.51	4.37	4.49	5.05
Virginia	788,787	658,588	553,441	506,641	591,166	1.27	1.13	1.01	0.97	1.19
Virgin Islands	40,064	40,843	51,575	47,416	43,241	6.86	6.67	6.60	7.32	7.31
Washington	1,417,701	1,565,417	1,743,146	1,766,006	1,707,604	2.93	3.45	4.05	4.18	4.40
West Virginia	164,036	161,671	154,512	140,517	157,124	1.44	1.47	1.49	1.38	1.62
Wisconsin	1,503,641	1,400,119	1,241,918	1,194,553	1,171,822	3.06	3.03	2.87	2.90	3.07
Wyoming	142,310	136,755	127,332	109,826	98,952	4.22	4.15	4.08	3.71	3.48
Total	35,403,296	31,343,551	28,187,816	27,111,772	31,494,605	1.40	1.32	1.25	1.25	1.49

Difference between detail and totals due to rounding 1995 data subject to revision. Ratio of reserves to wages not calculated for States with negative balances.

Source: U.S. Department of Labor. Prepared by the National Foundation for U.C. & W.C., June 1997.

FINANCIAL INFORMATION BY STATE FOR CY96.4, 1996

State	Revenue (12 mos) (in thousands)	TF Balance (in thousands)	Mos. in TF	Total loans (in thousands)	Loans/ cov. employee
United States	$23,009,990	$38,631,922	21.3	$0	$0.00
Alabama	134,029	483,472	27.3	0	0.00
Alaska	109,089	194,188	19.8	0	0.00
Arizona	223,143	627,059	46.3	0	0.00
Arkansas	169,670	202,784	13.0	0	0.00
California	3,590,823	2,877,452	11.7	0	0.00
Colorado	187,897	510,956	32.5	0	0.00
Connecticut	592,538	277,861	7.4	0	0.00
Delaware	68,409	258,468	31.9	0	0.00
Dist. of Colum.	133,380	99,368	12.2	0	0.00
Florida	677,796	1,947,557	35.2	0	0.00
Georgia	382,294	1,634,073	67.0	0	0.00
Hawaii	179,540	211,267	13.3	0	0.00
Idaho	105,900	266,228	32.1	0	0.00
Illinois	1,199,050	1,638,560	15.2	0	0.00
Indiana	238,343	1,273,086	58.0	0	0.00
Iowa	133,905	718,845	45.9	0	0.00
Kansas	42,487	651,074	52.6	0	0.00

FINANCIAL INFORMATION BY STATE FOR CY96.4, 1996—Continued

State	Revenue (12 mos) (in thousands)	TF Balance (in thousands)	Mos. in TF	Total loans (in thousands)	Loans/cov. employee
Kentucky	234,997	501,304	25.7	0	0.00
Louisiana	204,469	1,131,052	94.7	0	0.00
Maine	122,601	112,122	12.5	0	0.00
Maryland	421,722	690,786	22.9	0	0.00
Massachusetts	1,130,136	914,631	14.0	0	0.00
Michigan	1,233,803	1,830,928	21.8	0	0.00
Minnesota	386,523	513,033	16.4	0	0.00
Mississippi	99,520	553,222	50.0	0	0.00
Missouri	381,576	307,507	12.8	0	0.00
Montana	58,841	125,900	24.9	0	0.00
Nebraska	41,748	195,210	44.8	0	0.00
Nevada	177,064	348,278	28.6	0	0.00
New Hampshire	41,781	268,011	91.7	0	0.00
New Jersey	1,448,896	2,028,818	18.1	0	0.00
New Mexico	85,729	385,531	59.6	0	0.00
New York	2,211,440	470,400	2.8	0	0.00
North Carolina	113,075	1,335,565	39.6	0	0.00
North Dakota	24,364	50,072	19.1	0	0.00
Ohio	781,640	1,750,968	28.8	0	0.00
Oklahoma	128,728	563,895	64.3	0	0.00
Oregon	384,046	941,419	28.9	0	0.00
Pennsylvania	1,612,406	2,031,947	14.9	0	0.00
Puerto Rico	149,262	595,703	31.8	0	0.00
Rhode Island	184,004	116,240	7.4	0	0.00
South Carolina	208,829	603,410	36.2	0	0.00
South Dakota	12,291	49,542	39.9	0	0.00
Tennessee	284,220	826,526	30.8	0	0.00
Texas	1,014,460	642,233	7.7	0	0.00
Utah	96,262	523,880	89.2	0	0.00
Vermont	48,595	218,259	49.5	0	0.00
Virginia	260,890	897,198	55.4	0	0.00
Virgin Islands	9,345	42,069	51.5	0	0.00
Washington	644,606	1,332,508	19.7	0	0.00
West Virginia	130,182	157,345	12.8	0	0.00
Wisconsin	445,248	1,556,922	37.2	0	0.00
Wyoming	28,401	147,087	54.0	0	0.00

FINANCIAL INFORMATION BY STATE FOR CYQ, 1997

State	Revenues, last 12 months (in thousands)	TF balance (in thousands)	TF as percent of total wages[1]
Alabama	$140,978	$451,425	1.21
Alaska	131,645	202,416	3.46
Arizona	224,651	741,050	1.70
Arkansas	183,101	204,319	1.03
California	3,367,845	3,737,815	1.05
Colorado	198,748	574,413	1.22
Connecticut	637,125	532,692	1.06
Delaware	75,692	279,173	2.86
District of Col.	132,481	135,627	0.94
Florida	685,668	2,090,222	1.55
Georgia	350,964	1,797,102	2.13
Hawaii	186,510	216,658	2.04
Idaho	99,412	280,382	3.00
Illinois	1,226,328	1,742,968	1.16
Indiana	268,016	1,362,463	2.15
Iowa	144,156	727,327	2.79
Kansas	46,633	606,735	2.16
Kentucky	269,075	571,366	1.71
Louisiana	213,963	1,275,668	3.55
Maine	118,089	136,019	1.35
Maryland	349,967	720,552	1.42
Massachusetts	1,222,144	1,446,164	1.64
Michigan	1,184,719	2,222,714	1.93
Minnesota	398,707	564,628	0.98
Mississippi	166,992	563,901	2.95
Missouri	381,802	417,706	0.75
Montana	65,306	135,604	2.11
Nebraska	57,932	205,727	1.33
Nevada	224,837	387,888	1.79
New Hampshire	26,426	278,296	2.16
New Jersey	1,459,837	2,384,916	2.21
New Mexico	99,244	431,159	3.61
New York	2,402,806	990,176	0.43
North Carolina	253,942	1,301,184	1.67
North Dakota	26,246	38,057	0.83
Ohio	719,622	1,874,943	1.53
Oklahoma	107,585	608,942	2.36
Oregon	462,961	1,068,843	3.13
Pennsylvania	1,587,542	2,253,703	1.87
Puerto Rico	203,816	586,659	5.30
Rhode Island	248,423	160,044	1.78
South Carolina	219,733	687,060	2.02
South Dakota	14,186	48,939	0.91
Tennessee	296,749	847,842	1.52
Texas	1,014,596	706,577	0.35
Utah	97,876	572,849	2.97
Vermont	50,047	233,537	4.59
Virgin Islands	7,693	45,434	6.82
Virginia	222,448	979,376	1.35
Washington	810,440	1,447,195	2.42
West Virginia	139,030	165,917	1.37
Wisconsin	475,595	1,632,214	2.95
Wyoming	31,217	158,573	4.26
United States	23,731,544	43,833,157	1.51

[1] Based on estimatd wages for the most recent 12 months.

By Mr. BOND:

S. 2173. A bill to amend the Rehabilitation Act of 1973 to provide for research and development of assistive technology and universally designed technology, and for other purposes; to the Committee on Labor and Human Resources.

ASSISTIVE AND UNIVERSALLY DESIGNED TECHNOLOGY IMPROVEMENT ACT FOR INDIVIDUALS WITH DISABILITIES

Mr. BOND. Mr. President, today I am introducing a bill which will improve assistive and universally designed technology research and development and increase access to this technology for all Americans with disabilities.

Assistive and universally designed technology provides a disabled individual the means to function better in the workplace or the home. Assistive and universally designed technology is technology that aids the millions of Americans with physical or mental disabilities. For example, assistive technology can mean a computer that can be used by an individual with Cerebral Palsy, a hearing aid for an aging individual or enhanced voice recognition for someone with Multiple Sclerosis, while universally designed technology can mean closed captioning for the deaf or for patrons in crowded restaurants and accessability ramps for individuals in wheelchairs or mothers with strollers.

A year ago my office was approached by a small business owner and Missouri's United Cerebral Palsy asking for support for testing of a breakthrough in Voice Recognition technology. During my search to find an appropriate place for funding for this voice recognition technology, my staff and I became familiar with the overall government efforts in this area.

There are many significant problems in the federal government's efforts in assistive technology research and development. My finding's were validated by a recent report from the National Academy of Sciences' Institute of Medicine, "Enabling America: Assessing the Role of Rehabilitation Science and Engineering," which stressed that the federal government's efforts in this area are lacking awareness, funding, and coordination.

My distinguished colleague in the House, Congresswoman CONNIE MORELLA, Chairwoman of the House Science's Subcommittee on Technology, joins me today in introducing the Assistive and Universally Designed Technology Improvement Act for Individuals With Disabilities.

The Act provides federally supported incentives in all areas of assistive and universally designed technology, including need identification, research and development, product evaluation, technology transfer, and commercialization. These incentives achieve the goal of improving the quality, functional capability, distribution, and affordability of this essential technology.

This legislation does several things.

First, the bill includes an improved peer review process at the National Institute on Disability Research and Rehabilitation (NIDRR) at the Department of Education. This provision requires standing peer review panels and clarifies the evaluation of applications for funding of assistive and universally designed technology. These improvements provide more assistive and universally designed technology products to the marketplace, increase small business involvement in research and development, and assure research and development efforts cover all disability groups including persons with physical and mental disabilities as well as the aging and rural technology users.

Second, the legislation augments technology transfer through improving the role of the Interagency Committee on Disability Research (ICDR) by increasing its authority, accountability and ability to coordinate. Provisions are included for increased usage of the Federal labs to improve coordination with all Federal agencies involved in assistive and universally designed technology research and development and for providing public and private sector partnerships for assistive and universally designed technology research and development.

Third, to increase the market for assistive technology, the bill clarifies Title III of the Tech Act for the Microloan program. This microloan program assists disabled persons in obtaining assistive and universally designed technology.

Fourth, funds are authorized for the Interagency Committee on Disability Research to hire staff and for operating costs associated with issuing surveys and reports. Additionally, $10 million in funds are authorized for the National Institute on Disability Research and Rehabilitation to provide for assistive and universally designed technology research and development.

Finally, to increase access to assistive and universally designed technology, tax incentives are included to provide businesses a tax credit for the development of assistive technology, to expand the architectural and transportation barrier removal deduction to include communication barriers, and to expand the work opportunity credit to include expenses incurred in the acquisition of technology to facilitate the employment of any individual with a disability.

These tax incentives and micro loans will assist individuals with disabilities to obtain assistive and universally designed technology in order to improve their quality of life, to secure and maintain employment, and to assist small businesses in complying with Americans with Disabilities Act requirements, which in effect, results in lessened financial burdens on society.

As technology increasingly plays a role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the transforming of employment, and in the provision of education, it also greatly impacts the lives of the more than 50 million individuals with disabilities in the United States.

An agenda, including support for universal design, represents the only effective means for guaranteeing the benefits of technology to all persons in the United States, regardless of disability or age, in addition to assuring for United States industry the continued growth in markets that will warrant continued high levels of innovation and research.

This legislation has the support of many organizations, including: The Missouri Assistive Technology Advisory Council, the United Cerebral Palsy Association, the Rehabilitation Engineering and Assistive Technology Society of North America, the National Easter Seal Society, and the Association of Tech Act Projects.

The bill also has broad bipartisan and bicameral support. My colleagues, Senator JEFFORDS, Senator HARKIN, Senator GRASSLEY, and Congresswoman CONNIE MORELLA have been very helpful in my efforts to improve the role of the federal government in assistive and universally designed technology.

Let me conclude by taking special note of the help of the National and Missouri United Cerebral Palsy, as well as the Missouri Assistive Technology Project, the Federal Laboratory Consortium, and the numerous assistive and universally designed technology and disability community advocate organizations, for their assistance in developing and advocating this legislation.

Mr. President, I ask unanimous consent that the bill, the amendment I submit today, and letters of support be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Assistive and Universally Designed Technology Improvement Act for Individuals With Disabilities".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The area of assistive technology is greatly overlooked by the Federal Government and the private sector. While assistive technology's importance spans age and disability classifications, assistive technology does not maintain the recognition in the Federal Government necessary to provide important assistance for research and development programs or to individuals with disabilities. The private sector lacks adequate incentives to produce assistive technology, and end-users lack adequate resources to acquire assistive technology.

(2) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, in the transformation of employment, and in the provision of education, technology's impact upon the lives of the more than 50,000,000 individuals with disabilities in the United States has been comparable to technology's impact upon the remainder of our Nation's citizens. No development in mainstream technology can be imagined that will not have profound implications for individuals with disabilities.

(3) In a technological environment, the line of demarcation between assistive and mainstream technology becomes ever more difficult to draw, and the decisions made by the designers of mainstream equipment and services will increasingly determine whether and to what extent the equipment and services can be accessed and used by individuals with disabilities.

(4) A commitment to assistive technology, while remaining important, cannot alone ensure access to technology and communications networks by individuals with disabilities. An agenda, including support for universal design, represents the only effective means for guaranteeing the benefits of technology to all persons in the United States, regardless of disability or age, and for assuring for United States industry the continued growth in markets that will warrant continued high levels of innovation and research.

(5) The Federal Government needs to make improvements to peer review processes that affect assistive technology research and development.

(6) There are insufficient links between federally funded assistive technology research and development programs and the private sector entities responsible for translating research and development into significant new products in the marketplace for end-users.

(7) The Federal Government does not provide assistive technology that is universally designed and targets older and rural assistive technology end-users.

(8) The Federal Government does not coordinate all Federal assistive technology research and development.

(9) Small businesses, which provide many innovative ideas for assistive technology and provide the vast majority of research and development efforts that lead to viable commercial assistive technology products, are not utilized in Federal assistive technology research and development efforts to the extent that small businesses may play a key role in assistive technology research and development. In addition, small businesses lack access to the resources of the Federal laboratories and would benefit from partnerships with the Federal laboratories.

(10) Many more individuals with disabilities could secure and maintain employment and move from income supports to competitive work if given the ability to purchase assistive technology. Tax incentives for businesses to purchase assistive technology for their employees, and micro loans for individuals to purchase assistive technology, help individuals with disabilities improve their quality of life. Such incentives and loans lead to more productive lives, while lessening the financial burdens on society.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to improve the quality, functional capability, distribution, and affordability of assistive technology and universally designed technology, through federally supported incentives for all the participants in need identification, research and development, product evaluation, technology transfer, and commercialization, for such technologies, to enhance quality of life and ability to obtain employment for all individuals with disabilities;

(2) to clarify the role of the National Institute on Disability and Rehabilitation Research at the Department of Education so as to provide for better peer reviews;

(3) to improve coordination of Federal assistive technology research and development

by strengthening the Interagency Committee on Disability Research;

(4) to prioritize assistive technology research, development, and dissemination efforts to match the needs of the underserved assistive technology end-users such as older and rural end-users;

(5) to increase the use of universal design in the commercial development of standard products;

(6) to incorporate the principles of universal design in the development of assistive technology;

(7) to increase usage of the Small Business Innovative Research Program as defined in section 9(e) of the Small Business Act (15 U.S.C. 638(e));

(8) to improve coordination between the Federal laboratories and the members of the Interagency Committee on Disability Research;

(9) to improve the transfer of technology from mission-oriented applications in Federal laboratories to assistive technology applications in research and development programs, and to transfer prototype assistive technology products from federally sponsored programs to the private sector;

(10) to increase the availability of assistive technology products and universally designed technology products in the marketplace for the end-users; and

(11) to create tax incentives and micro loans to assist individuals with disabilities to obtain assistive technology and universally designed technology in order to improve their quality of life and to secure and maintain employment.

SEC. 4. PEER REVIEW PROCESS.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 761a et seq.) is amended by adding at the end the following:

"SEC. 206. PEER REVIEW PROCESS.

"(a) PEER REVIEW PANELS.—

"(1) COMPOSITION.—

"(A) IN GENERAL.—The Director shall establish a peer review process, involving peer review panels composed of members appointed by the Director, for the review of applications for grants, contracts, or cooperative agreements under this title for research and development of assistive technology and universally designed technology.

"(B) DURATION.—The members of such a peer review panel shall serve for terms of 3 years, except that the members initially appointed may serve for shorter terms.

"(C) MEMBER TERMS.—Members of a peer review panel shall serve staggered terms so as to provide for institutional memory and experience at all times.

"(D) SELECTION AND APPOINTMENT.—

"(i) IN GENERAL.—Members of peer review panels shall be selected and appointed based upon their training and experience in relevant scientific or technical fields, taking into account, among other factors—

"(I) the level of formal scientific or technical education completed or experience acquired by an individual;

"(II) the extent to which the individual has engaged in relevant research, the capacities (such as principal investigator or assistant) in which the individual has so engaged, and the quality of such research;

"(III) the recognition of the individual, as reflected by awards and other honors received from scientific and professional organizations outside the Department of Education; and

"(IV) the need for a panel to include experts from various areas or specializations within the fields of assistive technology and universally designed technology.

"(ii) SPECIAL RULES.—To the extent practicable, the peer review panels shall have, collectively, a significant number of members who are individuals with disabilities, and the members of the panels shall reflect the population of the United States as a whole in terms of gender, race, and ethnicity.

"(E) OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT.—Not more than ¼ of the members of any peer review panel may be officers or employees of the Federal Government. For purposes of the preceding sentence, an individual who is a member of a peer review panel shall not, by virtue of such service, be considered to be an officer or employee of the Federal Government.

"(2) CONFLICT OF INTEREST.—

"(A) IN GENERAL.—No member of a peer review panel may participate in or be present during any review by the peer review panel of an application for a grant, contract, or cooperative agreement, in which, to the member's knowledge, any of the following has a financial interest:

"(i) The member of the panel or the member's spouse, parent, child, or business partner.

"(ii) Any organization with which the member or the member's spouse, parent, child, or business partner is negotiating or has any arrangement concerning employment or any other similar association.

"(B) DISQUALIFIED PANEL.—In the event any member of a peer review panel or the member's spouse, parent, child, or business partner is currently, or is expected to be, the principal investigator or a member of the staff responsible for carrying out any research or development activities described in an application for a grant, contract, or cooperative agreement, the Secretary shall disqualify the panel from reviewing the application and ensure that the review will be conducted by another peer review panel with the expertise to conduct the review. If there is no other panel with the requisite expertise, the Secretary shall ensure that the review will be conducted by an ad hoc panel of members of the peer review panels, not more than 50 percent of whom may be from the disqualified panel.

"(C) PROHIBITION.—No member of a peer review panel may participate in or be present during any review under this title of a specific application for a grant, contract, or cooperative agreement for an activity for which the member has had or is expected to have any other responsibility or involvement (either before or after the grant, contract, or cooperative agreement was awarded for the activity) as an officer or employee of the Federal Government.

"(3) AVAILABILITY OF INFORMATION.—Transcripts, minutes, and other documents made available to or prepared for or by a peer review panel shall be available for public inspection and copying to the extent provided in section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'), the Federal Advisory Committee Act (5 U.S.C. App.), and section 552a of title 5, United States Code (commonly known as the 'Privacy Act of 1974').

"(4) EVALUATION OF APPLICATION.—A peer review panel shall—

"(A) evaluate applications for grants, contracts, or cooperative agreements under this title with respect to research and development of assistive technology and universally designed technology to assure duplication of such research and development does not occur across Federal departments and agencies; and

"(B) evaluate the applications with respect to meeting immediate needs for research and development of assistive technology and universally designed technology in the disabled community (as identified in data collected by the Interagency Committee on Disability Research), through criteria that will ensure the effectiveness of the priorities of the Interagency Committee for such research and development.

"(5) APPLICATION REVIEW CRITERIA.—In carrying out a review of an application for a grant, contract, or cooperative agreement with respect to research and development of assistive technology or universally designed technology under this section, the peer review panel, among other factors, shall take into account—

"(A) the need for research and development of assistive technology and universally designed technology that facilitates individuals with disabilities obtaining employment;

"(B) the need to allocate amounts of assistance through grants, contracts, or cooperative agreements for research and development of assistive technology and universally designed technology in a manner proportionate to need for assistive technology and universally designed technology, and proportionate to the population of disability groups, including individuals with physical disabilities, individuals with cognitive disabilities, older individuals with disabilities, and rural assistive technology and universally designed technology end-users;

"(C) the significance and originality from a scientific or technical standpoint of the goals of the proposed research and development;

"(D) the adequacy of the methodology proposed to carry out the research and development;

"(E) the qualifications and experience of the proposed principal investigator and staff for the research and development;

"(F) the reasonable availability of resources necessary to the research and development;

"(G) the reasonableness of the proposed budget and the duration in relation to the proposed research and development;

"(H) if an application involves activities that may have an adverse effect upon humans, animals, or the environment, the adequacy of the proposed means for protecting against or minimizing such effects;

"(I) the extent to which appropriate measures will be taken to advance the cause of universal design through proposed assistive technology research and development, including the extent to which the applicant has reviewed a variety of existing measures (as of the date of the review) on the part of the designers and producers of assistive technology and the providers of related services to produce universally designed technology;

"(J) the extent to which efforts shall be made to include small businesses in the proposed research and development of assistive technology or universally designed technology through increased usage of the Small Business Innovative Research Program as defined in section 9(e) of the Small Business Act (15 U.S.C. 638(e));

"(K) the extent to which the proposed research and development of assistive technology or universally designed technology will result in the production of actual products for the marketplace for assistive technology or universally designed technology end-users;

"(L) the extent to which the applicant identifies secondary benefits or applications of the assistive technology or universally designed technology involved, or agrees to make matching contributions (in cash or in kind, fairly evaluated) toward the cost of the research and development, in partnership with representatives of industry, government, and educational institutions; and

“(M) the extent to which proposed research and development of universally designed technology will result in a change in design of standard products, so that the products are more usable by a broad range of individuals with disabilities or older individuals.

“(6) Compensation.—Each member of a peer review panel who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the panel. All members of the panel who are officers or employees of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

“(7) Travel expenses.—The members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel.

“(8) Termination.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the peer review panels.

“SEC. 207. DEFINITIONS.

“In this title:

“(1) Assistive technology.—The term ‘assistive technology’ means technology designed to be utilized in an assistive technology device or assistive technology service.

“(2) Assistive technology and universally designed technology end-user.—The term ‘assistive technology and universally designed technology end-user’ means any individual with a disability who uses assistive technology or universally designed technology to improve the quality of life of the individual or to obtain employment, including an individual with a physical disability, a cognitive disability, or a sensory disability, or an older individual.

“(3) Technology transfer.—The term ‘technology transfer’ means the transmittal of developed ideas, products, and techniques—

“(A) from a research environment to an environment of practical application; or

“(B) from application in a prototype invention to mass production in a commercial product.

“(4) Universal design.—The term ‘universal design’ means the design, development, fabrication, marketing, and technical support of products, services, and environments designed to be usable, to the greatest extent possible, by the largest number of persons, including individuals with disabilities and individuals without disabilities. No product, service, or environment shall be considered to have a universal design if use of the product, service, or environment is substantially limited or prevented by reason of—

“(A) a disability related to hearing, vision, learning, strength, reach, or movement; or

“(B) the existence of any other limitation of a major life function.”.

SEC. 5. TECHNOLOGY TRANSFER.

(a) Amendments to Provisions Relating to the Interagency Committee on Disability Research.—Section 203 of the Rehabilitation Act of 1973 (29 U.S.C. 761b) is amended—

(1) in subsection (a), by adding at the end the following:

“(3) Each member of the Committee shall attend all meetings of the Committee or delegate the responsibility for attending the meetings to a designee with the authority to commit the department or agency represented to participate in a joint project, the authority to comment on issues on behalf of the department or agency, and the expertise to participate in Committee discussions.”;

(2) in subsection (b)—

(A) by inserting “(1)” before “After receiving”; and

(B) by adding at the end the following:

“(2) The Committee shall—

“(A) monitor the range of research and development of assistive technology and universally designed technology carried out by the Federal departments and agencies represented on the Committee;

“(B) ensure that the highest quality research and development of assistive technology and universally designed technology (through methods such as peer review) is carried out by the departments and agencies;

“(C) identify and establish clear research priorities for research and development of assistive technology and universally designed technology that will benefit individuals with disabilities, and permit joint ventures concerning research and development of assistive technology and universally designed technology among the department needs and agencies;

“(D) ensure interagency collaboration and joint research activities and reduce unnecessary duplication of effort by the departments and agencies;

“(E) develop effective technology transfer activities for the departments and agencies, including activities resulting from increased supply of assistive technology and universally designed technology or increased demand of assistive technology and universally designed technology end-users;

“(F) help establish and maintain the use of consistent definitions and terminologies among the departments and agencies, which definitions shall contribute to the production of comparable research and to the development of reliable statistical data across departments and agencies;

“(G) optimize the productivity of the departments and agencies through resource sharing and other cost-saving activities;

“(H) identify gaps in needed research and development and make efforts to ensure that the gaps are filled by a Federal department or agency represented on the Committee; and

“(I) collaborate with member agencies on specific projects that need additional funding beyond the capacity of 1 Federal department or agency represented on the Committee.”;

(3) by redesignating subsection (c) as subsection (d);

(4) by inserting after subsection (b) the following:

“(c)(1) The Director shall establish special task forces and subcommittees of the Committee for research and development of assistive technology and universally designed technology, including task forces and subcommittees related to medical rehabilitation, technology (including universal design), and the employment of individuals with disabilities.

“(2) The Director shall appoint 2 full-time staff members to assist the Director in the operation of the Committee.”;

(5) in subsection (d) (as redesignated by paragraph (3))—

(A) by inserting “(1)” before “The Committee”; and

(B) by adding at the end the following:

“(2) The Director shall issue a biannual report announcing the availability of the grants, contracts, or cooperative agreements made available through Federal departments and agencies represented on the Committee for research and development of assistive technology and universally designed technology.

“(3) The Director shall submit to the Commissioner for inclusion in the annual report to Congress described in section 13—

“(A) the results and an analysis of the activities conducted under grants, contracts, or cooperative agreements awarded by departments and agencies represented on the Interagency Committee on Disability Research for research and development of assistive technology and universally designed technology;

“(B) a detailed summary of the activities and the effectiveness of the Committee in expanding research opportunities that lead to direct development of assistive technology devices and assistive technology services; and

“(C) results of periodic surveys of manufacturers and suppliers of assistive technology and universally designed technology, and of assistive technology and universally designed technology end-users.”.

(b) Amendments to the Stevenson-Wydler Technology Innovation Act of 1980.—Section 11(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (I), by striking “and” after the semicolon;

(B) in subparagraph (J), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(K) develop and disseminate, including through accessible electronic formats, to all Federal, State, and local agencies and instrumentalities involved in assistive technology and universally designed technology, in order to maximize research and development of assistive technology and universally designed technology, information that indicates—

“(i) the extent of all activities undertaken by the Federal laboratories in the previous year having an intended or a recognized potential impact upon individuals with disabilities;

“(ii) the degree to which ongoing or projected activities of the Federal laboratories are expected to have an impact upon the available range of, or applications for, assistive technology and universally designed technology;

“(iii) the extent to which expert resources within the Consortium are made available or can be accessed for the purpose of meeting needs related to assistive technology and universally designed technology in the communities where the Federal laboratories operate; and

“(iv) the extent to which each Federal laboratory has attempted to involve, and succeeded in involving, individuals with disabilities in the development of priorities, plans, and prototypes with respect to assistive technology and universally designed technology.”; and

(2) by adding at the end the following:

"(8)(A) The Director of the National Institute on Disability and Rehabilitation Research shall participate annually in the national meeting and interagency meeting of the Consortium.

"(B) The Director, in collaboration with other members of the Interagency Committee on Disability Research, where appropriate, shall coordinate the activities of the Federal laboratories, with respect to research and development of assistive technology and universally designed technology.

"(C) In conjunction with members of the Interagency Committee on Disability Research, the Director shall utilize the resources of the Consortium to identify potential public and private sector partners for research and development collaboration regarding assistive technology and universally designed technology.

"(9) In this section:

"(A) The terms 'individual with a disability' and 'individuals with disabilities' have the meanings given the terms in section 3 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202).

"(B) The terms 'universal design' and 'assistive technology' have the meaning given the term in section 207 of the Rehabilitation Act of 1973.".

SEC. 6. MICRO LOANS.

(a) TERRITORIES.—Section 301 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2281) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) AWARD BASIS.—The Secretary shall award grants to States under this section on the basis of the population of the States.".

(b) MECHANISMS.—Subsection (d) of section 301 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (as redesignated by subsection (a)(1)) is amended to read as follows:

"(c) MECHANISMS.—

"(1) IN GENERAL.—The alternative financing mechanisms shall include—

"(A) an interest buy-down loan program;

"(B) a revolving loan fund program; or

"(C) a loan guarantee program.

"(2) REQUIREMENTS.—Each program described in paragraph (1) shall—

"(A) provide assistance for assistive technology devices, assistive technology services, and universally designed technology products and services; and

"(B) maximize consumer participation in all aspects of the program.

"(3) DEFINITIONS.—

"(A) INTEREST BUY-DOWN LOAN PROGRAM.—The term 'interest buy-down loan program' means a loan program that involves an organization, using the organization's funds, to reduce the interest rate of a loan made by a lending institution to a borrower.

"(B) LOAN GUARANTEE PROGRAM.—The term 'loan guarantee program' means a loan program that provides loans that are backed by a promise or guarantee that, if there is a default on a loan made under the program, the loan will be paid back.

"(C) REVOLVING LOAN FUND PROGRAM.—The term 'revolving loan fund program' means a loan program in which individuals borrow money from a loan fund, loan repayments are dedicated to the recapitalization of the loan fund, and the repayments are used to make additional loans.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 308(a) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2288(a)) is amended by striking "this title" and all that follows and inserting "this title, such sums as may be necessary for each of fiscal years 1999 through 2001.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) of the Rehabilitation Act of 1973 (29 U.S.C. 761(a)) is amended to read as follows:

"(a) There are authorized to be appropriated—

"(1) such sums as may be necessary for each of fiscal years 1999 through 2001, for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which—

"(A) shall include the expenses of the Interagency Committee on Disability Research under section 203, the Rehabilitation Research Advisory Council under section 205, and the peer review panels under section 206; and

"(B) shall not include the expenses of such Institute to carry out section 204; and

"(2)(A) such sums as may be necessary for each of fiscal years 1999 through 2001 to carry out section 204, including providing financial assistance for research and development on assistive technology and universally designed technology at the level of assistance provided for fiscal year 1998; and

"(B) $10,000,000 for each of fiscal years 1999 through 2001, to provide, under section 204, such financial assistance (in addition to the level of assistance provided for fiscal year 1998).".

AMENDMENT NO. 2708

At the end of the bill add the following:

SEC. 8. TAX INCENTIVES FOR ASSISTIVE TECHNOLOGY.

(a) ASSISTIVE TECHNOLOGY DEVELOPMENT BUSINESS TAX CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. CREDIT FOR ASSISTIVE TECHNOLOGY.

"(a) GENERAL RULE.—For purposes of section 38, the assistive technology credit of any taxpayer for any taxable year is an amount equal to so much of the qualified assistive technology expenses paid or incurred by the taxpayer during such year as does not exceed $100,000.

"(b) QUALIFIED ASSISTIVE TECHNOLOGY EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified assistive technology expenses' means expenses for the design, development, and fabrication of assistive technology devices.

"(2) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, including any item acquired commercially off the shelf and modified or customized by the taxpayer, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"(3) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities" has the meaning given the term by section 3 of the Technology Related Assistance for Individuals with Disabilities Act of 1988 (29 U.S.C. 2202).

"(c) NO DOUBLE BENEFIT.—Any amount taken into account under section 41 may not be taken into account under this section.

"(d) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2003.".

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following:

"(13) the assistive technology credit determined under section 45D(a).".

(3) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules) is amended by adding at the end the following:

"(9) NO CARRYBACK OF SECTION 45D CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the assistive technology credit determined under section 45D(a) may be carried back to a taxable year ending before January 1, 1999.".

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 45D. Credit for assistive technology.".

(5) EVALUATION OF EFFECTIVENESS OF CREDIT.—The Secretary of the Treasury shall evaluate the effectiveness of the assistive technology credit under section 45D of the Internal Revenue Code of 1986, as added by this subsection, and report to the Congress the results of such evaluation not later than January 1, 2003.

(b) EXPANSION OF ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL DEDUCTION.—

(1) IN GENERAL.—Section 190 of the Internal Revenue Code of 1986 is amended—

(A) by inserting "and qualified communications barrier removal expenses" after "removal expenses" in subsections (a)(1),

(B) by adding at the end of subsection (b) the following:

"(4) QUALIFIED COMMUNICATIONS BARRIER REMOVAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified communications barrier removal expense' means a communications barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary and set forth in regulations prescribed by the Secretary. Such term shall not include the costs of general communications system upgrades or periodic replacements that do not heighten accessibility as the primary purpose and result of such replacements.

"(B) COMMUNICATIONS BARRIER REMOVAL EXPENSES.—The term 'communications barrier removal expense' means an expenditure for the purpose of identifying and implementing alternative technologies or strategies to remove those features of the physical, information-processing, telecommunications equipment or other technologies that limit the ability of handicap individuals to obtain, process, retrieve, or disseminate information that nonhandicapped individuals in the same or similar setting would ordinarily be expected and be able to obtain, retrieve, manipulate, or disseminate.", and

(C) by striking "**and transportation**" in the heading and inserting "**, transportation, and communications**".

(2) CONFORMING AMENDMENT.—The item relating to section 190 in the table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking "and transportation" and inserting ", transportation, and communications".

(c) EXPANSION OF WORK OPPORTUNITY CREDIT.—Section 51(c) of the Internal Revenue Code of 1986 (defining wages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

"(4) ASSISTIVE TECHNOLOGY EXPENSES.—

"(A) IN GENERAL.—The term 'wages' includes expenses incurred in the acquisition and use of technology—

"(i) to facilitate the employment of any individual, including a vocational rehabilitation referral; or

"(ii) to provide a reasonable accommodation for any employee who is a qualified individual with a disability, as such terms are defined in section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111).

"(B) REGULATIONS.—The Secretary shall by regulation provide rules for allocating expenses described in subparagraph (A) among individuals employed by the employer.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

ASSOCIATION OF TECH ACT PROJECTS,
Springfield, IL, June 5, 1998.

Hon. CHRISTOPHER S. BOND,
U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR BOND: On behalf of the Association of Technology Act Projects (ATAP), we are writing to express our sincere appreciation for your interest in making new and emerging technologies available to people with disabilities throughout the nation.

"The Assistive and Universally Designed Technology Improvement Act for Individuals with Disabilities", the legislation you are introducing today, would expand federal support for much needed research and development in this field. ATAP looks forward to working closely with you and your staff as this legislation is considered by the Senate Committee on Labor and Human Resources. We believe the projects funded under the Tech Act that have enjoyed federal support, provide a critical linkage among consumers and service providers. ATAP members share your belief in the power of technology to improve the functional capabilities of individuals with disabilities.

ATAP congratulates you on the introduction of this important legislation and offers our support to your effort to expand the federal investment in assistive technology research and development.

Sincerely,

DEBORAH V. BUCK,
ATAP Co-Chair.
LYNNE CLEVELAND,
ATAP Co-Chair.

UNITED CEREBRAL
PALSY ASSOCIATIONS,
Washington, DC, June 8, 1998.

DEAR SENATOR BOND: On behalf of United Cerebral Palsy Associations and our 151 affiliates, we strongly endorse the Assistive and Universally Designed Technology Improvement Act for Individuals with Disabilities (UCPA) with general reservation around the legislative directive on peer review which was expressed in our June 5 comments. In particular, we applaud your interest in micro tax incentives for assistive technology, and AT research, development, and dissemination.

UCPA has enjoyed working with your staff through this process. Thank you for the opportunity to comment on the legislation. UCPA believes that this bill will complement the anticipated assistive technology bill expected out of the Senate Labor and Human Resources Committee. UCPA looks forward to working with you and your staff in this effort to bring assistive technology to the forefront.

Sincerely,

PETER KEISER,
Chair, Community Services Committee.

NATIONAL EASTER SEAL SOCIETY,
OFFICE OF PUBLIC AFFAIRS,
Washington, DC, June 9, 1998.

Hon. CHRISTOPHER S. BOND,
U.S. Senate, Russell Building,
Washington, DC

DEAR SENATOR BOND: On behalf of National Easter Seals, I would like to thank you for the opportunity to review the "Assistive and Universally Designed Technology Improvement Act for Individuals with Disabilities." Your leadership in addressing the serious issue of access to assistive technology for people with disabilities is greatly appreciated and we look forward to working with you on furthering the aims of the bill as it moves through the Senate Labor and Human Resources committee.

Particularly notable are your efforts to develop a national loan fund to assure that more people with disabilities have access to the technologies they need to reach goals of equality, dignity and independence. There is a growing population of people with disabilities who may not qualify for federal support, but nonetheless need some assistance in purchasing, maintaining and upgrading their assistive technology.

The proposals in your bill will serve to improve the quality of life for people with disabilities. Your leadership and enthusiasm are greatly appreciated, and Easter Seals looks forward to working with you on this initiative and in the future.

Sincerely,

JENNIFER DEXTER,
Government Relations Specialist.

By Mr. CRAIG:

S. 2175. A bill to safeguard the privacy of certain identification records and name checks, and for other purposes; to the Committee on the Judiciary.

FIREARMS OWNER PRIVACY ACT OF 1998

Mr. CRAIG. Mr. President, I rise to introduce the Firearms Owner Privacy Act of 1998. This bill is aimed at safeguarding the privacy of law-abiding citizens who choose to purchase firearms and therefore undergo the instant background check mandated by the Brady Act.

As many of my colleagues know, the National Instant Criminal Background Check System (NICS) is scheduled to go online on November 30, 1998. After that date, federally-licensed firearms dealers are required to contact NICS before they sell any handgun or long gun, so that a records check can be performed to determine whether the purchaser is prohibited by law from receiving the firearm.

A unique identification number will be assigned by the NICS to each search request in order to identify the transaction. That number is to be kept by the dealer. However, if the sale is approved—that is, if the purchaser is not disqualified from purchasing the firearm—all other records pertaining to that sale are to be destroyed.

This only makes sense. The Brady Act was never aimed at generating records concerning legal firearms sales. It was promoted as a law enforcement tool—a tool to prevent illegal gun sales and prosecute convicted felons or other disqualified persons who attempt to obtain firearms illegally.

More important, Senators who participated in the debate on the Brady bill will remember the concerns that were raised about the federal government retaining records of approved, legal transactions. Simply put, keeping those records is tantamount to registering firearms—something that is far from acceptable to most Americans, not to mention most members of Congress and certainly to this Senator. The federal government has no legitimate reason for keeping track of which Americans own guns. On the contrary, history teaches us that gun registration schemes have been used to pave the way for gun confiscation. It is not unreasonable for citizens to be skeptical of the government's self-restraint—indeed, that is why our Founders built checks and balances into our system of government in the first place.

In fashioning the Brady Act, Congress did not rely on government promises not to compile information on law-abiding gun purchasers. Instead, the law expressly prohibits the federal government from using NICS to establish any system for registering firearms, firearm owners, or transactions involving firearms. It also prevents a de facto registration system by specifically prohibiting the federal government from recording or keeping the records generated by the instant background check.

Again and again during debate on this measure, members of the House and Senate raised concerns about the privacy interests of law-abiding citizens. Again and again, we were assured that these prohibitions would prevent the Brady Act from establishing or promoting any kind of gun registration for law-abiding citizens. Clearly, one of the keys to passing the Brady bill was the absolute assurance that the privacy of law-abiding citizens would be respected, and records of their firearms transactions would be destroyed.

It is worth noting that since enactment of the Brady law, the concern over its potential for promoting gun registration has continued to boil. Like many of our colleagues, I continue to hear from people in my state and around the nation who do not believe this Administration—no friend to law-abiding gun owners—can resist the opportunity to mis-use and abuse the records generated during these background checks.

Mr. President, the Administration just turned up the heat on those boiling fears. Now that we are within months of putting NICS on line, federal agencies are beginning to release the details of how the system is expected to work. My telephones are beginning to ring as firearms dealers, gun collectors, and sportspeople have an opportunity to read the fine print. Among the proposals that concern them the most is that the agency operating NICS intends to keep records of approved firearms transactions for eighteen months.

That's right. The federal government proposes to keep records of legal, approved transactions for a year and a half.

The agency has explained that it needs to keep the records for auditing purposes, to make sure the system is working properly and not being abused. Mr. President, why in the world do they need a year and a half for that purpose? Furthermore, the longer these records sit around, the more potential there is for abuse. How can the agency justify allowing its own administrative convenience to outweigh the serious privacy and civil liberties concerns raised against retaining such records?

Let's not forget that under the current, interim system, records of an approved transaction are destroyed within twenty days. The NICS system is supposed to speed up the entire background check process so that the average contact will take minutes. Even if additional time is required because of problems with the check, the transaction is allowed to go forward within a mere three days, if the dealer does not receive a disapproval. The acceleration in every other part of the NICS system makes this records retention proposal even more incredible.

I am wholly unconvinced that the agency has any legitimate purpose for retaining the records of lawful purchases by qualified citizens as it has proposed. The bill I am introducing today, the Firearms Owner Privacy Act of 1998, simply reinforces the decision that this Congress originally made on this critical issue. It would require information generated by the system on approved, lawful purchases to be destroyed within twenty-four hours. An individual who knowingly retained or transferred that information after that time would face criminal penalties of up to $250,000 or up to ten years' imprisonment.

My bill also deals with transactions that are disapproved because a would-be purchaser is prohibited by federal or state law from receiving a firearm. For those transactions, the bill would permit the agency to retain the records for five years. If a criminal prosecution has been commenced against the purchaser, there would be no restriction at all on the agency's retention of the records. These provisions are aimed at insuring that if our law enforcement agencies intend to pursue a disapproved sale, they have ample opportunity to do so. However, the usefulness of these records past five years is very questionable.

Mr. President, I believe my bill imposes reasonable, workable limits that conform to Congressional intent. If someone knows a legitimate reason why the federal government should keep these records longer than my bill allows, I am certainly willing to listen to their arguments. To date, however, the explanations from the Administration have been unpersuasive at best.

Let me point out that a similar effort to limit the retention of these records is underway in the other body, headed by Representative BOB BARR. I hope my colleagues will join me in this effort to protect the privacy and civil liberties of law-abiding citizens.

I ask unanimous consent that a copy of the Firearms Owner Privacy Act of 1998 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Firearms Owner Privacy Act of 1998".

SEC. 2. UNLAWFUL RETENTION OF FIREARMS TRANSFER INFORMATION.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following:

"§ 1925. Unlawful retention of federal firearms transfer information

(a) DEFINITIONS..—In this section—

"(1) the term 'firearm' has the same meaning as in section 921(a);

"(2) the term 'instant check information'—

"(A) means any information—

"(i) provided to the instant check system about an individual seeking to obtain a firearm; or

"(ii) derived from any information provided as described in clause (i); and

"(B) does not include any unique identification number provided by the instant check system pursuant to section 922(t)(1)(B)(i), or the date on which that number is provided; and

"(3) the term 'instant check system' means the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note).

"(b) PROHIBITIONS AND PENALTIES.—

"(1) INFORMATION RELATING TO INDIVIDUALS NOT PROHIBITED FROM RECEIVING A FIREARM.—Whoever, being an officer, employee, contractor, consultant, or agent of the United States, including a State or local employee or officer acting on behalf of the United States, in that capacity—

"(A) receives instant check information, in any form or through any medium, about an individual who is determined, through the use of the instant check system, not to be prohibited by subsection (g) or (n) of section 922, or by State law, from receiving a firearm; and

"(B) knowingly retains or transfers to another person that information after the 24-hour period beginning with such receipt;

shall be fined not more than $250,000, imprisoned not more than 10 years, or both.

"(2) INFORMATION RELATING TO INDIVIDUALS PROHIBITED BY LAW FROM RECEIVING A FIREARM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), whoever, being an officer, employee, contractor, consultant, or agent of the United States, including a State or local employee or officer acting on behalf of the United States, in that capacity—

"(i) receives instant check information, in any form or through any medium, about an individual who is prohibited by Federal or State law from receiving a firearm; and

"(ii) knowingly retains or transfers to another person that information after the 5-year period beginning with such receipt;

shall be fined not more than $250,000, imprisoned not more than 10 years, or both.

"(B) INAPPLICABILITY TO INFORMATION RELATING TO CERTAIN INDIVIDUALS.—Subparagraph (A) does not apply to any information about an individual if a criminal prosecution has been commenced against the individual on the basis of that information.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 93 of title 18, United States Code, is amended by adding at the end the following:

"1925. Unlawful retention of Federal firearms transfer information.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on November 30, 1998.

By Mr. THOMPSON (for himself, Mr. BYRD, Mr. THURMOND, Mr. LOTT, and Mr. ROTH):

S. 2176. A bill to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the "Vacancies Act" to clarify statutory requirements relating to vacancies in and appointments to certain Federal offices, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL VACANCIES REFORM ACT OF 1998

Mr. THOMPSON. Mr. President, on behalf of myself and a bipartisan group of senators, I introduce today the Federal Vacancies Reform Act of 1998. This legislation is needed to preserve one of the Senate's most important powers: the duty to advise and consent on presidential nominees.

The Framers of the Constitution established a procedure for the appointment of all government officers: they were to be nominated by the President and confirmed by the Senate, unless Congress decided that the appointment of specified inferior officers was to be made by the President alone, the courts, or by department heads. The First Congress, however, recognized that vacancies would arise in executive positions, and enacted legislation providing for officials to temporarily exercise the powers of an office even without Senate confirmation. The law was adopted essentially in its current form in 1868, and was last amended in 1988. As amended, the first assistant or another Senate-confirmed individual can serve for 120 days after the vacancy, and, in addition, may serve beyond those 120 days if the President submits a nomination for that office to the Senate within those 120 days.

Unfortunately, the Vacancies Act is honored more in the breach than in the observance. For the past 25 years, administrations of both parties have claimed that the Justice Department is exempt from the Vacancies Act. And since the Reagan Administration, other departments, at the behest of the Justice Department, make the same argument, purportedly based on the authority of the heads of each of the executive departments to delegate their authority to other department personnel. Following this argument to its logical end, none of the departments is bound by the Vacancies Act, so that the act is a dead letter.

Certainly, this Administration has conducted itself as if the Vacancies Act applies to none of the departments. Each department has at least one temporary officer who has served more than 120 days before any nomination was sent to the Senate. Of the 320 executive department advise and consent positions, 64 are held by temporary officials. Of the 64, 43 have served longer than 120 days before any nomination was submitted to the Congress. The Commerce Department is the worst offender in number and in degree. For instance, the acting head of the Census Bureau is neither the first assistant nor a person who has been confirmed by the Senate, a mind-boggling violation of the law. Nor has a nomination been made, although the prior Census chief announced her departure more than five months ago.

The government's important functions should be carried out by permanent officials. That means that the President must submit nominations and the Senate needs to provide its advice and consent. This administration seems not to want to subject its appointees to such scrutiny. Acting on that desire is unconstitutional and a violation of the Vacancies Act as well. The Appointments Clause is not a technical nicety. As the Supreme Court has stated, the Appointments Clause is designed to keep the Executive and Legislative Branches within their appropriate spheres, so as to better preserve individual liberty.

The Governmental Affairs Committee recently held an oversight hearing on the Vacancies Act. In that hearing, it became apparent that the Administration was regularly acting in violation of the law, but faced no consequence for its actions. The Committee also heard testimony from Senators BYRD and THURMOND, who had each introduced bills designed to ensure compliance with the Vacancies Act through clarifying the scope of agencies covered and providing an enforcement mechanism. Our colleagues owe a debt of gratitude to Senators BYRD and THURMOND for raising these important issues and offering solutions to address them.

I have found the approaches in the Byrd and Thurmond bills to have contributed importantly to the drafting of the legislation I introduce today. It is extremely important to ensure that the Vacancy Act period run from the date of the vacancy, to clarify that it covers all departments, and to impose a sanction for noncompliance. Subsequent to the introduction of the Byrd and Thurmond bills, the United States Court of Appeals for the District of Columbia Circuit issued a decision on the meaning of the Vacancies Act, approving the four year service of an acting head of the Office of Thrift Supervision as appointed by the departing head of the agency. Overruling several portions of that decision have become a priority.

The legislation I introduce today provides that in the event of a vacancy in a position in an executive agency requiring the advice and consent of the Senate, the officer's first assistant is allowed to perform the functions and duties of the office on an acting basis, for up to 150 days. Under current law, the period is 120 days, but the vicissitudes of the modern vetting process appear to require that the time be lengthened, to my regret. Alternatively, the President may direct another person who has already received Senate confirmation to serve as the acting official for 150 days. To prevent these restrictions from being gamed, the bill provides that the acting officer must have been the first assistant for 180 of the 365 days preceding the vacancy.

The length of temporary service can be extended beyond the 150 days if the President submits a nomination to the Senate for the vacant position. If the nomination is withdrawn, or if the Senate rejects or returns it, the acting official can serve only for 150 days after that event.

The bill makes clear that the Vacancies Act applies to all offices in executive agencies for which appointment is required to be made by the President by and with the advice and consent of the President. Nonetheless, we do not write on a clean slate. There are a number of laws already on the books that provide a process by which persons can serve as acting officers when particular offices are vacant. In most instances, these officials can serve until a successor is confirmed, without regard to the Vacancies Act. The bill preserves those specific statutes, but, to clearly reject the position of the Justice Department, it expressly repudiates the contention that a law authorizing the head of a department to delegate or reassign duties among other officers is a statute that provides for the temporary filling of a specific office. For the future, Congress will have to expressly provide that it is superseding the Vacancies Act if it wishes to override the Vacancies Act as to the temporary filling of advise and consent provisions.

The bill also establishes a second enforcement mechanism. If a nominee is not submitted to the Senate within 150 days of the vacancy, then the office is vacant until a nominee is submitted. While the routine functions of the office would be allowed to continue, those functions and duties that are specified to be performed by that official could only be performed by the head of the department. In fact, no specified duty of the officeholder that existed by regulation for the 180 days preceding the vacancy could be diminished in an effort to avoid the bill's vacant office provisions. However, if the President submits a nomination at any point after the 150 days, the acting officer would again be allowed to serve while the nomination was pending in the Senate, until confirmation, or until 150 days after the rejection, withdrawal, or return of the nomination. Actions taken by any acting official in violation of these provisions would be of no effect, and no one would be permitted to ratify the actions of the acting official that were taken in violation of the vacant office provisions.

Enforcement is further enhanced by requiring each executive agency to report to the Comptroller General the existence of vacancies, the names of persons serving as acting officers and when such service began, the name of any nominee and when such nomination was submitted to the Senate, and the final disposition of the nomination. The Comptroller General will then notify the Congress, the President, and the Office of Personnel Management when the 150 day limitations have been reached.

Mr. President, the Framers established a system for appointing important officials in which the President and the Senate would each play a role. Not only did the Framers wish to ensure that more than one person's wisdom was brought to the appointment process, but that the President, in selecting nominees, would be aware that they would face scrutiny. When a vacancy occurs in such an office, it is important to establish a process that permits the routine operation of the government to continue, but that will not allow the evasion of the Senate's constitutional authority to advise and consent to nominations. I am pleased that a number of my colleagues are joining with me to formulate a structure that will achieve these ends. I look forward to the Senate's passage of this legislation in the near future.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Vacancies Reform Act of 1998".

SEC. 2. FEDERAL VACANCIES AND APPOINTMENTS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended by striking sections 3345 through 3349 and inserting the following:

"§ 3345. Acting officer

"(a) If an officer of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

"(1) the first assistant of such officer shall perform the functions and duties of the office temporarily in an acting capacity, subject to the time limitations of section 3346; or

"(2) notwithstanding paragraph (1), the President (and only the President) may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the office temporarily in an acting capacity, subject to the time limitations of section 3346.

"(b) Notwithstanding section 3346(a)(2), a person may not serve as an acting officer for an office under this section, if—

"(1) on the date of the death, resignation, or beginning of inability to serve of the applicable officer, such person serves in the position of first assistant to such officer;

"(2) during the 365-day period preceding such date, such person served in the position of first assistant to such officer for less than 180 days; and

"(3) the President submits a nomination of such person to the Senate for appointment to such office.

"(c) With respect to the office of the Attorney General of the United States, the provisions of section 508 of title 28 shall be applicable.

"§ 3346. Time limitation

"(a) The person serving as an acting officer as described under section 3345 may serve in the office—

"(1) for no longer than 150 days beginning on the date the vacancy occurs; or

"(2) subject to subsection (b), once a first or second nomination for the office is submitted to the Senate, for the period that the nomination is pending in the Senate.

"(b)(1) If the first nomination for the office is rejected by the Senate, withdrawn, or returned to the President by the Senate, the person may continue to serve as the acting officer for no more than 150 days after the date of such rejection, withdrawal, or return.

"(2) If a second nomination for the office (of a different person than first nominated in the case of a rejection or withdrawal) is submitted to the Senate during the 150-day period after the rejection, withdrawal, or return of the first nomination, the person serving as the acting officer may continue to serve—

"(A) until the second nomination is confirmed; or

"(B) for no more than 150 days after the second nomination is rejected, withdrawn, or returned.

"(c) If a person begins serving as an acting officer during an adjournment of the Congress sine die, the 150-day period under subsection (a) shall begin on the date that the Senate first reconvenes.

"§ 3347. Application

"(a) Sections 3345 and 3346 are applicable to any office of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) for which appointment is required to be made by the President, by and with the advice and consent of the Senate, unless—

"(1) another statutory provision expressly provides that such provision supersedes sections 3345 and 3346;

"(2) a statutory provision in effect on the date of enactment of the Federal Vacancies Reform Act of 1998 expressly authorizes the President, or the head of an Executive department, to designate an officer to perform the functions and duties of a specified office temporarily in an acting capacity; or

"(3) the President makes an appointment to fill a vacancy in such office during the recess of the Senate pursuant to clause 3 of section 2 of article II of the United States Constitution.

"(b) Any statutory provision providing general authority to the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) to delegate duties to, or to reassign duties among, officers or employees of such Executive agency, is not a statutory provision to which subsection (a)(2) applies.

"§ 3348. Vacant office

"(a) In this section—

"(1) the term 'action' includes any agency action as defined under section 551(13); and

"(2) the term 'function or duty' means any function or duty of the applicable office that—

"(A)(i) is established by statute; and

"(ii) is required by statute to be performed by the applicable officer (and only that officer); or

"(B)(i)(I) is established by regulation; and

"(II) is required by such regulation to be performed by the applicable officer (and only that officer); and

"(ii) includes a function or duty to which clause (i) (I) and (II) applies, and the applicable regulation is in effect at any time during the 180-day period preceding the date on which the vacancy occurs, notwithstanding any regulation that—

"(I) is issued on or after the date occurring 180 days before the date on which the vacancy occurs; and

"(II) limits any function or duty required to be performed by the applicable officer (and only that officer).

"(b) Subject to section 3347 and subsection (c)—

"(1) if the President does not submit a first nomination to the Senate to fill a vacant office within 150 days after the date on which a vacancy occurs—

"(A) the office shall remain vacant until the President submits a first nomination to the Senate; and

"(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until a nomination is made in accordance with subparagraph (A);

"(2) if the President does not submit a second nomination to the Senate within 150 days after the date of the rejection, withdrawal, or return of the first nomination—

"(A) the office shall remain vacant until the President submits a second nomination to the Senate; and

"(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until a nomination is made in accordance with subparagraph (A); and

"(3) if an office is vacant after 150 days after the rejection, withdrawal, or return of the second nomination—

"(A) the office shall remain vacant until a person is appointed by the President, by and with the advice and consent of the Senate; and

"(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until an appointment is made in accordance with subparagraph (A).

"(c) If the last day of any 150-day period under subsection (b) is a day on which the Senate is not in session, the first day the Senate is next in session and receiving nominations shall be deemed to be the last day of such period.

"(d)(1) Except as provided under paragraphs (1)(B), (2)(B), and (3)(B) of subsection (b), an action shall have no force or effect if such action—

"(A)(i) is taken by any person who fills a vacancy in violation of subsection (b); and

"(ii) is the performance of a function or duty of such vacant office; or

"(B)(i) is taken by a person who is not filling a vacant office; and

"(ii) is the performance of a function or duty of such vacant office.

"(2) An action that has no force or effect under paragraph (1) may not be ratified.

"(d) This section shall not apply to—

"(1) the General Counsel of the National Labor Relations Board;

"(2) the General Counsel of the Federal Labor Relations Authority; or

"(3) any Inspector General appointed by the President, by and with the advice and consent of the Senate.

"§ 3349. Reporting of vacancies

"(a) The head of each Executive agency (including the Executive Office of the President, and other than the General Accounting Office) shall submit to the Comptroller General of the United States and to each House of Congress—

"(1) notification of a vacancy and the date such vacancy occurred immediately upon the occurrence of the vacancy;

"(2) the name of any person serving in an acting capacity and the date such service began immediately upon the designation;

"(3) the name of any person nominated to the Senate to fill the vacancy and the date such nomination is submitted immediately upon the submission of the nomination; and

"(4) the date of a rejection, withdrawal, or return of any nomination immediately upon such rejection, withdrawal, or return.

"(b) If the Comptroller General of the United States makes a determination that an officer is serving longer than the 150-day period including the applicable exceptions to such period under section 3346, the Comptroller General shall report such determination to—

"(1) the Committee on Governmental Affairs of the Senate;

"(2) the Committee on Government Reform and Oversight of the House of Representatives;

"(3) the Committees on Appropriations of the Senate and House of Representatives;

"(4) the appropriate committees of jurisdiction of the Senate and House of Representatives;

"(5) the President; and

"(6) the Office of Personnel Management.

"§ 3349a. Presidential inaugural transitions

"(a) In this section, the term 'transitional inauguration day' means the date on which any person swears or affirms the oath of office as President, if such person is not the President on the date preceding the date of swearing or affirming such oath of office.

"(b) With respect to any vacancy that exists during the 60-day period beginning on a transitional inauguration day, the 150-day period under section 3346 or 3348 shall be deemed to—

"(1) begin on the later of—

"(A) the date following such transitional inauguration day; or

"(B) the date the vacancy occurs; and

"(2) be a period of 180 days.

"§ 3349b. Holdover provisions relating to certain independent establishments

"With respect to any independent establishment for which a single officer is the head of the establishment, sections 3345 through 3349a shall not be construed to affect any statute that authorizes a person to continue to serve in any office—

"(1) after the expiration of the term for which such person is appointed; and

"(2) until a successor is appointed or a specified period of time has expired.

"§ 3349c. Exclusion of certain officers

"Sections 3345 through 3349b shall not apply to—

"(1) any member who is appointed by the President, by and with the advice and consent of the Senate to any board, commission, or similar entity that—

"(A) is composed of multiple members; and

"(B) governs an independent establishment or Government corporation; or

"(2) any commissioner of the Federal Energy Regulatory Commission.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the matter relating to subchapter III and inserting the following:

"SUBCHAPTER III—DETAILS,
VACANCIES, AND APPOINTMENTS

"3341. Details; within Executive or military departments.
"[3342. Repealed.]
"3343. Details; to international organizations.
"3344. Details; administrative law judges.
"3345. Acting officer.
"3346. Time limitation.
"3347. Application.
"3348. Vacant office.
"3349. Reporting of vacancies.
"3349a. Presidential inaugural transitions.
"3349b. Holdover provisions relating to certain independent establishments.
"3349c. Exclusion of certain officers.".

(2) SUBCHAPTER HEADING.—The subchapter heading for subchapter III of chapter 33 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—DETAILS,
VACANCIES, AND APPOINTMENTS".

SEC. 3. EFFECTIVE DATE AND APPLICATION.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION.—This Act shall apply to any office that—

(1) becomes vacant after the date of enactment of this Act; or

(2) is vacant on such date, except sections 3345 through 3349 of title 5, United States Code (as amended by this Act), shall apply as though such office first became vacant on such date.

Mr. THURMOND. Mr. President, I rise today as an original cosponsor of the Federal Vacancies Reform Act. This legislation is essential to help preserve and strengthen the advice and consent role of the Senate as mandated in the Constitution.

One of the greatest fears of the Founders was the accumulation of too much power in one source, and the separation of powers among the three branches of Government is one of the keys to the success of our great democratic government. An excellent example of the separation of powers is the requirement in Article II, Section 2 of the Constitution that the President receive the advice and consent of the Senate for the appointment of officers of the United States. As Chief Justice Rehnquist wrote for the Supreme Court a few years ago, "The Clause is a bulwark against one branch aggrandizing its power at the expense of another branch."

The Vacancies Act is central to the Appointments Clause because it places limits on the amount of time that the President can appoint someone to an advice and consent position in an acting capacity without sending a nomination to the Senate. However, for many years, the executive branch has failed to comply with the letter of the law. The Vacancies Act has no method of enforcement, so the executive branch just ignores it. When confronted with the act, the Attorney General makes very weak legal arrangements about its inapplicability. This is what the Attorney General did over one year ago when I raised the Vacancies Act at an oversight hearing. At the time, almost all of the top positions at the Justice Department were being filled in an acting capacity. I exchanged letters with her about the Vacancies Act, and detailed the fallacy in her argument. It was to no avail.

I became convinced that legislation to rewrite the vacancies law and provide some remedy for violating it was the only way to get the executive branch to properly respect the advice and consent role of the Senate. Senator LOTT and I introduced legislation earlier this year, and I testified about it before the Governmental Affairs Committee.

I detailed for the Committee some prominent examples of how the Act was being ignored. President Clinton allowed the Criminal Division of the Justice Department to languish for over two and one half years before making an appointment. The Government had an Acting Solicitor General for an entire term of the Supreme Court. Most recently, the President installed an Acting Chief of the Civil Rights Division in blatant disregard of the Judiciary Committee's decision not to support his controversial choice.

However, let me be clear. This bill is not about any one President or any one nominee. It is about preserving the institutional role of the Senate. A Republican President has no more right to ignore the appointments process than a Democrat President.

Today, Senator THOMPSON, Senator BYRD, Senator LOT, and I are introducing a bipartisan bill to address the problem. It gives the President 150 days to send a nomination rather than the current 120 days. If he does not comply, the office must remain vacant and the actions of any person acting in that office after that time are null and void, until a nominee is forwarded to the Senate. The bill also clarifies the application of the Vacancies Act to reject the Attorney General's flawed interpretation.

Mr. President, we must act to preserve the advice and consent role of the Senate. As the Supreme Court has stated, "The structural interests protected by the Appointments Clause are not those of any one branch of Government but of the entire Republic." Reforming the vacancies law is essential in this regard. Let us reaffirm the separation of powers for the sake of the Senate and the entire Republic.

By Mr. INOUYE:

S. 2177. A bill to express the sense of the Congress that the President should award a Presidential unit citation to the final crew of the U.S.S. *Indianapolis*, which was sunk on July 30, 1945; to the Committee on Armed Services.

PRESIDENTIAL UNIT CITATION TO THE USS INDIANAPOLIS

• Mr. INOUYE. Mr. President, today I am introducing a Sense of the Congress bill which calls upon the President to award a Presidential Unit Citation to the final crew of the U.S.S. *Indianapolis* (CA-35) that recognizes the courage, fortitude, and heroism displayed by the crew in the face of tremendous hardship and adversity after their ship was torpedoed and sunk on July 30, 1945.•

By Mr. KOHL (for himself and D'AMATO):

S. 2178. A bill to amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages for the acquisition, construction, or substantial rehabilitation of child care and development facilities and to establish the Children's Development Commission to certify such facilities for such insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CHILDREN'S DEVELOPMENT COMMISSION ACT

• Mr. KOHL. Mr. President, today I introduce the Children's Development Commission Act. I am pleased to be joined in this by my friend, Senator

D'AMATO. He brings to this endeavor a deep understanding of the nation's capital markets and a deep concern for the well being of this country's children. In the House of Representatives, Representatives MALONEY and BAKER have already introduced a companion measure, H.R. 3637.

Our legislation is designed to address the credit market's failure to provide sufficient long term financing for the building and renovation of child care centers, after-school care programs, infant care, and family child care homes. Because the profit margin in such centers is very low, and the perceived risk is great, lenders are often unwilling to lend to child care operations. This is true despite the fact that an overwhelming number of studies show a shortage in the supply of quality child care—especially in urban areas, in low income areas, and for certain types of care (infant care, school age care, off-hour care).

The Children's Development Commission Act creates a loan guarantee program through HUD to provide insurance to lenders willing to put up money for child care center mortgages, leases, or renovations. The program is modeled closely on the successful Section 232 HUD program that provides mortgage insurance for elder-care facilities.

The bill also creates a "Children's Development Commission" or "Kiddie Mac" which: (1) certifies child care development facilities eligible for guaranteed financing; (2) establishes the standards necessary to make such certification; (3) makes small purpose loans to child care facilities for reconstruction and renovation; (4) develops a plan to offer low cost liability and fire insurance to child care providers; and (5) creates a research foundation to support research into child care supply issues, fund pilot programs for improving child care, and publishes material for those interested in getting mortgage insurance through HUD.

Congress will make one $10 million appropriation to fund the Kiddie Mac's incorporation and its micro-loan program; after that, a stock offering will fund Kiddie Mac until its financial activities and fee collection make it self-financing.

The need, and the will, to take this sort of step to increase the supply of quality child care is evident. When I ran for Congress in 1988, I talked about the importance of child care. At best, I received a polite smile of interest, and then the discussion would move on to the pressing issues of the day—the environment, the budget deficit, health care.

Today, child care is being discussed earnestly at dinner tables across the nation and in Committee rooms all over the Capitol. Almost everyone has a personal story about trying to secure good child care, about trying to help an employee find good child care, about the terrible shortage of quality child care in their town or city.

We have always talked about the necessities of life as being food, clothing and shelter. I think it is time we add a fourth—quality child care. It is necessary to give our children the strong start they need. It is necessary if we are going to take advantage of the tremendous ability to learn in the first three years of life.

And quality child care is necessary in order for the growing number of families in which both parents work, for the growing number of single parent families to be able to earn a living, and for businesses that want to attract and retain productive, happy employees.

Unfortunately, by every measure and in every state, quality child care is in short supply. And in most areas of the country, the sweeping welfare reform we passed last year has exacerbated existing shortages. In my State of Wisconsin, the State's welfare reform plan will generate the need for 8000 new child care slots in Milwaukee Country alone. And in New York City, by the year 2001, there will be 30,000 more children who need child care than there are child care spaces for them.

The shortage is not just one of child care slots, but of quality child care slots. One major study showed that seven out of ten child care centers provide mediocre care, while one in eight is so inadequate that the health and safety of the children are threatened. Another survey found that more than half of parents with children in child care worry weekly about whether their children are well-served in their current arrangements.

Kiddie Mac will help address these shortfalls in several ways. It will lower the costs of those setting up child care facilities, home child care, or preschools. By guaranteeing child care facility mortgages and leases, Kiddie Mac lowers the start-up costs to facilities allowing them to pass the savings on to teachers in the form of higher salaries and parents in the form of lower fees. Kiddie Mac will also provide loan guarantees to facilities that want to upgrade and providing micro-loans for small repairs related to licensing. This will allow existing centers and homes, even very small ones, to bring their facilities up to—and beyond—code.

Kiddie Mac is a market-based, small-government approach to moving capital toward a very wise investment in quality child care. Kiddie Mac's services will be available to any organization who can show they will provide quality child care: businesses, nonprofits, churches or synagogues, family home providers, or after-school programs. Decisions as to how much and how the care will be provided are left where they belong: with the local providers, with local communities, and with the parents.

Mr. President, I ask unanimous consent that the text of the Children's Development Act be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Development Commission Act".

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds the following:

(1) The need for quality nursery schools, both full-time and part-time child care centers and after-school programs, after school programs, neighborhood-run mothers-day-out programs, and family child care providers has grown among working parents, and parents who stay at home, who want their children to have access to early childhood education.

(2) All parents should have access to safe, stimulating, and educational early childhood education programs for their children, whether such programs are carried out in a child care center, a part-time nursery school (including a nursery school operated by a religious organization), or a certified child care provider's home.

(3) The number of available enrollment opportunities for children to receive quality child care services is not meeting the demand for such services.

(4) In 1995 there were about 21,000,000 children less than 6 years of age, of whom 31 percent were participating in center-based child care services and 14 percent were receiving child care in homes. Between 1992 and 2005 the participation of women 24 to 54 years of age in the labor force is projected to increase from 75 percent to 83 percent.

(5) In States that have set up a mechanism to provide capital improvements for child care facilities, the demand for services of such facilities still has not been met.

(6) The United States is behind other western, industrialized countries when it comes to providing child care services. In France, almost 100 percent of all children 3 to 5 years of age attend nursery school. In Germany this number is 65 to 70 percent. In Japan 90 percent of such children attend some form of preschool care. In all of these countries early childhood care has proven to increase children's development and performance.

SEC. 3. INSURANCE FOR MORTGAGES ON NEW AND REHABILITATED CHILD CARE AND DEVELOPMENT FACILITIES.

Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following:

"MORTGAGE INSURANCE FOR CHILD CARE AND DEVELOPMENT FACILITIES

"SEC. 257. (a) PURPOSE.—The purpose of this section is to facilitate and assist in the provision and development of licensed child care and development facilities.

"(b) GENERAL INSURANCE AUTHORITY.—The Secretary may insure mortgages (including advances on such mortgages during construction) in accordance with the provisions of this section and upon such terms and conditions as the Secretary may prescribe and may make commitments for insurance of such mortgages before the date of their execution or disbursement thereon.

"(c) ELIGIBLE MORTGAGES.—To carry out the purpose of this section, the Secretary may insure any mortgage that covers a new child care and development facility, including a new addition to an existing child care and development facility (regardless of whether the existing facility is being rehabilitated), or a substantially rehabilitated child care and development facility, including equipment to be used in the operation of the facility, subject to the following conditions:

“(1) Approved mortgagor.—The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may, in the discretion of the Secretary, require any such mortgagor to be regulated or restricted as to charges and methods of financing and, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not more than $100 such stock or interest in such mortgagor as the Secretary may consider necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

“(2) Principal obligation.—The mortgage shall involve a principal obligation in an amount not to exceed 90 percent of the estimated value of the property or project, or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (as such term is defined pursuant to section 221(d)(3)), including—

“(A) equipment to be used in the operation of the facility when the proposed improvements are completed and the equipment is installed; or

“(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a)) or residential energy conservation measures (as defined in subparagraphs (A) through (G) and (I) of section 210(11) of the National Energy Conservation Policy Act), in cases in which the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

“(3) Amortization and interest.—The mortgage shall—

“(A) provide for complete amortization by periodic payments under such terms as the Secretary shall prescribe;

“(B) have a maturity satisfactory to the Secretary, but in no event longer than 25 years; and

“(C) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, and the Secretary shall not issue any regulations or establish any terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate.

“(d) Certification by Children’s Development Commission.—The Secretary may not insure a mortgage under this section unless the Children’s Development Commission established under section 258 certifies that the facility is in compliance, or will be in compliance not later than 12 months after such certification, with—

“(1) any laws, standards, and requirements applicable to such facilities under the laws of the State, municipality, or other unit of general local government in which the facility is or is to be located; and

“(2) after the effective date of the standards and requirements established under section 258(c)(2), such standards and requirements.

“(e) Release.—The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as the Secretary may prescribe.

“(f) Mortgage Insurance Terms.—The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this section, except that all references in such subsections to section 207 shall be considered, for purposes of mortgage insurance under this section, to refer to this section.

“(g) Mortgage Insurance for Fire Safety Equipment Loans.—

“(1) Authority.—The Secretary may, upon such terms and condition as the Secretary may prescribe, make commitments to insure and insure loans made by financial institutions or other approved mortgagees to child care and development facilities to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association (or any subsequent edition specified by the Secretary of Health and Human Services).

“(2) Loan requirements.—To be eligible for insurance under this subsection a loan shall—

“(A) not exceed the Secretary’s estimate of the reasonable cost of the equipment fully installed;

“(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

“(C) have a maturity satisfactory to the Secretary;

“(D) be made by a financial institution or other mortgagee approved by the Secretary as eligible for insurance under section 2 or a mortgagee approved under section 203(b)(1);

“(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe; and

“(F) be made with respect to a child care and development facility that complies with the requirement under subsection (d).

“(3) Insurance requirements.—The provisions of paragraphs (5), (6), (7), (9), and (10) of section 220(h) shall apply to loans insured under this subsection, except that all references in such paragraphs to home improvement loans shall be considered, for purposes of this subsection, to refer to loans under this subsection. The provisions of subsections (c), (d), and (h) of section 2 shall apply to loans insured under this subsection, except that all references in such subsections to ‘this section’ or ‘this title’ shall be considered, for purposes of this subsection, to refer to this subsection.

“(h) Schedules and Deadlines.—The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section.

“(i) Definitions.—For the purposes of this section, the following definitions shall apply:

“(1) Child care and development facility.—The term ‘child care and development facility’ means a public facility, proprietary facility, or facility of a private nonprofit corporation or association that—

“(A) has as its purpose the care and development of children less than 12 years of age; and

“(B) is licensed or regulated by the State in which it is located (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located).

The term does not include facilities for school-age children primarily for use during normal school hours. The term includes facilities for training individuals to provide child care and development services.

“(2) Equipment.—The term ‘equipment’ includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and any other items necessary for the functioning of a particular facility as a child care and development facility, including necessary furniture. Such term includes books, curricular, and program materials.

“(3) Mortgage; first mortgage; mortgagee.—The term ‘mortgage’ means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof under a lease having a period of not less than 7 years to run beyond the maturity date of the mortgage. The term ‘first mortgage’ means such classes of first liens as are commonly given to secure advances (including advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments (if any) secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty. The term ‘mortgagor’ has the meaning given the term in section 207(a).

“(j) Limitation on Insurance Authority.—

“(1) Termination.—No mortgage may be insured under this section or section 223(h) after September 30, 2005, except pursuant to a commitment to insure issued on or before such date.

“(2) Aggregate principal amount limitation.—The aggregate principal amount of mortgages for which the Secretary enters into commitments to insure under this section or section 223(h) on or before the date under paragraph (1) may not exceed $2,000,000,000. If, upon the date under paragraph (1), the aggregate insurance authority provided under this paragraph has not been fully used, the Secretary of the Treasury shall submit a report to Congress evaluating the need for continued mortgage insurance under this section.”.

“(k) Regulations.—The Secretary shall issue any regulations necessary to carry out this section. In issuing such regulations, the Secretary shall consult with the Secretary of Health and Human Services with respect to any aspects of the regulations regarding child care and development facilities.”.

SEC. 4. INSURANCE FOR MORTGAGES FOR ACQUISITION OR REFINANCING DEBT OF EXISTING CHILD CARE AND DEVELOPMENT FACILITIES.

Section 223 of the National Housing Act (12 U.S.C. 1715n) is amended by adding at the end the following:

“(h) Mortgage Insurance for Purchase or Refinancing of Existing Child Care and Development Facilities.—

“(1) Authority.—Notwithstanding any other provision of this Act, the Secretary may insure under any section of this title a mortgage executed in connection with the purchase or refinancing of an existing child care and development facility, the purchase of a structure to serve as a child care and development facility, or the refinancing of existing debt of an existing child care and development facility.

“(2) Purchase of existing facilities and structures.—In the case of the purchase under this subsection of an existing child care and development facility or purchase of an existing structure to serve as such a facility, the Secretary shall prescribe any terms and conditions that the Secretary considers necessary to ensure that—

"(A) the facility or structure purchased continues to be used as a child care and development facility; and

"(B) the facility complies with the same requirements applicable under subsections (d) and (e) of section 257 to facilities having mortgages insured under such section.

"(3) Refinancing of existing facilities.—In the case of refinancing of an existing child care and development facility, the Secretary shall prescribe any terms and conditions that the Secretary considers necessary to ensure that—

"(A) the refinancing is used to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of the existing facility;

"(B) the proceeds of any refinancing will be employed only to retire the existing indebtedness and pay the necessary cost of refinancing on the existing facility;

"(C) the existing facility is economically viable; and

"(D) the facility complies with the same requirements applicable under section 257(d) to facilities having mortgages insured under such section.

"(4) Definitions.—For purposes of this subsection, the terms defined in section 257(i) shall have the same meanings as provided under such section.

"(5) Limitation on insurance authority.—The authority of the Secretary to enter into commitments to insure mortgages under this subsection is subject to the limitations under section 257(j).".

SEC. 5. CHILDREN'S DEVELOPMENT COMMISSION.

Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end (after section 257, as added by section 3 of this Act) the following:

"CHILDREN'S DEVELOPMENT COMMISSION

"Sec. 258. (a) Establishment.—There is hereby established a commission to be known as the Children's Development Commission.

"(b) Membership.—

"(1) Appointment.—The Commission shall be composed of 7 members appointed by the President, not later than the expiration of the 3-month period beginning upon the enactment of this section, by and with the advice and consent of the Senate, as follows:

"(A) 1 member shall be appointed from among 3 individuals recommended by the Secretary of Housing and Urban Development or the Secretary's designee.

"(B) 1 member shall be appointed from among 3 individuals recommended by the Secretary of Health and Human Services or the Secretary's designee.

"(C) 1 member shall be appointed from among 3 individuals recommended by the Secretary of the Treasury or the Secretary's designee.

"(D) 4 members shall be appointed from among 12 individuals recommended jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, Minority Leader of the House of Representatives, the Minority Leader of the Senate.

"(2) Qualifications of congressionally recommended members.—Of the members appointed under paragraph (1)(D)—

"(A) each shall be an individual who actively participates or is employed in the field of child care and has academic, licensing, or other credentials relating to such participation or employment; and

"(B) not more than 2 may be of the same political party.

"(3) Terms.—Each appointed member of the Commission shall serve for a term of 3 years.

"(4) Vacancies.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(5) Chairperson.—The chairperson of the Commission shall be designated by the President at the time of appointment.

"(6) Quorum.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(7) Voting.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

"(8) Prohibition on additional pay.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(c) Functions.—The Commission shall carry out the following functions:

"(1) Certification of compliance.—The Commission shall collect such information and make such determinations as may be necessary to determine, for purposes of section 257(d), whether child care and development facilities comply, or will be in compliance within 12 months, with—

"(A) any laws, standards, and requirements applicable to such facilities under the laws of the State, municipality, or other unit of general local government in which the facility is or is to be located, and

"(B) after the effective date of the standards and requirements established under paragraph (2), such standards and requirements,

and shall issue certifications of such compliance.

"(2) Establishment of standards.—

"(A) Study.—Not later than 12 months after the date on which appointment of initial membership of the Commission is completed, the Commission, in consultation with the Secretary of Housing and Urban Development and the Secretary of Health and Human Services, shall conduct a study to determine the laws, standards, and requirements referred to in paragraph (1)(A) that are applicable in each State. Taking into consideration the findings of the study, the Secretary shall establish standards and requirements regarding child care and development facilities that are designed to ensure that mortgage insurance is provided under section 257 and section 223(h) only for safe, clean, and healthy facilities that provide appropriate care and development services for children.

"(B) Publication.—The Commission shall issue regulations providing for the standards and requirements established under subparagraph (A) to take effect, for purposes of sections 257(d)(2) and 223(h)(2)(B) and paragraph (1)(B) of this section, not later than 18 months after the date of enactment of this section.

"(3) Small purpose loans.—The Commission shall, to the extent amounts are made available for such purpose pursuant to subsection (i) and qualified requests are received, make loans, directly or indirectly to providers of child care and development facilities for reconstruction or renovation of such facilities, subject to the following requirements:

"(A) Loans under this paragraph shall be made only for such facilities that are financially and operationally viable, as determined under standards and guidelines to be established by the Commission.

"(B) The aggregate amount of loans made under this paragraph to a single borrower may not exceed $50,000.

"(C) A loan made under this paragraph may not have a term to maturity exceeding 7 years.

"(D) Loans under this paragraph shall bear interest at rates and be made under such other conditions and terms as the Commission shall provide.

"(4) Notification.—The Commission shall take such actions as may be necessary to publicize the availability of the programs for mortgage insurance under sections 257 and 223(h) and loans under paragraph (3) of this subsection in a manner that ensures that information concerning such programs will be available to child care providers throughout the United States.

"(5) Liability insurance.—Not later than 12 months after the date on which appointment of initial membership of the Commission is completed, the Commission shall establish standards and guidelines, applicable to mortgage insurance under sections 257 and 223(h) and loans under paragraph (3) of this subsection, requiring child care providers operating child care and development facilities assisted under such provisions to obtain and maintain liability insurance in such amounts and subject to such requirements as the Commission considers appropriate.

"(6) Research foundation.—Not later than 12 months after the date of enactment of this section, the Commission shall submit a report to Congress recommending a plan for establishing and funding a foundation that is an entity independent of the Commission (but which maintains association with the Commission), the purpose of which shall be—

"(A) to support research relating to child care and development facilities;

"(B) to fund pilot programs to test innovative methods for improving child care; and

"(C) to engage in activities and publish materials to assist persons interested in mortgage insurance under sections 257 and 223(h) and other assistance provided by the Commission.

"(d) Nondiscrimination Requirement.—

"(1) In general.—The Commission may not certify under subsection (c)(1) or carry out any activities of the Commission with respect to any child care and development facility if the provider of the facility discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.)), or handicapping condition.

"(2) Facilities of religious organizations.—The prohibition with respect to religion shall not apply to a child care and development facility which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this subsection would not be consistent with the religious tenets of such organization.

"(3) Certification.—As a condition of certification under subsection (c)(1) and eligibility for a loan under subsection (c)(3), the provider of a child care and development facility shall certify to the Commission that the provider does not discriminate, as required by the provisions of paragraph (1) of this subsection.

"(e) POWERS.—

"(1) ASSISTANCE FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the Federal Government such information as the Commission may require for carrying out its functions. Upon request of the Commission, any such department or agency shall furnish such information.

"(2) ASSISTANCE FROM GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(3) ASSISTANCE FROM DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—Upon the request of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its functions under this section.

"(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

"(f) STAFF.—

"(1) EXECUTIVE DIRECTOR.—The Commission shall appoint an executive director of the Board, who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level I of the Executive Schedule under title 5, United States Code.

"(2) OTHER PERSONNEL.—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as the Commission considers necessary, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(g) REPORTS.—Not later than March 31 of each year, the Commission shall submit a report to the President and Congress regarding the operations and activities of the Commission during the preceding calendar year. Each annual report shall include a copy of the Commission's financial statements and such information and other evidence as is necessary to demonstrate that the activities of the Commission during the year for which the report is made. The Commission may also submit reports to Congress and the President at such other times as the Commission deems desirable.

"(h) DEFINITIONS.—For purposes of this section, the terms defined in section 257(i) shall have the same meanings as provided under such section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission to carry out this section $10,000,000 for fiscal year 1999, to remain available until expended, of which not more than $2,500,000 shall be available for administrative costs of the Commission and the remainder of which shall be available only for loans under subsection (c)(3).".

SEC. 6. STUDY OF AVAILABILITY OF SECONDARY MARKETS FOR MORTGAGES ON CHILD CARE FACILITIES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the secondary mortgage markets to determine—

(1) whether such a market exists for purchase of mortgages eligible for insurance under sections 223(h) and 257 of the National Housing Act (as added by this Act);

(2) whether such a market would affect the availability of credit available for development of child care and development facilities or would lower development costs of such facilities; and

(3) the extent to which such a market or other activities to provide credit enhancement for child care and development facilities loans is needed to meet the demand for such facilities.

(b) REPORT.—The Secretary of the Treasury shall submit to Congress a report regarding the results of the study conducted under this section not later than the expiration of the 2-year period beginning on the date of enactment of this Act.●

● Mr. D'AMATO. Mr. President, today I cosponsor the Children's Development Commission Act of 1998. I commend my friend and respected colleague, Senator HERB KOHL for introducing this critical piece of legislation which addresses a serious problem facing American families today—the shortage of affordable, quality child care.

America is facing a shortage of quality child care which is approaching crisis levels. This shortage bears most heavily on working families, including young working single mothers. Every day more than 5 million children under age 13 are left unattended after school. The parents of these children deserve meaningful, affordable child care options.

The high cost of child care impacts directly on families, affecting their ability to pay the rent or mortgage, to put food on the table or to save for their children's education. The lack of decent, high quality child care also impedes the development of critical learning skills these children will need in order to succeed later in life. Social and medical research continues to stress the importance of the first three years of development on a child's well-being and ability to learn.

In New York, the average cost of day care is over $6,000 per year—and many families end up paying nearly $10,000 per year. Many families are unable to locate quality child care at all, as evidenced by the long waiting lists at existing centers. In New York City, approximately 28,000 families are on waiting lists for assistance under the Child Care Development Block Grant Program.

Mr. President, as more families make the difficult transition from welfare to work, waiting lists for affordable care and assistance will likely increase significantly. As a result of welfare reform, by the year 2002, there may be as many as 135,000 additional infants and toddlers in New York who will need affordable quality child care.

These high costs and the overall shortage of quality care are found in all areas of my home State—cutting across urban and rural boundaries. The New York Human Services Administration estimates that more than two-thirds of children in the Morrisania section of the Bronx and more than seventy percent of children in the Brownsville section of Brooklyn are in need of child care.

This shortage extends to rural areas of New York as well—for example, in Allegany, Hamilton, Washington and Yates counties there are no registered programs for school age children. Twenty of my State's sixty two counties have three or fewer registered school-age programs.

The Child Care Development Commission Act will employ a number of cost-effective strategies to increase the availability and affordability of child care throughout the nation.

First, the legislation would reduce lender risk by creating a new insurance authority within the Department of Housing and Urban Development's Federal Housing Administration (FHA). Using this new authority, FHA will provide loan guarantees for child care facilities. This will in turn spur the provision of private capital for the construction of new child care centers, the improvement of existing facilities and the cost of purchasing and installing fire safety equipment.

Second, the Act will create a new streamlined Commission—known informally as "Kiddie Mac." The Commission will provide reasonable low-cost "micro-loans" for the renovation and improvement of existing facilities. In addition, the Commission will certify that facilities receiving FHA insurance meet state and local standards, such as licensing and child safety requirements.

Mr. President, The Children's Development Commission Act is an important step in ensuring that child care facilities can gain access to private market credit. Representatives Carolyn Maloney and Richard Baker have introduced companion legislation (H.R. 3637) in the House of Representatives. They deserve our praise for their diligence in addressing this issue.

The Children's Development Commission Act makes an investment in our children, an investment in our families and an investment in our future. I look forward to working with my Senate and House colleagues for its enactment.●

By Ms. MOSELEY-BRAUN:

S. 2179. A bill to amend the International Emergency Economic Powers Act to clarify the conditions under which export controls may be imposed on agricultural products; to the Committee on Banking, Housing, and Urban Affairs.

SELECTIVE AGRICULTURE EMBARGO PROHIBITION ACT OF 1998

Ms. MOSELEY-BRAUN. Mr. President, in January 1980, President Jimmy Carter terminated U.S. shipments of wheat and corn to the Soviet Union in retaliation against the Soviet invasion of Afghanistan. The effect of this embargo on the USSR was limited, but the impact on American farmers was severe, cutting off the market for 17 million tons of U.S. grain and prompting the Soviets to reduce long term reliance on U.S. farm exports.

This action unfairly singled out the agriculture community to shoulder the burden of U.S. foreign policy. Congress quickly responded by limiting the President's power to impose restrictions on agriculture exports. The Export Administration Act, the principal export control statute of the era, was amended to include provisions to prohibit the President from imposing export controls on farm commodities for more than sixty days without Congressional approval.

The Export Administration Act expired August 20, 1994, however, and consequently, the legal protections that prevent the singling out of agriculture exports are no longer in place.

The current statutory vehicle that allows the President to impose economic sanctions is the International Emergency Economic Powers Act, also known by its acronym, IEEPA. The IEEPA allows the President to employ a wide range of sanctions against countries determined to be a threat to U.S. national security, foreign policy, or economy. If the President chooses to act under IEEPA, he can then declare a national emergency, and then is required to report to Congress explaining his actions. Sanctions authorized under IEEPA can continue until the President decides to terminate the emergency, or unless Congress acts to terminate it by joint resolution.

The President enjoys almost unlimited authority under IEEPA. The statute requires the President to consult with Congress on his actions, but this consultation is discretionary, not mandatory. Most importantly, nothing in IEEPA prevents a President from targeting American agriculture as a tool for sanctions or embargos against a foreign nation.

My bill, the Selective Agriculture Embargo Prohibition Act, simply restores the protection against selective embargos that farmers enjoyed before the EAA was allowed to lapse. Under the provisions of my bill, a President who imposes an embargo on agriculture commodities, using the authority provided by IEEPA, must report this action immediately to Congress. The President also must set forth the reasons, in detail, for this action, and specify the period of time, which may not exceed one year, that the agriculture export controls are proposed to be in effect.

My bill allows Congress 60 days after receiving the report to adopt a joint resolution approving the agriculture exports controls. If Congress fails to adopt that resolution within 60 days, then the controls shall cease to be effective upon the expiration of the 60 days.

Entering and expanding into foreign markets is not a simple task. It requires years of extensive work to nurture business relationships, foster consumer confidence and trust, and establish the procedures for effective sales. Destroying foreign markets, by comparison, can occur swiftly and easily, wreaking long-lasting and largely irreparable damage on American industries that have invested the time and money to build a strong consumer base overseas. Those foreign purchasers who cannot rely on American imports will then turn to other sources—our foreign competitors—and shut out American products for good.

That kind of damage was precisely the effect of the 1980 embargo on U.S. agriculture. And given the almost logarithmic increases in U.S. farm exports over the past decade, any sanction or embargo that targets agriculture today would have even greater devastating and permanent effects on the U.S. farm economy. We must ensure that this sort of mistake is never repeated.

There will be critics who argue that my legislation ties the hands of the President. This is not the case. My bill simply ensures that we do not embargo agriculture commodities unless both the President and the Congress are in full agreement. My bill ensures that adequate safeguards are in place so that farm families do not unfairly shoulder the burden of American foreign policy.

This legislation is very similar to the restrictions enacted three times by Congress during consideration of the Export Enhancement Act and later signed into law by President Ronald Reagan. This is a bipartisan bill is also good trade policy, good farm policy, and good economic policy. I urge my colleagues to support the swift passage of this bill in the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Selective Agriculture Embargo Prohibition Act".

SEC. 2. AGRICULTURAL EXPORT CONTROLS.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

"SEC. 208. AGRICULTURAL CONTROLS.

"(a) In General.—

"(1) Report to congress.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(2) Application of paragraph (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

"(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

"(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(b) Joint Resolution.—

"(1) In general.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on .', with the blank space being filled with the appropriate date.

"(2) Introduction.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) Referral.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

"(4) Discharge of committee.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) Consideration in senate and house of representatives.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) PASSAGE BY 1 HOUSE.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(c) COMPUTATION OF TIME.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.".

By Mr. LOTT (for himself and Mr. DASCHLE):

S. 2180. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions; to the Committee on Environment and Public Works.

THE SUPERFUND RECYCLING EQUITY ACT OF 1998

Mr. LOTT. Mr. President, today, I am pleased to join my colleague, Senate Minority Leader DASCHLE, in introducing legislation which removes an unintended yet troublesome legal obstacle to recycling.

It is not a widely known fact that Superfund is biased against recycling. I am confident that the authors of the statute did not intend to favor new materials over those that have been recycled, but we now live with this unintended consequence.

Mr. President, our bill corrects current law and encourages recycling. It simply recognizes that recycling is not disposal and that recyclables are not wastes. Common sense tells us that recycling something is not the same as disposing of it.

Nonetheless, Mr. President, those who sell materials for recycling are being pulled into Superfund cleanups because, under the law, selling recyclable materials is equivalent to "arranging for disposal." Our bill waives Superfund liability for those who are legitimately recycling these goods. Clearly, recycling is not disposal—it is the opposite.

The Superfund Recycling Equity Act is necessary to correct Superfund's fundamental bias against recycled materials. Under current law, recyclable materials, such as paper, glass, plastic, metals and textiles cannot be competitive with new materials. This bill will help level the playing field between the use of recycled goods and competitive virgin raw materials. Currently, suppliers of virgin raw materials face no Superfund liability for contamination caused by their customer. This bill would provide the same waiver to those who sell recyclable materials.

Mr. President, this bill also contains protections to ensure that sham recyclers are unable to benefit from this exemption. In order for recyclers to be relieved of Superfund liability, they must act in an environmentally sound manner and sell their product to manufacturers with environmentally responsible business practices. Considering that most recyclers are currently operating in a reasonable and conscience manner, this should be an easy test.

Mr. President, the Superfund Recycling Equity Act is the product of lengthy negotiations between the federal and state governments, the environmental community and the scrap recycling industry. These negotiations have resulted in a bill that I believe to be both environmentally and fiscally sound.

Americans nationwide have embraced the benefits of recycling. We know that increased recycling means the more efficient use of our natural resources. By removing the threat of Superfund liability for recyclers, we will encourage more recycling.

I hope that my colleagues on both sides of the aisle will lend their support to this targeted and much-needed reform bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Superfund Recycling Equity Act of 1998".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to promote the reuse and recycling of scrap material in furtherance of the goals of waste minimization and natural resource conservation while protecting human health and the environment;

(2) to create greater equity in the statutory treatment of recycled versus virgin materials; and

(3) to remove the disincentives and impediments to recycling created as an unintended consequence of the 1980 Superfund liability provisions.

SEC. 3. CLARIFICATION OF LIABILITY UNDER CERCLA FOR RECYCLING TRANSACTIONS.

(a) CLARIFICATION.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following new section:

"SEC. 127. RECYCLING TRANSACTIONS.

"(a) LIABILITY CLARIFICATION.—As provided in subsections (b), (c), (d), and (e), a person who arranged for recycling of recyclable material shall not be liable under section 107(a)(3) or 107(a)(4) with respect to the material.

"(b) RECYCLABLE MATERIAL DEFINED.—For purposes of this section, the term 'recyclable material' means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap; except that such term shall not include shipping containers of a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substance that form an integral part of the container) contained in or adhering thereto.

"(c) TRANSACTIONS INVOLVING SCRAP PAPER, PLASTIC, GLASS, TEXTILES, OR RUBBER.—Transactions involving scrap paper, scrap plastic, scrap glass, scrap textiles, or scrap rubber (other than whole tires) shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

"(1) The recyclable material met a commercial specification grade.

"(2) A market existed for the recyclable material.

"(3) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a new saleable product.

"(4) The recyclable material could have been a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

"(5) For transactions occurring 90 days or more after the date of enactment of this section, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person (hereinafter in this section referred to as a 'consuming facility') was in compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

"(6) For purposes of this subsection, 'reasonable care' shall be determined using criteria that include (but are not limited to)—

"(A) the price paid in the recycling transaction;

"(B) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material; and

"(C) the result of inquiries made to the appropriate Federal, State, or local environmental agency (or agencies) regarding the consuming facility's past and current compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material. For the purposes of this paragraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be deemed to be a substantive provision.

"(d) TRANSACTIONS INVOLVING SCRAP METAL.—

"(1) Transactions involving scrap metal shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

"(A) the person met the criteria set forth in subsection (c) with respect to the scrap metal;

"(B) the person was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Administrator promulgates under the Solid Waste Disposal Act subsequent to the enactment of this section and with regard to transactions occurring after the effective date of such regulations or standards; and

"(C) the person did not melt the scrap metal prior to the transaction.

"(2) For purposes of paragraph (1)(C), melting of scrap metal does not include the thermal separation of 2 or more materials due to differences in their melting points (referred to as 'sweating').

"(3) For purposes of this subsection, the term 'scrap metal' means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled, except for scrap metals that the Administrator excludes from this definition by regulation.

"(e) TRANSACTIONS INVOLVING BATTERIES.—Transactions involving spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

"(1) the person met the criteria set forth in subsection (c) with respect to the spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries, but the person did not recover the valuable components of such batteries; and

"(2)(A) with respect to transactions involving lead-acid batteries, the person was in compliance with applicable Federal environmental regulations or standards, and any amendments thereto, regarding the storage, transport, management, or other activities associated with the recycling of spent lead-acid batteries;

"(B) with respect to transactions involving nickel-cadmium batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of spent nickel-cadmium batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto; or

"(C) with respect to transactions involving other spent batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of such batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto.

"(f) EXCLUSIONS.—

"(1) The exemptions set forth in subsections (c), (d), and (e) shall not apply if—

"(A) the person had an objectively reasonable basis to believe at the time of the recycling transaction—

"(i) that the recyclable material would not be recycled;

"(ii) that the recyclable material would be burned as fuel, or for energy recovery or incineration; or

"(iii) for transactions occurring before 90 days after the date of the enactment of this section, that the consuming facility was not in compliance with a substantive (not procedural or administrative) provision of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

"(B) the person had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling;

"(C) the person failed to exercise reasonable care with respect to the management and handling of the recyclable material (including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances); or

"(D) with respect to any item of a recyclable material, the item—

"(i) contained polychlorinated biphenyls at a concentration in excess of 50 parts per million or any new standard promulgated pursuant to applicable Federal laws; or

"(ii) is an item of scrap paper containing at the time of the recycling transaction a concentration of a hazardous substance that has been determined by the Administrator, after notice and comment, to present a significant risk to human health or the environment, or contained that hazardous substance at a concentration at or higher than that determined by the Administrator to present such a significant risk.

"(2) For purposes of this subsection, an objectively reasonable basis for belief shall be determined using criteria that include (but are not limited to) the size of the person's business, customary industry practices (including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances), the price paid in the recycling transaction, and the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

"(3) For purposes of this subsection, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be deemed to be a substantive provision.

"(g) EFFECT ON OTHER LIABILITY.—Nothing in this section shall be deemed to affect the liability of a person under paragraph (1) or (2) of section 107(a). Nothing in this section shall be deemed to affect the liability of a person under paragraph (3) or (4) of section 107(a) with respect to materials that are not recyclable materials as defined in subsection (b) of this section.

"(h) REGULATIONS.—The Administrator has the authority, under section 115, to promulgate additional regulations concerning this section.

"(i) EFFECT ON PENDING OR CONCLUDED ACTIONS.—The exemptions provided in this section shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the United States prior to enactment of this section.

"(j) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—Any person who commences an action in contribution against a person who is not liable by operation of this section shall be liable to that person for all reasonable costs of defending that action, including all reasonable attorney's and expert witness fees.

"(k) RELATIONSHIP TO LIABILITY UNDER OTHER LAWS.—Nothing in this section shall affect—

"(1) liability under any other Federal, State, or local statute or regulation promulgated pursuant to any such statute, including any requirements promulgated by the Administrator under the Solid Waste Disposal Act; or

"(2) the ability of the Administrator to promulgate regulations under any other statute, including the Solid Waste Disposal Act.".

(b) TECHNICAL AMENDMENT.—The table of contents for title I of such Act is amended by adding at the end the following item:

"SEC. 127. Recycling transactions.".

Mr. DASCHLE. Mr. President, I am pleased to join the distinguished majority leader in introducing this bill to promote the reuse and recycling of scrap materials. There is broad agreement that more should be done to establish a climate in which businesses are encouraged to recycle scrap materials in an environmentally sound manner. We should make every effort to expand the responsible and beneficial use and reuse of this waste as soon as possible.

While I remain hopeful that bipartisan negotiators will be able to work out differences on broad-based Superfund reform, it appears unlikely that Congress will achieve that goal this year. That is particularly unfortunate, because there are many elements of Superfund reform for which there is agreement and for which we should move forward as expeditiously as possible, including establishing greater incentives for brownfields redevelopment, and providing liability relief to deserving municipalities and small businesses.

There are a number of important Superfund issues on which there continues to be significant disagreement. Despite the fact that resolution of these issues is unlikely in the near-term, we should not allow ourselves to adjourn this year without making a strong effort to enact those reforms on which there is broad agreement.

Therefore, I am very pleased that Senator LOTT has taken the initiative to move forward with this important element of Superfund reform. With enactment of this legislation, we will foster additional scrap recycling in America, thereby reducing the stream of waste materials now sent to landfills and other solid waste management facilities. By doing so, we will help to eliminate the fears of many businesses of potential Superfund liabilities even if they pursue legitimate means to recycle scrap materials. By clarifying the liability rules for recycling transactions under Superfund, this legislation will place recyclers on a more even playing field compared with those who produce goods using virgin materials.

In conclusion, Mr. President, I am pleased to cosponsor this timely legislation with Senator LOTT. This is an important step in providing meaningful reform and clarification to the Superfund law and I encourage all my colleagues to support this effort to promote scrap recycling as soon as possible.

ADDITIONAL COSPONSORS

S. 505

At the request of Mr. HATCH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 505, a bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

S. 603

At the request of Mr. SPECTER, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 603, a bill to require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and to provide the Secretary with the authority to require reporting by such manufacturing plants throughout the U.S. on prices received for cheese, butter, and nonfat dry milk.

S. 604

At the request of Mr. SPECTER, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 604, a bill to amend the Agricultural Market Transition Act to require the Secretary of Agriculture to use the price of feed grains and other cash expenses as factors that are used to determine the basic formula price for milk and any other milk price regulated by the Secretary.

S. 1147

At the request of Mr. WELLSTONE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1147, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage.

S. 1365

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1482

At the request of Mr. COATS, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1482, a bill to amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes.

S. 1600

At the request of Mrs. BOXER, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1600, a bill to amend the Internal Revenue Code of 1986 to waive in the case of multiemployer plans the section 415 limit on benefits to the participant's average compensation for his high 3 years.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2157

At the request of Mr. CLELAND, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Ms. MIKULSKI], the Senator from Michigan [Mr. ABRAHAM], the Senator from New York [Mr. D'AMATO], the Senator from Louisiana [Mr. BREAUX], the Senator from Connecticut [Mr. DODD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Wisconsin [Mr. KOHL], the Senator from Louisiana [Ms. LANDRIEU], the Senator from New Jersey [Mr. TORRICELLI], the Senator from Vermont [Mr. LEAHY], the Senator from Iowa [Mr. GRASSLEY], the Senator from Maine [Ms. SNOWE], the Senator from Iowa [Mr. HARKIN], the Senator from Arkansas [Mr. BUMPERS], the Senator from California [Mrs. FEINSTEIN], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 2157, a bill to amend the Small Business Act to increase the authorized funding level for women's business centers.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from Nebraska [Mr. HAGEL], the Senator from Oklahoma [Mr. NICKLES], the Senator from Louisiana [Ms. LANDRIEU], the Senator from Oklahoma [Mr. INHOFE], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE RESOLUTION 249—CONGRATULATING THE CHICAGO BULLS ON WINNING THE 1998 NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 249

Whereas the Chicago Bulls, despite injuries to Scottie Pippen and Luc Longley, went 62-20 and tied for the best regular season record in the National Basketball Association;

Whereas the Bulls battled through the playoffs, sweeping the New Jersey Nets and defeating the Charlotte Hornets in 5 games, before beating the Indiana Pacers in 7 games to return to the NBA Finals for the third straight year;

Whereas the Bulls displayed stifling defense throughout the playoffs before beating the Utah Jazz to repeat the 3-peat and win their third consecutive NBA championship, their sixth in the last 8 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls through an injury riddled 62-win season and a 15-6 playoff run;

Whereas Michael Jordan won his fifth most valuable player award, and he, along with Scottie Pippen, were again named to the NBA's "All-Defensive First Team";

Whereas Michael Jordan won his record tenth scoring title and was named the NBA Finals most valuable player for the sixth time in 6 appearances in the finals;

Whereas Scottie Pippen again exhibited his outstanding offensive and defensive versatility, proving himself to be one of the best all-around players in the NBA;

Whereas the quickness, tireless defensive effort, and athleticism of the colorful Dennis Rodman, who won his seventh straight rebounding title, keyed a strong Bulls front line;

Whereas Toni Kukoc displayed his awesome variety of offensive skills in both assisting on, and hitting, several big shots when the Bulls needed them most;

Whereas veteran guard Ron Harper, in shutting down many of the league's top point guards throughout the playoffs, demonstrated the defensive skills that have made him a cornerstone of the league's best defense;

Whereas center Luc Longley frustrated many of the all-star caliber centers that he faced while at times providing a much needed scoring lift;

Whereas Steve Kerr buried several 3-pointers when the Bulls needed them most;

Whereas the outstanding play of Jud Buechler, Scott Burrell, and Bill Wennington and the tenacious defense of Randy Brown, each of whom came off the bench to provide valuable contributions, were an important part of each Bulls victory; and

Whereas the contributions of Dickey Simpkins and rookies Rusty LaRue and Keith Booth, both on the court and in practice, again demonstrated the total devotion of Bulls personnel to the team concept that has made the Bulls one of the great sports dynasties of modern times: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls on winning the 1998 National Basketball Association championship.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

HUTCHINSON AMENDMENT NO. 2706

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

Add at the end the following new title:

TITLE —RADIO FREE ASIA

SEC. . SHORT TITLE.

This title may be cited as the "Radio Free Asia Act of 1998".

SEC. . FINDINGS.

Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February of 1996 the "Interim Internet Management Rules", which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the Internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Radio Free Asia currently broadcasts only 5 hours a day in the Mandarin dialect and 2 hours a day in Tibetan.

(6) Voice of America currently broadcasts only 10 hours a day in Mandarin and 3 ½ hours a day in Tibetan.

(7) Radio Free Asia and Voice of America should develop 24-hour-a-day service in Mandarin, Cantonese, and Tibetan, as well as further broadcasting capability in the dialects spoken in the People's Republic of China.

(8) Radio Free Asia and Voice of America, in working toward continuously broadcasting to the People's Republic of China in multiple languages, have the capability to immediately establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and Voice of America.

(9) Simultaneous broadcasting on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR RADIO FREE ASIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "Radio Free Asia" $30,000,000 for fiscal year 1998 and $22,000,000 for fiscal year 1999.

(2) LIMITATIONS.—

(A) Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $8,000,000 is authorized to be appropriated for one-time capital costs.

(B) Of the funds under paragraph (1), $700,000 is authorized to be appropriated for each such fiscal year for additional personnel to staff Cantonese language broadcasting.

(b) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA AND NORTH KOREA.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Activities" for fiscal years 1998 and 1999, there are authorized to be appropriated for "International Broadcasting Activities" $10,000,000 for fiscal year 1998 and $7,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China and North Korea.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated for "Radio Construction" for fiscal years 1998 and 1999, there are authorized to be appropriated for "Radio Construction" $10,000,000 for fiscal year 1998 and $3,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China.

(2) LIMITATION.—Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $3,000,000 is authorized to be appropriated to facilitate the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

(d) ALLOCATION.—Of the amounts authorized to be appropriated for "International Broadcasting Activities", the Director of the United States Information Agency and the Board of Broadcasting Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(e) ALLOCATION OF FUNDS FOR NORTH KOREA.—Of the funds under subsection (b), $2,000,000 is authorized to be appropriated for each fiscal year for additional personnel and broadcasting targeted at North Korea.

SEC. . REPORTING REQUIREMENT.

Not later than 90 days after the date of enactment of this Act, in consultation with the Board of Broadcasting Governors, the President shall prepare and transmit to Congress a report on a plan to achieve continuous broadcasting of Radio Free Asia and Voice of America to the People's Republic of China in multiple major dialects and languages.

SEC. . UTILIZATION OF UNITED STATES INTERNATIONAL BROADCASTING SERVICES FOR PUBLIC SERVICE ANNOUNCEMENTS REGARDING FUGITIVES FROM UNITED STATES JUSTICE.

United States international broadcasting services, particularly the Voice of America, shall produce and broadcast public service announcements, by radio, television, and Internet, regarding fugitives from the criminal justice system of the United States, including cases of international child abduction.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

FORD (AND OTHERS) AMENDMENT NO. 2707

Mr. FORD (for himself, Mr. HOLLINGS, and Mr. ROBB) proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

At the end of the amendment, insert the following:

SEC. . INAPPLICABILITY OF TITLE XV.

The provisions of Title XV shall have no force and effect.

SEC. . ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, from amounts made available under section 451(d), the Secretary of Agriculture shall use up to $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income during any of the 1997 through 2004 crop years, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

(c) EFFECT ON OTHER PAYMENTS.—None of the payments made under this section shall limit or alter in any manner the payments authorized under section 1021 of this Act.

ASSISTIVE AND UNIVERSALLY DESIGNED TECHNOLOGY IMPROVEMENT ACT FOR INDIVIDUALS WITH DISABILITIES

BOND AMENDMENT NO. 2708

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill (S. 2173) to amend the Rehabilitation Act of 1973 to provide for research and development of assistance technology and universally designed technology, and for other purposes; as follows:

At the end of the bill add the following:

SEC. 8. TAX INCENTIVES FOR ASSISTIVE TECHNOLOGY.

(a) Assistive Technology Development Business Tax Credit.—

(1) In general.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. CREDIT FOR ASSISTIVE TECHNOLOGY.

"(a) General Rule.—For purposes of section 38, the assistive technology credit of any taxpayer for any taxable year is an amount equal to so much of the qualified assistive technology expenses paid or incurred by the taxpayer during such year as does not exceed $100,000.

"(b) Qualified Assistive Technology Expenses.—For purposes of this section—

"(1) In general.—The term 'qualified assistive technology expenses' means expenses for the design, development, and fabrication of assistive technology devices.

"(2) Assistive technology device.—The term 'assistive technology device' means any item, piece of equipment, or product system, including any item acquired commercially off the shelf and modified or customized by the taxpayer, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"(3) Individuals with disabilities.—The term 'individuals with disabilities" has the meaning given the term by section 3 of the Technology Related Assistance for Individuals with Disabilities Act of 1988 (29 U.S.C. 2202).

"(c) No Double Benefit.—Any amount taken into account under section 41 may not be taken into account under this section.

"(d) Termination.—This section shall not apply to any amount paid or incurred after December 31, 2003.".

(2) Credit treated as business credit.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following:

"(13) the assistive technology credit determined under section 45D(a).".

(3) Transitional rule.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules) is amended by adding at the end the following:

"(9) No carryback of section 45D credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the assistive technology credit determined under section 45D(a) may be carried back to a taxable year ending before January 1, 1999.".

(4) Clerical amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 45D. Credit for assistive technology.".

(5) Evaluation of effectiveness of credit.—The Secretary of the Treasury shall evaluate the effectiveness of the assistive technology credit under section 45D of the Internal Revenue Code of 1986, as added by this subsection, and report to the Congress the results of such evaluation not later than January 1, 2003.

(b) Expansion of Architectural and Transportation Barrier Removal Deduction.—

(1) In general.—Section 190 of the Internal Revenue Code of 1986 is amended—

(A) by inserting "and qualified communications barrier removal expenses" after "removal expenses" in subsections (a)(1),

(B) by adding at the end of subsection (b) the following:

"(4) Qualified communications barrier removal expenses.—

"(A) In general.—The term 'qualified communications barrier removal expense' means a communications barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary and set forth in regulations prescribed by the Secretary. Such term shall not include the costs of general communications system upgrades or periodic replacements that do not heighten accessibility as the primary purpose and result of such replacements.

"(B) Communications barrier removal expenses.—The term 'communications barrier removal expense' means an expenditure for the purpose of identifying and implementing alternative technologies or strategies to remove those features of the physical, information-processing, telecommunications equipment or other technologies that limit the ability of handicap individuals to obtain, process, retrieve, or disseminate information that nonhandicapped individuals in the same or similar setting would ordinarily be expected and be able to obtain, retrieve, manipulate, or disseminate.", and

(C) by striking "**and transportation**" in the heading and inserting "**, transportation, and communications**".

(2) Conforming amendment.—The item relating to section 190 in the table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking "and transportation" and inserting ", transportation, and communications".

(c) Expansion of Work Opportunity Credit.—Section 51(c) of the Internal Revenue Code of 1986 (defining wages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

"(4) Assistive technology expenses.—

"(A) In general.—The term 'wages' includes expenses incurred in the acquisition and use of technology—

"(i) to facilitate the employment of any individual, including a vocational rehabilitation referral; or

"(ii) to provide a reasonable accommodation for any employee who is a qualified individual with a disability, as such terms are defined in section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111).

"(B) Regulations.—The Secretary shall by regulation provide rules for allocating expenses described in subparagraph (A) among individuals employed by the employer.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

INOUYE AMENDMENT NO. 2709

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 76, between lines 7 and 8, insert the following:

SEC. 349. AUTHORITY TO PAY CLAIMS OF CERTAIN CONTRACTOR EMPLOYEES.

Of the amount authorized to be appropriated by section 301, $300,000 shall be available to the Secretary of the Navy for the purpose of paying claims of former employees of Airspace Technology Corporation for unpaid back wages and benefits for work performed by the employees of that Corporation under Department of the Navy contracts N000600-89-C-0958, N000600-89-C-0959, N000600-90-C-0894, and DAAB-07-89-C-B917.

• Mr. INOUYE. Mr. President, my amendment will provide the Secretary of the Navy with authority to use up to $300,000 in funds available for operations and maintenance in fiscal year 1999 to pay unpaid back wages and benefits to former employees by Airspace Technology Corporation. The 141 employees affected by this case, from Hawaii, California, Guam and Oklahoma, have gone unpaid for their services due to bankruptcy of the corporation and an error in the Navy's disbursement of monies due the corporation.

I am submitting the amendment in response to constituent requests. In addition, the Navy is willing to make the payment, but has indicated that legislative authority is needed to disburse the funds.•

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GORTON. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet on Tuesday, June 16, 1998, at 10 a.m. in open session, to consider the nominations of Mr. Louis E. Caldera, to be Secretary of the Army and Mr. Daryl Jones, to be secretary of the Air Force.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 16, 1998, at 2:30 p.m. on music lyrics.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 16, 1998, at 10 a.m., 2:30 p.m., and 4 p.m. to hold three hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 16, 1998, at 10 a.m. in room 216 of the Senate Hart office building to hold a hearing on: "Mergers and Corporate Consolidation in the New Economy."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, June 16, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 1398, the Irrigation Project Contract Extension Act of 1997; S. 2041, a bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes; S. 2087, the Wellton-Mohawk Title Transfer Act of 1998; S. 2140, a bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project; S. 2142, the Pine River Project Conveyance Act; H.R. 2165, an Act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes; H.R. 2217, an Act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes; and H.R. 2841, an Act to extend the time required for the construction of a hydroelectric project.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TELEMARKETING FRAUD

• Mr. KYL. Mr. President, I would like to say a few words on the subject of telemarketing fraud. In particular, I will discuss the severity of telemarketing fraud, the House and Senate telemarketing fraud bills, and the United States Sentencing Commission's recently proposed amendments to the sentencing guidelines.

At the outset, I would like to commend Representative GOODLATTE for his sponsorship of H.R. 1847 and for his leadership in combating telemarketing fraud.

TELEMARKETING FRAUD IS A SERIOUS PROBLEM

Mr. President, I would like to take a few minutes to describe the severity of the problem of telemarketing fraud. According to Maryland Attorney General J. Joseph Curran, Jr., telemarketing fraud is probably the fastest growing illegal activity in this country. Senior citizens appear to be the most vulnerable to chicanery of this kind. Fred Schulte, an investigating editor for the Fort Lauderdale Sun-Sentinel and an expert on telemarketing fraud, has pointed out that senior citizens are often too polite or too lonely not to listen to the voice on the other end of the line. As one telemarketing con man who has worked all over the country put it: "People are so lonely, so tired of life, they can't wait for the phone to ring. It's worth the $300 to $400 to them to think that they got a friend. That's what you play on."

These criminals prey on the vulnerable of our society. In one case, Nevada authorities arrested a Las Vegas telemarketer on a charge of attempted theft. The telemarketer was accused of trying to persuade a 92-year-old Kansas man who had been fraudulently declared the winner of $100,000 to send $1,900 by Western Union in advance to collect his prize. Another example: a Maine company showed real telemarketing creativity. For $250, the so-called Consumer Advocate Group offered to help consumers recover money lost to fraudulent telemarketers—but it provided no services, according to Wisconsin Attorney General James Doyle, who sued the Maine firm plus four other telemarketers.

In 1996, more than 400 individuals were arrested by law-enforcement officials working on Operation Senior Sentinel. Retired law-enforcement officers and volunteers, recruited by AARP, went undercover to record sales pitches from dishonest telemarketers. Volunteers from the 2-year-long Operation Senior Sentinel discovered various telemarketing schemes. Some people were victimized by phony charities or investment schemes. Others were taken in by so-called premium promotions in which people were guaranteed one of four or five valuable prizes but were induced to buy an overpriced product in exchange for a cheap prize. One of the most vicious scams preyed on those who had already lost money. Some telemarketers charged a substantial fee to recover money for those who had been victimized previously—and proceeded to renege on the promised assistance. By the time the dust settled, it took the Justice Department, the FBI, the FTC, a dozen U.S. attorneys and state attorneys general, the Postal Service, the IRS, and the Secret Service to arrest over 400 telemarketers in five states, including my home state of Arizona.

Clearly telemarketing fraud is on the rise. It is estimated that eight out of ten households are targets for telemarketing scams that bilk us of up to $40 billion annually. There are many seniors in my state and across the country who must be protected against this type of fraudulent activity. According to Attorney General Reno, it is not uncommon for senior citizens to receive as many as five or more high-pressure phone calls a day. Mr. President, malicious criminal activity like this must be punished appropriately.

THE HOUSE- AND SENATE-PASSED BILLS

The House and the Senate have passed bills which direct the U.S. Sentencing Commission to increase penalties for those who purposefully defraud vulnerable members of our society. The House bill, which passed by a voice vote, increases sentences by four levels for general telemarketing fraud, and by eight levels if the telemarketing fraud either victimized ten or more persons over age 55 or targeted persons over age 55.

The Senate-passed bill, which was approved unanimously, requires the Sentencing Commission to "provide for substantially increased penalties" for those convicted of telemarketing fraud offenses. I repeat: "substantially increased penalties." This language was carefully chosen; a two level increase is not substantial. The Senate-passed bill also requires the Commission to "provide an additional appropriate sentencing enhancement if the offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States." Further, the Senate-passed bill requires the Commission to provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims . . . are affected by a fraudulent scheme or schemes. These provisions were carefully crafted to ensure that those perpetrating telemarketing scams would be severely punished.

THE SENTENCING COMMISSION'S PROPOSED ENHANCEMENTS

The United States Sentencing Commission recently issued an amendment that would increase by two offense levels—the smallest possible increase—the penalties for fraud offenses that use mass-marketing to carry out fraud. The amendment would also provide a two level enhancement in the fraud guideline if (i) the defendant relocated, or participated in relocating, a fraudulent scheme to another jurisdiction to evade law enforcement or regulatory officials; (ii) a substantial part of a fraudulent scheme was committed from outside the United States; or (iii) the offense otherwise involved sophisticated concealment.

These proposed amendments are a step in the right direction, but the step is too small. In addition to these enhancements, the Sentencing Commission should, as the Senate-passed bill says, substantially increase the penalties for telemarketing fraud.

CONCLUSION

Telemarketing fraud is a serious problem. The Sentencing Guidelines should reflect this but they do not. From the House- and Senate-passed bills, it should have been clear to the Sentencing Commission that Congress wanted significant increases in the guidelines, not the minor ones included in the Commission's proposed amendments.•

LEAGUE OF WOMEN VOTERS RETIRING PRESIDENT, BECKY CAIN

• Mr. ROCKEFELLER. Mr. President, I rise today to recognize Becky Cain as she prepares to retire from an outstanding six year term as president of the League of Women Voters. Becky Cain has shown remarkable leadership for the League and her community of Charleston, West Virginia as well as a strong dedication for the well being of the people of her state and her nation.

For generations, the League of Women Voters has had a tradition of working for campaign finance reform, defending the National Voter Registration Act, working for consumer protection legislation for health care, ensuring health care for seniors by protecting and enhancing Medicare, and protecting Clean Air standards, and strengthening the United Nations by providing adequate funding. This is an organization of leaders, and Becky Cain is certainly a great leader among leaders.

As the volunteer head of the League of Women Voters, Becky Cain has been an articulate and committed spokesperson for citizens' interest in government. Under her direction, the League has been the leader in the passage of the National Voter Registration Act and has been stalwart in continuing efforts to preserve and strengthen this important legislation.

Under her leadership one of the priorities of the League has been a comprehensive, nationwide campaign entitled, "Making Democracy Work." This effort, involving different branches of the League and civic leaders in over 1,000 communities across the nation, is a long term effort to engage citizens in the important issues affecting them, to strengthen our democracy at the community level as well as bringing a diverse group of citizens together to face a larger challenge that faces us as a nation.

Finally, I would like to thank Becky Cain and volunteers like her who give of themselves so selflessly for the good of their community, their state, and our nation.•

RUTHERFORD ELEMENTARY SCHOOL

• Mr. SANTORUM. Mr. President, on May 30, the Rutherford Elementary School Memorial Committee commemorated the history of the Rutherford Elementary School. I rise today to mark the closing of this building.

The community of Rutherford has been served for 89 years by the current elementary school, which is scheduled for demolition. Amidst music, civic organizational displays, and food vendors, students past and present gathered to reflect on their childhood experiences. Members of Rutherford's first class still fondly reminisce about the "good old days."

Mr. President, the Rutherford Elementary School symbolizes strength and continuity in education. I ask my colleagues to join me in acknowledging this memorial.•

TENTH ANNIVERSARY OF GREENWICH SCHOOL AGED CHILD CARE, INC.

• Mr. DODD. Mr. President, I rise today in honor of the tenth anniversary of the founding of Greenwich School Age Child Care in my home state of Connecticut.

As you know, child care has been a top legislative priority for me during my tenure in the Senate. After numerous hearings, debates, forums, and even passage of the Child Care and Development Block Grant (CCDBG) Act that I authored in 1990, I know that our country's working families continue to struggle with the issue of child care. Thousands of low-income children are on waiting lists for affordable child care, and much of what is available is of poor quality. Every day, parents face tough decisions about how their children will be cared for when they can't be with them.

Ten years ago, in response to the child care needs expressed by the community, Greenwich School Age Child Care was created by a small, dedicated group of parents who understood the importance of safe, high quality child care services. At that time, there were no available services for before- and after-school child care within the community's schools. Since that time, the effort has grown from one school-age child care program in North Mianus Elementary School, to programs in all 10 public elementary schools. All of these programs accept children in grades kindergarten through fifth grade, in most instances offer both before- and after-school programs, and are open for the entire school year. This enables working parents to leave their child at 7:30 a.m. and return up to 6:00 p.m., knowing that their child will receive healthy snacks and loving care in a stimulating environment right in the school.

I share the belief of Greenwich School Age Child Care that quality child care should be available to all low income and disadvantaged families who need it. Greenwich School Age Child Care is to be commended for their innovative efforts to make available quality child care affordable. The scholarship fund they established through the Board of Education, private donations, and CCDBG dollars is critical for low-income families who otherwise could not afford a safe and educational environment for their children.

I am proud to be a member of the Greenwich School Age Child Care advisory board. I cannot emphasize strongly enough that their investment in quality child care pays off many times over, in terms of both the employment productivity of parents and the safety and well-being of children. I congratulate Greenwich School Age Child Care on the huge success of their first ten years, and wish them continued, long lasting success in the years to come.•

CONSUMERS REAP THE BENEFITS OF OPEN COMPETITION

• Mr. ASHCROFT. Mr. President, the economist Milton Friedman once wrote: 'Underlying most arguments against a free market is a lack of belief in freedom itself.' Demonstrating its belief in freedom the 104th Congress passed the pro-competition Telecommunications Act of 1996. The Hudson Institute has recently released a study of the cable industry since the new law has taken effect. The study has found what those of us that believe in a free market have always known: consumers reap the benefits of open competition. I submit it for the RECORD a copy of the executive summary for review. It is a pleasure to deliver further affirmation of the free market system.

The material follows:

EXECUTIVE SUMMARY—THE ROLE OF COMPETITION AND REGULATION IN TODAY'S CABLE TV MARKET

In late 1997 and early 1998, concerns have been raised among regulators, members of Congress, and consumer groups regarding cable television rates. This study analyzes the rationale for new efforts by the FCC to limit rates or impose other regulations on the cable television industry in response to such concerns. It examines the historical record of cable regulation, takes a new look at the state of competition for multichannel video programming, reviews the important capital investment in new digital services by the industry, and assesses the possible impact of new price controls on competition in the wider telecommunications market, including Internet access, telephony, and video programming.

The study finds that, despite current market share of around 85.6 percent (falling to around 75 percent by 2002); dynamic services offered by Direct Broadcast Satellite (DBS), broadcast television, and other multichannel video delivery systems provide substantial and growing competition for cable television. More than 65 percent of households can receive six or more broadcast channels with a suitable antenna. For many households, DBS offers greater levels of service at prices comparable to, or lower than, cable's. DBS appears to provide a good substitute for cable even after accounting for up-front equipment costs. Competing cable systems (overbuilds and Satellite Master Antenna TV) have become cost-effective and are growing rapidly, especially in the Midwest and Northeast.

The study also finds that past cable regulation, especially rate controls, provided little or no benefit to consumers, and in fact harmed consumers by inducing lower quality of service. On the other hand, periods of less regulation, such as the years between 1984 and 1990, stimulated production of greater quality and wider choice of programming for consumers, produced steady increases in demand for cable, and produced net consumer welfare gains of $3 billion to $6.5 billion per year.

Finally, the evidence shows that the cable industry is in the midst of investing up to $28 billion to improve its infrastructure, including over $1 billion per year to convert to interactive digital services. The entry of cable firms into new businesses such as telephony, Internet, and digital video is improving consumer choice and reducing prices for these services, especially to residential customers; spurring a competitive response from the telephone industry to upgrade its data transmission capabilities; and giving a boost to the introduction of digital television and to competition in the Internet business. An imposition of rate controls similar to those of 1993 and 1994 would undermine the financial basis for the cable industry to enter these new businesses in the near term, and hence weaken competition in the wider telecommunications market place.●

LUCILLE SMITH WATKINS

● Mr. ROCKEFELLER. Mr. President, I would like to take a moment to recognize an outstanding teacher, mentor, and West Virginian—Ms. Lucille Smith Watkins. For almost 50 years, Lucille has taught at Logan County Elementary School with unmatched enthusiasm. At 73, she is still fiercely committed to teaching and harbors no intention of quitting, saying "I like getting up and going to teach every day. The children seem to do real well. When I feel like I'm not helping them anymore, I'll retire."

Lucille credits her family for instilling an early appreciation and love for education—influenced by the sacrifices and efforts that they exerted in order to make higher education a possibility for herself and her six brothers and sisters. Her early love of education blossomed into a consuming lifelong passion of service to the school as she has often found herself cooking and buying groceries for the school along with teaching.

Her outstanding commitment to teaching hasn't gone unnoticed in the state. On May 5, she received the very first Lucille Smith Watkins Award, an award in her honor presented annually by her school to the county's outstanding educator. On May 8, she won the Mary L. Williams black educator award during a West Virginia Education Association conference in Charleston. Yet, these awards and honors cannot match her smiles and pride for the achievements of her students. Beaming with pride about her student's recent Young Writer's Award and her students' trophy for perfect attendance in her classroom, Lucille is a testament to her own love of teaching, and most importantly her love of her students.

There is no better way to make a profoundly lasting impact upon the future than through nurturing the mind of a young child. Lucille is a refreshing example of the strength and endurance of one woman's attempt to make a difference. Speaking for the citizens of West Virginia, I am proud to have such an outstanding woman in our state and challenge others to strive to affect and mold the lives of children as successfully as she has.●

TRIBUTE TO MR. HERMAN C. WRICE

● Mr. SANTORUM. Mr. President, I rise today to recognize the outstanding drug and crime fighting efforts of Mr. Herman C. Wrice.

Mr. Wrice, once called the "John Wayne of Philadelphia" by President Bush, is one of today's most effective non-violent community activists. His grassroots approach to cracking down on drugs and crime has been successful in cities, towns, and Indian reservations across the country. Herman's career as a social activist began in the late 1960's after a personal tragedy; his wife, Jean, was caught in gang crossfire at a local supermarket.

Mr. Wrice's organization, Turn Around America, unites ordinary citizens and police who are determined to take back their neighborhoods. They organize street marches and all-night vigils at identified drug houses to separate drug dealers from their customers. This partnership depends on trust, cooperation, and mutual respect. Citizen efforts enhance, but do not replace, law enforcement efforts. I am pleased to say that Turn Around America has yielded impressive results. In neighborhoods where demonstrations have taken place, crack houses have closed. Children play in parks that were once littered with drug paraphernalia. The number of drug-related arrests have risen, several of which were directly linked to citizen involvement. Even veteran police officers have been inspired by Herman's anti-drug crusade.

Mr. Wrice's relentless efforts to fight crime and violence have received widespread attention. Villanova University honored him with an honorary doctorate degree for his activism. His programs have been described in many publications, including the Wall Street Journal, the New York Times, Readers Digest, Policy Review, and Philadelphia Magazine. Mr. Wrice and his anticrime program were even featured on 60 Minutes. This exposure led to requests for training from over 200 cities and towns across the country. In 1994, Herman was one of six activists to receive an America's Award for Courage during special ceremonies at the Kennedy Center. The following year, he was named a Join Together Fellow by the Robert Wood Johnson Foundation. On a local level, Herman has been a two-time recipient of the Mayor's Outstanding Citizen Award, and a three time honoree as the Junior Chamber's Outstanding Young Man of the Year. Finally, he has received the Freedom Foundation's Citizenship Award, the NAACP Unsung Hero's Award, and was named the Citizen Crime Commission's Crime Fighter of the Year.

Mr. President, Herman C. Wrice is a man with a purpose. He has dedicated his life to community service, and he has made a difference. He has worked to make the streets safe for neighborhood children, and he has raised 17 of his own—11 of whom were adopted. I ask my colleagues to join me in honoring Mr. Wrice and in extending the Senate's best wishes to his family.●

CONGRATULATING THE CHICAGO BULLS ON WINNING THE 1998 NBA CHAMPIONSHIP

Mr. LUGAR. On behalf of the leader, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 249 introduced earlier today by Senators MOSELEY-BRAUN and DURBIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The resolution (S. Res. 249) to congratulate the Chicago Bulls on winning the 1998 National Basketball Association Championship.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

MS. MOSELEY-BRAUN. Mr. President, I would like to take a few minutes today to join the citizens of the city of Chicago and the entire state of Illinois, as well as Bulls fans around the world, in congratulating the Chicago Bulls for winning a sixth National

Basketball Association championship. The Bulls defeated the Utah Jazz 87–86 in game six of the finals this past Sunday in Salt Lake City.

One of the true joys of my life over the last several years has been to watch Michael Jordan, Scottie Pippen, Phil Jackson and the rest of the Bulls continually define excellence in team basketball. Considered by some to have been underdogs in this year's series against the Utah Jazz, the Bulls persevered and wrote yet another fantastic chapter in one of the greatest stories in professional sports.

Without a doubt, the Bulls' repeat-3peat would not have been possible without the star performance of Michael Jordan. His play throughout the season defined what it means to be a champion, and his 45 points and last-second winning shot on Sunday night ensured that his team remained champions. Once again, Michael Jordan has defined excellence. Once again, he has defined competitiveness and leadership. Once again, he and all of the Bulls have shown us that hard work, teamwork, talent and desire will produce victory.

Complementing Michael Jordan this year, as he has so skillfully done for each of the Bulls' championships, was forward Scottie Pippen. Despite being injured for much of the first half of the season and suffering with a severely strained back in game six, Scottie Pippen demonstrated through his outstanding offensive and defensive play that he too has the heart of a champion.

Mr. President, I would also like to recognize the flamboyant and talented play of Dennis Rodman. Like Michael Jordan and Scottie Pippen, Dennis Rodman has been a key reason for the Bulls' success. His harshest critics cannot take away his five NBA championships, two with the Detroit Pistons and three with the Bulls, or his seven consecutive NBA rebounding titles.

I would also like to highlight the accomplishments of Toni Kukoc, whose play often provided the boost to take the Bulls to victory. He was always there with a big shot when one was most needed. Ron Harper is another player who made many invaluable contributions during the Bulls' championship run. His defensive play throughout the playoffs shut down many of the league's best point guards.

Steve Kerr, Luc Longley, Randy Brown, Scott Burrell, Bill Wennington, Jud Buechler and Dickey Simpkins all played important roles in the Bulls' championship drive. Their contributions further demonstrated Phil Jackson's masterful coaching skills. His intelligent, deliberative and team-oriented approach to the game allowed his players to transcend the individual and operate as a unit.

Mr. President, I would also like to congratulate Jerry Reinsdorf and Jerry Krause for once again fielding an NBA championship team. This is an outstanding victory in which they can take great pride.

In congratulating the Bulls for winning a sixth NBA title in eight years, I also want to compliment the Utah Jazz for their spirited play and sportsmanship. This Jazz team gave the Bulls their toughest challenge in any of their six championships. Karl Malone and John Stockton are both certainly Hall of Fame players.

Mr. President, the state of Illinois can also take special pride in the accomplishments of the Utah Jazz because the coach of the Jazz, Jerry Sloan, is a product of our state. The McLeansboro native not only hails from Illinois, but also had a storied career with the Bulls. I would like to thank Jerry Sloan and his team for a thrilling finals series.

I have one last thought, Mr. President, and in expressing it, I believe that I speak for Bulls fans everywhere: Let there be seven!

Mr. DURBIN. Mr. President, I rise today to pay tribute to a spectacular team that has propelled itself into the upper echelon of basketball history, the Chicago Bulls. Add a new name to the history books of the National Basketball Association; the Boston Celtics of the 1960s, the Los Angeles Lakers of the 1980s, and undeniably, the Chicago Bulls of the 1990s.

On Sunday, as I watched Game Six with basketball fans and Bulls followers around the world, I was privileged to witness another incredible performance by Michael Jordan and the entire Bulls team. For the sixth time in eight years, in a victory for the ages, the Chicago Bulls are the champions of the National Basketball Association. It is with great honor, pleasure, and pride that I salute and congratulate the entire Chicago Bulls organization.

As a columnist for the Chicago Sun-Times noted, "We live in the right city at the right time." It is simple yet so true. No other team in any sport has been able to show the dominance and consistency that the Bulls have shown. The people of Chicago and Illinois have a special source of pride in the Chicago Bulls and especially in Michael Jordan. This wonderful championship and the five spectacular ones before it are all keepsakes in the hearts and minds of Chicagoans. I know personally that days, weeks, and years from now I will be recounting where I was when the Bulls achieved the "Six-Pack," and I will be doing it with great pride. My grandson Alex, who recently turned two years old, is not quite old enough to realize what the Bulls have accomplished. But make no mistake about it, in the years to come I know he will have a proud grandfather recounting the almost mythical tales of Michael Jordan and telling of the amazing dynasty that they created.

Michael Jordan. What more can possibly be said about him? There are simply no longer any more adjectives to describe his spectacular feats and clutch performances. Super-human? Possibly. The best to ever plan the game of basketball? Positively. In the pivotal Game Six, in a most unfriendly arena, Michael Jordan took his team and the people of "the city of big shoulders," put them all directly on his shoulders and carried them all to the NBA's promised land, the world championship. Jordan, the ambassador of the game of basketball to the world, accomplished what no other player has been able to do. With his unprecedented tenth. scoring title and sixth Finals Most Valuable Player award, Jordan has shown the impact he has on the game. But I'm sure that all of the personal accolades are secondary when it comes to the team and to being champions. The true champion puts his team and their success above all and Jordan has done that time and time again.

None of us will forget the courageous performance given by an injured Scottie Pippen. With an injury that would have had anyone else bedridden, he played as well as he possibly could. But more importantly, he provided the emotional lift that the team needed. Again, another example of how being there for your team and your fellow players is ingrained in the hearts of these players, in the hearts of champions.

And of course, the man who keeps it all together and running like a well tuned machine, Phil Jackson. With a combination of years of basketball experience as a player and as a coach, his special relationship with Jordan, Pippen, and the entire team, and a touch of his Zen philosophy, Jackson has been able to lead this team to the apex of the National Basketball Association despite all of the distractions and injuries.

Surely we cannot overlook the contributions of the rest of the team—Dennis Rodman, Ron Harper, Luc Longley, Toni Kukoc, the "supporting cast" as they are called. But they are more than that. They are each a critical piece of a puzzle that when fully assembled presents us with an impressive and spectacular sight: Six golden, shinning, championship trophies. Each clutch three point basket by Steve Kerr and Judd Buechler, each suffocating defensive stop by Scott Burrell and Randy Brown, each rebound from Bill Wennington and Dickey Simpkins are essential pieces of the big picture.

We should also acknowledge the impressive job that owner Jerry Reinsdorf has done with this organization from the time he took over as owner, and the sportsmanship and leadership that the Bulls organization has shown through the years.

I could go on and on, but I would like to switch tracks and commend the

Utah Jazz for a wonderful and exciting series. The Jazz organization and the fans of Salt Lake City were worthy opponents in this battle and did not go quietly into the night. They made the Bulls give every ounce of heart and determination to win this sixth championship. You could not have asked for more from the Utah Jazz. The Utah fans were the extra player on the bench ready to give their team a needed push. I'm sure that their biggest fan, my colleague Senator ORRIN HATCH, provided the loudest cheers of all. Unfortunately, there can only be one champion. But in my eyes, and the eyes of all basketball fans, Karl Malone, John Stockton, and the entire team earned our respect and admiration. They too are champions and I commend them and wish them the best of luck in returning to the NBA Finals.

As the city of Chicago celebrates another taste of excellence and prepares for another mid-June party in Grant Park, we can only hope that this is not the last we see from this team. But if it was our last opportunity to be graced with the performance of Michael Jordan, Scottie Pippen, and Phil Jackson, the core and heart of this team, then we could not have asked for anything more. They continually gave this city and fans everywhere joy, pride, a glimpse at what it is like to be the best at what you do and to accomplish the ultimate goal. The Chicago Bulls have given millions of fans the chance to live vicariously through them. When the Bulls are champions, the entire city of Chicago and all Bulls fans are also champions. When Jordan steals the ball and makes the game winning shot with five seconds to go, we all make that shot. The Bulls give us hope and pride and the chance to be champions. I salute them for bringing so much to the city of Chicago, and to basketball fans everywhere.

The breath-taking performances that Michael Jordan has graced us with and the six hard-fought championships that the entire team has brought to the city are truly "unbelieve-a-bull." Without question, being successful in all six of their championship endeavors, they were "unstop-a-bull." And their place in history and in the hearts of everyone in Chicago and the world is absolutely "undeni-a-bull." I salute the Chicago Bulls on a wonderful season, and a heart-stopping championship. If this was Michael Jordan's last game then it could not have been scripted any better. It was a fitting, almost storybook ending in which the man who got us there also brought us back victorious. As coach Phil Jackson put it, "it has been a wonderful ride." Indeed it has been. Congratulations to the city of Chicago and the World Champion Chicago Bulls.

Mr. LUGAR. Mr. President, I must comment, in my own congratulations to the Chicago Bulls, with the observation that our Indiana Pacers extended the Bulls to seven games, as the Chair will remember. We are delighted that such a great season occurred in the NBA, and a very worthy team, including, obviously, the Utah Jazz, the ultimate survivors. We congratulate the Bulls on their sixth triumph in 8 years.

I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements relating to the resolution appear in the RECORD in the appropriate place, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 249) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 249

Whereas the Chicago Bulls, despite injuries to Scottie Pippen and Luc Longley, went 62-20 and tied for the best regular season record in the National Basketball Association;

Whereas the Bulls battled through the playoffs, sweeping the New Jersey Nets and defeating the Charlotte Hornets in 5 games, before beating the Indiana Pacers in 7 games to return to the NBA Finals for the third straight year;

Whereas the Bulls displayed stifling defense throughout the playoffs before beating the Utah Jazz to repeat the 3-peat and win their third consecutive NBA championship, their sixth in the last 8 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls through an injury riddled 62-win season and a 15–6 playoff run;

Whereas Michael Jordan won his fifth most valuable player award, and he, along with Scottie Pippen, were again named to the NBA's "All-Defensive First Team";

Whereas Michael Jordan won his record tenth scoring title and was named the NBA Finals most valuable player for the sixth time in 6 appearances in the finals;

Whereas Scottie Pippen again exhibited his outstanding offensive and defensive versatility, proving himself to be one of the best all-around players in the NBA;

Whereas the quickness, tireless defensive effort, and athleticism of the colorful Dennis Rodman, who won his seventh straight rebounding title, keyed a strong Bulls front line;

Whereas Toni Kukoc displayed his awesome variety of offensive skills in both assisting on, and hitting, several big shots when the Bulls needed them most;

Whereas veteran guard Ron Harper, in shutting down many of the league's top point guards throughout the playoffs, demonstrated the defensive skills that have made him a cornerstone of the league's best defense;

Whereas center Luc Longley frustrated many of the all-star caliber centers that he faced while at times providing a much needed scoring lift;

Whereas Steve Kerr buried several 3-pointers when the Bulls needed them most;

Whereas the outstanding play of Jud Buechler, Scott Burrell, and Bill Wennington and the tenacious defense of Randy Brown, each of whom came off the bench to provide valuable contributions, were an important part of each Bulls victory; and

Whereas the contributions of Dickey Simpkins and rookies Rusty LaRue and Keith Booth, both on the court and in practice, again demonstrated the total devotion of Bulls personnel to the team concept that has made the Bulls one of the great sports dynasties of modern times: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls on winning the 1998 National Basketball Association championship.

ORDERS FOR JUNE 17, 1998

Mr. LUGAR. Mr. President, on behalf of the leader, I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, June 17. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator ASHCROFT, 20 minutes; Senator TORRICELLI, 15 minutes; Senator AKAKA, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I further ask unanimous consent that, following morning business, the Senate resume consideration of S. 1415, the tobacco bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LUGAR. Mr. President, for the information of all Senators, the Senate will reconvene tomorrow at 9:30 a.m. and begin a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the tobacco bill, with a Ford amendment pending regarding the tobacco farmers. Following disposition of the Ford amendment, it is hoped that Members will come to the floor to offer and debate remaining amendments to the tobacco bill. Therefore, rollcall votes are expected throughout Wednesday's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Will the Senator yield for a question so we might understand tomorrow?

Mr. LUGAR. Yes, I am pleased to.

Mr. FORD. I ask the Senator this. We have morning business from 9:30 to 10:30. I didn't hear the Senator. Are we out at 10:30 in recess?

Mr. LUGAR. The unanimous consent agreement was, following morning business, the Senate will resume consideration of the tobacco bill with the Ford amendment pending regarding tobacco farmers.

Mr. FORD. I say to my friend that we can do it a little bit later. I thought when we first talked, there would be a hiatus until whatever time the conference was over. Apparently, now the conference will not occur.

Mr. LUGAR. My understanding is that the conference of the Republicans will occur at 10:30, and the leader will make a decision in the morning with regard to any further motions in relation to that time.

Mr. FORD. I thought at the time you and I could have an agreement, as the two managers here, to make a decision on when we would have that vote, or some time prior that we have a chance to say a few words.

Mr. LUGAR. I will be guided by the leaders.

Mr. FORD. Just to be sure that the two leaders understand what we want then.

Mr. LUGAR. In any event, I am hopeful of attending the meeting at 10:30. I will miss the Senator during that period.

Mr. FORD. I wish I could be a little fly on the wall and listen to it, but I won't be able to do that.

Mr. LUGAR. I understand. I thank the Senator.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LUGAR. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:31 p.m. adjourned until Wednesday, June 17, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 1998:

IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

ALBERT K. AIMAR, 6273
MICHAEL T. ANDERSON, 5577
JOHN H. BABSON, 6951
LEE C. BAUER, 6937
JOE H. BRYANT, JR., 4754
LYLE E. CABE, 3827
CONSTANCE L. CALDWELL, 2985
CHARLES M. CAMPBELL, 6247
DAVID B. CASEY, 1091
RANDALL W. CHRISTIANSEN, 2023
RODNEY M. COWELL, 1692
JOHN D. DORNAN, 1461
MARCELINO ESPADA, 9121
TIMOTHY P. FREUND, 6267
ATLEE E. FRITZ, 1343
GERALD T. GARLINGTON, 6499
JAMES L. GILBERT, 6324
ROGER H. HARKINS, 6851
JAMES V. HENNESSEY, 6462
MICHAEL P. HICKEY, 3174
SANDRA J. HIGGINS, 2616
CRAIG E. HODGE, 6886
VERNON W. JAMES, 7866
VAN A. JOHNSON, 8640
LARRY L. KEMP, 4721
CHARLES W. LIPPELGOOS, 0812
DAVID E. LUNDQUIST, 8178
JEFFREY P. LYON, 8685
CARL E. MAGAGNA, 7395
WILLIAM E. MALONE, 2024
JAMES R. MARSHALL, 1126
TIMOTHY J. MCCORMICK, 3402
ROBERT J. MCCUSKER, 9913
LINDA K. MCTAGUE, 8129
CHARLES T. MILLER, 5807
MARK C. MULKEY, 7467
MARK R. NESS, 6391
RICHARD W. NOBLE, 1669
CARL W. OBERG, 5017
DOUGLAS B. ROBINSON, 6914
WILLIAM P. ROBINSON, JR., 2364
JUAN F. ROMANSANTIAGO, 7157
RICHARD M. SABURRO, 6958
KATHLEEN M. SALIBA, 3184
THOMAS L. SAUTTERS, 1183
DANIEL R. SCACE, 6048
DAVID A. SPRENKLE, 8992
PHILIP E. STEEVES, 6367
JOHN R. STRIFERT, 8590
DANIEL P. SWIFT, 0839
EDWARD J. THOMAS, JR., 8089
JAMES P. TOSCANO, 9542
GARY M. TOWNSEND, 0041
GABRIEL V. TREMBLAY, 7741
FRANCIS A. TURLEY, 4084
WILLIAM H. WALKER IV, 4035
FREDERICK L. WALTON, 3287
GEORGE A. WASKOSKY, 6144
JERRY L. WILPER, 8953

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C. SECTION 12203:

To be colonel

REGINALD H. BAKER, 5768
WILLIAM S. BAYLES III, 4397
MARK W. BIRCHER, 6018
GARNETT P. BROY, 1411
NANCY J. CHARBONNEAU, 5484
TIMOTHY J. CHRISTENSON, 3249
DONALD COBB, 0418
THOMAS M. COOK IV, 5662
KEVIN W. DONAHUE, 0592
RUSSELL D. DOUDT, 2072
GEORGE W. DUNBAR, 2528
CHARLES J. DYER, JR., 7324
JAMES L. EDWARDS, JR., 4497
CARL R. FAUSER, 5843
WENDY R. FONTELA, 8900
JON L. GANT, 2122
BRUCE R. GRATHWOHL, 4677
GARY N. GRAVES, 0562
CHARLES R. GROSS, 2029
CONRAD C. HILSDORF, 2405
CAROLYN A. HUDSON, 8793
JOHN A. HUTCHISON, 7112
KENNETH A. ICENHOUR, 3542
JAMEEL F. JOSEPH, 9606
KENNETH M. KOBELL, 6629
PAUL A. LADY, 7488
BENJAMIN M. LAFOLLETTE, 5179
JOSEPH C. LONG, 5943
MICHAEL J. MASSOTH, 0270
SUSIE K. MCCALLA, 3484
MICHAEL P. MCCLOSKEY, 3822
DAVID H. MCELREATH, 1446
CAROL F. MEDEIROS, 0623
DARRELL L. MOORE, 4091
JACQUES J. MOORE, JR., 5518
DONALD E. NELSON, 7333
GERALD D. NIX, 5158
JOSEPH C. NOONE, 1161
EUGENE G. PAYNE, JR., 7528
HAYDEN R. PHILLIPS, JR., 9004
JOSEPH A. RAUSA, 8488
JOHN W. SAPUTO, 2439
JOSEPH A. SCOTTO, 7672
TERRY C. THOMASON, 2948
WILLIAM F. TODD, 5383
LEONARD C. UITENHAM, 5466
JOHN R. VIVIANO, 6728
ROBERT N. WAAGE, 2008
JOHN A. WEIL, 4186
DANIEL M. WELCH, 7992
JAMES L. WILLIAMS, 0353
JAMES J. WITKOWSKI, 3285

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be ensign

DAVID ABERNATHY, 8380
JOHN D. ADAMS, 8711
JENNIER L. ALLEN, 6154
LEA H. AMERLING, 4008
CRAIG D. ARENDT, 1752
SCOTT E. ARMSTRONG, 4080
PATRICK R. BALDAUFF, 3836
GENE K. BARNER, 9226
GEORGE C. BOROVINA, 6455
WILLIE D. BROWN, 5765
ROBERT T. BRYAN, 6304
KURT A. BUCKENDORF, 8858
IAN P. BURGOON, 3676
JOSEPH C. BUTNER, 3795
MICHELE CAROLYN, 5133
BRIAN J. CHEYKA, 9631
PHILLIP R. CLEMENT, 6355
JOHN D. CRADDOCK, 2479
J. SCOTT CRAMER, 2407
CRAIG L. DALLE, 9695
JENNIFER N. DELLABARBA, 9504
LANCE B. DETTMANN, 2455
JEFFERY C. DEVINEY, 3583
GREGORY P. DEWINDT, 0727
CURTIS D. DEWITT, 3143
ALPHONSO M. DOSS, 7413
KEITH E. EASTLAND, 6717
MICHAEL L. EGAN, 0190
RONALD FANELLI, 5946
MICHAEL FARNSWORTH, 6810
TODD A. FAUROT, 4635
ANDREW FITZPATRICK, 8249
BRIAN FITZSIMMONS, 5664
DOUGLAS J. FLANNERY, 1052
KOMA B. GANDY, 6440
STEVEN C. GOFF, 3964
BRIAN C. HAHN, 6739
KENNETH E. HARBAUGH, 2357
SEAN J. HAYNES, 6311
KATHRYN E. HITCHCOCK, 8068
JOHN S. HOLZBAUR, 9858
MALCOLM F. HOUSE, 7323
MICHAEL E. ILTERIS, 8515
CHARLES JACKEL, 4286
ANTHONY A. JACKSON, 5676
DAREN D. JEWELL, 3175
DANIEL A. JOHNSON, 6741
JAMES KELLY, 9719
JAMES KENNEDY, 1140
SHAWN M. KERN, 5799
NATHAN J. KING, 0366
KINI L. KNUDSON, 6199
CRAIG KRAEGER, 8269
GARY W. KRUPSKY, 8592
RODERICK O. KURTZ, 2814
KEVIN G. LA RA, 6996
HOWARD J. LANDRY, 9092
TRICIA LIM, 0704
RICHARD LUNDSFORD, 3847
CARL F. LUSTENBERGE, 0070
STEPHEN J. MADDEN, 3104
KIMBERLY S. MARKS, 6932
JOHN R. MARTIN, 5202
RICHARD T. MCCARTHY, 4543
THOMAS D. MCKAY, 6294
CAROL E. MCKENZIE, 9053
MELISSA A. MCSWAIN, 9900
ALEXANDER MILLER, 9740
RICHARD MILLIOT, 9843
MARC MILOT, 7413
KELLY R. MITCHELL, 2742
STEPHEN E. MONGOLD, 1315
DAVID A. MONTI, 7823
MATTHEW B. MOORE, 1208
ALAN MUNOZ, 2239
NATHAN NORTON, 7036
DENNIS S. OGRADY, 6332
SHANE J. OSBORN, 8959
DAVID J. PEARSON, 3818
LIVIO PERLA, 2715
SHAWN D. PETRE, 0611
DAVID E. PROCTOR, 9234
DAVID M. REED, 5865
JOSHUA C. RENAGER, 5810
SCOTT ROSE, 5368
CARY ROSENBERGER, 2738
BRYAN C. ROSKOS, 7092
RONALD B. ROSS, 4327
DONALD W. SCHENK, 3581
DEREK SCRAPCHANSKY, 2103
ERIC A. SHAFER, 4606
MARCELE P. SHIELITO, 1124
GREGG R. SHIPP, 7712
MARY SIMMERING, 1178
DANIEL S. SPICER, 1035
WILLIAM M. SULLIVAN, 1036
JEFFREY W. SUMMERS, 3654
MERRILL T. SWALM, 4899
CHRISTOPHER P. TALLON, 4782
DAVID C. TERRY, 8068
SEAN THOMAS, 0250
TARA L. TOSTA, 9329
JOHN D. TUTWILER, 2290
MICHAEL E. VANHORN, 2348
HENRY M. VEGTER, 9488
THOMAS L. WALKER, 5468
NICOLE A. WAYBRIGHT, 1808
SHANNON J. WELLS, 8020
RICHARD H. WILHELM, 7717
KEVIN P. WILLIAMS, 3385
MARC WILLIAMS, 2509
KIMBERLY D. WINCKLER, 8634
ALAN R. WING, 2462
ERNEST M. WINSTON, 0252
MICHAEL B. WITHAM, 1969

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

SANDERS W. ANDERSON, 7731
JAMES J. ANTUS, 3108
CHARLES A. ARENA, 1549
CHARLES R. AUKER, 8539
MARK E. BABBITT, 6028
DEAN A. BAILEY, 3204
LAWRENCE A. BARRETT II, 3920
EUGENE D. BARRON, JR., 5945
JEFFREY A. BASHFORD, 1772
WILLIAM J. BEARY, 2281
TIMOTHY A. BEMILLER, 3568
KARL H. BERNHARDT, 0876
GILBERT U. BIGELOW, 7372

JOHN R. BOLLINGER, 2725
BRUCE R. BOYNTON, 2382
DAVID M. BROWN, 7509
MARTIN J. BROWN, 4202
NORMAN F. BROWN, 2908
ROBERT F. BURT, 9653
CLINTON J. BUTLER, 9140
WILLIAM E. BUTT, 0109
JULIA T. CADENHEAD, 8733
THOMAS G. CALHOUN, 4578
ROBERT P. CARRILLO, 7017
LANETTA M. CASILIOBIXLER, 1677
RICHARD E. CELLON, 1250
CARLTON D. CHERRY, 4357
HENRY M. CHINNERY, 7102
JOE D. CLEMENTS, 5486
RICHARD M. COCRANE, 7069
JONATHAN S. COLLINS, 9393
DAVID J. CONNITO, 6724
RICHARD CONWAY, 0814
CAROL J. COOPER, 5181
MATTHEW D. CULBERTSON, 7449
SUSAN C. CULLOM, 8152
PATRICK R. DANAHER, 7319
DOUGLAS M. DEETS, 3903
JAMES P. DELL, 1524
MARK S. DENUNZIO, 3164
JOHN M. DEPAUL, JR., 6737
WILLIAM N. DEURING, 1797
DUANE M. DIAN, 4691
MICHAEL A. DIAZ, 2640
MICHAEL P. DINNEEN, 7836
JOHN A. DIXON, 7548
DAVID S. DOUGLAS, 2066
HAL H. DRONBERGER III, 6672
DOUGLAS L. EAGAN, 1276
ROBERT N. ECKENBERG, 5867
MARK EDWARDS, 6842
GEORGE E. EICHERT, 6462
PETER W. EISENHARDT, 0434
FREDERIC F. ELKIN, 7124
MAURA A. EMERSON, 7126
ROBERT J. ENGELHART, 0609
GARY A. ENGLE, 3896
ROBERT E. ETHERIDGE, 1647
CHERYL L. S. GANDEE, 5786
DENZEL E. GARNER, 3129
DEBORA C. GAY, 6983
ERIC J. GETKA, 4042
STEPHEN D. GIEBNER, 1001
DAVID P. GLEISNER, 1587
STEPHEN B. HAAS, 9853
GREGORY E. HALL, 5501
MARY M. HALUSZKA, 7908
KRISTINE J. HANSON, 2741
ROBERT K. HANSON, 6104
GERALD T. HATCH, 9270
RICHARD E. HAWKINS, 0127
KURT T. HENDRIX, 3286
MARK T. HETZER, 9388
ROGER N. HIRSH, 2529
ELWOOD W. HOPKINS, 1416
MALCOLM H. HORRY, 2537
CHARLES F. HOSTETTLER, 8988
ROBERT L. HOWARD, 5870
MICHAELL A. HUBER, 7015
THOMAS C. HUDSON, 0982
SUSHIL K. JAIN, 5282
DEBRA L. JANIKOWSKI, 8071
CHARLES E. JEROME, 1723
DEBORAH K. JOHNSON, 8785
JOHN L. KAUL, 8948
BRIAN J. KELLY, 4432
MAJOR L. KING II, 7500
THOMAS A. LAFFERTY, 6873
SARA E. LEASURENELSON, 3957
JAMES M. LEVALLEY, 6996
PAUL A. LINDAUER, 6381
JOSEPH O. LOPREIATO, 1992
MICHAEL J. LYDEN, 0018
BRUCE E. MACDONALD, 9816
FRANCIS R. MACMAHON, 5448
KATHRYN W. MARKO, 4355
SUSAN E. MARSHALL, 4619
PETER J. MARTIN, 1790
ROBERT A. MATTHEWS, 8245
DENNIS R. MCCLAIN, 1898
SCOTT B. MCCLANAHAN, 4700
MICHAEL E. MCGREGOR, 9220
THOMAS P. MCILRAVY, 3057
MICHAEL J. METTS, 0593
DAVID G. METZLER, 1710
ARTHUR R. MILLER, 2730
JOHN W. MILLS, 2587
MARK W. MITTAUER, 9659
DALE M. MOLE, 7086
HENRY R. MOLINENGO II, 9934
BECKY S. MOORE, 2128
GREGORY R. MOORE, 9573
JOSEPH L. MOORE, 1035
JAMES A. MOOS, 6049
MAGDALENE A. MOOS, 4846
ROBERT L. MOSES, 2514
DAVID W. MUNTER, 8441
HOLLY L. NAPPEN, 3973
JAMES T. NEED, 4639
RICHARD L. NEMEC, 0425
ELIZABETH S. NIEMYER, 4487
HENRY NIXON, JR., 4183
KENNETH E. NIXON, 6392
HART S. ODOM, 2207
STEPHEN J. OLSON, 4635
DONALD H. ORNDOFF, 7549
BRIAN F. PAUL, 7437
JOHN A. PERCIBALLI, 6523
LAURENCE J. PEZOR, JR., 5176
JAMES H. POPE, 1494
GARY E. PROSE, 5011
JANEE L. PRZYBYL, 0965
EMMETT W. QUESENBERRY, 9360
ROBERT F. RASPA, 0027
BARBARA A. RECKER, 4548
EDWARD G. REEG, 5205
RUSSELL H. RHEA, 1216
ROBERT L. RINGLER, JR., 1787
DOUGLAS S. ROARK, 5509
BARBARA A. ROBERTS, 1851
GABRIEL A. RODRIGUEZ, 8387
JOHN W. ROLPH, 2170
ALAN R. ROWLEY, 2586
MARIAN A. ROYER, 4028
ANGUS H. RUPERT, 0816
SHARON F. RUSHING, 6329
GERALD A. SANTULLI, 2235
SHELLEY A. SAVAGE, 7409
MICHAEL E. SCHAEFER, 7595
MARK E. SCHANDORFF, 3420
CHRISTOPHER SCHANZE, 7719
ROBERT E. SCHENK, JR., 4359
RICHARD R. SCHWAB, 5750
KENNETH K. SENN, 4931
JOHN W. SENTELL, 3348
MARK V. SHERIDAN, 8000
WILLIAM B. SHORT, 8278
MARK B. SKEEN, 8154
DAVID M. SKWARA, 6053
SUSAN M. SMALLING, 3533
JAMES A. SMITH, 0302
RANDALL J. SMITH, 5316
THOMAS B. SMITH, 1930
MARTIN R. STAHL, 1598
DAVID A. STARKEY, 0428
STEVEN C. STERRETT, 6642
FRANCES I. STEWART, 1679
RONALD L. S. SWAFFORD, 8277
DOUGLAS J. SWEENEY, 9258
WILLIAM G. SWEENEY, 8494
RAYMOND J. SWISHER, 0344
SCOTT A. SYNNOTT, 6802
DAVID A. TAFT, 9815
LEANNE L. THOMAS, 3585
CONNIE L. THORNTON, 6421
JEFFREY R. THORPE, 8738
HARRY J. TILLMAN, 4690
GLENNA L. TINNEY, 1287
RICHARD J. TITI, 6477
JAY R. TROWBRIDGE, 1044
MICHAEL P. TRYON, 2097
BLAKE H. TURNER, 6670
DAVID B. TURTON, 7642
PHILIP J. VALENTI, 6037
JOHN A. VANDERCREEK, 9678
DARRELL Y. VANHUTTEN, 4667
ELAINE C. WAGNER, 9228
THOMAS D. WALCZYK, 7413
RANDALL E. WEBB, 9455
BARTON R. WELBOURN, 9100
MARVIN C. WENBERG II, 1405
ROBERT WESTBERG, 7294
GARY W. WESTFALL, 0772
CECIL WHITE, JR., 5779
KEVIN L. WHITE, 4711
ROBERT L. WILLIAMS, 0183
BLANE M. WILSON, 7280
ELAINE R. WINEGARD, 2410
SAMUEL YOUNG, 4277
PAUL R. ZAMBITO, 1830

HOUSE OF REPRESENTATIVES—*Tuesday, June 16, 1998*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. RADANOVICH).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 16, 1998.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 75. Concurrent resolution expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill and a concurrent resolution of the House of the following titles:

H.R. 1853. An act to amend the Carl D. Perkins Vocational and Applied Technology Education Act.

H. Con. Res. 284. Concurrent resolution revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999, and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 629) "An Act to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact," disagreed to by the House and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. HATCH, and Mr. LEAHY to be the conferees on the part of the Senate, with instructions.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1853) "An Act to amend the Carl D. Perkins Vocational and Applied Technology Education Act," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, and Mr. REED to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the resolution (H. Con. Res. 284) "A concurrent resolution revising the congressional budget for the United States Government for fiscal year 1998, establishing the congressional budget for the United States Government for fiscal year 1999 and setting forth appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, Mr. BOND, Mr. GORTON, Mr. GREGG, Ms. SNOWE, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. SMITH or Oregon, Mr. LAUTENBERG, Mr. HOLLINGS, Mr. CONRAD, Mr. SARBANES, Mrs. BOXER, Mrs. MURRAY, Mr. WYDEN, Mr. FEINGOLD, Mr. JOHNSON, and Mr. DURBIN to be the conferees on the part of the Senate.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

BRINGING OUR EDUCATION SYSTEM INTO THE 21ST CENTURY

Mr. BLUMENAUER. Mr. Speaker, an important step was taken last week in our efforts to assure that America's schools and libraries share in the full power of the Internet. The Federal Communications Commission made its E-rate decision on Friday June 12. To their great credit the commissioners withstood tremendous pressure to end the program and decided to continue funding the discounted rate, the E-rate, but at a reduced level from what was anticipated. The new funding level is an almost 50 percent reduction from what schools and libraries anticipated and planned for based on what the Congress had previously decided.

Organizations from around the country are understandably disappointed. Thirty thousand schools and libraries took Congress at its word and submitted significant effort through their applications to the FCC. But in fairness I think the FCC did the best it could with this difficult situation.

There are several reasons why the political climate has become so charged. Yes, there is considerable confusion, but the solution is clearly not to end or put a hold on the program. We must recognize that much of this controversy is manufactured based on misunderstanding.

It is a misunderstanding about the origin of the program. It did not come from the FCC, it was not an invention of the Vice President, although he was clearly an advocate for Internet access to schools and libraries. This is an element that was part of the Telecommunications Act of 1996 passed by a Republican controlled Congress and supported with overwhelming bipartisan votes.

There is some confusion over whether adding subsidies into the telephone rate is actually a new idea. In fact it is not. The E-rate is simply an expansion of the existing universal service program which has been around for 60 years and which was an important tool to assure that rural America had telephone service at affordable rates.

There is some confusion as to the actual cost that is borne by the phone companies, although it is quite clear that as a result of the benefits of deregulation the phone companies have saved in the neighborhood of $3 billion as a result of deregulation to date, far more than is contemplated by keeping Congress' commitment to our schools and libraries.

There appears to be some confusion over this surcharge on the telephone bills. Is this simply an effort to recoup some of the costs of the E-rate, or are they trying to layoff some of those costs that the phone companies have, in fact, borne since 1934?

There is confusion over what the E-rate can be used for. It is, in fact, very narrowly drafted to include only a few services, not new computers and the so-called goldplating.

There is even confusion on the part of some as to whether or not this program is needed. Well, the allegation is

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

made that most of our schools are already hooked up to the Internet. This, of course, misses the point completely since those connections in the vast majority of cases are simply to an administrator, a principal's office. Fully three-quarters of our classrooms are yet to be hooked up to the Internet.

We in Congress need to make sure that we fulfill this commitment.

I agree that legislation may be needed, but that is why I have introduced a Truth in Billing Act, H.R. 4018, to have a GAO study to clarify exactly what the telephone companies have saved, how much has been passed on to consumers and what additional costs, if any, have resulted from the Telecommunications Act. We in Congress will provide that information to those who need it in order to make the informed decisions. And under my legislation companies that want to put extra line item charges on the telephone bills could do so, but they would also have to fully disclose all the savings that have resulted.

This is not a debate about over whether or not phone bills are going to go high, because in fact telephone bills are at their lowest point in history as a result of deregulation. What this debate is about is whether we as a Nation are going to meet the commitment we made to share the benefits of the deregulated telecommunication industry with the education system and our libraries and keep the commitment to those 30,000 schools and libraries.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas (Mr. PAUL) is recognized during morning hour debates for 5 minutes.

Mr. PAUL. Mr. Speaker, campaign finance reform has been a major topic for months on the House floor and, I understand, will continue to be a major debate. The last time the Congress has passed any major reforms dealing with campaigning was in the 1970s, and every problem that we had back then we have today, only it is much worse. Today, in order to comply with the law, we fill out tens of thousands of pages of forms, there is total misunderstanding of what the rules and regulations are, there are numerous fines being levied against many Members and many candidates, there are many inaccuracies put into the record mainly because a lot of people cannot even understand the rules and regulations, and I would not be surprised if just about everybody who ever filled out a financial reform at one time or the other inadvertently had some inaccuracies. All the challenges to these records have always been done by opponents and usually politicized, and it has not been motivated for the best of reasons.

New reforms are now being proposed, and I predict they will be no more successful than the numerous rules and regulations that we imposed on candidates in the 1970s. The reason I say this is that we are treating a symptom and not the cause. The symptom, of course, is very prevalent. Everybody knows there is a lot of big money that influences politics. I understand that there is $100 million a month spent by the lobbyists trying to influence our votes on the House floor and hundreds of millions of dollars trying to influence our elections. So some would conclude, therefore, that is the case, we have to regulate the money, the money is the problem.

But I disagree. Money is not the problem. The basic problem is that there is so much to be gained by coming to Washington, lobbying Congress and influencing legislation. The problem is not that we have too much freedom. The problem is that we have too much government, and if we think that just more regulations and more government will get rid of the problem, we are kidding ourselves. What we need is smaller government, less influence of the government on everything that we do in our personal lives as well as our economic lives. The Congress is always being involved.

Not only domestically, but Congress is endlessly involved in many affairs overseas. We are involved by passing out foreign aid, getting involved in programs like the IMF and World Bank. We are interfering in internal affairs militarily in over a hundred countries at the present time. So there is a tremendous motivation for people to come here and try to influence us. They see it as a good investment.

More rules and regulations, I believe, will do one thing if the size of government is not reduced. What we will do is drive the influence under ground. That is a natural consequence as long as there is an incentive to invest.

Under the conditions that we have today the only way we can avoid the influence is not ourselves, we, the Members of Congress, being a good investment. We should be independent, courageous and do the things that are right rather than being influenced by the money. But the rules and the regulations will not do very much to help solve this problem. Attacking basic fundamental rights would certainly be the wrong thing to do, and that is what so much of this legislation is doing. It is attacking the fundamental right to speak out to petition the government to spend one's money the way he sees fit, and this will only make the problems much worse.

Mr. Speaker, government is too big, our freedoms are being infringed upon, and then we come along and say those individuals who might want to change even for the better, they will have their rights infringed upon.

There are many groups who come to Washington who do not come to buy influence, but they come to try to influence their government, which is a very legitimate thing. Think of the groups that come here who want to defend the Second Amendment. Think of the groups that want to defend right to life. Think of the groups that want to defend the principles of the American Civil Liberties Union and the First Amendment. And then there are groups who would defend property rights, and there will be groups who will come who will be lobbyist types and influential groups, and they want to influence elections, and they may be adamantly opposed to the United Nations and interference in foreign policies overseas. They have a legitimate right to come here.

Sometimes I wonder if those individuals who are now motivated to put more regulations on us might even fear the fact that some of the good guys, some of the good groups who are coming here to influence Washington to reduce the size of government are no longer able to.

CBO'S INDEPENDENCE THREATENED BY PARTISAN POLITICS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas (Mr. BENTSEN) is recognized during morning hour debates for 5 minutes.

Mr. BENTSEN. Mr. Speaker, I rise today to point out a case of unfortunate and blatant hypocrisy on the part of the majority. The Congress created the Congressional Budget Office 23 years ago so that the House and Senate would have an impartial and independent source for budget forecast. Since its creation the Congress under both Republican and Democratic control and divided control between the House and Senate has respected the CBO's independence. In return for that independence CBO has served the Congress well by providing us with honest estimates of the budgetary effects of spending and taxing proposals.

Today that independence is threatened by partisan politics. Just last week the gentleman from Georgia, Speaker GINGRICH, and the Republican leadership threatened the CBO because their budget forecasts do not square with the irresponsible budget resolution passed by the House. Truth be known, Houdini could not create the magic budget forecast necessary to make this budget resolution work. In his letter to the CBO Speaker GINGRICH and the House leadership wrote that "CBO's low estimates have been consistently wrong and wrong by a country mile."

If the estimates were not changed, Congress then must review the structure and funding for the CBO in this appropriations cycle if CBO did not conform its estimates to the majority's budget resolution. The majority is seeking to abandon fiscal discipline by using ever larger surpluses to pay for tax cuts we cannot afford while making draconian cuts in nondefense discretionary spending and allowing the national debt to continue to grow, putting Social Security at peril. In fact, this bullying reminds me of the old adage, that, "if you don't like the message, shoot the messenger." This is typically what dictators and strong men do when they take power. They terrorize those most likely to question their programs: professors, newspapers and religious leaders.

But is it not ironic, 3 years ago the new Republican leadership demanded that the President agree to use CBO estimates to score his budget?

□ 1245

The White House, on the other hand, wanted to use the estimates of the Office of Management and Budget.

The Speaker and the Republican leadership were so adamant about using the CBO, that they refused to pass appropriations bills, leading to 2 government shutdowns. Instead of having an honest and straightforward accounting, the Republican leadership would rather threaten the CBO.

Mr. Speaker, I want to read a few statements of what the Republican leaders said a few years ago in contrast to statements made last week.

Last week Speaker GINGRICH wrote, "We are deeply concerned about the increasing evidence that the CBO is utterly unable to predict consistent and future revenues or even the fiscal year implications of changes in budget policy."

But on November 15, 1995, Speaker GINGRICH demanded that the President "agree to two principles, that the budget shall be balanced in 7 years and that the scoring will be honest numbers based on the Congressional Budget Office."

On November 20, 1995, the Committee on Rules Chairman, the gentleman from New York (Mr. SOLOMON), said about balancing the budget with CBO scoring, "We will do it within 7 years as estimated by the CBO. There is no wiggle room there. No smoke and mirrors. We will do it with realistic figures."

On that same day, the majority whip and the gentleman from Texas (Mr. DELAY) said the goal, "Is to achieve a balanced budget no later than fiscal year 2002 as estimated by the CBO. Very real. Very meaningful."

Why is it that 3 years ago CBO estimates were, quote, "honest," "realistic," "meaningful," "no smoke and mirrors," and today they are being attacked by the Republican leadership? Is it possible that the policies being put forth by the majority today are not honest, realistic, meaningful, and the budget numbers are fudged with blue smoke and mirrors?

Mr. Speaker, this is more than a case of hypocrisy. This is about responsible governing and responsible policymaking at which the leadership has proven not very adept. Manipulating budgetary estimates will allow both parties to abandon fiscal discipline. Without maintaining a course of fiscal discipline, the Congress' hard work since 1990 will be compromised. Federal budget surpluses will be short-lived and we will return to deficit spending and an increasing national debt.

CBO keeps our policy proposals honest through rigorous analysis and scoring. For the sake of fiscal discipline and trying to reduce our enormous Federal debt, we should let the CBO do its work without interference from partisan politics.

MARRIAGE TAX ELIMINATION ACT

The SPEAKER pro tempore (Mr. RADANOVICH). Under the Speaker's announced policy of January 21, 1997, the gentleman from Illinois (Mr. WELLER) is recognized during morning hour debates for 5 minutes.

Mr. WELLER. Mr. Speaker, 2 weeks ago this House of Representatives did something that many said could not be done. I remember when I came to Congress, there were those that said we could not balance the budget and lower taxes for the middle class at the same time. Well, we did that last year with the bipartisan budget agreement, and 2 weeks ago, the House passed the second balanced budget in over a generation.

What was significant about that balanced budget is it was a balanced budget that not only spent less, but it taxed less; and of course, when it made taxes lower for middle class families, it made elimination of the marriage tax penalty the centerpiece and the number 1 priority.

I thought I would take a few minutes today to talk about why elimination of the marriage tax penalty is so important for middle class Americans throughout this country. I think a series of questions really best illustrate why the marriage tax penalty should be eliminated, and that is, do Americans feel that it is fair that our Tax Code imposes a higher tax on marriage? Do Americans feel that it is fair that 21 million average, married, working couples pay on the average $1,400 more in higher taxes just because they are married; that a married couple pays higher taxes than an identical couple with identical income that lives together outside of marriage? Do Americans feel that it is right, or is it fair, that the only way to avoid the marriage tax penalty is to file for divorce?

It is clear that the marriage tax is not only unfair, it is wrong; and really, it is immoral that our Tax Code punishes our society's most basic institution, the institution of marriage. Let me remind my colleagues again that 21 million married, working couples pay on the average $1,400 more in higher taxes.

I have an example of a couple in Joliet, Illinois, in the south suburbs of Chicago that I have the privilege of representing, and let me just give an example here of how the marriage tax penalty works. Usually the way it works is the husband and wife get married, they both work; when they file their taxes, they file jointly and it pushes them into a higher tax bracket. In this case we have a machinist at Caterpillar, and Caterpillar makes the heavy earth-moving equipment, and their biggest plant is right in Joliet in my district.

We have a machinist who works there, and he makes $30,500 a year in annual income as a machinist at Caterpillar. After we factor in the standard exemption and deduction for which he qualifies, he is going to be taxed at a rate of 15 percent. Now, say across town he meets a gal, she is a school teacher in the Joliet public schools, and she has an identical income of $30,500.

Now, if she stayed single, she would be taxed at 15 percent. But under our Tax Code when they marry, they file jointly, even after we factor in for this couple the standard deductions and exemptions for this married couple, this machinist and school teacher in Joliet, Illinois, they end up paying more in taxes just because they got married. In fact, this couple, this machinist and school teacher pays the average marriage tax penalty of $1,400, just because they got married.

Now our Tax Code actually says, stay single and live together outside of marriage. It is to your financial advantage. That, of course, we believe is just wrong.

Mr. Speaker, if we think about it, $1,400 for this couple in Joliet, Illinois is real money, real money, as I say, for real people. That is because $1,400 is one year's tuition at Joliet Junior College; it is 3 months' day care at a local day care center.

Now, we have proposed a solution for eliminating the marriage tax penalty, and the Marriage Tax Elimination Act, also known as Weller-McIntosh II, is legislation which is simple. It eliminates the marriage penalty and of course it is very simple and does not complicate the Tax Code.

What we propose to do is to double the standard deduction. In this case, by doubling the standard deduction, it would help that machinist and school teacher, and also we double the brackets in the Marriage Tax Elimination Act. Right now, if one is married or if one is single, one pays 15 percent on just less than the first $25,000 in income; but if one is married, one only has a 15 percent rate up to about $41,000.

Clearly, what our legislation does is essentially double the bracket for married couples to exactly that of singles. That is fair; that is a simple way of eliminating the marriage penalty. The Marriage Tax Elimination Act doubles relief for married couples by doubling the standard deduction as well as doubling the brackets to eliminate the marriage penalty.

That is simple legislation. I think it is pretty important as we work to make elimination of the marriage tax penalty the centerpiece of this year's budget and, hopefully, the President will join with us and make it a bipartisan effort.

Remember in 1997 the President embraced the Republican proposal for a $500-per-child tax credit. We made it a bipartisan effort and we succeeded, and 3 million children in Illinois now qualify for that, providing $1.5 billion in higher take-home pay for Illinois families in the coming year because of the $500-per-child tax credit.

Elimination of the marriage penalty is the centerpiece of the House budget that we passed this past week. The elimination of the marriage tax penalty should be a number one priority as we finalize the budget this year.

Mr. Speaker, I rise today to highlight what is arguably the most unfair prevision in the U.S. Tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

I would also like to commend the leadership of House budget Chairman Kasich for including elimination of the marriage tax penalty as a top priority in his budget resolution. The Republican House Budget Resolution will save a penny on every dollar and use those savings to relieve families of the marriage penalty and restore a sense of justice to every man and woman who decides to get married.

Many may recall in January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: cut waste; put America's fiscal house in order; and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes that a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that out tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School teacher	Couple	Weller/McIntosh II
Adjusted Gross Income	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	6,550	6,550	11,800	13,100 (Singles 2)
Taxable Income	23,950 (.15)	23,950 (.15)	49,200 (Partial .28)	47,900 (.15)
Tax Liability	3,592.5	3,592.5	8,563	7,185

Marriage Penalty: $1378; *Relief: $1378. Weller-McIntosh II Eliminates the Marriage Tax Penalty.*

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Millions of married couples are still stinging from April 15th's tax bite and more married couples are realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: A down payment on a house or a car; one years tuition at a local community college; or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Penalty Elimination Act.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Our new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It takes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual. Our bill already has broad bipartisan cosponsorship by Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over."

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentleman, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty . . . a bipartisan priority.

Of all the challenges married couples face in providing home and health to America's children, the U.S. tax code should not be one of them.

Lets eliminate The Marriage Tax Penalty and do it now!

Mr. Speaker, I include the following for the RECORD.

Do Americans feel that it's right to tax a working couple more just because they live in holy matrimony?

Is it fair that the American tax code punishes marriage, our society's most basic institution?

WELLER-MCINTOSH II MARRIAGE TAX COMPROMISE

Weller-McIntosh II, H.R. 3734, the Marriage Tax Penalty Elimination Act presents a new, innovative marriage penalty elimination package which pulls together all the principle sponsors of various legislative proposals with legislation. Weller-McIntosh II will provide equal and significant relief to both single and dual earning married couples and can be implemented immediately.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,215 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Weller and McIntosh's new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

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Marriage Penalty: $1378; *Relief: $1378. Weller-McIntosh II Eliminates the Marriage Tax Penalty.*

The repeal of the Marriage tax was part of the Republican's 1994 "Contract with America," but the legislation was vetoed by President Clinton.

* * *

GAMBLING IS DESTROYING OUR YOUNG PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Virginia (Mr. WOLF) is recognized during morning hour debates for 5 minutes.

Mr. WOLF. Mr. Speaker, I just read today in The New York Times on the front page an article entitled, "Those Seductive Snake Eyes: Tales of Growing Up Gambling."

The bad news is that gambling in this country is growing. The worst news is that the gambling addiction is growing fastest among young people. The article says,

> There is a growing concern among experts on compulsive gambling about the number of youths who, confronted with State lotteries, the growth of family-oriented casinos, and sometimes lax enforcement of wagering laws, gamble at an earlier and earlier age and gamble excessively.

The story quotes a recent Harvard Medical School study which was conducted by Dr. Howard Shaffer which found that the rate of problem gambling among adolescents is more than twice the rate for adults. Twice the rate of adults, and these people are going to soon be adults.

The article is shocking. It cites stories of young people who have hit the bottom at a very young age, and all because of gambling.

One young man got hooked on gambling as a teenager. The problem was so bad his parents had to put locks on all the rooms and closets in the house so he would not run out and sell the family's belongings to gamble. He has been to prison twice for credit card fraud and writing false checks. Later in the article he talks about how he first got interested in gambling. When he was growing up, he used to help his grandmother pick lottery numbers at a neighborhood store, and then he used to go gambling with her on trips to Atlantic City. He would wait for her outside the casinos peering into the windows wishing that he could play.

The New York Times piece said that at one high school in the northeast U.S., kids said they knew a fellow student who was a professional bookie who booked bets right there at the high school. Amazingly, that school set up a mock casino as part of its prom night festivities. The school principal said the students had no problems with the various games. They knew them all well and apparently needed no coaching.

This is a problem everywhere in America, all over this country. According to the article, an LSU University study conducted last year found that among Louisiana young people age 18 to 21, 1 in 7 were, and I quote, "problem gamblers, some of them pathological, youths with a chronic and progressive psychological disorder characterized by an emotional dependence on gambling and loss of control over their gambling."

Everyone in this country is worried about tobacco use among teenagers, and I am too, but we have another problem, Mr. Speaker, that all of us have to address, and that is the problem of gambling in this country.

I hope the country wakes up, although I believe the country is far ahead of the Congress and far ahead of the elected officials, because every time gambling is on a referendum, they vote it down. But I hope the governors wake up, all of them who are trying to ply gambling and raise money by lotteries, I hope they wake up.

Lastly, I hope this Congress wakes up. And I will tell my colleagues, nobody in this Congress who cares about people and talks about these problems ought to be taking any political activity money from the gambling interests, because if my colleagues will read this story in today's New York Times to see how this is ruining our young people, how then can one rationalize that one has taken money from the gambling interests?

Mr. Speaker, I urge all of my colleagues, I plead with my colleagues, read today's New York Times and see what is happening to our young people.

* * *

DEFENDING THE INTEGRITY OF THE CENSUS BUREAU

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from New York (Mrs. MALONEY) is recognized during morning hour debates for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, I applaud my colleague from the other side of the aisle, the gentleman from Virginia (Mr. WOLF), for his very important statement. He is absolutely correct.

Today I rise to defend the integrity of the Census Bureau. Repeatedly, in an argument over a fair and accurate census, the opponents of accuracy have suggested that they would support the use of modern technology if they could be assured that the process would not be manipulated for political purposes.

Perhaps Jim Hubbard, the representative of the American Legion said it best at last week's meeting of the Secretary's Census 2000 Advisory Committee. He said that the only way that the census numbers could be manipulated would be if the professionals in the Census Bureau did it. He went on to say that he did not believe that that was possible.

Mr. Hubbard is absolutely right, and the opponents of an accurate census should be ashamed of themselves for attacking the Census Bureau like that. Never in the almost 100 years of the Census Bureau has there been a breach in the integrity of that organization.

Just after Pearl Harbor, the President of the United States asked the Census Bureau for a list of the names and addresses of Japanese living in

America. The Census Bureau refused. During the 1970s, President Nixon did not like the fact that the rate of poverty was increasing during his administration, and put pressure on the Census Bureau to change the numbers. The Census Bureau refused.

The reputation of the Census Bureau is unassailable, and the opponents of an accurate census do themselves and the country a disservice to suggest otherwise.

Today, the Atlanta Journal tries to make this case once again. They admit that scientific methods will make the census more accurate. They acknowledge that if the count shows a population shift that favors one party or the other, it should stand. But then they claim that only the most optimistic could believe that the numbers would not be manipulated by the politicians.

□ 1300

On that, they are dead wrong. Anyone who has any knowledge of how a census works, and how the plans for 2000 work, know that the only ones who could manipulate the numbers are the professionals in the field or in the headquarters of the Census Bureau. There is not now, and there has never been, any evidence to suggest that those professionals would abandon their professional scientific judgment.

As my Members are all aware, I am sure, my colleagues and I have been destroying, sacrificing the American forests, my colleague, the gentleman from Florida (Mr. MILLER) and I have, in defense of our positions on the census. He is fond of circulating editorials attacking the census and I have sent out literally dozens in suppport of a fair and accurate census.

Mr. Speaker, I hope that today the gentleman resists the temptation to use the Atlanta Journal editorial for a partisan battle, but rather joins me in defense of the professionals at the Census Bureau. The Atlanta Journal suggests that only the "blissful optimistic" could believe that the census process is protected from political manipulation by the professionals at the Census Bureau. I hope that the gentleman from Florida (Mr. MILLER) will join me in telling the Atlanta Journal that the professionals at the Census Bureau are our best hope of a census that is free of politics and as accurate as possible, regardless of how our battle turns out.

PRESIDENT SHOULD CANCEL TRIP TO CHINA

The SPEAKER pro tempore (Mr. RADANOVICH). Under the Speaker's announced policy of January 21, 1997, the gentleman from California (Mr. ROHRABACHER) is recognized during morning hour debates for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, I know that all of us are committed, along with the gentlewoman from New York (Mrs. MALONEY) to a fair census. I am glad to hear that she did not mention the words "census sampling," because of course we know that what that really means is guesstimating.

Many people who are talking about the census nowadays are the same ones who suggested that we have a thing called the "Motor-Voter Bill" in California, which as we found out was nothing more than the "Illegal Alien Voter Registration Act." So we are all dedicated to an accurate census. That is why we want people specifically counted as they always have been in the past.

Mrs. MALONEY of New York. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentlewoman from New York.

Mrs. MALONEY of New York. Mr. Speaker, the gentleman mentioned that the sampling technique is guessing, yet the National Academy of Sciences has come out with a report that was ordered really by President Bush saying that it is the most scientific method, most accurate method to count Americans.

Mr. ROHRABACHER. Mr. Speaker, it is called guesstimating.

Mrs. MALONEY of New York. Mr. Speaker, that is what the gentleman calls it. They call it "accuracy."

Mr. ROHRABACHER. Mr. Speaker, reclaiming my time, we do not need some pointy-headed intellectual at some university, who may or may not be an ultra liberal receiving some kind of a grant for study, to tell me that it is more scientific to guesstimate who lives over there, rather than to walk over there and count each person individually as has been the case in every past census.

Mr. Speaker, every time we change these rules and allow these standards what we end up with is the average American gets hurt. And what we did with motor-voter is we permitted massive numbers of illegal aliens to vote and degrade the voting of the American population.

Mr. Speaker, back to the issue of the day, however. Yesterday, human rights activists came to the United States Capitol and I was privileged to join them in underscoring the support for the people of Tibet, especially in light of the President's upcoming visit to Communist China.

Mr. Speaker, many concerns were raised yesterday, and today we finally got the answer to those concerns of yesterday. In a letter published in today's Washington Post, the Communist Chinese Ambassador to the United States claims all the uproar about Tibet is simply based on misunderstandings, misunderstandings of the facts. And he gave us a couple of misconceptions here in his letter to the Washington Post today. This is the Communist Chinese Ambassador.

Misconception number one is that China actually occupies Tibet. That this was a region that was liberated peacefully through an agreement reached between the Central Government and the local government in 1951. Those are his words.

Misconception number two, that there are a great number of Han Chinese who have immigrated to Tibet. He claims some professionals from the coastal areas do go to Tibet to offer expertise to develop the local economy, but after completing their tenure most return home.

And finally there is a misconception that the Tibetan culture and religion are being destroyed. When we have this type of honest dialogue, or the level of honesty in this dialogue, it makes us wonder why our President of the United States is going there to represent the people of the United States to try to give us hope that there is any type of an agreement with gangsters who make a mockery of the truth like that.

In fact, what we have got today in Communist China with the President's upcoming visit, here he has chosen the 10th anniversary of the massacre of the democracy movement in Tiananmen Square to go visit these gangsters, even though the human rights record has not improved, even though the belligerence of Communist China is in evidence in its smuggling of technologies of mass destruction to volatile parts of the world, even Libya and Iran.

Today in the Capital City's other newspaper, the Washington Times, there is a headline story about the Communist Chinese sending weapons of mass destruction technology to Libya and Iran, these terrorist states. Mr. Speaker, I quote this article, "Libyan leader Moammar Gadhafi has said that he would like to have a missile system capable of attacking New York."

Mr. Speaker, this is not the time to enter into a discussion with these type of gangsters who control the government in China. I would suggest, especially when we have evidence that American companies have been using American technology to upgrade Communist Chinese missiles, that this is bad enough, and now we hear that they are using American technology that could be shifted to terrorists like Gadhafi in Libya who would be even more likely to use this technology to kill millions of Americans.

Mr. Speaker, I suggest that the President is not watching out for the best interests of our country and he should cancel his trip to China.

YOUTH IN ACTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Washington (Mr. METCALF) is recognized during morning hour debates for 5 minutes.

Mr. METCALF. Mr. Speaker, over the recess I had opportunity to visit Youth in Action in Mount Vernon, Washington, which is a city in my district. Youth in Action was created in Washington State to encourage school age children living in multifamily housing to participate in afterschool programs.

While most parents would like to spend more time with their children, many parents are unable to do so because of their demanding jobs. The Youth in Action program provides adult supervision and engages children in activities while parents are at work.

More importantly, these adults serve as positive role models to children whose parents are not able to be present. Our children are not the sole beneficiaries. Our communities also benefit with lower crime rates, decreased vandalism, and reduction in property damage. Programs such as Youth in Action help encourage children to excel and be active in positive situations at an early age.

Mr. Speaker, it is during these formative years that we can have the most influence on these children by instilling values and building positive character traits.

Mr. Speaker, I would like to commend Youth in Action for providing this essential service to children of our community, children who may need inspiration.

E-RATE IS TAX ON AMERICANS' PHONE BILLS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. SCARBOROUGH) is recognized during morning hour debates for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, earlier this hour a friend of mine came to the floor and was talking about his support for the E-Rate system, the E-Rate tax. He was also talking about confusion surrounding that program.

While I certainly respect the gentleman's opinions and understand his viewpoints, I have got to tell my colleagues there should not be a whole lot of confusion surrounding the E-Rate tax, or the Gore tax as it is more commonly called. If there is, it is because there was a backroom deal between Vice President GORE and a bureaucrat for the FCC.

Mr. Speaker, there should not be confusion, but there may be because of the tax increase on the phone bill of all Americans which was passed on to them secretly by the Vice President and bureaucrats and not by elected officials in this Chamber.

It certainly violates all notions of fair play and constitutional limits that are passed on the Federal Government. There may be confusion because the FCC used heavy-handed tactics to try and stop phone companies from telling their consumers that a 5 percent tax had been passed on to every one of their phone bills secretly. Certainly, that does add confusion.

Now, what the Gore tax does is through the telecommunications bill it misinterprets, or interprets very loosely, a provision that they believe allows the FCC to demand that telecommunication companies increase taxes on phone bills by 5 percent and then passes that money on to a new Federal bureaucracy program.

We have heard, and we will hear throughout this debate, that this tax is about the children. That it is about helping the children. And since I have been in Washington, D.C., I have found that there is not much that we pass on this floor that somebody does not say is about helping the children. Children, children, children. That is all we hear about.

Well, I say if this tax increase on every American's phone bill is so important for the children, then why do we not invite the Vice President and our tax-and-spend friends on the left to come down to this Chamber and debate, fairly and openly for all Americans to see, the issues involved here?

America is not about passing tax increases on to all Americans through a bureaucracy, or for an administration official to decide that, gee, this is a really good program, let us tax all Americans and not tell them about it.

What America is supposed to be about, what this Chamber, the People's House, is supposed to be about, the epicenter of freedom and democracy across the world, it is supposed to be about a fair and free, open debate.

Over 200 years ago, Thomas Jefferson was talking about the promise and the dream of America and what would make the American Republic. What Thomas Jefferson talked about was the fair marketplace of ideas and the free marketplace of ideas where Americans from all sides of an issue could come together and debate the issues that affected Americans.

Mr. Speaker, regrettably, this tax increase on the phone bill of all Americans has not been done openly in this Chamber, but rather has been done in the backrooms of the White House and in bureaucracies across Washington, D.C. When the telephone companies went to the bureaucrats and said we are going to start telling our consumers about this 5 percent tax that has been passed on to them, they met resistance. The bureaucrats said, "You cannot do that." And so now they are debating that issue back and forth.

Because of this reason, because of the backroom deals, today I have introduced a bill called the "E-Rate Tax Moratorium Act of 1998." It is going to do a few simple things. The first thing it is going to do is it is going to stop the bureaucrats at the FCC from demanding that phone companies tax Americans.

The second thing it is going to do is it is going to stop the FCC from demanding that the telecommunications companies participate in the future in paying more money into this new bureaucracy. It does not destroy this bureaucracy that supposedly is supposed to help children. It does not stop the head of this new bureaucracy from talking $200,000 a year, not that that is something that we would not necessarily like to do away with.

□ 1315

But, instead, it puts a moratorium on it, and it says wait a second, you all passed this in a manner that the GAO said was illegal. You broke laws. You hiked taxes on every single American with a telephone without doing it in a fair and open democratic debate. Let us just put a freeze on it and take up the issue later.

Mr. Speaker, I ask my colleagues to join in a moratorium on the Gore tax.

RECESS

The SPEAKER pro tempore (Mr. RADANOVICH). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 16 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. EWING) at 2 p.m.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Surround us, O God, with the spirit of unity as we cherish together our purposes and our aspirations. We know, gracious God, that you unite us in our common creation and give us solidarity in our shared aspirations. You have also given us individual minds with which to think, hearts with which to care, and hands with which to work. We honor the authentic disagreements we have with each other even as we honor each other in our shared objectives and purposes. Help us to hold high, O God, our noble tasks to your glory and honor. In your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Oregon (Ms. FURSE) come forward and lead the House in the Pledge of Allegiance.

Ms. FURSE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MARGARITO DOMANTAY

The SPEAKER pro tempore. The Clerk called the bill (H.R. 375) for the relief of Margarito Domantay.

There being no objection, the Clerk read the bill, as follows:

H.R. 375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

The Secretary of the Treasury shall pay, out of any funds in the Treasury not otherwise appropriated, to Petty Officer Margarito Domantay, United States Navy (retired), of Tampa, Florida, the amount of retired pay that he would have received for the period beginning on June 8, 1979, and ending on March 12, 1985, had he been initially retired in the grade of E-5, second class (rather than the grade of E-4, third class, in which he was mistakenly retired due to administrative error).

SEC. 2. LIMITATION ON AGENT AND ATTORNEY FEES.

It shall be unlawful for an amount exceeding 10 percent of the amount paid pursuant to section 1 to be paid to, or received by, any agent or attorney for any service rendered in connection with the claim described in such section. Any person who violates this section shall be guilty of an infraction, and shall be subject to a fine in the amount provided in title 18, United States Code.

With the following committee amendment in the nature of a substitute:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT OF CLAIM AGAINST THE UNITED STATES FOR ERRONEOUS COMPUTATION OF RETIRED PAY.

The Secretary of the Treasury shall pay, out of any funds in the Treasury not otherwise appropriated, to Petty Officer Margarito Domantay, United States Navy (retired), of Tampa, Florida, the sum of $6,386.30, such amount representing the amount of retired pay (with interest) that Petty Officer Domantay would have received for the period beginning on June 8, 1979, and ending on March 12, 1985, had that retired pay been properly computed based upon pay grade E-5 second class (rather than pay grade of E-4, third class, with which such retired pay was computed due to administrative error).

SEC. 2. LIMITATION ON AGENT AND ATTORNEY FEES.

It shall be unlawful for an amount exceeding 10 percent of the amount paid pursuant to section 1 to be paid to, or received by, any agent or attorney for any service rendered in connection with the claim described in such section. Any person who violates this section shall be guilty of an infraction, and shall be subject to a fine in the amount provided in title 18, United States Code.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NURATU OLAREWAJU ABEKE KADIRI

The Clerk called the bill (H.R. 1949) for the relief of Nuratu Olarewaju Abeke Kadiri.

There being no objection, the Clerk read the bill, as follows:

H.R. 1949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR NURATU OLAREWAJU ABEKE KADIRI.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Nuratu Olarewaju Abeke Kadiri shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Nuratu Olarewaju Abeke Kadiri enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Nuratu Olarewaju Abeke Kadiri, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

With the following committee amendment in the nature of a substitute:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR NURATU OLAREWAJU ABEKE KADIRI.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Nuratu Olarewaju Abeke Kadiri shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Nuratu Olarewaju Abeke Kadiri enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Nuratu Olarewaju Abeke Kadiri, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Nuratu Olarewaju Abeke Kadiri shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

DOLLARS TO THE CLASSROOM ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today to ask Members to help our Nation's children learn and teachers teach by supporting H.R. 3248, the Dollars to the Classroom Act. This bill will send at least 95 cents of every Federal dollar for 30 K-through-12 education programs to our children's classrooms. That means that over $3 billion a year will be taken from the grasp of bureaucrats and put into the hands of a teacher who knows your child's name.

Mr. Speaker, that means that every classroom in America will get over $500 more per year. Instead of paying for reports, studies, and layers of bureaucracy, our tax dollars should be used to pay for teachers' salaries, textbooks, computers, microscopes and maps. That is what this bill does.

Last October the Dollars to the Classroom resolution, sense of the House resolution, passed overwhelmingly. Now, in 1998, we must put rhetoric into action by passing the Dollars to the Classroom Act into law before our children return to school next fall.

INTERNATIONAL MONETARY FUND IS NOT A LOAN PROGRAM

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan is beating the White House like a drum. Check this out: Japan lets the yen hit rock bottom, making Japanese products lower than a Dolly Parton wonder bra, forcing Japan's Asian rivals to dial 911 for Uncle Sam, who has already given $120 billion from the International Monetary Fund to bail out Korea, Thailand, and Indonesia. And, you guessed it, the White House says, they need it and the White House wants $18 billion more for IMF.

Beam me up, Mr. Speaker. Let us tell it like it is. This International Monetary Fund does not look like a loan program to me. It is starting to look like international welfare, and Japan is cashing the food stamps while they laugh all the way to the bank with our dollars.

You think about that, and I yield back the 207 points of fright on Wall Street.

THE PRESIDENT MUST CALL FOR AN END TO CHINA'S NOTORIOUS LABOR CAMPS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, in 1987 then-President Ronald Reagan signaled an end to the Cold War when he called upon Soviet leader Mikhail Gorbachev to tear down the Berlin Wall. The time has come for President Clinton to make a similar call to the Communist Chinese.

Next week President Clinton will have a landmark opportunity to call for human rights reforms in Communist China. He will have a historic opportunity, and millions of Americans hope and pray that he will not squander it.

The President will be greeted in Tiananmen Square. This is the same site where 9 years ago the world watched as the Chinese Government brutally crushed the prodemocracy demonstration and killed or jailed thousands of Chinese citizens.

As the world's only true leader, America cannot abdicate its responsibility to call for an end to China's human rights abuses. At every turn, President Clinton must call on the Chinese Government to respect the rights of Chinese citizens to assemble and to freely express themselves. The President must speak for the conscience of the civilized world and call for an end to China's notorious labor camps.

The time has come for the U.S. to exercise its leadership and moral authority, and I sincerely hope that President Clinton doesn't waste it.

REFORMERS ON BOTH SIDES OF THE AISLE SHOULD VOTE FOR COVERDELL LEGISLATION

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, the Federal Government should support success and condemn failure. Yet, when it comes to education for our children, the government does exactly the opposite. The special interests in Washington defend the status quo even for failing schools, and then when it comes to initiatives from the States that do work, Washington bureaucrats condemn them.

Our children are the ones who daily are being shortchanged. Congress has a chance to change all of that with a vote tomorrow on education IRAs. It gives parents more control over their children's education and it gives less control to special interests.

This is not a tough choice. The education of our children is too important to let special interest politics get in the way.

I urge reformers on both sides of the aisle to support the Coverdell legislation when it comes before this House tomorrow.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 15, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on June 15, 1998 at 4:01 p.m. and said to contain a message from the President whereby he transmits to the Congress a report required by Condition (4)(A) of the resolution of advice and consent to ratification of the Chemical Weapons Convention.

With warm regards,

ROBIN H. CARLE,
Clerk.

COST-SHARING ARRANGEMENTS UNDER CONVENTION ON PROHIBITION OF DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND THEIR DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of The United States:

Attached is a report to the Congress on cost-sharing arrangements, as required by Condition (4)(A) of the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 15, 1998.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

CONGRESSIONAL GOLD MEDAL TO NELSON ROLIHLAHLA MANDELA

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3156) to present a congressional gold medal to Nelson Rolihlahla Mandela.

The Clerk read as follows:

H.R. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Nelson Mandela has dedicated his entire life to the abolition of apartheid and the creation of a true democracy in the Republic of

South Africa and has sacrificed his own personal freedom for the good of everyone.

(2) For nearly 30 years as a political prisoner, Nelson Mandela never compromised his political principles, was a source of strength and education for other political prisoners, and refused offers of freedom in exchange for a renunciation of his personal and political beliefs.

(3) After his release from prison, Nelson Mandela continued to pursue his goal of a free South Africa, and was elected and subsequently inaugurated as State President of the Republic of South Africa on May 10, 1994, at the age of 75 years.

(4) Nelson Mandela's dedication to freedom did not cease once the apartheid laws were lifted, as he then focused his efforts toward reconciliation by creating the Truth and Reconciliation Commission, chaired by the Archbishop Desmond Tutu.

(5) Nelson Mandela is the recipient of many awards and accolades, including the Nobel Peace Prize (which he accepted with then-State President F.W. de Klerk in 1993), and more than 50 honorary degrees from universities around the world.

(6) Millions of individuals of all races and backgrounds in the United States and around the world followed Nelson Mandela's example and fought for the abolition of apartheid in the Republic of South Africa and in this regard the Congress recognizes Amy Elizabeth Biehl, an American student who lost her life in the struggle to free South Africa from racial oppression, and the spirit of forgiveness and reconciliation displayed by her parents, Peter and Linda Biehl.

(7) Nelson Mandela is a prime example of how to work to heal the wounds of racism.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Nelson Rolihlahla Mandela in recognition of his life-long dedication to the abolition of apartheid and the promotion of reconciliation among the people of the Republic of South Africa.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under section 2 at a price sufficient to cover the costs of the medals, including labor, materials, dies, use of machinery, and overhead expenses.

SEC. 4. NATIONAL MEDALS.

The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING AND PROCEEDS OF SALE.

(a) AUTHORIZATION.—There is hereby authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this afternoon I rise in support of H.R. 3156, the bill to award a Congressional Gold Medal to Nelson Mandela, a man who is the linchpin of stability and democracy in Africa. I use the term advisedly because a linchpin is inserted at the end of a shaft to keep the wheel from coming off. It is an apt metaphor for the role of Mr. Mandela and South Africa at this point in the history of that troubled continent. Subsequent speakers will detail this Nobel Laureate's manifold accomplishments and the international recognition he has received since his release from nearly 30 years' imprisonment on Robben Island.

H.R. 3156 complies with Committee on Banking and Financial Services' rules regarding the authorization of gold medals. Although a committee markup was not held, 293 Members are cosponsors. There is no known opposition from Members of Congress or the United States Mint.

Mr. Speaker, this legislation is the product of the hard work of my esteemed colleague, the gentleman from New York (AMO HOUGHTON).

Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. HOUGHTON) and ask unanimous consent that he may be permitted to yield blocks of time to others who may wish to speak to this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. HOUGHTON. Mr. Speaker, I yield myself such time as I may consume, and thank the gentleman from Delaware (Mr. CASTLE) for yielding me this time.

I would like to talk about this bill, H.R. 3156. I think it is a very important bill because it attacks an important issue in our society and one of the most exemplary men who lives today.

This is a bipartisan bill. Beside me is the gentleman from New York (Mr. GILMAN) of the Committee on International Relations. He and the gentleman from Indiana (Mr. LEE HAMILTON), who is the minority member of that committee, have been endorsing it; the gentleman from Georgia (Mr. NEWT GINGRICH), the Speaker; the gentleman from Missouri (Mr. GEPHARDT); the gentlewoman from California (Ms. MAXINE WATERS); the gentleman from Ohio (Mr. STEVE CHABOT); the gentleman from South Carolina (Mr. MARK SANFORD); the gentleman from New York (Mr. CHARLIE RANGEL); the gentleman from California (Mr. TOM CAMPBELL); the gentleman from New Jersey (Mr. DON PAYNE); the gentleman from Nebraska (Mr. DOUG BEREUTER); the gentleman from Florida (Mr. ALCEE HASTINGS); the gentleman from Georgia (Mr. JOHN LEWIS), importantly the gentleman from Georgia (Mr. LEWIS); the gentleman from Washington (Mr. JIM MCDERMOTT); the gentleman from New Jersey (Mr. BOB MENENDEZ); and Mr. RON DELLUMS, among others. And I think, as the gentleman from Delaware (Mr. CASTLE) said, there are almost 300 people that have signed on to this.

The Congressional Gold Medal is really very, very special. It was awarded first to George Washington in 1776, and then to a variety of other people, Jonas Salk, Robert Frost, Walt Disney, Mary Lasker, Frank Sinatra, Billy Graham, Mother Teresa, and Colin Powell. Nelson Mandela is really an appropriate addition to this esteemed list.

The simple yet important bill we propose here today recognizes Mr. Mandela because of several features: one, his ending of racism in that important country of South Africa, in Africa; promoting democracy and also encouraging this extraordinary concept of truth and reconciliation.

Also, I would like to mention, Mr. Speaker, that Peter and Linda Biehl of La Quinta, California, are also recognized by the bill. Some of you may remember, this is an extraordinary family, whose daughter Amy was killed in one of the districts in South Africa trying to help and encourage in the teaching of young black children.

□ 1415

There is no recrimination, there is no nastiness, there is no retribution there. They actually testified in front of Bishop Tutu's Truth and Reconciliation Committee and really represent everything that I am sure Mr. Mandela would have liked to have seen if he had been there by an example of his life.

The timing of this bill is pretty important. Today is called Youth Day. And Youth Day really represents an extraordinary day in 1976 when there was the student riots in Soweto and the ensuing deaths of many people.

Also, it just so happens, 2 days from now, on the 18th of June, will be Mr. Mandela's 80th birthday.

Now, let me also give credit to people who stood beside us as we were proposing this legislation. And sometimes we do not hear about them. There is the Fulbright Association, the Young Women's Christian Association, the Results Group, the Catholic Relief Services, the American Committee on Africa, the Education on Africa, African-American Institute, and Senator AL D'AMATO.

Let me try to encapsulate briefly what this medal means to me personally. First of all, it means great courage. Here is a man at the peak of his life representing everything that was good in South Africa, who was thrown into jail and stayed there almost unknown for 27 years. He came out of jail and, without any sense of violence or recrimination, started the process of healing the country, which ultimately ended up in his election as president.

I can remember myself personally going into Soweto in 1985 at Christmas time, and it was one of the most terrifying experiences. I had been in World War II, but this was pretty terrifying. Some of these southern Rhodesians that had come down as police, the apartheid police, ransacking their car, practically stripping them bare to see if they concealed any weapons. This was the type of country that he came back to try to reconcile.

He also has been associated with another hero, a great hero, which is Bishop Desmond Tutu, who has been in charge of the Truth and Reconciliation Committee.

Another thing that I think of with Mr. Mandela is here is a man who is really putting this nation back on track. As President Clinton has said many times, freedom means nothing unless you can do something with it. He said this when he was over in South Africa in the presence of Nelson Mandela about a month ago.

He is really trying to knit together the economy so that the people who have been waiting for generations to be able to have meaningful jobs can get those jobs. It is not easy. We are trying to help. But he represents sort of an economic hope of job security, which nobody heretofore has represented.

Another reason is that this is pretty important for the continent of Africa. As my colleagues know, we cannot pick up the paper, whether it is the story of Nigeria or the Sudan or anything, without realizing the terrorism and horrifying examples that are taking place over there. Here is a man defying all the elements of dictatorship, striding ahead, representing the best that country has to offer.

Mr. Speaker, I really think that from my own standpoint, and I really sort of echo the feelings of my friends I hope, the world needs heroes and here is the genuine hero. I was reading something by the historian Daniel Boorstin the other day and it said.

> We are overwhelmed by the instant moment. We have lost our sense of history. We have lost interest in the real examples which alone can help us share standards for the humanity of the future. Everything that we do in America is based on the lives of people, some of whom we do not know, have never met, and never will. When we try to find out how those people have lived, we are really trying to find out how we ourselves live and what we are all about.

This is what Mr. Mandela is. Mr. Speaker, I am in awe of this man. Obviously, that is clear from what I said. There is no more fitting use of this great award than to give it to one of the world's great leaders. I thank my colleagues very much for letting me express myself here.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN), chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am pleased to rise today in strong support of H.R. 3156, a bill to present a Congressional Gold Medal to Nelson Mandela.

I want to thank my colleague and good friend the gentleman from New York (Mr. HOUGHTON), a member of our Committee on International Relations, for introducing this bill and working so diligently to bring the measure to the floor at this time.

Mr. Speaker, Nelson Mandela is an international treasure. As the president of South Africa, Nelson Mandela is the embodiment of national reconciliation. His vision, his humility, and magnanimity have enabled South Africa to overcome the most bitter of social divisions.

Nelson Mandela was oppressed by apartheid for decades. He was jailed for more than a quarter of a century as a political prisoner. In his autobiography, Long Walk to Freedom, Nelson Mandela says,

> It was during those long and lonely years that my hunger for the freedom of my own people became a hunger for the freedom of all people, white and black. I knew as well as I knew anything that the oppressor must be liberated just as surely as the oppressed. A man who takes away another man's freedom is a prisoner of hatred, he is locked behind the bars of prejudice and narrow-mindedness. I am not truly free if I am taking away someone else's freedom, just as surely as I am not free when my freedom is taken away from me. The oppressed and the oppressor alike are robbed of their humanity.

Mr. Speaker, Nelson Mandela's words transcend South Africa and the fight against apartheid. They apply in Kosovo, to Bosnia, to Cambodia, to Afghanistan, to Rwanda, to Ireland, and any other place that is torn by ethnic, racial, or religious strife.

Nelson Mandela's words of national reconciliation are a strong echo of those said by President Abraham Lincoln in his first inaugural address in 1861. Lincoln spoke directly to those who would secede from the Union,

> We are not enemies but friends. We must not be enemies. Though passion may have strained, it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.

Mr. Speaker, the better angels of our nature are personified in Nelson Mandela. It is entirely appropriate that we honor him with the Congressional Gold Medal. Accordingly, I urge my colleagues to support this measure that has been offered by the gentleman from New York (Mr. HOUGHTON).

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased that we are here on the floor today considering legislation to award the Congressional Gold Medal to Nelson Mandela. It is a distinct honor to rise in support of this bill as the ranking Democrat on the Subcommittee on Domestic and Independent National Monetary Policy of the House Committee on Banking and Financial Services.

I would like to commend the gentleman from New York (Mr. HOUGHTON) for introducing this bill and his tireless work and commitment to see it become law.

Mr. Speaker, I take personal pride as a member of the Congress of the United States of America today and the work that I have been involved in for so many years because of Nelson Mandela and all of those brave men and women in South Africa who decided they would put their lives on the line to dismantle the unconscionable racist apartheid by the South African regime at that time.

I can recall getting interested in this issue. I was asked to serve on the Board of Trans-Africa here in Washington D.C., headed by Randall Robinson. I was then a member of the California State Assembly. And because of my involvement on that board, I carried the divestment legislation for the State of California, divesting all of our pension funds from businesses that were doing business in South Africa.

Well, that work carried me all over the United States of America and, of course, to South Africa at the appropriate time. We had the opportunity to work with Members of Congress. We had the opportunity to travel all over the country to universities and colleges organizing students. We had the opportunity to offer our legislation as a model to other legislators who wanted to carry divestment legislation. We were carrying divestment legislation at the state level. We had brave members of Congress; i.e., Ron Dellums, and others who were carrying the sanctions legislation here in Congress.

We worked. We organized. We worked with Walter Sisulus. We worked with Mbeke. We worked with members of the ANC. We embraced the ANC when it was unpopular to do so because of the policy that they had embraced and the approach that they were taking to get rid of apartheid. It was some of the most important work that I have done in my entire career.

My divestment legislation was signed into law, and I think I am prouder of that legislation than any other legislation that I have carried either there or here in the Congress of the United States.

I traveled to South Africa when we first lifted the ban, when they first lifted the ban on the ANC and met with leaders from around the world as we talked about the work of the ANC. And of course, I traveled to South Africa on any number of cases, up to the point of time when Nelson Mandela was inaugurated to become the president of South Africa.

The work that Nelson Mandela did, the time that he served in prison, the years that he spent in isolation on Robben Island was really the most motivational experience any human being could have. To see him dedicated to the proposition that they would be free no matter how powerful, no matter how overwhelming that regime was, was a lesson to all of us who were involved on a day-to-day basis in the civil rights movement, involved on a day-to-day basis trying to get justice right here in our own country. We cried with those who were involved in that struggle.

When Nelson Mandela walked out of that prison, we stayed up all night and we danced the tutu. When he came to the United States following his release, I had the opportunity to introduce him at the arena in Los Angeles, where we had 90,000 people who came and enjoyed his speech and a lot of cultural activity.

Again, I stand here today so pleased and proud to join with all of the Members who are principal coauthors and who are just supportive of the idea that he deserves this recognition.

Mr. Speaker, I will close my comments simply by saying, we could not do a better thing here in this Congress than give recognition to this gentleman who showed us all what it means to be a human being that is committed to justice and equality for all.

Mr. Speaker, I reserve the balance of my time.

Mr. HOUGHTON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman from New York for yielding.

Mr. Speaker, I rise in strong support of H.R. 3156, legislation providing for the awarding of a Congressional Gold Medal to South African President Nelson Mandela.

I want to first take a moment to express my appreciation to my friend and distinguished colleague from New York (Mr. HOUGHTON). I am pleased to join him as an original cosponsor. I thank him for working so hard to gather 291 cosponsors to this bill, and that is no small task.

□ 1430

I want to commend both the gentleman from New York (Mr. HOUGHTON) and Bob Van Wicklin of his staff for their extraordinary efforts in this matter. Nelson Mandela has earned this honor. He clearly deserves it. He has spent his entire life engaging in a struggle for freedom, battling those forces who would deny democracy to millions of South Africans and standing firm against forces who would continue indefinitely institutional racism.

Mr. Speaker, it is fitting that we bestow this honor on President Mandela as he spends his final year in public service, the culmination of a lifetime of work on behalf of his countrymen. I am pleased to support this legislation, and I hope that we pass it overwhelmingly.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I thank my ranking member and distinguished chairperson of the Congressional Black Caucus for yielding me this time.

Mr. Speaker, I want to add my support and congratulations for this Congress being keen enough to honor one of the finest gentlemen in our world today, Mr. Nelson Mandela, with a Congressional Gold Medal. As has been said already, he served over 30 years in one of the most horrible prisons in the world. He saw many of his fellow men and freedom fighters assassinated and die during that time. Nelson Mandela is certainly a role model for all of us to follow. Freedom, dignity and strength for all of us. I, too, worked on the sanctions bill in Michigan as we served in the Michigan legislature and am happy that the sanctions movement in this country made it possible not only for President Mandela to be free but to give all who suffer inhumanity a reason to live.

Mr. Speaker, let us pass with pride and dignity the Congressional Gold Medal for President Nelson Mandela.

Mr. Speaker, I rise today in reverence, honor, and true respect not only for this legislation, but for the ideals and goals of President Nelson Mandela. A Congressional Gold Medal is woefully inadequate for the faith in God, the dedication to freedom, and the willingness to work with his former oppressors for the good of the world that is manifest in the person of President Mandela. Every person who has ever dedicated her or his life to human rights needs to look no further than to President Mandela as a penultimate example of service to humankind.

As we move toward a new millennium, it is stunning to remember that President Mandela spent most of the last 50 years in prison at Robben Island, underground evading the South African police, or was fighting the various injustice and oppression that was apartheid. Before President Mandela was sentenced to life in prison at Robben Island, his statement from the dock in the Rivonia Trial ends with these words:

> I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die.

For 27 years, President Mandela was at Robben Island Prison, a maximum security prison on a small island off the coast near Cape Town, South Africa; at Pollsmoor Prison in Cape Town and in December 1988 he was moved to the Victor Verster Prison near Paarl from where he was eventually released. President Mandela repeatedly and flatly rejected various offers made by his jailers for release upon his acceptance of second-class citizenship for him and his people. As President Mandela often said, "prisoners cannot enter into contracts. Only free men can negotiate." His refusal to negotiate on anything less than an equal basis forged the fight for President Mandela, his wife Winnie, and his people in Africa and throughout the world.

Freedom rung on February 11, 1990 when President Mandela was released from active captivity. Mind you, I said "active captivity," as the spirit of President Mandela was never held captive. In 1991, at the first national conference of the African National Conference (ANC) held inside South Africa after being banned for decades, Nelson Mandela was elected President of the ANC while his lifelong friend and colleague, Oliver Tambo, became National Chairperson of the ANC. This day was fought for through the numerous protests and dedication of many organizations and individuals, specifically my colleagues of the Congressional Black Caucus, who continually and tirelessly put pressure upon Congress to adopt legislation that would ban trade and commerce with the then-oppressive government of South Africa.

Dr. Martin Luther King, Jr. once said that "the true measure of a man is not where he stands during times of comfort and convenience, but where he stands during time of crisis and controversy." By Dr. King's words, President Mandela has set a standard that all Members of Congress should at least strive to attain. President Mandela, despite being chased like an animal in the streets of South Africa, beaten like a dead horse during inhuman and inhumane captivity over a quarter of a century, and being considered a banned person in the spoken and written word, never wavered in his devotion to democracy, equality and understanding. Despite terrible provocation, he has never answered racism with racism or hate with hate. His life continues to be an inspiration, in South Africa and throughout the world, to all who are oppressed and deprived, to all who are opposed to oppression and deprivation.

In a life that is the veritable symbol of the triumph of the human Nelson Mandela accepted the 1993 Nobel Peace Price on behalf of all South Africans who suffered and sacrificed so much to bring peace to the land of all of our mothers and fathers. It is my hope that when we award this Congressional Gold medal, we remember why we were elected to Congress in the first place: to concern ourselves not with the next election, but for making our country and our world better for the next generation. President Mandela demands nothing less from all of us—Democrat or Republican, Christian, Jewish, or Muslim, black or white. President Mandela has taught us the lesson of principles. It is time for Congress to collectively follow our teacher's courageous and superb guidance.

Mr. HOUGHTON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I am pleased to rise in strong support of

H.R. 3156, to present a Congressional Gold Medal to Nelson Mandela. I want to thank the gentleman from New York (Mr. HOUGHTON) who has worked so hard on this for introducing the measure which I have cosponsored. I also want to thank his staff person, Bob Van Wicklin, for the work he has done on it, too. It does not happen without good staff. I also want to take note of the strong bipartisan support for this legislation.

Mr. Speaker, Nelson Mandela is a true hero, a role model for people all over the world who struggle for human rights, to the millions who still lack basic freedoms, and to many of us in this body. There is indeed something about this man. He exudes an aura of dignity, self-confidence, commitment, determination, of conviction of his views.

Nelson Mandela spent his adult life fighting for the freedom of his people, never wavering in his belief in the inherent dignity of all persons, regardless of color or creed. This is a lesson which he taught to colleagues in the African National Congress, to fellow political prisoners, and now to all South Africans. He never compromised his beliefs or his principles, no matter what reward was offered in return.

I can remember being involved with the Aspin Institute on a congressional project on South Africa which was during apartheid and then post-apartheid. Therefore, meeting with Nelson Mandela, and before that, actually meeting in a place where we had members of the Conservative Party, members of the National Party, members of the ANC who met with us individually with guards. They could not come into the same room together. Now look at what has happened. Nelson Mandela was released, Nelson Mandela was sworn in as the President of South Africa, and apartheid is no more. What a great man.

As President, Nelson Mandela has continued to lead his people in the struggle for human rights and a democratic society. Importantly, he has also recognized the importance of societal reconciliation as a necessary component of this struggle. He is still a leader for millions of Americans and others who admire his leadership and his devotion to equal rights, and I am pleased that this Congress will recognize his work by presenting him with a Congressional Gold Medal.

I urge support for H.R. 3156.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from California for yielding me this time and I want to thank the gentleman from New York. The two of us had an opportunity to be in South Africa last year.

I will say to my colleagues that this could not be a more deserving honor than to honor President Nelson Mandela. As one of his daughters said often that she grew up without a father who then returned and became the father of a nation, I would simply say for all of us in America, we recognized that this fatherhood was sacrificing and tender and caring and strong. That is why Nelson Mandela can stand on the African continent and be respected by all of the nations and all of the people.

It gives me great delight that we would come to this body and honor him. I am so very proud to be from a city like Houston and a State like Texas who knew immediately through the leadership of our respective black caucuses that we would divest our investments from South Africa. I salute the late Congressman Mickey Leland and the former council member Ernest McGowan who paid tribute by making sure that Texas stood strong. This is a great honor. He is a great friend. I thank the gentleman from New York for his leadership. Together we will recognize one of the greatest persons in the history of the world, President Nelson Mandela.

Mr. HOUGHTON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Mr. Speaker, I want to thank the gentleman from New York (Mr. HOUGHTON) for yielding me this time and also for putting this wonderful effort together. Once in a while leadership just jumps up and this is the time, and we thank the gentleman so much for doing this.

Mr. Speaker, I was a South African, and I can speak from experience how total was apartheid, how brutal was the regime. I was privileged while in South Africa to participate in the struggle against apartheid and then later in my life as an American citizen to work with individuals and organizations to assure that the boycott against the apartheid regime continued. Throughout my life, Nelson Mandela has been a beacon, a beacon for peace, for justice, for reconciliation. Like Gandhi, like Martin Luther King, Jr., he rose from personal pain to become a hope for all of us. But Members do not really need to hear my words, because President Mandela himself describes himself and his humility, the humility of this man who spent 27 years in jail, 27 years for the crime of believing in democracy. How does he describe himself?

He says, "I was simply the sum of all those African patriots who had gone before me. That long and noble line ended and now began again with me. I was pained that I was not able to thank them and that they were not able to see what their sacrifices had wrought."

He said, "The policy of apartheid created a deep and lasting wound in my country and my people. But it had another unintended effect, and that was that it produced the Oliver Tambos, the Walter Sisulus, the Chief Luthulis, the Yusuf Dadoos, the Bram Fischers, the Robert Sobukwes, men of such extraordinary courage, wisdom, and generosity that their like may never be known again."

He said, "Perhaps it requires such depth of oppression to create such heights of character. My country is rich in the minerals and gems that lie beneath its soil, but I have always known that its greatest wealth is its people, finer and truer than the purest diamonds. It is from those comrades in the struggle that I learned the meaning of courage."

He said, "I never lost hope that this great transformation would occur. I always knew that deep down in every human heart there is mercy and generosity. No one is born hating another person because of the color of their skin. No one is born hating another person because of their background or their religion. People must learn to hate. And if they can learn to hate, they can be taught to love, for love comes more naturally to the human heart than its opposite. Even in the grimmest times in prison, I would see a glimmer of humanity in one of the guards, perhaps just for a second, but it would reassure me. Man's goodness is a flame that can be hidden but never extinguished."

Mr. Speaker, I would like to join with my colleagues in supporting the award of the Congressional Gold Medal to President Nelson Mandela of South Africa.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I am proud to join this bipartisan group of my colleagues to recognize Nelson Mandela and to award him the Congressional Gold Medal as President of the Republic of South Africa.

As this is President Mandela's last year as President, I am encouraged that we will move as quickly as possible so that he will be able to receive this as President of South Africa.

Nelson Mandela sacrificed the prime years of his life, risking everything in the struggle against apartheid. He loves his country, he loves his fellow man, always striving to serve his people. His story is an inspiration to all of us. He loved everyone, regardless of color, class or creed.

I have been especially moved by the profound patience and mercy exhibited by President Mandela. When he came to power, he did not express feelings of anger or revenge. Rather, President Mandela convened a panel to address the brutality that was existing, the murders and apartheid as it existed.

We also take this moment to honor the work and sacrifice of American student Amy Biehl. I ask Members to join me in this effort.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I too am honored to speak on H.R. 3156 which authorizes the presentation a Congressional Gold Medal to the President of South Africa, President Nelson Mandela.

Mr. Speaker, I recall once watching the movie Dances With Wolves, and Kevin Costner was this young army lieutenant who learned to live with the Sioux Nation. In this one particular scene the Indian medicine man was walking along the river when this Indian chief turned to Mr. Costner and said that his whole life's ambition was to become a true human being.

To my colleagues and friends, Nelson Mandela truly fits the description of this Indian chief's life ambition. He was a true human being. After being tortured and imprisoned for some 30 years, this man holds no sense of bitterness or malice against his enemies. Here is a man, Mr. Speaker, and he truly deserves this award.

Mr. HOUGHTON. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Speaker, I thank the gentleman for yielding me this time and I thank him for bringing this measure to the House floor.

Mr. Speaker, if we stop and think about it, our Founding Fathers built our country on a simple concept called freedom. Freedom is the ingredient that they willed for every human soul. Freedom is not something that Nelson Mandela saw for almost 30 years of his life, yet after getting out of jail, rather than constructing a life built around bitterness or built around revenge, he constructed a life built around freedom, around the simple idea of one man, one vote, around the idea of democracy. For that he deserves both our praise and this Congressional Medal of Honor.

Ms. WATERS. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

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Mrs. CLAYTON. Mr. Speaker, I thank the gentlewoman from California (Ms. WATERS) for her leadership, and I thank the leaders of this bipartisan effort to present the Congressional Gold Medal to Nelson Mandela, the President of South Africa.

Mr. Speaker, among the leaders in the world today there is no one more deserving of our recognition and acknowledgment for this award than Nelson Mandela. The Congressional Gold Medal is an appropriate way to express our sense of honor, our sense of respect for the man who through his pain, his commitment and sacrifice brought pride and democracy to millions of South Africans and also was a symbol of what it meant to be free throughout the world. He became the symbol which ultimately led to the dismantling of apartheid in that country.

Mr. Speaker, apartheid means apartness. Those who supported and stood for the apartheid regime in South Africa would have maintained a system which constitutionally mandated that black South Africa live separately, differently, unlike others and apart from white South Africans. Nelson Mandela refused to accept that condition. He gave more than a quarter of a century of his life in opposition to this condition. I am delighted to join my friends in this award.

PARLIAMENTARY INQUIRY

Ms. WATERS. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. EWING). The gentlewoman will state her inquiry.

Ms. WATERS. Mr. Speaker, I would like to inquire as to the number of minutes left, and also I would like to inquire as to whether or not Members who have wanted to be here and had signed up, who probably are in travel, if they will have an opportunity to enter their statements into the RECORD.

The SPEAKER pro tempore. The Chair would assume that all Members will be given the usual opportunity to insert their statements in the RECORD, and the gentlewoman from California (Ms. WATERS) has 10 minutes remaining, and the gentleman from New York (Mr. HOUGHTON) has 1 minute remaining.

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, recently, when the President traveled to Africa, of course one of the most important stops on that trip was South Africa, where we had an opportunity not only to see and talk with Nelson Mandela, but of course young Thabo Mbeki and others who were involved in the anti-apartheid movement. One of the most interesting things about the conversation and the proceedings involving the President of the United States and Nelson Mandela was Nelson Mandela's ability to talk straight talk to the President. There was discussion about the Africa trade bill, and Nelson Mandela was able to raise the kinds of questions that many leaders would not have been able to raise. Easily, and I think as we watched him in the way that he did that, we all concluded that Nelson Mandela had earned the right to ask anybody any questions he would like to ask them, to reserve the right to disagree and to reserve the right to give advice and to talk in ways that very few people get to do on the international stage.

And of course we all recognize that he earned this right because he put his life on the line, the 27 years that he had served much of that time in isolation, the fact that he had contracted tuberculosis while he was in prison, the fact that he sacrificed his family literally for the movement, the fact that he gave his life at a very early age when he first helped to organize the youth movement of the ANC, the fact that he was in the leadership of the protests that were called that are now identified as the famous Sharpville riots where so many lives were lost; all of this on the world stage where people began to rally all over the world and where they developed friends from all over the world who contributed money, who contributed time, who engaged their government all because of the leadership of one man who exercised more power from imprisonment than most of us exercise with all of the freedoms that we have.

I stand here today, and it just so happens that I brought with me a replica of the ballot that was used when Nelson Mandela was elected President of South Africa. Not only is it a beautiful ballot, but it is an instructive ballot. It is a ballot that was designed to make sure that the average person could understand who they were voting for, what parties they were voting for and the face of the persons they were voting for. Here it is, and I keep this as one of my most prized mementos to remind me not only of the struggle of Nelson Mandela and the ANC and Walter Sisulu and Mr. Mbeki and all of the brave warriors that have been involved in the liberation of South Africa, but also to remind me of my own responsibility not only to be the best person that I can possibly be, but to challenge myself on a daily basis about my responsibility to freedom and justice.

To be on the cutting edge of this kind of work is not easy, and certainly we do not gain a lot of friends, but in the final analysis we stand here today with special recognition for Nelson Mandela even though many in our own country were opposed to what he was doing who said that we were going to bring down Wall Street with divestment and sanctions, who said that we were not mindful of the fiduciary responsibility of those who had great portfolios that we were asking to divest from businesses that were doing business in South Africa.

We are honored to be able to honor him today, and we are honored to have lived in a time where we witnessed the fall of a mighty powerful regime that was dedicated to the proposition that it was going to suppress and that it was going to deny and it was going to marginalize and not allow human beings to realize their full potential. This brilliant leader, this President of South Africa, stepped forward from imprisonment not bitter. He stepped forward with an approach that said when we rule it will be a nonracist, a nonsexist government that recognizes every human being, that everybody is important to this government and to this Nation.

If there was one thing that I could end up concluding about Nelson Mandela, it is if there is anybody that ever walked on God's Earth who could be considered a saint, it is Nelson Mandela. This man is still smiling. This man is still understanding that it is important to respect every human being on Earth. Everything that he has sacrificed, everything that he has given up, all of his trials and his tribulations are not for naught. He anointed through his work many people who never thought they would be inspired and motivated to be about the business of freedom. I am very pleased that I stand here today with Democrats and Republicans alike bestowing this honor on a man that a few years ago no one would have believed would have ever become President of South Africa. I am very pleased that there are those who say today, if only I had known, I wish I could have done more, I wish I could have understood better. I am very pleased to stand here today understanding that those who worked hard in the vineyard, those who had to educate, those who had to organize can say today my work was not in vain and how proud I am to have been a part of one of the most important movements in the history of this world.

As we watch the reconciliation hearings that are going on, we are learning an awful lot. We are learning that people on both sides made mistakes and that they are coming forward in this healing process to talk about those mistakes. I shuddered as I listened to some of the testimony. I shuddered as I listened to some of the plots and some of the recognition and some of the admissions, people who killed, people who experimented with all kind of poisons, people who were describing how anthrax was experimented with. I shudder to think about the lives that were lost.

To tell my colleagues the truth, even though I was working in this movement and spent 7 years in the California State legislature on the legislation before it was passed, I never really thought I would see the day when South Africa would become a democracy, where South Africa would truly emerge with Nelson Mandela as President. I really did believe that blood would flow in the streets before that would have happened. How lucky we are to have our faith and our hope not only restored in all human beings, but to be instilled with the kind of pride that one can only gain from having experienced this movement, from having experienced these kind of human beings.

We think, some of us think, we have had it tough, some of us who think about what has happened here in America, and some of us who look at what happened just recently in Jasper, Texas, and we talk about how bad it has been and how bad it may be. But I want to tell my colleagues the warriors who helped to move South Africa all have stripes on their backs, the Sisulus and the Mbekis spent all 25 and 30 years in prison and came out and did this work, and while I am disgusted with just what happened to Mr. Byrd, Jr., in Jasper, Texas, and while I am disgusted with the copycat actions that have taken place since that time, and while I know the history of my foreparents here in America, and I understand what slavery is all about, and I understand what racism is all about, and I understand what discrimination is all about, as bad as it was, it does not measure up to what was going on in South Africa and the number of lives that have been lost.

And so I take this time on the floor of Congress today not only to gloat and to enjoy and to commend and to brag a little bit, but to simply say I guess I am proud to be an American today, and I hope that all of the Members of Congress will somehow be stronger and better because we move today to join hands across the aisle to recognize a man that perhaps could not have been recognized a few years back. I hope that we are resolved in our work to be just a little bit better and to confront any thoughts of racism and discrimination that we may harbor. I hope that we will not sit in a back room or we will not be involved in any shape, form or fashion in supporting racism ever again in our lives.

It is never too late to change.

Mr. Speaker, I yield back the balance of my time.

Mr. HOUGHTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I rise in strong support of this bill.

Mr. Speaker, I rise today in support of H.R. 3156, a bill to present a congressional gold medal to one of the towering figures of the 20th century, Nelson Mandela.

President Mandela is one of the most remarkable individuals of our time. His extraordinary personal devotion and sacrifice on behalf of multi-racial democracy in South Africa is an inspiration not only to the people of South Africa, but the United States and the world. President Mandela is a powerful symbol of courage, determination, hope, and perhaps above all, the uplifting power and majesty of mankind's enduring search for right in a world too often overwhelmed by wrongs.

As many Members recall, the struggle for a free South Africa presented a troubling philosophical dilemma for two conservative administrations in Washington. While the first Republican presidency chose to risk war rather than compromise principles to end extremist apartheid—slavery—the last two Republican administrations preferred to work with rather than against the former white-led government in Pretoria in an effort to help abolish apartheid in as civil and bloodless a way as possible. Fortunately, Washington found in F.W. de Klerk an establishment leader with the courage to change and in Nelson Mandela a uniquely martyred aspirant. Together in competitive combination they produced a unusually civilized political phenomenon—evolutionary revolution.

While economic sanctions seldom work, it was my view and that of our former colleague Ron Dellums and others that the U.S. had no ethical or political alternative except to embrace sanctions. Ending apartheid in this century was as great a moral imperative as ending slavery was in the last. Nonetheless, too often we forget the distinction between governments and their people, and too often sanctions aimed at punishing governments punish people.

One of the important models of U.S. policy is thus to understand why sanctions were not only appropriate but proved workable in South Africa. The key, it seems to me, is that they were overwhelmingly supported by the majority of the South African populace and their leaders such as Nelson Mandela.

Nelson Mandela led a revolution from prison, and, to the astonishment of the world, succeeded without irreparable violence.

For a victim of racism to champion multiculturalism rather than reverse racism reflects a largeness of spirit that merits the appreciation not only of his country but the community of nations, most particularly this one. I therefore urge support for this very symbolic legislation.

Mr. HOUGHTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleagues very much for this debate. Mr. Speaker, this has been a wonderful debate, a wonderful expression of sentiments, feelings about people in this country. As I listened to it, Mr. Mandela is not only bringing South Africans together but I have a feeling he is bringing all of us together.

One other point: I am told that all great ideas ultimately degenerate into work. There was a great deal of enthusiasm, but also there was a great deal of work involved, and I want to thank Robert Van Wicklin for all he has done.

GENERAL LEAVE

Mr. HOUGHTON. Mr. Speaker, I ask unanimous consent for all Members to have five legislative days to be able to revise and extend their remarks on H.R. 3156.

The SPEAKER pro tempore. Is there objection to request of the gentleman from New York?

There was no objection.

Mr. GEPHARDT. Mr. Speaker, I rise today to urge support for the passage of H.R. 3156, a bill which would authorize the President to present, on behalf of Congress, a Congressional gold medal to President Nelson Mandela of South Africa in recognition of his lifetime dedication to the abolition of apartheid and the promotion of freedom and justice for all the people of his nation. I can think of no person who deserves such an honor more than Nelson Mandela.

In the face of great adversity and suffering extreme personal hardship and sacrifice, President Mandela led the struggle to bring an end to the insidious policy of apartheid and to establish in its place a flourishing multi-racial, multi-ethnic democracy in South Africa. His steadfast dedication to these goals continues to galvanize and serve as an inspiration to those around the world who are struggling for freedom, justice, and democracy today.

Moreover, President Mandela's commitment to the people of South Africa did not end with the lifting of apartheid. Since assuming the presidency in 1994, he has strived to further the process of healing and reconciliation of all of South Africa's people. Bearing no malice for the injustice and mistreatment he suffered under apartheid, he has sought to bring South Africans of all races and cultures together in a spirit of peace, humility, and reconciliation. The strength of South Africa's emerging pluralism today is a testament to President Mandela's integrity, courage and leadership. His vision serves as a model across the world.

It is for this reason that I am a proud original co-sponsor of this measure. It is more an honor than a privilege to urge the bestowal upon Nelson Mandela of one of our nation's highest honors. I hope all Members will join me in recognizing Nelson Mandela by supporting this measure before us today.

Mr. PAYNE. Mr. Speaker, I rise in support of the Nelson Mandela Congressional Gold Medal Award sponsored by my colleague, AMO HOUGHTON—the gentleman from New York. I know of no person that deserves to receive this award than President Nelson Mandela..

I have had the opportunity of meeting with President Mandela on several occasions. The most moving experience, no matter how many times I go there, is visiting the notorious Robben Island where Mandela spent 27 of his years in solitary confinement in the maximum security prison. He had to pick rocks with a small hammer every single day. It takes a very strong man to endure this type of treatment and come out of prison and forgive, become the President and lead his country out of apartheid era to one of rebirth.

And I will be visiting South Africa next month to discuss with him a telecommunications project and satellite systems to go to townships in rural area facilitated by the Discovery Channel. I can truly say that he is thoughtful, yet punctual and disciplined man. The years in jail reinforced habits that were already entrenched. With a standard working day of at least 12 hours, time management is critical.

Let me say that I am very disturbed by the recent finding by the Truth and Reconciliation Commission. Rensburg, a researcher at the Roodeplaat Research Labatories (RRL), which produced chemical and biological weapons for the apartheid security forces, said his boss Andre Immelman told him of a plan to poison Mandela. The secret document contained statements saying and I quote, "Mandela must be in a relatively weak physical condition so that he can not operate as a leader for long." This lethal poison thallium was to be placed in the form of chocolates and other foods. If he had taken this—if he did not die—he would have had severe brain damage. I can not imagine any man having to endure this horrific treatment.

President Mandela says his greatest pleasure, in his most private moment, is watching the sun set with the music of Handel, Tchaikovsky or African chorus playing. Locked up in his cell during daylight hours, deprived of music, both these simple pleasures were denied him for decades. In a life that symbolizes the triumph of the human spirit over man's inhumanity against man, let us make this simple gesture to the President of the Nation.

Ms. EDDIE BERNICE JOHNSON of Texas. I rise today in support of H.R. 3156, a bill that would give the President of the Republic of South Africa, Mr. Nelson Mandela, the Congressional Gold Medal.

Led by Rep. AMO HOUGHTON, Speaker of the House NEWT GINGRICH and minority leader DICK GEPHARDT, this bill would bestow the Nation's highest civilian honor on a much deserving candidate. It is an honor to be among the cosponsors of this bill.

Mr. Speaker, since the first gold medal was given to George Washington in 1776 more than one hundred medals have been awarded.

Most recently we awarded the gold medal to Mother Teresa, The Rev. Billy and Ruth Graham and Greek Orthodox Patriarch Bartholomew. These honorable people along with all the recipients of the Congressional Gold Medal have been instrumental in the development of the societies and communities that span across the seven seas, helping to shape, the world as we know it. Nelson Mandela has lived his life within the confines of this longstanding tradition that the gold medal represents.

Mr. Speaker, Nelson Mandela has made it his purpose in life to rid his beloved native land of the evil constraints of apartheid while empowering his fellow citizens with a democratic society. For three decades, Mr. Mandela was imprisoned for his efforts yet he never compromised his beliefs or relinquished his commitment to freeing South Africa from its racist torment. This was made obviously clear when he became the father of the nation that incarcerated him.

Mr. Speaker, he is a rare human being who emerged from prison to become president.

Mr. Speaker, this will be Nelson Mandela's final year in office. Along with my colleagues, I feel that honoring him at this time would be most appropriate.

Ms. McCARTHY of Missouri. Mr. Speaker, today I rise to pay tribute to one of the greatest leaders of our era, President Nelson Rolihlaha Mandela

Nelson Mandela's lifelong struggle to abolish apartheid in South Africa earned him the Nobel Peace Prize in 1993, the Presidency of his country and worldwide acclaim. Nelson Mandela spent twenty-seven years in prison because he believed in the equality of all, sacrificing his own personal liberty for his convictions.

The Congressional Gold Medal is a fitting tribute to this most deserving leader. Following his ascendancy to the Presidency of his nation, President Mandela signed into law the South Africa's new constitution which includes sweeping human rights and anti-discrimination guarantees. Nelson Mandela has never wavered in his devotion to democracy and equality. Despite terrible provocation, he has never responded in kind to the scourge of racism. His life has been an inspiration, in South Africa and throughout the world, to all who are oppressed and deprived and to all who are opposed to oppression and deprivation.

I hope that we all examine our souls and understand our responsibility to make our own nation as tolerant of diversity as Mr. Mandela has worked to make South Africa; not just for the sake of our own generation, but the generations to come.

Mr. LEWIS of Georgia. Mr. Speaker, I am pleased to join my colleagues in honoring one of the great heroes and leaders of this century, Nelson Mandela. President Mandela should be an inspiration to us all—despite unbelievable pain, defeat and suffering, he did not become bitter. Despite almost 30 years in prison, Nelson Mandela did not give up hope. He did not get lost in a sea of despair.

Instead, he turned his suffering into something meaningful. He believed in the power of possibility and of hope. He came out of jail willing to work with his jailers, willing to being the healing of his country.

Because of his leadership and his example, the future of South Africa holds promise. The country must meet many difficult challenges, but they meet them led by a man who has shown tremendous courage and compassion.

Nelson Mandela takes us closer to what Dr. Martin Luther King, Jr. used to call the Beloved Community, a community based on justice, hope and compassion—a community at peace with itself.

President Mandela, I honor you and I hope that we in this country and all over the world can learn from you and your example.

Mr. LAFALCE. Mr. Speaker, this afternoon Members of the House are rising to explain to our colleagues and the American public why it is fitting for the House of Representatives to award a Congressional Gold Medal to the President of South Africa, the Honorable Nelson Mandela. At the same time, a delegation of South African government officials is at work in our nation's capital. The delegation has just concluded two days of meetings in New York and has traveled to Washington, D.C. to explore how the South African government can work with their nation's financial community to foster community development in their homeland.

As one would expect, the racial composition of that delegation is mixed, drawn from the black and white populations within South Africa. It is a delegation of individuals working together for their government and the people of their nation. Would this delegation, different in race but together in spirit and purpose, be possible today if it were not for the life-long efforts of Nelson Mandela? Perhaps, but not likely.

Others more familiar with President Mandela's life journey from a prison cell to the Office of the President of South Africa will speak eloquently about the man we honor. I rise simply to say I believe it is most appropriate to honor a man who is the recipient of the 1993 Noble Peace Price and a man who will soon step down as President of South Africa when his term expires in April of 1999.

H.R. 3156 was introduced by Congressman AMO HOUGHTON. It is co-sponsored by a majority of the House, including Speaker GINGRICH and Minority Leader GEPHARDT. The Congressional Gold Medal is our nation's highest civilian honor presented to just over 100 individuals in our nation's history. Nelson Mandela will join people like Thomas Edison, Robert

Frost, Winston Churchill and, most recently, Mother Teresa as Congressional Gold Medal recipients.

I extend my gratitude to my colleagues on the Banking Committee, notably Chairman LEACH and the Chairman and Ranking Member of the Domestic and International Monetary Policy Subcommittee, Congressman CASTLE and Congresswoman WATERS, respectively, for their efforts in bringing this bill to the floor today. I urge my colleagues to support H.R. 3156 and ask you to join with me to congratulate Nelson Mandela for his life's work.

Mr. HAMILTON. Mr. Speaker, I rise in strong support of H.R. 3156, and I commend our colleague AMO HOUGHTON for his initiative, leadership, and hard work in garnering some 290 cosponsors of the bill and in bringing it before the House. I am pleased to be an original cosponsor of this bill to give the Congressional Gold Medal to Nelson Mandela, because he is one of the great leaders of our time.

Nelson Mandela stands out about all else for his espousal of policies of reconciliation and his vision of the future. This is remarkable for a man who, for most of his adult life, was a prisoner of apartheid, spending 27 years in prison, including 18 on Robben Island.

In the past four years, Nelson Mandela has striven to bring South Africa's races together. While seeking to improve the lives of South Africa's disadvantaged, a majority of the population, Nelson Mandela continued to address the concerns of all South Africans. By leading a government of national unity, Mandela successfully practiced a policy of inclusiveness, and reached out to a broad range of South African society.

President Mandela led South Africa through its historic transition, culminating in his election as president in 1994. During his presidency, the government has focused on improving health care, education, and housing for South Africa's disadvantaged population. President Mandela's government also implemented market-oriented economic policies that have maintained international confidence in South Africa's stability.

In addition, Mr. Mandela, having announced from the beginning that he would serve only one term, stepped down last December as head of the African National Congress, clearing the way for his successor who will be chosen in next year's elections.

In 1993, Nelson Mandela was awarded the Nobel Peace Prize which recognized his efforts and accomplishments in opposing apartheid and in diminishing the gap between blacks and whites in South Africa. It is a fitting tribute to this great leader that he receive the Congressional Gold Medal.

Mr. Speaker, I again commend Mr. HOUGHTON on his work on this legislation and I urge the House to pass this resolution.

Mr. CONYERS. Mr. Speaker, we are here today to ask that the United States Congress award its highest distinction to Nelson Mandela, a man who fought for freedom for the people of South Africa, and became a beacon of hope for people all around the world. When on trial for the crime of fighting against apartheid, he said these famous words:

> I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and achieve. But if needs be, it is an ideal for which I am prepared to die.

When, after a quarter century of imprisonment, Nelson Mandela was inaugurated President of South Africa in 1994, he did not disappoint the millions of people who believed in him. He embarked on the hard path of reconciliation and healing, rather than the easy road of revenge and divisiveness.

I and many of my colleagues had the honor of working with President Mandela when we voted to impose sanctions on the old South Africa, and many of us were able to meet with him again when we traveled to the new South Africa with the President. Mr. Speaker, there is no one who fought more or gave up more for the ideals of justice and equality which Americans hold dear. And therefore, I believe that there is no one more worthy of receiving the honor of a Congressional Gold Medal.

Ms. LEE. Mr. Speaker, I rise today in strong support of H.R. 3156, the bill to award the Congressional Gold Medal to President Nelson Mandela.

As one of the most gentle, charismatic, and dynamic leaders in history, the life of Nelson Mandela stands as source of strength for all who have experienced and oppression, and an inspiration to those ho continue the struggle to overcome injustice and discrimination against others.

After suffering conditions that would cause most to lash out in pain and anger, this remarkable peaceful man never countered racism with hatred. Despite spending nearly three decades of his life imprisoned, Nelson Mandela never wavered in his commitment to peace, freedom, and social and economic justice not only for the people of South Africa, but globally. In this way, he provides for us a profound example of the ability of the human spirit to rise up and triumph over evil forces.

Many in this chamber may be aware of the pivotal role that my predecessor, The Honorable Ronald V. Dellums, played in proposing sanctions against the apartheid regime of South Africa, which helped to bring its downfall. The sanctions were ultimately instrumental in the release of Nelson Mandela from prison and the successful transition of the country to a truly non-racial democracy.

On May 10, 1994, as an international poll observer in South Africa, I had the humbling and incredible experience to witness the first free, peaceful, democratic elections which chose this extraordinary human being as President. There is no more appropriate and fitting leader to lead the people of South Africa into their bright and hopeful future. In the past four years, under the leadership of Nelson Mandela, South Africa has grown substantially stronger and healthier, and stands as a world leader in its own right.

I am proud and pleased to join with my colleagues today in support of H.R. 3156. It is fitting at this moment in our history to recognize and honor the President of South Africa, His Excellency Nelson Rolihlahla Mandela, with the Congressional Gold Medal.

Mr. LAFALCE. Mr. Speaker, this afternoon Members of the House are rising to explain to our colleagues and the American public why it is fitting for the House of Representatives to award a Congressional Gold Medal to the President of South Africa, the Honorable Nelson Mandela. At the same time, a delegation of South African government officials is at work in our nation's capital. The delegation has just concluded two days of meetings in New York and has traveled to Washington, D.C. to explore how the South African government can work with their nation's financial community to foster the community development in their homeland.

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May I extend my gratitude to my colleagues on the Banking Committee, notable Chairman LEACH and the Chairman and Ranking Member of the Domestic and International Monetary Policy Subcommittee, Congressman CASTLE and Congresswoman WATERS, respectively, for their efforts in bringing this bill to the floor today. I urge my colleagues to support H.R. 3156 and ask you to join with me to congratulate Nelson Mandela for his life's work.

Mr. HOUGHTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 3156.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FASTENER QUALITY ACT AMENDMENTS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3824) amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft, as amended.

The Clerk read as follows:

H.R. 3824

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

Section 15 of the Fastener Quality Act (15 U.S.C. 5414) is amended—

(1) by inserting "(a) TRANSITIONAL RULE.—" before "The requirements of this Act"; and

(2) by adding at the end the following new subsection:

"(b) AIRCRAFT EXEMPTION.—

"(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

"(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.".

SEC. 2. DELAYED IMPLEMENTATION OF REGULATIONS.

The regulations issued under the Fastener Quality Act by the National Institute of Standards and Technology on April 14, 1998, and any other regulations issued by the National Institute of Standards and Technology pursuant to the Fastener Quality Act, shall not take effect until after the later of June 1, 1999, or the expiration of 120 days after the Secretary of Commerce transmits to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a report on—

(1) changes in fastener manufacturing processes that have occurred since the enactment of the Fastener Quality Act; and

(2) any changes in that Act that may be warranted because of the changes reported under paragraph (1).

The report required by this section shall be transmitted to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, by February 1, 1999.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. BARCIA) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3824.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

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Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Fastener Quality Act was signed into law in 1990. It required all threaded metallic fasteners of one-quarter inch diameter or greater that reference a consensus standard to be documented by a National Institute of Standards and Technology's certified laboratory. Although the legislation has been on the books for over 8 years, concerns over the bill's impact on the economy have delayed its implementation of final regulations. NIST regulations are slated to go into effect on July 26 of this year.

H.R. 3824 amends the Fastener Quality Act by exempting fasteners produced or altered to the standards and specifications of aviation manufacturers from the new regulations. Exempting the proprietary fasteners of aviation manufacturers from the Fastener Quality Act makes sense, considering aviation manufacturers are already required by law to demonstrate to the FAA that they have a quality control system which ensures that their products, including fasteners, meet design specifications. Subjecting the proprietary fasteners of aviation manufacturers to a second set of Federal regulations is redundant and unnecessary. In fact, the FAA has stated that doing so may even undermine the current level of aviation safety.

In addition to the Fastener Quality Act's impact on aviation manufacturing, several questions have been raised about the Act's effect on other industries. For instance, the automotive industry projects costs of compliance through the motor vehicle industry could be greater than $300 million a year without necessarily enhancing vehicle safety.

Furthermore, since 1990, the scope of the Fastener Quality Act seems to have grown. Originally intended to ensure public safety, today, if the NIST regulations are to be implemented, even garden hose fasteners such as those produced by Sheboygan Screw Products, Incorporated, in my district could be forced to comply with the additional burdens of the Act. I am not sure what dangers faulty garden hose fasteners may cause, but I am sure that preventing the public from being susceptible to hose failures will be expensive.

Mr. Speaker, H.R. 3824 addresses the concerns by, first, delaying the regulations issued by NIST under the Fastener Quality Act on this subject until after June 1, 1999. Second, requiring the Secretary of Commerce to transmit to Congress a report on changes in fastener manufacturing processes that have occurred since the enactment of the Fastener Quality Act and recommend any changes to the act that may be warranted because of those changes.

Delaying NIST regulations until next year gives us the opportunity to take a closer look at the Fastener Quality Act, especially considering it was crafted over 8 years ago. As Chairman of the Committee on Science, I have pledged to hold additional hearings on this issue in the coming months. We may find that changes in the fastener manufacturing products have diminished the need for further regulations in this area, or even that this act should be repealed.

H.R. 3824 was reported by the Committee on Science on May 13, 1998. It has wide bipartisan support and it has been endorsed by several business organizations, including the United States Chamber of Commerce. Original cosponsors of this legislation include the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Utah (Mr. COOK).

In addition, I wish to thank the gentleman from Virginia (Mr. DAVIS); the gentleman from Michigan (Mr. BARCIA); the gentleman from Ohio (Mr. TRAFICANT); the gentleman from Pennsylvania (Mr. DOYLE); the gentleman from Illinois (Mr. HASTERT); the gentleman from Tennessee (Mr. GORDON) the gentleman from Illinois (Mr. PORTER); the other gentleman from Illinois (Mr. WELLER); and the third gentleman from Illinois (Mr. MANZULLO) for endorsing this bill and helping promote its speedy passage. I would also like to thank the Committee on Commerce chairman, the gentleman from Virginia (Mr. BLILEY) and the ranking member, the gentleman from Michigan (Mr. DINGELL), as well as the Committee on Transportation and Infrastructure chairman, the gentleman from Pennsylvania (Mr. SHUSTER) and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for discharging the bill to enable its passage before the July 26 regulatory deadline.

Mr. Speaker, at this point I would insert our committee's exchange of correspondence into the RECORD, and I strongly urge all of my colleagues to support this common sense regulation.

COMMITTEE ON COMMERCE,
Washington, DC, June 3, 1998.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, House Committee on Science,
Washington, DC.

DEAR JIM: On May 13, 1998 the Committee on Science ordered reported H.R. 3824, a bill amending the Fastener Quality Act of 1990 (15 U.S.C. §5401 et al.) to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft. As you know, the Committee on Commerce was named as an additional committee of jurisdiction and has had a longstanding interest in the issue of fastener quality and the Fastener Quality Act. This interest goes back to the 100th Congress, at which time the Committee undertook an investigation of counterfeit and substandard fasteners. This investigation resulted in the issuance of a unanimously approved Subcommittee report entitled "the Threat from Substandard Fasteners: Is America Losing Its Grip?" which ultimately led to the approval by our respective committees of the Fastener Quality Act of 1990.

H.R. 3824, as ordered reported, would amend the Fastener Quality Act in two ways. First, the bill exempts fasteners approved for use in aircraft by the Federal

Aviation Administration from the requirements of the Act. Secondly, it delays implementation of the final regulations until the Secretary of Commerce and the Congress have had an opportunity to consider developments in manufacturing and quality assurance techniques since the law was enacted.

Because of the important and timely nature of these amendments to the Fastener Quality Act, I recognize your desire to bring this legislation before the House in an expeditious manner. I also understand that you have agreed to address several technical issues raised by this Committee in a manager's amendment to be offered on the Floor. Therefore, with that understanding, I will waive consideration of the bill by the Commerce Committee. By agreeing to waive its consideration of the bill, the Commerce Committee does not waive its jurisdiction over these provisions. In addition, the Commerce Committee reserves its authority to seek conferees on these and any other provisions of the bill that are within the Commerce Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I would seek your commitment to support any request by the Commerce Committee for conferees on amendments to the Fastener Quality Act or related legislation.

I would appreciate your including this letter as a part of the Committee's report on H.R. 3824 and as part of the record during consideration of this bill by the House.

Sincerely,

TOM BLILEY,
Chairman.

COMMITTEE ON SCIENCE,
Washington, DC, June 4, 1998.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, House Committee on Commerce,
Washington, DC.

DEAR CHAIRMAN BLILEY: Thank you for your letter of June 3 regarding H.R. 3824, the recently passed Science Committee amendments to the Fastener Quality Act (FQA) of 1990 (15 U.S.C. §5401 et seq.).

I appreciate your willingness to work with us to examine the need to amend the FQA.

As you note in your letter, the Committees on Commerce and Science have long shared jurisdiction over FQA. By agreeing to the expeditious consideration of H.R. 3824 on the House floor, the Committee on Commerce does not waive any of its jurisdictional rights. Should the Committee on Commerce seek conferees on provisions of the bill within its jurisdiction, I will support such a request.

The Committee on Science will include this exchange of letters within the report of the Science Committee and will work with you to ensure that the technical amendments to the bill requested by your Committee are included in the bill when H.R. 3824 is brought before the full House for its consideration.

I look forward to continuing to work with you on this and other matters.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

COMMITTEE ON SCIENCE,
Washington, DC, June 4, 1998.

Hon. BUD SHUSTER,
Chairman, House Committee on Transportation and Infrastructure, Washington, DC.

DEAR CHAIRMAN SHUSTER: Thank you for helping expedite consideration of H.R. 3824, the recently passed Science Committee amendments to the Fastener Quality Act (FQA) of 1990 (15 U.S.C. §5401 et seq.), by agreeing not to request a sequential referral on the bill. I agree that through this action the Committee on Transportation and Infrastructure does not waive any of its jurisdictional rights associated with the bill.

Additionally, the Committee on Science will include this exchange of letters within the report of the Science Committee.

I look forward to continuing to work with you on this and other matters.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE,
Washington, DC, June 5, 1998.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on Science,
Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Committee on Science recently ordered reported H.R. 3824, a bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

In recognition of your Committee's desire to move this legislation expeditiously through the House of Representatives, the Committee on Transportation and Infrastructure agrees to waive its referral of the bill. However, this action should not be construed as waiving or otherwise diminishing the Committee on Transportation and Infrastructure's jurisdiction over the bill or issues associated with H.R. 3824. In addition, should a conference on H.R. 3824 or a similar measure become necessary, I would ask you to support the Committee on Transportation and Infrastructure being represented on the conference committee. Finally, I ask that you make this letter a part of the Committee on Science's report on the bill.

Once again, it has been a pleasure working with you and your staff, and I look forward to seeing H.R. 3824 scheduled for Floor consideration very soon.

With warm personal regards I am

Sincerely,

BUD SHUSTER,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. BARCIA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the Committee on Science leadership, especially the gentleman from Wisconsin (Mr. SENSENBRENNER); the ranking Democratic Member, the gentleman from California (Mr. BROWN); and the chairwoman of the Subcommittee on Technology (Mrs. MORELLA); as well as the gentleman from Michigan (Mr. DINGELL), the principal author of the Fastener Quality Act, for their diligence in bringing House Resolution 3824 to the floor on an expedited basis.

Through today's action, we in the House are showing that we are ready and willing to do our part in making these corrections, and we hope that the Senate will find a way to bring their bill to the floor as soon as possible. We on the House side stand ready to do all that is necessary to clear this legislation for the President in advance of the July 4th district work period.

It is clear from our subcommittee hearing, and from extensive conversations we have had with a cross-section of manufacturing companies, that it would be unwise to allow regulations implementing the Fastener Quality Act to go into effect without a careful review of how that act relates to the current state of manufacturing. In fact, the automobile industry has estimated that they will incur more than $300 million in annual compliance costs should this legislation fail to be signed by the President before the July 26 implementation date.

The primary purpose of the Fastener Quality Act was to avoid disasters caused by the counterfeiting of bolts by unscrupulous manufacturers. Unlike the proprietary fasteners of auto or aircraft manufacturers, many of these fasteners were not easily traceable from their end use back to their manufacturer.

However, while it has been argued that an increasingly competitive marketplace has made the Fastener Quality Act unnecessary, we know of no current study showing the extent to which protections, other than the Fastener Quality Act, are now in place to prevent a recurrence of the old problem. In fact, many of the countries that exported defective fasteners in the 1980s are currently in economic turmoil and their current economic situation may cause them to once again exhibit unscrupulous behavior and flood American markets with counterfeit fasteners.

Therefore, I feel the study contained in the act is necessary to give us the assurance that the problem is permanently under control before we relax the act for nonproprietary fasteners.

Mr. Speaker, I strongly urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Maryland (Mrs. MORELLA), who is the chair of the subcommittee that helped develop this bill.

Mrs. MORELLA. Mr. Speaker, I rise today as an original cosponsor of H.R. 3824 and a very strong proponent of its speedy enactment. I want to very much thank the Committee on Science chairman the gentleman from Wisconsin (Mr. SENSENBRENNER); the ranking member the gentleman from California (Mr. BROWN); and indeed the ranking member on the Subcommittee on Technology (Mr. BARCIA). We have all worked together very closely on this bill, because it is important.

Last month, the Subcommittee on Technology held a hearing to examine the 1990 Fastener Quality Act in aviation manufacturing. There was wide agreement by the aviation industry, the FAA, and NIST, that passage of the aviation exemption found in H.R. 3824 would save aviation manufacturers and their consumers money, while enhancing public safety.

In addition to addressing issues raised about the Fastener Quality Act's impact on the aviation industry, I am pleased that H.R. 3824 also includes an amendment that I offered during the Committee on Science's markup of the legislation, in cooperation with the Subcommittee on Technology's ranking member, the gentleman from Michigan (Mr. BARCIA), to delay the implementation of the Fastener Quality Act's regulations on all other industries until June of 1999, or 120 days after the Secretary of Commerce issues a report on changes needed to the law, whichever is later.

Under the amendment, the Secretary of Commerce is required to submit to Congress a report on the improvements that have taken place over the last 9 years and the manner in which fasteners are manufactured. Based on these improvements and any other relevant information derived from the Secretary's review, or the Committee on Science's hearing record, the Secretary must make recommendations to Congress on how best to alter the 1990 act. Mr. Speaker, it is my expectation that the Secretary will find that substantive and important changes to the act are needed in order to ensure that our Nation's economy does not suffer from outdated regulations.

Following the Secretary's report, Congress will have 120 days to act on the recommended changes or proposed alternative provisions. To ensure that we are ready when the time comes, the Subcommittee on Technology will begin to hold hearings this summer on the need to further revise the Fastener Quality Act.

Without the delay in implementation of the regulations, several industries, including the automotive manufacturing industry, may suffer production delays that will impede product delivery and increase costs. As we all know, increases in production costs result in job lay-offs and higher prices charged to consumers.

Over the next year, I look forward to continuing my work with the automotive manufacturers, the fastener manufacturers, and countless other businesses, both large and small, which are impacted by the Fastener Quality Act. Working together, I am certain that we can remove the act's most burdensome and redundant provisions without in any way jeopardizing public safety.

The General Aviation Manufacturers of America, Aerospace Industries Association of America, American Automobile Manufacturers Association, the Association of International Automobile Manufacturers, the National Air Transportation Association, and the U.S. Chamber of Commerce, and others, have all endorsed H.R. 3824, and indeed, it has bipartisan support from the Committee on Science, and I am pleased the Committee on Commerce has passed it forward. I urge all of my colleagues to support this very important legislation.

I reiterate my thanks to Chairman SENSENBRENNER, Ranking Member BROWN, my Technology Ranking Member BARCIA and my appreciation to our capable staffs. On the majority side, thanks to Jeff Grove, Richard Russell, Mike Bell, and Barry Beringer, and on the minority side, Jim Turner and Rob Ryan.

Mr. BARCIA. Mr. Speaker, I too would like to compliment the gentlewoman from Maryland (Mrs. MORELLA) for her bipartisan approach towards solving this particular problem, but in general also the very fair and impartial fashion that she conducts business before our Subcommittee on Technology, and that also is extended to the chairman of the full committee the gentleman from Wisconsin (Mr. SENSENBRENNER), who I consider certainly a privilege to be able to work with both of those, as well as the ranking Democrat, the outstanding gentleman from California (Mr. BROWN).

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KILDEE), a good friend and colleague of mine from my home State.

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as cochairman of the Congressional Automotive Caucus, I rise in support of H.R. 3824, the Fastener Quality Act Amendments of 1998. Mr. Speaker, I proudly represent a district with strong ties to the automotive industry. Automakers are committed to quality, and recent history proves quality is the number 1 concern for workers, management, and suppliers. This commitment has not only improved sales, but it has improved pride.

Few can deny the changes in the auto industry over the past decade. Faced with increasing competition overseas, the Big Three have worked hard to improve efficiency and service. I am concerned that dedicated workers be valued and protected during times of change. I am also impressed with innovative developments in inventory and supply.

One innovation is QS-9000, a quality assurance system that provides high-quality parts to the auto industry. Furthermore, it ensures safety by mandating consistent, measurable production standards.

The National Institute of Standards and Technology has interpreted FQA to require lot testing of fasteners supplied to the auto industry, and implementation of this requirement is set to begin later this summer. Unfortunately, a shortage of certified laboratories currently exists, threatening to delay parts supply to vehicle assembly lines nationwide. With passage of H.R. 3824, this implementation will be postponed, and a near-term crisis can be avoided.

Mr. Speaker, working together, government and industry will continue to ensure quality and safety. At the same time, we will promote the long-term health of an industry that produces high-quality vehicles and high-quality jobs.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. GUTKNECHT), a member of the Committee on Science.

Mr. GUTKNECHT. Mr. Speaker, I want to thank first of all the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time, and for his leadership on this. I also want to say a special "thank you" to the gentlewoman from Maryland (Mrs. MORELLA) for her leadership on this issue.

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I rise in support of H.R. 3824, but I want to talk just for a few moments about the history and how the United States got into this business.

About 10 years ago, there was a walkway at a hotel down in Kansas City that collapsed. Many believed that the reason was faulty fasteners. It is interesting that that was the motivation of getting us into the business of regulating the manufacture of fasteners. The truth of the matter is when the final study was done, it was not the result of faulty fasteners even in the first place.

Mr. Speaker, let me just read a paragraph from a letter from Mr. Bruce Josten from the United States Chamber of Commerce. This is the middle paragraph:

"The Fastener Quality Act sought to ensure the quality of industrial fasteners by requiring uniform inspections and testing by the National Institute of Standards and Technology accredited laboratories. Despite its enactment in 1990, its emanating regulations have not been implemented due to the enormous difficulty in fulfilling the Act's requirements and its attendant burdens and costs to manufacturers, particularly small businesses and consumers."

Mr. Speaker, that is what a lawyer would say, and what I would say, is a $20 solution to a $2 problem. And frankly I am delighted that we have this bill before us today. I think it is a good step in the right direction. But even better news is that the chairman of the Committee on Science and the chairwoman of the Subcommittee on Technology have agreed that this is a good starting point and that we ought to have hearings to talk about repealing this legislation altogether.

When this bill was first introduced eight years ago, the National Institute of Standards and Technology opposed this bill, and they oppose it still.

So this is a step in terms of common sense. I support the bill, and I do support having additional hearings geared towards ultimately eliminating this needless regulation.

Mr. BARCIA. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. BROWN), the very distinguished former chair of the House Committee on Science, as well as the current ranking member of that committee, who of course has a very long period of service in terms of science issues on the committee.

Mr. BROWN of California. Mr. Speaker, I thank the distinguished gentleman from Michigan (Mr. BARCIA) for being so generous in yielding time to me. I was only going to make a short 1-minute statement, so now I will have to speak for the whole 5 minutes, I guess.

Mr. Speaker, let me first confirm what the gentleman from Michigan (Mr. BARCIA) has said earlier about the high degree of cooperation that we have enjoyed in the committee from the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the full committee, and the gentlewoman from Maryland (Mrs. MORELLA), chairman of the subcommittee. It has been a pleasure to work with both of these distinguished Members in connection with this bill.

I will confess that I have not been particularly deeply involved in the drafting of this legislation but, of course, I fall back on the fact that 10 years ago I was deeply involved and that qualifies me to say anything I wish today.

Mr. Speaker, I rise in support of H.R. 3824 because I feel that it is the only practical short-term solution to the problem of revisiting the Fastener Quality Act. Our committee record on these revisions of the Fastener Quality Act was developed rapidly and is of necessity fairly narrow in scope. This effort was triggered, of course, by the announcement already referred to by the National Institute of Standards and Technology that the long-delayed regulations to implement the Fastener Quality Act would take effect on July 26, 1998, and the universal agreement that the law should be changed to exempt certain aircraft industry fasteners from the Act's coverage. Therefore, time was of the essence if the Congress was to intervene legislatively in advance of that date.

The committee scheduled just one panel of witnesses which was largely drawn from the aerospace community, and with the exception of one witness from the National Institute of Standards and Technology, did not have the expertise to discuss the impact of the Fastener Quality Act beyond aircraft manufacture.

The committee became aware that the auto industry, and perhaps other manufacturers, also faced potential adverse impacts from the scheduled July implementation of the Fastener Quality Act regulations.

Mr. Speaker, the original Fastener Quality Act was based on extensive investigative, legislative and judicial records of defective fasteners, largely of overseas origin, which had turned up in tanks, submarines, aircraft carriers, planes of all types, bridges, and even nuclear power plants.

Of course, as the gentleman from Minnesota (Mr. GUTKNECHT) mentioned, there was considerable public attention given to the quality of fasteners by such events as the Kansas City bridge failure. I have forgotten exactly what it was that caused that failure, but it at least focused attention on the problem of fasteners.

The Committee on Energy and Commerce conducted an 18-month investigation during the 100th Congress, including five open and two closed hearings. It also involved numerous Federal Agencies and resulted in dozens of criminal prosecutions, civil actions and debarments. The situation cried out for legislative action.

We face a much different situation in 1998 than we did in 1990. Eight years have passed since the Act was put in place without implementing regulations. The problems now seem much less daunting. During the 1990s, some industries had developed their own quality assurance systems which appeared to provide protections to the public comparable to those under the Fastener Quality Act, but at less cost. Even NIST, the agency charged with regulating fasteners, seems to have some second thoughts about the breadth of the Act, but no one had done a careful analysis either of the extent to which the Fastener Quality Act is still necessary and still serves its original purpose.

The committee solution is the best possible under the circumstances. The delay will permit the Secretary of Commerce to study the extent to which the problems being addressed still exist, including the potential for defective fasteners from overseas once again penetrating the U.S. markets. It will also permit the Secretary to get an expert opinion on the degree of compatibility between the Fastener Quality Act and modern business practice and to make suggestions on how to update the Act.

Mr. Chairman, I urge my colleagues to vote in favor of this important legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, I am privileged to represent the fastener capital of the United States, Rockford, Illinois. There are more fastener manufacturers per capita in Rockford than any other city in the Nation.

The implementation of the Fastener Quality Act is of key importance to the livelihood of northern Illinois, but its impact reaches far beyond our congressional district. In fact, a disruption in the supply of fasteners to our industry would be the equivalent of a nationwide trucking or rail strike.

With the release of the latest set of regulations by the National Institute of Standards and Technology last April, I surveyed the fastener manufacturers in northern Illinois for their input, listening to people such as the Pearson family who have been manufacturing fasteners for years and have been wrestling with the Fastener Quality Act.

Mr. Speaker, let me review for the benefit of my colleagues the results this survey: 54 percent of the fastener manufacturers still do not know which fasteners are covered by the Fastener Quality Act; 46 percent of the fastener manufacturers are so small they cannot afford to adopt the expensive quality assurance system, even though they have their own system of testing and ensuring quality. Thus, the April regulations permitting larger companies which use QAS to become Fastener Quality Act certified means nothing to these small fastener manufacturing firms; 92 percent, almost every one of the fastener manufacturers in Illinois, still do not know what they have to do to fully comply with the Fastener Quality Act regulations.

Finally, every fastener manufacturer in the Sixteenth Congressional District agreed there will not be enough labs up and running on July 26 to certify products coming off the assembly line as Fastener Quality Act approved.

That is why I am pleased to join my colleagues, the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentlewoman from Maryland (Mrs. MORELLA), chairwoman of the Subcommittee on Technology, in cosponsoring and strongly supporting H.R. 3824. I recommend and strongly urge my colleagues to vote for it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. COOK), a member of the Committee on Science.

Mr. COOK. Mr. Speaker, I rise in support of H.R. 3824, the Fastener Quality Act amendments.

Mr. Speaker, as a freshman Congressman one of my overriding desires is to cut government waste, duplication of effort, and bureaucracy, which is exactly what this bill does.

H.R. 3824 ensures that America's manufacturing economy and American consumers are not harmed by outdated or unnecessary regulations. The bill will help business be more competitive with foreign manufacturers while keeping safety standards for consumers that we have come to expect.

The Fastener Quality Act was intended to make structures more safe and it was a good idea. Unfortunately, it set up two government bureaucracies with the same regulation to oversee manufacturing of nuts, bolts, studs and screws.

For example, aviation manufacturers are already subject to the Federal quality assurance programs of the Federal Aviation Administration and, therefore, the fasteners they manufacture already meet or exceed the quality standards of the Fastener Quality Act. Requiring another government agency other than the FAA to certify aviation industry nuts, bolts, studs, and screws would be a waste of taxpayers' dollars. It would create an enormous duplication of effort and would create significantly higher airline ticket prices.

In the motor vehicle industry, the safety of fasteners is assured and monitored by the National Highway Transportation Safety Administration in compliance with the National Traffic and Motor Vehicle Safety Act. Auto manufacturers already have ample incentive and regulation to use the highest quality fasteners possible.

The auto industry has concluded that the annual cost of duplicative regulations would be $317 million, which would be directly passed on to consumers, yet automobiles would be no safer because current Federal regulations and recall authority ensure a high level of safety.

Manufacturers have made tremendous strides in improving the safety of their products, not because of some government bureaucracy mandates but because a market-driven economy rewards well-built products.

Mr. Speaker, I urge my colleagues to vote for H.R. 3824, which will reduce unnecessary regulation.

Mr. HOBSON. Mr. Speaker, I was surprised when several of my constituents contacted me about a little-known law passed eight years ago which has not yet been implemented. The original intent of this law, the Fastener Quality Act of 1990, was to regulate and test certain critical nuts, bolts, and similar fasteners. Yet, eight years later, the National Institute for Standards and Technology (NIST), which is the agency responsible for implementing this law, has not done so. In the years that this law languished, the fastener industry and other regulatory federal agencies have taken steps to meet and surpass the original safety goals of the 1990 law. Unfortunately, this late attempt to impose these new requirements unnecessarily duplicates superior quality efforts already underway in the industry and the regulatory community.

Originally, the law was supposed to cover a specific number of critical fasteners used in such things as public buildings, bridges, and airliners. NIST since has expanded the scope of the original law to cover nearly half of all nuts, bolts, and other fasteners made or used in this country.

For example, an employer in my district supplies fasteners to the automotive industry. They are a certified QS 9000 facility, which means they meet strict quality standards and continually test their product at all stages of the manufacturing process. They meet the standards set by their customers and those set by the National Highway Traffic Safety Administration, which already regulates safety standards for these products. Under this 1990 law, they are additionally required to employ another separate, specially accredited lab to test their products, over and above the steps the company is already taking to ensure the safety and quality of their product.

This employer meets the standards provided for by their customer, the industry, and the industry safety regulator, in addition to maintaining a certified QS 9000 facility and providing for continual in-process testing of their products. Application of this 1990 law does not meet the demands of today's manufacturing processes, and would impose additional and costly requirements that duplicate these efforts and do not increase the public safety. Additionally, there are not enough accredited labs to do this testing. In my district, this means this same employer would have to shut down for six months until an accredited laboratory is available to duplicate the strong quality control efforts already being made by this manufacturer.

The legislation we are considering today requires the Secretary of Commerce to first study this issue and report to Congress on the best way to address the public safety intent of the original legislation in light of changes in manufacturing processes since passage of the original act. Mr. Speaker, H.R. 3824 will provide Congress the opportunity to rationally address the public safety aspect to fasteners in the context of today's modern manufacturing processes without imposing duplicative, unnecessary, or confusing new programs on responsible American manufacturers. I urge my colleagues to support this common-sense legislation.

Mr. BLILEY. Mr. Speaker, I rise in strong support of H.R. 3824, a bill amending the Fastener Quality Act. The Committee on Commerce was named as an additional committee of jurisdiction on this bill and has had a longstanding interest in the issue of fastener quality and the Fastener Quality Act. This interest goes back to the 100th Congress, at which time the Committee undertook an investigation of counterfeit and substandard fasteners. This investigation resulted in the issuance of a unanimously approved Subcommittee report entitled "The Threat from Substandard Fasteners: Is America Losing Its Grip?" which ultimately led to the approval by our respective committees of the Fastener Quality Act of 1990.

H.R. 3824, as reported, would amend the Fastener Quality act in two ways. First, the bill exempts fasteners approved for use in aircraft by the Federal Aviation Administration from the requirements of the Act. Secondly, it delays implementation of the final regulations until the Secretary of Commerce and the Congress have had an opportunity to consider developments in manufacturing and quality assurance techniques since the law was enacted.

While the Commerce Committee was generally pleased with the legislation reported by the Science Committee, we asked for several technical clarifications in the Manager's amendment under consideration today. First, we asked that language be clarified to ensure that all regulations issued pursuant to the Fastener Quality Act be placed on hold until the Secretary of Commerce can deliver his report to Congress. Secondly, we asked that the report be delivered to both the Science Committee and the Commerce Committee directly so that we can continue our cooperative role in protecting American consumers from substandard fasteners. I appreciate Chairman SENSENBRENNER's willingness to listen to the concerns of Members of the Commerce Committee.

Due to Chairman SENSENBRENNER's cooperation and the need to ensure enactment of this legislation prior to the July 26 effective date of the current regulations, the Commerce Committee has chosen not to exercise its right to a referral. I have been assured by Chairman SENSENBRENNER of his continued cooperation through this process, and look forward to working with him should this legislation be the subject of a House-Senate conference committee.

Mr. Speaker, I strongly support H.R. 3824, and urge my colleagues support this bill as well.

Mr. PORTER. Mr. Speaker, I rise today in support of H.R. 3824, a bill to amend the Fastener Quality Act of 1990. I am pleased that a proposed rule to implement this Act has been repeatedly delayed over the last few years. The proposed rule's effectiveness remains unproven and it would impose tremendous costs on industry which would, in turn, be passed on to the consumer. In my judgment, compliance with the proposed rule would not only result in a loss of jobs and productivity, but also would seriously interrupt deliveries to numerous industry sectors for which fasteners are an integral part of their product. These major industries, the aerospace, automotive, and heavy industries, should be strengthened, not weakened, by our laws. I am greatly concerned about the financial costs that would be borne by these industries to implement regulations, the effects of which have not been ascertained.

For this reason, I strongly support passage of H.R. 3824 to ensure that the implementation of the Fastener Quality Act rule be delayed by one year. During this time the Commerce Secretary and the National Institute of Standards & Technology would be required to review current law and regulations and recommend changes to make regulations consistent with current industry practices. I believe that a thorough review of current policies will reveal duplicitious regulations. The reports submitted to Congress as a result of H.R. 3824 would take into account technological advances that have occurred since the passage of the Fastener Quality Act in 1990 and precipitate the necessary changes to ensure its effectiveness as intended by Congress. I urge my colleagues to support the passage of this bill.

Mr. BROWN of California. Mr. Speaker, we have no further speakers, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EWING). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3824, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1530

TELEMARKETING FRAUD PREVENTION ACT OF 1997

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1847) to improve the criminal law relating to fraud against consumers.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing Fraud Prevention Act of 1997".

SEC. 2. CRIMINAL FORFEITURE OF FRAUD PROCEEDS.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating the second paragraph designated as paragraph (6) as paragraph (7); and

(B) by adding at the end the following:

"(8) The Court, in sentencing a defendant convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or of a conspiracy to commit such an offense, if the offense involves telemarketing (as that term is defined in section 2325), shall order that the defendant forfeit to the United States any real or personal property—

"(A) used or intended to be used to commit, to facilitate, or to promote the commission of such offense; and

"(B) constituting, derived from, or traceable to the gross proceeds that the defendant obtained directly or indirectly as a result of the offense."; and

(2) in subsection (b)(1)(A), by striking "(a)(1) or (a)(6)" and inserting "(a)(1), (a)(6), or (a)(8)".

SEC. 3. PENALTY FOR TELEMARKETING FRAUD.

Section 2326 of title 18, United States Code, is amended by striking "may" each place it appears and inserting "shall".

SEC. 4. ADDITION OF CONSPIRACY OFFENSES TO SECTION 2326 ENHANCEMENT.

Section 2326 of title 18, United States Code, is amended by inserting ", or a conspiracy to commit such an offense," after "or 1344".

SEC. 5. CLARIFICATION OF MANDATORY RESTITUTION.

Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "for any offense under this chapter" and inserting "to all victims of any offense for which an enhanced penalty is provided under section 2326"; and

(2) by striking subsection (c) and inserting the following:

"(c) VICTIM DEFINED.—In this section, the term 'victim' has the meaning given that term in section 3663A(a)(2).".

SEC. 6. AMENDMENT OF FEDERAL SENTENCING GUIDELINES.

(a) DEFINITION OF TELEMARKETING.—In this section, the term "telemarketing" has the meaning given that term in section 2326 of title 18, United States Code.

(b) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall—

(1) promulgate Federal sentencing guidelines or amend existing sentencing guidelines (and policy statements, if appropriate) to provide for substantially increased penalties for persons convicted of offenses described in section 2326 of title 18, United States Code, as amended by this Act, in connection with the conduct of telemarketing;

(2) submit to Congress an explanation of each action taken under paragraph (1) and any additional policy recommendations for combating the offenses described in that paragraph.

(c) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the guidelines and policy statements promulgated or amended pursuant to subsection (b)(1) and any recommendations submitted thereunder reflect the serious nature of the offenses;

(2) provide an additional appropriate sentencing enhancement if offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States;

(3) provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims, including but not limited to victims described in section 2326(2) of title 18, United States Code, are affected by a fraudulent scheme or schemes;

(4) ensure that guidelines and policy statements promulgated or amended pursuant to subsection (b)(1) are reasonably consistent with other relevant statutory directives to the Commission and with other guidelines;

(5) account for any aggravating or mitigating circumstances that might justify upward or downward departures;

(6) ensure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code; and

(7) take any other action the Commission considers necessary to carry out this section.

(d) EMERGENCY AUTHORITY.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable, and in any event not later than 120 days after the date of enactment of the Telemarketing Fraud Prevention Act of 1997, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that authority had not expired, except that the Commission shall submit to Congress the emergency guidelines or amendments promulgated under this section, and shall set an effective date for those guidelines or amendments not earlier than 30 days after their submission to Congress.

SEC. 7. FALSE ADVERTISING OR MISUSE OF NAME TO INDICATE UNITED STATES MARSHALS SERVICE.

Section 709 of title 18, United States Code, is amended by inserting after the thirteenth undesignated paragraph the following:

"Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words 'United States Marshals Service', 'U.S. Marshals Service', 'United States Marshal', 'U.S. Marshal', 'U.S.M.S.', or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;".

SEC. 8. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

The SPEAKER pro tempore (Mr. EWING). Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to support the final passage of H.R. 1847, the Telemarketing Fraud Prevention Act. This important legislation, which I introduced in January of last year, will take the strong action that is needed to step up the fight against a common enemy, the fraudulent telemarketer.

Telemarketing fraud has become a critical problem across the country, but especially in my home State of Virginia where it has made victims of countless unsuspecting folks and their families.

The tragedy of telemarketing fraud is that its perpetrators often target elderly victims who have contributed so much to society. Who are these victims? They are our veterans of World War II and Korea. They are our retired schoolteachers. They are our parents and grandparents.

Many of the victims, long-time residents of areas like the Shenandoah Valley in my district, come from a time when one's word was his or her bond, and they are often deceived by a con artist who will say whatever it takes to separate victims from their money.

It has been estimated by the FBI that nearly 80 percent of all targeted telemarketing fraud victims are elderly. Who are these people who victimize our Nation's elderly? They are white collar thugs who contribute nothing to our society but grief.

They choose to satisfy their greed by bilking others instead of doing an honest day's work. They strip victims not only of their hard-earned money, but also of their dignity. They are swindlers who con our senior citizens out of their life savings by playing on their trust, sympathy, and if that does not work, by playing on their fear.

These criminals have said that they do not fear prosecution because they count on their victims' physical or mental infirmity or the embarrassment that victims feel from being scammed that prevent them from testifying at trial.

If they are brought to trial, they are currently not deterred in engaging from telemarketing fraud because the penalties are so weak. In one example of how large a problem telemarketing fraud has become, more than 400 individuals were arrested in 1996 as a part of Operation Senior Sentinel. Retired law enforcement officers and volunteers recruited by the American Association of Retired Persons went under cover to record sales pitches from fraudulent telemarketers.

Volunteers from the 2-year-long operation discovered various telemarketing schemes. Some people were victimized by phony charities or investment schemes. Others were taken in by so-called premium promotions in which people were guaranteed one of four or five valuable prizes, but were induced to buy an overpriced product in exchange for a cheap prize. One of the most vicious scams preyed on those who have lost their money already, some telemarketers charge a substantial fee to recover money for those who had been victimized previously, and proceeded to renege on the promised assistance.

By the time the operation was over, it took the Department of Justice, the FBI, the Federal Trade Commission, a dozen U.S. Attorneys and States attorneys general, the Postal Service, the IRS, and the Secret Service to arrest over 400 fraudulent telemarketers in five States.

Clearly, telemarketing fraud is on the rise. According to Attorney General Reno, it is not uncommon for seniors to receive as many as five or more high-pressure phone calls a day.

Mr. Speaker, malicious criminal activity like this must be punished with the appropriate level of severity. H.R. 1847 will take a number of steps to raise the element of risk for fraudulent telemarketers by directing the U.S. Sentencing Commission to provide for substantially increased penalties for those convicted of telemarketing fraud offenses.

It also requires the Commission to provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims are affected by a fraudulent scheme or schemes. This provision will help to protect those most vulnerable in our society, including seniors and the disabled, from these malicious crimes.

Let me repeat that language from the bill, Mr. Speaker: substantially increased penalties. This language is different from the House-passed version of the bill, which included specific sentencing increases for four levels for general telemarketing fraud and eight levels for telemarketers who defraud the most vulnerable in our society.

Nevertheless, the language in the Senate-passed version was carefully chosen. A minimum increase of two levels is not substantial. The Sentencing Commission recently issued an amendment that would increase by two offense levels, the smallest increase possible, the penalties for fraud offenses that use mass marketing to carry out fraud. While their amendment was a step in the right direction, the step is much too small.

Telemarketing fraud is a serious problem that is growing even as we speak. The Sentencing Guidelines should reflect this; but even with this recent action, they do not. From the House- and Senate-passed bills, it should have been clear to the Sentencing Commission last year the kind of significant increases Congress wanted. Unfortunately, it appears that our intention was not clear.

Therefore, let me make it clear right now, along with my colleague, the gentleman from Florida, and along with the good Senator from Arizona who sponsored this legislation in the Senate, that in the next year we expect the Sentencing Commission to make the kind of substantial penalty increases that are needed to adequately address the growing crime of telemarketing fraud.

In addition to this provision, the bill would also require the Commission to provide an additional appropriate sentencing enhancement if the offense involved sophisticated means, including, but not limited to, sophisticated and concealment efforts, such as perpetrating the offense from outside the United States.

This provision will target those who set up their telemarketing fraud operations in other countries, particularly Canada, in order to evade prosecution. Of the top 11 fraudulent telemarketing company locations in 1996, four were Canadian provinces.

The bill also addresses the problem of victims who are unable to recoup any of their losses after the criminal is caught and convicted. It includes provisions to requiring criminal asset forfeiture to ensure that the fruits of telemarketing fraud crimes will not be used to commit further crimes. It also includes mandatory victim restitution language to ensure that victims are the first to receive restitution for their losses.

The bill includes conspiracy language to the list of enhanced telemarketing fraud penalties. This provision will enable prosecutors to seek our masterminds behind the boiler rooms, the places where the fraudulent telemarketers conduct their illegal activities.

Finally, the bill includes a Senate-passed provision that will help law enforcement effectively combat the problem of telemarketing fraud operations that set up boiler rooms for a few months and then simply disappear.

The provision would protect telemarketing fraud victims by providing law enforcement with the authority to more quickly obtain the name, address, and physical location of businesses suspected of telemarketing fraud. This would only be allowed if the official submitted a written request for this information relevant to a legitimate law enforcement investigation.

Mr. Speaker, the Telemarketing Fraud Prevention Act will serve as a vital tool in the Federal arsenal of weapons available to law enforcement officials in the fight against this crime. I urge my colleagues to support the passage of this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend my colleague, the gentleman from Virginia (Mr. GOODLATTE), for introducing this measure, and I am pleased to join with him in supporting it.

As the gentleman has noted, this is actually the second time the House has considered this legislation. We passed it by voice vote last July. Since then, the other body has taken up the bill, amended it, and passed it in the form in which it appears before us today. If we approve this amended bill, it will go straight to the President for his signature.

The purpose of this legislation, as articulated again by the gentleman from Virginia (Mr. GOODLATTE), is to crack down on telemarketing fraud, one of the fastest growing white collar crimes in America.

I would ask that we just pause and reflect for one moment on a single statistic that I suggest is most disturbing, and that is $40 billion. The Federal Bureau of Investigation has estimated that the amount of fraud that can be allocated to this single white collar economic crime exceeds $40 billion annually and is growing.

I dare say that if we added all of the crimes committed by violence in this country ranging from shoplifting to armed robbery, in the aggregate, it would pale in comparison in terms of economic loss to that statistic of $40 billion a year.

Even those of us who have not been victims of fraud have plenty of experience with telemarketing. What family in America has not sat down for an evening meal only to have the telephone ring and at the other end is a telemarketer selling us something. I am sure many Members like I receive a constant flow of letters complaining about being plagued by telemarketing.

Furthermore, as a woman from Martha's Vineyard in my district laments, every third call is someone trying to sell something unsolicited. For most of us, this is merely a nuisance. We may not want to hear the sales pitch, but at least we usually know when to hang up. But when the caller is a sophisticated scam artist, things are rarely so clear.

We have all heard from constituents who were tricked into contributing to nonexisting charities or conned into throwing away their hard-earned money on phony real estate scams.

One recent Federal investigation uncovered a telemarketing scheme that bilked some 100,000 Americans out of $35 million. The victims were mostly older Americans who, as my friend and colleague, the gentleman from Virginia (Mr. GOODLATTE), indicated, are the favorite targets of these criminals.

I would suggest, too, we hear much, and much of it is true, about the effort in Congress to federalize what is particularly State crimes. We hear the Chief Justice of the Supreme Court criticizing this body for the federalization of what have traditionally been State crimes. I agree with the Chief Justice. However, in this particular instance, there is a special place and a special role for the Federal Government.

I think that the gentleman from Virginia hit it on the mark when he talked about, in Canada, there is a source of telemarketing fraud that is going on. These crimes particularly are pernicious in the sense that no single jurisdiction can deal with them effectively because these scholars, if you will, in economic crime know that it is beyond the resources that exist currently at the State and local level to deal with this issue, and they can set up their operation in multiple jurisdictions and deal at the national level. This is where the Federal Government ought to allocate its resources. I am pleased that they are doing this.

As the gentleman said, seniors are especially vulnerable to telemarketing fraud because many of them are lonely, homebound, or infirm. For them, that unwanted telephone call can mean the loss of everything they have managed to save over a lifetime.

I am particularly pleased with the penalty enhancements in terms of those victims that are senior citizens. Furthermore, the fact that H.R. 1847 would permit Federal prosecutors to seek forfeiture of the proceeds of telemarketing fraud and of property used by the criminals to carry out the fraud, I think is a particularly important provision.

In these kinds of crime, forfeiture is an important tool that enables prosecutors to shut down a criminal enterprise. I am confident that, in this particular case, it absolutely has a deterrent effect. These people know what they are doing. The profit motive is so significant that they are willing to take the chance, because, historically, white collar crime and economic crime in this country have not received the kind of incarceration and sanctions that it so rightly deserves.

I and others have been working with the gentleman from Illinois (Mr. HYDE) to seek reform of some of the procedures used in Federal forfeiture cases, but I do not think there is any question, as I indicated, that forfeiture should be available in telemarketing fraud.

Again, as my friend, the gentleman from Virginia, pointed out, H.R. 1847 will also increase the penalties for telemarketing fraud by utilizing the Sentencing Commission. In this respect, I submit the Senate has substantially improved the bill. Our original version would have increased the penalties by specific amounts set forth in the legislation.

When the House considered the bill last July, I expressed reservations about that particular provision because I do not believe that Congress should usurp the role we assigned to the U.S. Sentencing Commission in prescribing appropriate sentencing ranges.

The bill before us today directs the Sentencing Commission to amend the Sentencing Guidelines to provide for substantially increased penalties for persons convicted of telemarketing fraud. I believe this is a major improvement in the bill, and I strongly support this change. I anticipate that the Sentencing Commission will listen clearly to the message intended to be sent by this body.

□ 1545

In sum, Mr. Speaker, criminals who prey on the vulnerabilities of others should be held to account. This legislation does just that. I commend the gentleman from Virginia (Mr. GOODLATTE) for his leadership on the issue and urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself 30 seconds, and I do so to thank the gentleman from Massachusetts for his strong support for this legislation. He speaks from authority when he talks about this as a former prosecutor, and I very much respect his remarks and welcome them and welcome his support for this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, I just rise briefly to commend both the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Massachusetts (Mr. DELAHUNT) for the great job that they have done in bringing this bill to the floor, apparently without opposition, and that is great work.

We have all heard stories from time to time of telemarketing scams that too often target, as both the gentleman from Virginia and the gentleman from Massachusetts have pointed out, our Nation's older citizens. However, yesterday, I met with a group of seniors in my district from Toms River, New Jersey, and one of my constituents brought this very issue to my attention and shared his own fears of being swindled.

Seniors are apprehensive of these predators, and with good reason. It is a horrible day when greed motivates someone to strip the hard-earned earnings and livelihood an older adult has accumulated over a lifetime. These corrupt schemes will come to an end, or at least will begin to come to an end under this bill.

I fully support the provisions of the Telemarketing Fraud Prevention Act of 1997, which protects seniors and punishes ruthless criminals.

Under this bill, the U.S. Sentencing Commission must increase its punishment level guidelines by eight levels for persons convicted of telemarketing crimes against anyone 55 years of age.

There is no excuse for behavior that victimizes those who rely on their savings to survive. These con artists must be punished for such horrendous crimes. I sincerely hope that one day soon our Nation's seniors will no longer be preyed upon by these criminals.

Mr. DELAHUNT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1847, the bill under discussion.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. VENTO. Mr. Speaker, I rise in support of the Telemarketing Fraud Prevention Act. This legislation represents a positive step in combating the growing problem of consumer and telemarketing fraud. Unfortunately, illegal telemarketing often targets the elderly and the disabled, many of whom lose their life's savings to such scams.

Today telemarketing fraud is in focus. While conditions for older Americans have improved markedly since passage of the Older Americans Act of 1965, many still suffer in abusive situations ranging from financial exploitation to severe consumer and telemarketing fraud. Many seniors are faced with physical or mental disabilities, social isolation and limited financial resources which prevent them from being able to protect or advocate for themselves.

According to the Federal Trade Commission (FTC), telemarketing fraud has mushroomed into a multi-billion dollar problem in the United

States. Every year, thousands of consumers lose anywhere from a few dollars to their life savings to telephone con artists. The Telemarketing Fraud Prevention Act will protect consumers from losing their hard earned income to telemarketing scams.

Specifically, HR 1847 increases the penalties against fraudulent telemarketing by increasing the recommended prison sentences for people convicted of consumer scams and deception. This legislation further increases the penalties incurred for telemarketing and consumer cams specifically targeted at older Americans.

In addition to increasing the consequences of fraudulent telemarketing, the Telemarketing Fraud Prevention Act provides the necessary tools and resources to prevent and uncover illegal schemes that are targeted at older Americans. Telephone companies would be required to provide the name, address and physical location of businesses suspected of conducting telemarketing scams. Since scam artists are relentless in their pursuit of older Americans, this measure would allow Law Enforcement Officials to move more quickly in preventing such schemes and scams from occurring.

Along with the FTC, several sources confirm that telemarketing fraud against older Americans is growing substantially. A 1996 American Association of Retired Persons (AARP) survey of people 50 years or older revealed that 57% were likely to receive calls from telemarketers at least once a week. Moreover, more than half the respondents indicated that they could not distinguish a legitimate telemarketer from a fraudulent one. It is not surprising that a fraud perpetrator would solicit an older American to attain a significant amount of money—often with a single phone call. Many senior citizens have worked diligently throughout their lives to build savings and retirement income.

Congress is moving in the right direction by addressing the growing problems of consumer and telemarketing fraud. We need to provide adequate tools for our Law Enforcement Officers to combat and respond to telemarketing fraud, to punish those who perpetrate it, and to deter others from entering the arena. The Telemarketing Fraud Prevention Act is an important step in protecting our senior citizens from deception tactics and fraudulent activities.

Mr. MCCOLLUM. Mr. Speaker, in the 104th Congress, the House of Representatives passed by voice vote an identical version of H.R. 1847, the "Telemarketing Fraud Prevention Act." The Senate failed to act on that legislation before final adjournment, and Mr. GOODLATTE, a dedicated Member of the Judiciary Committee, picked up the flag and decided to advance this important issue in the 105th Congress.

Once again, due to amendments made by the Senate, the House must pass H.R. 1847, a bill which will finally give some measure of protection to this Nation's elderly who are bilked by crooked telemarketers. As the Subcommittee on Crime heard last Congress, some retirees have lost their entire savings to mail and phone scams. The Federal Trade Commission estimates that telemarketing fraud costs consumers about $40 billion a year.

Mr. Speaker, in the hands of a fraudulent telemarketer, a phone is a dangerous weapon. They will use every trick possible to get their victims to send money. Examples of such deceptions include offering phony investment schemes, claiming to work for charitable organizations, or promising grand trips and prizes. These telephone thieves are relentless in their pursuit of someone else's hard-earned paycheck.

Although I am somewhat disappointed that the Senate chose to strike the specific level enhancements which the House passed, I am satisfied that this legislation will aid prosecutors in their efforts to track and prosecute crooked telemarketers.

Moreover, I hope that the passage of this legislation sends a loud, clear message to the U.S. Sentencing Commission: review the guidelines carefully because the current average sentence for a telemarketer is too low! These tele-predators must do time for their crimes. Telemarketing fraud may be nonviolent, but it devastates families, destroys self-esteem and costs billions overall. If the Sentencing Commission does not make some sweeping changes to the fraud provisions as a result of this legislation, Congress will revisit this issue next year.

Again, I thank my good friend from Virginia, Mr. GOODLATTE, for not allowing this issue to go unnoticed. Telemarketing fraud conceivably affects every person who owns a telephone. I was proud to support this legislation in the 104th Congress, and I was proud to support H.R. 1847 earlier this Congress, and I am extremely proud that finally we have a bi-partisan piece of legislation ready for the President's signature.

Mr. ABERCROMBIE. Mr. Speaker, today I rise in strong support of H.R. 1847, the Telemarketing Fraud Prevention Act.

H.R. 1847 increases criminal penalties for telemarketing fraud, especially telemarketing fraud targeting senior citizens. Older Americans are the targets of many fraudulent telemarketers because they are generally home more often, may be more trusting, and they may be led to look on a smooth-talking telemarketer as a friend rather than someone preying on their life savings.

The measure is a positive step forward to protecting consumers and our seniors, but we need to do more. Besides increasing penalties on fraudulent telemarketers, we need to help educate consumers of the dangers of fraudulent telemarketing. I sponsored several mail and telemarketing fraud briefings for senior citizens in my district, Honolulu, Hawaii. These educational briefings were designed to give vulnerable senior citizens a fighting chance against an industry designed to victimize them. I encourage my colleagues to work with organizations such as the AARP and educate senior citizens in their districts.

H.R. 1847 also allows law enforcement officials to prosecute individuals for conspiracy to commit telemarketing fraud. This provision allows police and prosecutors to seek out and punish organizers of telemarketing scams, who often arrange the schemes but don't actually commit the fraud themselves.

Telemarketing fraud robs Americans of an estimated $40 billion per year. The actual amount may be higher, because some consumers are too embarrassed to report that they have been defrauded or consumers fail to recognize that they have been victimized.

I urge my colleagues to support H.R. 1847 and continue to work to eliminate telemarketing and mail fraud.

Mr. GOODLATTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time and urge a favorable vote.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and concur in the Senate amendment to H.R. 1847.

The question was taken.

Mr. GOODLATTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY EXTENSION ACT OF 1997

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3069) to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advisory Council on California Indian Policy Extension Act of 1997".

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that the Advisory Council on California Indian Policy, pursuant to the Advisory Council on California Indian Policy Act of 1992 (Public Law 102-416; 25 U.S.C. 651 note), submitted its proposals and recommendations regarding remedial measures to address the special status of California's terminated and unacknowledged Indian tribes and the needs of California Indians relating to economic self-sufficiency, health, and education.

(b) PURPOSE.—The purpose of this Act is to allow the Advisory Council on California Indian Policy to advise Congress on the implementation of such proposals and recommendations.

SEC. 3. DUTIES OF ADVISORY COUNCIL REGARDING IMPLEMENTATION OF PROPOSALS AND RECOMMENDATIONS.

(a) IN GENERAL.—Section 5 of the Advisory Council on California Indian Policy Act of 1992 (106 Stat. 2133) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) work with Congress, the Secretary, the Secretary of Health and Human Services, and the California Indian tribes, to implement the Council's proposals and recommendations contained in the report submitted made under paragraph (6), including—

"(A) consulting with Federal departments and agencies to identify those recommendations that can be implemented immediately, or in the very near future, and those which will require long-term changes in law, regulations, or policy;

"(B) working with Federal departments and agencies to expedite to the greatest extent possible the implementation of the Council's recommendations;

"(C) presenting draft legislation to Congress for implementation of the recommendations requiring legislative changes;

"(D) initiating discussions with the State of California and its agencies to identify specific areas where State actions or tribal-State cooperation can complement actions by the Federal Government to implement specific recommendations;

"(E) providing timely information to and consulting with California Indian tribes on discussions between the Council and Federal and State agencies regarding implementation of the recommendations; and

"(F) providing annual progress reports to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the status of the implementation of the recommendations."

(b) TERMINATION.—The first sentence of section 8 of the Advisory Council on California Indian Policy Act of 1992 (106 Stat. 2136) is amended to read as follows: "The Council shall cease to exist on March 31, 2000."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a relatively simple bill. It is the proposed Advisory Council on California Indian Policy Extension Act of 1997, to extend the life of the Advisory Council on California Indian Policy, ACCIP, until March 31 of the year 2000.

The ACCIP has issued 8 reports on various topics as well as an overview of California Indian history.

Some of these recommendations by the ACCIP are controversial and will not be implemented by the Congress. Other recommendations are too expensive.

However, some of the recommendations included in the 8 reports issued make good sense and should be given full consideration by the Administration and the Congress.

H.R. 3069 would add additional new duties to those provided for by Congress when the ACCIP was created in 1992. These new duties include: Working with Congress to implement its proposals; consulting with Federal departments to implement its recommendations; and presenting draft legislation to Congress.

H.R. 3069 is very important to the many Indian tribes of California. While I do not agree with each and every recommendation made by ACCIP, I think we should move forward in the process. I urge my colleagues to support H.R. 3069.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to support, H.R. 3069, the Advisory Council on California Indian Policy Extension Act of 1977. This bill, introduced by GEORGE MILLER, the Senior Democrat on the Resources Committee, extends the life of the Advisory Council for an additional two years. The Advisory Council was created by legislation sponsored by Congressman MILLER in the 102nd Congress.

The Council was created to specifically provide Congress with a report setting forth recommendations for remedial measures to address the special problems facing California Indians and Indian tribes. California Indians have long suffered the effects of broken treaties and the ill-conceived policy of termination and are struggling to find ways to improve education, health care, economic development, and housing needs.

Many of these problems are not solvable overnight. They will require cooperation and understanding from the federal government, the state, and between the tribes themselves. To this end, Congress created the Advisory Council in 1992 to help Congress sort through the complex web of problems unique to California Indians. The Council fulfilled its task in 1997 and provided us with its report and recommendations. These recommendations deal with land consolidation, restoration of tribes, provision of health, education, and social services, and responsibility to urban Indians.

Because the Council has acquired considerable expertise on these issues in the past four years, the bill extends its existence an additional two years so that the Council will be able to guide Congress in the implementation of the report's recommendations.

This makes good sense. We should avail ourselves of the Council's great knowledge that it has accumulated over the past six years. Their expertise should prove of invaluable assistance in helping us draft legislation to carry forward the recommendations contained in their report. They have lived up to their end of the bargain. Now it's time for us to live up to ours.

Mr. Speaker, I would be remiss if I did not give special recognition to our Democratic committee staff for their hard work and professionalism in the development of this legislation as it was authored by our senior ranking Democrat, the gentleman from California Mr. MILLER. I want to thank our minority staff counsel Mr. Chris Stearns for the excellent work he has done on this bill, and also Ms. Jessica Rae Alcorn. Both native Americans. Mr. Stearns is a member of the Navajo Nation and a graduate of Cornell University Law School; Ms. Alcorn is a member of the Assiniboime Sioux Nation, a graduate of Brigham Young University Campus in Hawaii and plans to attend law school this fall.

Mr. Speaker, as I have always said to my colleagues in the years past and even now—the salvation of Native American tribes throughout American lies in education. Mr. Stearns and Ms. Alcorn are the finest examples of the young and upcoming generation of the Native Americans who I am confident will contribute significantly to the needs of Native Americans throughout America, and to the needs of our nation.

Again I thank the gentleman from California for his leadership and foresight for activation of this Advisory Council that is sorely needed to address the needs of some 100 native American tribes that reside in California.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I am pleased to have brought this bill to the floor today. My bill extends by 2 years the life of the California Advisory Council on Indian Policy, which was created by legislation back in the 102nd Congress. The bill was unanimously reported out of the full Committee on Resources.

The Council was created to provide us with a report recommending remedial measures to address the special problems facing California Indians and Indian tribes. The problems include the need to restore California's terminated tribes' lost lands, and to provide tools for economic self-sufficiency, and improve health and educational needs.

Mr. Speaker, I will submit the remainder of my statement for the RECORD, but I want to thank the chairman of the committee for giving the attention of this committee to this legislation; and I also want to thank the gentleman from American Samoa (Mr. FALEOMAVAEGA) for his attention to this matter.

The Council has now submitted its report. Along the way it picked up an inordinate amount of expertise on these issues and my bill would give the Council the chance to share its invaluable knowledge with Congress and other parties as we move forward to the implementation phase.

Thus, my bill directs the Council to consult and work with Congress, the Secretaries of the Interior and Health and Human Services, the California Indian tribes, and the State in expediting the implementation of the recommendations contained in the Council's 1997 report.

This is an important measure. There are over one-hundred tribes in California. Over the course of history, those tribes lost over eighteen million acres as a result of eighteen broken treaties. California Indians own less land, have less money and funding, and less access to health care and education than tribes in other states. California also has the highest urban Indian population of any state. Yet the federal Bureau of Indian Affairs provides services to only one-sixth of the Indian population. California is also one of a handful of states that was allowed to extend state jurisdiction on Indian lands. In the 1950s, thirty-eight tribes were terminated. Fortunately, twenty-seven have been restored.

Six years ago, I spoke on the floor about the original legislation that created the Council and authorized the report. I said that "this report will provide a blueprint for the future of California Indians. We will use the recommendations of the council as we approach California Indian policy in the 1990s and on into the next century." That time has come.

And that is why I believe it is important to continue to rely on the guidance and wisdom of the Council as we review its recommendations and fashion legislation that will allow us to keep many of the promises we have made to the state's first citizens. I look forward to a new era of relations with the California tribes and urge my colleagues to support this bill.

Mr. ENSIGN. Mr. Speaker, my colleague, Mr. GIBBONS, and I rise in opposition to H.R. 3069, the Advisory Council on California Indian Policy Extension Act. This legislation would extend the Advisory Council until 2000 and encourage the Council to work with Congress and federal agencies to implement the proposals of its 1997 report. Although we understand the need for Native Americans of California to improve Indian health services, education and housing programs, we strongly disagree with some of the provisions included in the Advisory Council's initial report.

The Council suggests amendments to the Indian Gaming Regulatory Act and action by the Secretary of the Interior to facilitate Indian gaming operations and circumvent local and federal regulations in California. The track record of Indian gaming operations in California has been far from pristine. To encourage even less regulation and a decreased role of local governments would not be prudent.

We believe that providing additional federal funding to this Council, whose legislative recommendations include a lessening of oversight and local involvement, is bad fiscal policy and poor domestic policy.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3069.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ROGUE RIVER NATIONAL FOREST

Mr. SMITH of Oregon. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3796) to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.

The Clerk read as follows:

H.R. 3796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION.

In this Act, the term "Secretary" means the Secretary of Agriculture.

SEC. 2. SALE OR EXCHANGE OF ADMINISTRATIVE SITE.

(a) IN GENERAL.—The Secretary, under such terms and conditions as the Secretary may prescribe, may sell or exchange any or all right, title, and interest of the United States in and to the Rogue River National Forest administrative site depicted on the map entitled "Rogue River Administrative Conveyance" dated April 23, 1998, consisting of approximately 5.1 acres.

(b) EXCHANGE ACQUISITIONS.—The Secretary may provide for the construction of administrative facilities in exchange for a conveyance of the administrative site under subsection (a).

(c) APPLICABLE AUTHORITIES.—Except as otherwise provided in this Act, any sale or exchange of an administrative site shall be subject to the laws (including regulations) applicable to the conveyance and acquisition of land for National Forest System purposes.

(d) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of an administrative site in an exchange under subsection (a).

(e) SOLICITATIONS OF OFFERS.—In carrying out this Act, the Secretary may—

(1) use solicitations of offers for sale or exchange on such terms and conditions as the Secretary may prescribe; and

(2) reject any offer if the Secretary determines that the offer is not adequate or not in the public interest.

SEC. 3. DISPOSITION OF FUNDS.

The proceeds of a sale or exchange under section 2 shall be deposited in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the "Sisk Act") and shall be available, until expended, for the construction or improvement of offices and support buildings for combined use by the Forest Service for the Rogue River National Forest, and by the Bureau of Land Management.

SEC. 4. REVOCATIONS.

(a) PUBLIC LAND ORDERS.—Notwithstanding any other provision of law, to facilitate the sale or exchange of the administrative site, public land orders withdrawing the administrative site from all forms of appropriation under the public land laws are revoked for any portion of the administrative site, upon conveyance of that portion by the Secretary.

(b) EFFECTIVE DATE.—The effective date of a revocation made by this section shall be the date of the patent or deed conveying the administrative site (or portion thereof).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon (Mr. SMITH) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. SMITH).

Mr. SMITH of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very simple, straightforward piece of legislation. It exchanges 5.1 acres of the Rogue River National Forest maintenance facility in Medford for an opportunity to collocate offices of Forest Service and the Bureau of Land Management.

It is obvious that this collocation is in good order since both the Forest Service and the Bureau of Land Management support this legislation. In effect, it will save $2.1 million per year as a result of the collocation.

Mr. Speaker, it came forward to us unanimously from committee.

I would like to thank my colleagues on the House Resources Committee for bringing this legislation to the floor today.

H.R. 3796 provides an excellent example of how two federal agencies can work together to better serve the needs of the public. This legislation will allow the Secretary of Agriculture to sell or exchange the 5.1 acre Rogue River National Forest maintenance facility in Medford, Oregon and use the proceeds to expand the BLM office so that the Forest Service and the BLM can collocate.

For those of you who have not visited the Second District of Oregon, it may surprise you to know that well over half of the land in this large district is owned by the federal government. Public lands issues are extremely important to the people of my district. The people of the Second Congressional District work, live and recreate on this federal land and will greatly benefit from the ability to address their public lands needs in one central location. Currently, the local Forest Service and the BLM offices in Medford are located across town from one another. H.R. 3796 will allow these two agencies to collocate and provide more efficient service to the general public.

The site this legislation seeks to convey is the McAndrews Service Center. This facility is currently being used as an automotive shop, survey crew headquarters, road maintenance office and forest-wide support warehouse. This facility will become surplus to the Forest Service's needs should the two agencies collocate.

Conveyance of this site will allow for improvements to the joint Forest Service/BLM site that will include the addition of 20,000 square feet of office and conference space, remodeling of the current BLM office so that it fully complies with the Americans with Disabilities Act, and allow for a 5,300 square foot addition to the existing warehouse.

H.R. 3796 has the support of the Forest Service and the BLM and was drafted in response to the requests of local agency representatives looking to improve service to the public. The General Services Administration has also been a participant in discussions relating to collocation efforts and supports this proposal. The Congressional Budget Office estimates that the enactment of H.R. 3796 will result in outlay savings of $2 million in FY 1999, and will have no net effect on federal spending over the FY 1999–2003 period.

So in closing, I would again like to thank my colleagues on the House Resources Committee for bringing this legislation to the floor today, and encourage my friends here in the House to support this cost-effective and sensible example of government agencies working together.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation sponsored by the gentleman from Oregon (Mr. SMITH), my good friend.

The bill would authorize the U.S. Forest Service to sell its headquarters in Medford, Oregon, and dedicate the proceeds to expansion of offices currently occupied by the Bureau of Land Management. The expanded offices will provide a new home for the Forest Service.

Mr. Speaker, given the land management challenges facing both of these agencies, it makes sense to encourage coordination by having them located in joint offices. The Forest Service has requested the authority set in this bill and supports its enactment.

Mr. Speaker, I thank the good gentleman from Oregon for his sponsorship of this bill and for bringing this matter to the attention of the House. My good friend also serves as the chairman of the Committee on Agriculture and as a senior member of this committee as well.

I also want to thank the ranking member of our subcommittee, the gentleman from New York (Mr. HINCHEY), for his assistance in development of this bill; and our professional staff counsel, Mr. Jeff Petrich, for his professional contributions in the development of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Oregon. Mr. Speaker, I yield myself such time as I may consume to thank my friend very much for his positive statement and his assistance on this important piece of legislation.

Mrs. CHENOWETH. Mr. Speaker, first, I would like to recognize Representative BOB SMITH for the excellent work he put forth in the development of this bill. H.R. 3796 is a straight-forward bill that provides for the conveyance of a work center on the Rogue River National Forest in exchange for facility improvements at the Medford Bureau of Land Management (BLM) office in order to facilitate collocation of the two offices.

The McAndrews Service Center is currently owned and operated by the Rogue River National Forest. The fair market compensation received through the sale or exchange of this center would be authorized to be used for the construction or improvement of offices that the Rogue River National Forest will share with the Medford District Office of the BLM. This would be done in a manner consistent with all applicable laws.

The Forest Service and the BLM in Medford have been working cooperatively for many years. This cooperative relationship has resulted in improved customer service and consolidation of office space will provide further efficiencies and improvements in public service.

This excellent bill is a bipartisan effort and has the support of the Administration. I urge my colleagues to support H.R. 3796.

Mr. SMITH of Oregon. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3796.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous materials on the two bills just passed, H.R. 3069 and H.R. 3796.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

NATIONAL DROUGHT POLICY ACT OF 1998

Mr. BOEHLERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3035) to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies, as amended.

The Clerk read as follows:

H.R. 3035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Drought Policy Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States often suffers serious economic and environmental losses from severe regional droughts and there is no coordinated Federal strategy to respond to such emergencies;

(2) at the Federal level, even though historically there have been frequent, significant droughts of national consequences, drought is addressed mainly through special legislation and ad hoc action rather than through a systematic and permanent process as occurs with other natural disasters;

(3) there is an increasing need, particularly at the Federal level, to emphasize preparedness, mitigation, and risk management (rather than simply crisis management) when addressing drought and other natural disasters or emergencies;

(4) several Federal agencies have a role in drought from predicting, forecasting, and monitoring of drought conditions to the provision of planning, technical, and financial assistance;

(5) there is no single Federal agency in a lead or coordinating role with regard to drought;

(6) State, local, and tribal governments have had to deal individually and separately with each Federal agency involved in drought assistance; and

(7) the President should appoint an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for, mitigate the impacts of, respond to, and recover from serious drought emergencies.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Drought Policy Commission (hereinafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 16 members. The members of the Commission shall include—

(A) the Secretary of Agriculture, or the designee of the Secretary, who shall chair the Commission;

(B) the Secretary of the Interior, or the designee of the Secretary;

(C) the Secretary of the Army, or the designee of the Secretary;

(D) the Secretary of Commerce, or the designee of the Secretary;

(E) the Director of the Federal Emergency Management Agency, or the designee of the Director;

(F) the Administrator of the Small Business Administration, or the designee of the Administrator;

(G) two persons nominated by the National Governors' Association and appointed by the President, of whom—

(i) one shall be the governor of a State east of the Mississippi River; and

(ii) one shall be a governor of a State west of the Mississippi River;

(H) a person nominated by the National Association of Counties and appointed by the President;

(I) a person nominated by the United States Conference of Mayors and appointed by the President; and

(J) six persons, appointed by the Secretary of Agriculture in coordination with the Secretary of the Interior and the Secretary of the Army, who shall be representative of groups acutely affected by drought emergencies, such as the agricultural production community, the credit community, rural and urban water associations, Native Americans, and fishing and environmental interests.

(2) DATE.—The appointments of the members of the Commission shall be made no later than 60 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the chair.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) VICE CHAIR.—The Commission shall select a vice chair from among the members who are not Federal officers or employees.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY AND REPORT.—The Commission shall conduct a thorough study and submit a report on national drought policy in accordance with this section.

(b) CONTENT OF STUDY AND REPORT.—In conducting the study and report, the Commission shall—

(1) determine, in consultation with the National Drought Mitigation Center in Lincoln, Nebraska, and other appropriate entities, what needs exist on the Federal, State, local, and tribal levels to prepare for and respond to drought emergencies;

(2) review all existing Federal laws and programs relating to drought;

(3) review State, local, and tribal laws and programs relating to drought that the Commission finds pertinent;

(4) determine what differences exist between the needs of those affected by drought and the Federal laws and programs designed to mitigate the impacts of and respond to drought;

(5) collaborate with the Western Drought Coordination Council and other appropriate entities in order to consider regional drought initiatives and the application of such initiatives at the national level;

(6) make recommendations on how Federal drought laws and programs can be better integrated with ongoing State, local, and tribal programs into a comprehensive national policy to mitigate the impacts of and respond to drought emergencies without diminishing the rights of States to control water through State law and considering the need for protection of the environment;

(7) make recommendations on improving public awareness of the need for drought mitigation, prevention, and response and on developing a coordinated approach to drought mitigation, prevention, and response by governmental and nongovernmental entities, including academic, private, and nonprofit interests; and

(8) include a recommendation on whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency and, if so, identify such agency.

(c) SUBMISSION OF REPORT.—

(1) IN GENERAL.—No later than 18 months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) APPROVAL OF REPORT.—Before submission of the report, the contents of the report shall be approved by unanimous consent or majority vote. If the report is approved by majority vote, members voting not to approve the contents shall be given the opportunity to submit dissenting views with the report.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall not be compensated for service on the Commission, except as provided under subsection (b). All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) ADMINISTRATIVE SUPPORT.—The Secretary of Agriculture shall provide all financial, administrative, and staff support services for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Pennsylvania (Mr. BORSKI) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

This important, noncontroversial legislation establishes a 16-member commission to report to Congress and the President on the development of an integrated and coordinated approach to drought. H.R. 3035 is broadly supported by, among others, the National Governors' Association, the Western Governors' Association, and the National Emergency Management Association.

For too long, the Nation has lacked a proactive, coordinated approach to drought, instead relying on crisis management. The result has been enormous damage and suffering equal to or greater than other forms of natural disasters. For example, the total economic losses to agriculture, energy, transportation and recreation tourism associated with the 1988 drought have been estimated at $40 billion.

In response, the gentleman from New Mexico (Mr. JOSEPH SKEEN) introduced H.R. 3035, which is companion legislation to S. 222, introduced by Senator PETE DOMENICI. The bill before us will help foster an integrated approach emphasizing prevention and mitigation.

Let me thank the gentleman from Pennsylvania (Mr. BUD SHUSTER), the gentleman from Minnesota (Mr. JIM OBERSTAR), and the gentleman from Pennsylvania (Mr. BOB BORSKI) for their efforts in moving H.R. 3035 through the Committee on Transportation and Infrastructure and the Subcommittee on Water Resources and the Environment.

I also appreciate the cooperation of the Committee on Resources and the Committee on Agriculture, particularly their respective chairmen, the gentleman from Alaska (Mr. DON YOUNG) and the gentleman from Oregon (Mr. BOB SMITH). Thanks to their efforts, and the assistance of their staffs, we are able to bring this important legislation to the floor today.

Most importantly, Mr. Speaker, I want to commend the gentleman from New Mexico (Mr. JOSEPH SKEEN) and Senator PETE DOMENICI for championing H.R. 3035 and S. 222 through the Congress. After our hearing, the Subcommittee on Water Resources and the Environment, of the Committee on Transportation and Infrastructure, made very few changes to H.R. 3035. These revisions, now incorporated into the bill, respond to suggestions by the administration, FEMA, the Corps of Engineers, and various Members. Areas of primary emphasis are disaster mitigation, environmental values and national or regional representation.

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A more detailed discussion of the bill is contained in the committee's report, House Report 105–554.

Mr. Speaker, I urge my colleagues to support H.R. 3035. This legislation can and should be enacted into law in the coming weeks.

Mr. Speaker, I reserve the balance of my time.

Mr. BORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me join with the gentleman from New York (Mr. GOODLING), my distinguished subcommittee chairman in support of H.R. 3035, the National Drought Policy Act of 1998.

Drought is one of the most subtle natural disasters the Nation faces. When a flood, earthquake, tornado, or hurricane strikes, the timing and magnitude of the event are readily apparent. Yet, when drought strikes, a region may be months or even years into it before it is apparent that the drought conditions exist. By then it may be too late to undertake the kind of careful advance planning and response that are necessary to minimize adverse impacts to communities, business, agriculture, and the environment.

While the origin of this bill is drought issues in the western states, drought is no stranger to any portion of the country. Severe drought can arise in any region, and the harm that results to the citizens and the economy and environment is just as devastating. Therefore, the commission to be established under this bill should have a national focus, recognizing regional variations. There are no one-size-fits-all solutions to drought, but the basic need for preparedness, mitigation and response affects all areas of the country.

Mr. Speaker, I believe that the changes to H.R. 3035 adopted by the Committee improved the bill by emphasizing the natural effects of drought and the need for preparedness, mitigation and risk management relative to drought. I also strongly support that the commission accommodate the interests of urban water users. In times of scarce resources, urban and rural interests must work together for the common good.

I am also pleased that the commission will specifically consider the need for protection of the environment. Too often, the last area afforded protection in times of drought is the aquatic ecosystem, and too often the interests least well represent or capable of protecting their interest at time of drought are aquatic species.

By placing representatives of fishing and environmental interests on the commission, instream interests will be represented in the deliberations and afforded an opportunity to shape the recommendations.

Mr. Speaker, some have suggested and recommended adding the Environmental Protection Agency to the commission, and this bill does not do that. However, I hope that the commission remains open to input from EPA, the Fish and Wildlife Service, and other interests which seek to protect the environment. For the commission's recommendations to be effective in shaping Federal drought policy, the recommendations must be balanced with all perspectives adequately considered and reflected.

Again, Mr. Speaker, let me once again voice my support for the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H.R. 3035, the National Drought Policy Act. I thank the gentleman from New York for yielding me the time. I thank the bill's managers on the other side of the aisle and the gentleman from New Mexico (Mr. SKEEN) and others who brought us this legislation.

This important legislation, as mentioned, establishes an advisory commission to provide advice and recommendations on the creation of integrated and coordinated Federal policy designed to prepare for and respond to serious drought emergencies. Drought is one of the most complex and devastating natural disasters. Yet, it is also one of the least understood.

Droughts cost the United States an average of $6 to $8 billion per year and cause serious environmental and social problems. Too often, the response to droughts is fragmented and it often comes too late. Once a drought hits, the options become much more limited. There is a clear need to plan ahead.

The National Drought Policy Act seeks to address the current shortcomings by encouraging a proactive rather than a reactive approach to drought. The commission created by the bill would work to develop a comprehensive and coordinated Federal policy so that the Nation is prepared for upcoming droughts. The commission would also make recommendations on the best way to integrate Federal drought laws and programs with those of the state, local, and tribal level; and I think that is probably the most important responsibility.

I would like to take this opportunity to acknowledge the outstanding work by the National Drought Mitigation Center at the University of Nebraska Lincoln. The Center, founded in 1995, stresses drought prevention and risk management. The National Drought Policy Act would greatly assist the Center in its efforts to develop a comprehensive program designed to reduce vulnerability to drought by promoting the development and implementation of appropriate mitigation policies. The Center is focused on the Great Plains, but its work has advantages for many parts of the country.

As I looked at some of the things the university is doing, I realize they have gone a long way now to help develop plants that are drought resistant or at least that do not suffer so greatly from the stress of drought.

Mr. Speaker, development of a National Drought Policy Act is long overdue. I am pleased that H.R. 3035 addresses this problem and urge my colleagues to support the legislation.

Mr. BOEHLERT. Mr. Speaker, let the RECORD note that the author of the bill the gentleman from New Mexico (Mr. SKEEN) is chairing a subcommittee meeting with the Committee on Appropriations and is not able to be here with us today.

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 3035 which would establish an advisory commission to provide advice and recommendations to help create a coordinated federal drought mitigation and response policy. Currently, droughts tend to receive minimal advance attention and are primarily addressed ad hoc in a crisis management mode.

The commission established by the bill would recommend ways to coordinate the numerous federal agencies that have a role in droughts. It would also help ensure that federal efforts would compliment state and local programs without diminishing state water rights or environmental protection.

H.R. 3035 builds upon the recent work of the Western Water Policy Review Advisory Commission and the Western Governors' Association. Both organizations have recommended the creation of an interagency task force to develop an integrated national drought policy plan that emphasizes risk-management.

I appreciate the efforts of my colleagues on the Transportation and Infrastructure Committee, and I urge my colleagues to support this legislation.

Mr. BOEHLERT. Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. BORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from New York (Mr. BOEHLERT) that the House suspend the rules and pass the bill, H.R. 3035, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to provide extraneous material on H.R. 3035.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

URGING CONGRESS AND PRESIDENT TO FULLY FUND GOVERNMENT'S OBLIGATION UNDER INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 399) urging the Congress and the President to work to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act, as amended.

The Clerk read as follows:

H. RES. 399

Whereas Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F. Supp. 1247 (E. Dist. Pa. 1971), and Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866 (Dist. D. C. 1972), found that children with disabilities are guaranteed an equal opportunity to an education under the 14th amendment to the Constitution;

Whereas the Congress responded to these court decisions by passing the Education for All Handicapped Children Act of 1975 (enacted as Public Law 94-142), now known as the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), to ensure a free, appropriate public education for children with disabilities;

Whereas the Individuals with Disabilities Education Act provides that the Federal, State, and local governments are to share in the expense of educating children with disabilities and authorizes the Federal Government to pay up to 40 percent of the national average per pupil expenditure for children with disabilities;

Whereas the Federal Government has provided only 7, 9, and 11 percent of the maximum State grant allocation for educating children with disabilities under the Individuals with Disabilities Education Act in the last 3 years, respectively;

Whereas the national average cost of educating a special education student ($12,002) is more than twice the national average per pupil cost ($5,955);

Whereas research indicates that children who are effectively taught, including effective instruction aimed at acquiring literacy skills, and who receive positive early interventions demonstrate academic progress, and are significantly less likely to be referred to special education;

Whereas, if the appropriation for part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) exceeds $4,100,000,000 for a fiscal year, a local educational agency may reduce its local spending on special education for such fiscal year by an amount equal to 20 percent of the amount that exceeds the prior year's appropriation so long as the local educational agency is not failing to comply with the requirements of part B of such Act, as determined by the State educational agency;

Whereas the Individuals with Disabilities Education Act has been successful in achieving significant increases in the number of children with disabilities who receive a free, appropriate public education; and

Whereas the current level of Federal funding to States and localities under the Individuals with Disabilities Education Act is contrary to the goal of ensuring that children with disabilities receive a quality education: Now, therefore, be it

Resolved, That the House of Representatives urges the Congress and the President, working within the constraints of the balanced budget agreement, to give programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) higher priority among Federal education programs by working to fund the maximum State grant allocation for educating children with disabilities under such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from California (Mr. MARTINEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

The Committee will now consider H. Res. 399, a resolution urging the Congress and the President to fully fund the Federal Government's responsibility under the Individuals with Disabilities Education Act. This resolution was introduced by the gentleman from New Hampshire (Mr. BASS) and I am pleased to be an original cosponsor.

I would like to start out by recognizing the efforts of my friend and colleague the gentleman from Pennsylvania (Mr. GREENWOOD). He has been a leader in helping move this resolution through our committee in a bipartisan manner. He has been a strong voice for providing fiscal relief to local communities, which not only pay their share of special education costs but most of the Federal share as well.

For those who may not be aware, in 1975, when the original legislation was passed, the Congress of the United States indicated that over several years they would fund 40 percent of the excess costs for special education. Up until 3 years ago, they were funding about 6 percent. I am happy to say that we got about a 77-percent increase in the last 3 years. But it is still a long, long way from the 40 percent that was promised for the excess costs of educating a special education child.

This unpaid Federal share means that the local school district has to do the funding. It also then means that the local school district has to take that money from all other programs in order to fund our share of special education. In many districts that is 55 percent of their entire budget. And so, I am hoping that we will continue the trend that we have had in the last 3 years.

Unfortunately, when the President sent up his budget, he level funded special education. But what level-funding really means is a dramatic cut. Because if you consider inflation and then, above all, consider the new children who will be coming into special education through increased enrollment, it means that we are going to fall way short if we would follow his budget.

I am hoping that with the program that came from my committee, dealing with literacy, with family literacy particularly, that in the long run we can find a way to eliminate an awful lot of people from ever getting into special education. Because, unfortunately, many of our special education students today are there simply because they have a reading difficulty. There is no reason for that to happen.

We know now that most youngsters can learn to read. With the family literacy program that we are including in our legislative initiative from our committee, hopefully we can eliminate an awful lot who would normally fall into special education.

But now is the time where we thank Mrs. MCCARTHY, who testified with the gentleman from New Hampshire (Mr. BASS) at our hearing on this a few weeks ago. I look forward to bipartisan effort to make sure that we eventually get to that 40 percent of excess cost coming from the Federal Government.

This year we should be able to get, for the first time ever, at the level where the local schools will be able to reduce their spending on special education. When we meet that magic figure, and this year I believe we need $300 million to get to that figure, they then can, for the first time, reduce their spending on special education. It does not, however, allow the state to reduce their spending on special education.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

I want to start out by saying that I am pleased to rise in strong support of this resolution which is before the House. H.Res. 399 is a truly bipartisan bill and should meet with the approval of Members from both sides of the aisle.

The chairman a moment ago was I think commendable in commending the Members on his side of the aisle that worked very hard for this. But I do not think it is any secret that there is no one that has worked harder for the full funding of IDEA than the chairman himself, the gentleman from Pennsylvania (Mr. GOODLING).

Mr. Speaker, full funding of IDEA is a goal which has been around with us for a long time. It has the strong support of all Members in this body. As many Members here know, presently the Federal Government provides only 11 percent of the excess cost of educating a child with disability.

The goal that we set for ourselves, as the chairman has alluded to in 1979, in 1975, when Congress first passed IDEA's predecessor, the education for all handicapped children, it was to provide 40 of the excess cost of educating a child with disability. Unfortunately, Congress has been unable to meet this goal despite the hard work of many Members from both sides of the aisle.

With this goal in mind, I believe the strong statements that this resolution make is vitally important. Clearly, the needs of children with disabilities and the costs associated with ensuring that they receive a free and appropriate public education are important factors in determining if we are to have a society where all those with disabilities and those without have a chance to succeed and become economically contributing adults.

In closing, I want to salute the gentleman from Pennsylvania (Mr. GOODLING) again, the gentleman from California (Mr. RIGGS) and along with the gentleman from Pennsylvania (Mr. GREENWOOD) for their long-standing efforts to increase funding for this very important bill and for the valuable work during the committee process.

I also want to thank especially the gentleman from Pennsylvania (Mr. GREENWOOD) for his hard work on fashioning the resolution, which I believe gained bipartisan support. I urge all Members support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire (Mr. BASS) the author of the resolution.

Mr. BASS. Mr. Speaker, I rise in very strong support of House Resolution 399, a resolution that would make the full funding of special education a high priority of this Congress.

I want to thank the distinguished chairman and gentleman from California for making this a truly bipartisan resolution.

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The idea came to me as I listened to the State of the Union address in January that the President delivered, and he talked about the importance of education. And as one who comes from a State like New Hampshire which depends on funding for education, 98 percent of the funding coming from the property tax base at the local level, nothing hits the property taxpayers worse in New Hampshire than special education. It really should not be that way, because special education originally was mandated to be paid for at the rate of approximately 40 percent.

As we heard the chairman and the ranking member mention in their speeches, that has been chronically underfunded. Indeed, funding of special education has been the mother of all unfunded mandates of this government for the last 25 years. I think this resolution is way overdue and it should be passed today.

Let me just point out that in some towns in my State, special education costs make up half of the entire education budget for a given town. This puts pressure on school district administrators, on students, and perhaps most unfortunately on the parents of developmentally disabled students in a small community.

I believe that as Congress sets its priorities for new education spending, that fully funding the existing mandates that we have outstanding today should come ahead of new education funding for new programs in education. Fully funding special education in New Hampshire alone would increase funding from $17 million a year to $68 million a year. That, Mr. Speaker, would make a significant impact on the whole education picture in New Hampshire. I am sure the same is true in every other State in the country.

I hope, Mr. Speaker, that today the House will pass this resolution which has been introduced by me, supported by the committee, amended to make it as bipartisan as possible, because we all recognize the importance of special education firstly; and, secondly, the importance of fully funding the Federal Government's commitment to this important program.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. SCOTT) who is a strong, strong supporter of everything that benefits all the young people of our country.

Mr. SCOTT. Mr. Speaker, I thank the gentleman from California (Mr. MARTINEZ) for yielding me this time.

Mr. Speaker, as one of the strong supporters of IDEA, I am pleased to support this resolution. I want to thank the gentleman from Pennsylvania (Mr. GOODLING), the gentleman from California (Mr. RIGGS), the gentleman from California (Mr. MARTINEZ), the gentleman from Missouri (Mr. CLAY), the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from New Hampshire (Mr. BASS) for working on this resolution. The Individuals with Disabilities Education Act represents this country's commitment to ensure that all children, including children with disabilities, are entitled to a free and appropriate public education. I support IDEA and I support more funding for this program. This resolution, unfortunately, does not include two provisions that I think need to be addressed. Although I support the resolution and will vote for it, I wish that it could have addressed two issues.

The most important principle missing in the resolution is that we should not take away from other educational programs in order to fully fund IDEA. The needs of our public schools remain high and we should not rob Peter to pay Paul. In the past, we have seen efforts to shift funding from other educational accounts to IDEA without changing the bottom line.

The second principle missing from the resolution is that we should urge the localities once the $4.1 billion appropriation mark is triggered to spend their 20 percent of relief on education. Under current law, localities may use 20 percent of any increase in IDEA funding above the trigger to offset their current effort on special education. However, this relief can be used for roads, jails, tax relief and so forth. There is no guarantee that any of the local offset would be used to recycle the money to other educational programs.

Even more of a concern is that transferring funds from other Federal education programs to increase funding for IDEA could actually result in a net reduction in total spending for elementary and secondary education. If we pursue a strategy of reducing the funding of other education programs to fully fund IDEA, we will risk a 20 percent net reduction in our investment in elementary and secondary education programs at the expense of children, both disabled and nondisabled, that these programs serve.

Mr. Speaker, I strongly support the bipartisan resolution and hope that we can continue a bipartisan effort to fully fund IDEA without jeopardizing our investment in other educational programs.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MCKEON), one of my great subcommittee chairmen.

Mr. MCKEON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of H.Res. 399 which calls upon Congress and the President to fulfill our commitment to some of our Nation's neediest children, those with disabilities.

For too long, Washington has shirked its responsibility to provide our local school districts with the funds necessary to carry out the expensive mandate created with the enactment of the Individuals with Disabilities Education Act.

In my home State of California, the cost of educating an estimated 610,000 children with disabilities is a staggering $3.3 billion. But the Federal Government contributes only $413 million, which translates to only 12.5 percent of the total cost. This, after saying that they would fund 40 percent of the cost.

Even more alarming is the impact of this Federal mandate on our local school districts. For example, the Federal Government picks up only 5 percent of the estimated $7.6 million price tag for educating the nearly 1,200 children in the William S. Hart High School District, the district I served on the local school board in my congressional district.

To make matters worse, the President level-funded IDEA in his fiscal year 1999 budget while calling for $20 billion to fund a laundry list of new Federal education pet projects.

If the President would first fund the special education mandate, which was the responsibility of the Federal Government years ago when this bill was passed, our communities would have the funds to do the things the President proposes, such as building new schools, hiring more teachers, reducing class size and buying more computers. I say the first thing that we should do is fully fund the IDEA bill, and I urge my colleagues to support this resolution.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD), the gentleman who helped shepherd the bill through the committee.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is interesting that here in Washington sometimes education becomes a subject of controversy, when most Americans would look at us as politicians and say, what could be controversial about education.

We all know that there is nothing more important in the world than that our precious children receive the best education that they can so that they can make the most of themselves in every way and that we can compete as a nation against every other country in the world as they educate their children.

Of even less controversy, if that is possible, is the notion that children who have particular challenges, whether they are children with mental retardation or they have social or emotional problems, whether they have learning disabilities, speech impediments, what have you, that we as a society want to go overboard and do more for those kids than we do for other kids, if that is possible, because of the challenges that face them. None of that is controversial. We are all in support of that. What does get controversial is when we talk about whether it is the Federal responsibility or the State responsibility or the local responsibility to support certain aspects of education, and that is in fact very controversial.

Most Republicans feel very strongly that the States should determine the curriculum, should determine the basics of education and that the localities should run the schools and make the decisions about hiring and firing and how they want to run their local school districts. But the President has proposed Federal responsibilities that would be new. He has proposed that the Federal Government get involved in school construction, that the Federal Government get involved in hiring teachers.

Back to what is not controversial, IDEA is not controversial. The Congress 23 years ago said we have got to give these kids everything we can give them, the school districts are mandated to do that, and just last year, I believe it was, we reauthorized IDEA. I think with maybe one negative vote, if not unanimously, I think it was one negative vote out of 435 of us. This proposal, the Bass proposal, says let us put all the controversy aside and let us do what we agree on, let us finally fully fund special education, take this enormous burden that we have imposed on the States and shoulder our fair share as the Congress, and then the beautiful part of it is that every school district in America, so relieved of this burdensome Federal responsibility, has the opportunity to make a specific local decision what to do with the money it would have otherwise had to dedicate to special education and if they need a new roof, put a new roof on; if they need to hire new teachers, do that; if they need computers, do that.

This, I think, is a complete win-win proposal, that we help the kids in America who need special education, who need special attention, help them the most and then at the same time free up every locality, every local school district in the country to then tailor-fit its budget to its particular needs.

I urge support of the Bass resolution.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to the gentleman from Pennsylvania who just spoke. I want to make it very clear here why the Federal Government is involved in this. I do not think the Federal Government has ever in any of the legislation we have passed tried to set curriculum for local schools. In fact, we very much have stayed away from that.

The fact is that local schools and local school districts were not educating these disabled children. There was a court case that went to the Supreme Court, where the Supreme Court found that there were millions of young children throughout this country that were disabled who were not receiving a vital education; more importantly even unequal education. They were being pushed into back rooms and basement classrooms, sometimes not even being dealt with at all. As a result, the court found that these children were entitled to a full and meaningful education.

And so then Congress acted, because the local districts and school districts would not. But they did not set any curriculum. What they did was tell the local schools that they would have to educate these children. But in doing so, they recognized one of the main reasons why a lot of these local school districts and local jurisdictions did not educate these young people was because it was much more costly to educate them.

The Federal Government, in recognizing that it was much more costly to educate them, then developed the idea that there was a certain burden, a responsibility, you might say, that the Federal Government had, not putting a burden on the local school district other than that they were mandated by the Supreme Court action that they had to educate these children. That was the burden, not what the Federal Government did. The Federal Government then decided that they would fund 40 percent of this.

Now that becomes the crux of the situation we are in today and why we need legislation that decries the lack of funding on the part of the Federal Government for this particular program. We are only trying to get to that 40 percent that was initially agreed to that has never been attained, and, as many of the speakers here today have said, there has only been 11 percent ever reached in totality for that funding; I think that that is why we are here today.

But I want to make it very clear, the Federal Government is trying to alleviate, or we as Members of Congress through this resolution are trying to alleviate a problem that was created basically initially by the lack of education of these young people in those local districts.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. SNOWBARGER).

Mr. SNOWBARGER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to express my strong support for House Resolution 399. I am pleased to be an original cosponsor of this responsible legislation. In 1973, Congress created the original special education program that mandated States to provide equal education for all students. Congress then pledged to pay 40 percent of the increased costs incurred for complying with this new Federal law and promptly reneged on its end of the bargain.

Since the inception of the Individuals with Disabilities Education Act more than 20 years ago, Congress has paid for less than 10 percent of the costs we promised we would assume. It is high time for Congress to correct this problem and ease the burden this mandate places on States and local school boards.

□ 1630

Over the past 20 plus years more than $115 billion should have been provided to the local schools to pay for this unfunded mandate. This $115 billion would have provided necessary funds to cover increased special education costs and would have allowed our locally-elected school board members to direct their State and local funding to pay for local priorities instead of unfunded federal mandates.

While I cannot do anything to reverse decisions made before I became a Member of this body, I believe we now have the opportunity to act responsibly to remedy this negligence. The failure of Congress to live up to our end of the bargain is a disgrace. Passage of this legislation is a good start toward correcting this problem.

Mr. Speaker, I urge my colleagues to support House Resolution 399.

Mr. GOODLING. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. RIGGS), another one of our subcommittee chairs.

Mr. RIGGS. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding this time to me, and I want to join the gentleman and several other colleagues in rising to support this important resolution that is more than symbolism. It is critically needed and, I think, very urgent legislation, and I want to salute my good friend, classmate of sorts, the gentleman from New Hampshire (Mr. BASS) for his leadership on this particular issue.

I can tell my colleagues that as one of the principal authors of last year's IDEA, the Individuals with Disabilities Education Act legislation, the so-called IDEA amendments of 1997, that I believe that this resolution, the Bass resolution, is the next logical step in fulfilling the promise of these amendments which were intended to improve the educational opportunity and the educational outcomes for children with disabilities, and I regret to say, because this legislation is very much bipartisan in nature, it was approved and advanced to the committee process on a voice-vote basis beginning in the subcommittee that I chaired, that I just regret that this legislation is at least necessitated in part because of the President's budget proposal to the Congress to level fund the IDEA program at a rate that I do not think will keep pace with inflation. And not wanting to read too much into the President's budget proposal, but I have to wonder how he can justify level funding or nominal increase in funding for IDEA on the one hand with his proposal for a host of new programs, additional categorical programs funded by Federal taxpayers on the other hand, particularly when the latter, the proposal for all these new programs, and I know they all sound well, and I am sure they have all been focused grouped and that they are in part politically or poll driven, but that proposal assumes this windfall of Federal revenue resulting from settlement of the tobacco class action litigation, and I do not think that there is any Member in this body who can really make that assumption because that legislation at the present time is obviously problematical.

But back on the point, IDEA works. It is not some new untested program like so many of the ones that the President has proposed. As the gentleman has pointed out, since IDEA was enacted in 1975 the number of children with disabilities who have gone on to college has tripled, and the unemployment rate for individuals with disabilities who are now in their 20s is almost half that of other individuals who do not benefit from IDEA.

Other speakers have testified about the fact that IDEA remains a largely underfunded federal mandate, sort of the mother, if my colleagues will, of all unfunded mandates imposed by the Congress on state and local educational agencies, and we need to address that problem, and the gentleman from Virginia (Mr. SCOTT) spoke of the trigger or threshold of 4.1 billion, and that figure is reachable this year, and it would in turn free up local and State education funding for other worthwhile activities.

So I say let us support the Bass resolution, let us make good on that long overdue promise to State and local educational agencies. Let us tell the President, no, we will not turn back on school children with disabilities, and we will not leave local taxpayers to foot the bill for special education.

Support the Bass resolution. Make IDEA funding a top and not the top priority for education.

Mr. MARTINEZ. Mr. Speaker, I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

First of all, I am proud to say that Pennsylvania was ahead of the Federal Government when it came to IDEA. However, that too was a court decision, before they got around to making that decision on the Federal level. But for 20 years I sat in the minority asking the majority both in the Committee on Education and Labor and on the Committee on the Budget along with the gentleman from Michigan (Mr. KILDEE) to please fund the 40 percent promised. We've got to make sure we understand we are talking about the 40 percent of excess costs. We are not talking about 40 percent of the costs for special education. We are talking about 40 percent of the excess costs to educate a special education student in relationship to a student in general education. It is the only curriculum mandate from the Federal level. It is important that everybody out there listening understands that, because we get blamed for every curriculum problem that they may have in a local district. The only federal mandate as far as curriculum is concerned is special education.

I told the President on several occasions that if he wants a legacy—if he wants a positive legacy in education—the way to get it is to make sure that he works with us to fully fund that 40 percent of excess costs.

I am happy to say that we are here in a bipartisan effort. Everybody wants to make sure that we not only help the special education child. What I do not want to see happen, and what is beginning to happen because parents of students that are not in special education are beginning to say "Where is our money going that we want for this and that?" The school district has to say, "Well, we have to fund what the Federal Government mandated." So it is a bipartisan effort to make sure that we carry our share of the special education financial burden. I am happy to support Congressman BASS' resolution. I would hope that we could get a hundred percent of the entire Congress supporting this resolution, since it is a bipartisan effort.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in strong support of H. Res. 399, a resolution urging Congress and the President to fully fund the Individuals with Disabilities Act, or IDEA. I want to commend the gentleman from New Hampshire, Mr. BASS, for all his hard work and efforts in bringing this important resolution to the floor today.

In 1975, when Congress passed the original IDEA bill, it made an historic commitment to support children and families with special education needs. At that time, Congress also committed the Federal government to providing 40 percent of the funding for the IDEA mandates on local communities. Today, the Federal government provides a mere 9 percent of the necessary funding. And for Fiscal Year 1999, President Clinton's budget flatlines IDEA funding. This is shameful.

It is incumbent upon us here in Congress to maintain our financial commitment to IDEA, and to provide the money our schools and communities need to provide services to individuals with disabilities and their families. If the President provided IDEA with the full 40 percent in Federal funding, local schools would have more money to spend on other initiatives, including school construction, hiring new teachers, decreasing class sizes and buying more computers.

By passing this bill today, we reinforce our commitment to providing the means to educate the students who need our help most. I urge my colleagues to vote for this bill, and when the time comes, to support full funding for IDEA.

Mr. PAUL. Mr. Speaker, I appreciate the opportunity to express my opposition to H. Res. 399, the resolution calling for full-funding of the Individuals with Disabilities Act (IDEA). My opposition to this act should in no way be interpreted as opposition to increased spending on education. However, the way to accomplish this worthy goal is to allow parents greater control over education resources by cutting taxes, thus allowing parents to devote more of their resources to educating their children in such a manner as they see fit. Massive tax cuts for the American family, not increased spending on federal programs, should be this Congress' top priority.

The drafters of this bill claim that increasing federal spending on IDEA will allow local school districts to spend more money on other educational priorities. However, because an increase in federal funding will come from the same taxpayers who currently fund the IDEA mandate at the state and local level, increasing federal IDEA funding will not necessarily result in a net increase of education funds available for other programs. In fact, the only way to combine full federal funding of IDEA with an increase in expenditures on other programs by state and localities is through massive tax increases at the federal, state, and/or local level.

Rather than increasing federal spending, Congress should focus on returning control over education to the American people by enacting the Family Education Freedom Act (H.R. 1816), which provides parents with a $3,000 per child tax credit to pay for K–12 education expenses. Passage of this act would especially benefit parents whose children have learning disabilities as those parents have the greatest need to devote a large portion of their income toward their child's education.

The Family Education Freedom Act will allow parents to develop an individualized education plan that will meet the needs of their own child. Each child is a unique person and we must seriously consider whether disabled children's special needs can be best met by parents, working with local educators, free from interference from Washington or federal educrats. After all, an increase in expenditures cannot make a Washington bureaucrat know or love a child as much as that child's parent.

It is time for Congress to restore control over education to the American people. The only way to accomplish this goal is to defund education programs that allow federal bureaucrats to control America's schools. Therefore, I call on my colleagues to reject H. Res. 399 and instead join my efforts to pass the Family Education Freedom Act. If Congress gets Washington off the backs and out of the pocketbooks of parents, American children will be better off.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the resolution, H. Res. 399, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Resolution urging the Congress and the President to work to fully fund the Federal Government's responsibility under the Individuals with Disabilities Education Act."

A motion to reconsider was laid on the table.

SENSE OF THE HOUSE THAT SOCIAL PROMOTION IN AMERICA'S SCHOOLS SHOULD BE ENDED

Mr. RIGGS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 401) expressing the sense of the House of Representatives that social promotion in America's schools should be ended and can be ended through the use of high-quality, proven programs and practices, as amended.

The Clerk read as follows:

H. RES. 401

Whereas high student achievement and academic advancement are vitally important to our Nation's schools and the future success of America's workforce;

Whereas some pupils proceed through school without having mastered the knowledge and skills required of them, and graduate from high school ill-equipped to handle college-level work or obtain an entry-level job;

Whereas "social promotion", the practice of moving pupils from one grade to the next regardless of whether they have the knowledge and skills necessary for the next level, is one reason for a pupil's inadequate academic achievement levels;

Whereas research has shown that retention, the customary alternative policy to social promotion, is also an inadequate response to the problem in that pupils are usually presented with the same instructional practices and materials that were ineffective the first time around;

Whereas to help underachieving students learn, it is essential that policies and programs address the underlying causes of failure and rectify the problems through various proven instruction practices;

Whereas high-quality teacher training and education, and other proven practices will provide our teachers with the tools necessary to educate our Nation's children and work toward high academic achievement by students;

Whereas social promotion policies already have been abolished in Louisiana, Arkansas, Florida, New Mexico, North Carolina, South Carolina, West Virginia, and in Chicago, Illinois, Portsmouth, Virginia, Long Beach, California, and Milwaukee, Wisconsin; and

Whereas the abolishment of social promotion policies have been proposed in California, Michigan, Wisconsin, Delaware, Texas, Oklahoma, New York, Washington, D.C., and in Boston, Massachusetts, and Philadelphia, Pennsylvania: Now, therefore, be it Resolved,

That it is the sense of the House of Representatives that—

(1) ending social promotion should be addressed in America through a coordinated effort by government officials, teachers, and parents committed to high academic achievement of students;

(2) State Education Agencies and local educational agencies that receive Federal funds should make every effort to address and end social promotion;

(3) the problems associated with social promotion can be resolved effectively through a commitment to provide high-quality training and education for our teachers, and the use of other proven practices; and

(4) States should adopt high, rigorous standards and standards-based assessments aimed at requiring academic accountability with the specific aim of ending social promotion and raising student achievement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (MR. RIGGS) and the gentleman from California (Mr. MARTINEZ) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RIGGS).

Mr. RIGGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, obviously I rise to support the resolution and urge my colleagues, our colleagues, to approve this sense of Congress resolution that social promotions in our schools should end.

The very first thing I want to do, because I may interject a few more partisan remarks a little bit later or remarks more aligned with the Republican philosophy on education, is salute and thank my very good friend, the ranking member of the committee that I am very privileged and honored to chair, the gentleman from California (Mr. MARTINEZ) for his leadership on this issue. I want the record to show that it was Congressman MARTINEZ's leadership in this area that resulted in this legislation reaching the House floor today. He initially approached me and suggested that we direct our attention in the subcommittee on the problem of social promotions, and I think as every Member of this body knows, particularly any Member that has attended a State of the Union address, the two recent State of the Union addresses by the President, or for that matter reviewed a transcript of his addresses, they would know that the President has spoken, and I think very sincerely, of the problem of social promotion in American education today in this very Chamber.

So I am pleased to join the gentleman from California (Mr. MARTINEZ) and by extension President Clinton and others who share this concern in supporting this resolution.

The act of promoting a child from grade to grade or for that matter even allowing a child to graduate from junior high school or high school regardless of his or her readiness; that is to say, regardless of what that child has learned and what they can demonstrate they know, is a very real problem in American education today, and as I mentioned, the President has spoken of this phenomenon, and many of us who also hold positions of elected responsibility have spoken of our concern that children are too often promoted from grade to grade or even graduated as much on the basis of what we might call good behavior and seat time as on the basis of what they know and can demonstrate that they have learned.

The gentleman from California (Mr. MARTINEZ) and I believe that promotions should be based on both the academic performance and the relative individual development readiness of the child. Government officials, teachers, parents, all of us who for that matter are committed to high academic achievement and who believe that we ought to have high expectations and standards of teachers and parents and children alike, all of us want to join in this effort really beginning today to end social promotion through a coordinated effort, and this resolution, Congressman MARTINEZ's or the Martinez-Riggs bipartisan resolution expresses that policy.

Now we know that we have roughly 52 million children in elementary, American children obviously, in elementary and secondary schools in this country, 46 million of the 52 million attending some 87,000 public schools, and I hope this resolution reaches everyone of those children and everyone of those schools. This resolution lists the communities and the States around the country where social promotion has already been abolished or is proposed to be abolished. Those States and communities which have already abolished social promotion include Louisiana, Arkansas, Florida, New Mexico, North Carolina, South Carolina, West Virginia, Chicago, Illinois, Portsmouth, Virginia, Long Beach, California, and Milwaukee, Wisconsin. Those States and those communities are to be commended because they have taken on this problem of social promotion, and they are tackling it head on with tough standards and expectations, and part of that expectation is that every child can succeed in elementary and secondary school. In fact I will go so far, and this is somewhat anathema for a Republican, but I salute the large national teachers' unions for also speaking about this problem of social promotion.

There are many other States and communities where social promotion has been proposed to be abolished altogether, and those States and communities include California, my home State, Michigan, Wisconsin, Delaware, Texas, Oklahoma, New York, here in the District of Columbia, Boston, Massachusetts and Philadelphia, Pennsylvania. These communities, these States, serve as a model for the rest of the Nation to follow.

House Resolution 401 also calls on State educational agencies and local educational agencies that receive Federal funding, Federal taxpayer funding, for educational purposes to make every effort to address and end social promotion. All children should be given the strongest possible foundation, academic foundation, in school upon which to build their future until they can develop to their fullest potential as citizens of the greatest Nation on earth and as children of God, and I compliment the gentleman from California (Mr. MARTINEZ) for focusing attention on this issue, and I urge support of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I want to thank the chairman, the gentleman from California (Mr. RIGGS) of the Subcommittee on Children, Youth and Families for his willingness , and, no, I should not say willingness, eagerness to join me in this effort. I also want to thank him for the expeditious way he moved this bill through the committee and then on through the full committee.

□ 1645

As he has said, social promotion in our Nation's schools is a destructive force that undermines our children's academic achievement, and therefore, the future of our Nation's economy and overall well-being.

H. Res. 401 sends a strong message, one that is much needed, that the Congress expects all of our children to meet high academic standards.

Social promotion, as many of us know, is a process of promoting children from one grade to the next without meeting the necessary academic standards. This means children are moved from grade to grade without the skills or knowledge to succeed. Lacking a strong educational foundation, the children of our communities and our country will be ill-served in their quest for future employment.

Unfortunately, for many years, educators discouraged holding children back due to the fear that it would harm them. However, compelling a student to repeat a grade and then using the same instructional techniques which previously failed does little to foster learning. In order to truly combat the plight of social promotion in this country, we need to invest in our educational system and our children. We need to believe that all children can and will academically succeed.

Government officials, teachers and parents must work together in a commitment to the high academic achievement of our students. States and local school districts should adopt high-quality academic standards and hold students to those standards. Resources must be focused on giving teachers the tools to educate our children through the high-quality professional development of themselves, and the utilization of summer school, after school, and other proven educational practices.

This resolution seeks to send that message that without the commitment to high standards and the proper investment in our educational system, social promotion will continue to harm the success of our Nation and its people. The important message of this resolution is evidenced by the bipartisan support it has received, particularly from the chairman of the Committee on Education and the Workforce, the gentleman from Pennsylvania (Mr. GOODLING), and the chairman of the Subcommittee on Early Childhood, Youth and Families, the gentleman from California (Mr. RIGGS).

I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. RIGGS. Mr. Speaker, I yield myself such time as I may consume.

Now that we have struck that note of bipartisan cooperation and agreement, I just want to interject for the RECORD, and here I think is the clear, and I believe collegial difference between the Democratic Members of the House of Representatives and the Republican Members; while we agree on the problem, the problem being social promotion, we disagree on the solution to the problem.

Many of us, if not most of us on the Republican side of the aisle, feel that the solution inherently involves infusing the education system today with more competition, giving parents more choice, and that is that the best way, if not the only way, to ensure bootstrap improvement in our schools and ensure that schools are ultimately more accountable to the consumers of education: parents and guardians. At the risk of belaboring this point, since we have discussed it many times informally and in committee and certainly on this House floor, it is good to see the Delegate from the District here, since she is a passionate opponent of vouchers or parental choice in education and is sincere in her views.

I just want to refer my colleagues to a letter that I saw published in the Washington Post over the weekend, a publication I do not often quote on the House floor, because I think it is the single best writing on parental choice in education that I have ever seen. It is from a lady by the name of Marilyn Lundy of St. Clair Shores, Michigan, and she wrote in response to an article that the Post had published earlier on parental choice in the District of Columbia, this idea of vouchers, or scholarships, as prefer to call them, for low-income families. That article was entitled, "Poll Finds Backing for D.C. School Vouchers; Blacks Support Backing More Than Whites."

In the article Ms. Lundy says, one person responding to the poll, a Howard University professor, is quoted as saying, and this is a quote within a quote, because I am not quoting Ms. Lundy, I am quoting this Howard University professor and poll respondent, as saying, "'The Founding Fathers, Jefferson, Washington and Adams, considered public education to be the key to success to the democratic Republic.'"

Vouchers cannot help but weaken public education. I think that boils down to its very essence, the argument that voucher opponents from President Clinton on down, within the Democratic party, repeatedly make.

Now, Ms. Lundy goes on to say, "Sorry, sir, but those gentlemen would not have known public education as we know it today, and would be horrified at its present condition. Education in the colonies, and at the time of the Founding Fathers, was the province of private and community endeavors and financing." My colleagues heard me right, "Private and community endeavors and financing, and was often transmitted by ministers, who were generally the most educated in the community.

"Since most of the early colonists were Protestants, for whom salvation was dependent on private interpretation of the Bible, literacy was of great importance and the Bible was an integral part of the school, reflecting the religious affirmation of the people."

Ms. Lundy goes on to write, "Not until the 1820s and 1830s, and Horace Mann, was their general movement toward publicly financed community schools, which were called 'common schools,' not public schools, but still these common schools were voluntarily and predominantly Protestant oriented. Mandatory attendance did not enter the picture until many decades later.

"Yes, public education is a key factor in a democratic," small D, "republic, but not necessarily as implemented through government-operated schools only, which seems to be the mantra of those opposing vouchers. The idea that the State makes education mandatory, taxes all to pay for it, but then forces children into government-operated schools as a condition for receiving their just benefits is more a tenet of socialism/totalitarianism," Ms. Lundy contends, "than democracy. In fact, the United States is the only free Nation that denies taxpayer-funded assistance to children in nongovernmental schools.

"In a Nation that professes freedom of speech and religion and equal protection of the laws, it would seem that choice, competition and equal educational opportunity are essential ingredients to universal public education. In other words, fund the education of the child according to the constitutional rights of the parents, rather than fund a government system into which children whose families cannot afford otherwise are forced.

"It is this virtual monopoly that has weakened public education. The choice, competition and direct accountability to parents created by vouchers are what is needed to revitalize public education, and I thank Ms. Lundy for putting it so well." At this time I would include this article for the RECORD.

THE EDUCATION MONOPOLY

In Sari Horwitz's news story "Poll Finds Backing for D.C. School Vouchers; Blacks Support Backing More Than Whites," [Metro, May 23], one poll respondent, a Howard University professor, is quoted as saying: "The Founding Fathers, Jefferson, Washington and Adams, considered public education to be the key to success to the Democratic republic. Vouchers cannot help but weaken public education."

Sorry, sir, but those gentlemen would not have known public education as we know it today—and would be horrified at its present condition. Education in the colonies, and at the time of the Founding Fathers, was the province of private and community endeavors and financing, and often was transmitted by ministers, who were generally the most educated in the community.

Since most of the early colonists were Protestants, for whom salvation was dependent on private interpretation of the Bible, literacy was of great importance and the Bible was an integral part of the school, reflecting the religious affirmation of the people.

Not until the 1820s and '30s, and Horace Mann, was there general movement toward publicly financed community schools, which were called "common schools," not public schools—but still these common schools were voluntary and predominantly Protestant oriented. Mandatory attendance did not enter the picture until many decades later.

Yes, public education is a key factor in a democratic republic, but not necessarily as implemented through government-operated schools only, which seems to be the mantra of those opposing vouchers. The idea that the state makes education mandatory, taxes all to pay for it but then forces children into government-operated schools as a condition for receiving their just benefits is more a tenet of socialism/totalitarianism than democracy. In fact, the United States is the only free nation that denies assistance to children in nongovernment schools.

In a nation that professes freedom of speech and religion and equal protection of the laws, it would seem that choice, competition and equal opportunity are essential ingredients to universal public education. In other words, fund the education of the child according to the constitutional rights of the parents, rather than fund a government system into which children whose families cannot afford otherwise are forced.

It is this virtual monopoly that has weakened public education. The choice, competition and direct accountability to parents created by vouchers are what is needed to revitalize public education.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume to refer to something that my good friend and colleague, the gentleman from California (Mr. RIGGS), said that the Democrats and Republicans have a different philosophy on a particular issue: vouchers.

It may be that in the simple question of vouchers themselves, there may be a big difference, but I am not sure that as far as choice is concerned, we are all that far apart. I am sure that not all Democrats are against choice, but we have to understand what choice is. In fact, there is choice now. In fact, I had that choice.

I sent my children to parochial school to begin their first years, K through 6, and they got to choose whether they wanted to go on to parochial school in the upper grades or not. One did, and 4 did not. They went to public schools and the one went to parochial schools. So I had that choice. I had the choice to send my kids to the kind of school they wanted. That choice exists today. In fact, now in many school districts one can choose to send one's child to another district simply because one believes that district is a better school district and one can get a waiver from the school district to send them there.

So the one main concern that maybe the Democrats do have is to make sure that every child in this country has a full and meaningful education, and the only way we can do that is to make sure that the public school system has the resources that it needs to do that. Other than that, if we were able to guarantee that every public school child had the resources to get a full and meaningful education, I would not care where they sent their kids or where everybody sent their kids, but the main thing is that the public school system is the major source of our education in this country and it has to be protected before we can consider other choices that are available.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman from California for yielding me this time. I thank him also for his leadership in proffering this most valuable resolution. I also thank the chairman of the subcommittee, the gentleman from California (Mr. RIGGS), for the bipartisan spirit in which he has joined this resolution.

Before I speak directly to it, I do want to note for the RECORD that the majority seldom comes forward to endorse another public entitlement, and here the majority appears to endorse a public entitlement to choice for education. I think it is a precedent that should be noted for the RECORD. If only the majority would support entitlements such as the one that was on the floor just ahead of this one, that 40 percent of funds for children in special education be paid for by this body, I would be prepared then to look more seriously at the public entitlement to go to private schools that is here offered this afternoon.

Mr. Speaker, I do want to commend the gentleman for his support of charter schools. We know that vouchers are on their way to the Supreme Court, one State court having already found them unconstitutional. I wish to offer what amounts to a subset of this resolution for a truce, until the Supreme Court tells us whether vouchers are constitutional or not, because neither the gentleman from California (Mr. RIGGS), nor I, nor any Member of this body, will have the last word on that. The last word on that serious church-State question lies with the court. So if we are serious about providing education for children in the meantime, we will look for opportunities such as that offered by the gentleman from California (Mr. MARTINEZ), for true bipartisan work to help children where they are now, such as the resolution that was offered before this one, and this resolution now.

May I also note for the RECORD, Mr. Speaker, that I endorse choice in the very way that the gentleman from California (Mr. MARTINEZ), has shown how choice works in a society which separates church from State. Instead of entanglement of church and State, something that has kept us free from religious warfare for 200 years, essentially it says, choices are available to us all, but as with everything else in a market economy, the Federal Government will not pay for all choices, and one choice we choose not to pay for is religious education, in no small part because that entangles the State with the church and would force the church to abide by rules and regulations that no church in this society could possibly accept, because there is no free money that comes from the Congress. Every bit of money that comes from us comes with strings attached, and this Member will never attach strings to money that goes to churches or to religious institutions.

I am proud to associate myself with the work of the Washington Scholarship Fund which, instead of coming with hands out to this body, came into the District of Columbia and said, how many children are there who want to go to private schools? We will raise the money to go to private schools.

I went to the graduation sponsored by the Washington Scholarship Fund and spoke at that graduation at their invitation. Last year I went to St. Augustine Catholic School with the gentleman from Georgia (Mr. GINGRICH), the Speaker of the House of Representatives, and spoke to those eighth grade children who were on scholarship, courtesy of the Washington Scholarship Fund, and on this floor today I want to thank the Washington Scholarship Fund for each and every scholarship they have raised with private money to send our children to religious schools all across the District of Columbia. I wish them well, as they now set up the Children's Scholarship Fund to do the same in cities all across the United States of America. I have sent a letter to them so that they could use it in their publications endorsing their extraordinary work.

□ 1700

Meanwhile, there is much that we can agree upon here today, as the gentleman from California (Mr. RIGGS) and I agree on charter schools. I salute him for his extraordinary leadership there and as, of course, this bipartisan resolution offers us the opportunity to do.

The Martinez resolution to end social promotion speaks to one of the most important issues facing both U.S. education and the U.S. workforce today. I applaud the gentleman from California (Mr. MARTINEZ) and come to bear witness to his resolution in the Summer Stars program which is to be implemented in the District of Columbia beginning June 30.

Mr. Speaker, this program makes the District one of the first and one of the few districts in the United States to abolish social promotion. Children are socially promoted throughout the country in part to avoid incurring dropout rates that occur when students are left behind and to avoid placing older and younger children together in the same class.

The reason social promotion is so widely used, however, is that systems are unwilling to do the hard work associated with replacing social promotion. The District's public schools have just done that hard work establishing an academic enrichment program in math and reading to replace social promotion.

Although students who score below basic in reading and math must attend the Summer Stars program, it is not just an old-fashioned program for failing students that stigmatizes children. It is offered not only to students who must or should attend; students who score proficient or advanced may also attend.

Mr. Speaker, 7,000 students signed up for Summer Stars in the District before the scores were out. The student-teacher ratio will be 15 to one. Homework is required, and three absences drops the student from the program. Breakfast and lunch are provided. Private funds have been secured for after-school enrichment activities that mix recreation and education.

Test results reported last week already show significant improvement in virtually all grades before the Summer Stars program even begins. Further progress from this rigorous and skillfully developed program almost surely will follow. The collective hats of this House should be off to Arlene Ackerman whose leadership as superintendent is responsible for this progress.

If the District keeps this up, Congress will soon not have the D.C. public schools to kick around anymore. I know that this is the desire of this House. The D.C. public schools are not only proud to be leading the way in abolishing social promotion; we are especially proud of the Summer Stars program that we are putting in its place.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I thank the gentleman from California (Mr. MARTINEZ) for yielding me this time, and I commend the gentleman for this resolution and the chair of our committee and the ranking member for bringing it both to the committee and to the floor of the House.

Mr. Speaker, this is an important resolution and it addresses a very important and yet complex problem facing our school systems and our families and their children. Too often parents are told in the school system that their children are doing just fine. Students are told that they are doing just fine. And then they are passed from grade to grade.

But later, many of the students find out that despite their good grades, despite their report cards and their diplomas, that they have not achieved even the basic skill levels in math reading and other academic core subjects. I have learned this from talking to students and teachers, observing school districts, and watching how education is applied in the district which I represent.

Mr. Speaker, every Monday morning during the school year I teach a high school class. At the end of that year we have a discussion with those students about their education. Almost all of them are disappointed in their education. Almost all of them believe they could have done more work and better work and almost all of them will say that it really was not asked of them.

Some of them are quite angry that they are not equipped to go out into the world. Some of them are quite angry that the school did not care enough to really find out how they were doing as opposed to passing them on.

I think as the gentlewoman from the District of Columbia (Ms. NORTON) just pointed out in the well of the House, this is an important process of ending social promotion, but ending it with the alternatives.

Too often of social promotion it is said: We do this for the student and for the family so that the kids are not stigmatized, are not held back, and do not have to miss class. However, very often it is done so the school district does not have to be held accountable for what is being done in that school district. They can gloss over the problems of individual children and gloss over the problems of groups of children and give them passing grades and move them along. They do not have to confront the difficult issues about the quality of their teachers, about the quality of their textbooks, about the quality of their curriculum, about the condition of their school buildings. They can simply herd the children along and get them out of the schools.

Cities like Chicago, Milwaukee, and States like Texas have had notable success in strengthening the standards and creating more rigorous criteria for the passage from grade to grade. Implementing rigorous standards can be difficult and controversial. The minute we start to tell a parent or start to tell teachers that students may not be socially promoted, all sorts of problems come right to the forefront.

But, Mr. Speaker, the fact of the matter is that these rigorous standards may be implemented. Such changes are initially greeted with trepidation, but they have actually served to energize students and engage teachers and parents around homework, tutoring, summer school and Saturday morning classes.

Last spring, more than 42,000 students in Chicago were told that they would not be able to advance to the next grade until they met the tough standards set by the large district. Students had to attend summer school. The move was not popular, but the early results are starting to suggest in this instance the get-tough policy worked.

Of the 473 elementary schools, 393 had better math scores this year than last year, and 271 had better reading scores.

The point is this. They just did not stop social promotion; they offered intensive math and reading tutoring and mentoring and help to those students that needed it, and they also said to the students who were yet to cross that threshold, they let them know what the standard would be at end of the year.

Letting students slide in elementary and high school is not only unwise, it is expensive. A report released in March shows that more than half of the freshmen entering the California State University system last fall needed basic remedial help because they were unprepared for college level math. Forty-seven percent could not handle college level English. How many times must we pay for students to learn the same material that they were supposed to learn earlier in their educational experience?

This resolution is important, but we need to step up to the plate and strengthen accountability for Federal education programs. We spend billions of dollars annually on elementary and secondary education primarily through the title I program, but we do not demand the results that we are entitled to, that the students are entitled to, that the taxpayers are entitled to.

Last year's Obey-Porter bill was a good first step. It will move title I programs to use up-to-date and proven instructional programs. But we need to go further to make sure that whatever model is being used, the students are achieving academically at the standards we should expect.

Higher standards must be coupled with adequate resources. This means better teachers, safe and well-equipped classrooms, and computers with access to the technology and the Internet for all of our students.

Here again, the success of today's debate should not be judged by the strength of today's vote but on what we do after today. There is a bit of disconnect in that we all say we are for education and we all say we want better student achievement, but the reality is that this Congress has really fallen short when it comes to taking action.

Mr. Speaker, we will know we are doing a much better job on behalf of our students and their families and a good job when somebody slips $50 billion in a bill in the middle of the night for school construction and education rather than for the tobacco companies.

We will know we are doing a good job on education when this body struggles to find money for classrooms and teachers with the very same verve with which that they quite appropriately sought funding for roads and bridges.

We will know we are doing a good job on education when we put the same energy into strengthening the accountability that we now waste in conducting partisan and fruitless investigations.

This resolution says many good things and sets a very good direction on ending social promotion. But the time has come for Congress to act to demand accountability for the money that we spend and to demand accountability so that America's parents and families will know how their children are doing as they proceed through their educational experience.

Mr. Speaker, again I commend the gentleman from California (Mr. MARTINEZ), ranking member and author of this resolution, and the gentleman from California (Mr. RIGGS), chairman of the subcommittee, for bringing this to the floor.

Mr. MARTINEZ. Mr. Speaker, I urge all Members to support this resolution, and I yield back the balance of my time.

Mr. RIGGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will briefly close this debate. Let me just say again that with respect to the gentleman from California (Mr. MILLER), my good friend and California colleague, that calling the Congress which has very legitimate oversight and investigative responsibilities as a legislative branch of government, saying that we are engaged in partisan and fruitless investigations is itself a partisan statement. But I guess that is obvious.

Secondly, I just again want to reemphasize that really the direct accountability to parents through choice and competition is in my mind the way to revitalize public education. But I do agree with my Democratic colleagues that there is no silver bullet or panacea. All we can do is say to State and local education agencies and to the civic leaders in those communities, we really believe social promotion is a problem that has to be balanced with high expectations and high standards for parents and teachers alike and students. We hope, again, that today's resolution is a way of starting that debate.

Lastly, I just want to say very gently to the gentlewoman from the District of Columbia (Ms. NORTON) that if we did not think that IDEA funding, that is to say funding for children with disabilities and special needs, was a priority, we would not have brought the Bass resolution to the floor immediately proceeding House consideration of this particular legislation.

Mr. Speaker, I also want to point out to that the Wisconsin Supreme Court just upheld the constitutionality of the low-income parental choice parental scholarship bill in Milwaukee schools and we are very encouraged about that, and we look forward to the Supreme Court perhaps hearing that case on appeal.

Lastly, I agree with the gentlewoman. I want to join with the people who are doing what I think is the Lord's work. They are really angels of mercy, philanthropists and other individuals making charitable contributions to these private scholarship programs underway now in some 50 communities across the country, including the District of Columbia. I extend a hand to the gentlewoman across the so-called partisan aisle to see perhaps if we could work with some of our colleagues to raise even more money for those scholarship programs for low-income families beginning here in the District of Columbia.

Mr. Speaker, since I intend to call for a recorded vote here momentarily, I urge our colleagues to support the Martinez-Riggs bipartisan social promotion resolution.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to express concerns regarding H. Res. 401, which calls for an end to the practice of "Social Promotion" in our education system. We can all agree that promoting a student from grade to grade if they have not made the appropriate academic advances is generally not a good idea. However, simply calling for the end of Social Promotion, without acknowledging the issues related to why our children are not meeting academic requirements, ignores the very heart of this issue.

H. Res. 401 calls for the end of Social Promotion, but it is silent on assuring that children are provided quality education which effectively teaches them what they need to know in order to advance to the next grade. This leaves the impression that the simple act of retaining a child in their current grade solves the problem. This does not address the real problem, which is how to prevent children from failing to meet academic standards and how to help them improve their academic achievement.

We know that students need enriched and accelerated curriculum, effective instruction, timely intervention if they have trouble meeting the appropriate standards, and strong parental involvement to assist them. Yet none of these important factors are mentioned in the Resolution.

H. Res. 401 supports the idea of holding children accountable for their lack of academic progress, but it says nothing about holding our education system accountable for a quality education. Children cannot learn without quality instruction, trained teachers, a safe learning environment, adequate textbooks and other curricular material. The question is who is really failing? Is it our children or is it our system?

While I will not vote against H. Res. 401 today, I believe it misses the boat completely on what this Congress should support in order to prevent students from advancing in our education system without the knowledge and skills appropriate for their grade level.

We should resolve to provide the resources necessary to assure that children are receiving quality education; we should resolve to support early intervention efforts for children who are at risk of "Social Promotion", and we should resolve that every child in America is provided an opportunity to learn what is necessary to progress on to the next grade.

Mr. RIGGS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from California (Mr. RIGGS) that the House suspend the rules and agree to the resolution, House Resolution 401, as amended.

The question was taken.

Mr. RIGGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. RIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 401.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

Concurring in the Senate amendment to H.R. 1847, by the yeas and nays;

House Resolution 401, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

TELEMARKETING FRAUD PREVENTION ACT OF 1997

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 1847.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1847, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 1, not voting 21, as follows:

[Roll No. 232]

YEAS—411

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Yates
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—21

Ballenger
Brown (FL)
Buyer
Cubin
Eshoo
Ford
Gonzalez
Hastings (FL)
Hilliard
Inglis
Kanjorski
Kennedy (MA)
Lewis (CA)
Lewis (GA)
Lofgren
McNulty
Rush
Schumer
Smith, Linda
Tiahrt
Woolsey

□ 1732

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

SENSE OF THE HOUSE THAT SOCIAL PROMOTION IN AMERICA'S SCHOOLS SHOULD BE ENDED

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 401, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RIGGS) that the House suspend the rules and agree to the resolution, House Resolution 401, as amended, on which the yeas and nays were ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 405, nays 1, not voting 27, as follows:

[Roll No. 233]

YEAS—405

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey

Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Yates
Young (AK)
Young (FL)

NAYS—1

Rivers

NOT VOTING—27

Ballenger
Brown (CA)
Brown (FL)
Buyer
Clayton
Cubin
DeGette
Edwards
Eshoo
Ford
Gonzalez
Hastings (FL)
Herger
Hilliard
Inglis
Kennedy (MA)
Lewis (CA)
Lewis (GA)
Lofgren
McNulty
Rush
Schumer
Smith, Linda
Souder
Tiahrt
Waters
Woolsey

□ 1742

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, I was privileged to host the first National Ocean Conference in my district last week that featured the President and Vice President, Secretaries Daley, Babbitt, Slater, Dalton, EPA Administrator Browner, and CEQ Director McGinty, among others. As a result, I was unavoidably absent for rollcall votes 211 to 231, which I would like to be noted in the CONGRESSIONAL RECORD how I would have voted on each one had I been present.

Mr. Speaker, I will submit them for the RECORD.

Roll call vote.—211, yea; 212, yea; 213, yea; 214, yea; 215, yea; 216, nay; 217, nay; 218, nay; 219, yea; 220, yea; 221, nay; 222, nay; 223, yea; 224, yea; 225, nay; 226, nay; 227, yea; 228, nay; 229, nay; 230, yea; 231, yea.

PERSONAL EXPLANATION

Mr. SHAYS. Mr. Speaker, on Thursday, June 11, I was in Connecticut attending the graduation of my daughter, Jeramy Alice Shays, from high school and, therefore, missed three recorded votes.

First, I want to say I missed her 5th grade graduation and her 8th grade graduation, and I did not want to miss her senior graduation. It is the second, third and fourth votes I have ever missed, and I would like to say for the RECORD that had I been present, I would have voted yes on recorded vote number 229, yes on recorded vote 230, and yes on recorded vote 231.

□ 1745

REMOVAL OF MEMBER AS COSPONSOR TO H.R. 3396

Mr. QUINN. Mr. Speaker, I rise today to ask unanimous consent to have myself removed as cosponsor of H.R. 3396, the Citizens Protection Act of 1998.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from New York?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO VETERAN CORRESPONDENT ALAN EMORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MCHUGH) is recognized for 5 minutes.

Mr. MCHUGH. Mr. Speaker, I come to the floor today to recognize the work and career of an extraordinary man, Watertown Daily Times reporter Alan Emory. Indeed, June 7 marked Alan's 51st year with Watertown (New York) Daily Times.

Alan has rightfully earned the recently bestowed title of Times senior Washington correspondent by serving 47 of his 51 years covering the Capital, covering all the stories, large and not so large, nearly one-half century of being a firsthand witness to the events of the day and, more importantly, reporting them accurately and intelligently and succinctly to thousands.

Alan went to Watertown with impressive academic credentials. He was educated at Phillips Exeter Academy, Harvard University, and the Columbia Graduate School of Journalism; and, to this day, his writings reflect his remarkable education and intellect. But for all of that, it was his talent and hard work that helped him prove himself to editor and publisher Mr. Harold B. Johnson.

It is amazing to me to think about how things have changed since Alan first arrived in Washington in 1951. He has covered the administrations of 10 presidents. He has covered our Nation's war and military deployments ever since the Korean Conflict.

Alan's length of service is an important achievement. However, it is the manner with which he has served these 51 years that is indeed most impressive.

I came to this town in 1992 and became the fourth Member of the House from New York's North Country area to be covered by Alan. For me, it was a real thrill, not the new office or duties of the town, even though that was all very exciting, but the opportunity to meet and work with this man.

Like so many others, I grew up learning about the inside operations of our Federal Government through Alan's writings. Later, as a member of the New York State Senate, I looked to Alan's insightful articles in the respected Empire State Report to help me better under the connection of politics and government between New York State and the Nation's Capital.

For someone like me, long a political junkie from northern New York, meeting Alan Emory was the literary equivalent of meeting Cal Ripken, a legend in their own time, legends who survive through a rare combination of talent, hard work, grace, and style.

But for all of his talent, all of his skills and charm, the thing I think I admire most about Alan has been his sense of place, that all-too-rare quality in a reporter who recognizes the difference between a news story and an op-ed piece, a man who has always understood that a news article must be about facts and that opinions are to be confined to other sections of the paper.

Not to say that Alan is without opinion, nor that he is unable to express them. To the contrary, his weekly column on politics in the Sunday paper always informs, instructs and impresses with deft insight. But Alan has always known how to expertly write each story and where to place it. It is a skill sadly few others possess today.

Happily, Alan will continue writing, will continue enlightening and informing but, hopefully, in a new way that will provide him and his wonderful bride and partner Nancy more time to enjoy their lives together, their family, their two sons Marc and John, and their daughter Katherine and their families. It is an opportunity they both richly, richly deserve.

And so, Mr. Speaker, it is with honor that I rise today to state for the RECORD the partial achievements of a very remarkable man, to thank Alan Emory for his 51 years of contributions, and, on a personal note, to say that, in my nearly 30 years in public life, I have never met a reporter or a man in whom I hold higher respect and admiration.

Thanks, Alan. You are the best.

Mr. DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. MCHUGH. I yield to the gentleman from Virginia.

Mr. DAVIS of Virginia. Mr. Speaker, I would like to associate myself with the remarks of my friend the gentleman from New York (Mr. MCHUGH).

Alan Emory currently resides in the 11th Congressional District, in Lake Barcroft, where he is a pillar of the community there. His respect reaches across regional lines in New York. He is a well-respected member of our community in Northern Virginia, where he and his wife and family has been active for a number of years.

His political commentaries I think have been viewed nationally. He is very well-respected, and I am going to miss him. I would join my colleagues in wishing him and Nancy the very best in years to come.

Mr. MCHUGH. Mr. Speaker, I thank the gentleman for his comments.

Truly, I think Alan is admired by so many that there are a number of Members who care to share in this experience.

Mr. Speaker, I include for the RECORD remarks by our colleague and friend the gentleman from New York (Mr. SOLOMON), who has some very, I think, insightful and kind words to say about this deserving man as well.

Unfortunately, Chairman SOLOMON is involved in a meeting upstairs. But he has sent his best and I know wants to have the CONGRESSIONAL RECORD show his admiration for a very special man.

Mr. SOLOMON. Mr. Speaker, I rise today to join my colleagues, including my neighbor, Congressman JOHN MCHUGH, to pay tribute to a true gentleman and veteran of the Washington Press Corps, Alan Emory. Alan is truly a dean of the Washington Press if ever there was one and is representative of the good old days of journalism when telling it like it is was the best measure of a journalist, not how much face time they can get as a talking head.

Mr. Speaker, you'd be hard pressed to find anyone in this town with more wisdom and experience in the ways and the means of Washington than Alan. And the best part is, he's covered it for 47 of his 51 years while working exclusively for the same paper called the Watertown Times from a small upstate city of Watertown, New York. That sort of time and devotion is a rarity in itself nowadays and the people who read that paper have been done a great service all of these years by Alan's clear, concise and fair reporting. It must be comforting to know that for all those generations, he provided the readership with a window into the Capitol that they otherwise would have gone without.

And I'm talking about an inside look that started before the outset of the Eisenhower Administration and has spanned across interviews with such American leaders as Nixon, Ford, Bush and Nancy Reagan, not to mention a host of other foreign dignitaries in travels with political leaders that have brought him to every corner of the world.

Some, Mr. Speaker, might think it odd in this day and age for members of Congress like myself to recognize a political journalist like Alan. However, I can tell you it is because of his objectivity and fairness that I respect him such a great deal. He has covered me over the course of my career on a variety of issues even though his paper doesn't reach a large part of my district. And he has always conducted himself in the most professional manner, including in his profile of me after I assumed the Chairmanship of the House Rules Committee. I've never had a problem with someone who sheds light on some of my shortcomings as long as they were just as vigorous in their coverage of ways in which I served my constituents well.

But perhaps most telling about Alan's career is his standing within the journalistic community and the Washington Press Corps. By their very nature, they're a tough lot to please. Still, Alan has managed to reach the leadership ranks of a whole host of press associations, including as President of the renowned Gridiron Club, and remains active to this day. I have always said one of the best measures of a person is his standing amongst his peers. By that measure, Mr. Speaker, Alan Emory goes unmatched.

I would ask that all members of Congress join in honoring the outstanding career and public service of one of this town's most respected newsmen, Alan Emory of the Watertown Times. After 51 years, 47 of them in Washington, he is still strong and exemplifies all that is good about his profession. And more than that, he is a clear demonstration to all of us that hard work can take you anywhere, even from a small daily in Upstate New York, to a one-man office in Washington, to the top of the ranks of his profession. Congratulations Alan, and many more years of success and happiness to you and your family.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR MILITARY CONSTRUCTION, FAMILY HOUSING, BASE REALIGNMENT AND CLOSURE FOR DEPARTMENT OF DEFENSE FOR FISCAL YEAR 1999

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, Tuesday, June 16, 1998, to file a privileged report on a bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for fiscal year 1999.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR ENERGY AND WATER DEVELOPMENT FOR FISCAL YEAR 1999

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, Tuesday, June 16, 1998, to file a privileged report on a bill making appropriations for energy and water development for fiscal year 1999, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

CONGRATULATIONS TO CHICAGO BULLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to commend and congratulate some of the most outstanding citizens of my congressional district, namely, the Chicago Bulls basketball team.

I have the good fortune of representing the champions not only of the 7th Congressional District, but indeed the champions of the world. The world has never seen the magnificence of an athletic dynasty such as that displayed and put together by Jerry Reinsdorf, which is now the Chicago Bulls' 6th championship, a performance that has revitalized interest in basketball.

As a matter of fact, with due respect to all other sports, baseball, soccer, football, right now the United States of America is basketball country as a result of the Bulls' accomplishment and achievement.

But more than that, not only are they superstars on the basketball court, but they are also superstars in the community. The franchise has caused revitalization of an area of the City of Chicago. The James Jordan Boys' Club provides opportunity for young people to come and grow and develop, play and be nurtured.

Just recently, high school students from throughout my Congressional District had an opportunity to participate in our art competition at the United Center, where they could display their art and at the same time walk the same ground that Scottie Pippen, Michael Jordan, Dennis Rodman, Phil Jackson, all of the Bulls players, Randy Brown, a young fellow who was taught by my wife. When we watch him on television, we know that her teaching skills were vindicated.

So I commend and congratulate all of the Bulls for providing the United States of America and all of the world with a year never to be forgotten and always to be remembered.

And at the same time, Mr. Speaker, in the same community, in the same neighborhood, there is another superstar in town for the Jefferson awards, Major Adams, who, along with other Americans throughout the country, are being cited for their outstanding community services.

Major Adams has no peer when it comes to volunteerism. For the last 50 years he has been an active volunteer on the near West Side of Chicago, organizing the Henry Horner Boys Club, the Henry Horner Drum and Bugle Corps, the Mile Square Federation.

Now 76 years old, Mr. Adams is just as involved today as he was 25, 30 years ago. And so, on one hand, while we have the Bulls, a superstar team, on the other hand we have Major Adams, a superstar individual, humanitarian, who has brought countless years of joy and development into the hearts of thousands of young people and their family.

We commend and salute him.

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TRIBUTE TO CORRESPONDENT ALAN EMORY ON HIS RETIREMENT

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from New York (Mr. WALSH) is recognized for 5 minutes.

Mr. WALSH. Mr. Speaker, I would like to take a moment to add my praise to the lifetime's work of correspondent Alan Emory, whose life and service was addressed so eloquently by the gentleman from New York (Mr. MCHUGH). Mr. Emory is a reporter of humor, intelligence, talent, and, perhaps most important, longevity, 50 years of service.

While Alan is no doubt most thankful for the last of those qualities, I want to say the others have been invaluable to both readers and those of us who are written about in upstate New York.

It is often said that we in public life are adversaries of the Fourth Estate, that there must be a war footing of sorts between our two worlds, that there must be a sort of tension in order to bring about good performance all the way around. If that is true, Mr. Speaker, the best way to describe Alan's mission is a notable adversary, a friendly foe.

He has done justice to our institution in his reportage, mostly for the Watertown Times of New York. He has served readers, as I have mentioned, who depend on accuracy and insight of reliable news people. He has been a faithful advocate for his region, and his perspective will be missed by many of us.

I would like to thank the gentleman from New York (Mr. MCHUGH) for this opportunity and wish Alan Emory all the best in his retirement.

HABITAT FOR HUMANITY HOUSTON PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today for a great celebration and a tribute as well. This week in Houston, Texas, under the leadership of former President Jimmy Carter, 6,000 volunteers from around the Nation are participating in the 1998 Carter Work Project of the Habitat for Humanity resulting in 100 homes being built for the needy citizens of our community.

President Carter, before the building began, said, "We are destined in Houston to see a miracle, one that we will never forget." I can assure my colleagues that he is now and will be when we conclude 100 percent correct.

I was delighted to be able to join the 6,000 volunteers at the George Brown Convention Center on Sunday in the 18th Congressional District where we were able to celebrate their visit, volunteers from Arizona, Indiana, California, Pennsylvania and so many other places around this Nation.

It was particularly a special time, because as many of my colleagues know, we have had some troubling times in Texas. Yes, we have had the tragedy that occurred in Jasper, Texas. I am so very pleased that that healing has begun. But yet the day after funeralizing Mr. Byrd and paying tribute to his life and to that of those who wanted to make sure that we live in harmony together, 6,000 Americans of all different colors and creeds and religions joined together to come and build a house. Their challenge was to build a house for the comfort and unity of a family and to bring a community together. I was delighted to join them on Sunday not only to celebrate but to uplift. For these 6,000 souls are like the Good Samaritan. They are not too busy to stop by the wayside and help someone.

The story of the Good Samaritan was that every single person that passed this battered and bruised person had something else to do, had somewhere else to go. But yet the Good Samaritan took his time and stopped. These 6,000 souls are like the Good Samaritan.

In Houston alone, with some 1.7 million residents, we have over 150,000 who are marginally homeless every night. We need housing. I was very gratified with volunteers who will come from my office throughout the week to have been able to join the volunteers yesterday on the first day and to work alongside of them in the sweltering heat, some 98 degrees, but none of us really felt it, for the joy of doing something for someone else.

We worked alongside the Gibson family, not unlike many families, Mr. and Mrs. Gibson with two children and one on the way. For the past few years they have lived in a small apartment in a dilapidated building, the whole while looking for ways that they could better their living situation. Like many families, they searched for options that would help them make a way and to also take their hard-earned money and to invest in something other than a landlord, paying rent. They wanted to own their own piece of the pie, if you will, their own piece of this great Nation.

I am so very delighted that Wade and Shalina Gibson spent their time yesterday along with the rest of us bending and lifting and pulling and nailing and placing what we call styrofoam boards, the blue boards, and working alongside of so many different people.

I think their work answers the question, because I would not even want to address it but I have heard people say, is the Habitat for Humanity giving people something?

Mr. Speaker, first of all, I believe in giving to those who are in need. It is our challenge to help the least of our brothers and sisters. But let us set the record straight. Habitat for Humanity is a project where those who receive the benefits of this housing are right in there with the rest of them. They are there toiling and building and lifting. We in this Nation should not be so big that we cannot give to those who are in need. But in this instance the Gibson family and so many other families, the Beck family and so many that I could not call, were there working hard in order to ensure a better quality of life for their children.

Mr. Speaker, let me also thank the many corporate sponsors in my area. The Sakowitz area in the 18th Congressional District where I worked all day yesterday was an area that had been undeveloped and had been run down. How gratifying now that we will have homeowners with their own grass in the front yard and in the backyard, maybe a basketball court, the ability to go to the neighborhood park with their families, a community that will be developed and enriched because of their involvement. I want to thank those corporate sponsors for their support, and I want to thank this Nation and thank President Carter and the founders of Habitat for Humanity.

Mr. Speaker, let me simply say, it was the best thing that I have seen in a long, long while. It was the true spirit of America. It makes me proud to be an American. And, yes, Mr. Speaker, we began it on Flag Day. I hope that we will see many more opportunities like that.

I rise to acknowledge the miracles wrought by Habitat for Humanity in my district, throughout this week.

Through the efforts of Former-President Jimmy and Mrs. Cater, the Founders of Habitat for Humanity, and 6000 miracle-working volunteers, 100 homes will be built for needy families this week in the City of Houston. The volunteers come from places like Arizona, Indiana, California and Pennsylvania.

President Carter, before the building began, mentioned that we were "destined in Houston to see a miracle, one that [we] will never forget". He was 100% correct.

I witnessed one of those miracles. For the better part of the day, yesterday, I and a few friends worked on the soon-to-be-home of the Gibson Family.

The Gibson Family is not unlike many families in the City of Houston. They have two children, both girls, under the age of ten, and another on the way. For the past few years, they have lived in a small apartment in a dilapidated building, the whole while, looking for ways that they could better their living situation. Like many families, they searched for options that would keep them from having to send their hard-earned money to the landlord every month, knowing that they would never own a piece of that property. How pleased we were that they were able to be part of the Carter Project located on Sakcowitz Street in my 18th congressional district in Houston.

When Wade and Shalina Gibson heard about the possibility that they could own their own home, through Habitat for Humanity, they took all of the necessary steps to ensure their candidacy. Needless to say, they were ecstatic to receive the news that their application had been approved.

Unlike many of the underprivileged families in Houston, the Gibson Family got their chance to better their status through homeownership. It would take a lot of elbow-grease and hard work, but they were more than happy to do it. They have worked hard for the opportunity to pay a mortgage instead of a rent bill. They have worked hard to own part of the American Dream. I was honored to work along side of them in helping to build their home. I will never be the same. I saw a miracle truly happening.

I worked along-side Wade and Shalina yesterday. Although the work was strenuous, especially under the hot sun, it was joyful and exhilarating. Shalina's passion for carpentry was particularly zealous, and occasionally, because she is pregnant, we had to force her to take short breaks. Colleagues, I hope that we can all adopt some of the Gibson work-ethic.

The Gibson home will be a modest one. However, it will be cherished, by the parents, by their children, and eventually, by their grandchildren.

You see, the Gibson home is a labor of love. Its foundation is poured from the concrete of community unity. Its walls are crafted by the goodwill and generosity of the human spirit. Its ceiling, and the ceiling for the Gibson Family, is limitless.

I congratulate them, and the 99 other families who will be receiving homes through the Habitat for Humanity Program this week. I congratulate President Carter, and his army of miracle-workers, for their fantastic efforts to bring hope to a community that desperately needs it.

I pledge my loyal support to Habitat for Humanity and the people that make it work—the volunteers. I ask that my colleagues do the same. These people truly embody the best of the human spirit, and I applaud their heroic efforts.

RETINAL DEGENERATIVE DISEASES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. The gift of sight, Mr. Speaker, is one of our most precious. For those of us who are fortunate to have healthy eyesight, we often fail to recognize that there are those who suffer from debilitating diseases that impair their vision and that oftentimes may lead to complete blindness.

Retinal degenerative diseases are a group of diseases that affect the eye's innermost layer. They are inherited, the hereditary pattern varying from family to family.

The most common forms of the diseases are macular degeneration, which is the leading cause of blindness among seniors, retinitis pigmentosa, and Usher's syndrome.

Retinitis pigmentosa is an inherited disease that is usually diagnosed at childhood and is characterized by an increasing loss of peripheral vision. Usher's syndrome is also inherited and is accompanied by varying degrees of deafness and the development of retinitis pigmentosa. Macular degeneration is thought to be caused by a combination of genetic and environmental factors and is characterized by a loss of central vision.

These diseases can be detected in routine eye exams; however, they are fairly difficult to diagnose in their early stages. Retinal degenerative diseases cause a loss of vision due to loss of light-sensing photoreceptor cells in the retina. They are responsible for the loss of sight of over 6 million Americans across our country. These diseases unfortunately have no treatment and no cure.

Last Wednesday, along with the Foundation Fighting Blindness and a very special family from my congressional district, the Lidsky family, we held a congressional briefing on retinal degenerative diseases. Three of the four Lidsky children, and they are the children of Carlos and Betty Lidsky, have been affected by retinal degenerative diseases. One of these wonderful children, Isaac, spoke at this briefing and detailed to us how he has been affected by this disease. Isaac, who aspires to be an attorney just like his father one day soon, has big dreams. One of them is to find a cure for this disease that is responsible for slowly taking away his eyesight.

Isaac and his sisters, Doria and Ilana, who also have this challenge, reminded us that this disease has overwhelming effects on the lives of those who are afflicted. He also reminded us about the bravery and the perseverance of the human spirit. He is not letting this disease conquer his dreams nor his hopes of someday very soon finding a cure.

My colleagues and I also had the opportunity to meet Patrick Leahy, a young 25-year-old Maryland native who works in the office of Senator FRED THOMPSON. Patrick is afflicted with Leibers, one of the forms of retinitis pigmentosa.

Regardless of the debilitating effects of these groups of diseases that Patrick and Isaac are afflicted with, they are both successful young men who make us proud of their accomplishments and of their unwavering optimism.

I would like to thank Isaac, Doria, Ilana, Patrick and all Americans who are dealing every day with these diseases. We want to offer them additional hope for a future in which we can soon eradicate retinal degenerative diseases.

Research scientists at the Foundation Fighting Blindness are making significant and exciting advances in the fight against retinal degenerative diseases. The most solid advances have been in the discovery of several new genes whose mutations cause retinal degenerations. These discoveries are critical, because they allow us to come closer to understanding the causes of these diseases and how one day doctors will be able to repair these genetic mutations.

There have been significant discoveries in the areas of molecular engineering and gene therapy. There have been significant advances made in the lab with vectors which are modified viruses that transport normal replacement genes into cells to help them function. This past year, there was significant improvement in the new generation of vectors which have the potential of being safer and more effective.

In the area of retinal transplantations, animals tested in labs with pigment cell transplantation proved that such procedures can effectively delay the degenerative process.

These tests must now be taken to the clinical trial level where we can find out their effectiveness on humans. This is why it is very critical to promote educational research.

Our prayers are with the Lidsky family and with all of those who are similarly affected.

SPEAKER'S ACTION WITH RESPECT TO U.S. POLICY IN MIDDLE EAST COMES UNDER ATTACK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin (Mr. OBEY) is recognized for 60 minutes as the designee of the minority leader.

Mr. OBEY. Mr. Speaker, I have great reverence for this House and great respect for the office of the Speakership. It is, after all, the third highest office in the land, and despite partisan attachment, the Speaker, as the leader of the legislative branch of government, serves as a symbolic representative of every Member. The manner in which he fulfills that role reflects, like it or not, on all of us.

That is why I must express great regret about the recent action of Speaker GINGRICH with respect to U.S. policy in the Middle East. In my view, this represents the most reckless and destructive undermining of an American peace effort that I have ever seen.

Mr. Speaker, I have been closely involved with U.S. policy toward the Middle East since 1974, when I first began my service on the Subcommittee on Foreign Operations of the Committee on Appropriations. From 1984 until 1994, I chaired that subcommittee. I think it is fair to say that during that time, every effort by any American President to pull Arabs and Israel toward peace was supported on a bipartisan basis by our subcommittee and by the Congress as a whole.

When President Carter, at great political risk to himself, pressured both the Egyptian and Israeli Governments to reach an agreement at Camp David, the Congress supported his action. When President Reagan and Secretary Shultz withheld debt restructuring from Israel until its government adopted economic reforms that were a necessary precondition for bringing rampant inflation under control, the Congress supported that tough medicine in a bipartisan fashion, and that enabled us to provide some crucial help to stabilize Israel's economy.

When President Bush courageously withheld loan guarantees from Israel until Israeli policy on West Bank settlements no longer conflicted with long-standing American policy, those of us in positions of responsibility supported him, and the peace process moved forward.

The historic ceremony that celebrated the Oslo Accords reached between Mr. Arafat, representing the Palestinians, and Prime Minister Rabin, representing the State of Israel and hosted by President Clinton, would never have occurred if it had not been for President Bush's courage.

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Since that time the road to peace in the Middle East has been harmed because of foot dragging by the Syrian government, because of vicious terrorist activities by Palestinian extremists, the sometimes disingenuous actions of the Palestinian leadership and, most of all, because of the assassination of Prime Minister Rabin by a rabid anti-peace Israeli citizen. The collapse of that peace process would have grave implications for every party in the Middle East. It also would have grave consequences for the United States, for our security, for our world influence and even for the safety of our citizens at home and abroad.

Recognizing that fact after much patient hand holding with both sides, President Clinton, Secretary of State Madeleine Albright, Assistant Secretary Martin Indyk and our tireless Mideast negotiator, Ambassador Dennis Ross, presented to both sides their best assessment of what interim steps needed to be taken to keep the peace process from collapsing. At that point the Speaker of this House took a number of actions, the result of which clearly undercut and undermined U.S. peace making efforts in the region and raised the risk of catastrophe.

First, the Speaker described America's Secretary of State as being an agent of the Palestinians in negotiations. He then attacked President Clinton for turning America into a bully in the peace process because the President, acting as an honest broker between the parties, has courageously and frankly spelled out to both sides the best assessment by our negotiators of what minimum actions would be required to keep the Oslo process alive.

The United States is not today and has never been a bully in the Middle East process. Quite the contrary. It has been an incredibly generous benefactor. The United States has provided Israel with $75 billion in direct U.S. assistance and $10 billion in loan guarantees. Sixty-five billion dollars of that has been provided since 1977, and those numbers do not count various other packages of assistance that this Congress has provided through less direct and less obvious means. Under President Clinton alone Israel has received $18.7 billion in direct aid and $8 billion in loan guarantees plus a number of additional valuable items. For that kind of money the President has not just the right, but an obligation, to provide leadership toward a peace settlement especially when we have been invited by both sides to do so.

Now a letter from the Speaker alleges that the administration's, quote, strong-arm tactics send a clear symbol to supporters of terrorism that the murderous actions are an effective tool in forcing concessions from Israel, end quote. In my view that kind of rhetoric completely ignores the facts and in my view is the worst kind of excess. President Clinton's record in fighting terrorism is exquisitely clear, strong and consistent, especially in the Mideast. In 1996, after a horrible series of attacks in March, President Clinton traveled to Israel and along with 20 other world leaders vowed to renew the fight against terrorism and pledged an additional $100 million to assist in that effort. To make matters worse, after the Speaker wrote his letter, he then traveled to Israel and gave Israeli leaders the clear message that in any disagreement between the Clinton administration and the Israeli government that they and not the President could count on the Congress.

Mr. Speaker, the Logan Act provides as follows:

Quote: Any citizen of the United States who carries on any intercourse with any foreign government with intent to influence its measure of conduct in relation to any dispute or controversies with the United States shall be fined or imprisoned not more than 3 years or both.

I will not suggest that the Speaker violated the Logan Act by imposing U.S. policy in conversations with the leaders of other governments, although he, in fact, years ago did accuse a previous Speaker, Speaker Wright, myself and a number of others of doing so. What raised Mr. GINGRICH's ire at the time was a much more limited action which consisted of our simply writing a letter to the then President of Nicaragua. In the letter we indicated that even though we were publicly known to be opponents of U.S. military aid to the Contras we nonetheless urged him to support the principle of open and fair elections in his country, and when he did, by the way, he was voted out of office.

No, I will not accuse the Speaker of that action although there is one clear difference between our actions and that case and the actions of the Speaker in this one. Our letter asks Mr. Ortega to do something that was fully consistent with U.S. policy, to support such elections. In contrast, Speaker GINGRICH's counsel to Israel was to feel free to resist U.S. policy.

When Mr. GINGRICH was attacking Mr. Wright, he told the House during the course of debate, quote, it is not the business of the legislative branch to be engaged in negotiations with foreign leaders, to be talking directly with people as though they were the executive branch. The history is clear over and over that that is precisely what they, the Founding Fathers, were terrified of because of the Articles of Confederation, end quote.

It should be noted that the letter that Mr. GINGRICH attempted to bring into question was consistent with this Nation's foreign policy not only with respect to what it requested of Nicaragua, but also with respect to other comments which it might have contained but did not. Unlike the Speaker's present actions, our letter made no criticism of any U.S. official, diplomat or negotiator representing our Government in the region. It certainly contained no offer or indication that the Congress, acting separately from the executive, would respond with any assistance or other incentive if its separate policy conditions were met. By contrast, Mr. GINGRICH is openly critical of the offers made and the positions taken by those whose responsibility it is to negotiate on behalf of the United States. He has virtually invited a foreign government not to take the deal that his own government has offered. His actions undercut the ability of the Secretary of State to pursue peace in the region.

Mr. Speaker, the actions and utterances of Speaker GINGRICH can produce downright dangerous results. If any of us contribute to the illusion that there can be any long term security for Israel or anyone else with interests in the region so long as there is no progress on the peace front, we invite tragedy.

As Tom Friedman, the respected Pulitzer Prize winning columnist from the New York Times, said recently, quote, believe it or not, there is still a Middle East. Out there pressure is mounting to bring Iraq back into the Arab fold. Saudi Arabia is trying to organize an Arab conference. It would probably freeze Israel-Arab relations as long as the peace process is frozen. The Hamas leader, Sheik Yassin, has just completed a triumphant money-raising tour of Arab capitals as part of his goal to wipe out Yasser Arafat, and then Israel, and Jordan is terrified that Mr. Netanyahu is going to reject the U.S. plan and make it impossible for Jordan to sustain its relationship with Israel. Mr. Friedman then goes on to say, we have seen this sort of pro-Israel muscle beach party before where everyone thinks that the only reality is U.S.-Israel politics and that everyone else is a paper tiger. It was 15 years ago when on May 17, 1983, the Reagan team in Israel's Likud government crammed down the throats of the Lebanese an unbalanced, totally pro-Israel plan for the withdrawal of most, but not all, Israeli troops from Lebanon. But the May 17th agreement was never implemented. The U.S. marine compound in Beirut was blown up 5 months after it was signed, and both the marines and Israel had to pull out of central Lebanon unilaterally at great cost and leaving an enormous mess.

Now, Mr. Speaker, both the Arab world and Israel have lost great leaders, have literally given their lives for peace. I remember talking to President Sadat in Egypt shortly after Camp David. In a long conversation I asked him if he thought that the new agreement at Camp David represented a separate peace between Israel and Egypt or whether it would be the first step in a comprehensive peace process that would address the Palestinian problem. I do not know, he replied, but if it is not the latter, I will be dead within 5 years. And he was.

The last time I saw Yitzhak Rabin, whom I had grown to love and respect over 20 years, he asked me two things. The first was to do my best to keep Congress from interjecting itself into relations between the executive branches of our two governments. He felt strongly, going back to the time of his negotiations with President Nixon, that negotiations should be between the two executives. The second was to prevent well meaning but misguided friends of Israel in the Congress from taking actions that would prevent the U.S. Government from dealing directly with the PLO. "If you cannot deal with them," he said, "you lose your unique position as the only party in the world who can serve as an honest broker in our neighborhood, and if you cannot deal with the PLO, then there is only Hamas, the extremist militant rejectionists, and that would be disaster."

Shortly thereafter the gentleman from Indiana (Mr. HAMILTON), the ranking Democrat on the House Committee on International Relations, was exploring opportunities to obtain a unanimous consent agreement on the House floor to bring up legislation that would have renewed the authority for the U.S. Government to deal with the PLO. It was made clear by a junior Member on the Republican side of the aisle that an objection would be lodged if that request were offered. At that point I approached Mr. GINGRICH on the House floor, and I said, "NEWT, please. You can't let this happen. It will make it harder for Rabin to move the peace process forward."

He looked at me and said, "Dave, you have to understand. I am Likud."

Shortly thereafter Rabin was assassinated. After that, the objections disappeared, and the legislation was passed, and some of the same politicians who on this floor blocked action before Rabin died scrambled to then climb on board after he died, and their action brought to mind, at least to me, Will Rogers' observation that nothing is quite as pitiful as the sight of a flock of politicians in full flight from their own responsibility.

Mr. Speaker, there are human lives on the line. Our taxpayers have invested countless billions and a major portion of our total storehouse of foreign-policy resources, military, economic, diplomatic toward the goal of preventing future wars in this region and alleviating the tensions that result on an almost weekly basis in deaths from terrorism and organized military action. At this particular moment that investment is seriously at risk. The last thing the United States needs is a loose cannon rummaging around the Middle East making an uncoordinated and unauthorized representation of U.S. policy or legislative policy. Mr. GINGRICH on this issue does not speak for the U.S. Government, he does not speak for the State Department, he does not speak for the United States Senate, and he does not speak for this House. He is certainly entitled to voice his views on foreign policy publicly, even if they are contrary to the policy of the U.S. Government. The Constitution gives every American, including Members of Congress, the right to be wrong. It even gives them the right to make fools of themselves.

☐ 1830

However, Mr. Speaker, the Speaker of this House is not entitled to act unilaterally as an independent emissary representing his own personal foreign policy; he is not entitled to act like the Secretary of State in waiting. I would like to continue to believe that he is not putting domestic politics above the national interest.

Mr. Speaker, as Pat Holt, writing for the Christian Science Monitor wrote last week, quote, "One of the so far unsurmountable difficulties is that neither most Jews nor most Palestinians are willing to admit that the other side has always suffered legitimate grievances. If either group could see their dispute through the eyes of each other, the peace process would take a giant leap forward."

Instead, in my view, the Speaker's actions are likely to make that leap more difficult.

Mr. Speaker, U.S. Presidents have consistently exerted pressure on Israel as a friend and ally in the context of obtaining diplomatic solutions to complex problems. In 1973 under President Nixon, the United States threatened to reassess Israeli relations in order to secure withdrawals in the 1973 war. President Carter exercised his influence over Menachem Begin at Camp David to grant concessions on giving the Sinai Peninsula back to Egypt. He also exercised his influence over Anwar Sadat to not insist on concessions beyond Camp David to the Palestinians. Both of those actions were necessary to move the process forward. President Bush took a courageous stand in 1991 to withhold support for U.S. loan guarantees to Israel until understandings on Israeli settlements were reached.

These were all tough actions taken by U.S. leaders to help a friend, and Israel is a friend, while at the same time protecting U.S. national interests. What the Speaker has done, in my view, is to make it more difficult for Israel to make tough decisions that it needs to think through and make for their own long-term interests.

That is no doubt why the column written about this episode by Thomas Friedman in The New York Times was headlined, "Brainless in Gaza." It is also probably why Richard Cohen of the Washington Post wrote, quote, "Whatever the case, the Speaker is playing with fire. Netanyahu is a notoriously unpredictable fellow who vacillates between accommodating the Palestinians and rebuffing them. He has an inflated view of his standing in Congress. (The Israeli press quoted him as vowing to 'burn down Washington' if Clinton publicly blamed him for scuttling the peace process), which GINGRICH has done precious little to correct. His political allies are some of the most reactionary and fanatical elements in Israeli society, zealots who want land more than peace. They know what God intends. Others, though, are less sure. In fact, a good many Israelis think there will be no security until Israel and the Palestinians reach an agreement about land. GINGRICH has now complicated that process, encouraging Netanyahu in his intransigence and Arab radicals in their bitterness."

Mr. Speaker, I would add parenthetically, it also makes it easier for cynical Palestinian rejectionists to undercut any willingness displayed by the PLO leadership to live up to their promises.

Richard Cohen then concluded his column as follows: Quote, "If the Nobel Committee gives a booby prize for peace, this year's winner is a foregone conclusion. NEWT, take a bow."

Mr. Speaker, the world's Jews and Israelis in particular have paid a terrible price for the world's intermittent fits of insanity. Israel would not have been created without the actions of the United States 50 years ago in trying to create a place that would be a sanctuary for that insanity.

Because we helped create the State of Israel, we have a special obligation to stand by it and to assure its survival. But with that obligation comes a concurrent obligation to be frank and truthful with them and the world about what steps we believe are necessary to change the Middle East into a neighborhood that is safer for Israel's survival. For any American President to be silent in the face of Israeli indecision or miscalculation would be the ultimate failure of friendship. The President and our negotiators, who long ago have demonstrated their concern for Israel's future, have courageously recognized that.

Now, ultimately, the hard decisions that need to be made are Israeli and Palestinian decisions. The President and our negotiators have long ago demonstrated that they understand that too. Let them make those decisions in honest dialogue in partnership with the steady and knowledgeable American hands who have worked with them under Republican and Democratic administrations alike. Let them not be misled by new-to-the-scene kibitzers in Congress who, despite their bravado, do not really know the territory or the sensitivities and cross-currents and intricacies that shape it.

It may be popular for individual Members of Congress to issue pronouncements that tell our friends at home and abroad what they want to hear, but that is not what dangerous situations require. They require thoughtful, measured and judicious cooperation between the executive and legislative branches of government. That, unfortunately, has not been forthcoming from this congressional leadership on this issue. It is about time that it is.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2646, EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–579) on the resolution (H. Res. 471) waiving points of order against the conference report to accompany the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3097, TAX CODE TERMINATION ACT OF 1998

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–580) on the resolution (H. Res. 472) providing for consideration of the bill (H.R. 3097) to terminate the Internal Revenue Code of 1986, which was referred to the House Calendar and ordered to be printed.

NUCLEAR TESTS NOT A PRODUCT OF KASHMIR

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise today to voice my concern over efforts to link Kashmir to the underground nuclear tests conducted by India and Pakistan.

As my colleagues know, India and Pakistan conducted nuclear tests last month. The United States condemned the tests and immediately imposed economic sanctions on both countries. The United States has called for both India and Pakistan to stop further nuclear tests, not to weaponize their nuclear arsenal, sign nonproliferation treaties, and work towards easing tensions in South Asia. These are goals that I fully support.

However, there seems to be a growing movement to link Kashmir to the nuclear tests, a linkage which makes no sense, in my opinion.

Earlier this week, Secretary of State Madeleine Albright stated that the "recent decisions by India and Pakistan to conduct nuclear tests reflect old thinking about national greatness and old fears stemming from a boundary dispute that goes back more than 5 decades."

In the Senate, there has been talk of a resolution that would call for U.N. mediation in Kashmir through a U.N. Security Council resolution. The resolution would also ask the United States representative at the U.N. to hold talks with both Pakistani and Indian diplomats at the U.N.

Mr. Speaker, I believe that third-party mediation with regard to Kashmir would be counterproductive. The conflict in Kashmir is 50 years old. It has plagued the 2 countries long before they developed their nuclear programs. Interference by the United Nations, the United States or any other country would not help. In fact, the 2 countries agreed to bilateral resolution of Kashmir, among other issues, through the similar accords that they signed in 1972.

The State Department has a longstanding policy that India and Pakistan must resolve the Kashmir issue directly, and I do not want this to change.

I was happy to read that the Indian Government earlier this week said that it would pursue efforts for a broad-based and sustained dialogue with Pakistan, and I would say that positive steps such as the resumption of talks between India and Pakistan can only help resolve this volatile issue. But as I have said previously, the nuclear tests were not a product of Kashmir. Instead, I would argue that the growing military and nuclear relationship between Pakistan and China pushed India to conduct these tests. Just one week after Pakistan conducted its nuclear tests, U.S. intelligence agencies boarded a Chinese ship carrying weapons materials and electronics destined for Pakistan. This ship was carrying arms materials that included special metals and electronics for the production of Chinese-designed anti-tank missiles made by Pakistan's A.Q. Khan Research Laboratories.

Mr. Speaker, China's ballistic missile relationship with Pakistan has prompted more international concern than China's missile trade with any other country. The director of the CIA stated that "The Chinese provided a tremendous variety of assistance to both Iran's and Pakistan's ballistic missile programs."

It has been reported that China has been working with Pakistan in the sales of M-11 missiles and related technology and equipment since the late 1980s. Earlier this year, Pakistan successfully tested the Ghauri missile. This missile has a range of 1,500 kilometers, and it is believed that the Chinese may have had a role in its development. The Ghauri missile can be fitted with a nuclear device.

Last week, President Clinton stated that China must play an important role in resolving tensions between India and Pakistan. He stated that China must help "forge a common strategy for moving India and Pakistan back from the nuclear arms race."

Now, I have to say that I applaud the President and the Clinton administration and my colleagues' desire to reduce tensions and bring peace to South Asia in response to the nuclear tests. However, and I stress, that asking China to play a major role as mediator in general makes no sense, given their role in Pakistan's nuclear development. I would suggest instead that the United States needs to continue a bilateral dialogue with the Indian Government and encourage the Indian Government to move away from nuclear proliferation. We, that is the United States, we are in the best position to work with the Indian Government ourselves to achieve this goal.

ILLNESSES AFFECTING GULF WAR VETERANS AND CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Connecticut (Mr. SHAYS) is recognized for 60 minutes as the designee of the majority leader.

Mr. SHAYS. Mr. Speaker, I would like to address the Chamber, and I, for the benefit of those who follow, I suspect that I will be about 20 minutes. I will not be using my full hour.

I would like to talk about 2 issues. I would like to talk about the problem that our Gulf War veterans faced when they returned home, and I would also like to touch as well on the whole issue of reform, campaign finance reform, and other reforms that this chamber has sought to deal with.

Mr. Speaker, I have the incredible opportunity of chairing the Subcommittee on Human Resources which oversees the Departments of HHS, Labor, Education, Veterans Affairs, and Housing and Urban Development, HUD. In my capacity as chairman, we have looked at the issue of Gulf War illnesses and have had 13 hearings in the last 3½ years. We have called in the Department of Veterans Affairs, we have called in the Department of Defense, we have called in the CIA, to try to get a handle on the problems that our Gulf War veterans have faced when they returned home. Out of the 700,000 that have returned, almost 100,000 have had some types of physical problems to deal with and have sought to have their illnesses be dealt with by the Department of Veterans Affairs.

The bottom line to our investigation is that we want our troops properly diagnosed, effectively treated, and fairly compensated, and to this point, we do not feel that this has happened.

Our investigation found that a combination of exposures were most likely the cause of illnesses, and these exposures are chemical and biological warfare agents, experimental drugs and vaccines, pesticides, leaded diesel fuel, depleted uranium, oil well fires, contaminated water, and parasites as well. Sadly, our Federal Government has not listened to our veterans. Our Federal Government has had a tin ear, a very cold heart, and an extremely closed mind.

When we completed the 11 of our 13 hearings, we issued a major report and had a number of findings, 18 in total. We determined that the VA and the Pentagon did not properly listen to sick Gulf War veterans in terms of the possible causes of their illness. We believe exposure to toxic agents in the Gulf War contributed to veterans' illnesses.

We believe there is no credible evidence that stress or Post Traumatic Stress Disorder caused the illnesses reported by many Gulf War veterans. Among the 18 recommendations in our report was that Congress should enact legislation establishing the presumption that veterans were exposed to hazardous materials known to have been present in the Gulf War theater.

□ 1845

That the FDA should not grant a waiver of informed consent requirements allowing the Pentagon to use experimental or investigational drugs unless the President signs off and approves. These were just a few of our recommendations.

Believe it or not, Mr. Speaker, our troops were ordered to take an experimental drug referred to as PB. This was a drug that was intended to ward off the degeneration of the nervous system and our troops were being required to take this drug as a prophylactic to protect them from any possible chemical or biological agents. It was used, in other words, as an experimental drug to do something it was not designed to do. Our troops did not have the option to decide whether or not to do this. They were under order. If they did not live by their order, they would be prosecuted by the military.

We have come forward now with three bills to deal with not just the use of experimental drugs but also to deal with the potential of chemical and biological warfare agent exposure, to deal with pesticides, to deal with leaded diesel fuel, to deal with depleted uranium.

Depleted uranium is the material that is used to protect our military equipment, our tanks and our armored vehicles. It is a very hard substance. It is in fact depleted uranium. It is also used as the shell, as the projectile to penetrate armored vehicles. When there is penetration of an armored vehicle, the projectile disintegrates into powder and this is depleted uranium.

Mr. Speaker, we had our soldiers who were not told about the dangers of depleted uranium. Some of them went in actual tanks that had been destroyed to witness the carnage firsthand and to take souvenirs. In fact, they exposed themselves to depleted uranium.

Their exposure to oil well fires is well documented. Contaminated water, parasites and pesticides. But they were also exposed to defensive use of chemicals.

When we had our hearing and had the Department of Defense and the VA come before us, we were told that our troops were not exposed to any offensive use of chemicals. The word "offensive" is important because at the time that the DOD and the CIA told us this, they knew that our troops were exposed to defensive use of chemicals and potential biological agents. They knew this because they knew of Khamisiyah which was a Iraqi depot that our troops blew up not by bombs from planes and rockets from planes, but by actually coming and destroying these facilities by setting charges.

We had set a hearing on a Tuesday. The Tuesday hearing was going to expose the fact that our troops were exposed in Khamisiyah. So our Department of Defense announced that they would hold a press conference on Friday at 4 o'clock in which they announced that our troops may have been exposed to the defensive use of chemicals in Khamisiyah. This was a press conference called at 12 o'clock for 4 o'clock on a Friday to frankly disclose this information before it would be disclosed at a hearing that we had on Tuesday. The reason why it was disclosed is that we actually had pictures of the chemicals before they were blown up.

At first, the Department of Defense said that possibly 500 of our soldiers were exposed. They jumped that to 1,000, then they jumped it to 5,000, and then jumped that to 10,000 and then 20,000 because the plumes went well beyond the original range that they had discussed when they originally disclosed that our troops were exposed.

So we had our troops exposed to defensive chemical warfare agents. They were ordered, all 700,000, to take an experimental drug and vaccines as well. They were exposed to pesticides, leaded diesel fuel, depleted uranium, well-oil fires, contaminated water, parasites. And when our soldiers came to talk about their maladies, they were told it was all in their mind.

Well, Mr. Speaker, I think we are beyond that point. We are at the point now in which I would like to talk about three bills. One bill introduced by the gentleman from Massachusetts (Mr. KENNEDY) reflects the recommendation of our committee that an agency other than the Department of Defense or VA should control Gulf War research agenda.

One of our recommendations was the DOD and the VA had been part of the problem and they should not control the research agenda, because basically they had put no faith in any of the potential sources of Gulf War illnesses and had been very reluctant, for instance, to have any research done on chemical exposure until just recently.

Their premise was that if our troops did not basically drop dead on the spot, they were not exposed to chemicals. They did not accept the fact that low-level exposure to chemicals could ultimately lead to sickness and death. So our committee supports the proposal by the gentleman from Massachusetts to take the research from the Department of Defense and the VA.

Last week our subcommittee introduced two other bills to implement our report. The first is the Persian Gulf War Veterans Act of 1998, H.R. 4036. This would establish in law the presumption of service connection for illness associated with exposure to toxins present in the war theater.

The Secretary of Veterans Affairs, VA, would be required to accept the findings of an independent scientific body as to the illnesses linked with actual and presumed toxic exposures by establishing a rebuttable presumption of exposure and the presumption of service connection for exposure effects. The bill places the burden of proof where it belongs, on the VA, not on the sick veterans.

The bill would also require the VA to commission an independent scientific panel to conduct ongoing health surveillance among Gulf War veterans. We basically put the burden of proof on the government to prove that a veteran who is in fact sick, no one disputes that, was sick due to their illness in the Gulf War theater. The presumption is with the veteran. The Department of Veterans Affairs would have to prove that this veteran was sick for some other reason. If they cannot prove it, the presumption is with the veteran.

The second bill, the Drugs and Informed Consent Armed Forces Protection Act of 1998, H.R. 4035, would amend the Federal Food, Drug, and Cosmetic Act to require presidential concurrence in any Department of Defense, DOD, request for a waiver of informed consent in connection with the administration of an investigational or experimental drug to members of the Armed Forces.

The bill would also amend a section of last year's defense authorization bill to require DOD to provide detailed written information about investigational or experimental drugs to U.S. forces before being administered. The current provision allows DOD to require use of any investigation or experimental drug and only provide basic information such as the name of the drug, reason for use, side effects, and drug interactions within 30 days after initial administration, which by the way the DOD did not do.

The DOD gave 700,000 of our troops, with the consent of the FDA, an experimental drug that may in fact have caused serious illness with our soldiers. They were ordered to take this drug. They were not told of the dangers and the DOD did not keep records as to who took this drug and did not make any examinations afterwards to determine the effect of this drug.

So we would require the President of the United States of America to sign off if our troops were forced to take a particular drug that was, in fact, experimental.

Mr. Speaker, I just would conclude my comments to say again that what we support our troops being properly diagnosed, effectively treated, and fairly compensated for their Gulf War illnesses. We would hope and pray that this House would take action on the three bills that I described: The one presented by the gentleman from Massachusetts (Mr. KENNEDY) that would take the research away from the DOD and VA, which has been part of the problem, and give it to another agency; that we would require the President to sign off on any experimental drug being administered to our troops under order; and that we would place the presumption of illness with the veteran and force the VA to do its job in proving that it was not an illness caused in the Gulf War theater.

CAMPAIGN FINANCE REFORM

Mr. Speaker, I am not sure I have a very good transition to my next issue, but I would like to briefly talk about campaign finance reform and to say that this is an issue that the House of Representatives has put off dealing with for the 11 years that I have been in this Chamber. In an effective way, we have not had a fair and open debate.

It was my expectation that this House, this Republican Congress of the 1994 election, this first Republican Congress elected in 1994, taking power in 1995, would deal with a number of reform issues.

Praise the Lord, we dealt with congressional accountability. We require Congress to live under all the laws that we impose on the rest of the Nation. We did that under our rule, under our leadership, but we did it on a bipartisan basis. Republicans and Democrats working together passed congressional accountability.

Now Congress comes under all the laws it exempted itself from for so many years. The civil rights laws that we were not under. The OSHA laws, Occupational Safety and Health Act. The various laws that require us to have a safe working place. The sexual harassment laws that Members of Congress were not under with its employees. The 40-hour work week with time-and-a-half over 40 hours.

We exempted ourselves from all of those acts that we imposed on the rest of the Nation. But now we are under them, and we should be. Congratulations to Congress and the Republicans and Democrats on both sides of the aisle for making sure that happened. That was a true reform.

We also passed a gift ban that basically says Members of Congress cannot accept gifts. Maybe a hat, maybe a certificate, a book. We can accept that. But the meals, the wining and dining, the various expensive gifts that Members were given that could go up to $100 and $250 cumulative, we banned them. That was done under a Republican Congress, but on a bipartisan basis. It did not happen years ago. The ban took place after the 1994 election, but on a bipartisan basis.

For the first time since 1946, we passed lobby disclosure. Now we know there are far more individuals who lobby Congress who are now having to register than in the past. We have over 10,000 that have to register. Before it was literally 1,000 or 2,000.

We have many people who are lobbyists and that is part of the law and part of the process. But now they have to register and disclose information as to how much they spend and the contacts they make and who they try to influence and why they are trying to influence it. It is a disclosure that makes sense and it happened under this Congress, a Republican Congress, but on a bipartisan basis.

Mr. Speaker, the one issue we failed to deal with in the last Congress was campaign finance reform. We failed to deal with it. We dealt with three issues: Congressional accountability, the gift ban, and lobby disclosure on a bipartisan basis, and we did it. But campaign finance reform remains to be dealt with in a fair and open process.

It was the expectation of many of us that while we would not do it with the last Congress, that we would do with it the next Congress, the 105th Congress, the Congress that took over in the beginning of last year in 1997. It was our hope and expectation that Republicans and Democrats on a bipartisan basis would want to deal with campaign finance reform.

There was a lot of debate and dialogue on the bipartisan and historic budget agreement and many of us did not push campaign finance reform because we felt that was the issue that we first needed to deal with. But by the fall, it became clear to us that we could in fact deal with this issue and that leadership did not want to.

There was a petition drive. There was an effort on the part of Republicans and Democrats to get this Republican Congress to deal with campaign finance reform and a promise that we would deal with it in February or at the latest March.

Obviously, Mr. Speaker, that has not happened. We did not have a debate in February. And towards the last week in March, it was clear that leadership did not want to deal with an amendment, a major bill, the McCain-Feingold legislation that was in the Senate and referred to in the House as Shays-Meehan or Meehan-Shays.

□ 1900

This bill bans all soft money. Soft money is the unlimited sums that individuals, corporations, labor unions, and other interest groups can give to the political parties which was supposed to be used for party building and registration. But elected officials and party officials found ways to just bring it right back to individual candidates and circumvent the campaign law.

A second issue, besides banning soft money, and we would in fact ban it all, money that goes to the Democratic Party and money that goes to the Republican Party, because it has been an abused system that has simply allowed unlimited sums from individuals, corporations, and labor unions to go to your individual candidates. We would recognize that the sham issue ads are truly campaign issue ads, are campaign ads and treat them as campaign ads.

We do not take away anyone's right to speak. We do not do that. We just say that if they are campaign ads, they be treated as campaign ads and come under the campaign laws, which means people have a voice, but they have a voice that requires that there be disclosure; and that, while they are not limited on what they can spend, they do follow the limitations of what they can raise, as all campaign law has. We cannot limit what can be spent. We can limit what can be raised. We, in fact, do that under the Constitution.

We require that if an individual candidate is referred to by picture or name 60 days prior to an election in a sham issue ad, it is to be called a campaign ad and come under the campaign laws.

We also use the 9th Circuit Court, the unambiguous, unmistakable support or opposition for a clearly identified candidate as a campaign ad, and that would go through 365 days a year. We codify the Beck decision, which means this, that if you are not a member of the union and you pay an agency fee, you do not have to have in your agency fee to the union money that goes for political purposes. That is what the Beck decision determined.

They did not determine that union members could be exempt from a political payment to the union for political activities, rather, they determined that if you were not a member of the union, you did not have to have your agency fee go for political activity.

My wife does not like me bringing this up because she does not like me bringing her up as an example in anything, but I will say, notwithstanding her objection, that she, in fact, has experienced this process of the Beck decision; and that is that, as a public schoolteacher, she did not choose to have her union dues go to support a gubernatorial candidate she did not support, who happened in this case to be a Democrat.

When she complained to her union, she was told the only way that her money could not go would be that she could not be a member of the union. If she paid an agency fee, they would make sure they subtracted the amount of the political payment.

So in fact she is not a member of the union anymore. She has taken advantage of the Beck decision, and she does not have to make any political payment to a candidate she does not choose to support.

In our bill, we improve the FEC disclosure and enforcement. We require disclosure within 48 hours of a major contribution and that the FEC put it on the Internet within 24 hours. We strengthen FEC disclosure and also enforcement.

We allow the FEC to speed up the process to eliminate a frivolous complaint. We also allow them to speed up the process to take action on a complaint that is not frivolous. We also say that wealthy candidates can contribute $50,000 or less. But if they contribute more, then they cannot expect support from their own political parties to augment the $50,000 they put into it. So if they contribute $49,000, the parties can contribute up to $61,000, but not if they contribute more.

We ban franking mail, unsolicited franking mail throughout the district 6 months to an election. Then we also make clear foreign money and fund-raising on government property is illegal. Believe it or not, the Vice President of the United States was right. There was no controlling authority for raising soft money from a government building.

It is not illegal to accept money from a foreigner if it is not campaign money. Soft money is not defined as campaign money. It is not campaign money. If it were campaign money, it would come under the campaign laws. It would have limits placed on it. There are no limits.

So we need to correct an abuse that, clearly, the spirit of the law was broken, but the law was not broken, which allows me to make one point that I think needs to be made time and again.

The big failing, in my judgment, with Republicans is that we are not willing to take up campaign finance reform. We are willing to investigate wrongdoing of the President and the administration, as we should, but we do not want to take up campaign finance reform.

The Democrats, on the other hand, are willing to take up campaign finance reform, as they should, but are not willing to hold the President accountable for the actions that his administration should be held accountable for.

When Democrats investigated the Nixon administration, they did not say that the President of the United States has broken the law; therefore, we do not need to reform the system. They said the President of the United States has broken the law and should be held accountable, and we need to reform the system.

I have a gigantic regret that Republicans have not made the same argument today. I believe the President of the United States, his administration, has broken the law and should be held accountable. I also believe we need to reform the system.

The foreign money and fund-raising on government property is a case in point. We know what the spirit of the law is, but we also know that soft money is not considered campaign money. It does not come under the campaign law. It was allowed by the FEC years ago as party-building money, not meant as campaign money. But over time, it began to be a big sum of money that both parties have now raised for campaign purposes even though it is not campaign law.

Mr. Speaker, I know that the other speaker is ready to speak, and I have gone over my 20 minutes, but I would like to say that I believe it is absolutely essential that my own party and my own leadership keep faith with its commitment to deal with campaign finance reform now, not later.

The commitment originally that was made was that we would deal with it in February or March, and we did not do that. We did not keep faith with our commitment.

The commitment then, after a number of us got off a petition, was to deal with this issue in May. Since May, we have had a vote on a rule allowing for debate on campaign finance reform. We have had a general debate on campaign finance reform. We have had a specific debate on a constitutional amendment brought forward by an individual who did not even support the constitutional amendment the individual was bringing forward, and that is it.

Since the commitment that was made to us in April, we have not had debate of any consequence during the time in May. We are already in the middle of June. I was told last week that the second rule on campaign finance reform would be debated on Friday, in which I concurred and thought that was some progress. That was not debated. I am told we will bring it up tomorrow. I am told we will have debate on Wednesday and Thursday and Friday. Now I have been told we will have no debate next week on campaign finance reform.

In my own mind, I do not understand why this reform Republican Party would oppose dealing with campaign finance reform. I do not know why my reform-minded leadership would object to dealing with this issue now, since we are going to have an open debate with endless amendments.

But there is a point where, if the leadership refuses to allow for an open debate to take place, then it forces us to consider going back on petitions. It forces us to take other action to express our concern with the process and to force some kind of change.

I realize that I am only one Member of 435, so I cannot force anything, but 218 Members can. Ultimately, there have to be 218 Members in this House who believe that the word of our leadership should be honored and that we should take up debate on the 11 substitutes and the endless amendments.

Tomorrow we will be taking up a second rule that will make germane amendments that are not even germane. We have hundreds and hundreds of amendments. I also have some leadership that have publicly stated that it is the intention to just drag out this debate ad infinitum.

I cannot understand why Republican leadership would choose to put this debate off any longer. Is it going to be better to debate this issue later this month? Is it going to be better to take up this issue in July and debate it? Do we win more points by putting it off even further and taking it up in September? How is that living up to the commitment of my leadership to take up this issue in May?

PERMISSION FOR COMMITTEE ON RULES TO FILE REPORT ON HOUSE RESOLUTION 463, ESTABLISHING SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight tonight, June 16, 1998, to file a report to accompany House Resolution 463.

The SPEAKER pro tempore (Mr. LaHood). Is there objection to the request from the gentleman from Connecticut?

There was no objection.

PROTECT THE E-RATE FOR AMERICA'S CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New York (Mr. Owens) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, there is an emergency in America right now, and it affects the students in school. It affects the students who go to use our libraries.

I would like to announce that it is only 7:10 Eastern Standard Time, and I hope that there are kids in America listening, because this is their fight and they ought to rally to defend their own interests, the E-Rate. The E-Rate belongs to the kids of America.

What is the E-Rate? The E-Rate is a discount that is given through a universal service fund to schools and libraries in order to enable those schools and libraries to wire their computers to the Internet, to hook up to the Internet.

Then the E-Rate also continues to provide a discount on the ongoing telecommunication services utilized by the schools. The E-Rate is the greatest thing that has happened to schools in a long, long time.

The E-Rate is the result of the 1996 Telecommunications Act. The Telecommunications Act of 1996 gave the big corporations in broadcasting and telecommunications almost everything they asked for. The one concession they made is that they would provide discounted rates for schools and libraries.

By the way, this is all schools, parochial schools, private schools, all schools are eligible for the utilization of this E-Rate, the discount from the universal fund. Libraries, all libraries, all public libraries are eligible for it.

So we have started that. There was $2.25 billion made available or projected as the first year's expenditure. And 30,000 schools and libraries have applied already. They have met the qualifications. They have gone through the application process, and they are waiting for their funding from the E-Rate.

We have a great reduction in the E-Rate. So kids of America, they have some monsters out here. They have some monsters out here who have stolen or who are attempting to steal the E-Rate away from the children of America.

MCI wants the E-Rate to die. AT&T. And there are a lot of misguided Members of Congress who want the E-Rate to die. These big corporations and big powerful people elect are like the Grinch that stole Christmas. Only this time the Grinch is going to steal E-Rate.

They are like the Giant that chased little Jack. They are powerful, overwhelming, abusive. They have all the power. But Jack outwitted the Giant. That means that the children of America can fight back. This is a democracy and their parents vote. I hope they are listening and they tell their parents to listen, that the E-Rate deserves to live.

We are dealing with something like the Big Bad Wolf that was in Little Red Riding Hood's grandmother's bed. Little Red Riding Hood outwitted the Wolf. The Wolf in the end was destroyed, not Little Red Riding Hood.

We are dealing with something like Yertle the Turtle. There are people that are very powerful. There are corporations that are very greedy.

AT&T has been around a long time. They have made billions of dollars. The Telecommunications Act of 1996 would enable AT&T to make more money. MCI can make more money. Tremendous amounts of additional profit will accrue to these corporations as a result of the Telecommunications Act of 1996. But they want more. They want more. They are like Yertle the Turtle.

I think I remember Yertle the Turtle correctly. I read it to my kids a long time. I have a grandson, and I have got to get ready with all of these stories and get familiar with them. Green Eggs and Ham is my favorite, but Yertle the Turtle also was a favorite Dr. Seuss story.

If you recall, Yertle is not the hero. Yertle the Turtle is not the hero. Yertle is the villain. Yertle is the turtle who wanted to be the tallest turtle in the world. He wanted to be higher than everybody else. He kept forcing other turtles to get under him so he could get higher and higher and higher. Yertle was not the hero.

There was a little turtle on the bottom of him named Mac.

□ 1915

And Mack said, I'm tired of bearing all the weight of all these turtles on top of me. So Mack decided to squeeze out of the line, and the whole pile of turtles came tumbling down.

Kids of America do not have to take this bullying by AT&T or MCI or the chairmen of the powerful congressional committees. Kids of America can rebel. They can fight back. Kids of America should stay awake, listen, they should talk to their parents. They need to know more about the E-Rate. They need to know more about the attempt of the Grinch to steel the E-Rate from the kids of America.

Let me give everyone the background on what the E-Rate is all about. Last week I talked about leadership, and our leadership can determine the fate of a country and the fate of a nation, whether it is a small nation or a superpower. Last week I talked about Israel and how great the leadership of Israel has been to date; how Israel's leadership has brought it to the point in 50 years where it has achieved more than many countries have achieved in 200 or 300 years. Leadership.

I also gave an example of leadership in the Soviet Union; how leadership in the Soviet Union was able to produce a space station, rockets, intercontinental ballistic missiles, and it was a superpower. But the leadership was so ingrained and so enclosed that they did not listen to the outside world with respect to democracy. They did not listen to new thought coming in, so they focused in on themselves and destroyed the economy of the country. They destroyed the spirit of the country. So a superpower went out of existence in our time. A giant superpower collapsed and failed.

It is possible the giant superpower called the United States of America also is vulnerable if we do not have the right policies. If we bully little children, if we bully students in school. And that is what we have. We have the giant corporations teaming up with some powerful people in Congress and they are bullying the FCC and forcing the FCC to take away a benefit that is very much needed, an opportunity that is very much needed by most of the children in America. Certainly the low-income children of America have no chance, ever, of being in schools with computers hooked up to the internet that can pay the price of ongoing telecommunication services if we do not have this universal service fund, called the E-Rate for short.

Let me give everyone the background. There is an article that appeared in the Congressional Quarterly June 13th, and it summarizes it very well. And, Mr. Speaker, I will place the entire article, entitled "The FCC Votes to Shrink Internet Subsidies Program; Two Bills Would Shift Cost" in the June 13th issue of the Congressional Quarterly, in its entirety, in the Record. So it will be, in its entirety, in the Record. Everyone can pull it off the internet, by the way, but I am going to read it in part to let everyone clearly understand what this is all about. This is a terrible injustice to the children of America, and I think once everyone hears the story, they will agree with me. The article is as follows:

[From Congressional Quarterly, June 13, 1998]

FCC Votes To Shrink Internet Subsidies Program; Two Bills Would Shift Costs

(By Juliana Gruenwald)

The Federal Communications Commission (FCC) voted June 12 to scale back a controversial program that provides discounts for Internet hookups to schools, libraries and rural health care centers.

The FCC, in a 3–2 vote, agreed to provide $700 million for the second half of the year, bringing the total for the year to $1.375 billion, a cut of nearly 50 percent from the FCC's original plan.

The action comes in the wake of pressure from Capitol Hill over how the FCC is running the program. Critics are angry that consumers are being forced to shoulder the cost of the Internet service.

Sen. John McCain, R-Ariz., chairman of the Commerce, Science and Transportation Committee, said the FCC's changes were "an exercise in futility" and said legislation must be enacted to stabilize the program.

House Speaker Newt Gingrich, R-Ga., said June 8 he would try to move legislation to block the FCC program in the next few weeks.

Rep. W.J. "Billy" Tauzin, R-La., and Sen. Conrad Burns, R-Mont., have said that, to pay for the Internet subsidies, they plan to introduce bills to shift revenue from the current 3 percent excise tax on telephone service.

The program was created by Congress in the 1996 telecommunications law (PL 104–104) when it expanded universal service, a system in place for years to provide subsidies for phone service to low income residents and high-cost areas. (1996 Almanac, p. 3-43)

Universal service is paid for by telecommunications companies, which pass the charges along to consumers. About $675 million has been collected for the Internet program, which has yet to dispense any subsidies.

Some lawmakers say the FCC made the program so big it has led to an increase in long-distance rates.

The program appeared in jeopardy after the top leaders of the House and Senate Commerce committees called on the FCC on June 4 to stop collecting funding for the program and revamp the universal service rules. (CQ Weekly, p. 1539)

The move followed an announcement by some long-distance companies that they would impose a new surcharge on residential customers' bills to pay for their universal service costs.

The issue came to a head June 10 when all five commissioners appeared at the Senate hearing.

Several senators said they feared the Internet program could put support for traditional universal service at risk.

Some GOP members also complained that the program was only intended to provide discounts for Internet services, not to help pay for inside wiring. About $1.3 billion of the $2.02 billion requested in the 30,000 applications from schools in libraries was to pay for inside wiring.

But the program's defenders said the program had been unfairly maligned by those who are out to kill it and urged the commissioners to do what was necessary to keep it intact.

"Don't allow this covert operation to derail this initiative," said Sen. Olympia J. Snowe, R-Maine, one of the initiative's sponsors.

Carol Henderson, executive director for the American Library Association's Washington Office, said it has partially become a "partisan political issue, and that's unfortunate . . . particularly if those who suffer for that are libraries and schools."

Some Republicans call the program the "Gore tax" because Vice President Al Gore supports the program expanding Internet access to children.

Regardless of the controversy, Linda Smith, director of technology for San Bernardino city schools in California, said she hopes policy-makers will keep their commitment to help needy school districts.

Most of the 46,000 students in her district—77 percent of whom get free or reduced school lunches—do not "have computers at home or access to the Net," she said.

Mr. Speaker, I am quoting from the article as it appeared on June 13 in the Congressional Quarterly.

The Federal Communications Commission, FCC, voted June 12th to scale back a controversial program that provides discounts for internet hookups to schools, libraries and rural health care centers. The FCC, in a 3-to-2 vote, agreed to provide $700 million for the second half of the year, bringing the total for the year to $1.375 billion, a cut of nearly 50 percent from the FCC's original plan.

They promised the children of America one figure and they are cutting the amount in half. Why? There is no good reason. They are saying it is too expensive. Why is it too expensive for the children of America to receive a tiny portion of the huge revenues that are pulled in by the communications companies? They say, no, and the FCC has made these cuts.

I want to make it clear at this point that I am not criticizing the FCC. The FCC has been bullied and pushed and forced into a position by overwhelming forces that have converged on the FCC. Since the E-Rate was established and the procedures were set up by the FCC, there has been a bullying by corporations. Some corporations have chosen to go to court and sue the FCC in an attempt to take away the E-Rate from the children of America.

Some corporations have been doing that, so that puts pressure on the FCC. And then we have the heads of some of the committees in Congress writing to the chairman of the FCC committee, in a very vicious and unusual way. Unprecedented. The chairmen of committees, who, by the way, do not have the authority to give orders directly to the various agencies of the Federal Government. They do not have that authority. But they were so brutal in their attack that they frightened the FCC commissioners. And they are attempting to try to compromise in order to save some part of the E-Rate for the children of America.

So the FCC is our hero at this point. The chairman of the FCC and the people who voted to at least keep half, they really are heroes for arriving at a point where, for the time being, they have offered a compromise.

I am here tonight to call upon the children of America, the kids of America, to not accept the compromise. We do not want half. We need the full $2.25 billion that was budgeted in the first place.

Let me continued with the article.

> The action comes in the wake of pressure from Capitol Hill over how the FCC is running the program. Critics are angry that consumers are being forced to shoulder the cost of the internet service. Senator John McCain, Republican of Arizona, chairman of the Commerce, Science, and Transportation Committee, said the FCC's changes were "an exercise in futility" and said legislation must be enacted to stabilize the program.

I do not know what he means by exercise in futility. What he is saying is, if we cut it in half, we have taken away half of the funds from the children of America. That is not enough. That is an exercise in futility. We are going to destroy the whole program.

It strikes me as very strange that this program for children, through schools and libraries, is arousing such intense reaction from powerful people. Corporations first, AT&T, MCI, and now certain powerful people in Congress want to destroy the program.

> House Speaker Newt Gingrich, Republican from Georgia, said June 8th he would try to move legislation to block the FCC program in the next few weeks.

To block the FCC program. That is destruction. To smother it; to strangle it. Now, what have the kids of America done to deserve a program like this being strangled? Why is the big bad wolf and the Grinch and the giant and Yertle, all of them, gathering together to destroy a program that will provide opportunity for the children of America?

> Representative W. J. Billy Tauzin, Republican of Louisiana, and Senator Conrad Burns, Republican of Montana, have said that to pay for the internet subsidies, they plan to introduce bills to shift revenue from the current 3 percent excise tax on telephone service.

Now, that sounds like, well, these guys are constructive and somebody is coming up with an alternative. When we start talking about taxes and shifting taxes, I assure everyone, children of America who are listening, after all, it is still early, I hope they are up, I assure everyone that any attempt to shift taxes or to play with taxes will not fair very well here on the floor. It will not get through.

They are just going to use this as a smoke screen to pretend that they care about the kids of America; they care about their opportunity and their future to be able to really learn the kind of basic knowledge of computers and use of the internet that is going to be required when they get to the point where they are graduating from high school or they are going out there to get one of these jobs, the big jobs of the future, the important jobs, the jobs that are going to be available, that we know for certain are jobs relating to information technology. Information technology jobs are the ones that will be available. If kids do not get prepared in school, they will be able to qualify for those jobs.

Low-income students in the big cities of America, students in rural areas are already way behind. Most of our suburban schools, a lot of schools in affluent communities, they are already wired to the internet. They already have computer labs and computer programs which are fully educating their children on the benefits of how to use computers and learning how to use computers in the applications for the future.

To go back to the article, I quote again,

> The program was created by Congress in the 1996 telecommunications law, Public Law 104-104, when it expanded universal service, a system in place for years to provide subsidies for phone service to low-income residents and high cost areas.

Let me just quote that again. I am quoting from an article from the Congressional Quarterly. They said the program that we are talking about now, the E-Rate, the universal fund expansion to include discounts to libraries and schools was added to another fund in 1996, in the 1996 telecommunications law, when it expanded universal service. Universal service existed already. They are making it appear they never had anything like this, but there is a universal service that existed already, and that service provides service to low-income residents and high cost areas.

Universal service is paid for by telecommunications companies and they pass the charges along to consumers. Is it a large charge? We have been receiving an extra charge for years. For years we have never known it even existed. Most people did not know there was a universal service and that a slight amount of money was taxed on to the phone bill to pay for that service that already existed.

But now that it is there for children, it is there to provide wiring to the internet and ongoing telecommunications services on the internet, it has suddenly become a big issue and corporations want to go to war against the children of America.

About $675 million has been collected for the internet program to date, which has yet to dispense any subsidies. They have not spent a penny yet. We have been getting ready since last fall. Applications originally were supposed to be submitted last fall. They moved it back to January. We started submitting applications in January. Remember, those who were part of those 30,000 schools that have submitted? It was done mostly over the internet. Most of the submissions were done over the internet. They could do it some other way, in print, but they encouraged everybody to do it over the internet. And those applications were complicated. The process was complicated.

And now that they have it all in, and not a penny has been spent yet, before the program can even start, the bullies, the giants, the grinches, the big bad wolves, the Yertles, the turtles, they have come along and stolen half of it and they want the rest. Kids of America better rise up and fight this.

> Some lawmakers say the FCC made the program so big it has lead to an increase in long-distance rates. The program appeared in jeopardy after the top leaders of the House and Senate commerce committees called on the FCC on June 4 to stop collecting funding for the program and revamp the universal service rules. The move followed an announcement by some long-distance companies,

the move followed an announcement by some long-distance companies,

> that they would impose a new surcharge on residential customers' bills to pay for their universal service cost.

Here is where was set in motion the process which has now led to an attempt to steal the E-Rate from the kids of America.

> The move followed an announcement by some long distance companies that they would impose a new surcharge on residential customers' bills to pay for their universal service cost. The issue came to a head June 10th, when all five commissioners appeared at the Senate hearing. Several Senators said they feared the internet program could put support for traditional universal service at risk. Some GOP members also complained that the program was only intended to provide discounts for internet services, not to help pay for inside waring. About $1.3 billion of the $2.2 billion requested in the 30,000 applications from schools and libraries was to pay for inside wiring.

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I am reading from Congressional Quarterly's summary of the attempt to steal the Internet from the kids of America. They are making an issue out of the fact that some of the money goes to help wire the school to provide basic wiring to hook computers up to the net. They do not use the money to buy computers. They do not use the money to pay for teachers or technical assistants. They do not use the means to pay personnel to wire the schools necessarily, but the wiring costs and some basic costs that enables the schools that are poorest to get into the game.

The biggest amount of the money and the money that will be spent on an ongoing basis will be for the actual telecommunications services on an ongoing basis month after month after month. Some schools will get a discount as high as 90 percent. In the poorest schools in my district, it means that for every dollar that the schools spend on a monthly basis for telecommunications services, they would only have to pay 10 cents. They can get as high as that. The poorest districts of America could get a 90 percent discount.

What are the poorest districts? They measure them by the districts that have the largest amount of children who are eligible for the free school lunch program. The school lunch program, in order to be a part of it, they have to submit from their parents and their home, they have to submit proof of their income status.

There are some schools in my district where 95 percent of the children are eligible for the school lunch program, which means that that school certainly is eligible for the biggest discount. So at one end they may have some suburban schools, affluent neighborhoods, they get a 15 percent discount.

Some people complain about they should not get anything. I think the program should be for every school district, for every school, for every library. I do not think it should be cut off for some and only available to the poorest. I think there should be some funds available for every school.

I do not think $2.2 billion that has been requested by the 30,000 schools and libraries is too much when we consider the billions of dollars being earned by the big telecommunications companies.

I am quoting again from the Congressional Quarterly article. "But the program's defenders said the program had been unfairly maligned by those who are out to kill it and urge the commissioners to do what was necessary to keep it intact. Don't allow this covert operation to derail this initiative," said Senator OLYMPIA J. SNOW, Republican of Maine, one of the initiative's sponsors.

Karen Henderson, the executive director for the American Libraries Association's Washington office, said, "It has partially become a partisan political issue." And that is unfortunate, particularly if those who suffer for that are libraries and schools.

Why are the Republicans making this a partisan issue? Do Republicans not care about education in America? Do they not want the children of America who are in school today to be prepared to meet the qualifications for the information technology jobs of tomorrow? Why are the Republicans against providing universal, across-the-board service which would allow all schools and libraries to become part of a process of utilizing information technology starting with computers?

They are making it a big partisan issue. Remember the Republicans, 2 years ago they tried to steal part of school lunches from children, they wanted to cut the school lunch program two years ago? At that time I called on the kids of America and their parents to wake up. Kids of America, there is a fiscal crunch. This great Nation now needs your lunch. I wrote a little appeal to the kids to understand what they are saying. The Republicans say there is a fiscal crunch. The Nation needs your lunch. I was absurd, ridiculous of course. $2 billion will be saved by cutting back on school lunches.

The kids of America and their parents, everybody out there with common sense, rose up in horror. How can the Republicans take lunches from little kids? How can they take lunches from students at school? And the horror became evident in the public opinion polls and in the focus groups, so that the Republicans in 1996 retreated.

They gave up not only their great cuts in school lunch program, they gave up many other education cuts, understanding that common sense in America says that education ought to be one of the first priorities in the Federal Government. Education should be one of the first priorities.

They tried to politicize education. They called for the complete elimination of the Department of Education. They were going to cut Headstart. They were going to cut title I. The budget that they presented in 1995 in many ways resembles the budget that they presented in 1998. Again, they are calling for elimination of title I. They are going to convert title I to vouchers.

Again, they refuse to deal with the overwhelming problem of school construction that we need help in constructing more classrooms. In order to bring down class size we need to do two things. We need to construct more classrooms as well as provide some money for more teachers.

But the Republican budget that has just been released, they do not have anything in there for school construction, for reduction of class sizes. They want to cut title I and turn it into a voucher program.

They want to politicize something as great as this universal service funds for schools and libraries. It now is going to become a political football. The next paragraph in that article describes part of that process.

A quote from the Congressional Quarterly article. "Some Republicans call the program the Gore tax because Vice President AL GORE supports the program expanding Internet access to children." "Some Republicans call the program the Gore tax because Vice President AL GORE supports the program expanding Internet access to children."

What a pity that this becomes a political football. Vice President AL GORE should be lauded and applauded for the way they have provided leadership. This is leadership and vision that has been provided and leading the way for schools to get involved in their educational programs with the kind of process educating children for information technology jobs that exist tomorrow. That process will not happen automatically. Schools have lots of problems.

Only the vision of Vice President GORE and of President Clinton has opened this whole process. We made a breakthrough. The President stood here 2 years ago and called for the wiring of all the schools of America through a volunteer process. The President himself, in California, helped initiate the first volunteer wiring of the schools. They go out on a Saturday and they get volunteers and they wire a school.

They even set up a national process where there is a kit to wire a school we could purchase between $500 and $600. Because they purchased the equipment and wires, everything was purchased in large quantities, so they are able to supply the kit at the very lowest cost. Then they can get volunteers to do the hookup.

We also need some people who are aware of how to do this. So they have to call upon people like the Bell Atlantic employees in my district who have been magnificent. Bell Atlantic employees and Bell Atlantic has supported the wiring of schools for Internet in my district.

In other districts, they had other telecommunications companies and they had unions. I think my colleague the gentlewoman from Michigan (Ms. STABENOW) is a leader in this Congress; and she gave us a whole handbook and a whole list of ways in which they can get their school wired.

So wiring of a school by volunteers has been initiated by the President and Vice President. Members of Congress and Democrats have picked up on it. And we have had a large number of schools that have been wired. They need the help on an ongoing basis to pay the cost of telecommunications services.

Then there are other situations where a large number of schools have not been wired. In the inner cities of America, most of the schools still remain unwired.

I have led in my district an effort to wire schools. Out of the 70 schools that exist in my Congressional district, 70 schools, elementary, junior high school and high school, we only wired 22. With the great Herculean volunteer effort, we only wired 22.

We are a pilot program. We have had the help of the Board of Education. We had the help of Bell Atlantic, one of the communications companies. We had the help of a group called New York Connects, which organizes other private-sector companies to give us help in wiring the schools. We had a lot of help from a group called the Husain

Institute of technology. Mr. Husain is an engineer, a computer engineer, who volunteers his services, as well as he operates a free school for training students, adults, and children on the computer. So we have had all this with us, and still we have only wired 22.

What this does, the E-rate, the universal fund does is allow this process to be speeded up and accelerated. We do not have to wait for all of this to be done by volunteers.

The first barrier that most inner cities cannot cross is that measly $500 to $600. All they need for the kit to buy all the wire, all the tools, all the hookups, all the plastic stuff, all the copper, all that is supplied in a kit for $500 to $600.

Most schools cannot raise the $500 to $600. They cannot get the volunteers outside to do it. We have been fortunate that Bell Atlantic and New York Connects and some other private-sector people have done that for us in order to make certain that nobody is left behind, that all of the schools, private, parochial, and public in America do receive this connection with the Internet.

By the way, the wiring of the schools, when we use that term, we are talking about the library and five classrooms. Wiring of the schools is library and five classrooms. It is not the whole school. It is just a measly fundamental necessary beginning. And that is all we are asking. Let the universal fund go forward Let us keep the E-rate so that that is possible.

Let me just conclude this article by reading the last two paragraphs. "Regardless of the controversy, Linda Smith, who is Director of Technology for San Bernardino City Schools in California, said she hopes policymakers will keep their commitments to help needy school districts."

I hope that policy makers will keep their commitments. I fear that the bullies here will not let us do that. We are the policy makers. The Congress of the United States wrote into the legislation that the FCC should provide a way to make certain that all schools and libraries get service, connection with the Internet. It is in the law. It is a very simple statement, very general.

It was left up to the FCC to determine how to do that. The former commissioner of the FCC, Reid Hunt, did a magnificent job of guiding us to a point where they established this program, with all of its complications.

The present commissioner, William Kanard, is attempting to carry out what was decided upon by commissioners previously. It is most unfortunate that the bullies have all ganged up on the FCC and have forced them to back down. We lost half of the Internet as a result of their actions.

The last paragraph of this article from the Congressional Quarterly on July 13th, "Most of the 46,000 students in LINDA SMITH's district, 77 percent of whom get free or reduced school lunches, do not have computers at home or access to the Net," she said.

That is the case in my district. That is the case of thousands of school districts across the country. They do not have access to the Internet, and they will not have it if we let them take the universal fund away.

Kids of America, AT&T, MCI, they are bullies. They are grinches who want to steal the E-rate. They are giants who want to chase little Jack. They are the big bad wolves. They are Yertle the Turtle. In the comic books, there is the council of doom. In modern space comic books, where we deal with the whole universe and in certain planets, sets of planets, they have a council of doom, the evil monsters attempting to gain control of the universe; and they raid against the counsel of justice, the good guys who are attempting to go fight off evil and make certain that democracy prevails in the universe and that everybody has an opportunity to survive in the universe in peace and harmony.

Now we have got a council of doom going after the E-rate. The council of doom has won the first battle. The council of doom was able to force the FCC to back down and cut the E-rate in half. Kids of America, do not take it lying down.

"Kids of America, wake up. Arise. March all
together. Before the E-rate dies.
Kids of America, arise. AT&T is telling your
parents misleading lies.
Kids of America, it is time to fight. Take out
your light. Let it shine for truth. Boycott the AT&T booth.
AT&T lies have clouded our blue skies. Don't
make any calls. Then the monster
falls.
Kids arise. Fight AT&T lies. Altogether students attack. Take opportunity and
the Internet back.
Kids of America, arise."

You do not have to take this lying down. Tell your parents you will not allow them to take it lying down. You have a telephone. Call AT&T now. Call your Congressman. We will not take this lying down. The grinch will not steal the E-rate from the kids of America.

This giant will not destroy little Jack. The big bad wolf got outwitted by Little Red Ridinghood. And we will outwit the big bad wolf again. Yertle the turtle got knocked off his pedestal by Mack. The council of doom has won the first battle. But we will not let the council of doom prevail. The council of justice will take over.

□ 1945

This is not the first time I have appealed to the kids of America to come forward and fight. We won last time. When they tried to take the school lunches away, or cut the school lunch program, I called on the kids of America to rally, and they did. They got to their parents, they got to the voters, the message got through to the Republicans that we will not stand for a cut in the school lunch program.

Mr. Speaker, I am going to read my colleagues a section of the CONGRESSIONAL RECORD from Tuesday, April 4, 1995. That was shortly after we started the battle with the Republican majority to get back the school lunch program. They had voted to cut the school lunch program. I want Members to just see how relevant this battle is to the present one. They could not cut the school lunch program, but now they are going after something that is fundamental to the minds, the future training opportunity for our young people.

On April 4, I entered the following statement into the CONGRESSIONAL RECORD:

> Mr. Speaker, the final word has not yet been said about the Republican swindle of the children who receive free lunches in schools across our Nation. But the final, most authoritative figures have been established by the Congressional Budget Office. The very conservative but thorough Congressional Budget Office has estimated that the Republicans will capture slightly more than $2 billion from their block-granted school lunch program. They were going to take $2 billion out of the school lunch program for the kids of America. This will be $2 billion more to go into the tax cut for the rich. This is a scenario filled with horror. It conjures up the image of the poster where Uncle Sam is pointing the finger and saying to potential military recruits, "I need you!" While the Republicans advocate a $50 billion increase in the Defense budget and turn their backs on welfare for corporations and rich farmers, they are saying to the children of America, "This Nation needs your lunch."

Kids of America, there is a fiscal crunch.
This great Nation now needs your lunch.
To set the budget right, go hungry for one
night.
Don't eat what we could save.
Be brave.
Patriots stand out above the bunch.
Proudly surrender lunch.
Kids of America, nutrition is not for you.
Sacrifice for the rich few.
When tummies hurt, go to bed.
Be a soldier and play dead.
The F–22 then might rescue you.
The Sea Wolf sub might bring hot grub.
Now hear this, there is a fiscal crunch.
This Nation needs your lunch.
Pledge allegiance to the flag.
Mobilize your own brown bag.
The enemy deficit must be defeated.
Nutrition suicide squads are desperately
needed.
Kids of America, there is a fiscal crunch.
This great Nation now needs your lunch.

They demanded your lunch before and you said "no." Your parents said "no." The voters said "no." The Republican majority retreated. Now they are demanding your opportunity to learn what you need to know in order to go into the 21st century.

Kids of America arise.
Don't accept the AT&T lies.
MCI wants the E-rate to die.

A lot of other telecommunications corporations are suing the Federal

Communications Commission. Some misguided chairmen are bullying the FCC. There are people coming to our defense. There are a lot of efforts to try to turn back this terrible action. I want to commend the chairman of the Federal Communications Commission, Mr. Kennard. I want to commend the Secretary of Education, Mr. Riley. They are fighting back and we are going to fight back. Children will not be alone. There are many others who will join us in this fight to make certain that the E-rate is not stolen.

Jesse Jackson has attacked the telecommunications industry in an article which appeared in the Amsterdam News on June 11. I quote from the article:

> A $2.25 billion program designed to provide discount rates to wire poor urban school districts and libraries for the Internet was unveiled Monday at the Chicago headquarters of the Rainbow PUSH Coalition. At a press conference attended by several Members of Congress and the Chicago Public School System, the Reverend Jesse Jackson, the head of the coalition, called the project another example of the growing class gap in America. Companies that are perennially poised to feed at the public trough, Jackson charged, have once again turned their backs on the consumer by passing on the cost of wiring poor urban and rural school districts to their consumers. Although some 30,000 applications for the discount rate have been submitted from school districts and libraries across the country, Jackson noted that the telecommunications industry is lobbying Congress to call a halt to the plan. "This action will essentially resegregate our schools along class lines," Jackson declared. On the other hand, he said that there are schools that are wired for the Internet and its attendant technology. Jackson said that the poor urban and rural children will be shut out of the technology. He said further that the big telecommunications moguls should not be allowed to leave some children behind. "They would rather lock them up than train them in school facilities that are adequately wired for increasing technology," Jackson said.

As my colleagues know, it costs more than $30,000 a year to keep a prisoner in a cell. Why can we not afford some discounts on telecommunications to make certain that our children get the very best possible education? Why is our leadership so blind? Why is there so little vision? At a time like this when America is more prosperous than it has been in decades, why are we attempting to take away opportunity for children to learn what they need to know in order to qualify for the jobs, in order to be leaders in the 21st century?

Mr. Speaker, let me just conclude by reading a letter from William Kennard, and a letter from Richard Riley. I will not read the entire letter, Mr. Speaker.

Mr. Speaker, I enter into the RECORD two letters which appeared in the Washington Post, one from William Kennard, Federal Communications Commission Chairman, and one from the Secretary Richard W. Riley, Secretary of Education, as follows:

A Computer in Every Classroom

(By William E. Kennard)

James Glassman's June 2 op-ed column criticized Congress's decision to make connecting libraries and classrooms to the communications network part of our national concept of universal service. Mr. Glassman said the initiative is not needed. But an enormous disparity in access to communications technology exists in this country, and the Federal Communications Commission is implementing its congressional mandate in a way that supports local control of education and does so without creating large, inefficient bureaucracies.

In the Telecommunications Act of 1996, Congress expanded universal service to include advanced telecommunications services to all public libraries and grades K through 12 in public and private schools. Schools in affluent communities now have double the Internet access of schools in low income or rural areas. Nationwide, only 27 percent of our classrooms, and only 13 percent of classrooms in our neediest areas, have access to an Internet connection. Few poor children will have access to the Internet outside of school, yet studies show that students in classes that use computers not only outperform their peers on standardized tests but show more enthusiasm for communicating and learning. This increase in technology will improve the lives of American schoolchildren.

None of the changes means that local school boards will not decide what technology to acquire and fund. On average, universal service covers only 15 percent of the projected cost of connecting, operating and using networks in classrooms. Each school and library applying for a universal-service discount must pay as much as 80 percent of the total cost of the discounted service.

Universal service discounts can be applied only to the cost of obtaining telecommunications services, establishing network connections and receiving Internet access. School districts also must certify that they have a plan for how to use the discounted services and that the plan has been approved by their state.

Nor is universal service for schools and libraries an entitlement administered by an oversized federal bureaucracy. The private, nonprofit, nonpolitical entity established to administer the program has a staff of 14 people.

Mr. Glassman charged that I and other supporters of universal service to rural America, low-income citizens and classrooms and libraries have opposed efforts by communications carriers to itemize contributions on customer bills. On the contrary, I favor full disclosure by all telephone companies. But companies that say they will pass on "new" charges also should commit to passing on reductions and to disclosing both. I support neither a "hidden tax" nor a "hidden rate increase."

Finally, let's be clear about the cost of universal service for classrooms and libraries. Connecting classrooms and libraries can be achieved for less than $1 per line per month. The rest of the proposed universal service fees continue our 60-year national commitment to affordable and adequate telephone service for rural America and our poorest citizens.

The real issue is not a "hidden tax" but the hidden agenda of Mr. Glassman and others who oppose our national commitment to ensuring that all Americans have access to communications technology as we enter the 21st century.

(By Richard W. Riley)

James Glassman's misleading arguments against the education-rate, or "E-rate," do a disservice to our children and to education.

The E-rate is one of the most important advances in education in our time. It gives schools and libraries significant discounts on the costs of Internet access, distance learning and other on-line learning opportunities. All schools will qualify for some discounts, with schools in our poorest communities receiving the most assistance. The E-rate is designed to help ensure that all children—regardless of race, income or geography—will have the chance to learn and succeed through the use of modern technology.

Mr. Glassman says that 80 percent of schools already are connected to the Internet, but he doesn't say that connection too often goes to one or two rooms, not to every classroom. We must give all children access to the Information Superhighway.

The Telecommunications Act of 1996, which provided for the E-rate, led to reductions in access charges that long-distance companies such as AT&T and MCI pay to connect to local telephone companies. As a result, in the past 11 months, long-distance companies have enjoyed a savings of $2.4 billion, more than offsetting the estimated $2.02 billion cost of the E-rate discount for schools and libraries.

The E-rate has tremendous support among America's educators, parents and business people. About 30,000 schools and libraries have applied. It also has received strong bipartisan support from the National Governors' Association and Congress.

America's economy is in good shape, and our competitive edge in technology is one of the big reasons why. We would be foolish to allow that competitive edge to slip away. The E-rate will help America create the most technically savvy work force in the world and protect our nation's prosperity and democratic values.

Mr. Speaker, I will just quote some of the items from Mr. Kennard's letter:

> In the Telecommunications Act of 1996, Congress expanded universal service to include advanced telecommunications services to all public libraries and grades K through 12 in public and private schools. Schools in affluent communities now have double the Internet access of schools in low-income or rural areas. Nationwide, only 27 percent of our classrooms, and only 13 percent of classrooms in our neediest areas, have access to an Internet connection. Few poor children will have access to the Internet outside of school, yet studies show that students in classes that use computers not only outperform their peers on standardized tests but show more enthusiasm for communicating and learning. This increase in technology will improve the lives of American schoolchildren.
>
> None of the changes means that local school boards will not decide what technology to acquire and fund. On average, universal service covers only 15 percent of the projected cost of connecting, operating and using networks in classrooms. Each school and library applying for a universal-service discount must pay as much as 80 percent of the total cost of the discounted service.
>
> Universal service discounts can be applied only to the cost of obtaining telecommunications services, establishing network connections and receiving Internet access. School districts also must certify that they have a plan for how to use the discounted services and that the plan has been approved by their State.

> Nor is universal service for schools and libraries an entitlement administered by an oversized Federal bureaucracy. The private, nonprofit, nonpolitical entity established to administer the program has a staff of 14 people.

Part of the reason that they have cited for attacking the program is that they say the FCC is creating a bureaucracy. That is only a smoke screen. They really want to get at the heart of the program which will be an ongoing amount of money that the huge telephone communications companies will have to pay to the fund. The greedy companies do not want to share the largess and the benefits that they have had conferred upon them from their Government. They do not want to share that with children.

> Finally, let's be clear about the cost of universal service for classrooms and libraries. Connecting classrooms and libraries can be achieved for less than $1 per line per month. The rest of the proposed universal service fees continue our 60-year national commitment to affordable and adequate telephone service for rural America and our poorest citizens.
>
> The real issue is not a hidden tax but the hidden agenda of those who oppose our national commitment to ensuring that all Americans have access to communications technology as we enter the 21st century.

That is by William Kennard, Chairman, Federal Communications Commission.

Quoting from the letter by Richard Riley, the Secretary of Education:

> The E-rate is one of the most important advances in education in our time. It gives schools and libraries significant discounts on the costs of Internet access, distance learning and other on-line learning opportunities. All schools will qualify for some discounts, with schools in our poorest communities receiving the most assistance. The E-rate is designed to help ensure that all children, regardless of race, income or geography, will have the chance to learn and succeed through the use of modern technology.

I might add that I often encounter when I am talking to parents in my district and school board members and other leaders, they want to know why is education technology so important, why are computers so important?

> We have problems. Our schools are overcrowded. We do not have enough equipment. We do not have enough supplies. We have too many substitute teachers. Why do you want to bother us with another problem of wiring schools for the Internet?

My answer to that is a very simple one. If every city in America had waited until all the sidewalks and all the roads were fixed and repaired and in excellent condition before they decided to build an airport, we would still be waiting for the first airport to be built. What would that mean for modern transportation in the United States? Education cannot stand still while the rest of the world goes forward.

Quoting from Secretary Riley again:

> The E-rate has tremendous support among America's educators, parents and business people. About 30,000 schools and libraries have applied. It also has received strong bipartisan support from the National Governors' Association and Congress.
>
> America's economy is in good shape, and our competitive edge in technology is one of the big reasons why. We would be foolish to allow that competitive edge to slip away. The E-rate will help America create the most technically savvy workforce in the world and protect our Nation's prosperity and democratic values.

Secretary of Education Richard W. Riley.

Mr. Speaker, in a situation which is so self-evident, why do we have bullies who are attempting to wipe out this universal fund for schools and libraries? Why? I talked last week about leadership. Powerful leadership can determine the course of a Nation, the way they behave or the way they are allowed to behave. But leadership is not just the chairmen of committees. The chairmen of committees in America are beholden to the committee members. The committee members are beholden to the rest of the Congress.

If we took a poll among all the Members of Congress, I want the kids of America to know that overwhelmingly the majority of the Members of Congress support the E-rate. Overwhelmingly they support the universal fund for libraries and schools, the Members of Congress. We have had an undemocratic set of positions taken. The committee chairmen have bullied the FCC. They have skirted the democratic process and used their power to force the FCC to steal half of the E-rate from the children of America.

Those committee chairmen need to be challenged. Any leadership that will not accept the will of the Congress should be challenged. We will challenge it on this floor. We want you to join us. Anybody who says that this is not good for America, that we cannot afford it, we have unprecedented prosperity and the telecommunications companies are enjoying that prosperity. Also they are in a great position as a result of the Telecommunications Act of 1996. Why are they so mean? Why do they want to steal from the children of America?

We have coming to the floor, next week probably, something called the American Competitiveness Act. I have talked about that last week, too. The American Competitiveness Act, and this has already passed the other body, primarily this act calls for giving the jobs that our children and our retrained workers ought to be having to foreigners. This act wants to increase the quota for professionals who know computer programming and computer science to come into this country. They have a large number of vacancies. They want to fill the vacancies by bringing in outsiders, instead of revamping the education system of America so that we will always have all of the information technology workers that we need.

This American Competitiveness Act has a counterpart in the Judiciary Committee of the House. They do not even go as far as this act goes. At least in this act some people were able to prevail on the committee to enlarge it into including a small portion for training. There is some money in here for scholarships and for retraining our unemployed workers. That was added at the insistence of the Democrats on the committee in the Senate.

□ 2000

But the House Judiciary bill does not have any training money in it. They are just going to increase the quota, increase the number of immigrants who come in who are professionals who have knowledge of computer science. Instead of giving the jobs to our people, they will be giving them to others.

Most of these people come from English-speaking countries because even though they have knowledge of computer science in central Europe and Russia, the former Soviet Union, those people cannot come in as efficiently because they have to learn the English language. So the English speaking countries like India and Great Britain and many others, they will be the ones who send the computer professionals, and 30,000 will be brought in this year, and after that 20,000 per year. And since they are not increasing the overall immigration quota, other immigrants who come in for other reasons are going to have their quota cut. They are going to cut the quota somewhere else in order to increase the professionals who come in.

Large numbers will come in from India because India had a set of leaders who had vision. They started training their young people, their students, in computer science long time ago, and they have established the largest body of computer expertise in the world. We will be importing large numbers from India to take the positions that are vacant now in information technology.

It is ironical that a lot of criticism has been made on this floor and by the President of India exploding a nuclear device, a nuclear bomb. The same company that has a great role in the India nuclear weapons program is a company that will be providing most of the workers from India to come into this country to take the jobs and information technology. They have provided them in the past, and they are going to provide them now in the future.

In other words, many of the people came in in the past got know-how expertise that they took back and applied in this nuclear weapons program for India, and we are acting in a very hypocritical and contradictory way.

The President cut off aid to India. We all made great statements about how India has violated the spirit of a nuclear weapons ban, as my colleagues know, but on the other hand we are aiding and abetting the nuclear arms industry in India by bringing in workers to take jobs that ought to go to workers here.

We ought to have a training program. As you have heard before, I offered an amendment to the Higher Education Assistance Act which would have provided a very reasonable training program where colleges and universities would link up with community-based organizations and poor neighborhoods, and they would provide access to computers for the youngsters in low-income families that do not have access to computers. It is a very practical kind of program. The people are ready. They are ready to join 21st century.

Last week, last Saturday, I had what I call a synergy, a town meeting and synergy conference, which brought together people from all parts of my district, and the primary focus of this conference was information technology. I wanted to have kind of a shock awareness of a shock awareness to bring my constituents into an understanding of what is needed if they want to share prosperity, the prosperity of now and the prosperity that is going to expand in the 21st century. The jobs of tomorrow will be jobs related to information technology.

I wanted my constituents to understand that it was a terrible day, raining, you know thunderstorms, and when I saw the weather, I almost gave up and said, you know, we have gone through all this getting ready. We had experts from Bell Atlantic, Cable Vision. We had the Secretary of Commerce bringing us a greeting over video to show them how you can do that from video. We had the New York Technical Institute providing an example of how interactive a video can work. We had a magnificent program plan, and the rain came pouring down, and I was despairing and suddenly behold the auditorium which held 500 people filled up because the desire to know about what is going on in this modern telecommunications-dominated world is so great, and so people came out in the rain. Five hundred people came out to participate in the program which was designed to introduce a shock awareness of what is going on in the information technology world.

You know, we had the assistance of large numbers of people who want to get involved and who are involved, and I have a group called ET-3 made up of people who call on the national groups involved in information technology. We have booklets there from the Information Technology Association of America which showed, you know, in graphic detail what jobs are available. We had a group called American School Directory which shows schools how to get themselves a web site for nothing. American School Directory provides a web site for nothing, and the schools have a tool kit which enables the teachers and the students to put together their own web site.

A lot of marvelous things happen, and the New York State Department of Education announced that day that $23 million is going to be provided to the School Board of Education of New York. It is not State or city money, it is money that we voted on here in Congress. The Telecommunications Literacy Act provided money to States, and New York State is just releasing the money to the local school districts and New York City Board of Education will get $23 million. Most of that will be devoted to training teachers and school personnel in how to utilize the information technology.

A lot of good things took place, but the point I am making is that we have a hunger for people out there in the low-income community. Most of them came from the low-income area of my district to join the 21st century and be knowledgeable and be able to survive there and prosper there. We have a group called the Hussein Institute of Technology, as I mentioned before, and they helped me to wire these 23 schools, most of them with assistance of Hussein Institute of Technology and the Bell Atlantic group that provides telephone service to the Brooklyn area. We have wired using volunteers these 22 out of 70 schools in my district.

Our goal is to get everyone in 70 schools wired by December 31 of this year. We are going to do it with volunteers, if we have to, but we like to have the process speeded up by having some funds from the universal fund rate, by having the knowledge out there among the schools that once you get hooked up to the Internet, you do not have a cost that is going to be burdensome. Many schools are reluctant to get wired because, if they are wired to the Internet, they have to pay an ongoing cost. What the E-rate does is pays a big percentage of that cost for schools in my district. None of them would get less than an 80 percent discount because they have so many poor youngsters attending.

You are talking about 80 percent discount to practically all the schools in my district for ongoing telecommunication services. That is what is at stake here. They will lose it, and if that is lost, the budgets of the school districts will not be able to bear this. They will back up and say, look, equipment needs are greatest, we need chalk, we need paper, we need so many other things. We are not going to make a commitment of $1, of ten cents. We would be willing to make a commitment of ten cents out of every dollar to telecommunication, but we are not going to pay the whole cost, we cannot afford it. And you have a complete choking of the process of bringing opportunity to the school districts.

I said we need leadership. At a time like this we have a window of opportunity. We are not at war in America, we need leadership. The kids of America are to understand that our leadership is not preoccupied with defending the country militarily. We have unprecedented prosperity in the country. Why can we not open our eyes and understand that investments in education at a time like this is most important?

The Roman empire, which was just a village compared with the American colossus, the American colossus is something beyond an empire, and Rome, as great as it was and as dominant as it was in this time was a small thing. But the Roman empire, they invented a lot of technological devices that we still have. The Romans invented concrete, and the Romans were great masters of technology. They built huge cities. They built the coliseum which still stands, the ruins still stand on solid foundation after thousands of years. The Romans had achieved prosperity in that time comparable to the kind of prosperity we have now.

But the Roman leadership failed, and Rome declined because the leadership was not up to it consistently. At a time when the Roman leadership was at its height technologically and they built the great coliseum, what did they use the coliseum for? Their sport, their favorite sports, were blood sports. They like to see gladiators killing each other. You know, they were unevenly developed. They had great technological development. They were masters of warfare. Nobody could match them militarily. Nobody could match them technologically. But there was something wrong with their compassion and their vision, and they enjoyed watching people kill each other as a sport: Gladiators.

When they were not watching gladiators, they enjoyed watching wild animals tear human beings apart. It is not a fable that the Romans threw the Christians to the lions. They did that. They did that to more than just the Christians. They enjoy watching people being devoured by beasts. The coliseum with all of its intricate engineering has places underneath they engineered for beasts to be put in cages and beasts to be guided out where the people, the technologically-advanced Romans, could enjoy watching the animals rip people apart.

Let us not in America fall into that deep trench of having our technological development outpace our compassion. Let us not steal Internet from the children. Let us stop AT&T. Let us stop all of those who want to steal Internet from the kids in America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEWIS of California (at the request of Mr. ARMEY) for today until 7 p.m. Wednesday, June 17, on account of attending a funeral.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today through Tuesday, June 23, on account of family reasons.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

(The following Members (at the request of Mr. MCHUGH) to revise and extend their remarks and include extraneous material:)

Mr. SCARBOROUGH, for 5 minutes, today.

Mrs. LINDA SMITH of Washington, for 5 minutes, today.

Mr. HORN, for 5 minutes, on June 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous material:)

Mr. MURTHA.
Mr. BONIOR.
Mrs. MALONEY of New York.
Mr. VISCLOSKY.
Mr. SHERMAN.
Mr. KIND.
Mr. SERRANO.
Ms. SANCHEZ.
Mr. HAMILTON.
Mr. SCHUMER.
Mr. TURNER.
Mr. SABO.
Mr. FAZIO of California.
Mr. KILDEE.
Mr. KLECZKA.

(The following Members (at the request of Mr. OWENS) and to include extraneous material:)

Mr. PACKARD.
Mr. ACKERMAN.
Mr. PAYNE.
Mr. FORD.
Mrs. MORELLA.

(The following Members (at the request of Mr. MCHUGH) and to include extraneous material:)

Mr. SMITH of Oregon.
Mr. RADANOVICH.
Mr. LEWIS of California.
Mr. SMITH of New Jersey.
Mr. FRELINGHUYSEN.
Mr. GILMAN, in two instances.
Mr. DELAY.
Mr. LEACH.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 17, 1998, at 10 a.m.

HOUSE BILLS AND JOINT RESOLUTION APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills and a joint resolution of the House of the following titles:

On February 11, 1998:

H.R. 1271. An act to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 and 1999, and for other purposes.

H.R. 3042. An act to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes.

On March 20, 1998:

H.R. 595. An act to designate the Federal building and United States courthouse located at 475 Mulberry Street in Macon, Georgia, as the "William Augustus Bootle Federal building and United States Courthouse".

H.R. 3116. An act to address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes:

On April 24, 1998:

H.R. 1116. An act to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District.

H.R. 2843. An act to direct the Administrator of the Federal Aviation Administration to reevaluate the equipment in medical kits carried on, and to make a decision regarding automatic external defibrillators to be carried on, aircraft operated by air carriers, and for other purposes.

H.R. 3226. An act to authorize the Secretary of Agriculture to convey certain lands and improvements in the State of Virginia, and for other purposes.

On May 1, 1998:

H.R. 3579. An act making emergency supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes.

On May 11, 1998:

H.J. Res. 102. Joint Resolution expressing the sense of the Congress on the occasion of the 50th anniversary of the founding to the modern State of Israel and reaffirming the bonds of friendship and cooperation between the United States and Israel.

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

On June 1, 1998:

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

On June 9, 1998:

H.R. 2400. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

SENATE BILLS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills of the Senate of the following titles:

On February 6, 1998:

S. 1575. An act to rename the Washington National Airport located in the District of Columbia and Virginia as the "Ronald Reagan Washington National Airport".

On February 11, 1998:

S. 1349. An act to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel PRINCE NOVA, and for other purposes.

On February 13, 1998:

S. 1564. An act to provide redress for inadequate restitution of assets seized by the United States Government during World War II which belonged to victims of the Holocaust, and for other purposes.

On March 6, 1998:

S. 927. An act to reauthorize the Sea Grant Program.

On March 9, 1998:

S. 916. An act to designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the "Blaine H. Eaton Post Office Building".

S. 985. An act to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the "Larry Doby Post Office".

On March 20, 1998:

S. 347. An act to designate the Federal building located at 61 Forsyth Street SW., in Atlanta, Georgia, as the "Sam Nunn Atlanta Federal Center".

On April 6, 1998:

S. 758. An act to make certain technical corrections to the Lobbying Disclosure Act of 1995.

On April 13, 1998:

S. 750. An act to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.

On April 21, 1998:

S. 419. An act to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

On April 24, 1998:

S. 493. An act to amend title 18, United States Code, with respect to scanning receivers and similar devices.

On April 27, 1998:

S. 1178. An act to amend the Immigration and Nationality Act to modify and extend the visa waiver pilot program, and to provide for the collection of data with respect to the number of nonimmigrants who remain in the United States after the expiration of the period of stay authorized by the Attorney General.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9642. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Mediterranean Fruit Fly; Addition To Quarantined Areas [Docket No. 97–056–13] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9643. A letter from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting the Department's final rule—Popcorn Crop Insurance Regulations, and Common Crop Insurance Regulations, Popcorn Crop Insurance Provisions (RIN: 0563–AB48) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9644. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Tobacco Inspection; Growers' Referendum Results [Docket No. TB–97–16] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9645. A letter from the Assistant Secretary of State for Legislative Affairs, Department of State, transmitting on behalf of the Secretary of State, the Annual Report on the Panama Canal Treaty for Fiscal Year 1997, pursuant to 22 U.S.C. 3871; to the Committee on National Security.

9646. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Antiterrorism Training [DFARS Case 96–D016] received June 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9647. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Contract Distribution to Defense Finance and Accounting Service Offices [DFARS Case 97–D039] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9648. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Contractor Use of Nonimmigrant Aliens-Guam [DFARS Case 97–D318] received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9649. A letter from the Director, Administration and Management, Department of Defense, transmitting the Department's final rule—Private Organizations on DoD Installations [DoD Instruction 1000.15] (RIN: 0790–AG53) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9650. A letter from the Under Secretary for Personnel and Readiness, Secretary of Defense, transmitting the report on sexual harassment complaints filed pursuant to Section 591(a), along with the results and timelinesss of investigations concerning those complaints; to the Committee on National Security.

9651. A letter from the Secretary of the Treasury, transmitting the annual report on the operations of the Exchange Stabilization Fund (ESF) for fiscal year 1997, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Banking and Financial Services.

9652. A letter from the Deputy Under Secretary of Defense, International and Commercial Programs, Department of Defense, transmitting describing the activities of the Defense Production Act (DPA) Title III fund for Fiscal Year 1997; to the Committee on Banking and Financial Services.

9653. A letter from the Acting Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education, transmitting notice of the Final Funding Priorities for Fiscal Years 1998–1999 for three Rehabilitation Research and Training Centers and four Rehabilitation Engineering Research Centers, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

9654. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Notice of Final Funding Priorities for Fiscal Years 1998–1999 for Certain Centers—received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9655. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Safety Of Nuclear Explosive Operations [DOE O 452.2A] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9656. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Departmental Materials Transportation And Packaging Management [DOE O 460.2–1] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9657. A letter from the CFO & Plan Administrator, First South Production Credit Association, transmitting the annual report of the Production Credit Association Retirement Plan for the year ending December 31, 1997, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

9658. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Voluntary Early Retirement Authority (RIN: 3206–AI25) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9659. A letter from the Secretary of Transportation, transmitting a report on Air Cargo Security, pursuant to Public Law 104—264; to the Committee on Transportation and Infrastructure.

9660. A letter from the Chair, Medicare Payment Advisory Commission, transmitting the report entitled "Context for a Changing Medicare Program"; jointly to the Committees on Ways and Means and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PACKARD: Committee on Appropriations. H.R. 4059. A bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–578). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 471. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes (Rept. 105–579). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 472. Resolution providing for consideration of the bill (H.R. 3097) to terminate the Internal Revenue Code of 1986 (Rept. 105–580). Referred to the House Calendar.

Mr. MCDADE: Committee on Appropriations. H.R. 4060. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–581). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 463. Resolution to establish the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China; with an amendment (Rept. 105–582). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHUSTER (for himself and Mr. Duncan):

H.R. 4057. A bill to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SHUSTER (for himself, Mr. Duncan, and Mr. Lipinski):

H.R. 4058. A bill to amend title 49, United States Code, to extend the aviation insurance program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PACKARD:

H.R. 4059. A bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

By Mr. MCDADE:

H.R. 4060. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

By Mr. COLLINS (for himself, Mr. McIntyre, Mr. Bartlett of Maryland, Mr. Dixon, Mr. Bonilla, Mr. Knollenberg, and Mr. Holden):

H.R. 4061. A bill for the relief of the survivors of the 14 members of the Armed Forces and the one United States civilian Federal employee who were killed on April 14, 1994, when United States fighter aircraft mistakenly shot down 2 helicopters in Iraq; to the Committee on the Judiciary.

By Mr. LEACH:

H.R. 4062. A bill to provide for the study of derivatives regulation, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committees on Commerce, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA:

H.R. 4063. A bill to amend the Rehabilitation Act of 1973 to provide for research and development of assistive technology and universally designed technology, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REDMOND (for himself, Mrs. Chenoweth, Mr. Crapo, Mr. Skeen, Mr. Towns, Mr. Condit, Mr. Romero-Barcelo, Mr. Hastings of Florida, Mr. Watts of Oklahoma, Mrs. Mink of Hawaii, and Mr. Calvert):

H.R. 4064. A bill to provide for a Native American Veterans' Memorial; to the Committee on Resources.

By Mr. SCARBOROUGH (for himself, Mr. Salmon, Mr. Paxon, Mr. Souder, Mr. Ensign, Mrs. Chenoweth, Mr. Hayworth, Mr. Christensen, and Mr. Neumann):

H.R. 4065. A bill to suspend collections for the connection of schools and libraries to the Internet, and for other purposes; to the Committee on Commerce.

By Mr. SMITH of New Jersey:

H.R. 4066. A bill to prohibit States from imposing a family cap under the program of temporary assistance to needy families; to the Committee on Ways and Means.

By Mr. TAUZIN (for himself and Mr. Markey):

H.R. 4067. A bill to establish the Commission for the Future of Public Broadcasting and authorize appropriations for the Corporation for Public Broadcasting, and for other purposes; to the Committee on Commerce.

By Mr. YOUNG of Alaska:

H.R. 4068. A bill to make certain technical corrections in laws relating to Native Americans, and for other purposes; to the Committee on Resources.

By Mr. SABO (for himself, Mr. Vento, Mr. Oberstar, Mr. Ramstad, and Mr. Peterson of Minnesota):

H.J. Res. 122. A joint resolution proclaiming Leif Ericson to be an honorary citizen of the United States; to the Committee on the Judiciary.

By Mr. OBEY (for himself, Mr. Stenholm, and Mr. Minge):

H. Res. 473. A resolution providing for consideration of H.R. 3580; to the Committee on Rules.

By Mr. RIGGS:

H. Res. 474. A resolution expressing the Boy Scouts of America freedom of association; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

335. The SPEAKER presented a memorial of the Senate of the State of New Jersey, relative to Senate Resolution 11 urging Congress and the President to terminate the services of Lordship Industries, Inc. of Hauppage, New York as the nation's primary manufacturer of United States Military Medals; to the Committee on National Security.

336. Also, a memorial of the House of Representatives of the State of Oklahoma, relative to House Concurrent Resolution No. 1069 memorializing Congress to direct the United States Consumer Product Safety Commission to adopt an industry standard for bunk beds; and directing distribution; to the Committee on Commerce.

337. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution 98–1039 memorializing that BLM lands continue to be managed to allow for multiple uses in accordance with existing resource management plans until such time as plan amendments have been lawfully adopted; to the Committee on Resources.

338. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution 98–1031 memorializing that the General Assembly endorses the modified Animas-La Plata Project proposed by the two Colorado Ute Tribesand their non-Indian neighbors; to the Committee on Resources.

339. Also, a memorial of the Legislature of the Commonwealth of The Mariana Islands, relative to House Resolution No. 11–40 Urgently and respectfully requesting President Bill Clinton and the Legislative leadership of the U.S. Congress to waive and/or eliminate the matching fund requirements being provided or granted under the Covenant to help foster and expedite infrastructure development in the CNMI; to the Committee on Resources.

340. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution No. 16 memorializing the Congress of the United States to support and adopt legislation to provide for the sharing of revenues generated through mineral exploration on the federal Outer Continental Shelf with coastal states and territories pursuant to a formula recommended by the Outer Continental Shelf Policy Committee; to the Committee on Resources.

341. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 35 memorializing the Congress of the United States to support and adopt legislation to provide for the sharing with coastal states of revenues generated through mineral exploration on the federal Outer Continental Shelf and territories pursuant to a formula recommended by the Outer Continental Shelf Policy Committee; to the Committee on Resources.

342. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution 98–1036 memorializing the United States Congress to enact and the President to sign the Aircraft Repair Station Safety Act of 1997; to the Committee on Transportation and Infrastructure.

343. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 42 urging the federal government, who is generating over three billion dollars annually from royalties and lease sales in the Gulf of Mexico, to help fund the necessary infrastructure improvements to access the riches of the Gulf of Mexico; to the Committee on Transportation and Infrastructure.

344. Also, a memorial of the Senate of the State of New Jersey, relative to Senate Resolution 27 memorializing the opposition of any reduction in the budget of the United States Department of Veterans Affairs which may negatively affect the quality of veterans' health care in this State; to the Committee on Veterans' Affairs.

345. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution 98–1020 urging the Congress of the United States to enact legislation to abolish the Internal Revenue Code by December 31, 2000, and to replace it with a new system of federal taxation; to the Committee on Ways and Means.

346. Also, a memorial of the House of Representatives of the State of Ohio, relative to House Resolution No. 397 memorializing the Congress of the United States to enact legislation that sunsets Title 26 of the United States Code, otherwise known as the Internal Revenue Code, and to develop and enact a new tax code for the American people by December 31, 2001; to the Committee on Ways and Means.

347. Also, a memorial of the Senate of the State of Tennessee, relative to Senate Resolution No. 705 urging the Congress of the United States not to take action to mandate competition in the retail or wholesale of electricity without special and careful consideration of the interests of the people of the Tennessee Valley; to the Committee on Ways and Means.

348. Also, a memorial of the Senate of the State of Tennessee, relative to Senate Resolution No. 148 urging the Congress of the United States to address this important issue by not adopting the proposed amendments to the Stark II regulations; to the Committee on Ways and Means.

349. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution 41 memorializing the Congress of the United States to support reauthorization of and funding for the Violence Against Women Act of 1998; jointly to the Committees on the Judiciary and Education and the Workforce.

350. Also, a memorial of the Senate of the State of Wisconsin, relative to Senate Joint Resolution 11 urging President Clinton and the U.S. Congress to uphold the federal government's commitment to accept and take title to civilian spent nuclear fuel on January 31, 1998, through enactment of appropriate funding resolutions and legislation that authorize and fund the development of a federal centralized, temporary storage facility for spent nuclear fuel that will accept spent nuclear fuel between January 31, 1998 and the beginning of commercial operation of the permanent federal nuclear waste repository; jointly to the Committees on Commerce, Transportation and Infrastructure, and Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 146: Mr. Duncan.

H.R. 225: Ms. Lofgren.

H.R. 616: Mr. Borski.

H.R. 766: Ms. Lee.

H.R. 836: Mr. Dreier, Mr. Fox of Pennsylvania, and Mr. Hill.

H.R. 979: Mr. Engel, Mr. Abercrombie, Mr. Baker, Mr. Meeks of New York, and Mr. Thune.

H.R. 1126: Mr. Markey, Mr. Shaw, and Mr. Weller.

H.R. 1382: Mr. Edwards, Ms. Lee, Mrs. Thurman, Mr. Olver, Mr. Hinchey, and Mr. Manton.

H.R. 1401: Mr. Portman.

H.R. 1531: Mr. Shays, Mr. Franks of New Jersey, Mr. Bilbray, and Mr. Romero-Barcelo.

H.R. 2023: Mr. Serrano, Mr. Torres, Mr. Thompson, and Mr. Markey.

H.R. 2224: Mr. Torres.

H.R. 2351: Ms. Kaptur.

H.R. 2477: Mr. Boswell.

H.R. 2509: Mr. Boswell.

H.R. 2524: Mr. Thompson and Mr. Petri.

H.R. 2538: Ms. Jackson-Lee, Mr. Burton of Indiana, Mr. Stump, Mr. Foley, and Mr. Weldon of Florida.

H.R. 2661: Mr. PEASE, Mr. FOLEY, Mr. HASTINGS of Washington, Mr. HERGER, and Mr. ROGERS.

H.R. 2733: Mr. ABERCROMBIE, Mr. COSTELLO, Mr. THOMAS, Mr. WAXMAN, and Mr. LEWIS of Kentucky.

H.R. 2754: Mr. MARKEY.

H.R. 2868: Mr. HOSTETTLER.

H.R. 2869: Mr. MCINTOSH.

H.R. 2873: Mr. MCINTOSH and Mr. TALENT.

H.R. 2937: Mr. MCCOLLUM.

H.R. 3003: Mr. BRYANT.

H.R. 3107: Mr. SALMON and Mr. INGLIS of South Carolina.

H.R. 3152: Mr. PETRI and Mr. PAUL.

H.R. 3156: Mr. LEACH and Mr. SERRANO.

H.R. 3166: Mrs. NORTHUP.

H.R. 3259: Mr. DOYLE, Mr. FAZIO of California, and Mr. BROWN of Ohio.

H.R. 3304: Ms. WOOLSEY and Mr. WELLER.

H.R. 3499: Mr. STOKES, Ms. FURSE, and Mr. FALEOMAVAEGA.

H.R. 3514: Mr. ROTHMAN.

H.R. 3523: Mr. STUMP, Ms. DUNN of Washington, Mr. SPRATT, Mr. BARRETT of Nebraska, and Mrs. CLAYTON.

H.R. 3526: Mr. ROTHMAN.

H.R. 3553: Mr. WAXMAN and Ms. WOOLSEY.

H.R. 3567: Mr. PALLONE, Ms. STABENOW, and Mr. FAWELL.

H.R. 3601: Mr. KLECZKA and Mr. MANTON.

H.R. 3632: Mr. BOEHLERT.

H.R. 3633: Mr. SOLOMON and Mr. OXLEY.

H.R. 3636: Mr. ALLEN.

H.R. 3641: Mr. BOEHNER.

H.R. 3654: Mr. HASTERT and Mr. GUTKNECHT.

H.R. 3682: Mr. COOK, Mr. HEFLEY, and Mr. PAXON.

H.R. 3704: Mr. FARR of California and Mr. PETERSON of Minnesota.

H.R. 3778: Mr. SANDLIN.

H.R. 3783: Mr. SMITH of Texas, Mr. HOBSON, Mr. PETERSON of Pennsylvania, Mr. KASICH, and Mr. BILIRAKIS.

H.R. 3833: Mr. WEXLER, Mr. OLVER, Mr. MARKEY, Mr. CLAY, and Ms. CHRISTIAN-GREEN.

H.R. 3853: Mr. GINGRICH, Mr. HASTERT, Mr. MCCOLLUM, Mr. BARTON of Texas, Ms. GRANGER, Mr. MICA, Mrs. MYRICK, Mr. PAPPAS, and Mr. PETERSON of Pennsylvania.

H.R. 3861: Mr. WATTS of Oklahoma.

H.R. 3862: Mrs. JOHNSON of Connecticut and Mr. ENGEL.

H.R. 3875: Mr. BERMAN and Mr. LANTOS.

H.R. 3888: Mr. GREENWOOD, Mr. ADERHOLT, and Mr. LEWIS of Kentucky.

H.R. 3938: Mr. PAUL and Mr. THOMPSON.

H.R. 3949: Mr. JOHN, Mr. ENGLISH of Pennsylvania, Mr. CAMP, Mr. GREEN, Mr. DOOLITTLE, Mr. CALVERT, Mr. STUMP, and Mr. GILLMOR.

H.R. 3972: Mrs. FOWLER and Mr. SCHUMER.

H.R. 4006: Mr. HOEKSTRA, Mr. CHRISTENSEN, Mr. PITTS, Mr. ISTOOK, Mr. KING of New York, Mr. RAHALL, Mr. WATTS of Oklahoma, Mr. TIAHRT, Mr. LATOURETTE, Mr. STUPAK, Mr. HILL, Mr. HUTCHINSON, Mr. LEWIS of Kentucky, Mr. SMITH of New Jersey, Mr. TALENT, Mr. COBURN, Mr. MCCOLLUM, and Mr. BALLENGER.

H.R. 4007: Mr. DEUTSCH, Mr. CALVERT, Mr. CUNNINGHAM, Mr. MEEHAN, and Mr. STARK.

H. Con. Res. 52: Mr. UPTON, Mr. GOODLATTE, and Mr. WISE.

H. Con. Res. 203: Mr. CRAMER, Mr. TOWNS, Mr. LEVIN, Mr. GREENWOOD, Ms. BROWN of Florida, Mrs. EDDIE BERNICE JOHNSON of Texas, Mr. WATTS of Oklahoma, Mr. MENENDEZ, Mr. WELLER, and Mr. SMITH of New Jersey.

H. Con. Res. 237: Ms. SLAUGHTER and Mrs. MYRICK.

H. Con. Res. 290: Mr. GOODE and Mr. BOSWELL.

H. Res. 37: Mr. FALEOMAVAEGA, Mr. WEXLER, and Mr. THUNE.

H. Res. 312: Ms. LOFGREN and Mrs. LINDA SMITH of Washington.

H. Res. 313: Mr. SHAYS.

H. Res. 401: Mr. MALONEY of Connecticut.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3396: Mr. QUINN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. DELAY

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 78: Add at the end the following new title:

TITLE —SENSE OF CONGRESS REGARDING APPOINTMENT OF INDEPENDENT COUNSEL

SEC. 01. SENSE OF CONGRESS REGARDING APPOINTMENT OF INDEPENDENT COUNSEL TO INVESTIGATE CLINTON ADMINISTRATION.

(a) FINDINGS.—Congress finds as follows:

(1) The Independent Counsel Act (chapter 40 of title 28, United States Code) was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials.

(2) Section 591(a)(1) of title 28, United States Code, requires the Attorney General of the United States to conduct a preliminary investigation whenever the Attorney General finds specific and credible evidence that a covered person "may have violated any Federal criminal law ...".

(3) Under the statute (28 U.S.C. 591(b)), the President is a covered person.

(4) The bribery statute (chapter 11 of title 18, United States Code) prohibits Federal officials, including the President, from receiving any benefit in return for any official action.

(5) Numerous published reports describe circumstances that suggest that President Clinton may have received campaign contributions in return for official government actions he took on behalf of the contributors.

(6) Any such scheme may also violate other statutes including the following sections of title 18, United States Code: section 371 (conspiracy to defraud the United States), section 600 (promising of government benefits in return for political support), section 872 (extortion by government officials), and sections 1341, 1343, and 1346 (mail and wire fraud by defrauding the United States of honest services).

(7) On February 13, 1997, the Washington Post reported that the Department of Justice had obtained intelligence information that the government of the People's Republic of China had sought to direct contributions from foreign sources to the Democratic National Committee ("DNC") before the 1996 presidential campaign.

(8) In March 1995, Johnny Chung, a Democratic National Committee trustee and a businessman from Torrance, California, brought six officials of the government of the People's Republic of China and its state-owned companies, including Hongye Zheng, Chairman of the China Council for the Promotion of International Trade, and Yang Zanzhong, President of China Petro-Chemical Corp., to hear the President give his regular Saturday radio address.

(9) On March 8, 1995, Johnny Chung came to the First Lady's office in the White House seeking various favors for the officials, including admission to the radio address.

(10) Aides to Mrs. Clinton, Margaret Williams and Evan Ryan, suggested that Mr. Chung could get the favors if he helped Mrs. Clinton with her debts to the DNC for holiday parties.

(11) The next day, Mr. Chung gave Ms. Williams a check for $50,000, and received a lunch in the White House mess, a picture with Mrs. Clinton, and admission to the radio address for himself and the officials. Id. Records indicate that on Friday, March 17, 1995, Mr. Chung donated $50,000 to the Democratic National Committee and on April 12, 1995, he donated an additional $125,000.

(12) In commenting on the solicitation in the White House by the First Lady's aides, Mr. Chung said, "I see the White House is like a subway: You have to put in coins to open the gates."

(13) On February 6, 1996, Wang Jun attended a coffee at the White House with President Clinton. Mr. Wang is the head of the state-owned company, China International Trade and Investment Corp. ("CITIC"), a $21,000,000,000 conglomerate, and its subsidiary Poly Technologies. Poly Technologies is the primary arms dealing company for the Chinese military. Mr. Wang gained access to the coffee through Charles Yah Lin Trie, an old Arkansas friend of President Clinton and Democratic Party fund-raiser.

(14) After the Wang visit came to public attention, President Clinton said he remembered "literally nothing" about the meeting, but he conceded that it was "clearly inappropriate."

(15) Mr. Trie had a number of interesting sources of funds. Among other things, in the spring of 1996, Mr. Trie delivered suspicious donations totaling $789,000 to the President's legal defense fund.

(16) Mr. Trie made the donations on three dates: March 21, 1996, $460,000; April 24, 1996, $179,000; and May 17, 1996, $150,000. These donations have now been returned. Recent reports reveal that most of this money came from members of a Taiwan-based religious sect, Suma Ching Hai. President and Mrs. Clinton knew about these suspicious donations at the time, and they concurred in efforts to conceal them until after the election. Notwithstanding that knowledge, President Clinton continued to grant favors to Mr. Trie.

(17) On April 19, 1996, President Clinton appointed Mr. Trie to the Commission on U.S. Pacific Trade and Investment Policy. On April 26, President Clinton signed a letter to Mr. Trie relating to U.S. policy in putting carriers in the Taiwan Straits.

(18) During 1995 and 1996, Mr. Trie received a series of wire transfers in amounts of $50,000 and $100,000 from the Chinese government's state-owned bank, the Bank of China.

(19) Recent Senate testimony reveals that Mr. Trie received $1,400,000 in wire transfers from abroad from 1994 through 1996. At least $220,000 of this money has been traced into the treasury of the DNC.

(20) Of the total Mr. Trie received from overseas, $905,000 came from Ng Lap Seng, a Macao-based businessman who was Trie's partner and who was also known as Mr. Wu. Mr. Ng is an adviser to the Chinese Communist government. Although he is a foreign national who cannot legally make donations to U.S. campaigns, he gave money through two employees to attend a dinner for big contributors with President Clinton on February 16, 1995.

(21) Returning to Mr. Wang's visit to the coffee with President Clinton, just four days before the meeting, Mr. Wang's arms trading company received special permission to import 100,000 assault weapons, along with millions of bullets, into the United States despite the assault weapons ban.

(22) On the day of the coffee, Democratic fund-raiser Ernest G. Green, another Arkansas friend of the President's, delivered a $50,000 donation to the Democratic National Committee. Mr. Green, a managing director at Lehman Brothers, had never before given such a large contribution to the Democratic Party. Mr. Wang used a letter of invitation written by Mr. Green to obtain a visa for Mr. Wang's trip to the White House for coffee. After delivering the check, Mr. Green met with Mr. Wang before Mr. Wang went to the White House.

(23) Several lengthy reports in the Chicago Tribune and the Washington Post detail the depths of Mr. Wang's international arms dealing activities.

(24) Beginning in the summer of 1994, Federal agents began an undercover sting investigation of Poly's efforts to smuggle weapons into the United States. On March 8, 1996, just a month after Mr. Wang's visit with President Clinton, the President of Poly's U.S. subsidiary, Robert Ma, sold his house in Atlanta and fled the country.

(25) On March 18, 1996, Federal agents surreptitiously seized a Poly shipment of 2,000 AK-47 assault rifles in Oakland, California. These weapons had left China on February 18 aboard a vessel belonging to another state-owned company, the Chinese Ocean Shipping Company ("COSCO"). Id. In May, Federal agents hastily shut down the operation when they learned that the Chinese had been tipped to its existence. The stories indicate that the Department is currently investigating to determine the source of the leak.

(26) Smuggling the weapons into the United States has not harmed the fortunes of COSCO. In April 1996, with the support of the Clinton Administration, COSCO signed a lease with the City of Long Beach, California to rent a now defunct navy base in Long Beach, California. In addition, the Clinton Administration has allowed COSCO's ships access to our most sensitive ports with one day's notice rather than the usual four, and it has given COSCO a $138,000,000 loan guarantee to build ships in Alabama. The Administration has made all of these concessions since the coffee with Mr. Wang. That COSCO participated in the shipment of illegal arms does not appear to have dampened the Administration's enthusiasm in any of these matters.

(27) These circumstances strongly suggest that there was a quid pro quo, and that the contributions from Mr. Chung, Mr. Green, and Mr. Trie, may have come from the Chinese government in return for the various government favors described. The President met directly with the Chinese officials whom Mr. Chung and Mr. Trie brought to the White House, and he knew about the suspicious circumstances of Mr. Trie's donations. If the President knew about a quid pro quo, he may have violated section 201 of title 18, United States Code, and the other statutes cited above.

(28) Mr. Chung has admitted that a large portion of the money he raised for the Democrats originated with the People's Liberation Army in China. He has identified the conduit as a Chinese aerospace executive, based in Hong Kong, who is also the daughter of General Liu Huaqing, who was China's top military commander at the time.

(29) Closely related to the allegations concerning the government of the People's Republic of China are the allegations relating to the Lippo Group.

(30) The Lippo Group ("Lippo") is a multibillion dollar real estate and financial conglomerate based in Indonesia. The Riady family, an ethnic Chinese family living in Indonesia, owns and controls Lippo. The patriarch of the Riady family is Mochtar Riady. His son, James, has known President Clinton since the late 1970s when he interned with an investment bank in Little Rock, Arkansas. Since President Clinton began his first presidential campaign in 1991, members of the Riady family and Lippo's subsidiaries and executives have contributed more than $475,000 to the Democratic Party and its candidates. Lippo and the Riady family have numerous business interests in China and Hong Kong.

(31) In the early 1980s, John Huang, the former Commerce Department official at the center of this controversy, worked for Lippo in Little Rock at the Worthen Bank, in which Lippo had a large stake. In 1986, Mr. Huang moved to Los Angeles to help run the Lippo Bank, which has had a number of problems with banking regulators. In that role, he became Lippo's chief representative in the United States.

(32) Mr. Huang began raising illegal contributions for the Democratic Party as early as 1992. The recent Senate Governmental Affairs Committee hearings revealed that in August 1992 Huang gave a $50,000 contribution to the DNC through Hip Hing Holdings, a U.S.-based Lippo subsidiary. He then requested and received reimbursement for the contribution from Lippo's Indonesian headquarters. Senator Lieberman said, "Here's a clear trail of foreign money coming into United States elections."

(33) Maria L. Haley, a presidential aide, recommended Mr. Huang for a job at the Commerce Department in October 1993. In January 1994 while he was still an employee of Lippo, Mr. Huang received a top-secret security clearance without a full background check.

(34) On July 18, 1994, he became principal deputy assistant secretary for international economic policy in the Department of Commerce. He received a $780,000 severance payment from Lippo. David J. Rothkopf, the deputy undersecretary of commerce, and Jeffrey Garten, the undersecretary, expressed misgivings about Mr. Huang's suitability for the job. In recent Senate testimony, Mr. Garten said that Mr. Huang was "totally unqualified" for the job and that "he should not be involved in China at all." Mr. Rothkopf has said his complaints were to no avail and that he "got the distinct impression that this was a done deal. But it was unclear to me at what level it was done." The Riadys have apparently boasted to friends that they placed Huang in the job.

(35) The Commerce Department now acknowledges that Mr. Huang attended 109 meetings at which classified information might have been discussed. Phone records show that Mr. Huang made at least 70 calls to Lippo during his tenure at the Commerce Department, many of which occurred near the time of the briefings. He had contacts with officials of the Chinese Embassy. Mr. Huang also maintained an office at a private investment firm with Arkansas and Asian ties, Stephens, Inc., where he made numerous phone calls and received faxes and packages during his Commerce tenure.

(36) Mr. Huang began to raise money illegally before he even left the Commerce Department, and the DNC attributed these donations to his wife. In mid-1995, he expressed an interest in going to the DNC to raise funds. DNC Chairman Don Fowler did not think that the move was necessary and took no action.

(37) In September 1995, the President and his closest adviser, Bruce Lindsey, met with Mr. Huang, James Riady, and C. Joseph Giroir, a former law partner of Mrs. Clinton's who was close to the Riadys, regarding Mr. Huang's desire to move to the DNC. The President has acknowledged that he had a role in recommending Mr. Huang for the DNC job, and other former Clinton aides with ties to Asia, including Mr. Giroir, apparently mounted a concerted campaign to bring about Mr. Huang's job there. In December 1995, Mr. Huang moved to the DNC with the title finance vice chairman. After Mr. Huang left, his Commerce Department position was eliminated. Id. Strangely, however, Mr. Huang kept his security clearance long after he left the Commerce Department.

(38) At the DNC, Mr. Huang embarked on an unusual fund-raising drive in which he raised $3,400,000. Of that amount, the DNC has identified $1,600,000 as being illegal, improper, or sufficiently suspect that it will be sent back to donors. Many of these donations came from fictitious donors and, in at least one case, a dead person. One of the most egregious examples is the $450,000 donated by Arief and Soraya Wiriadinata. Until December 1995 when they left the country, this couple lived in a modest townhouse in Northern Virginia. Mr. Wiriadinata was a landscape architect, and Mrs. Wiriadinata was a homemaker. Despite these modest circumstances, the couple wrote 23 separate checks to the DNC totaling $425,000 from November 9, 1995 until June 7, 1996. However, Mrs. Wiriadinata is the daughter of Hashim Ning, a partner of the Riadys in owning Lippo. Democratic Party officials had concerns about the legality of Mr. Huang's activities as early as July 1996, but they did not remove him from his job.

(39) The Wiriadinatas are not the only conduit through which Lippo money apparently benefited the Clintons. Existing Independent Counsel Kenneth Starr is reportedly investigating whether payments that Lippo made to Webster Hubbell were made to buy his silence in the Whitewater investigation. These payments reportedly included paying for a vacation the Hubbell family took to Bali in the summer of 1994.

(40) One possible quid pro quo for this Lippo money is the possibility that Lippo bought Mr. Huang's position in the Commerce Department as well as the accompanying access to classified information. In addition, during September 1996, the President announced that he was designating 1.7 million acres of Utah wilderness as a national monument. This designation abruptly halted plans to mine the world's largest deposit of clean-burning "super compliance coal." The President made this move with virtually no consultation with people in the affected area of Utah. The second largest deposit of this kind of coal lies in Indonesia,

and critics suggest that the designation was made as a reward to Lippo.

(41) If there was a quid pro quo for Mr. Huang's position at the Department of Commerce, his access to classified information, the designation of the national monument, or all three, then there may have been a violation of section 201 of title 18, United States Code, and the other statutes mentioned above. The President's direct involvement includes his participation in the September 1995 meeting at which Mr. Huang expressed his desire to go to the DNC and his participation in the designation of the national monument.

(42) On February 20, 1997, the Wall Street Journal reported that a Miami computer executive with close ties to the government of Paraguay had a number of dealings with the White House.

(43) The computer executive, Mark Jimenez, is a native of the Philippines, and he is a legal resident of the United States. His company, Future Tech International, sells computer parts in Latin America, including Paraguay. He apparently has close ties to the government of Paraguay. Since 1993, Mr. Jimenez and his employees have given over $800,000 to the Democratic Party, the Clinton-Gore campaign, and other private initiatives linked to President Clinton, like the effort to restore the President's birthplace. Mr. Jimenez has visited the White House at least twelve times since April 1994, and on at least seven of these occasions, he met personally with President Clinton.

(44) The timing of some of these donations strongly suggests that there was a quid pro quo. From February through April 1996, Mr. Jimenez and various officials of the government of Paraguay met in the White House with presidential adviser and former chief of staff, Mack McLarty regarding threats to the government of Paraguay. On March 1, the State Department recommended that Paraguay no longer receive American foreign aid because it had not done enough to stop drug smuggling. President Clinton then issued a waiver allowing the continued aid despite the State Department's finding.

(45) On April 22, the military of Paraguay attempted a coup against the President of Paraguay, Carlos Wasmosy. The White House allowed President Wasmosy to take refuge in the American embassy in Asuncion and took other steps to support him. The same day, Mr. Jimenez gave $100,000 to the Democratic National Committee.

(46) In addition, during February 1996, Mr. Jimenez attended one of the now famous White House coffees. Ten days later, he gave another $50,000 to the Democratic National Committee. On September 30, 1996, Mr. Jimenez arranged for a White House tour for a number of business friends who were attending a meeting of the International Monetary Fund. The same day, he sent $75,000 to the Democratic National Committee. The close coincidence of Mr. Jimenez's contributions with the favors he received is highly suspicious. The President's direct involvement includes his calling President Wasmosy to assure him of American support with respect to the coup attempt and his direct participation in the coffee in question. If there was a quid pro quo involved, these incidents may violate section 201, of title 18, United States Code, and the other statutes cited above.

(47) In February, the Washington Post reported that on September 4, 1995, First Lady Hillary Clinton stopped over in Guam on the way to the International Women's Conference in Beijing, China. She ended her visit with a shrimp cocktail buffet hosted by Guam's governor, Carl T. Gutierrez, a Democrat. Three weeks later, a Guam Democratic Party official arrived in Washington with more than $250,000 in campaign contributions. Within six additional months, Governor Gutierrez and a small group of Guam businessmen had produced an additional $132,000 for the Clinton-Gore reelection campaign and $510,000 in soft money for the Democratic National Committee.

(48) In December 1996, the Administration circulated a memo that would have granted a long sought reversal of the Administration's position on labor and immigration issues in a way that was very favorable to businesses in Guam. The story gave the following reason for this shift: Some officials also attribute the administration's support for the reversal to the money raised for the president's reelection campaign. One senior U.S. official said "the political side" of her agency had informed her that the administration's shift was linked to campaign contributions. "We had always opposed giving Guam authority over its own immigration," the official said. "But when that $600,000 was paid, the political side switched." United States officials from three other agencies added that they too had been told that the policy shift was linked to money.

(49) Various published reports discussed below indicate that the President was intimately involved in the details of fundraising for his reelection. As President, he ultimately controls the Administration's policy. Thus, if these assertions prove true, a reasonable mind could reach the conclusion that the President knew about and condoned a direct quid pro quo for these policy changes. If he did so, such a quid pro quo would violate section 201 of title 18, United States Code, and the other statutes.

(50) At least three criminal statutes address the use of the White House for political purposes. Section 600 of title 18, United States Code, prohibits the promising of any government benefit in return for any kind of political support or activity. Section 607 of title 18, United States Code, prohibits the solicitation or receipt of contributions for Federal campaigns in Federal buildings. Section 641 of title 18, United States Code, prohibits the conversion of government property to personal use.

(51) During January 1995, President Clinton authorized a plan under which the Democratic National Committee would hold fund-raising coffees and sleepovers in the White House. During 1995 and 1996, the White House held 103 of the coffees. To quote the New York Times, "[t]he documents [released by the White House] themselves make explicit that the coffees were fund-raising vehicles. . . . [They] also make clear that the Democratic National Committee was virtually being run out of the Clinton White House despite the President's initial efforts after the election to draw a distinction between his own campaign organization and the committee." The Los Angeles Times said: "The result [of the coffees] was not only lucrative, according to some involved, but occasionally bizarre—sometimes the political equivalent of the bar scene in the film 'Star Wars.' The president and vice president were surrounded by rotating casts of rich strangers with unknown motives or backgrounds, including some from faraway places who didn't speak the same language."

(52) These reports indicate that Democratic Party fundraising staff have said in interviews that they directly sold access to the President and Vice President at the coffees. The New York Times quoted a Democratic fund-raiser's response to a White House denial that there was a requirement for a coffee participant to make a contribution as: "I don't understand why they continue to deny the obvious." The Los Angeles Times quoted a fund-raiser as saying: "I can't count the number of times I heard, 'Tell them they can come to a coffee with the President for $50,000.' It was routine. In fact, when [staffers] said, 'This is all I can raise,' they were told, 'Keep selling the coffees.'"

(53) In short, these reports make it obvious that the coffees, which President Clinton directly authorized, were nothing but fund-raising events. According to the New York Times, the Democratic National Committee raised $27,000,000 from 350 people who attended White House coffees.

(54) President Clinton also entertained 938 overnight guests in the White House during his first term. This, too, became a means of fund-raising. When the original plan to hold coffees was suggested to the President, he not only approved it, but also originated the idea of the overnight visits. On the memo suggesting the plan, he wrote, "Ready to start overnights right away . . . get other names at 100,000 or more, 50,000 or more." The New York Times reports that these guests donated $10,210,840 to the Democratic Party from 1992 through 1996. The New York Times said about the President's notation: "The memorandum to Mr. Clinton and the response from the President show Mr. Clinton's direct involvement in authorizing the fund-raising practices that are now under scrutiny by Congressional and Justice Department investigators."

(55) At least one document the White House has recently released strongly suggests that President Clinton made telephone solicitations from the White House. The document, written by Vice President Gore's deputy chief of staff, David Strauss, contained the notation, "BC made 15 to 20 calls, raised 500K." Other documents indicate that presidential adviser Harold Ickes also proposed that President Clinton make fund-raising calls. President Clinton has said that he cannot remember whether he made the calls. If President Clinton made these calls from the White House, he may have violated section 607 of title 18, United States Code.

(56) The circumstances of the coffees, the sleepovers, and the possible telephone calls strongly suggest that the President may have violated the following provisions of title 18, United States Code: (1) Section 600 (by promising government access in return for campaign contributions). (2) Section 607 (by soliciting campaign contributions in Federal buildings). (3) Section 641 (by converting Federal property, the White House, to his own private use).

(57) Under the independent counsel statute (28 U.S.C. 591(b)(1)), the Vice President is a covered person. Based on published reports, the Attorney General has sufficient grounds to investigate whether Vice President Gore may have violated Federal criminal law.

(58) On April 29, 1996, Vice President Gore attended a fund-raiser at the Hsi Lai Buddhist Temple in Hacienda Heights, California. This fund-raiser, organized by John Huang, brought in $140,000 for the Democratic National Committee. When the event first came to public attention, the Vice President claimed that the event was intended as "community outreach" and that "[i]t was not billed as a fund-raiser" and "no money was offered or collected or raised". The Vice President made this claim notwithstanding reports that checks changed hands

at the event and that virtually everyone else involved thought the event was an explicit fund-raiser.

(59) In January 1997, the Vice President admitted that he knew the event was "a finance-related event." A month later, documents released by the White House revealed that the Vice President's staff had referred to the event as a fund-raiser in making inquiries to the National Security Council staff about the appropriateness of the event. The National Security Council advised that he should proceed with "great, great caution", but the Vice President proceeded to go forward with the fund-raiser. This event is apparently now under investigation by a Federal grand jury.

(60) Hsi Lai Temple, if it is like most religious organizations, is a tax-exempt organization under section 501(c) of the Internal Revenue Code. If that is so, it may not "participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." (section 501(c)(3) of the Internal Revenue Code of 1986). By holding such an obviously political event, the Temple violated its tax exempt status, and Vice President Gore actively and enthusiastically participated in that violation. That action may violate section 371 of title 18, United States Code, as a conspiracy to defraud the United States by interfering with the functions of the Internal Revenue Service, and section 7201 of the Internal Revenue Code of 1986, as an evasion of the income tax.

(61) On March 2, 1997, the Washington Post reported that Vice President Gore "played the central role in soliciting millions of dollars in campaign money for the Democratic Party during the 1996 election" and that he was known as the administration's "solicitor-in-chief". The next day, Vice President Gore held a nationally televised press conference in which he admitted making numerous calls from the White House in which he solicited campaign contributions. He said that he made these phone calls with a DNC credit card. His spokesman later clarified that the card that he used belonged to the Clinton-Gore reelection campaign (statement of Vice Presidential Communications Director Lorraine Voles, dated March 5, 1997). The use of the Clinton-Gore credit card suggests that the solicitations were for "hard money" which goes to campaigns rather than "soft money" which goes to parties.

(62) Documents that the White House has only recently released reveal that Vice President Gore made 86 fundraising calls from his White House Office. More disturbingly, these new records reveal that Vice President Gore made twenty of these calls at taxpayer expense. This use of taxpayer resources for private political uses may violate section 641 of title 18, United States Code, (converting government property to personal use).

(63) On its face, the conduct to which Vice President Gore admitted appears to be a clear violation of section 607 of title 18, United States Code. Section 607 of such title makes it unlawful for "any person to solicit . . . any [campaign] contribution . . . in any room or building occupied in the discharge of official [government] duties. . .".

(64) Recent reports have completely undermined these two claims with respect to the calls that Vice President Gore made. The Washington Post on September 3, 1997, reported that at least $120,000 of the money he solicited from his office was "hard money.". As the story notes, "The [hard] money came from at least eight of 46 donors the vice president telephoned from his White House office to ask for contributions to the Democratic National Committee, according to records released by Gore's office." The American people should be deeply troubled by the length of time it took for these records, which have apparently been under Vice President Gore's control, to come to public light. With respect to the second claim, no person has made any claim that Vice President Gore made these calls from any place other than his office, an area clearly covered under section 607 of title 18, United States Code, as a "room or building occupied in the discharge of official [government] duties."

(65) The Washington Post also asserted that Vice President Gore made the telephone solicitations "with an urgency and directness that several large Democratic donors said they found heavy-handed and inappropriate." The story quoted two donors as follows: "Another donor recalled Gore phoning and saying, 'I've been tasked with raising $2,000,000 by the end of the week, and you're on my list.' The donor, a well-known business figure who declined to allow his name to be used, gave about $100,000 to the DNC. The donor said he felt pressured by the Vice President's sales pitch. 'It's revolting,' said the donor, a longtime Gore friend and supporter. Yet another major business figure and donor who was solicited by Gore, and who refused to be identified, said, 'There were elements of a shakedown in the call. It was very awkward. For a Vice President, particularly this Vice President who has real power and is the heir apparent, to ask for money gave me no choice. I have so much business that touches on the Federal Government—the Telecommunications Act, tax policy, regulations galore.' The donor said he immediately sent a check for $100,000 to the DNC.".

(66) Although the Vice President may legally solicit campaign contributions, it is not legal to exert pressure based on government actions. The bribery statute (section 201(b)(2) of title 18, United States Code) provides that a public official may not "directly or indirectly, corruptly demand[], [or] seek[], . . . anything of value personally or for any other person or entity, in return for: (A) being influenced in the performance of any official act; . . ." In addition, section 872 of title 18, United States Code, prohibits government officials from engaging in acts of extortion. Through the use of untoward pressure, the Vice President may have violated these statutes.

(67) Sufficient specific and credible evidence exists to warrant a preliminary investigation under the independent counsel statute.

(68) The fund-raising disclosures have blown up into the biggest scandal in the United States since Watergate.

(69) This situation is paralyzing the President, preoccupying Congress and fueling public cynicism about our political system.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Attorney General Reno should apply immediately for the appointment of an independent counsel to investigate alleged criminal conduct relating to the financing of the 1996 Federal elections.

H.R. 2183

OFFERED BY: MR. DELAY

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 79: Add at the end the following new title:

TITLE —SENSE OF CONGRESS REGARDING FUNDRAISING ON FEDERAL PROPERTY

SEC. 01. SENSE OF CONGRESS REGARDING APPLICABILITY OF CONTROLLING LEGAL AUTHORITY TO FUNDRAISING ON FEDERAL PROPERTY.

(a) FINDINGS.—Congress finds the following:

(1) On March 2, 1997, the Washington Post reported that Vice President Gore "played the central role in soliciting millions of dollars in campaign money for the Democratic Party during the 1996 election" and that he was known as the administration's "solicitor-in-chief".

(2) The next day, Vice President Gore held a nationally televised press conference in which he admitted making numerous calls from the White House in which he solicited campaign contributions.

(3) The Vice President said that there was "no controlling legal authority" regarding the use of government telephones and properties for the use of campaign fundraising.

(4) Documents that the White House released reveal that Vice President Gore made 86 fundraising calls from his White House office, and these new records reveal that Vice President Gore made 20 of these calls at taxpayer expense.

(5) Section 641 of title 18, United States Code, (prohibiting the conversion of government property to personal use) clearly prohibits the use of government property to raise campaign funds.

(6) On its face, the conduct to which Vice President Gore admitted appears to be a clear violation of section 607 of title 18, United States Code, which makes it unlawful for "any person to solicit...any (campaign) contribution...in any room or building occupied in the discharge of official (government) duties".

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal law clearly demonstrates that "controlling legal authority" prohibits the use of Federal property to raise campaign funds.

H.R. 2183

OFFERED BY: MR. DELAY

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 80: Add at the end the following new title:

TITLE —REPEAL OF MEDIA EXPENDITURE EXEMPTION

SEC. 01. REPEAL MEDIA EXEMPTION FROM TREATMENT AS EXPENDITURE UNDER FEDERAL ELECTION LAW.

Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended by striking clause (i).

H.R. 2183

OFFERED BY: MR. DELAY

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 81: Add at the end of section 301(20) of the Federal Election Campaign Act of 1971, as added by section 201(b) of the substitute, the following:

"(C) EXCEPTION FOR LEGISLATIVE ALERTS.—The term 'express advocacy' does not include any communication which—

"(i) deals solely with an issue or legislation which is or may be the subject of a vote in the Senate or House of Representatives; and

"(ii) encourages an individual to contact an elected representative in Congress in order to exercise the right protected under the first amendment of the Constitution to inform the representative of the individual's views on such issue or legislation.".

H.R. 2183

OFFERED BY: MR. DELAY

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 82: Strike section 301(20)(B) of the Federal Election Campaign Act of 1971, as added by section 201(b) of the substitute, and insert the following:

"(B) NONAPPLICATION TO PUBLICATIONS ON VOTING RECORDS.—The term 'express advocacy' shall not apply with respect to any communication which provides information or commentary on the voting record of, or positions on issues taken by, any individual holding Federal office or any candidate for election for Federal office, unless the communication contains explicit words expressly urging a vote for or against any identified candidate or political party.".

H.R. 2183

OFFERED BY: MR. DELAY

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 83. In section 301(8)(C) of the Federal Election Campaign Act of 1971, as added by section 205(a)(1)(B) of the substitute, strike clause (vi) and redesignate clauses (vii) through (x) as clauses (vi) through (ix).

H.R. 2183

OFFERED BY: MR. DELAY

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 84: In section 301(8) of the Federal Election Campaign Act of 1971, as amended by section 205(a)(1)(B) of the substitute, add at the end the following:

"(F) For purposes of subparagraph (C), no communication with a Senator or Member of the House of Representatives (including the staff of a Senator or Member) regarding any pending legislative matter, including any survey, questionnaire, or written communication soliciting or providing information regarding the position of any Senator or Member on such matter, may be construed to establish coordination with a candidate.".

H.R. 2183

OFFERED BY: MR. DELAY

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 85: In section 301(8)(A)(iii) of the Federal Election Campaign Act of 1971, as added by section 205(a)(1)(A)(iii) of the substitute, strike "for the purpose of influencing" and all that follows and insert the following: "if the value being provided is a communication that is express advocacy.".

H.R. 2183

OFFERED BY: MR. DOOLITTLE

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 86: Add at the end the following new title:

TITLE —TERMINATION OF TAXPAYER FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

SEC. 01. TERMINATION OF TAXPAYER FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS.

(a) TERMINATION OF DESIGNATION OF INCOME TAX PAYMENTS.—Section 6096 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1998."

(b) TERMINATION OF FUND AND ACCOUNT.—

(1) TERMINATION OF PRESIDENTIAL ELECTION CAMPAIGN FUND.—

(A) IN GENERAL.—Chapter 95 of subtitle H of such Code is amended by adding at the end the following new section:

"SEC. 9014. TERMINATION.

"The provisions of this chapter shall not apply with respect to any presidential election (or any presidential nominating convention) after December 31, 1998, or to any candidate in such an election."

(B) TRANSFER OF EXCESS FUNDS TO GENERAL FUND.—Section 9006 of such Code is amended by adding at the end the following new subsection:

"(d) TRANSFER OF FUNDS REMAINING AFTER 1998.—The Secretary shall transfer all amounts in the fund after December 31, 1998, to the general fund of the Treasury."

(2) TERMINATION OF ACCOUNT.—Chapter 96 of subtitle H of such Code is amended by adding at the end the following new section:

"SEC. 9043. TERMINATION.

"The provisions of this chapter shall not apply to any candidate with respect to any presidential election after December 31, 1998."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 95 of subtitle H of such Code is amended by adding at the end the following new item:

"Sec. 9014. Termination."

(2) The table of sections for chapter 96 of subtitle H of such Code is amended by adding at the end the following new item:

"Sec. 9043. Termination."

H.R. 2183

OFFERED BY: MR. DOOLITTLE

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 87: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. TERM LIMITS FOR STAFF DIRECTOR AND GENERAL COUNSEL OF FEDERAL ELECTION COMMISSION.

(a) IN GENERAL.—The first sentence of section 306(f)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)(1)) is amended by striking "by the Commission" and inserting the following: "by an affirmative vote of not less than 4 members of the Commission and may not serve for a term of more than 4 consecutive years".

(b) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply with respect to any individual serving as the staff director or general counsel of the Federal Election Commission on or after January 1, 1999, without regard to whether or not the individual served as staff director or general counsel prior to such date.

H.R. 2183

OFFERED BY: MR. DOOLITTLE

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 88: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PERMITTING COURTS TO REQUIRE FEDERAL ELECTION COMMISSION TO PAY ATTORNEY'S FEES AND COSTS TO CERTAIN PREVAILING PARTIES.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) In any action or proceeding brought by the Commission against any person which is based on an alleged violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986, the court in its discretion may require the Commission to pay the costs incurred by the person under the action or proceeding, including a reasonable attorney's fee, if the court finds that the law, rule, or regulation upon which the action or proceeding is based is unconstitutional or that the bringing of the action or proceeding against the person is unconstitutional.".

H.R. 2183

OFFERED BY: MR. DOOLITTLE

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 89: Section 201 is amended by striking subsection (c).

H.R. 2183

OFFERED BY: MR. DOOLITTLE

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 90: Section 201(b) is amended to read as follows:

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) EXPRESS ADVOCACY.—The term 'express advocacy' means a communication containing express words of advocacy of election or defeat of a candidate, such as 'vote for', 'elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', 'vote against', 'defeat', or 'reject'.".

H.R. 2183

OFFERED BY: MR. FOSSELLA

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 91: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PROHIBITING NON-CITIZEN INDIVIDUALS FROM MAKING CONTRIBUTIONS IN CONNECTION WITH FEDERAL ELECTIONS.

(a) PROHIBITION APPLICABLE TO ALL NON-CITIZENS.—Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by striking "and who is not lawfully admitted" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contributions or expenditures made on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. GILLMOR

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 92: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.), as amended by adding at the end the following new section:

"PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS"

"SEC. 326. Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual's employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office."

H.R. 2183

Offered By: Mr. Miller of Florida

(To the Amendment Offered By: Mr. Shays and Mr. Meehan)

Amendment No. 93: Page 39, line 3, insert "(a) In General.—" before "Section".

Page 41, after line 6, insert the following:

(b) Reporting and Disclosure.—

(1) Requirements.—Section 201(b) of the Labor Management and Disclosure Act of 1959 is amended—

(1) in paragraph (3), by striking "$10,000" and inserting "40,000";

(2) by redesignating paragraphs (5) and (6) as (7) and (8), respectively; and

(3) by inserting after paragraph (4), the following:

"(5) a functional allocation that—

"(A) aggregates the amount spent for (i) officer payments, (ii) employee payments, (iii) fees, fines, and assessments, (iv) office and administrative expense and direct taxes, (v) educational and publicity expenses, (vi) professional fees, benefits, (vii) contributions, gifts and grants, and

"(B) specifies the total amount reported for each category in subparagraph (A) and the portion of such total expended for (i) contract negotiations, (ii) organizing, (iii) strike activities, (iv) political activities, and (v) lobbying and promotional activities,;".

(2) Effective Date.—The amendments made by paragraph (1) shall take effect on December 31, 2000.

H.R. 2183

Offered By: Mr. Miller of Florida

(To the Amendment Offered By: Mr. Schaffer of Colorado)

Amendment No. 94: Page 39, line 3, insert "(a) In General.—" before "Section".

Page 41, after line 6, insert the following:

(b) Reporting and Disclosure.—

(1) Requirements.—Section 201(b) of the Labor Management and Disclosure Act of 1959 is amended—

(1) in paragraph (3), by striking "$10,000" and inserting "40,000";

(2) by redesignating paragraphs (5) and (6) as (7) and (8), respectively; and

(3) by inserting after paragraph (4), the following:

"(5) a functional allocation that—

"(A) aggregates the amount spent for (i) officer payments, (ii) employee payments, (iii) fees, fines, and assessments, (iv) office and administrative expense and direct taxes, (v) educational and publicity expenses, (vi) professional fees, benefits, (vii) contributions, gifts and grants, and

"(B) specifies the total amount reported for each category in subparagraph (A) and the portion of such total expended for (i) contract negotiations, (ii) organizing, (iii) strike activities, (iv) political activities, and (v) lobbying and promotional activities,;".

(2) Effective Date.—The amendments made by paragraph (1) shall take effect on December 31, 2000.

H.R. 2183

Offered By: Mr. Paxon

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

Amendment No: 95: Add at the end the following new title:

TITLE —UNION DISCLOSURE

SEC. 01. UNION DISCLOSURE.

(a) In General.—Section 201(b) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(b)) is amended—

(1) by striking "and" at the end of paragraph (5); and

(2) by adding at the end the following:

"(7) an itemization of amounts spent by the labor organization for—

"(A) contract negotiation and administration;

"(B) organizing activities;

"(C) strike activities;

"(D) political activities;

"(E) lobbying and promotional activities; and

"(F) market recovery and job targeting programs; and

"(8) all transactions involving a single source or payee for each of the activities described in subparagraphs (A) through (F) of paragraph (7) in which the aggregate cost exceeds $10,000.".

(b) Computer Network Access.—Section 201(c) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(c)) is amended by inserting "including availability of such reports via a public Internet site or another publicly accessible computer network," after "its members,".

(c) Reporting by Secretary.—Section 205(a) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 435(a)) is amended by inserting after "and the Secretary" the following: "shall make the reports and documents filed pursuant to section 201(b) available via a public Internet site or another publicly accessible computer network. The Secretary".

H.R. 2183

Offered By: Mr. Pickering

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 96: Add at the end the following new title:

TITLE —PROHIBITING FUNDRAISING ON RELIGIOUS PROPERTY

SEC. 01. PROHIBITING FUNDRAISING EVENTS ON RELIGIOUS PROPERTY.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"PROHIBITING FUNDRAISING EVENTS ON RELIGIOUS PROPERTY

"Sec. 323. (a) In General.—It shall be unlawful for any political committee to sponsor directly or indirectly any event which is held on any religious property for the purpose of raising amounts in support of any political party or the campaign for electoral office of any candidate.

"(b) Religious Property Defined.—In subsection (a), the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 97: Add at the end the following new title:

TITLE ·—BAN ON COORDINATED SOFT MONEY ACTIVITIES BY PRESIDENTIAL CANDIDATES

SEC. 01. BAN ON COORDINATION OF SOFT MONEY FOR ISSUE ADVOCACY BY PRESIDENTIAL CANDIDATES RECEIVING PUBLIC FINANCING.

(a) In General.—Section 9003 of the Internal Revenue Code of 1986 (26 U.S.C. 9003) is amended by adding at the end the following new subsection:

"(f) Ban on Coordination of Soft Money for Issue Advocacy.—

"(1) In general.—No candidate for election to the office of President or Vice President who is certified to receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 may coordinate the expenditure of any funds for issue advocacy with any political party unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.

"(2) Issue advocacy defined.—In this section, the term 'issue advocacy' means any activity carried out for the purpose of influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations (without regard to whether the activity is carried out for the purpose of influencing any election for Federal office).".

(b) Effective Date.—The amendment made by this section shall apply with respect to elections occurring on or after the date of the enactment of this Act.

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 98: In section 323(a) of the Federal Election Campaign Act of 1971, as added by section 101 of the substitute, insert after paragraph (1) the following new paragraph (and redesignate paragraph (2) as paragraph (3)):

"(2) Exception for certain activities.—Paragraph (1) shall not apply with respect to the use of funds for voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot."

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 99: In section 323(b)(2)(A)(i) of the Federal Election Campaign Act of 1971, as added by section 101 of the substitute, strike "120 days" and insert "7 days".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 100: In section 323(b)(2) of the Federal Election Campaign Act of 1971, as added by section 101 of the substitute, strike subparagraph (A) and insert the following:

"(A) In general.—The term 'Federal election activity' means a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy)."

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 101: In section 323(b)(2)(B)(i) of the Federal Election Campaign Act of 1971, as added by section 101 of the substitute, strike ", provided the campaign activity is not a Federal election activity described in subparagraph (A)".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 102: In section 323(b)(2)(B)(iv) of the Federal Election Campaign Act of 1971, as added by section 101 of the substitute, strike "only a candidate for State or local office" and insert "a candidate for Federal, State, or local office".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 103: In section 323(b)(2)(B) of the Federal Election Campaign Act of 1971, as added by section 101 of the substitute, strike clause (v) and insert the following:

"(v) the Federal share of a State, district, or local party committee's administrative and overhead expenses; and".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 104: Strike title I (and conform the table of contents accordingly).

In section 307(a), strike "section 103(c) and section 203" and insert "section 203".

In section 401, strike "(as amended by section 101)".

Redesignate section 324 of the Federal Election Campaign Act of 1971, as added by section 401, as section 323.

In section 507, strike "sections 101 and 401" and insert "section 401".

Redesignate section 325 of the Federal Election Campaign Act of 1971, as added by section 507, as section 324.

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 105: In section 323 of the Federal Election Campaign Act of 1971, as added by section 101 of the substitute, strike subsection (d) and redesignate subsection (e) as subsection (d).

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 106: In section 323 of the Federal Election Campaign Act of 1971, as added by section 101 of the substitute, strike subsection (c) and redesignate subsections (d) and (e) as subsections (c) and (d).

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 107: Add at the end of title I the following new section (and conform the table of contents accordingly):

SEC. 104. INCREASE IN CONTRIBUTION LIMIT FOR CONTRIBUTIONS TO CANDIDATES BY PERSONS OTHER THAN PACS.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000" and inserting "$3,000".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 108: Amend section 102(b) to read as follows:

(b) Increase in Aggregate Annual Contribution Limit for Individuals.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000" and inserting "$50,000".

Add at the end of title I the following new section (and conform the table of contents accordingly):

SEC. 104. INCREASE IN CONTRIBUTION LIMIT FOR CONTRIBUTIONS TO CANDIDATES BY PERSONS OTHER THAN PACS.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000" and inserting "$3,000".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 109: Strike section 201(c).

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 110. Strike section 303 (and redesignate the succeeding provisions and conform the table of contents accordingly).

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 111: Strike section 304 (and redesignate the succeeding provisions and conform the table of contents accordingly).

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 112: In section 3210(a)(6)(A) of title 39, United States Code, as amended by section 503 of the substitute, strike "during the 180-day period" and all that follows and insert the following: "during the 90-day period which ends on the date of the general election for the office held by the Member.".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 113: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. REQUIRING FEDERAL ELECTION COMMISSION TO OBSERVE FIRST AMENDMENT LIMITS IN REGULATORY ACTIVITIES.

Section 307 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437d) is amended by adding at the end the following new subsection:

"(f)(1) When developing prescribed forms and making, amending, or repealing rules pursuant to the authority granted to the Commission by subsection (a)(8), the Commission shall act in a manner that will have the least restrictive effect on the rights of free speech and association so protected by the First Article of Amendment to the Constitution of the United States.

"(2) When the Commission's actions under paragraph (1) are challenged, a reviewing court shall hold unlawful and set aside any actions of the Commission that do not conform with the principles set forth in paragraph (1).".

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 114: Insert after section 601 the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 602. APPLICATION OF STRICT SCRUTINY AS STANDARD FOR REVIEW.

In any action brought to construe the constitutionality of any provision of this Act or any amendment made by this Act, the court may not find the provision or amendment to be consistent with the Constitution of the United States unless the court finds that the provision or amendment carries out a compelling governmental interest in the least restrictive manner possible.

H.R. 2183

Offered By: Mr. Whitfield

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 115: Amend section 204 to read as follows (and conform the table of contents accordingly):

SEC. 204. REPEAL OF LIMITATIONS ON AMOUNT OF COORDINATED EXPENDITURES BY POLITICAL PARTIES IN CONGRESSIONAL ELECTIONS.

(a) In General.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended by striking paragraph (3).

(b) Conforming Amendments.—Section 315(d)(1) of such Act (2 U.S.C. 441a(d)(1)) is amended by striking "paragraphs (2) and (3)" and inserting "paragraph (2)".

Strike section 402 (and conform the table of contents accordingly).

H.R. 2183

Offered By: Mr. Wicker

(To the Amendments Offered By: Mr. Shays)

Amendment No. 116: Add at the end the following new title:

TITLE —PROHIBITING USE OF WHITE HOUSE MEALS AND ACCOMMODATIONS FOR POLITICAL FUNDRAISING

SEC. 01. PROHIBITING USE OF WHITE HOUSE MEALS AND ACCOMMODATIONS FOR POLITICAL FUNDRAISING.

(a) In General.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 612. Prohibiting use of meals and accommodations at White House for political fundraising.

"(a) It shall be unlawful for any person to provide or offer to provide any meals or accommodations at the White House in exchange for any money or other thing of value, or as a reward for the provision of any money or other thing of value, in support of any political party or the campaign for electoral office of any candidate.

"(b) Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.

"(c) For purposes of this section, any official residence or retreat of the President (including private residential areas and the grounds of such a residence or retreat) shall be treated as part of the White House.".

(b) Clerical Amendment.—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following new item:

"612. Prohibiting use of meals and accommodations at white house for political fundraising.".

H.R. 2183

Offered By: Mr. Wicker

(To the Amendments Offered By: Mr. Shays)

Amendment No. 117: Add at the end the following new title:

TITLE —PHOTO IDENTIFICATION REQUIREMENT FOR VOTERS

SEC. 01. PERMITTING STATE TO REQUIRE VOTERS TO PRODUCE PHOTOGRAPHIC IDENTIFICATION.

Section 8 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-6) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(i) PERMITTING STATES TO REQUIRE VOTERS TO PRODUCE PHOTO IDENTIFICATION.—A State may require an individual to produce a valid photographic identification before receiving a ballot for voting in an election for Federal office.".

EXTENSIONS OF REMARKS

CAPITOL HILL WELCOMES LEGISLATORS FROM TAIWAN

HON. ROBERT SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. SMITH of Oregon. Mr. Speaker, I rise today to welcome a distinguished legislators' delegation from the Republic of China on Taiwan. The legislators represent all major political parties in Taiwan: The ruling Nationalist Party, the Democratic Progressive Party, the New Party, and non-aligned parties. Members all democratically elected by the electorate, this delegation fully demonstrates how democracy has worked in the Republic of China on Taiwan. In ten years' time, Taiwan has evolved from a one-party state to multi-political parties of different ideologies. The growth of elective politics has been very healthy for Taiwan. Ambassador Stephen Chen tells me that there will be major elections this coming December: mayoral elections, legislative yuan (Parliament) elections and municipal elections. There is no doubt in my mind that Taiwan politics is vigorous and vibrant. Once again, Taiwan is setting a good example of elective democracy for other developing nations, especially China.

On the eve of President Clinton's visit to the People's Republic of China, I wish to say that while the P.R.C. is vital to U.S. interests, it is equally important that we not ignore the interests of our ally and trading partner: The Republic of China on Taiwan. For years and years, Taiwan has been buying American agricultural products worth billions of dollars and cooperating with us on all major issues affecting our two countries.

I therefore share the many concerns of our Taiwan friends who are visiting us here on the Hill today. Let us abide by the Taiwan Relations Act and continue our arms sales to Taiwan. It is also my hope that both Taiwan and the People's Republic of China will work toward eventual reunification when both sides reach similar levels of freedom and democracy. In the meantime, both sides should dialogue on all issues as equal partners. Moreover, the P.R.C. should declare that it will not use force against Taiwan now or in the future.

Mr. Speaker, I extend my warmest welcome to this very distinguished group of legislators from Taiwan. I wish them every success during their short visit to Capitol Hill.

A TRIBUTE TO JANE SMITH

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. LEWIS of California. Mr. Speaker, I work and outstanding service of Mrs. Jane Smith of Yucaipa, California. Jane, the Associate Superintendent for Curriculum and Instruction at the San Bernardino County Superintendent of Schools Office in San Bernardino, is moving to Colorado shortly to pursue a wonderful professional opportunity with the Weld County District 6 School District.

Jane graduated from the University of California, Davis with a Bachelor of Arts in English in 1968. Ten years later, she completed her Master of Arts in Education with a special emphasis on reading. She began her professional educational career as an English teacher with the Vallejo City Unified School District in 1968, and later, with the Fontana Unified School District in 1979. She served as a Reading Resource Specialist with the Fontana Unified School District from 1980–83 and a District Resource Teacher from 1983–1985.

In 1985, Jane became Assistant Principal at Fontana Junior High School. One year later, she became Director of Staff Development for the Fontana Unified School District where she served until November, 1989. At that time, she became Assistant Superintendent for Instructional Services where she served until July, 1993. She then worked as Assistant Superintendent for Curriculum and Instruction until 1995 when she took on her present assignment as Associate Superintendent with the San Bernardino County Superintendent of Schools Office.

Over the years, Jane has been widely recognized for her outstanding contributions in the field of education. Among other awards she has received the California School Leadership Academy Regional Merit Award and the Outstanding Achievement Award from the Redlands Chapter of Phi Delta Kappa. In addition, she has spoken at a number of educational conferences across the country, served in numerous professional development capacities, and had numerous articles published in educational journals.

Mr. Speaker, I ask that you join me and our colleagues in recognizing Jane Smith as she concludes this chapter and begins another. To say the least, her fine work with the San Bernardino County School District will be greatly missed. Over the years, she has made a tremendous difference in the lives of countless students. I'd like to join County Superintendent, Barry Pulliam, and others in wishing Jane and her family the very best in their future endeavors.

A WELCOME TO ARMEN MELKONIAN, CONSUL GENERAL OF THE REPUBLIC OF ARMENIA

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to welcome Armen Melkonian, Consul General of the Republic of Armenia, to the 19th Congressional District of California. The Central Valley holds a large portion of the Armenian community in America and is rich in Armenian culture and history. Thus Consul General Melkonian's leadership in Armenia has provided a great deal of inspiration to the Armenians in the Central Valley.

Armen Melkonian was born in Yeravan, Armenia in 1958. He is married to Yevkenya Melkonian and has two children, Ashod and Ani. Armen Melkonian graduated from Yerevan State University, Faculty of Near Eastern Studies Arabic Division in 1980. Armen received his Ph.D. in the Eastern Studies Institute of the National Academy of Sciences of the Republic of Armenia.

From 1982–1984 Armen Melkonian served as an Arabic language translator in South Yemen. He served as a Soviet Army Lieutenant from 1986 to 1988. Following his commitment as a Lieutenant, he lectured in the Eastern Studies Institute of the National Academy of Sciences of the Republic of Armenia in the division of Arab countries. Armen lectured as part of the Eastern Studies of Yerevan State University in the beginning of 1991. He served as an aid to the President of the Republic of Armenia from 1992–1994. At the beginning of 1994, he was in the foreign ministry of the Republic of Armenia. Being the first secretary of Arab countries division, led him to becoming the ambassador in Cairo, Egypt from 1994–1997. From 1997–1998 he was the administrator for the foreign ministry's Middle Eastern countries division of the Republic of Armenia. Currently he is the Consul General of the Republic of Armenia in Los Angeles.

Armen Melkonian is the author of numerous articles in scholarly journals and various publications. He has participated in various symposiums all over the world. In 1990, his paper "Armenian Medieval Resources about Arab Caliphates" earned him a degree in Historical Sciences.

Mr. Speaker, it is with great honor that I welcome Armen Melkonian to the 19th Congressional District of California. His leadership has been an inspiration to the Armenian community. I ask my colleagues to join me in welcoming Armen Melkonian to the United States and to the 19th Congressional District of California.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AN INTERNATIONAL SPOTLIGHT ON CHIAPAS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. HAMILTON. Mr. Speaker, I commend to my colleagues' attention the attached statement by the UN High Commissioner for Human Rights, the Honorable Mary Robinson. The situation in Chiapas, Mexico is only getting worse, and Mrs. Robinson is right to call our attention to the brutal situation in southern Mexico. It is high time that all sides in that festering conflict renounce violence and dedicate themselves to a peaceful resolution of that conflict.

STATEMENT BY MARY ROBINSON, UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS ON THE HUMAN RIGHTS SITUATION IN CHIAPAS, MEXICO

I have been following with mounting concern the situation of human rights in the Chiapas region of Mexico. News reports and almost daily submissions from representatives of indigenous groups and NGOs indicate an alarming deterioration over the past several days.

These reports paint a grim picture of an atmosphere of fear among the indigenous people of Chiapas caught between government forces supported by officially funded militias on one side and armed resistant groups on the other. Such conflict does not serve the interests of anyone.

The deaths of nine people in what has been reported as an action by government forces in the town of San Juan de la Libertad this week is just the latest in a string of violent incidents in a region already affected by widespread displacement, dispossession and severe poverty.

These are serious violations of the rights of indigenous people. As High Commissioner and as the UN Coordinator for the International Decade of the World's Indigenous People, I appeal to the Government of Mexico to look urgently at ways of restoring dialogue with communities in Chiapas. A reduction in the military presence in the region could be an important first step in restoring confidence that a peaceful solution might be found. This would also contribute to improving the current climate of fear.

The Office of the High Commissioner is prepared to assist the Government in meeting its obligations under the International Covenants and other human rights treaties it has ratified including ILO Convention 169 of 1989 on Indigenous and Tribal Peoples. We would also welcome opportunities to assist civil society organizations active in promoting respect for human rights as an essential condition for improving the lives of people in Chiapas.

TRIBUTE TO THE CITY OF ROSEVILLE'S 40TH BIRTHDAY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. BONIOR. Mr. Speaker, I would like to send birthday greetings to a special city at the heart of Michigan's 10th Congressional District. On June 20, 1998, the City of Roseville will celebrate its 40th birthday and will dedicate a new library addition. Citizens of Roseville will gather at the Civic Center grounds for food and family entertainment in honor of this historic occasion.

When Michigan became a state in 1837, this area was a small farming community known first as Orange Township, then as Erin Township. As history tells us, William Rose was appointed as the area's first postmater in 1836. In a tribute to his father, Denison Rose, a hero of the War of 1812, William established the Roseville Post Office. Gradually, the whole community became known as Roseville.

Years passed and the residents witnessed great changes such as a plank toll road and the Rapid Electric Interurban. Churches, schools and libraries were established as spiritual, educational, and cultural centers. In the 1950s, the area experienced a population explosion. Homes, shopping centers, industrial plants, and highways were developed. In 1958, the booming village was incorporated as the City of Roseville.

As the 52,000 members of this community celebrate their past, they are also anticipating a bright future. With the dedication of the new addition to Roseville Library, the city is dedicating a living piece of history. Mr. Long, who founded the institution in 1936 said, "No town should be without a library." Since it has opened, the Library has changed locations, expanded, and become "the information place" for the citizens of Roseville.

On the 40th Anniversary of the City of Roseville, we celebrate the people who have made this community a diverse and wonderful place to live. I would like to extend my congratulations on this historic occasion and best wishes for a successful future.

HONORING SHEPARD COLEMAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. GILMAN. Mr. Speaker, today it is with sadness that I rise to recognize the life of Shepard Coleman, a talented musician and award winning musical conductor. I wish to call to the attention of our colleagues the outstanding talents of Shepard Coleman, who made his home in Orange County, New York. On June 27, there will be a memorial service for Shepard Coleman in Sugarloaf, New York, at the Lycian Center.

Shep Coleman was an accomplished musician who for many years was the leading cellist with the New York Philharmonic. The Washington Post reported on May 17, that as a graduate of the Julliard School of Music, Shep Coleman was a pit musician in many Broadway musicals from 1946 to 1960. He played under Leonard Bernstein for more than twenty years, as well as playing for Frank Sinatra. In 1964, Shep Coleman won a Tony Award for his magnificent musical direction of the Broadway hit, "Hello Dolly".

Shep Coleman was extremely active in local theater productions. He was a loving teacher as well as a great performer. He was also a strong supporter of many AIDS charities and art organizations. When he moved to Warwick, New York, he became active in their Humane Society. Shep Coleman continually gave of himself for the benefit of our entire community.

I came to personally know Shep through his advocacy for the Arts in our home region. Shep was the kind of person who placed a high premium on attracting young people to the Arts and encouraging them to develop their talents. Shep never hesitated to remind me that by stimulating the Arts Community, we are helping the economy of our entire region.

Shep Coleman was an articulate, unique individual who will long be missed greatly by his friends and neighbors in Orange County, New York.

Shep is survived by his sister, Diana Hoffman, of New York City, his brother, Aaron Coleman also of New York City, and his nephews Robert and Kenneth Hoffman.

Shep Coleman lived to the age of 74. He was always involved in so many different aspects of our communities, always devoting himself to a good cause. Mr. Speaker, I invite all my colleagues to join me in honoring Shepard Coleman. We have lost an outstanding talent and a great friend.

A TRIBUTE TO DR. BOB BERRY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding service of Dr. Bob Berry of Yucaipa, California. Bob, the Chief Information Officer for the Information Systems Department at the San Bernardino County Superintendent of Schools Office in San Bernardino, is moving to Michigan shortly to pursue a wonderful professional opportunity with Central Michigan University.

Bob graduated from Central Michigan University in 1969 with a double major in Biological Science and Instrumental Music. Three years later, he earned a MA degree in Curriculum Development and Educational Administration from CMU. In 1979, Bob completed his Doctor of Education degree at Northern Arizona University.

Dr. Berry began his professional career at the Fowler Public School System in Michigan serving as Director of Instrumental Music (1969–74) and Principal of Fowler High School (1974–1976). From 1976–84, he worked at Northern Arizona University as Assistant Director of Research and Development, Assistant Professor of Educational Administration, and Executive Director of the Arizona Public Schools Computer Consortium.

In 1984, Bob became Chief Information Officer (CIO) for the San Bernardino County Superintendent of Schools. In this capacity, he has had the responsibility of planning, organizing, and implementing all administrative financial processing requirements for the educational agencies within San Bernardino County, the largest in the United States. In addition, the CIO also serves as the executive director of the California Educational Computer Consortium comprised of other California county offices of education, school districts and community colleges. The consortium, comprised of over 249 agencies, pools its financial resources for applications software development and services.

Over the years, Bob has served as professional consultant for a number of school districts across the United States in computer systems, budgeting, and networking. In addition, he has served in numerous professional development capacities and has had numerous articles published in educational journals.

Mr. Speaker, I ask that you join me and our colleges in recognizing Dr. Bob Berry as he prepares for his latest professional challenge. To say the least, his fine work with the San Bernardino County School District will be greatly missed. I'd like to join County Superintendent, Barry Pulliam, and others in wishing Bob Berry the very best in his future endeavors.

TRIBUTE TO ED VEGELY AND LLOYD HOBBY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Ed Vegely and Lloyd Hobby upon their retirement from Mariposa County High School. Ed and Lloyd have provided many years of dedicated instruction and coaching to the students of Mariposa County High School in Mariposa, California. I commend these exceptional educators for their dedication and commitment to our youth.

Ed Vegely has been teaching the youth of Mariposa County High School since 1965. He was born on December 28, 1936. Ed attended Merced High School, Modesto Junior College, and eventually completed his higher education at California State University, Fresno. He has been recognized as the Mariposa County High School "Teacher of the Year" three times. Ed served as the Mariposa County High School varsity football coach from 1965–1981. During that 16 year period, Ed Vegely was able to achieve a record of 95 wins, 56 losses, and five ties, and has taken the team to five league championships. He not only provided an exceptional service as a varsity football coach, but also served as the varsity basketball coach in 1966 and 1970–1996. During this time as the Mariposa County High basketball coach, he achieved a record of 366 wins, 288 losses, and 13 ties, taking the team to six league championships.

Lloyd Hobby has been providing exceptional instruction to the students of Mariposa County High School since 1964. Lloyd attended Sonora High School and completed his higher education at Sacramento State University. He has served as the Mariposa High Varsity basketball coach for 30 years. During his time as the varsity basketball coach, he has achieved a record of 475 wins and 298 losses, taking the team to nine league championships. Lloyd is a four-time Mariposa County High School "Teacher of the Year" recipient and was recognized as the "Athletic Director of the Year" for the entire state of California in 1996.

Mr. Speaker, it is with great honor that I pay tribute to Ed Vegely and Lloyd Hobby upon their retirement from Mariposa County High School. Ed and Lloyd have both exhibited a dedication and care for the education and instruction of our youth. I applaud their many achievements and ask my colleagues to join me in wishing Ed Vegely and Lloyd Hobby the best of luck with any future endeavors.

TRIBUTE TO TOBY KEELER

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Toby Keeler, for his leadership and efforts to improve the quality of life in our community. Toby is a determined, hard working individual who has dedicated countless hours to the Las Virgenes Homeowners Federation and has enhanced the area in the process.

During his term as President of the Las Virgenes Homeowners Federation from 1995 to 1997, Toby repeatedly lobbied on behalf of those he represented.

First, Toby played an instrumental role in orchestrating the Las Virgenes opposition to a massive commercial development that threatened to destroy most of the natural area adjacent to the 101 Freeway. After this successful effort, Toby redesigned a controversial park center project, a move which ultimately guaranteed its construction.

Later in his term as President, Toby rallied support for a proposition that raised necessary funding to keep open several fire stations, and campaigned to increase land acquisition funding for the Santa Monica Mountains National Recreation Area.

In another display of his support for the environment, Toby organized opposition to the SOKA University project in the Santa Monica Mountains which would have allowed construction on protected lands.

Toby is also a former member of the Planning Commission for the City of Calabasas, and is the current President of the Old Topanga Homeowners Association, where he has continued in his role as a community leader.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Toby Keeler. He has shown an unwavering commitment to the community and deserves our recognition and praise.

TRIBUTE TO HELEN DAVID

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. BONIOR. Mr. Speaker, I am honored to have the opportunity to recognize the achievements of a very special woman, a dear friend, Mrs. Helen David. For sixty years, Helen David has been the owner of the Brass Rail, a unique bar in the heart of Port Huron. On June 15, 1998, community members and friends will join Helen at the Brass Rail to celebrate the sixtieth birthday of the Brass Rail.

Prior to June 15, 1937, the Brass Rail was a quaint ice cream shop named Hibye's Ice Cream Polar. The sweet shop was owned and operated by Helen's parents, Tony and Elizabeth Hibye. After the death of her father, Helen transformed the ice cream shop with the support of her mother and aunt. In 1939, Helen fell in love and married Sol David. Until his death in 1967, Helen and Sol worked side by side creating a popular Port Huron tradition.

In Port Huron, Helen is known not only as a smart business woman, she is recognized as a community leader and humanitarian. Throughout the years Helen has been a member of the Quota Club, an organization designed to help the hearing impaired. She has also been honored for her work with St. Jude's Children's Hospital by the North America Benefit Association. Recently Helen made a major contribution to the St. Clair County Council on Aging to help establish a new senior center in Port Huron.

In six decades, Helen David's warm personality, her commitment to her patrons and her involvement in the community have endeared her to many people throughout St. Clair County. Very few people have the spirit and dedication to give to their community as Helen has given to hers. I would like to congratulate Helen as she celebrates her historic milestone of sixty years in business.

THE U.N. GENERAL ASSEMBLY PLAN TO FIGHT DRUGS VERSUS LEGALIZATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. GILMAN. Mr. Speaker, the U.N. General Assembly recently took up the problem of international drug production and trade as it moved forward with an emerging consensus that all of the nations of the globe must fight this scourge together, and stop the finger pointing.

The U.N. proposal that emerged was an ambitious yet doable plan to eliminate the production of cocaine and heroin in 10 years, although regrettably the means to finance this important proposal were not found.

In Monday's New York Times, columnist A.M. Rosenthal points out another battle in the war on drugs, the effort of many who favor "legalization" to discredit the U.N. anti-drug efforts and to camouflage their own worldwide cause to foster legalization by the use of nice sounding phrases like "harm reduction."

Mr. Speaker, I ask that Mr. Rosenthal's informative column be reprinted herein. It points out the nature of this legalization campaign which reflects a sense of failure, lack of political will, and submission to the evils of illicit drugs that few Americans, or others around the globe support, or would ever subject their children and future generations to under the guise of such a misdirected solution.

[From the New York Times, June 12, 1998]

(A.M. Rosenthal)

POINTING THE FINGER

The three-day meeting on fighting drugs was one of the more useful United Nations conferences in decades. It was well led by Pino Arlacchi, the Italian Mafia-buster, drew chiefs of state and narcotics specialists from every part of the world, and wound up with a plan to eliminate the growing of illegal heroin and cocaine in 10 years—certainly difficult but certainly doable.

So, months before the opening Monday, a campaign to attack the conference was planned. It was worked out by Americans who devote their careers and foundation grants not to struggling against narcotics but legalizing them under one camouflage or another.

Before the first gavel, they were ready with advertisements writing off the conference, had rounded up American and European signatures denouncing the war against drugs as a failure, and had mobilized their network of web sites.

They convinced one or two convincible journalists that people opposed to the anti-drug effort had been banned from talking at meetings of specialists and organizations. That's strange, because at the very first forum I attended there were as many legalizers as drug fighters making statements and asking questions.

The propaganda was professionally crafted. Hundreds of well-known people and wannabes signed an opening-day two-page advertisement in The Times. It had no proposals except for a "dialogue," which already has gone on a half-century.

The word "legalization" was not used. Legalizers and their financial quartermasters know Americans are 87 percent against legalization. So now they use camouflage phrases like "harm reduction"—permitting drug abuse without penalty, the first step toward de facto legalization.

One signer told me that she did indeed favor legalization but that in such campaigns you just don't use words that will upset the public.

I have more respect for her, somewhat, than for prominent ad-signers who deny drug legalization is the goal. And for signers who, God help us, do not even know the real goal, here's a statement by Dr. Ethan Nadelmann, now George Soros' chief narcotics specialist and field commander, in 1993 when he still spoke, unforked, about legalization:

"It's nice to think that in another 5 or 10 years . . . the right to possess and consume drugs may be as powerfully and as widely understood as the other rights of Americans are." Plain enough?

The conference is finished, legalizers are not. Hours after publication of this column, masses of denunciatory E-mail letters to the editor will arrive at The Times. Judging by the past, the web-site chiefs will announce gleefully that virtually all the letters The Times printed supported them, and how much that publicity would have cost if they had to pay for it. Anti-drug letters will arrive too late.

Now, I have a problem. Knowing that Americans are so against legalization and the multiplication of addition, crime and destroyed souls it will create, I ask myself why I write about legalizers at all. They live by publicity, which can mean more millions from Mr. Soros and a few other backers.

But the legalization minority includes many intellectuals, academics, journalists and others with access to lecture rooms, print and TV. So consistently do they spread their falsehood that the drug war has failed that even some Americans who want to fight drugs believe there's no use trying. America still suffers agonizingly from illegal drugs, but as President Clinton told the U.N., overall U.S. drug use has dropped 49 percent since 1979, cocaine use has dropped 70 percent since 1985, crime usually related to drugs has decreased five years in a row.

Yet the anti-drug movement has never rallied to tell Americans about the legalizers, identities and techniques. Washington and the U.N., including Mr. Arlacci, have even softened their language—such as not using the phrase "drug war" anymore.

Washington's big new anti-drug ad campaign will be useful, but not very, unless it not only urges parents to talk to children, but parents to talk to other parents, about the legalizers, in or out of camouflage.

Surely it is time for the President to dissect America's legalizers and publicly point the finger at them. If he is too delicate, or politically fearful, the rest of us will have to do the job of denying them acceptability or cover; it's worth the space.

THE U.S. CATHOLIC BISHOPS ON HUMANITARIAN ASSISTANCE TO CUBA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. HAMILTON. Mr. Speaker, I am attaching for my colleagues' review a recent joint statement from the United States Catholic Conference and the Catholic Relief Service regarding humanitarian assistance to Cuba. Few organizations have done more to help the Cuban people in these times of intense shortage on that island nation. I call your attention to the references to U.S. policy toward Cuba, particularly as expressed in a recent release by the Bishops of Cuba.

USCC—CRS STATEMENT ON HUMANITARIAN AID TO CUBA: JUNE 6, 1998

Just one year ago, June 6, 1997, we bishops, representing the United States Catholic Conference's Committee on International Policy and the Board of Catholic Relief Services, wrote to President Clinton urging the resumption of direct flights from the United States to Cuba, especially for the delivery of humanitarian aid. On March 20th of this year, the President finally lifted the ban on direct flights, allowing Catholic Relief Services once again to send shipments of medicines and other humanitarian aid to the Cuban Church's relief and development agency, *Cáritas Cubana*. We applaud these actions.

We are intensely proud of the close relationship of solidarity and cooperative action that has developed between the Church here and in Cuba: The most concrete expression of this solidarity is the provision of critically needed medicines, medical supplies and equipment and other goods, donated by private individuals and corporations in this country, delivered Cuba by Catholic Relief Services, and distributed there by *Cáritas*. Although these efforts can meet only a fraction of the needs experienced by many in Cuba today, the Church in both countries is committed to doing all it can to alleviate suffering and give hope in a time of discouragement.

There are legislative proposals in the U.S. Congress seeking to address the problem of the dire shortage of many things in Cuba. Some call for an end to the U.S. restrictions on the sale of food and medicines, others propose grants of money or matériel by our government to the needy in Cuba, through the instrumentality of non-governmental groups such as the Catholic Church and its agency *Cáritas*. We welcome these efforts to reach out to our Cuban brothers and sisters in need. The Cuban Bishops' Conference, however, in a statement issued last month, has made clear its firm intention of avoiding any politicization of its humanitarian role in the present crisis and has thus indicated that it will not receive or distribute aid coming from governments. This has been the policy of the Cuban Church in the past and will continue to be so for the foreseeable future.

The position of the U.S. Catholic Conference and Catholic Relief Services is identical with that of the Bishops of Cuba. We pledge to do all we can to encourage private contributions of medicines and other needed goods to Catholic Relief Services for distribution by *Cáritas Cubana* to help lessen some of the suffering brought on in recent years. As we stated following the January papal visit, "ending the restrictions on the sale of food and medicines, as legislation currently in both houses of the U.S. Congress calls for, would be, in our view, a noble and needed humanitarian gesture and an expression of wise statesmanship on the part of our elected leaders."

Just a few days ago, on Pentecost Sunday, the Cuban Bishops issued an important pastoral statement, "The Spirit Desires to Breathe in Cuba," recalling the urgent plea issued by the Holy Father during his visit that the world open up to Cuba and Cuba to the world. The bishops observe that "at this time the world is opening up to our homeland, we reject any economic siege against our country, as well as any attempt to isolate it." The Cuban Bishops call equally for Cuba to open up to the world, for "an internal opening of the Cuban society," requiring that "human rights . . . be fully respected." We pray that the government of Cuba and the government of the United States will reverse those policies of each that have contributed, in very different ways, to the suffering of the Cuban people.

Most Reverend Theodore E. McCarrick, Archbishop of Newark, Chairman, USCC Committee on International Policy; Most Reverend John H. Ricard, SSJ, Bishop of Pensacola, Chairman, CRS Board of Directors.

HONORING THE MEMORY OF RAOUL WALLENBERG

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, this Sunday, June 14, the Committee to Honor Raoul Wallenberg in Parsippany, New Jersey will gather to dedicate a sculpture in honor of the Swedish Diplomat. The statue is located in Smith Field Park, and will serve as a daily reminder to all of the legacy of the "Angel of Budapest."

The statue by artist Edward Adams, titled "Courage and Compassion," is a monument to the life and work of Rodney Wallenberg, a Righteous Gentile whose courage and selfless action saved the lives of over 100,000 Hungarian Jews during World War II.

I was honored to be a part of this project since its start, and to be able to help make this statue a reality. I want to commend the hard work and dedication of Murray Laulicht, the President of the United Jewish Federation of Metro West. He first wrote me three years ago, inviting me to participate in this important effort. He and many others gave generously of their time and their efforts to complete this memorial. I also want to commend Harry Ettlinger, the co-chairman of the Committee, for his work in putting the ceremony together.

Raoul Wallenberg was a man of rare courage and selflessness who recognized the outrage, injustice and evil acts being waged on Jewish people living in Nazi-dominated areas of Europe. He risked his life to save the lives of strangers. His actions during the waning days of World War II, in the face of a Nazi Party that was growing ever more desperate and brutal, make him an example for us and for future generations.

Raoul Wallenberg's ingenuity and creativity was the key to his success in saving over 100,000 Hungarian Jews. His tactics ranged from the traditional (building 30 "Swedish houses" which served as a safe haven for Jewish families) to the illegal (using bribes, threats and extortion to provide passes to Jews in the ghettos, on the death march and on the trains to concentration camps).

In an age where courage is often a forgotten virtue, Raoul Wallenberg is a model for all of us. When faced with adversity, he responded nobly. When called to help his fellow man, he gave willingly of his time. We all benefit from the legacy of Raoul Wallenberg. We can all learn from his example of courage, strength and righteousness.

It is my hope that the statue will serve as a daily reminder that, in a world where evil exists, there are among us the good and the just fighting for all our salvation and freedom.

100TH ANNIVERSARY OF ST. JOHN CANTIUS CHURCH, WINDBER, PA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. MURTHA. Mr. Speaker, I am honored to pay tribute before the U.S. House of Representatives to the St. John Cantius Parish in Windber, Pennsylvania, as it celebrates its 100th Anniversary today.

The St. John Cantius was the first Catholic Church in Windber, from which sprang all the other Catholic Parishes serving the Windber area today.

St. John Cantius, originally established in 1898 as the Immaculate Conception Parish, has a fascinating early history that classically demonstrates how immigrants from many different countries who came to America—and particularly to our area of western Pennsylvania—at the beginning of this century were united by their faith. The church was the central entity that helped bind these people together, overcoming different cultural backgrounds, language barriers, and traditions to create a strong, cohesive community. Even the clergy themselves came from different countries and spoke different languages. This strength and unity served these faithful people well as they struggled to make their way in America, overcoming the hard realities of the grueling daily worklife in the farming and coal mining regions that built and fed this country.

The St. John Cantius Church has not only endured, but has thrived and multiplied, increasing the numbers of its parishioners as well as parishes and preserving the tradition of devotion to family and faith for succeeding generations. In addition, it has provided its community with strength and support throughout all the trials and tribulations of this century, from the hardscrabble days of the Industrial Revolution, when the area's miners and steelworkers endured long work hours, low pay and abysmal working conditions, even through the Great Depression. It supported and comforted the people of the community through many wars that saw many of its young men head off to distant lands to defend their country and its ideals of freedom, sometimes never to return. It has held its community together through more modern struggles—the decline of the steel industry that brought lasting economic hard times and crippling unemployment. Through it all, the St. John Cantius Church has been a constant in the lives of the people of Windber—a source of support and sustenance, spiritually and in many other ways.

I am deeply honored to join in celebrating this wonderful occasion with the parishioners and clergy of St. John Cantius. May the church as well as the community it serves continue to grow and prosper for another one hundred years.

PERSONAL EXPLANATION

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. HOBSON. Mr. Speaker, I was detained on June 10 for rollcall vote 225. As a supporter and cosponsor of earlier bankruptcy reform legislation, had I been present, I would have voted "yea."

IN HONOR OF THE HISTORICAL EXHIBIT OF OLD YORKVILLE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay a respectful tribute to Zion-St. Mark's Lutheran Church, the last German-speaking church in the Yorkville area in my district.

The church has organized an historical exhibit of old Yorkville to commemorate the history of the area which used to be known as "German Town." It was formed as a middle and eastern European melting pot. As more and more high-rises and other large buildings have been built in recent decades, the character of the area has changed and some of the old-world charm has been lost.

Also to be prominently featured at this exhibit is a commemoration of the Slocum Disaster, the most lethal fire in American history and one of the world's greatest maritime tragedies. On June 15, 1904, the parishioners of St. Mark's church on 6th Street in Manhattan held their annual picnic. Since the festivities included a boat ride on the General Slocum, 1,446 members of the congregation boarded for a trip to Locust Grove on Long Island. Tragically, the boat caught fire. According to reports, the loss of life was disproportionately high because the boat's life vests and life boats were old or useless and there had been no fire-drills. 1,021 people died.

Because this disaster took such a heavy toll, the Lower East Side's German community was suddenly greatly reduced in number. Many of those remaining were too saddened to stay, and decided to move uptown, to Yorkville. The members of the St. Mark's congregation eventually merged with the Zion Church on East 8th Street. The church is now known as Zion-St. Mark's Lutheran Church.

Many accounts have been written of the terrible Slocum Disaster. This exhibit will allow people to remember the many fine contributions of the German-American community before and after this horrible event wiped out so much of their population. It will commemorate the victims, honor the survivors, and highlight some of the history of Germans in New York City. Finally, the exhibit will recall the days of old Yorkville, from the 18th Century through the 20th. This area was once a landmark section of New York and has quite a story to tell.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to the congregation of Zion-St. Mark's Lutheran Church, to the Ladies Aid Society, and to Kathryn A. Jolowicz.

TRIBUTE TO JACK PARTON

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to commend Jack Parton, of Hebron, Indiana, for his exemplary service to Indiana's First Congressional District. Since 1982, when Jack was serving as the District 31 Director of the United Steelworkers of America, he has organized an annual golf outing to raise money for the National Kidney Foundation. This year, in honor of his great efforts and activities on behalf of the Kidney Foundation, Jack was honored by the foundation during the Cadillac Invitational Golf Tournament, on June 15, 1998 at the Broadmoor Country Club in Merrillville, Indiana.

The 16th annual 'Kidney Days Golf Outing' fundraiser for the National Kidney Foundation will be held on August 21, 1998. The event will take place at five golf courses in Northwest Indiana and is expected to include almost one thousand participants. Profits will be given to the Kidney Foundation to help the ailing and needy, with expected proceeds to be in excess of $4,000. In the previous 15 years of this event, over $100,000 has been raised and donated to the National Kidney Foundation.

A strong leader of the United Steelworkers of America, Jack first joined in the union in 1959 as a member of Local 1014 at U.S. Steel's Gary Works, where he served two terms as its President. Jack was elected Director of District 31 in 1981, and he was subsequently re-elected in 1985, 1989, and 1993. In 1995, District 31 was re-organized into District 7, which now encompasses all of Illinois and Indiana, and Jack served as its first director. In March of 1998, Jack was installed once more as the District 7 Director. Dedicated to the union, Jack has assumed numerous important responsibilities, including chairing contract negotiations with Inland Steel, Ryerson, Acme Steel, Northwestern Steel & Wire, and LTV Steel, where he serves as Secretary of negotiations. In addition, Jack established the District 7 Labor/Management Safety and Health Conference, which was the first district-level conference of its type in the USWA. In 1996, Jack served as the Secretary of the 1996 Convention Officers' Report Committee.

Jack, while deeply committed to his work, is also dedicated to his family. He often travels back to Virginia to visit his mother and spend time with his other relatives. His future plans include working to facilitate the unification merger of the United Autoworkers and the International Association of Machinists and Aerospace Workers with the United Steelworkers of America. Together with other union leaders, Jack will ensure that the membership of these three unions unites to form one comprehensive, united, and strong voice for working men and women. This newly invigorated union will be dedicated to serving, protecting, and aiding its membership.

Mr. Speaker, it is my great pleasure to ask you and my distinguished colleagues to join me in paying tribute to one of the region's true humanitarian leaders, Jack Parton. Jack's service to his community, co-workers, and union is worthy of the highest praise and emulation. Northwest Indiana is lucky to have such a incredibly altruistic, dedicated, and upright individual.

TREASURY-POSTAL FUNDING BILL AMENDMENT—LANGUAGE PROHIBITING SEX TRAINING COURSES FOR FEDERAL EMPLOYEES

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. PACKARD. Mr. Speaker, tomorrow I will support an amendment to the Treasury-Postal Appropriations Bill that will cease the use of taxpayer dollars for sex technique training courses. Federal workers should not have to endure this treatment, and tax dollars should not be funding it!

I first learned of this training during an Appropriations Transportation Subcommittee hearing a few years ago. I have never heard more disturbing testimony in all my years in Congress. The inappropriate nature of the training was reiterated as employee after employee came before the subcommittee recounting horrifying incident after incident.

Mr. Speaker, nobody should be required to participate in "How To" sessions addressing sexual techniques or devices, such as "how to properly use a condom," or AIDS/HIV training on "how to properly shoot-up." Taxpayer dollars should not be wasted on despicable training techniques like tieing together two individuals of opposite genders and requiring them to eat, sleep and bathe together for 24 hours!

Mr. Speaker, we must not overlook the need to protect the dignity of federal employees and the integrity of the use of taxpayer dollars. This radical agenda must be stopped from rearing its ugly head.

TRIBUTE TO THE "SOCIEDAD CULTURAL MAYAGÜEZANA, INC."

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. SERRANO. Mr. Speaker, it is with great joy that I rise today to pay tribute to the "Sociedad Cultural Mayagüezana, Inc." a non-profit civic and cultural organization dedicated to uniting the people from my birth town of Mayagüez, Puerto Rico in the United States and Puerto Rico.

This year I had the honor to march with members of the "Sociedad Cultural Mayagüezana, Inc." and other representatives from Mayagüez during the National Puerto Rican Parade, which was celebrated on June 14, in New York City. The Parade, on its 41st year of history, is the most popular event held in commemoration of the contributions of the Puerto Rican community in the United States.

The "Sociedad Cultural Mayagüezana, Inc." was established in 1965 in New York City by a group of people who saw the need to educate our community about Mayagüez's historic legacy.

Under the leadership of its president, Mr. Andres Irizarry Falto, the organization has been at the forefront developing educational programs on Mayagüez's folklore, history and traditions.

Among its many activities, the "Sociedad Cultural Mayagüezana, Inc." has kept alive the tradition of the "Three Kings Day" in our community. The organization collected gifts which were distributed to low-income children on January 6, the "Three Kings Day."

In addition, young girls from the community are encouraged to learn about the traditional "danza" and how to dance this classical music from Puerto Rico.

The organization also offers educational seminars. Among their many guest speakers, a descendant from the Indian people of Mayagüez, the Chief or "Cacique Cibanacan" talked to the community about our Indian roots.

Mayagüez was founded in 1760 by Spaniards. Its first inhabitants, before Christopher Columbus arrived in 1492, were Indians known as the "Tainos", which means good or noble. Today Mayagüez has a population of 200,000 people. The town, which lies in the southwestern part of Puerto Rico, is also known as "Sultana del Oeste".

Mr. Speaker, it is with great pride that I ask my colleagues to join me in recognizing the "Sociedad Cultural Mayagüezana, Inc." for their tireless efforts in educating our community and in bringing together the people from my birth city, Mayagüez.

CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT OF 1998

SPEECH OF

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes:

Mr. KLINK. Mr. Chairman, I think this is good legislation that will protect our children and I urge my colleagues to support it.

I am pleased that the problem of pedophiles using the Internet to prey upon innocent children is finally receiving the attention it deserves.

I first became concerned about this issue when, as a television reporter in Pennsylvania, I discovered that the police were pursuing a well-organized, high-tech ring of computer pedophiles. This pedophile ring had compiled information on techniques and locations for preying on children in cities all across the country.

Since my election to Congress, I have been working to protect children on the Internet. My Pennsylvania colleague, JOHN MURTHA and I met with local and State law enforcement officials, the Department of Justice Child Exploitation Division, and representatives of family groups to discuss what to do about this growing problem.

In particular, I remember meeting with Al Olsen, a police chief from Warwick Township, PA, one of the few people in the country working on the problem of Internet pedophiles at that time. He told us about a California man who used computer bulletin boards to lure youthful rape victims to his home. This same man was using the Internet to brag about what he was doing.

It was clear to us that pedophiles had evolved from preying on children at the school yards and playgrounds to preying on them on the Internet and that law enforcement needed new tools to catch up.

Finally, this legislation moves against that threat. It makes it a Federal crime to use the Internet to contact a minor for the purpose of illegal sexual activity. This is stricter than current law, which requires prosecutors to prove that the victim was persuaded.

The bill also makes it a Federal offense to use the Internet to knowingly transport obscene material to a minor, whether within a State or across State lines.

These new provisions will provide law enforcement with much-needed tools to combat the growing problem of pedophiles on the Internet.

I urge my colleagues to support H.R. 3494.

A TRIBUTE TO AMERICA'S POLKA KING: FRANK YANKOVIC

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. KLECZKA. Mr. Speaker, I rise today to honor and pay tribute to Frank Yankovic on his 50th anniversary as America's Polka King. On June 8th, 1948, in the Milwaukee Auditorium in Milwaukee, Wisconsin, Frank Yankovic was crowned "America's Polka King" before 7000 screaming fans. Fifty years later, he is still "The King" to polka fans around the country, spurring a movement by Congress to award him a National Medal of Arts.

Yankovic's contributions to the popularity of polka music are legendary. But Frank's beginnings were rather modest, playing Slovenian songs on a button box for neighbors and boarders at his parents' home. At age 19, Yankovic's interest turned to the piano accordion, which upset his father because he felt Frankie could never make a living playing it. Secretly, Frankie's mother bought him a piano accordion, which he practiced at his sister's house until he played it well enough to play in front of his dad. After hearing Frankie play, his father put his arms around him and said, "If you're going to play it, play it well."

And play it well he did, as he and his friends became one of the most popular bands in town, getting exposure on Doctor James Malle's Sunday Solvenian radio program, and cutting several records under the name of the Solvene Folk Orchestra. In 1941, the day before Pearl Harbor, Frankie opened his own bar, which quickly became a popular hangout for musicians. But World War II took him overseas, where he nearly lost his life in the Battle of the Bulge, suffering from frost bite so severe in his hands and feet that gangrene had set it and doctors planned to amputate. But Frankie wouldn't let them, and after a long course of penicillin and drugs, he began to regain the use of his hands and feet. For therapy, the doctors gave him an old accordion to play. Soon he was entertaining the whole hospital.

Yankovic came home from the army and went back to his bar, which was more popular than ever. In 1946, Columbia offered Frankie a recording contract with a two year option. That contract lasted for 26 years. In December of 1947, Yankovic heard a song called "Just Because" which he felt could be a hit, but Columbia would not record it, until Frankie offered to buy the first 10,000 records himself. That song bridged the barrier between popular music and polka and launched Yankovic into the national spotlight. And there he stayed, with hits like "Blue Skirt Waltz" and "Just Because", which both became gold records. Frank won the first Grammy ever given for polka music, and was one of the first men inducted into the "International Polka Hall of Fame" in Chicago. But through it all, Frankie Yankovic has remained dedicated to his fans, and his enthusiasm for entertaining has never waned.

Frankie Yankovic is and always will be, "America's Polka King."

BANKRUPTCY REFORM ACT OF 1998

SPEECH OF

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes:

Mr. GEKAS. Mr. Chairman, I want to thank my colleague Dr. PAUL for introducing his amendment at this time. Dr. PAUL is one of the foremost scholars on the issue of credit. His amendment emphasizes the heavy burden which federal taxation places on American families. Dr. PAUL, certainly is correct in pointing out that, together with credit expansion, gambling, health care costs, etc., the federal burden is a contributing factor to bankruptcies and his foresight in bringing up this important topic is to be commended. I believe we should indeed focus further study on these concerns and make sure that future legislation in this area is mindful of this important fact.

Moreover, I want to thank Dr. PAUL for being east to work with and for his understanding of our concerns in ensuring that this landmark legislation is passed, and for his actions to that end. However, I am currently opposed to this amendment due to time constraints and the fact that I am not sure of its implications. I look forward to working with you in the future on this language and on other issues concerning taxes and bankruptcy.

TRIBUTE TO DICK CABLE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. FAZIO of California. Mr. Speaker, I rise today to pay tribute to Mr. Dick Cable, a friend to all and a fixture on the local broadcasting scene for over 30 years. This month, the Sacramento Safety Center, a group of community organizations, is honoring Dick for his efforts on behalf of a number of children's charities.

Dick Cable, a professional broadcaster since 1958, has been with KXTV–10 since January, 1969. He spent his first 8 years in radio, in Colorado, Wyoming and Idaho. He made the transition to television in Boise, Idaho, 1966 and in 1968 was named "Outstanding Young Man of the Year" by the Boise Jaycees.

Since joining KXTV–10, Dick has become the first-ever Sacramento newscaster to win an Emmy. This award winning piece was in 1973 for a special on the problems of female alcoholics. In 1988, his piece "Drop-puts: We All Pay the Price" was named Best News Series by the California School Boards Association. Dick Cable has been KXTV's "For Kids Sake" spokesperson since the station launched the project in 1992. In this capacity, Dick is the primary on-air personality for "For Kids Sake" messages which promote child and family issues such as self-esteem, parenting, and education.

Dick is very active in community events such as "Coats for Kids Sake," "Walk America For Kids Sake," "Sacramento Reads," and countless others. He is also Honorary Mayor of Safetyville, U.S.A. Dick is a frequent guest in classrooms throughout the area. He loves to read to children, and also participates in other self-esteem building projects. He serves on the board of Child Abuse Prevention Council of Sacramento, and is a board member of the Greater Sacramento Area United Way including it's citizen committee on funding for Children-At-Risk programs. Dick is a frequent speaker to community organizations throughout the Central Valley of California. His speechless focus primarily in support of child and family issues such as decision making and the need to get involved in our children's lives.

Dick and his wife Berta live in the Sacramento area. Dick has five children and eight grandchildren.

For 30 years, Dick has been an outstanding representative of his profession. He's been a paragon of honest and fair reporting and his professional ethics will serve as a model for future broadcast journalist.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in honoring Dick Cable and I personally extend my sincere appreciation for all he has done for the community of Sacramento during his many years of dedicated service.

COMMEMORATING 100 YEARS OF RELATIONS BETWEEN PEOPLE OF THE UNITED STATES AND PEOPLE OF THE PHILIPPINES

SPEECH OF

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1998

Ms. PELOSI. Mr. Speaker, I support H. Res. 404, which commemorates the friendship which the United States and the Philippines have shared over the last century. I am proud that the San Francisco district I represent has a large Filipino-American community which has contributed greatly to the city's diversity. The friendship of the United States and the Philippines will only continue to grow as we move into the 21st century.

One century ago, the Philippine's gained its independence from Spain, which had ruled over the Filipino people ever since Magellan claimed the islands for Spain in 1541. That day in 1898 was truly historic, for it marked the beginning of the close and wonderful relationship between the Philippines and the United States.

Our relationship has always been mutually beneficially. During World War II, as the Japanese were conquering much of Asia, the Philippines became an historic turning point in the Pacific theater. History remembers General MacArthur's promise of "I will return" upon surrendering the Philippines to the Japanese only to keep that promise and retake the Philippines in one of the defining moments of the relationship both countries share.

Soon after the war, the Philippines gained full independence from the United States and became a key strategic ally throughout the cold war.

Today, the Philippines is one of the few true democracy's in Asia. In 1986, the world was captivated when Corazon Aquino's "People Power" revolution brought her into office. And just last month, the Philippines held peaceful elections resulting in their country's third democratically elected president in 12 years.

As we enter the next century, we must work together to address new challenges. In moving forward though, we must embrace and reconcile past discrepancies. I therefore urge my colleagues to rectify a broken promise made during World War II. Fighting under the flag of the United States, many Filipino soldiers were promised full veterans benefits by the United States only to see that promise withdrawn after the war was won.

I ask my colleagues, what better tribute to our relationship with the Philippines than to honor this promise as we end the 20th century. We must demonstrate, as General MacArthur did, the importance of keeping promises. Then we can work closely to address the problems of the next century.

TRIBUTE TO THE NATIONAL PUERTO RICAN PARADE: 41 YEARS OF HISTORY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. SERRANO. Mr. Speaker, it is with great joy that I rise today to pay tribute to the National Puerto Rican Parade on its 41 years of history. The parade, which was held on June 14 in New York City, is the largest celebration of Puerto Rican culture in the United States.

Throughout its history, the parade has grown into a national event under the leadership of its President, Ramón S. Vélez. The event attracts thousands of Puerto Ricans from across the nation and from Puerto Rico, as well as many other individuals, their families and children, from all ethnic backgrounds.

As a Puerto Rican, a New Yorker, and a Member of Congress, every year it is an honor to participate in this national event, in which thousands of individuals march along Fifth Avenue, in Manhattan, in celebration of our Puerto Rican heritage and our achievements in this nation. This year I had the honor to march with members of the "Sociedad Cultural Mayagüezana, Inc." and other representatives from my birth town of Mayagüez, Puerto Rico.

Mayagüez was founded in 1760 by Spaniards. Its first inhabitants, before Christopher Columbus arrived in 1492, were Indians known as the "Taínos", which means good or noble. Today Mayagüez has a population of 200,000 people. The town, which lies in the southwestern part of Puerto Rico, is also known as "Sultana del Oeste".

This year's parade honored the life of Luis Muñoz Marín, the first Governor of Puerto Rico elected by the people in 1947. Muñoz Marín is credited with implementing the new economic reforms which resulted in raising the standard of living on the island to one of the highest in Latin America and the Caribbean.

The parade has served as a national landmark in which people from all ethnic groups unite to commemorate our nation's glorious immigrant history. Among many other accomplishments, Puerto Ricans have been instrumental in transforming New York City into a great bilingual city.

Mr. Speaker, it is with great pride that I ask my colleagues to join me in honoring Luis Muñoz Marín and the National Puerto Rican Parade, in its celebration of our Puerto Rican legacy, and the many contributions made by the sons and daughters of Puerto Rico to the greatness of this nation.

HONORARY U.S. CITIZENSHIP FOR LEIF ERICSON

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. SABO. Mr. Speaker, today I rise to introduce a resolution to grant honorary United States citizenship to the Norse navigator and explorer, Leif Ericson.

Leif Ericson played a vital role in the European discovery of our continent. It is a role that, over the years, has not been widely recognized. Within the past 30 years, new historical evidence has surfaced to show that Leif Ericson landed in North America around 1000 A.D., almost 500 years prior to Christopher Columbus' arrival in the New World.

Leif Ericson was born around 970 A.D. in Greenland, son of the famous warrior, explorer, and discoverer of Greenland, "Eric the Red." There are two traditional accounts of Leif Ericson's discovery of America. However, the one that is best upheld by recent evidence states that a contemporary of Leif's, Bjarni Herjolfsson, chanced upon America after drifting off course. Bjarni did not land in the New World, but upon his return to Greenland, he described his course to Leif. Following Herjolfsson's course, Leif later landed in North America. He named the new land "Vinland," after the plentiful supply of grapes he found there. He built a small settlement and spent the winter in Vinland before he returned to Greenland.

At the end of his career, Leif Ericson settled on his father's estate in Brattahlid, Greenland, where he lived until he died. It is rumored that he is buried in an unmarked grave in the Brattahlid cemetery.

I offer this resolution as a tribute to the pioneering spirit of Leif Ericson, and as a symbol of the virtues of courage and perseverance we all must embody in order to accomplish our goals.

I also offer this resolution in recognition of the Leif Ericson Millennium Committee (LEMC), a non-profit organization whose founder and president, Ivar Christensen, has devoted his life to gaining recognition of Leif Ericson's voyage and Viking settlements in North America around 1000 A.D. Since its inception, the LEMC has enlisted several Honorary Members, established a "working" Board of Directors, trademarked a logo, gathered preliminary information on Viking Celebrations throughout North America, and is now planning how to realize the objectives for the Millennium Celebration.

Finally, I also offer this resolution to honor all Americans of Scandinavian descent. For generations, they have proven themselves brave and loyal Americans, carrying on the tradition of courage and exploration started by their Norse ancestors, including Leif Ericson.

It is only appropriate that we recognize the importance of Leif Ericson by making him an honorary citizen of the United States, a small tribute for his contributions to our society.

HONORING THE PONTIAC CENTRAL DELPHI FIRST TEAM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. KILDEE. Mr. Speaker, I rise today to bring to your attention the remarkable efforts and achievements of the Pontiac Central/Delphi Interior and Lighting Systems FIRST Robotics Team. This dedicated partnership has resulted in national recognition and a renewed commitment to excellence in science and technology.

For three years now, the fine students from Central High School located in Pontiac, MI, and the staff of Delphi Interior and Lighting of Troy, MI, have been competing in the FIRST (For Inspiration and Recognition of Science and Technology) national competition. As a rookie team in 1996, their efforts resulted in the national competition rookie All Star award. In only their second year of competition they were honored with the competition's highest award, the Chairman's Award for overall excellence. This year they placed first at the Southwest Regional Championship, New England Championship, and Great Lakes Regional Championship.

The Pontiac Central faculty includes: Dr. Willie B. Aldridge, Birta Allen, Michael Martus, Michael McIntyre, Lorene Phillips, Jamie Schutt, and Arthur Williams. The Pontiac Central students include: Tanea Andrews, Ben Arroyo, Stephanie Bonner, Phuong Bui, Danta Cabello, Steven Carpenter, Armand Collins, Lenwood Compton, Jose Diaz, Tabitha Durham, Alia Garrison, Glynn Gooch, Regina Griffin, Janine Harper, Hmong Her, Tawanda Hilliard, Travis Hilliard, Chris Jackson, Yvette Johnson, Albert Lee, Alva Liimatta, Myder Ly, Ilea Lyons, Koua Moua, Ronnitrea Pilgrim, Denneen Russell, Scotte Spencer, Austin St. Peter, Cary Xiong, Bob Yang, Lisa Yang, Mary Yang, Pa Yang, Peter Yang, Yang Yang, John Youngquist, and Timothy Youngquist.

Members of the Delphi Interior and Lighting Systems engineering team include: Dr. Barbara A. Sanders, Hassan Anahid, Mike Aubry, Craig Blanchard, Robert Brooks, Michael Caivaglia, Joe Cranston, Dan D'Addario, Brian Deplae, Jeremy Husic, Joseph Johnson, Marvin Lewis, Saundra Marion, Jane Maselli, Shannon Moore, Mark Nicholas, Amanda

Offer, Joe Otenbaker, Tom Osborne, Chantell Parentea, Joe Picciurro, William Priest, Vijay Srinivas, Mark Steffe, Angelica Tasker, Ronald Wilde, Kimberely Will, Kevin Wright, and Joe Zwolinski.

Mr. Speaker, in order for our nation to remain a leader in the global economy we must recognize the importance of science and technology education. For three years, teachers, volunteers, sponsors and participants of the Pontiac Central/Delphi Interior and Lighting Systems FIRST Robotics team have been committed to ensuring that our nation's future doctors, engineers, and scientists have the skills necessary to succeed in the 21st century.

INTRODUCTION OF BILL ON FINANCIAL DERIVATIVE

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. LEACH. Mr. Speaker, over the past several years, financial engineers in our great banks and securities houses have come up with scores of new products that have kept the United States far in the lead as the world's preeminent financial market place.

None of these new-age products has been more successful than derivative financial instruments, which, as the name suggests, derive their value from the worth of an underlying product, such as a precious metal, the interest rate of a government bond or stock index. Derivatives enable banks, corporations, mutual funds, pension funds—indeed, anyone with a substantial portfolio—to mitigate risks from volatility in interest rates, commodity prices and equity values. There is hardly anyone in America today who has physically touched, but who has not been indirectly touched by financial derivative instruments.

Banks pioneered the over-the-counter derivatives markets and, though other important financial institutions have followed suit, banks still account for more than two thirds of the business in swaps and other O–T–C instruments. That market today has a so-called notional value of several trillion dollars, and the American share of it has added to the health of our financial services sector.

Our fragmented and antiquated financial laws and regulations, however, threaten American leadership in that sector of the industry. The fact that new financial products don't easily fit definitions that were written long before these products were invented has produced legal uncertainty in some critical areas like swap contracts and trades in hybrid instruments—uncertainty that some regulators may have exacerbated by a drive to enlarge bureaucratic turf. As a result, some of this homegrown financial business has moved out of our great financial centers—to place like London, where counterparties to a swap agreement can be certain that the sanctity of their contract is secure and not, as it might be here, vulnerable to the whims of a regulator insufficiently apprised that people don't like to do business in markets where the sanctity of their contracts may be in doubt.

Technology has transformed the financial services industry in the last few years, and the onrush of change continues. If the gaps and ambiguities in our statutes are not corrected, and corrected soon, our financial markets may lose even more business.

There must be consistency, coordination and clarity in our regulations of derivative instruments. Our laws and regulations must be harmonized so that regulatory turf battles can be lessened and regulatory arbitrage eliminated.

I have not been impressed with the activities of our current coordinating bodies, like the President's Working Group of Financial Markets, which are supposed to sort out conflicts among financial regulators and produce decisions balancing public and private interests. In Congressional testimony last week, Chairman Brooksley Born of the CFTC said the President's Working Group simply doesn't do much, and that it's up to each agency to act within its own statutory authority. But I'm not impressed either by the efforts of one agency unilaterally to gain control of over-the-counter markets.

Effective regulation of derivatives markets has profound consequences on consumers and industry alike. The public needs fair and efficient markets, markets in which it can have complete confidence. Financial institutions need sensible regulation that will neither impair its ability to innovate nor burden it with onerous requirements. And both public and industry need regulations and regulators who can keep up with the pace of technological change without driving market participants to less prudential foreign markets.

The bill I am introducing today would create a study group to bring the laws and regulations of over-the-counter markets up to date. The Working Group on Financial Derivatives will be chaired by the Secretary of the Treasury and include the principal banking and financial market overseers. They will be asked to devise changes that will clarify and, I hope, simplify and rationalize our current crazy quilt of regulations and regulators. They will have one year to make their recommendations to Congress.

Mr. Speaker, it isn't only the United States which needs clarity in financial regulation. The financial business is a global business, and it can, and does, shift from one market to another almost on a moment's notice in response to regulatory pressure. If we are to end regulatory arbitrage—the practice in which business moves to the most lightly regulated markets, and regulators compete for business by offering the lightest regulations—we must approach this multinationally.

My bill would ask the Administration to enter into negotiations with the objective of establishing comparable regulation in the world's principal financial centers. Markets here and abroad should be efficient, transparent, and fair to their customers. The safety and soundness of the world financial system depends on it.

Below is the financial derivatives bill:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Derivatives Supervisory Improvement Act of 1998".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) There should be consistency, coordination, and clarity in the regulation of derivative instruments used by financial institutions.

(2) Banks and their affiliates developed, and remain the principal participants in, the derivatives markets.

(3) Regulation of the derivatives markets directly affects the liquidity, efficiency, capital position, and safety and soundness of the banking industry and the safety and soundness of the Federal deposit insurance fund.

(4) Regulation of the derivatives markets has profound consequences for the continued effectiveness of the bank supervisory process, including the capital provisions of the Federal banking agencies.

(5) Statutes and regulations governing use of financial derivatives by depository institutions in the United States, including over-the-counter and exchange-traded derivatives, should be brought up to date to reflect the rapid evolution of the markets in recent years, framed so as to keep pace with changes in the markets brought on by the onrush of technological advances, and formulated in a manner that enhances the legal certainty of derivatives transactions.

(6) The Congress desires interagency cooperation to harmonize, to the maximum extent possible, United States rules and regulations related to the derivatives markets.

(7) Regulatory arbitrage is a fact of commerce, with market participants having the tendency to move to the weakest regulator.

(8) The stability of the international financial system and the competitive position of United States financial institutions are jeopardized if foreign markets are regulated less prudently than United States markets.

SEC. 3. ESTABLISHMENT OF WORKING GROUP ON FINANCIAL DERIVATIVES.

(a) ESTABLISHMENT; COMPOSITION.—There is established the Working Group on Financial Derivatives, which shall consist of—

(1) the Secretary of the Treasury;

(2) the Chairman of the Board of Governors of the Federal Reserve System;

(3) the Chairman of the Securities and Exchange Commission;

(4) the Chairman of the Commodity Futures Trading Commission;

(5) the Comptroller of the Currency;

(6) the Director of the Office of Thrift Supervision;

(7) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; and

(8) the President of the Federal Reserve Bank of New York.

(b) CHAIRMANSHIP.—The Chairman of the Working Group on Financial Derivatives shall be the Secretary of the Treasury.

(c) DESIGNATION OF OFFICERS AND EMPLOYEES.—The members of the Working Group on Financial Derivatives may, from time to time, designate other officers or employees of their respective agencies to assist in carrying out the duties on the Working Group on Financial Derivatives.

(d) ESTABLISHMENT OF ADVISORY COMMITTEES.—In the development of recommendations related to derivative products, the Working Group on Financial Derivatives shall consult, to the widest extent possible, with market participants, and may establish advisory committees accordingly.

(e) SUNSET; REPORTS.—The Working Group on Financial Derivatives shall cease to exist upon the enactment of legislation authorizing appropriations for the Commodity Futures Trading Commission for any fiscal year after fiscal year 2000. The Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System shall submit to the Congress every 6 months, during the 4-year period beginning on the date of such cessation, a report on the progress of the implementation of the recommendations of the Working Group on Financial Derivatives.

SEC. 4. STUDY AND RECOMMENDATIONS ON REGULATION OF DERIVATIVES MARKETS.

(a) STUDY.—The Working Group on Financial Derivatives established under section 2—

(1) shall conduct a study on the regulation of the derivatives markets, including over-the-counter derivatives and exchange-traded derivatives, in which depository institutions, brokers or dealers registered under the Securities and Exchange Act of 1934, foreign banks, or affiliates of a depository institution or a foreign bank, participate; and

(2) shall develop recommendations for modernizing and harmonizing statutes, regulations, and policies—

(A) to reflect changes in the markets described in paragraph (1);

(B) to improve their operations;

(C) to enhance legal certainty for all types of instruments related to such markets, including hybrid instruments and swap agreements; and

(D) to promote the harmonization of regulation of such markets worldwide.

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than 6 months after the date of the enactment of this Act, the Working Group on Financial Derivatives established under section 2 shall submit an interim report to the Congress describing the working group's progress.

(2) FINAL REPORT.—Not later than 1 year after the date of the enactment of this Act, the Working Group on Financial Derivatives established under section 2 shall submit a final report to the Congress describing the study conducted under subsection (a)(1) and containing the recommendations developed under subsection (a)(2).

(3) SEPARATE VIEWS.—The reports under paragraph (1) and (2) may include separately stated views of any member of the working group.

SEC. 5. PROTECTION OF INTERNATIONAL BANKING SYSTEM.

To protect customers, stabilize the international financial system, and underpin the safety and soundness of banking institutions in the United States and the banking system around the world, the Government of the United States and the Working Group on Financial Derivatives should make a high priority continual negotiations to ensure that foreign markets and regulatory bodies establish and maintain regulations comparably prudent to those applicable in United States markets.

SEC. 6. RESTRICTIONS RELATING TO HYBRID INSTRUMENTS AND SWAP AGREEMENTS.

Notwithstanding any other provision of law—

(1) during the period beginning on the date of the enactment of this Act and ending upon the enactment of legislation authorizing appropriations for the Commodity Futures Trading Commission for any fiscal year after fiscal year 2000, the Commodity Futures Trading Commission may not, without the approval of the Secretary of the Treasury, propose or promulgate any rule, regulation, or order, or issue any interpretive or policy statement, that restricts or regulates activity in a hybrid instrument or swap agreement—

(A) that is eligible for exemption under part 34 or 35 of title 17, Code of Federal Regulations (as in effect on January 1, 1998); and

(B) to which a depository institution, a broker or dealer registered under the Securities and Exchange Act of 1934, a foreign bank, or an affiliate of a depository institution or a foreign bank, is a party; and

(2) a hybrid instrument or swap agreement described in paragraph (1) that is entered into before the period described in such paragraph shall not be subject to section 2(a)(1)(B)(v) of the Commodity Exchange Act (7 U.S.C. 2a(a)(1)(B)(v)).

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) The term "depository institution" has the meaning given such term in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

(2) The term "foreign bank" has the meaning given such term in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(b)(7)).

CONGRATULATIONS TO THE VILLAGE OF EIK RAPIDS, MI

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. STUPAK. Mr. Speaker, a small village in my district, the 1st Congressional District of Michigan, is celebrating its sesquicentennial in 1998. In its 150-year history Elk Rapids, like so many small Midwestern cities and villages, has grown grow from the homestead of a single hardy pioneering family to a community with a rich and unique heritage.

Like other Midwestern communities, Elk Rapids has witnessed the lure of lumber and furs, has seen boom times and times of economic hardship, and has renewed itself through several generations with the same strength and courage demonstrated by its original settlers. Through research and recollection, the village leaders in a resolution marking their sesquicentennial have distilled those 150 years into a brief history, which I will related to you, Mr. Speaker.

The community's story begins in the mid-1800s, when Abram Wadsworth, a government surveyor from Durham, Conn., came to the region to explore the Grand Travese Territory in northwestern Lower Michigan. Mr. Wadsworth's task was to explore the Territory in general, and specifically to survey land in the section now known as Elk Rapids.

Mr. Wadsworth, on one of his visits, found a pair of elk horns in the rapids near the mouth of the Elk River and determined that this pristine and picturesque spot would be especially well-suited for the construction of a sawmill for the purpose of processing timber cut from the vast hardwood stands of Antrim County. He erected in 1848 the first permanent dwelling on the shores of Grand Traverse Bay in the general vicinity of the present Elk Rapids Township Hall.

This structure led to the eventual settlement and development of a town around that site, which has grown through the hard work and dedication of its citizens over the last 150 years to become the Village of Elk Rapids.

The village grew to a thriving community which based its livelihood on the lumber industry. The community sent out lumber and drew its local supplies via rail lines on the landward side and through docks on the Grand Traverse Bay side that drew steamers from Milwaukee and Chicago.

The population of the village grew to a bustling 1,800 by the year 1905, fell with the decline of the lumber industry to 530 people by the year 1930, but has grown again to more than 1,600. With the natural attraction of the water and the moderate temperatures caused by its nearness to Lake Michigan, the village now bases its livelihood on fruit farming and tourism. Community leaders are optimistic about the future of Elk Rapids as it prepares for its next 150 years.

I am proud to be a participant in the events of Founder's Day, June 20, 1998, which has been officially designated as the day to spotlight this auspicious occasion.

Mr. Speaker, by proclamation of the Village of Elk Rapids, I encourage my colleagues, and I encourage all residents, business people and visitors to the village to recognize and celebrate this milestone in ways that heighten civic pride and inspire further preservation of the historical, cultural and natural characteristics that make Elk Rapids one of the most enchanting places on the face of the Earth.

PERSONAL EXPLANATION

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. EVERETT. Mr. Speaker, on June 11th, I was unable to cast my vote in support of H.R. 466, condemning the brutal killing of James Byrd, Jr. The measure was not scheduled for the day's legislative business, and I had already committed to travel plans to reach my district that evening. Had I been present, I would have voted "aye."

BILL OF RIGHTS AND CAMPAIGN REFORM

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. DELAY. Mr. Speaker, as we begin the debate on so-called campaign reform, my colleagues should take a moment to read the following column from Dennis Byrne of the Chicago Sun Times. He has it exactly right—reformers think the First Amendment is a "loophole" that must be closed.

[From the Chicago Sun-Times, June 10, 1998]

BILL OF RIGHTS NO OBSTACLE TO 'REFORM'

(By Dennis Byrne)

When the House last week defeated a constitutional amendment to strengthen religious freedom, its opponents argued that we shouldn't be messing around with the Bill of Rights.

House Minority Leader Richard Gephardt of Missouri joined many fellow Democrats in defeating the amendment based on the logic that the First Amendment already protects religious freedoms.

So, guess who has introduced an amendment to change the Bill of Rights? That's right, Gephardt. He would allow Congress to restrict the First Amendment by limiting what Americans can say about political candidates and issues. But as the debate is joined on campaign finance reform, a Gephardt spokeswoman said he would vote "present" on his own amendment. Democrats charge that Republicans are calling for a vote now on the amendment to embarrass the Democrats.

They should be embarrassed.

It was bad enough that many Democrats, along with a few Republicans, were pushing a version of campaign finance "reform" that would fly in the face of Supreme Court rulings limiting how much Congress can restrict Americans' political speech as expressed through their campaign contributions. Now their favorite bill, McCain-Feingold, is being topped by a worse version, Shays-Meehan (HR 3526), backed by President Clinton, Common Cause and the League of Women Voters.

Get a load of some of its proposals, according to an analysis by the National Right to Life Committee:

It would impose year-round restrictions on what incorporated citizens advocacy groups that are not political action committees can say about issue and candidates. They wouldn't be allowed to publish anything that mentions a lawmaker in connection with judgment about his actions or beliefs. For example, a community organization would not be able to note approvingly that Rep. Rod Blagojevich (D-Ill.) opposed the recycling of napalm in East Chicago.

Any group that "coordinated" with a candidate, even to the point of having the same printer, would be banned during the year from even naming a candidate "for the purpose of influencing a federal election," a test that is so vague as to be unconstitutional. Such a group couldn't issue any communication having "value" to the candidate, even if the candidate isn't named.

"Coordination" also would include the common practice among groups of sending a written questionnaire to candidates and then disseminating the results. It also would include "policymaking discussions" with a "candidate's campaign," which could rule out lobbying.

Within 60 days of a congressional primary campaign, such groups couldn't mention the name of a candidate, even in ads that alert citizens to upcoming votes in Congress. Groups could obtain an exception for putting out materials about voting records and positions, but the information must be presented "in an educational manner"—another unconstitutionally vague test.

There's more, but this is as much as I can take.

The meaning of the First Amendment is clear: In the interest of hearty debate, government can't restrict the people's right to talk about the government. Instead, campaign finance "reformers" would have government decide what people are allowed to say about their elected officials (read: their government).

The answer to campaign finance abuse is to enforce the laws we already have—would that Attorney General Janet Reno ask for an independent counsel to investigate presidential fund-raising shenanigans.

The constitutional answer is to strengthen free speech by removing the arbitrary restrictions now imposed on campaign donations, while requiring complete, clear and immediate disclosure.

But if "reformers" get their way, the rules will become so complex and arcane that Americans first will have to consult their lawyers to find out what government allows them to say about government. The answer will be: Not much.

Dennis Byrne is a member of the Sun-Times editorial board.

IN RECOGNITION OF THE PORT WASHINGTON YOUTH ACTIVITIES 8TH ANNUAL HALL OF FAME DINNER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today to recognize three individuals who will be honored on Friday, June 19th, 1998, for their dedication and support of youth activities in the town of Port Washington, New York. Julius Picardi, Frank Giordano and Jack Sommerville will be so honored by induction into the Port Washington Youth Activities Hall of Fame at the PYA's eighth annual affair. They will join a select group of twenty others who have been previously recognized by the PYA.

Mr. Picardi has been a dynamic force in the growth of the PYA during the 1980s serving as coach, organization treasurer, officer and director for over fifteen years. Mr. Giordano is cited for his athletic achievements including collegiate lacrosse at the United States Military Academy in the early 1980s. Many of his skills and his dedication to excellence were developed in his active days as a youth in the PYA programs. Finally, Mr. Sommerville is remembered for his tireless dedication as coach and supporter of PYA baseball programs for more than ten years.

All three of these gentlemen are recognized for their individual and collective contributions to youth sports and all they embody. They are an excellent reflection upon themselves, their families, their community and the volunteer spirit of American organizations, such as PYA. Mr. Speaker, I ask my colleagues to join with me in recognizing these individuals who are most deserving of this honor, with special appreciation from their neighbors and friends.

THE ASSISTIVE AND UNIVERSALLY DESIGNED TECHNOLOGY IMPROVEMENT ACT FOR INDIVIDUALS WITH DISABILITIES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mrs. MORELLA. Mr. Speaker, I am pleased today to introduce H.R. XX, the Assistive and Universally Designed Technology Improvement Act for Individuals with Disabilities. H.R. XX is the House companion bill to S. 2173 offered by my distinguished Senate colleague from Missouri, Mr. BOND.

Last July, my Technology Subcommittee held a hearing focusing on the transfer of federal technologies to meet the needs of those with disabled conditions. We learned from the hearing that these technologies, known as "assistive technologies" are being used to increase, maintain, and improve the functional capabilities of individuals with disabilities.

Assistive technologies is a device, whether acquired commercially, off-the-shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of individuals with disabilities. Examples of assistive technologies, which provide for more independent, productive, and enjoyable living, can be simple or complex. It ranges from: Velcro, adapted clothing and toys, computers, seating systems, powered mobility, augmentative communication devices, special switches, assisted listening devices, visual aids, memory prosthetics, to thousands of other commercially available or adapted items. As examples, it can be: a computer that can be used by an individual with Cerebral Palsy, a motor scooter, a hearing aid for an individual who is aging, or enhanced voice recognition for someone with Multiple Sclerosis.

Assistive technologies provide a disabled individual the means to function better in the workplace or the home. This technology, which aids Americans with physical or mental disabilities, improves the end users' quality of life and provides a means for acquiring a job. For the 49 million people in the United States who have disabilities, as well as for Americans who are able bodied, assistive technologies have yielded a tremendous number of quality of life enhancements.

These technology solutions improve an individual's ability to learn, compete, work and interact with family and friends. People use assistive technology to achieve greater independence and to enhance the quality of their lives.

A preliminary study on the impact and benefits of assistive technologies was conducted by the National Council on Disability in 1993. Surveyed were 136 individuals with disabilities to evaluate the costs and benefits associated with the use of different kinds of technology-related assistance. The individuals were from four age groups and the results indicate a significant impact of assistive technologies on many aspects of the respondents lives, including: the majority of infants with disabilities benefited by having fewer health problems; nearly 75% of school age children were able to remain in a regular classroom, and 45% were able to reduce their use of school-related services; 65% of working-age persons were able to reduce dependence on family members, 58% were able to reduce dependence on paid assistance, and 37% were able to increase earnings. Among elderly persons, 80% were able to reduce dependence on others, half were able to reduce dependency on paid persons, and half were able to avoid entering a nursing home.

As a result of our July hearing, the Technology Subcommittee was impressed with the need for a greater emphasis to develop assistive technologies. Yet, the area of assistive technology is greatly overlooked by the Federal Government and the private sector. While the importance of assistive technologies spans age and disability classifications, assistive technology does not maintain the recognition in the Federal Government necessary to provide important assistance for research and development programs or to individuals with disabilities.

The private sector generally lacks adequate incentives to produce assistive technologies and end-users lack adequate resources to acquire assistive technology. It is also believed that there are insufficient links between federally funded assistive technology research and development programs and the private sector entities responsible for translating research and development into significant new products in the marketplace for end-users.

H.R.—provides federally supported incentives in all areas of assistive and universally designed technology, including need identification, research and development, product evaluation, technology transfer, and commercialization. These incentives achieve the goal of improving the quality, functional capability, distribution, and affordability of this essential technology. The legislation seeks to:

Improve the peer review process at the National Institute on Disability Research and Rehabilitation (NIDRR) at the Department of Education. These improvements would provide greater assistive and universally designed technology products to the marketplace, increase small business involvement in research and development, and assure research and development efforts would cover all disability groups including persons with physical and mental disabilities, as well as the aging and rural technology users.

Augment technology transfer by improving the role of the Interagency Committee on Disability Research (ICDR) to increase its authority, accountability and ability to coordinate. Provisions are included for the increased usage of the Federal labs to improve coordination with all Federal agencies involved in assistive and universally designed technology research and development and for providing public and private sector partnerships for assistive and universally designed technology research and development.

Increase the market for assistive technology by clarifying Title III of the Tech Act for the Microloan program. This microloan program assists disabled persons in obtaining assistive and universally designed technology.

Authorizes funding for the Interagency Committee on Disability Research to hire staff and for operating costs associated with issuing surveys and reports and to the National Institute on Disability Research and Rehabilitation to provide for assistive and universally designed technology research and development.

Increase access to assistive and universally designed technology by creating tax incentives to provide businesses a tax credit for the development of assistive technology, to expand the architectural and transportation barrier removal deduction to include communication barriers, and to expand the work opportunity credit to include expenses incurred in the acquisition of technology to facilitate the employment of any individual with a disability.

I am pleased that H.R.—already has the support of the United Cerebral Palsy Association, the Rehabilitation Engineering and Assistive Technology Society of North America, the National Easter Seal Society, and The Association of Tech Act Projects.

Mr. Speaker, I urge my colleagues to support this important bill and I will work towards enactment of this worthy legislation.

TRIBUTE TO COLONEL GREGORY G. BEAN

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. FORD. Mr. Speaker, I rise today to ask that my colleagues in the House of Representatives pay tribute to Colonel Gregory G. Bean. Since 1995, Colonel Bean has served with distinction as the District Engineer of the U.S. Army Corps of Engineers Memphis District in Tennessee's Ninth Congressional District.

As a result of his outstanding leadership, technical competence and commitment to excellence, the Memphis District has effectively and efficiently executed its flood control, navigation and environmental missions. During his tenure, Colonel Bean managed a number of projects that will have lasting benefits for the people of Tennessee's Ninth Congressional District and the nation. These projects include the Nonconnah Creek Flood Control project, the Wolf River environmental restoration and flood control study, and flood control and navigation maintenance on the Mississippi River, the Wolf River Harbor and the McKellar Lake Harbor.

In addition to his accomplishments as an engineer, Colonel Bean also possesses considerable management-employee relations skills. After assuming his post, he worked hard to cultivate a relationship of mutual trust and respect among the employees and management of the Memphis District. As a result, Local 259 of the National Federation of Federal Employees nominated Colonel Bean for a Society of Federal Labor Relations Professionals award for having the most improved labor/management relationship. In May, Colonel Bean was selected from a large number of nominees for the award.

Although Colonel Bean will be missed by all who had the privilege to work or be associated with him, I am confident that his legacy will continue. In July, Colonel Bean will assume the post of Deputy Director of the Maneuver Support Battle Lab in Ft. Leonard Wood, Missouri. I ask my colleagues to join me in honoring an individual who has throughout his career demonstrated through deed, courage and strong leadership that he is a professional soldier and an outstanding engineer.

AID FOR AMERICA'S NEEDIEST FAMILIES

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. SMITH of New Jersey. Mr. Speaker, today, I am introducing legislation that would protect poor mothers and their children who have been victims of the so-called family cap-child exclusion provision used by 23 states including my own state of New Jersey.

Three years ago, I supported efforts to reform our nation's federal welfare system. However, I had grave concerns at the time about a provision in the House's version of welfare reform legislation that would have cut off cash assistance for any additional children born to a woman while she was on welfare, known as the family cap. I objected to this provision because I believed that it would encourage women to have abortions in their hour of greatest need or drive families farther into poverty.

The bill I am introducing today no longer allows states to implement their own version of a family cap if they desire to continue to receive their Temporary Assistance to Needy Families (TANF) block grant. My bill is very simple: a state will receive its TANF dollars as long as it does not impose a family cap upon America's neediest families.

In 1995, I tried to ban the family cap but failed. I admitted at the time that the family cap-child exclusion proposal had enormous surface appeal, since people were fed up with abuse of the welfare system. As a result, I introduced an amendment which gave states the option to use a voucher system if they chose to do away with cash benefits as part of a larger family cap policy. My amendment passed overwhelmingly by a vote of 352 to 80.

The two most predictable outcomes of the family cap-child exclusion policy as implemented by twenty-three states are the likely increase in the number of babies aborted by indigent women—many of whom will feel financially trapped and abandoned—and the further impoverishment of children born to women on welfare.

Recently, my worst fears regarding abortion and the family cap were confirmed by a Rutgers University draft study prepared for the state of New Jersey which estimated that New Jersey's abortion rate increased by 240 abortions per year as a result of the state's family cap. As a result, since 1993, nearly 900 abortions have occurred in New Jersey due to the family cap. Thousands of other children have also been left to fend for themselves because their parents are not allowed to receive assistance on their behalf. I led a broad-based coalition of groups opposing the state's original request for a waiver in 1992 to implement a family cap policy because we knew that the family cap would only drive women into greater depths of poverty and despair and consequently increase the likelihood that they would abort their child. Sadly, our concerns were confirmed by the Rutgers study.

We knew at the time that money—or more precisely the lack of it—heavily influences a woman's decision to abort her child. A major study by the Alan Guttmacher Institute, a research organization associated with Planned Parenthood, found that 68% of women having abortions said they did so because "they could not afford to have a child now." Among 21% of the total sample this was the most important reason for the abortion; no other factor was cited more frequently as "most important."

Demographers have pointed out that "young, poor, and minority women are more likely to have abortions than older, more affluent, and white women," even though "these same groups are also more likely to oppose the right to abortion . . . Seven in ten (70 percent) women with incomes of less than $25,000 disapprove of abortion, compared with 52 percent of more affluent women. [Yet] poorer women account for two-thirds (67 percent) of abortions." One expert observes: "Few would say an abortion is a good thing, but many women who believe that abortion is wrong find themselves unable to support a child when they become pregnant."

The family cap is likely to tip the balance for each poor woman who feels that society has no real interest in the survival of her baby. She will get a powerfully negative message—that her child has no value—especially from those states where Medicaid abortion is readily available.

Then one of two things will happen. The woman will have an abortion, or the family will descend further into poverty.

Mr. Speaker, the family cap/child exclusion might present a close question if the incremental payment for a new baby were really so high that it might encourage women and girls to get pregnant and have babies just to get welfare. But this concern simply evaporates when we look at the facts.

The additional assistance per child varies from state to state, but the median is $57 per month—fifty-seven dollars. Out of this the mother must pay for the child's clothing, shoes, diapers and other baby supplies, laundry, and bus fare for medical checkups. According to statistics compiled by Catholic Charities in 1994, the low-end costs for these items total $88.50 per month. So the mother is $31.50 in the hole even before she begins paying for the child's other expenses. We simply mislead ourselves when we assume that this constitutes an incentive to have more babies.

Mr. Speaker, there was much about the welfare system that needed changing in 1995—people were trapped in the cycle of poverty and despair. They needed a new program. They needed help and the bulk of our new provisions have been beneficial. But letting states pay to terminate the life of a child while the same state refuses to pay a mere $64 a month for food and clothing for that child is unconscionable. Instead, if we want welfare to be temporary and to be a true safety net—a safety net against abortion under duress, a safety net against descent into deeper poverty, then we must ban the family cap.

One abortion is one too many. It is wrong for the government, whether it be federal, state, or local to embrace policies that would promote abortion and financial impoverishment. The family cap does just that. I encourage my colleagues to join me in cosponsoring my legislation.

TRIBUTE TO DR. EVELYN G. LEWIS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. PAYNE. Mr. Speaker, today I would like my colleagues here in the United States House of Representatives to join me in honoring a dedicated public servant, and a very special person, Dr. Evelyn G. Lewis, who is retiring after 35 years in Education with her most recent tenure as principal of University High School in Newark.

We in Essex County have been very fortunate to have a person of Dr. Lewis's talent and outstanding abilities, working on behalf of our children. In addition to her many achievements at University High School, Dr. Lewis also distinguished herself as a hardworking individual. She has served as Originator and Coordinator of the "Newark Business Skills Olympics". Organizer and Chairperson of Newark's Business Advisory Committee and Chair of the Curriculum Committees and the Textbook Review Committee.

On Friday, June 12, 1998 family, friends and colleagues of Dr. Lewis will gather to honor her for her many contributions to the youth of Essex County. Mr. Speaker, let us join in congratulating Dr. Lewis and wishing her all the best as she leaves public service and pursues new challenges.

CONDEMNING THE BRUTAL KILLING OF MR. JAMES BYRD, JR.

SPEECH OF

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mr. POSHARD. Mr. Speaker, I am proud to be a co-sponsor of House Resolution 466, and I rise today to join my colleagues in expressing my deep sorrow and strong condemnation of the vicious, senseless murder of Mr. James Byrd, Jr., in Jasper, Texas. It is profoundly disturbing to me that such a heinous expression of racial hatred could still occur, but I hope that this shocking event can serve to bring us together in a renewed call for the justice, tolerance and harmony which have been so long in coming to this nation.

I would also like to express my heartfelt condolences to those who knew and loved Mr. Byrd. While all of us are feeling the pain that comes with realizing our society is not yet free of this kind of violence, it is Mr. Byrd's family and friends who are bearing the heaviest burden of all, and I hope they will feel our thoughts and prayers with them as they struggle with their loss.

I want to thank the Congresswoman from California, Ms. WATERS, for offering such a powerful resolution. I urge my colleagues and all Americans to take this tragedy and transform it into an inspiration to fight against the evil and hatred that could make such a thing possible. We must not allow ourselves to become complacent while there is still work to be done, for we will not be a truly great nation until racism and discrimination have become nothing more than relics of the past.

IN HONOR OF RICHARD ALBERT McCULLOCK

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Ms. SANCHEZ. Mr. Speaker, today I rise to pay tribute to an outstanding citizen of the United States of America, Richard Albert McCullock.

Mr. McCullock was born in Bloomington, Illinois, on July 26, 1924. At the age of eighteen he joined the U.S. Army in the infantry, and later was transferred to the Engineers, 3rd Division. It was the beginning of World War II, and he was sent to the European theater where he fought during the D-Day Invasion of Normandy.

When he returned to the United States he met Marilyn Hedrick, and was married on June 7, 1947. The McCullocks have recently celebrated their 51st wedding anniversary. They have five children and twelve grandchildren.

The McCullocks have lived in Garden Grove, California, in the 46th Congressional District, for forty-four years. During that time, Mr. McCullock has devoted his energies to some very important causes and issues. As a member of the Elks Lodge, he began a clown program to entertain youth at charitable events, and also began a program on American culture.

Mr. McCullock's love for his country, and for the American flag, is very evident. The Garden Grove Elks are responsible for having a row of flags on both sides of Main Street in downtown Garden Grove. The Garden Grove City Council just approved the flags this June. This is due in large part to Mr. McCullock's persistence and emphasis on the beauty and meaning of the American flag.

Mr. McCullock comes into my office quite often, to order flags for Eagle Scouts or for other special occasions. He updates my staff on the correct flag protocol and has taught my staff a great deal about the history of the American flag. In a sense, he is the keeper of the flags, and insures that the American flag is flown outside my Garden Grove office for all to admire.

I ask you all to join me today to salute this fine American, who has served his country during its darkest hours, and who has protected and upheld our flag. He is a shining example of what it means to be American.

TRIBUTE TO DR. JOHN A. McCALL, JR.

HON. JIM TURNER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. TURNER. Mr. Speaker, I would like to take this opportunity to recognize Dr. John A. McCall, Jr., of Crockett, Texas. On June 26, 1998, Dr. McCall will have the high honor of being inaugurated as president of the American Optometric Association at the AOA's 101st Annual Congress in Orlando, Florida.

Dr. McCall is a graduate of the University of Houston College of Optometry. He has served the AOA as a member of the board of trustees, as secretary-treasurer, as vice-president and as president-elect. He has also served on the board of directors of the Texas Optometric Association (TOA), and was president of the TOA in 1989. In 1982, he was named TOA's Young Optometrist of the Year, and in 1991 he was selected as the TOA's Optometrist of the Year.

Dr. McCall's accomplishments are impressive and extend beyond his profession. He served as the mayor of Crockett from 1989–1991, and was a member of the city council for six years. He also served as president of the Crockett Rotary Club and Jaycees. He was honored for his service to those organizations with the Jaycee Distinguished Service Award and the Rotary Club Community Service Award.

Dr. McCall is a member of the medical staff at the East Texas Medical Center of Crockett, where he has been providing emergency room coverage for ocular trauma since 1984. He currently serves as secretary of the medical staff and is a member of the ER review committee.

Dr. McCall is in practice with his father, Dr. John A. McCall, Sr., O.D., but his ties to optometry run even deeper than that. The lineage of optometrists in his family extends to his wife, Anne, two of his uncles, his father-in-law and his brother-in-law. Not surprisingly, his daughter is currently in pre-optometric studies at Southern Methodist University.

Dr. John McCall has distinguished himself as an outstanding leader in his profession and his community. I am pleased to join his many friends and colleagues in congratulating him on becoming the 77th president of the American Optometric Association.

IN HONOR OF THE 15TH ANNIVERSARY OF THE PATIENT/FAMILY PSYCHOEDUCATION GROUP

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. SCHUMER. Mr. Speaker, I rise before my colleagues to commend the success of the Kings County Hospital Center's Patient/Family Psychoeducation Group, on their fifteenth anniversary. Since its founding in 1983, this group, geared mostly towards patients with Schizophrenia and Bipolar Disease, has been combating the rehospitalization of patients following their discharge from inpatient settings.

This program has yielded many positive effects, a record of which has been published in the March 1993 issue of the Journal of Psychosocial Nursing. The Psychoeducation Group has helped many patients who have been out of the hospital, to change a pattern of recidivism for consistent outpatient treatment.

The Psychoeducation Group consists of patients and families that are primarily, immigrants from the Caribbean nations. The program has been well received by this group, and the information sharing model has been very effective.

I would like to recognize the hard work and commitment that the Psychoeducation Group has exhibited throughout the past fifteen years. Its efforts have truly changed the nature of many lives.

SENATE—*Wednesday, June 17, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. Thurmond).

PRAYER

The guest Chaplain, Dr. D. James Kennedy, Coral Ridge Presbyterian Church, Fort Lauderdale, FL, offered the following prayer:

May we pray.

Almighty and most loving Heavenly Father, we thank Thee for this day. We thank Thee for this Nation, this goodly land in which You have placed us. And I thank You for this Senate which bears the awesome responsibility of guiding and directing the affairs of this Nation. And I pray this day Your blessing upon every Member of this body, upon their wives, or husbands, upon their children, their families. I pray that You would give them Your guidance and Your wisdom and discernment that all that they do may be done for the betterment of our Nation and for the glory of God.

We pray, O Lord, that You will be with them in their efforts this day. Help them in all that they do, and use it all for Your glory.

This prayer I bring in the name of Jesus Christ, my Lord and Saviour, Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ASHCROFT. Mr. President, this morning the Senate will begin a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the tobacco bill with the Ford amendment pending regarding tobacco farmers. Following disposition of the Ford amendment, it is hoped that further amendments will be offered and debated during today's session.

The Senate may also consider any other legislative or executive items that may be cleared for action.

Therefore, rollcall votes are possible throughout today's session.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Missouri is recognized to speak for up to 20 minutes.

The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank you very much.

THE SO-CALLED TOBACCO BILL

Mr. ASHCROFT. Mr. President, today will be a defining day in Washington, DC. It will be a defining day in the Congress of the United States. More specifically, it will be a defining day in the U.S. Senate.

This is a day on which we will make very important decisions, decisions that will reflect whether or not we believe that government—invasive, bigger, stronger, more consumptive government—is something to be fostered and encouraged, or we are going to say that we believe the people have the ability to make good decisions on their own and that we will not promote a government which will take more and more from the people, leaving them with less and less, not only in terms of resources but leaving them with less and less freedom.

We are going to be talking about the so-called tobacco bill today, which unfortunately is more of a smokescreen for a tax increase and big government than it is anything else.

The Democrats have rightly suggested, have appropriately stated, that the fate of this bill really rests in the hands of Republicans. And I believe that those of us who are on the Republican side of this Senate will make decisions, and we will either decide to pass this massive tax increase, to pass and institute this set of bureaucracies, the scale of which has not been seen in a long time in a bill in Washington, DC—we will either decide to pass an invasive sort of intermeddling by the Federal Government in a wide variety of the affairs of individuals, or we will decide that we believe that the appropriate action is not to tax the American people with another $868 billion in tax, is not to create 17 new boards, commissions, and agencies to try to micromanage everything from convenience stores and gas stations up to grocery stores and larger institutions that sell merchandise.

But the Democrats are right in suggesting that the decision will be made on the Republican side of the aisle. We will make a decision about whether or not to go forward with the tobacco bill, the smokescreen for the world's biggest tax increase this year. I don't know of any proposed tax increase this year that can match this proposed tax increase. And the direction we take will be a test of the way in which we lead, and it will be a test of the Republican leadership of the Senate.

Republican leadership has a responsibility to lead to Republican ideals and call us to our highest and best as people, and to give us the opportunity to be responsible as individuals and to shrink the size of government, not to expand it, to leave resources in the hands of the people, not sweep them into the coffers of government.

Our leadership has called upon DON NICKLES to manage this bill because the leader of the Republicans and the leader of the Senate has recused himself in large measure from this consideration. I thank Senator NICKLES for his outstanding efforts in this respect. I want to commend him for his opposition to this kind of invasion into the lives and pocketbooks of Americans and invasion into the liberties of Americans.

I want to commend him for his understanding that this is a bill about big government and big taxes, not a bill about teen smoking. I think he has understood from the very beginning that lots of things that might be done to curtail teen smoking aren't even mentioned. There is not even a whiff or a hint; there is not even the smoke that would follow the evidence of that kind of item in the bill. This is not a bill that makes the possession of tobacco by teens illegal, or provides incentives to do the same, or makes illegal the possession of tobacco by people in the District of Columbia.

If we are really serious about curtailing teen smoking, we might just say to the teens, "You can't have it if it is that evil and that inappropriate." We have done that with alcohol. We have provided lots of ways in which we provide incentives from the Federal Government for States and others to make sure that young people do not have access to alcohol. That is not a part of this bill.

DON NICKLES has understood this bill, I believe, as a massive tax increase, a big-government explosion, which I think is appropriate in terms of the identification. I want to commend him for his leadership here.

There is a choice to be made in this bill, and the choice is simple: Is the Senate going to return to tax and spend? Is it going to identify itself with the history of the Congress when it was under Democratic control and authority that the way we handle America is to tax more and spend more and tax more and spend more? Are we going to extend the line of taxation and spending beyond where it already is?

It is important to note where we have come. We have not just arrived at a place where we are taxing and spending. We have arrived at a place where we are now taxing and spending more than we have ever taxed and spent in the history of the United States of America. Governments take more of the income of Americans at this time in history than ever before. We have to ask ourselves as we look behind the smokescreen of this so-called tobacco bill to see what the real components are. And we find $868 billion—$868 billion—in new taxes. That is not million dollars, that is billion dollars. This is massive, three-quarters of a trillion dollars plus in new taxes. We have to ask ourselves, do we want to extend tax and spend, or do we want to decide that we don't believe that government, with its invasive micromanaging of the lives of individuals and its invasive confiscation of the resources of the individuals—we have to decide, do we really want that to be the way in which we operate?

This is a defining moment for the Republican-controlled Senate. How will we respond to this question which is squarely before us today? Are we going to be tax-and-spend respecting government, or are we going to say to the American people we protect the people more than we respect government?

We are not going to allow government to come and sweep out of the resources and freedom of American citizens the kind of resources that are provided for in this bill.

I think we need to look forward to an era of lower taxes. I think we need to look forward to an era of smaller government. I think we need to look forward to an era of personal responsibility and freedom rather than government intervention and government spending and government taxes. I think we need to look forward to a time when States and communities make decisions and not when we have dictates and mandates and impositions from Washington, DC.

This is a defining moment. This is a defining moment for us all. If the choice is whether or not we will discontinue consideration, set aside, defeat this massive tax bill, I believe that is exactly what we should do.

Most Americans have an understanding of what is happening here. They may not have had an understanding when we first started this debate, and you will remember, I think, as I do, when this debate was begun, it was suggested that this entire thing would be just sped through the Senate; that we were going to bring it up the first of the week, and it was going to be over with by the time we left for the Memorial Day recess.

I looked at the bill, and I was shocked. I said, Wait a second; $868 billion in new taxes, 52 new powers for HHS in Title I alone, Health and Human Services, one Department, 52 new powers, authorities, and responsibilities; 178 new Federal Government powers, far-reaching powers, some with the ability to define and regulate literally whether you could sell cigarettes on the top of the counter, whether they could be in sight, whether they had to be out of sight. And, of course, with small operations like gas stations, when you have a one-room operation, you are just standing out there in the cold, literally in a little glass box. It is hard to have everything out of sight—all those kinds of things. It really stung me that to try and make that consideration in the span of a week was totally inappropriate, and I came to the floor only to find out that there was a plan to table my motion regarding taxes after less than an hour of real consideration, and it was supposed to be disposed of; we were going to sort of dispose of the financial considerations of an $868 billion tax on the American people in an hour. Then we were going to table it and move on to just slam this into a position to say that it was going to be the fate of the American people to accept it.

That is when I really said to myself, I have to do something to slow this down so that the American people have a chance to see what this is.

Real leadership is more than just reading the initial poll. The spin doctors of this whole tobacco settlement came in to say how this was really going to punish the tobacco companies. Then you got to reading the fine print, and you found out that there is part of this law which forbids the tobacco companies to make the payments themselves. They must, under the law, pass these charges on to the low-income families that use tobacco. And I say low-income families. I mean it is incredible; this $868 billion tax will fall primarily, massively, heavily on individuals who are very low income. According to the best authorities, 59.4 percent of this $868 billion tax will fall on people who make less than $30,000 a year.

You say, Well, what is a little more tax to those people? A little more tax. If the family is a two-pack-a day family, it is going to result in something close to $1,500 a year by the time you figure out all the taxes.

Now, the specific tax that is contained in the bill is $1.10 a pack, but the bipartisan Joint Committee on Tax put it this way: The price will go up from $1.98 to $3.83. Now, if it was just $1.98 plus $1.10, that would take it to $3.08. So what we are talking about is a far bigger increase in the price than just the taxes. And by the time it works its way through the system, the Joint Committee on Tax basically says that individuals will be paying $4.84 a pack as opposed to $1.98 a pack. So we are talking about what is just almost a $3 increase per pack. Now, two packs a day is 700 packs a year, roughly, for the family—700 times 3. By the end of this program, we are talking about over a $2,000 tax per year on a two-pack-a-day family. That is substantial.

Now, who does this fall on? People making less than $30,000 a year. What does this do to their children? What does this do to them? These people are addicted. The whole idea is predicated on addiction. You get this kind of price increase, and you get this kind of revenue only if people are not sensitive to the price, only if they can't quit, only if they maintain their habit. You can't project $868 billion in revenue if you think people are going to quit. So here you have these low-income individuals maybe having as much as $3 per pack by the year 2007, according to the Joint Committee on Tax, $3 per pack extra to pay. That is $1,500 to $2,000 more taken out of the budget of that family, and these are people, 60 percent of them, who earn less than $30,000 a year.

And the most repugnant of the figures that they provide is that 44½ percent of the people paying this tax will earn less than $10,000 a year. This is a tax to fall upon those who are least capable of paying.

When Ronald Reagan was President, he was known to attract to the Republican side of the equation individuals called Reagan Democrats, hard-working people who wanted to help their families, individuals who worked in trades or worked as laborers, who just worked hard. They worked and they earned less than $30,000 a year, but they had values. They wanted to take care of their families. They wanted to be able to provide for them. And here is the question: Today is a defining moment for the Republican Party. Is the Republican Party going to say to those kinds of individuals, if you made a choice to smoke at some time in your life and now you are addicted, we are going to tax you so that it is going to be virtually impossible for you to have the kind of standard of living you previously had, and we are going to do this because you have been victimized by the tobacco companies. We are not punishing the tobacco companies. We are going to make them pass the tax on to you. We are going make sure the statute provides a penalty that you have to be the person who pays the tax.

It is a defining moment for the Republican Party, in my view. I do not want the Republican Party to be defined as more taxes and more spending and more government and less responsibility for individuals and less freedom. It seems to me that there is the potential for us to be defined that way. We are not talking about this $868 billion tax increase in a vacuum. We have a Republican Senate with this bill in its hands as to whether or not we are going to tax people by an additional amount, and we are talking about this in the context of a surplus.

It is stunning to me to think that instead of debating how we can return resources to the American people, we find that we are focusing on a bill on how to take another $868 billion from the American people. And it does define the Republican Party. It defines the Republican Senate. I think this is a day which will define us very clearly.

Are we in favor, when faced with a $39 billion surplus, of taxing people with $868 billion more in taxes, to fall heavily on those who are least capable of paying for it, or are we in favor of saying no more new taxes; that we do not believe in a big tax-and-spend philosophy; that we are against invasive micromanaging, an intermeddling Federal involvement in everything; that we are in favor of personal freedom, personal responsibility, State and local government potentials, and we reject the idea that in the face of a $39 billion surplus we have to go and add to the tax bill of the American people another $868 billion over the course of this legislation.

I think we need to debate how to give people a tax break. We should not be debating how we are going to tax people hundreds and hundreds and hundreds of billions, three-quarters of a trillion dollars more than we have already taxed them.

People talk about the addictive quality of nicotine. I think tax and spend in the Congress is more addicting than nicotine. I think the clear question the American people are going to ask this Senate, they are going to ask the Republicans in the Senate: Did you break the habit? Did you break the tax-and-spend addiction of Government? Did you come to respect people or to protect the bureaucracy? Did you come to say that we are going to let people continue to have freedom, we are going to ask them to be responsible, we are going to let them have their resources and spend their resources on their families? Or did you come to say the Government is so capable, in Washington, that it is going to sweep these resources out of the pockets of Americans?

We simply cannot have the largest proposed increase in Government since the Clinton national health care plan—17 new boards, agencies, commissions. Here are some of the things that are going to happen: Mr. President, $350 million a year is going to be taken from these Americans, hard-working, low-income Americans—$350 million. That averages $7 million per State; large States, small States. It is going to be swept out of their pockets and gone for what?

Mr. President, $350 million a year goes to foreign governments overseas so they can conduct studies on what it costs to smoke overseas. I cannot believe the Republican Party wants to be identified with that kind of expropriation. We take the money out of the pockets of Republicans and Democrats—Americans, low-income workers, and we send it overseas so they can conduct studies about smoking.

This bill contains a special provision that relates to smoking in the Native American population. If you figure reasonable rates of smoking for them, it is $18,000 per Native American that we are going to spend in this program. It does not make sense, to be taking money from low-income Americans in order to do that.

These are just examples of the way this is a lavish bill, of spend and spend and more government and more government. It is only possible if you tax and tax $868 billion for 178 new Federal Government powers.

It is time for Congress to do what we know to be right, what we know to be true, what we know to be noble; that is, to respect the American people, not protect the Government bureaucracy. The majority leader has called this bill too complicated and too expensive. I call upon the majority leader to lead the American people to the right conclusion by leading the Republican Senate to the right identification with the people against big government rather than with the bureaucracy and against the people. We should pull this bill off the Senate floor. It is a massive tax-and-spend bill. Perhaps more addictive than nicotine is the urge of Government to tax and spend and regulate. It is time for us to break the habit.

I call upon our leadership to lead, to lead us to do that which is right for the American people. Mr. President, $868 billion in new taxes are not going to help American families. They are going to distress a number of families to the extent that they lose their independence and their capacity to provide for themselves. If we end up making wards of the State and Federal Government of more low-income families in America, we will have done this Nation a massive disservice. It is time for us to set aside the smokescreen, to identify this bill as tax and spend, and for us to reject it thoroughly.

I call upon our leadership to lead us in that respect.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Hawaii is recognized to speak for up to 10 minutes.

Mr. AKAKA. Thank you, Mr. President.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 2181 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. AKAKA. Mr. President, I yield back my time.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TOBACCO BILL

Mr. THOMAS. Mr. President, I am hopeful that today we will come to some conclusion and come to an end in the tobacco controversy that has gone on for a very long time now. I think there are several things which seem to have a consensus. One is that we should make effective efforts to reduce teenage smoking. After all, that was the beginning. That was the purpose. That, to me, is still the overriding objective of whatever we do in terms of tobacco.

I think there is a consensus that the tobacco companies should be held accountable for the kinds of advertising that they do, for the things they say. The FDA rules should accomplish that.

I think that most people believe we should enforce the laws against the purchase of cigarettes by teenagers.

I think there is also consensus, quite frankly, that we have talked quite long enough about this issue. It is time to come to the snubbing post, and do something about it. I hope we do.

I am discouraged, frankly, with the direction that this bill is moving. It is no longer focused on the real issues for which it came to public attention, teen smoking and public health. Instead, it has become a platform for talking about all kinds of things, such as replacing one tax with another, such as increasing programs over the next 25 years to the tune of maybe $800 billion, programs that will almost surely become entitlements, and when this funding has run out, will have to be replaced by other funding. Those are not the reasons we began to do this.

There are things in the bill that I don't think anyone has even thought about or talked about. For example, $1,700 per year in college tuition for tobacco farmers and their family members, including brothers and sisters and stepbrothers and stepsisters and sons in law and daughters in law. I doubt that is what we talked about. Providing $7.5 billion to help American Indians stop smoking, or about $18,000 per person—those are not the kind of initiatives we had in mind.

Secondly, I am opposed to the tobacco industry's marketing techniques aimed at teens, either through regulation, through law or through public opinion. That should stop. My position has been clear on these issues. But to expand the size of our federal agencies or create new ones—some reports indicate—as many as 17 new agencies will be established by this bill, is not what we had in mind, is not where we began.

Unfortunately, we find promoters of the bill accuse those who are not enthusiastic about it of being against doing something about teenage smoking. That is not true. Everyone is for curbing the use of youth smoking. Everyone wants to do that. So we ought not to be confused by such accusations. After all, one of the real philosophies and overriding efforts in this Congress ought to be to reduce the size of the Federal Government and uphold States rights. Those things are very important. Instead, this bill goes the opposite direction, creating new government boards, guaranteed annual spending increases and a wide range of State mandates—just the opposite in terms of the principals we support.

Fortunately, there will be two alternatives. We will have an opportunity to vote on substitutes if that is the choice of the leadership. One will be offered by Senator GRAMM and Senator DOMENICI. That is sort of a basic bill aimed at the purpose of controlling teenage smoking. Again, that should be our primary purpose. The second one, of course, is sponsored by Senator HATCH and Senator FEINSTEIN which goes back pretty much to the original agreement.

So I am not going to extend the tobacco debate any longer than it already has been for 3½ weeks, but I do just simply want to say that we ought to focus on the issue for which we began. We ought to do something about teen smoking, get away from this idea of bringing in everything that we can possibly think of in terms of taxes, money, and bureaucracy. It is time to deal with the issue and move on. We have a great deal to do before this session ends. We haven't even begun to discuss the appropriations bills. We have the Armed Forces authorization bill to finish. We have sorts of other legislative matters that are just as important.

Mr. President, I simply wanted to express my view in terms of the fact that I think it is time to come to some consensus, to some conclusion, and move forward. I think this can be achieved if we would only focus on the real issue—curbing teenage smoking.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

INDEPENDENT COUNSEL

Mr. TORRICELLI. Mr. President, during the course of the last year as a member of the Judiciary Committee and the Governmental Affairs Committee, I have felt that part of my responsibilities are to follow the investigation of independent counsel Kenneth Starr in some particular detail.

I, like many Americans during the course of this last year, have been troubled about Mr. Starr's investigation and the sensitivity to the rights of individual Americans in any sense of balance or fairness with which he is pursuing his responsibilities. During the course of this year, I have, on six different occasions, written to Attorney General Reno, noting problems with the investigation or particular areas of concern. These have included possible conflicts of interest on the part of Mr. Starr and his deputy, Mr. Ewing, and that Mr. Starr continues to draw a salary from his law firm in excess of $1 million—a law firm that represents important interests, including tobacco companies whose future interests may be at variance with policy positions of the Clinton administration while Mr. Starr is investigating President Clinton.

Second, Mr. Starr's association with people and organizations that appear intent on discrediting President Clinton. These, of course, would include Mr. Scaife, Mr. Starr's association with Pepperdine University, his promise of employment while being funded by an individual who is committed to the destruction of President Clinton personally and politically.

Third, the question of possible witness tampering. This, Mr. President, goes to the question of allegations of payments to David Hale by individuals associated with some of these organizations that may have undermined the credibility of testimony given in the Whitewater investigation.

All these issues for the moment aside, each individually troubling, we are now confronted with a new and potentially more serious question, and that is the apparently purposeful releasing, or to use the vernacular, "the leaking," of the sensitive nonpublic and possible grand jury information by Mr. Starr and his associates. During this investigation, various newspapers and television accounts have repeatedly used "unnamed sources" to report information that made it appear likely, if unmistakable, that the Office of Independent Counsel was providing information to reporters that was otherwise protected as a matter of law, if not just department policy.

Now in an exhaustively detailed account, a new publication, Brill's Content, has reviewed the independent counsel investigation of the President and found clear and unmistakable evidence that Mr. Starr and his associates have purposefully leaked information about the investigation of President Clinton. If these reports are true, Mr. Starr's activities are not only a violation of the ethical standards of the legal profession, they are a direct possible violation of rule 6E of the Federal Rules of Criminal Procedure and an obvious violation of Department of Justice guidelines.

This leaking would obviously have been objectionable if undertaken by an individual U.S. attorney or another Department of Justice official. The precedence of the Department of Justice almost certainly would have led to an investigation by the Office of Professional Responsibility with sanctions or firing by the individual responsible. But undertaken by someone in the Office of Independent Counsel, it is, in my judgment, an offense of a far greater nature because the independent counsel has been given unparalleled, even unprecedented powers, to investigate the President of the United States without much of the oversight and accountability that is required of career prosecutors or others in the Justice Department itself.

It obviously poses a direct and fundamental threat to the credibility and effectiveness of the Office of Independent Counsel. Before this goes any further and the Office of Independent Counsel and the statute upon which it rests is further undermined, there is an obvious and overwhelming need for either the Federal courts, in their direct responsibility to oversee this investigation, or Attorney General Reno in her responsibility in the administration of the Department of Justice, to undertake an immediate and thorough investigation of the Office of Independent Counsel, because if these allegations that Kenneth Starr is leaking protected grand jury information are true, then the Office of Independent Counsel is spinning seriously out of control and operating outside of the law.

Mr. President, the evidence today, if not conclusive, is overwhelming. On February 6, 1998, David Kendall, the President's personal attorney, wrote a 15-page letter to the Federal district court detailing dozens of instances of obviously improper disclosure of grand jury information.

In response, Mr. Starr told numerous media outlets that these leaks were not coming from anyone in his office. In a letter to Mr. Kendall, Mr. Starr wrote, "From the beginning, I have made the prohibition of leaks a principal priority of the office." Starr continued, "It is a firing offense, as well as one that will lead to criminal prosecution." Mr. Starr continues, "I have undertaken an investigation to determine whether, despite my persistent admonition, someone in this office may be culpable."

Despite calls from the Department of Justice and the Office of Professional Responsibility to investigate, the Attorney General of the United States, Ms. Reno took Kenneth Starr at his word and allowed him to proceed with an internal investigation of his own office. Although Mr. Starr pledged to end these leaks and investigate any wrongdoing, it is obvious that he neither investigated nor changed the conduct of his office, or as now we know, even himself.

This week, Steven Brill in his magazine Content provided even further evidence of these transgressions. Mr. Brill reports that he has personally seen internal memoranda from 3 different national news organizations that cite Mr. Starr's office as the source of many of these stories of grand jury leaks.

He discloses an internal publication of the New York Times, in which its Washington editor is quoted as saying, "This story was very much driven in the beginning on sensitive information that was coming out of the prosecutor's office. And the sourcing had to be vague because it was * * * given with the understanding that it would not be sourced."

But if this sourcing, this reporting and analysis was not enough, these disclosures have been confirmed directly by Mr. Starr himself.

On April 15 of this year, Brill reports that Starr acknowledged that he and his office have provided non-public information to reporters. Mr. Starr said, "I have talked with reporters on background on some occasions, but Jackie [Bennett, his deputy] has been the primary person involved in that. He has spent much of his time talking to individual reporters."

Mr. President, in his statement, Mr. Starr confirms what many of us have suspected all along: the Office of Independent Counsel has not only violated department guidelines on providing information, but it may have violated Rule 6E of the Federal Rules of Criminal Procedure, and committed a criminal offense in its own investigation.

Mr. President, I need not remind my colleagues of the seriousness of this possible criminal offense by Mr. Starr's office.

It has been a founding principle of Anglo-American law that confidentiality of grand jury investigations is central to the administration of justice.

Mr. Starr has defended his media leaks by saying they were not a Rule 6E violation. He says, "* * * if you are talking about what witnesses tell FBI agents or us before they testify before the grand jury or about related matters," they are not violations.

Mr. President, Mr. Starr's defense may be that he violated the spirit, but not the letter of the law. Tragically, Mr. President, that is not the case under the precedents of this country.

On May 5, 1998, in In Re: Motions of Dow Jones and Company, the Court of Appeals of the District of Columbia—the court which, ironically, has jurisdiction over Mr. Starr's current grand jury investigation—ruled that leaking information about prospective witnesses who might testify at a grand jury, about expected testimony, about negotiations regarding possible immunity, and about the strategy of grand jury proceedings, all violate Rule 6E.

The court wrote, "Matters occurring before the grand jury" that cannot be disclosed "* * * include not only what has occurred and what is occurring, but what also is likely to occur."

What is therefore so shocking about Mr. Starr's own defense of his activities, his disclosures, is not that there is a precedent to the contrary to which one can be referred, it is that Mr. Starr himself is fully aware of this restriction. They are in the law. He knows them and he violated them.

In one of his impromptu sidewalk press conferences, held February 5 of this year, Mr. Starr told reporters that he could not talk "* * * about the status of someone who might be a witness [because] that goes to the heart of the grand jury process."

Exactly, Mr. Starr. Disclosing potential testimony, likely testimony of someone who might appear before a grand jury, is not outside the Federal statute or its precedence; in your own words, Mr. Starr, it goes to the heart of the process and the protection afforded citizens of this country. There is a reason. This being a Nation that is ruled under the precedence of law, there is a reason why this Congress, the Justice Department, and the courts have protected grand jury information.

If Mr. Starr's violation goes unanswered and he is not held accountable, there are consequences for all Americans, in all investigations, by all prosecutors, in all years to follow, because without it we could not guarantee that witnesses would ever feel free to disclose information to an investigator. They would live in fear that it would always potentially be disclosed. We could not ensure that grand jurors would be able to deliberate free from the influence of interested parties who would manipulate their investigation in public debate. We could not preserve the reputation of witnesses called before the grand jury, but found not guilty of any crime.

Mr. Starr's activities are not simply a violation of the rights of President Clinton or grand jury witnesses, they are a violation of the administration of justice in this country.

Mr. President, all crimes in the United States are not equal or serious. But crimes committed by Government in the administration of justice against individual Americans, given the vast and enormous and disparate power of Government in the administration of justice can be the most serious crime of all. It is that to which Mr. Starr stands accused today.

Mr. President, I do not know how Attorney General Janet Reno is dealing with these allegations. One can only imagine, because when the public debate began about possible grand jury leaks and the violations of Federal criminal statutes with regard to disclosing information, Mr. Starr stood silent. He permitted the Attorney General of the United States to allow him to proceed with an internal investigation of these grand jury leaks of his own office when all the time he knew that he was the source of some of the leaks, potentially undermining not only public confidence in the investigation but almost assuredly the confidence of the Attorney General herself.

Mr. President, I don't know what Janet Reno is thinking. But Kenneth Starr made a fool of the Attorney General of the United States having her proceed with Mr. Starr investigating his own transgressions.

This maneuvering, however, to many in this institution will not come as a surprise. The problems with the independent counsel have been coming for some time, and, indeed, almost incredibly Justice Scalia predicted in his dissent in Morrison v. Olson exactly what has now occurred.

A prosecutor so focused on one suspect under the laws of the independent counsel would, and he wrote, and I quote, "What would normally be regarded as a technical violation * * * may in his or her world assume the proportions of an indictable offense."

Mr. President, this is exactly what has occurred. Mr. Starr has been transformed from one who is supposed to be an objective prosecutor into a partisan political actor without oversight from the Department of Justice, control of the Federal courts, and no longer even operating within Federal law.

Mr. President, I call upon my colleagues to join me in urging the Attorney General to once again assume her lawful responsibilities in the administration of justice, recognizing that the Office of Independent Counsel cannot operate outside of Federal law. Mr. President, it is high time at last to restore the credibility of this investigation.

ENCRYPTION

Mr. LOTT. Mr. President, I rise today out of concern for our nation's computer and electronic industries. As you are well aware, the Administration's export policies prohibit American companies from selling state-of-the-art encryption technology abroad without recovery keys and back door access. Encryption is a series of mathematical formulas that scramble and unscramble data and communications. It is used to thwart computer hackers, industrial and foreign espionage agents, and criminals from gaining access to and reading sensitive personal, business, and military communications. The higher the bit-key length, the more difficult it is for unauthorized persons to break the code. Technically advanced encryption ensures that an individual's medical, financial, business, personal records and electronic-mail cannot be accessed without their consent. The Administration is now promoting the deployment of recovery keys so designated third parties would be able to access and share with law enforcement the computer data and communications of American citizens without their knowledge. Currently, government mandated key escrow is not required and is opposed by the computer industry, privacy advocates, legal scholars, and by many members of Congress.

Mr. LEAHY. While current law does not mandate any key recovery, the current Administration, just as past Administrations, uses the export control regime to "dumb down" the encryption available for widespread integration into high-tech products intended for both domestic use and for export to foreign customers. Export regulations in place now are being used expressly to coerce the development and use of encryption products capable of giving law enforcement surreptitious access to plaintext by conditioning the export of 56-bit DES encryption on development of key recovery features.

These regulations are scheduled to sunset in December 1998, at which time export of even 56-bit strength encryption will no longer be permitted. I understand that the Administration is already undertaking discussions with industry on what will happen upon sunset of these regulations. I have long contended that taking unilateral steps will not resolve this issue, but instead could delay building the consensus we so urgently need. This issue simply cannot by resolved by Executive fiat.

Mr. ASHCROFT. Mr. President, I have been involved in the debate regarding encryption technology and privacy for more than three years now. In the course of that time I have not seen any real attempt by the White House to resolve this problem. In fact, over the course of that time the Administration has moved further from negotiation by taking increasingly extreme positions on this critical national issue.

Mr. CRAIG. Mr. President, as you have heard, current U.S. policy allows only encryption below the 56-bit key length to be sold abroad. For a long time now, software companies have argued that this level of encryption is so low it provides little security for the information being transmitted over the "super highway." This policy also states that, in the production of encryption stronger than 56-bit, software companies must provide some type of "backdoor" access to ensure law enforcement can decode encrypted material.

Addressing this from an economic perspective, customers—especially foreign customers—are unwilling to purchase American encryption products with backdoors and third-party access. This is particularly true since they can buy stronger encryption overseas from either foreign-owned companies or American owned companies on foreign soil without these invasive features.

Mr. WYDEN. Since coming to the Senate, I have worked side-by-side with Senators BURNS, ASHCROFT, LEAHY and others on the critical issue of encryption. Our common goal has been to craft a policy that puts the United States squarely out front of the cryptocurve, rather than locks us permanently behind it. A one-size-fits-all government policy simply won't work in this digital era. We all recognize and acknowledge the legitimate needs of law enforcement and the national security communities, but tying the hands of America's high technology industry in the process will serve neither those needs, nor the national interest in maintaining our competitive edge in the fiercely competitive global marketplace. It's time to move forward with comprehensive encryption reform legislation.

Mr. BURNS. I would like to point out that the government's plan for encryption—whether they call it "key escrow" or "key recovery" or "plaintext access"—simply won't work. Eleven of the world's most prominent computer security experts have told us government mandated key recovery won't work because it won't be secure, as explained in a study published this week by the Center for Democracy and Technology. Key escrow also won't work because it will cost billions, as revealed in a recent study published by the Business Software Alliance. We have also been told that the kind of system the Administration wants is not technically feasible. Additionally, constitutional scholars testified that government mandated key escrow, third party recovery probably violates the Bill of Rights.

Mr. LOTT. Even though a national recovery system would be technically unfeasible, costly, and violates an individual's privacy rights, the Administration continues to require key escrow as a precondition for relaxing America's encryption policy. Again, Mr. President, I would point out that state-of-the-art encryption is available in the international marketplace without key recovery and without backdoor access. This backdoor door requirement is simply backward thinking policy. It does not make sense to hold the computer industry hostage to force the creation of such an unworkable system.

Mr. BURNS. The Majority Leader is absolutely right. We do not need experts to tell us key recovery will not work. All that is needed is a little common sense to understand that no one will buy systems with backdoor access. Criminals will not escrow their keys and terrorists will find keyless systems from America's foreign competitors. There is nothing we can do to stop undesirables from using strong, unescrowed encryption.

Mr. LOTT. Even though advanced encryption products are widely available across the globe, the White House continues to stall Congressional and industry attempts to reach a sensible market oriented solution to the nation's outdated encryption export regime. This stonewalling tactic will only cede even more of our nation's technology market to foreign competitors and America will lose forever its ability to sell encryption technology at home and abroad.

It is time to change America's export policy before it is too late. If the Administration will not do what is right, reform its export regime, then Congress must enact encryption reform during this session.

Mr. LEAHY. The Majority Leader is correct that reform of our encryption policy is needed. The Attorney General came to the Hill in March and asked for a legislative moratorium on encryption matters. This request was made because the Administration wanted to talk with the information technology industry about developing means for law enforcement to gain surreptitious access to plaintext scrambled by strong encryption. According to eleven of the world's leading cryptographers in a report reissued on June 8, the technical risks and costs of such backdoors "will exacerbate, not alleviate, the potential for crime and information terrorism" for America's computer users and our critical infrastructures.

In the Senate we have a name for debate that delays action on legislative matters. We call it a filibuster. On encryption policy, the Administration has been willing to talk, but not to forge a real solution. That amounts to a filibuster. The longer we go without a sensible policy, the more jobs will be lost, the more we risk eroding our privacy rights on the Internet, and the more we leave our critical infrastructures vulnerable.

Mr. BURNS. We can readily see that the current U.S. policy on encryption jeopardizes the privacy of individuals, the security of the Internet, and the competitiveness of U.S. industry. We have been debating this issue since the Administration's introduction of the ill-fated Clipper chip proposal over five years ago. Yet no substantial change in Administration policy has taken place. It is time for us to take action.

I first introduced comprehensive encryption reform legislation in the form of the Pro-CODE bill over two years ago, then reintroduced it in this Congress with the cosponsorship of the

Majority Leader, Senators ASHCROFT, LEAHY, WYDEN, and others. Along with Senators ASHCROFT, LEAHY, and others, I am also an original cosponsor of the E-PRIVACY bill, which would foster the use of strong encryption and global competitiveness. We have held numerous hearings on the issue. Yet despite the increasingly desperate drumbeat of criticism from industry, individuals, and privacy groups, from across the political spectrum, the Administration's policy has remained fundamentally unchanged.

Mr. LEAHY. Since the hearing I chaired in May 1994 on the Administration's "Clipper Chip" proposal, the Administration has taken some steps in the right direction. Clipper Chip is now dead, and the Administration has transferred authority over the export of encryption products from the State Department to the Commerce Department, as called for in legislation I introduced in the last Congress with Senators BURNS, WYDEN and others. Furthermore, the Administration has permitted the export of up to 56-bit DES encryption, at least until the end of this year. But these actions are simply not enough for our high-tech industries to maintain their leading edge in the global marketplace.

Mr. ASHCROFT. Our technology companies need to be able to compete effectively. Without reasonable export laws our technology sector will be seriously harmed. More encryption companies will leave the country so they are free to sell their products around the globe as well as within the United States. Make no mistake, the market will not be denied. Today, robust encryption products from Canada, Japan, Germany and elsewhere are being sold on the world market. You have heard of the companies that are manufacturing and selling encryption. They are Nortel, Nippon and Seimens. These are not upstart companies. They are substantial players on the international scene, and they offer encryption products that are technically and financially competitive with those produced in the U.S.

Mr. LOTT. That's right. In fact, a recent survey conducted by Trusted Information Systems found that hundreds of foreign companies sell over 600 encryption products from 29 countries. It is even possible to download some of the strongest technology available, 128-bit key length encryption, off of the Internet. Clearly, America's policy of restricting the sale of American encryption software and hardware has not impacted the availability and use of this technology throughout the globe.

No one disputes the fact that the development and use of robust encryption worldwide will continue with or without U.S. business participation. What is particularly disturbing to me is that export controls, instead of achieving their intended purpose, have only served to deny America's premier computer industry the opportunity to compete on a level playing field with foreign competitors. Costing our economy and our nation billions of dollars and the loss of countless American jobs in the process. Given the wide availability of encryption technology, continuing to restrict U.S. access to foreign markets makes no sense.

Mr. ASHCROFT. That is absolutely correct. The Administration's encryption policy is, in effect, a tax on American consumers. We owe it to these customers and the innovators in the software industry to reform this encryption policy now. From the birth of the United States, this country has been a world leader in innovation, creativity, entrepreneurship, vision and opportunity. Today all of these American attributes are on display in our technology sector. Whether in telecommunications, or computer hardware or software, the United States has maintained a leadership position because of the opportunities afforded to people with the vision, determination and responsibility to reach for their highest and best. We must work diligently to ensure that ample opportunities are maintained in this country for our technology sector to continue to thrive and innovate. If companies are stifled and cannot compete, then the people, the ideas, the jobs, and the economic growth will simply go elsewhere.

Mr. BURNS. In the computer business these days, they talk about "Internet time." In the Internet industry, where product life cycles can be as low as 6 months, the world changes rapidly. Yet we have been debating this issue for over five years now, while America's sensitive communications go unsecured, our critical information infrastructures go unprotected, and our electronic commerce jobs get shipped overseas. It is time for the Congress to act.

Mr. ASHCROFT. If this issue is not resolved, and resolved soon, we will lose this industry, we will lose our leadership position in technology, and our national security will suffer. We have a choice to make as policy makers—do we allow our companies to compete internationally or do we force them, by our antiquated and ill-conceived government policy, to move overseas. We cannot simply ignore the reality that robust encryption exists in the international marketplace now. Instead, we must allow our companies to compete, and do so now. We cannot allow extraneous issues to stand in the way of remedying the deficiencies with our current approach to encryption. We must recognize that keeping the encryption industry on American shores is the best way to ensure national security. We would not think of allowing all our defense industries to move abroad. By the same token, we should not force the encryption industry abroad through outdated policies. Simply put, strong encryption means a strong economy and a strong country. This concern is just one of the many reasons we need to pass effective encryption legislation this year and just one of the reasons that Senator LEAHY and I recently drafted the E-PRIVACY bill, S. 2067.

Mr. LEAHY. I join with my colleagues from both sides of the aisle in calling for passage of good encryption legislation that promotes computer privacy, fosters the global competitiveness of our high-tech industries, and encourages the widespread use of strong encryption as an online crime prevention and anti-terrorism tool. The E-PRIVACY bill that I have sponsored with Senator ASHCROFT, Senator BURNS and others, satisfies these goals. Prompt Senate consideration of encryption legislation is sorely needed to protect America's economy and security.

Mr. CRAIG. Mr. President, the E-PRIVACY bill seeks to protect individual privacy, while at the same time addressing national security and law enforcement interests. It would also modernize export controls on commercial encryption products.

The E-Privacy Act specifically addresses the concerns of law enforcement. First and foremost, it makes it a crime to intentionally use encryption to conceal incriminating communications or information. It also provides that with an official subpoena, existing wiretap authority can be used to obtain communications decryption keys/assistance from third parties.

Mrs. MURRAY. Mr. President, I want to thank Senator LEAHY, Senator BURNS and Senator ASHCROFT as well as Senator LOTT and Senator DASCHLE for their work and leadership on the issue of encryption. I am proud to be an original cosponsor of S. 2067, the E-PRIVACY Act.

This is my sixth year as a member of the Senate and the sixth year I have advocated for reasonable legislation on encryption. Sadly, the Administration has not been a constructive player in this debate. It is time for the United States to acknowledge that we no longer exclusively control the pace of technology. Purchasers around the world can download software off of the Internet from any country by simply accessing a website. Foreign purchasers have turned to Russian, German, Swiss and other foreign vendors for their encryption needs.

Washington state and American companies deserve the opportunity to compete free from unreasonable government restrictions. Their role in the international marketplace should be determined by their ingenuity and creativity rather than an outdated, ineffectual system of export controls. The time to act is now. I urge the Senate to consider the E-PRIVACY Act at the earliest opportunity.

Mr. BURNS. The basic facts remain the same. People need strong, unescrowed encryption to protect themselves online in the information age. Law enforcement has legitimate concerns about the spread of this technology, and we must work to provide them the tools and expertise they need to keep up with advances in encryption technology. We cannot stop time, however. The genie is out of the bottle. As Bill Gates, the CEO of Microsoft, recently said, "Encryption technology is widely available outside the United States and inside the United States, and that's just a fact of life."

Mr. CRAIG. With the rapid expansion of the "super highway" and Internet commerce it is crucial we bring encryption legislation to the forefront. A secure, private and trusted national and global information infrastructure is essential to promote citizens' privacy and economic growth.

Mr. BURNS. As my colleagues recognize, technically advanced and unobtrusive encryption is fundamental to ensuring the kind of privacy Americans will need and desire in the years to come. Congress must choose a future where individuals and companies will have the tools they need to protect their privacy, not a future where people fear the use electronic commerce because they have no security.

I commend the Majority Leader, Senators ASHCROFT, LEAHY, CRAIG, WYDEN, and MURRAY for their vision and bipartisan leadership on this issue. I hope that Congress will be able to move forward with real encryption reform legislation that protects the privacy and security of Americans in the Information Age, before it is too late.

Mr. LOTT. I think it is worth repeating to my colleagues that the Administration's approach to encryption makes no sense. It is not good policy. Continuing to restrict the foreign sale of American encryption technology that is already available abroad, or will soon be available, is anti-business, anti-consumer, anti-jobs, and anti-innovation.

The time for a change in America's export regime is long overdue. Unfortunately, the Administration continues to support its outmoded and competition-adverse encryption control policy. That is why this Congress needs to find a legislative solution to this issue.

If America's export controls are not relaxed now, then Congress places in peril our entire technology industry. Not just those companies that create and market encryption products and services, but virtually every company involved in the development and sale of computer hardware and software. Congress cannot and will not put America's entire technological base at risk for an ineffective and outmoded export policy on encryption.

HEROISM OF RONALD WATERS

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who nearly lost his life in the pursuit of Justice, Mr. Ronald Waters, of Columbia, South Carolina.

Waters was driving along Interstate 95 in North Carolina around noon on September 23, 1997 when he noticed a North Carolina Highway Patrol car on the side of the road and a Cumberland County Sheriff's car in the median. Upon approaching the scene, he observed one of the officers laying face down next to his patrol car. He then noticed two unidentified men moving between the patrol car and a green Toyota, also parked on the side of the road. Waters called 911 emergency on his cellular phone and informed the operator of the situation. He then pulled off the road to investigate, and upon getting out of his car he heard several gun shots.

The two unidentified men then drove off in the Toyota and Waters followed the suspects, all the while relaying their position to the 911 dispatcher. The two men then exited the interstate and traveled down a dirt road. Waters, out of concern for the victim's families, pulled to the side and waited for their return.

About five minutes later the Toyota returned and Waters drove in the opposite direction, hoping the suspects would assume he was just another motorist. Once they were out of sight he moved towards the entrance ramp of the interstate, mistakenly under the impression that the two men were in front of him. Not seeing them on the ramp, Waters looked in his mirror and noticed that they were parked on the overpass behind him. Waters then pulled off the ramp and stopped, once again informing the dispatcher of their location.

About that time the Toyota began closing in on him at a high rate of speed. As Waters pulled out the two men began to fire at him with an AK–47 assault rifle. The suspects fired several rounds which struck a critical portion of his vehicle, leaving it disabled. Now stranded on the side of the road, Waters watched as the two men pulled up along side him. Then one of the men pointed the assault rifle directly at Waters and pulled the trigger. Waters felt at this point that he would never see his wife or infant son again, but for some unexplained reason, the rifle jammed and would not fire. The two men then sped off, only to be arrested by officers shortly thereafter, due in large part to the constant contact Waters had with the dispatcher in relaying their position to the authorities.

Unfortunately, the two police officers who were shot in this incident, Highway Patrol Trooper Ed Lowry and Cumberland County Sheriff's Deputy David Hathcock, were both killed as a result of gun shot wounds inflicted by the two suspects. While it may not serve to make this tragic loss of life any easier for the victim's families, it certainly goes to show that crime does not pay, and those who commit these atrocities will be apprehended.

This display of courage by Waters exemplifies the characteristics of true heroism, and serves to reassure the many law abiding citizens that good really does triumph over evil. So often acts of selflessness such as this go unnoticed simply because the danger faced is of a lesser degree, but Ronald Waters is one of many who have risked their lives for what they know to be right.

I am pleased to stand before you today, Mr. President, to relay this story of courage and valor personified to its greatest degree. I join the State of South Carolina in honoring Ronald Waters for his adamant service and devotion to Justice, and I thank you for allowing me the time to speak.

Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

ORDER OF PROCEDURE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair, following 10 minutes of debate of Senator WYDEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Thank you, Mr. President.

Mr. President, I believe it is very clear that the tobacco industry and their allies will pull out all of the stops to kill legislation that protects our children. It is very clear how the tobacco industry hopes to bring about this legislation's demise. The tobacco lobbyists want to produce a death by distraction. It is very easy to see why the tobacco lobbyists are pursuing this strategy. They cannot derail our cause of protecting children from starting to smoke on the merits. The case for passing legislation to protect our kids is too powerful. It is too strong. It is too moral.

So the tobacco lobby hopes to throw everything but the proverbial kitchen sink into this debate, hope that it doesn't stink the place up too much, and then hope that the American people lose sight of what this is really all about. But the fact is that the American people get it. They know that this is about protecting children. They are not going to fall for this strategy of trying to produce enough distraction that somehow the Senate will have to move on to other issues or somehow some other question will have to be addressed on this floor. I believe that allowing this bill to die by all of these distractions would be one of the most shocking abdications of our public responsibilities that has been seen in years.

If this body stays focused on the goal of protecting children, works through the relevant amendments, and passes this important legislation, this Congress would have a lasting legacy of accomplishment in the cause of keeping our children healthy in the 21st century.

There are a variety of legitimate issues that have come up in this debate. The question of education policy, of income taxes, a whole host of questions.

I happen to agree with a number of our colleagues on the other side who want to make it tough, for example, to raise taxes. I am one of the Democrats who voted to do that. But this is not the proper bill on which to have a debate about tax policy. This is not the proper vehicle to have a comprehensive discussion about tax reform. This is about tobacco.

I see our friend and colleague, Senator FORD. He and I serve on the Commerce Committee. We produced a bill that came out of committee by 19 to 1 because we stayed focused on the relevant issues. We didn't always agree.

I have enormous respect for Senator FORD. He has done yeoman's work on the question of making sure our farmers get a fair shake. He knows I feel strongly on key issues: for example, making sure that these tobacco companies don't pay for a settlement in this country by targeting youngsters around the globe. But together, and with our colleague, Senator HOLLINGS of South Carolina, we produced what we think is a fair package. There can be further discussion of those issues. But we stayed focused on the question of tobacco. We didn't raise a whole host of other issues that are important to both of us. We stayed focused on the cause of trying to protect children, recognizing that we would have further discussion of that subject here on the floor. But we stayed focused on the topic at hand.

The fight to stop the cigarette industry from marketing to children did not begin this year. But this is the year we have an opportunity to make real progress. I was a Member of the other body and participated in the hearings held by then-Chairman HENRY WAXMAN. The tobacco executives told me under oath that nicotine isn't addictive. The American people didn't believe them. The Surgeon General of the last 20 years didn't believe them. As a result of that hearing, and the documents that have come out over these many years, we have been in a position to make great progress—progress, for example, that lead to that 19-to-1 vote in the Senate Commerce Committee.

So this debate is the culmination of years of work by those who have been trying to promote the cause of better health for the children in our Nation. We are trying to do it in a way that is going to help kids around the world be healthier. For the first time, we are going to say that you have to protect kids in Oregon and in Texas, and across this country. But we are going to get the Government out of the business of trying to help these tobacco companies sell cigarettes overseas to hook kids in Bangkok and Bangladesh.

That is important. But we are up against tremendous lobbying. The tobacco companies have spent millions. Maybe what we need is a "Million Child March" on Washington, DC, with families, with health professionals, to show that we are not going to be derailed by these lobbyists. These lobbyists are not going to be allowed to derail the cause of public health in this body. We are going to come back again and again and again in the days ahead.

So this issue is focused on what really counts: that is, protecting children. There is not going to be a death by distraction. There is not going to be a precipitous and unfortunate demise for this bill by virtue of so many other issues coming up and being debated on this floor. We are going to stay focused.

Mr. President, I know of the good work that you have done on this issue. We have fought together on a bipartisan basis to try to protect children in our State. I am looking forward to seeing the kind of spirit that you and I have brought to this issue come to this body as a whole to make sure that we stay focused on the issue of protecting children.

I yield my time, Mr. President.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess, subject to the call of the Chair.

Thereupon, the Senate, at 10:39 a.m., recessed, subject to the call of the Chair;

Whereupon, at 12:30 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. BURNS).

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate now resume consideration of the tobacco legislation, S. 1415, for debate only until the hour of 2 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2433), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underage tobacco usage.

Ford amendment No. 2707 (to amendment No. 2437), to provide assistance for eligible producers experiencing losses of farm income during the 1997 through 2004 crop years.

Mr. GREGG. I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 2707, AS MODIFIED

Mr. FORD. Mr. President, I send a modification of my amendment that is pending at the desk. The only thing I am doing is changing a section of reference.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2707), as modified, is as follows:

At the end of the amendment, insert the following:

SEC. . INAPPLICABILITY OF TITLE XV.

The provisions of title XV shall have no force and effect.

SEC. . ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, from amounts made available under section 1012(3)(A), the Secretary shall use up to $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income during any of the 1997 through 2004 crop years, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

(c) EFFECT ON OTHER PAYMENTS.—The amount available in section 1012(3)(A) for tobacco community economic development grants under section 1023 shall be reduced by any amount appropriated under this section. None of the payments made under this section shall limit or alter in any manner the payments authorized under section 1021 of this Act.

Mr. FORD. I thank the Chair.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, let me speak for a moment to the question of where we appear to be, although no final decision I know has been made by leaders.

But it is clear that at some point today, if events flow the way they have been discussed, the majority of the members of the Republican Party are going to try to kill this bill. And they are going to try to kill this bill either through a cloture motion—depending on what decision is made as to when that vote might be able to take place—or through a tricky little budget point of order parliamentary procedure that should have, in fact, taken place at the outset when this bill came on the floor. The notion that, 3 and a half weeks into a debate, to try to reduce our kids from smoking, that all of a sudden somebody thinks, "Oh, my gosh, there is a budget point of order we ought to bring," is rather extraordinary in and of itself. There is no way to hide. The old saying is, "You can run, but you can't hide." You can run from the tobacco bill, but you can't hide from the effect of the vote.

The effect of the vote today, or tomorrow, or whenever it occurs, will be either to side with children in order to reduce smoking in this country or to side with the tobacco companies. I know that there are colleagues on the other side of the aisle who are running around with polls that have been taken, and those polls show, "Gee whiz, some people in the country are beginning to see this bill differently." And that is because millions of dollars have been spent by the tobacco companies to present a rather one-sided point of view.

But the fact is that most people in America understand that they want their kids to be able to stop smoking. They want their kids to not be exposed to the increasing number of pressures that are applied to young people with respect to smoking, and they know that in States like Massachusetts, Arizona, California, and others there are very effective outreach efforts that are being made with young people that are reducing smoking.

In the State of Massachusetts, we have seen a reduction of some 30 percent over the last few years because of a very intensive State program which needs more help. The people in the State know that they can change that 30 percent into 70 percent or 80 percent if they have adequate capacity to be able to do that, adequate resources for materials, for outreach, adequate cessation programs, and adequate counteradvertising to the impact of the millions of dollars that the tobacco companies spend. All of these things are critical to the ability of kids to be able to make up their mind.

I think most of us in the Senate understand that kids are most impressionable with respect to something like smoking at the ages of 11, 12, 13, all the way through their teens. No one here disputes the fact that every single analysis shows that 86 percent of all the smokers in America began when they were teenagers. Eighty-six percent of the adults who today are hooked on nicotine, on tobacco, began as teenagers. Ninety percent of the kids in America recognize Joe Camel more than they do—or equivalent to—Mickey Mouse. And the statistics show that of those cigarettes advertised, Newport, Marlboro, and so forth, the brands that have the highest level of advertising, are the brands that kids smoke but not the brands that adults smoke, which tells you a story—that when they become adults, they make a different set of choices than just the bombardment of advertising. But when they are kids, the cigarette they pick up is the cigarette that is most put and shoved in front of them by the advertising. There isn't anybody who doesn't understand.

The Senator from Arizona has talked about the impact on his 13-year-old daughter of movies—the "Titanic," for instance, Leonardo DiCaprio, who spends his whole time in the movie smoking when he isn't fighting water. I mean that is basically the heart of what the Senator from Arizona has said affected his child.

And all across this country, Mr. President, those are the kinds of influences. There isn't a parent in America who doesn't understand that. There isn't a person of reasonable common sense who doesn't understand that.

So why don't we try to do something about affecting the impact of those role models and the impact of the pressures of young people. We have had testimony from a young woman—and she is not alone, this is just one example—who talked about when she was a teenager, she thought it was going to make her look older if she smoked. She thought it was going to make her more acceptable to teenagers who were older than her; she could run in a group that somehow made her feel better. So she started smoking. Today she is in a wheelchair and raising a couple of kids because she developed a smoking-related disease in her lungs. She has had a lung transplant, and she looks older. She tells people of the impact of smoking on her life.

Are we going to just ignore that in the Senate—all of the evidence of what the tobacco companies have done through the years saying they targeted kids? They know they have got to have replacement smokers. Here we have an opportunity to vote, and our colleagues on the other side of the aisle have decided they are going to side with the tobacco companies.

That is what the vote before the Senate will be, plainly and clearly. You cannot make it into some sort of subterfuge. You cannot run and hide by a budget waiver. You cannot create some parliamentary trick. And you certainly cannot duck with one cloture vote and suggest that this issue, which we have spent 3½ weeks on, is going to go away.

Who is for this bill, Mr. President? Well, there are more than 40 Democrats prepared to vote for this bill now. So there will be no question if this bill doesn't move forward as to why it can't move forward. But every single public health group in America is for this bill. The lung and cancer associations are for this bill. All of the surgeon generals of our country are for this bill. Teachers are for this bill. Child care and day care specialists are for this bill. Forty attorneys general across the country want this bill.

Who is opposed? Who is opposed? The tobacco companies. The tobacco companies and some number of Republicans who choose to be with them. That is who is opposed to this bill—the tobacco companies. No one else is spending millions of dollars trying to characterize this bill on a daily basis in the Nation. No one else is out there suggesting that somehow what the tobacco companies agreed to do, which is raise the price of cigarettes, is a tax increase.

I hear these Senators who come to the floor and say, oh, this is a tax increase; we can't do that. That is a phony argument, Mr. President. That is looking for an umbrella to hide under. That is a way of running around and trying to find something to hang your hat on, not wanting to do what most health care advocates—teachers, child care specialists, surgeon generals, attorneys general, and others of this country—want to do. The only beneficiaries if this bill does not go through are the tobacco companies, plain and simple.

The fact is that we have never heard anybody be able to dispute the notion that of the 60,000-plus kids who in the course of this debate have begun smoking, somewhere in the vicinity of 20,000 of them are going to die early. And they are going to die at the expense of every other citizen in America. We have heard a lot of concern by the people who come to the floor and talk about how terrible the raising of a pack of cigarettes is going to be for the blue-collar worker who is going to buy the pack of cigarettes, but no one in the Government is telling them they have to go buy the pack of cigarettes. But that very same person who is buying the pack of cigarettes, or all of those families who do not buy a pack of cigarettes are paying a lot more of their hard-earned tax dollars to cover the costs of those people who get sick—Medicare and Medicaid. Government dollars paid, tax dollars paid out to the tune of $25 billion a year because of people who are sick because of smoking. The cost of smoking is far greater to the average taxpayer than the cost of the rise in the price of cigarettes.

You cannot hide under that one. That is not what is happening here. That is not what this is all about. What we are seeing is a fear by some in the House of Representatives that they might have to actually vote on this bill. What we are seeing here is that NEWT GINGRICH and some of those in the House have put a contract out on this bill. They do not want this bill. They want their friends in the Senate to kill this bill so they do not have to vote on it.

But this bill will not go away. It will not go away for the next months in the election. It will not go away even on the floor of the Senate, because somewhere, sometime, somehow it is going to keep coming back. You cannot run away from a bill that has most of the people in this country believing it is a good bill, who believe it is an important objective.

Now, if it isn't good—I heard one Senator say, "I can't vote for that bill; it's all loaded up." Who loaded it up? Mostly Republican amendments that have been passed for things that have nothing to do with smoking. There were Republicans who came to the floor and said, "We have to have a bill that has a tax cut in it; we can't vote for a bill without a tax cut." So almost one-third of the money of this bill has now been voted to go to a tax cut. So the Republicans got their tax cut.

Then a Republican came to the floor and said, "I can't vote for a bill that doesn't have a drug plan in it." So we had a big debate and now the bill has a drug plan in it.

And then we have three different attempts to try to curb attorneys' fees. People said, "I can't vote for a bill that is going to have a whole lot of money that wasn't earned going out to attorneys," notwithstanding the fact that not one penny has been paid to attorneys, nor will the money be paid out of the bill because it is being paid by the companies.

But leaving that reality aside, the Senate nevertheless passed a curb on attorneys' fees. So our friends on the Republican side of the aisle are not going to say no to this bill because it does not have a tax cut. They are not going to say no to this bill because it doesn't have a fat and firm clamp on attorneys' fees. They are not going to say no to this bill because it doesn't have a drug plan. They are going to wind up saying no to this bill because that is what the tobacco companies want them to do.

So that is the choice. That will be the choice today—very, very clear—a choice between kids and the tobacco companies. And anybody who suggests, oh, no, I am not for the tobacco companies; I just want to make a good bill, let's make a good bill. Let's vote on the amendments the way we have been doing to make a good bill. And there is not anybody in the Senate who does not understand that this bill is going to go to a conference committee if the House ever voted on it, and it has the ability to be rewritten in that conference committee and to come back to the Senate differently.

In the 14 years I have been here, I have seen plenty of legislation leave this floor where one side or the other disagreed bitterly with some component of it but everybody knew it would be fixed in conference committee. Why is it suddenly they do not want this bill, of all the bills, to go to the conference committee? They do not want to let it be fixed. They do not want to give it the opportunity to come back to the Senate in a shape that might be voted on, because that is not what the tobacco companies want. They do not want a bill. They walked away from all of this. It was fine.

I know there are Senators on the other side of the aisle who were ready to vote for this bill only a few weeks ago, or even a few months ago, when the tobacco companies were part of the process. It was a good idea. Oh, yes, it is inevitable; we are going to do that; we are going to fix it up for our kids.

But all of a sudden after the money has been spent, after all of the flow of those tobacco dollars, there is a different attitude in the Senate about what is possible and what is not possible. I respectfully suggest that no one is able to pull a curtain down over that reality. If people want to fix this bill, we can fix this bill.

Every piece of legislation that came to the floor this year came to the floor with a Republican cloture motion attached to it—every bill. Every bill has had limited debate, except for this bill. Every bill we had to push through here rapidly, except for this bill. This is the one bill where there is one identifiable group that does not want it, and that identifiable group has enlisted soldiers in its army. The question is going to be whether or not the Senate has the courage to stand up and say: We are going to fix this bill; we are going to work on this bill; we can bring this bill together.

We could have had any number of discussions about how to fix any number of difficult components of the bill, but the bottom line reality is that every study shows in order to keep kids from smoking, you have to raise the price of cigarettes. Even the tobacco companies agreed to that.

They came to an agreement in a global settlement, where they agreed to raise the price of cigarettes. But it is only when that rise in the price of cigarettes was geared to be something meaningful, that would actually have an impact on kids smoking, and only when they began to see that there were still going to be some lawsuits they would have to defend, that they began to see the balance differently.

Frankly, there were some of us in the Senate who thought we understood that there was a legitimacy to trying to create that balance and hold it differently. But I think most people in the Senate understand that anything that is to go to the conference committee will come back with an ability to try to find that balance again and find the ability to pass a good piece of legislation.

I know there are some colleagues on the other side of the aisle who are very uncomfortable with what is happening. There are friends of mine, members of the Republican Party, who want to vote for a bill, who want to do something for kids, who want to be able to help out. I know there are some feeling the difficulty of what is happening right now. My hope is that people will simply recognize the reality. This is not an issue that grew up spontaneously within the Democratic caucus. This is not an issue that became the brainchild of some political strategy on behalf of Democrats. This is something that grew up out of kids and parents and teachers and doctors and health care specialists and surgeons general and scientific evidence, and even the tobacco companies' own documents, which gave birth to the notion that raising the price of cigarettes is a critical component of reducing teenage smoking.

I read those documents on the floor of the Senate a number of weeks ago—I guess maybe last week. It is all somewhat of a blur at this point. But the Senate knows the tobacco companies have acknowledged that they lost business when they raised the price of cigarettes. They know, as all evidence shows, that no group in America is more price sensitive, more subject to the pressures of how much cash they have in their pockets and what they spend it on, than young people.

So we have the ability to make a difference. The choice before the Senate is really going to be very clear. My hope, obviously, is that the Senate will act responsibly. If we are not happy with the bill in its current form, notwithstanding the fact that there are 40-plus Democrats prepared to vote for it in its current form, then we should continue to work and continue to be serious, rather than to continue an effort that just wants to kill it for the victory for those individuals and entities who want that victory, rather than putting together a meaningful piece of legislation.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague from Massachusetts for his remarks. I thought maybe it would be useful to come to the floor and just review how we got to where we are, why this legislation is important, and why it matters to American families.

Months ago, I was called by our leader, Senator DASCHLE, and he asked me to head up the task force for Democratic Senators on the issue of tobacco. He did so after the settlement was agreed to in June of last year between the attorneys general, representing about 40 States, and the tobacco industry. That settlement, which was advertised as a settlement of close to $400 billion over a 25-year period, was also a settlement which was designed to not only raise prices to discourage consumption, but was also designed to have countertobacco advertising, smoking cessation, smoking prevention programs—all of it designed, really, to safeguard the public health and to reduce youth smoking.

The focus was on reducing youth smoking, because we all know the vast majority of smokers take it up as teenagers; about 90 percent of smokers start before they are age 19. Nearly half start smoking before the age of 14. As the tobacco industry has revealed in the documents that have come out in the court cases, if somebody is not hooked when they are young, they do not get hooked. That is why the tobacco industry has put such a focus on young people. That is why they have marketed to young people. That is why they have advertised to young people. Because they know that is the future of their business.

I have read on the floor of the Senate quote after quote of the industry itself that have demonstrated that was the rationale behind the tobacco industry strategy. It was a business strategy: You target young people because people don't start smoking when they are older. They don't start smoking later in life because they have seen enough to know that it is not a very pretty habit, and they also get a sense of the health risk involved.

So this is really a question of trying to encourage young people not to take up the habit. The industry has to get some people to be replacement smokers because they are losing over 400,000 customers a year. They are losing them to death. This is the only legal product sold in America that, when used as intended by its manufacturers, addicts and kills its customers. That is strong language. Those are strong words. But they are the truth.

After accepting Senator DASCHLE's assignment to head up the task force on tobacco, we held about 25 hearings across the country. Many of them were here in Washington. We listened to every point of view from any people who wanted to have a chance to express themselves. We listened to the tobacco industry. We listened to those who are in the distribution chain. We listened to the convenience store owners. We listened to the vending machine operators. We listened to tobacco farmers. We listened to Dr. Koop and Dr. Kessler. And we listened to the public health community: The Cancer Society, the Lung Association, and many more. We listened to those who are advocates of strong legislation. We listened to those who said Government ought not to be involved, let this go through the courts.

We concluded that it was best if the Government did take action, that it was best not to leave it to a free-for-all in the courts that might ultimately bankrupt these companies. Nobody is out here advocating that we stop the use of tobacco products in this country. After all, there are nearly 50 million smokers in America. We have had a bitter experience with prohibition. It does not work. But what could we do that would discourage youth smoking and protect public health?

In holding these hearings and listening to the experts and listening to just common citizens all across the country, over and over they said: Look, you need a comprehensive package. Don't just leave this to the courts. If you do, you wind up perhaps bankrupting these companies. That will not end the use of tobacco products in America. Simply, what will happen is we will wind up with a circumstance in which new companies come and fill in the gap, and the companies that are bankrupted will have no capability to cover the costs that they have imposed on society. Those are very, very significant costs. Those costs are variously estimated at $130 billion of costs being imposed on this society—$130 billion a year.

The legislation before us would require the industry to pay $18 or $20 billion a year when fully phased in. That in no way covers the costs they are imposing on society. But that is not all the people who came before our task force told us. They said: You have to have a comprehensive plan. Yes, you have to raise prices to discourage consumption, but you need to do much more than that. You have to have the Food and Drug Administration have regulatory authority over this product, just like they have regulatory authority over other drugs in this society. But you have to go further than that. You have to have a comprehensive plan of public health. You have to have countertobacco advertising, so people hear a message other than the message they get from the tobacco industry, with the billions of dollars a year they spend in advertising and marketing. And you also have to have smoking cessation and smoking prevention programs to help those who are about to start, to give them a chance not to be hooked; and for those who are addicted, to give them every assistance in stopping.

(Mr. GREGG assumed the chair.)

Mr. CONRAD. Mr. President, obviously, there is more to the program than those elements, because we have to remember how this all started. It started with the States bringing legal actions against the tobacco industry. They are the ones that had the initial settlement with the tobacco industry. So, obviously, the States have to be compensated for the legal actions that they have pending.

In addition, the Federal Government has potential actions against the tobacco industry, because Federal taxpayers are paying for Medicare and Medicaid and veterans' health programs, all of them that have had costs imposed on them because of the use of tobacco products.

Mr. President, it was those concerns that led this Congress to take action. It was those concerns that led the Commerce Committee to consider the legislation sponsored by Senator MCCAIN, and they reported out a bill on a 19-to-1 vote, an overwhelming vote.

In the Senate, we have considered a series of amendments that have somewhat altered the work that they did in the Commerce Committee. We have considered amendments to provide a significant tax reduction in addition to the other provisions that were in the bill. About a third of the money now will go for a tax reduction.

But there is more than that. There has also been amendments added that deal with the question of illegal drug use in this country. The Coverdell amendment that was adopted here on a very strong vote is included in this legislation.

What we now have before us is really a comprehensive package. A lot of people say, "Gee, this isn't my idea of a perfect bill." It is not my idea of a perfect bill either, but we have not yet completed action on it. That is the legislative process—to take a package, to work on it, to offer amendments and to have the votes of Senators dictate the outcome. That is the way it works. So far, that process has gone reasonably well.

Again, we certainly don't have a perfect bill, but it is one which is comprehensive in nature and does offer the prospects of protecting the public health and reducing youth smoking. We have 420,000 people dying every year in this country because of tobacco-related illness. That is a statistic, but it is a statistic that has 420,000 different stories behind it. In hearing after hearing, we heard those stories. We heard the suffering of families and of individuals who have been hooked on tobacco products and have suffered the consequences.

I remember so well a Pierce Fravenheim, big tough guy in Newark, NJ, a former football player, football coach, assistant principal. When he came to testify, you could barely hear him speak. You could barely hear him speak because after a lifetime of smoking, he developed cancer of the larynx. He had undergone a laryngectomy. He told us of the terror he felt when the doctor told him he was going to die unless they did this procedure, and even if they did it, he might not survive.

In a way, he is lucky because he did survive, and he is there to tell the story. He told us how deeply he hoped that others could be dissuaded from taking up the habit, how deeply he hoped that others would not experience the terror he felt when the doctor told him he might die.

There are hundreds and thousands of stories just like Pierce Fravenheim's that we heard as we went around the country listening to people, many of them begging us to pass legislation that would do something to deter others from taking up a habit that would addict them, that would create disease in them and that would ultimately kill them.

Again, nobody is out here proposing that we have prohibition, make the product illegal. Nobody is proposing that. But we are proposing comprehensive legislation to try to do something to lessen the hurt, the pain, the suffering and the loss of life that occurs directly because of the use of these products.

Mr. President, there are those who will take this bill and flyspeck it, and they will have 100 reasons to be against it, maybe several hundred reasons to be against it. That is the nature of a comprehensive bill. I could probably point to dozens of different provisions that I don't particularly like in this bill, but that isn't the question.

The question before this body is whether or not we are going to advance, whether or not we are going to move forward, whether or not we are going to give this legislation a chance or whether or not we are going to snuff it out right here today on the floor of the U.S. Senate and say, "No, we give in; the big tobacco industry advocates and defenders win."

I hope that is not the outcome here today, Mr. President. The tobacco industry does not exactly come to this Chamber with its credibility intact. The tobacco industry came before Congress and said, "Oh, no, our products don't cause health problems." At the time they said it, they knew, and the documents reveal that their products cause serious health problems. And that same industry came before this Congress and said, "Oh, no, we don't target children; we wouldn't do that. It is illegal to sell to children."

We now know from the documents of the industry itself that, in fact, they have targeted children. In fact, they have targeted kids as young as 12 years old, and I have shown the charts and the quotes day after day on the floor of the Senate that demonstrate conclusively that they have targeted our kids. This industry has come before the Congress and said, "We don't have nicotine in there to addict people. It is not addictive." And yet, again, their own documents reveal that nicotine is addictive. In fact, their own documents compare it to cocaine and to morphine. These are their words, not my words.

This same industry has come before Congress, and they have told us, "Look, we have not manipulated nicotine levels to further addict our customers," and when you look at the record, when you look at the documents, what you find is that is precisely what they have done.

This industry does not come with a great deal of credibility to this Chamber in arguing on behalf of this legislation. Rather, I should say in opposition to this legislation, because they have made it clear, although they supported a version early on that would have basically taken their settlement and made that into a legislative vehicle, they supported that, but as soon as we started stripping away the special protection that was in that proposed settlement, an amendment by the occupant of the Chair, an amendment that was adopted overwhelmingly in the U.S. Senate and stripped out all the special protection that this industry was seeking, special protection that was unprecedented, special protection never provided any other industry in the history of our country, all of a sudden they said, "Oh, no, we don't want anything to do with this legislation. If we can't get special, unprecedented protection, we're out of here." That is what the tobacco industry said. Now the tobacco industry is in total opposition. And day after day, hour after hour, we hear their ads in the national media opposing this legislation, attacking this legislation.

Mr. President, it is important, I think, for us to understand what is here and what is not. We have, I think, the best indication: The recent polling that has been done that shows the American people strongly support this bill. It is different than saying this legislation is their top priority, because it is not.

The American people have lots of things to be concerned about. They are concerned about their jobs; they are concerned about getting their kids into college and paying for it; they are concerned about having their families safe and secure in their neighborhoods; they are concerned about the health care of their parents and of themselves and of their children.

Mr. President, they are also concerned about doing something to protect their kids from the addiction, disease, and death brought by the use of tobacco products. Most recent polling shows very clearly the American people support this legislation. When they are asked to choose between this legislation and no legislation, they say, "Pass this bill." By 2-to-1 margins they say, "Pass this bill."

This is a poll that was just taken by the ENACT Coalition. It shows the voters in the United States support this bill by 66 percent to 32 percent.

It is interesting, because we are going to have a vote, perhaps today, on the question of whether or not we move forward. Some will say, "Let's just kill the bill." That is what the tobacco industry wants. That is their argument. And their defenders and their apologists will be making that argument. The American people say, "Pass this bill." Let us have a chance to protect the public health and reduce youth smoking.

Mr. President, I am very hopeful that my colleagues will let us move to conclusion on this legislation. We are now in the fourth week of consideration on the floor of the Senate—4 weeks. We ought to complete our work. We ought to send this bill to the House of Representatives, give them a chance to do their work, and then go to the conference committee to work out the differences and produce legislation that can be brought back to both Chambers for a final decision. But we should not end the process now. We should not kill this bill before it has even cleared the first hurdle.

Mr. President, I hope my colleagues will say yes to protecting our kids' health and say no to the tobacco industry that has waged a campaign of deception and diversion in an attempt to delay and ultimately derail this bill.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise in opposition to this bill. And I take offense to some of the comments that were made by some of our colleagues on the other side of the aisle who said, that anybody who wants to kill this bill is an instrument of big tobacco.

That's simply not true. I did not support this deal when the tobacco industry and the administration and attorneys general got together and made a deal. They didn't consult this Senator. I was never in favor of the deal they were in favor of that some people have tried to promote and some people have tried to push, including, this administration. So let me just make that very clear.

Now, I have many reasons to oppose this bill, and I am going to enumerate these. Not one of them has anything to do with the way the tobacco industry wants this Senator to vote. And so people making allegations—I wonder if that can be turned the other way around, but I am not going to do that. I do not impugn people's motives or their integrity. I think people have the right to make decisions on whether or not legislation is good legislation or bad.

I spent a little bit of time studying this legislation. And everybody is entitled to their own opinion. They can brag on the legislation; they can be critical of it. I am going to be critical of it. I have read the legislation.

First, let me just comment on a comment that the President made. It was reported in the Washington Post recently, Monday June 15. This past Monday, President Clinton said his critics contend that "this [is a] dark scheme in Washington to build some new federal bureaucracy, and it's the biggest load of hooey I ever heard in my life."

So President Clinton thinks that those of us who are critical of this legislation, who say this is just a big bureaucracy, that that is just a big bunch of hooey—as a matter of fact, "the biggest load of hooey I ever heard in my life."

I told my colleagues this is one of the worst pieces of legislation I have seen in my Senate career. The only thing I can think of that was worse was the health care legislation promoted by President and Mrs. Clinton.

Mr. President, this chart that was put together by the Budget Committee, showing where the money was coming from, where the money goes, on Commerce I—and that was the bill that was reported out of the Commerce Committee—shows that the President was incorrect. This is a lot of new government. There are about 30 new programs, spending hundreds of billions of dollars, all above budget, all outside the budget. So I just think the President is incorrect. And I wanted to make that comment. He is entitled to his own opinion, but I think we are entitled to look at the bill and we are entitled to look at the facts.

This is Commerce II. This is the bill that the administration basically had rewritten—the bill. And this is the bill that we have on the floor, although it has been added to. And we have new mandates and new spending, and a tax cut and a drug provision. I don't show those on this chart. But this is the current bill that we have before us.

There is a lot of new government in this. So the President calls its "hooey." My comment is, these just happen to be the facts. That is what this bill has in it. This bill has a lot of money in it. It has a lot of spending in it. And I want to get into that because a lot of people have said, "Well, this bill, it is really only a $65 billion bill. It only raises taxes by $65 billion." And this Senator, for one, has been saying, "Wait a minute. It's a lot more than that."

Where does this thing say in this bill, if you look at the bill and look at the language of the bill—and I would encourage my colleagues to do so, and anybody else. I had to ask unanimous consent to get the bill printed. The committee printed the Commerce I. They did not print Commerce II. This is the bill we have before us that is now printed on the Senators' desks.

If they would look at the bill, maybe look at page 183 of the bill, it talks about annual payments. The bill does not say anything about 65 cents a pack; it does not say anything about $1.10 a pack. It does say consumers pay $10 billion the first year, $14 billion the second year, $15 billion the third year, $17 billion the fourth year, and $21 billion in the fifth year, without even considering look-back penalties.

So if you total that, that is all $102 billion. That is what the bill says—$23.6 billion in the fifth year. And after that, those amounts are adjusted by inflation. That is on page 183 of the bill.

If you put those figures in and you adjust them for inflation—it says 3 percent or inflation, whichever is greater. I just plugged in 3 percent. You do that, and you come out with $755 billion over 25 years. What is this nonsense we hear, "Well, we think it's only $516 billion"? This is $755 billion. That is in the bill. That is what we are considering, not $516 billion.

And then the look-back potential. I show $130 billion of look-back potential. I say "potential" because it can be assessed. No one knows exactly how much that will be. But evidently a lot of people felt it should be much more, because this chart is obsolete.

My colleague from Illinois, Senator DURBIN, had an amendment to increase this to $7.7 billion and then index that for inflation. As a matter of fact, if you put the new figures into the chart, this $130 billion goes to a maximum of $241 billion. So you add that to the $755 billion and you get really right at $1 trillion—$1 trillion potential tax on consumers. And I say "tax on consumers" advisedly, because this bill mandates that 100 percent of this money be paid for by consumers. It does not say, "Tobacco companies, you pay this." Basically, it says, "Tobacco companies, you pass this cost on. You pass every dime of this on."

So I make the point we are talking about, President Clinton may think it is a bunch of hooey, but this is a big government bill.

It has lots of new agencies and hundreds of billions of dollars of new spending. With the new look-back potential, up to $1 trillion in money transferred from consumers to government.

I make those points because I think it is important that we know the facts. Some people say this is not a budget buster, this is responsible, we are raising taxes. This bill doesn't say anything about taxes. It says these funds shall be paid, and 100 percent of the funds shall be passed on to consumers. It is not clear. It is not direct. It is confusing. And it is hard to tell exactly who is taxed how much.

I will give an example. If a person looked at page 186 of the bill, we find out there are exclusions for some companies. To give an example—I looked this up—Marlboro, a Philip Morris brand, would have to pay presumably a price per pack of $1.10 more; this brand, Chesterfield, by the Ligget Group, pays zero. Now, both companies presently pay 24 cents per pack. Both of them do. Under this bill, supposedly, the price per pack on this item goes up $1.10; the price on this item goes up zero. So they will have a $1.10 advantage over all other competitors. Why? Because their sale volume isn't so large? Wait a minute; is that good tax policy? They have the same excise taxes today, but we are going to give a $1.10 advantage to one company versus another company? We do that in this bill? That doesn't make sense.

We did the same thing in other tobacco products. Looking at smokeless tobacco, again if a person looked at page 186, we find out some companies have a significant differential. This product, Copenhagen, is made by U.S. Tobacco Company. This product is Kodiak, made by Conwood Company. Both have a current excise tax of 2.7 cents per product.

This product made by U.S. Tobacco, the new tax increase is 82.5 cents; that is a 3,056-percent increase. This product, the tax increase is 57.8 cents; that is a 2,141-percent increase. This has a 25-cent advantage under this bill. This product has a 25-cent advantage. Why should we be choosing winners and losers in this bill? Is that good tax policy? Is that good consumer policy? We will encourage some people to buy this product over another product, but in the language in this bill on page 186, it gives certain items a competitive advantage over their competitors. Is that right? Is that in this bill? Sure it is in this bill. It is on page 186. I mentioned it on the floor before, and at some point I plan on addressing it if this bill stays on the floor.

So the President said it wasn't a bunch of new government and I showed the charts. There is a lot of new government, tons of new government. There are new taxes that run into almost $1 trillion over 25 years. The money is all off budget, and that bothers me.

Somebody was complaining Republicans may make a budget point of order. We well should. If a person looked at page 181 of the bill, talking about the national trust fund, it says, "The amount of such appropriations shall not be included in the estimates required under section 251 of the act," talking about the Budget Act. So all the appropriations that were mandated out of this trust fund shall not be included in the budget, the budget that the President signed just last year with both Houses, the House and the Senate, and I will say with bipartisan support. We finally did get a budget that was supported by Democrats and Republicans. The President said we will stay by these caps. Even at the State of the Union, we will not spend one dime, not one dime unless we don't cut taxes. We want to save Social Security.

But what he does in this bill is basically ignore the budget. The budget makes no difference. All this spending, hundreds of billions of dollars, are over and above the budget. They don't count towards the cap. They don't count toward the budget. It is over and above. All the taxes are above, all the expenditures are outside the budget realm. So certainly a budget point of order lies against this bill. As a matter of fact, if we don't make a budget point of order, I think we just might as well say we don't have a budget. There is no need to have a budget. There is not a budget.

Why should the conferees, and I am a conferee on the budget for this year's budget, why should we worry about a budget if we are going to pass a bill that has tax increases and expenditures larger than any tax cut that anybody else is talking about in the budget that the President signed last year or in the budget that we are talking about this year? This has a larger tax increase, larger spending increase, than either the budget that was passed last year or the one that is contemplated for this year. So why have a budget, if it will all be outside the budget as stipulated on page 181 of the bill?

So my colleague who earlier said we have taken a poll and now the people by some majority support this bill—they don't know what is in this bill. If you told the people that we are giving one brand of cigarettes an advantage of at least $1.10 over another brand, would they say that is fair? Don't we have a constitutional responsibility to be fair? Or if you are giving one smokeless tobacco product a competitive advantage over another one, does that make sense?

What about some of the other tax provisions—if a person looked at page 104 of the bill, it talks about the look-back assessment. The look-back penalties, which I mentioned in the earlier charts originally, were $2 billion under the settlement, $4 billion under the Commerce Committee bill, Commerce II, the last bill we had on the floor, and then we had an amendment to increase the look-backs to $7.7 billion a year and index those for inflation. Who determines whether there is a look-back penalty or assessment or tax? The Secretary of Health and Human Services. How does she determine it? She takes a poll; she does a survey. It is in this legislation. She does a survey. I am talking about Secretary Shalala, the Secretary of Health and Human Services. She does a survey, and from the survey she has the power to assess fines, penalties or taxes equal to $7.7 billion a year. That is an unbelievable transfer of authority, of taxation authority, to the Secretary of Health and Human Services.

In her survey, under the legislation, the survey-using methodology required by this subsection is deemed "conclusively to be proper, correct, and accurate for purposes of this act." So her survey is deemed by this act, deemed to be correct, deemed to be accurate. And she has the capability to assess fines and penalties up to $7.7 billion per year, an unbelievable power of taxation by her survey which Congress is deeming to be correct. So they can assess companies $1,000 for whoever answered the survey wrong or inappropriately according to her wishes. Unbelievable power.

Then we passed an amendment, I believe it is Senator REED's amendment, that said we will deny deductibility of advertising to tobacco companies if they don't comply with FDA advertising restrictions. That is now part of this bill. What does that mean? FDA promulgated a long list of rules which, incidentally, I will comment on in a minute. This legislation deems to be law. That is interesting. But in the amendment Senator REED says if they don't comply with FDA advertising restrictions, then they will lose deductions of their advertising. Basically, what we have done now is turned the power to tax over to the FDA. Now, that is unconscionable for those who think the power to tax belongs to Congress, not to a bureaucrat, a bureaucrat that may or may not have an agenda.

And if one thinks that all the FDA regs are accurate and make sense, one of the regs is that you can't have any tobacco sponsorship for sporting events. The Indianapolis 500 comes to mind. An automobile runs around with "Marlboro" painted on the side. If you had that, or the driver had "Marlboro" on the side, it would be a violation. They would lose deductibility of all their advertising expenses. Or even if you had a hat that said "Marlboro" on it, or "Winston" or "Salem" or whatever, any tobacco product, if you had a hat or T-shirt or car that had that emblem, you are violating the FDA advertising restrictions and therefore you would lose your deductibility.

So we would have tax policy being set, one, by the Secretary of Health and Human Services, and another by FDA. The combination of that is probably the worst tax policy I can imagine. Unbelievable.

On page 99 of the bill, we do something else dealing with FDA regulations, and Congress is a legislative body. We are supposed to legislate. If we want to ban advertising of tobacco products, we should do it. Somebody should introduce a bill to ban advertising. We didn't do that. FDA promulgated some rules restricting tobacco sales, labeling and advertising.

On page 99, it talks about the rules, and it says, "The code of Federal regulations dealing with tobacco are hereby deemed to be lawful and to have been lawfully promulgated by the secretary under Chapter 9 in Section 701 of the Food and Drug Act." Here is a whole list of FDA regulations. This bill deems them to be the law, makes them the law. I am bothered by that. If somebody wants to make it the law, let them try to pass a bill—we are the legislative body, not FDA—not taking a whole section of FDA regs, some of which make no sense whatsoever, some of which are not workable.

Here is one example. One reg deals with checking IDs, identification on people when they purchase tobacco products. Every State in the Nation has a law, and it is against the law to sell tobacco products to teenagers, people less than 18. Some States have higher age limits. They said we need to check that, and the rule said they are going to check the identification of people up to age 27. And if a convenience store, or something, doesn't comply, they are subjected to fines and penalties, which range, for the fifth violation, up to $10,000. Wait a minute, that isn't in the bill. But the bill says they are all deemed to be lawful. So we are making it law by this one paragraph on page 99.

Now, if we stay on this bill, I am going to have an amendment saying, wait a minute, should it be against the law for a convenience store not to check the identification of people up to age 27? The law is 18. You could have a combat veteran of the Persian Gulf who is 26 years old and has four kids, and somebody could be fined up to $10,000 if they don't check his ID. Obviously, he is older than 18. Yet, the FDA reg says you check their identification, and if they are less than 26 or 27 and you didn't check the ID, you are subject to fines and penalties up to $10,000. And we are codifying that; we are deeming that to be lawful. That bothers me. That is crummy legislating. That is not good legislation.

We have another provision that I don't even know many of our colleagues are aware of. They had better become aware of it if, Heaven forbid, this becomes law. This bill prohibits smoking of cigarettes in almost any building in the United States. I will read you the language. It prohibits the "smoking of cigarettes, cigars, pipes, and any other combustion of tobacco within a facility or on a facility or property within the immediate vicinity of the entrance to the facility." I could go on. How is "facility" defined? It means "any building used for purposes that effect interstate or foreign commerce, regularly entered by 10 or more individuals at least one day per week."

Unbelievable. Unless you have a real small building, you are going to be covered by this ban. So we are banning smoking on almost every single building—certainly every business building in the United States, or significant business building. Are people aware of that? What kind of fines and penalties will be imposed if you don't comply with that? I could go on and on.

My point is, when I heard my colleague say, "We think the public supports this bill," maybe a lot of the public really haven't looked at what is in this bill. There are a couple of sections I will point out just for the information of our colleagues. I heard somebody say, "You can't be opposed to this bill now on attorney's fees," because we passed an amendment by one vote that had a limitation on attorney's fees. They can only make $4,000 an hour for the old cases and, for future cases, $500 an hour. Well, Mr. President, there is language in this bill that is an invitation for litigation that would not stop, that would be probably the most expensive litigation piece I have ever seen. There is a presumption. I will just read this part on page 233 of the bill. It is just a couple of paragraphs, but the paragraphs would cost consumers hundreds of billions of dollars.

> General Causation Presumption. In any civil action to which this title applies involving a tobacco claim, there shall be evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Centers for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General [back in 1989], The Health Consequences of Smoking: Involuntary Smoking [done in 1986]; and The Health Consequences of Using Smokeless Tobacco [Health Service in 1986], are caused in whole or in part by the use of tobacco products . . .

There is an evidentiary presumption that nicotine is addictive and diseases are identified as being caused by using tobacco products. In other words: Come sue. Come sue for anything. There are three books, and they touch on all kinds of diseases, including diabetes. It can have some little relationship to smoking, and we made a presumption that: tobacco is the fault; come sue. This is an invitation for litigation. Here you go, the trial lawyers will love this. They came out with a big one. They may have snuck it in, I don't know. This is a big invitation to sue. I heard Senator DOMENICI talking about this. I compliment him for raising it on the floor. Other people acted like they didn't know it is in the bill. It is still in the bill. So I make those comments.

I will make a couple of other comments. I see my friend from Kentucky here. I have already related the inequity of some of the taxation provisions in this bill dealing with either cigarettes or other tobacco products. We have currently pending an amendment by my colleague to strike out what some people have referred to as the Lugar provision, and I expect that there will be an amendment pending to strike out the Ford provision. Both of them deal with compensation for tobacco farmers. I think both are too generous. One has a total cost, over 25 years, of $28 billion; one has a cost of $18 billion. Both would compensate tobacco farmers far in excess of the value of the land—value of the land that you could buy today on the open market, but we would pay several times the value. I think that is a mistake. I am troubled by that provision.

Mr. President, I don't know if this has been entered into the RECORD. I have a letter from the Governors urging opposition to this bill. These are the Governors whose attorneys general originally put together the package that said: Yes, we want to make a deal; we won't sue the tobacco companies if you will give us a couple hundred billion dollars over the next 25 years—about 8 billion a year. If you give us $8 billion a year, collectively, then we will drop our class action suits. They have now looked at this bill and said: Don't pass it. It is not acceptable in its current form.

I happen to agree with the Governors—maybe for different reasons—but I don't think this bill is salvageable. I don't think we should pass it. Does that mean I am against doing something to reduce the teenage consumption and addiction of tobacco and drugs? Absolutely not. I want to do something. I have indicated that I am willing to pass a bill that would be directed, targeted, at reducing teenage consumption and addiction to tobacco. Do you have to spend hundreds of billions to do that, as we have in this legislation before us? The answer is no, absolutely not. As a matter of fact, I think what we are doing is funding an addiction of government to more government and doing very little on tobacco.

If we want to do some things to reduce teenage consumption and addiction to tobacco, let's do it. We have the HHS appropriation bill. We can put in more money for NIH, for cancer research, for money to have programs to discourage drug consumption, tobacco consumption. Let's do that, increase it, and cancel some other programs. We are spending now $1.7 trillion per year. Let's move some of that around and put it into functions that would actually be targeted at our youth, to reduce their addiction and consumption of tobacco. I think that would be a giant step in the right direction.

I think passing this legislation is not really targeted to kids; it is targeted more to government. The President was absolutely wrong when he said those people who oppose this bill and think it is more government, that is a bunch of hooey. I think we did something. We read the bill. This bill is a bunch of hooey. This does not deserve to be passed.

I think this bill is a serious, serious mistake. If our colleagues on the other side of the aisle want to increase tobacco taxes, they can do so. This bill is, in my opinion, one of the worst pieces of legislation this Congress has considered in my legislative career. It should not pass. We should defeat this bill. We should defeat it either in the form of not agreeing to cloture—we have already had three cloture votes. We may well have one more. I hope my colleagues will not vote for cloture. I hope that a budget point of order, if that is made, will be sustained.

This bill is clearly outside the budget. It says so in its language. Do we agree with the budget that we passed last year, or are we just going to ignore it on this issue? We ignored it on the urgent supplemental. We violated the budget on those. There were some emergencies. There were some floods and other emergencies required funding and we have done that for before.

But to ignore the budget on these programs, all of which are in governmental entities, or creating governmental entities for new programs—for example, international tobacco control. That is $350 million a year for the first 5 years, and such sums as necessary for the future years. That is a brand new program. I don't know that we need to fund it. But if we do, let's fund it under the budget. Why have it be outside the budget?

I look at a lot of these other programs. My colleagues were successful in saying, let's spend a couple billion dollars more in child care. We mandated that in this side of the equation. We have the tobacco community grants; opportunity grants. We have got a lot of new spending. I say that spending should be in the budget. It shouldn't be outside the budget.

So I urge my colleagues, let's defeat this bill. Let's come back to something that is responsible, something that is within the realm of the budget agreement.

Mr. President, I ask unanimous consent that a letter from the Governors' Association, as well as an article from the Washington Times on Monday, June 15 that says the tobacco bill is packed with programs and agencies be printed in the RECORD, as well as two charts that I referred to in my speech, one of which is the national tobacco settlement trust fund that shows the total cost of this bill could easily well reach $997 billion. That is $745 billion under the annual industry payments; maximum look-back. Maybe that would happen, part of it would happen; maybe not.

There are some who would say, "Wait a minute. You didn't take into consideration the volume adjustment." The bill said, if volume comes down below 20 percent, there will be some reduction in these industry payments. Maybe tobacco consumption would fall by more than 20 percent. Maybe it wouldn't. I don't know. It is hard to guess. There might be some reduction on that figure. I don't know. For cost analysis purposes, though, I note that the OMB did not figure volume adjustments down within their original proposals. The attorneys general did not in their original proposal. Since it is impossible to do, I haven't done it in mine, either.

I make mention of that for the RECORD, and also ask to have included a chart that shows the disparity between products of companies.

I absolute don't think it is right for us to have different excise taxes on cigarette products because one company sells more than another company. That doesn't make sense to me. We have that throughout this bill. That needs to be remedied. If we stay on the bill, I will have an amendment to do.

So I ask unanimous consent that two charts, a letter, and newspaper articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, June 11, 1998.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. THOMAS A. DASCHLE,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: When the Senate began floor consideration of S. 1415, Senator McCain's tobacco settlement legislation, the bill included $196.5 billion over twenty-five years for the states and territories to settle their lawsuits against the tobacco industry. Those state lawsuits made possible the development of comprehensive federal tobacco legislation.

Governors have made clear from the beginning of the Senate's legislative debate that preserving and protecting state settlement funds would be one of our highest priorities. We agreed to support the state financing section of the McCain-Lott manager's amendment, which included some restrictions on the use of half of the state funds, in exchange for a guarantee that the states would receive at least $196.5 billion over twenty-five years This funding level is consistent with the amount negotiated between the state attorney's general and the tobacco industry in the original June 20, 1997, agreement. At the same time, the amount of money available to the federal government through the tobacco bill has expanded significantly.

Over the past few days, the Senate adopted several amendments that dramatically reduce the amount of money available to the states to settle state lawsuits and restrict state flexibility related to the use of those funds that remain. Some Governors support the goals of the amendments that have been considered by the Senate, but federal priorities should be financed through the federal portion of the bill, rather than through state tobacco settlement funds.

The state funding pool has been reduced dramatically below the level to which Governors agreed. At such low levels, Governors must weight the potential of new state tobacco settlement revenues against the reality that a federal increase in the price per pack of cigarettes will result in an offsetting decrease in state cigarette excise tax revenues.

Accordingly, the nation's Governors are not able to support the state financing section of S. 1415 as amended. Given the experiences of the four states that have negotiated settlements of their individual lawsuits and the original state attorneys general agreement, the bill no longer places appropriate priority on successfully settling state lawsuits. We urge you to restore the $196.5 billion reserved for the states while the bill is still on the floor of the Senate.

In addition, the states must be free to continue to pursue their own lawsuits against the tobacco industry. We strongly urge the Senate to ensure that the language included in S. 1415, to clarify that state settlement funds are not subject to federal recoupment, is applied to all states, including those that choose not to participate in the federal settlement.

If we, the Executive Committee of the National Governors' Association, can provide you with clarification of our position, please do not hesitate to let us know.

Sincerely,

Gov. George V. Voinovich, State of Ohio; Gov. Roy Romer, State of Colorado; Gov. Bob Miller, State of Nevada; Gov. Michael O. Leavitt, State of Utah; Gov. Howard Dean, M.D., State of Vermont; Gov. Thomas R. Carper, State of Delaware; Gov. Lawton Chiles, State of Florida; Gov. David M. Beasley, State of South Carolina; Gov. Tommy G. Thompson, State of Wisconsin.

[From the Washington Times, June 15, 1998]

TOBACCO BILL IS PACKED WITH PROGRAMS, AGENCIES

(By Nancy E. Roman)

The tobacco bill moving through Congress would spend $350 million per year for the first five years and as much "as may be necessary" for each year after that to promote smoking awareness abroad.

The foreign-aid program is one of many new government functions created in a tobacco bill that raises $92 billion over five years by taxing cigarettes by $1.10 per pack, and uses about $65 billion of that over five years to pay for things ranging from child care to college tuition.

The bill would also create new Medicare pilot projects, ban smoking outside public entrances, create new causes for litigation and spend up to $18,000 per American Indian to help them stop smoking.

Under the latest printed version of the tobacco bill, a whopping 480-page to me that few have read, the secretary of health and human services is directed to "promote efforts to share information and provide education internationally about the health, economic, social and other costs of tobacco use . . ."

Part of the $350 million for each year through 2004 would be used to "support the development of appropriate governmental control activities in foreign countries."

The bill would also:

Ban smoking inside—and even outside—of public buildings involved in interstate commerce, including almost all retail facilities except restaurants. The bill prohibits smoking "within the immediate vicinity of the entrance to the facility." The only alternative is for facilities that set up a separate smoking section where the air is "directly exhausted to the outside."

Create a right to sue in federal court for individuals who believe that owners of buildings where they work or live violate this provision. Under the bill, individuals must notify the building owner of his or her intention to sue. After 60 days, if the owner has not corrected the situation, the individual may sue. Civil penalties of up to $5,000 per day may be awarded under the bill. That would be a $1.65 million fine for a one-year violation.

Provide up to $1,700 per year in college tuition for tobacco farmers and their family members, including brothers, sisters, stepbrother's, stepsisters, sons-in-law, and daughters-in-law. There are currently two sections of the bill dealing with farmers, and one will have to be struck.

Provide as much as $7.6 billion to help American Indians stop smoking, or about $18,000 per American Indian smoker.

Under the bill, between 3 percent and 7 percent of the public health trust fund, or as much as $7.6 billion, is set aside for smoking-cessation programs for American Indians, as defined by the Department of the Interior.

Under that definition, there are about 1.4 million American Indians, about 406,000 of whom are adult smokers who would qualify. Assuming 39.2 percent of them smoke (the average rate of smoking among American Indians), that would be about $18,800 for each.

The original tobacco bill created about 17 new agencies, boards and commissions.

New functions for government include setting up a national tobacco document depository, creating tobacco smuggling prevention programs and countering advertising programs.

The bill would spend about $13.6 million over five years to consider topics like the effects of smoke on pregnant women and further research on second-hand smoke.

A Senate aide who helped draft the bill said research has demonstrated that smoking damages fetuses and that secondhand smoke is dangerous, but it has not shown how it damages fetuses.

The bill would require states to license retailers that sell tobacco and bar those retailers form selling cigarettes to minors.

All 50 states have already out-lawed selling tobacco to minors. However, this bill requires them to conduct "monthly random, unannounced inspections of sales or distribution outlets in the state."

The states must then submit annual reports to the federal government detailing how it enforced the laws, the extent of the success achieved, how the inspections were conducted and the methods used to identify outlets.

One-quarter of the $24.6 billion the state receive under the bill must be spent on child care programs, including those for school-age children.

The bill sets targets to reduce teen smoking—by 15 percent after four years, by 30 percent after six years, by 50 percent after eight years and by 60 percent after 10 years.

Tobacco companies are charged a surcharge if those targets are not met and it is the government that determines whether those targets are met, based on "prevalence of tobacco products for the industry."

If the bill passes, the federal government will determine whether the targets have been met.

NATIONAL TOBACCO SETTLEMENT TRUST FUND

[Gross tax increase on consumers in billions of nominal dollars]

Year	Initial payment	Annual industry payments	Maximum potential lookback assessments	Grand total
1999	10.00	14.40		24.40
2000		15.40		15.40

NATIONAL TOBACCO SETTLEMENT TRUST FUND—Continued

[Gross tax increase on consumers in billions of nominal dollars]

Year	Initial payment	Annual industry payments	Maximum potential lookback assessments	Grand total
2001		17.70	7.70	25.40
2002		21.40	7.92	29.32
2003		23.60	8.13	31.73
2004		24.31	8.35	32.66
2005		25.04	8.57	33.61
2006		25.79	8.81	34.59
2007		26.56	9.04	35.61
2008		27.36	9.29	36.65
2009		28.18	9.54	37.72
2010		29.03	9.80	38.82
2011		29.90	10.06	39.96
2012		30.79	10.33	41.12
2013		31.72	10.61	42.33
2014		32.67	10.90	43.57
2015		33.65	11.19	44.84
2016		34.66	11.49	46.15
2017		35.70	11.80	47.50
2018		36.77	12.12	48.89
2019		37.87	12.45	50.32
2020		39.01	12.79	51.79
2021		40.18	13.13	53.31
2022		41.38	13.49	54.87
2023		42.62	13.85	56.47
Total 25 years	10.00	745.67	241.36	997.02
Total 5 years	10.00	92.50	23.74	126.24
Total 10 years	10.00	221.55	67.80	299.36

Source: S. 1415 as modified on the Senate floor.

Annual industry payments are adjusted for the greater of 3% or CPI–U beginning in year 6. This estimate does not include potential increases or reductions in industry payments resulting from changes in the volume of tobacco sales.

Lookback assessments would be initiated after year 3 if underage tobacco use is not reduced by specified percentages. The maximum lookback assessment of $4.4 billion is adjusted for inflation. Does not include an estimate for brand-specific lookback assessment.

TOBACCO PRODUCT ANALYSIS

Cigarette manufacturer	Cigarette brands	Share of U.S. market (in percent)	Cigarette tax increase under S. 1415[1]
Philip Morris (USA)	Marlboro, Benson & Hedges, Merit, Virginia Slims, Parliament, Basic, Cambridge	49.1	$1.10
R.J. Reynolds (USA)	Winston, Doral, Camel, Salem, Vantage Monarch, More, Now, Best Value, Sterling, Magna, Century	24.2	1.10
Brown & Williamson (US subsidiary of BAT Industries, UK)	Lucky Strike, Carlton, Kool	16.1	1.10
Lorillard (USA)	Newport, Kent, Old Gold, True	8.7	1.10
Liggett Group (USA)	L&M, Eve, Chesterfield, Lark	Less than 1	0.00

Smokeless manufacturer	Smokeless brands	Share of U.S. market (in percent)	Moist snuff tax increase under S. 1415[2]	Other smokeless tax increase under S. 1415[2]
U.S. Tobacco (USA)	Copenhagen, Skoal, WB Cut, and 13 other brands of moist & dry snuff	37.9	$0.83	$0.39
Conwood (USA)	Levi Garrett, Kodiak, Taylor's Pride, and 34 other brands of chewing tobacco and moist & dry snuff.	23.3	0.58	0.27
Pinkerton (subsidiary of Swedish Match, Sweden)	Red Man, Timber Wolf, and 19 other brands of chewing tobacco and moist snuff	22.0	0.58	0.27
National Tobacco (USA)	Beech-Nut, Big Red, Havana Blossom, Trophy	9.2	0.58	0.27
Swisher (USA)	Mail Pouch, Silver Creek, and 33 other brands of chewing tobacco and moist & dry snuff.	6.8	0.58	0.27
Brown & Williamson (US subsidiary of BAT Industries UK)	Unknown	Less than 1	0.58	0.27
R.C. Owen (USA)	Unknown	Less than 1	0.58	0.27

[1] S. 1415 purports to impose a $1.10 per pack cigarette tax by the year 2003. Subsection 402(f), page 186, exempts cigarettes produced by the Liggett Group as long as their cigarette production does not exceed 3% of the total U.S. production.

[2] Subsection 402(d)(3)(A) provides that a 1.2 ounce package of moist snuff is taxed at 75% of the level of a pack of cigarettes, and a 3 ounce package of other smokeless tobacco products is taxed at 35% of the level of a pack of cigarettes. Further, subsection 402(d)(3)(B) provides the smokeless tobacco products by smaller manufacturers (under 150 million units) are taxed at only 70% of the rate applied to other smokeless tobacco products.

CURRENT LAW TAX RATES: Cigarette = 24 cents per pack; Snuff = 2.7 cents per 1.2 ounce can; Other smokeless tobacco = 2.25 cents per 3 ounce package.

Mr. NICKLES. I yield the floor.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I ask unanimous consent that I might speak for about 10 minutes, probably less, as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. ROCKEFELLER. Mr. President, I have come to the Senate floor to talk about, as others have, something of fundamental importance to the people that I represent in my State of West Virginia, and that is equal treatment for all Americans with respect to health care. I am not just talking about Congressmen, and I am not just talking about coal miners or CEOs or custodians, I am talking about all Americans and all the time.

I want to talk about what I think is an urgent need here in Congress to pass legislation on the quality of health care, and that this legislation should apply to every single American. When enough of us recognize these needs, I am convinced we are going to enact legislation, and it is going to be called patient protection. It may have some other name. It may be modified, it may be expanded, who knows? But the need for it is undeniable, and it has to happen. Every single day that passes without the enactment of some kind of patient protection legislation is another day that millions of Americans, thousands of people I represent in West Virginia, are subject to the denial of needed treatments by insurance companies who are looking out for their bottom lines.

Every single day that we as a Congress fail to act on the Patients' Bill of Rights Act, if we want to call it that, is another day that Americans are left vulnerable to health care decisions made by people who are not doctors—in fact, doctors complain about this all the time—but who are, in fact, business professionals. Every day that we do not act, Americans are refused the specialty treatment they need and deserve. I am going to give two examples of this which I think are scary, and which are very real. Make no mistake, if we do not respond and if we do not respond forcefully, more Americans are going to lose confidence in our health care system.

It is interesting to me, having observed health care now for quite a number of years, that it used to be it was only patients, or only consumers of health care who were worried about the cost of health care, the quality of health care, the problems of health care, the paperwork of health care. Now, the people who really are coming on board in this angst are physicians themselves and nurses and people who work in hospitals who have to deal with the realities of what the health care system has become in this country.

West Virginia is no exception. West Virginia may have some more problems than some other States, but we are no exception with regard to the need for patient protection. I constantly run into West Virginians when I am at home who complain to me—not at my invitation, but at theirs—about being denied the treatment they felt they were promised, or that they knew they were promised from plans, health care plans where they thought their premiums entitled them to something called quality health care and fair treatment.

One complaint I hear all too often is being denied specialty care. That is a very big deal. General practitioners can take care of a lot of problems, but sometimes you come to a point where you have to have more. Under most managed care plans, a patient's primary care physician may in fact refer, as the gatekeeper or whatever, a patient to a specialist, if the primary care physician determines that specialty care is necessary. That makes a lot of sense to me. Primary care physicians are in a very good position to do that. That is a professional decision involving going to another professional. However, things may change if the specialist is not on the list often called the plan's network.

Let me explain. Suddenly, someone then comes from the administrative office, or from some other division, and may take over. Suddenly, the patient who, along with the primary care physician, is anxious for that patient to see a specialist because of some health problem, finds out that the executives, not the physician, but the executives in charge of the managed care plan, people who are not doctors, not medical providers, reserve the right to refuse payment for the specialist recommended by his or her original doctor. In fact, this is a frequent occurrence for people who have insurance companies that push their employees to steer patients to only the physicians listed within their plan.

That is not the way it is meant to work. Insurance companies do not always make the best medical choices because they are not trained in that business. They are trained in a different business. Too often motivated by their bottom line, which is understandable, and not often enough motivated by the patient's health care needs, many specialty referrals are refused. Now, I go to my examples and I hope my colleagues will listen.

I think of a little 6-year-old boy from West Virginia who became seriously ill. Concerned, his mother rushed him to the doctor's office, his doctor's office, in fact, where he was quickly diagnosed with diabetes. His primary care physician referred him to an out-of-plan pediatric endocrinologist; a specialist in childhood diseases, that is. That was the referral, to a specialist in childhood diseases. The specialist placed this young child on insulin to control his condition. But when the child's primary care doctor referred him back to the specialist for a follow-up visit—which makes a lot of sense—the referral was denied, stating, "* * * service available with in-plan endocrinologist."

That doesn't sound so bad, does it? In other words, go to the in-house, in-plan endocrinologist. So while it sounds like the child could get the care that was needed from the in-plan physician, the reality is that he could not get that health care for a very subtle but basic reason. The in-plan specialist was an adult endocrinologist, not a child endocrinologist, specializing in adult diabetes. But diabetes is not the same in children and adults, and there are different specialties for adults and for children in that field. The treatment is different. There is serious risks of developing future health problems when the childhood diabetes is not dealt with properly by a proper physician. The insurance company in this case was gambling, in effect risking this child's future health for the few dollars they saved by saying: Oh, you have to go to an in-plan doctor.

As bad as that case is—and I wish it were the only one, but it is not—I was recently told the story of a 14-day-old baby girl. Mr. President, 14 days old, this precious little child's health was already jeopardized by her health plan. What do I mean by that? This poor child was brought to her doctor 14 days after birth because of a urinary tract infection. Treatment of a urinary tract infection at that age requires an evaluation for urinary tract abnormalities. But the referral from the pediatrician to an out-of-plan specialist was denied, again saying services are available in-plan, an in-plan urologist. OK, if she could get the right treatment in-plan, that is what HMOs are for; right?

But she could not. She could not get the help because the urologist the plan would have had her see was, once again, an adult urologist. Am I picking here? Am I just being petty? No. The problem lies in discovering and treating urinary tract abnormalities which is vital to preventing serious and permanent kidney damage, and the appropriate specialist for such a situation is a pediatric urologist.

I have working in my office, thanks to the Robert Wood Johnson Foundation, a pediatric cardiologist. A pediatric cardiologist is different from an adult cardiologist. In other words, an adult and child are different and they require different specialists with different skills. It is a basic and important fact. Simply to say you have a urologist in-house is not to say that if that urologist deals with adult urology problems, that it is sufficient for a 14-day-old baby girl.

This decision by the HMO was based on having an adult urologist, which urologist did not have speciality training in pediatric disorders and, therefore, was not capable of caring sufficiently for an infant. Why? Because keeping her within the plan's network of doctors costs less.

I understand business, and business is important, but this business of quality of health care treatment is very serious and very scary, and that is what we have to focus on when we are thinking about what we are going to do. These are our children, the most helpless and vulnerable of all of American citizens. They have no way of defending themselves. They depend on their parents, they depend on their communities to take care of them, and these people, in turn, depend on us in Congress to ensure that they are not taken advantage of, that games are not played with their health and the health of their children.

The time has come for us to pass a bill which guarantees certain commonsense protections for every single patient in America, young or old, rich or poor. This legislation—which we have the opportunity to pass, an obligation, I think, to enact this year, the Patients' Bill of Rights Act of 1998—will do exactly that.

I am interested in good health care for our people, Mr. President. I don't think it is a game, and I don't think it has anything to do with politics. I think it is a very, very serious consideration.

I thank the Presiding Officer and yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Kentucky.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from Montana, Mr. BAUCUS, be added as a cosponsor of the Ford amendment pending before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the Chair.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate now resume consideration of the tobacco legislation, S. 1415, for debate only until the hour of 3 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the following members of my staff be given the privilege of the floor for the duration of the debate on the current bill: Hunter Bates, Robin Bowen, David Hovermale, and Kyle Simmons.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, we have been on the tobacco bill now for four weeks. What is abundantly clear to this Senator is that the best favor we can do for the American people and, in particular, for Kentuckians who are tobacco producers is to defeat this bill. President Clinton and the majority of the Democrats have been pushing this bill for some time, going back to the 1996 campaign. A typical American family today already pays 38.2 percent of its total income in taxes at all levels of government. This tobacco tax bill before us will increase taxes by more than $600 billion, some argue even up to $800 billion over the life of the bill, and 60 percent of that tax will fall on working people who make less than $30,000 a year.

Let me repeat: 60 percent of the taxes that we are raising will fall on Americans making $30,000 per year. Mr. President, more than anything else, what the tobacco bill is about is tax and spend.

The original cause is a noble cause around which I guess virtually all of the Senate is unified, and that is the question of confronting the problem of teenagers and smoking. We know, of course, that only 2 percent of smokers are teenagers. We wish they would not engage in this habit, and we ought to do everything we can to deter that behavior. But this bill, this $600 billion or $700 billion or $800 billion bill, this tax increase targeted at people in America making $30,000 or less is about big government and big spending and big taxes.

A good starting place would be to defeat this bill, which is not in the best interest of the American people and certainly not in the best interest of the people of Kentucky for whom this is a particularly sensitive issue. The biggest beneficiaries of the bill before us, in addition to the Government and literally legions of new agencies, are a number of lawyers who are going to make a substantial amount of money even with the Gorton amendment yesterday.

So a good starting place in discussing this issue is what ought to be done with the overall bill, and it has been the view of this Senator from Kentucky that the appropriate fate for this bill is defeat, the sooner the better.

Should the bill not be defeated, it creates a catastrophe for the Commonwealth of Kentucky. We have over 60,000 farm families who derive some or all of their income from the annual growing of a legal crop.

They are engaged in an honorable activity. They are raising their families, educating their children, obeying the law. And here comes the Federal Government with an effort to destroy this legal industry. And make no mistake about it, this bill is designed to bring the tobacco industry to its knees. And that goal and design is pretty clear, with the amendments that have been passed so far, including providing no immunity from lawsuits whatsoever for the tobacco companies, which, as we all know, was part of the original settlement agreed to last summer—no immunity is going to be provided in this bill for any kind of lawsuit of any sort.

We doubled the so-called look-back provision—clearly, in this Senator's view, an unconstitutional attempt to make the company responsible for anyone who chooses to use its product. I do not know any reputable lawyer, Mr. President, either in or out of the Senate, who thinks that provision is constitutional. And, of course, there are advertising restrictions in this bill. Nobody that I know thinks those can be imposed by the Government either.

The industry pulled out of this a long time ago—several months ago—when they saw what form it was taking. So make no mistake about it, Mr. President, this bill before the Senate, in its current form, is designed to destroy the tobacco industry.

Now, the victims of that are the 60,000 farm families in Kentucky who raise this legal crop every year. And in the wake of this effort to destroy this industry, it has produced a significant debate in our State about what to do.

Now, if El Niño hits, the Federal Government steps in and helps the victims. In this particular instance, the Federal Government itself is causing the disaster. And it seemed to this Senator appropriate, if the Government were going to create this disaster, then the government ought to provide a lifeline or assistance or help to those victims of this Government-made disaster.

And after a good deal of thought over many months, Mr. President, I concluded that if the Government were going to try to destroy this industry, the appropriate response was for the Government to provide assistance to the farm families who grow this legal commodity, and to do it as generously as possible over the shortest period of time.

So it was my conclusion, Mr. President, that the Senator from Indiana—certainly no friend of tobacco, as he himself would readily admit—was prepared to engage in what I thought was a generous act in the context of this impending disaster.

Where I differ with the Senator from Indiana is, I think the tobacco program has served us well. It has served us very well in Kentucky. It has allowed us to hold on to smaller farms a lot longer than we would otherwise have been able to hold on to them, even though, Mr. President, I must confess, in all candor, there has been consolidation even with the program.

When I came to the Senate in January of 1985, the average tobacco grower in Kentucky had about an acre—roughly 2,500 pounds, which is about an acre. Today, the average tobacco grower in Kentucky has 4.5 acres. So you can see that even with the program, consolidation is occurring. Without the program, unquestionably, consolidation would occur very rapidly. And the tragedy of the loss of the program is that the income, which has been divided up among an awful lot of medium- and low-income people, would in all likelihood consolidate into large farms. And I do not applaud that. I would rather keep the tobacco program. And we can keep the tobacco program if we can beat this bill.

So, Mr. President, let me say, the first order for this Senator is to defeat this bill. I have done nothing to promote this bill at any point along the way. I opposed it in 1997, 1998, 2 months ago, last month, a week ago, yesterday, and today. This is a terrible bill for America and a particularly bad bill for Kentucky.

But if it is to become law, the question you have to ask is, What is the best approach for the victims of this law, the tobacco growers of Kentucky? It is my view, in that context, that the Senator from Indiana has it right, that if the Government is trying to destroy this industry, the best thing the Government can do is to provide a generous transition payment to these growers on the way to the free market—not my first choice, but my choice in the context of the bill that President Clinton and the vast majority of Democrats in this body want to see become law.

Mr. President, there are two competing proposals. One proposal, sponsored by my colleague from Kentucky, seeks to hold on to the tobacco program for the next 25 years. If it were not for this bill, we would have a chance of holding on to the tobacco program without any legislation, because this bill is what creates the problem, not that instantly tobacco becomes less controversial. But any time this kind of bill is seriously contemplated in Congress, it seems to me the only solution to that is to provide as generous a compensation as possible for our growers over the shortest period of time, because the program is going to end in the context of this kind of Government pile-on designed to destroy the industry.

So, Mr. President, I stated my case as best I could and, if I may say so, I think pretty well, in a recent op-ed in the Lexington Herald-Leader at home, which I ask unanimous consent to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WE DON'T HAVE 25 YEARS FOR LEAF ACT

(By Mitch McConnell)

One of President Bill Clinton's signature political maneuvers occurred early in his administration when he and Vice President Al

Gore declared war on tobacco—portraying Kentucky's leading agricultural commodity as a modern-day plague. The anti-tobacco zealots and an army of greedy plaintiffs' lawyers eager to prey on the tobacco industry created the most serious threat ever arrayed against tobacco farmers.

Disaster has loomed for Kentucky's tobacco farmers since Clinton took office and is now manifested in the form of the $850 billion McCain bill which sailed out of the Senate Commerce Committee 19–1, with Sen. Wendell Ford's support. Thus was the death knell sounded for tobacco.

Liberal Democrats in Congress have eagerly piled on, vowing to slay the tobacco industry generally and the farmers' price-support program in particular. Senator Dick Durbin (D-IL) venomously wails that tobacco is the only government-supported crop "with a body count," and lambasts the tobacco program as ". . . subsidizing the growth, production, and processing of a product which kills hundreds of thousands . . . ."

Sen. Ted Kennedy (D-MA), the most influential Democrat in the Senate, decries tobacco with characteristic hyperbole, charging the industry with "the insidious and shameful poisoning of generations of children." Durbin and Kennedy sentiment, shared by nearly all their liberal Democrat colleagues, does not auger for any easing up in the war against tobacco. Quite the contrary.

Kentucky's farmers are in this anti-tobacco squad's crosshairs. Senator Ford and I, as always, are unified in our goal of fighting for Kentucky farmers. Regrettably, we disagree over the best means for achieving this protection and security.

Kentucky farmers stand at a critical crossroads, presented with two alternatives for survival. Senate Agriculture Committee Chairman Richard Lugar (R-IN) offers farmers a three-year phase-out of the tobacco program that would provide the average quota owner with meaningful annual transition payments of $26,500 and the freedom to continue to grow tobacco in a free market, forever.

The LEAF Act, proposed by retiring Senator Ford, offers farmers two very different paths: a buyout path or a gamble that the program could continue for another quarter-century. If the average quota owner chooses to go down the Ford buyout path, he would receive a 10-year buyout with annual payments of only $8,000—with the added proviso that he would be barred from growing tobacco for the next 25 years! With such an unpalatable buy-out option, farmers would likely buy into the LEAF Act's contention that the tobacco program could be preserved until the year 2023—even though the government is currently phasing out other agriculture commodity programs like corn, wheat and soybeans.

After extensive consideration and consultation with Kentucky growers, I firmly believe that the Lugar plan is the wiser course because the LEAF Act is ultimately unsustainable—a nice idea, but an unwarranted gamble in what promises to be an increasingly hostile anti-tobacco environment. In short, the Lugar plan is the best option in a bad situation, the optimal approach to ensure that our farming families and their communities are not grievously wounded in the escalating anti-tobacco war being led by Commander-in-Chief Bill Clinton, Vice President Al Gore and their eager lieutenants in the liberal Democratic congressional caucus.

This unprecedented assault on tobacco—a legal product—has permanently altered the political landscape to the extreme detriment of tobacco farmers. As difficult as it is to understand in Kentucky, where tobacco is a way-of-life, the liberals in Washington most closely associate tobacco with a cause of death.

Nevertheless, Senator Ford and I, joined by precious few colleagues, have for years been fighting a rear-guard action in defense of tobacco farmers, staving off the anti-tobacco zealots with every parliamentary maneuver we could muster. But Clinton gave the green light to punish the tobacco industry into extinction; and virtually every governmental and private-sector force—outside of Kentucky and North Carolina—has followed suit.

On the home front, politicians like Scotty Baesler and farm bureaucrats like the Burley Co-op's Rod Kuegel and Danny McKinney are exploiting the tobacco growers' terrible plight with shrill rhetoric, unproductive attacks and politics as usual. Contrary to these attacks, I firmly believe Kentucky farmers understand the political and economic ramifications of the highly-charged anti-tobacco environment. A Herald-Leader poll found that 70 percent of Kentucky farmers who expressed an opinion said that the program would be gone in less than five years. Similarly, the Tobacco Fairness Coalition has reported that 63 percent of growers in Kentucky and Tennessee favor Senator Lugar's front-loaded phase-out of the tobacco program that pays farmers $8 a pound.

The LEAF Act has been criticized from all sides on a number of different issues. Even Sen. Ford's long-time Democratic friends in the Senate have expressed serious doubt about the viability of his plan. Sen. Bob Kerrey (D-NE) recently stated that he is "troubled by" the cost of Senator Ford's plan and declared on the Senate floor: "I have a very difficult time voting for something that has $28 billion for tobacco farmers . . . ."

Moreover, I am terribly troubled by the fact that LEAF discriminates against Kentucky farmers, inexplicably treating them worse than North Carolina farmers. For example, if a Kentucky farmer takes the LEAF buyout, he is forbidden from growing tobacco for the next 25 years. Since the average age of a Kentucky tobacco farmer is 60, the LEAF buyout is effectively a lifetime ban. On the other hand, a North Carolina quota owner receives a guaranteed buyout under LEAF and is still allowed to continue growing tobacco. This is simply not fair.

Thoughtful newspapers in the heart of tobacco country have surveyed the tobacco landscape and concluded that the tobacco program is mortally wounded. In the words of the Paducah Sun: "[The] ultimate fate [of the tobacco program] seems sealed. How can [the] program survive indefinitely when the administration, Congress, health groups and public opinion are arrayed so solidly against smoking?"

Or as the Daily News in Bowling Green concluded: "Hating tobacco is popular. This national mood spells an end—and soon—to federal programs seen as supportive of the 'evil weed.' McConnell has stated the facts. They are hard. But they are the facts." The Courier-Journal also acknowledged that my decision to support the Lugar plan was "a reasonable and defensible course."

As much as I would like to promise farmers 25 more years of a federal tobacco program, I cannot in good conscience be complicitous in handing out such a false promise to the thousands of Kentucky families whose lives would thereafter hang in the balance and twist in hostile political winds. The combined forces of Clinton, Gore, opportunistic Democrats in Congress and the nation's liberal media, have made tobacco public enemy No. 1. In sum, I simply refuse to sell farmers on the dreamy illusion of a new 25-year tobacco program.

Contrary to the caricature of my position by the politically-motivated and woefully ill-informed former Democrat State Sen. John Berry and his poet brother, my "sole prerogative" is to provide certainty and protection to Kentucky's farming families. We should allow our farmers and communities to take the cash-in-hand and not force them into a high-stakes crapshoot. In the words of the Owensboro Messenger-Inquirer: "This may be the last chance farmers have before it all goes up in smoke." Nostalgia for the past may be good for poets, but not for policymakers.

Mr. McCONNELL. Mr. President, as you can imagine, this is a much discussed issue in Kentucky. Some people think the LEAF Act is the way to go; some people think the Lugar proposal is the way to go. Interestingly enough, a number of newspapers, having surveyed the landscape and having looked at the issue, have concluded that the Senator from Indiana—not, again, thought of as any friend of tobacco—and the Senatcr from Kentucky, who has spent most of his career fighting, along with the senior Senator from Kentucky, for tobacco, have it right, that in the context of this kind of bill, the only rational response is to try to provide as much compensation as possible.

In fact, the Owensboro Messenger-Inquirer, the daily paper in Owensboro—one of our major cities and one of our major papers—had an editorial on May 24, the headline of which was, "McConnell may have right idea, Lugar's plan could ultimately benefit tobacco farmers more than Ford's."

Now, reasonable people can differ about what is the appropriate thing to do in the face of impending disaster. You can go down with the ship or you can go for the lifeboats. And what the Senator from Indiana is doing here is offering a lifeboat; and, interestingly enough, after you get in the lifeboat, you are still free to row.

In other words, under the Lugar proposal, when you go on to the free market, it is indeed free; people are still entitled to grow tobacco, a legal product, if they want to. Under the competing proposal, the LEAF proposal, there is a so-called voluntary buyout, but, candidly, it is not very attractive. If you take the voluntary buyout, it takes you 10 years to get your money. In the first year, the $8 presumably would still be worth $8; in the tenth year, the ag economist on the Senate Agriculture Committee, of which I am a member, says it is worth about $5.13. So your money erodes over a 10-year period.

In addition to that, if you accept the voluntary buyout, you cannot grow tobacco. Even though you are in a free market, the Government tells you, you cannot grow tobacco. And, even more mysterious, under the same LEAF proposal, there is a mandatory buyout for flue-cured tobacco—that kind of tobacco grown in the Carolinas and Virginia—a mandatory buyout. But after it is over, you are free to grow tobacco.

So I think, clearly, the purpose of the LEAF Act was to discourage any exit from the tobacco business. The buyout is not attractive, and it is designed to sort of hitch you up to a declining market created by a Government pile-on.

So, Mr. President, I ask unanimous consent that the editorial in the Owensboro Messenger-Inquirer be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Messenger-Inquirer, May 24, 1998]

McConnell May Have Right Idea

LUGAR'S PLAN COULD ULTIMATELY BENEFIT TOBACCO FARMERS MORE THAN FORD'S

Tobacco farmers may be upset with U.S. Sen. Mitch McConnell, but ultimately he may be doing them more good than harm.

McConnell did the once unthinkable last week—he sided with Indiana Sen. Richard Lugar on a plan to end the federal tobacco price support system.

McConnell said when he first came to the Senate in 1985, there were seven tobacco-related votes. "Tobacco was a sleepy, regional issue to which most members of Congress did not pay much attention," McConnell said.

The politics of tobacco have changed. In the current Congress there have been 29 tobacco-related votes, McConnell said, including one last summer in which crop insurance for tobacco farmers barely passed.

McConnell cited a statewide poll that found 70 percent of the respondents thought the tobacco support program would be dead in less than five years.

Siding with Lugar is in direct opposition with Kentucky's senior senator Wendell Ford of Owensboro. Ford's plan would continue price supports, offer $8 per pound to cover farmers' losses and would provide $28.5 billion over 25 years to assist tobacco farmers and communities who suffer because of decline in tobacco demand and jobs.

Ford is doing what he is supposed to do—taking care of the concerns of his constituents. In a different way McConnell is doing the same, although tobacco farmers may not yet see it.

Just a few years ago, Ford's plan would have been better for Kentucky tobacco farmers. But tobacco is in trouble, and with Ford leaving Washington at the end of this year, there will be one less experienced voice in favor of the support program.

McConnell recognizes this and is trying to bridge the gap between the two sides on price supports.

McConnell is not simply cozying up to Lugar's initial plan, which we still believe was overly punitive. Lugar's initial plan was to pay those who hold quotas to grow tobacco $8 per pound to get out of the business. Those who wanted to continue to grow would do so under free market conditions, but Lugar proposed transitional payments over three years to wean farmers off the program.

At McConnell's request, the Lugar plan now allows farmers to continue growing tobacco during the phase-out program. And sharecroppers and those who lease quotas to grow tobacco—initially left out of Lugar's plan—would receive $4 per pound during the buyout.

Also new at McConnell's urging was $1 billion over five years for rural communities hit hard by the reduction in tobacco revenue. That money would be invested in education and retraining, and to assist warehouse owners and operators.

We share a legitimate conflict of opinion on this issue with, we expect, many Kentuckians. The global economy has turned to a free market on tobacco, and some would surely claim it wrong for the American government to continue artificially maintaining higher prices.

It would be easier to embrace that position if we lived in Montana, Ohio or New Hampshire. But we live in Kentucky, a farming state in which 25 percent of total farm income is from tobacco sales. Any movement that would ultimately cut prices more than in half for tobacco must be met with concern.

But McConnell obviously feels that this may be the best chance for tobacco farmers to recoup some lucrative prices. It is conceivable tobacco opponents will simply end the price support program in a few years without any sort of transitional buyout.

This makes it imperative that both alternative crops and new markets for tobacco be found for Kentucky farmers. Biosource Technologies is working on exciting research using tobacco in the development of pharmaceuticals.

McConnell is too savvy a politician to make this move without a firm belief that the majority of his constituents favor it. Tobacco is in trouble no matter what McConnell supports. This may be the last chance farmers have before it all goes up in smoke.

Mr. McCONNELL. And the Paducah Sun, Mr. President, in the far western part of our State, in taking a look at the situation, reached the conclusion that the Senator from Indiana and the junior Senator from Kentucky probably had it right, that in the context of this kind of bill, the rational response is to provide a generous buyout as rapidly as possible on to the free market.

Mr. President, I ask unanimous consent the editorial in the Paducah Sun of May 23 of this year be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Paducah Sun, May 23, 1998]

Smoking Bomb

TOBACCO BUY-OUT A REASONABLE IDEA

Mitch McConnell's tobacco bomb has exploded with stunning force throughout the state he represents. Nearly in unison, Democrats and farm groups have denounced his buyout proposal in the strongest terms, and his fellow Kentucky Republicans are keeping quiet. Conservatives from outside the tobacco belt are criticizing the Kentuckian's plan as too generous. So politically, the senator's idea looks like a loser. As a matter of policy, it is worth a cooler appraisal.

Sen. McConnell has signed onto Indiana colleague Richard Lugar's legislation to close out the federal tobacco support program over three years by buying up the production quotas at $8 a pound. Participation would be mandatory, but in the end, farmers would be free to grow as much leaf as they wished and sell it in an unregulated market.

The alternative by his Democratic counterpart, Sen. Wendell Ford, would give farmers the option of selling their quotas, also for $8 a pound, over 10 years, but those who take the money would have to quit growing the crop. For others, the price subsidies would remain in place.

Gov. Paul Patton, the three Democratic senatorial candidates, the burley tobacco organization, and the Kentucky Farm Bureau all embrace the Ford proposal. So does Republican Rep. Jim Bunning, his party's likely nominee for the U.S. Senate seat this year, which is a fair indication of the political lay of the land in Kentucky.

The competing plans are substantially different, but have at least one major goal in common. Both are designed to cushion the impending blow for tobacco growers in a social and political environment that is increasingly hostile to cigarettes and smoking.

Which proposal is superior as national policy—or better for the growers (which is not necessarily the same thing)—depends largely on the future of the tobacco program.

The Lugar-McConnell plan is premised on the belief that the tobacco subsidy is on its way out no matter what and the best deal for farmers is a short-term cash buyout.

State Democrats are far more optimistic about the leaf program. The accuse Sen. McConnell of premature surrender and seem to resent particularly his break from a previously united front among the Kentucky delegation.

We believe Sen. McConnell has reason on his side. Whether the tobacco price support program lasts another three, five or 10 years is not the main point. Its ultimate fate seems sealed. How can the program survive indefinitely when the administration, Congress, health groups and public opinion are arrayed so solidly against smoking?

Even now, lawmakers mainly are arguing about how punitive the federal legislation will be against the tobacco industry. At last report, the U.S. Senate is prepared to impose a $1.10 per pack tax hike on cigarettes, which incensed Sen. Ted Kennedy because it wasn't $1.50. The contradictory notion—manufacturers bad, growers good—will not wear well forever.

Moreover, tobacco, of all commodities, hardly would be the exception in the overall movement of agriculture away from support programs and toward a market system. Price supports for corn are not surviving; why should tobacco's?

In plain fact, the tobacco program was never defensible in a government that is trying to discourage smoking by every means. Ending it now at least would allow government to purge itself of hypocrisy.

The prospect of handing $80,000 to the typical tobacco farmer who cultivates four acres, as the Lugar-McConnell proposal would do, does not strike us as victimizing him excessively. The out-of-state conservative critics of that bill's generosity may have a point. The payoff would be $20,000 an acre, as compared to about $200 an acre for corn growers.

The relative merits of Sen. McConnell's and Sen. Ford's competing approaches are still up for debate, and much is yet to be decided. We fail to see how the Republican's proposal is so inimical to state or national interest as to justify the furor it has created.

Mr. McCONNELL. Mr. President, the State Journal in Frankfort, our State capital, on May 21, 1998, essentially agreed, as well as did the Owensboro paper and the Paducah paper, that in this particular situation the buyout proposal offered by the chairman of the

Agriculture Committee makes the most sense. I ask unanimous consent that the State Journal editorial be printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, as follows:

[From the State Journal, May 21, 1998]

MORTAL WOUNDS

U.S. Sen. Mitch McConnell ignited a firestorm in Kentucky this week when he threw his support to Indiana Sen. Richard Lugar's legislation that would end federal price supports on burley tobacco by 2002.

In doing so, McConnell deserted his fellow Kentuckian Sen. Wendell Ford, who is trying desperately to salvage the tobacco price support program as the Senate debates historic legislation targeting the tobacco industry as a whole.

It goes without saying Ford is furious. Tobacco farmers are irate. Agriculture groups are in a frenzy. And Democrats running to replace Ford are on the political warpath.

McConnell says he made the decision to desert Ford's legislation, which McConnell originally co-sponsored, because he saw the handwriting on the wall. Tobacco is so universally despised in Congress that there is no hope the price support program can survive at a time when federal agriculture price support programs are being jettisoned all over the place.

The tobacco price support program, McConnell says, is "mortally wounded."

If everyone will calm down and think about it, they will realize that McConnell is right. Tobacco in all its forms is anathema in Congress and much of the nation outside a handful of states where it is grown. The anti-tobacco sentiment has reached a level of zealotry rarely if ever seen involving a single issue.

Ford, McConnell and Kentucky's congressional delegation have waged the good fight, but they are going to lose on the issue of price supports. The issue now must be what they can salvage to help farmers who rely on burley tobacco for their incomes and the communities that rely on those farmers for their prosperity.

The Lugar legislation would pay the owners of tobacco quotas $8 a pound over three years. Tenants and those who lease tobacco quotas would be paid $4 per pound over three years. Tobacco states would receive $1 billion over five years to aid affected communities and to pay for job retraining and crop diversification programs.

Once the support program ends in 2002, farmers could continue growing tobacco, but the price would be subject to a free market.

In that free market, Kentucky burley undoubtedly would be worth far less and, in time, most small growers would get out of the business because it no longer would be profitable.

Whether the Lugar bill is fair compensation to burley growers is open to debate. Certainly, it will take far more than $1 billion to insulate communities and farmers from the potentially devastating economic impact of tobacco's disappearance as a major crop. But Kentuckians need to join the debate, not insist blindly that something "mortally wounded" can survive, especially when that something is associated with tobacco.

Mr. McCONNELL. Mr. President, the Bowling Green Daily News in the heart of our tobacco-growing part of the State—an area of the State represented by Congressman RON LEWIS who is on the House Agriculture Committee, who also endorses the Lugar approach as the only logical thing to do in the context of this bill designed to destroy this industry. The Bowling Green paper, also says that this is a realistic and appropriate response to the kind of catastrophe we are confronting.

I ask unanimous consent that the editorial from the Daily News in Bowling Green of May 21 be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Daily News, May 21, 1998]

TOBACCO PLAN IS MERELY REALISTIC

U.S. Sen. Wendell Ford and Democratic Senatorial candidates Scotty Baesler, Charlie Owen and Steve Henry can say it isn't so, but the support system for tobacco is doomed.

It is best to get out quickly while tobacco farmers still have some political capital to expend.

That is what U.S. Sen. Mitch McConnell, R-Ky., and Sen. Richard Lugar, R-Ind., are advocating. McConnell has joined Lugar in promoting a buyout plan that would pay tobacco farmers $18 billion and help tobacco-impacted communities adjust to cessation of the support system.

However, politicians from Kentucky and other tobacco-raising states may deplore it, tobacco has become a favorite political kickball, and termination of the support system is inevitable. It is just a matter of time. Surely, Kentucky politicians now raising such a flap over McConnell's "defection" know this as well as does he.

No tobacco farmer has to be told that there is a rising swell of anti-tobacco sentiment. Proponents of the system may argue honestly that the program is mostly paid for by farmers, but that argument will fall on deaf ears. Tobacco is politically incorrect.

Facing up to that reality, McConnell and Lugar offer a way out. But there is scant time for debating whether this buyout plan or that buyout plan might prove best for Kentucky farmers. Tobacco has been called to judgment in the court of American public opinion and has been found guilty.

The Lugar-McConnell approach is the best of several poor choices.

It would allow Kentucky farmers to do what many want to do—get out of the frustrating business of raising tobacco with some hope of saving the farm. It would pay tobacco farmers $8 a pound over three years, pay tenants and those who lease their tobacco quotas $4 a pound over three years and provide $1 billion in community assistance for tobacco states. The support system would be eliminated by 2002.

These are not harsh terms given the reality of the nation's anti-tobacco mood. In fact, they probably represent the best conditions that Kentucky tobacco farmers can hope to get.

Few people in Kentucky, including McConnell, want the destruction of the tobacco support system. But it is foolhardy to believe that the tobacco states can muster sufficient political power to long continue the program.

Hating tobacco is popular.

This national mood spells an end—and soon—to federal programs seen as supportive of the "evil weed."

McConnell has stated the facts. They are hard. But they are the facts.

Mr. McCONNELL. The Louisville Courier-Journal is conflicted on this issue. David Hawpe, the editor, a twice-a-week columnist, agrees with my senior colleague that the LEAF Act is the way to go, but the editorial page in the same paper, looking at the same issue, comes to the opposite conclusion.

Just reading in part from the Louisville Courier-journal of May 20:

> [T]he LEAF Act would be in trouble in any event. This, after all, is a Congress that passed the Freedom to Farm Act, which ended price support programs for such non-controversial crops as wheat, corn and soybeans. Why would lawmakers, especially now, make an exception for tobacco, which is blamed for 400,000 deaths a year?
>
> Of course, some anti-smoking groups have formed an alliance with tobacco farm organizations who support the Tobacco Program on the grounds that cheaper tobacco would lead to more smoking. But the cost of tobacco is a tiny fraction of a pack of cigarettes, and it will get smaller as Congress piles on new taxes.
>
> The grim fact is, the tobacco growers have a stake in people continuing to smoke, while the government, with broad public support, is determined to discourage smoking.
>
> Sooner or later, a way of life in Kentucky [according to the Courier] is going to end, and it is going to be painful. Senator McConnell would get it over quickly. Senator Ford will stretch it out. Neither can save a rural economy based on burley.

That is from the Louisville Courier-Journal on May 20 of this year.

There have been numerous letters to the editors of various papers. I will not read them all, but I think one is interesting in particular. It appeared June 11, 1998, in the Courier-Journal, from H.H. Barlow III, Cave City, KY.

> I am a 47-year-old lifelong tobacco farmer in Barren County, the largest tobacco-producing county in tobacco. The media, Senator Wendell Ford and Representative Scotty Baesler [according to this grower] are not telling the whole truth on tobacco.

That is he—the writer of the letter—not I, I say to my senior colleague from Kentucky.

> Senator Mitch McConnell has taken a bold step to protect the tobacco farmers of Kentucky by proposing an $8-per-pound buyout that would allow farmers to continue to grow tobacco in the free market. For me and my neighbors who are older and have spent our life raising tobacco, McConnell's proposal gives us a retirement plan and compensation for the loss of income. Most important is that under the McConnell plan, tobacco farmers would receive payments over a 3-year period as opposed to 10 years as Ford has proposed. Payments over 3 years would be significant enough to enable farmers to reduce debt and to invest in retirement or to develop other agricultural enterprises on the farm.
>
> There are seven tobacco states fighting 43 non-tobacco states, and tobacco votes in Congress get closer every year. Ford proposes to establish another government-run program that can be voted out by tobacco opponents at any time, leaving tobacco farmers to bleed a slow death with nothing to show for our quotas. McConnell has risked a lot to be honest about the true future of the tobacco program. You be the judge, but for me and my neighbors, having the buyout

money for our quota is like having a bird in hand instead of two in the bush, as Ford and Baesler want.

Another letter appeared in that same edition of The Courier-Journal. This letter was by Ms. Megan Cobb of Henderson, Kentucky. Here are some of the thoughts offered by Ms. Cobb:

As a young, non-smoking Kentuckian, I have been reading the information and misinformation surrounding the tobacco price support issues. Being apolitical, I have no interest in the politics of the issue, but I am concerned that our political candidates . . . are using the issue for their own benefit and really have no concern for the issue itself or the people who are affected.

I will say it takes great courage for our Senator Mitch McConnell to stand up and tell the cold truth. That is, the price support system for most farm products is over for all intents and purposes. And that tobacco, and its production, is going through radical changes not caused by the political process but, rather, by the social process that causes societies to change dramatically.

It is unfortunate that some of our farmers are looking for a scapegoat rather than solutions. It is unfortunate that our Senate candidates are pandering to the issues rather than boldly charting new courses like McConnell. And to say McConnell's position is anti-farm is not only distortion but irresponsible.

So these are just a few of the thoughtful Kentuckians in the heart of tobacco country who have surveyed the landscape and agree with me on this difficult issue.

I also ask unanimous consent a letter to the editor in the Lexington Herald-Leader from Alben B. Mills in London be printed in the RECORD, and another letter in the Courier-Journal from a Larry Bond be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

McCONNELL RIGHT ABOUT TOBACCO BUYOUT PLAN

(By Alben B. Mills, London)

As a tobacco farmer, I want to thank Sen. Mitch McConnell, R-Ky., for his courageous stance for a tobacco base buyout. While it may not be the most politically popular position McConnell could have taken, it was the most realistic and responsible solution to the uncertainty that Kentucky burley growers have faced since President Clinton declared war on tobacco. Like McConnell, I will be saddened to see the program go, but I have known for several years that tobacco's days in the federal government were numbered. At least, McConnell's plan will allow my colleagues and me to receive a secured payment for our quotas. I have not enjoyed security in my tobacco farming for a long time, thanks to Clinton and Vice President Al Gore.

Those who say that the program can survive the ever increasing anti-tobacco sentiment in Congress are taking a huge gamble, and they are wagering irresponsibility with the farmer's future. McConnell has made the tough call. He has told us the painful truth that the program is unsalvageable and that we should cut our losses while we still have the chance for fair compensation for our tobacco bases. His opinions have the ring of statesmanship, and the tobacco farming community will be forever indebted to him for his candor. I am grateful to McConnell for placing our interests before his own.

BACKS McCONNELL'S PLAN

(BY LARRY O. BOND, SANDERS, KY.)

I am very displeased with the attacks made on Sen. Mitch McConnell by the Democrats regrading his stand on the tobacco buyout.

I am a farm owner and have raised tobacco for 21 years. When we went to the no-net program in 1982, we were doomed. Sen. Wendell Ford helped pass that law. By 1985, the tobacco companies had forced so much tobacco into our pool that they broke us. Ford helped negotiate a tobacco company buyout of the pool stocks. Farmers took a cut in an allotment and a cut in price. My tobacco income was reduced by 50 percent. I grew tired of being abused by the tobacco companies, and 1989 was my last crop.

It seems to me that when Ford does the negotiating, the companies get the "gold," and the farmers get the "shaft."

The provisions of Ford's LEAF Act have changed several times over the last six months. The language is so complex that it appears to have been written to deliberately confuse the reader. Our experience since 1982 indicates that no tobacco agreement can last unchanged for 10 years.

I believe that when people want to change society it is only fair that they should pay for the change. If Sen. Richard Lugar and McConnell's buyout takes place, I will be satisfied that has happened. Farmers' lives will be radically changed, but at least they won't be completely dispossessed.

I would like to mention a critical point to my city cousins: The Lugar-McConnell buyout pays the farmer $8 a pound for his government allotment, and it goes out of existence. Ford's LEAF Act will pay those who choose to sell $8 per pound for the government allotment; however, those pounds will not cease to exist but will be redistributed to farmers who choose not to sell. Ford will spend America's money and give no benefit to American society. The Ford LEAF Act will not solve any of the problems that face tobacco farmers or society at large.

The three-year Lugar-McConnell plan is easy to understand, will solve the tobacco program problem once and for all, and relieves the government from being responsible for the tobacco farmer. It reimburses the farmer for property that society wants done away with. The farmer can pay down his debts and move on with his life.

McConnell has taken a bold and courageous stand on this issue, and I back him 100 percent. Nothing can shake me from that position.

Mr. McCONNELL. Now, Mr. President, let me just, in conclusion, sum up what the point is here.

What is proposed before the Senate is a bill designed to destroy the tobacco industry. As a matter of fact, one CEO of one of the companies said this bill in this form would put them into bankruptcy. There is no immunity provided for the companies. There is a Draconian look-back provision of certain unconstitutionality, various and assorted advertising restrictions also of dubious constitutionality, and a $1.10 cigarette tax increase over 3 years designed to net for the government some $500 to $800 billion in revenue, depending on whose estimates you listen to. The net effect of all that is a government designed to destroy this industry.

It is in that context that I believe the appropriate thing for the government to do is to throw a lifeline to the 60,000 hard-working Kentucky tobacco growers who make their living off of this legal crop.

Now, Mr. President, I want to take a few minutes and frame this issue from a larger perspective and walk through how our farmers found themselves in the current predicament.

One of President Clinton's signature political maneuvers occurred early in his administration when he and Vice President GORE declared war on tobacco—portraying Kentucky's leading agricultural commodity as a modern-day plague. The anti-tobacco zealots and an army of greedy plaintiffs' lawyers eager to prey on the tobacco industry created the most serious threat ever arrayed against tobacco farmers. Disaster has loomed for Kentucky's tobacco farmers since Clinton took office and is now manifested in the form of this half-trillion dollar McCain bill which sailed out of the Senate Commerce Committee 19–1, with Senator WENDELL FORD's support. Thus was the death knell sounded for tobacco.

With our tobacco farmers now caught in the crossfire of this war, we are being asked to make a monumental decision. That decision is simply this: despite all we know about tobacco's desperately weakened state—

(1) do we ignore the warning signs and commit ourselves to a path that leads to uncertainty and a diminished standard of living for our farmers, or

(2) do we recognize that change is coming to the farm and there is a better way to prepare for it than by blindly pursuing the policies of the past?

Mr. President, after months of thought, countless conversations with my colleagues, and a continual dialogue with Kentucky growers, I believe there is only one road for us to travel if we decide to pass this monstrous McCain bill. Let me explain why.

The politics of tobacco have changed. Throughout most of American history, we have paid tribute to tobacco and tobacco farmers. Nowhere is this national tribute more evident than right here in our nation's capitol. As I sat in my office this morning, I glanced at the small columns on my fireplace and took note of the tobacco leaves which adorn those columns.

And, then as I left my office and walked to the Senate floor, I passed various pillars here in the Capitol and looked upward to see, once again, the sculpted tobacco leaves bursting forth at the top of these pillars.

No longer do we pay tribute to the golden leaf or the farmer whose sweat and toil produces that leaf. The leaf is now seen as dark and brown and dirty. And, it is targeted for extinction and eradication by virtually every governmental and private-sector force in America.

Although tobacco leaves still adorn the halls of Congress, the leaf is no longer sacred. What was once seen as sacred, is now looked upon with contempt and outright hostility.

When I came to the Senate in 1985, there were only 7 tobacco-related votes. But, the times have changed—dramatically—and for the worse, where our tobacco farmers are concerned.

In the 105th Congress alone, there have been 29 tobacco-related votes—notwithstanding all the votes on the woefully misguided bill currently before the Senate. Twenty-nine votes—even prior to the McCain bill—that is three times more votes than there were when I arrived here in 1985. In fact, we've had more votes on tobacco in the 105th Congress alone than we had in all the years between 1985 and 1996. And each of these votes has the effect of putting a bull's eye on the tobacco farmer's back.

No vote points up tobacco's weakened position more vividly than a vote last summer (Durbin, July 23) to end crop insurance for farmers. Can you imagine? The amendment's sponsor was saying, in effect, "if you grow corn, wheat, soybeans, etc., you are entitled to insurance. But not if you grow tobacco. Even though you have never sold your product to a minor, or committed any of the transgressions we accuse tobacco companies of, you do not deserve basic protection from natural catastrophe."

On an issue that blatantly unfair, the vote, shockingly, was 53-47. That's three votes shy of elimination.

Tobacco interests have been under a constant, daily barrage of scorn and derision. Tobacco has become the enemy of choice among politicians. It is the darling of the attack set. Politicians across the political spectrum believe that attacking anything "tobacco" pays political dividends. And attack they do.

But these are not precision strikes. These are broadsides against the entire tobacco industry that wreak devastating collateral damage on tobacco farmers.

Let me tell you what Senator FORD's colleagues on the left are saying about the tobacco program and the tobacco farmer.

Here's Senator DURBIN: "Tobacco growers have to know the party's over." And again: "Uncle Sam ought to get out of the tobacco business. We have no business subsidizing the growth, production, and processing of a product which kills hundreds of thousands of Americans each year."

And, if the views of the left still aren't clear to you, Mr. President, let me share with you yet another quote from Senator DURBIN: "There is only one agricultural product in America that has a body count, and it is tobacco. That is why it is different, and that is why it is treated differently."

And what about Senator LAUTENBERG? He summed the anti-tobacco views of Bill Clinton, AL GORE and the Congressional left by offering this advice to tobacco growers: "Grow soybeans."

Now we have gotten to the point where, in the name of stopping teen smoking, we have created a half-trillion-plus dollar bill—more than twice the size of the Pentagon's budget—designed to stop what researchers have told us is 2 percent of all smokers.

And is addressing teen smoking really the goal? The American people don't think so. An April Wall Street Journal poll found that only 20 percent believed this tobacco bill is about stopping teen smoking. A resounding 70 percent say this effort is merely a back door way to go after tobacco and take in more money for the government to spend.

In this mad dash for cash, 124,000 tobacco farm families are caught in the crossfire of political ambition and partisan competition—60,000 of them from Kentucky. They did not start this war. And they should not be casualties. But casualties they will be if we do not act.

Senator FORD—whose work on behalf of all tobacco farmers is well known and rightly applauded—and I agree that these growers should be compensated. After all, they have done nothing wrong. Tobacco is a legal commodity. Whatever the larger arguments may be about Joe Camel, tobacco farmers are not a party to that debate.

So Senator FORD and I agree that they need to be taken care of, we disagree as to how. That disagreement arises from a fundamentally different interpretation of the political and economic terrain in which tobacco grows.

Senator FORD has surveyed the scene and concluded that the federal tobacco program is healthy and will enjoy another 25 years of support from the United States Congress. In his estimation, the best thing to do is continue the program and compensate farmers for the drop in demand that this bill is specifically designed to produce.

Let me repeat. The single greatest danger to Kentucky tobacco farmers is the passage of the McCain bill. You cannot suck more than a half-trillion dollars out of the tobacco industry without also ruining the tobacco farmer in the process.

As for me, I look at the same landscape as Senator FORD and come to the same conclusion that the farmers in my state have reached. In a statewide poll taken by the Lexington Herald-Leader in March, 70 percent of those who expressed an opinion said the program would be dead in less than five years. Let me restate that: 70 percent of farmers think the tobacco program is on its deathbed. Seventy percent of farmers think they will be forced to earn a living doing something else in just five years!

Like me, they look at the constant assault and realize a simple fact. Elected representatives in our country fundamentally reflect the prevailing view of their constituents.

Let me remind us all that the vast majority of Americans polled are against smoking tobacco. A near majority of U.S. Senators think that tobacco farmers don't even deserve our support for basic crop insurance. In the heart of tobacco country, the growers themselves are predicting the program's demise. And, finally, influential members of Congress have publicly declared that the tobacco program must die.

Mr. President, under the McCain bill or any other bill like it, the tobacco program is mortally wounded. It's struggling through the underbrush, hemorrhaging and slowing with every step. The question is not whether the tobacco program will end, it's when it will end if the McCain bill becomes law?

In the face of the deep, widespread unpopularity of tobacco, does anyone seriously think that the government that is trying to kill tobacco TODAY in this very bill will then turn around and support a taxpayer-funded program for a product widely-presumed to be carcinogenic?

Mr. President, it is clear that the vast majority view in this Congress, in tobacco country, and in America generally is that, if the McCain bill passes, the tobacco program will not survive. Knowing these facts, the challenge before us is to make sure tobacco farmers do.

Senator LUGAR's buy-out plan is tobacco growers' best hope to transition to a new farm existence with the resources necessary to make it, or to retire with sufficient funds if they so choose.

Under Chairman LUGAR's approach, quota owners will receive $8 per pound for their tobacco spread out over three years. The average grower in my state farms a little over 4 acres, yielding roughly 10,000 pounds of tobacco annually. That means that the average Kentucky quota owner will receive $80,000 over the next three years in buy-out payments.

In contrast, under the LEAF Act, the average farmer who wants to adapt to the changing world and take a buy-out, will only receive $24,000 pre-tax after three years.

The Lugar plan also invests $1 billion in rural economic assistance over 5 years for those communities hit hardest by the loss of tobacco income. This money will help invest in education, retraining, diversification, and give assistance to tobacco warehouse owners and operators.

Most importantly, under the Lugar plan tobacco growers may continue to grow and sell their product.

Let me repeat, under the Lugar plan every grower may continue to grow if they choose.

That is not the case under the LEAF Act. The LEAF Act specifically forbids Kentucky burley growers from growing tobacco for 25 years. Since the average age of a tobacco grower in my state is 60, that is effectively a lifetime ban on growing tobacco.

But that's not all. Under the LEAF Act, if you are a North Carolina flue-cured quota owner, you get a buy-out and then you get to keep on growing tobacco. That is simply unfair, and on that basis alone I cannot support a system that treats Kentucky growers worse than North Carolina growers.

As we move through this debate, there are other concerns related to the LEAF Act's buy-out funding that I will address, but for now, let me close by saying that I believe the Lugar approach is the best for our people in tobacco country. It provides a generous flow of money over a short time period that allows our growers to invest, retire, diversify, get into a new line of work, or keep on farming tobacco. It provides community investment dollars to help hard hit rural areas. And, it is the best deal I believe we can get for tobacco growers if the McCain bill becomes law.

Let me conclude by summing up the decision before us. The Titanic has come into the harbor for the moment. We have two choices. One, we can send her back into the Atlantic with more lifeboats strapped to her side—but not enough boats to save everyone aboard. Or, we can unload all passengers while she's in safe harbor. I think the choice is clear.

Mr. President, I look forward to this important debate over the best course to follow for our tobacco farmers.

I conclude by saying I sincerely hope that the Senate will find a way to put this bill out of its misery.

I want to particularly commend the senior Senator from Texas for the outstanding work he has done on this bill over the last 3½ weeks. He has been tenacious and effective in pointing out the flaws in this bill conceptually. The whole concept, I say to my friend from Texas, is fatally flawed and no one has pointed that out better than he has. I want to thank him on behalf of the 60,000 farm families in my State that, but for the leadership and tenacity of the senior Senator from Texas, would be destroyed because the ultimate threat to my people is this bill. This is what is designed to destroy their livelihood.

I think until the Senator from Texas decided to put the bit in his teeth and come over here and fight this thing, there was widespread feeling that it was just going to happen. I am hoping we may have reached a point in the Senate where it isn't going to happen. If we can find a way to put this horrible proposal out of its misery, I will always thank the Senator from Texas for his extraordinary leadership and good work in pointing out the fundamental flaws in this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we always love it when someone has something nice to say about us, but I am especially grateful when one as thoughtful as the Senator from Kentucky has something nice to say, especially when it is about me. I have been grateful to the Senator from Kentucky for his leadership on many, many tough issues and his comments today, therefore, are doubly appreciated. I thank him for his comments.

I have a little housekeeping before I speak. This has been cleared on both sides. I ask unanimous consent that the Senate continue consideration of S. 1415 for debate only until the hour of 4 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I believe that we are reaching the final hours of the debate, and rather than try to go back and replow ground that we have now plowed over and over again—in fact, we have been on this bill since May 18. Looking at my watch with the date on it, unless I missed a month that has 30 days instead of 31, today is the 17th of June. We have, for a month, debated this issue.

Quite frankly, I would like to say as we enter the final hours of the debate, I am proud of this debate. I am very proud of the Senate. When Jefferson came home from France, where he had been minister to France, as many of my colleagues will recall, while the Constitution was being written, he went to Mount Vernon to visit with General Washington. They were discussing the Constitution and Jefferson said to Washington, "What is the Senate for if the House of Representatives is to be the body that represents the people, if it is to be the people's House, if it is to be the legislative body?" "What is the Senate for?" Jefferson asked. Washington, who, of course, was a southerner, had poured his tea out of the cup into his saucer to cool, and he explained to Jefferson that the cup would be like the House of Representatives; it would be caught up in the passions of the moment—with Members elected every 2 years—and that passions would flare and the House would justifiably respond to those passions. But the Senate would be the saucer, where the tea would cool before it was consumed. That was the purpose of the Senate, and I think the Senate's rules, which obviously have evolved from that constitutional system, have in this case, as they have on many occasions, served the public well.

I believe this bill will die today. I believe that we will see the bill sent back to committee. Now, another bill on the same subject, within the parameters of reason and responsibility and limited government and within the budget might come alive another day. But I believe that this bill will justifiably come to a legislative end today. I believe that the system has worked well.

This bill, in many ways, reminds me of another bill—the Clinton health care bill. I remember that debate vividly; I was very much involved in it. I remember the President was talking about this bill that "the public wanted," that it was unstoppable. Even those who were offering substitutes for it were adopting its basic principle. It looked as if it were 200 feet tall, and no one was willing to come forward and even say they were against it. But like the mighty Goliath of old, when someone did step forward with a few small stones and flung the first stone, the giant tumbled. Probably a better analogy would be when someone took a very small pin and just pricked its belly and it went boom; it was a lot of hot air.

The American people were never for the government taking over and running the health care system. And in reality, the American people were never for this bill. Had we been forced to vote on this bill the first day it came to the Senate, it no doubt would have passed by an overwhelming margin. Had we been forced to vote on this bill the first week it came to the Senate, at the end of that debate, it would have passed by a smaller margin. Each day, support for this bill—or fear of it, depending on your perspective—has declined dramatically. Today, it is my hope and my opinion that the bill will be taken from the floor because, in the final analysis, there never was any support for this bill.

I don't know where this bill came from. I don't know whether it was a focus group conducted by the Democratic National Committee, or whether it was a poll. But the bottom line is, the bill never had any real support from the American people. In reality, this bill was always a giant bait and switch. The bait was the tobacco companies. We have heard our colleagues justifiably try, convict, and hang or lynch—depending on your perspective—the tobacco companies, and justifiably so in many cases. But while our colleagues sought to get us to focus on these tobacco companies, the reality of their bill, if you read it, is that it does not impose a penny of taxes on the tobacco companies. In reality, it has an extraordinary provision, and that extraordinary provision is that it makes it illegal for the tobacco companies to not pass through every penny of taxes to the consumer.

So in reality, while the proponents of this bill were forever trying to divert our attention to the tobacco companies—and facts are persistent things—the reality of this bill is that it doesn't tax tobacco companies. The reality of this bill is that it basically taxes blue-collar workers, because smoking—obviously, with many exceptions when you count people, but a very small number of exceptions when you look at averages—smoking in America is basically a blue-collar phenomenon. So our colleagues have vilified the tobacco companies and they created sympathy in the country.

It must be like the old story of this tiger who comes out of the forest and eats people in the village, so they send to the provincial capital for a great warrior to come forward. He comes forth and pulls out his sword and dances around. The tiger comes out, and instead of killing the tiger, which would produce a tremendous eruption of applause, he starts beating the tiger with the side of his sword. Finally, the people become so outraged, they stone the warrior. In a very strange way, the proponents of this bill have so overdone it that they have created some sympathy, as the polls show very clearly, for the tobacco companies—one of the most incredible reversals of public opinion that I, as somewhat of a minor student of it, have observed. But the reality is that with all the talk of the tobacco companies, they pay none of the tax. The tax is borne by blue-collar Americans.

The stubborn facts are that 34 percent of the taxes that will be collected by this bill will be paid for by Americans who make less than $15,000 a year; 47.1 percent of the taxes will be paid for by Americans who make less than $22,000 a year; 59.1 percent of the taxes will be paid for by Americans who make less than $30,000 a year.

So no matter how many times the proponents of this bill vilify the tobacco companies, the cold reality which the American people, as we debated this issue for a month, came to understand was that with all of the things that the tobacco companies did, were verbally convicted of, and punished for right here on the floor of the Senate, was that they weren't being taxed; we were taxing blue-collar Americans. That is the first thing that Americans came to understand as we debated this bill for a month.

The second thing they came to understand was the incredible amount of money that was going to be raised in these taxes, and not only the burden that would impose—a massive burden—but how that money was going to be largely squandered. I remind my colleagues that, for example, in my State, we have 3.1 million Texans who smoke. Under this bill, if those 3.1 million Texans—we have 3,137,723 people in my State who smoke—would have continued to smoke a pack of cigarettes a day after the passage of this bill, given the estimate that this bill, in the end, when you figure everything in, would have driven up the price by $2.78 a pack, they would have paid an additional $1,015 a year in Federal taxes.

Now, I remind my colleagues that 34 percent of that tax would have been paid for by people that made $15,000 or less. So we were talking about a confiscatory tax on blue-collar America. The American people, over a month, despite all the efforts to confuse the subject, came to understand that point. That is a major reason why this bill is about to come to the end of its legislative life.

The second thing the American people came to understand was how money was squandered in this bill, how in this bill we were ratifying agreements where plaintiffs' attorneys were going to earn $92,000 an hour, how in this bill we were providing money for smoker cessation for Native Americans who live on or near Indian reservations. If they smoke at the same rate the general public does, we would be spending $39,000 per beneficiary, with the goal of trying to promote the cessation of smoking—$39,000 a person.

They came to realize that under the provisions of the bill related to tobacco growers, one of those provisions would have ended up paying tobacco growers an incredible $22,297.29 an acre, and they could still own the land and still grow the tobacco.

People came to realize that this program literally gave tens of billions of dollars to various advocacy groups that would be advocating many things other than just smoking.

So in the end, the American people came to see this bill as having relatively little to do with teenage smoking and everything to do with taxing and spending, but doing so at a grander scale than anything we have seen in government in a long time.

I would have to say that I know it is popular now for people who are covering the debate and discussing it to talk about ads that the tobacco companies have run. But I would like to give a dissenting view. I do not believe that this bill is going to come to a legislative end today because tobacco companies have run ads against it. I think in the end that the American people never bought into the idea that this bill was going to have any substantial impact on teenage smoking. I think the American people never bought into the idea that this was anything other than a tax-and-spend bill, and the more they knew about the bill, the more conviction they had in that basic belief.

So despite the master work of spend and manipulation, which the White House, and I say admiringly, has and can engage in, despite an effort by all of the groups who supported the bill, and those groups ultimately came down to groups that wanted the money, despite all of that effort, in the end the Dicky Flatts of the world, the people who do the work and pay the taxes and pull the wagon, listen to our President, listen to the advocates of this bill, heard its high and noble stated objectives, but in reality in the end, after a month of debate, they finally saw this bill for what it really is—an effort to take money away from blue-collar workers and to have the government spend it, and spend it in a way that is obscene. There is no other word for it than that. The level of spending in this bill and the way the money is thrown around is almost beyond imagination, and in the end the American people recognized it.

So I don't know that you can ever pat anybody on the back when you end up not doing a bad thing. I guess part of any legislative process is to try to do good things and to try to stop bad things from happening. And when you defeat a bad bill, you have done a good thing.

But I think in the end this bill failed because the American people rejected it. And it was an amazing thing. Maybe there is a lesson for all of us in this. It was exactly like the Clinton health bill. In Washington it looked like everybody in the world was for this bill. In Washington it looked as if this bill was totally and completely irresistable. But yet when you get outside of Washington, back in America, the public either was totally disinterested in this issue or they were against it. So in the end the American people knew more than we knew, and as a result, for the good of the Nation, this bill is going to die.

Let me conclude, because I know my dear colleague from Delaware is here, and I want to maintain his friendship, which I value and treasure. I would like to make the following point.

I do believe there are things we can do to deal with teenage smoking. I think we have to start by holding teenagers accountable for what they do. I think there are ways that we can tighten up the law to penalize people who knowingly sell tobacco products to teenagers and knowingly sell alcohol to teenagers and sell illegal drugs to teenagers. I think there are many things we can do. But the focus ought to be on the problem, which is teenage smoking.

I also believe that a fundamental premise of this bill is false; that is, that people are not responsible for what they do, that somehow somebody smokes and it is the tobacco company that made them smoke.

I used to, as this debate was underway, love to tease my 85-year-old mother, that she had not smoked for 70 years because she wanted to, that it was this Joe Camel that made her smoke. She hardly knew who Joe Camel was. But she had a telling point, which was my first indication that in the end this bill probably was not going to make it. Her point was a simple question, which the proponents of this bill tried their best—and they were very talented—but they could never answer the question. Her point was: "If I am the victim, if the tobacco companies have conspired to force me to smoke and I am still doing it at 85, how come you are raising my taxes? If I am the victim, how come I am being punished?"

In the end, that was the question that not only was not answered, but could not be answered.

I want to congratulate our colleagues who were leaders on this issue. I don't think anybody ever questioned their sincerity.

I especially want to say about Senator McCAIN, that under very difficult circumstances with his dearest friends in opposition on an issue where there were very, very strong emotional feelings on both sides of the debate, I especially want to congratulate Senator McCAIN for the way he was able to separate issues from personalities. He was a person who was asked to do a hard job; and that is to get the best bill he could out of committee. He did that. But when the bill got to the floor and we got a chance to look at it, the basic conclusion was the best bill that could be gotten out of committee was not good enough. So basically that is where we are.

We will see a vote on a point of order. And the point of order is not a trivial matter. The point of order that we will vote on today is a point of order that has to do with the fact that this bill circumvents the balanced budget agreement. This bill raises spending above the limits that we set out in the budget. This bill would bust the budget, bust the spending caps, and violate all of the fiscal restraints that we have imposed.

So Members of the Senate will be asked in the vote—and I assume that the minority leader will move to waive the Budget Act. There will be a point of order that makes the point of order that this bill violates the budget, violates the spending caps, and would violate the balanced budget amendment. Then I assume that the minority leader, or someone, will move to waive that point of order. In doing so, they are saying, pass the tobacco bill even if it means busting the budget agreement.

I hope and believe that enough of our colleagues will vote "no" on that so that we can sustain the Budget Act. The bill would then go back to the Commerce Committee.

If all of these problems can be fixed, if a consensus could be built, there would be nothing to prevent this issue in another form, with another bill, with another approach, from coming to the floor of the Senate.

But if we send the bill back by sustaining the point of order, we are saying that this approach in this bill is not good enough. I hope that is what we will do.

I thank the Senator.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Delaware.

Mr. BIDEN. Madam President, I was about to ask that we move into morning business to speak. My friend from Kentucky wants to speak on this matter, and I will in 10 seconds yield to him.

I say to my friend from Texas, it is always a joy to listen to him. The fairy tales he remembers always warm my heart. But I think he sometimes gets it mixed up. I think the Goliath here was the tobacco companies with their millions of dollars, and in the health care fight it was the insurance companies with their millions of dollars. I have no doubt my friend, with a small sling and a small stone, with his skill could take down Goliath, but in this case he had a few cruise missiles. The cruise missiles were the $40 million the tobacco companies are spending on advertising to kill this bill and the $14 billion that Harry and Louise spent on television to kill health care reform.

I don't doubt his prowess, but I acknowledge he probably had a little bit of help. It was a nuclear bomb in that little sling that David had, and it was worth tens of millions of dollars. It works every time in this town, and I just find it absolutely fascinating.

Mr. GRAMM. Will the Senator yield?

Mr. BIDEN. I would be delighted to yield.

Mr. GRAMM. I guess I ought to remind my colleagues that David was not alone on that battlefield either.

Mr. BIDEN. No, I know he wasn't. But I just want to point out that in that case David had several hundred—

Mr. FORD. The Senator is not suggesting he is with you.

Mr. GRAMM. Perhaps the same force is on this side on this issue. Who knows.

Mr. BIDEN. David was not alone, nor was my colleague with the sling. He had a force behind him of noble tobacco merchants who stood shoulder to shoulder making sure that their ultimate threat was, if they didn't get a bill they wanted, they were going to continue to advertise. Isn't that kind of fascinating. These no-good sons of guns talking about how they care about the health of America. Much of the criticism this bill had leveled at it I agree with. I agree with much of the criticism.

But the idea that at the end of the day—at the end of the day—we are going to have no bill and these young pages sitting here in front of me, their peer group is going to end up, every single day, being lured by specifically teenage-based advertising done by companies that lied straight out, right through their teeth, about what they have been doing. These companies are going to continue to consciously—consciously—attempt to addict them to nicotine, a conscious effort where they will spend tens of millions of dollars this year, next year, and the following years in advertising to addict them—addict them—and they are going to do it.

Notwithstanding the fact I had criticisms with some parts of this bill, at the end of the day, they win. They win big, and our children lose. Our children lose. And so David in this case had some cruise missiles. They were all paid for by big tobacco—big tobacco, period. I am not talking about tobacco farmers. They grow it. They get a small piece of this action. They don't do the advertising. I am talking about the tobacco executives.

And so it is going to be business as usual. But mark my words—let me end with this—the tobacco companies, from the advertising they have been out with now about how bad this bill is, if they are serious, I ask them in good conscience, for the health of the Nation—which they have now finally had to acknowledge has been put in peril by their action—I ask them publicly: voluntarily refrain from advertising, voluntarily refrain from advertising in any way that appeals to our children—if they have one ounce of moral fiber in them. We don't need a bill. They can take care of this if they have any decency. Just voluntarily stop. No Government, no tax, no nothing. They know what they are doing to our children, and they are intending to do it.

So if they want to solve the problem, it is real simple. Voluntarily stop. As was said years ago in a committee by a witness to a former Senator named McCarthy—at one point the witness looked up and said, "Have you no decency, sir?" My question to the tobacco executives of America today is, Have you no decency? If you do, stop, stop luring our children.

I yield to my friend from Kentucky, and then later I am going to come back and ask to speak to Kosovo.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. I ask unanimous consent that I might speak for 5 minutes and that at the end of that period of time my friend from Delaware be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the Chair.

Madam President, a few moments ago, my colleague from Kentucky inserted some editorials in the RECORD—a few, and selective letters to the editor concerning our debate over the future of tobacco farmers.

I do not want to take a lot of time on this matter, but I do not want anyone to get the mistaken impression that these articles represent the prevailing view in my State. I have 30 pages or more here, Madam President, of articles of my own, editorials with headlines like—and this is the Owensboro Messenger and Inquirer that my colleague mentioned a few moments ago. It says, "Lugar Tobacco Bill Punishes Farmers." I think that tells a lot and that there are opinions at home that are somewhat different.

Rather than take a lot of time, Madam President, I will simply ask unanimous consent that some of these articles be printed in the RECORD, and anyone with any doubt can simply read them, and they will understand how average tobacco farmers feel about the Lugar proposal.

There being no objection, the articles were ordered to be printed in the RECORD as follows:

[From the Owensboro Messenger-Inquirer, Apr. 26, 1998]

LUGAR TOBACCO BILL PUNISHES FARMERS

Spending the long, hot summers of Kentucky in the tobacco field has been a way of life for many farm families this century, and farmers hope it continues another 100 years.

But tobacco's fate has never been as shaky as it is today, as lawmakers battle over a way to curb teenage smoking at the tobacco industry's expense.

One of those battles is in our own backyard, between Kentucky's U.S. Sen. Wendell Ford and Indiana's U.S. Sen. Richard Lugar. We believe it is a fight Ford should win.

Ford, a Democrat from Daviess County, proposes a plan that will protect tobacco families harmed financially by tougher anti-smoking legislation. Ford's plan would provide $28.5 billion over 25 years to assist tobacco farmers, communities and workers who suffer because of decline in tobacco demand and jobs. The quota holder—farmers who have an allotted amount of tobacco they can sell—along with those who sharecrop and lease those quotas would receive up to $8 a pound for their losses.

Ford's bill also calls for the continuation of the tobacco program created in the post-Depression days that sets prices and limits production.

Lugar, a Republican, thinks government price supports for tobacco are wrong and ought to end.

Those who hold quotas to grow tobacco but want to get out of the business would receive $8 per pound under Lugar's plan. Those who want to continue to grow would do so under free market conditions, but Lugar proposes transitional payment to wean farmers off the program. Grain farmers are receiving similar payments that decrease each year to ease their departure from price supports.

Lugar's bill would cost less, an estimated $15 billion, but its effect on Kentuckians would be punitive.

We agree that Lugar's argument has merit. The global economy has turned to a free market on tobacco, and much of the reasoning for protecting the U.S. system is in conflict with that fact.

We also think the length of Ford's plan is too generous. We believe supplanting lost income for 10 years is more fiscally responsible than 25 years, while still easing the burden on farmers.

But it is important not to lose the intangibles involved in tobacco production. Generations of Kentuckians have built their lives around growing a perfectly legal, and at times, revered crop. Any effort to strip the protections that farmers have grown up with could only hurt those families and the commonwealth as a whole.

While Lugar compares his phaseout plan to the grain program, the effects on tobacco would be exponentially greater. While only 1.2 percent of Kentucky farm acreage is used for growing tobacco, the crop produces 25 percent of Kentucky's farm income.

Tobacco farmers already are threatened by American companies increasing the amount of imported tobacco. Lugar's bill effectively bullies more family farmers out of business.

That would be a sad statement as we enter the next century.

[From the Lexington Herald-Leader, May 27, 1998]

RURAL AREAS MUST SURVIVE, EVEN IF TOBACCO DOESN'T

(By Wendell and John Berry)

In the midst of the Depression of the 1930's the tobacco farmers, who had experienced a long history of exploitation by the tobacco companies and who were in want as a result, asked their government for help. The result was the tobacco program. This program, run at practically no cost to the government, has kept a lot of small farmers in business for a long time. The program enacted a kind of economic justice, helping the farmers to survive by assuring them a fair price for their products.

Virtually from the beginning, the program has been under attack from proponents of the so-called free market. In more recent years, tobacco itself has come under attack because of its adverse effects on the health of smokers and other users. And so we have come to the moral dilemma of a good program protecting the producers of an unhealthy product. We have come at the same time to the need to make a political distinction between the program and the product, and this is difficult.

The defenders of the tobacco program are not arguing that tobacco is healthful. They are arguing that the program is necessary to maintain the rural economy while we make a large-scale transition from tobacco to other crops. They and their allies are arguing that to allow the rural economy of Kentucky and other tobacco states to crash will not eliminate smoking and is not a sane way to end our farmers' dependence on tobacco. On the contrary, it will do great harm in order to do no good whatsoever.

Sen. Mitch McConnell would like to claim (and he may be expected to claim when he runs for office again) that by washing his hands of his state's rural economy he has helped the farmers. In fact, as soon as it appeared expedient, he had done what he has always wanted to do, for he disagrees with the principle that the government should protect the economically weak from exploitation by the economically strong. He has demonstrated his true allegiance by consenting to Indiana Sen. Richard Lugar's estimate that the livelihoods of Kentucky farm families are worth only $80,000 apiece, and that the livelihoods of all the other participants in the rural economy are worth nothing.

The political philosophy underlying this betrayal does not concern itself with the question of what is right, but merely subordinates all issues to the crudest sort of economic determination. Lugar put it plainly: the tobacco program is not defensible, he said, because "In many markets, U.S. tobacco is not competitive on price."

In other words, if farmers in the United States cannot undersell farmers working at slave wages in the Third World, then they deserve to fail. This is a different kind of economic justice. Asking the farmer (like the industrial worker) to produce more for less has always been the objective of the "free market" politicians, because farmers and wage earners don't give as large political donations as do the interests that exploit them.

McConnell and Lugar propose to scatter several billions of government dollars among many thousands of farmers individually. This money will be taxed by government when it is paid out and again when it is spent. Obviously, nobody knows yet how it will be spent, but it will not necessarily be spent in ways that will help the farmers to keep on farming or the state's rural economy to remain intact.

It is, at any rate, hard to imagine how a farm family's prospects might be significantly improved by $80,000 paid to them in compensation for the loss of a staple crop that, with the program, would have been worth far more.

The only other available way to help our state's rural economy in this crisis would be to preserve the tobacco program as the agent of a gradual transition from dependence on tobacco to dependence on other crops—a transition which the Burley Co-op, in fact, has been working on for the past six years, in co-operation with allies both within and outside agriculture, urban as well as rural.

This rural is based on the recognition of the tobacco farmers' demonstrated and potential capacity for food production. Though this transition is still in its infancy, there is already much evidence that it can be made—and also that it cannot be made within the next three years. To pay farmers an average of $80,000 over three years for their tobacco quotas, without having in place some alternative to tobacco, is about the same as paying them to quit farmers.

Obviously, there are some who would like to see all the same farmers put out of business, specifically for the benefit of big farmers but that aim makes no agricultural sense anywhere, and the loss of the small-farm economy would be especially devastating in Kentucky. We have a lot of small farmers, and much of our landscape, to be properly conserved, needs to be farmed in small acreages.

If the farmers fail, then other members of the rural communities whose businesses or professions depend on farm income must also fail. Where are these people to go? How are they to earn a living? What will be the impact of their failure on the economies of our cities? Do McConnell and Lugar think that failed farmers and rural merchants will be so obliging as to simply disappear?

To develop new crops and other agricultural sources of income for farmers requires that we must find the markets and solve the problems of production, transportation, storage and processing. People now involved in this effort estimate that it will take at least 15 years. Tobacco farmers have always assumed that even their worst enemies in Washington would not pull the rug from under them, and that any plan to eliminate the program would be gradual, allowing time for the development of alternatives. After all, ending the tobacco program will not end tobacco production any more than it will end smoking.

What it will do is enable the tobacco companies to buy their tobacco at a much lower price, and thus shift a significant part of the cost of the "tobacco settlement" onto the growers. This, not help to farmers, will be the certain result—and we suspect it was the motive—of McConnell's sudden alliance with Lugar.

There are many people in Kentucky and the nation who believe that our rural people and places are worth saving, and that our small farmers are better producers and stewards than the industrialized agribusiness firms that are trying to replace them.

The wishes of those people are reflected in Sen. Wendell Ford's LEAF Act—which

McConnell, for reasons now unclear, once cosponsored. To put an end to the hopes of so many and to jeopardize the economy of an entire region ought not to be the sole prerogative of McConnell.

[From the Lexington Herald-Leader, May 20, 1998]

The Best Deal?—Plan McConnell Backs Brings in Quick Cash, but Would Ultimately Kill Off Small Farms

In purely pecuniary terms, Sen. Mitch McConnell might be right. Maybe the best deal Kentucky can get is a quick cash buyout of tobacco quotas. We know many landowners are salivating at the prospect of collecting $8 a pound over three years under the proposal McConnell endorsed Monday.

But McConnell's dollars-and-cents calculation ignores the inevitable losses. The greatest of these losses would be farming as we know it in Kentucky.

Cigarette makers would benefit from cheaper tobacco grown on fewer but larger farms, while rural communities up and down both sides of the Appalachians would be torn by the upheaval.

Without the government's tobacco price support program, thousands of small family farms from Maryland to Georgia, would cease to be, some would be paved over and subdivided. Banks would take some. Cedar trees and marijuana patches would take some, too.

The communities these farms support also would cease to be, replaced by commuters and pensioners.

As the Senate debates the tobacco bill this week, the spotlight's glare will be on teen smoking and how much relief from lawsuits the cigarette companies should get. The fate of hand-tended hill farms is likely to get lost in the glare, or subsumed buy a Republican ideology that insists on a pure free market in agriculture.

It seems to us, though, the fate of tobacco farms has more to do with issues of land stewardship and national agricultural policy than with smoking and product liability.

Do we want American agriculture to be nothing but industrial-scale operations and corporate contractors? Are we ready to do all our shopping at the Supermarket to the World? Or should we save a place for family farms that pasture cattle, sell produce at the farmers market, grow a few acres of tobacco and depend on government planning to smooth out the ups and downs of the invisible hand?

It's a vital question, and one that shouldn't wait until the tobacco program, like the rest of America's farm programs, is dismantled.

For 60 years, the government has kept tobacco production in line with demand and guaranteed growers a good minimum price. Growers bear all but a little of the program's cost; there is no tobacco subsidy, contrary to popular belief.

As a result, Kentucky has more farms than all but three states. The tobacco program has immunized tobacco-growing regions against the consolidation of land and the loss of farmers that is fast remaking the rest of rural America.

The plan that McConnell endorsed, introduced by Senate Agriculture Chairman Richard Lugar, R–Indiana, should be viewed in its proper context—as the logical extension of the Freedom to Farm Act that ended the federal role in agricultural planning. In this new free market, farms on the Northern Plains already are going under, according to the Wall Street Journal, because the climate there is too cold for farmers to play the global market by growing anything but wheat. U.S. Agriculture Secretary Dan Glickman says Freedom to Farm should be revisited.

Until Monday, McConnell was co-sponsor of Sen. Wendell Ford's LEAF Act, which would preserve the price support program and provide tobacco communities with a much softer landing than the Lugar-McConnell plan.

That Kentucky's two senators have split on this most important tobacco question shows how very difficult it is.

Neither the Ford nor McConnell approach is perfect. Some hybrid of the two would be a better alternative. But if it comes to an either-or-choice, we're for the conservative approach, which oddly enough, is the one espoused by Democrat Ford.

[From the Lexington Herald-Leader, May 21, 1998]

Untimely Demise—McConnell Plan Kills Tobacco Program Too Fast

Some see Republican Sen. Mitch McConnell's shift to supporting an abrupt end to the tobacco price-support program as a political ploy aimed at sinking Arizona Sen. John McCain's anti-smoking bill.

Whether or not that's McConnell's strategy, he is putting rural Kentucky at too much risk. At the very least, the Republican from Louisville should demand tobacco farmers get as much time as grain farmers to make the transition to a free market.

Under the timeline McConnell endorsed just this week, tobacco-dependent communities would have way too little time to prepare for the economic upheaval. Likewise, farmers and farm cooperatives wouldn't have time to build up markets for other crops and products.

McConnell says the 68-year-old system of production controls and guaranteed minimum prices for tobacco is doomed. He says a mandatory buyout at $8 a pound is the best deal Kentucky farmers can get. If that's so, give farmers a certain date when the program will end. But make it a reasonable date.

What McConnell and Senate Agriculture Chairman Richard Lugar propose is not reasonable. Their three-year phaseout of the program is too quick. Payments to grain farmers under the Freedom to Farm Act, by contrast, are lasting seven years. And some people think Freedom to Farm will be overhauled when the payments end in 2002.

We're not necessarily saying spread out the tobacco payments, since there are advantages to getting the money in a lump. We are saying give farmers more time to grow tobacco under production controls before jerking the safety net from under them.

The McConnell-Lugar plan is just as stingy with financial aid to tobacco communities. The competing proposal by Sen. Wendell Ford would pump $8.3 billion over 25 years into educational grants and economic assistance to tobacco-growing areas. The Lugar-McConnell plan provides $1 billion, which is not enough to have much impact. Ford's proposal also continues the price support program.

We doubt the tobacco program's prognosis is as dire as McConnell claims. The politics of tobacco have changed drastically in the last few months. Anti-smoking forces have come out in support of keeping some form of a tobacco program. So has President Clinton. They realize that in an uncontrolled environment, the cigarette makers get a projected $1 billion a year windfall from cheaper and more plentiful American tobacco, while many rural communities get the shaft.

That McConnell has embraced such an unbending approach reinforces the notion that he's really out to kill the tobacco bill. By staking out an extreme position, he lessens the chance of compromise with Southern Democrats defending the program.

We can't forget McConnell heads political fund-raising for Senate Republicans. The death of the McCain bill would make the cigarette companies happy, and happy cigarette companies would pump even more millions into Republican campaign coffers. A lot of Kentucky farmers would love to see the anti-smoking legislation disappear, too.

But that seems unlikely, given the public's revulsion at the cigarette companies' shameless efforts through the years to hook kids.

When it becomes clear he can't stop the inevitable, we trust McConnell will use his clout as a member of the Senate's majority to undo the Lugar plan, and give rural Kentucky a fighting chance. We hope it won't be too late.

[From the Kentucky Post, May 22, 1998]

McConnell's About-Face Might Mark End of Tobacco Quotas

(By Bill Straub)

MAYFIELD, KY.—Over the past decade, Sen Mitch McConnell has proved himself to be the most astute politician in Kentucky and certainly one of the smartest in the nation.

Under his guidance, the state Republican Party, once a laughing stock, has emerged to not only dominate the Bluegrass congressional delegation but challenge the Democratic Party's traditional hold on Frankfort. Were it not for McConnell's touch and tactics, folks like Rep. Ron Lewis would be back selling Bibles in Salvisa.

Even when it seemed like McConnell tripped up there was a method to his madness.

He has, for instance, earned the enmity of do-gooders everywhere for his no-holds-barred opposition to campaign finance reform. Yet, as he delights in pointing out, no one has ever won or lost an election based on electoral process issues, and the GOP is reaping the benefits of his recalcitrance by pulling in contributions as if it were printing money.

The time, however, it just seems like madness.

On Monday, the Louisville Republican announced he was abandoning his support for the tobacco program and siding with Sen. Richard Lugar, R-Ind., chairman of the Senate Agriculture Committee, in seeking to have it abolished.

It could be the biggest political story of the decade. Imagine a Texas lawmaker suggesting that vehicles propelled by fossil fuel cause too much pollution and embracing a proposal to convert to cars that run on electricity. That's what McConnell has done—in spades.

Burley is Kentucky's number one cash crop, pulling in $1 billion per year. But it's more than that. It's grown on 60,000 farms, permitting uncounted numbers of men and women to retain their beloved rural way of life.

This is not Nebraska or Kansas, where thousands of acres of wheat and soybeans are grown as far as the eye can see on huge spreads. Kentucky's farms are small, family owned and operated, and the hilly and rocky terrain prohibits a lot of row crops.

That's why tobacco has proved invaluable over the decades. Folks on these small farms take city jobs but tend to a tobacco crop that brings in enough money to permit them to stay on the land. It is, in every sense, Kentucky's cultural legacy.

That heritage has been protected by the tobacco program. The amount of burley produced every year is limited by a quota system. It elevates the price and stops farmers from other states from planting their own tobacco crop from fence row to fence row.

Without the tobacco program, which operates at no net cost to the federal government, its's hard to imagine small family farms surviving for very long in Kentucky. It's that simple. There's no crop that pays enough to take its place. Folks don't earn enough in the factory to maintain their small plot of heaven without it.

McConnell insists he is acting in the interest of these farmers by killing the program. Its demise is inevitable, he says, noting that support programs for wheat, corn and other commodities have already been eliminated. Considering the anti-tobacco fervor that seems to be overwhelming Washington these days, he maintains that the responsible political position is to join in the slaughter and broker the best deal possible.

The rationale makes absolutely no sense.

For one thing, there remain some commodities, such as peanuts, that continue to operate under a support system. Many anti-tobacco activists support the tobacco program because it limits production and keeps prices higher than they otherwise might be—working as deterrent to smoking.

President Clinton, who has hopped on the anti-tobacco band wagon with both feet, has expressed support for keeping the price-support program.

The tobacco bill that passed out of committee contained a provision offered by Senate Minority Whip Wendell Ford, the Democrat from Owensboro, Ky., that offers a voluntary buyout while keeping the price-support program.

There is absolutely no detectable groundswell to kill the program despite the continuing animus for the tobacco industry itself.

McConnell, suddenly, is leading the charge against what is arguably the most important federal program in the entire state when there is no army to lead.

But consider it politically. The Lugar plan calls for a three-year phase out at a cost of $18 billion. Each farmer, under the proposal, will receive $8 per quota pound.

What exactly has McConnell gained for Kentucky's small farmers by colluding with the senator from Indiana?

Prior to what some are portraying as McConnell's betrayal, the worst-case scenario for Kentucky farmers had the Senate killing the price support program over objections from Ford, McConnell and other tobacco state lawmakers—under the terms of the Lugar bill, which hasn't changed significantly in recent months.

McConnell's defection hasn't changed the terms of the abolition debate, only provided cover to those who may have been on the fence.

McConnell is a power in Washington these days and he generally has served in the state's best interest.

But this move is inexplicable and the Republican Party he has built and served with distinction could ultimately suffer.

Mr. FORD. Madam President, let me just pick out a couple of headlines here. "The best deal? Plan McConnell backs brings in quick cash, but would ultimately kill off small farms." "Untimely demise. McConnell plan kills tobacco program too fast."

These are in the RECORD.

My colleague, Senator McCONNELL, referred to Congressman RON LEWIS who is for his position. Well, let me just say this, that Congressman RON LEWIS said that blood would run through Congress before he would give up the fight for the quota system. Then all of a sudden he now is for selling out. The Republican nominee to replace me for the U.S. Senate is for the LEAF program, not for the side that Senator McCONNELL is on. So it raises a lot of suspicion in the minds of my folks back home. Are Senator McCONNELL and Senator LUGAR supporting the manufacturers or are they supporting the farmer? Because if the Lugar plan would go into effect, it would save the tobacco manufacturers a minimum of $1 billion a year over the next 25 years.

And so when you have one major statewide official in Kentucky, elected official, representing the tobacco farmers in Kentucky for one position, the others the other way—our Governor supports the LEAF plan—I just do not understand. Maybe it is the big bucks for the Republican Senatorial Campaign Committee to kill this bill and, in fact, killing the bill, then can say that the farmers continue to grow as they are. But then everybody is worried about their demise. And if you have a demise of the tobacco program, then we are in mighty bad shape without funding.

I was criticized for supporting Senator McCAIN and $1.10, but then we find the Lugar-McConnell plan is using that money to pay the farmers. If we didn't have the money, we would not be able to pay the farmers.

So, this thing gets awful mixed up. I will be very hopeful about those who read this and those who understand what is happening.

I have a lot here I could talk about, but we have ENACT, that supports the Ford-Hollings plan; an open letter from the tobacco States, from all of the health groups and the tobacco groups supporting our plan. It just seems some way, somehow, there is something more than trying to do something for farmers here and those who are trying to defeat the program.

I might just say in closing, here is the Chicago Tribune today: "Health Funds Lose In Tobacco Talks: Everybody else gets their project on and youth are forgotten." If we are going to forget youth in this bill, maybe it is time we send it back to the Commerce Committee and try to write a bill that will be on target, that will save the youth from smoking.

I think these young pages, after they hear the debate here, will never want to smoke, and I hope that is true. But when they become 21, they can do basically whatever they want to do. At that point, if they have not started smoking, they probably will not. But at the same time, we have a lot of folks who depend on this program. What we have done is help phase it out rather than cut it off at the knees.

One of the things my friends on the other side, Senator LUGAR and Senator McCONNELL, fail to say is when they do away with the program and the farmers get some money, they lose the value of their land. By some $7 billion in Kentucky alone, the value of farmland will be reduced, because the farmland is based on the tobacco quota. When you advertise a farm for sale, you put what the tobacco quota is in that farm sale.

So, if we lose the farm program, as they would try to do, then we lose $7 billion in farmland value almost immediately. Some farmers could go to bed at night with their farm at one price, get up in the next morning and their farmland is at a lower price and it doesn't cover the mortgage, and the bank will foreclose on those farmers.

People have not thought this through: "Pay them some money, and get out of the business." Pay them a little bit of money, help them through the transition period here so we might be able to save their way of life.

If my 5 minutes is up, I thank the Chair. I thank my friend from Delaware. He is always gracious, and I appreciate him as a friend very much.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I ask to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION OF THE KOSOVO PROBLEM

Mr. BIDEN. Madam President, I rise at this moment to deplore the ongoing, brutal Serbian repression of the people of Kosovo and to lay out principles for American policy to deal with the crisis.

Analysts have known for years that the Serbian province of Kosovo is a potential tinderbox for the entire southern Balkans. Approximately ninety percent of Kosovo's population is ethnic Albanian, known as Kosovars. Because of emigration to—not from—to other parts of Serbia and because of a low birth rate, ethnic Serbs now constitutute only about 7 percent of the province's population, down from a quarter of the population in the early 1970's.

Kosovo is revered, as you know, Madam President, by Serbs as the cradle of their culture. Near the provincial capital Pristina lies Kosovo Plain, the site of the epic battle of June 28, 1389 in which medieval Serb knights and other Europeans were defeated by the Ottoman Turks, who remained in control of much of the Balkans into this century. Many of the holiest monasteries of the Serbian Orthodox Church lie within Kosovo's borders.

The ethnic Albanians also have long historical ties to Kosovo, tracing, in fact, their origins to the Illyrians who inhabited the area in ancient times. Senator BYRD often talks of this heritage when he recites, as he does better than anyone, the history of Rome and its impact on the region.

In 1974, Yugoslav President Tito made Kosovo, along with Vojvodina in the north, an autonomous region within Serbia.

After Tito's death as the old Yugoslav Federation was beginning to disintegrate, an ambitious, demagogic Serbian politician named Slobodan Milosevic used Serbian nationalism and resentment of the Kosovo Albanians as a springboard to national power.

In 1989, Milosevic abrogated Kosovo's constitutional autonomy, concurrently launching a purge of ethnic Albanians from the province's civil service and curtailing government funding for public institutions, including the schools.

In response, the Kosovars, led by Dr. Ibrahim Rugova, a Sorbonne-educated intellectual, set up a shadow government and began a campaign of non-violent resistance to the Serbian oppression. The Kosovars set up and ran a system of public schools and maintained other public services. Rugova advocated attaining independence for Kosovo through Gandhian tactics. For most of this decade he was able to keep the lid on popular resentment and prevent violence.

Rugova's position began to be undermined when the Kosovo Question was left off the agenda at the Dayton Peace talks in November 1995. Younger Kosovars increasingly began to ask why they should hold fast to nonviolence when the Bosnian Serbs were rewarded for their violence and brutality with their own quasi-state within Bosnia.

In 1996 the beginnings of armed resistance to the Serbs appeared. A clandestine group calling itself the Kosova Liberation Army—KLA in English acronym or UCK in the Albanian acronym—carried out isolated attacks on Serbian police.

By this past winter the frequency of KLA attacks increased, and Milosevic decided to respond. In late February his special police units, backed up by the Yugoslav Army, stormed into the Drenica area, killing and mutilating civilians who they said were harboring KLA militants.

Some of you will remember, some of the people listening will remember, that's the circumstance in which the Yugoslav authorities would not allow the international community to examine the bodies. They rapidly buried them in mass graves and would not let outsiders come in and see what they had done.

But, Madam President, it is essential not to fall into the trap that some have done by making false parallels to Milosevic's vicious military repression. These people, either for want of logic or perhaps as Serbian apologists, assert that Milosevic's storm troopers were only doing what any state would do against rebels.

But, Madam President, if Milosevic had not robbed Kosovo of its legal autonomy, had not closed its schools and other institutions, and had not summarily brutalized and fired thousands of Kosovars, the armed resistance never would have materialized.

Just yesterday in Moscow, Milosevic refused to deal with the KLA saying, "I see no reason to conduct negotiations with terrorists." I will return to these prospects for negotiations in a minute, but let me just respond to Milosevic's comment by saying that acting just as he did in Croatia and Bosnia, as he is acting in Kosovo, I ask the rhetorical question: Who is the terrorist? Milosevic is a terrorist and a war criminal. He has demonstrated that over the past 5 to 6 years in Bosnia, and he is revealing it again in Kosovo.

Since the February and early March massacres by his troops, Milosevic has diddled the Western world, utilizing his classic "bait-and-switch" tactics.

First, he agreed to negotiate with Dr. Rugova and, thereby, earned from the United States an ill-advised postponement of a ban on foreign investments in Serbia.

While talking, but not seriously negotiating with Rugova, Milosevic was busy setting in motion the next step in his state of terrorism. Late last month, his notorious special police sealed off western Kosovo and began a murderous campaign of ethnic cleansing, driving some 65,000 refugees into neighboring Albania and others into Montenegro. After killing hundreds and burning entire towns to the ground, Milosevic's forces have reportedly even resorted to strafing fleeing refugees from Yugoslav helicopters.

One would hope that the West has learned something from its pathetic temporizing in Bosnia earlier in this decade. Perhaps we have, but maybe we have not. The so-called Contact Group, made up of the United States, the United Kingdom, Germany, France, Italy, and Russia, has met regularly to try to hammer out a unified policy on Kosovo before it spins out of control. In spite of the fact that it operates by consensus, which means the "lowest common denominator," the Contact Group has agreed upon economic sanctions which, given time, will worsen the already catastrophic conditions of the Serbian economy.

But, Madam President, time is of the essence. Not only are thousands of innocent civilians—most of them Kosovars, but also some ethnic Serbs—being killed or driven from their homes, but the continuing fighting threatens the stability of neighboring Albania and also of the former Yugoslav Republic of Macedonia, which itself has restive ethnic Albanians who constitute between one-quarter and one-third of its population.

Maintaining the integrity of Macedonia—a fragile democracy with a Slavic leadership genuinely committed to interethnic reconciliation—must be the cornerstone of U.S. policy. Above all, however, is the stark obvious fact that everyone should have learned from Bosnia, and that is, Slobodan Milosevic will only react to superior force being employed against him. He will not react otherwise.

Lest anyone forget, while economic sanctions against Yugoslavia may have modified Milosevic's position in Bosnia, it was only the use of American airpower for 3 weeks in the fall of 1995 that brought Milosevic and his Bosnian Serb puppets to the bargaining table in Dayton. So now, Madam President, we, once again, are faced with an unpalatable fact that force may have to be employed in order to prevent the need for even greater force later. But there is no decision more difficult than considering whether to send American troops into action.

I have been a Senator for 25 years. I started here when the Vietnam war was still underway, and I am here today. I find the single most intimidating decision that need be made by any of us is when we vote, as we have in the past, to put American forces in harm's way, and Kosovo is no exception.

Let me outline some of the basic principles that have to be part of that decision; outline whether or not that the decision, although difficult, will have to be made.

First, I believe that, except for those who prefer to withdraw to a "Fortress America" posture, no one doubts the strategic importance of the south Balkans to the United States.

Second, before we embark upon any military or political action, we must have our goals firmly established.

Third, I also believe that most of my colleagues will agree that NATO remains the cornerstone of American policy in Europe and should be the vehicle by which we act in Kosovo.

Fourth, it goes without saying that a primary concern in any military planning is to minimize the risk of American lives while ensuring the success of the mission.

With these principles in mind, let me examine our options in the Kosovo crisis now.

The United States has declared itself against independence for Kosovo, thereby putting itself at odds with the Kosovar leadership and people, the very ones who are currently being brutalized.

Madam President, I agree with the position our nation is taking. Whatever one may think of a broader decision made at the beginning of the 20th century as the Turks were pushed out of most of the Balkans, the ethnographic mix of the area simply precludes homogenous states, except through ethnic cleansing, which we must oppose. To put it bluntly, I would use force to stop massacres of innocent civilians. I would use force to prevent cross-border invasions. I would use peacekeepers backed up by force to guarantee the rights of minorities. But I would not risk American lives in a cause of a "greater Albania" which would probably destroy the Macedonian state and set off a chain reaction of incalculable proportions in the south Balkans.

On the other hand, I cannot imagine asking the Kosovars to accept a return to the pre-1989 autonomy with Serbia. If Milosevic could summarily revoke the autonomy one time, he can do it again.

Therefore, my own preference as a political goal would be giving Kosovo full republic status within the Yugoslav federation, on an equal footing with Serbia and Montenegro. Perhaps we would also have to have republic status for other parts of Serbia.

I recognize there are problems with such a solution. Milosevic will be dead set against it, since a Kosovo Republic would ipso facto consign Serbia to a minority role in the upper house of the Yugoslav Parliament and probably mean the end of Milosevic's quasi-dictatorial rule.

My response is that we and the Kosovars and the democratic leadership of Montenegro and the remaining democrats in Serbia should look at the probable outcome as an opportunity, not a problem.

Both Dr. Rugova and the KLA have insisted upon independence for Kosovo, but if they keep in mind the scenario I just outlined, they might, in the course of negotiations, agree to a "third republic" or "fourth republic" compromise.

But how about Milosevic? It is clear to me that only one principle continues to guide his policy, and that is clinging to power. In fact, since he took power in Serbia, Milosevic has been a dismal failure at everything, except staying in power.

His wars of aggression in pursuit of a goal of a "greater Serbia" have resulted in the extinguishing of hundreds of years of Serbian culture in the Krajina and in Slavonia, and hundreds of thousands of Serbian refugees, and in the impoverishment of most Bosnian Serbs, and all this at a cost of over 300,000 persons killed.

Meanwhile, under Milosevic's stewardship Serbia itself has plummeted from having been one of the wealthiest countries of Central and Eastern Europe to a near basket-case.

But Milosevic clings to power. And it is, I regret to have to repeat, only the use of countervailing policy and force, power, that will remove Milosevic.

And this is the central point. While there is no panacea for the Balkan ills, the necessary precondition for restoration of peace is a democratic government in Belgrade that is prepared to coexist with the non-Serb peoples of the area.

In order to move events in that direction the Clinton administration has wisely supported the democratic reformist regime in Montenegro—of which Milo Djukanovic is the president—which is already posing a serious challenge to Milosevic within the Yugoslav parliament.

We must now apply all necessary pressure on Milosevic in Kosovo.

The Contact Group has issued four demands: a cessation of fighting; the unconditional withdrawal of Serbian special police forces and Yugoslav Army forces from Kosovo; a return of refugees; and unlimited access for international monitors.

Milosevic's statement on Tuesday in Moscow after his talks with Russian President Yeltsin did not go far enough. He refused to withdraw his troops or to talk with the KLA—two conditions the Contact Group is asking for.

Milosevic's usual half-way tactics must not dilute the West's resolve to force him to meet all the demands.

NATO has already tasked its military experts to come up with military options for moving against the Serbs and Milosevic.

Reportedly, nine preliminary options have been submitted. They range from stationing troops along Kosovo's borders, to imposing a new "no-fly zone" and a "weapons-exclusion zone" over part of Yugoslavia, to air strikes, and even ground invasions.

In this planning, the possible political ramifications of any military action are, I am sure, being factored in by this administration.

In the immediate future, though, the NATO military planners will flush out the details of these options. So, I think it would be imprudent for me or for any other Senator to second-guess the NATO military planners who have the relevant expertise and are in possession of the vital intelligence data needed to make a judgment.

What I can say is that the use of force must remain on the table, and that, if at all possible, it must be exercised through NATO.

Within NATO, however, there exists a serious problem. It does not revolve so much around whether or not to use force; for most of our European allies seem to have learned from our Bosnian experience that the use of force in Kosovo may well be necessary.

The dispute is rather over the question of whether approval by the U.N. Security Council is necessary before NATO acts outside the territory of its members. The United States has always maintained that it is not. As recently as our expansion vote on NATO we insisted that that is not a necessary precondition. A U.N. Security Council mandate is not a necessary precondition to use NATO forces.

This is a position reinforced, as I said, by the U.S. Senate in the Resolution of Ratification of NATO enlargement overwhelmingly passed on April 30 of this year.

Most—perhaps all—of our European NATO allies, including the British, assert that U.N. approval is necessary.

Madam President, this difference of opinion strikes at the heart of the Alliance, for if the European allies' position wins out, the Russians—and even the Chinese—will have a veto power over NATO action in Central and Eastern Europe. This is precisely where Bosnia and Kosovo-like ethnic conflicts are likely to pose the biggest threats to regional security in the coming decades. As much as I support the U.N., I, for one, am not about to yield to the Security Council, the Russians, and the Chinese the decision of whether or not we are able to protect the interests of Europe—requiring their approval ahead of time.

We must make clear to our European allies, and to the Russians, that while we prefer to act within NATO, we see Kosovo as a vital national security interest of the United States and, hence, are prepared to act alone if necessary.

This is an unpleasant exercise, but it is preferable to face it now, rather than to postpone the issue. In fact, it would be good to resolve this intra-alliance dispute in the newest revision of NATO's Strategic Concept, which is now being discussed.

Finally, Madam President, I believe it is absolutely essential for the United States immediately to make contact with the Kosovo Liberation Army.

A withdrawal of Serbian special forces and Yugoslav Army troops, or a NATO bombing campaign, must not be done unless the KLA first agrees to a ceasefire. For I must repeat—the object of U.S. policy is not only to stop the movement toward a greater Serbia on the part of Mr. Milosevic, but it is also not to become a tool for a greater Albania in the South Balkans. It is to halt the fighting and then to start serious negotiations involving all the parties. I have already made clear my preferred political solution, but the outcome is for the parties to thrash out.

We are approaching the moment of truth in Kosovo. As usual, the indispensible element in solving the crisis is the active involvement of the United States, just as it was in Bosnia.

As the U.S. Government continues its negotiations with its allies and its Contact Group partners, and as NATO military planners continue to refine possible military options, I urge my colleagues to recognize the gravity of the situation and to make clear their support for resolute American leadership.

Madam President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. HARKIN. Madam President, I hear all kinds of rumblings that the Republican side of the aisle, at some time today, is going to try to kill or will effectively kill the tobacco bill. I want to take a few minutes to talk about that and try to recap, if I can, why we are here and why we have spent so much time on the tobacco bill.

Three thousand kids every day take up smoking; 1,000 of them will die prematurely. Teenage use of tobacco products is at a 17-year high. And 42.7 percent of high school kids are now using some form of tobacco products. Ninety-one percent of 3-year-olds in this country recognize Joe Camel, and recognize him in a friendly manner. And thanks to the court cases that we have had in several States, we now have the industry documents that reveal years and years and years of lying and deception by the tobacco companies.

That is why we are here. That is why we have a tobacco bill—to put an end to teen smoking, to put an end to the lies and deceptions of the tobacco companies, to save kids' lives.

The Republican leader was on the floor here a week and a half or so ago. I happened to be on the floor at the same time. And Senator LOTT of Mississippi, why, he said, we have to remember what the end game is. Well, I got to the floor shortly after, and I said, yes, we do have to remember what the end game is. The end game is to put an end to what I just talked about and to reduce teen smoking. That is the end game. That is why we are here—to cut down on teen smoking.

But Senators on the other side of the aisle here today, and in the past 4 weeks, have had another agenda. They have had tax cuts, drug money, and limits on attorneys' fees, et cetera, et cetera, and on and on.

Let us look at the RECORD. On Friday, June 5, the majority leader, Senator LOTT, said, and I quote, "If we don't add something on marriage penalty, tax relief, and on drugs, there won't be a bill. There will not be a bill." In other words, the majority leader is saying, if we do not load a lot of stuff onto this bill—marriage penalty, tax relief, drugs—there will not be a bill. That is what he said on June 5.

On June 7, on one of the talk shows, CNN's Sunday Night "Late Edition" interview with Wolf Blitzer, here is Senator LOTT again, 2 days afterward:

> Instead of focusing on trying to get something constructive done, what we have now is game playing and rhetoric. What we need is leadership.

Mr. Blitzer said, "When will there be a vote"—talking about the McCAIN bill.

Senator LOTT, 2 days before on June 5—Senator LOTT had said, ". . . there won't be a bill until we add the marriage penalty, tax relief and drugs."

Now, two days later, Mr. LOTT says:

> Well, at this point, it is dead in the water and there may never be a vote on the McCAIN bill. The problem is greed has set in. It is the usual addiction in Washington to taxes and spend. This has gone way beyond trying to do something about teenage smoking. This is now about money grubbing. This is about taxing people and spending on a myriad of programs. . . .We have lost our focus.

What kind of brave new world are we living in around here? On June 5, the majority leader says there won't be a bill unless we load it up. Two days later, he says we have loaded the bill up, we can't have a bill because we have lost our focus, because it ought to be about teen smoking.

Game playing. You want game playing? That is where the game playing is coming from. It is coming from the leadership in the Senate. That is where the game playing is coming from.

I will say it loud and clear right here. The leadership has never wanted this bill, and they want to kill it. What we want—and I don't just mean Democrats, I mean a lot of Republicans, too, we want to put an end to teen smoking, and we want this bill. But, unfortunately, the Republican leadership and some on that side are going to try to make good on their threats to kill the bill.

I understand the Senator from Texas, Senator GRAMM, was on the floor a few minutes ago sort of crowing about killing the bill. Well, I hope those reports are wrong. I hope we have the bipartisan support to pass the bill.

But it seems to me at this point in time the choice is very clear: You are either for tobacco company profits or you are for our kids. You are either for cutting down on the lies and deceptions of the tobacco companies, or you are for saving our kids' lives and keeping them from smoking. That is what it has come down to. Don't let anybody kid you.

Now I heard the Senator from Kentucky, Senator McCONNELL, a while ago—I happened to be listening—talking about all the taxes, all the taxes the people are going to have to spend if we raise the price of cigarettes. I got to thinking about that. Guess what. Not one person in this country has to pay those taxes. What an interesting set of taxes—taxes you don't have to pay. If you don't smoke, you don't pay the taxes—simple as that. It doesn't tax everybody. You have the freedom to choose. If you want to pay the taxes, smoke; if you don't want to pay the taxes, don't smoke. Yet to listen to the other side talk about it, why, you would think that everyone in this country was going to have to pay taxes. Absolutely not true. Only if you want to smoke. Then you ought to be more than happy to help pay for those who get sick and to help do something about keeping teenagers from smoking.

I don't think I yet have met one adult who has smoked a long time—10, 15, 20 years—I haven't met one yet who has said, "I would recommend a young person take up smoking." I haven't met one yet. Every single one of them says, "Don't do what I did. Don't get in the habit. Don't become an addict like I am."

That is what this bill is about—keeping kids from becoming addicts, addicts every bit as bad as if they took up cocaine or heroin—nicotine addiction. And it is the gateway drug to the others. You want to cut down on marijuana? Cut down on teen smoking of cigarettes. You want to cut down on teen use of smoking crack? Cut down on their smoking cigarettes first. You want to cut down on kids who get into the drug culture? Go after cigarettes first. It is a gateway drug. It is a drug, make no mistake about it, and a highly addictive drug. And it just so happens to be legal.

But we know from industry documents today that they have known for years that nicotine is addictive. They have known for years that it is carcinogenic. They have known for years about the medical costs of addiction to tobacco. Yet through all their advertising, they have lied about it. All this fancy advertising of Joe Camel and that rugged Marlboro Man on that horse and all these young people—do you ever see a tobacco ad that has a lot of old people hacking and smoking and spitting in it? No. All the tobacco ads have nice young people, and they are healthy, and they are vibrant. They look like they are having a great time, and if it weren't for tobacco, they probably wouldn't be having a great time. That is the kind of deception used by the tobacco companies. That is what we are trying to put an end to.

Taxes? No one has to pay these taxes. I see the Senator from Kentucky is on the floor. No one has to pay these taxes, not one single person, if they choose not to smoke. But if they do, then, yes, we want you to pay more for cigarettes, because we want to use that money to stop kids from smoking, which is what you want, too.

Every adult I have known who is addicted to nicotine says kids shouldn't take it up. But these tobacco companies will continue to hook kids because they know that is their replacement smoker. They know that 90 percent of adult smokers who are hooked on nicotine start smoking before the age of 18. If they don't start smoking by that time, chances are they will never take it up and become addicted. That is why we are here. That is the end game—to keep our kids from smoking.

Killing this bill is a death sentence for millions of kids. Killing this bill would be a historic cave-in to the special interests of this country. It would be a historic cave-in to the $40 million in deceptive ads that the tobacco companies have put out across this land over the last month. It would be a historic cave-in to an industry that has deceived and lied to the American people for the last half century.

Make no mistake about it, tobacco executives and all of their PAC directors who have all of that money to start giving out to campaigns, they are watching. They are watching, and they are rubbing their hands together, and they are saying, "Oh, boy, they are going to kill that tobacco bill." And they are going to know who their friends are. They are going to know who their friends are—the ones who killed this bill. And I am sure they will be helpful to their friends.

Well, I hope we can send a message to our kids that these well-funded special interests, no matter what they have done and how much money they have spent, that they can't win today, that they can't win in this body, that this body still represents the rank and file of American people and not just those with a lot of money and a lot of power.

If the Republican leadership and those on that side kill this bill today, we will be back, time and time and time again. We will be back. We will be back with amendment after amendment after amendment on bills that come up to this floor. We will not back down. We have come too far to rein in the tobacco companies, we have come too far to stop our kids from smoking, to back off now.

If the Republican leadership and the Republicans succeed in killing this bill today, it might be the end of the debate on the tobacco bill, but it will not be the end of tobacco debate on the Senate floor and it will not be the end of amendments and bills that we will bring up to try to get to the end game to keep our teenagers from smoking.

If the Republican leadership succeeds in killing this bill, I predict that there will be a major public backlash—a major public backlash. Why do I say that? A little bit of history.

Last year, about this time—actually toward the end of July—Senator CHAFEE, a Republican, and I, a Democrat, offered an amendment on the floor of the Senate to provide the necessary money to the FDA to enforce the ID checks in stores and outlets, wherever cigarettes were sold across the country. We offered the amendment and we had a vote. We lost. That was in July. Well, I used a parliamentary maneuver to ensure that we could have one more vote on it when we came back after the August recess of last year. So I filed my parliamentary appeal on that. We broke here in August and we went home.

We came back in September, and the first vote we had when we came back in September was the same vote of Senator CHAFEE and Senator HARKIN on providing the money to the FDA for the ID checks—the same vote that had lost in July. Guess what. This time it carried overwhelmingly. I submit that a large part of that was because a lot of people went home in August and a lot of the groups—I am talking about all of the public health groups, such as the American Heart Association, The Lung Association, the American Cancer Society, and a host of others—got to people and said, wait a minute, we want to enforce these ID checks. We don't want young people buying cigarettes and tobacco products. There was a public backlash. I predict the same thing will happen if this bill is killed today.

Despite over $40 million in ads that have dominated the airwaves over the last month by the tobacco companies—despite all that—the public still supports this bill by over 2 to 1. This was a survey taken June 12 through June 15 by Market Facts TeleNation, an independent polling firm, of 924 adults. Margin of error, plus or minus, is 3.2 percent.

The question was:

> As you may know, the Congress is currently considering the McCain tobacco bill, which creates a national tobacco policy to reduce tobacco use among kids. Based on what you know about the bill, do you favor or oppose Congress passing the McCain bill?

Those who favored, 62 percent; opposed, 31 percent.

That was June 12 to June 15. This is the 17th, so that was earlier this week. That is after $40 million was spent by the tobacco companies to persuade the public that what we are doing is raising these huge taxes and spending all of their money on a variety of nonsense programs. I am sure we have all seen the ads. How can you miss them? Turn on the TV and there is another ad. And still, through it all, the American people are seeing through it. They have caught on to the tobacco companies. They know they have been lying to them for 50 years. Ask any older adult today—I am talking about somebody in their sixties, seventies, or eighties—who has been addicted to nicotine. Ask them if they believe the tobacco companies told them the truth 30 or 40 years ago when they took up tobacco. They know the tobacco companies lied to them through their slick advertising, ads that show doctors smoking and nurses smoking, and all kinds of things, saying that Camels were better for your throat than other cigarettes. Still, the American people, 2 to 1, want this bill.

That is why I predict that if this bill is killed, there is going to be a tremendous public backlash. The public is going to know who killed this bill: the Republican leadership in the U.S. Senate. Make no mistake about it.

I yield the floor.

Mr. AKAKA. Mr. President, the Senate is engaged in an historic debate over tobacco control legislation. This bill is the most important public health issue of the decade. Yet, it appears that we are losing sight of the foremost purpose of the bill. If this bill was a Christmas tree, its branches would be drooping to the floor because of the weight of the unrelated amendments. These extraneous amendments were added at the insistence of the majority to broaden the appeal of the legislation. Yet, critics of the bill cite these amendments as reasons to topple the tree.

First, a majority of Senators voted to strip the liability provisions from the tobacco bill. With this vote, we lost a powerful incentive for the tobacco companies to accept provisions of the bill that require their consent. Industry cooperation is critically important to a comprehensive national tobacco policy, and to obtain voluntary acceptance of the sweeping advertising restrictions.

As my colleagues know, advertising is one of the most important factors in attracting young people to tobacco products, and restrictions on advertising must be a central component of the efforts to reduce youth tobacco consumption. Industry acceptance will also be essential to the lock-back provisions that will penalize companies that fail to meet youth tobacco reduction targets.

The majority then passed an amendment to divert $2 billion from public health initiatives into programs having nothing to do with tobacco. This amendment takes money allocated to public health and puts it into drug interdiction, the Coast Guard, education vouchers, and a multitude of other items. We have abandoned the fundamental objective of this public health legislation.

The Senate then approved an amendment providing a massive tax cut to reduce the marriage penalty and increase the deductibility of health insurance for the self-employed. These provisions not only strip huge sums from the bill, but also take funds from the general treasury in future years. As a result, the majority of my colleagues voted to weaken the Social Security system for future generations. Money that would have been used to reduce the incidence of youth smoking will instead be used to finance a tax cut. Make no mistake about it, this action severely hampers the effectiveness of the programs designed to reduce tobacco use. The money stripped from the bill would have paid for core public health initiatives such as health research, counter advertising, and smoking cessation and education programs.

We are losing sight of the grim statistics on youth tobacco consumption that have been repeated here on a daily basis. Every day, 3,000 kids become smokers. One third will die to tobacco related diseases. We have an obligation to act.

Despite my strong objections to these changes, we must pass a measure out of the Senate and allow the process to continue. The bill retains provisions that address the problems of youth tobacco consumption. For example, the tobacco price increase in the bill should dramatically reduce the number of kids who begin smoking and who may ultimately die from smoking related diseases. Statistics show that for every ten cents added to the price of cigarettes, approximately 700,000 fewer teens will being smoking and more than 200,000 premature deaths will be avoided. The bill also provides for a national counter-advertising campaign aimed at discouraging young people from using tobacco products. It also funds health research at the National Institutes of Health and the Centers for Disease Control and state and local tobacco education and prevention programs.

Two other components of the bill that will have a large impact on our efforts were added during floor consideration. The first is the increased investment of funds into early childhood development and after-school activities. The second is the strengthening of the look-back provisions which hold individual tobacco companies responsible for their portion of the youth market.

Mr. President, the Senate still has a landmark opportunity to save the lives of future generations. If this effort is defeated it will show that the majority bowed to the tobacco industry and sold out the youth of America.

TOBACCO WAREHOUSE

Mr. FAIRCLOTH. Mr. President, I would like to engage in a colloquy with the Chairman of the Agriculture Committee regarding the role of warehouseman in the tobacco debate. There are 356 tobacco quota warehouses in eleven states. For over 60 years tobacco auction warehouses have played a role in the federal government's tobacco program. By law, warehousemen collect specified fees, supervise inspections, keep records and otherwise act on behalf of the U.S. Department of Agriculture.

In 1935, the Tobacco Inspection Act was passed under the jurisdiction of the Agriculture Committee to designate approved auction warehouses and to protect growers by providing standards of classification and inspection of tobacco. In fact, from the onset of North America's tobacco commerce in 1619 successive governments have used tobacco warehouses as the primary channel for regulating the leaf tobacco trade. According to Professor Allan C. Fisher, Jr., between 1619 and 1731, various colonial governments in North America passed a total of eight legislative acts pertaining to tobacco warehouses. In effect, these laws made tobacco warehouses the agents of government for ensuring that the inspection and sale of leaf tobacco remained fair to growers.

Even now, by law, warehousemen collect specified fees, supervise inspections, keep records and otherwise act on behalf of the U.S. Department of Agriculture. The Supreme Court, in a 1939 case upholding the inspection law, stated that warehousemen and auctioneers act as agents for growers and the government.

In summary, tobacco warehouses were established by and are regulated by the federal government. Therefore, assistance to warehousemen is a necessary component of any legislative action that effects federal tobacco policy.

Mr. LUGAR. I acknowledge the importance of warehousemen under the current tobacco program and that some of those warehousemen may be adversely affected when the current program is eliminated. That is why I have made it clear in my amendment that warehousemen may be considered as recipients of some of the $1 billion in economic assistance grants to states. I believe that it will be important for state and local governments to determine the level of assistance to individual warehousemen in their localities. Local officials will be better able to assess the economic impact on individual warehousemen and can make adequate compensation accordingly.

Mr. FAIRCLOTH. I appreciate the Chairman's recognition of the importance of warehousemen and his efforts to include them in this amendment. The Senator is correct. Tobacco warehouses have no other business than operating as agents for the growers and the government. They are as integrally tied to the tobacco program as are farmers and quota holders.

For these reasons I believe that comprehensive tobacco legislation must provide compensation for tobacco warehousemen—and that such compensation should be specific, certain and equitable.

By the term "specific," I mean that the legislation should denote warehousemen as individuals who shall rightfully receive a measure of compensation, just as it provides for a measure of compensation for growers and quota holders.

By the term "certain," I mean that the legislation should provide for a procedure to ensure that such compensation is a definite Federal responsibility calculated by Federal authority according to factors that Congress establishes in the statute.

By the term "equitable," I mean that the compensation should be based upon an appreciation for a warehouseman's equity investment in his business and that the formula for determining the appropriate compensation should be related to the volumes of tobacco that each warehouse has historically handled.

It is essential that three elements are thoroughly addressed. It is my judgment that the managers' amendment in its current form falls short in meeting these criteria.

My question to the distinguished Chairman is this: will you work with me and other Senators, as the legislative progress continues, to ensure that warehousemen are not left out of my comprehensive tobacco legislation?

Mr. LUGAR. Indeed, it is always a pleasure to work with the Senator from North Carolina. I will do what I can to ensure that warehousemen who are adversely affected by comprehensive tobacco legislation are not forgotten as the tobacco legislation proceeds through the legislative process.

Mr. WARNER. Mr. President, I rise today to express my strong opposition to the tobacco bill that is currently before the Senate.

As you know, on June 20, 1997, a group of state attorneys general, plaintiffs' lawyers, public health advocates, and representatives of the major cigarette manufacturers announced a sweeping settlement that would restructure the tobacco industry and revolutionize the nation's tobacco control efforts. The agreement, reached in good faith among the parties, would settle lawsuits brought by forty states seeking to recoup Medicaid spending for smoking-related illnesses and ban certain class-action lawsuits against the tobacco industry.

The only reason that the Senate is even considering the current bill is because the proposed settlement required the approval of Congress and the President before taking effect. This measure differs significantly, however, from the terms of the original settlement. Although the bill makes some progress toward the important goal of eliminating youth smoking, it has also become a vehicle for regressive higher taxes and a creation of more federal government. In fact, the attorneys general who negotiated the original settlement are opposed to this bill in its current form.

Mr. President, S. 1415 contains over $500 billion in new taxes. By some estimates, as much as $800 billion in new taxes could be imposed on the American people as a result of this bill. But even more alarming than the sheer size of this tax increase is the fact that two-thirds of the tax burden would fall on Americans earning less than $35,000 per year.

Indirectly, the bill "deputizes" tobacco firms as tax collectors.

In view of our country's current economic prosperity and budgetary surpluses, I believe that the American people are entitled to forms of tax relief, not increases in taxes.

The total result of the bill's proposed tax could, in my view, be disastrous. It would primarily burden lower-income Americans. It could create a new black market for cigarettes similar to the underground market that currently exists for illegal drugs. Canada has experienced this terrible problem as a result of its high taxes on cigarettes. Further, it could tempt children to obtain cigarettes illegally or to illegally or improperly obtain the funds to purchase cigarettes. There is simply no justification for imposing over half a trillion dollars in new regressive taxes on the American people.

Traditionally, families and the states have been responsible for dealing with the legitimate and important objective of deterring youth smoking. Indeed, every state in the country has enacted laws making youth smoking and selling tobacco products to minors illegal. I believe that these laws should be vigorously enforced, both against adults who sell tobacco products to minors and against children who illegally attempt to purchase these products. Congress should not intrude on a responsibility that is properly and legitimately under the purview of the citizens of a state and their state governments.

Many small family firms, indeed many businesses and communities throughout Virginia, depend on the cultivation, sale, and taxation of tobacco. They do so legally. In addition, Virginia's ports depend heavily on the shipment of tobacco and related products. The industry directly employs over 12,800 Virginians and supports over 150,000 additional jobs indirectly, generating more than $2.2 billion in payroll taxes annually. The bill before us would have unfair consequences on all of these thousands of honest, hardworking Virginians.

I would remind my colleagues, however, that one need not represent a tobacco-producing state to represent a large number of constituents who would be adversely effected by this legislation. Indeed, thousands of Americans across the country work in other industries that interact with the tobacco industry, such as convenience stores, shippers, packers, suppliers of agricultural products and equipment and vendors. Each of these industries, and many others, are likely to suffer tremendously if this bill is enacted. Most of these enterprises, particularly convenience stores, are small businesses and are struggling every day for survival.

I would further remind my colleagues that one need not represent a tobacco-producing state to stand for the principles of smaller government, lower taxes, and personal responsibility.

Last Thursday, Virginia Governor Jim Gilmore convened the Tobacco Workers' Unity Summit. As a governor who is respected nationwide for vigorously enforcing Virginia's laws against the sale of tobacco to children while passing the largest tax cut in Virginia history, I consider Governor Gilmore's to be an important voice in this debate. In his opening remarks at the Unity Summit, Governor Gilmore said, "We will not be successful in combating youth smoking if we leave the matter to the tax commissioner rather than the law enforcement officer." I agree.

The them of the Unity Summit was "Protecting Our Children . . . Protecting Our Jobs." I ask unanimous consent that a list of participants which I will send to the desk be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOBACCO WORKERS' UNITY SUMMIT

LONGSHOREMEN AND DRIVERS

Ed Brown: International Vice President, International Longshoremen's Association.

John G. Heckman: Executive Assistant to the President of Highway Express.

BAKERS, CONFECTIONERY AND TOBACCO WORKERS INTERNATIONAL UNION

Robert T. Curtis: Vice President, BCTWIU.

Barry Baker: International Representative, BCTWIU.

James B. "Sonny" Luellen: President, Local #203T, BCTWIU.

Marian Spratt: Leaf processing worker, Danville, Virginia.

BUILDING CONSTRUCTION TRADES

Ray Davenport: President, Virginia State Building & Construction Trades Council.

Walter F. Merritt: Millwright, Atlantic Industrial Corp. & Member, Local 1402 Millwrights.

RETAIL AND WHOLESALE

Ronnie Volkening: Government Affairs Manager, Southland Corporation Dallas, Texas.

Frank C. Beddell: President, Virginia Petroleum Jobbers.

Jo Kittner: President, Virginia Retail Merchants Association.

Duncan Thomas: President and CEO, Q Markets Convenience Stores.

Read deButts: Executive Director, Coalition for Responsible Tobacco Retailing Wholesale.

David Strachan: President and CEO American Wholesale Marketers Association.

Kevin J. Koch: Corporate Vice President, McLane Company, Inc. Temple, Texas.

INTERNATIONAL ASSOC. OF MACHINISTS AND AEROSPACE WORKERS (IAMAW)

Stephen Spain: Directing Business Agent, Lodge #10, IAMAW.

Nathan Grooms: Printing Pressman, Reynolds Metals Printing Plant Local #670.

Harlan Young: Machinist, Molin Machine Corporation.

GROWERS

Donnie Anderson: President, Virginia Tobacco Growers Association.

Wayne Ashworth: President, Virginia Farm Bureau.

Gary Hodge: Executive Director, Tri-County Council for Southern Maryland. Advisor, Southern Maryland Tobacco Board.

Haywood J. Hamlet: CEO General Manager, Virginia Dark-Fired Tobacco Growers Association.

Joe H. Williams: State Board, Dark Fired Tobacco Advisory Committee Chatham, Virginia.

Jerry Jenkins: Flue-Cured Tobacco Advisory Committee Blackstone, Virginia.

LEAF INDUSTRY

Harry Lea: President, Virginia Flue Cured Warehousemen Association.

Todd Haymore: Director of Corporate Communications, Dimon, Inc. Danville, Virginia.

Hart Hudson: R. Hart Hudson Farms and Dixie Tobacco Warehouse South Hill, Virginia.

SUPPLY AND SUPPORT INDUSTRY

Frank E. "Pepper" Laughon: Chairman of the Board, Richmond Cold Storage Co., Inc.

Karen Crawford: Plant Manager, Shorewood Packaging Danville, Virginia.

Thomas J. Kirkup: General Manager, Flexible Packaging Division, Reynolds Metals.

Ted A. Lushch: Owner, Jerry Brothers Industries Richmond, Virginia.

Bo Fear: Vice President, Westvaco Consumer Packaging Division.

Jean Dunn: Baling Operator, Hoechst Cellanese & Member, UNITE Local 2024, Gaithersburg, Md.

Susan Gregorek: Joint Board Representative UNITE Mid/Atlantic Regional Joint Board.

James Fifer: President J.E. Fifer Sheet Metal Fabricators, Inc.

Ralph Bauwens: Plant Manager, Jewett Machine Mfg. Co., Richmond, Virginia.

Harold C. Hill, Jr.: Vice President, Inside Sales & Customer Service Fi-Tech, Inc.

ECONOMIC ANALYSIS

Virginia Lieutenant Governor John Hager.

Barry Duval: Virginia Secretary of Commerce and Trade.

Martin Feldman: Director of Research, Solomon Smith Barney, New York, New York.

Dr. Dixie Watts Reaves: Agricultural Economist, Virginia Polytechnic University.

Dr. Thomas J. Towberman: Commissioner, Virginia Employment Commission.

Hugh Keough: President, Virginia Chamber of Commerce.

PREVENTING UNDERAGE SMOKING

Virginia Attorney General Mark Earley.

Gary Aronhalt: Virginia Secretary of Public Safety.

Colonel Wayne Huggins: Superintendent, Virginia State Police.

Curtis Coleburn: Policy & Judicial Director, Virginia Alcoholic Beverage Control Board.

Henry Stanley: Chief of Police, Henrico County, Virginia.

Dana Schrad: Executive Director, Virginia Association of Chiefs of Police.

Mr. WARNER. Mr. President, these are the people who have been left out of the debate in the Senate—the people who stand to lose their livelihoods if this bill is passed.

The participants of the Unity Summit were universally opposed to the bill that is currently before us, and they all signed the following Tobacco Workers' Unity Pledge:

> We the undersigned urge President Clinton and the U.S. Congress not to forget the hardworking men and women whose livelihoods are linked to tobacco.
>
> These men and women include truckers and longshoremen, paper and steelworkers, machinists and growers, convenience store clerks and warehouse workers.
>
> These working Americans labor long and hard hours to pay their taxes and put food on the table for their families.
>
> These working families should not be forgotten by those who hold power in Washington.
>
> We urge policy makers in Washington to find ways to protect children from access to

tobacco products that will not result in thousands of working men and women losing their jobs.

We urge the Administration and Congress to remember that protecting our children is a vital law enforcement issue, not an excuse to raise taxes.

We also urge the President and the Congress to remember that you will not protect our children by putting their parents out of work.

The bill before us will create far more problems for the American people than it could ever hope to solve. The bill has lost sight of the important objective of stopping children from smoking and has fallen prey to a multi-billion dollar money grab. The bill has blinded us to the American tradition of insisting on personal responsibility from adults and protecting our citizens from government intrusion into their personal lives.

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to share my thoughts concerning S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act.

The fundamental goal of this bill was supposed to be to drastically reduce the number of children who become addicted to cigarettes. However, sometime during the last three weeks of debate on this bill the Senate seems to have lost its focus on that objective.

We have debated three different amendments regarding lawyers fees—as if the states are incompetent to enter into legal contracts—and adopted one of them. We have spent the better part of a week on the marriage penalty and health insurance deductibility for the self-employed. Now, I happen to believe that those two issues are very important, and need to be addressed. But this bill is not the proper vehicle for addressing them. This bill is supposed to be about reducing smoking—particularly teen smoking.

I still view this bill as the best means of focusing on the main goal. For all of its faults, the bill still gives the FDA the power to insure: that no human, animal, or cartoon image is used to advertise tobacco products; that tobacco companies do not advertise in color on the backs of magazines; that cigarettes are not advertised on bill boards or other outdoor signs; that tobacco products are not displayed in close proximity to products—like candy—that would be attractive to children; that cigarettes are not advertised on the Internet; and that payments are not made to celebrities to smoke in movies or on television.

And this bill sets targets for reducing smoking by our young people and penalizes tobacco companies if they fail to meet those targets. This is only fair because tobacco companies have targeted our children. Aware that nearly 89 percent of all smokers begin smoking by age 18 and eager to maintain its market, the industry specifically targeted children in the hopes of creating life-long addicts.

Its efforts have paid off handsomely. Today, more than 3 million American children and teenagers smoke cigarettes. Seventy-one percent of high school students have tried cigarette smoking and about one-third of high school students are current smokers. Teen smoking has risen for five years in a row. And if nothing is done, 5 million Americans who are now children will die prematurely from tobacco-related diseases.

But tobacco products are responsible for enormous damage to all of our citizens, not just children. Smoking accounts for nearly one in five deaths in the United States. It is related to over 419,000 U.S. deaths each year—more than alcohol, car accidents, fires, suicides, drugs, and AIDS combined. Approximately half of all continuing smokers die prematurely from smoking. Of these, 50 percent die in middle age, losing, on average, 20 to 25 years of life.

We now have proof that the tobacco companies knew precisely what the impact of their products would be. According to their own internal documents, these companies hid the truth regarding both the dangers associated with smoking and the addictiveness of their products. It is therefore time for the tobacco industry to be held accountable for marketing a product it knew to be unsafe. Fortunately, that is something that this bill accomplishes.

I remain concerned about the regressive nature of the $1.10 per cigarette tax that this bill will levy and I believe that it addresses issues that, while important, have nothing to do with tobacco legislation and should be addressed separately. Despite the many problems that the Senate has faced during the last three weeks, I think it is a real mistake to kill the tobacco reform legislation at this time, and make no mistake about it, that is what is happening here today.

Mr. President, we must tackle the issue of teenage smoking and this legislation may very well be our only opportunity to do so. I would not want to see this bill become law in its current form, but there are still ample opportunities to improve if we allow the legislative process to go forward. Mr. President, I urge my colleagues not to kill this bill today; I urge them to think of our children and the children that will follow them and to cast a vote to prevent another generation of young Americans from becoming addicted to tobacco.

Mr. FAIRCLOTH. Mr. President, I urge my colleagues to vote to kill this bill. It is no more than a massive $577 billion tax increase on working class Americans. Almost one trillion dollars in taxes and penalties to fund the largest expansion of government in years. Almost one trillion dollars to throw tens of thousand of North Carolina factory workers out of their jobs. Almost one trillion dollars to throw tens of thousands of farm families off their land.

Back in 1993, we denounced the Clinton tax increase, the largest tax increase in world history. Today, some of us seem interested in passing this tobacco tax bill, the second largest tax increase in world history.

I would like to compare the two bills.

The 1993 tax increase was for "fighting deficits." The 1998 tax increase is for "fighting teen smoking."

The 1993 tax increase totaled 240 billion dollars over the first 5 years. The 1998 tax increase totals $103 billion over five years.

The 1993 tax increase paid for a massive increase in new spending. The 1998 tax increase pays for a massive increase in new spending.

The 1993 tax increase was progressive. The 1998 tax increase is regressive.

The 1993 tax increase targeted "those who succeeded in the decade of greed." The 1998 tax increase targets smokers—mostly working class Americans.

The 1993 tax increase was done in the name of "the children." The 1998 tax increase is in the name of "the children."

The 1993 tax increase enlarged the Washington bureaucracy. The 1998 tax increase enlarges the Washington bureaucracy.

The 1993 tax increase taxed the American people. The 1998 tax increase taxes the American people, not the tobacco companies.

It literally requires the tobacco companies to pass on the entire tax increase to the American people—mostly blue collar people. Those earning less than $40,000 per year will pay sixty-one percent of these new taxes.

It will raise taxes on the one-pack-a-day smoker by $1015 per year. That's a fifty percent federal tax increase on those earning less than ten thousand dollars per year. Those earning more than $75,000 will pay less than one percent more from this tax increase.

We should all be deeply concerned about the "tax and spend" approach that the bill takes to resolving a social problem. The bill reaches right into the pockets of hard-working low- and middle-income adults who have every right to smoke if they choose. And, it takes their hard-earned dollars to create yet more federal programs and to pay trial lawyers billions of dollars. At least the Senate saw the light on my efforts to cap these fees.

We're literally grabbing money from the poorest Americans to buy trial lawyers more than Lear jets. Pure greed, Mr. President, pure greed.

To what end are we taxing the American people here? It is unclear whether price increases really have the effect of getting kids to stop smoking or to prevent them from starting.

And what is the real motivation here? If it really were to cut smoking, we wouldn't phase in the tax, we would drop it right at once. But we're not doing that because the tax-and-spenders want the revenues. I know they're not doing it for the tobacco companies.

We all know that this isn't about smoking—it's about money.

The consequences are irrelevant. Facing huge profit margins, a new industry will crop up bringing cigarettes into the country tax-free. It will be boom time for smugglers.

Just consider how much smuggling already occurs. Ten percent of the cigarettes consumed in America today are smuggled from low cigarette-tax states to high-tax states.

Just ask the Canadian border patrol about the smuggling that occurred in 1993 when the Canadian cigarette excise exceeded the U.S. excise by as much as $3.50 per pack.

Increased smuggling means that not only is the additional tax not paid, but the existing federal excise of 24 cents per pack would also be avoided, as would the state excises.

Organized crime must be absolutely licking its chops at the prospect of smuggling a legal product into the country and then using its existing distribution networks to sell it. One thing's for sure—the market demand for small planes in about to jump sky high.

The effect of smuggling is to create two classes of smokers—those who smoke only legal cigarettes and those who smoke smuggled cigarettes. Those who smoke smuggled cigarettes will see a decline in price since these cigarettes will escape the existing federal and state taxes.

Thus, if smokers respond to price changes, smokers of smuggled cigarettes will smoke more, while smokers of legal cigarettes will smoke less. Netting these changes out will be interesting, but it must be done to develop a reasonable revenue estimate.

Then there are the jobs that will be lost in the industry all along the production and legal distribution chain.

This means reduced income and payroll tax receipts to the Federal government. The official figures do not include these revenue losses, of course, because that would require a level of dynamic analysis the estimators are unwilling to try, but the revenue losses will be real nonetheless.

Another element thus far ignored is that the cigarette tax increase will reduce projected federal budget surpluses through its effect on the Consumer Price Index (CPI). The CPI includes cigarettes on a tax-inclusive basis.

A per pack tax hike of $1.10 will cause an estimated one-time and permanent increase in the CPI of just under four-tenths of a percentage point. A higher CPI automatically increases federal outlays because many programs, like Social Security, are indexed to the CPI.

Phasing the tax hike in over five years as described in the McCain bill, the Tax Foundation calculates that federal outlays will rise by almost $11 billion over the next five years and by over $29 billion over the next ten years. Similarly, many tax provisions are indexed to the CPI, like the personal exemption, the standard deduction, and the tax brackets.

An increase in the CPI reduces tax receipts for a given amount of gross income. The Tax Foundation estimates that the cigarette-tax induced increase in the CPI would reduce federal income tax receipts by about $8 billion over the next five years, and by almost $19 billion over the next ten years.

Combined with the spending increases, the cigarette tax hike would reduce future budget surpluses by almost $19 billion over the next five years by over $48 billion over the next ten years.

I know that lots of people in this town are jubilant at the prospect of this legislation passing. The plaintiffs' lawyers would become fabulously wealthy; the public health community would get all of its favorite projects generously funded; and, of course, the bureaucrats will get write volumes of new rules.

The ones who won't be so happy are the working class families who have been targeted to pay for it all.

In short, the McCain bill, through its highly regressive tax provisions, inflicts enormous costs on lower- and middle-income families. Let me put this regressive tax in concrete terms. The increased excise tax payments under the McCain bill are projected to total some $577 billion over the next 25 years. This is without the "look back" penalties that will add hundreds of billions of dollars to the package.

Where are the cries about regressive taxes? We're all so used to the long speeches about taxes on the poor. Or is that argument just used for convenience? This is the largest tax increase on the poor in years—if not in all time!

It is estimated that, based on projections of the actual increases in the prices of tobacco products, the true cost over the next 25 years will be in the range of $380 billion for families earning less than $30,000 per year.

It will be more than $735 billion for families earning less than $75,000 a year.

These are truly staggering numbers.

After all, 98.5% of cigarettes are legally purchased by adult smokers, and therefore higher excise taxes will unfairly (and regressively) penalize adult consumers who choose to smoke.

So, we're talking about hundreds of billions of dollars in new taxes to *try* to stop 1.5 percent of tobacco users from illegally buying tobacco. Why not just impose penalties on children who try to purchase tobacco? Well, I suppose, because it wouldn't be a jackpot for trial lawyers and Washington bureaucrats. The fact that it might help the children is irrelevant.

Mr. President, I, for one, was not elected to sock the American taxpayer with more taxes. If teens are really our target, we owe it to the taxpayer to first explore other non-price measures to combat youth smoking.

Turning to the bill's reliance on new government programs, I find it highly ironic that we are here debating a bill that will increase the size of the federal bureaucracy when this Congress is supposedly committed to reducing the federal government.

We also need to think long and hard about the bill's Orwellian approach—giving the federal government more power to look over our shoulders regarding the personal choices we make.

I urge my colleagues to learn from experience. Too many times in the past, Washington has raised taxes in the name of one feel-good social program or another.

This legislation is going to result in a massive price increase for the entire smoking population, including the 98 percent of legal adult smokers. I think it is important that my colleagues are aware of all the facts before they vote on it.

We should be concerned that the McCain bill will set a terrible precedent that will haunt us for years to come. If we begin to use the tax code as a coercive means of social engineering, then I submit that there is no end in sight.

Today, smokers will be asked to pay a huge share of their income to the federal government and tomorrow, who will be next?

We were supposedly sent here to see to it that the tax and spend era of big government ends. I'm not sure we're holding up our end of the bargain when we propose to pass legislation along the lines of the bill we're debating today.

This bill perpetuates a tax and spend mentality that our constituents have rejected. It sets us sliding down the slippery slope. It is a bad bill, Mr. President, and we need to move on to other matters.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate continue consideration of S. 1415, for debate only, until 4:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

VISIT TO THE SENATE BY MEMBERS OF THE PARLIAMENTARY DELEGATION OF THE REPUBLIC OF CHINA ON TAIWAN

Mr. HELMS. Madam President, I appreciate the distinguished Senator from Kentucky and his courtesy in yielding to me. We will not take long. I just could not resist the opportunity to bring this distinguished delegation to the Chamber. We have the parliamentary delegation of the Republic of China on Taiwan, headed by the Honorable Yao Eng-Chi, the official diplomatic representative to the United States.

RECESS

Mr. HELMS. Madam President, I ask unanimous consent that the Senate stand in recess for 3 minutes so Senators may pay their respects to this fine delegation.

There being no objection, the Senate, at 4 p.m., recessed until 4:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FAIRCLOTH).

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Madam President, there has been a lot of discussion over the last 4 weeks about teenagers and smoking. I would like to begin my comments at this moment by asking who might have more influence over teenagers and smoking—Joe Camel or Leonardo DiCaprio? If we continue on this bill—and it is my fervent hope that we will not, as I believe it is not in the best interest of the country—or if it should come back, as those on the other side of the aisle are promising that it will, we will not have another tobacco debate that doesn't deal with the real culprit, which is the influence of Hollywood on our children and their encouragement, after watching fashionable movies, to take up this habit in which none of us believe teenagers should engage.

An overwhelming number of children under the age of 18 regularly view motion pictures and television productions. A lot more of them do that than look at any cigarette advertising. Depiction of the use of tobacco products and illegal narcotics is widespread in motion pictures and in television productions. Such depictions have increased in recent years, as indicated by recent studies that have found, first, that 77 percent of all major motion pictures in 1996 portrayed the use of tobacco. Let me repeat that. Seventy-seven percent of all major motion pictures in 1996 portrayed the use of tobacco. Fifty percent of the top grossing films released between 1990 and 1996 depicted scenes in which the major characters smoked cigarettes; 78 percent of movies, over the last 5 years, include tobacco use, with an average of 11 smoking incidents per hour—11 smoking incidents per hour; 75 percent of movies that included tobacco use showed leading and/or supporting actors smoking.

As Hillary Clinton has explained, every single movie nominated for a 1996 Academy Award in the categories of Best Picture, Best Actor, and Best Actress featured tobacco use by a leading character. The Academy Award nominees for Best Picture in 1996 that featured this activity were: "The English Patient," which was the winner; "Fargo"; "Jerry Maguire"; "Secrets and Lies," and "Shine." All of them featured tobacco use by the leading characters.

These depictions often deceptively portrayed the use of tobacco and illegal drugs as healthy, desirable, and socially acceptable. As one would expect after hearing these facts and figures, teenage use of tobacco products and illegal narcotics is on the rise.

Mr. President, I am raising the issue of whether teenagers are more influenced by Joe Camel or by Leonardo DiCaprio. I am not going to ask for a show of hands from the pages that are up here in the front of the Chamber. But I think I know the answer. I suspect anybody in America would know the answer. Clearly, the influence on teenage smoking as a result of depiction of smoking and glamorizing of smoking in movies is a very, very serious problem and considerably more significant than advertising.

The depictions in the movies often deceptively portray the use of tobacco and illegal drugs as healthy, desirable and socially acceptable.

As one would expect after hearing these facts and figures, teenage use of tobacco products and illegal narcotics is on the rise.

Let's think for just a minute about some of the classic moments in cinema history where smoking is glamorized.

Humphrey Bogart in "Casablanca," James Dean in "Rebel Without a Cause."

We have here a blowup of "Rebel Without a Cause." Here you see James Dean featured with a cigarette in his hands. That was sort of my generation back in the 1950s.

More recently, Julia Roberts in "My Best Friend's Wedding," Jane Fonda in "Agnes of God," or "9 to 5," Rebecca DeMornay in "Risky Business," Olivia Newton-John and John Travolta in "Grease," which we have blown up again.

Here is Olivia Newton-John featured smoking in "Grease."

And who can forget the recent smash hit "Titanic," which I referred to on the floor earlier in this debate. Leonardo DiCaprio who is currently, I am told, the teen idol of America—I see a few smiles on a few pages' faces down here. I think I probably got that right.

Leonardo DiCaprio is "Smokin' Teen Idol", and appeared, of course, in "Titanic," the most watched movie of all time, "Romeo and Juliet," "Marvin's Room," "Basketball Diaries," and "This Boy's Life."

We know "Titanic" is the highest grossing movie of all time at $554 million. If we assume that ticket prices, including matinees, average $6, then we can fairly estimate that over 90 million people have seen this blatant glamorization of smoking. And, unfortunately, a disproportionate share of those 90 million people are our children.

Let's face it. Who is more adored by the girls and idolized by the boys, as I asked earlier—Leonardo DiCaprio or Joe Camel? And in a study sponsored by the American Lung Association, youth watched 50 top box office movies to evaluate smoking. The youth concluded that a significant percentage of the scenes involved tobacco use that was "sexy, exciting, powerful, sports-related, sophisticated and a means of celebration."

Mr. President, I think it is time that Hollywood took responsibility. We need to send a message to Hollywood. "Don't hook our kids on tobacco and illegal drugs."

Under the first amendment, we cannot and would not seek to deny the right of free speech to anyone. However, as the Senate, we can and should encourage Hollywood to take responsible steps to protect our children. We can make sure that at least the Federal Government does not costar with Hollywood in any movies that glorify or glamorize tobacco.

Let me repeat, we can at least make sure that the Federal Government itself does not costar with Hollywood in any movies that glorify and glamorize tobacco.

Now, Mr. President, had this bill continued, or if it continues—I hope that it will not, but if it does—I will be offering an amendment that would do this. The Federal Government currently grants permits to Hollywood for the production of movies and TV shows, and we have seen in recent years more and more movies, at least in part, depicted on Federal property. The Government has granted Federal film privileges to motion pictures such as "Top Gun," "Biloxi Blues," "The Hunt for Red October," "In The Line of Fire," "Clear and Present Danger," "True Lies," "Apollo 11," "Apollo 13," "Contact," "Air Force One," "Crimson Tide," and "A Time to Kill."

The Government currently makes these decisions based on the nature and the message of the proposed production. In other words, the Federal Government itself makes a decision whether or not to allow the use of Federal property, and it made that decision in each of those films. The Department of Defense decides whether to grant Federal filming privileges based on whether a production "appears to condone or endorse activities . . . that are contrary to U.S. Government policy."

Let me repeat. The current Department of Defense standard is as follows. They will grant the filming privilege based on whether a production "appears to condone or endorse activities . . . that are contrary to U.S. Government policy."

In other words, "Top Gun" is OK but "GI Jane" is not. So Government agencies are already reviewing scripts and deciding who gets Federal film privileges and who does not. So we ought to make sure our young people and tobacco are not left out of this review process. And the amendment I was going to offer, or would offer if we stay on this subject or come back to it, would simply say that no agency or department of the Federal Government may grant permission for the filming of a movie on Federal property where such movie depicts the use of tobacco or illegal drugs as healthy, desirable, or socially acceptable.

In other words, what I would do by this amendment, if and when I offer it, is require the Federal Government to make a decision about whether it is appropriate for movies filmed on Federal property to depict smoking. And the language should be that no agency or department may grant permission—in other words, we can't do it—for the filming of a movie on Federal property where such movie depicts the use of tobacco or illegal drugs as healthy, desirable, or socially acceptable.

Furthermore, the President has, as we all know, a lot of friends in Hollywood. That is fine. He is free to associate with whoever he chooses. He was just out there this week, I am told. So I would call on the President today to issue an Executive order—all of this could be done by Executive order—mandating that agencies comply with the provisions of the amendment I would have offered. In other words, the President can today or tomorrow issue an Executive order stating that no agency or department may grant permission for the filming of a movie on Federal property where such movie depicts the use of tobacco or illegal drugs as healthy, desirable, or socially acceptable.

Now, finally, Mr. President, had I offered the amendment—and I may well offer it; if we either stay on this bill or come back to it later, I certainly will—the second part of the amendment would be a sense-of-the-Senate resolution. No one is more sensitive to the first amendment than the Senator from Kentucky, so this could only be done as a sense-of-the-Senate resolution. And this sense-of-the-Senate would go something like this, Mr. President: A parent should have adequate information about the nature and content of motion pictures and television productions.

Part 2 of the sense of the Senate would be: The television and motion picture industries have developed rating systems that help provide such information. Point 3: These rating systems currently provide that motion pictures and television productions restricted to mature audiences should receive the designation of "R" and "TV-MA"—that is, TV-mature audience—respectively.

Such rating systems, Mr. President, however, provide insufficient information about the use of tobacco and illegal narcotics in motion pictures and in television productions.

The sense-of-the-Senate would be this, were I to offer it:

> It is the sense of the Senate that the television and motion picture industries should designate motion pictures and television productions with the rating of "R" and "TV-MA," respectively, if such pictures or productions depict the use of tobacco or illegal narcotics as healthy, desirable, or socially acceptable.

Mr. President, in conclusion, this is not an amendment I am planning to offer at this time but will offer later if we get back to this issue or stay on it. It would do essentially two things:

No. 1—and this is something the President could do today—is to prevent motion pictures which use Federal property from featuring smoking—and the President could issue an Executive order to do that today—and, secondly, to call on the television and motion picture industry to rate any production that features smoking with an "R" or "TV-MA;" that is, TV-mature audience.

Mr. President, I thank you for the time and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to make a few brief remarks, and then I note the presence of the Democratic leader in the Chamber, and I know that he and others have some comments.

But I think I would like to make a few brief comments now in anticipation that either tonight or tomorrow we will have a cloture vote on this legislation that we are now in our fourth week considering.

First of all, I would like to point out, we have a lot of charges that are hurled at the bill, a lot of exaggeration, and more than a little fiction. Just this morning, one of our colleagues said that the bill has gone from $368.5 billion to $858 billion from the money grab. That is astounding—if it were true, and it is not. The first figure fails to include inflation, look-back penalties, and the second one does in order to make it look outlandishly bigger. First, it used to be too big a bill and too much spending, and now there is a revenue shortfall. We have covered most of the bases, Mr. President. So I congratulate the opponents of the bill and the industry on their memory loss and their creative accounting.

When we decide the fate of this legislation—some have cast this as a vote over whether we believe in taxes or not—it is really a question of whether or not we believe an industry should be allowed to lie to Congress and the American people and get away with it; whether an industry should be able to target kids to addict them to a deadly product and get away with it; whether to allow an industry to manipulate nicotine to better hook its customers and get away with it; whether to allow an industry to quash critical public health findings and get away with it; whether an industry can pay billions of dollars in campaign contributions for protection against their misdeeds and get away with it.

This bill is not about taxes, it is about whether we are going to allow the death march of 418,000 Americans a year who die early from tobacco-related disease and do nothing; whether we are going to continue to heap $50 billion a year in smoking-related health care costs on the American taxpayer, and do nothing. It is about whether we are going to have the will to serve the public interest, or the special interests. So I hope every Senator, before making a decision about how he or she will vote, will be fully informed about what is and what is not in this bill, and whether they want to push the legislation process forward or to let it die.

First of all, briefly, what is in this bill? A major youth smoking reduction program that addresses the single greatest cause of death and disease in America and will help stop one million kids a year from taking up a habit that will kill one-third of them. It stops the $50 billion annual health care tax on Americans, which is nearly $455 per household per year. It has a major provision to address the illegal narcotics problem in America, and additional resources to find treatment and cures for deadly diseases including breast cancer, heart disease, lung disease and many others. It is a $190 billion tax cut. What I do not understand is some on the other side of the aisle who said they favored this bill when it came out of the committee with no tax cuts, now are opposed to a $190 billion tax cut. Nearly 40 percent of the bill now, as it sits, is to reduce taxes, and every penny above the June 20 settlement goes to tax relief.

Mr. President, $3 billion is earmarked for veterans who suffer from smoking-related disease. I have been over this issue before, but the fact is there is only one group of Americans that I know of that the Government encouraged to smoke, and that is the veterans who were conveniently left out of the ISTEA bill, as we so eagerly sought our highways and bridges and other pork barrel projects. Don't the veterans deserve something, Mr. President, in the way of treatment of tobacco-related illness from a Government that encouraged them to take up the habit?

There is a cap on legal fees on tobacco suits so that more money can go to victims and not lawyers. No one in this body believed that we would pass an amendment, for the first time that I know of in this body, that caps legal fees; it caps them from any future bills at $500 an hour. I will admit that is quite a bit of money. But the reality of that impact is that it is an enormous break for both individuals and groups bringing suits against tobacco companies.

It is a chance to settle State cases collectively and efficiently, and an antismuggling campaign that will stop those who today traffic in contraband.

I keep hearing, again, "giant programs and huge bureaucracies." The fact of the matter is there is no guaranteed spending in this bill for asbestos victims and none whatsoever for black lung. Spending on prevention, cessation research, international reimbursement, and for Indian health services, is all subject to appropriations, and there are no new Federal bureaucracies. All the functions will be conducted through existing Federal, State, local and private entities.

I really did not appreciate the resurrection of the old Clinton health care plan bureaucracy chart. I am tempted, with legislation that I see coming before this body which is supported on both sides of the aisle, to make up a chart. But there are no new Federal bureaucracies associated with this legislation.

We have heard that giving the FDA authority over tobacco is an abomination, even though the courts have already upheld FDA's ability to regulate nicotine under their current authority, giving them far more power than this legislation does.

We have heard that retail licensing is absurd, even though 46 States already have tobacco licensing programs, and both the National Governors' Association and convenience stores support their provisions, which is basically the same as alcohol. We have heard the concept of look-backs are absurd, even though the industry itself endorsed the idea last June. And every day, we cite drug statistics on this floor and give them great credence. They are based on the same premise of surveys that we would be using on determining whether we were reducing teenage smoking or not.

We have heard the bill contains Indian largess, and the Craig-Coverdell amendment eliminated the bill's authorization to set aside a percentage of money for Indian health services, although it is interesting to me that we seem to not understand that Indians, poorest of all our citizens, have a high incidence of tobacco-related illness and the Indian Health Service, like the VA, has spent vast sums of money covering smoking-related illness.

What has caused the change in attitude since we reported this bill out by a 19-to-1 vote through the Commerce Committee? I don't know. I will leave that to others. I do think it is of note that some $50 million or more, the estimate is a minimum of $50 million, has been spent on tobacco company advertising. I think anybody who believes that an advertising campaign of that magnitude does not have an effect, obviously is not aware of the effect of advertising in America.

What happens if we fail to invoke cloture, and after a lot of machinations that we leave this legislation and go on to other issues? I think it is important to point out that what happens is two things: One is that 36 attorneys generals go to court. They have said they will. They have cases pending. And the other is, of course, and most tragically, 3,000 more kids will start smoking every day that we fail to act.

I have heard comments on the floor today, finally, Mr. President, about defining the Republican Party, about how we act on this legislation will define the Republican Party. You know, there may be something to that. There may be something to that. Because maybe we ought to remember the obligations that we incur when we govern America. Maybe we might remember the principles of the founder of our party when we are defining the Republican Party and how we vote on this legislation. We might understand that our obligation, first of all, is to those who cannot care for themselves in our society and that includes our children. Isn't it our obligation, shouldn't it define the Republican Party, that we should do everything we can to handle this scourge, this disease that is rampant throughout young children in America? Does that define the Republican Party, or at least have something to do with the definition of our party? I hope my colleagues might understand what our obligations are.

I did not invent this bill. I did not seek the responsibility for it. But I believe in the strongest possible terms that we need to act. Otherwise we will act, sooner or later, and every day that it is later, more young Americans will die as a result of our inaction.

I yield the floor.

(Applause, Senators rising.)

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. LOTT. Mr. President, I did not hear all of the remarks of the Senator from Arizona. But I observe the applause that he just received. I join in expressing my appreciation to the Senator from Arizona for the work that he has done in taking this issue up in the Commerce Committee, being willing to deal with it, being willing to deal with the criticism both in this Chamber and other venues for the effort he has made. Also, I thank the Senator from Massachusetts for his cooperation in a number of ways, in the way he worked with Senator MCCAIN.

I do have some requests to ask that have been cleared with Senator DASCHLE, or he is aware of what I am going to ask for. After I make these motions, then I would like to just make some brief comments.

Mr. President, I ask unanimous consent that it be in order for me to file a cloture motion on the committee amendment to the tobacco bill, and at the hour of 5:15 p.m. the Senate proceed to vote on the cloture motion with the mandatory quorum under rule XXII having been waived.

I further ask that the time between now and 5:15 be equally divided between the two leaders or their designees. I further ask, if cloture is invoked, Members have until the close of business today to file first-degree amendments and until 10 a.m. on Thursday to file second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. Mr. President, reserving the right to object, may I ask the majority leader, does the majority leader intend to vote for cloture?

Mr. LOTT. Mr. President, I was going to explain that after I had asked these unanimous-consent requests. Since the Senator has asked, there has been a request and efforts made in the past to get cloture, to have cloture filed and have votes. We have had three of those. This is a cloture motion that we will vote on, instead of 2 days from now, go ahead and vote today to see where we are.

It is my intention to vote against cloture. I still think we should not cut off some of the amendments and substitutes that could be offered. We also still have the pending problem of what to do about farmers in this issue. But I think we need to see where we are.

I have, over the past several weeks, been hoping that we could come to some resolution on this matter, but we have spent 78 hours or more now and 56 minutes—I guess it is probably closer to 80 or 82 hours. I don't see how we are going to conclude this just by moving along at the slow pace we have been moving along. I think we need to see where the votes are. This cloture vote will give us that opportunity. I think it is important that we not have this vote occur next Monday or next Tuesday. If we file cloture today or tomorrow, that will be the result. After this cloture vote, then we will make a decision where to go from there.

Mr. KERREY. Mr. President, I will not object, but I wish the proponent of the vote on cloture will vote for the cloture motion. We will then discover where the votes are. I am prepared to move to final passage. There is a lot in the bill I don't like. I agree with what the Senator from Arizona said earlier. I believe it important to enact legislation. There are a lot of lives at stake. I wish you would discover where the votes are by moving to cloture, but also supporting the cloture motion you are going to file.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. I now send the cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee substitute to Calendar No. 353, S. 1415, regarding tobacco reform:

Trent Lott, John McCain, James M. Inhofe, Christopher S. Bond, Gordon H. Smith, Robert F. Bennett, Joseph R. Biden, Jr., Ted Stevens, Richard C. Shelby, Mike DeWine, Kent Conrad, John Glenn, Tom Harkin, John F. Kerry, and Frank H. Murkowski.

Mr. LOTT. Mr. President, I further ask unanimous consent that following the cloture vote, if not invoked, Senator STEVENS be recognized to raise a Budget Act point of order, and that the Democratic leader, or his designee, be immediately recognized to make a motion that it be waived, and that that vote occur immediately following the earlier vote without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object.

Mr. HARKIN. I reserve the right to object to that.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I want to ask the majority leader two questions.

First, with regard to the cloture motion, he and I have talked about this matter. The motion itself says:

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee substitute. . .

And it is signed, of course, by 16 Senators, including the distinguished majority leader. If, indeed, it is his position that he will vote against the cloture motion, I am curious as to how he can be signing the cloture motion.

Mr. LOTT. As a matter of fact, Mr. President, the motion has to be filed to get a vote on the cloture process. It doesn't mean that you will vote for cloture, and I don't want any inference to be made here that this is unusual. This is, as Senators on both sides know, done quite often by majority leaders, that they file cloture and on occasion vote against that cloture. So this is just a process to get us to a vote, to see where the Senate is, to see if the Senate is ready to cut off debate, and there is nothing unusual about that at all.

Mr. DASCHLE. Well, Mr. President, I just say, I have never heard of it before. I think it is highly unusual, but certainly that is the majority leader's prerogative. I just call attention to this interesting juxtaposition of filing cloture and then voting against it.

Another question I have relates to the Budget Act point of order. Is it the majority leader's understanding that those who vote not to waive the budget point of order will then be voting against those amendments that the Senate has adopted, including the amendment on marriage penalty and the amendment on drug enforcement; is that the understanding of the majority leader?

Mr. LOTT. Mr. President, I am sure that a lot of people will read into that vote and other votes any number of things, and I am sure that it will be described by Senators on both sides of the aisle in the way they would like to describe it, maybe even going so far as to impugn the integrity of Senators based on that vote.

But all that means to me, as the Senator says, is that we should not waive the Budget Act. We agreed to the Budget Act; we agreed to the budget last year. That is one of the major problems with this whole bill. The original concept that we try to get some limits on teenage smoking, to stop teenage smoking and drug abuse and to deal with some of the problems caused by smoking, that is one thing, but it has gone far, far afield from that.

I had planned to comment on some of those later, but I will go ahead and mention them now. The micromanaging in this bill, the exceeding of the budget caps—what really has happened here, while we have a good principle that we can all vote on something right now that will deal with teenage smoking if we wanted to and health problems caused by smoking, what has happened is a lot of people have figured out, "Oh, look, this is a cookie jar, this is a bill we can use to pay for all these programs that we are not going to be able to pay for"——

The PRESIDING OFFICER. May we have order in the Chamber in order that we may hear and understand the majority and minority leaders?

Mr. LOTT. "For these programs under the strictures of the budget agreement we had just last year." The Washington Post outlined it pretty clearly today. It is going to be tough to get the appropriations bills done, to get a budget done this year because of the constraints that we agreed to.

This bill violates the Budget Act in several instances, I think about six different points. At least one of them we are pointing out here today. That is all it means, that you don't want to waive the Budget Act, that we have agreed to pass this bill that started out well-intentioned, but has grown like top seed to the point where we have to decide whether we want to take this cup from our lips and move on or not.

Mr. DASCHLE. Mr. President, reserving the right to object, as I have, I simply ask that there be 5 minutes equally divided between votes so that we might talk about the specific vote and its ramifications prior to the time we cast it. I ask if the majority leader has any problem with that?

Mr. LOTT. I think that would be the way to do it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, reserving the right to object, I am a little confused.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. It is my understanding that the majority leader some 7, 6, 5, 10 days ago, told us that this bill would go nowhere unless we added a Republican provision relating to the marriage penalty. And now he is telling us that it violates the budget because we passed on this floor what he asked us to do.

I want to tell you, I find that incredibly fascinating. I don't find it unusual, I find it fascinating. I have to get this straight. Here is my question, and I will not object if I get an answer: Is one of the reasons why the Republican leader will argue that this is a violation of the budget agreement the fact that this bill now contains a tax expenditure of tens of billions of dollars to correct the marriage penalty, which all the Republicans voted for and told us we had to have? Is that one of the reasons why we violate the Budget Act? I ask that as a question of my friend.

Mr. LOTT. The violation of the Budget Act that I think carries the greatest weight is the exceeding of the caps that were agreed to by category in the budget resolution. That is the major problem with it.

Mr. BIDEN. Mr. President, I will not object, but it is a fascinating place.

Mr. DASCHLE. Mr. President, further reserving the right to object, just for clarification.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DASCHLE. There may be some confusion. I ask there be an intervening period of at least 5 minutes prior to the second vote so we can have an opportunity to discuss the ramifications.

Mr. LOTT. So everyone is clear, the cloture vote will occur at 5:15. Following that vote, if not invoked, the Senate will proceed—well, will have 10 minutes equally divided, and then proceed to the second vote on the motion to waive the Budget Act to allow Senator STEVENS and somebody on your side, some designee on your side, to speak on the particular budget point of order.

Therefore, there would be then two back-to-back votes at 5:15, with the 10-minute interval between those two votes.

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair. I would just like to make this comment and really express my profound disappointment. For those of us that are somewhat, relatively new to this body, I think to see a very consequential piece of legislation come a cropper in this way is extraordinarily disappointing. Obviously, what has happened is to kill tobacco reform.

There is no question about how it is being done. There is no search for alternatives. There is no search for where there may be a consensus in this body. And I think there are points where there is consensus. I deeply believe a bill can be put together which can deter teen smoking.

Mr. LOTT. Mr. President, would the Senator yield on that point, because I would like to commend her for some efforts in which she has been involved?

Mrs. FEINSTEIN. May I finish my train of thought for a moment?

That there is the possibility—I watched the McCain bill come out of committee. And then I watched the amendments go on. And then we sat down to do our due diligence and took a look at the impact that the amendments have on the bill. The Gramm and Coverdell amendment took $16.8 billion off of it. The marriage penalty took, I think, around $31 billion off of it. It ate up all but a very small amount of the public health money.

Yet the very party that put these amendments on a tobacco public health bill—drugs, taxes—now is going to kill that bill, and no calling together any kind of opportunity for consensus.

I make no secret that I have been working with the chairman of the Judiciary Committee to try to put something together. It isn't perfect. It took what we saw were points at issue here and put them in a form where we thought there could be concurrence. And yet the way we are going to leave this debate, I have no doubt that the Republican Members of the U.S. Senate are clearly going to kill any form of tobacco reform; they are going to kill campaign-spending reform and they are going to kill tobacco reform. I, for one, who tries very hard to work across the aisle, find that just reprehensible.

Mr. Majority Leader, I would sincerely hope that there would be some leadership to take the remnants of what we can do and put it in a bill to send to the House. I have no other—I tried now——

Mr. LOTT. Would you yield, because I would like to respond to what you are saying there?

Mrs. FEINSTEIN. I would be happy to yield if I could just finish. I have been trying to, as Senator KERRY knows, make a simple amendment to the bill since last week. Can't get in line. Wait, wait, wait. Can't get in line. Then we go into gridlock. And I just find it all a very sorry mess.

Mr. LOTT. Mr. President, if the Senator will yield, I agree with that part of it. It is a sorry mess. We have gotten into gridlock. And there are lots of explanations for that. I don't think we should start blaming one Senator or one side or the other.

But I wanted to commend the Senator from California for the efforts that I was under the impression she had been making with Senator HATCH and others, perhaps on both sides of the aisle, to come up with a bill much different from what is before us—smaller, probably, by $100 billion, with all the components that would really be needed.

I want to remind the Senate that I have given a lot of time and a lot of personal effort and have taken a lot of flak for trying to find a way to get a bill through here that was responsible enough that we could choke it down in a reasonable period of time, and we are not there. And I cannot figure any way to get a bill that would be credible that we could get through here.

In fact, when we have had some critical votes, they went the wrong way. I am not blaming that on one side or the other. There were some votes on our side that were really disturbing to me, that you are really trying to get something.

But what is wrong with this bill now is it has lost sight of the original noble cause of just dealing with the question of teenage smoking and drug abuse, if you want to add that—and I think we should—and some limited effort to address the problems for the States on health problems caused by smoking or research.

But we are talking about a bill very different than what you are talking about. If we could wind up somewhere in the area that you are talking about, I would support that. And I want to note that when this point of order is sustained, or we do not waive the Budget Act, the bill does not disappear. It goes back to the Commerce Committee.

There has also been a suggestion that we consider having a task force to see if we could come up with something that could resurrect this in a way that would be much smaller, to do what we say that we want done, but without these massive micromanaging government controls that we see in this bill.

Most Senators are not happy with this bill. I mean, some don't like it because of, perhaps, the marriage penalty tax, although I think, generally speaking, everybody realizes that is going to happen; it is a good idea.

But we have major problems with it over here. But we are stalled out with no end in sight. Even if we get cloture today, which, you know, I hope we don't, there are about seven other opportunities for cloture motions to be filed.

The Senate, in its unique way, has not reached a consensus here. We have not reached a consensus. It is like Senator McCain has said before: We can guarantee a vote; we can't guarantee a result. And until we find a way we can get together on something that is much smaller, that is targeted and limited, that is not just more Government from Washington, dictates from Washington—I mean, this thing even has requirements in here that not only you can't have smoking in Federal buildings, you can't even have smoking in front of Federal buildings.

Mr. NICKLES. Any building.

Mr. LOTT. Any building.

Mr. DASCHLE. Parliamentary inquiry.

Mr. LOTT. That is just one example. At any rate, I thank you for yielding. I thank you for your effort. Don't give up.

Mr. DASCHLE. Parliamentary inquiry.

Mrs. FEINSTEIN. If I may just finish my statement for a moment, it was my understanding that at the present time the only game in town, so to speak, was the McCain bill, that we could vote out the McCain bill, it would go to conference, and a bill could be written.

Now, Mr. Majority Leader, based on what you are saying, there will be no bill at all that would go to conference; ergo no bill, period. That is what I find very disturbing.

I am prepared to vote for the McCain bill, with the view that it goes to conference, and perhaps some of the ideas that Senator HATCH and I, and others, Senator JEFFORDS, Senator BREAUX, Senator TORRICELLI have—that might prevail in a conference setting. So I will just, most respectfully, urge you to reconsider, vote out this bill. Let us not give up the issue of tobacco reform.

I thank the Chair for your forbearance. I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, and I will not, but does the majority leader understand that there will be an opportunity for this body to offer this particular measure, the McCain bill, on any other piece of legislation that is coming down the pike? This may go back to the committee, but it ought to be very clear to this Membership that this issue is not going away and that this body ought to get prepared to consider this legislation on every appropriate measure.

I have no objection.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Reserving the right to object, 11 years ago, I offered a bill in the House of Representatives to ban smoking on airplanes. I passed that bill by five votes. And since that bill passed, in the 11 years since, I have had any number of Members who came up to me and said, "I voted against you that day, Congressman DURBIN, but I was wrong. And I realize I was wrong. I was on the wrong side of history."

I want to tell you, the folks today who are killing this tobacco bill on the floor are on the wrong side of history. In defending the tobacco companies, they are defending the indefensible. In refusing to protect our children, they are attacking the vulnerable.

We can talk about all the procedural votes that we want to. We can talk about filing motions and voting against them, points of order, and all the rest. The bottom line is, for almost 4 weeks now we have endured countless amendments from those who have no use whatever for this bill, most of which have been adopted, and now the people who offer the amendments successfully are telling us, let's walk away from this, we don't like it after all.

I think the American people will see through this. Although the procedural battle may be won today, ultimately the folks who opposed this tobacco legislation are on the wrong side of history.

Mr. STEVENS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I am liable to object unless we get an agreement to get the agreement in order.

I was supposed to have half this time and the other side half the time. Now my half will be less than one-eighth. I don't object. Let's get the agreement.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, what is the parliamentary situation, may I ask, in terms of time?

The PRESIDING OFFICER. The time is equally divided between the two leaders or their designee.

Mr. STEVENS. Between now and what time?

The PRESIDING OFFICER. 5:15.

Mr. DASCHLE. Mr. President, I assume that means there is approximately 12 or 13 minutes per side.

The PRESIDING OFFICER. 12½ minutes.

Mr. DASCHLE. Mr. President, I will designate our manager as the manager of our time, Senator KERRY.

Let me make a couple of brief remarks. Many of our colleagues, obviously, want to speak to this issue.

First of all, our caucus is united, as we have been throughout this debate, on this very important issue. I hope the American people will see it for what it is. We are not deceived, and they shouldn't be either. This will be an effort, this afternoon, to kill this bill. The gun is on the other side. They will shoot it dead. It will be dead if those votes occur this afternoon as we predict they will vote. That is a tragedy. That is a tragedy. Three thousand kids a day start smoking; 1,000 kids a day die early because they started too early. That is what is at stake.

I hope it is more than just a coincidence that, a night after we raised $10 million downtown, they raised $10 million downtown.

We vote today to kill the tobacco bill. I am amazed, really, at the logic of some of our colleagues on the other side. How many colleagues have come to the floor to say we cannot pass this legislation until we include the marriage penalty, until we include the drug amendment, until we include some cap on lawyers' fees. Guess what. We spent the last 4 weeks doing just that: We passed a marriage penalty; we passed a drug enforcement amendment; we passed, now, some limit on legal fees. I will guarantee that virtually every one of our colleagues on the other side, in spite of that, having voted for it, will vote to kill this bill.

It is amazing to me that I have heard even our majority leader say we can't pass this legislation until we address the marriage penalty, that we can't address this bill completely until we have done the drug issue. We have done those, and now we are being told it is too heavy, we can't pass it.

The majority leader just said, "I can't think of a way to bring this to closure." I can. If the Democrats were in the majority, we would bring this bill to closure, because I would vote for cloture. I would vote for cloture this afternoon, and every one of our Democratic colleagues would vote for it as well. We would bring an end to this bill. There is no mystery to it. You get 60 votes. We have more than 40 on this side. All we need is a fraction of the caucus on that side and we would bring this vote to closure. There is no mystery here.

Let me say, as my colleagues have noted, this is not over. This bill may be dead, but tobacco legislation is not dead. We will continue to come back. I will tell my colleagues right now, we will not let this issue die. We will continue to come back. There are, as the Senator from California noted, some principles that ought to unite us as Republicans and Democrats. We ought to be united on stopping kids from smoking. We will continue to pursue other methods, other ways, other legislation, but we will keep at it.

So I hope we can agree on principles. I hope we will all agree that even though that bill may die today, the issue does not die. The issue will continue to live until we are victorious.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Alaska.

Mr. STEVENS. Mr. President, I am one of the members of the Commerce Committee who voted to report this bill. I think I am one of the Members of the Senate who does not take tobacco contributions. And I have very serious intentions to see to it that there is a bill passed.

But I am also chairman of the Appropriations Committee, and we have 13 bills to pass. We have taken 4 weeks, now, on this bill, and I don't see any hope that it will be finished before the Fourth of July recess, the way things are going. Now, this country has to have a government and it has to have the appropriations bills come out of our committee.

Members of the Senate seem to think that we are sort of the obnoxious people who bother them all the time until the time comes to decide what goes in those bills, and then I have a lot of friends. I am not going to have a lot of friends on what I want to do today, and I am sure there are people who are going to get involved, and unless the chairman of the Budget Committee wishes to make a point of order, I will make a point of order that if cloture does not come into effect—we have known all along, Mr. President, this bill violates the Budget Act.

When I voted to bring it out of the Commerce Committee, I did so on the basis that we thought we could clean it up on the floor and eventually get it to conference, where it would become a bill that we would all be proud of. The trouble is, now it is just too complex and involves too much money.

I decided to get involved when I heard about CBO's latest letter that went to Senator LUGAR, chairman of the Agriculture Committee, and pointed out that over 25 years this bill would be in effect, the cumulative cost of title X is $28 billion and the cumulative cost of title XV is $18 billion. That is just two titles. This bill is totally out of whack with the Budget Act.

When I bring a bill out here for the Appropriations Committee, our whole committee brings it out. We are subject to a point of order if we violate the Budget Act. The beauty of anybody who deals with the legislative process is, you are not subject to points of order until you get to the point that it is so extreme, as this one is, and now it does violate the Budget Act.

I believe that it should go—I have suggested the idea of a task force being created. I agree with what the Senator from Massachusetts said actually. We are going to see something come back here. This concept of trying to deal with tobacco and its impact on society is not gone. But this bill has become too complex and too bulky, too cumbersome. We can't agree even on what amendments to be offered next, and we are not sure what the amendment does from the titles that are already here.

Now, I had hoped that I could stay with my good friend from Arizona and provide support to get this bill to conference. I don't see any hope of going to conference. I am taking the floor to announce that while I am still for a bill that would try to satisfy what the 40 attorneys general tried to do in trying to find some way to settle this matter, I am not for a bill that continues to create more commissions, more boards, more entities, more spending, and does so in the name of spending the money that will come out of the tobacco settlement.

This is a bill to spend money out of the tobacco settlement. It is not a bill to deal with stopping smoking by teenagers, but particularly targeted young women—which is something I have always been appalled by—the targeting of young women by the tobacco industry.

As a practical matter, we spent too much time on our bill. We must get back to our regular, ordinary, drudge work of getting the 13 appropriations bills through the Senate and to the President.

If no one else makes a point of order after the cloture on the vote, if cloture is not invoked, I will make that point of order.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Idaho.

Who yields the time?

Mr. LOTT. I yield 2 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, I have sensed an effort to express a great deal of outrage here on the floor of the Senate this afternoon. I am outraged that there are a good number of folks who would like to hide behind the idea of teenage smoking to raise more taxes than this Senate will ever have raised with the sweep of one vote and to create more official bureaucracies in big government than we have ever created by one vote. That is exactly what you are tending to do.

Let me tell you where the outrage is. It is outside the beltway. It is the average taxpaying citizen who says, "By golly, they figured out another way to do it. They balanced the budget. Now they will raise nearly $600 billion in taxes and they will create all kinds of bureaucracies."

And the latest polls—and they are not biased polls, they are taken across the board—say that this bill will not stop teenage smoking. Why? Because we don't go at it how you go at a teenager. I am all for making tobacco a controlled substance, and I think this Senate is. I want to get tobacco out of the hands of teenagers, and we ought to. We ought to do exactly what the States are doing. If you drink or you attempt to acquire liquor as a teenager, you lose your driver's license.

But we are not saying that. We want to create great schemes; we want to raise hundreds of billions of dollars. I say, let's go get the tobacco companies, but let's talk the right talk about how we deal with teenage smoking. That is what the issue is here.

I am all for pulling this bill down. Maybe we will come to our senses and craft something limited, something directed, and something relatively simple. And the American people will say: I believe they are serious. Right now, the American people are saying—that $30,000 and lower-income group—you are really laying it on us heavy. You are going to take it away from us and you are going to try to give it back? It doesn't make a lot of sense. Then again, for 4 weeks we have not made a lot of sense. We have postured politically, but we haven't done the right thing for America's teenagers.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time remains?

The PRESIDING OFFICER. Eight minutes.

Mr. BIDEN. Will the Senator yield me 30 seconds?

Mr. KERRY. First, I yield 1 minute to the Senator from Iowa.

Mr. HARKIN. Mr. President, I agree with the previous speaker. There have been a lot of things not making sense. On Friday, June 5, the majority leader said, "If we don't add something on the marriage penalty, tax relief, and on drugs, there will not be a bill." Two days later, he said, "This has gone way beyond trying to do something about teenage smoking. Greed has set in. This is about money grubbing; it's about taxing people and spending on a myriad of programs. We have lost our focus."

That was the same person—in 2 days, two different things. Yes, there has been a lot of confusion around here on this bill. I think it is very clear. If this bill goes down today, Joe Camel wins, and our kids lose—3,000 a day will lose, and Joe Camel wins.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. I yield 30 seconds to the Senator from Delaware.

Mr. BIDEN. Mr. President, it is clear that the tobacco companies have no shame. My question for this body is: Have we no shame? What are we about to do? Nothing will happen to protect our children when this goes down. Have we no shame at all?

Mr. KERRY. I yield 1 minute to the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is not the end of this issue. It may very well be the beginning of the issue, because the Democratic Party and the American people are not going to let this effort die. It may very well be that the final vote on this issue is cast on election day.

This is not a whodunit. We know who has done it. It is big tobacco and the Republican Party. They may mug this bill in the Senate of the United States today, but they cannot kill it because it will not die, and we won't let it die.

Mr. ROBB. Mr. President, from the outset I had hoped to be able to vote for a bill that would effectively reduce underage smoking and I still hope to do so during this session of Congress.

I continue to believe that a resolution of the issues surrounding tobacco are in the best interests of all interested parties—not just children, but also the public health community, plaintiffs, tobacco workers, tobacco companies, tobacco farmers and their communities.

After nearly four weeks of Senate debate on this bill, however, the bill currently before us has lost its focus and falls well short of a reasonable resolution of the issues involved here. In fact, it actually undermines the original goals of the legislation. And with as little discernible benefit to the public health in the legislation as it currently stands, I cannot support a bill which unfairly places too heavy a burden on too many people I was sent here to represent.

First, this legislation currently places no limits on the liability of tobacco companies. While I understand the desire of many of my colleagues to punish the companies for their past behavior, the fact of the matter is that a liability cap is needed to entice consent from the companies to modify their speech and limit their advertising and marketing practices.

Second, this legislation now contains tax and spending measures which have nothing to do with the underlying purpose of reducing teen smoking. By approving amendments to add tax relief and anti-drug spending to the bill, we have usurped valuable funds for medical research and public health efforts to combat teen smoking as well as put in jeopardy funds for tobacco farmers, tobacco workers and their communities as they transition into a new era.

Third, this legislation relies on highly regressive taxes to accomplish its goals rather than individual responsibility. If raising the price of cigarettes by $1.10 a pack was the only way to tackle the problem of teen tobacco use, I would not hesitate to assess it. But I don't believe that is the case. In my view, there is too little certainty on the question of what will actually stop teens from smoking to assess such a large and regressive tax on adults. Since only 2% of the cigarettes purchased are actually used by children, I would prefer a much more precise approach than a tax on the other 98%, particularly when that tax disproportionately affects lower income individuals. A much better approach in my view is to enhance marketing and advertising restrictions, toughen retail enforcement, and make adolescents more accountable for the decisions that they make, like taking away their car keys if they use tobacco products.

In sum, Mr. President, I said from the outset that I was not only willing to support a tobacco bill but believed it was in the best interests of the country to resolve these issues. I applaud the President for his leadership on the issue as well as our colleagues who have worked in good faith to create a fair and effective bill. But this bill, as it currently stands, has become a patchwork of initiatives that are entirely unrelated to the issues surrounding tobacco and teen smoking. For this reason, I cannot in good conscience lock in the current provisions of this bill by voting for cloture. I sincerely believe that this body has the ability and the desire to craft a piece of legislation that is both an effective tool in the fight to reduce teen smoking as well as an effective resolution of all issues surrounding tobacco.

I don't intend to give up on resolving these difficult issues and I look forward to working with those colleagues who sincerely want a bill, not just an issue.

I believe we can and will succeed in due course.

With that, Mr. President, I yield the floor.

Mrs. HUTCHISON. Mr. President, I believe the Senate should act on legislation to address the problem of teen tobacco addiction, but am troubled by the tax and spend aspects of the legislation as it now stands. I support an approach that is closer to the agreement reached by the states attorneys-general a year ago this week. That agreement combined tough restrictions on advertising and a commitment by the states to address teen tobacco use.

I have worked with Senator ORRIN HATCH of Utah and other Senators to co-sponsor legislation codifying the attorneys-general agreement. Our legislation is a responsible and credible effort to achieve the goal we all share: ending smoking by underage youth. If we cut off debate on the McCain tobacco legislation, the rules of the Senate would prevent debate on the Hatch bill or any other responsible alternative. I cannot support that. Therefore, I will vote against cloture.

We will have other opportunities during the 105th Congress to consider alternatives to the McCain bill. I intend to work hard to pass legislation that includes voluntary restrictions on industry advertising to young people and a substantial commitment to smoking cessation programs for minors.

Mr. KERRY. Mr. President, I reserve the balance of our time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. Six minutes remain for the Senator from Oklahoma. Five minutes 50 seconds remain for the Senator from Massachusetts.

Mr. NICKLES. I yield to the Senator from Missouri 2 minutes.

Mr. ASHCROFT. Mr. President, this bill may be about tobacco and about smoking, but I think it is more about a smokescreen. Constantly, it is suggested that this is a bill which penalizes tobacco, but the tax falls upon the American people. There is a specific provision in this bill that requires that the $868 billion assessment goes to the consumer. Sixty percent of those people earn less than $30,000 a year and 44 percent earn less than $10,000 a year.

This is not a hit on the tobacco companies for that money. There is a requirement in the bill that the money be collected from these hard-working, low-income Americans. This is a massive tax on low-income Americans, and it is used to proliferate the bureaucracy of this Government—17 new boards, commissions, and agencies, and hundreds of new functions and responsibilities.

It is time for us to say no. When it comes to a habit that needs to be broken, the tax-and-spend habit of the U.S. Congress must be broken. Here it is time for Congress to break the habit. That $868 billion in new taxes that will be focused upon hard-working Americans to fund Government programs, including a $350 million annual disbursement to foreign countries to conduct studies of smoking, is not what the American people expect.

This is tax and spend. This is Government bureaucracy. It is time for us to stop and give the American people tax relief instead of the kind of burden that this bill imposes.

I reserve the remainder of the time.

Mr. KERRY. Mr. President, I yield myself 1 minute.

Mr. President, let's understand very clearly what is happening here. To use the word "tax" is to use the word that has been the centerpiece of a billion-dollar advertising campaign. If this is a tax, this is the one tax in America that nobody has to pay—nobody—unless you buy a pack of cigarettes. This is a tax that is purely voluntary, and the countertax is the tax that millions of Americans pay for the cost of people who do smoke, who get sick—all of America pays the tax for those who smoke. The tax that our kids pay is a tax called dying—30 percent of those who smoke. And those who started since this debate began are going to die as a result of this habit, and the Senate today is refusing to do something about that.

Now, every time that a Republican bill has come to the floor of the Senate this year, it has been accompanied by a cloture motion that the majority leader joined in and was prepared to set up a structure in order to close debate. This is the first bill that has gone on for 3½ weeks. Not one Democrat amendment—not one—has added a penny to the cost of this bill.

We are going to give a new definition to hypocrisy in the U.S. Senate today, because the very people who brought us the marriage penalty break, who brought us the drug program, the very people who brought us the additions of every penny in this bill are going to come to the floor today and say, point of order, Mr. President, forget about the kids, we are going to turn around and tube the entire tobacco bill no matter what we did before. It was a Republican amendment on each one of those efforts. Not one Democrat amendment has added a penny to this bill. That is critical.

I yield 30 seconds to the Senator from Oregon.

Mr. WYDEN. Mr. President, around this building now there is that army of high-priced tobacco lobbyists who are getting ready to celebrate tonight. It looks like the tobacco industry is going to win a big round in this fight. The children lose. The powerful will beat out the powerless.

But this fight is going to have other rounds. And to those who think that the Senators who are trying to protect the kids are going to give up today, I ask, "What are you smoking?" The health of millions of our kids is worth a long, hot summer of debate in this Capitol. Get ready for it, folks.

Mr. KERRY. Mr. President, I reserve the remainder of our time.

Mr. NICKLES. Mr. President, what time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 4 minutes 5 seconds, and the Senator from Massachusetts has 3 minutes.

Mr. NICKLES. I yield the Senator from Washington 1½ minutes.

Mr. GORTON. Mr. President, a year ago on Saturday, the attorneys general of most of the States of the United States reached an agreement with the tobacco companies. Those attorneys general understood that in order to have real control over tobacco sales and advertising such an agreement needed to be reached. Members of this body have never understood the fundamental fact that without that agreement, the basic restrictions on advertising, on look-backs, and on the like are blatantly unconstitutional.

As a result, we have a bill before us that is unconstitutional, steals the money that the States' attorneys general earned for themselves, and provides no incentives for tobacco companies to operate responsibly.

If we reject it, either we will get out of the hot rhetoric of this body with a small group who came up with a responsible bill, or the States will go ahead themselves. People will be protected. They were protected by the States, in the first place. They will be protected by the States if we fail to act responsibly. This bill is not remotely responsible.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, let me just point out that the very thing he just called for they voted against, bringing in industry. They came in and took away the cap. Each time there is something they want, they take it away and use it as an excuse to kill the bill.

I yield 35 seconds to the Senator from North Dakota.

Mr. CONRAD. Mr. President, the fact is there are no new bureaucracies in this bill. Those have been taken out. Our friends on the other side talk about taxes. They talk not at all about the taxes that are being imposed on every American to pay for the costs that are imposed on society by the use of this industry's products. This is a defining moment.

The question is, Are we going to protect kids or are we going to protect the profits of the tobacco industry?

The estimates by the experts are that this legislation would save 1 million children's lives. The costs for the reduction in industry profits are $4 billion.

That is the question before the Members of this body. Do we protect our kids' lives or do we protect the profits of the tobacco industry?

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. NICKLES. Mr. President, I yield the Senator from Tennessee 1 minute.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I think that the premises on which this legislation began were faulty. And I think they still are.

I think it is basically the premise that in order for us to express our hatred for the tobacco companies and in order for us to express our love for our children, we must pass a tax increase in excess of $800 billion a year over a 25-year period, which is three times our annual defense budget.

That, Mr. President, is a faulty premise. It is based on the faulty premise that we can raise taxes and raise the price of cigarettes to a point that it will discourage youth smoking; we can raise it high enough to do that but not so high as to create a black market. I understand that one out of every five packs of cigarettes sold in the State of California today are black-market cigarettes. It is based upon the premise that if you will raise prices of cigarettes that the youth of America will substantially decrease smoking, even though there is no evidence to indicate that.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. One minute 50 seconds.

Mr. KERRY. I yield 45 seconds to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, when I was a little girl, my mother used to tell me about my grandfather, who I never met, because he died very young from a smoking-related illness. I heard about how wonderful he was. And my mother, I remember her saying almost every day of my life, "Don't smoke. Don't smoke." Little did I know then that I would have a chance to do something to turn this epidemic around. And what happens tonight? We are sitting here and are going to see those on the other side kill a chance to make a difference by killing a bill that people are going to continue to die from. It is as simple as that.

I just want to say I watched those amendments that were loaded on. Those were amendments from the other side of the aisle, which they said they had to have to vote for a bill. Now they don't even vote for a bill. That shows you the power of the tobacco companies.

Mr. KERRY. Mr. President, I reserve the remainder of our time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. One minute 33 seconds.

Mr. NICKLES. Mr. President, I urge my colleagues to vote "no" on the cloture vote. We have already had three cloture votes. This is going to be the fourth. This is our fourth week on this legislation. If cloture is invoked, I guess we will probably spend another 2 or 3 weeks on this legislation and not do the work of the Senate.

Why should we get rid of this bill for the time being? I heard one of my colleagues say that there are no new programs in this bill. That is not correct. There are lots of new programs in this bill. We don't have a current international tobacco control awareness program that gets $350 million a year for the next 5 years, and then "as such sums as are necessary." That is in this bill. We presently don't have a tobacco farmer quota payment of $1.6 billion per year that is going to make some tobacco farmers multimillionaires. That is not current law. It would be if this bill became law. We don't have a situation right now that gives advantages to one cigarette company over another one. Under this bill, some companies have an increase in price of at least $1.10. Some have zero. Some we increase the price of smokeless tobacco by 80-some cents; others, only 50-some cents. That is in this bill.

There are lots of reasons to be against this bill. This bill prohibits smoking in buildings that are engaged in international traffic and international trade—far greater than any restriction on any Federal building. This bill goes way too far. If we vote cloture——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. I ask for 1 minute of the leader's time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. NICKLES. If we invoke cloture, we will not have the ability for a substitute. Senator HATCH has a substitute with Senator FEINSTEIN. It will not be offered. The Gramm amendment won't be offered and couldn't be offered.

So I urge my colleagues to vote "no" on cloture. If we have a point of order, every dime of this bill is above the budget, the budget the President agreed to with bipartisan Members of Congress last year. Clearly, a budget point of order should be sustained. This bill is above the budget. It breaks the budget. It is a violation of the budget agreement which the President agreed to with Members of Congress.

I urge my colleagues to vote "no" on cloture and then to sustain the budget point of order.

I thank my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute remaining.

Mr. DORGAN. Mr. President, parliamentary inquiry. I ask that the 1 minute be restored to our side of the aisle which was taken from the leader's time on the other side of the aisle.

Mr. KERRY. I ask unanimous consent that I also have 1 minute of our leader's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I yield the 1 minute remaining of the time in the original agreement to the Senator from North Dakota, and I reserve the remainder of the time for myself.

Mr. DORGAN. Mr. President, there are two lessons that we are learning here today: First, money talks; second, the tobacco companies have money and kids don't.

We have heard people say this is an issue of taxing and spending. Of course it isn't. They are trying to change the subject. The issue is very simple. When the roll is called, the question is, Who do you stand for? Do you stand for the tobacco companies or do you come and stand on the side of kids? If you stand for the tobacco companies, understand this: If enough of you do it, and you prevail, this issue is not over. It is coming back and back and back again, and eventually enough Senators will stand for the interests of kids and the interests of preventing teen smoking in this country. And we will prevail.

Mr. KERRY. Mr. President, let me just say quickly, with respect to the chart that was shown, there are almost no new programs in this. Those were existing programs. Most importantly, there is only one board. The flimflam artistry of this is really political. The Speaker of the House and the House of Representatives do not want a vote on this bill. They fear this bill. NEWT GINGRICH has had a contract out on this bill. And the Republicans on this side, this afternoon, are going to be the "hit people" for that contract because they fear voting for this bill. They have said they won't take it up.

Every amendment that came to the floor that has changed this and that has supposedly weighted it down are by the very Members who today will vote against this bill because it is weighted down. This bill is a bill that sought to do what 19 members of the Commerce Committee approved. We didn't raise the tax; that fact was agreed to in raising the price of cigarettes by the companies themselves. That price wasn't even raised on the floor of the Senate. The Democrat amendment failed.

So what we have here is a choice between kids or the tobacco companies—kids or the tobacco companies.

CLOTURE MOTION

The PRESIDING OFFICER. All time on the motion has expired. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute to Calendar No. 353, S. 1415, regarding tobacco reform.
>
> Senators Trent Lott, John McCain, Ben Nighthorse Campbell, James Inhofe, Christopher Bond, Gordon Smith, Robert Bennett, Joe Biden, Ted Stevens, Richard Shelby, Mike DeWine, Kent Conrad, John Glenn, Tom Harkin, John Kerry, and Frank Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute amendment to S. 1415, the Universal Tobacco Settlement Act, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—57

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Frist
Glenn
Graham
Grassley
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Rockefeller
Roth
Sarbanes
Smith (OR)
Snowe
Torricelli
Wellstone
Wyden

NAYS—42

Allard
Ashcroft
Bond
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
Domenici
Enzi
Faircloth
Ford
Gorton
Gramm
Grams
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Robb
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Specter

The PRESIDING OFFICER. On this vote, the ayes are 57, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Under the previous order, the Senator from Alaska is to be recognized, but the Senate must be in order. Will the Senators in the aisles engaged in conversation take their conversations elsewhere.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I raise a point of order that the tobacco bill violates section 302 of the Budget Act as a result of exceeding the committee's spending allocation.

The bill violates section 302, but I will highlight problems with the substitute.

In my judgment, the substitute is vulnerable to a point of order under section 302(f) of the Congressional Budget Act of 1974, as amended. Section 302(f) provides a point of order against legislation that would cause the spending allocation of the Committee reporting the bill to be exceeded. The bill was reported from the Committee on Commerce, Science and Transportation and the direct spending contained in this bill exceeds that Committee's allocation.

As a matter of fact, the bill and the substitute violate section 302(f) in a multitude of provisions.

For example, the substitute contains a State Litigation Settlement account. Amounts allocated to the account would be automatically appropriated and available for grants to States. Once again, the Appropriations Committee's jurisdiction will be reduced and not subject to annual allocation. CBO estimates new spending of between $5 and $6 billion per year from this account.

The substitute would prohibit the sale of cigarettes in vending machines and provides for paying the owners of cigarette vending machines (other than machines that could be used for other products) an amount equal to the fair-market value of the machines before the prohibition (section 1262). The legislation states that such payments would be subject to appropriation, but other provisions make it likely that the government would be required to make the promised payments even if discretionary appropriations are not provided. CBO estimates new spending of a billion dollars per year from this account over the FY 2000–2002 period.

The PRESIDING OFFICER. Is the Senator making a point of order or is he debating?

Mr. STEVENS. I did make it, yes, against the bill.

The substitute includes two titles that provide spending from a Farmers Assistance Allocation account established in the bill. According to CBO both title X and title XV would provide direct spending authority. CBO estimates that title X would increase direct spending by $18 billion over the 1999-2008 period and that title XV would increase direct spending by a billion dollars in 2009 and by half a billion dollars annually from 2010 through 2023.

The substitute contains additional provisions that would cause additional direct spending. These provisions would require Medicare to pay for a demonstration project of cancer care (section 455), Medicaid to cover tobacco cessation products, (section 221). In addition, the bill would prohibit the Federal Government from recovering any of the payments made to States under this legislation as overpayments of Medicaid costs to the States (section 451(a)(5)).

I believe the point of order is valid. I yield the remainder of the time to the Senator from New Mexico.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

MOTION TO WAIVE THE BUDGET ACT

Mr. DASCHLE. Mr. President, I move to waive the Budget Act for the bill, the committee substitute, and the pending Gramm motion to recommit.

What is the parliamentary order, given our unanimous consent agreement? How much time is on each side?

The PRESIDING OFFICER. Ten minutes equally divided, five minutes to a side, to debate the motion to waive.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DASCHLE. I yield myself a couple of minutes, and then yield the remainder of the time to the distinguished Senator from Massachusetts and the Senator from New Jersey.

Mr. President, let there be no misunderstanding what it is we are doing here. This is one more effort to kill this bill. If it wasn't dead the first time, they are going to try to ensure that on the second shot it dies. That is what this is about.

I think it would be much better if we just voted it up or down, yes or no. Instead, some of our colleagues on the other side are hiding in the rocks. They want to shoot and kill that bill so nobody knows who it was who killed it.

Well, this will kill it pure and simple, and it is a cynical approach to killing it, because it is an amazing demonstration, in my view, of political juxtaposition here that the very Senators who will vote to kill it by not supporting the waiver on the point of order are the very Senators who offered the amendments on taxes and on drugs and on the other amendments that brought us to this point. The very Senators who said we have to have a tax bill, we have to have a drug bill, we have to have all these other amendments added before we can support this legislation are now going to vote not to waive the point of order to bring the bill down.

So I hope there is no misunderstanding about what is at stake here. We are going to kill this bill tonight. I should say they are going to kill this bill tonight. But they are going to try to use this ruse of saying, now that we have loaded it up, it is too heavy; now that we have loaded it up, we can't afford to carry it further.

Mr. President, that is a disappointment. The fact remains that this bill dies tonight, but the issue will live. And some day in the not too distant future, we will pass tobacco legislation that will rectify what we are doing tonight. This is wrong. I hope nobody misunderstands what this vote is about. They killed the bill tonight by voting not to waive this point of order.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has time yielded by the Senator from Alaska.

Mr. DOMENICI. I understand the Senator from Alaska has yielded me control of the time, and I will manage the time. I yield myself 2½ minutes at this point.

Mr. President, let me make a point first for everybody here. The Budget Act which was passed, with Republicans voting for it and three Democrats, the budget resolution, did three things that we have already forgotten about.

One, it provided a $15.5 billion increase for NIH over the baseline, over the President's request; $15.5 billion without this bill goes to NIH for cancer research and the kind of things this bill is supposed to do.

Secondly, the budget resolution provided $800 million—eight-tenths of a billion dollars—for teen smoking cessation. The President of the United States asked for less than that.

The same budget resolution provides $5 billion for child care, and we are up here debating a bill to impose over the next 25 years $998 billion worth of new taxes, and we are talking like we haven't done anything in these areas that the very bill before us says we are supposed to do.

Frankly, whether the other side is saying we killed this bill or not, I guarantee you, the bill was subject to a point of order before any of the amendments were attached. So an argument that Republicans added amendments and thus made it subject to a point of order is—it is subject to at least five points of order, and, as a matter of fact, the underlying bill is subject to the worst of all points of order. It kills the bill. That is how bad the bill is in terms of budgets. It kills the bill. We didn't make that point of order. The point of order that was made is one that says it goes back to the committee and they reconsider.

Let me tell you, when you work on budgets and you all vote and you want to restrain Government spending, all the Budget Act says to you, once you made the deal and said this is the budget, if you want to violate it, you can. It does not say you cannot. It says you can. But you need 60 votes.

That is what this argument is about. If you want to say we ought to pass this bill, it violates the Budget Act. It has far more spending than we agreed to spend. And let me tell you, another portion of this just absolutely says, here are the caps, the spending restraints, and we just do not care about them.

The PRESIDING OFFICER. The Senator from New Mexico has used——

Mr. DOMENICI. I yield myself a half a minute.

We say the taxes do not count as taxes—that is what the bill says—and the expenditures do not count as expenditures. Now, how in the world could that not be subject to the Budget Act if we have any kind of budget restraint at all? So that is the issue. The issue is: Do you proceed with the bill or do you send it back to committee and let them try to fix it so it does not violate the Budget Act, which we spent 20 years developing around here to get our house in order? And all of a sudden, over 25 years, $998 billion worth of new revenues and expenditures are supposed to be forgotten about.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Two minutes 43 seconds.

Mr. KERRY. I yield myself 2 minutes.

Mr. President, since 1995, we have voted to waive the Budget Act 105 times. Now, we have heard debate here on the floor of the Senate for 3½ weeks, and $40 million has been spent telling America there is a tax increase in here. Nineteen members of the Commerce Committee—19 to 1—voted to send this bill to the floor of the Senate with a $1.10 price increase in it. That is the revenue that is raised by this bill.

The Senator from New Mexico does not tell you that every single penny that is contemplated to be spent in this bill is offset—it is offset. It was the Republican leader who put into this bill the Lugar amendment that competes with the Ford amendment, which everybody knows has to be resolved one way or the other before this bill could finally be signed into law.

So this is a charade. We have all learned that you can always find an excuse and a way to use the Budget Act to accomplish your goals.

But if you measure what has happened here, there was an effort by Democrats to raise the price. It failed. That should have helped the bill pass. There was an effort to have a cap on the damages, but it was a Republican Senator who brought the amendment to get rid of it. And more Republicans voted to get rid of that cap restraint than Democrats. Once again, the Republicans had their hand and their way.

Then there was the look-back amendment. It made it tougher on the tobacco companies, holding them accountable in reducing the level of smoking for kids. If you are interested in stopping kids from smoking, that was an amendment that made this bill better.

There was a child care amendment. All it did was restrict spending that was already in the bill. It was no new addition of one penny. It took restricted money, already restricted to the Governors, and it simply restricted within the pot of money that was already restricted somewhat further. No add-on of new money. Not one penny was added on by one Democrat amendment.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. Forty seconds.

Mr. KERRY. Mr. President, this is a choice between tobacco—and $40 million spent to advertise a tax increase—and a choice between kids; and everybody in the country will understand that.

I yield the balance of the time to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that we have the same time available to us on this side as the distinguished Senator from New Mexico had, which would have added about a half a minute or so.

The PRESIDING OFFICER. You have already had more.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The Chair charged time to the Senator from Alaska and the Senator from New Mexico.

Mr. LAUTENBERG. I ask consent we add a minute to the——

Mr. STEVENS. Mr. President, I would object unless we get time equal to all the time used by—I reserve the right to object.

Mr. LAUTENBERG. Mr. President, what is the present situation in terms of time?

The PRESIDING OFFICER. The situation is, the Senator has about 20 seconds left.

Mr. LAUTENBERG. In 20 seconds, Mr. President, what we have seen tonight is a charade. What they did was spread DDT here. First delay, then destroy, then terminate any action on tobacco. That is the mission. This Budget Act is not—is not—violated. Everything here is paid for. And I hope that we will vote to waive the Budget Act.

The PRESIDING OFFICER. The Senator from New Mexico has 40 seconds.

Mr. DOMENICI. Forty seconds?

The PRESIDING OFFICER. Forty seconds.

Mr. LAUTENBERG. I object. You have 40 seconds left? No objection. You asked for a half minute, and went over.

Mr. DOMENICI. I yield the 40 seconds to Senator NICKLES.

Mr. NICKLES. Mr. President, the question is really, Do we have a budget or not? This bill says the budget does not apply. Read page 181. It says, "the amount of * * * appropriations shall not be included in the estimates required under section 251 of [the Budget Act]. In other words, all these hundreds of billions of dollars of spending are over and above the budget that we agreed to, that the President agreed to.

This clearly breaks the budget. If we are going to have a budget, we should sustain it. This point of order is well made. And I urge my colleagues to support it and vote against the motion to waive the Budget Act.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Congressional Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—53

Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Glenn
Graham
Grassley
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Rockefeller
Roth
Sarbanes
Smith (OR)
Snowe
Torricelli
Wellstone
Wyden

NAYS—46

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Robb
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Specter

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 46.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the bill falls.

Pursuant to section 312(f) of the Congressional Budget Act, the bill, S. 1415, is recommitted to the Committee on Commerce, Science, and Transportation.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now begin consideration of Calendar No. 401, which is Senate bill 2138, the Energy and Water Appropriations bill for fiscal year 1999, for debate only during the remainder of today's session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill.

The assistant legislative clerk read as follows:.

A bill (S. 2138) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I will be managing the bill for the majority and the Subcommittee of Appropriations on Energy and Water Development. I understand that the minority will not consent to any amendments being laid down tonight. So we will just have opening statements, and then I gather we will take the matter up at the earliest opportunity in the morning and proceed until we finish.

I might suggest, unless there are some amendments I am unaware of—and that could be the case—that there is a real possibility that we could finish this bill tomorrow. We would very much like to do that. That would mean Thursday night we would finish. If that doesn't happen, then we may have a complication with reference to the manager and ranking member, which might carry the bill over for a considerable number of days.

I want to give a few opening remarks about the bill. First, I thank my ranking member, Senator REID. This is a very difficult bill and, in many respects, contains some very, very serious, substantive matters for America and some very important defense policies with reference to nuclear weapons, our stockpile, and the like. We have worked very handily together, and I am proud of the bill we have before us.

This bill was reported unanimously by the Committee on Appropriations last Thursday and was filed on Friday. It has been available to Senators since Monday.

The committee recommendation provides a total of $20.9 billion in budget authority. Of that, $12 billion is defense and $8.9 billion is nondefense. Especially within the nondefense allocation, the committee has struggled to craft a recommendation that meets the Senate's expectations. The President's request for water projects was $1.8 billion below the level required to continue ongoing construction projects at their optimal level. If we were to truly fix that problem to provide the level of funding of water projects Congress envisioned when it enacted the Water Resources Development Act of 1998, which the President signed, and last year's Energy and Water Development Act, which the President signed, the committee would have to shift $1.8 billion from other programs within nondefense, which is only $8.9 billion of the entire bill. We would have to move that to the Corps of Engineers and the Bureau of Reclamation.

Now, Mr. President, when the President of the United States decided to reduce water projects by $1.8 billion, let me suggest that these are flood protection projects in many, many States. These are dams and reservoirs that have been under construction. These consist of work on channeling our ports. And, yes, there is money that was obligated to build our ports so that they could continue to carry the vast commerce that comes in and out of the United States through these ports.

Much of the port activity—draining and the like, dredges—is paid for by the Federal Government. And the President decided that he had priorities in water, and he wanted us to pay for those and give dramatic increases. But when it came to all those projects that are all over our country that other Members appropriated last year and that the President signed, those were knocked out.

Mr. President, that is just not the way to do business. It is all right if the President wants to cut things, but to do it like that and then ask for his special projects to be increased as if they are the only ones that are deserving of any increase, and all the rest of our States and our ports of entry are supposed to be cut, just doesn't make sense.

So, actually, we are going to have a little difficulty when we go to conference in that part of the bill which is called nondefense. That includes water projects, plus nondefense research projects within the Department of Energy—some very important research projects.

That much of a reduction would be impossible to impose on the Department of Energy's science, energy, research, and environmental management programs. Fortunately, to reduce our need to cut these programs, Chairman STEVENS provided the Energy and Water Development Subcommittee with $238 million in nondefense budget authority above a freeze.

The committee recommendation is to use all of that increase and an additional $211 million taken from a freeze level within the Department of Energy to add to water projects. I just explained why he wants to do that. Even at that, Senators have been very understanding, because it means two things for all the Senators and their projects. We have been able to provide between 60 percent and 70 percent of the optimal funding level for water project construction, and our baseline for the Department of Energy was a freeze, and we had to go below that.

As an example, the administration proposed a $90 million increase, $26 million over last year, for solar and renewable energy. We are working with two of our Senators who want to amend what we have done in this bill. Let me just explain what we have done.

Regardless of any individual's view on solar and renewable energy, the subcommittee does not have resources to provide the kind of increase that the President had in mind. The recommendation for solar and energy is a $780,000 reduction from the current level—that is what we have in our bill—and that is because we have to cut below a freeze in this part of this bill.

As usual, the subcommittee has received requests for thousands of individual projects. To the best of our ability, we have tried to include those in the water area where requests were generally well founded requests to provide adequate funding for ongoing projects. Unfortunately, because the reductions apply to DOE's nondefense program, there is very little flexibility to add projects within budgets that are already being cut.

For a specific recommendation—but before I do that—I am not sure that I will deliver my entire summary—I want to yield the floor and ask if my ranking member desires to make some comments at this point.

I yield the floor.

Mr. REID. Mr. President, as ranking member of this subcommittee, I recommend this bill to my colleagues.

I first of all want to say that we hear so much in the press about the partisan nature of this Congress. And there is, I think, in the minds of most everyone too much partisanship. But I think the Appropriations Committee is a place to look to see bipartisanship, to see a model as to how we can get along to make progress. This bill is a bill that was done on a bipartisan basis. The ranking member, I, and the chairman of the subcommittee, the senior Senator from New Mexico, have worked very hard to come up with a bill that is the most just and fair bill we could come up with.

This is a very important bill. It deals with many different aspects of our society. We realize the importance of this legislation. The chairman and the ranking member, as a result of that, have worked very closely together. We have a harmonious relationship between ourselves and our staffs.

I repeat, the two Members operate this subcommittee. I extend my arm of friendship to my senior colleague, the chairman of this subcommittee, who has been very forthright. I have been included in all the meetings with Cabinet officials and others to come up with this bill.

But I also say to the administration that we have a constitutional form of government. We have to protect the legislative aspect of this separation of powers document. The administration did not, in my opinion, treat us fairly with this bill. As a result of this, because we have broad and equal say in what goes on in this country as a legislative branch, we step forth and rearrange the priorities of this bill. We did it in a way that protects ongoing projects that are essential to various parts of this country.

We feel that we have come up with something that is fair and that is reasonable. There are programs that have been itemized for projects and activities of the Department of Energy, the Corps of Engineers, Bureau of Reclamation, and other independent agencies.

I repeat that I support the approximately $21 billion in appropriations to this Senate. I recommend this to the Senate as a whole.

I can't overemphasize the fiscal tension between these programs that we worked to make a balance. The Department of Energy, the Corps of Engineers, the Bureau of Reclamation recognize some of it.

On the defense side of this bill, there is a very close, important relationship that we have with the security of this country. Some of these programs are relatively nondiscretionary, since we must provide for the stockpile stewardship management program, defense environmental management, and the naval reactor program.

I repeat, the chairman and I have worked very hard to find a balance in this bill and recognize this bill is far from perfect, but it is the best that two human beings could do to balance the separate interests—the hundreds and hundreds of requests that we get from the 98 other Senators. So we have not accommodated everyone's priorities—not every State's priorities or the projects—but we have done the very best that we could.

Mr. President, the Army Corps of Engineers and the Bureau of Reclamation:

It is no secret that the budget request sent to us by the President would have increased some solar and renewable activities while devastating the Corps of Engineers and the Bureau of Reclamation projects. But everyone should understand that we did an excellent job, in my opinion, with solar and renewable. We are willing to bring at the right time solar-renewable up to last year's limit. That will be very difficult to do. But we will do that. But we have taken pretty good care of other programs. We have done a good job of increasing the hydrogen aspect. That is very important. We have done a good job with wind energy.

So I don't really apologize to anyone for the work that we have done in this bill. I don't apologize for what we have done with the tools we have with solar-renewable activities.

Mr. President, we hear a lot about water projects as if there is something wrong with a water project because the term "project" is connected to it. But let's talk about some. I am going to pick at random some of the water projects in this bill and indicate to this body and to anyone within the sound of my voice why these projects are important.

Take a place in North Dakota. Mr. President, North Dakota doesn't have a lot of people. I don't know if it is the State with the smallest number of people in it in this Union or not. But, if not, it is one of the smallest. North Dakota doesn't come to us with a large congressional delegation, but we felt, in fairness to the people of that small State, that we should do something about an act of nature that devastated a place called Devil's Lake. That certainly is a name that is appropriate because that lake is unending in spreading out over that part of the country. We have put money into this for flood control projects in North Dakota. We have, for example, $8 million for construction of another outlet on Devil's Lake. This is important because that lake just continues to grow. Never in recorded history has this lake been the size that it is, wiping out highways, people's farms, people's homes. That is one of the projects in this bill.

In the Mississippi delta region, Davis Pond, LA, this is a pond that diverts fresh water from the Mississippi to the coastal bays and marshes, but also mitigates any negative environmental impacts of freshwater diversion. It is a large project, $16 million, essential to that very important part of that country.

Mr. President, I have traveled in California to look at the California bay-delta. I didn't do a very good job of looking at it because El Niño got in the way. The rains were torrential, and I wasn't able to see very much.

The State of California has 33 million people. This project, which we were very generous in funding last year, and this will be the second year, is said by most people to be the most important environmental project in this country ongoing today. This bill has $65 million it added to some $85 million we put in last year. I think that was the number. But it is so important to that massive State to try to get things under control out there. We have environmental interests. We have agricultural interests. We have big cities. We have little cities, many different problems that we have there, and these people are all sitting down and talking about it. This is our recognition that progress is being made.

There is something in here that I am sure some of the press will focus on—what could this be—aquatic plant control. This is a strange-sounding name. Why should there be any money put in this? I wish we could appropriate ten times more money than the $4 million we put in this because it is badly needed. This $4 million is so important because we have aquatic plants which can and do hinder navigation. They undermine flood-control efforts. They threaten agriculture and public health.

Now, you have, for example, in Lake Champlain, VT, a problem with something called the water chestnut and Eurasian Milfoil. State and local governments are desperate for help because these plants are invasive. They are interfering with the lives of the people of Vermont and that part of the country.

We have in the western part of the United States a tree that was imported to stop the erosion of banks and rivers and streams. These things, called salt cedar trees or tamarisks, are literally ruining streams, agricultural ponds, rivers. We in Nevada, for example, have very few rivers, and they are not powerful rivers. The only real powerful river we have is the Colorado, but on some of these smaller streams this plant is devastating, ruining agriculture. So I wish we could put a lot more money into this to help places like Lake Champlain and others throughout the United States.

Dredging of ports and harbors along the Atlantic and Pacific coastlines, as well as the harbors in the Gulf of Mexico, no small task for the Corps of Engineers. On an annual basis, U.S. ports and harbors handle an estimated $600 billion in international cargo, generating over $150 million in tax revenue. So that is part of the responsibility in our bill, to make sure the ports in the Atlantic and Pacific and Gulf of Mexico can handle their small navigation projects, totaling less than $10 million, but they are large navigation projects.

As an example, the New York and New Jersey channels need to be deepened, dredging and other corps operations to permit commercial navigation traffic through the complex river-harbor system they have. These projects are funded in this bill at over $50 million. They are important to the literal survival of the commerce of New Jersey and New York.

There are things in this bill on which we have to go forward, and it is not fair, in my opinion, that the administration cut back on these ongoing projects. We just could not stop the projects.

So these kinds of projects have been priorities of Members and funded through nondefense dollars. This bill is as important as the defense authorization bill and the defense appropriations bill which will come up for the security of this Nation. No question about that in my mind. While the allocations provided the subcommittee for the Army Corps of Engineers was higher than the President's request, it was still over $200 million less than last year's level.

Now, I want to say one other thing that I think is important, and again I express my appreciation to the chairman of the subcommittee. The subcommittee mark has a section in the bill that reports and addresses the concerns about the management and regulatory oversight at the Nuclear Regulatory Commission. As I stated in the markup before the full committee, Senators CHAFEE and BAUCUS, who are the authorizing full committee leaders of Environment and Public Works, do a good job, and we have requested and they have accepted the responsibility of taking a look at some of the things going on at the NRC.

Again, I express my appreciation to the chairman of the subcommittee for cooperating on this issue. We have a responsibility as the appropriators to make sure that the taxpayers' dollars that we appropriate are used fairly. I have a very, very strong feeling that it is topheavy at the NRC. I have talked to people there who believe it is topheavy, too much management. We need to make sure there is an examination of this commission so that there are more people to do the work at the lower levels, and we do a good job of limiting management.

I thank the junior Senator from Maryland, Ms. MIKULSKI, for working with us and whose efforts on behalf of the employees living in Maryland were of great value as we reexamined the funding levels and language. There are people who work there who need to make sure they are still there able to do the work and we relieve a little of the dead weight, frankly, at the higher levels. This is something we need to revisit next year if this isn't resolved during this coming year.

Mr. President, we have the responsibility for the Nation's nuclear stockpile. I am not going to spend a lot of time on that tonight other than to say the Senate has to realize that this is an awesome responsibility we have, the chairman and the ranking member, to make sure there is adequate money to take care of our nuclear stockpile. We have to make sure the nuclear stockpile we have is safe and reliable. We no longer do underground testing, but we still have as large a responsibility as we ever had to make sure our stockpile is safe and reliable. The Nuclear Non-Proliferation Treaty is something that this country adheres to, but we go one step further than most countries; we make sure the stockpile we have, I repeat, is safe and is reliable. That is what we are trying to do with this bill, and $4.5 billion a year is barely enough to do it. We can't have that cut down at all, or we will have some significant problems in this country. We can't put the nuclear genie back in the bottle. It is open. It is there, as indicated in the actions that have been taken by the countries of India and Pakistan. We have a responsibility, however, to make sure that we safeguard our nuclear stockpile.

So I think we have done that in this bill. We have good teamwork between the laboratories and the Nevada Test Site. We have tried to make a good balance there. I think we are looking at, also, some great science that is being conducted in those national laboratories, which are a jewel this country has. These laboratories do the finest raw science of any place in the world, and their job is only going to become more difficult now that we have stopped underground nuclear testing.

It is going to become more difficult because they have to do it in ways that only great scientific minds can do it. They are doing great things right now with subcritical testing. That is, they will start a device and before it gets critical they stop it and, through computerization and the other means they have at their disposal, they give us information as to what would have happened had that nuclear reaction gone critical. There are other things they are doing because of the need for further evaluation of these tests. Computerization is going to increase from present models as much as 1,000 times. So there is great science taking place as generated in this bill.

Again, I say this bill provides for some very important things for this country, in the defense field and the domestic field. I repeat, it is not a perfect bill, but we did the best we could with the tools we were given, and I recommend to the Members that we approve this just as quickly as possible. This will be the first appropriation bill in the cycle and we should get it to the President as quickly as possible. It is the first and, I think, if not the most important, one of the two or three most important appropriations bills that we have.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to proceed for a few minutes and then ask we move off of this bill and go into morning business.

Mr. President, within the Department of Energy's nondefense accounts we have placed a priority on science. Our recommendation is only $44.9 million below the request, most of which is taken from prior year balances that can be used to offset fiscal year 1999 expenses.

We are recommending proceeding with the construction of the Spallation Neutron Source at Oak Ridge National Laboratory. When it is completed, it will be one of America's most significant research tools, and it will add to the versatility and diversity of that great laboratory.

We have also provided funds for the administration's requests for new nuclear energy programs and have provided a slight increase for the magnetic fusion energy account, just enough to bring it up to current levels. We provided three additional nuclear research programs that we believe are absolutely urgent.

The bill includes a total of $11.9 billion for the atomic energy defense activities. That is $269 million below the budget request.

This bill contains $1.048 billion for defense facilities cloture projects. The largest increase is $32 million for Rocky Flats, that project which was significantly underfunded in the budget. Accelerated cleanup at Rocky Flats will save an estimated $1 billion, which would then be available for other cleanup work. So it is important that the schedule at Rocky Flats be maintained as much as possible.

In other defense activities, one of my highest personal goals is to destroy excess weapons plutonium in the United States and Russia. I believe it is the key to permanent nuclear arms control.

The administration is on a path to begin to fabricate into mixed-oxide fuels, 3 tons of U.S. weapons plutonium per year and is tentatively working to aid Russia to fabricate 1.3 tons per year into mixed-oxide fuel. I think both countries should destroy in the order of 10 tons per year. But more than that, we have to ensure that Russia destroys at least as much weapons plutonium as we do because they have many times as much as we do. Anything else amounts to unequal disarmament.

So my recommendation is to provide for a full amount of the request, but make a portion of it contingent upon bilateral accords which require at least equal conversion of weapons grade plutonium in the United States and the Soviet Union.

Mr. President, just one last closing remark, and perhaps we will have to talk about this more tomorrow. But I note, many Senators' offices have had lobbyists come to see them about what is in this bill and what is now called Science-Based Stockpile Stewardship. Science-Based Stockpile Stewardship is an American plan to use the highest of science, technology and computers to measure the efficacy and effectiveness of our nuclear weapons; that is, to determine if they will do what they are supposed to do, if they are safe, trustworthy and sound.

If someone wants to come to the floor and suggest the $4.46 billion which goes to this Science-Based Stockpile Stewardship should be reduced because it is a lot of money, let me just suggest when the United States of America decided that we would no longer do underground testing, which is one of the methods to determine the validity of our nuclear weapons and of that stockpile—since we do not build any new ones, we are only talking about old ones—if you want to return to underground testing, you probably can get by with less money for Science-Based Stockpile Stewardship, because it takes the place, in a sense, of underground tests as part of the verification of the value of the nuclear weapons, in terms of trustworthiness, accountability, and the like.

So, for those who do not want to give the scientists and the laboratory directors the tools so they can certify our supply of nuclear weapons every year to the President of the United States as required by law—first to the Chairman of the Joint Chiefs and then to the President—if you don't want to give them the money to do that, then let's have an amendment on the floor and see if we are going to return to underground testing. I do not believe anyone wants to do that, at least not enough Senators. So we have to proceed doing it through science, through new ways to x-ray, in a sense, what is in these weapons through computerization, which is going to be improved dramatically for America and the world as part of this process so we can use the vast models and research capacity of computers to do this job.

The day may come when we do not have any nuclear weapons. But for now, Russia still has a lot of nuclear weapons. Within the last month and a half, we have heard about two more nuclear powers. I believe that we have to maintain ours in a solid, ready, trustworthy state, and reduce them as much as possible, consistent with the risks to the United States. That is the kinds of things in this bill—very, very important.

I must say, all of that money comes out of the Defense Department. So, when you look at the defense moneys for America, you must understand that about $14 billion of it goes to this committee for the nuclear activities and the laboratories that produce and do the nuclear research for us, and for the maintenance of the stockpile. It is very important everybody understand that. That money cannot be spent anywhere else. It is subject to the walls that we have put up around defense spending so you cannot spend it for nondefense work, you cannot spend it for water projects, and I am very, very thankful you cannot. If those walls come down, you will see the pressure for domestic spending eat away at defense needs, including the defense needs as depicted in this bill.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOBACCO LEGISLATION

Mrs. MURRAY. Mr. President, today is a sad day for children across America. Big tobacco companies with unlimited lobbying budgets and Republicans in the Senate killed tobacco reform legislation. Kids lost and Joe Camel won. I am outraged at the message this sends: tobacco money is more important than children's health.

Almost four weeks ago, the Senate began debating a comprehensive tobacco bill aimed at reducing underage smoking and strengthening the role of public health agencies to combat tobacco. Congress appeared unified in its intent to end the practice of tobacco companies preying on our children. But some of my colleagues in the Senate got lost along the way.

Since we started debate on tobacco legislation, more than 60,000 children have taken up this deadly addiction. But, this has not been the focus of the debate on this legislation. In fact, if the American people were watching the debate on the Senate floor they would be hard pressed to determine what legislation we were actually debating. That's because the tobacco industry has spent $40 million to hijack the process and prevent Congress from acting. This is a tragic example of our political system at its worst.

We had an historic opportunity to enact comprehensive tobacco legislation that would have mandated tobacco companies stop targeting our children. In one piece of legislation we could have saved five million children from suffering the ill effects of smoking or facing premature death. Those who acted to kill this legislation will have to answer these five million children, who are now facing a death sentence due to the actions of a few.

To those who think the state suits are a fall back position, they need to know that these suits do not change the corporate culture of tobacco. The states litigate, and Congress legislates.

This is a sad day for those of us who have worked hard to advance the tobacco settlement. Throughout debate of this legislation, I voted to strengthen the bill to protect our children and prevent the continued deadly assault of tobacco companies.

As a parent, I have always been troubled by how tobacco companies target our children. When my son turned 14, he received a birthday card from a tobacco company inviting him to celebrate this milestone by purchasing cigarettes. They sent a child coupons for cigarettes as a birthday gift. This is outrageous and unacceptable. These are the kinds of tactics that I have been fighting to end.

I will not let this setback today end my pursuit of big tobacco. I will continue to stand up to tobacco companies. I will continue to work for bipartisan, comprehensive tobacco legislation that is focused on public health.

This is not the first time I have witnessed the power of the tobacco industry or the hold that tobacco money has on many of the same members of the Senate. It is these very members who have used every tactic known to delay, filibuster and load this bill down with so many unrelated items, that it is hard to remember what was in the original legislation.

Every parent should be outraged. The U.S. Senate played politics with the health and safety of children in America. Today's action says that tobacco money is more important than the health and safety of our children. Where are our priorities?

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 16, 1998, the federal debt stood at $5,489,043,503,639.58 (Five trillion, four hundred eighty-nine billion, forty-three million, five hundred three thousand, six hundred thirty-nine dollars and fifty-eight cents).

One year ago, June 16, 1997, the federal debt stood at $5,355,413,000,000 (Five trillion, three hundred fifty-five billion, four hundred thirteen million).

Five years ago, June 16, 1993, the federal debt stood at $4,302,703,000,000 (Four trillion, three hundred two billion, seven hundred three million).

Ten years ago, June 16, 1988, the federal debt stood at $2,526,681,000,000 (Two trillion, five hundred twenty-six billion, six hundred eighty-one million).

Fifteen years ago, June 16, 1983, the federal debt stood at $1,304,460,000,000 (One trillion, three hundred four billion, four hundred sixty million) which reflects a debt increase of more than $4 trillion—$4,184,583,503,639.58 (Four trillion, one hundred eighty-four billion, five hundred eighty-three million, five hundred three thousand, six hundred thirty-nine dollars and fifty-eight cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JUNE 12TH

Mr. HELMS. Mr. President, the American Petroleum Institute reported for the week ending June 12 that the U.S. imported 8,862,000 barrels of oil each day, 529,000 barrels a day less than the 9,391,000 imported during the same week a year ago.

While this is one of the rare weeks when Americans imported slightly less foreign oil than the same week a year ago, Americans still relied on foreign oil for 58.4 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians should give consideration to the economic calamity certain to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 9,532,000 barrels a day at a cost of approximately $99,431,640 a day.

WORLD DAY TO COMBAT DESERTIFICATION

Mr. JEFFORDS. Mr. President, I would like to take just a few moments of the time of the Members to discuss a subject which I find probably no one has ever heard of but, nevertheless, is one of the very serious problems facing the world. I wish my colleagues a Happy World Day to Combat Desertification.

I assume most Senators have never heard of this day, so let me explain. June 17 was established as World Day to Combat Desertification to promote awareness of dryland degradation.

Few Americans today have an association with desertification. My parents and their contemporaries did: the great "Dust Bowl" that occurred in the western United States in the 1930s. Desertification is defined as land degradation in arid and semi-arid areas resulting from climatic variations and human activities. It can occur to such an extent that affected dryland can no longer sustain vegetation, crops, livestock or the people who depend on them for survival. In the 1930s, desertification forced farmers and their families off their land when topsoil—and their livelihood—blew away. Vermont is not arid. But as an agricultural State, Vermonters were pained by the plight of western farmers. The suffering of these farmers who became penniless migrants is still starkly visible in photos of the era.

Hopefully, the U.S. will never experience another "Dust Bowl." We have the expertise and resources to prevent such damage to U.S. agricultural lands. However, it threatens the way of life of one billion people worldwide in underdeveloped countries. The economic consequences of desertification are particularly devastating in regions that are both underdeveloped and arid. In these regions, much of the population relies on subsistence agriculture. Subsistence farmers do not have the means or incentives to make investments in proper land and water management. Poor land and water management, especially when combined with periodic droughts, are the primary causes of desertification. Other factors include overcultivation, overgrazing, single-crop farming on fragile soil, slash-and-burn land clearing methods, and improper irrigation practices. These factors are often compounded by unwise government policies and the pressure of explosive population growth. When formerly productive farm and pastoral land is degraded, it creates a downward spiral of poverty and rural out-migration—often to the already overcrowded cities. We saw this during our own "Dust Bowl."

I was only a small child in the 1930s. I never met impoverished farmers dislocated by the "Dust Bowl." But I have witnessed first hand the effects of desertification in Indonesia and Africa. I saw first hand how hard farmers are fighting to hold on to arable land in the face of huge environmental changes brought on by cutting of the rainforests or overgrazing of arid lands. And I saw the resulting poverty and dislocation that then grip these areas.

Through our foreign aid programs, we are assisting afflicted regions. But we could use our resources more efficiently by joining 124 other nations in ratifying the U.N. Convention to Combat Desertification in Countries Experiencing Serious Drought and /or Desertification, Particularly in Africa. As the Administration began to sharpen its focus on Africa prior to the President's recent trip, it decided to make U.S. ratification a priority. On the occasion of World Day to Combat Desertification, I urge my colleagues to take a look at this treaty and reflect for a moment on the benefits to the U.S. of Senate ratification.

The treaty is in the best interest of the United States. Our agriculture industry, American universities, and our non-governmental organizations have considerable expertise in combating desertification. Businesses like Monsanto, Land O' Lakes, and the Chocolate Manufacturers Association are supporting the treaty because it will increase U.S. business opportunities. Ratification will also increase export of American technical assistance in erosion control. The Irrigation Association supports it because many of its members produce world-class irrigation and water control equipment. After ratification, the U.S. may submit names of its desertification experts and consultants for the international Roster of Independent Experts who are available to provide services.

The treaty does not commit the U.S. to any specific level of foreign assistance. Rather, it asks governments of developed nations to channel existing bilateral and multilateral aid funds through a new mechanism that will provide improved coordination and better use of donor resources. The treaty obligates recipient nations to develop actions plans "from the bottom up" to combat regional and local desertification. The treaty is remarkable because it calls upon local communities to take the lead in identifying their problems and selecting the best solutions for their particular situations.

On World Day to Combat Desertification, let's not forget our own grim experience with desertification and the "Dust Bowl." Let's join the other nations that have ratified the Convention to Combat Desertification and prevent a reoccurrence of this tragedy elsewhere.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES RECOMMITTED

Pursuant to Section 312(f) of the Congressional Budget Act of 1974, the following bill was recommitted as indicated:

S. 1415. A bill to reform and restructure the process by which tobacco products are manufactured, marked distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5528. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Government Securities: Call for Large Position Reports" received on June 11, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5529. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a Presidential Determination (98-22) relative to sanctions against India for the detonation of a nuclear explosive device; to the Committee on Foreign Relations.

EC-5530. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report entitled "The Animal Welfare Enforcement Report for Fiscal Year 1997"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5531. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Listing of Several Evolutionarily Significant Units of West Coast Steelhead" (RIN1018-AE97) received on June 12, 1998; to the Committee on Environment and Public Works.

EC-5532. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding gasoline volatility requirements for the Pittsburgh-Beaver Valley Ozone Nonattainment Area (FRL6102-9) received on June 12, 1998; to the Committee on Environment and Public Works.

EC-5533. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approval numbers Under the Paperwork Reduction Act" (FRL6111-4) received on June 12, 1998; to the Committee on Environment and Public Works.

EC-5534. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report on the operation of the Premerger Notification Program for fiscal year 1997; to the Committee on the Judiciary.

EC-5535. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule amending regulations on nonimmigrant students seeking off-campus employment (RIN1115-AF15) received on June 12, 1998; to the Committee on the Judiciary.

EC-5536. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule regarding employment of dependents of NATO personnel stationed in the United States (RIN1115-AB52) received on June 12, 1998; to the Committee on the Judiciary.

EC-5537. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility" (RIN1115-AE29) received on June 12, 1998; to the Committee on the Judiciary.

EC-5538. A communication from the Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice Inviting Applications to the Presidential Awards for Excellence in Microenterprise Development" (No. 981-0158) received on June 9, 1998; to the Committee on Finance.

EC-5539. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Social Security Administration Cost Assignment Methodology Review"; to the Committee on Finance.

EC-5540. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Employment Tax Deposits—De Minimis Rule" (RIN1545-AW29) received on June 15, 1998; to the Committee on Finance.

EC-5541. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5542. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5543. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for the month of April 1998; to the Committee on Governmental Affairs.

EC-5544. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a management report associated with the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5545. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Voluntary Early Retirement Authority" (RIN3206-AI25) received on June 15, 1998; to the Committee on Governmental Affairs.

EC-5546. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the Railroad Retirement Account; to the Committee on Labor and Human Resources.

EC–5547. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding an amended economic analysis of labeling requirements for medical devices containing natural rubber (Docket 96N–0119) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5548. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices: Classification/Reclassification of Immunohistochemistry Reagents and Kits" (RIN0910–ZA10) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5549. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding nutrition labeling and ingredient labeling of dietary supplements (RIN0910–AA59) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5550. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Revocation of Lather Brushes Regulation; Correction" (RIN1105–AA20) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5551. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Beverages: Bottled Water; Correction" (Docket 98N–0294) received on June 15, 1998; to the Committee on Labor and Human Resources.

EC–5552. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on Public Health Service programs for fiscal year 1997; to the Committee on Labor and Human Resources.

EC–5553. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the disposal of excess and surplus materials for fiscal year 1998; to the Committee on Armed Services.

EC–5554. A communication from the Director of Naval Nuclear Propulsion, Department of the Navy, transmitting, pursuant to law, the Naval Nuclear Propulsion Program's reports for 1997; to the Committee on Armed Services.

EC–5555. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "Private Organizations on DoD Installations" (RIN0790–AG53) received on June 15, 1998; to the Committee on Armed Services.

EC–5556. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "Conduct on the Pentagon Reservation" received on June 15, 1998; to the Committee on Armed Services.

EC–5557. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Contractor Use of Nonimmigrant Aliens—Guam" (Case 97–D318) received on June 12, 1998; to the Committee on Armed Services.

EC–5558. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Contract Distribution to Defense Finance and Accounting Service Offices" (Case 97–D039) received on June 12, 1998; to the Committee on Armed Services.

EC–5559. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Antiterrorism Training" (Case 97–D016) received on June 12, 1998; to the Committee on Armed Services.

EC–5560. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Use of Auctions, Spot Bids, or Retail Sales of Surplus Contractor Inventory by the Contractor" (Case 97–D004) received on June 12, 1998; to the Committee on Armed Services.

EC–5561. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Exports of Humanitarian Goods and Services to Cuba" (RIN0694–AB49) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5562. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Effect of Imported Articles on the National Security" (RIN0694–AB58) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5563. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Defense Priorities and Allocations System" (RIN0694–AB58) received on June 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5564. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of two rules regarding revisions to the NASA FAR supplement and to the NASA grant handbook received on June 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5565. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA FAR Supplement; Miscellaneous Changes" received on June 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5566. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the National Transportation Safety Board's recommendations to the Secretary for calendar year 1997; to the Committee on Commerce, Science, and Transportation.

EC–5567. A communication from the Director of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NOAA Climate and Global Change Program, Program Announcement" (RIN0648–ZA39) received on June 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5568. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Low Speed Vehicles" (RIN2127–AG58) received on June 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5569. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated June 9, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Indian Affairs.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Deidre A. Lee, of Oklahoma, to be Administrator for Federal Procurement Policy.

G. Edward DeSeve, of Pennsylvania, to be Deputy Director for Management, Office of Management and Budget.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 2181. A bill to amend section 3702 of title 38, United States Code, to make permanent the eligibility of former members of the Selected Reserve for veterans housing loans; to the Committee on Veterans Affairs.

By Mr. GORTON (for himself, Mr. KERREY, Mr. JEFFORDS, Mr. BUMPERS, and Mrs. MURRAY):

S. 2182. A bill to amend the Internal Revenue Code of 1986 to provide tax-exempt bond financing of certain electric facilities; to the Committee on Finance.

By Mr. HARKIN:

S. 2183. A bill to amend the Head Start Act to increase the reservation of funds for programs for low-income families with very young children, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERREY (for himself, Mr. MOYNIHAN, Mr. BREAUX, and Mr. LIEBERMAN):

S. 2184. A bill to amend the Social Security Act to provide each American child with a KidSave Account; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mrs. BOXER, Mr. DURBIN, Mr. DODD, and Mr. REED):

S. 2185. A bill to protect children from firearms violence; to the Committee on the Judiciary.

By Mr. DORGAN (for himself and Mr. BUMPERS):

S. 2186. A bill to terminate all United States assistance to the National Endowment for Democracy, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAFEE:

S. Res. 250. A resolution expressing the sense of the Senate that the third Saturday in June of each year should be designated as "National Rivers Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 2181. A bill to amend section 3702 of title 38, United Code, to make permanent the eligibility of former members of the Selected Reserve for veterans housing loans; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce legislation that would permanently authorize the Department of Veterans Affairs Home Loan Guaranty Program for members of the Selected Reserve.

The eligibility of National Guard and Reserve members for VA-guaranteed home loans will expire in October 1999. I believe that Section 3702 of Title 38, which allows Guard and Reserve members who complete 6 years of service to participate in the loan program, should be made permanent.

The law extending eligibility for the VA Home Loan Guaranty Program to these service members was enacted in 1992 with bipartisan support in the Senate and in the House. As the sponsor of the original bill, I am pleased with the participation of Guard and Reserve members in the program, and am committed to ensuring that their eligibility for this program continues beyond the sunset date.

With the downsizing of our active duty military forces, Guard and Reserve units are becoming an increasingly vital element of the total force. However, there are very few incentives to get qualified individuals to serve our country in the Selected Reserve. The VA Home Loan Guaranty Program for National Guard and Reserve members is an excellent incentive to join and remain in the Selected Reserve.

Since the VA Home Loan Guaranty Program for Guard and Reserve members began in October 1992, the VA has guaranteed more than 33,000 loans through fiscal year 1996. In 1996 alone, approximately 11,000 loans totalling over $1 billion were made. According to the VA, only 93 out of all loans made to Reservists have been foreclosed upon, for a minimal default rate of about 0.4 percent. By comparison, the foreclosure rate for loans made to other veterans was two and one-half times higher than the rate for Reservists. Furthermore, 67 percent of loans to Reservists guaranteed by the VA in fiscal year 1996 were to first time home buyers, compared to 56 percent of loans to other veterans.

As the statistics on VA-guaranteed home loans indicate, the inclusion of Guard and Reserve members actually stabilizes the financial viability of he program since this group is likely to have a lower default rate than other veterans. Reservists are generally an older, more mature, and stable group with established civilian jobs and ties to local communities.

Mr. President, it is clear that the VA Home Loan Guaranty Program is not only good for members of the Selected Reserve, it is also beneficial for the VA Home Guaranty Program. Furthermore, the local economies where the homes are purchased also benefit from this program. So, therefore, I urge my colleagues to join me in supporting this legislation. Passage of this measure will ensure that the program continues to be made available to National Guard and Reserve members who have served our country.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT ELIGIBILITY OF FORMER MEMBERS OF SELECTED RESERVE FOR VETERANS HOUSING LOANS.

Section 3702(a)(2)(E) of title 38, United States Code, is amended by striking out "For the period beginning on October 28, 1992, and ending on October 27, 1999, each veteran" and inserting in lieu thereof "Each veteran".

By Mr. GORTON (for himself, Mr. KERREY, Mr. JEFFORDS, Mr. BUMPERS, and Mrs. MURRAY):

S. 2182. A bill to amend the Internal Revenue Code of 1986 to provide tax-exempt bond financing of certain electric facilities; to the Committee on Finance.

PRIVATE USE COMPETITION REFORM ACT OF 1998

• Mr. GORTON. Mr. President today I join with Senators KERREY, JEFFORDS, and BUMPERS, to introduce the Private Use Competition Reform Act of 1998. This legislation provides a fair balance among public financing concerns, principles of fair competition and customer choice in the electric utility industry. At the same time, it strikes an equitable balance between publicly-owned utilities and investor-owned utilities. Most importantly, it advances the interest of consumers.

The challenge in developing this legislation was to determine the middle ground. Some publicly-owned utilities would like to change the Tax Reform Act of 1986 so that all existing and all future tax-exempt debt would be protected without restrictions. Some investor-owned utilities favor elimination of tax-exempt options for municipal electric utilities, including much of their existing debt. However, this approach would threaten the existence of publicly owned utilities, and raise rates for more than 40 million consumers.

This bill will accomplish two objectives. First, it clarifies how the existing private-use requirements—the rules that limit the ability of publicly-owned utilities to sell or transport electricity to private parties from facilities financed by tax-exempt bonds—will work in a new competitive marketplace. Secondly, it provides options, with significant tradeoffs, for those utilities that need flexibility and encourages municipalities to open their transmission systems and provide retail choice to consumers.

There are three categories of debt addressed in this legislation.

The first consists of existing debt that has been issued for all segments of a public utility's system: generating plants, transmission lines, and local distribution systems. This debt was issued under the assumption that our existing system would not change, and electric utilities would remain closed and not be subject to retail competition.

The second category of debt pertains to bonds issued after the effective date of the enacted bill and used to finance new generating facilities. There is a compelling argument that this type of debt should not be tax-exempt because power generation, unlike transmission and distribution, is emerging as a competitive market.

The third category of future debt involves those areas of a utility's system that will not face competition: transmission and local distribution. Since these areas would remain *de facto* monopolies regulated by FERC or local governments and would be increasingly open to access by all market participants on a non-discriminatory basis, it is appropriate that they should continue to have access to tax-exempt financing.

This bill addresses each area differently. To enable public power systems to one up their transmission and distribution systems, it provides limited relief to existing tax-exempt debt. But there is a significant tradeoff for this relief: eliminating publicly-owned utilities' ability to issue tax-exempt debt for facilities that will be used in a competitive marketplace.

THE CURRENT PROBLEM

The Energy Policy Act of 1992 and the subsequent FERC Order 888 mandating open transmission access, coupled with state restructuring efforts, have created a significant tax problem for public systems.

To gain access to competitive wholesale markets, a publicly-owned utility must provide comparable access; some public power systems own vital transmission links within a geographical area. Also, customers of public systems—who are also their owners—will want access to other power suppliers.

If publicly-owned systems open their transmission lines they can run afoul of the current "private-use test" in the tax code and force their bonds to become retroactively taxable.

In sum, the current private use restrictions were written before anyone could anticipate a competitive electricity industry; consequently this places publicly-owned utilities in a complex bind. Allowing private entities to use their transmission facilities could trigger the private use tests, resulting in an expensive and chaotic defeasance of these bonds. Public systems also face penalties under private use regulations if they sell power to existing customers on a non-tariff basis or resell power that becomes excess when retail customers switch suppliers.

The Department of Treasury released temporary regulations in January of 1998, (twelve years after the Tax Reform Act of 1986), but these temporary regulations still fail to provide the flexibility needed for public power systems as the electric utility industry transitions to retail competition.

This legislation is needed to address these concerns, and to promote fair competition in the electricity industry. This bill will help ensure that all Americans can enjoy the benefits of competition—lower rates, new and innovative products, and better service.

Mr. President, I ask unanimous consent that the text of the bill and the explanatory memorandum be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX-EXEMPT BOND FINANCING OF CERTAIN ELECTRIC FACILITIES.

(a) PERMITTED OPEN ACCESS TRANSACTIONS NOT A PRIVATE BUSINESS USE.—Section 141(b)(6) of the Internal Revenue Code of 1986 (defining private business use) is amended by adding at the end the following:

"(C) PERMITTED OPEN ACCESS TRANSACTIONS NOT A PRIVATE BUSINESS USE.—

"(i) IN GENERAL.—For purposes of this subsection, the term 'private business use' shall not include a permitted open access transaction.

"(ii) PERMITTED OPEN ACCESS TRANSACTION DEFINED.—For purposes of clause (i), the term 'permitted open access transaction' means any of the following transactions or activities with respect to an electric output facility (as defined in subsection (f)(5)(A)) owned or leased by a governmental unit or in which a governmental unit has capacity rights:

"(I) Providing open access transmission services and ancillary services that meet the reciprocity requirements of Federal Energy Regulatory Commission Order No. 888, or that are ordered by the Federal Energy Regulatory Commission, or that are provided in accordance with a transmission tariff of an independent system operator approved by such Commission, or are consistent with state administered laws, rules or orders providing for open transmission access.

"(II) Participation in an independent system operator agreement, regional transmission group, or power exchange agreement approved by such Commission.

"(III) Delivery on an open access basis of electric energy sold by other entities to end-users served by such governmental unit's distribution facilities.

"(IV) If open access service is provided under subclause (I) or (III), the sale of electric output of electric output facilities on terms other than those available to the general public if such sale is (1) to an on-system purchaser, (2) an existing off-system sale, or (3) a qualifying load loss sale.

"(V) Such other transmissions or activities as may be provided in regulations prescribed by the Secretary.

"(iii) QUALIFYING LOAD LOSS SALE.—For purposes of clause (ii)(IV), a sale of eclectic energy by a governmental unit is a qualifying load loss sale in any calendar year after 1997, if it is a new off-system sale, and the aggregate of new off-system sales in such year does not exceed lost load, and if the term of the sale does not exceed three years, and such governmental unit has elected under subsection (f)(2) to suspend issuance of certain tax-exempt bonds for not less than the term of the sale (or for any period equal to the term of the sale that includes the first year of the sale).

"(iv) OTHER DEFINITIONS; SPECIAL RULES.—For purposes of this subparagraph—

"(I) ON-SYSTEM PURCHASER.—The term 'on-system purchaser' means a person who purchases electric energy from a governmental unit and who is directly connected with transmission or distribution facilities that are owned or leased by such governmental unit or in which such governmental unit has capacity rights that are treated under FERC tariffs or existing contracts as equivalent to ownership.

"(II) OFF-SYSTEM PURCHASER.—The term 'off-system purchaser' means a purchaser of electric energy from a governmental unit other than an on-system purchaser.

"(III) EXISTING OFF-SYSTEM SALE.—The term 'existing off-system sale' means a sale of electric energy to a person that was an off-system purchaser of electric energy in the base year, but not in excess of the KWH purchased by such person in such year.

"(IV) NEW OFF-SYSTEM SALE.—The term 'new off-system sale' means an off-system sale other than an existing off-system sale.

"(V) LOST LOAD.—The term 'lost load' for the purposes of determining qualifying load loss sales for any year, means the amount (if any) by which (1) the sum of on-system sales of electric energy and existing off-system sales of electric energy in such year is less than (2) the sum of such sales of electric energy in the base year.

"(VI) BASE YEAR.—The term 'base year' means 1997 (or, at the election of such unit, in 1995 or 1996).

"(VII) JOINT ACTION AGENCIES.—A member of a joint action agency that is entitled to make a qualifying load loss sale in a year may transfer that entitlement to the joint action agency in accordance with rules of the Secretary."

(b) ELECTION TO TERMINATE TAX EXEMPT FINANCING.—Section 141 of the Internal Revenue Code of 1986 (relating to private activity bond; qualified bond) is amended by adding at the end the following:

"(f) ELECTION TO TERMINATE OR SUSPEND TAX-EXEMPT BOND FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILITIES.—

"(1) TERMINATION ELECTION.—An issuer may make an irrevocable election under this paragraph to terminate certain tax-exempt financing for electric output facilities. If the issuer makes such election, then—

"(A) except as provided in paragraph (3), no bond the interest on which is exempt from tax under section 103 may be issued on or after the date of such election with respect to an electric output facility; and

"(B) notwithstanding paragraph (1) or (2) of subsection (a) or paragraph (5) of subsection (b), with respect to an electric output facility no bond that was issued before the date of enactment of this subsection, the interest on which was exempt from tax on such date, shall be treated as a private activity bond, for so long as such facility continues to be owned by a governmental unit.

"(2) SUSPENSION ELECTION.—For purpose of subsection (b)(6)(C)(iii), an issuer may elect to suspend certain tax-exempt financing for electric output facilities for a calendar year. If the issuer makes such election, then (except as provided in paragraph (3)) no bond, the interest on which is exempt from tax under section 103, may be issued in such calendar year with respect to an electric output facility.

"(3) EXCEPTIONS.—An election under paragraph (1) or (2) does not apply to—

"(A) any qualified bond (as defined in subsection (e)),

"(B) any eligible refunding bond, or

"(C) any bond issued to finance a qualifying T&D facility, or

"(D) any bond issued to finance repairs or pollution control equipment for electric output facilities. Repairs cannot increase by more than a de minimus degree the capacity of the facility beyond its original design.

"(4) FORM AND EFFECT OF ELECTIONS.—An election under paragraph (1) or (2) shall be made in such a manner as the Secretary prescribes and shall be binding on any successor in interest to the issuer.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) ELECTRIC OUTPUT FACILITY.—The term 'electric output facility' means an output facility that is an electric generation, transmission, or distribution facility.

"(B) ELIGIBLE REFUNDING BOND.—The term 'eligible refunding bond' means state or local bonds issued after an election described in paragraph (1) or (2) that directly or indirectly refund state or local bonds issued before such election, if the weighted average maturity of the refunding bonds do not exceed the remaining weighted average maturity of the bonds issued before the election.

"(C) QUALIFYING T&D FACILITY.—The term 'qualifying T&D facility' means—

"(i) transmission facilities over which services described in subsection (b)(6)(C)(ii)(I) are provided, or

"(ii) distribution facilities over which services described in subsection (b)(6)(C)(ii)(III) are provided."

(c) EFFECTIVE DATE, APPLICABILITY, AND TRANSITION RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act, except that a governmental unit may elect to apply section 141(b)(6)(C) of the Internal Revenue Code of 1986, as added by subsection (a), with respect to permitted open access transactions on or after July 9, 1996.

(2) APPLICABILITY.—References in the Act to sections of the Internal Revenue Code of 1986, as amended, shall be deemed to include references to comparable sections of the Internal Revenue Code of 1954, as amended.

(3) TRANSITION RULES.—

(A) PRIVATE BUSINESS USE.—Any activity that was not a private business use prior to the effective date of the amendment made by subsection (a) shall not be deemed to be a private business use by reason of the enactment of such amendment.

(B) ELECTION.—An issuer making the election under section 141(f) of the Internal Revenue Code of 1986, as added by subsection (b), shall not be liable under any contract in effect on the date of enactment of this Act for any claim under section 141(f) of such Code arising from having made the election.

(d) SHORT TITLE.—This Act may be cited as the "Private Use Competition Reform Act of 1998".

EXPLANATION OF S. 2182

BACKGROUND

Interest on bonds issued by state and local governments is generally exempt from Federal income taxes. One exception to this general rule relates to bonds that finance output facilities used in a private business. In the case of such facilities, if the contractual arrangements for sale of the output transfer the benefits and burdens of ownership of the facility to private parties, the use is treated as a private business use and the bonds issued to finance the facility may not be tax-exempt. If at the time of issuance the issuer reasonably expected that the private business use rules would be violated or the issuer thereafter took deliberate action that resulted in a violation, interest on the bonds is retroactively taxable to date of issuance.

There has been significant uncertainty as to how these private business use rules apply to public power systems in the emerging competitive wholesale and retail electricity markets. In particular, questions have been raised as to whether such systems may (1) provide open access transmission services, (2) contractually commit their transmission systems to an Independent System Operator (ISO), (3) open their distribution facilities to retail competition, or (4) lower prices to particular customers to meet competition.

PROPOSED AMENDMENTS

S. 2182 would amend the Internal Revenue code of 1986 to make two modifications to the private business use rules as they apply to electric facilities: (1) to clarify the application of the existing private business use rules in the new competitive environment, and (2) to make the private business use rules inapplicable to existing tax-exempt debt issued by any public power system that elects not to issue new tax-exempt debt for electric generation and certain other facilities.

1. *Clarification of Existing Private Business Use Rules.* Subsection (a) of section 1 of the bill amends section 141(b)(6) of the Code to make it clear that the following activities (referred to as "permitted open access transactions") do not result in a private business use and will not make otherwise tax-exempt bonds taxable:

(a) Providing open access transmission service consistent with Federal Energy Regulatory Commission (FERC) Order No. 888 or with State open transmission access rules.

(b) Joining a FERC approved ISO, regional transmission group (RTG), power exchange, or providing service in accordance with an ISO, RTG, or power exchange tariff.

(c) Providing open access distribution services to competing retail sellers of electricity.

(d) If open access transmission or distribution services are offered, contracting for sale of power at non-tariff rates—

(i) with on-system purchasers or existing off-system purchasers, or

(ii) with new off-system purchasers for up to three years to offset lost load, but only if the issuer elects to temporarily suspend use of certain tax-exempt financing. A sale qualifies under this provision if aggregate new off-system sales do not exceed lost load, and if the public power system has elected to suspend issuance of certain tax-exempt bonds for a period at least as long as the term of the sale. "Lost load" means the amount by which on-system sales and existing off-system sales in a year are reduced from such sales in a 1995, 1996, or 1997 base year. A special rule permits a member of a joint action agency that is entitled to make a qualifying load loss sale in a year to transfer that entitlement to the joint action agency.

Treasury by regulation could add to the list of permitted open access transactions.

2. *Election to Terminate or Suspend Issuing Future Tax-Exempt Debt.* Subsection (b) of section 1 amends section 141 of the Code to permit a public power system to elect to terminate or suspend issuing new tax-exempt bonds.

(a) *Termination Election.*—Under new Code section 141(f)(1), if a public power system elects to terminate issuance of new tax-exempt bonds, it may then undertake transactions that are not otherwise permissible under the private business use rules (as amended above) without endangering the tax-exempt status of its existing bonds. Specifically, if the issuer makes an irrevocable termination election under this provision, then (subject to the exceptions discussed below) no tax-exempt bond may be issued on or after the date of such election with respect to an electric output facility, and no tax-exempt bond that was issued before the date of enactment will be treated as a private activity bond. This treatment continues for so long as such facility continues to be owned by a governmental unit.

Essentially, making this termination election will eliminate the possibility of a private business use challenge to existing tax-exempt debt. If a utility does not make the election, its existing tax-exempt debt for electric generation facilities would continue to be subject to applicable private business use rules and the marketing constraints thereunder.

(b) *Suspension Election.* New section 141(f)(2) provides an alternative to the election to permanently terminate issuing tax-exempt bonds described above. Under the alternative, an issuer may elect to suspend certain tax-exempt financing for electric output facilities in return for temporary relief from certain of the private business use rules, so as to permit the issuer to make sales to offset lost load, as described in 1(d) above.

(c) *Exceptions to Termination or Suspension.* Under section 141(f)(4) even if a public power system made the suspension or termination election, it could continue to issue tax-exempt bonds for the following purposes: for transmission and distribution facilities used to provide open access transmission and distribution services; for "qualified bonds" as defined in section 141(e) of the Code (which are not currently subject to private business use restrictions); for eligible refunding bonds (bonds that refinance existing bonds but do not extend their average maturity); and for bonds issued to finance repairs of, or pollution control equipment for, electrical output facilities, so long as the capacity of the facility is not increased over a de minimis amount.

3. *Effective Dates.* Subsection (c) makes the provisions of the bill effective on date of enactment, but an issuer may elect to make the private business use rules as clarified by the bill applicable retroactively to 1996 (when FERC issued its Order No. 888). Paragraph (2) of subsection (c) makes it clear that the provisions of the bill apply to bonds issued under the Internal Revenue Code of 1954 as well as the Internal Revenue Code of 1986. This subsection also makes clear that any activity that was not a private business use prior to the enactment of the bill will not be deemed to be a private business use by reason of the bill's enactment. In addition, an issuer making the election under the bill will not be liable under any contract in effect on the date of enactment of the bill for any contract claim arising from having made the election.•

• Mr. KERREY. Mr. President, consumers in Nebraska currently pay some of the lowest rates in the nation for their electric service. They receive power from 171 entities—more individual electric systems than any other state. Nebraska is also the only state in the nation which relies entirely on public power for its electric service.

This structure has served Nebraskans well, and the legislation that Senators GORTON, BUMPERS, JEFFORDS, and I are introducing today will ensure that consumers in my state continue to receive superior electric service as efforts to deregulate the electric industry move forward.

Mr. President, the legislation we are introducing accomplishes three important goals:

First, this bill enables public power systems to open their transmission lines to other power producers and to transfer control of their transmission facilities to an Independent System Operator without jeopardizing the status of their tax-exempt bonds. This will enable consumers throughout the country to receive electricity from their power producer of choice in an open access marketplace.

Secondly, this bill enables public power systems to make non-tariff sales of lost "load" resulting from retail competition, without jeopardizing the ability of the utility to issue tax-exempt debt in the future. This will allow public utilities to continue to provide quality service to current customers and attract new customers in a deregulated environment.

Finally, Mr. President, this legislation gives public power systems the option of terminating issuance of new tax-exempt debt for generation facilities, while grandfathering all existing debt. This provision will give public power systems the flexibility necessary to make business decisions about the future based on their financial status and the electricity demands in their individual service areas.

Mr. President, I commend Senator GORTON for the time and energy that he has devoted to this issue. It is critical that Congress alleviate the burden which current private-use regulations place on the ability of public power systems to function in a deregulated environment.

While Congress moves toward electricity deregulation, I will continue to fight for the consumers of my state to ensure that their best interests are not compromised. The legislation my colleagues and I are introducing today is a realistic and workable solution to the private-use dilemma, and I encourage my colleagues to give it their full support.•

By Mr. HARKIN:

S. 2183. A bill to amend the Head Start Act to increase the reservation of funds for programs for low-income families with very young children, and for other purposes; to the Committee on Labor and Human Resources.

HEAD START LEGISLATION

• Mr. HARKIN. Mr. President, most Americans are very familiar with Head Start. This popular preschool program was created in 1965 to provide health, nutrition and educational assistance to low-income four and five year old children. Head Start enjoys strong bipartisan support and is widely recognized as a success.

In response to the growing body of research about the critical development which occurs during the first three years of a child's life, Head Start has been expanded in recent years to also serve infants and toddlers. The Early Head Start Program provides comprehensive child development and family support services to families with infants and toddlers from birth through age three and currently receives 5% of Head Start funding. An estimated 39,000 children currently receive services nationwide. In Iowa, 533 children are served by Early Head Start.

However, these children and families represent only a fraction of those that need and could benefit from these activities. As a result, today I am introducing legislation that would increase the set-aside to 10% in 2002—to double the number of participants.

There were many exciting developments last year with respect to the education of young children. Science confirmed what many of us have believed for years—that the first three years of a child's life are the most important. We discovered that young children have unlimited potential to learn many things during this critical time. We learned how important it is for parents to read to their young children, talk with them and stimulate learning through play. We also learned that children who do not have enriched learning experiences during these important years can be stunted for life.

Last year, the Labor, Health and Human Services and Education appropriations subcommittee, of which I am the ranking Democrat, held a hearing focused on the importance of early intervention activities. We heard compelling testimony on the benefits of providing support for early education and development activities. The President and First Lady also convened historic conferences to discuss early childhood education and child care and a public campaign was launched to spread the word to parents.

Throughout the year, the message was always the same—we must make investments in early intervention programs a national priority. This is the right thing to do for the young children of our nation, but it is also the most cost-effective thing for us to do. Every dollar invested in quality preschool programs saves $7 in future costs for special education, welfare or corrections.

In 1991, the Committee for Economic Development called on the nation to rethink how we view education. This group of business leaders urged federal policy makers to view education as a process that begins at birth, with preparations beginning before birth. I strongly support this objective and have always been a strong advocate in early intervention activities such as Head Start, the WIC nutrition program and early intervention programs for infants and toddlers with disabilities.

We must dedicate ourselves to making the CED vision a reality and build a strong foundation for education in this country. That begins with ensuring that all children get off to a good, strong start and enter school ready to learn.

Last year, the Labor, Health and Human Services and Education appropriations subcommittee made investments in early intervention a priority at my request. The FY 1998 appropriations bill invested an additional $64 million in Early Head Start, an increase of 75%, and provided an 11% increase in the early intervention program for infants and toddlers with disabilities.

The legislation I am introducing today takes another step toward building this foundation by doubling the set-aside for the Early Head Start Program for children ages 0–3 by the year 2002. This action will continue to improve access to education and development services for our youngest children to provide a good start in life. I urge my colleagues to support this legislation.•

By Mr. KERREY (for himself, Mr. MOYNIHAN, Mr. BREAUX, and Mr. LIEBERMAN):

S. 2184. A bill to amend the Social Security Act to provide each American child with a KidSave Account; to the Committee on Finance.

SOCIAL SECURITY KIDSAVE ACCOUNTS ACT

• Mr. KERREY. Mr. President, many of the things we do in the Senate require hypothetical analysis, shaky forecasts and hazy predictions. Indeed at times it could be said that we don't know what we're doing. Today Senator MOYNIHAN and I are introducing a bill based on a mathematical certainty. Our bill would make every baby born in America wealthy. Guaranteed.

This proposal, called KidSave, supplements S. 1792, the Social Security Solvency Act of 1998, which the Senator from New York introduced earlier this year and of which I am an original cosponsor. It would cut the payroll tax by $800 billion—the largest tax cut in American history, and the one most targeted to middle class families—so individuals can harness the power of compounding interest rates to build wealth for retirement. One of the discoveries I have made in researching this idea is that the most important variable in compounding interest rates is time. The earlier you start, the more wealth you build.

KidSave is based on that observation. It would use part of the savings created by S. 1792 to open a $1,000 account for every child at birth and contribute $500 a year to that account for the first five years. These KidSave accounts would be invested in broad funds administered by the Social Security Administration, and be similar to the Thrift Savings Plan available to federal employees and to members of this body.

As I said, Mr. President, this is a mathematical proposition. Even at modest rates of return, the long stretch of time over which this investment would be compounded means every baby born in America would have a shot at the American dream. At just 5.4 percent return, less than the historical rates of return for the market, these birth accounts alone would allow every American to supplement his or her retirement income by $235 a month in 1998 dollars, and still leave more than $100,000 behind to his or her heirs.

These accounts would supplement those opened by the payroll tax cut proposed in S. 1792. This approach to retirement security is two-pronged. First, we shore up the solvency of Social Security so it continues to provide a reliable monthly check. But we also realize that check isn't enough to live on. The average Social Security check in Nebraska is $733 a month. Nationwide, sixteen percent of beneficiaries have no other source of income. Another 14 percent rely on Social Security for more than 90 percent of their income, and nearly two-thirds overall derive more than half their income from that small check. For many of them, it's not enough. Our proposal is based on the idea that retirees need both income and wealth, and experience bears that idea out. Today retirees with asset income have more than double the retirement income of those who don't.

But this is about much more than money. Not only is this a guaranteed route to retirement security, it's also a mathematically certain solution to one of the toughest problems we face: The rich are getting richer and the poor are getting poorer. To understand this problem, we must understand the difference between income and wealth. Income, Mr. President, consists of the paychecks we use to pay our bills. Wealth is what an individual owns in assets like a home, mutual fund or pension. We've heard a lot recently about the gap between rich and poor in terms of income. The gap in wealth is even worse and, I would argue, more important. As our economy becomes more global and technology-intensive, it is disproportionately distributing its rewards to those who own a piece of our economy.

Despite the growing importance of wealth, a stark gap has opened between those who have it and those who don't. The bottom 90 percent of Americans earn 60 percent of all income, but own less than 30 percent of net worth and less than 20 percent of financial assets. These Americans are being left behind as the economy apportions more and more of its rewards to owners of wealth. Social Security can be a vehicle for solving that problem.

We believe wealth can transform Americans' attitudes about their future. Wealth enables higher living standards, but it also enables generosity and the optimism that comes with feeling secure about the future. Wealth can make every American an Oseola McCarty, the remarkable woman in Hattiesburg, Mississippi, who after more than seven decades of low-wage work as a washer woman donated $150,000 to the University of Southern Mississippi—wealth she had built by saving a little bit of money over a long period of time. Wealth can make every American like Al, a man who works as a printer for the U.S. Senate. His Thrift Savings Plan has boomed so much he is thinking of opening a savings account for his two-year-old boy. Wealth can give every American the opportunity to be like another man I recently met, whose firm was bought out but who became wealthier because he owned a piece of it. When I spoke with him, he didn't talk about his income. He said he had told his wife: "Whatever else happens to us in life, we know the kids can go to college."

Each of these Americans has something in common, Mr. President. They own a piece of their country. When the economy grows, they grow. They have a stake in low inflation. They want trade barriers lowered. They are on the front lines of a transformation from an "us-vs.-them" economy to one in which the attitude is: "We're all in this together."

And, Mr. President, that's an opportunity we can open today to every baby born in America. Guaranteed. I urge my colleagues to support this legislation.●

● Mr. MOYNIHAN. Mr. President, Senator KERREY and I, along with Senators BREAUX and LIEBERMAN, are pleased to introduce the Social Security KidSave Accounts Act, which nicely complements the Social Security Solvency Act of 1998 introduced by Senator KERREY and me in March. In that proposal we reduced payroll taxes by $800 billion over 10 years. The reduction in the payroll tax rate from 12.4 percent to 10.4 allows the funding of personal savings accounts with the 2 percentage point reduction in the payroll tax.

A worker with average earnings depositing 2 percent of wages—one percent from the worker and one percent from the employer can—over 45 years—accumulate almost one half of a million dollars. Add in the wealth generated over a lifetime of 70 years from the interest on the KidSave accounts of $3,500—$1,000 at birth and $500 for each of the next five years—and you have created a new class of millionaires. Workers will have estates which they can pass on to their heirs.

Combined, these two bills create wealth without spending the budget surplus. The Congressional Budget Office estimates that for the ten year period 1999–2008, our bill, which saves Social Security indefinitely, increases the budget surplus by $170 billion. This KidSave bill spends only about $100–$120 billion of that increase. In short, we create private savings without reducing public savings.

Together these bills provide for a more comprehensive approach to retirement savings. The foundation of this approach remains Social Security, the financial future of which is secured for 75 years and beyond. If this legislation is enacted, as I hope it will be, significant new private savings would be added to this foundation.●

By Mr. KENNEDY (for himself, Mrs. BOXER, Mr. DURBIN, Mr. DODD, and Mr. REED):

S. 2185. A bill to protect children from firearms violence; to the Committee on the Judiciary.

CHILDREN'S GUN VIOLENCE PREVENTION ACT

Mr. KENNEDY. Mr. President, I rise to introduce the Children's Gun Violence Prevention Act, together with Senator BOXER, Senator DURBIN, Senator DODD and Senator REED.

The continuing epidemic of gun violence involving children demands action by Congress.

The wave of school shootings in communities across the country is a wake-up call for the nation. We need to do more—and we can do more—to protect children from guns.

Every day in the United States, 14 children are killed by a gun; 24 percent of children say they have access to a gun at home; 10 percent have recently carried a gun to school.

We need to deal more effectively with all aspects of the culture of violence that is killing our children. The legislation we propose today is a concrete step to do more to keep children safe from gun violence.

I know that some in Congress are reluctant to challenge the National Rifle Association, but there are common sense steps that we can take and should take to protect children from guns. Our bill says that gun owners must take responsibility for securing their guns so that children can't use them. It says that gun dealers must be more vigilant in not selling guns and ammunition to children. It says we must develop child-proof safety locks and other child safety features for guns. We do more today to regulate the safety of toy guns than real guns, and that's a national disgrace.

The legislation we are introducing today is the least we can do to stop more schoolyard tragedies and to deal more responsibly with the festering crisis of gun violence involving children.

In a press conference earlier today, we heard what gun violence has done to Susan Wilson of Jonesboro with the loss of her daughter Brittheny, and what it has done to the families in Oregon, and the thousands of other families who lose children to gun violence every year, and we know that action is needed.

I want to commend Sarah Brady and Handgun Control for their leadership on this legislation, and for bringing us to this point today.

Practical steps can clearly be taken to protect children more effectively from guns, and to promote greater responsibility by parents, gun manufacturers, and gun dealers alike. This legislation calls for such steps and it deserves to be enacted this year by this Congress.

Mr. President, I ask that the full text and a description of the bill be included in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Children's Gun Violence Prevention Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—THE CHILDREN'S FIREARM SAFETY ACT OF 1998

Sec. 101. Prohibition on manufacture or importation of unsafe handguns.
Sec. 102. Consumer Product Safety Commission study.

TITLE II—THE CHILDREN'S FIREARMS AGE LIMIT ACT OF 1998

Sec. 201. Extension of juvenile handgun ban to semiautomatic assault weapons.
Sec. 202. Increased penalty for transferring handgun or semiautomatic assault weapon to juvenile for use in a crime of violence.

TITLE III—THE CHILDREN'S FIREARM DEALER'S RESPONSIBILITY ACT OF 1998

Sec. 301. Automatic revocation of license of firearms dealer who willfully sells firearm to a minor.
Sec. 302. 2 forms of identification required from firearms purchasers under age 24.
Sec. 303. Minimum safety and security standards for gun shops.

TITLE IV—THE CHILDREN'S FIREARM ACCESS PREVENTION ACT OF 1998

Sec. 401. Short title.
Sec. 402. Children and firearms safety.

TITLE V—THE CHILDREN'S FIREARM INJURY SURVEILLANCE ACT OF 1998

Sec. 501. Short title.
Sec. 502. Surveillance program regarding injuries to children resulting from firearms.

TITLE VI—THE CHILDREN'S FIREARM EDUCATION ACT OF 1998

Sec. 601. Short title; purposes.
Sec. 602. Competitive grants for children's firearm education.
Sec. 603. Dissemination of best practices.
Sec. 604. Definitions.
Sec. 605. Amendment to Safe and Drug-Free Schools and Communities Act of 1994.

TITLE VII—THE CHILDREN'S FIREARM TRACKING ACT OF 1998

Sec. 701. Youth Crime Gun Interdiction Initiative.

TITLE I—THE CHILDREN'S FIREARM SAFETY ACT OF 1998

SEC. 101. PROHIBITION ON MANUFACTURE OR IMPORTATION OF UNSAFE HANDGUNS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

"(y)(1) Beginning on the date that is 18 months after the date of enactment of this subsection it shall be unlawful for any person to manufacture or import an unsafe handgun.

"(2) The term 'unsafe handgun' means—

"(A) any handgun which the Secretary determines, when new, fires in any of 5 successive trials in which the handgun (loaded with an empty case with a primer installed and having built-in manual handgun safety devices deactivated so that the handgun is ready to fire) is dropped onto a solid slab of concrete from a height of one meter from each of the following positions:

"(i) normal firing position;

"(ii) upside down;

"(iii) on grip;

"(iv) on the muzzle;

"(v) on either side;

"(vi) on the exposed hammer or striker;

"(vii) if there is no hammer or striker, the rearmost part of the firearm; and

"(viii) any other position which the Secretary determines is necessary to determine whether the handgun is subject to accidental discharge;

"(B) any handgun without a child resistant trigger mechanism reasonably designed to prevent a child who has not attained 5 years of age from operating the weapon when it is ready to fire. Such mechanism may include:

"(i) any handgun without a trigger resistant to a ten pound pull; or

"(ii) any handgun, under rules determined by the Secretary, which is designed so that the hand of an average child who has not attained 5 years of age is unable to grip the trigger;

"(C) any semiautomatic pistol which does not have a magazine safety disconnect that prevents the pistol from being fired once the magazine or clip is removed from the weapon.

"(D) a handgun sold without a mechanism reasonable designed, under rules determined by the Secretary, to prevent the discharge of the weapon by unauthorized users, including but not limited to the following devices:

"(i) a detachable, key activated or combination lock which prevents the trigger from being pulled or the hammer from striking the primer; or

"(ii) a solenoid use-limitation device which prevents, by use of a magnetically activated relay, the firing of the weapon unless a magnet of the appropriate strength is placed in proximity to the handle of the gun.

"(3) Paragraph (1) shall not apply to—

"(A) the manufacture or importation of a handgun, by a licensed manufacturer or licensed importer, for use by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State; or

"(B) the manufacture or importation by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

"(4) This subsection shall not be construed to preempt or limit in any way any causes of action available under the law of any State against a manufacturer of a firearm.".

SEC. 102. CONSUMER PRODUCT SAFETY COMMISSION STUDY.

(a) STUDY.—Notwithstanding any other provision of law, the Consumer Product Safety Commission, in consultation with the Bureau of Alcohol, Tobacco and Firearms, shall conduct a study to determine how the safety of handguns can be improved so as to prevent their unauthorized use or discharge by children who have not attained 18 years of age. The study shall include the testing and evaluation of—

(1) locking devices that, while installed on a handgun, prevent the handgun from being discharged, and that can be removed or deactivated by means of a key or a mechanically, electronically, or electro-mechanically operated combination lock;

(2) locking devices that are incorporated into the design of a handgun, that, when activated, prevent a handgun from being discharged, and that can be deactivated by means of a key or a mechanically, electronically, or electro-mechanically operated combination lock;

(3) storage boxes, cases, or safes equipped with a mechanically, electronically, or electro-mechanically operated lock that, when activated, prevents access to a firearm located in the storage box, case, or safe.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Consumer Product Safety Commission shall submit to the Congress a report that details the results of the study required by subsection (a) and that includes recommendations on how handgun safety can be improved and how changes in handgun design can reduce unauthorized access to guns by children who have not attained 18 years of age.

(c) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Director of the Consumer Product Safety Commission $1,500,000 for fiscal year 1999.

TITLE II—THE CHILDREN'S FIREARMS AGE LIMIT ACT OF 1998

SEC. 201. EXTENSION OF JUVENILE HANDGUN BAN TO SEMIAUTOMATIC ASSAULT WEAPONS.

Section 922(x) of title 18, United States Code, is amended in each of paragraphs (1) and (2)—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding at the end the following:

"(C) a semiautomatic assault weapon.".

SEC. 202. INCREASED PENALTY FOR TRANSFERRING HANDGUN OR SEMIAUTOMATIC ASSAULT WEAPON TO JUVENILE FOR USE IN A CRIME OF VIOLENCE.

Section 924(a)(6)(B)(ii) of title 18, United States Code, is amended by striking "10" and inserting "20".

TITLE III—THE CHILDREN'S FIREARM DEALER'S RESPONSIBILITY ACT OF 1998

SEC. 301. AUTOMATIC REVOCATION OF LICENSE OF FIREARMS DEALER WHO WILLFULLY SELLS A FIREARM TO A MINOR.

Section 923(e) of title 18, United States Code, is amended by inserting after the 3rd sentence the following: "The Secretary, after notice and opportunity for hearing, shall revoke the license of a dealer who willfully sells a firearm to an individual who has not attained 18 years of age.".

SEC. 302. 2 FORMS OF IDENTIFICATION REQUIRED FROM FIREARMS PURCHASERS UNDER AGE 24.

Section 922(t)(1)(C) of title 18, United States Code, is amended by inserting "(or, if the licensee knows or has reasonable cause to believe that the transferee has not attained 24 years of age)" before "valid".

SEC. 303. MINIMUM SAFETY AND SECURITY STANDARDS FOR GUN SHOPS.

(a) IN GENERAL.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

"(m) SAFETY AND SECURITY STANDARDS FOR GUN SHOPS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary of the Treasury, acting through the Director of the Bureau of Alcohol, Tobacco, and Firearms, shall issue final regulations that establish minimum firearm safety and security standards that shall apply to dealers who are issued a license under this section.

"(2) MINIMUM STANDARDS.—The regulations issued under this subsection shall include minimum safety and security standards for—

"(A) a place of business in which a dealer covered by the regulations conducts business or stores firearms;

"(B) windows, the front door, storage rooms, containers, alarms, and other items of a place of business referred to in subparagraph (A) that the Secretary of the Treasury, acting through the Director of the Bureau of Alcohol, Tobacco and Firearms, determines to be appropriate; and

"(C) the storage and handling of the firearms contained in a place of business referred to in subparagraph (A).".

(b) Inspections.—Section 923(g)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ", and" and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iii) with respect the place of business of a licensed dealer, the safety and security measures taken by the dealer to ensure compliance with the regulations issued under subsection (m)."; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by inserting "and the place of business of a licensed dealer" after "licensed dealer";

(B) in clause (ii), by striking "or" at the end;

(C) in clause (iii), by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(iv) not more than once during any 12-month period, for ensuring compliance by a licensed dealer with the regulations issued under subsection (m).".

(c) Penalties.—Section 924(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following:

"(D) being a licensed dealer, knowingly fails to comply with any applicable regulation issued under section 923(m); and".

TITLE IV—THE CHILDREN'S FIREARM ACCESS PREVENTION ACT OF 1998

SEC. 401. SHORT TITLE.

This title may be cited as the "Children's Firearm Access Prevention Act of 1998".

SEC. 402. CHILDREN AND FIREARMS SAFETY.

(a) Secure Gun Storage or Safety Device.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating or removing the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) Prohibition and Penalties.—Section 922 of such title is further amended by adding at the end the following:

"(z)(1) In this subsection, the term 'juvenile' means an individual who has not attained 18 years of age.

"(2) Except as provided in paragraph (3), any person who—

"(A) keeps a loaded firearm, or an unloaded firearm and ammunition for the firearm, any of which has been shipped or transported in interstate or foreign commerce or otherwise substantially affects interstate or foreign commerce, on premises under the custody or control of the person; and

"(B) knows, or reasonably should know, that a juvenile is capable of gaining access to the firearm without the permission of a parent or legal guardian of the juvenile;

shall, if a juvenile obtains access to the firearm and thereby causes death or bodily injury to the juvenile or any other person, or exhibits the firearm in a public place or in violation of subsection (q), be imprisoned not more than 1 year, fined not more than $10,000, or both.

"(3) Paragraph (2) shall not apply if—

"(A) the person uses a secure gun storage or safety device for the firearm;

"(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the juvenile obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

"(C) the juvenile obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of 1 or more other persons; or

"(D) the person has no reasonable expectation, based on objective facts and circumstances, that a juvenile is likely to be present on the premises on which the firearm is kept.

"(4) This subsection shall not be construed to preempt any provision of the law of any State, the purpose of which is to prevent children from injuring themselves or others with firearms, or to preempt or limit in any way any causes of action available under the law of any State against a manufacturer of a firearm.".

(c) Role of Licensed Firearms Dealers.—Section 926 of such title is amended by adding at the end the following:

"(d) The Secretary shall ensure that a copy of section 922(z) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.".

TITLE V—THE CHILDREN'S FIREARM INJURY SURVEILLANCE ACT OF 1998

SEC. 501. SHORT TITLE.

This title may be cited as the "Children's Firearm Injury Surveillance Act of 1998".

SEC. 502. SURVEILLANCE PROGRAM REGARDING INJURIES TO CHILDREN RESULTING FROM FIREARMS.

(a) In General.—

(1) Program of grants.—The Secretary of Health and Human Services may make grants to State and local departments of health and State and local law enforcement agencies for purposes of establishing and maintaining children's firearm-related injury surveillance systems.

(2) Administration of program.—The Secretary of Health and Human Services shall carry out this section acting through the Director of the Centers for Disease Control and Prevention. Such Director shall carry out this section through the Director of the National Center for Injury Prevention and Control (in this section referred to as the "Director of the Center").

(b) Certain Uses of Grant.—The Director of the Center shall ensure that grants under subsection (a) are used to establish systems for gathering information regarding fatal and nonfatal firearm injuries involving children who have not attained 21 years of age, including information with respect to—

(1) mortality;

(2) morbidity;

(3) disability;

(4) the type and characteristic of the firearm used in the shooting;

(5) the relationship of the victim to the perpetrator; and

(6) the time and circumstances of the shooting.

(c) Priority for Certain States.—In making grants under this section, the Director of the Center shall give priority to States and communities in which firearm-related injuries for children are a significant public health problem.

(d) Authorization of Appropriations.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1999 through 2003.

TITLE VI—THE CHILDREN'S FIREARM EDUCATION ACT OF 1998

SEC. 601. SHORT TITLE; PURPOSES.

(a) Short Title.—This title may be cited as the "Children's Firearm Education Act of 1998".

(b) Purposes.—The purposes of this title are—

(1) to award grants to assist local educational agencies, in consultation with community groups and law enforcement agencies, to educate children about and preventing violence; and

(2) to assist communities in developing partnerships between public schools, community organizations, law enforcement, and parents in educating children about preventing gun violence.

SEC. 602. COMPETITIVE GRANTS FOR CHILDREN'S FIREARM EDUCATION.

(a) Allocation of Competitive Grants.—

(1) Grants by the secretary.—For any fiscal year in which the amount appropriated to carry out this title does not equal or exceed $50,000,000, the Secretary is authorized to award competitive grants described under subsection (b).

(2) Grants by the states.—For any fiscal year in which the amount appropriated to carry out this title exceeds $50,000,000, the Secretary shall make allotments to State educational agencies pursuant to subsection (a)(3) to award competitive grants described in subsection (b).

(3) Formula.—Except as provided in paragraph (4), funds appropriated to carry out this title shall be allocated among the States as follows:

(A) 75 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State;

(B) 25 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State that is incarcerated.

(4) Minimum allotment.—If the amount appropriated to carry out this title exceeds $50,000,000, each State shall receive a minimum grant award each fiscal year of not less than $500,000.

(b) Authorization of Competitive Grants.—The Secretary or the State educational agency, as the case may be, is authorized to award grants to eligible local educational agencies for the purposes of educating children about preventing gun violence.

(1) Assurances.—

(A) The Secretary or the State educational agency, as the case may be, shall ensure that not less than 90 percent of the funds allotted under this title are distributed to local educational agencies.

(B) In awarding the grants, the Secretary or the State educational agency, as the case may be, shall ensure, to the maximum extent practicable—

(i) an equitable geographic distribution of grant awards;

(ii) an equitable distribution of grant awards among programs that serve public elementary school students, public secondary school students, and a combination of both; and

(iii) that urban, rural and suburban areas are represented within the grants that are awarded.

(2) PRIORITY.—In awarding grants under this subsection, the Secretary or the State educational agency, as the case may be, shall give priority to a local educational agency that—

(A) coordinates with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

(B) serves a population with a high incidence of students found in possession of a weapon on school property or students suspended or expelled for bringing a weapon onto school grounds or engaging in violent behavior on school grounds;

(C) forms a partnership that includes not less than 1 local educational agency working in consultation with not less than 1 public or private nonprofit agency or organization with experience in violence prevention or 1 local law enforcement agency.

(3) PEER REVIEW; CONSULTATION.—

(A)(i) Before grants are awarded, the Secretary shall submit grant applications to a peer review panel for evaluation.

(ii) Such panel shall be composed of not less than 1 representative from a local educational agency, State educational agency, a local law enforcement agency, and a public or private nonprofit organization with experience in violence prevention.

(B) The Secretary shall submit grant applications to the Attorney General for consultation.

(c) ELIGIBLE GRANT RECIPIENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible grant recipient is a local educational agency that may work in partnership with 1 or more of the following:

(A) A public or private nonprofit agency or organization with experience in violence prevention.

(B) A local law enforcement agency.

(C) An institution of higher education.

(2) EXCEPTION.—A State educational agency may, with the approval of a local educational agency, submit an application on behalf of such local educational agency or a consortium of such agencies.

(d) LOCAL APPLICATIONS; REPORTS.—

(1) APPLICATIONS.—Each local educational agency that wishes to receive a grant under this title shall submit an application to the Secretary and the State educational agency that includes—

(A) a description of the proposed activities to be funded by the grant and how each activity will further the goal of educating children about preventing gun violence;

(B) how the program will be coordinated with other programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.); and

(C) the age and number of children that the programs will serve.

(2) REPORTS.—Each local educational agency that receives a grant under this title shall submit a report to the Secretary and to the State educational agency not later than 18 months and 36 months after the grant is awarded. Each report shall include information regarding—

(A) the activities conducted to educate children about gun violence;

(B) how the program will continue to educate children about gun violence in the future; and

(C) how the grant is being coordinated with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(e) AUTHORIZED ACTIVITIES.—

(1) REQUIRED ACTIVITIES.—Grants authorized under subsection (b) shall be used for the following activities:

(A) Supporting existing programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq).

(B) Educating children about the effects of gun violence.

(C) Educating children to identify dangerous situations in which guns are involved and how to avoid and prevent such situations.

(D) Educating children how to identify threats and other indications that their peers are in possession of a gun and may use a gun, and what steps they can take in such situations.

(E) Developing programs to give children access to adults to whom they can report in a confidential manner about problems relating to guns.

(2) PERMISSIBLE ACTIVITIES.—Grants authorized under subsection (b) may be used for the following:

(A) Encouraging schoolwide programs and partnerships that involve teachers, students, parents, administrators, other staff, and members of the community in reducing gun incidents in public elementary and secondary schools.

(B) Establishing programs that assist parents in helping educate their children about firearm safety and the prevention of gun violence.

(C) Providing ongoing professional development for public school staff and administrators to identify the causes and effects of gun violence and risk factors and student behavior that may result in gun violence, including training sessions to review and update school crisis response plans and school policies for preventing the presence of guns on school grounds and facilities;

(D) Providing technical assistance for school psychologists and counselors to provide timely counseling and evaluations, in accordance with State and local laws, of students who possess a weapon on school grounds.

(E) Improving security on public elementary and secondary school campuses to prevent outside persons from entering school grounds with firearms.

(F) Assisting public schools and communities in developing crisis response plans when firearms are found on school campuses and when gun-related incidents occur.

(f) STATE APPLICATIONS; ACTIVITIES AND REPORTS.—

(1) STATE APPLICATIONS.—

(A) Each State desiring to receive funds under this title shall, through its State educational agency, submit an application to the Secretary of Education at such time and in such manner as the Secretary shall require. Such application shall describe—

(i) the manner in which funds under this title for State activities and competitive grants will be used to fulfill the purposes of this title;

(ii) the manner in which the activities and projects supported by this title will be coordinated with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994;

(iii) the manner in which States will ensure an equitable geographic distribution of grant awards; and

(iv) the criteria which will be used to determine the impact and effectiveness of the funds used pursuant to this title.

(B) A State educational agency may submit an application to receive a grant under this title under paragraph (1) or as an amendment to the application it submits under the Safe and Drug-Free Schools and Communities Act of 1994.

(3) STATE ACTIVITIES.—Of appropriated amounts allocated to the States under subsection (a)(2), the State educational agency may reserve not more than 10 percent for activities to further the goals of this title, including—

(A) providing technical assistance to eligible grant recipients in the State;

(B) performing ongoing research into the causes of gun violence among children and methods to prevent gun violence among children; and

(C) providing ongoing professional development for public school staff and administrators to identify the causes and indications of gun violence.

(4) STATE REPORTS.—Each State receiving an allotment under this title shall submit a report to the Secretary and to the Committees on Education and the Workforce and Judiciary of the House of Representatives, and the Committees on Labor and Human Resources and Judiciary of the Senate, not later than 12 months and 36 months after receipt of the grant award. Each report shall include information regarding—

(A) the progress of local educational agencies that received a grant award under this title in the State in educating children about firearms;

(B) the progress of State activities under paragraph (1) to advance the goals of this title; and

(C) how the State is coordinating funds allocated under this title with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.C.S.C. 7101 et seq.).

(g) SUPPLEMENT NOT SUPPLANT.—A State or local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for reducing gun violence among children and educating children about firearms, and not to supplant such funds.

(h) DISPLACEMENT.—A local educational agency that receives a grant award under this title shall ensure that persons hired to carry out the activities under this title do not displace persons already employed.

(i) HOME SCHOOLS.—Nothing in this title shall be construed to affect home schools.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this section $60,000,000 for each of fiscal years 1999, 2000, and 2001.

SEC. 603. DISSEMINATION OF BEST PRACTICES.

(a) MODEL DISSEMINATION.—The Secretary shall include on the Internet site of the Department of Education a description of programs that receive grants under section 602.

(b) GRANT PROGRAM NOTIFICATION.—The Secretary shall publicize the competitive grant program through its Internet site, publications, and public service announcements.

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term "local educational agency" has the same meaning given such term in section 14101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8701).

(2) the term "Secretary" means the Secretary of Education; and

(3) the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

SEC. 605. AMENDMENT TO SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1994.

Section 4116(a)(1) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7116) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and by inserting after subparagraph (B) the following:

"(C) to the extent practicable, provide timely counseling (without requiring the hiring of additional staff)—

"(i) and evaluations of any student, in accordance with State and local law, who possesses a weapon on school grounds or who threatens to bring or use a weapon on school grounds; and

"(ii) and advice to public school students, staff, and administrators after an incident of gun-related violence on school grounds;".

TITLE VII—THE CHILDREN'S FIREARM TRACKING ACT OF 1998

SEC. 701. YOUTH CRIME GUN INTERDICTION INITIATIVE.

(a)(1) The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative (in this section referred to as the "YCGII") to 75 cities or counties by October 1, 2000, to 150 cities or counties by October 1, 2002, and to 250 cities or counties by October 1, 2003.

(2) Cities and counties selected for participation in the YCGII shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials.

(b)(1) The Secretary of the Treasury shall, utilizing the information provided by the YCGII, facilitate the identification and prosecution of individuals illegally trafficking firearms to individuals who have not attained 24 years of age.

(2) The Secretary of the Treasury shall share information derived from the YCGII with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c)(1) The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII.

(2) Grants made under this part shall be used—

(A) to hire or assign additional personnel for the gathering, submission and analysis of tracing data submitted to the Bureau of Alcohol, Tobacco and Firearms under the YCGII;

(B) to hire additional law enforcement personnel for the purpose of identifying and arresting individuals illegally trafficking firearms; and

(C) to purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

THE CHILDREN'S GUN VIOLENCE PREVENTION ACT OF 1998

TITLE I—THE CHILDREN'S FIREARM SAFETY ACT OF 1998

Imposes, after 18 months, new safety standards on the manufacture and importation of handguns requiring: a child resistant trigger standard; a child resistant safety lock, a magazine disconnect safety for pistols; a manual safety and practice of a drop test.

Authorizes the Consumer Product Safety Commission to study, test and evaluate various technologies and means of making guns more child-resistant and reporting back to Congress within 12 months on its findings.

TITLE II—THE CHILDREN'S FIREARM AGE LIMIT ACT OF 1998

Extends the current ban on juvenile handguns transfers and possession to semi-automatic assault rifles and assault shotguns.

TITLE III—THE CHILDRENS FIREARM DEALER'S RESPONSIBILITY ACT OF 1998

Requires two forms of ID for purchases under the age of 24.

TITLE IV—THE CHILDREN'S FIREARM ACCESS PREVENTION ACT OF 1998

Imposes fines on a gun owner of up to $10,000 if a child gains access to a loaded firearm and criminal penalties and imprisonment if the gun is used in a act of violence.

TITLE V—THE CHILDREN'S FIREARM INJURY SURVEILLANCE ACT OF 1998

Authorizes $10 million to CDC's National Injury Prevention and Control Center over three for grants to state and local governments for development of children's firearm injury surveillance systems.

TITLE VI—THE CHILDREN'S FIREARM VIOLENCE EDUCATION ACT OF 1998

Authorizes $50 million a year for competitive Department of Education grants to state and local education agencies for children's firearm education programs.

TITLE VII—THE CHILDREN'S FIREARM TRACKING ACT OF 1998

Authorizes $10 million over five years for expansion of the Youth Crime Gun Interdiction Initiative.

By Mr. DORGAN (for himself and Mr. BUMPERS):

S. 2186. A bill to terminate all United States assistance to the National Endowment for Democracy, and for other purposes; to the Committee on Foreign Relations.

END FUNDING FOR THE NATIONAL ENDOWMENT FOR DEMOCRACY

• Mr. DORGAN. Mr. President, today I introduce a bill that would end federal funding for the National Endowment for Democracy, known as NED.

Last year the Administration asked for $30 million in NED funding, and after a Senate debate on the program, the Congress met that request. This year the Administration has requested $31 million for NED for fiscal year 1999.

In my view, the time has long since come for Congress to end our subsidy of NED. Let me take a brief moment to explain why.

NED began back in the early 1980s, during the darkest days of the Cold War, when Solidarity was on the ropes in Poland and a former KGB chief ruled the Soviet Union. As we all know, Solidarity has given birth to political parties that have governed Poland, and Lech Walesa, the Solidarity union leader, was elected Poland's president. The Soviet Union and the KGB are no more, and Russia has a multi-party political system. There is no Warsaw Pact. In fact, the Senate has just decided to admit into NATO some of the countries that NED used to help.

The historic fall of the Berlin Wall, the breakup of the Soviet Union, and the successes of democracy worldwide in the past 15 years should make us wonder whether NED is as necessary now as it was at the height of the Cold War. Democracy is on the march worldwide, most recently perhaps even in Indonesia. Yet the American taxpayer is still coughing up $30 million a year to foot the bill for NED.

It's also worth noting that when NED started, back during the Cold War, it was supposed to be a public-private partnership. Federal money was supposed to "prime the pump" of private contributions. Private corporations, foundations and philanthropists were supposed to foot much of the bill. But it didn't happen.

Since 1984 the American taxpayer has spent over $360 million on NED. And according to NED's most recent annual report, in 1996 NED's total revenue was $30.9 million, but its revenue from non-federal sources was only $585,000. In that year, it took 53 taxpayer dollars to leverage one private dollar contributed to NED.

These statistics show that NED is a very poor investment for the Federal Government. There is no public-private partnership funding NED. It's the public, the Federal Government, all the way.

Of course, the Federal Government has some private partners when it comes to spending NED funds. Year after year, NED distributes taxpayer dollars to the same "core grantees." This is despite the fact that everything we know about good government says that there should be competitive contracting for government work.

NED isn't one sole-source contract. It isn't just one set-aside. It's four.

Four private institutions got just over $4 million each in 1996 and 1997. These private groups are: the National Democratic Institute, also known as the Democratic Party; the International Republican Institute, better known as the Republican Party; the Free Trade Union Institute, which is really the AFL–CIO; and the Center for International Private Enterprise, which we all know as the Chamber of Commerce.

Mr. President, these four "core grantees" get the lion's share of NED funding, year after year. As our former colleague Senator Hank Brown of Colorado said four years ago, "How long does it take for people to realize that what we are doing is not promoting democracy, but promoting these four organizations?"

What do these four groups do with this money? They use it to send well-connected Democrats and Republicans, and business and labor leaders, around the world. These folks visit various countries and try to promote democracy.

It sounds fine until you consider that this activity duplicates work done by the United States Information Agency, the Agency for International Development, and the Departments of State, Justice and Defense. In 1996 alone, AID spent $390 million, USIA spent $355 million, and the Defense Department spent $38 million, all to promote democracy.

There's no reason for another Federal program to achieve this same goal. The American people know that the time is past when we could spend money we didn't have on programs we don't need.

Last year, I thought that my hope of ending federal funding for the National Endowment for Democracy had come true. The Commerce-State-Justice appropriations bill actually zeroed out this program. Let me quote from the Appropriations Committee's report language on this issue:

> The Committee does not recommend funding for fiscal year 1998 for the National Endowment for Democracy. . . . The NED was originally established in 1984 during the days of the cold war as a public-private partnership to promote democratic movements behind the Iron Curtain. Limited U.S. Government funds were viewed as a way to help leverage private contributions and were never envisioned as NED's sole or major source of continuing funds. Since the cold war is over, the Committee believes that the time has come to eliminate Federal funding for this program.

Unfortunately, the full Senate approved a floor amendment that restored the requested $30 million for the NED.

So I am here today to call on Senators to accept the dictates of common sense this year, and to accept the recommendation of the Appropriations Committee. We are having great difficulty allocating funding among the different discretionary programs. The Senate is having to make difficult choices about federal spending. We need to determine what is a priority.

I strongly believe that NED no longer deserves the Senate's support. The Cold War is over, and we have other, more effective ways to promote democracy abroad. I hope that the Senate will act favorably on the bill that I am introducing today, and that we will save the American taxpayer $30 million a year.●

ADDITIONAL COSPONSORS

S. 367

At the request of Mr. WELLSTONE, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 367, a bill to amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence and its effects, and for other purposes.

S. 427

At the request of Mr. THOMAS, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 427, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for lobbying expenses in connection with State legislation.

S. 507

At the request of Mr. LEAHY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 766

At the request of Ms. SNOWE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1335

At the request of Ms. SNOWE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1335, a bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees.

S. 1385

At the request of Mr. WELLSTONE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1385, a bill to amend title 38, United States Code, to expand the list of diseases presumed to be service connected with respect to radiation-exposed veterans.

S. 1406

At the request of Mr. SMITH, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1406, a bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from Wyoming [Mr. ENZI] and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1915

At the request of Mr. LEAHY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1915, a bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2158

At the request of Mr. ROBERTS, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Kansas [Mr. BROWNBACK], and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 2158, a bill to amend the Arms Export Control Act to provide that certain sanctions provisions relating to prohibitions on credit, credit guarantees, or other financial assistance not apply with respect to programs of the Department of Agriculture for the purchase or other provision of food or other agricultural commodities.

S. 2176

At the request of Mr. THOMPSON, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2176, a bill to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the "Vacancies Act") to clarify statutory requirements relating to vacancies in and appointments to certain Federal offices, and for other purposes.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. MOYNIHAN, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 238

At the request of Mr. WELLSTONE, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from California [Mrs. BOXER] were added as cosponsors of Senate Resolution 238, a resolution expressing the sense of the Senate regarding human rights conditions in China and Tibet.

AMENDMENT NO. 2707

At the request of Mr. FORD the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of amendment No. 2707 proposed to S. 1415, a bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

SENATE RESOLUTION 250—EXPRESSING THE SENSE OF THE SENATE THAT THE THIRD SATURDAY IN JUNE OF EACH YEAR SHOULD BE DESIGNATED AS "NATIONAL RIVERS DAY"

Mr. CHAFEE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 250

Whereas the United States has a total of 3,000,000 linear miles of rivers, which have played a fundamental role in the Nation's culture, heritage, ecological health, economic development, and overall quality of life;

Whereas rivers are used throughout the Nation as efficient transportation routes for commerce and industry, are used in urban areas as public transportation corridors, and have facilitated economic growth by providing transportation, generating hydroelectric power, and supplying water for farms and rural towns;

Whereas rivers support fish, waterfowl, and other wildlife that need greenways and clean water to survive in their habitats, and people throughout America live in close proximity to rivers and streams and use them for swimming, fishing, boating, and other forms of recreation and leisure;

Whereas the Nation's rivers are important tourist destinations, which, each year, attract more than 46,000,000 international travelers and generate more than $430,000,000 in tourism revenue;

Whereas the activities carried out along the Nation's rivers affect water resources, environment, and geography on regional, national, and global scales;

Whereas the President and Congress have declared their support for rivers through the American Heritage Rivers program; and

Whereas it is appropriate for the people of the United States from time to time to reflect upon the manner in which their activities and lifestyles affect the rivers of the Nation: Now, therefore, be it

Resolved, That it is the sense of the Senate that the third Saturday in June of each year should be designated as "National Rivers Day".

• Mr. CHAFEE. Mr. President, I am submitting a sense of the Senate resolution to designate the third Saturday in June of every year as "National Rivers Day." Rivers touch each and every one of our lives. Every State and nearly every community in the United States has a river or stream going through it. Because every American has access to rivers and streams, what we do and how we live has a profound impact on the quality of the nation's rivers.

The three million miles of rivers and streams that travel through the United States have played a fundamental role in our culture and our heritage. Indeed, the health of America's rivers inextricably linked to our health as a nation. Our rivers contribute to commerce, food production and public recreation, and they enhance our wellbeing. Rivers also support fish, waterfowl, and other wildlife that need clean water to survive in their habitat.

The settlers in the eighteenth and nineteenth centuries were awed by our majestic rivers, curious mixtures of pristine and rugged beauty. Since colonial times, America's rivers have promoted our economic and social growth, as an energy source to spur industrialization and as a water supply resource.

Regrettably, in the late 1960's, although America had grown to be the most powerful industrial nation in the world, we had failed to protect the very resources that were responsible for our success. The Hudson River was a dumping ground for fuel and other industrial waste. The Cuyahoga River in Cleveland became so polluted that it caught fire. These terrible events prompted the call to reverse the trend and to clean up the nation's rivers and other waters.

Today, the cleanup of our rivers and streams has led to the economic revitalization of urban centers, neighborhoods, and towns all over America. From Boston to Chicago to Washington, D.C., Americans are cleaning up their rivers and using them for recreation, boating, tourism and leisure. America's rivers continue to serve as transportation links supporting commerce and industry. Their greatest contribution to the U.S. economy, however, is the 430 billion dollars generated annually from the tourists that visit our rivers. And more than 46 million international tourists visit our rivers each year.

The tide has turned significantly from the late 1960s and early 1970s, but we must continue to encourage ongoing protection and promotion of the nation's rivers. Designating the third Saturday in June of each year as "National Rivers Day" will inspire all Americans to get involved in the ongoing protection of our precious rivers and streams. I urge my colleagues to join me in supporting this important measure.•

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

JEFFORDS (AND BINGAMAN) AMENDMENT NO. 2710

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

On page 159, line 8, strike "such sums as may be necessary" and all that follows through line 11, and insert "not less than 5 percent of such funds in fiscal year 1999, 10 percent of such funds in fiscal year 2000, 15 percent of such funds in fiscal year 2001, and 20 percent of such funds in fiscal year 2002 and each subsequent fiscal year, shall be used to expand existing support for epidemiological, behavioral, psychopharmacological, psychobiological, psychophysiological, health services and social science research related to the prevention and treatment of tobacco addiction. Research described in this paragraph shall include research on the effect of nicotine on brain and behavior as well as the behavioral etiology of tobacco use.".

On page 159, line 13, strike "(d) may" and insert "(c) shall".

On page 160, line 17, strike "(h)" and insert "(f)".

On page 160, line 18, strike "may" and insert "shall".

On page 161, strike lines 1 through 3.

On page 161, between lines 3 and 4, insert the following:

"(3) annually prepare and submit to Congress a report containing a description of the research undertaken pursuant to subsection (c) and an assessment of whether the requirement of subsection (c) has been met with respect to the preceding year;".

On page 161, line 6, strike the period and insert "; and".

On page 161, between lines 6 and 7, insert the following:

"(5) use not less than $10,000,000 of the funds made available under this section in each fiscal year to carry out this subsection.".

On page 161, strike lines 12 through 15.

McCAIN AMENDMENT NO. 2711

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1415, supra; as follows:

Beginning on page 367, strike line 19, and all that follows through line 19 on page 368, and insert the following:

(a) IN GENERAL.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section, in order to counter trafficking in tobacco contraband and for other purposes.

(b) LABELING AND TRACKING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to place a unique serial number on all packages of tobacco products manufactured or imported for sale or distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation of the product, and to track tobacco products through the stream of commerce. The Secretary shall determine the size, location, legibility and other characteristics of the serial number.

(2) ADDITIONAL MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location, and other characteristics, of the mark and under what circumstances a waiver of this paragraph shall be granted.

CHAFEE AMENDMENT NO. 2712

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 1415, supra; as follows:

On page 195, line 15, strike "and".

On page 195, line 17, strike the period and insert "; and".

On page 195, between lines 17 and 18, insert the following:

"(v) activities related to the national education and outreach campaign under section of title V.".

At the appropriate place in title V, insert the following:

SEC. . EDUCATION AND OUTREACH.

(a) NATIONAL EDUCATION AND OUTREACH CAMPAIGN.—The Administrator shall use amounts made available under section 451(b)(2)(C) in each fiscal year to establish a national education and outreach campaign relating to the effect on individuals of exposure to tobacco smoke and ways to minimize such exposure. In establishing such campaign, the Administrator shall—

(1) focus on children's exposure to environmental tobacco smoke in the home; and

(2) coordinate activities with the Secretary of Health and Human Services and other Federal agencies as determined appropriate by the Administrator.

(b) PEER REVIEW.—The Administrator shall use amounts made available under section 451(b)(2)(C) in each fiscal year to carry out research, and provide for peer review studies of research, related to the exposure of individuals to environmental tobacco smoke.

(c) FUNDING.—There shall be made available from the Public Health Allocation Account established under section 451(b) to the Administrator—

(1) $50,000,000 for each of the fiscal years 1999 through 2003 to carry out subsection (a); and

(2) $5,000,000 for each of the fiscal years 1999 through 2003 to carry out subsection (b).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 17, and Thursday, June 18, 1998, to conduct a hearing on H.R. 10, the Financial Services Act of 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, June 17, 1998, beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate on Wednesday, June 17, 1998, at 11:30 a.m. and 2 p.m. to hold two hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, June 17, 1998, at 9:30 a.m. for a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 17, 1998, at 9 a.m. in room 226 of the Senate Dirksen Office building to hold a hearing on: "Drug Abuse Among Our Children: A Growing National Crisis."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 17, 1998, at 2:30 p.m. to hold a closed hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, June 17, 1998, at 9:30 a.m. on Spamming and S. 2107.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, Federalism, and Property Rights, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Wednesday, June 17, 1998, to hold a business meeting, off the floor, in the Capitol Building, following the first vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, June 17, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Act of 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHINA'S MARITIME PRACTICES

• Mr. HOLLINGS. Mr. President, our country's relationship with the People's Republic of China is currently receiving a great deal of attention. One aspect of that relationship which is not getting enough attention is shipping.

The United States has an open door to Chinese shipping. Chinese companies can call at any U.S. port. They do not need any government agency to approve their schedule, their ships, or changes to those deployments. They can open branch offices anywhere in the U.S. that they wish. They can provide vessel agency services to their own vessels. This U.S. policy has allowed Chinese shipping companies to be quite free and successful. COSCO, for example, which is owned by the People's Republic of China, is by far the largest ocean carrier in the U.S.-China trade and is a major carrier in other U.S. trades. The Chinese government wants the most favorable treatment for COSCO here in the U.S.; yet it continues to deny U.S. carriers operating in China the opportunities and privileges Chinese carriers receive here.

Not only does Chinese shipping policy seek to control the trade rather than allow market forces to operate, but restrictions are becoming increasingly problematic. This lack of reciprocity is unfair.

For example, access to ostensibly open ports in China is now solely at the discretion of the Chinese Ministry of Communications. While American carriers must endure long waits for an uncertain approval of whether and where they can operate, Chinese carriers are free to call at U.S. ports without having to face such conditions. Recent Chinese regulations make this process even more burdensome and contain the potential for huge penalties.

U.S. carriers face restrictions on a host of normal commercial activities in China that Chinese carriers don't face here. For example, branch offices are restricted or prohibited. U.S. carriers cannot even provide normal vessel agency services to their own ships. This results in a considerably higher cost base for U.S. carriers versus their Chinese competitors.

The Federal Maritime Commission and the Administration have been working on and encouraging a resolution of these problems, but insufficient progress has been made. Therefore, I have written to the FMC to encourage it to use the full range of its authority to investigate these matters.

What is additionally very troubling to me—and what should be very troubling to the Chinese government if they value the government-to-government negotiation process as a way to resolve differences—is the recent turn of events in the maritime bilateral negotiations between our governments. In December of last year some progress was made. An agreement was reached on some of the outstanding issues. The U.S. government has fulfilled its promises by the FMC giving COSCO an exemption from some of the Controlled Carrier Act restrictions. But the Chinese government has not yet honored its commitments, even though it had agreed to act simultaneously with the U.S. government. The Administration recognizes this. The FMC recognizes this. The Congress recognizes this.

China's relationship with the U.S. is undermined when it fails to fulfill its promises. Our willingness to treat China favorably is undermined if the Chinese government's promises are illusory.

Not only do I urge the FMC to investigate and take appropriate action in these maritime issues, but I urge the State Department to convey to the Chinese government the damaging effect of its current maritime posture on improved trade relations.

Both our countries' trade relations are benefited by a liberalized shipping environment. An unbalanced lack of reciprocity cannot be sustained.

Mr. President, I ask that my letters to Secretary Slater at the Department of Transportation and Chairman Creel at the Federal Maritime Commission be printed in the RECORD.

The letters follow:

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 16, 1998.

Hon. RODNEY E. SLATER,
Secretary, U.S. Department of Transportation, Washington, DC.

DEAR MR. SECRETARY: I am writing with regard to the recent trend toward maritime protectionism in the People's Republic of China. Your Department, particularly the Maritime Administration, has been actively engaged in negotiations with the Chinese to eliminate many of the restrictions faced by U.S. carriers in China. It is my understanding that, unfortunately, progress has been slow. I find particularly troubling the fact that the Chinese have failed to implement a gentlemen's agreement arrived at last December with your acting Maritime Administrator, John Graykowski.

I am attaching a letter which I have sent to Harold Creel, Chairman of the Federal Maritime Commission (FMC), asking the FMC to investigate this matter. I am certain you will agree that if the Chinese restrictions enumerated in this letter are not addressed through bilateral consultation, the FMC should act to impose countervailing sanctions on Chinese carriers doing business in the United States. Hopefully, a resolution can be reached before such steps are necessary.

I trust that resolving these China maritime issues will be among the Maritime Administration's highest priorities. The Department and the Maritime Administration have my full support in your continuing efforts to eliminate restrictions which hinder the competitiveness of U.S. carriers in China.

With kindest regards, I am
Sincerely,
ERNEST F. HOLLINGS,
Ranking Democrat.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 16, 1998.

Hon. HAROLD J. CREEL, Jr.,
Chairman, Federal Maritime Commission, Washington, DC.

DEAR MR. CHAIRMAN: Unfortunately over the past year, the maritime relationship between the United States and the People's Republic of China has deteriorated dramatically. This has resulted from a series of restrictive measures taken by the Chinese Ministry of Communications (MOC) aimed at limiting the activities of foreign shipping lines in China. At the same time, China's state-owned line, China Ocean Shipping Company (COSCO), has grown to become one of the largest, most successful carriers serving U.S. liner trades.

COSCO operates and competes freely and openly in the United States while our carriers face costly, anticompetitive restrictions in China. These restrictions include: (1) a cumbersome and lengthy approval process for vessel or itinerary changes; (2) limits on the number and location of branch offices for U.S. carriers in China; (3) limits on U.S. carriers ability to provide intermodal transport to inland customers; and (4) a prohibition barring U.S. carriers provision of vessel agency services. All of these costly restrictions make it extremely difficult for U.S. carriers to effectively compete in the Chinese market. Conversely, COSCO faces no similar restrictions in the United States.

U.S. negotiators from the Departments of Transportation and State have worked to bring reciprocity and fairness to our bilateral maritime relationship with China. To date these efforts have been for the most part unsuccessful. One glimmer of hope was December's "gentlemen's" agreement struck between our acting Maritime Administrator and the Chinese Director General for Water Transport from MOC to remove some of the roadblocks to an improved relationship.

On the United States side, MarAd and the U.S. carriers supported a petition by COSCO to your Commission for partial relief from the Controlled Carrier Act. The FMC fully granted that petition in March. However, the Chinese side has yet to keep their part of the agreement: to approve U.S. carrier port access and vessel registration applications and to grant a joint venture port operating license to a U.S. carrier. As a result of this breach, talks aimed at finalizing a new bilateral maritime agreement have broken down and U.S. carriers continue to face costly, burdensome restrictions to their operations in China.

Mr. Chairman, as you know, I have long been an advocate for fairness and reciprocity in our maritime relationships. I find the situation with China unacceptable. I urge you to act, as you have so effectively in the past, to investigate these matters and encourage China to remove these restrictions so that U.S. carriers can compete as freely and openly in China as COSCO competes here. I am confident that, as in the past, you can count on the full support of the Senate.

With kindest regards, I am
Sincerely,
ERNEST F. HOLLINGS,
Ranking Democrat.●

TRIBUTE TO RABBI ALEXANDER D. GOODE

● Mr. SANTORUM. Mr. President, I rise today to commemorate the courage and bravery of Rabbi Alexander D. Goode and the three other chaplains aboard the U.S.A.T. Dorchester on the night it sank into the icy waters off the coast of Greenland.

On February 3, 1943, the Dorchester, filled to capacity with over 900 men, was struck by German torpedoes around 1:00 am. The Germans succeeded in knocking out the ship's communication, injuring and killing scores of men, and fatally wounding the Dorchester. As the crew realized what had just occurred, chaos and panic erupted on all sides. In the midst of the confusion, four Army Chaplains, Lt. George L. Fox, Methodist; Lt. John P. Washington, Roman Catholic; Lt. Clark V. Polling, Dutch Reformed; and Lt. Alexander D. Goode, Jewish, brought hope and light to those around them.

The Arctic air made protection from the cold essential to those hoping to survive the night. As one sailor, Petty Officer John J. Mahoney, tried to return to his cabin to retrieve his gloves, he was stopped by Rabbi Goode. "I have two pairs," the Rabbi said, handing the sailor the pair he had been wearing. In retrospect, Mahoney realized the Rabbi could not have had an extra pair and had sacrificed his only gloves to aide the sailor.

As the ship sank, the four chaplains distributed jackets and words of encouragement to those remaining. When there were no more life jackets left, the four removed their own preservers and handed them to the sailors next in line, sealing their own fate. Approximately 18 minutes after it was hit, the Dorchester sank. The last sight many of the survivors recall was the four chaplains, arms linked, praying together with over 600 men still on board.

The sinking of the Dorchester 55 years ago not only showed the chaplains' tremendous strength of spirit, but also illuminated their racial and religious tolerance. In an era of prejudice, these four men embraced ideas on interfaith relationships. These men shared a special brotherhood which lasted until the very end.

Mr. President, there are people in history who stand apart from the rest, and who go above and beyond what is demanded by their fellow men and women. Rabbi Goode and the three other chaplains were such men. I ask my colleagues to join me in honoring the memory of these truly remarkable heroes. Their story and the lessons it teaches will not soon be forgotten.•

TEXAS HATE CRIME

• Ms. MOSELEY-BRAUN. Mr. President, I want to offer my heartfelt condolences to the family and friends of James Byrd Jr., who was brutally murdered last week in Jasper, Texas. I am deeply saddened that we in this day and age still have this type of crime being committed in our nation.

I am even more outraged that this monstrous crime is being copied across the nation, from Louisiana to my own home state of Illinois. Just this past weekend, the Belleville News-Democrat reported that a 17-year-old from Belleville, Illinois, had to be rushed to the hospital after three youths grabbed him by his shirt and then dragged him until he fell under the wheels of their jeep. All the while they shouted racial epithets at him.

This violence must be stopped. Unless we take swift action to end these atrocities, we run the risk of endangering all the progress we have made toward undoing the ugly legacy of racism. We must stop copycat acts of cowardice from undermining the basic freedoms that we all are entitled to enjoy.

Every act of violence is reprehensible. Hate crimes are especially troubling, however, because they impact not only the victim, but the entire community. When a person is singled out and targeted for a hate crime, other members of that community feel isolated, vulnerable, and unprotected by the law. Hate crimes send a message to all members of a community that they are not free to walk the streets, to own property, or to enjoy their fundamental rights as Americans simply because of how they look or what they believe.

But these crimes do not occur only on the back roads of our nation. In 1996, 6,768 crimes committed across the nation were motivated by racial bias; 1,497 by religious bias; 1,258 by sexual-orientation bias; and 1,179 by ethnic bias. 333 of these crimes occurred in my home state of Illinois. The City of Chicago reported 175 incidents, the lowest number since the City began keeping records. Unfortunately, the inhumane nature of last week's brutal murder only remind us that there still remains work to be done to fight the hate.

Back in 1963, when a fire bomb at the 16th street Baptist Church took the lives of 4 children, the nation recoiled in horror at the cowardice and criminality of those who would resort to such violence. From that horror, however, grew a consensus that hate crimes are un-American, and must be exposed for what they are. The hood came off the hate.

We have since redoubled our effort, and must redouble our resolve that never again will such crimes be ignored or overlooked or unpunished. We must continue to work together. This means educating one another, building coalitions with our neighbors, and standing together against racism, sexism, and other forms of bigotry.

The Administration is doing their part. In June of 1997, President Clinton announced One America in the 21st Century: The President's Initiative on Race. This Initiative has proven critical to initiating the dialogue on race in this country that is essential if we are ever to live as one.

But we should do our part as well. I am a cosponsor of Hate Crimes Prevention Act, which was introduced by Senator KENNEDY in November of last year. This bill would strengthen laws to protect Americans from hate crimes. We should act swiftly to pass this law, and to send a message to the American people that hate crimes will not be tolerated.

Again, I want to commend the people of Jasper, Texas for coming together in this time of tragedy and saying no to hate in their community. Their actions of reconciliation are an example for all of us to follow in times of moral crisis.•

100TH ANNIVERSARY OF THE HOSPITAL CORPS OF THE U.S. NAVY

• Mr. BOND. Mr. President, today is the 100th anniversary of the Hospital Corps of the United States Navy. On June 17,1898, President McKinley established the Hospital Corps which has recorded an illustrious history of service to the nation. The men and women who serve and have served as corpsmen have honored the nation, the Navy and themselves. They have upheld the highest traditions of service to the nation.

As a group, corpsmen have been the most highly decorated men and women who have served in our nation's military. Every day they put their lives at risk in the course of performing one of our highest callings as human beings, the preservation and protection of life.

Individually, during the course of their 100 year history, 1962 corpsmen have paid the ultimate price while administering to their wounded comrades on the battlefield. Twenty-seven times, their actions were so extraordinary that the individual was awarded the Congressional Medal of Honor.

There is a little known fact about a widely hailed piece of American history. On February 23, 1945, six young men raised our national colors on top of Mount Suribachi on the island of Iwo Jima. A world renowned photograph was taken and this photograph became a symbol of the self-sacrifice and devotion to duty of the United States Marine Corps and our nation's military in general. What is little known is that the second young man from the base of the flagpole, was a U.S. Navy corpsman. Only days before, that young man, Pharmacist Mate Second Class John Bradley, during the assault of Iwo Jima, pulled a young Marine to safety and bandaged his wounds while braving severe machine gun and mortar fire from a determined enemy. For his actions, Pharmacist Mate Bradley was awarded the Navy Cross. This extraordinary individual as with his other compatriots in that photo is even more extraordinary because of his anonymity. They were there for the photo by chance, they became the symbol we so readily recognize by a twist of fate. But they carried out their duties as thousands of other young Americans had done before them and since, in the most terrible of circumstances.

Corpsmen have been the protective blanket our soldiers, sailors, and Marines have relied upon in their times of greatest distress. They have been there for them to heal their wounds, to fend off the battlefield's angels of death, and sometimes to comfort them as life ebbed away. Corpsmen are representative of the best of our ideals. It is in that spirit I call upon my colleagues and all Americans to remember their significant contribution to our nation and celebrate this day in recognition of their service.•

SIGNING OF THE BULLETPROOF VESTS PARTNERSHIP GRANT ACT

• Mr. LEAHY. Mr. President, yesterday I had the privilege to attend the signing ceremony at the White House for the Bulletproof Vests Partnership Grant Act, S. 1605, with Attorney General Reno, Vice President GORE and President Clinton, who signed the bill into law.

I was honored to be joined at the ceremony by Vermont State Police Captain A. Marc Metayer and Springfield, Vermont Police Chief Barbara Higgins, who represented state and local law enforcement officers in my home state. Captain Metayer spoke on the importance of this new law and introduced the President of the United States.

I am very proud of the remarks of Captain Metayer and I ask that his remarks be printed at this point in the RECORD.

The remarks follow:

REMARKS OF CAPTAIN A. MARC METAYER, TROOP "B" COMMANDER, VERMONT STATE POLICE, JUNE 16, 1998

I am honored to have the opportunity to speak at the signing of the Bulletproof Vest Partnership Grant Act of 1998. I would like to thank Senator Patrick Leahy of Vermont and Senator Ben Nighthorse Campbell of Colorado for their efforts in making this lifesaving grant a reality.

As Senator Leahy knows, the need for body armor for Vermont law enforcement officers was highlighted by the two-state manhunt for Carl Drega, last August. Drega killed four people in Colebrook, New Hampshire, including New Hampshire State Troopers Scott Phillips and Leslie Lord. He then traveled into Vermont where he wounded four more officers during two separate encounters. Drega was killed in the final exchange of gunfire with a combined force of Vermont, New Hampshire and Federal law enforcement officers.

I know these circumstances from first hand experience. I was the on scene incident commander for the Vermont State Police when Drega was finally stopped.

The Drega incident brought home the fact that no area of the country, regardless of its remote nature, is immune from senseless violence: violence against our citizens and violence against our law enforcement officers. Law enforcement officers must be prepared for such violence at any time, and any place.

The Drega incident erupted from a regular traffic stop in which the Troopers were going to remove registration plates from Drega's vehicle. Moments later, two Troopers were dead, horrifying their families and their communities. All from an activity which law enforcement officers perform countless times each day: a traffic stop for a minor violation.

In the twenty years that I have served as a Vermont State Trooper, I have worn body armor as a part of my daily routine. For those twenty years, I have personally purchased successive vests since the State did not provide them. I have been fortunate enough to be in a financial position that allowed me to make these important purchases. But I have known many officers, most with young families, who simply could not afford to purchase body armor.

The Bulletproof Vest Partnership Grant Act will provide the funding to assist police departments with the purchase of body armor for their officers. Every state in the nation has communities that need this help to provide their law enforcement officers with this basic protection. In the end, this new law will save the lives of law enforcement officers in each and every state.

Thank you to all that have made this important contribution to the safety of police officers around the country.

I am now honored to introduce the President of the United States, President Bill Clinton. •

TRIBUTE TO THE NEWBROOK FIRE DEPARTMENT IN HONOR OF THEIR FIFTIETH BIRTHDAY

• Mr. JEFFORDS. Mr. President, July 5, 1998, is a great day for Vermont as we celebrate the fiftieth birthday of the Newbrook Fire Department. On behalf of all Vermonters, I want to wish the department a very happy birthday.

For a half-century, the volunteers at Newbrook's Fire Department have donated their time to provide fire protection to Vermonters living in the lower West River Valley area. These volunteers continually risk their lives to protect the welfare of others. The Newbrook Fire Department also responds to medical emergencies and, through the years, has earned the reputation as one of Vermont's most efficient volunteer response teams. This is truly admirable. I applaud such dedication and have the utmost respect for Newbrooks' courageous volunteers.

The Newbrook Fire Department is a vital part of the Newbrook community and its surrounding areas. For fifty years, the Department has given prompt and reliable service to people in the most distressing situations. It gives me great pleasure to recognize today fifty years of service and achievement of the Newbrook Fire Department and, more importantly, the volunteers who support it.•

LACK OF AFFORDABLE HOUSING

• Mr. KERREY. Mr. President, today, I want to speak on an issue of critical importance to my state of Nebraska. Whenever I travel back to the Good Life, what Nebraskans call their home, the one issue that always percolates to the top of any conversation is the lack of affordable housing, and this issue can dominate any spirited civic dialogue in our smaller communities throughout the state.

Talking with city officials, economic development groups, community planners, chambers of commerce representatives, and any of the town people who are deeply concerned about the prospects of their community, it is apparent to me, as sure as the Nebraska summer sky is blue, that more needs to be done to make sure communities have the necessary tools to produce affordable housing and create more home ownership opportunities.

Home ownership should not be a far away dream, it should be a choice for many more Americans. Owning a home, some say, is not a right or privilege. I say owning a home is part of the American dream and should be a reachable goal for more Americans.

There are great examples of home ownership programs throughout this country, and I would like to share with you some of the exciting and innovative ideas people are trying in Nebraska.

Since 1990 the Lincoln Housing Authority (LHA) has enabled over 200 families to achieve their goal of owning a home through an innovative Home Ownership Program. LHA makes loans to qualified clients up to a maximum of $3,750. And each year the buyer remains in the home and is in compliance, 20% of the loan will be forgiven.

LHA also has an exciting project called Lease-Purchase Program which is a joint venture with the Lincoln Public Schools. Students who are in residential construction trade classes build one single family home a year. When the home is completed, the house is placed under a lease-purchase agreement with the understanding the tenants will purchase the house at the end of the five year lease period.

LHA, through innovation and unique partnerships, has made a huge difference in communities throughout Lincoln, where families who once thought home ownership was impossible, not see it as something that can be achieved.

The Holy Name Housing Corproation, along with South Omaha Affordable Housing, have implemented a 32 single family rental project called the Crown Project. The project, financed by low income tax credits, Community Development Block Grant funds, and private financing, is an incubator for home ownership. These new single family homes located in North and South Omaha neighborhoods are rented to tenants committed to home ownership. This is an exciting project for members of these neighborhoods and an excellent example of what efficient partnerships can produce.

Another fine example of what Nebraskans are doing is the example of the Kearney Housing Authority (KHA) and how they are seeking prudent partnerships that fill a need for the community of Kearney. KHA, along with the University of Nebraska at Kearney's Construction and Technology Department and the Platte Valley State Bank and Trust, is able to provide homeownership opportunities to families at income levels who otherwise could not afford it.

What KHA did was bring in the Platte Valley State Bank and Trust—with their financial expertise and competitive interest rates—and the University—who served as the contractor and the providers of excellent hands-on education for its students—to form a most qualified partnership. KHA served as "the owner" and saw the project from beginning to the end, which resulted in a huge success story, as families were given the chance to own a home for the first time, while the Kearney community received commitments from families who wanted to invest in Kearney.

As Americans are discussing this week how to improve home ownership opportunities and make it a reality for many more in their communities, I want to focus on rural Nebraska and how we need to make home ownership and affordable housing a reality for towns throughout Nebraska.

In 1996, a series of seven Nebraska regional focus groups comprised of community representatives and development professionals were asked "What are the most important things to focus on in the next 12–24 months in your community?" The top four priorities were leadership development, regional collaboration, technology, and housing.

Housing is a fundamental community need. It enhances or erodes a community's image and its appeal to business, industry, and, most importantly, the people who live there or may want to live there. Housing is a fundamental human need. Without decent, safe and affordable places to live, people lack a resource that enables them to pursue a quality of life that many others possess.

As some communities in Nebraska have seen former residents and new folks moving to their town, they find that their town does not have the housing supply to satisfy this new demand. Also, attracted by our state's economic development efforts, businesses are seriously considering rural Nebraska, but become hesitant about locating there when it is evident there is a lack of housing for the workers they aim to employ.

To ensure that job opportunities are not lost in our communities, to encourage population growth and to improve the quality of life for many Nebraskans, the serious lack of available and affordable housing must be addressed. Housing must be viewed as a component of every community's economic development future.

AFFORDABILITY

Financing affordable housing is challenging in general, but the small project located in a small town probably poses the greatest challenge of them all. Because of its size, a small project does not have the economies of scale that a larger project has, which creates a financial challenge to acquire resources into these areas. These projects cannot be ignored.

42 percent of Nebraska's 1.6 million people live in communities of 5,000 or less. Many of the new jobs coming into these towns are processing and manufacturing jobs, where wages range from $5 to $8 an hour, which is less than $17,000 annually. Indeed, the 1994 average per capita income in rural areas was $19,100 as compared to $22,444 in metropolitan areas.

According to the Nebraska Homebuilders, the average cost to build a new house is $120,000 and can get higher in rural areas when lack of credit, few building sites, cost of infrastructure development, and transportation and labor costs are taken into consideration. These numbers strongly suggest most rural Nebraskans will not be able to afford new housing.

AVAILABILITY

Increased demand coupled with limited production, increased building costs, and an aging housing stock has produced a severe housing shortage in many communities.

In 1996, the Nebraska Affordable Housing Trust Fund estimated that Nebraska communities need, over 5 years, approximately 35,000 housing units to address population growth, to replace housing units that are substandard—29 percent of the housing stock was 58 years or older in 1996—and to address the issues of affordability.

Because of the population decline of the 1980s, housing quality in rural Nebraska has suffered. Many home builders and contractors went out of business due to the lack of market. Without new homes to augment the older homes, the present housing market does not meet the needs of present demand. In essence, there are housing gaps.

Also, a greater portion of housing in rural areas is inhabited by senior citizens who may not have the money, energy, or desire to improve their homes. Older homes often fall off the market because they aren't inhabitable anymore.

From a federal standpoint, there are several tools pending in the 105th Congress that can be instrumental to communities throughout this country in need of affordable housing. I support these tools and aim to promote them among my Senate colleagues.

First, the Low-Income Housing Tax Credit (LIHTC) is probably the most important tool today that can create affordable housing in communities. In Nebraska, the LIHTC will be most effective in serving the affordable housing needs of the elderly. Also, it can be a great stepping stone for families moving into rural communities who need sound stability and then can proceed to search for home ownership options, if that is what they desire.

The LIHTC was created in the 1986 tax reform bill in the wake of decreasing appropriations for federally-assisted housing. LIHTC finances most affordable rental housing produced in Nebraska for low income working families, the elderly, and people with special needs.

Last year's GAO report on the LIHTC gave the program a healthy and favorable review. The GAO report said the program is doing more than what federal law even expected in serving the needs of the low-income. Ernst & Young assessed the program, reiterated the GAO report, and said the present cap does not meet the needs for our communities.

Presently, the cap has not been adjusted for 10 years and inflation has muted the effectiveness of this tool for investments into communities. 45% of its purchasing power has been reduced. The present cap has created a situation where low-income needs are not being met.

According to Tim Kenny, Executive Director of the Nebraska Investment Finance Authority, which distributes the tax credit throughout the state, applications for the LIHTC far outnumber our state's supply. The need is overwhelming.

Because of this situation, I strongly support Senate Bill 1252 which would increase the cap per person under the LIHTC from $1.25 to $1.75. This would allow affordable housing projects that are pending in Nebraska to go through and be utilized in areas that need housing the most.

A second federal tool that can be extremely helpful in Nebraska are private activity tax-exempt bonds. State and local governments can sell tax-exempt bonds and then pass on the savings to lower income first-time homebuyers and for the construction of low cost rental apartments.

Presently, the cap on private activity tax-exempt bonds, set in 1986, is at $150 million, or $50 per capita. The cap applies to issuers of tax-exempt bonds for housing, economic development and other needed investments in communities. Cap growth is limited to State population increases, but not inflation.

Similar to the Low-Income Housing Tax Credit, the cap has not been adjusted for ten years and inflation has muted some of the effectiveness of this tool for investments into communities. The present cap has created a situation where demand for capped bonds has far exceeded supply. An example is the large demand for mortgage revenue bonds which can be used to finance first-time homes for lower income families. An increase in the cap could lead to housing construction in areas of Nebraska which need it most.

Senate Bill 1251 would increase the private activity tax-exempt bond cap to $250 million, or $75 per capita, and index it to inflation. I strongly support this bill as it could bring the dream of owning a home or renting a decent apartment closer to many Nebraskans. We have many qualified projects pending in Nebraska. They need to go forward.

The other federal tool that Congress needs to enact into law this year is to increase the FHA loan limit and simplify the down payment calculations for these loans.

Presently, 250 different loan limits exist throughout the country. This provision would establish one limit by raising all existing limits to $227,150.

The FHA mortgage program helps meet home financing needs for people who are not served by the private market. Many times, the down payment is the biggest barrier to home ownership and the FHA loan guarantee helps overcome this obstacle.

In the rural communities of Nebraska the FHA loan limit is $81,548. In non-metro areas only 14 percent of all new homes sell for less than existing rural FHA loan limits. With a loan limit of $81,548, the FHA loan, an effective tool for providing affordable housing, can not be implemented in a useful manner. The costs, as mentioned before, of building new quality housing, not tin huts, in most of our Nebraska communities are beyond the present FHA loan limit. We have to raise the limit if we are to utilize this tool.

Each year, FHA operates at no cost to the taxpayer. Price Waterhouse reported that FHA insurance premiums and loan loss recovery proceeds more than cover the cost of claims and operations. This proposal will increase new home ownership in Nebraska and I strongly support it.

Passing these legislative proposals is important to getting tools to Nebraskans to create more affordable housing and home ownership opportunities in our communities. I will work hard to seek enactment of these bills into law and I appreciate the support and help of Nebraskans who are also working hard on making affordable housing and home ownership a reality in our state. Home ownership does not have to be a dream, it can be a reality. These tools bring that reality closer to more Nebraskans.

I also would like to mention an extremely important tool that does not require a federal law and can work just as well. That tool is communication. In Nebraska, we have many hard working people within excellent organizations who toil long hours to bring affordable housing and homeownership opportunities to people throughout the State. They understand the importance of home ownership and know what a dream like owning your own home can do for a family that finally reaches that goal.

I ask the communities of Nebraska to communicate with each other. What works great in one community might work just as great in the community one county over, but they might not be aware of such success. Communities can talk together, ask questions, meet and discuss how each other are getting along. Indeed, communication can be the best tool in creating affordable housing and home ownership. Learning from each other can only make us better and more aware, and we should always encourage more participation and more exchange of ideas.

As I have already talked about exciting new projects occurring in my state, I would also like to point out there are many organizations with housing specialists throughout the state who are instrumental in getting resources to our communities. People working at these places have ideas, they have know how and are experts in finding the means to get affordable housing to where it is needed. Along with these dedicated professionals, we have, throughout Nebraska, active non-profits with missions that make the quality of life for their neighborhoods the highest priority. Couple that fact with an army of dedicated volunteers means that home ownership and affordable housing is a realistic goal for each of our towns. Nebraska is lucky to have such resources.

We need to give these local groups the tools they need to improve the availability of affordable, quality housing. The three tools that I have mentioned can help people in these communities achieve the American Dream and should be enacted sooner rather than later.

GEORGIAN CONFLICT

• Mr. KYL. Mr. President, disturbing events taking place around the world pose grave challenges to our U.S. strategic interests. In Pakistan and India, nuclear weapons are being developed, assembled and tested, escalating an arms race in the region. In Indonesia, the collapse of the rupiah has caused an economic and political crisis that has reverberated throughout the international financial markets. In China, missile proliferation looms ominously as evidence suggest that China conspired to sell entire missiles to other nations. And, in the former Yugoslavia province of Kosovo, NATO defense ministers have launched air exercises in an effort to convince Serbian dictator Slobodan Milosevic to halt his crackdown on the separatist ethnic Albanians in what has become Europe's most threatening security crisis since the 1992–95 Bosnian war.

These are just some of the more widely known international crises—requiring U.S. vigilance to protect its strategic interests. But there are lesser known struggles in remote and distant lands that have significant implications for U.S. foreign policy. One of these that deserves our attention is the conflict in the Republic of Georgia and its small break-away region of Abkhazia. In the wake of the recent armed insurrection in Abkahazia, U.S. efforts to ensure Georgia achieves and sustains political independence and economic stability must be enhanced.

Of all the newly independent states to emerge from the breakup of the former Soviet Union, Georgia is considered the most pro-western nascent democracy. Since its independence in 1991, Georgia has faced and begun to surmount formidable problems of economic collapse, civil war, separatist conflict, rampant crime, political infighting, and human rights abuses. Much to Russia's chagrin, Georgian President Eduard Shevardnadze has exerted strong leadership by moving Georgia away from Russia's sphere of influence. He has pursued an independent foreign policy, ushered in democratic and market reforms, and achieved annual growth rates of 10 percent.

Moreover, Georgia is a NATO borderland and at the entry point to the emerging new "Silk Road" that traverses Central Europe to China. This commercial route will eventually encompass oil and gas pipelines, roads, railroads, bridges, airports and communications networks. It will completely alter the region's economic and political landscape. Because Georgia is situated at a critical juncture in the corridor, stability in this state, and its neighbors, is essential. There are signs of a Russian strategy to keep the region frozen in instability, thereby discouraging commercial investment, and ultimately forcing nascent democracies and their resources back into Russia's tacit control.

The small, breakaway region of Abkhazia has been Russia's best available instrument to diminish Georgia's accomplishments and to imperil its remarkable gains. Numerous and compelling reports, including eye-witness accounts by Georgian refugees, suggest active Russian involvement in arming, training and sustaining Abkhazia's so-called freedom fighters against Georgian nationals.

In this context, I am very concerned by indications of Russian activities and covert aggression aimed at eroding public support for President Shevardnadze and his administration. I regard Georgian independence from Russian hegemony as a critical first step toward stability in the region.

I strongly encourage the administration to end its neglect of this situation and become actively engaged. The administration should state unequivocally that it stands behind the leadership of Georgian President Eduard Shevardnadze; that the stability and survival of an independent, democratic Georgia is in our national interest; and that the U.S. will consider all appropriate measures necessary to help build closer economic and political ties between Georgia and the United States. Finally, the administration should call the Russians to task for engaging in activities that would re-subordinate Georgia to Moscow's rule.

Moreover, Congress should move expeditiously to secure enactment of the "Silk Road Strategy Act of 1997." This legislation is designed to promote sovereign and independent democratic governments; assist in the development of infrastructure necessary for communications, transportation, energy and trade on an East-West axis; and promote market-oriented principles and practices among Central Asian and South Caucasus countries. Passage would help curb Russian hegemony in the region and contain the spread northward of anti-western Islamic extremism. The legislation is designed to assist all the nations of the region—Armenia, Azerbaijan, Georgia, Kazakhastan, Kyrgyzstan, Turkmenistan, Tajikistan and Uzbekistan.

Russia is again increasing its grip on the region and working to keep these countries from maintaining their independence. Iran continues to exert influence to foster anti-western attitudes.

It is critical that we help these countries look westward to contain extremist forces hostile to U.S. interests—and this is a good place to start.●

TRIBUTE TO MRS. ROSEMARIE PECILLO KNOWLTON

● Mr. SANTORUM. Mr. President, I rise today to recognize Mrs. Rosemarie Pecillo Knowlton. For almost 50 years, Rosemarie has dedicated her life to education. She will be sincerely missed after her retirement from Sacred Heart Parish School.

At the age of four, Rosemarie asked to attend school with some of her older friends. The principal allowed her to begin, believing it was probably just a "phase." This phase turned into a teaching career. Such was her desire to teach, that immediately after graduating high school, Rosemarie took a teaching position which required her to travel on four modes of public transportation just to commute back and forth.

When Rosemarie transferred to a position closer to home, she decided to continue her own formal education by taking night classes at Villanova University. There, she met her future husband, Arthur L. Knowlton. They were married in 1956. As her son, Arthur, Jr., graduated from high school in 1975, Rosemarie also received her degree from Villanova.

Rosemarie never saw teaching as a job that began and ended with morning and afternoon bells. She enriched her students through forensics, the annual Science Fair, and CCD classes. She also directed the school's music shows, the Parish Living Stations of the Cross, and the Living Rosary.

Mr. President, the lives Rosemarie has touched are too numerous to count. She is leaving a legacy of dedication and accomplishment, and her son, Richard, carries on the family's teaching tradition. I ask my colleagues to join me both in congratulating Rosemarie for 46 years of dedication to the children of southeastern Pennsylvania and in extending the Senate's best wishes to the Knowltons as Rosemarie retires to devote all of her time to her husband, children, and seven grandchildren.●

AMERICA-ISRAEL FRIENDSHIP LEAGUE CELEBRATES ISRAEL'S 50TH ANNIVERSARY

● Mr. MOYNIHAN. Mr. President, I rise to inform the Senate of a celebration being held later this evening in New York's historic Gracie Mansion. New York City's Mayor Rudolph Giuliani and his wife Donna Hanover will be joining the America-Israel Friendship League and the Jewish Community Relations Council of New York in hosting a gala dinner celebrating the State of Israel's Golden Jubilee. It is most appropriate that the city with the largest Jewish population in the world is hosting this official celebration of Israel's fiftieth anniversary.

The members of the Senate are familiar with the important work of the America-Israel Friendship League (AIFL), a national, non-sectarian organization committed to maintaining and strengthening the historic, mutually supportive relationship between the peoples of the United States and Israel. Founded in 1971, the AIFL's activities generate bi-partisan support in reaching out to our citizens of all faiths and ethnic backgrounds in an effort to educate Americans and Israelis about the common interests they share. With a membership and leadership comprised of political, religious, labor, business, and community activists of all faiths, the diversity of the AIFL's membership makes its efforts even more extraordinary. The distinguished publisher Mortimer Zuckerman currently serves as the League's president, one of New York's leading attorneys Kenneth Bialkin serves as chairman of the board, and the talented Ilana Artman is the League's executive vice president.

As a non-sectarian, people-to-people organization, the AIFL is devoted to fostering cultural and economic ties between the United States and Israel and to strengthening the unique friendship between our country and the only democracy in the entire history of the Middle East. Throughout Israel's first half century, the people of Israel have struggled to survive in a hostile region. Enduring five wars, they have most recently embarked on an historic journey in search of peace.

The United States' support for Israel is grounded in an appreciation of the shared values and principles that are at the foundation of American and Israeli societies. Israel is the only country in the Middle East that, like the United States, is founded on the rights and privileges that guarantee a free society: elected government; freedom of speech; freedom of the press; an independent judiciary; and the rule of law. There have been just fourteen free elections in the entire history of the Middle East: all fourteen have been held in the State of Israel since 1948.

To promote the unique friendship between these two great democracies, the AIFL has successfully mobilized a coalition of Americans of all ages and backgrounds to participate in a broad range of cultural and educational programs. Three of our most revered former members—Frank Church, Hubert Humphrey, and Jacob Javits—played major roles in creating the League in 1971, and I can testify to how strongly they believed in the League's mission and responsibilities.

I ask that a report on tonight's dinner be printed in the RECORD.

MAYOR RUDOLPH W. GIULIANI AND THE AMERICAN-ISRAEL FRIENDSHIP LEAGUE JOIN IN MAJOR NEW YORK CITY 50TH ANNIVERSARY CELEBRATION

Mayor Rudolph W. Giulinai and the American-Israel Friendship League announce that a gala celebration of Israel's 50th anniversary will be held at Gracie Mansion on Wednesday evening, June 17, 1998.

Mayor Giuliani, who serves with Edgar Bronfman as co-chair of New York City's Official Host Committee for Israel's Fiftieth Birthday, has agreed to open his home for a gala dinner marking 50 years of US-Israel friendship and joint achievements. The evening's guests will include leaders of the US and Israeli governments; faith communities; industry and community organizations.

"I am particularly proud to host this special event, in celebration of Israel's historic 50th Anniversary and in commemoration of our shared traditions of democracy," said Mayor Giuliani. "This exciting gala will be an important part of New York City's celebration of Israel's important milestone birthday."

The dinner will celebrate Israel's accomplishments and will recognize and honor US and Israeli individuals, organizations and companies for their joint achievements. The United States and Israel have a long record of cooperation on strategic, scientific research, economic development and education projects. These initiatives have generated remarkable breakthroughs and have had a major impact on medical research, international communications, agriculture, computer and high technology, and many other areas.

"It will be an exciting evening" said Mortimer B. Zuckerman, Publisher of the New York Daily News and President of the American-Israel Friendship League. "The Gracie Mansion gala will bring together a cross section of society, people of all parties and stripes, from both sides of the ocean, coming together in New York City in celebration of the strength of US–Israel friendship and cooperation."

"The dinner will be a festive occasion with an important message," said Kenneth J. Bialkin, Partner of the law firm Skadden, Arps, Slate, Meagher & Flom, and chairman of the AIFL's Board of Directors. "It will highlight the mutual benefits to both the United States and Israel of our close, longstanding relationship. It is an association based on common values, on shared interests and on genuine friendship between our two peoples."

The American-Israel Friendship League is a national, non-sectarian organization committed to maintaining and strengthening the historic bonds between the people of the United States and Israel. Founded in 1971, the League's activities generate bi-partisan support in reaching out to all faiths, ethnic backgrounds, all age groups and political persuasions in an effort to educate Americans and Israelis about the common interests that they share.●

ORDERS FOR THURSDAY, JUNE 18, 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Thursday, June 18. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then resume consideration of S. 2138, the energy and water appropriations bill.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PROGRAM

Mr. **JEFFORDS**. Mr. President, for the information of all Senators, the Senate will reconvene tomorrow at 10 a.m. and immediately resume consideration of the energy and water appropriations bill. It is hoped that Members who wish to offer amendments to the energy and water bill will come to the floor during Thursday's session to offer and debate their amendments under short time agreements. Therefore, rollcall votes are possible during Thursday's session of the Senate. The leader would like to remind Members that the Independence Day recess is fast approaching and, therefore, the cooperation of all Members will be necessary to make progress on a number of important items, including appropriations bills, any available conference reports, the Higher Education Act, the DOD authorization bill and any other legislative or executive items that may be cleared for action.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. **JEFFORDS**. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:56 p.m., adjourned until Thursday, June 18, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 17, 1998:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

IDA L. CASTRO, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2003, VICE PAUL STEVEN MILLER.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

CHRISTOPHER A. BUCKRIDGE, 5845

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. LEON J. LAPORTE, 0933.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES M. LINK, 6041.

HOUSE OF REPRESENTATIVES—*Wednesday, June 17, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. OXLEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 17, 1998.

I hereby designate the Honorable MICHAEL G. OXLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

With humble hearts, gracious God, we confess our shortcomings, and with grateful hearts we celebrate the wonderful opportunities that our world allows. We realize that we have not cared for the resources of the land as we should, and yet we use our land to feed the hungry and nourish the soul.

In all things, O God, we have occasions to be responsible custodians of the gifts of the Earth, and so we pray this day that we will pledge ourselves to be faithful and good stewards of all Your blessings and use Your gifts to the welfare and prosperity of every person.

This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GIBBONS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GIBBONS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 one-minutes on each side.

THE SUDANESE GOVERNMENT MUST BE HELD TO INTERNATIONAL HUMAN RIGHTS STANDARDS

(Mr. PITTS asked and was given permission to address the House for 1 minute.)

Mr. PITTS. Mr. Speaker, I rise today on behalf of persecuted religious believers in Sudan.

Mr. Faisal Abdallah, a 39-year-old Christian convert from Islam currently is imprisoned in Khobar Prison in Khartoum. Though accused of evangelism, Mr. Abdallah has not formally been charged with apostasy. Instead he has been charged with criminal violations of, and I quote, "political conspiracy against the Khartoum regime." This charge requires the death penalty upon conviction.

The Sudanese Government is attempting to force extremist Islam on the entire population of Sudan. Reports are that authorities beat, torture, sell into slavery, force to convert to Islam in exchange for food and force to fight against their own people, anyone who disagrees with the Khartoum government. Christians, Animists and moderate Muslims suffer terribly.

Mr. Speaker, these horrifying atrocities must not continue. The Sudanese Government must be held to international human rights standards which protect religious and other fundamental freedoms.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1891

Mr. HOLDEN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1891.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ORANGE COUNTY'S FINEST

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise today to pay special tribute to truly outstanding students from California's 46th Congressional District.

Last year I had the opportunity to nominate young men and women from my district to our finest military academies, and I am pleased that five high school seniors were among those offered appointments to join our academies for the 1998 academic year. These students from Orange County will now prepare for one of the most exciting, challenging and educational experiences of their lives, years of commitment and service to their Nation. During their years in high school several of these students excelled in academics, athletics, and more importantly, these students were very devoted to community service.

I ask my colleagues to join me in congratulating the following students who were appointed to the United States military academies for the 1998 academic year:

Robert J. Kennedy of Garden Grove
Julio A. Nelson of Anaheim
Michael Bigrigg of Santa Ana
Joshua Fogle of Garden Grove
Leo Kosi of Garden Grove

SUPPORT THE CHILD CUSTODY PROTECTION ACT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today the Committee on the Judiciary will vote on a bill that is of great importance to the protection of my rights, my colleagues' rights and the rights of every American parent. The Child Custody Protection Act will protect the most sacred bond that exists, that between every parent and their children. As Members of Congress we

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

have shown great determination in our pursuit of prosecuting and punishing sexual predators who prey on our children. We must also act to stop those who decide to play parent to our children.

Mr. Speaker, these strangers smuggle children across State lines in order to circumvent a State's parental law on abortions. Let us safeguard our parental rights by passing H.R. 3682 so that the laws of every State regarding abortion for minor girls are respected. This bill makes it a Federal crime for a nonparent to transport a minor girl across State lines to evade her home State's parent involvement law and obtain an abortion. It does not establish a nationwide parental notification retirement, but it does respect parental rights.

Mr. Speaker, no stranger should break the sacred bond between a parent and her child.

HOUSTON HABITAT FOR HUMANITY

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, too often from these microphones we hear what is wrong with our country, and today I want to talk about what is right with our country.

In Houston this week we are celebrating the kickoff of the 1998 Jimmy Carter and Habitat For Humanity work project, the largest Habitat for Humanity project ever attempted. Throughout this week volunteers from all across the country will be building 100 houses in Houston and at least 40 in the congressional district that I am honored to represent. One hundred families will have a roof over their heads as well as an affordable place to live and raise their families. The Jimmy Carter work project will give Houston families an opportunity to buy a home where there is no profit included in the sales price and no interest charged on the mortgage.

On Monday morning not only myself, but my staff and I, joined in this project putting up that house, and all this week staff and volunteers are working on our house to have a safe and decent home for our family, Francisco and Claudia Villanueva and their five year-old child, Ana. This home is being built as a House that Congress Built project that is being built nationwide across all Members of Congress, 435. I am glad to have this opportunity to directly provide a house in our district, but also participate nationwide.

Mr. Speaker, that is what is right with our country.

SUPPORT BETTER EDUCATIONAL OPPORTUNITIES FOR OUR CHILDREN

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, the defenders of the education status quo are on the wrong side of history. Each year these people ask for more money for the same failed programs that gave us such poor education results in the first place. Parents are fed up with broken promises and the lack of accountability that has been the hallmark of these demands for more and more money. Parents and reformers are demanding change. Charter schools, school choice and education IRAs are the wave of the future. Yet these reforms are fought tooth and nail by the special interests and their defenders in Congress.

But these bureaucracy lovers will ultimately fail. They will fail because parents who care about the education of their children will no longer accept failure no matter how much money is wasted on the failure.

Mr. Speaker, parents and their children who desire more educational opportunities are looking to Congress to pass the Coverdell legislation and vote for better educational opportunities for their children. That is the mandate and the obligation of this Congress, and I urge my colleagues to follow it.

WE MUST DEAL WITH NORTH KOREAN MISSILE SALES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, more threats from Communists: North Korea said, "We will sell missiles to your enemies, and if you want to stop us, Uncle Sam, you will have to pay us."

Unbelievable.

Sources say that North Korea believes there is a softening of resolve in Washington. Evidently, North Korea believes that a White House that will make no demands on China after China threatened Taiwan and Los Angeles is a White House that will make no demands on communists, my colleagues.

Beam me up. North Korea would never say in-your-face threats to Ronald Reagan.

Congress better look at these foreign entanglements that endanger our national sovereignty.

I yield back any missiles pointed at America.

TAX CODE ELIMINATION OFFERS A FRESH OPPORTUNITY

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, for a number of years now we have heard political leaders call for reform of the Tax Code, but nothing ever seems to change. Now Congress has a real chance to do what so many Americans have been asking for for a long, long time.

Today the House of Representatives will have an opportunity to vote on the Tax Code Elimination Act, a bill that will finally get rid of the Tax Code once and for all. It will sunset the Tax Code on December 31, 2002, and it will require Congress to come up with an alternative way to collect revenue. By voting for this bill, Mr. Speaker, Congress will be putting America on notice that a national debate must begin about a new tax system that is simpler, more fair and more transparent.

Mr. Speaker, it is time to choose a more rational system of taxation, one that average people can understand without having to consult accountants and tax attorneys. It is time for a national debate, and it is time for that national debate to begin now.

FIRST—ONE OF THE MOST INNOVATIVE AND EDUCATIONAL PROGRAMS EVER CREATED

(Mr. REYES asked and was given permission to address the House for 1 minute.)

Mr. REYES. Mr. Speaker, tomorrow Capitol Hill will be given the opportunity to experience what I believe is one of the most dynamic, innovative and educational programs ever created in our country. This program, called FIRST, teaches our youth that science and technology can be fun, it can be exciting and, yes, even cool.

Mr. Speaker, teams of high school students work with local adult mentors to build robots. They then compete against other teams in regional competitions and culminate with a national competition at Disney World in Florida.

Tomorrow FIRST is bringing 12 of its outstanding teens here to provide a mini version of one of its competitions. One of these teams, I am proud to say, is Montwood High School and their robot Rambot which comes from El Paso, Texas, in my district. I am very proud of the hard work and determination that brought them here this week.

Mr. Speaker, many of our colleagues on both sides of the aisle have already joined me in supporting FIRST and are helping to sponsor tomorrow's event. I urge each one of my colleagues, as well as their staffs, to come by the Rayburn foyer tomorrow between 9:30 a.m. and 4:00 p.m. to learn how the lives of our students and students in my colleagues' districts can be changed forever in a very positive way.

CONSIDER THE CONSEQUENCES OF FREE AIR TIME

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, as we continue to debate campaign finance reform some of my colleagues continue to press for free air time. Some of the legislation we will be considering requires broadcasters to sell time to candidates at 50 percent below the already discounted rate. I really do not think they have carefully considered the consequences of this issue.

The first problem is that it will not necessarily reduce campaign spending. What would stop a candidate from buying twice as many spots?

Secondly, the glut of commercials will simply turn voters off. A survey by Opinion Research Corporation last year showed that 61 percent of adults do not want more campaign ads on TV or radio.

What do they want? They want more debates and news coverage, all of which are currently provided by broadcasters for free.

Mr. Speaker, Congress needs to take a step back, let the voters decide and allow the best candidate to win.

HOW WE CAN BEST SERVE AMERICA'S STUDENTS

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, good morning. I rise today to talk about the issue of education and the debate that is evolving here in the House about how we can best serve American students. The best seems to be two areas of thought. The Republicans today and tomorrow will talk about another program to aid private school education.

□ 1015

The Democrats again are saying we need to support public education. This is really ironic when we think of the fact that 90 percent of American students attend public school. It would seem only logical that we would put our money where the students are.

However, that is not the case on the Republican side. They are advocating so-called savings accounts for education that would allow tax-free contributions into private schools. That is not the way we can help American education.

The Democrats have a very simple and straightforward approach. We suggest that what we need to do is improve public schools. We need to reduce class size by providing Federal assistance so that we can hire more teachers. Sixty percent of Americans surveyed say the Federal Government needs to spend more money on public education. We can hire 100,000 new teachers, we can reduce class size, we can modernize our schools.

We need to put our money where the students are, and that is in public education.

COMMITMENT TO A MORE SECURE FISCAL FUTURE FOR AMERICANS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the tax man cometh and cometh and cometh. Yet, there is a bright light at the end of this dark tax tunnel.

Today in Congress, Congress will have that chance to answer the call of millions of hard-working families in this country who feel the Federal Government needs a new system of taxation. Today, the Federal Government has the great opportunity to renew the American dream.

Mr. Speaker, Members of Congress have a chance to lift the tax burden off their constituents by passing legislation to sunset the current Tax Code. It is time to retire this outdated and oppressive Tax Code; it is time to give our children and generations to come the opportunity to participate in the American dream that rewards hard work, not penalizes it, with an unfair tax system. It is time to clear the way for a fairer, less complicated, and less burdensome tax system in this country.

Mr. Speaker, let us tell the American people that we are serious about changing the tax system and pass the Tax Code Termination Act. It is our commitment to a more secure fiscal future for our children and future generations.

ELIMINATE THE MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, 3 weeks ago this House made a commitment to eliminate the marriage tax penalty in the budget that we passed, and I think a series of questions best illustrate why it is so important.

These are pretty simple questions. Do Americans feel that it is fair that our Tax Code actually provides a higher tax on a married couple just because they are married? Do Americans feel that it is fair that 21 million married, working couples pay on the average of $1,400 more just because they are married? Do Americans feel that it is right that the only way today to avoid the marriage tax penalty is to file for divorce? Of course, Americans all agree that is wrong.

Mr. Speaker, $1,400 in the south suburbs of Chicago, that is one year's tuition at Joliet Junior College; that is 3 months day care at a local day care center. Higher taxes just because you are married are wrong.

We made a commitment in the budget that we passed out of this House a few short weeks ago to eliminate the marriage penalty. Let us work together in a bipartisan way. I hope President Clinton will join with us in making this a bipartisan effort to eliminate the marriage penalty. Let us eliminate the marriage penalty, and let us eliminate it now.

PAKISTAN NUCLEAR TESTS: ANOTHER CLINTON FOREIGN POLICY FAILURE

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, make no mistake about it, Asia is in a full blown nuclear arms race, and I think Bill Clinton is personally responsible for it.

The sad truth is that Bill Clinton permitted the sale of satellite and missile technology to China. China provided nuclear assistance to Pakistan and Iran. That prompted India to boost its nuclear weapons program, not because it was afraid of Pakistan, but because it was afraid of China, and then Pakistan upped the ante.

At best, this represents striking incompetence on the part of the Clinton-Gore administration. It will require congressional and other investigations to establish whether corruption also played a role.

Presidents Reagan and Bush restored America's credibility and left America and the world safer places. Clinton has systematically eroded our credibility abroad and he is irresponsibly squandering the presidential legacy he inherited.

So what does this President do? He jumps on India and Pakistan and jumps on a plane to China, which is the source of the problem. Outrageous. I suppose consistency is too much to expect from this administration.

MAJORITY OF AMERICANS WILL NOT BENEFIT FROM TAX REFORM PROPOSAL

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DeFAZIO. Mr. Speaker, today we have the stealth plan to fix the system of taxation in America, to repeal the entire Tax Code. Well, not the entire Tax Code, not the most regressive part of the Tax Code.

Seventy-two percent of the American people pay more in FICA taxes than they do income taxes to the Federal Government. Guess what? That 72 percent of the American people are left out of this phony election year proposal. But what is included, what we are going to repeal is the mortgage home deduction. That is the one, the one shelter, that middle income, working Americans have available to them is a deduction for the interest on their home mortgage. That is repealed. That is gone.

We are also going to repeal that which provides for employer-provided health care and charitable deductions. Guess what? This stealth proposal is a dagger aimed right at the heart of working Americans under the guise of helping them. So once again, the Republicans can service the special interests that are doing so well under the current code, but want to do better under a new one.

EDUCATION SAVINGS ACT

(Ms. DUNN asked and was given permission to address the House for 1 minute.)

Ms. DUNN. Mr. Speaker, I rise today to urge my colleagues to support the Education Savings Act Conference Report.

I encourage the adoption of this legislation for a number of reasons. It helps families choose the best schools possible at all levels of education by providing families with much needed education-related tax relief.

Not only does this bill create opportunities for families to save their hard-earned dollars and receive interest tax-free for costs associated with K through 12 education, but it also makes higher education more affordable by offering favorable tax treatment for prepaid tuition plans.

This bill encourages families to invest in their children's future. One of the provisions which the gentlewoman from Texas (Ms. GRANGER) and I have worked on in this bill enables families with school-aged children to save money tax-free for future college expenses through plans established by private institutions. Today, more than 50 independent colleges and universities have joined together to offer families prepaid tuitions at numerous institutions.

I hope my colleagues will look at this legislation and support it later today.

CAMPAIGN FINANCE REFORM

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, I rise today because we are finally getting around to campaign finance reform, which as many people know, I have authored the major bill on campaign finance reform which will be debated.

So the idea that we are debating campaign finance reform is music to my ears, but then I look at the way it has all been set up and I am reminded of the song in Musicman that goes, "Talk a little, pick a little, talk a little, pick a little; talk, talk, talk, talk, pick a little, pick a little."

Well, that is exactly what we are doing. We are talking a lot and we are picking it apart. There are 258 amendments to 11 different measures. I think the debate is designed to be confusing, it is designed to go on and on and on and on. It is designed to never have anyone coalesce around any one of the bills.

Mr. Speaker, last night the Republican Party went out and raised $10 million, and today they are going to get up and talk about campaign finance reform. You bet we need it.

TIME TO SCRAP THE TAX CODE

(Mr. BLUNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUNT. Mr. Speaker, it is time to scrap the Tax Code. "Scrap the Code" has been a slogan for tax reformers for years now, but today we have an opportunity to take the first step toward its realization.

Today on the House floor is an opportunity to vote the Tax Code Elimination Act, a bill that will sunset the Tax Code on December 31, 2002, and require the Congress to come up with a new, simpler, fairer, revenue-neutral Tax Code.

This bill will make fundamental tax reform a major issue in the 2000 presidential race and will force this issue to the top of the national political agenda.

Lawmakers have been talking about reforming the Tax Code for too long. It is time to act. This bill will show our willingness to act and our willingness to listen to the millions of Americans who have been calling for an end to our Tax Code for many years.

Fundamental tax reform should be a bipartisan issue. Democrats and Republicans both have an interest in the Tax Code that is fairer, simpler and less complicated. The time to act, Mr. Speaker, is now.

FBI WANTS TO TAX AMERICANS

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR of Georgia. Mr. Speaker, in just 5 short months, we will have an opportunity to witness real progress being made in our effort to keep guns out of the hands of criminals when the National Instant Check System, the so-called instant background check, goes into effect, pursuant to the previous Brady law.

But be careful. I urge all Americans and my colleagues to be very careful about what the FBI is planning, and that is a stealth tax and a registry of gun ownership in America.

The FBI is proposing to tax every single gun transfer in this country up to $30, despite the fact that Congress maintains, the last time I looked 2 minutes ago, the sole power to tax in this country. The FBI is proposing to use the National Instant Check System as a subterfuge for taxing the American people, and they are also proposing something that we have fought in this Congress and we ought to continue to resist, and that is a national registry of gun ownership in this country.

Let us move forward with the national tax system, but let us resist vigorously, through H.R. 3949, this unconstitutional effort by the FBI to tax and to register firearms.

U.S. TAX CODE IS A MESS

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Mr. Speaker, the U.S. Tax Code is a mess. When the income tax was first introduced in 1914, the entire Code was 14 pages long and the top tax rate was 7 percent. Today it is nearly 4,000 pages and constantly changing.

While last year alone we managed to add 334 pages, create 285 new sections, and add 824 amendments, that is bad enough, but it is not the whole story. The code alone is only a part of the law. The rest comes in the form of implementing regulations and tax court decisions which make the code even more incomprehensible. It literally grows every day. Some estimates put the cost of compliance at over $250 billion per year. That is $250 billion of unproductive effort. Think what that could do for the economy if it was channeled into other areas.

A majority of Americans want an end to the current code and we have a responsibility to take this problem head-on. We cannot continue with business as usual. We need a national debate to build a consensus for sweeping change. The Tax Code Termination Act is the first essential step in breaking free from the cycle of incrementalism which has produced the current code.

AMERICANS DESERVE ACTION ON REFORMING THE TAX CODE

(Mr. COOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOK. Mr. Speaker, let us face it. If we were to start from scratch, no one in his right mind would ever come up with the current Tax Code, not in 1 million years. It is incredibly complicated, it has countless loopholes, special cases, exemptions, and arcane provisions.

Average Americans sit down with their 1040s and soon they are frustrated, flustered, and often angry. Then they start on the schedules and all the special forms, and then they cannot figure out if the special cases applies to the special cases and all the instructions, and then it gets worse from there. Heaven help you if the IRS disagrees with your interpretation of one of the IRS regulations.

It is time to start over and come up with a simple, fair, honest tax system. It is time to start a national debate on what the new Tax Code should look like. It is long overdue, and the American people deserve action on this important issue.

CONGRESS HAS BETTER THINGS TO DO

Mr. Speaker, I rise this morning to discuss very briefly the controversy that has arisen about the Independent Counsel's office and the recent magazine article which asserts that he has leaked consistently to the press.

□ 1030

Mr. Speaker, the people in my district, the 28th District of New York, tell me on a consistent basis that they have simply had enough. And if there are requests now for money to investigate Mr. Starr, who is investigating everybody else, I say that on behalf of the people of the 28th Congressional District that we have had enough and this would be good money after bad, coming to absolutely nothing.

The 5-year investigation by this independent counsel's office which started with Whitewater and ends with heaven knows what has gotten us nothing but the concern of the people in the United States that we do not have anything more important to do in Washington, and a concern, I think, throughout the world that we also are not doing anything very important here.

But, Mr. Speaker, there is much to do. I have a bill, H.R. 306, which would protect every person in the United States from discrimination in their health insurance because of their genetic makeup. We have 200 bipartisan sponsors and over 125 outside groups that probably collectively include almost half the population of the United States. But we have been totally unable to get a hearing on this bill.

It is absolutely critical that we do protect the genetic privacy and information of Americans because we are on the cusp, at the beginning of this new century, of having an entirely new way of providing health care and learning more about ourselves than we were ever able to know before.

Mr. Speaker, I urge my colleagues in this House to demand that we have a hearing on this bill. We have filed a discharge petition that we are hoping that all Members, on a bipartisan basis, will sign so that before the end of this session we will have an opportunity to discuss and to pass this bill to protect all of us because, believe me, all of us have genes, to protect all of us against the loss or the change in rates in terms of our health insurance.

SUPERFUND REFORM IS OVERDUE

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, it is time and long past due to reform the Superfund program. The Superfund program is designed to clean up our Nation's toxic waste sites. The administration is prone to repeating over and over and over again that more than 10 million Americans live within 4 miles of a toxic waste site. That is a serious concern to the administration. It is a serious concern to the Congress of the United States.

Yet, what do we get from the administration when we call on them to support much-needed Superfund reform? We get the Vice President of the United States reading a script prepared by the Democratic Congressional Campaign Committee.

Mr. Speaker, I call upon the Vice President to quit the partisanship and get on with the serious business of reforming Superfund. We have a bill, H.R. 2727, which is endorsed by the National Governors' Association, the U.S. Conference of Mayors, the National Federation of Independent Business, the National Association of Manufacturers, the list goes on and on. They support meaningful reform of Superfund because they know how important it is to America. I call upon the administration to join us in this task.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2646, EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 471 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 471

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. OXLEY). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, yesterday the Committee on Rules met and granted a rule to provide for the consideration of the conference report accompanying H.R. 2646, the Education Savings and School Excellence Act of 1998.

The rule waives all points of order against the conference report and against its consideration. In addition, the rule provides that the conference report shall be considered as read.

Mr. Speaker, every child in this country deserves the best education possible and every parent knows what school will best suit their children. Here in Congress, it is our duty to get out of the way and empower all Americans to follow through on their educational choices. We will do just that tomorrow when we approve the conference report to the Education Savings Act of 1998.

Simply put, the Education Savings Act will allow caring fathers and mothers, as well as concerned charities, corporations, friends or grandparents, to save more for their children's education. By permitting parents to deposit up to $2,000 per year in a tax-free education savings account from 1999 through 2002, the bill will help parents pay for elementary school, secondary school, and college tuition.

Not all parents need to save for private school tuition though. Often the local public school is clearly the best option. H.R. 2646 recognizes that, even before they send their children to college, the parents and friends and relatives of public schoolchildren deserve tax-free education savings too. The bill permits all young families to save tax-free for tutoring expenses, computers, books, special needs services, and extended day program fees.

Mr. Speaker, all too often young parents are unable to give their children the very best. Every year rent, mortgage payments, grocery bills and, yes, taxes limit the educational choices of American families. A select few wealthy parents have no problem paying for tuition, if necessary, as well as for tutors and computer equipment. But the rest of us, we could use real help. Americans should be able to keep a little more of what they earn to pay for education.

In addition to tax-free education savings accounts, H.R. 2646 expands government efforts to teach our children to read. The bill authorizes the Secretary of Education to spend $210 million per year from 1999 through 2001 to support State and local child literacy efforts.

There is a sense of the Senate in this bill on Dollars to the Classroom. The sense of the Senate resolution says that 95 percent of every Federal education dollar should end up in the classroom.

Mr. Speaker, this is a good bill. Teachers' unions and advocates of public school bureaucracy may balk at our efforts to expand the educational choice of American parents while we work to improve our public schools, but this bill is a sincere effort to throw politics aside and to help children and families who need help most.

Mr. Speaker, I urge my colleagues to support this rule and to support the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, H. Res. 471 waives all points of order against the conference report on H.R. 2646 and against its consideration. While I will not actively oppose the rule, I rise in strong opposition to the underlying bill.

We all know that we need to improve our public schools to give our children the education they need to reach their full potential. Educators agree that we need to target our assistance to schools and students who do not have the resources needed to have an equal opportunity to succeed.

Our limited Federal education programs should target those most in need and support efforts that we know have a proven record in improving educational achievement.

For example, research has shown that smaller class size in grades K through 3 has a positive effect on students for their entire lives. The improved classroom discipline and reading and math skills provide a solid base for the child's continued education achievement.

Research has also shown the benefits of after-school programs that promote safe and nurturing activities for young people during nonschool hours. These programs provide positive alternatives for kids who would otherwise be on the streets or alone with only the television set for company.

After-school tutoring offers young people the extra help they may require to succeed in their classes. Organized sports allow the young people to expend their energy in a positive setting, building physical skills and endurance.

Our schools also need help to improve teacher training, to modernize the school buildings which are in crying bad shape, to promote safe schools, and to challenge students to meet higher standards. But, unfortunately, this bill does not do any of that.

Mr. Speaker, instead, H.R. 2646, at a cost of $2.2 billion over 5 years, will provide a taxpayer subsidy to the Nation's most privileged; 70 percent of its benefits will go to families with incomes in the top 20 percent. Under H.R. 2646, families will get a significant benefit only if they have enough disposable income to contribute $2,000 per child per year to an education savings account. Families struggling just to put food on the table and buy school shoes for their kids will receive nothing from this bill.

The Joint Committee on Taxation, with a majority of Republican members, estimates that the benefit for an average family would be only $37 a year if they have children in private schools and even less, $7 a year, for families with children in public schools. The $2.2 billion would be more usefully spent to improve our public schools.

This bill is a favorite of some because it provides a foot in the door for public subsidy for nonpublic schools. In fact, more than 50 percent of its benefits would go to the 7 percent of families who send their children to private and religious schools. That is only 7 percent of America's families.

Public funds should be used to improve public schools which serve all students. We should not ask families struggling from paycheck to paycheck, those in the lower- and middle-income brackets, to subsidize families in the upper 20 percent income bracket. Taxpayer subsidies for private school education will lead to fewer available resources for the public schools which serve the 93 percent of our families.

Mr. Speaker, in my district both the Monroe County School Board Association and the Rochester City Schools oppose this plan to shift public funding to private schools and parochial education. The National PTA, the National Education Association, the American Federation of Teachers, and the Council of Chief State School Officers all oppose H.R. 2646 because it will create taxpayer-financed subsidies for private and religious schools, while doing virtually nothing to improve America's public schools.

Mr. Speaker, I urge my colleagues to support the motion to recommit the conference report with instructions to substitute H.R. 3320, the Public School Modernization Act. H.R. 3320 would pay the interest on $22 billion in local school bonds so that we could make sure our public schools are safe, have up-to-date equipment and facilities, and have enough classrooms for all their students.

Mr. Speaker, America's public schools have been a model for the whole world, and we should work to strengthen them, not abandon them.

Mr. Speaker, I ask my colleagues to support the Rangel motion to recommit, and if that fails, to oppose the conference report.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just a point of clarification. This bill does not take away any current education dollars. This is over and above what we are currently spending, so nothing is being taken away.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. STARK).

□ 1045

Mr. STARK. Mr. Speaker, I had intended to speak later today on an issue of professionalism in the House of Representatives. It has seemed to have departed in 1994. The House is now, unfortunately, being run by amateurs who have really no concept of what legislation does in its far-reaching effects.

A perfectly good example is this bill before us. While I happen to differ with the distinguished gentlewoman about the best way to support education, I respect her right to her opinions as to what will increase benefits to our children. The fact is that the gentlewoman's leadership has got this place so convoluted that her distinguished efforts today will not make any difference.

My chairman of my subcommittee on which I serve, the gentleman from California (Mr. THOMAS), recently referred to a lot of Republican legislation as asinine. He was not just whistling Dixie.

I want to suggest to the gentlewoman that a little later today, the gentlewoman is going to vote for a bill which will absolutely negate this bill that she is now proposing. Which does the gentlewoman want to do?

Would she like to help parents with their savings account, as she so eloquently purports to do? Then I propose that the gentlewoman would join me in opposing the bill that her party will bring to the floor today, which will absolutely suspend the entire income tax system in 2002 and, therefore, make her bill useless, meaningless.

Not only will it make the gentlewoman's bill useless, she will probably not have any schools, because not only will sunsetting the income Tax Code mean that no longer will the public be willing to buy tax exempt bonds, because who knows whether, in fact, they will be tax exempt or taxed or how high they will be taxed; no longer will the public be willing to give, to donate to their church, because they are not sure whether that will be taxed or not.

As a practical matter, we had better hurry up and die before the year 2002 or our wills will not be any good. All of the plans that the financial markets make, and I do not know if there are any Republicans who deal with the financial markets, I think these tax plans have all been designed in football huddles. But aside from that, had any of them studied economics and had any of them had any awareness of the implications of what abolishing the Tax Code would do?

I have no quarrel that some people may pay too much tax; some people may pay too little in tax. Some people may not like cigarette taxes. Some people may not like gasoline taxes. All of those things can be debated. They can be debated in the context of what it will do to our country's economy.

But the sheer lunacy, the absolute sophomoric inanity of taking and saying we are going to abolish the Tax Code, I would suggest that you might as well, while you are at it, abolish the Criminal Code. That would give some Members of Congress, and particularly on the Republican side, relief from some fines and some jail terms. But other than that, why not abolish it and say, well, in the year 2002, we will write a new Criminal Code, but in the meantime, go do what you want.

So as we are sitting here debating a bill that might at the outset make some reasonable sense to people who want to support private schools at the expense of destroying public education, a reasonable debate that has been going on for some time, we are getting prepared, as we sit here this morning, to bring to the House of Representatives a bill that would, in effect, end the Tax Code.

I understand that there are a great number of modern-day Pharisees who reside here in the House of Representatives and other types of conservatives who believe that we should have no income tax. Again, the most sensible of those who purport to do that have a replacement. They would suggest a value-added tax or a sales tax or a whole host of revenue raising. But none have been so lunatic in their approach as to say we should raise no revenue.

It would be interesting to talk to the members of our fighting forces. The gentlewoman from New York and I just returned from Bosnia where we were proud to see our forces keeping peace. They might want, as well, to throw up their hands and go home. How do they know that they will get paid at the end of the 3 years if the Republican mindset were to continue to control this Congress?

This is the most amateurish approach. It is pandering, pandering in the worst conceivable way for a few votes in an election year, pandering about something which some people does not understand.

It is clear that whoever drafted and will support this legislation to sunset the Tax Code has no idea of what they are doing. They are not qualified. There are not many qualifications to membership in this body, but I will tell you one of them ought to be able to count to 20 with your shoes and socks on. I am not sure that many of my Republican colleagues could pass that test when it comes to the economics of dealing with the Tax Code.

So as we sit here in all solemn splendor and discuss whether we are going to help our children, we are just waiting for an hour or two, and we will be in this Chamber saying, let us vote to sunset the Tax Code.

Can you imagine what is happening in Jakarta which is a result of basically a king destroying the economic system in Indonesia? This is exactly what will happen in the United States if this Republican provision prevails. The financial markets will suddenly awaken and realize that none of the contracts, none of our pensions can be depended upon. The very basis of all of our retirement income will collapse. The stock market will be in shambles.

I want to suggest to you that if you want to create financial anarchy in this country, follow the Republican lead. There is a Republican-mandated commission now that is talking about the future of Medicare, the future of Medicare. From where will the income come? From where will the taxes come? From where will the deductions come for the employers who are paying those taxes? This all disappears under this marvelous Republican leadership.

What we are getting here is Dial-A-Prayer in the House of Representatives. Dial-A-Vote. Dial-A-Special-Interest. Dial-A-Special-Interest and ask them what they would like to hear the government do, and we will bring it to the floor of the House without regard to the effect on the United States, on its children, on its families.

Family values? Let me ask the gentlewoman how she would expect any person in the United States could sell their home in the next 3 years, realizing that the homeowner's interest deduction will disappear in 2002.

One of the mainstays of the American family is the right to buy and own a home. The value of homes will plummet as a result of this Republican-contrived cockamamy scheme to buy some attention from the right-wing wackos in this country who would say abolish the income Tax Code.

So I say to my colleagues, while it may be of some interest to discuss, in all seriousness, how we can help our children get educated, we had better worry about whether our children will be able to sell apples on the street corner as children did in the bowels of the Depression, because with the Republicans in leadership, having no understanding of the basic tenets of economics, and leading this House in the most amateurish, asinine way, we will destroy this economy, destroy the values upon which the families are based, and lead us into a confused and distraught and archaic state in the United States.

I urge my colleagues, please, to treat the upcoming tax sunset bill with all of the derision and scorn that it deserves. It is an amateurish bill, written and drafted by people who have not the foggiest concept of government, of how to govern, of economics, led by a leadership who is led around by the nose by extreme right-wing religious groups and right-wing wacko groups, and getting a vote a day on issues that some of their Members may have to run on in their districts.

But I urge my colleagues to disdain any more of this foolishness in the House of Representatives. It brings discredit to this House. It brings discredit to those who would like, in all seriousness, to improve the lot of families, as the Democrats have been struggling to do.

I urge my colleagues to vote "no" on the rule, vote "no" on this bill, and vote absolutely, absolutely "no" on the rule on the income tax sunset and, by all means, just vote "no" on sunsetting the income tax.

Mr. Speaker, I thank the gentlewoman for yielding to me.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I would just like to say I believe that the gentleman from California's remarks were a little below the decorum of this House in making accusations.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. OXLEY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. MYRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on the resolution are postponed.

The point of no quorum is considered withdrawn.

PROVIDING FOR CONSIDERATION OF H.R. 3097, TAX CODE TERMINATION ACT OF 1998

Mr. HASTINGS of Washington. Mr. Speaker, by the direction of Committee on Rules, I call up House Resolution 472 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 472

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3097) to terminate the Internal Revenue Code of 1986. The bill shall be considered as read for amendment. The amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Texas (Mr. FROST), pending which I yield myself as much time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, this rule is a fair and balanced attempt to bring to the floor an issue that is front and center in every American's mind. The rule provides for a closed rule, which is typical on tax issues. The rule further provides that the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying the rule be considered as adopted. The rule also provides 2 hours of debate equally divided and controlled by the chairman and ranking member of the Committee on Ways and Means. The rule provides one motion to recommit with or without instructions.

Mr. Speaker, anyone who has prepared his or her own tax return understands why so many Americans spend hundreds of dollars to hire professional accountants to complete their tax returns. Considering the Tax Code itself is 3,458 pages long, it is not surprising that the preparation of tax returns is so difficult. It is also not surprising that our complex code requires over 110,000 Internal Revenue Service employees at an annual cost to the taxpayers of $9.8 billion per year. That is just to police the tax collection system.

Americans want and need a tax system that is both fair and simple. Today's Tax Code frankly is neither. That is why the gentleman from Oklahoma (Mr. LARGENT) and others has introduced legislation to begin the process of overhauling the current U.S. Tax Code.

The Tax Code Termination Act will set a date certain for the expiration of Federal tax laws that currently govern the collection of America's corporate, personal, estate, and excise taxes. Under the Tax Code Termination Act, the current Tax Code would continue on the books for 4 more years. At that time, the current system would expire and be replaced by a new Tax Code that would be thoughtfully and deliberately determined by Congress, the President, and, most importantly, the American people.

In addition to terminating the Tax Code, this legislation would protect Social Security and Medicare, require a supermajority of both Houses of Congress in order to raise taxes and eliminate the bias against savings and investment as well as bias against families.

The next 4 years will give Congress and the American people plenty of time to debate the merits of the many tax reform proposals currently being discussed, as well as new ideas that will undoubtedly emerge. Having a date certain for the expiration of the Tax Code will keep the issue at the top of the national agenda and force Congress and the President to make the Tax Code fair and simple. The rule sets the stage for this first critical step on the debate on tax reform. As a result, Mr. Speaker, I urge Members' support of the rule.

Mr. Speaker, I reserve the balance of my time.

□ 1100

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, of course, takes the cake. My Republican colleagues want to scrap the Tax Code lock, stock and barrel but are proposing nothing to take its place. Does this demonstrate a commitment to the responsibilities of governance? I think not, Mr. Speaker. This proposal, coming just 5 months before an election, is nothing more than a gimmick. I know it, you know it, Mr. Speaker, and the American people know it.

Mr. Speaker, I have spoken with a number of prominent businessmen in my Congressional District in Texas about the idea of scrapping the Tax Code. And, quite frankly, Mr. Speaker, many of these individuals are Republicans themselves and hold no fondness for the current code. But, Mr. Speaker, to a person they have told me that scrapping the code without a substantial proposal ready to take its place is folly. Not just folly, Mr. Speaker, such an idea is dangerous. Certainty and predictability are absolutely critical to sound business decisions, and the idea that we are going to do away with our existing tax structure without holding a single hearing on what might come next will do little to engender confidence in the business community. What are we saying to America's businessmen and women?

And it is not just business that worries about this idea. What about the countless individual taxpayers who make any number of decisions each year based on what might be the tax implications for them? Who will want to buy a home not knowing if there is a mortgage deduction? The National Association of Realtors said, "Eliminating the current code without having a workable alternative in place would be disastrous for America's homeowners." We can only guess about the chaos this legislation will create in the housing market. Not knowing if mortgage interest and property taxes will be deductible certainly has the potential to create wild fluctuations in home prices, in response to rumors and speculation about what might or might not happen to the new tax system.

Mr. Speaker, 75 percent of the families in this country who claim the mortgage interest deduction have incomes of less than $75,000. What are we saying to them? What are we saying to all the industries who depend upon the housing market for their livelihood?

Without a replacement for the Tax Code on the books, Americans planning their retirement will not know what to do about investments for the future. Are KEOGH plans, or IRAs, or Roth IRAs going to be available, if and when the Congress gets around to implementing a new system of taxation? What will happen to money in their company pension plan? And, of course, do we really believe that Congress is going to be capable of passing a new tax plan when Congress cannot even pass a budget on time?

Corporations will delay investments in new plants and equipment if they do not know what will happen to cost recovery rules. Schools and hospitals that depend upon tax exempt bonds to finance construction and maintenance will be in limbo. Who in 1998 will want to buy a tax exempt bond if the exemption is scheduled to end in the year 2002? And who knows what will happen next? States and localities will have a harder time coming up with capital, because investors thinking of buying municipal bonds will not know what will happen to their money.

What then are we saying to everyone in the United States? I will tell my colleagues what we are saying, Mr. Speaker. We will be saying that the Republican Congress is willing to play a reckless game of chicken with the lives of real Americans because they will not otherwise take up real tax reform. The Republican majority is willing to promise reform without offering a clue of where they might be heading. This is bad business, Mr. Speaker.

If the Republican majority really wants to reform the code, then let us do it and let us do it now. There are plenty of interesting proposals that have been tossed around for years, so let us bring them up, debate and vote.

I would like to offer the Republican majority the opportunity to vote; to vote against ordering the previous question and to allow me to offer a substitute to the rule. My substitute would allow the House to consider the flat tax advocated by the gentleman from Texas (Mr. ARMEY), my colleague; the value added tax advocated by the gentleman from Louisiana (Mr. TAUZIN); and the tax reform package proposed by the Democrat leader, the gentleman from Missouri (Mr. GEPHARDT). Those are three very interesting proposals that the House should consider if we want to force the issue of reforming the Tax Code.

Mr. Speaker, I urge my colleagues to vote "no" on the previous question. If we do not prevail there, and a majority of the House decides instead to bring up this reckless proposal, I would urge my colleagues to oppose it. The Republican leadership, in an effort to retain its majority, has brought us a dangerous bit of election year posturing that does not deserve to pass.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I want to thank my friend from Washington State for yielding me this time. I rise in support of the rule as well as this legislation. Really what this vote is all about, when we cast the vote later today on setting a date certain when we will replace the Tax Code, is really a simple choice for all of us in Congress, and that is are we happy with the status quo.

In town meetings that I have, whether I am at the union hall, the VFW, the business or professional women's club meeting, the local chamber of commerce, or at a coffee shop on Main Street, there is a pretty clear message that I hear as I listen, and that is people are very frustrated. Over half of Americans hire someone else to do their taxes. They are afraid of getting audited by the IRS. They believe the Tax Code is much too complicated, it is clearly unfair, and the tax burden is too high. In fact, today the tax burden is at its highest level since World War II.

One example I want to use of why we need to replace the Tax Code is what is really probably the most unfair provision in the Tax Code today, and that is the marriage tax penalty, which is suffered by 21 million married working couples. It really is an issue of fairness, if we think about it. Do Americans feel it is really fair that 21 million average working married couples pay on the average of $1400 more just because they are married under other Tax Code? Of course not. That is unfair. And $1400 in the south suburbs of Chicago, that is real money. That is one year's tuition at Joliet Junior College; that is 3 months of day care at a local day care center in Joliet, Illinois. Clearly, we need to work to make the Tax Code fair.

We have begun a lot of work in reforming and replacing the Tax Code already. Our efforts to restructure the IRS, to make the IRS, the tax collector, accountable to the folks that live by the rules and pay the bills back home. Restructuring the IRS is going to be a major achievement for this Congress when it is sent to the President and signed into law later this summer. That is a big step forward in tax reform.

In bringing fairness to the Tax Code, we need to begin with eliminating the marriage penalty. I believe it should be the centerpiece of this year's budget and, hopefully, we will get that done this year. But we need to set a date certain.

Politicians in Washington talked a long time about balancing the budget. Politicians in Washington said it is something we should do, but politicians in Washington took 28 years, over a generation, in order to balance the budget. Let us set a date certain. It took 28 years before Washington balanced the budget and does something that our families do back home every day, and that is live within our means. We need to set a date certain that we are going to replace the Tax Code.

If I ask for a show of hands, I very rarely ever find taxpayers back home who feel our Tax Code is simple, that our Tax Code is fair, that the tax burden is not enough. We need to reform our Tax Code. We need to make our Tax Code simpler, fairer, and we need to lower the rates for average, working, middle class Americans. That is the goal of tax reform.

We need to set a deadline. We need to make a commitment to getting the job done. And of course there will be those who do not want to make that kind of commitment. We know how Washington can take a long time. We need a date certain. I support this rule and this legislation. Let us get the job done, let us reform the Tax Code, let us make the Tax Code fairer, simpler, and also let us lower taxes for average, middle class, working Americans.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the distinguished gentleman from Illinois makes excellent points. I would agree with him that the Tax Code could be more fair and should be more fair; that the burden should be redistributed; that the marriage penalty is something that should be adjusted, taking into account the new structure in families. And that may well get done, if the Republican leadership decides to let it get done and bring it to the floor. I have serious doubts about their ability to do that. But if they do, they would receive a lot of support from this side.

Now, having said that, the bill under discussion, if we did reform the marriage tax penalty, would completely negate that. If we made the Tax Code more fair, this silly bill that is under discussion would completely eliminate that. My colleagues may say, yes, we must set a time. Look at the experience under the Republican leadership, Mr. Speaker. In 1994, the Republicans shut down the government, not once but twice, because the Republicans could not even agree on a budget. Now, imagine rewriting the entire Tax Code at a time when the government is shut down. No money.

Do we have any faith that the Republican leadership that has brought government to a standstill twice in their tenure, that has waited 28 years for a balanced budget, could get the Tax Code revised? They cannot solve the marriage penalty, they cannot get anything done, they cannot protect people in managed care from the greedy insurance companies, they cannot punish the tobacco companies. The Republicans have shown no ability to get their act together. Why would anyone in their right mind think that they could put together a tax bill in its entirety when they cannot bring one to the floor now?

So their way is to destroy the government. Shut it down, again and again. This time, if we shut down the government for the lack of a Tax Code, it will be gone for a long time. I urge my colleagues to think through the seriousness of this, the capriciousness, the irresponsibility, the childishness of bringing forth a bill which could destroy the government.

And it certainly destroys what little, if any, credibility the Republican leadership of this House might have with the American public. They are inept and unable to run this Congress or bring forth bills that will help the country and, in so doing, they show their ineptness, their impotence to pass legislation by saying if we cannot do anything, let us set a time limit.

My children, Mr. Speaker, when they were unhappy, used to say, "I'm going to hold my breath and die if I don't get an extra bit of desert." Well, let us let the leadership hold their breath and see what happens. I urge a "no" vote.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Washington for yielding me this time, and I rise in strong support of this legislation and the rule that brings it to the floor.

A few months ago Newsweek magazine had on its cover, "The IRS: Lawless, Abusive, Out of Control." Now, when any Federal agency, but especially one that affects so many Americans and is so intrusive as the Internal Revenue Service, is described by a major national magazine, a mainstream magazine like Newsweek, as being lawless, abusive and out of control, things have gotten to a pretty sad state.

We can do much better, Mr. Speaker. We should do much better, if we are going to do the job that the American people want us to do. Almost every poll shows that 85 to 90 percent of the people want us to drastically reform, drastically simplify the Tax Code. There is no good reason why we should have a Tax Code nearly as complicated, convoluted and confusing as the one we have.

Mr. Speaker, we have a Tax Code that is something like 91,000 pages of rules and regulations on top of the code itself, involving five or six million words. Almost no one understands it. All of us have seen articles showing that about 40-something percent, or almost half of the advice that the IRS itself gives out is wrong. And almost everyone in this country has violated some tax law at some point in his or her life, unintentionally, unknowingly, and all it would take would be for an overzealous prosecutor or some power crazed IRS agent to come after them to cause them to go through all sorts of misery and heartache and go to tremendous expense.

So we need to do what the American people want us to do. We need to drastically simplify this Tax Code. We need to throw out the code that we have got and simply start over and come up with a code that is simple and fair to the American people and do the job that they sent us here to do and give this government of this country back to the citizens once again.

I am proud to be a cosponsor of this legislation and I urge its passage.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. TRAFICANT).

□ 1115

Mr. TRAFICANT. Mr. Speaker, I support the rule and I support the bill. And I am trying to figure out a strategy for Democrats coming back to the majority here today.

With a Tax Code that is so heavy, it would give Hulk Hogan a hernia. We need 5 Philadelphia attorneys to try to interpret it; and after their session, they will all argue and not come to an agreement. The Tax Code rewards dependency, penalizes achievement, subsidizes illegitimacy, kills investment, kills jobs, and takes our hard-earned tax dollars and in many cases gives them outright to countries overseas that literally have threatened us.

Most recent, North Korea. They said, stay out of it, Uncle Sam. We will sell ballistic missiles to your enemies. And if you want us to stop it, pay us.

What do we expect? We reward China through our Tax Code. And they once threatened, some say passively, to nuke Los Angeles after they made a passive statement about Taiwan.

Look, the American people are taxed off, they are tired of the taxes, and they know the Tax Code is not fair. They want Congress to change it. And there is only one way to change it. We have to scrap this Tax Code.

I would hope the Democrats would take another tack by the year 2002 and submit a substitute. I do not think either of the two major substitutes that the Republicans are talking about is the right answer.

I think we should cut income taxes drastically but leave some of them on and add to it a value-added or a sales tax more specifically for the balance and see how the system works. And if it is possible in the future to scrap the entire income Tax Code, fine. But make it a limited, small, flat tax. Give the American people more of their income. Let them make the choices.

I believe the Republicans are on the right track here. I cannot believe the Democrats are fighting this proposal. I want to say today, it is time to sunset the Tax Code because the Tax Code has lived out its days in the sun. The American people know it and they are tired.

In addition, as one last thing, look at the whole tax structure. If we fix up our homes, we pay more taxes; let our homes go to hell, we get a tax break; work hard, we pay a lot of taxes; do not work, the government sends us a check. I think we have it all screwed up, folks.

One last thing. If we find ourselves in the tax court against the IRS, the burden of proof is even on the taxpayer. It took 14 years to get us to look at that. We ought to be ashamed of ourselves.

I support the bill. I support this rule. And I ask everybody to support the rule and the bill.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of our previous speakers, the gentleman from California (Mr. STARK) characterized this legislation as silly. It would be one thing if this were just silly.

What the Republicans are proposing is dangerous. What they want to do is they want to end the code and have nothing in its place. If that were to pass and become law, and I do not believe it will become law, but if it were to pass and become law to eliminate the code, with nothing in its place, there will not be a person in this country who will be able to purchase a home and rely on any type of mortgage deduction, there will not be a city or a county that will be able to issue a bond to build a school or build a highway.

This is not just silly, this is dangerous. What the Republicans are suggesting is an enormous dice roll that could lead us to become a third-world banana republic with no Tax Code, with no structure in place, simply because they want to make a rhetorical point.

What we do here on this floor is serious business. We are not here playing games. With this bill, the Republicans, who do not have the courage to bring a proposal to the floor, a reform proposal, are saying to the American public they do not care if this economy crashes and burns. If they cared about the economy of the United States, they would do the right thing, they would bring forward a reform proposal and say, here is what we stand for. Here is what we want. Vote it up or down. But they lack the courage to do that.

What they want to do is say, let us risk no one being able to get a home mortgage, let us risk not a single municipality in this country being able to issue a municipal bond, so that they could say, oh, we did something; we abolished the Tax Code.

There are a lot of changes that need to be made in our Tax Code. Everybody understands that. And we have a proposal that we are prepared to offer.

I would advise my colleague on the other side that the speaker that we had been anticipating has come on the floor, so that I will need to yield some time to him. And then I will have to reclaim my time because I have one point I have to make before I close.

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. RANGEL), the ranking Democrat on the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, one of the great things about being a Member of Congress is that we follow a real tradition, that our Founding Fathers set up a Constitution which allowed the people to express their concern through us.

They did not say that they wanted chairmen of committees to find out what is best for America. They did not say it should be the President or the Supreme Court. They said that in this House of Representatives, the people of the United States of America should speak.

And that is why we have only a 2-year term so that, if we misspeak, the voters may not be able to get to the Senate, they may not be able to express their disagreement with the President, they darn sure cannot reach the Supreme Court, but we are here to be held accountable.

To protect us, we have a committee system, because it is common knowledge that we were not elected based on our IQ rates. We were elected to find out and to search for the truth. And in most every piece of legislation, we have more than two sides of the issue; and, so, we have hearings and we have experts and we are able to get staff, Republican and Democrat, who are experts to review this so that when the committees report to the House, most of the work is done, the arguments are crystallized, and the Members have an opportunity to vote.

For 200 years, the Committee on Ways and Means has had the constitutional responsibility to raise the revenues and to provide the ways and the means for this great Nation to move forward. But under recent majority leadership, it was decided in some back room that we do not need any committees, we do not need any subcommittees, we do not need any committee chairmen, all we need is a Speaker and one good press relations person.

And, so, instead of legislation, we get press releases, we get one press release that the whole IRS, the whole code, is going to be abolished not because the Ways and Means Republicans said it, but because the Speaker said it.

If he can eliminate our ability to pay taxes with legislation, maybe he can eliminate our ability to have to pay our indebtedness, maybe we can eliminate cancer, maybe we can do a variety of things just by one-shot legislation not going through any responsible committee.

Where is the chairman of the Committee on Ways and Means? How are we letting the institutions of this House just fall apart? Whether we are for term limits or not, we have an obligation to leave this House in as good a shape as we found it.

And now we find that we have an education tax bill coming out of the Committee on Rules because there was an amendment on the Senate floor. I am not here to say anything about the Senate. If they wake up and want to pass an amendment, they can do it. They do not need hearings over there.

But it is assumed that when they amend a bill that this House will be responsible and that we would have hearings and we will have experts and when people discuss and our staff discuss what does the bill mean, that we will be in the position to say that it is not a rip-off, it is sound, good tax policy that makes some sense.

Ask any American that knows the serious nature of our education problem in this country whether giving them a $2,000 savings account interest free is going to better the education of their kids. If the kid goes to private school, they save 37 bucks. If they are poor enough to have their kid go to public school, they save 7 bucks. And if they do not have $2,000 to save at all, they save nothing.

So it just seems to me that far more important than the legislation is the process in which this bill comes to the floor, without hearings, without witnesses, without any of the members of the Committee on Ways and Means, without a liberal point of view, without a conservative point of view. Where are the educators to say, what are we doing to help education?

Mr. Speaker, this is a wrong way for the House of Representatives to proceed.

Mr. HASTINGS of Washington. Mr. Speaker, how much time is remaining on either side?

The SPEAKER pro tempore (Mr. OXLEY). The gentleman from Washington (Mr. HASTINGS) has 22 minutes remaining, and the gentleman from Texas (Mr. FROST) has 12 minutes remaining.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 6 minutes to the gentleman from Oklahoma (Mr. LARGENT) the author of this legislation.

Mr. LARGENT. Mr. Speaker, I thank my colleague, the gentleman from Washington for yielding me the time.

I am one of those people that believe that God created the heavens and the Earth and that he created man in his own image. That used to be indisputable. Unfortunately, we live in a time that some people now dispute that. I do not. And I think that it is informative to understand that when God created man in his own image, he gave us some instructions, some very simple instructions.

I make no apologies to the ACLU. These are the Ten Commandments that God gave us as his instructions of how to live and conduct our lives in a productive and healthy way. Those are the Ten Commandments.

Now, God expanded on the Ten Commandments through using the divine inspiration of man and he expanded on those and we now have the Bible, which again is God's expanded version on how we are to conduct our lives. The Creator, the wisdom of the universe, has given us the Bible as an instruction manual about how to conduct our lives. Here is the Bible. Here are the Ten Commandments.

When Jesus came, in fact, he basically boiled down all of this into one simple paragraph when he said that we are to love the Lord, our God, with all our hearts, souls, and minds and our neighbors as ourselves. That sums up all of the instructions that God has given us of how to conduct our entire life.

Now, let me contrast that with this. The IRS, telling us how to file our tax returns, this is what they do. First of all, here is the Internal Revenue tax code right here, this stack of books. That is the tax code that has been passed by Congress since 1913.

This tax code has grown 100 pages every year since it was created in 1913 by Congress, 100 pages. In fact, the 105th Congress just last year passed 400 changes in one bill, passed 400 changes to the tax code, added 325 pages to the tax code.

□ 1130

Here is the Tax Code. That is the commandments the Internal Revenue Service gives to the taxpayers about how to file your tax return.

These are the instructions God gives us to live our lives. Here is the Tax Code about how to file your tax return.

The IRS was kind enough to expand the rules on how to file your tax return. Here are the instructions and the forms that the IRS has given to us, in giving us direction about how to file our tax returns in this country, 6,200 pages of instructions and forms about how to file your tax returns in this country, right here. That is what this represents, from the Internal Revenue Service.

Do I need to go on any further about what the problem is with the current Tax Code? I do not think so. It is too complex, it is too onerous, it needs to go. We need to pull it out by its roots.

Mr. Speaker, let me quote a very distinguished colleague of mine from the House of Representatives. This is what he said in 1996:

"Let me be very clear about this: nobody likes today's Tax Code."

And again in 1997:

"But let's also understand that the complexity of our Tax Code undermines the confidence of the American people in their government and, in part, leads to the problems we're addressing today. Today's action is just a partial solution. The real solution is abolishing the IRS Code and starting over building a tax system that's fair and makes sense. A Tax Code that allows people to make decisions based on what's in their family's best interest, not because of some tax gimmick or loophole."

"Today we're striking a blow for reform. Let's not delay the next step, the need to abolish the Tax Code and start over with real reform."

"Decades of toying and tinkering at the margins have only made the problem worse. And I've concluded that the only way to fix anything is to replace everything, to overhaul the entire system, from top to bottom."

"Tax reform is the path to achieving real progress towards simplicity and fairness."

"The Tax Code is riddled with preferences."

Again finally in 1998:

"Our Tax Code has become a dense fog of incentives, inducements, and penalties that distort the most basic economic decisions, constrain the free market, and make it hard for Americans to run their own lives."

My distinguished colleague, the minority leader, DICK GEPHARDT, has been saying that what we are about to vote on, the Tax Code Termination Act, is needed, it restrains the economy, it keeps people from experiencing the freedom in this country, what we are all about. The Tax Code and pulling the Tax Code out by the roots and abolishing it and starting over and having a real comprehensive debate on tax reform is desperately needed.

The Tax Code Termination Act that sunsets the Tax Code 2 years after the next presidential election year does several things. One is it assures us that we will in fact do it and quit just talking about it. The second thing it does, and probably most importantly, is that it includes all Americans in the discussion, because we will have a quasi-national referendum through the next presidential election year that says, what do you want for comprehensive tax reform. This will be a bill that will be written not by special interests in Washington, D.C., but by the American people, and the genius and the creativity of the American people.

I would urge my colleagues this morning to vote yes on the rule and yes on the Tax Code Termination Act.

Let us pull the Tax Code out, have a comprehensive, full debate and dialogue over a 4½ year period of time. I believe that we can come up with a system that is more fair, certainly more simple than the one that we currently have.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to ask the gentleman who was in the well a question. I did not want to intrude on his time but I would like to ask him a question if I may. The gentleman in the well pursued a very distinguished career as a professional athlete prior to being elected to Congress. Many professional athletes as a part of their salary negotiations come up with deferred compensation. I would ask the gentleman if in, during his career, if part of his compensation was deferred compensation that will be paid out in a future year.

Mr. LARGENT. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Oklahoma.

Mr. LARGENT. Yes, it was.

Mr. FROST. Is the gentleman prepared to forgo the tax advantages that he negotiated as a part of his contract when he was a professional athlete if we wind up having no code? If we are sunsetted and we have no code, then he would lose all the advantages that he negotiated during his playing career and presumably would have to realize that as current income in one year.

Mr. LARGENT. I guess the question that I would ask in reverse to the gentleman is are you prepared to defend the current Tax Code in its current form or do you really want tax reform in a comprehensive nature?

Mr. FROST. I just asked my distinguished colleague who apparently received a considerable tax advantage in his contract negotiations during his professional career, which he certainly was entitled to do, whether he is prepared when we have the absence of a code to forgo all the tax advantages that he secured during his playing years.

Mr. LARGENT. I would tell the gentleman in all sincerity that I am prepared to do that and would do it willingly, that I participated in a number of the tax shelters that the Congresses in the past created that were a total disaster, and I would have been far better off just to pay the taxes and not been allowed to do the things that were allowed by past Congresses.

Mr. FROST. I would ask the gentleman why he participated in all those tax shelters. Was this on the advice of counsel? Was this on the advice of his agent? He is a grown man and could make those kind of decisions of course in terms of how he conducted his own affairs.

Mr. LARGENT. Absolutely it was on the advice of counsel, to take advantage of the tax loopholes and shelters and everything else that have been created in Congresses past.

Mr. FROST. I would only ask the gentleman one other question. He talked about 100 pages being added to the code last year.

Mr. LARGENT. 400 pages.

Mr. FROST. 400. Did the gentleman vote for the legislation that added those pages?

Mr. LARGENT. I did.

Mr. FROST. Was he concerned at the time that he voted for the legislation about the amount of pages that were being added to the code?

Mr. LARGENT. Very much so.

Mr. FROST. But he voted for it anyway.

Mr. LARGENT. Yes, sir.

Mr. FROST. I thank the gentleman.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. McDERMOTT), a distinguished member of the Committee on Ways and Means.

Mr. McDERMOTT. Mr. Speaker, I sat and listened to the gentleman from Oklahoma talk about his desire to rip the Tax Code out by its roots. By the analogy he used, he stood up here and told us what God did, and I suppose that if he did not like something in the world, he would also say that we should go back to the beginning when it was form and void and God created all the world again. He wants this country to go to a position where there is no Tax Code whatsoever. Now, when he points to all those books of rules and he admits that he himself participated in taking advantage of the Tax Code, he wants us to throw all that away.

Well, first of all, in this country, three-quarters of the people in this country do not itemize their deductions. They do not use hardly a single page in that book of rules and regulations that he himself was a real advantage taker. The gentleman from Texas (Mr. FROST) asked him a question about whether or not he added these pages to the law last year. Now, if I had his Bible up here, it would be smaller than the number of pages which he voted to put into the Tax Code. Now, the people in his district and the people in this country ought to ask, are these people really serious? Are they serious? Last year they came out here and very proudly passed 800 pages of additions to the Tax Code and beat their breasts and said they made it better for every American. And this year they come in and say, last year what we did was stupid. We want to tear it all out and throw it away and start again.

Now, you have to ask yourself, which person should you believe? The one that last year passed all 800 pages and was proud of every single thing that is in here? Or are they proud of they are now going to tear it out?

Let me tell my colleagues what it means to ordinary Americans. If they take this bill and pass it and say in 3 years we are not going to have a Tax Code, how is an American going to buy a house or sell a house in this country when you do not know where the interest deduction that we all take advantage of when we buy a House, where will that be? Will that be included in this next Tax Code? Or will it not? I mean, the whole real estate industry in this country is based on the fact that we can take a deduction for the interest that we pay on our mortgages. What will that mean as to the value of our house? If you cannot take the deduction, does the value go up or does the value go down? How do you make a decision as Americans? This is the stupidest idea I have seen in 10 years.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PAXON).

Mr. PAXON. Mr. Speaker, this is clearly an historic day in the history of this great legislative body. It is an historic day because it offers such a clear choice between two competing visions of how this institution should work. On one hand, we are hearing it today across the aisle, the defenders of the status quo in Washington. They like the 5.5 million word Tax Code. They think it is just fine because they spent their careers building it up, for one reason: They like high taxes. They think government should take money from the American people, send it here to Washington so the bureaucracy can spend it. They like the uncertainty that comes with the current Tax Code because it confuses people and they do not know what their tax situation is because over half of Americans because of this code are forced to seek professional assistance in rendering their taxes, and that does not even count the folks who have to seek professional psychiatric assistance once they are done trying to figure all this out. They like the fact that the special interests drive the debate because it is done behind closed doors and the American people never get a chance to have at these reforms, so-called reforms, of the current Tax Code.

Mr. Speaker, on the other hand, it is all the rest of the country and an awful lot of us here in the Congress who think this is historic because we are going to change it. This legislation, the legislation that we have put forward today, reverses the trend. We are going to let the American people decide. We are going to say 4 years from now, the Tax Code is gone, you know it, we are going to end the skepticism, the American people can come forward and get their representatives and tell them what they want in the Tax Code, not just the folks in Washington in the K street community. The American people will have a choice for a change.

I believe it will result in a clearer Tax Code, a more understandable Tax Code, a Tax Code that most importantly takes less money out of the pockets of the American people. And would that not be a great change for the better in this country?

Mr. Speaker, this is truly a moment of great history in this legislative body. The gentleman from Oklahoma (Mr. LARGENT) and I believe very strongly that the Tax Code Termination Act will help move this country forward in the global economy. It will help this Congress reestablish our credibility with the American people that for 40 years looked at Congress and saw it in the hip pocket not of the American people but of the special interests.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of this bill and encourage all my colleagues to vote in support of it. The current Tax Code is complex, confusing, corrupt, costly and coercive. Even experts do not agree on the Tax Code. Some studies actually show that the IRS itself gives the wrong answers to questions from taxpayers up to as often as 40 percent of the time. Money magazine gave a hypothetical tax return to 45 different tax preparers nationwide. The result? Forty-five different responses, ranging from paying 123 percent too much in taxes to 14 percent too little. Thirty-three of the 45 preparers exceeded the acceptable range of error by $1,000. And for these erroneous tax returns, the tax preparers charged from $300 to $4,950.

The current Tax Code is costly to our economy. It costs Americans between $157 to $22 billion per year just to prepare the taxes. This $157 for each person could be invested in schools, businesses or in savings. Enforcement for the Federal Government itself costs $13.7 billion per year. Businesses spend between $4 and $7 in keeping up with the taxes they owe for each $1 in taxes they pay. It costs taxpayers 5.3 billion hours to comply with the code. This is more than it takes to produce all the cars and trucks in America and is equal to 2 weeks of American productivity nationwide.

□ 1245

H.R. 3097, the Tax Code Termination Act, is simple. It directs Congress to enact a new Tax Code by July 4, 2002.

What is so bad about that?

It ends the existing Tax Code on December 31 of that year, six months after the initial enactment of the new code. Calls for a fairer and flatter Tax Code are made in this bill. It will enable the American people to have a national debate about how they want the Tax Code to change and become fairer and more simple. It will ensure that the Tax Code is replaced with one that has been vetted out by the American people and not decided by special interests in Washington.

Mr. Speaker, this bill is a good piece of legislation. The American people are fed up with the complicated Tax Code laws that they now have to live under. They want more, they demand more, they deserve more. They deserve a better system, and what is more important, we are heading into a new millennium, a new century, a new age, and we need to have a Tax Code that will enable America to continue to be competitive and lead the world.

Mr. Speaker, I encourage all my colleagues to vote in support of this legislation.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hate to engage in elementary civics lessons, but I think it is important that we understand, and particularly people outside this Chamber understand, how the Congress of the United States works.

The Republicans are in the majority. They control what bills come to the floor through the Committee on Rules that I serve on, and they also control what bills are reported out of the Committee on Ways and Means on which the gentleman from New York (Mr. RANGEL) serves.

They are in the majority. If they want to change the Tax Code as the majority party, they have the ability to report a bill out of the Committee on Ways and Means changing the code.

Whether it is the flat tax, whether it is the value-added tax really does not make any difference. They are in control. They can bring a bill to the floor.

Mr. Speaker, they lack the courage of their own convictions. They will not bring a bill to the floor. Why will they not bring a bill to the floor? I do not know. Maybe they have a disagreement inside their own caucus, maybe some of these ideas are a little bit crazy, maybe they do not have enough votes to pass anything. I do not know why they do not bring a bill to the floor. They are in charge; they have the votes. If they want to reform the Tax Code, bring a bill for this House to vote on.

What do they do? They risk financial chaos in this country by tearing down the current code which admittedly has a lot of problems and needs to be fixed and not offer a single alternative to the current code.

If they really want tax reform, bring a bill to this floor and have us vote on it.

Mr. Speaker, I urge Members to vote no on the previous question. If the previous question is defeated, I will offer a substitute to the rule that will allow for a responsible debate on real tax reform for the Tax Code, not simply election year grandstanding. The rule I will offer will make in order the Armey flat tax proposal as base text. It will also make in order 2 substitutes to that bill, the Gephardt simplified tax bill and the Tauzin sales tax legislation. Members will have the opportunity to vote up or down on all of these proposals. The substitute that passes and receives the most votes will be the one that is considered as adopted.

Mr. Speaker, if we are serious about reforming or replacing the current Tax Code, let us not fool around with meaningless and irresponsible legislation that could jeopardize our economy and our government. Let us take action on real legislation that addresses the issue, not frivolous legislation that does nothing except provide a handy campaign slogan.

Mr. Speaker, I ask unanimous consent to insert the text of my substitute rule and extraneous materials at this point in the RECORD.

The SPEAKER pro tempore (Mr. OXLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of the substitute rule and extraneous materials are as follows:

PREVIOUS QUESTION FOR H. RES. 472—TAX CODE TERMINATION ACT

Strike all after the resolving clause and insert in lieu thereof the following:

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1040) to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. No amendment shall be in order except the amendments in the nature of a substitute specified in section 2 of this resolution. Each amendment may be offered only in the order designated, may be offered only by the Member designated or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments specified in section 2 are waived. If more than one amendment in the nature of a substitute is adopted, then only the one receiving the greater number of affirmative votes shall be considered as finally adopted and reported to the House. In the case of a tie for the greater number of affirmative votes, then only the last amendment to receive that number of affirmative votes shall be considered as finally adopted and reported to the House. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without restrictions.

SEC. 2. The amendments described in the first section of this resolution are as follows:

(1) An amendment in the nature of a substitute consisting of the text of H.R. 2001 if offered by Representative Dan Schaefer of Colorado;

(2) An amendment in the nature of a substitute consisting of the text of H.R. 3620 if offered by Representative Gephardt of Missouri; and

(3) An amendment in the nature of a substitute consisting of the text of H.R. 1040 if offered by Representative Armey of Texas.

Amend the title to read: Providing for consideration of the bill (H.R. 1040) to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment.

The majority argues that our attempt to defeat the previous question is futile because our proposed amendment is not germane. The fact of the matter is that the chair has not made a ruling nor heard our arguments as to the germaneness of our amendment. The only way to make that determination is to allow us to offer the amendment by defeating the previous question.

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote.

A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan.

It is a vote about what the House should be debating.

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

I ask unanimous consent to insert material in the RECORD at this point.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's "Precedents of the House of Representatives," (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership "Manual on the Legislative Process in the United States House of Representatives," (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's "Procedure in the U.S. House of Representatives," the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

DEPARTMENT OF THE TREASURY,
SECRETARY OF THE TREASURY,
Washington, DC, June 16, 1998.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing to express my grave concern over H.R. 3097, the "sunsetting" bill that would effectively repeal the Internal Revenue Code without providing for its replacement. If presented to him, I would recommend that the President veto the bill.

The President stands ready to consider carefully all proposals to reform the tax system. He will evaluate these proposals by using four criteria: fairness, fiscal responsibility, impact on economic growth, and simplification. In contrast, it would be irresponsible for the Congress to enact legislation to terminate the tax code without having already provided a reform plan to replace it. Moreover, none of the proposals currently under discussion by Members of Congress meet the President's four criteria. At a time when the country is experiencing the strongest economy in a decade, we simply cannot allow that economy, the nation's fiscal discipline, and the well-being of its families to be put at risk.

Proposing to sunset the tax code is a deeply flawed idea that, if enacted, would harm our strong economy. Many families, for example, would refrain from buying homes because of the uncertain tax treatment of mortgage interest and property taxes (as well as other State and local taxes), that would harm current homeowners. Many businesses would hire fewer workers and make fewer capital investments because of uncertainties in how taxes would affect the return on productive assets. Furthermore, the uncertainty of the size of future receipts would raise the specter of increased Federal deficits which in turn would raise interest rates and weaken or destroy economic growth.

Adoption of this legislation would have many other harmful effects on the well-being of families. A family's health insurance would be threatened because the tax status of employer-provided health benefits would be uncertain. Hope Scholarships that make higher education more affordable for students would be in jeopardy as would child tax credits that help families with the costs of child-rearing. The structure of employer-provided pensions and tax incentives for retirement saving could be altered in ways that could harm retirement income security. In short, enactment of this legislation would create substantial risks to our economy and the American people.

The right way, the responsible way, to reform is to work to reduce unwarranted complexity in our tax laws, to increase their fairness and efficiency, to enact responsible legislation restructuring the Internal Revenue Service, and to continue to refocus it on customer service. Last year, for example, President Clinton proposed and signed into law 40 tax simplification measures as part of the balanced budget agreement. As a result of that simplification 99 percent of homeowners will not have to pay capital gains tax when they sell their home, 9 out of 10 corporations will not have to worry about complex alternative minimum tax calculations, and many dependent children will be able to earn a greater income without being subject to tax. Furthermore, the President wants to see a responsible IRS restructuring bill on his desk as soon as possible.

In conclusion, I urge you and all members of the House of Representatives to vote against H.R. 3097 when it is considered later this week.

Sincerely,

ROBERT E. RUBIN.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, June 16, 1998.

Hon. NEWT GINGRICH,
Speaker of the House,
Capitol Building, Washington, DC.

DEAR MR. SPEAKER: On behalf of the NAM's 14,000 members, and of the 18 million people employed in manufacturing, I urge you to oppose H.R. 3097, the "Tax Code Termination Act."

Let me make it clear, however, that this is in no way a defense of the current federal tax code. The attached resolution, adopted by our board of directors more than two years ago, makes it quite clear that we believe "*the federal tax system as now configured is beyond repair and should be scrapped and replaced with a new model.*" [emphasis added]

But, while we defer to no one in our enthusiasm for scrapping the tax code, we do not support doing so until such time as a replacement code has been agreed upon and the numerous problems involved in transitioning from the old law to the new law have been satisfactorily resolved.

In our view, the numerous real problems associated with so-called "expiring provisions" already in the code—such as the research and experimentation tax credit—should be enough to dissuade anyone from taking the approach of H.R. 3097. These provisions frequently do expire, vastly complicating business and investment planning because taxpayers are uncertain as to whether the provision will be reinstated and, if so, whether such reinstatement will be retroactive.

Thank you for considering our views in opposition to H.R. 3097.

Sincerely,

PAUL R. HUARD.

Enclosure.

NATIONAL ASSOCIATION OF MANUFACTURERS BOARD OF DIRECTORS MEETING—FEBRUARY 10, 1996

RESOLUTION ON GROWTH AND TAXES

The single biggest obstacles to increased economic growth is our impossibily complex and ever-changing tax code. And as 1996 unfolds, signs of a weakening economy make it more important than ever to focus the nation's policy priorities on the critical need for increased economic growth. The NAM continues to believe that technological advances, worldwide competitive pressures, productivity improvements and other factors have substantially raised the economy's potential for non-inflationary growth. Those arguing growth must be held at or below 2.5 percent to avoid a resurgence in inflation are ignoring the enormous transformations that have occurred in manufacturing. In our view, a target growth rate of three percent or more is not only attainable but also essential. We can see no other way to improve incomes and living standards for American wage-earners while at the same time maintaining U.S. global competitiveness.

But we can't get there with our existing tax structure. There is a growing consensus among policymakers that the federal tax system as now configured is beyond repair and should be scrapped and replaced with a new model. We agree, and believe our present anti-employee, anti-growth tax system should be replaced with a pro-employee, pro-growth model having these characteristics:

Simplicity. This should be paramount. The new system should be one that average wage-earners can both understand and believe to be fair. The current code is not only incomprehensible to most taxpayers but also gives rise to the suspicion that it can be manipulated by high-income taxpayers. What's needed is a simple low-rate system with relatively few deductions or other adjustments. The billions of dollars currently wasted on compliance costs of the current system could then be applied to more productive uses.

Elimination of Multiple Taxation. Income once taxed should not be subjected to multiple taxation just because it is saved or invested rather than consumed. The highly regressive situation whereby wage income is subjected to both income and payroll taxes must also be corrected. Similarly, business income should be taxed only once so that, among other things, corporate profits paid out as dividends are not taxed to both the corporation and the shareholder. And, business taxes under any new system should be compatible with those of our trading partners so that, for example, American exports are not double-taxed by the U.S. and the destination country.

Stability. Present tax laws are both disliked and hard to understand in large part because they are in a constant state of flux. Once a new, simple tax system is in place, procedures—such as supermajority voting requirements—should be adopted to ensure that future revision is both difficult and infrequent.

Recent analysis concludes that excessive levels of taxation have been a significant drag on economic growth. Reversing this trend by adopting a tax system that is not biased against work, savings and investment should be one of our highest national priorities. The resulting dynamic growth will benefit businesses and their employees alike.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, June 16, 1998.

DEAR REPRESENTATIVE: The AFL–CIO strongly urges you to help protect America's working families from serious economic hardship by voting against H.R. 3097, the Tax Code Termination Act.

The AFL–CIO is very disappointed that the leadership of the 105th U.S. Congress has, once again, decided to waste its time on an extreme measure like H.R. 3097—legislation which would eliminate the Internal Revenue Code by December 31, 2001, without specifying which alternative tax system would replace it.

Needless to say, H.R. 3097 would hurt our nation's working men and women in several different ways. It would make buying a home more expensive for working families by eliminating the mortgage interest tax deduction. It would reduce employer-provided health and pension benefits for America's workers by abolishing all of the tax incentives which currently help make these important benefits more affordable and more available. In fact, this deeply flawed legislation would also harm those who need help the most by repealing the $500 child tax credits and the $1,500 Hope Scholarships which currently help millions of working families raise and educate their children.

H.R. 3097 would also create economic uncertainty for all American businesses. By not specifying which alternative tax system would replace the current one, H.R. 3097 would discourage businesses from making any new capital investments until Congress decided how the new tax system would affect them. In turn, this reduction in private investment could substantially increase interest rates and the federal deficit by dramatically decreasing productivity and federal revenues.

Finally, H.R. 3097 would devastate thousands of America's religious institutions, social service organizations, cultural institutes, colleges, and universities by eliminating the tax deduction for charitable contributions.

For all of these reasons, the AFL–CIO strongly urges you to vote against H.R. 3097.

Sincerely,

PEGGY TAYLOR,
Director,
Department of Legislation.

TAX EXECUTIVES INSTITUTE, INC.,
Washington, DC, June 16, 1998.

Re proposal to sunset the Internal Revenue Code.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. RICHARD GEPHARDT,
Minority Leader, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SPEAKER GINGRICH AND MINORITY LEADER GEPHARDT: On behalf of Tax Executives Institute, I am writing to express the Institute's serious concern about proposals to sunset the Internal Revenue Code on a designated date without specifying a replacement tax system. In our view, these proposals reflect either a misapprehension of the importance of certainty and predictability to business enterprises and individuals or a disregard for the consequences of "terminating" the tax system. They illustrate the folly of making tax policy by sound bite and should be rejected.

BACKGROUND

Tax Executives Institute is the principal association of corporate tax executives in North America. TEI is a nonpartisan not-for-profit membership association that represents approximately 5,000 in-house tax professionals employed by 2,800 of the leading companies in the United States and Canada. TEI is dedicated to the development and effective implementation of sound tax policy, to promoting the uniform and equitable enforcement of the tax laws, and to reducing the cost and burden of administration and compliance to the benefit of taxpayers and government alike. TEI members deal with, and are frustrated by, the complexities of the tax laws on a daily basis, and know that abrupt or ill-conceived shifts in the law—changes without due consideration of transitional issues—exact a heavy toll.

SUNSETTING THE CODE: A BEGUILING BUT UNWISE MOVE

Later this week, the House of Representatives is scheduled to vote on H.R. 3097, which is styled "The Tax Code Termination Act." The legislation would sunset the Internal Revenue Code on December 31, 2001. Although the legislation includes a hortative declaration that any new federal tax system should be approved by Congress in its final form no later than July 4, 2001 (to permit a six-month transition to the new system), there is no assurance that the principles underlying a replacement system could be agreed upon, that the new system's contours could be defined, and that meaningful and comprehensive transition rules could be developed in time to meet that ambitious deadline. What is more, there is substantial doubt whether, even if the Fourth of July 2001 target were met, the six-month transition period contemplated by the legislation would be sufficient to avoid major disruptions in particular industries or the economy as a whole.

Given our members' ongoing experiences with the tax laws, it should come as no surprise that TEI supports efforts to improve and simplify the Internal Revenue Code. Moreover, while the Institute itself has not taken a position on which of the competing tax reform proposals should be adopted (in large measure because of the diversity of our membership and the divergence of their views). We fully understand the desire of many members of Congress "to scrap the Code" and replace it with a different system. And we appreciate the popular appeal of striving to make the tax law simpler and fairer.

The legislation before the House, however, is nothing more than a Siren's song—alluring but ultimately dangerous—because it is far from clear how the legitimate objectives of tax reform can best be achieved. The ongoing debate in Congress and the country at large, while spirited, demonstrates that finding consensus will not be easy or quick. Even assuming that agreement can be expeditiously achieved on "where" tax reform should take us, determining the "how" of getting there will pose additional challenges. Whether or not you agree with the estimates of the U.S. General Accounting Office and the Treasury Department that the implementation of a new tax system would require between 18 and 24 months, it is clear that the change cannot be made overnight. It is also clear that individuals and businesses—the U.S. economy as a whole—cannot convert to the new system with the ease of flicking a light switch. Transition rules cannot be handled as an afterthought. Indeed, given the intricacies of the American economy, how it interacts and is integrated with the global marketplace, and the overriding importance of the tax law in providing incentives to salutary behavior (such as investments in plants and equipment, retirement savings, home ownership, municipal bonds, and charitable giving), the "pain" of the transition from the current regime to a new one could well overwhelm the promised benefits of reform.

Supporters of H.R. 3097 argue that the legislation is necessary to force action on tax reform. Even if that were true—and Congress's recurring inability to renew expiring tax provisions in time to forestall gaps in the law suggests that future Congresses may not feel so obliged—TEI questions whether the uncertainty and potential chaos is worth the risk. For example, a company that otherwise would invest millions of dollars in a multi-year expansion of its manufacturing facilities might well demur if the pending legislation were enacted because of uncertainty over whether or how, after December 31, 2001, it would be able to recover its costs. (There are an estimated $3 trillion in unrecovered costs of existing property, and of course the current economic expansion is dependent on sustained future investments.) Similarly, individuals who would otherwise invest and save toward retirement might pause because of uncertainty over how their retirement earnings would be taxed. To repeal the Internal Revenue Code without specifying a replacement system—to exalt the exhilaration of "doing it now" over the necessity of "doing it right"—is to threaten major disruptions of the economy and the lives of the American people. The proposal might score well in public opinion polls, but that does not make it any less imprudent.

Once again, TEI appreciates the surface appeal of calls to terminate the Internal Revenue Code. H.R. 3097 and similar bills, however, would create a sense of urgency for tax reform much like plunging the detonator on a time bomb and then scrambling to disarm it before it explodes. The action might cause the adrenaline to flow, but we question whether the Nation would be the better for it. Because the bill fails to meet the standards of reasoned and responsible legislation, Tax Executives Institute urges you to work toward its rejection.

CONCLUSION

Tax Executives Institute appreciates this opportunity to present its views on the proposal to sunset the Internal Revenue Code. Any questions about the Institute's views should be directed to either Michael J. Murphy, TEI's Executive Director, or Timothy J. McConnally, the Institute's General Counsel and Director of Tax Affairs. Both individuals can be reached at (202) 638-5601.

Respectfully submitted,

PAUL CHERECWICH, JR.,
International President.

Mr. FROST. Mr. Speaker, I ask that my colleagues vote no on the previous question so that we can take up actual tax reform.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to speak just a minute on the underlying bill that this rule will make in order, and I want to couch that, my remarks, in terms of what I experienced back home in the last year, 9 months to a year. I had several town hall meetings that dealt specifically with the Tax Code, and I can say from those people, and by the way, we had a huge turnout at both those meetings that we had, and I can say without any qualification that those that attended the town hall meetings that spoke regarding a Tax Code, nobody was defending the current tax system, nobody was defending the current tax system. It is also fair to say, however, that there was no unanimity as to what should replace this tax system, but there certainly was a broad consensus and probably near unanimity that we need to do so. The question that faces us today then is how do we get from here to there.

Now we heard all of the adjectives about how, and I do not know if the word draconian was used, but it is certainly implied, but let us put things into perspective. What this bill would do would simply say 4 years from now the Tax Code will end. What will happen between now and the end of year 2002? Well, we will go through an election, if this bill were to pass, and obviously it will be the top of everybody's agenda, this Congress will have passed the bill to end the Tax Code. That means that Members in this body would have the opportunity to go to the polls, or to go to election this year, and voters would have an opportunity to go to the polls, ask us what we think would be the best method or best system to replace our Tax Code. We would do that this year, one election cycle. And probably more important, in the year 2000, because of what this bill would allow, we would have a presidential election whose probably primary debate would be centered on the Tax Code. Now at that time I think the American people would be very, very well engaged, and the next Congress after that would be the Congress that would come up with a brand-new Tax Code.

My friend from Texas (Mr. FROST) said that he wanted to talk about elementary civics lessons. Let me offer one other addendum to that. An elementary civics lesson as it relates to this body is this: We deal in deadlines. This Tax Code is some 86 years old. It is badly in need of an overhaul and, frankly, scrapping. This sets a time certain for that to happen. It sets a deadline for this body and the President, the next President of the United States, to come together, come up with a Tax Code that the American people will feel comfortable with.

So I feel very strongly that this bill needs to be debated, which it will if we pass this rule, and, furthermore, that it needs to be passed so that the Congress can act on this legislation.

Now as to this rule, let me make a point.

At this time, Mr. Speaker, I ask unanimous consent to insert into the RECORD what the previous question vote means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The document referred to is as follows:

THE PREVIOUS QUESTION VOTE: WHAT IT MEANS

The previous question is a motion made in order under House Rule XVII and is the only parliamentary device in the House used for closing debate and preventing amendment. The effect of adopting the previous question is to bring the resolution to an immediate, final vote. The motion is most often made at the conclusion of debate on a rule or any motion or piece of legislation considered in the House prior to final passage. A Member might think about ordering the previous question in terms of answering the question: Is the House ready to vote on the bill or amendment before it?

In order to amend a rule (other than by using those procedures previously mentioned), the House must vote against ordering the previous question. If the previous question is defeated, the House is in effect, turning control of the Floor over to the Minority party.

If the previous question is defeated, the Speaker then recognizes the Member who led the opposition to the previous question (usually a Member of the Minority party) to control an additional hour of debate during which a germane amendment may be offered to the rule. The Member controlling the Floor then moves the previous question on the amendment and the rule. If the previous question is ordered, the next vote occurs on the amendment followed by a vote on the rule as amended.

Mr. HASTINGS of Washington. Mr. Speaker, the previous question procedure is simply one to end debate, and, if the previous question is defeated, then those that oppose it, which in this case would be my friend from Texas who had an opportunity to change, and actually we would lose control, to put it in perspective, of the floor and turn it over to a bill that frankly, ironically, none of the three provisions in that bill have been debated in the Committee on Ways and Means or on the floor. I find that rather ironic. But what it would do, it would turn over to the minority the floor, and I think that would be not advantageous for us.

So, Mr. Speaker, then what I would like to do and to urge my colleagues is to vote for the previous question so that we can get on with this debate, and I would also say that I believe the debate that is going to ensue after this rule is passed will indeed be historic.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to 5 minutes the minimum time for electronic voting on adoption of this resolution, and, without objection, the proceedings will resume on House Resolution 471 immediately thereafter.

The Chair also will reduce to 5 minutes the minimum time for electronic voting on adoption of that resolution.

There was no objection.

The vote was taken by electronic device, and there were—yeas 229, nays 194, not voting 10, as follows:

[Roll No. 234]

YEAS—229

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Ford
Gonzalez
Hastings (FL)
Hilleary
Hilliard
Johnson, Sam
Lewis (CA)
McNulty
Ney
Peterson (PA)

□ 1213

Mr. JACKSON of Illinois, Mr. MILLER of California, Ms. HOOLEY of Oregon, and Ms. KAPTUR changed their vote from "yea" to "nay."

Mr. HOBSON changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

□ 1215

The SPEAKER pro tempore (Mr. OXLEY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Washington. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 232, noes 188, not voting 13, as follows:

[Roll No. 235]

AYES—232

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad

Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—188

Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
McCarthy (MO)
McDermott
McGovern
McHale
McKinney
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—13

Abercrombie
Gonzalez
Hastings (FL)
Hilleary
Johnson, Sam
Lewis (CA)
Matsui
McDade
McNulty
Meek (FL)
Ney
Peterson (PA)
Waters

□ 1224

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2646, EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998

The SPEAKER pro tempore. The pending business is the question de novo on the passage of House Resolution 471.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Washington. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 228, noes 191, not voting 14, as follows:

[Roll No. 236]

AYES—228

Aderholt
Archer
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—191

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA).
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Armey
Gilchrest
Gonzalez
Green
Hastings (FL)
Hefner
Hilleary
Johnson, Sam
Lewis (CA)
McNulty
Ney
Ortiz
Peterson (PA)
Vento

☐ 1233

Mr. MORAN of Virginia changed his vote from "aye" to "no".

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider is laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

Pursuant to clause 1, rule I, the Journal stands approved.

TAX CODE TERMINATION ACT

Mr. BUNNING. Mr. Speaker, pursuant to House Resolution 472, I call up the bill (H.R. 3097) to terminate the Internal Revenue Code of 1986, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The bill is considered read for amendment.

The text of H.R. 3097 is as follows:

H.R. 3097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Code Termination Act".

SEC. 2. TERMINATION OF INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—No tax shall be imposed by the Internal Revenue Code of 1986—

(1) for any taxable year beginning after December 31, 2001, and

(2) in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2001.

(b) EXCEPTION.—Subsection (a) shall not apply to taxes imposed by—

(1) chapter 2 of such Code (relating to tax on self-employment income),

(2) chapter 21 of such Code (relating to Federal Insurance Contributions Act), and

(3) chapter 22 of such Code (relating to Railroad Retirement Tax Act).

SEC. 3. NEW FEDERAL TAX SYSTEM.

(a) STRUCTURE.—The Congress hereby declares that any new Federal tax system should be a simple and fair system that—

(1) applies a low rate to all Americans,

(2) provides tax relief for working Americans,

(3) protects the rights of taxpayers and reduces tax collection abuses,

(4) eliminates the bias against savings and investment,

(5) promotes economic growth and job creation, and

(6) does not penalize marriage or families.

(b) TIMING OF IMPLEMENTATION.—In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by Congress in its final form no later than July 4, 2001.

The SPEAKER pro tempore. Pursuant to House Resolution 472, the amendment in the nature of a substitute printed in House Report 105-580 is adopted.

The text of the amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Code Termination Act".

SEC. 2. TERMINATION OF INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—No tax shall be imposed by the Internal Revenue Code of 1986—

(1) for any taxable year beginning after December 31, 2002, and

(2) in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2002.

(b) EXCEPTION.—Subsection (a) shall not apply to taxes imposed by—

(1) chapter 2 of such Code (relating to tax on self-employment income),

(2) chapter 21 of such Code (relating to Federal Insurance Contributions Act), and

(3) chapter 22 of such Code (relating to Railroad Retirement Tax Act).

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(3) protects the rights of taxpayers and reduces tax collection abuses,

(4) eliminates the bias against savings and investment,

(5) promotes economic growth and job creation, and

(6) does not penalize marriage or families.

(b) TIMING OF IMPLEMENTATION.—In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by Congress in its final form no later than July 4, 2002.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. BUNNING) and the gentleman from New York (Mr. RANGEL) each will control 1 hour.

The Chair recognizes the gentleman from Kentucky (Mr. BUNNING).

GENERAL LEAVE

Mr. BUNNING. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3097.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume to open the debate on this bill.

Mr. Speaker, the Federal income tax system is broken beyond repair. We cannot tinker with it any longer and make it work any better. We need to wholesale reform and totally overhaul the system.

There are two basic elements that are absolutely necessary for a Federal tax system. It must be understandable, and it must be fair. As it now stands, our Federal income tax fails badly on both counts.

Our Tax Code has become so complex that no one can understand it. When tax experts cannot agree on how much an American taxpayer owes, how can we expect the average taxpayer to understand it?

This complexity is expensive. It costs over $300 billion a year for taxpayers to comply with the Tax Code. That is money that is totally wasted. It does not benefit government or increase funding for essential services. It does not benefit the private sector or create investment, develop jobs, or improve the quality of life. It is just money down the drain. It is a crime.

Our Tax Code is unfair. We have focused a great deal of attention this year on the marriage penalty, but this is just one of hundreds of inequities in the existing law.

Over the years, Congress has created a hodgepodge of loopholes and arcane tax incentives, most of which were well-intentioned. But when you take them altogether and weed them into a 5½ million word tax code, it creates such a mess that only the very wealthy have the ability to take advantage of them. That creates unfairness. As a result, the American people have lost confidence in their tax system.

Incremental change is not enough. We have tried that. It has resulted in failure and more complexity. We need real reform, a total overhaul of the Tax Code. We need to restore that confidence.

That is what this bill is all about. It simply says that the sun will set on the Internal Revenue Code as we know it on December 31, 2002. It gives Congress 3 years to debate and develop a new tax system.

It would simply force Congress to do in a timely manner what we need, no, what needs to be done, to pull the Federal income tax code out by its roots and replace it with an income tax system that is fair and understandable. This bill will help us do that. I urge my colleagues to support and vote for H.R. 3097.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this is a historic moment in the history because of our Congress, because I do not think that we will ever live to see a more irresponsible act committed by any Member of Congress.

I know that this is an election year and so some leeway has to be given to the majority because, unfortunately, there is no institutional memory of them having passed any legislation this year. Being a politician myself, I can understand how they would like to capture the voters' imagination by doing something dramatic.

But just to abolish the Tax Code, just to say that, by the year 2002, no tax shall be imposed by the Internal Revenue code, what a gift to give the American people. You will not have to pay any taxes until the Republicans, and do not laugh, until the Republican majority comes up with an idea as to how they are going to replace it.

Let us think this one out. Who has been in charge for the last 3 years? Who had the majority? Who had the opportunity, really, to substitute this complex mess that they talk about? But rather than to come together, as if that is possible, with some type of a meaningful, fair tax code that would increase economic productivity for our great Nation and to continue to propel the prosperity that President Clinton has brought to us, they would rather just pull up the Tax Code by the roots.

I assume that, while they are pulling it up by the roots, that this 800 pages of what they call a tax bill last year is mere fertilizer for the Tax Code that they are going to bring to us. Where are these great ideas that you have?

Should the American people not have some idea as to where do you meet to come up with a new code? Years ago, Members would go to the Committee on Ways and Means. Now we go to the Committee on Rules. We have people just telling us what they are going to end, but no one is there to tell us what they are going to start.

I have served on the Committee on Ways and Means for two decades. Every year, we had a tax bill: some good, some bad. For the last 3 years, we have not had anything that is coming up that is new.

I want the Republicans to understand this, if they do not understand anything at all, they are in charge. They have a majority. They have the ability to call their troops together and vote for anything that they want, whether it is good or, in most cases, bad. But for God's sake, just with all due intention I did not bring the Bible, so I did not mean to say that, but for goodness sake, do not end something unless you tell the American people what do you intend to replace it with.

We have business people that are planning now for the future. I would want them to call their Congressman, but since this issue is not being dealt with with the Congress, and since we do not know where the Tax Code is going to come from, and since the Committee on Ways and Means has lost jurisdiction, whoever meets with the Speaker should know what he is going to come up with.

I would say, if people are planning for the future, whether they are going to have bonds out there, whether the States are going to have municipal bonds, where people want to know how to plan, call the Speaker, because I think he has some good ideas that he will not share with us.

Second, if you are a hospital, church, synagogue, charitable organization, there is nothing in this bill that terminates that says you are going to be protected. I know the Republicans are going to protect them, so do not be afraid, but ask them how are they going to be protected.

If we own a home and we have mortgage payments and we have been deducting them, we can deduct until the year 2000, and then we do not have to deduct anymore.

□ 1245

Now, I do not know what happens, but we can call the Speaker and he will tell us what plans he has for mortgage deductions. And I tell my colleagues that, as complicated as this bill is, as bad as the Republican passed tax bill is, at least we know what we got. The fear is what are they going to come up with when for 3 years they have not even come up with a good idea.

So I do hope that in the course of this debate that someone would come up with some kind of a plan that would give us some idea as to what they are going to fill this vacuum with. But I think killing the IRS, pulling it up by the roots, that the American people deserve better than just a bumper sticker.

And if people do not like paying taxes and they think this is the solution, then I beg the Democrats in the minority, if they can just pass a law to keep us from paying taxes, why can we not pass a law to stop people from paying their debts? Why not? And if we do not like that, let us pass a law to terminate cancer. Let us think of something more exciting than our irresponsible brothers and sisters over here, and we will just say that if anyone votes against it, it means they support cancer; if they vote against it, they support paying back debts.

I am ashamed that this is happening in the House, but I know the United States Chamber of Commerce and the local Chambers of Commerce around this country will study this termination bill and I hope we hear from them much before the election.

Mr. Speaker, I reserve the balance of my time.,

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. LARGENT), one of the authors of the bill, to respond.

Mr. LARGENT. Mr. Speaker, the previous speaker got one thing right, this is an historic moment. Understand, no one likes to be forced to do anything. My children do not like to be forced to make their bed and Congress certainly does not like to be forced to do anything. This bill simply does that, it forces Congress to quit talking about comprehensive tax reform and actually do something about it.

And I would suggest to the previous speaker that maybe the reason he is in the minority and not in control is because it was his side that gave us this, the 6,200 pages that we currently know as the tax forms and instructions about how to file our tax returns today.

And the gentleman is also right about another thing. The way it has always been done before is to go to the Committee on Ways and Means, in a small room in the back, and a few people decide about what the Tax Code should look like for the American people. What we are trying to do is to include all of the American people in the debate and in the discussion and in coming up with a comprehensive tax reform that is written not by a few people on the Committee on Ways and Means but is a consensus opinion of the American people and the business people in the communities around the country, the people that are suffering through 5.4 billion hours filing their tax return every year at a cost of somewhere over $200 billion just simply to comply with the current Tax Code.

So the gentleman is right, we are trying to do it differently, we are trying to make sure it does not happen in the Speaker's room or in the Committee on Ways and Means but in the living rooms of the American people in this country, where they have a voice in the way their government writes a new comprehensive tax law.

Mr. RANGEL. Mr. Speaker, I yield myself 1 minute to say to the distinguished gentleman that he keeps referring to that pile there as being something that has been put together by the Democrats. When we had a debate on the rule, I thought he said that this 800 pound tax document was passed by the Republican majority and he voted for it. So I would be glad to go over there and just put this on that pile.

The second thing is that, we do not have to be another tax expert to know that the Congress should not be having to be forced to do anything. The majority should not have to force themselves to be responsible. All they have to do is take their consensus from the people and pass a decent, respectable, fair and equitable progressive tax bill. They should not force themselves to do it; just do the right thing.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding me this time.

We have talked today about the asininity of this bill, the sheer folly, the sophomoric sort of approach. I guess I would remind the people that it is the Republicans that shut down the government several times because they were unable to come up with a budget. I would challenge any Republican who has an idea, much less an idea of what they would do just in the oft chance they fail to come up with a bill.

And even if they were to come up with a bill, they are not telling us what happens, say, in health care, an issue which they postulate a good bit about and posture about. The Armey flat tax bill, which they might choose, imposes tax penalties on employers that provide health care benefits to their employees. The Tauzin retail sales tax bill imposes a sales tax on people when they pay for health insurance and health care. I wonder if that is what they intend to do.

The Republicans voted to increase the rate at which self-employed people could deduct their health care. This will end that. I presume that they really do not care, as they have not in the past, about providing health care to the 45 million uninsured. I am sure that they do not want to help employers pay for it, because I think they are indifferent.

I am not sure that anyplace in the King James version of the Bible it suggests that employers should pay for health care benefits or that we should insure people. Therefore, some Republicans will tend to ignore the suffering that people have for lack of health care. The basic fact is that this is sheer irresponsibility, obviously drafted by people with no understanding of business or the Tax Code or economics, some things that are important to having the country's economy function.

One of the things that many of my colleagues on the Republican side have been very assertive of is States rights. But what they do not understand is that this would also destroy many States' ability to raise any revenue. Many States that have an income tax parallel or mirror the Internal Revenue Code. And if in fact, as their bill suggests, we would stop collecting funds in the year 2002, we would, therefore, put these States out of business. And we would not have, obviously, any Federal money to support them. So they are impacting many States. The unintended consequences of this bill are legion.

So that I want to remind my friends and colleagues that no one suggests that we should not reform the Tax Code. The last major reform was led by Ronald Reagan, at his insistence. Much of what is stacked over on that table was Ronald Reagan's suggestion, which we passed. And it was not a bad bill, I might add. Now, we have no bill and we have a nonsensical campaign bumper sticker, and I hope we vote it down and do not see this kind of embarrassing legislation brought again.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, after serving on the House Committee on Ways and Means for the past 3½ years, I am continuing to be amazed by the outrageous provisions that are involved in our current income Tax Code. In no small part, many of these provisions that are a function of the Tax Code have spiraled out of control. The irony is that while our Tax Code has just about 7 million words, it lacks two regular words, and those words, Mr. Speaker, are common sense.

The current income tax system is far too complex and it is a source of utter frustration for millions of hardworking Americans and for their families. Over the past few years I have heard from thousands of constituents in my district alone and they have talked to me about hundreds of problems they have experienced with the system of taxation. A common theme, as we all know, has been the intrusive nature of the Internal Revenue Service. I believe it is time for this issue to be brought out of America's kitchen and on to the committee calendars of the Congress.

Money magazine last year reported that not one of 45 professional tax preparers could accurately compute a hypothetical family's tax return. Fewer than one in four came within even $1,000 of the correct figure. How can we expect average citizens to comply with a code when licensed professionals, who have spent years studying the system, cannot even get it right.

Not only this, but the cost of compliance for the average family is horrendous. Each year Americans devote 8 to 10 billion hours complying with our Tax Code. This amounts to over 5 million Americans working all year long, the equivalent of the entire work force of my State, Washington State, of Iowa and Maine. The cost of complying totals about $200 billion annually, or $700 for each, man, woman and child in America.

These are just the numbers associated with following the law. The income tax system involves a number of other costs, including those associated with enforcement and collection, as well as the cost of tax litigation.

Sunsetting the code will work. President Clinton described this plan as reckless or irresponsible. Actually, as the President should know, it is common practice. Major Federal Government programs, such as spending on highways, education and agriculture, regularly expire and are rewritten in 5-year increments. This is a strategy also used by the States, who understand that change will not occur unless they break through the gridlock. This is exactly how this legislation to sunset the Tax Code will work.

There is a national debate going on outside the Congress, Mr. Speaker, on the direction of the Tax Code. We have a terrific opportunity here today to improve the Federal system of corporate and personal income taxation in a manner that will both significantly improve the economic performance of our Nation and substantially reduce the compliance and administrative burden on American families. By scrapping this code, we will bring this debate into focus and force ourselves to discuss this issue. I urge its support.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, it is really hard to come down here and be serious about this kind of thing. No one likes to pay taxes, no one likes to have to sit down once a year and send money to the government to run it, but what we have today, in an effort to tap voter discontent by the Republicans, is a cheap campaign prop. This is a bumper strip we are doing today, that is why it is only about two sentences long.

In order to take this seriously, we have to go back to a satirist who used to write for the Baltimore Sun by the name of H. L. Mencken. H. L. Mencken called the American public "Boobis Americanus". That is, they are all stupid. Now, in order for my colleagues to come with a bill like this, they have to think the American people are stupid; that they simply do not know what is going on. If we say to the American people that right now we spend $1,200,000,000 and we are going to wipe all that out and we are going to get it from somewhere else; now, where are they going to get it from? The moon? Or from somebody else? This sounds like a bill based on the Senator Long theory of, "Don't tax you, don't tax me, tax that guy behind a tree."

The American public knows there has to be a Tax Code if we are going to have the kinds of goods and services that we want in this country: Social Security, Medicare, highways, national defense. My colleagues are not going to get rid of the money. They simply are creating the illusion for people that they will come up with a Tax Code that will not tax them, it will tax somebody else.

Well, how stupid do my colleagues think the American people really are? They know that their deduction for their interest on their house they get now. My colleagues are not guaranteeing them anything on their house. My colleagues are not guaranteeing that their employer can deduct paying for health care for them. The average employer today, if he spends $100 on health insurance, actually costs him $65. If we repeal the code, it costs $120.

Now, I know my colleagues will say, oh, we are going to take care of that. Well, if my colleagues are going to take care of it, why do they not put a proposal out here to simply say that they are going to wipe out the code and come back some day, some uncertain time?

The gentleman from California (Mr. STARK) raised another issue which my colleagues really are not thinking about. The Republicans are creating chaos in this country, in the business community planning. No businessman can plan 3 years out.

□ 1300

The problem with us is we plan 2 years out. Business plans 5, 10, 20. They want chaos. This is a bad piece of legislation.

Seeking to tap into voter discontent about the complexity of the tax code, the Republican leadership today is disregarding the major issues confronting our nation in order to turn the House Floor into a cheap campaign prop. So while this bunch wastes your tax dollars by ranting, raving and campaigning about how they want to "rip the tax code up by its roots"—without having any idea what tax system they want to replace it with—I am going to talk about what impact this rhetoric will have on real people. In particular, what this extremist legislation will mean to the ability of Americans to purchase affordable health care.

Before I begin, it is important to note that the same people in the Republican majority currently peddling this "scrap the code" rhetoric, just last fall voted to add hundreds of new pages to the tax code and a myriad of new complex tax computations. Because of last year's tax law, this bunch added 35 new lines alone to taxpayers capital gains tax forms. So, keep that in mind that when you hear this bunch talk about tax simplicity—they are the ones who 6 months ago made the tax system a whole lot more complex.

Most disturbing in their "scrap the code" rhetoric is the proposal to establish a rhetorically pleasing, yet critically flawed "flat tax." This plan is often criticized because of its substantial revenue losses, its unfair redistribution of the tax burden, and its elimination of subsidies for home ownership.

This push for the flat tax may help Republicans at the polls, but for the millions of American workers who need affordable health insurance, the flat tax is disastrous. While not necessarily "news" to the 42 million uninsured and the 29 million more who are underinsured in this country, there is no question that the group of workers and early retirees who will get hurt by the flat tax are the same ones who are currently being threatened by rising health costs in this country.

A recent study by the National Coalition for Health Care found that between 1985 and 1997, the cost of health care doubled and it is expected to double again in the next decade. Next year alone, health premiums are estimated to rise between 5 and 10 percent—a rate at least twice that of the increase in benefits and wages. The number of uninsured in this country will exceed 42 million next year and by 2005, it is estimated that one in five Americans under the age of 65 will be without health insurance.

The impact passage of the flat tax will have on worker's health insurance would be devastating. Under current law, there are substantial income tax incentives for employer-provided health benefits, with additional tax-benefits available to the self-employed who purchase health insurance. Employer-provided health benefits are exempt from income tax, Social Security, and Medicare employment taxes. For example, under the current system, the after-tax cost to an employer that provides $100 in health benefits to their employees is $65. Yet, the flat-tax plan destroys this health insurance incentive by increasing the employer's after-tax cost to $120.

Under the flat tax's domestic business tax, amounts paid for non-cash fringe benefits, such as health care, are not deductible. As a result, the plan would impose an onerous tax penalty on employers providing health benefits. This legislation goes a step further by including a new tax on tax-exempt charitable organizations and Federal, State, and local governments equal to 20 percent of the amount paid for health benefits for their workers.

Health benefits to retired workers will also decline. Many companies have large and burdensome liabilities for retiree health benefits and in recent years, those same companies have tried to limit benefits.

The likely response from employers to the flat tax's tax penalties will be a significant reduction in health care benefits available to its current, future, and retired workers. Just last year, MIT economist James Poterba warned that ending the tax preference for employers who provide health insurance would cause the number of American families without health insurance to increase by 20 percent!

In fact, such a decline in employer-provided health benefits should not surprise anyone familiar with the history of the flat tax.

When the Kemp Commission first proposed adoption of the flat tax, even the Health Insurance Association of America—the same group that spent millions of dollars to kill expansion of health care coverage in 1994 and is on the verge of spending millions more to kill managed care safeguards—warned "one of the unintended consequences of eliminating the exclusion for health insurance premiums is likely to be a rapid increase in the number of people without private health insurance coverage."

If you want to terminate the tax code, it is vital that you understand the ramifications of each remedy. There's no question that ripping away crucial tax incentives will increase the cost of health care in this country.

I find it amazing that instead of finding ways to improve the quality, affordability, and availably of health insurance, the Majority is using its control of Congress to make America's health care problems worse.

Before you jump on the "scrap the code" bandwagon, think, for a second, abut what this legislation will mean to the affordability of health car for America's workers, their families, and their employers. Unfortunately, it's clear form this debate that all this bunch is interested in doing is devaluing the legislative process of our democracy in order to create a simplistic bumper-sticker slogan in time for November's elections.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, our tax system hangs like an albatross around the neck of the American taxpayer, stifling savings and productive investment, and arbitrarily punishing or subsidizing activity and making the process of paying taxes nightmarishly complex even for those of modest means.

In my view, the time has come to replace our current tax system. But we will never do it unless we overcome the inertia of the legislative process, unless we override the influence of the entrenched special interests who have a stake in the complexity of the Tax Code and who savor gridlock on this issue, and unless and until we force the issue and put everyone's feet to the fire.

We propose to do that today. I rise in strong support of the Tax Code Termination Act, legislation that will finally give American taxpayers a solid time line for fundamental tax reform.

Mr. Speaker, I have been a strong advocate of replacing our current Tax Code with a system that is fairer, radically simpler, eliminates the bias against savings, and will allow the U.S. to be more competitive internationally. I am prepared to accept the challenge of the gentleman from California to put forward my proposal this year. But replacing the Tax Code will be an enormous undertaking, and the time line for consideration should not be put off one more day.

I challenge my colleagues, if they do not believe we can replace the current Tax Code with something simpler and fairer that will meet the needs of the American public, then vote against this bill. If they feel that any tax reform inevitably is going to be an improvement, as I do, vote for this legislation and put our feet to the fire.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I rise in opposition to the current Tax Code and in support of comprehensive reform of our Federal tax system.

I, too, agree that our Federal tax system is too complex, it is not efficient, it costs our taxpayers too much to comply with it, it is not sensitive for savings, we rely too much on income taxes. But the legislation before us is one of the strangest notions I have encountered in the 12 years I have served in this body.

The bill is a result of frustration in our current tax structure, and it tells a Congress in the future to do something about it. We have had 4 years under Republican leadership to try to do something about our Tax Code. In this term, I thought we were going to do something.

Last year, in a bipartisan way, we joined Democrats and Republicans to reform the Internal Revenue Service. We thought that bill would pass last year. It is still lingering within a conference committee. If we want to do something, why are we not using the time today to at least reform the IRS and deal with the tax collecting agency? But instead, no, we are debating some myth about what we are going to do in the future. It is outrageous.

It is not even a fig leaf. We have not had a hearing on this proposal. We do not know what it is all about. Why are we not debating specific proposals on this floor?

Mr. Speaker, yesterday in the Baltimore Sun, my local paper, I authored an article about why I thought a VAT tax is better than a flat tax and why we do not need a corporate income tax and we should be encouraging more savings. Why are we not having that proposal on the floor today and debating? Why is the Republican leadership not giving the American public real reform rather than bringing up a hope of what is going to happen 4 years from now, causing all types of panic about people trying to plan for their futures.

People are trying to figure out how to save for their retirement. They want to know what the tax rules are going to be. And we are going to tell them, we are going to change them, but we are not going to tell them what it is going to be? How irresponsible. How wrong.

Use the time we have. This schedule this year has been embarrassing. We have not been here most of the time. Why are we not using the time this year to have a serious debate on tax reform rather than bringing up this sham?

It is wrong. They know it is wrong. This is not the right way to go. I urge my colleagues to defeat the bill.

Mr. Speaker, I rise in opposition to the current tax code, and in support of a real debate on comprehensive reform of the federal tax system.

The legislation before us is one of the strangest notions I have encountered in the twelve years I have served in this House. The bill is the result of frustration with the current tax system. Normally, when members of Congress seek to change existing law, they introduce legislation to make the changes they support.

But this bill doesn't do that. We are here, in the 105th Congress, debating a bill that says that the tax code is such a mess that the 107th Congress should do something about it.

That's not a serious proposal for simplifying the tax code. Instead of real tax reform, it is just an empty promise.

Yesterday, the op-ed page of the Baltimore Sun, my home town newspaper, printed my article titled "Why a VAT tax is better than a flat tax."

The article presented my view that we should replace the existing tax code with a broad-based consumption tax, and relieve 75 million Americans of the burden of the individual income tax. I support repeal of the corporate income tax. Some members of the House will agree with my position; others will disagree.

We should begin this debate now, rather than putting it off until the year 2002. We need to reform the tax code, and when we have done our jobs, and written a tax code that does not punish the American people, I will be proud to join in voting to sunset the existing code. Until then, Mr. Speaker, this process is nothing but talk.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, we have had hearings, and 2½ years ought to be long enough for the people of the United States to speak and determine what tax they want.

The current Tax Code is complex, confusing, corrupt, costly, coercive, and a lot of other Cs that I cannot think of. But so far there is a lot of talk and no action. When it comes to tax reform, a sunset date will force us to take action and relieve the American taxpayer.

We ought to also repeal the 16th Amendment of the Constitution, and I have introduced a bill to do such a thing, the Tax Freedom Act. It outlaws Congress' ability to collect taxes on income except in time of war. Both these bills accomplish one common goal. No matter whether you support a flat tax, consumption tax, value-added tax, national sales tax, blue, black, brown, whatever, the common goal is replacing the current complicated Tax Code.

Fundamental and comprehensive tax reform will be one of the most profound changes this Nation experiences this century. The Tax Code Termination Act brings us one step closer to achieving that change and restoring freedom to the American taxpayer.

Americans want, need, and deserve to get rid of IRS oppression. We have been talking about tax reform for years. Mr. Speaker, it is time to quit talking and start action, and this bill does just that.

Mr. RANGEL. Mr. Speaker, I am reminded that when Dr. Frankenstein created his monster, he went immediately to trying to get rid of it. And, so, as the Republicans pass this tax bill, this is the same bill they want to pull up and pull up by the roots.

Gentlemen, it is your bill. Do with it what you want.

Mr. Speaker, I yield 3½ minutes to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise in strong opposition to this legislation to terminate the Internal Revenue Code without replacing it with a system that is fairer, that is simpler, and encourages economic growth.

I come from a State, a small State, Connecticut. But in that State, we have 18 of the Fortune 500 companies. Now, I can just imagine a conversation between a CEO and a board of directors when they hear that this bill is passed, because he or she would have to explain to the respective boards of directors how millions, and in some cases billions, in assets will disappear from their corporate balance sheets because of this legislation.

The chief financial officer will have to explain there is nothing that can be done to prevent this because the Congress passed a bill to eliminate the Code and did not replace it with anything. And as a result of this bill, excess foreign tax credits would disappear, reducing the company's net worth.

As we all know, foreign tax credits are carried as assets in today's corporate balance sheets. As a result of this bill, the corporate alternative minimum tax credit carried forward would disappear, reducing the company's net worth. Of course, as we know, the corporate alternative minimum tax credits are carried as assets on today's balance sheets.

And as a result of this bill, research and experimentation credits would disappear, because as we know, R&E credits are carried as assets and those would just go away.

As a result of this bill, deferred tax assets representing retiree health obligations would disappear, reducing the company's net worth. Not to mention providing retiree health benefits would then disappear because they could not write them off.

The Financial Standards Accounting Board happens to require companies to charge retiree health obligations against current earnings. Retiree health obligations are deductible when actually paid. These deductions carried on today's corporate balance sheets are deferred tax assets. They would disappear.

And as a result of this bill, operating loss carried forward would disappear, reducing the company's net worth. Net operating loss carried forward are carried as assets on today's corporate balance sheets.

Unfortunately, many of these CEOs are going to find themselves explaining more than one of these things. In a few cases, the loss of the impact on these changes on the balance sheets could result in a profitable company losing all their positive net worth. Because this is the fact of the Code as it exists today, and if we do not replace it with something, all these things happen.

I thought the majority in this Congress was opposed to takings. But, as I read this list, I guess not. But it gets worse.

While the CEO needs to explain to the board that the business plan is no longer operative, the small businessman finds he is facing the same problem. A businessman or businesswoman would have to realize the rate of return on capital can no longer be projected.

She has no idea how the company should calculate labor costs. She has no idea how to determine the most efficient financing mechanism for the new building that they will have purchased. They have no idea of the period over which the new equipment could be depreciated. I wonder how many CEOs would lose their jobs or how many small businesses would go out of business.

It is because of these concerns, very real concerns, and I have been on the Committee on Ways and Means for now 13 years, that the National Association of Manufacturers are opposed to this bill.

The Internal Revenue Code is far from perfect. We all know it. But if we are going to eliminate it, replace it with something that is simpler, fairer, and encourages economic growth. That is all we ask today. Do the whole job, not just half of it.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. DAN SCHAEFER).

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, if we would listen to the gentlewoman from Connecticut (Mrs. KENNELLY), who just spoke, what we would have to believe is that the business world did not exist prior to the invention of the Internal Revenue Tax Code; that corporations offer health care only because they get a tax deduction; without the tax deduction, there would be no compassion on the part of the owner to the worker; and that all of the complications that a CEO would have to deal with, in fact jeopardizing their job, are essential to running a business.

What in the world did business do before there was an Internal Revenue Service?

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, during my 15 years here in the House, literally thousands of taxpayers have contacted me to express their frustration with the current code that we have.

The Tax Code is so complicated that even those who call themselves tax experts cannot figure it out. Let me give my colleagues a good example.

Last November, Money Magazine gave 45 accountants nationwide a financial profile of a fictional family and asked them to prepare a hypothetical tax return. Not only did all 45 come up with different answers, but the computed tax liability ranged from $36,000 to $94,000.

No one knows whether they are illegal or not illegal anymore when they file their returns. Today, the average family pays more in taxes than it spends on food, clothing, and shelter combined. As a whole, Americans will spend at least $200 billion and over $5 billion complying with the income tax this year alone. This is more time than it takes to produce every car, truck, and van in the United States each year.

Tracking all this paperwork requires the Internal Revenue Service, five times larger than the Federal Bureau of Investigation. And unlike the FBI, the IRS's power is nearly absolute. It may search our property and records without a court order. And although both the House and Senate have overwhelmingly passed substantial IRS reform bills, I do not believe that that alone will prove successful.

Over the past several years, I have talked to audiences nationwide about the case of replacing the Federal income tax with a national sales tax. Two years ago we introduced the National Retail Tax Act of 1996, and just last year reintroduced it again in H.R. 2001. This legislation is going to abolish the IRS completely, eliminate corporate taxes, gift taxes, capital gains tax, inheritance taxes, gift taxes, and all excise taxes unless they are tied to a trust fund.

I think this is the way to do it. Let us for once take the power of taxation away from Congress, give it to the American people, and let then decide. And once and for all, let us eliminate 8,000-plus pages in the Tax Code and replace it with a Tax Code that is going to say April 15 is another bright, spring day.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Mr. Speaker, I rise today to urge a no vote on the bill, but to first indicate that I have voted for IRS reform that we are still waiting to pass this Congress. I support real tax reform. And I would even support a deadline if there were alternatives proposed by the other side, by the majority, that were good for hard-working men and women in my district.

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Mr. Speaker, before coming to Congress, I served for 16 years on the tax and finance committees in the Michigan legislature. I supported and sponsored numerous tax cut bills. But in each case, they were making things better for the middle-class families, family farmers and small business people that I represented. Unfortunately in this case, the alternatives proposed by the majority are even worse, even more unfair than the current system. For instance, a national retail sales tax, which is also a use tax on professionals and entrepreneurs, would, according to the tax analysts, raise the cost of buying goods and services something close to 30 percent when all is figured. Houses, cars, food, prescription drugs for our senior citizens, on and on. Insurance premiums. It goes on and on. In addition to that, it would tax doctor's visits. It would tax accountant's visits. It would create a situation where every small business person and entrepreneur in my district, every professional, would have to become a tax collector. I do not call that better than what we have right now. Let us really fix it and really do something that is better by proposing a real alternative. In addition, the flat taxes that have been proposed by the other side just shift from wealthy individuals to the middle-class families in my district.

Mr. Speaker, I want to see something simpler. I want to see reform. But let us do it in a way that does not involve the proposals coming from the other side which are not good certainly for the people that I represent in Michigan.

I would urge a "no" vote on the bill. I would urge my colleagues instead to do what we did last year. Let us join together in a bipartisan way. We passed a balanced budget amendment. We passed tax cuts last year. Let us join together and create real reform for the real hard-working families, middle-class Americans that deserve the relief in this country.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. PETERSON).

Mr. PETERSON of Minnesota. Mr. Speaker, I rise today in support of the Tax Code Termination Act. I have been in favor of scrapping this code and starting over for a long time. I am one of the few Members of this body that is a certified public accountant that has actually done tax returns for a living and have lived with this code for a long time.

This Congress, under both parties, has contributed to this problem. The people on my side of the aisle might have a good point. I say to them that if they do not like this method of trying to get at this problem, then put something else forward.

I think it makes sense for us to come up with a date certain. We did that when we balanced the budget and it helped us focus our attention. We have a date certain on when we are going to overhaul this Tax Code. I think it helps us. But, as I have said, I have been for reforming this system ever since 1986 when, under the guise of tax simplification, we passed a bill which I think was arguably the worst piece of legislation that has ever been passed in this Congress. We made it worse in 1990, and we made it worse last year when they passed the 1997 tax act to the point where my partner, who is still doing tax returns, told me this weekend that this is so complicated that he does not think he can any longer do a tax return by hand. The only way he can do a tax return is if he has a computer to be able to make all these computations and go back and forth.

Mr. Speaker, this code has gotten completely out of hand. It needs to be simplified. It is not happening under the current process. I am not sure this is the best process in the world but it is the only thing we have in front of us today. I am in favor of overhauling the code. I think the way we do that is we start from scratch, with a clean slate, and then try to build up something that is simpler and makes more sense. I support this bill and encourage everybody's support.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Speaker, I rise in strong opposition to the proposal today; however, I do support simplifying the Tax Code.

Mr. Speaker, what we are involved in this afternoon is a new form of roulette. This afternoon we are playing Gingrich roulette. I say to all Members, it is a most dangerous game.

Mr. Speaker, I happen to serve on the Committee on Ways and Means. This bill comes before us with no hearings, no committee deliberations, no contingency plans should we not have a new Tax Code ready by July 4, 2002. So what we are doing is we are just shooting in the wind, hoping that Congress can develop a whole new Tax Code that is better than the current system.

Let us talk about the current system for a moment. The gentleman from Oklahoma brings forth the 6,000 pages that he claims to be the Tax Code. Where does he think that came from? How many pages of that Tax Code give tax relief to my constituents? Oh, some do. There are some child credit tax provisions in there, there are some earned income tax credit provisions in there, but know full well the bulk of that document you have before the House today is there for the benefit of the moneyed special interests in this country.

How many pages did Ronald Reagan and his 8 years add to the Code? Of the 6,000, I will bet 2,000. How many did President Bush and his administration add to the Code? Probably more than one thousand. But no Republicans are coming up and decrying those enormous and complex additions to the Tax Code. Why? Because all that is good Tax Code. It is good Tax Code because many of those provisions apply to your constituents.

While I am talking about your constituents, let me congratulate you on a very successful fund-raiser last night. Mr. Speaker, I am told that you folks raised in excess of $10 million last evening alone. All the wealthy people that showered you with that money were there because they were crying out for tax fairness? Who do you think you are kidding? Those folks who pumped $10 million into the coffers of the Republican Party are part and parcel of that Tax Code. And their presence last night to eat your chicken was a hearty thank-you. But now you stand before us cleansed and pure decrying, "We don't like the Tax Code because it is too complex and too unfair." But what are you going to tell the folks when you go to your parades on July 4 and you see their little Johnny or Jane and you hug them and say, "Your family will get an extra $400 for each of them because we passed a child tax credit for you." They say, "Yeah, but you also passed this bill that will take the credit away from us. What's going to happen to the child credit in 2002?"

"I don't know."

How about the home mortgage deduction? Every constituent of yours that owns a home wants that deduction retained. They may ask the gentleman from Oklahoma, "What is going to happen in 2002 with that?"

"I don't know."

Mr. Speaker, I do not know what you guys are doing here today. But, again, congratulations on the $10 million fundraiser last night. You did a good job.

Mr. BUNNING. Mr. Speaker, I yield myself 15 seconds. It is better than taking money from the Chinese government.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. METCALF).

Mr. METCALF. Mr. Speaker, this legislation defines the Republican commitment to reduction of the tax burden on working Americans and thereby taking a mighty step toward ensuring a brighter future for people of all income levels.

I am proud to be an original cosponsor of the Tax Code Termination Act. This legislation will provide for the abolition of the current unfair and burdensome Tax Code by 2001. This legislation does not carelessly abolish our current structure. Instead, the legislation requires the enactment of a replacement code by Independence Day, and that is a fitting day for this, 2001, that will be a fairer, simpler tax and reduce the tax burden on all Americans.

Mr. Speaker, the current Tax Code has simply become too big and too complex to correct. You cannot fix it. All Members of the House should join us to replace the current Tax Code with a system that is fairer, less complicated and takes less money from working Americans.

Mr. RANGEL. Mr. Speaker, if there is anybody in this body that knows of anyone that has taken money from the government of China, they would be aiding and abetting and involved as an accomplice in a felony unless they reported it to our Attorney General.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, it is really hard to take this whole issue seriously this afternoon. We all know that it is not going to become law. It is going to pass out of the House but the Senate will not take action on it. That is why we are not seeing lobbyists clamber down on Capitol Hill. That is why we are not seeing letters to the editor. That is why we are seeing no stories in the major newspapers throughout the country. This is really a political opportunity for one of the parties. This is not going to become law. So it is really hard to get particularly pushed out of shape or excited or concerned about this. It is just not going to become law. Because the reality of the situation is that those that are advancing this particular proposal really in 1997 added thousands of pages to the Tax Code. In fact, we have added in 1997 when the Republicans were in control of the Congress 285 new sections to the Tax Code, 824 new amendments to the Tax Code. This is just in 1 year. There are now five ways, five separate ways to do capital gains. In fact, Schedule D, which had 23 lines, now has 54 lines, and it really does take H&R Block to really figure it out. The average person cannot do their taxes. Most of them do not have capital gains so they do not have to worry about it. In addition to that, there are now two different way to do IRAs, a back-ended way and a front-ended way. In addition, you can convert over, but you better make sure you understand your economic situation before you do.

We also have a number of different ways either to take a credit or a deduction if you are a student. Should the student take it? Should the student's parents take it? Should the grandparents take it? We have really added complexity to the Code. The 1997 bill was probably the worst tax bill the United States has ever had, because it added more complexity to the Code than we have had in the last 25 years. And so this is not a real exercise in good government. This is really a show game.

I have to say that if it were taken seriously, I think people in this country today would be really concerned. You would have to say, shall I buy a house because I get a deduction on my home, and that is an incentive, that reduces my taxes. But obviously if we changed the Code or the Code is eliminated in 3 years, I may lose that deduction and all of a sudden I might not be able to make my monthly payments on my other expenses. But no one is saying that, because this is not a serious effort. It is really a shame. We are going to be in until midnight tonight and we are not going to take any really substantive action. The irony of it is that we have 13 appropriations bills that are supposed to pass, we have a budget, but we do not have it out of the House yet. Not one appropriations bill has been taken to this body. There has been no budget reconciled between the House and the Senate. It was supposed to be done on April 15. Here we are at June 17, 2 months later. It is amazing. It is absolutely amazing that we are wasting our time engaged in this kind of activity that has no relevance, no value and certainly it is something that is a political exercise that I think the American public will eventually get disgusted with.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HALL).

Mr. HALL of Texas. Mr. Speaker, I want to be logical about this. I have thought a lot about it. I rise today in support of the Tax Code Termination Act. I rise at a time when we are doing better. We are doing better from the standpoint of economics. You can sell a piece of property now. People can find a job. We have got the lowest inflation. We have the lowest unemployment. Knowledgeable economists have told us that we have the best economy we have had since the late 1940s and early 1950s when we had the strongest financial position and strongest geopolitical position in the history of this country. So I guess you have to ask, why? Why are we where we are?

I think the President, the present President thinks that he caused it. I think Mr. Dole probably think he did. I think Mr. Bush thinks it is something he put into motion. But really and truly I believe it is because we are just now getting over the lousy 1986 so-called Tax Reform Act.

A lot of us have talked enthusiastically over the past few years about the need to replace our current tax with one that is more equitable, one that is more fair. Specific proposals for both a flat tax and a sales tax replacement have been debated throughout this country by proponents of these plans. A lot of us have signed on to both of these bills.

The IRS administered Tax Code does not work. It has been the source of endless anguish, unfairness, confusion and the invasion of privacy for a lot of hard-working, well-intentioned Americans. In the interest of fairness, however, I must say it is only accurate to note that many hard-working and honest employees of the U.S. Treasury Department have been embarrassed and appalled by some of the testimony by their fellow employees during congressional hearings on IRS abuses. So I think they know from within that we need to do something about the Tax Code that we have. We have to recognize the fact that our Tax Code has facilitated, and in many cases encouraged outrageous abuses while escaping all attempts at reason and justice.

The American people deserve the right to know when it will end. We need to be able to collectively undertake this important goal as opposed to a mere debate.

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Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HOUGHTON).

(Mr. HOUGHTON asked and was given permission to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, I am not going to take long here, but I do think that this is something which I would like to share an idea or two with my colleagues. Let me tell them a story.

There was a man called Robert Ruark, and he wrote a story called "Something of Value" which talked about the end of colonialism in Africa and the total chaos, and the reason there was chaos is that there was nothing to take the place of the old governments. And I think he said we could say as almost a general statement, "When you take something away, you must be able to put something in its place."

Now I do not consider this a political argument at all. I consider this an argument of technique. Some people think that the idea of forcing an issue is the better way to get to an end rather than logically taking a look at what the steps are in order to get where we ultimately want to be.

I do not think anybody is happy with this Tax Code. I do not think anybody is happy, as my colleagues know, really since the days of our Lord when the Publicans were running around. I say "Publicans," not "Republicans," were going around and trying to collect taxes.

But really the question is: What is out there? I think we must exert an element of judgment here.

As my colleagues know, to force something without anything at the end, and let us say at the end of June in the year 2002 we have nothing; what do we do? Where do we go? How does somebody plan? Will there be Social Security? Will there be Medicare? Will there be anything else? No one really knows.

Mr. Speaker, this is a very high stakes game, and to use a technique of forcing something without any anything on the other end I think is highly irresponsible, and therefore I think it is a bad measure and something which we should vote against.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I rise in strong support of H.R. 3097, the Tax Code Termination Act. I intend to vote for the passage of this legislation, not just because I am a cosponsor of the bill, but also because it makes sense. I have to just take exception with some statements by the speaker from California who talked about increasing people's taxes because of the possibility of not being able to deduct mortgage interest from their income and charitable contributions. There is in no way an intention to increase, nor decrease, revenues to the Treasury of the United States by changing the Tax Code. We simply want to make it more fair, more equitable and simpler so that the American public can do their own taxes and understand exactly what they are doing.

I am also glad that the fine gentleman from New York is on record as saying that if anyone did take money from the Chinese Government, that it would be a felony, and I know that when the time comes that he will see, if that is exposed, he will see that the full force of the law is enforced.

Mr. Speaker, I recently held two public forums in my State of Wyoming on the Internal Revenue Service and the experiences that people have had, both good and bad. One person told us about having underpaid her taxes in the amount of 3 cents, and she received a bill for over $1400 from the Internal Revenue Service. Time and time again I heard how the Internal Revenue Service abuses its power, and in lieu of attempting to work with people and provide some flexibility on how to address a certain tax problem the Internal Revenue Service seemed to always take a hard-line approach. Mr. Speaker, we can and should make the Internal Revenue Service personnel more accountable for their actions.

Finally, the Tax Code must be simplified. The average person is increasingly frustrated with the time and expense involved in the preparation of their tax return.

I urge my colleagues to support passage of this bill, and I look forward to participating in the subsequent debates on how to address the challenge of replacing the current Tax Code.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I would like to associate myself and others who feel as I do with the remarks which the gentleman from New York (Mr. HOUGHTON) made. I think what people want us to do is to act reasonably to try to make a fair Tax Code, to try to raise the revenues that are necessary to buy the aircraft carriers, and the planes and the tanks we need for our defense, to try to do some of the things that we spend money on in terms of helping all of us as American citizens whether it is roads and bridges and infrastructure, water and sewer systems, those things that we need to do as a government that private enterprise cannot do, and I think in the end they want us to behave reasonably.

Now it is hard for me to understand why a bill that forces us, all of us, not just Members of Congress, all of us as citizens, to either, 1, say it is everyone for himself or herself from now until the year 2002, as this new code that we do not know what is going to look like is rewritten; or, 2, if we cannot come to closure, and, my lord, it is hard enough to reach a consensus on tinkering with it around here, and I am on the Committee on Ways and Means, I see it; if we cannot come to consensus, then what happens? Nobody knows. It would be hard for me to think we could sit here as American citizens and padlock the Pentagon so that whoever wants can come in here in the year 2002 and take whatever is left. I do not think that would happen, but who knows? If we cannot reach a consensus in June of 2002, what is the country going to do?

Now I just do not think that this approach, as the gentleman from New York states it, I do not think that people who think about this and think it through believe that is reasonable to put a gun to the collective head of every citizen in this country between now and the year 2002 to say, "You write the Tax Code." Gentlemen say, well, we are going to let the American people write it. Great. How they going to do that? They have got a gun to their head under this bill.

Now later on the gentleman from Florida (Mr. BOYD) and myself and others are going to have a motion to recommit this as a resolution, a sense of Congress, that says the Committee on Ways and Means will go to work now by a day certain to come up with a Tax Code that does not endanger the balanced budget agreement we just worked so hard to reach. We would like to see that work and get us out of what has been an abysmal hole in the wall of debt that is fair, that is more simple, that encourages savings and investment to make our country stronger, that protects Social Security and those things we want, and to undertake hearings. Can my colleagues imagine it being reasonable to come and scrap the Tax Code without one single moment of hearing on this bill in the Committee on Ways and Means, the committee of jurisdiction? I just do not think it is reasonable, and for that reason I urge a no vote.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. ARMEY) the Majority Leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I suppose it would be fair to say that I, along with perhaps my colleague, the gentleman from Louisiana (Mr. TAUZIN), have traveled more miles, visited more cities, spoken before more organizations and groups of people, talked to more individuals in the grocery stores and wherever we have been in America on this subject of tax reform than perhaps anybody. And what the gentleman from Louisiana will tell us and what I will tell our colleagues:

In all of these miles and all of these meetings and all these discussions with all these thousands of people that we talk to there is one consensus that comes burning through. The current Tax Code is an abomination to the human spirit, it goes against everything that we think is important, necessary, beneficial, useful and healthy in the life of our family or our business, and we cannot and will not suffer it any longer, and we expect Congress to do something and do something about it now. They have had a great opportunity to look at what I have offered, the flat tax, or what the gentleman from Louisiana has offered, the flat sales tax, and there is a commanding concession, shows up in the polls, shows up in all our discussions, that one or the other, either of these would be a godsend and a relief by comparison to the current struggles had with the current Tax Code.

Now what are we doing here today? We are saying to the American people, "We offer you here a bill that expresses the resolve of the Congress of the United States to sunset this code that is driving you crazy, Mr. and Mrs. America, that costs you $200 billion in compliance costs, that costs the average small business in America today $4 in compliance costs for every dollar's worth of revenue that accrues to the American government and tears up your family life for at least 5 months out of your year. But we will sunset that in the year 2002, and by a timetable stipulated in the bill the Congress of the United States working with the President will develop that replacement code."

Now let us suppose that we pass this legislation, let us suppose that the President signs this legislation, let us suppose that for the next year and a half or so we labor under this law, and let us suppose that Congress finds itself incapable of doing that. Congress then can come to the floor with a bill that says, "Mr. and Mrs. America, we vote now to continue the existing code." How would my colleagues like to make that vote as a confession to the American people that after 2 years, 2½ years, we are incapable of producing that new Tax Code? I do not think we want to make that vote. So what this says is Congress, having made this vote, will get down to business, get the job done. That is what is expected of us.

Now one final point:

The American people will tell us that the problem they have with the code is it is too intrusive. It governs the way they make decisions. They cannot make a decision in the family or in their business based on family, the financial economic criteria. They have to make decisions based on tax criteria, and it is a burden to them.

And listen to the defense of the existing code in opposition to this initiative today. It is a validation of that argument. It is saying that if, in fact, we tell the American people they will not have this code, they will have another code in just a few short years, the American people are supposed to be people that would go into a frenzy of insecurity for they will not know how to make their decisions without this code. What could more validate their complaints?

Let me suggest the spirit of the American people is quite different. The spirit of the American people will be we have got a promise to be relieved of this burden in our lives, we have a commitment, and we should plan for freedom, dignity, respect, honesty, fairness, simplicity, decency. We should plan on the day soon when the government of this country will finally know the goodness of the American people and have the decency to respect that in the manner in which they extract these necessary funds.

I think we will not find an insecure American people. I think we will find an elated American people.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to say to the majority leader that he has been providing such strong leadership for the last 3 years, and no one can doubt the leadership of the Speaker, the gentleman from Georgia (Mr. GINGRICH). They have got outstanding leaders on that side of the aisle, intelligent, bright, creative people. Why should we believe, if they have not been able to come up with anything in 3 years, that they are going to come up with anything in the next 3 years, which of course assumes that my colleagues also know that they are going to retain the majority?

Mr. ARMEY. Mr. Speaker, would the gentleman yield for just a moment for a response since he directed the question to me?

Mr. RANGEL. Always being the courteous one, Mr. Speaker, I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I appreciate the point the gentleman is making. I would just say to the gentleman the leadership this Republican majority has, I think gentleman is right, for too long too much occupied itself with trying to clean up the mess of the prior 40 years, and it is now just time to cut the cancer out altogether and start afresh, and I appreciate his point.

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Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California, (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank our ranking member, the gentleman from New York (Mr. RANGEL), for giving me the opportunity to speak in strong opposition to the Tax Code Termination Act, H.R. 3097. It is really difficult to believe that Republicans would actually submit this unworkable, impractical legislation.

Yes, Democrats and Republicans have different values and support policies that have significant impacts which are different on all of us, but historically, legislation that has been introduced by a majority party most often has merited serious consideration, especially on controversial issues like taxes.

It is important for all Americans to know that this extreme bill has had no committee deliberations, no hearings, and thus has had no input from Democrats and the public.

Mr. Speaker, when I served on the Revenue and Taxation Committee in the California State Senate, one of our most important responsibilities was to determine the fiscal and economic impact of tax policy. Committee deliberation was an essential part of our responsibility as legislators.

This bill to sunset the Tax Code cannot be serious. The impact of this bill, were it to pass, would make planning impossible for anyone who plans to make a financial transaction, such as selling a house. The bill sunsets most of the Tax Code effective in the year 2002, and there is no replacement tax system. Does our country actually need another threat such as this one?

The bill could knock out municipal and State bonds which offer tax-exempt status and are a significant part of our economy. School construction cannot be financed. Companies will not be able to make sound investment plans.

This is not the way our democracy should work. Our work here has serious, profound consequences. So I ask that we defeat this obviously unworkable, foolish and foolhardy proposal.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman from Kentucky for yielding me this time.

I rise in strong support of the Tax Code Termination Act, a bill that would eliminate a 5.5 million word Tax Code, and it is time that we do it.

Mr. Speaker, it is interesting the debate that we hear, those who would defend the status quo and those who would say that there have not been any hearings held. I can tell my colleagues that there have been hundreds of my colleagues who have joined me in going across this Nation holding hearings, listening to the American people where they live and work and raise their families, and overwhelmingly we have heard that there is a sense of urgency in that we must make an immediate change.

I commend the sponsor of this bill, the gentleman from Oklahoma, for his courage and his vision. I am very pleased to be an original cosponsor to this very necessary piece of legislation. Because indeed, if we do not hold some sort of a gun to this body's head, it will never change, because there are too many people willing to defend the status quo, to defend an Internal Revenue Service that breaks lives and breaks futures and breaks bank accounts.

It is time that we break through the fear and intimidation that we are hearing from the other side and bring a sense of freedom and self-determination back to the American people.

What we intend to do, let me tell my colleagues, and the American people love it, is to shift power to the local and State governments. We are eliminating waste and curtailing the abuse of the Internal Revenue Service. We are eliminating an agency whose budget has tripled in the last 16 years, and yet failed a government audit because it could not account for hundreds of millions of dollars, and people in this body are trying to defend the status quo? I do not think so. This bill is necessary and it is timely.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for his leadership.

The gentleman made a point earlier today about how easy it would be for legislators to take this political vote and eliminate the Tax Code. I would simply put it slightly differently. It is going to be easy for me to vote against it, because I represent working men and women.

I represent those who benefited from the earned income tax credit of which we were very right to ensure that we protect those men and women who made under $30,000 a year. I would like to think that I represent men and women who go to work every day and want to ensure that their employer provides them with the kind of health care of which the Armey flat tax would eliminate and the Tauzin retail sales tax, which must be the result of eliminating the Tax Code. So I cannot afford to vote for this legislation, because I have to vote for health care.

Frankly, as someone who believes in the Boy Scouts and Girl Scouts and the United Way, I cannot afford to vote for a piece of legislation that eliminates and disregards all of the charitable donations that we give around this Nation.

This is a frightening piece of legislation, and frankly, I think if the American people knew what we were doing here, they would be bombarding these chambers begging us not to do it.

Then all of the homeowners, as I participated in the Habitat for Humanity this week, the largest project going on in Houston, Texas, and seeing their work and tears in the potential homeowner's eyes as they will pay their meager earnings to provide for a house, and we want to take away the homeownership deduction, the mortgage deduction. This is a frightening piece of legislation.

I can only say that I understand the concerns about the Internal Revenue Service. I have legislation to make it a softer, nicer Internal Revenue Service, to eliminate the marriage penalty. But the American people realize that they want good health, they want a good environment, they want the Yellowstone Parks, as they venture out into the summer for their summer vacations; they want to be protected on the highways and byways.

This is a bill that would cause a stampede to this Congress begging us to vote "no," and I am glad I will be standing with the American people. I will be voting "no" on this bill.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Speaker, our Tax Code is a monstrosity. It is one that I do not believe can be tinkered with or reformed. It has become a Goliath that has to be slain. It is 17,000 pages, 5 and-a-half million words, and 3 times longer than our Bible. Our Tax Code is too complicated and it is far too complex. Even worse, it is unfair and counterproductive.

Why? Because it penalizes the people of this country for being married; it penalizes them for working, for being productive, for saving. It even penalizes the people of this country for dying.

Mr. Speaker, this is insane. It is time to scrap this code, and we have a bill before us today that will do just that. The Tax Code Termination Act will put an end to one of the largest, most complicated and detrimental tax systems in the world. This legislation will at least force Congress into a serious and open debate on the best way to replace this old Tax Code.

Mr. Speaker, a vote against this bill is a vote for the same tax policies we have suffered under for the last 30 years. A vote for this bill is a vote for finding a better, fairer, simpler way for Americans to perform their civic duty. In short, this will be a vote for the American people.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

This is another in those proposals that have become familiar around here. We call it "government by gimmick."

What should we do? We ought to have term limits and then spend all of our time trying to figure out on the other side how to get out of those commitments we made. Then we ought to have the line-item veto around here so that we can pray that the Supreme Court will turn it down. Then we ought to have the Balanced Budget Amendment which we were able to accomplish without disturbing the Constitution.

What is the latest gimmick? The latest gimmick is, how do we tell the American people we are now sunsetting the Tax Code when there is not anybody here who believes that 5 years from now or 4 years from now that that is going to occur.

This outrageous bill, which they propose and suggest would terminate our current system, is nothing more than another effort to convince the public that government solutions are all going to be easy. Nobody here defends the current tax system or says that it does not need some improvement. Nobody says that the IRS here is not in need of improvement. But what The Washington Post did say in response to this proposal was, why do we not just sunset the House?

Let me give you a brief quote from that editorial. "House Republicans have scheduled a show vote this week on what is arguably the least responsible idea in American politics. They would sunset most of the Tax Code effective January 1, 2002, without having agreed upon what ought to be the replacement."

Now, let me suggest on this occasion, they have not told us what they are going to do with the homeowner deduction. We know that the flat tax would cost 17 percent, and that simply is not enough to generate the current support and level of services that the American people have come to accept and enjoy. The Department of Treasury believes that the tax rate needed to raise the current amount of revenue would raise taxes on middle income Americans if their proposal was to pass by $1,500, and the top 1 percent would get a tax break of $44,000. So what their proposal means is this: The wealthy are going to pay less and average Americans are simply going to pay more.

The national sales tax calls for a 23 percent sales tax to replace all individual and corporate income taxes, the Social Security payroll tax, and the estate taxes. These are hidden taxes on State and local government that could result in the expenditure of up to $120 billion in new taxes at the State and local levels. These tax proposals would be nearly impossible to enforce.

We should not sunset the code before we agree through consensus of Democrats and Republicans how to improve the system. We should not provide uncertainty to the system. We all agree that the current system is flawed, but we have to have worthwhile provisions that the American people will come to regard with an element of respect. I wish I had more time to go on and on about this, Mr. Speaker.

Mr. Speaker, today we are debating a bill that Secretary Rubin called "semi-ludicrous." This outrageous bill would terminate our current tax system and not set a date for enacting a new system. I do not think that one Member of this body does not think that our current tax system needs improvement. I do not think that one Member of our body thinks that the Internal Revenue Service (IRS) does not need improvement.

This does not mean that we should support irrational legislation. On Sunday, the Washington Post ran an editorial entitled "Why Not Sunset the House?" Let me give a brief quote from the editorial "" * * House Republicans have scheduled a show vote this week on what is arguably the least responsible idea in American Politics. They would sunset most of the tax code, effective Jan. 1, 2002, without having agreed on the replacement."

Congress is in the process of taking responsible action on the IRS. The House and the Senate are in the process of a conference agreement to iron out the differences in the House and Senate passed IRS bills. Commissioner Rosotti is committed to improving the IRS and I believe he has already made progress.

The two leading proposals for tax reform are a flat tax and a national sales tax. Both these proposals have fundamental flaws. The flat tax would replace our current system with one rate and that rate would be 17%. The Department of the Treasury believes that the rate needed to raise the current amount of revenue would raise taxes on middle-income families by $1,500 and the top 1% would get a tax break of $44,000. A flat tax kills the progressivity of our current tax system.

The national sales tax proposal calls for a 23% sales tax to replace all individual and corporate income taxes, the Social Security payroll tax, and the estate tax. There are hidden taxes on state and local governments that could result in $120 billion in new taxes for state and local governments. This tax would be difficult to enforce.

We should not sunset the code before we have a solution to fix the system. We should not provide uncertainty to the system. I agree our current system is flawed, but we do have some worthwhile provisions that provide protections that many taxpayers rely upon.

Let me talk for a second about the home mortgage interest deduction. This provision has benefited millions of Americans. Twenty-eight million Americans benefit from this deduction and more than 50% of these taxpayers earn less than $75,000. This deduction has helped many of us with the American dream of owning our own home. Scrapping the code leaves this deduction uncertain. Also, the deduction of state and local property taxes would be uncertain. This deduction helps make it easier to own a home.

We also have many other valuable deductions such as the deduction for health insurance of the self-employed and charitable deductions. Retirement savings receive preferential benefits from our current tax system. Scrapping the code does not protect retirement savings. Why should we encourage investment in Roth IRAs if they may no longer exist in 2002?

Let's stop this nonsense and address real tax reform. The Democrats on the Committee on Ways and Means have introduced a series of bills to make it easier for taxpayers to compute their taxes. These bills address the individual alternative minimum tax (AMT), individual capital gains, and the calculation individual phaseouts and deductions.

I urge my colleagues not to be part of this outrageous proposal. We should get back to work and work together to simplify our current tax system.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume, just to respond.

I did not know The Washington Post was the expert on tax policy in this country, especially their editorial page.

The markets are panicking so much that we are about to pass this on the floor that the Dow Jones is up 180 points, the Standard & Poor 20 points and the NASDAQ is 38 points today in response to the fact that we are going to pass this horrible, irresponsible bill, and the financial markets are in a panic today.

Mr. NEAL of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BUNNING. I yield to the gentleman from Massachusetts.

Mr. NEAL of Massachusetts. Mr. Speaker, is the stock market growth that we witnessed in response to the Clinton budget that we passed in this institution without any help from the other side?

Mr. BUNNING. No, it absolutely is not. It is in response to the fact that we have balanced the budget and the Republican Congress is the person that passed the balanced budget bill.

Mr. NEAL of Massachusetts. Mr. Speaker, if I recall, there was not one vote from the other side.

Mr. BUNNING. Mr. Speaker, reclaiming my time, I yield 1½ minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, let us clarify what this debate is about. We are not changing the Tax Code overnight, but for those who come to the floor and defend this and defend this number of books, I urge the Members who defend this to go ahead and sit down and try and figure out their own taxes. If Members of Congress were required to do their own income taxes every year, they would realize the severity by which we have inflicted pain on the American public.

I also heard today that this is about politics, today's vote is about politics. What do we think represents every page in this book? About politics, about adding amendments.

Now, I did not hear the gentleman from Oklahoma (Mr. LARGENT) or anyone else defending the Republicans who added amendments. He did not say that, nor do I. I suggest both parties are responsible for the promulgation of these rules, regulations, amendments, addendums that require every average American citizen to hire expensive accountants in order to just comply with the law. Money Magazine challenged 50 tax preparers to prepare the return for an average family of 4, the same return. Forty-eight failed to get the same answer. Only 2 were successful in completing the equation.

Now, that should speak volumes, as the books do, about the complexity of the code. Every law we pass in Florida now has a sunset provision. That is a normal, standard operating procedure, because laws do not exist forever. I remember as a young person when rust would appear on my car and I would try to sand the rust and put bonding on it, and I was so surprised months later that rust reappeared. If we merely tinker with this, it will continue to haunt us, and I urge Members to support this bill.

□ 1400

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, I have a record in support of reforming and simplifying the Tax Code and in favor of reducing the tax burden. As a businesswoman, I know how this complicated system undermines the success of entrepreneurs and small businesses. But tossing out the code without any notion of what will replace it is dangerous.

I worked in the financial markets and my colleagues on Wall Street tell me that this will create uncertainty in the marketplace, and that is America's pension plans on the line.

The Secretary of the Treasury says that it will create dangerous uncertainty in the marketplace. And think about the uncertainty that this creates at the kitchen tables around America. Do we want to see the value of our homes decrease next month over the uncertainty of whether the home mortgage deduction will survive the ban? Do we want to see a drop in charitable contributions because people do not know whether they will remain deductible? Would any American vote for a proposal like this without knowing whether it would result in their own taxes going up because of an unknown plan that might replace the current code?

Mr. Speaker, we need the courage to propose a replacement before we toss this out.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, we have seen this year that the American people have a hard time saying good-bye, good-bye to anything. The final episode of Seinfeld was a national event earlier this spring. We made it clear that we did not want to say good-bye to our favorite cast of characters.

And after the Denver Broncos won the Super Bowl this year, the big question was whether John Elway would return and come back to defend the crown. Fans of the Broncos begged John to return for just one more year. We did not want to say good-bye to one of the greatest quarterbacks ever to play the game.

The NBA Finals this year received huge ratings, partly because America knew we might be saying good-bye to a sports dynasty.

Mr. Speaker, we have an opportunity this year in this place, this day, to begin saying one more good-bye. If we pass this bill, we will say good-bye to 800,000 words of Tax Code. We will make the statement, our Tax Code is not worthy or capable of reform, but of replacement.

Mr. Speaker, the American people have spoken. Some of them want a national sales tax. Some of them want a flat tax. But all of them seem to agree on one thing: They want to scrap our current Tax Code and start over.

Most importantly, it is time to say good-bye to the IRS. America held Seinfeld parties, we held Superbowl parties, we held NBA parties. Mr. Speaker, let me assure my colleagues that if Congress votes to sunset the Tax Code, we will see parties across this country like we cannot believe.

America does not like to say good-bye, but in this one case I think we would be willing to make an exception.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, I was reminded of some questions recently that my daughter was asking me and when I had to say no, she kept saying to me why, why, why? This whole debate reminds me of that conversation. Why, why, why?

If the majority wants to get rid of it, what will they do? Do not tell us in the year 2002, tell us now. For those families who are thinking about buying a home, what will the price of the home be now? They need to know. Will they be able to deduct the mortgage interest on the home or not? Will that increase the price they have to pay or diminish the property value once they purchase?

Will that individual, thinking of moving to a new company, have a pension plan because the company knows that right now the Tax Code provides an incentive for companies to provide employees with a retirement plan, and as a result, they get to deduct some of that from their taxes. But if we are going to abolish the Tax Code, will the company be offering pension plans to their new employees?

Why? If my child is entitled to an answer, certainly the American public is entitled to an answer.

Why? What? How? When?

This is nothing but bumper sticker politics. We want to be able to go into November saying, "We did this. We talked about abolishing the Tax Code." It does sound very good, and I suspect after the vote in this House by the majority party here, they will have the votes to pass it on. It will not become law, but they will be able to say they tried to abolish the Tax Code and it will sound great.

But, Mr. Speaker, all the kids in America will still ask why, how, what, and they will never give them an answer. The majority will do the worst kind of policymaking that is possible in this country, and that is legislating by fiat, legislating by show, legislating by theater, legislating by bumper sticker.

Mr. Speaker, that does not do anyone any good. We ought to give the American public, and America's children, whom this will affect most, an answer.

Mr. BUNNING. Mr. Speaker, I yield 1½ minutes to the gentleman from Colorado, Mr. BOB SCHAFFER.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I thank the gentleman from Kentucky (Mr. BUNNING) for yielding me this time.

Mr. Speaker, this is no small debate. But the National Federation of Independent Business, the Nation's largest advocate for small businesses in our country, supports the sunsetting of the Internal Revenue Service Tax Code. They have gone all across the country surveying their members, talking to people throughout the Nation, and small businesses have told us over and over again that this IRS Tax Code is too cumbersome, it represses small business in America. It represses the entrepreneurial spirit of the American people and a Tax Code needs to be reviewed.

This is not new, when it comes right down to it. Most States throughout the country have sunset codes on all of their regulatory law. This is true in Colorado. There are sunset dates, termination dates, on every single regulatory function of State governments in many States throughout our country. It really does turn the tables and gives the advantage back to the taxpayer and takes the upper hand away from the government. That is what Democrats fear. They fear that because, when it comes to what side we are on, that of the government or that of the people, Democrats always side with the government. We side with the people.

Mr. Speaker, our main supporters want to see lower taxes, more tax relief. Their side enjoys bigger government and more revenue for the government, because those are their constituents. That is fine. They have become the tax collectors of the welfare state. We have become the party of the people that want to be taxed less.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, well, I have listened to some of this debate and I think I can sum it up very quickly. I am not in favor of the status quo, but I am not in favor of anarchy.

Anarchy is not being on the side of the American people. The majority is proposing to tear down a house before they have even put one block into a new one. It will not sell. I have heard some say, we need to force Congress to do something. Who has had the majority in this place for 4 years? Where have they been?

They had the majority in both the House and the Senate to pass something. Maybe the President would have vetoed it. But they have not passed a comprehensive tax bill that he could say yes or no to. They say we have to force ourselves?

Mr. Speaker, I suggest the fault is not in the stars, I say to those in the majority, but it is with yourself.

Why is the bill opposed by such a full spectrum from the labor movement to the National Association of Manufacturers? Do not take comfort that when most everybody is against you, it is something good. The people will not buy this.

How are they going to plan mortgages? How are they going to plan their estates if they have no idea what charitable deductions will look like? How are companies going to plan health care coverage if they do not know whether they will be deductible? How do municipalities begin to issue bonds? It is chaos.

Is the majority going to suggest we sunset Social Security next because they do not like the Social Security system?

Mr. Speaker, after the sunset comes darkness where I come from. This is a very dark proposal. If my colleagues on the other side of the aisle think the American people will buy this, they are only fooling themselves.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope the gentleman from Michigan has read the bill. The sixteenth line of the second page, "In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by the Congress in its final form no later than July 4, 2002."

Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I stand in strong support of this legislation. Indeed, I think if there is one thing all Americans can agree on, and indeed Members of this body, it is that we have always been the beacon of freedom around the world. We have always been the place where people have come to free themselves of religious persecution and the Nation that still cherishes the notion of life, liberty and the pursuit of happiness.

Mr. Speaker, I think if our Founding Fathers were alive today, they would be looking at our Tax Code with disbelief. Indeed, I stand with all of my Republican colleagues, or at least most of them, to say that the time has come to end the rusty rhetoric that we have been hearing for years to delay, stall and obfuscate what the real issue is, and to tear down this Tax Code once and for all.

There has always been a constant struggle since the beginning of the Republic between and among those who believe that government serves a purpose, but it serves a purpose to unleash the American spirit of hope and opportunity and belief that limited government is the right role for government, that the decisions made in our towns and villages and States across this country, like Staten Island, Brooklyn, the places I represent, are better than those made here in Washington.

What we have created here is a praetorian guard that has defended this Tax Code. The defenders of the status quo who proclaim that if we engage in this 4½ year mission to reform and revamp the Tax Code to make it simpler and fairer and flatter, one that promotes growth, one that promotes savings and investments, one that tries to take money out of Washington and puts it back home in Staten Island and New York where I think it belongs with the hard-working people of this country, and they say that we will have Armageddon.

This country has defied every obstacle known to man, defied the odds, overcome obstacles. Just this century we have won two world wars. We have lost valiant veterans in Korea and Vietnam fighting for freedom, and just recently in the Persian Gulf. Are we to believe that we cannot overcome this challenge?

Mr. Speaker, this is the time to end the rusty rhetoric, to throw out the garbage that we have been hearing. Let us show the defenders of the status quo that America indeed is ready for this long overdue challenge.

America has proven its greatness time and time again. Sunsetting the Tax Code, a complete disgrace to all of us as we have all acknowledged here today, is no exception. I congratulate the gentleman from Oklahoma (Mr. LARGENT) and the gentleman from New York (Mr. PAXON) for introducing this bill. I urge, for the sake of all America and its future, that we pass it.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me this time.

Mr. Speaker, after the highway bill that busts the budget and all the pork projects in it, and the fact that we debated the Republican budget resolution at 12:30 in the morning because they did not want to debate it in the light of day, I did not I think the fiasco of the House Republican leadership could be topped until this "special order" piece of legislation was brought to the floor.

Mr. Speaker, this is the most ridiculous thing I have ever seen. We are going to throw out the Tax Code, tell American business that they are not going to know how to invest, not going to know what to issue debt to, issue stock, not going to be able to know what to do because maybe we will do a new Tax Code by 2002.

The gentleman from Kentucky (Mr. BUNNING) says that the bill says, "Congress should." There is a difference between "should" and "shall." The fact is that if we want to do tax reform, we should get the gentleman from Texas (Mr. ARCHER), the chairman of the Committee on Ways and Means, my good friend and colleague from Texas, to mark up a bill and bring it to the floor. Let us debate it now. Bring the American people in on the deal.

All this does is set up the Congress for failure and set up American business for failure.

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Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

One of the primary reasons why fundamental tax reform has not been enacted, and I hear many Members over there saying, well, you are in the majority, let us go enact these changes, is that the person who occupies the Oval Office is opposed to any kind of tax reform. He likes it. He likes the code as it is, as do many Members on the other side of the aisle who, for 40 years, when they controlled the House of Representatives, used it as a means of redistribution of income in favor of their constituents and their supporters. That is why we need to replace this Tax Code as soon as possible.

Despite the 40 years of Democrat controls, they wrote a code which no one considers fair or simple. How and now is the time to redo it. They did not do it for 40 years when they were in command. We want to do it and start it today. Legislation that we have in front of us is the first step in making that change.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to respond to my friend. It is almost funny. If the gentleman is saying that the Republican majority could not possibly pass any meaningful tax reform legislation because of our distinguished President being in the White House for the last 3 years, then what he is really saying now is, since the gentleman and I know the President is going to be there for 2 more years, that they will not be able to do anything for 2 years. Give me a break.

Mr. Speaker, I yield 1½ to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding to me.

No one likes taxes, but taxes are how we fund our schools, our national defense, our police, our parks, environmental protections, highways, and roads. Unless we are going to do away with all those things, do not let anyone fool you into believing they are going to do away totally with your taxes. They are not. If we do away with this Tax Code, we have got to have another.

The first problem with this bill is, they do not have another. This bill eliminates one Tax Code without proposing a new one. In other words, Republicans want to do the easy thing now before the election and save the hard part for later.

Republicans say let us eliminate the home mortgage interest deduction now and, trust us, we will make it up to you later. Let us eliminate incentives for employers to provide health care and pension plans and, trust us, we will make it up to you later. Trust us, they say.

But do you know who does not trust them? The National Association of Manufacturers does not trust them. The AFL–CIO does not trust them. How many times do we get the unions and the manufacturers opposed to the same bill? That tells us something.

Both groups want to keep the economy strong and save American jobs, and they know if business cannot count on the reliability of the Tax Code to plan ahead, to calculate the after-tax costs of investments in plants and equipment and people, then jobs will be lost, the economy will suffer. That is why they are united against this bill. That is why middle-class Americans should be, too.

Any bill that gives a full tax break to someone who inherits a fortune and has never worked a day in their life but takes away a home mortgage interest deduction makes no sense.

Let us have a new Tax Code. But it has got to be fair, not just simple, and it has got to be ready before we eliminate the old one. Do not ask for our trust to fix it later. Give the American public the facts now, unless my colleagues are afraid of what they are offering.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Speaker, I thank the gentleman for yielding to me. Mr. Speaker, this is an important debate. Really what is happening here today, this whole argument is about power, about who has it, and who does not have it. As long as we have this existing Tax Code in Washington, the Federal bureaucracy and the Internal Revenue Service have the power, and the American citizens do not.

I think that one of the reasons we hear the liberal left squealing on the floor today is because they hear that big sucking sound, being power going out of Washington, D.C., and back to individuals and families in this country. That is really what all of this is about.

So people today who want to vote for the status quo, who want to vote for the current Tax Code and for keeping power in Washington and power with the Federal bureaucracy, vote against this legislation. But if my colleagues are in favor of doing something that is responsible and going to say to the American people that we want them to have power and we want them to have control, and we want to take all of this bureaucracy and all of this special interest money that the other side has talked about today that feeds into keeping the Tax Code the way that it is so the Washington bureaucracy can continue to stay the way it is, then vote with the other side.

We have heard a lot of talk today about the word "irrelevant." We have a Tax Code that is so complicated that Americans are forced to spend over 6 billion hours and $190 billion complying with it. The Tax Code is cumbersome. It is complicated. It is burdensome. If that is not irresponsible, I do not know what is.

The other word I heard today thrown out was "semi-ludicrous." The IRS fined a taxpayer recently $10,000 for using a 12-pitch typewriter instead of a 10-pitch typewriter to fill out his tax forms. That is not just semi-ludicrous, that is fully and completely ludicrous.

We have a major problem. The other side said, when we were talking about the balanced budget, that you cannot balance the budget in 7 years because it is going to destroy the consumers. The nay-sayers, the doom-and-gloom prophesies that are coming from the other side are just exactly what they are; and that is a desperate attempt to try and keep power in Washington, D.C., and keep from giving it back to the American people. We need to support this legislation.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, you have probably heard it all about status quo, agents for change. Eventually, you are going to get a team to pick, and everybody in America can choose up a side. We have got two leaders here today that are in the Hall of Fame, one in baseball and one in football.

This really is about team sports; politics are about team sports. Politics are really about team sports. Two teams are going to take the field today when we vote. One team is going to say the Tax Code is too large, too cumbersome, and we are going to replace it in a timely process, in a reasonable process. We are going to give ourselves 3 or 4 years to do it. If at the end of the 3 or 4 years we do not have a compromise that will work, we will just extend the current Tax Code and keep working on it until we get it right.

That team says what we have today is wrong, and we are going to work on it until we get it right. We think 3½ to 4 years is enough, but if we are wrong, we will extend it. But we are not going to sit by and let the Tax Code be unnoticed. We are going to be agents for change.

The other team is going to say it is irresponsible to take a Tax Code that manages the economy to the extent that this Tax Code does and manages people's lives and replace it without knowing where you are going to go. There is a certainly logic to that argument. But a 4-year period, knowing that you are not bound by the 4 years, if you need to extend it, you can, I think that argument sort of falls flat; and it really is a status quo argument.

That team is divided into two camps. One group really believes you need something certain before you replace the current Tax Code. A group within that group never wants change, and they are just saying it as a way to avoid change.

But if you took that logic and applied it to the history of this country, I doubt it if you would have had much teeth on it in Boston Harbor. I guarantee the first militiamen who fired the shots at Lexington-Concord did not know how that thing was going to end, but they knew they were doing the right thing. They knew that they were taking a stand, and what they were leaving behind was unacceptable.

That has been the history of this country, people being bold when they need to be bold, taking oppression and throwing it off the yokes of the working people. That is what this vote is about. That kind of logic, if we had had it in the mid-part of our country here in the 18th century, we would still be in Ohio because nobody would want to go any farther West because they do not know what was over the hill.

I can tell you what is over the hill for the American worker: a new Tax Code that is simpler, that is fair, that does not chill you to the bone is a good day. That day is going to come sooner or later. I hope it comes by the year 2003.

The only way it is going to happen is if we set a date certain and put a closing date like we do on our House. Anybody that has ever been in litigation, anybody that has ever been a lawyer, they do most of their work on the steps of the courthouse because they have got something to do. You have got a date to meet.

We need a date to take this Tax Code and put it in the history books, put it in the history books where it belongs and replace it with something that helps the working people of this country. We can do it, Republicans and Democrats alike. The reason we know we can do it is, we balanced the budget together. But we have got to buy into it. The status quo has got to go.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I rise in support of the Tax Code Termination Act. Really, when you think about it, this is a rather momentous day, the fact that the United States Congress would come together and have a vote on this matter. Whether we are against this or for it, this is a very significant period in our history to be able to come on the House floor and say we are against the present Tax Code and we wish to change it.

It is important to relate to the constituents and to Members that there is an exception in this for Social Security and Medicare. So when we are eliminating the Tax Code, we are not attacking Social Security. We are not attacking Medicare.

Be that as it may, the last tax decreases in this country provided 300 changes to the Tax Code. If all of us on the Republican side and on the Democrat side go out and say, oh, we have decreased taxes, but at the same time, changed the Tax Code 300 times, what have we done? If we do that year after year after year, it is going to get impossible. In fact, that is where we are today. It is literally impossible to do our taxes.

We are starting the debate by saying, okay, let us do away with the Tax Code by 2002 and replace it with a sales tax or a flat tax or a combination thereof. What is wrong with that? If anybody is going to vote against this, they are voting against open discussion to have a new system. So how can anybody be against the idea of reforming.

In America, there are seven traits that make up all of us because we are an American; and one of them is we like choice, and the other is we like reform. We are willing to change things. We are not satisfied with the status quo. We are always trying to improve.

A third thing is we are impatient as Americans. We believe there is a better way. So what we are doing this afternoon is we are saying there is a better way for America to pay their taxes.

Secondly, we think we can reform the system we have, and let us make the decision, the choice if you will, now to eliminate the Tax Code and get the discussion going.

The SPEAKER pro tempore (Mr. EVERETT). The gentleman from New York (Mr. RANGEL) has 9 minutes remaining. The gentleman from Kentucky (Mr. BUNNING) has 14 minutes remaining.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I rise today to express my support of H.R. 3097, the Tax Code Termination Act. In 1996, during my campaign, I pledged, like many of you, to reduce the tax burden on the American family. This legislation is a step in that direction.

The current Tax Code puts an onerous burden on every American family. It is complex, confusing, corrupt, costly, and coercive. Americans work nearly 5 months of the year, until May 10, just to pay their Federal tax bill.

We are taking a first step today to reduce this burden. This bill sets a clear direction, a direction toward reforming by triggering a national discussion. A deadline will work wonders in focusing the energy of the American people, Congress, and the President on real tax reform.

The national debate is the only real hope of transforming the IRS code to a clear, unimplemented, and fair Tax Code. The American people deserve this debate. It is our job to start this debate with clear action by sunsetting the Tax Code today.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, here we go again. I rise in strong support of responsible, credible tax reform. But H.R. 3097 is not about tax reform. It is an effort to take up our time with a meaningless political statement designed for a 20-second sound bite.

I believe that Congress should begin to roll up its sleeves and begin to work on serious tax reform. We should have done it last year, the year before, the year before that; 4 years we have had.

The same people that talk about the need, and I agree on this, we need to change our Tax Code and encourage savings and investment. Above all, we need to be careful that tax reform is handled responsibly to ensure that we do not jeopardize the economic expansion that we are now enjoying.

The House will have an opportunity to express its support for responsible, credible tax reform by voting for the Rangel-Boyd-Tanner motion to recommit.

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It is irresponsible to pass legislation that will require future Congresses to establish a new Tax Code without knowing how the new Tax Code will affect taxpayers.

A businessman trying to decide whether or not to make a new investment for the next 4 years is going to deal with tremendous uncertainty. A community considering issuing a tax exempt bond, again, uncertainty. Businesses deciding what type of health insurance or pension, uncertainty. Families who want to purchase a new home, uncertainty. Farmers and ranchers will not know how the new Tax Code will treat the sale of their land and other assets. Uncertainty. Why not deal with certainty? Why not have the debate about how we do these things before. That is what the motion to recommit is all about.

Before I commit to supporting a new Tax Code, I need to know how it will treat farmers and ranchers, how it will treat the oil and gas industry, how it will treat small businesses who are now trying to compete in an international marketplace. I need to know how it will treat the average man and woman in my district before I vote to do away with the Tax Code, as politically appealing as that might be.

This legislation is another example of the fiscal recklessness of the Republican leadership. Just last month the chairman of the Committee on the Budget was quoted widely saying, "Balancing the budget was never our goal." Recently, the chairman of the Committee on Ways and Means issued a press release expressing grave concern that we are running surpluses that allow us to pay down the debt. Last week the leadership tried to intimidate CBO to change their estimates to fit the Republican agenda.

A vote against this resolution says that the American people, get this, a vote against this resolution says the American people want proof up front what we are talking about doing, not endless political promises. If my colleagues are willing to jeopardize the growing strength of the economy and balanced budget plan in order to make a political statement, vote for this resolution. However, if my colleagues want Congress to begin serious work on responsible, credible tax reform, vote for the Rangel-Boyd-Tanner motion to recommit.

Mr. BUNNING. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. PAXON), a coauthor of this legislation.

Mr. PAXON. Mr. Speaker, about a year ago I was holding a town meeting outside of Rochester, New York, and as I often do, I talked about our agenda. And a major part of my agenda is ending the tax system as we know it, replacing it with a fairer system, whether it is a national sales tax or a flat rate income tax or some other system. And I made that comment and a constituent raised his hand and said, "Paxon, I have heard you talk about this for years. I have heard your colleagues in Congress on both sides of the aisle talk about fundamental tax reform for years. Why don't you stop talking about it and do it. Put in a bill that ends this system so we believe you are serious for a change."

As a result of that, I put forward my piece of legislation last fall that is designed to do one thing above all others: End the skepticism of the American people; make it clear we are serious about tax reform that does not just make the code more complicated, complex and taxes higher, but involves the American people for a change by making it clear where this code is going so they can step forward and be involved in the process.

Now, we are hearing a lot today across the aisle from our colleagues in the other party who say, why do we not just bring it up, bring to the floor today our bill, put it before this Congress and vote on it. My colleagues, that is exactly the thing that contributes to the skepticism of the American people. For years that is exactly what the former majority party in this Congress did time and time again; in the dead of night bring forth a bill that ended up raising taxes, all in the guise of tax relief and reform.

We do not want to contribute to that skepticism. Our goal is to end the cynicism of the American people in the way the process works, to open this process to the American people, to say 4 years from now the current Tax Code ends; that the American people should come forward, get ahold of their Congressman or their Congresswoman or their United States Senator and tell them what they think. We allow two elections to intervene so that the American people can find out how their representatives really feel about this issue.

What might happen, my colleagues, is that something amazing may actually occur. A citizen may well come forward with an idea nobody in this Congress has ever thought of before, an idea that may be revolutionary and be able to be put in place to replace the current tax system.

Now, our friends on the other side of the aisle also make the argument that this will fundamentally ruin the markets; that it creates uncertainty. That is nonsense. Uncertainty? Every single time this Congress meets there is uncertainty. Any day Members of Congress walk to the floor and put in a piece of legislation it can create uncertainty. And, yes, it does create uncertainty. In 1986, it destroyed the real estate market. Other tax relief bills down the years have changed fundamentally the way people have paid their taxes and changed the way investments were made.

We are doing something different, we are saying 4 years from now we intend to make a change that will help the economy of this country. The people will have a voice. It will not just be done in the cloakrooms and the back rooms of Washington, D.C., where only the special interests will have a voice in what happens.

We also heard this same argument when the Republicans put forth for years balancing our Nation's budget. We heard not only in this Chamber but from the White House that balancing the budget will create uncertainty in the markets. They have to be able to have deficit spending, and it will be harmful to our economy. Ultimately, the President signed our bill because we proved that if we are serious and involve the American people in a dialogue, there is not uncertainty nor is there skepticism. It lifts this Nation, working together, moving this Nation forward.

Today, the Tax Code Termination Act, I believe, will be one of the most historic votes this House of Representatives will ever cast. It is turning on its head the system where for years and years only a few insiders, working in the dead of night, could impact on our tax system and on our legislative process. It will ultimately result in the end of the 5.5 million word Tax Code. It will end the authority of 113,000 nameless, faceless bureaucrats. And, yes, frankly, it will end the meddling of 535 people in Congress and a President in a tax system.

Right now it is so complex and confusing, that any time this Congress meets and plays with it, the results are so uncertain most Americans have to go out and hire someone. Fifty percent today hire somebody to help them do their taxes, and then, at the end of it, they do not really know what the Congress did to them. If this code is replaced with a fairer system the American people design, I believe it will be done in such a way that it will be impossible for Congress to play those dead-of-night games. Very, very, very much more difficult for Congress to raise taxes, because the American people understand directly and dramatically how it impacts on their budgets and on their families. And, most importantly, as I mentioned before, it will allow the American people an historic level of involvement in this system.

Now, I find it fascinating, as I travel around this country, and I have been in 65 congressional districts in the past months talking about this and listening to folks about this, that I find unbelievable acceptance, Republicans and Democrats and independents, everywhere I go, and my colleagues I talk to say the same thing. Yet here in this chamber and in Washington, oh, there are folks that are nervous. Of course they are, because we are changing the equation, giving the American people a chance to make history.

My colleagues, I think this is an historic day. I know that the American people will be pleased when they see us move on this legislation. I urge my colleagues to vote with us in support of the Tax Code Termination Act.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, today is a shameful day. This body used to be called the most deliberative legislative body in the world. It has deteriorated, in my judgment. It has degenerated into an arena primarily for political posturing. That is all this bill is about. It is not a serious bill. It is not taken seriously by serious individuals. It is pure political demagoguery.

What does this bill do? It does not reform the Tax Code, it terminates the Tax Code. The Tax Code raises the revenues for the conduct of government. If we terminate the Tax Code with nothing in its place, we strike a dagger at the heart of government. Government cannot function. We are not, therefore, talking about reform of the Tax Code or reform of government, we are talking about the termination of the Tax Code with a date certain when nothing else is in its place.

What would that mean for certain? Nobody would know what would happen during that period of time. We know we would be pulling the foundation out from under our domestic economy. And the domestic economy of the United States is the foundation for the international economy. And my colleagues would play games with that? This is not a responsible approach. This is the height of irresponsibility.

If we can improve the Tax Code, let us come in with the specific improvements. If there are reforms, let us consider them. If there are alternatives, let us consider them. If we want to make termination of the income Tax Code effective only with the effective date of an alternative, that is a different story. But we are not doing that.

The only solace we have is everyone in the world knows this will never become law; that this is simply a political ploy.

Mr. Speaker, I am concerned by today's childish political ploy. If anyone is truly serious about tax code reform, they would have a serious alternative to offer. But they offer no alternative for two reasons. First, they have no better alternative, and second, they know this bill simply terminating the income tax, without the necessity of an alternative being in place, will not become law.

Let's consider for a moment, however, the consequences of this bill if it did become law. Our entire economy, indeed our society, is built on the provisions of the tax code. This bill would pull the very foundation out from under our economy, and have profoundly damaging—in fact, devastating—domestic and international repercussions.

Private savings and investment would be devastated because neither individuals nor businesses would want to make investments that may not be tax-advantaged in the future. Financial markets would be thrown into chaos, and interest rates would skyrocket because lenders would have no assurance whatsoever that the government would not default on its debt. Maybe this is why private business organizations such as the National Association of Manufacturers, the Mortgage Bankers Association, and National Small Business United all strongly oppose this bill, and why the Chief Economist at the U.S. Chamber of Commerce called it "more than a little dangerous."

In fact, every security on which American families depend is threatened by this bill. Their health insurance. Their pensions. Even their jobs. Employers' deductions for offering their employees health insurance would be in jeopardy, and over 165 million Americans are covered by employer-provided health benefits. The retirement benefits of 60 million Americans who have tax-preferred IRAs or employee retirement plans would be at risk. And rising interest rates and slowed investments would slow the economy, forcing many employers to downsize.

So this is not a pro-taxpayer bill. Taxpayers want answers and solutions, and this bill gives them neither. This bill is pure, total, unadulterated political gimmickry. It has nothing to do with an adult, responsible approach to legislating. It is either child's play or dangerous demagoguery—or, more likely, a combination of both.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue and so many other issues important to our State of New York.

I believe it is very fair to say that none of us enjoys paying taxes. But instead of having an honest debate about the Tax Code, the Republican leadership has presented us with irresponsible election year pandering.

This bill brings dangerous uncertainty to the American economy, which has been so successful for the past 6 years, while it puts off the real work of determining what the Tax Code should look like to two Congresses in the future, the summer of the year 2002. That is right, the Republicans are saying let us take credit now for something someone else will have to work on 3 years from now.

I am certainly in support of an honest debate about the Tax Code, but an honest debate means that a real alternative is on the table. If we could consider the national sales tax or the flat tax that the Republicans have been proposing, then we could have a debate on the merits. But, instead, the majority appears to be afraid of a debate on the merits and has before us an election year pandering proposal.

I urge a "no" vote and a "yes" for Rangel-Boyd-Tanner.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, this is a risky tax scheme cloaked in a sound bite that could jeopardize our strong economy.

Two weeks ago the Gingrich Republicans tried unsuccessfully to amend the Bill of Rights, our first amendment, after less than 17 days of committee hearings. Today, the Republican leadership wants to pass a bill to repeal the entire Tax Code without even having 1 hour of committee hearings. The pattern is clear: Gingrich Republicans seem more interested in sound bites than in sound public policy.

This irresponsible approach to the serious business of governing our Nation was captured by the gentleman from Georgia (Mr. LINDER), head of the Republican Congressional Campaign Committee, in his recent memo to Republican House Members. He said this, and I quote: "Write the 60-second commercial we want to run the last week of the campaign, then focus the rest of the year aiming toward it."

Mr. Speaker, the American people are hungry for more than just meaningless sound bites. They want meaningful reforms on health care, education, and campaign finance. Let us kill this bill, which should be called the Full Employment Act for D.C. Tax Lobbyists.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time.

If this is really the best campaign gimmick the majority can come up with, we are not in as bad a shape as I thought we were. I think it is shameful that we should try to play a hoax on the American people and have them believe that we are going to throw away the Tax Code that the Republicans helped to complicate. And they keep throwing all those papers there that they added 800 pages to it.

People used to say that we have to live with death and taxes. Republicans say, no, they can eliminate taxes. And soon, before the election, they may eliminate death. I do not know.

It was interesting to see how my friend, the gentleman from Kentucky (Mr. BUNNING), explained why in 3 years the majority party just could not pass a meaningful bill, because Mr. Bill Clinton is in the White House. Well, let me say once again, Mr. Bill Clinton is in the White House now and will be in the White House next year and will be in the White House the year after that. It seems to me that if the distinguished Hall of Famer makes sense in terms of saying that the President has prevented them from legislating for 3 years, I do not know what in God's name would make him think that the President is going to yield to him in the next 2 years.

In any event, I think what we are saying is that there is going to be a vacuum as to where do we stand in taxes. And one of the Republicans took the well and said it was something like the Boston Tea Party and that we had to be revolutionary about this. The other side really knows how to be revolutionary in terms of closing down the government. They did it once, and they got so good at it they went and did it again.

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And so, maybe there is a lot of support for this type of way that they run government. If they do not like the tax system, say there are no taxes. If they do not like government, just close it on down.

Mr. BUNNING. Mr. Speaker, I yield myself 1 minute to respond to my good friend from New York and tell him that we will have a bill ready to go when the present occupancy of the White House is removed from the White House so that we can get the cooperation of the new President and work with him to make a bill that the American people have participated in and they have let their representatives know that the Tax Code that we presently have is unacceptable and that they are the defenders, my good friend from New York, are the defenders of the status quo and they want to keep the code and redistribute the income of their current people that they represent and make sure that their supporters are part of that Tax Code and they get that income and make sure that they continue to support that.

But we do not want to do that. We want to make sure that we have a new code and a new occupancy of the White House. As soon as we can get that done, we will have a code ready to go. And that is what the law that we have proposed says. The law, not a substitute for the law.

Mr. Speaker, I yield 7 minutes to my good friend, the gentleman from Oklahoma (Mr. LARGENT).

Mr. LARGENT. Mr. Speaker, let me first of all give my colleagues just a little brief history on how this came about and tell them that I am really saddened by the course of debate that we have had today.

I will tell my colleagues and confess freely to the gentleman from New York that the Tax Code and the problems that we have with the Tax Code today is not a Democrat problem, it is not a Republican problem, it is everybody's problem. It is an American problem and we need to address it, and that is what the Tax Code Termination Act is attempting to do.

I would tell the gentleman and all of my colleagues in the House that the very first person that I went to after we wrote this bill was a Democrat, was Senator JOHN BREAUX in the Senate, and I told him about this idea and asked for his support.

One of the next people that I went to was the gentleman from Missouri (Mr. GEPHARDT), the distinguished minority leader, and asked him for his support. I had read his comments out on the campaign trail where he was talking about, and these are his quotes, "Decades of toying and tinkering at the margins have only made the problem worse. And I have concluded that the only way to fix everything is to replace everything, to overhaul the entire system from top to bottom."

That is what Congressman GEPHARDT said. So I thought, surely, he would support this measure. That is what he is saying on the campaign trail, that we need to abolish the Tax Code.

I personally feel soiled as a result of the debate and the rhetoric and the condemnation that has been displayed on the House floor today. I have been called a lot of things before in my life, but I have never been called irresponsible. And I do not believe that I am, and I do not believe that this legislation is.

The thing that really puzzles me is how when the gentleman from Missouri (Mr. GEPHARDT) goes on the President's campaign trail and talks about pulling the Tax Code out by the roots, those are his words, how come it is responsible when he says it, but when I say it, it is "irresponsible," it is "irrational," "the stupidest idea that has ever been introduced to Congress in 10 years." Those were some of the quotes. I do not understand that.

Why is it that when the gentleman from Missouri (Mr. GEPHARDT) says abolish the Tax Code it is not a dumb idea, it is responsible, but when I say it, it is irresponsible? They cannot have it both ways.

Let me say another thing. I am positive that there is no member of the Committee on Ways and Means that has ever read the entire Tax Code. And we heard from a lot of them here. I guarantee my colleagues, there is not a member on either side that has ever read all the pages of the Tax Code. And I understand that. I have not either. I do not plan to. I do not know any of America that has ever read the entire Tax Code.

But let me tell my colleagues about the Tax Code Termination Act. It is a page and a half long. I am pretty sure that most Members of Congress can get through a page and a half of the Tax Code. But the problem is that we have not read it, at least according to a lot of the debate that has been heard on this side tonight.

Because what has been said is what we are talking about doing is abolishing the Tax Code, throwing us into a vacuum, jeopardizing the economy. Not true. Read the bill. It is a page and a half long. I am confident my colleagues can get through it. It is very simple. It is written in plain English.

What it says is that we will replace the Tax Code 6 months prior to the sunset provision. So, in other words, we replace the Tax Code, then we sunset the old code. Let me make that point again because I am sure that most Members did not get that. We replace the Tax Code and we take 4 years to get there.

I am pretty sure if we get the best minds in Congress and the best minds in the business community and the best minds in academia that we can do something comprehensive that will be simple, that will be fair, that will be a lot better than what we have got right now. I am sure we can do that in 4 years.

I know we can do better than what we have got. We can come up with a system that is more fair, that is more simple than what we have currently. And that is the idea behind the Tax Code Termination Act. Again, replace, sunset. In that order. Replace, then sunset. No vacuum. No jeopardy.

Another comment that has been made several times is the threat to the economy. Let me just tell my colleagues that one of the strongest proponents of this legislation is the small business guy. They ask, why would small business be in favor of getting rid of the Tax Code that many believe is so beneficial to the small business guy? Why would they be wanting to get rid of it? Because it is not fair.

The fact is that an average small business guy ends up paying more to file his tax return and the various other forms to the IRS Tax Code, he spends more to do that than he actually owes in taxes. He spends more time complying to the Tax Code and spends more money than he actually owes in taxes.

This is stifling the small businessman. And understand that the small business guy in everybody's district creates about 80 percent of all jobs in this country. So the business community is not threatened by the Tax Code Termination Act. They are begging for it. And so are the American people.

Let me say that I understand why people are scared. Because, like I said earlier, nobody likes to be forced to do anything. And I can tell why Members of this House are scared, as well. Because this is one of those pivotal and rare votes that separates the sheep from the goats. It separates the wheat from the tare. It separates the hypocrites from those who really are serious about doing what is right and replacing the Tax Code.

Because either they are for this and for comprehensive tax reform and doing it sooner, not later, or else they just want to get an applause line at political functions and rail on the IRS, even though it was Congress that created the Tax Code, and get an applause line, knowing that they are really never going to do anything about it. This bill forces us to do something about it.

Let me say, one other thing is that there have been many that have come up and said that in our economy that is strong, no question about it today, that the real heartbeat of our economy and the reason it is doing so well and the reason that we have prospered in this country is not because of the hard work of men and women, not because of the creative genius of the business community in this country, not because we advocate free enterprize in this country and free trade and that we are engaged globally, but because of the Tax Code, that is the real heartbeat of the economy. That is not true.

I urge everyone, if they really are for tax reform, if they really want to do it, vote for the Tax Code Termination Act.

Mr. FAZIO of California. Mr. Speaker, I rise today in exception to H.R. 3097, the Tax Code Termination Act. This bill represents the Speaker and Republican leadership taking a huge gamble with the future and dreams of all American people of average income, state and local governments needing to raise capital, and homeowners. While this proposal offers an interesting challenge, the uncertainty surrounding the bill could cripple our economy that is just now standing on its own.

This bill is purely and simply a political ploy for the upcoming election. Unfortunately it is not even a good one.

Republicans claim they want a "national debate culminating in sweeping reform." If they truly wanted an open debate on tax reform then why was this bill never discussed in committee? Why have no hearings ever been held on this bill? Why not bring their reform ideas to the floor right now?

The truth is that they do not want to discuss the details of these issues, details like: their proposals for a new tax system will tax working families at a higher rate than they are paying now and that the people that get the biggest tax breaks are the ones who need it the least, the rich. I would be more than happy to engage in a national debate on real tax reform, so that we can discuss some of our comprehensive tax reform that is more efficient, fairer and less intrusive.

Since this bill only uproots the current tax system and does not enact reform, it puts the whole country in a state of chaos. Small businesses and investors would be faced with substantial uncertainty when making decisions as to whether or not to make an investment in their future prosperity. Homeowners and people contemplating a new home purchase would not know if they could count on the home mortgage deduction, nor whether the value of that home would be adversely affected by whatever new tax plan is eventually put in place.

Some of the hardest hit by this bill would be state and local governments who depend on tax-exempt borrowing to finance repairs of schools, building new roads, and other improvements which spur economic development in depressed areas. Investors would shy away from low interest rates on tax-exempt bonds if there is even the slightest fear that the income tax would be repealed in the future.

If we do this right, there will come a day when we can sunset the current tax system and replace it with a simpler one. But today's debate is not about what achieving a simplified tax code.

Just think about it. If we scuttle the code and this will put Speaker GINGRICH in charge of writing out a new one. This is the same Speaker GINGRICH who in his first week as Speaker came up with a plan to slash $300 billion from Medicare to pay for bigger tax breaks for the wealthy.

We need to deal with tax reform responsibly. Not pass gimmicks that will do nothing to reform the system and has troubling consequences for the future. The American people deserve more than what this bill has to offer. I hope my colleagues will join me in saying "NO" to Speaker GINGRICH and "NO" to this bill.

Mr. POMEROY. Mr. Speaker, I rise in opposition to the Tax Code Elimination Act.

I strongly support reforming the nation's tax code to make it fairer, simpler, and less burdensome on the American people. Unfortunately, rather than advancing a constructive tax reform measure, the leadership has proposed a political gimmick—a bill to terminate the tax code without saying what sort of system should replace it. This bill is not only the height of political cynicism, but if enacted, it could have devastating consequences for American families, farmers, and businesses.

During my tenure in Congress, I have worked to encourage employers to offer health and pension benefits to working families by providing adequate tax incentives and cutting unnecessary red tape. Under this bill, employers would freeze health and retirement benefits until the tax treatment of these benefit costs was determined. In fact, employers might even reduce benefits as a hedge against Congress deciding not to extend the tax deductibility of employee benefits. Likewise, the value of American homes would be adversely impacted as the real estate market would wait to see whether Congress would continue the mortgage interest deduction.

For farmers, the consequences would be even more severe. On the Upper Great Plains, farmers are already struggling with low market prices, devastating crop disease, and adverse growing conditions. Even with the best financial planning and management, many farmers are finding it nearly impossible to make ends meet. Farming is, by nature, a highly risky proposition. Added uncertainty about the deductibility of interest on operating loans, equipment and land, would move farming from risky to almost foolhardy.

I believe that North Dakotans want fundamental tax reform. However, they're unwilling to buy a "pig and a poke," especially when it relates to taxes. They want to see what system is being proposed as a replacement before simply terminating the code and turning giving a blank check to Congress.

Mr. COYNE. Mr. Speaker, too little is known about the effects that this legislation would have on the U.S. economy. This bill as amended would eliminate the Internal Revenue Code by December 31, 2002, except for Social Security, Medicare and Railroad Retirement taxes. The bill would also give Congress until July 4, 2002, to devise a new tax system, while providing only the most general guidance as to what would replace it. What this bill does not do is specify what will replace the current system, once we eliminate those taxes that raise most of the government's revenue.

In Fiscal Year 1997, the U.S. tax system raised $1.57 trillion in tax revenue from all sources. In one stroke, this bill would eliminate the individual and corporate income tax and all excise taxes, which constitute almost two-thirds of the federal government's revenues. Astonishing as it may seem, it would do so without providing any specific alternative except for a simple deadline requiring that the new tax system be in place four years from now.

We have worked on a bipartisan basis on the House Ways and Means Committee and on the IRS Restructuring Commission to advance solutions to the difficulties that many Americans experience in complying with the tax law. We have worked constantly to simplify the tax code, to eliminate unnecessary regulations and paperwork, and to improve IRS taxpayer service. We have made great strides toward these objectives by passing such important legislation as the Taxpayer Bill of Rights 1 and 2. This year, we hope to make additional progress when we complete the IRS restructuring and reform bill.

Our efforts in simplifying the tax code and streamlining IRS administration have not been easy. However, we have, in a bipartisan manner, engaged in thoughtful discussion and analysis of the specific problems facing taxpayers and the IRS. This debate has necessarily factored in the complexity of the tax code. In these efforts, most participants have come to realize that the complexity of the tax code is only one part of the problem, and most agree that Congress should always strive to simplify the Internal Revenue Code wherever possible. But, we should not lose sight of the fact that tax simplification is a goal that must be weighed against other important considerations, such as ensuring that the tax law is fair to all Americans. Provisions of the tax code also provide opportunity for millions of Americans through the earned income tax credit, the HOPE Scholarship, the expanded IRA, and the like.

To date, our efforts have focussed on identifying specific, realistic proposals to solve the problems facing average taxpayers and the IRS. However, unless and until we agree upon a new tax system, we must first fix the problems with the current system by advancing specific solutions such as the IRS restructuring and reform legislation. This is relief that is available now for the American taxpayer, not four years from now. If we then consider fundamental tax reform, our approach should first clearly identify a specific replacement which meets such important criteria as fairness, efficiency and administrability.

Finally, we must also consider this bill's potential adverse effects on the U.S. economy. One of the most important perceptions that a government must project to its citizens is that of consistency and predictability in its tax policies. Given the magnitude of this change, this bill would throw into doubt for four years the basic fiscal mechanisms of the U.S. government. While Congress debates, countless individual and corporate economic decisions would be deferred while the nation awaits the result.

At the individual level, we need to anticipate this bill's effect on the ability of taxpayers to plan for their financial security. Consider the effects of abolishing some of the most widely-used tax provisions, such as the mortgage interest and property tax deductions. How will average homeowners react when they realize, according to a DRI/McGraw-Hill study, that their house may now be worth 15 percent less, or $22,500 dollars on a $150,000 home, because they can't take these deductions. Since this is usually their most valuable asset, how will this affect their ability to plan for their financial future, and how will it affect their current spending? What will be the reaction of financial institutions, and the secondary mortgage markets, when they realize that millions of homes upon which they have written mortgages have just decreased in value?

What will happen to charitable giving if we abolish this deduction under the bill? While Americans lose a tax break, they also lose a significant incentive to give more to charitable causes, and now may give less. If millions of taxpayers contribute less to charity, what will happen to the many socially beneficial activities, such as caring for the nation's needy, that these charitable institutions perform on a daily basis? A weakening of these institutions could unfavorably affect millions of Americans, with no guarantee that the federal, state or local government would fill the void.

These are only a few tax provisions, but look at the effect that they would have on the nation if we eliminate them with no specific alternative or sensible transition relief. This bill's fundamental problem is that we do not really know how it would affect the economy and average Americans, while most would agree that there is significant potential for short-term disruption.

Mr. Speaker, do we really want to gamble with the financial security of millions of Americans, the health of the U.S. economy, and the stability of the U.S. government by abolishing the tax code without first providing a specific alternative? As much as we want to simplify the tax code and reduce the presence of the IRS in our lives, I do not think that this legislation provides an acceptable, responsible solution.

Ms. DEGETTE. Mr. Speaker, I rise today in opposition to H.R. 3097, the "Tax Code Termination Act." This ill-conceived legislation would terminate the entire federal tax code, except for those provisions that fund Social Security and Medicare, on December 31, 2002. It also requires Congress to enact a new tax code by July 4, 2002, six months before the current tax code would end.

It is undeniable that our federal tax code is complex. Yet, throwing out the entire system will not simplify matters. Eliminating the current tax system with no viable alternative in place will only send this country's economy into utter chaos. If this bill is enacted into law, all financial activity in this country could very well stop because no one would know the tax status of their investments, purchases, mortgages or savings accounts until July 4, 2002.

I would welcome a serious debate on real comprehensive tax reform, but what is before us today is simply a political gimmick and certainly not real reform. This bill raises a multitude of questions but provides no answers.

Mr. VENTO. Mr. Speaker, as President Reagan said, "Here you go again." Once again the Republican majority party is demonstrating how out of touch it is with the American people. In 1993, the American people sent a message to Congress that they wanted the budget deficit reduced. It was a straight forward message, easily understandable and a demand to which Congress responded. The Democratic controlled Congress, working with President Clinton and without a single Republican vote, made the tough decisions and put in place the foundation for today's strong economy and this year's budget surplus.

In 1995, the new Republican Majority took charge with this sound Democratic economic plan in place. But instead of working with the Clinton Administration to develop a rational budget plan to move forward with deficit reduction, the GOP majority sought to undermine the real progress that had been made. Instead of the responsible policy course, the majority party chose slogans over substance in 1995–96. The GOP to save money, just shut down the entire federal government, they said. Ignore the consequences of this irresponsible action they urged. As a result, they held the American people hostage over their radical demands.

One would assume that the leadership would have learned a lesson from this 95–96 public policy and political disaster. But no. Today, in a massive misreading of what the American people really want, this legislation is offered. The Majority party believes that the public is so mad at the IRS that they are blind to the fact that the Republicans do not have an answer, that all they want to do is to vote to scrap the tax code and pray that things work out. This action also abolishes the financial certainty that individuals, families and businesses rely upon to make investments and to plan for their future.

With this bill, the family home mortgage interest and charitable contribution deductions are eliminated. The new child credit and incentives to save for college are wiped out. At a time when Congress is telling the American people to assume greater responsibility for their retirement planning, this Republican proposal will repeal the basic rules upon which the American taxpayer must comply. No. IRA. No 401K. Just a vacuum awaiting some future Congressional action to solve the problem that this Congress is creating putting the American people into today.

And that is just the individual side of the tax code. For businesses, decisions on expansion, the installation of new equipment, and personnel matters will be clouded by this legislation. Future plans will be put on hold, until Congress provides the public with some answers. The end result would be uncertainty and no predictability. This would be bad for the economy and bad policy.

Instead of providing individuals and businesses with the answers and certainty that are needed, this legislation leaves a huge hole in our economic foundation with a billboard announcing: "Under construction—check back in 2002 for details." Ironically with the backlog of policy issues not just regards tax policy, but the budget appropriation and it's a rare program these past four years that has been reauthorized. The Republican Majority plans through this bill to junk and destroy tax law.

This Republican-led economic self-destruction is not what the American people want. They do not want their entire financial life to be a pawn in a political consultants' media game. They want Congress to go to work and do its job. The American taxpayer does not want their home mortgage interest deduction eliminated, the exemption on their home sale loss, or their entire retirement plan thrown into an economic limbo for Republican or Democratic political gain. They do not want the very tax breaks that many of us hailed in 1997 to be eliminated in 1998!

What the American people want is true tax simplification. This is an issue we could agree upon and enact this Congress rather than the hollow promises in this legislation. Today, it takes too long for the average taxpayer to file their taxes. In fact, the American taxpayer is taxed twice. Not only do we pay our taxes, but our time is taxed as well. At this time of year, instead of spending time with our families, working around the home, or just taking a break, we spend hour after hour punching numbers into a calculator, trying to decipher IRS directions and tables, and searching through our financial records to find that last receipt for a charitable contribution that we made.

According to the IRS, this annual spring exercise will take the average taxpayer 15 hours and 47 minutes to prepare and file a typical tax return (Form 1040 and Schedules A and B). Add in other forms, such as Schedule C, the business profit and loss schedule, and the total time for tax compliance can be in excess of 30 hours.

Congress should address those issues now instead of this tax code repeal political gimmick. Earlier this year, I introduced the "10 for 60" Resolution. My resolution directs the Internal Revenue Service and Congress to begin this year the process of cutting in half the time that it takes the average taxpayer to file their tax returns. As the first step, the "10 for 60" Resolution calls for 10 changes in law or regulation this year to cut 60 minutes from tax preparation time. The "10 for 60" Resolution intends that these proposals should be revenue neutral and should focus on changes that benefit as large a group of taxpayers as possible. This proposal may not have the shock value of scrapping the whole tax code, but "10 for 60" will respond to the call for true simplification now.

There are plenty of examples of ways that we can simplify tax code now. The mileage deduction was intended to help not only those with business expenses, but individuals with medical, charitable and moving travel costs. However, the tax code contains three separate reimbursement rates for travel. Why should a taxpayer be required to keep three separate records for using the same car?

The Earned Income Tax Credit (EITC), designed to help low income families and reward work, is good policy. In fact, an analysis by the non-partisan Center on Budget and Policy Priorities, reveals that the EITC "lifts more children out of poverty than any other government program." Yet, this single credit has been changed twelve times in the past 20 years. The credit contains nine eligibility standards and could require one checklist, two worksheets, one schedule and a normal 1040 to complete.

Congress should focus on what the taxpayers really need—true tax simplification. Concrete proposals already exist to simplify the existing tax code with minimal revenue changes. The House included in the IRS Restructuring and Reform Act the requirement that any new tax legislation include a complexity analysis before enactment. Why not apply such an analysis to existing provisions of law?

Tax simplification this year is an achievable goal but not if Congress gets bogged down in debating unrealistic gimmicks and proposals to abolish the tax code or initiate other radical changes. These are Trojan horses being advanced as tax simplification. It is time to address real tax simplification as more than a rhetorical tool and to make it a policy priority. My "10 for 60" resolution places the American taxpayer, not politics, first by focusing on real, attainable tax simplification for this year. My resolution gives everyone something they need more of—time.

I urge my Colleagues to join with me in rejecting this political document and instead, make tax simplification a reality in 1998. It is time to get something positive done. Congress needs to get to work on good policy. That is the best politics. There is plenty to do, the majority leadership need not invent issues like H.R. 3097 to distract Congress or the American people from the real issues which are here and waiting for action!

Mr. CASTLE. Mr. Speaker, like everyone, I am severely distressed about the complexity of the tax code and the high rate of taxes. As a nation, each year we spend 5.2 billion hours complying with and enforcing the tax code. That is more hours than the Department of Defense spends defending the nation.

My first instinct when I hear statistics like this is to tear the tax code up by its roots and replace it with a simplified system. However, the plain facts are that in our complex, hi-tech global economy, such a move would introduce tremendous uncertainty into our markets and threaten the sustained prosperity this nation is enjoying. Unemployment is at its lowest rate in 28 years, 16 million new jobs have been created, and CBO projects that we will have a budget surplus for the first time since 1969.

The simple fact is that businesses, families, and charities need to plan. Without a tax code in place, families looking to buy homes based upon the tax advantages of the home mortgage deduction would hold off their purchase thus crippling the housing market. Family health insurance would be threatened because the tax status of employer-provided health benefits would be uncertain. Businesses rely on various tax credits to give them the incentive to invest in research and development, to engage in environmentally sound behavior, and to overcome various market failures. Scraping the tax code invites the return of those market failures and the inefficiencies that accompany them. Charities rely on $80 billion in deductible charitable contributions each year. Churches, synagogues, medical research institutes, colleges, universities, and relief organizations will all face tremendous uncertainty in their annual budgets without the incentive to donate in order to lower taxes.

In addition, there is no consensus that terminating the tax code without an alternative is a good idea. It is simply irresponsible for Congress to propose eliminating the tax code without a ready substitute. There are plenty of respected sources who have been advising Congress against this. Chief among them are our own constituents. The Republican National Committee reportedly found that most voters oppose the Act because they believe it will create dangerous economic risks. NFIB may have 500,000 signatures supporting the Act, but there are many more businessmen and there who oppose it. The US Chamber of Commerce polled their members and found significant division on whether the tax code should be terminated and which reform proposal should replace it. The National Association of Manufacturers opposes the Act. The tax directors from the 2,800 largest American corporations have said that "individuals and businesses—the U.S. economy as a whole—cannot convert to a new system with the ease of flicking a light switch."

Congress should stay on track with IRS reform and annual manageable tax cuts. Before the July 4th recess, Congress will likely vote to create a taxpayer friendly, accountable IRS. Federal and State governments are passing sensible tax cuts that promote investment and economic growth. This is a much better approach that scraping the code altogether and risk crippling the economy in the process. Let's work toward fundamental reform of the tax code, but do not throw out the tax code before we have a new one in sight."

When I was a child and wanted to get something my way. I would argue to my mother that everyone else was doing it. She would respond, "if everyone was jumping off a cliff with darkness below, would you jump just because everyone else was doing it? I would hope that Congress would not risk our economic prosperity by jumping off this cliff into darkness.

Mr. BEREUTER. Mr. Speaker, this Member opposes H.R. 3097, the Tax Code Termination Act, both as introduced and in the form of the Manager's Amendment.

Before going into the reasoning behind this opposition, this Member would like to preface his comments by the following statement. This Member unequivocally believes that substantial but very careful reform is needed for the U.S. tax Code. Examples abound of inefficiencies and counterproductive elements of the Internal Revenue Code as it operates today. However, this Member opposes H.R. 3097 for the following four reasons:

(1) This Member does not think that we should delay decision-making as H.R. 3097 does. We need to decide today's issues today and not defer them to tomorrow.

(2) H.R. 3097 fails for its lack of precision. H.R. 3097, in its manager's amendment version, would sunset the current tax code effective December 31, 2002. It is certainly not legislatively wise to eliminate the tax code without an alternative to replace it with. If such major action should be taken as contemplated by H.R. 3097, a precise alternative of a federal tax system needs to be simultaneously discussed.

(3) This Member does not support this legislation because it could dramatically discourage investment as investors are faced with great uncertainty. If H.R. 3097 is passed, Americans will be in a state of great confusion and apprehension until a replacement tax code is enacted, which could be as late as December 31, 2002 (the manager's substitute amendment date). We are in June of 1998. It may be 4½ years until a new tax system is passed, if H.R. 3097 is adopted. Members of the House need to put themselves in the position of their constituents. For example, can a corporation make a prudent investment decision if they do not know what the tax consequences will be of that decision just a few years hence? No, they cannot. Will investors continue to be as ready to buy tax-exempt bonds if they are not sure whether this tax exempt status will continue?

Another example of the potentially very negative effects of H.R. 3097 concerns the mortgage interest deduction. A young family, who desires to purchase a home for the first time, will not know in the future if they can count on the mortgage interest deduction if H.R. 3097 is passed. In fact, this uncertainty may be enough to deter someone from purchasing a house until a replacement tax code is in place.

(4) H.R. 3097 would have a negative effect on state and local entities. For example, there would surely be a lack of confidence in private municipal bonds due to the uncertainty created by H.R. 3097. Certainly, local school districts could be adversely affected, along with most other varieties of local governmental bodies.

Mr. Speaker, for these four reasons just briefly described by limited available examples, this Member must oppose H.R. 3097. We need a fundamental reexamination of America's Federal tax code and it should begin now, but rash action like H.R. 3097 is most assuredly not the way to proceed. It would have a chilling effect upon our economy and cause greater difficulty in pubic and private decision-making. All that is lacking to begin such a comprehensive review and reform of our Federal system of taxation is the will or commitment to begin and the organizational and legislative skills to implement such changes. With such a narrow majority in this House, it will also take bipartisan cooperation and good will.

Mr. BLUMENAUER. Mr. Speaker, I have worked my entire life to improve the fairness of the tax code—first in Oregon and now as a member of the House of Representatives. I also know how politics work.

It is irresponsible to vote for a massive change without telling the American people how this will impact them. No one knows what would replace the current tax code—who is going to win, who is going to lose, and why. Improving the tax code is of critical importance and I welcome an open national discussion and full congressional debate on the merits of real proposals. However, I cannot support H.R. 3097.

Ms. DeLAURO. Mr. Speaker, I rise in strong opposition to this bill.

I agree with my colleagues that our tax code is far too complex, and that hard working middle class families are paying too much in taxes. In fact, the first bill I introduced as a member of Congress was the Middle Class Tax Relief Act. But this bill is not the solution.

But do you wonder why the sponsors of this bill are in such a hurry to eliminate the tax without saying what they would replace it with? They are pushing flat tax or sales tax systems that would reduce taxes for the wealthiest Americans, and raise them for the rest of us. Flat tax sounds easy, doesn't it? Only this tax medication is pure snake oil for the middle class.

According to the Treasury Department, under Mr. Armey's 17% flat tax, the typical middle-income family would see its federal taxes increase by about $1,500. By contrast, the richest 1% of taxpayers get an average tax cut of $44,000.

And if we adopted a sales tax instead, there would be a new 30% tax on everything you buy. A monthly prescription for a senior's blood pressure medication which currently costs around $110 would go up to $143. A $23 box of diapers would increase to $29.90. A pair of children's shoes which costs $20 would go up to $26. And who bears the brunt of this tax increase? Hard working middle class people.

This bill is also opposed by the business community. Business needs to know what the tax law will be so they can make informed and rational economic decisions. Ignorance about the tax consequences of investment decisions could have a crippling effect on the economy. That's why the National Association of Realtors, National Association of Manufacturers, Mortgage Bankers Association and National Small Business United have publicly opposed this proposal as irresponsible.

Finally, the Republican plan to scrap the code would also scrap the American Dream for millions of working families who depend on the mortgage interest deduction and the deduction for real property taxes to afford their home. Today, the average mortgage interest deduction for the 29 million Americans who have home mortgage expenses is almost $7,000.

I urge my colleagues to reject this radical proposal. Let's work together for the real tax reform.

Mr. WATTS of Oklahoma. Mr. Speaker, I rise in support of H.R. 3097, the Tax Code Termination Act. America's income tax code is a heavy and complex burden for America's families and small businesses. The complete income tax code is, in fact, 3,400 pages long. No wonder so many Americans are fed up with the federal tax code and want Congress to enact a simpler tax code. This is a most reasonable request.

It's bad enough that the average family's taxes are too high. According to the Tax Foundation, forty percent of the average family's income goes to pay federal, state and local taxes. Mr. Speaker, this is much too high a tax burden. The American people should not have to work for the government and only get a sixty percent commission on their earnings. Congress should take steps this year to lower taxes so hard-working Americans can keep more of their paycheck for themselves and their families.

Nonetheless, sooner or later, Congress is going to have to overhaul the tax system completely, and put in place new tax laws which are easily understood and easy to comply with. Families and small businesses should not have to spend hundreds of dollars to hire lawyers and accountants to do their taxes. A newer and simpler tax code will save taxpayers time and money.

There is a good debate in Congress these days about which type of new tax code is best. Some support a flat tax, which has its merits. Others support a national sales tax, an idea which also has its merits. No matter which one of these plans is enacted, everyone in this chamber should agree that the current tax code is broken and should be replaced. The climate in America is right for such a change, and there is a consensus in the country—especially in my home state of Oklahoma—that the current income tax code should be scrapped as soon as possible, and a new code put in its place. I rise today to support these efforts, Mr. Speaker, and I urge my colleagues to do the same.

Mr. HASTERT. Mr. Speaker, I rise in support of H.R. 2097, the Tax Code Termination Act. I am pleased to be a co-sponsor of this legislation which will sunset the current tax code effective December 31, 2002 and require that Congress enact a new code by July 4, 2002. It is time that this Congress began the effort to fundamentally reform the way government collects revenue.

Mr. Speaker: The reason I support this bill is simple: The current tax code is unfair, too complex, and too burdensome on America's families. The debate over the tax code is now becoming one on not whether it should be replaced, but how to do it. Whether it's a flat tax or a national sales tax, I believe that the federal income tax is economically destructive and that almost any alternative would be better than the status quo. I have been literally inundated by letters, calls, and emails from my constituents who are fed up with the unfairness and unnecessary complexity of our current tax code.

Mr. Speaker: Just consider these appalling statistics—the total tax burden on Americans is the highest ever, a whopping 31.7 percent of income. Not only are our taxes way too high, the size and complexity of the current code serve to compound the burden. Families and businesses spend over $225 billion per year to figure out how to comply with our federal tax code. What began, in 1913, as a one-page form, 14 pages of tax law and a top tax rate of just 7 percent has evolved into the unwieldy monster we know today. Consider this as well—the current tax code is seven million words! Lincoln's Gettysburg Address is only 269 words, and the Declaration of Independence a total 1,337 worlds.

Mr. Speaker, I have not made up my mind about the form a new tax system should take; but I am certain that no matter what replaces the current system it will undoubtedly be far superior. That is why passage of this bill is so important. Once Congress has determined that a change must occur—that the tax code will cease to exist on a date certain—one of the most important debates in the history of our great Nation can take place. In this clash of competing ideas, I am confident that we can come together on a new tax code that applies a single, low rate to all Americans, requires a supermajority of both chambers of Congress to raise new taxes, provides tax relief for working Americans, protects the rights of taxpayers and reduces tax collection abuses, eliminates the bias against savings and investment, and promotes economic growth, jobs, and opportunity.

Mr. Speaker, I am proud to be part of this historic effort today. Sunsetting the current tax code is a first step along the road to fundamental tax reform. I urge my colleagues to support this important legislation. A vote for this bill is a vote in favor of the American taxpayer and the American family.

Mr. GOODLATTE. Mr. Speaker, I rise today in support of H.R. 3097, the Tax Code Termination Act, offered by my good friend from Oklahoma, Mr. LARGENT. I want to commend the gentleman for offering this important legislation.

Mr. Speaker, our tax code is a seven million word monster that has simply grown out of control. Hard working Americans are being punished every day by a tax code that is complicated and confusing. It penalizes success, discourages growth and overburdens individuals and families.

Mr. Speaker, something's clearly wrong with our system when Money magazine asks 50 professional tax prepares to file a return for a fictional family and not one of them—not one out of fifty—came up with the same total, nor did any of the preparers calculate what Money magazine thought was the correct federal income tax. How can we expect the American people who are busy working and taking care of their families to sort through a tax code that is too complicated for professional tax preparers to figure out?

Something's wrong when Americans have to devote 5.4 billion hours each year just to comply with the tax code—that's more time than it takes to manufacture every car, truck and van made in the United States.

Something's wrong when the American people spend hundreds of billions of dollars each year to pay for tax lawyers, accountants, and other related expenses just to make sure they don't violate any of the seven thousand pages of burdensome IRS rules and regulations. That's money taken from the taxpayers' pockets that could be put toward retirement savings or invested to pay for the child's education.

The Tax Code Termination Act will force us to work together to develop a new system. By setting a definite date when the current, abusive code is terminated, we will ensure that action is taken immediately to study new and innovative proposals to create a system that is simple and fair to every American.

Mr. Speaker, our system is broken. It's time to stand up for the American people and scrap this abusive tax code. It's time we take action and get this monster off the back of the American people once and for all.

I urge my colleagues to vote in favor of this important legislation.

Mr. ARCHER. Mr. Speaker, the issue before us today presents a simple question—whose side are you on?

Are you a defender of the unfair, complicated, high-tax status quo, or are you in favor of reform? If you support reform, then I urge you to join me in a bipartisan show of support for changing the code.

I support nothing less than pulling the code out by its roots and throwing it away so it never grows back. The current code is unfair, punitive, anti-growth, and anti-taxpayer. American workers today are caught in a tax trap. The longer they work, the harder they work, the more they pay.

I want to create a new code that says the more you spend, the more you pay. We need to stop punishing success in this country and start toward savings and hard work.

Mr. Speaker some have asked me why, if I feel so strongly about this, am I not passing a bill to create this new tax code today.

If I thought for a minute that President Clinton would join this Congress in pursuing a new tax code, we would today be voting on a replacement code instead of sunsetting the current code.

Unfortunately, President Clinton has given no sign that he will abandon his embrace of the tax status quo. As a result we are passing this measure to highlight the importance of this issue and to establish its proper place as a top priority in our national agenda.

Perhaps this vote will help the President to join with us next year in making the sunset a reality. I haven't given up hope and I urge the President to join with us.

Before I close, let me address the "sky is falling" opponents of this bill who claim uncertainty and havoc will be created in the marketplace as a result of this measure.

Mr. Speaker, the stock market today is up almost 200 points. If their doomsday predictions were right, the market would be in sharp decline. The markets, being smarter than politicians, recognize this measure for what it is.

It's a very powerful symbol of where we want to go. That's why I urge my friends in both parties to show that you want to take this nation in the right direction and that you don't support the failed status quo.

Join me in voting to sunset the code.

The SPEAKER pro tempore (Mr. EVERETT). All time for general debate has expired.

Pursuant to House Resolution 472, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. RANGEL. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. RANGEL moves to recommit the bill H.R. 3097 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. COMPREHENSIVE REFORM OF TAX CODE.

(a) DEADLINE.—It is the sense of Congress that comprehensive reform of the Tax Code should be enacted not later than April 15, 2001.

(b) PRINCIPLES.—Any comprehensive reform of the Tax Code shall be consistent with the following principles:

(1) Such reform shall be fiscally responsible and not endanger the Balanced Budget Agreement.

(2) Such reform shall be fair to all income classes.

(3) Such reform shall emphasize simplicity, thereby resulting in a Tax Code that is less complicated.

(4) Such reform shall promote economic growth by encouraging savings and investment.

(5) Such reform shall ensure adequate funding for the Social Security and Medicare Trust Funds, both for current beneficiaries and future beneficiaries.

(c) IMPLEMENTATION.—Not later than 30 days after the date of enactment of this Act, the Committee on Ways and Means of the House of Representatives should commence hearings on proposals for comprehensive tax reform. Such hearings should, at a minimum, involve an examination of the impact of current and prospective tax restructuring plans on—

(1) availability of employer-provided health care,

(2) employer pension plans,

(3) home ownership,

(4) charitable organizations,

(5) State and local governments, and

(6) farmers and other small businesses.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes in support of his motion.

Mr. RANGEL. Mr. Speaker, under the rule, only one Member may offer the recommittal motion. But in the spirit of trying to have broad-based support for what we are going to do and to make certain that we did not have this frightening idea where the original legislation said that they should do the right thing by having a bill, we say they do not repeal it unless they do the right thing by having a bill.

But we Democrats all do not think alike; and, so, what we have done is try to work together now to see what we could work with so that if we were the majority, we would be able to come to the Republicans and say, what can we do as a Congress for the people of the United States, not what we can do for the Democratic Speaker.

Mr. Speaker, I yield to the gentleman from Florida (Mr. BOYD), my cosponsor.

Mr. BOYD. Mr. Speaker, I want to thank my friend the gentleman from New York (Mr. RANGEL) for allowing me this time to talk about this motion.

First of all, I want to say to my friend from Oklahoma (Mr. LARGENT) that I believe that his intentions are very good in trying to move this debate forward, in trying to develop something that serves this country better. I certainly do not question those intentions.

I spent the last couple hours watching on television, though, as Member after Member came to the podium; and, basically, it was a partisan shouting match, and that somewhat disappointed me that we carried it to that level.

My colleagues, we live in the greatest country in the world. Our economy is clicking at a rate that it has not clicked at for more than 50 years. Certainly, there is nothing perfect about our Tax Code, and I believe that it needs changing. But I think we ought to be very careful in the way that we change that.

I agree that the Tax Code needs to be reformed. There are some parts of the Tax Code, however, which provide real benefits to millions of taxpayers that will be thrown out if this bill is enacted. Any business owner knows there are many important decisions which are made, at least in part, because of the tax treatment those investments receive.

As a former State legislator, I am well aware of the important role municipal and State bonds play in funding new schools, roads, and other infrastructure construction. This bill could throw the bond market into chaos as municipal bondholders and State and local governments who offer those bonds will not know how the Tax Code will treat their investments after the year 2002.

Every day business owners make decisions based on the tax treatment of certain investments. Hiring new employees, purchasing new equipment, those are decisions which are influenced by the Tax Code. Upsetting the Tax Code could paralyze investment in new plants and equipment because business owners will be unwilling to hire new employees or build new manufacturing facilities because of the uncertainty this bill would create.

Under the current Tax Code, employers who provide insurance benefits to their employees receive 100 percent tax deduction. This bill would scrap that provision and cause many businesses to eliminate health insurance benefits for their employees.

Yesterday, the National Association of Manufacturers announced their opposition to this bill because it does not allow businesses to plan for the future.

□ 1500

Also, I heard earlier that the Chamber of Commerce had taken a position that they were going to score this in opposition to this but there may have been some calls from some very important Members of this body who have changed their mind. I am unclear at this point as we begin to take a vote on it whether that will be done.

It is clear that the vast majority of business owners realize sunsetting the Tax Code is an irresponsible move that will jeopardize our country's remarkable economic growth.

The motion to recommit before Members now seeks to address the problems in this bill and pushes the Committee on Ways and Means to do something it should have been doing for months, hold comprehensive hearings on reforming the Tax Code. H.R. 3097 states the obvious, that the current Tax Code needs to be reformed. Unfortunately, it leaves the hard work of developing a fair and understandable replacement to a future Congress.

I urge my colleagues to support the Rangel-Boyd-Tanner-Stenholm motion to recommit and send this bill back to the Committee on Ways and Means so we can get a responsible piece of legislation that addresses the needs of business owners and taxpayers.

Mr. RANGEL. Mr. Speaker, Members have heard how we have tried to come together and work together with the diversity that we have in the Democratic Party, in hoping that if we were going to have meaningful legislation, that no one party can do it, it takes Republicans and Democrats coming together and doing what is best for the American people, not just someone just singularly saying that they are going to deep-six the Code.

In our recommittal, we say that it has to be fiscally responsible. We do not want to have the reputation of closing down government. We say that it has to be fair. We say that it has to emphasize simplicity, and it has to encourage economic growth and competition.

We have certain things that we think are so important in the Tax Code that we hope that Members would vote for what the gentleman from Tennessee (Mr. TANNER) has contributed to, and that would be the Boyd-Tanner-Rangel-Stenholm recommittal motion.

The SPEAKER pro tempore (Mr. EVERETT). Is the gentleman from Kentucky (Mr. BUNNING) opposed to the motion?

Mr. BUNNING. Mr. Speaker, I am opposed to the motion.

The SPEAKER pro tempore. The gentleman from Kentucky is recognized for 5 minutes.

Mr. BUNNING. Mr. Speaker, I yield to the gentleman from Georgia (Mr. GINGRICH), the Speaker of the House.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Kentucky for yielding.

Mr. Speaker, I rise in strong opposition to this motion to recommit, because I think it is a clever device to avoid the changes that are necessary.

The question here is very simple: Do you believe the current Internal Revenue Code, thousands of pages, described differently in every region of the country by the Internal Revenue Service, total uncertainty about what is involved, millions of pages of filings every year, actually 2.2 billion pages filed annually. If you think this is a good system, if you want to defend this system, you should vote for the motion to recommit. Because it is a smoke screen designed to avoid change.

On the other hand, if you think the time has come to send a clear signal, the President of the United States should start to prepare to replace the current cumbersome, complex code with a much simpler version. The President could propose a simplified flat tax, the President could propose a replacement with a consumption tax, but the President should recognize that the American people are tired of thousands of pages of regulations, of audits they do not understand, by agents they cannot talk with, from a bureaucracy they cannot control. This bill says, the Congress is committed to replacing the current Internal Revenue Code.

It is ironic. I actually had a copy of the 1913 tax filing form. It is two pages. The entire form is two pages, and the instructions that were sent out with it, they were two pages. Today you cannot even get through the introduction to the introduction of the basic outline to the simplified form in two pages.

Mr. Speaker, I would say to the gentleman from New York, this is a nice effort to avoid the issue. If you do not want us to replace the code, vote "no" when the bill comes up for final passage. Stand proudly with the current Internal Revenue Service. Stand proudly with the current complicated code. But then you go back home to your small businessman and your small businesswoman and you tell them why you did not want to help relieve them of the tax burden and relieve them of the paperwork burden and relieve them of all the attorneys' fees and all the accounting fees and all the bookkeeper fees.

Mr. Speaker, I am delighted that the gentleman from Oklahoma (Mr. LARGENT) and the gentleman from New York (Mr. PAXON), working closely with the National Federation of Independent Businesses and 600,000 businessmen and businesswomen, people like my daughter Kathy who owns a small coffee store and who knows how many hours she puts in personally because she is her own bookkeeper, she knows how much it means to her to pay her accountant, she knows how complex the code is, she knows how difficult the IRS is to deal with, and they have had the courage, LARGENT and PAXON, to have come to this floor and said, "Let's draw a line in the sand. We want to replace the current Tax Code by the end of 2002." That is clearly plenty of time. That is clearly reasonable notice.

That gives us the entire next Congress to think it out, to lay it out. It gives the presidential candidates time to lay it out. It means this country can debate it in 2000. It means in 2001 the new President can recommend a specific replacement. It means by 2002 we can have passed it and sent it to the President.

It is an orderly, practical and reasonable step. And to suggest that we replace that with a press release that, instead of having a real law offering a real change, we have a press release sense of the Congress resolution, I think, is an insult to every American who wants to replace the code and an insult to every American who is fed up with the Internal Revenue Service.

I urge my colleagues, vote "no" on the motion to recommit, vote "yes" on final passage. This is the right signal that we are going to move toward a better Tax Code for all Americans.

CALL OF THE HOUSE

Mr. BUNNING. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 237]

ANSWERED "PRESENT"—413

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

☐ 1525

The SPEAKER pro tempore (Mr. EVERETT). On this rollcall, 413 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

TAX CODE TERMINATION ACT

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RANGEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 203, nays 223, not voting 7, as follows:

[Roll No. 238]

YEAS—203

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman

Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NAYS—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Cooksey
Dreier
Gonzalez
Hastings (FL)
Lewis (CA)
McNulty
Wise

☐ 1543

Mr. SMITH of Michigan changed his vote from "yea" to "nay."

Mr. FRANK of Massachusetts changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DREIER. Mr. Speaker, I would like the RECORD to show that I was in the chamber when the gavel went down without allowing the 2-minute grace period on the recommittal motion on H.R. 3079. I would like the RECORD to show that, had I been recorded at that time, I would have voted against the recommittal motion.

The SPEAKER pro tempore (Mr. PEASE). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 209, not voting 6, as follows:

[Roll No. 239]

AYES—219

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Strickland
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)

NOES—209

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres

Towns
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—6

Cooksey
Gonzalez
Hastings (FL)
Lewis (CA)
McIntosh
McNulty

□ 1600

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on table.

PERSONAL EXPLANATION

Mr. McINTOSH. Mr. Speaker, I ask that the RECORD reflect concerning H.R. 3097, the Tax Code Termination Act, that I was detained in subcommittee hearings and unable to make the vote on final passage. I am delighted that the measure passed 219 to 209, and, as an original cosponsor of that bill, I would have voted yes, and I ask the RECORD reflect that.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. RES. 463, ESTABLISHING THE SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 105-583) on the resolution (H. Res. 476) providing for consideration of the resolution (H. Res. 463) to establish the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, which was referred to the House Calendar and ordered to be printed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 03 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1638

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. NEY) at 4 o'clock and 38 minutes p.m.

PERSONAL EXPLANATION

Ms. LOFGREN. Mr. Speaker, yesterday United Airlines Flight 200, the 8 a.m. flight from San Francisco, took off 2 hours late. All the passengers were delayed 2 hours. I missed 2 rollcall votes as a consequence and would ask the RECORD to show had I been present I would have voted yes on Rollcall 232 and 233.

□ 1638

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore (Mr. NEY). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2183.

□ 1639

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. PEASE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. PEASE). When the Committee of the Whole House rose on Friday, May 22, 1998, all time for general debate had expired.

Pursuant to House Resolution 442, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 2183 is as follows:

H.R. 2183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bipartisan Campaign Integrity Act of 1997".

TITLE I—SOFT MONEY AND CONTRIBUTIONS AND EXPENDITURES OF POLITICAL PARTIES

SEC. 101. BAN ON SOFT MONEY OF NATIONAL POLITICAL PARTIES AND CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"BAN ON USE OF SOFT-MONEY BY NATIONAL POLITICAL PARTIES AND CANDIDATES

"SEC. 323. (a) NATIONAL PARTIES.—A national committee of a political party, including the national congressional campaign committees of a political party, and any officers or agents of such party committees, may not solicit, receive, or direct any contributions, donations, or transfers of funds, or spend any funds, which are not subject to the limitations, prohibitions, and reporting requirements of this Act. This subsection shall apply to any entity that is established, financed, maintained, or controlled (directly or indirectly) by, or acting on behalf of, a national committee of a political party, including the national congressional campaign committees of a political party, and any officers or agents of such party committees.

"(b) CANDIDATES.—

"(1) IN GENERAL.—No candidate for Federal office, individual holding Federal office, or any agent of such candidate or officeholder may solicit, receive, or direct—

"(A) any funds in connection with any Federal election unless such funds are subject to the limitations, prohibitions and reporting requirements of this Act;

"(B) any funds that are to be expended in connection with any election for other than a Federal office unless such funds are not in excess of the amounts permitted with respect to contributions to Federal candidates and political committees under section 315(a)(1) and (2), and are not from sources prohibited from making contributions by this Act with respect to elections for Federal office; or

"(C) any funds on behalf of any person which are not subject to the limitations, prohibitions, and reporting requirements of this Act if such funds are for the purpose of financing any activity on behalf of a candidate for election for Federal office or any communication which refers to a clearly identified candidate for election for Federal office.

"(2) EXCEPTION FOR CERTAIN ACTIVITIES.—Paragraph (1) shall not apply to—

"(A) the solicitation or receipt of funds by an individual who is a candidate for a non-Federal office if such activity is permitted under State law for such individual's non-Federal campaign committee; or

"(B) the attendance by an individual who holds Federal office at a fundraising event for a State or local committee of a political party of the State which the individual represents as a Federal officeholder, if the event is held in such State.

"(c) PROHIBITING TRANSFERS OF NON-FEDERAL FUNDS BETWEEN STATE PARTIES.—A State committee of a political party may not transfer any funds to a State committee of a political party of another State unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) APPLICABILITY TO FUNDS FROM ALL SOURCES.—This section shall apply with respect to funds of any individual, corporation, labor organization, or other person.".

SEC. 102. INCREASE IN AGGREGATE ANNUAL LIMIT ON CONTRIBUTIONS BY INDIVIDUALS TO POLITICAL PARTIES.

(a) IN GENERAL.—The first sentence of section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "in any calendar year" and inserting the following: "to political committees of political parties, or contributions aggregating more than $25,000 to any other persons, in any calendar year".

(b) CONFORMING AMENDMENT.—Section 315(a)(1)(B) of such Act (2 U.S.C. 441a(a)(1)(B)) is amended by striking "$20,000" and inserting "$25,000".

SEC. 103. REPEAL OF LIMITATIONS ON AMOUNT OF COORDINATED EXPENDITURES BY POLITICAL PARTIES.

(a) IN GENERAL.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended by striking paragraphs (2) and (3).

(b) CONFORMING AMENDMENTS.—Section 315(d)(1) of such Act (2 U.S.C. 441a(d)(1)) is amended—

(1) by striking "(d)(1)" and inserting "(d)"; and

(2) by striking ", subject to the limitations contained in paragraphs (2) and (3) of this subsection".

TITLE II—INDEXING CONTRIBUTION LIMITS

SEC. 201. INDEXING CONTRIBUTION LIMITS.

Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended by adding at the end the following new paragraph:

"(3)(A) The amount of each limitation established under subsection (a) shall be adjusted as follows:

"(i) For calendar year 1999, each such amount shall be equal to the amount described in such subsection, increased (in a compounded manner) by the percentage increase in the price index (as defined in subsection (c)(2)) for each of the years 1997 through 1998.

"(ii) For calendar year 2003 and each fourth subsequent year, each such amount shall be equal to the amount for the fourth previous year (as adjusted under this subparagraph), increased (in a compounded manner) by the percentage increase in the price index for each of the four previous years.

"(B) In the case of any amount adjusted under this subparagraph which is not a multiple of $100, the amount shall be rounded to the nearest multiple of $100.".

TITLE III—EXPANDING DISCLOSURE OF CAMPAIGN FINANCE INFORMATION

SEC. 301. DISCLOSURE OF CERTAIN COMMUNICATIONS.

(a) In General.—Any person who expends an aggregate amount of funds during a calendar year in excess of $25,000 for communications described in subsection (b) relating to a single candidate for election for Federal office (or an aggregate amount of funds during a calendar year in excess of $100,000 for all such communications relating to all such candidates) shall file a report describing the amount expended for such communications, together with the person's address and phone number (or, if appropriate, the address and phone number of the person's principal officer).

(b) Communications Described.—A communication described in this subsection is any communication which is broadcast to the general public through radio or television and which mentions or includes (by name, representation, or likeness) any candidate for election for Senator or for Representative in (or Delegate or Resident Commissioner to) the Congress, other than any communication which would be described in clause (i), (iii), or (v) of section 301(9)(B) of the Federal Election Campaign Act of 1971 if the payment were an expenditure under such section.

(c) Deadline for Filing.—A person shall file a report required under subsection (a) not later than 7 days after the person first expends the applicable amount of funds described in such subsection, except that in the case of a person who first expends such an amount within 10 days of an election, the report shall be filed not later than 24 hours after the person first expends such amount. For purposes of the previous sentence, the term "election" shall have the meaning given such term in section 301(1) of the Federal Election Campaign Act of 1971.

(d) Place of Submission.—Reports required under subsection (a) shall be submitted—

(1) to the Clerk of the House of Representatives, in the case of a communication involving a candidate for election for Representative in (or Delegate or Resident Commissioner to) the Congress; and

(2) to the Secretary of the Senate, in the case of a communication involving a candidate for election for Senator.

(e) Penalties.—Whoever knowingly fails to—

(1) remedy a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House of Representatives; or

(2) comply with any other provision of this section,

shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than $50,000, depending on the extent and gravity of the violation.

SEC. 302. REQUIRING MONTHLY FILING OF REPORTS.

(a) Principal Campaign Committees.—Section 304(a)(2)(A)(iii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(2)(A)(iii)) is amended to read as follows:

"(iii) monthly reports, which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of the year, a pre-general election report shall be filed in accordance with clause (i), a post-general election report shall be filed in accordance with clause (ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) Other Political Committees.—Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended to read as follows:

"(4)(A) In a calendar year in which a regularly scheduled general election is held, all political committees other than authorized committees of a candidate shall file—

"(i) monthly reports, which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of the year, a pre-general election report shall be filed in accordance with paragraph clause (ii), a post-general election report shall be filed in accordance with clause (iii), and a year end report shall be filed no later than January 31 of the following calendar year;

"(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election; and

"(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election.

"(B) In any other calendar year, all political committees other than authorized committees of a candidate shall file a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.".

(c) Conforming Amendments.—(1) Section 304(a) of such Act (2 U.S.C. 434(a)) is amended by striking paragraph (8).

(2) Section 309(b) of such Act (2 U.S.C. 437g(b)) is amended by striking "for the calendar quarter" and inserting "for the month".

SEC. 303. MANDATORY ELECTRONIC FILING FOR CERTAIN REPORTS.

(a) In General.—Section 304(a)(11)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(A)) is amended by striking the period at the end and inserting the following: ", except that the Commission shall require the reports to be filed and preserved by such means, format, or method, unless the aggregate amount of contributions or expenditures (as the case may be) reported by the committee in all reports filed with respect to the election involved (taking into account the period covered by the report) is less than $50,000.".

(b) Providing Standardized Software Package.—Section 304(a)(11) of such Act (2 U.S.C. 434(a)(11)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) The Commission shall make available without charge a standardized package of software to enable persons filing reports by electronic means to meet the requirements of this paragraph.".

SEC. 304. WAIVER OF "BEST EFFORTS" EXCEPTION FOR INFORMATION ON OCCUPATION OF INDIVIDUAL CONTRIBUTORS.

Section 302(i) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(i)) is amended—

(1) by striking "(i) When the treasurer" and inserting "(i)(1) Except as provided in paragraph (2), when the treasurer"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply with respect to information regarding the occupation or the name of the employer of any individual who makes a contribution or contributions aggregating more than $200 during a calendar year (as required to be provided under subsection (c)(3)).".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

This Act and the amendments made by this Act shall apply with respect to elections occurring after January 1999.

The CHAIRMAN pro tempore. Before consideration of any other amendment, it shall be in order to consider the amendments in the nature of a substitute specified in House Report 105–545. Each amendment shall be considered in the order specified, may be offered only by the Member who caused it to be printed in the Congressional Record or his designee, shall be considered read, and shall not be subject to a substitute amendment or to a perfecting amendment carrying a tax or tariff measure.

Consideration of each amendment specified in the report shall begin with an additional period of general debate, which shall be confined to the subject of the amendment and shall not exceed 1 hour, equally divided and controlled by the Member causing the amendment to be printed in the Congressional Record or his designee and an opponent.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the Congressional Record. Those amendments will be considered read.

If more than one of the amendments specified in the report is adopted, only the one receiving the greater number of affirmative votes shall be considered as finally adopted. In the case of a tie for the greater number of affirmative votes, only the last amendment to receive that number of affirmative votes shall be considered as finally adopted.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to debate the subject matter of the amendment printed in the CONGRESSIONAL RECORD as number 16.

Pursuant to House Resolution 442, the gentleman from Washington (Mr. WHITE) and a Member opposed each will control 30 minutes.

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the bill and claim the 30 minutes in opposition.

The CHAIRMAN pro tempore. The gentleman from Connecticut will be recognized for 30 minutes.

Mr. GEJDENSON. Mr. Speaker, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently, a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 240]

ANSWERED "PRESENT"—392

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
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Hall (OH)
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Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
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Kennedy (MA)
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Kind (WI)
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Price (NC)
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Ramstad
Rangel
Redmond
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Rohrabacher
Ros-Lehtinen
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Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
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Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
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Tauscher
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Taylor (MS)
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Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
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Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn

□ 1705

The CHAIRMAN pro tempore (Mr. PEASE). Three hundred ninety-two Members have answered to their names, a quorum is present, and the Committee will resume its business.

It is now in order to debate the subject matter of the amendment printed in the CONGRESSIONAL RECORD as Amendment Number 16.

Pursuant to House Resolution 442, the gentleman from Washington (Mr. WHITE) will control 30 minutes, and the gentleman from Connecticut (Mr. GEJDENSON) will control 30 minutes.

Mr. GEJDENSON. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. NEY) control 7 minutes of my time.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Ohio (Mr. NEY) will be recognized for 7 minutes, and the gentleman from Connecticut (Mr. GEJDENSON) will be recognized for 23 minutes.

The Chair recognizes the gentleman from Washington (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I waited for this day for a long time, and I think many of us in this Chamber have waited for a long time for the day where we would have a full, fair and open debate on campaign finance reform. I feel like I have waited a particularly long time though because the bill that we are considering now, my substitute to the base bill, was the first bill I introduced as a Member of Congress.

Mr. Chairman, it was about 3 years ago that a group of citizens from my district came into my office and said, "You know, you guys just don't get it back in Washington, D.C. There is so much disgust at the way this process develops. We need to take a better approach to campaign finance reform, and you need to introduce a bill."

So we did something that probably was unusual at the time. I was a new Member of Congress; I really did not know any better; so we went out and tried to find all the people we could who knew something about campaign finance reform, and we talked to a bunch of academics, we talked to people at the Federal Election Commission, talked to lots of different people, and at the end of the day we came up to a conclusion that has guided everything I have done since that time and guides this bill.

Mr. Chairman, that is the fact that the last people we can trust to reform our campaign laws are the Members of this body, the Members of the Senate, the people who got elected under the very laws we are trying to change.

Mr. Chairman, when we made that discovery, one that was not really a surprise to any of us, we drafted a bill that would take the power away from this Chamber to a bipartisan-nonpartisan group to recommend to us how we should reform our campaign finance laws. That was the commission bill. I introduced it with great pride and fanfare in 1995, and at the end of the 104th Congress, about a year later, I had two cosponsors of that bill. It was not really a very good effort in the last Congress.

So when we came back in this Congress, in the 105th Congress, we decided to take a different approach. We talked to everybody who had any sort of commission bill of any kind that they had ever introduced or ever cosponsored, we got together with lots of Democrats and lots of Republicans, and we put together one joint commission bill among Republicans and Democrats that all of us could support. That process took us a while.

Once we got the bill that we could agree on, we went out and started getting cosponsors, and I am proud to say, Mr. Chairman, that as of today we have 119 cosponsors of our bill, more bipartisan cosponsors than any other bill in the House.

That is a record of progress.

But, Mr. Chairman, a funny thing happened on the way to this floor because a bill that was designed to take politics out of this process, to give it to a neutral body, all of a sudden started to become perhaps a victim of politics, and there are lots of editorial boards, lots of special interest groups who said,

> You know what? We don't like the commission bill. We've got a bill that we like better. In fact, we know how to write the campaign finance laws better than a commission would, we don't want to give up that control, and so we think that not only do we want to change our mind about voting for the commission bill, we want to oppose any bill except our particular way of doing it.

And we heard from a number of our cosponsors that they decided not only not to speak for our bill, not only not to vote for our bill, but that they are going to vote present for our bill, kind of as a matter of protest, and we will have some more discussion about that later.

Let us talk for a moment about what this bill would do. As I said, the entire premise of this bill is that we cannot let Members of this House or of Congress write the rules that govern their own election. It is a fairly simple concept. The personal self-interest of every single Member of Congress is at stake, and it is frankly asking a lot of anyone, especially a Member of Congress, to write the rules in a way that would make it easier for them to lose their jobs.

So it is a recognition of reality. Let us set up a commission of independent people to make this choice.

Now who would be on this commission? Well, we have four Republicans, four Democrats and four independents composing the commission of 12 people who would have 180 days to sit down and write a bill with their recommendations for what our campaign finance bills would be like. We have a procedure for picking the members of this commission that is very similar to the Base Closure Commission process designed to be as neutral as we can be in this town. We have some Republicans making some decisions, some Democrats making some decisions, the President making some decisions, but each one of them has to at least name one independent to the commission so we really do come up with an independent body.

As I said, once that happens, the commission has 180 days after the adjournment of this Congress to come back with recommendations to this House, and at that time this House and the Senate both have to vote up or down on the commission's recommendations. No amendments are allowed.

□ 1715

And I have to tell my colleagues, Mr. Chairman, that of all of the proposals that are out there, this is the only one that is going to give us real reform.

Mr. Chairman, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, we are in a process, trying to avoid a straightforward discussion of campaign finance reform. I know there are some people that believe in a commission, and commissions are not the worst things in the world, but we all get paid a salary and we are elected here to make decisions about legislation, and if we believe in representative government, we are here to represent our constituents to try to address one of the fundamental issues gnawing at the confidence of how their government operates by the American people.

Now, 157 weeks ago the Speaker of the House shook hands with the President of the United States and says, we are going to do campaign finance reform. Mr. Chairman, 157 weeks of dodging and weaving to try to avoid a vote. And then we had one day where we had this sham set up that all the papers basically wrote off as a sham, and then we came up with as convoluted a process as we could possibly come up with, and here we are today. We are passing rule upon rule, we are doing a section of debate today and a section tomorrow. Some people may validly believe in a commission, but a vote on a commission today is a vote to end the process of stepping forward with campaign finance reform.

I think Shays-Meehan, or McCain-Feingold is wholly inadequate. It does not have spending limits; it does not address some of the fundamental issues that I think are important. But in a legislative process, we either go forward or we kill the process and stop dead in our tracks.

The Republican leadership is intent on stopping the campaign finance reform process. It is astounding that they could go to such lengths, because we have to remember, they have been able to filibuster the bill to death in the Senate. So even if by some miracle we are able to get through this Congress, we are confronted with a continuing filibuster in the other body.

Mr. Chairman, 157 weeks, and what we want here is a straight up-and-down vote to at least address some of the fundamentals; the fundamentals on soft money, on independent expenditures. I think we ought to be doing more on all of these. I think the Democratic record here is one we can be proud of. We established the FEC. The Federal Elections Commission, as inadequate as that body is, there was no real review until we overrode Richard Nixon's veto.

Democrats put forth and passed the 1974 Campaign Act. Was it not for a wrong-headed Supreme Court decision, we would have better law on the books today.

In the 102nd and 103rd Congress I had the privilege of passing bills that limited PACs, that limited the amount of contributions wealthy people could give, and that limited campaign spending, one vetoed by President Bush, one filibustered to death by the Republicans in the Senate. The American people want campaigns to go back to a debate of what we believe in, of what we stand for, of what we have done, and not a race for dollars.

I had a candidate tell me a couple of days ago that he was informed by a member of the Republican Party in a race that they actually spent 3 times the money that was published in the FEC by using independent expenditures and issue advocacy. The American people want an honest accounting. They want to know where the money comes from, and they want to hear us talk about what we believe in, and not have Members of Congress spending inordinate amounts of time trying to raise money.

Defeat this proposal. Go forward with the only thing that keeps the process going.

Mr. WHITE. Mr. Chairman, I yield myself just 1 minute to respond to the gentleman from Connecticut.

I would simply make two points. The gentleman said that we are paid a salary to make decisions and that is absolutely right, so why in the world would anyone vote present on this bill? I ask that question. Number 2.

Mr. GEJDENSON. Mr. Chairman, I would be happy to answer that question.

Mr. WHITE. Regular order, Mr. Chairman. Regular order.

Mr. GEJDENSON. Mr. Chairman, I thought the gentleman asked me a question and wanted an answer. I am sorry.

Mr. WHITE. Mr. Chairman, the gentleman can respond on his own time.

I actually agree with the gentleman from Connecticut, there actually was a handshake between the President and the Speaker, but it was a handshake on setting up a commission. If we want to do what the President and the Speaker agreed to, we have to vote for this bill.

Mr. Chairman, I yield 7 minutes to the gentleman from New Jersey (Mr. FRANKS).

Mr. FRANKS of New Jersey. Mr. Chairman, I sincerely hope that the process that we have begun this week will result in us delivering to the American people a campaign finance system that they can trust. The public is tired of talk and is demanding action.

Since the first day that I entered this House some 6 years ago, there is no other issue that has been the subject of more discussion off this floor than the need to change the rules under which congressional campaigns are financed. My colleagues have regularly told me they spend too much of their time raising money. They say they do not like relying so heavily on PAC contributions, and most importantly, they hate going back home and having constituents question whose agenda is at work in the Nation's capital, theirs or the special interests.

Our failure over some 20 years to meaningfully address this issue hurts all of us. It undermines public confidence in this institution and casts a cloud over every action that we take.

We now have an opportunity to put this issue behind us and begin restoring public confidence. But first, we all need to face a harsh reality. When it comes to an issue like this one, one in which all of us as Members have a vested interest in the outcome, the traditional legislative process just will not work.

Let us take a look at the long and sorry history of congressional efforts at campaign finance reform. Between 1987 and 1996, there have been 6,742 pages of hearings on campaign finance reform. There have been 3,361 floor speeches, and 29 sets of hearings have been held by 8 different congressional committees. Yet, after all of this, we find ourselves today back where we first began, talking about the need to change the system of financing campaigns.

Even on those rare occasions when this House has gone so far as to actually pass a campaign reform bill, we often acted knowing full well that it would never see the light of day in the other body.

Mr. Chairman, today we find ourselves at a crossroads. We can once again follow the failed path of relying on the traditional legislative process and hope that in contrast to all past history, this time we will be successful, or, we can bravely follow a new path.

Our independent commission would develop a legislative package of reforms that must be voted upon by both Houses, up or down, no amendments, no tricks, no procedural barriers. There could be no delay, no stalling tactics. Our bill establishes a strict time frame for the commission to deliver its recommendations and for both Houses to actually vote on it. The commission would have 180 days from the adjournment of this Congress to deliver a legislative proposal to the floor of this House.

Some have called the commission approach a cop-out, an effort to thwart what some call real reform. Nothing could be further from the truth. In fact, the Reform Party led by Ross Perot, the man who more than any other American brought this issue to the forefront of the public's agenda, has endorsed our bill creating an independent commission.

Let me read from a letter we recently received, and I quote:

> The Reform Party agrees that true reform can only come when an outside body is convened to draft meaningful, comprehensive legislation to fix a system that is frequently abused. Current Members of Congress are too often unwilling or unable to fix this system and form the consensus needed to reform it, this system that they alone benefit from.

Our commission bill would force both Houses to act on precisely the same measure. It holds out the only real hope that we can achieve comprehensive campaign reform. For this House to pass only a proposal that has already been rejected by the Senate does not qualify us as reformers. Under that scenario, Members would go back home and take credit for addressing the issue, but in reality, they will have voted merely to place campaign finance reform in eternal limbo between two legislative bodies.

If we are really serious, let us stop playing the same old game, which only serves to fuel cynicism and contempt among those who are concerned about the integrity of our electoral process.

This Congress has answered a similar call in a similar situation a number of years ago when we faced another politically sensitive issue: the need to close military bases. While we all agreed with the goal of eliminating surplus military bases, no Member wanted to be in the position of voting to close down a facility in his or her district. By creating an independent base realignment and closure commission, Congress successfully completed that important mission.

The independent commission approach works. It is the best hope of restoring sanity to our campaign finance system and rebuilding public trust in this institution.

With more bipartisan cosponsors than any other campaign finance bill, the independent commission is the last, best chance for real reform in this Congress.

Mr. GEJDENSON. Mr. Chairman, it is my privilege and pleasure to yield 3 minutes to the gentleman from Missouri (Mr. GEPHARDT), the minority leader of the House.

Mr. GEPHARDT. Mr. Chairman, I rise to state that this is a good idea. The commission has much to be said for it. I have been for this proposal in the past, and I would hope that we could add this to the Shays-Meehan bill, which I believe we will be able to do. But I also rise to say that the way this procedure as written, if this bill gets the most votes, it would in effect defeat the Shays-Meehan proposal.

So I rise tonight to ask Members on both sides of the aisle to vote "no" on this proposal, because we will get a chance to add it, if we get that far, to the Shays-Meehan proposal, so it rightly could be added to that proposal. All of us know that while Shays-Meehan is good reform and has a lot of the elements that we think is the first big step of reform, there is a lot more that needs to be done, and this commission could start as we pass Shays-Meehan and could look at other reforms that we could do in the future.

I want to especially commend the Members in the Republican Party who have worked so hard with Members in our party to try to get Shays-Meehan to be the bill that comes out of this process. As the last speaker said, campaign reform is hard to do. It is complicated. Everybody is an expert here because we all run in our own campaigns, and we all have a little bit different idea of what the right reforms are.

But in my mind, I believe that Shays-Meehan is the best bill that we can do at this point in time. It is supported by many, many outside organizations. It does attack both soft money and independent expenditures which I think most Members and observers believe are the major areas that have been abused.

We can do it now. We can do it this month. We can get it off to the Senate and try to get a bill out of the Senate that would be similar. By voting "no" on the commission or voting "present," we are not really voting "no" for it on the last chance we will have. We can put it onto the Shays-Meehan bill and have the best of both worlds.

So in the spirit of bipartisanship, in the spirit of reform, in the spirit of getting something meaningful done, which I think the American people desperately want us to do in this Congress, I urge Members to vote "no" or "present" on this very good commission proposal; I urge Members to add it to the Shays-Meehan bill when we get the chance, and I urge Members on both sides of the aisle to vote for Shays-Meehan to give it the greatest vote so that under this process, it is the bill we vote on last and it is the bill that we send to the Senate.

□ 1730

Mr. WHITE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, it was very interesting to listen to the previous speaker, and I recognize his sincere desire to try to reform the campaign finance laws. But I would say to the gentleman, and I would say to the Members on the other side, it is a perfect example of the reason we will not have campaign finance reform because the reason he wants to vote "present" on this bill, or even against it, is because he wants to do it his way. He cannot bear to give up the ability to write the rules himself, to write the rules in this House so that we get to control the process by which we get elected.

Mr. Chairman, we have been down that path so many times before. The list of failed efforts at campaign finance reform that we have had since 1974 fills a whole column in the Washington Post.

Mr. Chairman, I include for the RECORD the following list:

FAILED EFFORTS—SUMMARY OF ATTEMPTS AT CAMPAIGN FINANCE REFORM

1974.—Reacting to Watergate abuses, Congress passed bill that set contribution and spending limits for candidates in federal elections and provided for public financing of presidential elections. Signed by President Gerald R. Ford.

1976.—The Supreme Court ruled that the 1974 law's spending limits violated the First Amendment.

1977.—President Jimmy Carter's proposal for spending limits and public matching funds for congressional elections was blocked by a Senate filibuster and House committee opposition.

1979.—Legislation to limit contributions from political action committees (PACs) was passed by the House but stalled in the Senate, threatened by a Republican filibuster. Public funding legislation died in the House.

1985.—Sens. David L. Boren (D-Okla.) and Barry Goldwater (R-Ariz) proposed legislation to limit PAC contributions; the Senate delayed action on it.

1986.—The Senate approved the Boren-Goldwater proposal as part of legislation that failed to pass.

1987.—A broader bill was introduced by Boren and Majority Leader Robert C. Byrd (D-W. Va), calling for voluntary spending limits, some public funding and restrictions on PAC contributions. Republicans filibustered, and Democrats failed in seven attempts to end the stalling tactics.

1988.—The bill was shelved after Democrats failed in an eighth attempt to end the GOP filibuster.

1990.—The House and Senate passed separate bills with voluntary spending limits, public funding and limits on contributions from special interests, including PACs. House-Senate conferees never met.

1991.—Both houses again approved separate bills, and President George Bush promised a veto, saying the legislation would favor Democrats.

1992.—The House and Senate agreed to a compromise on the 1991 bill and passed it, but it was vetoed by Bush. The veto was sustained.

1993.—President Clinton supported reform efforts but did not give them high priority. Both houses once again passed different bills, with the Senate favoring stronger PAC curbs than the House did.

1994.—House Democrats delayed an agreement with the Senate on the 1993 bill until fall, and Senate Republicans filibustered it to death.

1996.—A bipartisan group of senators introduced a scaled-back bill, including voluntary spending limits, a ban on PAC contributions and other curbs on special-interest giving but without any provision for public funding. It was killed by a Republican filibuster June 25. House action on an even more limited bill is possible later this month, but chances of reconsideration by the Senate are dim.

Mr. Chairman, I would implore this House not to miss the opportunity to at least try to do the right thing. The fact is, we are going to have lots of debate on lots of different campaign finance bills. Lots of them are going to be designed simply to hurt the other party or to hurt challengers so that incumbents' positions are safer.

Mr. Chairman, I would say to my friends, go ahead and have those fights. Go ahead and try to do it their way. Go ahead and try to get 218 votes to do it their way to make sure incumbents stay in and that we get to write the rules. If it turns out their position wins, that is fine.

But, I would tell them, do not miss the opportunity to actually do it the real way. Do not miss the opportunity to actually have a fair bill. The opportunity, for once, to have somebody who does not have an axe to grind, who is not part of the inside-the-Beltway circle to write some rules that will be fair to everyone.

Mr. Chairman, I would implore all Members on both sides of the aisle not to miss the one opportunity we have today for real campaign finance reform.

Mr. Chairman, I reserve the balance of my time.

Mr. NEY. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman from Ohio (Mr. NEY) for yielding me this time.

Mr. Chairman, I want to state that I rise in opposition to the commission bill, but I want to express my deep appreciation to the gentleman from Washington (Mr. WHITE), my friend, for his leadership on this issue. I believe that he has been unfairly attacked by people who say that he is not genuine about reform. I do not believe there is anyone more genuine in this body about campaign finance reform than the gentleman from Washington. I want to thank him for his commitment to this issue, his dedication, and his hard work.

Mr. Chairman, under any other circumstances, I would be supporting the gentleman's bill. But they used to call Reggie Jackson "Mr. October," because he hit home runs in October. This is an October bill, and yet this is June and we still have time to accomplish reform in this Congress. For that reason, I do not want to give up a present opportunity for a promise down the road.

I do believe that the commission bill is a recipe for reform, but it is a very slow-cooking recipe. And so let us not make excuses for inaction today by saying that we are going to work on it in the future or we are going to give this responsibility to a commission.

If we look at what can happen down the road if we enact the commission bill, the Senate might not pass it, which is a danger in any legislation. But whenever the commission is created, the commission members may not agree. But, most significantly, when the result is finished by the commission, it comes back to this body which could once again reject the reform which is offered by the commission.

So here at the present time, at this moment in history, we have a present alternative, an alternative we can vote on. It is on this floor for a vote. And so when we have reform on this floor for a vote, you do not take it off and indicate we are going to give it all to a commission.

Mr. Chairman, the American public expects us, this body, the elected representatives in this country, to take action. And the present alternative is the base bill, the Hutchinson-Allen freshman bill. It does a number of good things. It bans soft money. It strengthens the role of the individual in our political process. It provides for more disclosure, more information to the public. But, very importantly, it is constitutional. It respects free speech. It does not federalize State elections, and it is bipartisan.

For that reason, the gentleman from Missouri (Mr. GEPHARDT) indicated that he wanted everybody to vote for Shays-Meehan. I think it is important to remember that there are going to be a couple of significant reform votes as we go along in this process. And it might not be tomorrow, but the end game of this reform process is the freshman bill which will be voted on in the final vote.

Mr. Chairman, we hope that people who are committed to reform will respect the Constitution, will respect the role that we have in the Federal elections process and vote for the Hutchinson-Allen freshman bill.

Let me say a word about the process. I hope that we have an open debate. I think we are going to have that. I do not believe we ought to complain about this open debate. But I hope that we who are interested in reform will withdraw the amendments that we have offered to the various bills so that we can move this process through a little bit quicker and save some floor time. This is true for the Republicans and the Democrats.

Mr. Chairman, I noted that the Democrats requested before the Committee on Rules 74 amendments to the different substitutes that have been offered. I think that we ought to calm down. We ought to pull the requests down. Let us speed up the process. Let us work together to get a vote on the main substitutes that are being proposed.

I want to thank the gentleman from Washington (Mr. WHITE), compliment him and respectfully ask my colleagues to vote against the commission bill and support the freshman bill, the Hutchinson-Allen bill, which represents constitutional but real reform.

Mr. GEJDENSON. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I rise in opposition to my own bill. As one of the principal sponsors of the commission bill, I really am asking all of my colleagues on both sides of the aisle to vote against the bill, or to vote "present," because it is now in competition with the Shays-Meehan bill, a real reform bill that will accomplish many of the things that many of us wanted to accomplish through a commission bill.

First of all, I would like to thank all of my colleagues who worked very hard on this legislation, particularly the gentleman from Michigan (Mr. DINGELL), who is a leader not only on campaign finance, but so many important issues before this body. He has often said that the best legislation is bipartisan, and we had a sincere bipartisan effort.

I also thank the gentleman from Washington (Mr. WHITE), the gentleman from California (Mr. HORN), and the gentleman from New Jersey (Mr. FRANKS) for all their hard work and commitment.

But what has happened with the way the rule is in place, the prospects for passage of Shays-Meehan is weakened with each competing vote. And now the commission bill is in competition with Shays-Meehan.

I have always called the commission bill a fall-back position, one that we would go to if we could not achieve a vote in this Congress on meaningful reform.

But Shays-Meehan is a strong vehicle for change. It addresses two of the greatest abuses. It bans soft money and brings into accountability the so-called independent expenditure groups. And so now is not the time to vote for a fall-back position, but to vote for real reform.

Mr. Chairman, we cannot let the commission bill be used as a trump or a way to kill Shays-Meehan. We have an historic opportunity to pass real reform. That is Shays-Meehan. I call upon my colleagues on both sides of the aisle to vote "present."

Mr. GEJDENSON. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I got this sheet from my colleague here. It is interesting. In 1974, it starts, the Democrats passed campaign finance reform. In 1979, it is a Republican filibuster. In 1988, it is a GOP filibuster. In 1991, Bush promises a veto. In 1992, Bush vetoes. In 1993, Senate Republicans filibuster. In 1996, Republicans filibuster.

There is a difference in the two parties. Democrats have generally been for this. Not perfect, but for this. And the very sheet my colleague brought up here time and time again talks about Republicans filibustering and killing the process, and I would say the gentleman's bill would kill the process again.

Mr. Chairman, I reserve the balance of my time.

Mr. WHITE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, that is exactly what I am talking about. This is not a political issue. Why do we always make it a political issue? It is not about Republicans and Democrats. It is not about who killed it last time. It is not about who brought up the bill and passed it, when they knew that the President would veto it.

It is about trying, for once, to get a real fair bill done, not pointing fingers at other side, simply voting for a bill that is designed to take politics out of this system.

Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, all of us have been clamoring for debate on campaign finance for some time. In fact, that has been the issue that most people have been talking about, particularly on that side of the aisle, since the beginning of this Congress, and rightfully so.

But I find it interesting that every time they talk about we need full and open debate on all these issues, so we have time to talk about every issue, and yet in a minute we may vote on a rule that would allow us also to address some nongermane amendments to Shays-Meehan. And that is really where the problem began in the first place because, for example, the way the presidential elections are financed, that is where all of this problem started.

If my colleagues will remember, the Clinton-Gore campaign came close to violating about every Federal election law there is to violate. I am reading from the Washington Post, the Federal page, and it talks about campaign finance probe, 94 witnesses who will not talk, 94 witnesses who take the Fifth Amendment. Many of them, it has been verified, have broken campaign finance laws. Yet this rule is going to be coming up, and I bet everyone on that side of the aisle will vote against the rule, even though we need also, if we are going to have full disclosure and full debate, we need to look at nongermane amendments as well as germane amendments.

So, Mr. Chairman, in the spirit of the way my Democrat colleagues were talking and asking for full and open debate, I would urge them to vote for this rule that we will be considering a little bit later.

Mr. GEJDENSON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. DINGELL), a leader of this House and a leader on this issue.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Connecticut (Mr. GEJDENSON) for yielding me this time.

Mr. Chairman, I would like to say that the amendment before us is a good one. And I want to commend the gentleman from Washington (Mr. WHITE) and the gentleman from New Jersey (Mr. FRANKS) for their efforts on behalf of this, as well as the gentleman from California (Mr. HORN) and the gentlewoman from New York (Mrs. MALONEY). They had the vision to understand that this is a good approach. It is one which affords us an opportunity for doing something.

Unfortunately, the way the situation has been crafted, we now find that we have another very important opportunity, and that is one which, in my view, is a better opportunity to address quickly the real problems we confront in terms of campaign financing.

For that reason, I am going to vote "present" on the amendment that is offered by my good friends, and I do it with a great deal of regret. I have never done this in all the years that I have had the privilege of serving in this body, and it is with profound regret that do I that. But it is my view that Shays-Meehan is the best and most immediate tool that we have that is possible for us to use to correct the serious problems that we confront with regard to campaign financing.

A little history: When I first ran for Congress some 40 years ago for $19,000, I beat 23 candidates, one of whom was former mayor of Detroit, and a sitting city councilman, a past Commander of the American Legion, and a large number of other influential citizens. Ten years later I beat an incumbent in his own district with $35,000.

There is no way on God's green Earth, unless we reform this intolerable situation of campaign financing, that anybody will ever have that opportunity to do those kinds of things again. One of the most disgusting and degrading events that takes place in our life is the tremendous amount of money that we have to raise to hold this job.

□ 1745

That is not something which I applaud.

I think all my colleagues find this same thing equally distressing. I would tell my colleagues I intend to vote for the rule when it comes up, and I intend to support the idea that we should be able, at that time, to offer the commission bill to Shays-Meehan.

Shays-Meehan offers us, with that amendment and without it, a superb opportunity to do something immediate about cleaning up the mess that is campaign financing in the United States.

I want to commend my colleagues who worked with me on the commission bill. It was a bipartisan effort. Shays-Meehan is a bipartisan effort. I urge all of my colleagues to join me in a bipartisan effort to clean up the campaign situation in this country at the earliest possible moment and to do so through the device of supporting Shays-Meehan and then later to also support the rule and to support the bill with an amendment which we will offer, which will be supported by its sponsors, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) to add the commission to it so that we can expand further what needs to be done in terms of cleaning up the campaign situation in this country.

I do not want any of my colleagues to feel that in any way they are demeaned by this. This is one of the unfortunate choices that Members of Congress have to make because of the way the rules work in a situation where we have a large body, where the process is disorderly, and where, unfortunately, constraints and time are necessary in order for us to serve the public good.

Mr. WHITE. Mr. Chairman, I yield 3½ minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank my friend, the gentleman from Washington, for yielding to me.

Mr. Chairman, let me relate an incident in Louisiana where I once asked a local politician why he thought we spent so much money in political campaigns. His answer was, well, you know, Billy, the other candidate always goes on television before you are ready to go on television. They start telling lies about you, and then you have got to go on television to answer those lies much sooner than you wanted to go on television or you probably could afford to go on television.

Then as the campaign draws closer to election day, they go back on television, and they start telling the truth about you, and then you have really got to spend a lot of money to answer those ads.

The bottom line is, whether that is true or not, we spend an extraordinary amount of money in campaigns across America for State, local, and Federal elections. The rules by which we raise that money and spend it inevitably get written by whom, by the incumbents, by those of us who have been fortunate enough to win an election and to serve in public office.

Inevitably, the campaign practice rules we write in the State legislatures and here on the floor of the House and in the Senate, inevitably, those rules are suspect. People always believe those rules must have been written to favor incumbents.

Inevitably, when Democrats propose a campaign practice reform or when Republicans propose a campaign practice reform, those reforms are suspect, because people believe, quite naturally, that one party must have written the rule to gain a fair or perhaps even an unfair advantage over the other party in the coming election.

So the question we should be thinking about as we once again debate another round of campaign practice reform laws is whether we should be the ones proposing those reforms or whether, in fact, an independent commission on which no incumbent Members of Congress can serve should be proposing those reforms while we in the end endorse those reforms by a single up or down vote. That is the concept between a single commission approach.

I want to commend the gentleman from Washington (Mr. WHITE) and others who have worked on it for the thought here. The thought is that if you want a credible campaign practice law that has in it no suspicion that it favors incumbents, no suspicion that it was drafted to make the Democratic Party more advantageous in the election than the Republican Party or some independent third party.

To give any one a better chance than the other in raising the funds and spending the funds in the campaigns of America, then why not this commission approach? It makes an awful lot of sense.

It preserves to the Congress the ultimate authority to vote up or down on the recommended reforms, but it leaves the meticulous fashioning of those reforms to an independent commission composed of nonincumbents. It leaves literally to nonincumbents the duty of fashioning the intricate details of campaign practice reform law.

Let me tell you where I come down quickly. I would hope, whatever we do in the context of this debate, that we remember in the end it is the citizens of this country that are most benefited if we do two simple things: that we make sure that there are reasonable limits to donations in all cases, and secondly, there is full disclosure to the American public.

If the American public knows how campaign money is raised and knows how it is spent, all under reasonable limits, I think it will have provided the best reforms we can provide with the least amount of suspicion that we did it simply to favor ourselves or to favor one party or the other.

How do we get there from here? I recommend the commission form.

Mr. GEJDENSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I say, where are these commissioners coming from? They are being nominated by the Republican and Democratic leaders of the two Houses. Mother Teresa has passed away. These are going to be political people on this commission.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. ADAM SMITH).

Mr. ADAM SMITH of Washington. Mr. Chairman, confusion has been as big an opponent of campaign finance reform as outright opposition. There seem to be 100 different plans, 100 different ideas out there, and that confusion has stopped us from getting the consensus we need to pass a bill until now; the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN), through a number of years of hard work, brought us that consensus with the Shays-Meehan bill that we now have the option of voting on.

I think we should seize on that consensus and pass that bill. It was crafted in a bipartisan way. Unfortunately, the way the rules were set up, a vote for the commission bill is a vote against Shays-Meehan. So we need to vote against the commission bill and give our full support to Shays-Meehan, a bill with meaningful reforms.

I have listened to the opposition to Shays-Meehan and support for the commission bill, but what I have not heard are any specific complaints about Shays-Meehan. It makes perfect sense to do as the gentleman from Missouri (Mr. GEPHARDT) suggested, to pass Shays-Meehan and add the commission bill to it. That gives us the best of both worlds.

Basically, if there is something more that needs to be done, great, we can do the commission. But what in Shays-Meehan is so bad? I have not heard that from the proponents of the commission bill because there is nothing bad about it.

It bans soft money. It limits independent expenditures. I think perhaps as important as anything else, it gives the Federal Elections Commission more enforcement authority to actually enforce the rules that exist. Those are good things.

Somebody has got to say why they are in opposition to Shays-Meehan.

We have got a great opportunity here to pass a bill that has consensus and makes meaningful reform. We are arguing against it without even saying why. What is wrong with Shays-Meehan?

One final point, we have heard that the Senate may not pass Shays-Meehan. If that is the criterion, we should go ahead and stop right now, because the Senate is not going to pass the commission bill either.

We have an opportunity to lead here in the House with Shays-Meehan, with meaningful reform, that does things that we all claim to support. Why do we not support them with our vote as well as with our rhetoric?

Mr. WHITE. Mr. Chairman, I yield myself 1 minute to respond to my colleague from the Puget Sound area and to others who have spoken to it before. We have heard a lot of complaints blaming it on the rule, blaming the need to vote "present" on the rule.

The fact is, we cannot blame the rule for how you are going to vote on this bill. This is about the most open process we could possibly decide. We have got to take blame ourselves. That is what this House is about. We have got to vote for or against this bill. If we are not voting for it, we have got to be prepared to take the heat.

I think it is a mistake to suggest that it is the fault of the rule that these people have to vote "present." The fact is they either want a bill that does it their way, and many of them think that is the Shays-Meehan bill, or they want a bill that does it the fair way, which is what the commission bill does.

I would also say to my friend from Washington who asked what is wrong with the Shays-Meehan bill, I will tell you what is wrong with it. It is not comprehensive. It kind of nudges around the edges of campaign finance reform.

We have already got a system like that. The system we adopted now was ruled partially unconstitutional by the Supreme Court, so we have already got half a system. We do not need another half a system to make the process even worse. That is what is wrong with the bill. Only the commission gives you a comprehensive package.

Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, there is so much that is wrong with the present system, but the Democrats gave us this system. We had a Republican President who, unfortunately, signed it into law. It is a disastrous system. Before this system came into being, most people had never heard of PACs or of soft money or hard money or issue advocacy or all of these wonderful permutations that come as a direct result of the big government regulation that you Democrats gave us, that you love, that is so unconstitutional, so undesirable, and so unworkable.

By the way, that is what is wrong with Shays-Meehan. It is more of the same old rehash, more rules, more regulations, more bureaucratic czars, more of everything that is ruining our political system. It is terrible.

Here, this is like having a patient that has been misdiagnosed by the physician. The sicker the patient gets, the heavier the dosage of medicine. What is the medicine? Government regulation. Obviously, we do not have enough, let us have some more.

Let us take Shays-Meehan. Let us have the Allen-Hutchinson freshman bill. Let us have more of these awful proposals that are so contrary to the whole history of America that have produced this mess that frustrates people, that makes them wonder what is going on in Washington, D.C.

What we need to do is step back, get a new diagnosis, and find out what the problem really is.

The problem is government regulation of political speech. What could be more clear than the First Amendment, which says Congress shall make no law abridging the freedom of speech? Yet, Shays-Meehan, Allen-Hutchinson or Hutchinson-Allen, and many of these proposals that are coming before us are precisely that, abridgements of the freedom of speech, all in the name of some greater good, fairer campaigns or whatever it is.

I think that we have a real problem here. At least the gentleman from Washington (Mr. WHITE) is giving us a bill that has the potential of producing some improvement. I do not think it is perfect, but few bills are perfect that come before this House. At least it offers the opportunity to do something.

To the gentleman from Connecticut (Mr. GEJDENSON), we hear all this talk about big money. The last campaign, I see the gentleman raised $1,177,000 according to the official FEC records. So the gentleman has got some big money in there himself.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield to me?

Mr. DOOLITTLE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, what preceded this system that is bad and needs fixing was a "cashocracy". People came to Members of Congress and presidential candidates with bundles full of cash. I think that was a worse system. We are not perfect today, but we are better than a system where people used to come in to Members of Congress offices with envelopes of $100 bills.

Mr. DOOLITTLE. Mr. Chairman, the system we have now is not better than the one we had. One wrong does not make a second wrong. All we would need to do is have full disclosure in a very timely fashion like one of the proposals before us will do, and you would let the electorate judge. Then you would not have the heavy hand of regulation. Let the electorate do it. The Founders did not want a government czar regulating our freedom of speech.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, only those with enough money to buy the megaphone would get to speak. Yes, the rich would be heard. But the average person, he might be able to read about which rich person is being heard, but he could not express himself if the almighty dollar is how you buy access to television and radio and speech.

Mr. DOOLITTLE. Mr. Chairman, let me respond. I respectfully submit that is utter nonsense. The Supreme Court itself observed in the Buckley case that there is no obligation for the government to fund people in making their speech, but we all have the right to make the speech we want to make.

Mr. Chairman, I ask unanimous consent to have 5 more minutes.

The CHAIRMAN pro tempore (Mr. SUNUNU). The rule on this bill limits debate. Unanimous consent is out of order at this time.

PARLIAMENTARY INQUIRY

Mr. GEJDENSON. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GEJDENSON. Mr. Chairman, there would be nothing to preclude the gentleman and I continuing our discussion following the allotted time in making a statement at that point. So the gentleman could get additional time at the end.

The CHAIRMAN pro tempore. Under the 5-minute rule, the gentleman from Connecticut (Mr. GEJDENSON) or the gentleman from California (Mr. DOOLITTLE) could request additional time.

Mr. DOOLITTLE. Mr. Chairman, we will carry on at that point.

Mr. GEJDENSON. Mr. Chairman, I am now privileged to yield 3 minutes to the gentleman from Massachusetts (Mr. MEEHAN), the author of the legislation that should be before us and is the most significant reform bill before the Congress today.

(Mr. MEEHAN asked and was given permission to revise and extend his remarks.)

Mr. MEEHAN. Mr. Chairman, I take the floor today certainly not to defend the status quo or the present system we have, but rather to rise and thank my colleagues, especially the gentleman from Michigan (Mr. DINGELL), the gentlewoman from New York (Mrs. MALONEY), and all of the other sponsors, my friend, the gentleman from New Jersey (Mr. FRANKS), the gentleman from Washington (Mr. WHITE) and the gentleman from California (Mr. HORN), who have been fighting for the commission bill.

□ 1800

And I also want to suggest that by voting "present" rather than "yes" on their own amendment, both the gentleman from Michigan (Mr. DINGELL) and the gentlewoman from New York (Mrs. CAROLYN MALONEY) will help us shore up the necessary majority to pass the Shays-Meehan bill.

Three years ago Frank MacConnell stood up at a town meeting in Claremont, New Hampshire and asked Speaker GINGRICH and President Clinton to commit to passing a campaign finance reform bill. The Speaker and the President shook hands on that. One year later, after no commission, Frank MacConnell came to Washington to ask Speaker GINGRICH and President Clinton to commit to passing the McCain-Feingold, Shays-Meehan bill rather than establishing a commission.

The bottom line is that voting to solely establish a commission rather than a commission as part of the Shays-Meehan bill will further delay action on campaign finance reform until next year, despite the fact that we have an historic opportunity to pass real campaign finance reform now. By incorporating the commission bill into the Shays-Meehan bill, we really have the best of both worlds: Number one, we have campaign finance reform this year, plus a mechanism through which we can look for bipartisan routes to achieve additional reforms down the road.

If my colleagues support campaign finance reform, I am asking them to join with the lead Democratic sponsors to vote "present" or "no" on the commission bill as a stand-alone substitute. I believe that we have a majority of the Members of this House who are ready to pass real campaign finance reform. I believe that that majority is ready to make the commission bill part of the Shays-Meehan bill. The only way that we can do that under the present rules is if we join together.

And I am delighted at the way reformers from all parts of the country, who have been working over the last several years, are coming together to form a critical mass at a critical point in time to establish the majority we need to pass real campaign finance reform. Let us not miss this opportunity. Let us join together. Vote "present" or "no" on this particular stand-alone bill and then let us amend the Shays-Meehan bill and get real campaign finance reform.

Mr. WHITE. Mr. Chairman, may I inquire as to how much time is remaining on each side?

The CHAIRMAN pro tempore (Mr. SUNUNU). The gentleman from Washington (Mr. WHITE) has 5½ minutes remaining; the gentleman from Ohio (Mr. NEY) has 3 minutes remaining; and the gentleman from Connecticut (Mr. GEJDENSON) has 4½ minutes remaining.

Mr. WHITE. Mr. Chairman, do I understand correctly that the gentleman from Connecticut (Mr. GEJDENSON) has the right to close?

The CHAIRMAN pro tempore. The gentleman from Connecticut (Mr. GEJDENSON) is speaking in opposition. On general debate, the gentleman from Washington (Mr. WHITE) has the right to close.

Mr. NEY. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, this should be a time that I really feel great, and I do not, and I have only myself to blame. What I do not feel great about is the sense that somehow this is going to be a brutal fight and we are going to make lots of enemies in the process.

For me, I believe with a passion in the Meehan-Shays bill. I believe passionately for this bill because it bans soft money, both at the Federal and State level, for Federal elections; that it, for once, recognizes that the sham issue ads are truly campaign ads and treats them as campaign ads and comes under the campaign laws; that we finally codify Beck, which makes it clear that a nonunion member does not have to pay money in his or her agency fee for political activity; that we improve the FEC disclosure and enforcement; that we deal with franking and ban it 6 months to an election district wide; and that we make it clear that foreign money and raising money on government property is illegal, which it is not right now, if it happens to be soft money.

I believe passionately in this bill. I believe it is bipartisan and I believe it should pass. I also believe that the commission bill has a role to play but it does not have a role to play if it replaces the Meehan-Shays bill.

I heard my colleague, who is a very outstanding Member of Congress and has tried to elevate the debate, talk about blame yourself and take responsibility. I think when we take responsibility, we take action. And action is to ban soft money; to recognize that the sham issue ads are campaign ads and treat them that way. I believe that that is taking responsibility. I think it is not taking responsibility to say that our leaders will appoint members who will supposedly come out with a bill that my colleague believes we can all support. I do not know what they will do.

I wish my Speaker had lived up to his word and moved forward with a commission bill 3 years ago, because we would now have a commission before us and we could vote it up or down. But that was 3 years ago. I do not intend to wait another year to take action, because I want to take responsibility for my vote. So I encourage my colleagues to vote "present" on the commission bill. I encourage them to vote "yes" on the rule. I encourage them to vote "yes" on Meehan-Shays and oppose all amendments except one, attach the commission bill to the Meehan-Shays proposal.

Attach the commission bill and we can frankly have the best of both worlds: We can take action now on soft money and on these sham issue ads and we can deal with all the host of other issues that my colleague feels we have not addressed. If my colleague, the gentleman from Washington (Mr. WHITE), feels we have not addressed it, then he too should support an amendment to Meehan-Shays that puts the commission bill into the Meehan-Shays bill.

Mr. GEJDENSON. Mr. Chairman, I yield 2½ minutes to the gentleman from Maine (Mr. ALLEN), who has played such a major role in campaign finance reform since he entered this Chamber.

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to this bill, but not because I do not think it has merit. And I commend the gentleman from Washington (Mr. WHITE), the gentleman from California (Mr. HORN), the gentlewoman from New York (Mrs. MALONEY), and the gentleman from Michigan (Mr. DINGELL) for their efforts on behalf of campaign finance reform. But we need reform now, not later.

As a co-chair of the freshman bipartisan task force, I want to say that one of the appealing things about this bill is that it reflects very much the process that we went through as freshmen. There were six Republicans and six Democrats. We sat down, we learned together, we all shared the experience of the 1996 campaign when the airwaves were flooded with the results of more soft money than had ever been raised or spent in any cycle and with more issue advocacy money than had ever been raised or spent in any cycle. So I understand the importance of this bipartisan process. But the way the commission bill is coming up now is this: It will, if passed, if it gets enough votes, block a chance to ban soft money now. It is reform later, not reform now. It will block a chance to get real control over issue advocacy now, not later.

Both the Shays-Meehan bill and the Hutchinson-Allen freshman bill deserve to come up for a debate and deserve to have a real vote. They represent real reform. They represent reform now; the kind of bill we could send to the Senate and expect them to act on during this session. So I want to urge everyone who may support the commission bill to vote "no" or "present" and to give real reform a chance.

Finally, I would say this. An earlier speaker, the gentleman from California, said the problem is government regulation. I disagree. The problem is big money in politics. And whenever we hear the words "free speech", we have to be careful, because sometimes they mean "big money". The gentleman from California is a sponsor of a provision that would take all the limits off, hard money limits off, so that individuals could give **$50,000, $100,000, $500,000, $1,000,000** to an individual candidate. That is not the law now and it is simply wrong to drag the red herring of free speech across this debate when what we are really talking about is big money.

We need to contain the influence of big money in politics and we do that by banning soft money and by banning it now.

Mr. GEJDENSON. Mr. Chairman, I yield the balance of my time to the gentleman from the great State of Rhode Island (Mr. WEYGAND), my neighbor, to close for our side.

Mr. WEYGAND. Mr. Chairman, I want to thank my neighbor from Connecticut for allowing me to close on this very important issue.

I have to compliment the gentleman from Washington (Mr. WHITE) in the great effort that they have put forward. When I look and listen to what the gentleman has said, it really strikes home.

But I look at this picture here that was taken 3 years and 1 week ago tomorrow, and that was the commitment we had back then. Let us put together a commission to truly study the things that the gentleman has talked about today. Because when we talk about soft money and all the other things that run into this, the people back home, their eyes glaze over. They wonder what we are really talking about here in Washington. They want true reform.

And the reason for it is that the average American today can no longer run for Congress. What we have done with the system that we have today is divorced all Americans, the majority of Americans, from running for this Congress. The gentleman's bill today would just further extend that divorce. It would further extend it to 4 years or 5 years by the time we had true reform.

When we first started this great assembly here, our founding fathers said this chamber should have its pulse on the feeling of America, not in the pocketbooks of the special interests, which is exactly where it is right now. For the average American, they cannot afford $1 million. The average American wants a voice in this chamber and they want it now. Unfortunately, the great effort that the gentleman has put forward, which I believe is wonderful in its intent, will just further exacerbate and procrastinate our decision to move forward on true campaign finance reform.

I urge my colleagues and the Members in the House to vote "no" or simply "present". Let us move on with real reform. Let us not relinquish our responsibility to do this now. Let us not delay any further. Campaign finance reform today, not tomorrow.

Mr. WHITE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I want to ask the gentleman from Rhode Island (Mr. WEYGAND) if he would tell us what is a special interest? What does he understand that term to be? I hear that term used a lot.

Mr. WEYGAND. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Rhode Island.

Mr. WEYGAND. I am sorry, would the gentleman repeat the question?

Mr. DOOLEY of California. Yes. Can the gentleman tell us what he means by special interest?

Mr. WEYGAND. Well, let me ask the gentleman this. When a person has to spend a million dollars or $2 million of special interest, including the various organizations that have helped them——

Mr. DOOLITTLE. No, no, I want the gentleman to define—it is my time and I reclaim it. What is the definition of special interest? Is all the labor PAC money the gentleman got special interest?

Mr. WEYGAND. The special interest is what controls the Chamber here, and the gentleman knows that. And what I am asking the gentleman——

Mr. DOOLEY of California. So the answer then is yes, it is a special interest. The gentleman is receiving money, gobs of it, from special interests and he honestly sits here and pretends that does not happen.

Mr. WHITE. Mr. Chairman, I yield myself the balance of my time, and I think we have had a good example of why we need campaign finance reform here.

I admire the gentleman from Connecticut (Mr. SHAYS), I admire a lot of the people on the other side, and I appreciate the efforts of many of the Democrats who worked with us on our bill. And, frankly, I agree with the gentleman from Connecticut. I think we need to take personal responsibility for this vote. But what all the arguments we have heard today really boil down to is, we do not want to do the commission because we want to do it our way.

Now, doing it my way was fine for Frank Sinatra, but when we are talking about elected Members of this House, whose personal self-interest depends on what these rules are, I think it is a little bit of a stretch to say we have to do it our way.

Banning soft money? That would be fine, but are we going to lose the opportunity to have real comprehensive, long-term reform, simply so we can ban soft money today? It seems to me the balance swings pretty heavily in the other direction.

So let me just go through a little analysis here. Let us say I was one of the 94 Democrats who cosponsored my bill and I was now trying to figure out, gee, how should I vote on this. The first question I would ask myself is: Why would I vote against this bill? Would I vote against it because it is fake reform? It is not real reform? No. This is the only bill that really gives us independent neutral reform.

Would I vote against this because it is a political game? It is one party trying to stick it to the other party? No. This is the only bill that is neutral, the only bill where one party cannot try to stick it to the other party.

Would I vote against this bill because it is only partial reform? It is the same thing we have right now? No, I would not, because this is the only bill that guarantees us a full package of reform that is carefully thought through.

Would I vote against it because it favors incumbents? No. It is probably the only bill we will ever get, the only way we will ever get a bill that does not favor incumbents is if it is somebody who is not an incumbent suggesting it. So I do not think my colleagues should vote "no" on the bill unless the real reason they are voting "no" is because they lose the right to write these rules.

Why would I vote "present" on this bill? Well, usually we vote "present" to show we are here. That is a step in the right direction. Or maybe someone would vote "present" because they cannot decide on this bill. But, frankly, the real reason people will vote "present" on this bill, if they do vote "present", is because they are getting their arm twisted by the leadership of their party because they want to do it their way. And I would suggest that is a mistake.

So, Mr. Chairman, I would submit that the only way to vote on this bill is to vote "yes". It is the only way we get a fair bill, the only way we get an impartial bill, the only way we get a bill that does not have politics at its core, and it is the only way we are really going to restore some dignity to this House.

☐ 1815

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SUNUNU). All time having expired, it is now in order to consider Amendment No. 16 printed in the CONGRESSIONAL RECORD.

AMENDMENT NO. 16 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 16 in the nature of a substitute offered by Mr. WHITE:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Commission on Campaign Finance Reform Act of 1998".

SEC. 2. ESTABLISHMENT AND PURPOSE OF COMMISSION.

There is established a commission to be known as the "Independent Commission on Campaign Finance Reform" (referred to in this Act as the "Commission"). The purposes of the Commission are to study the laws relating to the financing of political activity and to report and recommend legislation to reform those laws.

SEC. 3. MEMBERSHIP OF COMMISSION.

(a) Composition.—The Commission shall be composed of 12 members appointed within 15 days after the date of the enactment of this Act by the President from among individuals who are not incumbent Members of Congress and who are specially qualified to serve on the Commission by reason of education, training, or experience.

(b) Appointment.—

(1) In general.—Members shall be appointed as follows:

(A) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the Speaker of the House of Representatives.

(B) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the majority leader of the Senate.

(C) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the House of Representatives.

(D) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the Senate.

(2) Failure to submit list of nominees.—If an official described in any of the subparagraphs of paragraph (1) fails to submit a list of nominees to the President during the 15-day period which begins on the date of the enactment of this Act—

(A) such subparagraph shall no longer apply; and

(B) the President shall appoint 3 members (one of whom shall be a political independent) who meet the requirements described in subsection (a) and such other criteria as the President may apply.

(3) Political independent defined.—In this subsection, the term "political independent" means an individual who at no time after January 1992—

(A) has held elective office as a member of the Democratic or Republican party;

(B) has received any wages or salary from the Democratic or Republican party or from a Democratic or Republican party officeholder or candidate; or

(C) has provided substantial volunteer services or made any substantial contribution to the Democratic or Republican party or to a Democratic or Republican party office-holder or candidate.

(c) Chairman.—At the time of the appointment, the President shall designate one member of the Commission as Chairman of the Commission.

(d) Terms.—The members of the Commission shall serve for the life of the Commission.

(e) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) Political Affiliation.—Not more than 4 members of the Commission may be of the same political party.

SEC. 4. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. In carrying out the preceding sentence, the Commission shall ensure that a substantial number of its meetings are open meetings, with significant opportunities for testimony from members of the general public.

(b) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The approval of at least 9 members of the Commission is required when approving all or a portion of the recommended legislation. Any member of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this section.

SEC. 5. ADMINISTRATIVE PROVISIONS.

(a) Pay and Travel Expenses of Members.—(1) Each member of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(b) Staff Director.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a staff director, who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) Staff of Commission; Services.—

(1) In general.—With the approval of the Commission, the staff director of the Commission may appoint and fix the pay of additional personnel. The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum annual rate of basic pay payable for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(2) Experts and consultants.—The Commission may procure by contract the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

SEC. 6. REPORT AND RECOMMENDED LEGISLATION.

(a) Report.—Not later than the expiration of the 180-day period which begins on the date on which the second session of the One Hundred Fifth Congress adjourns sine die, the Commission shall submit to the President, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate a report of the activities of the Commission.

(b) Recommendations; Draft of Legislation.—The report under subsection (a) shall include any recommendations for changes in the laws (including regulations) governing the financing of political activity, including any changes in the rules of the Senate or the House of Representatives, to which 9 or more members of the Commission may agree, together with drafts of—

(1) any legislation (including technical and conforming provisions) recommended by the Commission to implement such recommendations; and

(2) any proposed amendment to the Constitution recommended by the Commission as necessary to implement such recommendations, except that if the Commission includes such a proposed amendment in its report, it shall also include recommendations (and drafts) for legislation which may be implemented prior to the adoption of such proposed amendment.

(c) Goals of Recommendations and Legislation.—In making recommendations and preparing drafts of legislation under this section, the Commission shall consider the following to be its primary goals:

(1) Encouraging fair and open Federal elections which provide voters with meaningful information about candidates and issues.

(2) Eliminating the disproportionate influence of special interest financing of Federal elections.

(3) Creating a more equitable electoral system for challengers and incumbents.

SEC. 7. EXPEDITED CONGRESSIONAL CONSIDERATION OF LEGISLATION.

(a) In General.—If any legislation is introduced the substance of which implements a recommendation of the Commission submitted under section 6(b) (including a joint resolution proposing an amendment to the Constitution), subject to subsection (b), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of the legislation in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) Special Rules.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on House Oversight of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Rules and Administration of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the recommendation involved is submitted under section 6(b).

(3) Notwithstanding subsection (d)(2) of section 2908 of such Act—

(A) debate on the legislation in the House of Representatives, and on all debatable motions and appeals in connection with the legislation, shall be limited to not more than 10 hours, divided equally between those favoring and those opposing the legislation;

(B) debate on the legislation in the Senate, and on all debatable motions and appeals in connection with the legislation, shall be limited to not more than 10 hours, divided equally between those favoring and those opposing the legislation; and

(C) debate in the Senate on any single debatable motion and appeal in connection with the legislation shall be limited to not more than 1 hour, divided equally between the mover and the manager of the bill (except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee), and the majority and minority leader may each allot additional time from time under such leader's control to any Senator during the consideration of any debatable motion or appeal.

SEC. 8. TERMINATION.

The Commission shall cease to exist 90 days after the date of the submission of its report under section 6.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as are necessary to carry out its duties under this Act.

Amend the title so as to read: "A bill to establish the Independent Commission on Campaign Finance Reform to recommend reforms in the laws relating to the financing of political activity.".

Mr. WHITE. Mr. Chairman, I think we have had a good debate on this bill over the last hour. And I hope all our colleagues are listening from their offices. I would hope that there will not be any amendments.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

The author of the legislation says we cannot have it our way because he wants it his way. He is telling us, unless we do it his way, we are not for doing it. Well, let us take a look at the history.

I will venture a guess, and I do not believe in prophecy as a general rule from this Chamber anyway, that when you look at the people who voted for reform in the past, they will be voting "no" or they will be voting "present." And for the folks back home, the reason they will vote "present" or "no" is because they know that this is simply an attempt at the moment to undercut Shays-Meehan, which will give us a more comprehensive shot at reform.

If somebody who is an original cosponsor of the bill votes "no," they are afraid of the 30-second ad that says they voted one way and then they voted the other way. And to make sure that nobody can do that to anybody on either side of the aisle, we are working to make sure that we can add to Shays-Meehan the prospects of adding a commission that can do even more good work if they think a commission adds to the process.

But the fundamental debate, the real debate, I think, is between the gentleman from California (Mr. DOOLITTLE) and myself. And I hope the gentleman is still here. I enjoy debating with him, because I think he honestly speaks what he believes.

Some of us in this Chamber believe that a society has the right to guarantee that those without power, those without wealth have a right to speak. I have said this on the floor before. Democracy is a process that is evolutionary in its nature.

The great efforts by the British, starting with the Magna Carta, did not provide for democratic opportunity for all their citizens. It simply provided rights for the nobility, that the nobility in their dealings with the king would have a right to have a process so their property would not be taken away.

With the revolution that occurred on these shores, our great Founding Fathers took another step forward. They said that we did not have to be noblemen to have rights in this process; if we simply were men and owned land, we could vote. And they wrote a Constitution that guaranteed that white men who owned property would have the right to vote.

And slowly in this society, we have expanded that right to include women and minorities. It was a struggle.

Today, the struggle is about whether or not electoral politics will be about money, that rather than an aristocracy we will be a "cashocracy," whether or not it will simply be the wealthiest individuals who will reach into their pockets and their friends' pockets to spend tens of millions of dollars to try to win elective office, or whether average citizens have an opportunity to feel they are relevant to the political process.

In California, we saw tens of millions of dollars be the litmus test for entry into the race. This country prospers because we include all of our citizens. We make sure that everyone gets an education, that everybody gets to vote. And if we limit the political process to only the wealthy, only those who will curry favor with the wealthy, we will see the demise of this great Nation.

This Nation grows because we expand opportunity and we give everyone an equal shot and do not just rig it for the rich.

Mr. WHITFIELD. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. Mr. Chairman, I thank the gentleman for yielding.

I would just remind the gentleman from Connecticut that in Buckley, which is the ruling case on this whole issue, the Supreme Court case, it says very clearly in the case, "The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment."

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, I think the gentleman makes an excellent point. The Supreme Court in this case is dead wrong.

Remember, we have a Supreme Court that for 50 years said separate and equal were okay. Well, people who did not believe in segregation did not lie around wringing their hands that we had a Supreme Court that believed we could have black kids in a school that was falling apart and have a shining, air-conditioned school for the white kids. We fought segregation.

I think the same thing comes here. I respect the separation of powers. This Supreme Court thinks rich people have a right not just to dominate, but to have exclusive domain in the political process. I think that is wrong. I think a real democracy values its citizens and their statements even if they have no wealth.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, under the present disastrous system which this philosophy has given us, the philosophy of my colleague, the only ones who have unlimited rights are the rich. But somebody who is not rich, who wishes to go and run for a Federal office, is forced under these terrible laws that we have to go and raise money in dribs and drabs. They spend all their time doing that instead of addressing the issues.

Mr. Chairman, I move to strike the requisite number of words.

What I would like to see happen is to deregulate. If you deregulate, they are not going to have soft money. It will not be needed. Issue advocacy will dramatically drop.

Look at what went on in the Commonwealth of Virginia in the gubernatorial elections, where they had men and women of average means running. I think the current governor is the son of a butcher. They had the campaigns running. They were able to raise their money. It was all reported. Nobody claimed that it was an aristocracy or nobility. No, there was no hint of graft in that election, and they do not have these regulations.

Where we have had the present scheme of regulation due to inflation over the years, money has had to come in through other ways because the hard money has never been adjusted for inflation since 1974. And yet, we have had two-thirds of those limits eroded by inflation.

If I may ask the gentleman from Connecticut (Mr. GEJDENSON), why do you folks not agree to adjust those limits at least for inflation?

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I would say two things. One is, I fundamentally disagree with two of the concepts of my colleague. One is that by making everything soft money, basically, under the proposal of my colleague, we could have unlimited contributions to individual candidates.

Mr. DOOLITTLE. Reclaiming my time, let me just say, everything is hard money, not soft money.

Mr. GEJDENSON. If the gentleman would further yield, fine, it is all legal in the sense that it is today.

So, for instance, if somebody in my colleague's district came with a double tractor-trailer full of hundred dollar bills for his campaign, as long as it was reported, he thinks that is enough?

Mr. DOOLITTLE. I think we all stipulate, the present regulation, it should not be cash, it should be a check. But, yes, that is enough. That is enough because the American people are the judges, not a government czar.

Mr. GEJDENSON. So how does a candidate who does appeal to really rich people, where does he get the resources to get heard?

If the rich people can own the stock in the newspapers, if they can own the

TV stations, and if they can write $10 million checks to the candidate, if they represent poor people, how do they get their voice out, how do they get heard, how do they buy TV time unless they also find some rich sugar daddy?

Mr. DOOLITTLE. The point is, right now, only the people who are personally rich can spend unlimited amounts of money. At least under this system, if they are not rich themselves, they can go to those who have money and they can contribute to them instead of just the limit of $1,000 they are limited to now.

Mr. GEJDENSON. So my colleague wants to go back to the old system, which instead of cash will now be checks from a handful of rich people.

Mr. DOOLITTLE. It is not from a handful at all. It would be from a number of people. It would all be reported. And if people think that is too much, they would not vote for them in the election.

What is the matter with that? That is freedom. That is disclosure. That is the American system.

Mr. GEJDENSON. No. The American system has been a system that has tempered the free market to make sure that none of our citizens—

Mr. DOOLITTLE. Reclaiming my time, that is the system you liberal Democrats gave us. The Democrats took away the American system and gave us the government regulation of political speech.

Mr. GEJDENSON. If the gentleman would continue to yield, that system, which you condemn in public education and all these other forums, has the highest standard of living in the world, has the biggest economy in the world, is the idol of every other economy in the world.

The countries that followed the model of my colleagues and let the wealthy alone control education and the economy and politics have fallen by the wayside.

Mr. DOOLITTLE. Reclaiming my time, it is the people of my colleague who own the New York Times, the Washington Post, every major newspaper in this country; and under their system, they can do whatever they like.

And under a Shays-Meehan/Hutchinson-Allen bill, they are the only ones who will have the freedom of speech.

Mr. GEJDENSON. Those are Democratic papers?

Mr. DOOLITTLE. Well, they certainly are not Republican papers.

Mr. GEJDENSON. Well, they are not Democratic papers. I read their editorials every day.

Mr. DOOLITTLE. My colleagues want more regulation, more government and less freedom.

I might point out that since the 1974 FECA amendments, political participation has steadily declined in this country. And then I hear the philosophy of the gentleman and bootstrap that to demonstrate why we need more government regulation, which would be further reduction.

The CHAIRMAN pro tempore. Members are reminded that they need to yield and reclaim time so that only one Member is speaking at a time.

The gentleman from California (Mr. DOOLITTLE) controls an additional 30 seconds.

Mr. DOOLITTLE. Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I would just say in 30 seconds that my colleague talks about giving everyone equal rights; and it is so interesting that in the Shays-Meehan bill and the bills that ban soft money, they are allowing politicians and their hard money to spend more, but they are shutting out other people from speaking on political elections by banning soft money, because soft money is simply money spent by groups interested in the political process to express their views.

Mr. PASCRELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. PASCRELL. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would just say to my friend, the gentleman from California (Mr. DOOLITTLE) that, yes, as we have had increasing amounts of money spent, participation has gone down. We ought to limit spending in campaigns.

Mr. PASCRELL. Mr. Chairman, we are back to the beginning if we listened to the last two speakers. As in the beginning, we here in this House are divided into two groups, one group that says there is too much money in campaigns and another group that says there is never enough money in campaigns. And the more that you have, the more free speech that you have.

The gentleman from California (Mr. DOOLITTLE) explicitly and implicitly stated just a few moments ago what this debate is all about. And that is, what he is really after is an unlimited number of dollars in campaigns. That is the crux of the debate. Regardless of the amendments, regardless of substitutions, that is the crux of the debate.

The issue of campaign finance reform is not the same as base closings. In base closings, we had a need for an independent commission that could break the impasse that existed, because no one wanted to vote to close a base in their own State. There is no comparison between the subjects that we discuss today and the subjects that were discussed in past Congresses, none whatsoever.

With campaign finance reform, we are not voting to close a base and put anyone out of business, no. Passing campaign finance reform is an entirely different subject. The only reason to pass and create a commission is to avoid making a hard-choice decision ourselves.

The people did not send us here to put the hard decision on someone else's shoulders, Mr. Chairman. That is not why I came. They sent us here to make the decisions in this House. By voting on the freshman bill or Shays-Meehan, we have the opportunity to vote for real reform. We should not pass our responsibilities off to others.

Mind you, we are going to select the folks that are serving on this commission. No sitting Member can be a member of the commission and that group out there is going to make the decision for us to live by in our raising dollars so that we can be elected and reelected.

The people of this country created a commission already. It is called the Congress. And the Congress is up for election every 2 years, Mr. Chairman.

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Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. PASCRELL. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, the gentleman indicated we spend too much money on campaigns. I just wonder if he could tell us what is too much money or perhaps what is the appropriate amount of money that we should spend.

Mr. PASCRELL. In the debate that we are having here on this floor, the two major bills that we are discussing and, according to the Speaker of this House, the bill that we are discussing as a base bill deals with soft money. That is money that comes into the campaign in the last 3 or 4 weeks which if you have not received and collected enough hard money, you cannot win that election in the last 3 or 4 weeks unless you are way ahead. He knows it and I know it. We are talking about soft money that we do not know how much is really spent in a campaign, and that is true with Democrats and Republicans. This is not a partisan issue.

Mr. DOOLITTLE. Let me just ask the gentleman, setting aside for a minute soft money, then, since that is somewhat nebulous and it is not spent by the candidates themselves, how much hard money is enough?

Mr. PASCRELL. Mr. Chairman, I for one agree with the gentleman from Connecticut, that there should be caps on how much is spent. Under the present Supreme Court decision, that cannot happen. I would say the average congressional campaign, if that is what we are talking about here, we can look at how much is being spent in hard money across the United States of America. I would be willing to discuss that with the gentleman.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the main point is that today, tonight, we can pass a bill that will ban soft money from campaigns. That is an important achievement.

Many of us in this body have sat through many hearings on alleged campaign abuses. But what was in common in every alleged campaign abuse was soft money. So instead of pointing fingers at each other and having partisan investigations or hearings, let us work together and actually do something about it. This is a very modest proposal. It would ban the soft money. It would clean up third-party expenditures. So instead of delaying tonight, let us pass hopefully Shays-Meehan, send it to the Senate where a majority has already supported it, and a Democratic President has come out and said that he will sign it into law.

So we have an historic opportunity to this night pass meaningful, not all that needs to be done, but very meaningful reform, reform that other Members, particularly on the other side of the aisle, have been most critical of. So instead of criticizing, let us do something. Let us ban the soft money. We do not have to wait to do it.

One of the things that I wanted the commission bill to do was to ban soft money. But we do not have to wait for the commission bill to do it. We can do it tonight. We do not have to wait 180 days. Quite frankly, I did not think that we would be able to get this vote in this Congress. That is why I worked so hard on the commission bill, to force something to the floor. But right now we have it before us. We do not have to wait. We can vote tonight and let our constituents know that we are serious about changing the system in a very meaningful way.

Mr. Chairman, at this point I would like to compliment very much my colleagues on both sides of the aisle, particularly the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS), not only for their hard work and their willingness to compromise, to really roll back their bill to basically two major issues, that of banning soft money and cleaning up third-party expenditures. Now, they have generously indicated that they will accept an amendment to their bill, Shays-Meehan, which accomplishes a great deal, of the commission, which, after we enact and sign into law Shays-Meehan, will allow 180 days for members appointed by legislative leaders on both sides of the aisle to come forward with other important proposals. But the main point is we do not have to wait. We can do it tonight. And we should.

I compliment the leadership on the other side of the aisle for moving forward, hopefully tonight, with a vote on Shays-Meehan, so that we can ban soft money, we can take care of these abuses that so many Members, particularly on the other side of the aisle, have been so critical of, they have said has been wrong. Let us do something about it. Let us take it out of the system and show our constituents that we are serious about something that is far more important than our own reelections, that of making our campaign system more accountable to the people who vote for us by taking out of the system this huge, massive amount of money that flows into our campaigns called soft money.

Mr. Chairman, I can say when I ran for Congress, my opponent outspent me five to one. I was one of the few Members who ever gets elected when you are outspent in that type of way. The area where most of this money flows into campaigns is through the soft money loophole. So even if that is all we accomplish, we will have accomplished a great deal.

Mr. Chairman, I compliment really all of my friends on both sides of the aisle for their work on Shays-Meehan. I am hopeful that my leaders on the commission bill on both sides of the aisle will join me in voting "present" on the commission bill, moving quickly towards Shays-Meehan so we can send it to the Senate, so they can act on it, so we can send it to the President and enact it into law. It is important reform. It is meaningful reform. But due to the nature of the rule, a vote for the commission bill is a vote against Shays-Meehan. It is in effect a vote against Shays-Meehan. That is why we have to vote "no" or "present" on the commission bill. If we pass this amendment, if we pass the commission bill, it would prevent us from passing legislation to ban soft money, to clean up third-party expenditures and to accomplish many very important substantive reforms.

I ask my colleagues who are cosponsors to vote "no" or "present."

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Washington (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I thank the gentleman from Louisiana very much for yielding.

Mr. Chairman, I would just like to take a few moments to respond to the gentlewoman from New York who, I have to say, has been a wonderful partner to have in our process of putting together the commission bill. I understand that she is torn in this situation and the situation that many of us find ourselves in. But I would say the gentlewoman is absolutely right to make the point that the Shays-Meehan bill is a modest proposal. That is exactly what is wrong with it. It is not a comprehensive reform. And we are losing the chance to have a commission that would develop comprehensive reform simply to do a few modest things that frankly are more of the same, more of the same regulations that we have had in the past.

Mr. Chairman, to say that we are going to lose the chance to really reform the system so that we can do some modest little things right now does not make sense to me.

I know some people have suggested that we should add the commission process to the Shays-Meehan approach, and I would respectfully suggest, just what does that mean? What would it mean to say, we are going to have a commission that gets to write all the rules, but it is going to be appended to a bill that writes some other rules, too. The whole point of the commission bill is that we do not get to write these rules ourselves. We are too involved. We do not have perspective. We always want to do it our way. The whole point of the commission is to let a neutral group write fair rules so that we can then vote on it up or down and we will still have the right to say "no" if we think that is what we have to do. But any other approach, no matter how we try to slice it, no matter how we try to explain it away, no matter how we try to it vote on it under the rule that put us in this difficult position where we have to vote against a bill that we really like, the fact is that if Members vote against the commission bill, they are voting against it because they want to do it their way. I would respectfully submit that is the problem we have had with every campaign finance bill passed by this Congress. We always do it our way, it always feathers our nests, and that is the reason we have gotten ourselves in the situation we are in right now.

Ms. KILPATRICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I would like to respectfully respond to the gentleman from Washington (Mr. WHITE) my colleague and real partner on the commission bill with whom we went through innumerable hours of work on this bill. I would really like to point out that Shays-Meehan will accomplish banning soft money and third-party disclosure now, and that is very important.

If my colleague recalls that on our negotiations on the commission bill, and believe it or not, it was difficult to reach that fragile flower of consensus on the commission bill. One of the things that I had in my bill was that the commission should address soft money. Some Members on the other side of the aisle objected to that being included in the commission bill. So then to argue that Shays-Meehan will not be comprehensive enough, in all due respect, I do not believe is a very genuine argument.

I would like to point out to all of my colleagues who are sincere reformers on both sides of the aisle, is that we can pass Shays-Meehan tonight, banning soft money and other proposals, and enact it into law. An amendment that is attached to Shays-Meehan with the commission bill will not touch the important reforms in Shays-Meehan but will allow all the other many good ideas from the gentleman from California (Mr. DOOLITTLE), from the gentleman from Washington (Mr. WHITE), from everyone here to be considered and reported back in 180 days. But what we have before us tonight is a vote where we can actually accomplish something, we can actually pass meaningful reform, banning soft money tonight.

As I say, many of us have sat through so many hearings where alleged abuses in campaigns, all of which involved soft money. We now have an opportunity, in the best of bipartisan spirit, with Shays-Meehan, to actually do something about the abuses that many of my friends on the other side of the aisle have been critical of. So by passing Shays-Meehan, we can ban soft money but we can attach the commission bill and discuss all of the other options and report back in 180 days.

Ms. KILPATRICK. If I could make just one point, Mr. Chairman, I am one of those who heard much of the testimony and am looking forward to the vote. It is unfortunate that we are making a mockery of the process. We have a vehicle before us. We hope that we will pass and vote on it soon.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I would like to pose a question to the gentlewoman from New York (Mrs. MALONEY) if I might. She had spoken against soft money and we are desirous of banning it. I just wanted to read a quote by Mr, Robert F. Bauer. He is a leading Democrat election lawyer and counsel for the Ohio Democratic Party in its current suit against the FEC to have a court strike down the FEC's allocation formula which deals with soft money because the allocation formula requires parties, even though they are engaging in issue advocacy, to spend 60 percent of that from hard money funds as opposed to what everybody else can do from soft money. What he said was, "Government control over money is control over free speech." I just wondered how she felt about that. Is that a statement that she agrees with or disagrees with?

Mrs. MALONEY of New York. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentlewoman from New York.

Mrs. MALONEY of New York. Mr. Chairman, I certainly support free speech. But I think what we need to focus on is what is in front of us, not some letter to the Federal Election Commission. And what is in front of us is the opportunity to vote for a good, clean bill, a modest bill. Many of us would like to have seen much more in it. That is why attaching a commission to it will allow us to do more in 180 days, but we do not have to wait 180 days. Tonight we can vote on two very important reforms. Let us do it. Let us focus on passing Shays-Meehan and let our constituents know that we came here to do something far more important than work for our own reelections, that we want to do something that is important to them, and, that is, reform the campaign system.

Mr. POMBO. Mr. Chairman, reclaiming my time, I yield to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, let me just recall Members' attention to the procedure that we are under here now. We had the general debate on this bill. Now we are on 1 hour of general debate which we have used up on the commission alternative. We are now on the 5-minute rule. The intention of the 5-minute rule is to allow Members to offer germane amendments to this issue.

☐ 1845

We have been on this for some time now. Some of the debate has been interesting, but we are going too far with this, and there are Members on their side of the aisle and on ours that say that someone is stalling, they want to drag this thing out. We have gone past the intended hour of debate, we are now on the amendment process, and no amendments are being offered.

My point is that now we ought to move on. If there are not going to be amendments offered, we ought to have a vote on this, and then we ought to move on to regular procedure and get this House moving. That is regular order.

Mr. POMBO. Reclaiming my time, Mr. Chairman, I yield to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I would just like to echo the chairman of the Committee on Rules.

I am one of those dirty dozen that wanted to vote on these issues. There is proper discussion, there is proper dialogue, but I would ask my colleagues on both sides of the aisle to remember we are here to vote on this issue eventually, so I think the time has come for us to be able to do what we say we want to do, and that is vote either for or against proposed legislation as it comes up.

Mr. POMBO. Mr. Chairman, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I would just observe I do not think any of this debate has in any way been improper. I mean this is getting right to the heart of what these issues are, and frankly I would just want to say that I think we are going to have to have this kind of freewheeling debate to really bring out the different points of view. I have no desire to prolong it, and if there is no desire to offer amendments, I have no objection to going to a vote.

Mr. POMBO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SUNUNU). If there are no further speakers, the question is on the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. WHITE).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WHITE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 201, answered "present" 68, not voting 9, as follows:

[Roll No. 241]

AYES—156

Aderholt
Archer
Bachus
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Bonilla
Bono
Boucher
Bryant
Burr
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Christensen
Coble
Coburn
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hilleary
Hobson
Hoekstra
Horn
Hunter
Hyde
Inglis
Istook
Jenkins
Jones
Kim
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Livingston
Lucas
Manzullo
Martinez
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Mica
Myrick
Nethercutt
Ney
Norwood
Nussle
Pappas
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Shadegg
Shaw
Shimkus
Shuster
Smith (MI)
Smith (NJ)
Smith (OR)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thornberry
Thune
Tiahrt
Traficant
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)

NOES—201

Abercrombie
Ackerman
Allen
Armey
Baesler
Baldacci
Barr
Barrett (WI)
Bass

Bentsen
Berman
Berry
Blagojevich
Blumenauer
Boehlert
Boehner
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bunning
Burton
Buyer
Campbell
Cannon
Capps
Carson
Chenoweth
Clay
Clayton
Clyburn
Collins
Combest
Condit
Conyers
Cook
Costello
Coyne
Crapo
Cummings
Danner
Davis (FL)
DeLauro
DeLay
Dicks
Dixon
Doggett
Doyle
Edwards
Evans
Fattah
Fazio
Filner
Forbes
Ford
Fowler
Frank (MA)
Furse
Ganske
Gejdenson
Gilchrest
Gilman
Goode
Granger
Green
Gutierrez
Hall (OH)
Hamilton
Hefner
Herger
Hill
Hinchey
Hinojosa
Holden
Hooley
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Jackson (IL)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
King (NY)
Kleczka
Klink
Kolbe
LaFalce
Lampson
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lowey
Luther
Markey
Mascara
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Neumann
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Parker
Pastor
Payne
Pelosi
Pickett
Porter
Poshard
Ramstad
Rangel
Reyes
Rodriguez
Roemer
Rogers
Rothman
Roukema
Roybal-Allard
Sabo
Sanders
Sanford
Sawyer
Schaffer, Bob
Scott
Serrano
Sessions
Skaggs
Skeen
Skelton
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Stark
Stenholm
Stokes
Taylor (MS)
Thomas
Thompson
Tierney
Towns
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (FL)
Weygand
Whitfield
Wise
Wynn
Yates
Young (FL)

ANSWERED "PRESENT"—68

Andrews
Barcia
Barrett (NE)
Becerra
Bilbray
Bishop
Brown (OH)
Cardin
Castle
Clement
Cramer
Davis (IL)
DeFazio
DeGette
Delahunt
Deutsch
Dingell
Dooley
Engel
Eshoo
Etheridge
Farr
Fox
Frost
Gephardt
Gordon
Harman
Hilliard
Jackson-Lee (TX)
Kildee
Kilpatrick
Kind (WI)
Kucinich
Lantos
Leach
LoBiondo
Lofgren
Maloney (CT)
Maloney (NY)
Manton
McCarthy (NY)
McHale
Minge
Pallone
Pascrell
Pomeroy
Price (NC)
Quinn
Rahall
Rivers
Rush
Sanchez
Sandlin
Shays
Sisisky
Slaughter
Spratt
Stabenow
Strickland
Stupak
Tanner
Tauscher
Thurman
Torres
Turner
Wamp
Wexler
Woolsey

NOT VOTING—9

Cooksey
Gonzalez
Greenwood
Hastings (FL)
Johnson (WI)
Kasich
McNulty
Schumer
Sherman

□ 1913

Mrs. CHENOWETH changed her vote from "aye" to "no."

Messrs. SNOWBARGER, HEFLEY, SHADEGG, and NETHERCUTT changed their vote from "no" to "aye."

Messrs. CRAMER, BECERRA and RAHALL changed their vote from "no" to "present."

Mr. BLAGOJEVICH and Mr. BOEHLERT, and Mrs. CLAYTON, Mrs. KENNELLY of Connecticut and Ms. McCARTHY of Missouri changed their vote from "present" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1915

Mr. THOMAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SUNUNU, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

CAMPAIGN FINANCE REFORM DEBATE SHOULD NOT BE DELAYED AGAIN

Mr. MEEHAN. Mr. Speaker, I ask unanimous consent to speak out of order for 1 minute.

The SPEAKER pro tempore (Mr. SUNUNU). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. THOMAS. Mr. Speaker, I could not hear you nor the exchange. What has occurred?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MEEHAN) has made a unanimous-consent request to speak out of order for 1 minute.

Mr. THOMAS. Reserving the right to object.

Mr. MEEHAN. Mr. Speaker, the ruling was already made.

The SPEAKER pro tempore. The gentleman has been granted permission to speak out of order for 1 minute.

Mr. THOMAS. Mr. Speaker, I thought it was a request unanimously to speak out of order.

The SPEAKER pro tempore. Hearing no objection, the gentleman was recognized.

Mr. THOMAS. Mr. Speaker, I did not hear the exchange, but go ahead.

Mr. MEEHAN. Mr. Speaker, we have been waiting for a vote on campaign finance reform now for literally years. Years. My question to somebody on the other side is, how in the world could the debate on the rule on this bill have possibly been canceled again?

My understanding through the grapevine is that we are actually not going to do the rule again tonight. In other words, my understanding is that we are going to walk away tonight again not having done the rule, again not having started debate on the Shays-Meehan bill that we were promised a vote on over and over and over again.

Mr. Speaker, I hope someone on the other side can give me some justification, just a little bit of justification as to why we are canceling this debate on this rule again. It is outrageous.

Mr. Speaker, this has been canceled five times, this rule. And I cannot believe we are going to walk out of here before we vote on this rule. The American people are demanding a vote. I will yield to whoever can explain this to me.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, would you check and see if the gentleman from Florida (Mr. HASTINGS) took the campaign finance bill with him on that leave of absence.

The SPEAKER pro tempore. The gentleman is out of order.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRESSIONAL MEDAL OF HONOR SOCIETY PATRIOT AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLOMON) is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, I just wanted to call attention to something that happened in my district last weekend. The Congressional Medal of Honor Society held their annual convention in Saratoga Springs, New York.

I think those who may live west of the Mississippi may not understand, but the Saratoga battle was the turning point in the Revolution. It was when General John Burgoyne was defeated by Benedict Arnold, and that was the turning point of the Revolution. That is the reason that we actually stand here today in the greatest democracy in the history of the world and the longest standing democracy in the history of the world.

At that convention, I was very proud to have been the chairman of the occasion and the Congressional Medal of

Honor Society gave their Patriot Award to two great Americans, one by the name of Bob Dole, former Senator and our presidential candidate. And it was the first time they gave a dual award to two people, the same award, and that was to Elizabeth Dole who, as we all know, is the head of the American Red Cross.

Mr. Speaker, it was a thrilling occasion to see those two wonderful people who have devoted their entire lives to their country in one way or another. I just wanted to call the attention of this body to the fact that that convention was held.

During that same time, we were very proud to have the Army, Navy, Marine Corps and Air Force all represented with their stellar bands participating in a parade that day on Saturday. And all of the people that turned out were honoring some 100 still-living members who have received that highest award, that is the Congressional Medal of Honor Society Patriot Award. So I wanted to call that to the attention of the membership.

ADDRESSING HAWAII'S ECONOMIC RECESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. ABERCROMBIE) is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I want to take this opportunity to thank my colleagues in Congress for all of their cooperation in our fight to help Hawaii's economy and to explain why the fight is far from over and why we must redouble our efforts to find solutions to the State's economic problems.

Over the last few months, I have had success in bringing new jobs to Hawaii. For instance, the defense authorization bill contains over $200 million for new, needed construction projects in Hawaii, a record level. This includes renovation and construction of the barracks at Schofield and Kaneohe Marine base, as well as funding for Navy family housing and the Pearl Harbor Public Works Center.

Mr. Speaker, many of my colleagues' constituents are members of the U.S. military and reside for at least part of their time in service at Schofield or Kaneohe or Pearl Harbor. The military is very important to Hawaii. Having the military in Hawaii itself is vital to our national interests. I strongly believe we need to maintain and build upon the military presence in Hawaii as we approach the 21st century in the interest of the national interests of the United States.

In addition to this, this year's transportation bill included funding for several vitally important highway projects which will further stimulate the construction industry in Hawaii, as well as provide much-needed improvements. I extend thanks for myself and on behalf of the people of Hawaii for all of the help that has come from Washington recently as we try to work our way out of this economic recession.

Mr. Speaker, I returned recently from Hawaii and continue to hear from families and businesses that economic conditions are difficult and, therefore, the need for action by the State of Hawaii and Congress is necessary to return the islands to economic well-being.

Although much of the mainland has been experiencing strong economic growth, Hawaii, despite periodic spurts of recovery, in fact remains stagnant. The 7-year recession in Japan and more recently in Korea, Indonesia, Malaysia and Thailand has resulted in declining tourism, Hawaii's lifeblood, and subsequently high unemployment, record bankruptcies, foreclosures, and declining property values. In short, Hawaii is experiencing the deepest recession since statehood.

Beyond the hardship being experienced by thousands of families in Hawaii, there have been layoffs which triggered declining confidence in the economy. There has been a cutback in spending and fearing for the future, a very real and human reaction I might say, Mr. Speaker.

The consequence, however, is additional economic contraction, more layoffs and every business thus is affected.

There is, in the face of this grim situation, knowledge that we will get back on our feet. In time, the Asian economies will restructure, currency exchange rates will stabilize, tourism will rebound, and the economy will regain its strength. We must, however, take every action available at the disposal of the Federal Government to cushion the recession and provide the short-term economic stimulation necessary to see it through the hard times.

□ 1930

In addition to the successes I mentioned earlier, there are some projects still in the works. I am happy to be working with the Small Business Administration and the Department of Commerce to identify resources that can be brought to bear on our problems in Hawaii.

For example, the Commerce Department needs adequate funding for its community and economic development program. A $50 million appropriation would provide needed grants for planning and technical assistance many communities need which are experiencing the economic problems that Hawaii has.

I am working with the Congressional leadership and administration to reestablish the spousal business travel deduction and increasing business meal and entertainment deductions which will help promote tourism, not only for Hawaii, but all over the mainland as well.

I have introduced legislation to repeal the airline tax in last year's budget bill. The highway bill, as I indicated, provided Hawaii with $135 million in annual formula grants and will fund numerous priority projects. Money will be coming in, for example, to help needed improvements in Honolulu's harbor.

I will continue to call on Congress to pass funding for the International Monetary Fund. It is all too evident to the people of Hawaii that when the Asian economies suffer, the economy of our State suffers just as greatly. I might add by extension, Mr. Speaker, the mainland as well.

We should send this money because it is the right thing to do and because anything that stabilizes the Asian economies will help increase tourism and help to stabilize our own economic progress throughout the United States.

We must also focus on securing long-term solutions to our problems, improve our education for our children, higher medical care reimbursement. In Hawaii's case, I am helping to diversify Hawaii's agriculture and to upgrade the Pacific Missile Range Facility to help bring Hawaii's military facilities, which I have mentioned at the beginning of my remarks, Mr. Speaker, into the 21st Century.

I also want to upgrade Hawaii's telecommunications links to the mainland and the world.

Tourism, the military and agriculture will continue to be Hawaii's key industries in the next century. We must, however, be well prepared to guide the changes underway. In the long run, technology development and innovation, as well as diversity within those industries, will lead us back to economic growth, jobs and prosperity. We must make wise decisions in this time of economic crisis.

I look forward to working with my colleagues to resolve Hawaii's economic problems.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. WHITFIELD) is recognized for 5 minutes.

Mr. WHITFIELD. Mr. Speaker, we have had quite a loud and lively debate here today about campaign finance. I for one think that that debate is healthy. Anyone watching this debate would see that there are very deep feelings about this issue. I think that all sides are speaking from the sincerity of their beliefs.

There are a lot of confusing issues on this issue of campaign finance. I for one do not think simply calling something reform means that that is going to make it better. In fact, some people would say that instead of campaign finance reform, this should be called campaign finance regulation.

In the definitions of campaign finance, we talk about hard money, we talk about soft money, we talk about independent expenditures, we talk about issue advocacy, we talk about a lot of magic words that a lot of people really do not focus on, do not understand.

I noticed that, during the debate today, that the minority leader referred to independent expenditures as being a real problem as someone else referred to independent expenditures as being a real problem. I do not really think independent expenditures are a real problem, because independent expenditures is express advocacy and already comes under FEC jurisdiction except in a few minute exceptions.

But if a person donates money to a candidate, and the candidate decides to give that money, let us say, to a not-for-profit group, there are some provisions in here, the Shays-Meehan bill, that would prevent, for example, political parties giving money to 501(c)(3) organizations or nonprofit organizations.

I for one think that political parties have a right to give money to nonprofit groups and allow them to get their message out on issues that are important to them. Issue advocacy was the real issue that brought us this whole debate to the House floor, because during the 1996 Presidential election, the Clinton/Gore campaign and the Dole campaign went farther than anyone had ever gone in raising soft money for issue advocacy by the political parties.

The only reason that there was difficulty with that is because a lot of foreigners made contributions to some of these political campaigns, and that is illegal under existing law. Section 441(e) of the Federal election law already makes it illegal for a foreigner to contribute to a political campaign.

Not only that, but also we know for a fact that, at the Buddhist Temple fund-raiser, many individuals were listed as contributing hard money supposedly to a campaign, and then we subsequently found out that they did not actually contribute, but money came from foreign sources. So I would simply submit that we already have legislation on the books that can deal with the foreign money issue.

Now, another issue that is disturbing to many of us is the fact that some of these bills expand the definition of express advocacy. What that means is that, if you use express advocacy, you are expressly advocating the election or the defeat of a particular candidate. If you do that, then you have to file all the reports with the FEC. You have to meet the contribution limits and so forth.

I for one think that we have an opportunity in this debate that is I suppose to begin tomorrow to address some very serious issues, very serious constitutional issues regarding these pieces of legislation.

I know that tomorrow it will probably be another heated debate, but, as I said in the beginning of this statement, I know that both sides are approaching it with sincerity in their beliefs.

I see my time is about to expire, but I do look forward to the debate tomorrow.

SOFT MONEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes.

Mr. MEEHAN. Mr. Speaker, I fully expected that we would be debating the rule on campaign finance reform at this time, but, unfortunately, there has been a delay. I do want to say that I think the debate today was enlightening at times, entertaining at other times. There were many Members of this body who have done great work on campaign finance reform, bipartisan work on campaign finance reform over the last 3 or 4 years: The gentleman from Connecticut (Mr. SHAYS), people like the gentleman from Tennessee (Mr. WAMP), the gentlewoman from Maryland (Mrs. MORELLA), the gentleman from Wisconsin (Mr. BARRETT), the gentleman from Maryland (Mr. CARDIN), the gentleman from Michigan (Mr. LEVIN), the gentleman from California (Mr. HORN), the gentlewoman from New Jersey (Mrs. ROUKEMA), the gentleman from California (Mr. CAMPBELL), the gentleman from California (Mr. BILBRAY), new members like the gentlewoman from California (Mrs. CAPPS), and the gentleman from Washington (Mr. ADAM SMITH), effective Members who have sat down to try to come up with a bill that is fair to both political parties. That is all we are trying to do here.

We do not have the perfect bill. We do not have the special magic wand that is going to make the system perfect. But let me tell you what we do have. We have a bill the Democrats and Republicans have worked on in a bipartisan and bicameral way.

This bill is McCain-Feingold in the United States Senate, where Democrats and Republicans have been working together in that body. In fact, they, even when it came to a vote, got a majority of the Members of the other body to vote for the bill. Unfortunately, under Senate rules, they need a 60-vote majority to get by the filibuster.

In the House of Representatives, we have a golden opportunity. I have felt over the period of the last months more and more Members are willing to take on a special interest, fight for bipartisan campaign finance reform. The number of Members on both sides of the aisle committed to the Shays-Meehan bill has been growing every day.

I might add that it seems that every time the leadership on the other side of the aisle puts up another obstacle to passing true meaningful bipartisan campaign finance reform, it seems that we get more Members supporting our effort.

So I am not sure that the strategy to complicate the matter, the strategy to delay and procrastinate and capitulate, frankly, I do not think that it is working. In fact, more Members are supporting the Shays-Meehan bill today than have at any point in time over the last several years.

They have joined with editorial boards all across America, the Los Angeles Times, New York Times, USA Today, the Christian Science Monitor. They have joined with the League of Women Voters and Common Cause and Public Citizen and people in public interest groups who have been fighting to find a way to reduce the influence of money in American politics.

Critical to our proposal is making soft money illegal. I do not know how we could have spent millions of dollars over the last several months conducting investigations and having hearings, politically charged hearings about the abuses of soft money in the last Presidential election, and now we have an opportunity to have a bill that bans soft money, and the leadership is procrastinating, delaying, promising a vote, no vote, pulling rules.

Time and time again, you will hear opponents of reform argue that soft money is not a problem. Let us be clear. When they are defending soft money, they are really defending big money. That is where the American public clearly disagrees.

The soft money loophole allows corporations and labor unions to bypass Federal election laws and tap into their treasury accounts to funnel millions of dollars into the parties, money that is then spent to influence Federal elections.

The fact is that, as long as soft money is allowed, our campaign finance system will be the type of system that invites corruption. That is why we are trying to change this system.

The sham ads, issue ads, opponents of campaign finance reform tell us that we must protect free speech. But when they say free speech, they mean big money. The fact is that the Shays-Meehan bill does not ban any type of communication. It merely reigns in those campaign advertisements that have been masquerading as so-called issue advocacy.

According to the United States Supreme Court, communications that expressly advocate the election or defeat of a clearly identified candidate can be subject to regulation.

The question is not whether the Federal Government should regulate campaign advertisement. It already does. The real question is whether or not the current test adequately identifies campaigns advertisements. The answer is simple. No, it does not. The Shays-Meehan bill will give us an opportunity to make these corrections.

CHINESE OCCUPATION OF TIBET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SCARBOROUGH) is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, earlier this week we had a rally on the Capitol talking about freedom in Tibet, and there were a lot of people talking about the need to pray for the people in Tibet. I believe, though, that we need to worry about the people of America and America losing its way, turning its back on the very things that Thomas Jefferson and our founders believed in regarding freedom in this country and in this world, for the country that has been called the last great hope for a dying world has turned its back on freedom loving friends across the globe for 30 pieces of silver.

It seems Americans are confused by facts or more concerned about 9,000 points on the Dow Jones than what is going on. Nine thousand is a number that has mesmerized politicians in Washington. Nine thousand is a number that has mesmerized the wizards of Wall Street and those on Madison Avenue.

But when we are talking about Tibet, I think we need to talk about some numbers that at least, to me, and at least to the freedom-loving people of this country should be more important than the 9,000 number when talking about the Dow.

I am concerned about the number 50. That is the number of years Tibet will have illegally been occupied by China in the next few years. I am concerned about the number 1.2 million. That is how many Tibetans, one-fifth of the country's population, have died since 1959 because of the Chinese occupation.

I am concerned with the number 2,000. There are more than 2,000 political prisoners right now in Tibet. I am concerned about the number 130,000. That is how many Tibetans are in exile.

Right now, there are 250,000 Chinese troops occupying Tibet. At least 6,000 people were sentenced to death in 1997. Right now, 60, the count is 60 million for the number of people that this brutal regime has killed since its inception in 1949.

□ 1945

And yet we have politician after politician and corporate leader after corporate leader falling all over themselves to embrace China and, in doing so, crushing the human rights of those people in Tibet.

Freedom is what I believe America is about. Thomas Jefferson's view of America was an America with a free marketplace of ideas, where people could come together and talk about and debate and export liberty and freedom across the globe. And yet in America today we remain strangely silent because of our preoccupation with the Dow Jones over 9,000 points and our preoccupation over China as the next exporting market. And, meanwhile, we import from China and other places in east Asia, basically getting cheap consumer goods based on little more than what we in America would term slave labor.

It is very frightening. It does not remind me of the America that Thomas Jefferson and the founders talked about when they wrote,

> We hold these truths to be self-evident; that all men are endowed with certain inalienable rights by their creator, and among these are life, liberty, and the pursuit of happiness.

Now, if our founders believed that God gave those rights to all men, are those rights that Jefferson wrote about, that the creator endowed us with, are those rights exclusive only to those people that are not good trading partners? Or if we have a good trading partner, do we turn our back on Jefferson's vision and our founders' vision of America in this world? Regrettably, over the last few years, I am afraid the answer is, yes, we have turned our backs. It is not the America that Jefferson believed in, it is not the America that leaders have believed in, it is not the America that I believe in.

So many people at the rally seemed concerned that they could not make a difference; that there was nothing they could do to break down the walls of resistance from the White House or from this Congress or from Wall Street or from Madison Avenue. But I am reminded of a quote that Bobby Kennedy made some 32, 33 years ago. And, of course, Senator Robert Kennedy was shot down about 30 years ago last week. But he believed that one person could make a difference. Just like he said in Johannesburg, one person could make a difference in breaking down the walls of oppression. I believe that to be the case in Tibet.

CONGRESS NEEDS TO ACT CREDIBLY WITH REGARD TO PROMISES TO REFORM CAMPAIGN FINANCE

The SPEAKER pro tempore (Mr. SUNUNU). Under a previous order of the House, the gentleman from Connecticut (Mr. SHAYS) is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I have been in this Chamber 11 years and I have seen days that are very satisfying and days that are not. I, obviously, am very proud to be a Republican Member of this Congress and am proud that in 1994 that Republicans had an opportunity to lead this Congress, to help get our country's financial house in order, to save our trust funds, and to move from a caretaking society to a caring society, where people have their hopes and dreams more likely to occur.

I was also proud to be part of a 1994 Congress that took office in 1995 that was able to move forward with congressional accountability, getting Congress under all the laws that we had exempted ourselves from. Congress had exempted itself from the civil rights law, it had exempted itself from fair pay, the 40-hour workweek, time and a half. The private sector had to do it, Congress did not.

Congress had exempted itself from OSHA, the Occupational Safety and Health Act, which basically meant that the Congress did not have to abide by safety procedures for its employees. A Member of Congress could not be sued by an employee for sexual harassment. We exempted ourselves from things that the private sector came under. We did until the 104th Congress, the last Congress, in which we passed congressional accountability.

But we did not stop there. And we did it, candidly, on a bipartisan basis, which is the best way to get reform through. We did not just try to ram it through. We worked with colleagues on both sides of the aisle and got wide support for it. We did the same thing with gift ban and lobby disclosure. We banned, frankly, all gifts, something that was long needed certainly to bring them under control, because Members could receive unlimited gifts of meals and wine and so on. They did not even come under the gift ban. They could get $100 at a clip, $250, during the course of a year. We wanted to bring it down to what the Senate had, but the Speaker wanted to ban all gifts, and I concurred in that.

We also, for the first time since 1946, we also amended our lobby laws to really get people who are lobbyists to register and to report who they try to influence and how much they spend. And it has made a significant difference in identifying who really is trying to influence this place. These were reforms that happened under the 104th Congress and, to its credit, on a bipartisan basis.

But we did not deal with campaign finance reform. I guess three out of four is pretty good, but it was my hope and my expectation that a reform-minded Congress would deal with campaign finance reform; and that we would reform our laws, the unlimited soft money that has contributed to the political parties, the over $260 million that was given collectively to both parties that was not used for party building, was not used for registration, but was used to influence directly individual races, circumventing the campaign law, unlimited sums by individuals, corporations, labor unions and other interest groups.

I was hoping that we would deal with sham issue ads, the truly campaign ads, call them that and place them under the campaign laws, freedom of speech, under the rules that everyone else has to abide by; that we would codify Beck and make sure that nonunion members do not have to pay political costs to a union for a political activity they do not agree with; improve FEC disclosure enforcement; deal with the abuse in franking and require that foreign money and fund-raising on government property stop. Because right now it is illegal to do that for campaign money, but it is not illegal to do it for soft money. So we need to make sure people know that, one, we ban soft money, but if there is money that is not under hard money, that foreigners cannot do it and they cannot raise this money in government buildings.

It had been my hope and expectation we would deal with this issue last year, but we did not. There was a promise we would deal with it in February and, at the latest in March, but we did not; and then a promise we would deal with it in May, and we have not. And so promises are becoming empty words. It is important that my side of the aisle live up to its agreement, live up to its agreement to deal with campaign finance reform.

I fault my colleagues on the other side for not wanting to deal with the abuses in the White House, I fault my colleagues on this side of the aisle for not wanting to reform the system. We need to do both. We need to hold the abuses of the White House accountable, and we need to reform the system. We need to do both to be truly credible. And I hope and pray that in the days and weeks to come we do that.

TOMORROW'S CAPITOL HILL ROBOTICS INVITATIONAL PROMISES TO BE A REAL TREAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 5 minutes.

Mr. DELAHUNT. Mr. Speaker, if you think ball-playing robots invading Congress sounds like a science fiction script, then think again, and set your alarm clock for early tomorrow morning, when you and I will kick off an unprecedented head-to-head national robotics competition on Capitol Hill. It will truly be an exciting time in the Halls of Congress tomorrow.

A dozen high school teams from across the country, including students from Plymouth North and Quincy and North Quincy High School, many of whom are in the gallery here tonight, will cheer on their robots' attempts to pivot around mechanical competitors scoring points by heaving large balls into 8-foot goals.

Last summer, when I attended the Rumble at the Rock in America's hometown, Plymouth, Massachusetts, a regional robotics competition held at Plymouth Rock, I expected something between a chess club demonstration and a science fair. What I saw left me stunned and truly impressed.

These competitions create an intense thirst for achievement that is usually reserved for the NCAA or NBA finals, proving again what sports promoters and parents have long known: We can create demand for excellence among the kids themselves.

Tomorrow's Capitol Hill robotics invitational is designed to underscore the work of a unique foundation, called FIRST, which is headed by Andrew Allen, a former astronaut who served as commander of the Space Shuttle Columbia. The acronym FIRST stands for, and I am quoting, For Inspirational and Recognition of Science and Technology.

Over 20,000 students on 200 teams participated in regional contests leading to FIRST's national finals earlier this year at the Epcot Center in Florida. Televised by ESPN, and with a crowd of more than 12,000 screaming from the sidelines, it had all the excitement of a national student athletic championship.

Each team is issued an identical trunkful of raw materials and a $425 credit to purchase additional supplies, then has 6 weeks to collaboratively design and construct a robot capable of competing in a designated event. The participating students have built remote control robots capable of picking up and maneuvering 20-inch rubber balls around a small 6-sided playing field to score goals while competing against other robots.

These projects combine technical sophistication, practical know-how and old-fashioned teamwork. A key to FIRST's success is breaking down the classroom door by partnering with corporate sponsors like Boston Edison and Gillette, and through mentoring from corporate R&D shops and academic engineering departments.

As the Quincy and Plymouth students discussed earlier today with senior officials at the Department of Education, these projects are national educational models combining on-the-job training with competitive adrenaline. How else can you explain that morning during a New England storm this past winter when members of the Plymouth North robotics team trudged through the snow to attend school, even though classes were canceled? Or the many Sunday evenings when Mike Bastoni, its devoted robotics teacher, has to shoo students out of the computer lab at 10 o'clock at night?

It is no accident that these kids emerge with a keen sense of their own potential and with the tools to succeed in a rapidly changing technologically advanced work force. The ultimate rewards, as the students in the House gallery can attest better than I, are lifelong skills and self-respect.

I look forward to the competition tomorrow in the Rayburn foyer, and I promise all who come a real treat. Thank you, Mr. Speaker, for your effort and your assistance in cosponsoring this event.

□ 2000

PAYCHECK PROTECTION ACT

The SPEAKER pro tempore (Mr. SUNUNU). Under the Speaker's announced policy of January 7, 1997, the gentleman from Colorado (Mr. BOB SCHAFFER) is recognized for 60 minutes as the designee of the majority leader.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, it happened again just a few days ago. I was at a Republican event, a political event dealing with putting candidates on the ballot back in Colorado and one of the individuals in the audience came up and he said, "I am fed up and sick and tired of labor unions taking cash out of my wages and spending those dollars on political causes that I do not support."

This was a Republican worker who lives up north in the Morgan area, in Morgan County in my district, in the Fourth District of Colorado. And he asked if there is anything I can do about that.

Well, I asked more questions, tried to find out exactly what had occurred to him. It seems he works for a closed-shop operation there in Colorado, which is in not a right-to-work State. A closed-shop State means essentially that one can be forced or compelled to join a labor organization against their will as a condition of employment. Their only option, of course, is to give up their job and move on and go somewhere else.

So this individual does not approve of his union's activities. I suppose he probably supports some of the collective bargaining and maybe some of the agency representation and so on. But what he really resented was that a certain portion of his paycheck was automatically deducted and withheld and redirected toward political causes of the union's choosing without the consent of this particular wage earner. He thought it was a crime. In fact, he called it such. And I could not disagree with him at all.

Well, this is a practice which occurs throughout the country. It is interesting, here on the House floor, with all the debate about campaign finance and campaign finance reform and what campaigns ought to look like, how they ought to be funded, whether there ought to be caps and limits, what kind of disclosure and reporting requirements that we ought to insist upon, that no one is really willing to spend the time talking about whether campaign funds are raised legitimately in the first place.

The fact of the matter is, right here in the great old United States, it is quite possible, in fact it is quite likely, that a wage earner can have a portion of his wages automatically deducted and withheld out of his paycheck and spent on some political cause simply because he happens to be associated with a labor union. It happens with other organizations as well.

Well, we have tried in fact to take a crack at the issue here on the House floor. The last time campaign finance issues were raised we brought a topic to the floor called the Paycheck Protection Act, a proposal designed to end this practice of having wages automatically deducted and spent on political causes without the consent of the wage earner.

It strikes me as being a pretty simple matter, yet it gets quite confused here in Congress. And I will explain that in a moment, why there seems to be a source of confusion. But it seems that anybody would be hard pressed to come up with an explanation as to why stealing wages out of somebody's paycheck and directing it toward a political cause without the wage earner's knowledge or the wage earner's consent is a good idea, how it can possibly be justified, how we can in fact stand for it, how we can allow campaign cash to be raised in this sort of manner and not object on a daily basis.

Well, I have heard from too many constituents, rank and file union Americans, who do object, who do come up to me at political events, at town meetings, at the parade celebrating small towns throughout my rural district, who come up and tell me that they are fed up with it, that they are sick and tired of having their wages raided by people they do not support for political causes they do not condone, and spent in a way that is outside their control.

I sort of look at this as a pay raise. If we can really protect the paychecks of hard-working Americans, make sure that no portion of their wages are automatically deducted and siphoned off for political causes, that really means, for many wage earners in America it means more dollars in their pocket.

It is very consistent with our efforts towards tax cuts in America to try to encourage and empower individual wage earners by protecting what they work hard for, by protecting their earnings, to allow them to keep what they have toiled over and the fruits of their labor and let them spend it on things that they believe to be high priorities rather than some union boss sitting in another city perhaps or maybe right here in Washington, D.C., or maybe a committee of them that is forming today perhaps to decide which Members of Congress ought to stay and which ones ought to go.

Well, it really does work that way. If my colleagues want to figure out what the motivation is why any labor organization would stand for siphoning off portions of their members' wages to spend on political causes of the union's choosing, they just need to spend a little time here in Washington D.C.

Whenever we have these campaign finance debates, these halls are lined out here in the committee hallways and Members offices' are lined with union organizers and union lobbyists and union bosses who understand that when we talk about paycheck protection, we really are threatening the way of life for a handful of powerful union bosses who have made an art and a career out of siphoning wages away from wage earners' paychecks for the political purposes of their choice.

Campaigns can be fun if they are involved in them, if they are involved in raising money and trying to spend it in a way that helps affect the direction of Congress. It seems to be the American way. That is what every citizen should be encouraged to do and to participate in and be involved in, to choose the candidate of their liking and decide which one best represents them, to put a yard sign in their yard maybe, to put a bumper sticker on their car, to take some literature through their neighborhood and give it to their friends and neighbors, maybe to go to precinct caucus meetings and maybe some State and county assemblies, maybe the national convention, to be involved in whatever way they can in help selecting the candidate that best represents them and that they think is the one that is really going to help turn the country around and to meet their expectations.

And a big part of that is raising money too, as we all know in this case. We spend a lot of time trying to replenish the campaign coffers so that we can run for election. And our opponents who are out trying to replace us today are on the phone, perhaps trying to raise money for their campaign coffers so that they can convey their message.

There is nothing wrong with that. That makes a lot of sense. But it ought to be voluntary. It seems, at the very least, we ought to insist upon a voluntary nature about politics. To insist upon the simple notion that no one, no one in America should ever be forced to contribute to a political cause which they do not support. Does that seem to be too much to ask?

Well, when we asked that question here on the House floor a few months ago, the answer was no, it was too much to ask actually when it came right down to it. Because those union bosses and lobbyists that I mentioned who march around the Capitol building and who hang out around the offices of likely Members of Congress who seem to be sympathetic to the cause of union bosses, well, they said no, they said no to the Paycheck Protection Act.

We hope to give them another chance and another opportunity, in fact, several opportunities crafted in several different ways. There are a dozen, at least a handful of proposals and variations on the Paycheck Protection Act that we can consider here in Congress.

I am going to offer my proposal again. The Paycheck Protection Act is a very similar bill. It is only a couple of pages. What it suggests is that no wage earner's wages can be withheld for political contributions in any manner without the consent of the wage earner. And anyone who siphons money out of the paycheck of an unsuspecting wage earner would be subject to judicial proceedings and actions taken against him by the wage earner himself.

You see, I am not really against and I do not think anybody who supports the Paycheck Protection Act is against labor unions being involved in the political process. Quite the contrary, I am for that. I think labor unions serve a very useful purpose. I am for collective bargaining, I am for agency representation, as long as people voluntarily agree to become associated with these groups and organizations and clubs.

I am even for labor unions being involved in politics, and I think most supporters of the Paycheck Protection Act are, as long as the money that they raise is raised voluntarily, as long as the individuals who contribute to the political cause know what they are doing and agree to it and agree to open up their wages to give the special account number to the special interest groups so that some of the money that otherwise would go directly to the wage earner's paycheck is instead diverted, a small portion of it, to an union's account, a political account.

That is fine if it is voluntary. The Paycheck Protection Act insists upon a voluntary nature associated with raising political dues.

Well, what many of the opponents of paycheck protection understand is that the measure is pretty passionately opposed by union bosses. This is pretty easy money for these folks, that comes pretty easily. When they are stealing it, when they are taking it away from paychecks and wage earners unsuspecting, that is easy cashing for those who are here to raise money.

Many of us insist upon doing it the hard way, and that is getting on the phone or having a meeting with individuals and asking them to contribute, to in fact invest in our political cause and to back the message that we propose so carry to Washington, D.C.

But taking it through this mechanism of wage withholding and wage deduction is certainly easier. There is no confrontation involved. They do not have to do any explaining at all. They just take it and they spend it on these same Members of Congress and other candidates like then who seem to be sympathetic to the notion that these union bosses have good ideas and ought to perpetuate them in Washington.

Here is something else, Mr. Speaker, that these individuals, these same opponents of paycheck protection know. They know that the rank and file union members support the Paycheck Protection Act.

This is a graph that outlines a recent public opinion poll that was taken among the American citizens. And we asked, should we change or keep the current Federal election laws that allow unions to make political contributions with money deducted from a union member's paycheck?

Of all voters, when all voters were surveyed, way over there on my right, 78 percent of American voters throughout the country said that they in fact support changes in the law, those laws that currently allow political contributions to be made with money deducted from a union member's paychecks. Seventy-two percent of union households, now these are union households, these are households where union members are answering the surveys, 72 percent of union households say we should change the law so that paychecks are protected and that no one's wages are withheld without the consent of the wage earner.

Look over here, when we talk to members of teachers' unions, these are again not all union members throughout the country, that is this column here, this is just union members who are part of a teachers' union, this is a smaller subset, 78 percent of teacher union members tell us that they support changes in the current law which allows wages to be automatically withheld and spent on political causes without the consent of the wage earner. Seventy-eight percent of members of teachers' unions say that that law ought to be changed.

When we exclude all the union members and talk to all union members, we get a 2 percent bump; 80 percent of nonunion voters throughout the country believe that we ought to change the law.

The next graph is pretty similar and in many ways restates what I had said earlier, but the question was asked a little differently in this instance. We asked whether the respondent would approve or disapprove of a new Federal law that would protect workers' paychecks, whether they would support the paycheck protection in fact.

Again, when we ask all voters, all voters throughout the country, 80 percent tell us they support the Paycheck Protection Act. Eighty percent of union members, union households, tell us they support the Paycheck Protection Act.

That is really remarkable for a lot of people. If we listened to the opponents of paycheck protection, we would think, in listening to their arguments, come to the conclusion that union members somehow want their wages to be withdrawn and withheld for political causes against their will. But when we asked the wage earners themselves, 80 percent of them told us that they believe that we ought to pass the Paycheck Protection Act and end this abuse.

When we go to teachers' union households in this case, 84 percent tell us that we ought to pass the protection, they approve of the law. And again, when we exclude all the union members and just look at nonunion households, 80 percent of nonunion households support a measure that would protect the paychecks of, well, anybody's paycheck; they do not even have to be a labor union member, but anybody's paycheck that is subject to being raided by various political operatives of various sorts.

It is interesting that we would think that with 80 percent of all voters who favor paycheck protection that we would have the balance, the 20 percent, that would oppose. Actually, the number is smaller than that. It is 16 percent. There is a handful of folks in every single instance who have not made up their minds on the matter, who have not come to a conclusion yet as to whether we ought to protect the paychecks of wage earners.

Sixteen percent of all voters say that we ought to leave the law as it is. Sixteen percent of union members say we ought to leave the law as it is. Thirteen percent of teachers throughout the country say we ought to leave the law as it is. Sixteen percent of nonunion members say we ought to leave it as it is.

Those are small numbers, 16 percent, 13 percent in the case of teachers, and the comparisons on the other graph are very similar. But it is odd how powerful this minority of voters seem to be here in the halls of the United States Congress. Because these are the people who won when we took the last vote here in Washington. These are the folks who were represented who earned more votes in Congress than the people in these tall columns.

So we wonder why that might be. And the reason is because what happens with campaign laws as they are today, which allows wages to be raided and a portion of those wages to be redirected toward political causes without the consent of the wage earner, as we have this 80 percent column that is footing the bill for union political causes, and only 16 percent, this small minority here, actually approve of how those dollars are spent.

□ 2015

So you take money from this big column here and you spend it to empower the small minority there. The small minority there turns around and gives that cash in many cases to Members of Congress, to candidates who are running for office, to governors, to city council members, to county commissioners, to anyone who is sympathetic to their special interest causes.

Once again, I say, I am really not opposed at all to unions being involved in the political process. If they want to give their cash to candidates who are sympathetic to them, that is great. That is what democracy is all about. That is what industrial democracy is all about. That is what is being part of a union is all about, too. But the money ought to be raised legitimately. It ought to be raised credibly. It ought to be raised voluntarily. That is why the Paycheck Protection Act is such a central and essential part of any debate we propose to have here on the floor of the House with respect to campaign finance.

Now, there are lots of issues we can discuss. Again, you will hear all kinds of particular topics of debate, about whether we ought to have spending limits, where candidates can only spend a certain amount of money. Some people here in Congress support the notion of having the Government finance campaigns. Some people think that all we need to do is maintain full and open disclosure and timely disclosure so that everyone knows and understands where a candidate's cash comes from in a timely manner. Some think we ought to cap the amount of money that people can give to the political process, really to limit the extent to which an individual can participate in politics, in the democratic process here in America.

But I think before we get to any of those discussions, before we get to any of those debates, we ought to be able to agree that the 80 percent of wage earners in America who think their paychecks ought to be protected should at least be considered here in Washington, should at least be considered in some minor way by the Members of the House. I hope we can convert that to consideration in a major way where we will actually respond positively and affirmatively with a Paycheck Protection Act as part of this overall campaign finance debate that will reach out to hard-working wage earners, that will reach out to the mother and father who are working extra hours, perhaps right now, maybe two jobs, trying to make ends meet, to pay the high taxes that this government maintains, that will reach out to those individuals and tell them that we are just going to make sure that you do not end up contributing to a political cause without your knowledge, and that politics in America continues to be voluntary.

There are a lot of people involved in this debate. A lot of people have a lot to say about it. A lot of people who are undecided, those hard-working rank-and-file union members and wage earners who are hoping tonight, maybe watching and maybe paying attention to what goes on here in Congress because they care, those individuals who are hoping that we will vote for them for a change, that we will reach out to them and that we will ignore those minority of union bosses, we will ignore that little 13 and 16 percent column that I showed you, and instead pay attention to the average hard-working person in America. That we will protect their wages, and we will construct a campaign system here in America that will earn their confidence.

Mr. Speaker, with that I yield to the gentleman from Texas (Mr. DELAY), the distinguished minority whip.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me and I really appreciate the gentleman from Colorado taking this special order. What he is doing is so right. The best part of what the gentleman from Colorado is doing is he is trying to participate. I think it is rather fascinating that we are here tonight when we should be debating campaign reform under an open rule process, where every Member can have the opportunity to offer the kinds of amendments that that Member cares to offer and every Member get to offer their own substitutes, unfortunately we are not doing that. What we are doing is we are in special orders talking about an issue that is very important to both of us. But we are being held hostage once again by what I think quite frankly is a situation that the Democrats have found themselves in. It is the same sort of situation when the dog chases the big dump truck down the street and catches the dump truck, he does not know what to do with the dump truck. Well, we have been criticized by the Democrats and some organizations for not having open and honest debate on campaign reform for months, mainly in my opinion to cover up the fact that the administration and the Democrat National Committee have broken campaign law, and so it is an old political ploy that you go from breaking campaign law, and the way to shift the focus of the American people is to all of a sudden be great reformers of campaigns and campaign law.

But here we are in a special order as the gentleman knows. I just asked the question, why do the Democrats not want to support an open rule on campaign reform? I mean, we had every intention of bringing a rule to the floor this evening that would open up the process, allow all kinds of amendments, really have an open debate in this House, and frankly it started with a very good debate last week. I thought it was very helpful. The gentleman from Arkansas (Mr. HUTCHINSON) who has the base bill presented his side, everybody was presenting their sides, we were getting ready to have this debate. Yet all of a sudden the rule is not good enough. Members of the minority party asked for an open process in campaign reform. They even demanded it. And when we first announced that we would have an open rule, my colleagues were exuberant.

The gentleman from Maine (Mr. ALLEN), Mr. Speaker, said, and I quote, this is great, this is exciting, after learning that we would bring an open rule to the floor.

The gentleman from Connecticut (Mr. SHAYS) said it was a great day for democracy.

Fred Wertheimer of Common Cause said, and I quote, it was a real breakthrough.

But now these same so-called reformers are complaining because this debate will be too open for their tastes. Apparently the only kind of open debate that they want is debate on their proposals and no other proposal of Members of the House. In their minds the only reforms worth real discussion are their reforms. This attitude is typical of the wider debate that is going on here. The so-called reformers want to shut down this political discussion in America. Now they want to shut down discussions of issues on this House floor. In my view, the real reason we are having this debate at all is because of the abuses that the Clinton campaign had in the last election. In my opinion, Democrats oppose this open rule for one reason and one reason only. It will allow us to vote on reforms dealing with the Clinton scandals of 1996.

Mr. Speaker, the Clinton Democrats remind me of the boy who killed both of his parents and then begged for mercy because he was an orphan. The Clinton campaign brazenly broke campaign laws and then begged for mercy claiming that the campaign system was broken. This open rule that we wanted to bring to the floor earlier this evening would have allowed us to vote on an amendment that would prevent fund-raising in churches and in temples.

The open rule that we wanted to bring here earlier this evening would have allowed us to vote on an amendment that will demonstrate that controlling legal authority prevents politicians from raising money in government buildings.

The rule also would have allowed an amendment closing a huge loophole in the Shays-Meehan substitute that would allow donations from foreign nationals to State and local campaigns and non-Federal PACs. That rule would have allowed us to fix that gaping hole in the Shays-Meehan bill.

The rule would have also allowed us to deal with the problem of illegal foreign money and illegal foreign voting. In short, this rule would have allowed us to debate a whole host of issues dealing with so-called reform.

Mr. Speaker, Shays-Meehan is not synonymous with reform. It is synonymous with suppression. Now they want a new rule, written on their terms, allowing only them to debate what they want to debate. I do not think this House is going to stand for this kind of inconsistency.

Last week we defeated a constitutional amendment authored by the gentleman from Missouri (Mr. GEPHARDT), the minority leader, that would have allowed Congress to limit spending for the first time. The gentleman from Missouri, the author, told us a constitutional amendment was necessary, because, in his words, "Neither Congress nor the States have any constitutional authority to limit expenditures, independent issue advocacy or uncoordinated expenditures. The current explosion in third-party spending is simply beyond our reach to legislate."

Yet Shays-Meehan does just that. It attempts to legislate control of public spending and speech. We should debate this bill in an open process. We should be able to amend this bill in a manner that the rule allows. We should not let the Democrats cover up the Clinton-Gore scandals. We should support this rule and the previous question that allows Members of this House to do their job, to bring to this floor amendments and substitutes that reflect their position on campaign reform, whether it be the position of the gentleman from Arkansas (Mr. HUTCHINSON), who has taken a very constructive approach in the freshman bill being carried by the gentleman from Arkansas, or any other piece, the substitute of the gentleman from Colorado (Mr. BOB SCHAFFER). We should have open and honest debate. That is what we wanted to do. But now all of a sudden, in the 11th hour, when we were about to start 20 hours of debate, tonight until midnight, tomorrow from 1 in the afternoon until midnight and all day Friday, all of a sudden we cannot pass a rule because it does not fit in somebody's little box. I just think it is really unfortunate that we had an opportunity to start this debate and now we are stymied by it.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I yield to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Colorado for yielding.

Mr. Speaker, I am pleased the distinguished majority whip from Texas and my friend from Arkansas and others of us are here on the floor.

Mr. Speaker, just to underscore the point, and I think this photograph says it all. Mr. Speaker, there are three words that would bring about genuine campaign finance reform. Mr. Speaker, those three words are these: Obey existing laws.

I marvel at the cynicism of the punditocracy, to coin a new phrase in this town, so intent on changing the subject, so intent on saying, and I really hate to use this analogy, given my affection for cookies, but saying to those with their hands caught in the cookie jar, "Oh, look over here, there's a broken glass elsewhere in the kitchen." Or to say, in case of emergency, break the glass for the standard rhetoric that everybody does it.

Mr. Speaker, nothing could be further from the truth, for everyone does not do it. Most of those who serve in this body attempt to adhere to existing law. But, as has been chronicled by my colleague from Colorado, what is very interesting, a very curious thing happened on the way to campaign finance reform a quarter of a century ago. You have to hand it to the left for being pretty crafty politically.

"Let's ensure," said members of the left, "that organized labor and the Washington bosses are never held accountable."

I would commend to my colleagues and those, Mr. Speaker, who join us electronically from coast to coast and beyond, a study from Rutgers University, which pointed out that the widely reported figure of $35 million used by Boss Sweeney and others of his ilk to try and influence the congressional elections of 1996 was a grossly underreported number. Indeed, Mr. Speaker, the Rutgers study pointed out that the Washington bosses spent between $300 million and $500 million to try and buy Congress in 1996.

Now, Mr. Speaker, it is fair to ask how on earth could they do that. Two reasons, Mr. Speaker, one alluded to by my colleague from Colorado.

Understand full well, Mr. Speaker and my colleagues, that through compulsory dues, working men and women supply the union bosses here in Washington, D.C. with vast moneys on an annual basis. How much? Well, according to these studies, I have seen anywhere between 8 and $11 billion.

So indeed, Mr. Speaker, one-half billion dollars is pocket change to those who really attempt to buy the Congress. Yet some people, well-meaning in their intent, and others cynically looking for political cover, would have you believe that this most fundamental reform, restoring the constitutional rights of workers and for once making those who claim to be friends of the working man adhere to this basic notion of keeping their dirty hands out of the working man's pocket, to take money from the working man to give to causes with which that working person may fundamentally disagree, sadly those minions of the status quo are given cover to claim campaign finance reform.

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Those protesting the loudest are headquartered at the other end of Pennsylvania Avenue. Not only ironically, Mr. Speaker, the Chief Executive of this Nation, but the Vice President of the United States, who has been heard within recent months to offer this buzz phrase when asked about his direct violation of Federal law, and do not take my word for it, Mr. Speaker, take a look at the memo from former White House counsel Judge Abner Mikva who sought to forbid those types of campaign phone calls from the White House.

The Vice President of the United States told the press corps in this town and the American people, and I quote:

"My legal counsel informs me there is no controlling legal authority."

How cynical, Mr. Speaker. How tragic, and how fundamentally wrong because, Mr. Speaker, I would say to the Vice President and to the American people, yes, there is a controlling legal authority. It is called the Constitution of the United States which gives this body oversight of the executive branch.

And indeed, Mr. Speaker, how much more constructive it would be if we did not have so many colleagues fall for the siren song of the pundits who often find themselves affiliated with the left to throw up this mud and this dust under the guise of reform. How honorable it would be if we moved toward a system that would rid us of these Orwellian definitions of reform that do more to repress the constitutional rights of American citizens than anything dreamt of. How interesting it is, Mr. Speaker, that many on the left would say, if we move to protect the rights of workers through a paycheck protection act, that would mean any type of agreement on campaign finance reform. To use their words, Mr. Speaker, it would be dead on arrival.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I yield to the gentleman from California (Mr. Doolittle) and want to make sure we save time here for the gentleman from Arkansas who is leading the freshman effort on campaign finance reform.

Mr. DOOLITTLE. I just wondered if I can get the gentleman's comment on the Minority Leader's statement as reprinted in Time Magazine last year:

> What we have is two important values in direct conflict, freedom of speech and our desire for healthy campaigns and a healthy democracy. You can't have both.

Is that true? I ask the gentleman from Arizona (Mr. HAYWORTH) does he agree with that?

Mr. HAYWORTH. That is as false as false can be.

The Minority Leader demonstrates in that statement why he will remain the Minority Leader if, in fact, he remains in this Chamber because I believe exactly the opposite is true.

Mr. Speaker, we should trust the American people, and that may shock my colleagues here, Mr. Speaker, having been the No. 1 target of the Washington union bosses, having had $2.1 million pumped into my campaign for my adversary to falsely characterize my record. But you see in America, Mr. Speaker, I believe that people even have the right to disagree with me to the point that they can choose to mischaracterize the record because I believe as Abraham Lincoln said:

The American people, once fully informed, will make the right decision, and fully informing them is up to me in my role as a candidate and as a Member of Congress and as a citizen of the United States.

So what we have here, Mr. Speaker and the gentleman from California, is a cynical, sadly misguided attempt to explain to us how we should abridge constitutional freedoms.

Now I guess it should come as no surprise since we have already seen these supposed champions of the working man thrust their hands into the pockets of working people across the country uninvited to take coercive dues to go to political campaigns with which those working people disagree. I say how sad and how cynical and how important it is, Mr. Speaker, to shine the light of truth on that hypocrisy and that wrongheaded notion which may be popular in the editorial reams of certain liberal eastern dailies but is just plain wrong in the shipyards and the construction yards of America.

Mr. DELAY. If the gentleman from Colorado would yield, I just say everything the gentleman says I totally agree with, but the problem here is that the corrective action that the gentleman might want to take, and there are other Members of this House who want to take the kinds of corrective actions that the gentleman claims are abuses, we cannot do because the openness of the minority has been thwarted. They are thwarting open rules because they will not allow us to pass a rule that allows the amendments that the gentleman might be able to offer in order to correct these abuses.

Mr. HAYWORTH. To simply respond, it should come as no surprise my two friends in the well preceded those of us here in the Congress of the United States, and we realize for 40 years, and it eventually caught up with the left, the notion of saying one thing and doing another led to the change in this Chamber. And what was the first thing that was passed by a new commonsense conservative Congress on the first day of the 104th Congress? This notion: that Congress people should live under the laws every other American lives under.

So it should come as no surprise that the tired, discredited architects of cynicism on the left would come to this Chamber and under the guise of openness seek to abridge the debate, the debate which should go on in the people's House. It is the ultimate irony, and though we will have the predictable cacophony of support from those allied in the left and the editorial rooms of the major eastern dailies, the American people, Mr. Speaker, will see that for what it is, a crass, cynical attempt to change the subject when again.

And I think it bears repeating, if the American people desire a campaign finance reform, it comes in three simple words:

Obey existing law.

Mr. BOB SCHAFFER of Colorado. With that in mind I yield the floor over here to the gentleman from Arkansas who has led the effort on bringing the base bill on campaign finance to the floor, and hopefully we will have a chance to eventually consider it.

Mr. HUTCHINSON. Mr. Speaker, I thank my friend from Colorado, and I want to express my appreciation to you for your leadership in our class as well as on the issue that you believe in that I have supported which is paycheck protection. And I also want to compliment my good friend from Texas who has really fought hard for an open and fair debate. And as I have gone through this procedure in a short fashion, I guess I have come to appreciate the importance of debate, and my friend and I both had a good debate on the floor of the House earlier this week on campaign finance reform coming from two different standpoints, and as we stand here, my friend from Arizona, we all have different viewpoints on campaign finance reform in how we deal with this important subject, and so we need a fair and open debate.

And I think, as we debate this subject, it is good for the American public and it is good for the Members of Congress that we share our ideas, and ideas will ultimately triumph, and so even though I would like to move this process along, and I am extraordinarily disappointed that we are not here tonight debating this important subject as a full body, I do hope that we can pass this rule, that we can move on to the debate.

And I know that with the disagreement that we have a number of amendments that have been offered to the base bill. This will increase the debate, but we can complete this in regular order if we pass the rule and we move along with it.

And the amendments that have been offered have been from both sides. My friend from Texas offered a number of substantive amendments to the legislation, but the Democrats also on the other side of the aisle have offered 74 amendments, have gone to the Committee on Rules and asked for 74 amendments to be made in order, and you look, from even the gentleman from Massachusetts (Mr. MEEHAN), one of the lead sponsors of a bill has offered 22 amendments to the base text and to the different substitutes that have been offered.

And so I think it is important that we simply pass the rule, let us move the debate. I hope that many of these are withdrawn as time goes on. I think that reason triumphs, and I think it will, but we all need to show the American people that we, as a Congress, can debate it, can make a decision and that we can move on.

As my friend mentioned, I support campaign finance reform, the freshman bill, the Hutchinson-Allen bill that has broad support on both sides of the aisle. I hope that it can ultimately pass because I believe it meets the test of constitutionality. I believe that it is reasonable reform but is significant reform the American public will respond to and still protect the First Amendment which we all believe in.

So I thank the gentleman for yielding, I thank the friend from Texas for his work on this, and I hope that we can pass the rule tomorrow, that we can move on to debate and by Independence Day we will have done something on campaign finance reform that is good for the American public.

Mr. DELAY. Mr. Speaker, if the gentleman would yield, I appreciate the gentleman from Arkansas being here and talking about this because he is being honest and forthright about his position. And I have complimented him in the past even though he and I do not agree on his bill. He has been very honest about the fact that we need to move forward and open up this debate.

I think it is very cynical, and I know what is going to happen. You are going to have my friend from Connecticut and others go to the press and say, Oh, my goodness, it's not moving as fast as we think it was. There's so many amendments. We know what they're trying to do. They're trying to bring dilatory amendments to the floor and trying to stretch out the process.

The point here is that the process that they demanded, open and honest debate, forced us, not just us that are against the Shays-Meehan bill, but as the gentleman from Arkansas says, other Democrats and everyone to protect ourselves, making sure that we bring every amendment that we can think of to the floor because the process said you had to put it in the RECORD, your amendment in the RECORD, so that the Committee on Rules could look at it and give you a waiver from a point of order on germaneness.

So of course there are going to be a lot of amendments. No one says that every amendment is going to be offered. But Members will protect their rights to offer amendments by putting them into the RECORD.

So to hide behind this notion that there is 200 amendments, so many, and then they do not want those amendments to be brought to the floor because they want a new process, a whole new rule, they want it their way, is hiding behind the fact that they do not want an open process because they are scared to death about standing up in the light of day. You know, when we called their bluff, their turning tail and running, that is what is happening here. They are running from an open and honest process, a process that they have demanded, and I think it is really sad that we have come to this point in this whole process.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Colorado, and I appreciate the input of my good friend from Arkansas and our friend, the distinguished Majority Whip. But again I think we need to come back to this point again and again so that everyone understands this, Mr. Speaker, so there can be no doubt real campaign reform means obeying existing law.

And, Mr. Speaker, I note with interest an article which appeared in the Washington Post on Tuesday, July 9 of this year. The banner headline: "Campaign Finance Probe, 94 Who Aren't Talking."

Count them, Mr. Speaker, 94. Ninety-four individuals have either fled or pled. That is to say they have either left the country or they have claimed their Fifth Amendment rights against self-incrimination. No controlling legal authority indeed. This cynicism, which betrays the rule of law from those who are supposed to be the stewards of our Constitution from those who are charged, Mr. Speaker, with being the chief magistrate or the chief executive or occupying a position of trust secondary only to that position of Chief Executive is absolutely cynical, hypocritical and just plain wrong.

Mr. Speaker, the American people and this great Nation have been endowed with many blessings, but chief among them I would say this evening in addition to life, liberty and the pursuit of happiness is a good solid dose of common sense, and while there are those who try to fool most of the people most of the time, Mr. Speaker, in this they will not prevail. So even as this Chamber attempts to seek an open rule for a full, fair, complete, comprehensive honest debate on campaign finance reform, so too is it incumbent upon this body to exercise its legitimate rights of oversight.

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Because indeed, the ultimate irony, Mr. Speaker and my colleagues, are charges that have appeared in the press in recent days involving the curious timing of transfers of missile defense technologies to the People's Republic of China; the end result, Mr. Speaker, being that over one dozen American cities are now targeted by Chinese nuclear missiles.

This is a disturbing fact which should shake our freedom-loving people to their very core, because, Mr. Speaker, it transcends politics as usual and what Drew Pearson and later Jack Anderson called the Washington merry-go-round.

Mr. Speaker, this is no game. This is no debating competition to win points. This goes to the heart of our national survival providing for the common defense, and I look forward to the day when a select committee will examine these, as Senator SHELBY and others have done in the other body, to get to the bottom of this. Goodness knows, the headlines are as relevant today when the outlaw nation of North Korea attempts to deliver an ultimatum to the United States of America saying that, Mr. Speaker, yeah, we sold missiles to other countries. What are you going to do about it? Oh, and if you want us to stop, we want to extort some money from the American people. How shameful.

But again, Mr. Speaker, sadly, we have seen that the burdens of deliberation and leadership and providing for the common defense rests uneasily upon the collective shoulders of this administration and their apologists in the press, and those who would enter this Chamber. How we need a clear, consistent policy which says extortion, either by foreign governments such as the North Koreans, or by other foreign governments attempting to subvert our political process, will not be tolerated by the United States of America, and this body fulfilling its constitutional responsibilities will stand and deliver in the clear light of day to get to the bottom of this, no matter how incredible the findings may become, no matter how shocking the truth may be.

Let me state for the record, Mr. Speaker, it is my fervent hope that there is nothing to these allegations, because they are almost unspeakable. And those who would greet these with cynicism or cat calls from the press do this Nation a disservice, for constitutionally it is our responsibility as the citizens of the United States to form a more perfect union and to provide for the common defense that we stand as sentinels at the gates of our constitutional republic, and that we get to the bottom of these disturbing malodorous, troubling allegations.

Yes, we believe, Mr. Speaker, in that unique American notion of jurisprudence and fairness, that all are innocent until guilt is proven, and yet, Mr. Speaker, the headlines scream to us, and mercurial actions of timing compel us to say, what on earth has gone on here? What has transpired with those who are to be the custodians of our national defense? What has happened to the veracity of the act of raising your right hand and taking an oath, whether an oath of office, Mr. Speaker, or an oath before a jury to tell the truth, the whole truth and nothing but the truth.

Forbid it, Mr. Speaker, that in this Nation there are actually those who would suggest that those who perhaps have lied under oath should have the right to do so in civil litigation concerning personal conduct, and, Mr. Speaker, we wonder what transpires in terms of respect of the rule of law. And we wonder why we see troubles in the schools and in the streets and with the breakdown of the family unit.

Mr. Speaker, our constitutional republic offers a representative form of government, and I would suggest that oftentimes this form of government is as a mirror to the citizenry. And if we allow the rule of law to fall into such disrespect, then history will show that on our heads will rest the shame for the unraveling of the rule of law and the pursuit of justice.

We dare not allow that to happen, Mr. Speaker. We must answer these questions, and those who serve the executive branch, Mr. Speaker, would be well served to, quoting now, offer those answers sooner rather than later and recognize the fact that we are entitled to the full story.

Campaign finance reform indeed, Mr. Speaker. The American people and those who would serve the American people in seats of government should obey existing laws.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, is it not interesting that the investigations that are taking place where we have individuals who are refusing to testify unless they are granted immunity are being prevented from telling their story here in Congress by those who know that there is a story to be exposed, that there is something to be shown by exposing the light of truth upon these terrible allegations that the gentleman referred to. And like the gentleman, I am hopeful that there is no foundation to these allegations.

But the gentleman is absolutely right when we see the continual stories that are being uncovered by the press, by the media, that are being admitted to by the White House and other places, that these same individuals who are trying to constrain the rights of individuals in America, free American citizens to speak freely at election time and participate in the election process, are also the same ones who are willing to build a stonewall, to do nothing in the face of the allegations that are very serious that seem to suggest just in terms of the timeliness of waivers being signed on U.S. satellite and targeting technology making its way to the Chinese military government, at the same time as these contributions made their way to the Clinton-Gore campaign, that these allegations should not go investigated.

That is the position of our opponents on the other side, over on the Democrat side. They would love to stall these investigations. They would love to prevent us in the Republican Party and the Republican majority from moving forward on creating laws that would prevent those kinds of occasions to occur, or even the suggestion of those events to occur again. Instead, their answer is to constrain the participation of freedom-loving Americans. It is just appalling.

But that is the debate that is before us. That is what is here for us to win or to lose if we are not tenacious enough to stand our ground and to win this debate and to keep coming back night after night after night and talk about the real scandals that have been alleged over in the White House and the real opportunities before us here on the floor of this Chamber to construct a campaign finance law that really does restore integrity and encourages more full participation in the political process by average rank and file Americans.

Mr. HAYWORTH. Mr. Speaker, I concur wholeheartedly with my colleague from Colorado and again would just note that sadly, there are those who draw the wrong lessons from history, those who believe that somehow, to use the words of my dear friend from Colorado, that by erecting the great Stone Wall of China down Pennsylvania Avenue from the White House to this hallowed Chamber that somehow, by placing partisan concerns over patriotism, somehow the people are well served.

Indeed, cynics from the Watergate era a quarter of a century ago seemed to draw the lesson that if anyone steps forward on the other side of the aisle, if they step forward collectively to adhere to the rule of law, somehow they will suffer losses at the ballot box.

So, Mr. Speaker, tonight I again renew my call. At long last, is there not one, is there not one to step forward from the other side, to say, let us adhere to the rule of law and these allegations are so disturbing that we owe it to the citizenry, not as Republicans or Democrats, but as Americans, to get to the bottom of this. Is there not even one who will stand for this?

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I want to go back to this chart that the gentleman from California who joined us earlier let us in on. This is a quote from the Democrat leader, the floor leader for the Democrat Party here on the House floor on the notion of campaign finance reform back in February. This was reported in Time Magazine on February 3rd, and the quote is as follows: "What we have is two important values in direct conflict: Freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both."

What are they talking about? Freedom of speech refers to the desire by the left wing of the United States Congress to impose laws under their sick version of campaign finance, which restricts the ability of free citizens, American citizens, business owners, school teachers, union members, to speak freely and contribute as much as they want to the political process, whether it is cash or whether it is any other activity. Usually it is cash that they are talking about, those folks who think that we ought to place a cap on what somebody can contribute and participate in the political process, and the second part of this, our desire for healthy campaigns.

Well, we know from the Democrat side of the aisle what constitutes healthy campaigns for them is suppressing the ability of entrepreneurs, of capitalists, of business owners, of hard-working Americans to participate to the fullest extent in the political process and instead, allow for labor union bosses, for political operatives, sometimes from other countries in the case of the previous example from China, to participate to whatever extent they want, and to go unimpeded, to go unimpeded by the Paycheck Protection Act, which guarantees voluntary political contributions, to go unimpeded by a serious level of investigation here in the United States Congress as to whether Chinese campaign contributions have contributed to the signing of waivers that allowed U.S. targeting and satellite technology to make its way into the hands of Chinese Communist military leaders. Those folks have no restrictions under the Democrat ideas. Only freedom-loving Americans, rank and file citizens, taxpaying citizens, those are the individuals that they would propose to constrict the free speech.

Well, those are interesting ideas. They are awful ideas, if someone asks me, but nonetheless they are important to raise here on the House floor because they do draw a distinction in the vast difference, the huge conflicted vision of what freedom and liberty means in America, their vision of repression for American citizens, restriction on the ability to speak freely and our vision of full and honest and open political participation by Americans, by American citizens, by individuals who have earned the right under the status of citizenship to participate fully in the political process, and I am sorry if that does not involve Communist Chinese military leaders, or that does not involve union bosses stealing cash from unsuspecting wage-earners.

Mr. HAYWORTH. Mr. Speaker, indeed, this is a phenomenon where those who would claim to champion the rights of working Americans can do more for those working Americans by getting their uninvited hands out of their pockets. If that is done and if, Mr. Speaker, we as a people and those of us who would serve in public office at both ends of Pennsylvania Avenue would obey existing laws, we would see genuine campaign finance reform.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I thank the gentleman from Arizona for joining me tonight. The others that were here, the gentleman from Texas, the gentleman from Arkansas, and the gentleman from California. Mr. Speaker, thank you for indulging the freshman class. We will be back one week from tonight.

HEALTH CARE REFORM AND THE PATIENTS' BILL OF RIGHTS

The SPEAKER pro tempore (Mr. PETERSON of Pennsylvania). Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, tonight, once again, I want to talk about the issue of managed care reform, and particularly the Democrats' proposal called the Patients' Bill of Rights.

Before I do so, though, I would like to mention that my colleague from Texas (Mr. GREEN) is here to join me in this debate about managed care reform or patient protections.

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But I would like to yield to the gentleman at this point, because I know he would like to address some of the comments that were made by the previous speakers.

Mr. GREEN. Mr. Speaker, I thank my colleague for yielding, and the gentleman from New Jersey understands, we have waited here for our hour to be able to talk about managed care, and I think that is much more important. But I need to respond after listening to some of the debate.

We are in a long-term debate, I guess, on campaign finance reform. We call it "death by amendment," because the seriousness of the campaign reform issue is so important, and yet our colleagues on the Republican side are the ones that have 300 amendments they want to bring up and they are really delaying it.

In real life out there, Republicans outspend Democrats two, three, four and five to one in campaigns. We need campaign finance reform to get the money out of politics. They are too busy attacking working people and not really talking about campaign finance reform.

But I want to talk about managed care and how important it is to the people that we represent. Maybe they will be serious about managed care reform, because that is something that affects people every day. I will be glad to work with the gentleman from New Jersey for the next 30 minutes or hour to talk about how important health care reform and managed care reform are to our constituents and all Americans.

Mr. PALLONE. Mr. Speaker, let me just say, because I came in at the tail end of the comments by our Republican colleagues, and I am just frustrated, as I know the gentleman from Texas is, because the Republican leadership continues to stall on this issue of campaign finance reform.

There is no doubt in my mind that the Democrats have been appealing to the Republican leadership for months now to simply allow an up-or-down vote on what we consider the most significant campaign finance reform that is likely to come up this session, and that is the Meehan-Shays bill.

I believe very strongly that if the Republican leadership allowed us to bring the Meehan-Shays bill to the floor today or tomorrow, any day, it would overwhelmingly pass, and we would have some significant campaign finance reform. But as the gentleman knows and mentioned, they do not want to do that. They just want to keep bringing up amendments, making it impossible for us to get to the Meehan-Shays bill.

My understanding is that today they were talking about a rule, which I guess ultimately they did not bring up, that would have allowed something like between 200 and 300 amendments, what we call nongermane amendments, to the campaign finance reform. Amendments that were not even relevant to the issue in an effort to try to stall a final vote on the Meehan-Shays bill.

So we are getting from the other side this constant effort by the Republican leadership to stall and stall and bring up amendments, as the gentleman mentioned, "death by amendment" on this issue; and I think they are going to try to let the clock run so that we never get to the Meehan-Shays bill and have some real campaign finance reform. We will have to hope that is not the case and keep at it and make it clear that we want this bill to come forward.

Mr. Speaker, the same is true for the issue that I would like to address now, and that is managed care reform. We know that this issue, without question, is one of the most important issues, I would say the most important issue, on the minds of Americans today.

I keep saying that when I have a town meeting or a forum, or when I see my constituents on the street, the most common concern that they have is about the quality of care or the lack of proper care that they may have because they are in an HMO or some kind of managed care system that limits their ability to receive quality care.

We, as Democrats, came up with a proposal, we have had it for some time now, called the Patients' Bill of Rights, H.R. 3605, which provides a number of patient protections to deal with the problem, some of the problems that managed care organizations have presented.

The problem though is that the supporters of managed care reform and the Republican leadership and the insurance industry are basically on a collision course. The Republican leadership, along with the insurance industry, is fighting tooth and nail to undermine the various managed care reform proposals that have been introduced. They basically again are trying to run the clock out, because with so few legislative days left in this Congress, those who support patient protections believe it is increasingly important that everyone come together on a bipartisan basis and allow us, demand even, that the Republican leadership allow us to bring the Patients' Bill of Rights to the floor for a vote.

Mr. Speaker, I would bet again, just like campaign finance reform legislation, that if the Republican leadership allowed this managed care reform or Patients' Bill of Rights to come to the floor, it would pass overwhelmingly. That is why they do not want to let it come to the floor.

There is widespread agreement in Congress for ensuring that medical decisions are made by doctors based on medical need and not by company bureaucrats whose primary concern is the company margin. We are all too familiar with the Republican leadership's preference for shortchanging the American people by cutting comprehensive health care initiatives.

Mr. Speaker, we tried to bring up expanding kids' health insurance and we got opposition from the Republican leadership. Gradually, we got Republican Members to join with the Democrats and eventually we had a majority. The leadership was forced to bring the kids' health care initiative to the floor and it passed overwhelmingly.

We had it with the Kennedy-Kassebaum bill. This was to deal with the problem for people who have health insurance, but have a preexisting medical condition and could not get health insurance or wanted to take their health insurance with them from job to job, the so-called portability issue. These were encompassed in the Kennedy-Kassebaum bill. These were addressed.

We could not get the Republican leadership to bring the bill to the floor. We finally got some Republican colleagues to join with us and it was brought to the floor and it was voted on and it passed.

This same precedent applies here today. What we are trying to do is to get more and more of our Republican colleagues to join with the Democrats to pass the Patients' Bill of Rights.

Let me just, if I could, because I do not want to talk about the Patients' Bill of Rights in an abstract way or managed care reform in an abstract way, I want to give a few concrete examples of the type of patient protections that we are talking about in our Democratic bill, H.R. 3605. Let me run through some of the main points to give an idea of the kind of patient protections that we are talking about.

Access to emergency services. This is very important. Because of the fear of denial of coverage, managed care patients have died in many cases, delayed seeking emergency care or been injured when driving past nearby emergency rooms to more distant network emergency rooms. What happens is a lot of times the managed care organizations require patients not to go to the hospital or emergency room close by, but to another one further away.

Mr. Speaker, what our bill does is to remove these major barriers to emergency care by prohibiting prior authorization for emergency care. Coverage of emergency care, including out-of-network care, is based upon what we call a "prudent layperson" standard, which means that a health plan is required to cover emergency visits based on the symptoms rather than the final diagnosis.

This prevents health care plans from being able to deny coverage for an emergency visit for a suspected heart attack that turns out to be severe indigestion. So if the prudent layperson, if the average person would assume that because of the condition they have to go to a local emergency room, if they go, the insurance company has to reimburse for it.

Let me give another example of the types of things, the patient protections that are in our bill. Under the bill, if an employer offers only one health plan and that health plan is a closed panel HMO, that plan is required to offer their employees the opportunity to purchase a point-of-service option in addition to the basic plan offered through the employer. So that means that my employer has to give me the option of having an HMO or a managed care plan that allows me to go to a doctor outside the network and choose any doctor, if I wish, and has to give me that option when I sign up for my health insurance. I may have to pay a little more, but nonetheless I have that choice.

Then I will give a third example with regard to specialty care and then I will yield to my colleague from Texas. This is access to specialty care. The bill establishes certain standards to ensure hassle-free access to appropriate specialty care. A lot of times when people want to see a specialist, they are not allowed to or they have difficulty doing it because of their managed care organization and the way that it sets forth access to specialty care.

But in our bill, women are able to select their OB/GYN as their primary care provider. If the plan does not have an appropriate specialist in network, it must provide a referral to a specialist. For example, if a child needed a pediatric neurologist but the plan only had an adult neurologist, that plan would refer the child to the outside specialist at no extra cost to the family than if the care had been provided in network.

Patients with serious ongoing medical conditions are able to choose a specialist to coordinate their primary and specialty care. So if the insureds have a chronic illness, their specialist can actually be, in effect, their primary care provider.

Mr. Speaker, I do not think we are really talking here about anything outlandish. I think most of these patient protections are very common sense. Most people probably think that they have these kind of protections, but they do not in many cases.

So we are really not asking for much. We are asking basically for a floor, that managed care organizations or HMOs have to provide certain patient protections at a minimum, regardless of the particular type of plan that an individual signs up for.

There is a lot more that we can talk about, but at this point I will yield to my colleague from Texas who has been someone who has really been outspoken on this issue and is very concerned about the need for patient protections and has joined with me and others from our Committee on Commerce, which has jurisdiction over this legislation, to make the case why this bill should be brought to the floor.

Mr. Speaker, I yield to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for yielding and I appreciate his request for this special order this evening so we can talk about managed care and bring it to the attention of the American people, although they know about it even better than we do because they are the ones who are being subjected to the harsh decisions being made every day. They brought it to our attention. That is our job as Members of Congress and elected officials, to respond to our constituents' problems.

The gentleman mentioned that we are not doing things that are outlandish or outrageous. There is an article that I would like to show that was in the Wichita Falls Times newspaper in Texas, and it said, "Texas leads the way as States tackle HMOs."

Mr. Speaker, our Texas legislature last year passed an HMO reform bill in 1997. They passed the bill in 1995, but the governor at that time vetoed them. But in 1997, he saw the error of his ways, I guess, like we all learn, and he let them become law. But Texas and New Jersey, the gentleman's home State, have passed legislation for HMO reform.

The reason we are having to do it in Washington, because I would love to be able to let the States take care of their own problems and our States are doing that, Texas, New Jersey, 40 States across the country, the reason we have to do something in Congress and why it is so important is that so many of the insurance policies that are in effect for group insurance are covered by Federal law and not State law.

So no matter what the State law in Texas says or New Jersey says or anywhere else, if it is under ERISA exemptions and under Federal law, no amount of protections in State law will help them. We have to have those protections on a national scale to be able to supplement what the States are already doing.

So we are not talking about earth-shaking legislation here. We are just talking about reforms that the States have done over the last few years. We have learned from both the success and also some of the errors in the States to be able to come up with the bills that are being considered. I know the Democratic Task Force, that the gentleman from New Jersey is a leader in, has legislation that we have worked on.

Mr. Speaker, I am concerned about this issue because the quality of medical care that our citizens are receiving has declined considerably. Some patients are not getting the best medical care that they have become accustomed to in our country. Medical decisions are being made by insurance company bureaucrats as opposed to their medical providers.

If we are badly injured or seriously ill, we should not have to worry about our insurance coverage. Our first concern should be our health care or, particularly if it is for a parent or a child, our first concern should be to get them to the health care that they need. These are just two of the examples of problems that patients are facing when they need medical care.

We owe it in our responsibility as elected officials to respond to the American people to give them access to top quality medical care. They should be able to obtain quality health care, whether or not they are required preauthorization for emergency room treatment.

One of the other problems, and I have used the example before and we have heard it, if I right tonight begin having chest pains, how do I know it is not a heart attack? It might be the pizza we had this evening waiting for our special order, but I cannot diagnose myself. I need to go to an emergency room. And yet we have had cases where the HMO has said, "No, you had indigestion and not a heart attack. You should have called in first."

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Health care delayed can also be health care denied. So that is the worry that we have that is affecting all of our constituents. As a member of the Democratic Health Care Task Force, I have worked with the gentleman and a lot of Members on trying to establish guidelines and direction to improve managed care.

I currently cosponsor three proposals. One of them is the Patient's Access To Responsible Care Act, the Patient's Bill of Rights that the Democratic Task Force has put together, and also the Patient's Choice and Access to Quality Health Care.

These bills are all bipartisan bills. They are cosponsored by Republicans and Democrats, although predominantly Democrats on some of them, but we do have Republican Members who are leading in trying to get these bills passed, members of our Committee on Commerce on both sides of the aisle.

Each of these bills provides varying degrees of access to specialists, improved quality, and accountability of managed care and timely internal and external appeals process when a consumer feels a claim was denied inappropriately.

The focus of these bills, and we have developed five key concepts, that whatever bill we pass, it does not have to have GENE GREEN's name on it. I would be glad to have my colleagues on the Republican side have these concepts in their bill, and I will speak for it and vote for it. So there is no pride of authorship in needing to have these bills passed and the President sign it.

One is the antigag rule which would allow physicians to discuss with their patients the most appropriate course of treatment even if it is not covered by that HMO. A doctor or provider ought to be able to have a two-way conversation with their patients. That is just right.

Mr. PALLONE. Mr. Speaker, if I can just interrupt the gentleman, the gag rule to me, and what you pointed out was such an excellent example of the kind of common sense approach that I think most Americans would believe they already have.

I mean, I do not think most people could imagine that their doctor is not allowed to tell them something about their medical condition or possible treatment. It seems to go against the First Amendment, which it probably does if it ever went to court or ever traveled to the Supreme Court for an opinion on it.

To imagine that HMOs now are allowed to gag the doctors into telling their patients what they should know, it is inconceivable to me. That is the kind of common sense approach that we are talking about that the gentleman brings up.

Mr. GREEN. Mr. Speaker, that is so important just to open the lines of communication. Again, HMOs have cut the cost of medical care, and they have done a great job. But we can have some guidelines for them to where we can have better quality care and still have the cost controls that are there.

Another one of the five concepts is the internal and external appeals process. A lot of the HMOs already provide this. But that would be a reasonably timed appeals process, reasonably timed so you do not have to, again, have medical care delayed is medical care denied, both internal and external appeals process; the opportunities for the employee choice which would provide employees with the opportunity to get health care coverage outside their managed care system for an additional cost.

The gentleman and I know that the reason managed care is popular with a lot of our companies who pay for the insurance is that they have also placed cost controls on it. But if an employee in a company says, okay, the company says I can pay X amount of dollars per month, and that will buy you this HMO, a lot of employees, both government employees and private employees, private employers will do that.

But there ought to be a requirement that a health care provider would offer a little better plan. So that employee could say, yeah, the HMO is great, but I would really like to have a little better plan, and I will pay $10, $20, $30, $50 a month more to make sure that I can have more flexibility in my plan, a requirement that gives that choice to the patient and to the employee.

We are not asking for businesses to pay more money, we are just asking for insurance companies to be able to say, hey, I can sell you a better Ford and actually maybe make more money.

One of the other important parts of it is access to specialty care which guaranties the patient's right to see a specialist who can diagnosis and treat a patient's specific medical needs.

Again, I have some great examples of medical care delayed and denied in my own district and with my own family. They went to a doctor in February; that doctor, for example, in this one case drained the knee. There was a knee injury. Drained the knee and shot cortisone in it, did not request an MRI under a managed care plan until finally this constituent actually went back to the doctor at the end of May and had to wait 2 weeks for an appointment because there were only two doctors on the plan that were orthopedic, and finally got an MRI that said we need to have surgery.

So that constituent is having surgery this Friday morning to be able to correct that torn cartilage in the knee that could have been done in February if they would have taken the time and been able to have to go to a specialist.

The fifth important decision I think, and this is one that is very controversial, but, again, States have already done it, and particularly Texas, decision-maker responsibility. Make managed care plans that authorizes or fail to authorize medical procedures accountable as much as the health care providers.

So if my doctor or my provider is subject to a lawsuit because they do something wrong, then if a health care insurance company or an HMO denies coverage, then they ought to also be subject to the same responsibility that that health care provider is.

Again, this is not something that is a major change. The State of Texas, again, in 1997 passed that as part of the bill. Liability legislation is made. They call it in this article the Doomsday Weapon because it makes the responsibility go with the person who is ultimately responsible. If someone says no to a procedure, then they may have to answer in a court of law just like a health care provider would have to.

Mr. PALLONE. Mr. Speaker, if the gentleman would yield, what we do in our bill is to basically leave that up to the States. So it would be up to the State.

If the State decides that they think that the HMO or the managed care organization should be liable in the circumstance, then they can. So we are not actually dictating to the States what they do in that respect, but we are leaving it up to States to make that decision. Right now, there is no liability under Federal law.

Mr. GREEN. Mr. Speaker, I think that is ironic, because the gentleman and I know, as Democratic Members of Congress, oftentimes we have been accused of not trusting the States and local control.

I bring to Congress 20 years of service in the Texas legislature, and I know that these halls do not have infinite wisdom, although there is not infinite wisdom in the halls of the legislature either, but I also like the idea of 50 States being able to make that decision on lots of things and particularly in this area.

Let us let the State liability law provide for the people that are covered by ERISA. Doctors and health care providers should be in charge of medical care decisions. When patients need immediate care, doctors need to be able to provide that quality health care.

I believe that these basic protections are fundamental to maintain a high quality medical care in our country. I do not believe that managed care is inherently bad. In fact, I think it has reduced a cost increase, as we have seen over the last few years, but I believe that, like any other system, you have to provide some protections, patient protections, so managed care does not just throw out the baby with the bath water, so to speak; that we have the benefits of managed care with the cost containment, but we also have the benefits of quality health care and physician and health care provider contact with their patients.

Let me give another example, and sometimes I know we are accused of passing legislation by analogy. But, again, as a Member of Congress or any elected official, you try and solve problems. That is our job is to solve problems.

We have a constituent like earlier, the knee problem, we have our constituents write us letters. I have a Houston police officer who, again, is under a managed care system, and let me just read his letter.

I want to thank you for your concern over the managed care issue, to many of us, the term NYL-Care, if it is appropriate. I worked for the City of Houston for over 30 years as a police officer and walked in harm's way more than once and I have not missed a day of work due to illness for over 20 years. I never worried about health care.

When the city took away any choice of doctors, I was concerned, but not too alarmed. Last August, my worst fears became a reality. I went for a routine screening, was told by a doctor at Baylor that I needed additional tests for cancer.

At this point, I found out what my HMO was really about. My very first attempt in getting medical help was a fiasco. My primary care doctor was out of town. My very first visit to a specialist was rejected because the referral was not the correct color.

I did get to see the doctor after several buck-passing phone calls and more trips to the primary doctor. I found that the toughest battle was not with the disease, but with the HMO. As I am writing this letter, I have been trying for 2 weeks to see another specialist. The mental strain is tremendous.

I offer you my experience and will testify and write letters to anyone that support your legislation.

That is by a 30-year Houston police officer. We can come up with lots of examples of how people are being denied health care today. A Houston police officer, a teacher at the Houston independent school district, these are people who are serving our children and making our community safer. Yet, he needed that specialist for cancer care.

The gentleman and I know that when you are diagnosed with cancer, you need to see that specialist immediately because the quicker the better. You need the treatment, but you do not need to wait another week or 2 weeks or 6 weeks or a month to be able to see that specialist or quality specialist.

That is why it is imperative that this Congress pass managed care reform, and it is imperative that my Republican colleagues quit denying that there is a need out there, the majority of them, because we have a great many of them who are really working and trying to pass legislation, but we need a majority of them to say, if we have to, let us take the discharge petition, let us get a bill here on the floor and pass it before this Congress leaves in early October, because it is so important for this Houston police officer and it is important for all our constituents who are being denied care right now.

Mr. PALLONE. Mr. Speaker, I agree with the gentleman. I am glad he brought up this issue of the discharge petition, because I think that that, in fact, is what we may have to resort to.

Our colleagues, of course, are aware of it, but the American people may not be aware of the fact that the way the House works, the Speaker and the majority, which is the Republicans, have the right to decide whether or not a bill comes up for a vote in committee and whether it comes to the floor.

What we are seeing with the managed care reform and our Patient's Bill of Rights is that we are not even being given the opportunity of a hearing in the committee let alone having it come up for a vote in the committee and come to the floor.

So our only recourse at this point is the discharge petition, where a majority of us sign this petition, and the bill is brought to the floor in effect by getting around the Republican leadership. I think we may be forced to that over the next few days, because time is running out in this Congress.

Following up on what my colleague from Texas said, I think it is important that we give examples. Over time I get up lately and do a special order like this. I try to give some examples of how the patient protections that we have in our bill would correct the situation.

I just wanted to give a few this evening if I could about some of the patient protections that I mentioned and what my colleague has mentioned.

With regard to access to a specialist, this is a good example that was in the New York Post in September of 1995 where a 12-year-old girl had to wait a half a year for a back operation to correct severe scoliosis.

The reason was that the HMO rejected the parents' bid to have a specialist perform the procedure, insisting instead on an in-network surgeon. After taking 6 months to determine that no one in its own network was capable, the HMO eventually relented and let her go to the specialist outside the network.

Of course, when we were talking before about the Patient's Bill of Rights, H.R. 3605, one of the provisions says that, if there is no specialist within the network, then the outside referral is mandated. So we would address the problem that this particular 12-year-old girl had to face a few years ago.

The other example, I think, with regard to emergency care, we have a couple of examples of that, and here is one example. This is from the Los Angeles Times on August 30, 1995.

A pregnant woman was rushed to a hospital emergency room in the throes of a miscarriage and bleeding profusely. After a quick exam, the ER staff put in an urgent call to her HMO with the question, "How do you want us to treat her?" It took nearly 3 hours for the HMO to call back and say it wouldn't cover the care because none of its doctors were available to treat the woman. After 6 hours of arguing, the HMO eventually relented.

Again, under the prudent layperson patient protection in our bill, that would not happen because if the average person would expect that when you go to the emergency room with a miscarriage and bleeding, profuse bleeding, that you would immediately receive care, you would receive it, and you would not have to give prior authorization or have the HMO approve it.

I mean, some of these cases that I have are really horrific cases. Here is another emergency room case, a New York man. This is from Long Island Newsday, February of 1996. A New York man slipped as he was getting out of a taxi, falling and cracking his skull. The taxi driver called 911, and the victim was rushed to an emergency room where he was given stitches, had a fracture set, and received treatment for a possible concussion. The episode was not a preauthorized emergency, so the patient's HMO refused to pay the bill. Incredible.

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This is another one from Long Island News Day, actually the same day. A 5-year-old boy, who fell from a balcony and hit his head on the concrete, was brought to an emergency room on a backboard. As hospital workers rushed to give him a spinal x-ray and CAT scan, the HMO requested he be put in a taxi and driven to its own medical center. In that case the emergency doctors ignored the request. Thank God they ignored the request.

So the cases go on and on. But, again, sometimes I think that when I read these patient protections they sound so simplistic that people say, well, of course, we have that right. But we do not, and that is why I think it is important to raise these examples. Because people are dying. People are being seriously injured. And it is not a common sense approach that the HMOs or the managed care organizations in many cases are making. They are not looking at things rationally from a common sense point of view.

Mr. GREEN. Let me give the gentleman another example. One of the concerns I have as to why we need to put these into law is oftentimes, as a Member of Congress, we have constituents call us and explain to us situations, and we treat them like constituent work and the staff calls the hospital or the HMO, and oftentimes we can get that decision changed. But we represent 600,000 people, and not everyone is going to call their Member of Congress to get it corrected. That is why these reforms needs to be in place for everyone.

I have an example of an elderly gentleman who was in a hospital in Pasadena, Texas, part of my district, and the doctor came around that the family did not know, and the patient was terminally ill with cancer. And the doctor said, you will have to be checked out and you cannot come back to this hospital. So the family checked with the other medical staff there and they called this person the HMO doctor.

And so the family called our office and I talked with them and I said, well, we will check and see. And this was within 2 days, and he was not out of the hospital yet. And in working through the bureaucracy, that HMO said, sure, that is not a problem; that they wanted him to go to a different facility but they actually worked out an agreement to where the facilities were the same cost. And that "HMO doctor" came in and apologized 3 days later.

This gentleman has since passed away. But to put a family through that, who already has a terminally ill father, or husband, and to say, no, you have to be checked out of here and go somewhere else, it is just inhuman. And not everyone will think to call their Member of Congress, and that is why these reforms are so important, so we can put a human face on managed care and make some rational decisions instead of what we are seeing out there in the marketplace now.

So that is why I would hope that this session of Congress that we would not only be able to vote this bill out of the House but also the Senate and be able to have it signed by the President so we can put these reforms into place for the benefit of the people we represent and people all across the country. This is one of the most important bills that we can consider this year.

And I want it to be a strong piece of legislation, too. I worry that because of the 80 percent support that the polls are showing for this, we might just see lip service paid to it and pass one or two. Let us make sure we do the job thoroughly and not just a partial job.

So I would hope that my colleagues on the Republican side would cosign some of the bills and ultimately make the decision, if we have to, to sign that discharge petition to bring that bill here to the floor. I do not like to do that, because I believe in the committee process. But we have seen time after time during this session of Congress bills coming immediately to the floor without the committee hearings anyway, brought by the leadership. So let us do something right for the American people and pass this legislation. It is a strong piece of legislation.

Mr. PALLONE. I appreciate my colleague's comments, and I would just like to say one more thing, too, before we close today, and that is that I believe, as the gentleman stated, that the support for these patient protections, this managed care reform, is overwhelming with the American people. And it does not matter whether you are a Democrat, a Republican, an independent, or whether you are from Texas or New Jersey or what part of the country. I know from talking to our colleagues that everyone is hearing from their constituents that we need to pass this patient bill of rights, or something like this bill we have been talking about this evening.

My fear is what we may see from the Republican leadership, which so far has been stalwart in its opposition to this and its refusal to bring this up, primarily because of the insurance companies and because of the special interest money that comes from the insurance companies that is backing the Republican leadership, what I am fearful of is that as the Republican leadership keeps hearing how much support there is for this legislation, that they will try to come up with what I call a cosmetic fix; that they will try to come up with a very watered down version of our patient's bill of rights that really does not address most of the concerns that we have raised this evening. I think we have to be very careful of that.

As the gentleman knows, the Republican leadership set up a task force, a Republican task force, to look into this issue. And some of our Republican colleagues who support our patient bill of rights, and have even cosponsored our patient bill of rights, are on that task force. And they were about ready, before the Memorial Day recess, to come forward with a proposal that included many of the patient protections we talked about tonight and that are in the Democratic bill. And what the Speaker did was basically pull the rug and say, no, no, go back to the drawing board and look at this some more.

So, now, the second or third week has passed since that time, and still this Republican task force has not come forward with a bill. And what we are hearing is that the Speaker and the Republican leadership are putting pressure on them either to not put forward a bill or to put something forward that is basically a very watered down version of what we are talking about, a sort of cosmetic fix that does not really accomplish the goals that we set out to accomplish.

So I think the worst thing that could happen, in many ways, is with all this impetus for a real managed care reform bill, if they were to just try on the other side of the aisle to bring something forward that looks like managed care reform but really is not. We have to be wary of that as well because we want to take this opportunity to pass something that really makes a difference for the average American; that really ensures quality health care. Nothing less will do.

I know the gentleman shares my concern about that and my view on that. So we are going to continue to be here on a regular basis doing these special orders, constantly bringing this issue up, giving more examples, getting more of our colleagues to join with us, because we demand and we will insist that Speaker GINGRICH and the Republican leadership bring the patient bill of rights up for a vote before this session ends.

I want to thank my colleague again for joining me this evening.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for Tuesday, June 16, through the balance of the week, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. MCHUGH) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, on June 24.

Mr. GOSS, for 5 minutes, on June 19.

Mr. WHITFIELD, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. SHAYS, for 5 minutes, today.

Mr. DELAHUNT, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. MEEHAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FRANK of Massachusetts) and to include extraneous matter:)

Mr. KIND.
Mr. CARDIN.
Ms. JACKSON-LEE of Texas.
Mr. DOYLE.
Mr. VENTO.
Mr. STOKES.
Mr. HAMILTON.
Mr. KUCINICH.
Mr. TOWNS.
Mr. GREEN.
Mr. ACKERMAN.
Mr. GORDON.
Mr. GUTIERREZ.
Mr. BLUMENAUER.
Mr. POSHARD.
Mr. HILLIARD.
Mr. MURTHA.
Mr. VISCLOSKY.

(The following Members (at the request of Mr. MCHUGH) and to include extraneous matter:)

Mr. SMITH of New Jersey.
Mr. GILMAN.
Mr. SPENCE.
Mr. MCHUGH.
Mr. PAUL.
Mr. FRELINGHUYSEN.

(The following Members (at the request of Mr. PALLONE) and to include extraneous material:)

Mr. REYES.
Ms. WOOLSEY.
Mr. BOB SCHAFFER of Colorado.
Mr. TIAHRT.
Mr. BALLENGER.
Mr. CONYERS.
Mr. STUPAK.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1847. An act to improve the criminal law relating to fraud against consumers.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1900. An act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 38 minutes p.m.), the House adjourned until tomorrow, Thursday, June 18, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9661. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Deparmtent of Agriculture, transmitting the Department's final rule—EIA; Handling Reactors at Livestock Markets [Docket No. 97-099-2] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9662. A letter from the Under Secretary for Acquistion and Technology, Department of Defense, transmitting a schedule for implementing, over the next 3 years, best commercial inventory practices for the acquisition and distribution of certain supplies and equipment consistent with military requirements; to the Committee on National Security.

9663. A letter from the Secretary of Defense, transmitting a report entitled "Response to Recommendations Concerning Improvements to Department of Defense Joint Manpower Process," pursuant to Public Law 104—201, section 509; to the Committee on National Security.

9664. A letter from the Deputy Director for Policy and Programs, Department of the Treasury, transmitting the Department's final rule—Community Development Financial Institutions Fund—received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9665. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Small Entity Compliance Guidance and Civil Penalty Reduction and Waiver Pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996; Statement of Policy—May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9666. A letter from the AMD-PERM, Federal Communications Commission, transmitting the Department's final rule—Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service [PR Docket No. 89-552] Implementation of Sections 3(n) and 332 of the Communications Act [GN Docket No. 93-252] Regulatory Treatment of Mobile Services Implementation of Section 309(j) of the Communications Act—Competitive Bidding [PP Docket No. 93-253] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9667. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Municipal Securities Dealers [Docket No. 98-08] (RIN: 1557-AB62) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9668. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Narcotics Traffickers, and Blocked Vessels: Addition of Sudanese Government Designations, Removal of Two Individuals, and Unblocking of a Vessel [31 CFR Chapter V] received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9669. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Review Of The Federal Motor Carrier Safety Regulations; Regulatory Removals and Substantive Amendments [FHWA Docket No. FHWA-97-2328; MC-97-3] (RIN: 2125-AD72) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9670. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Savannah River, Savannah, GA [COTP Savannah 98-010] (RIN: 2115-AA97) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9671. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Severn River, College Creek, and Weems Creek, Annapolis, Maryland [CGD 05-98-039] (RIN: 2115-AE46) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9672. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Anchorage Regulation; San Francisco Bay, California [CGD11-97-002] (RIN: 2115-AA98) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9673. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation: Newport-Bermuda Regatta, Narragansett Bay, Newport, RI [CGD01-98-045] (RIN: 2115-AE46) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9674. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Patapsco River, Baltimore [CGD 05-98-040] (RIN: 2115-AE46) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9675. A letter from the Chief, Regulations Branch, United States Customs Service, transmitting the Service's final rule—Recordkeeping Requirments [T.D. 98-56] (RIN: 1515-AB77) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9676. A letter from the Chief, Regulations Branch, United States Customs Service, transmitting the Service's final rule—Automated Clearinghouse Credit [T.D. 98-51] (RIN: 1515-AC26) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9677. A letter from the Chief, Regulations Branch, United States Customs Service, transmitting the Service's final rule—Prior Disclosure [T.D. 98-49] (RIN: 1515-AB98) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9678. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the required determination to waive certain restrictions on the maintenance of a Palestine Liberation Organization (PLO) Office and on PLO-origin funds through November 26, 1998, pursuant to Public Law 105—118; jointly to the Committees on International Relations and Appropriations.

9679. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare and Medicaid Programs; Surety Bond Requirements for Home Health Agencies [HCFA-1152-1-F] (RIN: 0938-AI86) received May 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

351. The SPEAKER presented a memorial of the House of Representatives of the State of Oklahoma, relative to House Bill No. 2828 relating to public health and safety; enacting the Whitney Starks Act; to the Committee on Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SOLOMON: Committee on Rules. House Resolution 476. Resolution providing for consideration of the resolution (H. Res. 463) to establish the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China (Rept. 105-583). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CAMP (for himself, Mr. Levin, Mr. Ehlers, Mr. Bonior, Mr. Upton, Mr. Dingell, Mr. Knollenberg, Ms. Stabenow, Mr. Kildee, Mr. Hoekstra, Mr. Stupak, Mr. Barcia of Michigan, Ms. Rivers, Ms. Kilpatrick, and Mr. Conyers):

H.R. 4069. A bill to amend the Internal Revenue Code of 1986 to provide that certain bonds issued by local governments in connection with delinquent real property taxes may be treated as tax exempt; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 4070. A bill to restore veterans tobacco-related benefits as in effect before the enactment of the Transportation Equity Act for the 21st Century; to the Committee on Veterans' Affairs, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY (for himself, Mr. Watkins, Mr. Costello, Mr. Gutierrez, Mr. Wise, Ms. Furse, Mr. Frost, Mr. Schumer, Mr. Faleomavaega, Mr. Jackson, Mr. Boucher, Mr. Baldacci, Mr. Sanders, Mr. Farr of California, Mr. Allen, Mr. Rahall, Mr. Thompson, Ms. Christian-Green, Ms. Woolsey, Mr. Pastor, Mr. Mascara, Mr. Minge, Mrs. Thurman, Mr. Towns, Mr. Peterson of Pennsylvania, Mr. Mollohan, and Mr. Romero-Barcelo):

H.R. 4071. A bill to authorize the Secretary of Agriculture to make grants to establish 33 additional rural enterprise communities, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MALONEY of Connecticut:

H.R. 4072. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for post-secondary tuition and related expenses in lieu of the Hope and Lifetime Learning credits; to the Committee on Ways and Means.

By Mrs. McCARTHY of New York (for herself, Mrs. Roukema, Mr. Porter, Mr. Boehlert, Mrs. Lowey, Mr. Moran of Virginia, Mr. Shays, Mrs. Morella, Mr. Castle, Mr. Davis of Virginia, Mrs. Kennelly of Connecticut, Mr. Ackerman, Mr. Schumer, Mr. Pascrell, Mr. Engel, Mr. Manton, Mr. Delahunt, Ms. Carson, Mr. Lipinski, Ms. Eshoo, Mr. Markey, Ms. Jackson-Lee, Ms. Harman, Ms. Pelosi, Mr. Kleczka, Ms. Kilpatrick, Mrs. Tauscher, Mr. Wexler, Mr. Kennedy of Rhode Island, Mr. Moakley, Mrs. Capps, Mrs. Maloney of New York, Mr. Blumenauer, Mr. Rothman, Mr. Matsui, Mr. Tierney, Mr. McGovern, Mr. McDermott, and Ms. Lofgren):

H.R. 4073. A bill to protect children from firearms violence; to the Committee on the Judiciary, and in addition to the Committees on Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEUMANN (for himself and Mr. Sessions):

H.R. 4074. A bill to hold Federal agencies accountable for the tax dollars spent by such agencies in accordance with the provisions in the Government Management Reform Act of 1994, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. PETERSON of Pennsylvania (for himself and Mr. Minge):

H.R. 4075. A bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to respond to requests of skilled nursing facilities for private accreditation under the Medicare Program in the same manner as for other providers of services; to the Committee on Ways and Means.

By Mr. PETRI:

H.R. 4076. A bill to provide for the establishment and maintenance of personal Social Security investment accounts under the Social Security system; to the Committee on Ways and Means.

By Mr. NUSSLE (for himself, Mr. Watkins, and Mr. Talent):

H.J. Res. 123. A joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services, on June 1, 1998, relating to surety bond requirements for home health agencies under the Medicare and Medicaid Programs; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LUTHER (for himself and Mr. Fox of Pennsylvania):

H. Res. 475. A resolution recognizing the importance of achieving the goal of the 1997 Microcredit Summit to provide access to microcredit to 100,000,000 of the world's poorest families; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

351. The SPEAKER presented a memorial of the House of Representatives of the State of Oklahoma, relative to House Bill No. 2828 relating to public health and safety; enacting the Whitney Starks Act; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 371: Mr. McGovern.

H.R. 630: Mr. Becerra.

H.R. 859: Mr. Scarborough.

H.R. 900: Mrs. Capps.

H.R. 1126: Mr. Fossella, Mr. Foley, Ms. Christian-Green, and Mr. Franks of New Jersey.

H.R. 1134: Mr. Peterson of Pennsylvania.

H.R. 1215: Mr. Quinn.

H.R. 1231: Mr. John.

H.R. 1375: Mr. Hilleary.

H.R. 1401: Mr. Frost, Mr. Pomeroy, and Mr. Davis of Florida.

H.R. 1531: Mr. Matsui.

H.R. 1762: Mr. Cardin.

H.R. 2009: Mr. John and Mr. Spratt.

H.R. 2090: Ms. Lofgren.

H.R. 2124: Mr. Bachus.

H.R. 2305: Mr. Wolf and Mr. Maloney of Connecticut.

H.R. 2509: Mr. Deutsch.

H.R. 2549: Mr. Towns and Mr. Goode.

H.R. 2560: Mr. Farr of California, Mr. Diaz-Balart, Mr. Gejdenson, Mr. Lipinski, and Mr. Pomeroy.

H.R. 2733: Mr. Scarborough, Mrs. Mink of Hawaii, Mr. Fazio of California, Mr. Calvert, Mrs. Cubin, Mr. Thompson, Mr. Lampson, and Mrs. Morella.

H.R. 2804: Mrs. Mink of Hawaii, and Mr. Matsui.

H.R. 2923: Mr. Thompson, Ms. Hooley of Oregon, and Mrs. Kennelly of Connecticut.

H.R. 2955: Mr. Pickett and Mr. Peterson of Pennsylvania.

H.R. 2990: Mr. Berman, Ms. Sanchez, Mr. Lampson, Mr. Camp, Mr. Knollenberg, Mr. Green, Mr. Bryant, Mr. Jefferson, and Mr. Quinn.

H.R. 3007: Ms. Christian-Green.

H.R. 3143: Mr. Ackerman.

H.R. 3205: Mr. Combest and Mr. Matsui.

H.R. 3240: Ms. Jackson-Lee, Mr. Oberstar, and Mr. Poshard.

H.R. 3248: Mr. Hastert and Mr. Salmon.

H.R. 3259: Mr. Nadler, Mr. DeFazio, and Mr. Vento.

H.R. 3267: Ms. Pryce of Ohio, Mr. Boehner, Mr. Tauzin, Mr. Ehrlich, Mr. Pombo, and Mr. Burton of Indiana.

H.R. 3304: Mr. Chabot.

H.R. 3331: Mr. Redmond.

H.R. 3396: Mr. John, Mr. Clement, Mr. Bentsen, Mr. Pickering, Mr. Kim, Mr. Hefley, Mr. Brady of Pennsylvania, Mr. Luther, and Mr. Hastings of Florida.

H.R. 3435: Mr. Goode, Mr. Duncan, Mr. Chambliss, and Mr. Ackerman.

H.R. 3445: Mr. Shaw.

H.R. 3470: Mr. Sanders.

H.R. 3503: Mr. Shays and Mr. Snyder.

H.R. 3551: Mr. Sandlin, Mrs. Thurman, Mr. Manton, Ms. Stabenow, and Ms. Danner.

H.R. 3566: Mr. Fox of Pennsylvania.

H.R. 3567: Mr. Snowbarger.

H.R. 3608: Mr. Lampson, Mr. Aderholt, Mrs. Kelly, Mr. Frost, and Ms. Lofgren.

H.R. 3629: Mr. McCollum, Mr. Bachus, and Mr. Shadegg.

H.R. 3645: Mr. Watts of Oklahoma.

H.R. 3650: Mr. Evans, Mr. Shimkus, Mr. Weldon of Florida, and Mr. Redmond.

H.R. 3666: Ms. Carson and Mr. Sanders.

H.R. 3745: Mr. Buyer and Mr. Wexler.

H.R. 3766: Mr. Condit, Mr. Etheridge, and Mr. LaHood.

H.R. 3792: Mr. Fossella.

H.R. 3795: Mr. Gilman.

H.R. 3807: Mr. Bachus, Mr. Boucher, Mr. Bunning of Kentucky, Mr. Calvert, Mr. Goodlatte, and Mr. Holden.

H.R. 3813: Mr. Wynn, Ms. Carson, Ms. Kilpatrick, Mr. Miller of California, Ms. Velázquez, Ms. Eddie Bernice Johnson of Texas, Ms. Norton, Mr. Filner, Ms. Slaughter, Mr. Poshard, Mr. Dingell, Ms. Christian-Green, and Mr. Stokes.

H.R. 3855: Mr. Shays, Mr. Frank of Massachusetts, Mr. Delahunt, Mr. Oberstar, Mr. Filner, and Mr. Olver.

H.R. 3861: Mr. Porter.

H.R. 3862: Mr. Diaz-Balart and Mr. Blagojevich.

H.R. 3865: Mr. Sisisky, Mr. Ballenger, Mr. Ford, Mr. Blunt, Mr. Canady of Florida, Mr. Chambliss, Mr. Christensen, Mr. Cunningham, Mr. Bartlett of Maryland, Mr. Gilchrest, Mr. Goodling, Mr. Hastert, Mr. Hayworth, Mr. Herger, Mr. Hill, Mr. Horn, Mr. Hyde, Mr. Klug, Mr. Kolbe, Mr. Latham, Mr. Lazio of New York, Mr. Linder, Mr. Lucas of Oklahoma, Mr. McHugh, Mr. McKeon, Mr. Metcalf, Mr. Nethercutt, Mr. Baker, Mr. Ney, Mr. Pickering, Mr. Pombo, Ms. Pryce of Ohio, Mr. Redmond, Mr. Rohrabacher, Ms. Ros-Lehtinen, Mr. Spence, Mr. Sununu, Mr. Tauzin, Mr. Thompson, Mr. Tiahrt, Mr. Weldon of Florida, and Mr. Walsh.

H.R. 3876: Mr. Frost, Mrs. Clayton, Mr. Weygand, Mr. Filner, Mr. Davis of Illinois, Ms. Jackson-Lee, Mr. Tierney, Mr. Poshard, Ms. Lee, Mr. Dingell, and Mr. Brown of Ohio.

H.R. 3880: Mr. Faleomavaega and Mr. Sanders.

H.R. 3980: Mr. Cooksey and Mr. Allen.

H.R. 3981: Mr. Blagojevich, Mr. Bliley, Mr. Boucher, Mr. Frost, Mr. Gilman, Mr. Goode, Mr. Greenwood, Mr. Moran of Virginia, and Mr. Sisisky.

H.R. 4007: Ms. Woolsey.

H.R. 4018: Mr. Weygand, Mr. Hinchey, Mr. Abercrombie, Mr. Etheridge, Mr. Vento, Mr. Kind of Wisconsin, Mr. Bentsen, Mr. LaFalce, and Mr. Sandlin.

H.R. 4033: Mr. Thompson.

H.R. 4046: Mr. McCollum and Mr. Sawyer.

H.R. 4065: Mr. Sanford, Mr. Ryun, Mr. Largent, Mr. Shadegg, Mr. Sessions, Mr. Saxton, Mr. Hoekstra, Mr. Spence, Mr. Hunter, Mr. DeLay, Mr. Sam Johnson, Mr. Solomon, Mr. Radanovich, and Mr. Bartlett of Maryland.

H.J. Res. 113: Mr. Ford.

H. Con. Res. 154: Mrs. Maloney of New York and Mr. Shays.

H. Con. Res. 203: Mr. Waxman and Mr. Conyers.

H. Con. Res. 287: Mr. Underwood, Ms. Furse, Mr. Neal of Massachusetts, Ms. Hooley of Oregon, Ms. Lofgren, Mr. Clement, Mr. Ramstad, and Mr. McGovern.

H. Con. Res. 288: Mr. Barrett of Nebraska.

H. Con. Res. 290: Mr. Evans, Mr. Bishop, Mr. Pickering, Mr. Hostettler, and Mr. Ewing.

H. Res. 363: Mr. Boucher.

H. Res. 387: Mrs. Thurman.

H. Res. 467: Mr. Bilbray.

H. Res. 468: Mr. Bilbray.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1891: Mr. Holden.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

Offered By: Mr. Gejdenson

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

Amendment No. 118: Insert after title V the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE VI—INDEPENDENT COMMISSION ON CAMPAIGN FINANCE REFORM

SEC. 601. ESTABLISHMENT AND PURPOSE OF COMMISSION.

There is established a commission to be known as the "Independent Commission on Campaign Finance Reform" (referred to in this title as the "Commission"). The purposes of the Commission are to study the laws relating to the financing of political activity and to report and recommend legislation to reform those laws.

SEC. 602. MEMBERSHIP OF COMMISSION.

(a) Composition.—The Commission shall be composed of 12 members appointed within 15 days after the date of the enactment of this Act by the President from among individuals who are not incumbent Members of Congress and who are specially qualified to serve on the Commission by reason of education, training, or experience.

(b) Appointment.—

(1) In general.—Members shall be appointed as follows:

(A) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the Speaker of the House of Representatives.

(B) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the majority leader of the Senate.

(C) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the House of Representatives.

(D) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the Senate.

(2) Failure to submit list of nominees.—If an official described in any of the subparagraphs of paragraph (1) fails to submit a list of nominees to the President during the 15-day period which begins on the date of the enactment of this Act—

(A) such subparagraph shall no longer apply; and

(B) the President shall appoint 3 members (one of whom shall be a political independent) who meet the requirements described in subsection (a) and such other criteria as the President may apply.

(3) Political independent defined.—In this subsection, the term "political independent" means an individual who at no time after January 1992—

(A) has held elective office as a member of the Democratic or Republican party;

(B) has received any wages or salary from the Democratic or Republican party or from a Democratic or Republican party office-holder or candidate; or

(C) has provided substantial volunteer services or made any substantial contribution to the Democratic or Republican party or to a Democratic or Republican party office-holder or candidate.

(c) Chairman.—At the time of the appointment, the President shall designate one member of the Commission as Chairman of the Commission.

(d) Terms.—The members of the Commission shall serve for the life of the Commission.

(e) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) Political Affiliation.—Not more than 4 members of the Commission may be of the same political party.

SEC. 603. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. In carrying out the preceding sentence, the Commission shall ensure that a substantial number of its meetings are open meetings, with significant opportunities for testimony from members of the general public.

(b) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The approval of at least 9 members of the Commission is required when approving all or a portion of the recommended legislation. Any member of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this section.

SEC. 604. ADMINISTRATIVE PROVISIONS.

(a) Pay and Travel Expenses of Members.—(1) Each member of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(b) Staff Director.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a staff director, who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) Staff of Commission; Services.—

(1) In general.—With the approval of the Commission, the staff director of the Commission may appoint and fix the pay of additional personnel. The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(2) Experts and consultants.—The Commission may procure by contract the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

SEC. 605. REPORT AND RECOMMENDED LEGISLATION.

(a) Report.—Not later than the expiration of the 180-day period which begins on the date on which the second session of the One Hundred Fifth Congress adjourns sine die, the Commission shall submit to the President, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate a report of the activities of the Commission.

(b) Recommendations; Draft of Legislation.—The report under subsection (a) shall include any recommendations for changes in the laws (including regulations) governing the financing of political activity (taking into account the provisions of this Act and the amendments made by this Act), including any changes in the rules of the Senate or the House of Representatives, to which 9 or more members of the Commission may agree, together with drafts of—

(1) any legislation (including technical and conforming provisions) recommended by the Commission to implement such recommendations; and

(2) any proposed amendment to the Constitution recommended by the Commission as necessary to implement such recommendations, except that if the Commission includes such a proposed amendment in its report, it shall also include recommendations (and drafts) for legislation which may be implemented prior to the adoption of such proposed amendment.

(c) Goals of Recommendations and Legislation.—In making recommendations and preparing drafts of legislation under this section, the Commission shall consider the following to be its primary goals:

(1) Encouraging fair and open Federal elections which provide voters with meaningful information about candidates and issues.

(2) Eliminating the disproportionate influence of special interest financing of Federal elections.

(3) Creating a more equitable electoral system for challengers and incumbents.

SEC. 606. TERMINATION.

The Commission shall cease to exist 90 days after the date of the submission of its report under section 605.

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as are necessary to carry out its duties under this title.

H.R. 2183

Offered By: Mr. Gekas

Amendment No. 119: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) In General.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"Sec. 324. (a) Transfer to Commission.—

"(1) In general.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) Information included with transferred contribution or donation.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) Establishment of escrow account.—

"(A) In general.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) Disposition of amounts received.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) Use of interest.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) Treatment of returned contribution or donation as a complaint.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) Use of Amounts Placed in Escrow To Cover Fines and Penalties.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) Return of Contribution or Donation After Deposit in Escrow.—

"(1) In general.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) No effect on status of investigation.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) Amounts Used To Determine Amount of Penalty for Violation.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 120: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 121: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—TREATMENT OF REFUNDED DONATIONS

SEC. 401. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Doolittle)

AMENDMENT NO. 122: Add at the end the following new section:

SEC. 7. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 323. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 323, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).''.

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 323.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 323 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By Mr. Snowbarger)

AMENDMENT NO. 123: Add at the end the following new section:

SEC. 9. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 6, is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 324. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.''.

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 324, the amount of the donation involved shall be treated as the amount of the contribution involved.''.

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).''.

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 324.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 324 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Bass)

AMENDMENT NO. 124: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 326. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and "(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 201(b) and 307(b), is further amended by adding at the end the following:

"(22) DONATION.—The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 125: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 326. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 201(b) and 307(b), is further amended by adding at the end the following:

"(22) DONATION.—The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Obey)

AMENDMENT NO. 126: Insert after title V the following new title (and redesignate the succeeding provisions accordingly):

TITLE VI—TREATMENT OF REFUNDED DONATIONS

SEC. 601. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 301 and 402, is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 325. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 325, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DONATION DEFINED.—Section 301 of such Act (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) DISGORGEMENT AUTHORITY.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 325.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 325 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GEKAS

(To the Amendment Offered By: Mr. Tierney)

AMENDMENT NO. 127: Insert after title V the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE VI—TREATMENT OF REFUNDED DONATIONS

SEC. 601. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 401 and 402(d), is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"SEC. 326. (a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) Treatment of returned contribution or donation as a complaint.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) Use of Amounts Placed in Escrow To Cover Fines and Penalties.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) Return of Contribution or Donation After Deposit in Escrow.—

"(1) In general.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) No effect on status of investigation.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) Amounts Used to Determine Amount of Penalty for Violation.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) Donation Defined.—Section 301 of such Act (2 U.S.C. 431), as amended by section 402(c), is further amended by adding at the end the following:

"(22) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) Disgorgement Authority.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(e) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

Offered By: Mr. Gekas

(To the Amendment Offered By: Mr. Farr)

Amendment No. 128: Add at the end of title VII the following new section (and conform the table of contents accordingly):

SEC. 704. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) In General.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 305(a), is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

"Sec. 325. (a) Transfer to Commission.—

"(1) In general.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) Information included with transferred contribution or donation.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) Establishment of escrow account.—

"(A) In general.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) Disposition of amounts received.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) Use of interest.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) Treatment of returned contribution or donation as a complaint.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) Use of Amounts Placed in Escrow To Cover Fines and Penalties.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code against the person making the contribution or donation.

"(c) Return of Contribution or Donation After Deposit in Escrow.—

"(1) In general.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to believe that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) No effect on status of investigation.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) Amounts Used to Determine Amount of Penalty for Violation.—Section 309(a) of such Act (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 325, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) Donation Defined.—Section 301 of such Act (2 U.S.C. 431), as amended by sections 133 and 301(b), is further amended by adding at the end the following:

"(32) The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).".

(d) Disgorgement Authority.—Section 309 of such Act (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 325.".

(e) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 325 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

H.R. 2183

OFFERED BY: MR. GOODLATTE

(To the Amendments Offered By: Mr. Shays)

AMENDMENT NO. 129: Add at the end the following new title:

TITLE —VOTER REGISTRATION REFORM

SEC. 01. REPEAL OF REQUIREMENT FOR STATES TO PROVIDE FOR VOTER REGISTRATION BY MAIL.

(a) IN GENERAL.—Section 4(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–2) is amended—

(1) in paragraph (1), by adding "and" at the end;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) CONFORMING AMENDMENTS RELATING TO UNIFORM MAIL VOTER REGISTRATION FORM.—(1) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) is amended by striking section 9.

(2) Section 7(a)(6)(A) of such Act (42 U.S.C. 1973gg–5(a)(6)(A)) is amended by striking "assistance—" and all that follows and inserting the following: "assistance a voter registration application form which meets the requirements described in section 5(c)(2) (other than subparagraph (A)), unless the applicant, in writing, declines to register to vote;".

(c) OTHER CONFORMING AMENDMENTS.—(1) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) is amended by striking section 6.

(2) Section 8(a)(5) of such Act (42 U.S.C. 1973gg–6(a)(5)) is amended by striking "5, 6, and 7" and inserting "5 and 7".

SEC. 02. REQUIRING APPLICANTS REGISTERING TO VOTE TO PROVIDE CERTAIN ADDITIONAL INFORMATION.

(a) SOCIAL SECURITY NUMBER.—

(1) IN GENERAL.—Section 5(c)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–3(c)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) shall require the applicant to provide the applicant's Social Security number.".

(2) CONFORMING AMENDMENT.—Section 5(c)(2)(A) of such Act (42 U.S.C. 1973gg–3(c)(2)(A)) is amended by inserting after "subparagraph (C)" the following: ", or the information described in subparagraph (F)".

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1999, and shall apply with respect to applicants registering to vote in elections for Federal office on or after such date.

(b) ACTUAL PROOF OF CITIZENSHIP.—

(1) REGISTRATION WITH APPLICATION FOR DRIVER'S LICENSE.—Section 5(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–3(c)) is amended by adding at the end the following new paragraph:

"(3) The voter registration portion of an application for a State motor vehicle driver's license shall not be considered to be completed unless the applicant provides to the appropriate State motor vehicle authority proof that the applicant is a citizen of the United States.".

(2) REGISTRATION WITH VOTER REGISTRATION AGENCIES.—Section 7(a) of such Act (42 U.S.C. 1973gg–5(a)) is amended by adding at the end the following new paragraph:

"(8) A voter registration application received by a voter registration agency shall not be considered to be completed unless the applicant provides to the agency proof that the applicant is a citizen of the United States.".

(3) CONFORMING AMENDMENT.—Section 8(a)(5)(A) of such Act (42 U.S.C. 1973gg–6(a)(5)(A)) is amended by striking the semicolon and inserting the following: ", including the requirement that the applicant provide proof of citizenship;".

(4) NO EFFECT ON ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS.—Nothing in the National Voter Registration Act of 1993 (as amended by this subsection) may be construed to require any absent uniformed services voter or overseas voter under the Uniformed and Overseas Citizens Absentee Voting Act to provide any evidence of citizenship in order to register to vote (other than any evidence which may otherwise be required under such Act).

SEC. 03. REMOVAL OF CERTAIN REGISTRANTS FROM OFFICIAL LIST OF ELIGIBLE VOTERS.

(a) IN GENERAL.—Section 8(d) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(d)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) At the option of the State, a State may remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence if—

"(i) the registrant has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the day after the date of the second previous general election for Federal office held prior to the date the confirmation notice described in subparagraph (B) is sent and ending on the date of such notice;

"(ii) the registrant has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in any of the first two general elections for Federal office held after the confirmation notice described in subparagraph (B) is sent; and

"(iii) during the period beginning on the date the confirmation notice described in subparagraph (B) is sent and ending on the date of the second general election for Federal office held after the date such notice is sent, the registrant has failed to notify the State in response to the notice that the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction.

"(B) A confirmation notice described in this subparagraph is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which a registrant may state his or her current address, together with information concerning how the registrant can continue to be eligible to vote if the registrant has changed residence to a place outside the registrar's jurisdiction and a statement that the registrant may be removed from the official list of eligible voters if the registrant does not respond to the notice (during the period described in subparagraph (A)(iii)) by stating that the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction.".

(b) CONFORMING AMENDMENT.—Section 8(i)(2) of such Act (42 U.S.C. 1973gg–6(d)) is amended by inserting "or subsection (d)(3)" after "subsection (d)(2)".

SEC. 04. PERMITTING STATE TO REQUIRE VOTERS TO PRODUCE ADDITIONAL INFORMATION PRIOR TO VOTING.

(a) PHOTOGRAPHIC IDENTIFICATION.—Section 8 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j) PERMITTING STATES TO REQUIRE VOTERS TO PRODUCE PHOTO IDENTIFICATION.—A State may require an individual to produce a valid photographic identification before receiving a ballot (other than an absentee ballot) for voting in an election for Federal office.".

(b) SIGNATURE.—Section 8 of such Act (42 U.S.C. 1973gg–6), as amended by subsection (a), is further amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following new subsection:

"(k) PERMITTING STATES TO REQUIRE VOTERS TO PROVIDE SIGNATURE.—A State may require an individual to provide the individual's signature (in the presence of an election official at the polling place) before receiving a ballot for voting in an election for Federal office, other than an individual who is unable to provide a signature because of illiteracy or disability.".

SEC. 05. REPEAL OF REQUIREMENT THAT STATES PERMIT REGISTRANTS CHANGING RESIDENCE TO VOTE AT POLLING PLACE FOR FORMER ADDRESS.

Section 8(e)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(e)(2)) is amended—

(1) by striking "(2)(A)" and inserting "(2)"; and

(2) by striking "election, at the option of the registrant—" and all that follows and inserting the following: "election shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.".

SEC. 06. EFFECTIVE DATE.

The amendments made by this title shall apply with respect to elections for Federal office occurring after December 1999.

H.R. 2183

OFFERED BY: MR. PAUL

(To the Amendments Offered By: Mr. Bass, Mr. Campbell, Mr. Farr, Mr. Obey (#4), Mr. Shays, Mr. Meehan, and Mr. Tierney)

AMENDMENT NO. 130: Add at the end the following new title:

TITLE —BALLOT ACCESS RIGHTS

SEC. 01. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Voting participation in the United States is lower than in any other advanced industrialized democracy.

(2) The rights of eligible citizens to seek election to office, vote for candidates of their choice and associate for the purpose of taking part in elections, including the right

to create and develop new political parties, are fundamental in a democracy. The rights of citizens to participate in the election process, provided in and derived from the first and fourteenth amendments to the Constitution, have consistently been promoted and protected by the Federal Government. These rights include the right to cast an effective vote and the right to associate for the advancement of political beliefs, which includes the "constitutional right . . . to create and develop new political parties." Norman v. Reed, 502 U.S. 279, 112 S.Ct. 699 (1992). It is the duty of the Federal Government to see that these rights are not impaired in elections for Federal office.

(3) Certain restrictions on access to the ballot impair the ability of citizens to exercise these rights and have a direct and damaging effect on citizens' participation in the electoral process.

(4) Many States unduly restrict access to the ballot by nonmajor party candidates and nonmajor political parties by means of such devices as excessive petition signature requirements, insufficient petitioning periods, unconstitutionally early petition filing deadlines, petition signature distribution criteria, and limitations on eligibility to circulate and sign petitions.

(5) Many States require political parties to poll an unduly high number of votes or to register an unduly high number of voters as a precondition for remaining on the ballot.

(6) In 1983, the Supreme Court ruled unconstitutional an Ohio law requiring a nonmajor party candidate for President to qualify for the general election ballot earlier than major party candidates. This Supreme Court decision, Anderson v. Celebrezze, 460 U.S. 780 (1983) has been followed by many lower courts in challenges by nonmajor parties and candidates to early petition filing deadlines. See, e.g., Stoddard v. Quinn, 593 F. Supp. 300 (D.Me. 1984); Cripps v. Seneca County Board of Elections, 629 F. Supp. 1335 (N.D.Oh. 1985); Libertarian Party of Nevada v. Swackhamer, 638 F. Supp. 565 (D. Nev. 1986); Cromer v. State of South Carolina, 917 F.2d 819 (4th Cir. 1990); New Alliance Party of Alabama v. Hand, 933 F. 2d 1568 (11th Cir. 1991).

(7) In 1996, 34 States required nonmajor party candidates for President to qualify for the ballot before the second major party national convention (Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wyoming). Twenty-six of these States required nonmajor party candidates to qualify before the first major party national convention (Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Washington, and West Virginia).

(8) Under present law, in 1996, nonmajor party candidates for President were required to obtain at least 701,089 petition signatures to be listed on the ballots of all 50 States and the District of Columbia—28 times more signatures than the 25,500 required of Democratic Party candidates and 13 times more signatures than the 54,250 required of Republican Party candidates. To be listed on the ballot in all 50 States and the District of Columbia with a party label, nonmajor party candidates for President were required to obtain approximately 651,475 petition signatures and 89,186 registrants. Thirty-two of the 41 States that hold Presidential primaries required no signatures of major party candidates for President (Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin). Only three States required no signatures of nonmajor party candidates for President (Arkansas, Colorado, and Louisiana; Colorado, and Louisiana, however, required a $500 filing fee).

(9) Under present law, the number of petition signatures required by the States to list a major party candidate for Senate on the ballot in 1996 ranged from zero to 15,000. The number of petition signatures required to list a nonmajor party candidate for Senate ranged from zero to 196,788. Thirty-one States required no signatures of major party candidates for Senate (Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, West Virginia, and Wyoming). Only one State required no signatures of nonmajor party candidates for Senate, provided they were willing to be listed on the ballot without a party label (Louisiana, although a $600 filing fee was required, and to run with a party label, a candidate was required to register 111,121 voters into his or her party).

(10) Under present law, the number of petition signatures required by the States to list a major party candidate for Congress on the ballot in 1996 ranged from zero to 2,000. The number of petition signatures required to list a nonmajor party candidate for Congress ranged from zero to 13,653. Thirty-one States required no signatures of major party candidates for Congress (Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, West Virginia, Wyoming). Only one State required no signatures of nonmajor party candidates for Congress, provided they are willing to be listed on the ballot without a party label (Louisiana, although a $600 filing fee was required).

(11) Under present law, in 1996, eight States required additional signatures to list a nonmajor party candidate for President on the ballot with a party label (Alabama, Arizona, Idaho, Kansas, Nebraska, North Dakota, Ohio, Tennessee). Thirteen States required additional signatures to list a nonmajor party candidate for Senate or Congress on the ballot with a party label (Alabama, Arizona, Arkansas, California, Idaho, Hawaii, Kansas, Louisiana, North Dakota, Nebraska, Ohio, Oregon, Tennessee). Two of these States (Ohio and Tennessee) required 5,000 signatures and 25 signatures, respectively, to list a nonmajor party candidate for President or Senate on the ballot in 1996, but required 33,463 signatures and 37,179 signatures, respectively, to list the candidate on the ballot with her or his party label. One State (California) required a nonmajor party to have 89,006 registrants in order to have its candidate for President listed on the ballot with a party label.

(12) Under present law, in 1996 one State (California) required nonmajor party candidates for President or Senate to obtain 147,238 signatures in 105 days, but required major party candidates for Senate to obtain only 65 signatures in 105 days, and required no signatures of major party candidates for President. Another State (Texas) required nonmajor party candidates for President or Senate to obtain 43,963 signatures in 75 days, and required no signatures of major party candidates for President or Senate.

(13) Under present law, in 1996, seven States required nonmajor party candidates for President or Senate to collect a certain number or percentage of their petition signatures in each congressional district or in a specified number of congressional districts (Michigan, Missouri, Nebraska, New Hampshire, New York, North Carolina, Virginia). Only three of these States impose a like requirement on major party candidates for President or Senate (Michigan, New York, Virginia).

(14) Under present law, in 1996, 20 States restricted the circulation of petitions for nonmajor party candidates to residents of those States (California, Colorado, Connecticut, District of Columbia, Idaho, Illinois, Kansas, Michigan, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, South Dakota, Texas, Virginia, West Virginia, Wisconsin). Two States restricted the circulation of petitions for nonmajor party candidates to the county or congressional district where the circulator lives (Kansas and Virginia).

(15) Under present law, in 1996, three States prohibited people who voted in a primary election from signing petitions for nonmajor party candidates (Nebraska, New York, Texas, West Virginia). Twelve States restricted the signing of petitions to people who indicate intent to support or vote for the candidate or party (California, Delaware, Hawaii, Illinois, Indiana, Maryland, New Jersey, New York, North Carolina, Ohio, Oregon, Utah). Five of these 12 States required no petitions of major party candidates (Delaware, Maryland, North Carolina, Oregon, Utah), and only one of the six remaining States restricted the signing of petitions for major party candidates to people who indicate intent to support or vote for the candidate or party (New Jersey).

(16) In two States (Louisiana and Maryland), no nonmajor party candidate for Senate has qualified for the ballot since those States' ballot access laws have been in effect.

(17) In two States (Georgia and Louisiana), no nonmajor party candidate for the United States House of Representatives has qualified for the ballot since those States' ballot access laws have been in effect.

(18) Restrictions on the ability of citizens to exercise the rights identified in this subsection have disproportionately impaired participation in the electoral process by various groups, including racial minorities.

(19) The establishment of fair and uniform national standards for access to the ballot in elections for Federal office would remove barriers to the participation of citizens in the electoral process and thereby facilitate such participation and maximize the rights identified in this subsection.

(20) The Congress has authority, under the provisions of the Constitution of the United

States in sections 4 and 8 of article I, section 1 of article II, article VI, the thirteenth, fourteenth, and fifteenth amendments, and other provisions of the Constitution of the United States, to protect and promote the exercise of the rights identified in this subsection.

(b) PURPOSES.—The purposes of this title are—

(1) to establish fair and uniform standards regulating access to the ballot by eligible citizens who desire to seek election to Federal office and political parties, bodies, and groups which desire to take part in elections for Federal office; and

(2) to maximize the participation of eligible citizens in elections for Federal office.

SEC. 02. BALLOT ACCESS RIGHTS.

(a) IN GENERAL.—An individual shall have the right to be placed as a candidate on, and to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election, if—

(1) such individual presents a petition stating in substance that its signers desire such individual's name and political party, body or group affiliation, if any, to be placed on the ballot or other similar voting materials to be used in the Federal election with respect to which such rights are to be exercised;

(2) with respect to a Federal election for the office of President, Vice President, or Senator, such petition has a number of signatures of persons qualified to vote for such office equal to one-tenth of one percent of the number of persons who voted in the most recent previous Federal election for such office in the State, or 1,000 signatures, whichever is greater;

(3) with respect to a Federal election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, such petition has a number of signatures of persons qualified to vote for such office equal to one-half of one percent of the number of persons who voted in the most recent previous Federal election for such office, or, if there was no previous Federal election for such office, 1,000 signatures;

(4) with respect to a Federal election the date of which was fixed 345 or more days in advance, such petition was circulated during a period beginning on the 345th day and ending on the 75th day before the date of the election; and

(5) with respect to a Federal election the date of which was fixed less than 345 days in advance, such petition was circulated during a period established by the State holding the election, or, if no such period was established, during a period beginning on the day after the date the election was scheduled and ending on the tenth day before the date of the election, provided, however, that the number of signatures required under paragraph (2) or (3) shall be reduced by $\frac{1}{270}$ for each day less than 270 in such period.

(b) SPECIAL RULE.—An individual shall have the right to be placed as a candidate on, and to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election, without having to satisfy any requirement relating to a petition under subsection (a), if that or another individual, as a candidate of that political party, body, or group, received one percent of the votes cast in the most recent general Federal election for President or Senator in the State.

(c) SAVINGS PROVISION.—Subsections (a) and (b) shall not apply with respect to any State that provides by law for greater ballot access rights than the ballot access rights provided for under such subsections.

SEC. 03. RULEMAKING.

The Attorney General shall make rules to carry out this title.

SEC. 04. GENERAL DEFINITIONS.

As used in this title—

(1) the term "Federal election" means a general or special election for the office of—

(A) President or Vice President;

(B) Senator; or

(C) Representative in, or Delegate or Resident Commissioner to, the Congress;

(2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

(3) the term "individual" means an individual who has the qualifications required by law of a person who holds the office for which such individual seeks to be a candidate;

(4) the term "petition" includes a petition which conforms to section 02(a)(1) and upon which signers' addresses and/or printed names are required to be placed;

(5) the term "signer" means a person whose signature appears on a petition and who can be identified as a person qualified to vote for an individual for whom the petition is circulated, and includes a person who requests another to sign a petition on his or her behalf at the time when, and at the place where, the request is made;

(6) the term "signature" includes the incomplete name of a signer, the name of a signer containing abbreviations such as first or middle initial, and the name of a signer preceded or followed by titles such as "Mr.", "Ms.", "Dr.", "Jr.", or "III"; and

(7) the term "address" means the address which a signer uses for purposes of registration and voting.

H.R. 2183

OFFERED BY: MR. PAUL

(To the Amendments Offered By: Mr. Campbell)

AMENDMENT NO. 131: Add at the end the following new title:

TITLE —DEBATE REQUIREMENTS FOR PRESIDENTIAL CANDIDATES

SEC. 01. REQUIREMENT THAT CANDIDATES WHO RECEIVE CAMPAIGN FINANCING FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND AGREE NOT TO PARTICIPATE IN MULTICANDIDATE FORUMS THAT EXCLUDE CANDIDATES WITH BROAD-BASED PUBLIC SUPPORT.

(a) IN GENERAL.—In addition to the requirements under subtitle H of the Internal Revenue Code of 1986, in order to be eligible to receive payments from the Presidential Election Campaign Fund, a candidate shall agree in writing not to appear in any multicandidate forum with respect to the election involved unless the following individuals are invited to participate in the multicandidate forum:

(1) Each other eligible candidate under such subtitle.

(2) Each individual who is qualified in at least 40 States for the ballot for the office involved.

(b) ENFORCEMENT.—If the Federal Election Commission determines that a candidate—

(1) has received payments from the Presidential Election Campaign Fund; and

(2) has violated the agreement referred to in subsection (a);

the candidate shall pay to the Treasury an amount equal to the amount of the payments so made.

(c) DEFINITION.—As used in this title, the term "multicandidate forum" means a meeting—

(1) consisting of a moderated reciprocal discussion of issues among candidates for the same office; and

(2) to which any other person has access in person or through an electronic medium.

H.R. 2183

OFFERED BY: MR. THOMAS

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 132: Amend section 601 to read as follows (and conform the table of contents accordingly):

SEC. 601. NONSEVERABILITY OF PROVISIONS.

If any provision of this Act or any amendment made by this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act or any amendment made by this Act shall be treated as invalid.

In the heading for title VI, strike "**SEVERABILITY**" and insert "**NONSEVERABILITY**" (and conform the table of contents accordingly).

H.R. 2183

OFFERED BY: MR. WHITFIELD

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 133: Add at the end the following new title:

TITLE —EXPEDITED COURT REVIEW

SEC. 01. EXPEDITED COURT REVIEW.

(a) RIGHT TO BRING ACTION.—The Federal Election Commission, a political committee under title III of the Federal Election Campaign Act of 1971, or any individual eligible to vote in any election for the office of President of the United States may institute an action in an appropriate district court of the United States (including an action for declaratory judgment) as may be appropriate to construe the constitutionality of any provision of this Act or any amendment made by this Act.

(b) HEARING BY THREE-JUDGE COURT.—Upon the institution of an action described in subsection (a), a district court of three judges shall immediately be convened to decide the action pursuant to section 2284 of title 28, United States Code. Such action shall be advanced on the docket and expedited to the greatest extent possible.

(c) APPEAL OF INITIAL DECISION TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by the court of 3 judges convened pursuant to subsection (b) in an action described in subsection (a). Such appeal shall be brought not later than 20 days after the issuance by the court of the judgment, decree, or order.

(d) EXPEDITED REVIEW BY SUPREME COURT.—The Supreme Court shall accept jurisdiction over, advance on the docket, and expedite to the greatest extent possible an appeal taken pursuant to subsection (c).

EXTENSIONS OF REMARKS

TRIBUTE TO THE CREWS OF THE USS REGISTER AND THE USS INDIANAPOLIS

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. REYES. Mr. Speaker, I am pleased to recognize that on September 15–21, 1998, survivors of the USS Register and Indianapolis will be having their reunion in El Paso, Texas at the Howard Johnson Lodge.

The USS Indianapolis (CA–35) was commissioned at the Philadelphia Navy Yard on November 15, 1932. The ship served with honor from Pearl Harbor through the last campaign of World War II, sinking in action two weeks before the end of the war. On July 30, 1945, while sailing from Guam to Leyte, the USS Indianapolis was torpedoed by Japanese submarine I–58. The ship capsized and sank in twelve minutes. Survivors were spotted by a patrol aircraft on August 2nd. All air and surface units capable of rescue operations were dispatched to the scene at once. The USS Register was among the several ships involved in the rescue. Upon completion of the day and night search on August 8th, 316 men were rescued out of a crew of 1,199.

The USS Register (APD–92/DE233) served in the Pacific Theater of operation as an attack personnel destroyer during World War II. On May 20, 1945, the ship survived a hit by a Japanese kamikaze plane off the island of Okinawa, sustaining casualties and heavy hull damages, after shooting down three enemy suicide planes. On August 3rd, the USS Register was among eight ships that rescued some survivors of the ill-fated USS Indianapolis.

After distinguished service, the USS Register was decommissioned March 31, 1946 at Green Cove Springs, Florida on the Saint Johns River. In the Spring of 1966 it was struck from the Naval Reserve Fleet and subsequently transferred to the Republic of China Navy and renamed the Tai Shan.

"We the surviving shipmates of the USS Register and the survivors of the USS Indianapolis value the memories of their service in the United States Navy and our shipmates who are no longer with us and are not forgotten for their distinguished service and eternal brotherhood. Rest in peace shipmates. On their behalf, we honor them and Paul James Register, for whom our ship was named for, who was killed in action while serving aboard the ill-fated USS Arizona, December 7, 1941 at Pearl Harbor, Hawaii."

SERVICE MEMBERS OF THE USS REGISTER AND INDIANAPOLIS

The sailors of the USS Register and Indianapolis served the United States of America with honor and distinction. These veterans of WWII contributed to end the war in the Pacific and the war as a whole. They deserve a page in history, for their story is a reminder of all the servicemen and women who gave their lives to preserve the freedoms that we take for granted today.

HONORING BRIAN WEIDEL

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to honor Brian Weidel, a junior at Loveland High School, who recently joined an elite group of Boy Scouts when he earned the Eagle Scout Award. Weidel, a Boy Scout since 1992, joined the 2 percent of all Boy Scouts who attain this high honor. During Weidel's involvement with the Scout Troop 182 in Loveland, he participated in many local community service projects including gathering food for the needy, planting trees and collecting litter.

To reach the rank of Eagle Scout Weidel devised an individual project to construct bird and bat houses and place them along the Loveland Bike Trail. He chose this particular project because he uses the bike trail frequently and realized the impact for everyone who enjoys outdoor recreation along the path.

Weidel plans to continue his involvement with the Eagle Scouts and one day become a troop leader. As a Member of Congress representing the Fourth District of the State of Colorado where Brian Weidel has devoted so much of his time and energy, I am proud to congratulate him for this tremendous honor and wish him future success in any endeavor he seeks to pursue.

I hereby submit for the RECORD a copy of an article from the Loveland Reporter Herald describing Brian's accomplishment.

[From the Loveland (CO) Reporter-Herald, June 10, 1998]

TRAIL BIRD HOUSES EARN EAGLE SCOUT

(By Richelle Kerns)

Brian Weidel, a junior at Loveland High School, recently joined an elite group of Boy Scouts when he earned the Eagle Scout award.

Weidel, a Boy Scout since 1992, is one of 2 percent of all Boy Scouts who become Eagle Scouts.

"I've seen a lot of Eagles, and they get a lot of respect," Weidel said. "They get looked up to."

Weidel's favorite part about being a Scout is being able to participate in a wide variety of outdoor activities. He has been canoeing in the boundary waters of northern Minnesota and Canada, and backpacking at Philmount Scout Ranch in Arizona.

"(Being in Scouts) I've gotten to do a lot of things that I wouldn't have gotten to do if I wasn't in the group," he said.

This summer, Weidel is taking another trip with his troop to Arches National Park and Havasu Falls in the Grand Canyon.

During Weidel's involvement with Scout Troop 182 in Loveland, he has participated in many local community service projects, including gathering food for the needy, planting trees and collecting litter.

For his Eagle Scout project, Weidel constructed bird and bat houses that have been placed along the Loveland Bike Trail.

"I was looking to do something for the Loveland bike trail," Weidel said. "I use it a lot, and I wanted to make it nicer."

Weidel plans to continue with his involvement in Eagle Scouts and become a troop leader.

"I plan to stay on and teach what I've learned to others," he said.

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. BALLENGER. Mr. Speaker, had I been present on June 16 for rollcall votes 232 and 233, I would have voted "yea." As a member of the Education and the Workforce Committee, I was glad that the House voted overwhelmingly in favor of House Resolution 401, putting the House on record against social promotion in America's schools.

HONORING MINNESOTA'S SMALL BUSINESS ADMINISTRATION AWARD WINNERS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. VENTO. Mr. Speaker, I rise today to honor the Small Business Administration's award winners from Minnesota. The accomplishments of these ten individuals are impressive, and they deserve recognition for their hard work and dedication.

There is nothing small about starting or owning a small business. In fact, small businesses are what fuel the economy of our nation. In the United States, small businesses employ 53 percent of the private workforce, contribute 47 percent of all sales, are responsible for 50 percent of the gross domestic product and are the principle source of new jobs.

The Small Business Administration has chosen ten Minnesotans whom they recognize as having excelled in various areas of endeavor. I applaud and acknowledge their achievements.

The Welfare to Work Award winner is Dr. Timothy Childs, President of TLC Precision

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Wafer Technology. This company is one of only a handful of firms worldwide that have perfected the technology to commercially produce gallium aresenide wafers. Besides being a leader in his industry, Dr. Childs established his business in the inner city with the goal of employing local residents. As a result of his dedication, numerous under-employed individuals have developed job skills and now have the means to support their families.

The Minority Small Business Advocate Award winner is Jeff Locketz, CPA and partner with the firm of Lurie, Besikof, Apidus & Company. Since 1993, Mr. Locketz and his associates have provided, on a pro bono basis, more than 1,800 hours of professional services to minority entrepreneurs. As a result of his dedication to the advancement of minority entrepreneurship, more than 60 minority-owned firms in the Twin Cities have received professional counseling and training that is vital to the success of their business.

Charles Jones has been recognized as the Veteran Small Business Advocate. Mr. Jones is a vocational rehabilitation specialist with the United States Department of Veterans Affairs Twin Cities Regional Office. Currently, more than 675 veterans receive vocational rehabilitation under his direction. Through this program, veterans receive the training and career counseling needed to get back into the workforce. Vocational rehabilitation at the Department of Veterans Affairs generally involves helping disabled individuals find meaningful jobs. Mr. Jones modifies traditional job placement goals and recognizes self-employment as a realistic objective for some disabled veterans. His continued dedication has provided good jobs for many disabled veterans in his community.

Dee DePass has been recognized as the Media Small Business Advocate. Most recently Ms. DePass has had five years experience as a writer for the Minneapolis Star Tribune. Her intuitive writing addresses important business issues including capital availability, neighborhood business development, the White House Conference on Small Business, and the opportunities and challenges of moving from welfare to work. In addition, Ms. DePass has been a prime mover in organizing and directing urban journalism workshops. These initiatives have given junior and senior high school students hands-on experience in journalism and the broadcast media. Ms. DePass's newspaper efforts have provided a forum and insight into the fabric of small enterprise.

The Small Business Exporter of the Year is Peter Shortridge, President of Northland Organic Foods Corporation. Northland Organic Foods is a leader in exporting organic food products. Through its research, marketing initiatives and educational programs, it has opened doors for new exporting activities and helps to make them available to new exporters entering the market. In addition, ongoing training provides an educational background in exporting, learning to locate distributors. Northland Organic Foods Corporation is continually exploring markets and products that have special added quality, such as the organic foods so much in demand globally.

John Flory, Executive Director of the Whittier Community Development Corporation, has been recognized with the Financial Services Advocate of the Year Award. Mr. Flory is a long time advocate for creating new ways to finance hard to serve business entities. In the early 1980's he founded the North County Co-Op Development Fund in response to a handful of local co-op's inability to obtain financing. Through his stewardship, this fund has grown from a modest $5,000 in assets to $2 million in assets, serving a ten state area. Perhaps no function is so much needed as credit and financing for new ventures, and Mr. Flory's diligent efforts have led to innovation, effectively financing small businesses.

The Women in Business Advocate is Deb Winsor, the President of Winsor and Associates. This consulting firm specializes in working with financial institutions including credit unions and insurance companies. Ms. Winsor has dedicated a large amount of time and energy in determining exactly what women business owners want and need to become successful in their entrepreneurial endeavors. Upon completion of her research, she began to develop an initial strategy to create a seminar series named "Making Your Dream a Reality". Over the past two years, this program has provided thousands of hours of training, education and resources to over 300 business owners, and that translates into success.

Vernon Schmitz and Troy Leesberg, the President and Vice President of Greatland Cable TV Communications, Inc. are the Young Entrepreneur of the Year award recipients. The cable television construction industry is presently a booming business. This success is highlighted by the many private cable operators who are in the process of or planning for upgrades in their present systems. Greatland's payroll and number of employees has substantially increased since the first year. Currently, Greatland employs 8 people and plans to add 16 to 20 more employees. By utilizing their education and experience in the cable industry, Mr. Schmitz and Mr. Leesberg have been able to maintain quality service at competitive prices, while at the same time providing a great work environment.

I would especially like to congratulate Sue McCloskey, who has been named the 1998 Minnesota Small Business Person of the Year. Ms. McCloskey is the President and founder of Office Plan, a remanufacturer of office furniture. I've known Sue McCloskey as a civic election activist who has been very helpful to me personally, and many others. Starting her business in 1991 with three partners and one employee, she currently employs 33 personnel and has an annual revenue of $4.5 million. Environmental sensitivity is a hallmark of Office Plan. Work fabric is recycled or sent out to be made into industrial rags. Recycled products and environmentally sensitive materials are used in production whenever possible. Our state and community takes great pride in Ms. McCloskey's success and we are pleased with this well-deserved recognition.

Thanks to the stewardship and dedication of all these small business talents, the spirit of entrepreneurship is alive and flourishing in Minnesota. My congratulations to the award recipients and to all small businesses in the state of Minnesota.

TRIBUTE TO RONALD WATERS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. SPENCE. Mr. Speaker, I rise to bring to the attention of the House the heroic actions of Mr. Ronald Waters, of Lexington, South Carolina. Last September, Mr. Waters was traveling on Interstate 95, near Fayetteville, North Carolina, when he noticed a North Carolina Highway Patrol officer lying face down next to his patrol car, which had blue lights flashing. Nearby, were a Cumberland County Sheriff's patrol car and another vehicle. He also observed two men moving between the patrol cars. Mr. Waters contacted emergency assistance from his cellular telephone and he stopped his vehicle. As he looked back, he heard shots being fired. At the scene, Highway Trooper Ed Lowry and Sheriff's Deputy David Hathcock were dead. While maintaining contact with the 911 dispatchers, Mr. Waters followed the two men as they left the scene and he tracked them as they traveled on and off of the Interstate highway. At one point, shots were fired from the suspect vehicle at Mr. Waters' vehicle, which disabled the Waters' vehicle. The bullets punctured a tire, hit the rear bumper, and severed a wire to the fuel pump of the vehicle which Mr. Waters was driving. Then, the suspect vehicle pulled alongside of Mr. Waters and one of the men aimed an AK-47 at him. Fortunately, the rifle jammed and the suspect vehicle drove off. However, Mr. Waters later observed that, when faced with a rifle being aimed at him at close range, he feared that he would never again see his wife and his infant son.

The information that was provided by Mr. Waters allowed law enforcement officers to apprehend the two suspects on charges of first-degree murder. At great risk to his own personal safety, Mr. Waters became involved in a tragic situation. Due to his actions, law enforcement officers were able to capture the persons who are suspected of the deaths of two law enforcement officers and, also, to prevent possible further injury to others. For his selfless actions, the Governor of South Carolina presented Mr. Waters with our State's highest civilian honor, The Order of the Palmetto.

Ronald Waters is a shining example of someone who answered the call of duty to his fellow man. He is truly a great American.

TAX REFORM

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, as the House of Representatives continues the debate over tax reform, giving the states the flexibility they need to efficiently conduct their business must be a priority.

I hope my colleagues will seriously reflect on the wishes of the Colorado people as expressed by our state Legislature. I submit for the RECORD the text of this Memorial:

SENATE JOINT MEMORIAL 98-001

By Senators Coffman, Alexander, Ament, Arnold, Bishop, Blickensderfer, Chlouber, Congrove, Dennis, Feeley, Hernandez, Hopper, Johnson, Lacy, Lamborn, Linkhart, Martinez, Matsunaka, Mutzebaugh, Norton, Pascoe, Perlmutter, Phillips, Powers, Reeves, Rizzuto, Rupert, Schroeder, Tanner, Tebedo, Thiebaut, Wattenberg, Weddig, Wells, and Wham;

Also Representatives Adkins, Agler, K. Alexander, Allen, Anderson, Arrington, Bacon, C. Berry, G. Berry, Chavez, Clarke, Dean, Dyer, Entz, Epps, Faatz, George, Gordon, Gotlieb, Grampsas, Grossman, Hagedorn, Hefley, S. Johnson, June, Kaufman, Keller, Kreutz, Lawrence, Leyba, Mace, May, McElhany, McPherson, Miller, Morrison, Musgrave, Nichol, Owen, Pankey, Paschall, Pfiffner, Reeser, Romero, Salaz, Saliman, Schauer, Sinclair, Smith, Snyder, Spradley, Sullivant, Swenson, Takis, Tate, Taylor, Tool, Tucker, Tupa, Udall, Veiga, S. Williams, T. Williams, Young, and Zimmerman.

MEMORALIZING CONGRESS TO ENACT LEGISLATION THAT PROHIBITS STATES FROM IMPOSING AN INCOME TAX ON SEVERANCE PAYMENTS AND TERMINATION PAYMENTS TO NON-RESIDENTS INDIVIDUALS.

Whereas, In 1996, the Congress of the United States enacted Public Law 95-104, which amended title 4 of the United States Code to limit state taxation of certain pension income; and

Whereas, Section (1)(a) of Public Law 95-104, codified at 4 U.S.C. sec. 114, prohibits states from imposing an income tax on any retirement payments made by an employer of such state to an individual who has terminated employment in and who is not a resident of such state; and

Whereas, Severance payments and termination payments made by an employer to a nonresident individual are not accorded the same tax treatment as retirement income under 4 U.S.C. sec. 114 and are therefore subject to the income tax of the state where the employer making such severance payments and termination payments is located; and

Whereas, The result of this inconsistent tax treatment of similar retirement payments is that severance payments and termination payments may be taxable to the employee in both the state of the employee's former residence and the state in which the employee currently resides; and

Whereas, Subjecting severance payments and termination payments to different tax treatment than other retirement payments and income results in inconsistent and inequitable treatment of severance payments and termination payments to taxpayers that have relocated to another state after terminating their employment; and

Whereas, The enactment of federal legislation that prohibits a state from imposing an income tax on severance payments and termination payments to an individual that is not a resident of that state will result in the tax treatment of such payments that is consistent with the tax treatment of other retirement income; now, therefore,

Be It Resolved by the Senate of the Sixty-first General Assembly of the State of Colorado, the House of Representatives concurring herein:

That the Congress of the United States is hereby memorialized to adopt legislation amending 4 U.S.C. sec. 114 to include severance payments and termination payments within the retirement income of a nonresident individual upon which states may not impose income tax.

Be It Further Resolved, That copies of this Joint Memorial be sent to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of Colorado's congressional delegation.

TOM NORTON,
President of the Senate.
PATRICIA K. DICKS,
Secretary of the Senate.
CHARLES E. BERRY,
Speaker of the House of Representatives.
JUDITH M. RIDRIGUE,
Chief Clerk of the House of Representatives.

HONORING THE KIDS HELPING KIDS 5K RUN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. ACKERMAN. Mr. Speaker, I rise to join with my constituents and the hundreds of runners who will be participating in the Kids Helping Kids 5K Run on June 21, 1998. These dedicated individuals have committed themselves to enhancing the lives of other children in need of strong emotional, physical and financial support. With the great preponderance of news reports relating to violence that is devastating the youth of our country, it is most reassuring that certain individuals and organizations have dedicated themselves to directing and educating our youth in positive and productive areas. This particular young, dynamic organization, inspired and directed by Robert F. Eslick, has striven mightily in advancing their charitable and educational goals that actively seeks to sensitize children to identify those youngsters in need of assistance and work with them to successfully challenge their handicaps. In addition, this most-dedicated group has also been successful in providing financial support to families facing extra-ordinary health needs.

Embodying the spirit of Kids Helping Kids, Robert A.J. Eslick, nine years of age, has established a record of activism and compassion that readily serves as an example for adults and children involved in philanthropic affairs. At age two in 1990, he entered his first race, a 1.4 miler. By dint of personality and supreme self-involvement, Robert was ranked eighth in the country by USA Track & Field for 5K races. He has continued to participate as a runner while dedicating his efforts to the multi-faceted program of Kids Helping Kids.

As we become dispirited by events that tend to show our youth adrift without a compass, it is invigorating and greatly appreciated that Kids Helping Kids continues to grow and embody the great traditions of caring and compassion that are the foundations of our country. Mr. Speaker, I ask my colleagues in the House of Representatives to join me in expressing our support and admiration for this outstanding group.

TRIBUTE TO COLONEL DAN FLEMING

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. McHUGH. Mr. Speaker, I would like to pay tribute to an outstanding American, an outstanding soldier, an outstanding officer who has touched the lives of many of my colleagues in the House of Representatives. On August 31, 1998, Colonel Daniel E. Fleming retires after over 23 years of dedicated service to America and our great Army. Throughout his career, Dan Fleming has provided forward-looking leadership characterized by a unique intellect and strategic vision. He has served with distinction in positions of increasing responsibility from platoon to Army Secretariat, always demonstrating the highest degree of leadership and professionalism while making lasting contributions to Army readiness and mission accomplishment.

As we honor his retirement, we note that Colonel Fleming's distinguished career has stretched over two decades, culminating in his service these past two years as Chief of the Army's House Liaison Division. In this position, Colonel Fleming has been the Secretary of the Army's principal representative to the United States House of Representatives, establishing close working relationships with more than half of the Members of the House. Colonel Fleming has personally organized, planned, coordinated and accompanied 32 Congressional Delegations involving 128 Members of Congress on fact-finding and investigative missions to 52 foreign countries. He has vastly improved coordination and professional relationships between the Army and key Members and staff and has ensured the Army has the best reputation of all the Armed Services for providing prompt and accurate responses to congressional inquiries from House Members.

Colonel Dan Fleming was born in Athens, Ohio, Graduating from Ohio University in 1975, he received his commission through the Reserve Officers' Training Corps program and began his career in the Army as an Infantry officer. His distinguished career includes assignments all over the world and at every echelon. His first assignment was as a scout platoon leader with the 9th Infantry Regiment, in the Republic of Korea. Dan then transferred to Aviation Branch, qualifying to fly almost every helicopter in the Army inventory, including the UH-1H "Huey" (Iroquois), UH-60 "Blackhawk," OH-58A/C "Kiowa," AH-1 "Cobra," and AH-64 "Apache." Dan commanded Aviation units at Platoon, Company and Battalion level both in the Continental United States and in the Federal Republic of Germany, served as an Aide-de-Camp, Battalion Operations Officer, Battalion Executive Officer, Secretary of the General Staff, and Army Legislative Liaison Staff Officer.

Through it all, Dan Fleming has consistently delivered professional, selfless service to our Nation. A leader of extraordinary intellect, with vision and dedication to math, Colonel Fleming has always remembered that our Army consists first and foremost of soldiers. Mindful of this, he served with distinction in position of increasing responsibility from platoon to Army Secretariat. Dedicated his career to caring for his soldiers. We offer our heartfelt appreciation and best wishes to Dan Fleming: a soldier whose selfless service has truly made a difference.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Ms. WOOLSEY. Mr. Speaker, due to United Airlines flight #200 from San Francisco being delayed as I was returning from my congressional district, I was unavoidably detained on vote numbers 232 and 233. Had I been present on June 15th, I would have voted yea.

HAZE REGULATIONS IN EASTERN COLORADO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, as you know, state and local officials often bear the brunt of decisions made here in Washington. They contend with the real-life consequences of unrealistic attempts to force national, one-size-fits-all standards on problems that vary from state to state.

A case in point is the Environmental Protection Agency's proposed rules concerning haze regulations. These proposed rules fail to take sufficient account of the unique conditions and challenges faced by local officials. What may be applicable to northern Arkansas, is not necessarily the right solution for eastern Colorado. By failing to recognize these unique situations, the EPA's regulations become one more obstacle for local officials, and do little to mitigate the problem they intended to solve.

I rise today to inform the House of a Joint Resolution recently adopted by the Colorado Legislature, and I believe this House would be well served to heed their advice. I submit for the RECORD the text of this Resolution:

SENATE JOINT RESOLUTION 98–003

CONCERNING A RECOMMENDATION THAT THE UNITED STATES CONGRESS ADOPT A LEGISLATIVE RULE REVIEW PROCESS FOR ENVIRONMENTAL REGULATIONS

Whereas, On July 31, 1997, the Environmental Protection Agency (EPA) issued its Notice of Proposed Rulemaking concerning regional haze regulations (the Notice); and

Whereas, In the Notice, the EPA cites as legislative authority for the proposed regulations a federal statute directing the EPA to ensure "reasonable progress" toward the attainment of improved visibility in class I areas; and

Whereas, Under this rubric of "reasonable progress", the EPA seeks to impose a rigid scheme of steadily increasing requirements nationwide, without exception and without consideration for the very real differences among the various states and regions affected; and

Whereas, The EPA has estimated that implementation of this program will cost approximately 2.9 billion dollars, of which 2.07 billion dollars will come from states in the West that already have the cleanest air in the nation; and

Whereas, Of such visible pollution as there may be that effects class I areas in the Western states, a significant portion comes from beyond their borders or originates on lands controlled by federal agencies; and

Whereas, For these reasons, the proposed regulations are grossly unfair and irrational; and

Whereas, We believe that by promulgating these regulations the EPA has far exceeded its congressional mandate to ensure "reasonable progress" in this area; and

Whereas, This is only one example of the increasingly common situation in which the EPA oversteps its delegated authority by promulgating regulations that are economically burdensome, scientifically dubious, counterproductive, and contrary to reasonable interpretations of Congressional intent; and

Whereas, Such abuses could be prevented or reduced if there were an institutional process by which Congress would have the final say about whether its directives were being faithfully carried out; and

Whereas, Colorado has had such a process in place for many years, to the great benefit of the state and its citizens; and

Whereas, Under this process, all rules newly adopted or amended by administrative agencies automatically expire within one year unless reviewed, for the limited purpose of determining whether they are within the scope of the agencies legislatively granted authority, and affirmatively extended in an omnibus bill passed by the legislature each year for that purpose; and

Whereas, We believe that the application of such a process to EPA regulations at the national level would keep the agency accountable to Congress, improve the image of the EPA and Congress in the eyes of the American public, avoid overreaching regulations such as the pending Regional Haze Regulations, and benefit both the national economy and the natural environment; now, therefore,

Be It Resolved by the Senate of the Sixty-first General Assembly of the State of Colorado, The House of Representatives concurring herein: That we, the members of the Colorado General Assembly, hereby request the Congress of the United States to adopt statutes analogous to sections 24-4-103(8)(d) and 25-7-133, Colorado Revised Statutes, providing for automatic legislative review of all regulations newly adopted or amended by the EPA for the purpose of determining whether they are within the scope of the EPA's legislatively delegated authority and whether they accomplish their policy objectives in a cost-effective manner and further providing for the automatic expiration, within a time certain, of all such regulations not affirmatively extended by act of Congress.

Be it further resolved, That copies of this resolution be sent to each member of Colorado's Congressional delegation and the administrator of the EPA.

COMMENDING THE MOUNT LEBANON HIGH SCHOOL BASEBALL TEAM AND MOUNT LEBANON, PA

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. DOYLE. Mr. Speaker, I would like to congratulate the Mount Lebanon High School Blue Devils who won the 1998 Pennsylvania AAA Varsity Baseball Championship. Last Thursday, June 11, they defeated Coatesville High School by the score of 9–6 at Riverside Stadium in Harrisburg. Mount Lebanon, which is located in Pennsylvania's 18th Congressional District, came back from a four-run deficit after four innings to win the first baseball championship in school history.

The Blue Devils, who were 21–4 overall with a conference record of 13–1, defeated a tough Coatesville team who posted a season record of 22–4 to clinch the PIAA state title. This victory exemplifies the quality high school athletic programs in Pennsylvania's 18th District.

Blue Devils' coach Ed McCloskey, elementary school health and physical education teacher, recently retired. The gold medals presented to his team were a timely retirement present.

Once again, I would like to congratulate the players, the coaching staff, the supportive student body and families, and also the Mount Lebanon Community. I take pride in the accomplishments of the team and appreciate the opportunity to brag amongst my colleagues on Capitol Hill. Keep up the good work and I hope to hear of many future successes.

TRIBUTE TO NAVY SECRETARY JOHN DALTON

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. GREEN. Mr. Speaker, last week, we learned about the upcoming resignation of Navy Secretary John Dalton.

I have known Secretary Dalton for many years, and consider him to be both a friend and among the finest Navy Secretaries our Nation has ever had. He understood Houston's long Naval and Maritime history.

Secretary Dalton has served his country with distinction and with honor. Although he was born and raised in Louisiana, we consider him a true Texan. He moved to Texas during the 1970's, and since then, has served as a Chairman and President in various associations in his business career.

He was nominated by President Clinton in 1993 and confirmed that same year to become the Secretary of the Navy. Under his guidance, the Navy has expanded opportunities for both women and minorities. Through his leadership, Secretary Dalton exemplified the Navy's Core Values of Honor, Courage, and Commitment.

Secretary Dalton has had a long career of achievements as well as accomplishments. He graduated from the U.S. Naval Academy where he served as a Deputy Brigade Commander, a finalist in the Rhode Scholar competition as well as Lieutenant Commander during his years in the U.S. Naval Service.

In 1997, he was given the recognition of the prestigious International Security Leadership Award. This was in recognition of his leadership and promotion of American seapower and bipartisan maritime strategy.

Secretary Dalton has served with energy, conviction, and dedication at a challenging time for the Navy. In the midst of these challenges, John Dalton has ensured that the Navy remains a national priority.

Secretary Dalton has shown an unwavering commitment to our nation, and deserves our recognition and our appreciation.

ALEXANDR NIKITIN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. SMITH of New Jersey. Mr. Speaker, unfortunately the ironic phrase "no good deed goes unpunished" suits the case of Russian citizen Alexandr Nikitin. Most Russian officials will be the first to admit that the collapsed Soviet military-industrial complex left behind a deplorable environmental legacy which affects not only the Russian Federation but also Russia's neighbors. The best known example is Chernobyl, but environmental specialists could provide a much longer list of environmental "hot spots." Regrettably, certain elements of the Russian military and security service seem determined to continue the Soviet practice of hiding the truth about environmental depredation.

Mr. Speaker, retired Russian naval officer Alexandr Nikitin has been charged with "revealing state secrets"—and if convicted, could receive the death sentence—for his work with the Norwegian environmental organization "Bellona" in exposing both the Soviet and Russian Navy's nuclear waste dumping around the White Sea and Kola Peninsular in northeast Russia. Nikitin and his supporters claim that all the material he secured for Bellona's report, "The Russian Northern Fleet: Sources of Radioactive Contamination," had already been published in open sources.

Originally charged in February 1996, he was held in detention until December 1996, when an international outcry was raised in his behalf. Still the investigation continues to drag on and on and on.

The problem, from the standpoint of the investigators and the security services, is that the Russian Federation has a constitution with provisions on civil liberties, which some in Russia take seriously, and there are now lawyers in Russia who actually know the law and defend their clients. At first, the investigators threatened to indict Nikitin on secret unpublished military instructions, but this was in conflict with Part 3, Art. 15 of the Constitution, "no regulatory legal act affecting the rights, liberties or duties of the human being and citizen may apply unless it has been published officially for general knowledge." Now after six attempted indictments, investigators have produced an indictment that the claim will pass constitutional muster.

The prominent Ukrainian writer Nicholai Gogol wrote a fictional story about a legal case that dragged on for years in Tsarist Russia. Nikitin must identify with a character from that story.

Through efforts of concerned human rights and environmental activists, the international community has begun to focus attention on the Nikitin case. *Amnesty International* has declared him as Russia's only political prisoner since the fall of the Soviet Union. The Prime Ministers of Norway and Canada have raised Nikitin's case with Prime Minister Chernomyrdin, and President Clinton has called for "just deliberations" in the case. A couple of weeks ago, former Soviet President Gorbachev stated that "there is nothing to [the Nikitin case], but that "democratic Russia still can't let go of its affection for catching spies."

Meanwhile, back on the streets of St. Petersburg, Alexandr Nikitin has been followed, believe it or not, by a group of "men in black." The tires on his car have been slashed, and his door locks filed with glue. Recently, one of his lawyers was accosted by unidentified thugs and told to "stay away from this." Another lawyer suggests, quite plausibly, that the security services realize their case is an embarrassment, and they want Nikitin to fear for his life and that of his family so that he will admit to the charges in exchange for amnesty.

Mr. Speaker, I believe sincerely that the American people and the Congress wish the Russian people well, and we wish to work together in areas such as the environment that will benefit both our peoples. But, the case of Alexandr Nikitin raises serious doubts about the Russian military and security services to find a reasonable balance between security and the public interest.

I recognize that the Russian Government and the people are working toward civilian control of the military and an established rule of law system. The resolution of the Nikitin case will be a significant indicator of progress in these areas.

HONORING VICKY MOLGARD

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to honor Vicky Molgard who was recently named Elementary Art Educator of the Year by the Colorado Art Education Association. Ms. Molgard teaches art at Centennial, Big Thompson, and Monroe Elementary Schools. She has taught at the elementary, middle and high school levels for 17 years in the Thompson School District. In addition to her inspired work as a teacher, she is a practicing artist who serves as a role model for her young students.

Her lessons are often described as unique because she encourages her students to study and imitate the work of classic artists of all ages. She introduces her students to ideas which inspire them and she provides a creative outlet for their young minds. As a Member of Congress representing the Fourth District of Colorado where Ms. Molgard teaches, it is my honor and privilege to recognize her tremendous achievement and thank her for the time and dedication she shows to the children of the Thompson School District.

Thank you, Mr. Speaker, for the opportunity to recognize Ms. Molgard before the House for sharing her time and talents.

INTER-FAITH EFFORT TO BUILD PEACE IN BOSNIA AND HERZEGOVINA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. GILMAN Mr. Speaker, on May 21, 1998, along with several members of the Congress, we had the opportunity to participate in a historic visit to the Capitol of the leaders of the four major faiths of Bosnia and Herzegovina. I ask that my opening remarks at that meeting, along with those of Rabbi Arthur Schneier, be included in the RECORD. Rabbi Schneier is the President of the Appeal of Conscience Foundation which has won international recognition for its excellent work in promoting inter-faith reconciliation, tolerance and religious freedom around the world. The Appeal of Conscience Foundation has been extensively involved in working to rebuild peace in Bosnia and Herzegovina.

WELCOMING REMARKS BY REPRESENTATIVE BENJAMIN A. GILMAN MEETING WITH RELIGIOUS LEADERS OF BOSNIA AND HERZEGOVINA, MAY 21, 1998

It is a pleasure to welcome the leaders of the four major religions of Bosnia and Herzegovina. His Eminence Cardinal Vinko Pulic, Archbishop of Sarajevo, His Eminence Dr. Mustafa Ceric, leader of the Islamic Community of Bosnia and Herzegovina, His Eminence Metropolitan Nikolaj Mrdja, Head of the Orthodox Church of Bosnia and Herzegovina, and Dr. Jacob Finci, President of the Jewish Community of Bosnia and Herzegovina are visiting the United States as part of an initiative by the Appeal of Conscience Foundation to promote reconciliation in Bosnia and Herzegovina.

Your efforts are to be applauded. The fact that you have together agreed to visit the United States to demonstrate your sincere interest in healing Bosnia is noteworthy and highly encouraging. As you may know, many in the Congress, myself included, were not very enthusiastic about the deployment of American troops as peacekeepers in Bosnia. We have been skeptical about whether the aim of the Dayton Peace Plan to reconstruct a multi-ethnic society in Bosnia and Herzegovina was achievable in a realistic period of time. We have been heartened, however over the past year that there have been new developments that show that the people of Bosnia do truly want to live in peace with one another, to reconstruct the devastated economy and resume normal lives.

During 1998 we will be looking very carefully at two issues: one being the return of refugees and particularly minority returns, and the second being the results of the elections scheduled for September. With regard to refugee returns, we expect there to be significant progress with large numbers of people returning to Bosnia, and, if they so choose, to their original homes. With regards to elections, we want to see continued progress on electing new leaders who advocate the aims of the Dayton Plan, and are not associated with the strident nationalist policies advocated by leaders during the war. Your visit is significant for us and we wish you success in all your efforts to promote our mutual objective of restoring peace and stability to all the people of Bosnia and Herzegovina.

REMARKS BY RABBI ARTHUR SCHNEIER, PRESIDENT, APPEAL OF CONSCIENCE FOUNDATION, TO THE HOUSE INTERNATIONAL AFFAIRS COMMITTEE

Chairman Gilman and members of the House International Affairs Committee.

I appreciate the warm welcome you have given to the top religious leaders of the Catholic, Islamic, Serbian Orthodox and Jewish Communities of Bosnia and Herzegovina who are the guests of the Appeal of Conscience Foundation. I invited them to the United States so that for the first time together they would experience democratic institutions and pluralism in America.

Today's meeting in the United States Congress and with Secretary of State Madeleine Albright encourages them to help pursue peace, tolerance and reconciliation in Bosnia and Herzegovina.

In an effort to end the bloodshed in the former Yugoslavia in 1992, under the auspices of the Appeal of Conscience Foundation I brought together at a conference in Bern, Switzerland the top religious leaders of the Catholic, Islamic and Serbian Orthodox communities from the former Yugoslavia to take a united stand against the war. (Cardinal Puljic, who was then an Archbishop, is here with us today participated in the Bern conference). To further this objective the Ecumenical Patriarch Bartholomew I and I cosponsored in 1994, the Peace and Tolerance Conference in Istanbul, where the Bosphorous Declaration was adopted; and in 1995 I brought together religious leaders for the Conflict Resolution Conference leading to the adoption of the Vienna Declaration, a prelude to the Dayton Peace Accord.

Today in Washington, DC, the capital of the free world, these religious leaders in a joint declaration with the Appeal of Conscience Foundation have reaffirmed their commitment to building a multi-ethnic, multi-religious and multi-cultural society in Bosnia and Herzegovina. We in turn pledge them our support in strengthening their courageous stand for peace and tolerance in their country.

It remains our challenge to help disseminate to the widest possible audience their message of 'live and let live'. The Dayton Peace Accord signed by political leaders requires implementation by the people. To this effect the top religious leaders in Bosnia and Herzegovina, united in the newly created Inter-Religious Council of Sarajevo can make an invaluable contribution.

PERSONAL EXPLANATION

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. TIAHRT. Mr. Speaker, yesterday I was unavoidably detained and missed two votes. The first, agreeing to the Senate amendments on H.R. 1847, the Telemarketing Fraud Prevention Act; and the second, passage of House Resolution 401, the Sense of the House that Social Promotion Should Be Ended. I support both measures and had I been present I would have voted "yes" on rollcall No. 232 and No. 233.

A SPECIAL SALUTE TO EAST TECHNICAL HIGH SCHOOL FIRST PROGRAM PARTICIPANTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. STOKES. Mr. Speaker, I would like to call the attention of my colleagues to a very special event taking place on Capitol Hill this week. On Thursday, June 18, 1988, Capitol Hill will host a staged robotic competition, the "Capitol Hill Robotics Invitational". This invitational will involve eleven high school robotics teams from across the nation. This even underscores an innovative program known as FIRST. FIRST, (For Inspiration and Recognition of Science and Technology), is a national nonprofit group founded to promote interest in math, science, and technology. It partners engineers from major corporations and small businesses, scientists from the National Aeronautics and Space Administration, the military, and mentors from universities, with high school students around the country.

Regarding the "Robotics Invitational," I would also like to take this opportunity to share a story with my colleagues. a story of a school that five years ago implemented this new program dedicated to improving students proficiency in science and math. Five years later this high school has an attendance rate of 82 percent. The enrollment has increased to 1400. Seventy-one percent of the students pass the State Proficiency Tests. When the Robotics Invitational is held on Capitol Hill I plan to be on hand to cheer on a very special team from this school. The name of this school is East Technical High School, and I am proud to say that this school is located within my Congressional District.

Mr. Speaker, permit me to tell you more about the success story that is East Tech High School. Today, students run to their math and science classes, and many work hard to obtain the 3.00 Grade Point Average necessary to become involved with the FIRST program. All twelve members of the initial FIRST team have graduated and are now enrolled in four year engineering programs at university levels. East Tech High School is the epitome of a phoenix rising from the ashes, considering it was scheduled for closing those short five years ago.

The East Tech Student Engineering/FIRST Team currently has 40 members. It was this team that recently finished 9th out of 150 teams at the National Science and Math Competition in Orlando, Florida. And it is this team, selected from 200 other teams, to have their Robotics team along with eleven other teams from across the country, participate in the robotics competition this week on Capitol Hill.

East Technical High School, along with the aid of the NASA/Lewis Research Center who introduced FIRST to the School, has sparked the intelligence in these students that came so close to being extinguished with the slated closing of their high school. This team is indicative of the talents that lie beneath the surface of many young people in urban environments who never receive a chance or get the impact of a program like FIRST.

Mr. Speaker, I am proud to share stories of programs like FIRST that exist and get our young people involved in the fields of math and science. In fact, I am now told that more students try out for East Tech's FIRST team than they do for basketball and football combined. This program was the spark, but I feel that the students in East Technical High School had it in them all along. These students need to be commended today for the perseverance and hard work they have shown. I am sure these students have even more success awaiting them in the future.

Thank you Mr. Speaker for allowing me the opportunity to share this special success story with my colleagues. Once again, I would like to congratulate the students of East Technical High School for their achievements and for a job well done.

EAST TECHNICAL HIGH SCHOOL MEMBERS

Orlando Antongiorgi, Michael Bors, Kaishaelia Brown, Jaria Chatmon, Rita Greeham, Sha'Lawnda Griffe, Breesha James, Jesse Mathis, Aja Maxwell, Mario Mendes, Drew Odum, Kanita Parra, Khadijah Qadaar, Shakina Shields, Sierra Smith, Christi Sutton, Sophia Syed, Bobby Vannoy, Sharonda Whatley, and Tiffany Neal.

EAST TECHNICAL FACULTY TEAM MEMBERS

Jan Berlin, Sarah Broadnax, Terry Butler, Mary Carter, and Jerome Seppelt.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION EMPLOYEES

Donald Campbell, Director, Joann Charleston, Alicia González, Larry Greer, John Hairston, Dan Kocka, and Mary Palumbo.

CORPORATE SPONSORS

Lora Johnson/TRW and Julie Rehm/Battelle.

HONORING ANGEL RUIZ

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to honor Angel Ruiz, a ninth-grader at Thompson Valley High School, who has recently been named Youth of the Year by the Boys & Girls Club of Loveland. The winner of this prestigious award is selected among those who won the Youth of the Month award for 1997. Ruiz was honored with the monthly award in September.

As an active member of the Boys & Girls Club of Loveland for a little over a year, Ruiz participates in a variety of service oriented projects. He regularly spends his time after school quizzing younger children on spelling works and math tables and enjoys the opportunity to serve as a role model for those he tutors. He also serves as a staff member where his duties include cleaning the club, managing membership renewals and orienting new members.

Mr Speaker, it is important to note that over the past year Angel Ruiz's Grade Point Average has soared from 1.5 to 3.8 on a 4 point scale. As a Member of Congress representing Colorado's Fourth Congressional District where Angel Ruiz lives and devotes his time to serve his community, I am proud to honor this youth for his great contribution to the town of Loveland and to our entire state.

HONORING ALAN R. WALDEN

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. CARDIN. Mr. Speaker, I rise today to honor Alan R. Walden, who is retiring in July from his broadcasting career of 44 years. Throughout his distinguished journalism career, Mr. Walden has covered almost every major national and international event and he has set a standard of excellence in journalism that is hard to match.

Every weekday morning, thousands of Baltimoreans wake up to Alan Walden's thorough, in-depth news reports as the anchor of WBAL–AM's morning show. He uses his insight and knowledge to give listeners an important perspective on regional, national and international events. On weekday evenings, listeners also can hear his insightful commentary on "Walden Ponderings."

Born in New York City, Mr. Walden has won virtually every major broadcast journalism award. His career has included jobs as news director of radio stations in New York, Boston and Cleveland, and vice president of Radio News for Metromedia Inc. In addition, he helped bring broadcast journalism into a new age as one of the principal architects of NBC News and Information Service, the first 24-hour-a-day news network in the United States.

As senior correspondent for NBC Radio News specializing in international affairs and domestic politics, Mr. Walden has covered the Camp David Peace Accords, SALT II, the Falkland Islands War, the invasion of Grenada, the civil war in El Salvador and the Panama Crisis.

But Alan Walden is more than a fine journalist. He also is a great American. As president of Patriots of Fort McHenry, Mr. Walden has done more than any single individual to help restore and preserve this national treasure. We in Baltimore owe him an enormous debt of gratitude for his tireless efforts on behalf of this historic shrine.

I invite my colleagues to join me in honoring Alan R. Walden for his dedication and commitment to quality journalism. His reporting has touched all of our lives, and his dedication to Fort McHenry has enriched the lives of all Americans.

TRIBUTE TO CECIL LEBERKNIGHT

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. MURTHA. Mr. Speaker, I would like to take this opportunity before my Colleagues in the House of Representatives to honor a great American, Mr. Cecil Leberknight.

We've heard many people praised for being "great Americans" in this Chamber, and in most cases, you think of some nationally known figure. Cecil is not nationally famous for his achievements, but he still fits the description as well as anyone.

Mr. Cecil Leberknight is a native of Cambria County, Pennsylvania who has devoted his life to public service where it most directly impacts people and communities, at the local level. For fifty years he has served, in numerous capacities, as the champion of Pennsylvania's boroughs. He began his incredible career of service in the winter of 1948, when he became Dale Borough councilman in Cambria County, Pennsylvania, which is still his and his wife Dorothy's home. Since then, he has served with over 100 council members. The list of career accomplishments of this one man is amazing. Just reading the list is exhausting.

In the 1950's he was elected and reelected to serve as President of the 33 member Cambria County Borough Association and has represented that county at the state borough association level since 1957. In 1962, he was elected to the Pennsylvania Assembly, where he continued to champion the cause of public service, working tirelessly to obtain better working conditions and pay for police, firemen, school teachers and administrators, and nurses.

Mr. Leberknight also chaired the Governor's Justice Commission in the last 1960's, served on the Johnstown Flood Museum and Heritage Association as both president and board member. Additionally, he has also been: vice chairman of the Johnstown Area Regional Planning Commission, president of Dale Borough Historical Association, board member and treasurer of the Johnstown Symphony Orchestra, president of the Historic Sandyvale Cemetery Association, charter member of the Cambria County Chapter of Pennsylvania Clean Ways, organizer, charter member and treasurer of the Pennsylvania 12th District Equipment Center, and member of the Greater Johnstown Watershed Association.

He hasn't stopped. Currently, Mr. Leberknight serves as president of the Cambria County Housing Corporation, where he's been for the last seven years. Additionally he holds numerous citations from, and honorary lifetime memberships in, local volunteer and civic organizations.

If that weren't enough, Cecil is also a champion of education. His interest in improving and promoting education has led him to hold positions such as the State Legislative Chairman of the Pennsylvania Congress of Parents and Teachers, president of the Cambria County Council of Parents and Teachers, Adult Scouter with the Robert E. Peary Council of the Boy Scouts of America, and a charter and current board member of the Cambria County Ethnic Arts and Cultural Center.

I think that is an extraordinary resume. I am so proud and honored to have known Cecil for most of my life and feel fortunate to live in a town that has a person like him working for it. In addition to being a person who is so civically motivated and cares so much about his community, he is also a great friend and a great family man. He is truly an outstanding person and I am very pleased to be able to congratulate him as he celebrates fifty years of public service.

Congratulations, Cecil, and thank you.

TIME TO RECONSIDER DESTRUCTIVE EMBARGO POLICIES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. PAUL. Mr. Speaker, I have long held that the real victims of U.S. trade policy, and specifically of our various trade embargoes, are American citizens who hope to sell goods abroad, most especially our agricultural producers. The intended victims of sanctions are corrupt foreign rulers but they always find a way to get goods from our competitors and when they fail to do so they simply pass along any suffering to their internal political opponents.

But, as I said, somebody is negatively affected. A recent issue of the American Farm Bureau Federation's "Farm Bureau News" contains a headline story which does a fabulous job of explaining how these embargoes adversely affect our American Farmers and Ranchers. In this front page story the Farm Bureau News masterfully details the true impact of trade embargoes.

Mr. Speaker, I am proud to represent a very rural, agriculturally-based district. My constituents are well aware of the importance of opening export markets for America's agricultural producers. Mr. Speaker, at this time I would like to place in the RECORD this story from the Farm Bureau News in hopes that people in the Administration, as well as in this Congress will begin to reconsider destructive embargo policies which only harm our nation's farmers and other producers including my constituents.

AG TAKES BIGGEST HIT FROM EMBARGOES

Trade sanctions and embargoes for the purpose of social reform or other reasons hurt American farmers and ranchers more than any other sector of the economy, Farm Bureau told a House Agriculture subcommittee last week.

"Farm Bureau strongly opposes all artificial trade constraints such as embargoes or sanctions except in the case of armed conflicts," said Ron Warfield, president of the Illinois Farm Bureau. "We believe that opening trading systems around the world and engagement through trade are the most effective means of reaching international economic stability."

President Clinton imposed sanctions against India and Pakistan after those countries detonated nuclear devices. House Agriculture Committee Chairman Bob Smith (R–Ore.) and ranking minority member Charlie Stenholm (D–Texas) have urged Clinton to exempt food and agricultural commodities from those sanctions. Pakistan is an important market for U.S. agricultural products, ranking third in purchases of U.S. wheat.

Sens. Dick Lugar (R–Ind.), Pat Roberts (R–Kan.), Larry Craig (R–Idaho) and Max Baucus (D–Mont.) have also asked Clinton to exclude agricultural exports from the sanctions.

Warfield, a member of the American Farm Bureau Federation board of directors, told the panel that when sanctions are imposed, agriculture typically bears the brunt through lost sales and gains a reputation as an unreliable supplier. While American agriculture loses through sanctions and embargoes, its toughest competitors win by picking up those markets.

Warfield noted that when the United States placed a grain embargo against the Soviet Union in the 1980s, American farmers lost $2.3 billion in farm exports. He said the effects continue to be felt.

"When the United States cut off sales of wheat to protest the Soviet invasion of Afghanistan, other suppliers—France, Canada, Australia and Argentina—stepped in," Warfield said. "They expanded their sales to the Soviet Union, ensuring that U.S. sanctions had virtually no economic impact. Russia still appears to restrict purchases of American wheat, fearing the United States may again use food exports as a foreign policy weapon."

Just the threat of sanctions can provoke trading partners into a retaliatory stance and threaten U.S. agricultural exports, the farm leader pointed out.

Warfield said Farm Bureau supports a bill (H.R. 3654) by Re. Tom Ewing (R-Ill.) that would prevent selective agricultural embargoes. The legislation, he said, would prevent useless embargoes that destroy American export markets while creating opportunities for other countries. Warfield said engagement with other nations, not sanctions and embargoes, should be the preferred option.

"The United States, as the leader in world trade, has an unprecedented opportunity to promote its values throughout the world by peaceful engagement through trade," Warfield said, "Reaching out through engagement and trade, not withdrawing behind embargoes, is the best way to achieve positive change—not by denying ourselves access to the markets and creating opportunities for our competitors."

TRIBUTE FOR MR. JOHN M. MELLA

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. STUPAK. Mr. Speaker, this past April I had the pleasure to speak at a testimonial dinner in a small area of my district a few miles north of the Wisconsin border in a town called Iron Mountain. Iron Mountain is an old, ethnically diverse iron mining town which is surrounded by beautiful plush forests, roving wolves and soaring eagles. It is such a delight for me to have the opportunity to visit this town because of its relaxing atmosphere and the friendly demeanor of its residents. However, even in the apparent serenity of this tucked-away, laid-back fishing haven, many people in Iron Mountain still have the haunting memories of their days as soldiers during times of war.

You see Mr. Speaker, my district, Michigan's First Congressional District, has the most veterans residing in its area than any other congressional district in Michigan. So it is often that I attend a veterans gathering or function. The purpose of the testimonial dinner that I attended this past April was to honor one of those veterans. His name is John Mella and he is the reason why I stand before you today with this tribute. Mr. Mella has recently completed his year as American Legion State Commander. We, in the Upper Peninsula, couldn't have been prouder to have him as State Commander since it has been fifteen years since a fellow Yooper has held the post.

Mr. Mella became part of the American Legion because of his honorable service in the United States Armed Forces. He has worked his way up as American Legion State Commander because of his continued patriotism and his commitment to the preservation of the memory of all soldiers of war. He, as do all veterans, understands what it means to be part of a community, to work together for one another. Mr. John Mella and all veterans who are part of the American Legion have made a pledge to our nation that during times of peace or times of war, they will be a united body to provide service to our country and will be the model of Americanism, joining together for the betterment of one another.

Ever since May 9, 1919 when the American Legion approved its constitution, it as upheld its stated commitment to God and Country. All citizens of the United States can look to these people who epitomize dedication and devotion to our nation. As the Representative of Michigan's First District, I am proud to have one of these such citizens residing in my district. In Iron Mountain, a town of apparent serenity and peacefulness, resides many brave Americans who had served and fought to protect justice, freedom and democracy, one particular is Mr. John Mella, a man of distinction, honor and service. A man who has my sincere admiration and appreciation. A man I am proud to call my friend.

PERSONAL EXPLANATION

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. HILLIARD. Mr. Speaker, on Thursday, June 11, 1998, I was unavoidably detained in a meeting with Attorney General Janet Reno, Deputy Attorney General Eric Holder, Martin Luther King III, Julian Bond, Revered Shuttlesworth, Alabama State Senator Hank Sanders, and others. The meeting was held in regard to discrimination and intimidation being committed by the FBI and U.S. district attorneys against African-American voters. This pattern of intimidation was carried out by continuously bringing charges of voter fraud and prosecuting people in Alabama's predominately African-American counties.

If I had been present, I would have voted "no" on rollcall vote No. 229, "aye" on rollcall vote No. 230, and "aye" on rollcall vote No. 231, a very important vote on House Resolution 446 which condemns the brutal slaying that occurred recently in Jasper, TX.

SHIRLEY L. STORY AWARDED SOCIAL WORKER OF THE YEAR

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I pay tribute to one of Northwest Indiana's most dedicated social workers, Shirley L. Story, of Gary, Indiana. On March 20, 1998, Shirley was honored at the Annual Social Worker of the Year and Citizen of the Year Awards Celebration with the Social Workers of the Year Award. The highest honor for a member of the National Association of Social Workers (NASW), this award is given yearly to a person who displays outstanding leadership, commitment, and professionalism beyond the normal clientele relationship.

Shirley was honored for her exemplary work as a Social Worker Supervisor at St. Joseph's Carmelite School for Girls in East Chicago, Indiana. During her twelve years at the Carmelite School for Girls, Shirley has instituted programs dedicated to improving the lives of the young women with whom she has contact. Indeed, she has created such initiatives as the Independent Living Program,' where high school seniors are allowed to rent an apartment. The girls pay bills, utilities, and work their own jobs learning valuable skills for their future. Shirley is also dedicated to improving the field of social work as a whole. She is currently serving her second term as a representative to the NASW Indiana Chapter, which allows her to share her knowledge and experience with other social workers around the state.

Deeply committed to the community through her work, Shirley also volunteers much of her personal time. She is actively involved in her church, the New Revelation Church, in Gary. Some examples of the dedication Shirley has for her church include her service as the First Vice President of the Martin Luther King, Jr. Memorial Baptist State Convention of Indiana, Inc., the Recording Secretary in the Progressive Baptist Convention Midwest Region, and a Co-Sunday School teacher for young women. In addition, Shirley is active in the Delta Sigma Theta Public Service Sorority, Church Women United, and the alumna associations of Loyola University and Ball State University. Though certainly dedicated to her work and community, Shirley is also a caring, family-oriented person. Her children, Chisle Leah and Vaughn Michael, are twenty-one and nineteen, respectively. Chisle is a licensed cosmetologist and Vaughn will attend Purdue University this fall. Part of a family, Shirley often takes care of her nieces and nephews, especially the children of her sister who passed away three years ago. In addition, she often visits her relatives to spend quality time with them.

Shirley plans to remain with the St. Joseph's Carmelite School for Girls. With the opportunities for creating new programs, positive effects of the community, and helping individuals in need, she is very satisfied in her current position as Social Worker Supervisor. However, Shirley has not limited her potential for good works in the future. She is considering opening a consulting firm to broaden her activities throughout the region.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in congratulating Shirley Story for being named Social Worker of the Year. Her dedication, service, and leadership to her community and her family has rewarded the people of Indiana's First Congressional District with one of the real heroes of our time.

IN HONOR OF TOM SALOPEK

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor Tom Salopek, who was recently chosen to serve as Guest Conductor for the 1998 Junior Tamburitzan Festival. Tom's selection is yet another sweet note in a career marked by his love for the tambura.

A member of the Zagreb Junior Tamburitzans at the age of nine, Tom was something of a music prodigy. In fulfillment of this promise, he would later become Assistant Musical Director of AZJT from 1979–1980 and then Musical Director from 1987–1991. In 1992, Tom was named the tambura instructor and musical director of Cleveland Junior Tamburitzans, a position he still holds.

A dedicated musician with an unyielding and untiring vision as to his artform, Tom inspires the respect of his pupils with his dedication, spending long hours searching for and arranging the group's music. His appointment as Guest Conductor is a recognition of this dedication to craft.

Tom's passion for tambura is hardly surprising when one considers his roots in the Croatian community. Tom's parents, Peter and Kay, encouraged their children's interest in Croatian tambura, becoming actively involved in their group. To this day, Tom remains close to his roots, living in Cleveland's "Old World" East 185th neighborhood.

My fellow colleagues, please join me in congratulating Tom Salopek on his appointment as Guest Conductor at the 1998 Junior Tamburitzan Festival. Let his sweet music continue for years to come.

THE 100TH ANNIVERSARY OF THE CHATHAM BOROUGH VOLUNTEER FIRE DEPARTMENT, CHATHAM, MORRIS COUNTY, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the Chatham Borough Volunteer Fire Department located in Chatham, New Jersey on the occasion of their 100th anniversary. This anniversary marks the culmination of a long, proud history of providing voluntary protection of the lives of the citizens and their property in case of fire. The fire department will celebrate this historic centennial with a week of scheduled events beginning on June 27, 1998.

The department was officially organized on May 7, 1898 and less than a week later the Chatham Volunteer Fire Department responded to its first fire. Ironically, the fire was at the home of one of its charter members. The fire department's original quarters were in the Ryerson building which was located on South Passaic Avenue. It is now the site of the parking area in front of the post office. In 1959, the present firehouse was built on the east side of Reasoner Park.

In the beginning, the department was composed of two companies, each were limited to 20 people. Number 1 Company's members had to live on the north side of the railroad and Number 2 Company's had to reside on the south side of the railroad. In 1930, the department was reorganized into three companies of fifteen members each. Original equipment included six hundred feet of hose and two hose carts purchased from Madison. The former Delaware, Lackawanna & Western Railroad donated a rim from a steam locomotive wheel which, when struck with a sledge hammer, served as the first fire alarm. It wasn't until August of 1902 that the firemen were able to purchase a steam fire whistle. The whistle was installed at what is now the Borough's water pumping station.

In May of 1924, the Borough installed a Gamewell fire alarm system. In 1955, the fire department decided to take advantage of a new system offered by the telephone company that involved installing bells in each fireman's home. The bell system was replaced in 1966 by a new system of radio alerting. Special short-wave receivers were purchased from the Plectron Corporation. Today there are 96 fire alarms strategically located throughout the Borough.

One of the most significant milestones in the history of the Chatham Volunteer Fire Department was the organization of an Emergency Squad composed of firemen from each of the companies in the department. In June 1938, the Borough purchased its first ambulance. The Emergency Squad remained a part of the fire department until 1951 when it became a separate volunteer organization, The Chatham Emergency Squad, Inc.

Over the years, the Chatham Volunteer Fire Department has acquired a reputation as a well equipped, well-trained organization of dedicated members who have given long hours of service to the Borough of Chatham. Since 1948, the department has initiated several community service projects in the areas of fire prevention and recreation. I applaud the men and women of the Chatham Borough Volunteer Fire Department who have protected the citizens of the Borough against the threat of fire and other dangers.

Mr. Speaker, I ask that you join me and our colleagues, in congratulating the Chatham Borough Volunteer Fire Department for 100 years of volunteerism and exemplary service.

BANKRUPTCY REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, June 17, 1998 into the CONGRESSIONAL RECORD.

BANKRUPTCY REFORM

Last week the House approved a major overhaul of the nation's bankruptcy code. The reform measure, which now goes to the Senate for further consideration, would generally make it more difficult for consumers with average or above average incomes to avoid repayment of credit card and other unsecured debts by filing for bankruptcy protection.

The bill comes in response to the record number of consumer bankruptcy filings in this country. While bankruptcy filings by businesses have remained relatively stable over the past decade, filings by consumers have almost tripled in the last ten years, rising from 473,000 in 1986 to more than 1.4 million in 1997. And they are projected to increase further even though the economy is strong and unemployment is at record lows.

The concern is that the current system is tilted too heavily towards consumers and is easily abused. There have been numerous stories over the years of millionaires and others who exploit bankruptcy provisions to evade their financial obligations. Reformers argue that consumers who rack up large debts should, to the greatest extent possible, be required to pay off some or all of their debts.

BACKGROUND

Bankruptcy laws, which date back to biblical times, have historically favored creditors and discouraged insolvency. American law, however, takes a more lenient approach toward the bankrupt debtor, reflecting this country's emphasis on giving people a second chance. Our law generally allows an individual or business to discharge most or all of his or her debts and get back on sound footing. Congress established the first comprehensive bankruptcy system in 1898, and has rewritten and revised the code on numerous occasions over the years.

The average consumer has two basic options when filing for bankruptcy. Most consumers opt to file under Chapter 7, a liquidation procedure under which the individual is excused from paying most debts by allowing a trustee to sell assets that are worth more than legal exemption limits for homes, cars, and other property. Close to one-third of bankrupt debtors, in contrast, choose to hold on to their assets by filing under Chapter 13, under which they are put on a three-to-five year plan to repay debts in part or in whole. The downside to filing for bankruptcy is that a debtor can be labeled a credit risk and have difficulty obtaining credit for years.

There are numerous explanations for why the number of bankruptcies continues to grow, such as legalized gambling, reduced health insurance coverage, and divorce, but most experts agree that the major reason is that more Americans than ever before have access to credit. There has been a revolution in the last 20 years in the way American families borrow and use credit and in the way American businesses finance their growth. The result, over time, has been sustained economic expansion and, for families, unprecedented access to credit to purchase consumer goods and services. Today, four of every five families have at least one credit card, and non-mortgage consumer debt from all sources stands at $1.7 trillion. The downside to this trend is that, for some consumers, easy credit can mean mounting debts and greater risk of bankruptcy.

HOUSE BILL

The House bill significantly reforms the bankruptcy system by generally barring individuals with average or higher incomes from avoiding their debts under Chapter 7. The measure would establish a strict means test to determine who is eligible for Chapter 7 protection, sending those who do not qualify home or to Chapter 13. Specifically, the bill allows only those with earnings equal to or less than the national median income ($51,405 for a family of four) to file Chapter 7 bankruptcy.

The bill makes other significant reforms in bankruptcy law. First, it would give higher priority to repayment of credit cards (although child support would take priority over credit card and other types of unsecured debt). Second, it would require tax returns and paycheck stubs to be included in bankruptcy petitions, and allows creditors to challenge the validity of an individual's bankruptcy claim. Third, the bill establishes an educational program to make sure consumers receive information about alternatives to bankruptcy before filing. Fourth, it tries to discourage debtors from repeat filings for bankruptcy protection.

PRO AND CON

Those who support bankruptcy reform say it is necessary to make consumers personally responsible for the debt, particularly credit card debt, they carry. Reform advocates contend that the current system is too lax, giving consumers, many of whom have the means to pay down their debts, the ability to avoid repayment—to the tune of $40 billion per year. The current system, it is argued, undermines the nation's credit system and increases the cost of borrowing for every American household.

Opponents of current reform proposals respond that credit card companies, not consumers, are mainly responsible for the bankruptcy crisis. They see the bill as unfair to ordinary households, unduly elevating the rights of creditors. Lenders, in a bid to get more consumer business, are mailing more and more credit card solicitations—close to 3 billion solicitations last year—and targeting lower-income Americans, who present a considerable credit risk. Recent reports suggest that the majority of individuals seeking debt relief are low to moderate income, so forcing those individuals into Chapter 13 bankruptcy may make it harder for them to pay off their debts and get on their feet again.

CONCLUSION

I supported passage of the bankruptcy reform bill in the House, albeit with some reservations. I recognize that those persons who file for bankruptcy are not all deadbeats, and that many file after suffering a major setback, such as job loss or massive medical bills. I, nonetheless, believe that the current system can be too easily abused. We must restore personal responsibility to our bankruptcy laws, so that those who can afford to repay some of their debts be required to do so.

The House bill strikes a reasonable balance. It has no effect on lower income families, while making bankruptcy less attractive to others. Wealthier individuals should not use bankruptcy protection as a way to shield their assets. At the same time I believe that credit card companies bear some responsibility for dramatic rise in bankruptcy rates by extending credit too easily. They should not receive a windfall from proposed reforms, and should not, for example, get priority over child support payments.

THANK YOU TO MR. LEE HAMMER

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. GORDON. Mr. Speaker, I wanted to take this opportunity to express my appreciation to Mr. Lee Hammer for his efforts on behalf of the citizens of Middle Tennessee and on my behalf.

Lee has served as a member of my Congressional Staff for two-and-a-half years, beginning in November of 1995. He is a highly motivated and very cooperative staffer. There is a great volume of detail work in a congressional office. Lee has pitched-in and has undertaken even the less glamorous aspects of the work with enthusiasm. Lee speaks well and has sound analytical skills. He is well-regarded by his fellow staff members.

In the course of his work, he has tracked and overseen the drafting of legislation, responded to constituent inquiries, represented me before industry and trade association representatives, and drafted testimony and floor statements. In my capacity as a member of the Commerce Committee, Lee has handled some of the legislative issues most important to me and to my constituents.

Lee has already completed a Masters Degree in Political Science and is preparing to undertake the study of law. At the close of this month, he will be leaving my office to pursue a legal education at the Southwestern University School of Law in his hometown of Los Angeles, California.

My staff and I join in wishing Lee the best of fortune as he enters law school.

IN HONOR OF ST. JOHN'S BYZANTINE CATHEDRAL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the centennial anniversary of St. John's Byzantine Cathedral which is located in Parma, Ohio.

St. John's Cathedral had its small beginnings at St. Joseph's Chapel in 1898. There were only a few parishioners in the beginning, but as more people came the Reverend Peter Keselak deemed it necessary to construct a separate Church. The Church continued to grow, but, because of World War I, in 1918 St. John's was without a pastor. The Church struggled to stay together facing many difficulties. It is only because of the strong faith of the parishioners that St. John's managed to survive.

In March of 1922 Father Stephan Gulyassy became pastor of St. John's Church, and many of the advancements can be credited to him. He bought the land for the Parma site in 1945, and in 1969 St. John's Cathedral was moved to Parma. The Cathedral is still thriving at this site today.

There are many generations of dedicated parishioners who have attended St. John's, and it is the 100 years of dedication which will be celebrated at this remarkable occasion. St. John's Cathedral has provided a great service to both its people and its community. It is because of this service that I ask you, my fellow colleagues, to please join me in congratulating the St. John's Byzantine Cathedral for its 100th year of service.

THE E IN E-RATE IS FOR EDUCATION NOT EVASION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. GUTIERREZ. Mr. Speaker, I rise today to support putting the E, for education, back in the e-rate.

One of the most touted accomplishments of the 104th Congress was the passage of the Telecommunications Reform Act of 1996. This legislation was hailed as the progenitor of a new era of technological innovation, entrepreneurial creativity and enhanced consumer choice in the telecommunications sector.

But what has happened since telecom reform passed has been the opposite of what was promised.

Local telephone rates have increased in many regions of our Nation. Competition has been threatened as major long-distance carriers rush to create a big brother bell from the babies antitrust had mandated a few years before.

Telecom conglomerates that spent millions lobbying this institution for reform have reaped the rewards of their aggressive advocacy efforts. Their profits are soaring.

However, despite these record gains, telecom's corporate giants have bluntly told our children that they are not going to honor their obligation to provide affordable technology for schools and libraries.

Recently, new telephone service surcharges have been imposed on consumers by a number of telecommunications companies.

These new fees will pass the costs of providing needed technology discounts to schools and libraries on to the consumers. This is intolerable.

The e-rate program is one of the few sections of the telecommunications bill that can directly benefit our young people.

The demands for technology in our schools is every-increasing and the longer we wait to meet this demand the further our Nation's children fall behind in the information age economy.

The telecom giants have earned billions through telecom reform. They should keep their promise to America's children.

Mr. Speaker, the E in e-rate is for education not evasion.

I urge the telecom giants to support the education of our children and stop evading their responsibilities.

FOURTH ANNUAL CITIZENSHIP DAY EVENT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. GREEN. Mr. Speaker, last Saturday, on June 13, my staff and I hosted our Fourth Annual Citizenship Day Event. This is a one-stop application processing opportunity for residents who wish to become U.S. citizens.

With the help of local volunteers, elected officials, and community-based organizations, we were able to help 350 residents take their first step to becoming a U.S. citizen.

The Citizenship Day process consists of completing INS forms, taking photographs, and having attorneys and INS representatives review the application. Upon completing this process, the application is photocopied for the applicant and immediately mailed to INS.

Every year, I am amazed at the number of people who attend this event. While some of us tend to take for granted that we live in a great country, others wait in line all night long simply to submit an application to become a U.S. citizen.

Although an event like this takes many months of coordinating and planning, the rewards are remarkable. Not only does it provide a service to our community, but it also increases awareness among legal residents about the importance of becoming a citizen. Moreover, it's encouraging to see volunteers return every year to contribute their time and effort.

I am extremely thankful of the following volunteers, groups and organizations who assisted in making this event possible:

Houston Community College, Northeast Campus; Harris County Constable, Victor Trevino; Immigration and Naturalization Service; United States Postal Service; Houston Industries; League of United Latin American Citizens; National Association of Latino Elected Officials; Hispanic Women in Leadership; Rio Posada Restaurant; Fiesta Mart, Inc.; Hispanic Organization of Postal Employees; Houston Coca Cola Bottling Co.; Pizza Hut; Chase Bank; Telemundo, Channel 48; Univision, Channel 45; College Democrats @ University of Houston; Quan, Burdette & Perez, Attorneys at Law; Esther Alaniz; Alicia Almendariz; David Airhart; Artie Blanco; Delia Barajas; Debra Barnes; Yasmine Cadena; Mary Closner; Mitchell Contreras; Romero Cruz; Hector De Leon; Anselmo Davila; Armando Entenza; Arthur Flores; Charles Flores; Dr. Margaret Ford; Celia Garcia; Cyndi Garza; Juan Garcia; Rosa Garcia; Reynaldo Garza; Victor Gonzalez; Juana Gonzalez; Priscilla Gonzalez; Manuel Gonzalez; Mary Guerrero; Rebecca Guerrero; Joe Granados; Ben D. Huynh; Ana Maria Lopez; Dorothy Ledezma; Alfred Martinez; John Martinez; Benny Martinez; Margaret Mata; Edward Melendez; Josephine Mendoza; John Meyer; Diana Morales; Sally Morin; Mercedes Nassar; Janie Munoz; Frances Munoz; Art Murillo; Ana Nunez; Sandra M. Orellana; Juan Padilla; Cesar De Paz; Richard Perez; Candy Perez; Andre Rodriguez; Jesse P. Ramirez; Francisco Rodriguez; Mayor Cipriano Romero; Juana Rosales; Rosa Ruelas; Yeannett Salazar; Thomas Sanchez; Olga Soliz; Diana Trevino; Marco Torres; Vera Vasquez; Suzanne Villareal; Patricia Valdez; Ralph Vasquez; and Shahid Waheed.

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FEDERAL LIMITATIONS ON DISCLOSURE OF GRAND JURY INFORMATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. CONYERS. Mr. Speaker, Rule 6(e)(2) of the Federal Rules of Criminal Procedure governs the secrecy of grand jury information. It provides:

> "A grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the government, or any person to whom disclosure is made under paragraph (3)(A)(ii) of this subdivision shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules. No obligation of secrecy may be imposed on any person except in accordance with this rule. A knowing violation of Rule 6 may be punished as a contempt of court."

In a case called *In re Motions of Dow Jones & Company,* which was decided in May of this year, the D.C. Circuit wrote that Rule 6(e) reaches "not only what has occurred and what is occurring, but also what is likely to occur. Encompassed within the rule of secrecy are the identities of witnesses or jurors, the substance of testimony as well as actual transcripts, the strategy or direction of the investigation, the deliberations or questions of jurors, and the like." The *Dow Jones* decision involved a request by media organizations for access to court hearings and pleadings regarding Mr. Starr's investigation of the President.

The rule and the *Dow Jones* case make clear that an Independent Counsel may not disclose evidence or testimony that he or she reasonably expects to be presented to a grand jury.

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RECOGNIZING JEAN O'DONNELL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. POSHARD. Mr. Speaker, I rise today to recognize my constituent, Mrs. Jean O'Donnell, who has been a faithful citizen of Flora, Illinois. She is celebrating her retirement after 30 years of service as a dedicated Flora city employee, and I would like to thank her for her tireless efforts and wish her all the best in retirement.

Jean was born in the very same city she has worked for all of her life. She attended Harter Stanford Township High School, now Flora High School. When Jean graduated from high school, she was married the next month to her high school boyfriend, Mr. Donald Gene Hall and they raised four children. After her husband's death in 1985, she married Mr. William Michael O'Donnell in 1987. After retirement, they plan to spend time camping together and enjoying their free time.

Jean is a very caring person, evident in the time she has devoted to her family and career. She started working under the administration of the late William Given in 1968. Jean was then appointed city clerk and collector under the administration of Lewis Wolfe. Since she has been working for the city government, Jean has served under nine administrations and seven mayors.

In addition, Jean has shared her time being an active member in the community through the First United Methodist Church and the Clay County Cancer Society. She displays her exemplary character as both an active public servant and active community citizen. The city of Flora recognized these qualities and honored her accomplishments in April.

Citizens such as Jean O'Donnell demonstrate to me all the necessary qualities of being a member of the public sector and the goals that I strive to fulfill as United States Representative. Mr. Speaker, please join with me in recognizing Mrs. Jean O'Donnell as she retires after 30 years of dedicated service to the Flora community. It is an honor to represent her in the United States Congress.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 18, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 22

2:00 p.m.
Governmental Affairs
To hold hearings on the nomination of Jacob Joseph Lew, of New York, to be Director of the Office of Management and Budget.
SD-342

JUNE 23

9:30 a.m.
Energy and Natural Resources
To resume oversight hearings to examine certain implications of independence for Puerto Rico.
SH-216

Judiciary
To hold hearings on S. 2148, to protect religious liberty.
SD-226

2:30 p.m.
Foreign Relations
Business meeting, to consider pending calendar business.
S-116, Capitol

JUNE 24

9:30 a.m.
Energy and Natural Resources
Business meeting, to to consider pending calendar business.
SD-366

Judiciary
To hold hearings to examine fairness in punitive damage awards.
SD-226

10:00 a.m.
Governmental Affairs
To resume hearings to examine the state of computer security within Federal, State and local agencies.
SD-342

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold joint hearings with the Committee on Indian Affairs on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, entitled "Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".
SR-485

Indian Affairs
To hold joint hearings with the Committee on Energy and Natural Resources' Subcommittee on Water and Power on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, entitled "Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".
SR-485

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

JUNE 25

9:30 a.m.
Labor and Human Resources
To hold hearings to examine health insurance coverage for older workers.
SD-430

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 2146, to provide for the exchange of certain lands within the State of Utah.
SD-366

JULY 8

9:30 a.m.
Indian Affairs
To hold hearings on S. 1905, to provide for equitable compensation for the Cheyenne River Sioux Tribe, H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, S. 391, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and S. 1419, to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park.
SR-485

JULY 9

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine the adequacy of procedures and systems used by the Department of Agriculture Food Safety and Inspection Service and the Department of Health and Human Services Food and Drug Administration to oversee the safety of food imported into the United States, focusing on the outbreak of Cyclospora associated with fresh raspberries imported into the U.S. from Central America.
SD-342

JULY 14

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1515, to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, S. 2111, to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, and S. 2117, to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system.
SD-366

JULY 15

9:30 a.m.
Indian Affairs
To hold hearings on S. 2097, to encourage and facilitate the resolution of conflicts involving Indian tribes.
SR-485

JULY 21

10:00 a.m.
Judiciary
To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.
SD-226

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

POSTPONEMENTS

JUNE 18

10:00 a.m.
Finance
To hold hearings to examine new directions in retirement income policy, focusing on social security, pensions, and personal savings.
SD-215

SENATE—*Thursday, June 18, 1998*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Reverend Pablo Gonzales, Chief of the Chaplain Service, Veterans Affairs Medical Center, Huntington, WV.

We are very pleased to have you with us.

PRAYER

The guest Chaplain, the Reverend Pablo L. Gonzales, offered the following prayer:

Join me in prayer this morning.

Eternal God, Creator and Redeemer of our great Nation, we lift our hearts, minds, and souls to You on this day of mercy. We humble ourselves before Your omniscience and omnipresence.

Father, we confess to You this day that we are dependent on You. Without You, we can do nothing. We rely on Your grace, on Your mercy, and on Your love to direct this Nation.

We pause to take time away from our busy schedules and from all the many activities to come before Your divine presence. As we humble ourselves before You, pour upon this Senate Your divine Spirit. Allow Your Spirit to flow and give the gifts of wisdom, understanding, and discernment to rest upon the lives of these men and women. We also lift up their families who pay a price of loneliness and sacrifice to this Nation. Be with them, Lord, and keep disease and injury away from them.

Father, lead us beside the still waters. Draw us away from our own agenda and help us to see Your unique perspective. Bless this day, for all things are in Your hands. In Your Name we pray, and all say amen. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Washington, is recognized.

SCHEDULE

Mr. GORTON. Mr. President, this morning the Senate will immediately resume consideration of the energy and water appropriations bill. Senator REID and I hope that Members who wish to offer amendments to the energy and water bill will come to the floor during today's session to offer and debate their amendments under short time agreements. Therefore, rollcall votes are possible during today's session of the Senate.

The majority leader would like to remind Members that the Independence Day recess is fast approaching, and therefore the cooperation of all Members will be necessary to make progress on a number of important items, including appropriations bills, any available conference reports, the Higher Education Act, the Department of Defense authorization bill, and any other legislative or executive items that may be cleared for action.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). Under the previous order, the leadership time is reserved.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Chair now lays before the Senate S. 2138, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2138) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Bob Perret, a congressional fellow in my office, have floor privileges during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, yesterday the chairman of the Energy and Water Subcommittee and I came to the floor with this bill, the fiscal year 1999 appropriations bill, for the programs, projects, and activities of the Department of Energy, Corps of Engineers, the Bureau of Reclamation, and other independent agencies. I support this $21 billion bill. It is not a perfect bill, but it is a very good bill. We worked under very extreme conditions in order to get the bill to the point that we have. This is a balanced bill. We did our best to accommodate everyone's priorities and projects.

Mr. President, on the way back to my office yesterday evening I was with some of the staff, and I asked one of the staff, "What is that you're carrying?" And I am not exaggerating, it was a folder, a big looseleaf notebook. And he said they were the requests from Members for projects in this bill.

We did our best. We did not make everyone happy. We tried to make sure that we had a balanced approach so that States could meet their needs.

We did not get all the cooperation that I would like to have had from the administration. They cut $1.5 billion from water projects. This left us with projects unfinished, left us with projects that simply needed to go forward. So we had to rearrange this pot to the point we are now here.

So I recommend this bill to my colleagues. This is a bill that includes about $21 billion for essential services in the Department of Energy and the construction and maintenance of water projects around the Nation.

I hope that, as my friend from Washington has said, Members will come forward and offer amendments. We have a limited amount of time. And I would suggest that if we do not get some amendments coming soon—this a very important appropriations bill—that we should move to third reading and move on to something else.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2713

Mr. GORTON. Mr. President, on behalf of Senator DOMENICI, for Senator INOUYE, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for Mr. INOUYE, proposes an amendment numbered 2713.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, add the following before the period:

": *Provided further*, The Secretary of the Interior is directed to use not to exceed $200,000 of funds appropriated herein to provide technical assistance in a study of measures to increase the efficiency of existing water systems developed to serve sugar cane plantations and surrounding communities in the State of Hawaii".

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be set aside so that other Members may, if they wish, offer first-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. I interrupt my friend from Washington and ask unanimous consent that a fellow from the office of Senator JEFFORDS of Vermont, Lisa Carter, be granted privileges of the floor during consideration of the energy and water appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, our desires not yet having been met, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2714

(Purpose: To add provisions of Amendment No. 2420 relating to tobacco policy)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 2714.

Mr. DASCHLE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

Mr. DASCHLE. Mr. President, I have the floor; do I not?

The PRESIDING OFFICER. The minority leader has the floor.

Mr. DASCHLE. Mr. President, I won't be long. I will accommodate the manager of the bill.

Let me just say this is an amendment that reflects where we were yesterday on what we consider to be one of the most important issues facing our country. I am hopeful that we can come back to this legislation again, as we debated it yesterday. The tobacco bill may have died last night, but the tobacco issue is very much alive.

We have noted that as legislation is presented to the Senate we have no recourse but to continue to press for final consideration, to get a vote, and ultimately to pass legislative changes that will allow us to confront the remarkable problems that we are facing in our country today. In South Dakota, 45 percent of teenagers now are addicted to smoking or are smoking—45 percent. Every day, thousands of children continue to light up for the first time.

Many of us feel that even though we lost parliamentarily yesterday, that we have no choice but to continue to press this issue, to continue to force the Senate to consider ways with which to resolve this matter.

As I said, there ought to be principles that unite us, principles that Republicans and Democrats can agree with, principles that would allow the FDA to regulate tobacco as a drug, principles that would allow us to come up with an orchestrated national effort to discourage smoking among teenagers, principles that recognize the importance of research as we continue to confront the myriad of health problems that are directly related to smoking and addiction. Those are principles that ought to unite us.

I don't think anyone ought to come to any conclusion that somehow because the McCain bill died last night that we now can wash our hands of this issue, that we now are going to move that aside and think that everything is just fine with regard to the schedule or with regard to this particular issue. It isn't. We are not going to be fine until we have come to some conclusion about this. It doesn't really matter what legislation comes before the Senate. We are going to be compelled, either in the form of amendment or in a motion to proceed, to force the Senate, to whatever extent we can, to stay focused on this issue until we resolve it. We are open for suggestions on how we might break this impasse, how we might resolve this matter. We are certainly prepared to sit down with our colleagues and come up with a piece of legislation that will work.

We will not let this issue die. We believe very strongly that it must continue. That is, in essence, what this amendment does. This amendment, for the information of all of my colleagues, simply takes us back to the McCain bill and the managers' amendment. The managers' amendment was added after a great deal of consultation with Members on both sides of the aisle. The managers' amendment and the McCain bill passed, I remind my colleagues, on a vote of 19–1 out of the Commerce Committee.

So this is an opportunity, once again, to use a vehicle to start the negotiations to allow us to come to closure on this issue. I had hoped we could do it sooner rather than later. This is an important bill. I hope we can get on to energy and water. I hope we can deal with all of the appropriations bills. Those bills have to be dealt with, but at the same time, many of us believe that tobacco has to be dealt with as well. Our effort to deal with it will have to be in the form of amendments or in the form of our motions to proceed so long as we haven't found any closure on how we ultimately resolve this very, very important national issue.

I hope we can have a good debate on this amendment. I hope we can have some good give-and-take about what we might do, as a Senate, Republicans and Democrats, to break this impasse and ultimately to pass meaningful tobacco legislation this month.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, as the Democratic leader said, what he has proposed now is that instead of dealing with the normal appropriations bills before the Senate, we should go back to a debate which has taken the last 4 weeks of the Senate's time and ignore everything else that is appropriate in the Senate business.

Last evening, in the last vote, his position fell eight votes shy of getting a necessary budget waiver because of its immense cost to the people of the United States. This proposal, obviously, is equally subject to such a point of order, one that I expect that the majority leader is likely to interpose soon. The result will be identical. In other words, it is simply a frustrating waste of the Senate's time when the Senate ought to be engaged in the business that is before us, and that is the energy and water appropriations bill.

I share one sentiment with the Democratic leader. I believe that the Senate should pass a bill relating to tobacco. I don't believe that it should be anything like the bill that was before us yesterday, by any stretch of the imagination. But if we are to pass legislation on the subject, it is going to require more understanding and more tolerance of one side to the other than evidenced in the course of the last 3 or 4 weeks. It clearly is not going to be accomplished by the kind of amendment that was placed before the Senate at this point.

Awaiting further instructions from the majority leader, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. NICKLES pertaining to the introduction of S. 2187 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FAIRCLOTH. Mr. President, I rise in strong opposition to the McCain bill, and I urge my colleagues not to revive this job-busting and budget-busting bill in committee. Like the wicked witch, it is dead, and I am delighted that its tortured life is over. I would like to reflect on this past month of debate on the tobacco bill, Mr. President, and I want to say a few words about this bill and its effects.

Mr. President, tobacco has a long and proud heritage in North Carolina. Since Colonial times, hard-working men and women have supported their families on tobacco, whether by coaxing tobacco from the ground or by processing it into the products used by consumers across the country.

On that note, Mr. President, I want to say a few words in defense of the people we have heard least about during this endless debate. I'm talking about the hard-working men and women of the tobacco manufacturing facilities. We hear all about Big Tobacco, Mr. President, but they're the folks who will suffer if this bill is not stopped. Many thousands of North Carolinians earn their livings in tobacco manufacturing and distribution. They work in the plants and in the warehouses, in the factories and on the loading docks, and on the interstates transporting the product.

These are good jobs, Mr. President, good jobs with good wages and good benefits. This bill puts those working people in its cross hairs. It is no secret to the people of my State that, in their declaration of war on tobacco, President Clinton and Vice President GORE assaulted the heart of our agricultural heritage. The anti-tobacco armies and the trial lawyers created the most serious threat to face the tobacco family in many years.

Just look at the line-up in Congress. Just look at the overwhelming support in the Democratic caucus for this bill. Democratic Senator DICK DURBIN wails that tobacco is the only government-supported crop "with a body count." Democratic Senator TED KENNEDY decries tobacco with characteristic bluster and charges the industry with "the insidious and shameful poisoning of generations of children." If we defeat this bill, Mr. President, it will be with the help of just a couple of Democrats. Where are the defenders of the working folks?

This is not about Big Tobacco, Mr. President, it's about hard-working men and women. The unions and I don't always agree, Mr. President, but I want to insert into the RECORD a statement from the North Carolina A.F.L.-C.I.O. They hit the nail on the head—this is about saving our jobs and saving our communities—and I stand with the working folks against the liberals, the trial lawyers, and the other special interests bent on destroying jobs.

Phillip Morris and R.J. Reynolds major employers in North Carolina. I'm proud of the working men and women at these factories. They're not the most popular folks on Capitol Hill these days, but that fact just speaks volumes about the confused values up in Washington, because we should honor their hard work not try to throw them out of their jobs. And they're not the only ones who will lose their jobs. These taxes will cripple countless businesses.

The McCain bill seeks to increase retail cigarette prices as much as $4.98 in real terms by 2004, tapering off to $3.80 by the year 2007. I am informed that this could lead to a reduction of nearly 50 percent in retail cigarette sales, along with large-scale increases in illegal smuggling activities, and that will cost American jobs.

By 2004, the year in which the payments under the McCain proposal peak, the loss in cigarette sales will lead to devastating economic consequences, and it will be the working men and women who will feel this pain. The economic models show that the price increases—and the effects of increased foreign smuggling—could lead to job losses approaching 1,152,974 workers nationally. That is a mind-boggling number, just think of 1,152,974 disrupted lives, all those hopes and dreams thrown into doubt and chaos. These are real people, supporting real families, working in diverse businesses. They are not just tobacco manufacturing workers, but also convenience store clerks, line workers in paper mills, long distance truckers, and graphic artists in advertising agencies.

For example, in North Carolina, it is estimated that the impact of this proposal will lead to a total loss of 48,691 direct jobs. The effect would be similar to a lay-off of this magnitude from a single employer, Mr. President, with the total impact on the community approaching 161,953 jobs. The implications of the McCain bill would be similar to laying off all of the 40,100 employees of both Burlington Industries in Greensboro and Family Dollar Stores of Charlotte.

However, most of these jobs are in communities that do not have any other industries of comparable size, so it is highly doubtful whether displaced workers would be able to find new jobs near home. Some supporters of the tobacco bill have questioned whether this matters. They claim that displaced workers can just move to where the jobs are. Well, that's not good enough. People have roots in their communities. Any farmer will tell you that you risk killing a plant when you pull out its roots and move it. People are no different.

And even if displaced workers can find new jobs without displacing their families and abandoning their communities, they are not likely to be able to match their current salaries and benefits. These are not wealthy people. These are working people. They simply cannot afford to lose a significant portion of their income.

We can reduce underage tobacco use. But we won't do it by punishing the innocent and honorable men and women who work in the tobacco industry. And we won't do it by destroying the economic engine that has supported their communities for generations. Mr. President, the men and women who work in the tobacco industry and the people who depend upon them deserve our respect and support. They have earned it. Please join with me in giving it to them.

I ask unanimous consent that the statement from the North Carolina AFL–CIO be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NORTH CAROLINA UNIONS STAND UP FOR TOBACCO JOBS: URGE POLITICAL AND BUSINESS LEADERS TO SAVE STATE'S ECONOMY BY JOINING FIGHT FOR FAIR SETTLEMENT

RALEIGH.—"Save Our Jobs, Save Our Communities," was the rally call of the state AFL–CIO and its unions representing workers in the tobacco and related industries. They're gravely concerned with the negative impact on North Carolina jobs and the economy if current tobacco legislation pending in the U.S. Congress becomes law.

The unions want political and business leaders to stand up for workers in tobacco and related industry, who will lose their jobs if the right tobacco deal is not passed in Washington.

"I'm here today to speak up for the thousands of hard-working North Carolina men and women whose jobs are threatened by tobacco proposals coming out of Washington, D.C.," said James Andrews, president of the North Carolina AFL–CIO. "These workers have been forgotten by the elected officials who are more concerned about politics then stopping underage smoking and keeping good jobs in our communities."

"The nation needs an end to the tobacco wars," he added. "Like everyone in this country, we want to stop kids from smoking. The unions in the industry have consistently supported strong, effective controls on youth access to tobacco. However, we also want to make sure any proposal protects our jobs."

Pending legislation in the U.S. Senate would devastate many communities in the state, the union leaders charge. "The McCain bill now before the Senate would destroy jobs, bankrupt the industry and create a black market in which its impossible to protect our children," said T.J. Warren of the Bakery Confectionery and Tobacco Workers Union.

Last June when the State Attorneys General worked out a settlement with the tobacco industry, the unions had high hopes of ending the tobacco wars with legislation that helped national health goals but at the same time preserved jobs.

"I am tired of hearing about proposals that destroy jobs and increase taxes in the name of tobacco reform legislation," said Warren. "Many members of Congress want to punish the tobacco companies. But, multinational tobacco firms aren't going to be punished. They'll switch production to low-wage countries and thrive. No one gets punished except the U.S. grower and worker and the communities in which we live, work and spend our consumer dollars."

"If tobacco moves overseas our plant will close. It cannot be converted to produce other products. More than 90% of what Acusta Corporation makes in Brevard is sold to cigarette companies. We make cigarette papers, foil, package and cellophane," said Jerry Stuart, president of Paperworkers local union 1971. "In the western part of North Carolina good jobs are scarce. If our plant closed it would be an economic disaster area. Not only would Paperworkers be out of work but many small businesses and even small towns would close up."

"Our members do not want their children to smoke, but they don't want to lose their jobs. These drivers who have established a middle class way of life would be forced into the working poor," said Chip Roth of the Teamsters Union. "The Attorneys General came to a reasonable settlement that will crack down on teen age smoking while allowing the industry to continue."

"I'm convinced a nation as resourceful as ours can devise national legislation that ends the tobacco wars and fulfills our national public health goals without destroying quality U.S. jobs and devastating the communities in which we live and work," said Andrews. "I refuse to believe that a nation built on freedom and fairness through compromise cannot give the nation what it needs—an end to the tobacco wars and a clear, predictable future for our jobs and families."

The unions would support a legislative solution that:

Gives Americans a clear, predictable future where kids don't smoke, public health goals are met and smokers and non-smokers alike have their rights respected.

Maintains the U.S. manufacture and export of a product that both domestic and foreign consumers want, thereby preserving U.S. jobs and communities.

Avoids unfair and regressive taxes that single our some individuals to bear the burden while making possible an immensely profitable black market in which we cannot control cigarette sales.

Ends the uncertainty of unpredictable litigation and relentless regulatory battles and brings stability to the industry and its jobs.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I raise a point of order that the pending Daschle amendment violates section 302(f) of the Budget Act and that it would cause the Energy and Water Subcommittee to exceed its 302(b) allocation.

Mr. REID addressed the Chair.

MOTION TO WAIVE THE BUDGET ACT

Mr. REID. Mr. President, I move to waive the Budget Act to permit consideration of the amendment.

Mr. GORTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, for the information of all Members, they should understand that this amendment on the part of the Democratic leader does not take us back to where we were yesterday. This is a bill that might best be called Commerce 2. It does not include any of the drug provisions; it does not include a repeal of the marriage penalty; it does not even include the Gregg amendments or the Durbin amendments. It does not include the amendment that was one of mine that was passed to limit attorneys' fees. In effect, this doesn't take us back to yesterday afternoon, it takes us back to 4 weeks ago. I hope that Members will overwhelmingly deny this.

Mr. DOMENICI. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered on the motion to waive.

QUORUM CALL

Mr. REID. Mr. President, a number of people on this side want to speak on this matter now before the Senate. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DORGAN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DORGAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 2]

Craig
Domenici
Dorgan
Gorton
Lott
Reid
Smith (NH)

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll.

Mr. LOTT. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. FRIST). Are there any other Senators in the Chamber who desire to vote?

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—96

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Boxer
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—2

Bond
Breaux

NOT VOTING—2

Faircloth
Specter

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I yield to Senator MCCAIN for 2 minutes.

Mr. MCCAIN. Mr. President, I intend to vote with the majority leader because I believe that it is not going to serve any useful purpose for us to continue in this parliamentary dilemma. I am hoping that negotiations and discussions are beginning, that perhaps we can reach some agreement and move this issue forward in the future. But right now I think we need to move forward with legislation.

Mr. LOTT. Mr. President, I now move to table the pending motion to waive, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to waive. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—54

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—2

Faircloth
Specter

The motion to table the motion to waive the Congressional Budget Act with respect to amendment No. 2138 was agreed to.

The PRESIDING OFFICER. The point of order is sustained and the amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. THOMAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THOMAS. Mr. President, I suggest the absence of a quorum.

Mr. KENNEDY. Will the Senator withhold that for 2 minutes so I can make a comment?

Mr. THOMAS. Mr. President, I will withhold for some debate, but not for the offering of an amendment.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have just seen an opportunity for the Senate to address the issue of public health for the children of this country once again, with the introduction of the legislation by Senator DASCHLE.

This is going to be the first of many attempts to try to ensure that the Senate is going to take action to try to protect the young people of this country. That is what this issue is all about. What we have just seen as a result of the vote is that the Republican Party is stonewalling action here in the U.S. Senate and, evidently, still kowtowing to the power of big tobacco and their campaign contributions.

We are not going to be silent on this issue, and we are going to continue to raise it. We believe that it is the most important public health issue, certainly for the children of this Nation, and it is an issue that is not going to go away.

So maybe today there is one more opportunity, by a narrow margin, to defeat those forces and for a reasonable and responsible approach on this issue. This issue is not going to go away. Our Republican friends had better get used to addressing it because they are going to have the opportunity to do it many more times until we get responsible action here, where the Senate is responding to the people's needs, the families' needs, not the interest of big tobacco.

This amendment by Senator DASCHLE would have given the Senate a second chance—an opportunity to reconsider its ill advised action of last night. A minority of Republicans used a transparent parliamentary ploy to frustrate the will of a majority of the Senate. The two votes last night proved that a bipartisan majority of the Senate supports tough antismoking legislation. It also proved that an obstructionist group of Republicans will stop at nothing to prevent fair consideration of the McCain bill. Those Republicans put the interest of the tobacco industry above the health of America's children. For the last four weeks, they have parroted the messages being broadcast in cigarette company advertisements. Last night, they gave their votes as well as their voices to Big Tobacco.

This issue will not go away. It will haunt the Republicans until they allow the bipartisan majority which exists to pass strong antismoking legislation to do so. Just as the Democratic leader brought the issue back to the floor today, we will bring it back again and again. This willful band of Republican obstructionists may have killed a bill last night and blocked consideration of the Daschle amendment today, but they cannot kill an idea whose time has come. Make no mistake, the time has come to protect our children from the evil influence of the tobacco industry.

The time has come to stop 3,000 children a day from beginning to smoke.

The time has come to save those children from a lifetime of addiction and premature death caused by smoking-induced illness.

The time has come to raise the price of cigarettes so they will not be easily affordable to children.

The time has come to stop the tobacco industry's targeting of children with billions of dollars of seductive and misleading advertising.

The time has come to protect millions of nonsmokers from the health hazards of secondhand smoke.

The time has come to prevent the 400,000 deaths caused each year by tobacco use.

No power on Earth—not even the Republican leadership of the Senate—can stop an idea whose time has come. The time has come for the Senate to reject the perverse influence of Big Tobacco, and to do what is right for America's children.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, first I just have to say to the Senator from Massachusetts that I am always sort of offended with the idea that if someone doesn't agree with him, they are suddenly a captive of special interests. I think that is very unfair. There are people who have different views, legitimate views, and I think they should be free to express those.

Mr. President, I ask unanimous consent that the Senate proceed to debate only until 12 noon.

Mr. KERRY. Reserving the right to object, and I will not object, I wanted to ask for a few minutes before we enter into that debate.

I am not submitting an amendment. I just wanted to have the right to make a comment for 2 minutes.

Mr. THOMAS. I absolutely have no objection to that. We are simply asking that the Senate proceed to debate until 12 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I want to join my colleague, Senator KENNEDY, in expressing what just happened here in the Senate. We just lost an opportunity to, in effect, begin with a clean bill. The complaint yesterday was that the bill had been too loaded down. The complaint yesterday was that the process had gotten away from us. In effect, what Senator DASCHLE did was put us back in the place where we began, to a committee piece of legislation that came to the floor by a vote of 19 to 1. And it was a piece of legislation, before the Lugar amendment was put in, before the liability amendment of Senator GREGG had passed, before the marriage penalty, before the Coverdell drug plan, before all of those things that were accused of loading it up. So, in effect, we had an opportunity to really start from scratch learning the lessons that the Senate had learned over the course of the last 3 weeks. But once again that was rejected.

As the Senator from Massachusetts said, this will be revisited. This issue is not one that will go away. As I said previously, you can run but there is no way to hide with respect to the responsibility that is expected for our children in the efforts to reduce teenage smoking. That will be revisited.

I yield the floor.

Mr. FAIRCLOTH. Mr. President, the McCain bill is dead, and I say good riddance. It was nothing more than a massive tax increase on working Americans to fund an expansion of the Federal government. However, I suspect that we will revisit the tobacco issue, and I want to ensure that my colleagues remain aware of a critical issue to the people of my State. I'm talking about thousands of tobacco farm families. These are people who depend on tobacco farming for their livelihood and who share a long and proud heritage.

Mr. President, my farmers are hurting, and we're losing more and more of them every year. The tobacco quota continues to drop, but not their credit payments, so they're getting squeezed to the limits. Some of them are well past their limits and were forced off their farms.

I believe that we will face the tobacco issue again next year. Certainly, whether or not we do a small and far less expensive youth access bill without a tax increase at the end of this year, we will return to the so-called tobacco settlement next year. If we return to this bill next year—not in a politically charged atmosphere just five months from Election Day—it will be far easier to manage this process and to come up with a reasonable bill that addresses the needs of all parties. That means farmers, and that is a critical point, because they are the folks on the front line and under fire in this war on tobacco.

We need to address this issue in a calm and reasonable atmosphere, not this hysteria, and I look forward to that debate. The men and women of the tobacco family need some certainty. If the Democrats want to continue their war against tobacco—and I want to point out that just two Democrats voted to kill the McCain bill—I say "protect the farmers" because they are the innocent victims of this unfair assault. This is indeed an unparalleled assault on their crop.

The farmers need help—and a settlement bill must include this help—in order to restructure their debt to a manageable level. A long-term payment scheme will not service their debt because tobacco production will continue to drop. These farmers fear that the creditors will call the loans and the fire sales that follow will depress land and equipment prices. They can't sustain this assault by their own government.

I want to be sure that the next generation of farmers have opportunities to grow tobacco, and I will fight to make sure that they have those tools, because they are the future of our nation. They grow our food. In Sampson County, North Carolina, where I live, you see the slogan "Support agriculture or try used food," and that sums it up. We cannot let our farmers suffer. We will not let our farmers suffer.

I look forward to this debate—I hope it will be a reasonable one rather than a tax-and-spend bonanza—and I look forward to the effort to prepare our farmers for the future.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I intend to offer an amendment at an appropriate time, probably around noon. What I want to talk about is national policy with respect to renewable energy.

I started on this issue back when I first came to Congress, which was in 1975, when this Nation woke up and realized that we were very vulnerable to the supply of oil. At that time, you may remember, we had lines of cars waiting for gasoline. We had terrible shortages. We realized that this Nation, in order to make sure that it had a future, had to do something about it. Working with my friends in the House, at that time we established a wind energy program, which is still going strong. We also increased the funding in research into solar energy and the advantages that it gives to our society to recognize that the Sun is a tremendous source of energy and that it can be harnessed. We also looked at biomass options as well.

Subsequent to that, when I came to the Senate, I also worked with the committee that handles it on the authorizing side. We developed a national policy. I had hoped that national policy would have mandated the course of action necessary to get this Nation to have 30 percent of its energy supplied by renewable sources. However, every word of my amendment was adopted except one, and that one was, instead of "shall," it said "may." That kind of switched things around as far as its importance. But the importance to continue to move forward to shift our dependence on foreign oil is something that has not gone away.

At that time, we established a chart of where we ought to be. Right now, under that chart of going towards 30 percent of our energy to come from renewable, it is at 10 percent. That is where we are supposed to be on course. We are not. We are at 8 percent.

What has happened now in this bill is that we have seen that renewables are cut and whereas, although things are perhaps more popular, or whatever items are increased, renewables are cut. Last year we got an additional $20 million approved, but when it got to conference, it disappeared. We are not making the kind of progress that this Nation needs in order to be able to become less dependent and, hopefully, someday independent of foreign sources.

If we look at the world situation now, we should understand that the largest amount of oil right now to take out of the ground, so to speak, is not available. The Crimean, which is one of the most volatile areas in the world, has the most oil that has to be looked to for the future. I think it is about 70 percent of what is available at the world level. The second area is the Persian Gulf. Obviously, neither of those is very close to us. So our dependency is increasing.

If you want to take a volatile area, you ought to take Crimea, right in the middle of one of the most volatile situations right now, including the areas of Pakistan all the way up through to Russia at the other end. And you have Iran and Iraq in the area. Those are areas that the pipelines would have to go through. Incredibly, also with expanding availability of nuclear weapons, these are very fragile areas. To think that we would have to rely upon them is very difficult. The same is true also, of course, with the Persian Gulf. Everyone is familiar with the problems we had in the Persian Gulf and the nonreliability at certain times of the availability of that oil.

The question is, What should we do? We decided years ago that we could get to 30 percent, really, with utilization and to a large extent of biomass, as well as wind and solar energy, and that we could do it with little or no increase in the cost of availability of the fuel, but it could give us the kind of utility we need. As I pointed out, we have not made any progress in recent years. In fact, we are sliding back from where we ought to be.

So the amendment that Senator ROTH and I will offer today is about priorities. I think we all agree that increased domestic energy production should be a priority. We would agree that a lower balance of payments should be a priority. We would stand up to U.S. companies selling U.S. manufactured energy technologies in overseas markets. We would cheer the increased jobs, which would mean for every State in the Nation. We would support the small companies across this Nation working to capture the booming global energy market. We would make it a priority to increase domestic energy production and promote clean air. But that is not what has happened here. The bill before us further whittles away at our Nation's efforts to wean itself from foreign oil.

The priorities in the bill for our Nation's energy policy go back years. This legislation will erode our efforts to develop technologies that increase domestic energy production. This bill ends commitments made to small energy companies that depend on Federal assistance to enter the giant global energy market. The funding levels contained here reduce our Nation's efforts to make major advancements in energy development, energy that is affordable, that is a clean, and, most importantly, made in America.

Today, Senator ROTH and I offer an amendment to increase our Nation's investment in clean domestic production. The amendment would restore funding to the Department of Energy's renewable research and development budget.

Mr. President, the fiscal year 1999 energy and water appropriations bill cuts funding for solar, cuts funding for wind, cuts funding for biomass, cuts funding for hydrogen, cuts funding for geothermal, and cuts funding for hydropower research and development by $120 million, or 33 percent below the administration's request, and $20 million from the fiscal year 1998 level. This $380 million account takes a $120 million cut. The amendment we offer today simply attempts to add back half this level, or $70 million, to the renewables budget.

A vote for this amendment is a vote to reduce our country's dependence on foreign oil from rogue nations like Iraq. A vote for this amendment is a vote to support small businesses all across the United States that produce clean renewable energy products. A vote for this amendment is a vote to help the same small businesses grab onto a chunk of that rapidly growing export market for renewable products. A vote for this amendment is a vote for cleaner air for our children.

Mr. President, I am going to address each of these reasons of why my colleagues should support this bill in turn.

Nearly half of all of our Nation's oil is imported today. These imports account for almost $60 billion, or 36 percent; 36 percent of the trade deficit is in this one area. These are U.S. dollars being shipped overseas to the Middle East which could be put to better use here at home.

Consider the following chart, chart No. 1. This chart shows that the U.S. Energy Information Administration predicts that we will import even more of our oil, two-thirds of all oil we consume, by the year 2020. That means we will continue to be held hostage by oil-producing nations, including rogue nations like Iraq.

This chart, as you can see way out here, shows we are just going to have increased prices in oil and all sorts of difficulty as we get out to 2020. U.S. petroleum imports are expected to reach two-thirds of consumption in the year 2020.

Our second chart, Mr. President, shows that we are not alone in our increasing dependence on foreign sources of oil. The Energy Information Administration also predicts that by the year 2020 the Persian Gulf will supply one-half of the world's oil exports—one-half. Why would we continue to increase our addiction to that very volatile area of the world?

We can reduce our dependence on Persian oil by continuing our investment in a clean domestic energy. I believe that these charts demonstrate very clearly that action must be taken. The goals that we set a few years ago to say that we should be at 30 percent of renewables must be adhered to.

Chart No. 3 shows that the United States currently obtains 8 percent of our energy from renewable sources. That is OK, but we can do better. We should do better. We must do better. In fact, in 1991, during consideration of the Policy Act, the Congress agreed to an amendment to boost our percentage of renewable power to 20 percent by the year 2000 and 30 percent by the year 2010. How will we ever get there if we keep cutting our commitment to the small businesses across the Nation that are moving forward with these technologies?

Chart No. 3, as you can see, indicates what we had in 1996. We had petroleum, 38.1 percent; nuclear, 7.6; renewables, 7.9; coal, 22.4; natural gas, 24 percent.

This percentage—7.9—if we were on target, if we were doing what we agreed to do when the act was passed, would now be 10 percent. It is not approaching the goal that we have agreed upon as a national priority.

Chart No. 4 shows that renewable energy is produced in every State in the United States. I think all Senators ought to take that into consideration. What you are doing is hurting the small businesses located in every State in the United States. Every Senator in the United States is a stakeholder in the debate we are having on the floor today.

Let us take a look now at the next chart that we have. I think pictures make points better than words. I want to share with you pictures of a variety of renewable energy projects across the country.

This is chart No. 5. It shows the Kotzebue Electric Association village power project. It is in Alaska. It is a wind project coming about from the bill that was put into effect at the end of the 1970's.

This project will reduce emissions from diesel power and will reduce fuel transport costs to villagers. It is in existence. It is one that is easily replicated. It should be available, but we need to have more assistance, and we cannot cut back on that assistance which has been so productive in getting us the improvements we have had.

Chart No. 6, this shows you the geographic distribution throughout our Nation. It shows that in the State of Oklahoma we have taxpayer dollars employing a geothermal heat pump in the State capitol building. This is geothermal, which obviously is another available energy supply, but we still need to have the research and the ability to replicate and duplicate and to find out better ways to be able to tap and utilize geothermal.

Chart No. 7 gets to another—this one is where we have the most availability in this Nation and where we can proceed without in any way hampering the present energy sources. We have the ability in this Nation with all its agricultural resources to produce biomass energy which would allow us to go forward to get to the targeted goals. But that is cut back.

This is the Bioten Biomass Plant, Red Boiling Springs, TN. This project produces energy from sawdust and will test other biomass fuels including wood residues and agricultural wastes.

The next one we have is chart No. 8, which is the Stirling Dish Concentration Engine at Sandia National Laboratory in Albuquerque, NM—a great State, New Mexico. This system, created through a public/private partnership, uses heat generated by the Sun's rays to produce utility grade electric power.

The next is a solar-powered school speed limit sign. This is an interesting use of solar energy—reducing dependence on electric power and ensuring that it works anytime the Sun is up, whether there are clouds or not.

Chart No. 10 is entitled "Waterfront Office Buildings." Mr. President, not only do these projects currently help, but they will not be moving forward as fast as they could if we don't at least put some of the money back that is used to fund it. Waterfront office buildings, these are located in Louisville, KY. These buildings are heated and cooled by geothermal heat pumps, saving the hotel $25,000 per month in utility costs.

Mr. President, these are the types of things we are looking at.

I see my good friend and cosponsor is here. If he would like to take some time, I am happy to yield the floor to him.

Mr. ROTH. I thank the Senator. I appreciate his offer as I am in a conference on IRS and it is important that I get back there as promptly as possible.

I appreciate the opportunity to speak briefly on this most important amendment.

Mr. President, as you know, Senator JEFFORDS and I are offering an amendment today that will restore funding for renewable energy programs in the fiscal year 1999 energy and water appropriation's bill. The renewable energy program has been cut by 33 percent below the administration request and $27 million below fiscal year 1998 levels. This amendment would add $70 million back to the renewable budget restoring all programs to fiscal year 1998 levels and boosting some programs 10–20 percent more. Even with these increases, America's investment in wind, solar, biomass, and other clean energy technologies will be well below the funding levels of 3 years ago.

Mr. President, renewable energy technologies represent our best hopes for reducing air pollution, creating jobs and decreasing our reliance on imported oil and finite supplies of fossil fuels. Whatever one's position on the issue of climate change—these programs promise to supply economically competitive and commercially viable exports. I believe that the Nation should be looking toward alternative forms of energy, not taking a step backward by cutting funding for these important programs.

My own State of Delaware has a long tradition in solar energy. In 1972, the University of Delaware established one of the first photovoltaic laboratories in the Nation. The university has been instrumental in developing photovoltaic cells, the same type of technology that powers solar watches and calculators.

Delaware has a major solar energy manufacturer, Astro Power, which is now the fastest growing manufacturer of photovoltaic cells in the world. In collaboration with the University of Delaware and Astro Power, Delaware's major utility—Delmarva Power & Light—has installed an innovative solar energy system that has successfully demonstrated the use of solar power to satisfy peak electrical demand. Through this collaboration, my State has demonstrated that solar energy technology can be an economically competitive and commercially viable energy alternative for the utility industry.

It is vital that we continue to manufacture these solar cell products with the high performance, high quality, and low costs required to successfully compete worldwide.

Investment in Department of Energy solar and renewable energy programs has put us on the threshold of explosive growth. Continuation of the present renewable energy programs is required to achieve the goal of a healthy photovoltaic industry in the United States.

While the solar energy industries might have evolved in some form on their own Federal investment has accelerated the transition from the laboratory bench to commercial markets in a way that has already accrued valuable economic benefits to the Nation. Solar energy companies—like Astro Power—have already created thousands of jobs and helped to reduce our trade deficit through exports of solar energy systems overseas, mostly to developing nations, where 2 billion people are still without access to electricity.

International markets for solar energy systems are virtually exploding, due to several key market trends. Most notably, solar energy is already one of the lowest cost options available to developing countries that cannot afford to build large, expensive centralized power generation facilities with elaborate distribution systems.

The Governments of Japan, Germany, and Australia are investing heavily in aggressive technology and market development in partnership with their own solar energy industries. Until recently, Japan and Germany held the lead in world market share for photovoltaics; the United States has only recently recaptured international market dominance.

Cutting funding for commercializing these technologies would have a chilling effect on the U.S. industry's ability to compete on an international scale in these billion-dollar markets of today and tomorrow. The employment potential of renewables represents a minimum of 15,000 new jobs this decade with nearly 120,000 the next decade.

Mr. President, I might also add biomass is another form of renewable energy with great potential. While traditionally biomass includes the use of wood chips and trash to create electricity, Maryland and Delaware are exploring the opportunities to use poultry manure as a biomass fuel. Manure used in this manner would not be spread on fields, a practice implicated by some as a cause of the recent outbreaks of pfiesteria.

The electricity generated by the plant could then be sold to electric companies, the ash from the burning manure could be marketed as an environmentally sensitive fertilizer. In England the poultry litter fueled electric plants produce over 38.5 megawatts of power and burn 440,000 tons of chicken manure a year.

The Jeffords/Roth amendment will restore the renewable energy accounts so that poultry manure fired plants and other renewable opportunities may become a real possibility in the future.

It is imperative that this Senate support renewable energy technologies and be a partner to an energy future that addresses our economic needs in an environmentally acceptable manner. My State has done and will continue to do its part. I hope my colleagues in the Senate will look to the future and do their part in securing a safe and reliable energy future by supporting this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from Delaware for his very eloquent statement and for his dedication to trying to get this Nation on the course it needs to be, to get off its dependency on oil. It has been a pleasure working with him over the years, and I look forward to continuing to do so.

I also would like to add two other Senators as cosponsors of this amendment: Senator MOYNIHAN of New York, and also Senator ALLARD from Colorado.

Mr. President, when I turned over the discussion to Senator ROTH, we were in the middle of going through charts which demonstrate right now the tremendous effort that is going on, and what needs assistance to make it even better, because we are sliding behind the results at this point of where we ought to be from these charts.

The last one I showed, to start over again, is the Waterfront Office Building in Louisville, KY, where they are using geothermal—which, incidentally, can use heat to cool, which is sometimes a little confusing. But the way it uses its geothermal, it saves this hotel $25,000 a month.

Now, let us take a look at some of these other charts so everyone here has a better opportunity to understand the depth of interest and the depth of participation in this Nation by private enterprises which are trying to reduce the Nation's dependence upon oil. That enthusiasm is out there, but it needs to be assisted. It needs to be demonstrated that we can even do better than we are doing, and we are nowheres doing as much as we used to be.

The next chart, chart 11, indicates several States have greater wind potential than California, where the vast majority of wind development has occurred to date. The top 20 States for wind energy potential include North Dakota, Texas, Kansas, South Dakota, Montana, Nebraska, Wyoming, Oklahoma, Minnesota, Iowa, Colorado, New Mexico, Idaho, Michigan, New York, Illinois, California, Wisconsin, Maine and Missouri. That just gives you an idea. We should add Vermont to that. Recently, we have opened our own wind production in the southern part of the State. But this shows the States right now, the top 20 States, as measured by their energy projections for wind. Obviously, wind is pretty free and there is a lot of it in this country. In fact, there is a lot of it right here in this Chamber, but we do need to better utilize it for a more effective presentation of our efforts to be able to save energy.

Now, let's look at the next chart we have, chart 12. Consider the two quotes on this chart. The first quote reads:

> In 1995, worldwide wind-power generation capacity was 4,900 megawatts. . . .

That is 1 million watts. That was China alone.

The second quote reads:

> In the past 10 years, PV sales worldwide have more than quadrupled . . . In developing countries, demand has risen significantly, fueled by the recognition that PV systems are an attractive option to rural electrification in isolated, inaccessible communities that are distant from the power—

Sources. Those are photovoltaics. PV is photovoltaics, taking the Sun and converting it, through utilization usually of silicon, to electricity. It is a wonderful source. It is free. It comes from the Sun, and it is increasing worldwide.

As it says here:

> In the past years, PV sales worldwide have more than quadrupled . . . In developing countries, demand has risen significantly, fueled by the recognition that photovoltaic systems are an attractive option for rural electrification in isolated, inaccessible communities that are distant from the power grid and have small electric requirements.

This is a tremendous source for exporting our technology and our systems around the world. In fact, when I was in the House, I did get an amendment attached which made demonstration projects at our embassies throughout the world to demonstrate how usable the Sun is to produce power and how effective it is.

In the past 10 years alone, photovoltaic sales worldwide have more than doubled. That is chart No. 12. American renewable businesses are taking advantage of these markets.

Consider this chart, chart No. 13. This chart shows a wind turbine produced by a small wind turbine manufacturer in my State. This turbine was built in Vermont and exported to Ontario, Canada. There is a large market for export of U.S. wind turbines to northern communities in Alaska, Canada and Russia. This is a picture of one. We have several of these in Vermont now. They are throughout the world, and they are not at all offensive. They are quiet. They make a lot of energy. This is a large market for companies in this country.

Although America is still a leader in developing renewable energy technologies, this lead may slip if we lower our renewable research and development funding. Europe and Japan continue to subsidize their renewable industry, putting U.S.-based companies at severe disadvantage.

For example, Japan, Germany and Denmark use tied aid, offer financing and provide export promotion for their domestic industries, and our industries have to compete with that. It is very difficult to do, but because of the success and the fact that we have advantages, they have been able to survive with great difficulty without having that assistance or loans. This is not the time to lose our lead or to cut funding out to this important industry.

Mr. President, there is one final reason why my colleagues should overwhelmingly support this amendment. This amendment is a vote for the environment. Renewable energy is largely free of the pollutants regulated by the Clean Air Act.

Chart No. 14 demonstrates this. Consider this geothermal power plant in Dixie Valley, NV. This plant, which produces electricity for 100,000 people produces no NO_X emissions and 5 percent as much SO_X and CO_2 as a coal-fired power plant of the same size. Five percent, that is 95 percent reduction in the production of those pollutants. We need more of these plants, like the one in Dixie Valley, NV.

Renewable energy can have other environmental benefits as well. Consider the following projects, all of which turn waste products into energy.

Chart No. 15: Westinghouse Power Connection. This one is a biomass gasification test facility in Paia, Island of Maui, HI. A pilot project demonstrates potential to convert agricultural waste—sugar cane—into electricity. Again, back to biomass which has incredible use available to us.

The next chart shows Wheelabrator Shasta Energy Co., a biomass project in Shasta County, CA. This project converts wood wastes that would otherwise end up in landfills into 49 megawatts of electric power.

The next chart—if I am right, we should have 50, one for every State. We will see how we turn out here. This is the BC International Corporation biomass ethanol plant in Jennings, LA. This plant will be retrofitted to produce ethanol from sugar cane, bagasse and rice waste.

The next chart will also demonstrate the number of plants we have spread throughout the country. This is in Connecticut; a fuel cell power plant, Groton, CT. The fuel cell plant uses hydrogen from landfill gas that otherwise would be wasted to create electricity. It is another indication of the tremendous breadth of expertise we have in this Nation to produce. All we have to do is make sure we don't cut back in their planning and ability to create many of the experimental plants.

Let me now conclude by, again, reminding everyone, we are proposing to add $70 million in our amendment to the Department of Energy's solar, wind and renewable budget. Federal support for renewable energy research and development has been a major success story in the United States. Costs have declined, reliability has improved, and a growing domestic industry has been born. More work still needs to be done in basic research at our national labs and applied development to bring down the costs of production even further. This is a tremendous opportunity for this Nation to develop industries which will help us reduce our trade deficits.

This is not a vote which pits Senators from one region of the country against Senators from another region. I think I have shown that all regions of the country benefit from renewable energy. This is not a vote which pits probusiness Senators against proenvironmental Senators. I think I have shown that renewable energy is a clean, environmentally beneficial industry. This is not a vote which pits Democrats against Republicans.

Chart No. 19: Consider this quote from former President Bush in September 1991. President Bush stated:

> We must encourage environmentally responsible development of all U.S. energy resources, including renewable energy. Renewable energy does reduce demand upon our other finite natural resources. It enhances our energy security, and clearly, it protects the environment.

So just before I offer the amendment, I would like to thank my colleagues who are cosponsoring it with me and urge—urge—my colleagues to sincerely consider the tremendous advantages which this amendment will have and to remind you, at present, we are cutting back—while going forward on other less necessary projects—we are cutting back on that which is most critical to the future of this Nation in its ability to gain the semblance of energy independence. We are slipping behind the chart and the goals that we have established. We cannot cut back in the funding that will help us get there.

I ask unanimous consent to have printed in the RECORD a table which sets forth the provisions in the amendment.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	Fiscal year 1998	Fiscal year 1999 President	Fiscal year 1999 Committee mark	Mark to 1999 (percent)	Mark to President (percent)	To get to fiscal year 1998	Plus specific adds	Plus 50 percent of what President asked for	Total adds
Solar energy:									
Solar building technology research	2,720	5,000	3,600	+32	−28			260	260
PV energy systems	66,511	78,800	57,100	−14	−27	9,411		6,445	15,856
Solar thermal energy systems	16,775	22,500	17,100	+2	−24		2,000	2,517.5	4,517.50
Biomass—Biopower	28,600	42,900	22,800	−20	−47	5,800		7,150	12,950
Biomass—Biofuels	31,150	46,891	36,213	+16	−44		2,000	2,870.5	4,870.50
Wind energy systems	33,030	43,500	33,200		−24			5,065	5,065
REPI	3,000	4,000	3,000		−25			1000	1,000
Solar program support	0	14,000	4,000	n/a	−71			3,000	3,000
International solar energy program	1,375	8,800	3,400	+247	−61			1,687.5	1,687.5
Solar technology transfer	0	1,360	0		−100			680	680
NREL	1,000	5,000	1,000		−80			4,000	4,000
Construction: 96 E–	2,200	0	0	−100					
Total, solar	186,361	272,751	181,423	−1	−29				
Geothermal	29,500	33,000	18,000	−39	−45	11,500		1,750	13,250
Hydrogen research	16,250	24,000	29,000	+79	+21				
Hydropower	750	4,000	4,000	+533					

	Fiscal year 1998	Fiscal year 1999 President	Fiscal year 1999 Committee mark	Mark to 1999 (percent)	Mark to President (percent)	To get to fiscal year 1998	Plus specific adds	Plus 50 percent of what President asked for	Total adds
Renewable Indian energy resources	4,000	0	4,000		n/a				
Electric energy systems and storage	44,450	38,500	42,500	−4	+11				
Federal building/Remote power initiative	5,000	0	3,000	−40	n/a	2,000			2,000
Program direction	15,651	17,000	15,651		−8			674.5	674.50
Subtotal	301,652	389,251	297,574	−1	−24				
Use of prior year balances			0						
Total	301,962	389,251	297,574	−1	−24	28,711	4,000	37,100	69,811

AMENDMENT NO. 2715

(Purpose: To increase funding for energy supply, research, and development activities relating to renewable energy sources, with an offset)

Mr. JEFFORDS. Mr. President, is my amendment at the desk?

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself, Mr. HARKIN, Mr. MOYNIHAN and Mr. ALLARD, proposes an amendment numbered 2715.

Mr. JEFFORDS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, lines 2 and 3, strike "$699,836,000, to remain available until October 1, 2000, of which" and insert "$758,854,000, to remain available until October 1, 2000, of which not less than $3,860,000 shall be available for solar building technology research, not less than $72,966,000 shall be available for photovoltaic energy systems, not less than $21,617,500 shall be available for solar thermal energy systems (of which not less than $3,000,000 shall be available for the dish/engine field verification initiative), not less than $35,750,000 shall be available for power systems in biomass/biofuels energy systems, not less than $41,083,500 shall be available for transportation in biomass/biofuels energy systems (of which not less than $3,000,000 shall be available to fund the Consortium for Plant Biotechnology Research), not less than $38,265,000 shall be available for wind energy systems, not less than $4,000,000 shall be available for the renewable energy production incentive program, not less than $7,000,000 shall be available for solar program support, not less than $5,087,500 shall be available for the international solar energy program, not less than $680,000 shall be available for solar technology transfer, not less than $5,000,000 shall be available for the National Renewable Energy Laboratory, not less than $31,250,000 shall be available for geothermal technology development, not less than $5,000,000 shall be available for the Federal building/Remote power initiative, not less than $16,325,500 shall be available for program direction,".

On page 36, between lines 13 and 14, insert the following:

SEC. 3. OFFSETTING REDUCTIONS.

Each amount made available under the headings "NON-DEFENSE ENVIRONMENTAL MANAGEMENT", "URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND", "SCIENCE", AND "DEPARTMENTAL ADMINISTRATION" under the heading "ENERGY PROGRAMS" and "CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)" under the heading "POWER MARKETING ADMINISTRATIONS" is reduced by 1.586516988447 percent.

Prior year balances may not be reduced if they are obligated under an existing written agreement or contract to laboratories, universities or industry.

Appropriate use of funds to support meetings and technical conferences are allowed consistent with DOE's mission.

Funding increases for this amendment are for cost-shared RD&D, deployment, and technology transfer via technical and trade associations and allied non-governmental organizations.

Mr. KENNEDY. Mr. President, I strongly support the Jeffords/Roth Amendment to the Energy and Water Development Appropriations Act, which will substantially increase funding for renewable energy programs.

The Jeffords/Roth amendment is critical to an industry that will be at the forefront of energy production in the next century. Renewable energy will bring major economic benefits and major environmental benefits to the nation. This amendment provides us with the opportunity to become leaders in this booming global market.

At the same time, increased renewable energy technology will decrease our dependence on foreign oil and reduce the trade deficit. We will have greater protection from harmful oil price shocks. Funding for renewable energy now will clearly strengthen our competitiveness in the worldwide energy market for the 21st century.

Equally important, the Jeffords/Roth amendment reaffirms the nation's commitment to the environment. Renewable energy enables us to reduce the emissions from other energy sources that are polluting our air and water. It helps to curb the largest current source of pollution in the United States—energy production and energy use. Bringing innovative research from the laboratory to the market will also ensure the protection of our limited natural resources for a sustainable future.

Currently, millions of Americans already obtain electricity from renewable energy sources. These advances are just a hint of the possibilities of cleaner, safer energy production in the years ahead. This amendment allows the U.S. to maintain its leading role in global clean energy technology. I support this amendment, and I commend Senators JEFFORDS and ROTH for their leadership in protecting our environment and our economy.

Mr. LEAHY. Mr. President, I have the pleasure of joining Senator JEFFORDS to rise in support of the renewable energy programs within the Energy and Water Appropriations bill. First, I would like to thank Senator DOMENICI for accepting the Jeffords/Roth amendment to increase funding for these vital programs. With the dramatic changes taking place in the energy sector, our nation is faced with many opportunities to increase our consumption of renewable energy sources. There are two trends in the energy sector converging to make this change possible—utility restructuring and decreasing costs for renewable energy.

In my home State of Vermont, renewable technology companies are building wind turbines that are used in Europe, the Far East and South America. Unfortunately, the United States is behind much of the world in adopting wind and other renewable energy technology. Much more work needs to be done to spur the utilization of renewable energy. Although the cost of renewable energy has decreased significantly over the last decade, it still must compete against the artificially low cost of fossil energy. As we see the level of mercury and other heavy metals increase in our lakes while the views of our mountains are obscured by air pollutants—the need to find alternative sources of energy becomes all the more vivid.

Recent articles have highlighted the public's interest in maintaining renewable power as an option for meeting their energy needs. The last two decades have witnessed a decline in the cost of renewable energy. Research by the Energy Department and the commitment of private energy companies has produced this decline. As a nation, we must build upon this partnership and encourage the private sector to continue to develop cost-reducing technology. Unfortunately, the recent trend in federal research funding has not supported this partnership.

Wind Energy Research and development program has been extraordinarily successful in bringing down the cost of wind-generated electricity. To allow expansion of this large resource base, and to allow wind energy to be competitive in an era of utility restructuring that emphasizes low initial cost and independent power projects, significant improvements to the technology are still needed to reach the Program's goal of 2.5 cents per kilowatt by 2000. In addition, research and analysis relating to restructuring in the electric utility industry should be conducted on issues associated with integration of wind and other renewable energy systems into an increasingly competitive industry framework.

Vermont is also leading the country in the deployment of biomass technology—both large and small. We are proud that the Department of Energy selected the McNeil Plant in Burlington to conduct a full scale demonstration of biomass gasification. In February, the project made history when the plant produced gas for fuel from wood chips. The effort at McNeil to demonstrate how our country can produce energy from renewable crops makes sense to Vermonters who have already embraced biomass as a renewable source of energy. Twenty State office buildings and eighteen schools use biomass for heat during the winter.

By increasing funding for renewable energy by $65 million, the Jeffords/Roth amendment will help us make this leap. Mr. President, this amendment makes sense for our future and our children's future. Our children should be able to enjoy sustainable, clean and renewable energy.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. REID. I compliment and applaud the Senator from Vermont and those who have joined in this amendment. As we have said earlier, the administration recommended a higher level for this particular program—solar and renewable. The movers of this amendment have also recommended that this body move higher with solar and renewable. I think that their efforts are certainly to be congratulated.

It is a very difficult bill, as we have explained on other occasions. There is a limited amount of money to do a number of different things. The Senator from Vermont has done a very good job of explaining the importance of renewable energy in this country. Of course, he mentioned a number of programs in Nevada that are important. We have geothermal. We have solar that we are working on. So we certainly look forward to working with him on this amendment.

I am waiting for the manager to come back. I think there is a good chance we may accept this amendment. I know it is acceptable on this side.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, after discussions with the chairman of the subcommittee and the ranking member, I understand that we are in a position where the amendment can be accepted with striking a certain provision. I am doing that and am going to accept that proposition with the understanding that there will be a strong effort to fight to maintain the amendment as best they can in the committee of conference, because the history has been that on these amendments, which have been accepted in the past, they kind of disappear in conference. But I have the good-faith-effort commitment of the Senator from New Mexico, and I accept that, as I know him and I know his character; and the same with the Senator from Nevada.

So, Mr. President, I now move to amend my amendment by striking all after line 8 on page 3 of the amendment.

Mr. DOMENICI. Would you not do that for a moment?

Mr. JEFFORDS. I withdraw my request.

Mr. DOMENICI. I don't want any misunderstanding. I don't want the Senator withdrawing that based upon a unilateral statement that he has made.

I think I must make my statement in the RECORD.

Mr. JEFFORDS. I appreciate that.

Mr. DOMENICI. Then the Senator can do whatever he wants—leave it in and we have a fight or take it out and we accept it.

Mr. President, I am not committing that I will return in the conference with this fully funded. I don't know that I can do that. What I am suggesting is I will do my dead-level best. I don't go there with the intention of throwing the amendment away. I go there intending to try to see if we can fund it. I have every confidence that we will find some money to exceed what is in the bill. Now, whether it can be exactly this amount or not, I have no idea at this point. That will be the dynamics, and a lot of things in the amendment that are very difficult that I am not agreeing to right now.

I am agreeing to accept the amendment and we will take it to conference on those terms. The Senator can rely on what I have just said.

With that, if he will remove the handwritten part that was added, that is fine. If he does not want to, then clearly I don't have any reluctance to having a full-blown debate on this amendment today. I have plenty of time. I don't want to do that if we can get it done the way we have just talked about, otherwise we will just proceed.

Mr. REID. Mr. President, I have already said that I appreciate the offer of the amendment by the Senator from Vermont and the statement by the Senator from Delaware.

I have indicated that Senator DOMENICI and I have had and will work to increase the number that we have in this bill. We have all been to conferences and we will do the very best we can. I believe in these programs. I think it would be to everyone's interest that we go ahead on that basis. I don't think it would serve anyone's interest, after we have agreed to accept this amendment, to now have a full debate on it. If, in fact, my friend from Vermont wants one, we can do that. There are things in the program we can all talk about that I think would be better left for a later time.

But I will do my share with the chairman of the subcommittee, with those of us on this side of the aisle in the conference, to do everything we can to raise the number as high as we can.

The PRESIDING OFFICER. Does the Senator wish to modify his amendment?

Mr. JEFFORDS. I want to, first of all, make a comment or two. I thank both the leaders on this bill. I respect their comments. I also know that you cannot promise anything when you get into conference, but I will also be watching very carefully because in the past we have not had any success in holding these amendments.

I understand, though, that the administration is strongly in favor of more funding. I understand there may be additional funding in the health provision, so I expect that we will be able to get a significant increase at this time.

AMENDMENT NO. 2715, AS MODIFIED

Mr. DOMENICI. Has the modification taken place?

The PRESIDING OFFICER. The modification has not taken place yet.

Mr. JEFFORDS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, (No. 2715) as modified, is as follows:

On page 21, lines 2 and 3, strike "$699,836,000, to remain available until October 1, 2000, of which" and insert "$758,854,000, to remain available until October 1, 2000, of which not less than $3,860,000 shall be available for solar building technology research, not less than $72,966,000 shall be available for photovoltaic energy systems, not less than $21,617,500 shall be available for solar thermal energy systems (of which not less than $3,000,000 shall be available for the dish/engine field verification initiative), not less than $35,750,000 shall be available for power systems in biomass/biofuels energy systems, not less than $41,083,500 shall be available for transportation in biomass/biofuels energy systems (of which not less than $3,000,000 shall be available to fund the Consortium for Plant Biotechnology Research), not less than $38,265,000 shall be available for wind energy systems, not less than $4,000,000 shall be available for the renewable energy production incentive program, not less than $7,000,000 shall be available for solar program support, not less than $5,087,500 shall be available for the international solar energy program, not less than $680,000 shall be available for solar technology transfer, not less than $5,000,000 shall be available for the National Renewable Energy Laboratory, not less than $31,250,000 shall be available for geothermal technology development, not less than $5,000,000 shall be available for the Federal building/Remote power initiative, not less than $16,325,500 shall be available for program direction,".

On page 36, between lines 13 and 14, insert the following:

SEC. 3 OFFSETTING REDUCTIONS.

Each amount made available under the headings "NON-DEFENSE ENVIRONMENTAL MANAGEMENT", "URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND", "SCIENCE", and "DEPARTMENTAL ADMINISTRATION" under the heading "ENERGY PROGRAMS" and "CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)" under the heading "POWER MARKETING ADMINISTRATIONS" is reduced by 1.586516988447 percent.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Mr. President, we have no further debate on the amendment. We are going to accept it.

I will make a little comment about what happened to the budget from the President of the United States as it pertains to this bill. First of all, the President of the United States, in the budget he submitted to the U.S. Congress, is responsible for the fact that we don't have enough money to do the renewables that the distinguished Senator from Vermont comes to the floor and adds money for. The President of the United States took the water projects of this country—and these are not pet projects, these are the ports that have to be dredged in our country, dams that have to be built for flood protection, just a whole litany of them everywhere—he cut them $1.3 billion.

Frankly, all I can see in that kind of a cut is that he expected us to put the money back because we could not have kept the Corps of Engineers together with their projects out across our land. We could not have kept a viable program. Mr. President, $1.3 billion is a dramatic cut from what was needed for funding at the acceptable rate that the projects were in last year—not new ones. That money makes up the same pot of money from whence comes all of the DOE's nondefense research projects and all the water projects.

So we start off with that one pot of money, short $1.3 billion, and the President picked and chose what he would like to increase. As a matter of fact, he increased certain water projects that he has been for and forgot about the water projects that the rest of the Congress has been for, including very important projects.

Now, in order to get around that, we had to find money from places that he had dramatically increased. Even at that, we only funded those projects at between 60 and 70 percent, meaning it will cost us more money in the long run, the projects will be delayed, and some of them are very big, important projects for commerce such as ports that are to be dredged, with facilities to be built.

It wasn't, when we put this bill together, that with some kind of gusto we set about to dramatically reduce the programs that are the subject matter before the Senate right now. It was that we had an obligation to fund that fund at 60 or 70 percent. That is all we could do for the myriad of water projects across this land which have a tremendous economic impact and which save much property and save much life when they are completed.

Now, that puts in the position we are when we come to the floor here. Everybody understands that we are not going to have it much easier in conference, although thanks to the chairman of the Appropriations Committee a little more money was allocated to this committee than the President's budget because of the water project dilemma that I have just described.

Now, that is the essence of why this bill has difficulty. It is not even funded in many areas as high as it was last year. Certainly, the water projects don't have sufficient resources to stay on the course that was there. That was the best course, the optimum course, in terms of efficiency and getting the projects done so that we would save lives and save property at the earliest time.

Having said that, with no objection from the ranking member on the other side, we will accept this amendment and do our very best in conference to see that solar energy and the items mentioned in the amendment, that the funding is increased from what we had in our bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2715), as modified, was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. REID. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank Senator JEFFORDS for his cooperation.

Mr. JEFFORDS. I thank the chairman of the committee as well as the ranking member for their assistance in this. I am hopeful we are making an important step forward here in our energy self-reliance.

I yield the floor.

Mr. DOMENICI. Mr. President, in stark contrast to the last 3½ weeks, this bill is moving along very rapidly. I announce to the Senate that we can, indeed, finish this bill by midafternoon. The amendments that we are aware of that have come either through the minority, through my good friend, Senator REID, or through our side, are being worked on and we don't think there is a rollcall vote necessary on any of those. There is one amendment that the distinguished Senator from Indiana, the junior Senator from Indiana, intends to offer. It is not related exactly, to this bill, but he indicates that he will be here about 2 o'clock.

In the meantime, we are going to try to work on the amendments we have and see if we can put a package together and accept them. That will be all we will have until 2 o'clock, unless some Senator has some amendment of which we are unaware.

I really want to make sure that everybody knows I have checked with the leader. He knows of no other business on this bill, and he wants to finish this afternoon. By 2 o'clock I hope we can have the Indiana Senator call up his amendment. Again, I indicate that is the last amendment we know about.

Mr. REID. Mr. President, we would like to go to third reading early this afternoon. I say, also, to elaborate on what my friend from New Mexico says, there has been a lot of partisan rancor on this floor the last several weeks. But as I said when we introduced this bill yesterday, there are times on this Senate floor—a lot more often than people are led to believe—when things move along very well, in a bipartisan fashion. There is no better example of that than every year when we get to the appropriations bills. Sometimes we have partisan problems, but not often. I think the two leaders of this Appropriations Committee, the senior Senator from Alaska and the senior Senator from West Virginia, have set a very good tone as to how we should move on these bills. They work very well together, and they have for many years. The Senator from New Mexico and I have worked together for a number of years on this bill.

This is a good bill, a very important bill for this country, not only for domestic purposes, water projects, but also for the security of this Nation. Much of what is in this $21 billion appropriations bill deals with security of this Nation, our nuclear arsenal—the safety and reliability of our nuclear arsenal.

So I say to my friends in the Senate that not everything we do is partisan in nature. There are certain things that rise above that. This bill is one of those times when partisanship should have no bearing, as it hasn't in the last several years.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I have already stated for the RECORD and for the Senators what the situation is on this bill.

The managers' staffs are working on a managers' wrap-up amendment, which we think we can have done by 2 o'clock. Senator COATS will be here to offer an amendment. There will be nothing we can do until 2 o'clock.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMBASSADOR BILL RICHARDSON TO BECOME SECRETARY OF ENERGY

Mr. REID. Mr. President, today an announcement was made by the President that we are going to have a new Secretary of Energy, Bill Richardson, a former Congressman from the State of New Mexico, now our ambassador to the United Nations.

In 1982, I came to the Congress with Bill Richardson. We were both in the class of 1982. He had a long and distinguished career in the House where he served honorably on a number of committees, including Commerce. Of course, during the time he was a Member of the House of Representatives, he did some very unusual but very important diplomatic maneuvers—freeing various people held as political prisoners, and other efforts, which were extremely important, not only to this country but for world peace. The President had recognized that and he selected Bill Richardson to be our ambassador to the United Nations, where he has served honorably.

The need for former Congressman Richardson, now Ambassador Richardson, to return to Washington has been noticed by the President. As a result of Secretary Pena retiring, we now have a tremendous need for someone who understands Washington, and certainly Bill Richardson does that; someone who understands Government, and certainly Bill Richardson does understand Government; someone who has an understanding of the importance of the Energy Department, and Bill Richardson has that understanding based upon his being from New Mexico where so much dealing with things nuclear have taken place for the last 60 years.

So, Mr. President, I am elated and enthused about the new Secretary Richardson. He has big shoes to fill, as Secretary Pena has done an outstanding job. Secretary Pena has approached his job in a bipartisan fashion. Even though he is part of this administration, he has reached out to Chairman DOMENICI and the ranking member of this subcommittee in trying to be fair and reasonable in his approach to issues that are so important to this country and to the world.

I applaud and commend the administration for selecting Bill Richardson to be the next Secretary of Energy.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE DETROIT RED WINGS ON WINNING THE 1998 STANLEY CUP

Mr. LEVIN. Mr. President, I rise to speak on S. Res. 251, which has been introduced by myself and Senator ABRAHAM, which I am confident will be passed later on today. This resolution congratulates the Detroit Red Wings for their second successive Stanley Cup victory. Tuesday night, the Red Wings defeated the Washington Capitals 4 to 1. This is the second time in 2 years that the Red Wings have swept the Stanley Cup finals—four straight.

In perhaps the most moving and memorable moment of the evening, after the victory, the Stanley Cup was placed in the lap of Vladimir Konstantinov, who was injured after last year's Stanley Cup victory in an automobile accident. I have come to know Vlady and his wife Irina during this past year, when they have recovered, at least partly, from that terrible tragedy of a year ago. What is extraordinarily moving is the way the Red Wings—indeed, all the Red Wings' fans—have become a closer family as a result of that accident, the way they have surrounded Vlady with love and support. The whole town—indeed, our whole State and to some extent the entire country—has come to the support of Vladimir Konstantinov. When he was pushed in his wheelchair around the ice at the MCI Center on Tuesday night, with the Stanley Cup in his lap, surely we reached a new height in terms of what family means and what family is all about.

The Red Wings have surely the greatest hockey fans on Earth. Detroit lives and breathes hockey, and there are a legion of fans all over our State and throughout the country who came to the MCI Center on Tuesday night. There was a sea of red shirts in the stands. I was one of those who had the pleasure of being there to see this very, very special victory. I also, though, want to not just pay my respects and appreciation to the players who brought home the cup again, and the Konstantinovs and those who supported that team, but also to the Caps fans who treated the Red Wings fans in the audience with such decency and civility.

I have been to a lot of Red Wings games away from home where that was not true, where the opponents' fans, indeed, were quite hostile to their opponents. But on Tuesday night, as was true on Saturday night, the Caps fans treated us very, very civilly indeed. And when it came that moment, that very magic moment in the third period when the fans were serenading Vlady, who was sitting up with Irina in the stands, the Caps fans joined with the Red Wings fans in the arena singing, "Vlady, Vlady, Vlady." That was also a moment I will always remember and cherish. Our captain, Steve Yzerman, won the Conn Smythe Trophy, deservedly so. He has been an extraordinary role model for so many young players, as Detroit Red Wings before him were role models for him.

Speaking just for one more moment on that subject, when I was young and my brother Sander was young, we used to go down to Olympia frequently with my mother, going up to the cheapest seats available, three flights up in the balcony, where we rooted for an earlier generation of great Red Wings, the so-called Production Line of Sid Abel, Gordie Howe and Ted Lindsay, and our great goalie Terry Sawchuck in those years, in the fifties, who brought home the Stanley Cup on many occasions to Detroit.

That has happened again this week. The Red Wings fans, perhaps a million of them, have just finished celebrating in a parade down Woodward Avenue from the Fox Theater to the Hart Plaza. The Hart Plaza, by the way, is named after a former U.S. Senator, one who touched the hearts and the souls of this body, Phil Hart. The place where that parade started was the Fox Theater, and it was very appropriate that that be the place because that theater has been restored by the Ilitchs, Mike and Marian Ilitch, who are the owners of the Detroit Red Wings. I only wish I could be there to greet my friends the Ilitchs in person today, to thank them again for what they have done for our city. But how sweet that victory was, how moving that victory was, how important these events are in terms of gluing our communities together, bringing us together as family.

With the shouts of, "Go, Wings, go!" still ringing in my ears, they now can savor the victory of a Stanley Cup. Just as their names are engraved on that cup, so their names will be engraved in this resolution when it passes, after Senator ABRAHAM has an opportunity to get to the floor.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Mr. DORGAN. Mr. President, I understand that we are in morning business. However, the pending business, beginning at 2 o'clock, is the Energy and Water appropriations bill. I will make a couple of comments about the legislation brought to the floor by Senator DOMENICI and the ranking member, Senator REID.

I am a member of the Subcommittee on Energy and Water, and I support this piece of legislation. I think Senator DOMENICI and Senator REID have done a wonderful job. I understand that a lot of the details of this legislation will not be discussed at great length today, but I want to mention a couple of things in this bill just for purposes of alerting people that there are some significant problems that are being addressed, especially in the State of North Dakota, in this legislation.

One piece of this legislation deals with funding for something called the Garrison Diversion Project. Now, that is a foreign language to most people, and no one really would be expected to know much about the Garrison Diversion Project in North Dakota. But I want to give some history, just for a few brief minutes, about this project and why it is important.

Many years ago, the Missouri River—which was an aggressive, large river coming out of the mountains in Montana—was untamed, and during the spring flooding it would race down over its banks, and in the lower regions of the Missouri River down in Kansas City and elsewhere you would have massive flooding, flooding, in fact, all the along the way, including cities in North Dakota. It became a huge problem. Federal officials said let us try to harness the Missouri River with a series of dams. They proposed a series of "stem" dams on the Missouri River and one would have been in North Dakota.

In the 1940s, the Federal officials said the folks downstream want the river harnessed so it won't flood, so they don't have all the problems downstream. What we would like to do is build a dam in your State. We would like to have a flood come to your State—behind the dam—that comes and stays forever. The flood in your State of North Dakota will be a 500,000-acre flood about the size of the State of Rhode Island. So they said to North Dakotans—in the 1940s—if you will allow us to put a permanent flood in your State by building a dam and damming up the water behind it, put a permanent flood that comes and stays forever in your State, we will give you the ability to move that water behind that dam in that reservoir around the State for a whole range of important purposes, including municipal, rural and industrial water needs.

People of North Dakota thought, that is not a bad deal. We will accept the flood that comes and stays forever, but then we will get this promise from the Federal Government of being able to take water from behind that dam and moving it around the State to improve water supplies to farmsteads, cities and so on in North Dakota, to provide water for industrial development and a whole range of things that will create more economic growth in the State.

So they built the dam. President Eisenhower came out and dedicated the dam. Then they created the flood. So the dam is there, the flood came, the flood stayed, and we have a Rhode Island-size flood in our State forever.

So we got the cost, we are now hosts to a permanent flood, but we have not yet gotten all of the benefits. And that is what the Garrison Diversion Project and the funding in this bill is about.

With the consent of the Presiding Officer, I will show my colleagues, or at least provide a demonstration today for those watching, the quality of water that we are talking about in some of our communities.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I brought to the floor a little container of water. Now I know this looks very much like coffee. It is not coffee. It is well water from a well at Keith and Ann Anderson's place in North Dakota. The water that comes from that well, looking like the color of coffee, is water that will be replaced by water behind the Garrison Dam from the Missouri River.

That new water, the fresh water, coming out of the mountains from Montana in that large reservoir now in North Dakota can be moved around our State and can replace this water and we will have safe, wholesome and healthy drinking water in communities and on farmsteads in our State.

That is one part of this project. This chart shows what I have just showed a moment ago, the color of some of this water, the quality of the water that is being used, forced to be used in some communities, in some farmsteads in North Dakota and why we must find a supplemental supply for it. That is what this project is about. Water delivered to rural North Dakota by pipeline behind the reservoir looks like this clear water, and it replaces this brown water.

Is that good for people's health? Of course it is. Is it good for our State? Is it a good investment in our future? Of course it is. Is it, more importantly, keeping a promise to a State that got the cost of a flood that comes and stays, keeping the promise to be able to use that water for economic development for our future? Yes, that is an important promise for this government to keep. For that, I appreciate the work of the Senator from New Mexico and the Senator from Nevada today on this piece of legislation.

I will make a point about one additional provision in this legislation dealing with some construction money for what is called an emergency outlet at Devils Lake, ND. I show a photograph that was taken in 1965. This is a woman standing next to the bottom of a telephone pole. She is looking up to the top of the pole. The pole actually ended about here. This lake, is now way up to here, far, far above her head. This is Devils Lake, which is part of a basin the size of the State of Massachusetts. It is one of two closed basins in the United States. One is the Great Salt Lake and one is Devils Lake.

In this basin the water runs down, just like any funnel, except there is no place for it to go. This lake has gone up and up and up. You can see, relative to this picture in 1965, where the water is today. This graph shows it even better. It shows what has happened over 150 years with respect to the water level. It is at 1,445.5 feet now. The cumulative damages from all of this are substantial: hundreds of millions of dollars, threatening people's homes, inundating farmland, threatening cities. This has been a huge problem, and there is no obvious solution for it—at least there is no one obvious solution.

We are working on a range of things to try to resolve and respond to this issue: No. 1, upland storage, up in the upper part of the basin, to store water so it doesn't flow down to the lake, building dikes to protect cities; No. 3, raising roads, which is expensive, we have had to raise roads and then raise them again; No. 4, an emergency outlet to try to take some pressure off of that lake—an emergency outlet that would go over to the Sheyenne River. That is what is in this piece of legislation—another component of financing for an emergency outlet from Devils Lake.

I know for those who have never seen or heard of Devils Lake that this doesn't mean very much. But this means almost everything to the people in the region and who are now threatened every day by this lake that continues to rise. The lake has doubled in size and tripled in volume in just a few short years. It now threatens a very substantial city in our State, cripples an economy, inundates roads, and it is a very, very serious problem.

The piece of legislation before us provides another increment of construction funding for an emergency outlet. The outlet would not be huge; it would not be an outlet sufficient to let a lot of water off of the lake. But the outlet would remove a foot to a foot and a half a year of water from the lake depth. Marginally, over a period of years, it would help to take some pressure off of that lake.

So that is the story of these two projects. Once again, I wanted to simply indicate that both of them are very important. We have had the cooperation of the chairman of the subcommittee, the ranking member, and others, on the appropriations subcommittee, to get some funding for both of these projects. Both projects will be good investments in our country and in our country's future.

I commend the Chairman of the Energy and Water Subcommittee, Mr. DOMENICI, and the ranking member, Mr. REID, for the consideration given to the people of North Dakota in the Fiscal Year 1999 Energy and Water Appropriations bill. The people of North Dakota are most thankful for the Appropriations Committee's support of the state's priority water projects, particularly the Devils Lake emergency outlet and the Garrison Diversion project.

I am privileged to serve on the Subcommittee and I note that Senator DOMENICI, in his statement before the Full Committee, remarked that he was able to provide only between 60–70 percent of the optimal funding level for water project construction in this bill. He faced enormous difficulties in this bill brought on by a budget request which was $1.8 billion below the level required to continue ongoing construction projects at their optimal level.

In the face of these difficulties, the Subcommittee supported funding for an emergency outlet from Devils Lake—a body of water that normally has no natural outlet. It's a body of water that is rising inexorably and with a vengeance, displacing people, rendering formerly productive fields and roads useless. The devastating flooding in the Devils Lake region is very similar to recent flooding at Salt Lake, Utah—the other major closed basin in the United States.

A headline this week from a local newspaper reads: "Economic costs of Devils Lake flood are staggering." More than 170 homes have had to be moved. Damage to roads, bridges, and other property is estimated at around $250 million. And 70,000 acres of prime land have disappeared. The long-term effects of this flood emergency on personal incomes, on regional agriculture and local businesses, and on the local tax base are as yet undetermined. But the short-term impacts are unmistakable as bankruptcies multiply, farm auctions become routine, and local governments scratch to pay for mounting costs with dwindling revenues.

The Senate Subcommittee and Full Committee honored the President's request for funding to address this emergency. Some predictions are that the lake could keep on rising and eventually spill into the Sheyenne River, resulting in a flood of unknown magnitude, but sure to result in the loss of key roads, vital infrastructure and thousands of acres of farmland. Such an uncontrolled outflow from the east end of the lake, with extremely high levels of dissolved solids, would create environmental havoc for the water supplies of downstream communities.

For these reasons and others, the Committee wisely provided additional funding for an emergency outlet from the west end of the lake, where water quality is compatible with the Sheyenne River. Controlled releases would also be managed so as to avoid any downstream flooding.

I would further point out to my colleagues that the project must meet tough fiscal and engineering tests, besides complying strictly with the National Environmental Policy Act and the Boundary Waters Treaty of 1909. The latter requirement involves full consultation with the International Joint Commission in order to address potential concerns of the Government of Canada.

Finally, let me emphasize that the appropriation for an outlet bars the use of these funds to build an inlet to Devils Lake. Despite the lingering fears of some interests, neither the FY 1999 appropriations nor the prior appropriations would allow for an inlet. Moreover, pending legislation to revise North Dakota's main water development project, the Garrison Diversion Unit, includes no provision for either an inlet to or an outlet from Devils Lake. This reflects a joint determination by the bi-partisan elected leadership of North Dakota on how to proceed with these projects.

This FY99 funding bill also addresses another emergency situation near Williston, North Dakota. There again rising waters are threatening to render useless thousands of acres of farmland in the Buford-Trenton project and to displace farmers. The funding provided by the Senate will allow for the purchase of easements which are authorized under the Water Resources Development Act of 1996. This is another extremely important project which the Senate has supported at a reasonable level.

The Subcommittee has added $6 million to the budget request the Garrison Diversion project, in order to meet the federal responsibility for critical water development needs in our state. Let me state that the key to economic development in North Dakota is water development and that the key to water development is the Garrison Diversion project.

Let me illustrate the importance of this project. Garrison funding will ensure that Indian tribes can provide clean drinking water to tribal members that often have to use some of the worst water in the nation. It will also deliver reliable water supplies for irrigation, industry, and residential use in semi-arid regions of the state and to communities whose normal drinking water looks more like tobacco juice. Moreover, the bill will continue to support environmental enhancements and wildlife habitat by means of such Garrison programs as the Wetlands Trust.

In a word, the Garrison funding will help to fulfill the federal commitment to develop a major water project in North Dakota to compensate the state for the loss of 500,000 acres of prime farmland. This land was flooded behind the garrison Dam in order to offer flood protection and inexpensive hydro power to states downstream.

I would also advise my colleagues that North Dakota's elected leaders are working on legislation to revise the Garrison project to meet the state's contemporary water supply needs in a fiscally and environmentally responsible way. The Garrison revision bill will refocus the project to provide municipal, rural and industrial water supplies to regional water systems, Indian reservations, and the Red River Valley while enhancing fish and wildlife habitat.

Finally, the bill before the Senate has supported funding which will allow the Army Corps of Engineers to proceed on a long-term flood protection plan for the city of Grand Forks, North Dakota on the Red River. Approximately one million dollars included will be used for preparatory studies and planning of the permanent levees to protect the sister cities of Grand Forks, North Dakota and East Grand Forks, Minnesota that were devastated in the catastrophic floods of 1997.

My purpose today is to thank the leadership of the Energy and Water Subcommittee, and the Full Committee leadership, Mr. STEVENS and Mr. BYRD, for addressing in this bill projects of critical importance to North Dakota. Their leadership is appreciated.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is currently in morning business, and Senators are permitted to speak for up to 10 minutes.

DELAYS IN SENATE ACTION ON JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, just a couple of weeks ago, I commented in the CONGRESSIONAL RECORD on the Senate majority's poor record in acting on judicial nominees, especially noting those judicial nominees who are either minorities or women. I included a recent letter from the Congressional Hispanic Caucus, which calls upon the Senate Republican leadership to allow votes on the Latino judicial nominees who have languished in the Senate for far too long.

I have also spoken often about the crisis in the second circuit and the need for the Senate to move forward to confirm the nominees to that court who are pending on the calendar. Judge Sonia Sotomayor is just such a qualified nominee, and she is one being held up by the Republican majority, apparently because some on the other side of the aisle believe she might one day be considered by President Clinton for nomination to the U.S. Supreme Court, should a vacancy arise.

Last week, a lead editorial in the Wall Street Journal discussed this secret basis for the Republican hold against this fine judge. The Journal reveals that these delays are intended to ensure that Sonia Sotomayor not be nominated to the Supreme Court, although it is hard to figure out just how that is logical or sensible.

In fact, how disturbing, how petty, and how shameful: Trying to disqualify an outstanding Hispanic woman judge by an anonymous hold.

I have far more respect for Senators who, for whatever reason, wish to vote against her. Stand up; vote against her. But to have an anonymous hold—an anonymous hold—in the U.S. Senate with 100 Members representing 260 million Americans, which should be the conscience of the Nation, should not be lurking in our cloakrooms anonymously trying to hold up a nominee. If we want to vote against somebody, vote against them. I respect that. State your reasons. I respect that. But don't hold up a qualified judicial nominee.

I was asked last week by Neil Lewis of the New York Times about this circumstance. He correctly reported my response in a front page story this last Saturday. I am offended by this anonymous effort to oppose her prompt confirmation by stealth tactics. Here is a highly qualified Hispanic woman judge who should have been confirmed to help end the crisis in the Second Circuit more than three months ago.

The times Argus recently included an editorial entitled "Partisan Nonsense" on this hold. The editorial notes that Judge Sotomayor rose from a housing project in the Bronx to Princeton, Yale and a federal court appointment by President Bush, a Republican. The editorial notes that the stalling tactics are aggravating the judicial emergency faced by the Second Circuit caused by judicial vacancies for which the Republican leadership in the Senate refuses to consider her, and another worthy nominee. The editorial concludes by urging me to make "a lot of noise over this partisan nonsense."

I don't always follow the editorials in my home State. But this one I am happy to follow.

I will continue to speak out on behalf of Judge Sotomayor and all the qualified nominees being stalled here in the U.S. Senate.

Judge Sotomayor in not the only woman or minority judicial nominee who has been needlessly stalled. Indeed, if one considers those nominees who have taken the longest to confirm this year, we find a disturbing pattern:

Hilda Tagle, the only Hispanic woman the Senate has confirmed this year, took 32 months to be confirmed as a district court judge for the Southern District of Texas. That is more than two-and-one-half years.

Judge Richard Paez, currently a district court judge and a nominee to the Ninth Circuit, was first nominated in January 1996. Twenty-nine months latter, Judge Paez's nomination remains in limbo on the Senate calendar.

Nor have we seen any progress on the nomination of Jorge Rangel to the Fifth Circuit or Anabelle Rodriquez to the District Court for Puerto Rico, although her nomination was received in January 1996, almost 29 months ago.

For that matter, we have seen the President's nomination of Judge James A. Beaty Jr., the first African-American nominated to the Fourth Circuit, stalled for 30 months, since December 1995. The situation in the Fourth Circuit was the topic of a Washington Post editorial past Saturday. We have seen the attack on Judge Frederica Massiah-Jackson, who would have been the first African-American woman to serve on the Eastern District of Pennsylvania, but who was forced to withdraw. We have seen the nomination of Clarence Sundram held up since September 1995, almost 33 months.

In his annual report on the judiciary this year on New Year's Day, the Chief Justice of the United States Supreme Court observed: "Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994." He went on to note: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." Which of course is absolutely correct.

For some unexplained reason, judicial nominees who are women or racial or ethnic minorities seem to take the longest in the Senate. Of the 10 judicial nominees whose nominations have been pending the longest before the Senate, eight are women and racial or ethnic minority candidates. A ninth has been delayed in large measure because of opposition to his mother, who already serves as a judge. The tenth is one who blew the lid off the $1.4 million right-wing campaign to "kill" Clinton judicial nominees.

Pending on the Senate calendar, having been passed over again and again, are Judge Sonia Sotomayor, Judge Richard Paez, Oki Mollway and Ronnie White. Held up in committee after two hearings is Clarence Sundram. Still without a hearing are Anabelle Rodriquez, Judge James A. Beaty Jr., and Jorge C. Rangel. What all these nominees have in common is that they are either women or members of racial or ethnic minorities.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its member—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees in the 104th and 105th Congresses, the Senate is shirking its duty. The Senate majority's choices as they stall Hispanic, women and minority nominees is wrong and should end.

Mr. President, I have served here for nearly 24 years. I know Members of the Senate. I have enormous respect for so many of them, Republicans and Democrats alike. The vast majority of Senators I have served with do not have any bias or ethnic bias against people. They do not have a religious bias. They do not have a gender bias. But somehow ethnic and gender biases have crept into the stalling of these nominations.

If Senators are opposed to any judge, bring them up and vote against them. But don't do an anonymous hold, which diminishes the credibility and respect of the whole U.S. Senate.

I have had judicial nominations by both Democrat and Republican Presidents that I intended to oppose. But I fought like mad to make sure they at least got a chance to be on the floor for a vote.

I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.

If we don't like somebody the President nominates, vote him or her down. But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators.

With that, Mr. President, I see Senators have come back to the floor for their debate. So I ask unanimous consent that copies of the editorials of the Times Argus and the Washington Post, and the report from the New York Times, which I referred to, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Times Argus, June 15, 1998]

PARTISAN NONSENSE

You may never have heard of a federal district judge named Sonia Sotomayor, and it appears that several key Republicans are hoping you never will. They'd like her to simply vanish from the nation's political radar screen, but Vermont's Sen. Patrick Leahy is among those who stand in their way.

It appears these political foes of President Clinton are afraid that if they confirm Judge Sotomayor's nomination to the 2nd District U.S. Circuit Court of Appeals, as Clinton has proposed, her next stop will be a seat on the United States Supreme Court.

Although Sotomayor grew up in the sprawling housing projects of the Bronx, where success stories are less than commonplace, she managed to graduate with high honors from Princeton, become editor of the Yale Review and earn a reputation as an effective federal prosecutor.

In 1992, she was appointed to the federal bench by then-President George Bush. That would seem to suggest she had bipartisan support, but that was before some nervous Republicans began to fear there may soon be an opening on the Supreme Court. That opening, they worried, would allow Clinton to nominate Sotomayor, a woman and an Hispanic.

Of course there is no vacancy on the high court, nor has there been any clear signal that there will be one any time soon. Justice John Paul Stevens, who many believe will be the first of the present batch of justices to retire, has already hired his clerks for the next court session. In addition, Sotomayor's name was not on a list of recommended nominees the Hispanic National Bar Association submitted to Clinton.

But even if there was a pending vacancy, what is it about Judge Sotomayor that would make Republicans so worried? Is it that she's Hispanic? Is it that she's too liberal, or too much a judicial activist?

For the record nobody is saying, but off the record, some Senate aides concede their bosses are worried she would, indeed, be an activist. Interestingly, conservative supporters of Judge Sotomayor's nomination vehemently disagree with that assessment.

Enter Sen. Leahy, the senior Democrat on the Judiciary Committee. In blunt terms, Leahy has criticized the Republicans who, behind the scenes and not for attribution, are seeking to scuttle Sotomayor's nomination.

"Their reasons are stupid at best and cowardly at worst," Leahy told a New York Times reporter. "What they are saying is that they have a brilliant judge who happens to be a woman and Hispanic and they haven't the guts to stand up and argue publicly against her on the floor. They just want to hide in their cloakrooms and do her in quietly."

Those are strong words, particularly for the United States Senate, but Leahy's anger is genuine and justified.

The campaign against Judge Sotomayor began on the editorial pages of the ultra-conservative Wall Street Journal and was given much wider exposure when it was taken up by Rush Limbaugh, the right wing radio talk show host.

The Journal was upset with Sotomayor's ruling that a coalition of New York businesses promoting a program for the homeless had violated federal law by not paying the minimum wage. This, in the Journal's opinion, constituted "judicial activism."

But a well-known conservative, Gerald Walpin, has rushed to Sotomayor's defense and his message is worth heeding.

"If they had read the case they would see that she said she personally approved of the homeless program but that as a judge she was required to apply the law as it exists," Walpin commented. "She wrote that the law does not permit an exception in this case. That's exactly what conservatives want a non-activist judge who does not apply her own views but is bound by the law."

What's particularly aggravating by the stalling tactics of Clinton's foes is that they come at a time of major judicial delays caused by the existing vacancies on the bench Judge Sotomayor would fill. The chief judge of the circuit, a conservative Republican, has written about having to declare "judicial emergencies" because of these vacancies.

We hope Sen. Leahy makes a lot of noise over this partisan nonsense.

[From the New York Times, June 13, 1998]

G.O.P., ITS EYES ON HIGH COURT, BLOCKS A JUDGE

(By Neil A. Lewis)

WASHINGTON, June 12—Judge Sonia Sotomayor seemed like a trouble-free choice when President Clinton nominated her to an appeals court post a year ago. Hers was an appealing story: a child from the Bronx housing projects who went on to graduate summa cum laude from Princeton and become editor of the Yale Law Journal and then a Federal prosecutor.

Moreover, she had been a trial judge since 1992, when she was named to the bench by the last Republican president George Bush.

But Republican senators have been blocking Judge Sotomayor's elevation to the appeals court for a highly unusual reason: to make her less likely to be picked by Mr. Clinton for the Supreme Court, senior Republican Congressional aides said in interviews.

The delay of a confirmation vote on Judge Sotomayor to the United States Court of Appeals for the Second Circuit, based in New York, is an example of the intense and often byzantine political maneuverings that take place behind the scenes in many judicial nominations. Several elements of the Sotomayor case are odd, White House officials and Democrats in Congress say, but the chief one is the fact that there is no vacancy on the Supreme Court, and no firm indication that there will be one soon. Nor is there any evidence of a campaign to put Judge Sotomayor under consideration for a seat if there were a vacancy.

Judge Sotomayor's nomination was approved overwhelmingly by the Senate Judiciary Committee in March. Of the judicial nominees who have cleared the committee in this Congress, she is among those who have waited the longest for a final vote on the floor.

Senate Republican staff aides said Trent Lott of Mississippi, the majority leader, has agreed to hold up a vote on the nomination as part of an elaborate political calculus; if she were easily confirmed to the appeals court, they said, that would put her in a position to be named to the Supreme Court. And Senate Republicans think that they would then have a difficult time opposing a Hispanic woman who had just been confirmed by the full Senate.

"Basically, we think that putting her on the appeals court puts her in the batter's box to be nominated to the Supreme Court," said one senior Republican staff aide who spoke on the condition of anonymity. "If Clinton nominated her it would put several of our senators in a real difficult position."

Mr. Lott declined through a spokeswoman to comment.

Judge Sotomayor sits on Federal District Court in Manhattan, and the aides said some senators believe that her record on the bench fits the profile of an "activist judge," a description that has been used by conservatives to question a jurist's ability to construe the law narrowly. It is a description that Judge Sotomayor's supporters, including some conservative New York lawyers, dispute.

Senator Patrick Leahy of Vermont, the senior Democrat on the Judiciary Committee, was blunt in his criticism of the Republicans who are blocking a confirmation vote. "Their reasons are stupid at best and cowardly at worst,' he said.

"What they are saying is that they have a brilliant judge who also happens to be a woman and Hispanic. and they haven't the guts to stand up and argue publicly against her on the floor," Senator Leahy said. "They just want to hide in their cloakrooms and do her in quietly."

The models for the strategy of putting candidates on appeals courts to enhance their stature as Supreme Court nominees are Judge Robert H. Bork and Judge Clarence Thomas. Both were placed on the Court of Appeals for the District of Columbia Circuit in part to be poised for nomination to the Supreme Court. Judge Bork was denied confirmation to the Supreme Court in 1987 and Judge Thomas was confirmed in 1991, in both cases after bruising political battles.

The foundation for the Republicans's strategy is based on two highly speculative theories: that Mr. Clinton is eager to name the first Hispanic person to the Supreme Court and that he will have such an opportunity when one of the current justices, perhaps John Paul Stevens, retires at the end of the current Supreme Court term next month.

Warnings about the possibility of Judge Sotomayor's filling Justice Stevens's seat was raised by the Wall Street Journal's editorial pages this month, both in an editorial and in an op-ed column by Paul A. Gigot, who often reflects conservative thinking in the Senate.

Although justices often announce their retirements at the end of a term, Justice Stevens has not given a clue that he will do so. He has, in fact, hired law clerks for next year's term. The Journal's commentary also criticized Judge Sotomayor's record, particularly her March ruling in a case involving a Manhattan business coalition, the Grand Central Partnership. She rules that in trying to give work experience to the homeless, the coalition had violated Federal law by failing to pay the minimum wage.

Gerald Walpin, a former Federal prosecutor who is widely known in New York legal circles as a staunch conservative, took issue with the Journal's criticism.

"If they had read the case they would see that she said she personally approved of the homeless program but that as a judge she was required to apply the law as it exists," he said. "She wrote that the law does not permit an exception in this case. That's exactly what conservatives want: a nonactivist judge who does not apply her own views but is bound by the law." Mr. Bush nominated Judge Sotomayor in 1992 after a recommendation from Daniel Patrick Moynihan, New York's Democratic Senator.

It also remains unclear how some Senate Republicans came to believe that Judge Sotomayor was being considered as a candidate for the Supreme Court. Hispanic bar groups have for years pressed the Clinton Administration to name the first Hispanic justice, but White House officials said they are not committed to doing so. The Hispanic National Bar Association has submitted a list of six candidates for the Supreme Court to the White House. But Martin R. Castro, a Chicago lawyer and official of the group, said Judge Sotomayor's name is not on the list.

The only Republicans to vote against her in March were Senator John Kyl of Arizona and Senator John Ashcroft of Missouri. The committee's other conservative members, including Orrin G. Hatch of Utah and Strom Thurmond of South Carolina, voted in her favor. Mr. Kyl and Mr. Ashcroft both declined to comment today.

[From the Washington Post, June 13, 1998]

Unpacking the Court

The saga of the North Carolina seats on the U.S. Court of Appeals for the 4th Circuit is a caricature of the power individual senators have to hold up judicial nominations. In 1990 Congress added some seats to the 4th Circuit, including one for North Carolina. to this day—7½ years later—that seat remains vacant. The reason is a byzantine power play by Sen. Jesse Helms.

The first nomination to the ghost seat was made by President Bush in 1991. He picked a conservative district court judge and Helms favorite named Terrence Boyle. That nomination was dropped—much to Mr. Helm's fury—when Mr. Bush subsequently lost the 1992 election. Since then Mr. Helms has stymied President Clinton's efforts to fill the seat. When President Clinton named Rich Leonard to it late in 1995, Mr. Helms blocked the nomination, and the Senate never acted on it. With no prospect of success, the nomination was not resubmitted in the next Congress. What's more, since Judge Dixon Phillips Jr. took senior status in 1994 and thereby opened another North Carolina slot on the court, Mr. Helms has also blocked the administration's attempts to fill that seat. As a result, the president's choice—U.S. District Judge James Beaty Jr.—has been in limbo for 2½ years without getting even a hearing. Mr. Helms has not even indicated to the administration what sort of nominees might be acceptable.

Mr. Helms has argued in talks with the administration that the court needs no more judges—a point on which he is, ironically, supported by the 4th Circuit's own conservative chief judge, Harvie Wilkinson III. Mr. Helms, however, was making no such argument when Judge Boyle was up for the slot. And it's a bit difficult to imagine him making the same point now were the president's nominees not likely to add a little ideological—and, for that matter, ethnic—diversity to one of the most conservative courts in the country. Mr. Clinton's nominees would, indeed, change the 4th Circuit—which covers Maryland, Virginia, South Carolina, West Virginia and North Carolina—and the arch-conservative senator cannot be required to relish this prospect.

But ultimately the Constitution gives the president, not individual senators, the power to name judges. And Mr. Helms's effort to keep the court conservative by keeping it small is an improper aggrandizement of his own rule.

Mr. LEAHY. Mr. President, if I have time left, I yield it back. I yield the floor.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 17, 1998, the federal debt stood at $5,491,718,359,124.33 (Five trillion, four hundred ninety-one billion, seven hundred eighteen million, three hundred fifty-nine thousand, one hundred twenty-four dollars and thirty-three cents).

One year ago, June 17, 1997, the federal debt stood at $5,329,352,000,000 (Five trillion, three hundred twenty-nine billion, three hundred fifty-two million).

Five years ago, June 17, 1993, the federal debt stood at $4,296,788,000,000 (Four trillion, two hundred ninety-six billion, seven hundred eighty-eight million).

Ten years ago, June 17, 1988, the federal debt stood at $2,526,239,000,000 (Two trillion, five hundred twenty-six billion, two hundred thirty-nine million).

Fifteen years ago, June 17, 1983, the federal debt stood at $1,303,759,000,000 (One trillion, three hundred three billion, seven hundred fifty-nine million) which reflects a debt increase of more than $4 trillion—$4,187,959,359,124.33 (Four trillion, one hundred eighty-seven billion, nine hundred fifty-nine million, three hundred fifty-nine thousand, one hundred twenty-four dollars and thirty-three cents) during the past 15 years.

BUILDING A BETTER WORLD AWARD

Mr. CAMPBELL. Mr. President, today I take a moment to acknowledge the new "Building a Better World" Award which CH2M HILL, an employee-owned company which is headquartered in Denver, has initiated. William D. Ruckelshaus, Chairman of BFI and former EPA Administrator, was presented with CH2M HILL's inaugural "Building a Better World" award in ceremonies at the Smithsonian Institution's Castle in Washington, DC on May 6, 1998.

CH2M HILL created this award to recognize the contributions of private citizens or organizations that reflect the company's core business value of making technology work to build a better world. The work of its 7,000 employees worldwide involves assisting public and private sector clients in planning, design, program management, and often construction for drinking water, wastewater management, hazardous waste management, transportation, nuclear waste cleanup projects, and industrial activities.

In choosing a recipient for this inaugural award, the selection panel sought to define a level of excellence that would make this award especially significant to succeeding recipients. Three key criteria are established for CH2M HILL's "Building a Better World" award:

Honorees must be deemed to have made a significant difference in improving the lives and prospects of people and society.

Contributions of honorees must be judged to be exceptional in nature and their impact substantial, distinctive and enduring.

Honorees must demonstrate an extraordinary and exemplary exercise of leadership and commitment.

In honoring Mr. Ruckelshaus with the "Building a Better World" award, CH2M HILL noted his long standing and continuing efforts in advancing environmental protection, practicing corporate responsibility, affecting sustainable development, and inspiring dynamic public and private citizenship. "Taken apart from one another, Mr. Ruckelshaus' accomplishments in business leadership, government service and environmental stewardship are extraordinary in there own right" said Ralph R. Peterson, CH2M HILL President and CEO. "Taken collectively they form a masterwork of civic character."

In establishing the "Building a Better World" award, CH2M HILL plans to honor people it knows firsthand to have made constructive, significant and lasting contributions to improving the lives and prospects of people and society. The award will be presented on a regular basis as deemed appropriate by the CH2M HILL Board of Directors.

Mr. President, this special award by a leading Colorado-based company provides another example of corporate interest and support for making the world we live in a better place.

I thank the chair and yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 2138) making appropriations for energy and water development for the fiscal year ending September 30, 1999.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I will shortly be sending an amendment to the desk. Let me just explain to my colleagues what it is I am attempting to do.

This is not the first time I have been on the floor of the Senate talking "trash," not the kind of trash that immediately comes to mind when you use that phrase but trash meaning garbage. In fact, another Senator just came by a few minutes ago and said, "This amendment you are offering is garbage." I said, "You are exactly right; it is garbage." It is all about garbage. It is all about municipal solid waste, which is a diplomatic term for garbage, the stuff that each of us throws out every day from our kitchen—puts in a plastic bag, puts out at the curb once or twice a week, picked up by a local truck and taken to what we think is a local landfill nearby.

Unfortunately, the State I come from, Indiana, has become the local landfill for a number of States that do not have enough landfill capacity or find it cheaper to load it on a train, load it on a truck, send it overnight down our Nation's railways or highways, and drop it off in the State of Indiana. Over the past several years, we have been the recipient of millions upon millions upon millions of tons of out-of-State trash without any ability as a State to put reasonable restraints and restrictions on receipt of that out-of-State trash in order to manage our environment and manage our own destiny in terms of how we dispose of this municipal solid waste.

The Supreme Court has denied States their individual efforts to regulate this, saying that it is a violation of the commerce clause of the Constitution. But the courts have also been clear to point out the fact that if Congress affirmatively enacts legislation or constraints on the importation of out-of-State trash, or exportation of out-of-State trash, it will be constitutionally acceptable. It is just simply one of those areas where States cannot do it individually but Congress can give them the authority to do that.

We have learned a lot of things over the last several years. I have offered this legislation now five times. This is the sixth. We offered it in 1990, 1992, 1994, 1995, and in 1996, and in each of those years the Senate has passed this legislation. We now come here for the sixth time because we have been unable to secure passage in the other House, or, when we have, it has been dropped in conference. Various other means have been used to defeat the purpose of finally accomplishing what I believe is a reasonable restraint and reasonable solution to the problem that we face.

Now, Michael Jordan and the Chicago Bulls have won six titles. This is my sixth try to win one. I have five defeats, and I hope not to get the sixth defeat. So that we have Jordan and the Bulls on the one hand carrying around the trophy with astounding success, and we have Coats on the other hand loaded up with bags of trash brought in from out of State marked X defeat in 1990; X defeat in 1992; X defeat in 1994, et cetera, et cetera.

Now, I cannot blame my colleagues in the Senate. I cannot do that because through negotiation each time we have been able to work out our differences. We have been able to recognize that there are exporting States that have needs and there are importing States that have problems, and that finding a solution that merely benefits the importing States puts the exporting States in a very difficult position.

So with the help of my friend from New York, Senator D'AMATO, and the help of my friends, on a bipartisan basis we have been able to reach an accommodation which recognizes the need for importing States to have to have reasonable restraints on the amount that they can handle and at the same time gives those exporting States time to put in place mechanisms of their own to deal with their trash or to enter into arrangements with our State so that we can have some type of reasonable control over that.

We have learned those lessons, sometimes the hard way, but we have always been able to reach an agreement and a consensus, and the Senate has been tremendously supportive in the end of my efforts to do this. I am disappointed that we have not had that same kind of support in the House of Representatives. I hope we can as we try once again to convince our colleagues that this is a problem that needs a solution, that we have a solution that takes care of the problems that are facing importing States as well as exporting States.

The amendment I am going to offer today is the interstate solid waste title of S. 534, which passed twice in the last Congress. That title was carefully negotiated. What we are offering is that title in its entirety with a minor modification. We are even now negotiating that modification as I speak.

Specifically, to repeat what I have said on this floor many times, this amendment will allow a Governor, if requested by an affected local community, to ban out-of-State solid waste at landfills or incinerators that did not receive out-of-State municipal solid waste in 1993, a benchmark year.

Let me repeat that because it is a critical point to understand. A Governor is given the authority to ban receipt of out-of-State waste at a landfill that did not receive out-of-State waste in 1993 if, and only if, it is requested by the local community. If the local community wants to receive the out-of-State waste, if they want to enter into a contract with a hauler or the State wants to enter into a contract with another State, they are permitted to do so. The Governor only has the authority if the community asks him to do so and if they meet the test in terms of whether or not they received the waste in 1993. The Governor is also given the authority to freeze, not eliminate but freeze, out-of-State municipal solid waste at 1993 levels at landfills and incinerators that received solid waste during 1993. The Governor, however, may not ban or limit municipal solid waste imports to landfills or incinerators if they have what is called a host community agreement that specifically authorizes out-of-State waste. So if a community wants it, fine. But if a community feels it is overwhelmed and cannot receive it, then it can request the Governor to either ban or freeze, depending on the particular situation that exists.

Just as an example of this, we have small communities, small counties, in Indiana with landfills that were designed to serve the solid waste needs of those communities within that jurisdiction, say, for a 20- or 25-year period of time. They have gone out on a limb with a bond issue or they have come up with the financing to finance this landfill, and they suddenly find that in the period of 12 months or 18 months the entire landfill is filled to capacity, leaving the solid waste jurisdiction in dire straits, no longer able to take care of their own generated municipal solid waste simply because their landfill was clogged up and filled up with waste coming not from their area, not even within their State, but sometimes long hauled halfway across the country or brought down from another State so it is totally out of their control.

Since we started offering this amendment, shipments across the borders have continued. Large importers continue to be adversely impacted. We have been a net importer in the State of Indiana for over 7 years. In 1996, we imported 1.8 million tons of out-of-State trash. Last year, we received the largest amount ever, 2.7 million tons. From 1996 to 1997, our trash imports have increased by 37 percent and our hands are tied. We cannot control what comes across our borders and into our landfills unless we have legislation that gives us the authority to do that.

I do not want to take a lot of time; I know we are trying to move this bill along. Let me just conclude by saying I am not arguing for an outright ban on all waste shipments between States. There are examples of effective and efficient cross-border waste management. My own State of Indiana has several communities which have traditionally worked with other communities in neighboring States to receive solid waste. But we must give States some role in making waste management decisions. Without congressional authority, we will be unable to play any role whatsoever.

We must have a say in how much we receive. We must have the ability to enter into contracts. We do have to recognize the needs of exporting States, but we also have to balance those needs with importing States. We have legislation, which this Senate has passed overwhelmingly on a bipartisan basis, with exporters and importers agreeing that this is a proper balance. I am simply reintroducing what has already been accepted by this Senate with, as I said, a modest modification that even at this point we are discussing with export States to see if we can reach some agreement on that so this legislation can go forward.

AMENDMENT NO. 2716

Mr. COATS. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 2716.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I am very appreciative of the problems which Senator COATS has alluded to as they relate to those States which are the recipients of large amounts of refuse, solid waste that comes from other States. Indeed, if I were a Senator from one of those States in which local communities, sometimes private landfill operations, enter into agreements and take large quantities, millions of tons of solid waste coming in, I would certainly understand why it is the Governor and/or the local officials would like to have some control with respect to the amount that comes in.

Having said that, I am appreciative of the Senator's recognition of our concern, notwithstanding that we are a State, New York, that exports millions of tons annually because we simply do not have the ability to keep it, and are now closing down the largest landfill in the world, which will be closed in the year 2001. This is a concern to us, a very important and valid concern to the City of New York and to the State as well. If a law, and/or an agreement is entered into which would preclude us from using those areas for which we have negotiated long-term contracts, and indeed would restrict us, particularly at a time when landfills are closing down in New York and the problem will become more acute, we recognize we have to deal with those problems.

Indeed, there are a number of contingencies which are being examined to dispose of this waste in the most environmentally sound and cost-effective manner. Plans are being developed, facilities are being built, land sites, new land sites within the State, are being utilized. There are a number and variety of communities that have entered into programs to recycle and to cut down on the volume. However, this is a monumental problem. Therefore, I appreciate the recognition by my colleague and friend of this problem, and I am going to ask that we have an opportunity—and I recognize people want to move on with this bill—to examine it carefully.

I tell you, I respect, again, the candor of my colleague, Senator COATS, when the fact is the threshold, the ratcheting down threshold has been reduced from when last this legislation was accepted. We passed this overwhelmingly and we worked together cooperatively, and I think it passed by something like 94 to 6. It was an overwhelming vote. But that was in 1995. Since then, while the Senator is pointing out that his State is getting more garbage, we are producing more that does not go into landfills within our State, and therefore ratcheting down is something we could not feel comfortable with. This Senator could not say we will be ready to accept limitations that are further eroded and reduced. That is a very real problem.

Second, the legislation is tied to a date, as my colleague indicates, that says, "those landfills that were receiving material, solid waste from out of State, as of 1993."

There have been, I am sure, a number of landfills that have opened up since 1993. So what this legislation would do, if passed in its present form, it would effectively deny New York or other States that export garbage the opportunity to continue that relationship they have with landfills or operations that have opened subsequent to 1993. I have to tell you, I do not know at this point how many tons of waste we would then not be able to dispose of, but it could be significant. If we were to have had a dozen additional sites nationwide opened up, we would find ourselves in a situation where we could no longer use them to dispose of any of the waste.

So I would have to ask my friend to consider updating the 1993 date as a date to determine how you would ratchet this down. It would certainly have to be something closer to—and, indeed, in 1995 we used 1993. It would seem to me as we are into 1998, we would expect at least that same kind of consideration. Without even studying it, it would seem to me we would have to put in that date, if we are going to maintain some kind of symmetry. Those landfills that were in operation as of 1996, that that would be appropriate if we are going to maintain symmetry.

Again, I haven't had a chance to check this with our State and ascertain whether in this short time they could tell us how many landfill sites have been opened, even between 1996 and today. But that is a concern, and I share that with my colleague.

We have not had an opportunity to really discuss this. Yet, I am deeply appreciative of his concerns and his offer to try to work this out. So I hope that before attempting to move to vote on this, that we could see if we cannot get some cooperative agreement. I do not know what other colleagues in some of the exporting States would feel, but I am still of a mind that if we can be accommodating and meet our needs, I want to do that. But these are two very real concerns.

No. 1, we cannot ratchet down an amount when we are producing more garbage than ever before, one that we had agreed to back in 1995. And, second, we would have to do something with the date of grandfathering those landfills. We would have to bring them up to a more current position so as to determine those which we may be using today which we were not using heretofore.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Might I ask the Senator from New York, and the Senator from Indiana, are they going to try to iron out the differences that have been alluded to?

Mr. COATS. I would hope we could. I talked to the Senator from New York, indicating we are flexible in terms of moving this on. I agree with the Senator there may be some need to have additional negotiations. Since the Senate passed this before and this language has been acceptable, we could agree to go back to the original ratchet, the original number used as the baseline for ratcheting down. We dropped it 100,000 tons—we could go back to the 750,000, if that would be acceptable and allow us to go forward with this. There is no way we can, I believe, derive an answer to the Senator's second question, which is using 1999 as a different base than 1993.

I assumed all along, based on the assurances given to us by the Senator from New York and other exporting States in the past, that development of in-State facilities was accommodating more and more of their municipal waste. In fact, I was assured of that several years ago. If they just had a 2-, 3-, 4-year flexibility, they would have their own in-State capacity or at least have the capacity that would allow them not to significantly increase the exports.

I think we can work that out. I would like, obviously, to move this along and pass the bill. We all know it is a long way from ever getting to conference because of concerns in the House on other issues. But if there is any way the Senator from New York can see to, one, agree to our offer to go back to the original figure on the ratchet basis from 650,000 to 750,000 and then my assurances that we will work with him and work with Members of the House and his delegation to address this other question—which I don't think we have the answer to at this point and can't get it in the short amount of time that the chairman wants to move this appropriations bill—I am certainly open to that.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if I can address a question to the Senator from Indiana.

Do you know if your staff has had conversations with the senior Senator from New Jersey? Because he usually has had a question on this.

Mr. COATS. We have not. All I know is, what we are offering here is exactly what the Senator from New Jersey agreed to and voted for in the past.

Mr. REID. I will say, on the minority side, we will be willing to accept this. I do have to get a clearance from Senator LAUTENBERG, who is testifying at this time, and I am sure we can get that done very quickly.

Mr. COATS. I think it is important that I go forward and ask unanimous consent to modify my amendment to change the figure on page 2——

Mr. DOMENICI. I say to the Senator, I don't think you need unanimous consent.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

AMENDMENT NO. 2716, AS MODIFIED

Mr. COATS. Mr. President, I would like to modify my amendment by changing the figure on line 25, page 2, of the amendment from "650,000 tons" to "750,000 tons."

The PRESIDING OFFICER. The amendment is so modified.

Mr. COATS. With that, Mr. President, I will tell the Senator from Nevada that he can assure the senior Senator from New Jersey that what is being offered here is identical to what was offered and agreed to in the past by the Senator and is exactly the same legislation in regard to the municipal solid waste section of that bill.

Mr. D'AMATO. Mr. President, let me say this: First of all, I appreciate the Senator's recognition of the fact that the ratchet figure has to be the same, or should be, and moving to do that. I understand he brings these requests at the request of his Governor. I do have a very serious concern, and that is, if one reads the legislation, it says:

> In 1999 a State may ban 95 percent of the amount exported to a State in 1993.

That is a serious concern, understanding that, again, we are now 3 years further down the road. I don't know what the impact will be today. It is one thing to say, "Well, we agreed to that 3 years ago." I am concerned, and, again, if we are going to talk about symmetry, at the very least it seems to me that that figure will have to read "exported to a State in 1996," so that we maintain the same 2 years, the 2-year differential.

I feel much more comfortable in saying let's move the process. And, indeed, if there are other things that have to be done, hopefully in conference we can work that out with the assurance of the chairman and the ranking member that we can deal with other areas. But these are issues of very significant proportions as they relate to our local governments.

While I can understand the concern when an area is being inundated and people feel there is nothing they can do—the local legislatures—I understand that. I ask my colleague to understand what our concerns are if we have no place and valid contracts have been entered into subsequent to 1993 and we find now, as a result of moving along with this, they no longer have a place to dispose of it.

Even moving it to 1996, I say, may not be sufficient, because we may have—and not in the State of Indiana, but in other jurisdictions—opened up facilities or are presently using facilities that have been opened maybe last year, and here I am in a position that I will be agreeing that these facilities will no longer be possibly available to us. That is why I am concerned, absent that information.

If we go along with the year 1996, I hope my friend will recognize that is a very real accommodation, as opposed to 1993, and then take it on good faith that we will examine this, so that even if it goes to conference, we might have to lodge some kind of objection if we found that subsequent to 1996 there were facilities that were open that were substantial and necessary for us to accommodate the disposal of this waste. I want to be accommodating, but I have to state it in this manner so that we can both protect the interests of our States and our citizens. I think that is about as far as I can go on this.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, in response to the Senator from New York, I will state a couple of things.

No. 1, we passed this legislation in 1996. So the agreement that we had reached relative to using 1993 was acceptable to the State of New York, the State of New Jersey, and other exporters just in the last Congress. In fact, we passed it twice in the last Congress. There was no request at that time, in 1996, to change the base year from—in fact, we offered 1993 or 1994, and 1993 was a more acceptable year—there was no request then to address the concern that the Senator from New York has just raised relative to having to change that base year to accommodate what might be perceived as increased exports.

Second, I will state again for the Record that we have been repeatedly assured by exporters—by exporting States that all they needed was a little bit of time to develop more of their own capacity and that actually I think it would be just as logical a request from the Senator from Indiana or anybody from an importing State to request that we use a lower amount rather than a higher amount, because 10 years ago everybody said, this won't be a problem; 10 years ago, people said 5 years from then it wouldn't be a problem, because all they needed was 3 or 4 years to sort of get their own act together.

We understood that, and we understood the prodigious volumes of municipal waste they were generating. The population in the Senator's State I don't believe has significantly increased. In fact, I think they are losing population.

I don't know that they are necessarily generating more waste, unless people are eating more than they used to. It might be. The economy is good. Maybe there is more waste to dispose of. My daughter has moved to New York, so my wife and I go up and we eat out. I suppose that is out-of-State consumption. We try to eat everything we order, I will state for the record, so that we don't generate any more waste that can be sent back to Indiana. I don't think it is good for the Senator from Indiana to go to New York, generate waste that then is packed up that night and shipped by truck and dumped in my landfill in my hometown.

I don't understand the need to increase or to look on the assertion or the basis that they have less disposal capacity now than before when we have been assured on the floor that all they needed was just a few years to provide more in-State capacity and that would alleviate our problem. We have made very significant concessions in terms of addressing the concerns of the exporting States.

My original legislation that I offered back in 1990 gave the Governor the outright authority to flat out ban any garbage from out of State. And that passed the U.S. Senate.

We have the votes to do that. There are about 31 States that are importers. They are the ones that get dumped on. There are just a handful of States that generate the exports. But we recognize that problem. They are high-density States and generate a lot of waste.

We recognized their problem. And we address their problem. And, in so doing, we made considerable concessions about what we would continue to receive, that if a community or a municipal waste disposal jurisdiction wanted to take out-of-State waste, enter into a contract to do that, why, we would allow that to take place. We said the Governor could not outright ban; he could only freeze at certain levels.

We adjusted the baseline amounts so that we would continue to receive prodigious amounts of waste—all trying to be a good neighbor, trying to help out a State until they could develop their own disposal capacity.

Now, New York is a big State. There is a lot of room in New York to put—a lot bigger than the State of Indiana. I just assumed——

Mr. D'AMATO. Will the Senator yield?

Mr. COATS. I will be happy to yield in a moment.

I just assumed the State of New York was taking advantage of some of that space outside of Manhattan to address those needs and by now we would not even need to be here addressing this. But something has not happened; therefore, I think to go back to the original agreement that gives States some authority to make reasonable rules relative to how much they receive and so that they can manage their own environmental affairs, something that has been approved and accepted by every Member in this body in the past, I think that is a reasonable way to proceed.

I just answer the Senator from New York by saying, I think it would be just as reasonable if I were here asking for lower baseline numbers rather than higher, but I am willing to stay where we were because that is what we worked so hard to agree on just in the last Congress.

Mr. D'AMATO. Well, if the Senator would yield just for an observation, and I observe—and I am looking at the summary of the amendment. When I look at the summary of the amendment, as drawn, it says, in 1999, greater than 1.4 million tons or 90 percent of the amount exported in 1993. Now, what we would be agreeing to is that within less than 6 months—within 5½ months—that we would agree that the following amounts could not be greater than 1.4 million tons or 90 percent of the amount exported in 1993. What I am saying is, I am willing to go along with the 1.4 million tons or 90 percent of that exported in 1996. OK.

Now, let me also say that in 1 year and 5½ months—if you go to the next year—it says in 2000, greater than 1.3 million tons. You go down to 1.3 million or 90 percent of the amount exported in 1999.

So what I am suggesting is that I cannot in good conscience support an agreement when I do not know what we have done between 1993 and to date. But I am willing to take it up to 1996. And we are talking about 5 months. And then within a year you get the second figure that triggers off. So I am just talking about 1 year.

You cannot ask us to put ourselves in the position to have us sign off on this. I think even taking 1996 is Russian roulette to the extent—I hate to say it is Russian roulette—but at least there is a symmetry between what we did before. And I only do this on the basis that when we go to conference, if indeed we have some severe problems, I will notify the committee. And if the Governor's office advises us there is no way they can possibly do it, I will notify the committee. And I think they would act responsibly to make the necessary changes or to drop the legislation.

I have to be candid with you on this, so I suggest that is about as far as I could possibly go at this time. And I do it in the spirit of accommodation.

Mr. COATS. So Mr. President, as I understand it, the Senator is proposing that relative to the export ratchet——

Mr. D'AMATO. Yes.

Mr. COATS. Only for the year 1999——

Mr. D'AMATO. No.

Mr. COATS. The first line of the summary—only for the year 1999, the Senator would like to change the base year from 1993 to 1996.

Mr. D'AMATO. That is right.

Mr. COATS. Is that correct?

Mr. D'AMATO. Sure. That is correct. And what I am suggesting—in other words, in 1999, 1.4 million or 90 percent of the amount exported in 1996; and I hope we can get that amount. Hopefully, the State will be able to give us those numbers, and hopefully all States would be able to give us those numbers. And thereafter I would say we have an agreement, because we are then holding to—if you read in 2000, it says greater than 1.3 million tons or 90 percent of the amount exported in 1999. So we are, then, at least, taking it on a rational basis as it relates to how much was actually exported.

Mr. COATS. Well, let me say this to the Senator. First of all, I know that, given the 4 weeks we spent on the tobacco legislation, things are desperately behind. We are desperately behind the curve, and I know the Senate is anxious to move this appropriations bill forward as well as the agriculture appropriations, which I believe is coming next.

In the interest of expediting that schedule, I would be willing to accept that change offered by the Senator from New York if it would allow us to move forward, and with the understanding that we have a mutual agreement here to sit down and try to work this out.

Mr. D'AMATO. If there are any other—yes.

Mr. COATS. Given the fact that we do not have the answers to the question, I think the Senator and I—and we worked on this before—we could probably work out an acceptable arrangement which could help everybody. If we could get that assurance and move forward with it, I would be willing to make that change.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I am grateful to both Senators for trying to work this matter out. Senator LAUTENBERG—I have spoken to him on the telephone. His staff is here on the floor. He should be here momentarily. Hopefully, he will sign off on this after speaking to the two, the Senator from Indiana and the Senator from New York.

Mr. D'AMATO. Let me again suggest that with those two changes, the change of the 750,000 tons, which the Senator has already made in his amendment, and that of changing the 1999 agreement to reflect the amount exported in 1996, if the Senator would make that amendment, I am willing then to accept the amendment with the proviso and understanding and the gentlemen's agreement being that any other difficulties we will see if we can work out. And then we would rely on the committee chairman and the ranking member to help us and aid us in any further legislative language that might be needed.

Mr. COATS. Well, Mr. President, I certainly think we have the makings of an offer here, if we can get clearance from the rest—the Senator from New Jersey who helped in the past to reach this compromise. Obviously, nothing has changed. In fact, it probably changed a little marginally for the better for the Senator from New Jersey.

Mr. DOMENICI. Will the Senator yield?

Mr. COATS. Yes.

Mr. DOMENICI. I think if you want to work on that language—and I understand Senator LAUTENBERG is going to have to express his views; and he will be here momentarily. I wonder, I say to the Senator, if you might agree with me that Senator ALLARD from Colorado, who wants to speak to the bill—he is not going to offer an amendment—could speak for up to 10 minutes while you are working on this.

Mr. COATS. I have no objection.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank my colleagues. I want to thank the chairman for allowing me the time to speak for a few minutes on the bill.

I rise in support of Senate bill 2138 making an appropriation for energy and water development. I also want to make a few comments in regard to the Jeffords-Harkin amendment, which was adopted a little bit earlier on in the day, which was to restore funding to the renewable energy account in the 1999 energy and water appropriations bill we are now debating.

First of all, I thank the chairman for his diligence and hard work in working with my office on issues that are very important to the State of Colorado. Last year, you worked hard with our delegation, and are continuing to work with this delegation. I am comfortable with the legislation in the form that it is being reported out of the Senate.

I also recognize that there is a lot of work, or some work, that has to be done in conference committee and maybe a few issues yet that still have to be resolved as far as this particular bill is concerned.

Let me just say a little bit about the priorities that I have as somebody who represents Colorado and what I am thinking about as far as those priorities are concerned. First of all, research programs that will benefit from this funding should be a national priority. They are energy-type research, and they are very, very important to the future of this country and having us not rely on foreign sources for our energy. It is well known that nearly half of all our Nation's oil is imported and that these imports account for 36 percent of the U.S. trade deficit.

American renewable energy and energy-efficient technologies help offset fuel imports. They build our domestic economy, and they strengthen our national security. Renewable power is an attractive energy source for the future. Alternative fuels such as propane, natural gas, ethanol, and methanol are clean fuels and are largely free of the pollutants regulated by the Clean Air Act. Renewable energy will provide clean and inexhaustible energy for millions of consumers.

Specifically, funding for renewable energy technology is important to my home State of Colorado. My State supports several energy-efficient pilot programs as well as established renewable energy sources. Some of the Nation's best wind and solar resources are in Colorado, and many of my constituents currently rely on renewable energy.

These are not far-fetched research projects that we are talking about. My State, for example, has many ranchers who are currently using Sun and wind energy in the management of their lands, providing for their energy needs.

Colorado is also the proud home of the National Renewable Energy Laboratory, referred to as NREL—the leading renewable energy research laboratory in the Nation, I might add. NREL conducts the needed research and develops and demonstrates sustainable-energy technologies. This lab relies heavily on the funding included in this amendment.

In addition, there are many entrepreneurs who are counting on funding from the Department of Energy to continue improving and increasing availability of renewable energy technology. There are 132 businesses in Colorado that specialize in renewable-energy-related products and services. Congress must continue to support research for renewable energy.

We also need to support the partnerships among the Government research entities, universities, and businesses. These cooperative efforts ensure that the research produces applicable results and furthers our goal of increasing our use of renewable energy resources.

In past years, I have sponsored environmental awareness seminars with Colorado State University to promote the use of alternate fuels. I am a former member of the House Renewable Energy Caucus, and I recently became the chairman of the newly formed bipartisan Senate Renewable and Energy Efficiency Caucus. I am a strong proponent of using renewable energy sources, and I believe we should continue to support that research, perfect the technology, and expand the use of renewable resources.

I thank my colleagues from Vermont and Delaware for their efforts to protect funding for renewable energy.

The next point I want to make is very, very important. While I do support the intent of the Jeffords-Roth amendment, I want to highlight one portion that I hope the conferees will change. One of the offsets included in the amendment is a 1.5 percent decrease in funding for cleanup of nondefense nuclear sites that are no longer utilized. One of those sites is the Rocky Flats Environmental Technology Site, which I will talk about further a little bit later on. My hope is to have this site cleaned up by 2006. In order to do that, it will require every dollar that has been appropriated for it in this bill. While in this instance I support the Roth-Harkin amendment, in the future I will have difficulty doing so if this same offset is included. In other words, the priority as far as my State is concerned, we spend every dollar to clean up Rocky Flats, but if we can do that, if we can put more money in renewable labs without taking away from the dollars, I can be supportive. I want it clear that my top priority is the cleanup of the Rocky Flats facility.

On that topic, Mr. President, I further thank Mr. DOMENICI and Mr. REID for their hard work on the energy and water appropriations legislation.

There is a lot of talk about surpluses nowadays. While I know that Mr. DOMENICI's subcommittee was not the beneficiary of any surplus, therefore it is a very pleasant surprise that he was able to find the funds necessary for an accelerated cleanup of Rocky Flats. In fact, I note that he provides $32 million over the administration's request to be sure that we remain as close to a 2006 closure date for Rocky Flats as possible.

As Mr. DOMENICI knows, this has been a very important issue for me since I came to the Senate last year. The basis of my concern is the proximity of Rocky Flats to over 2 million Coloradans. This makes the site one of the biggest potential threats to the Denver metro area. Rocky Flats is home to tons of plutonium that needs to be removed from Colorado. The funding in this bill will help achieve that end.

Furthermore, I note the dramatic upward swing in funding from fiscal year 1997 to date. In fiscal year 1997, $487 million was appropriated for Rocky Flats cleanup. In fiscal year 1998, that number jumped to $632 million. Today's bill proposes $657 million for cleanup. If we can hold this amount, we should be able to safeguard this material and close Rocky Flats in an expeditious manner.

Again, I close my remarks by complimenting the chairman on his hard work on both the budget and this appropriations bill and tell him how very much I appreciate his sensitivity to the problems we have in my State, particularly in regard to cleanup of Rocky Flats.

I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, let me say to Senator ALLARD and to the people of your State, because the community of interests have come together—and much of that is attributable to your leadership—we are now able to say to all of the country that we finally have one of these sites that must be cleaned up, that has a date, a date certain, that it will be cleaned up. Now, that is a rarity.

If the American people knew how long it takes us to clean up one of these sites because of a variety of reasons—some of which are not very good, yet we are stuck with them—they would be delighted, as I am, that we now have one that can be cleaned up and completed and we can say this is part of history in that area, and the surrounding communities are rid of this waste.

We saw that daylight, and we put in extra money. We are not apologetic in a tight budget year to say we put more in because we have to have some successes. We are busy spending our taxpayers dollars in projects of cleanup that we cannot even tell you will ever get cleaned up. Some of the things causing that we can't even change here on the floor of the Senate unless we go back and undo State law and have more hearings and look at contracts. Maybe that ought to be done, because there is a bit of irrationality regarding some of the projects of cleanup that now turn out to be situations where, when the project was in full bloom and operating to produce whatever it was producing for the nuclear deterrent system, they had fewer workers then than they have cleaning up. The Senator probably found that in his research as he familiarized himself with this particular dilemma.

I am very pleased that people like you went to the community and clearly indicated that there aren't a lot of options. If they don't want to let some of these things happen, it will all stay there. You told me that. You took the lead in convincing many people that those who didn't want one thing done, unless it was absolutely beyond perfection, with no possible risks involved for anyone or anything, that we wouldn't move a bit of this waste under those conditions. I laud you for that. I am glad we found money to put in to take care of it quickly.

Mr. ALLARD. If the Senator will yield for a moment, I will do everything in my power to make sure this money is spent wisely on that project. We are trying, through our office, to make sure it is well spent. My commitment to you is, we are working hard to help you in overseeing that it is spent responsibly.

Again, we appreciate your sensitivity to the urgency of this matter. And like you, I hope that when we get this cleaned up, we can again clean up sites all over the country with similar situations. I appreciate the high priority you have given this particular site. I thank the chairman.

(Mr. SMITH of Oregon assumed the Chair.)

Mr. DOMENICI. Mr. President, we want to say to the leadership of the Senator's community there in his State, at least you understand we don't have a clean project that is going to go on forever. We are not past that stage in some areas. Some people think that paychecks by the hundreds of millions ought to be coming on for another 100 years. I don't know how we are going to be able to do that. Costs will keep going up. We have to find some satisfactory ways, with our intelligence, science, and innovation, to do some of these things better. That is what is happening there.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I wonder if the Senator from Michigan wants to state the purpose for going into morning business. Does he want 5 minutes as if in morning business, or 10 minutes?

Mr. ABRAHAM. Mr. President, I respond. Earlier today a resolution was introduced to commemorate the victory of the Detroit Red Wings. I would like to complete the action on that, and if we had 5, no more than 10 minutes, certainly this would be done.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senator from Michigan have up to 10 minutes for the purpose he just stated, and then, after that time has expired, we return to the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I thank the Senator from New Mexico.

CONGRATULATING THE DETROIT RED WINGS ON WINNING THE 1998 NATIONAL HOCKEY LEAGUE STANLEY CUP CHAMPIONSHIP

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 251, which was introduced earlier today by Senator LEVIN on his behalf and my behalf.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 251) to congratulate the Detroit Red Wings on winning the 1998 National Hockey League Stanley Cup Championship and proving themselves to be one of the best teams in NHL history.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ABRAHAM. Mr. President, I was initially going to seek to dispense with the reading of the resolution. But it sounds so good that I could not help to want to hear and allow our gallery to hear, as well, those words.

We in Michigan, and hockey fans, I think, throughout the world, are excited by the victory Tuesday night of the Detroit Red Wings in the Stanley Cup hockey finals.

Earlier today, Senator LEVIN, on his behalf and my own, introduced a resolution to commemorate that victory. I will not take the time of the Senate to read the entire text of that resolution again. But I would like to stand here today to acknowledge and express the pride that he and I and the Detroit Red Wings fans, not only in Michigan but everywhere else, have as the team on Tuesday won its second consecutive Stanley Cup hockey championship.

Last Friday, I had the opportunity to host the visit of the Stanley Cup itself to the Senate. We had the chance to share with our colleagues a little bit about the history of that most ancient trophy, which commemorates each year the winner of hockey's ultimate championship.

As I say, this is the second straight year that championship has been won by the Detroit Red Wings. It is also the second straight year that the Red Wings have won the championship with a four-game sweep, clearly an indication of the talent and the abilities of this team.

I think this year's victory was also special for a variety of other reasons that I would like to mention.

First, as evident throughout the season and certainly during the final days of the playoffs, this victory was special because of the presence in the players' spirits and minds, and then ultimately at the arena itself, of Vladimir Konstantinov, one of the stars of last year's championship who was innocently the victim of an auto accident and injury that made it impossible for him to play this year. We all wish him a speedy recovery, although he is still wheelchair bound.

It was a special win because the players dedicated the season to him and to the team trainer, Sergei Mnatsakanov, who likewise had been injured in that automobile accident.

It marked the eighth straight Stanley Cup victory for Scotty Bowman, and that ties him with his mentor, Toe Blake, for the most victories of this championship in the history of the NHL.

It was a special victory because team captain Steve Yzerman, in his 15th season, was awarded the Conn Smythe Trophy, which is a trophy that goes to the most valuable player in the playoffs. Those of us who have followed Red Wing hockey throughout that time know just how much he has meant not only to Detroit hockey but hockey in the NHL, one of the great players of all time.

We in Michigan refer to Detroit as "Hockeytown U.S.A." That has been our designation, but I think this victory, coupled with last year's victory, will make it clear, to everyone who may have had some doubts as to where the ultimate center of hockey spirit in this country is, that at least until they are dethroned, Detroit, MI, is that center and the Detroit Red Wings are the team that deserve the accolades they were able to achieve on Tuesday night.

Mr. President, I now ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 251), with its preamble, reads as follows:

S. RES. 251

Whereas on June 16, 1998, the Detroit Red Wings defeated the Washington Capitals, 4–1, in Game 4 of the championship series;

Whereas this victory marks the second year in a row that the Red Wings won the Stanley Cup in a four game sweep;

Whereas the Stanley Cup took its first trip around the rink in the lap of Vladimir Konstantinov, the Red Wings defenseman who was seriously injured in an accident less than a week after Detroit won the Cup last year;

Whereas Vladi and his wife Irina, whose strength and courage are a source of pride and inspiration to our entire community are an exemplary Red Wings family and Vladi's battle is an inspiration to all Americans;

Whereas Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit and Michigan, have brought the Stanley Cup back to Detroit yet again;

Whereas the Red Wings, as one of the original six NHL teams, have always held a special place in the hearts of all Michiganders;

Whereas it was a profound source of pride for Detroit when the Wings brought the Cup back to Detroit in 1954 and 1955, the last time the Wings won consecutive NHL championships;

Whereas today, Detroit continues to provide Red Wings fans with hockey greatness and Detroit, otherwise known as "Hockeytown, U.S.A." is home to the most loyal fans in the world;

Whereas the Red Wings are indebted to Head Coach Scotty Bowman, who has brought the Red Wings to the playoffs 3 times in the last 4 years, and with this year's victory, has earned his eighth Stanley Cup victory, tying him with his mentor Toe

Blake for the most championships in league history;

Whereas the Wings are also lucky to have the phenomenal leadership of Team Captain Steve Yzerman, who in his fifteenth season in the NHL, received the Conn Smythe Trophy, given to the most valuable player in the NHL playoffs;

Whereas each one of the Red Wings will be remembered on the premier sports trophy, the Stanley Cup, including Slava Fetisov, Bob Rouse, Nick Lidstrom, Igor Larionov, Mathieu Dandenault, Slava Kozlov, Brendan Shanahan, Dmitri Mironov, Doug Brown, Kirk Maltby, Steve Yzerman, Martin Lapointe, Mike Knuble, Darren McCarty, Joe Kocur, Aaron Ward, Chris Osgood, Kevin Hodson, Kris Draper, Jamie Macoun, Brent Gilchrist, Anders Eriksson, Larry Murphy, Sergei Federov, and Tomas Holmstrom: Now, therefore, be it

Resolved, That the U.S. Senate congratulates the Detroit Red Wings on winning the 1998 National Hockey League Stanley Cup Championship.

Mr. ABRAHAM. Mr. President, I again thank the Senator from New Mexico for giving us the chance to do this today. I appreciate his indulgence. I thank the Chair.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, I call for the regular order.

AMENDMENT NO. 2713

The PRESIDING OFFICER. The regular order is amendment No. 2713.

Mr. DOMENICI. We have no objection to Senator INOUYE's amendment No. 2713.

The PRESIDING OFFICER. If there is no further debate on the amendment, without objection, the amendment is agreed to.

The amendment (No. 2713) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is it correct that the Coats amendment is now the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I ask Senator COATS what is his pleasure.

Mr. COATS. Mr. President, we are awaiting word from New Jersey, one of the States that is affected by this amendment, an exporting State. We are assured that we will have an answer one way or the other. It really rests in their hands. I think we have consensus to go forward, but there seems to be a problem with that State. I see the Senators from those States now. I think we will be able to give an answer very shortly.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if I can say to my friend, the manager of the bill—and I say this with some reluctance because I have such great respect for the junior Senator from Indiana—I have received calls from Connecticut, Montana, and there are others——

Mr. DOMENICI. Illinois.

Mr. REID. Illinois. I think the New Jersey problem is not the problem. There are many problems related to this. This is not going to go away. I wish I had better news, but we have a number of States that are very concerned about this.

If I can get the attention of the Senator from Indiana, I do not think the Senator from Indiana heard what I said. I say this with the greatest respect for my friend from Indiana, we have not only received calls from the New Jersey delegation, but have received calls from Illinois, Montana, Connecticut. Some people may not have a concern with this bill but have one of their own dealing with the transportation of waste, trash. I just have told them to stay in their offices until we see if we can get this worked out. I am really concerned about this kind of bogging things down, for lack of a better description.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I had a discussion earlier with the Senator from New Mexico. I had a discussion with the chairman of the Appropriations Committee. I told the Senator from New Mexico that it is not my intention to bog down this bill. I understand the dilemma the Senate is in due to the 4 weeks we spent on the tobacco bill without resolution. We have appropriations bills that need to move.

I assured the Senator from New Mexico that it was not my intent to do this. I was operating on the assumption that the agreement that we so torturously reached in 1996, that received the unanimous support of every Senator, including the Senators from New York and the Senators from New Jersey, including the Senators from Illinois and exporting States, after days and weeks and months of negotiations, that that would still be operative.

Now it seems that everything has changed. I am not going to insist on my rights to allow this amendment to tie up this appropriations bill. I think there is important work in the Senate that needs to be done. I will just say to my fellow Senators, this is an issue that is not going to go away. I said it in 1990. I have said it every year since. It has passed the Senate five times, sometimes by unanimous consent, sometimes by 94 votes.

Importing States are at a tremendous disadvantage, and they have no say in the ways in which they can manage their own environmental destiny as it regards municipal solid waste. Exporting States can continue to make promises about what they are going to do. The fact of the matter is they apparently are not delivering on those promises. We were assured time after time that if they just bought a little more time, they would achieve the capacity necessary to deal with their own waste, but they found it convenient to ship it somewhere else so that somebody else can deal with their problems.

It appears now that the evidence is in that they are not doing anything to deal with their own waste, and that puts those of us who are importing States at a great disadvantage. By the way, that is 31 States.

We agreed we are going to continue to work on this. We will continue to work on this. We will attempt to achieve another consensus so that we can move this legislation, but, in the meantime, I think it is important that we go ahead with other work in the Senate that has been planned.

With that in mind, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2716, as modified) was withdrawn.

Mr. DOMENICI. Mr. President, I thank the Senator from Indiana, the very distinguished Senator from Indiana. I thank him personally for accommodating us today. I think he does make a point, and maybe he should not give up, because it seems to me, with a little bit of negotiation—this catches some people by surprise—but we have cleared that very bill—well, it was an amendment when we cleared it. We had taken it to the House and had trouble in the House with it. Clearly, we haven't had problems in the Senate. The situation is such that somebody can talk on it and not let us vote. The distinguished Senator from Indiana agrees with the Senator from New Mexico—and I thank him for that—that we ought to proceed and finish this bill. That is what he has done. I very much appreciate it, and the Senate appreciates it.

Mr. REID. Mr. President, if I can also elaborate on what my friend, the manager of the bill, has said, there is no Senator in this body who has been more diligent on an issue than has the Senator from Indiana been on this issue of transportation of waste. He has rendered a great service not only to the people of the State of Indiana, but this country. I join in his appreciation for the Senator from Indiana allowing this bill to move forward.

Mr. DOMENICI. Mr. President, we have one amendment that is working its way through the clearance process, but it has not been cleared yet. Having said that, it is my understanding that there is no amendment pending at this point, is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENTS NOS. 2717 THROUGH 2725, EN BLOC

Mr. DOMENICI. Mr. President, I send to the desk nine amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments numbered 2717 to 2725, en bloc.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2717

(Purpose: To set aside funding for the Omaha District of the Army Corps of Engineers to pay certain claims)

On page 9, line 3, after "expended," insert "of which $460,000 may be made available for the Omaha District to pay pending takings claims for flooding of property adjacent to the Missouri River caused by actions taken by the Army Corps of Engineers, of which $2,540,000 shall be available for the project on the Missouri River between Fort Peck Dam and Gavins Point in South Dakota and Montana, under section 9(f) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (102 Stat. 4031)".

AMENDMENT NO. 2718

On page 8, line 7, add the following before the period:

": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $500,000 of funds appropriated herein to continue construction of the Joseph G. Minish Passaic River waterfront park and historic area, New Jersey project".

AMENDMENT NO. 2719

On page 8, line 9, before the period at the end insert ": *Provided further*, That of amounts made available by this Act for project modifications for improvement of the environment under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), $500,000 may be made available for demonstration of sediment remediation technology under section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note: 104 Stat. 4644)".

AMENDMENT NO. 2720

On page 27, line 21, delete "." and insert in lieu thereof the following:

": *Provided further*, That of the amount appropriated herein $30,000,000 is to be available for the Initiatives for Proliferation Prevention program: *Provided further*, That of the amount appropriated herein $30,000,000 shall be available for the purpose of implementing the 'nuclear cities' initiative pursuant to the discussions of March 1998 between the Vice President of the United States and the Prime Minister of the Russian Federation and between the U.S. Secretary of Energy and the Minister of Atomic Energy of the Russian Federation."

AMENDMENT NO. 2721

On page 8, line 9, insert the following before the period:

": *Provided further*, That the Secretary of the Army may make available $100,000 for the Belle Isle Shoreline Erosion Protection, Michigan project; $100,000 for the Riverfront Towers to Renaissance Center Shoreline Protection, Michigan project; and $200,000 for the Great Lakes Basin, Sea Lamprey Control, Section 206, Michigan, project".

AMENDMENT NO. 2722

(Purpose: To provide funding for the isotope ratio capabilities at the University of Nevada Las Vegas)

On page 22, line 19, insert the following before the period:

": *Provided further*, That $500,000 of the unobligated balances may be applied to the identification of trace element isotopes in environmental samples at the University of Nevada-Las Vegas".

AMENDMENT NO. 2723

On page 3, line 8, insert the following before the period:

": *Provided further*, That the Secretary of the Army may make available $500,000 for the Atlanta Watershed, Atlanta, Georgia project".

AMENDMENT NO. 2724

(Purpose: To set aside funding for support of the National Contaminated Sediment Task Force)

On page 10, line 7, before the period insert ", of which $250,000 may be made available to support the National Contaminated Sediment Task Force established by section 502 of the Water Resources Development Act of 1992 (33 U.S.C. 1271 note; Public Law 102-580)".

AMENDMENT NO. 2725

On page 22, line 14, strike: "2,669,560,000" and replace it with "2,676,560,000".

Mr. DOMENICI. Mr. President, the amendments are as follows: Senator DASCHLE, flood damage claims; Senators LEVIN and GLENN, a section 1135 project; Senators BIDEN and DOMENICI, an IPP and nuclear cities amendment; Senator LEVIN, Michigan continuing authorities projects; Senator REID, trace element isotopes; Senator CLELAND, Atlanta watershed project; Senator LEVIN, contaminated sediment task force; and Senators DOMENICI-REID on science.

Are these cleared on your side, I ask the Senator?

Mr. REID. No objection.

Mr. DOMENICI. No objection on your side?

Mr. REID. No objection.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendments, en bloc.

Without objection, the amendments are agreed to.

The amendments (Nos. 2717 through 2725), en bloc, were agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I thank the distinguished Senators from New Mexico and Nevada for including an idea that I proposed in the managers' amendment to the energy and water appropriations bill. I am confident that together we will lessen the risk that former Soviet scientists will help any rogue state to build nuclear, chemical or biological weapons.

This amendment does two things. First, it earmarks an additional $15 million for the Department of Energy's Initiative for Proliferation Prevention, or IPP, program which was unfairly cut from the President's budget request. And second, it earmarks start-up funds for the "nuclear cities" initiative that was endorsed by both Vice President AL GORE and Russian Prime Minister Chernomyrdin.

Initiatives for Proliferation Prevention, or IPP, is a program that creates employment opportunities for former Soviet arms specialists by helping them develop their ideas for commercially viable goods and services. As an idea reaches fruition, IPP brings the arms specialists into joint ventures with outside investors, who gradually take over the funding. For example, thanks to IPP, a U.S. firm is working with Ukrainian scientists to develop and market a device for decontaminating liquids. This device will enable the Ukrainian dairy industry to produce fresh milk despite the lingering effects of the Chernobyl reactor meltdown.

IPP had a slow start. It is hard to come up with really viable commercial ventures, to find investors, and to make sure they can invest safely.

The executive branch thought that IPP had unspent funds from past years. So they cut its budget by 50 percent—down from $30 million to $15 million.

But IPP has begun to take off. As of this April, 15 projects had achieved completely commercial funding and 77 had found major private cofunding. As a result, IPP does not have unobligated funds lying around.

Now is not the time to cut the IPP program. Rather, we should encourage

IPP and the many weapons specialists in the former Soviet Union who are searching for new careers in the civilian economy, by maintaining IPP's funding stream.

The "nuclear cities" initiative is an effort to improve employment opportunities for Russian personnel from their nuclear weapons labs and manufacturing facilities. This initiative, too, will focus on finding commercially viable projects and bringing in outside investors. The challenge is to find projects that can work at these somewhat isolated cities, which are more or less the Russian equivalent of Los Alamos.

When we fun the "nuclear cities" initiative, we get two benefits. First, Russia's Minister of Atomic Energy has announced that they will downsize their nuclear weapons establishment. And second, by providing civilian job opportunities for the personnel who are let go, we will help protect against Russian weapons specialists going off to work for programs in states like Iran, Iraq or Libya.

The "nuclear cities" initiative was developed by a group of U.S. and Russian specialists, and was endorsed at the last meeting of the Gore-Chernomyrdin commission. Later this spring, Energy Secretary Peña and Russian Atomic Energy Minister Adamov also endorsed it.

According to the group that developed this new initiative, it can usefully spend up to $30 million in fiscal year 1999. I don't know how much the executive branch will want to devote to "nuclear cities," but my amendment gives them the opportunity to fund a realistic program.

By earmarking funds both for the "nuclear cities" initiative and for the IPP program, moreover, we make sure that the price of the new initiative will not be the death an existing program. If there is clear overlap between the IPP program and the "nuclear cities" initiative, such overlap should be eliminated. But I have the distinct impression that there are excellent IPP projects that will have nothing to do with Russia's "nuclear cities," and such projects should not be sacrificed.

Once again, I thank and congratulate the senior Senator from New Mexico and the senior Senator from Nevada. They have given us a fine example of bipartisan cooperation and effectiveness.

Mr. BYRD. Mr. President, I rise today in support of the Fiscal Year 1999 Energy and Water Development appropriations bill. This is a bill that addresses many of our Nation's most critical water infrastructure requirements, as well as important energy research functions, and management of our nuclear waste and environmental remediation programs. This bill is also a component of our national security portfolio, due to the atomic weapons production programs of the Department of Energy that are funded in this bill.

In approving the recommendations of the subcommittee, the committee has reported a bill that does an excellent job of balancing the many competing demands which fall within the jurisdiction of the Energy and Water Development Subcommittee. I wish to commend the subcommittee chairman, Senator DOMENICI, for all his hard work in crafting the bill brought before the Senate, together with his very able counterpart, Senator REID. While both of these Senators come from the arid west, where the water management issues are very different from the challenges facing other regions of the country, they have been very responsible in trying to maintain critical investments in flood control and navigation and irrigation, while also ensuring that our energy research and nuclear waste management and weapons production responsibilities are met.

Their task was made particularly difficult this year by the disgraceful budget request for Fiscal Year 1999 put forward by the administration for the Army Corps of Engineers. Despite strong support for an aggressive Corps construction program from both sides of the aisle and all regions of the country, the administration proposed a significant reduction in spending for Corps construction—some $689 million, or 47 percent, below last year's funding level.

This budget gap created a huge hole that needed to be filled, and I commend our committee chairman, Senator STEVENS, for his sensitivity to the challenges presented to the Energy and Water Development Subcommittee by the President's request. Senator STEVENS knows all too well the value and need for critical infrastructure investments that will help communities enhance their economic opportunity. I was pleased to join with the chairman in recommending a 302(b) allocation to the Energy and Water Development Subcommittee which was substantially above the President's request and above a freeze for the non-defense discretionary portion. Nonetheless, the requests for funding far exceeded the subcommittee's allocation.

Nearly every state had ongoing water projects that the Corps expressed a capability of being able to execute at a program level far in excess of the President's request. So to try and maintain ongoing projects, as well as to protect investments, funding was added to many of these projects. The costs associated with the administration's short-sighted proposal were considerable. Not only would there have been increased costs due to the additional time it would have taken to complete projects, but there would also have been considerable contract termination costs associated with ending or reducing work that had been initiated recently.

So I commend the subcommittee members for their fine work. Their responsiveness to local concerns will mean a great deal to the communities in my state that were on the short end of the administration's budget. In places like Marmet, the Greenbrier Basin, and the Tug Fork Valley, where people have been waiting years for assistance from the Federal government to improve upon flood control and enhance navigation channels that feed our economy, this bill will be of great assistance. I have seen the mud, muck, and misery that accompany flooding when the waters rise in the creeks and streams and rivers that flow through the mountains of West Virginia. Some criticize these types of projects. I contend that they are critical to improving the lives and enhancing the safety of our constituents.

Mr. President, as is true with most appropriations bills, not every Senator has 100 percent of his or her priorities addressed fully. That is the very essence of compromise and balance, which are at the center of what it takes to produce an acceptable, and signable, appropriations bill. The President, in gutting the Corps' construction program, proposed significant increases to programs favored by the administration. But every Senator should be clear that, to pay for those increases, the President proposed reductions in funding requested for flood protection and other water infrastructure development. I commend Senator DOMENICI and Senator REID for trying to maintain stability across the multitude of programs funded in this bill.

Finally, I wish to acknowledge the very fine work done on this appropriations bill by the majority and minority staff of the Energy and Water Development Subcommittee—Alex Flint, David Gwaltney, Greg Daines, Liz Blevins, Lashawnda Leftwich, and Sue Masica. There are many details associated with all of the water projects and energy research items in this bill, and this team does an excellent job of serving not only Senators DOMENICI and REID, but also all other Senators.

Mr. GLENN. Mr. President, I rise today to make a few comments concerning S. 2138, the Fiscal Year 1999 Energy and Water Development Appropriation bill.

The West Columbus Floodwall Project is an extremely important infrastructure project currently under development by the City of Columbus and the Army Corps of Engineers. Once completed this project will protect over 2,800 acres of urban development, and approximately 6,200 homes and businesses. Construction of this $118 million project was initiated in 1993 and was on schedule and budget for completion in 2002.

The fiscal year 1999 civil works budget request for the U.S. Army Corps of Engineers provided only $1.8 million for continued construction of this important project. The Committee increased the fiscal year 1999 funding to a total $7.5 million. Although I am grateful for the Committee's action, I am concerned because this project requires $16 million to keep it on track and moving forward.

Mr. President, this project is unlike a lot of other flood projects in that it does not provide vitally needed flood protection for West Columbus until it is fully completed. Funding for this project at less than $16 million could delay it for up to one year and this area will continue to be exposed to an increased potential for flood damages of up to $455 million. In addition, the homeowners and businesses in this area will face continued zoning restrictions, and development of 2800 acres will be delayed.

The city of Columbus has been damaged in the past by severe flooding of the Scioto River, which runs through the heart of its downtown. In 1913, 1937 and 1959, the city was devastated by flood disasters resulting in millions of dollars in damage to commercial and residential property, destruction of homes and businesses, and the loss of many lives. In 1990 and 1992, the city again experienced serious flood scares. If the West Columbus project were in place during previous recent flood events, damages would have been prevented.

Mr. President, during the December 1990 rainfall and flood event, inundation and localized flood damages occurred in the Phase 1B/McKinley Avenue area. The Scioto River rose to a flood level approaching a 20-year frequency. If the project features had been in place at that time, the interior runoff would have drained to the stormwater pump station ST-8 and would have been pumped out of the interior. Instead, an existing storm sewer flap gate was held shut by the high Scioto River flood stage, preventing the interior runoff from draining to the river. Adjacent businesses were flooded until the Scioto River receded to a level that permitted the flap gate to open and allow interior runoff to drain to the river.

During the July 1992 storm, rainfall in excess of 4 inches fell over the interior area along with a moderate rise in the Scioto River. An existing storm sewer flap gate was held shut and interior runoff could not drain to the river. If the proposed Dodge Park stormwater pump station had been available, it could have pumped excess runoff to the river, thus preventing flood damages that occurred along Rich Street.

Mr. President, I understand that sufficient funding was not available for the many critically needed flood protection projects contained in this bill. For this reason I will not offer an amendment, however, I thought it was important to express my concerns and address the potential impacts of not funding this project at the required level of $16 million. I am pleased that the House was able to fully fund this project in their bill and it is my hope that during Conference, the Senate will recede to the House's position and provide $16 million for the West Columbus Floodwall Project.

Thank you, Mr. President.

Mr. LIEBERMAN. Mr. President, I rise to express my concern about the portion of this bill dealing with the Nuclear Regulatory Commission, and particularly the Committee report. While I appreciate that Senators DOMENICI and REID have made very significant changes to an earlier version of the report, I remain troubled.

Let me say first that I am a supporter of nuclear energy. I believe it can be part of the solution to solving the world's energy, environment and global warming problems. But in order for there to be a future for this industry, it is critical for the public to maintain confidence in the industry—a confidence that must be supported by a strong, competent and effective Nuclear Regulatory Commission.

I do not believe that the current NRC over-regulates, inspects too much, enforces too much or has adopted an overly restrictive body of regulations. I base this conclusion on the extensive oversight I conducted as chairman during the 103rd Congress of the Clean Air and Nuclear Regulation subcommittee of the Environment and Public Works Committee; the oversight work I have conducted during the last three years as a member of the Environment Committee, particularly growing out of my concern about the shutdown of Connecticut's nuclear power plants; and two extensive reports prepared for me by the General Accounting Office.

In fact, I believe that as a result of new safety initiatives undertaken by NRC Chairman Jackson, such as: limiting inappropriate use of enforcement discretion; requiring utilities to verify whether they are operating in accordance with their design basis; undertaking a review of NRC oversight of changes made by utilities without prior NRC approval; improving the inspection process:, increased attention to use of quantitative performance indicators; and reforms of the senior management oversight process, the NRC has finally moved toward regaining some of the public confidence which is so important. Also critical to restoring this confidence has been Chairman Jackson's openness and responsiveness to the public, including whistleblowers. Many of these initiatives came in response to a very unfortunate situation in Connecticut, where the nuclear power plants were shut down and put on the NRC Watch List of most troubled plants.

I appreciate that the Appropriations Committee believes that there should be an in-depth review of the NRC. As a member of the Senate Environment Committee with authorization oversight responsibilities, I have been urging the Committee to conduct hearings on the NRC since the start of the Congress. In particular, I have urged the Committee to hold a hearing to examine the issues raised in two General Accounting Office reports : one prepared for Senator BIDEN and me, Nuclear Regulation: Preventing Problem Plants Requires More Effective NRC Action, and one prepared for Congressman DINGELL and me on whistleblower protections.

The GAO raised serious concerns about instances in the past in which the NRC has neither taken aggressive enforcement action nor held nuclear plant licensees accountable for correcting their problems on a timely basis. The GAO criticized the NRC for problems in the inspection process, such as not including timetables for the completion of corrective action and for not evaluating the competency of the licensees' plant managers as part of the on-going inspection process. In addition, the GAO found that the senior management meeting, designed to focus attention on those plants with declining safety performance, was not serving its goal of being an early warning tool.

To her credit, Chairman Jackson has responded to many of these GAO recommendations positively and swiftly. Nevertheless, oversight hearings are needed to evaluate the NRC's responses.

Finally, although I appreciate that the Committee increased the NRC's funding levels from the subcommittee's approach and eliminated any directions to cut nuclear reactor safety, I am still concerned that the bill includes $17.3 million less in funding than the NRC's budget request. I think a more prudent approach would be to have a detailed discussion of the NRC's proposed initiatives in the authorizing Environment Committee to avoid any negative impact on the NRC's ability to maintain a strong, healthy regulatory program for nuclear power plants or to limit any new initiatives that the NRC believes are important. In the 103rd Congress, I was pleased that we were able to report an authorizing bill for the NRC, but unfortunately it did not become law. We need to move forward again with such a bill.

TOOELE CITY WASTEWATER TREATMENT AND REUSE PROJECT

Mr. BENNETT. Mr. President, I would like to ask the distinguished Senator from New Mexico, the Chairman of the Energy and Water Subcommittee, a question related to a project in my State. Am I correct in stating that the bill before the Senate today contains $3 million in funding for the Tooele City Wastewater Treatment and Reuse Project?

Mr. DOMENICI. The Senator is correct.

Mr. BENNETT. Mr. President, I appreciate the Senator from New Mexico's support for this project. I have recently become aware of a problem with this project related to the Bureau of Reclamation's interpretation of the project's authorization which I hope we can clarify. As the Senator knows, I am a strong advocate for the concept of water recycling and reuse. In arid States such as ours we simply have to make every gallon of available water stretch as far as we can. It is for that reason that I sponsored the legislation that eventually became Public Law 104-266. The passage of that legislation expanded the Bureau of Reclamation's water recycling program and authorized the Tooele City project. Under this program the Bureau is authorized to contribute up to twenty-five percent of the cost of planning, designing and constructing water recycling and reuse projects.

The Tooele Wastewater Treatment and Reuse project is designed to reclaim 2.25 million gallons of effluent daily and utilized the reclaimed water for a variety of non-potable uses permitted by Utah State law. Unlike some other States, Utah permits the utilization of water treated to secondary—as opposed to advanced secondary or tertiary—standards for certain non-potable uses. In formulating the Tooele project, the City has always anticipated the utilization of secondary effluent in conformance with State law. Now the Bureau of Reclamation has informed the City that it will not provide funds appropriated by Congress for that portion of the Tooele project that provides secondary treatment. I have searched the authorizations for the Title XVI program and the Tooele project high and low and can not find a statutory basis for the Bureau's position. Had Congress wished to limit the use of title XVI funds in this manner, it certainly could have done so. It did not.

Mr. President, I remain hopeful that we can resolve this matter before this bill goes to Conference. However, in the event that we are not successful, I would like to ask the Chairman to entertain the possibility of Conference Report language, if necessary, to clarify this matter.

Mr. DOMENICI. I appreciate the Senator from Utah's concerns. I would be happy to work with him to resolve this issue.

RODEO LAKE

Mr. GORTON. Mr. President, I rise for a brief colloquy with the manager of the bill. I would like to thank the chairman for his generous work to fund the Rodeo Lake project near Othello, Washington. This project will help alleviate a serious flooding problem in Central Washington state. There has been some confusion, however, regarding the Corps of Engineers' involvement in the project. I understand that, because of the water at Rodeo Lake directly affects projects maintained by the Bureau of Reclamation, the committee intends for the Corps to coordinate its efforts with the Bureau of Reclamation. Is my description of the committee's intentions correct?

Mr. DOMENICI. The Senator is correct.

Mr. GORTON. I thank the Chairman for the clarification and for the hard work on this bill.

DEVILS LAKE, NORTH DAKOTA

Mr. CHAFEE. Mr. President, page 44 of the committee report accompanying S. 2138, the fiscal 1999 Energy and Water Development Appropriation bill, includes a section on funding provided in the bill for construction of a flood control outlet at Devils Lake, North Dakota. At the end of the short section, the committee report states that, "[i]t is expected that such circumstances would also be such that granting of a waiver under the emergency provision of the National Environmental Policy Act would be appropriate and that the provision of the 1909 Boundary Waters Treaty would be met."

I am trying to understand how this report language corresponds with language in the bill for Devils Lake. As reported by the committee, pages 6 and 7 of the bill lay out a detailed set of rigorous criteria that must be met before any funds can be obligated by the Secretary for actual construction of the outlet. Two of those criteria, full compliance with the National Environmental Policy Act (NEPA) and the 1909 Boundary Waters Treaty seem to be preempted by the committee in this report. I ask the distinguished chairman of the Energy and Water Development Subcommittee, Senator DOMENICI, if the committee report language in any way supercedes the bill language? Moreover, is the committee attempting to provide a waiver or some form of relief under NEPA or the Boundary Waters Treaty?

Mr. DOMENICI. I thank the Senator from Rhode Island for his continued interest and involvement in the Devils Lake matter. The answer to both of the Senator's questions is "no." The bill language that you cited, which was originally negotiated by the two of us, Senator BOND and our colleagues from North Dakota last year, would be fully applicable. The committee report does not waive NEPA, the Boundary Waters Treaty or any of the other conditions found in the bill language. In summary, the Executive Branch would need to fulfill the economic and technical justifications, the reporting and budgeting requirements, as well as the NEPA and Boundary Waters Treaty terms, before any of the appropriated funds can be expended for outlet construction. The report language signals our expectation that the Executive Branch would make full use of the emergency provision currently available under NEPA and that all steps would be taken to expeditiously fulfill the requirements of the Boundary Waters Treaty in the event that rising lake levels warrant accelerated construction of the outlet.

Mr. CHAFEE. I appreciate my colleague's clarification. I chaired a hearing on Devils Lake before the Committee on Environment and Public Works late last year and am committed to addressing the terrible flooding problems experienced there. However, I am convinced that the people of North Dakota, Minnesota, Canada, and the U.S. taxpayers will all be served more effectively if we go about this project in the right way. To do that, we need the appropriate reviews, studies and justifications by the Army Corps of Engineers, State Department and others. In that context, Mr. President, I ask unanimous consent to include in the CONGRESSIONAL RECORD a January 28, 1998, Army Corps memorandum, signed by the then-Acting Assistant Secretary John H. Zirschky, that details the agency's policy on NEPA compliance and the proposed outlet at Devils Lake. I ask unanimous consent that the memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY, OFFICE
OF THE ASSISTANT SECRETARY,
CIVIL WORKS,
Washington, DC, January 28, 1998.

MEMORANDUM FOR THE DIRECTOR OF CIVIL WORKS

Subject: National Environmental Policy Act Compliance, Devils Lake Outlet, North Dakota

The Corps has been working hard to solve the flooding problems at Devils Lake. The St. Paul District has been raising the levees at the city of Devils Lake and the design of an emergency outlet is well underway. I commend your staff, Mississippi Valley Division and the St. Paul District for their accomplishments to date.

A statutory requirement for constructing an outlet from Devils Lake is compliance with the National Environmental Policy Act (NEPA). On December 10, 1997, the Corps briefed my staff and a representative of the Office of Management and Budget (OMB) on the proposal for compliance with NEPA. On December 19, 1997, my staff briefed senior staff of the OMB and the White House Council on Environmental Quality (CEQ) on the proposal.

The purpose of the December 19, 1997 meeting was to discuss the St. Paul District's "expedited" schedule for NEPA compliance. That schedule calls for constructing the outlet before the NEPA process is completed. This is an exception that would require a waiver from the normal NEPA process. While the flooding problem at Devils Lake is an emergency, and while adoption of a NEPA compliance process completed following construction may be necessary at some point in time, the decision to carry out a NEPA process as outlined in the District's "expedited" schedule is considered premature. Supporting a waiver at this time is difficult since we have not yet decided to construct the outlet nor have we completed its design. The controversial nature of the outlet project, and the extent of other ongoing activities by the Corps and others to mitigate for the flooding were also factors in this decision.

It is critical that the Corps continues to keep this project as a high priority. We should proceed with the planning, NEPA compliance, and design of the outlet as quickly as possible. The studies and report being prepared to comply with the Fiscal Year 1998 Energy and Water Development Appropriations Act should also be expeditiously completed. To ensure that the report complies with the congressional directives, it should be subjected to technical and policy reviews before submitted to this office. We should also continue to budget for the outlet.

It is also very important that the NEPA process complies fully with the July 1, 1997, memorandum from the CEQ on transboundary impacts of the outlet project. Likewise, the NEPA process should be undertaken so that it will give us a sound basis for consultation with the International Joint Commission, and with Canada under the "Boundary Waters Treaty of 1909."

At this time, we should not plan to use a NEPA process that assumes that we construct the outlet before the NEPA process is completed. Our objective is to comply fully with the NEPA by completing the Environmental Impact Statement and Record of Decision using a normal NEPA process. In this regard, on January 12 our staffs developed guidance that allowed the St. Paul District to initiate the NEPA scoping process on January 14, 1998. The District should revise the schedule they proposed for the "normal" NEPA process, and identify opportunities to complete this work by December 1999. While I understand that the coordination phase of the NEPA process may be time dependent, I believe that ways to shorten the data collection and evaluation phases can be found to shorten the current forty month schedule. Regarding data collection and evaluations, these activities should be programmed in a way that will provide us with increasingly greater levels of detail, so that we can decide, if necessary, to start the outlet at anytime using an emergency NEPA process. Unless an emergency waiver is obtained sooner, we should be in a position to start construction by Spring 2000.

The enclosed paper was prepared to help explain the "Action Plan." This plan will allow the Corps to meet its legal obligations, make more informed decisions by maximizing the use of new information on both lake level predictions and environmental impacts, and stay positioned to start construction on the outlet when necessary. I ask that HQUSACE provide the leadership necessary to achieve these objectives.

JOHN H. ZIRSCHKY,
Acting Assistant Secretary of the Army (Civil Works).

Enclosure.

DEVILS LAKE EMERGENCY OUTLET, NORTH DAKOTA NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE ACTION PLAN

National Environmental Policy Act (NEPA) compliance is an integral part of the decision making process for the Devils Lake outlet. To be able to construct the outlet as soon as possible—yet comply fully with NEPA—the Corps will use the following principles:

PRINCIPLES

Reducing flooding at Devils Lake is a high priority for the Administration.

Engineering and design work on the outlet will proceed on schedule, allowing the start of construction, if necessary, by May 1999.[1]

A decision to start construction on the outlet will be based on the best available information and be legally defensible.

A decision to start construction will comply with the Fiscal Year 1998 Energy and Water Development Appropriations Act, and other laws and treaties; and

National Environmental Policy Act compliance will proceed on a fast track.

ACTION PLAN

From an engineering standpoint, the Corps St. Paul District believes it can be in a position to start construction of the outlet by May 1999. To meet this date, the design of the outlet should be completed by August 1998 and pipe should be ordered in October 1998. By August 1998, the Project Cooperation Agreement should be ready to be executed with the State of North Dakota. The State could then be ready to acquire lands needed for the project. The report necessary to comply with the Fiscal Year 1998 Energy and Water Development Appropriations Act is scheduled to be prepared, reviewed and approved in time to be submitted to Congress by August 1998. Plans and specifications are to be completed by March 1999. The Corps would continue to budget for funds for design and construction of the outlet.

Regarding the NEPA compliance, several options were considered, including starting construction before the NEPA process is completed. Starting construction before the NEPA process is completed requires a Council of Environmental Quality waiver from the normal NEPA compliance process under the emergency provision of NEPA. Such waivers are unusual and require substantial justification. Without such justification the legal risk would be great given the diverse interest and positions on the outlet. In view of the stipulations in the Fiscal Year 1998 Energy and Water Development Appropriations Act that must be met before construction can be started and that the design of the outlet is not yet complete, we believe that it is premature to make the waiver decision at this time and that we should proceed with the NEPA process. However, in view of the lake level trends of the past few years at Devils Lake, the NEPA review would be expedited, and NEPA compliance activities would be organized in a tiered fashion that will maximize its utility at any given time regarding a decision to start construction on the outlet through the emergency NEPA waiver. This approach should not result in an unacceptable slow down of outlet construction, if necessary, since the engineering and design work will be completed on schedule.

The St. Paul District initiated the formal NEPA process on October 21, 1997, and an initial scoping meeting was held on January 14, 1998. unless a waiver from NEPA is needed sooner, the goal is to complete the NEPA process by December 1999*. As noted above, NEPA data collections, evaluations, impact assessments, and coordination activities should be programed to be concurrent, at minimum allowed times, and at increasingly greater degrees of detail, so that we can save time and make more informed and supportable decisions regarding carrying out the outlet under an emergency NEPA process, if necessary. As an example, the question of the need to start construction under an emergency NEPA process can be revisited after the 1998 runoff predictions are released and the Corps has completed the report required by the Fiscal Year 1998 Energy and Water Development Appropriations Act.

In summary, this action plan allows the Corps to meet its legal obligations, make more informed decisions by maximizing the use of new information on both lake level predictions and environmental impacts, and stay positioned to start construction on the outlet when necessary.

OASA (CW) POC:

MICHAEL L. DAVIS,
Deputy Assistant Secretary of the Army (Policy and Legislation).

JAMES J. SMYTH,
Assistant for Water Resources Development.

ASSATEAGUE ISLAND

Mr. SARBANES. Mr. President, I would like to engage the distinguished Chairman of the Subcommittee in a colloquy concerning funding for the restoration of Assateague Island National Seashore.

I am deeply concerned that the Committee was not able to provide funding for so-called "new start" construction projects of the Army Corps of Engineers. I understand that the House Committee has also adopted a no new starts policy. The Corps of Engineers was scheduled to initiate an authorized and approved mitigation project for the North End of Assateague Island National Seashore in Fiscal 1999 and without funding, it appears that this project will have to be postponsed. This is a particular problem because the northern end of Assateague was hit very hard by two northeastern storms which slammed the mid-Atlantic coast this past February causing severe erosion and overwash conditions. In its current condition, the seashore is extremely vulnerable to breaching should another storm hit the coast. The integrity of the National Seashore and the area's coastal bays are at risk.

Fortunately, the Corps will be able to make emergency repairs to the storm-damaged section under the authority of Public Law 84-99, providing some additional protection to the island over its current condition. But it would be far better if the approved restoration project could be initiated and completed as soon as possible.

I recognize the difficult constraints that the Committee faced in crafting this bill but, given the critical nature of this project, I ask if the Chairman would be willing to work with me and Senator MIKULSKI in the Conference Committee to address Assateague's needs should additional funding become available.

Mr. DOMENICI. The Committee understands the importance of this project and will work in Conference to see what develops.

Ms. MIKULSKI. I thank the Chairman for his consideration of this project. Assateague is one of the most important restoration projects in Maryland. The environmental, economic and ecological value of the Assateague Seashore is extraordinary. It is not just a Maryland priority, it is a national priority.

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[1] Unless otherwise stated, completion and submission dates presented in this paper are those developed by the St. Paul District of the Corps of Engineers. New dates are noted by "*" after the date.

Mr. SARBANES. I thank the Chairman for these assurances.

TRANSFER OF THE ST. GEORGES BRIDGE

Mr. BIDEN. Mr. President, I am wondering if the Ranking Member of the Subcommittee will engage in a colloquy with me regarding the St. Georges Bridge in my State of Delaware.

Mr. REID. I would be pleased to yield to my colleague from Delaware.

Mr. BIDEN. I thank my friend. Mr. President, recently in the newly passed highway bill, TEA-21, the Secretary of the Army was directed to transfer the right, title and interest of the St. Georges Bridge in Delaware, to the State of Delaware. The transfer is necessary to facilitate a retransfer of the bridge to a private entity for the purposes of demonstrating the effectiveness of large-scale composites technology. If the transfer is completed within 180 days the Secretary is directed to provide $10,000,000 to the State for rehabilitating the bridge.

I rise to ask the Senator from Nevada, in his capacity as Ranking member of the Subcommittee, to seek his commitment in working with me and the Army Corps of Engineers to ensure that this transfer and the $10 million payment occurs as authorized.

Mr. REID. Yes, I am aware of the transfer of the bridge and the provision in TEA-21. You have my pledge that I will do all I can to see that the Army Corps of Engineers will carry this out as soon as possible.

Mr. BIDEN. I thank the Senator.

GRAND PRAIRIE REGION, ARKANSAS

Mr. BUMPERS. Mr. President, I would like to engage the senior Senator from New Mexico in a colloquy.

Mr. DOMENICI. I would be pleased to join the senior Senator from Arkansas in a colloquy.

Mr. BUMPERS. Mr. President, many of us in Arkansas have been working for several years to reverse a critical ground water resource problem that is developing in our region and will ultimately affect the entire country.

Throughout this century, aquifers in the lower Mississippi River Valley have been falling due to high demand and relatively low recharge. The United States Geological Survey has found that current trends by the year 2015 will reduce the saturated thickness of the aquifers to the point that soils will begin to compact, recharge will not be possible, and the aquifer will effectively be dead, along with nearly half of the U.S. rice industry. Because of the magnitude of this problem, state and local efforts to correct it will never succeed without assistance from the federal government. In that event, a regional economic collapse will occur, a major environmental resource will forever be lost, and our legacy to future generations will carry a lasting shadow of irresponsibility.

The President's Budget Request provided $11.5 million for the Grand Prairie Region. I understand the difficulty the Senate Energy and Water Appropriations Subcommittee faced in trying to fund many worthwhile projects. Unfortunately, the Grand Prairie Project was not funded in this bill. It is also my understanding that the House Energy and Water Appropriations Bill provides the full Budget Request of $11.5 million for the Grand Prairie project.

I ask the Chairman, Senator DOMENICI, for his support in accepting the House level when this legislation is considered in conference.

Mr. DOMENICI. I thank the Senator from Arkansas for his comments. The Senator is correct. The Subcommittee had great difficulty in providing funds for several needed and worthwhile projects. I understand the importance and national significance of the Grand Prairie Project and pledge my support in conference for Grand Prairie if there are sufficient resources.

Mr. BUMPERS. I thank the Chairman for his efforts.

Mr. LEAHY. Mr. President, I would like to engage the Chairman in a colloquy. Last year, the Senator and I discussed the energy generation problems facing rural areas of the United States. The Chairman wisely included funding in the Fiscal Year 1998 Energy and Water Appropriations bill to address this problem. In rural areas, energy distribution systems are often more difficult and expensive to establish. As a result, communities are often forced to rely on more polluting fuel sources because they have lower up front capital costs. The Jeffords amendment the Chairman accepted this morning increases funding for the Remote Power Initiative to $5 million. Is that correct?

Mr. DOMENICI. Yes, the Senator is correct. In Fiscal Year 1998 and 1999 we included funding for the Remote Power Initiative to support deployment of solar, wind, fuel cell, biomass, and other energy technologies in remote areas to address their energy challenges. Last year, you highlighted the energy demands and environmental constraints of ski area operations as one example of this problem facing remote areas. As you noted, ski areas in Vermont were one of the leading sources of NO_x emissions due to use of inefficient and polluting diesel engines for operations. This is the kind of problem the subcommittee had in mind when proposing the Remote Power Initiative.

Mr. LEAHY. I want to thank the Chairman for including funds for the Remote Power Initiative again this year. This Initiative offers the Department of Energy an opportunity to build partnerships with the ski industry to deploy efficient and environmentally-friendly renewable energy technologies to reduce energy use and emissions. Partnerships could also involve environmental technology vendors and service providers who may be interested in cost sharing.

Mr. DOMENICI. I agree with the Senator from Vermont and believe there is a real need to address remote power problems in cold weather areas. I support using some of the funds in the Remote Power Initiative for the purposes you described.

Mr. LEAHY. I thank the Chairman and look forward to working with him and the Department of Energy to bring together ski operators and the renewable energy technology industry to discuss technology and policy issues, and determine appropriate actions and next steps.

BIOMASS ETHANOL RESEARCH

Mrs. FEINSTEIN. Mr. President, I wish to ask a question of the chairman of the subcommittee, the Senator from New Mexico, and the ranking member of the subcommittee, the Senator from Nevada; is it the understanding of the chairman and ranking member that there are enough funds available in the Solar and Renewable Resources Technologies/Biofuels Energy Systems account to continue the feasibility study and project development of a biomass ethanol plant in Plumas County, California?

Mr. DOMENICI. That is correct. Funding is available under this bill for the Department of Energy under the Biofuels Energy Systems account that could be used to study the feasibility of the Plumas County project.

Mr. REID. That is my view as well. I would urge the DOE to consider supporting this project in fiscal year 1999.

Mrs. FEINSTEIN. I thank the Senators.

Mr. BENNETT. Mr. President, it is my understanding that western states and the western electric power industry have been engaged in intensive efforts to create a competitive and reliable western electricity market covering all or parts of 14 states, two Canadian provinces and northern Mexico. I believe this is exactly the type of local cooperative action Congress hoped for in the enactment of the Energy Policy Act of 1992. I ask the Chairman, does the budget contain funds to help western states work with the electric power industry to promote competitive and reliable electricity markets in the Western Interconnection?

Mr. DOMENICI. The Senator is correct.

Mr. BENNETT. Is it the Committee's intent that the Department of Energy is to give priority in the expenditure of such funds to assisting western states which are collectively working with the industry on a gridwide basis to promote competitive and reliable regional electricity markets?

Mr. DOMENICI. The Senator is correct.

Mr. BENNETT. I thank the Chairman.

WESTERN AREA POWER ADMINISTRATION

Mr. BURNS. Mr. President, I understand that the Western Area Power Administration and The Bureau of Reclamation are considering raising rates for the power necessary to operate irrigation systems in the Eastern Division of the Pick-Sloane Missouri Basin Project. The purpose of these agencies is not to raise revenue. Rather, these agencies are designed to provide reliable and affordable power for multipurpose economic development.

Mr. DOMENICI. I agree Senator BURNS, affordable power rates for irrigation districts are vital to all those living in the western United States.

Mr. BURNS. This is especially true considering the recent drought and low wheat prices that we have been experiencing throughout the region. The farmers in this region simply cannot afford the burden that this rate increase will place on them.

Mr. DOMENICI. I understand that the situation now facing many of these farmers and ranchers is dire. You make a very compelling argument against raising rates and production costs for an industry that is already facing disaster.

Mr. BURNS. I thank Senator DOMENICI for his recognition of this problem. I will fully commit myself to working with him to resolve this situation as soon as possible.

Mr. LEAHY. Mr. President, I would like to engage the Chairman in a colloquy. Senator DOMENICI, I would like to thank you and Senator REID for your willingness to boost funding for the Department of Energy's important solar and renewable programs. I am especially pleased to see an increase in funding for the biomass energy systems account. In Vermont, work is continuing at the McNeil Generation Plant in Burlington to demonstrate the effectiveness of biomass gasification. This is an important renewable technology which will help our country reduce greenhouse gas emissions.

Earlier this year the Department of Energy agreed to a modification of the contract for the McNeil project which resulted in a $6 million increase in the Department's contribution to the South Burlington facility. These funds will be matched dollar for dollar by the partners who are participating with DoE in this important renewable program. Because the contract modification was not reached until after the President had submitted his Fiscal Year 1999 budget proposal, that increase was not reflected in the funding request for the biomass energy systems account. It is my understanding that the increase in funding for biomass energy systems includes the $6 million needed for the Department to meet its obligations under the contract for the McNeil facility.

Mr. DOMENICI. I concur with the Senator from Vermont as to the importance of the Vermont gasifier. I concur that it would be desirable to provide funds for that project. In conference, as we reach agreement with the House on the allocation of funds for Biomass, I will work to provide that funding.

Mr. BINGAMAN. Mr. President, I rise in support of the energy and water development appropriations bill and to take a few moments to engage in a colloquy with the chairman of the subcommittee on one of the many important programs being funded in the bill. That would be the technology transfer and education programs funded under Atomic Energy Defense Activities. These programs are an important investment in the future of the country, by leveraging the facilities, expertise, and R&D results funded by the Department's defense missions to the benefit of broader national science, technology, and education objectives. We have seen some important spin-offs over the years from DOE defense-related research, and this funding will ensure that we continue to see both spin-off and the flow of technology, ideas, and trained personnel into the labs, to the benefit of the Department's important statutory missions.

One example of a technology partnership area of importance, and which I hope the Department will fully fund in fiscal year 1999, is the Advanced Computational Technology Initiative, or ACTI. The ACTI program makes available to smaller oil and gas producers the computational and simulation resources of the national laboratories. One component of the ACTI program over the years, the Advanced Reservoir Management program, has funded advances in complex computational database management and electronic information systems that have been of benefit both to the oil and gas industry and DOE's defense programs.

I know that my colleague from New Mexico, the chairman of the subcommittee, is a strong supporter of our oil and gas industry. I would urge him to maintain funding of the ACTI program at the level of the President's request as this bill moves forward to conference.

Mr. DOMENICI. I completely agree with my colleague. We are united in our support for the oil and gas industry in New Mexico. The bill that I have brought forward today provides full funding for the ACTI program at the President's requested level. The program is one of a series of technological partnerships between the DOE national laboratories and industry which are producing real value to the U.S. economy. I plan to maintain this strong support for ACTI and other technology partnerships at DOE as this bill moves forward to enactment.

Mr. CAMPBELL. I thank my colleague, Senator INHOFE, for engaging in this dialogue to clear up confusion surrounding section 3(b) of S. 1279, the Indian Employment, Training and Related Services Demonstration Act Amendments of 1998.

Mr. INHOFE. What exactly does section 3(b) of S. 1279 purport to do?

Mr. CAMPBELL. It attempts to clarify inconsistencies in implementing Public Law 102–477. Over the past four years, tribes have attempted to integrate both programs into their 477 plans. They have received at best, inconsistent responses from the BIA. On several occasions the Bureau approved the integration, and other times integration was rejected. The Bureau confirmed this confusion at a May 13, 1997 Indian Affairs Committee hearing when it submitted conflicting testimony regarding its approval of including the JOM program into tribal plans. Section 3(b) makes clear that "at the option of a tribe" funds under both the General Assistance and Johnson O'Malley programs may be integrated into tribal 477 plans.

Mr. INHOFE. Is it true that your bill will not affect in any manner the current regulations and requirements established by the Department of the Interior with regard to the Johnson O'Malley program?

Mr. CAMPBELL. That's correct. In fact, I have here a letter from the Assistant Secretary of Indian Affairs, which states that while they support section 3(b)'s integration of Johnson O'Malley, "the program must continue to be conducted in accordance with its authorizing statute." Another letter dated March 28, 1998 states that the JOM parent committee will continue to have the authority to approve and disapprove tribal plans to integrate funds within the 477 program. I ask unanimous consent that each of these letters be placed in the record.

Mr. INHOFE. The Johnson O'Malley program is a supplemental education program designed to benefit Indian children aged 3 through grade 12 attending public schools. I'm concerned that permitting tribes the option to use these funds within employment and training plans will permit tribes to instead use these funds for post-high school adult employment training programs.

Mr. CAMPBELL. I agree with your concern, and that is why I amended the original language of the bill to expressly require tribal governments wishing to integrate these funds into their 477 programs to include adequate assurances that such funds will be used only for those intended beneficiaries, children aged 3 through grade 12. I would, however, like to make clear that with the onset of welfare reform upon us, tribal governments must be afforded adequate flexibility to administer the limited federal resources available. This bill attempts to provide that added flexibility.

Mr. INHOFE. I thank Senator CAMPBELL for clearing up these concerns. I'm encouraged by the assurances that the Johnson O'Malley Program will not be adversely affected by this measure.

Mr. DOMENICI. Mr. President, S. 2138, the Energy and Water Development Appropriations Act, 1999, complies with the Budget Act's section 302(b) allocation of budget authority and outlays.

The reported bill provides $20.9 billion in budget authority and $13.1 billion in new outlays to fund the civil programs of the Army Corps of Engineers, the Bureau of Reclamation, certain independent agencies, and most of the activities of the Department of Energy. When outlays from prior year budget authority and other actions are taken into account, this bill provides a total of $20.7 billion in outlays.

For defense discretionary programs, the bill is at its allocation for budget authority and below its allocation for outlays by $2 million. The Senate-reported bill also is below its nondefense discretionary allocation by $38 million in budget authority and $1 million under its allocation for outlays.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

S. 2138, ENERGY AND WATER APPROPRIATIONS, 1999—SPENDING COMPARISONS, SENATE-REPORTED BILL

[Fiscal year 1999, dollars in millions]

	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	12,030	8,909			20,939
Outlays	11,818	8,899			20,717
Senate 302(b) allocation:					
Budget authority	12,030	8,947			20,977
Outlays	11,820	8,900			20,720
President's request:					
Budget authority	12,298	9,003			21,301
Outlays	11,875	9,150			21,025
House-passed bill:					
Budget authority					
Outlays					
SENATE-REPORTED BILL COMPARED TO:					
Senate 302(b) allocation:					
Budget authority		−38			−38
Outlays	−2	−1			−3
President's request:					
Budget authority	−268	−94			−362
Outlays	−57	−251			−308
House-passed bill:					
Budget authority	12,030	8,909			20,939
Outlays	11,818	8,899			20,717

NOTE.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Ms. SNOWE. Mr. President, I rise today in support of the passage of S. 2138, the FY99 Energy and Water Development Appropriations bill. In particular, I thank my colleagues for approving $6 million for U.S. Army Corps of Engineers' funding for the harbor dredge in Portland, Maine.

I have supported the timely advancement of the harbor dredging because of public safety and environmental concerns and the project is the top priority for the state. Portland Harbor badly needs dredging, and it is to the great credit of the Portland Harbor Dredge Committee, made up of officials from the state, local, not-for-profit agencies and the private sector that the dredging project is now ready to begin, at least a year ahead of what the US Army Corps of Engineers expected. Corps officials had already made it clear that the project needed to begin this next winter in order to minimize environmental impacts, but could not be started until environmental determinations were made. The Dredge Committee, working together since 1994, was successful in obtaining the necessary permits, including allowing the bulk of the dredged material from Portland Harbor to be deposited at sea.

As I pointed out in the Budget Committee back in March when I first brought up the harbor dredging during Budget Reconciliation, the Corps project simply could not wait another year for funding to be included in the federal budget. It is to the credit of the state, the surrounding communities and the agencies working for the dredging that the project is ready to begin, and the window for the dredging to occur so as to mitigate the environmental risks, according to the Corps, is from October, 1998 to April, 1999. This should now be possible if the Senate funding level is protected in conference with the House.

I would also like to thank Senator DOMENICI and his Appropriations Subcommittee for federal funding for the Ft. Fairfield levee in rural Northern Maine, and also for including language in the appropriations bill that will allow construction of a levee to protect the town against further flooding. This Corps small flood control project is considered essential to the economic survival of Fort Fairfield. The town has experienced severe flooding over the last several years, and as recently as two months ago, was once again on emergency alert because of river flooding, and some senior citizens had to be evacuated from the their homes.

Back in April 1994 alone, flood waters exceeded the 100-year flood plain and caused an estimated $7 million in property damages to businesses and residences. The town is prepared to embark on a redevelopment project once a levee has been built to prevent future floods. Once again, we thank the appropriations committee for realizing the importance of the levee to me and to this small rural town in Northern Maine.

Mr. REID. The Department of Energy is negotiating a contract involving the Nevada Test Site and the Western Area Power Administration to purchase 5 to 10 megawatts of solar energy on behalf of the Nevada Test Site. A single bidder; the Corporation for Solar Technologies and Renewable Resources, has been selected through a competitive process and the Department is in the process of determining on what terms it should enter into such a contract.

Mr. DOMENICI. I concur with the Senator from Nevada's understanding of the current circumstances regarding the status of that contract. I understand the Department of Energy has engaged in a rigorous review to determine at what price and for what period of time it should enter into such a contract.

Mr. REID. This would be an unusual contract. However, it also offers some tremendous potential. If implemented correctly, this effort could demonstrate the viability of large scale commercial development of solar energy.

Mr. DOMENICI. I have reviewed the current situation and have been in contact with senior officials in the Department of Energy who have provided me with assurances that, while unusual, this contract has been subject to rigorous review and, on balance, is worthwhile because of the value that could be derived from demonstrating the use of solar energy on this scale. For this reason, and subject to the continued review of the Department, I am willing to recommend that the Department proceed with its negotiations on this contract.

Mr. REID. I thank the Senator from New Mexico for his support of this innovative effort and would also like to note the diligent efforts of my colleague from Nevada, Senator BRYAN who has dedicated a great deal of attention to this initiative. I concur with the value he sees in this opportunity as well as the value that may accrue to the Nevada Test Site in its efforts to identify new missions and responsibilities. Solar and renewable energy demonstration is one of those areas for which the Nevada Test Site has unique national capabilities and I look forward to further work in this regard.

ANIMAS-LA PLATA PROJECT

Mr. FEINGOLD. Mr. President, I wanted to make a statement on a matter of concern to me in the FY 99 Energy and Water Appropriations legislation. As my colleagues know, I have long been active in raising Senate awareness about the financial costs of moving forward with development and construction of the full-scale version of the Animas-La Plata project. I am concerned that Section 505 of the legislation before us may require the federal government to proceed with construction of the full-scale project, just at the time when the Congress is about to get additional information from the Bureau of Reclamation about alternatives to that project.

As my colleagues will recall from the debate on an amendment I offered to the FY 98 Energy and Water Appropriations legislation on this matter, the currently authorized Animas-La Plata project is a $754 million dollar water development project planned for southwest Colorado and northwest New Mexico, of which federal taxpayers are slated to pay more than 65% of the costs.

As described in the Committee Report on the legislation now before this body on page 80, the total federal cost associated with this project is now more than $512 million.

Section 505 of this bill starts out sounding like a prohibition on funds for the Animas-La Plata project. It states that none of the money in this bill is to be used "to pay the salary of any officer or employee of the Department of the Interior may be used for the Animas-La Plata Project."

However, the bill goes on to say that none of the money may be used for the Animas-La Plata project except in two cases: "(1) activities required to comply with the applicable provisions of current law; and (2) continuation of activities pursuant to the Colorado Ute Settlement Act of 1988."

Mr. President, let me be clear, the applicable provisions of current law require the construction of the full project. And though Section 505 of the bill before us is similar to language added by the other body to the FY 98 Energy and Water Appropriations legislation and retained by the Conferees, it was never considered by this body.

Subsequently, Mr. President, I do not believe, as I will discuss in greater detail, that Section 505 reflects either the position of this body or the current status of Animas-La Plata.

I am concerned with Section 505 for two reasons. First, it is not consistent with the activities proposed to be conducted by the Administration with the $3 million in funds it requested for Animas La Plata, funds which are included in this bill.

As I described on the floor last year, in an attempt to resolve the disputes surrounding Animas La Plata, Colorado Governor Roy Roemer and Lieutenant Governor Gail Schoettler convened a discussion process in October of 1996 to resolve issues involving the principal parties in a dialogue about the Animas project in order to reach consensus.

The Roemer-Schoettler process produced two major alternatives for consideration, one construction alternative and one non-construction alternative. As stated in the FY 99 Budget Justification issued by the Department of the Interior for the Animas La Plata project on page 223, "appropriate implementation activities" for these alternatives "will likely depend upon further direction from Congress."

This body knew that. At the time members voted on the amendment I offered last year to ensure a thorough evaluation, Roemer-Schoettler was concluding and the Interior Department was about to embark on an evaluation of the Roemer-Schoettler alternatives. That evaluation has not yet been completed and given to Congress.

In fact, Mr. President, the Interior Department's Budget Justification for FY 99 makes clear that these analyses are not yet finished. On page 226, it states that "work proposed for the Animas-La Plata project includes analysis of alternatives developed during the Roemer-Schoettler process and other subsequent activities." It continues, "depending on actions taken subsequent to the development of alternatives through the Roemer-Schoettler process, FY 1999 work could include finishing a study of alternatives, preparing cost share agreements, water rights settlement agreements, and repayment contracts and NEPA, Clean Water Act and other environmental compliance processes."

Mr. President, this justification specifically says that the Interior Department is not intending to proceed with the original full-scale Animas-La Plata Project in FY 99. The Interior Department, it says, instead wants $3 million in FY 99 to finish a study of alternatives and, depending upon Congressional action and direction, it could undertake a number of activities related to the implementation of alternatives in FY 99.

Not only does Section 505 require the Interior Department to go back to planning and evaluating the old full-scale project, it also fails to recognize the strong message that the Congress, project proponents and project opponents all recognize the full-scale project is dead. After 30 years, and now more than $70 million in appropriations to date, the project costs of full-scale Animas-La Plata are too great, and there are too many lingering substantive questions to proceed with the original design.

The other body has twice voted to terminate funds for the full-scale Animas La Plata project.

Last year, 42 members of this body supported my amendment to require the Interior Department to provide a report to Congress on a revised project plan for Animas-La Plata that would reduce the total cost of the program to the Federal Government, satisfy the Ute water rights claims, and ensure that no funds were expended for construction until a revised project had been authorized by Congress.

The Senior Senator from Colorado (Mr. CAMPBELL) has legislation before this body (S. 1771) to modify the Colorado Ute Water Rights Settlement of 1988 so that the Ute's claims would be satisfied by the construction of only a portion of the facilities that are proposed to be built in the full-scale project. The Senate Indian Affairs Committee and the Senate Energy Committee are expected to hold a joint hearing on that legislation next week. I have concerns about whether that legislation will actually restrict the obligation the federal government to the construction of only a portion of the original project, but I was looking forward to having that discussion in the appropriate venue.

Mr. President, I too have legislatively supported the search for an alternative to Animas-La Plata. In fact, legislation that I introduced on March 13, 1997 cosponsored by the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Oregon (Mr. WYDEN) and sponsored in the other body by my colleague from Wisconsin (Mr. PETRI) and the Congressman from New York (Mr. DEFAZIO), deauthorizes the current Animas-La Plata project and directs the Secretary of the Interior to work with the Southern Ute and Ute Mountain tribes to find an alternative to satisfy their water rights needs.

With all this focus on an alternative, the Senate should not be requiring the Interior Department to proceed with the current project.

So why is Section 505 in the bill, Mr. President? The legislative language seems to cast doubt on the Senate's intentions, and this Senator can only assume that we are appropriating money for the original project because there is some need to provide those who support a construction alternative with the ultimate insurance that it will be built. Should a construction alternative be infeasible, and from a policy perspective it may be so, continuing to sock money away for the original full-scale project provides a rationale for proceeding with the project.

Mr. President, I am not certain how Congress ultimately will decide to proceed on this matter, but we are now engaged in evaluation of alternatives to the full-scale Animas project. I am certain, moreover, that it is within the jurisdiction of this body's Energy Committee to determine the benefits of an alternative Reclamation project. Additionally, it is the responsibility of this body's Indian Affairs committee to make certain that the federal government's legal responsibilities to the Ute tribes under any sort of revised agreement are met. We should let these hearings move forward without legislatively trumping any potential for implementing an alternative through section 505.

This Senate should not go backward and require the Interior Department to proceed with the full-scale Animas project. We have the potential, if we carry on with the activities the Interior Department proposes to conduct, to achieve significant savings and settle the Ute's claims. The Roemer-Schoettler process generated two alternatives, which the Interior Department is studying. What is clear is that these alternatives have the potential to save the taxpayers between $500–$600 million. These savings will certainly not be realized if we proceed with the full-scale Animas project as required by section 505.

Mr. LEVIN. Mr. President, I am pleased the managers have accepted my amendment adding funds for two shoreline erosion projects along the Detroit River. The funds provided will allow reconnaissance surveys to go forward to help develop longer term plans for the important ongoing and comprehensive effort to revitalize the Detroit waterfront. I call to the attention of my colleagues that the Detroit River has been named by the administration as an American Heritage River. Such recognition, combined with attention from the Army Corps and other Federal agencies, will assist in these redevelopment efforts.

The managers have also accepted my and Senator GLENN's proposal to clarify that aquatic ecosystem restoration funds (section 206) can be used for sea lamprey barrier construction. The language in the amendment does not place a limit on the Corps' use of section 206 funds for this purpose. As my colleagues may know, the sea lamprey is a devastating invasive species that has plagued the Great Lakes since it first appeared and these barriers play an important role in preventing this species spread and population growth. The Corps can and should work with the Great Lakes Fishery Commission to place these barriers in the most efficient spots.

In addition, the managers have agreed to accept two important changes affecting contaminated sediments. The first is my and Senator GLENN's recommendation to increase the funds available for development of technology to remediate contaminated sediments. This is a pressing problem in the Great Lakes and across the country as EPA's recently published inventory of sediment quality establishes. The amount provided should help us make some progress in identifying cost-effective means of addressing this difficult pollution issue. The second is making it clear that the Corps can and Congress desires the Corps to spend funds to support the National Contaminated Sediment Task Force. This body was first authorized in WRDA 1992, but no Administration has requested funds to make this Task Force operational. The lack of funding for this body to date and the resulting lack of attention to this important matter must be changed.

I would also note that the Committee has significantly increased the planning assistance to States, as I and my Great Lakes colleagues proposed, and that the Corps should use some of this increase to provide technical assistance, as authorized in section 401 of WRDA, to communities working on developing Remedial Action Plans in Areas of Concern.

Mr. President, the diversion of Great Lakes waters out of the Great Lakes Basin is a matter of great concern to those of us from the Great Lakes region. Earlier this year, a Canadian firm announced plans and received permission from the Ontario Provincial Government, permission which has since been withdrawn, to export water from Lake Superior to Asia. Also, the Army Corps has been considering a permit from a company in Wisconsin that wants to use ground water that would otherwise discharge into Lake Michigan for an industrial process then send the wastewater out of the Basin into the Mississippi River watershed. These and other activities, including litigation on the latter action, highlight the need for Congress to reemphasize that existing law prohibits such interbasin transfers, unless the process under the Water Resources Development Act of 1986 is followed.

Last year, the managers accepted an amendment I offered to prohibit the Corps from using appropriated funds to permit a diversion, though it was subsequently dropped in conference. Senators GLENN and FEINGOLD and I had discussed offering a similar amendment to the fiscal year 1999 bill clarifying that such permitting activities on the part of the Corps, and indeed, all Federal agencies, are prohibited under WRDA 1986 unless the Great Lakes States unanimously approve of any diversion. However, the Senator from Nevada, who also sits on the Environment and Public Works Committee, has offered his assistance on this matter, which needs attention and clarification when and if the Senate prepares and considers a new Water Resources Development Act for 1998. I thank him for that consideration and we will await our next opportunity.

The Committee bill includes some other important items for Michigan and the Great Lakes. They include:

$1.5 million for Corps' public facility research and development to control zebra mussels and other invasive species.

$1 million for solar thermal energy dish/engine field verification, which would support work that has been done by Stirling Thermal Motors in Ann Arbor.

$3 million for accelerated demonstration of federally sponsored research for renewable energy production and environmental remediation project at the Michigan Biotechnology Institute in Okemos.

$.5 million for Great Lakes sediment transport and modeling. The Corps can use these funds to develop models to target Areas of Concern, such as the Saginaw River, for preventive measures to control future sediment loadings,

$39.95 million for operation and maintenance (mainly dredging at 24 harbors, rivers and channels in Michigan), including $1.9 million for Pentwater Harbor, which was not in the budget request.

$.5 million to begin preparation of the general design memo for replacement lock at Sault Ste. Marie.

$6 million for aquatic ecosystem restoration. These funds can now be used to construct sea lamprey barriers, per the accepted amendment mentioned previously.

$70 million more than proposed by the Committee, per the Jeffords/Roth amendment, for solar and renewable energy research and development. This is the amount in the President's budget request.

Mr. President, this is a good bill, despite the budget constraints that the managers faced in putting it together. I look forward to working with the managers and other Committee members on these important matters as they proceed to Conference.

Mr. McCONNELL. Mr. President, I come to the floor today to engage my distinguished colleague, the Chairman of the Energy and Water Appropriations Subcommittee, Senator DOMENICI, in a colloquy on an issue which could have a tremendous impact on the economies of Paducah, Kentucky and Portsmouth, Ohio.

Mr. President, I am deeply concerned about the magnitude of the job cuts that may occur as a result of the imminent privatization of the United States Enrichment Corporation (USEC). It is my understanding that upward of 1,700 jobs might be lost once the Corporation is privatized. Further, I am told that 600 jobs could be lost even if USEC is not privatized and continues to operate as a Federal Corporation. In an effort to mitigate the loss of jobs at the Paducah and Portsmouth facilities, I have drafted an amendment to ensure that dollars currently earmarked for the cleanup of USEC generated uranium tails, which is an extremely toxic material, remain dedicated to cleaning up the Paducah and Portsmouth plants.

Mr. President, today USEC has accrued approximately $400 million on its books for the purpose of cleaning up the uranium waste generated by the uranium enrichment process. It is my understanding, however, that this money only remains available until USEC is privatized. At that point, the funds will be transferred to the General Fund of the Treasury. I believe it would be a huge mistake if we allowed these funds to be dumped into the General Fund, while we have a tremendous need for this cleanup, and funds specifically dedicated for this cleanup. Ensuring that these funds will be spent to dispose of USEC's uranium waste at both of the Gaseous Diffusion plants, will also help to mitigate job losses which occur as a result of privatization.

Although I will not offer my amendment today, I would like to discuss it with Senator DOMENICI.

Mr. Chairman, isn't it true that since its inception in 1993, the USEC has created over 9,300 canisters of depleted uranium hexaflouride, with over 6,000 located at Paducah? Also, hasn't USEC carried over $400 million on its balance sheet for the clean up of this waste stream?

Mr. DOMENICI. The Senator is correct, USEC does maintain a fund specifically earmarked for the cleanup of this material.

Mr. McCONNELL. I would ask the Chairman of the Energy and Water Subcommittee what will happen to both the cleanup liability and the funds, upon the privatization of USEC. Won't the Department of Energy (DOE) accept full responsibility for the cleanup for this environmental liability, as provided under the 1996 USEC Privatization Act? Also, it is my understanding that the funds would be transferred to the General Fund, and no longer specifically dedicated to funding USEC's environmental cleanup? Is this accurate?

Mr. DOMENICI. The USEC privatization legislation sets a cut-off at the date of privatization. Environmental liabilities that occur after the date of privatization—when USEC is no longer government owned—are not the responsibility of the Federal Government. Liabilities incurred prior to that date—when USEC is Government owned—remain the responsibility of the Government.

Mr. McCONNELL. Mr. President, I, for one, would like to see that DOE use the funds, which were collected from USEC customers and currently earmarked for cleaning up the uranium, continue to be dedicated to cleanups.

Would the Chairman of the Energy and Water Subcommittee assist me in finding a solution to ensure that the money earmarked, for the purpose of cleaning up the uranium tails produced by USEC, will continue to be dedicated for these purposes and help to mitigate the job losses at these plants?

Mr. DOMENICI. I agree that we need to make cleanup a priority and seek to apply these funds toward cleanup—they were collected for that purpose and should be used for such. I will work with the Senator to achieve this end.

AMENDMENT NO. 2726

Mr. DOMENICI. I send to the desk an amendment on behalf of Mr. DORGAN and Mr. CONRAD and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. DORGAN and Mr. CONRAD, proposes an amendment numbered 2726.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 2 insert the following after the period:

": *Provided further*, That the Secretary of the Interior shall waive the scheduled annual payments for fiscal years 1998 and 1999 under section 208 of Public Law 100–202 (101 Stat. 1329–118)".

And on page 16, line 16 strike: "$697,919,000" and insert: "$697,669,000".

Mr. DOMENICI. Mr. President, we have no objection to the amendment.

Mr. REID. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2726) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. REID. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2727

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senator MURRAY and Senator GORTON, the occupant of the Chair.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mrs. MURRAY and Mr. GORTON, proposes amendment numbered 2727.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 19: strike "$456,700,000, to remain available until expended." and insert "424,600,000, to remain available until expended."

ENERGY SUPPLY

On page 21, line 2 strike "motor vehicles for replacement only, $699,836,000, to re-" and insert "motor vehicles for replacement only, 699,864,000, to re-"

Mr. DOMENICI. Mr. President, essentially this amendment moves the dollar amount for the flux reactor in your State and Senator MURRAY's State from one account to another. In the process, because of the outlays of one portion versus the other, the budget authority had to be reduced by $4 million. It has been adjusted accordingly, and we have no objection.

Mr. REID. There is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2727) was agreed to.

Mr. DOMENICI. I thank Senator MURRAY for her attention.

Mr. REID. I move to reconsider the vote.

Mr. DOMENICI. I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER), is absent because of illness.

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns

Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—1

Feingold

NOT VOTING—1

Specter

The bill (S. 2138) as amended, was passed, as follows:

S. 2138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $165,390,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Rehoboth and Dewey Beaches, Delaware, $150,000;

Fort Pierce Shore Protection, Florida, $300,000;

Lido Key Beach, Florida, $300,000;

Paducah, Kentucky, $100,000; and

Lake Pontchartrain Basin Comprehensive Study, Louisiana, $500,000:

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $700,000 of the funds appropriated in Public Law 102-377 for the Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, project for the feasibility phase of the Red River Navigation, Southwest Arkansas, study: *Provided further*, That the Secretary of the Army may make available $500,000 for the Atlanta Watershed, Atlanta, Georgia project.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,248,068,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredge Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri; Lock and Dam 14, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota, projects, and of which funds are provided for the following projects in the amounts specified:

Norco Bluffs, California, $4,000,000;

Panama City Beaches, Florida, $5,000,000;

Indianapolis Central Waterfront, Indiana, $4,000,000;

Harlan, Williamsburg, Pike County Middlesboro, Cumberland City/Harland County, and Martin County, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project in Kentucky, $28,500,000;

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $10,000,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, $6,000,000;

Jackson County, Mississippi, $4,500,000;

Pascagoula Harbor, Mississippi, $10,000,000;

Wallisville Lake, Texas, $8,000,000;

Virginia Beach, Virginia (Hurricane Protection), $20,000,000;

Upper Mingo County (including Mingo County Tributaries), Lower Mingo County (Kermit), Wayne County, Hatfield Bottom, and McDowell County, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project in West Virginia, $12,300,000; and the Grundy, Virginia element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project, $1,000,000:

Provided, That the navigation project for Cook Inlet Navigation, Alaska, authorized by Section 101(b)(2) of Public Law 104-303 is modified to authorize the Secretary of the Army, acting through the Chief of Engineers to construct the project at a total cost of $12,600,000 with an estimated first Federal cost of $9,450,000 and an estimated first non-Federal cost of $3,150,000: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $5,000,000 provided herein to construct bluff stabilization measures at authorized locations for the Natchez Bluff, Mississippi at a total estimated cost of $26,065,000 with an estimated first Federal cost of $19,549,000 and an estimated first non-Federal cost of $6,516,000 and to award continuing contracts, which are not to be considered fully funded: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds previously appropriated for the LaFarge Lake, Kickapoo River, Wisconsin project to complete and transmit to the appropriate committees of Congress by January 15, 1999 a decision document on the advisability of undertaking activities authorized by Public Law 104-303: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, may use up to $8,000,000 of the funding appropriated herein to initiate construction of an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River, and that this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 901(b)(2)(D)(i)); except that funds shall not become available unless the Secretary of the Army determines that an emergency (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) exists with respect to the emergency need for the outlet and reports to Congress that the construction is technically sound, economically justified, and environmentally acceptable and in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided further*, That the economic justification for the emergency outlet shall be prepared in accordance with the principles and guidelines for economic evaluation as required by regulations and procedures of the Army Corps of Engineers for all flood control projects, and that the economic justification be fully described, including the analysis of the benefits and costs, in the project plan documents: *Provided further*, That the plans for the emergency outlet shall be reviewed and, to be effective, shall contain assurances provided by the Secretary of State, after consultation with the International Joint Commission, that the project will not violate the requirements or intent of the Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, signed at Washington January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the "Boundary Waters Treaty of 1909"): *Provided further*, That the Secretary of the Army shall submit the final plans and other documents for the emergency outlet to Congress: *Provided further*, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the portion of the feasibility study of the Devils Lake Basin, North Dakota, authorized under the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility or carry out any activity that would permit the transfer of water from the Missouri River Basin into Devils Lake: *Provided further*, That the entire amount of $8,000,000 shall be available only to the extent an official budget request, that includes the designation of the entire amount of the request as an emergency requirement as defined by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $500,000 of funds appropriated herein to continue construction of the Joseph G. Minish Passaic River waterfront park and historic area, New Jersey project: *Provided further*, That of amounts made available by this Act for project modifications for improvement of the environment under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C.

2309a), $500,000 may be made available for demonstration of sediment remediation technology under section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644): *Provided further*, That the Secretary of the Army may make available $100,000 for the Belle Isle Shoreline Erosion Protection, Michigan project; $100,000 for the Riverfront Towers to Renaissance Center Shoreline Protection, Michigan project; and $200,000 for the Great Lakes Basin, Sea Lamprey Control, section 206, Michigan project.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $313,234,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,667,572,000, to remain available until expended, of which $460,000 may be made available for the Omaha District to pay pending takings claims for flooding of property adjacent to the Missouri River caused by actions taken by the Army Corps of Engineers, of which $2,540,000 shall be available for the project on the Missouri River between Fort Peck Dam and Gavins Point in South Dakota and Montana, under section 9(f) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (102 Stat. 4031), of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601), may be derived from that Fund for construction, operation, and maintenance of outdoor recreation facilities, and of which funds are provided for the following projects in the amounts specified:

Ponce DeLeon Inlet, Florida, $4,000,000;

Delaware River, Philadelphia to the Sea, Pea Patch Island, Delaware and New Jersey, $1,500,000; and

Yuquina Bay and Harbor, North Marina Breakwater, Oregon, $1,100,000:

Provided, That no funds, whether appropriated, contributed, or otherwise provided, shall be available to the United States Army Corps of Engineers for the purpose of acquiring land in Jasper County, South Carolina, in connection with the Savannah Harbor navigation project: *Provided further*, That notwithstanding section 103(c)(1) of Public Law 99–662, the Secretary of the Army is directed to use up to $100,000 of the funds appropriated herein for the Bluestone Lake, West Virginia, project to reimburse the Tri-Cities Power Authority the total amount provided by the Authority to the Department of the Army after fiscal year 1997 for the reevaluation study for the project.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $106,000,000, to remain available until expended, of which $250,000 may be made available to support the National Contaminated Sediment Task Force established by section 502 of the Water Resources Development Act of 1992 (33 U.S.C. 1271 note; Public Law 102–580).

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to clean up contaminated sites throughout the United States where work was performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended: *Provided*, That the remedial actions by the U.S. Army Corps of Engineers under this program shall consist of the following functions and activities to be performed at eligible sites where remediation has not been completed: sampling and assessment of contaminated areas, characterization of site conditions, determination of the nature and extent of contamination, preparation of designation reports, cleanup and closeout of sites, and any other functions determined by the Chief of Engineers as necessary of remediation: *Provided further*, That remedial actions by the U.S. Army Corps of Engineers under this program shall be subject to the administrative, procedural, and regulatory provisions of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq., and the Notional Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R., Chapter 1, Part 300: *Provided further*, That, except as stated herein, these provisions do not alter, curtail or limit the authorities, function or responsibilities of other agencies under the Atomic Energy Act, 42 U.S.C. 2011 et seq.: *Provided further*, That the unexpended balances of prior appropriations provided for these activities in this Act or any previous Energy and Water Development Appropriations Act may be transferred to and merged with this appropriation account, and thereafter, may be accounted for as one fund for the same time period as originally enacted.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Water Resources Support Center, and the USACE Finance Center; and for costs of implementing the Secretary of the Army's plan to reduce the number of division offices as directed in title I, Public Law 104–206, $148,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices.

REVOLVING FUND

Amounts in the Revolving Fund may be used to construct a 17,000 square foot addition to the United States Army Corps of Engineers Alaska District main office building on Elemendorf Air Force Base. The Revolving Fund shall be reimbursed for such funding from appropriations of the benefitting programs by collection each year of user fees sufficient to repay the capitalized cost of the asset and to operate and maintain the asset. Using amounts available in the Revolving Fund, the Secretary of the Army is authorized to renovate office space in the General Accounting Office headquarters building in Washington, DC, for use by the Corps and GAO. The Secretary is authorized to enter into a lease with GAO to occupy such renovated space as appropriate, for the Corps' headquarters. The Secretary shall ensure that the Revolving Fund is appropriately reimbursed from appropriations of the Corps' benefitting programs by collection each year of amounts sufficient to repay the capitalized cost of such renovation and through rent reductions or rebates from GAO.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Notwithstanding any other provisions of law, no fully allocated funding policy shall be applied to projects for which funds are identified in the Committee reports accompanying the Act or a subsequent Energy and Water Development Appropriations Act under the Construction, General; Operation and Maintenance, General; and Flood Control, Mississippi River and Tributaries, appropriation accounts: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake these projects using continuing contracts, as authorized in section 10 of the Rivers and Harbors Act of September 22, 1922 (33 U.S.C. 621).

SEC. 102. In fiscal year 1999, the Secretary of the Army is authorized and directed to provide planning, design and construction assistance to non-Federal interests in carrying out water-related environmental infrastructure and environmental resources development projects in Alaska, including assistance for wastewater treatment and related facilities; water supply, storage, treatment and distribution facilities; development, restoration or improvement of wetlands and other aquatic areas for the purpose of protection or development of surface water resources; and bulk fuel storage, rural power, erosion control, and comprehensive utility planning: *Provided*, That the non-Federal interest shall enter into a binding agreement with the Secretary wherein the non-Federal interest will provide all lands, easements, rights-of-way, relocations, and dredge material disposal areas required for the project, and pay 50 per centum of the costs of required feasibility studies, 25 per centum of the costs of designing and constructing the project, and 100 per centum of the costs of operation, maintenance, repair, replacement or rehabilitation of the project: *Provided further*, That the value of lands, easements, rights-of-way, relocations and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal share, not to exceed 25 per centum, of the costs of designing and constructing the project: *Provided further*, That utilizing $5,000,000 of the funds appropriated herein, the Secretary is directed to carry out this section.

SEC. 103. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, and for activities related to the Uintah and Upalco Units authorized by 43 U.S.C. 620, $43,665,000, to remain available until expended, of which $15,476,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided*, That of the amounts deposited into that account, $5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Central Utah Project Completion Act and $10,476,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,283,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian Tribes, and others, $697,669,000, to remain available until expended, of which $1,873,000 shall be available for transfer to the Upper Colorado River Basin Fund and $46,218,000 shall be available for transfer to the Lower Colorado River Basin Development Fund, and of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That of the total appropriated, $25,800,000 shall be derived by transfer of unexpended balances from the Bureau of Reclamation Working Capital Fund: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That the amount authorized for Indian municipal, rural, and industrial water features by section 10 of Public Law 89–108, as amended by section 8 of Public Law 99–294 and section 1701(b) of Public Law 102–575, is increased by $2,000,000 (October 1997 prices): *Provided further*, That the Secretary of the Interior is directed to use not to exceed $3,600,000 of funds appropriated herein as the Bureau of Reclamation share for completion of the McCall Area Wastewater Reclamation and Reuse, Idaho, project authorized in Public Law 105–62 and described in PN–FONSI–96–05: *Provided further*, That the Secretary of the Interior is directed to use not to exceed $200,000 of funds appropriated herein to provide technical assistance in a study of measures to increase the efficiency of existing water systems developed to serve sugar cane plantations and surrounding communities in the State of Hawaii: *Provided further*, That the Secretary of the Interior shall waive the scheduled annual payments for fiscal years 1998 and 1999 under section 208 of Public Law 100–202 (101 Stat. 1329–118).

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $12,000,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $38,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $39,500,000 to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575.

CALIFORNIA BAY-DELTA ECOSYSTEM RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of the Interior and other participating Federal agencies in carrying out the California Bay-Delta Environmental Enhancement and Water Security Act consistent with plans to be approved by the Secretary of the Interior, in consultation with such Federal agencies, $65,000,000, to remain available until expended, of which such amounts as may be necessary to conform with such plans shall be transferred to appropriate accounts of such Federal agencies: *Provided*, That such funds may be obligated only as non-Federal sources provide their share in accordance with the cost-sharing agreement required under section 102(d) of such Act: *Provided further*, That such funds may be obligated prior to the completion of a final programmatic environmental impact statement only if: (1) consistent with 40 CFR 1506.1(c); and (2) used for purposes that the Secretary finds are of sufficiently high priority to warrant such an expenditure.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $48,000,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed six passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of 22 passenger motor vehicles for replacement only, $786,854,000, to remain available until October 1, 2000, of which not less than $3,860,000 shall be available for solar building technology research, not less than $72,966,000 shall be available for photovoltaic energy systems, not less than $21,617,500 shall be available for solar thermal energy systems (of which not less than $3,000,000 shall be available for the dish/engine field verification initiative), not less than $35,750,000 shall be available for power systems in biomass/biofuels energy systems, not less than $41,083,500 shall be available for transportation in biomass/biofuels energy systems (of which not less than $3,000,000 shall be available to fund the Consortium for Plant Biotechnology Research), not less than $38,265,000 shall be available for wind energy systems, not less than $4,000,000 shall be available for the renewable energy production incentive program, not less than $7,000,000 shall be available for solar program support, not less than $5,087,500 shall be available for the international solar energy program, not less than $680,000 shall be available for solar technology transfer, not less than $5,000,000 shall be available for the National Renewable Energy Laboratory, not less than $31,250,000 shall be available for geothermal technology development, not less than $5,000,000 shall be available for the Federal building/Remote power initiative, not less than $16,325,500 shall be available for program direction, not to exceed $25,000 may be used for official reception and representation expenses for transparency activities and of which not to exceed $1,500,000 may be used to pay a portion of the expenses necessary to meet the United States' annual obligations of membership in the Nuclear Energy Agency.

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, $424,600,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $200,000,000, to be derived from the Fund, to remain available until expended: *Provided*, That $30,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of 15 passenger motor vehicles for replacement only, $2,676,560,000, to remain available until expended: *Provided*, That $7,600,000 of the unobligated balances originally available for Superconducting Super Collider termination activities shall be made available for other activities under this heading: *Provided further*, That $500,000 of the unobligated balances may be applied to the identification of trace element isotopes in environmental samples at the University of Nevada Las Vegas.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $190,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund; of which not to exceed $4,875,000 may be provided to the State of Nevada solely to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982; and of which not to exceed $5,540,000 may be provided to affected local governments, as defined in Public Law 97–425, to conduct appropriate activities pursuant to the Act: *Provided*, That the distribution of the funds to the units of local government shall be determined by the Department of Energy: *Provided further*, That the funds shall be made available to the units of local government by direct payment: *Provided further*, That within ninety days of the completion of each Federal fiscal year, each local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97–425. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $238,539,000, to remain available until expended: *Provided*, That moneys received by the Department for miscellaneous revenues estimated to total $136,530,000 in fiscal year 1999 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $102,009,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $27,500,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; the purchase of one fixed wing aircraft; and the purchase of passenger motor vehicles (not to exceed 32 for replacement only, and one bus), $4,445,700,000, to remain available until expended: *Provided*, That funding for any ballistic missile defense program undertaken by the Department of Energy for the Department of Defense shall be provided by the Department of Defense according to procedures established for Work for Others by the Department of Energy.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 3 new sedans and 6 for replacement only, of which 3 are sedans, 2 are buses, and one is an ambulance), $4,293,403,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, $1,048,240,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental restoration and waste management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), $241,857,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,658,160,000, to remain available until expended: *Provided*, That of the amount appropriated herein $5,000,000 shall be available for the joint U.S.-Russian development of a passively safe advanced reactor technology to dispose of Russian excess weapons derived plutonium: *Provided further*, That $56,700,000 appropriated herein is to procure plutonium disposition services and to begin Title I design for a mixed-oxide fuel fabrication facility: *Provided further*, That such funds shall not be available except as necessary to implement a bilateral program with the Russian Federation to convert to non-weapons forms and dispose of excess weapons plutonium in accordance with which the United States will at no time convert to non-weapons forms quantities of excess weapons plutonium greater than those converted to non-weapons forms by the Russian Federation: *Provided further*, That of the amount appropriated herein $30,000,000 is to be available for the Initiatives for Proliferation Prevention program: *Provided further*, That of the amount appropriated herein $30,000,000 shall be available for the purpose of implementing the "nuclear cities" initiative pursuant to the discussions of March 1998 between the Vice President of the United States and the Prime Minister of the Russian Federation and between the United States Secretary of Energy and the Minister of Atomic Energy of the Russian Federation.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $185,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For capital assets acquisition, $5,000,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1999, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $8,500,000, to remain available until expended; in addition, notwithstanding 31 U.S.C. 3302, not to exceed $28,000,000 in reimbursements of which $20,000,000 is for transmission wheeling and ancillary services and $8,000,000 is for power purchases at the Richard B. Russell Project, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $26,000,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,200,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $215,435,000, to remain available until expended, of which $206,222,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, $5,036,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $1,010,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

Federal Energy Regulatory Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $168,898,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $168,898,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1999 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $0.

GENERAL PROVISIONS

Department of Energy

SEC. 301. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award a management and operating contract unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 302. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award, amend, or modify a contract in a manner that deviates from the Federal Acquisition Regulation, unless the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 303. None of the funds appropriated by this Act or any prior appropriations Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy;

under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 304. None of the funds appropriated by this Act or any prior appropriations Act may be used to augment the $40,000,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 305. None of the funds appropriated by this Act or any prior appropriations Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

SEC. 306. None of the funds appropriated by this Act or any prior appropriations Act may be used to decrease the concentration of radioactive contamination in waste so that such waste complies with the waste acceptance criteria for the Waste Isolation Pilot Plant.

SEC. 307. CHANGE OF NAME OF THE OFFICE OF ENERGY RESEARCH. (a) IN GENERAL.—Section 209 of the Department of Energy Organization Act (42 U.S.C. 7139) is amended—

(1) in the section heading, by striking "ENERGY RESEARCH" and inserting "SCIENCE RESEARCH"; and

(2) in subsection (a), by striking "Energy Research" and inserting "Science Research".

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The table of contents in the first section of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended by striking the item relating to section 209 and inserting the following:

"Section 209. Office of Science Research.".

(2) REFERENCES IN OTHER LAW.—Each of the following is amended by striking "Energy Research" and inserting "Science Research":

(A) The item relating to the Director, Office of Energy Research, Department of Energy in section 5315 of title 5, United States Code.

(B) Section 2902(b)(6) of title 10, United States Code.

(C) Section 406(h)(2)(A)(v) of the Public Health Service Act (42 U.S.C. 284a(h)(2)(A)(v)).

(D) Sections 3167(3) and 3168 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d(3), 7381e).

(E) Paragraphs (1) and (2) of section 224(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10204(b)).

(F) Section 2203(b)(3)(A)(i) of the Energy Policy Act of 1992 (42 U.S.C. 13503(b)(3)(A)(i)).

SEC. 308. MAINTENANCE OF SECURITY AT DOE URANIUM ENRICHMENT PLANTS.—Section 3107(h) of the USEC Privatization Act (42 U.S.C. 2297h-5(h)) is amended in paragraph (1), by striking "an adequate number of" and inserting "all"; and by inserting the following paragraph:

"(2) FUNDING.—The Secretary of Energy shall reimburse a contractor or subcontractor for the costs of providing security to a gaseous diffusion plant as required to comply with the guidelines referred to in paragraph (1).".

SEC. 309. In order to facilitate administrative operations and promote sales of Federal power, upon request of a joint operating entity, the Administrator of the Bonneville Power Administration shall sell, pursuant to section 5(b)(1) of Public Law 96-501, as amended, 94 Stat. 2697, 16 U.S.C. 839c, at wholesale to such joint operating entity electric power for the purpose of meeting the firm power loads of regional public bodies and cooperatives that are members or participants of the joint operating entity: *Provided*, That the term "joint operating entity" means an entity that is lawfully organized under state law as a public body or cooperative by, and whose members or participants include only, two or more public bodies or cooperatives which are customers of the Administrator.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 310. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 311. OFFSETTING REDUCTIONS. Each amount made available under the headings "NON-DEFENSE ENVIRONMENTAL MANAGEMENT", "URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND", "SCIENCE", and "DEPARTMENTAL ADMINISTRATION" under the heading "ENERGY PROGRAMS" and "CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)" under the heading "POWER MARKETING ADMINISTRATIONS" is reduced by 1.586516988447 percent.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $67,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses as authorized pursuant to this Act, $20,000,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $17,500,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $466,000,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $17,000,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to State governments, foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $416,000,000 in fiscal year 1999 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That of the amount appropriated herein, $33,000,000 shall be available only for agreement State oversight, international activities, the generic decommissioning management program, regulatory support to agreement States, the small entity program, the nonprofit educational program, and other Federal agency programs, and shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to State governments, foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1999 appropriation estimated at not more than $50,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $4,800,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House of Representatives and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1999 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $2,600,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TENNESSEE VALLEY AUTHORITY

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, $70,000,000, to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of title 18, United States Code.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. None of the funds made available in this Act may be provided by contract or by grant (including a grant of funds to be available for student aid) to any institution of higher education, or subelement thereof, that is currently ineligible for contracts and grants pursuant to section 514 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (as contained in section 101(e) of division A of Public Law 104-208; 110 Stat. 3009-270).

SEC. 504. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with a contractor that is subject to the reporting requirement set forth in subsection (d) of section 4212 of title 38, United States Code, but has not submitted the most recent report required by such subsection.

SEC. 505. None of the funds made available in this Act to pay the salary of any officer or employee of the Department of the Interior may be used for the Animas-La Plata Project, in Colorado and New Mexico, except for: (1) activities required to comply with the applicable provisions of current law; and (2) continuation of activities pursuant to the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585).

SEC. 506. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program—Alternative Repayment Plan" and the "SJVDP—Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal Reclamation law.

SEC. 507. Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

SEC. 508. None of the funds made available in this or any other Act may be used to restart the High Flux Beam Reactor.

TITLE VI

DENALI COMMISSION

SEC. 601. SHORT TITLE. This title may be cited as the "Denali Commission Act of 1998".

SEC. 602. FINDINGS. The Congress finds that—

(1) vast regions of the State of Alaska, while abundant in natural resources and rich in potential, trail the rest of the Nation in economic growth;

(2) roughly two-thirds of the land and associated natural resources within Alaska are owned by the Federal Government;

(3) many Alaska communities do not have access to potable water which often results in disease, and in some cases death;

(4) the primary means of sewage disposal in some Alaska communities continues to open sewage lagoons, which can result in outbreaks of hepatitis, meningitis, particularly among young children;

(5) power costs are as much as ten times higher in some areas of Alaska than in the lower 48 states, which thwarts economic development;

(6) bulk fuel storage tanks built by the Federal Government in many Alaska communities do not comply with the Oil Pollution Act of 1990, could, therefore, be required to be closed, are used to store heating oil critical to survival, and that Alaska communities presently have no way to upgrade or replace the tanks;

(7) the majority of Alaska communities have essential infrastructure needs which presently cannot be met;

(8) the lack of infrastructure and economic opportunities in Alaska communities has resulted in disproportionately high Federal costs for welfare assistance, unemployment assistance, food stamps, heating oil, and other Federal programs in Alaska; and

(9) by addressing infrastructure needs and promoting economic development, the reliance of Alaska communities on Federal assistance and the cost to the Federal Government of such assistance could be significantly reduced.

SEC. 603. PURPOSE. It is the purpose of this Act to assist Alaska in addressing its special problems, to develop its infrastructure and utilities, to promote its economic development in rural communities by utilizing the markets, technical support, and other resources of urban areas, and to establish a framework for joint Federal and State efforts toward providing basic facilities essential to its growth and attacking its common problems.

SEC. 604. DENALI COMMISSION. (a) ESTABLISHMENT.—There is hereby established the Denali Commission which shall be composed of one Federal member appointed by the President with the advice and consent of the Senate, one State member appointed by the Governor after consultation with the Alaska Federation of Natives, the President of the University of Alaska or a designee, the President of the Alaska Chamber of Commerce, and the Executive Director of the Alaska Municipal League. The Federal member shall be compensated by the Federal government at level III of the Executive Schedule of subchapter II of chapter 53 of title V, United States Code.

(b) CHAIRMAN; DECISIONS.—The Federal member shall be the Chairman of the Denali Commission. Decisions by the Denali Commission shall require the affirmative vote of the Chairman and at least two of the other members of the Commission. With respect to matters that come before the Commission, the Chairman may inform Federal departments and agencies having an interest in the subject matter as appropriate.

(c) FUNCTIONS.—The Denali Commission, in consultation with the Governor of Alaska, shall develop a statewide, comprehensive plan for economic and infrastructure development, establish priorities, approve project and grant proposals, and administer funds appropriated to the Commission. It shall solicit project proposals to modernize infrastructure from local governments and other organizations. The Commission is authorized to adopt rules and regulations governing its conduct, appoint and fix compensation of staff to assist the Commission, accept and use gifts or donations, and enter into and perform contracts, leases, or cooperative agreements. Administrative expenses of the Commission shall be paid by the Federal Government and may not exceed 5 percent of any funds appropriated under this Act. The Commission and its grantees shall maintain accurate and complete records which shall be available for audit and examination by the Comptroller General or his designee. The Commission shall submit an annual report six months after the conclusion of the fiscal year which shall be submitted to the President, the Chairmen of the House and Senate Appropriations Committees, and the Governor of Alaska.

(d) SPECIAL FUNCTIONS.—

(1) RURAL UTILITIES.—In carrying out its other functions, the Denali Commission should provide assistance as appropriate and seek to avoid duplication and to complement the water and wastewater programs under section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) and under section 303 of the Safe Drinking Water Act Amendments of 1996 (33 U.S.C. 1263a).

(2) BULK FUEL TANKS.—The Denali Commission, in consultation with the Commandant of the United States Coast Guard, shall develop a program to provide for the repair or replacement of bulk fuel storage tanks in Alaska which are not in compliance with Federal law, including the Oil Pollution Act of 1990, or State law.

SEC. 605. INSPECTOR GENERAL. Section 8G of the Inspector General Act of 1978, as amended (5 U.S.C. appendix 3 section 8G) is amended in subsection (a)(2) thereof by adding after "the Corporation for Public Broadcasting", "the Denali Commission,".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to the Denali Commission to carry out this Act and for necessary expenses including staff, $20,000,000 in fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2003.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1999".

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2727, AS MODIFIED

Mr. DOMENICI. Mr. President, I ask unanimous consent that amendment No. 2727 previously agreed to be modified with the changes now at the desk. We made an error in where we put a number and we are just correcting it to what it ought to be.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2727), as modified, is as follows:

On page 21, line 19: strike "$456,700,000, to remain available until expended." and insert "$424,600,000, to remain available until expended.

ENERGY SUPPLY

On page 21, line 2 strike "motor vehicles for replacement only, $699,836,000, to re-" and insert "motor vehicles for replacement only, $727,836,000, to re-".

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate receives from the House of Representatives the companion bill to S. 2138, the Senate immediately proceed to its consideration; that all after the enacting clause be stricken; that the text of S. 2138 as passed be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed; that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses thereon, and the Chair be authorized to appoint the following conferees on the part of the Senate: Senators DOMENICI, COCHRAN, GORTON, MCCONNELL, BENNETT, BURNS, CRAIG, STEVENS, REID, BYRD, HOLLINGS, MURRAY, KOHL, DORGAN, and INOUYE; and that the foregoing occur without any intervening action or debate.

I further ask unanimous consent that the bill, S. 2138, not be engrossed and it remain at the desk pending receipt of the House-passed companion bill; that upon passage of the House companion bill by the Senate, the passage of S. 2138 be vitiated, and the bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

Mr. REID. Mr. President, I want to take just a minute to express my appreciation for the work of the chairman of the subcommittee. We have worked hard to get the bill passed. It is now passed.

I also have expressed on the record on a number of occasions what a pleasant arrangement the senior Senator from New Mexico and I have on this legislation. I reiterate that. I also want to express my appreciation for the hard work done by Senator DOMENICI's staff, Alex Flint, the majority clerk, David Gwaltney, who handled the water project, which is very large and significant in this bill. They are very professional and work very hard. The taxpayers get more than their money's worth from these gentlemen.

I also express publicly my appreciation for Greg Daines, minority clerk, who worked very hard on this legislation for months, getting it to the point where we now are. I have a very important congressional fellow who has worked with me on this legislation and others, Bob Perret, who has done an outstanding job.

Also, I want to express my appreciation to Lashawnda Leftwich, who is the staff assistant to Mr. Flint, the majority clerk in this matter, and also Liz Blevins, the staff assistant to the minority clerk. We have, I think, a good team, a good group of people here who have worked very hard together. Again, I express my appreciation to the chairman of the subcommittee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. This is a good bill we passed. It has a lot of interesting and needed policy decisions, projects and programs. We will have a very difficult conference with the House because they have some noticeably different priorities, especially when it comes to spending more money on water projects than we were able to spend. There will be less on research on DOE's nondefense research projects. But, overall, I am most particularly pleased with the nuclear part of this bill, for nuclear research, which we have five or six more new nuclear research projects, three that the President asked for, three that we asked for.

You know, the United States is very much behind the world on matters of nuclear power and nuclear science and nuclear engineering. Frankly, the world is moving in that direction. We were the beginners. We were the ones who started it. We were heralded as the world's most knowledgeable and efficient, and we are going to play some catchup, but catch up we will do, in the next decade, because nuclear power and nuclear energy will come back in the world. Whether America makes policy decisions sufficiently to give it a chance or not, only time will tell. But some decisions of the past 20 years, with reference to nuclear activities, have been about as inconsistent with what is happening in the world as anything anyone could imagine, based on wrong premises, expecting action in the world that never occurred.

Those things are going to have to be debated. A few of them start to move here. But, over the long run, there will be very significant debate about what happens to nuclear power and nuclear activities in the United States.

Right alongside that, while all that is going on that I have described, be it negative or however one would categorize it, clearly the Science-Based Stockpile Stewardship, which we are using in lieu of any further underground testing to protect our nuclear arsenal and make sure it is safe and trustworthy, is generating some of the most exciting new physics and science of anything going on in the world. Indeed, our great scientists and engineers are producing instrumentation, computerization, and new methods of looking inside of nuclear bombs to see what is really going on so we can replace the right parts, since we do not make any new ones. This is all very exciting and is adding a great dimension of science activity while a very valuable thing is being done for our country. Expensive it may be, but the right thing, without question, it is.

With that, more will be said during the year on those issues. I thank, in conclusion, my ranking member, Senator REID. I believe between us we not only work well together but I think we have helped each other make this bill a better bill. For that, I am very grateful to the Senator from Nevada, and I thank him very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

AGRICULTURE RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now begin consideration of Calendar No. 409, S. 2159, the agriculture appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBB. Mr. President, reserving the right to object, and I don't intend to object, but I just wanted my colleagues to be put on notice about my concerns with this bill. I appreciate the work of my two Senate colleagues who developed this bill, and my concerns about this bill actually fall with what is not included in the bill, rather than what is in the bill.

Mr. President, we have a very serious problem at the USDA that no one seems to be very interested in solving. As some of you may know, there are a number of minority farmers who filed discrimination complaints with the USDA back in the 1980's and were told that the USDA was on the case. In fact, they weren't and didn't intend to be. After the statute of limitations passed for these farmers to file their discrimination complaints in a court of law, the USDA acknowledged that they never investigated or attempted to resolve these complaints. Since the statute of limitations has now passed for a number of these farmers, these farmers have been left with no remedy for the alleged acts of discrimination they suffered, all because of the inaction of the USDA. It seems to me we ought to address that matter at the earliest possible opportunity.

Mr. President, many here may also be aware of several provisions which took effect with the enactment of the 1996 Farm bill which have resulted in the denial of credit to farmers, based on a write-down of a previous loan. This has a particularly disproportionate effect on minority farmers, even though in a number of cases it was the USDA that encouraged the individuals to take a write-down. This body added language to the Emergency Supplemental earlier this year which addressed this problem. However, that language was taken out in a conference with the House. It would seem to me that the least we could do here is to add that language to this bill.

In sum, Mr. President, I do not object to proceeding with this bill, but I want to work with the Senator from Mississippi and the Senator from Arkansas to see if we can address these issues in this bill.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

The clerk will report the bill.

The legislative clerk read as follows:

> A bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 1999.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Mississippi.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that the following Appropriations Committee staff members and fellow and intern be granted floor privileges during the consideration of this bill, S. 2159, and during any votes that may occur in relation thereto: Rebecca Davies, Martha Scott Poindexter, Rachelle Graves, Cornelia Tietka and Haywood Hamilton.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am pleased to present for the Senate's consideration S. 2159, the Fiscal Year 1999 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies appropriations bill. This bill provides fiscal year 1999 funding for all programs and activities of the United States Department of Agriculture—with the exception of the Forest Service—the Food and Drug Administration, the Commodity Futures Trading Commission, and expenses and payments of the farm credit system.

As reported, the bill recommends total new budget authority for fiscal year 1999 of $56.8 billion. This is $7.0 billion more than the fiscal year 1998 enacted level, and $740 million less than the President's fiscal year 1999 budget request.

Changes in mandatory funding requirements account for the overall increase from the fiscal year 1998 enacted level, principally reflecting lower estimated Food Stamp and higher Child Nutrition program expenses, along with a $7.6 billion increase in the required payment to reimburse the Commodity Credit Corporation for net realized losses.

Including Congressional budget scorekeeping adjustments and prior-year spending actions, this bill recommends total discretionary spending of $13.715 billion in budget authority and $14.080 billion in outlays for fiscal year 1999. These amounts are consistent with the Subcommittee's discretionary spending allocations.

Let me take a few minutes first to summarize the bill's major funding recommendations.

For the Food Safety and Inspection Service, appropriations of $605 million are recommended, $16 million more than the fiscal year 1998 level. These additional funds are necessary to maintain the current inspection system and to continue to implement the Hazardous Analysis and Critical Control Point meat and poultry inspection system.

For farm credit programs, the bill funds an estimated $2.4 billion total loan program level, including $489 million for farm ownership loans and $1.8 billion for farm operating loans.

Total funding of $922 million is recommended for the Farm Service Agency, $11 million more than the 1998 level. Increased funding is provided to maintain non-Federal staff years at the level requested in the budget, preventing reductions beyond those already planned.

For agriculture research, education, and extension activities, the bill provides total appropriations of $1.7 billion. Included in this amount is a reduction from fiscal year 1998 of $35.2 million for Agricultural Research Service buildings and facilities, a $24 million increase for research activities of the ARS, and a $12 million increase in funding for the Cooperative State Research, Education, and Extension Service, which includes a 3-percent increase in base formula funds.

For USDA conservation programs, total funding of $792 million is provided, $5 million more than the 1998 level. This includes $638 million for conservation operations, $101 million for watershed and flood prevention operations, and $34 million for the resource conservation and development program.

USDA's Foreign Agriculture Service is funded at a level of $136 million. In addition, a total program level of $1.1 billion is recommended for the Public Law 480 program, including $221 million for Title I, $837 million for Title II, and $30 million for Title III of the program.

The bill also provides a total program level of $2.2 billion for rural economic and community development programs. Included in this amount is $700 million for the Rural Community Advancement Program, an increase of $48 million from the fiscal year 1998 level; and a total $1.5 billion program level for rural electric and telecommunications loans, $92 million more than the 1998 level.

The Committee has devoted adequate resources to those programs which provide affordable, safe, and decent housing for low-income individuals and families living in rural America.

Estimated rural housing loan authorizations funded by this bill total $4.3 billion, a $65 million increase from the fiscal year 1998 appropriations level. Included in this amount is $1.0 billion in section 502 low-income housing direct loans and $129 million in section 515 rental housing loans.

In addition, $583 million is recommended for the rental assistance program. This is the same as the budget request level and $42 million more than the 1998 appropriation.

Over 65 percent of the bill's total funding, $37 billion, is provided for USDA's domestic food assistance programs. This includes $9.2 billion for child nutrition programs; $3.9 billion for WIC, including $15 million for the farmers' market nutrition program; $141 million for commodity assistance; and $23.8 billion for the food stamp program.

For those independent agencies funded by the bill, the Committee provides total appropriations of $1.0 billion. Included in this amount is $61 million for the Commodity Futures Trading Commission, and $953 million for the Food and Drug Administration (FDA). Total appropriations recommended for the FDA are $27 million more than the 1998 level, reflecting the full increase requested in the budget for FDA rental payments and an additional $4 million more than the request level for buildings and facilities. In addition, the bill makes available $132 million in Prescription Drug User Fee Act collections, $15 million more than the fiscal year 1998 level.

I would like to point out to my colleagues that the discretionary spending allocations for this bill are approximately $200 million in budget authority and outlays below a freeze at the 1998 levels. To provide the selected increases I just cited and to maintain funding for essential farm, housing, and rural development programs, several mandatory funding restrictions are included in the bill. Modest limitations are imposed on Food Stamp program commodity purchases and on acreage enrollments in the Wetlands Reserve Program, and restrictions are imposed on fiscal year 1999 funding for the Conservation Farm Option Program and the Fund for Rural America.

In the case of the Fund for Rural America, it was a choice between providing adequate appropriations for research and rural development—the increases in funding recommended for agriculture research and rural development, including $48 million for the Rural Community Advancement program and $24 million for ARS research—or allowing the Administration to decide how to spend funds for selected rural development and agriculture research purposes.

I also want to remind my colleagues that the President's budget for programs and activities under this Subcommittee's jurisdiction assumes new user fees will be enacted and generate a net total of over $650 million in collections to offset the discretionary spending increases proposed by the President. While relying on savings from new user fees and other legislative proposals may allow the President to claim discretionary spending levels which conform with those set forth in the bipartisan budget agreement, appropriations cannot be reduced until these legislative proposals are acted on by Congress and enacted into law.

However, that is not the case and this bill assumes none of the user fee savings proposed in the budget. Consequently, the savings assumed in the President's budget are not available to this Committee to offset the discretionary spending increases and new initiatives proposed by the Administration. Many of these proposals have merit and are ones I might support. However, this Committee must comply with the discretionary spending levels in the Bipartisan Budget Agreement and we have had to make some difficult decisions as a result. We have worked hard to maintain funding for the programs and activities funded by this bill as close to the 1998 program levels as possible, providing increases necessary to maintain essential personnel levels and to meet increased subsidy costs where necessary to sustain 1998 loan levels.

Also, despite recent reports, food safety continues to be a high priority of this Committee. The bill recommended to the Senate provides the funds necessary to ensure that American consumers continue to have the safest food in the world. This bill makes no reductions in appropriations for USDA and FDA food safety activities. In fact, the bill continues the enhanced levels provided last year for activities defined to be part of the Administration's food safety initiatives. This includes the additional $24 million for FDA food safety initiatives and $9 million for USDA food safety initiatives provided for fiscal year 1998. In addition, the bill includes $3.6 million of the increase requested in the fiscal year 1999 budget for USDA food safety initiatives. Not included in the President's food safety initiatives but equally important to the continued safety of our nation's food supply is based funding for the Food Safety and Inspection Service. This bill provides fiscal year 1999 appropriations of $605 million for the Food Safety and Inspection Service

(FSIS), $455 million more than the Administration's requested level and $16 million more than the 1998 level. With the appropriations for FSIS inspection activities included, this bill recommends total appropriations of $806.3 million for FDA and USDA food safety activities for fiscal year 1999, as compared to the President's $380.6 million appropriations request. This does not include enhanced funding of $50.7 million for FDA food safety initiatives which the President proposes be funded through new user fees.

Mr. President, in closing, I remind Senators that this will be the last time that my good friend from Arkansas and the distinguished ranking member of the Subcommittee, Senator BUMPERS, will manage this appropriations bill. Senator BUMPERS has been a valued member of the Appropriations Committee for the past 20 years and of this Subcommittee for the past thirteen years. The work of the Subcommittee reflects his intimate knowledge of the programs and activities. Senator BUMPERS has been an advocate of American agriculture and a proponent of programs to improve the quality of life and help bring jobs to rural areas. His many contributions to this process and this bill will continue on after his retirement from the Senate, but his leadership and participation in the work of the Committee in the future will be missed, particularly by this Senator.

Included in this bill is a general provision to designate the United States National Rice Germplasm Evaluation and Enhancement Center in Stuttgart, Arkansas, the "Dale Bumpers National Rice Research Center." The Senator from Arkansas has been an effective advocate of agricultural research and is the father of this ARS research center. I believe it is most appropriate to name this facility in his honor.

Mr. President, I thank the distinguished ranking member of the subcommittee, Senator BUMPERS, as well as all other Members of the Subcommittee for their support and cooperation in putting this bill together.

Mr. President, I believe the bill represents a balanced and responsible set of funding recommendations within the limited resources available to the subcommittee. I ask my colleagues to give it their favorable consideration.

Mr. President, I urge Senators to notice in our bill some important efforts to contrast the process that we followed to appropriate these funds with the proposal the President made when he submitted his budget request for the Department of Agriculture and related agencies.

A great deal of attention has been called to the President's request for additional funding of so-called new initiatives in certain areas covered by this bill. To propose these new funding levels, these so-called new initiatives, the President has had to assume that funds would be generated for those purposes by the enactment by the Congress of user fees. These cover Food Safety and Inspection Service activities. They also cover Food and Drug Administration activities.

The Congress has not enacted these user fees, and there is no expectation that Congress will through the legislative committees that have jurisdiction of these subjects. Therefore, that has led to the appearance that the committee, in its action to bring this bill to the floor, has not appropriated funds that the President has requested for these so-called new initiatives and additional spending programs.

We have not been able to accommodate the President's request because the allocation of funds to this subcommittee is insufficient to cover both the funding of the programs that we have had to fund in the bill, the continuing programs of research and extension and education which I have described so far, many of which are above the President's requested level, but the additional funds that he presumed would be available to this committee from user fees are not available to the committee, and therefore, for some accounts, it may appear that the committee is not funding those activities at the levels the President promised to secure the funding.

I think that explanation will serve to alleviate some concerns that I have heard expressed. One was expressed in the meeting of our full committee when this bill was under consideration, that we were going to put in jeopardy in some way, by having the funding levels that we had for food safety, the safety of school lunch food that is consumed by students at school. We have actually increased the programs that help safeguard the food supply well over and above what the President had requested.

He has suggested that funds be allocated to some so-called new initiatives, but he didn't request that we have inspectors in our poultry and meatpacking plants, as we have to have under current law, to inspect those processes and those plants to be sure that the food is packaged and processed in a way that is safe and will result in wholesome, nutritious food supplies for our country. We funded that. We have actually increased the funding above last year's levels, so that we wouldn't have to close any of these plants or shut them down for any periods of time that would be required if we had not come up with this funding.

I assure Senators that we have taken great care to make sure that the funds are there for this next fiscal year for these food safety programs, including the so-called HACCP program, the new program that has been under development for the last several years in which this committee has cooperated to fund, so that it can bring to the challenge of food safety the latest in technologies and understanding and information so that we don't have to worry that we are not doing enough to help protect the food that is consumed in the United States.

I must say, too, that I think our producers and those who work to bring us this food supply have to be given great credit for the success they have had in producing a reasonably priced, wholesome, nutritious food supply for our country and, beyond that, millions and billions of dollars in excess of what we need in our country for export in the world marketplace.

Senators will also know that one of the areas of emphasis in this legislation is the funding of programs to help make sure that our exporters and our farmers are treated fairly in the international marketplace, that we continue to endeavor to break down barriers to fair trade for American agriculture products.

This morning, we had an opportunity to meet with representatives of a number of national farm organizations who were here in the Capitol to discuss the problems in certain sectors of agriculture in certain regions of this country. The meeting was actually convened by Senator CONRAD BURNS of Montana and Senator PAT ROBERTS of Kansas. The majority leader was President—was present—he may be President, not yet; he may be President later. Senator DICK LUGAR, the chairman of the Senate Agriculture Committee, was present.

We had 12 or 14 Senators involved in this meeting to find out what the suggestions were for helping to deal with some of these problems of low prices on the farm in certain areas and in certain commodities, and problems in trade, problems with tax laws that operate to the detriment of many who own and operate our Nation's farms. It was a good meeting.

I say to Senators that this bill addresses many of the problems that were identified in that meeting this morning. So it is responsive to the concerns that we hear.

We do need to do a more aggressive job to take up for our Nation's farmers both at home, in terms of regulations and tax policies which make it hard to operate or more expensive, and in terms of trade policies and national initiatives, to be sure that we have an opportunity to sell what we produce in the international marketplace at competitive prices, so there can be profit in agriculture and we can continue to reap the benefit in our country and our economy, in all aspects of our economy that are related and involved with agriculture, of a healthy, vibrant agriculture economy.

We have all heard how many jobs depend upon our farmers, how many people are in the processing businesses, the value-added processing of food products, the transportation, the inputs that go into the farming operations in every rural community and every State in this great Nation. It is a huge business enterprise. And it deserves the sensitive support of the policymakers in Washington and a department of agriculture that cares when there is a problem on the farm and moves quickly to try to deal with it.

I think this legislation is consistent with those aims and those goals and those interests that we all have here in the Senate. I am hopeful that Senators will review the bill and give it their full support. And I hope Senators who have suggestions for changes in the bill will come to the floor and present those suggestions, and we will consider them in a very careful and sympathetic way.

We just as soon there not be any amendments. We think this is a good bill. We hope Senators will agree with us. We do have some committee amendments, and we have recommendations that have been cleared on both sides of the aisle for changes in the bill after the bill was considered in our committee.

At this time, Mr. President, I ask unanimous consent that a table comparing the committee's recommendations for fiscal year 1999 to the fiscal year 1998 levels and the President's fiscal year 1999 budget estimates be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
TITLE I—AGRICULTURAL PROGRAMS					
Production, Processing, and Marketing					
Office of the Secretary	$2,836,000	$2,941,000	$2,836,000		−$105,000
Executive Operations:					
Chief Economist	5,048,000	5,823,000	5,048,000		−775,000
Commission on 21st Century Production Agriculture		350,000			−350,000
National Appeals Division	11,718,000	13,297,000	11,718,000		−1,579,000
Office of Budget and Program Analysis	5,986,000	6,045,000	5,986,000		−59,000
Office of Chief Information Officer	4,773,000	7,222,000	5,551,000	+$778,000	−1,671,000
Total, Executive Operations	27,525,000	32,737,000	28,303,000	+778,000	−4,434,000
Office of the Chief Financial Officer	4,283,000	4,562,000	4,283,000		−279,000
Office of the Assistant Secretary for Administration	613,000	636,000	613,000		−23,000
Agriculture buildings and facilities and rental payments	131,085,000	147,689,000	137,184,000	+6,099,000	−10,505,000
Payments to GSA	(98,600,000)	(108,057,000)	(108,057,000)	(+9,457,000)	
Building operations and maintenance	(24,785,000)	(24,127,000)	(24,127,000)	(−658,000)	
Repairs, renovations, and construction	(5,000,000)	(15,505,000)	(5,000,000)		(−10,505,000)
Relocation expenses	(2,700,000)			(−2,700,000)	
Hazardous waste management	15,700,000	15,700,000	15,700,000		
Departmental administration	29,231,000	32,168,000	27,034,000	−2,197,000	−5,134,000
Outreach for socially disadvantaged farmers	3,000,000	10,000,000	3,000,000		−7,000,000
Office of the Assistant Secretary for Congressional Relations	3,668,000	3,814,000	3,668,000		−146,000
Office of Communications	8,138,000	8,319,000	8,138,000		−181,000
Office of the Inspector General	63,128,000	87,689,000	63,128,000		−24,561,000
Office of the General Counsel	28,759,000	30,446,000	28,759,000		−1,687,000
Office of the Under Secretary for Research, Education and Economics	540,000	560,000	540,000		−20,000
Economic Research Service	71,604,000	55,839,000	53,109,000	−18,495,000	−2,730,000
National Agricultural Statistics Service	118,048,000	107,190,000	103,964,000	−14,084,000	−3,226,000
Census of Agriculture	(36,327,000)	(23,741,000)	(23,599,000)	(−12,728,000)	(−142,000)
Agricultural Research Service	744,382,000	776,828,000	767,921,000	+23,539,000	−8,907,000
Buildings and facilities	80,630,000	35,900,000	45,430,000	−35,200,000	+9,530,000
Total, Agricultural Research Service	825,012,000	812,728,000	813,351,000	−11,661,000	+623,000
Cooperative State Research, Education, and Extension Service:					
Research and education activities	431,410,000	412,589,000	434,782,000	+3,372,000	+22,193,000
Native Americans Institutions Endowment Fund	(4,600,000)	(4,600,000)	(4,600,000)		
Extension Activities	423,376,000	418,651,000	432,181,000	+8,805,000	+13,530,000
Total, Cooperative State Research, Education, and Extension Service	854,786,000	831,240,000	866,963,000	+12,177,000	+35,723,000
Office of the Assistant Secretary for Marketing and Regulatory Programs	618,000	642,000	618,000		−24,000
Animal and Plant Health Inspection Service:					
Salaries and expenses	425,932,000	417,752,000	424,473,000	−1,459,000	+6,721,000
AQI user fees	(88,000,000)	(100,000,000)	(95,000,000)	(+7,000,000)	(−5,000,000)
Buildings and facilities	4,200,000	5,200,000	4,200,000		−1,000,000
Total, Animal and Plant Health Inspection Service	430,132,000	422,952,000	428,673,000	−1,459,000	+5,721,000
Agricultural Marketing Service:					
Marketing Services	46,567,000	58,469,000	45,567,000	−1,000,000	−12,902,000
New user fees	(4,000,000)	(4,000,000)	(4,000,000)		
(Limitation on administrative expenses, from fees collected)	(59,521,000)	(60,730,000)	(59,521,000)		(−1,209,000)
Funds for strengthening markets, income, and supply (transfer from section 32)	10,690,000	10,998,000	10,998,000	+308,000	
Payments to states and possessions	1,200,000	1,200,000	1,200,000		
Total, Agricultural Marketing Service	58,457,000	70,667,000	57,765,000	−692,000	−12,902,000
Grain Inspection, Packers and Stockyards Administration	25,390,000	11,797,000	26,390,000	+1,000,000	+14,593,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(43,092,000)	(42,557,000)	(42,557,000)	(−535,000)	
Office of the Under Secretary for Food Safety	446,000	598,000	446,000		−152,000
Food Safety and Inspection Service	588,761,000	149,566,000	605,149,000	+16,388,000	+455,583,000
Lab accreditation fees [1]	(1,000,000)	(1,000,000)	(1,000,000)		
Total, Production, Processing, and Marketing	3,291,760,000	2,840,480,000	3,279,614,000	−12,146,000	+439,134,000
Farm Assistance Programs					
Office of the Under Secretary for Farm and Foreign Agricultural Services	572,000	597,000	572,000		−25,000
Farm Service Agency:					
Salaries and expenses	699,579,000	723,478,000	710,842,000	+11,263,000	−12,636,000
(Transfer from export loans)	(589,000)	(672,000)	(589,000)		(−83,000)
(Transfer from Public Law 480)	(815,000)	(845,000)	(815,000)		(−30,000)
(Transfer from ACIF)	(209,861,000)	(227,673,000)	(209,861,000)		(−17,812,000)
Total, salaries and expenses	(910,844,000)	(952,668,000)	(922,107,000)	(+11,263,000)	(−30,561,000)
State mediation grants	2,000,000	4,000,000	2,000,000		−2,000,000
Dairy indemnity program	550,000	450,000	450,000	−100,000	
Total, Farm Service Agency	702,129,000	727,928,000	713,292,000	+11,163,000	−14,636,000
Agricultural Credit Insurance Fund Program Account:					
Loan authorizations:					
Farm ownership loans:					
Direct	(78,320,000)	(85,000,000)	(63,872,000)	(−14,448,000)	(−21,128,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999—Continued

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
Guaranteed	(425,000,000)	(425,031,000)	(425,000,000)		(−31,000)
Subtotal	(503,320,000)	(510,031,000)	(488,872,000)	(−14,448,000)	(−21,159,000)
Farm operating loans:					
Direct	(565,000,000)	(500,000,000)	(560,472,000)	(−4,528,000)	(+60,472,000)
Guaranteed unsubsidized	(992,906,000)	(1,700,000,000)	(992,906,000)		(−707,094,000)
Guaranteed subsidized	(235,000,000)	(200,000,000)	(235,000,000)		(+35,000,000)
Subtotal	(1,792,906,000)	(2,400,000,000)	(1,788,378,000)	(−4,528,000)	(−611,622,000)
Indian tribe land acquisition loans	(1,000,000)	(1,003,000)	(1,000,000)		(−3,000)
Emergency disaster loans	(25,000,000)	(25,000,000)	(25,000,000)		
Boll weevil eradication loans	(53,467,000)	(30,000,000)	(40,000,000)	(−13,467,000)	(+10,000,000)
Credit sales of acquired property	(25,000,000)	(25,000,000)	(25,000,000)		
Total, Loan authorizations	(2,400,693,000)	(2,991,034,000)	(2,368,250,000)	(−32,443,000)	(−622,784,000)
Loan subsidies:					
Farm ownership loans:					
Direct	8,329,000	12,725,000	9,562,000	+1,233,000	−3,163,000
Guaranteed	16,407,000	6,758,000	6,758,000	−9,649,000	
Subtotal	24,736,000	19,483,000	16,320,000	−8,416,000	−3,163,000
Farm operating loans:					
Direct	36,823,000	34,150,000	38,280,000	+1,457,000	+4,130,000
Guaranteed unsubsidized	11,617,000	19,720,000	11,518,000	−99,000	−8,202,000
Guaranteed subsidized	22,654,000	17,480,000	20,539,000	−2,115,000	+3,059,000
Subtotal	71,094,000	71,350,000	70,337,000	−757,000	−1,013,000
Indian tribe land acquisition	132,000	153,000	153,000	+21,000	
Emergency disaster loans	6,008,000	5,900,000	5,900,000	−108,000	
Boll weevil loans subsidy	472,000	432,000	576,000	+104,000	+144,000
Credit sales of acquired property	3,255,000	3,260,000	3,260,000	+5,000	
Total, Loan subsidies	105,697,000	100,578,000	96,546,000	−9,151,000	−4,032,000
ACIF expenses:					
Salaries and expense (transfer to FSA)	209,861,000	227,673,000	209,861,000		−17,812,000
Administrative expenses	10,000,000	10,000,000	10,000,000		
Total, ACIF expenses	219,861,000	237,673,000	219,861,000		−17,812,000
Total, Agricultural Credit Insurance Fund	325,558,000	338,251,000	316,407,000	−9,151,000	−21,844,000
(Loan authorization)	(2,400,693,000)	(2,991,034,000)	(2,368,250,000)	(−32,443,000)	(−622,784,000)
Total, Farm Service Agency	1,027,687,000	1,066,179,000	1,029,699,000	+2,012,000	−36,480,000
Risk Management Agency:					
Administrative and operating expenses	64,000,000	66,000,000	64,000,000		−2,000,000
Sales commission of agents	188,571,000			−188,571,000	
Total, Risk Management Agency	252,571,000	66,000,000	64,000,000	−188,571,000	−2,000,000
Total, Farm Assistance Programs	1,280,830,000	1,132,776,000	1,094,271,000	−186,559,000	−38,505,000
Corporations					
Federal Crop Insurance Corporation: Federal Crop Insurance Corporation fund	1,584,135,000	1,504,036,000	1,504,036,000	−80,099,000	
Commodity Credit Corporation Fund:					
Reimbursement for net realized losses	783,507,000	8,439,000,000	8,439,000,000	+7,655,493,000	
Operations and maintenance for hazardous waste management (limitation on administrative expenses)	(5,000,000)	(5,000,000)	(5,000,000)		
Total, Corporations	2,367,642,000	9,943,036,000	9,943,036,000	+7,575,394,000	
Total, title I, Agricultural Programs	6,940,232,000	13,916,292,000	14,316,921,000	+7,376,689,000	+400,629,000
(By transfer)	(211,265,000)	(229,190,000)	(211,265,000)		(−17,925,000)
(Loan authorization)	(2,400,693,000)	(2,991,034,000)	(2,368,250,000)	(−32,443,000)	(−622,784,000)
(Limitation on administrative expenses)	(107,613,000)	(108,287,000)	(107,078,000)	(−535,000)	(−1,209,000)
TITLE II—CONSERVATION PROGRAMS					
Office of the Under Secretary for Natural Resources and Environment	693,000	719,000	693,000		−26,000
Natural Resources Conservation Service:					
Conservation operations	632,853,000	742,231,000	638,231,000	+5,378,000	−104,000,000
Watershed surveys and planning [2]	11,190,000		11,190,000		+11,190,000
Watershed and flood prevention operations [3]	101,036,000	49,000,000	101,036,000		+52,036,000
Resource conservation and development	34,377,000	34,377,000	34,377,000		
Forestry incentives program	6,325,000		6,325,000		+6,325,000
Total, Natural Resources Conservation Service	785,781,000	825,608,000	791,159,000	+5,378,000	−34,449,000
Total, title II, Conservation Programs	786,474,000	826,327,000	791,852,000	+5,378,000	−34,475,000
TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS					
Office of the Under Secretary for Rural Development	588,000	611,000	588,000		−23,000
Rural community advancement program	652,197,000	715,172,000	700,201,000	+48,004,000	−14,971,000
Delta region economic development program		26,000,000			−26,000,000
Rural Housing Service:					
Rural Housing Insurance Fund Program Account:					
Loan authorizations:					
Single family (sec. 502)	(1,000,000,000)	(1,000,000,000)	(1,000,000,000)		
Unsubsidized guaranteed	(3,000,000,000)	(3,000,000,000)	(3,000,000,000)		
Housing repair (sec. 504)	(30,000,000)	(25,001,000)	(30,000,000)		(+4,999,000)
Farm labor (sec. 514)	(15,000,000)	(32,108,000)	(15,758,000)	(+758,000)	(−16,350,000)
Rental housing (sec. 515)	(128,640,000)	(100,000,000)	(128,640,000)		(+28,640,000)
Multi-family housing guarantees (sec. 538)	(19,700,000)	(150,000,000)	(75,000,000)	(+55,300,000)	(−75,000,000)
Site loans (sec. 524)	(600,000)	(5,000,000)	(5,000,000)	(+4,400,000)	
Self-help housing land development fund	(587,000)	(5,000,000)	(5,000,000)	(+4,413,000)	
Credit sales of acquired property	(25,000,000)	(30,007,000)	(25,000,000)		(−5,007,000)
Total, Loan authorizations	(4,219,527,000)	(4,347,116,000)	(4,284,398,000)	(+64,871,000)	(−62,718,000)
Loan subsidies:					
Single family (sec. 502)	128,100,000	118,200,000	118,200,000	−9,900,000	
Unsubsidized guaranteed	6,900,000	2,700,000	2,700,000	−4,200,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999—Continued

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
Housing repair (sec. 504)	10,300,000	8,808,000	10,569,000	+269,000	+1,761,000
Multi-family housing guarantees (sec. 538)	1,200,000	3,480,000	1,740,000	+540,000	−1,740,000
Farm labor (sec. 514)	7,388,000	16,706,000	8,199,000	+811,000	−8,507,000
Rental housing (sec. 515)	68,745,000	48,250,000	62,069,000	−6,676,000	+13,819,000
Site loans (sec. 524)		16,500	16,000	+16,000	−500
Credit sales of acquired property	3,492,000	4,672,000	3,826,000	+334,000	−846,000
Self-help housing land development fund	17,000	282,000	282,000	+265,000	
Total, Loan subsidies	226,142,000	203,114,500	207,601,000	−18,541,000	+4,486,500
RHIF administrative expenses (transfer to RHS)	354,785,000	367,857,000	360,785,000	+6,000,000	−7,072,000
Rental assistance program:					
(Sec. 521)	535,497,000	577,497,000	577,497,000	+42,000,000	
(Sec. 502(c)(5)(D))	5,900,000	5,900,000	5,900,000		
Total, Rental assistance program	541,397,000	583,397,000	583,397,000	+42,000,000	
Total, Rural Housing Insurance Fund	1,122,324,000	1,154,368,500	1,151,783,000	+29,459,000	−2,585,500
(Loan authorization)	(4,219,527,000)	(4,347,116,000)	(4,284,398,000)	(+64,871,000)	(−62,718,000)
Mutual and self-help housing grants	26,000,000	26,000,000	26,000,000		
Rural community fire protection grants	2,000,000			−2,000,000	
Rural housing assistance grants	45,720,000	46,900,000	45,720,000		−1,180,000
Subtotal, grants and payments	73,720,000	72,900,000	71,720,000	−2,000,000	−1,180,000
RHS expenses:					
Salaries and expenses	57,958,000	60,978,000	60,978,000	+3,020,000	
(Transfer from RHIF)	(354,785,000)	(367,857,000)	(360,785,000)	(+6,000,000)	(−7,072,000)
Total, RHS expenses	(412,743,000)	(428,835,000)	(421,763,000)	(+9,020,000)	(−7,072,000)
Total, Rural Housing Service	1,254,002,000	1,288,246,500	1,284,481,000	+30,479,000	−3,765,500
(Loan authorization)	(4,219,527,000)	(4,347,116,000)	(4,284,398,000)	(+64,871,000)	(−62,718,000)
Rural Business-Cooperative Service:					
Rural Development Loan Fund Program Account:					
(Loan authorization)	(35,000,000)	(35,000,000)	(33,000,000)	(−2,000,000)	(−2,000,000)
Loan subsidy	16,888,000	17,622,000	16,615,000	−273,000	−1,007,000
Administrative expenses (transfer to RBCS)	3,482,000	3,547,000	3,482,000		−65,000
Total, Rural Development Loan Fund	20,370,000	21,169,000	20,097,000	−273,000	−1,072,000
Rural Economic Development Loans Program Account:					
(Loan authorization)	(25,000,000)	(15,000,000)	(23,000,000)	(−2,000,000)	(+8,000,000)
Direct subsidy	5,978,000	3,783,000	5,801,000	−177,000	+2,018,000
Rural cooperative development grants	3,000,000	5,700,000	3,000,000		−2,700,000
RBCS expenses:					
Salaries and expenses	25,680,000	26,396,000	25,680,000		−716,000
(Transfer from RDLFP)	(3,482,000)	(3,547,000)	(3,482,000)		(−65,000)
Total, RBCS expenses	(29,162,000)	(29,943,000)	(29,162,000)		(−781,000)
Total, Rural Business-Cooperative Service	55,028,000	57,048,000	54,578,000	−450,000	−2,470,000
(By transfer)	(3,482,000)	(3,547,000)	(3,482,000)		(−65,000)
(Loan authorization)	(60,000,000)	(50,000,000)	(56,000,000)	(−4,000,000)	(+6,000,000)
Alternative Agricultural Research and Commercialization Revolving Fund	7,000,000	10,000,000	7,000,000		−3,000,000
Rural Utilities Service:					
Rural Electrification and Telecommunications Loans Program Account:					
Loan authorizations:					
Direct loans:					
Electric 5 percent	(125,000,000)	(55,000,000)	(71,500,000)	(−53,500,000)	(+16,500,000)
Telecommunications 5 percent	(75,000,000)	(50,000,000)	(75,000,000)		(+25,000,000)
Subtotal	(200,000,000)	(105,000,000)	(146,500,000)	(−53,500,000)	(+41,500,000)
Treasury rates: Telecommunications	(300,000,000)	(300,000,000)	(250,000,000)	(−50,000,000)	(−50,000,000)
Muni-rate: Electric	(500,000,000)	(250,000,000)	(295,000,000)	(−205,000,000)	(+45,000,000)
FFB loans:					
Electric, regular	(300,000,000)	(300,000,000)	(700,000,000)	(+400,000,000)	(+400,000,000)
Telecommunications	(120,000,000)	(120,000,000)	(120,000,000)		
Subtotal	(420,000,000)	(420,000,000)	(820,000,000)	(+400,000,000)	(+400,000,000)
Total, Loan authorizations	(1,420,000,000)	(1,075,000,000)	(1,511,500,000)	(+91,500,000)	(+436,500,000)
Loan subsidies:					
Direct loans:					
Electric 5 percent	9,325,000	7,172,000	9,325,000		+2,153,000
Telecommunications 5 percent	2,940,000	4,895,000	7,342,000	+4,402,000	+2,447,000
Subtotal	12,265,000	12,067,000	16,667,000	+4,402,000	+4,600,000
Treasury rates: Telecommunications	60,000	810,000	675,000	+615,000	−135,000
Muni-rate: Electric	21,100,000	21,900,000	25,842,000	+4,742,000	+3,942,000
FFB loans: Electric, regular	2,760,000			−2,760,000	
Total, Loan subsidies	36,185,000	34,777,000	43,184,000	+6,999,000	+8,407,000
RETLP administrative expenses (transfer to RUS)	29,982,000	32,000,000	29,982,000		−2,018,000
Total, Rural Electrification and Telecommunications Loans Program Account	66,167,000	66,777,000	73,166,000	+6,999,000	+6,389,000
(Loan authorization)	(1,420,000,000)	(1,075,000,000)	(1,511,500,000)	(+91,500,000)	(+436,500,000)
Rural Telephone Bank Program Account:					
(Loan authorization)	(175,000,000)	(175,000,000)	(140,000,000)	(−35,000,000)	(−35,000,000)
Direct loan subsidy	3,710,000	4,637,500	3,710,000		−927,500
RTP administrative expenses (transfer to RUS)	3,000,000	3,000,000	3,000,000		
Total	6,710,000	7,637,500	6,710,000		−927,500
Distance learning and telemedicine program:					
(Loan authorization)	(150,000,000)	(150,000,000)	(150,000,000)		
Direct loan subsidy	30,000	180,000	180,000	+150,000	
Grants	12,500,000	15,000,000	12,500,000		−2,500,000
Total	12,530,000	15,180,000	12,680,000	+150,000	−2,500,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999—Continued

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
RUS expenses:					
Salaries and expenses	33,000,000	33,445,000	33,000,000		−445,000
(Transfer from RETLP)	(29,982,000)	(32,000,000)	(29,982,000)		(−2,018,000)
(Transfer from RTP)	(3,000,000)	(3,000,000)	(3,000,000)		
Total, RUS expenses	(65,982,000)	(68,445,000)	(65,982,000)		(−2,463,000)
Total, Rural Utilities Service	118,407,000	123,039,500	125,556,000	+7,149,000	+2,516,500
(By transfer)	(32,982,000)	(35,000,000)	(32,982,000)		(−2,018,000)
(Loan authorization)	(1,745,000,000)	(1,400,000,000)	(1,801,500,000)	(+56,500,000)	(+401,500,000)
Total, title III, Rural Economic and Community Development Programs	2,087,222,000	2,220,117,000	2,172,404,000	+85,182,000	−47,713,000
(By transfer)	(391,249,000)	(406,404,000)	(397,249,000)	(+6,000,000)	(−9,155,000)
(Loan authorization)	(6,024,527,000)	(5,797,116,000)	(6,141,898,000)	(+117,371,000)	(+344,782,000)
TITLE IV—DOMESTIC FOOD PROGRAMS					
Office of the Under Secretary for Food, Nutrition and Consumer Services	554,000	573,000	554,000		−19,000
Food and Consumer Service:					
Child nutrition programs	2,612,675,000	3,887,703,000	4,171,747,000	+1,559,072,000	+284,044,000
Discretionary spending	3,750,000	10,000,000		−3,750,000	−10,000,000
Transfer from section 32	5,151,391,000	5,332,194,000	5,048,150,000	−103,241,000	−284,044,000
Total, Child nutrition programs	7,767,816,000	9,229,897,000	9,219,897,000	+1,452,081,000	−10,000,000
Special supplemental nutrition program for women, infants, and children (WIC)	3,924,000,000	4,081,000,000	3,924,000,000		−157,000,000
Reserve		(20,000,000)			(−20,000,000)
Food stamp program:					
Expenses	23,736,479,000	22,365,806,000	22,365,806,000	−1,370,673,000	
Reserve	100,000,000	1,000,000,000	100,000,000		−900,000,000
Nutrition assistance for Puerto Rico	1,204,000,000	1,236,000,000	1,236,000,000	+32,000,000	
The emergency food assistance program	100,000,000	100,000,000	80,000,000	−20,000,000	−20,000,000
Total, Food stamp program	25,140,479,000	24,701,806,000	23,781,806,000	−1,358,673,000	−920,000,000
Commodity assistance program	141,000,000	317,081,000	141,000,000		−176,081,000
Food donations programs for selected groups:					
Needy family program	1,165,000		1,081,000	−84,000	+1,081,000
Elderly feeding program	140,000,000		140,000,000		+140,000,000
Total, Food donations programs [4]	141,165,000		141,081,000	−84,000	+141,081,000
Food program administration	107,505,000	111,848,000	109,069,000	+1,564,000	−2,779,000
Total, Food and Consumer Service	37,221,965,000	38,441,632,000	37,316,853,000	+94,888,000	−1,124,779,000
Total, title IV, Domestic Food Programs	37,222,519,000	38,442,205,000	37,317,407,000	+94,888,000	−1,124,798,000
TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS					
Foreign Agricultural Service and General Sales Manager:					
Appropriation	131,295,000	141,087,000	131,795,000	+500,000	−9,292,000
(Transfer from export loans)	(3,231,000)	(3,413,000)	(3,231,000)		(−182,000)
(Transfer from Public Law 480)	(1,035,000)	(1,093,000)	(1,035,000)		(−58,000)
Total, Foreign Agriculture Service and General	135,561,000	145,593,000	136,061,000	+500,000	−9,532,000
Public Law 480 Program and Grant Accounts:					
Title I—Credit sales:					
Program level	(244,508,000)	(111,558,000)	(221,083,000)	(−23,425,000)	(+109,525,000)
Direct loans	(226,900,000)	(102,163,000)	(203,475,000)	(−23,425,000)	(+101,312,000)
Ocean freight differential	17,608,000	9,395,000	17,608,000		+8,213,000
Title II—Commodities for disposition abroad:					
Program level	(837,000,000)	(837,000,000)	(837,000,000)		
Appropriation	837,000,000	837,000,000	837,000,000		
Title III—Commodity grants:					
Program level	(30,000,000)	(30,000,000)	(30,000,000)		
Appropriation	30,000,000	30,000,000	30,000,000		
Loan subsidies	176,596,000	88,667,000	176,596,000		+87,929,000
Salaries and expenses:					
General Sales Manager (transfer to FAS)	1,035,000	1,093,000	1,035,000		−58,000
Farm Service Agency (transfer to FSA)	815,000	845,000	815,000		−30,000
Subtotal	1,850,000	1,938,000	1,850,000		−88,000
Total, Public Law 480:					
Program level	(1,111,508,000)	(978,558,000)	(1,088,083,000)	(−23,425,000)	(+109,525,000)
Appropriation	1,063,054,000	967,000,000	1,063,054,000		+96,054,000
CCC Export Loans Program Account:					
Loan guarantees: Export credit	(5,500,000,000)			(−5,500,000,000)	
Loan subsidy	527,546,000			−527,546,000	
Emerging markets export credit	(200,000,000)			(−200,000,000)	
Salaries and expenses (Export Loans):					
General Sales Manager (transfer to FAS)	3,231,000	3,413,000	3,231,000		−182,000
Farm Service Agency (transfer to FSA)	589,000	672,000	589,000		−83,000
Total, CCC Export Loans Program Account	531,366,000	4,085,000	3,820,000	−527,546,000	−265,000
Total, title V, Foreign Assistance and Related Programs	1,725,715,000	1,112,172,000	1,198,669,000	−527,046,000	+86,497,000
(By transfer)	(4,266,000)	(4,506,000)	(4,266,000)		(−240,000)
TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION					
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Food and Drug Administration					
Salaries and expenses, direct appropriation	857,501,000	878,884,000	940,367,000	+82,866,000	+61,483,000
Prescription drug user fee act	(117,122,000)	(126,845,000)	(132,273,000)	(+15,151,000)	(+5,428,000)
Mammography clinics user fee	(13,966,000)	(14,385,000)	(14,385,000)	(+419,000)	
Subtotal, program level	(988,589,000)	(1,020,114,000)	(1,087,025,000)	(+98,436,000)	(+66,911,000)
Buildings and facilities	21,350,000	8,350,000	12,350,000	−9,000,000	+4,000,000
Rental payments (FDA)	46,294,000	82,866,000		−46,294,000	−82,866,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999—Continued

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
By transfer from PDUFA		(5,428,000)			(−5,428,000)
Subtotal, program level	(46,294,000)	(88,294,000)		(−46,294,000)	(−88,294,000)
Total, Food and Drug Administration	925,145,000	970,100,000	952,717,000	+27,572,000	−17,383,000
DEPARTMENT OF THE TREASURY					
Financial Management Service: Payments to the Farm Credit System Financial Assistance Corporation	7,728,000	2,565,000	2,565,000	−5,163,000	
INDEPENDENT AGENCIES					
Commodity Futures Trading Commission	58,101,000	63,360,000	61,000,000	+2,899,000	−2,360,000
Farm Credit Administration (limitation on administrative expenses)	(34,423,000)			(−34,423,000)	
Total, title VI, Related Agencies and Food and Drug Administration	990,974,000	1,036,025,000	1,016,282,000	+25,308,000	−19,743,000
TITLE VII—EMERGENCY APPROPRIATIONS					
DEPARTMENT OF AGRICULTURE					
Farm Service Agency					
Emergency conservation program	34,000,000			−34,000,000	
Tree assistance program	14,000,000			−14,000,000	
Agricultural Credit Insurance Fund Program Account:					
Emergency insured loans:					
Loan subsidy	21,000,000			−21,000,000	
(Loan authorization)	87,400,000			−87,400,000	
Total, Farm Service Agency	69,000,000			−69,000,000	
Commodity Credit Corporation					
Livestock disaster assistance fund	4,000,000			−4,000,000	
Dairy production indemnity assistance program	6,800,000			−6,800,000	
Total, Commodity Credit Corporation	10,800,000			−10,800,000	
Natural Resources Conservation Service					
Watershed and flood prevention operations	80,000,000			−80,000,000	
Total, title VII, Emergency appropriations	159,800,000			−159,800,000	
Grand total:					
New budget (obligational) authority	49,912,936,000	57,553,138,000	56,813,535,000	+6,900,599,000	−739,603,000
Appropriations	(49,753,136,000)	(57,553,138,000)	(56,813,535,000)	(+7,060,399,000)	(−739,603,000)
(By transfer)	(606,780,000)	(640,100,000)	(612,780,000)	(+6,000,000)	(−27,320,000)
(Loan authorization)	(14,012,620,000)	(8,788,150,000)	(8,510,148,000)	(−5,502,472,000)	(−278,002,000)
(Limitation on administrative expenses)	(142,036,000)	(108,287,000)	(107,078,000)	(−34,958,000)	(−1,209,000)
RECAPITULATION					
Title I—Agricultural programs	6,940,232,000	13,916,292,000	14,316,921,000	+7,376,689,000	+400,629,000
Title II—Conservation programs	786,474,000	826,327,000	791,852,000	+5,378,000	−34,475,000
Title III—Rural economic and community development programs	2,087,222,000	2,220,117,000	2,172,404,000	+85,182,000	−47,713,000
Title IV—Domestic food programs	37,222,519,000	38,442,205,000	37,317,407,000	+94,888,000	−1,124,798,000
Title V—Foreign assistance and related programs	1,725,715,000	1,112,172,000	1,198,669,000	−527,046,000	+86,497,000
Title VI—Related agencies and Food and Drug Administration	990,974,000	1,036,025,000	1,016,282,000	+25,308,000	−19,743,000
Total, new budget (obligational) authority	49,753,136,000	57,553,138,000	56,813,535,000	+7,060,399,000	−739,603,000

[1] In addition to appropriation.

[2] Budget proposes to fund this account under Conservation Operations.

[3] Budget proposes to fund technical assistance for WFPO under Conservation Operations.

[4] Budget proposes to include funding for these programs under the Commodity Assistance Program in fiscal year 1998.

Mr. COCHRAN. This is a revised comparative statement of new budget authority which corrects two errors in the "FY 1999 Estimates" column in the same table printed in the committee report that accompanies the bill.

Mr. President, I must also observe, before yielding the floor, that my good friend from Arkansas, who is the distinguished ranking Democrat on the subcommittee on agriculture appropriations, is helping manage this bill this year, and it will be his last opportunity to exercise this important responsibility.

He has chosen not to seek reelection in the State of Arkansas for another term in the Senate. And I must say that it pains me to contemplate going through the process of developing and helping to write an agriculture appropriations bill without his intelligent and thoughtful assistance. He has been a good friend to me since I have been in the Senate. We have worked closely together on a number of issues, not only in agriculture, in rural development, but in other areas as well.

I pointed out earlier in my statement that in recognition of his outstanding service for the people of Arkansas in the U.S. Senate, and particularly for his work on agriculture research issues, there is included in this bill a general provision to designate the U.S. National Rice Germplasm Evaluation and Enhancement Center in Stuttgart, AR, the "Dale Bumpers National Rice Research Center."

The distinguished Senator from Arkansas has been a very effective advocate of agriculture research funds for this ARS Research Center. I think he is the father of that center. I believe it is most appropriate to name this facility in his honor.

Also, I want to express my appreciation to him and the members of his staff, and the other members of the subcommittee on both sides of the aisle, for their assistance and support and cooperation in developing this legislation. I hope the Senate will approve it.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am most pleased to join my very good friend, Senator COCHRAN, in bringing this bill to the floor. I think that, considering the constraints that Senator COCHRAN—who is really the crafter of this bill—considering the constraints that he was operating under, this is a remarkable bill.

We were allocated, and even in the President's budget request, $1 billion less than we had last year. To try to craft a bill meeting the really mostly legitimate demands—or at least even funding or increased funding—under that kind of a burden was extremely difficult. I did not interfere—tried not to interfere very much in Senator COCHRAN's work because he was already burdened heavily enough in trying to fit all the pieces of this mosaic together. But he deserves the praise and the accolades of every Member of this Senate for what I think is a remarkable achievement.

Mr. President, Senator COCHRAN has outlined the levels of funding provided in this bill for various functions and programs under the jurisdiction of this subcommittee and I will not repeat them. Let me simply say Senator COCHRAN and I have done the best we could with limited resources to maintain the activities at USDA, FDA, and other agencies that are so important to the American people.

I wish I could be equally as pleased with the budgetary hand with which this subcommittee has been dealt, but the reality is that a budget request filled with user fees, initiatives, and other issues coupled with a 302(b) allocation that reduced our available resources well below last year's levels has produced very hard choices for us. As the Washington Post pointed out in an editorial earlier this week related to the fact that our bill freezes the WIC program at last year's level, until the overall budgetary parameters affecting this subcommittee are adjusted, there is little this subcommittee can do. We can't provide more with less.

However, in my view, the bill before us, which Senator COCHRAN has crafted, makes the best of a bad situation. Would I suggest increases in certain programs if the resources were available? Of course I would and I believe Senator COCHRAN would agree with those increases. But it doesn't take a rocket scientist to conclude that when you have less to work with, something has to give. Unfortunately, this year is one in which avoiding the budget ax may itself be a victory.

We hear a lot these days about budget surpluses. We also hear a lot about how to spend those surpluses, such as providing tax cuts. We talk a lot about saving Social Security, but we still count those revenues coming into the Social Security Trust Fund as part of that glorious "surplus" which many are eager to divide up and share with their friends.

The other day, a group of people from a very poor part of the East Arkansas Delta were in office asking for help to reduce flooding in their communities. The flooding causes their septic tanks to back up, resulting in sewage floating down the streets of small rural communities and into the ditches throughout the county. When this bill was considered by the full committee, I explained this problem to Senator STEVENS and other members of the Appropriations Committee. Senator STEVENS and others pledged to help and I hope that we will be able to include an amendment to this bill that will provide necessary funds so these people in East Arkansas will have a few of the basic services that many of us take for granted. Still, this leaves Congress with the remaining problem of caps on domestic spending that is affecting the lives of everyday people all across this country.

The immediate future holds little promise for improvement. The Budget Act requires that the coming years will witness continuing declines in discretionary spending, which means the subcommittee's allocation will likely be less next year than this and Senator COCHRAN's headaches (not mine) will be even more severe than they have been these past few weeks. Having said all this, let me come back to the task at hand and simply state that Senator COCHRAN has done all excellent job in making the pieces fit into a very complex mosaic.

As I have suggested, the watchword for this year has been "maintain". This bill restores many of the worthwhile programs that were deleted in the President's budget request and even provides a sight increase in the formula base funds for research and extension activities that have been held steady for many years. Conservation and rural development programs are protected as best we can in spite of changes in loan subsidy rates that caused severe problems in maintaining last year's program levels. We protected rural water and sewer programs which are among the best investments the federal government makes. We were also able to maintain many of last year's program levels for rural housing programs.

The WIC program is expected to average more than 7 million participants in fiscal year 1998. This bill provides funds necessary to maintain that caseload. I wish we were able to provide a higher level, but limited resources have left few options. I am willing to work with Senator COCHRAN and other Senators to find ways to provide higher levels for important programs such as WIC if reasonable offsets or additional resources can be identified.

For years, so called "budget hawks" have been telling Congress to "cut the fat". For this subcommittee, the "fat" was eliminated a long, long time ago. Today, we are cutting into the "lean." These cuts hurt farmers and they hurt our agricultural research base which is needed to make possible the means for this planet to avoid global starvation in years to come. These cuts hurt small rural communities and they hurt children. They deprive our nation of a cutting edge in maintaining a place in global markets. They place our food and blood supply at risk and, quite simply, they harm America. This is certainly not the fault of Senator COCHRAN, but these problems have fallen in his lap, and mine, and on us all. I only hope that in years to come, those who would cut the "fat" out of these programs first explain where the "fat" is.

I also feel it is important to make a quick reference to an item in the bill that has long been near and dear to my heart as I know it is to Senator COCHRAN. For longer than we have shared a place in the United States Senate, Senator COCHRAN and I have shared a common state boundary along the banks of the mightiest river on the continent. One hundred years ago, the highest form of travel in this country was to take a ride on a Mississippi riverboat. Ten years ago, I sponsored legislation to create the Lower Mississippi River Delta Regional Commission. Sadly, the focus of this Commission was not to highlight the gilded days of luxurious steamboat travel, or the glorious setting in the lobby of Memphis' Peabody Hotel, where legend holds the Delta begins, but to reverse the tragic decline in economic and social prosperity that has resulted in harsh impoverishment up and down this mighty river.

Today, the Chairman of this Commission which we formed in 1988 now sits at a desk in the Oval Office of the White House. President Clinton submitted a budget amendment to this subcommittee to create a Delta Regional Commission based largely on the findings of the Lower Mississippi Delta Regional Commission and in the combined spirit of us all to provide a better life for the most hard pressed of our citizens. The President's request called for $26 million to establish and provide assistance to this worthy cause.

With the limited resources of this subcommittee, we were not able to create a new "agency" for the Delta, but we did provide the Secretary of Agriculture authority to work with local groups in the region to help them help themselves. USDA holds many programs important to the Delta such as rural housing, water and sewer programs, conservation, food assistance, research and education, and many, many more. This subcommittee, over the past several years, has provided funding for the Delta Teachers Academy which has been a highly successful program to improve educational opportunities in the region. The Delta Teachers Academy is an example of the progress in rural America that USDA can help foster. I am pleased that the President has added his voice to the call for rejuvenation of this region that two hundred years ago was the western border of our nation, but now lies at its heart.

In closing, I would be remiss not to state publicly my admiration for Senator COCHRAN and the honor I have enjoyed serving with him on this subcommittee. This is my last agriculture appropriations bill to be considered on the floor of the United States Senate, but I will always cherish the friendship and warm memories of my colleagues.

Let me conclude by saying that I do not know of anybody in the Senate for whom I have a higher regard and more respect than I have for Senator COCHRAN. I was chairman of this subcommittee until the Republicans took over in 1995. Senator COCHRAN has chaired it since that time. He was my ranking member when I was chairman. And I daresay, with no reflection on any other chairman and ranking member of any of the subcommittees on appropriations, or I daresay any other committee of the Senate, I doubt that any of them have enjoyed better cooperation with each other than Senator COCHRAN and I have enjoyed, and that is based on the tremendous respect I have for his ability and his understanding of these programs. I concede he understands some of these agricultural programs a lot better than I do.

But having said all of that, Mr. President, I just say it has been a genuine joy to work with Senator COCHRAN. Let me say, again, there is no Member of the Senate for whom I have a higher regard and greater respect. It has been a great honor. I will miss times like this when we come before the Senate to present this bill. I will miss working with Senator COCHRAN on issues that we both care deeply about, but it is time for me to move on. I want to thank Senator COCHRAN for his always generous and laudable remarks that he made about me.

So with that, Mr. President, I hope that Senators who have amendments will come to the floor so we can dispose of this bill as expeditiously as possible. We did very well on the water and energy bill. I would like to think we could do as well on the ag bill. If Senators would come to the floor and offer their amendments, we will.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COATS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate go into a period of morning business for the purpose of my making a statement on an unrelated issue.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to speak as if in morning business.

Mr. BIDEN. I thank the President.

THE SEARCH FOR MODERN CHINA: THE PRESIDENT'S CHINA TRIP

Mr. BIDEN. Mr. President, President Clinton, as he prepares to depart for China, carries with him an obligation, which I am sure he will fulfill, to do his best to advance U.S. core interests with Beijing and to communicate the values of the American people directly to the Chinese people.

But what is also at stake, I think, is that there is a concomitant responsibility on the part of the U.S. Senate and the U.S. Congress to adhere to a practice that has been in place for the 25 years that I have been in the U.S. Senate; that is, when a President is abroad, for the Congress to refrain, if only temporarily, from acting on matters that would affect the country which the President is visiting.

There were a number of times when President Reagan was President, when President Nixon was President, when President Ford was President, and when President Bush was President that I had sharp disagreements with their foreign policy initiatives. But never once did I, nor can I remember any of us in either the Republican or the Democratic Party, vote on legislation that would directly affect and impact upon the relationship of the United States and the country which the President was visiting.

So I ask my Republican friends, in the spirit of bipartisanship in the conduct of American foreign policy, to refrain from offering amendments to the DOD bill, if it comes up, that are designed to sanction and/or publicly criticize China at the very moment the President of the United States will be in China. I hope that we could return to that period in our relationship when both parties adhered to that practice.

There is a list of at least 12—maybe as many as 20—China sanction amendments, some of which may very well be justified, that would be attached to, or attempted to be attached to, the defense bill, which I am told is likely to come up on Tuesday of next week.

I make a personal plea to my colleagues to return to the practice that has been honored here on the floor of the U.S. Senate of not engaging in legislative action that impacts upon, or can impact upon, the relationship with the country where the President of the United States, be he a Republican or Democrat, is presently in place. I will be sending a letter to all of my colleagues asking that they do that.

But to continue, Mr. President, the President's mission is not going to be an easy one any more than the first time President Nixon went to China, or President Bush, or any other President who has engaged China.

It comes amid a sometimes rancorous debate over China policy in this country, and the debate is totally appropriate, I might add. I am not suggesting there should not be a very serious debate, and I have no doubt, because of the consequences of the actions we will take as a Nation, it will likely get rancorous at some point.

I have myself asked this Congress to move into special secret session, a rare occurrence, not so many years ago to debate the extension of most-favored-nation status to China. I did so because of my concerns about Chinese proliferation activities, proliferation of missile and/or nuclear technology. And so I am not suggesting the debate will not be heated, and I am not suggesting it should not be thorough. I am not suggesting that it will not have political ramifications. That is all appropriate, normal and reasonable. But the President's mission is going to be made more difficult as a consequence of the debate that is underway.

There is no clear consensus in America, nor, in my view, no clear consensus in the Senate, on how to best advance American interests in the Far East. The Governments of China and the United States will not always see eye to eye, and while the people of the United States and the people of China have much in common—a love of family, a thirst for knowledge, and perhaps most importantly, a desire to see our children and grandchildren live in a world more peaceful and prosperous than our own—we also have profound differences that cannot be overlooked.

In his incisive history, entitled, "The Search for Modern China," Yale historian and prominent Chinese scholar Jonathan Spence writes that China is not yet truly a modern nation."

Spence defines a modern country as "one that is both integrated and receptive, fairly sure of its own identity, yet able to join others on equal terms in a quest for new markets, new technologies and new ideas." He concludes that the "search" for modern China is an ongoing act.

I think Spence is right, and the United States cannot afford to be a spectator in this drama. We need to be active on the world's stage, engaging China as it undergoes a period of extraordinary change.

What do we want? What is in our national interest? Good China policy begins with a clear articulation of U.S. interests, beamed directly to the highest levels of the Chinese Government.

There is virtually no debate in this country over our long-term objectives. Our interests are plain. We seek a more prosperous, open and democratic China, at peace with its neighbors, and respectful of international norms in the area of nonproliferation, human rights and trade.

There is considerable debate, however, about how best to achieve those objectives and whether they can all be achieved simultaneously or whether we will put one ahead of the other during this transition period.

There are some who are convinced that the best way to persuade China's leaders to bring their domestic and foreign policies in line with U.S. expectations is to punish them for each and every misdeed—as perceived by us. This punitive approach, one which I think occasionally is appropriate, is well represented by a raft of Chinese bills passed by the House of Representatives last fall, many of which have been introduced as amendments that I have referenced earlier to the Defense Authorization Act.

Let me say that I share many of the concerns of my colleagues about the administration's handling of China policy. As I said on the Senate floor at this time last year, engagement is not a policy. Engagement is a means to an end. It is the substance of the engagement that matters.

But a "big stick" approach to China can hardly be called engagement any more than yielding to China on every issue can be called engagement.

This confrontational approach, or the "big stick" approach, flows from the absurd notion that China is unchanging and it will only behave responsibly when it is forced to do so.

I respectfully suggest and favor a more balanced approach. Obviously, I am being subjective in characterizing my approach as more balanced. And it is not really my approach; many share the same view I am about to articulate—a balanced approach that relies upon spelling out the rules of the road to China, inviting them to abide by them, and then monitoring their compliance with their pledges to us and the rest of the international community.

China aspires to be a great power. I welcome that aspiration because great powers live up to the great power obligation in the areas of nonproliferation, human rights and trade.

China has undergone an extraordinary change over the past 25 years, opening to the outside world and dramatically transforming its economic institutions and the tenor of its political discourse. China has evidenced increasing accommodation to international norms.

They have done so, for the most part, because they recognize their own interests dictate greater integration with the global economic markets and security regimes. We should encourage this trend, but we should not hesitate to communicate our concerns both publicly and privately when we think they deviate.

For instance, we should not hesitate to criticize China for its human rights violations. We should publicly encourage China to sign the International Covenant on Civil and Political Rights, and to incorporate its spirit directly into Chinese law.

I was very disappointed when the President decided not to condemn China for human rights violations before the United Nations Human Rights Commission in Geneva. If we are not going to criticize China's human rights violations in front of an international body specifically created to safeguard human rights standards, where are we willing to voice our concerns?

I am also disappointed that China continues to jam Radio Free Asia. With the support of my colleagues in the Senate and the House, I introduced legislation several years ago which created Radio Free Asia. RFA broadcasts reliable news directly to the people of China and Tibet, empowering them to hold their government accountable for its actions. But RFA is being jammed by the Chinese Government. I hope that President Clinton, when he travels to China, will tune in RFA, and if he can't find it on the radio, he should explain to his Chinese hosts that great powers do not restrict access of their people to information.

We can also do more to promote the rule of law in China, bringing the Chinese to this country to see how a truly independent judiciary functions and sending Americans to China to teach them how to create similar institutions there. The administration has requested $5 million for the Asia Foundation to launch a rule of law initiative in China. I support this initiative.

When all else fails, the United States should not hesitate to punish China by using carefully targeted multilateral sanctions. But this should be a last resort, not a reflex.

A wise man on the Foreign Relations Committee, the Senator from Indiana, has pointed out the dangers of an over reliance on ill-defined unilateral sanctions as an instrument of foreign policy.

We have an important role to play in the search for modern China. We can help it to its destination of modernization, or we can throw obstacles in its path. The upcoming summit presents an opportunity for the United States and China to try to bridge some of our differences, a chance to transform the issues from points of contention to examples of cooperation.

We should not expect the world from a single summit. But we can make some progress.

Perhaps no issue at the summit will be more important than that of nonproliferation. I said at the outset that we know clearly what our objectives should be for our policy, where we want a modern China to go. We don't have any misunderstanding of what we would like to see: China at peace with its neighbors, respecting international norms in the areas of nonproliferation, open trade, and human rights.

But at some point, as my dad would say, if everything is equally a high priority, then nothing is a priority. I believe that there is no more important issue at this moment in the history and our relationship with China than nonproliferation. The spread of weapons of mass destruction and the means to deliver them represents a clear and present danger to the security of both the United States and China. We need Chinese cooperation if we are to find ways to promote stability in south Asia, the Korean peninsula, and the Middle East.

China's historic track record in this area has been poor. Indeed, Pakistan probably would not possess the nuclear capacity it demonstrated late last month were it not for the Chinese assistance over the past decades. China cannot escape some responsibility for exacerbating south Asian tensions by engaging in policies that were seen as threatening to India's security.

But more recently, China appears to have undergone a sea change in its attitude. China has joined the Nuclear Non-Proliferation Treaty, the Comprehensive Test Ban Treaty, the Chemical Weapons Convention, the Biological Weapons Convention. China has also agreed to be bound by some, but not all, of the terms of the Missile Technology Control Regime prior to it joining that regime. And, while China's export laws still fall short of international norms, particularly in the area of missile technology, China has been responsive to the administration's interests where we have clearly articulated them.

Last fall, President Clinton secured a commitment from China not to extend any new cooperation to Iran's nuclear program. China has also pledged to halt all cruise missile exports to Iran in direct response to the urging of the U.S. Government. Moreover, China's initial response to nuclear tests on the subcontinent has been constructive thus far. China has avoided taking any steps which might exacerbate tensions or fuel a regional arms race.

There is more, however, that China as a great power should do. As a permanent member of the U.N. Security Council, China should join in an international diplomatic effort designed to identify the source of tensions in south Asia and foster dialog between India and Pakistan and between India and China. China should lead by example, by promoting greater transparency in arms exports, defense expenditures, and military exercises.

China, in my view, should join the Missile Technology Control Regime and agree to bring its export controls on dual-use items and missile-related technologies up to international standards. In addition, it should join the Nuclear Suppliers Group and develop comprehensive controls on all nuclear-related technologies. Taken together, these steps would not only contribute significantly to peace and stability in south Asia, they would also serve the interests of global nonproliferation.

The administration has accomplished much in the last 6 years: from the Nuclear Non-Proliferation Treaty to the Comprehensive Test Ban Treaty to the Chemical Weapons Convention, et cetera. I asked, today, Assistant Secretary Roth, who testified before the

Foreign Relations Committee, why that occurred. Was it merely the persuasiveness of the U.S. President? Was it because of the sticks as well as carrots that we have offered? Or, as this emerging modern power goes through a transformation, is it because they are finally determining on their own that it is in their own interest not to proliferate?

I cannot fathom how, as a political leader sitting in Beijing, I could conclude that the ability of Pakistan to launch a nuclear weapon on the back of a missile that I had provided to them could possibly enhance my security. I cannot understand how anyone in Beijing could conclude that an arms race between India and Pakistan, and the prospect of what we would call theater nuclear weapons being engaged, could possibly do anything other than damage my security as a Chinese leader. I cannot imagine how they could reach that conclusion. But they have, in the past, reached similar conclusions.

But I think what we are beginning to see, and it is presumptuous of me to say this about another country, but I think we are beginning to see the political maturation of a country. It is in its nascent stages, but they are coming to some of these conclusions, not merely because of what we do, not merely because of our urging, but because they begin to see it in their own naked self-interest. The only thing I have observed that causes China, in the recent past, to act against their own naked self-interest is if they are put in a position of being told they must do this or that.

So, although sanctions are appropriate in some circumstances, and stating our view of what constitutes great power behavior is always appropriate, the idea that sanctions are always appropriate when we disagree with China is very mistaken and counterproductive.

The stakes are high. Our success or failure in integrating China more fully into the community of nations, our success or failure at convincing China to live up to the international norms of behavior in the area of nonproliferation, our success or failure in helping to shape the emergence of modern China as a great power, will have profound effect, not only on the future of east Asia and south Asia, not only on the future of Europe, but on the entire world.

Mr. President, about 25 years ago Fox Butterfield, the New York Times bureau chief in Beijing, published a book entitled "China: Alive in the Bitter Sea." In it, Mr. Butterfield gave a moving account of the efforts of ordinary Chinese people to live under the often brutal authoritarian regime that existed at the time.

Today there remains much injustice in China, and the struggle of ordinary people to exercise their universally acknowledged human rights is fraught with peril. The outcome of that struggle will be central to the future of the "middle kingdom."

But the changes over the past 25 years have been so profound that those returning to China today for the first time since Deng Xiaoping opened the doors—and I went with Senators Javits and Church and others back in those early years of engagement—those who have gone back barely recognize China to be the same country.

Engagement, engagement with a purpose, can bring about changes we seek in China, including in areas of vital importance to our national security, but only if we are both patient and principled.

If we are swayed from our course by those who believe conflict with China is inevitable, or if we are lulled into a false sense of security by those who stand on this floor and confidently predict that China will automatically transform itself into a Jeffersonian democracy as it modernizes, then we will miss out on an opportunity to fulfill our role, as small as it may be, in the search for a modern China.

Mr. President, to conclude, the stakes are high. This is no time for the U.S. Senate—in this significant summer, at this moment when, if China concludes it wishes to devalue its currency, the situation in Asia could become much, much worse, when at the very moment when China is acting responsibly vis-a-vis Korea, we cause it to change its course of action; if at this moment we insist upon all of our agenda being met, we can do irreparable harm to our interests.

I yield the floor, Mr. President, with a final plea to my colleagues: Please, please, on this critical matter of the security interest of the United States of America, please revert to the tradition that has been time honored in this body. While a President of the United States is meeting with a head of state of another country, do not engage in activities, justified or not, that will sanction the country with which the President is at that moment negotiating. That is inappropriate behavior, in my opinion. That is not only partisanship, but it is against the naked self-interest of the United States, and I think it is reprehensible conduct.

I am confident my colleagues will ultimately do the right thing. We have plenty of time to act on, and I may even vote for, some of the proposals relating to the sanctioning of China that are contemplated in the upcoming bill. But, please look at America's interest first, look at the longstanding tradition of bipartisanship on this issue, and allow the President to conduct this major foreign policy foray on his own terms until he returns.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that debate only be in order to the pending agriculture appropriations bill until the hour of 6:45 p.m. this evening.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

WORLD AFFAIRS

Mr. BUMPERS. Mr. President, I, first of all, compliment my distinguished colleague from Delaware, Senator BIDEN, for what I thought was a very compelling analysis of what our relationship with China is and what it should be and what the President ought to be doing in China in the way of engagement to improve our relationship.

I agree totally with everything he said. Right now, China, obviously, is not a democracy, though about 40 percent of her economy is private enterprise in the true sense of the word we cherish here.

We have found in the past that when nations begin to permit economic freedom, usually the economic benefits that come from that become highly desirable to the people, and then they begin to seek more freedom, more democracy. On the other hand, you can argue that political democracy and social freedom should come first and everything else will follow. I would like to believe that, but I believe in the case of China, where unbelievable changes have occurred in the last 20 years, the ordinary citizen of this country cannot even begin to fathom the dramatic changes in the culture, even in the political system, and the economy of China.

So I happen to come from the school of thought that believes that when people have economic freedom, political freedom is more likely to ensue than vice versa. I understand all the arguments on human rights. And nobody is going to stand up, who is in his right mind, and say that China does not violate human rights. Of course they do. And I do not care what anybody says, under the best case scenario, you are not going to get the kind of democracy in China overnight that we enjoy in this country.

But I can tell you this. Engagement of China on these issues is going to be 10 times more beneficial to both their citizens and the world than our sitting back with a purist attitude saying that, "If you don't do all these things we tell you to do, then we're going to quit trading with each other and we're going to quit our dialog with each other. You go ahead and start shipping missiles to Iran. You go ahead and violate the chemical weapons ban which you signed in 1992. And go ahead and violate the test ban treaty which you signed in 1992." Who wants that? Who thinks that is a good idea?

I am not saying China would do it, but I am simply saying we are not going to bully a nation of 1.2 billion people. And I think our chances of bringing them into the mainstream are infinitely better if we engage them.

So, No. 1, I applaud the President for going to China. I have a little difficulty with the Tiananmen Square event. But if you wanted to sour the trip from the opening gun, just have the President go there with a precondition that, "I will not have any dialog with you in Tiananmen Square." He can turn right around and get on Air Force One and come home for all the good he is going to do.

Those are the realities, Mr. President. Whether we like them or not, those are the facts. And everybody who knows anything about human psychology knows what would happen if the President took that kind of a stance, which a lot of people in this body have urged him to take.

He should go there resolute on talking about human rights with the Chinese and engage them on it as strongly as he can. He should engage them on any suspected arms shipments or transfers of chemicals that we are concerned about. He should talk to them about all the violations of human rights. And he should ask them about the slave and prison labor. And he should ask them about forced abortions.

There are a lot of forces at work in this country, Mr. President. We are having a very difficult time in this country since the Soviet Union fell. For the last 50 years, politicians in this country have had a field day hating the Soviet Union. We all have. It was a bizarre situation. And the Soviet Union, while they were our allies in World War II, after World War II was over, we had a very—not tenuous—disastrous relationship with them.

And the only reason I make that point is, now that the Soviet Union no longer exists, we have been looking around for an enemy. We do not cope very well without somebody to hate, and China has been elected. You cannot justify $270 billion on defense expenditures unless you have a genuine, certified enemy. So there is a lot of that at work here.

I believe Eisenhower was absolutely right when he described the military-industrial complex as a real threat to the country. It is alive and well. I have always chastised President Eisenhower, whom I admired and thought he was a pretty good President, for not having made that military-industrial complex speech when he took office instead of when he left. We are all awfully courageous when we leave office.

But in any event, there are a lot of people who simply cannot accept China because it is communistic. Even though, as I said, 40 percent of their economy is in the free market sector, politically it still is a Communist Nation. And there is no such thing as real democracy in China.

Mr. President, there are people in this body who are going to vote against the most-favored-nation status of China because of China's treatment of Christian missionaries. I read an interesting story on that this week which pointed out there are 67 million Christians in China and the number is growing all the time. I do not really know how serious the discrimination allegation about religion is in China, but I will tell you, I suspect that it is exaggerated to some extent.

But you have these people who resent China's, at least, reluctance to allow all of these various religious missionaries, especially Christian missionaries, into their country. So they are not going to vote for most-favored-nation status.

And then there is, of course, this anti-Clinton segment. Some people have a very difficult time giving the President credit for anything. And so if they can make President Clinton look bad by going to China to consort with the same people Richard Nixon consorted with, if they can get any mileage out of that, they are going to take advantage of that. So you have that political faction working.

So, Mr. President, I think the President is doing the absolutely right thing. I think he is going to be extremely well prepared for his dialog with the Chinese leaders. I personally believe that the Chinese can have some influence in tranquilizing the hostility between India and Pakistan. And when I say "tranquilizing," I am talking about dampening their hostility toward each other ever so slightly.

Mr. President, I said the other day to the Arkansas Bar Association that I believe religious extremism in any form is dangerous to our Nation and to the world. And the dispute between Pakistan and India is essentially a religious dispute between the Hindus and the Moslems. And if you look around the world—you look in Bosnia, they are all ethnically the same, but you have Catholics and you have Christians and you have Moslems. The Serbs are Russian Orthodox and Christian; and Croatia is essentially Catholic; and Bosnia is essentially Moslem. That is a volatile mix. Something close to 100,000 or 200,000 people have died as a result of the hostilities generated to a large extent to those religious differences.

So if China can be a force in that part of the world to give the rest of us a little respite, a little better feeling about our ability to bring Pakistan and India together—I don't think it is unthinkable at all for a nuclear war to break out between those two nations; hostilities are intense—if China can do anything at all to "tranquilize" the situation, we ought to be bringing them right along and telling them "do everything you can."

I thought India's excuse for exploding a bomb, because they were afraid of China, was as transparent as Saran Wrap. China and India have always been enemies of a sort, but not nearly the intensity of the relationship between India and Pakistan, for example. In my opinion, they were looking for anything they could get ahold of to justify what they did, which is unforgivable.

When I think about the population of China, I was there in 1978, and the population was 800 million. The population of China since 1978 has grown by 400 million people—140 million more than there are in the United States—which brings me to the second part of this sermon.

Last night, I went downtown to receive a plaque from the Natural Resources Council which is an organization of 72 environmental groups. In my response, on a more serious note, I said I don't want to be the skunk at the lawn party, and I would like to think that I am a great environmentalist, but we talk about ozone depletion, we talk about global warming, we talk about building electric automobiles, and all of these things we are going to do to stop global warming from occurring. But the truth of the matter is we do not talk about the No. 1 environmental problem of the planet, and that is a population out of control.

When I was a young 18-year-old recruit in the Marine Corps in World War II, this Nation had 130 million people. So in that period of time, from the time I was a raw recruit in the Marine Corps until today, we have increased our population by 138 million—268 million, compared to 130 million. At that same time, we had 30 million vehicles in the United States; today, we have 200 million vehicles. Estimates are that by the year 2050 we will have 400 million vehicles. My commute time from my home to the U.S. Senate in the 23½ years I have been here has increased by 12 minutes.

Today, we are taking 2.5 million acres of arable land that was previously used to grow food to feed ourselves and to export to a hungry world, out of cultivation every year and we are adding 2.5 million people to the population. You do not have to be a rocket scientist to understand that you have a train wreck coming. On top of that, our agricultural yields are becoming static. Soybean yields were up slightly last year, corn yields were flat; wheat yields that we have seen increase over the years are becoming static. We could, perhaps, put a lot more money into research and reverse that trend so that we get greater and greater yields, but isn't it amazing our priorities, when we spend $1.8 billion a year on agricultural research, and we spend $40 billion a year down at the Pentagon for them to make things explode louder.

Now, it is really tragic when you think about the problem of the population increase of the planet, not to say anything of the United States. By the year 2100, barring an epidemic or a pandemic, we are going to be standing shoulder to shoulder on this planet. Yes, people, by their very numbers, are polluters. We have to be fed. That means we use up our land. We have to be housed. That means we use up our resources to build houses. We have to be transported so we have to go in an automobile that puts a lot of noxious fumes into the atmosphere and uses up our resources at an exponential rate. On and on it goes.

When you start talking about the problems of the population increase of the planet and what it means for our grandchildren—it makes me shudder to think about it. I must say I take strong exception to those who hold up our foreign aid spending to all of the countries who have family planning programs, when every single country that has a family planning program shows the abortion rate goes down. But I don't want to get into the abortion debate either. I am simply saying you can shove this problem under the rug, which we have been doing a magnificent job of for the last many years, or you can face up to it as China has tried to do.

In 1978, when I was in China the last time, they had a family planning program going there. Since that time, it has worked partially in the big urban areas. It is not working in the rural areas. They still have a culture there that you have to have children to help you till the crops. You have to have children to help you do everything, so they keep having children.

Mrs. Bumpers, just came back from Africa. She was over there trying to help Africans immunize their children. She was in Zimbabwe and the Ivory Coast. She said it was the most exhilarating experience she ever had in her life, watching mothers bring their babies through the hot sands and dust, into these clinics, where they were having what they called national immunization days. She began to give polio doses herself. She said it was the most gratifying experience she had ever had.

She was amazed with some of the progress they are making in Africa. One of the things they have done on the Ivory Coast is cut the birth rate, with family planning, from six per woman to four.

Now, here is a relatively primitive country called the Ivory Coast in Africa, which seems to have a better grip on what the real problems of the world are than we have. There is more to that. I don't want to take any more time, Mr. President. I have said all I can say about what I consider to be the real problems. One of the frustrating things is—and I don't say this with any degree of acrimony or bitterness at all, and it has been a great honor to be one of the less than 1,800 people who ever served in the U.S. Senate, and I will leave here with a heart full of gratitude, hopefully strengthened by great relationships with many colleagues. But I am disenchanted, to some extent, about our inability and our unwillingness to deal with some of the real problems. We do a great job of dealing with the politics of problems, but we have a tough time facing up to the fact that our children are not being well educated.

I am dismayed when I think about the $50 billion or $60 billion surplus we are supposed to have at the end of this year and people are talking about tax cuts. I would not have any objection to that, Mr. President, if that tax cut went to the lower-income groups in this country who are still being relegated to last place. This is a personal opinion. One of the reasons the stock market has gone crazy in the last several years is because there is so much money floating around in this country, people have no choice but to invest it. They are not going to put it into T-bills when they can put it in Microsoft, or something else that will pay 20 to 30 percent, or even more, than a 6-percent bond will. But I can tell you that all of this money that exists in this country that people largely have made out of the stock market has not filtered down to the bottom 40 percent of the people in this country.

I would vote for another minimum wage increase because every statistic I have seen has shown that, No. 1, you don't lose jobs—the traditional argument made against it—and, No. 2, this country is not going to be what it ought to be unless we bring other people up. Every statistic I have seen in the last year is that the rich are still getting richer and the poor, by comparison, are getting poorer.

I would be hard-pressed to vote for a tax cut for the well-off when children are going to school all over Arkansas, being taught by teachers who go into teaching at an entry level of $20,000. Do you know what I think, Mr. President? I think teaching is the toughest job in America. I would rather clean the streets of Washington, DC, and carry garbage than teach school. One of the reasons I feel that way is because I married a schoolteacher and I know what they go through. It is the toughest job in the world. They go through 4 years of college and get a degree in education and go into the schools of my State at an entry level of $20,000. If they are lucky, the next year they will get a cost-of-living increase.

My daughter, who is my pride and joy, is with a law firm downtown. She is not going to teach for $25,000 or $30,000 a year, and she would be a magnificent teacher. There are people all over the country—men and women—who would be great teachers, who are not going into the teaching profession because it simply doesn't pay enough. When you compound the fact—if you agree with me that it is the toughest job on Earth—it surely doesn't pay enough.

I was doing an interview this afternoon with a prominent author here in Washington who is writing a book. We were talking about the American people and what is going on. There is something going on in this country that nobody really quite understands. I don't. I probably wasn't very helpful to him because I didn't have any brilliant analysis of what is going on in the country. But I said, "I think the disenchantment is more a result of the way people feel that the educational system is failing them than anything else." I also believe that television, which ought to be this magnificent medium of communicating and making our children so much smarter, is failing us miserably.

Mr. President, I have gone from China to population to schoolteaching in all my meanderings here. But I can tell you there isn't anything wrong with this country that setting our priorities straight would not cure. Until we have an educated electorate, and until we provide an education for every child in this country, not just an education at the elementary and secondary level, but at the college level, until we make the commitment that every kid in this country gets a college education, or at least is not denied a college education for lack of money, don't talk to me about tax cuts.

What makes a country great? What makes a country great is how well their people are educated and, therefore, how civil their people are to each other, what their conduct is. When I see people engaged in certain kinds of conduct you want to ask them, "Why are you doing that?" They do it because their parents or nobody else ever told them not to. I could sit here and list all day long the things that are my favorite pet peeves. I am always saying to Betty, "I wonder why that kid did that." She says, "Because nobody ever told him better."

So Mr. President, I certainly am not giving up on this Nation. The people of this country are rhapsodic about one thing, and that is that we got our budget house in order. The fact that we have a surplus this year is nothing short of a miracle, and the people know it. But if we start spending it and squandering it instead of dealing with the problems we still have we will be back in trouble. The other day, Mr. President, you were in the Appropriations Committee when I made a short speech about what a tough time we had crafting this agriculture bill.

I said, "You know we don't have any money to do much of anything."

A couple of weeks ago, I had a delegation come to me from the Mississippi River delta, the poorest part of my State. Four communities described graphically for me how, every time they have a heavy rain, sewage runs down the street and runs down the ditches. The health consequences of that are absolutely incalculable. I said, "I have looked high and low, looked everywhere in this budget, and every other budget, trying to find $2.8 million to alleviate this problem." Because I made that speech there in the committee, I think I about got it solved. But I can tell you, that is going to be the greatest thing that has ever happened to those people in those communities. When I was a kid, we didn't understand why people died of typhoid fever in the summer because the outhouse was just 10 steps away from the water well. That is sort of the situation these people are living in.

Mr. President, we have a lot of unmet needs in this country, and I am not voting for any tax cuts until we address those.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

COMMODITY FUTURES TRADING COMMISSION

Mr. FAIRCLOTH. Mr. President, I do not have an amendment. I simply want to discuss very briefly an issue that I may later offer an amendment on to this legislation, and it is an issue that I understand you are also interested in, Mr. President. It is concerning the Commodity Futures Trading Commission. The Chairwoman of the Commission, Brooksley Born, is attempting to reverse the current policy at the CFTC that Congress directed over 5 years ago.

Mr. President, the issue is this. We have a $28 trillion swaps market in the United States. The vast majority of these swaps are privately negotiated contracts. They are not traded on any exchange; they are privately negotiated contracts. The business has grown rapidly in the last few years. It has become an important financial tool for institutions to hedge their risks. But, clearly, it is not a trading issue, this is a—it is redundant to say—privately traded issue. These are swaps between those companies.

Yet, the CFTC now has under review a "concept release"—a good bureaucratic term—a "concept release" to regulate these privately negotiated instruments. Essentially, the CFTC wants to vastly broaden its regulatory authority over a multitrillion-dollar market. The problem is that these are negotiations, again, between private firms. Furthermore, if one of the parties in the contract is a bank, these products are regulated by the bank regulators. And we do not need a dual regulation.

The result of the CFTC action will be that a trillion-dollar industry will, very simply, be driven out of this country. It will be driven overseas.

In case anyone thinks that this is just my opinion, in a move that I have rarely seen in Washington—we certainly haven't been seeing lately—in an incredible move, Chairman Greenspan, Secretary Rubin, and Secretary Arthur Levitt issued a joint statement saying they have "grave concerns" with what is being proposed to be done by Ms. Born.

How often do you see the three principal financial regulators of the country come together to express grave concern over an issue and rebuke another financial regulator? You simply do not see it happen. They are concerned, and the potential for great loss to this country is just tantamount to it happening.

The Treasury Department has even gone to such lengths as to formally send legislation to the Congress to stop this potential regulation. It is the Treasury Department under Secretary Rubin, and they may even go to such lengths to stop it.

I want to, if I may, Mr. President, read a joint statement. This statement was issued by Mr. Rubin, Mr. Greenspan, and Mr. Levitt.

> On May 7, the Commodity Futures Trading Commission ("CFTC") issued a concept release on over-the-counter derivatives. We have grave concerns about this action and its possible consequences. The OTC derivatives market is a large and important global market. We seriously question the scope of the CFTC's jurisdiction in this area, and we are very concerned about reports that the CFTC's action may increase the legal uncertainty concerning certain types of OTC derivatives.
>
> The concept release raises important public policy issues that should be dealt with the entire regulatory community working with Congress, and we are prepared to pursue, as appropriate, legislation that would provide greater certainty concerning the legal status of OTC derivatives.

Furthermore, Chairman JIM LEACH of the House Banking Committee has introduced similar legislation.

To me, the agreement of this number of people on one issue is unprecedented. We need to wake up and realize that we have a rogue regulator—I know of no nicer way to put it—at the CFTC that is threatening to drive a trillion-dollar business out of the United States.

My amendment, if I introduce it, would simply state that no final rule on this can be promulgated during fiscal year 1999. This is the amendment that I have contemplated.

Mr. President, this is a very complex subject. We do not need to rush to judgment. It needs thorough and careful review. It is not the type of thing that attracts a lot of attention on the Senate or the House floor. As we said, it is not a subject that is easily understood. But even for those who do not understand it, Secretary Rubin, Chairman Greenspan, and Secretary Levitt all agree with House Banking Committee Chairman JIM LEACH that it is a dangerous direction that Ms. Born is heading and one that we should not be going in.

It is simply time for us to stop and give us a year to review the implications of what she is talking about. And, further, the CFTC is up for reauthorization next year anyway. If it needs to be done, that would be the time to do it, and we could address it at that time.

Mr. President, I thank you. I look forward to working with you on this program.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2729

Mr. DASCHLE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from North Dakota (Mr. DASCHLE) proposes an amendment numbered 2729.

Mr. DASCHLE. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment (No. 2729) is printed in today's RECORD under "Amendments Submitted.")

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:28 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 375. An act for the relief of Margarito Domantay.

H.R. 1949. An act for the relief of Nuratu Olarewaju Abeke Kadiri.

H.R. 3035. An act to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies..

H.R. 3069. An act to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council.

H.R. 3097. An act to terminate the Internal Revenue Code of 1986.

H.R. 3156. An act to present a congressional gold medal to Nelson Rolihlahla Mandela.

H.R. 3796. An act to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.

H.R. 3824. An act amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1847) to improve the criminal law relating to fraud against consumers.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1847. An act to improve the criminal law relating to fraud against consumers.

S. 1900. An act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 12:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for the elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 375. An act for the relief of Margarita Domantay; to the Committee on the Judiciary.

H.R. 1949. An act for the relief of Nuratu Olarewaju Abeke Kadiri; to the Committee on the Judiciary.

H.R. 3069. An act to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the Implementation of the proposals and recommendations of the Advisory Council; to the Committee on Indian Affairs.

H.R. 3097. An act to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

H.R. 3796. An act to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction of improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times, and placed on the calendar:

H.R. 3035. An act to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 18, 1998, he had presented to the President of the United States, the following enrolled bill:

S. 1900. An act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5570. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Amendments to Rules of Practice and Procedure" received on June 12, 1998; to the Committee on Finance.

EC-5571. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on fissile materials in the former Soviet Union for fiscal year 1997; to the Committee on Armed Services.

EC-5572. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's annual report for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC-5573. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "License Term for Medical Use Licenses" (RIN3150-AF77) received on June 15, 1998; to the Committee on Environment and Public Works.

EC-5574. A communication from the Secretary of State and the Secretary of Defense, transmitting, pursuant to law, a report on plans to enhance coalition interoperability in the face of chemical or biological weapon threats; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-481. A resolution adopted by the Senate of the Legislature of the State of Alaska relative to compensation of Holocaust victims by the Swiss banking industry; to the Committee on Foreign Relations.

POM-482. A resolution adopted by the National Association of the Physically Handicapped, Inc. (Okemos, Michigan) relative to physician-assisted suicide; to the Committee on Labor and Human Resources.

POM-483. A resolution adopted by the National Association of the Physically Handicapped, Inc. (Okemos, Michigan) relative to non-profit hospital sales; to the Committee on Labor and Human Resources.

POM-484. A resolution adopted by the National Association of the Physically Handicapped, Inc. (Okemos, Michigan) relative to community health care; to the Committee on Labor and Human Resources.

POM-485. A joint resolution adopted by Legislature of the State of Tennessee; to the Committee on Commerce, Science, and Transportation.

Senate Joint Resolution No. 712

Whereas, This General Assembly acknowledges the importance and emerging dependence of business, government and society on the Internet as a growing part of our system of communications and commerce; and

Whereas, The members of this legislative body also recognize that the Internet as a medium of free speech contains, in addition to its many salutory features, potential dangers for society and especially our youth, in that it can provide uncontrolled and instantaneous access to obscenity, child pornography and other adult-oriented materials that are harmful to youth; and

Whereas, In 1996, Congress attempted to place restrictions on the Internet to curb these dangers by the passage of the Communications Decency Act of 1996, which was declared unconstitutional in part by the United States Supreme Court in the case of Reno v. ACLU; and

Whereas, The Internet is in a developing stage and software developments and other market forces may eventually allow Internet providers to provide clean Internet services or products that will protect children from the harms of the Internet and permit users to block out offensive materials and services without compromising the beneficial aspects of the Internet; and

Whereas, The technology currently exists to more readily control these problems by the use of designated top-level domain site for web sites that contain pornographic and adult-oriented materials and services which if employed will expedite and facilitate the development of clean Internet materials and services by the lawful classification of web sites; and

Whereas, In October of this year, the United States Department of Commerce plans to set up a private not-for-profit corporation whose directors will create five new top-level domains that will register web sites by subject type; and

Whereas, A federal requirement that an adult-oriented domain site be created and that all adult-oriented web sites be registered to such domain would greatly aid Internet users, parents and teachers in shielding America's youth from the harms of pornography and adult-oriented materials and services that are available and proliferating on the Internet; and

Whereas, The states are somewhat limited in the regulation they can provide in this area because of the federal Commerce Clause; and

Whereas, Congress and the Executive Branch are the appropriate governmental branches to provide leadership in this area and may lawfully act to resolve quickly this issue in a responsible manner that comports with the ideals of the First Amendment; now, therefore, be it

Resolved by the Senate of the One-hundredth General Assembly of the State of Tennessee, the House of Representatives Concurring, That this Body hereby urges the United States Congress to establish and maintain a uniform resource locator system that contains a top-level domain for all Internet web sites providing pornographic or adult-oriented materials or services so as to facilitate and assist Internet users, services providers and software developers to manage the problem of uncontrolled access to obscenity, child pornography and other adult-oriented materials and services via Internet. Be it

Further Resolved, That this Body respectfully urges the President and Vice President of the United States and the Secretary of the Department of Commerce to use their offices and considerable influence to bring about the aims of this resolution by the means of executive order or department regulation, or the promotion of federal regulation, as they deem appropriate. Be it

Further Resolved, That the Clerk of the Senate deliver enrolled copies of this resolution to each member of the Tennessee delegation, to the United States Senate and the United States House of Representatives, to the Chairman of the United States Senate Commerce, Science and Transportation Committee and the United States House Commerce Committee, and to the President and Vice President of the United States and the Secretary of the United States Department of Commerce.

POM-486. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Finance.

House Joint Resolution No. 525

Whereas, House Resolution No. 2912 of the 105th U.S. Congress was introduced in 1997 to reinstate payments under Medicare for home health services relating to venipuncture for the express purpose of obtaining blood samples; and

Whereas, the legislation also requires the Secretary of the Department of Health and Human Services to study potential fraud and abuse under the Medicare program with respect to such services; and

Whereas, the Department of Health and Human Services study calls for an examination of critical aspects of the Medicare program as it pertains to venipuncture services, along with the cost to beneficiaries if payment under the Medicare program is prohibited for such home health services; and

Whereas, the Department is also directed under the legislation to determine the costs to states through the potentially increased use of personal care services and nursing home placements as a result of Medicare not covering venipuncture procedures; and

Whereas, such services are vitally important in the diagnosis and treatment of many catastrophic illnesses, which if left undetected will result in increased future Medicare expenditures; and

Whereas, as citizens of this country continue to be unreasonably burdened by spiraling medical costs, the availability of adequate medical care is critical to their wellbeing; and it is incumbent upon the members of this Legislative Body to express our unflagging support for this significant legislation; now, therefore, be it

Resolved by the House of Representatives of the One-hundredth General Assembly of the State of Tennessee, the Senate Concurring, That this General Assembly hereby memorializes the U.S. Congress to act expeditiously to enact the Medicare Venipuncture Fairness Act. Be it

Further Resolved, That this General Assembly memorializes each member of the U.S. Congress from Tennessee to utilize the full measure of his or her influence to effect the enactment of the Medicare Venipuncture Fairness Act. Be it

Further Resolved, That the Chief Clerk of the House of Representatives is directed to transmit a certified copy of this resolution to the Honorable Bill Clinton, President of the United States; the President and the Secretary of the U.S. Senate; the Speaker and the Clerk of the U.S. House of Representatives; and to each member of the Tennessee delegation to the U.S. Congress.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NICKLES:

S. 2187. A bill to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. INOUYE, Mr. AKAKA, and Mr. STEVENS):

S. 2188. A bill to amend section 203(b) of the National Housing Act relating to the calculation of downpayments; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WYDEN (for himself and Mr. BURNS):

S. 2189. A bill to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. DOMENICI, Mr. KERRY, and Mr. BINGAMAN):

S. 2190. A bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY:

S. 2191. A bill to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 2192. A bill to make certain technical corrections to the Trademark Act of 1946; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2193. A bill to implement the provisions of the Trademark Law Treaty; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEVIN (for himself and Mr. ABRAHAM):

S. Res. 251. A resolution to congratulate the Detroit Red Wings on winning the 1998 National Hockey League Stanley Cup Championship and proving themselves to be one of the best teams in NHL history; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 2187. A bill to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; to the Committee on Energy and Natural Resources.

THE ELECTRIC CONSUMER CHOICE ACT

Mr. NICKLES. Mr. President, I rise today to introduce the Electric Consumer Choice Act. For the last 2 years hearings and workshops have been held in both the House and Senate examining the issue of restructuring the electric industry. Many bills have been introduced on this issue by both Congressmen and Senators, some comprehensive and some dealing with more discreet issues such as repeal of the Public Utility Holding Company (PUHCA) or repeal of the Public Utility Regulatory Policies Act of 1978 (PURPA). The bill that I am introducing today cuts to the heart of the issue: do we or don't we support allowing consumers to choose their electric supplier? Do we or don't we support a national competitive market in electricity? I believe the answer to these questions is a resounding "yes"! This Congress believes competition is good, that free markets work and that every American will benefit from a competitive electric industry.

The Electric Consumer Choice Act is intended to begin the process of achieving a national, competitive electricity market. It will establish consumer choice of electric suppliers as a goal this Congress firmly supports. It achieves this in a simple, straight-forward method. First, it eliminates electric monopolies by prohibiting the granting of exclusive rights to sell to electric utilities. Second, it prohibits undue discrimination against consumers purchasing electricity in interstate commerce. Third, it provides for access to local distribution facilities and finally, it allows a state to impose reciprocity requirements on out-of-state utilities. The bill also makes it clear that nothing in this act expands the authority of the Federal Energy Regulatory Commission (FERC) or limits the authority of a state to continue to regulate retail sales and distribution of electric energy in a manner consistent with the Commerce Clause of the United States Constitution.

The premise of this bill is that all attributes of today's electric energy market—generation, transmission, distribution and both wholesale and retail sales—are either in or affect interstate commerce. Therefore, any State regulation of these attributes that unduly discriminates against the interstate market for electric power violates the Commerce Clause unless such State action is protected by an act of Congress.

The Supreme Court has interpreted Part II of the Federal Power Act (FPA) as protecting State regulation of generation, local distribution, intrastate transmission and retail sales that unduly discriminates against the interstate market for electric power. The Court has reasoned that Congress, in the FPA, determined that the federal government needed only to regulate wholesale sales and interstate transmission in order to adequately protect interstate commerce in electric energy. Thus, all other aspects of the electric energy market were reserved to the States and protected from challenges under the Commerce Clause. The Electric Consumer Choice Act amends the FPA to eliminate the protection provided for State regulation that establishes, maintains, or enforces an exclusive right to sell electric energy or that unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce.

This bill provides consumers and electric energy suppliers with the means to achieve retail choice in all States by January 1, 2002. It does not impose a federal statutory mandate on the States. It does not preempt the States' traditional jurisdiction to regulate the aspects of the electric power market in the reserved realm—generation, local distribution, intrastate transmission, or retail sales—it merely limits the scope of what the States can do in that realm. It does not expand or extend FERC jurisdiction into the aspects of traditional State authority.

As I stated earlier, this bill is intended to provide every consumer a choice when it comes to electricity suppliers. It is intended to establish that this Congress supports national competition when it comes to the generation of electricity. It is intended to be the beginning, not the end of the process. There are many other issues that need to be addressed at the federal level to facilitate a national market for electricity. Some of these issues include repeal of PURPA and PUHCA, taxation differences between various electric providers, clarification of jurisdiction over transmission, ensuring reliability, providing for inclusion of Power Marketing Administrations and the Tennessee Valley Authority in a national market, and other issues that can only be addressed at the Federal level. These issues need to be addressed and should be addressed. But while these issues are being debated we should ensure that progress towards customer choice proceeds.

I am proud to say that my state of Oklahoma has been in the forefront of opening up it's electricity markets to competition. Seventeen other states have also moved to open their markets. It is my hope that the Electric Consumer Choice Act will facilitate this process nationally. To that end, I am introducing this bill today.

Mr. President, I ask unanimous consent that the Electric Consumer Choice Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Electric Consumer Choice Act".

SEC. 2. FINDINGS.

The Congress finds that—

(a) the opportunity for all consumers to purchase electric energy in interstate commerce from any supplier is essential to a dynamic, fully integrated and competitive national market for electric energy.

(b) the establishment, maintenance or enforcement of exclusive rights to sell electric energy and other State action which unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce from any supplier constitute an unwarranted and unacceptable discrimination against and burden on interstate commerce;

(c) in today's technologically driven marketplace there is no justification for the discrimination against and burden imposed on interstate commerce by exclusive rights to sell electric energy or other State action which unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; and,

(d) the electric energy transmission and local distribution facilities of the nation's federally-owned, investor-owned and self-regulated utilities are essential facilities for the conduct of a competitive interstate retail market in electric energy in which all consumers have the opportunity to purchase electric energy in interstate commerce from any supplier.

SEC. 3. DECLARATION OF PURPOSE.

The purpose of this Act is to ensure that nothing in the Federal Power Act or any other federal law exempts or protects from Article I, Section 8, Clause 3 of the Constitution of the United States exclusive rights to sell electric energy or any other State actions which unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier.

SEC. 4. SCOPE OF STATE AUTHORITY UNDER THE FEDERAL POWER ACT.

Section 201 of the Federal Power Act (16 U.S.C. §824) is amended by adding at the end the following:

"(h) Notwithstanding any other provision of this section, nothing in this Part or any other federal law shall be construed to authorize a State to—

"(1) establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy; or,

"(2) otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier.".

SEC. 5. ACCESS TO TRANSMISSION AND LOCAL DISTRIBUTION FACILITIES.

No supplier of electric energy, who would otherwise have a right of access to a transmission or local distribution facility because such facility is an essential facility for the conduct of interstate commerce in electric energy, shall be denied access to such facility or precluded from engaging in the retail sale of electric energy on the grounds that such denial or preclusion is authorized or required by State action establishing, maintaining, or enforcing an exclusive right to sell, transmit, or locally distribute electric energy.

SEC. 6. STATE AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

Part II of the Federal Power Act (16 U.S.C. §824) is amended by adding at the end the following:

"SEC. 215. STATE AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

"A State or state commission may prohibit an electric utility from selling electric energy to an ultimate consumer in such State if such electric utility or any of its affiliates owns or controls transmission or local distribution facilities and is not itself providing unbundled local distribution service in a State in which such electric utility owns or operates a facility used for the generation of electric energy.".

SEC. 7. SAVINGS CLAUSE.

Nothing in this Act shall be construed to—

(a) authorize the Federal Energy Regulatory Commission to regulate retail sales or local distribution of electric energy or otherwise expand the jurisdiction of the Commission, or,

(b) limit the authority of a State to regulate retail sales and local distribution of electric energy in a manner consistent with Article I, Section 8, Clause 3 of the Constitution of the United States.

SEC. 8. EFFECTIVE DATES.

Section 5 and the amendment made by section 4 of this Act take effect on January 1, 2002. The amendment made by section 6 of this Act takes effect on the date of enactment of this Act.

By Mr. MURKOWSKI (for himself, Mr. INOUYE, Mr. AKAKA, and Mr. STEVENS):

S. 2188. A bill to amend section 203(b) of the National Housing Act relating to the calculation of downpayments; to the Committee on Banking, Housing, and Urban Affairs.

FAMILY HOME OWNERS MORTGAGE EQUITY ACT

Mr. MURKOWSKI. Mr. President, today I, and my fellow Senator from the State of Alaska, Senator STEVENS, and my good friends and colleagues from the State of Hawaii, Senator INOUYE and Senator AKAKA, are introducing a very important measure—one that would unlock and open the door to many first-time home buyers.

As we are all aware, it is often the downpayment that is the largest impediment to home ownership for first-time home buyers. The Federal Housing Administration (FHA) began a pilot program two years ago to help families overcome that impediment by lowering the downpayment necessary for an FHA home mortgage.

Mr. President, I am pleased to say that the pilot program, which is located in Alaska and Hawaii, has reported great success.

This pilot program is effective because it accomplishes two feats: (1) it lowers the FHA downpayment, making it more affordable; and (2) it makes the FHA downpayment calculation easier and more understandable for all parties to the transaction. The pilot program, commonly called the "97 percent Loan-to-Value Program," requires—on average—only a minimum cash investment of three percent for home buyers.

Our bill amends section 203(b) of the National Housing Act by changing the current multi-part formula to a single calculation formula. The simplified formula creates a lower, more affordable downpayment while simultaneously simplifying the current, cumbersome loan calculation formula. Our bill would extend this lower and simplified downpayment rate to perspective home buyers across the country.

Mr. President, the pilot program is a win-win situation: affordable homes are made available to responsible buyers without any increase in mortgage default rates. Here's what mortgage lenders have reported:

> There is no indication of increase in risk. The loans we have made to date have been to borrowers with excellent credit records and stable employment, but not enough disposable income to accumulate the cash necessary for a high downpayment.—Richard E. Dolman, Manager, Seattle Mortgage, Anchorage Branch.
>
> Is the 97% program working? The answer is a resounding YES! . . . In this current day, it takes two incomes to meet basic needs. To come up with a large downpayment is increasingly difficult, especially for those just starting out. The 3% program is a good start . . . I do no believe that lowering the downpayment increased our risk. . .—Nancy A. Karriowski, Alaska Home Mortgage, Inc., Anchorage, Alaska.
>
> We have experienced nothing but positive benefits from the FHA Pilot Program Loan Calculation in Alaska and Hawaii.—Roger Aldrich, President, City Mortgage, Corporation, Anchorage, Alaska.
>
> We support the new loan calculation, as this has provided a step toward the goal of homeownership for everyone . . . We do not feel that there is a greater risk with the borrower putting 3 percent down rather than using the calculation under the standard program . . .—Lorna Gleason, Vice President, National Bank of Alaska.

Home buyers under the pilot program agree. Vicki Case of Palmer, Alaska is a single parent and a mortgage lender who earned too much to qualify for any of the low-income mortgage programs. She would have been unable to purchase her home had it not been for an FHA loan with the reduced down payment.

In fact, but for the pilot program, approximately 70 percent of the FHA loan applications processed in Vicki Case's office would be rejected. simply because the buyer could not afford the downpayment. Mr. President, thanks to this pilot program, more and more deserving Alaskans are becoming home owners.

Mr. President, our legislation has the support of the Mortgage Bankers Association of America, the National Association of Realtors, the National Association of Home Builders and the U.S. Department of Housing and Urban Development. They believe, as I do, that borrowers in all states should benefit from the simplification of the FHA downpayment calculation.

I firmly believe that helping American families realize their dream of home ownership is vital to the Nation as a whole. Our bill, by creating a lower FHA downpayment, does much to assist families in owning their first home—thereby making the American dream of home ownership a reality.

Mr. President, for details on how the new calculation works in comparison to the current calculation, I ask unanimous consent to submit into the RECORD a downpayment calculation comparison sheet. And I ask that my colleagues join Senator STEVENS, Senator INOUYE, Senator AKAKA, and me in supporting this important legislation.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

FHA DOWNPAYMENT COMPARISON SHEET—THE CURRENT MORTGAGE CALCULATION VERSUS THE ALASKA/HAWAII PILOT PROGRAM

A. The current FHA mortgage calculation requires numerous steps. They are as follows:

Step 1: Determine the acquisition cost by adding closing costs to sales price [many times the closing costs must be estimated; if they are and the estimate changes during processing, then the calculations must be redone.]

Step 2: Apply the loan formulation to acquisition cost: (a) 97% of the $25,000, (b) 95% of the amount between $25,001 and $125,000, and (c) 90% of the amount in excess of $125,000.

Step 3: Determine the maximum LTV by multiplying the appraised value [minus closing costs] by 97.75%. If the property is valued at $50,000 or less, then multiply by 98.75%.

Step 4: To determine the maximum FHA mortgage amount, take the lower amount from steps 2 and 3. The difference between the mortgage amount and the acquisition cost is the downpayment.

The simplified calculation currently utilized for FHA projects in Alaska and Hawaii is basic, common sense:

The downpayment is based on a percent of home's sale price. If a home is valued at $50,000 or less, the downpayment will equal 98.75 percent of the value of the home, subtracted from the total costs of the sale of the home (the value of the home plus closing costs). For homes that are valued at $50,000 to $125,000 the downpayment will equal 97.65 percent of the value of the home subtracted from the total cost of the sale of home. And for homes that are valued over $125,000, the downpayment will be 97.15 percent of the home subtracted from the total cost of the sale of the home.

For example: If a home sells for $98,000 and its closing costs are $2,000, the total acquisition cost of the home is 100,000. To calculate a downpayment, 97.65 percent of the cost of the 98,000 home (which equals $85.697) is subtracted from the total cost of the home—the sales price plus its closing costs. Therefore, the downpayment would be $4,303 ($100,000 − 95,697).

By Mr. WYDEN (for himself and Mr. BURNS):

S. 2189. A bill to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements; to the Committee on Environment and Public Works.

WATER CONSERVATION AND QUALITY INCENTIVES ACT

• Mr. WYDEN. Mr. President, twenty-five years after enactment of the Clean Water Act, we still have not achieved the law's original goal that all our nation's lakes, rivers and streams would be safe for fishing and swimming.

After 25 years, it's time for the next generation of strategies to solve our remaining water quality problems. We need to give States new tools to overcome the new water quality challenges they are now facing.

The money that has been invested in controlling water pollution from factories and upgrading sewage treatment plants has gone a long way to controlling these urban pollution sources. In most cases, the remaining water quality problems are no longer caused by pollution spewing out of factory pipes. Instead, they are caused by runoff from a myriad of sources ranging from farm fields to city streets and parking lots.

In my home State of Oregon, more than half of our streams don't fully meet water quality standards. And the largest problems are contamination from runoff and meeting the standards for water temperature.

In many cases, conventional approaches will not solve these problems. But we can achieve water temperature standards and obtain other water quality benefits by enhancing stream flows and improving runoff controls.

A major problem for many streams in Oregon and in many other areas of the Western United States is that water supplies are fully appropriated or over-appropriated. There is currently no extra water to spare for increased stream flows.

We can't create a new water to fill the gap. But we can make more water available for this use through increased water conservation and more efficient use of existing water supplies.

The key to achieving this would be to create incentives to reduce wasteful water use.

In the Western United States, irrigated agriculture is the single largest user of water. Studies indicate that substantial quantities of water diverted for irrigation do not make it to the fields, with a significant portion lost to evaporation or leakage from irrigation canals.

In Oregon and other States that recognize rights to conserved water for those who conserve it, irrigators and other water users could gain rights to use conserved water while also increasing the amount of water available for other uses by implementing conservation and efficiency measures to reduce water loss.

The Federal government can play a role in helping meet our nation's changing water needs. In many Western States, water supply problems can be addressed by providing financial incentives to help water users implement cost effective water conservation and efficiency measures consistent with State water law.

And, we can improve water quality throughout the nation by giving greater flexibility to States to use Clean Water Act funds to control polluted runoff, if that's where the money is needed most.

Today, I am pleased to be joined by my colleague, Senator BURNS, in introducing legislation to authorize the Clean Water State Revolving Fund program to provide loans to water users to fund conservation measures or runoff controls. States would be authorized, but not required, to use their SRF funds for these purposes. Participation by water users, farmers, ranchers and other eligible loan recipients would also be entirely voluntary.

The conservation program would be structured to allow participating users to receive a share of the water saved through conservation or more efficient use, which they could use in accordance with State law. This type of approach would create a win/win situation with more water available for both the conservers and for instream flows. And, by using the SRF program, the Federal seed money would be repaid over time and gradually become available to fund conservation or other measures to solve water quality problems in other areas.

My proposal has the support of the Farm Bureau, Oregon water users, the Environmental Defense Fund and the Oregon Water Trust.

I urge my colleagues to support giving States greater flexibility to use their Clean Water funds for water conservation or runoff control when the State decides that is the best way to solve water quality problems and the water users voluntarily agree to participate.•

• Mr. BURNS. Mr. President, I am pleased today to join with my colleague from Oregon, Senator WYDEN, to introduce the Water Conservation and Quality Incentives Act, a bill to revise the state revolving fund in the Clean Water Act. This is language that Senator WYDEN and I have collaborated on to bring some sense of additional conservation of water resources to the many irrigation districts in the nation.

In the west, irrigators are by far the largest water users. These are folks who need the water because of the various crops that they have on the ground in the states out west. Unfortunately a large portion of the water that is used in irrigation is by nature displaced due to seepage within the canals and ditches in which the water flows. Although the water is not lost, since it seeps into the soil and assists in the overall soil moisture, it is not immediately available to the irrigator. However, it is water which could be more effectively used to provide additional water to the producer.

In most irrigation districts, irrigators pay for water that is released to them, and any displacement of this water does not help that producer on the bottom line. At a time when prices are low and markets are questionable, it is important that we give tools to the producer to make sure that they have every opportunity to stay in business.

A key underlying feature of the legislation, is that the water saved under the proposal in this bill will not only assist the producer in water and cost savings, but also will assist the future of water in the many rivers and streams in the west. At a time when the federal government seems to be taking steps to reduce state involvement in water rights this is extremely important.

The proposal put forth in this bill, will authorize the Clean Water State Revolving Fund to provide loans to irrigation districts to construct pipelines and develop additional conservation measures. The states would have an option in this measure, they would not have to involve their funds in this matter, but would allow them to do so if they so elected. In addition, those districts who did so elect to involve themselves would be able to add to their supply of water the difference between what they were using prior to the plan and what they were able to save.

This bill creates a win/win situation both for water users and for the multiple users of water in our states, particularly Oregon and Montana. We have an opportunity here to do something useful and worthwhile for the irrigators and the fishing, boating and those who use instream water. I would like to thank Senator WYDEN for his work on this measure and I am pleased to work with him today on this issue of great importance.•

By Mr. KENNEDY (for himself, Mr. DOMENICI, Mr. KERRY, and Mr. BINGAMAN):

S. 2190. A bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE PROGRAM FOR INVESTMENT IN MICRO-ENTREPRENEURS (PRIME) ACT OF 1998

Mr. KENNEDY. Mr. President, it is a privilege to join Senator DOMENICI, Senator KERRY, and Senator BINGAMAN in introducing the "The Program for Investment in Micro-Entrepreneurs" Act—the PRIME Act. This legislation will encourage investment in micro-entrepreneurs by supporting the kinds of education and training needed to help build new small businesses.

Today, the nation's entrepreneurial spirit is thriving, fueled by the extraordinary economic growth and prosperity we currently enjoy. But new entrepreneurs still face challenges that limit their ability to turn innovative ideas into successful businesses and create new jobs. They deserve assistance in learning the basics to take their ideas to the next level—starting their own firms.

The "PRIME" Act is designed to help small entrepreneurs bridge the gap between worthwhile ideas and successful businesses. It will offer $105 million over the next five years to build business skills in key areas such as recordkeeping, planning, management, marketing and computer technology.

The Clinton Administration strongly supports these initiatives. The Treasury Department's Community Development Financial Institutions Fund has become a lead agency for micro-enterprise activities across the country, and First Lady Hillary Rodham Clinton is one of their strongest advocates.

The PRIME Act will enhance all of these efforts. It will provide grants for micro-enterprise organizations across the country to assist disadvantaged and low-income entrepreneurs and provide them with essential training and education.

It will encourage the development of new micro-enterprise organizations, and expand existing ones to reach more micro-entrepreneurs.

It will sponsor research on the most innovative and successful ways of encouraging these new businesses and enabling them to succeed.

Under the Act, grants will be available each year to organizations that work with entrepreneurs. Local groups will leverage these funds with private and local resources to increase the impact of the federal seed money.

Massachusetts and New Mexico are leaders in this effort. The business community and local banks have made a significant investment in creating loan capital for micro-entrepreneurs to start their businesses.

By investing in micro-entrepreneurs, we will be harnessing the spirit and ideas of large numbers of Americans and creating new opportunities for self-sufficiency. We will be encouraging new small businesses that will strengthen the local economy in communities across the country. And that result in turn will help to keep our national economy strong as well. I look forward to working closely with our colleagues in the Senate and the House to enact this important measure.

I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVISION OF TECHNICAL ASSISTANCE TO MICROENTERPRISES.

Title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle C—Microenterprise Technical Assistance and Capacity Building Program

"SEC. 171. SHORT TITLE.

"This subtitle may be cited as the 'Program for Investment in Microentrepreneurs Act of 1998', also referred to as the 'PRIME Act'.

"SEC. 172. DEFINITIONS.

"For purposes of this subtitle—

"(1) the term 'Administrator' has the same meaning as in section 103;

"(2) the term 'capacity building services' means services provided to an organization that is, or is in the process of becoming a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs;

"(3) the term 'collaborative' means 2 or more nonprofit entities that agree to act jointly as a qualified organization under this subtitle;

"(4) the term 'disadvantaged entrepreneur' means a microentrepreneur that is—

"(A) a low-income person;

"(B) a very low-income person; or

"(C) an entrepreneur that lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as determined by the Administrator;

"(5) the term 'Fund' has the same meaning as in section 103;

"(6) the term 'Indian tribe' has the same meaning as in section 103;

"(7) the term 'intermediary' means a private, nonprofit entity that seeks to serve microenterprise development organizations and programs as authorized under section 175;

"(8) the term 'low-income person' has the same meaning as in section 103;

"(9) the term 'microentrepreneur' means the owner or developer of a microenterprise;

"(10) the term 'microenterprise' means a sole proprietorship, partnership, or corporation that—

"(A) has fewer than 5 employees; and

"(B) generally lacks access to conventional loans, equity, or other banking services;

"(11) the term 'microenterprise development organization or program' means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs or prospective entrepreneurs;

"(12) the term 'training and technical assistance' means services and support provided to disadvantaged entrepreneurs or prospective entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services; and

"(13) the term 'very low-income person' means having an income, adjusted for family size, of not more than 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section).

"SEC. 173. ESTABLISHMENT OF PROGRAM.

"The Administrator shall establish a microenterprise technical assistance and capacity building grant program to provide assistance from the Fund in the form of grants to qualified organizations in accordance with this subtitle.

"SEC. 174. USES OF ASSISTANCE.

"A qualified organization shall use grants made under this subtitle—

"(1) to provide training and technical assistance to disadvantaged entrepreneurs;

"(2) to provide training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist such organizations and programs in developing microenterprise training and services;

"(3) to aid in researching and developing the best practices in the field of microenterprise and technical assistance programs for disadvantaged entrepreneurs; and

"(4) for such other activities as the Administrator determines are consistent with the purposes of this subtitle.

"SEC. 175. QUALIFIED ORGANIZATIONS.

"For purposes of eligibility for assistance under this subtitle, a qualified organization shall be—

"(1) a nonprofit microenterprise development organization or program (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs;

"(2) an intermediary;

"(3) a microenterprise development organization or program that is accountable to a local community, working in conjunction with a State or local government or Indian tribe; or

"(4) an Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

"SEC. 176. ALLOCATION OF ASSISTANCE; SUBGRANTS.

"(a) Allocation of Assistance.—

"(1) In general.—The Administrator shall allocate assistance from the Fund under this subtitle to ensure that—

"(A) activities described in section 174(1) are funded using not less than 75 percent of amounts made available for such assistance; and

"(B) activities described in section 174(2) are funded using not less than 15 percent of amounts made available for such assistance.

"(2) Limit on individual assistance.—No single organization or entity may receive more than 10 percent of the total funds appropriated under this subtitle in a single fiscal year.

"(b) Targeted Assistance.—The Administrator shall ensure that not less than 50 percent of the grants made under this subtitle are used to benefit very low-income persons, including those residing on Indian reservations.

"(c) Subgrants Authorized.—

"(1) In general.—A qualified organization receiving assistance under this subtitle may provide grants using that assistance to qualified small and emerging microenterprise organizations and programs, subject to such rules and regulations as the Administrator determines to be appropriate.

"(2) Limit on administrative expenses.—Not more than 7.5 percent of assistance received by a qualified organization under this subtitle may be used for administrative expenses in connection with the making of subgrants under paragraph (1).

"(d) Diversity.—In making grants under this subtitle, the Administrator shall ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural, and Indian tribal communities and racially and ethnically diverse populations.

"SEC. 177. MATCHING REQUIREMENTS.

"(a) IN GENERAL.—Financial assistance under this subtitle shall be matched with funds from sources other than the Federal Government on the basis of not less than 50 percent of each dollar provided by the Fund.

"(b) SOURCES OF MATCHING FUNDS.—Fees, grants, gifts, funds from loan sources, and in-kind resources of a grant recipient from public or private sources may be used to comply with the matching requirement in subsection (a).

"(c) EXCEPTION.—

"(1) IN GENERAL.—In the case of an applicant for assistance under this subtitle with severe constraints on available sources of matching funds, the Administrator may reduce or eliminate the matching requirements of subsection (a).

"(2) LIMITATION.—Not more than 10 percent of the total funds made available from the Fund in any fiscal year to carry out this subtitle may be excepted from the matching requirements of subsection (a), as authorized by paragraph (1) of this subsection.

"SEC. 178. APPLICATIONS FOR ASSISTANCE.

"An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

"SEC. 179. RECORDKEEPING.

"The requirements of section 115 shall apply to a qualified organization receiving assistance from the Fund under this subtitle as if it were a community development financial institution receiving assistance from the Fund under subtitle A.

"SEC. 180. AUTHORIZATION.

"In addition to funds otherwise authorized to be appropriated to the Fund to carry out this title, there are authorized to be appropriated to the Fund to carry out this subtitle—

"(1) $15,000,000 for fiscal year 1999;

"(2) $25,000,000 for fiscal year 2000;

"(3) $30,000,000 for fiscal year 2001; and

"(4) $35,000,000 for fiscal year 2002.

"SEC. 181. IMPLEMENTATION.

"The Administrator shall, by regulation, establish such requirements as may be necessary to carry out this subtitle.".

SEC. 2. ADMINISTRATIVE EXPENSES.

Section 121(a)(2)(A) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4718(a)(2)(A)) is amended—

(1) by striking "$5,550,000" and inserting "$6,100,000"; and

(2) in the first sentence, by inserting before the period ", including costs and expenses associated with carrying out subtitle C".

SEC. 3. CONFORMING AMENDMENTS.

Section 104(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703(d)) is amended—

(1) in paragraph (2)—

(A) by striking "15" and inserting "17";

(B) in subparagraph (G)—

(i) by striking "9" and inserting "11";

(ii) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(iii) by inserting after clause (iii) the following:

"(iv) 2 individuals who have expertise in microenterprises and microenterprise development;"; and

(2) in paragraph (4), in the first sentence, by inserting before the period "and subtitle C".

Mr. DOMENICI. Mr. President, it is a pleasure to join with Senator KENNEDY in support of the PRIME Act, "Program for Investment in Micro-Entrepreneurs Act of 1998."

Starting one's own business is a part of the American dream. There are thousands of creative and hardworking men and women who believe they have a solid idea for building a new business. The realities of beginning a business are that it takes more than luck, hard labor, and dedication to make it work. There are often overwhelming obstacles for would-be small and micro entrepreneurs, due in part of the complexity of local, state and federal laws, the necessity of understanding the intricacies of marketing, feasibility studies, and bookkeeping practices, as well as finding a source for capital. Entrepreneurs usually need basic assistance to bring their idea to a viable business enterprise. They need training, technical assistance, and mentoring.

Under this bill grants will be available through the Community Development Financial Institutions Fund, matched at least 50 percent in non-federal funds, to help experienced nonprofit organizations provide the assistance these new businesses so urgently require. Fifty percent of these grants will be awarded to applicants serving low-income clients, and those serving equally both urban and rural areas. From so many case studies and histories of successful businesses, we know that enthusiastic entrepreneurs can sustain and build their businesses when these organizations are available to provide critical training and professional, technical assistance.

I have had the pleasure of visiting countless new micro-level businesses in my State of New Mexico, a great majority of whom received assistance from the very competent WEEST Corp organization, now located in five different sites throughout our State. This organization not only provides key technical assistance and training and access to low interest revolving loans, but it also provides mentoring and information about sound business practices to ensure their creative ideas become viable business entities.

Micro and small businesses are an absolutely critical component of our national economic growth. The Small Business Administration, for example, lends excellent support to entrepreneurs. At the small time, the PRIME Act will establish a complimentary program by enabling intermediary organizations to serve a more micro-level entrepreneurs who need specialized and hands-on assistance. This is a good investment for the future, and will be returned many fold by the creation of businesses that can contribute to the growth of the family, local, and national economies.

There are many success stories we can all point to about the business that began with an idea and eventually grew into a major global corporation. It all began with the basic tenacity of a businessman, woman, or family. We have no way of knowing how many more such success stories will be told in the future. It is guaranteed, however, that there are thousands of such extraordinary entrepreneurs willing to provide the ideas and hard labor to make it happen, and with a little help, they will be successful.

Again, I am pleased to join Senator KENNEDY in cosponsoring the PRIME Act. Whatever we can do to assist who want to be self-reliant, successful entrepreneurs, with a piece of the American dream, is an investment well worth taking.

Mr. BINGAMAN. Mr. President, I rise today to offer my very enthusiastic support for the micro-enterprise bill being introduced by Senator KENNEDY. Programs of this type provide technical support and funding to thousands of potentially productive Americans who are struggling to make ends meet and are looking for a way out of their current precarious economic situation.

I have visited microenterprise businesses in my state and know they work. These individuals possess energy, ingenuity, desire, and vision but currently lack access to three important ingredients that will allow them to be successful in their entrepreneurial efforts: business management training, knowledge of the market, and affordable capital. This bill will provide all three ingredients, and will do so in areas of the country that need economic assistance.

Microenterprise is not charity and it does not foster dependence. Instead, it encourages individuals to use their specific strengths and creativity to support themselves and their community. It is a market-based approach to economic empowerment and self-reliance that has proven to be successful both here and overseas, and it deserves to be expanded. It offers an alternative to poverty and provides the means by which individuals and communities can be saved from cycles of isolation, violence, and despair.

In New Mexico, I have seen the tangible results of microenterprise programs. One organization we have interacted with, ACCION, provided funds for Michael and Jamie Ford to begin a very successful business selling flies for fly-fishing in their community and over the Internet. They were recently named the Small Business Administration's Welfare-to-Work Entrepreneur of the Year in New Mexico. Another organization, the New Mexico Business Resource Center, recommended that funds be provided through New Mexico Community Development Loan Fund to Kevin Bellinger, who created a unique art and dance program for disadvantaged youths called Harambe. Here, low-income individuals are taught to interact in non-violent and constructive ways and give back to the community in which they live. Mr. Bellinger was recently selected by New Mexico Newspaper as one of the top ten people in Santa Fe making a real difference in their community.

In Taos, the Taos County Economic Development Corporation providing funding for the Taos Food Center, a commercial kitchen that acts as an incubator for small-scale food producers and farmers in the region.

Previously, these individuals could not afford to rent space, buy commercial and office equipment, or market their products. With the assistance of microenterprise funds, the Taos Food Center provides the space and the equipment and provides on-site technical and business assistance. This allows individuals to rent the facility by the hour, and convert their crops into marketable products.

Other microenterprise organizations in New Mexico—the Rio Grande Community Development Corporation, La Jicarita Enterprise Community, WESST Corp., and so on—have had similarly stellar results. They play essential roles in their communities, and they should be commended for their efforts.

In April, I organized a roundtable discussion of all the microenterprise organizations operating in New Mexico. This was the first time representatives from these organizations met in the same location to discuss their respective philosophies, objectives, and strategies concerning microenterprise, and it was very beneficial to all of us. The dialogue with the organizations that began that day has continued to the present, and has only reinforced by commitment to these programs. The simple fact is: the work, and they work well.

The bill we are introducing today would accomplish several important tasks:

First, it will provide training, technical assistance, and start-up funds to potential entrepreneurs who are currently disadvantaged but eager to change their economic condition;

Second, it will provide training and capacity building services to microenterprise development organizations, an activity that will lead directly to the expansion of microenterprise funding and an increased number of clients being served;

Third, it will identify best practices in microenterprise technical and lending services, an activity that will further enhance efforts to provide funds to individuals in an efficient and effective manner;

Finally, it will ensure that microenterprise lending occurs in all areas that require assistance—meaning both rural and urban communities.

Let me conclude by thanking my colleague from Massachusetts and his staff for their work on this bill. I have been pleased to work with Senator KENNEDY on the development of the components contained within the bill, in particular those related to rural communities and Indian reservations. I believe that this bill will have a profound effect on the ability of low-income individuals to establish businesses, develop new products and services, and create new jobs. All of these activities can only help individuals and communities in the United States in a positive way.

By Mr. LEAHY:

S. 2191. A bill to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

MADRID PROTOCOL IMPLEMENTATION ACT

Mr. LEAHY. Mr. President, I am pleased to introduce legislation that will implement the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Protocol). This bill is part of my ongoing effort to refine American intellectual property law to ensure that it serves to advance and protect American interests and does not serve to encumber small companies seeking to expand into international markets. Specifically, this legislation will conform American trademark application procedures to the terms of the Protocol in anticipation of the U.S.'s eventual ratification of the treaty, thereby helping American businesses to create a "one stop" international trademark registration process. This bill is one of many measures I have introduced and supported over the past few years to ensure that American trademark holders receive strong protection in today's world of changing technology and complex international markets.

In addition to this legislation, I have introduced the Trademark Law Treaty Implementing and Registration Simplification Act, which will bring U.S. trademark law into conformance with the Trademark Law Treaty. The Trademark Law Treaty will simplify trademark registration requirements around the world by establishing a list of maximum requirements which Treaty member countries can impose on trademark applicants. All American businesses, and particularly small American businesses, will benefit as a result.

Earlier this year, I introduced legislation authorizing the National Research Council of the National Academy of Sciences to conduct a comprehensive study of the effects of adding new generic Top Level Domains on trademark and other intellectual property rights.

Moreover, I supported the Federal Trademark Dilution Act of 1995, which was passed last Congress, to provide intellectual property rights holders with the power to enjoin another person's commercial use of famous marks that would cause dilution of the mark's distinctive quality.

Together, these measures represent major steps in our efforts to refine American trademark law to ensure that it serves to promote American interests.

Currently, in order for American companies to protect their trademarks abroad, they must register their trademarks in each and every country in which protection is sought. Registering in multiple countries is a time-consuming, complicated and expensive process—a process which places a disproportionate burden on smaller American companies seeking international trademark protection. This legislation will ease the registration burden by enabling American businesses to obtain trademark protection in all signatory countries with a single trademark application filed with the Patent and Trademark Office.

Since 1891, the Madrid Agreement Concerning the International Registration of Marks (Agreement) has provided an international trademark registration system. However, prior to adoption of the Protocol, the U.S. declined to join the Agreement because it contained terms deemed inimical to American intellectual property interests. In 1989, the terms of the Agreement were modified by the Protocol, which corrected the objectionable terms of the Agreement and made American participation a possibility. For example, under the Protocol, applications for international trademark extension can be completed in English; formerly, applications were required to be completed in French. It should be noted that the Protocol will not require substantive changes to American trademark law, hence the implementing legislation I introduce today is identical to the legislation that passed the House on May 5, 1998 and only would make those technical changes to American law necessary to bring the U.S. into conformity with the Protocol.

To date, the Administration has resisted accession to the treaty because of voting rights disputes with the European Union, which has sought to retain an additional vote for itself as an intergovernmental entity, in addition to the votes of its member states. I support the Administration's efforts to negotiate a treaty based upon the equitable and democratic principle of one-state, one-vote. However, in anticipation of the eventual resolution of this dispute, the Senate has the opportunity to act now to make the technical changes to American trademark law so that once this voting dispute is satisfactorily resolved and the U.S. accedes to the Protocol, "one-stop" international trademark registration can become an immediate reality for all American trademark applicants.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Madrid Protocol Implementation Act".

SEC. 2. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946") is amended by adding after section 51 the following new title:

"TITLE XII—THE MADRID PROTOCOL

"SEC. 60. DEFINITIONS.

"For purposes of this title:

"(1) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

"(2) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(3) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(4) CONTRACTING PARTY.—The term 'Contracting Party' means any country or intergovernmental organization that is a party to the Madrid Protocol.

"(5) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection that is filed after an international registration is granted is recorded on the International Register.

"(6) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

"(A) the applicant or holder has a bona fide intention to use the mark in commerce,

"(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce, and

"(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, or to cause mistake, or to deceive.

"(7) EXTENSION OF PROTECTION.—The term 'extension of protection' means the protection resulting from an international registration that extends to a Contracting Party at the request of the holder of the international registration, in accordance with the Madrid Protocol.

"(8) HOLDER OF AN INTERNATIONAL REGISTRATION.—A 'holder' of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

"(9) INTERNATIONAL APPLICATION.—The term 'international application' means an application for international registration that is filed under the Madrid Protocol.

"(10) INTERNATIONAL BUREAU.—The term 'International Bureau' means the International Bureau of the World Intellectual Property Organization.

"(11) INTERNATIONAL REGISTER.—The term 'International Register' means the official collection of such data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded, regardless of the medium which contains such data.

"(12) INTERNATIONAL REGISTRATION.—The term 'international registration' means the registration of a mark granted under the Madrid Protocol.

"(13) INTERNATIONAL REGISTRATION DATE.—The term 'international registration date' means the date assigned to the international registration by the International Bureau.

"(14) NOTIFICATION OF REFUSAL.—The term 'notification of refusal' means the notice sent by an Office of a Contracting Party to the International Bureau declaring that an extension of protection cannot be granted.

"(15) OFFICE OF A CONTRACTING PARTY.—The term 'Office of a Contracting Party' means—

"(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks, or

"(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

"(16) OFFICE OF ORIGIN.—The term 'office of origin' means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

"(17) OPPOSITION PERIOD.—The term 'opposition period' means the time allowed for filing an opposition in the Patent and Trademark Office, including any extension of time granted under section 13.

"SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.

"The owner of a basic application pending before the Patent and Trademark Office, or the owner of a basic registration granted by the Patent and Trademark Office, who—

"(1) is a national of the United States,

"(2) is domiciled in the United States, or

"(3) has a real and effective industrial or commercial establishment in the United States,

may file an international application by submitting to the Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Commissioner.

"SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.

"Upon the filing of an application for international registration and payment of the prescribed fees, the Commissioner shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification. Upon examination and certification of the international application, the Commissioner shall transmit the international application to the International Bureau.

"SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.

"With respect to an international application transmitted to the International Bureau under section 62, the Commissioner shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

"(1) within 5 years after the international registration date; or

"(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

"SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

"The holder of an international registration that is based upon a basic application filed with the Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

"(1) directly with the International Bureau, or

"(2) with the Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Commissioner.

"SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

"(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

"(b) IF UNITED STATES IS OFFICE OF ORIGIN.—An extension of protection resulting from an international registration of a mark shall not apply to the United States if the Patent and Trademark Office is the office of origin with respect to that mark.

"SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

"(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

"(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

"(1) The international registration date, if the request for extension of protection was filed in the international application.

"(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

"(3) The date of priority claimed pursuant to section 67.

"SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.

"The holder of an international registration with an extension of protection to the United States shall be entitled to claim a date of priority based on the right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

"(1) the international registration contained a claim of such priority; and

"(2)(A) the international application contained a request for extension of protection to the United States, or

"(B) the date of recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention).

"SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.

"(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Commissioner shall cause the mark to be published in the Official Gazette of the Patent and Trademark Office.

"(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13. Unless successfully opposed, the request for extension of protection shall not be refused.

"(3) Extension of protection shall not be refused under this section on the ground that the mark has not been used in commerce.

"(4) Extension of protection shall be refused under this section to any mark not registrable on the Principal Register.

"(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Commissioner shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

"(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Commissioner shall transmit to the International Bureau any of the following that applies to such request:

"(A) A notification of refusal based on an examination of the request for extension of protection.

"(B) A notification of refusal based on the filing of an opposition to the request.

"(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

"(2) If the Commissioner has sent a notification of the possibility of opposition under paragraph (1)(C), the Commissioner shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

"(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Commissioner after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

"(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Commissioner shall issue a certificate of extension of protection pursuant to the request.

"(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark shall designate, by a written document filed in the Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.

"SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

"(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Commissioner shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the Patent and Trademark Office.

"(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

"(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register, and

"(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

"SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

"(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Commissioner shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

"(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

"(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under Article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

"SEC. 71. AFFIDAVITS AND FEES.

"(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Commissioner—

"(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; and

"(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, and at the end of each 10-year period thereafter, unless—

"(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; or

"(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and an additional fee prescribed by the Commissioner.

"(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

"SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

"An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

"SEC. 73. INCONTESTABILITY.

"The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Commissioner issues the certificate of the extension of protection under section 69, except as provided in section 74.

"SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

"An extension of protection shall convey the same rights as an existing registration for the same mark, if—

"(1) the extension of protection and the existing registration are owned by the same person;

"(2) the goods and services listed in the existing registration are also listed in the extension of protection; and

"(3) the certificate of extension of protection is issued after the date of the existing registration.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date on which the Madrid Protocol (as defined in section 60(1) of the Trademark Act of 1946) enters into force with respect to the United States.

By Mr. HATCH:

S. 2192. A bill to make certain technical corrections to the Trademark Act of 1946; to the Committee on the Judiciary.

TECHNICAL CORRECTIONS TO THE TRADEMARK ACT OF 1946

Mr. HATCH. Mr. President, I rise today to introduce some housekeeping amendments to the Trademark Act. This bill makes a number of technical corrections to the Trademark Act which will clean up the code and make explicit some of the current practices of the Patent and Trademark Office with respect to the trademark protection of matter that is wholly functional.

I take it as my duty as Chairman of the Committee on the Judiciary to try to ensure that the U.S. Code is clear, useful, and up-to-date. These housekeeping amendments will help clarify the law in useful ways, and I hope my colleagues will support this bill.

For the reference of my colleagues, I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS TO TRADEMARK ACT OF 1946.

(a) IN GENERAL.—The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946), is amended as follows:

(1) Section 1 (15 U.S.C. 1051) is amended—

(A) in subsection (a)(1)(A), by striking "goods in connection" each place it appears and inserting "goods on or in connection"; and

(B) in subsection (d)(1)—

(i) by inserting "and," after "specifying the date of the applicant's first use of the mark in commerce"; and

(ii) by striking "and, the mode or manner in which the mark is used on or in connection with such goods or services".

(2) Section 2 (15 U.S.C. 1052) is amended—

(A) in subsection (e)—

(i) in paragraph (3) by striking "or" after "them,"; and

(ii) by inserting before the period at the end the following: ", or (5) comprises any matter that, as a whole, is functional"; and

(B) in subsection (f), by striking "paragraphs (a), (b), (c), (d), and (e)(3)" and inserting "subsections (a), (b), (c), (d), (e)(3), and (e)(5)".

(3) Section 7(a) (15 U.S.C. 1057(a)) is amended in the first sentence by striking the second period at the end.

(4) Section 10 (15 U.S.C. 1060) is amended—

(A) at the end of the first sentence, by striking the comma before the period; and

(B) in the third sentence, by striking the second period at the end.

(5) Section 14(3) (15 U.S.C. 1064(3)) is amended by inserting "or is functional," before "or has been abandoned".

(6) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking "or device" and inserting ", device, any matter that as a whole is not functional,".

(7) Section 26 (15 U.S.C. 1094) is amended by striking "7(c),," and inserting ", 7(c),".

(8) Section 31 (15 U.S.C. 1113) is amended—

(A) by striking—

"§ 31. Fees";

and

(B) by striking "(a)" and inserting "SEC. 31. (a)".

(9) Section 32(1) (15 U.S.C. 1114(1)) is amended by striking "As used in this subsection" and inserting "As used in this paragraph".

(10) Section 33(b) (15 U.S.C. 1115(b)) is amended—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

"(8) That the mark is functional; or".

(11) Section 39(a) (15 U.S.C. 1121(a)) is amended by striking "circuit courts" and inserting "courts".

(12) Section 42 (15 U.S.C. 1124) is amended by striking "the any domestic" and inserting "any domestic".

(13) The Act is amended by striking "trade-mark" each place it appears in the text and the title and inserting "trademark".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply only to any civil action filed or proceeding before the United States Patent and Trademark Office commenced on or after such date relating to the registration of a mark.

SECTION-BY-SECTION ANALYSIS

SECTION 1. TECHNICAL CORRECTIONS TO THE TRADEMARK ACT OF 1946

Section 1(a) provides that the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provision of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 et seq.) shall be referred to as the "Trademark Act of 1946" and will be amended by the following provisions.

Subparagraph 1(a)(1)(A) amends subparagraph 1(a)(1)(A) of the Trademark Act to change the phrase "goods in connection" to "goods on or in connection". This amendment simply adds language to clarify that a trademark or service mark may be used on or in connection with goods or services rather than just directly on the goods. This language is fully consistent with case law and Patent and Trademark Office ("Office") practice and is not a substantive change.

Subparagraph 1(a)(1)(B)(i) amends subsection 1(d)(1) of the Trademark Act by inserting "and" after the words "specifying the date of the applicant's first use of the mark in commerce,".

Subparagraph 1(a)(1)(B)(ii) amends subsection 1(d)(1) of the Trademark Act by deleting "and the mode or manner in which the mark is used on or in connection with such goods or services". Section 1(d)(1) sets out the requirements for a complete "statement of use", the document that must be filed to complete any published trademark application that was originally filed based on intent-to-use the mark. The statement of use is meant to bring the intent-to-use based application into conformity with the requirements for a trademark application based on use in commerce. The deletion of this language makes this section parallel to section 1(a)(1)(A), as amended by the Trademark Law Treaty Implementation Act. Section 1(a)(1)(A), as amended, sets out the requirements for filing a complete trademark application based on use in commerce. Thus the amendment conforms the requirements of these two sections, requirements that should logically be identical. In addition, the experience of the Office has been that requiring the applicant to state the mode or manner of using the mark adds no additional useful information to the application inasmuch as an applicant is already required to submit specimens, e.g., tags, labels, advertising etc., to demonstrate how it is using the mark. Therefore, an additional statement concerning the mode or manner of use of the mark is unnecessary.

Subparagraph 1(a)(2)(A) amends paragraph 2(e) of the Trademark Act by adding a new subparagraph 5, "any matter that, as a whole, is functional", to the list of statutory refusals set out in that paragraph. The language clarifies that matter which is wholly functional must be refused registration, a position that is completely consistent with the intent of the Trademark Act. This change codifies both the case law in this matter and the long-standing practice of the Office to refuse registration to matter that is wholly functional based on a combined reading of sections 1, 2 and 45 of the Trademark Act. This new section will provide examining attorneys with a simple reference for the functionality refusal.

Subparagraph 1(a)(2)(B) amends paragraph 2(f) of the Trademark Act to add a reference to the new statutory refusal set out in subparagraph 2(e)(5). This amendment to paragraph 2(f) of the Trademark Act provides that matter which is wholly functional may not be registered upon a showing that the matter has become distinctive. This change codifies existing case law and the current practice of the Office and is not a change in the substantive law.

Paragraph 1(a)(3) amends section 7(a) of the Trademark Act by deleting an extraneous period.

Paragraph 1(a)(4) amends section 10 of the Trademark Act by deleting extraneous punctuation.

Paragraph 1(a)(5) amends paragraph 14(3) of the Trademark Act by inserting the phrase "or is functional," before "or has been abandoned". This amendment adds an additional ground for canceling a registration more than five years after the date of registration. This amendment changes existing case law in this matter but is fully consistent with the purpose of the Trademark Act. To exempt the registration of a wholly functional design from being subject to cancellation five years after the registration has issued permits the trademark owner with such a registration to obtain patent-like protection for its wholly functional design without the limited term that the patent law imposes. This change is therefore wholly consistent with both the purpose of the Trademark Act and the codifications of current practice regarding functionality made in this Act.

Paragraph 1(a)(6) amends section 23(c) of the Trademark Act by adding "any matter that as a whole is not functional" to the listing of the types of marks which can be registered on the Supplemental register. This change codifies existing case law and the current practice of the Office.

Paragraph 1(a)(7) amends section 26 of the Trademark Act by deleting an extraneous comma.

Paragraph 1(a)(8) amends section 31 of the Trademark Act by deleting "§31 Fees" from the title of the section and inserting "Sec. 31. (a)".

Paragraph 1(a)(9) amends section 32(1) of the Trademark Act to clarify that the definition of "any person" as set out in paragraph 1 of section 32 is limited to the matter within the paragraph.

Paragraph 1(a)(10) amends section 33(b) of the Trademark Act by inserting as a new paragraph 8, "That the mark is functional; or". This language adds a new defense against a claim of infringement made by the owner of a mark which has become "incontestable" under the provisions of section 32 of the Trademark Act. This language is fully consistent with the amendment made to paragraph 14(3) of the Trademark Act by paragraph 1(a)(5) of this Act.

Paragraph 1(a)(11) amends section 39(a) of the Trademark Act to strike a reference, that is no longer relevant, to "circuit courts" and insert the word "courts".

Paragraph 1(a)(12) amends Section 42 of the Trademark Act by sdeleting an extraneous "the".

Paragraph 1(a)(13) amends the Act to strike "trade-mark" in each place it occurs and replace it with "trademark". This is the more modern spelling.

Section 1(b) establishes an effective date that is prospective with respect to both civil actions and proceedings at the U.S. Patent and Trademark Office.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2193. A bill to implement the provisions of the Trademark Law Treaty; to the Committee on the Judiciary.

TRADEMARK LAW TREATY IMPLEMENTATION ACT

Mr. HATCH. Mr. President, I rise to introduce the Trademark Law Treaty Implementation Act of 1998. This legislation makes necessary changes in our domestic trademark law and procedures to ensure that we are in compliance when we ratify the treaty, which appears more likely this year than previously. The Trademark Law Treaty was done and signed at Geneva in October of 1994, and entered into force in 1996.

The obligations under the Trademark Law Treaty legislation will require some relatively minor changes to U.S. trademark practice, but will bring significant improvements in the trademark practices of a number of important countries around the world in which U.S. trademark owners seek protection. The required changes will eliminate complexities and simplify the process of obtaining, renewing, and managing trademark assets for American firms marketing their products and services around the world.

Countries around the world have a number of varying requirements for filing trademark applications, effecting changes of ownership of trademark registrations, and other procedures associated with managing trademark assets. These differences cause considerable aggravation and expense to trademark owners seeking to protect their marks around the world. Many of these procedures and requirements imposed by foreign countries are non-substantive and highly technical. In addition, many of these requirements in the various procedures of foreign trademark offices impose very significant cost burdens, both in official fees to be paid to local trademark offices, as well as agent's fees for fulfilling the various requirements. For example, many countries require that signatures on applications for powers of attorney be notarized, authenticated, and legalized. This very expensive and time consuming procedure is prohibited under the Treaty in all cases except where the registrant is surrendering a registration.

The Treaty eliminates these conflicting and expensive practices by setting forth a list of maximum requirements which a member State can impose for various actions. Specifically, the Treaty sets forth maximum requirements for: the contents of a trademark application; the content of a power of attorney; the elements necessary for an application to receive a filing date; a request to record a change in the name or address of a trademark owner; and, a request to renew a trademark registration. These requirements are implemented through the adoption of model forms for trademark applicants and owners to use which must be accepted by every member State. While a member need not impose all of the requirements or elements listed, it cannot demand the inclusion of any additional requirements or elements in respect of a particular action.

There are several other guarantees mandated by the Treaty that will benefit trademark applicants and owners. Under the Treaty, countries will have to register and protect service marks, as well as goods marks, an important consideration to the U.S. service economy, which has many valuable service marks, such as Marriott and American Airlines. Applicants will be able to file for protection under multiple classifications for goods and services, which will mature into multiple class registrations. No longer will trademark owners be forced to make a separate filing for each power of attorney; one general power will suffice. Member countries are precluded from considering goods or services as being similar to each other simply on the ground that they appear in the same class of the NICE classification. Moreover, a request to change the name or address of a trademark owner or a request to correct a mistake in a trademark registration may not be refused without giving the trademark owner an opportunity to comment.

As I indicated, the Trademark Law Treaty Implementation Act of 1998 makes only minor changes in our domestic trademark law. These changes include: the elimination of the requirement for a statement of the manner in which a mark is used or intended to be used in connection with the goods or services identified in the application; the elimination of the requirement that the applicant verify an application; the adoption of a grace period of at least six months for the filing of a renewal application; the elimination of a declaration or evidence concerning the use of a mark in connection with the filing of a renewal application; and, the elimination of a requirement to file a copy of the actual assignment document as a condition for recording the assignment of a trademark registration.

This bill will also harmonize and simplify the procedural requirements under the Trademark Act of 1946. Sections 8 and 9 will be amended to establish a similar period of one year prior to the end of the applicable time period, along with a grace period of six months after that period, for filing both affidavits of use and renewal applications. While it separates the ten-year affidavit of use from the renewal application, as required by the Treaty, the bill permits them both to be filed during the same time period which will benefit trademark applicants.

The Trademark Law Treaty Implementation Act of 1998 will help American companies protect their trademark assets in markets around the world thereby facilitating their ability to compete. At the same time, the changes it makes in U.S. trademark law are made in a manner that will assist American trademark owners protect their marks in this country.

Mr. President, I hope my colleagues will support this legislation which is so important to American trademark owners.

I ask unanimous consent that the text of the bill and an explanatory section by section analysis be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trademark Law Treaty Implementation Act".

SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

For purposes of this Act, the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.), shall be referred to as the "Trademark Act of 1946".

SEC. 3. APPLICATION FOR REGISTRATION; VERIFICATION.

(a) APPLICATION FOR USE OF TRADEMARK.—Section 1(a) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) is amended to read as follows:

"SECTION 1. (a)(1) The owner of a trademark used in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner, and such number of specimens or facsimiles of the mark as used as may be required by the Commissioner.

"(2) The application shall include specification of the applicant's domicile and citizenship, the date of the applicant's first use of the mark, the date of the applicant's first use of the mark in commerce, the goods in connection with which the mark is used, and a drawing of the mark.

"(3) The statement shall be verified by the applicant and specify that—

"(A) the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered;

"(B) to the best of the verifier's knowledge and belief, the facts recited in the application are accurate;

"(C) the mark is in use in commerce; and

"(D) to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall—

"(i) state exceptions to the claim of exclusive use; and

"(ii) shall specify, to the extent of the verifier's knowledge—

"(I) any concurrent use by others;

"(II) the goods on or in connection with which and the areas in which each concurrent use exists;

"(III) the periods of each use; and

"(IV) the goods and area for which the applicant desires registration.

"(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.".

(b) APPLICATION FOR BONA FIDE INTENTION TO USE TRADEMARK.—Subsection (b) of section 1 of the Trademark Act of 1946 (15 U.S.C. 1051(b)) is amended to read as follows:

"(b)(1) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner.

"(2) The application shall include specification of the applicant's domicile and citizenship, the goods in connection with which the applicant has a bona fide intention to use the mark, and a drawing of the mark.

"(3) The statement shall be verified by the applicant and specify—

"(A) that the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be entitled to use the mark in commerce;

"(B) the applicant's bona fide intention to use the mark in commerce;

"(C) that, to the best of the verifier's knowledge and belief, the facts recited in the application are accurate; and

"(D) that, to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

Except for applications filed pursuant to section 44, no mark shall be registered until the applicant has met the requirements of subsections (c) and (d) of this section.

"(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.".

(c) CONSEQUENCE OF DELAYS.—Paragraph (4) of section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)(4)) is amended to read as follows:

"(4) The failure to timely file a verified statement of use under paragraph (1) or an extension request under paragraph (2) shall result in abandonment of the application, unless it can be shown to the satisfaction of the Commissioner that the delay in responding was unintentional, in which case the time for filing may be extended, but for a period not to exceed the period specified in paragraphs (1) and (2) for filing a statement of use.".

SEC. 4. REVIVAL OF ABANDONED APPLICATION.

Section 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) is amended in the last sentence by striking "unavoidable" and by inserting "unintentional".

SEC. 5. DURATION OF REGISTRATION; CANCELLATION; AFFIDAVIT OF CONTINUED USE; NOTICE OF COMMISSIONER'S ACTION.

Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) is amended to read as follows:

"DURATION

"SEC. 8. (a) Each registration shall remain in force for 10 years, except that the registration of any mark shall be canceled by the Commissioner for failure to comply with the provisions of subsection (b) of this section, upon the expiration of the following time periods, as applicable:

"(1) For registrations issued pursuant to the provisions of this Act, at the end of 6 years following the date of registration.

"(2) For registrations published under the provisions of section 12(c), at the end of 6 years following the date of publication under such section.

"(3) For all registrations, at the end of each successive 10-year period following the date of registration.

"(b) During the 1-year period immediately preceding the end of the applicable time period set forth in subsection (a), the owner of the registration shall pay the prescribed fee and file in the Patent and Trademark Office—

"(1) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and such number of specimens or facsimiles showing current use of the mark as may be required by the Commissioner; or

"(2) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is not in use in commerce and showing that any such nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

"(c)(1) The owner of the registration may make the submissions required under this section within a grace period of 6 months after the end of the applicable time period set forth in subsection (a). Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

"(2) If any submission filed under this section is deficient, the deficiency may be corrected after the statutory time period and within the time prescribed after notification of the deficiency. Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

"(d) Special notice of the requirement for affidavits under this section shall be attached to each certificate of registration and notice of publication under section 12(c).

"(e) The Commissioner shall notify any owner who files 1 of the affidavits required by this section of the Commissioner's acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

"(f) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 6. RENEWAL OF REGISTRATION.

Section 9 of the Trademark Act of 1946 (15 U.S.C. 1059) is amended to read as follows:

"RENEWAL OF REGISTRATION

"SEC. 9. (a) Subject to the provisions of section 8, each registration may be renewed for periods of 10 years at the end of each successive 10-year period following the date of registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the Commissioner. Such application may be made at any time within 1 year before the end of each successive 10-year period for which the registration was issued or renewed, or it may be made within a grace period of 6 months after the end of each successive 10-year period, upon payment of a fee and surcharge prescribed therefor. If any application filed under this section is deficient, the deficiency may be corrected within the time prescribed after notification of the deficiency, upon payment of a surcharge prescribed therefor.

"(b) If the Commissioner refuses to renew the registration, the Commissioner shall notify the registrant of the Commissioner's refusal and the reasons therefor.

"(c) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 7. RECORDING ASSIGNMENT OF MARK.

Section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) is amended to read as follows:

"ASSIGNMENT

"SEC. 10. (a) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted. Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the Patent and Trademark Office, the record shall be prima facie evidence of execution. An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the Patent and Trademark Office within 3 months after the date of the subsequent purchase or prior to the subsequent purchase. The Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

"(b) An assignee not domiciled in the United States shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 8. INTERNATIONAL CONVENTIONS; COPY OF FOREIGN REGISTRATION.

Section 44 of the Trademark Act of 1946 (15 U.S.C. 1126) is amended—

(1) in subsection (d)—

(A) by striking "23, or 44(e) of this Act" and inserting "or 23 of this Act or under subsection (e) of this section"; and

(B) in paragraphs (3) and (4) by striking "this subsection (d)" and inserting "this subsection"; and

(2) in subsection (e), by striking the second sentence and inserting the following: "Such applicant shall submit, within such time period as may be prescribed by the Commissioner, a certification or a certified copy of the registration in the country of origin of the applicant.".

SEC. 9. TRANSITION PROVISIONS.

(a) REGISTRATIONS IN 20-YEAR TERM.—The provisions of section 8 of the Trademark Act of 1946, as amended by section 5 of this Act, shall apply to a registration for trademark issued or renewed for a 20-year term, if the expiration date of the registration is on or after the effective date of this Act.

(b) APPLICATIONS FOR REGISTRATION.—This Act and the amendments made by this Act shall apply to any application for registration of a trademark pending on, or filed on or after, the effective date of this Act.

(c) AFFIDAVITS.—The provisions of section 8 of the Trademark Act of 1946, as amended by section 5 of this Act, shall apply to the filing of an affidavit if the sixth or tenth anniversary of the registration, or the sixth anniversary of publication of the registration under section 12(c) of the Trademark Act of 1946, for which the affidavit is filed is on or after the effective date of this Act.

(d) RENEWAL APPLICATIONS.—The amendment made by section 6 shall apply to the filing of an application for renewal of a registration if the expiration date of the registration for which the renewal application is filed is on or after the effective date of this Act.

SEC. 10. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect—

(1) on the date that is 1 year after the date of the enactment of this Act, or

(2) upon the entry into force of the Trademark Law Treaty with respect to the United States,

whichever occurs first.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This section provides a short title: "Trademark Law Treaty Implementation Act."

SECTION 2. REFERENCE TO THE TRADEMARK ACT OF 1946

This section provides that the Act entitle "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provision of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C 1051 et. seq.) shall be referred to as the "Trademark Act of 1946".

SECTION 3. APPLICATION FOR REGISTRATION; VERIFICATION

Summary of Section 3

This section amends subsections 1(a) (Application for Use) and 1(b) (Application for Intent to Use) of the Trademark Act of 1946 (15 U.S.C. 1051(a) and 1051(b)) to create a clear distinction between the written application, the form of which may be prescribed by the Commissioner, and the declaration pertaining to applicant's use or intention to use the mark, the substance of which is detailed in the respective subsections; to require that the declaration pertaining to use or intention to use be verified by the applicant; to authorize the Commissioner to promulgate rules prescribing both the elements of the application, in addition to those specified in the proposed provision, and those elements necessary for a filing date; to omit the requirement in the written application for a statement of the "mode or manner" in which the mark is used or intended to be used in connection with the specified goods or services; and to clarify and modernize the language of the subsections, as appropriate. In addition, an amendment is made to subsection 1(d) (15 U.S.C. 1051(d)) to clarify that an application may be revived after a notice of allowance is issued.

Applications under the Trademark Law Treaty and Existing U.S. Law

With the goal of simplifying and harmonizing the registration process worldwide, Article 3(1) of the Trademark Law Treaty ("Treaty" or "TLT") establishes a comprehensive list of indications or elements that may be required in an application to register a trademark or service mark ("mark"). This list permits a Contracting Party to the Treaty ("Party") to require, inter alia, a signature and declarations of use and intention to use a mark. The list does not permit a Party to require, inter alia, a statement of the mode or manner in which the mark is used, or intended to be used, in connection with the goods or services specified in the application. Article 3(4) of the Treaty obligates a Party that requires a signature to permit either the applicant or his representative to sign the application, except that a Party may require declarations of use and intention to use a mark to be signed by the applicant.

The existing subsections 1(a) and 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) and 1051(b)) require, respectively, declarations pertaining to use and intention to use a mark and require verification by the applicant of the written application, which includes the aforementioned declarations. Under the terms of the Treaty, the United States may continue to require the aforementioned declarations and may require verification by the applicant of such declarations, but may not require verification by the applicant of the written application. Thus, it becomes necessary to distinguish the declarations of use and intention to use from the other elements of the application.

Additionally, the existing subsections 1(a) and 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) and 1051(b)) require, respectively, a statement of the mode or manner in which the mark is used or intended to be used, in connection with the goods specified in the application. Thus, it becomes necessary to delete the requirement for this statement from the list of required elements in the written application.

Distinction Between Written Application and Verified Declarations

Consistent with the Treaty obligations, the proposed revision will distinguish between the written application and the declarations of use and intention to use for purposes of the signature requirement. The proposed revision will continue to require a written application, in such form as may be prescribed by the Commissioner, and a declaration verified by the applicant, as set forth in the two subsections.

By separating the written application from the verified declarations, there will no longer be a requirement in the law for verification by the applicant of the written application. In the proposed revision, as in the existing subsections, the Commissioner will retain authority to prescribe the form of the application. Thus, the Commissioner will have discretion to permit the written application to be filed with no signature or with the signature of applicant's representative. Also, the Commissioner may permit the filing of a single document, which combines the elements of the written application and the declaration, and which is signed by the applicant, as under the existing subsections.

Elements of the Written Application

The proposed revision specifies a non-exclusive list of elements and grants authority to the Commissioner to prescribe, by regulation and consistent with law and international obligations, additional elements which the Commissioner considers to be necessary for an application and those elements necessary for receipt of a filing date. This proposal improves the ability of the law pertaining to application requirements to accommodate advancing technology and further international procedural harmonization. The proposed revision specifically requires the application to include applicant's domicile and citizenship, the dates of applicant's first use of the mark and first use of the mark in commerce in an application under subsection 1(a), the goods in connection with which the mark is used or intended to be used, and a drawing of the mark. Consistent with the Treaty, the proposed revision omits a requirement for specification of the mode or manner in which the mark is used, or intended to be used, in connection with the goods specified in the application.

Additionally, the proposed revision reorganizes subsections 1(a) and (b) 1946 (15 U.S.C. 1051(a)) and 1051(b)) to clarify the provisions and to modernize the language. To parallel the language of the Treaty, the phrase "may apply to register" is replaced by "may request registration". Reference to "firm, corporation or association" is replaced by a reference to "juristic person" or "person." Section 45 defines "person" as including "juristic persons." These terms are considered preferable in view of the numerous types of juristic persons in existence today.

The Verified Statement

Rather than requiring in the verified statement a repetition of statements in the written application identifying goods and, in a section 1(a) application, dates of use, the proposed revision requires a statement that, to the best of the applicant's knowledge and belief, the facts recited in the application are accurate. In addition, the proposed revision specifies the averments that the applicant must make in the verified statement concerning applicant's use, or bona fide intention to use, the mark in commerce, ownership of the mark and lack of knowledge of conflicting third party rights. These averments do not differ from those in the existing provisions.

The proposed revision requires verification of the statement by the applicant and omits the specification of the appropriate person to verify the declaration for a juristic applicant, i.e., the proposed revision omits the phrase requiring verification by "a member of the firm or an officer of the corporation or association applying." While this revision is not required by the Treaty, it will greatly simplify the filing of an application without compromising the integrity of the information contained therein. This proposed revision will give the Patent and Trademark Office ("PTO") the discretion to determine the appropriate person with authority to sign the declaration for a juristic applicant.

Under the existing provision, the PTO has been limited to accepting, for example, only the signature of an officer of a corporation on an application when another corporate manager's signature would be appropriate because the corporate manager has authority to bind the corporation legally or because the corporate manager has specific knowledge of the facts asserted in the application. The unnecessary rigidity of the existing provision has worked a hardship on applicants who have been denied filing dates because the person verifying their application has not met the strict requirement of being an officer of the corporate applicant. Additionally, the Patent and Trademark Office has had difficulty applying the officer requirement to foreign juristic entities whose managers are not clearly officers under the United States' corporate standards.

Revival of Applications After the Notice of Allowance Has Issued

Existing subsection 1(d) (15 U.S.C. 1051(d)) is amended to clarify that applications which are awaiting the filing of a statement of use or a request for extension of time to file a statement of use may be revived if it can be shown to the satisfaction of the Commissioner that the failure to file was unintentional. Although this change is not necessary for the implementation of the TLT, the change clarifies that the Commissioner has the authority to revive such an application so long as reviving the application does not extend the statutory period for filing the statement of use. The standard for revival is that the applicant's failure to file was unintentional. This is the same standard that is being proposed in subsection 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) for reviving applications during the examination process.

SECTION 4. REVIVAL OF AN ABANDONED APPLICATION

Summary of Section 4

This section amends subsection 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) by changing the present standard for reviving an abandoned application upon a showing of "unavoidable" delay to the standard of "unintentional" delay.

Revival of Applications Under the Historical "Unavoidable Delay" Standard

Section 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) provides that an application is abandoned if the applicant does not timely respond to an Office Action, "unless it can be shown to the satisfaction of the Commissioner that the delay in responding was unavoidable, whereupon such time may be extended."

Prior to the implementation of the Trademark Act of 1946, there was no statutory provision for abandonment and revival of abandoned trademark applications. There was a regulatory provision that an abandoned application could be revived if it were "shown to the satisfaction of the Commissioner that the delay in the prosecution of the same was unavoidable." However, the legislative history of the Lanham Act is silent as to the meaning or intention behind the "unavoidable delay" standard for revival of abandoned applications.

The language of section 12(b) of the Trademark Act of 1946 is virtually identical to the analogous provision of the patent law, 35 U.S.C. 133, which provides for abandonment of patent applications and revival upon a showing of unavoidable delay. The requirements for reviving an "unavoidably" abandoned patent applications, set forth in 37 C.F.R. §1.137(a), are identical to the requirements for reviving an abandoned trademark application under 37 C.F.R. §2.66.

Courts have held that the Commissioner has broad discretion in determining whether a delay is unavoidable. Under current law, the Commissioner's decision is subject to judicial review, but will be reversed only if it is arbitrary, capricious, or an abuse of discretion. *Morganroth* v. *Quigg*, 885 F.2d 843, 21 USPQ2d 1125 (Fed. Cir. 1989); *Smith* v. *Mossinghoff*, 671 F.2d 533, 213 USPQ 977 (D.C. Cir. 1982); *Douglas* v. *Manbeck*, 21 USPQ2d 1697 (E.D. Pa. 1991).

Revival of Applications Under the New "Unintentional Delay" Standard

Prior to 1982, patent applications, like trademark applications, could be revived only upon a showing of unavoidable delay. Under Public Law 97–247, §3, 96 Stat. 317 (1982) codified at 35 U.S.C. 41(a)(7), it became possible to revive an unintentionally abandoned patent application. Section 41(a)(7) establishes two different fees for filing petitions with two different standards to revive abandoned applications. There is one for a petition to revive an unavoidably abandoned application and another fee for a petition to revive an unintentionally abandoned application. The procedure for petitioning to revive an unintentionally abandoned application is set forth in 37 C.F.R. §1.137(b), effective October 1, 1982. 58 Fed. Reg. 44277 (Aug. 20, 1993); 48 Fed. Reg. 2696 (Jan. 20, 1983). The rule requires, among other things, that the applicant submit a verified statement that the delay was unintentional, and provides that the "Commissioner may require additional information where there is a question that the delay was unintentional."

The legislative history of Public Law 97–247 states: Section 41(a)7 establishes two different fees for filing petitions with different standards to revive abandoned applications. . . Since the section provides for two alternative fees with different standards, the section would permit the applicant seeking revival . . . to choose one or the other of the fees and standards under such regulations as the Commissioner may establish. . . *This section would permit the Commissioner to have more discretion than present law to revive abandoned applications . . . in appropriate circumstances* (emphasis added). H.R. Rep. No. 542, 97th Cong. 2d Sess. 6–7 (1982), quoted in *In re Rutan*, 231 USPQ 864, 865 (Comm'r Pats. 1986).

The legislative history of Public Law 97–247 pertains primarily to fees. However, the intent of Congress appears to be to give the Commissioner the power to revive abandoned applications using a much less strict standard than had been previously applied. *In re Rutan, supra*. Neither the legislative history of the Lanham Act nor the relevant case law limit the Commissioner's authority to establish procedures for revival of unintentionally abandoned trademark applications.

With the goal of the Trademark Law Treaty to simplify the registration process worldwide, this proposed amendment parallels the unintentional standard for revival available to patent applicants and relaxes the standard for reviving trademark applications. This will enable the majority of applicants, who file a timely petition to revive an application that was abandoned due to an unintentional delay, to proceed to registration from the point that the application became abandoned, rather than requiring these applicants to refile their applications.

SECTION 5. DURATION OF REGISTRATION; CANCELLATION; AFFIDAVIT OF CONTINUED USE; NOTICE OF COMMISSIONER'S ACTION

Note on Sections 5 and 6: Registration Maintenance under the Trademark Law Treaty and Existing U.S. Law

Sections 5 and 6 of this legislation amend existing sections 8 and 9 of the Trademark Act of 1946, which are the two provisions of the Act containing requirements for registration maintenance. These two sections are analogous in their requirements for the filing of a verified document attesting to the use of the mark in commerce and specimens or facsimiles, or a showing of excusable nonuse. Section 8 of the Trademark Act of 1946 requires the aforementioned filing during the year preceding the sixth year following registration to avoid cancellation of the registration. Section 9 of the Trademark Act of 1946 requires the aforementioned filing as part of the registration renewal application.

With the goal of simplifying and harmonizing the process for renewal of a trademark or service mark registration worldwide, Article 13(1) of the Treaty establishes a comprehensive list of indications that may be required in a request to renewal a trademark or service mark registration. This list does not include a declaration and/or evidence concerning use of the mark. Article 13(4)(iii) expressly prohibits a requirement for the furnishing of a declaration and/or evidence concerning use of the mark as part of a request for renewal. However, the Treaty contains no prohibition against a requirement for the periodic filing of a declaration and/or evidence of use in connection with a registration, as long as such requirement is not part of the requirements for renewal. In fact, Article 13(1)(b) of the Treaty, concerning renewal fees, recognizes that fees may be required in connection with the filing of a declaration and/or evidence of use of a registered mark.

Under the terms of the Treaty, the United States may continue to require the periodic filing of a verified document attesting to the use of the mark in commerce and specimens or facsimiles, or a showing of excusable nonuse. However, the United States may not make such a requirement in connection with registration renewal.

Harmonization of Trademark Act Sections 8 and 9 Requirements

The proposed revision harmonizes certain procedural requirements for the affidavits required under this section with the requirements for a registration renewal application contained in section 9 of the Trademark Act of 1946. While both sections contain requirements for registration maintenance, the specific requirements pertaining to the filing required by each existing section differ unnecessarily. These differing requirements have caused confusion to some registrants, particularly those proceeding *pro se*, resulting in the cancellation of registrations of marks still in use in commerce due to noncompliance with the technical requirements of one or the other of these maintenance sections. Furthermore, since the proposed revision to section 8 adds an affidavit requirement at ten-year internals, harmonizing the filing procedures with those for renewal enables the registrant to make both filings at the same time, thus, simplifying registration maintenance.

Summary of Section 5

This section amends section 8 of the Trademark Act of 1946 (15 U.S.C. 1058). The main purpose of the revision of this section is to set out, in one section, all of the requirements for filing any of the affidavits of use needed to maintain a registration and to ensure that the requirements of each use affidavit are identical. This section includes the affidavit of use filed between the fifth and the sixth year after registration, between the fifth and the sixth year after publication under subsection 12(c), and in the year preceding every ten year anniversary of the registration.

This purpose is accomplished by adding an obligation to file an affidavit of use or nonuse, consistent with the requirements set forth in the subsections, in the year preceding every tenth anniversary of the registration, to provide for correction of deficiencies in submissions under these subsections; to provide for a grace period for making submissions required by these subsections; to modernize the language and to simplify and clarify the existing procedural requirements for filing affidavits under these subsections; and to harmonize certain procedural requirements for such affidavits with the requirements for a registration renewal application contained in section 9 of the Trademark Act of 1946.

Subsection 8(a) states the duration of each registration and provides that the registration shall be canceled by the Commissioner if timely affidavits of use are not filed. Paragraph (1) of subsection 8(a) states that an affidavit of use must be filed by the end of six years following registration. Paragraph (2) of subsection 8(a) states that an affidavit of use must be filed by the end of six years following the date of publication under subsection 12(c) of the Trademark Act of 1946 (15 U.S.C. 1062(c)). Paragraph (3) of subsection 8(a) states that an affidavit of use must be filed by the end of each successive ten-year period following the date of registration.

Subsection 8(b) sets out the length of the time period during which the statutory filing can be made and the contents needed in each filing. In every case, there is a one year statutory period for filing the affidavit.

Subsection 8(c) permits the filing of the use affidavit, after the statutory period for filing has ended upon payment of an additional "grace period" surcharge. The section also provides that a correction of a deficiency, after the statutory period, may be made upon payment of an additional "deficiency" surcharge.

Subsection 8(c)(1) sets out the time period for filing the use affidavit where the statutory period has expired, the so-called "grace" period, and gives the Commissioner authority to prescribe a surcharge for affidavits filed during the grace period.

Subsection 8(c)(2) allows for correction of deficiencies in the filings submitted under this section upon payment of the deficiency surcharge.

Subsection 8(d) sets out the requirement that the Commissioner attach to each certificate of registration, and notice of publication under section 12(c), a special notice of the requirement for the affidavits required by this section. This section preserves an obligation of the Commissioner that is set out in the last sentence of existing section 8(a) and in section 12(c).

Subsection 8(e) preserves the obligation of the Commissioner, in existing subsection 8(c), to notify any owner who files an affidavit under section 8 of his acceptance or refusal of the affidavit. The subsection has been revised to reflect the revisions in subsections 8 (a) and (b) by stating that it applies to any of the above prescribed affidavits.

Subsection 8(f) has been added to require the appointment by owners, not domiciled in the United States, of a domestic representative for service of notices or process in proceedings affecting the mark.

Periodic Filing of the Affidavit

The PTO continues to believe in the value of requiring a periodic filing verifying the continued use of the mark as a way to maintain the integrity of the trademark register by periodically removing from the register marks no longer in use in commerce. Therefore, consistent with the Treaty obligations, the proposed revision adds to section 8 of the Trademark Act of 1946 an obligation to file an affidavit of use or excusable non-use, consistent with the requirements set forth in the subsection, in the year preceding the tenth anniversary of the registration and every ten years thereafter. This revision is proposed in view of the proposed deletion of the requirement in connection with registration renewal, in section 9 of the Trademark Act of 1946, for a verified statement attesting to the use of the mark in commerce, accompanied by specimens or facsimiles, or a showing of excusable non-use.

Grace Period and Correction of Deficiencies

Rules 8 of the Regulations under the Trademark Law Treaty provides that renewal request must be accepted for at least a six-month period, upon payment of a surcharge, after the date the renewal is due. The existing provisions of section 9 of the Trademark Act of 1946 permit the renewal application to be filed within a three-month period, upon payment of a surcharge, after the date the renewal is due. The existing provisions of section 8 of the Trademark Act of 1946 contain no grace period for the filing of the required affidavit after its due date. As described below, the proposed revision incorporates the six-month grace period required by the treaty for filing renewal requests and harmonizes the requirements for filings under sections 8 and 9 of the Trademark Act of 1946. Harmonization of the filing requirements of sections 8 and 9 will require the amendment of both sections to provide this six-month grace period for making the required filing. This amendment is a liberalization of sections 8 and 9 of the Trademark Act of 1946, which is desirable to avoid, to the extent possible, the removal from the register for mere technical reasons of marks that are still in use in commerce.

The proposed revision to section 8 of the Trademark Act of 1946 will amend the existing law by providing a six-month grace period for filing the required affidavit, conditioned upon payment of a "grace period" surcharge. Additionally, the proposed revision permits the correction of a deficiency after the sixth anniversary of registration. Such correction must be accompanied by a "deficiency surcharge" and be filed no later than the end of a prescribed period after notification of the deficiency. This proposed revision is consistent with the practice proposed in the revision to section 9(a) of the Trademark Act of 1946, concerning renewal.

Only an owner who did not make any filing prior to the end of the statutory period may make the required filing under the grace period provisions. The owner filing an affidavit prior to the end of the statutory period, but correcting a deficiency either during or after the grace period, will be subject to the "deficiency surcharge" only. On the other hand, the owner filing an affidavit during the six-month grace period, will be subject to the "grace period surcharge" (for the ability to file the affidavit during the grace period) and, if notified of deficiencies, the "deficiency surcharge" (for the ability to correct a deficiency after the end of the statutory period.) The proposed revision does not define deficiency or place any limits on the type of deficiency or omission that can be cured after expiration of the statutory filing period. The Commissioner has broad discretion to provide procedures and fees for curing deficiencies or omissions.

Simplification and Clarification of Section 8 of the Trademark Act

The proposed revision conforms the requirements of subsections 8(a) and (b) of the Trademark Act of 1946 to current practice. First, the language in the existing subsections "attaching to the affidavit a specimen or facsimile showing current use of the mark" is revised to clarify that the specimens or fascimiles are to be filed along with the affidavit but are not considered part of the affidavit for purposes of complying with the requirement to set forth in the affidavit the goods or services on or in connection with which the mark is in use in commerce. The sentence comprising subsection 8(a) of the Trademark Act of 1946 has been revised to clarify and distinguish the requirements for the fee, the affidavit, the specimens and a showing of non-use. The proposed revision further permits the Commissioner to specify the number of specimens or facsimiles required so that he may require a specimen or facsimile for each class of goods or services identified in the registration. The language "setting forth those goods or services recited in the registration on or in connection with which the mark is not in use in commerce" is proposed to be added to parallel the affidavit requirements pertaining to use of the mark and to clarify that the owner must specify the goods or services to which a showing of non-use pertains.

Eristing Subsection 8(b)

The requirements set out in former subsection 8(b) of the Trademark Act of 1946, pertaining to marks published pursuant to section 12(c) of the Trademark Act of 1946, have been set out in subsections 8(a)(2), 8(b) and (8)(c) and conform to the proposed revisions as to the time of filing the affidavit, the grace period and the correction of deficiencies.

Eristing Subsection 8(c)

Subsection 8(c) of the Trademark Act of 1946 is now set out in subsection 8(e) and has been amended to reflect the revisions in subsections 8 (a) and (b) to add requirements for the periodic filing of additional affidavits by changing reference from ". . . any owner who files either of the above-prescribed affidavits . . ." to ". . . any owner who files one of the above-prescribed affidavits . . .".

Subsection 8(f)—Appointment of Domestic Representative

Section 5 of this Act proposes to add a section 8(f) to the Trademark Act of 1946 to provide for the appointment of a domestic representative for service of notices or process in proceedings affecting the mark by owners not domiciled in the United States. This new subsection is consistent with similar requirements imposed on applicants by subsection 1(e) of the Trademark Act of 1946. This is necessary because the appointment required in subsection 1(e) of the Trademark Act of 1946 pertains only during the pendency of the application.

Registrant or Owner: Who must file?

Throughout the revised section 8, the term "registrant" has been replaced by the term "owner." The practice at the Patent and Trademark Office has been to require that the current owner of the registration file all the post-registration affidavits needed to maintain a registration. The current owner of the registration must aver to actual knowledge of the use of the mark in the subject registration. However, the definition of "registrant" in section 45 of the Act states that the "terms 'applicant' and 'registrant' embrace the legal representatives, predecessors, successors and assigns of each applicant and registrant." Therefore, use of the term "registrant" in section 8 of the Act would imply that any legal representative, predecessor, successor or assign of the registrant could successfully file the affidavits required by sections 8 and 9. To correct this situation, and to keep with the general principle, as set out in section 1, that the owner is the proper person to prosecute an application, section 8 has been amended to state that the owner must file the affidavits required by the section.

SECTION 6. RENEWAL OF REGISTRATION

Summary of Section 6

This section amends subsection 9(a) of the Trademark Act of 1946 to cross-reference the obligatory registration maintenance requirements of section 8 of the Trademark Act of 1946; to delete the obligation to submit as part of a renewal application verified statements regarding the use of the mark in commerce and attaching to the application a specimen or facsimile showing current use of the mark; to extend the time for filing a renewal application to up to one year before the expiration of the period for which the registration was issued or renewed and, for an additional fee, up to six months after the end of the expiring period of the registration; to grant authority to the Commissioner to prescribe the form of the written application for renewal of the registration; and, to permit the correction of deficiencies after the statutory filing period.

This section amends subsection 9(c) to specify the requirements for the appointment by registrants not domiciled in the United States of a domestic representative for service of notices or process in proceedings affecting the mark.

Use Requirement for Registration Renewal

Separate from the obligation to renew a trademark registration at ten-year intervals, the U.S. Patent and Trademark Office continues to believe in the value of requiring a periodic filing verifying the continued use of the mark as a way to maintain the integrity of the trademark register by periodically removing from the register marks no longer in use in commerce. Therefore, consistent with the Treaty obligations, the proposed revision deletes from subsection 9(a) of the Trademark Act of 1946 the requirement that the renewal application include a verified statement attesting to the use of the mark in commerce, accompanied by a specimen or facsimile evidencing current use of the mark, or a showing of excusable non-use. These requirements are proposed to be added to subsection 8(a) of the Trademark Act of 1946 in the form of an obligation to file an affidavit of use or excusable non-use, consistent with the requirements set forth in the subsection, on the tenth anniversary of the registration and every ten years thereafter.

Also, consistent with the treaty obligations, the requirement that the renewal application be verified is proposed to be deleted and the Commissioner is granted authority to prescribe the form of the written renewal application, consistent with law and international treaties or agreements to which the United States is a party.

Grace Period and Harmonization

Rule 8 of the Regulations under the Trademark Law Treaty provides that a renewal request must be accepted for at least a six-month period, upon payment of a surcharge, after the date the renewal is due. The existing provisions of section 9 of the Trademark Act of 1946 permit the renewal application to be filed within a three-month period, upon payment of a surcharge, after the date the renewal is due. The revision proposes to change the three-month grace period for requesting registration renewal to the six-month grace period required by the treaty and harmonizes the requirements for filings under sections 8 and 9 of the Trademark Act of 1946. Harmonization of the filing requirements of sections 8 and 9 will require the amendment of both sections to provide this six-month grace period for making the required filing. This amendment is a liberalization of sections 8 and 9 of the Trademark Act of 1946, which is desirable to avoid, to the extent possible, the removal from the register for mere technical reasons of marks that are still in use in commerce. In particular, consistent with the filing requirements in section 8 of the Trademark Act of 1946, the period for filing a renewal request is expressly defined as the period one year prior to expiration of the period for which the registration was issued or renewed, or within a grace period of six months after the end of the expiring period.

Subsection 9(c)—Appointment of Domestic Representatives

Subsection 6(b) of this Act amends subsection 9(c) to the Trademark Act of 1946 to provide for the appointment of a domestic representative for service of notices or process in proceedings affecting the mark by owners not domiciled in the United States, rather than referencing the requirements in subsection 1(e) of the Trademark Act of 1946. This is preferable because the appointment required in subsection 1(e) of the Trademark Act of 1946 pertains only during the pendency of the application.

SECTION 7. RECORDING ASSIGNMENT OF MARK

This section amends section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) to clarify that the PTO will record a change in ownership without requiring a copy of the underlying document; and to remove the proscription against the assignment of a mark in an application filed under section 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(b)) (intent-to-use) upon the filing of an amendment to allege use pursuant to section 1(c) of the Trademark Act of 1946 (15 U.S.C. 1051(c)).

The PTO has interpreted the present reference to a "record of assignments" in section 10 to require the PTO to record a copy of the actual assignment document. Article 11(4) of Trademark Law Treaty prohibits the requirement of a statement or proof of such transfer in order to record an assignment of a trademark registration. The proposed amendment clarifies that, rather than maintaining a "record of assignments," the PTO "shall maintain a record of the prescribed information on assignments, in such form as may be prescribed by the Commissioner." The proposed amendment authorizes the PTO to determine what information regarding assignments it will record and maintain. The proposed amendment will ensure that a transfer of goodwill remains a necessary element of a valid assignment of a trademark; however, the PTO will not require a statement or proof of the transfer of goodwill in order to record an assignment of a trademark registration.

Additionally, pertaining to the proscription against the assignment of a mark in an application filed under section 1(b) of the Trademark Act of 1946 (intent-to-use), the proposed amendment adds reference to section 1(c) of the Trademark Act of 1946 so that the filing of an amendment to allege use pursuant to section 1(c) removes the restriction against assigning the mark except to the successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. Presently, prior to registration of an application filed pursuant to section 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(b)) based upon a bona fide intention to use a mark in commerce on the identified goods or services, an applicant must file either a verified statement of use under section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)) or an amendment to allege use under section 1(c) of the Trademark Act of 1946 (15 U.S.C. 1051(c)). The substance of the two filings is essentially the same. The difference between the two filings is the point at which the filing is made. Presently, section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) limits the assignability of an application to register a mark under section 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(b)) until such time as applicant files a verified statement of use under section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)). Since the effect of the filing of an amendment to allege use under section 1(c) of the Trademark Act of 1946 (15 U.S.C. 1051(c)) is analogous, there is no reason in law or policy for omitting to include reference to section 1(c) in section 10.

SECTION 8. INTERNATIONAL CONVENTIONS; COPY OF FOREIGN REGISTRATION

This section amends section 44(e) of the Trademark Act of 1946 (15 U.S.C. 1126(e)) to change the requirement that an application "be accompanied by a certificate or certified copy" of the foreign registration, which has been interpreted to be a filing date requirement, so that such copy may be submitted to the PTO prior to registration, within such time limits as may be prescribed by the Commissioner. Such a requirement as a prerequisite to receiving a filing date is prohibited pursuant to Article 5 of the Trademark Law Treaty.

SECTION 9. TRANSITION PROVISIONS

This section clarifies when and how the new provisions set out for the maintenance of registrations will apply to existing and future applications and registrations.

Section 9(a) provides that registrations issued or renewed with a 20 year term, i.e. those registrations issued or renewed prior to the effective date of the Trademark Law Revision Act of 1988, will be subject to the post-registration provisions of this Act on or after a date that is 1 year before the date on which the twenty year term expires. This provision will allow those registrations to have the benefit of the one year statutory filing period and the six-month grace period provided by the Act.

Section 9(b) provides that the Act shall apply to any application for the registration of a trademark pending on, or filed after, the effective date of the Act.

Section 9(c) provides that the filing of an affidavit under Section 5 of the Act, which amends Section 8(b) of the Trademark Act of 1946, shall be required for any registration if the sixth or tenth anniversary of the registration, or the sixth anniversary of publication under section 12(c) of the Trademark Act of 1946, occurs on or after the effective date of this Act.

Section 9(d) provides that the amendment made by section 6 of this Act shall apply to the filing of an application for the renewal of a registration if the expiration date of the registration for which the renewal application is filed is on or after the effective date of this Act.

SECTION 10. EFFECTIVE DATE

This section provides that this Act shall take effect one year after enactment of the Act or upon entry into force of the Treaty in respect to the United States, whichever occurs first. Since the provisions of the Act will modernize and simplify procedures pertaining to trademark application filing and registration maintenance, this section provides that, if the U.S. has not acceded to the treaty and become subject to the obligations thereunder within a year after enactment, the Act will become effective so that its benefits can be realized by trademark owners.

Since the United States is not one of the first five States to deposit its instrument of ratification or accession, Article 20 of the Treaty provides that the Treaty shall enter into force three months after the date on which the instrument of ratification or accession is deposited.

Mr. LEAHY. Mr. President, I am pleased today to introduce the Trademark Law Treaty Implementation and Registration Simplification Act (TLT Act). The TLT Act, which will implement the Trademark Law Treaty of 1994, is an important step in our continuing endeavor to harmonize trademark law around the world so that American businesses—particularly small American businesses—seeking to expand internationally will face simplified and straightforward trademark registration procedures in foreign countries.

This bill is one of a series I have supported which protect American trademark holders in a world of rapidly changing technology and international competition. Earlier this year I introduced S. 1727, legislation authorizing the National Research Council of the National Academy of Sciences to conduct a comprehensive study of the effects of adding new generic Top Level Domains on trademark and other intellectual property rights owners. Moreover, I supported the Federal Trademark Dilution Act of 1995, which was enacted into law last Congress. This legislation provides intellectual property rights holders with the power to enjoin another person's commercial use of famous marks that would cause dilution of the mark's distinctive quality. Together, these measures represent efforts to refine American trademark law to ensure that it promotes American interests.

Today more than ever before, trademarks are among the most valuable assets of business. One of the major obstacles in securing international trademark protection is the difficulty and cost involved in obtaining and maintaining a registration in each and every country. Countries around the world have a number of varying requirements for filing trademark applications, many of which are non-substantive and very confusing. Because of these difficulties, many U.S. businesses, especially smaller businesses, are forced to concentrate their efforts on registering their trademarks only in certain major countries while pirates freely register their marks in other countries.

The Trademark Law Treaty will eliminate many of the arduous registration requirements of foreign countries by enacting a list of maximum requirements for trademark procedures. Eliminating needless formalities will be an enormous step in the direction of a rational trademark system which will benefit American business, especially smaller businesses, to expand into the international market more freely. Fortunately, the Trademark Law Treaty has already been signed by thirty-five countries, has already been ratified by ten countries including Japan and the United Kingdom, and has already been reported favorably to the full Senate by the Senate Foreign Affairs Committee.

As the United States is already in accordance with most of the Trademark Law Treaty requirements, the TLT Act would impose only minor changes to U.S. trademark law. The Patent and Trademark Office, the International Trademark Association and the American Intellectual Property Law Association have indicated their support for the TLT Act.

I hope the Senate will consider and pass this bill expeditiously.

ADDITIONAL COSPONSORS

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 472

At the request of Mr. CRAIG, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 472, a bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

S. 617

At the request of Mr. JOHNSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 778

At the request of Mr. LUGAR, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 981

At the request of Mr. LEVIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1825

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1825, a bill to amend title 10, United States Code, to provide sufficient funding to assure a minimum size for honor guard details at funerals of veterans of the Armed Forces, to establish the minimum size of such details, and for other purposes.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1924

At the request of Mr. MACK, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2092

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2092, a bill to promote full equality at the United Nations for Israel.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2128

At the request of Mr. STEVENS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2162

At the request of Mr. MACK, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2162, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

SENATE JOINT RESOLUTION 49

At the request of Mr. SMITH, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of Senate Joint Resolution 49, a joint resolution proposing a constitutional amendment to protect human life.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from Indiana (Mr. LUGAR), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE RESOLUTION 251—CONGRATULATING THE DETROIT RED WINGS ON WINNING THE 1998 NATIONAL HOCKEY LEAGUE STANLEY CUP CHAMPIONSHIP

Mr. LEVIN (for himself and Mr. ABRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 251

Whereas on June 16, 1998, the Detroit Red Wings defeated the Washington Capitals, 4–1, in Game 4 of the championship series;

Whereas this victory marks the second year in a row that the Red Wings won the Stanley Cup in a four game sweep;

Whereas the Stanley Cup took its first trip around the rink in the lap of Vladimir Konstantinov, the Red Wing defenseman who was seriously injured in an accident less than a week after Detroit won the Cup last year;

Whereas Vladi and his wife Irina, whose strength and courage are a source of pride and inspiration to our entire community are an exemplary Red Wings family and Vladi's battle is an inspiration to all Americans;

Whereas Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit and Michigan, have brought the Stanley Cup back to Detroit yet again;

Whereas the Red Wings, as one of the original six NHL teams, have always held a special place in the hearts of all Michiganders;

Whereas it was a profound source of pride for Detroit when the Wings brought the Cup back to Detroit in 1954 and 1955, the last time the Wings won consecutive NHL championships;

Whereas today, Detroit continues to provide Red Wings fans with hockey greatness and Detroit, otherwise known as "Hockeytown, U.S.A." is home to the most loyal fans in the world;

Whereas the Red Wings are indebted to Head Coach Scotty Bowman, who has brought the Red Wings to the playoffs 3 times in the last 4 years, and with this year's victory, has earned his eighth Stanley Cup victory, tying him with his mentor Toe Blake for the most championships in league history;

Whereas the Wings are also lucky to have the phenomenal leadership of Team Captain Steve Yzerman, who in his fifteenth season in the NHL, received the Conn Smythe Trophy, given to the most valuable player in the NHL playoffs;

Whereas each one of the Red Wings will be remembered on the premier sports trophy, the Stanley Cup, including Slava Fetisov, Bob Rouse, Nick Lidstrom, Igor Larionov, Mathieu Dandenault, Slava Kozlov, Brendan Shanahan, Dmitri Mironov, Doug Brown, Kirk Maltby, Steve Yzerman, Martin Lapointe, Mike Knuble, Darren McCarty, Joe Kocur, Aaron Ward, Chris Osgood, Kevin Hodson, Kris Draper, Jamie Macoun, Brent Gilchrist, Anders Eriksson, Larry Murphy, Sergei Federov, and Tomas Holmstrom: Now, therefore, be it

Resolved, That the U.S. Senate congratulates the Detroit Red Wings on winning the 1998 National Hockey League Stanley Cup Championship.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

INOUYE AMENDMENT NO. 2713

Mr. GORTON (for Mr. INOUYE) proposed an amendment to the bill (S. 2138) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes; as follows:

On page 18, add the following before the period:

"*:Provided further*, The Secretary of the Interior is directed to use not to exceed $200,000 of funds appropriated herein to provide technical assistance in a study of measures to increase the efficiency of existing water systems developed to serve sugar cane plantations and surrounding communities in the State of Hawaii".

DASCHLE AMENDMENT NO. 2714

Mr. DASCHLE proposed an amendment to the bill, S. 2138, supra; as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Tobacco Policy and Youth Smoking Reduction Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Scope and effect.
Sec. 5. Relationship to other, related Federal, State, local, and Tribal laws.

Sec. 6. Definitions.
Sec. 7. Notification if youthful cigarette smoking restrictions increase youthful pipe and cigar smoking.
Sec. 8. FTC jurisdiction not affected.
Sec. 9. Congressional review provisions.

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

Sec. 101. Amendment of Federal Food, Drug, and Cosmetic Act of 1938.
Sec. 102. Conforming and other amendments to general provisions.
Sec. 103. Construction of current regulations.

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

Sec. 201. Findings.
Sec. 202. Purpose.
Sec. 203. Goals for reducing underage tobacco use.
Sec. 204. Look-back assessment.
Sec. 205. Definitions.

Subtitle B—State Retail Licensing and Enforcement Incentives

Sec. 231. State retail licensing and enforcement block grants.
Sec. 232. Block grants for compliance bonuses.
Sec. 233. Conforming change.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

Sec. 261. Tobacco use prevention and cessation initiatives.

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

Sec. 301. Cigarette label and advertising warnings.
Sec. 302. Authority to revise cigarette warning label Statements.
Sec. 303. Smokeless tobacco labels and advertising warnings.
Sec. 304. Authority to revise smokeless tobacco product warning label statements.
Sec. 305. Tar, nicotine, and other smoke constituent disclosure to the public.

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

Sec. 311. Regulation requirement.

TITLE IV—NATIONAL TOBACCO TRUST FUND

Sec. 401. Establishment of trust fund.
Sec. 402. Payments by industry.
Sec. 403. Adjustments.
Sec. 404. Payments to be passed through to consumers.
Sec. 405. Tax treatment of payments.
Sec. 406. Enforcement for nonpayment.

Subtitle B—General Spending Provisions

Sec. 451. Allocation accounts.
Sec. 452. Grants to States.
Sec. 453. Indian health service.
Sec. 454. Research at the National Science Foundation.
Sec. 455. Medicare cancer patient demonstration project; evaluation and report to Congress.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

Sec. 501. Definitions.
Sec. 502. Smoke-free environment policy.
Sec. 503. Citizen actions.
Sec. 504. Preemption.
Sec. 505. Regulations.
Sec. 506. Effective date.
Sec. 507. State choice.

TITLE VI—APPLICATION TO INDIAN TRIBES

Sec. 601. Short title.
Sec. 602. Findings and purposes.
Sec. 603. Application of title to Indian lands and to Native Americans.

TITLE VII—TOBACCO CLAIMS

Sec. 701. Definitions.
Sec. 702. Application; preemption.
Sec. 703. Rules governing tobacco claims.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

Sec. 801. Accountability requirements and oversight of the tobacco industry.
Sec. 802. Tobacco product manufacturer employee protection.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

Sec. 901. Findings.
Sec. 902. Applicability.
Sec. 903. Document disclosure.
Sec. 904. Document review.
Sec. 905. Resolution of disputed privilege and trade secret claims.
Sec. 906. Appeal of panel decision.
Sec. 907. Miscellaneous.
Sec. 908. Penalties.
Sec. 909. Definitions.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

Sec. 1001. Short title.
Sec. 1002. Definitions.

Subtitle A—Tobacco Community Revitalization

Sec. 1011. Authorization of appropriations.
Sec. 1012. Expenditures.
Sec. 1013. Budgetary treatment.

Subtitle B—Tobacco Market Transition Assistance

Sec. 1021. Payments for lost tobacco quota.
Sec. 1022. Industry payments for all department costs associated with tobacco production.
Sec. 1023. Tobacco community economic development grants.
Sec. 1024. Flue-cured tobacco production permits.
Sec. 1025. Modifications in Federal tobacco programs.

Subtitle C—Farmer and Worker Transition Assistance

Sec. 1031. Tobacco worker transition program.
Sec. 1032. Farmer opportunity grants.

Subtitle D—Immunity

Sec. 1041. General immunity for tobacco producers and tobacco warehouse owners.
Sec. 1042. Assistance for producers experiencing losses of farm income.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

Sec. 1101. Policy.
Sec. 1102. Tobacco control negotiations.
Sec. 1103. Report to Congress.
Sec. 1104. Funding.
Sec. 1105. Prohibition of funds to facilitate the exportation or promotion of tobacco.
Sec. 1106. Health labeling of tobacco products for export.
Sec. 1107. International tobacco control awareness.

Subtitle B—Anti-smuggling Provisions

Sec. 1131. Definitions.
Sec. 1132. Tobacco product labeling requirements.
Sec. 1133. Tobacco product licenses.
Sec. 1134. Prohibitions.
Sec. 1135. Labeling of products sold by Native Americans.
Sec. 1136. Limitation on activities involving tobacco products in foreign trade zones.
Sec. 1137. Jurisdiction; penalties; compromise of liability.
Sec. 1138. Amendments to the Contraband Cigarette Trafficking Act.
Sec. 1139. Funding.
Sec. 1140. Rules and regulations.

Subtitle C—Other Provisions

Sec. 1161. Improving child care and early childhood development.
Sec. 1162. Ban of sale of tobacco products through the use of vending machines.
Sec. 1163. Amendments to the Employee Retirement Income Security Act of 1974.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

Sec. 1201. National tobacco trust funds available under future legislation.

TITLE XIII—VETERANS' BENEFITS

Sec. 1301. Recovery by Secretary of Veterans' Affairs.

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT

Sec. 1401. Conferral of benefits on participating tobacco product manufacturers in return for their assumption of specific obligations.
Sec. 1402. Participating tobacco product manufacturer.
Sec. 1403. General provisions of protocol.
Sec. 1404. Tobacco product labeling and advertising requirements of protocol.
Sec. 1405. Point-of-sale requirements.
Sec. 1406. Application of title.
Sec. 1407. Governmental claims.
Sec. 1408. Addiction and dependency claims; Castano Civil Actions.
Sec. 1409. Substantial non-attainment of required reductions.
Sec. 1410. Public health emergency.
Sec. 1411. Tobacco claims brought against participating tobacco product manufacturers.
Sec. 1412. Payment of tobacco claim settlements and judgments.
Sec. 1413. Attorneys' fees and expenses.
Sec. 1414. Effect of court decisions.
Sec. 1415. Criminal laws not affected.
Sec. 1416. Congress reserves the right to enact laws in the future.
Sec. 1417. Definitions.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of epic and worsening proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under Article I, Section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) The citizens of the several States are exposed to, and adversely affected by, environmental smoke in public buildings and other facilities which imposes a burden on interstate commerce.

(13) Civil actions against tobacco product manufacturers and others are pending in Federal and State courts arising from the use, marketing, and sale of tobacco products. Among these actions are cases brought by the attorneys general of more than 40 States, certain cities and counties, and the Commonwealth of Puerto Rico, and other parties, including Indian tribes, and class actions brought by private claimants (such as in the Castano Civil Actions), seeking to recover monies expended to treat tobacco-related diseases and for the protection of minors and consumers, as well as penalties and other relief for violations of antitrust, health, consumer protection, and other laws.

(14) Civil actions have been filed throughout the United States against tobacco product manufacturers and their distributors, trade associations, law firms, and consultants on behalf of individuals or classes of individuals claiming to be dependent upon and injured by tobacco products.

(15) These civil actions are complex, time-consuming, expensive, and burdensome for both the litigants and Federal and State courts. To date, these civil actions have not resulted in sufficient redress for smokers or non-governmental third-party payers. To the extent that governmental entities have been or may in the future be compensated for tobacco-related claims they have brought, it is not now possible to identify what portions of such past or future recoveries can be attributed to their various antitrust, health, consumer protection, or other causes of action.

(16) It is in the public interest for Congress to adopt comprehensive public health legislation because of tobacco's unique position in the Nation's history and economy; the need to prevent the sale, distribution, marketing and advertising of tobacco products to persons under the minimum legal age to purchase such products; and the need to educate the public, especially young people, regarding the health effects of using tobacco products.

(17) The public interest requires a timely, fair, equitable, and consistent result that will serve the public interest by (A) providing that a portion of the costs of treatment for diseases and adverse health effects associated with the use of tobacco products is borne by the manufacturers of these products, and (B) restricting throughout the Nation the sale, distribution, marketing, and advertising of tobacco products only to persons of legal age to purchase such products.

(18) Public health authorities estimate that the benefits to the Nation of enacting Federal legislation to accomplish these goals would be significant in human and economic terms.

(19) Reducing the use of tobacco by minors by 50 percent would prevent well over 60,000 early deaths each year and save up to $43 billion each year in reduced medical costs, improved productivity, and the avoidance of premature deaths.

(20) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(21) In 1995, the tobacco industry spent close to $4,900,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(22) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(23) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(24) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(25) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(26) Tobacco advertising increases the size of the tobacco market by increasing consumption of tobacco products including increasing tobacco use by young people.

(27) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands, and children as young as 3 to 6 years old can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(28) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market.

(29) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(30) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(31) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones. Text-only requirements, while not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(32) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(33) If, as a direct or indirect result of this Act, the consumption of tobacco products in the United States is reduced significantly, then tobacco farmers, their families, and their communities may suffer economic hardship and displacement, notwithstanding their lack of involvement in the manufacturing and marketing of tobacco products.

(34) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to clarify the authority of the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to require the tobacco industry to fund both Federal and State oversight of the tobacco industry from on-going payments by tobacco product manufacturers;

(3) to require tobacco product manufacturers to provide ongoing funding to be used for an aggressive Federal, State, and local enforcement program and for a nationwide licensing system to prevent minors from obtaining tobacco products and to prevent the unlawful distribution of tobacco products, while expressly permitting the States to adopt additional measures that further restrict or eliminate the products' use;

(4) to ensure that the Food and Drug Administration and the States may continue to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(5) to impose financial surcharges on tobacco product manufacturers if tobacco use by young people does not substantially decline;

(6) to authorize appropriate agencies of the Federal government to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(7) to provide new and flexible enforcement authority to ensure that the tobacco industry makes efforts to develop and introduce less harmful tobacco products;

(8) to confirm the Food and Drug Administration's authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(9) in order to ensure that adults are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(10) to impose on tobacco product manufacturers the obligation to provide funding for a variety of public health initiatives;

(11) to establish a minimum Federal standard for stringent restrictions on smoking in

public places, while also to permit State, Tribal, and local governments to enact additional and more stringent standards or elect not to be covered by the Federal standard if that State's standard is as protective, or more protective, of the public health;

(12) to authorize and fund from payments by tobacco product manufacturers a continuing national counter-advertising and tobacco control campaign which seeks to educate consumers and discourage children and adolescents from beginning to use tobacco products, and which encourages current users of tobacco products to discontinue using such products;

(13) to establish a mechanism to compensate the States in settlement of their various claims against tobacco product manufacturers;

(14) to authorize and to fund from payments by tobacco product manufacturers a nationwide program of smoking cessation administered through State and Tribal governments and the private sector;

(15) to establish and fund from payments by tobacco product manufacturers a National Tobacco Fund;

(16) to affirm the rights of individuals to access to the courts, to civil trial by jury, and to damages to compensate them for harm caused by tobacco products;

(17) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(18) to impose appropriate regulatory controls on the tobacco industry; and

(19) to protect tobacco farmers and their communities from the economic impact of this Act by providing full funding for and the continuation of the Federal tobacco program and by providing funds for farmers and communities to develop new opportunities in tobacco-dependent communities.

SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—This Act is not intended to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) except as provided in this Act, affect any action pending in State, Tribal, or Federal court, or any agreement, consent decree, or contract of any kind.

(b) TAXATION.—Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect any authority of the Secretary of the Treasury (including any authority assigned to the Bureau of Alcohol, Tobacco and Firearms) or of State or local governments with regard to taxation for tobacco or tobacco products.

(c) AGRICULTURAL ACTIVITIES.—The provisions of this Act which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

SEC. 5. RELATIONSHIP TO OTHER, RELATED FEDERAL, STATE, LOCAL, AND TRIBAL LAWS.

(a) AGE RESTRICTIONS.—Nothing in this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), as amended by this Act, shall prevent a Federal agency (including the Armed Forces), a State or its political subdivisions, or the government of an Indian tribe from adopting and enforcing additional measures that further restrict or prohibit tobacco product sale to, use by, and accessibility to persons under the legal age of purchase established by such agency, State, subdivision, or government of an Indian tribe.

(b) ADDITIONAL MEASURES.—Except as otherwise expressly provided in this Act, nothing in this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or rules promulgated under such Acts, shall limit the authority of a Federal agency (including the Armed Forces), a State or its political subdivisions, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products, including laws, rules, regulations, or other measures relating to or prohibiting the sale, distribution, possession, exposure to, or use of tobacco products by persons of any age that are in addition to the provisions of this Act and the amendments made by this Act. No provision of this Act or amendment made by this Act shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

(c) NO LESS STRINGENT.—Nothing in this Act or the amendments made by this Act is intended to supersede any State, local, or Tribal law that is not less stringent than this Act, or other Acts as amended by this Act.

(d) STATE LAW NOT AFFECTED.—Except as otherwise expressly provided in this Act, nothing in this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or rules promulgated under such Acts, shall supersede the authority of the States, pursuant to State law, to expend funds provided by this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) BRAND.—The term "brand" means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

(2) CIGARETTE.—The term "cigarette" has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

(3) CIGARETTE TOBACCO.—The term "cigarette tobacco" means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

(4) COMMERCE.—The term "commerce" has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

(5) DISTRIBUTOR.—The term "distributor" as regards a tobacco product means any person who furthers the distribution of cigarette or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this Act.

(6) INDIAN COUNTRY; INDIAN LANDS.—The terms "Indian country" and "Indian lands" have the meaning given the term "Indian country" by section 1151 of title 18, United States Code, and includes lands owned by an Indian tribe or a member thereof over which the United States exercises jurisdiction on behalf of the tribe or tribal member.

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(8) LITTLE CIGAR.—The term "little cigar" has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

(9) NICOTINE.—The term "nicotine" means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

(10) PACKAGE.—The term "package" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which cigarettes or smokeless tobacco are offered for sale, sold, or otherwise distributed to consumers.

(11) POINT-OF-SALE.—The term "point-of-sale" means any location at which a consumer can purchase or otherwise obtain cigarettes or smokeless tobacco for personal consumption.

(12) RETAILER.—The term "retailer" means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

(13) ROLL-YOUR-OWN TOBACCO.—The term "roll-your-own tobacco" means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(14) SECRETARY.—Except in title VII and where the context otherwise requires, the term "Secretary" means the Secretary of Health and Human Services.

(15) SMOKELESS TOBACCO.—The term "smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

(16) STATE.—The term "State" means any State of the United States and, for purposes of this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

(17) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigarette tobacco, smokeless tobacco, little cigars, roll-your-own tobacco, and fine cut products.

(18) TOBACCO PRODUCT MANUFACTURER.—Except in titles VII, X, and XIV, the term "tobacco product manufacturer" means any person, including any repacker or relabeler, who—

(A) manufactures, fabricates, assembles, processes, or labels a finished cigarette or smokeless tobacco product; or

(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

(19) UNITED STATES.—The term "United States" means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

SEC. 7. NOTIFICATION IF YOUTHFUL CIGARETTE SMOKING RESTRICTIONS INCREASE YOUTHFUL PIPE AND CIGAR SMOKING.

The Secretary shall notify the Congress if the Secretary determines that underage use of pipe tobacco and cigars is increasing.

SEC. 8. FTC JURISDICTION NOT AFFECTED.

(a) IN GENERAL.—Except where expressly provided in this Act, nothing in this Act shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

(b) ENFORCEMENT BY FTC.—Any advertising that violates this Act or part 897 of title 21, Code of Federal Regulations, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

SEC. 9. CONGRESSIONAL REVIEW PROVISIONS.

In accordance with section 801 of title 5, United States Code, the Congress shall review, and may disapprove, any rule under this Act that is subject to section 801. This section does not apply to the rule set forth in part 897 of title 21, Code of Federal Regulations.

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the provisions of part 897 of title 21, Code of Federal Regulations, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) Nothing in this chapter, any policy issued or regulation promulgated thereunder, or the National Tobacco Policy and Youth Smoking Reduction Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V of the Federal Food, Drug and Cosmetic Act or any other chapter of that Act.

"(2) The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority whatsoever to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer. Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count,

except that under subparagraph (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold, distributed, or used in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as defined in paragraph (4) of this subsection, printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908;

"(B) to furnish any material or information required by or under section 909; or

"(C) to comply with a requirement under section 912.

"(b) PRIOR APPROVAL OF STATEMENTS ON LABEL.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement and no advertisement of a tobacco product, published after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall, with respect to the matters specified in this section or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55). This subsection does not apply to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(b) ANNUAL SUBMISSION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

"(c) TIME FOR SUBMISSION.—

"(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of this chapter, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

"(2) MODIFICATION OF EXISTING PRODUCTS.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) of this section shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS MAY REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), or (d) of this section shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1) of this subsection. A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) Report Preceding Introduction of Certain Substantially-equivalent Products Into Interstate Commerce.—

"(1) In general.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) Application to certain post-August 11th products.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) In General.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

"(b) Information on Public Access and Comment.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

"(c) Limited Confidentiality of Information.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) Restrictions.—

"(1) The Secretary may by regulation require that a tobacco product be restricted to sale, distribution, or use upon such conditions, including restrictions on the access to, and the advertising and promotion of, the tobacco product, as the Secretary may prescribe in such regulation if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such condition may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to face transactions by a specific category of retail outlets.

"(e) Good Manufacturing Practice Requirements.—

"(1) Methods, facilities, and controls to conform.—

"(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

"(B) The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities; and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) Exemptions; variances.—

"(A) Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to an advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act.

“(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation.

“(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

“SEC. 907. PERFORMANCE STANDARDS.

“(a) IN GENERAL.—

“(1) FINDING REQUIRED.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

“(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

“(i) for the reduction or elimination of nicotine yields of the product;

“(ii) for the reduction or elimination of other constituents or harmful components of the product; or

“(iii) relating to any other requirement under (B);

“(B) shall, where necessary to be appropriate for the protection of the public health, include—

“(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

“(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

“(iii) provisions for the measurement of the performance characteristics of the tobacco product;

“(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

“(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

“(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

“(3) PERIODIC RE-EVALUATION OF PERFORMANCE STANDARDS.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

“(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

“(A) use personnel, facilities, and other technical support available in other Federal agencies;

“(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

“(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

“(b) ESTABLISHMENT OF STANDARDS.—

“(1) NOTICE.—

(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

“(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

“(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

“(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

“(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

“(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

“(D) The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

“(E) The Secretary shall provide for a comment period of not less than 60 days.

“(2) PROMULGATION.—

“(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

“(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

“(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

“(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

“(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

“(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

“(B) requiring the reduction of nicotine yields of a tobacco product to zero,

it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

“(4) AMENDMENT; REVOCATION.—

“(A) The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B) of this subsection, amend or revoke a performance standard.

“(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

“(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

“(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

“(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to an advisory committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

“SEC. 908. NOTIFICATION AND OTHER REMEDIES

“(a) NOTIFICATION.—If the Secretary determines that—

“(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

“(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk, the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) No Exemption From Other Liability.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) Recall Authority.—

"(1) In general.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) Amendment of order to require recall.—

"(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) Remedy not exclusive.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) In General.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) Reports of Removals and Corrections.—

(1) Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a) of this section.

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) In General.—

"(1) Premarket approval required.—

"(A) New products.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act.

"(B) Products introduced between August 11, 1995, and enactment of this chapter.—Subparagraph (A) does not apply to a tobacco product that—

"(i) was first introduced or delivered for introduction into interstate commerce for commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

"(2) Substantially equivalent defined.—

"(A) For purposes of this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(3) Health information.—

"(A) As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) shall, upon the request of an applicant,

refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b) of this section, the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with subsection (e) of this section.

"(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

"(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

"SEC. 911. JUDICIAL REVIEW.

"(a) IN GENERAL.—Not later than 30 days after—

"(1) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

"(2) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance. For purposes of this section, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

"(b) Court May Order Secretary to Make Additional Findings.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

"(c) Standard of Review.—Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) of this section shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

"(d) Finality of Judgment.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(e) Other Remedies.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"(f) Regulations and Orders Must Recite Basis in Record.—To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

"SEC. 912. POSTMARKET SURVEILLANCE

"(a) Discretionary Surveillance.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

"(b) Surveillance Approval.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) of this section shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

"SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

"(a) Requirements.—

"(1) In general.—For purposes of this section, the term 'reduced risk tobacco product' means a tobacco product designated by the Secretary under paragraph (2).

"(2) Designation.—

"(A) In general.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

"(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products in the same category as the proposed reduced risk product; and

"(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

"(B) Basis for finding.—In making the finding under subparagraph (A), the Secretary shall take into account—

"(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

"(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

"(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

"(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

"(3) Marketing requirements.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

"(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

"(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

"(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and other provisions of this chapter as prescribed by the Secretary.

"(b) Revocation of Designation.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

"(1) the finding made under subsection (a)(2) is no longer valid; or

"(2) the product is being marketed in violation of subsection (a)(3).

"(c) Limitation.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

"(d) Development of Reduced Risk Tobacco Product Technology.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a 'reduced risk tobacco product' under subsection (a).

"SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) Additional Requirements.—

"(1) In general.—Except as provided in paragraph (2), nothing in this Act shall be construed as prohibiting a State or political subdivision thereof from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

"(2) Preemption of certain State and local requirements.—

"(A) Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

"(B) Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

"(b) Rule of Construction Regarding Product Liability.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(c) Waivers.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

"(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(3) which would be applicable to the tobacco product if an exemption were not in effect under this subsection; or

"(2) the requirement—

"(A) is required by compelling local conditions; and

"(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

"SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.".

SEC. 102. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) by inserting "tobacco product," in subsection (a) after "device,";

(2) by inserting "tobacco product," in subsection (b) after "device,";

(3) by inserting "tobacco product," in subsection (c) after "device,";

(4) by striking "515(f), or 519" in subsection (e) and inserting "515(f), 519, or 909";

(5) by inserting "tobacco product," in subsection (g) after "device,";

(6) by inserting "tobacco product," in subsection (h) after "device,";

(7) by striking "708, or 721" in subsection (j) and inserting "708, 721, 904, 905, 906, 907, 908, or 909";

(8) by inserting "tobacco product," in subsection (k) after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(J)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

"(C) to comply with a requirement under section 522 or 912.";

(11) by striking "device," in subsection (q)(2) and inserting "device or tobacco product,";

(12) by inserting "or tobacco product" in subsection (r) after "device" each time that it appears; and

(13) by adding at the end thereof the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).".

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by amending the caption to read as follows:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) by inserting "or tobacco products" after "devices" in paragraph (1)(A);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) by striking "assessed" the first time it appears in subparagraph (A) of paragraph (4), as redesignated, and inserting "assessed, or a no-tobacco-sale order may be imposed,";

(5) by striking "penalty" in such subparagraph and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(6) by inserting after "penalty," in subparagraph (B) of paragraph (4), as redesignated, the following: "or the period to be covered by a no-tobacco-sale order,";

(7) by adding at the end of such subparagraph the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.";

(8) by adding at the end of paragraph (4), as redesignated, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(9) by striking "(3)(A)" in paragraph (5), as resdesignated, and inserting "(4)(A)";

(10) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears in such paragraph;

(11) by striking "issued." in such paragraph and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(12) by striking "paragraph (4)" each place it appears in paragraph (6), as redesignated, and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) by striking "and" before "(D)" in subsection (a)(2);

(2) by striking "device." in subsection (a)(2) and inserting a comma and "(E) Any adulterated or misbranded tobacco product.";

(3) by inserting "tobacco product," in subsection (d)(1) after "device,";

(4) by inserting "or tobacco product" in subsection (g)(1) after "device" each place it appears; and

(5) by inserting "or tobacco product" in subsection (g)(2)(A) after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) by inserting "tobacco products," in subsection (a)(1)(A) after "devices," each place it appears;

(2) by inserting "or tobacco products" in subsection (a)(1)(B) after "restricted devices" each place it appears; and

(3) by inserting "tobacco product," in subsection (b) after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S. C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) by inserting "tobacco products," after "devices," in subsection (a) the first time it appears;

(2) by inserting "or subsection (j) of section 905" in subsection (a) after "section 510"; and

(3) by striking "drugs or devices" each time it appears in subsection (a) and inserting "drugs, devices, or tobacco products";

(4) by inserting "tobacco product," in subsection (e)(1) after "device,";

(5) by redesignating paragraph (4) of subsection (e) as paragraph (5) and inserting after paragraph (3), the following:

"(4) Paragraph (1) does not apply to any tobacco product—

"(A) which does not comply with an applicable requirement of section 907 or 910; or

"(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.".

(k) SECTION 802.—Section 802 (21 U.S.C. 382) is amended—

(1) by striking "device—" in subsection (a) and inserting "device or tobacco product—";

(2) by striking "and" after the semicolon in subsection (a)(1)(C);

(3) by striking subparagraph (C) of subsection (a)(2) and all that follows in that subsection and inserting the following:

"(C) is a banned device under section 516; or

"(3) which, in the case of a tobacco product—

"(A) does not comply with an applicable requirement of section 907 or 910; or

"(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.";

(4) by inserting "or tobacco product" in subsection (b)(1)(A) after "device" each time it appears;

(5) by inserting "or tobacco product" in subsection (c) after "device" and inserting "or section 906(f)" after "520(g).";

(6) by inserting "or tobacco product" in subsection (f) after "device" each time it appears; and

(7) by inserting "or tobacco product" in subsection (g) after "device" each time it appears.

(l) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(m) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) thereof, shall take effect only upon the promulgation of final regulations by the Secretary—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

SEC. 103. CONSTRUCTION OF CURRENT REGULATIONS.

(a) IN GENERAL.—The final regulations promulgated by the Secretary in the August 28, 1996, issue of the Federal Register (62 Fed. Reg. 44615-44618) and codified at part 897 of title 21, Code of Federal Regulations, are hereby deemed to be lawful and to have been lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, and not under chapter V of the Federal Food, Drug, and Cosmetic Act. The provisions of part 897 that are not in effect on the date of enactment of this Act shall take effect as in such part or upon such later date as determined by the Secretary by order. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary or the Food and Drug Administration as binding precedent.

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination; (61 Fed. Reg. 44619–45318 (August 28, 1996)).

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) REQUIRED REDUCTIONS FOR CIGARETTES.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	15 percent
Years 5 and 6	30 percent
Years 7, 8, and 9	50 percent
Year 10 and thereafter	60 percent

(c) REQUIRED REDUCTIONS FOR SMOKELESS TOBACCO.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) ANNUAL DETERMINATION.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) METHODOLGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) be a household-based, in person survey (which may include computer-assisted technology);

(C) measure use of each type of tobacco product within the past 30 days;

(D) identify the usual brand of each type of tobacco product used within the past 30 days; and

(E) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(E) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type

of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) INDUSTRY-WIDE NON-ATTAINMENT SURCHARGES.—

(1) SECRETARY TO DETERMINE INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT SURCHARGE FOR CIGARETTES.—For each calendar year in which the percentage reduction in underage use required by section 203b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$80,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$400,000,000, plus $160,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$1,200,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$4,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$8,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$40,000,000, plus $16,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$120,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$400,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the de minimis level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the de minimis level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the de minimis level.

(4) DE MINIMIS LEVEL DEFINED.—The de minimis level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the de minimis level described in paragraph (4), the base incidence percentage is the de minimis level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the de minimis level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) Business Expense Deduction.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) Appeal Rights.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) Responsibility for Agents.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) Base incidence percentage.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) Manufacturers base incidence percentage.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) Young individuals.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) Cigarette manufacturers.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) Non-attainment percentage for cigarettes.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) Non-attainment percentage for smokeless tobacco products.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) Smokeless tobacco product manufacturers.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) In General.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) Requirements.—

(1) Establishment.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) State agreement required.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) Licensure; sources; and notice.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) Penalties.—

(I) Criminal.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) Civil.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) Other.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) Judicial review.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) Enforcement.—

(1) Undertaking.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) Activities and reports regarding enforcement.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) Minimum inspection standards.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) Noncompliance.—

(1) Inspections.—The Secretary shall withhold from any State that fails to meet the

requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

"(1) for cessation activities, the amounts appropriated under section 451(b)(2)(A); and

"(2) for prevention and education activities, the amounts appropriated under section 451(b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) Regulations.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) Technical Assistance.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) Provision of Supplies and Service in Lieu of Grant Funds.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) Tobacco Use Cessation Activities.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) State and Community Action Activities.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) Coordination.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) Limitation.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) Administration.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) Application.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"SUBPART II—TOBACCO-FREE COUNTER-ADVERTISING PROGRAMS

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the Health or Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) TERMS AND VACANCIES.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) AWARDS.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) POWERS AND DUTIES.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) ELIGIBILITY.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) Use of Funds.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) Needs of Certain Populations.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) Coordination.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) Allocation of Funds.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) Trigger.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"Part E—Reducing Youth Smoking and Tobacco-Related Diseases Through Research

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) Contract.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) Considerations.—

"(1) In general.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) Specific considerations.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) Report.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) In General.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) Report.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) Duties.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) Youth Surveillance Systems.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) Funding.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) Expenditure of Funds.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) Guaranteed Minimum.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) Nature of Research.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) Coordination.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ———research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r–8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC.—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

"(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) ADMINISTRATIVE PROVISIONS.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) INITIAL PAYMENT.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) PAYMENT DATE; INTEREST.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$14,400,000,000.

(2) year 2—$15,400,000,000.

(3) year 3—$17,700,000,000.

(4) year 4—$21,400,000,000.

(5) year 5—$23,600,000,000.

(6) year 6 and thereafter—the adjusted applicable base amount under section 403.

(c) PAYMENT SCHEDULE; RECONCILIATION.—

(1) ESTIMATED PAYMENTS.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) RECONCILIATION.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) APPORTIONMENT OF ANNUAL PAYMENT.—

(1) IN GENERAL.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) UNITS.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) DETERMINATION OF ADJUSTED UNITS.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units:	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) ADJUSTED UNITS DETERMINED ON TOTAL DOMESTIC PRODUCTION.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) SPECIAL RULE FOR LARGE MANUFACTURERS.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) SMOKELESS EQUIVALENCY STUDY.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) COMPUTATIONS.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) EXEMPTION .—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) LIMITATION.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) TOBACCO PRODUCT MANUFACTURERS TO WHICH SUBSECTION APPLIES.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) Inflation adjustment.—

(A) In general.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(6) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) Rounding.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(2) Volume adjustment.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted unites as defined in section 402(d)(3)(A).

SEC. 404. PAYMENTS TO BE PASSED THROUGH TO CONSUMERS.

Each tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer under this Act for the year in which the sale occurs.

SEC. 405. TAX TREATMENT OF PAYMENTS.

All payments made under section 402 are ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 for the year in which such payments are made, and no part thereof is either in settlement of an actual or potential liability for a fine or penalty (civil or criminal) or the cost of a tangible or intangible asset or other future benefit.

SEC. 406. ENFORCEMENT FOR NONPAYMENT.

(a) Penalty.—Any tobacco product manufacturer that fails to make any payment required under section 402 or 404 within 60 days after the date on which such fee is due is liable for a civil penalty computed on the unpaid balance at a rate of prime plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date, during the period the payment remains unmade.

(b) Noncompliance Period.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to make a payment required under section 402 or 404, the period—

(1) beginning on the due date for such payment; and

(2) ending on the date on which such payment is paid in full.

(c) Limitations.—

(1) In general.—No penalty shall be imposed by subsection (a) on any failure to make a payment under section 402 during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(2) Corrections.—No penalty shall be imposed under subsection (a) on any failure to make a payment under section 402 if—

(A) such failure was due to reasonable cause and not to willful neglect; and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(3) Waiver.—In the case of any failure to make a payment under section 402 that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed under subsection (a) to the extent that the Secretary determines that the payment of such penalty would be excessive relative to the failure involved.

Subtitle B—General Spending Provisions

SEC. 451. ALLOCATION ACCOUNTS.

(a) State Litigation Settlement Account.—

(1) In general.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 40 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 40 percent share will be adjusted as necessary, to a percentage not in excees of 50 percent and not less than 30 percent, to achieve that 25-year total amount.

(2) Appropriation.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) Distribution formula.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) Use of funds.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) Funds not available as Medicaid reimbursement.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) Public Health Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be known as the Public Health Account. Twenty-two percent of the net revenues credited to the trust fund under section 401(b)(1) and all the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) Authorization of appropriations.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) Cessation and other treatments.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) Indian health service.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) Education and prevention.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) Enforcement.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) Health and Health-related Research Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited

to the trust fund under section 401(b)(1), 22 percent shall be allocated to this account.

(2) Authorization of appropriations.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made vailable in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 87 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act. authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) Farmers Assistance Allocation Account.—

(1) In general.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 16 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 4 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) Appropriation.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(e) Medicare Preservation Account.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 12 percent of the net revenues credited to the trust fund under seciton 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

SEC. 452. GRANTS TO STATES.

(a) Amounts.—From the amount made available under section 402(a) for each fiscal year, each State shall receive a grant on a quarterly basis according to a formula.

(b) Use of Funds.—

(1) Unrestricted funds.—A State may use funds, not to exceed 50 percent of the amount received under this section in a fiscal year, for any activities determined appropriate by the State.

(2) Restricted funds.—A State shall use not less than 50 percent of the amount received under this section in a fiscal year to carry out additional activities or provide additional services under—

(A) the State program under the maternal and child health services block grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) funding for child care under section 418 of the Social Security Act, notwithstanding subsection (b)(2) of that section;

(C) federally funded child welfare and abuse programs under title IV–B of the Social Security Act;

(D) programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title XIX, part B of the Public Health Service Act;

(E) Safe and Drug-Free Schools Program under title IV, part A, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111 et seq.);

(F) the Department of Education's Dwight D. Eisenhower Professional Development program under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.); and

(G) The State Children's Health Insurance Program authorized under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), provided that the amount expended on this program does not exceed 6 percent of the total amount of restricted funds available to the State each fiscal year.

(c) No Substitution of Spending.—Amounts referred to in subsection (b)(2) shall be used to supplement and not supplant other Federal, State, or local funds provided for any of the programs described in subparagraphs (A) through (G) of subsection (b)(2). Restricted funds, except as provided for in subsection (b)(2)(G), shall not be used as State matching funds. Amounts provided to the State under any of the provisions of law referred to in such subparagraph shall not be reduced solely as a result of the availability of funds under this section.

(d) Federal-State Match Rates.—Current (1998) matching requirements apply to each program listed under subsection (b)(2), except for the program described under subsection (b)(2)(B). For the program described under subsection (b)(2)(B), after an individual State has expended resources sufficient to receive its full Federal amount under section 418(a)(2)(B) of the Social Security Act (subject to the matching requirements in section 418(a)(2)(C) of such Act), the Federal share of expenditures shall be 80 percent.

(e) Maintenance of Effort.—To receive funds under this subsection, States must demonstrate a maintenance of effort. This maintenance of effort is defined as the sum of—

(1) an amount equal to 95 percent of Federal fiscal year 1997 State spending on the programs under subsections (b)(2)(B), (c), and (d); and

(2) an amount equal to the product of the amount described in paragraph (1) and—

(A) for fiscal year 1999, the lower of—

(i) general inflation as measured by the consumer price index for the previous year; or

(ii) the annual growth in the Federal appropriation for the program in the previous fiscal year; and

(B) for subsequent fiscal years, the lower of—

(i) the cumulative general inflation as measured by the consumer price index for the period between 1997 and the previous year; or

(ii) the cumulative growth in the Federal appropriation for the program for the period between fiscal year 1997 and the previous fiscal year.

The 95-percent maintenance-of-effort requirement in paragraph (1), and the adjustments in paragraph (2), apply to each program identified in paragraph (1) on an individual basis.

(f) Options for Children's Health Outreach.—In addition to the options for the use of grants described in this section, the following are new options to be added to States' choices for conducting children's health outreach:

(1) Expansion of presumptive eligibility option for children.—

(A) In general.—Section 1920A(b)(3)(A)(I) of the Social Security Act (42 U.S.C. 1396r–1a(b)(3)(A)(I)) is amended—

(i) by striking "described in subsection (a) or (II) is authorized" and inserting "described in subsection (a), (II) is authorized"; and

(ii) by inserting before the semicolon ", eligibility for benefits under part A of title IV, eligibility of a child to receive benefits under the State plan under this title or title XXI, (III) is a staff member of a public school, child care resource and referral center, or agency administering a plan under part D of title IV, or (IV) is so designated by the State".

(B) Technical amendments.—Section 1920A of that Act (42 U.S.C. 1396r–1a) is amended—

(i) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)(A)"; and

(ii) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)(A)".

(2) Removal of requirement that children's health insurance program allotments be reduced by costs related to presumptive eligibility determinations.—

(A) In general.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended by striking "the sum of—" and all that follows through the paragraph designation "(2)" and merging all that remains of subsection (d) into a single sentence.

(B) Effective date.—The amendment made by subsection (a) shall be deemed to have taken effect on August 5, 1997.

(3) Increased funding for administrative costs related to outreach and eligibility determinations for children.—Section 1931(h) of the Social Security Act (42 U.S.C. 1396u–1(h)) is amended—

(A) by striking the subsection caption and inserting "(h) Increased Federal Matching Rate for Administrative Costs Related to Outreach and Eligibility Determinations for Children.—";

(B) in paragraph (2), by striking "eligibility determinations" and all that follows and inserting "determinations of the eligibility of children for benefits under the State plan under this title or title XXI, outreach to children likely to be eligible for such benefits, and such other outreach- and eligibility-related activities as the Secretary may approve.";

(C) in paragraph (3), by striking "and ending with fiscal year 2000 shall not exceed $500,000,000" and inserting "shall not exceed $525,000,000"; and

(D) by striking paragraph (4).

(g) Periodic Reassessment of Spending Options.—Spending options under subsection (b)(2) will be reassessed jointly by the States and Federal government every 5 years and be reported to the Secretary.

SEC. 453. INDIAN HEALTH SERVICE.

Amounts available under section 451(b)(2)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement; and

(4) other programs and service provided through the Indian Health Service or through tribal contracts, compacts, grants, or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

SEC. 454. RESEARCH AT THE NATIONAL SCIENCE FOUNDATION.

Amounts available under section 451(c)(2)(C) shall be made available for necessary expenses in carry out the National Science Foundation Act of 1950 (U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881).

SEC. 455. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) Establishment.—The Secretary shall establish a 3-year demonstration project which provides for payment under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the Medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) Application.—The beneficiary cost sharing provisions under the Medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual in a demonstration project conducted under this section.

(c) Approved Clinical Trial Program.—

(1) In general.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(A) the National Institutes of Health;

(B) a National Institutes of Health cooperative group or a National Institutes of Health center; and

(C) the National Cancer Institute,

with respect to programs that oversee and coordinate extramural clinical cancer research, trials sponsored by such Institute and conducted at designated cancer centers, clinical trials, and Institute grants that support clinical investigators.

(2) Modifications in approved trials.—Beginning 1 year after the date of enactment of this Act, the Secretary, in consultation with the Cancer Policy Board of the Institute of Medicine, may modify or add to the requirements of paragraph (1) with respect to an approved clinical trial program.

(d) Routine Patient Care Costs.—

(1) In general.—For purposes of this section, the term "routine patient care costs" include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the Medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) Exclusion.—For purposes of this section, the term "routine patient care costs" does not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

(e) Study.—The Secretary shall study the impact on the Medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(f) Report to Congress.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a detailed description of the results of the study conducted under subsection (e) including recommendations regarding the extension and expansion of the demonstration project conducted under this section.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 501. DEFINITIONS.

In this title:

(1) Assistant secretary.—The term "Assistant Secretary" means the Assistant Secretary of the Occupational Safety and Health Administration of the Department of Labor.

(2) Public facility.—

(A) In general.—The term "public facility" means any building used for purposes that affect interstate or foreign commerce that is regularly entered by 10 or more individuals at least 1 day per week including any building owned by or leased to an agency, independent establishment, department, or the executive, legislative, or judicial branch of the United States Government.

(B) Exclusions.—The term "public facility" does not include a building or portion thereof which is used for residential purposes or as a restaurant (other than a fast food restaurant), bar, private club, hotel guest room or common area, casino, bingo parlor, tobacconist's shop, or prison.

(C) Fast food restaurant defined.—The term "fast food restaurant" means any restaurant or chain of restaurants that primarily distributes food through a customer pick-up (either at a counter or drive-through window)., The Assistant Secretary may promulgate regulations to clarify this subparagraph to ensure that the intended inclusion of establishments catering to individuals under 18 years of age is achieved.

(3) Responsible entity.—The term "responsible entity" means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or portion thereof which is leased, such term means the lessee if the lessee is actively engaged in supervising day-to-day activity in the leased space.

SEC. 502. SMOKE-FREE ENVIRONMENT POLICY.

(a) Policy Required.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

(b) Elements of Policy.—

(1) In general.—The responsible entity for a public facility shall—

(A) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

(B) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(2) Exception.—The responsible entity for a public facility may provide an exception to the prohibition specified in paragraph (1) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

(c) Specially Designated Smoking Areas.—A specially designated smoking area meets the requirements of this subsection if—

(1) the area is ventilated in accordance with specifications promulgated by the Assistant Secretary that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

(2) the area is maintained at negative pressure, as compared to adjoining nonsmoking areas, as determined under regulations promulgated by the Assistant Secretary;

(3) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area; and

(4) cleaning and maintenance work are conducted in such area only when no smoking is occurring in the area.

SEC. 503. CITIZEN ACTIONS.

(a) In General.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Assistant Secretary.

(b) Venue.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

(c) Notice.—An aggrieved person shall give any alleged violator notice at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

(d) Costs.—The court, in issuing any final order in any action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff, whenever the court determines such award is appropriate.

(e) Penalties.—The court, in any action under this section to apply civil penalties, shall have discretion to order that such civil penalties be used for projects which further the policies of this title. The court shall obtain the view of the Assistant Secretary in exercising such discretion and selecting any such projects.

(f) Application With OSHA.—Nothing in this section affects enforcement of the Occupational Safety and Health Act of 1970.

SEC. 504. PREEMPTION.

Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law which provides greater protection from health hazards from environmental tobacco smoke.

SEC. 505. REGULATIONS.

The Assistant Secretary is authorized to promulgate such regulations, after consulting with the Administrator of the Environmental Protection Agency, as the Assistant Secretary deems necessary to carry out this title.

SEC. 506. EFFECTIVE DATE.

Except as provided in section 507, the provisions of this title shall take effect on the first day of January next following the next regularly scheduled meeting of the State legislature occurring after the date of enactment of this Act at which, under the procedural rules of that legislature, a measure under section 507 may be considered.

SEC. 507. STATE CHOICE.

Any State or local government may opt out of this title by promulgating a State or local law, subject to certification by the Assistant Secretary that the law is as or more protective of the public's health as this title, based on the best available science. Any State or local government may opt to enforce this title itself, subject to certification by the Assistant Secretary that the enforcement mechanism will effectively protect the public health.

TITLE VI—APPLICATION TO INDIAN TRIBES

SEC. 601. SHORT TITLE.

This title may be cited as the "Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998".

SEC. 602. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries.

(b) Purpose.—It is the purpose of this title to—

(1) provide for the implementation of this Act with respect to the regulation of tobacco products, and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands; and

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands.

SEC. 603. APPLICATION OF TITLE TO INDIAN LANDS AND TO NATIVE AMERICANS.

(a) In General.—The provisions of this Act shall apply to the manufacture, distribution, and sale of tobacco or tobacco products on Indian lands, including such activities of an Indian tribe or member of such tribe.

(b) Traditional Use Exception.—

(1) In general.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act shall be construed to permit an infringement upon upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco product for such purposes, or to infringe upon the ability of minors to participate and use tobacco products for such religious, ceremonial, or traditional purposes.

(2) Application of provisions.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general manufacture, distribution, sale or use of tobacco or tobacco products in a manner that is not in compliance with this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

(c) Limitation.—Nothing in this Act shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(d) Application on Indian Lands.—

(1) In general.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to implement this section as necessary to apply this Act and the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to tobacco products manufactured, distributed, or sold on Indian lands.

(2) Scope.—This Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) shall apply to the manufacture, distribution and sale of tobacco products on Indian lands, including such activities by Indian tribes and members of such tribes.

(3) Tribal Tobacco Retailer Licensing Program.—

(A) In general.—The requirements of this Act with respect to the licensing of tobacco retailers shall apply to all retailers that sell tobacco or tobacco products on Indian lands, including Indian tribes, and members thereof.

(B) Implementation.—

(i) In general.—An Indian tribe may implement and enforce a tobacco retailer licensing and enforcement program on its Indian lands consistent with the provisions of section 231 if the tribe is eligible under subparagraph (D). For purposes of this clause, section 231 shall be applied to an Indian tribe by substituting "Indian tribe" for "State" each place it appears, and an Indian tribe shall not be ineligible for grants under that section if the Secretary applies that section to the tribe by modifying it to address tribal population, land base, and jurisdictional factors.

(ii) Cooperation.—An Indian tribe and State with tobacco retailer licensing programs within adjacent jurisdictions should consult and confer to ensure effective implementation of their respective programs.

(C) Enforcement.—The Secretary may vest the responsibility for implementation and enforcement of a tobacco retailer licensing program in—

(i) the Indian tribe involved;

(ii) the State within which the lands of the Indian tribe are located pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe; or

(iii) the Secretary pursuant to subparagraph (F).

(D) Eligibility.—To be eligible to implement and enforce a tobacco retailer licensing program under section 231, the Secretary, in consultation with the Secretary of Interior, must find that—

(i) the Indian tribe has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(ii) the functions to be exercised relate to activities conducted on its Indian lands; and

(iii) the Indian tribe is reasonably expected to be capable of carrying out the functions required by the Secretary.

(E) Determinations.—Not later than 90 days after the date on which an Indian tribe submits an application for authority under subparagraph (D), the Secretary shall make a determination concerning the eligibility of such tribe for such authority. Each tribe found eligible under subparagraph (D) shall be eligible to enter into agreements for block grants under section 231, to conduct a licensing and enforcement program pursuant to section 231, and for bonuses under section 232.

(F) Implementation by the secretary.—If the Secretary determines that the Indian tribe is not willing or not qualified to administer a retail licensing and enforcement program, the Secretary, in consultation with the Secretary of Interior, shall promulgate regulations for a program for such tribes in the same manner as for States which have not established a tobacco retailer licensing program under section 231(f).

(G) Deficient applications; opportunity to cure.—

(i) If the Secretary determines under subparagraph (F) that a Indian tribe is not eligible to establish a tobacco retailer licensing program, the Secretary shall—

(I) submit to such tribe, in writing, a statement of the reasons for such determination of ineligibility; and

(II) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

(ii) After an opportunity to review and cure such deficiencies, the tribe may reapply to the Secretary for assistance under this subsection.

(H) Secretarial review.—The Secretary may periodically review the tribal tobacco retailer licensing program of a tribe approved pursuant to subparagraph (E), including the effectiveness of the program, the tribe's enforcement thereof, and the compatibility of the tribe's program with the program of the State in which the tribe is located. The program shall be subject to all applicable requirements of section 231.

(e) Eligibility for Public Heath Funds.—

(1) Eligibility for grants.—

(A) For each fiscal year the Secretary may award grants to Indian tribes from the Federal Account or other federal funds, except a tribe that is not a participating tobacco product manufacturer (as defined in section 1402(a), for the same purposes as States and local governments are eligible to receive grants from the Federal Account as provided for in this Act. Indian tribes shall have the flexibility to utilize such grants to meet the unique health care needs of their service populations consistent with the goals and purposes of Federal Indian health care law and policy.

(B) In promulgating regulations for the approval and funding of smoking cessation programs under section 221 the Secretary shall ensure that adequate funding is available to address the high rate of smoking among Native Americans.

(2) Health care funding.—

(A) Indian health service.—Each fiscal year the Secretary shall disburse to the Indian Health Service from the National Tobacco Settlement Trust Fund an amount determined by the Secretary in consultation with the Secretary of the Interior equal to the product of—

(i) the ratio of the total Indian health care service population relative to the total population of the United States; and

(ii) the amount allocated to the States each year from the State Litigation Trust Account.

(B) Funding.—The trustees of the Trust Fund shall for each fiscal year transfer to the Secretary from the State Litigation Trust Account the amount determined pursuant to paragraph (A).

(C) USE OF HEALTH CARE TRUST FUNDS.—Amounts made available to the Indian Health Service under this paragraph shall be made available to Indian tribes pursuant to the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.), shall be used to reduce tobacco consumption, promote smoking cessation, and shall be used to fund health care activities including—

(i) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(ii) health care provider services and equipment;

(iii) domestic and community sanitation associated with clinic and facility construction and improvement;

(iv) inpatient and outpatient services; and

(v) other programs and services which have as their goal raising the health status of Indians.

(f) PREEMPTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act shall be construed to prohibit an Indian tribe from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in this title shall be construed to preempt or otherwise affect any Indian tribe rule or practice that provides greater protections from the health hazard of environmental tobacco smoke.

(g) DISCLAIMER.—Nothing in this Act shall be construed to increase or diminish tribal or State jurisdiction on Indian lands with respect to tobacco-related activities.

TITLE VII—TOBACCO CLAIMS

SEC. 701. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this definition, ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and person means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) CIVIL ACTION.—The term "civil action" means any action, lawsuit, or proceeding that is not a criminal action.

(3) COURT.—The term "court" means any judicial or agency court, forum, or tribunal within the United States, including without limitation any Federal, State, or tribal court.

(4) FINAL JUDGMENT.—The term "final judgment" means a judgment on which all rights of appeal or discretionary review have been exhausted or waived or for which the time to appeal or seek such discretionary review has expired.

(5) FINAL SETTLEMENT.—The term "final settlement" means a settlement agreement that is executed and approved as necessary to be fully binding on all relevant parties.

(6) INDIVIDUAL.—The term "individual" means a human being and does not include a corporation, partnership, unincorporated association, trust, estate, or any other public or private entity, State or local government, or Indian tribe.

(7) TOBACCO CLAIM.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on or related to allegations regarding any conduct, statement, or omission respecting the health-related effects of such products.

(8) TOBACCO PRODUCT MANUFACTURER.—The term "tobacco product manufacturer" means a person who—

(A) manufactures tobacco products for sale in the United States after the date of enactment of this Act, including tobacco products for sale in the United States through an importer;

(B) is, after the date of enactment of this Act, the first purchaser for resale in the United States of tobacco products manufactured for sale outside of the United States;

(C) engaged in activities described in subparagraph (A) or (B) prior to the date of enactment of this Act, has not engaged in such activities after the date of enactment of this Act, and was not as of June 20, 1997, an affiliate of a tobacco product manufacturer in which the tobacco product manufacturer or its other affiliates owned a 50 percent or greater interest;

(D) is a successor or assign of any of the foregoing;

(E) is an entity to which any of the foregoing directly or indirectly makes, after the date of enactment of this Act, a fraudulent conveyance or a transfer that would otherwise be voidable under part 5 of title 11 of the United States Code, but only to the extent of the interest or obligation transferred; or

(F) is an affiliate of a tobacco product manufacturer.

(9) CASTANO CIVIL ACTIONS.—The term "Castano Civil Actions" means the following civil actions: Gloria Wilkinson Lyons et al. v. American Tobacco Co., et al. (USDC Alabama 96-0881-BH; Agnes McGinty, et al. v. American Tobacco Co., et al. (USDC Arkansas LR-C-96-881); Willard R. Brown, et al. v. R.J. Reynolds Co., et al. (San Diego, California-00711400); Gray Davis & James Ellis, et al. R.J. Reynolds Tobacco Co., et al. (San Diego, California-00706458); Chester Lyons, et al. v. Brown & Williamson Tobacco Corp., et al. (Fulton County, Georgia-E-59346); Rosalyn Peterson, et al. v. American Tobacco Co., et al. (USDC Hawaii-97-00233-HG); Jean Clay , et al. v. American Tobacco Co., et al. (USDC Illinois Benton Division-97-4167-JPG); William J. Norton, et al. v. RJR Nabisco Holdings Corp., et al. (Madison County, Indiana 48D01-9605-CP-0271); Alga Emig, et al. v. American Tobacco Co., et al. (USDC Kansas-97-1121-MLB); Gloria Scott, et al. v. American Tobacco Co., et al. (Orleans Parish, Louisiana-97-1178); Vern Masepohl, et al. v. American Tobacco Co., et al. (USDC Minnesota-3-96-CV-888); Matthew Tepper, et al. v. Philip Morris Incorporated, et al (Bergen County, New Jersey-BER-L-4983-97-E); Carol A. Connor, et al. v. American Tobacco Co., et al. (Bernalillo County, New Mexico-CV96-8464); Edwin Paul Hoskins, et al. v. R.J. Reynolds Tobacco Co., et al.; Josephine Stewart-Lomantz v. Brown & Williamson Tobacco, et al.; Rose Frosina, et al. v. Philip Morris Incorporated, et al.; Catherine Zito, et al. v. American Tobacco Co., et al.; Kevin Mroczkowski, et al. v. Lorillard Tobacco Company, et al. (Supreme Court, New York County, New York-110949 thru 110953); Judith E. Chamberlain, et al. v. American Tobacco Co., et al. (USDC Ohio-1:96CV2005); Brian walls, et al. v. American Tobacco Co., et al. (USDC Oklahoma-97-CV-218-H); Steven R. Arch, et al. v. American Tobacco Co., et al. (USDC Pennsylvania-96-5903-CN); Barreras-Ruiz, et al. v. American Tobacco Co., et al. (USDC Puerto Rico-96-2300-JAF); Joanne Anderson, et al. v. American Tobacco Co., et al. (Know County, Tennessee); Carlis Cole, et al. v. The Tobacco institute, Inc., et al. (USDC Beaumont Texas Division-1:97CV0256); Carrol Jackson, et al. v. Philip Morris Incorporated, et al. (Salt Lake County, Utah-CV No. 98-0901634PI).

SEC. 702. APPLICATION; PREEMPTION.

(a) APPLICATION.—The provisions of this title govern any tobacco claim in any civil action brought in an State, Tribal, or Federal court, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act.

(b) PREEMPTION.—This title supersedes State law only to the extent that State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable State, Tribal, or Federal law.

(c) CRIMINAL LIABILITY UNTOUCHED.—Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors, or their officers, directors, employees, successors, or assigns.

SEC. 703. RULES GOVERNING TOBACCO CLAIMS.

(a) GENERAL CAUSATION PRESUMPTION.—In any civil action to which this title applies brought involving a tobacco claim, there shall be an evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Center for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General (United States Public Health Service 1989), The Health Consequences of Smoking: Involuntary Smoking, (USPHS 1986); and The Health Consequences of Using Smokeless Tobacco, (USPHS 1986), are caused in whole or in part by the use of tobacco products, (hereinafter referred to as the "general causation presumption"), and a jury empaneled to hear a tobacco claim shall be so instructed. In all other respects, the burden of proof as to the issue of whether a plaintiff's specific disease or injury was caused by smoking shall be governed by the law of the State or Tribe in which the tobacco claim was brought. This general causation presumption shall in no way affect the ability of the defendant to introduce evidence or argument which the defendant would otherwise be entitled to present under the law of the State or Tribe in which the tobacco claim was brought to rebut the general causation presumption, or with respect to general causation, specific causation, or alternative causation, or to introduce any other evidence or argument which the defendant would otherwise be entitled to make.

(b) ACTIONS AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.—In any civil action brought involving a tobacco claim against participating tobacco product manufacturers, as that term is defined in title XIV, the provisions of title XIV apply in conjunction with the provisions of this title.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

SEC. 801. ACCOUNTABILITY REQUIREMENTS AND OVERSIGHT OF THE TOBACCO INDUSTRY.

(a) ACCOUNTABILITY.—The Secretary, following regular consultation with the Commissioner of Food and Drugs, the Surgeon

General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health shall annually issue a report as provided for in subsection (c).

(b) Tobacco Company Plan.—Within a year after the date of enactment of this Act, each participating tobacco product manufacturer shall adopt and submit to the Secretary a plan to achieve the required percentage reductions in underage use of tobacco products set forth in section 201, and thereafter shall update its plan no less frequently than annually. The annual report of the Secretary may recommend amendment of any plan to incorporate additional measures to reduce underage tobacco use that are consistent with the provisions of this Act.

(c) Annual Report.—The Secretary shall submit a report to the Congress by January 31 of each year, which shall be published in the Federal Register. The report shall—

(1) describe in detail each tobacco product manufacturer's compliance with the provisions of this Act and its plan submitted under subsection (b);

(2) report on whether each tobacco product manufacturer's efforts to reduce underage smoking are likely to result in attainment of smoking reduction targets under section 201;

(3) recommend, where necessary, additional measures individual tobacco companies should undertake to meet those targets; and

(4) include, where applicable, the extent to which prior panel recommendations have been adopted by each tobacco product manufacturer.

SEC. 802. TOBACCO PRODUCT MANUFACTURER EMPLOYEE PROTECTION.

(a) Prohibited Acts.—No tobacco product manufacturer may discharge, demote, or otherwise discriminate against any employee with respect to compensation, terms, conditions, benefits, or privileges of employment because the employee (or any person acting under a request of the employee)—

(1) notified the manufacturer, the Commissioner of Food and Drugs, the Attorney General, or any Federal, State, or local public health or law enforcement authority of an alleged violation of this or any other Act;

(2) refused to engage in any practice made unlawful by such Acts, if the employee has identified the alleged illegality to the manufacturer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Acts;

(4) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under such Acts, or a proceeding for the administration or enforcement of any requirement imposed under such Acts;

(5) testified or is about to testify in any such proceeding; or

(6) assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of such Acts.

(b) Employee Complaint.—

(1) Any employee of a tobacco product manufacturer who believes that he or she has been discharged, demoted, or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 180 days after such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary alleging such discharge, demotion, or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of its filing.

(2)(A) Upon receipt of a complaint under paragraph (1) of this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days after the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any such person acting in his or her behalf) and the person alleged to have committed such violation of the results of the investigation conducted under this paragraph. Within 90 days after the receipt of such complaint, the Secretary shall (unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation) issue an order either providing the relief prescribed in subparagraph (B) of this paragraph or denying the complaint. An order of the Secretary shall be made on the record after notice and the opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. Upon the conclusion of such a hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B) of this paragraph, but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint under paragraph (1) of this subsection, the Secretary determines that a violation of this paragraph has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his or her former position together with compensation (including back pay), terms, conditions, and privileges of his or her employment. The Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this subparagraph, the Secretary, at the request of the complainant, shall assess the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred (as determined by the Secretary), by the complainant for, or in connection with, the bringing of the complaint upon which the order is issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1) of this subsection, and shall not conduct the investigation required under paragraph (2) of this subsection, unless the complainant has made a *prima facie* showing that any behavior described in subsection (a) of this section was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A) of this paragraph, no investigation required under paragraph (2) of this subsection shall be conducted if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. Relief may not be ordered under paragraph (1) of this subsection if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) of this section has occurred only if the complainant has demonstrated that any behavior described in subsection (a) of this section was a contributing factor in unfavorable personnel action alleged in the complaint.

(c) Judicial Review.—

(1) Any person adversely affected or aggrieved by an order issued under subsection (a) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days after the issuance of the Secretary's order. Judicial review shall be available as provided in chapter 7 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any criminal or civil proceeding.

(d) Noncompliance.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation occurred to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

(e) Action To Ensure Compliance.—

(1) Any person on whose behalf an order was issued under subsection (b)(2) of this section may commence a civil action to require compliance with such order against the person to whom such order was issued. The appropriate United States district court shall have jurisdiction to enforce such order, without regard to the amount in controversy or the citizenship of the parties.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) Enforcement.—Any non-discretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) Applicability to Certain Employees.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the manufacturer (or the agent of the manufacturer) deliberately causes a violation of any requirement of this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), or any other law or regulation relating to tobacco products.

(h) Effect on Other Laws.—This section shall not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by a tobacco product manufacturer against the employee.

(i) Posting.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

SEC. 901. FINDINGS.

The Congress finds that—

(1) the American tobacco industry has made claims of attorney-client privilege, attorney work product, and trade secrets to

protect from public disclosure thousands of internal documents sought by civil litigants;

(2) a number of courts have found that these claims of privilege were not made in good faith; and

(3) a prompt and full exposition of tobacco documents will—

(A) promote understanding by the public of the tobacco industry's research and practices; and

(B) further the purposes of this Act.

SEC. 902. APPLICABILITY.

This title applies to all tobacco product manufacturers.

SEC. 903. DOCUMENT DISCLOSURE.

(a) Disclosure to the Food and Drug Administration.—

(1) Within 60 days after the date of enactment of this Act, each tobacco product manufacturer shall submit to the Food and Drug Administration the documents identified in subsection (c), including documents for which trade secret protection is claimed, with the exception of any document for which privilege is claimed, and identified in accordance with subsection (b). Each such manufacturer shall provide the Administration with the privilege and trade secret logs identified under subsection (b).

(2) With respect to documents that are claimed to contain trade secret material, unless and until it is finally determined under this title, either through judicial review or because time for judicial review has expired, that such a document does not constitute or contain trade secret material, the Administration shall treat the document as a trade secret in accordance with section 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) and the regulations promulgated thereunder. Nothing herein shall limit the authority of the Administration to obtain and use, in accordance with any provision of the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder, any document constituting or containing trade secret material. Documents and materials received by the Administration under this provision shall not be obtainable by or releasable to the public through section 552 of title 5, United States Code, or any other provision of law, and the only recourse to obtain these documents shall be through the process established by section 905.

(3) If a document depository is not established under title XIV, the Secretary shall establish by regulation a procedure for making public all documents submitted under paragraph (1) except documents for which trade secret protection has been claimed and for which there has not been a final judicial determination that the document does not contain a trade secret.

(b) Separate Submission of Documents.—

(1) Privileged trade secret documents.—Any document required to be submitted under subsection (c) or (d) that is subject to a claim by a tobacco product manufacturer of attorney-client privilege, attorney work product, or trade secret protection shall be so marked and shall be submitted to the panel under section 904 within 30 days after its appointment. Compliance with this subsection shall not be deemed to be a waiver of any applicable claim of privilege or trade secret protection.

(2) Privilege and trade secret logs.—

(A) In general.—Within 15 days after submitting documents under paragraph (1), each tobacco product manufacturer shall submit a comprehensive log which identifies on a document-by-document basis all documents produced for which the manufacturer asserts attorney-client privilege, attorney work-product, or trade secrecy. With respect to documents for which the manufacturer previously has asserted one or more of the aforementioned privileges or trade secret protection, the manufacturer shall conduct a good faith *de novo* review of such documents to determine whether such privilege or trade secret protection is appropriate.

(B) Organization of log.—The log shall be organized in numerical order based upon the document identifier assigned to each document. For each document, the log shall contain—

(i) a description of the document, including type of document, title of document, name and position or title of each author, addressee, and other recipient who was intended to receive a copy, document date, document purpose, and general subject matter;

(ii) an explanation why the document or a portion of the document is privileged or subject to trade secret protection; and

(iii) a statement whether any previous claim of privilege or trade secret was denied and, if so, in what proceeding.

(C) Public inspection.—Within 5 days of receipt of such a log, the Depository shall make it available for public inspection and review.

(3) Declaration of compliance.—Each tobacco product manufacturer shall submit to the Depository a declaration, in accordance with the requirements of section 1746 of title 28, United States Code, by an individual with responsibility for the *de novo* review of documents, preparation of the privilege log, and knowledge of its contents. The declarant shall attest to the manufacturer's compliance with the requirements of this subsection pertaining to the review of documents and preparation of a privilege log.

(c) Document Categories.—Each tobacco product manufacturer shall submit—

(1) every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) all documents produced by any tobacco product manufacturer, the Center of Tobacco Research or Tobacco Institute to the Attorney General of any State during discovery in any action brought on behalf of any State and commenced after January 1, 1994;

(3) all documents produced by any tobacco product manufacturer, Center for Tobacco Research or Tobacco Institute to the Federal Trade Commission in connection with its investigation into the "Joe Camel" advertising campaign and any underage marketing of tobacco products to minors;

(4) all documents produced by any tobacco product manufacturers, the Center for Tobacco Research or the Tobacco Institute to litigation adversaries during discovery in any private litigation matters;

(5) all documents produced by any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute in any of the following private litigation matters:

(A) Philip Morris v. American Broadcasting Co., Law No. 7609CL94x00181-00 (Cir. Ct. Va. filed Mar. 26, 1994);

(B) Estate of Butler v. R.J. Reynolds Tobacco Co., Civ. A. No. 94-5-53 (Cir. Ct. Miss., filed May 12, 1994);

(C) Haines v. Liggett Group, No. 84-CV-678 (D.N.J., filed Feb. 22, 1984); and

(D) Cipollone v. Liggett Group, No. 83-CV-284 (D.N.J., filed Aug. 1, 1983);

(6) any document produced as evidence or potential evidence or submitted to the Depository by tobacco product manufacturers in any of the actions described in paragraph (5), including briefs and other pleadings, memoranda, interrogatories, transcripts of depositions, and expert witnesses and consultants materials, including correspondence, reports, and testimony;

(7) any additional documents that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute have agreed or been required by any court to produce to litigation adversaries as part of discovery in any action listed in paragraph (2), (3), (4), or (5) but have not yet completed producing as of the date of enactment of this Act;

(8) all indices of documents relating to tobacco products and health, with any such indices that are maintained in computerized form placed into the depository in both a computerized and hard-copy form;

(9) a privilege log describing each document or portion of a document otherwise subject to production in the actions enumerated in this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains, based upon a good faith *de novo* re-review conducted after the date of enactment of this Act is exempt from public disclosure under this title; and

(10) a trade secrecy log describing each document or portion of a document that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this title.

(d) Future Documents.—With respect to documents created after the date of enactment of this Act, the tobacco product manufacturers and their trade associations shall—

(1) place the documents in the depository; and

(2) provide a copy of the documents to the Food and Drug Administration (with the exception of documents subject to a claim of attorney-client privilege or attorney work product).

(1) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control—

(A) produced, or ordered to be produced, by the tobacco product manufacturer in any health-related civil or criminal proceeding, judicial or administrative; and

(B) that the panel established under section 906 determines is appropriate for submission.

(3) All studies conducted or funded, directly or indirectly, by any tobacco product manufacturer, relating to tobacco product use by minors.

(4) All documents discussing or referring to the relationship, if any, between advertising and promotion and the use of tobacco products by minors.

(5) A privilege log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer maintains is exempt from public disclosure under this title.

(6) A trade secrecy log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this Act.

(e) DOCUMENT IDENTIFICATION AND INDEX.—Documents submitted under this section shall be sequentially numbered and marked to identify the tobacco product manufacturer. Within 15 days after submission of documents, each tobacco product manufacturer shall supply the panel with a comprehensive document index which references the applicable document categories contained in subsection (b).

SEC. 904. DOCUMENT REVIEW.

(a) AJUDICATION OF PRIVILEGE CLAIMS.—An claim of attorney-client privilege, trade secret protection, or other claim of privilege with respect to a document required to be submitted by this title shall be heard by a 3-judge panel of the United States District Court for the District of Columbia under section 2284 of title 28, United States Code. The panel may appoint special masters, employ such personnel, and establish such procedures as it deems necessary to carry out its functions under this title.

(b) PRIVILEGE.—The panel shall apply the attorney-client privilege, the attorney work-product doctrine, and the trade secret doctrine in a manner consistent with Federal law.

SEC. 905. RESOLUTION OF DISPUTED PRIVILEGE AND TRADE SECRET CLAIMS.

(a) IN GENERAL.—The panel shall determine whether to uphold or reject disputed claims of attorney client privilege, attorney work product, or trade secret protection with respect to documents submitted. Any person may petition the panel to resolve a claim that a document submitted may not be disclosed to the public. Such a determination shall be made by a majority of the panel, in writing, and shall be subject to judicial review as specified in this title. All such determinations shall be made solely on consideration of the subject document and written submissions from the person claiming that the document is privileged or protected by trade secrecy and from any person seeking disclosure of the document. The panel shall cause notice of the petition and the panel's decision to be published in the Federal Register.

(b) FINAL DECISION.—The panel may uphold a claim of privilege or protection in its entirety or, in its sole discretion, it may redact that portion of a document that it determines is protected from public disclosure under subsection (a). Any decision of the panel shall be final unless judicial review is sought under section 906. In the event that judicial review is so sought, the panel's decision shall be stayed pending a final judicial decision.

SEC. 906. APPEAL OF PANEL DECISION.

(a) PETITION; RIGHT OF APPEAL.—Any person may obtain judicial review of a final decision of the panel by filing a petition for review with the United States Court of Appeals for the Federal Circuit within 60 days after the publication of such decision in the Federal Register. A copy of the petition shall be transmitted by the Clerk of the Court to the panel. The panel shall file in the court the record of the proceedings on which the panel based its decision (including any documents reviewed by the panel in *camera*) as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the panel's decision, except that until the filing of the record the panel may modify or set aside its decision.

(b) ADDITIONAL EVIDENCE AND ARGUMENTS.—If any party applies to the court for leave to adduce additional evidence respecting the decision being reviewed and shows to the satisfaction of the court that such additional evidence or arguments are material and that there were reasonable grounds for the failure to adduce such evidence or arguments in the proceedings before the panel, the court may order the panel to provide additional opportunity for the presentation of evidence or arguments in such manner and upon such terms as the court deems proper. The panel may modify its findings or make new findings by reason of the additional evidence or arguments and shall file with the court such modified or new findings, and its recommendation, if any, for the modification or setting aside of the decision being reviewed.

(c) STANDARD OF REVIEW; FINALITY OF JUDGMENTS.—The panel's findings of fact, if supported by substantial evidence on the record taken as a whole, shall be conclusive. The court shall review the panel's legal conclusions *de novo*. The judgment of the court affirming or setting aside the panel's decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) PUBLIC DISCLOSURE AFTER FINAL DECISION.—Within 30 days after a final decision that a document, as redacted by the panel or in its entirety, is not protected from disclosure by a claim of attorney-client privilege, attorney work product, or trade secret protection, the panel shall direct that the document be made available to the Commissioner of Food and Drugs under section 903(a). No Federal, Tribal, or State court shall have jurisdiction to review a claim of attorney-client privilege, attorney work product, or trade secret protection for a document that has lawfully been made available to the public under this subsection.

(e) EFFECT OF NON-DISCLOSURE DECISION ON JUDICIAL PROCEEDINGS.—The panel's decision that a document is protected by attorney-client privilege, attorney work product, or trade secret protection is binding only for the purpose of protecting the document from disclosure by the Depository. The decision by the panel shall not be construed to prevent a document from being disclosed in a judicial proceeding or interfere with the authority of a court to determine whether a document is admissible or whether its production may be compelled.

SEC. 907. MISCELLANEOUS.

The disclosure process in this title is not intended to affect the Federal Rules of Civil or Criminal Procedure or any Federal law which requires the disclosure of documents or which deals with attorney-client privilege, attorney work product, or trade secret protection.

SEC. 908. PENALTIES.

(a) GOOD FAITH REQUIREMENT.—Each tobacco product manufacturer shall act in good faith in asserting claims of privilege or trade secret protection based on fact and law. If the panel determines that a tobacco product manufacturer has not acted in good faith with full knowledge of the truth of the facts asserted and with a reasonable basis under existing law, the manufacturer shall be assessed costs, which shall include the full administrative costs of handling the claim of privilege, and all attorneys' fees incurred by the panel and any party contesting the privilege. The panel may also impose civil penalties of up to $50,000 per violation if it determines that the manufacturer acted in bad faith in asserting a privilege, or knowingly acted with the intent to delay, frustrate, defraud, or obstruct the panel's determination of privilege, attorney work product, or trade secret protection claims.

(b) FAILURE TO PRODUCE DOCUMENT.—A failure by a tobacco product manufacturer to produce indexes and documents in compliance with the schedule set forth in this title, or with such extension as may be granted by the panel, shall be punished by a civil penalty of up to $50,000 per violation. A separate violation occurs for each document the manufacturer has failed to produce in a timely manner. The maximum penalty under this subsection for a related series of violations is $5,000,000. In determining the amount of any civil penalty, the panel shall consider the number of documents, length of delay, any history of prior violations, the ability to pay, and such other matters as justice requires. Nothing in this title shall replace or supersede any criminal sanction under title 18, United States Code, or any other provision of law.

SEC. 909. DEFINITIONS.

For the purposes of this title—

(1) DOCUMENT.—The term "document" includes originals and drafts of any kind of written or graphic matter, regardless of the manner of production or reproduction, of any kind or description, whether sent or received or neither, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise) regardless of whether confidential, privileged, or otherwise, including any paper, book, account, photograph, blueprint, drawing, agreement, contract, memorandum, advertising material, letter, telegram, object, report, record, transcript, study, note, notation, working paper, intra-office communication, intra-department communication, chart, minute, index sheet, routing sheet, computer software, computer data, delivery ticket, flow sheet, price list, quotation, bulletin, circular, manual, summary, recording of telephone or other conversation or of interviews, or of conferences, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, regardless of the manner produced or reproduced. Such term also includes any tape, recording, videotape, computerization, or other electronic recording, whether digital or analog or a combination thereof.

(2) Trade secret.—The term "trade secret" means any commercially valuable plan, formula, process, or device that is used for making, compounding, processing, or preparing trade commodities and that can be said to be the end-product of either innovation or substantial effort, for which there is a direct relationship between the plan, formula, process, or device and the productive process.

(3) Certain actions deemed to be proceedings.—Any action undertaken under this title, including the search, indexing, and production of documents, is deemed to be a "proceeding" before the executive branch of the United States.

(4) Other terms.—Any term used in this title that is defined in section 701 has the meaning given to it by that section.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) Participating tobacco producer.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) Quota holder.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) Quota lessee.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) Quota tenant.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) Secretary.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) Tobacco product importer.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) Tobacco product manufacturer.—

(A) In general.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) Exclusion.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) Tobacco warehouse owner.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) Flue-cured tobacco.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) In General.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) Eligibility.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) Base Quota Level.—

(1) In general.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) Quota holders.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) Quota lessees.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) Quota tenants.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) Marketing quotas other than poundage quotas.—

(A) In general.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) Yields not available.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal ⅒ of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to

carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term “tobacco-growing county” includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

“SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

“(a) DEFINITIONS.—In this section:

“(1) INDIVIDUAL ACREAGE LIMITATION.—The term ‘individual acreage limitation’ means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

“(A) prior to—

“(i) any increase or decrease in the number due to undermarketings or overmarketings; and

“(ii) any reduction under subsection (i); and

“(B) in a manner that ensures that—

“(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

“(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

“(2) INDIVIDUAL MARKETING LIMITATION.—The term ‘individual marketing limitation’ means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

“(A) prior to—

“(i) any increase or decrease in the number due to undermarketings or overmarketings; and

“(ii) any reduction under subsection (i); and

“(B) in a manner that ensures that—

“(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

“(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

“(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term ‘individual tobacco production permit’ means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

“(4) NATIONAL ACREAGE ALLOTMENT.—The term ‘national acreage allotment’ means the quantity determined by dividing—

“(A) the national marketing quota; by

“(B) the national average yield goal.

“(5) NATIONAL AVERAGE YIELD GOAL.—The term ‘national average yield goal’ means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

“(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term ‘national marketing quota’ for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

“(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

“(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

“(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) Criteria.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) Medical hardships and crop disasters.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) Referendum.—

"(1) Announcement of quota and allotment.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) Special referendum.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) Approval of permits.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) Disapproval of permits.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) Applicable marketing years.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) Annual Announcement of National Marketing Quota.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) Annual Announcement of Individual Tobacco Production Permits.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) Assignment of Tobacco Production Permits.—

"(1) Limitation to same county.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) Filing with county committee.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) Limitation on tillable cropland.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) Prohibition on Sale or Leasing of Individual Tobacco Production Permits.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) Transfer to descendants.—

"(A) Death.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) Temporary inability to farm.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) Voluntary transfers.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) Reserve.—

"(1) In general.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) Eligible persons.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) Apportionment for new producers.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) Permit yield.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) Penalties.—

"(1) Production on other farms.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) False report.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) Marketing Penalties.—

"(1) In general.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) Production on other farms.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) Program Referenda.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) Referenda on Quotas.—

"(1) In general.—Not later than 30"; and

(2) by adding at the end the following:

"(2) Referenda on program changes.—

"(A) In general.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) Approval of proposals.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act); or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual—

"(i) who was a brother, sister, stepbrother, stepsister, son-in-law, or daughter-in-law of an individual described in subparagraph (A); and

"(ii) whose principal place of residence was the home of the individual described in subparagraph (A); or

"(D) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

SEC. 1042. ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, from amounts made available under section 1012(3)(A), the Secretary shall use up to $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income during any of the 1997 through 2004 crop years, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

(c) EFFECT ON OTHER PAYMENTS.—The amount available in section 1012(3)(A) for tobacco community economic development grants under section 1023 shall be reduced by any amount appropriated under this section. None of the payments made under this section shall limit or alter in any manner the payments authorized under section 1021 of this Act.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

SEC. 1101. POLICY.

It shall be the policy of the United States government to pursue bilateral and multilateral agreements that include measures designed to—

(1) restrict or eliminate tobacco advertising and promotion aimed at children;

(2) require effective warning labels on packages and advertisements of tobacco products;

(3) require disclosure of tobacco ingredient information to the public;

(4) limit access to tobacco products by young people;

(5) reduce smuggling of tobacco and tobacco products;

(6) ensure public protection from environmental tobacco smoke; and

(7) promote tobacco product policy and program information sharing between or among the parties to those agreements.

SEC. 1102. TOBACCO CONTROL NEGOTIATIONS.

The President, in consultation with the Secretary of State, the Secretary of Health and Human Services, and the United States Trade Representative, shall—

(1) act as the lead negotiator for the United States in the area of international tobacco control;

(2) coordinate among U.S. foreign policy and trade negotiators in the area of effective international tobacco control policy;

(3) work closely with non-governmental groups, including public health groups; and

(4) report annually to the Congress on the progress of negotiations to achieve effective international tobacco control policy.

SEC. 1103. REPORT TO CONGRESS.

Not later than 150 days after the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall transmit to the Congress a report identifying the international fora wherein international tobacco control efforts may be negotiated.

SEC. 1104. FUNDING.

There are authorized such sums as are necessary to carry out the provisions of this subtitle.

SEC. 1105. PROHIBITION OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) In General.—No officer, employee, department, or agency of the United States may promote the sale or export of tobacco or tobacco products, or seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products. The United States Trade Representative shall consult with the Secretary regarding inquiries, negotiations, and representations with respect to tobacco and tobacco products, including whether proposed restrictions are reasonable protections of public health.

(b) Notification.—Whenever such inquiries, negotiations, or representations are made, the United States Trade Representative shall notify the Congress within 10 days afterwards regarding the nature of the inquiry, negotiation, or representation.

SEC. 1106. HEALTH LABELING OF TOBACCO PRODUCTS FOR EXPORT.

(a) In General.—

(1) Exports must be labeled.—It shall be unlawful for any United States person, directly or through approval or facilitation of a transaction by a foreign person, to make use of the United States mail or of any instrument of interstate commerce to authorize or contribute to the export from the United States any tobacco product unless the tobacco product packaging contains a warning label that—

(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

(B) complies with the specific health hazard warning labeling requirements of the foreign country to which the product is exported.

(2) U.S. requirements apply if the destination country does not require specific health hazard warning labels.—Subparagraph (B) of paragraph (1) does not apply to exports to a foreign country that does not have any specific health hazard warning label requirements for the tobacco product being exported.

(b) United States Person Defined.—For purposes of this section, the term "United States person" means—

(1) an individual who is a citizen, national, or resident of the United States; and

(2) a corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States.

(c) Report to Congress on Enforcement; Feasibility Regulations.—

(1) The president.—The President shall—

(A) report to the Congress within 90 days after the date of enactment of this Act—

(i) regarding methods to ensure compliance with subsection (a); and

(ii) listing countries whose health warnings related to tobacco products are substantially similar to those in the United States; and

(B) promulgate regulations within 1 year after the date of enactment of this Act that will ensure compliance with subsection (a).

(2) The secretary.—The Secretary shall determine through regulation the feasibility and practicability of requiring health warning labeling in the language of the country of destination weighing the health and other benefits and economic and other costs. To the greatest extent practicable, the Secretary should design a system that requires the language of the country of destination while minimizing the dislocative effects of such a system.

SEC. 1107. INTERNATIONAL TOBACCO CONTROL AWARENESS.

(a) Establishment of International Tobacco Control Awareness.—The Secretary is authorized to establish an international tobacco control awareness effort. The Secretary shall—

(1) promote efforts to share information and provide education internationally about the health, economic, social, and other costs of tobacco use, including scientific and epidemiological data related to tobacco and tobacco use and enhancing countries' capacity to collect, analyze, and disseminating such data;

(2) promote policies and support and coordinate international efforts, including international agreements or arrangements, that seek to enhance the awareness and understanding of the costs associated with tobacco use;

(3) support the development of appropriate governmental control activities in foreign countries, such as assisting countries to design, implement, and evaluate programs and policies used in the United States or other countries; including the training of United States diplomatic and commercial representatives outside the United States;

(4) undertake other activities as appropriate in foreign countries that help achieve a reduction of tobacco use;

(5) permit United States participation in annual meetings of government and non-government representatives concerning international tobacco use and efforts to reduce tobacco use;

(6) promote mass media campaigns, including paid counter-tobacco advertisements to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(7) create capacity and global commitment to reduce international tobacco use and prevent youth smoking, including the use of models of previous public health efforts to address global health problems.

(b) Activities.—

(1) In general.—The activities under subsection (a) shall include—

(A) public health and education programs;

(B) technical assistance;

(C) cooperative efforts and support for related activities of multilateral organization and international organizations;

(D) training; and

(E) such other activities that support the objectives of this section as may be appropriate.

(2) Grants and contracts.—In carrying out this section, the Secretary shall make grants to, enter into and carry out agreements with, and enter into other transactions with any individual, corporation, or other entity, whether within or outside the United States, including governmental and nongovernmental organizations, international organizations, and multilateral organizations.

(3) Transfer of funds to agencies.—The Secretary may transfer to any agency of the United States any part of any funds appropriated for the purpose of carrying out this section. Funds authorized to be appropriated by this section shall be available for obligation and expenditure in accordance with the provisions of this section or in accordance with the authority governing the activities of the agency to which such funds are transferred.

(c) Authorization of Appropriations.—There are authorized to be appropriated, from the National Tobacco Trust Fund, to carry out the provisions of this section, including the administrative costs incurred by any agency of the United States in carrying out this section, $350,000,000 for each of the fiscal years 1999 through 2004, and such sums as may be necessary for each fiscal year thereafter. A substantial amount of such funds shall be granted to non-governmental organizations. Any amount appropriated pursuant to this authorization shall remain available without fiscal year limitation until expended.

Subtitle B—Anti-smuggling Provisions

SEC. 1131. DEFINITIONS.

(a) Incorporation of Certain Definitions.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "roll-your-own tobacco", "smokeless tobacco", "State", "tobacco product", and "United States", shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 5702(p), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) Other Definitions.—In this subtitle:

(1) Affiliate.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of other or others of such persons, and any 2 or more of such persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) Interstate or foreign commerce.—The term "interstate or foreign commerce" means any commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) Secretary.—The term "Secretary" means the Secretary of the Treasury.

(4) Package.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) Retailer.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product at retail. The term "retailer" includes any duty free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or less

packages, or it equivalent for other tobacco products.

(6) EXPORTER.—The term "exporter" means any person engaged in the business of exporting tobacco products from the United States for purposes of sale or distribution; and the term "licensed exporter" means any such person licensed under the provisions of this subtitle. Any duty-free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an "exporter" under this subtitle.

(7) IMPORTER.—The term "importer" means any person engaged in the business of importing tobacco products into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this subtitle.

(8) INTENTIONALLY.—The term "intentionally" means doing an act, or omitting to do an act, deliberately, and not due to accident, inadvertence, or mistake. An intentional act does not require that a person knew that his act constituted an offense.

(9) MANUFACTURER.— The term "manufacturer" means any person engaged in the business of manufacturing a tobacco product for purposes of sale or distribution, except that such term shall not include a person who manufactures less than 30,000 cigarettes, or its equivalent as determined by regulations, in any twelve month period; and the term "licensed manufacturer" means any such person licensed under the provisions of this subtitle, except that such term shall not include a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use.

(10) WHOLESALER.—The term "wholesaler" means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale, and the term "licensed wholesaler" means any such person licensed under the provisions of this subtitle.

SEC. 1132. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) IN GENERAL.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) LABELING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured or imported for sale or distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation. The Secretary shall determine the size and location of the serial number.

(2) MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location of the mark and under what circumstances a waiver of this paragraph shall be granted.

(c) PROHIBITION ON ALTERATION.—It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. 1133. TOBACCO PRODUCT LICENSES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program under which tobacco product licenses are issued to manufacturers, importers, exporters, and wholesalers of tobacco products.

(b)(1) ELIGIBILITY.—A person is entitled to a license unless the Secretary finds—

(A) that such person has been previously convicted of a Federal crime relating to tobacco, including the taxation thereof;

(B) that such person has, within 5 years prior to the date of application, been previously convicted of any felony under Federal or State law; or

(C) that such person is, by virtue of his business experience, financial standing, or trade connections, not likely to maintain such operations in conformity with Federal law.

(2) CONDITIONS.—The issuance of a license under this section shall be conditioned upon the compliance with the requirements of this subtitle, all Federal laws relating to the taxation of tobacco products, chapter 114 of title 18, United States Code, and any regulations issued pursuant to such statutes.

(c) REVOCATION, SUSPENSION, AND ANNULMENT.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a license issued under this section if the Secretary determines that the terms or conditions of the license have not been complied with. Prior to any action under this subsection, the Secretary shall provide the licensee with due notice and the opportunity for a hearing.

(d) RECORDS AND AUDITS.—The Secretary shall, under the program established under subsection (a), require all license holders to keep records concerning the chain of custody of the tobacco products that are the subject of the license and make such records available to the Secretary for inspection and audit.

(e) RETAILERS.—This section does not apply to retailers of tobacco products, except that retailers shall maintain records of receipt, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice will satisfy this requirement provided such record shows the date of receipt, from whom such products were received and the quantity of tobacco products received.

SEC. 1134. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of importing tobacco products into the United States; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged, or warehoused.

(c) WHOLESALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or, as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EXPORTATION.—

(1) IN GENERAL.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(A) to engage in the business of exporting tobacco products from the United States; or

(B) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products received for export.

(2) REPORT.—Prior to exportation of tobacco products from the United States, the exporter shall submit a report in such manner and form as the Secretary may by regulation prescribe to enable the Secretary to identify the shipment and assure that it reaches its intended destination.

(3) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from exporters of tobacco products if the Secretary believes that such an agreement will assist in—

(A) insuring compliance with any law or regulation enforced or administered by an agency of the United States; or

(B) preventing or detecting violation of the laws or regulations of a foreign government with which the Secretary has entered into an agreement.

Such information may be exchanged or shared with a foreign government only if the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purpose of preventing or detecting violations of the laws or regulations of such government or the United States and, provided further that no information may be exchanged or shared with any government that has violated such assurances.

(e) UNLAWFUL ACTS.—

(1) UNLICENSED RECEIPT OR DELIVERY.—It is unlawful for any licensed importer, licensed manufacturer, or licensed wholesaler intentionally to ship, transport, deliver or receive any tobacco products from or to any person other than a person licensed under this chapter or a retailer licensed under the provisions of this Act, except a licensed importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States.

(2) RECEIPT OF RE-IMPORTED GOODS.—It is unlawful for any person, except a licensed manufacturer or a licensed exporter to receive any tobacco products that have previously been exported and returned to the United States.

(3) DELIVERY BY EXPORTER.—It is unlawful for any licensed exporter intentionally to ship, transport, sell or deliver for sale any

tobacco products to any person other than a licensed manufacturer or foreign purchaser.

(4) SHIPMENT OF EXPORT-ONLY GOODS.—It is unlawful for any person other than a licensed exporter intentionally to ship, transport, receive or possess, for purposes of resale, any tobacco product in packages marked "FOR EXPORT FROM THE UNITED STATES," other than for direct return to the manufacturer or exporter for re-packing or for re-exportation.

(5) FALSE STATEMENTS.—It is unlawful for any licensed manufacturer, licensed exporter, licensed importer, or licensed wholesaler to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that he is required to keep as required by this chapter or the regulations promulgated thereunder.

(f) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 365 days after the date of enactment of this Act.

SEC. 1135. LABELING OF PRODUCTS SOLD BY NATIVE AMERICANS.

The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. 1136. LIMITATION ON ACTIVITIES INVOLVING TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.

(a) MANUFACTURE OF TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.—No person shall manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

(b) EXPORTING OR IMPORTING FROM OR INTO A FOREIGN TRADE ZONE.—Any person exporting or importing tobacco products from or into a foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.), shall comply with the requirements provided in this subtitle. In any case where the person operating in a foreign trade zone is acting on behalf of a person licensed under this subtitle, qualification as an importer or exporter will not be required, if such person complies with the requirements set forth in section 1134(d)(2) and (3) of this subtitle.

SEC. 1137. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States Court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall, upon conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.

(c) CIVIL PENALTIES.—The Secretary may, in lieu of referring violations of this subtitle for criminal prosecution, impose a civil penalty of not more than $10,000 for each offense.

(d) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

(e) FORFEITURE.—

(1) The Secretary may seize and forfeit any conveyance, tobacco products, or monetary instrument (as defined in section 5312 of title 31, United States Code) involved in a violation of this subtitle, or any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of this chapter. For purposes of this paragraph, the provisions of subsections (a)(2), (b)(2), and (c) through (j) of section 981 of title 18, United States Code, apply to seizures and forfeitures under this paragraph insofar as they are applicable and not inconsistent with the provisions of this subtitle.

(2) The court, in imposing sentence upon a person convicted of an offense under this subtitle, shall order that the person forfeit to the United States any property described in paragraph (1). The seizure and forfeiture of such property shall be governed by subsections (b), (c), and (e) through (p) of section 853 of title 21, United States Code, insofar as they are applicable and not inconsistent with the provisions of this subtitle.

SEC. 1138. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) by striking "60,000" and inserting "30,000" in paragraph (2);

(2) by inserting after "payment of cigarette taxes," in paragraph (2) the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,";

(3) by striking "and" at the end of paragraph (4);

(4) by striking "Treasury." in paragraph (5) and inserting "Treasury;"; and

(5) by adding at the end thereof the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, roll your own and pipe tobacco (as such terms are defined in section 5701 of the Internal Revenue Code of 1986); and

"(7) the term 'contraband tobacco product' means—

"(A) a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products; and

"(B) a quantity of tobacco product that is equivalent to an excess of 30,000 cigarettes, as determined by regulation, which bears no evidence of the payment of applicable State tobacco taxes in the State where such tobacco products are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, or in the case of a State that does not require any such indication of tax payment, if the person in possession of the tobacco product is unable to provide any evidence that the tobacco products are moving legally in interstate commerce and which are in the possession of any person other than a person defined in paragraph (2) of this section.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) by inserting "or contraband tobacco products" before the period in subsection (a); and

(2) by adding at the end thereof the following:

"(c) It is unlawful for any person—

"(1) knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes any quantity of cigarettes in excess of 30,000 in a single transaction, or tobacco products in such equivalent quantities as shall be determined by regulation; or

"(2) knowingly to fail or knowingly to fail to maintain distribution records or reports, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of cigarettes or other tobacco products.

"(d) It shall be unlawful for any person knowingly to transport cigarettes or other tobacco products under a false bill of lading or without any bill of lading.".

(c) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "60,000" in subsection (a) and inserting "30,000";

(2) by inserting after "transaction" in subsection (a) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,";

(3) by striking the last sentence of subsection (a) and inserting the following:

"Except as provided in subsection (c) of this section, nothing contained herein shall authorize the Secretary to require reporting under this section.";

(4) by striking "60,000" in subsection (b) and inserting "30,000";

(5) by inserting after "transaction" in subsection (b) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,"; and

(6) by adding at the end thereof the following:

"(c)(1) Any person who ships, sells, or distributes for resale tobacco products in interstate commerce, whereby such tobacco products are shipped into a State taxing the sale or use of such tobacco products or who advertises or offers tobacco products for such sale or transfer and shipment shall—

"(A) first file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated, a statement setting for the person's name, and trade name (if any), and the address of the person's principal place of business and of any other place of business; and

"(B) not later than the 10th day of each month, file with the tobacco tax administrator of the State into which such shipment is made a memorandum or a copy of the invoice covering each and every shipment of tobacco products made during the previous month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

"(2) The fact that any person ships or delivers for shipment any tobacco products shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under paragraph (1)(A) of this subsection, be presumptive evidence that such tobacco products were sold, shipped, or distributed for resale by such person.

"(3) For purposes of this subsection—

"(A) the term 'use' includes consumption, storage, handling, or disposal of tobacco products; and

"(B) the term 'tobacco tax administrator' means the State official authorized to administer tobacco tax laws of the State.".

(e) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) by inserting "or (c)" in subsection (b) after "section 2344(b)";

(2) by inserting "or contraband tobacco products" after "cigarettes" in subsection (c); and

(3) by adding at the end thereof the following:

"(d) Any proceeds from the unlawful distribution of tobacco shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

(f) REPEAL OF FEDERAL LAW RELATING TO COLLECTION OF STATE CIGARETTE TAXES.—The Act of October 19, 1949 (63 Stat. 884; 15 U.S.C. 375-378) is hereby repealed.

SEC. 1139. FUNDING.

(a) LICENSE FEES.—The Secretary may, in the Secretary's sole discretion, set the fees for licenses required by this chapter, in such amounts as are necessary to recover the costs of administering the provisions of this chapter, including preventing trafficking in contraband tobacco products.

(b) DISPOSITION OF FEES.—Fees collected by the Secretary under this chapter shall be deposited in an account with the Treasury of the United States that is specially designated for paying the costs associated with the administration or enforcement of this chapter or any other Federal law relating to the unlawful trafficking of tobacco products. The Secretary is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in administering and enforcing this chapter or any other Federal law relating to the unlawful trafficking in tobacco products (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.

SEC. 1140. RULES AND REGULATIONS.

The Secretary shall prescribe all needful rules and regulations for the enforcement of this chapter, including all rules and regulations that are necessary to ensure the lawful distribution of tobacco products in interstate or foreign commerce.

Subtitle C—Other Provisions

SEC. 1161. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund such sums as may be necessary for each fiscal year to be used by the Secretary for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.) for the purpose of improving parent education and supportive services, strengthening the quality of child care, improving health services, and improving services for children with disabilities.

(b) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a State under this section shall be used to supplement and not supplant other Federal, State, and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

SEC. 1162. BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.

(a) BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.—Effective 12 months after the date of enactment of this Act, it shall be unlawful to sell tobacco products through the use of a vending machine.

(b) COMPENSATION FOR BANNED VENDING MACHINES.—

(1) IN GENERAL.—The owners and operators of tobacco vending machines shall be reimbursed, subject to the availability of appropriations under subsection (d), for the fair market value of their tobacco vending machines.

(2) TOBACCO VENDING REIMBURSEMENT CORPORATION.—

(A) CORPORATION.—Reimbursement shall be directed through a private, nonprofit corporation established in the District of Columbia, known as the Tobacco Vending Reimbursement Corporation (in this section referred to as the "Corporation"). Except as otherwise provided in this section, the Corporation is subject to, and has all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(B) DUTIES.—The Corporation shall—

(i) disburse compensation funds to vending companies under this section;

(ii) verify operational machines; and

(iii) maintain complete records of machine verification and accountings of disbursements and administration of the compensation fund established under paragraph (4).

(3) MANAGEMENT OF CORPORATION.—

(A) BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors that—

(i) consists of distinguished Americans with experience in finance, public policy, or fund management;

(ii) includes at least 1 member of the United States tobacco vending machine industry;

(iii) shall be paid an annual salary in an amount determined by the President of the Corporation not to exceed $40,000 individually, out of amounts transferred to the Corporation under paragraph (4)(A);

(iv) shall appoint a President to manage the day-to-day activities of the Corporation;

(v) shall develop guidelines by which the President shall direct the Corporation;

(vi) shall retain a national accounting firm to verify the distribution of funds and audit the compensation fund established under paragraph (4);

(vii) shall retain such legal, management, or consulting assistance as is necessary and reasonable; and

(viii) shall periodically report to Congress regarding the activities of the Corporation.

(B) DUTIES OF THE PRESIDENT OF THE CORPORATION.—The President of the Corporation shall—

(i) hire appropriate staff;

(ii) prepare the report of the Board of Directors of the Corporation required under subparagraph (A)(viii); and

(iii) oversee Corporation functions, including verification of machines, administration and disbursement of funds, maintenance of complete records, operation of appeals procedures, and other directed functions.

(4) COMPENSATION FUND.—

(A) RULES FOR DISBURSEMENT OF FUNDS.—

(i) PAYMENTS TO OWNERS AND OPERATORS.—The Corporation shall disburse funds to compensate the owners and operators of tobacco vending machines in accordance with the following:

(I) The fair market value of each tobacco vending machine verified by the Corporation President in accordance with subparagraph (C), and proven to have been in operation before August 10, 1995, shall be disbursed to the owner of the machine seeking compensation.

(II) No compensation shall be made for a spiral glass front vending machine.

(ii) OTHER PAYMENTS.—Funds appropriated to the Corporation under subsection (d) may be used to pay the administrative costs of the Corporation that are necessary and proper or required by law. The total amount paid by the Corporation for administrative and overhead costs, including accounting fees, legal fees, consultant fees, and associated administrative costs shall not exceed 1 percent of the total amount appropriated to the Corporation under subsection (d).

(B) VERIFICATION OF VENDING MACHINES.—Verification of vending machines shall be based on copies of official State vending licenses, company computerized or handwritten sales records, or physical inspection by the Corporation President or by an inspection agent designated by the President. The Corporation President and the Board of Directors of the Corporation shall work vigorously to prevent and prosecute any fraudulent claims submitted for compensation.

(C) RETURN OF ACCOUNT FUNDS NOT DISTRIBUTED TO VENDORS.—The Corporation shall be dissolved on the date that is 4 years after the date of enactment of this Act. Any funds not dispersed or allocated to claims pending as of that date shall be transferred to a public anti-smoking trust, or used for such other purposes as Congress may designate.

(c) SETTLEMENT OF LEGAL CLAIMS PENDING AGAINST THE UNITED STATES.—Acceptance of a compensation payment from the Corporation by a vending machine owner or operator shall settle all pending and future claims of the owner or operator against the United States that are based on, or related to, the ban of the use of tobacco vending machines imposed under this section and any other laws or regulations that limit the use of tobacco vending machines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Corporation from funds not otherwise obligated in the Treasury or out of the National Tobacco Trust Fund, such sums as may be necessary to carry out this section.

SEC. 1163. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C.

1185 et seq.) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, and subject to subsection (d), to be medically appropriate.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

"(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

"(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(d) NO AUTHORIZATION REQUIRED.—

"(1) IN GENERAL.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

"(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

"(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; and

"(5) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(f) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed to require a patient who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(g) PREEMPTION, RELATION TO STATE LAWS.—

"(1) IN GENERAL.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that—

"(A) such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection of breast cancer;

"(B) requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section; or

"(C) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

"(2) APPLICATION OF SECTION.—With respect to a State law—

"(A) described in paragraph (1)(A), the provisions of this section relating to breast reconstruction shall apply in such State; and

"(B) described in paragraph (1)(B), the provisions of this section relating to length of stays for surgical breast treatment shall apply in such State.

"(3) ERISA.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

SEC. 1201. NATIONAL TOBACCO TRUST FUNDS AVAILABLE UNDER FUTURE LEGISLATION.

If the Congress enacts qualifying legislation after the date of enactment of this Act to provide for the payment of asbestos claims, then amounts in the National Tobacco Trust Fund established by title IV of this Act set aside for public health expenditures shall be available, as provided by appropriation Acts, to make those payments. For purposes of this section, the term "qualifying legislation" means a public law that amends this Act and changes the suballocations of funds set aside for public health expenditures under title IV of this Act to provide for the payment of those claims.

TITLE XIII—VETERANS' BENEFITS

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

"PART VII—RECOVERY OF COSTS FOR TOBACCO-RELATED DISABILITY OR DEATH

"CHAPTER 91—TORT LIABILITY FOR DISABILITY, INJURY, DISEASE, OR DEATH DUE TO TOBACCO USE

"Sec.
"9101. Recovery by Secretary of Veterans Affairs
"9102. Regulations
"9103. Limitation or repeal of other provisions for recovery of compensation
"9104. Exemption from annual limitation on damages

"§ 9101. Recovery by Secretary of Veterans Affairs

"(a) CONDITIONS; EXCEPTIONS; PERSONS LIABLE; AMOUNT OF RECOVERY; SUBROGATION.—In any case in which the Secretary is authorized or required by law to provide compensation and medical care services under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service under circumstances creating a tort liability upon a tobacco product manufacturer (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover (independent of the rights of the injured or diseased veteran) from said tobacco product manufacturer the cost of the compensation paid or to be paid and the costs of medical care services provided, and shall, as to this right, be subrogated to any right or claim that the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the cost of the compensation paid or to be paid and the costs of medical services provided.

"(b) ENFORCEMENT PROCEDURE; INTERVENTION; JOINDER OF PARTIES; STATE OR FEDERAL COURT PROCEEDINGS.—The Secretary may, to enforce such right under subsection (a) of this section—

"(1) intervene or join in any action or proceeding brought by the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors, against the tobacco product manufacturer who is liable for the injury or disease; or

"(2) if such action or proceeding is not commenced within 6 months after the first day on which compensation is paid, or the medical care services are provided, by the Secretary in connection with the injury or disease involved, institute and prosecute legal proceedings against the tobacco product manufacturer who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured veteran, his or her guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors.

"(c) CREDITS TO APPROPRIATIONS.—Any amount recovered or collected under this section for compensation paid, and medical care services provided, by the Secretary shall be credited to a revolving fund established in the Treasury of the United States known as the Department of Veterans Affairs Tobacco Recovery Fund (hereafter called the Fund). The Fund shall be available to the Secretary without fiscal year limitation for purposes of veterans programs, including administrative costs. The Secretary may transfer such funds as deemed necessary to the various Department of Veterans Affairs appropriations, which shall remain available until expended.

"§ 9102. Regulations

"(a) DETERMINATION AND ESTABLISHMENT OF PRESENT VALUE OF COMPENSATION AND MEDICAL CARE SERVICES TO BE PAID.—The Secretary may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the present value of compensation to be paid to an injured or diseased veteran or his or her surviving spouse, child, or parent, and medical care services provided to a veteran.

"(b) SETTLEMENT, RELEASE AND WAIVER OF CLAIMS.—To the extent prescribed by regulations under subsection (a) of this section, the Secretary may—

"(1) compromise, or settle and execute a release of, any claim which the Secretary has by virtue of the right established by section 9101 of this title; or

"(2) waive any such claim, in whole or in part, for the convenience of the Government, or if he or she determines that collection would result in undue hardship upon the veteran who suffered the injury or disease or his or her surviving spouse, child or parent resulting in payment of compensation, or receipt of medical care services.

"(c) DAMAGES RECOVERABLE FOR PERSONAL INJURY UNAFFECTED.—No action taken by the Secretary in connection with the rights afforded under this chapter shall operate to deny to the injured veteran or his or her surviving spouse, child or parent the recovery for that portion of his or her damage not covered hereunder.

"§ 9103. Limitation or repeal of other provisions for recovery of compensation and medical care services

"This chapter does not limit or repeal any other provision of law providing for recovery by the Secretary of the cost of compensation and medical care services described in section 9101 of this title.

"§ 9104. Exemption from annual limitation on damages

"Any amount recovered under section 9101 of this title for compensation paid or to be paid, and the cost of medical care services provided, by the Secretary for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service shall not be subject to the limitation on the annual amount of damages for which the tobacco product manufacturers may be found liable as provided in the National Tobacco Policy and Youth Smoking Reduction Act and shall not be counted in computing the annual amount of damages for purposes of that section.".

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT TO TAKE ADDITIONAL MEASURES TO REDUCE YOUTH SMOKING

SEC. 1401. CONFERRAL OF BENEFITS ON PARTICIPATING TOBACCO PRODUCT MANUFACTURERS IN RETURN FOR THEIR ASSUMPTION OF SPECIFIC OBLIGATIONS.

Participating tobacco product manufacturers shall receive the benefits, and assume the obligations, set forth in this title.

SEC. 1402. PARTICIPATING TOBACCO PRODUCT MANUFACTURER.

(a) IN GENERAL.—Except as provided in subsection (b), a tobacco product manufacturer that—

(1) executes a protocol with the Secretary of Health and Human Services that meets the requirements of sections 1403, 1404, and 1405; and

(2) makes the payment required under section 402(a)(1),

is, for purposes of this title, a participating tobacco products manufacturer.

(b) DISQUALIFICATION.—

(1) INELIGIBILITY.—Notwithstanding subsection (a), a tobacco product manufacturer may not become a participating tobacco products manufacturer if—

(A) the tobacco product manufacturer or any of its principal officers (acting in that official's corporate capacity), is convicted of—

(i) manufacturing or distributing misbranded tobacco products in violation of the criminal prohibitions on such misbranding established under section 301 or 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 or 333);

(ii) violating reporting requirements established under section 5762(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 5762(a)(4));

(iii) violating, or aiding and abetting the violation of chapter 114 of title 18, United States Code; or

(iv) violating Federal prohibitions on mail fraud, wire fraud, or the making of false statements to Federal officials in the course of making reports or disclosures required by this Act; or

(B) the tobacco product manufacturer, at the end of the 1-year period beginning on the date on which such manufacturer fails to make a required assessment payment under title IV of this Act, has not fully made such payment.

(2) DISQUALIFICATION.—A tobacco product manufacturer that has become a participating tobacco product manufacturer shall cease to be treated as a participating tobacco product manufacturer if—

(A) it, or any of its principal officers (acting in that official's corporate capacity) is convicted of an offense described in paragraph (1)(A); or

(B) it fails to make such a payment within the time period described in paragraph (1)(B).

(c) NON-PARTICIPATING TOBACCO MANUFACTURERS.—Any tobacco product manufacturer that—

(1) does not execute a protocol in accordance with subsection (a);

(2) fails to make the payment required by section 402(a)(1) (if applicable to that manufacturer);

(3) is not eligible, under subsection (b)(1), to become a participating tobacco product manufacturer; or

(4) ceases to be treated as a participating tobacco product manufacturer under subsection (b)(2),

is, for purposes of this title, a non-participating tobacco product manufacturer.

SEC. 1403. GENERAL PROVISIONS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it—

(1) contains the provisions described in subsection (b); and

(2) is enforceable at law.

(b) REQUIRED PROVISIONS.—The protocol shall include the following provisions:

(1) The tobacco product manufacturer executing the protocol will not engage in any

conduct that was, either on the date of enactment of this Act, or at any time after the date of enactment of this Act—

(A) prohibited by this Act;

(B) prohibited by any regulation promulgated by the Food and Drug Administration that applies to tobacco products; or

(C) prohibited by any other statute.

(2) The tobacco product manufacturer executing the protocol will contract with only such distributors and retailers who have operated in compliance with the applicable provisions of Federal, State, or local law regarding the marketing and sale of tobacco products and who agree to comply with advertising and marketing provisions in paragraph (3).

(3) The tobacco product manufacturer executing the protocol will be bound in marketing tobacco products by the following provisions, whether or not these provisions have legal force and effect against manufacturers who are not signatories to the protocol—

(A) the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996, and which shall be adopted and incorporated as independent terms of the protocol;

(B) the requirements of section 1404; and

(C) the requirements of section 1405.

(4) The tobacco product manufacturer executing the protocol will make any payments to the National Tobacco Trust Fund in title IV that are required to be made under that title or in any other title of this Act.

(5) The tobacco product manufacturer executing the protocol will be bound by the provisions of title IV, and any other title of this Act with respect to payments required under title IV, without regard to whether those provisions have legal force and effect against manufacturers who have not become signatories.

(6) The tobacco product manufacturer executing the protocol will make the industry-wide and manufacturer-specific look-back assessment payments that may be required under title II.

(7) The tobacco product manufacturer executing the protocol will be bound by the provisions of title II that require a manufacturer to make look-back assessments, and any other title of this Act with respect to such assessments, without regard to whether such terms have legal force and effect against manufacturers who have not become signatories.

(8) The tobacco product manufacturer executing the protocol will, within 180 days after the date of enactment of this Act and in conjunction with other participating tobacco product manufacturers, establish a National Tobacco Document Depository in the Washington, D.C. area—

(A) that is not affiliated with, or controlled by, any tobacco product manufacturer;

(B) the establishment and operational costs of which are allocated among participating tobacco product manufacturers; and

(C) that will make any document submitted to it under title IX of this Act and finally determined not to be subject to attorney-client privilege, attorney work product, or trade secret exclusions, available to the public using the Internet or other means within 30 days after receiving the document.

(c) PROVISIONS APPLICABLE TO DOCUMENTS.—The provisions of section 2116(a) and (b) of title 44, United States Code, apply to records and documents submitted to the Depository (or, to the alternative depository, if any, established by the Secretary by regulation under title IX of this Act) in the same manner and to the same extent as if they were records submitted to the National Archives of the United States required by statute to be retained indefinitely.

SEC. 1404. TOBACCO PRODUCT LABELING AND ADVERTISING REQUIREMENTS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it requires that—

(1) no tobacco product will be sold or distributed in the United States unless its advertising and labeling (including the package)—

(A) contain no human image, animal image, or cartoon character;

(B) are not outdoor advertising, including advertising in enclosed stadia and on mass transit vehicles, and advertising from within a retail establishment that is directed toward or visible from the outside of the establishment;

(C) at the time the advertising or labeling is first used are submitted to the Secretary so that the Secretary may conduct regular review of the advertising and labeling;

(D) comply with any applicable requirement of the Federal Food, Drug, and Cosmetic Act, the Federal Cigarette Labeling and Advertising Act, and any regulation promulgated under either of those Acts;

(E) do not appear on the international computer network of both Federal and non-Federal interoperable packet switches data networks (the "Internet"), unless such advertising is designed to be inaccessible in or from the United States to all individuals under the age of 18 years;

(F) use only black text on white background, other than—

(i) those locations other than retail stores where no person under the age of 18 is permitted or present at any time, if the advertising is not visible from outside the establishment and is affixed to a wall or fixture in the establishment; and

(ii) advertisements appearing in any publication which the tobacco product manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2 million persons under the age of 18 years as measured by competent and reliable survey evidence;

(G) for video formats, use only static black text on a white background, and any accompanying audio uses only words without music or sound effects;

(H) for audio formats, use only words without music or sound effects;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of brand-name product identification of the tobacco product is contained in a movie, program, or video game for which a direct or indirect payment has been made to ensure its placement;

(3) if a direct or indirect payment has been made by any tobacco product manufacturer, distributor, or retailer to any entity for the purpose of promoting use of the tobacco product through print or film media that appeals to individuals under the age of 18 years or through a live performance by an entertainment artist that appeals to such individuals;

(4) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical to, similar to, or identifiable with the tobacco product is used for any item (other than a tobacco product) or service marketed, licensed, distributed or sold or caused to be marketed, licensed, distributed, or sold by the tobacco product manufacturer or distributor of the tobacco product; and

(5)(A) except as provided in subparagraph (B), if advertising or labeling for such product that is otherwise in accordance with the requirements of this section bears a tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification and is disseminated in a medium other than newspapers, magazines, periodicals or other publications (whether periodic or limited distribution), nonpoint-of-sale promotional material (including direct mail), point-of-sale promotional material, or audio or video formats delivered at a point-of-sale; but

(B) notwithstanding subparagraph (A), advertising or labeling for cigarettes or smokeless tobacco may be disseminated in a medium that is not specified in paragraph (1) if the tobacco product manufacturer, distributor, or retailer notifies the Secretary not later than 30 days prior to the use of such medium, and the notice describes the medium and the extent to which the advertising or labeling may be seen by persons under the age of 18 years.

(b) COLOR PRINT ADS ON MAGAZINES.—The protocol shall also provide that no tobacco product may be sold or distributed in the United States if any advertising for that product on the outside back cover of a magazine appears in any color or combination of colors.

SEC. 1405. POINT-OF-SALE REQUIREMENTS.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it provides that, except as provided in subsection (b), point-of-sale advertising of any tobacco product in any retail establishment is prohibited.

(b) PERMITTED POS LOCATIONS.—

(1) PLACEMENT.—One point-of-sale advertisement may be placed in or at each retail establishment for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) SIZE.—The display area of any such point-of-sale advertisement (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) PROXIMITY TO CANDY.—Any such point-of-sale advertisement shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO OR VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be played or shown in, but not distributed, at any location where tobacco products are offered for sale.

(d) NO RESTRICTIVE COVENANTS.—No tobacco product manufacturer or distributor of tobacco products may enter into any arrangement with a retailer that limits the retailer's ability to display any form of advertising or promotional material originating with another supplier and permitted by law to be displayed in a retail establishment.

(e) DEFINITIONS.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials (other than a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers) bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1406. APPLICATION OF TITLE.

(a) In General.—The provisions of this title apply to any civil action involving a tobacco claim brought pursuant to title VII of this Act, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act, only if such claim is brought or maintained against—

(1) a participating tobacco product manufacturer or its predecessors;

(2) an importer, distributor, wholesaler, or retailer of tobacco products—

(A) that, after the date of enactment of this Act, does not import, distribute, or sell tobacco products made or sold by a non-participating tobacco manufacturer;

(B) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(C) that is not itself a non-participating tobacco product manufacturer;

(3) a supplier of component or constituent parts of tobacco products—

(A) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(B) that is not itself a non-participating tobacco product manufacturer;

(4) a grower of tobacco products, unless such person is itself a non-participating tobacco product manufacturer; or

(5) an insurer of any person described in paragraph (1), (2), (3), or (4) based on, arising out of, or related to tobacco products manufactured, imported, distributed, or sold (or tobacco grown) by such person (other than an action brought by the insured person), unless such insurer is itself a non-participating tobacco product manufacturer.

(b) Exceptions.—The provisions of this title shall not apply to any tobacco claim—

(1) brought against any person other than those described in subsection (a) or to any tobacco claim that reached final judgment or final settlement prior to the date of enactment of this Act;

(2) against an employer under valid workers' compensation laws;

(3) arising under the securities laws of a State or the United State;

(4) brought by the United States;

(5) brought under this title by a State or a participating tobacco product manufacturer to enforce this Act;

(6) asserting damage to the environment from exposures other than environmental smoke or second-hand smoke; or

(7) brought against a supplier of a component or constituent part of a tobacco product, if the component or constituent part was sold after the date of enactment of this Act, and the supplier knew that the tobacco product giving rise to the claim would be manufactured in the United States by a non-participating tobacco product manufacturer.

SEC. 1407. GOVERNMENTAL CLAIMS.

(a) In General.—Except as provided in subsection (b) and (c), no State, political subdivision of a State, municipal corporation, governmental entity or corporation, Indian tribe, or agency or subdivision thereof, or other entity acting in *parens patriae*, may file or maintain any civil action involving a tobacco claim against a participating tobacco product manufacturer.

(b) Effect on Existing State Suits of Settlement Agreement or Consent Decree.—Within 30 days after the date of enactment of this Act, any State that has filed a civil action involving a tobacco claim against a participating tobacco product manufacturer may elect to settle such action against said tobacco product manufacturer. If a State makes such an election to enter into a settlement or a consent decree, it may maintain a civil action involving a tobacco claim only to the extent necessary to permit continuing court jurisdiction over the settlement or consent decree. Nothing herein shall preclude any State from bringing suit or seeking a court order to enforce the terms of such settlement or decree.

(c) State Option for One-Time Opt Out.—Any State that does not make the election described in subsection (b) may continue its lawsuit, notwithstanding subsection (a) of this section. A State that does not make such an election shall not be eligible to receive payments from the trust fund in title IV.

(d) 30-Day Delay.—No settlement or consent decree entered into under subsection (b) may take effect until 30 days after the date of enactment of this Act.

(f) Preservation of Insurance Claims.—

(1) In general.—If all participating tobacco product manufacturers fail to make the payments required by title IV for any calendar year, then—

(A) beginning on the first day of the next calendar year, subsection (a) does not apply to any insurance claim (including a direct action claim) that is a tobacco claim, regardless of when that claim arose;

(B) any statute of limitations or doctrine of laches under applicable law shall be tolled for the period—

(i) beginning on the date of enactment of this Act; and

(ii) ending on the last day of that calendar year; and

(C) an insurance claim (including a direct action claim) that is a tobacco claim and that is pending on the date of enactment of this Act shall be preserved.

(2) Application of title 11, United States Code.—For purposes of this subsection, nothing in this Act shall be construed to modify, suspend, or otherwise affect the application of title 11, United States Code, to participating tobacco manufacturers that fail to make such payments.

(3) State law not affected.—Nothing in this subsection shall be construed to expand or abridge State law.

SEC. 1408. ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.

(a) Addiction and Dependence Claims Barred.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(b) Castano Civil Actions.—

(1) The rights and benefits afforded in this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute the exclusive remedy for the purpose of determining civil liability as to those claims asserted in the Castano Civil Actions, and all bases for any such claim under the laws of any State are preempted (including State substantive, procedural, remedial, and evidentiary provisions) and settled. The Castano Civil Actions shall be dismissed with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions, as defined in section 1417(2), in accordance with this Act. For purposes of determining application of statutes of limitation or repose, individual actions filed within one year after the effective date of this Act by those who were included within a Castano Civil Action shall be considered to have been filed as of the date of the Castano Civil Action applicable to said individual.

(2) For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(3) The participating tobacco product manufacturers shall pay the arbitration award.

SEC. 1409. SUBSTANTIAL NON-ATTAINMENT OF REQUIRED REDUCTIONS.

(a) Action by Secretary.—If the Secretary determines under title II that the non-attainment percentage for any year is greater than 20 percentage points for cigarettes or smokeless tobacco, then the Secretary shall determine, on a brand-by-brand basis, using data that reflects a 1999 baseline, which tobacco product manufacturers are responsible within the 2 categories of tobacco products for the excess. The Secretary may commence an action under this section against the tobacco product manufacturer or manufacturers of the brand or brands of cigarettes or smokeless tobacco products for which the non-attainment percentage exceeded 20 percentage points.

(b) Procedures.—Any action under this section shall be commenced by the Secretary in the United States District Court for the District of Columbia within 90 days after publication in the Federal Register of the determination that the non-attainment percentage for the tobacco product in question is greater than 20 percentage points. Any such action shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code.

(c) Determination by Court.—In any action under this section, the court shall determine whether a tobacco product manufacturer has shown, by a preponderance of the evidence that it—

(1) has complied substantially with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, or of any Federal or State laws regarding underage tobacco use;

(2) has not taken any material action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(3) has used its best efforts to reduce underage tobacco use to a degree at least equal to the required percentage reductions.

(d) Removal of Annual Aggregate Payment Limitation.—Except as provided in subsections (e) and (g), if the court determines that a tobacco product manufacturer has failed to make the showing described in subsection (c) then sections 1411 and 1412 of this Act do not apply to the enforcement against, or the payment by, such tobacco product manufacturer of any judgment or settlement that becomes final after that determination is made.

(e) DEFENSE.—An action under this section shall be dismissed, and subsection (d) shall not apply, if the court finds that the Secretary's determination under subsection (a) was unlawful under subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code. Any judgments paid under section 1412 of this Act prior to a final judgment determining that the Secretary's determination was erroneous shall be fully credited, with interest, under section 1412 of this Act.

(f) REVIEW.—Decisions of the court under this section are reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party. The applicability of subsection (d) shall be stayed during the pendency of any such petition or review.

(g) CONTINUING EFFECT.—Subsection (d) shall cease to apply to a tobacco product manufacturer found to have engaged in conduct described in subsection (c) upon the later of—

(1) a determination by the Secretary under section 201 after the commencement of action under subsection (a) that the non-attainment percentage for the tobacco product in question is 20 or fewer percentage points; or

(2) a finding by the court in an action filed against the Secretary by the manufacturer, not earlier than 2 years after the determination described in subsection (c) becomes final, that the manufacturer has shown by a preponderance of the evidence that, in the period since that determination, the manufacturer—

(A) has complied with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, and of any other applicable Federal, State, or local laws, rules, or regulations;

(B) has not taken any action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(C) has used its best efforts to attain the required percentage reduction for the tobacco product in question.

A judgment or settlement against the tobacco product manufacturer that becomes final after a determination or finding described in paragraph (1) or (2) of this subsection is not subject to subsection (d). An action under paragraph (2) of this subsection shall be commenced in the United States District Court for the District of Columbia, and shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code. A decision by the court under paragraph (2) of this subsection is reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party, and the decision shall be stayed during the pendency of the petition or review. A determination or finding described in paragraph (1) or (2) of this subsection does not limit the Secretary's authority to bring a subsequent action under this section against any tobacco product manufacturer or the applicability of subsection (d) with respect to any such subsequent action.

SEC. 1410. PUBLIC HEALTH EMERGENCY.

If the Secretary, in consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health determines at any time that a tobacco product manufacturer's actions or inactions with respect to its compliance with the Act are of such a nature as to create a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the Secretary may bring an action under section 1409 seeking the immediate suspension of the tobacco product manufacturer's annual limitation cap on civil judgments. If the court determines that the Secretary has proved by clear and convincing evidence that the subject manufacturer's actions or inactions are of such a nature that they present a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the court may suspend the subject manufacturer's annual limitation cap on civil judgments.

SEC. 1411. TOBACCO CLAIMS BROUGHT AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.

(a) PERMISSIBLE DEFENDANTS.—In any civil action to which this title applies, tobacco claims may be filed or maintained only against—

(1) a participating tobacco product manufacturer; or

(2) a surviving entity established by a participating tobacco product manufacturer.

(b) ACTIONS INVOLVING PARTICIPATING AND NON-PARTICIPATING MANUFACTURERS.—In any civil action involving both a tobacco claim against a participating tobacco product manufacturer based in whole or in part upon conduct occurring prior to the date of enactment of this Act and a claim against 1 or more non-participating tobacco product manufacturers, the court, upon application of a participating tobacco product manufacturer, shall require the jury to or shall itself apportion liability as between the participating tobacco product manufacturer and non-participating tobacco product manufacturers.

SEC. 1412. PAYMENT OF TOBACCO CLAIM SETTLEMENTS AND JUDGMENTS.

(a) IN GENERAL.—Except as provided in this section, any judgment or settlement in any civil action to which this subtitle applies shall be subject to the process for payment of judgments and settlements set forth in this section. No participating tobacco product manufacturer shall be obligated to pay a judgment or settlement on a tobacco claim in any civil action to which this title applies except in accordance with this section. This section shall not apply to the portion, if any, of a judgment that imposes punitive damages based on any conduct that—

(1) occurs after the date of enactment of this Act; and

(2) is other than the manufacture, development, advertising, marketing, or sale of tobacco products in compliance with this Act and any agreement incident thereto.

(b) REGISTRATION WITH THE SECRETARY OF THE TREASURY.—

(1) The Secretary shall maintain a record of settlements, judgments, and payments in civil actions to which this title applies.

(2) Any party claiming entitlement to a monetary payment under a final judgment or final settlement on a tobacco claim shall register such claim with the Secretary by filing a true and correct copy of the final judgment or final settlement agreement with the Secretary and providing a copy of such filing to all other parties to the judgment or settlement.

(3) Any participating tobacco product manufacturer making a payment on any final judgment or final settlement to which this section applies shall certify such payment to the Secretary by filing a true and correct copy of the proof of payment and a statement of the remaining unpaid portion, if any, of such final judgment or final settlement with the Secretary and shall provide a copy of such filing to all other parties to the judgment or settlement.

(c) LIABILITY CAP.—

(1) IN GENERAL.—The aggregate payments made by all participating tobacco product manufacturers in any calendar year may not exceed $8,000,000,000.

(2) IMPLEMENTATION.—The Secretary shall initiate a rulemaking within 30 days after the date of enactment of this Act to establish a mechanism for implementing this subsection in such a way to ensure the fair and equitable payment of final judgments or final settlements on tobacco claims under this title. Amounts not payable because of the application of this subsection, shall be carried forward and paid in the next year, subject to the provisions of this subsection.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The amount in paragraph (1) shall be increased annually, beginning with the second calendar year beginning after the date of enactment of this Act, by the greater of 3 percent or the annual increase in the CPI.

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(d) INJUNCTIVE RELIEF.—A participating tobacco product manufacturer may commence an action to enjoin any State court proceeding to enforce or execute any judgment or settlement where payment has not been authorized under this section. Such an action shall arise under the laws of the United States and may be commenced in the district court of the United States for the district in which the State court proceeding is pending.

(e) JOINT AND SEVERAL LIABILITY.—All participating tobacco product manufacturers shall be jointly and severally liable for, and shall enter into an agreement to apportion among them, any amounts payable under judgments and settlements governed by this section arising in whole or in part from conduct occurring prior to the date of enactment of this Act.

(f) BANKRUPTCY OF PARTICIPATING MANUFACTURER.—No participating tobacco product manufacturer shall cease operations without establishing a surviving entity against which a tobacco claim may be brought. Any obligation, interest, or debt of a participating, tobacco product manufacturer arising under such liability apportionment agreement shall be given priority and shall not be rejected, avoided, discharged, or otherwise modified or diminished in a proceeding, under title 11, United States Code, or in any liquidation, reorganization, receivership, or other insolvency proceeding under State law. A trustee or receiver in any proceeding under title 11, United States Code, or in liquidation, reorganization, receivership, or other insolvency proceeding under State law, may avoid any transfer of an interest of the participating tobacco product manufacturer, or any obligation incurred by such manufacturer, that was made or incurred on or within 2 years before the date of the filing of a bankruptcy petition, if such manufacturer made such transfer or incurred such obligation to hinder or defeat in any fashion the payment of any obligation, interest, or debt of the manufacturer arising under the liability apportionment agreement. Any property vesting in the participating tobacco product manufacturer following such a proceeding shall be subject to all claims and interest of creditors arising under the liability apportionment agreement.

(g) Limitation on State Courts.—No court of any State, Tribe, or political subdivision of a State may take any action to inhibit the effective operation of subsection (c).

SEC. 1413. ATTORNEYS' FEES AND EXPENSES.

(a) Arbitration Panel.—

(1) Right to establish.—For the purpose of awarding of attorneys' fees and expenses relating to litigation affected by, or legal services that, in whole or in part, resulted in or created a model for programs in, this Act, and with respect to which litigation or services the attorney involved is unable to agree with the plaintiff who employed that attorney with respect to any dispute that may arise between them regarding the fee agreement, the matter at issue shall be submitted to arbitration. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

(2) Operation.—Not later than 30 days after the date on which all members of an arbitration panel are appointed under paragraph (1), the panel shall establish the procedures under which the panel will operate which shall include—

(A) a requirement that any finding by the arbitration panel must be in writing and supported by written reasons;

(B) procedures for the exchanging of exhibits and witness lists by the various claimants for awards;

(C) to the maximum extent practicable, requirements that proceedings before the panel be based on affidavits rather than live testimony; and

(D) a requirement that all claims be submitted to an arbitration panel not later than 3 months after the date of this Act and a determination made by the panel with respect to such claims not later than 7 months after such date of enactment.

(3) Right to petition.—Any individual attorney or group of attorneys involved in litigation affected by this Act shall have the right to petition an arbitration panel for attorneys' fees and expenses.

(4) Criteria.—In making any award under this section, an arbitration panel shall consider the following criteria:

(A) The time and labor required by the claimant.

(B) The novelty and difficulty of the questions involved in the action for which the claimant is making a claim.

(C) The skill requisite to perform the legal service involved properly.

(D) The preclusion of other employment by the attorney due to acceptance of the action involved.

(E) Whether the fee is fixed or a percentage.

(F) Time limitations imposed by the client or the circumstances.

(G) The amount involved and the results obtained.

(H) The experience, reputation, and ability of the attorneys involved.

(I) The undesirability of the action.

(J) Such other factors as justice may require.

(5) Appeal and enforcement.—The findings of an arbitration panel shall be final, binding, nonappealable, and payable within 30 days after the date on which the finding is made public, except that if an award is to be paid in installments, the first installment shall be payable within such 30 day period and succeeding installments shall be paid annually thereafter.

(b) Validity and Enforceability of Private Agreements.—Notwithstanding any other provision of this Act, nothing in this section shall be construed to abrogate or restrict in any way the rights of any parties to mediate, negotiate, or settle any fee or expense disputes or issues to which this section applies, or to enter into private agreements with respect to the allocation or division of fees among the attorneys party to any such agreement.

(c) Offset for Amounts Already Paid.—In making a determination under this section with regard to a dispute between a State that pursued independent civil action against tobacco product manufacturers and its attorney, the arbitration panel shall take into account any amounts already paid by the State under the agreement in dispute.

SEC. 1414. EFFECT OF COURT DECISIONS.

(a) Severability.—If any provision of titles I through XIII, or the application thereof to any person, manufacturer or circumstance, is held invalid, the remainder of the provisions of those titles, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) Nonseverability.—If a court of competent jurisdiction enters a final decision substantially limiting or impairing the essential elements of title XIV, specifically the requirements of sections 1404 and 1405, then the provisions of section 1412 are null and void and of no effect.

SEC. 1415. CRIMINAL LAWS NOT AFFECTED.

Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors or their directors, officers, employees, successors, or assigns.

SEC. 1416. CONGRESS RESERVES THE RIGHT TO ENACT LAWS IN THE FUTURE.

The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress in accordance with the provisions of Article I of the Constitution of the United States and more than 200 years of history.

SEC. 1417. DEFINITIONS.

In this title:

(1) Terms defined in title vii.—Any term used in this title that is defined in title VII has the meaning given to it in title VII.

(2) Additional definitions.—

(A) Addiction claim; dependence claim.—The term "addiction claim" or "dependence claim" refers only to any cause of action to the extent that the prayer for relief seeks a cessation program, or other public health program that is to be available to members of the general public and is designed to reduce or eliminate the users' addiction to, or dependence on, tobacco products, and as used herein is brought by those who claim the need for nicotine reduction assistance. Neither addiction or dependence claims include claims related to or involving manifestation of illness or tobacco-related diseases.

(B) Compensatory damages.—The term "compensatory damages" refers to those damages necessary to reimburse an injured party, and includes actual, general, and special damages.

(C) Protocol.—The term "protocol" means the agreement to be entered into by the Secretary of Health and Human Services with participating tobacco product manufacturers under this title.

(D) Punitive damages.—The term "punitive damages" means damages in addition to compensatory damages having the character of punishment or penalty.

(E) Secretary.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

JEFFORDS (AND OTHERS) AMENDMENT NO. 2715

Mr. JEFFORDS (for himself, Mr. Harkin, Mr. Leahy, Mr. Moynihan, and Mr. Allard) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 21, lines 2 and 3, strike "$699,836,000, to remain available until October 1, 2000, of which" and insert "$758,854,000, to remain available until October 1, 2000, of which not less than $3,860,000 shall be available for solar building technology research, not less than $72,966,000 shall be available for photovoltaic energy systems, not less than $21,617,500 shall be available for solar thermal energy systems (of which not less than $3,000,000 shall be available for the dish/engine field verification initiative), not less than $35,750,000 shall be available for power systems in biomass/biofuels energy systems, not less than $41,083,500 shall be available for transportation in biomass/biofuels energy systems (of which not less than $3,000,000 shall be available to fund the Consortium for Plant Biotechnology Research), not less than $38,265,000 shall be available for wind energy systems, not less than $4,000,000 shall be available for the renewable energy production incentive program, not less than $7,000,000 shall be available for solar program support, not less than $5,087,000 shall be available for the international solar energy program, not less than $680,000 shall be available for solar technology transfer, not less than $5,000,000 shall be available for the National Renewable Energy Laboratory, not less than $31,250,000 shall be available for geothermal technology development, not less than $5,000,000 shall be available for the Federal building/Remote power initiative, not less than $16,325,500 shall be available for program direction,".

On page 36, between lines 13 and 14, insert the following:

SEC. 3 OFFSETTING REDUCTIONS.

Each amount made available under the headings "NON-DEFENSE ENVIRONMENTAL MANAGEMENT", "URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND", "SCIENCE", and "DEPARTMENTAL ADMINISTRATION" under the heading "Energy Programs" and "CONSTRUCTION, REHABILITATION, OPERATION and MAINTENANCE, WESTERN AREA POWER ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)" under the heading "Power Marketing Administrations" is reduced by 1.586516988447 percent.

Prior year balances may not be reduced if they are obligated under an existing written agreement or contract to laboratories, universities or industry.

Appropriate use of funds to support meetings and technical conferences are allowed consistent with DOE's mission.

Funding increases for this amendment are for cost-shared RD&D, deployment, and technology transfer via technical and trade associations and allied non-governmental organizations.

COATS (AND LEVIN) AMENDMENT NO. 2716

Mr. COATS (for himself and Mr. Levin) proposed an amendment to the bill, S. 2138, supra; as follows:

At the end, add the following:

TITLE II—INTERSTATE WASTE

SEC. 201. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following:

“SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

“(a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

“(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(C) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

“(3)(A) Except as provided in paragraph (4), any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing State as follows:

“(i) In calendar year 1999, 95 percent of the amount exported to the State in calendar year 1993.

“(ii) In calendar years 2000 through 2005, 95 percent of the amount exported to the State in the previous year.

“(iii) In calendar year 2006, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

“(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.

“(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste more than the following amounts of municipal solid waste:

“(I) In calendar year 1999, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

“(II) In calendar year 2000, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1999.

“(III) In calendar year 2001, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 2000.

“(IV) In calendar year 2002, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 2001.

“(V) In calendar year 2003, 1,000,000 tons.

“(VI) In calendar year 2004, 750,000 tons.

“(VII) In calendar year 2005 or any calendar year thereafter, 550,000 tons.

“(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

“(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

“(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

“(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities and the Governor of the importing State may only apply subparagraph (A) or (B) but not both.

“(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(C).

“(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

“(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

“(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

“(A) shall be applicable throughout the State;

“(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

“(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall be applied to all States in violation of paragraph (3).

“(6) ANNUAL STATE REPORT.—

“(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year, and the amount of waste that was received pursuant to host community agreements or permits authorizing receipt of out-of-State municipal solid waste. Within 120 days after enactment of this section and on May 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

“(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste. States making submissions referred to in this section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.

“(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste. The list for any calendar year shall be published by June 1 of the following calendar year.

For purposes of developing the list required in this section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this section, nor to verify data provided by the States pursuant to this section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this section shall be final and not subject to judicial review.

“(D) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

“(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action to enter into a host community agreement after the date of enactment of this subsection shall, prior to taking such action—

“(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

“(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

“(C) provide an opportunity for public comment; and

“(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

“(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

“(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

“(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

“(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

“(D) A description of environmental controls to be utilized at the facility.

“(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

“(F) A list of all required Federal, State, and local permits.

“(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

"(H) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(b) Exceptions to Authority To Prohibit Out-of-State Municipal Solid Waste.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

"(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

"(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

"(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

"(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

"(c) Additional Authority To Limit Out-of-State Municipal Solid Waste.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

"(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

"(A) that is permitted under Federal or State law;

"(B) that is identified under the State plan; and

"(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

"(d) Cost Recovery Surcharge.—

"(1) Authority.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

"(2) Applicability.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

"(3) Limitation.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

"(4) Amount of surcharge.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1.00 per ton of waste.

"(5) Use of surcharge collected.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

"(6) Conditions.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under clause (i) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax paid to the State or its political subdivision or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(7) Definitions.—As used in this subsection:

"(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

"(B) The term 'processing' means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

"(e) Savings Clause.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts; or

"(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period: *Provided*, That such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

"(f) Definitions.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

"(i) the public body created by State law with responsibility to plan for municipal solid waste management, a majority of the members of which are elected officials, for the area in which the facility is located or proposed to be located; or

"(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

"(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

"(ii) If a Governor fails to make and publish notice of such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

"(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

"(2) Host community agreement.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State waste is also included.

"(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is inconsistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States. Notwithstanding any other provision of law, generators of municipal solid waste outside the United States shall possess no greater right of access to disposal facilities in a State than United States generators of municipal solid waste outside of that State.

"(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company in which the generator of the waste has an ownership interest;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

"(6) The terms 'specifically authorized' and 'specifically authorizes' refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to any place of origin, reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources outside the State.

"(g) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal solid waste.".

SEC. 202. NEEDS DETERMINATION.

The Governor of a State may accept, deny or modify an application for a municipal solid waste management facility permit if—

(1) it is done in a manner that is not inconsistent with the provisions of this section;

(2) a State law enacted in 1990 and a regulation adopted by the Governor in 1991 specifically requires the permit applicant to demonstrate that there is a local or regional need within the State for the facility; and

(3) the permit applicant fails to demonstrate that there is a local or regional need within the State for the facility.

DASCHLE AMENDMENT NO. 2717

Mr. DOMENICI (for Mr. DASCHLE) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 9, line 3, after "expended," insert "of which $460,000 may be made available for the Omaha District to pay pending takings claims for flooding of property adjacent to the Missouri River caused by actions taken by the Army Corps of Engineers, of which $2,540,000 shall be available for the project on the Missouri River between Fort Peck Dam and Gavins Point in South Dakota and Montana, under section 9(f) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (102 Stat. 4031)".

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 2718

Mr. DOMENICI (for Mr. LAUTENBERG, for himself and Mr. TORRICELLI) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 8, line 9, add the following before the period:

": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $500,000 of funds appropriated herein to continue construction of the Joseph G. Minish Passaic River waterfront park and historic area, New Jersey project".

LEVIN (AND GLENN) AMENDMENT NO. 2719

Mr. DOMENICI (for Mr. LEVIN, for himself and Mr. GLENN) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 8, line 9, before the period at the end insert ": *Provided further*, That of amounts made available by this Act for project modifications for improvement of the environment under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), $500,000 may be made available for demonstration of sediment remediation technology under section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644)".

BIDEN AMENDMENT NO. 2720

Mr. DOMENICI (for Mr. BIDEN) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 27, line 21, delete "." and insert in lieu thereof the following:

": *Provided further*, That of the amount appropriated herein $30,000,000 is to be available for the Initiatives for Proliferation Prevention program: *Provided further*, That of the amount appropriated herein $30,000,000 shall be available for the purpose of implementing the 'nuclear cites' initiative pursuant to the discussions of March 1998 between the Vice President of the United States and the Prime Minister of the Russian Federation and between the U.S. Secretary of Energy and the Minister of Atomic Energy of the Russian Federation."

LEVIN AMENDMENT NO. 2721

Mr. DOMENICI (for Mr. LEVIN) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 8, line 9, insert the following before the period:

": *Provided further*, That the Secretary of the Army may make available $100,000 for the Belle Isle Shoreline Erosion Protection, Michigan project; $100,000 for the Riverfront Towers to Renaissance Center Shoreline Protection, Michigan project; and $200,000 for the Great Lakes Basin, Sea Lamprey Control, Section 206, Michigan, project".

REID AMENDMENT NO. 2722

Mr. DOMENICI (for Mr. REID) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 22, line 19, insert the following before the period:

": *Provided further*, That $500,000 of the unobligated balanced may be applied to the identification of trace element isotopes in environmental samples at the University of Nevada-Las Vegas".

CLELAND AMENDMENT NO. 2723

Mr. DOMENICI (for Mr. CLELAND) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 3, line 8, insert the following before the period:

": *Provided further*, That the Secretary of the Army may make available $500,000 for the Atlanta Watershed, Atlanta, Georgia project".

LEVIN (AND GLENN) AMENDMENT NO. 2724

Mr. DOMENICI (for Mr. LEVIN, for himself and Mr. GLENN) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 10, line 7, before the period insert ", of which $250,000 may be made available to support the National Contaminated Sediment Task Force established by section 502 of the Water Resources Development Act of 1992 (33 U.S.C. 1271 note; Public Law 102-580)".

DASCHLE AMENDMENT NO. 2725

Mr. DOMENICI (for Mr. REID) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 22, line 14, strike: "$2,669,560,000" and replace it with "$2,676,560,000".

DORGAN (AND CONRAD) AMENDMENT NO. 2726

Mr. DOMENICI (for Mr. DORGAN, for himself and Mr. CONRAD) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 18, line 2 insert the following after the period:

": *Provided further*, That the Secretary of the Interior shall waive the scheduled annual payments for fiscal years 1998 and 1999 under section 208 of Public Law 100-202 (101 Stat. 1329-118)".

And on page 16, line 16 strike: "$697,919,000" and insert: "$697,669,000".

MURRAY (AND GORTON) AMENDMENT NO. 2727

Mr. DOMENICI (for Mrs. MURRAY, for herself and Mr. GORTON) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 21, line 19: strike "$456,700,000, to remain available until expended." and insert "424,600,000, to remain available until expended."

ENERGY SUPPLY

On page 21, line 2 strike "motor vehicles for replacement only, $699,836,000, to re-" and insert "motor vehicles for replacement only, 699,864,000, to re-"

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

BURNS (AND OTHERS) AMENDMENT NO. 2728

(Ordered to lie on the table.)

Mr. BURNS (for himself, Mrs. MURRAY, Mr. STEVENS, Mr. BYRD, and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 324, below line 14, add the following:

SEC. 2705. AUTHORIZATION OF ADDITIONAL MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS.

(a) ADDITIONAL ARMY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Kansas	Fort Riley	$16,500,000
Kentucky	Fort Campbell	$15,500,000
Maryland	Fort Detrick	$7,100,000
New York	Fort Drum	$7,000,000
Texas	Fort Sam Houston	$5,500,000
Virginia	Fort Eustis	$4,650,000
	Fort Meyer	$6,200,000

(b) ADDITIONAL ARMY CONSTRUCTION PROJECT OUTSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(b), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out the military construction project for the location outside the United States, and in the amount, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Korea	Camp Casey	$8,000,000

(c) IMPROVEMENT OF ARMY FAMILY HOUSING AT WHITE SANDS MISSILE RANGE, NEW MEXICO.—In addition to the projects authorized by section 2103, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), as increased by subsection (d), the Secretary of the Army may also improve existing military family housing units (36 units) at White Sands Missile Range, New Mexico, in an amount not to exceed $3,650,000.

(d) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, ARMY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2104(a) is hereby increased by $74,100,000.

(2) The amount authorized to be appropriated by section 2104(a)(1) is hereby increased by $62,450,000.

(3) The amount authorized to be appropriated by section 2104(a)(2) is hereby increased by $8,000,000.

(4) The amount authorized to be appropriated by section 2104(a)(5)(A) is hereby increased by $3,650,000.

(e) ADDITIONAL NAVY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2201(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), as increased by subsection (g), the Secretary of the Navy may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Florida	Naval Station, Mayport	$3,400,000
Maine	Naval Air Station, Brunswick	$15,220,000
Pennsylvania	Naval Inventory Control Point, Mechanisburg.	$1,600,000
	Naval Inventory Control Point, Philadelphia.	$1,550,000
South Carolina	Marine Corps Recruit Depot, Parris Island.	$8,030,000

(f) IMPROVEMENT OF NAVY FAMILY HOUSING AT WHIDBEY ISLAND NAVAL AIR STATION, WASHINGTON.—In addition to the projects authorized by section 2203, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), as increased by subsection (g), the Secretary of the Navy may also improve existing military family housing units (80 units) at Whidbey Island Naval Air Station, Washington, in an amount not to exceed $5,800,000.

(g) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, NAVY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2204(a) is hereby increased by $35,600,000.

(2) The amount authorized to be appropriated by section 2204(a)(1) is hereby increased by $29,800,000.

(3) The amount authorized to be appropriated by section 2204(a)(5)(A) is hereby increased by $5,800,000.

(h) ADDITIONAL AIR FORCE CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2301(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), as increased by subsection (k), the Secretary of the Air Force may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Colorado	Falcon Air Force Station	$5,800,000
Georgia	Robins Air Force Base	$6,000,000
Louisiana	Barksdale Air Force Base	$9,300,000
North Dakota	Grand Forks Air Force Base	$8,800,000
Ohio	Wright-Patterson Air Force Base	$4,600,000
Texas	Goodfellow Air Force Base	$7,300,000
Wyoming	F.E. Warren Air Force Base	$3,850,000

(i) CONSTRUCTION AND ACQUISITION OF AIR FORCE FAMILY HOUSING.—In addition to the projects authorized by section 2302(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also construct or acquire family housing units (including land acquisition) at the installation, for the purpose, and in the amount set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Montana	Malmstrom Air Force Base	62 Units	$12,300,000

(j) IMPROVEMENT OF AIR FORCE FAMILY HOUSING.—In addition to the projects authorized by section 2303, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also improve existing military family housing units as follows:

(1) Travis Air Force Base, California, 105 units, in an amount not to exceed $10,500,000.

(2) Moody Air Force Base, Georgia, 68 units, in an amount not to exceed $5,220,000.

(3) McGuire Air Force Base, New Jersey, 50 units, in an amount not to exceed $5,800,000.

(4) Seymour Johnson Air Force Base, North Carolina, 95 units, in an amount not to exceed $10,830,000.

(k) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, AIR FORCE MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2304(a) is hereby increased by $90,300,000.

(2) The amount authorized to be appropriated by section 2304(a)(1) is hereby increased by $45,650,000.

(3) The amount authorized to be appropriated by section 2304(a)(5)(A) is hereby increased by $44,650,000.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

DASCHLE AMENDMENT NO. 2729

Mr. DASCHLE proposed an amendment to the bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Programs for fiscal year ending September 30, 1999, and for other purposes; as follows:

[See text of amendment No. 2714 on pages S6581–S6627 of today's RECORD.]

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a full committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 25, 1998 at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of William L. Massey to be a member of the Federal Energy Regulatory Committee.

For further information, please contact Gary Ellsworth of the Committee staff at (202) 224–7141.

SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing entitled "The Safety of Food Imports: From the Farm to the Table—A Case Study of Tainted Imported Fruit." This hearing is the second in a series of hearings the Subcommittee has scheduled as part of an in-depth investigation into the safety of food imports. The hearing will be a case study of an outbreak of Cyclospora associated with fresh raspberries imported into the United States from Central America. The outbreak of Cyclospora occurred in over 20 states across the country in 1996 and in 1997.

This hearing will take place on Thursday, July 9, 1998, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the Subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 17, and Thursday, June 18, 1998, to conduct a hearing on H.R. 10, the Financial Services Act of 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. JEFFORDS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, June 18, 1998 beginning at 10:00 a.m., in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, June 18, 1998, at 10:00 a.m., in room 226, of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 18, 1998 at 2:00 p.m., in room 226 of the Senate Dirksen Office Building to hold a hearing on "Judicial Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources and the House Commerce, Subcommittee on Health and Environment be authorized to meet for a hearing on "Putting Patients First: resolving the Allocation of Transplant Organs" during the session of the Senate on Thursday, June 18, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 18, 1998, at 10:00 am to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. JEFFORDS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, June 18, 1998 at 2:00 p.m. for a hearing on "The Adequacy of Commerce Department Satellite Export Controls."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on National parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 18, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 469, a bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers Act; S. 1016, a bill to authorize appropriations for the Coastal Heritage Trail Route in New Jersey, and for other purposes; S. 1665, a bill to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, and for other purposes; S. 2039, a bill to amend the National Trails System Act to designate El Camino Real Tierra Adentro as a National Historic Trail; and H.R. 2186, a bill to authorize the Secretary of the Interior to provide assistance to the National Trails Interpretive Center in Casper, Wyoming.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Caucus on International Narcotics Control be authorized to meet during the session of the Senate on Thursday, June 18 at 2:00 p.m. to receive testimony on the U.S. Efforts in International Demand Reduction Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

• Mr. SMITH of New Hampshire. Mr. President, later this year, under the so-called Brady Law, the National Instant Criminal Background Check System (NICS) will go into effect. The purpose of NICS is to prevent the purchase of guns by persons who are prohibited from owning firearms.

Pursuant to the Privacy Act of 1974, on June 4, 1998, the United States Department of Justice published in the Federal Register a notice of its intention to establish a new system of records with respect to NICS to be maintained by the Federal Bureau of Investigation.

I am particularly concerned about the statement in the Justice Department's June 4 notice that states that "[i]n cases where the NICS background check does not locate a disqualifying record, information about the individual will only be retained temporarily for audit purposes and will be destroyed after eighteen months."

It seems to me, Mr. President, that there is no reason whatever why the FBI would need to retain private information on a law-abiding citizen for any time at all, let alone for eighteen months, after that person has been determined not to be someone who is prohibited by law from owning a firearm. Any legitimate "audit purposes" could certainly be addressed without retaining such private information on file at the FBI.

Mr. President, later this year the Senate will be considering the Fiscal Year 1998 appropriations bill for the Commerce, Justice, and State Departments, the Judiciary, and related agencies. It is my intention to introduce an amendment to that bill as soon as it is reported to the Senate by the Committee on Appropriations. The text of my amendment will be as follows:

"None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); provided, that any person aggrieved by a violation of this provision may bring an action in the federal district court for the district in which the person resides; provided, further, that any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee."

I am taking the unusual step of notifying the Senate of my intention to offer this amendment in the hope that the Committee on Appropriations will consider including my proposed language in the Commerce, Justice, State, and the Judiciary appropriations bill when it is reported to the Senate.•

HONORING CROSS STREET A.M.E. ZION CHURCH ON ITS 175TH ANNIVERSARY

• Mr. DODD. Mr. President, I rise today to pay tribute to Cross Street African Methodist Episcopal Zion Church on the occasion of its 175th anniversary. This church, located in Middletown, Connecticut, has been a beacon of spiritual guidance in the community for many generations. In fact, Cross Street is the second oldest A.M.E. Zion Church in Connecticut and the seventh oldest in the world.

The church's tradition of moral leadership and service to its community dates back to its earliest years. The Reverend Jehiel Beamon, the son of a former slave from Colchester, Connecticut, was the first pastor at the church. Not only was he a leader within the church, but he was also an active abolitionist who helped found the Middletown Anti-Slavery Society. He was also president of the Connecticut State Convention of Colored Men, which worked to secure voting rights for African-Americans. Due to his involvement and activities in the community, this church was called "The Freedom Church" by many people.

Since that time, the church has been rebuilt and it has also moved. But while it has undergone physical changes, there has never been any wavering in the importance that this church holds for its congregation and surrounding community.

In the church's written history, it is said that "the sole purpose for the church's formation was to secure a place for people of color to worship freely." But Cross Street A.M.E. Zion Church has become far more than simply a place of worship.

The members of Cross Street A.M.E. Zion have carried their message of hope beyond the church's walls and into the neighboring community. They are helping people in and around Middletown to deal with the difficult social problems of the modern day. They have initiated various projects to deal with issues ranging from homelessness to HIV. The people of Cross Street A.M.E. Zion Church are acting on their faith and they are reaching out to those in need to make their community a better place to live.

This past April, I had the opportunity to attend Cross Street A.M.E. Zion Church for its Palm Sunday services. I was struck by the deep sense of faith and hope among the congregation, and I was pleased to share in their worship on that day. I offer my heartfelt congratulations to the Cross Street A.M.E. Zion Church on its 175th anniversary. Theirs has been a very rich history, and I hope that the church will continue to play a positive role in the lives of its congregation and surrounding community for many years to come.•

RELEASE OF A NEW GAO REPORT PRIVATE HEALTH INSURANCE: DECLINING EMPLOYER COVERAGE MAY AFFECT ACCESS FOR 55- TO 64-YEAR-OLDS

• Mr. JEFFORDS. Mr. President, as the Chairman of the Committee on Labor and Human Resources, I have closely monitored Americans' access to health insurance coverage in order to have a better understanding of the trends and underlying causes of declining coverage. Today, I am releasing a new U.S. General Accounting Office (GAO) report, entitled Private Health Insurance: Declining Employer Coverage May Affect Access for 55- to 64-Year-Olds (GAO/HEHS-98-133). This report examines access of the "near elderly" population to employer-based and individually purchased private insurance. Specifically, the report discusses the employment, income, health, and health insurance status of the near elderly, their ability to obtain employer-based health insurance if they retire before becoming eligible for Medicare, and their health insurance coverage through the individual market or employer-based continuation insurance. The findings of this report will be the focus of a Labor Committee hearing scheduled for June 25, 1998.

This report and the related hearing have been prompted by a growing concern that several factors may converge to create the situation where a large number of 55- to 64-year-old Americans could lose, or have to pay considerably more for, health insurance coverage. Access to affordable health insurance is especially critical for this population, since their health status is worse than that of any other age group except the elderly who have the guarantee of Medicare.

The near elderly population can be characterized as a group in transition. Their employment status, income, and health are all changing. The GAO reports that currently about 14 percent of the near elderly have no health insurance. Although this rate is lower than that of the nonelderly population in general, the GAO found several disturbing trends that could lead to a substantial increase in the numbers of near elderly without health insurance coverage. This would be especially problematic, since the near elderly have 25 percent lower median family incomes, but 45 percent higher health care expenses than younger age groups. The economic impact would be even greater when "baby boomers" join the near elderly, swelling their ranks from 21 million now, to 35 million by 2010.

Most of the near elderly acquire health insurance coverage from one of the same three sources as individuals in other age groups: their employers, the individual private insurance market, or the Government. The main difference between coverage for the near elderly and the elderly is that all elderly qualify for Medicare, but only those near elderly who are ill or disabled qualify for public benefits. The main difference between coverage for the near elderly and younger populations is that a larger proportion of the near elderly are covered by public programs or have individual coverage through the private market. The near elderly are more likely to be willing to purchase individual coverage than younger age groups, because they are more averse to the risk of high health care costs.

The two main factors contributing to the trend for more near elderly to become uninsured are the loss of employer-based coverage and the rising costs of individual insurance. The GAO reports that in 1996, 65 percent of the near elderly had employer-based insurance; but, despite the strong economy, this coverage is being eroded, particularly as the near elderly retire. Already the rate of health coverage offered by large employers to retirees has fallen faster than that of coverage for active employees, from an estimated 60 to 70 percent in the 1980s to less than 40 percent now. In addition, retirees are being asked to cover a larger share of the premiums. For example, in 1995, retirees contributed an average of $655 more for family coverage than did active workers. The higher costs have prompted some near elderly to drop coverage. The GAO reports that 27 percent of the 5.3 million retirees who discontinued employer-based benefits in 1994 cited expense as a factor.

Retirees also are finding that more employers are linking retirement health benefits to length of service. The GAO report cites the example of one company's requiring 35 years of service to qualify for the maximum employer contribution of 75 percent. This trend does not bode well for retirees who have changed jobs frequently.

The source of health insurance for the near elderly generally correlates with employment, health, and income status. The GAO reported that near elderly who had individual health insurance were more likely to be employed, be in good health, and have higher incomes than those on Medicare and Medicaid. The correlation is not absolute, however, because 20 percent of the uninsured had family incomes of more than $50,000 per year, and one-third of near elderly with individual insurance had incomes of less than $20,000. It should be noted that the latter figure may be misleading because this group may have less-expensive coverage, less-comprehensive benefits, or the income measured may not have included all of their resources.

In general, the near elderly are more likely than younger age groups to purchase insurance through the individual market if they lose employer-based coverage. Often, however, they find that they do not qualify because of preexisting conditions, or that the cost of individual coverage is prohibitive because premiums take into account the fact that this age group uses more medical services than younger age groups. The GAO found that premiums for individual coverage constituted 10 percent of the median family income for the married near elderly in Colorado, which is almost twice as much as the retiree share of employer-subsidized family coverage.

Some States have provisions guaranteeing access to some form of individual coverage, but in most States individual insurance for the near elderly is limited by exclusion of certain conditions or body parts, or denial of coverage. Chronic conditions that are common in this age group such as diabetes and heart disease, and even such non-life-threatening conditions as chronic back pain, may limit eligibility for coverage. Reform measures that have been considered or implemented to remedy these problems include initiatives to limit variation in premium rates; guarantees of certain products to all applicants; and State pools for those who have been rejected by at least one carrier. These measures have met with variable success. Overall, the GAO found that about 15 percent of all applicants were denied individual coverage, while many others were denied coverage for specific conditions.

Since 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) has provided temporary access to health insurance for individuals of all ages who leave the work force. COBRA may be particularly important to the near elderly before they become eligible for Medicare. It is attractive for continuation coverage, because its premiums reflect lower group coverage rates, and it does not exclude preexisting conditions. However, several factors limit the near elderly's ability to use COBRA benefits: It is available only to retirees whose employers have at least 20 employees and who offer health insurance benefits; it lasts for only 18 months; and it may not be affordable since employers do not provide contributions. It also is important to note that many people who could benefit from this program do not know about it.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) also guarantees that some people who leave group coverage have access to individual coverage and cannot be excluded for preexisting conditions. However, HIPAA has stringent eligibility requirements, depends on exhausting COBRA or other continuation benefits, and places no limits on the cost of premiums.

Before HIPAA was enacted, individuals usually relinquished COBRA before they had used up all of their benefits. The impact of HIPAA on the use of COBRA remains to be determined, but cost may prevent many near elderly from being able to afford to take advantage of either. The GAO reports that whereas one company paid almost the entire cost of health benefits for active employees, the COBRA cost ranged from about $5,600 to almost $8,000 per year for family coverage. This is a great deal of money, particularly for people who are taking advantage of the program because they are leaving the work force.

I believe the GAO report, Private Health Insurance: Declining Employer Coverage May Affect Access for 55- to 64-Year-Olds (GAO/HEHS-98-133), will be an important resource as Congress considers proposals to expand health insurance coverage.

Mr. President, I ask that excerpts of the executive summary of the report be printed in the Record.

The material follows:

Private Health Insurance Declining Employer Coverage May Affect Access for 55- to 64-Year-Olds

EXECUTIVE SUMMARY

Purpose

A series of age-related transitions heighten the importance of health insurance to 55- to 64-year-old (near elderly) Americans and could place them at greater risk of losing, or paying considerably more for, coverage. Too young to qualify for Medicare, many near elderly are considering retirement or gradually moving out of the workforce. These events may be related to worsening health, job displacement, or simply the desire for more leisure time. Since health insurance for most Americans is an employment-related benefit, retirement may necessitate looking for another source of affordable coverage. However, insurance purchased directly in the individual market or temporary continuation coverage purchased through an employer are typically expensive alternatives and may not always be available. Their affordability, moreover, may be exacerbated both by declining health and the reduction in income associated with retirement. For some near elderly, an alternative to retiring without insurance is simply to continue working.

The Chairman, Senate Committee on Labor and Human Resources, requested GAO to assess the ability of Americans aged 55 to 64 to obtain health benefits through the private market—either employer-based or individually purchased. In particular, he requested an examination of the available evidence on the near elderly's health, employment, income, and health insurance status; ability to obtain employer-based health insurance if they retire before becoming eligible for Medicare; and use of and costs associated with purchasing coverage through the individual market or employer-based continuation insurance.

To provide the Congress with information about the near elderly and their ability to obtain health insurance, GAO analyzed the March 1997 Current Population Survey (CPS), a source widely used by researchers; reviewed the literature on employer-based health benefits for early retirees; interviewed employers, benefit consultants, insurers, and other experts knowledgeable about retiree health issues and the individual insurance market; and updated information provided in previous GAO reports.

Background

Like most Americans, over 80 percent of the near elderly have access to some type of health insurance—either comprehensive or partial. Nevertheless, continued access to health insurance is a primary concern for some 55- to 64-year-olds who retire early or who lose access to employer-based coverage. First, Medicare is not generally available until one reaches age 65. Second, most Americans under age 65 rely on coverage provided by an employer—a link that may be severed by retirement, a voluntary reduction in hours, or job displacement. The existing alternatives to employer-based coverage for the near elderly are (1) individually purchased insurance, (2) temporary continuation coverage from a former employer, (3) public programs such as Medicare and Medicaid, and (4) becoming uninsured. Among those aged 55 to 64, Medicare or Medicaid are available only to the very poor or the disabled.

Some near elderly may encounter difficulty in obtaining comprehensive, affordable coverage through the individual market or in obtaining any health coverage at all. The high cost of individual insurance often mirrors the near elderly's greater use of medical services compared with younger age groups. Moreover, some individuals may be denied individual insurance because of preexisting health conditions. Retirees whose jobs provided health benefits that ended at retirement, however, may continue temporary coverage for up to 18 months under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Only firms with 20 or more employees who offer health insurance to active workers are required to provide COBRA continuation coverage. When available, COBRA coverage may entail substantial out-of-pocket costs, because the employer is not required to pay any portion of the premium. For eligible individuals leaving group coverage who exhaust any available COBRA or other conversion coverage, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) guarantees access to the individual market, regardless of health status and without coverage exclusions. The premiums faced by some individuals eligible for a HIPAA guaranteed access product, however, may be substantially higher than the prices charged to those in the individual market who are healthy.

Persons seeking an alternative to employer-based coverage may go through a common mental calculus in which health status and cost play a prominent role. For someone healthy, there are no access barriers to the individual market and the cost may be lower than COBRA, especially if he or she buys a policy with a higher deductible. For someone with a health condition who wants comprehensive coverage, the individual market may not be an option because of health screening by insurers—a process that can result in the denial of coverage or the exclusion of preexisiting conditions. However, COBRA, if available, has no such screening and should be more affordable than individually purchased insurance because of economies of scale and reduced administrative costs that result in lower premiums for group coverage. HIPAA's group-to-individual portability now provides a link between COBRA and the individual market for those who are eligible, but it is too early to judge the extent to which unhealthy consumers will utilize this option.

Results in Brief

Though the near elderly access health insurance differently than other segments of the under-65 population, their overall insurance picture is no worse and is better than that of some younger age groups. These differences, however, may not portend well for the future. Since fewer employers are offering health coverage as a benefit to future retirees, the proportion of near elderly with access to affordable health insurance could decline. The resulting increase in uninsured near elderly would be exacerbated by demographic trends, since 55- to 64-year-olds represent one of the fastest growing segments of the U.S. population.

The current insurance status of the near elderly is largely due to (1) the fact that many current retirees still have access to employer-based health benefits, (2) the willingness of near-elderly Americans to devote a significant portion of their income to health insurance purchased through the individual market, and (3) the availability of public programs to disabled 55- to 64-year-olds. Today, the individual market and Medicare and Medicaid for the disabled often mitigate declining access to employer-based coverage for near-elderly Americans and may prevent a larger portion of this age group from becoming uninsured. The steady decline in the proportion of large employers who offer health benefits to early retirees, however, clouds the outlook for future retirees. In the absence of countervailing trends, it is even less likely that future 55- to 64-year-olds will be offered health insurance as a retirement benefit, and those who are will bear an increased share of the cost. Although trends in employers' required retiree cost sharing are more difficult to decipher than the decisions of firms not to offer retiree health benefits, the effects may be just as troublesome for future retirees. Thus, some additional employers have tied cost sharing to years of service; consequently, retirees who changed jobs frequently may be responsible for most of the premium.

Moreover, access and affordability problems may prevent future early retirees who lose employer-based health benefits from obtaining comprehensive private insurance. The two principal private insurance alternatives are the individual market and COBRA continuation coverage. With respect to individual insurance, the cost may put it out of reach of some 55- to 64-year-olds—an age group whose health and income is in decline. For example, the premiums for popular health insurance products available in the individual markets of Colorado and Vermont are at least 10 percent and 8.4 percent, respectively, of the 1996 median family income for the married near elderly. In contrast, the average retiree contribution for employer subsidized family coverage is about one-half of these percentages. The near elderly who are in poorer health run the risk of paying even higher premiums, having less comprehensive coverage offered, or being denied coverage altogether. Thirteen states require insurers to sell some individual market products to all who apply, and about 20 states limit the variation among premiums that insurers may offer to individuals. GAO found that conditions such as chronic back pain and glaucoma are commonly excluded from coverage or result in higher premiums. Furthermore, significant variation exists among the states that limit premiums: A few require insurers to community-rate the coverage they sell—that is, all those covered pay the same premium—while other states allow insurers to vary premiums up to 300 percent or more.

COBRA is only available to retirees whose employers offer health benefits to active workers, and coverage is only temporary, ranging from 18 to 36 months. Information on the use of COBRA by Americans is spotty. Although 55- to 64-year-olds who become eligible for COBRA are more likely than younger age groups to enroll, the use of continuation coverage by early retirees appears to be relatively low. Since new federal protections under HIPAA—ensuring access to individual insurance for qualifying individuals who leave group coverage—hinge on exhausting COBRA, the incentives for enrolling and the length of time enrolled could change. Because employers generally do not contribute toward the premium, the cost of COBRA may be a factor in the low enrollment, even though similar coverage in the individual market may be more expensive. In 1997, the average insurance premium for employer-based coverage was about $3,800. However, there is significant variation in premiums due to firm size, benefit structure, locale, demographics, or aggressiveness in negotiating rates. For one company, total health plan premiums in 1996 for early retirees ranged from about $5,600 to almost $8,000 for family coverage. Since this firm paid the total cost of practically all of the health plans it offered to current workers, the COBRA cost would have come as a rude awakening to retirees . . .●

PROGRESS IN NIGERIA?

● Mr. FEINGOLD. Mr. President, I rise for the second time in less than two weeks to comment on the extraordinary events taking place in Nigeria.

Earlier this week, Nigeria's new leader, Gen. Abdulsalam Abubakar, released nine of the country's best known political prisoners. I welcome this step, with the hope that the release of these individuals demonstrates a commitment to enact true democratic reform in this troubled West African country.

These individuals include some of Nigeria's top political, labor and human rights leaders. For the record, I will list their names here.

General Olusegun Obassanjo (rt.), a former head of state and the only military leader to turn over power to a democratically elected civilian government and who has played a prominent role on the international stage as an advocate of peace and reconciliation. He had been sentenced following a secret trial that failed to meet international standard of due process over an alleged coup plot that has never been proven to exist.

Frank Kokori, Secretary General of the National Union of Petroleum and Natural Gas Workers (NUPENG). He was arrested in August 1994, although charges have never been filed.

Chris Anyanwu, Editor-in-Chief and publisher of The Sunday Magazine.

Human rights activist Dr. Beko Ransome-Kuti.

Milton Dabibi, Secretary General of the Petroleum and Natural Gas Senior Staff Association (PENGASSAN), who was arrested in January 1996 for leading demonstrations against the canceled 1993 elections and against government efforts to control the labor unions.

Politician Olabiyi Durojaye.

Former Sultan of Sokoto, Ibrahim Dasuki.

Former state governor Bola Ige.

Uwen Udoh, democracy campaigner.

Mr. President, these individuals have all played an important role in Nigeria, and were all arrested under circumstances that confirm our worst fears of the overarching power of the military in Nigeria. Their release is significant.

That said, I do not want to become overly enthusiastic about the situation in Nigeria. For despite this great gesture, hundreds of other political prisoners remain in detention—often without charge. Prominent among these remaining prisoners, is, of course Chief Moshood Abiola, presumed winner of the 1993 presidential election, who was thrown in jail on charges of treason. Whatever his role might be in any upcoming transition process, his release and some meaningful acknowledgment of his annulled mandate is key to that process.

On top of that, numerous repressive decrees remain in force, including the infamous State Security [Detention of Persons] Decree #2, which gives the military sweeping powers of arrest and detention. The existence of such decrees would allow the military to re-arrest any of the prisoners released this week at any time.

Mr. President, I recently introduced S. 2102, The Nigerian Democracy and Civil Society Empowerment Act of 1998, which calls on the United States to encourage the political, economic and legal reforms necessary to ensure the rule of law and respect for human rights in Nigeria and to aggressively support a timely and effective transition to democratic, civilian government for the people of Nigeria.

Among other policy initiatives, this bill establishes a set of benchmarks regarding the transition to democracy. These benchmarks include a call for the release of "individuals who have been imprisoned without due process or for political reasons."

The release this week of nine prisoners is a start. Let's hope Nigeria's new leader continues to implement policies that move the country in the right direction.

Nigeria's people deserve no less.

Mr. President, I ask to have printed in the RECORD a New York Times piece from June 17, 1998, that presents an excellent overview of the reaction inside Nigeria over Abubakar's actions.

The article follows:

[From the New York Times, June 17, 1998]

FOR NIGERIA'S LEADER, OFFENSE IS THE BEST DEFENSE

(By Howard W. French)

From the moment Gen. Abdulsalam Abubakar was selected last week to succeed the late ruler, Gen. Sani Abacha, Nigerians began speculating whether a reformist era might be at hand after years of ruinous dictatorship. After all, General Abubakar was long reputed to be a prim professional among Nigeria's politicized and immensely rich generals.

With his order on Monday to release a core group of the country's best-known political prisoners, including an internationally respected former head of state, General Abubakar sent the first clear signal of his intention to bring about an overhaul in the way his country is run, and more than that, conveyed a sense of urgency in the matter.

Though the general's position is precarious, Western diplomats and Nigerian analysts say he has decided to move decisively and not wait to consolidate his power. To delay, the say, would risk falling victim to powerful enemies at opposite extremes of his country's no-holds-barred politics.

"General Abubakar had no choice but to move forward if he wanted to salvage his country and protect himself," said one Western diplomat. "To have postponed making difficult decisions about democracy and prisoners, or to defer the issue of a transition to civilian rule, would have been to play the game of his enemies. The army would have devoured him itself, and failing that there would have been a major risk of a civilian uprising."

On one side, General Abubakar faces his own army, an institution whose top officers have grown fat on years of power, and many of whose younger leaders have climbed the rungs of power awaiting their turn at the trough.

As army chief of staff, General Abubakar had no direct command over the mechanized units that typically determine who holds or takes power in the country. Moreover, the new head of state had none of the huge personal wealth of his predecessors, having avoided the kinds of army jobs that allow top brass to dole out lucrative contracts to other officers, siphoning off kickbacks and purchasing staff loyalty.

On the other side, Nigeria's large and well-developed opposition was emboldened by the death of General Abachar, who had a reputation as the most iron-fisted leader his country of 105 million people had ever known.

And because General Abacha and his military predecessors had so regularly flouted their pledges to restore democracy or arrange a transition to civilian rule, General Abubakar could promise little that would make a dent in the distrust of a hardened political class.

For many veterans of Nigeria's democracy movement, the only acceptable tactic is to take on the army head on, and with the army divided, they feel the future is now.

People both inside the army and out say that General Abubakar's best hope—and decisive test—of engineering a transition to civilian rule is to work with the man believed to have won the country's only democratic election, in 1993, Moshood K. O. Abiola. The last military Government annulled the vote and threw Mr. Abiola in jail, where he remains.

In this scenario, General Abubakar would involve Mr. Abiola in negotiations aimed at easing the military out of power, in much the same way Nelson Mandela helped work out a soft landing for South Africa's apartheid rulers before his release from prison in 1990.

It is too early to say whether this hope will come about in Nigeria, and many hurdles remain.

General Abubakar's first gesture upon taking power, in an unusual post-midnight swearing in ceremony less than 24 hours after General Abacha's death, was to commit himself to his predecessor's previously declared but widely discounted deadline for an Oct. 1 handover to an elected civilian government.

Experts on the Nigerian military say that this pledge was intended more as a bid to outflank the army, whose powerful factions are known to oppose any democratic change, than as an effort to placate a deeply skeptical civilian opposition.

The new leader's second hurdle, these experts say, was to prevent a showdown with pro-democracy groups sworn to carry out a series of protests linked to the fifth anniversary last Friday of the elections apparently won by Mr. Abiola, a millionaire businessman from the south.

The opposition ignored calls to cancel Friday's demonstrations, but security forces were relatively restrained in putting the protests down, marking a sharp turn from the wanton brutality of the Abacha years.

With the threat of strife defused, General Abubakar then freed the former head of state—a retired general, Olusegun Obasanjo—and seven other prominent prisoners, buying international praise and a more forgiving attitude from the opposition.

"A clash between an overzealous army and the June 12 protesters would have badly undercut Abubakar," said Walter Carrington, a former American ambassador to Nigeria. "The restraint that the army showed and the subsequent release of the prisoners suggests strongly that the new leadership has gained control over hard-liners in the army. What we will likely see now is a progressive release of more and more political prisoners."

By far the country's most important political prisoner is Mr. Abiola, the jailed presidential candidate. And ultimately, both the opposition and much of the outside world's judgment of General Abubakar will depend on his handling of Mr. Abiola, whose claim to the presidency is considered by most to be legitimate.

Whatever the opposition demands now, almost no one in Nigeria expects the military to simply surrender power. For one thing, Nigeria's military high command is dominated by northerners, including the new head of state himself, who after years of control are wary of an outright takeover by southerners.

Still, for many in the south, and beyond, no credible election in Nigeria can be organized until the nation comes to terms with the cancellation of Mr. Abiola's mandate.

Regional and ethnic antagonisms like these could scuttle any negotiated arrangements with Mr. Abiola. But many Nigerians suspect that discussions may already be under way to secure his release in a negotiated framework, providing him some recognition and perhaps a large role in transitional arrangements while keeping the field open for other candidates in a fresh election.

"There is no point in pretending that Abiola didn't win an election any longer," said one senior Nigerian military adviser who spoke on condition of anonymity. "What will have to be worked out is an arrangement with Abiola that allows the country to move forward."●

TRIBUTE IN HONOR OF ROGER WOOD, WOKQ NEWSCASTER

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Roger Wood, an institution in the broadcast community of New Hampshire. After 18 years as a radio reporter in New Hampshire, and 30 years in broadcasting, Roger will sign off at the end of this month to pursue other endeavors.

Roger, 50, is the news and public affairs director at WOKQ radio in Dover, New Hampshire. WOKQ is one of the largest stations in New Hampshire and, with its country music format, is my unequaled favorite. I am a WOKQ listener not only for the playlist, but because of the outstanding commitment, dignity and character that Roger Wood has brought to the airwaves in my years as an avid listener.

Roger's distinguished voice has broadcast the news to WOKQ's audience since 1979. Before that, Roger was a one-man news shop at WHEB AM/FM in nearby Portsmouth, and worked at a variety of Seacoast stations including WWNH in Rochester, WBBX in Portsmouth and New Hampshire Public Television. He also worked at a number of stations in his native Pennsylvania before he graced the Granite State with his presence in 1970.

Roger was never one to "rip and read." He always researched stories thoroughly, went the extra mile to get an interview, and provided in-depth coverage from both a human interest and hard news perspective. And he has the awards lining his walls that prove it.

Roger Wood is committed to his profession. He has won recognition from

UPI, AP, the New Hampshire Association of Broadcasters, and other organizations in the categories of outstanding reporting, best newscasts and individual achievement. He has said that one of the achievements that most touched him was his coverage in 1986 on the fatal launch of the Space Shuttle Challenger, with New Hampshire teacher Christa McAuliffe on board. Roger was at Cape Canaveral in person, and has said the implications of the explosion left him "deeply moved."

Although Roger Wood is a veteran newscaster, he is a trend setter for the new generation of broadcasters. He led WOKQ to an innovative partnership with Channel 7 in Boston, establishing the largest news exchange network in the region. He has also implemented the first cellular car phone reporting system in the region, for listeners to report accidents and news "they see happening."

Roger is committed to his community, as exemplified by involvement in the Seacoast Housing Partnership, a nonprofit organization dedicated to affordable housing issues; the Mayor's Blue Ribbon Committee to improve the environment of Pierce Island; the Greater Seacoast Economic Summit; and his volunteer work to help many local citizens in poverty.

Most importantly, Roger is committed to his family. He and his wife, Elaine, have been married for 27 years. They have three grown children, Roger, Jr., Emily, and Melissa. His family can be very proud of his achievements, and glad that they will finally have him around for breakfast!

My interviews with Roger always left us sharing a laugh and, though he rarely took any of my suggestions for use in the "Joke Du Jour," his resulting stories were always fair, thorough, and forthright as is always Roger's style. As he embraces future endeavors in the field of communications and public relations, I wish Roger Wood all the best. I am proud to represent him in the United States Senate, and proud to call him my friend.●

EDWARD LeLECHEUR

● Mr. KERRY. Mr. President, today I want to call the Senate's attention to Representative Edward LeLecheur and his long history of service to the Commonwealth of Massachusetts. The citizens of Massachusetts have benefitted from his many years of service and legislative leadership. Representative LeLecheur has distinguished himself as a community leader, an elected official and a family man.

Edward LeLecheur started out as the proprietor of Stolphine's Market in Lowell, MA. This small grocery store is located in the part of Lowell know as the Sacred Heart, named for the nearby Catholic church. Ed expanded his role in the community by running for and winning elected office in 1975. Since then, he has served the eighteenth Middlesex District for twenty-three years in the same way he served Stolphine's customers: one at a time, with integrity, dedication, and compassion.

Representative LeLecheur's giving spirit has manifested itself in a variety of ways. He drives physically challenged people to the Registry of Motor Vehicles, and purchases turkeys at Thanksgiving and Christmas time which he then delivers door-to-door. Those same people, and countless others, enjoy the baseball stadium which Representative LeLecheur helped bring to Lowell. Due to Ed LeLecheur, our national pastime is now part of the ongoing revitalization of Merrimac Valley, bringing prosperity and entertainment to families from all the surrounding communities.

As a member of the Ways and Means Committee for the past twelve years and as the current chair of the Committee on Personnel and Administration, Representative LeLecheur has also extended his spirit and service beyond his district. The state has been well served as a result of his leadership.

Representative LeLecheur has been successful not only as a state representative, but also as a family man. He and his wife Eileen were married on June 4, 1947, more than fifty years ago. Together they raised six children and are today the proud grandparents of ten grandsons and granddaughters.

Mr. President, I would like to thank him for his tireless devotion to his constituents and neighbors. Representative LeLecheur is an inspiration to all of us who work for positive change in our communities. I wish him and Eileen the very best as they embark on this new chapter in life.●

U.N. WORLD DAY TO COMBAT DESERTIFICATION AND DROUGHT

● Mr. FEINGOLD. Mr. President, I rise today to mark the United Nations World Day to Combat Desertification and Drought, which took place on June 17, 1998. This date is important because it is the fourth anniversary of the United Nations General Assembly's adoption of the Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa. The United States has signed this treaty, but the Senate has yet to exercise its advice and consent responsibilities on this important convention.

The World Day to Combat Desertification and Drought should serve as a reminder to this body that we should honor our constitutional responsibilities and act on this convention in a timely manner. As the ranking member of the Subcommittee on African Affairs, I have had the opportunity to see first-hand how valuable the provisions of this convention will be to the people of Africa. It is a mechanism by which the people of Africa will be assisted in preserving and protecting their land, which is a vital link in Africa's fight to become self-sufficient.

This convention is particularly important for Africa because more than two-thirds of the land comprising that continent is desert or dry land, and almost three-quarters of the dry land used for farming is in danger of becoming unusable. The Sahelian droughts of 1971–73 and 1984–85 contributed to the deaths of thousands and spurred migration that put further stress on already taxed land around Africa.

This Convention to Combat Desertification, which has already been ratified by 120 countries, establishes a framework to promote land and soil health in developing countries, in order to halt the kind of neglect that eventually leads to land that is unusable for farming. This convention is innovative because it requires participation from all segments of the population, from the farmers and herders who work the land, to local governments and environmental organizations, to those who affect environmental and agricultural policy at the national and regional levels.

I hope that the Senate will act on this convention in a timely manner, and that next year's anniversary of the Convention to Combat Desertification will be marked by progress in the world's efforts to protect the land and soil that sustains life in developing countries.●

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. COCHRAN. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The clerk will report S. 2057.

The assistant legislative clerk read as follows:

A bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill.

Pending:

Feinstein amendment No. 2405, to express the sense of the Senate regarding the Indian nuclear tests.

Brownback amendment No. 2407 (to amendment No. 2405), to repeal a restriction on the provision of certain assistance and other transfers to Pakistan.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the following Senators as members of the Senate Delegation to the Mexico-U.S. Interparliamentary Group Meeting during the Second Session of the 105th Congress, to be held in Morelia, Mexico, June 19–21, 1998: the Senator from Kansas (Mr. ROBERTS) and the Senator from Alabama (Mr. SESSIONS).

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. COCHRAN. Mr. President, in executive session, I ask unanimous consent the Indian Affairs Committee be discharged from further consideration of the nomination of Michael Trujillo to be Director of the Indian Health Service Department of Health and Human Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I further ask unanimous consent that the Senate immediately proceed to its consideration and further ask consent that the Senate also proceed en bloc to the consideration of Calendar No. 625. I finally ask consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then turn to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Michael H. Trujillo, of New Mexico, to be Director of the Indian Health Service.

DEPARTMENT OF COMMERCE

Q. Todd Dickinson, of Pennsylvania, to be Deputy Commissioner Patents and Trademarks.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

COASTAL BARRIER RESOURCES SYSTEM

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 412, S. 1104.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1104) to direct the Secretary of the Interior to make corrections in maps relating to the Coastal Barrier Resources System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COCHRAN. Mr. President, I ask unanimous consent the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1104) was considered read the third time, and passed as follows:

S. 1104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION TO MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to restore on that map the September 30, 1982, boundary for Unit M09 on the portion of Edisto Island located immediately to the south and west of the Jeremy Cay Causeway.

(b) MAP DESCRIBED.—The map described is the map included in a set of maps entitled "Coastal Barrier Resources System," dated October 24, 1990, that relates to the Unit of the Coastal Barrier Resources Systems entitled "Edisto Complex M09/M09P".

ORDER FOR STAR PRINT—S. 2157

Mr. COCHRAN. Mr. President, I ask unanimous consent that there be a star print of S. 2157, with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIFE INSURANCE BENEFITS PRECEDENCE ORDER ACT OF 1997

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 265, H.R. 1316.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1316) to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the bill be considered read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1316) was considered read the third time, and passed.

INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT AMENDMENTS OF 1998

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 402, S. 1279.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1279) to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act Amendments of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) Indian tribes and Alaska Native organizations that have participated in carrying out programs under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) have—

(A) improved the effectiveness of services provided by those tribes and organizations;

(B) enabled more Indian people to secure employment;

(C) assisted welfare recipients; and

(D) otherwise demonstrated the value of integrating education, employment, and training services;

(2) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all programs that emphasize the value of work may be included within a demonstration program of an Indian tribe or Alaska Native organization;

(3) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 shares goals and innovative approaches of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

(4) the programs referred to in paragraph (2) should be implemented by the Office of Self-Governance of the Department of the Interior, the unit within the Department of the Interior responsible for carrying out self-governance programs under the Indian Self-Determination and Education Assistance Act; and

(5) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should have the benefit of the support and attention of the officials of—

(A) the Department of the Interior; and

(B) other Federal agencies involved with policymaking authority with respect to programs that emphasize the value of work for American Indians and Alaska Natives.

SEC. 3. AMENDMENTS TO THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.

(a) DEFINITIONS.—Section 3 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3402) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2) the following:

"(1) FEDERAL AGENCY.—The term 'Federal agency' has the same meaning given the term 'agency' in section 551(1) of title 5, United States Code.".

(b) PROGRAMS AFFECTED.—Section 5 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3404) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The programs";

(2) in subsection (a), as designated by paragraph (1) of this subsection, by striking "employment opportunities, or skill development" and all that follows through the end of the subsection, and inserting "securing employment, retaining employment, or creating employment opportunities and other programs relating to the world of work."; and

(3) by adding at the end the following:

"(b) PROGRAMS.—The programs referred to in subsection (a) may include, at the option of an Indian tribe—

"(1) the program commonly referred to as the general assistance program established under the Act of November 2, 1921 (commonly known as the 'Snyder Act') (42 Stat. 208, chapter 115; 25 U.S.C. 13); and

"(2) the program known as the Johnson-O'Malley Program established under the Johnson-O'Malley Act (25 U.S.C. 452 through 457), if the applicable plan for the Indian tribe under section 4 includes educational services for elementary and secondary school students that familiarize those students with the world of work.".

(c) PLAN REVIEW.—Section 7 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3406) is amended—

(1) by striking "Federal department" and inserting "Federal agency";

(2) by striking "Federal departmental" and inserting "Federal agency";

(3) by striking "department" each place it appears and inserting "agency"; and

(4) in the third sentence, by inserting "statutory requirement," after "to waive any".

(d) PLAN APPROVAL.—Section 8 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3407) is amended—

(1) in the first sentence, by inserting before the period at the end the following: "(including any request for a waiver that is made as part of the plan submitted by the tribal government)"; and

(2) in the second sentence, by inserting before the period at the end the following: ", including reconsidering the disapproval of any waiver requested by the Indian tribe".

(e) JOB CREATION ACTIVITIES.—Section 9 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3408) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The plan submitted"; and

(2) by adding at the end the following:

"(b) EMPLOYMENT OPPORTUNITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, including any requirement of a program that is integrated under a plan under this Act, a tribal government may use a percentage of the funds made available under this Act (as determined under paragraph (2)) for the creation of employment opportunities, including providing private sector training placement under section 10.

"(2) DETERMINATION OF PERCENTAGE.—The percentage of funds that a tribal government may use under this subsection is the greater of—

"(A) the rate of unemployment in the area subject to the jurisdiction of the tribal government; or

"(B) 10 percent.

"(c) LIMITATION.—The funds used for an expenditure described in subsection (a) may only include funds made available to the Indian tribe by a Federal agency under a statutory or administrative formula.".

(f) FEDERAL RESPONSIBILITIES.—Section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "Bureau of Indian Affairs" and inserting "Office of Self-Governance";

(2) in paragraph (3), by striking "and" at the end;

(3) in paragraph (4)—

(A) by inserting "delivered under an arrangement subject to the approval of the Indian tribe participating in the project," after "appropriate to the project,"; and

(B) by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(5) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out demonstration projects under this Act, in consultation with each such Indian tribe, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out demonstration projects under this Act to discuss issues relating to the implementation of this Act with officials of each department specified in subsection (a).".

(g) ADDITIONAL RESPONSIBILITIES.—In assuming the responsibilities for carrying out the duties of a lead agency under section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) pursuant to the amendments made to that section by subsection (f) of this section, the Director of the Office of Self-Governance of the Department of the Interior shall ensure that an orderly transfer of those lead agency functions to the Office occurs in such manner as to eliminate any potential adverse effects on any Indian tribe that participates in a demonstration project under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(h) PERSONNEL.—In carrying out the amendment made by subsection (f)(1), the Secretary of the Interior shall transfer from the Bureau of Indian Affairs to the Office of Self-Governance of the Department of the Interior such personnel and resources as the Secretary determines to be appropriate.

SEC. 4. CONSOLIDATED ADVISORY COMMITTEES.

The Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) is amended by adding at the end the following:

"SEC. 19. CONSOLIDATED ADVISORY COMMITTEE.

"(a) IN GENERAL.—The head of each Federal agency specified in section 4 that otherwise has jurisdiction over a program that is integrated under this Act (in accordance with a plan under section 6) shall permit a tribal government that carries out that plan to establish a consolidated advisory committee to carry out the duties of each advisory committee that would otherwise be required under applicable law (including any council or commission relating to private industry) to carry out the programs integrated under the plan.

"(b) WAIVERS.—As necessary to carry out subsection (a), each agency head referred to in that paragraph shall waive any statutory requirement, regulation, or policy requiring the establishment of an advisory committee (including any advisory commission or council).".

SEC. 5. ALASKA REGIONAL CONSORTIA.

The Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.), as amended by section 4 of this Act, is amended by adding at the end the following:

"SEC. 20. ALASKA REGIONAL CONSORTIA.

"(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary shall permit a regional consortium of Alaska Native villages or regional or village corporations (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) to carry out a project under a plan that meets the requirements of this Act through a resolution adopted by the governing body of that consortium or corporation.

"(b) WITHDRAWAL.—Nothing in subsection (a) is intended to prohibit an Alaska Native village or regional or village corporation from withdrawing from participation in any portion of a program conducted pursuant to that subsection.".

SEC. 6. EFFECTIVE DATES.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act, except that the transfer of functions to the Office of Self-Governance of the Department of the Interior under the amendment made by section 3(f)(1) shall be carried out not later than 90 days after the date of enactment of this Act.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 1279), as amended, was considered read the third time, and passed.

ORDERS FOR FRIDAY, JUNE 19, 1998

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, June 19. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 2057, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COCHRAN. Mr. President, for the information of all Senators, the Senate will reconvene tomorrow at 10 o'clock a.m. and immediately resume consideration of the Department of Defense authorization bill. It is hoped that Members who wish to offer amendments to the defense bill will come to the floor during Friday's session to offer and debate their amendments under short time agreements.

The majority leader has announced that there will be no votes during tomorrow's session. Therefore, any votes ordered with respect to the Department of Defense bill, or any other legislative or executive items, will be postponed to occur at a later date. The leader would also remind Members that the Independence Day recess is fast approaching. Therefore, the cooperation of all Members will be necessary to make progress on a number of important items, including appropriations bills, any available conference reports, the Higher Education Act, the Department of Defense authorization bill, and any other legislative or executive items that may be cleared for action.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. COCHRAN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:43 p.m., adjourned until Friday, June 19, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 18, 1998:

DEPARTMENT OF STATE

JOHN BRUCE CRAIG, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

ROBERT C. FELDER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

JAMES VELA-LEDESMA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

ELIZABETH DAVENPORT MCKUNE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF QATAR.

GEORGE MU, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

ROBERT CEPHAS PERRY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CENTRAL AFRICAN REPUBLIC.

DAVID MICHAEL SATTERFIELD, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

JOSEPH GERARD SULLIVAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA.

DIANE EDITH WATSON, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATED STATES OF MICRONESIA.

MELISSA FOELSCH WELLS, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

KENT M. WIEDEMANN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF CAMBODIA.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

HOMI JAMSHED, OF CALIFORNIA
SUSAN MERRILL, OF VIRGINIA

DEPARTMENT OF STATE

NANCY MORGAN SERPA, OF NEW JERSEY

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

ELIZABETH A. HOGAN, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

JOHN W. WADE, OF MISSOURI

UNITED STATES INFORMATION AGENCY

SCOTT MARSHALL RAULAND, OF FLORIDA
SUSAN L. ZIADEH, OF WASHINGTON

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ERIC M. ALEXANDER, OF NEW MEXICO
KEITH MIMS ANDERTON, OF FLORIDA
MICHAEL A. BARKIN, OF FLORIDA
JAMES A. CAROUSO, OF ARIZONA
JONATHAN JAMES CARPENTER, OF CALIFORNIA
BENJAMIN E. CHANG, OF VIRGINIA
MICHAEL S. DIXON, OF IOWA
MARK R. EVANS, OF VIRGINIA
MITCHELL L. FERGUSON, OF CALIFORNIA
TROY DAMIAN FITRELL, OF WASHINGTON
SHAWN ERIC FLATT, OF MISSOURI
MARTINA FLINTROP, OF VIRGINIA
MARC FORINO, OF VIRGINIA
STEVEN B. FOX, OF NEW YORK
NATHAN V. HOLT, JR., OF FLORIDA
MELISSA ANNE HUDSON, OF TEXAS
CHERYL NORMAN JOHNSON, OF TEXAS
PHILIP WINSTON KAPLAN, OF NEW YORK
RAYMOND J. KENGOTT, OF FLORIDA
DALE G. KREISHER, OF OHIO
STEPHAN A. LANG, OF MISSOURI
MIREMBE NANTONGO, OF VIRGINIA
JAMES ALLEN PLOTTS, OF CALIFORNIA
WILLIAM SCOFIELD ROWLAND, OF WASHINGTON
DAVID V. SCOTT, OF WYOMING
BRIAN WESLEY SHUKAN, OF VIRGINIA
COURTNEY L. TURNER, OF VIRGINIA
ANDREW CHESTER WILSON, OF WASHINGTON
JOY ONA YAMAMOTO, OF CALIFORNIA

UNITED STATES INFORMATION AGENCY

JOE BERNARD LOVEJOY, OF TEXAS
MICHAEL PETER MACY, OF FLORIDA
KATHLEEN E. REILLY, OF CALIFORNIA
MARY DRAKE SCHCOLL, OF TEXAS
JOHN C. VANCE, OF WYOMING

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

EDWARD L. ALLEN, OF MAINE
JENNIFER ANNE ALSTON, OF VIRGINIA
GARY DEAN ANDERSON, OF TEXAS
ALEJANDRO BAEZ, OF TEXAS
ANDREA S. BAKER, OF MARYLAND
ROBERT ALLAN BARE, OF CALIFORNIA
LOUISE BRANDT BIGOTT, OF ILLINOIS
BRETT BLACKSHAW, OF NEW YORK
TOBIN JOHN BRADLEY, OF CALIFORNIA
CHRISTIE BROUILLETTE, OF CALIFORNIA
CRAIG P. BRYANT, OF OKLAHOMA
STEVEN R. BUTLER, OF KENTUCKY
JOHN R. BUZBEE, OF THE DISTRICT OF COLUMBIA
CHARLES L. CAMPBELL, OF THE DISTRICT OF COLUMBIA
ARNOLD CRESPO, OF TEXAS
JULIEN DEDMAN, JR., OF THE DISTRICT OF COLUMBIA
ERIC L. DERRICKSON, OF MARYLAND
KIRK ALLEN DEXTER, OF VIRGINIA
ERIK KNIGHT DOMAN, OF PENNSYLVANIA
LEAH MICHELLE FENWICK, OF CALIFORNIA
TIMOTHY THOMAS FITZGIBBONS, OF NEBRASKA
RAFAEL P. FOLEY, OF NEW YORK
ROBERT M. FREEDMAN, OF WASHINGTON
PAUL N. FUJIMURA, OF CALIFORNIA
CORY VINCENT GNAZZO, OF MASSACHUSETTS
JOSEPH ALEXANDER HAMILTON, OF NEW JERSEY
BRIAN FREDERICK HARRIS, OF WASHINGTON
MELANIE S. HARRIS, OF FLORIDA
DEBORAH SUE HART, OF NORTH CAROLINA
THOMAS P. HARWOOD, OF VIRGINIA
PETER G. HEMSCH, OF CALIFORNIA
JULIANA F. HILT, OF THE DISTRICT OF COLUMBIA
JEFFREY DAVID PRESTON HORWITZ, OF NEW YORK
MICHAEL SEAN HOWERY, OF VIRGINIA
KIRK M. HUBBARD, OF VIRGINIA
ROBERT JOHN JACHIM, JR., OF WASHINGTON
VIVIAN N. KELLER, OF THE DISTRICT OF COLUMBIA
MATTHEW A. KRICHMAN, OF VIRGINIA
NICHOLAS R. KUCHOVA, OF NEW JERSEY
JERRY C. LEE, OF VIRGINIA
JOANN MARIE LOCKARD, OF VIRGINIA
LAWRENCE J. MACKO, OF VIRGINIA
HILLARY MANN, OF THE DISTRICT OF COLUMBIA
NICHOLLE M. MANZ, OF WISCONSIN
DAVID L. MCCORMICK, OF MASSACHUSETTS
DANIEL FRANCIS MCNICHOLAS, OF ILLINOIS
BETNIE M. MEDERO-NAVEDO, OF VIRGINIA
KATHERINE MARIE METRES, OF ILLINOIS
RACHEL L. MEYERS, OF CALIFORNIA
MARC NORDBERG, OF TEXAS
ENRIQUE G. ORTIZ, OF THE DISTRICT OF COLUMBIA
CARLTON PHILADELPHIA, OF FLORIDA
KATHRYN M. PYLES, OF VIRGINIA
ROGER CLAUDE RIGAUD, OF NEW JERSEY
KEVIN S. ROLAND, OF MARYLAND
STEVEN B. ROYSTER, OF VIRGINIA
MICHAEL DEAN SESSUMS, OF FLORIDA
SEIJI T. SHIRATORI, OF OREGON
DONALD ANGUS SHROPSHIRE, OF VIRGINIA
PHILLIP T. SLATTERY, OF CALIFORNIA
JAMES BROWARD STORY, OF SOUTH CAROLINA
TIMOTHY C. SWANSON, OF ARIZONA
DANIEL J. THOMPSON, OF VIRGINIA
VERNELLE TRIM, OF VIRGINIA
DAVID NORMAN TYSON, OF VIRGINIA
DUNCAN HIGHITT WALKER, OF CALIFORNIA
LISA LOUISE WASHBURN, OF TEXAS
J. RICHARD WATERS, OF ALABAMA
RANDALL A. WEYANDT, OF VIRGINIA
CARL-HEINZ JASON WEMHOENER-CUITE, OF VIRGINIA
MARGARET BRYAN WHITE, OF GEORGIA
WILLIAM D. WHITT, OF NEW YORK
BENJAMIN V. WOHLAUER, OF VIRGINIA
WILLIAM YOUNGER WOOD, JR., OF CALIFORNIA
JEFFERY A. YOUNG, OF FLORIDA
JOSEPH E. ZADROZNY, JR., OF TEXAS

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

TO BE MAJOR GENERAL

BRIG. GEN. EDMUND C. ZYSK, 6065.

To be brigadier general

COL. WILLIAM J. DAVIES, 1673.
COL. JAMES P. COMBS, 0758.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH)MICHAEL L. COWAN, 2470.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 18, 1998:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MICHAEL H. TRUJILLO, OF NEW MEXICO, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF COMMERCE

Q. TODD DICKINSON, OF PENNSYLVANIA, TO BE DEPUTY COMMISSIONER OF PATENTS AND TRADEMARKS.

HOUSE OF REPRESENTATIVES—*Thursday, June 18, 1998*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, from Whom all blessings flow, we are grateful for all the gifts of life that You have so freely given. For all the days past, in good times and bad, Your spirit has been with us to strengthen and to heal. In all the days ahead we look with anticipation to the new opportunities of service and with the hope that the waters of justice will flow over us and all people. And for this day we ask a full measure of Your grace that we will be the people You would have us be and do those good deeds that honor You and serve people everywhere.

In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Tennessee (Mr. CLEMENT) come forward and lead the House in the Pledge of Allegiance.

Mr. CLEMENT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 1-minutes on each side.

EDUCATION SAVINGS ACCOUNTS

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, the Wisconsin Supreme Court ruled last week that taxpayer-financed vouchers payable to parochial schools are constitutional, and today we will pass legislation that will allow parents to set up tax-free education savings accounts that they can use to send their children to the school of their choice.

The top priority of parents has always been to get the best education for their children. Now our Nation is moving in the right direction when it gives parents more choices and when it makes the schools more accountable, and many of our public schools are the best in the world but others need to be improved so that our children can get the kind of education that will help them realize the American dream.

As the debate progresses, let us remember that the reason we have schools is to educate our children. It is not to support labor unions or to give bureaucrats more money. So let us support education savings accounts so parents can help their children get the best education possible.

CLOSING THE GENDER GAP?

(Mr. ROGAN asked and was given permission to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, the Washington Post reports that test scores in core subjects for young women like math and science have risen. Despite this reassuring news on the academic front, there is also evidence causing great alarm. Today young women are now turning to drugs, tobacco and alcohol at a much earlier age.

Citing the national "Girls Report," the article said the number of young women who smoke has nearly doubled in the last 5 years alone. This rate far exceeds that of their male peers. The number of girls who use marijuana has more than tripled in the same period.

The number of young women arrested has steadily increased over the last 10 years. In an interesting correlation, the number of girls who participate in after school athletics has declined, while the number of girls who report depression has increased.

Recently I joined Majority Leader DICK ARMEY in my district to recognize the work of several facilities that are working to ensure a healthy environment for our children. As Congress now considers education reform, I hope we will heed the warning signs ahead and empower successful local programs. Our children and our country deserve no less.

SUPPORT GUTIERREZ BILL TO PREVENT DEPORTATION OF THE SEVERELY ILL

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, our legislation often affects millions of people. Today I ask you to consider just one person, a young girl named Keysi Castillo. Keysi is your typical, happy 10-year-old except for one thing. She has a severe medical problem, a congenital heart condition requiring surgery, supervision and long-term care.

But her troubles do not stop there. She and her mother face possible deportation. For anyone, that is serious. For Keysi it is a matter of survival. Her doctor has declared that being sent back to her native Honduras would be tantamount to a death sentence.

Honduras lacks the health care that she requires and its climate and high altitude pose a considerable risk to her health. Keysi is too young to know about politics or immigration policy, but she knows that she is sick and you and I know we can help her.

Today I will introduce a bill to do that, to enable Keysi to remain in the United States to receive the care she needs to prevent what her doctors call a death sentence.

My colleagues, please help. Help change one life for the better. Help me pass the legislation for Keysi.

A SELECT COMMITTEE ON U.S. NATIONAL SECURITY SHOULD EXAMINE TECHNOLOGY TRANSFERS TO COMMUNIST CHINA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the first responsibility of Congress and this government is to protect the citizens of the United States from an outside attack and to be prepared to defend this great Nation. It appears that the Clinton administration, however, has woefully failed in this responsibility. If true, then they have failed this Congress, and regrettably they have failed America.

I strongly support House Resolution 463 to establish a Select Committee on U.S. National Security to examine the illegal transfer of classified United States technology to Communist China. Mr. Speaker, this is not a partisan issue, this is not politics as usual. This is a national security issue that cuts to the very core of what we stand for and what we believe.

We have equipped our military with the finest technology in the world. To deliberately allow that technology to fall into the hands of enemies places each and every soldier, sailor, airmen

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and marine at risk. Ultimately it needlessly places the Nation at risk.

Mr. Speaker, I urge my colleagues to support this resolution. It is the right thing to do, our national security demands it, our military deserves it, our Nation expects it.

THE CORRELATION BETWEEN THE INABILITY TO GET CAMPAIGN FINANCE REFORM AND THE KILLING OF TOBACCO LEGISLATION IN THE SENATE

(Mr. MEEHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEHAN. Mr. Speaker, yesterday the rule for campaign finance reform was pulled off the floor. It is now June 18, and we still have not had an up or down vote on the bipartisan Shays-Meehan campaign finance reform bill.

On the same day they pulled the bill and the rule over in the Senate; they killed the tobacco legislation designed to protect America's children from tobacco.

It is interesting. Six million dollars from the tobacco companies to the Republican National Committee, $100 million in a campaign to try to get the Congress to do nothing on tobacco.

The American people get the correlation between the amount of money the tobacco companies have invested and the inability to get campaign finance reform. There is a connect, and people get it. We have a bipartisan campaign finance reform in the House that we need to vote on; that is, Shays-Meehan. And we have a bipartisan tobacco bill in the House; that is, Hansen-Meehan-Waxman.

Let us move on this legislation and protect America's children.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEY). Members are reminded under the rules not to refer to actions of the Senate.

SCHOOL CHOICE DENIED FOR DISTRICT OF COLUMBIA'S CHILDREN

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, our President said to District schoolchildren, "Tough luck." We do not get to hear a liberal say that very often, but the President's veto of the District's scholarship bill last month is an in-your-face slap at District parents and children. "Too bad for you" is the message. Too bad for you, that is, if you happen to be poor.

Just look at the pattern. Failed, dangerous schools, and the liberals ask for more money. Congress votes for more money, and in return we get failed dangerous schools where almost no learning takes place. And so the liberals come back the following year and say, "Look, the problem is the schools need more money." And so Congress spends more money, more money for everyone knows that the problem is not enough money. More failure, more school violence follows, and so the pattern is repeated year after year after year.

The same people who would never one second accept dangerous, dysfunctional schools for their own kids are as determined as ever to deny school choice to those who do not have a choice. As a former teacher it makes me sad.

WE NEED MANAGED CARE AND TOBACCO REFORM

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, when are we going to get serious about real reform?

Republicans in the Senate have killed tobacco legislation which would have helped to reduce teen smoking, and House Republicans are refusing to allow real managed care reform to come to the floor. The majority is allowing the quality of medical care for our citizens to decline considerably while allowing the tobacco industry to jeopardize our children's health.

It is estimated that 3,000 young people start smoking every day. One-third of these children will eventually die from tobacco-related diseases. We need to stop the next generation from becoming addicted to tobacco. We need to establish guidelines and protections for patients to give them access to quality health care.

The American people have asked us to protect their children from smoking and are demanding top quality medical care. We need tobacco reform, we need managed care reform. Eighty percent of Americans want a patients' bill of rights and tobacco reform. The Republican majority in Congress is denying Americans these important rights.

SUPPORT THE CHILD CUSTODY PROTECTION ACT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, can my colleagues picture Joyce Farley's shock when she discovered that her 13-year-old daughter had an abortion after being transported by a stranger across state lines without Miss Farley's knowledge? The truth is simple and tragic.

Crystal was date raped and impregnated. The man's mother arranged for Crystal's abortion, transported her to New York in order to circumvent Pennsylvania's parental consent laws, paid for the abortion and then casually dropped her off 30 miles from home so that this minor girl could fend for herself.

Crystal had to undergo a second abortion because the first one was botched, and she faced a prospect of serious psychological and physical and post-abortion complications.

This scenario could be a real life experience for any parent in America.

There is legislation to keep this from being repeated, however. H.R. 3682 is not about outlawing abortion. It is about the right of every parent, including Joyce Farley, to counsel, comfort and help their child. It protects the most vulnerable, inherent and sacred right that exists, that between a parent and a child.

HELP REBUILD CRUMBLING SCHOOLS

(Mr. BALDACCI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALDACCI. Mr. Speaker, I rise to urge my colleagues to support the motion that will be offered later today by the gentleman from New York (Mr. RANGEL) to provide Federal assistance for school construction instead of providing taxpayer subsidized education benefits for private schools.

Last spring in Maine a commission of school facilities completed a comprehensive examination of the physical condition of our State's schools. The commission identified safety, legal compliance improvements and repairs urgently needed in our schools. They identified other repairs and other necessary improvements idly waiting funding with faint hope of assistance from State and municipal budgets.

Students cannot learn in classrooms with leaky ceilings, poor air quality and wiring that could not support modern technology such as computers. America's students would be far better off by adopting the Rangel school construction plan than by adopting a misguided proposal that will help relatively few families send their children to private school.

I urge my colleagues to invest in our educational infrastructure and to support the Rangel motion.

REPUBLICANS DELIVER FOR TOBACCO COMPANIES

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker and Members of the House, over the past 3 years, the tobacco companies have delivered millions of dollars to the Republican National Committee and to the Republican Congressional Campaign Committee and to Republican Members of the House of Representatives and of the Senate.

Yesterday, the United States Senate delivered for the tobacco companies. Yesterday, the United States Senate, after a month of debate and delay, voted to kill the tobacco bill, which was designed to get back to and pay back many of the health care costs that this government has spent because of tobacco illnesses and death, and to try to keep our young children from smoking. Yesterday the Senate killed that. They delivered on their campaign promises.

Today the House sets out to do the same. It is setting out to kill campaign finance reform so that they can continue to keep the tobacco money flowing to the Republican Party.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEY). Members need to be reminded that it is not within the rules to make such references to actions of the Senate on the floor of the House.

AMERICA NEEDS SCHOOL CHOICE

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR of Georgia. Mr. Speaker, in my home State of Georgia, a record number of high school juniors, over 17,000, failed this year to pass a basic skills test as a prerequisite for graduation. This week the House of Representatives took steps to respond to this problem by passing a resolution condemning the deplorable practice of promoting unqualified students for social reasons. This must be viewed as only the first step.

We must follow it by taking creative steps to increase parental choice and involvement in education such as encouraging charter schools, establishing education savings accounts, protecting the rights of parents to home school their children, and exploring the notion of school vouchers.

For decades, teachers, students and Washington bureaucrats have tried to shape our education system, yet their involvement has resulted in higher and higher spending and lower and lower performance. It is time to turn things around. The fact is, bureaucrats and big labor do not, cannot and should not educate our children. Teachers and parents do, should and must.

If we are really serious about improving education, let us not worry about schools, let us worry about teaching the hearts and minds of our students with parents and teachers, with the best interests of those students in mind.

PASS CAMPAIGN FINANCE REFORM

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, yesterday the other body of the Congress failed America's children by killing campaign——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

Mr. COBURN. Mr. Speaker, it is inappropriate to mention the other body.

The SPEAKER pro tempore. The gentleman is correct about such characterizations.

PARLIAMENTARY INQUIRY

Mr. MENENDEZ. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MENENDEZ. Is not "the other body" the appropriate way to refer to the Senate?

The SPEAKER pro tempore. Critical references to the other body are not in order.

Mr. MENENDEZ. Mr. Speaker, yesterday, someone killed tobacco legislation and failed the children in this country. I guess we do not want to talk about who failed the children in this country, and bowed to big tobacco interests. Here in the House, the Republican leadership is trying to kill campaign finance reform through death by amendment.

Listen to what our colleague, the gentlewoman from Washington (Mrs. SMITH), a Republican representative, in yesterday's Wall Street Journal said about the GOP leadership's unquenchable love of cash. She quickly discovered that it was a common practice for the GOP majority to hold up action on bills while milking interested contributors for more campaign contributions, and she said, "We do what? Isn't that extortion?" I think it is. I think LINDA SMITH is right.

The fact of the matter is, the reason that the Republican leadership is trying to kill campaign finance reform in this House is because they would not be allowed to continue what LINDA SMITH calls "extortion." She is right, and we should pass campaign finance reform in this House.

SUPPORT EDUCATION SAVINGS ACCOUNTS

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, yesterday President Clinton, in a letter to Speaker GINGRICH, wrote that the legislation creating education savings accounts, which we will consider today, would weaken public education and shortchange our children. That charge is preposterous.

I would like one Democrat to explain why giving parents more control and more power over their children's education would not be good for their children. I would like one Democrat on the other side to explain how more competition would result in worse schools. I would like one Democrat to look in the eyes of children in dangerous or dysfunctional schools and explain why they would want to keep them there. I would like one Democrat to explain why they would sell out American children, once again, to the education special interests who block every real reform that comes to this body, and who are the ones who are shortchanging our children.

Today, let us vote for the children. Let us support education savings accounts.

KIDS WILL DIE IF THEY BEGIN SMOKING

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, every day in America, 3,000 children begin to smoke. 1,000 of those children will die. Yesterday, the other body of this Congress gave those children a death notice by failing to pass a comprehensive tobacco reform bill supported by bipartisan public health groups around the Nation.

Shame, shame, shame.

But I will take the time, which I hope my colleagues will do as well, to listen to the children. We will bring children from around the Nation here to the United States Capitol on Wednesday, June 24, to listen to their life-and-death stories about how tobacco has impacted their lives, how they are crying out for us in the United States Congress to do our job. I hope that we in this body will listen to the children and not render to the children of America a death notice as they move into the 21st century.

I hope that we will listen; I hope that we will act. We will hear from the children here in the United States Congress on June 24. More tobacco reform is needed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will again remind Members that references to the other body that are critical in nature are not within the bounds and Rules of the House, and upon any further references, the Members will be interrupted.

EDUCATION SAVINGS ACT

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, today I rise in support of the Education Savings Act for public and private schools.

Last year we passed the Taxpayer Relief Act of 1997 giving families the first tax cut in 16 years and making college more affordable by establishing education savings accounts.

Today, I will vote to give parents even more control over their children's future. This bill gives tax incentives for parents to save money for their children's K-through-12 education. It gives control to the parents.

I support this bill because it allows them to use their own personal money, their after-tax dollars, not the government's money, to give their children the best education possible that they can achieve. Nebraska families, families all across America, deserve an opportunity to save money tax-free for K-through-12 education. Parents, not the government, should decide how to spend their money on their children's education.

Let us stand today with the children, let us stand today with the parents, let us stand today for education in America. Support the Education Savings Act.

REPUBLICANS: THE PARTY OF GESTURE

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, George Will, the eminent editorialist here in Washington D.C., was in Seattle recently, and he said that the majority party in the House of Representatives was tearing themselves apart because they could not deal with substance, they had become the party of gesture.

Now, yesterday was the great day of gesture. The first gesture was, let us tear the Tax Code out by its roots. That was irresponsible. That was followed by a cynical gesture. That is, they could not pass even a commission on campaign reform.

Now, there is some question about whether tobacco is dead. In my view, tobacco is not dead. We will see a cynical gesture out of the Speaker's office late in this session bringing to the floor a bill that says, "Kids, you shouldn't smoke," and then there will be a lot of beating of chests and saying, we passed a bill against tobacco.

The fact is that the money in this place has to be collected before even that cynical gesture will be brought to the floor. We need serious campaign reform. The Speaker ought to bring Shays-Meehan to the floor immediately.

ACHIEVING DREAMS THROUGH EDUCATION

(Mr. SUNUNU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNUNU. Mr. Speaker, I rise today to congratulate a very special group of high school students and their teachers taking part in the Capitol Hill robotics competition today in the Rayburn Office Building, a contest that is unlike any other that I know.

This competition brings together students with high technology companies, universities, research laboratories and designers to compete head to head. They design machines that go head to head in competition in front of fans and a worldwide television audience.

In forming this partnership, students are introduced to the concepts of design, mechanics, engineering and materials, and they are encouraged to push further into the worlds of science, technology, mathematics and the opportunities they create.

This unique challenge is the brainchild of the Foundation for the Inspiration and Recognition of Science and Technology First, headed by Mr. Dean Kamen of Manchester, New Hampshire, a city I am proud to represent. The contest has grown from very humble beginnings in a high school gymnasium.

This year, however, the finals will be at Epcot Center, a national presentation in front of thousands of high school fans that understand the value of learning science and technology.

Mr. Speaker, I want to thank all of those that have worked to make this initiative a success, inspiring students and teaching them to achieve their dreams through education.

REJECT THE PRIVATE SCHOOL VOUCHER BILL

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on this House to reject the Coverdell voucher bill.

As a former State superintendent in North Carolina's public schools, I know that using taxpayer money to finance private school tuition will not improve education in this country. Taking the taxpayers' money, more than $2 billion, to subsidize private schools at the expense of our neighborhood public schools is wrong.

Instead of this private school voucher bill, I call on this Congress to pass legislation to address the school construction crisis in this country. Our classrooms are bursting at the seams, and we know that the school age population is projected to soar in the next decade. This Congress should do its part to help our States and localities build schools for our children.

I have introduced legislation, H.R. 3652, that will take the revenue from the Coverdell voucher bill and use that school construction money as bonds to help growing communities across this country to meet their needs.

I urge my colleagues to reject this bill and build schools.

SUPPORT THE CHILD CUSTODY PROTECTION ACT

(Mr. COBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBURN. Mr. Speaker, I stand today to support H.R. 3682, the Child Custody Protection Act.

I am a practicing physician. I deliver babies, and what I would want Members of this body and the American public to know is, do you think it is right for a 12-year-old child or a 13-year-old child to be taken across a State line to have an abortion performed when they are incapable of making that decision themselves and without the knowledge of the parents? That is what this bill is all about.

If, in fact, a child is transported across a State line for an abortion to violate the laws of the State in which they reside, then, in fact, it would be a Federal offense.

The real issue is whether or not parents ought to be involved in the reproductive health of their children.

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Whether they ought to know, whether they ought to be given information about whether or not their child is seeking help in the midst of a difficulty, some would have us say that the government is the answer to that. I believe the parents are the answer to that. And I believe that we should pass the Child Custody Protection Law.

CONSPIRATORIAL CONGRESS

(Mr. HINCHEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINCHEY. Mr. Speaker, increasingly people across this country are referring to this Congress as the "do nothing Congress." But more appropriately it might be referred to as the "conspiratorial Congress." The leadership in this House has conspired with someone in this Congress to kill both antismoking legislation and campaign finance reform.

The somebody yesterday succeeded in killing the antismoking legislation. That job has been done. Now the leadership in this House has got to live up to its part of the conspiracy and deliver on killing campaign finance reform. They are doing so by proposing a rule on the floor later today with an unprecedented 258 amendments designed to drag this issue out all through the summer into the fall. It is death to campaign finance reform by amendment.

Mr. Speaker, that is the conspiracy that is going on in this Congress. We need Meehan-Shays on the floor. We need real campaign finance reform. Let us have a vote on the real bill.

REPUBLICAN EDUCATION PROPOSAL LONG ON PROMISE AND SHORT ON SUBSTANCE

(Mr. CUMMINGS asked and was given permission to address the House for 1 minute.)

Mr. CUMMINGS. Mr. Speaker, I rise in opposition to the education savings account proposal. Ninety percent of America's children receive a public school education. This proposal is a slap in the face to America's already struggling school systems.

If this measure is adopted, resources will be siphoned away from an already financially needy education system. It does nothing to strengthen one of our most cherished American institutions, public education.

How then can we in good faith suggest a measure to the American public that would primarily benefit wealthy families? Instead, I urge my colleagues to join the effort to build and modernize our public school buildings and administrations.

Instead, let us provide funding for local school districts to hire 100,000 new and qualified teachers to reduce class size. Instead, let us initiate comprehensive reform through the creation of Education Opportunity Zones in both urban and rural areas.

Instead, let us expand access to after-school initiatives through the "21st Century Community Learning Center Program."

Mr. Speaker, the agenda proposed by my Republican colleagues is long on promise and short on substance.

SHAMEFUL MORNING IN AMERICA

(Mr. ROTHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTHMAN. Mr. Speaker, this is a shameful morning in America. Two of the most important issues facing the American people, anti-tobacco legislation and campaign finance reform, have just been dealt a severe setback by this Republican-controlled Congress.

There was an opportunity yesterday in the Republican-controlled Congress to bring some justice to this debate, to right some wrongs, to invest in the tobacco-free future of our children. But instead, our Republican colleagues killed the tobacco bill.

Here in the Republican-controlled House, the leadership will not even allow debate on tobacco. They do not even plan to bring a bill to the floor. Instead, the Republican leadership in this House continues to spend their time killing campaign finance reform.

Mr. Speaker, I believe strongly in finding bipartisan solutions to America's problems. But how can we solve America's most important problems if the present Republican-controlled Congress continues to kill or strangle debate on issues of such vital importance to America as tobacco and campaign finance reform?

HOUSE SHOULD CONSIDER MEANINGFUL TOBACCO LEGISLATION

(Ms. DEGETTE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DEGETTE. Mr. Speaker, last night Big Tobacco did what it does best again when it spent $40 million to kill the comprehensive tobacco legislation. Is that what America's children are worth?

This Saturday, it will be exactly 1 year since the State attorneys general proposed their settlement agreement. Since last June, Congress has done nothing to stem the willful and destructive forces of the tobacco industry.

By selling out to Big Tobacco, the 105th Congress has sat idly by while an astounding 1,095,000 more kids have become addicted to tobacco. One-third of those children, over 300,000, will die from tobacco. These kids are not faceless figures, they are our children.

Mr. Speaker, we cannot be fooled into believing this problem is too complex for the House to address. We can address it. We must address it this year.

One simple solution is to raise the legal purchase age for smoking from 18 to 21. Raising the legal age will squash big tobacco's ransom demands by paving the way for new restrictions on tobacco solicitations on college campuses.

Mr. Speaker, I urge the House to consider meaningful tobacco legislation.

CAMPAIGN FINANCE REFORM

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute.)

Ms. HOOLEY of Oregon. Mr. Speaker, campaign finance reform is the "Little Engine That Could," and it is picking up steam.

Last night, the leadership on the other side of the aisle once again tried to derail this train with a cynical commission bill that was heavy on talk and light on action. When that failed, real reform was pulled from the schedule while the leadership discussed new ways to use parliamentary tricks to stop action on the Meehan-Shays bill.

Mr. Speaker, it does not seem to matter to the leadership on the other side of the aisle that the American people are crying out for reform. It does not seem to matter to the leadership on the other side of the aisle that both Democrats and Republicans want reform now.

It does not seem to matter to the leadership on the other side of the aisle that we were promised an open, honest debate on campaign finance reform. Because when it comes to campaign finance reform, the leadership on the other side of the aisle seems to be all about promises made and promises broken, because it is time to pass real campaign reform now.

CONFERENCE REPORT ON H.R. 2646, EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998

Mr. GOODLING. Mr. Speaker, pursuant to House Resolution 471, I call up the conference report on the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. NEY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, June 15, 1998, at page 12301.)

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GOODLING), and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report on H.R. 2646.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 2646, the Coverdell A-plus Education Savings Account legislation. These new education accounts will allow parents, grandparents, friends and others to open an education IRA for a child's educational needs.

The accounts will encourage saving for the future. It moves us from last year's post-secondary account down to a K-through-12 savings account.

Some may ask why am I supporting it since it does not include the testing prohibition language and the answer is very clear. In order to prevent this legislation from getting bogged down in the Senate, we took a different route.

Mr. Speaker, I have a letter of assurance from the Speaker and from the Majority Leader of the Senate which makes it very, very clear that the text of the fiscal year 1999 Labor, Health and Human Services and Education Appropriation bill, and any supplemental or any other such legislation, will not, I quote, will not leave Congress without a testing provision that I find to be satisfactory, which of course means no test, no new national test.

If the appropriation bill, as I said, does not make it to the President's desk, then every effort will be made to include this in a continuing resolution or any other must-pass legislation.

Mr. Speaker, I will include a copy of the letter that I received from the Speaker and the Senate Majority Leader in the RECORD after my remarks.

Mr. Speaker, I thank Speaker GINGRICH and Majority Leader LOTT for their careful attention to this important issue. Senator ASHCROFT and I have labored long and hard to protect against top-down, Washington-based testing. Senator ASHCROFT's amendment and my testing prohibition bill have passed the Senate and the House, respectively, on recorded votes. Members are on record as opposing new Federal testing that is not specifically authorized by Congress. With our leadership's help, we will continue to pursue a ban on funding for the President's testing plan during the appropriations process.

Mr. Speaker, I want to thank the gentleman from Texas (Chairman ARCHER) and the other conferees for their support in retaining the Reading Excellence Act ,in the final conference report. This act, which the administration now supports, will provide $210 million in funding for new research, teacher training, and individual grants to help improve K-through-12 reading instruction.

The act is the House Republican counterproposal to President Clinton's America Reads program, which aims to send semi-trained volunteers into the classroom. Our reading bill will bolster the reading skills of children by providing more resources, research, and training to teachers, not untrained volunteers.

I also want to state that there is a technical error in the report regarding the participation of private schools in the program. I want to assure my colleagues that we will do everything possible to correct this error.

Mr. Speaker, a few of the other important education provisions included in the final bill are: Incentive grants to schools that produce academic excellence, public schools; incentive grants for States that implement merit pay for teachers; the allowance of the use of Federal dollars to be used for same-gender schools where comparable educational opportunities are offered for students of both sexes; and allowing weapons to be admitted as evidence in internal school disciplinary proceedings.

Finally, I would note that the Gordon block grant proposal was dropped from the bill, again in an effort to protect the bill from getting bogged down in the other body. However, I expect the Committee on Education and the Workforce will be taking action on some block grant initiative in the future.

The letter referred to is as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, June 5, 1998.

Hon. BILL GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

Hon. JOHN ASHCROFT,
U.S. Senate,
Washington, DC.

GENTLEMEN: We are grateful to the two of you for taking the lead on requiring that testing of students remain at the state and local level. The administration's proposal to control student testing at the federal level necessarily would result in government control of the curriculum. Stopping this central government control of student testing is a very important part of our Republican plan to return our schools to the control of the parents and teachers at the local level.

We have worked with you and voted with you to pass a federal testing prohibition bill in the House and to add an amendment to H.R. 2646, the Education Savings Act for Public and Private Schools. Obviously, since this bill is under the threat of a veto by the administration and a filibuster by Senate Democrats, it does not serve our interests to pursue the ban on federal testing in this bill.

Therefore, in order to ensure that Congress will pass and send to the President a ban on federal testing, you have our commitment to support inclusion of your testing prohibition language (H.R. 2846/Amendment 2300 to H.R. 2646) in the base text of the FY1999 Labor, Health and Human Services, and Education Appropriations bill. This language will be maintained through floor action and the conference committee process. You have our commitment that this bill will not leave the Congress without a testing provision that you find to be satisfactory.

If for some reason the Labor/HHS/Education Appropriations bill does not make it to the President's desk, then we will support efforts to include this provision in any Continuing Resolution(s), or other "must pass" legislation in both bodies. We appreciate your leadership over the past months on this most important issue and look forward to continuing to work closely with you.

Sincerely,

TRENT LOTT.
NEWT GINGRICH.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am so surprised that my Republican friends on the Committee on Ways and Means, the tax writing committee, have distanced themselves so far from this bill. This is a tax bill. No one challenges that this is a tax bill.

My Republican friends are saying that this code is so complicated, so unfair, that it ought to be pulled up by its roots. And yesterday it said after we get rid of President Clinton, we will get rid of the code, which is good talk before an election. But if the code is so complicated, why would the Republicans add this fertilizer to the roots that they want to pull up?

This is supposed to be an education bill? What does it say? The gentleman from Pennsylvania (Mr. GOODLING), my good friend, never even talked about that. He talked about all of the fine efforts that we have to make to have our kids to read.

Mr. Speaker, let us talk taxes. Let us say what we are going to do for the American parents here. Because the gentleman and I agree that one of the most important things that we have to do to maintain America's competitive position is to educate our young people so that they will be able to meet the challenges of the next century.

So while all America is paused waiting to hear what is the Republican plan to better equip our children, they send a man who knows how to educate our children, who chairs the committee, who really sincerely has proven over the years his dedication for educating our children, they send him to this floor with a tax bill. So let us see the merits of the tax bill.

Mr. Speaker, if an American child has an income less than $150,000, this bill allows an account to be opened in the child's name.

□ 1045

If the child has friends, relatives, corporate figures, or anybody that loves this poor child enough, they can deposit into an account up to $2,000. There is no provision in the bill of what happens if you do not make the $2,000, but that is not important, because the government does not give you the $2,000. The government gives you a tax-free status on the interest. So if you are lucky, you can make, out of this bill, anywhere between $7 a year upwards to $37 a year, depending on your accounting system.

For those who do not want to complicate the code, what does this all mean? It is an educational bill. It means that, out of the $2,000, you can use this money to further the education of your child.

Let us take a closer look at the bill and find out. Is education schools, the renovation of schools, the construction of schools? Does it mean adding teachers to the school? Does it mean buying books and equipment for the school?

No, no, no, Mr. Rangel, this is a tax bill.

What do you expect in a tax bill? Oh, I got it. The bill says that you can deduct and pay for, under this, if you have a tutor for your child, or, if you do not have a tutor, if anyone is teaching your child, or, if you do not have anyone to teach your child, baby-sitting can be considered a part of instructing your child, or it could be transportation for your child to school. You could pay for the school bus. You could pay for the cab. You could pay for the scooter bike to get there.

There are other provisions in this bill that perhaps make a lot more sense, and that is that you can buy books. You can buy tablets. You can buy pens and pencils for your children.

I do not know whether the rest of the family can use these things, because, after all, this tax legislation means that these things have to be bought for the child. So we have to make certain that you have the school equipment on one side and what the parents would use on the other side.

If you want to get a television set, because you can get a lot of education on TVs these days, they have got educational channels, I suspect we may have to get an opinion from the Internal Revenue Service, that is, before you throw that out with the rest of the tax code, to see whether you can buy a TV.

It is disgraceful. It is embarrassing. It is a terrible hoax to play on the American people to have education associated in any way with this bill. Let me tell you one of the reasons is because nobody has given any thought to this thing. Has this thing gone to any committee for consideration? Did we not have hearings on this? Were there teachers coming down saying, for God's sake, pass this so that I can educate the children, or were the parent-teacher associations marching around the Capitol saying pass this education initiative?

My God, even the Republican National Committee is not supporting this. But it is closer to election time. Legislation is more designed for bumper stickers than it is to be passed into law. So the President, in his wisdom, will not allow the Internal Revenue Service to have to add this to the complicated code which my colleagues want to pull up by the roots. The President will spare my colleagues the embarrassment of having to administer this bill.

However, there are bills here that have been passed that make a lot of sense. In my motion to recommit, I am going to ask that we give an opportunity for Republicans and Democrats, liberals and conservatives, to do something constructive; and that is to ask the committee to go back in and to commit themselves, not to tax laws, but to education, to rebuild our schools, to vitalize our schools.

We need $172 billion for the new schools and to bring back our decrepit schools. So let this be the last time before election that we try to get bumper-sticker type of legislation.

When you say education, look somewhere and, instead of just bringing the distinguished gentleman here who has dedicated his life to education, if it is going to be taxes, bring the chairman from the Joint Committee on Taxation, and let us talk about this bill and how effective it is going to be.

Other than that, I want to see whether anybody else wants to stand up and support this.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield what time he may consume to the gentleman from Pennsylvania (Mr. ENGLISH) from the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I am delighted with the opportunity to appear here on behalf of this conference report. Let me tell you why I think this is important. I believe very strongly that families who save to put their kids through school, whether it is primary, secondary school, or college, whether it is a private institution or a public institution, should be able to save without having those savings taxed.

It is not a big tax break. It is a very important principle that we are beginning to enshrine in the law, and this conference committee report moves strongly forward in that direction.

I believe anyone in this chamber who shares that principle and shares that belief should be prepared to support this legislation. It is perfectly consistent, I might add, with tax reform, because this is just the beginning of the kind of tax change and tax incentive that tax reform should enshrine more broadly in the tax code.

So we have heard some rhetoric here today from the opposition to this legislation: disgraceful, embarrassing, fertilizer. Mr. Speaker, I am going to leave the fertilizer on the other side of the aisle, and, instead, rise in strong support of this conference committee report that will promote education savings and promote education excellence.

This conference agreement will allow tax-free expenditures from education IRAs for elementary and secondary school expenses as well as higher education costs. The agreement would increase the maximum annual amount of contributions for education IRAs to $2,000, which is what it should have been in the first place.

One extremely important provision in this conference report addresses the need for tax relief for prepaid tuition programs, an issue that I have advocated since I came to this Congress. I believe that people should be able to use State prepaid tuition programs for postsecondary education without a tax penalty; that we move in the direction of liberalizing the tax treatment of those programs.

This legislation will also allow both the contributions and earnings on distributions from qualified State tuition programs to be tax free, provided funds are used for higher education purposes.

In addition, private colleges or a group of private colleges may ultimately offer similar prepaid tuition programs. I have long advocated the equal treatment for private colleges and universities. While we still have a ways to go to establish tax equity for these schools, this recognition puts a mark in the law moving in that direction.

There are several other important provisions in this conference report, including the extension of section 127, employer provided education assistance through 2002. That in itself makes this legislation worth voting for, even if you do not agree or are not enthusiastic with all of the other provisions.

Mr. Speaker, this is important legislation. It may be disgraceful or embarrassing to the other side of the aisle to have this kind of bill coming out under Republican authorship. I can tell you this, I think this moves us in the right direction of making higher education more affordable, of making basic education more easy to save for with a better tax treatment.

We are moving in the right direction. I think it will be instructive to see how many people in the end stand up against this legislation.

Mr. Speaker, I appreciate the chance to participate in this debate.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, it seems that the leadership of this House has taken another poll; and in that poll, they discovered that the people of this country are concerned about the quality of education that their young family members are getting. So they come up with this brilliant idea to provide a tiny little tax cut for private schools.

This tiny little tax cut would amount to somewhere in the neighborhood of between $5 and $10 a year to families in my district. That is not even enough to buy a single textbook. That is how meaningless and disgraceful this piece of legislation is. Instead of doing what we need to do, this offers a false hope to people.

We know what is wrong with education in our country. We know that we need more teachers. This bill does not do a thing to provide more teachers. We know that we need smaller class sizes. This legislation does not do a thing to provide us with smaller class sizes.

We know that we need an infrastructure improvement program to build classrooms and to upgrade schools and existing classrooms. So many of the classrooms, most of them, are so old in this country, they cannot even be wired for the Internet. They need a complete overhaul in the wiring of the school system. This is what we need, and this is what the ranking member of the Committee on Ways and Means is offering us in his motion to recommit.

What this Congress ought to be doing is investing appropriate resources to reduce class sizes, to educate more teachers, and, most of all, to build the classrooms and build the schools and upgrade the system so that we can modernize our schools, modernize our classrooms so that we can modernize education in America. That is what the motion to recommit would do.

The bill before us would do none of that. That is why we need to vote for the motion to recommit and defeat the legislation.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I want to thank my friend from Pennsylvania for yielding this time to me.

Mr. Speaker, I rise in strong support of this conference report. What is terrific about this conference report is it not only helps public schools, but it also helps private and parochial schools in the district that I represent.

I represent the south suburbs of Chicago, and we are fortunate to have a very strong Catholic school system in Joliet in the south suburbs as well as other faith-based and also public schools. This legislation helps both. That is what is really great about this legislation. We are helping all sorts of families, and we are helping all sorts of parents who make different choices for their kids. I realize there is some that do not want to do that, and that is why they oppose this bill.

As I look at what you can do if you set aside $2,000 a year in this education savings account, I think of the parents and public school kids who are faced with fees for textbooks and faced with whether they need to buy a laptop computer so their son or daughter can do better in a public school.

Of course, as a result of these savings accounts, they have a mechanism where they can set aside money just like an IRA and use that to meet these costs of local, public education. Of course, the kids that go to the Catholic school system in Joliet would benefit as well. That is good.

We raised those contribution limits from the current $500 to $2,000, allowing the family to set aside up to $10,000 by the time a child is ready to enter first grade.

We are concerned about public education. This legislation also makes a pretty good commitment. Right now, only 70 cents on the dollar of every Federal education dollar that we appropriate actually reaches the classroom. That means almost 30 cents of every education dollar that we appropriate here in Washington is consumed by the bureaucracy in Washington before it reaches the classroom.

This legislation makes a commitment to raise that to 95 cents on the dollar so that the money that we spend and provide to help public education back home actually reaches the classroom. That is a pretty important goal.

I also look at another provision which was also, I think, pretty significant. This legislation allows private colleges and universities to offer prepaid tuition programs that will benefit the students that go to Olivet Nazarene University in Kankakee County as well as Saint Francis and Lewis.

This is good legislation. It helps public schools, and it helps private schools. It deserves bipartisan support.

□ 1100

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I thank the gentleman from New York for yielding me this time. I rise in strong opposition to the conference report.

Today, we are being treated to yet another episode in the continuing Republican saga of tax relief for the rich. It is also known as Robin Hood in reverse; take from the poor to give to the rich. When we look behind all the rhetoric, what we find is that the people who benefit from this bill are not everyday citizens. They only get about $7 a year out of this bill. The people who benefit are, again, the wealthiest 20 percent of Americans.

There is nothing wrong with private schools. There is nothing wrong with savings accounts. I think it is a great idea. What is wrong is when we take tax dollars away from public education, and that is what this bill does. Tax relief for the rich.

We have some problems in education. If the Republicans were serious about dealing with education, they would look inside our public school systems. Ninety percent of the students in America go to public schools. Sixty percent of Americans think we here in Congress ought to be spending more money on public education. It would seem to me that what we ought to be doing is putting our money where the students are: in public education.

How should we do this? There is a Democratic alternative that says, number one, we need smaller classes in grades 1 through 3. We need to reduce class size by hiring more teachers. I think that is a good idea. We need to build our infrastructure. We need to repair our schools. We have schools that have asbestos problems. We have schools with leaking roofs. About a third of all the schools in America have major repair problems that need to be addressed, not by some savings account gimmick but by a serious commitment of Federal funds for public education.

We also need to invest in our public schools by enabling them to have access to the Internet. Fifty percent of our schools are not capable of being wired to the Internet because they cannot accommodate the new technology. We need to address that infrastructure concern.

So when we talk about aid to education, there are two ways to go. We can go the way of tax relief for the rich or we can look at a serious commitment to repairing our education infrastructure. That is the approach the Democrats embody in their motion to recommit.

I urge rejection of the conference report. I urge adoption of the motion to recommit.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ARCHER), the chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding me this time.

I am somehow puzzled over and over again as I listen to comments from the other side of the aisle, and I just listened to our previous colleague say that this takes dollars away from public education. That is totally, totally false, and he must know it if he has read the bill. Not $1 in this bill is taken away from public education. But we listen to this rhetoric spoken over and over again, on issue after issue, and I am sure that many Members might believe some of it. It just happens to not be true.

What this bill does do is give parents an opportunity to save for their children's education, which they already have the opportunity to do so, and spend that money on college education. Those programs have not destroyed the public universities of this country, nor have they taken $1 away from the public universities to put into private universities. But for some reason, the Members on the other side of the aisle want to make people believe that what we are doing here today will destroy public elementary and secondary education.

And nothing could be farther from the truth because all of the evaluations of this bill are that the savings that parents will put freely into accounts for their children will be used 75 percent for children in public education and only 25 percent for children who go to private schools. Now, that is the Congressional Budget Office's analysis of this bill.

So let us get the facts straight. These savings accounts can be used to help children with disabilities, whether they are in public school or in private school, for their special needs. These savings can be used for tutors to help children in public schools, who desperately need it, in those schools that are not attaining the same levels as we see in many other schools.

And, by the way, we should not forget that most American children are getting an outstanding education. And thanks to local school boards, good teachers and smart kids, many Americans receive a world class education. And that is one of the reasons why our Nation is the envy of the world, and we should all be proud of it. But, yes, it is true that there are other schools that are not attaining that same level and we need to be concerned about it.

But when I listen to the rhetoric from the other side of the aisle, I wonder, what am I really hearing? Am I hearing rhetoric that has been prompted by large, powerful special interests or by a concern for the children of this country? I wonder. Why do they not want choice for children in elementary and secondary education? Oh, they are happy to give it in college. Why do they not want it for children in elementary and secondary education? I wonder. Why do they not want a higher degree of personal responsibility and local control of our elementary and secondary schools, rather than having greater and greater Federal intrusion which ultimately will take away that flexibility? Again, I wonder.

This is a good bill. It permits parents to do what we already permit, savings for college education, and gives those parents the opportunity to also use that funding, where necessary, to help their children in elementary and secondary education get a better opportunity and end up being better equipped to go out into this world.

Despite how helpful this plan is for children's education, I know President Clinton is under intense pressure from special interests to oppose our bipartisan plan. And I say to the President, "Mr. President, do not veto this bill. Do not put the needs of special interests ahead of the needs of our children and our schools. If you support Federal money through HOPE scholarships for public and private universities, why would you oppose Federal money for public and private secondary and elementary schools?"

And if HOPE scholarships do not destroy public universities, why would educational savings accounts harm public high schools? They will not. They simply will not. But they will give another tool, not a complete answer to all of educational problems, but another tool to help parents secure a better education for their children. And that is why many Democrats, including Senator TORRICELLI and former Congressman Floyd Flake support this bill, because it is good for our children.

This legislation also expands the definition of "qualified tuition program" under the present law provision granting qualified State prepaid tuition plans favorable tax treatment to prepaid tuition plan sponsored by private educational institutions. Because of revenue constraints, we were not able to make this change effective immediately. However, in making this change, no inference was intended as to the treatment of certain prepaid tuition plans sponsored by private institutions under present law.

I urge a vote against the motion to recommit and a vote for this conference report, which will begin a pattern of helping to develop better education for our children.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume to agree with the distinguished chairman of the Committee on Ways and Means, and say that he is right, that the cost of this bill is not taking away from appropriations for the public schools. This is not an education bill. This is a tax bill, and he is right, it does give tax cuts to those people that have enough money to deposit in a bank account.

And I have to admit that the chairman is right when he says that we are driven by special interests. That special interest are those very special children who need so badly to get a decent education. And so, once again, I agree with my chairman. But perhaps we do not end up at the same place, at the same time, with the same bill.

Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I thank the gentleman for yielding me this time.

To my dear friend, the chairman of the Ways and Means, I would remind him, as he talks about special interests, that it was yesterday in the United States Senate where our majority leader in the Senate and others rejected a tobacco bill that was sponsored by Mr. McCAIN and which many Democrats and Republicans had worked so tirelessly on. It was special interests, namely cigarette makers, that caused us to reject that bill and might cause us to retard public health efforts on behalf of children in this Nation.

But I rise in opposition to this conference report. I would agree with my colleagues on both sides of the aisle that reform is needed sorely in our public school system, in our education system in America. But if we listen to educators and we listen to parents and we listen to students, they talk tirelessly about the need to have more teachers in schools, about reducing class sizes.

I come from a district where the average class size is 35 pupils per teacher. I come from a district where, in the final 2 weeks of school, 3 dozen schools had to close early because they had no air-conditioning. The only reason they stayed open for half the day was to still qualify for funding, Mr. Speaker, for state funding for their school system for the following year.

Without a doubt, all we are talking about as Democrats will not solve all the problems. But, clearly, savings accounts will not do it alone. Thomas Jefferson said that any Nation which expects to be free and ignorant at the same time, expects what never was and never will be.

Let us work together, Democrats and Republicans, and do what is right for our kids, do what is right for parents, do what is right for America.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, last year the President signed with great fanfare the Taxpayer Relief Act, which allowed parents to invest up to $500 of their own money in education savings accounts to help send their kids to the college of their choice.

Now we are asking the President to give these same parents the ability to use that same money for elementary and high school expenses as well. And this bill gives parents, grandparents and friends the ability to invest up to $2,000 to send their children to the best schools available, from kindergarten through college.

I do not know about the President, but we should want every child to succeed. We ought to give him that chance. It is the American way. With this additional flexibility, parents can send their children to the safest, most academically challenging schools in America. But the President says he is going to veto this pro-family, pro-education bill because he cares more about the teachers' unions than the children stuck in bad schools.

This bill has strong bipartisan support and it is time for our President to give every child in America the same chance to succeed that his daughter was given. We must pass this conference report.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY), who has dedicated her political career to improving the quality of education for our young people.

Mrs. LOWEY. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), our leader on this important issue, for yielding me this time. And I rise in strong opposition to this conference report and in support of the school modernization motion.

My colleagues, just come visit some of the schools in our communities. The classrooms are overflowing and the students are trying to learn in hallways. Is Congress addressing this crisis? No. The leadership of this Congress has chosen, instead, to push through a flawed bill that will please their favorite special interests but do practically nothing for the majority of American families. The solution is not an arcane tax change, it is investing in education.

Last year, 120 Members of this Congress showed their commitment to America's children by cosponsoring the Partnership to Rebuild America's

Schools. This session we have a similar proposal, which the gentleman from New York (Mr. RANGEL) and I and others introduced, called the Public School Modernization Act. Our program will make interest-free loans available to school districts across the country through the Tax Code. Under the bill, school districts will be able to issue special bonds at no interest to fund the construction or renovation of school buildings, and the Federal Government will pay the interest on these bonds.

My colleagues, we simply cannot ignore the poor physical conditions of our schools any longer. The GAO found that $112 billion is needed nationwide to just bring our schools into adequate condition. Rural, suburban and urban districts all face serious problems. It is common sense. Children cannot learn in severely overcrowded schools and when classroom walls are falling down around them.

In New York, where the gentleman from New York (Mr. RANGEL) and I come from, a survey my office conducted found that 25 percent, one in four, of New York City public schools hold classes in bathrooms, locker rooms, hallways, cafeterias and storage areas. Almost half of our school buildings have roofs, floors and walls in need of repair.

A report by the New York City Commission on School Facilities revealed some startling realities: nearly half of the City's school children are taught in severely overcrowded classrooms. Two hundred and seventy schools need new roofs. Over half of the City's schools are more than 55 years old, and approximately one-fourth still use coal burning boilers.

Quite recently, Congress overwhelmingly passed a $200 billion bill to build and maintain our nation's highways. I support this investment. But shouldn't we also be investing in the future of our children? Regrettably, the Republican leadership has time and time again refused to support efforts to rebuild our schools.

This bill is the wrong approach. Investing in our schools is the right one. Support the school modernization motion. It is time that we come to the aid of our schools and our children.

Mr. Speaker, I urge my colleagues to reject this bill and support the motion to recommit.

□ 1115

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. BUNNING), a member of the Committee on Ways and Means.

Mr. BUNNING. Mr. Speaker, I rise in strong support of this conference report for the Educational Savings Act.

I am especially gratified that the report includes $1.5 billion in tax cuts for students enrolled in state prepaid tuition plans. And I thank my chairman the gentleman from Texas (Mr. ARCHER) for his help with this.

Last year, in the Balanced Budget Act, we cut taxes by $2 billion for these families. Now this report wisely gives further tax relief to those families who are investing for their children's future.

Unfortunately, it sounds like the President is going to veto this bill. That would be a real shame, Mr. President. These tax cuts would help over 3,000 Kentucky students to attend college. Their families have already invested over $7 million in our state prepaid tuition plan, and I think we need to do what we can to help them.

Mr. Speaker, I urge a vote for the conference report and for these students who need our help.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding.

I, too, rise in opposition to the conference report, the so-called education savings account legislation. This bill is simply private school vouchers by another name. Who do we think is going to be taking advantage of these accounts? Not the majority of our parents, who have little left after their monthly expenses. These IRA type accounts will obviously favor privileged families who are more likely to have more money to put into the account.

This bill will be an encouragement for well-to-do families to send their children to private schools, offering taxpayer financial subsidies for private schools, while doing nothing, nothing, Mr. Speaker, to improve America's public schools.

This bill diverts urgently needed funds from our public schools. Opposite to the thrust of this legislation, we should be passing Federal legislation to direct our limited resources into public schools, where over 90 percent of American children are educated.

Instead of subsidized education for the wealthy, we need to put our resources toward reducing class size in our public schools, modernizing and refurbishing our public schools and improving teacher training for our public schools.

As Julian Bond, Chairman of the Board of the NAACP, said recently, we should not take Federal dollars out of public education just when it needs help the most. This bill is just the latest in a long series of attempts to benefit the wealthy and to do nothing to help our middle class and lower income families.

As a matter of conscience and in support of the vast majority of Americans and their children, I urge my colleagues to oppose this ill-conceived legislation.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, one does not have to be a rocket scientist, one does not have to be an economics professor to know that many families today are struggling to pay their child's college education. Both sides of the aisle would agree with that.

In fact, college tuitions have increased 234 percent since 1980. Now, this prices many families out of a college education. Others have had to go deep in debt to send their children to college.

As a matter of fact, parents and children attending college have borrowed more money for college education in the 1990's than in the 1960's, 1970's, and 1980's.

Now, I was an elected member of the Alabama State School Board, and we were faced with this problem in Alabama, one of our poorer states, people unable to send their children to college. And we were one of the first 3 states to devise a prepaid tuition plan where parents could put away a little money each month and when their children reached college age they could take that fund and then pay for their college tuition.

I am glad to say today that 43,000 Alabama children are enrolled in our prepaid college tuition plan. 18 other states have made similar moves and have prepaid tuition plans.

We have heard about Kentucky from the gentleman from Kentucky. And it is my understanding that most other states expect to start their own plans in the near future and these plans will help make college a reality for many, many children.

It is because of that that I rise today in strong support for this conference report, for this conference report is good news for all those families and all those children enrolled in those prepaid tax plans.

There was bipartisan support for this provision, a provision which I introduced originally in this Congress 2 years ago and again last year and has been included in the conference report which makes savings and state prepaid tuition plans tax free. Can we all not agree that no tax makes less sense than one that punishes families for saving for their children's college education?

We should be rewarding families who save for their child's college education, not penalizing then. The current law penalizes them. When they draw that money out, they have to pay taxes on it. This conference report changes that.

For that reason, I congratulate the conferees and I urge my colleagues to support this legislation.

Mr. RANGEL. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to the conference report and in support of the motion to recommit. There is no question that parents have the right to choose the best possible education for their children. Unfortunately, this bill does not accomplish this goal.

Instead of opening doors to a better education for all of America's working families, this bill primarily benefits a small percentage of families who could afford to save as much as $2,000 a year and send their children to private schools. To meet the needs of the majority of American children, we do not need another tax shelter for the wealthier Americans, what we need is to invest our scarce Federal resources in our public schools, where over 90 percent of American children are taught.

Our Nation's public schools need funds for books, computers, and well-trained teachers and they critically need funding for repairs and school construction in urban and rural communities where our public schools are overcrowded and literally falling apart.

According to the American Society of Civil Engineers, our public schools are in worse shape today than any part of our Nation's infrastructure. And based on current growth, it is estimated that we will need to build 6,000 new schools over the next 10 years just to maintain current class size.

The motion of the gentleman from New York (Mr. RANGEL) addresses this crisis by creating a tax credit to help state and localities build new schools and make desperately needed repairs. Investing in our public schools benefits all of America's children, not just a few.

I ask my colleagues to defeat the conference report.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me say from the outset, what the American people want and need for their children and what this Congress wants and needs for the children of America with respect to education is exactly the same thing. We need to have the most effective public school system in the world.

I believe that it was not very many years ago when we could stand up proudly in this Nation and say that. I believe when I was a child going through public schools that this Nation could stand up and say before the world, we have the best, most accessible public education for the children of America than any nation in the history of the world. I believe at that time in America we were in fact the envy of the world for what we were able to do and were in fact doing in the education of our children.

But something has changed, Mr. Speaker. Something has changed, and it is a matter of enormous concern and heartbreak to the American people. We cannot say that anymore. And our children are paying the cost. We are not concerned here with children who fail in school so much as we are concerned with schools that are failing America.

And while throughout America we still have some fine examples of good schools, public and private, where the parents are pleased and the children are proud and the teachers are caring, we need to cherish them and we need to have a way to get them to be more a model for the other schools.

Because tragically, Mr. Speaker, we have schools in America that are failing the children. We have got to ask ourselves what is missing here. Why is it that some schools can succeed and so many other schools can fail, sometimes a school with a lesser budget can succeed? It is not always about money. I think it is about something more important than money. I think it is about a lot of things.

This bill that we have before us today is about one of the things. And if anybody thought, and certainly I do not, that this was the entire solution to the problem, they would be naive. But part of the solution is accountability. When schools are accountable to parents, schools do better.

How do parents make a school accountable to them? Well, first through local control. When the parents in their local community elect a school board and hold a school board accountable, as a school is held accountable by the school board, it works. But also by direct control.

When the school administrator and the teachers know that the parents can and will and have the resources to pick up their child, take the child from the school that is letting the child down and put that child into school where the child will do better, it perks up their attention. They realize the need.

One principal not too far from Washington, D.C., when faced with parents that had choices and were using those choices to move their children, said very clearly, "we have got to do better or we will lose the children."

Now, what does this bill say? It says to some of those parents, if you have the means to save your own money so that you can in your own savings put together a scholarship opportunity for your child and move your child, you should get a tax break for that, the earnings from that savings should be tax exempt.

We have had other bills on this floor, bills that were equally resistant, that said to some parents of low incomes, if you do not have those means, we will provide with you scholarships. They, too, were resistant.

We are not here to defend the public schools. Of course, we know they are all precious. But we are here to improve the public schools. We are here to give them the opportunity to see the challenge that lies before them and respond to it in a meaningful way by emphasizing to them through the actions of the parents that they must be accountable to the parents and the service in the lives of the children.

Why should we trust the parents, Mr. Speaker? Very simple. The parents are and will be and always have been the first best most dedicated teacher in that young child's life. Nobody cares more. Nobody lives more with the consequences of that child's education other than the child himself. And when the parents are able to affirm that, the schools will respond to it and we will again some day have the best public schools in the world, what our children deserve.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman from New York for yielding.

Mr. Speaker, I rise today to call on this House to reject the conference report on the latest voucher bill.

□ 1130

Make no mistake about it. This is a bad bill. We have heard talk about all kinds of things. It really is about a voucher bill and it is not about the good things that happen in our public schools. There are a lot of good schools. I am so tired of coming and hearing people bad-mouth our teachers and bad-mouth our schools. That is why I ran to come here, and I really thought I would see the rhetoric change. I am sorry to say that from some in this body, it has not changed.

As a former elected chief of North Carolina's public schools, I know that using taxpayers' money to finance private school tuition is the wrong way to improve public schools in this country. It will absolutely not do it. This bill takes the taxpayers' money, almost $2 billion, to subsidize private schools at the expense of our neighborhood public schools who badly need the money, and that is wrong.

I call on this Congress to pass legislation to address the school construction crisis in this country. I will not go over the details. My colleagues have already heard them. I have introduced H.R. 3652. There are other bills that will provide revenue from this voucher bill to be used for school construction bonds in some of the fastest growing and most critically needed communities in this country.

If we want to help public schools, do something about it and quit talking about it and put the money out there to help children and not to help a select few but help all of them because all of them are part of this great country we call America.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me this time.

Mr. Speaker, let me just state out front that I have heard repeatedly that this is going to take money away from public education. I just urge those who are curious to read the bill and determine and find out for themselves that this does not take money away from public education. Indeed what it does is serve to improve education. Clearly there has been no stronger fighter in my mind than I am in this Congress, and before this I was elected to the New York City Council and served on the Education Committee and continually fought to improve education for the people of my community in Staten Island and Brooklyn and across this country.

In the last couple of weeks, we have seen, I guess, a critical point in terms of discussing the future of education, and, if you will, a line in the sand has been drawn. Our majority leader the gentleman from Texas (Mr. ARMEY) introduced a bill to provide, as he stated earlier, to the low-income people of Washington, D.C., 2,000 scholarships. There were parents who prayed that they would actually be able to send their child to a school of their choice. This House passed that legislation. It was quietly vetoed by the President, thereby depriving some of those most vulnerable out there the opportunity to send their kid to a school of their choice.

Now we have another great opportunity before us today. Here we again continue to question the common sense of ordinary Americans. We just throw it out there, folks. Is it the folks here in Washington or the folks in your local towns, whether it is Capitol Hill or your State capital or city hall that is in the best position to determine where to send your child? Or is it the parents of America? All this bill does is allows the parents the opportunity that they have been deprived of for far too many years to send their child to the school of their choice so that they can invest in their most precious resource, their children.

If we really believe in the future of this country and we believe in education, we will pass this conference report.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, the conference report before us is what the Republican agenda for education boils down to: providing education tax credits for a limited population of parents who chose and have the money to send their children to private schools versus helping the 90 percent of the students that are in public schools today, 90 percent, which is where the educational future of the Nation will be determined.

Public schools face much pressure from the growing rates of enrollment, large class size, increased violence and finding qualified teachers. As they face all of these pressures, we need to make sure they have the capability to impart knowledge and learning skills to our children. That is not what this bill does. I do not understand how taking money away from public schools provides for accountability. With limited resources, teaching children is not easy to do. We have an obligation to see that the schools do their job, but this bill certainly does not do it.

In New Jersey, my home State, we have schools in crucial need of modernization as reported by the New Jersey Supreme Court. I have visited public schools throughout the State. I have seen the crumbling ceilings, the exposed pipes, the fading blackboards, the lack of ability to connect to the new technology that will make us competitive in the next century. These tours indicate that we simply cannot ignore the needs of our students any longer when it comes to the poor physical condition of our schools.

New Jersey public elementary and secondary schools will see an increase of over 100,000 students in the next 10 years requiring over 4,000 more new classrooms or else we will have even greater class sizes. We know that over a thousand of our schools are over 50 years old, many more from the turn of the century, and these statistics are replicated across the country. This bill does nothing to meet the needs of those schools or those students.

Let us vote for the Rangel motion to recommit so we can help our public schools, where 90 percent of the public's interest and the educational future of the Nation will be served. That is the way we should be voting. Vote for the motion to recommit.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, is it not a little bit ironic that yesterday the House voted to repeal the Federal income tax code and yet today we are going to vote on legislation to create yet another loophole in the income tax code. We are kind of going in the wrong direction.

My dear colleague from Texas, the majority leader, I think put it best about this legislation when he said, "If you have the means." That is what this is about. This legislation is not going to help middle-class families. It is not going to help families that are struggling, that may be in difficult school districts. It is going to help families that have the means to set aside $2,000 a year which they are going to have to let sit for a while until they get enough income to pay for private schools. This is a band-aid approach to a real problem.

The gentleman from New York has an approach to try and address the school problem for a larger number of American students and that is the approach we ought to be taking. This is nothing but a tax break for people who are not asking for it and who do not need it, and we do not even know how we are going to pay for it. I am afraid this is a precursor to what we are going to see with Social Security and everything else, is if you have the means, you are okay but if you do not, you are on your own.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to the conference report. This bill is yet another attempt by the Republican leadership to gut public education and tear desperately needed dollars away from our public schools. The legislation will do nothing to improve the education of millions of middle- and working-class kids in this country. The average middle-class family would find itself with a measly $10 benefit a year, not nearly enough for a working family to afford the cost of a private high school.

We need to focus on improving the schools that serve 90 percent of America's children, the public schools. We need to invest in technology and computers for our classrooms. That is what the motion to recommit by the gentleman from New York (Mr. RANGEL) does. If we are serious about improving education in our country, we will reject the dangerous bill before us. Passing this bill is like waving a white flag. Passing the bill means giving up on public education, abandoning millions of children who only want that opportunity to succeed. Having a chance in America means having access to a first-rate education.

Let us not turn our backs on these children. Let us deal with legislation that helps America's children, not just a token few. Reject the conference report. Vote for the motion to recommit.

Mr. RANGEL. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. GEPHARDT), our distinguished minority leader.

Mr. GEPHARDT. Mr. Speaker, I urge a "no" vote on the conference report, and I urge an "aye" vote on the Rangel motion to recommit. I believe with all my heart that this issue, education and child rearing, is the most important issue that faces us as a people. We have never needed more in our history to have well-educated, mentally capable young people.

In my home State of Missouri, the only issue that really dominated the State legislature was how we could go from 30,000 to 60,000 prison cells over the next 5 years, a symbol of failure of our child rearing and our education system in this country.

I am tough on law and order and so are my constituents. But I say to my constituents, you cannot afford what we are doing. We cannot afford to hold a million and a half people in prison, to carry them, to keep them because they are unsafe to have in our society. We also know that if we raise children correctly, they will not get into trouble. They will not be dysfunctional citizens. But we also know our society has changed dramatically. People are not at home to raise children as they once were. That is a fact of life. We are not going to change that. And so we have to put the investment into education so that children are raised correctly.

What this bill misses entirely is that there is a whole revolution going on out in public schools to fix the schools to meet the need. In my district, I have a school in the inner city that is getting great results. The kids get great grades. I went there and I asked them how they are doing it. They said, we have parents as first teachers in the public school to teach parents how to be better parents and how to raise children. They have preschool in the public school. They have after-school in the public school, so children are engaged even at age zero, age 6 months, age 1 year, age 3 years in constructive, professionally run activities so they can be productive citizens when they come out of the education process.

Does this bill support that effort that is going on in Shepherd School in my district? I daresay not. What this bill offers is $7 a year to the families that are sending those kids to Shepherd School. No, what Shepherd School needs is not this bill. This is a silly bill. It is a frivolous bill. It is not serious about public education. Seven dollars a year to families in my district fighting to get their kids a good education is frivolous.

The Rangel substitute would offer real help to the people at Shepherd School. What do they need? They need bigger classrooms. They need a competent building. They need computers in the classrooms. They need help, real help. Listen to Paul Vallas, CEO of the Chicago Public Schools. This is somebody that is on the line every day. Mayor Daley in Chicago said, "Give me the schools, give me the responsibility, and we will fix them," and he is fixing them. He put his best person on this job. Here is what Paul Vallas says. He says this bill, the Coverdell bill, is really designed to give more affluent people compensation for decisions they already made to go private. That is all it is. This does not help public education. It does not help the people that are out there in the crucible of the fight to fix public education. It helps just a few people who have already chosen to send their kids to private schools. What a shame this is. What a missed opportunity this is.

I urge Members to vote for the Rangel substitute, which gives real, tangible help to the real revolution that is going on out there in the real world to fix the public schools so all of our kids are productive citizens, and vote against a frivolous, unserious, ridiculous piece of legislation that does nothing but help the privileged few.

□ 1245

Mr. GOODLING. Mr. Speaker, I yield myself the balance of the time.

First of all, I want to make sure everybody understands it does not take 1 penny from public education. If it did, I would not support it.

But secondly, all these people who are down here now crying about how much we need, how much help we need to repair schools, to reduce class size.

For 20 years I sat here in the minority and said, "Would you put your money where your mouth is on your one mandate, your curriculum mandate for special education where you would get millions and millions of dollars into school districts, where the pairs are needed," and I could not get 1 penny from that majority.

Now they talk about trying to do something to help public schools. Well, let me tell them, if we put our 40 percent of excess costs into special education, which is where the mouth was, but the money was not put there, Los Angeles school district would get an additional $74 million. New York City would get about $50 million. Chicago would get $40 million. Just in 1 year, just in 1 year, and they talk about coming here, telling us they are doing a dispirited kind of thing. They are not helping public education.

I have tried, I have tried, I have tried to get them to put their money where their mouth was for 20 years, and then we would not have the problems we have with school districts where buildings are falling down and where classes are way too large.

So I would remind everyone there is not 1 penny going to public schools in this bill except in reading excellence. They talk about helping schoolchildren. If 40 percent of the children are not doing well in reading in public schools by the end of third grade, what do we do about it? Not what the President wanted, but he got an agreement with the Committee on the Budget that said that much money would be put there. We rewrote the bill in a bipartisan manner to help those children because, if 40 percent are not doing well, obviously we have to start with teacher training. Obviously we have to deal with the lack of ability of the parent to help the child become reading ready. Obviously we have to deal with reading readiness programs before the child comes to school.

So let us put our money where our mouth is, and then we can solve all of those problems back in the local level because the millions those districts that need it the most would get is just unbelievable, and that is just in 1 year.

So I would encourage my colleagues, this is one step, and the second step is to do the funding in the special ed mandate that we promised we would do, and then we can make the changes, not by having more programs. That is what we have done those 20 years. Everybody came with another program. They watered them down to the point where we got pennies here, pennies there if there was someone that could fill out the appropriate papers in order to get the grant in the first place. Nobody ever said anything about quality. Nobody ever said anything about the problems that they had back in the local districts. We said we know from the Federal level this is the way it should be done, do it, and send them pennies to do it.

So let us start with this little piece today and let us really work on how to help local school districts take care of the needs they have as far as buildings are concerned, as far as reading readiness is concerned, as far as class size is concerned. They can do it, if we give them the money that we promised them 25 years ago.

So I would ask all to support this legislation, and then let us move forward to do the things that have to be done to make sure those public schools that may not be doing as well as they should be, and I will be the first to say that most public schools are doing well, but those that are not, we can give them the kind of help that they need.

Mr. PAUL. Mr. Speaker, I appreciate the opportunity to explain why I oppose the Conference Report of the Parent and Student Saving Account Act (H.R. 2646). This, despite having been an original cosponsor, and having been quite active in seeking support, of the original House bill. I remain a strong supporter of education IRAs, which are a good first step toward restoring parental control of education by ensuring parents can devote more of their resources to their children's education. However, this bill also raises taxes on businesses and expands federal control of education. I cannot vote for a bill that raises taxes and increases federal power, no matter what other salutary provisions are in the legislation.

I certainly support the provision allowing parents to contribute up to $2,000 a year to education savings accounts without having to pay taxes on the interest earned by that account. This provision expands parental control of education, the key to true education reform as well as one of the hallmarks of a free society. Today the right of parents to educate their children as they see fit is increasingly eroded by the excessive tax burden imposed on America's families by Congress. Congress then rubs salt in the wounds of America's hardworking, taxpaying parents by using their tax dollars to fund an unconstitutional education bureaucracy that all too often uses its illegitimate authority over education to undermine the values of these same parents!

I also support the provisions extending the exclusion of funds received from qualified state tuition programs, and excluding monies received from an employer to pay for an employee's continuing education from gross income. Both of these provisions allow Americans to spend more of their resources on education, rather than hand their hard-earned money over to the taxman.

Returning control over educational resources to the American people ought to be among Congress' top priorities. In fact, one of my objections to this bill is that is does not go nearly far enough in returning education dollars to parents. This is largely because the deposit to an education IRA must consist of after-tax dollars. Mr. Speaker, education IRAs would be so much more beneficial if parents could make their deposits with pretax dollars. Furthermore, allowing contributions to be made from pretax dollars would provide a greater incentive for citizens to contribute to education IRAs for others' underprivileged children.

Furthermore, education IRAs are not the most effective means of returning education resources to the American people. A much more effective way of promoting parental choice in education is through education tax credits, such as those contained in H.R. 1816, the Family Education Freedom Act, which provides a tax credit of up to $3,000 for elementary and secondary expenses incurred in educating a child at public, private, parochial, or home schools. Tax credits allow parents to get back the money they spent on education, in fact, large tax credits will remove large numbers of families from the tax roles!

Therefore, I would still support this bill as a good first (albeit small) step toward restoring parental control of education if it did not further expand the federal control of education and raise taxes on American businesses!

In order to offset the so-called "cost to government" (revenue loss) H.R. 2646 alters the rules by which businesses are taxed on employee vacation benefits. While I support efforts to ensure that tax cuts do not increase the budget deficit, the offset should come from cuts in wasteful, unconstitutional government programs, such as foreign aid and corporate welfare. Congress should give serious consideration to cutting unconstitutional programs such as "Goals 2000" which runs roughshod over the rights of parents to control their children's education, as a means of offsetting the revenue loss to the treasury from this bill. A less than 3% cut in the National Endowment for the Arts budget would provide more funding than needed for the education IRA section of this legislation.

Mr. Speaker, we in Congress have no moral nor scientific means by which to determine which Americans are most deserving of tax cuts. Yet, this is precisely what Congress does when it raises taxes on some Americans to offset tax cuts for others. Rather than selecting some arbitrary means of choosing which Americans are more deserving of tax cuts, Congress should cut taxes for all Americans.

Moreover, because we have no practical way of knowing how many Americans will take advantage of the education IRAs, or the other education tax cuts contained in the bill, relative to those who will have their taxes raised by the offset in this bill, it is quite possible that H.R. 2646 is actually a backdoor tax increase! In fact, the Joint Committee on Taxation has estimated that this legislation would have increased revenues to the Treasury by $24 million over the next eight years!

It is a well-established fact that any increase in taxes on small businesses discourages job creation and, thus, increases unemployment! It is hard to see how discouraging job creation by raising taxes is consistent with the stated goal of H.R. 2646—helping America's families!

Mr. Speaker, this bill not only raises taxes instead of decreasing spending, it increases the federal role in education. For example the conference report on H.R. 2646 creates a new federal program to promote literacy, the so-called Reading Excellence Act. This new program bribes the states with monies illegitimately taken from the American people, to adapt programs to teach literacy using methods favored by Washington-based "experts."

Mr. Speaker, enactment of this literacy program will move America toward a national curriculum since it creates a federal definition of reading, thus making compliance with federal standards the goal of education. I ask my colleagues how does moving further toward a national curriculum restore parental control of education?

This bill also creates a new federal program to use federal taxpayer funds to finance teacher testing and merit pay. Mr. Speaker, these may be valuable education reforms; however, the federal government should not be in the business of education engineering and using federal funds to encourage states to adopt a particular education program.

While the stealth tax increase and the new unconstitutional programs provide significant justification for constitutionalists to oppose this conference report, the new taxes and spending are not even the worst parts of this legislation. The most objectionable provision of H.R. 2646 is one that takes another step toward making the federal government a National School Board by mandating that local schools consider a student's bringing a weapon to school as evidence in an expulsion hearing.

The issue is not whether local schools should use evidence of possessing a weapon as evidence in a discipline procedure. Before this Congress can even consider the merits of a policy, we must consider first whether or not the matter falls within our constitutional authority. The plain fact is as the tenth amendment to the Bill of Rights makes clear, Congress is forbidden from dictating policy to local schools.

The drafters of the United States Constitution understood that to allow the federal government to meddle in the governance of local schools, much less act as a national school board, would inevitably result in the replacement of parental control by federal control. Parents are best able to control education when the decision making power is located closest to them. Thus, when Congress centralized control over education, it weakens the ability of parents to control, or even influence, the educational system. If Congress was serious about restoring parental control on education, the last thing we would even consider doing is imposing more federal mandates on local schools.

In conclusion, although the Conference Report of Parent and Student Savings Account Act does take a step toward restoring parental control of education, it also raises job-destroying taxes on business. Furthermore, the conference report creates new education programs, including a new literacy program that takes a step toward nationalizing curriculum, as well as imposes yet another mandate on local schools. It violates the Tenth Amendment to the Constitution and reduces parental control over education. Therefore, I cannot, in good conscience, support this bill. I urge my colleagues to join me in opposing this bill and instead support legislation that returns education resources to American parents by returning to them monies saved by deep cuts in the federal bureaucracy, not by raising taxes on other Americans.

Mr. HASTERT. Mr. Speaker, I rise in strong support of the Conference Report accompanying H.R. 2646, the Parent and Student Account PLUS Act of 1998 (PASS A+) and wish to commend Chairman ARCHER and Senator COVERDELL for their work on this important bill. As an original cosponsor of this legislation I am pleased that today Congress is taking a positive step forward toward helping America's families with their efforts to educate their children.

Mr. Speaker, our nation's schools face a growing crisis and it is clear that improvements need to be made. Consider the following evidence: Nearly 40% of students do not feel safe in school and 2000 acts of violence take place in schools each day; U.S. eighth-graders recently placed 28th in the world in math and science skills; almost one out-of-three college freshman require some remedial instruction; and 40% of all 10 year-olds cannot meet basic literacy standards.

Mr. Speaker, the current state of America's K–12 education system is a serious threat to the health of the economy and to the future prosperity of American children. Thus far, school reform initiatives have focused on increasing funding to public schools. Since 1983, government funding to public K–12 schools has increased by 44 percent and average per-student spending has increased by 32 percent. Total spending for public K–12 education now totals nearly $300 billion per year. Yet for all these increases in federal government spending, our children are falling farther behind the children of other nations. In short, Washington-based solutions to our school's problems have not worked; nor are they likely ever to work.

Mr. Speaker, to combat the pressing problem of a troubled educational system, I cosponsored the Parent and Student Savings Account Plus Act (PASS A+). This bill allows parents, grandparents, or scholarship sponsors to donate up to $2,000 a year per child with the buildup of interest within that account to be tax-free if used for the child's education. Money from this fund could be used to pay for tuition, books, supplies, computer equipment, transportation, and supplementary expenses required for the enrollment or attendance of a student in an elementary or secondary public, private, or religious school—even associated costs for home schooling are covered.

Mr. Speaker, the PASS A+ legislation is important because it provides American families with the one educational tool we know works—a choice. While our Nation's K–12 public schools have fallen farther and farther behind, our higher education system of colleges and universities continues to be the envy of the world. Why? simply put, colleges and universities must compete for students and their education dollars. This competition has forced colleges and universities to focus on excellence and improvement and the results speak for themselves.

Mr. Speaker, PASS A+ works for parents and families because it helps them help themselves. If their local school will not provide the education their children need, this legislation will allow them to choose an alternative. In the same vein, if their public school is working, the proceeds from these accounts can help parents provide important educational tools for their kids—like a computer. In short, this bill is a "win-win." It helps all kids, in all schools. I urge my colleagues to vote for our kids and support the Conference Report.

Mr. CLAY. Mr. Speaker, the tax scheme contained in this bill is nothing more than a back door vehicle for subsidizing families who want to send their children to private elementary and secondary schools. It is designed to create a tax shelter for families of high incomes, while leaving nothing for families that don't even have enough to pay for their retirement.

According to the Department of Education, these tax provisions would give an average tax break of $96 for families earning $150,000. However, for poor families, the average benefit would be only $1.

Rather than pursuing this shamefully regressive tax scheme, we should strengthen our public schools, where 90 percent of our Nation's children attend. We should address the problems of leaky roofs and overcrowded classrooms. We should target funds for school renewal in our country's poorest school districts. Finally, we should move to reduce class sizes—a proven strategy for enhancing student achievement.

Mr. WELDON of Florida. Mr. Speaker, the American people expect all of us—Democracts and Republicans—to work together to improve the education for our children. This bill, the A–PLUS Savings Accounts for children, will expand education opportunities for all children in grades K–12. We owe this to our children. As Washington Post columnist Charles Krauthammer put it, the "great crisis in American education is not at the university level. It is at the elementary and high school levels, where thousands of kids—particularly inner-city minority kids—are getting educations so rotten that their entire life prospects are blighted." Indeed, do any Members of this Congress send their sons and daughters to D.C. public schools? Does the Vice-President? Does the President? No, they do not. Why, because they know that their children will not be prepared for college or the workforce. As one of Jesse Jackson's campaign organizers has noted. I believe that the Clintons should not be the only Americans in public housing with an opportunity to send their children to a private school.

This bill will help all parents send their kids to any school they choose so that their children can get the best education possible. All children will benefit because any relative, individual, or business could contribute up to $2,000 in annual contributions per child to an account that will help pay for educational expenses. The money could be used for any school: public, private, parochial, or home school, or it could be used for tutoring, school uniform costs, or children with special needs. In addition, this bill addresses other problems in our classrooms which sorely need help; literacy programs, phonics, teacher testing and merit pay, and tax-free state college savings programs. The bill has all the right elements for education success: common sense, more dollars directly to the classroom, scholarships for needy students, and strategies that will lead to better teaching and learning. Let's put the interests of all children first, not Washington lobbyists and special interest. Let's pass H.R. 2646.

Mr. FAZIO of California. Mr. Speaker, the Republican 105th Congress has failed to act on legislation to improve American schools and instead has wasted time on extreme anti-public education legislation. The Coverdell private school savings account bill is just one of a number of efforts that serve only to undermine the education of many in order to benefit a few. Costing taxpayers hundreds of millions of dollars, Coverdell essentially subsidizes upper income families who already send their children to private and religious schools.

Let's put that money into improving the institutions which educate more than 90 percent of our elementary and secondary students. Specifically, construction for our nation's schools should be a top priority in our education initiatives. The Department of Education recently released a report highlighting the need for expanding our nation's classroom space. America's K–12 enrollment will be at an all time high of 52.2 million this fall, and by 2007 this number will reach 54.3 million.

However, despite this cause for action, this Republican Congress has refused to heed the call for a school construction initiative which calls for $5 billion in federal support to deal with the current crisis both in overcrowding and in crumbling school facilities. It is our responsibility to provide our children with an environment that is adequately equipped and conducive to learning.

Whether it be a push for vouchers or private school savings accounts, Republicans continue to ignore and undermine the needs of the majority of our nation's children. Time and time again, real concerns such as school construction are sacrificed in the Republican's narrow agenda.

Mr. RILEY. Mr. Speaker, the most important thing we can do for the future of our nation is to insure that each and every child in America is given the opportunity to receive the best education possible. I believe that it is our duty to prepare the next generation to meet the challenges of the 21st Century. The Parents and Students Savings Account Plus Act does just that. By allowing Educational Savings Accounts to be used for primary, secondary or higher education, this legislation gives our children the opportunity they deserve.

First and foremost, this legislation expands tax free expenditures from Education Savings Accounts to include elementary and secondary school expenses. Savings from these accounts can be used for tuition, tutoring, transportation, books, uniforms, and computers.

Most importantly, the measure increases to $2,000 per year the maximum amount of contributions that may be made to an Educational Savings Account. Contributors can include relatives, friends and corporations as parties who may contribute to this account.

Mr. Speaker, this legislation gives parents more control over their children's education and is an important tool in making schools more accountable to parents. Parents, not government will decide how to best spend their money on their child's education.

I urge all of my colleagues to vote in favor of the Conference Report.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in strong opposition to the Conference Report on H.R. 2646, a bill which will provide tax breaks to benefit the wealthy in order to send their children to private schools.

There is nothing better we can do for this nation than to improve education, and assure that all children in all communities across this nation have access to quality education. Unfortunately, the Republican Majority has once again failed to put forth legislation that will help us accomplish this goal.

This Conference Report—the cornerstone of the Republican Education agenda—does absolutely nothing to improve education. It will give a few wealthy families a tax break on the money they save to send their children to private schools, or buy additional items such as computers. But it will do absolutely nothing to improve education in this country overall.

It will have no impact on our public school system which serves 90% of all elementary and secondary students. Instead it spends scarce federal dollars—$2.2 billion over the next five years—to subsidize families that already send their children to private schools. It will be those who can already afford private education with or without this tax break that will benefit from this bill.

Low- and middle-income families are struggling just to keep themselves above ground financially. This type of assistance, which requires families to have their own money in order to benefit, does nothing for families who cannot afford to put money away for education.

An analysis by the Treasury Department found that 70% of the tax benefits in H.R. 2646 will go to families in the top 20% of the income brackets, while all other families will get virtually nothing.

The Congress' own Joint Committee on Taxation found that 50% of the tax benefits in this proposal will go to the 7% of families who are already sending their children to private and religious schools.

Schools need our help. They need help in renovating crumbling school buildings and constructing new ones to keep up with student growth. They need our help in obtaining the latest technology and training teachers to use that technology. They need our help in reducing class size, so that children can have more individualized attention. Families need our help in providing before- and after-school programs, so that parents know their children are safe and in a learning environment during those non-school hours during the day.

Instead this bill concentrates on the central Republican education goal which is to abandon the public school system and help the few who can attend private schools. This bill would allow for the first time religious schools to benefit from federal dollars. Though not as direct as a voucher program, the tax-free interest received in these IRA accounts can be used to pay the tuition of private and religious schools.

This Conference Report does nothing to solve our most pressing problems in education today. It is simply political maneuvering to help a specific population in this country.

In addition to the tax provisions in this bill, there are other items of concern in this bill.

First the conference report would for the first time allow federal money to be used to support single-sex education. It includes a qualifier that says the education offered to students of both sexes most be comparable. However, there is no requirement that such schools must comply with equal educational opportunity laws such as Title IX of the Education Act Amendments of 1972, the equal protection clause under the constitution, or state laws.

This broadly worded permission to use federal funding for single sex education ventures down a dangerous path that could turn us back to the time of separate and unequal education for female students.

The Conference Report also includes a Sense of the Congress Resolution that 95% of federal elementary and secondary education funds be spent in the classroom.

While no one can argue that we need to assure that students receive the full benefits of education funding, this resolution is deeply flawed in its findings and setting an arbitrary requirement of 95% of funds that must be spent in the classroom does not consider the practical aspects of providing education.

The findings in this resolution are not statements of fact, but conjecture, opinion or they are simply not true. Take for example the clause which states that there are "more than 760 Federal education programs, which span 39 Federal agencies at the price of nearly $100 billion."

Let's set the record straight. The Department of Education administers 183 education programs.

Based on an analysis by the U.S. Department of Education, the list of 760 includes 305 which are identified as Department of Education programs. Of these programs 122 are unauthorized, unfunded or simply not programs. That leaves 183 Department of Education programs.

The Majority disparages the debate on education policy in this country by using such false information which misleads the American public of the true nature of federal investment in education.

Federal education programs already drive money down to the local level. Less than 2% of the US Department of Education budget is spent on Federal administrative costs. This raises the question; is this a problem with federal administration or is it a state and local problem?

There are legitimate uses for education dollars that may not be spent directly in the classroom, but go to assure that children can take full advantage of the learning experience in our schools. For example, professional development is necessary to assure quality teachers in our classrooms, but teacher training does not occur in the classroom. Is the expense considered "dollars to the classroom"?

One of the major education goals of the Republican Majority that I agree with is to send more money to the states for special education. However, are support services for children with disabilities considered "dollars to the classroom"?

Funds on technology may need to be spent on infrastructure outside the classroom so that the school is wired for new technology, also training teachers on using technology takes place outside of the classroom. More and more schools are forming consortium and partnerships with other schools or community groups to improve technology in their schools. Funds to support such partnerships may not be spent directly in the classroom. Is this type of technology funding considered "dollars to the classroom"?

Assuring that children have a safe and drug free environment in school may include expenditures outside the classroom. Are Safe and Drug Free School funds considered "dollars to the classroom"?

Libraries are an important component of our educational system, and supplement classroom learning. Is library funding considered "dollars to the classroom"?

Mr. Speaker, the Dollars to the Classroom resolution is flawed, as is the underlying bill. Ask my colleagues to reject this conference report which will do nothing for education in this country.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. RANGEL. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. RANGEL moves to recommit the conference report on the bill H.R. 2646 to the committee of conference with instructions to the managers on the part of the House to agree to provisions relating to tax-favored financing for public school construction consistent, to the maximum extent possible within the scope of conference, with the approach taken in H.R. 3320, the Public School Modernization Act of 1998.

The SPEAKER pro tempore. The motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RANGEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 196, nays 225, not voting 12, as follows:

[Roll No. 242]

YEAS—196

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NAYS—225

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske

Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)

Linder
Lipinski
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema

Royce
Ryun
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Cooksey
Cunningham
Gonzalez
Green

Hastings (FL)
Leach
McNulty
Moakley

Radanovich
Torres
Weldon (FL)
Wise

□ 1209

Mr. BATEMAN, Mr. FAWELL, and Mrs. ROUKEMA changed their vote from "yea" to "nay."

Messrs. GUTIERREZ, JOHNSON of Wisconsin, and WYNN changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RADANOVICH. Mr. Speaker, on rollcall No. 242, I was inadvertently detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. LEACH. Mr. Speaker, on rollcall No. 242, I was inadvertently detained. Had I been present, I would have voted "yea."

The SPEAKER pro tempore (Mr. NEY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RANGEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 197, not voting 12, as follows:

[Roll No. 243]

YEAS—225

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas

Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle

Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baesler
Barcia
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Bentsen

Berman
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)

Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Condit
Conyers

Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gordon
Gutierrez
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)

Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi

Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOT VOTING—12

Baldacci
Cooksey
Gonzalez
Green

Hastings (FL)
Leach
McNulty
Moakley

Sessions
Torres
Weldon (FL)
Wise

□ 1219

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEACH. Mr. Speaker, on rollcall No. 243, I was inadvertently detained. Had I been present, I would have voted "yea."

ANNOUNCEMENT REGARDING CONSIDERATION OF AMENDMENTS TO LEGISLATIVE BRANCH APPROPRIATIONS BILL

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I would like to make two announcements. The first announcement is that there probably will not be a vote on the floor for another hour.

Secondly, the Committee on Rules is planning to meet next week to grant a rule which may limit the amendments offered to the Legislative Branch Appropriations Bill.

Members who wish to offer amendments to the bill should submit 55 copies of their amendments, together with a brief explanation, to the Committee on Rules office in H-312 of the Capitol, no later than noon on Tuesday, June 23.

Amendments should be drafted to the bill as ordered reported by the Committee on Appropriations. Copies of the text will be available for examination by Members and staff in the offices of the Committee on Appropriations in H-218 of the Capitol.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

Any offset amendments should be scored by the Congressional Budget Office, and Members ought to listen to that, to ensure compliance with clause 2(f) of rule XXI, which requires that they not increase the overall levels of budget authority and outlays in the bill. Otherwise, those amendments may not be in order.

PROVIDING FOR CONSIDERATION OF H. RES. 463, ESTABLISHING SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 476 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 476

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 463) to establish the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China. The resolution shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on Rules now printed in the resolution shall be considered as adopted. The resolution, as amended, shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules. The previous question shall be considered as ordered on the resolution, as amended, to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. Of course, during consideration of the resolution all time yielded is for debate purposes only.

Mr. Speaker, this resolution is a rule providing for consideration of House Resolution 463 to establish the Select Committee on United States National Security and Military/Commercial Concerns with the People's Republic of China.

This rule provides 1 hour of debate on the resolution, divided equally between the chairman and ranking minority member of the Committee on Rules. And right now, that is being filled in by the gentleman from Texas (Mr. FROST).

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the resolution shall be considered as adopted. The rule further provides that the previous question shall be considered as ordered on the resolution.

Mr. Speaker, this rule passed by voice vote in the Committee on Rules, as did the underlying resolution, and I would hope that we can dispense with the rule expeditiously and proceed with the debate on the resolution itself.

Mr. Speaker, the debate over the next several hours will revolve around one question and that question is how seriously do we in the House take the national security of the United States?

This Select Committee proposed to be created by this resolution will address an issue over which I have had many concerns for at least a decade, and that is the transfer of technology which has military value to Communist China.

I have opposed this policy since it began during the Reagan administration under my hero, Ronald Reagan, in the wake of the Challenger disaster. But until recently, my differences with Presidents Reagan, Bush, and Clinton have been strictly policy differences. And naturally people can disagree.

Now, over the past few months, we have seen startling revolutions that have brought us to this unfortunate point where we need this Select Committee to sort out what appears to be both a national security fiasco threatening the very security of this Nation of ours and our American citizens, and of course, a potential scandal. I will elaborate on and document those revelations during the next debate after we finish this rule.

Mr. Speaker, it suffices to say that we now know that the United States' national security has been harmed and indeed it has been breached by this policy. And that despite knowing this, and despite a Justice Department investigation of the Loral Company's actions vis-a-vis China, the Clinton administration allowed this policy to continue in February by granting a waiver to Loral to export yet another satellite to China. My colleagues ought to pay attention to this and just how important that is.

We also know that Loral has connections to the White House and that a Chinese military officer, listen to this, a Chinese military officer involved in the satellite launch business in China attempted to buy influence with the United States Government. That is reported in every newspaper across this country. The New York Times, the Washington Post, all newspapers.

Mr. Speaker, also in the next debate I will elaborate on some testimony we heard in the Committee on Rules last night from Jim Woolsey, who is President Clinton's first CIA director, now retired. Members are going to be shocked at what we are giving to the Chinese in the name of business, or should I say "business as usual."

The bottom line is that our technology store is open and the Chinese have been buying it. They have been buying the future security of this Nation. We need to find out how and why this happened and what damage has been done to this country. Is this simply a policy failure of massive proportions or is there more to it?

This is what we have to consider in this legislation. Mr. Speaker, the subject matter of this inquiry is of such grave importance that it warrants treatment outside the existing committee system which continues to serve this House well.

☐ 1230

But there are eight standing committees involved with some 295 Members. You would never be able to get to the bottom of this if you left it up to each individual standing committee. There is no way that we could perform. That is why the need for this Select Committee that we propose to establish here today.

The proposed resolution defines the scope of the inquiry and it sets forth the methods, the procedures, and the budgetary components of the Select Committee's work. The resolution does not represent an open-ended commitment. The Select Committee must wrap up its work by the end of the 105th Congress and report to the House.

That, again, Mr. Speaker, is one of the reasons for forming this Select Committee now. We all know that, after next week, the House will break and go home for a work period over the 4th of July for a couple of weeks. We will then come back and work the remainder of July. Then after the first week in August, we will be off, back in the district again. When we return after Labor Day, there will be about 1 month left before Members have to return to their districts to finish their campaign for reelection or election this coming November.

Mr. Speaker, I urge Members to support the rule so we can get on with the debate and on whether we should create a special panel to answer what I think are very, very alarming questions. Every other Member should think so, too.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today to establish a Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China.

A variety of allegations about our relations with China have surfaced in the press in recent months. These include the illegal transfer of missile technology to China by an American company, a substantial campaign contribution to the Democratic National Committee from a Chinese military officer through an intermediary, and the question of the effect of the political contributions by the CEO of an American company which manufactures satellites launched on Chinese missiles.

At this stage, these are allegations and not proven fact. The purpose of this Select Committee is to determine the facts to the extent that this is possible. There are some Members on the other side of the aisle who would presume that every allegation ever printed or ever aired by the media is true. To do so does injustice to our colleagues who will serve on this committee and to the individuals whose names have appeared in the American press.

The Democratic National Committee denied that it ever knew any funds received by it came from a Chinese military official and returned the funds promptly. The Justice Department has an ongoing investigation into the question of the possible illegal transfer of missile technology by the Loral Corporation and has not yet reached a conclusion.

Mr. Speaker, the entire practice of licensing the export of satellites, manufactured by several U.S. companies, to be launched on Chinese missiles was initiated in the Reagan administration and was implemented and continued during the Bush administration. I would like to make perfectly clear that this practice did not originate in the Clinton administration, although the manner in which sanctions waivers had been granted is a legitimate matter for investigation.

Further, Mr. Speaker, the CEO of Loral, Bernard Schwartz, who has made substantial contributions to the Democratic party has denied that there was ever any quid pro quo for contributions for sanctions waivers involved.

On all these matters, Mr. Speaker, we should not presume a conclusion before the Select Committee has been authorized, its members named, and before it ever meets.

Clearly, there is a valid reason for the establishment of this committee. We need to get to the bottom of all these questions. Hopefully, it will be done in an objective and fair manner and will not become a partisan witch-hunt.

Mr. Speaker, I am particularly concerned that the mandate of this Select Committee is very broad, and I intend to discuss this issue when we debate the resolution creating the Select Committee. I am concerned as well about some of the unilateral authorities that have been granted to the chairman of the Select Committee.

But right now, we are considering the rule for debate on the resolution creating the Select Committee. I hope my colleagues on the other side of the aisle will refrain from engaging in a public hanging of anyone involved in this very important matter until such time as a Select Committee has met and made its findings and recommendations to the House.

Mr. Speaker, while I support this closed rule, I note that my Republican colleagues chose not to allow for the consideration of a very sensible amendment relating to the funding of the Select Committee which was proposed by the gentleman from California (Mr. CONDIT). Consequently, it is my intention to oppose the previous question in order that I might be able to offer a substitute rule which would make the Condit amendment in order.

That being said, Mr. Speaker, I have confidence that the designated chairman of this Select Committee, the gentleman from California (Mr. COX), and his designated ranking member, the gentleman from Washington (Mr. DICKS), will conduct themselves and the proceedings of this Select Committee with the greatest degree of integrity and bipartisan spirit.

They are both known as faithful to the principles of the political parties to which they belong, but more importantly, they are known for their fairness and their ability to work for the best interests of our great Nation.

Mr. Speaker, as I have said, the Democratic members of the Committee on Rules, based on what has happened in the House during the past year and a half have a number of concerns about the provisions of H. Res. 463. I will address those concerns when we begin the debate on that resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume just to briefly comment on what was said by my good friend, the gentleman from Texas (Mr. FROST).

The gentleman mentioned something about a public hanging, and let me assure him and everyone else there will not be any public hanging from this side of the aisle on this matter. This is an extremely important matter.

I think what we need to be concerned about are cartoons like this one that are appearing across this Nation. It is a picture of the White House, and it has a slogan here that says: "Relax, Hillary. I have convinced the Chinese to return the technology." The return of the technology is an intercontinental ballistic missile, one of 13 that the Communist Chinese have today of 18 that they have aimed at the United States of America.

That is how serious this whole debate is. I for one will not try to hang anybody here today, especially since we have gone to great lengths with the gentleman from California (Mr. COX), who will speak in a few minutes, and the gentleman from Washington (Mr. DICKS); I do not see him over there, but both of these gentlemen are two of the most respected and admired Members of this body.

They are not partisan Members. Certainly, they are excellent selections by the majority, by Speaker GINGRICH, and by the minority leader, the gentleman from Missouri (Mr. GEPHARDT) to head up this committee on this vital, vital issue.

Mr. Speaker, I yield 2 minutes to the former mayor of Charlotte, the gentlewoman from North Carolina (Mrs. MYRICK), a very important and distinguished member of the Committee on Rules.

Mrs. MYRICK. Mr. Speaker, in the past month, we have learned that the President may have turned a blind eye to an issue that caused harm to our national security by helping the Chinese improve their ballistic missiles. We have also learned that he may have ignored the Secretary of State and the Director of the CIA and the Pentagon. Also, the President may have accepted campaign donations from the Chinese Red Army at the same time he changed the U.S. policy to benefit China's missile program.

Mr. Speaker, there may be an innocent explanation for this chain of events, but the American people have not heard it yet. These are serious matters, because China has 13 missiles aimed at U.S. cities. It would be shocking if this is the problem that we believe it is with national security.

So far, the administration has avoided answering even the most basic questions about its China policy. So today the House will take the bipartisan and necessary step of creating a Select Committee to look into these matters.

I hope and pray we will simply discover an unfortunate set of circumstances that involves no illegality. But both Republicans and Democrats in this body recognize that these national security questions deserve a careful look from a serious, bipartisan panel. I urge my colleagues to support this resolution to create a Select Committee on China.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I rise today just to make a few brief comments. The gentleman from Missouri (Mr. GEPHARDT) asked me to be the ranking Democratic member on the Select Committee.

I have had a chance over the last couple of days to sit down with the gentleman from California (Mr. COX), who is going to be the chairman of this endeavor, and I basically support what we are doing. I think there are serious questions that need to be investigated, and we need to have the facts.

I would ask all of my colleagues to try to see if we cannot lower the rhetoric on this subject. This is not a policy that started under the Clinton administration. As the chairman of the Committee on Rules appropriately pointed out the other day in the Committee when we were discussing this resolution, this policy started under Ronald Reagan and was continued by George Bush and by Bill Clinton.

Both President Bush and President Clinton granted a number of waivers to allow our commercial satellites to be launched on Chinese boosters. I know much has been made about the question of whether there was some improvement in the overall military capability of the Chinese. Let me remind the House that the Chinese Communists possess only a handful of nuclear weapons aimed at the United States. Obviously we worry about that. It is their effort to have a strategic deterrent.

I would remind my colleagues that we still have 18 Trident submarines and 700 land-based missiles. We have the B-2 bomber and the B-1 bomber, which are capable of delivering nuclear weapons. So I find the idea that somehow the People's Republic of China has gained some military superiority over the United States as a result of these transfers not to be accurate.

What I hope we can do is to lower the rhetoric and get at the facts. Let us look at the facts and find out what happened. The administration has said that they made these decisions without any concern about political contributions. We will need to look at that.

We also need to see what the People's Republic of China has been up to. There are some concerns about that. We also need to look at this policy. Today, on the front page of the New York Times, there is a story that the administration is now reviewing a sale of commercial satellites that is to be made to the People's Republic of China. This is different from our policy of allowing Chinese launchers to be used to launch US-owned satellites.

This is another, and I think a very serious issue. I hope that, out of this, we will go back and look at our policy. Is our policy correct? Is the policy that President Reagan started and Bush and Clinton have continued the right policy for the United States? I think that is the most important issue. We may want to revisit that. I think that is certainly something that we will look into in this investigation.

I want to thank the chairman of the Committee on Rules and my Democratic friends on our side of the Committee for all the work that they have done to try and help and cooperate. I feel very sorry for my good friend and colleague the gentleman from California (Mr. CONDIT) because his amendment was not made in order. He is going to speak on that.

I would say one final thing. Some people use the Iran contra model as the way we should proceed. Remember, in the Iran contra model, once the Select Committee was created, all other investigations in other committees stopped.

We have too many committees now looking into this subject. I hope once we create this Select Committee which will have outstanding Members who are going to do a highly professional job, the House will let the Select Committee do its job. That is why I share the concern that we may be spending too much money on too many different investigations. Let us do one and do it well and do it in a way that will be of use to the House and of use to the American people.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I urged at the beginning of the consideration of this resolution that people on the other side not engage in any public hanging at this point. These are serious matters. They deserve to be debated. They deserve to be resolved by this Select Committee in a serious bipartisan manner.

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My colleague from the State of North Carolina, when she got up to speak, talked about a contribution to the President from a Chinese official. There was no contribution ever made to the President from a Chinese official. There was a contribution made to the Democratic National Committee, which the Democratic National Committee said it had no knowledge of and returned.

Let us lower the rhetoric and let us go on to the policy questions involved in this matter.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CONDIT).

Mr. CONDIT. Mr. Speaker, first of all, let me say I agree with the gentleman from Texas (Mr. FROST) and the chairman, this is a very important committee, and I support every effort to take a serious look at the allegations. I think it is serious for this country and we ought to take it seriously.

But saying that, I would like to speak just a moment to my amendment that was in the Committee on Rules yesterday that was denied. And I am really surprised that it was denied, particularly because the other side of the aisle, on a regular basis, makes statements that they are interested in saving taxpayers money, and that is what my amendment did, was try to save some money.

It takes money that this Congress has already set aside for investigation and transfers it to the Select Committee without changing the focus, scope or intent of the Select Committee.

The Select Committee is asking for $2.5 million for 6 months. The Committee on Government Reform and Oversight has spent approximately $3 million during an 18-month period. This year the Committee on Government Reform and Oversight has allocated $1.8 million. It shows approximately $1.5 million remaining in the unspent fund category. Additionally, of the original $8 million in the special reserve fund, more than $1.3 million is still uncommitted.

What my amendment simply does is put some attention on this Congress to pay attention to the money that we spend on these multitudes of investigations that we do around here; that we ought to pay attention about duplication, and we ought to have some interest in how we invest the taxpayers' money.

There is no dispute over here. These are serious allegations. I have the utmost confidence that the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS) will do everything in their power to get to the bottom of the issue and, hopefully, resolve this. But I also want to caution us, it is $2.5 million in 6 months, then we go to a year and it is another $2.5 million, then we are up to 5, and who knows where we are going. We need to be mindful of this.

And that is why I encourage my Members, the Members on this side of the aisle as well as the other side of the aisle, to vote for the recommit. The recommit simply says, let us take the money that has already been allocated to investigations and put it toward this special committee that we are putting together today. It is a reasonable proposal.

It is not a partisan proposal, Mr. Chairman. It is a sincere proposal for us to pay attention to how we spend money and to be responsible for how we do investigations around here.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to respond.

The gentleman would seem to infer that maybe some people on this side of the aisle do not care about fiscal responsibility, and I would just like to remind the gentleman that about 5 years ago I authored a book, it is called The Balanced Budget, a Republican Plan. It was long before its time, but it told us how we could balance the budget in 1 year, not in 7, or 6, or 5, or 4, or 3, or 2.

My colleagues ought to read it, because that is actually the bill that I introduced back on June 22nd, 1995, that actually did that, and that is what the Congress finally came around to doing. And, boy, we had to bite the bullet to vote for those kinds of cuts to get the welfare spending under control and put this House back in fiscal order.

Let me just say to the gentleman, the gentleman's amendment was not made in order for, among other things, technical reasons, because it is not germane; it is an attempt to micromanage another committee, and we do not allow that.

Secondly, if this resolution were brought to the floor as a privileged resolution, which it normally would be, and it is how we have brought other resolutions creating select committees to the floor, as privileged resolutions, it would be unamendable. So this amendment would not be considered anyway.

Third, I just want to point out again, and again commend the gentleman from California (Mr. COX), the gentleman from Washington (Mr. DICKS), and the gentleman from Massachusetts (Mr. MOAKLEY), on the other side of the aisle, as well as the Democrat minority leadership and our leadership, because we have worked diligently on a bipartisan basis to take away all of the partisanship out of this bill.

The question of funding did come up, and we worked with both sides of the aisle, with anyone that was raising a question, anyone, and we came up with the language that is in the bill today. At the very last minute, my good friend, the gentleman from California (Mr. CONDIT), brought an amendment up to the floor, after the bill was already finished and after we had already made all the decisions.

So I think the gentleman does protest too much, and that is why the gentleman's amendment was not made in order.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. THOMAS), the very distinguished chairman of the Committee on House Oversight, who waived jurisdiction on this measure so it could come to the floor in a timely and expeditious manner, and we will let him explain the funding level.

Mr. THOMAS. Mr. Speaker, I want to thank the chairman for yielding and affording me an opportunity, having waived the committee's jurisdiction on the funding, to respond to an amendment that is not in order.

And, frankly, I am pleased that the Committee on Rules did not make the amendment in order, because as the gentleman from Texas (Mr. FROST) said, after all, these are serious matters and it should be debated seriously, he then yielded to the gentleman from California (Mr. CONDIT) who, as part of his appeal on his amendment, brought up the question of funding in a context which, if anybody objectively examined his discussion, was to impugn other investigations or the expenditure of money in this particular Congress by the majority for efforts that apparently they believe do not fit the profile of serious matters debated seriously.

I am sorry the gentleman from California felt it necessary to inject that, because this gentleman from California would love to remind him, since he was a member of the majority in the 103rd Congress, at that time, the committees, in totality, spent more than $223 million.

Now, that is not adjusted for inflation, because, frankly, constant dollars look good enough, two Congresses later in the 105th we are not spending 80 cents on the dollar. We are only spending $180 million.

So if the gentleman is looking for savings. The new Republican majority has provided it both in the 104th and in the 105th. We are not spending at the level my colleagues on the other side of the aisle spent.

In addition to that, the amendment that was rejected said that the money should have to come from another committee in its unobligated and unexpended context. That money would nowhere near meet the needs of this particular committee, if that was where the "not more than $2.5 million" would be found.

Let me say that the $2.5 million that we are discussing is nowhere near, when the gentleman was in the majority, the $2.9 million in adjusted dollars that the Iran contra hearings cost, which produced absolutely nothing. Our hope is that we get a serious resolution of what we believe to be a serious matter that will be discussed seriously.

And finally, let me say this, as the gentleman leaves. In all of those other previous select committees, not once, whether it was Iran contra, whether it was the Select Committee on Aging, whether it was the Select Committee on Children, Youth and Families, whether it was the Select Committee on Hunger, not once in those previous Select Committee creations was there a distribution of the resources, in terms of staff, two-thirds, one-third, not in any of those instances. Iran contra, for example, was 80 percent majority, 20 percent minority.

I want to underscore that the chairman of this committee, working with the ranking member, has committed that outside of those joint staff, which they will agree to jointly, that the majority will use two-thirds of the resources and the minority will get one-third. So that this Select Committee, thank goodness, will not be in the tradition of the select committees that had been created in previous Congresses by the previous majority, which hogged all the resources and did not produce results.

What we have here will be a fair, equitable distribution. We will have a serious discussion of serious matters.

So I want to compliment the chairman of the Committee on Rules and the other members of the Committee on Rules who saw the wisdom of voting down this very poorly drafted and constructed amendment, which would not only invade the prerogatives of another committee, but frankly, would not provide near the resources that I believe will be used wisely by this particular committee.

When we begin the discussion of funds and how and where they are going to be used, if it is necessary to remind the now-minority of their previous transgressions, we will be more than willing to do so. If my colleagues provide time on their side to go beat dead horses, we will keep the record straight. They did not create a fair funding mechanism under previous select committees, and they spent more money than this Select Committee. This Select Committee will spend less than Iran contra, and it will be fairly divided. That is the difference with the new majority.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. HALL), a member of the Committee on Rules.

Mr. HALL of Ohio. Mr. Speaker, I want to thank the gentleman for yielding me this time. I rise in support of the motion that will be offered by the gentleman from Texas (Mr. FROST), the Condit amendment.

I share the concerns that many people have said already today concerning the possibility of U.S. companies providing expertise to China for use in its ballistic missile programs. I have been concerned about this kind of technology being transferred for a number of years, under the last two Presidents as well. However, I have concerns about the cost of this investigation. This resolution would spend $2.5 million more in additional funds. I believe it should use existing funds.

In 1993, the House of Representatives had four select committees, and the Select Committee on Hunger was allocated for a year, every year, about $600,000. The most expensive of the four select committees in those days was the Select Committee on Aging, and I believe they spent somewhere between $1.2 and $1.4 million.

While we need to get to the bottom of this issue on China, I believe the existing funds in the current legislative branch appropriation should be used. There is enough money there.

I just want to correct the gentleman from California (Mr. THOMAS) in what he said when we had the other select committees, that there was not a fair and equitable distribution of the money. And the fact is, that is not true. When I was chairman of the Select Committee on Hunger, we were very fair in our distribution of the money. Two-thirds of the money went to the majority, a third went to the minority. So the statement he made was not correct. We were very fair.

I would hope that we would look at the funding of this. This is far too much money to spend on a select committee. We should go with the motion that will be provided to the amendment offered by the gentleman from California (Mr. CONDIT).

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to point out to another very distinguished Member, that I respect more than most, and that is the gentleman from Ohio (Mr. TONY HALL). He is one of the most sincere Members that we have.

But I would say to the gentleman that that is exactly what we are doing. If the gentleman will look at page 5, it says not more than $2,500,000 is authorized for expenses of the Select Committee for investigation and studies. And it goes on to say, out of applicable accounts of the House of Representatives, which comes out of the legislative branch appropriations.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DREIER), the very distinguished vice chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Glens Falls, New York, the distinguished chairman of the Committee on Rules, for yielding me this time.

I rise in strong support of both the rule and the resolution, and to say that I am very pleased that in a bipartisan way there has been an agreement on both the establishment of a Select Committee and on the funding levels for the committee, and the fact that they will be coming out of the already appropriated legislative branch measure.

I rise as a very strong proponent of what has been known as the Reagan-Bush-Clinton policy of engagement with the People's Republic of China. I still feel very strongly about the need to ensure that we do maintain contact and engagement and, among other things, normal trade relations with the People's Republic of China, because I believe the power of the free market is very, very great, and we should not do anything that would possibly diminish it.

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Having said that, Mr. Speaker, I joined with several of my colleagues when this issue first came to the forefront, colleagues of mine who have joined with us over the years, working to make sure that we have maintained normal trade relations with the People's Republic of China and we sent a letter to the President, which I would like to share with my colleagues. And I do so not trying to in any way raise the level of rhetoric, which I think appropriately both the gentleman from Texas (Mr. FROST) and the gentleman from Washington (Mr. DICKS) have said that we ought to keep on a balanced level, but to remind our colleagues why it is that we are here dealing with this issue.

In the letter that was dated May 22nd, we wrote, Mr. President, each of us has been deeply involved in supporting the policy of engagement and maintaining Most Favored Nation status with the People's Republic of China. We support a strong and stable relationship that is bolstered by free market reforms and the seedlings of democratic progress in that country.

The first and foremost responsibility of the Executive Branch is to protect national security. Therefore, we are deeply disturbed by the very serious charges regarding the transfer of rocket technology to China. These charges call into question the fitness of your administration to carry out a sound China policy. We have questions regarding the apparent decision of the administration to place narrow commercial considerations over national security concerns. The fact that large campaign contributions were accepted from firms that stood to gain from such decisions is even more troubling.

Our greatest concern is that your administration has undermined its own ability to carry out our Nation's foreign policy toward China. Absent the ability to command respect both at home and abroad, your administration will not be able to move this critical relationship forward.

Therefore, we implore you to work quickly with the appropriate Congressional committees to make available all relevant information related to the matters in question. It is in our national security interest to resolve these questions so that we can build support for a policy of engagement in China that is firmly rooted in our national security interests.

I strongly support the establishment of this committee, and I support the efforts that I believe can be addressed and put together in a bipartisan way.

Mr. FROST. Mr. Speaker, I yield 4½ minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I thank the gentleman from California for yielding.

I support the creation of this Select Committee. I think we should have a thorough investigation of the issues surrounding the possible transfer of sensitive technology to China. What I am opposed to is the use of Congressional investigations for partisan political purposes and the waste of taxpayer dollars. It does not serve the American people to have multiple Congressional committees spending millions of dollars investigating the very same issue over and over and over again.

Unless we reject this rule and adopt the Condit amendment, we will have redundant investigations that are wasting millions of dollars investigating the very same issue.

In March of this year, the Burton committee was given $1.8 million to continue its investigation of the influence of foreign contributions on U.S. policies. That was the mandate to the Burton committee. I want to point out to my colleague the gentleman from California (Mr. THOMAS) that, notwithstanding all his complaints about what the Democrats did not do and how he is doing better in the allocation of money, on that Burton committee the Democrats were given 25 percent, not the third that we were all promised by the Republican Party.

But that committee, nevertheless, was given $1.8 million to do this investigation. A major focus of it was to have been whether contributions from China influenced U.S. foreign policy and national security. Now we are going to create a Select Committee and we are talking about giving it $2.5 million to investigate the very same issue.

The resolution authorizing the Select Committee specifically directs the Select Committee to investigate, and I quote, any effort by the government of the People's Republic of China or any other person to influence any of the foregoing matters through political contributions.

That is what this Select Committee is going to investigate. That is what the Burton committee was investigating. It does not make sense to have a Select Committee investigating the same issues and then to have the Burton committee investigate it as well.

The $1.8 million given to the Burton committee to investigate these issues should be transferred to the Select Committee and let the Select Committee do this job of investigating this matter. We should have one thorough, credible bipartisan investigation, not multiple, redundant investigations and use of taxpayers' money for partisan purposes and wasting that.

One investigation will save the taxpayers millions and prevent this investigation from being used for partisan political purposes.

Mr. CONDIT. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. CONDIT. Mr. Speaker, I just want to respond to my colleague from California (Mr. THOMAS) with respect when he makes reference to when we were in the majority and Iran Contra investigation. I want to let him know that I voted with him. I voted with him to reduce the cost of investigations. I voted with the chairman to reduce the cost of investigations to bring a halt to that. Welfare reform, a significant group of Democrats voted with the chairman and with the gentleman from California (Mr. THOMAS) to try to save money to try to reform the welfare proposal.

I am not a Johnny-come-lately on this issue of saving money on investigations. I have brought this issue up time and time again in the committee, asking the chairman not to duplicate, not to spend money twice to get the same information.

When we had the other body doing the investigation, I asked them not to duplicate. When the other body was doing their investigation, I consistently asked the chairman of the Committee on Government Reform and Oversight not to duplicate.

So I tell my colleagues and I tell the gentleman from California (Mr. THOMAS) I am not someone who just comes here today at the last minute to bring this up. I brought this up consistently. It is a sincere attempt to try to change the way we investigate each other around here.

Let me tell my colleagues, if they think our side of the aisle did it wrong so they are going to do it wrong, that is not a good enough reason. We need to put a stop to this. We need to try to save money when we can. And we need to not duplicate.

There are a lot of people whose lives are destroyed because we duplicate and we ask them to do things over and over again and spend money, and I think we need to be more mindful for the American people than that.

Mr. FROST. Mr. Speaker, may I inquire of the time remaining on each side?

The SPEAKER pro tempore (Mr. GILLMOR). Both Members have 10 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 4½ minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Texas for yielding and his hard work on this very, very difficult issue.

Mr. Speaker, I rise today to express some concerns about the resolution that we will have before us soon, a resolution to establish a Select Committee on National Security and Other Concerns with China before us today. It is a troubling one to me.

The concerns presented here are serious and they are important. Congress has not only the right but the responsibility to exercise oversight of policy decisions. Indeed, the Committee on National Security and the Committee on Intelligence and the Committee on International Relations are the appropriate venues for such oversight.

When there is a connection between campaign contributions and policy decisions, that investigation is being done by the Justice Department. Over the years, I have been proud to work very closely in a bipartisan fashion with my Republican colleagues on the China issue, including the gentleman from Virginia (Mr. WOLF), the gentleman from New York (Mr. SOLOMON), whom I respect very highly and will miss very, very much when he is going on to happier things. The gentleman from California (Mr. COX), who will chair this committee, is one of the finest Members of this body. I respect his intellect, his sense of fairness and appropriateness in dealing with these issues. It is not anything against him that I have the question, but concerns about the nature of this committee.

I have worked closely with the gentleman from New Jersey (Mr. SMITH) and others who have consistently opposed the current U.S.-China policy. These people that I mention and others on the Republican side have real standing in criticizing the consequences of the policies.

As my colleagues know on both sides of the aisle, I have pulled no punches in criticizing the President, whether he was a Republican President or a Democratic President, for what I think is the wrong China policy. But as one who has consistently joined with some of my Democratic and Republican colleagues in raising concerns about the Chinese military for many years on this floor, I see today's action as a move by the gentleman from Georgia (Mr. GINGRICH) and the Republican leadership to exploit the China issue.

As I say, as one who has worked very hard and long on this issue, I regret to see that the Republican leadership has just walked lock step with the Clinton administration on China and, as responsible as President Clinton is and his administration is, on the consequences of that China policy.

Allowing U.S. satellites to be launched on foreign rockets is a policy started under President Reagan, continued under President Bush and President Clinton. So if there is a criticism of the consequences of that policy, then the blame should be laid at the feet of both parties in a bipartisan way.

Mr. Speaker, indeed, again this year the Speaker could not move quickly enough to support the President's request for a special waiver to grant Most Favored Nation status to the People's Republic of China. He sent a letter of support to the President almost before the request for the special waiver reached Capitol Hill.

I see this Select Committee as an attempt by the Speaker to seek cover for his affiliation with the President on the China policy. Do they think we have no memory? Do they think we do not know what we say on the floor year in and year out by the proliferation and the Chinese mobilization and their interest in acquiring U.S. technology and then all of a sudden the obvious, predictable consequences of that policy, obvious and predictable to many of us, is all of a sudden being investigated by a Speaker who, day in day out, time and time again, and at every opportunity has supported ignoring those concerns?

And so, I see this as an attempt to set up this committee as venue hopping. There have been investigations. I can show my colleagues a stack of reports on committees investigating this issue.

As I say, I believe, and I do not deny Congress's right to oversight, to investigate, and to be relentless in doing that in terms of the consequences of policy.

Establishing this Select Committee to me, after all the sweat and strain and work that we have put in trying to educate Congress to the dangers of the policy that the Republican leadership has supported year in and year out, looks to me like a cynical and hypocritical act which does a disservice to the debate about U.S.-China policy, cost the taxpayers money, and wastes Congress' time.

For that reason, I urge my colleagues to defeat the previous question so that the proposal of Mr. CONDIT can be considered to fairly fund and fairly consider how we should go forward with this.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to thank the gentlewoman from California (Ms. PELOSI) for the flattery and to return that flattery twofold, because we have great admiration and respect for her, as well, especially on the issue of human rights around this world.

I would just point out to the gentlewoman, though, that I, for one, have been a critic of previous administrations as well as this administration, even back in 1988, when Congressman Solomon, Congressman Kemp, Congressman Bob Walker, Congressman Lewis wrote to then President Reagan pointing out the serious problems that might occur from military technology transfer and know-how.

On June 13, 1989, that happened to be, I think, 9 days after Tiananmen Square, which the gentlewoman has certainly done everything in her power to try to focus attention on, I introduced legislation that would prohibit the export of satellites intended for launch vehicles from China.

This House adopted that language in the form of an amendment. It went to the Senate. The Senate washed it down; and, consequently, it never became law in its present form. And today the result is that we have 13 intercontinental ballistic missiles aimed at the United States of America, and that is so serious.

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Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield briefly to the gentlewoman from California because I am running out of time.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding, and, heeding his admonition about the time. I want to say, I said in my remarks that he has standing to speak on this issue. I am very glad that he put on the record the fact that Republican Presidents supported this policy, which he opposed consistently under Republican and Democratic Presidents. It is with admiration for him, the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS) who will represent the Democrats very well on that committee, indeed the American people on that committee. It is not about personalities. It is about the policy.

Mr. SOLOMON. Mr. Speaker, let me just further say if she had been in the Committee on Rules when we had the former CIA Director under President Clinton, Mr. Woolsey, and the former National Security Adviser under President Reagan; they both pointed out that under Presidents Reagan and Bush that the Secretary of Defense did not raise warnings at that time, the Secretary of State did not, the National Security Adviser did not, because of the situation at the time.

Today the times have changed and we all know that the Secretary of Defense, the Secretary of State, the National Security Advisers both have raised warnings, and yet President Clinton did not heed those warnings, for whatever reason, and that is what we really want to look into.

Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me just clear up a couple of points. First we have heard that this is a question about granting waivers and others have granted waivers. That may be the case. But never before in the history of the Republic have we had the question of the influence of foreign money into the process. That is one of the key issues here. Never before have our intelligence, our Department of Defense and our defense process and our national security been so threatened or questioned by allegations that have been made about intrusions into the system.

Let me also say to the gentleman from California (Mr. WAXMAN) who spoke about 25 percent of the staff being given by the majority to the minority. When I came here in the first Congress, from 1993 to 1995, they gave us five investigative staffers for their 55 staffers. That is the record. That is the fact. As a matter of fact, the Burton committee has operated efficiently and at lower cost, assuming the responsibilities of two additional committees and done all their investigations in an administration that has been plagued with more scandals than any in the history of, again, the Republic.

It is somewhat like it is the Republicans' fault that we have had Filegate, Travelgate, campaign contributions and now this very serious matter. They make it look like it is our fault. It is not, and the American people need to know the facts.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would ask the gentleman who just spoke, does the name Warren Harding mean anything to him? Does the name Grant mean anything to him? Does the name Nixon mean anything to him? He made the blanket statement that this is the most scandal-ridden administration in the history of the Republic. I think the gentleman needs to consult some history books.

Mr. Speaker, this vote on ordering the previous question is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. Speaker, I include for the RECORD the amendment by the gentleman from California (Mr. CONDIT).

The text of the amendment is as follows:

Page 2, line 3, strike "resolution shall be considered as adopted." And insert "resolution, modified by the amendment specified in section 2 of this resolution, shall be considered as adopted."

At the end of the resolution add the following new section:

"SEC. 2. The modification described in the first section of this resolution is as follows:

Page 17, line 3, after "paid" insert the following: ", first, out of amounts provided to the Committee on Government Reform and Oversight from the reserve fund for unanticipated expenses of committees under clause 5(a) of rule XI of the Rules of the House of Representatives pursuant to an allocation approved by the Committee on House Oversight on March 25, 1998, which remain unobligated and unexpended as of the date of the adoption of this resolution, and, second, after exhaustion of such funds,".

Page 17, after line 6, add the following new paragraph:

(3) Upon the adoption of this resolution, the Committee on Government Reform and Oversight may not obligate any amounts provided to such committee from the reserve fund for unanticipated expenses of committees under clause 5(a) of rule XI of the Rules of the House of Representatives pursuant to an allocation approved by the Committee on House Oversight on March 25, 1998.

Mr. Speaker, I urge my colleagues to defeat the previous question on H. Res. 476 and allow the gentleman from California (Mr. CONDIT) to offer his amendment to consolidate funding on these parallel investigations.

Mr. Speaker, I include the following material for the RECORD:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's "Precedents of the House of Representatives", (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for a amendment is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership "Manual on the Legislative Process in the United States House of Representatives," (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's "Procedure in the U.S. House of Representatives", the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2). Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available took for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time to the gentleman from Sanibel, FL (Mr. GOSS), a very valuable member of the Committee on Rules. He is also the chairman of the Permanent Select Committee on Intelligence and probably one of the most informed Members of this body.

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Florida is recognized for 5½ minutes.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Glens Falls, NY, the honorable chairman of the Committee on Rules, for bringing forward what I think is a very worthwhile resolution. I urge Members to vote "yes" on the question of moving the previous question, I urge a "yes" on the rule and I urge a "yes" on the underlying resolution. So it is yes, yes, yes, is what we have got in front of us here.

Mr. Speaker, my colleagues are talking about fault. I have been hearing from the other side of the aisle fault in the way we went about our business; that we could have done it better if we had done this or that. There has been a lot of fault-finding going on. I can assure the minority that a very strong effort has been made to provide a workable, efficient, bipartisan approach to the task at hand.

Is there a task at hand? You bet there is. There is a task at hand because every day you can pick up the paper and read some new saga unfolding in this area. And if the media is ahead of Congress doing its job of oversight, we have got a problem. I am willing to say that the media is ahead just on the basis of the Jeff Gerth story today in the New York Times alone. So we have got to do something about this.

Now, we have heard some noise about the cost. This is going to cost too much money because we have not limited it the right way or done it exactly the right way. I remember the October Surprise. We went out, we did the job, it cost about a million and a half, something like that. Democrats were very eager to try and prove something. They were unable to do it. We had a good October Surprise event, we closed it down when there was nothing there, and it cost $1.3 million. I am not saying it was money well spent because I never thought there was anything there, but at least we satisfied ourselves. So I think we are very definitely in the ballpark when we look back at October Surprise in how we are approaching money.

Mr. Speaker, the problem with the money is it is virtually impossible to tell how much we are going to spend until we find out how much cooperation we are going to get from the dozens and dozens of witnesses who are not in the United States. That is going to require some expense to get those people who are material to what we are finding out, trying to find out about the truth. Of course, we are going to hope for more forthright cooperation from the administration than we have had to date, because in truth, factually, the administration has not been fully forthcoming to date. So the cost could go up a bit if we fail to have the cooperation of the witnesses and the administration.

We have been challenged about whether or not a select committee is the way to go. We are actually cutting across the jurisdiction of eight standing committees. I do not see any other choice except a select committee. Some say the Permanent Select Committee on Intelligence could do it. Yes, the Permanent Select Committee on Intelligence could do it if we enhanced our staff and we got into what is likely to be the partisan question of campaign finance. Frankly, as chairman of the committee, I do not want to take the nonpartisan Permanent Select Committee on Intelligence into an area that is so sharply partisan and likely to cause partisan question.

With regard to the policy of President Reagan, let me point out, the issue before us is not the policy of President Reagan. It is the change from the policy of President Reagan and President Bush. What caused President Clinton to change the procedure? We have a "why" to ask and an answer to find. The minority report before us, as this is reported today, talks about this is a resolution of routine occurrence and that is a bad thing.

Mr. Speaker, there is nothing routine about the restarting of the nuclear arms race that is going on, which I believe is a result, in part, of the policies that have failed in China. That is certainly the testimony of the Indian Government. We have clearly got exploiters in North Korea who are taking advantage of this proliferation opportunity. We read it in the New York Times. I have not had the chance to talk to North Koreans about this. I would like to. They are exploiting us. So we have something here that is hardly routine facing the United States Congress and our responsibility to the citizens of this country in exercising appropriate oversight about policy and other activities that are happening that are indeed troublesome by admission on both sides of the aisle.

I therefore think we are going in the right direction and doing the right thing.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Washington, my ranking member.

Mr. DICKS. Does the gentleman think once we set up the Select Committee that we ought to let the Select Committee conduct this investigation in the House and that the eight other committees that he mentioned should let us have the field and do the job?

Mr. GOSS. Mr. Speaker, reclaiming my time, I strongly believe that the scope of the resolution takes care of that problem. I am not going to forgo my responsibilities as chairman of the Permanent Select Committee on Intelligence, and I am sure the gentleman is not as the ranking member to discharge the things that we have responsibility for. I would hope for very close working cooperation between the Select Committee and the other committees. And I would hope we could avoid any possible redundancy that way.

Mr. DICKS. I thank the gentleman for yielding. I think he has a good answer.

Mr. GOSS. Mr. Speaker, I urge a "yes" on the previous question vote, a "yes" on the rule, and a "yes" on the resolution.

Mr. Speaker, I include the following material for the RECORD about the previous question vote:

THE PREVIOUS QUESTION VOTE: WHAT IT MEANS

The previous question is a motion made in order under House Rule XVII and is the only parliamentary device in the House used for closing debate and preventing amendment. The effect of adopting the previous question is to bring the resolution to an immediate, final vote. The motion is most often made at the conclusion of debate on a rule or any motion or piece of legislation considered in the House prior to final passage. A Member might think about ordering the previous question in terms of answering the question: Is the House ready to vote on the bill or amendment before it?

In order to amend a rule (other than by using those procedures previously mentioned), the House must vote against ordering the previous question. If the previous question is defeated, the House is in effect, turning control of the Floor over to the Minority party.

If the previous question is defeated, the Speaker then recognizes the Member who led the opposition to the previous question (usually a Member of the Minority party) to control an additional hour of debate during which a germane amendment may be offered to the rule. The Member controlling the Floor then moves the previous question on the amendment and the rule. If the previous question is ordered, the next vote occurs on the amendment followed by a vote on the rule as amended.

Mr. SOLOMON. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 226, nays 197, not voting 11, as follows:

[Roll No. 244]

YEAS—226

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Cooksey
Gonzalez
Green
Hastings (FL)
Martinez
McNulty
Moakley
Moran (VA)
Thune
Torres
Weldon (FL)

□ 1345

Mr. EDWARDS changed his vote from "yea" to "nay."

Mr. WELDON of Pennsylvania and Mr. KASICH changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, did the rule just pass and is the vote over?

The SPEAKER pro tempore. The rule has been adopted.

Mr. SOLOMON. Mr. Speaker, is it true that there will not be another vote now for probably 1 hour?

The SPEAKER pro tempore. There will be 1 hour of debate on the resolution to be called up, so Members might reasonably anticipate an hour before the next vote.

ESTABLISHING THE SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. SOLOMON. Mr. Speaker, pursuant to House Resolution 476, I call up the resolution (H. Res. 463), to establish the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The resolution is considered read for amendment.

The text of House Resolution 463 is as follows:

H. RES. 463

Resolved,

SECTION 1. ESTABLISHMENT.

There is hereby created the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China, (hereafter in this Act referred to as the "Select Committee"). The Select Committee may sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, has recessed, or has adjourned, as it shall deem appropriate for the completion of its work.

SEC. 2. JURISDICTION.

(a) IN GENERAL.—The Select Committee shall conduct a full and complete inquiry regarding the following matters and report such findings and recommendations, including those concerning the amendment of existing law or the enactment of new law, to the House as it considers appropriate:

(1) The transfer of technology, information, advice, goods, or services that may have contributed to the enhancement of the accuracy, reliability, or capability of nuclear-armed intercontinental ballistic missiles or other weapons of the People's Republic of China, or that may have contributed to the enhancement of the domestic or foreign intelligence capabilities of the People's Republic of China.

(2) The transfer of technology, information, advice, goods, or services that may have contributed to the manufacture of weapons of mass destruction, missiles, or other weapons or armaments by the People's Republic of China.

(3) The effect of any transfer or enhancement referred to in paragraphs (1) or (2) on regional security and the national security of the United States, its friends, and its allies.

(4) The conduct of the executive branch of the United States Government with respect to the transfers or enhancements referred to in paragraphs (1) or (2), and the effect of that conduct on the national security of the United States, its friends, and its allies.

(5) The conduct of defense contractors, weapons manufacturers, satellite manufacturers, and other private or government-owned commercial firms with respect to the transfers or enhancements referred to in paragraphs (1) or (2).

(6) The enforcement of United States law, including statutes, regulations, or executive orders, with respect to the transfers or enhancements referred to in paragraphs (1) or (2).

(7) Any effort by the Government of the People's Republic of China or any other person or entity to influence any of the foregoing matters through political contributions, bribery, influence-peddling, or otherwise.

(8) Decision-making within the executive branch of the United States Government with respect to any of the foregoing matters.

(9) Any effort to conceal or withhold information or documents relevant to any of the foregoing matters or to otherwise obstruct justice, or to obstruct the work of the Select Committee or any other committee of the Congress in connection with those matters.

(10) All matters relating directly or indirectly to any of the foregoing matters.

(b) PERMITTING REPORTS TO BE MADE TO HOUSE IN SECRET SESSION.—Any report to the House pursuant to this section may, in the Select Committee's discretion, be made under the provisions of rule XXIX of the Rules of the House of Representatives.

SEC. 3. COMPOSITION; VACANCIES.

(a) COMPOSITION.—The Select Committee shall be composed of 8 Members of the House to be appointed by the Speaker of the House of Representatives, one of whom he shall designate as Chairman. Service on the Select Committee shall not count against the limitations on committee service in clause 6(b)(2) of rule X.

(b) VACANCIES.—Any vacancy occurring in the membership of the Select Committee shall be filled in the same manner in which the original appointment was made.

SEC. 4. RULES APPLICABLE TO SELECT COMMITTEE.

(a) QUORUM.—One-third of the members of the Select Committee shall constitute a quorum for the transaction of business other than the reporting of a matter, which shall require a majority of the committee to be actually present, except that the Select Committee may designate a lesser number, but not less than two, as a quorum for the purpose of holding hearings to take testimony and receive evidence.

(b) APPLICABILITY OF HOUSE RULES.—The Rules of the House of Representatives applicable to standing committees shall govern the Select Committee where not inconsistent with this resolution.

(c) RULES OF SELECT COMMITTEE.—The Select Committee shall adopt additional written rules, which shall be public, to govern its procedures, which shall not be inconsistent with this resolution or the Rules of the House of Representatives.

SEC. 5. CLASSIFIED INFORMATION.

No employee of the Select Committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has—

(1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the Select Committee as to the security of such information during and after the period of his employment or contractual agreement with the Select Committee); and

(2) received an appropriate security clearance as determined by the Select Committee in consultation with the Director of Central Intelligence.

The type of security clearance to be required in the case of any such employee or person shall, within the determination of the Select Committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 6. LIMITS ON DISCLOSURE OF INFORMATION.

The Select Committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. PROCEDURES FOR HANDLING INFORMATION.

(a) The Select Committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the Select Committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section. In any case in which the Select Committee votes to disclose publicly any information, which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, the Select Committee shall submit such classified information to the Permanent Select Committee on Intelligence.

(b)(1) As set forth in clause 7(b) of rule XLVIII, in any case in which the Permanent Select Committee on Intelligence votes to disclose publicly any information submitted pursuant to subsection (a), which has been classified under established security procedures, which has been submitted to the Select Committee by the executive branch, and which the executive branch has requested be kept secret, the Permanent Select Committee on Intelligence shall notify the President of such vote.

(2) The Permanent Select Committee on Intelligence may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the Permanent Select Committee on Intelligence that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the Permanent Select Committee on Intelligence of his objections to the disclosure of such information as provided in paragraph (2), the Permanent Select Committee on Intelligence may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The Permanent Select Committee on Intelligence shall not publicly disclose such information without leave of the House.

(4) Whenever the Permanent Select Committee on Intelligence votes to refer the question of disclosure of any information to the House under paragraph (3), the chairman of the Permanent Select Committee on Intelligence shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the Permanent Select Committee on Intelligence to consider, in closed session, the matter reported under paragraph (4), then such a motion will be deemed privileged and may be made by any Member. The motion under this paragraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion, except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be authorized to declare a recess subject to the call of the Chair. At the expiration of such recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the Permanent Select Committee on Intelligence?"

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session but without divulging the information with respect to which the vote is being taken. If the recommendation of the Permanent Select Committee on Intelligence is not agreed to, the question shall be deemed recommitted to the Permanent Select Committee on Intelligence for further recommendation.

(c)(1) No information in the possession of the Select Committee relating to the lawful intelligence or intelligence-related activities of any department or agency of the United States which has been classified under established security procedures and which the Select Committee, the Permanent Select Committee on Intelligence, or the House pursuant to this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in paragraph (2).

(2) The Select Committee shall, under such regulations as the committee shall prescribe, make any information described in paragraph (1) available to any other committee or any other Member of the House and permit any other Member of the House to attend any hearing of the committee which is closed to the public. Whenever the Select Committee makes such information available (other than to the Speaker), the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this paragraph, shall disclose such information except in a closed session of the House.

(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of subsection (c) and report to the House concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such as censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 8. TRANSFER OF INFORMATION TO SELECT COMMITTEE.

Any committee of the House of Representatives having custody of records, data, charts, and files concerning subjects within the jurisdiction of the Select Committee shall furnish the originals or copies of such materials to the Select Committee. In the case of the Permanent Select Committee on Intelligence, such materials shall be made available pursuant to clause 7(c)(2) of rule XLVIII.

SEC. 9. INFORMATION GATHERING.

(a) IN GENERAL.—The Select Committee is authorized to require, by subpoena or otherwise, the attendance and testimony of such witnesses, the furnishing of such information by interrogatory, and the production of such books, records, correspondence, memoranda, papers, documents, calendars, recordings, electronic communications, data compilations from which information can be obtained, tangible objects, and other things and information of any kind as it deems necessary, including all intelligence materials however classified, White House materials, and materials pertaining to unvouchered expenditures or concerning communications interceptions or surveillance.

(b) SUBPOENAS, DEPOSITIONS AND INTERROGATORIES.—Unless otherwise determined by the Select Committee, the Chairman, upon consultation with the ranking minority member, or the Select Committee may—

(1) authorize and issue subpoenas;

(2) order the taking of depositions, interrogatories, or affidavits under oath or otherwise; and

(3) designate a member or staff of the Select Committee to conduct any deposition.

(c) INTERNATIONAL AUTHORITIES.—Unless otherwise determined by the Select Committee, the Chairman of the Select Committee, upon consultation with the ranking minority member of the Select Committee, or the Select Committee may—

(1) order the taking of depositions and other testimony, under oath or otherwise, anywhere outside the United States; and

(2) make application for issuance of letters rogatory, and request through appropriate channels, other means of international assistance, as appropriate.

(d) HANDLING OF INFORMATION.—Information obtained under the authority of this section shall be—

(1) considered as taken by the Select Committee in the District of Columbia, as well as the location actually taken; and

(2) considered to be taken in executive session.

SEC. 10. TAX RETURNS.

Pursuant to sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, for the purpose of investigating the subjects set forth in this resolution and since information necessary for this investigation cannot reasonably be obtained from any other source, the Select Committee shall be specially authorized to inspect and receive for the tax years 1991 through 1998 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to individuals and entities named by the Select Committee as possible participants, beneficiaries, or intermediaries in the transactions under investigation. As specified by section 6103(f)(3) of the Internal Revenue Code of 1986, such materials and information shall be furnished in closed executive session.

SEC. 11. ACCESS TO INFORMATION OF THE SELECT COMMITTEE.

The Select Committee shall provide other committees and Members of the House with access to information and proceedings, consistent with clause 7(c)(2) of rule XLVIII, except that the Select Committee may direct that particular matters or classes of matter shall not be made available to any person by its members, staff, or others, or may impose any other restriction. The Select Committee may require its staff to enter nondisclosure agreements, and its chairman, in consultation with the ranking minority member, may require others, such as counsel for witnesses, to do so. The Committee on Standards of Official Conduct may investigate any unauthorized disclosure of such classified information by a Member, officer, or employee of the House or other covered person upon request of the Select Committee. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant unauthorized disclosure, it shall report its findings to the House and recommend appropriate sanctions for the Member, officer, employee, or other covered person consistent with clause 7(e) of rule XLVIII and any committee restriction, including nondisclosure agreements. The Select Committee shall, as appropriate, provide access to information and proceedings to the Speaker and the minority leader and their appropriately cleared and designated staff.

SEC. 12. COOPERATION OF OTHER ENTITIES.

(a) COOPERATION OF OTHER COMMITTEES.—The Select Committee may submit to any standing committee specific matters within its jurisdiction and may request that such committees pursue such matters further.

(b) COOPERATION OF OTHER FEDERAL ENTITIES.—The Chairman of the Select Committee, upon consultation with the ranking minority member, or the Select Committee may request investigations, reports, and other assistance from any agency of the executive, legislative, and judicial branches of the Federal Government.

SEC. 13. ACCESS AND RESPONSE TO JUDICIAL PROCESS.

In addition to any applications to court in response to judicial process that may be made in behalf of the House by its counsel, the Select Committee shall be authorized to respond to any judicial or other process, or to make any applications to court, upon consultation with the Speaker consistent with rule L.

SEC. 14. ADMINISTRATIVE MATTERS.

(a) PERSONNEL.—The Chairman, upon consultation with the ranking minority member, may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, clerical and stenographic assistants, and other appropriate staff as the Chairman considers necessary to carry out the purposes of this resolution. Detailees from the executive branch or staff of the House or a joint committee, upon the request of the Chairman of the Select Committee, upon consultation with the ranking minority member, shall be deemed staff of the Select Committee to the extent necessary to carry out the purposes of this resolution.

(b) PAYMENT OF EXPENSES.—(1) The Select Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Select Committee.

(2) Not more than $2,500,000 are authorized for expenses of the Select Committee for investigations and studies, including for the procurement of the services of individual consultants or organizations thereof, and for training of staff, to be paid out of the applicable accounts of the House of Representatives upon vouchers signed by the Chairman and approved in the manner directed by the Committee on House Oversight.

SEC. 15. APPLICABILITY OF OTHER LAWS TO SELECT COMMITTEE.

The Select Committee shall be deemed a committee of the House for all purposes of the rules of the House of Representatives and shall be deemed a committee for all purposes of law, including, but not limited to, section 202(f) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(f)), sections 102 and 104 of the Revised Statutes (2 U.S.C. 192 and 194), sections 1001, 1505, 1621, 6002, and 6005 of title 18, United States Code, section 502(b)(1)(B)(ii) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)(1)(B)(ii)), and section 734 of title 31, United States Code.

SEC. 16. DISPOSITION OF RECORDS.

At the conclusion of the existence of the Select Committee, all records of the Select Committee shall be transferred to other committees, or stored by the Clerk of the House, as directed by the Select Committee, consistent with applicable rules and law concerning classified information.

The SPEAKER pro tempore. Pursuant to House Resolution 476, the amendment in the nature of a substitute printed in the resolution is adopted.

The text of the amendment in the nature of a substitute is as follows:

Resolved,

SECTION 1. ESTABLISHMENT.

There is hereby created the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of

China, (hereafter in this resolution referred to as the "Select Committee"). The Select Committee may sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, has recessed, or has adjourned, as it shall deem appropriate for the completion of its work.

SEC. 2. JURISDICTION.

(a) In General.—The Select Committee shall conduct a full and complete inquiry regarding the following matters and report such findings and recommendations, including those concerning the amendment of existing law or the enactment of new law, to the House as it considers appropriate:

(1) The transfer of technology, information, advice, goods, or services that may have contributed to the enhancement of the accuracy, reliability, or capability of nuclear-armed intercontinental ballistic missiles or other weapons of the People's Republic of China, or that may have contributed to the enhancement of the intelligence capabilities of the People's Republic of China.

(2) The transfer of technology, information, advice, goods, or services that may have contributed to the manufacture of weapons of mass destruction, missiles, or other weapons or armaments by the People's Republic of China.

(3) The effect of any transfer or enhancement referred to in paragraphs (1) or (2) on regional security and the national security of the United States.

(4) The conduct of the executive branch of the United States Government with respect to the transfers or enhancements referred to in paragraphs (1) or (2), and the effect of that conduct on regional security and the national security of the United States.

(5) The conduct of defense contractors, weapons manufacturers, satellite manufacturers, and other private or government-owned commercial firms with respect to the transfers or enhancements referred to in paragraphs (1) or (2).

(6) The enforcement of United States law, including statutes, regulations, or executive orders, with respect to the transfers or enhancements referred to in paragraphs (1) or (2).

(7) Any effort by the Government of the People's Republic of China or any other person or entity to influence any of the foregoing matters through political contributions, commercial arrangements, or bribery, influence-peddling, or other illegal activities.

(8) Decision-making within the executive branch of the United States Government with respect to any of the foregoing matters.

(9) Any effort to conceal or withhold information or documents relevant to any of the foregoing matters or to obstruct justice, or to obstruct the work of the Select Committee or any other committee of the House of Representatives in connection with those matters.

(10) All matters relating directly or indirectly to any of the foregoing matters.

(b) Permitting Reports To Be Made To House in Secret Session.—Any report to the House pursuant to this section may, in the Select Committee's discretion, be made under the provisions of rule XXIX of the Rules of the House of Representatives.

SEC. 3. COMPOSITION; VACANCIES.

(a) Composition.—The Select Committee shall be composed of 9 or fewer Members of the House to be appointed by the Speaker of the House of Representatives, one of whom he shall designate as Chairman. Service on the Select Committee shall not count against the limitations on committee service in clause 6(b)(2) of rule X.

(b) Vacancies.—Any vacancy occurring in the membership of the Select Committee shall be filled in the same manner in which the original appointment was made.

SEC. 4. RULES APPLICABLE TO SELECT COMMITTEE.

(a) Quorum.—One-third of the members of the Select Committee shall constitute a quorum for the transaction of business other than the reporting of a matter, which shall require a majority of the committee to be actually present, except that the Select Committee may designate a lesser number, but not less than 2, as a quorum for the purpose of holding hearings to take testimony and receive evidence.

(b) Applicability of House Rules.—The Rules of the House of Representatives applicable to standing committees shall govern the Select Committee where not inconsistent with this resolution.

(c) Rules of Select Committee.—The Select Committee shall adopt additional written rules, which shall be public, to govern its procedures, which shall not be inconsistent with this resolution or the Rules of the House of Representatives.

SEC. 5. CLASSIFIED INFORMATION.

No employee of the Select Committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has—

(1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the Select Committee as to the security of such information during and after the period of his employment or contractual agreement with the Select Committee); and

(2) received an appropriate security clearance as determined by the Select Committee in consultation with the Director of Central Intelligence.

The type of security clearance to be required in the case of any such employee or person shall, within the determination of the Select Committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 6. LIMITS ON DISCLOSURE OF INFORMATION.

The Select Committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. PROCEDURES FOR HANDLING INFORMATION.

(a) The Select Committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the Select Committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section. In any case in which the Select Committee votes to disclose publicly any information, which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, the Select Committee shall submit such classified information to the Permanent Select Committee on Intelligence.

(b)(1) As set forth in clause 7(b) of rule XLVIII, in any case in which the Permanent Select Committee on Intelligence votes to disclose publicly any information submitted pursuant to subsection (a), which has been classified under established security procedures, which has been submitted to the Select Committee by the executive branch, and which the executive branch has requested be kept secret, the Permanent Select Committee on Intelligence shall notify the President of such vote.

(2) The Permanent Select Committee on Intelligence may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the Permanent Select Committee on Intelligence that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the Permanent Select Committee on Intelligence of his objections to the disclosure of such information as provided in paragraph (2), the Permanent Select Committee on Intelligence may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The Permanent Select Committee on Intelligence shall not publicly disclose such information without leave of the House.

(4) Whenever the Permanent Select Committee on Intelligence votes to refer the question of disclosure of any information to the House under paragraph (3), the chairman of the Permanent Select Committee on Intelligence shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the Permanent Select Committee on Intelligence to consider, in closed session, the matter reported under paragraph (4), then such a motion will be deemed privileged and may be made by any Member. The motion under this paragraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion, except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be authorized to declare a recess subject to the call of the Chair. At the expiration of such recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the Permanent Select Committee on Intelligence?"

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session but without divulging the information with respect to

which the vote is being taken. If the recommendation of the Permanent Select Committee on Intelligence is not agreed to, the question shall be deemed recommitted to the Permanent Select Committee on Intelligence for further recommendation.

(c)(1) No information in the possession of the Select Committee relating to the lawful intelligence or intelligence-related activities of any department or agency of the United States which has been classified under established security procedures and which the Select Committee, the Permanent Select Committee on Intelligence, or the House pursuant to this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in paragraph (2).

(2) The Select Committee shall, under such regulations as the committee shall prescribe, make any information described in paragraph (1) available to any other committee or any other Member of the House and permit any other Member of the House to attend any hearing of the committee which is closed to the public. Whenever the Select Committee makes such information available (other than to the Speaker), the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this paragraph, shall disclose such information except in a closed session of the House.

(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of subsection (c) and report to the House concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such as censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 8. TRANSFER OF INFORMATION TO SELECT COMMITTEE.

Any committee of the House of Representatives having custody of records, data, charts, and files concerning subjects within the jurisdiction of the Select Committee shall furnish the originals or copies of such materials to the Select Committee. In the case of the Permanent Select Committee on Intelligence, such materials shall be made available pursuant to clause 7(c)(2) of rule XLVIII.

SEC. 9. INFORMATION GATHERING.

(a) In General.—The Select Committee is authorized to require, by subpoena or otherwise, the attendance and testimony of such witnesses, the furnishing of such information by interrogatory, and the production of such books, records, correspondence, memoranda, papers, documents, calendars, recordings, electronic communications, data compilations from which information can be obtained, tangible objects, and other things and information of any kind as it deems necessary, including all intelligence materials however classified, White House materials, and materials pertaining to unvouchered expenditures or concerning communications interceptions or surveillance.

(b) Subpoenas, Depositions and Interrogatories.—Unless otherwise determined by the Select Committee, the Chairman, upon consultation with the ranking minority member, or the Select Committee may—

(1) authorize and issue subpoenas;

(2) order the taking of depositions, interrogatories, or affidavits under oath or otherwise; and

(3) designate a member or staff of the Select Committee to conduct any deposition.

(c) International Authorities.—Unless otherwise determined by the Select Committee, the Chairman of the Select Committee, upon consultation with the ranking minority member of the Select Committee, or the Select Committee may—

(1) authorize the taking of depositions and other testimony, under oath or otherwise, anywhere outside the United States; and

(2) make application for issuance of letters rogatory, and request through appropriate channels, other means of international assistance, as appropriate.

(d) Handling of Information.—Information obtained under the authority of this section shall be—

(1) considered as taken by the Select Committee in the District of Columbia, as well as the location actually taken; and

(2) considered to be taken in executive session.

SEC. 10. TAX RETURNS.

Pursuant to sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, for the purpose of investigating the subjects set forth in this resolution and since information necessary for this investigation cannot reasonably be obtained from any other source, the Select Committee shall be specially authorized to inspect and receive for the tax years 1988 through 1998 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to individuals and entities named by the Select Committee as possible participants, beneficiaries, or intermediaries in the transactions under investigation. As specified by section 6103(f)(3) of the Internal Revenue Code of 1986, such materials and information shall be furnished in closed executive session.

SEC. 11. ACCESS TO INFORMATION OF THE SELECT COMMITTEE.

The Select Committee shall provide other committees and Members of the House with access to information and proceedings, consistent with clause 7(c)(2) of rule XLVIII, except that the Select Committee may direct that particular matters or classes of matter shall not be made available to any person by its members, staff, or others, or may impose any other restriction. The Select Committee may require its staff to enter nondisclosure agreements, and its chairman, in consultation with the ranking minority member, may require others, such as counsel for witnesses, to do so. The Committee on Standards of Official Conduct may investigate any unauthorized disclosure of such classified information by a Member, officer, or employee of the House or other covered person upon request of the Select Committee. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant unauthorized disclosure, it shall report its findings to the House and recommend appropriate sanctions for the Member, officer, employee, or other covered person consistent with clause 7(e) of rule XLVIII and any committee restriction, including nondisclosure agreements. The Select Committee shall, as appropriate, provide access to information and proceedings to the Speaker and the minority leader and an appropriately cleared and designated member of each staff.

SEC. 12. COOPERATION OF OTHER ENTITIES.

(a) Cooperation of Other Committees.—The Select Committee may submit to any standing committee specific matters within its jurisdiction and may request that such committees pursue such matters further.

(b) Cooperation of Other Federal Entities.—The Chairman of the Select Committee, upon consultation with the ranking minority member, or the Select Committee may request investigations, reports, and other assistance from any agency of the executive, legislative, and judicial branches of the Federal Government.

SEC. 13. ACCESS AND RESPONSE TO JUDICIAL PROCESS.

In addition to any applications to court in response to judicial process that may be made in behalf of the House by its counsel, the Select Committee shall be authorized to respond to any judicial or other process, or to make any applications to court, upon consultation with the Speaker consistent with rule L.

SEC. 14. ADMINISTRATIVE MATTERS.

(a) Personnel.—The Chairman, upon consultation with the ranking minority member, may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, clerical and stenographic assistants, and other appropriate staff as the Chairman considers necessary to carry out the purposes of this resolution. Detailees from the executive branch or staff of the House or a joint committee, upon the request of the Chairman of the Select Committee, upon consultation with the ranking minority member, shall be deemed staff of the Select Committee to the extent necessary to carry out the purposes of this resolution.

(b) Payment of Expenses.—(1) The Select Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Select Committee.

(2) Not more than $2,500,000 are authorized for expenses of the Select Committee for investigations and studies, including for the procurement of the services of individual consultants or organizations thereof, and for training of staff, to be paid out of the applicable accounts of the House of Representatives upon vouchers signed by the Chairman and approved in the manner directed by the Committee on House Oversight.

SEC. 15. APPLICABILITY OF OTHER LAWS TO SELECT COMMITTEE.

The Select Committee shall be deemed a committee of the House for all purposes of the rules of the House of Representatives and shall be deemed a committee for all purposes of law, including, but not limited to, section 202(f) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(f)), sections 102 and 104 of the Revised Statutes (2 U.S.C. 192 and 194), sections 1001, 1505, 1621, 6002, and 6005 of title 18, United States Code, section 502(b)(1)(B)(ii) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)(1)(B)(ii)), and section 734 of title 31, United States Code.

SEC. 16. DISPOSITION OF RECORDS.

At the conclusion of the existence of the Select Committee, all records of the Select Committee shall be transferred to other committees, or stored by the Clerk of the House, as directed by the Select Committee, consistent with applicable rules and law concerning classified information.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) and the gentleman from Texas (Mr. FROST) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Today the Committee on Rules brings to the floor this resolution establishing a Select Committee of the

House on United States National Security and Military/Commercial Concerns With the People's Republic of China.

Beginning in April of this year, Mr. Speaker, the New York Times has focused on the somewhat sordid history of the transfer of American satellite technology to Communist China. These press accounts have asserted, Mr. Speaker, that American national security has been severely damaged, and campaign contributions may have been a factor in the decisions made.

Mr. Speaker, there has been bipartisan commentary in this Congress and in our national public debate agreeing that there is a pressing need to get to the bottom of this matter that does affect the national security of our country.

The resolution before the House will establish a select committee to answer, among other things, did the transfer of technology contribute to the enhancement of the accuracy of nuclear armed intercontinental ballistic missiles of the People's Republic of China, missiles that right this minute are aimed at the United States of America?

Did these transfers contribute to the manufacture of weapons of mass destruction by the People's Republic of China?

What effect did these transfers have on U.S. national security?

Was there any effort by the People's Republic of China or other person or entity to influence these matters through political contributions, commercial arrangements, or bribery, influence peddling or other illegal activities?

Keep in mind, Mr. Speaker, we ought to remember the Foreign Corrupt Practices Act, because it may very well be involved in this situation here today.

Mr. Speaker, every Member of this House would agree that these are critical and serious questions which deserve to have truthful answers.

Mr. Speaker, this resolution is brought forward in a bipartisan spirit, a development which brings great credit I think to this House. I applaud the work of the gentleman from California (Mr. Cox) sitting to my right, the proposed chairman of this select committee, and the gentleman from Washington (Mr. Dicks), again, one of the most respected and admired Members of this House, the proposed ranking member of the Select Committee.

These two honorable gentlemen worked out a package of bipartisan improvements to the legislation that I introduced several days ago, which the Committee on Rules was pleased to incorporate during the markup. We have taken all of their suggestions so that there is nothing controversial in this resolution before us right now.

Now, Mr. Speaker and Members, every American citizen is deeply concerned about nuclear proliferation around this world, whether it be in India, whether it be in Pakistan, in North Korea, in other rogue states like Iran, Iraq and Libya. Mr. Speaker, they are concerned that in the People's Republic of China, that in the last decade has been able to develop and now deploy intercontinental ballistic missiles, according to our estimates and that of the press, 13 of the 18 are aimed at the United States of America.

Mr. Speaker, as we all know, President Clinton is fond of defending his "commerce-at-any-cost" policy toward China by saying that he is merely continuing the policy of previous Republican Presidents. Mr. Speaker, last Tuesday we heard from Richard Allen, who knows a little bit about previous Republican policy. He was in the Nixon administration during the opening of China in 1972, whether that was right or wrong, and was National Security Adviser to President Reagan during the early years of his presidency.

Mr. Allen said that given today's changed context, and this is very, very important, given today's changed context, it is patently obvious to him that President Nixon or President Reagan or President Bush would have caused this policy to study the cumulative impact of these massive transfers of technology to a country like China.

Mr. Allen also offered this commonsense piece of wisdom that has so far eluded the Clinton administration. He said, quote, "If a policy does not work any longer, you reevaluate it, you adjust it according to those new circumstances."

Also, and this is terribly, terribly important, we heard from Jim Woolsey, who was President Clinton's first CIA director. What I found stunning about his testimony, Mr. Speaker, was the array of different materials and technologies that we have recently begun selling to China. This was his testimony: "In addition to satellites, we are now giving China aircraft machine tools that can be used to construct military aircraft; we are giving them supercomputers that can be used to build and test nuclear weapons with more accuracy than they even have today. We are giving them high-temperature furnaces that also have nuclear uses. We are giving them encryption technology and cruise missile technology," all of which is very ominous, Mr. Speaker, to the future of this country. This is absolutely incredible in light of what is going on in the world today with nuclear proliferation around this world.

Just 2 days ago a headline appeared noting that China not only continues to help Iran, but also Libya. Here is the article. This article is from the Washington Times and was repeated in the New York Times and in the Washington Post. It says, "China Assists Iran, Libya on Missile Sales."

Mr. Speaker, Libya, as Members are well aware, has nuclear weapons programs, and the assistance continues after innumerable promises by the Chinese that they have stopped these transfers.

Mr. Speaker, another headline recently was that North Korea has thumbed its nose at the Clinton administration and at this country and said that it too would continue to export its military technology, much of which has been provided by China, to its rogue friends around the world.

Mr. Speaker, we know our technology transfer policies, our nonproliferation policies, and our overall China policies are bankrupt. They have to be changed. What we do not know, Mr. Speaker, at this point is exactly how we got into this mess and whether and how all of these developments are connected.

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We also do not know the full extent of the national security damage done to the United States of America. And I pointed out, this is not just me standing here saying so, Mr. Speaker.

Here is a cartoon that appeared in a local newspaper and these are typical of cartoons appearing around the country. It is a picture of the White House and up in the corner it is President Clinton saying, "Relax, Hillary, I have convinced the Chinese to return the technology." Well, Mr. Speaker, then there is a picture of an intercontinental ballistic missile; that is the technology that is being returned to the United States of America at the White House. That is how serious this matter is.

Mr. Speaker, all of these revelations that I have alluded to have appeared in mainstream press accounts across this country and, Mr. Speaker, at this point I insert in the Record a series of articles from the New York Times and other publications that document what we know so far.

[From the New York Times, Apr. 4, 1998]

COMPANIES ARE INVESTIGATED FOR AID TO CHINA ON ROCKETS

(By Jeff Gerth with Raymond Bonner)

A Federal grand jury is investigating whether two American companies illegally gave China space expertise that significantly advanced Beijing's ballistic missile program, according to Administration officials.

But the officials said the criminal inquiry was dealt a serious blow two months ago when President Clinton quietly approved the export to China of similar technology by one of the companies under investigation.

The decision was opposed by Justice Department officials, who argued that it would be much more difficult to prosecute the companies if the Government gave its blessing to the deal, the officials said.

Under investigation, the officials said, are Loral Space and Communications of Manhattan and Hughes Electronics, a Los Angeles-based division of the General Motors Corporation. The companies denied wrongdoing, but declined to discuss the investigation.

Loral has numerous business deals with China and close ties to the White House. Its chairman and chief executive, Bernard L. Schwartz, was the largest personal contributor to the Democratic National Committee last year.

Loral's vice president for government relations, Thomas B. Ross, said Mr. Schwartz had not spoken about the matter with Mr. Clinton or any other Administration official.

The Federal inquiry stems from a 1996 incident in which a Chinese rocket carrying aloft a satellite built by Loral exploded shortly after liftoff. The two companies took part in an independent review of the failure, and reported to the Chinese on what went wrong.

Those exchanges, officials believe, may have gone beyond the sharing of information that the companies had been permitted, giving the Chinese crucial assistance in improving the guidance systems of their rockets. The technology needed to put a commercial satellite in orbit is similar to that which guides a long-range nuclear missile to its target.

In February, with the investigation of this incident well under way, Mr. Clinton gave Loral permission to launch another satellite on a Chinese rocket and provide the Chinese with the same expertise that is at issue in the criminal case, officials said.

A senior official said the Administration recognized the sensitivity of the decision, but approved the launching because the investigation had reached no conclusions and because Loral had properly handled subsequent launchings. The Administration, he said, could still take administrative action against the companies if they were found to have violated export laws in their earlier dealings with the Chinese.

Michael D. McCurry, the White House spokesman, said the launching that President Clinton approved in February "will not contribute to Chinese military capabilities" because Loral has agreed to "stringent safeguards" to prevent the unauthorized transfer of technology.

Emery Wilson, public relations manager for Hughes Space and Communications, a division of Hughes Electronics, said the company had not been notified of any Federal criminal investigation.

"In response to a letter from the State Department," Mr. Wilson said, "we conducted a thorough review and concluded that no Hughes employee had engaged in the unauthorized export of controlled technology or equipment.".

The Administration has been hoping to reach a broader agreement with Beijing that would make it much easier to launch American satellites on China's rockets. Mr. Clinton is to visit China this summer in the first Presidential trip to the country since the suppression of the pro-democracy movement in the 1989 Tiananmen Square massacre.

There are huge commercial interests at stake. A host of companies, from cellular telephone networks to international television conglomerates, are waiting in line for low-cost satellites to be sent into orbit. An important bottleneck facing the companies is a shortage of rocket systems available to launch satellites.

China is eager to offer its low-cost—but not always reliable—services.

For American companies, there is a significant complication. All American satellites sent into orbit by China's rockets require Presidential approval, a waiver of the sanctions imposed after the Tiananmen massacre. Congress must be told of each waiver. Thus far, Presidents Bush and Clinton have issued 11 waivers for satellite launchings.

The policy under consideration by the Clinton Administration would end the case-by-case waivers and would treat future launchings of American satellites like any other export of sensitive technology, which require Government licenses.

Critics in Congress argue that Mr. Clinton is putting commercial interests ahead of national security. They caution that China has yet to prove it will abide by previous pledges it has made not to share missile technology with countries like Iran.

Few nations can deliver intercontinental ballistic missiles. China has lagged because, among other reasons, it lacks the guidance technology, also used for satellites, that allows multiple warheads to be sent from a single missile.

President Clinton signed the waiver to allow the Loral satellite launching on Feb. 18. The waiver states that the deal is "in the national interest."

"We are more engaged with China," Mr. McCurry said. "One area of that engagement has been commercial satellite technology, which we perceive to be in our interests as well as that of China's."

But law-enforcement officials argued against the waiver, saying the approval jeopardized their investigation because it sanctioned the export of essentially the same guidance expertise involved in the possibly illegal transfer two years ago, Administration officials say.

Administration officials said the inquiry is focused on the events following the Feb. 15, 1996, explosion of a Chinese rocket carrying a $200 million Loral satellite seconds after liftoff at the Xichang Satellite Launch Center in Sichuan Province, in southern China.

After the explosion, the Chinese asked two American companies to help conduct an independent study of what went wrong. The team was led by Loral and included two experts from Hughes, according to Hughes.

According to Administration officials, the American experts provided crucial data and information to the Chinese to prevent future accidents. Later, Loral gave a copy of the written report to the State Department, which licenses the export of defense-related items.

Government officials immediately began to assess whether there had been a security breach. Last year, a criminal inquiry was begun by the United States Customs Service and the Department of Justice, officials said.

Under Federal export rules, American companies are supposed to take careful precautions to safeguard classified technology when their satellites are launched by Chinese rockets.

Satellites are shipped to China in sealed containers, and only American officials can mount them in the nose cones of the launching rockets. The Commerce Department approves the export of the satellites. But the more sensitive support activities must be approved by the State Department.

That process is meant to insure tight controls over the testing, repair and maintenance of the satellite so the Chinese cannot learn related classified information.

The State Department license issued several years ago for the Loral satellite was silent on the issue of what role, if any, the American experts could play in an analysis of a failed launching.

After United States companies took part in more than one study of failed Chinese launchings, the Federal Government changed its regulations and now requires companies to obtain a separate license to take a role in any accident review, an Administration official said.

[From the New York Times, Apr. 13, 1998]

U.S. BUSINESS ROLE IN POLICY ON CHINA IS UNDER QUESTION

(By Jeff Gerth)

In the 1992 election, many of America's aerospace manufacturers backed Bill Clinton. But when President Clinton took office, he immediately disappointed some of them on a key issue, barring them from launching their most lucrative satellites on China's low-cost rockets.

The aerospace companies' counterattack was vehement—and effective. After a lobbying campaign that included appeals to the President by C. Michael Armstrong, then the chief executive of Hughes Electronics, Mr. Clinton gradually came to take the industry's side.

But there was an important caveat: The companies had to keep a tight rein on sophisticated technology sought by the Chinese military.

So in May 1997 the Administration was jolted by a classified Pentagon report concluding that scientists from Hughes and Loral Space and Communications had turned over expertise that significantly improved the reliability of China's nuclear missiles, officials said.

The report, whose existence has been secret, prompted a criminal investigation of the companies, which officials said was undermined this year when Mr. Clinton approved Loral's export to China of the same information about guidance systems. Loral's chairman was the largest personal donor to the Democratic Party last year.

An examination of the Administration's handling of the case, based on interviews with Administration officials and industry executive, illustrates the competing forces that buffet Mr. Clinton on China policy. In this instance, the President's desire to limit the spread of missile technology was balanced against the commercial interests of powerful American businesses, many of which were White House allies and substantial supporters of the Democratic Party.

"From the Chinese point of view, this was the key case study on how the Administration would operate on contentious issues," an Administration expert on China said. The message, the official added, was that Administration policy on issues like the spread of weapons and human rights abuses "could be reversed by corporations."

The White House denied any political interference in the issue.

"I am certainly not aware that our policy has been influenced by domestic political considerations," said Gary Samore, the senior director for nonproliferation and export controls at the National Security Council. "From where I sit, this has been handled as a national security issue: seeking to use China's interest in civilian space cooperation as leverage to obtain nonproliferation goals."

The Administration's China policy has come under intense scrutiny in the last year. Congressional investigators have been examining whether China sought to influence policy through illegal campaign contributions to Democratic candidates in 1996. The connection, first suggested in intelligence reports and echoed by Senator Fred Thompson, the Tennessee Republican who led hearings on campaign finance, was never proved.

The handling of the satellite case raises questions about the influence of American contributors on China policy, according to officials.

2 COMPANIES TILT TOWARD DEMOCRATS

Since 1991, the aerospace industry has divided its political contributions equally between Democrats and Republicans. In the same period, however, Loral and Hughes tilted toward the Democratic Party, giving $2.5 million to Democratic candidates and causes and $1 million to the Republicans.

Administration officials say the contributions played no role in the decisions to permit China to launch American satellites.

"The Government has to balance risks: the risk in not letting American companies get their satellites launched by the Chinese, which would reduce our high-tech advantages, and the inherent risks of technology transfer," said James P. Rubin, the State Department spokesman.

"That's why we impose such strict safeguards, and we are determined to investigate and use our laws to prevent that possibility," Mr. Rubin said.

WAIVERS REQUIRED AFTER TIANANMEN

The criminal investigation of Hughes and Loral has its roots in 1989, when sanctions were imposed after the massacre of pro-democracy demonstrators at Tiananmen Square, requiring a Presidential waiver for satellite launchings. Eleven such waivers have been granted by President Clinton and his predecessor, George Bush.

But in late 1992, American intelligence discovered that Chinese companies had sold missile technology to Pakistan, raising tensions on the subcontinent.

In the first months of Mr. Clinton's Presidency, Democrats and Republicans in Congress pressed the Administration to take action. Mr. Clinton responded with sanctions that barred American companies from sending military goods to any of the Chinese concerns involved in the Pakistan deal.

The move had the effect of halting several pending and future American satellite deals because the Chinese rocket-launching company was one of those under sanctions.

Mr. Armstrong of Hughes, a subsidiary of the General Motors Corporation, wasted no time in getting the President's attention. He wrote two blunt letters in September and October 1993 that reminded Mr. Clinton of his support for several Presidential policy initiatives like the North American Free Trade Agreement, officials said.

He bemoaned his company's loss of business to foreign competitors and requested Mr. Clinton's personal involvement. Hughes's biggest loss, the company says, was the opportunity for a joint satellite manufacturing plant in China, which the Chinese awarded to a European competitor.

CLINTON CONFRONTS DEPARTMENT TUSSLE

A key issue was whether Hughes satellites were civilian or military, a murky question in the export control laws. If the satellites were labeled commercial, the sanctions invoked over the Pakistan deal did not apply. Mr. Armstrong told Mr. Clinton, officials said, that Hughes satellites should not be considered military because their technology did not have military applications.

Soon after the letters, Mr. Clinton assured Mr. Armstrong in an open meeting that he was trying to resolve the tussle between the State Department, which licensed military exports and wanted to keep authority over satellites, and the Commerce Department, which licensed all other exports and was on the side of the satellite industry.

"I'm trying to get on top of this to decide what to do," Mr. Clinton told Mr. Armstrong.

At about the same time, the Administration gave signals that it was moving toward the industry's position. After one signal, Mr. Armstrong sent a letter to a senior White House official relaying a positive reaction from Chinese officials, White House officials said.

In early January 1994, the President sent another positive signal—what Hughes officials then called a "a good first step." Three satellites were lableded as civilian, including one slightly modified Hughes satellite, which allowed their launchings to proceed.

Mr. Clinton's decision helped the industry. But the satellite makers wanted a broader decision that made the Commerce Department the primary licensing authority for virtually all satellites. The Commerce Department weighs the economic consequences when it considers an export license. The State Department looks at security concerns.

In 1994, Loral's chairman and chief executive, Bernard L. Schwartz, went to China with Commerce Secretary Ron Brown. Mr. Brown helped Loral close a mobile telephone satellite network deal in Beijing.

A few weeks later, the President's top political aide, Harold Ickes, wrote a memo to Mr. Clinton in which he said Mr. Schwartz "is prepared to do anything he can for the Administration."

In December 1994, the President selected Mr. Armstrong to head his Export Council.

And the sanctions stemming from the Pakistan sale were lifted in late 1994 as China promised to curb missile sales to other countries.

Still, the satellite industry had not achieved a major objective. So in 1995, Mr. Armstrong sent another letter to Mr. Clinton, signed by Mr. Schwartz, arguing that the Commerce Department should become the primary licensing authority for satellite exports, an industry executive said. (Mr. Armstrong, who recently became the chief executive of AT&T, declined through a spokeswoman to comment.)

The debate not only affected national security but also had enormous commercial implications. The businesses that rely on satellites are highly competitive, and European companies were more than willing to take advantage of China's low-cost services. Without the Chinese, American companies faced long waits to get their satellites sent into orbit because of a shortage of rockets. Satellite technology is crucial to an increasing number of businesses, from cellular telephone networks to global broadcast conglomerates.

CHINESE ROCKET FOR LORAL CRASHES

Finally in March 1996, Mr. Clinton shifted major licensing responsibilities for almost all satellites to the Commerce Department. The State Department retained control over a few highly sophisticated satellites as well as any sensitive support activities, or technical assistance, in connection with civilian satellites.

The industry and the Chinese applauded the action. But the events that followed a failed launching in China immediately raised questions about whether the new policy sent a wrong signal.

On Feb. 15, 1996, a Chinese rocket carrying a $200 million Loral satellite crashed 22 seconds after liftoff at the Xichang Satellite Launching Center in southern China.

Chinese officials needed to figure out what went wrong. By April an outside review commission, headed by Loral, was assembled to help the Chinese study the accident. It included two scientists from Hughes.

On May 10, the commission completed a preliminary report, based on over "200 pages of data, analysis evaluation and reports," documents show. It found that the cause of the accident was an electrical flaw in the electronic flight control system.

But the report, which was promptly shared with the Chinese, discussed other sensitive aspects of the rocket's guidance and control systems, which is an area of weakness in China's missile programs, according to Government and industry officials.

The State Department learned about the report and made contact with Loral.

Loral, in what officials said was a cooperative effort, provided the review commission's report and a long letter explaining what happened. Loral told other commission members, including the two Hughes scientists, to retrieve all copies of the report because of the serious security concerns of the Government, officials said,

But the two Hughes employees believed that there was no legal obligation to comply with the request, officials also said. In late May, Hughes received a letter from the State Department charging that the transfer of information was a violation of the arms export control laws, according to officials. Loral received no such letter.

One year later, the Pentagon completed its damage assessment of the incident. It concluded, officials said, that "United States national security has been harmed."

The Pentagon report prompted a criminal investigation into Loral and Hughes by the Justice Department and the Customs Service. The companies say their employees have acted properly, but they decline to discuss the matter.

One key issue is whether the data turned over to the Chinese required a State Department license and, if so, whether the company officials were aware of that fact. The criminal inquiry has found evidence that several days before the review committee had its first meeting with Chinese officials, Loral executives were told by their security advisers that any sharing of information required a State Department license, according to Administration officials. Loral never sought a license, but it may have sounded out the State Department.

An industry official said Loral had immediately told the State Department about the review commission meeting with the Chinese but had received no reply.

MORE HIGH-TECH DATA EXPORTED RECENTLY

Whatever the evidence, criminal charges may never be brought because Mr. Clinton approved the export to China by Loral of similar satellite guidance information two months ago. He acted despite the strong opposition of the Justice Department, whose officials argued that the approval would seriously undercut any criminal case.

The required notice to Congress by the President of his action was sent during a recess.

Administration officials say the decision was politically sensitive but correct because no wrongdoing had been proven and Loral had subsequently acted responsibly.

Since the inquiry began, Beijing and Washington have been exploring even more space cooperation.

Last fall President Jiang Zemin visited the United States and stopped at a Hughes site to talk about satellites. In advance of Mr. Clinton's trip to China in June, the Administration is seeking a broader agreement with Beijing on space cooperation.

But the chairman of the House International Relations Committee, Benjamin A. Gilman, Republican of New York, says the Administration should provide a "thorough review" of the Hughes-Loral case to Congress before it goes ahead with a plan to expedite approvals for American satellite launchings by China.

[From the New York Times, May 15, 1998]

DEMOCRAT FUND-RAISER SAID TO DETAIL CHINA TIE

(By Jeff Gerth)

(This article is based on reporting by Jeff Gerth, David Johnston and Don Van Natta and was written by Mr. Gerth.)

A Democratic fund-raiser has told Federal investigators he funneled tens of thousands of dollars from a Chinese military officer to the Democrats during President Clinton's 1996 re-election campaign, according to lawyers and officials with knowledge of the Justice Department's campaign finance inquiry.

The fund-raiser, Johnny Chung, told investigators that a large part of the nearly $100,000 he gave to Democratic causes in the summer of 1996—including $80,000 to the Democratic National Committee—came from China's People's Liberation Army through a Chinese lieutenant colonel and aerospace executive whose father was Gen. Liu Huaqing, the officials and lawyers said.

General Liu was then not only China's top military commander but also a member of the leadership of the Communist Party.

Mr. Chung said the aerospace executive, Liu Chao-ying, told him the source of the money. At one fund-raiser to which Mr. Chung gained admission for her, she was photographed with President Clinton.

A special adviser to the White House counsel, Jim Kennedy, said today, "We had no knowledge about the source of Mr. Chung's money or the background of his guest. In hindsight it was clearly not appropriate for Chung to bring her to see the President."

Mr. Chung's account, coupled with supporting documents like bank records, is the first direct evidence obtained by the Justice Department that elements of the Chinese Government made illegal contributions to the Democratic Party. Under American law, foreign governments are prohibited from contributing to political campaigns.

While the amount described is a tiny part of the $194 million that Democrats raised in 1996, investigators regard the identification of Ms. Liu as a breakthrough in their long search for confirmation of a "China Plan." The hunt was prompted after American intelligence intercepted telephone conversations suggesting that Beijing considered covertly influencing the American elections.

Senator Fred Thompson, Republican of Tennessee and chairman of the Senate committee investigating campaign finance, sought evidence of the plan, but Mr. Chung's account did not come until the committee issued its report this year. Tonight, the Federal Bureau of Investigation briefed Senate staff members about Mr. Chung's cooperation, according to officials.

Mr. Chung, a Southern California businessman, began cooperating with investigators after he pleaded guilty in March to campaign-related bank and tax fraud. He is the first defendant in the Justice Department inquiry to agree to cooperate.

It is not clear whether other Chinese officials or executives were involved in the purported payments by Ms. Liu, or what her motivation or the Chinese military's might have been. At the time, President Clinton was making it easier for American civilian communication satellites to be launched by Chinese rockets, a key issue for the Chinese army and for Ms. Liu's company, which sells missiles for the military and also has a troubled space subsidiary.

The President's decision was valuable to Ms. Liu because it enabled her company to do more business with American companies, but it has also been sought by American aerospace corporations, including Loral Space and Communications and the Hughes Electronics Corporation, a subsidiary of the General Motors Corporation, seeking to do more business in China. It is not known, however, whether anyone in the Democratic Party or the Clinton Administration had reason to suspect the source of the contributions from Mr. Chung.

A lawyer for Mr. Chung, Brian A. Sun, declined to comment on his client's conversations with investigators, citing his client's sealed plea agreement with the Justice Department. "I'm shocked that sources at the Justice Department would attribute anything like that to my client."

Mr. Chung has denied being an agent of the Chinese Government. "Nor did Mr. Chung ever try to lobby the American Government on any type of issue involving technology or anything else," Mr. Sun said.

A National Security Council spokesman, Eric Rubin, said, "It is ludicrous to suggest there was any influence on the determination of U.S. policy on this matter." He said he did not know whether any executives from Ms. Liu's company expressed an interest in the issue.

Ms. Liu did not return a message left with her office today.

Mr. Chung's revelations have opened an avenue of inquiry leading in a diplomatically sensitive direction: next month, Mr. Clinton goes to Beijing, where he hopes to announce increased space cooperation between China and the United States.

A representative of the Chinese Government denied that Beijing was behind the purported contributions. "China has always abided by the laws and regulations in this country," said Yu Shu-ning, a press counselor for the Chinese Embassy. "We have nothing to do whatsoever with political contributions in this country."

Mr. Chung, an American who was born in Taiwan, owned a floundering facsimile company in Torrance, Calif. He became involved with the Democratic Party in early 1995 through Asian-American contacts at the White House and was known for trying to use his connections in Washington with Chinese Government officials and executives.

Despite being labeled a "hustler" by one Presidential aide in 1995, Mr. Chung managed to visit the White House at least 49 times. He and his company contributed $366,000 to the Democratic National Committee—most of it before he met Ms. Liu. The full amount was later returned after questions were raised about Democratic fund-raising.

A Democratic National Committee spokesman, Richard W. Hess, said, "We did not know and had no way of knowing the source of his funds."

Mr. Chung met Ms. Liu in June 1996 in Hong Kong. She was not only a lieutenant colonel in the military, but a senior manager and vice president in charge of international trading for China Aerospace International Holdings Ltd., according to the company's 1996 annual report.

The company is the Hong Kong arm of China Aerospace Corporation, a state-owned jewel in China's military industrial complex with interests in satellite technology, missile sales and rocket launches.

Ms. Liu's father, General Liu, was China's senior military officer, and as vice chairman of the powerful Central Military Commission was in charge of China's drive to modernize the People's Liberation Army by selling weapons to other countries and using the hard currency to acquire Western technology. In that role, he oversaw his country's missile deals.

In addition, General Liu was a member of the Standing Committee of the Politburo of the Communist Party, the very top circle of political leadership in China. He retired from his official positions last fall at the time of the Party's 15th Congress.

China Aerospace sells satellites, launches them and owns a large part of a Hong Kong satellite operator, but the financial viability of many of these ventures depends on American satellites. In 1996 President Clinton made it easier for American satellites to be launched by Chinese rockets. The decision was announced in March but due to delays did not take effect until election day.

As Ms. Liu began her relationship with Mr. Chung, her company and father were trying to fix China's troubled rocket program. That spring, China Aerospace had brought in outside experts, including officials from Hughes and Loral to help analyze why a launch the previous February had failed. The Pentagon later concluded that the outside review harmed American national security by advancing China's rocket and missile capabilities. Both companies denied wrongdoing.

In 1991 and 1993 the United States barred all American companies from doing business with two China Aerospace units that had made illegal missile sales to Pakistan. In each instance, Mr. Liu was assistant to the president of the sanctioned company.

Writing about who in China may have benefited from the 1991 missile deal, former Secretary of State James A. Baker 3d, in his memoirs, said, "In all probability, several senior government and party officials or their families stood to gain from the performance of those contracts."

The missile deals were part of General Liu's strategy of selling Chinese weapons to other countries to raise money to acquire Western technology.

"Liu was a proponent of P.L.A. modernization who was very much interested in obtaining Western technology," said retired Rear Adm. Eric A. McVadon, the American defense attaché in Beijing in the early 1990's. He said Mr. Liu constantly rebuffed American concerns about China's weaponry sales.

Those concerns were front and center in 1996, when General Liu was still in charge of the P.L.A. They included China's sale of missiles to Iran and of nuclear equipment to Pakistan, as well as its own bellicose military maneuvers near Taiwan.

Ms. Liu, Mr. McVadon recalled, was a "gladhander" who "brokered deals." In 1990 she was granted a visa to visit the United States as a representative of a China Aerospace subsidiary.

At the first meeting between Mr. Chung and Ms. Liu in June 1996, Mr. Chung is said to have told investigators, Ms. Liu told him she was interested in again visiting the United States. Soon learning that Mr. Chung could arrange meetings with the President, she expressed an interest in meeting Mr. Clinton.

Mr. Chung helped Ms. Liu obtain a visa on July 11, 1996, according to a law-enforcement official. Five days later, he wrote the Democratic National Committee that he wanted to bring Ms. Liu and a Chinese medical executive to a July 22 fund-raising dinner to be held at the Brentwood, Calif., home of the financier Eli Broad.

Both of his guests' names were placed on the guest list after Mr. Chung wrote a check for $45,000 to the Democratic National Committee on July 19. A week later, Mr. Chung set up a California corporation for Ms. Liu and himself, records show.

Ms. Liu arrived in Los Angeles on July 21, and the next day Mr. Chung accompanied her to two fund-raising events attended by Mr. Clinton, according to a law-enforcement official. The first was an early evening $1,000-per-plate gala at the Beverly Hilton.

Later that night, Mr. Chung and Ms. Liu attended a $25,000-per-couple dinner at Mr. Broad's home that raised more than $1.5 million for the Democrats. The President was photographed with Ms. Liu, a routine courtesy at such events.

Mr. Sun, Mr. Chung's lawyer, said, "I don't think she was any different from any of his business contacts—they thought Johnny was influential and someone they would like to know as they furthered their business dealings in the United States."

The previous year, photos from another Chung visit with Mr. Clinton had caused a problem. The President had expressed concerns about some of Mr. Chung's Chinese business clients—unrelated to Ms. Liu—whom the fund-raiser brought to a March 1995 radio address by Mr. Clinton.

Mr. Clinton's director of Oval Office operations, Nancy Hernreich, in testimony taken by Senate investigators, said Mr. Clinton told her later the visit shouldn't have happened. She took that to mean that Mr. Clinton thought Mr. Chung's clients were "inappropriate foreign people."

[From the New York Times, May 17, 1998]

HOW CHINESE WON RIGHTS TO LAUNCH SATELLITES FOR U.S.

(By Jeff Gerth and David E. Sanger)

On Oct. 9, 1995, Secretary of State Warren Christopher ended a lengthy debate within the Clinton Administration by initialing a classified order that preserved the State Department's sharp limits on China's ability to launch American-made satellites aboard Chinese rockets.

Both American industry and state-owned Chinese companies had been lobbying for years to get the satellites off what is known as the "munitions list," the inventory of America's most sensitive military and intelligence-gathering technology. But Mr. Christopher sided with the Defense Department, the intelligence agencies and some of his own advisers, who noted that commercial satellites held technological secrets that could jeopardize "significant military and intelligence interests."

There was one more reason not to ease the controls, they wrote in a classified memorandum. Doing so would "raise suspicions that we are trying to evade China sanctions" imposed when the country was caught shipping weapons technology abroad—which is what happened in 1991 and 1993 for missile sales to Pakistan.

The Secretary of State's decision to keep satellites on the munitions list, making it harder for them to be exported, did not stand for long. Five months later, President Clinton took the unusual step of reversing it.

Control of export licensing for communications satellites was shifted to the Commerce Department, then run by Ronald H. Brown, who was deeply interested in promoting American businesses overseas and had been one of the Democratic Party's key fund-raising strategists. Several licenses have since been approved.

A reconstruction of Mr. Clinton's decision to change the export control rules, based on interviews and documents, shows that it followed a turf war between the State and Commerce Departments, and a broader debate over how to balance America's security concerns and commercial competition in the hottest of all the emerging markets.

It also illustrates the intersection of the interests of both large American donors and surreptitious foreign donors to the 1996 campaign.

Both American satellite makers and the Chinese were delighted with the decision because the Commerce Department has dual responsibilities: licensing sensitive exports and promoting sales of American goods around the world.

One of the beneficiaries of that decision, it now turns out, was China Aerospace because its rockets could launch American satellites. An executive of the state-owned Chinese company, Liu Chaoying, is said to have provided tens of thousands of dollars from Chinese military intelligence to the Democratic Party in the summer of 1996.

Ms. Liu's involvement was described to Federal investigators recently by Johnny Chung, a Democratic fund-raiser who says he took $300,000 from Ms. Liu—who is also a lieutenant colonel in the Chinese military—and donated almost $100,000 of it to Democratic causes, apparently keeping the rest for his businesses.

President Clinton's decision was announced in March 1996, several months before the donations were made. But the actual change was delayed until the fall.

The White House said it did not know the source of Mr. Chung's donations and denies that the decision was influenced by campaign donations, domestic or foreign.

"This was motivated by competitiveness and streamlining bureaucracy concerns, and nothing else," Samuel R. Berger, Mr. Clinton's national security adviser, said in an interview two weeks ago.

On Friday, Mr. Berger's spokesman, Eric Rubin, said the decision was also part of the Administration's China policy, and specially its effort to encourage China to clamp down on military exports.

"On many occasions, this was discussed with the Chinese Government because we believe that policy on satellite licenses is one of the tools we have to strengthen our nonproliferation policy," Mr. Rubin said.

Mr. Clinton's decision took place after months of tension with Beijing.

In January reports of China's export of nuclear technology to Pakistan and missiles to Iran caused considerable concern in Congress and the Pentagon. In early May, two months after Mr. Clinton reversed the Secretary of State, the Administration said China had agreed to curb its missile and nuclear exports. But that announcement was greeted with considerable skepticism by Republican critics, including Bob Dole, who was well on the way to getting the nomination for President.

During the campaign, the Republicans attacked Mr. Clinton for failing to curb China's sales of nuclear and missile technology to other countries.

The satellite decision in March was one element of the Administration's "carrot-and-stock-approach to working with China," said James Lilley, a former United States Ambassador to Beijing.

But in the way business and diplomacy mix in Washington's dealings with China, the decision also resonated in boardrooms on both sides of the Pacific. It satisfied the commercial interests of the American aerospace industry, which had long sought access to China's low-cost ability to launch satellites into space, aboard rockets called the Long March.

And it bolstered China's own commercial interests. Ms. Liu's parent company, China Aerospace, owns a large piece of a Hong Kong satellite operator. It also owns the China Great Wall Industry Corporation, the rocket company that launches both private satellites and tests and provides equipment for the missiles in China's nuclear arsenal. It was Great Wall that the State Department sanctioned in 1991 and 1993 for selling missiles to Pakistan.

Other powerful Chinese state enterprises also had multibillion-dollar stakes in getting access to American satellites. Among them was the China International Trade and Investment Corporation, whose chairman, Wang Jun, gained unwanted attention in the United States last year when it was revealed that he attended one of Mr. Clinton's campaign coffee meetings in the White House. The day of Mr. Wang's visit, Mr. Clinton, in what Mr. Rubin said was a coincidence, signed waivers allowing the Chinese to launch four American satellites—though they were unrelated to the business interests of China International Trade.

"Any suggestions that these decisions were influenced by Wang Jun's presence in the U.S. is completely unfounded," Mr. Rubin said.

It is not known what motivated Ms. Liu or the Chinese military to make the donations. Ms. Liu's father, Gen. Liu Huaqing, was not only China's highest military officer but a member of the leadership of the Communist Party.

The White House and the Democratic National Committee deny any knowledge of the source of Mr. Chung's $266,000 in donations, most predating his connection with Ms. Liu, and all of which was returned.

But there is no doubt that American companies—partners and suppliers of China International Trade and China Aerospace—put enormous pressure on the White House. They were also important campaign contributors. For example, the chief executive of Loral Space and Communications gave $275,000 between November 1995 and June 1996 to the Democrats

THE PRECURSOR: A LOBBYING EFFORT TO PERSUADE BUSH

China's drive to obtain a steady stream of satellite technology from the United States preceded the Clinton Administration's arrival in Washington.

In 1990, just a year after the killings at Tiananmen Square, officials from China Aerospace and the Chinese Government approached Mr. Lilley, the American Ambassador, pressing for President Bush to waive restrictions enacted in the aftermath of Tiananmen that barred China from launching American satellites.

"They hit me very hard," Mr. Lilley recalled recently. "It was a prestige national program. It was putting China on the map as the big space country of the 21st century."

Mr. Bush, who became America's first permanent representative in Communist China in 1974, granted a waiver that allowed a launching on one of China's Long March rockets. In 1992, a number of Senators—including Al Gore, then still a Senator from Tennessee—wrote to the Bush Administration warning that China was using the launchings to "gain foreign aerospace technology that would be otherwise unavailable to it."

In the last days of the 1992 Presidential campaign, Mr. Gore made the waivers an issue, contending that President Bush "has permitted five additional American-built satellites to be launched by the Chinese."

"President Bush really is an incurable patsy for those dictators he sets out to coddle," Mr. Gore said in a speech at the Goddard Space Flight Center in Greenbelt, Md.

THE ARGUMENT: BUSINESS LEADERS PRESSURE CLINTON

Almost as soon as Mr. Clinton took office, business leaders began their campaign to drastically change his views about China.

Both Chinese and American companies were working to get satellites off the State Department's munitions list. The rules for exporting goods that are on the list are particularly tough. Congress must be notified 30 days in advance. Moreover, the State Department considers only nonproliferation issues and defers to the Pentagon's judgments.

In contrast, the Commerce Department's export-control administration solicits a host of views and must weigh the effects of its decisions on America's competitive position.

Mr. Christopher's aides also noted in their 1995 classified memorandum that "U.S. firms remain concerned there could be additional sanctions imposed on China precluding future munitions licenses," exactly the kind of sanctions that had been only recently lifted for China Aerospace's subsidiaries.

And there was a lot at stake: an estimated 14 commercial communications satellite launchings a year worldwide, costing several hundred million dollars apiece.

"The business community regarded the inclusion of civilian satellites on the munitions list as an insult," said William A. Reinsch, the Under Secretary of Commerce for export control, who fought Mr. Christopher's decision. "We're the only country that treats them that way."

The Chinese also understood that they had a huge stake in the outcome of the decision. Zuoyi Huang, president of the California subsidiary of China Great Wall, a part of the China Aerospace empire, said in an interview that his company was eager for any changes that would insure easier access to American technology.

"The license takes time," he said. "You have to get a waiver from the President. The customers can't wait. It's just pure commercial use. It's not a military threat to the United States."

THE REVIEW: A DECISION AGAINST AND A QUICK APPEAL

The arguments came to a head in 1995. C. Michael Armstrong, then the chief executive of Hughes Electronics and newly chosen as the head of President Clinton's export council, asked to meet Mr. Christopher. He urged that satellites, which his company produces, no longer be treated as military goods.

The Secretary of State promised that he would conduct a detailed review in consultation with the Department of Defense, the C.I.A. and the National Security Agency and the Department of Commerce.

But the majority of the interagency group quickly found itself at odds with the aerospace industry. A major issue was how to protect encryption equipment, which is built into a satellite and interprets instructions from ground controllers who manipulate the satellite once it is in orbit. Similar devices are used to communicate with American spy satellites, and the Pentagon and intelligence agencies worried that anyone who could crack the code could take control of the satellites themselves.

On Aug. 17, 1995, a memorandum prepared for the interagency group noted that the chief executive of a satellite company told Mr. Christopher that "once it is embedded in the satellite, the encryption device has no military significance." Thus, the industry argued, there was little risk that the Chinese would get their hands on the encryption devices—especially because American military officials are supposed to watch the satellites with care when they are in Chinese hands.

But, the memorandum went on, "the national security position" is that "the nature of the device itself," not its location, "should be used to determine whether it must be controlled as a military item."

The encryption issue was one of the main reasons the interagency group—over the objections of the Commerce Department—recommended that satellites remain on the munitions list. Mr. Christopher concurred. Soon after Mr. Christopher put his initials on the decision memorandum, Commerce Secretary Ronald H. Brown appealed the decision to the President.

THE TURNAROUND: THE COMMERCE DEPT. WINS A TURF BATTLE

The debate surrounding the appeal did not heat up for four months. The nature of the arguments that went to the White House is still unclear; many of the documents remain classified. But those that have been reviewed by The New York Times show that the White House and the Commerce Department began communicating again about the issue on Feb. 8, 1996, two days after President Clinton broke a backlog of applications for launchings by China, by approving four of them that day.

Mr. Clinton signed those waivers the same day that Wang Jun, the man who was often referred to during the campaign finance investigations as a "Chinese arms dealer," visited Washington. His company, the China International Trade and Investment Corporation, has a multibillion-dollar stake in one of Hong Kong's largest satellite companies.

That same day, Mr. Wang met with Mr. Brown, at his expansive office in the Commerce Department. And that evening, Mr. Wang attended a coffee at the White House, an event Mr. Clinton later called "clearly inappropriate." Others at the coffee said Mr. Wang never spoke during the session.

By mid-February, for reasons that are still murky, there seemed to be some urgency at the White House to decide whether to reverse Mr. Christopher's decision, shifting satellite export licensing to the Commerce Department.

A Feb. 15 State Department memorandum talks about speeding up the process because "the Administration wanted to wrap this up."

In the end, the State Department relented. Participants in the final debate said that the President concluded that the technology could be protected through the Commerce Department, just as the department protects supercomputers and other sensitive technologies.

The President's decision was announced on March 14. Commerce officials, who had just won one of Washington's nastiest turf wars, were jubilant.

"Good news," officials were told by E-mail. The electronic message went on to recommend a "low key" spin on the news that would "not draw attention to the decision."

Internal commerce Department documents show that officials were anticipating questions from reporters and Congress about whether the decision represented an effort to ease technology transfers to China and remove items from sanctions—some of the same concerns that figured in Mr. Christopher's decision.

In the days preceding the announcement, China had raised tensions with its Asian neighbors and the United States to new heights, firing M-9 ballistic missiles, which carried dummy warheads, into target zones 30 miles off the shore of Taiwan.

The March 14 announcement said that regulations putting into effect the President's decision would be issued within 30 days. But the bureaucratic infighting continued.

Finally, the State Department issued the regulations shifting most satellite licensing to the Commerce Department.

They were published on Nov. 5, 1996, the day President Clinton was re-elected.

Correction: A chart last Sunday about China's effort to win the right to launch American satellites referred incorrectly to the message conveyed in September and October 1993 to President Clinton by Michael Armstrong, the chief executive officer of the Hughes Electronics Corporation, an American maker of communications satellites. Mr. Armstrong, in letters to Mr. Clinton, complained that State Department sanctions against Chinese missile companies hurt his business; he did not mention the China Aerospace Corporation specifically.

Between 1993 and 1996, the Clinton Administration dropped its sanctions on China Aerospace, a state-owned Chinese company, for selling missiles to Pakistan and gave the company permission to launch private United States communications satellites, despite some lingering concerns in the Administration about security.

August 1993—State Department imposes economic sanctions against subsidiaries of Beijing-based China Aerospace for selling missiles to Pakistan. The sanctions bar American companies from doing business with the concerns.

Sept.-Oct. 1993—Michael Armstrong, the chief executive of Hughes Electronics Corp., tells the President the sanctions hurt his company because China Aerospace is a low-cost launcher of satellites.

Nov. 1993—The Administration signals it might ease satellite licensing procedures and Mr. Armstrong relays to the White House an encouraging reaction from his contacts in China.

April 1995—Secretary of State Warren Christopher begins an interagency review of restrictions on the export of communications satellites at Mr. Armstrong's urging. The companies want to see responsibility for the issue shifted to the Commerce Department.

Oct. 9, 1995—Following the recommendation of the Pentagon, intelligence agencies and his advisers, Mr. Christopher keeps satellites under the purview of the State Department. The Commerce Department appeals this decision to President Clinton.

Feb. 6, 1996—With the relations between the United States and China tense over Beijing's military operations and sales, President Clinton approves the launch of four American satellites by Chinese rockets.

Mid-February 1996—The White House revives the effort to ease restrictions on satellite exports, reviewing anew Mr. Christopher's decision.

March 8–15, 1996—China conducts missile tests near Taiwan, signalling its displeasure over talk of Taiwanese independence during Taiwan's elections.

March 14, 1996—In a low-key announcement, the Administration says that Mr. Clinton has shifted responsibility for communications satellites to the Commerce Department. Regulations, it says, are to be issued in 30 days.

May 3, 1996—Three top satellite executives write to Mr. Clinton complaining about the delay in issuing the regulations.

Nov. 5, 1996—The State Department publishes the new regulations in the Federal Register. President Clinton is re-elected.

[From the New York Times, May 19, 1998]

SATELLITE MAKER GAVE REPORT TO CHINA BEFORE TELLING U.S.

(By Jeff Gerth)

WASHINGTON.—A leading American satellite maker acknowledged for the first time Monday that a committee headed by one of its top executives provided a report in 1996 to the Chinese on a failed Chinese rocket, without first consulting federal officials, and contrary to the company's own internal policies.

But the company, Space Systems/Loral, a subsidiary of Loral Space and Communications, based in Manhattan, said it "does not believe any of its employees dealing with China acted illegally or damaged U.S. national security." The company issued a two-page statement, which it called a "fact sheet."

In the statement, Loral said it was cooperating with the Justice Department, which is investigating whether sensitive technological information was passed to the Chinese during industry reviews of an accidental explosion of a Chinese rocket seconds after liftoff in February 1996.

The criminal inquiry is focusing on whether officials from Loral and other companies who participated in the review violated American export control laws.

Loral maintained Monday that no secret or sensitive information was conveyed to the Chinese. But a classified Pentagon study concluded the review had helped Chinese missile capabilities and harmed American security, administration officials said. The Pentagon study prompted the Justice Department's inquiry.

In recent days, the Clinton administration's policies on Chinese-launched American satellites have come under intense scrutiny because of information that a Chinese military officer had funneled nearly $100,000 into Democratic campaign committees during President Clinton's re-election campaign.

The New York Times has reported that lawyers and officials have said that Johnny Chung, a fund-raiser, provided information to federal investigators about the Chinese officer, Lt. Col. Liu Chaoying, who was a senior Hong Kong executive for China Aerospace, the Chinese conglomerate whose rocket exploded with a Loral satellite in 1996.

The information provided by Chung, which followed his pleading guilty to campaign-related bank and tax fraud charges, has re-ignited Republicans' zeal to investigate whether the Chinese government tried to influence Clinton administration policy.

Speaker Newt Gingrich is considering creating a special select committee to investigate the transfer of advanced space technology to China, and House Republicans are threatening to attach amendments to the Pentagon's budget bill later this week that would bar the sale of commercial satellites and technology to China.

Loral's statement Monday said that "no political favors or benefits of any kind were requested or extended, directly or indirectly, by any means whatever."

It also said that the company's chairman, Bernard Schwartz, who has been one of the largest individual Democratic Party donors in the last few years, "was not personally involved in any aspect of this matter."

In outlining its involvement with the Chinese rocket, Loral's statement said insurance companies asked Loral and other satellite concerns, including the Hughes Electronics Corp., to review the results of an accident investigation done by the Chinese.

The outside review was headed by a senior executive at Space Systems/Loral. The review committee's report shows that the senior Loral executive had been requested by the president of China Aerospace, which controls China's satellite and space enterprises.

In the end, the review committee affirmed what the Chinese found: "that a failed solder joint was the most likely cause of the failure," Loral said Monday.

Loral also said that while the 1996 review was under way, unidentified Loral officials "discussed the review committee's work with a number of U.S. officials interested in China's space program." But the company acknowledged that it had not followed its own procedures.

"Contrary to SS/L's own internal policies, the committee provided a report to the Chinese before consulting with State Department export licensing authorities," Loral said without elaborating.

The company has privately told investigators in a report that Loral's security advisers had told the company to seek State Department approval before talking to the Chinese but those instructions were not followed, industry executives and federal officials said.

Loral has private conceded another mistake: ignoring license conditions that required Pentagon monitors during the transmission of any information, the executives and officials said.

Last February, President Clinton approved the Chinese launch of another Loral satellite. That license, according to American officials, explicitly requires separate government approval to participate in any accident review and contains stringent safeguards against transfer of any technology. Administration officials have said that being under investigation was insufficient grounds to deny Loral a license.

But the Justice Department opposed the recent presidential approval for Loral's license, officials said. Department lawyers feared that the approval would undercut the viability of a criminal case—if one were to go forward—by creating the appearance for a jury of government support for Loral's previous conduct.

Law-enforcement officials also had initial concerns about some of the licensing language, but those concerns appear to have been allayed as the inquiry is going forward, officials said.

The expertise needed to put satellites into orbit is similar to that used to deliver nuclear warheads. The overlapping commercial and military uses lie at the heart of both the criminal inquiry and congressional concern about Clinton's policies on satellite launches in China.

On Capitol Hill Monday, senior Republicans continued to call for a broad investigation into whether the transfer of space technology to China threatened United States security.

Gingrich .Monday called on Clinton to delay his trip to China in June.

The Speaker is also proposing the creation of a special committee, with five Republicans and three Democrats, and headed by Rep. Christopher Cox, R–Calif., who served as deputy counsel in the Reagan administration, said Christina Martin, Gingrich's spokeswoman.

"The purpose would be to assess whether U.S. policy was affected by Communist Chinese efforts," Ms. Martin said.

But Rep. Richard A. Gephardt of Missouri, the House democratic leader, argued that the House had several standing committees that could handle the task.

[From the New York Times, June 1, 1998]

THE WHITE HOUSE DISMISSED WARNINGS ON CHINA SATELLITE DEAL

(By Jeff Gerth and John M. Broder)

WASHINGTON.—The caution signs made it evident that the application by Loral Space & Communications to export a satellite to China earlier this year was anything but routine.

Justice Department prosecutors warned that allowing the deal could jeopardize possible prosecution of the company for an earlier unauthorized technology transfer to Beijing. The Pentagon reported that Loral had provided "potentially very significant help" to China's military rocket program. And senior White House aides cautioned that the deal was certain to spark opposition from critics of the Administration's nonproliferation and human rights policies toward China.

But the White House pressed ahead, concerned about the financial costs to Loral of delaying approval of the deal and certain that it could defend the decision against subsequent criticism.

Rarely is the public given a detailed look inside the White House decision-making process on a matter of national security as sensitive as the export of a satellite to China. These records ordinarily remain sealed for years, buried under the Government's strict regime of secrecy.

But documents produced by the White House 10 days ago in response to a demand from Congress provide an unusually rich account of the evolution of a Presidential decision in which numerous warning signals were raised and then dismissed.

According to the records, the February decision by President Clinton to approve the Loral satellite launching was treated as an urgent matter not because of its importance to the national security, but because the company was facing heavy fines for delay.

Concerns about European competition for the satellite business and fears that denying the deal would damage the United States-China relationship overrode words of caution from other Government agencies.

The presumption throughout was that the deal would be approved, as had 19 previous applications under Presidents Clinton and Bush. The documents reflect the White House staffs search for a defensible rationale for the decision.

Federal and Congressional investigators are now examining what led the President to risk political embarrassment by creating the perception that he might be letting Loral—headed by the Democratic Party's largest campaign contributor—off the hook in a serious criminal inquiry into whether Loral executives helped China's missile program.

DECISION TRACED TO A SATELLITE CRASH

Samuel R. Berger, the national security adviser, had a preemptive answer in the decision memorandum he forwarded to the President on Feb. 12. The memo briefly noted the Justice Department's concerns and referred to the possibility that Loral might have significantly aided China's military rocket program.

But he urged the President to approve the deal regardless.

"In any case," Berger wrote, "we believe that the advantages of this project outweigh this risk, and that we can effectively rebut criticism of the waiver."

Clinton approved it with his distinctive backward check mark six days later.

Since 1989, the export of American satellites for launching on Chinese rockets has been suspended as a result of sanctions imposed after the killings in Tiananmen

Square. A deal can go forward only if the President concludes that the export is in the national interest and issues a waiver.

President Bush approved all nine waiver requests that reached this desk; President Clinton routinely followed the practice in his first four years in office, signing 10 waivers with little internal debate or external controversy.

But the waiver Clinton signed on Feb. 18 was not routine. The roots of his unusual decision trace back two years when a Chinese rocket carrying a Loral satellite crashed into a village seconds after liftoff, killing and injuring dozens of civilians.

A few months later, Loral led an outside review team to help the Chinese figure out what had happened. The company says its officials did nothing wrong. But Loral also acknowledged serious mistakes in a June 1996 disclosure to the State Department, including an admission that it allowed the Chinese to see its lengthy review of the rocket mishap without prior Federal approval. Such technological assistance to the Chinese requires prior Government approval, which Loral had not received.

At virtually the same time that Loral made its disclosure to the Government, the company was seeking another Presidential waiver for a satellite. Its chairman, Bernard L. Schwartz, donated $100,000 to the Democratic Party four weeks before the waiver application was approved in early July 1996 by Clinton.

It is not known whether Loral's help for the Chinese was mentioned in the memorandum that went to the President because the White House has not released documentation on that decision.

It is known that the State Department had already alleged in a letter to satellite industry executives that there had been a violation of American export control laws in the accident review.

But as of July 1996, no criminal inquiry was under way. The Justice Department began its investigation only after the Pentagon completed an assessment of the accident review in May 1997.

That is the same month Loral applied for its most recent waiver, for the Chinasat 8 satellite.

COMPANY'S CONCERNS REACH WHITE HOUSE

The first notice to the White House of unusual problems with the Chinasat 8 waiver application came in an early January memorandum from the State Department detailing the factors for the President to consider.

Although couched in careful bureaucratic language, the State Department document made it clear that this was no routine export license application.

The State Department pointed out that China's transfer of missile technology to Iran might prohibit the export of the Loral satellite or any other satellites or related items.

"Moreover" the State Department memo stated, "information about unauthorized defense services provided by Space Systems/Loral and another U.S. firm to China's Long March 3B Launch Vehicle" could lead to imposition of harsh sanctions against the company.

But the State Department and other agencies nonetheless recommended granting the waiver, because the deal would enhance the United States' leadership in commercial telecommunications, provide an incentive for China to adhere to international nonproliferation rules and improve trade ties with Beijing.

After virtually no debate at the White House, the State Department memorandum was rewritten as a decision paper for the President.

The State Department's concern about technology transfers to Iran appeared nowhere in the decision document, but a new element is inserted in the first and in most subsequent drafts. The President must act quickly, the draft states; any delay will cost Loral money.

"Due to severe contractual penalties which Loral will incur if it cannot begin technical discussions with the Chinese by next week, we recommend that you take action on this issue by January 20," read the first draft of the Presidential memorandum, dated Jan. 13.

A day earlier, Loral officials had made known to the White House their frustration at the slow Government response to their waiver application, which was submitted in May 1997.

A Loral letter found in White House files stated that unless the approval is granted within a week, the launching scheduled for November, would be delayed by several months, costing the company at least $6 million. Any such delay would give the Chinese grounds for canceling the project, which would cost Loral $20 million, the company warned.

"Our competitors in Europe," Loral officials complained, "do not suffer delays due to export licensing or legal complications."

The company's concerns clearly were heard at the White House.

A senior aide at the National Security Council, Maureen E. Tucker, repeatedly pressed for a rapid decision in forwarding early drafts of the Presidential decision paper to associates at the council.

She described the memorandum and accompanying documents as "a very quick turnaround package for which I am seeking your clearance by tomorrow," she wrote on Jan. 13.

By Jan. 20, one frustrated aide scrawled on a draft of the memo, "Needs to go to POTUS today!!" POTUS is the White House jargon for President of the United States.

But the waiver request was held up by questions from Berger, who asked his legal aides to research the status of the Justice Department investigation and determine whether it would bar approval of the waiver.

Tellingly, Berger asked Gary Samore, the National Security Council's top weapons aides to research the status of the Justice Department investigation and determine whether it would bar approval of the waiver.

Tellingly, Berger asked Gary Samore, the National Security Council's top weapons proliferation export, in a handwritten note if the approval can be granted in phases "to get over immediate crunch."

Berger did not ask whether Loral's cooperation with the Chinese after the 1996 accident would require denial of the export license. Instead, he wonders in the note to Samore where there is "anything we can hang our hat on to characterize Loral's 'offense.'"

Berger's aides sought advice from officials at the State Department, who informed them that Loral's offenses appear to be "criminal" and "knowing." Ms. Tucker was told that the Pentagon investigated Loral's assistance to the Chinese after the 1996 missile explosion and concluded that the company provided "potentially very significant help" to Beijing's ballistic missile program.

BEHIND DECISION TO GRANT A WAIVER

The White House counsel Charles F. C. Ruff told a Security Council lawyer that the Justice Department's investigation mattered less than maintaining close diplomatic and business relations with China.

"Issue is not [underlined twice] impact on DOJ litig(ation)," the Security Council deputy counsel Newell Highsmith wrote in notes of his conversation with Ruff, "but whether bilateral U.S.-China concerns and economic factors outweigh risk of political embarrassment."

A principal argument behind Clinton's decision was that it would be unfair to penalize Loral by denying it a license if it was under investigation but had not been charged with any crimes.

The export law allows the President to deny a license if the license seeker has been indicted or if there is "reasonable cause to believe" the license seeker "has violated" United States export control laws. The White House documents show that some White House and State Department officials believed the latter, but Administration officials say they relied on a 1993 State Department memo which said that companies will be denied licenses only after indictment.

"In an ideal world we would wait until this matter is resolved," Malcolm R. Lee, a National Security Council aide, told other White House officials in an electronic message a month before the President's decision, referring to the pending Justice Department inquiry. But, Lee added, "that is impracticable."

A senior Administration official, speaking not for attribution, said that waiting for the results of the Justice Department investigation could delay the satellite launching for months, if not years.

And, the official added, "There were some imperatives to get a timely decision because of the penalties facing the company."

But the company acknowledges that no such penalties have been imposed and the launching is still scheduled for November, as it has been for the last year.

"We believe we will not incur penalties because we can work around the problem," a Loral official said late last week.

PENTAGON TROUBLED BY LORAL'S ROLE

The President did not receive a detailed assessment of the potential damage to American security caused by Loral's help to China in determining the cause of the 1996 launching failure. The Pentagon was troubled by Loral's technological assistance because the rocket science involved in putting a satellite into orbit is similar to that needed to deliver a nuclear warhead.

The Pentagon relying on Air Force missile and intelligence experts, did not find grave damage but did conclude that the United States national security had been harmed, according to Administration officials.

A White House official said that the National Security Council never received the Pentagon report, which was prepared to assist the State Department. "We did the best we could in the memo for the President in describing what we understood to be the allegations," the official said. "We didn't beat around the bush."

White House aides overcame the major impediment to the waiver—the concern of Justice Department prosecutors that it would jeopardize any possible prosecution—by relying on the fact that "the Department had every opportunity to weigh in against the waiver at the highest levels and elected not to do so," as Ruff, the White House counsel, wrote on Feb. 13.

But Justice Department officials say that Ruff, in his discussion with Robert Litt, the top aide to the Deputy Attorney General, asked only about the impact of the waiver on possible prosecution—not whether the department opposed the waiver.

It is not known how the Justice Department would have answered that question.

[From MSNBC, May 27, 1998]

TIME LINE OF CLINTON CHINA DECISIONS

(By Tom Curry and Robert Windrem)

As the Clinton administration debated whether to allow U.S. satellites to be lofted into orbit aboard Chinese missiles, Bernard Schwartz, chairman of Loral Space & Communications, and Democratic fund-raiser Johnny Chung, allegedly using money from the Chinese army, gave more than $500,000 in soft money, ostensibly used for "party-building efforts," to the Democrats.

The Justice Department and Congress are investigating how a technical report on the explosion of a Chinese missile in 1996—a report that could help China assess the reliability of its missile arsenal—found its way into the hands of the Chinese.

That report was prepared by employees of Loral, Hughes Electronics and other firms.

In a statement issued May 18, Loral said that "Bernard Schwartz, chairman of Loral Space & Communications Ltd. . . . was not personally involved in any aspect of this matter. No political favors or benefits of any kind were requested or extended, directly or indirectly, by any means whatever."

The firm also declared that: "Allegations of a connection between the launch failure and a subsequent presidential authorization for use of Chinese launch services for another [Loral] satellite to China are without foundation."

Nonetheless, Justice Department and congressional investigators are sure to scrutinize the chronology of gifts and decisions.

The time line does not prove any cause-and-effect relationship between donations and decisions. It does give investigators a basis for their criminal inquiry.

April 24, 1995: Loral chairman Schwartz gives $25,000 to the Democratic National Committee.

June 30, 1995: Schwartz gives $20,000 to Democratic Senatorial Campaign Committee, which provide support for Democratic Senate candidates.

Aug. 30, 1995: Schwartz gives $75,000 to DNC.

Sept. 30, 1995: Schwartz gives $20,500 to DSCC.

Oct. 9, 1995: Secretary of State Warren Christopher decides satellites should remain a military munitions item.

Nov. 29, 1995: Schwartz gives $100,000 to DNC.

Nov. 29, 1995: A Chinese government agency writes Loral, asking for help in getting an upgrade for its dual-use imaging technology, exports of which are prohibited under U.S. sanctions.

Jan. 26, 1996: Loral is sold to Lockheed for $9 billion.

CLINTON APPROVES LAUNCH

Feb. 6, 1996: Clinton approves the launch of four communications satellites on Chinese rockets.

Feb. 6, 1996: Wang Jun of CITIC, owners of percentages in Chinese satellite companies, visits the White House for coffee and dines with Commerce Secretary Ron Brown.

Feb. 8, 1996: The White House and Commerce Department begin to talk about the satellite export issue again.

Feb. 14, 1996: A Chinese rocket carrying Loral Intelsat satellite explodes, destroying a Chinese village.

Feb. 15, 1996: Schwartz gives $15,000 to DSCC.

Feb. 15, 1996: The State Department gets an urgent request from the White House to speed up the process of switching the satellite licensing to the Commerce Department.

Feb. 29, 1996: Schwartz gives $50,000 to Democratic Congressional Campaign Committee, which bankrolls Democratic House candidates.

March 8, 1996: China launches missiles.

March 14, 1996: Clinton decides to move the satellite licensing function to the Commerce Department.

March 15, 1996: Loral President J.A. Lindfelt writes Commerce to say the export of a dual-use technology, known as synthetic aperture radar, is being held up by the Defense, State and Commerce departments.

April 1996: Schwartz announces the formation of Loral Space and Communications.

April 24, 1996: Schwartz gives $50,000 to DSCC.

June 10, 1996: Schwartz gives $100,000 to DNC.

July 22, 1996: Liu Chao-Ying of China Aerospace meets Clinton with Johnny Chung.

July 31, 1996: Schwartz gives $5,000 to DSCC.

INFLUX OF CHINESE MONEY

August 1996: Chung accounts show an influx of $300,000 from Liu Chao-Ying.

Aug. 18, 1996: Chung gives $20,000 to DNC to attend Clinton's birthday party.

Aug. 28, 1996: Chung gives $15,000 to DNC at Democratic National Convention in Chicago.

Sept. 16, 1996: Schwartz gives $30,000 to DSCC.

Sept. 20, 1996: Schwartz gives $20,000 to DSCC.

Oct. 16, 1996: Schwartz gives $10,000 to DSCC.

Oct. 18, 1996: Schwartz gives $70,000 to DNC.

Oct. 24, 1996: Schwartz gives $5,000 to DSCC.

Nov. 5, 1996: New guidelines on Commerce licensing of satellites are published.

Nov. 5, 1996: Clinton is elected to his second term as president.

Oct., 1997: A federal investigation of Loral begins.

Feb. 12, 1998: As Clinton ponders whether to sign another waiver allowing launch of a Loral satellite aboard a Chinese missile, National Security Adviser Sandy Berger sends him a memo saying the Justice Department "has cautioned that a national interest waiver in this case could have a significant adverse impact on any prosecution [of Loral] that might take place based on a pending investigation of export violation."

But Berger adds that "the advantages of this project outweigh the risk," and "it is inappropriate to penalize [Loral] before they have even been charged with any crime."

Feb. 18, 1998: Clinton signs a waiver allowing Loral satellite to be lifted into orbit by the Chinese.

[From MSNBC]

THE MAN BEHIND THE CHINA TROUBLE

(By Robert Windrem)

For a working class, Depression-era kid from Brooklyn, N.Y., Bernard "Bernie" Schwartz has done quite well for himself.

As CEO of Loral Space and Satellites, the 71-year-old Schwartz is a leader in the world of satellite communications, with significant holdings in satellite manufacturing (Loral), broadcasting (Britain's Skynet and Mexico's Satmex), Internet linkage (Orion Network Systems) and global personal communications (Globalstar). His personal wealth is measured in the hundreds of millions of dollars, much of it coming from his sale in April 1996 of Loral's defense business.

As important, Schwartz is a friend of the president. In December 1996 alone, he celebrated his birthday with an intimate dinner with President Bill Clinton and Hillary Rodham Clinton at the White House, was their guest at the Kennedy Center honors and shared a podium with Clinton at the Democratic Leadership Conference, the spawning ground for the Clinton revolution.

In March 1996, according to White House records, he got a perk that few others have recieved—dinner and a movie in the White House theater, along with a cast of celebrities to share popcorn: singer Billy Joel, baseball great Hank Aaron, actress Jennifer Jason Leigh, directors Ethan and Joel Coen, comedian Al Franken and political strategist Dick Morris.

All together, Schwartz was invited to 21 White House events during Clinton's first term.

And why not? Bernie Schwartz is the single biggest contributor to the Democratic Party in the Clinton era. A review of campaign finance databases by NBC News and the Center for Responsive Politics shows that between 1992 and 1998, Schwartz gave the Democratic Party $1,131,500 while he, his family, his companies, their political action committees and executives gave another $881,565 to Democratic candidates. Schwartz gave another $217,000 to the Democratic Leadership Conference. Schwartz and Loral gave $367,000 to the Republicans during that same period.

The man Mother Jones magazine called the orbiter of power, Schwartz has increased his contributions to the Democrats year by year. In the 1991–'92 campaign cycle, he gave $12,500; in 1993–'94, $112,000; in 1995–'96, $586,000, and in 1997–'98, $421,000. Schwartz was the single biggest donor in the 1996 and 1998 campaigns.

Schwartz has been dependent on a number of government programs and regulatory processes; including the export of communications satellites. In letters to the late Commerce Secretary Ron Brown in March and May of 1993, Schwartz laid out some of those businesses.

"Loral Corp. is the provider of [weather] satellites for the Department of Commerce's GOES program, "Schwartz wrote, in seeking a meeting with Brown, "In addition, there are other matters that would be of interest to Commerce in which Loral has a significant position, including the auction of radio frequencies and the exporting of highly advanced technical equipment, e.g., satellites and military hardware. Further, Loral is the principle [sic] supplier of satellites for Intelsat."

When the two men's schedules didn't mesh in March or April, Schwartz wrote Brown again, noting, "We are affect [sic] by a number of general areas overseen by the Commerce Department. The Department's guidance in these areas will be meaningful." Included in the list was Commerce's role in communications-satellite licensing.

Brown ultimately took Schwartz with him to China on a trade mission in August and September 1994. Schwartz was invited one month after he gave his first big contribution, $100,000, to the Democratic National Committee.

On that trip, Schwartz asked the Department to help set him up with officials of the Chinese military and space organizations.

A Loral spokesman initially said that Schwartz had never "talked business" with administration officials. But when confronted with the letters and other indications of meetings between Schwartz and

Brown, the spokesman said any meetings were "routine and proper" and that Schwartz had always acted "scrupulously."

To the question of whether the contributions were meant to help Loral with the various issues before the government, including satellite launches in China, the spokesman dismissed the idea as "ridiculous" and said there was "never" a time when Schwartz discussed any of this with the president.

"Bernie Schwartz is a Roosevelt Democrat who believes that Roosevelt saved his family," the spokesman added, noting that he has been a longtime supporter of Clinton.

[From the Weekly Standard, June 1, 1998]

SELLING CHINA THE ROPE . . .

(By Henry Sokolski)

Presidential spokesman Mike McCurry last week justified the Clinton administration policy that allowed the transfer of satellite technology to the Chinese military with the hoary "they started it" defense. "This administration," said McCurry, "has pursued the exact same policy pursued by the Bush administration."

This is not really a defense of the policy, of course, but is it true? Republican officials, as we shall see, were not without sin. But you might say that they worried enough to go to confession: They tried to control against the leaking of sensitive technology in their dealings with China by at least monitoring and limiting the transactions. Not so the Clinton administration, which from 1993 on not only showed contempt for enforcing existing satellite controls but loosened them so as to make it all but impossible to know whether they were being violated. You might say they not only skipped confession, but burned the church down.

Today's controversy surrounds what the Chinese have managed to learn through launching satellites made by two American companies, Loral Space and Communications and Hughes Electronics. Details of a federal grand-jury investigation have been leaked to New York Times reporter Jeff Gerth and others that make this much clearer. In February 1996 a Chinese Long March rocket carrying a Loral-made satellite blew up shortly after liftoff. In an effort to clarify to insurers who was to blame for this accident, analysis done by Loral and Hughes was presented to the Chinese, which the U.S. Defense Department later determined could help China perfect more reliable, accurate, long range ballistic missiles. (According to a CIA report leaked this spring, 13 Long March missiles with nuclear warheads are aimed at American cities.) The federal grand jury is now trying to determine what, if any, U.S. export-control laws may have been broken.

This story has exploded because of the tandem revelations that the Chinese military may have made illegal campaign donations to aid Clinton's reelection and that Loral's CEO is a top donor to the Democratic party. Despite Justice Department warnings that he might undermine the grand-jury investigation of Loral, the president went ahead earlier this year and allowed the company to transfer and additional satellite to China. Eager to connect the dots of the scandal, the House last week voted 364 to 54 to suspend all transfer of U.S. satellites to China.

Focusing on the money is exciting, but probably misses the point when it comes to assessing the potential damage done to national security. In fact, not just Loral and Hughes, but Lockheed Martin, Motorola, and Martin Marietta have all worked closely with the Chinese launch industry—work which began not in 1996, but nearly a decade ago in 1989. And all of this history (not just the 1996 Loral-Hughes case) bears investigating. There is no way to judge the administration's performance in the Loral-Hughes matter without knowing what was attempted by prior administrations.

It was Ronald Reagan, after all, who first allowed the launch of U.S.-made satellites on Chinese rockets, after the Challenger space shuttle crash in 1986 deprived the satellite industry of launch alternatives. And it was George Bush who waived Tiananmen Square sanctions to allow the Chinese launch of up to five U.S.-made satellites, three of which—all made by Hughes—were launched before he left office.

If this larger record is examined, three points emerge. First, all of our satellite transfers have helped China perfect its military rocketry. China's launching of U.S.-made satellites—worth up to a half-billion dollars in revenue to date—has helped finance China's own missile-modernization efforts and missile exports to nations like Pakistan and Iran. It also has given the Chinese access to U.S. rocket know-how. U.S. contractors have a natural inclination to tutor the Chinese on what they should do to make their crude rockets precise and reliable (they don't want to lose their satellites, which are worth up to 10 times the value of the launcher). Anticipating this, State and Defense officials drew up strict rules in the late 1980s covering precisely what information companies could share with the Chinese. These rules required monitoring of all contractor-Chinese exchanges (including discussions) by a U.S. government rocket-engineer enforcement agent.

Did this prevent militarily useful information from being conveyed to the Chinese? No. But because all exchanges were monitored, there was a clear record of what was conveyed and a concerted effort to keep such transfers to a minimum. Were there infractions? Yes, but when they were reported, senior officials in the Defense and State departments reprimanded the contractors and got them to stop. Yet despite these enforcement measures, a number of key technologies were transferred before 1993. Clean-rooms were constructed in China to assure Hughes' sensitive communications satellites wouldn't be ruined by dust, humidity, or major temperature changes before they were launched. And clean-room technology, as it happens, is also crucial in preparing any advanced system for launch, including reconnaissance satellites and complex warhead packages.

In an attempt to clear up liability for two launch failures in 1992, U.S. contractors also discussed how to improve Chinese payload farings (the nose cone at the rocket's top that shields the satellite) and attitude and engine controls, which fire the rocket's stages and keep them and the payload (either military or civilian) at the precise angles required for proper functioning. Finally, each launch of a Chinese Long March vehicle helped improve the reliability of China's intercontinental ballistic missile fleet, since the rockets are the same.

Republican officials, then, had a spotty record, with the advantage that they worried about it and tried to enforce the law. By the end of the Bush administration, proposals were made to loosen controls over satellite transfers. Whether they would have succeeded no one can know, because the 1992 elections intervened.

The industry, however, correctly sensed that with Clinton's election the time for pushing for decontrol was ripe. Their first step came in late 1993 when they asked the Commerce Department to persuade the White House to drop government monitoring of contractors' discussions with the Chinese. They wanted to share, unimpeded by monitors, a key technology known as "coupling load analysis." The crude Chinese rockets were originally designed to be so rigid that vibration from the rocket's separating stages and engines risked shattering delicate satellites of the sort the U.S. companies would want to launch (and the Chinese would want to develop later on their own). Using coupling load analysis, the Chinese would "soften" their launchers, allowing them to carry more sensitive payloads—be it satellites or the latest in highly accurate, multiple-warhead systems.

The space industry was so eager to share this technology, it lobbied Congress and the executive branch throughout 1993 to be given a free hand to do so. Meanwhile, government monitors continued to file compliance reports on a host of issues. Now, however, their concerns were handled differently: Where before senior State and Defense officials took action, now little or nothing happened. Word got out: Increasingly, industry officials disobeyed government guidance, shared their know-how with the Chinese, and discovered that contempt for the law paid off.

By 1995, the satellites being launched by the Chinese were more sophisticated. One of these, AsiaSat 2, a communications satellite made by Martin Marietta, was to be placed in its orbit with a Chinese solid-rocket kick motor—a final rocket stage strapped to the satellite itself. This kick motor's propellant had to be configured with extreme precision to ensure that it would propel the satellite to an exact point in space and no further and that it would do so without shattering the satellite though vibration or jolts of acceleration.

Martin Marietta and its Hong Kong customers were concerned that the Chinese kick motor might not be capable of such precision. They asked State if they could witness a Chinese test-firing of the motor. Their wish was granted. What's unknown is what, if anything, was then said to the Chinese engineers by the company's foreign staff, who are not bound by U.S. restrictions. Were they briefed by the contractor? Did they speak with the Chinese or otherwise convey U.S. solid-rocket propulsion know-how? We don't know. Why might it matter? Perfecting kick motors can also help in China's development of a warhead-delivery system known among experts as a "post-boost vehicle"—which is designed to penetrate missile defenses. Boosting a satellite up into a precise position in space with a kick motor is little different from blasting warheads off their predictable course down through space and the atmosphere.

The good news in this case is we may have a clue whether this technology was leaked: Industry's campaign to do away with monitoring didn't fully bear fruit until 1996. In 1995, U.S. law still required government monitoring agents, and compliance reports were still being filed. This paper trail and government monitoring work didn't grind to a halt until 1996. That's when President Clinton quietly removed virtually all commercial satellites and related technology from State Department munitions controls (which required official monitors). The responsibility was transferred to the Commerce Department, which (no surprise) trusts industry to monitor itself.

In his defense of the Clinton policy last week, Mike McCurry cited this transfer to Commerce as the one change that distinguished the Clinton administration's policy from Bush administration practices. But the transfer to Commerce was no simple "change." It was tantamount to a complete overthrow of the old export-control regime.

It was under Commerce "controls" that Motorola and Lockheed worked with the Chinese to launch a series of small communications satellites known as Iridium. Two of these satellites at a time were successfully launched on a Long March rocket with a multiple-satellite dispenser of Chinese design. A host of issues about the satellite dispenser were somehow addressed—from proper mounting and release of the satellites to coupling load analysis and attitude control. And all were resolved. The result? China now has mastered a technology virtually interchangeable with that of multiple independently targetable warhead vehicles (MIRV), a delivery system used on America's most advanced intercontinental ballistic missiles. Indeed, the MIRV system that our military uses today was borrowed from dispensers that the commercial-satellite industry first developed.

One could go into greater detail on the potential military significance of our satellite transfers to China. But this much is already abundantly clear: Our national security demands that Congress learn all the facts. This will require going beyond the narrow legal question of whether Loral and Hughes broke the law in 1996. Indeed, allegations of influence peddling by the Chinese and the contractors should not divert attention from the crucial questions raised by a decade of U.S. satellite commerce with China.

Among them are these: Have we already given the Chinese everything of value (in which case, continued satellite commerce could hardly do much harm)? Or is there more that they need or want that we should control and protect? What, if anything, should be done to improve enforcement of controls and assure effective executive-branch backing? Finally, is the spread of missile technology so tied up in the transfer of satellites that we delude ourselves in trying to control their transfer? Would it make more sense to accept this connection and expand such trade, or in the case of China, cut it off entirely?

To get it these questions, Congress will have to hold its own hearings—but it will need the time and depth and expertise that can only come with the creation of an independent commission. The commission and Congress, moreover, are unlikely to get anywhere if U.S. contractors are unwilling to speak freely. Only they know what has actually been transferred to the Chinese since 1996. To encourage them to be forthcoming, Congress and the executive branch should grant contractors immunity from prosecution. Meantime, a moratorium should be placed on further transfers of satellites to China until the commission and Congress get the answers they need. This will hurt industry only to the extent that it drags its heels in providing information about past transfers.

Certainly, given the seriousness of these matters, it would be shortsighted of Congress to focus exclusively on the political and legal issues surrounding the 1996 Loral case. There is, after all, a broader set of concerns at stake. The president is duty bound to provide for the common defense. Not until we know the truth about the U.S. role in China's missile program can we know whether the Clinton administration has met this most basic obligation.

[From the Weekly Standard, June 1, 1998]

CLINTON'S CHINA COMMERCE

(By Matthew Rees)

The Clinton administration made a fateful decision in 1996 to put the Commerce Department in charge of overseeing exports of American satellite technology. Under fire now for transferring this weighty responsibility from the more security-conscious State Department, the administration insists the decision had nothing to do with campaign contributions from eager exporters. Instead, say the president's spokesmen, the transfer was just the outcome of a "bureaucratic squabble."

Whatever role donations may be played in strengthening Commerce's hand, allowing that department to license militarily sensitive goods for export was not garden-variety Washington turf battle. It was the equivalent of decontrolling such exports entirely. The current congressional investigations of technology transfers to the Chinese military would not be taking place if, over the past five years, the administration had not given Commerce unprecedented power to promote American technology sales abroad, with dangerously little attention paid to how these exports can contribute to nuclear proliferation, threaten the supremacy of the U.S. military, and undermine America's national security.

The decontrolling mentality of the Commerce Department is exemplified by William Reinsch, who heads the department's Bureau of Export Administration. This is where American companies go if they want to sell sensitive products, like supercomputers in foreign countries. The bureau's role is both to stop exports that might compromise national security and to help guarantee that the sensitive products it does approve for sale abroad don't end up in the hands of untrustworthy governments.

But Reinsch has effectively made the bureau a servant of Commerce's central mission: unbridled export promotion. His motto is "Yesterday's adversaries are today's customers." This mentality has led Commerce to minimize the danger of sharing sensitive technology with countries like China. The Pentagon concluded last year that "United States national security has been harmed" by the assistance American aerospace companies have provided to China. Nonetheless, Reinsch was apoplectic when the House overwhelmingly voted on May 20 to block further exports of U.S. satellites to China: "We're talking about the potential loss of major contracts," he whined to the Wall Street Journal. "It could really complicate people's lives."

The controversy over the transfer of technology to China is but one outgrowth of Commerce's policy of giving American high-technology companies unprecedented freedom to sell their products in foreign markets. Another startling illustration of the fervor with which Commerce promotes the sale of even the most sensitive exports came early in 1996. According to Gary Milhollin, of the Washington-based Wisconsin Project on Nuclear Arms Control, that's when U.S. government nuclear experts asked Commerce to provide American computer companies with a list of nuclear laboratories in Russia and China. The goal was to prevent the companies from selling their high-performance supercomputers to these laboratories, which the companies might not otherwise know to be in the nuclear business. But Commerce officials refused to provide such a list, claiming U.S. policy prevented them from sharing such information.

While Commerce aggressively pushed exports in the Reagan and Bush administrations, it had not yet triumphed over its bureaucratic rivals elsewhere in the executive branch, who acted as a brake on Commerce's salesmanship. The Defense Department, notably, would frequently challenge export licenses that posed a potential threat to America's strategic position. But a further sign of Commerce's ascendancy in the Clinton administration is that the Pentagon, too, has become an enthusiastic partner in promoting the sale of American goods in overseas markets. (Reinsch said in an interview last November that relations between Commerce and the Pentagon are "the best they've been in 20 years.") This is not just a matter of politically savvy defense officials' knowing which way the wind is blowing. An array of these officials appointed to senior positions by the president—William Perry, Ashton Carter, Mitch Wallerstein, Ken Flamm, to cite a few—had made names for themselves as longtime supporters of easing export controls.

A key official is Peter Leitner, a 12-year veteran of the Pentagon office that oversees export controls. He notes that the Defense Department now instructs its employees to side with Commerce in interagency debates over export controls. In congressional testimony last year, Leitner observed that "this bizarre role change finds the State Department at times in the farcical position of being the lone agency making the national security case and opposing liberalization positions from DoD."

Despite their generally pro-export posture, State and Defense still had reservations about transferring responsibility for licensing the export of satellite technology to Commerce. And their reservations were justified: For items under State's jurisdiction, the decision to grant an export license is supposed to be based only on national security. Moreover, Congress must be notified 30 days in advance of an export. By contrast, Commerce is mandated to weigh commercial and economic interests, and it is not required to notify Congress of its decisions. With communications satellites costing upwards of $100 million, it's easy to see how commerical concerns would tip the scales away from export controls.

When Clinton announced the transfer of licensing responsibility on March 14, 1996. Commerce officals—who had lobbied hard to be given licensing repsonsibility—were thrilled. The New York Times reported that an e-mail was circulated at Commerce announcing "good news" but warning recipients not to publicize the decision in a way that would "draw attention" to it. Clinton officials did their best to bury the news by not publishing the new rules in the Federal Register until Election Day 1996. The strategy worked: One of the most important national-security decisions made in Clinton's first term received scant attention during his reelection campaign from Congress and the press.

Satellites weren't the only technology transferred from State to Commerce two years ago. Clinton also took something known as "hot section" technology of the State Department's munitions list and empowered Commerce to license such exports. Hot-section technology boosts the performance and durability of fighter jets. Steve Bryen, who oversaw export controls in the Reagan administration, says this technology is so sensitive that in previous administrations it wasn't even shared with allies like the French and the Germans.

During the internal debate over transferring hot-section jurisdiction from State to Commerce, some Clinton administration officials raised questions about whether America's national security would be compromised and whether it might reduce the combat advantage of U.S. aircraft. But Commerce officials argued it would be impossible for the technology to be used by foreign manufacturers in such a way that U.S. military power could ever be equaled or surpassed. To the amazement of many Pentagon officials, this argument prevailed and responsibility for licensing exports of the technology was handed from State to Commerce.

Commerce officials have gone to extraordinary lengths to circumvent even the most modest restraints placed on them. Last year, Congress approval a measure requiring American computer companies exporting to countries believed to pose a proliferation risk (that is, Russia and China) to give the executive branch 10 days' notice to determine whether a proposed supercomputer export requires an individual license. The measures also requires that, once supercomputers have been licensed and shipped to countries of proliferation concern, U.S. government officials must check whether the buyers are using the computers as proposed.

Yet Commerce has made a "deliberate effort to circumvent" the post-shipment verifications, according to Milhollin. Indeed, under Commerce's interpretation, in order for the government to block an export, only the most senior cabinet officials—undersecretaries or higher are permitted to intervene. This prompted David Tarbell, who heads the Pentagon agency that monitors export controls, to warn in an internal memo that the National Security Council and Commerce were using the undersecretary requirement to "ensure that no (or very few) objections would ever be received." Tarbell's complaint is echoed by three Senate Democrats, and 10 Republicans, who have sent the president a letter asking for the law to be enforced.

There was a very precise reason Congress required the regulations: It has become disturbingly clear that Commerce had little clue about the ultimate destination of an extremely sensitive product—supercomputers. Silicon Graphics, for example, has acknowledged having sold four supercomputers to one of Russia's premier nuclear-weapons design laboratories, Chelyabinsk-70, and claimed it made the sale only because company officials didn't know the laboratory was involved in nuclear production.

Even more troubling was Reinsch's announcement last June that 47 supercomputers had been sold to China. Technical experts say these computers provide unprecedented technological capabilities to Beijing are likely to become a key element in China's nuclear program. But when Reinsch was asked about this at a congressional hearing last November, he said there was no evidence any of the computers was being used for nuclear purposes. When pressed by Rep. Duncan Hunter on whether Commerce even knew where the computers were located, Reinsch bobbed and weaved until finally giving an answer that summed up the bankruptcy of the Clinton administration's export policy: "With respect to some of them, yes. With respect to all of them, not yet."

There's a simple reason Reinsch couldn't be more definitive: China won't allow American officials to conduct post-shipment verifications, designed to guarantee that materials exported from the United States are being used as promised. Thus Reinsch acknowledged last December—six months after learning about the 47 supercomputers sold to China—that "no formal post-shipment verifications have yet been requested." And now that another six months have passed, there's no evidence Commerce knows anything more about where the supercomputers are or how they're being used.

So what has the Clinton administration learned about the pitfalls of a permissive export-control policy? Apparently nothing. Consider this: The Defense Technology Security Administration—the agency charged with overseeing export controls for the Pentagon—is scheduled to be abolished this fall. Its successor agency will be moved within Defense to an acquisitions department that has traditionally been hostile to export controls. Even more ominous is a recent Defense News report that the Commerce Department is pushing to grant an export license for the sale of a high-temperature furnace, manufactured by a New Jersey-based company called Consarc, to a Chinese government agency. This sale—already approved in an interagency process—is all the more remarkable because the furnace will bolster Beijing's ability to produce nuclear warheads.

There's an interesting story behind the furnace. Consarc was all set to ship it to Iraq in 1990, one month before the invasion of Kuwait. The sale was blocked at the last minute by senior officials at the Pentagon and the National Security Council. Had it gone through, there's little doubt Saddam would have used it to bolster his arsenal. Clinton administration officials should have learned something from this. Short of a missile attack, what will wake them up?

[From the New York Times, June 18, 1998]

U.S. Rethinking a Satellite Deal Over Links to Chinese Military

(By Jeff Gerth)

Washington, June 17.—Faced with growing criticism of its satellite exports to China, the Clinton Administration is rethinking whether to allow one of the biggest sales to date, a $650 million deal President Clinton quietly approved two years ago.

Government officials said the Pentagon and State Department were raising new questions about whether a Chinese-controlled company with close ties to China's military should be allowed to buy the satellites, which contain some of the United States' most sophisticated communications equipment.

The satellites are the cornerstone of a commercial mobile phone network planned for China and 21 other Asian nations. American officials said their design included a powerful antenna that could eavesdrop on mobile phone calls in China or other countries in the region. It could also be used by the Chinese military to transmit messages through hand-held phones to remote parts of China.

Antennas of these dimensions are a mainstay of the United States' and Russia's eavesdropping satellites and have not previously been exported to China, though a sale to the United Arab Emirates is pending. They also can be used to extend the range of mobile phones.

Mr. Clinton leaves next week for China, and the Administration had hoped to use the trip to showcase a variety of business deals and agreements, including cooperation on civilian satellite and rocket projects. Meanwhile, the House continued investigating the export of space technology today.

Administration officials said concerns about the pending satellite sale had been deepened by American intelligence reports about Shen Rongjun, the Chinese Army general who oversees his country's military satellite programs. The reports quote the general as saying he planned to emphasize the role of satellites in gathering information.

In an unusual arrangement, Hughes Space and Communications hired General Shen's son, a dual citizen of Canada and China, to work on the project as a manager. The company said it was aware of his familial ties; it is not clear whether the Clinton Administration knew.

Father and son were both directly involved in the project, and American officials said the intelligence reports said the general was pressing his son to move it forward.

The New York Times reported last week that the Chinese military was sending many of its coded messages through American-made commercial satellites sold to Asian companies. China's military satellite network collapsed in 1996, when its first satellites wore out and the replacements failed to work as planned.

President Clinton approved the Hughes project on June 23, 1996, after advisers assured him the communications satellite technology was readily available from European suppliers and would not contribute to Chinese military capabilities.

China already has a burgeoning cellular telephone system, which relies on ground-based transmitters. There are almost 1.5 million cellular phones in Beijing and Shanghai, but the system is less developed in the country's more remote areas, industry officials say.

Donald O'Neal, a spokesman for Hughes, said the satellites were "inherently dual use," meaning that they have both civilian and military potential. "The satellite is not designed for military application," Mr. O'Neal said. "But I don't know how you can prevent it."

The Federal Government could still stop the deal. Mr. O'Neal said Hughes, which is part of Hughes Electronics, a subsidiary of the General Motors Corporation, was waiting for the Commerce Department to review its application to sell the satellite to the Asian consortium, A.P.M.T. or Asia-Pacific Mobile Telecommunications.

Liu Tsun Kie, a spokesman for the consortium, said in a telephone interview from Singapore that the satellite network would be marketed to civilians by regional telecommunications operators. It would be up to Chinese Government regulators, Mr. Liu said, to decide if China's military could use the satellites.

Mr. Liu predicted that the Clinton Administration would eventually approve the deal. "In view of the improving Sino-American relationship, as well as the close rapport established between the U.S. satellite industry and major industry leaders in China and the Asia Pacific," he said, "we are confident that A.P.M.T. will obtain all the necessary approval and export license to insure no delay in satellite launch."

Mr. Liu said the project would attract more than 200,000 mobile phone customers in China within its first two years.

THE TWO CRUCIAL STEPS IN A SATELLITE SALE

Making a satellite sale to China involves two crucial steps that occur simultaneously. Aerospace manufacturers must persuade the President to sign a waiver of the sanctions imposed on Beijing after the Tiananmen Square killings in 1989. Each project requires a separate waiver.

At the same time, companies apply to Federal Government agencies for permission to export specific technologies used in the satellites. Satellite exports to the Chinese military are banned, but sales to Chinese companies are generally allowed, unless they would advance military development in areas like intelligence gathering and nuclear weapons.

Mr. Clinton granted the waiver for the Hughes project two years ago and the company obtained the necessary export licenses. Since then, however, Hughes has changed the design to enhance the satellite's capabilities, requiring it to return to the Government for a new license.

That decision is now before a Government Department and including officials from the Pentagon, State Department, the Arms Control and Disarmament Agency and the Department of Energy. Each department casts a single vote, with the decision made by majority rule. A dissenting agency can appeal to the President, but that has never happened.

A Commerce Department spokesman declined to discuss the case, saying it involved confidential business information.

Privately, Commerce Department officials are arguing that the deal should go forward because the design approved in 1996 is substantially the same as the current configuration, Administration and Congressional officials said.

But some Pentagon and State Department officials believe the license should face more scrutiny in light of the new information about General Shen and the capabilities of the satellite. Administration officials also said that the increased scrutiny by Congress of the Chinese military and American satellites has prompted officials to pay closer attention to exports to China.

Several Congressional committees are investigating whether the policies on technology exports hurt the national security.

TECHNICAL QUESTIONS DETERMINE FATE OF DEAL

The issue turns on highly technical questions. An Administration official who disagrees with the Commerce Department's analysis said the Hughes design is substantially different from what was approved two years ago.

"The antenna sent up the flags," the official said. "It is more powerful than what we have licensed before."

The antenna allows the satellite to receive incoming signals. But a sophisticated antenna, like the one currently under review, can become a listening device that is very effective against ground-based interception efforts, Government reports show.

Before 1996, the Pentagon could easily have stopped the license, because satellites were treated as military items and subject to State Department authority. That year President Clinton shifted jurisdiction to the Commerce Department, easing the controls and lessening the influence of the Pentagon, a senior Government auditor told Congress earlier this month.

A.P.M.T. was organized in the early 1990's. Most of its stock was held by five Chinese state-owned entities: China Satellite Launch and Tracking Control, a unit of Costind, and scientific and research arm of the Chinese military, the China Aerospace Corporation, part of the defense-industrial complex, China Resource Holdings, a trading company that owns a bank in Hong Kong with the Riady family of Indonesia, and subsidiaries of Chinese electronics and telecommunications ministries. A small stake was held by a Singapore company.

In February 1996, the consortium authorized Hughes to proceed with the design and construction of a sweeping mobile satellite telecommunications network that would span 22 countries in Asia and the Pacific, from Pakistan to Indonesia.

China's own space program—both rockets and satellites—was then under severe strain.

A Chinese rocket exploded shortly after liftoff in February. Two months later, engineers from Hughes and Loral Space Communications were brought in by insurers and China Aerospace to help figure out what went wrong.

The conversations that ensured between the companies and Chinese technicians are now the subject of a criminal investigation, which is seeking to determine whether American export laws were violated. Both companies deny wrongdoing.

While China is trying to repair its rocket program, its satellites began to fail. The first domestically produced satellites, launched by the Chinese military in the early 1990's were wearing out, and the first replacement, built in cooperation with the German company Daimler-Benz, had failed to achieve proper orbit after its 1994 launch.

In early 1996, all this led China's most senior military official, Gen Liu Huaqing, to discuss his concern with General Shen, who until a recent reorganization was a senior Costind official and oversees China's satellite and rocket launching programs, American officials said.

General Shen and General Liu have publicly promoted satellite technology as crucial to the future development of China's military capabilities. General Shen has privately assured his colleagues about his ability to fix China's satellite problems and improve the military's surveillance and intelligence-gathering capabilities, American officials said.

At about the same time, there were concerns within Hughes and A.P.M.T. over how long it was taking President Clinton to make a decision about the deal, Mr. O'Neal and American officials said.

Commercial satellite exports to China have been banned since the killings in Tiananmen Square in 1989, but the President can waive the prohibition, which Presidents George Bush and Clinton have done 20 times.

'EXPEDITED HANDLING' OF WAIVER WAS SOUGHT

Hughes officials wanted "an expedited handling" of the waiver in order to meet a contractual deadline, Mr. O'Neal said. And recently released White House documents show that the company hoped to have the President sign off on the deal before Hughes' chairman left China on June 19, 1996.

The staff memorandum that the President relied on to approve the deal made no mention of the Loral-Hughes help for China's rocket program. Three weeks before the memorandum to the President, the State Department had alleged, in a letter to Hughes, that there had been a violation of the arms export control law during the rocket accident review.

The President granted the waiver on June 23.

Soon after the Presidential action, Hughes received a license to export a satellite. Later that summer, Hughes applied for another export license that would allow Shen Jun, the son of General Shen, to work on projects subject to United States export controls, including the A.P.M.T. project, Mr. O'Neal said.

."We applied for and received an export license that allowed him to participate as a translator in the A.P.M.T. preliminary design review," Mr. O'Neal said.

Mr. Shen was hired in 1994 by Hughes for his computer expertise, though the company was also aware of his family ties before he joined the company, Mr. O'Neal said.

General Shan has been involved in the A.P.M.T. project as the overseer of the Chinese launch and tracking company and his son has given Hughes marketing advice about China and technical advice about mobile telephone networks, Mr. Liu and a Hughes executive said.

Mr. O'Neal said he had no comment on the Shen family discussions because "anything he said to his dad is personal."

Despite all the flurry of activity in mid-1996 between Hughes and A.P.M.T., the deal bogged down amid internal squabbles. But by this year the pace had picked up again and last month the consortium reorganized itself and signed another deal with Hughes for an upgraded satellite.

The new satellite will have greater power to transmit and receive signals. Its payload includes a large scale antenna reflector and a digital on board processor, Mr. Liu and Mr. O'Neal said.

The antenna and processor enabled the consortium's network to pinpoint low-power hand-held phones and simultaneously handle 16,000 phone conversations. Mr. Liu said that the regional affiliates "will be able to intercept calls if required by local authorities" but the consortium will not be able to intercept.

As a result of the recent reorganization, the consortium is now two thirds owned by its Chinese affiliates China A.P.M.T., said Mr. Liu, the consortium's deputy president. China A.P.M.T., in turn, is owned by the same five Chinese entities, including the Costind unit, and it will be the local A.P.M.T. franchise in China.

The president of A.P.M.T. and China A.P.M.T. is Li Baoming and A.P.M.T.'s chief engineer is Feng Ruming. Mr. Liu said both men have senior posts with the China Satellite Launch and Tracking Control Corporation, the unit of Costind overseer by General Shen. American intelligence reports say Mr. Feng and Mr. Li are top military officers, according to Administration officials.

Mr. O'Neal said that Hughes was "not aware" of A.P.M.T.'s military ties and while "there could be" some, it was up to the Federal Government to vet those connections. That is precisely what is now happening.

Mr. Speaker, the House should heed the advice of former CIA Director Jim Woolsey who testified before the Committee on Rules that, quote, this is what he said, "I can think of no subject that more closely would require a careful and thorough investigation by a select committee of Congress, and I could think of few that would even be in the same league." That is what the former CIA director said, that was appointed by President Clinton.

Mr. Speaker, I would urge all Members to support the creation of the Select Committee so that Americans can have some answers to the questions about the formulation of United States security policy with regard to Communist China.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Speaker, I rise in support of this resolution, which, I am pleased to say is the result of much hard work and bipartisan cooperation on the part of the leadership, the Rules Committee, and the prospective chairman and ranking member of the proposed select committee. I am very proud of the manner in which this process has been handled, and I think this resolution is a credit to all involved and to the entire House.

To the minority members of our Rules Committee, who raised in their views accompanying our report repeated concerns about the manner in which this inquiry will be handled, I point to the remarks of both the chairman-designate, Mr. COX, and the ranking member-designate, Mr. DICKS, before our Rules Committee panel. They are developing a strong bipartisan working relationship and came to the Rules Committee together in full agreement about the particulars of this resolution.

They both spoke of commitment to running a professional, serious and collegial inquiry.

Mr. Speaker, it's fair to say that we all would prefer not to be here today creating a select committee to review U.S. national security and military/commercial concerns with the People's Republic of China. We would certainly all prefer that we did not have before us very serious allegations of illegal foreign influence in our Democratic process, troubling concerns about the transfer of highly sensitive military information and technology to the Chinese, and the very real potential that palpable damage has been done to our national security.

But the fact is that we have been presented with serious and credible allegations on these points—and the American people want us to get to the bottom of what happened, how it happened, and what the impact has been for the security of our citizens and our interests.

We have an obligation to accomplish this goal in a thorough and timely manner, and I am convinced that the only good way to do that is to establish this select committee.

Members know I do not take this step lightly. As chairman of the House Intelligence Committee, I am aware of the jurisdictional authorities relevant to this subject, not just in my own committee, but in as many as 7 other House committees. I know that many of these permanent committees of the House have, in fact, been pursuing pieces of this investigation up to this point.

But the fact remains that we need to move on this and start getting some answers to these serious questions now. For that we need to have a relatively small, singly focused panel with the enhanced investigatory authorities provided by this resolution. The resolution provides mechanisms to ensure that the Select Committee has the clout to get its work done and has proper channels through which to have maximum cooperation with, and assistance from, the existing House committees.

It certainly makes sense to me that on matters of such grave importance as the national security and the sanctity of our domestic political system, we should all pull together in a bipartisan way to shed light on the truth and, if necessary, consider means to ensure that proper protections and safeguards do exist in our policies on technology transfers and controls over sensitive information with respect to foreign nations.

I agree with former Director of Central Intelligence James Woolsey who said in testimony at the Rules Committee this week that he can think of no subject that more clearly would require careful and thorough investigation by a select committee of the Congress.

Finally, Mr. Speaker, let me say that I very much hope the administration will make good on its pledge to cooperate fully with this important inquiry. And by cooperate I mean not just talking about being helpful, but about actually providing all relevant material to the inquiry, helping the select committee gain access to the individuals it needs to interview, and offering a full and complete accounting of its relevant policies.

I would hope that we do not see more of the practice we've become used to with this administration of attempting to change the subject, throw up roadblocks and shoot the messenger when serious questions are raised about its policies and decisionmaking. The American people expect and deserve better than that from this administration.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York (Mr. SOLOMON) and I had a discussion about an hour ago on the rule, and at that time I urged the gentleman to not engage in a public hanging before the facts are in. And I would repeat that at this point.

Mr. Speaker, it is a foregone conclusion that the House will vote today to create a new Select Committee to investigate the allegations that a U.S. company transferred sensitive technology to the People's Republic of China that could endanger national security and that campaign contributions played a role in obtaining the licenses necessary for U.S. companies to launch their satellites on Chinese missiles. I support the creation of the Select Committee. But I do so with some reservations.

Mr. Speaker, my reservations are shared by my Democratic colleagues on the Committee on Rules which has original jurisdiction to create this Select Committee. In our committee report minority views, we have laid out our concerns about the structure of the Select Committee and the decisionmaking process that is provided for by the enabling resolution.

We are heartened that the designated ranking minority member, the gentleman from Washington (Mr. DICKS) feels that he has reached an understanding with the designated chairman of the Select Committee on several matters that are vitally important to assuring that the Select Committee's work product is viewed as fair and that the rights of the minority have not been ignored.

However, Mr. Speaker, there are matters which I do feel compelled to bring to the attention of the House. The Committee on Rules majority states at the outset that they have used the Iran-Contra Select Committee as a model for this Select Committee. While this model bestows extraordinary powers on the chairman, Iran-Contra also stands as a model of bipartisan cooperation and the joint leadership of that committee acted jointly on all matters of procedural concern.

The Democratic members of the Committee on Rules hope that the model of bipartisanship on the Iran-Contra Select Committee holds true on this Select Committee.

Our fears of abuse, while tempered by the reputation for fairness of the designated chairman of the Select Committee, are based on the experience of the past year and a half. Granting unilateral powers to the chairman of such a serious investigation gives us serious concern, and we hope, for the sake of the integrity of this body and for the finding of truth in this matter, that the assurances that we have been given that the rights of the minority will be protected in this investigative process and that the minority will be consulted on all important matters coming before the Select Committee.

This happened during Iran-Contra, and if that Select Committee is to serve as a model for this one, we hope that the same level of bipartisan cooperation would exist over the course of this investigation.

Mr. Speaker, we are concerned about the unilateral subpoena power, unilateral deposition power, as well as the ability of the Select Committee to gain access to 10 years' worth of tax returns of individuals and entities under investigation by the Select Committee. We are concerned about how this information will be handled, and under what circumstances it will be released to the public.

These are all legitimate concerns, but we remain hopeful that the participants in this investigation will realize that if it is tainted by accusations of partisan high-handedness, that any findings and recommendations that may be made will be tainted as well.

Finally, Mr. Speaker, my Committee on Rules Democratic colleagues and I are particularly concerned about the breadth and scope of this investigation. This resolution rightfully empowers the Select Committee with the authority to make a full and complete inquiry into not just technology transfers which may have contributed to the enhancement of the offensive capabilities of the People's Republic of China and its effect on the national security concerns of the United States, but other issues relating to export policies and the influence of campaign contributions. These are legitimate areas of investigation, but I am concerned that the authorities granted in this resolution are so broad that the Select Committee could go on working well into the future.

In addition, Mr. Speaker, I would like to point out that the designated ranking member of the Select Committee, the gentleman from Washington (Mr. DICKS), has asked that the many other investigations now ongoing suspend their investigations of those matters under the jurisdiction of the Select Committee while it is in operation.

This is necessary, Mr. Speaker, to ensure that the Select Committee can get its work done and not find the need to go on ad infinitum, and I hope the other committees of the House will cooperate in this matter. We need to find out what has happened and the Select Committee needs to go on about its business and report back to the House as soon as possible.

Mr. Speaker, I support the creation of the Select Committee, but I do so with an important caveat: If this investigation wanders from the focus of determining the answers to the questions at hand and if some of my colleagues insist upon demagoguing this issue, they risk damaging not only the legitimacy of any of the findings of the committee, they risk damaging the integrity of this institution. I urge the Select Committee to ensure that its investigation is fair and thorough.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would point out to the gentleman, because I know the gentleman from California (Mr. CONDIT) brought this up, worrying that this might go into another Congress and may run up costs of up to $5 million, I would just point out that the language speaks specifically for this Congress and this Congress only. It would take a further action by this body. So I wanted to call that to the attention of the gentleman.

Mr. FROST. Mr. Speaker, reclaiming my time, I appreciate the comments of the gentleman. There is an underlying question here which may well drive this investigation into the next Congress, which of course would have to be authorized by the next Congress. The underlying issue is the concern that the gentleman from New York (Mr. SOLOMON), who is the chairman of the Committee on Rules, has raised for many years about whether we ought to be doing any of this.

Of course, the gentleman who is the chairman of the committee has objected to and opposed the transfer of technology which began during Republican administrations. And my concern is that if this committee goes to the fundamental issue of whether we ought to be doing business with China, that is a bottomless pit and that is a matter that could go on for a very long time.

There are legitimate differences within the Republican Party on this issue, as there are legitimate differences within the Democratic Party on this issue. So there is the potential for this investigation, even though it must be renewed at the beginning of the next Congress, to go on for a very long time if we go into the underlying foreign policy question of whether we ought to be doing any business with China.

Mr. SOLOMON. Mr. Speaker, if the gentleman would continue to yield, I think it might help to clarify. The gentleman is absolutely right. He and I were around during the Iran-Contra debate and I have here the final report of the Iran-Contra Committee. The last paragraph says, "The President cooperated," and this is talking about President Reagan, "cooperated with the investigation. He did not assert executive privilege. He instructed all relevant agencies to produce their documents and witnesses, and he made extracts available."

Mr. Speaker, I wanted to point out if we do get full bipartisan cooperation, I do not expect this to go any further because of the narrow scope.

Mr. FROST. Mr. Speaker, reclaiming my time, while the scope of the matter under discussion today is fairly narrow, the resolution itself is very broad. It is possible that this resolution could be used in a future Congress as a means for examining the entire foreign policy of the United States as it relates to China, regardless of whether there was any wrongdoing found by this investigation.

I only raise that cautionary flag, as I did in the Committee on Rules, because that is really a legitimate matter to be determined by our foreign policy committees of this Congress, perhaps even by our Select Committee on Intelligence, perhaps by our Committee on National Security, but not necessarily by this Select Committee. Because the gentleman and previous Republican Presidents have a philosophical difference on this issue, and I would hope this Select Committee does not go to that philosophical difference of whether we ought to be engaging China, but simply limits itself to the matters at hand which raise the question of whether there was improper conduct in terms of the implementation of that policy.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA), an outstanding veteran Member of this Congress from Ridgewood, New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I do appreciate the gentleman from New York (Mr. SOLOMON) yielding me this time at this point in this debate.

Mr. Speaker, I rise in strong support of this proposal. It is essential and timely. There is a compelling need for this committee. New evidence has come to light that against the recommendations of the Defense Department and the State Department, how conditions were waived and national security considerations were waived, and Loral Space and Communications transferred sensitive satellite and missile technology to China.

Mr. Speaker, I must also say that the technology, as we now know, allowed the Chinese to greatly improve their ballistic missile and guidance capability. We have recently learned about proliferation of nuclear weapons in India and Pakistan. That may or may not have any relationship. But in any case, the timeliness has been proven and these are important national security issues at hand.

But I must say we must put politics aside. As the gentleman from Florida (Mr. GOSS) said during the earlier debate, this is not about fault-finding. I would therefore call upon all of us, Republicans, Democrats, to put politics aside and proceed with a strong interest and fairness to find the truth in this matter. The national security ramifications of this investigation are too important to become mired in politics.

Then I must feel compelled to say that I am so pleased that we have as chairman the gentleman from California (Mr. COX). We all have utmost faith in the gentleman's ability to lead this investigation. He has the experience, he has the knowledge, and above all, he has the trust, based on that experience, of all of his colleagues because he is known as the essence of honesty, fairness and tact.

In conclusion, I want to be very clear. This is not about a real estate deal. We must, we must approve this and get on with the business of the security interests of our country.

Mr. Speaker I rise in strong support of H. Res. 463—Establishing a Select Committee to Investigate Concerns with the Peoples Republic of China. This is essential and timely.

The Investigation. This could become one of the important Congressional investigations to date. This Committee will focus on the real National Security concerns that have been surfaced, hence its title. The Members of the Select Committee will have experience and knowledge of defense, national security, and intelligence issues.

There is Compelling Need for the Committee. New evidence has come to light that against the recommendations of the Departments of Defense, State, and Justice, in February 1998, President Clinton waived national security considerations and allowed Loral Space and Communications to transfer sensitive satellite and missile technology to China.

This technology allowed the Chinese to greatly improve their ballistic missile and guidance capability. The consequences of this transaction poses the greatest nuclear threat to the United States since the end of the Cold War.

We have seen in the last few months, the proliferation of nuclear weapons to India and Pakistan. With the Chinese perfecting their weapons systems, the world is becoming a much more dangerous place. This investigation will not only help us get the facts but it will help inform us on these important national security issues.

We Must Put Politics Aside. Our colleague Representative Goss stated: This is not about fault finding. These allegations have serious national security implications and should be investigated in a serious, bi-partisan manner.

I call on all Republicans and Democrats to put politics aside and proceed with a strong interest in integrity to find the truth in this matter. The National Security ramifications of this investigation is too important to become mired in politics.

I call on the President to act in good faith with the investigation and to release all documents relating to the case.

Congressman COX. My good friend from California, Congressman CHRISTOPHER COX will be in charge of this investigation. I have the utmost faith and confidence in Congressman Cox.

He has the Experience: He was senior counsel on the Iran-Contra Investigation and an accomplished attorney.

He has the Knowledge: Congressman Cox is a recognized expert on foreign affairs and the intelligence community.

He has the Trust: Throughout his career in Congress, Mr. Cox has commanded respect from all of his colleagues for his honesty, fairness, and tact.

He will lead this investigation fairly and with a firm hand. He will not allow this very important matter to dissolve into "political theater." I strongly urge my colleagues on both sides of the aisle to work closely with Congressman COX to find the truth.

In conclusion, let me be very clear. This is not a real estate deal or a sex scandal and this is not about partisan politics. These charges go to the heart of our national security and potentially threaten every American. This Congress must rise to the challenge. A serious, professional and comprehensive investigation must be conducted to assure our national defense, and control over the laws of our land. I urge all Members to support this Resolution.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Speaker, I have enjoyed listening to the debate thus far where we have been asked on the one hand to put politics aside, and on the other hand we have heard the alarm sounded about all these terrible transgressions that have occurred supposedly in China. Prejudging the case as we create the jury system seems to be in vogue these days.

But Mr. Speaker, I support this resolution for a couple of reasons. One, I do not want to miss the opportunity to congratulate the Republicans on finally investigating something in the proper manner.

We have had 50 separate investigations in this Congress, 38 of them continuing. Not one of them has been brought to the floor in this manner so that all the Members could hear the evidence and decide whether they want to spend the public's money to conduct them. The rest of them are funded by the slush fund, we used to call it the Speaker's slush fund until we got a new Speaker. But it is really operated out of the Committee on House Oversight with a partisan majority and no input from the minority. They make the decisions as to whether or not we are going to pursue an investigation.

□ 1415

So I support this one because it is done at least intentionally in the right manner. I support the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS). I think they are honorable people.

I have confidence that, even though this may be somewhat too broad in its basic premise that the two of them working together as they have thus far will make sure that it does not go too far, does not really go from what I think is the consensus need we have in this institution to look at our policies in regard to technology transfer and exports to China.

There has been a lot of Clinton bashing, and I think unfortunately so. There has been a certain amount of unwarranted China bashing, the purple rhetoric I guess is expected in a campaign year.

But what is most important here is that we review American policy, policy that began with President Reagan, was implemented by President Bush, and this President. The same debates that we have had on export administration acts, on the armed services authorizations is occurring on this issue.

Those kinds of debates that we have had frequently on this floor the 20 years that the gentleman from Texas (Mr. FROST) and the gentleman from New York (Mr. SOLOMON) and I have served in this institution are the very subject that ought to be looked at by this Select Committee.

There is no question that we do have some policies that may need to be changed, but the implication that somehow we have acted here because of campaign funds flowing in one direction or another is I think a little bit hard to take from a Congress that refuses to even consider whether or not we are going to do away with soft money or reform the campaign finance system that we all, like it or not, have to live with.

I think this committee has been given the power to really move toward a solution to all the rhetorical debate that we have heard, some of which may really warrant policy changes.

I hope this committee's leadership will be given the membership that will focus on the details and on the issues that really need to be addressed and not the politics of election 1998. With that caveat, I support this effort and wish them well.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, for several months, no less than seven committees of the House of Representatives have been investigating issues relating to the transfer of technology between the United States and the People's Republic of China.

The resolution now before us would vest primary responsibility for the conduct of these inquiries in a select committee. Given the complex and contentious nature of these matters, many of which involve highly classified information, consolidating the current investigations in one committee with the authority to consider matters which cross jurisdictional lines is, in my judgment, appropriate.

The technology transfer matter raises important questions of national security. The House deserves to have these questions addressed in a manner which is thorough and which focuses on substance rather than seeking to maneuver for partisan advantage.

Based on my discussions as the perspective ranking Democrat over the past week with the gentleman from California (Mr. COX), prospective chairman of the Select Committee, I believe we share a commitment to make sure that the investigation is conducted, and the Select Committee operates, in a manner which brings credit to the House.

I want to commend the gentleman from California (Mr. COX) for his willingness to consider my views on ways in which the rights of the minority to participate in the work of the Select Committee can be better ensured. We have begun to forge the kind of working relationship which will increase the likelihood that H. Res. 463, the rules which the Select Committee will adopt, and the understandings which the two of us have reached and will reach are implemented fairly.

The Select Committee would have a limited amount of time to review some complex and potentially contentious issues. At this point, I believe the inquiry needs to examine the following matters:

First, the Select Committee must review the policy devised under President Reagan and continued in the Bush and Clinton administrations to permit U.S.-owned satellites to be launched on foreign rockets, particularly those of the People's Republic of China. Is this a sound policy which appropriately balances potential economic, technological, and national security risks and benefit for the United States?

In this context, we need to examine changes in that policy and its implementation over the past decade. We must also look at the proposed sale of satellites containing sophisticated communications equipment to the People's Republic of China.

The second matter arises from the failed launch of a satellite undertaken pursuant to that policy and concerns whether, in assisting the People's Republic of China in determining the causes of that failure, information harmful to the national security of the United States was transferred to the Chinese by representatives of U.S. companies.

I would note that any information transferred which might have had negative national security implications was apparently done without the approval or knowledge of Executive Branch officials.

Was there an enhancement of the reliability of the ballistic missiles of the People's Liberation Army as a result of these transfers; and if so, how did that happen? This is an area in which we must proceed carefully, because legal proceedings are under way, but I believe the American people deserve as clear a determination as possible on the national security implications of these transfers.

The fact that the Department of Defense and the Central Intelligence Agency apparently reached different conclusions on this question underscores the difficulty of the Select Committee's task.

Finally, the Select Committee must examine whether money flowed into the political process in the United States from either domestic or foreign sources in an effort to influence Federal decisions on technology transfers. Were any decisions made to benefit a company, whether it be Loral or any other firm, because of campaign contributions? In this matter, as well, pending legal proceedings may affect our work.

As I noted, the Select Committee would have a relatively short life, and there is much to do. If it is the will of the House that a Select Committee be formed to conduct this inquiry, I would hope that the permanent committees which have had aspects of these matters under investigation will follow precedent and defer to the new committee.

It will not assist the Select Committee, nor will it justify the considerable amount of taxpayer funds to be authorized for this effort if it is to be but one of many investigations of these matters involving the same documents and the same witnesses. I hope the Select Committee can get the cooperation of the House in this area and in all others which may affect its ability to do its job.

Mr. Speaker, I urge the adoption of this resolution.

Mr. Speaker, I would like to enter into a colloquy with the distinguished chairman designee of the committee.

To the gentleman from California (Mr. COX), in the discussion of section 7, "Procedures for Handling Information," the Committee on Rules' report on H. Res. 463 makes clear that classified information may be disclosed publicly only pursuant to a vote of the Select Committee. Section 7, however, discusses the making public of any information in the Select Committee's possession, not only classified information.

Is it the gentleman's interpretation of section 7 that the Select Committee will vote to disclose publicly any information whether the information is classified or unclassified?

Mr. COX of California. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. COX of California. Mr. Speaker, I thank the gentleman for yielding to me. That interpretation is the correct interpretation. As the gentleman knows, that section of this resolution, section 7, is taken essentially verbatim from the rules of the House concerning the procedures for the Permanent Select Committee on Intelligence of which the gentleman is the ranking member. Our procedure on the Select Committee will be the same as it is on the Permanent Select Committee on Intelligence.

Mr. DICKS. I thank the gentleman from California (Mr. COX) for that answer. In its discussion of section 10 of H. Res. 463, "Tax Returns," the report of the Committee on Rules notes the committee's intention that the authority granted by section 10 extends to the Select Committee "acting collegially."

Is it the gentleman's interpretation of sections 10 and 4 of the resolution that the act of "naming" an individual or entity under section 10 for purpose of inspecting and receiving tax information about that individual or entity shall be done pursuant to a vote of the committee?

Mr. COX of California. Mr. Speaker, will the gentleman yield to me?

Mr. DICKS. I yield to the gentleman from California.

Mr. COX of California. Mr. Speaker, that is, again, the correct interpretation. As the gentleman and I have discussed privately, this is a very important power that the Select Committee will possess. It should be used sparingly, not only after a vote, but after consultation and I would hope deliberation not only of the chairman and ranking member but all of our members.

Mr. DICKS. Mr. Speaker, I would also say, as the prospective ranking Democrat on this select committee if the House approves this resolution, we will be very careful and judicious about the use of this authority.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado Springs, Colorado (Mr. HEFLEY), one of the most knowledgeable Members of this House on national security and the chairman of the Subcommittee on Military Installations and Facilities.

Mr. HEFLEY. Mr. Speaker, I rise in strong support of this resolution. As a member of the Committee on National Security, I believe it is imperative that we form this investigative committee. We need to find out whether or not America's national security has been or is being harmed by current policies which govern the transfer of dual-use missile and satellite technology to China.

Presently, the Committee on National Security and the Committee on International Relations are holding a joint hearing on this very subject. One thing we are consistently being told by the Clinton administration officials is that the current policies are no different than the policies under President Reagan and President Bush. Mr. Speaker, that is simply not true.

Under Presidents Reagan and Bush, all military sensitive technology was licensed by the State Department. This licensing authority was further backed up by the veto power granted to the Department of Defense if they felt our national security could be compromised by a particular transfer.

Under President Clinton, the licensing authority has been taken away from the State Department and given to the Department of Commerce. The Commerce Department's goal is to promote business, not to protect national security. Additionally, the veto power of the Department of Defense has been removed. Clearly, economic and commercial benefits have become the most important factor in this administration's licensing determinations.

But all of that aside, that is not why I support this resolution. This committee is not to serve as a political witch-hunt, but instead a bipartisan investigation into whether or not we should be more worried about our national security today than we were yesterday.

We are dealing with the only Communist country in the world with nuclear capability. I urge the support of all Members on this resolution, because we are talking about the safety of our Nation. We are talking about the safety of our families.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Texas (Mr. FROST) has 11 minutes remaining. The gentleman from New York (Mr. SOLOMON) has 17 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, four years ago now, Speaker NEWT GINGRICH said this as quoted in the Washington Post, "Clinton Democrats should be portrayed as, quote, the enemy of normal Americans." He then goes on to say, "Republicans will use the subpoena power to investigate the administration."

Some 4 years later, 50 investigations later in this House, some $17 million later of taxpayers' money, recently in the Congressional Quarterly, a senior Republican leadership aide was quoted as saying this, "It has been very expensive, and it has not amounted to much."

In light of the use of taxpayer dollars and duplicative and, in many cases, dead-end investigations, my original intent would be not to support with taxpayers' money one more investigation. But I think, because of the quality of the leadership of this committee and because of the importance of this issue, many of us, if not all of us, in this House want to support this resolution.

But I must express one reservation. I would imagine what an appeals court would say in reviewing a previous judge's decision in a case if, in the first statement in that court, the judge stood up and said in reference to the defendant in the case, talked about his sordid history, sordid history. Those were the words used in the very first statement by the gentleman from New York, the chairman of the Committee on Rules, in opening up what I thought was intended to be an investigation to get the facts first and then make the judgment what those facts can be concluded to say.

□ 1430

I would hope that perhaps I misunderstood, and I would be very happy to yield time to the distinguished chairman of the committee. I hope perhaps I misunderstood the context of his statement.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from New York.

Mr. SOLOMON. Since 1988, under Presidents Reagan, Bush and Clinton, I have opposed this policy. So there is no politics involved.

Mr. EDWARDS. So, to clarify for the record, the reference to "sordid history" refers to multiple administrations' policy in regard to technology transfer to China, and those remarks were not focused on this administration's particular actions that we are supposed to be reviewing in this matter?

I think this is an important point. If the first statement on the floor of this House is to say we are now going to review the sordid history of the person we are supposed to be investigating before we draw a conclusion, then a reasonable person in or out of this House must conclude that perhaps this will be somewhat like the Burton investigation, where the chairman of the committee was quoted as saying he wants to "get" the President before he has even concluded the investigation.

Again, I would hope to work with the distinguished chairman and others in reviewing all of the facts, listening to the committee before we determine whether this administration has been part of a sordid history or not. And, again, perhaps the chairman could better put in context the meaning of those words. I think that would be helpful to get this investigation started on a bipartisan, objective basis.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds to say to the gentleman, I do not know of any previous administrations where there were sordid facts, as far as companies like Loral that were involved. This is what we were referring to, that we want to get to the bottom of it; which has nothing to do with administration politics.

Mr. Speaker, I yield 2 minutes to the gentleman from Dallas, Texas (Mr. Sam JOHNSON), a very distinguished Member and former prisoner of war for 7 long years, and a great American.

Mr. SAM JOHNSON of Texas. Mr. Speaker, according to this administration, the President's trip to China next week marks a new high in U.S.-China relations. I am not sure that is true. The national security of this Nation is at serious risk today due to actions taken by this President and his administration regarding missile technology transfers. It is not a reason for celebration. It is not a high point.

The transfer of U.S. missile technology to China, with the direct approval of the Clinton administration, raises some rather significant questions:

One, why the authority over the waiver program was shifted from State to Commerce; two, why an American company was granted a second launch waiver when it was already being investigated by the Justice Department; three, why the Clinton administration tried to shield China from sanctions; and finally, what military benefit did China gain as a result of that technology transfer?

Mr. Speaker, today we have the opportunity to set up a committee that will search for the honest answers, and I think the honest answers are going to be forthcoming. We have a minority leader and our own majority chairman that are going to get the answers, for our national security is not a partisan issue.

I urge my colleagues to demand the truth and support this resolution today.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. Edwards).

Mr. EDWARDS. Mr. Speaker, following up with my exchange with the chairman of the Committee on Rules, it seems to me that one of the serious subjects of discussion and review of facts for this committee is, what was the role of the Loral Corporation in this process.

The chairman of the Committee on Rules, on the floor of the House in response to my question, referred to Loral's sordid history and its involvement in this process. Once again, I would point out that for a judge, or one of the judges, in this basically being a court case or investigation, to say in the very first remarks that there has been a sordid history of involvement by one of the groups being reviewed by this investigation seems to me to be drawing conclusions before we get the facts. It seems to me to sound more like the Burton committee, which had a chairman that wanted to draw the conclusions before he even had the hearing.

So, in the midst of this discussion, my intent is not to question the motives of the chairman of the Committee on Rules; my intent is to try to start out this process on a bipartisan, objective, fair basis. And I hope the distinguished gentleman would make clear what he means by referring to the "sordid history" of Loral or any others in this case.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to quote from my opening statement. It says, "Beginning in April of this year, the New York Times has focused on 'the somewhat sordid history,'" repeating exactly what they say. The gentleman should read the newspapers.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. TRAFICANT), a very admired Member of the other side of the body, and I wish I had more time to yield to him.

Mr. FROST. Mr. Speaker, I yield 1 minute. The gentleman from Ohio (Mr. TRAFICANT).

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Ohio (Mr. TRAFICANT) is recognized for 2 minutes.

Mr. TRAFICANT. Mr. Speaker, I thought I would just rise to tell it exactly like it is.

Last week North Korea threatened Uncle Sam. I want to quote what North Korea said. They said they will not only continue to build ballistic missiles, but they will sell ballistic missiles to the enemies of Uncle Sam or to whomever they choose. And if Uncle Sam does not like it, they can compensate us for it. They can compensate us; that is unbelievable.

Intelligence sources said North Korea is taking this bold stand because they see the way China and Communists are being treated around the globe, and that there is a weakening of resolve in Washington.

Now, there is nobody that opposed Reagan's economic policies more than I, maybe right or wrong. But one thing about Ronald Reagan, North Korea would have never made that threat to Ronald Reagan. Never. And Ronald Reagan was firm in his resolve about Communists. But if Communist China can get $50-plus billion a year in trade surpluses, get free missile technology, have access to the Lincoln bedroom, why cannot all the other Communists do it? In fact, why cannot communism make a comeback, colleagues?

It is time to question the White House. We have put China on the back page because of Monica. Let me tell my colleagues, the time now is to look at China. What did they do, and did they attempt to influence our national security? I do not think President Clinton sold our country out, but I believe they have been damn casual with China and with Communists.

And I would just like to say that we have had brave military that gave their lives fighting in foreign wars to defeat communism and to secure America. And I will be damned if I am going to be a part of any situation that is going to weaken or threaten our national security because of some political partisanship here. We should investigate and find the truth, and let the chips fall where they may. Because I will tell my colleagues what, it sounds awfully stinky to me.

Mr. FROST. Mr. Speaker, I would ask about the remaining time.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) has 6 minutes remaining, and the gentleman from New York (Mr. SOLOMON) has 13½ minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Jacksonville, Florida (Mrs. TILLIE FOWLER), a member of the Committee on National Security, who is so very knowledgeable about this issue.

Mrs. FOWLER. Mr. Speaker, I rise in strong support of this resolution. As a member of the House Committee on National Security, I cannot overstate the significance of the mission we are undertaking with the creation of this Select Committee.

More than 1 year ago, the gentleman from Illinois (Mr. HENRY HYDE) and I wrote to the Attorney General, asking her to investigate the loosening of export controls on a host of sensitive dual-use equipment and technology.

We asked the Attorney General to investigate the questionable decision to allow McDonnell Douglas to sell sophisticated machine tools to the PRC. Just last week "60 Minutes" reported that those machines have ended up in a Chinese Silkworm missile plant.

The Loral incident is what has brought us to this point today, and for good reason. According to press reports, the Defense Technology Security Administration concluded that, "United States national security has been harmed." And an April 9th, 1996, Air Force Intelligence report reached a similar conclusion.

Clearly, the questionable actions of both Loral and the administration have serious implications for our national security. But so do the questions surrounding transfers of sophisticated machine tools, supercomputers, hot section technology and telecommunications technology.

The Select Committee we are creating today faces a daunting but critical task. In a nutshell, it must answer the question: Did the United States provide technology to China that will benefit its military? And, if so, why did this administration allow it to happen?

I urge my colleagues to vote "yes" on the resolution so that the American people can find out the answers to these questions.

Mr. Speaker, the letter to the Attorney General referred to earlier is provided for the RECORD as follows:

MAY 22, 1997.

Hon. JANET RENO,
U.S. Department of Justice,
Washington, DC.

DEAR GENERAL RENO: We are writing to request that the Justice Department's investigation of alleged illegal foreign campaign contributions to the Clinton campaign and the Democratic National Committee include an investigation of the possible link between contributions from various Asian donors and the Clinton Administration's loosening of export controls on sensitive dual-use equipment and technology, which has specifically benefited the military and intelligence services of the People's Republic of China (PRC).

The PRC makes no secret of the fact that it is attempting to acquire a diverse, highly flexible, strategically dispersed and survivable military production capability, with force projection a key goal. The administration's pattern of decontrol and failure to enforce existing law with regard to both export procedures and punitive sanctions has substantially benefited the military goals of the People's Republic of China and presented serious new challenges to the security interests of the United States.

In our minds, there are a number of cases that raise serious questions about whether improper outside influence was brought to bear on Administration officials—including the President—and if that influence has resulted in decisions and policies that have liberalized the transfer of defense-related technologies, something which is clearly incompatible with the interest of our nation.

Examples of Questionable Decisions

Sales of sophisticated machine tools to the PRC.—A U.S. company, McDonnell Douglas, was allowed to ship an almost complete intact missile and strategic bomber factory to the PRC, despite strong opposition from specialists at the Department of Defense and evidence that the equipment was going to be diverted to military production facilities. Prior to the issuance of the original export licenses, the case was discussed with concern at the highest levels of the government, yet it was approved in the end.

News stories and a GAO report requested by the House National Security Committee (HNSC) all show that before the equipment was shipped, U.S. officials were aware that the conditions placed upon issuance of the export licenses were unenforceable, and that the Chinese possibly intended to divert the equipment they had purchased for civilian use to a military production facility.

During the period immediately before the sale—and before the export licenses had been approved—McDonnell Douglas officials showed officials from CATIC (China National Aero-Technology Import-Export Corporation) through the plant during operating hours, allowing them to videotape classified production lines in operation—a violation of current export law, which was brought to the attention of Administration officials and ignored.

Finally, once it was determined that the diversion had occurred, political appointees at the Departments of Commerce and Defense approved new licenses with different end-use conditions and destinations rather than expressing displeasure with the Chinese or exercising their legal obligation to sanction the PRC.

While aspects of this case are now under review by a grand jury in the District of Columbia, it is imperative that this matter receive full scrutiny in the context of the Justice Department's investigation of campaign finance improprieties.

Supercomputers.—The extraordinary loosening of controls on militarily-sensitive supercomputers, which began in 1994, has resulted in the sale of 46 supercomputers rated at 2,000 MTOPS and above to China in the last 15 months. According to a former Under Secretary of Defense who testified before the HNSC Procurement Subcommittee, these sales may have given the PRC more supercomputing capacity than the entire Department of Defense. Uses for supercomputers include: design and testing of nuclear weapons; sophisticated weather forecasting; weapons optimization studies crucial for the efficient use of chemical and biological weapons; aerospace design and testing; creating and breaking codes; miniaturizing nuclear weapons, and finding objects on the ocean floor, including submarines.

The decision to loosen U.S. controls on supercomputers was made in spite of the opposition of a number of Defense Department staff experts, senior military and intelligence officials, and Members of Congress. It was justified by a report commissioned and paid for by the Department of Commerce using outside consultants supplied by political appointees at the Department of Defense. The contract for the report was awarded noncompetitively to a well-known opponent of export controls. Viewed in the context of recent revelations about Chinese efforts to influence the U.S. political scene, the significant policy changes that have been pursued in this area bring into question the Administration's motives for decontrol.

Hot Section Technology.—The Administration's decision to change the jurisdiction on so-called "hot section" technology from the Department of State, which had guarded it jealously, to the Department of Commerce, which is in the business of making it easier for foreign entities to purchase U.S. products and technology also raises serious concerns. Hot section technology allows U.S. fighter and bomber aircraft to fly for thousands of hours longer than those produced by less sophisticated manufacturers, providing our military forces with significant cost and readiness advantages over those of other nations. Again, serious questions arise with respect to policy changes in light of Chinese efforts to influence Administration actions.

Telecommunications.—In 1994, sophisticated telecommunications technology was transferred to a U.S.-Chinese joint venture called Hua Mei, in which the Chinese partner is an entity controlled by the Chinese military. This particular transfer included fiber optic communications equipment which is used for high-speed, secure communications over long distances. Also included in the package was advanced encryption software.

Both of these transfers have obvious and significant military applications, and, again, this transfer was accomplished despite opposition from technical experts at the NSA and within the Pentagon.

The administration's actions in the abovementioned cases, and others, have resulted in a significant increase in indigenous Chinese military production capabilities. Given China's willingness to sell weapons and technology to the highest bidder—including rogue nations such as Iran, Iraq, and Libya—these transfers could represent a profound threat to U.S. military personnel. Moreover, the increased capabilities that China has gained portend a regional arms race and increase the possibility of conflict in a region ion which the United States has major interests.

Under the circumstances, if flies in the face of common sense for us to provide the

PRC with the means to achieve their military and strategic goals. The administration's decision seem very suspect to us, and we strongly believe they should be investigated.

In closing, we would note that this letter does not reflect a change in our belief that a special counsel should be appointed to investigate allegations of improper fund-raising and campaign contributions, but rather an acknowledgement of the investigation as it presently exists.

Thank you for your consideration of this request. We look forward to your timely response.

Sincerely,

TILLIE K. FOWLER,
Committee on National Security.
HENRY HYDE,
Chairman, Committee on the Judiciary.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is vitally important that this matter be approached on a bipartisan and objective basis. The two people who are involved, the designated chair and the designated ranking minority member, clearly are fair-minded and will proceed in a reasonable and forthright manner. I would urge other Members on the other side of the aisle to give the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS) the opportunity to conduct a fair and bipartisan examination into these vital questions.

We will support this resolution. We would urge that this investigation be done promptly and fairly and in a bipartisan manner.

Mr. Speaker, I have concluded my remarks. I urge adoption of the resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to, first of all, just concur in exactly what the gentleman from Texas has just said.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. COX) to conclude for the majority. We have heard a lot of praise heaped on this gentleman. I only wish I had his demeanor and his calmness in the way that he approaches measures on this floor. He would make a great Supreme Court Justice some day, as well as a great Congressman.

Mr. COX of California. Mr. Speaker, I certainly thank the chairman of the Committee on Rules for those generous comments and, obviously, all of us being in politics here know that at this point I should sit down, because never will people say nice things like this about me again and I am enjoying the opportunity.

But I want to begin by saying exactly the same kinds of things about my colleagues who have brought us to this point, the threshold of investigating in exactly the right way a very serious matter. In particular, the ranking member on the Permanent Select Committee on Intelligence, the gentleman from Washington (Mr. DICKS), with whom it has been my pleasure to work for the last several days in a very serious and urgent way; and, as well, the minority leader of the House, who made this his priority, exactly as did the Speaker of the House.

As a consequence, I can thank the gentleman from Texas (Mr. FROST), who has conducted the debate on the minority side today, for his recommendation of an "aye" vote. And I can thank my colleagues for what I believe is the collective and considered wisdom of the House in proceeding in this way.

Much of what we will undertake, much of what we will look at in this Select Committee will be secret information, and we will keep it to ourselves. Much of the reason that we are here, frankly, rests upon classified information. But the reason that we are here is also largely a matter of public record, and so what I would like to do now is begin with what is publicly known about why it is important for us to proceed in this way with this Select Committee.

In 1996, the People's Republic of China's Long March rocket, carrying a Loral satellite, exploded shortly after lift-off. It was at least the fifth Long March rocket to fail in the last 7 years. On April 4th, 1998, the New York Times, in a story by Jeff Gerth, first reported that a Federal grand jury was investigating whether, during the investigation of that 1996 launch failure, Loral and Hughes provided any information to the Chinese People's Liberation Army without the necessary State Department approval, and whether such illegal actions may have advanced the Chinese People's Liberation Army nuclear missile capabilities.

According to the April 4 New York Times article, since this proposed export could involve the transfer of the same kind of expertise that prompted the Justice Department to investigate in the first place, some Clinton administration officials claimed that the February waiver undermined the investigation.

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The Justice Department made these very concerns known to the White House prior to the February 1998 waiver.

On April 5, 1998, Ronald Ostrow and Jim Mann reported in the Los Angeles Times that missile guidance technology transferred to the People's Liberation Army may have gone beyond China's own nuclear arsenal. They quoted a Defense Department official, who stated, "Guidance for missiles seems to be a critical factor for Iran and North Korea. And they are getting it from China."

On April 13, the New York Times reported further that in May 1997, the Pentagon issued a classified report which concluded that Loral and Hughes provided information that "significantly improved China's nuclear missile capabilities."

The New York Times reported on May 15, 1998, that a Chinese military officer, Lieutenant Colonel Liu Chao-Ying, funneled nearly $300,000 to Democratic fund-raiser Johnny Chung. Lieutenant Colonel Liu is an officer of China Aerospace, a state-owned company directly involved in China's satellite launching program. Lieutenant Colonel Liu was previously an officer of China Great Wall Industries, the manufacturers and sellers of M–11 missiles components to Pakistan.

On May 23, the New York Times reported that on February 18, 1998, while the Justice Department investigation of Loral was ongoing, President Clinton issued another waiver for Loral to export a satellite to China.

On June 1, 1998, the New York Times reported that the State Department also advised the White House prior to the February 1998 waiver that Loral's actions in 1996 appeared to be "criminal" and "knowing" and that U.S. law might prohibit satellite exports to the People's Republic of China in any event due to the PRC's transfer of missile technology to Iran.

The June 1 article also reported that the administration was aware of the Defense Department's concerns over possibly aiding the People's Liberation Army's nuclear missile program, citing a February 12 memorandum to the President from National Security Adviser Samuel Berger.

Also, according to the June 1 article, and again citing internal White House and State Department memoranda, National Security Adviser Berger and the President were made aware of the fact that Loral stood to lose the contract and to incur a financial penalty if the waiver were not granted soon.

The waiver was issued shortly after the supposed deadline. The launch project was kept on schedule for November 1998, and Loral did not incur any penalties from the Communist Chinese Government.

The press has also reported that the CEO of Loral, Bernard Schwartz, has become a close personal friend of the President and was the largest single donor to the Democratic Party in 1996.

On June 10, the General Accounting Office testified before the Senate Intelligence Committee that President Clinton's March 14, 1996, decision to transfer ultimate control of satellite exports from the State Department to the Commerce Department diminished the ability of the Defense Department to block satellite exports for national security reasons.

Until that 1996 decision by the President, the Department of Defense was routinely deferred to by the Department of State and national security was paramount when waivers were sought. Now, however, the Commerce Department, whose mission it is to promote exports, is the agency in control.

In testimony before the House Committee on National Security in November of 1997, Commerce Department official William Reinsch acknowledged that while some 47 supercomputers have been sold to the People's Republic of China, the United States Government was unaware of their whereabouts. These supercomputers may be used for, among other purposes, simulating testing of nuclear weapons.

60 minutes, on CBS, reported on June 7, 1998, that the People's Liberation Army illegally diverted enormous McDonnell Douglas aeronautics machine tools, approaching the length of a football field, for use in People's Liberation Army military aircraft production. McDonnell Douglas is now the subject of a grand jury investigation of the diversion.

All of these media reports give rise to a number of unanswered questions that will be the object of the Select Committee's focus. There is no more important question before the Select Committee than the one with which we will begin. "Has the reliability or accuracy of nuclear missiles in the arsenal of the People's Liberation Army been enhanced; and, if so, how did this happen?"

I agree with all those who have spoken that this Select Committee is the most effective means to inquire into these matters. There are some 8 committees of the House of Representatives, with nearly 300 members, that properly have jurisdiction over these committees. Consolidating this investigation into a Select Committee whose members have been chosen by the Speaker of the House and by the minority leader, who are expert in the matter, who can consult collegially with one another, and who can maintain discretion and confidentiality, will reflect credit upon this House.

I urge my colleagues to support this resolution, to support the creation of the Select Committee, and to answer this serious question in the serious manner that it deserves.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman from New York for yielding.

I rise in strong support of this measure to establish a Select Committee on U.S. National Security and Military/Commercial Concerns of the People's Republic of China. I commend the gentleman from California (Mr. COX) for his statement.

I want my colleagues to know, we have just concluded 2 days of extensive hearings on this measure, which underscores the importance of moving ahead with the Select Committee. I urge my colleagues to support the measure.

Mr. Speaker, I want to thank the gentleman from New York, Mr. SOLOMON, for allowing me the opportunity to provide my views on the establishment of a Select Committee to examine U.S. policy regarding the transfer of U.S. satellites to China.

I strongly support the creation of this Select Committee. The Committee, headed by the able gentleman from California, Mr. COX, will be well-positioned to examine not only such issues, as whether American satellite companies divulged militarily-sensitive technology enabling China to improve its ballistic missiles.

The Committee will also be able to engage major policy issues, including whether our national security has been jeopardized by this Administration's policy of placing commercial interests above national security interests in granting licenses and national interest waivers for the export of commercial communication satellites to China.

In the 1992 Presidential campaign, Governor Clinton attacked President Bush for "coddling dictators" including those who ordered the massacre of pro-democracy demonstrators at Tiananmen Square.

Who could have imagined then that President Clinton's Administration would face questions about compromising our national security at the hands of those same Chinese leaders.

Yet, in May of 1997 a highly classified Pentagon report has reportedly concluded that scientists from two leading American satellite companies, Loral Space and Communications and Hughes Engineering, provided expertise that significantly improved the guidance and reliability of China's ballistic missiles.

Moreover, documents released by the White House disclose that the Justice Department had concerns about issuing a waiver in February 1998 for the export of a Loral satellite, and the Clinton Administration knew it. Accordingly to a memo prepared for the President by his National Security Advisor, Justice "has cautioned that a national interest waiver in this case could have a significant adverse impact on any prosecution that might take place * * *"

Despite this, the President decided to grant Loral a waiver for the export of a satellite to China.

I am concerned that in its desire to promote the commercial interests of key U.S. companies, the Administration may have undercut its own efforts to limit the spread of missile technology to China, which today is the world's leading exporter of weapons of mass destruction.

The Administration has insisted, that nothing untoward has occurred, that no inappropriate decisions or actions have been taken that resulted in harm to U.S. national security.

We will look to this proposed Select Committee to examine these issues and look forward to its conclusions and recommendations. Accordingly, I urge Members of the House to support the establishment of this important panel.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 476, the previous question is ordered on the resolution, as amended.

The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER (during the voting). The Chair will remind Members that it is their responsibility to be in the Chamber when a vote is underway.

The vote was taken by electronic device, and there were—yeas 409, nays 10, not voting 14, as follows:

[Roll No. 245]

YEAS—409

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)

Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moran (KS)
Moran (VA)
Morella
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—10

Conyers
Furse
Kanjorski
Lewis (GA)
McDermott
Mollohan
Murtha
Nadler
Oberstar
Yates

NOT VOTING—14

Clayton
Clement
Cooksey
Gonzalez
Green
Gutknecht
Hastings (FL)
Houghton
Martinez
McNulty
Moakley
Torres
Towns
Weldon (FL)

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Mr. OBERSTAR, Mr. NADLER and Ms. FURSE changed their vote from "yea" to "nay."

Ms. CARSON changed her vote from "nay" to "yea."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 458 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 458

Resolved, That during further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, in the Committee of the Whole House on the State of the Union pursuant to House Resolution 442, all points of order against each amendment printed in the report of the Committee on Rules accompanying this resolution are waived if the amendment is offered by a Member designated in the report. An amendment so offered shall be considered as read.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

☐ 1515

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I might consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, this is the second resolution defining the rules of debate for the campaign finance bill, and it fulfills the promise made by the Speaker for a full and open debate on campaign finance reform. House Resolution 458 provides for the further consideration of H.R. 2183, the Bipartisan Campaign Integrity Act. The rule makes in order amendments printed in the Committee on Rules report accompanying this resolution to be offered by the Member designated in the report. The rule also waives all points of order against those amendments and provides that they shall be considered as read.

I do want to mention that the second rule identifies a certain subset of possible perfecting amendments, those printed in the accompanying report of the Committee on Rules. For those amendments the second rule waives all points of order, thereby partially superseding the terms of the first rule, H. Res. 442.

Mr. Speaker, by way of review, the House passed the rule in late May that provided for general debate in consideration not only of the constitutional amendment but also provided for the consideration of 11 amendments in the nature of a substitute with a bipartisan freshman reform bill serving as the base text. That rule allowed for the consideration of any germane amendment to the 11 substitutes to reform our campaign finance laws. Today in order to allow for consideration of as many amendments as possible this second rule makes in order every amendment submitted to the Committee on Rules.

Mr. Speaker, we cannot ask for a more fair and open amending process. The debate rules will ensure the most open debate process in the history of campaign finance reform, as was promised by Speaker GINGRICH and the Republican majority. Unfortunately the Democrat opponents of open debate promised to close down the process, allow consideration of only one bill and foreclose all other opinions on this subject. Democrats will ironically ask for closed rules or procedures that they used for 40 years to subvert popular legislation and undermine open debate, and, in addition, a recent Washington Post editorial expressed its distress that the open process may actually permit the substitute that has the most support to win. I find it interesting that wide open rules are now considered shams when the Democrats are not getting their way.

Let us review the history of campaign finance. When it came time to reform these laws the old Democrat Committee on Rules muzzled the minority and forced a closed rule upon us. Not only were we allowed to offer only one amendment to the entire bill, but the Democrats refused to allow us the basic right to offer a motion to recommit with instructions. This was not an isolated incident, but rather a pattern of suppressed debate on this issue in Democrat Congresses. In the 102nd Congress Democrats again stifled open and free debate with a similarly closed gag rule.

Mr. Speaker, rather than suppress debate, the Republican Congress has offered a wide open rule. Only weeks ago leading proponents of campaign finance reform were celebrating. Now apparently they only want to debate their own proposals. It is not enough that they want us to pass laws to limit and regulate political expression and free speech, but they also want to limit it and restrict free speech here in the House when we debate and consider these bills.

Up in the Committee on Rules we listened to testimony from Members requesting that we make their amendments in order. What did we do? We granted their requests and made their amendments in order. Now it strikes me as rather disingenuous and somewhat hypocritical for Members to submit these amendments to the Committee on Rules and then oppose the rule after we made their amendments in order. I have concluded that many Members on the other side of the aisle have decided that they just do not want to vote on some particular amendments. We are going to have a vote on banning contributions from noncitizens, prohibiting fund-raising on Federal property, prohibiting solicitation to obtain access to the White House or Air Force One and establishing penalties for violating the prohibition against foreign contributions.

While I understand why the Democrats would not want to vote on these issues, each of these amendments deserves consideration. This rule allows us to debate these important issues.

Mr. Speaker, I do not think we need a massive overhaul of our campaign finance laws, but I do have concerns about campaign financing. These concerns are about illegal money from the People's Liberation Army, illegal campaigning in Federal property and illegal campaign donations from Buddhist monks. We have laws that prevent that already, and I believe it would be more useful if we can get some kind of assurance that the current laws that we have on the books are going to be honored. These new campaign proposals will do nothing to stop the kind of shameless disregard for that law that we saw in 1996.

Mr. Speaker, let us enforce the current laws, and if it is necessary to consider more campaign legislation, let us have an open process that allows for a full debate on all pertinent issues. This rule provides for that kind of open debate.

I urge my colleagues to support the rules so we may proceed with consideration of each of the substitute campaign finance reform bills and any amendment which is offered.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I appreciate the gentleman yielding, and I would like to make a statement before the body.

I have had the opportunity to discuss this work with so many interested Members, and indeed there are a great many interested Members. I am particularly responding here relating to the discussions I had with the gentleman from Connecticut (Mr. SHAYS), the gentleman from Alabama (Mr. HUTCHINSON) and the gentleman from Texas (Mr. BRADY) and discussions with members on the leadership, including the gentleman from Texas (Mr. DELAY) and others, and I want to give the body every assurance that while, one, we appreciate the cooperation and interest everyone has in this bill, they should be assured that this bill will be completed.

Proceedings on this bill in this House will be completed in their entirety by the August recess, and I would implore all Members of the body to be willing to work with the floor managers. We will make the time available. Work with the floor managers, restrain yourselves from deleterious taxes, let us keep our attention on this bill. We will make ample time available, and we will be done with House proceedings on this bill by the August recess with a good spirit of cooperation by all interested parties.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

My friend from Texas is leaving the Chamber. He has just committed that we will complete consideration 7 weeks from today. If I understand what he just said, 7 weeks from today.

Mr. Speaker, if the first campaign finance reform rule reported from the Committee on Rules were not proof enough, I bring to my colleagues' attention rule No. 2. This rule is proof positive that the Republican leadership has absolutely no intention of letting Members of the House decide if we do or do not want campaign finance reform this year. This rule assures that the House will never be able to come to a conclusion on this issue despite the assurances of the majority leader that we will do it in the next 7 weeks.

In the name of free and open debate the Republican leadership has perverted the process into a cynical exercise. That is fine, Mr. Speaker, just as long as everyone understands what is happening here. As my colleagues know, Mr. Speaker, when I was first learning about rules and procedure in the House, I was told the story of how one European parliament was never able to reach a decision because it did not have the parliamentary device of the previous question. It was unable to end debate, and consequently that parliament failed in its attempt to do its business. It seems to me that this rule puts this body at the dawn of the new millennium in the same boat as was that parliament. We will be unable to reach a decision.

In other words, Mr. Speaker, the Republican leadership is living up to its promise that the House will consider campaign reform, campaign finance reform, but they are doing that by assuring that the House will consider campaign finance reform a very, very, very long time, and that if we should by chance finish this legislation 7 weeks from now, of course it will be so late in the session that it will be impossible for the other body to act.

No longer will the Senate be able to lay sole claim to ownership of the filibuster. The Republican leadership has devised a new and original form of filibuster which we will all be able to participate in over the course of the next 7 weeks at a very minimum. If we awarded points around here for originality, the Republican leadership would certainly rate a 10.

But that is not all, Mr. Speaker. The amendments made in order by this rule are totally nongermane to the issue of reforming the campaign finance laws in this country. Let me give my colleagues just a sample of the amendments made in order in the name of free and open debate.

First, an amendment which would require unions to report their financial activities by functional category and which would require those reports to be posted on the Internet. Or how about this amendment that would require the President to post on the Internet the name of any passenger on Air Force One or Air Force Two within 30 days of the flight.

The rule makes in order many other amendments, but can someone please tell me what this amendment has to do with campaign finance reform? The rule entitles the gentleman from Virginia (Mr. GOODLATTE) to offer an amendment to each and every substitute which seeks to repeal motor voter. The point is, Mr. Speaker, this rule, like the first campaign finance rule, is specifically designed to ensure that the House will never get a clean up or down vote on Shays-Meehan. We will go through the futile exercise of amending 11 substitutes that are germane and 258 nongermane amendments, and only then, after we go through the entire process, will we be able to determine if there is in fact a winner. Quite frankly, Mr. Speaker, this process does not allow for a winner. It makes us all losers.

The Republican leadership has kept its promise to allow debate on campaign finance reform, but this process is too clever by half. This is a ruse, and none of us should forget it for a moment.

In order that the House might have the opportunity to actually reach a decision it is my intention to oppose the previous question on this resolution. Then, Mr. Speaker, should the House defeat the previous question, it will be my intention to offer a rule which mirrors the rule proposed in the original discharge petition on campaign finance. That rule, of course, was designed to allow the House to actually reach an end to the debate on the question of campaign finance reform. The substitute rule will allow for 1 hour of debate on each of 11 substitutes. It will allow the House to choose under a most-votes win procedure which of the substitutes is a preferred vehicle for further amendment. Once the House makes that choice, there would be 10 hours to consider germane amendments. The rule I propose, Mr. Speaker, would place a reasonable time frame of consideration of campaign finance reform.

That being said, Mr. Speaker, I would urge every Member of the House to oppose the previous question and to support the rule which I will offer.

In any case, Mr. Speaker, I would like to take this opportunity to notice my intention to support an important germane amendment to the Shays-Meehan substitute. As Members who have studied the history of campaign financing are aware, when the Supreme Court handed down its decision in Buckley v. Valeo in 1976, it struck down one of the four essential pillars of the campaign legislation passed by the Congress and, as a result, left an unbalanced and unstable package standing. Because the entire act was designed to be a package, when the Court struck down one part, the campaign finance laws were left without an essential component which had been envisioned as critical to making those reforms work.

Therefore, it is my strong belief that if we are going to create new campaign finance laws, it is critically important that any legislation should include a nonseverability clause so that the entire package will stand or fall even if one component might later be struck down by the courts. Should this happen, Mr. Speaker, without a nonseverability clause, we will be right back where we are today.

Mr. Speaker, I reserve the balance of my time.

□ 1350

Mr. LINDER. Mr. Speaker, I would just like to take a moment to point out that the gentleman who just spoke is supporting all kinds of campaign finance reform except that which would include regulating labor union contributions from whom he received $427,000 in the last campaign cycle.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DELAY), the majority whip of the House.

Mr. DELAY. Mr. Speaker, I rise in support of this rule, and I urge my colleagues to vote for an open and honest debate.

Mr. Speaker, my response to the gentleman from Texas who just spoke is, what chutzpa. What chutzpa. The gentleman is now against the rule after calling for open and honest debate, because this rule does not reflect exactly the way that he wants the rule to reflect; therefore, we need an open and honest debate.

Let me put this into perspective. After the last election, the Clinton administration violated campaign laws. Most people understand that, most people have seen it, using the Air Force One, Lincoln bedroom, raising money on telephones, going to temples, all of these kinds of things. In order to cover that, his party decided to call for campaign finance reform and have, for now well over a year, wanting open and honest debate right down here on the floor in this well.

They have called for open and honest debate. They want open and honest debate. Well, this rule grants us the opportunity to have that full and complete debate on the state of our campaign laws.

We feel that we ought to look at more than just limiting free speech, as the minority wants to do, but we ought to look at all of our campaign laws, those that have been broken, those that have the potential to be broken; look at everything about a campaign, not just finances.

Some of my colleagues are now complaining, complaining that the debate will be too open, too comprehensive, too complete. Well, when we first announced that we would have an open rule, some of these colleagues were exuberant. The gentleman from Maine (Mr. ALLEN) on the other side of the aisle said, this is great, this is exciting, after he learned that we would bring an open rule to the floor. My friend, the gentleman from Connecticut (Mr. SHAYS) said it was a great day for democracy. Fred Wertheimer, Fred Wertheimer of Common Cause said it was a real breakthrough. But now the so-called reformers are complaining because this debate will be too open for their taste.

Well, apparently, the only kind of open debate they want is the debate on their proposals. In their minds, the only reforms worth real discussion are their reforms.

Well, I think this attitude is typical of the wider debate. The reformers believe that the campaign system is so corrupt, so broken that government has to step in and regulate political expression and freedom of speech. They are so convinced of the morality of their own position that they refuse to entertain other ideas of true reform. Today they want to limit debate on their own proposals, rather than open it up to the free market of ideas. And this rule allows that free market of ideas to work on this floor. I am looking forward to it.

Now, in my view, the real reason we are having this debate at all is because of the abuses of the Clinton campaign in this last election. The administration wants to change the subject. They remind me of the boy who killed both of his parents and then begged for mercy because he was an orphan. The Clinton campaign brazenly broke the campaign laws, and then begged for mercy, claiming the campaign system was broken.

We need to have debate on these laws that were broken. We need to have a better understanding of why we are here today so that we can better understand where we are headed.

So I urge my colleagues to support and vote for the previous question and vote for this rule so that we can get to the debate.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Speaker, 3 years ago Speaker Gingrich and President Clinton shook hands on national television, promising to tackle campaign finance reform and to restore the American people's faith in our electoral system. Since that time, the Republican leadership has done everything in their power to block campaign finance reform and to keep the spigots of special interest money flowing.

First, the Speaker and the Republican leadership simply tried to ignore the promise that they made to the public. Apparently, a man's handshake does not mean what it used to.

Next, under mounting public pressure, the Republican leadership tried to fool the American people with so-called reform that they rushed through without debate, and then virtually every major newspaper and public interest group called this maneuver a sham.

Finally, after a discharge petition threatening to force a full and an open debate on campaign finance reform, the Republican leadership devised a new strategy to kill it, and that is the process we are in now. It is called "Death By Amendment." That is right. Instead of allowing a clean vote on a bipartisan Meehan-Shays bill, they are trying to amend it to death with irrelevant riders and killer provisions.

We say, well, how many amendments? Mr. Speaker, 258 amendments. That is right. The Republican leadership has crafted a rule permitting 258 amendments to divide, to derail, to destroy any possibility of substantive, bipartisan reform.

A lot of these amendments do not even have anything to do with campaign finance reform. They are poison pills. They are what we call booby traps, and each of these amendments, if adopted, could open a floodgate of new amendments. These amendments are the legislative equivalent of a ball and chain designed to cripple campaign reform so that they can push it overboard and watch it sink.

The Los Angeles Times calls this Republican strategy a dirty ploy. The New York Times calls it GOP trickery. I call it shameful. Polls in this country show that 90 percent of Americans think our campaign finance system needs fundamental change or to be completely rebuilt. But the Speaker has said that the problem with our political system is not the lack of reform, but that we do not spend enough money, we do not spend enough money on campaigns.

Mr. Speaker, Americans do not want more special interest money in elections; they want less. And they are tired of seeing campaigns that cost tens of millions of dollars. They are tired of seeing their TV sets flooded with nasty attack ads, and they are tired of outsiders turning their communities into war zones where special interest groups launch air wars that drown out local candidates, local issues, and the voices of individual voters.

Mr. Speaker, the American people want campaign finance reform. Why do you not honor, why do you not honor that handshake?

Today I call on you and the rest of the Republican leadership to stop the cynical charade. Americans want real reform, no more talk, and they want it now. They do not want it in 7 weeks, they do not want it on a promise. We have heard those promises before. I say to the majority leader, we have heard those promises over the last 3 years. Three years after your handshake, the time has come. Not for the strategies of "do little, delay, death by amendment," but a strategy of real reform. Let this House have a clean vote on a bipartisan Meehan-Shays bill and let us start to clean up America's political campaign finance system.

Mr. Speaker, I urge my colleagues to vote "no" on the previous question, "no" on the rule. We need to go back to the process established on the discharge petition with an up-or-down vote on reform and time limits on amendments.

I see the gentleman from Georgia (Mr. LINDER), the king of raising money in this institution, as well as my friend from Texas (Mr. DELAY); and he is going to get up and he is going to suggest to those in the public that we have been receiving campaign contributions. All of us have. Every one of us has. The question is, how are we going to reform it now? We stand ready. They do not. That is the difference. Let us get on with reform.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. MCINNIS), my colleague on the Committee on Rules.

Mr. MCINNIS. Mr. Speaker, I am amazed at the statement that the gentleman from Michigan makes. He talks about the spigots of special money flowing. That is a quote from the gentleman from Michigan.

The gentleman from Michigan takes 57 percent of his money from political action committees, and most of that political action committee money comes from labor unions. Well, guess what? Some of us kind of agree with the gentleman. Maybe there ought to be an amendment that addresses that union money the gentleman gets and that PAC money he gets.

But the gentleman from Michigan, in my opinion, stands in front of all of us and says, hey, what is this open rule? What do you mean, somebody else besides me has amendments? What do you mean, somebody else on this floor may be entitled to their opinion on what this bill should or should not contain? If it is what I agree with, let us have a closed rule. That is the only thing we ought to debate.

But the gentleman is telling me that SCOTT MCINNIS from Colorado wants to prevent contributions in a swap to ride on Air Force One? Why should SCOTT MCINNIS be allowed to offer an amendment on that? I say to the gentleman from Michigan, it is all fine and dandy when the gentleman gets his bill heard, or when he gets his amendment, but I happen to be one of those 270 amendments. In fact, I have several of those 270 amendments, and I think I am as entitled to debate that on this House floor as the gentleman is.

I am more than happy, and I am going to put in the RECORD the amount of money I get. I do not think it is rotten money. I think it is a right to be an American, a right of being an American to contribute to candidates one likes and to contribute against candidates one does not.

Now, obviously the key is disclosure, and I do not mind disclosing every Friday afternoon on the Internet who gave money to me. But do not prevent me from being competitive with the Al Checcis of California. If someone does not like who contributes to me, vote "no," but do not take the money like the gentleman from Michigan and then stand up here and say how horrible that money is.

Mr. Speaker, 57 percent of that money came from political action committees. And yet the gentleman says, and I repeat it, "spigots of special money." Come on. Let us get a debate here.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, look, what is the difference between rule 1 and rule 2? Rule 2 allows nongermane amendments, 258. Why do they want nongermane amendments? That is not the traditional pattern on this floor. Is it to promote free speech? Not for a moment. My colleagues tried earlier to choke campaign reform.

Mr. LINDER. Mr. Speaker, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Georgia.

Mr. LINDER. Is the gentleman seeking a response?

Mr. LEVIN. Yes.

Mr. LINDER. Mr. Speaker, we are allowing nongermane amendments because many Democrats, as well as Republicans, asked for their amendments to be made in order.

Mr. LEVIN. Mr. Speaker, reclaiming my time, I say to the gentleman, I think every Democrat would be glad to withdraw them if the gentleman will withdraw his nongermane amendments. Would the gentleman agree to that?

Mr. LINDER. Mr. Speaker, if the gentleman will yield further, I have the good fortune of not having any amendments.

Mr. LEVIN. Mr. Speaker, will the gentleman agree to that?

Mr. LINDER. Mr. Speaker, I will agree to withdraw any amendments that I was going to propose.

Mr. LEVIN. No, no. Will the gentleman agree to ask all the Republicans to withdraw all their nongermane amendments if we get all Democrats to do that?

No, no, I will take back my time.

The reason the gentleman does not want to do that is because allowing nongermane amendments is a strategy, it is a tactic. At first the gentleman tried to choke campaign reform with a very restrictive rule and attacked it. Some of the gentleman's own Members rebelled with virtually all of us Democrats. So that did not work, and now essentially the gentleman wants to drown it.

I heard last night some of the Republican Members, I say to the gentleman from Georgia (Mr. LINDER) coming up here and talking about left-wing Democrats who want campaign reform, who want Shays-Meehan, like JOHN MCCAIN, that left-wing Democrat. I understand FRED THOMPSON supports it, that left-wing Democrat; the gentleman from Connecticut, CHRIS SHAYS, is he a left-wing Democrat?.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER) for yielding me this time. I appreciate his work on the Committee on Rules in developing this rule.

I support the rule that is before the House today making in order a number of amendments to various campaign finance proposals before us. I have a stake in this fight. There is the freshman bill, the Hutchinson-Allen bill that is before this body is the base bill, and yes, there are many amendments that have been offered even to that base bill.

Mr. Speaker, I believe that it is important for the American public and important for this body that we have an open and fair debate. In the short time that we have engaged in this debate thus far, I think the American public has seen ideas expressed on this floor. I believe it has been an education process. It is helpful for people as they evaluate the direction of our country on this issue.

I want to respond to the minority whip, the gentleman from Michigan (Mr. BONIOR), who talked about promises not being kept. First of all, the propositions that were made by the Speaker were in reference to the Commission bill that a commission be formed. That was voted on yesterday and defeated on the House floor, but the Speaker supported that, even though many Democrats opposed it.

The Republican leadership, I am delighted, have created this rule that is an open and fair debate. Perhaps we all got into this reluctantly, but we are here now; and I am also pleased that a deadline has been set in which we can complete this reform battle, and that we will have a final vote on campaign finance reform on this floor.

□ 1545

I think this is tremendous progress. I am concerned about amendments that are offered, but it is both the Republicans and the Democrats. The Democrats have offered 74 amendments requesting the Committee on Rules to approve those amendments for consideration on this floor. I believe over 20 of them have been offered by the gentleman from Massachusetts (Mr. MEEHAN), the gentleman who has offered one of the campaign reform proposals.

So we all need to withdraw and to restrict the debate, perhaps, in terms of looking at the amendments. Are they substantive? Are they political? Are they making statements? Do they poison the debate?

And I believe we need to complete it sooner than August. We need to complete it by mid-July, and I am asking for support for the rule for this very important debate.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I rise in opposition to this second rule on campaign finance reform. As the New York Times editorialized yesterday, "NEWT GINGRICH and other foes have lined the road [to reform] with mines and booby traps."

The Washington Post reported yesterday that "the House leadership continues to mock its promise to allow a clean vote on campaign finance reform."

Mr. Speaker, this rule will result in 250 amendments potentially being offered to the Shays-Meehan bill. It is an attempt, and no one is fooled by this blatant attempt to drown the Shays-Meehan bill by frivolous amendments. Just as anti-reformers in the other body have filibustered the McCain-Feingold bill, it is clear that the defenders of the status quo in the House hope to manipulate the legislative process.

As I listen to the debate and as we prepare for the debate, this going back and forth where they check all the Members' reports and then come out and attack every Member for how much money they raised and where they raised it from, the reality is all that serves to do is undermine the debate.

Why do we not have a nice, clean, honest debate about the need to reduce the role of money in politics? But instead, we are scurrying around doing 1½ minutes' worth of opposition research trying to embarrass any Member of the House who comes to the floor to fight for reform.

This reform legislation which is going to come before the House has nothing to do with the campaign finance reports of any Member of this House. What it has to do with is making soft money illegal. What it has to do with is making the independent expenditures that are polluting campaigns all across America not illegal, but to allow disclosure so people in America know who is funding what in terms of ability to influence elections.

The Shays-Meehan bill is bicameral. It is bipartisan. We deserve an up-or-down vote. We should not have this vote cluttered by 250 amendments.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER) for yielding me this time.

Mr. Speaker, I support the rule. I do not think we can have campaign finance reform outside of the context of election reform. There are certainly those in this House who would like to talk about only one element of what is wrong with our campaigns. This rule allows more than that to happen.

How do we enforce the laws we have? The White House has done a great job since November of 1996 talking about the fact that the reason they violated the laws that we had was because we did not have enough laws. Nobody believes that. The worst thing we can do when people do not obey the rules is create more rules.

Mr. Speaker, if we have teenage children at home and they are not obeying the rules, the last thing we do is say we are going to double the number of rules. We have to debate in this context how we enforce the rules. Enforcing the rules matters. That has to be part of this discussion.

Somebody raised the issue of motor-voter, whether that related to campaign finance reform. We have really made it impossible for local jurisdictions that used to do a good job maintaining the integrity of their voter rolls to do that. Money is spent to turn out votes of people who are not on the voter rolls. That is definitely an election reform, it is a campaign finance reform.

Certainly this rule is an open rule, but it is going to end in 7 weeks. We heard that commitment. This debate is going to go on as we have time for the next 7 weeks. Seven weeks is an important amount of time to talk about the future of the election process in America.

We clearly do not talk about this very often. We are talking now about reforms that were made a quarter of a century ago. We can spend 7 weeks talking about the reforms that are likely to be the reforms for the next quarter of a century. We need this open rule. We need a broad debate. We need this rule. I support it.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the speakers on the other side are, of course, very fast and loose with facts and with innuendo. The White House has never said they violated any campaign law during the last election. The only person convicted of violating the campaign law in the last 2 years is the gentleman from California (Mr. KIM), a Republican Member of this House.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, we are voting here today on a rule. Let us be clear what that rule does. That rule allows over 100 amendments that are nongermane, which means unrelated to the bills we are about to take up.

This is a sham. It is an attempt to defeat the real proposals that are before this House. We have already adopted a rule that allows germane amendments, that means amendments related to the bill, to come up in an unlimited number. So why should we be allowing unrelated amendments now to come up?

And what exactly are the merits that are not being addressed here today in substance, but being addressed in an attempt that drown it in extra amendments? A ban on soft money, those unlimited sums of money that are given both to the Democratic and Republican Party that should cease and which cannot be, in my judgment, rationally defended on the floor of this House.

Secondly, outside interest groups running political ads in congressional districts around the country. Anonymous political advertising. Groups that have maintained that the courts say they have a right to do anonymous political ads. Ridiculous.

These are the merits of the issues. This is what we need to debate. We do not need to adopt a rule that allows unrelated issues exceeding 100 in number to come up and cloud the facts.

Mr. Speaker, we should get to the facts, get to the merits. Ban soft money. Say that anybody that cares to run television commercials in congressional districts around the country must put their names on those ads. People are entitled to know who is at work. Let us defeat the rule.

Mr. LINDER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think it is interesting that the gentleman from Florida (Mr. DAVIS), who just spoke against this rule because it was too open, put out a press release on March 30 of this year where he said, "The Republican leadership has deprived the House of Representatives of a fair debate on cleaning up our campaign finance system.

Instead," he said, "instead the leadership is using a parliamentary maneuver that grossly limits debate and prevents any amendments from being offered."

Well, Mr. Speaker, we are not. We are using a normal procedure to allow any amendment being offered, and now he is offended by that. I wish he would make up his mind.

Mr. Speaker, I point out to the gentleman from Texas (Mr. FROST) when he said the White House has never said they violated any campaign laws that, no, I know that. They have never admitted to anything they have done, nor will they.

But the fact of the matter is, the President did say on tape, with his face showing on the tape, that "We discovered we could raise gobs of money in 50- to $100,000 chunks through this loophole in the law and put it on the air." Now, when a candidate spends over the $70 million money that the taxpayers give him is illegal on its face.

Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Speaker, I really do not understand why the other side would be so surprised that there are so many amendments being offered on these bills. When we have bills that so blatantly trample on constitutional rights, I think those of us on the other side have an obligation to introduce amendments to try to prevent that from happening.

Justice Holmes in a case of *Abrams* v. *U.S.*, 1919, in speaking about political campaigns, said that "The ultimate good desired is better reached by free trade in ideas; that the best test of truth is the power of the thought to get itself accepted in the competition of the marketplace."

Most of these bills introduced drastically diminish the rights and opportunities for individuals who are not candidates to participate in the political system. I have heard some on the other side today say we have to reform the way the candidates receive their money, and yet these bills do not talk about the way candidates receive their money. It talks about the way other people who are not involved in the political system spend their money.

Then we hear so much about special interest. And I have asked many of them what is a special interest, and I never do get an answer. But I finally have come to the conclusion that if someone does not like someone else's views, then that is a special interest. But if they like the views that are talking about, then they are probably good and wise public advocates.

Then we also hear about we have got to know who runs these ads. If we look at these ads on television or radio, there are disclaimers that say who paid for them.

The minority leader recently introduced a constitutional amendment saying we have to change the Constitution if we are going to pass some of these bills. And yet when it came up for a floor vote, only 29 Members voted for it. Yet despite that, some of our colleagues still want a restrictive rule to aid and abet their tampering with our cherished First Amendment rights.

On a subject matter this important, the American people deserve the opportunity to listen to all sides of the debate, even if it is 400 amendments. So what are they afraid of? They are afraid that an open debate will reveal that Federal courts and the Supreme Court have consistently struck down FEC regulations that diminish the speech-crushing provisions of the legislation they are bringing to the floor.

They are also afraid that the American people will realize that their proposal does not address the abuses which occurred during the Clinton-Gore scramble for cash in the 1996 elections. They do not address fund-raising in Buddhist temples. They do not address banning fund-raising in the Lincoln bedroom. They do not address banning making phone calls from the White House. So that is why we need this open rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I take money from working people in this country for my campaign, from teachers, carpenters, electricians, nurses, and I am proud of those dollars from those folks.

Mr. Speaker, I tell my colleagues what I do not do. I do not take tobacco dollars and I do not try to kill tobacco legislation because I am in the pocket of the tobacco companies.

But I will tell my colleagues who is. Today's Washington Post: "GOP Kills McCain Tobacco Bill. The bill's demise was a victory for the Nation's leading cigarette makers who have spent millions lobbying against it, in addition to making substantial contributions to the Republican Party."

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, I would like to inquire as to whether it is in order for the gentlewoman from Connecticut (Ms. DELAURO) to be talking about another subject when we are talking about this rule.

The SPEAKER pro tempore. The debate should be focused.

Ms. DELAURO. Mr. Speaker, this is the campaign finance rule, as I understand.

The SPEAKER pro tempore. The debate must be relevant to the rule.

Ms. DELAURO. Mr. Speaker, campaign finance is relevant to the campaign finance rule.

Mr. Speaker, take a look at the amount of money that tobacco companies have provided to the Republican committees in 1996: $4.5 million. Now, if they want to tell us that they do not hold up legislation because of the money they take from the tobacco lobby, just listen to the words of one of their own.

□ 1600

Linda Smith from Washington State, Wall Street Journal, 2 days ago, she says that she discovered that it was commonplace for the GOP majority to hold up action on bills while milking interested contributors for more campaign contributions. I said, we do that? Is that not extortion?

Let me just say, the America public is very clear on what our Republican colleagues are doing. They have put up this rule which has 258, and it may be 270 according to the gentleman from Colorado, amendments that do not have anything to do and are nongermane to the issue of campaign finance reform.

Americans are not fooled. The New York Times calls their tactics "death by amendment," a filibuster in disguise. The Los Angeles Times calls it a "dirty ploy." Even Republicans admit that they are selling snake oil. The gentleman from Illinois (Mr. LAHOOD) has said, we tried squelching it; now we are going to try talking it to death.

Oppose this rule. Let us have meaningful campaign finance reform.

Mr. LINDER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to me. I wish the gentlewoman from Connecticut would have yielded to me, because I wanted to ask a question.

It is all well and good to point out the contributions, and I appreciate the contributions, although her side claims all these contributions are corrupt. She failed to point out that Ted Sioeng that sells Red Pagoda cigarettes, Chinese cigarettes, gave money to her party and to the President of the United States when he was running for reelection. A little vignette that she failed to bring up.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, last night we had an opportunity to pass real campaign finance reform; and for the fourth time, the GOP leadership pulled it out from beneath us. I am beginning to feel a little bit like Charlie Brown running to kick the ball. Just as he is about to approach the ball, Lucy moves it.

The truth of the matter is, the GOP House leadership knows that if a real campaign finance bill hits the floor, it just might pass, and that scares them, and that is the reason that we have this convoluted rule, 258 nongermane amendments put in order.

In my entire congressional career, I have had maybe four amendments accepted by the Committee on Rules. Yet, this time, they have accepted 25 on this one issue alone, 25 of my own amendments.

To put it in perspective, in the last Congress, in the second session of the last Congress, 150 amendments were ruled in order. Yet, on this one bill, there are 258 amendments ruled. Rules are meant to guide the Congress toward a decision, not to delay. Vote against the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, leadership is about getting results. This rule that we are about to vote on ensures no leadership. It ensures a lot of talk, but no results. Campaign finance reform is complicated because we have to reform all of the law; we have to do the whole system.

It is ironic that I just heard the GOP leadership get up and say, we do not want to change the law, we just want to have a debate on a few amendments. Yet, yesterday, when my colleagues proposed to the House how we are going to deal with the complicated tax reform, their solution was to throw the whole thing out.

Today, we need to overhaul the system, but we do not have to do it by addressing 258 amendments. We need to have leadership that we have seen this House have before.

Let me show my colleagues what the history of this House is. In the 101st Congress, 1989 and 1990, H.R. 5400 was introduced by our colleague, Al Swift. It went through the House by a vote of 255 to 155. Fifteen Republicans voted yes. The bill was adopted in the Senate.

The 102nd Congress, 1991 and 1992, H.R. 3750 by the gentleman from Connecticut (Mr. GEJDENSON), voted off this floor, passed the House by 273 votes to 156 votes. That bill went on to conference and ended up going to President Bush on May 5, and he vetoed the bill. That bill did everything that all of these amendments are talking about, that all of this debate is talking about. We do not even have that bill as one of the major bills this time.

The 103rd Congress back in 1993-1994, when most of us came here, this passed the House in November 1993 by a vote of 255 to 175, another bill by the gentleman from Connecticut (Mr. GEJDENSON).

The point is that leadership is about getting results. Results are about getting a bill out of this House and a bill that is comprehensive, just like the bills that my colleagues were talking about yesterday for tax reform.

Defeat this rule, bring a substantive bill up, and let us pass that.

Mr. LINDER. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I thank the gentleman from Georgia for yielding to me.

Mr. Speaker, I want to associate myself with the remarks of the gentleman from Kentucky (Mr. WHITFIELD) just a few moments ago and to agree that when we have a proposal of this magnitude, it deserves a lot of discussion. When we have a bill that has such chilling potential limits on free speech and free expression that even the ACLU is horrified by its prospects, then the American people need to have a full and open debate about this issue; and that is what this rule provides.

Several weeks ago, the Committee on Rules passed a rule which outlined the debate for this proposal. It provided for 11 substitutes to the freshman bill. These substitutes include ideas offered by the gentleman from Wisconsin (Mr. OBEY), the gentleman from Massachusetts (Mr. TIERNEY), the gentleman from California (Mr. FARR), and others.

Today, this rule provides for even further important amendments which we believe will improve the proposals. But some of my friends on the other side of the aisle want to quash this debate. The minority leader has said that he will raise Holy Ned in order to defeat this rule.

This should not be about grandstanding. This is about passing a meaningful campaign finance proposal that provides for full and open disclosure. Let's always come back to that—full and open disclosure. Let's let the sunshine in and let the American people decide.

Day after day, my colleagues on the other side of the aisle complain about what they perceive as a stifling of their free speech rights when the Committee on Rules brings anything less than an open rule. What do we hear today? We hear complaints about too much debate. Either they want a free and open dialogue or they want to drive these unconstitutional proposals through this body with little debate. They cannot have it both ways.

The same free speech I am trying to protect today allows Members of the House to come before the people and debate subjects free from government restriction. I look forward to this discourse and believe the American people will not drive a hole through the First Amendment.

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from Georgia (Mr. LINDER) has 6½ minutes remaining.

The gentleman from Texas (Mr. FROST) has 8½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, we will vote on this rule shortly. This rule is designed to delay, continue the delay, and to destroy the ability to have campaign finance reform. It has been said here often that it is death by amendment. That is what is seeking to be done here.

I would hope we would reject this amendment. I would hope we would get on with the debate on the Shays-Meehan bill and the people would keep their eye on the ball.

We all understand exactly where we are today. We are in the middle of a system that the public has lost confidence in. We are in the middle of a campaign financing system in this House and the Senate and many other governmental bodies that is corroding the basis on which we make decisions.

We now see, after taking millions of dollars from the tobacco industry, the Senate kills the tobacco bill. We now see a Member from the State of Washington (Mrs. SMITH) saying that she has witnessed the people extorting or holding back legislation until they can continue to raise money. That is what is taking place. This leadership does not make any decisions until they calculate how in fact the money is taken. Money is considered in the presentation of bills, presentation of amendments.

The design here was, the Speaker shook hands with the President 3 years ago, and now we find ourselves, renounced by the minority leader, that by the August break, we will finish consideration and they will have accomplished their purpose, because they recognize that that leaves little or no time for the Senate to act on this legislation should we pass it.

So they have now kicked us into a new cycle of campaign financing where we see time and again the special interests just larding up Members of Congress, our committees, our campaign committees, the national committees of both parties.

We spend more and more money every year, and fewer and fewer people vote. If Coca-Cola did this, they would throw their board of directors out. If General Motors did this, they would throw their board of directors out. They would ask, what is wrong? What have we done?

We have chased people away from the campaigns. We have chased them away from participation in democracy.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I am proud to be a cosponsor of the freshman bipartisan bill, which is the underlying bill for this debate. I think it is a fair and a balanced approach, and I am eager to debate it.

I think people are starving for debate on this issue for the right reasons, not to divert attention from scandals, not for election year politics, not to give either party an advantage. I am excited about this debate, and I appreciate the leadership bringing this issue to the floor.

I do not share the concern about 258 amendments. I just finished serving in the Texas Legislature. When we would rewrite important parts of our law such as rewriting public education code, we would routinely have 400 amendments, because we had 400 good ideas and different ideas about what education needs to be. We worked through those amendments. We worked through the days. We worked through the nights. We finished with a good product.

I have found our colleagues have a lot of good ideas on how to reform campaign finance in America, and I want to hear them. I know that some of them, I disagree with. Some give parties an advantage rather than campaign finance reform. But rather than have either party select those amendments in the back rooms, I think they ought to be out front for America to debate, to hear, and to judge, and for the will of the House to prevail with the deadline in place for commitment to finish this bill and finish this debate.

I support this rule and welcome open, honest debate.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) has 6½ minutes remaining. The gentleman from Georgia (Mr. LINDER) has 5 minutes remaining.

Mr. LINDER. Mr. Speaker, does the gentleman from Texas have any more speakers?

Mr. FROST. Mr. Speaker, we have speakers, but they are not present on the floor at this moment, so I would ask the gentleman to proceed.

Mr. LINDER. Mr. Speaker, I would suggest to the gentleman from Texas that he close the debate, because I am prepared to.

Mr. FROST. Mr. Speaker, I am not prepared at this point to yield back the balance of our time. The minority leader is en route to the chamber, and he obviously wants to take part in this debate, and he should be given that opportunity.

I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, the Chair is going to have to determine whether he wants to recess, because we are ready to close the debate.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

Mr. GEPHARDT. Mr. Speaker, I urge Members to vote against this rule. As I said yesterday on the floor, I think the American people want us to get campaign reform, and they want us to get it in a timely manner so that it can actually get through the rest of the process here in the House, get through the Senate, become a law, and be able to go to the President's desk.

This rule is simply designed to increase the amount of time that we will spend. It is part, I think, of an effort to talk the bill to death. We have all the ability we need to have amendments to all of these different proposals that are germane to these proposals.

If we had a procedure here regularly that said nongermane amendments should be brought, that would be the rules of the House. Those are not the rules of the House. There is no earthly explanation for this rule at this time other than to delay the processing of this bill.

I think there is a bipartisan majority in this house for the Shays-Meehan bill; that is my sense, a bipartisan, bipartisan majority in this House for the Shays-Meehan bill. The only explanation anybody can give for voting for this rule is that they want it to delay this process so that this bill cannot become law this year.

This is not the right thing for the House to do. The American people want and demand a big first step in campaign reform. The Shays-Meehan bill is that.

I commend, again, the Members in the Republican Party who have worked so hard and long to get Shays-Meehan through this House. I commend the Members on our side. This is one of the rare moments maybe in this 2-year period that we have a real bipartisan effort of coming together to solve a major problem that faces the American society. Let us get it done.

Vote against this rule. Let us keep moving. We could have a vote on Shays-Meehan yet this week and get the bill back over to the Senate and get it to the President's desk. Let us vote today for campaign reform. Let us vote against this rule.

Mr. LINDER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge Members to vote "no" on ordering the previous question. If the previous question is defeated, I will offer an amendment to the rule that will place a reasonable timeframe on consideration of campaign finance reform.

□ 1615

Vote "no" on the previous question.

Mr. Speaker, I submit the following extraneous material for the RECORD:

PREVIOUS QUESTION FOR H. RES. 458-CAMPAIGN FINANCE REFORM

Strike all after the resolving clause and insert the following:

Resolved, That during further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, in the Committee of the Whole House on the state of the Union pursuant to House Resolution 442, each amendment in the nature of a substitute specified in House Report 105–545 shall not be subject to amendment except as specified in section 2 of this resolution.

Sec. 2. (a) It shall be in order to consider the amendment numbered 30 in House Report 105–567 to the amendment in the nature of a substitute numbered 13 by Representative Shays of Connecticut if offered by Representative Maloney of New York or Representative Dingell of Michigan. All points of order against that amendment are waived.

(b) After disposition of the amendments in the nature of a substitute described in the first section of this resolution, the provisions of the bill, or the provisions of the bill as perfected by an amendment in the nature of a substitute finally adopted, shall be considered as an original bill for the purpose of further amendment under the five-minute rule for a period not to exceed 10 hours. Subject to subsection (c) no other amendment to the bill shall be in order except amendments printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII.

(c) It shall not be in order to consider an amendment under subsection (b) carrying a tax or tariff measure. Consideration of each amendment, and amendments thereto, described in subsection (b) shall not exceed one hour.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual:

Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Members who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues:

Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. Speaker, I would further observe the irony of the back-to-back considerations yesterday and today on the floor of this House. I handled the rule yesterday on the question of abolishing the Internal Revenue Code. The majority gave us 1 hour of debate on the question of abolishing the Internal Revenue Code. Now they want to give us 7 weeks of debate on campaign finance reform.

It is obvious the majority does not want to pass campaign finance reform. It is obvious they wanted to pass the bill yesterday abolishing the IRS code. Let us not play games. Let us not pretend that something is happening that is not happening. This is not a procedure that is designed to pass legislation. This is a procedure that is designed to slowly bleed legislation to death. This is a procedure that will take the next 7 weeks with 258 nongermane amendments on top of all the amendments that are germane. This is not a serious procedure and no one should pretend that it is.

There are legitimate differences on what ought to be in campaign finance reform, but the other side has concocted a procedure that they now say will take us until August 7. Now, we have to do all the appropriation bills between that time and now. And if we get to August 7 and this still has not passed and still has not been concluded, then the other side is going to tell us, oh, we have all these Members that have travel plans, we have all these Members that want to go on junkets, get on airplanes and start their vacation, so we just have to let this thing slide on until September. And if it slides until September, then it may get lost as we are doing the continuing resolution and the supplemental appropriation and all those matters.

This is not a serious procedure. My friend the gentleman from Texas (Mr. DeLay) and my friend the gentleman from Georgia (Mr. Linder) are not serious about this. We all understand that. They say this with a smile on their face. And there is a good reason why there is a smile on their face, because their hands are "like this" behind their back. They do not want this matter to be concluded. And I understand why they do not want it to be concluded. I have some differences of opinion with some of these proposals. But I want to see this brought to a final vote in an orderly way. It is the least we can do for the American public.

Mr. Speaker, we should defeat the previous question. Let us bring order to this. Let us not spend the next 7 weeks debating this legislation, and then maybe we get at the end of the 7 weeks and everybody has to get on an airplane and we cannot quite finish. Vote "no" on the previous question. Let us have a reasonable rule and let us get on to a final vote on campaign finance reform.

Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself the balance of my time.

This entire debate defies credulity. We have Members releasing press releases in March castigating the Republican majority for closing the rule on debate, and then getting a totally open rule and standing up here opposing the rule because it is too open and allows too many people to make too many amendments.

We had the gentleman from Texas talking about concocting a procedure. Concocting a procedure. This is an open rule. This just says that anyone who has an amendment may be allowed to offer it. This debate begins with the gentleman from Michigan, the minority whip, saying the money spigots are open. The money spigots are open and will remain open under every one of these proposals being debated, because none of them touches the money that unions spend on elections, 99 percent of which goes to Democrats.

A Rutgers University study in the last cycle said that the labor unions spent between $300 and $500 million on politics. That is more money than is spent by the Republican and Democrat parties combined. But they do not want to touch it. That is money that is forcibly taken from the members and spent on candidates that the members may not support.

They do not want to change that. That is money that is not even recorded or reported. They do not want to change that. No, they want to stop money from legal companies or corporations where their shareholders can sell their stock if they do not like what the corporation does. The union member has trouble leaving the union and getting a job. No, those money spigots will remain open because none of these bills touches labor union monies, because that all goes to Democrats.

We then heard from the gentlewoman from Connecticut who wanted to discuss the tobacco issue. I hope she did not embarrass the gentleman from Texas (Mr. Frost), because he took $16,000 in tobacco money in the last several years. But at least he took legal tobacco money from legal American corporations. It appears that the only tobacco money that the gentlewoman from Connecticut appreciates is illegal tobacco money from China, because we know that Ted Sieong, the largest distributor of Chinese cigarettes, or of cigarettes, Red Pagoda, gave huge sums, hundreds of thousands of dollars, to the Democrat party, to the Presidential campaign.

And when we seek to ask him about it, to see if current laws are being violated, if there is current breaking of current laws, the Democrats on the Committee on Government Reform and Oversight march in lockstep, 19 of them, to say, no, we do not want this testimony, we do not want the American people to hear, we do not want any of these people investigated.

We now have 94 people who are under suspicion for illegal activities in campaign fund-raising and campaign contributions who have either left the country, taken the Fifth Amendment, or refused to testify. And when the committee sought to subpoena them, those 19 Democrats marched in lockstep to say, no, we will not allow their testimony to be heard, we will not allow the American people to understand what laws have already been broken.

We know what laws were broken. The gentleman from Texas said that the White House has not admitted to breaking any laws. The White House does not admit to anything. The fact of the matter is this White House has been accused of a lot of things, and at no point did they say they did not do it. They said it has not been proven. They said they have not been charged, there is no evidence, but they do not deny.

And the President himself said on tape, we found a loophole. We used, yes, this bad soft money that they want to abolish. The President used it. And he put it on the air. And he, according to his words, improved his standing in the polls using large sums of soft money illegally.

When the President, when the Presidential candidates take $70 million from the taxpayers, they also are bound by the Federal laws not to spend a penny more. That is precisely what happened with Bob Dole. This President spent that, and what he admits to is $44 million more. No, he has not admitted to doing wrong in front of the public, only on a tape. Only on a videotape.

There is a problem with our campaign finance laws. We have two systems, a Presidential system, where they get $70 million from the taxpayers, report all their spending and spend no more; and we have the congressional system, where we report everything. The Presidential system is one that was broken, and that is not the one being addressed here today.

I urge my colleagues to defeat the previous question and support this rule to get on with the debate.

Mr. DAVIS of Florida. Mr. Speaker, I rise in opposition to this second rule on campaign finance reform. I think it is ridiculous that we are spending this time debating a rule when we could be spending this time debating the merits of the issue—meaningful campaign finance reform and a ban on soft money.

The rule we are currently debating makes in order an unprecedented 258 NON-GERMANE amendments. Amendments that do not relate to the underlying Substitute Amendment. We do not need this rule.

The House has already approved a rule governing debate that provides for a fair and open debate. That rule allows the consideration of an unlimited number of germane amendments. That means, Mr. Speaker, that the amendments offered must relate to the underlying Substitute Amendment. That is a fair process.

This new rule and the huge number of amendments it makes in order is unnecessary. In my opinion, it is also designed to prevent this House from ever completing consideration of campaign finance reform.

Earlier this year, I opposed the Leadership's efforts to limit the debate on this very important issue by bringing up bills under Suspension of the Rules thus prohibiting members from offering amendments. The Leadership responded to member defeat of that proposal by bringing forth a rule which made Bipartisan Campaign Integrity Act (the so-called Freshmen Bill) in order. That rule also made 11 substitute amendments and unlimited germane amendments in order. This Mr. Speaker is a fair and open process, and we already have that rule.

The Rule before us now is not a fair process because it allows non-germane amendments. An outrageous number of them at that.

Mr. Speaker, I urge my colleague to defeat this Rule. Let's put these delay tactics behind us and get on with the real business at hand—meaningful campaign finance reform.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. CALVERT). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 221, nays 194, not voting 18, as follows:

[Roll No. 246]

YEAS—221

Aderholt
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—18

Archer
Armey
Becerra
Clayton
Cooksey
Gonzalez
Green
Gutknecht
Hastings (FL)
Lewis (GA)
Martinez
McNulty
Parker
Strickland
Sununu
Torres
Towns
Weldon (FL)

□ 1643

Messrs. OBEY, HILLIARD and STOKES changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. CALVERT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 189, not voting 23, as follows:

[Roll No. 247]

AYES—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—189

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—23

Clayton
Cooksey
Danner
Dunn
Gekas
Gonzalez
Green
Gutknecht
Hastings (FL)
Jenkins
Lewis (GA)
Lewis (KY)
Martinez
McNulty
Mink
Parker
Portman
Regula
Schumer
Sununu
Torres
Towns
Weldon (FL)

☐ 1652

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2183.

☐ 1654

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. CALVERT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, June 17, 1998, the amendment by the gentleman from Washington (Mr. WHITE) and printed in the CONGRESSIONAL RECORD as amendment No. 16 had been disposed of.

It is now in order to debate the subject matter of the amendment printed in the CONGRESSIONAL RECORD as No. 13.

Pursuant to House Resolution 442, the gentleman from Connecticut (Mr. SHAYS) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts (Mr. MEEHAN) be allowed to control half of the time. To my understanding that would be 15 minutes; is that correct?

The CHAIRMAN pro tempore. The gentleman is correct.

Without objection, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) each will control 15 minutes.

There was no objection.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a distinct honor to present before this Chamber the Meehan-Shays amendment in the nature of a substitute to H.R. 2183.

This substitute provides a soft money ban on both the Federal and State levels for Federal elections; it recognizes that sham issue ads are truly campaign ads and treats them as campaign ads; it codifies the Beck decision; it improves FEC disclosure and enforcement; it provides that unsolicited franked mass mailings be banned 6 months to an election; and it requires that foreign money and money raised on government property is illegal.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise in opposition?

Mr. THOMAS. Mr. Chairman, I rise in opposition.

The CHAIRMAN pro tempore. Is the gentleman opposed to the amendment?

Mr. THOMAS. I am opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from California (Mr. THOMAS) is recognized for 30 minutes.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I am pleased that we have begun the process. As part of the structure around here, to be able to get time, you have to be in favor of or opposed to. The fact of the matter is, given the time that I have been involved, which is now two decades, in working on campaign reform, I am frankly, on every one of these bills opposed in part and supportive in part, and I will participate extensively in this process.

My goal will be to try to create an orderly process, one that is comprehensible and in which, to the extent possible, we create periods of time in which what we do is comprehensible to the folk outside as well as those of us who are carrying on the debate.

□ 1700

As the chairman of the committee that has jurisdiction, as I said, I have mixed feelings on a number of these bills because we have been wrestling with the way in which the system might be changed for some time.

What I want to do at the beginning of this debate is to set a tone, not on this particular bill, but on most of the bills that we will be looking at in a general sense because frankly the shadow of the Supreme Court is over us in the process of discussing campaign reform. It is over us because the Court has repeatedly said that the First Amendment is vital and critical, and where Congress steps over the line the Court will correct Congress in making sure that fundamental First Amendment freedoms of expression and assembly are maintained.

But the Court stands over us in another way, because after the Court said that, all I want to know, how come the Court is able to say that. We have three clear independent branches in the Constitution, and nowhere in the Constitution does it say that the Court can tell Congress that what it did was unconstitutional. Nowhere am I aware that the oath of office taken by Members of Congress is somehow inferior to the oath that members of the Supreme Court take.

Now obviously the answer is historically the Supreme Court usurped that power, and it has never been taken away, and so they have the power of judicial review whether it is in the Constitution or not.

But because of the ability of the Court to tell the Congress that, "Perhaps in part you were constitutional and in part you were unconstitutional," it creates a dilemma for us as we debate change in campaign finance laws and the manner in which we conduct our elections.

Mr. Chairman, what I have in front of me is a chart to illustrate the way in which the current law is in fact a product of the Supreme Court. It is not a product of Congress. If my colleagues look at the original Federal Election Campaign Act, there were a number of areas where the Congress acted comprehensively, as we are attempting to do now on a number of these bills. It not only dealt with individual contributions limits, it dealt with spending limits for elections. Congress passed a limit per election. Congress passed a limit on independent expenditures per election. Independent expenditures will come up time and again, both in substitutes, and in amendments being treated in a number of different ways. For those of my colleagues who have not been involved in this process as extensively as some of us, understand that back in the early 1970s the Court said, "Notwithstanding Congress' desire, it's overturned."

If my colleagues look down here in terms of limit on candidates' personal funds, we talk about millionaire candidates and how we have to deal with that. Congress dealt with that, but the Court overturned that portion. And in fact the original structure of the Federal Election Commission was overturned by the Court as well.

My point is that for the last quarter of a century we have been dealing with a law which was not the way the Congress created it. The congressional package was far more comprehensive and rounded, notwithstanding the fact that the Court said portions of it were unconstitutional. Many of the problems we have wrestled with find their basis in the Court picking and choosing a comprehensive plan and not allowing a comprehensive plan to go forward.

A lot of the debate over these substitutes over the next several weeks and even perhaps months will be about how our plan deals with the problem in a comprehensive way. What I am here to tell my colleagues is that if someone tells them their plan deals with the problem in a comprehensive way, but it has a severability clause, it "ain't" going to be comprehensive in all likelihood. It means we will turn the clock back, we will send this legislation out into the world, and in the process of its examination the Court will overturn portions of various bills, and we will be living with a makeshift structure.

We have done that, Mr. Chairman, for the last 25 years. Let us not create the opportunity for doing it again.

And that is why on this particular bill, because it contains a severability clause, and on every comprehensive substitute which contains a severability clause, or is silent, because the Court, if it is silent, can go ahead and chop it up the way it wants to, will offer an amendment which will say that the comprehensive package that the Congress offers stands or falls as a structure.

Now this is not an attempt to destroy the process. It is an attempt to retain Congress' ability to define what the law is. Notwithstanding bipartisan efforts over the last quarter of a century, we have not been able to make adjustments that my colleagues would think would be reasonable and prudent. The Court made its adjustments. We were never able to come back and make ours.

Now what happens if the Court strikes down one of these provisions when there is no severability? Well, we are back here rewriting. But I think that is a far better position to be in than to leave the final product up to the United States Supreme Court.

And so I will offer a severability clause, and I am pleased to tell my colleagues that in a July 1997 publication by the gentleman from Massachusetts (Mr. MEEHAN), notwithstanding the fact that it was in reference to the comment of the gentleman from Texas (Mr. FROST) about a severability clause, and the gentleman from Texas joins me in this effort, I might mention, talked about the advantages of not having severability.

And so, as we begin this process, I want to focus our attention on whatever product it is that Congress generates. If we believe strongly enough, and if the House works its will, we ought to believe strongly enough to make sure that the Court does not get to write the law in the final process. The only way we can guarantee that is to make sure there is no severability clause.

And, as I said, I propose to offer an amendment to each of the major substitutes that has as a provision severability. It is not good. It lets the Supreme Court control us. It lets the Supreme Court write the law as it has done for the last 25 years.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in strong support of the Shays-Meehan substitute, and I want to commend my colleague, the gentleman from my home State of Connecticut (Mr. SHAYS) and the gentleman from the neighboring State of Massachusetts (Mr. MEEHAN) for their bipartisan effort to introduce meaningful finance reform here today. No less than the integrity of our election system and the confidence of the American people and their elected officials is at stake here today. Passage of the Shays-Meehan bill will begin to correct the abuses of the current system of financing political campaigns.

The issue is clear, Mr. Chairman. One is either for the Shays-Meehan or against it. Opponents will try and muddy the debate with nongermane amendments. We must remain focused, and we must not be diverted by these amendments. After months of delay it is finally time for action.

Again may I congratulate my colleagues the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their perseverance, for their commitment in bringing this vital piece of legislation to the floor.

Vote no on diversionary amendments and yes on a clean Shays-Meehan.

Mr. SHAYS. Mr. Chairman I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I too rise today in support of the Shays-Meehan substitute to H.R. 2183, the Bipartisan Campaign Integrity Act.

The 1996 presidential campaign has made it unmistakably clear that our election system needs to be reformed. In fact, recent studies and polls indicate that the American public is cynical about our current system of campaign finance. Many believe that the size of the donation is directly related to the amount of access to power. Nonetheless, it has been a long and difficult fight to bring an open legitimate campaign finance debate to the House floor.

In fact, a couple of months ago the future of campaign finance reform was looking very dim. There was a possibility that a real campaign finance reform debate might not have occurred at all.

While the fight to bring in debate to the floor is almost over, the fight to see reform signed into law has just begun. Reformers who want to see changes signed into law must rally around one bill that has the best chance of passing. That bill is a Shays-Meehan substitute which has received strong bipartisan support.

I do not have time to go through all the things that it does, but banning soft money, dealing with the whole issue of redefining issue advocacy laws and, of course, leveling the playing field with wealthy candidates are important steps that need to be looked after.

This bill is not only supported by bipartisan Members in both the House and the Senate, but also by outside groups who represent the will of the American people in this area. It has been endorsed by 35 nonpartisan interest groups, including Common Cause, Public Citizen and the League of Women Voters. Furthermore, the Shays-Meehan substitute is also supported by the Boston Globe, the Los Angeles Times, the New York Times and the Washington Post, some of our more thoughtful newspapers.

As the debate unfolds, my colleagues will see every stop pulled, every method tried and every tactic used by those who oppose real campaign finance reform. One strategy will be to drag out this debate by offering an endless number of amendments until Members lose interest and the public demands that Congress focus on other issues of national priority. Reformers must remember that these tactics are strategies used by those who would defeat campaign finance reform by diverting attention.

Support this legislation. It is the only way to go.

Mr. THOMAS. Mr. Chairman, I yield an initial 7 minutes to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, we are finally here, and I rise in strong opposition, unless my colleagues are surprised, to Shays-Meehan and their bill.

Last week this House defeated a constitutional amendment that was authored by the minority leader, the gentleman from Missouri (Mr. GEPHARDT) that would allow Congress to limit spending for the first time. He got 29 votes. Fifty-one Members of this House voted present, and I do not know about other Members, but I did not come here to vote present. I came here to vote yes or no, to do the people's business.

But there is a lot of shenanigans going on, and all the shenanigans can be put aside because now we are into the meat of the issue.

Now the author of the constitutional amendment, the gentleman from Missouri (Mr. GEPHARDT), said the amendment was necessary because neither Congress or the States have any constitutional authority to limit expenditures, independent issue advocacy or uncoordinated. The current explosion in third-party spending is simply beyond our ability to legislate. This is what the minority leader has said, yet Shays-Meehan does just that. It attempts to legislate control of political spending and political speech, spending and speech that we are told by the minority leader was constitutionally beyond our reach to legislate.

Now the Shays-Meehan bill is nothing short of an attempt to gut the First Amendment in my opinion. It is nothing short than an effort to prohibit our constituents from knowing where we stand on the issues.

Like most of these campaign reform bills, those bills passed by the Democrat majority over the last few years, the Shays-Meehan bill is incumbent protection. It gives the advantage always to the incumbents.

Now what does the Shays-Meehan bill do? Well, the Shays-Meehan bill bans scorecards. That is right, those voter guides that are passed out in churches and in union halls that track how the incumbents vote on critical issues would be subject to a regulation by the speech police and the bureaucrats of the Federal Election Commission.

Shays-Meehan also places a gag rule, a gag rule, on independent expenditures and the ability of citizens to criticize incumbent politicians, a gag rule that the gentleman from Massachusetts (Mr. FRANK) and the minority leader told us that was not permissible in a free society.

And the worst legislative assault that comes in Shays-Meehan attempts to shut down discussion on issues in this country. Mr. Chairman, this bill brings us back to the days when a person placing an ad in a newspaper criticizing the President was hauled into court by the Justice Department. This actually happened in four separate places.

The Shays-Meehan bill would regulate speech even if it avoids the constitutional standard of express advocacy. No one even mentioning the name of a politician can feel safe that he might not have violated a federal law.

□ 1715

That is what is in this bill.

Now, the final attack on freedom in this bill comes in the form of severe government restrictions on the use of soft money by political parties and other organizations, money that is used to get out the vote activities, voter registration, issue advocacy; that is what the soft money is that is so maligned on this floor. The bill also federalizes for the first time State election law.

I want Members on this side of the aisle to listen to this. This bill federalizes State election law.

Now, finally, this bill does nothing about the millions of dollars of forced union dues taken from working people every year and used for political causes they may oppose. Sure, the bill does have a provision that is pretending to enforce the Beck decision, but to take advantage of the Beck decision, workers would have to resign from the union, resign from the union and give up their rights to vote on collective bargaining agreements and other important workplace matters.

So, Mr. Chairman, we have been down this road before. In the early 1970s, the minority has bragged, after passage of a campaign reform bill, the Nixon administration brought a group of dissidents into court for putting an ad in the New York Times calling for the impeachment of the President. What was the charge? The ads were a "sham" and violated campaign laws.

Well, my friends, issue speech, sham or otherwise, cannot be regulated. The Buckley court anticipated these arguments when it said, and I quote,

> It would naively underestimate the ingenuity and resourcefulness of persons and groups, designed to buy influence, to believe that they would have much difficulty devising expenditures that skirted the restriction on express advocacy or election or defeat, but nevertheless benefited the candidate's campaign.

Those who would regulate campaign speech hope, and it is a desperate hope, that the Supreme Court will look at 20 years of election activity since Buckley v. Valeo and decide things differently. But it is more likely that the court will go just the other way, toward my view and those who think that the First Amendment is America's premier political reform, not the Federal Election Campaign Act of 1974.

Mr. Chairman, I would just remind my friends to look around them, just look around. In the past month, in the last 30 days, four, that is right, four Federal courts have struck down campaign speech laws similar to those contained in this bill. Four.

Now, the Supreme Court was emphatic in Buckley that issue advocacy and political speech was at the very core of the First Amendment. To regulate it in any way is simply unconstitutional and, more importantly, it is wrong.

The true issue here is speech, I say to my colleagues. Will we vote to prevent union members or churchgoers to give information on how an incumbent votes on raising the minimum wage or banning partial-birth abortion? Well, Shays-Meehan does this. Would one vote to gag a citizens' group from buying an advertisement criticizing a Member of Congress? Shays-Meehan does that. Would one vote to blur the line of freedom of the Supreme Court that allows a speech with review by the speech police at the Federal Election Commission? Well, Shays-Meehan does that.

I ask that we oppose Shays-Meehan and let our constituents speak.

Mr. MEEHAN. Mr. Chairman, I yield myself 20 seconds to say that the date that those statements were made by the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Missouri (Mr. GEPHARDT) was February 7, 1997. The Shays-Meehan bill that we are debating today was not even written, nor filed, until March 19, 1998.

Mr. Chairman, before we get into a lengthy debate over the First Amendment implications of spending limits, let me make one thing perfectly clear. The Shays-Meehan bill does not include spending limits.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN) who has worked so closely with us on this bill.

Mr. LEVIN. Mr. Chairman, I would like to respond to the gentleman from Texas (Mr. DELAY), the majority whip.

The Shays-Meehan bill does not gag speech any more than our present limitation on independent expenditures upheld by the court gags. Right now, if somebody comes in with an ad that says, defeat so-and-so, they have to come within the structures set up by Congress. There are limits on what can be contributed, and there are requirements for disclosure.

The question is, if the magic words, which really are not magical, "elect" or "defeat" are not used, should the ad be immune from any limitation as to amount or any disclosure? That is what we are talking about.

What Shays-Meehan says is that we should not provide this loophole. When Buckley was decided, there were not these barrages, these bombardments of so-called issue ads. In the last few years we have had them in torrents. And what the majority is saying is, or some of the majority, is that they want those to go on without any regulation at all.

Now, this is not, therefore, an issue of gagging any more than Buckley gagged free speech. It did not. It balanced our needs for free speech, and I love the First Amendment and voted against efforts a few days ago to undermine it.

The question is, how do we apply it to today's politics? In the decision in the Ninth Circuit, FEC v. Fergatch, here is what the court said.

> We begin with the proposition that express advocacy is not strictly limited to communications using certain key phrases. The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate. A test requiring the magic words, "elect," "support," or their nearly perfect synonyms for a finding of express advocacy would preserve the First Amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act.

What Shays-Meehan tries to do is to protect, to preserve the thrust of that act, and not have the public swamped by undisclosed, unlimited expenditures, especially the last 2 months of a campaign.

Those who are raising the First Amendment are essentially trying to kill campaign reform. They are really hiding behind the First Amendment. They often do not support the First Amendment in other instances.

So I strongly urge support for Shays-Meehan.

Mr. SHAYS. Mr. Chairman, could the Chair inform me as to the time on each side?

The CHAIRMAN. The gentleman from Connecticut (Mr. SHAYS) has 12 minutes; the gentleman from Massachusetts (Mr. MEEHAN) has 10 and three-quarters minutes; and the gentleman from California (Mr. THOMAS) has 15½ minutes.

Mr. SHAYS. Mr. Chairman, I yield myself 20 seconds to point out that in our legislation, the term "express advocacy" does not include a printed communication that prevents information in an educational manner solely about the voting record or position on a campaign issue of two or more candidates. So we specifically provide and allow for voting records to be a part of the system.

Mr. Chairman, I yield 1½ minutes to the gentle and very strong woman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, we have been bogged down by excuses and dilatory tactics trying to get a vote on real campaign finance reform. All the while, our constituents have been looking on with disgust, and soft money contributions have proliferated.

Serving on the Committee on Government Reform and Oversight, I have become more convinced than ever that we must close campaign finance loopholes. Today, we finally have that opportunity to move forward with real reform, with the Shays-Meehan substitute.

This substitute addresses fundamental flaws in our system: the proliferation of soft money and issue ads. It closes the soft money loophole on both the Federal and State levels. Soft money contributions, whether by individuals, labor, corporations, have led to egregious fund-raising practices and to the escalating cost of elections.

This bill also requires that any funds spent by State, district and local political parties for Federal election activity be subject to the Federal Election Campaign Act limits.

Shays-Meehan's issue advocacy reforms will end the takeover of elections by special interest groups, and it will lead to fair and responsible political advertising. It uses a commonsense definition of express advocacy and stipulates that ads that endorse a Federal candidate under its new definition could only be run using legal hard dollars. It also requires FEC reports to be electronically filed and provides for Internet posting of disclosure detail. It clarifies the Pendleton Act's restrictions on fund-raising on Federal property, it codifies the Beck court decision.

Join us in real campaign reform. Prove that we can do it by supporting the Shays-Meehan substitute.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent that the remainder of my time be controlled by the gentleman from California (Mr. DOOLITTLE).

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DOOLITTLE. Mr. Chairman, I yield 5½ minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding me this time.

I first want to compliment the gentleman and my friend from Connecticut (Mr. SHAYS) for his leadership on this issue. I think we probably would not be here today debating campaign finance reform without his hard fight and his commitment to this issue.

For the last year we have worked really on different tracks to accomplish campaign finance reform. We have worked on different tracks because he has advocated what on the Senate side was known as the McCain-Feingold bill and on the House side as the Shays-Meehan bill. A group of freshmen, in a bipartisan fashion, and some of them are sitting in this room, Democrats, Republicans, worked in a different way with a different approach and came up with a different product for campaign finance reform.

So today, as we talk about different approaches to this, I do not support the Shays-Meehan proposal, and I will vote against it because I believe that there is a better way to accomplish campaign finance reform. I say this with the greatest respect, but I believe that it is incumbent upon me to make my case.

Why do I say that the freshman bill is better? Why do I believe that it will accomplish more significant reform? I believe it is a better vehicle for reform because it is bipartisan, it is constitutional, it does not federalize State elections, it bans soft monies to the Federal parties, and it provides for greater disclosures. But I believe it is a better way, first of all, from a political standpoint that on the Senate side, the United States Senate has already failed to pass McCain-Feingold. They could not break cloture on that bill. So why do we want to send them the exact same bill back again? I believe that if we send them a fresh approach, a new idea, that accomplishes significant reform, that that is the best way to approach it.

Secondly, I believe the freshman bill represents a better idea because the Shays-Meehan approach disregards current Supreme Court decisions in the hope that the Supreme Court will change its opinion. As a lawyer, I have disagreed many times with the Supreme Court, and I wished they would change their opinion; but they are still supreme, and if we want to cast a vote for a bill that is going to be signed into law and a bill that is going to be upheld by the Supreme Court, I believe we have to listen and adhere to the clear decisions that the Supreme Court has given. There is too much at stake.

So the freshman bill, the freshman approach is different. We have drafted a bill that pays attention to what the Supreme Court has said and tries not to violate their constitutional restrictions and infringements upon free speech.

The third reason that I think there is a better way is that issue groups under the Shays-Meehan bill will be subject to source restrictions, donor disclosure, and speech regulation. I think this is a very serious matter. Whether we are talking about the right to life, whether we are talking about the NRA, whether we are talking about the Sierra Club, any issue group that had issue ads in the last election cannot do it the same way in the next election cycle because they would be limited on where they can get their money. Also, if they do their issue ads within 60 days of a campaign, they have to disclose their donors down to the $50 level.

□ 1730

Now, there is a hope that the Supreme Court would approve that, but I believe that that is an infringement upon free speech and the rights of the issue groups to be involved in the campaigns.

The fourth reason that I believe the freshman bill represents a better way is that we do not federalize the State elections by prohibiting contributions that are legal in a State election from being used if a Federal candidate is on the ballot, and that is the current status of the Shays-Meehan approach.

If there is a Federal candidate on the ballot, then money that is legal in the State system cannot be used for get-out-the-vote efforts, cannot be used for the traditional means of party-building efforts. So ours is a more cautious approach.

Finally, I believe that there is a better way because of the approach to how we handle soft money. Under the Shays-Meehan bill, the greatest abuse in the last presidential campaign is not addressed. The greatest abuse in the last presidential campaign was that Federal office holders and candidates were chasing soft money. There was the link that created a problem. All over the country, raising soft money and the chase for those huge contributions led to problems.

This chase is not prohibited under the Shays-Meehan bill, the result being that soft money can continue to be raised for the State parties under Shays-Meehan by presidential candidates. In the Year 2000, they will be able to go from State to State to State to raise soft money.

It is true that they are restricted at the State level as to how that money can be spent. But then they can engage in a deal; we will raise soft money for the State and that will be spent and that will free up money for the Federal candidates.

So the freshman bill would prohibit that conduct by separating Federal candidates, Federal office holders, from raising that soft money.

So I have the highest regard for the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) who have proposed this bill, but I believe the freshman bill, the bipartisan bill represents a better way.

For that reason, I would urge my colleagues to vote "no" on Shays-Meehan and support the freshman bill.

Mr. MEEHAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would just point out that any money that is spent in America to influence an election ought to be disclosed. That is a basic premise in our bill. If money is spent 60 days before an election to influence that election, the public has a right to know who spent that money.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS), who was just elected to this House in March in a special election to take her husband Walter's seat. The very first piece of legislation that the gentlewoman signed on to was the Shays-Meehan bill.

Mrs. CAPPS. Mr. Chairman, I am pleased that this day has finally come. In the face of many roadblocks, we are now debating the bipartisan Shays-Meehan bill. I commend my colleagues the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their extraordinary perseverance on this issue.

Mr. Chairman, as someone who has run in three elections in the past six months, I can tell my colleagues that the American people are crying out for us to clean up our political system. The bill before us will close the biggest loopholes in that system: soft money and sham issue advocacy ads.

In my recent special election which was strongly contested, my conservative Republican opponent and I did not agree on very much, but we did agree that in our race these ads flooded the airwaves with very misleading information. And although the ads clearly targeted one of us, either of us, both of us for election or defeat, there was no disclosure and no limits on how they were funded.

Mr. Chairman, let us not lose sight of the dramatic shift that is occurring out there in the campaigns. The voters are becoming pawns in battles between powerful outside interest groups.

We need to pass the bipartisan Shays-Meehan bill and bring the political process back to the people. If we fail, our elections will only get more expensive and more dominated by special interest, and the cynicism and outrage of the American people will increase.

I strongly encourage my colleagues to pass this historic bipartisan legislation. I have the greatest admiration for my colleagues on both sides of the aisle who are willing to come together, particularly the freshmen Members who worked so many months to craft legislation and are now coming together behind Shays-Meehan so that we can be credible with our constituents and really do something important in this area.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Chairman, there is not a single piece of legislation, no matter how good, that cannot be picked apart with the technical arguments. I am not going to do that. I am going to get away from emotions and the words and all the negative aspects.

I think that there are really two words that come to mind, and that is it is just "too much." It is too much money. I cannot imagine looking at a primary election in California where two people spent $60 million. Is that free speech? It is not free to me; it is pretty expensive.

Will it be $60 million next round? Will it be $100 million? With the gross domestic product going up and inflation going up, will it be $200 million? What is too much? Where does this lead us? Is this what we want to leave as a legacy?

Mr. Chairman, I ask this about my children. Do I want them to come into this body, or try to come into this body, and say, listen, it is going to be a great run and it is going to cost $50 million. And if they run for five terms, it is maybe $250 million. Is this what we want? It is crazy.

We have real limits for individuals and groups and we have absolutely no limits for this loophole which was never intended to be. Our job here in this and other legislation is to close loopholes. They were never intended they should not be, we should get at it.

The Shays-Meehan bill does this, and I feel we should support it.

Mr. DOOLITTLE. Mr. Chairman, may I inquire as to the time that each side has remaining.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from California (Mr. DOOLITTLE) has 10 minutes remaining, the gentleman from Connecticut (Mr. SHAYS) has 8¾ minutes remaining, and the gentleman from Massachusetts (Mr. MEEHAN) has 8½ minutes remaining.

Mr. DOOLITTLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. HYDE), the chairman of our House Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I am certainly no expert in this field and campaign reform is a legitimate subject that needs attention and a lot of it. I would just say to the gentleman from New York (Mr. HOUGHTON), my friend, that all that money spent on that election out there was almost the first weekend's take on the Titanic when they showed it. Everything is relative.

The one glaring problem with Shays-Meehan is we do not take into account for contributions in kind. Labor unions, at least where I come from, can throw all kinds of bodies into the precincts on the weekend. They work the shopping malls, hand out the shopping bags, work the phone banks, go door to door. Labor does that and God bless them for doing that. They are participating in the most important act, civic act they can.

But the business community does not do that. They play both sides of the street. They cover their bets. Soft money is the only way Republicans who do not have access to the bodies that organized labor throws into the turmoil, it is the only way to equalize that. They can buy people's time who can work the phone banks and hand out the shopping bags.

One would like to have volunteers and tries to have them. But one cannot equal what labor can throw into an election. And neither bill takes care of that. It gives advantage to the Democrats because by limiting, if not eliminating soft money, the Republicans are left bereft of resources to equal the hundreds of people that can work in a precinct for a Democratic candidate sent in by the Teamsters or some other union.

Mr. Chairman, as I say, I am not critical of that. But if we are reforming, we ought to take into consideration the consequences of the reform. Giving the Democratic Party such an advantage in my judgment is not reform.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise in support of the Shays-Meehan substitute. This bipartisan effort to begin the process of mending a flawed system is necessary and appropriate and long overdue.

When I was sworn in as a newly elected Member of Congress 2 months ago, my first official act was to join over 200 of our colleagues in signing the discharge petition which would allow us to engage in meaningful debate on campaign finance reform.

I am pleased that today has arrived, despite the fact that the past few weeks have seen a deliberate effort to divert our attention away from real campaign finance reform.

In the spirit of democracy, campaigns should be about ideas, not money. Of course, I personally firmly believe that public financing of political campaigns is the ultimate answer to access and full participation by grassroots organization, women, and people of color. However, the Shays-Meehan substitute is a major step forward in taking us closer to ensuring a fair and equitable approach to financing elections.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the dynamic gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I thank the gentleman from Connecticut (Mr. SHAYS) for yielding.

Mr. Chairman, on this issue, probably more than others that we will address, the perfect should not be the enemy of the good. This bill, of course, is not perfect, but it is good. It is better than what we have now and it is better than it used to be, because I frankly do not like taxpayer financing or broadcaster financing of campaigns. They took that out of this bill and they replaced it with some better provisions.

The two things we should focus on is banning soft money, which any thinking person is for, it is way out of hand; and, secondly, trying to hold accountable these outside groups that come in in the last few days of a campaign and assassinate people with unlimited, unregulated, now huge sums of money dumped from nowhere in campaigns. Pretty soon we as candidates will not even be able to control the message in our own campaigns.

Mr. Chairman, I have been at this long enough to know also that reformers need to come together. I hate to see reformers carping at each other over details. If we do not come together on this issue, it is not going to happen.

What should the measurement be? Is the bill better than what we have now? This bill clearly meets that test. This is a messed up system. We have got to change it. We cannot go back to the way things used to be, even though I would say to the gentleman from California (Mr. DOOLITTLE) that ideally that would be nice. But I do not think that is practical. What is practical is to try to reform the current system we have today. This is a step in the right direction.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I rise in strong support of the bipartisan Shays-Meehan substitute because it is the only bill I think that really truly provides comprehensive campaign finance reform. So many of the other bills do not deal with one of the greatest loopholes in our campaign system, and that is the lack of any restrictions on issue advocacy ads.

Issue ads make a mockery of Federal election law because they are not required to report the source of their political contributions. Issue ad groups are entitled to speak, and I vigorously defend their constitutional right to do so. However, their speech should not be protected more than any other political speech.

The public deserves to know who funds Federal elections. Is a foreign government attempting to elect one of their own to the U.S. Congress? Is an organized crime ring trying to defeat a Member who has been tough on crime? Without disclosures and limits we do not know. Shays-Meehan fixes the problem.

Mr. Chairman, in my last campaign, issue groups brought ads worth over $250,000 to try to defeat me. When the press and Members of the public asked me who was behind these ads, I could only give them one answer: I do not know.

While anyone can easily track who had paid for my ads, my opponent's ads, and both of our parties' ads, no information was available concerning the ads paid for by these groups.

This chart clearly points out we are not trying to limit the right of someone to speak. We are just saying that anyone who tries to influence the outcome of an election who uses a name and likeness of a candidate 60 days before it should live by the same rules as anyone else that has participated by contributing to our own campaigns.

□ 1745

A person who gives me $200, we have to know his name, his address, their occupation, the date of contribution, the amount of contribution, the aggregate. Yet in my last election, we had a group that came in and spent $250,000, and yet nobody knew their name. Nobody knew the source of the dollars. That is wrong. That is why we should support Shays-Meehan.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, certainly I am a strong supporter of

Shays-Meehan. Quite frankly, I think this is a debate that we have had years ago. In fact, the loopholes have abolished all the enforcement of the post Watergate reforms. So we are here today really dealing with a dire need for reform.

I know some are going to say, what are we talking about? The American people do not have this on their radar screen. They do not care. I submit the American people do care, but they have given up on us. I am afraid their cynicism will be justified if we do not act tonight on Shays-Meehan.

I have got to say that, if we look at the way the system works, there has been a lot of evidence that proves the need for what we are talking about today, the explosion of soft money, fat cats buying access, White House coffees, Members and Senators spending their waking moments raising cash, and certainly the indication of foreign contributions to our election system.

I have got to say that, after the Thompson hearings and the hearings of the gentleman from Indiana (Mr. BURTON), one thing is very clear to all of us, that the campaign finance system is out of control.

I have got to say that there are some who have been picking at this legislation, but I have got to say that any objective observer knows that Shays-Meehan gets right to the heart of the problem. It addresses banning, not only soft money, but it bans contributions from foreigners, and also addresses the Beck decision regulations. It is the only substitute amendment that contains a hard ban on soft money, and it should be passed.

Mr. MEEHAN. Mr. Chairman, I reserve the balance of my time.

Mr. DOOLITTLE. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, we have heard a lot of discussion today about too much money being in politics. We have asked that question before, too, what is too much money. Any time we ask the advocates of this legislation, it is very difficult for them to answer the question what is too much money.

Then we talk about what is the special interest. It is pretty obvious that a special interest is any group saying something that we do not agree with.

Then we have heard people say we do not know who is doing these TV ads against us. The TV ads have the disclaimers on them. We know the groups that ran the ads. We may not like it. The gentleman was talking about $50,000 spent against him. I had $800,000 spent against me by labor unions. I did not like it, but it is their constitutional right to do that. I knew that they ran the ads because of the disclaimer.

People have talked about, we, these individuals are spending too much money on their campaigns. Mr. Checchi, out in California, Ms. Harman, Mr. Issa spent a total of maybe $40 million, maybe more, in their campaigns. It was their money. I think, in America, individuals have a right to spend their money the way they want to spend it. By the way, all three of them lost.

In Kentucky, we had an individual running for the U.S. Senate, Charlie Owens, who spent $7 million of his money, the most ever spent in Kentucky on a Senate race. His money, not anybody else's. He has a right to spend his money. Guess what. He lost.

Then we have heard a lot about, well, we have got to have Shays-Meehan because it is going to clean up this problem that we have with foreign nationals contributing to these campaigns. Section 441(e) of the current Federal Election Law says, "It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressively or impliedly to make any such contribution, in connection with an election to any political office", and so forth and so forth and so forth. So we have the laws on the books.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Chairman, I stand here as a conservative in support of this bill, because I think we all have to ask ourselves, when the Federal Government controls $1.7 trillion worth of daily activity as we go through the year, do we want people to have disproportionate levels of influence? I would answer no.

It ties straight to the larger question. That is, if someone gives large amounts of dollars, do they expect something in return? I think the answer is unequivocally yes. Common sense would say if one gives large amounts of money to somebody else that they expect something in return.

Tamraz, when asked before the Senate Finance Committee why did he give such large amounts of money, he said because it works. For that matter, the recent movie Bulworth, which some may have seen, talked about Bernard Schwartz and how he and the Loral Corporation had given $2 million to the DNC with surprising effect, because what they had been after, which is a satellite technology transfer, went through.

We can come up with lots of other examples. We can talk about Archer Daniels Midland and the ethanol subsidy. We can talk about many different areas wherein a disproportionate amount of influence seems to be tied to money.

The CHAIRMAN. The Chair will inform the Committee of the Whole that the gentleman from Connecticut (Mr. SHAYS) has 4¾ minutes remaining. The gentleman from California (Mr. DOOLITTLE) has 6 minutes remaining. The gentleman from Massachusetts (Mr. MEEHAN) has 5½ minutes remaining.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, over the weekend, when I was driving to my district, I came up behind a car that had a bumper sticker that read "Invest in America; buy a congressman." Interestingly enough, my chief of staff saw the same bumper sticker here in Washington, D.C. Apparently, this is a more widespread view than many of us would hope.

It was fascinating to me, as I watched the earlier debate, that both parties, both sides of the aisle spent a certain amount of time attacking one another from where their monies were coming from, hoping that they would create some sort of suspicion on the part of the people watching at home about the other side and the availability of dollars and the source of dollars to them.

I think that both sides succeeded. I think that the people at home believe that neither side is particularly clean about money. People at home believe that something has to be done about the campaign finance system in this country.

The gentleman from Texas said the issue here is speech. No, the issue here is trust, how we are going to build a system that people at home can trust. I believe that we can have a system that protects free speech and is trustworthy, and I believe Shays-Meehan provides just that. It does not limit spending in any way that is not currently regulated.

Someone mentioned that it does not codify the Beck decision because it only applies to people who would leave their unions. In fact, the Beck decision only applies to people who are currently paying agency fees to unions that they have chosen not to become members of.

So much disinformation has been at work in this debate. Everyone has tried so much to disinform, to frighten people, to move us away from what our constituents want, which is a system we can trust, 435 people in the House of Representatives elected in a system that we can trust. Shays-Meehan will move us there. Please support it.

Mr. SHAYS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from Washington (Mr. METCALF), and I am happy he is here.

Mr. METCALF. Mr. Chairman, I rise in support of the Shays-Meehan substitute as the most comprehensive campaign finance reform bill we have today. I would like to thank the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their countless hours in bringing forth a bill that will dramatically change the campaign structure of this Nation.

Mr. Chairman, I was one of the Members who committed to sign the discharge petition that would have forced a vote on the Shays-Meehan bill. I did this because the American people have lost faith in the way Congress is elected, and that must be changed. Because this bill is a carefully balanced approach, my intention is to oppose all amendments.

Let me reiterate that we are at the threshold of major campaign finance reform. We have risked failure on real campaign finance reform by weighting down Shays-Meehan with a multitude of amendments. Shays-Meehan is the only bicameral legislation that can pass both the House and Senate this year. Let us support it without amendments.

Mr. DOOLITTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in the context of the debate in the House, the phrase "campaign finance reform" is really synonymous, it is a code word for the government regulation of political speech.

I would just like to pose this question: If regulation works so well, then why are we in such a mess after 25 years of regulation? It was the liberal Democrats that rammed this through in 1974 with the cooperation of a Republican President.

This is when we received the limits on what individuals could contribute. This is what gave birth to PACs. This is what gave birth to the terms soft money, hard money, issue advocacy, independent expenditure. All of these, it is like opening Pandora's box. It started maybe in 1971 but got infinitely worse in 1974. Pretty much, that is how we have continued through the present.

This has produced the morass of complex, disastrous laws that we have right now where loopholes were closed in 1971, and more were closed in 1974. Guess what. For every loophole that was closed, a new one opened up over here on the other side.

We cannot enact comprehensive campaign finance reform; i.e., complete government regulation of political speech. Why? Because we have a Constitution. The Constitution, as long as it exists, provides certain "loopholes," namely, certain freedoms that American citizens will have.

So the more we attempt additional regulation, the more unintended consequences we will have over here; and the morass we have now will be made even worse. That is why I believe the answer is deregulation.

The largest State in the Union, California, is free of the heavy-handed regulation in the present law as well as the way that the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) wish to make it.

The Commonwealth of Virginia has the same type of a law. Anybody can contribute, just disclose it. Just let the voters know who is giving to whom. Then let them make the decision. That is what the founders intended. That is why I said I do not know what could be more clear than this. But leave it to Congress to foul this up in the First Amendment. It says, "Congress shall make no law abridging the freedom of speech." What could be more crystal clear than that?

The Shays-Meehan bill is a bill about how to abridge the freedom of speech. Other bills we will take up, including the Hutchinson-Allen bill, are about how to abridge the freedom of speech in ways they think they can somehow get around the Constitution.

□ 1800

Well, it has been pointed out and I believe, the Shays-Meehan bill is an incumbent protection bill. If I wanted to do one thing to help me the most as a candidate incumbent, I would vote for Shays-Meehan. It will guarantee that I will be in office as long as I wish to. Why? Because we have certain inherent advantages as incumbents that challengers do not have.

The bill violates, as was pointed out by the gentleman from Texas (Mr. DELAY), the tenth amendment, because it federalizes State election law. It violates the first amendment by abridging the freedom of speech. This bill is unconstitutional for those reasons.

It is undesirable. Even if it somehow were constitutional, it is undesirable. It limits political discourse.

What we need is the free interchange of ideas in elections. I find the biggest complaint my constituents have is they want more information. They are hungry for information. And bills like Shays-Meehan are going to cut off that information and they are going to turn over the power to the government czar. And we can trust the government, right?

This bill is also unworkable. Let us suppose for a minute somehow it met the constitutional test; somehow we could, in the remotest way, consider it desirable as opposed to undesirable. It is unworkable. For 25 years we have had their disastrous approach to campaigns. It has utterly failed. And the more they regulate, the worse it gets. And instead of stepping back and figuring out maybe we have got the wrong approach here, maybe regulation is not the answer, no, we have a plethora of bills that want to add to the problem. More regulations, more restrictions, more heavy hand of government.

Freedom works, Mr. Chairman. And this is a very key debate in this House, and we will take this up. Freedom works. We all know what the founders meant when they said Congress shall make no law abridging the freedom of speech. I urge my colleagues to oppose Shays-Meehan and to support concepts of freedom that have made us the greatest and the freest country in the history of the world.

Mr. MEEHAN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as we begin this debate, one of the difficulties that we face is trying to deal with so much information that comes to the floor of the House about the Shays-Meehan proposal. I had mentioned earlier that there was a quote up here from the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Missouri (Mr. GEPHARDT). There was a quote made on February 7, 1997, and there were correlations made by a number of speakers that this statement was made, and it is in conflict with the Shays-Meehan bill that we are dealing with today. The Shays-Meehan bill that we are dealing with today was not even filed until March 19, 1998.

Now, there have been other statements made about limits in spending not being constitutional. But I want to make it very clear that the first amendment implications of spending limits does not even apply to this debate because the Shays-Meehan bill does not include spending limits.

Now, the previous speaker made some comments about problems with our campaign finance system. He must believe that there are problems, because there have been millions of dollars spent investigating those problems and bringing up those problems. But when this campaign finance reform passed, after Watergate, in the 1976 Presidential election there were zero dollars spent of soft money.

And then it increased to about $19 million the next year, and then it increased from there, and it increased from there, and now we have hundreds of millions of dollars in soft money being spent, circumventing the disclosure laws and the limits that have been in effect since that time.

So this is not a problem that we have had for the last 25 years with regard to soft money. It is a problem that has grown over a period of the last 25 years.

Mr. Chairman, there has been a debate about issue ads. Opponents of campaign finance reform tell us that we must protect free speech. But when they say free speech, they mean big money. The fact is that the Shays-Meehan bill does not ban any type of communication. It merely reins in those campaign advertisements that have been masquerading as so-called issue advocacy. And according to the Supreme Court, communications that expressly advocate the election or defeat of a clearly identified candidate can be subject to regulation.

There is a lot of misinformation on the floor of this House relative to what this bill does with labor. The United States Supreme Court made a decision stating that workers cannot be forced to pay for political advertisements.

Nonunion employees who pay for union representation do not have to finance political union activities.

This bill includes a codification of Beck. It is a compromise that was reached between Democrats and Republicans. So this talk about this bill not dealing with unions simply is not so.

This bill improves FEC disclosure and enforcement. This bill has franking provisions to limit franking to 6 months before an election. This bill has foreign money and fund-raising on government money provisions.

It is a good strong piece of legislation that is the result not of partisanship, not of attempts to divide Democrats and Republicans, but rather an attempt to bring Democrats and Republicans together. Not only Democrats and Republicans in the House, but Democrats and Republicans in the other body.

We have a unique opportunity to change history and pass historic campaign finance reform. Let us vote for Shays-Meehan.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from Iowa (Mr. LEACH). He has been the leader on campaign finance reform over his term in Congress.

Mr. LEACH. Mr. Chairman, first I want to reflect great respect for the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their leadership on this issue.

Secondly, let me just say that over my time in the United States Congress we have seen a number of changes that have occurred in the American political system. One that has become ever apparent is that as the political system becomes more and more hallmarked by the need for financing, candidates become increasingly tied to those who make the largest campaign contributions. The system is in need of reform.

One aspect of this relates to an old-fashioned word used in the 19th century, not much in the 20th, and that is the word "oligarchy." As systems of governance become based upon a few influencing the many, they are called oligarchies and they are not democracies.

Democracy is what is at issue today.

The second trend that is extraordinary is that our Founding Fathers thought of a system of governance in which people would be elected from various parts of the country and bring to Washington the background of that part of the country. But as campaign giving is nationalized, attitudes are nationalized, and what we are seeing is the nationalization of elections. Instead of people becoming first and foremost accountable to the people in their districts, they are becoming first and foremost accountable to the people that influence the people in their districts.

Shays-Meehan, in my judgment, represents a first small but substantive step to put the people back in power.

Mr. SHAYS. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN pro tempore (Mr. DICKEY). The gentleman from Connecticut (Mr. SHAYS) has 2¼ minutes remaining.

Mr. SHAYS. Mr. Chairman, I yield myself the balance of my time.

This is the beginning of, I think, a fairly long and comprehensive debate, and I would first thank my colleagues on both sides of the aisle for the integrity with which they present their views, but to say, with no reluctance at all, that it is clear to me that the Meehan-Shays proposal will have to deal with a lot of misinformation about it.

For instance, it was stated, we do not allow scorecards. We specifically provide that scorecards are allowed. It says we do not deal with labor dues money. We deal with it in two ways: codification of Beck, and calling the "sham issue" ads what they are: "campaign" ads. By doing this we forbid corporate and union dues money to be used 60 days to an election in the campaign, because it is against the law to use corporate or labor money in an election.

When oppoents talk about federalizing State elections, that is just bogus. All we do is say we cannot raise soft money on the Federal and State levels for Federal elections.

When opponents talk about a gag rule, that also is bogus. We provide that third parties can spend what they will. That is the Supreme Court's decision. But when it is a campaign ad, it comes under the campaign law. We have freedom of speech under the campaign law.

I hope and pray that during the course of this debate, we will get down to what is in the bill and what is not, and we can truly argue those disagreements. But most of the complaints we have heard were not technicalities or little complaints, they were just misinformation about the bill.

I again want to thank my colleague the gentleman from Massachusetts (Mr. MARTY MEEHAN) and so many on his side of the aisle for taking a very strong position on campaign finance reform, and I encourage all to vote for the Meehan-Shays substitute.

Mr. Chairman, I yield back the balance of my time; and, Mr. Chairman, do I need to ask to move the amendment at this time?

The CHAIRMAN pro tempore. The gentleman may offer the amendment.

AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. SHAYS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Campaign Reform Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.
Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Civil penalty.
Sec. 203. Reporting requirements for certain independent expenditures.
Sec. 204. Independent versus coordinated expenditures by party.
Sec. 205. Coordination with candidates.

TITLE III—DISCLOSURE

Sec. 301. Filing of reports using computers and facsimile machines.
Sec. 302. Prohibition of deposit of contributions with incomplete contributor information.
Sec. 303. Audits.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Use of candidates' names.
Sec. 306. Prohibition of false representation to solicit contributions.
Sec. 307. Soft money of persons other than political parties.
Sec. 308. Campaign advertising.

TITLE IV—PERSONAL WEALTH OPTION

Sec. 401. Voluntary personal funds expenditure limit.
Sec. 402. Political party committee coordinated expenditures.

TITLE V—MISCELLANEOUS

Sec. 501. Codification of Beck decision.
Sec. 502. Use of contributed amounts for certain purposes.
Sec. 503. Limit on congressional use of the franking privilege.
Sec. 504. Prohibition of fundraising on Federal property.
Sec. 505. Penalties for knowing and willful violations.
Sec. 506. Strengthening foreign money ban.
Sec. 507. Prohibition of contributions by minors.
Sec. 508. Expedited procedures.
Sec. 509. Initiation of enforcement proceeding.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.
Sec. 604. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Applicability.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

"(b) State, District, and Local Committees.—

"(1) In general.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Federal election activity.—

"(A) In general.—The term 'Federal election activity' means—

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

"(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

"(B) Excluded activity.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

"(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

"(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

"(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

"(c) Fundraising Costs.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) Tax-exempt Organizations.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Commissioner of the Internal Revenue Service for determination of tax-exemption under such section).

"(e) Candidates.—

"(1) In general.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds for a Federal election activity on behalf of such candidate, individual, agent or any other person, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) State law.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for any activity other than a Federal election activity.

"(3) Fundraising events.—Paragraph (1) does not apply in the case of a candidate who attends, speaks, or is a featured guest at a fundraising event sponsored by a State, district, or local committee of a political party.".

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) Contribution Limit for State Committees of Political Parties.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C)—

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000".

(b) Aggregate Contribution Limit for Individual.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000" and inserting "$30,000".

SEC. 103. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 203) is amended by inserting after subsection (d) the following:

"(e) Political Committees.—

"(1) National and congressional political committees.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) Other political committees to which section 323 applies.—A political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (2)(A) and (3)(B)(v) of section 323(b).

"(3) Itemization.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) Reporting periods.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Building Fund Exception to the Definition of Contribution.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) Definition of Independent Expenditure.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) Independent expenditure.—

"(A) In general.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) Definition of Express Advocacy.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) Express Advocacy.—

"(A) In general.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

"(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

"(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

"(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

SEC. 202. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 203. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

SEC. 204. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

"(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

"(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

"(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.".

SEC. 205. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office."; and

(B) by adding at the end the following:

"(C) The term 'provided in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

"(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

"(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

"(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

"(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

"(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(2) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III—DISCLOSURE

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

"(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

"(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

"(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

"(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

SEC. 302. PROHIBITION OF DEPOSIT OF CONTRIBUTIONS WITH INCOMPLETE CONTRIBUTOR INFORMATION.

Section 302 of Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

"(j) DEPOSIT OF CONTRIBUTIONS.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.".

SEC. 303. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Commission"; and

(2) by adding at the end the following:

"(2) RANDOM AUDITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least 4 members of the Commission.

"(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

"(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.".

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking "$200" and inserting "$50"; and

(2) by striking the semicolon and inserting ", except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;".

SEC. 305. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name; or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 306. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 307. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103(c) and section 203) is amended by adding at the end the following:

"(g) DISBURSEMENTS OF PERSONS OTHER THAN POLITICAL PARTIES.—

"(1) IN GENERAL.—A person, other than a political committee or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

"(A) on a monthly basis as described in subsection (a)(4)(B); or

"(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

"(2) ACTIVITY.—The activity described in this paragraph is—

"(A) Federal election activity;

"(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; and

"(C) an activity described in subparagraph (C) of section 316(b)(2).

"(3) APPLICABILITY.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(4) CONTENTS.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

"(A) the aggregate amount of disbursements made;

"(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

"(C) the date made, amount, and purpose of the disbursement; and

"(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.".

(b) DEFINITION OF GENERIC CAMPAIGN ACTIVITY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is further amended by adding at the end the following:

"(21) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.''.

SEC. 308. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(ii) by striking ''an expenditure'' and inserting ''a disbursement''; and

(iii) by striking ''direct''; and

(B) in paragraph (3), by inserting ''and permanent street address'' after ''name''; and

(2) by adding at the end the following:

''(c) Any printed communication described in subsection (a) shall—

''(1) be of sufficient type size to be clearly readable by the recipient of the communication;

''(2) be contained in a printed box set apart from the other contents of the communication; and

''(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a communication described in paragraph (1) is transmitted through television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

''(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '   is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

TITLE IV—PERSONAL WEALTH OPTION

SEC. 401. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 101) is amended by adding at the end the following:

''SEC. 324. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

''(a) ELIGIBLE CONGRESSIONAL CANDIDATE.—

''(1) PRIMARY ELECTION.—

''(A) DECLARATION.—A candidate for election for Senator or Representative in or Delegate or Resident Commissioner to the Congress is an eligible primary election Congressional candidate if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

''(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

''(2) GENERAL ELECTION.—

''(A) DECLARATION.—A candidate for election for Senator or Representative in or Delegate or Resident Commissioner to the Congress is an eligible general election Congressional candidate if the candidate files with the Commission—

''(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

''(ii) a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

''(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

''(i) the date on which the candidate qualifies for the general election ballot under State law; or

''(ii) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

''(b) PERSONAL FUNDS EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The aggregate amount of expenditures that may be made in connection with an election by an eligible Congressional candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

''(2) SOURCES.—A source is described in this paragraph if the source is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

''(c) CERTIFICATION BY THE COMMISSION.—

''(1) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible Congressional candidate.

''(2) TIME FOR CERTIFICATION.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible Congressional candidate.

''(3) REVOCATION.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

''(4) DETERMINATIONS BY COMMISSION.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

''(d) PENALTY.—If the Commission revokes the certification of an eligible Congressional candidate—

''(1) the Commission shall notify the candidate of the revocation; and

''(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).''.

SEC. 402. POLITICAL PARTY COMMITTEE COORDINATED EXPENDITURES.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) (as amended by section 204) is amended by adding at the end the following:

''(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for Senator or Representative in or Delegate or Resident Commissioner to the Congress who is not an eligible Congressional candidate (as defined in section 324(a)).''.

TITLE V—MISCELLANEOUS

SEC. 501. CODIFICATION OF BECK DECISION.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

''(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.—

''(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

''(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

''(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

''(i) reasonable personal notice of the objection procedure, the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

''(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

''(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

''(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures;

''(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

''(3) DEFINITION.—In this subsection, the term 'expenditures supporting political activities unrelated to collective bargaining' means expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.''.

SEC. 502. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

"(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers to a national, State, or local committee of a political party.

"(b) PROHIBITED USE.—

"(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility.".

SEC. 503. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) A Member of Congress shall not mail any mass mailing as franked mail during the 180-day period which ends on the date of the general election for the office held by the Member or during the 90-day period which ends on the date of any primary election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection during that year or for election to any other Federal office.".

SEC. 504. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—

"(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value for a political committee or a candidate for Federal, State or local office from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value for a political committee or candidate for Federal, State or local office, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both."; and

(2) by inserting in subsection (b) after "Congress" "or Executive Office of the President".

SEC. 505. PENALTIES FOR KNOWING AND WILLFUL VIOLATIONS.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking "$5,000" and inserting "$10,000"; and

(2) in paragraphs (5)(B) and (6)(C), by striking "$10,000 or an amount equal to 200 percent" and inserting "$20,000 or an amount equal to 300 percent".

(b) EQUITABLE REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting ", and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).".

(c) AUTOMATIC PENALTY FOR LATE FILING.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) PENALTY FOR LATE FILING.—

"(A) IN GENERAL.—

"(i) MONETARY PENALTIES.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

"(ii) REQUIRED FILING.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

"(iii) PROCEDURE.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

"(B) FILING AN EXCEPTION.—

"(i) TIME TO FILE.—A political committee shall have 30 days after the imposition of a penalty or filing requirement by the Commission under this paragraph in which to file an exception with the Commission.

"(ii) TIME FOR COMMISSION TO RULE.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.";

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: "In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A)."; and

(B) by inserting before the period at the end of the last sentence the following: "or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)"; and

(3) in paragraph (6)(A), by striking "paragraph (4)(A)" and inserting "paragraph (4)(A) or (13)".

SEC. 506. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—It shall be unlawful for—

"(1) a foreign national, directly or indirectly, to make—

"(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election to a political committee or a candidate for Federal office, or

"(B) a contribution or donation to a committee of a political party; or

"(2) a person to solicit, accept, or receive a contribution or donation described in paragraph (1)(A) from a foreign national.".

SEC. 507. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by sections 101 and 401) is amended by adding at the end the following:

"SEC. 325. PROHIBITION OF CONTRIBUTIONS BY MINORS.

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.".

SEC. 508. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 505(c)) is amended by adding at the end the following:

"(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

"(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

"(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

(b) REFERRAL TO ATTORNEY GENERAL.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

"(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.".

SEC. 509. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking "reason to believe that" and inserting "reason to investigate whether".

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 604. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 180 days after the date of the enactment of this Act.

Mr. SHAYS. Mr. Chairman, I am fully prepared to go to a vote on this legislation.

The CHAIRMAN pro tempore. Does the gentleman yield back the balance of his time?

Mr. DOOLITTLE. Mr. Chairman, I rise in opposition and point out there are other amendments.

The CHAIRMAN pro tempore. Does the gentleman wish to yield at this time?

Mr. SHAYS. Yes. Let me be clear, Mr. Chairman. Do I have 5 minutes now, or can I reserve that 5 minutes?

The CHAIRMAN pro tempore. The gentleman may not reserve his time.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Connecticut (Mr. SHAYS) has 5 minutes on his amendment.

Mr. SHAYS. Mr. Chairman, I yield to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I thank my colleague from Connecticut and thank both authors of this amendment. I think it is a balanced amendment. It does not do everything we would like to see, but what legislation does?

I think we are recognizing that this issue of campaign finance reform is not Democrat or Republican. We all carry blame for what was or was not done in the past. We all carry blame for the fact that the system is not working as we know it should.

And so I would ask my colleagues to take a look at this amendment. It is comprehensive. There are parts in it that Republicans may not like, but there are parts in it where the supporters of Democrats will be infuriated. There are practices that, sadly, have become all too common, that have been used by Democratic supporters and Republican supporters, that the American people know are wrong and inappropriate. One of those activities is groups coming in at the last moment in elections and doing something that is supposedly an educational piece, which we all know are last-minute hit pieces and smear pieces.

The American people expect candidates to keep their campaigns above the belt. Sadly, there are groups that are subverting the process by using dirty tactics late in campaigns and claiming that they are educational pieces. The Shays-Meehan bill will help to reduce that type of tactic in our electoral process.

I want to say, as a Californian, I think there is one thing that is very clear that the people in this country are going to say quite loudly in the next few elections, because I saw it in California. Dirty tactics are going to backfire. Shays-Meehan helps to reduce the potential for those types of tactics being used in our Federal elections.

And I want to thank my colleague, the gentleman from Connecticut (Mr. SHAYS), and the gentleman from Massachusetts (Mr. MEEHAN) for bringing this forward and working together. Let us have a bipartisan effort in addressing these problems.

Mr. SHAYS. Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, I want to thank the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) and all the others that have been involved in this really historic effort. This has been a tremendous effort and it is just the beginning of a tremendous effort.

I am frustrated because when I talk to people in my district, in particular, young people, I find a tremendous amount of distrust in our democratic process. People have tuned out of the system because they do not think that it is responsive to them. They feel as though they cannot be a player in the game because they do not have a lot of money.

I am someone who firmly believes that democracy works only as well as we make it work. It is the ultimate participatory sport. And if young people, or any people in this country feel that they cannot be part of this system because of what they see going on right now in our country, that is bad for democracy.

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That is bad for everybody here, whether they are a Democrat or Republican or an Independent. We should be encouraging people to be involved in this system.

I think that the Shays-Meehan proposal takes away some of the cynicism that is out there because it lets people understand that we do not want unregulated soft money coming into this system. We do not want drive-by shootings that are basically what some of these 30-second commercials are. What we want is we want integrity in the system. And I think that this is a very serious and a very meritorious attempt to bring some integrity back to the system.

So I am very proud to stand today to support the gentleman from Connecticut (Mr. SHAYS) and to support the gentleman from Massachusetts (Mr. MEEHAN). We have waited a long, long time for this debate. But, hopefully, we will be able to plow through these amendments and in the end we will support this proposal because it is a very good proposal.

Mr. SHAYS. Mr. Speaker, I thank the gentleman and say that in the near future when we will be discussing a number of amendments, it is possible that we will support some of those amendments.

We certainly are going to support the amendment on the commission bill offered by the gentleman from Michigan (Mr. DINGELL) and the gentlewoman from New York (Mrs. MALONEY). And it is also possible we will support some other amendments.

But we hope that this legislation, the Meehan-Shays legislation, remains intact. We hope to pass this bill to ban soft money, to recognize the sham issue ads that truly campaign ads, to codify the "Beck" decision to improve FEC disclosure enforcement, to deal with the franking problem, and to provide that foreign money and fund-raising on government property is illegal.

I urge support for the Meehan-Shays substitute.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

PARLIAMENTARY INQUIRY

Mr. DOOLITTLE. Mr. Chairman, I was rising in opposition to claim the 5-minute time under the rule to his amendment. Is that not indeed the case?

The CHAIRMAN pro tempore (Mr. DICKEY). The Chair is endeavoring to alternate sides under the 5-minute rule.

Mr. DOOLITTLE. Mr. Chairman, I did not strike the last word. I thought we got 5 minutes on our side to oppose the initial offering of the amendment.

Mr. SHAYS. Mr. Chairman, I have no objection to the gentleman asking for 5 minutes. I did not know I had asked for 5 minutes.

The CHAIRMAN pro tempore. Members will suspend.

The time is not controlled. Debate is under the 5-minute rule. The Chair will alternate.

The gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I rise in strong support of the Shays-Meehan campaign finance reform and commend both of the authors for their tenacity and their hard work in bringing us to this point.

Having joined with the gentleman from Kentucky (Mr. BAESLER) and other members of the Blue Dog Coalition to initiate a discharge petition last October to force consideration of campaign finance reform, I am very pleased to be here tonight finally debating a serious, substantive proposal to reform our campaign finance laws.

The current campaign finance system hands a loudspeaker to interest groups and political parties, and while ordinary citizens are reduced to speaking in a whisper. That is not the free speech envisioned by the First Amendment.

Enacting campaign finance reforms that limit the influence of wealthy individuals, special interest groups and political parties is critical to restoring the integrity of our democratic process.

I respectfully disagree with opponents of campaign finance reform who argue that the free speech protections in the First Amendment guarantee the right of any individual or group to spend unlimited amounts of money to influence an election without having to take the responsibility for the advertisements or even acknowledge that they are funding the advertisements.

The Shays-Meehan amendment strikes to the heart of the problems in the current campaign finance system by addressing the two areas of the campaign finance system that are outside of the rules; the unregulated, unlimited donations to political parties by corporations, labor unions and wealthy individuals known as soft money and the sham issue ads that are used to influence elections without being subject to campaign laws.

I agree with those who say that we must enforce the current campaign finance rules and punish those who have violated those rules. However, the vast majority of reported scandals involve activities by people in both parties that are unethical and offensive to many of us but were not illegal because of the loopholes in our current system.

Virtually all of the scandals that have been reported in the press involve soft money or issue advocacy, which are exempt from most campaign finance laws. The Shays-Meehan amendment simply states that campaign activities of political parties and independent organizations should be subject to the same rules that apply to candidates for office.

Under current law, the individuals who are engaged in unethical behavior in raising soft money or running issue ad campaigns in 1996 will not face any penalties because they are not covered by any laws. If Shays-Meehan had been the law of the land in 1996, these individuals would be punished, as they should be.

One of the provisions I feel the most strongly about in this amendment is placing greater accountability on spending by independent organizations to influence campaigns. The Shays-Meehan amendment states that any independent expenditure made in connection with a congressional election would be subject to other regular current campaign finance laws and disclosure requirements, anyone making an independent expenditure of more than $10,000, if those communications include the name, likeness, or representation of a candidate for federal public office. These reports must be filed electronically with the FEC and posted on the Internet so citizens can find out and learn who is paying for the political ads. What could possibly be wrong with that?

The Annenberg Public Policy Center compiled an archive of 107 issue advocacy advertisements that aired during the 1996 election cycle sponsored by 27 different organizations, both liberal and conservative. While this Policy Center's report does not speak out in support of or opposed to issue advocacy, their research shows just how much these advertisements look like regular campaign commercials and how much impact their one-sided information had on voters.

While promoters of these ads claim that they are simply educating the public, more often they are stealth attacks designed more to keep the public in the dark about the full story of an issue.

The issue ad loophole in current law makes it possible for foreign governments or other foreigners to influence American elections by setting up a front organization that runs issue ads attacking candidates who do not support the interest of that foreign government. Under current law, the voters who see those ads would never know that that money to run those ads came from foreign interests. I believe that my constituents deserve to know if foreign entities are running ads in my district.

I strongly support the right of any group to express whatever views they have about me or any other candidates for office. However, I believe that the public deserves to know who is trying to influence those elections. Full disclosure is needed to allow the public to make their own judgments about advertisements run by independent organizations.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. STENHOLM) has expired.

(By unanimous consent, Mr. STENHOLM was allowed to proceed for 2 additional minutes.)

Mr. STENHOLM. Mr. Chairman, contrary to claims by some organizations opposing campaign finance reform legislation, the Shays-Meehan amendment would not prevent independent organizations from running advertisements or prohibit these groups from using the name of a Member of Congress or any other candidate in that advertisement prior to an election.

I strongly support that. I do not mind any organization running anything, any individual running anything for my opponent in this year or in any other year. But I do believe my constituents that I represent have the right to know who it is that is spending the money in the 17th District of Texas, and then we will welcome that in the field of free speech and debate under all of the First Amendment rights and privileges that all of us find so dear.

Under the Shays-Meehan amendment, any independent group can run advertisements expressing any opinion it wants at any time during a campaign so long as it complies with the standards of accountability and openness that apply to other political advertisements. I heard an earlier speaker today talking about that was un-American. I do not understand for a moment how that can be.

All we are talking about is making sure that freedom of speech means just that and that the people have a right to know who it is that is having the freedom of speech.

I am standing in the well. Everyone watching in our offices and here know who I am, what I am saying. It is coming from me. I think the same should be true for any political advertisement run by any group on either side of the aisle. We ought to know who is behind it.

It is not a partisan matter. I appreciate the tenure of many of my colleagues on both sides of the aisle who are serious about this. And I hope we will cut through the chaff and get down to the meat of this issue.

Candidates from both parties both benefit from and are hurt by these advertisements. Our Nation's important free speech should not be minimized, but it should be balanced by honesty and accountability.

Vote for the Shays-Meehan amendment to bring honesty and accountability into all aspects of campaign finance.

AMENDMENT NO. 132 OFFERED BY MR. THOMAS TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. THOMAS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 132 offered by Mr. THOMAS to Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

Amend section 601 to read as follows (and conform the table of contents accordingly):

SEC. 601. NONSEVERABILITY OF PROVISIONS.

If any provision of this Act or any amendment made by this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act or any amendment made by this Act shall be treated as invalid.

In the heading for title VI, strike "**SEVERABILITY**" and insert "**NONSEVERABILITY**" (and conform the table of contents accordingly).

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. Mr. Chairman, I asked to offer this amendment. As I said during general debate, this will be offered to any major substitute that has a severability clause. I talked earlier about the fact that when the first Federal Election Campaign Act was passed, Congress took a comprehensive approach to campaign reform.

When the Court reviewed it, they struck as unconstitutional portions of the plan. There really is no constitutional basis for the Court having the ability to impose its will on any other branch. They are supposed to be coequal branches. Our oath to the Constitution is not inferior to the Supreme Court's.

Notwithstanding that historical relationship, 25 years later, the portions that were struck down by the Court are simply null and void.

We have before us the first example of a number of comprehensive bills which contain a number of provisions that desire to go after certain behavior.

The Court has been on record in some areas, especially where political parties operate as an independent expenditure rather than as a party. If it is soft money the Court has said, and the most recent court example would be Colorado v. The Republican Party in which the Court upheld the right of the party to follow this model. And this particular legislation tries to correct that.

Issue advocacy is now a strong point, and there is an attempt to change the relationship that the Court has advocated in issue advocacy. I believe that we could try to test the Court to see if they would now hold constitutional a provision that they have held unconstitutional in the past. My belief is we would run that risk and lose.

It seems to me far more prudent that on any bill that contains multiple provisions which the Court could rule on that if Congress wants to retain control of campaign law, what we ought to say is that if someone takes the law to court and they beat a piece of it, then the entire law falls. What happens? We come back and rewrite a law.

The folks who do not want this amendment that I am offering, the nonseverability, the folks who want to be able to say, notwithstanding a piece of the law falling, all the rest of it stands, will tell us this, "we will come back and fix that piece."

I am here to tell my colleagues that, as a product of 25 years of labor to try to change the pieces that the Court changed, it is not nearly as easy as that.

What we have had for 25 years is a piecemeal law that does not work in many instances. We are here tonight and will be here over the next several weeks because what the Court did does not work. Why in the world would we repeat the same mistake again?

This amendment will be offered to every comprehensive substitute that has a severability clause. Does it mean that I am a masochist, does it mean that I am trying to defeat the effort to make change? No. What I am trying to do is guarantee Congress retains the ability to make the change, that we do not let the Court make the change.

If my colleagues do not accept my amendment, which is joined by the gentleman from Texas (Mr. FROST), so I can gladly say this is a bipartisan amendment, then what we have been under for the last 25 years is doomed to repeat itself for an open-ended number of years as the Court picks and chooses as to what to declare unconstitutional from a comprehensive bill.

I think that the choice is not a good one in either case: Live under this hodgepodge that the Court was allowed to create because of historical usurpation of a power, or for Congress to come back and rewrite the law in its entirety.

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Either one of those are going to be the choices, and I think the far better choice is to say that if a piece falls, it all falls and we come back and rewrite it. That way we know in a given time frame we will be able to produce a product that works. The other way has not worked.

I would urge all my colleagues when we do have a vote on the amendment, that amendment No. 132 sponsored by myself and the gentleman from Texas be accepted and that it be accepted and placed in every substitute that has a severability clause, because I believe, no matter what we do, no matter what the particular provisions are in a measure, Congress ought to retain control of what is campaign finance law. The only way we can retain control is to remove the severability clause that is in the measures.

I would ask Members to support the amendment.

Mr. FROST. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. THOMAS). I happen to have the view that what we are doing here is very serious and that we should treat everything that is done here today as on the level. We should vote for the things that we think are important. And if we feel strongly about a subject, we should vote in favor of it and we should vote as if what we are doing this week and next week actually has a chance to become law, not that we are posturing but that we are looking to the point of if this becomes law, how does it work and what is the best way for it to work.

Mr. Chairman, the issue of nonseverability is one of the highest importance in this debate. In 1976, the Supreme Court ruled in Buckley v. Valeo that the provisions in the Federal Election Campaign Act of 1974 relating to the use of personal funds by a candidate to fund a campaign and on overall campaign expenditures were unconstitutional. The court held that these provisions placed direct and substantial restrictions on the ability of candidates, citizens, and associations to engage in protected first amendment rights.

At the same time, the court upheld the limitations on contributions to candidates. In so doing, the court dismantled a carefully crafted package, each part dependent upon the other to reform the way campaigns were, in the 1970s, financed.

And so, Mr. Chairman, we are left with limits on how much a candidate can receive in contributions, but no limits on what wealthy candidates can spend on their own campaigns, or the total amount that a candidate can spend regardless of source.

That, Mr. Chairman, is how we got to where we are today. In the event that the package proposed by the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) passes, and I intend to vote for it on final passage, in the event that it passes, the court could very well dismantle this package by finding that the ban on soft money or the limitations on groups or individuals making independent expenditures are, in fact, unconstitutional. What we would be left with is another hodgepodge of campaign expenditure limitations that in essence will leave us in the same difficult situation that we find ourselves in today.

Therefore, Mr. Chairman, I support the amendment to add a nonseverability clause to this legislation. A nonseverability clause will ensure that if one part of Shays-Meehan is found unconstitutional, the whole package will be nullified. There is little reason to pass legislation which may ultimately end up looking like a piece of Swiss cheese. This should be a take or leave it proposition, and addition of the amendment offered by the gentleman from California to this bill will assure that either the whole package or no package will ultimately be the law of the land. To do otherwise risks that we suffer from the law of unintended consequences. We could wind up with the worst provisions of Shays-Meehan with the best provisions of Shays-Meehan being stripped out by the Supreme Court. If we really believe in campaign reform, we should support a package that hangs together, a package where every part of it is necessary for real reform, and we risk being left with only half a package if we do not insert a nonseverability clause.

Mr. Chairman, legislating is serious business. We should assume that the bill we are debating tonight will actually become law. And if it actually becomes law, it will be totally unfair to have this provision remain in part because the Supreme Court strikes down the best portions and leaves us with the worst. I ask that Members vote in favor of the Thomas amendment.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have great admiration for the gentleman from California (Mr. THOMAS). I think his attitude about the separation of function that the Constitution provides between the Congress and the Supreme Court is insightful and that it really ought to be our job to write good laws and then the Supreme Court to uphold or strike them down, rather than to have the Supreme Court pick and choose. So he makes an awfully good case.

I rise, however, to speak against the amendment for two reasons. One is because I think it is important that we have a vote on Shays-Meehan, unamended, that the process once an amendment starts is going to be very hard to prevent from unraveling, and the very best chance that we have of having a vote in the other body is Shays-Meehan. I have my own proposal, I think it is preferable, I am allowed to say that, but it is true that Shays-Meehan/McCain-Feingold has the very best chance to be considered in the other body, and in that context it ought not be amended.

But, secondly, I believe that Shays-Meehan is constitutional, and so I devote the remainder of my time to that subject, in that if it is constitutional in all respects, then severability becomes much less of a concern.

The two aspects of Shays-Meehan/McCain-Feingold that have been criticized are these. First the ban on soft money, and second the distinction between express and issue advocacy. As to the distinction of issue advocacy and express advocacy, those who argue Shays-Meehan is unconstitutional say that it is unconstitutional to consider as express advocacy anything that does not use the so-called magic words "vote for."

We are each entitled, indeed sworn to uphold the Constitution as we best see it by our own lights but if the judgement is to be what would the Supreme Court do, I draw to my colleagues' attention an opinion by the Supreme Court 10 years after Buckley v. Valeo, 10 years after the reference to the magic words, and that was in Massachusetts Citizens for Life in which the Supreme Court dealt with the question of did it have to use the magic words or not. It dealt with an edition of a flier that listed individual candidates.

The Supreme Court said:

> The Edition cannot be regarded as a mere discussion of public issues that by their nature raise the names of certain politicians. Rather, it provides in effect an explicit directive: vote for these named candidates.

So the Supreme Court 10 years after Buckley was clearly departing from the magic words test and was saying it is the effect of the communication, the effect of saying in this context these things about these candidates was to say vote for them. And so it was the effect rather than the presence of the magic words that was determinative.

The approach taken by Shays-Meehan is precisely that, suggesting or holding as matter of law that communications to the electorate using the name of a candidate or his or her picture in the last 60 days is, in effect, saying vote for or against that candidate. It is certainly within the first amendment to do so in my interpretation, far more importantly in the Supreme Court's interpretation as of 1986, 10 years after Buckley v. Valeo.

Second and last, the other component of the critics of the constitutionality of Shays-Meehan that is most commonly heard is the ban on the soft money. But the Supreme Court has also ruled on this in California Medical Association v. FEC in 1981. The Supreme Court upheld the limitation of $5,000 on contributions to PACs. Their argument was that if it was constitutional to have a limit of $1,000 on how much individuals could be contributing to a campaign, and yet $5,000 for a PAC, the purpose of avoiding corruption could be evaded by a wealthy individual or a person of influence giving the money to a PAC knowing that it would get to the benefit of the candidate. And so the Supreme Court held in California Medical Association v. FEC that the $5,000 limit on contributions to multicandidate PACs was constitutional. Well, so also here.

In order to avoid the evasion of the fundamental purpose of the $1,000 contribution, a donor could conceivably give the money to a political party and then, using the way the Supreme Court has interpreted the rules on soft money, know very well that that political party would get that money to the effective use of that candidate. And this is in reality. There are many instances that we know where it has been used in exactly that manner.

Accordingly, with those two explanations, it is my conclusion that there is nothing unconstitutional in Shays-Meehan and severability is not an issue, and, hence, I would not urge support of the Thomas amendment.

Mr. WHITFIELD. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. I thank the gentleman for yielding. All of us certainly admire and respect the gentleman's legal analysis. I want to read to the gentleman from page 249 of the Massachusetts case that he cited.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from California (Mr. CAMPBELL) has expired.

(On request of Mrs. NORTHUP, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. CAMPBELL. I continue to yield to the gentleman from Kentucky.

Mr. WHITFIELD. "Buckley adopted the 'express advocacy' requirement to distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons. We therefore concluded in that case that a finding of 'express advocacy' depended upon the use of language such as 'vote for,' 'elect,' 'support,' et cetera. Just such an exhortation appears in the 'Special Edition' in this case. The publication not only urges voters to vote for 'pro-life' candidates, but also identifies and provides photographs of specific candidates fitting that description."

So it seems to me in this case, they are definitely verifying and accepting the definition of express advocacy as set out in Buckley.

Mr. CAMPBELL. I appreciate the gentleman's intervention, and I return the compliment. He is also a scholar. I certainly respect his point of view. But recognize that the Supreme Court's holding in the Massachusetts Citizens for Life case was the intent, was the purpose of the communication, not the magic words. I emphasize the exact quotation that the gentleman gave me, the words "such as," not the "words" but "words such as."

Indeed, I was going to quote from Buckley myself at 424 U.S. at 44, note 52, the Supreme Court says, before giving the magic words, "such as." And so the test is not the presence of the actual words but whether the purpose and effect in context is to urge the election of an individual. It was the case in Massachusetts Citizens for Life, and so also it could be the case even if no specific magic word is present.

Mr. WHITFIELD. This says, "Just such an exhortation." It says, "Rather, it provides in effect an explicit directive: vote for these candidates." And that is the bright line test.

Mr. CAMPBELL. Mr. Chairman, I think it is probably time for me to conclude, although I will be pleased to yield to the gentleman from California.

I will just make one last point. The holding of Massachusetts Citizens for Life was intent and effect in the context.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. CAMPBELL) has again expired.

(On request of Mr. DOOLITTLE, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. CAMPBELL. Mr. Chairman, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I was just concerned. It is clear to me, reading the law, that you have to have words of express advocacy. I just wanted to make sure that it was the gentleman's understanding, my colleague from California, that we were not dealing with some reasonable person test or anything of that kind. There is a magic word. It has to be a word of express advocacy. It may not be the seven magic words, whatever the number that was actually enumerated in Buckley. But I think the law is quite clear. It has to be a term of express advocacy. Does the gentleman disagree with that?

Mr. CAMPBELL. I do. Once more, though, it is important to begin by an expression of respect. I do not doubt that my colleague from California is a careful student of the law. But the holding in Massachusetts Citizens for Life, and I am going to recur to the exact quote I used was, "The Edition cannot be regarded as a mere discussion of public issues that by their nature raise the names of certain politicians. Rather, it provides in effect an explicit directive."

So the distinction the court appeared to be directing its attention to was, you have over here a mere discussion of public issues, and you have over here what is in effect a directive. The turning of the logic is not on the use of the words. It is on, is this a discussion of public issues or is it a directive to vote? And so under that interpretation, I think it is quite fair to say that the inclusion of names that close to an election is a directive to vote.

Mr. DOOLITTLE. Mr. Chairman, I respectfully disagree with the gentleman's interpretation. I think that is not what the law says. The Supreme Court in Buckley has spoken and has reaffirmed as recently as Colorado and all the cases as far as I know that makes quite clear that we have to have a bright line. Because we do have that little phrase in the Constitution that says, "Congress shall make no law abridging the freedom of speech."

Mr. CARDIN. Mr. Chairman, I move to strike the requisite number of words.

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Mr. Chairman, I rise in opposition to this amendment. I think this last discussion gives a good reason why we should oppose this amendment.

Mr. Chairman, we cannot anticipate what a court will do. The way that this nonseverability amendment is written, it is so broadly written that if the Court made any significant changes, any changes at all, it could jeopardize other provisions in this bill, it could jeopardize the bill itself. It may not strike at what the author is trying to do by linking certain provisions of the bill together, but because of the way the amendment is written, it is very possible that we could jeopardize what we are trying to do here in getting enacted the Shays-Meehan bill. It also compromises the coalition that has been put together in an effort to make the first steps to meaningful campaign finance reform.

So for all those reasons on the merits I would hope that my colleagues would reject this amendment.

One problem that we have is that there are 435 experts in this body on campaign finance reform, but we are all experts in our own congressional districts, and we do not appreciate that we need to legislate that will affect all 435 of the districts, and we are going to be hearing some amendments that are going to be coming forward that are well-intended, that we think we have to package everything together or add additional provisions to this in order to make Shays-Meehan better. But the one thing that I would hope all could agree on is that Shays-Meehan is a good first step to campaign finance reform, and if we are interested in changing the current system, then we should resist amendments that jeopardize our ability to get Shays-Meehan passed in this body and the other body.

Mr. Chairman, it does deal with some major issues that are out there that my constituents, indeed I think all of our constituents, are asking us to deal with in campaign finance reform, and that deals with the use of soft money by our political parties where millions of dollars are being contributed basically without accountability and are being used to influence elections even though they are not supposed to be, and issue advocacy which we just heard the debate on which is clearly aimed at influencing elections and yet does not have the accountability of moneys being reported or spent according to election law.

So for all those reasons we have a chance to do something with the underlying bill that is before us in Shays-Meehan. The amendment that is being offered would jeopardize that because it turns over to the courts the ability to throw out this entire legislation even though there may be a minor issue that the Court may have disagreement with us on. It jeopardizes the work of what we have been able to do.

Mr. Chairman, I would urge my colleagues to reject the amendment.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to my friend from California.

Mr. THOMAS. Mr. Chairman, I think the points the gentleman from Maryland (Mr. CARDIN) made in opposition to the amendment are exactly the reasons why I think the amendment needs to be supported, and the gentleman from Texas concurs.

First of all, the Court does not make constitutional decisions on minor provisions. I think my colleagues will find that the Court makes decisions on major provisions.

Mr. CARDIN. Reclaiming my time, Mr. Chairman, on that point I would say that is a matter in the eye of the beholder.

Mr. THOMAS. Exactly.

Mr. CARDIN. I have found some decisions made by our Court that leaves an awful lot to be desired, and it could very well deal with a minor provision here affecting it that would throw out the entire bill the way this amendment is drafted.

Mr. THOMAS. And if the gentleman would continue to yield?

Mr. CARDIN. I yield to the gentleman from California.

Mr. THOMAS. What the gentleman is asking is the same position the gentleman from California (Mr. CAMPBELL) my friend asked, and that was that we should rely on expertise first of all—

Mr. CARDIN. Reclaiming my time, just the reverse. Almost every bill that we passed through this Chamber we put a severability clause intentionally in because we know that we can never anticipate what a court will do. We are the legislative body. Theirs is the judicial body. They have their responsibility. I do not claim to be the Justice in the Supreme Court, and they may do things that I disagree with. We put a severability clause in so that we can preserve our product in the case a court decides to strike part of it down.

Mr. THOMAS. And if the gentleman would yield, that is exactly what happened in the 1970s when we did not preserve the product. We created a law which did not work, and for 25 years we have not been able to make it work.

What we are trying to do, and I hope the gentleman understands the intent because it will be applied to every bill that has severability. Not all of the bills have severability. Some of the authors are willing not to include severability. The intent is to make sure that what Congress intended in fact occurs. If we have a severability clause, we are betting the Court either believes it is all constitutional or they will only pick out a minor portion. I think the gentleman will find it will not be a major portion, it will be a minor portion, and we are right back in the box of unintended consequences.

Mr. CARDIN. Reclaiming my time, we need to make progress wherever we can make progress, and if we can get through this Chamber and the other Chamber, signed by the President and through the courts, we need to take whatever progress we can, and enacting this amendment jeopardizes it.

Mr. THOMAS. Mr. Chairman, I will tell the gentleman, if he will yield, hodgepodge is not advancing the cause.

Mrs. NORTHUP. Mr. Chairman, I move to strike the requisite number of words.

It is interesting to hear the lawyers debate what the courts might do. The fact is there is clearly concern that there are portions of this bill that are not constitutional. In fact, it is clear by the resistance of the people that oppose this amendment that they fully expect that the courts are probably going to strike down a portion of the bill. If they did not expect that, they would join us, and they would support the clause that says if part of the bill goes down, it all goes down.

The aggravating part of this is that the very sponsors of this bill have sent out to the Members of this body a bill, a letter, a dear colleague letter bragging about the fact that this is a balanced approach, that we should support Shays-Meehan because it is balanced, and they go on to explain why it is balanced.

So, if they are not supporting this amendment that says it either all stands or it all falls, what they are saying is we do not care if it is balanced, we do not care in the end if what we get is an unbalanced product, we still like it.

The fact is that they would like to call this campaign finance reform. I do not believe that is a correct term because reform means better, and I think what we got is something far worse. It is a change, it is a change in how campaigns will be conducted, it will be a change in who can speak and who cannot speak. But what it will do will not be better because it will force people who want to speak about elections, people that want to talk to the voters, and the voters that wish information, they will now have less information. They will have information from Citizens for a Better Democracy or citizens who like this democracy, and they will have no idea who put money in and how the money is being spent and what their ultimate motives are.

But the point is that they are saying that this bill is balanced, and then they tell us, if it ends up that only portions of it are constitutional, that that is okay with them, too. So why do they not say they do not care whether it is balanced or not? They like the bill.

Mr. Chairman, this body should support this amendment and make sure that what has been purported to us, that having balance is important, actually sticks with the bill in case it ever goes anywhere. In the meantime the rest of us should worry a lot that there will be some groups who may be able to speak and some groups that will not be able to speak. That is exactly what starts happening when we start talking about free speech and who can participate in elections. We start deciding who has speech and who does not have speech, and that is why the courts strike it down, that is why they will strike part of this down, that is why they may strike it all down. But to tell us that it is balanced and then say we should pass it and they do not care if it is balanced because they oppose this amendment is flat wrong. It absolutely cheats the American people of being able to have the whole story, the whole truth, the whole message, free speech.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Mrs. NORTHUP. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentlewoman from Kentucky's remarks, and she is dead on, and if I could just take a moment to complement what she just said, although I am certainly not as eloquent as the gentlewoman is.

This is so important, and I wish we could do this all day and all night and every day because frankly this is a good debate to be having. It is one of the few debates in the long time I have been here that we are actually having, and frankly it is why most of us came here.

But in particular this amendment is vitally important because when we talk about campaign financing and campaign laws, mostly it is all sort of intertwined and related in one way or another. It is also we have a little problem with one group having an advantage over another group; that is why we have such a problem in the kinds of laws, FEC laws in 1974 that were totally written to protect the incumbents, and we all know that in fact that is why most of it was struck down by the courts. And so when we start regulating, we are picking winners and losers. Just like we would be regulating reforms or regulating anything else, we are picking winners and losers, and we are taking advantage based on who may have the votes.

But throughout the debate on this particular bill the proponents of Shays-Meehan have assured us throughout the debates that we already had in press releases and everything else that there are no constitutional problems with their proposal. Their curbs on speech in violation of the First Amendment have the Good Housekeeping seal of approval, or so they say. This amendment would give them a chance to put their money where their mouth is.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentlewoman from Kentucky (Mrs. NORTHUP) has expired.

(By unanimous consent, Mrs. NORTHUP was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Mrs. NORTHUP. I yield to the gentleman from Texas.

Mr. DELAY. If my colleagues think this is overreaching and what I think is a repressive piece of legislation will pass constitutional muster, well, then fine. Then they will have no problem with an amendment that will take the whole bill down if just part of it is declared unconstitutional. This amendment is a nonseverability clause. It would provide that if a portion of the bill is declared unconstitutional, the entire bill is null and void.

Now while the courts have not always regarded themselves as bound by severability clauses or the lack thereof, I think this amendment would serve as a powerful impetus for this bill to be upheld or overturned as a whole. Take, for example, what I think is a ridiculous and overdrawn provision dealing with the express advocacy clause. No one who has given this provision serious thought expects it to pass constitutional muster. Basically it would require an organization to report to government bureaucrats whether their campaign operation is an implicit advocacy of election or defeat of a candidate. The money spent to make these statements would be classified as political expenditures for the purposes of Federal election laws.

Well, the problem is that most legislative advocacy groups are prohibited by law from making political expenditures and by classifying legislative advocacy as such Congress may well outlaw their statements in the very unlikely event this provision is upheld by the Court. So characterizations of an office holder's vote as pro-life, or pro-choice, or anti-gun might therefore be illegal. Well, there may be office holders who relish the prospect of being insulated from criticism on their legislative provisions, but I hope there is very few of us in this Chamber that would relish such a thing.

The CHAIRMAN pro tempore. The time of the gentlewoman from Kentucky (Mrs. NORTHUP) has expired.

Mr. DELAY. Mr. Chairman, I ask unanimous consent that the gentlewoman be granted an additional 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SHAYS. Reserving the right to object, Mr. Chairman, I just would like to have some definition. Is the gentleman asking to strike the requisite number of words and use 5 minutes, or he is just asking unanimous consent to take 5 minutes and not strike the requisite number of words? I am just curious to know what he asked for.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, I think I am the one that has the floor, and I want to ask unanimous consent for five additional minutes.

Mr. SHAYS. No, I would object to that. There are people who are waiting to have 5 minutes, and I do not object to the gentleman asking to strike the requisite number of words and have 5 minutes, but there are people who are waiting to have time to speak, and the gentlewoman has already had 7 minutes.

Mr. Chairman, I just need to know what the process is. The gentlewoman had 5 minutes, and we extended 2 more minutes.

The CHAIRMAN pro tempore. Is the gentleman from Connecticut reserving the right to object?

Mr. SHAYS. I am reserving the right to object, Mr. Chairman, and ask this question: I am asking if the gentleman is asking to strike the requisite number of words and use his 5 minutes. Could I request that the gentleman strike the requisite number of words and we can proceed that way?

The CHAIRMAN pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. HEFNER. Reserving the right to object, Mr. Chairman, and I do not intend to object, but I would like to ask a question since I am probably not going to get any time and since my good friend from Texas (Mr. DELAY) is talking about the First Amendment. Let me ask the question, not being a lawyer:

These advocacy groups, and we get a mailing in the mail that does not have anybody that claims title to it, it just comes in the mail to Mr. and Mrs. Whoever, and they advocate something, but there is no return address, there is no name on it.

The CHAIRMAN pro tempore. Is there an objection to the request of the gentleman from Texas (Mr. DELAY)?

□ 1900

The gentleman from North Carolina (Mr. HEFNER) has reserved the right to object.

Mr. HEFNER. Mr. Chairman, I reserve the right to object.

The CHAIRMAN pro tempore. Would the gentleman from North Carolina (Mr. HEFNER) speak to that point please?

Mr. HEFNER. Well, I guess I reserve the right to object to try to get some kind of order here as to how much time is being allotted, because with all due respect, this is going to be kind of a filibuster of one opinion.

Mrs. NORTHUP. Mr. Chairman, I can clarify my request, just to allow the gentleman to finish.

The CHAIRMAN pro tempore. Would the gentlewoman suspend?

Has the gentleman from North Carolina completed his reservation?

Mr. HEFNER. No, I have not, Mr. Chairman.

Mrs. NORTHUP. Mr. Chairman, I control the time here.

Mr. WEYGAND. Point of order, Mr. Chairman.

Mrs. NORTHUP. Mr. Chairman, I would just like to ask that the gentleman be allowed to ask the question of the gentleman from Texas (Mr. DELAY).

POINT OF ORDER

Mr. WEYGAND. Mr. Chairman, point of order. Please clarify my understanding that, right now, the Chair has denied the gentlewoman who has asked for an additional 5 minutes with unanimous consent. That has not been granted as of right now, so she does not control the time that is before us right now.

The CHAIRMAN pro tempore. The request of the gentleman from Texas that the gentlewoman from Kentucky (Mrs. NORTHUP) have 5 additional minutes is still pending.

Mr. WEYGAND. Therefore, Mr. Chairman, I object to it until we have a clarification from the whip, which I would love to have, about the procedure as to how we are going to proceed with time. There are many people here that would like to strike the last word, and we do not disagree with having the whip take the time that he needs, but if this is going to be continuous, we have an objection to it.

The CHAIRMAN pro tempore. Is the gentleman from Rhode Island objecting?

Mr. WEYGAND. Yes, I am, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Mr. DELAY. Mr. Chairman.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. HEFNER. Mr. Chairman, will the gentleman yield for a question?

Mr. DELAY. Your side objected and I will not yield.

This is just unbelievable. This is going to be a very long debate, I have to tell my colleagues. This is going to be a very long debate, and if my colleagues want to stifle debate and open discussion, then do so. You tried to stifle debate.

Mr. HEFNER. Mr. Chairman, would the gentleman yield?

Mr. DeLAY. Regular order, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DELAY) controls the time.

Mr. DELAY. I thank the Chairman.

Mr. Chairman, the Democrat side once again objected to an open discussion that we were having that we asked to extend one time and then a second time, again.

Now, my colleagues cannot have it both ways. First, my colleagues ask for open and honest debate, many vote "present," do not want to participate in a debate that they have been demanding for over a year; and it just amazes me that because they do not want one particular person to be speaking or to extend the time for a short period of time, because they may be inconvenienced and they have been standing there for all of 7 minutes, they want to stifle debate and stifle discussion.

Well, fine. We can operate that way. And if my colleagues on the other side of the aisle do not want to show their colleagues courtesy, then we will operate that way.

Now, Mr. Chairman, if I could finish my statement, that I was attempting to make before I was so rudely interrupted by those that would like to stifle debate and do not want open and honest debate, we are seeing the true colors right now, what has been going on for quite a while.

So in order to try to regain where I was headed, I am just trying to say that the Shays-Meehan amendment substitute may well have the practical effect of insulating Congress from criticism, and this is the kind of thing they want to happen. They do not want to be criticized. They do not want issue advocacy groups out there criticizing their votes; they want to hide it by regulating free speech. That is what this is all about.

If the First Amendment does not prohibit this sort of abomination, exactly what does rise to the level of its scrutiny? So the severability amendment before us would put this challenge to the draftsmen of the Shays-Meehan gems such as this.

To those proponents of Shays-Meehan, I would say this. If you believe your bill is constitutional, you should have no problem allowing it to rise or fall as a whole. If you do not believe your bill is constitutional, what exactly did you mean when you took your oath of office to uphold and defend the Constitution of the United States?

And to the Members of this body I would just say, if you believe that the Bill of Rights is a crapshoot where Congress has no responsibility for the constitutionality or unconstitutionality of the bills that it enacts, do not vote for the severability amendment. If you believe that squashing legislative advocacy groups is so important that it overrides your oath of office, then do not vote for this severability amendment. If you believe in cases of constitutional doubt that the presumption should lie against the Bill of Rights, do not vote for this amendment.

If you believe it is a sound practice to enact legislative wads of constitutional scraps in the hope that perhaps the Supreme Court may have a bad day when it adjudicates your bill, do not vote for this amendment.

On the other hand, if you believe, like I do, that the First Amendment was intended to protect, above all, the marketplace of political and legislative ideas, then we welcome your voice and your vote. But if you believe, like me, that it is a travesty to use the legislative process to attempt to shut down political opposition, as exhibited on the floor already tonight, then we welcome your vote and your voice. And if you believe, like me, that the First Amendment is at the core, about the vibrancy of political, legislative and philosophical debate, debate which would be gravely threatened by this misbegotten bill, then we would welcome your voice and your vote.

Mr. HEFNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sorry if I angered my good friend from Texas, but I wanted desperately to ask the question, since I did not have the time.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I just wanted to point out, before the gentleman from Texas (Mr. DELAY) leaves, that the first bill in the Contract With America, the congressional accountability bill which he advocated and supported and took pleasure in signing, had a severability clause.

Mr. HEFNER. Mr. Chairman, reclaiming my time, the gentleman from Texas (Mr. DELAY) is gone.

Mr. Chairman, I have an awful lot of respect for the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) and the folks that have worked so hard for campaign reform.

We are awfully selective around here. I have been here for 24 years, and I have never seen a Committee on Rules that operates like this Committee on Rules does now. The other day, not a week ago, we considered a budget that is absolutely going nowhere, it is a total disaster, and they ignored Members offering a budget that possibly could have passed. But they were not entitled to offer that budget.

Now, here they are, they are allowing over 200 amendments and many of them are not germane. We are not the United States Senate, we have to have germaneness here. But the Committee on Rules says, we will waive all points of order and we can just go ahead and offer those amendments.

We talk about the First Amendment, and some of these people would seem to think that it is okay if some advocacy group sends out a letter or a postcard that says, if you vote for BILL HEFNER and Mike Dukakis, which happened in my election, there is no disclaimer on it, you do not know where it came from, and you say, if you shut that down, that is not violating their First Amendment rights. They have no rights if there is no entity out there that claims that they are responsible for that.

Mr. Chairman, I think that what this is is a sham to kill campaign reform. I do not understand the leadership on that side. If they want to kill campaign reform, put them together, one bill with everything they want in it, and take it and go one-on-one with the Shays-Meehan bill. But to say that we are cutting First Amendment speech is totally ridiculous and, to me, it is the first time in my 24 years that I have been in this House that the Committee on Rules is writing legislation and bringing it to this floor, and I think it is a travesty. I do not think it speaks well for this House, and I do not think it is going to solve the problems of this country.

Mr. MCINNIS. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Colorado.

Mr. MCINNIS. Mr. Chairman, let me say to the gentleman, I am a little surprised by the gentleman's remarks on the Committee on Rules. I am on the Committee on Rules, and about 2 hours ago the gentleman from North Carolina (Mr. HEFNER) was in front of the Committee on Rules and they were speaking about retirement, and the gentleman certainly did not address the chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON) with the remarks that the gentleman is now addressing here. Of course, the gentleman from New York (Mr. SOLOMON) is not here.

Mr. HEFNER. Mr. Chairman, reclaiming my time, there was no reason to; we were not debating campaign reform. But if the gentleman from New York (Mr. SOLOMON) were here in this building, I would tell him that he is running a travesty, and he is running a dictatorial type of Committee on Rules, and he is writing the legislation of what comes before this House, and he is doing it with an overriding hand.

Nobody has any rights. The Committee on Rules is writing the legislation that comes to this House, make no mistake about it. The Committee on Rules is the Speaker's committee. He is absolutely telling the Committee on Rules, here is what you do, there is no deviation from it, and you bring it to the floor here; and that, to me, is not the way. You are just absolutely bypassing the legislative process, and that is not right.

Mr. MCINNIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, to the gentleman I would just say that I am just amazed, because the gentleman is taking an entirely different approach than the gentleman did just 2 hours ago when he was sitting in front of the Committee on Rules and he was complimentary and the Committee was complimentary of the gentleman. I have great compliments for the gentleman's service.

The other point I want to make here, and I heard it today earlier from the gentleman from Michigan, everything is fine with the Committee on Rules as long as it satisfies you personally, but the minute somebody else wants to offer an amendment to debate, all of a sudden this Committee on Rules is the most horrible committee in 24 years.

There are 200-and-some amendments. This campaign reform is one of the most significant pieces of legislation that has come onto this floor. The Committee on Rules said, wait a second, we think that because there is such a divisive feeling about this, a lot of people ought to be offered the opportunity to offer their amendments.

From that side of the aisle, I listened to the gentleman from Michigan earlier today, I listened to you. This is the gentleman's side of the aisle that is always complaining about the Committee on Rules never lets us offer amendments; the Committee on Rules never lets us offer amendments; the Committee on Rules never lets us offer amendments. It is a dictatorship; they just shut it off.

So when we offer the amendments, you are down here the next day saying, the Committee on Rules offers too many amendments; the Committee on Rules offers too many amendments. We are never going to make you happy.

Let me just say, especially based on the words I heard today, I am just very surprised by the comments of the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. MCINNIS. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, I do not understand what the connection is. I have no squawks with the Committee on Rules today. The gentleman from California (Mr. PACKARD), who is a very good friend, we did not offer waivers to nongermane amendments, and I am sorry if I neglected to congratulate the Committee on Rules, but I am not going to do that because I do not appreciate the work that the Committee on Rules is doing. It is no personal thing, but I do not appreciate it. But I do not see what the connection is about me being before the Committee on Rules. We just wanted to expedite it and get out of there.

Mr. MCINNIS. Mr. Chairman, reclaiming my time, let me say that the gentleman's remarks, if he takes a look at them in the transcript, he will find that they are very broad, not limited specifically to this bill: "24 years, we have never seen a committee run like this committee."

Two weeks ago with the budget, they did not do this. I tell my colleague, if the chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON) were standing right here, the gentleman and I both know the gentleman from New York, he would be red in the face.

Mr. HEFNER. Mr. Chairman, call the gentleman from New York (Mr. SOLOMON).

Mr. McINNIS. Mr. Chairman, again reclaiming my time, I hope that the gentleman from New York (Mr. SOLOMON) has the opportunity.

Now, let us focus on this other bill and the importance of that issue.

It is like going to a car dealership and, frankly, you people want to sell us a car. You say, all right, tell me about the car. It is a great car. What happens once I buy the car and I get out, what if a key part of the car, the motor does not work? Can I bring the car back? Oh, no, no, no. You take the car.

If a key part of it, i.e., just like in a bill, if a key part of it is unconstitutional, you still have to take the bill. That is what you are saying to us.

I think that the whip brought up a very good point. This is a very complicated piece of legislation. It is very "intertwined," I think was the word that was used by the whip. One part depends upon the other part that depends upon this part. It is just like in the car. The car has lots of parts that depend on that motor, and the motor has lots inside it that depend on the fuel and other parts.

So what we are saying is, wait a minute. Either this car is good enough that you are saying to me if it breaks we will give you another car, if the motor goes out. That is what we are asking here.

□ 1915

We are saying if our colleagues are so confident about this bill, then if a key part of the bill is found unconstitutional, which all of them deny it is, they are all saying it is very constitutional and this is constitutional to do this, this is constitutional to do that, I say back it up. Support.

What we are saying is if it is not, let us bring it back to the drawing board. Bring the car back to the garage. Do not say to the buyer of the car, "Sorry. The motor broke, but we do not allow that. You are going to have to keep this car." We are saying bring it back. That is a pretty logical request to make.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Colorado (Mr. McINNIS) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. McINNIS was allowed to proceed for 2 additional minutes.)

Ms. RIVERS. Mr. Chairman, will the gentleman yield?

Mr. McINNIS. I yield to the gentlewoman from Michigan.

Ms. RIVERS. Mr. Chairman, I wanted to make sure the gentleman understood this issue in context. The argument seems to be that only people who are concerned about the constitutionality of their bill would disagree to a nonseverability clause. But a very quick review of legislation in this Congress finds, as best I can tell, only four bills, only four bills that had been printed and distributed without a severability clause.

Mr. Chairman, I also find that if we are concerned that people who promote the idea of having a severability clause really are not clear about the constitutionality, I find that the gentleman from Florida (Mr. CANADY), who is the chair of the Subcommittee on the Constitution, put a severability clause in his Religious Liberties Protection Act. And the gentlewoman from Kentucky, who has argued this very vigorously who was an original cosponsor of House Resolution 456 for drug testing, also put a severability clause.

So if there are only four, why are we suddenly directing all of this wrath?

Mr. McINNIS. Mr. Chairman, reclaiming my time, I do not disagree point blank or broadly against severability. I think it is appropriate. But let me say that it is the gentlewoman from Michigan (Ms. RIVERS) and individuals such as the gentlewoman, that are saying to the country out there: This is absolutely constitutional. This is not a breach of the freedom of speech. This campaign reform, do not let anybody divert attention by saying it is unconstitutional. It is constitutional.

What happens is the gentlewoman then gets out there, saddles this thing on a lot of people, and I frankly believe parts of it are unconstitutional. But until it gets to the Supreme Court, my colleagues are able to squash the constitutional rights on something that you are going across the country, and I say "you" generically, that that side that is supporting this, the Democrats are going across the country guaranteeing everybody this is constitutional.

They criticize us. Every time that I have said about this bill I think there are some unconstitutional provision, I get criticisms. Why do I dare question the constitutionality?

Mr. Chairman, my point is this. If the gentlewoman would criticize me for questioning the constitutionality, then she should back up her product.

Mr. WEYGAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to try to get back to the substance of the bill that is before us and the amendment that is before us.

Mr. Chairman, it is interesting, the debate that we have had. The majority whip came up and talked very eloquently about the problems that he foresees with the perception that he believes that we are trying to bring to the American public. But let me tell my colleagues, I do not think any of us on this side of the aisle or that side of the aisle think that the Congress is perfect.

When we first set up this great assembly and this great body and this country, we recognized that there may be errors made by this Congress and we have a system called a Court which reviews those errors.

So if the public is watching out there, if we make a mistake in a piece of legislation, whether it be a comma, whether it be a substantial piece that may be unconstitutional, we have always, almost religiously included a severability clause. Almost every general assembly across this country does exactly the same thing, because of the check and balance system that we have before us makes sure that at least we can get part of the bill if not all of it.

Some of the comments this evening are that we have for some reason said that the Shays-Meehan bill is perfect. Well, the Shays-Meehan bill really addresses an original or substantive part of campaign finance reform and attaches to that statute many different pieces, addresses different parts. Soft money, a number of other things besides soft money, with disclosure.

Mr. Chairman, each one of those things are important elements to campaign finance reform. By themselves, they may not be as important as the whole. But individually they are important. And if one part of that happens to be unconstitutional, I am not so proud, nor do I think any of our other Members here are so proud, to say that it is without doubt we are absolutely perfect and that we should not think at all that any piece is unconstitutional.

But take a look at what we are really trying to do. Shays-Meehan is trying to correct one of the most egregious problems of campaigns today and that is the issue of soft money. We all on both sides of the aisle take political action committee money, or most people do. We all have caps on those and we have many other wealthy people or poor people who contribute to our campaigns. But one of the most difficult things for the general public, who is most important in this discussion, is they do not understand how these issue advocacy ads and thousands and millions of dollars are going in to campaigns without disclosure, without one person understanding or knowing where it is coming from, yet having a great impact on how campaigns are determined.

But more importantly, as I stated yesterday and last night, the whole issue of this body is to have people that have their finger on the pulse of America. The pulse of the people is what we are supposed to be monitoring and be a barometer of.

So often we try, and both sides are out there trying to scoop up as much money as we possibly can to get out there and talk about the issues that we think are the most important. But the average American finds it very difficult to run in a campaign when, in fact, there is so much additional money besides what we presently have limits on, political action committee money or additional contributions.

Shays-Meehan makes a dramatic attempt to correct that. It may not be everything we want in campaign finance reform, and that is why we over here are in favor of putting on the White amendment that would provide a commission. We think that we should move forward, not that this is the end-all of reforms for campaign finance, but it is the beginning. It is a major step.

Mr. Chairman, to camouflage it with this poison pill by providing nonseverability is an attempt to deny the public an opportunity for clear finance reform.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

Mr. WEYGAND. I yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, I think the gentleman from Rhode Island has very eloquently pointed out the difference between the perspectives here. Mr. Chairman, I would ask if the gentleman would agree that if we believe every point of this bill by itself is good, then severability makes sense. But if the Court struck out any two provisions, any three provisions, any one provision of the Shays-Meehan bill, what I believe I heard the gentleman say was it is still a great beginning and he supports it.

The CHAIRMAN. The time of the gentleman from Rhode Island (Mr. WEYGAND) has expired.

(By unanimous consent, Mr. WEYGAND was allowed to proceed for 2 additional minutes.)

Mr. WEYGAND. Mr. Chairman, the gentlewoman from Kentucky has struck a very poignant part of our argument. We believe that if one or two or three parts of this bill, or other parts of the underlying statute which we are amending, existing law, were found by the Court to be wrong, then they should be severed away from it and taken away from it. It does not mean that the rest of it should not stand.

Let me give an example which is totally different. The Tax Code. Tax law. We passed tax bills last year. Monumental tax revision. If any one piece of that tax bill fails, I am sure that the gentleman from Texas (Mr. ARCHER) and the Committee on Ways and Means and this Congress and this Senate would make provisions to try to correct the mistakes. But do we put a nonseverability clause on the tax bill?

Mrs. NORTHUP. Mr. Chairman, if the gentleman would again yield, if I can answer that because I think this is such an important clarification.

Mr. Chairman, we do not put nonseverability because those of us that voted for that tax cut believed each one of those cuts stood on their own merit, had a merit of their own.

For those of us that are asking for support for the nonseverability, we are saying that if Members believe that balance is important, and this is a balanced product and that if two or three points of it would be struck down by the courts and the rest of it would create an imbalance, severability would be important.

Mr. WEYGAND. Mr. Chairman, reclaiming my time, our sole intent here is to make sure that Shays-Meehan stands, in part or in total. This amendment that is being offered by the gentleman will, in fact, provide us with a total failure. It is a poison pill that will ruin Shays-Meehan, and it is intended to do so.

Mr. GREENWOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been wanting to have some time for a while because I first want to speak on process, and I hope the gentleman from Connecticut (Mr. SHAYS) is listening, and I do not know if the gentleman from Texas (Mr. DELAY) is here or not. But I cannot let pass the nuance that the gentleman from Connecticut was in some way trying to interfere with the free flow of debate on this floor or was in any way disrespectful of his colleagues.

Mr. Chairman, it has been my experience in the 6 years that I have served in this House that there is not a Member of the House of Representatives who is more courteous, who is more respectful of his colleagues, who is more polite than the gentleman from Connecticut. He is a gentleman par excellence, and his motives in that regard should not be questioned.

Mr. Chairman, it was clear that his concern simply was that in the format where we each seek 5 minutes and an infinite number of yields might prevent others from having an opportunity to speak. And it was only, I know, because of his courteous respect for his colleagues that he made that point and I think that should be clarified.

On the merits of severability, the gentleman from California (Mr. THOMAS), neither he nor the proponents of his amendment have yet made the case that the elements of the Shays-Meehan bill, in fact, hinge upon and were dependent upon one another. The fact of the matter is that they are not.

The first provision, the most important provision is that this bill bans soft money. Americans by overwhelming majorities understand that when huge corporations or huge labor unions are able to contribute huge sums of money to the parties, that they buy undue influence that individual Americans could never ever achieve. And Americans think that is wrong because this is not government by the corporations, for the corporations, or by the labor unions, for the labor unions. It is government by and for and of "We the People."

Americans understand that people should contribute to candidates, not corporations, not to parties, nor should labor unions.

Now, Mr. Chairman, that is meritorious on its own regard. If the Supreme Court decided that codifying Beck with regard to paycheck protection or with regard to contributions by union members was unconstitutional, that in no way minimizes the value of banning soft money. No more than getting rid of sham issue ads, where they get around the rightful limitations on contributions of hard money and use other funds to go right after a specific candidate and malign him and attack him without ever owning up that the purpose of that ad was to go after a specific candidate. That stands on its own merit entirely.

Whether the limitation on what wealthy candidates contribute was to stand or fall in the courts has nothing to do with the merits of getting rid of these sham ads, any more than limiting the ability of incumbents to use the franking privileges all the way up to elections. If that stands or does not stand in the Supreme Court, it has nothing to do with whether foreign money and fund-raising on government property should stay in law.

So until the proponents of the Thomas amendment can show in any way how these components of the Shays-Meehan act rely on, depend on, cannot exist without the other, they have not made anything like a case.

□ 1930

The fact of the matter is that these provisions all stand on their own. All have merit, individually or collectively, and are not dependent upon one another in order to accomplish real campaign finance reform. I urge a "no" vote on the Thomas amendment.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, what I would say is that there are different ways for different people to influence elections. The fact is, soft money, I believe, is a very good form of support for our parties. If GE gives **$100,000** to the Republican Party, whatever candidates they help have no idea who gave that money, have no idea whom they might owe.

In fact, the only thing that they are thankful for is the fact that their party, whom they already agree with, their principles, supported them.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GREENWOOD) has expired.

(By unanimous consent, Mr. GREENWOOD was allowed to proceed for 1 additional minute.)

Mr. GREENWOOD. Mr. Chairman, in response to the gentlewoman's comments, it may be the candidates do not know where the money came from, but it is certainly the case that when the XYZ Corporation gives a huge sum of money to the Democratic or the Republican Party, Members of Congress in the House and the Senate were involved in raising that money.

When the vote comes before the House, they are not adverse to reminding Members, the XYZ corporation or the XYZ labor union just gave us a million dollars, and they will really appreciate the right vote here. Do you think that does not happen?

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, my colleague is 100 percent right. It is so cynical for anybody to suggest that the people who are in office, who helped raise the money in many cases, do not know the source of the funds. The gentleman from Pennsylvania (Mr. GREENWOOD) is so right.

The problem is, the public does not know. But the recipients, the parties, do know.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Pennsylvania (Mr. GREENWOOD) has again expired.

(On request of Mrs. NORTHUP, and by unanimous consent, Mr. GREENWOOD was allowed to proceed for 2 additional minutes.)

Mr. HEFNER. I object, Mr. Chairman.

The CHAIRMAN pro tempore. No timely objections were heard. The gentleman from Pennsylvania (Mr. GREENWOOD) is recognized for 2 additional minutes.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. Mr. Chairman, I yield to the gentlewoman from Kentucky to see what she says and to decide if I want to continue to yield.

Mrs. NORTHUP. Mr. Chairman, I will just point out that we all know who gives to the parties because it is reported. But if the XYZ Corporation thinks they want to influence an election, now they can give it to an independent organization, which is the part of the bill we think will become unconstitutional; and no one, no public has any ability to know they got **$100,000** or whether they told the candidate that they gave **$100,000**. That is the sort of illegal action that has happened in States where they have previously passed this kind of legislation. I am sorry we cannot hear the rest of the story.

Mr. GREENWOOD. Reclaiming my time, Mr. Chairman, the fact of the matter is, we can be for soft money, as the gentlewoman is, and be against it, as I am; and that is a legitimate and reasonable debate.

The issue in this amendment is whether the ban on soft money is or is not a good idea, depending upon whether the courts decide that the ban on raising money in public offices stands or it does not.

These provisions have merit on their own. They do not hinge one upon the other. They are not dependent upon one another for their effect. They should not be subject to this sham amendment which I think, although I have nothing but respect for the gentleman from California, is really intended to undo the provisions.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, is the gentleman saying there may be provisions in this bill that could be deemed unconstitutional?

Mr. GREENWOOD. Mr. Chairman, reclaiming my time, what I am saying is that the proponents of this amendment have yet to make a coherent argument that, in fact, one provision of this bill relies upon the other. The burden of proof on an offer of an amendment is to prove that their argument has validity, and you have not done that.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me begin with the assertion from the gentlewoman from Kentucky that when an individual gives **$100,000**, or a corporation, to a political party, the candidates do not know who gave that. I would nominate that for the single most astounding thing said on the floor of the House since the gentleman from California (Mr. Dornan) left our premises. No one I know of thinks that that comports with the facts. Of course the candidates are made aware of who gave the soft money.

Next, I want to talk about the rule. I do not know if the gentleman from Colorado is still here. He was waxing indignant because people criticized the rule. He said, you know, you come to us, and you ask for amendments, and you ask for amendments, and you ask for amendments; and we say, no, you cannot have this, and, no, you cannot have that, and, no, you cannot have this; and then we make 417 nongermane amendments in order to this bill, and you are ungrateful.

As a matter of fact, that is precisely our point. The majority has made it clear, when they want a bill to pass, they restrict amendments unduly. The chairman of the Committee on Rules boasted on this floor that he would not allow any amendment to the defense bill, including one cosponsored by myself and the gentleman from Connecticut that would have allowed a cut in the defense bill.

He would not allow one to have us remove our troops in Bosnia, cosponsored by three Democrats and three Republicans. Amendments were kept off the bankruptcy bill. Amendments have been kept off bills.

So my colleagues are right, we do point to the glaring difference between a refusal to allow basic important amendments to bills and then loading this down with nongermane amendments. That is clearly a sign of people who do not want to have this bill.

Do my colleagues want to know what this rule is and this procedure is? This is filibuster envy. We have people here who may not make it to the Senate on their own, so they will try and change the rules so we can filibuster.

I sympathize with my friends who try to get before them. I do not agree with them. But it is a sign of how overwhelmingly opposed the Republican leadership is to letting this bill get decided, that my good friends, men of integrity and women of integrity who worked hard, have to claim as a victory that they are going to let us vote on it in August. That is, I think, a sign of how much they are not for this bill.

Mr. Chairman, I want to get to severability, but first I will yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield for a question?

Mr. FRANK of Massachusetts. Mr. Chairman, I just said I would yield to the gentlewoman from Kentucky.

What was her question?

Mrs. NORTHUP. Mr. Chairman, I was just wondering if the gentleman can name, for example, five contributors that have given **$100,000** to his party. I could not name that.

Mr. FRANK of Massachusetts. Mr. Chairman, right now Bernard Schwartz comes to mind. He is the man from Loral. Then the National Education Association, the United Auto Workers. Oh, the Teamsters.

Mrs. NORTHUP. Mr. Chairman, let me ask the gentleman another question.

Mr. FRANK of Massachusetts. I am sorry, the gentlewoman asked one question, teacher. Excuse me, but I answered one question, and then I will talk some more, and she can ask another.

Mrs. NORTHUP. All right.

Mr. FRANK of Massachusetts. Because I do want to get to severability.

This notion that you cannot have severability, there is a constitutional doubt, I am struck by the number of conversions I am seeing today, first because we have the majority whip who is a born-again constitutionalist.

In the 14 years I have known him, he has voted for a number of bills that were found unconstitutional without any hesitation. He has never, in my hearing, defended free speech, but all of a sudden he is a great defender of the constitutionality of free speech and of nonseverability.

Let me talk about the telecommunications bill. It was voted out of this Congress in early 1996 with a blatantly unconstitutional provision called the Communications Decency Act, which purported to restrict what adults can say to each other on the Internet even when it wasn't obscene. Over and above obscenity, it said, we may not be indecent to each other. That passed.

The Supreme Court struck it down 9–0. Every member of the Supreme Court said, Clarence Thomas, Justice Scalia, this is blatantly unconstitutional. We cannot do it. I guess I must have been absent the day the majority whip, the arbiter of free speech, objected to that.

But do you know what, the bill had a severability clause, because if we had done it the way Members here are now advocating, that whole telecommunications bill would have been thrown out, because the telecommunications bill contained a blatantly unconstitutional provision.

As you might have inferred from the fact that I am drawing on it at length, I voted against the bill because I knew that it was unconstitutional. However, all the rest voted for it, over 400. I did not do that well in that vote.

People who voted for that blatantly unconstitutional provision and then saw it survive because of a severability clause, if they come to us now and say, we are just unable to vote for anything about which there is constitutional doubt, and we must have a nonseverability clause, do not impress me that that is, in fact, what motivates them on this particular bill.

We have another problem with this rule, and let me use a technical term to describe this rule, "cockamamy." With this cockamamy rule, my colleagues have more loops and whirls.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. Mr. Chairman, what we have here is a procedure whereby the Committee on Rules, which would not allow the amendment of the gentleman from California (Mr. CONDIT) to the budget, would not allow on the other bill, he would not allow the Senate budget as a budget amendment here, would not allow an amendment on Bosnia, the defense bill, it has allowed nongermane amendments and other amendments.

Given the strategy that is being followed of people who want to beat this bill, but do not think they can do it head on, here is what I think we are likely to see: A nonseverability clause, if adopted, will then become the invitation for an unconstitutional amendment. What will happen will be this; here is the scenario:

They get a nonseverability clause adopted. Then they come up with an unconstitutional amendment, but one Members are afraid to vote for. If you doubt that, let me remind you that we voted for a Communications Decency Act by over 400 votes that the Supreme Court threw out 9–0.

So here is how they help to defeat Shays-Meehan. They adopt, rarely, for only like the fifth time this year it is even considered, a nonseverability clause. Then they use this rule to come up with an overwhelmingly appealing, but dubiously constitutional amendment. They get it put in, and they bring down the whole bill.

If we were talking only about Shays-Meehan and there was no chance of an amendment, then I would be less concerned about nonseverability. But you are asking for the right to put in a nonseverability clause and then come up with transparently political amendments which have overwhelming appeal, which Members this close to an election might not want to vote against, and then you would bring down the whole bill.

I think nothing could be clearer from the jumping and whooping and leaping that is going on here that people want to do anything but debate Shays-Meehan.

It is possible, by the way, that we will at some point adopt something that is in the gray area in the Constitution. That is an appropriate thing to do. That is the way we give the court a chance to test itself. But to tell us with this rule, this travesty of a rule aimed at trying to kill the bill, that we should adopt a nonseverability clause so Members can put an unconstitutional amendment in is asking the bill to commit suicide.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to get back to the subject of amendment 132, proposed by the gentleman from California (Mr. THOMAS) and deal with that, and then come to some of the allegations that have floated through this Chamber again about how we are impinging on free speech.

The chairman was right when he referred back to Buckley v. Valeo and how it was handled by the United States Supreme Court. Because in Buckley v. Valeo, the court made a distinction between contributions and expenditures, and we wound up with half of what the Congress had passed.

So there is always a risk when an amendment is brought before this body when we seek to pass legislation, there is always a risk that a portion of that legislation may be held unconstitutional. But in trying to avoid the problem created by Buckley v. Valeo, we are really undermining our chances of campaign finance reform.

What we are trying to do here is to pass a soft money ban. I disagree with the gentlewoman from Kentucky (Mrs. NORTHUP). We can read all the reports we want. We know who gives money to the national parties. If we can just look at the reports of the Republican Party, we will see $6 million or $7 million in money from the tobacco companies coming to the Republican Party, and that is soft money because it comes from corporations.

Corporations have not been able to give to Federal candidates for decades, and yet, they can give money to the national parties, and that money can be used for issue ads that will go out and will affect Federal elections. That is wrong. That is why we need to ban soft money.

Both the freshman bill and the Shays-Meehan bill do that. They have effective soft money bans. It is disingenuous for people to stand up and say they believe in a balanced bill. They believe it is constitutional. Therefore, we should simply go ahead and adopt a nonseverability clause.

Nonseverability clauses are the exception rather than the rule. What is going on here? There have been innumerable efforts to kill campaign finance reform, real reform in this hall, in this session. What is going on now is an attempt to adopt an amendment that would have a chance of killing in the courts any campaign reform, either Shays-Meehan or Hutchinson-Allen, that passes this particular body. We do not want that to happen.

Amendment 132 should be voted down. We do not want a nonseverability clause. If you simply look at the people who are advocating for this particular reform on the Republican side, they are not sponsors of Shays-Meehan; they are not sponsors of Hutchinson-Allen.

□ 1945

Now, let me go back for a moment to the claims that are made periodically here that we are infringing on free speech. Let us go back to Buckley v. Valeo. That court held clearly that in order to prevent corruption, or the appearance of corruption, the Congress could act to impose restrictions on campaign contributions. It is absolutely clear from that decision and from other decisions that it is constitutional to ban soft money.

In a recent case, the court said if it appears that soft money is being used as a way to avoid hard money limits, then the Congress could reconsider what it has done so far on soft money.

Let us talk about what that means in the real world. In the real world, an individual can only give $1,000 to a candidate, but they can give $100,000 or $500,000 to a political party, and that money can be used for issue ads to affect a Federal election.

That is wrong. It needs to be stopped. We have got to contain the influence of big money in politics, and we cannot be diverted by arguments that we are jeopardizing free speech.

I believe Shays-Meehan is constitutional. I believe the freshman bill is constitutional. But in any bill that we pass, there is always some risk. There is always some risk. And so what we ought to do is stop all the posturing and simply say what we want is a bill to come out of this Congress that will not only pass the House and pass the Senate and be signed by the President, but will withstand constitutional scrutiny, and when it is done, will not be ruled in its entirety unconstitutional because of some minor provision.

Mr. SOLOMON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETERSON of Pennsylvania) having assumed the chair, Mr. DICKEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–585) on the resolution (H. Res. 477) providing for consideration of the bill (H.R. 4059), making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4060, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–586) on the resolution (H. Res. 478), providing for consideration of the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, JUNE 19, 1998, TO FILE PRIVILEGED REPORT ON DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mrs. NORTHUP. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight Friday, June 19, 1998, to file a privileged report on a bill making appropriations for the Department of Agriculture, Rural Development, Food and Drug Administration and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kentucky?

Mr. FRANK of Massachusetts. Reserving the right to object, Mr. Speaker, just to ask how many nongermane amendments were made in order by the rules that we just filed?

Mrs. NORTHUP. It is an open rule, sir.

Mr. FRANK of Massachusetts. No nongermane amendments, though?

Mrs. NORTHUP. But I was happy to yield to the gentleman's question.

Mr. FRANK of Massachusetts. The gentlewoman did not yield, I reserved the right to object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kentucky?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XXI, all points of order are reserved.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2183.

□ 1950

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. DICKEY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, pending was the amendment by the gentleman from California (Mr. THOMAS) to the amendment No. 13 by the gentleman from Connecticut (Mr. SHAYS).

Is there further debate on the amendment?

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Chairman, I appreciate the gentleman yielding to me and giving me an opportunity to answer some of the previous statements.

First of all, I was surprised at how many speakers have talked as though the whole system is corrupted. Maybe I am naive, but I believe that this is a mostly honest system. I believe that there are those people that cannot resist money in return for influence, but I have not seen many colleagues on this floor that are in that position, and I believe most of our Members work throughout the system in an honest way.

And so I think it is important to tell the people, the American people around this country, that while, yes, individuals, corporations and labor unions contribute money because they care about elections, that most Members on this floor can cite many instances when they have turned to those people that are contributors and said, in this case, I cannot support you, I do not agree, even though they contributed, because they believed in most instances they shared a common perspective of public policy.

Most all of us have, on plenty of occasions, looked almost every one of our contributors in the eye and said, not on this occasion, I cannot agree with you.

I was asked why I believe nonseverability is so important, and this is why. I believe almost without a doubt that the courts are going to strike down the provisions related to independent expenditures. So, yes, we can make soft money illegal, and soft money, in my opinion, is the type of money that is used for party building, for general themes. I am not aware that any soft money has ever come into my campaign. It may have, but I am not aware that it ever has.

But people that wish to influence campaigns, and we know they are there, if they wish to influence campaigns, they can begin giving their money to independent organizations, where most of us believe the constitutional problems with this system exists. And in that case the money is not traceable, it is not reportable, and the fact is that those independent organizations can then collaborate or whisper in the ear of anybody they want.

I know that I am going to abide by every law in campaign finance. I know I believe in the system and that I believe in the voters, but I do not want to create a system where money goes so that it can then be sent to candidates, so that the candidate that is willing to break the law the most, who collaborates with an independent organization, who will be so desperate that they ask an independent organization to, in a sense, money launder, which is what would happen, that the person that is willing to break the law the most is the person that has the best advantage.

Some people say that will never happen, but let me assure my friends that in Kentucky we passed campaign finance reform for our governor's races. And what happened? It did not take one session before we began to have parallel campaigns. For example, somebody left from one of the candidate's staffs, went to an organization, worked to raise money, worked to spend money, and none of it reportable, none of it available for the public to see. And what we had was parallel campaigns going on out of sight of the voters.

That is the sort of thing that will begin to change the system for those of us who report every expenditure and who are happy to live within the system. It will put us at the most disadvantage, and the person that is willing to collaborate illegally will be at the greatest advantage.

I am sorry that it is given to those of us that oppose this such evil intentions, because the truth is there are not many people in this House that set a better example than if we just have hard money. No independent money, no soft money. I have raised in my district from individuals, from the $5 contributors, the $10 contributors that give every month, and the large contributors, a whole group of people who have supported me, and I do not need the soft money or the independent expenditures. But there are people in districts who have not had that opportunity and they have been able to get their voice out, they have been able to have the support of the overall party building money that can turn out voters, that can say this is what the Democratic party stands for, that cannot be candidate specific, but they will be the people who suffer.

The CHAIRMAN. The time of the gentleman from California (Mr. POMBO) has expired.

Mr. POMBO. Mr. Chairman, I ask unanimous consent for an additional 2 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. FARR of California. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard from the gentleman from California.

Mr. POMBO. Am I to understand the gentleman from California has objected to my asking for an additional 2 minutes?

Mr. FARR of California. The gentleman had 5 minutes and he yielded it all.

The CHAIRMAN pro tempore. Objection has been heard.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am one of the authors of one of the bills that are going to be considered, and I find this process incredibly demeaning, although we get up here and talk about how open it is because we have 258 amendments on the floor. But, frankly, the bottom line of all this is that we have to vote on a bill, and the judgment will be whether we put a bill out and put out a good bill.

Congress is able to do that, because we did it in the 101st session of Congress, the 102nd session of Congress and the 103rd session. And, in fact, the bill we put out is more comprehensive than any of the bills we are debating here tonight. So this body is capable. We never brought up 258 amendments to try to make those things. We did not talk about severability in those issues. So I think my colleagues see what is going on here. There is an effort here to try to really defeat the issue.

I find it very ironic that we are debating right now on a nonseverability amendment to a nongermane amendment, because I think some of the people who sponsor these amendments really do not want campaign reform. They want nonreform.

This debate sometimes becomes almost silly, because the public may not understand the legal implications of severability, but they do understand fair play. And what campaign reform is about in America in 1998 is fair play. How do we take so much money out of the system? We have to pass a law to do that, and that law has to do a lot of things. But they are not all connected.

Most people believe in fair play and they also understand that in fair play people can make mistakes. And this nonseverability debate is about we can never make a mistake. Congress cannot make one word of a mistake, because if the court throws it out, we have to throw out the whole thing. If we lived by that in our lives, then one poor grade would throw our child out of school; one overdrawn check would cancel our checking account. In fact, if one Member might get in legal trouble, we should throw out all Members because they all got elected at the same time.

So let us get down to what it is all about. This is about a bill that is a bipartisan bill. We rarely see these on the floor. A lot of effort went in to try to bring a consensus about so that we could get enough votes to pass a bill out of this House in this session.

This bill has a lot of parts to it, and for those who say that we cannot have severability, they have not read the bill. There is all kinds of little things in here, like automatic penalties for late filing. What if the court threw that out? Do my colleagues think that has something to do with soft money? Absolutely not.

□ 2000

Should that kill the reforms on issue advocacy? Absolutely not. There are all kinds of parts in here that a court could say, for example, that we have not contributed enough money to enforce the law, some of the things that we have in here.

We allow the FEC to refer suspected violations to the Attorney General at any time. Read the bill. If we read the bill we will say, well, if that one sentence were found unconstitutional, should all of this other substantive stuff be thrown out? Absolutely not.

That is why people oppose this amendment, because they see this amendment as a way of destroying the whole effort here of trying to get a well-thought-out bill, a bill that has been compromised by the fact that it has gotten this far in this very controversial session of our Congress.

We need to make sure that we pass a bill that is comprehensive. And frankly, I think my bill, and both the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) and I have been working side by side, I think my bill at this point is much more comprehensive than theirs. But I am up here advocating the support of their bill because I think it is what we can politically do.

Let us not try to destroy this with 258 nongermane amendments. That is silly.

Mr. MEEHAN. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, the point I also was going to make on severability is, if this amendment were to pass, with all the amendments that can be offered, how easy it would be for the other side to simply offer and pass a clearly patently unconstitutional amendment and the whole bill is dead.

So it could not be clearer, could not be clearer, that this amendment is a poison pill to kill this bill. Because even if everything in the bill is totally 100 percent constitutional, unlike the telecommunications bill, unlike the Brady bill, and unlike a lot of bills we pass, all they would have to do is come in with a nongermane amendment that sounds good but that they know is unconstitutional and it is over.

Mr. WHITFIELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of the previous speakers, and there has been a lot of discussion actually this evening about tobacco and what happened over in the Senate, and the gentleman from Maine (Mr. ALLEN) I believe talked about how I have received a lot of tobacco money. And I wanted to confess tonight that I do represent 31,000 tobacco farmers and tobacco companies through their political action committee using hard money, which is legal, which Shays/Meehan does not try to address at all. So they are not talking about hard money, that I have received hard money from tobacco companies; and I do not apologize for that.

But I would also like to point out that there is a gentleman named Ted Sioeng, who is from Indonesia, and he is the largest cigarette manufacturer in Red China today. I have a picture here of Mr. Sioeng and our President Bill Clinton. Mr. Sioeng gave Mr. Clinton and gave the DNC $400,000. And by the way, it was not hard money, it was soft money.

Now, I do not object to soft money, except in this instance there is a Federal Election Commission rule 441(e) that says it is illegal for foreign nationals to contribute money to campaigns in the United States.

And so, I would just remind the gentleman that his President, I guess he is all of our President, some of us like him more than others, but he accepted $400,000 from this gentleman.

And do my colleagues know something else? They have been trying to investigate these illegal contributions, which led to a lot of this debate about campaign finance reform, and we cannot find Mr. Sioeng. They have been looking for him everywhere. We cannot find him or any of his family.

But I just want to remind the gentleman that the contributions to me were legal hard money through the political action committee of which employees of those companies voluntarily gave the money and PACs came about as a reform measure themselves to encourage people to participate in the political system.

Now people are saying that the only reason we are offering these amendments is that we want to kill this bill, and I would suggest to them that there are some sincere beliefs that this bill goes too far. I think that we should support nonseverability for the simple reason that I think this is a vitally important issue.

I would like to read a quote from Buckley v. Valeo.

> Discussion of public issues and debate on the qualifications of candidates are vital to the operation of the system of government established by our Constitution.

This is one of the most fundamental First Amendment activities. Now we seem to be summarily dismissing this First Amendment and the fact that Buckley v. Valeo has not been overturned and court after court after court after court continue to affirm it. And I think that the real reason that our opponents are opposed to this nonseverability amendment is that they know, without any question, that there are all sorts of provisions in this bill that are unconstitutional.

Now, our friend from Pennsylvania a while ago said, no one has talked to me about how these are interconnected, the provisions of this bill. And I tell him what, when we start broadening the definition of "express advocacy" that has a dramatic impact on issue advocacy and independent expenditures and what can and cannot be done. Those three are definitely related.

I want to read an article here from the American Civil Liberties Union. I have never really been a fan of the American Civil Liberties Union, but I am sure that people who follow them know that their main purpose in existing is to be sure that the Constitution is upheld. And they are bringing all sorts of lawsuits around the country on many issues that people do not like because they feel it is so important to protect constitutional rights.

I just want to read to my colleagues.

> What is wrong with the Shays/Meehan bill? Number one. Shays/Meehan is patently unconstitutional. The American Civil Liberties Union believes that key elements of Shays-Meehan violate the First Amendment right to free speech because the legislation contains provisions that would one, restrict the right of the people to express their opinions about elected officials and issues through unprecedented limitations on text, accompanying issue group voting records, and restraints on citizen commentary prior to election, restrict contributions. Two, and uses of soft money.

And remember, soft money is everything the other groups spend that are not candidates.

Mr. POSHARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was unable to be in the House and on the floor for the general debate on the rule, and I believe the issue of severability has been well debated here. I rise now in support of the Shays/Meehan bill.

Mr. Chairman, my colleagues, there is only one glue that holds this precious democracy together, trust, trust between the representatives and the represented.

I speak to lots of young college students throughout the State of Illinois. They often rise and look me in the eye and say to me, "Congressman, we do not trust any of you anymore. You are all in it for yourself. You are all in it for the special interests. No one is in it for us anymore."

And when I inquire of them as to what it is that has brought them to the point of feeling so distrustful about their government, feeling that their government just does not care about them, they always look me in the eye and they follow up with this statement. "Congressman, just follow the money. Just follow the money. You will know why we do not trust government anymore."

Well, I have followed it. And so have my colleagues. We know that huge amounts of money is buying access to our government. And access leads to influence, and influence leads to policies that are not always in the best interest of our people.

If democracy means anything, it must mean that all of our people, all of our people, irrespective of their economic station in life, all of them, must have equal access to their representative. We must do nothing to disturb the trust between the representative and the represented.

Mr. Lincoln said it 130 years ago in front of a divided nation. He said, here is the bottom line. There is no other. This is the bottom line. Right makes might. Right makes might. Not money. Not power. Not position. Not even the Congress. Right makes might.

Shays/Meehan is not perfect but it seeks to reestablish some measure of balance, some measure of equality between the competing voices that seek to be heard in this democracy.

The constitutional question in that little room in Philadelphia, Pennsylvania, 225 years ago was whether the common man, the common man, would have a voice alongside the monied aristocracy.

Thomas Payne put it in these words. He said, "Gentlemen, we have the opportunity to make the world over again, to give common people an equal voice in their government, something unheard of in the whole history of the world."

There are times when we in this body are charged with making America over again, when equality of voice is denied in our system. Do not do further injury to this glue, to this trust, which holds us together. Pass this bill and reject any amendments which seek to weaken it. It is the right thing for all of our people.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to support the Thomas amendment of the nonseverability clause. Because we need to do it right. We need to pass legislation that is constitutional. We should not do anything else. We know, with pretty clear record, that many provisions have already from previous legislation been termed unconstitutional. So why should we do it again?

It was interesting a little bit ago, just a few moments ago, that we were told by a gentleman that this bill was not quite perfect but it is almost and we should have no amendments because it is what the Senate would accept. I hope some day I hear a senator saying, let us keep this bill as it is because it is what the House will accept. I know that is not going to happen.

I served in state in both the Senate and the House and I know that is not going to happen in the Senate, whether it is in state or in Washington. Though I respect that gentleman very much, we should not be crafting a bill for the Senate.

I think the vast majority here tonight know that that bill will have provisions struck down by the courts. And we do not need the poison pill that the gentleman spoke of a few moments ago. Because this bill, by most people's opinion, has unconstitutional provisions.

The current law has been in place about a quarter of a century. Large sections were struck down in 1976 and left us a patchwork plan of campaign finance, a patchwork.

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It has a lot of problems. But let us not build another system where the courts can give us another patchwork quilt that will not work. It will happen again.

Now, think about this a moment. If the court strikes down money to the parties as being illegal but allows the private groups to be legal, and that part remains, we have taken the power away from the parties and we have given it to interest groups that we are talking so much about. That could happen.

Is Shays-Meehan perfect? No, it is not. I think it misses the mark. Because I think we have the soft money problem because we have taken the power away from the people. In most State governments, individual contributions are not limited at all, and soft money does not play the role there that it does in Washington. That may not be true in every State, but it is true in many. The people are stuck with the same contribution limit that was here in 1974. If that were inflation fixed, it would be probably 3 or $4,000. Now, if $1,000 was right then, it is certainly not fair today. Why not empower the individual?

We limit an individual to $25,000 in a whole congressional race. Let me tell Members why I think that is inappropriate. The Shays-Meehan approach will limit free speech. It will particularly limit free speech to those who want to protect the sanctity of life. I do not know a more noble issue than protecting life itself. It will also prohibit those who want to protect the right to bear arms, and I come from rural America and that is a pretty important issue out there, the right to bear arms, the right to defend yourself. I also come from an area where private property rights are pretty important, and those groups will be limited.

Mr. Chairman, I am going to come back to the point of $25,000 for an individual. Why should an individual who happens to believe strongly about life not be able to support every congressional candidate with $1,000 that he wants to? Under the current law, he would not be allowed to do that, and none of that is changed under Shays-Meehan. Why should he not be able to support any candidate that is pro-life? Why should he or she not be able to support anybody who defends the right to bear arms? That is very important to some people, very important to the future of this country. Or private property rights. Why should a person not be allowed individually to give to any person who believes private property rights is vital to the future? Because Congresses have historically walked all over people's private rights. The previous Congresses in my view have infringed on personal rights in many ways. So why should we not? We need to have a bill that makes sense, one that will not be partially struck down by the courts, and we need a severability clause, because if we do not do it right, we need to come back and do it again.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Pennsylvania (Mr. PETERSON) has expired.

(On request of Mr. WHITFIELD, and by unanimous consent, Mr. PETERSON of Pennsylvania was allowed to proceed for 1 additional minute.)

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield to the gentleman from Kentucky.

Mr. WHITFIELD. The question I had, the gentleman had referred to that individuals can give up to $25,000. I just want to make sure that everyone understands on this issue that the most that an individual can give to a candidate is $1,000 in the primary, and so he cannot give them $25,000.

Mr. PETERSON of Minnesota. That is correct. The point I was making is any individual can only give under current law, and Shays-Meehan does not touch that. And we also have a limit that any individual can only give $25,000 to 435 people. He can only give to $25,000, if he gives them the limit.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is very clear that some figures my staff worked up today are accurate. In fact, it might be worse than what they worked up. With the rule that we passed today, 258 nongermane amendments to stop any real sense of taking campaign finance reform forward and actually passing it, with this rule brought to the floor by the opponents of campaign finance reform we can keep talking for 24 hours a day, 7 days a week for more than 385 days, and we will not be voting still on campaign finance reform. That is what we allowed today. That means in mid-July 1999, we could be voting on campaign finance reform.

Tonight proves, if we keep this up, this is exactly what is going to happen. We are going to kill this thing with all of these amendments. We can talk day in and day out about nonseverability. We can pull it apart, we can look at it under the microscope. What it is all about is stalling real campaign finance reform votes.

The real vote is for the Shays-Meehan bill. If you care about your constituents, you will get to it and vote on it, and then we can get on with the rest of the needs that we have for our government.

How did I get to this place? It was really kind of an awakening. A couple of years ago, I had a meeting in my offices in the district I represent, the two counties north of San Francisco across the Golden Gate Bridge. The League of Women Voters came to my office along with some Common Cause folks and members of the Democratic Central Committee to talk to me about campaign finance reform.

I was not where they were. I was more like where you are over there, I was whining and whimpering and arguing that, "Well, if we can't have caps on what an individual can spend of their own money, people like me will never get reelected, or elected in the first place, because I don't have any money of my own."

The people that came, they are wonderful people, they always support me, but they argued with me. They argued about the need to have regular, everyday people feel like they were part of the election campaign system, like they belonged to the political process. They argued with me about soft money, which of course I agreed with. The thing I did not agree was that what are we going to do if millionaires like Huffington, multi-multimillionaires, can spend their own money?

They laughed and they said, "Woolsey, you know, we agree with you on everything, so we're going to forgive you this," and they left, and I won my election well in 1996. But as they left and as I started remembering the things they said, I realized that we do not have to do this perfect. We do not have to have all of it. We have to start. And we have to prove to people that we care that they are part of the process, that it is just not big money, that we are not paying soft money so that the money is not accountable, and that we ban soft money. Shays-Meehan does that.

Also, and they pounded this home, and they were so right, that we have to stop having advertisements and mailers without accountability, third parties sending out information without anybody knowing who it is that is sending that information.

So because of these wonderful people that came to my office several years ago, and because they liked me enough that they thought they could give me a good kick in the fanny, I came from the slow class to the fast class. I am here now. I get it. We need to take a step forward. Shays-Meehan does that for us.

Yes, we want to have a commission. We should add that amendment to the Shays-Meehan bill so that we can have the commission watching and going forward and making it even better. But we have to stop disenfranchising the people in our districts that we work for.

I do not understand who these people that are opposed to campaign finance reform work for, the people that are your constituents, the people that elect you, the people that are your employers, do they listen to you when you say you want more money in campaigning instead of less?

Mr. Chairman, if we respect the people in our districts and the people we work for, we will get on with passing campaign finance reform.

Mr. WICKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just respond to the gentlewoman from California who complained that we have now passed a rule that is going to take a lot of time here.

First of all, the leadership has given its commitment that we will vote on this issue in August, and I believe they will honor that commitment.

Now, beyond that, when a proposal such as this, which I believe fervently strikes at the heart of free expression and the first amendment, comes forward, then I do not apologize for wanting to take the time to fully explore all the issues and to explore the ramifications and to look at alternatives. I do not apologize for that. I think it is going to take some time, but it is worth it if we can get the point across to the American people that this is going to the heart of freedom of speech.

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. WICKER. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Chairman, I would like to remind the gentleman that the Speaker is the same Speaker that shook hands with the President of the United States 3 years ago, and we still do not have campaign finance reform.

Mr. WICKER. The handshake was about the type of proposal that we voted on yesterday, the commission, which the majority of folks on the other side of the aisle somehow lost interest in when it was finally presented to the floor.

But if I could reclaim my time now, I just would simply say, I do not apologize for taking this issue to the American people and pointing out that this goes to the heart of the first amendment. If Members are for Shays-Meehan, and they think every bit of it is constitutional, then they have nothing to fear voting for this nonseverability amendment. If, however, as I do, if they believe that there are unconstitutional provisions to this amendment, then they also ought to vote for the nonseverability, so everybody, regardless of what side of the issue they are on, ought to vote for the nonseverability.

Mr. MEEHAN. Mr. Chairman, will the gentleman yield?

Mr. WICKER. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. What do we do about the fact that somebody could offer an amendment that is clearly unconstitutional? If we were to pass this amendment and somebody down the road offers an amendment that is clearly unconstitutional, our bill is dead then.

Mr. WICKER. Reclaiming my time, I am glad the gentleman brought that up because he made that point earlier. Amendments are not that easy to pass. Amendments do not just get slipped in. We vote on them. We have 17-minute votes. I do not think amendments are going to be quite that easy. But if an amendment passes, it will be passed by a majority of the elected representatives of the people of the United States. I do not see his concern as being valid, that somehow late at night an unconstitutional amendment to this already unconstitutional proposal is going to slip in.

Mr. MEEHAN. If the gentleman will yield further, there have been a number of amendments that have passed in the telecommunications bill, the Brady bill, bills that we have passed that the court has said are unconstitutional, and they have stricken that part of the bill. But what the gentleman is asking us to do is pass an amendment where if a comma is unconstitutional, a word, a phrase, the whole bill is gone. It is a poison pill to campaign finance reform.

Mr. WICKER. Mr. Chairman, reclaiming my time, it will only be a poison pill if somehow the gentleman from Massachusetts or the gentleman from Connecticut go to sleep and allow that poison pill to go through.

In the brief time that I have remaining, let me tell Members why I think this proposal is unconstitutional. First of all, because the minority leader of the United States House of Representatives really admits that it is unconstitutional.

Let me show my colleagues this poster which the Members have seen several times before, but this is the gentleman from Missouri (Mr. GEPHARDT), House Democratic Leader, February 3, 1997, Time magazine:

> What we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both;

an admission by the minority leader that what he wants to do and what his political allies want to do is unconstitutional. You have got to amend the Constitution in order to accomplish their goals. That is one reason that I think this Shays-Meehan proposal is unconstitutional.

Mr. MEEHAN. Mr. Chairman, will the gentleman yield?

Mr. WICKER. I decline to yield further.

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Mr. Chairman, further I think this proposal is unconstitutional because of the unprecedented limitations that it places on political advertising and political issue expression, and let me explain.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi (Mr. WICKER) has expired.

Mr. WICKER. Mr. Chairman, I ask unanimous consent to proceed for an additional 3 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. FRANK of Massachusetts. Reserving the right to object, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Massachusetts is recognized under his reservation of objection.

Mr. FRANK of Massachusetts. Being recognized on my reservation of objection, Mr. Chairman, does the gentleman plan to yield during that additional 3 minutes?

Mr. WICKER. Really, Mr. Chairman, I do not think I have time to yield.

Mr. FRANK of Massachusetts. Then I would be constrained to object.

I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

The Chair recognizes the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. DELAY. Mr. Chairman, will the gentleman yield to me first?

Mr. DOOLITTLE. I yield to the gentleman from Texas.

Mr. DELAY. This is just incredible, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair would like to clarify that the gentleman from California (Mr. DOOLITTLE) is recognized for 5 minutes and yields to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Now we have not only does the other side, Mr. Chairman, not allow us to extend time——

Ms. RIVERS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. Does the gentleman from California yield for parliamentary inquiry?

Mr. DOOLITTLE. No, I do not yield.

Ms. RIVERS. I have to be recognized for a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from California does not yield for a parliamentary inquiry.

Mr. DELAY. I appreciate it. Then they come, and this is amazing, Mr. Chairman: If we are going to have an open and honest debate, we need to extend time particularly when the gentleman just yielded time to the gentleman from Massachusetts to get into the debate, and then the other gentleman from Massachusetts walks on the floor and objects to an extension of time after the gentleman has been very courteous to yield time back and forth.

This is really strange. It is such a lack of courtesy. And then for the gentlewoman from Michigan (Ms. RIVERS) to stand up and demand time, it is just they have got to be kidding.

I think it is really strange, Mr. Chairman, that now after the gentleman from Massachusetts has objected to the gentleman from Mississippi getting extra time, now he wants us to yield to him. This is unbelievable, and I hope the American people are seeing what is happening on this floor. They want to cut down debate; we want to open debate, and we want an honest debate in exchange.

Mr. Chairman, I will be glad to exchange with the other side of this issue, and with that I will yield back to the gentleman from California so the gentleman from Mississippi can finish his thought.

Mr. DOOLITTLE. Mr. Chairman, I yield to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Chairman, let me talk about the unprecedented limitations on freedom of expression in this proposal before us tonight.

It costs $62,000 a page in the New York Times to buy a full-page ad, $62,000. I want to show my colleagues today $82,000. What I want to show them today is $164,000 worth of expression, the editorial page of the New York Times. The New York Times Corporation can purchase, can put out this much expression every single day of the year.

It costs $75,000 a page to buy an advertisement in USA Today. What I have here before us today is 2 pages, USA Today. The Gannett Corporation puts out $150,000 worth of expression each day, and there is no government agency coming in with a microscope saying what kind of speech is this? Is this issue advocacy? Is this express advocacy? If they print a voting record, the FEC does not come in and say, "Well, now did they write the right kind of comments down at the bottom of that voting record?" And that is as it should be. I applaud that. That is freedom of speech, that is freedom of expression, and that is America.

But under the proposals that we are going to be debating tonight and the rest of this process X Y Z Corporation wants to take out an $82,000 ad in the New York Times or a $75,000, or Right to Life wants to spend $75,000 of its contribution money to take out an ad in the Gannett newspaper. Then the strong arm of the Federal Government comes along with a magnifying glass and says, "Did you say it right? Is it during the right period of time? Is it during the 60 day period right before the election?" And there is a huge government agency coming in with even more bureaucracy then we have now.

This is an unconstitutional invasion of the right of individuals, of corporations, of public interest groups to purchase time, to purchase space in a newspaper and freely advocate as American citizens. It is unconstitutional. I think that is the very reason we need the nonseverability clause.

Mr. Chairman, I urge the adoption of the amendment and the defeat of the Shays-Meehan substitute.

Mr. DOOLITTLE. Mr. Chairman, I urge the defeat of the Shays-Meehan substitute and support the Thomas amendment.

Ms. RIVERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. For the edification of the majority whip:

The reason the gentlewoman from Michigan got up before was she and we were under the assumption that the normal procedure would be followed of alternating between the parties. I think a good-faith error was made, but the gentlewoman was not trying to usurp anything. The normal procedure is to alternate between the parties. Through a slip-up that had not happened. The gentlewoman had the reasonable expectation that a Republican, having completed, it would next have gone to her. That is why the gentlewoman did raise that question.

Ms. RIVERS. Mr. Chairman, I wish to speak today on 2 issues: the severability that has been discussed here and also the free speech issue. I want to speak especially though to the idea that the unwillingness of the sponsors to include a severability provision in this bill is somehow an indictment of the bill.

As I said earlier, research shows us that only four bills in this entire Congress have progressed without a severability clause, four bills out of 4,965 bills. Virtually every Member in this House who has sponsored a bill, including everyone sitting on both sides of the aisle has routinely included that in their bill.

Now are we arguing that this is the only constitutionally controversial bill that this body has ever considered? Absolutely not. The argument seems to be that an unwillingness to accept a severability clause indicates a weakness, that somehow people who are supporting this believe that there is a problem constitutionally. I will point out if, in fact, the numbers I am given are correct and we see a lack of severability clauses in only a handful of bills, that means the chairman of the Subcommittee on the Constitution routinely does not have a severability clause in his bills, that the chairman of the whole Committee on the Judiciary routinely does not have a nonseverability clause in his bill.

There seems to be a standard for this bill unlike any other, and I think that that is a problem. Virtually every issue that comes before this body has this sort of clause. The gentleman from Pennsylvania (Mr. GREENWOOD) made a very good argument, that these items do not hinge on one another, that if they lose one, it does not cause the fabric of the bill to fall apart. They have value independently. No case has been made why this is different than any of the other bills that we have had considered.

I want to speak now to the infringement on free speech. The argument that is being made very subtly is that somehow Shays-Meehan creates regulation where none has ever existed before, that there are new regulations on activities that have previously been unrestricted in our political activities. This is not true. Independent expenditures have existing rules that any organization who wishes to take part in that kind of activity must follow. Those groups that wish to do issue advocacy must operate within the existing rules. Laws exist right now to govern how they must behave in these activities. Those who wish to participate in giving soft money still have rules under which they must operate, and the expenditure of soft money is regulated by laws in existence. They are not working very well, but they exist.

It is important for people who are listening to this debate to understand that there are existing regulations. It is impossible to argue that these activities cannot be regulated when they already are. The system provides for government oversight of these activities. We are arguing about what that oversight should look like, not whether or not it should be there.

The whole question that was raised earlier about soft money and that somehow it is a benign issue because candidates really do not know where the money comes from:

Well, I would be interested to know if there is anybody in this room who has never been to a national fund-raiser or a State fund-raiser where they have sat at tables from people who routinely give money to their party. I suspect there is not. But even if there is someone who has somehow missed that activity, all they need to do is read the paper. The Hill, Rollcall routinely lists who was at each event and how much money they gave. Nowadays you can even pick up a local paper in Michigan. We can read about how much money Amway gave. We can read about this person, that person. We know where the money goes, which means if I can read it, my constituents can read it. Everybody knows. One would have to be beyond naive to think that the public does not care or, even more unlikely, is not affected by the money in politics and the way it is handled.

Thomas Jefferson said when a man assumes a public trust he should consider himself as public property, which means we must have higher integrity, less selfish, more reasonable, more thoughtful, more forthright and committed to doing what is right for the entire Nation.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I want to clear the record.

The gentleman from Massachusetts totally misrepresented what was going on here. I know the gentlewoman from Michigan (Ms. RIVERS) was overseen by the Chair, and I apologize for that. But the point was the gentleman from Mississippi (Mr. WICKER) had yielded to the gentleman from Massachusetts for a discussion and then ran out of time and was asking for an extension of time, and the other gentleman from Massachusetts (Mr. FRANK) ran down and objected to the time, cutting off debate from the gentleman from Mississippi.

Mr. Chairman, that is what happened on this floor. It is really unfortunate.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, I would just like to remind people that in that disastrous 1974 law which, thanks to its nonseverability clause we are still saddled with its oppressive regulations of this day which have given birth to PACs, soft money, hard money, issue advocacy, independent expenditures, all of the symptoms of the disease that our liberal friends here are trying to focus on rather than the cause of the disease, which is the government regulation itself, that one of the parts of that disastrous law that was struck down, because it was a comprehensive law, just like Shays-Meehan is trying to be. And part of that was a ban on soft money. It was struck down, one of the first things to go. It has been gone since 1976. That was banned. Been tried before.

Mr. Chairman, they are doing the same unconstitutional thing again. It will be struck down.

I listened to the arguments from the other side: Well, no, we cannot go for the nonseverability clause of the gentleman from California (Mr. THOMAS) because the evil majority might sneak through some amendment they know is unconstitutional. We do not have to sneak anything through. This bill is unconstitutional, open and shut. It will be so declared when it goes through the courts. All we want then is a nonseverability clause in so the whole thing falls and certain vestiges do not remain that further clutter up the system and make matters only worse from what they are today.

Since this whole scheme of regulation was invented some 25 years ago, political participation in elections has declined, public cynicism has shot up. We hear people are spending more and more time fund-raising because these hard dollars have been unadjusted. The limits, since 1974, remain in place. That means we have to work a lot longer to raise the same amount of money. It becomes that much harder for challengers, because it is always easier as incumbents once they are there, and that is why we say this is an incumbent protection bill.

If we were acting in our own self-interest tonight, every one of us would vote for Shays-Meehan. It would lock in our seats in Congress because it makes it so much harder for a challenger to raise money and to be able to take on the system.

Eugene McCarthy even, the great liberal, admits he never would have been able to make his campaign if he could not have gotten a few large contributions from wealthy people across the country. He was clearly not in the mainstream in terms of appealing to what most people wanted, but he had a political and important statement to make.

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He was able to raise the money because he was not fettered by the very campaign law that we have in force which would be made worse by Shays-Meehan.

This is an important point to think about. Do we want just homogenized pabulum for the future of our political campaigns, something that will appeal to everyone, so in effect it appeals to no one; or do we want the sort of vigorous debate that was contemplated by the founders that the Supreme Court recognized in Buckley v. Valeo that is the essence of the American Republic, the American democratic experience?

That is why the Supreme Court gave us Buckley v. Valeo, wiping out much of the disastrous law, unfortunately, because it did not contain the gentleman from California, Mr. THOMAS', nonseverability clause, leaving much of it in place. That is why we have this myriad of problems that we are trying to address, and I say focus on the problem, not on the symptoms.

Soft money is a symptom. If we do somehow succeed in banning soft money, we will increase independent expenditures, because we still have a Constitution, and the court still says it is the right of people to speak independently, and it is their right. But when we skew the campaign law in such a way that responsible speech is discouraged, i.e., from the candidate who wants people's votes, who therefore has incentive to be responsible in the use of his speech, we disfavor that in favor of the independent expenditure.

We do not even know who they are. They can spend unlimited amounts of money, raise unlimited amounts of money in contrast to the candidate, and they are the ones who have more incentive to make the less responsible statements.

Why do we not empower the candidate? Why do we not do as the Nation's largest State, California, and a very large State in the East, Virginia, already do it? And it works well. They do not have the limits and they allow people the freedom.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Pennsylvania (Mr. ENGLISH) has again expired.

(On request of Mr. MEEHAN, and by unanimous consent, Mr. ENGLISH of Pennsylvania was allowed to proceed for 2 additional minutes.)

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, I am grateful to have the time.

Did the gentleman from Massachusetts (Mr. MEEHAN) want to address a question?

Mr. MEEHAN. No. I wanted to give the gentleman the time.

Mr. DOOLITTLE. I thank the gentleman.

Mr. Chairman, we believe as Republicans that we ought to leave the First Amendment alone.

Mr. MEEHAN. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, is the gentleman aware that there are no spending limits in this bill?

Mr. DOOLITTLE. I am perfectly aware that there are no spending limits in the bill.

Mr. MEEHAN. So the gentleman is aware that there are not constitutional problems in this bill?

Mr. DOOLITTLE. Oh, there are terrible constitutional problems with this bill. How can the gentleman say that? This bill is filled with problems.

Does the gentleman really believe for a minute that this bill is constitutional?

Mr. MEEHAN. Mr. Chairman, will the gentleman yield further?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. So the gentleman did not favor the reforms after Watergate either?

Mr. DOOLITTLE. Mr. Chairman, I certainly did not. It is a disaster. It gave birth to the cancer we face today that you cite as the reason for your reform: your side gave us all of this monstrosity.

Mr. MEEHAN. Mr. Chairman, so the gentleman is not in favor of any limits at all?

Mr. DOOLITTLE. I thank the gentleman. That is correct. No limits.

Mr. DELAY. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman yielding.

The gentleman from Massachusetts asked if we supported the 1974 law that was passed after the Watergate hearings. You bet we did not. Because there were things in there like limiting the expenditure of campaigns to $70,000. I mean, a whole campaign spending $70,000, trying to reach the voters. In the Senate they limited it to 8 cents per voter, 8 cents per voter. Do you know why they did all that? I say to the gentleman from Massachusetts, it is so they could stifle challengers and give advantages to incumbents.

That is exactly why we oppose the 1974 law that, most of it was struck down by the Supreme Court over time, and that is why we are very concerned about the severability of this one. We do not want another law like the 1974 Watergate incumbent protection plan, because it is all interrelated, it is all put together, and the gentleman from Massachusetts says, if we put one unconstitutional amendment here, it is a poison pill. Well, one more poison pill in a bottle half full of poison pills will not make a difference.

Mr. KIND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of both the Shays-Meehan bill, as well as the bipartisan freshman campaign finance reform bill. I think these bills take a large step in the direction we need to go in this country, the ability to take the big money out of the political system.

I find it amazing though, Mr. Chairman, that opponents to these bills claim that if there is a ban on soft money that our constitutional freedoms and liberties and free speech are in jeopardy, yet when I go home back to Wisconsin and listen to the people, they know, just commonsensically, they know there is too much money in the political system, too much big money being contributed, too much influence of money out here in Washington, D.C.

Why is this so important? Why do we need to have this debate and pass this legislation as soon as possible? As this chart demonstrates, Mr. Chairman, we are seeing an explosion in the arms race for big money in the political system. Back in 1987–1988, roughly $45 million in soft money contributions were contributed to both political parties. That jumped up to $86 million in the 1991–1992 campaign season, and then suddenly in 1995–1996, the last campaign season, it exploded to $262 million in soft money contributions to both parties. This is just the tip of the iceberg.

This is only going to escalate unless this body, the only body that can do something about it, takes some action as soon as possible. That is what this debate should be about. That is why these campaign finance reform measures are so important, because the people know there is too much money going into this, and it is only going to get worse.

I just have a couple more points to make. That is why we need to take action.

I am proud to have a Senator in my home State of Wisconsin, Senator RUSS FEINGOLD, leading the charge in this effort in the U.S. Senate, teaming up with Senator JOHN MCCAIN from Arizona in sponsoring the McCain-Feingold bill, one that suffered a fate that was unbecoming of this United States Congress. I commend the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for the work that they have put in for many years of getting finance reform passed.

But perhaps it was a group of freshmen, and it behooves us as freshmen to sit up and take notice and keep our eyes and ears open to see how this place operates. Maybe it was a group of freshmen who had to come together and take a look at this from a fresh perspective, with new insight, and decide to work in a bipartisan fashion to try to eliminate the poison pills for both parties and draft something that would have a chance of passing; and I am very proud to have been a part of that process and the product that we produced. I want to encourage my colleagues that if Shays-Meehan goes down, we support the freshman bill.

But the severability clause is important, the amendment is important to discuss, because I do not believe the soft money ban is unconstitutional. I think we have solid constitutional case law that supports us with Buckley v. Valeo, which says that we can limit money, that is, soft money contributions, in order to prevent the corruption or the appearance of corruption in the political system. Anyone who takes notice of how decisions are made out here would see the appearance of corruption every day, with the amount of contributions being contributed.

I have a lot of respect for my friend and colleague, the gentlewoman from Kentucky (Mrs. NORTHUP) who was here a little bit earlier talking on the floor; but I was flabbergasted by some of the statements coming out of her mouth that she did not know where the soft money contributions were coming from to the parties and that she did not see any influence of big money in this political system. Well, I do not know where she has been for the past year and a half in watching this democratic process of ours work. I do not know where she has been for the last couple of weeks in watching the tobacco legislation and the fate that it suffered unfold in the U.S. Senate.

There is a direct link to big money in the political system. We are seeing the results of this day in and day out. But perhaps the most egregious example of what big money is doing in corrupting this political system of ours happened last year.

I came as a fiscally conservative Democrat, believing in fiscal responsibility, but also the need to invest in priorities in this country. I was very proud to be a part of the negotiations in trying to reach a bipartisan, balanced budget agreement that would put our fiscal house in order; and after the days and the weeks and the months of negotiating that balanced budget agreement last year, it finally came to a vote on this floor.

I cosponsored an amendment that would have given us 10 hours to look at that budget agreement, page through it, to see what all was in it before we were forced to vote on it. And it was voted down, that amendment, along party lines, and I could not understand. This amendment was not that unreasonable. The least we can do is step back, pause and look at the agreement before we vote on it, and I did not understand why it went down to such defeat as it did.

But I did 3 days later when it was discovered that the tobacco companies received a $50 billion tax cut that was never, we never had any hearings on it, it was never part of any of the discussion or the debate on the House floor. We certainly did not have any separate vote on this tax credit, and yet it was in there. The only reason it was in there was because of $11,293,000 worth of contributions from big tobacco.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. KIND) has expired.

(On request of Mrs. NORTHUP, and by unanimous consent, Mr. KIND was allowed to proceed for 3 additional minutes.)

Mr. KIND. Mr. Chairman, just to close, and I will just be a brief second before I yield to the gentlewoman from Kentucky (Mrs. NORTHUP), all we have to do is just take a look at where the contributions are coming from, and we start seeing a track, we start seeing the appearance of corruption, if not corruption outright, of what is taking place right now.

How did this $50 billion tax cut get inserted in this budget agreement without any knowledge on the House floor? Well, it was because the chief lobbyist of the tobacco industry went to the Republican leadership in this Congress, literally the night before final passage of this bill, and said, hey, because a pack of cigarettes is going to be taxed an additional 15 cents, we need a break in all of this. So there was a corresponding tax credit for the next 25 years for that tax increase on a pack of cigarettes, and it was done behind closed doors without anyone else's knowledge.

Again, we just have to follow the money. There are 11,293,853 dollar reasons for why something like that would take place in this democratic process of ours.

Mr. Chairman, I would be happy to yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, I think it is important, considering what the gentleman says, that somebody respond to the cynicism of what he said, and particularly, about the tobacco bill.

I do not take, and never have, a penny of tobacco money, and yet the tobacco bill over on the Senate side is simply too big. There are reasons that people oppose it. I think that that is the sort of discussion that ruins political discussion on its value, and every time somebody disagrees with you, to say, see, they took money; or see, it is all the influence of evil.

The fact is, I do not take money, and I thought the bill got way out of hand; and it is a perfect example of why that kind of a bill that is that complicated can never pass unless we get some leadership from the White House that is involved in it and calls for it every single week.

Mr. KIND. Mr. Chairman, I think I got the gist of the gentlewoman's point there. The gentlewoman may not take the money, the parties take the money, and to be fair, the Democratic Party is also dipping into the tobacco till, perhaps not to the extent that the Republican Party is. No one has clean hands on this floor.

But the only body, the only people who are capable of cleaning it up are the ones right here, right now, and we have that ability to do it.

There is cynicism across the country, and perhaps there is some even in the gentlewoman's district, because I know there is in mine, those who feel that this democratic process is being taken away from the average citizen on the Main Streets of rural western Wisconsin, and it is going to large money, special interests that are dominating the political agenda out here in Washington; and that is what this debate is all about.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. KIND. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman has received a lot of money, big money, $10,000 from a lot of unions, different unions, and I could go through them, but we do not have time because the gentleman does not have the time. My only point is, is the gentleman influenced by this big money that he received in his election?

Mr. KIND. Mr. Chairman, reclaiming my time, every Member in this House is raising some money. The money that I was receiving was from hard-working men and women.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. KIND) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. KIND was allowed to proceed for 2 additional minutes.)

Mr. KIND. The point, Mr. Chairman, is that understanding constitutional case law right now in the court's eyes, in the court's holding, is a quid pro quo relationship constitutes corruption, and a quid pro quo relationship is defined as a relationship where money is exchanged for preferential treatment. Perhaps there are coincidences that are beyond belief out there to take a look at legislation that is being passed out here that would certainly fit under any constitutional definition and would give us legal standing to ban soft money, as these bills do.

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Mr. WHITFIELD. Mr. Chairman, will the gentleman yield?

Mr. KIND. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. Mr. Chairman, I would ask the gentleman, is soft money given to candidates directly?

Mr. KIND. Mr. Chairman, reclaiming my time, no, it is contributed to the party. But we all know standing in this body, too, we all know standing in this body as well the soft money which was originally set up for getting out the vote, and that is now being diverted for independent expenditures and issue advocacy ads.

Mr. WHITFIELD. Mr. Chairman, if the gentleman would again yield, soft money cannot be used for independent expenditures. Soft money is used for issue advocacy. There is a big difference. Independent expenditures is expressly advocating the defeat or election of a candidate and soft money is not used for that.

Mr. KIND. Mr. Chairman, reclaiming my time, if the gentleman is claiming that soft money is not filtering back into the States and being used in issue advocacy ads, he has not taken a close look at our campaign system in our country today.

I can cite countless examples of how that is happening. The original intent of soft money contributions has been perverted beyond recognition today. That is a strong argument of why these finance reform bills are necessary today.

Mr. WHITFIELD. Why? What is wrong with issue advocacy?

Mr. KIND. Mr. Chairman, part of the issue advocacy component of these finance reform bills is merely asking these groups who are behind the ads to identify who they are so the American people know who is financing this and perhaps will have a better understanding of what the political motivation might be. Neither one of these bills would prohibit issue advocacy ads.

Mr. GILLMOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, I would like to ask the gentleman from Wisconsin (Mr. KIND) a question, if he would consent to answer it. The gentleman indicated in his debate that we spend too much money on campaigns. I just wondered, I want to ask him what does he mean? What is too much money? Too much money compared to what? What amount of money is appropriate?

Mr. KIND. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Chairman, let me show the trend. This gives a better idea of what too much money means to the average American throughout the countryside: When we start with soft money contributions of $45 million and $86 million and suddenly it explodes to $262 million.

Mr. DOOLITTLE. Can I get a simple answer to the question? How much is too much money?

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. DICKEY). The Chair would ask each Member to yield and reclaim time so that only one person is speaking at a time.

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, how much is too much money? I keep hearing this assertion made out here, we spend too much money on campaigns. How much should we spend?

Mr. KIND. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Chairman, where I come from, and perhaps this may not be true in my colleagues' congressional districts, but the average person in western Wisconsin believes that under the current finance system, even though it is legal for a wealthy individual or group to contribute a million dollars to either political party, that is too much money. That is ridiculous. It is unbelievable that this democracy of our size allows that to happen. That is too much money.

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, the gentleman refuses to answer the question. I just wonder, since if we add up all the money that was spent on congressional

House races in the last campaign, it amounted to about $218 million. That breaks down to about $3.80 per voter who voted in the election. $3.80. That is less money than we spent on bubble gum in this country.

The gentleman from Wisconsin, every time he talks about corruption and money corrupts keeps talking about the fact, and every time he says that he denigrates every Member of this House.

Mr. Chairman, he raised money just like we all do, and he is claiming that somebody in this House is affected by the money being raised. He will not answer the question, will not answer the question if he is affected by the tons of money he raised.

I am not affected by the money I raise. The gentleman talks about tobacco money. When the tobacco interests and the companies came to me to talk about the settlement that they made and the agreement they made with the President of the United States, I told them not only no, but hell no. I was not about to do what the tobacco companies wanted me to do.

So this whole notion that money corrupts. Then the gentleman has got to look at himself and look at himself in the mirror. Look in the mirror. Look how much money he raised. Has it corrupted him? No, it has not. He is a fine gentleman. Mr. Chairman, the gentleman is a fine gentleman and he is very much involved in this process.

So the point I am trying to make is that the Shays-Meehan bill and others are trying to restrict people's involvement, restrict their involvement in the political process as much as they can. For what reason? Frankly, they have good intentions, but the result of their intentions is incumbency protection.

Mr. GILLMOR. Mr. Chairman, reclaiming my time, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, it is quite obvious that there is not too much money in the system just by the facts. The amount of campaign spending as a percentage of GDP is relatively constant at 4 to 6 percent. We keep hearing these exaggerated claims that they cannot back up with any specifics.

Then, as the gentleman from Texas (Mr. DELAY) pointed out the charges that the system is corrupt, somehow we are all corrupt but nobody ever names anybody who is corrupt. We are supposed to create that pervasive feeling.

Mr. Chairman, this is destructive of our institutions and I for one have determined, that is why I introduced the bill to take off all the limits, I am not going to put up with this left-wing morality play. I am going to answer the charges every time they are made that we are spending too much money.

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, there is not anything more important than the discussion of public issues.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. GILLMOR) has expired.

(On request of Mr. WHITFIELD, and by unanimous consent, Mr. GILLMOR was allowed to proceed for 30 additional seconds.)

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, there is nothing more important in the discussion of public issues than for the public to be informed. In 1996, Procter & Gamble spent more money promoting its products, $5 billion, than we spend in campaigning for all elections in the U.S., Federal, State and local, $2.2 billion.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Before we proceed, the Chair reminds Members to refrain from profanity.

Mr. TIERNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to make one note before I yield to the gentleman from Maine. We are hearing a lot of comment, people wanting to know how much is too much and talking about whose interests are being concerned. The perception of the American public is clear. They are upset about what is going on in politics and they have the clear perception, whether or not it is reality with respect to each and every Member here.

The perception is that money is a corrupting influence and that money is having an impact, so much so that when Bill Moyers spoke recently to a group, he did an interesting exercise. He had an entire group stand up and asked a third to sit down and identified that that third of the group represented those people who do not bother to register anymore.

Then he had a second third sit down and identified that that was the group of people in this country that while they may bother to register, they do not bother to go out and vote. So the remaining one-third of people represented just that small portion of people in this country that actually are voting now and, in effect, are electing their representatives.

Whatever the reasons are that the other two-thirds are not voting, one clear reason that people express as one reason is that they have the definite perception that money is adversely impacting this system.

Mr. Chairman, one of the speakers earlier talked about Mr. McCarthy running for President. Senator McCarthy, as a liberal, talked about the fact he did not have a campaign unless he had large contributions. Let me turn that around for a second and speak of what a well-known conservative, the Senator from Arizona, Barry Goldwater had to say.

> The fact that liberty depended on honest elections was of the utmost importance to the patriots who founded our Nation and wrote the Constitution. They knew that corruption destroyed the prime requisite of constitutional liberty: An independent legislature free from any influence other than that of the people. Applying these principles to modern times, we can make the following conclusions: To be successful, representative government assumes that the elections will be controlled by the citizenry at large, not by those that give the most money. Electors must believe that their vote counts. Elected officials must owe their allegiance to the people, not to their own wealth or to the wealth of interest groups that speak only for the selfish fringes of the whole community.

The American people no longer believe that that is the case, and that is one of the problems that we have, and the perception one of the reasons that we have to address campaign finance reform.

Mr. Chairman, I yield to the gentleman from Maine (Mr. ALLEN), who has asked for some time on this.

Mr. ALLEN. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. TIERNEY) for yielding. I want to get back away from some of this rhetoric about free speech back to what the Court itself has said. I want to get back to what the Court itself said in Buckley v. Valeo.

We know this debate is degenerating when we start talking about individual Members and what individual Members raise and whether there is actual corruption with respect to decisions made by any individual Member.

What the Supreme Court has said very clearly in Buckley v. Valeo, that the Congress has the constitutional right to regulate elections in order to minimize corruption or the appearance of corruption. And the Court said it is unnecessary to look beyond the act's primary purpose, to limit the actuality and appearance of corruption resulting from large individual financial contributions, in order to find a constitutionally sufficient justification for contribution limitations.

The question was raised earlier, I believe by the gentleman from Kentucky (Mr. WHITFIELD), what is wrong with soft money? I will tell my colleagues what is wrong with soft money. Right now we have a system, what is left of it after Buckley v. Valeo, that imposes individual contribution limits for individuals and for PACs in the amount of money that can be given to Federal candidates.

Since 1907 in the case of corporations, and 1940s in the case of labor unions, neither corporations nor labor unions can give to individual candidates. Soft money is no longer a loophole, it is a highway. It is the means by which very large contributions, hundreds of thousands of dollars from some corporations, millions or up to millions of dollars in some cases, are funneled to the national parties. Then they are used for television ads.

Those ads may be issue advocacy, as the gentleman from Kentucky said. But what do those ads say? Watch them in the last cycle. They say: Congressman So-and-so is voting against the environment. Congressman So-and-so is doing this or such. Call him and tell him to stop.

Those are ads intended, they are absolutely intended to have an effect on an election and they are the reason why we need to ban soft money.

Mr. SANFORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to just touch on a couple of points that I have heard during this debate. The first has been there is too much money spent in politics, or there is too little money spent in politics. I think neither one is actually the case.

Mr. Chairman, I think rather what we have is a structural problem in politics that the Shays-Meehan bill begins to address. That structural problem that we have is that we have got diffused cost and concentrated benefit.

Our Federal Government, as we all know, is a very big thing. It is $1.7 trillion worth of spending every year. And if we look at that issue of diffused cost and concentrated benefit, as a conservative we can see it in troubling spots. Again, people do not buy votes. I would agree with the gentleman from Texas (Mr. DELAY), I would agree with the gentleman from Arizona, I would agree with a whole host of folks on that very point. But it does buy influence. It helps in access.

The guy that is giving a Member $10,000 is a guy they are ever going to pick up the phone for or open the door to. Again, they cannot give $10,000; that is a rhetorical statement.

Take for instance the sugar subsidy vote. That is a classic example. I mean, here is a program that costs the American consumer another $1.2 billion a year in the form of higher sugar prices. It is hardly the kind of thing that I could sell back home in a town meeting. There are always a handful of domestic sugar producers and consequently districts that are affected in our country. Yet all those benefits go down to truly the hands of the few.

In the case of the sugar subsidy, we are looking at $60 million a year that goes in personal benefit for instance to the Fanjul family. The Fanjul family, they are not American citizens. They hold Spanish passports, but they are on the Forbes 400 list and they have yachts and helicopters and a whole host of things.

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All this bill is about is trying to limit their level of access versus the level of access of a person in my district who lives in a very simple trailer in Moncks Corner, South Carolina. I think that that is part of the issue that we are dealing with, not too much money, not too little money, but an issue of diffused cost and concentrated benefit in a very big government.

Two, one of my colleagues was earlier holding up both the New York Times and I think it was U.S.A. Today, pointing out how the editorial page in the New York Times was, I think, $85,000; and U.S.A. Today, I think it was $75,000. The point was, hey, they are not controlled in the way they get to advocate a point, but Shays-Meehan would control others.

That is a good thing as a conservative. They are not in the business of arguing for ethanol subsidies. They are not in the business of arguing for grain contracts or for weapons treaties. They are not in the issue of government contracts, for that matter.

But what you have here is a case when you do want their interests limited, because you do not want somebody trying to sell missiles to China to have unlimited access on that front.

The third point that I would make just in the debate that I have been hearing is there has been much discussion, I think I even heard the words verbatim "we believe you ought to leave the First Amendment alone." But the bulk of the people that are suggesting that, and I would say that with all due respect to my colleague from California, would be people that may have voted for, for instance, the religious freedom constitutional amendment last week.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. SANFORD. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman is talking about me. The whole religious liberties constitutional amendment was to protect the First Amendment of freedom of religion. It had nothing to do, as the gentleman suggests, in shutting down freedom of religion. It is too big, two different things.

Mr. SANFORD. I think that is the jump in logic. In other words, to suggest that limiting of soft money is eliminating of speech is not the same thing.

Mr. DELAY. If the gentleman will yield, the courts have held so.

Mr. SANFORD. But in a 5-4 Supreme Court decision, they have also held in a different version a separation of church and States than the one that you voted for.

Mr. DELAY. No, no. The Supreme Court said that we could not practice openly and freely religion in the schools. You are right. We have as a body the opportunity to say, no, you are wrong. We are going to pass the constitutional amendment protecting the freedom of religion. It had nothing to do with shutting down the freedom of speech or religion.

Mr. SANFORD. Which is a great thing. In other words, that is what we are charged to do by the Founding Fathers. I think in the same way, it is a very legitimate point, a very legitimate point to say that, in this debate, we ought to look at limits on the degree to which people can influence a giant $1.7 trillion yearly machine.

Mr. HAYWORTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened with great interest to the debate this evening. I rise to support the Thomas amendment. I also rise to discuss some very interesting comments made by my friend from Massachusetts, followed up by my friend from Maine.

I appreciate my friend from Massachusetts quoting the late great Senator from my State, Barry Goldwater. I think it is important also to remember the context of Senator Goldwater's quote, because, ladies and gentlemen of the House and ladies and gentlemen of America who join us beyond these walls via C-SPAN, a check of the complete Goldwater record indicates that our late great senior Senator was talking about liberty and freedom of expression within the context of those who had that right denied by the coercive actions of organized labor bosses who reached into their pockets against their will to advocate causes with which the rank and file disagreed.

Indeed, I note with interest, this dispatch from U.S.A. Today, May 30, 1996, Dateline, Portland, Maine, the campaign in which my friend from Maine was involved, "By air, the AFL-CIO has spent more than $500,000 on a series of television ads criticizing Jim Longley's votes on Medicare, student loans, and private pensions. The ads have helped make Portland the political advertising capital of the Nation. From April 1 through September 15, 6,968 ads aired or 41 per day."

My friend from Maine also offered elucidation of what he called the soft money process. I believe he should know firsthand, as chairman of Clinton-Gore 1992, which was the vast recipient of vast amounts of soft money, firsthand, the Clinton-Gore ticket and the minions of the Washington labor bosses got help that was never really documented.

Again, let me give credit to the left, because in employing so-called campaign finance reform, they ensured in 1974 and years before that there would be no legitimate documentation of the amounts of money spent by the Washington union bosses to the extent that a study from Rutgers University shows us that, instead of $35 million spent by Ball Sweeney and his ilk, they instead spent between $300 million and $500 million to try and influence elections in the Congress of the United States.

Yet, the self-same recipients of that ultimate special interest money would come here to this floor and act as the paragons of virtue and tell us that we need to change our system.

Barry Goldwater was right about something else. When he discussed Bill Moyers, and I thought it was interesting to see the jump from Bill Moyers to Senator Goldwater, when he said, when he said how hypocritical.

The fact is that we have seen the corruptive influence of people reaching into the pockets of other people against their will, subverting those First Amendment rights, free from documentation, free from the spotlight of the Washington media, except in rare cases. We see all too often through the clear glasses that Senator Goldwater wore, which I wear in representation on my lapel, the real story here and the real culprits.

Two things should happen if we want real campaign reform. Number one, I would suggest to my friends on the left and those well-intentioned friends here on the right, if you want real campaign reform, obey existing laws.

I would note with interest the comments of my dear friend from Wisconsin who seem to imply that the reason the White House strayed into suspect ground and may have violated these rules was because of the current system. No, I would suggest otherwise.

I would suggest that there was a clear, sadly mistaken desperation for cash and a win-at-all-costs mentality that cannot be excused by any type of misdirection play, by any type of masquerading in the public interest to claim that somehow let us clamp limits on those who seek donations of free will from free American citizens.

Let us, instead, maintain the current system, allowing the union bosses to reach into the pockets of every working American who happens to be a member of a union, subverting their rights, and taking their money to go to causes with which they may disagree.

I would suggest, again, to this body, that we should adopt the Thomas amendment. And I would suggest further to this body that let us have a clear examination of what, in fact, has transpired in the past election, in elections before, and let us tell the entire story. Senator Goldwater was talking about the freedom to use contributions, not to have money cynically taken away.

Ms. HOOLEY of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentlewoman for yielding to me. Before the gentleman from Arizona (Mr. HAYWORTH) leaves the hall, I would just like to raise a question.

The gentleman stated that one of the things we should do is to obey existing law. I agree. I agree with that. The gentleman was not in any way suggesting that money spent in any individual campaign of any Member was not consistent with existing law, was he?

Mr. HAYWORTH. Mr. Chairman, will the gentlewoman from Oregon yield?

Ms. HOOLEY of Oregon. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Chairman, the gentleman is making my point for me. What I am suggesting that, through previous design of so-called campaign finance reform, a large segment of this society, through coercive tactics, have their contributions undocumented. To that extent, the law is silent.

Mr. ALLEN. The law is silent.

Mr. HAYWORTH. Under a lawyer's definition, that would be existing law. It makes the point that there are those following the human impulse of gaining the system for their own selfish needs.

Ms. HOOLEY of Oregon. Mr. Chairman, reclaiming my time, I yield to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, the point the gentleman makes is actually the right point, because nothing that happened in that election broke existing law. The fact is that the gentleman would like to change the law as with respect to labor dues. So he would seek to change existing law.

But the fact is, what we are here about today is to try to deal with the influence of money in politics. That does not mean that there is some level that is so big that we have to deal with it. What happens with bubble gum, what happens with yogurt is irrelevant.

What we are talking about and what the reformers are saying is this, we need to break the link between Federal candidates, Federal office holders, national parties, agents of the national parties, and giant contributions.

Mr. HAYWORTH. Mr. Chairman, will the gentlewoman yield so that I might ask my friend, the gentleman from Maine, a question?

Ms. HOOLEY of Oregon. No.

Mr. ALLEN. The gentleman has had his time.

We are trying to break the link, because as the Supreme Court has said on several occasions, we can, this Congress can enact reform in order to prevent appearance of corruption or corruption.

What the Court has also said in another case is that it is because of the risk that corporations that accumulate wealth in the course of their business activities, because of the risk, that those corporations, big money in this society, could unduly influence elections. The Court has said it is appropriate to regulate or to bar contributions from corporations.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Mr. ALLEN. Most recently, in the Colorado Republicans case, which was the case dealing with hard money limits, the Court said, if it appears to Congress, if it appears to Congress that the existing hard money limitations could be circumvented because of contributions to the political parties, i.e., soft money, then the Congress could rethink whether or not it wanted to change limits or create limits on contributions to the national parties.

That is why we are here. Because what used to be a loophole is now a highway because there is too much money in this system, soft money. It is being used to influence Federal elections. We need to shut down this system.

It is, in fact, soft money, these unlimited contributions from corporations, from unions, from wealthy individuals to the national parties in the last cycle that is subverting our political process. That does not mean that you go to any one individual and say this result was influenced by big money.

What we have got in this system, in this country right now is a political system gone awry. We need to change it.

What we have got with the Thomas amendment is an attempt to subvert the Shays-Meehan bill. That is what is going on here. The folks who are trying to improve the Shays-Meehan bill with this amendment, with this proposed amendment, are not supporters of reform generally. They are trying to undermine reform. There is no question about it. It may be an argument about free speech, may be an argument about other forms of money. But the fact is that we have got to have campaign reform. We have got to have it in this session. It means a ban on soft money. It means voting down the time.

Ms. HOOLEY of Oregon. Mr. Chairman, let me just briefly end by talking about this is really something the American public wants. It is something that we have with the Shays-Meehan bill. We have a bipartisan bill. All you have to do when you talk about influences, all you have to do is look at what has happened to the tobacco bill.

Somehow or another, we have to restore the faith in the American public so that everyone has a voice in our system. We need campaign finance reform, and we need it now. The Shays-Meehan is our best chance.

Mr. HUTCHINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to make a couple of comments as I listen to this debate tonight. First of all, I am reminded of the words of the gentleman from New York (Mr. SOLOMON) last night, after an extended debate, that we should remind ourselves that we need to, under the 5-minute rule, move forward at some point and conclude debate and continue on to the next amendment.

The present amendment is the Thomas amendment. I know that we are engaged in a vigorous debate on the underlying amendment, the Shays-Meehan provision, but I think that we need to keep our eye on the ball and to move on so that we can get to other amendments in this process.

I also wanted to make the point that I appreciate my fellow freshmen are here. The gentleman from Tennessee (Mr. WAMP), I believe it was, made mention that freshmen are still warm to reform. I see my friend the gentleman from Wisconsin (Mr. KIND) and the gentleman from Maine (Mr. ALLEN). Both of those gentlemen have been very active participants in the freshman task force.

☐ 2130

And the freshman bill that will come up later on addresses some of the serious problems that have been raised.

My friend, the gentleman from Arizona (Mr. HAYWORTH), makes mention of the last campaign and the problems in it. And I do not believe that a lack of enforcement, and I say this as a former Federal prosecutor, the lack of enforcement of laws has never been a reason for us not to improve the law.

Certainly we ought to enforce the law, but it is a separate issue when it comes to improving the law. And there were problems in the last campaign that chased after soft money, and for that reason, we should remedy it.

A question was raised, whether we could cite any instances of corruption. Well, that is what some of these committees are investigating, the instances of corruption that deal with soft money and contributions from corporations. But I do not think the issue is necessarily corruption.

I believe the issue is confidence of the American public in our system. And I will point to instances on both sides of soft money.

On the Democrat side, the $600,000 contribution from the Loral Corporation to the Democratic National Committee at a time when that organization was under investigation when they were asking for approval of a technology transfer to China. That hurts the confidence of the American public, and it should not have been done. We should ban that kind of contribution; whether it affects the system or not, there is the perception of it.

On the Republican side, I will cite the instance of Microsoft. When they are under investigation by the Department of Justice, they should not be able to give $200,000 in contributions to a national political party. Whether it affects the debate or not, the perception of the American public is that it does. And that is what I am concerned about, is the confidence.

So I believe soft money is an issue. I think it is an important issue that we must address. And even though I oppose the Shays-Meehan bill for other reasons, I compliment my fellow freshmen for being concerned about this issue and wanting to improve the system.

Mr. HAYWORTH. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Chairman, I just want to ask a question of my good friend from Arkansas. In his days as a prosecutor, did he petition for the legislature to change laws in lieu of prosecuting those who had broken existing laws?

Mr. HUTCHINSON. Mr. Chairman, reclaiming my time, certainly we should never do anything to substitute for law enforcement. The gentleman is absolutely correct. And I am fully supportive of strengthening our ability to enforce the laws. Our committees should be investigating any wrongdoing.

But the problem is clear, and that is soft money. That was the problem, the chase for, in the last campaign. And we should not neglect addressing that problem because of enforcement problems.

I want to come back, and I love this debate, but I think the gentleman from Connecticut is entitled to a few moments here, so I will be glad to yield to the gentleman from Connecticut (Mr. SHAYS) if he has some areas that he wants to wrap up. And, hopefully, we will conclude this debate.

Mr. SHAYS. Mr. Chairman, I thank the gentleman. I have not asked for my 5 minutes, but I will just say that we have strayed a bit from the amendment, and I am concerned that we have the potential for hundreds of amendments, so we maybe should try to come to a debate on certain amendments and then go on to the next amendment. We can still make some of the same points, because they are related.

But what the gentleman from California (Mr. THOMAS) proposes is to strike the severability clause, which basically says that if any provision in this act or amendment made by this act, or the application or the provision or amendment to any person or circumstances is held to be unconstitutional, the remainder of this act and amendments made by this act, and so on, are still constitutional and remain in effect.

That is a clause that is in most bills. It was in the congressional accountability bill, under the Contract With America, voted for by the gentleman from Texas (Mr. DELAY) and other Republicans, all other Republicans. It was in H.R. 65, the Victim Restitution Act. The gentleman from Texas voted for that as well. It was in the Regulatory Transition Act of 1995 as well as in our Contract With America. This was introduced by the gentleman from Texas (Mr. TOM DELAY). It is the same severability clause, and it passed as well.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words.

First, Mr. Chairman, I want to say that this is the first night of extended debate, and I would say we are all learning from this process. We are all learning as to how much time we should be asking for. We have Members who come and others who are waiting. I kind of hoped that the way the process would work was that we would ask for 5 minutes, and if we asked for an additional 2 minutes, it would be granted without objection, and if there is a reason to extend even further, that it will be the same for both sides. But I think there were some moments where we probably erred in that process.

Also, there were times in this debate where I heard some strong attacks and concerns with other Members, and we just started to go to it and forget what we are debating. We have lots to debate here, and I truly believe we will cover all the territory by the time we do all of the amendments. But right now, what we are debating is the severability clause and whether we should take it out of the Shays-Meehan amendment.

In some cases we pass bills with the severability clause and in other cases we are silent. And when we are silent, the court basically follows the process of considering a severability clause included. But this is a case where the amendment is actually saying that if any part is unconstitutional, the whole bill should be eliminated. There are only a handful of times in a number of years that this provision has been offered. That is my understanding.

And so I say, first, I believe the severability clause should be included, like it was in with most of our Contract With America, like it was with the bill that the gentleman from Texas introduced in the Contract With America, the Regulatory Transition Act of 1995. He introduced it, we voted on it, it passed.

It was in the telecommunications bill, thank goodness, because one small part was declared unconstitutional and the rest remained intact. It was in the Brady bill, thank goodness, because one part of the Brady bill was declared unconstitutional, but not the rest of it.

I believe that some want this amendment because they think that this whole bill that we have—which deals with soft money, which deals with recognition of sham issue ads, which codifies Beck, which has improvement of FEC disclosure and enforcement and deals with franking and foreign money and fund-raising on government property not being allowed—some think they are all intertwined. I do not. I think some parts can stand on their own.

Obviously, everybody will make up their mind. We are going to vote on this tomorrow. But I believe that the other danger is that other amendments will be attached. We will oppose some amendments, but some will be attached because nobody will have the courage to vote against certain amendments because they will be difficult politically. And I would not want to risk the chance that those amendments in particular would then disqualify the rest of the bill.

So I would conclude by saying that we need to oppose this amendment. It is a provision that is in most bills and it certainly should be in this one. And when I see parts of the legislation in 1976 that were declared unconstitutional and other parts that were not, I thank goodness the other parts still stayed there. We can always come back and make changes where we think there is an unconstitutional element that has been taken out, and just come back and address that issue.

So I strongly oppose taking out the severability clause and, in particular, replacing it with a statement that says if any part is unconstitutional, the whole bill goes. That, to me, is just an attempt to kill meaningful campaign finance reform.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman keeps referring to the fact that I introduced bills and voted for bills that had severability clauses. I do not know what that has to do with this case where we are making the case that when we are talking about an overall campaign structure, one affects the other.

That is the case we are trying to make here; one affects the other.

Mr. SHAYS. Reclaiming my time, Mr. Chairman, the gentleman did make that case, but in addition, acted like this was a very extraordinary event and that somehow, by our putting the severability clause in the bill, we feared that another part was unconstitutional.

What is fair is fair. I do not believe that when my colleague introduced and voted for the Contract With America, those various bills, that he feared that various parts were unconstitutional. I just want to say that this is a very usual clause to be in a bill. It should stay there. And I hope tomorrow, when we all come to this Chamber, we vote to defeat this amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to begin by commending the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS) for all of their work on this legislation. They have spent many, many, many months crafting this legislation to address many of the underlying problems that we have in our current campaign financing system in this country; problems that threaten this institution, that threaten many of our democratic institutions; problems that are corroding the way we make decisions in the House of Representatives, in the United States Senate, and within the administration.

They are problems that the American people demand that we address and that we rectify and that we once again bring them back in to our democratic decision-making process and not bring them in based upon the size of their wallet, the size of their contributions and who they know, but rather, on the merit of their arguments. That is what this, the People's House, is supposed to be doing.

This discussion about the severability amendment is simply a ruse to attack this legislation and to certainly set it up for later attack if it looks like, in fact, it is going to pass. We draw, very often, very complicated legislation in this House. And we know, very often, that we are treading to the end, because people, in fact, are trying to affect court decisions when they draft legislation, when they draft amendments. And to protect the underlying legislation, very often we put severability clauses in those pieces of legislation.

We do it in the State legislatures, we do it in city councils, and they do it in the United States Congress, and we have for many, many, many years.

In this particular legislation, the gentleman from Connecticut and the gentleman from Massachusetts have addressed a number of the problems that we confront in our campaign finance system. Each and every one of those remedies could stand by themselves, and they are very, very important to improving our system. They are very, very important to improving the participation of the American public in that legislation. That is why we want the severability clause, because of those provisions by themselves.

So if a constitutional challenge is brought on one of these single provisions, we will retain the best of this legislation, and that will become part of our campaign financing system, and we will, in fact, have a better campaign financing system than we have today. We will have a less corrupt campaign financing system than we have today. We will have a campaign finance system that encourages people to participate, which our system does not do today. That is why we need this severability.

To throw this up and suggest that somehow this is a trick and this is to allow us to do a lot of unconstitutional things is just simply not the case. The authors of this legislation are far more careful about their legislative duties than that. The people that they have consulted have guided us and are relying on past court decisions.

Yes, we may not do it perfectly, but we should not be in a position where one challenge against a very small part of this legislation can throw out so many other parts of the legislation that are very, very, very important to us.

Ms. ESHOO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from California.

Ms. ESHOO. Mr. Chairman, I thank my colleague from California for yielding to me, and I want to commend all of the sponsors of the Meehan-Shays legislation for the work that they have done, the source of encouragement that each one, especially the original sponsors of the bill, has been to all of us that have yearned for and hoped to make the kinds of changes that we are seeking to make in the campaign financing system that we have today.

We hopefully all remember the day that we came to this floor and we raised our hands and took our oath of office, and we had families sitting in the gallery. I do not think that there is a moment in my life that quite matches that one: my hopes and aspirations for the future, the good wishes of my constituents, whether they voted for me or not.

We start out, really, I think, with 100 percent goodwill. I think the only thing that could match that day was the day that my two children came into this world.

I have to tell my colleagues that if there is one thing that is constantly rubbing down or taking the polish or the gleam off of that magnificent day, that very first day when I became a Member of Congress, is the system by which we are elected, that is, the money in the system. We know it is broken, we know it cannot be defended, but right here on the floor tonight we are debating an amendment that is being offered to this very good piece of legislation.

In my view, it seeks to throw some dust in the wheel, to clog up the wheel, throw sand into the wheel, to jam it up.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words.

If we are going to talk about constitutional issues and freedom of speech, it seems to me that none of us have very much freedom of speech if we are drowned out by millions of dollars. And so we have to, in the House of Representatives, in the Congress, really speak to the hopes and aspirations of the American people and say to them, yes, we are capable of addressing this; we can rebuild the confidence that the American people should have in this institution.

They know it is broken. They know much of what goes on here is not on the level.

□ 2145

They know that money speaks to this process and that it warps it and that it is corrosive.

We have and should have to corral the political will in this place to reform the system. No bill is perfect. Why? Because human beings are not, so no piece of legislation is perfect. But this is sound. It addresses the things that are really broken down.

Mr. DELAY. Mr. Chairman, would the gentlewoman yield?

Ms. ESHOO. Mr. Chairman, I would love to yield, but I do not have the time. I would like to complete my train of thought. I have been on the floor since a quarter of 7 this evening to do this.

We can do this, but we have to be very careful to distinguish excuses, throwing sand in the wheels and jamming them up and those issues that really mean something. We are all pros here. We are all pros here. We know what can be done with parliamentary maneuvers. Try to explain that to your constituents. They know it is not for real, they know that there are excuses coming out of this place.

Why do we not reach for the brass ring and say to the American people, "You know what? We can do it." It says, "In God we trust." In the people we trust. 68 percent in the poll in the Wall Street Journal of the American people said they wanted this system reformed. We can do it, Republicans and Democrats.

Yield and do not succumb, my colleagues, to these things that are being thrown in as excuses, because that is what they are. Let us come through the 105th Congress the last few days that we have, legislative days, and show the American people that we are worthy of their trust, that we can move legislation through this place where it is not encumbered by any money except the interests of the people that we have come here to represent.

Remember that first day our excitement. If we can come to this floor having passed this legislation, having it signed into law, I predict that every day we come to this floor we are going to have that same exhilarating feeling that we did the very first day when we raised our hands, took our oath, and saw all of the endless opportunities without anything getting in the way.

Again, I thank my colleagues. They have given me a great deal of courage and inspiration by what they have fought for and kept the faith. And we are going to keep the faith, and I have trust that we can do this.

Ms. PELOSI. Mr. Chairman, will the gentlewoman yield?

Ms. ESHOO. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank my colleague for yielding.

I rise to thank the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS) for their leadership and their courage for bringing us to this moment of truth. Are we for campaign finance reform, are we for cleaning up the system, or not?

My colleague mentioned the first day when we were all here and raised our hands and pledged to take an oath to uphold the Constitution of the United States against all enemies, foreign and domestic. The greatest enemy to our Constitution, foreign or domestic, is the money in the political system that undermines and mutes the voices of the American people.

Mr. Chairman, when Washington was first established as the capital of our country, it was a swamp. In 200 years, it has returned to being a putrid swamp contaminated by the impact of campaign money into the system. Again, against the wishes of the American people.

I rise against this amendment because I see it as an attempt to unravel and undermine the courage of the Meehan-Shays, Shays-Meehan bill. This is a good bill. It strikes a balance.

Mr. DELAY. Mr. Chairman, would the gentlewoman yield?

Ms. PELOSI. I am sorry, I do not have the time. The gentleman knows I would if I could.

It strikes a balance. That is why we have to keep it intact. We have come to the moment of truth. I ask my colleagues to vote "yes" on Shays-Meehan, "no" against the Thomas amendment. Let us face this moment of truth. The American people are watching. Let us drain the swamp.

Mr. COLLINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Thomas amendment.

I think when we look at what happened with the campaign finance reform after Watergate and the provisions that were struck down by the Supreme Court, we see a patchwork of legislation that is left that has led to a lot of the problems that we have here today.

Mr. Chairman, I want to refer to a news article that was in the Clayton County, Georgia News Daily back on May 23 of this year. The longest reigning speaker of the house of any state legislators in Georgia, his name is Tom Murphy. And the quote in the headline was by Mr. Murphy. "I worry about the future."

It goes on to say that:

> If Tom Murphy could do it all over again today, he would steer clear of politics. Murphy, the longest tenured serving speaker in the country, told the Clayton College and State University Alumni Association that politics has deteriorated into an arena of viciousness and untruths. The candidates are getting so careless with the truth that I worry about the future of this state and the nation. What truly worries me in the next few years, unless something happens, is you will not get a decent person to run for office.

Mr. Murphy never mentioned finances. He never mentioned money. He mentioned untruths and viciousness. That is what we need to focus on. The gentleman sent me an article the other day of a quote, and the quote reads as this. It is titled "Honesty":

> We can afford to differ on the currency, the tariff, and foreign policy; but we cannot afford to differ on the question of honesty if we expect our republic permanently to endure. Honesty is an absolute prerequisite to efficient service to the public. Unless a man is honest, we have no right to keep him in public life. It matters not how brilliant his capacity. Without honesty, the brave and able man is merely a civic wild beast who should be hunted down by every lover of righteousness. No man who is corrupt, no man who condones corruption in others, can possibly do his duty to the community. If a man lies under oath or procures the lie of another under oath, if he perjures himself or suborns perjury, he is guilty under the statute law. Under the higher law, under the great law of morality and righteousness, he is precisely as guilty if, instead of lying in a court, he lies in a newspaper or on a stump; and in all probability the evil effects of his conduct are infinitely more widespread and more pernicious. We need absolute honesty in public life; and we shall not get it until we remember that truth-telling must go hand-in-hand with it, and that it is quite as important not to tell an untruth about a decent man as it is to tell the truth about one who is not decent.

That was by Theodore Roosevelt in 1900.

Mr. Chairman, yes, we can change campaign laws. And there are probably some that need to be changed. We have not investigated thoroughly enough yet to determine just which ones. But that is not the problem. The main problem is compliance and untruths. The change in statutes will not change either compliance or untruths.

It has been mentioned about unions and dues from union members and how in the 1996 campaigns some of them were erroneously used. I have with me a flyer that was published in Georgia. On the back of it it says the "Georgia State AFL–CIO Not Profit Organization." On the inside the cover says their rules and it walks through several things, Medicare, pensions; and it goes on to say, and this is entirely against the law, the current law, this is where compliance has not been adhered to, it says, "Vote no on Collins. Vote no on Milner and Collins."

That is where your noncompliance comes in. The untruths are in the reading of this. We can change the law. We can change every law in the campaign finance arena. But if we do not change the hearts and the souls of those who are involved in the government, we are not doing anything.

That is the problem. It is not words written down. It is inside the individual. It is not how we get here as much as what we do to get here and what we do after we get here.

Mr. MEEHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been a long evening. But then again, this has been a long wait. I have been in the Congress now for 6 years trying to find some way to get campaign finance reform passed. And I remember when I first got here, sort of a brash young freshman legislator and I got together with another member from Oklahoma. He is a great Member, had a lot of experience, Mike Synar.

Mike had a lot of courage and he was smart. And he sat down with me and he said, "If you want to work on campaign finance reform, boy, let me give you some tips. The first thing you have to do is you have to work with Republicans. Because if we, as Democrats," and we were the majority party then, "if we, as Democrats, propose our bill, it is not going to have credibility. We have got to get Republicans on board. So the first thing you need to do is find a group of Republicans who are interested in truly passing campaign finance reform."

And that is what we did. Every year that I have fought for campaign finance reform, I have worked with Republicans so that we could level the playing field equally among Democrats and Republicans.

The other thing that Mike Synar said was, "You know what? My experience is that independent expenditures are the thing that are going to kill American politics because congressional elections are not going to be about the people who live back home anymore."

Mike Synar knew something about independent expenditures, because the National Rifle Association and other groups spent millions over the years trying to defeat him. So he said, "Whenever you come up with a bipartisan bill, you got to make sure that you deal with independent expenditures."

And here we are, 5 years later, finally on the verge of having a vote before this House. And it gets emotional at times because I know how it feels having worked so long and so hard on a bill to have it misrepresented on the floor. It gets frustrating.

Members say the bill is unconstitutional. We have been working with constitutional scholars on this for the last 5 years to make sure it does pass constitutional muster. And other Members bring up the campaign reports of whatever Member stands up. It is irrelevant.

The bill that is before us does not deal with each individual Member's campaign report. It deals with soft money and independent expenditures. It deals with giving the FEC the teeth it needs to enforce the laws.

Why would we want to go after soft money, my colleagues ask? We have spent millions of dollars investigating and having public hearings on the soft money abuses in the system. Everyone in America, whether they be Democrat or Republican, agrees the soft money system is totally out of control.

This is relatively new by the way. In 1976, there was not any soft money spent in the presidential election. In 1980, only $19 million was spent. In 1984 there was $22 million spent. In 1988, there was $45 million. 1992 it goes up. In 1994, it goes up. And now it is $263 million. This is a recent phenomenon in American politics, soft money or the expenditures over and above the legal limits that are in force that are in law and that are constitutional. That is what this debate is really all about. That is why we are here.

I want to tell my colleagues that I believe we are on the verge of a majority of Members, Democrats and Republicans, who are ready to vote for Shays-Meehan but it is going to be tougher than that. As if it was not tough enough to form a consensus among Democrats and Republicans, a lot who have had great ideas about campaign finance reform. No, it is getting even tougher.

□ 2200

We have the potential of 260 to 270 amendments. Tonight we have been debating since 5:30 and we are not through the first one yet. That is what we are up against. It is a challenge. Tempers are going to get short at times, short fuses, when representations are made that are not accurate. But I believe we are on the verge of a historic vote, a vote that will have Democrats and Republicans joining together, not only in a bipartisan way but a bicameral way, because the other body has already voted, a majority, for this bill.

We can pass this bill. We can pass this bill. I urge Members of both sides of the aisle to defeat this amendment tomorrow morning, because it is a poison pill. It kills the bill. And after we are finished with that, I urge Members to get rid of these poison pill amendments and pass this bill and have the courage to move forward.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this week the Lawyers Committee on Civil Rights celebrates and commemorates its 35 years of fighting for justice in America. Its theme is Answering the Call for Equal Justice.

As I listened to my colleagues, I want to agree with the gentleman from Georgia. It is a question of compliance. But it also is a question of laws. The call for justice is, one, to have the right law, but, as well, to be able to comply.

The Shays-Meehan legislation dealing with real campaign finance reform brings both of those to the table. It calls for justice for America. It emphasizes democracy. It puts the control of politics in the hands of the people. And it provides us with the law which we should obey.

We can spend a lot of time tonight talking about money in the Buddhist temples, or maybe we should talk about the alleged loan schemes to funnel $1.6 million of foreign cash into U.S. elections through the National Policy Forum which then-RNC head Haley Barbour solicited these funds on board Hong Kong businessman Ambrous Young's yacht in the Hong Kong harbor. We can stand up and call the roll of the many times that we have not complied with our own laws. But maybe those laws are faulty, and maybe men and women have frailties and character flaws. Now we have the time to deal with real campaign reform.

We have already heard that 81 percent of the moneys that fund campaigns come from men, only 19 percent from women. What it simply says is we have got to even the playing field. We have got to enhance, if you will, the pennies, the nickels and the dimes that women give, the dollars, the five-dollar bills, so that the moneys lift everyone equally. But obviously some of our gentlemen control these large pockets of soft money. They control PACs. And so there is an unequalness there.

I want tc see everyone have an access to this political process and to be heard. My good friends on the other side of the aisle realize that this amendment on severability is a poison pill, so that if you find one sentence in the Shays-Meehan legislation as being unconstitutional, all the work that we have done throws out, throws out a very valid piece of legislation.

What the American people would like to see is the real words of the candidates, one on one. They would like to see some of our media provide the free time so that we can be heard one on one. This legislation goes to the question of all the signs of outside dollars that may come in and influence negatively the process of the American people. I believe the Lawyers Committee for Civil Rights is right, calling for and answering the call for equal justice. The Shays-Meehan legislation frankly tells you how to do it. Take all of the excess money out of this process. Let democracy be run truly by those who go to the polls every single time there is an election, by those who read and analyze, by those who believe in philosophies and make their decisions at the voting booth based upon the decision that has been given to them by this Constitution and by this flag, the right to make a democratic choice.

I would hope my friends in the 258 amendments that we have, we do not even have 258 more days in this year, much less in this session, would realize that we need to get down to the business that the American people have asked for. We need to lift all boats at the same time. We need to equalize and make sure that the least of those who have nothing more than their vote can be heard in the halls of Congress.

Lastly, Mr. Chairman, let me say something. There was a lot of disagreement over this legislation, and I am not here to point any fingers. But we voted on bankruptcy legislation just a couple of weeks or so ago. In this article by the Wall Street Journal, it said that the lawyers and bankruptcy judges and law professors and even the National Bankruptcy Commission said the bill was not the right bill. But in the same article, it said that the American Financial Services Association paid a lot of money in campaign contributions, and we have a bill that may hurt working men and women. I hope we can fix it. But what we really need to do is to fix it permanently and ensure that the loudest voice in this House is that of the average working man and woman. That is why we need to get rid of this amendment and support the Shays-Meehan legislation.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is a movie that I enjoyed, it was called Groundhog Day. Some of my colleagues may have seen Groundhog Day. Maybe the Chairman saw it. I know they have theaters in Arkansas, Mr. Chairman.

I am a member of the Committee on House Oversight. We have heard all of these arguments. The House of Representatives was set up, and fortunately we have the Committee of the Whole and here we are tonight as the Committee of the Whole and we are repeating all of those arguments. We had 40 Members and these Members are very well intended. I heard the gentleman from California (Mr. DOOLITTLE), I heard the gentleman from Connecticut (Mr. SHAYS), I heard the gentleman from Massachusetts (Mr. MEEHAN). I heard every one of the sponsors almost, or I read their testimony for their proposals. The problem is we have 435 experts. The gentleman from Georgia (Mr. COLLINS) was just here and showed his brochure of how he was offended and beaten up by soft money or union money.

The problem we have here is this soft money, and we would love to ban it, I would love to ban it, we looked at this, the problem we have is we have $263 million here, but we heard the gentleman from Arizona who said that there was a half a billion dollars of union money that you could not even put on this chart in addition to that. And, Mr. Chairman, we are all going to be here again because we are not going to be able to solve this unless we can solve all of these problems. We do have an impediment. The impediment to soft money, and we have heard it, is the Constitution and the Bill of Rights, the first amendment, the free speech clause.

We have been through this debate in committee, we are going to be through this debate again. Our committee tried and we did our best. We brought out four bills, one on disclosure, one banning soft money, one banning union money, and one banning very clearly foreign contributions. And unfortunately we are here again.

So we will repeat on campaign finance reform Groundhog Day. We are going to hear all the arguments again. We are going to have the same votes again. It is just a prediction. It is going to be another Groundhog Day.

Mr. Chairman, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding. I think this has been a pretty good debate, although Members do not want to seem to yield to questions. I think that is unfortunate, so I am going to try to put this in perspective and bring us back to Earth.

There are two different kinds of campaign money. One is hard money, one is soft money. The hard money that we are talking about is money that goes directly to candidates to elect or defeat candidates. That is heavily regulated and supported by the Supreme Court to do so. What the Shays-Meehan bill wants to do is stop the soft money.

Now, the gentlewoman from Texas talks about the Lawyers for Civil Liberty.

Ms. JACKSON-LEE of Texas. The Lawyers Committee for Civil Rights.

Mr. DELAY. The Lawyers for Civil Rights under Shays-Meehan could not raise the money to advocate the kinds of issues the gentlewoman advocates under Shays-Meehan. They would be regulated. I do not understand why she would support Shays-Meehan.

She talks about leveling the playing field. The Supreme Court said that the concept that government may restrict speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the first amendment. We are not trying to level the playing field here. What they want to do in the Shays-Meehan bill, they want to ban soft money. Ban it altogether. And, therefore, bring moneys under the hard money type of regulations. They want to recognize people like Lawyers for Civil Liberty; if they want to run ads against TOM DELAY because he does not support their advocacy, they want to call those sham type ads and they want to regulate those, too. I do not want to regulate your group. I want them to be able to come at TOM DELAY and let us have a discussion of the issues. They want to codify Beck. But the problem is that you have to remove yourself from the union in order to take advantage, you have to resign from the union to take advantage of their Beck codification. This is all tied together. This is all part of what we are talking about here.

The gentleman from Georgia is absolutely right. Honesty does not come from a bureaucrat. Honesty does not come from the Shays-Meehan bill. You cannot bring honesty to this Chamber, and I might say, this Chamber is not corrupt. This Chamber is not corrupt.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Florida (Mr. MICA) has expired.

(By unanimous consent, Mr. MICA was allowed to proceed for 3 additional minutes.)

Mr. MICA. Mr. Chairman, I continue to yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the point here is that honesty does not come from a bureaucrat or from a law. I have said it before and I will say it again, I do not know one Member of this body that is corrupted by money. As the gentlewoman said, we ought to lift all boats. Under Shays-Meehan and other kinds of restrictions, she would not be elected. She would not be able to get 58 percent of her money from PACs, because they would eliminate PACs. They would eliminate soft money. They would not be able to elect a woman and let her get in a boat and be lifted. That is what we are trying to say here.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I cannot yield. I do not have the time, and I am trying to finish so the other gentlemen can use the time. You would not yield to me, so I just have to keep moving.

Mr. Chairman, the point I am trying to make here is, real reform is opening up the process, not shutting it down in favor of incumbents. That is what they are trying to do. This is all interconnected. The Thomas amendment is saying that if one part of this is struck down, then it all should be struck down, because the Shays-Meehan bill is connected and interconnected.

Therefore, I beg Members to vote for Thomas. Because if you are for real reform and not shutting down the process, if you are for real reform and opening up the process and inviting more people in, then you would not only pass the Thomas amendment but defeat the Shays-Meehan bill.

Mr. MICA. Mr. Chairman, reclaiming my time, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, the cosponsor of the bill from Massachusetts mentioned that they had 127 legal scholars working on this project. They issued a report called Buckley Stops Here, the 20th Century Fund, not-for-profit group.

This is paid for by what we would call soft money, contributions. And we want them to use soft money to speak about an issue and try to overturn the Buckley case if they want to do that. But if Shays-Meehan is adopted, they are going to curtail the speech of not-for-profit groups because in essence they do not like what these groups are saying.

You are curtailing the amount of money that can be given to 501(c)(3) organizations and you are expanding the definition of express advocacy.

Mr. SHAYS. Express advocacy involves——

Mr. MICA. Regular order, Mr. Chairman.

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman will suspend.

The Chair would like for each Member to yield and to reclaim his or her time so that one person will speak at a time.

Mr. MICA. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman has 30 seconds.

Mr. MICA. Mr. Chairman, in conclusion, and I am sorry I do not have too much time, but I tried to point out and I serve on the committee, we looked at this, we have been there, we have done it. We see $263 million in soft money, another half a billion not even on that chart. We are not going to resolve this because you do not have the votes on either side, and 218 votes in this House beats the best argument.

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So people want the laws enforced, people want disclosure, and people want a ban on foreign money. Those are the things we can agree on. Those are the things that we brought out as a committee.

The gentleman from California (Mr. THOMAS) has done his best. I urge his amendment.

Ms. DELAURO. Mr. Chairman, I rise in support of Meehan-Shays.

Americans want fundamental change, a complete overhaul of the campaign finance system. They want meaningful limits on frenzied political spending, and they want them now.

Finally, today, we have an opportunity to give the Americans what they want. We have an opportunity to end the abuses of the electoral process.

We must ban soft money, rein in the exploitation of issue ads, limit individual contributions, and restore the faith of the American people in our political process. We must pass Meehan-Shays.

The Republicans have tried to kill reform time and time again by breaking promises, strong-arming reformers off of the discharge petition, and by introducing a hodgepodge of bills that the House already rejected and a constitutional amendment that they didn't even believe in. Now, they are attaching hundreds of poisonous amendments to a bill that would genuinely reform this system.

Why? Because the Republican leadership is trying to protect a broken system that works for them. The Republican leadership wants to keep the flow of big money coming from special interests and silence the voices of working men and women and their families. The Republican leadership wants to kill reform.

Representative RAY LAHOOD even admitted last week that the Republicans were "trying to talk it to death."

But talk is cheap. Today, I challenge my Republican colleagues to act. Prove that you are not in the pockets of the special interests. Restore America's faith in its elections. Support genuine campaign finance reform and bring a true victory home to the American people. Vote for Meehan-Shays.

The CHAIRMAN pro tempore (Mr. DICKEY). Does any other Member seek recognition?

Mr. SHAYS. Mr. Chairman, I wonder what the process is to encourage the Chair to ask for a vote on this issue, and then I think we will have a rollcall vote tomorrow.

What is that process?

The CHAIRMAN pro tempore. Are there any other Members who would like to speak on the amendment?

If not, the question is on the amendment offered by the gentleman from California (Mr. THOMAS) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. SHAYS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from California (Mr. THOMAS) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

PARLIAMENTARY INQUIRY

Mr. HUTCHINSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HUTCHINSON. Am I correct to understand that once the Thomas amendment has been considered and now that we have to roll that vote that we could not consider another amendment tonight?

The CHAIRMAN pro tempore. It is the Chair's understanding that there will be a motion to rise.

Mr. HUTCHINSON. Am I correct that there was an understanding that we would cease debate at 10 o'clock tonight or when we completed debate on the Thomas amendment? If that is correct, it would appear to me that we are slowing down the process of amendments that need to be considered. I think we could do another amendment tonight within 30 minutes, as tired as everybody is.

The CHAIRMAN pro tempore. A motion to rise, if made, is preferential.

Mr. MICA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HAYWORTH) having assumed the chair, Mr. DICKEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

APPOINTMENT AS MEMBERS OF THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276h, the Chair announces the Speaker's appointment of the following Members of the House to the Mexico-United States interparliamentary group, in addition to Mr. KOLBE of Arizona, chairman, and Mr. GILMAN of New York, vice chairman, appointed on April 27, 1998:

Messrs. DREIER of California,
BARTON of Texas,
BALLENGER of North Carolina,
MANZULLO of Illinois,
BILBRAY of California,
SANFORD of South Carolina,
HAMILTON of Indiana,
FILNER of California,
DELAHUNT of Massachusetts; and
REYES of Texas.

There was no objection.

NASHVILLE'S HOUSE THAT CONGRESS BUILT

(Mr. CLEMENT asked and was given permission to address the House for 1 minute, revise and extend his remarks and include extraneous material.)

Mr. CLEMENT. Mr. Speaker, I rise today to report on my experience with the House that Congress Built and to urge all my colleagues to participate in this project.

Last year Congress passed House Resolution 147, which encourages all Members to participate in and to support activities to provide homes for low income families. So far 361 Members of Congress have agreed to participate in the House that Congress Built to make the American dream of home ownership a reality for low income families.

On Friday, June 12, I teamed up with the Nashville Area Habitat for Humanity and the Homebuilders Association of Middle Tennessee to break the world's record for building a habitat home. We not only broke the record, we shattered it. With 250 builders and 50 supervisors. Working tirelessly, the 3 bedroom 1,000 square foot home was built in an amazing 4 hours 39 minutes and 8 seconds. It was an unbelievable experience that I had the opportunity to participate in.

I also had opportunity to meet Millard Fuller, the founder of Habitat for Humanity International. It appears now we will be in the Guinness Book of World Records. I urge all my colleagues to join Habitat for Humanity in building homes in their districts. And let me mention it again—we built that home in an amazing 4 hours 39 minutes and 8 seconds.

Mr. Speaker, I rise today to report on my experience with "The House That Congress Built" and to urge ALL my colleagues to participate in this project.

On Friday, June 12, 1998, I teamed up with the Nashville Area Habitat for Humanity and the Homebuilders Association of Middle Tennessee to break the world record for building a Habitat home. We not only broke that record . . . we shattered it. The record had been 5 hours, 57 minutes and 13 seconds. With over 250 framers, builders, drywallers, electricians, plumbers and landscapers working tirelessly, the three bedroom, 1000-square-foot home was built in an amazing 4 hours, 39 minutes and 8 seconds.

I was very proud to be a part of this team. The hard work that Habitat for Humanity and the Homebuilders Association of Middle Tennessee devoted to this build is inspirational and heart warming. Witnessing the hard work of 250 builders and 50 supervisors who worked on the house was truly a sight to behold.

This project was a blessing to participate in because it gave me an opportunity to get to know the family who now owns the Habitat house. This personal contact is extremely important because it puts a face on poverty. When we give poverty a name and not merely a statistic, the problem reaches into our hearts and we feel compelled to do our part in helping to eliminate poverty housing in our country.

This home was built for Marilyn Winston and her 12-year-old son Ramonze. They had never owned a home and were living in a drug-infested and violence-filled neighborhood. Ramonze could not go outside to play. Marilyn, a registered medical assistant, is very devoted to the education and safety of her son and works very hard to provide for him. In their new home, Ramonze has his own room, a yard to play in and a safe neighborhood to live in.

At this building, I had the privilege to meet Millard Fuller, the founder and president of Habitat for Humanity International. Millard was a self-made millionaire at age 29, when he and his wife, Linda, sold all their possessions, gave their money to the poor and struck out on a search for a focus in their lives. Their experiences led Millard to create Habitat for Humanity International, dedicated to providing homes for low-income families.

Today, Habitat has over 1,400 affiliates in North America and partners in more than 50 nations. The 70,000th home will be built in September.

I think we can all agree with the principal benefits of home ownership. A home is not merely a shelter—it provides a family with an opportunity for growth, prosperity and security. Home ownership promotes economic independence for our citizens and provides stability for our neighborhoods.

The United States is the first country in the world to make owning a home a reality for a vast majority of its families; however, more than one-third of the families in this country are not homeowners. A disproportionate percentage of non-homeowning families are low-income families. Owning a home is like owning a piece of the rock. If we all join together, we can help ensure that this nation becomes a nation of homeowners.

Last year, Congress passed House Resolution 147, which encourages all members to participate in and support activities to provide homes for low-income families. So far, 361 members of Congress have agreed to participate in the House that Congress Built, to make the American dream of homeownership a reality for low-income families. When we voted on this resolution last year, I thought it was a good idea. After participating in the world-record breaking build on Friday, I'm convinced that this is one of the greatest events I've ever had the privilege to be part of since becoming a member of Congress. I urge all of you to join Habitat for Humanity in building homes in your districts. I promise you that if you participate in a habitat for Humanity build, it will be one of the most rewarding experiences of your life.

I also urge my colleagues to ensure that this effort does not end with one symbolic house in each congressional district. Our goal is to eliminate poverty housing across the United States. This has to be the beginning of the fulfillment of the American dream for each and every American.

Thank you, Mr. Speaker, and I yield back the balance of my time.

SUPPORT THE CHILD CUSTODY PROTECTION ACT

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I urge support for the legislation of the gentlewoman from Florida (Ms. ROS-LEHTINEN), the Child Custody Protection Act.

Mr. Speaker, my colleagues may recall that when the partial-birth abortion ban became an issue, many pro-abortion organizations, including Planned Parenthood Federation of America and their research arm, the Guttmacher Institute wrote a letter saying there are 500 partial-birth abortions every year in the entire country. That statement, just like other statements that they made, turned out to be bogus, turned out to be a lie.

It was a New Jersey newspaper that broke the story that just one clinic in my State, the Metropolitan Medical Associates in Englewood, did about 1,500 partial-birth abortions each and every year, many of them on teenagers.

Now we find that the Metropolitan Medical Associates and other abortion mills in the State of New Jersey advertise and market their business in Pennsylvania and elsewhere and use the fact that New Jersey does not have a parental consent or parental notice statute as a way of luring young girls to that clinic and to other clinics. If we look at this ad, it stresses that pregnancies are terminated up to 24 weeks without parental knowledge or consent.

These ads are telling teens "Hey, we can end your pregnancy and your baby's life and your parents don't have to know." But if a teenager's secret abortion leads to complications, what happens then? Where is it written that the person driving the frightened and vulnerable 13 or 14-year-old to an abortion mill is responsible? No, her parents will be responsible for and involved in her care after the abortion—when the disaster hit. They should have had the chance to be involved at the beginning—and they would have if the state law had not been evaded.

We need to say that the law does matter. We need to say that parents matter. And we need to help those vulnerable children who are being carried across state lines and pushed into abortion clinics by relative strangers who, in most cases, have their own reasons for making sure that these girls get abortions.

Support the Child Custody Protection Act.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CALLING FOR REAL REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE of Texas) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think, as we were engaged in this very important and maybe life-changing debate on the question of campaign finance reform, returning the government back to the people, it might have been some confusion on a group that I wish to pay tribute tonight and that is, of course, the lawyers' committee for civil rights under law. That is not a political advocacy group, nor is it a PAC that secures and solicits money to fund candidates for any kind of election. This is a 35th year, an anniversary of this great and historic body. Its theme is answering the call for equal justice.

On June 21, 1963, President John F. Kennedy summoned 250 of America's most prominent lawyers to the White House to enlist their leadership in helping to resolve the civil rights crisis which gripped the Nation. In the preceding weeks Americans had witnessed the bombing of black churches, the number of civil rights, the murder of civil rights activist Medgar Evers and the defiance of Alabama governor George Wallace who sought to block the admission of black students to the State university. Establishment of the lawyers' committee sought to fulfill the expectation of America's leaders that the private bar become an active force in the continuing struggle for equal opportunity and racial equality.

In saying that, Mr. Speaker, let me also acknowledge that we are not talking about taking the opportunities away from various advocacy groups to participate in the political process, and to raise money, and to speak and to utilize the first amendment. My colleagues know on the other side of the aisle in debate of this issue that you can organize a PAC and be actively involved in both fund-raising and speaking your views. So I would not want the great work of the lawyers' committee on civil rights to be associated with a PAC or an advocacy group. They are a justice group.

In keeping that in mind, Mr. Speaker, let me also say that we can see in our campaign process the influence of big money. Just this week the other body, of course, has not spoken to the issue that the American people want them to speak to, and that is the issue of reforming and changing the laws as it relates to the sale of tobacco. Four thousand youngsters every day start smoking, and 1,000 of them will die. Now that is why the Congressional Children's Caucus on Wednesday, June 24 will convene a hearing so that the world can hear our children speak out against the violence of tobacco use, how they are besieged with advertisement and encouragement to use it. We will listen to their voices. We will listen to physicians tell us how cigarette smoke, secondhand smoke, impacts children every day.

It is important that we relieve ourselves of the whole influence of negative influences on this concept of government and democracy. I certainly think that actions this week speak of negative influences. For most of the American public, when told the truth, want a reform of the way tobacco is utilized in this country and how it is projected toward our youth.

We could have had a strong tobacco reform bill. We could have had a bill that provides for the health care of Americans at the same time that we are protecting our children against advertisement that would encourage them to smoke. But yet influence has brought that bill to a halt.

I am here to call on this House to move forward and to bring about real reform as it relates to tobacco. I am here to ask this House to listen to these children as they come to the United States capital to present their case. And lastly, Mr. Speaker, I am here to make sure that we give attention and respect to an organization that deserves such; that is, the lawyers' committee for civil rights under the law, and maybe in its 35th year, as it fought for civil rights and justice, maybe we will stand in this body and also answer the call for equal justice. We will pass real campaign finance reform, and we will have a tobacco bill that will protect our children. I hope that their call is not in vain and that it will not be silenced by the pondering of our voices and by the overwhelming special interests that try to strangle democracy in this House.

U.S. SUPPORT FOR PEACE AND STABILITY IN THE CAUCASUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, yesterday two of my colleagues, Mr. KENNEDY of Massachusetts and Mr. KENNEDY of Rhode Island and I met with Deputy Secretary of State Strobe Talbot and other top State Department officials to discuss the resolution of the conflict in Nagorno Karabagh, a state in the southern Caucasus region of the former Soviet Union. Our goal was to try to develop some new ideas on how we can work to promote greater cooperation and stability in this strategically-located region.

Although the State Department clearly considers Nagorno Karabagh to be of the utmost importance, my colleagues and I are concerned the U.S. diplomatic efforts have either stalled or are going in the wrong direction. We are concerned that our diplomatic priorities are being eclipsed by commercial interests in the region and that the traditional American mission of promoting democracy is being diverted by the desire to develop oil resources.

Secretary Talbot and his colleagues from the Department of State who met with us were most gracious, I should say, but there are differences between the State Department and those of us in this Congress who are staunch supporters of Armenia and Nagorno Karabagh.

And, Mr. Speaker, as I have mentioned in this House on several occasions, the people of Nagorno Karabagh fought and won a war of independence from Azerbaijan. A tenuous ceasefire has been in place since 1994, but a more lasting settlement has been elusive. The United States has been involved in a major way in the negotiations intended to produce a just and lasting peace. Our country is a co-chair along with France and Russia of the international negotiating group commonly known as the Minsk group formed to seek a solution to the Nagorno Karaagh conflict. Pro-Armenian Members of this House welcome the high profile U.S. role in this process. As I have indicated, we have some substantive differences.

Unfortunately the State Department is most reluctant to drop its support for Azerbaijan's claim of so-called territorial integrity despite the fact that Nagorno Karabagh has been inhabited by Armenians for centuries.

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I would say, Mr. Speaker, it is time for the U.S. and our Minsk Group partners to forget about the idea of Azerbaijan's so-called "territorial integrity" as the foundation for peacefully resolving this conflict.

In the first place, given Nagorno Karabagh's autonomous status in the old Soviet system, there is no reason why they must be considered part of Azerbaijan. But more importantly, Mr. Speaker, the people of Nagorno Karabagh do not consider themselves to be a part of Azerbaijani society. And, considering the horrible treatment visited upon the people of Karabagh and the Armenian community in Azerbaijan proper, it is apparent to me that Azerbaijan really has no use for the people of Karabagh.

The State Department officials that we met with yesterday seemed to be open to new ideas coming from the parties to the conflict, and that created a certain amount of optimism. They stressed that if Armenia, Azerbaijan and Nagorno Karabagh all agreed on a status for Nagorno Karabagh that left it free of Azeri suzerainty, the United States would go along. There was a clear understanding on the part of the State Department that the earlier Minsk Group proposal that did not address the status issue was no longer acceptable to Armenia or Nagorno Karabagh.

Mr. Chairman, as we stressed at yesterday's meeting, our top priority should be to push for direct negotiations, involving Nagorno Karabagh and Azerbaijan, without preconditions. And I should add that any proposal that starts with the premise that the map of Azerbaijan must include Nagorno Karabagh is a big precondition.

As a first step, Mr. Speaker, I would stress the importance of strengthening the current, shaky cease-fire as a priority for the Minsk Group. Making a priority of securing the cease-fire would help end the violence, stop the continuing casualties, and help build confidence for further agreements between the parties.

I believe we should also consider the idea of "horizontal links," a federation between Azerbaijan and Nagorno Karabagh among equals. This model has been used in resolving the Bosnia war and in the current negotiations aimed at resolving the Cyprus conflict.

Another key is the need for security guarantees for Karabaugh. As I mentioned, Karabagh won the war and holds the strategic advantage. But it is unrealistic and unfair to except Karabagh to give up its gains on the battlefield for vague promises at the negotiating table by the United States or the other Minsk Group cochairs.

Finally, let me say, Mr. Speaker, that America's role should be that of a nonbiased mediator. It is a role that we have played honorably and with great success in conflicts raging from the Middle East to Bosnia and to Northern Ireland, and there should be no difference here in the case of Karabagh.

POSSIBLE CURES FOR ABUSES IN MANAGED CARE

The SPEAKER pro tempore (Mr. HAYWORTH). Under the Speaker's announced policy of January 7, 1997, the gentleman from Iowa (Mr. GANSKE) is recognized for 60 minutes as the designee of the majority leader.

Mr. GANSKE. Mr. Speaker, it has been a long day here in the House with a lot of debate about campaign finance reform, and as our colleagues on the other side of the Capitol have been debating for almost 4 weeks until it ended yesterday, a debate on tobacco legislation, which appears to be at least significantly set back. We have a debate going on on campaign finance reform which is much needed, and it appears as if we may have a 3 or 4 week debate on that as well. I hope that the outcome comes out better than that.

But I want to speak tonight about another issue that has been bottled up in Congress for a couple of years that has broad bipartisan support, something that is very important to our constituents back home and to every American, and that is the issue of abuses in managed care and whether we ought to have some minimum standards, Federal safety standards for managed care.

I frequently hear my colleagues who oppose this saying, well, let us not legislate by anecdote. I mean, heaven forbid that we should ever in this body legislate by anecdote. The problem is that these anecdotes are real people, and they are all over the country, and we can read about them in newspapers at home, and nearly everyone knows somebody or has a family member that has been affected by abuses in the managed care industry.

Here we have a headline from the New York Post: "HMO's Cruel Rules Leave Her Dying for the Doc She Needs." Does that seem harsh? Well, how about this case history of one of these "anecdotes." Although I really do not think we would want to call Barbara Garvey an anecdote to her family.

Barbara Garvey is a 54-year-old Chicago woman who fell seriously ill when she was vacationing in Hawaii. The doctors in Hawaii correctly diagnosed her condition and advised the Garveys that she needed a bone marrow transplant immediately. Then the physicians cautioned the couple that Barbara should not travel back to Chicago for this treatment since this could increase the risk of her suffering a cerebral hemorrhage, or infection during her air travel. So they phoned her doctor back in Chicago who agreed with the Hawaiian doctors; take care of her in Hawaii. Travel by an airplane in her condition is too dangerous. However, the HMO bureaucrats told Barbara's husband, David, that the HMO would not be responsible for her treatment if she remained in Hawaii, and that she should return to Chicago. In route to Chicago, Barbara suffered a stroke that left her right side paralyzed and she was unable to speak. When she arrived in Chicago, she was admitted to St. Luke's Medical Center where she died 9 days later of a stroke.

The HMO then attempted to use a legal loophole to avoid all responsibility. That loophole is contained in a law known as the Employee Retirement Insurance Security Act of 1974, ERISA, which was enacted well before the era of managed care and was intended to provide workers with benefit protections. The HMO claims that because Garvey received her health care through her employer, the Garveys cannot receive damages for Barbara's death.

HMOs have been using ERISA, in many cases successfully, to shield them from the accountability of their decisions, when they tie the doctor's hands and they direct a patient's care leading to injury, or even, in the case of Barbara Garvey, death.

Well, I guess the opponents to this legislation would just say, gee, we should not legislate by anecdote.

Well, how about the case of Betty Wolfson. This is told by her daughter. The dispute between my mother and her HMO arose when the HMO's doctors recommended a course of treatment that world-renowned neurosurgeons at UCLA medical centers believe will endanger her life. We wanted a second opinion because my mom has an artery in her brain the diameter of a golf ball that is full of blood clots. It has caused her to go blind in one eye. At any time she could completely lose her sight and suffer a massive stroke, or die.

Initially my mom's HMO stated there is no appeal process. Finally, someone explained there was no "complaint department," only a "customer satisfaction department." By the sheer fact that HMOs have endless financial resources, her daughter continues, this makes it a cinch for her HMO to prevail. When this process bankrupts my mother and forces my folks out of their HMO, it is often taxpayers that end up picking up the tab, saving the HMO from having to shell out for expensive medical treatments.

Her daughter continues, Sadly, our story is not unique. ERISA, the Employment Retirement Income Security Act, contains a loophole that allows HMOs to sidestep accountability for denying or delaying medical care. If this loophole were closed now, families like ours would not have to suffer financial and emotional ruin to get adequate help for our loved ones.

Mr. PALLONE. Mr. Speaker, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Speaker, first of all, let me say that I am very pleased to see the gentleman here again tonight talking about the need for managed care reform or patient protections, because I believe, as I have said before, that this is the number one issue facing this Congress. It is the issue that I hear most often when I talk to my constituents and our constituents throughout this country, be they Democrat, Republican, Independent; regardless of party affiliation, regardless of State, are demanding action on these patient protections.

I just wanted to make a brief comment which is that the gentleman really points out how this is nothing more than a very common sense approach to quality health care. The gentleman mentioned anecdotes, and of course they are not, they are real people and we know that they are real people, but beyond that is the notion that, and I have said this before, in my constituents' minds and I think most Americans' minds, when they hear the types of things that the gentleman is relating, they cannot believe it because they assume that their insurance company, whether it is an HMO or whatever kind of managed organization, would follow common sense precepts. In other words, they would not assume that because one is in Hawaii that one has to take a plane contrary to one's health and come back to Chicago.

They would not assume, for example, that if one needs to go to an emergency room, that one would have to go to one 40 miles away rather than the one that is around the corner, because that particular hospital is not part of the network. They assume that if someone has to have access to a particular type of care, specialty care, for example, that the specialist is going to be available and that the HMO will not deny them.

I think even more so, as the gentleman pointed out, is that when I talk to some of my constituents that have had problems with HMOs, they talk about the lack of an appeals process that they can really utilize, because again, if a mother has to take care of a sick child or a father has to take care of a sick child and they are working, they do not have the time to spend 9 hours a day going through some obscure way of appealing a decision. They have to have a very easy way to take an appeal to someone who is actually going to hear it in an expedited way.

I have found, as the gentleman said, that a lot of these problems with HMOs, essentially what happens is that if someone does not want to accept a decision that has been made with regard to a particular type of care or access to a specialist or use of particular equipment, that people essentially give up because they do not have the time or the wherewithal to go through the appeals process, and that should not be. That is what is so egregious I think about the system that is set up.

Of course, the other aspect that the gentleman points out is the inability to sue the HMO when they make a mistake or they make a decision that actually damages someone or kills someone. Again, I do not think most people would think that they have lost the right to sue because of the Federal law that is out there.

So all we are really saying, all the gentleman is really saying is that we need some common sense patient protections that apply to all HMOs, to all managed care organizations, to all insurance companies, and that those basic patient protections, that "floor," if you will, needs to be put in place. Otherwise, we have people dying and people getting seriously ill, and the long-term consequences of that not only are bad for the individuals, but in many cases cost the taxpayers even more money because they end up footing the bill.

So I just want to thank the gentleman again for these examples, because I think that when we use examples, that is the way people will understand it. But unfortunately, we are going to have to somehow get this into the heads of some of our colleagues, because although there are a lot of people that support this, there are a lot unfortunately that make it difficult to bring up the legislation.

Mr. GANSKE. Mr. Speaker, reclaiming my time, I appreciate the gentleman's comments, because he is getting to a point that I will get to a little bit later, but we might as well get to now. I am going to talk about some more examples tonight, but it is not as if we have not had several bipartisan bills sitting here in Congress this year, last year, bipartisan bills in 1996 with over 300 cosponsors dealing with this problem with no standards for people who are in HMOs and are receiving their insurance through their employer in a self-insured plan because of Federal law.

□ 2245

We have two bipartisan bills now, right here sitting here in Congress waiting to be acted on. One is the Patient Bill of Rights. The other is the Patient Access to Responsible Care Act.

The second one has about 230 cosponsors. Just by the number of cosponsors alone, if it were on the floor today it would pass. I happen to think that when and if we can get one of these bills to the floor, and overcome the leadership's objections to this legislation, that legislation will pass overwhelmingly in a bipartisan fashion.

But why is it being held up? What is the problem? I mean, it is not as if the American public is not calling for this. It is not as if the American public is not well aware of these problems, which I will going to go into in more detail. Nine out of ten Americans by survey today say: Please, give us some Federal legislation for some minimum quality standards so that when we get sick, our HMO will give us the care that we need.

Mr. PALLONE. Mr. Speaker, if the gentleman would yield, I think it is pretty obvious. And I do not think we need to do any more than ask the average American. I am sure they would articulate and be right in saying that it is the insurance industry, of course, that is continuing to lobby in Congress to prevent this legislation from coming forward.

The fact of the matter is they spend a lot of money on advertisements and other ways of trying to influence what goes on here. So I have no doubt that the reason why the leadership has been unwilling to bring this to the floor is because of the opposition from the insurance industry.

We have had this so often with health care reform in general. But this, of course, hits at the very heart of the HMO and the managed care industry, because they fear that somehow by us putting these patient protections in effect, that they are going to be told what to do or that somehow their costs may be impacted.

I really do not see it as a cost issue. I do not think it is going to cost anything more, or certainly a very insignificant amount extra money if anything, to implement these basic patient protections and we have to keep making that point.

Mr. GANSKE. Mr. Speaker, reclaiming my time for a moment, I think we should make a distinction between the insurance industry and HMOs and the managed care industry.

There are a lot of health insurance companies that provide health insurance policies to individuals. They do not have the liability exemption that a managed care plan, an HMO, has when it is offered through an employer. Consequently, we see significantly fewer of these horror stories from that portion of the insurance industry.

We see fewer reports of problems in the nonprofit managed care industry because they are ethically trying to do their job. When they look at a Patient Bill of Rights, as has been proposed by our legislation, they are already doing most of the things that we are proposing.

What we are really talking about is a subset of the managed care industry that adamahtly opposes quality standards. Why? Because they are cutting corners. That way they can increase their profit margin. Their stock will go up. Their CEOs will make millions more. They can capture more of the market share, because they are keeping their premiums lower than those plans that are actually trying to do a legitimate job.

Mr. PALLONE. Mr. Speaker, if the gentleman will yield, we had a report that the gentleman mentioned the other night on the floor about the CEOs of some of these for-profit HMOs or managed care organizations, their salaries are many millions of dollars per year with all kinds of stock options that add up to additional millions of dollars.

I am glad the gentleman brought out the distinction between the different types of HMOs and managed care, because in fact many of the not-for-profit HMOs or managed care organizations in the beginning, when the President first proposed patient protections, were actually supportive of the patient protections, most of which are incorporated in the two bipartisan bills that the gentleman mentioned.

It is true that there are good and bad insurance companies and generally the not-for-profit HMOs and managed care organizations have not really had a problem with the kind of patient protections that we are talking about.

Mr. GANSKE. We are actually seeing some of the nonprofit HMOs such as Kaiser, HIP, calling for Federal legislation for patient protections. They would like to see a national uniform standard so that their competitors who cut corners and needlessly put at risk people's life and limbs are not able to unfairly compete against them when they are trying to do a legitimate job.

Let me give another example. I am not calling some of these cases anecdotes, because some of the opponents to these two bills say, well, we should not legislate by anecdote. I am a physician. I continue to be a physician. I continue to do charity care while I am in Congress. So I am going to refer henceforth in this talk tonight to "patients," because that is what I think they are.

Let us talk about Francesca Tenconi, an 11-year-old girl. She suffers from a disease called Pemphigus Foliaceous. This is an autoimmune disease in which her body's immune system becomes overactive and attacks the protein in her skin.

Her parents have had to battle with their HMO to insist upon appropriate diagnosis and medical care. According to her father, Francesca's medical and insurance ordeal began in December 1995 when at the age of 11 she was diagnosed with a skin rash. By March, that condition had spread and become worse, and by April it was so bad she could not attend school. During this period, her parents made several requests to get a referral to a specialist to find out what was going on and her HMO refused.

Finally, in May, almost 6 months after the first appearance of her skin problems, the HMO finally did some biopsies and sent them to out-of-network doctors and they finally got an accurate diagnosis. But even after receiving the diagnosis, her HMO still insisted on treating the disease with its own doctors, even though this is a very complicated, difficult disease.

It was not until February of 1997, over 1 year after her symptoms appeared, that they finally allowed her to receive care at Stanford Medical Center, which possessed the doctors capable of treating this illness.

Explaining the prolonged and unnecessary pain of lying down without skin on his daughter's back for over a year, Don Tenconi said, "If you feel this pain, you will shed tears of pain. The same pain that Francesca shed night after night, week after week for months."

And because Francesca received her health care through Donald's employer, the HMO claims that ERISA shields it from damages resulting from delaying and denying medically appropriate care and referrals. And that is wrong.

That is a real live little girl who for a year had basically no skin on her back. Think of how painful that condition would be. Think about being that little girl's mother and father. Think about their continued appeals to try to get appropriate care from their managed care company.

Today in our committee, the Committee on Commerce, we had a long hearing on liver transplants. Let me give another example of an HMO abuse. A woman suffering, her name is Judith Packevicz, suffering from a rare form of cancer of the liver, is today being denied life-saving treatment by her HMO. The HMO will not pay for a liver transplant recommended by her oncologist, with the support of all of her treating physicians.

This is causing this woman to live out a death sentence. The HMO denied the recommended transplant on the grounds that it allegedly "does not meet the medical standard of care for this diagnosis."

No explanation of why the recommended transplant allegedly fails to meet community standards, when all of her doctors have recommended this treatment, has been provided in correspondence from the HMO.

Well, under ERISA, should Mrs. Packevicz die before she receives a transplant, her HMO will have no costs at all. Is that what we want to see continue in this country?

Mr. PALLONE. Mr. Speaker, that is horrible. Can I ask the gentleman if he knows, what would be the cost of a liver transplant, approximately? What is the cost? Do you have any idea?

Mr. GANSKE. The cost of a liver transplant, in total, would probably be in the range of several hundred thousand dollars. This is not something that the Packevicz can afford.

Mr. PALLONE. But this is obviously the reason why they are excluding it, because they do not want to incur that cost. There is no question, I would say.

Mr. GANSKE. Mr. Speaker, what we have with the managed care industry is we have a situation where they make more profit by giving less service, less treatment. By my mind, this is the only industry in this United States or anywhere where they get paid more for doing less. It is a perverse incentive system and one that needs guidelines so that it is not abused.

Another example, how about Carol Anderson, a hospital worker who has had to change insurance providers in the middle of her breast cancer treatment. When she called an HMO to ask if her doctors were on his network of physicians, she was told they were not but because her breast reconstruction was already underway, she could stay with them.

However, the next month, that HMO refused to cover her surgery claiming she had been misinformed by somebody and so after months of fighting, they finally agreed to pay, but only if she switched physicians. That is tough in the middle of treatment, especially reconstructive treatment. I am a reconstructive surgeon. I know how difficult some of those operations can be.

The bills that are sitting here waiting to be acted upon by Congress address that. They say that if a patient is in the middle of treatment and the employer switches the insurance coverage to a different HMO, the patient does not have to switch doctors until that treatment is finished.

Same thing goes with pregnancy. A woman is 7-months pregnant, her employer switches plans, her current doctor is not in the treatment plan. Well, too bad. She has to go to a new physician, a new doctor. Our bills address that and say, huh-uh, if employees are offered an employer plan in that situation with a pregnant woman nearly ready to give birth, they cannot force her to go to another physician. And why? Because there is a certain benefit to continuity of care.

Mr. PALLONE. Mr. Speaker, if the gentleman would again yield, just common sense. We are not really asking for anything more. And obviously it makes sense to not switch physicians in the middle of a pregnancy or in the middle of some kind of disorder.

If I could just mention too, I think that many constituents that I talk to, not only in my district but in other parts of the country, really would like to see some kind of option where patients can go outside the network for a doctor or hospital or other provider, even if it means that the patient has to pay more.

I know that the Patient Bill of Rights, which is one of the bills that the gentleman mentioned, specifically says that when consumers sign up for health insurance with the employer, that the employer has to offer the option of going outside the network for a doctor, even if it means that the patient has to pay a little more. Not everybody wants to do that, but for those people who are willing to pay a little more it certainly makes sense.

I find that a lot of people do not realize when they sign up for a particular HMO that they are limited by the number of doctors, or realize what doctors are in the plan or not. That is why disclosure, which is another one of the issues that is addressed in these two bills, is so important.

We need to have disclosed what the patient is getting into when they sign up. Too many people now just do not know what the HMO covers and what it does not, and what doctors are in it and what hospitals are in it and what not.

□ 2300

That is another basic right and another basic protection that those bills address which I think needs to be addressed.

Mr. GANSKE. Mr. Chairman, in light of all of these cases, and I can come to the floor every single night and talk about patients like these, and the gentleman could, too. In light of that, what does the American public think about all of this? Let me give a few of the findings from a nationwide health care poll done by a Republican pollster, the Republican pollster, by the way, who did most of the polling for the Contract With America.

Let us just look at what some of the findings were in this recently conducted poll of over 1,000 adults nationwide. This was done May 1, 1998.

Question: Would you say the overall quality of health care over the last 10 years has improved, stayed the same, or deteriorated? Improved, 34 percent; stayed the same, 15 percent; deteriorated, 46 percent.

Fifty-five percent of Americans living in the West think the overall quality of care has deteriorated in the last 10 years.

Question: Health care providers should be required to give their patients full information about their treatment, their condition, and treatment options. Do you support? Support, 7 percent; opposed, 1.6 percent.

There is a provision in one of these bills, allow free communications, allow unrestricted communications between doctors and their patients. We would think that would be a given right.

Mr. PALLONE. Mr. Chairman, I think the gentleman should elaborate on that a little bit more. Most people are shocked by this gag rule. Just explain that a little more. People are shocked when they hear what kinds of restrictions are in place.

Mr. GANSKE. Mr. Chairman, as the gentleman from New Jersey knows, I have had a bill before Congress with over 300 bipartisan cosponsors that my Republican leadership will not allow to the floor. It would ban gag clauses which prevent doctors from being able to tell their patients all of their treatment options. We are not saying the HMO has to cover all of those treatment options; we are simply saying that the HMO cannot restrict a physician from telling a patient all of their treatment options. That is what those gag clauses are. I cannot even get that to the floor.

Mr. PALLONE. I would wonder whether or not that is even constitutional if someone ever wanted to take it up to the Supreme Court. It seems to violate the First Amendment not to be able to speak out in your profession.

Mr. GANSKE. Mr. Chairman, let us go on with some of these survey findings.

Proposal: Any basic managed care plan would be required to allow patients to see plan specialists when necessary. Do you support? 94 percent. Opposed, 2.1 percent.

We are talking about the ability when you have a complicated medical decision to get a referral to a specialist. That is one of the provisions in these two bills: the Patient Bill of Rights and the Patient Access to Responsible Care Act. Ninety-five percent of the American public agrees with that.

Proposal: Patient should have the right to a speedy appeal when a plan denies coverage for a benefit or service. Do you support? 94.7 percent. Opposed, 3.3 percent.

Proposal: A complete list of benefits and costs offered by the health plan before he or she signs up for the plan. Do you support? 91.3 percent. Opposed, 4.6 percent.

This is another one of the provisions that is in both of these bills, full disclosure. For heaven's sake, we are talking about an organization that makes life and death decisions.

Proposal: All health plans must allow their patient the option of seeking treatment outside of their HMO with the HMO covering at least a portion of the cost. Do you support? 87 percent. Opposed, 8.8 percent.

It goes across all groups. Here is another one. Insurance companies would be prohibited from paying doctors more money for offering less treatment or refusing referrals. Do you support? By a margin of two to one across all age groups, Republicans, Democrats, rich, poor.

Question: Let us say the proposals I just read were packaged in a single piece of legislation. Would you be more likely or less likely to vote for your Member of Congress if he or she voted for this legislation? More likely, 86 percent; less likely, 4 percent.

Here is a very interesting question from this Republican pollster. This, I think, gets to what we want to talk about next, and that is cost. If you knew that enacting all six proposals as a single piece of legislation would cost about $17 more per month, would you support this legislation? Support, 67 percent; oppose, 23 percent.

Do you know what? That is way higher than most of the estimates done by reputable accounting firms would say would be the cost. A survey by Coopers & Lybrand done by the Kaiser Family asked the question or looked at it actuarially. What would be the cost of a Patient Bill of Rights?

Mr. PALLONE. Most of what I have seen are within $5 and $10. That is most of what I have seen.

Mr. GANSKE. Coopers & Lybrand said that a cost of the legislation, Patient Bill of Rights, exclusive of the liability provision, and we will get to that in a minute, would cost a family of four for a year $31.

Mr. PALLONE. Which is a lot less.

Mr. GANSKE. Significantly less than the question, which had a two-thirds majority positive answer.

We often hear from the opponents to this, well, small business is really against this. All of those small businesses would stop covering their employees. It would mean that more and more people would not have insurance.

Okay. This is very interesting, because today, actually yesterday, Kaiser Family, Kaiser-Harvard Program at the Public and Health Social Policy Institute, the Kaiser Family Foundation released a survey done of 800 small business people across the country. So these are the employers, these are the small business employers.

What did they find? They found that small business executives are pretty much just like everyone else in the public. They think that there is a need for Federal legislation on this.

Let me provide some specifics. Questions to the small business executives, the ones who are providing the insurance to the majority of people in this country: Would you favor a law requiring health plans to provide more information about how they operate? 89 percent favored; 5 percent opposed.

Would you favor a law requiring health plans to require ability to appeal health plans decisions? 88 percent favored; 8 percent opposed.

They continue to ask these small business executives: Would you favor a law requiring plans to allow direct access to gynecologists? 84 percent favored.

Would you favor a law requiring health plans to allow direct access to specialists? 75 percent favored.

Would you favor a law requiring health plans to remove limits on coverage for emergency room visits, so that if you have a case of crushing chest pain, you can go to the emergency room and not be worried that if the EKG is normal, you are going to be stuck with a big bill? 77 percent favored.

Mr. PALLONE. But, again, if the gentleman will yield, it makes sense that we get these kinds of responses because it is just common sense. Why would people think anything different? That is, I think, what we have been saying from the beginning, that these are just common-sense principles, and people are going to overwhelmingly support them.

But I just wanted to mention two other things that the gentleman brought up, and I would like to stress again; and those are, the reason why people are demanding these changes and want these bills to come to the floor is because the quality of health care is suffering.

We have prided ourselves in this country for so many years on having the best quality health care in the world, and I would venture to say that we still do, but that will not be the case for very long unless we start to put these kinds of common-sense protections in place, because quality is really suffering, and people realize that more and more. I think that people are used to having quality health care in this country, and they are not going to be satisfied with something less than that.

The other thing that the gentleman mentioned is that the opponents not only talk about cost, but suggest that because of the exorbitant costs that they bring up falsely, that the consequence of our legislation would be that fewer people would have health insurance. In fact, there is no truth to that whatsoever.

In fact, the reality is that fewer and fewer Americans have health insurance every day even with the HMOs in place. The phenomenon of more and more Americans not having health insurance is not a consequence of HMOs or any particular type of health insurance. It has to do with the fact that more and more employers simply do not provide health insurance. That is the biggest factor. So, really that is a ruse, talking about the costs. Talking about the fact that fewer Americans have health care has nothing to do with this debate, nothing to do with it whatsoever.

Mr. GANSKE. Mr. Chairman, reclaiming my time, this Kaiser Family Foundation survey gets right to that point. They asked these employers: How many of you will drop your coverage for your employee? The answer was between 1 and 3 percent; 1 and 3 percent, significantly different from the inflated claims that you will hear from the business groups.

But I want to point out a couple of additional things in this survey, and this is very interesting. Small business executives were asked this: Would you be in favor of requiring health plans by law to allow patients to sue health plans? This is going to surprise some of my colleagues on the Republican side. Favor, 61 percent; oppose, 30 percent.

If you then ask the question: Would you still be in favor of it if it resulted in higher premiums? More than half still favor it. Why? It is just like this talk I gave to this group of businesswomen, small businesswomen back in my district about a month ago.

We were talking about this issue. Do you know why? Because they are also consumers. They know that if their son or daughter has a skin problem like we have talked about with this poor little girl who is 11, and they have problems, they need to have recourse and remedy for it.

Then they went back, and they asked all those other questions that I have talked about by saying: Would you still favor that law if it might result in higher premiums? And 60 percent or more still favored every one of those.

Then they found this: 57 percent of small business executives think that managed care has made it harder for people who are sick to see medical specialists; 58 percent say it has decreased the quality of care people receive when they are sick; 65 percent of these small business executives say it has reduced the amount of time doctors spend with our patients; and interestingly, 43 percent say it really has not made much of a difference of what my health care costs have been to have all of my employees in an HMO.

I think that when we look at really some of our grass-roots, small business people, the people who are purchasing that insurance for their 10, 15, 20 employees, they are just like everyone else in the public. They know that there are abuses in those health plans, and they want to make sure, darn sure that their employees are not harmed, and also that they and their families who are covered by their plans are not harmed.

Mr. PALLONE. The employers are usually covered by the same plan.

Mr. GANSKE. Exactly.

Mr. PALLONE. It only makes sense.

Mr. GANSKE. Let us talk for a minute about the cost of liability. We have heard a lot of inflated estimates of this. Texas, as you know, passed a liability provision taking away the exemption for HMOs in Texas.

□ 2315

So one of the HMOs asked its actuarial firm how much extra should they raise the cost of a premium, and they asked the actuarial firm that is in the pockets of the HMOs, the one that does all the HMOs' bidding, Milliman & Robertson, well outlined by an expose, I would say, in the Wall Street Journal just recently. Even so, when Milliman & Robertson had to put the number on the line for the company that was actually going to do this, the liability provision would have raised the cost of the premium, I think, 0.3 percent. No, I am sorry, 34 cents per month, 34 cents per month.

Mr. PALLONE. Could I ask the gentleman this? The bottom line is that if we have this liability provision, and the HMOs know that they could be liable, I would think the consequence would be that they would be a lot more careful about what they deny and what they do. And so, therefore, the situations where they would be liable for malpractice or making the wrong decisions would decrease and their costs probably would not be that great.

So a lot of this is just preventive. A lot of the things that we are suggesting here just make for a better system in general and create prevention on the part of the HMO. And so I think that that is the reason why ultimately the cost is not really going to go up.

Mr. GANSKE. Well, let us look at a little more detail at this. This is going to be a matter of contentious debate, if and when we can ever get the Republican leadership to allow this to come to the floor, and that is, what will be the cost of the liability on this?

Well, here is what we have. We have a study that was done by Multinational Business Services, MBS. They estimated the liability cost impact of insurance premiums would be 0.75 percent. Less than 1 percent. What did Muse & Associates find would be the cost of liability for HMOs? 0.14 percent to 0.2 percent, two-tenths of a percent. How about the Barents Group? What did they estimate? 0.9 percent, less than 1 percent, up to about 1.5 percent.

But, really, as was pointed out, the insurance premium increases are most likely to occur for the HMOs that are most likely to be denying the care that is medically necessary, not the HMOs that are trying to do the ethical job that they should be and providing the care when it is medically appropriate. So there would be a range.

For many plans that are trying to do the ethical thing, the costs would be minimal.

Mr. PALLONE. And we would be bringing the unethical ones up to the same standards as the ethical ones in the long run. That is what the effect would be.

Mr. GANSKE. I remember in our Committee on Commerce we had testimony by a medical reviewer. Her name was Linda Peno. She testified before our committee, and she admitted that she killed a man. She was not in prison, she was not on parole, she had never been even investigated by the police. In fact, for causing the death of a man, she received congratulations from her colleagues and moved up the corporate ladder.

She was working as a medical reviewer at an HMO. She confessed how HMOs can use the term "medically necessary" as the "smart, smart bomb" of denials. There is a lot we need to do in terms of due process and making sure that HMOs do not abuse some of the terms that they use all the time to deny care; that is, in both of these bills, Patient Access Responsible Care Act and Patient Bill of Rights.

And there are standard due process provisions in those bills so that if care is denied, a patient can get a timely appeal process. Gee, that does not sound so outlandish. That is something that every other insurance company that is not shielded by ERISA has found it has had to do for 40 or 50 years, or else they would suffer the consequences.

□ 2320

When we talk about this legislation, I liken this to the automobile industry. When my colleagues or I buy a car, we are assured that we are going to have a car with headlights that work, turn signals, brakes, safety seat belt, some minimum federal safety standards. And yet, I do not see that we have any nationalized auto industry. And judging from the ads that I see in magazines or on TV, there sure is an awful lot of competition out there in the auto industry.

But we have some Federal standards, do we not?

Mr. PALLONE. Absolutely.

Mr. GANSKE. What is wrong with having some minimum safety standards for plans that Congress 25 years ago give a total exemption to?

Mr. PALLONE. There is no question that this is nothing more than common sense. We have said it over and over again and we are simply asking for a floor for patient protections.

I think, as the gentleman has well pointed out this evening, that basically it just brings the standards, if you will, of some of the worse for-profit HMOs up to the level of some of the better not-for-profit HMOs.

I just want to say once again that, really, the key here is not to persuade I think the average congressman or congresswoman. Because, as my colleague has said, we have a majority of the Members of this House on one or both of these bills. What we have to do is persuade the leadership that this is something that needs to be brought up.

I think tonight, with the polling that you brought out, makes a very convincing case and, hopefully, will also convince the leadership that from a political point of view this makes sense. Because the gentleman has very specifically pointed out how this is something that the public is going to be watching in terms of how they vote in November.

So, hopefully, we are lighting up a fire here tonight when we continue to bring up this issue. And although there are not a lot of days left in this session, there is certainly enough to get this passed.

I want to commend the gentleman again for being outspoken on this issue. Of course, as a physician, he is in the best position really to talk about these cases and analyze some of them. And I commend him, as a physician and as a Member of this body, for speaking out even though it is often at odds with his own leadership.

Again, I do not want to make this a partisan issue because I believe that most Members of this body, whether Republican or Democrat, support this legislation. So I think we just have to keep at it and keep telling these stories and keep pointing out to our colleagues how important it is that this be brought up before we end the session this fall.

Mr. GANSKE. Reclaiming my time, I would just think that our constituents ought to consider real people who are affected by some of the horror stories that we are hearing from mismanaged care.

Let me give my colleague another example. We recently had a 28-year-old woman who was hiking in the Shenandoah Mountains not too far from here. She fell off a 40-foot cliff accidentally. Luckily, she was not killed. She had a fractured skull, was comatose, broken arm, broken pelvis, was lying at the bottom of this 40-foot cliff, nearly drowned in a nearby pool.

Fortunately, she had a hiking companion, was able to get a life flight, was taken to a hospital, spent a long time in the hospital, ICU, morphine drips, all sorts of things. Her HMO refused to pay for her hospitalization.

This is that woman, Jackie Lee, shortly before she was put onto the helicopter. The HMO refused to pay for her care because she had not phoned for a preauthorization, as they would say.

I ask my colleagues, Jackie Lee was lying there at the base of that 40-foot cliff, comatose, with a broken arm and pelvis, and a fractured skull. Was she supposed to wake up with her non-injured arm, pull her cellular phone out of her pocket, dial a number probably thousands of miles away to get an okay to go to the hospital?

And then after she was at the hospital, the HMO said, well, you did not notify us in time so we are not going to pay you on that reason also. Well, my goodness gracious, she was comatose in the ICU for a week. She was on intravenous morphine.

That is the type of real-life problem that all of those small business employers who answered this survey are aware of. They are aware of it either from their own families or friends or they are aware of it from their employees. That is why they are calling on Congress, just like everyone else, to do something.

I will just have to finish on this.

Mr. PALLONE. Before my colleague finishes, though, again, I assume that the cost of this care that she received was very expensive and that is another reason why they are denying it.

Mr. GANSKE. Reclaiming my time, I can guarantee my colleague that this young woman did not have the $12,000 to $15,000 that her HMO refused to pay. And neither would most people in this country.

So, I think that I would encourage all of our constituents from around the country to rise up in arms on this, to say, look, Congress may have killed tobacco legislation that would help prevent youngsters from smoking, maybe they are going to obfuscate on campaign finance reform. But I will tell my colleagues, there is one thing that Congress had darn well better do before it leaves because my daughter or my son's health may depend on it or my mother's or fathers's or my employees', and that is Congress needs to fix the mess that it has made in the past related to health plans and managed care.

If Congress does not handle this problem, we are going to hold you personally, congressman or congresswoman, responsible for doing this and we will hold the leadership responsible.

I will tell my colleagues, I am hearing from all over the country on this. The water is building up behind this dam on this issue. And I will just have to say that sometimes it takes remarkable actions to get the leadership of this House and the Senate to do what they ought to do for the betterment of our constituents. We very well may be looking at that in the very near future.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CLAYTON (at the request of Mr. GEPHARDT) for today after 3 p.m., on account of official business.

Mr. GREEN (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business in the district.

Mr. REYES (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. SUNUNU (at the request of Mr. ARMEY) for today after 4 p.m. And the balance of the week, on account of attending a wedding in the family.

Mr. WELDON of Florida (at the request of Mr. ARMEY) for today and on June 19 and 22, on account of family matters.

Mr. GUTKNECHT (at the request of Mr. ARMEY) for today after 1:30 p.m. And the balance of the week, on account of attending his son's graduation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MEEHAN) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. POMEROY, for 5 minutes, today.

(The following Members (at the request of Mr. SHAYS) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Florida, for 5 minutes, on June 22.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MEEHAN) and to include extraneous material:)

Mr. VENTO.
Mr. KIND.
Mr. HAMILTON.
Mr. FROST.
Mr. FORD.
Mr. DINGELL.
Mr. SANDLIN.
Mr. ROTHMAN.
Mr. ACKERMAN.
Mr. MCGOVERN.
Mr. LAFALCE.
Ms. LEE.
Mr. DAVIS of Florida.
Mr. BENTSEN.
Mr. STARK.
Ms. NORTON.
Mr. NEAL of Massachusetts.
Mr. LIPINSKI.
Mr. KUCINICH.
Mr. VISCLOSKY.
Mr. CONYERS.

(The following Members (at the request of Mr. SHAYS) and to include extraneous material:)

Mr. FRELINGHUYSEN.
Mr. WOLF.
Mr. DAVIS of Virginia.
Mr. GILMAN.
Mr. RADANOVICH.
Mr. DUNCAN.
Mr. PORTER.
Mr. YOUNG of Alaska.
Mr. PACKARD.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 1847. An act to improve the criminal law relating to fraud against consumers.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

ADJOURNMENT

Mr. GANSKE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Friday, June 19, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9680. A letter from the General Counsel, Department of Defense, transmitting a report entitled "Department of Defense Panel to Study Military Justice in the National Guard Not in Federal Service," pursuant to Public Law 104—201, 110 Stat. 2534; to the Committee on National Security.

9681. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Conduct of Employees (RIN: 1990-AA19) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9682. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Information Security Program [DOE O 471.2A] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9683. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996 [CC Docket No. 96-187] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9684. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend titles XIX and XXI of the Social Security Act to achieve improvements in outreach and provision of health care to children; to the Committee on Commerce.

9685. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Emissions Standards For Imported Nonroad Engines [T.D. 98-50] (RIN: 1515-AC28) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9686. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotics Traffickers: Additional Designations [31 CFR Chapter V] received May 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9687. A letter from the Assistant Secretary for Strategy and Threat Reduction, Department of Defense, transmitting the joint Department of Defense and Department of Energy report to Congress on the Project Plan for the Russian Reactor Care Conversion Program, pursuant to Pub.L. 105—29; to the Committee on International Relations.

9688. A letter from the Executive Director, Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Procurement List Additions—received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9689. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft of proposed legislation to amend the Act which established the Weir Farm National Historic Site, in the State of Connecticut, by modifying the boundary and for other purposes; to the Committee on Resources.

9690. A letter from the Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Monterey Bay National Marine Sanctuary [Docket No. 971014243-7243-01] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9691. A letter from the Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Temporary Rule Prohibiting Anchoring by Vessels 50 Meters or Greater in Length on Tortugas Bank within the Florida Keys National Marine Sanctuary [Docket No. 971014245-7245-01] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9692. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking of Marine Mammals Incidental to Commercial Fishing Operations; Pacific Offshore Cetacean Take Reduction Plan Regulations [Docket No. 970129015-7220-05; I.D. 010397A] (RIN: 0648-AI84) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9693. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Seasonal Apportionments of Pollock [Docket No. 980331079-8144-09; I.D. 031198D] (RIN: 0648-AK71) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9694. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Atlantic Bluefin Tuna General Category [I.D. 100297A] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9695. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 [Docket No. 971208297-8054-02; I.D. 060598A] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9696. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Halibut Donation Program [Docket No. 980212037-8142-02; I.D. 012798A] (RIN: 0648-AJ87) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9697. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation: Fireworks displays within the First Coast Guard District [CGD01-98-065] (RIN: 2115-AE46) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9698. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone: Peekskill Summerfest 98 Fireworks, Peekskill Bay, Hudson River, New York [CGD01-98-050] (RIN: 2115-AA97) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9699. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revisions to Digital Flight Data Recorder Rules [Docket No. 28109; Amendment No. 11-44] (RIN: 2120-AF76) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9700. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AlliedSignal Inc. Model TPE331 Series Turboprop Engines [Docket No. 97-ANE-47-AD; Amendment 39-10565; AD 98-12-09] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9701. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Allison Engine Company Model AE 3007A Turbofan Engines [Docket No. 98-ANE-14-AD; Amendment 39-10568; AD 98-12-12] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9702. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS 332C, L, L1, and L2 Helicopters [Docket No. 98-SW-07-AD; Amendment 39-10571; 98-12-15] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9703. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320-111, -211, and -231 Series Airplanes [Docket No. 96-NM-184-AD; Amendment 39-10573; AD 98-12-18] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9704. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters [Docket No. 98-SW-10-AD; Amendment 39-10576; AD 98-12-22] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9705. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AERMACCHI S.p.A. S.205 Series and Models S.208 and S.208A Airplanes [Docket No. 97-CE-146-AD; Amendment 39-10570; AD 98-12-14] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9706. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CASA Model C-212 Series Airplanes [Docket No. 98-NM-97-AD; Amendment 39-10582; AD 98-12-28] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9707. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310 Series Airplanes Equipped With General Electric Model CF6-80A3 Series Engines [Docket No. 98-NM-182-AD; Amendment 39-10578; AD 98-

12-24] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9708. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes [Docket No. 98-NM-45-AD; Amendment 39-10580; AD 98-12-26] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9709. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace BAe Model ATP Airplanes [Docket No. 98-NM-53-AD; Amendment 39-10581; AD 98-12-27] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9710. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace BAe Model ATP Airplanes [Docket No. 97-NM-312-AD; Amendment 39-10579; AD 98-12-25] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9711. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—National Standards For Traffic Control Devices; Revision Of The Manual On Uniform Traffic Control Devices; Pedestrian, Bicycle, And School Warning Signs [FHWA Docket 96-9; FHWA-97-2281] (RIN: 2125-AD89) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9712. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model Viscount 744, 745, 745D, and 810 Series Airplanes [Docket No. 97-NM-321-AD; Amendment 39-10444; AD 98-12-17] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9713. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS 332C, L, L1, and L2 Helicopters [Docket No. 98-SW-07-AD; Amendment 39-10571; AD 98-12-15] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9714. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lucas Air Equipment Electric Hoists [Docket No. 98-SW-04-AD; Amendment 39-10583; AD 98-12-29] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9715. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Avions Mudry et Cie Model CAP 10B Airplanes [Docket No. 97-CE-126-AD; Amendment 39-10566; AD 98-12-10] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9716. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Industrie Aeronautiche e Meccaniche Model Piaggio P-180 Airplanes [Docket No. 97-CE-141-AD; Amendment 39-10569; AD 98-12-13] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9717. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of the Atlantic High Offshore Airspace Area; correction [Airspace Docket No. 97-ASO-16] (RIN: 2120-AA66) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9718. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establish Class E Airspace; Atkinson, NE [Airspace Docket No. 98-ACE-8] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9719. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation and Establishment of Class D; and Revocation, Establishment and Modification of Class E Airspace Area; Olathe, Johnson County Industrial Airport, KS; Correction [Airspace Docket No. 98-ACE-5] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9720. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Leeville, LA [Airspace Docket No. 98-ASW-27] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9721. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Sabine Pass, TX [Airspace Docket No. 98-ASW-28] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9722. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Intracoastal City, LA [Airspace Docket No. 98-ASW-24] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9723. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Venice, LA [Airspace Docket No. 98-ASW-25] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9724. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Grand Chenier, LA [Airspace Docket No. 98-ASW-26] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9725. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Grand Isle, LA [Airspace Docket No. 98-ASW-29] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9726. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Le Mars, IA [Airspace Docket No. 98-ACE-7] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9727. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Aurora, NE [Airspace Docket No. 98-ACE-13] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9728. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SE3130, SA3180, SE313B, SA318B, and SA318C Helicopters [Docket No. 98-SW-03-AD; Amendment 39-10574; AD 98-12-20] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9729. A letter from the Acting Deputy Director, NIST, National Institute of Standards and Technology, transmitting the Institute's final rule—GRANT FUNDS—Materials Science and Engineering Laboratory—Availability of Funds [Docket No. 970520119-7284-02] (RIN: 0693-ZA15) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9730. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Federal Employment Tax Deposits——De Minimis Rule [TD 8771] (RIN: 1545-AW29) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9731. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Action on Decision in Paul A. Bilzerian v. United States, 86 F.3d 1067 (11th Cir. 1996), rev'd 887 F. Supp. 1509 (M.D. Fla. 1995), remanded sub nom. Steffen v. United States, 952 F. Supp. 779 (M.D. Fla. 1997) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9732. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to improve the operation of the United States Mint as a Performance-Based Organization (PBO) in the Department of Treasury, and for other purposes; jointly to the Committees on Banking and Financial Services and Government Reform and Oversight.

9733. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize a pilot program to increase the micro-purchase threshold in Government Procurements from $2,500 to $10,000; jointly to the Committees on Government Reform and Oversight and Small Business.

9734. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to establish an appropriate system for overtime pay for Federal firefighters, and for other purposes; jointly to the Committees on Government Reform and Oversight and Education and the Workforce.

9735. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare Program; Incentive Programs-Fraud and Abuse [HCFA-6144-FC] (RIN: 0938-AH86) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TALENT: Committee on Small Business. H.R. 3853. A bill to promote drug-free workplace programs; with an amendment (Rept. 105–584). Referred to the Committee on the Whole House on the State of the Union.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 477. Resolution providing for consideration of the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–585). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 478. Resolution providing for consideration of the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–586). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DUNCAN:

H.R. 4077. A bill to provide for establishment of a memorial to sportsmen; to the Committee on Resources.

By Ms. VELÁZQUEZ (for herself, Mr. Goode, Mrs. McCarthy of New York, Mr. LaFalce, Mr. Davis of Illinois, and Mr. Hinojosa):

H.R. 4078. A bill to increase funding for the Women's Business Center Program; to the Committee on Small Business.

By Mr. DOOLITTLE:

H.R. 4079. A bill to authorize the construction of temperature control devices at Folsom Dam in California; to the Committee on Resources.

By Mr. DINGELL (for himself, Mr. Brown of Ohio, Mr. Stupak, Mr. Pallone, Mr. Waxman, Mr. Markey, Mr. Boucher, Mr. Manton, Mr. Gordon, Ms. Furse, Mr. Rush, Mr. Klink, Mr. Wynn, Mr. Green, Ms. McCarthy of Missouri, and Ms. DeGette):

H.R. 4080. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of food from foreign countries; to the Committee on Commerce.

By Mr. HUTCHINSON:

H.R. 4081. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas; to the Committee on Commerce.

By Mrs. KELLY:

H.R. 4082. A bill to allow depository institutions to offer interest-bearing transaction accounts and negotiable order of withdrawal accounts to all businesses, to repeal the prohibition on the payment of interest on demand deposits, to require the Board of Governors of the Federal Reserve System to pay interest on certain reserves, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. KUCINICH (for himself, Mr. LaTourette, and Mr. Hamilton):

H.R. 4083. A bill to make available to the Ukrainian Museum and Archives the USIA television program "Window on America"; to the Committee on International Relations.

By Mr. SANDERS (for himself, Mr. Filner, Mr. Hinchey, Mr. Kucinich, Mr. Frank of Massachusetts, Mr. Borski, Mr. DeFazio, Mr. Nadler, Mrs. Mink of Hawaii, Mr. Abercrombie, and Ms. Furse):

H.R. 4084. A bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security and Medicare benefits under titles II and XVIII of the Social Security Act provided after 1999; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Michigan (for himself, Mr. Peterson of Pennsylvania, and Mr. Istook):

H.R. 4085. A bill to require congressional approval of proposed rules designated by the Congress to be significant; to the Committee on the Judiciary, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-McDONALD:

H.R. 4086. A bill to amend the Small Business Act to increase the authorized funding level for women's business centers; to the Committee on Small Business.

By Mr. YOUNG of Alaska:

H.R. 4087. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska (for himself and Mr. Kildee):

H.R. 4088. A bill to amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of Medicare, Medicaid, and other third-party payors, and to expand the eligibility under such program to other tribes and tribal organizations; to the Committee on Resources, and in addition to the Committees on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mr. Filner, Mr. Stark, Mr. Towns, Mr. McGovern, Ms. Furse, Ms. Slaughter, Mr. Kennedy of Massachusetts, Mr. Hinchey, Mr. Olver, Mr. Faleomavaega, Ms. Norton, Ms. Lofgren, Mr. Sanders, Mr. Owens, and Mr. Frank of Massachusetts):

H. Res. 479. A resolution recognizing the security interests of the United States in furthering complete nuclear disarmament; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

352. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 172 memorializing the Congress of the United States to increase funding to the Equal Employment Opportunity Commission to handle the backlog of individual cases; to the Committee on Education and the Workforce.

353. Also, a memorial of the House of Representatives of the Commonwealth of The Mariana Islands, relative to House Resolution No. 11–22 requesting the United States Congressional Committee who has jurisdiction of the Office of Insular Affairs to investigate allegations made against the CNMI government and its people; to the Committee on Resources.

354. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Concurrent Resolution No. 161 memorializing the United States Congress to enact legislation reauthorizing the federal highway program by May 1, 1998; to the Committee on Transportation and Infrastructure.

355. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 169 memorializing the Congress of the United States to refrain from imposing any special taxes on sport utility vehicles; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. GUTIERREZ introduced A bill (H.R. 4089) for the relief of Keysi Castillo Henriquez and Leydina Henriquez Aleman; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 74: Mr. Hilliard, Mr. Coyne, Mr. Neal of Massachusetts, Mr. Delahunt, Mr. Moakley, Mr. Tierney, Mr. Markey, and Mr. Meehan.

H.R. 306: Mr. Gephardt, Ms. McCarthy of Missouri, Mr. Obey, Mr. Spratt, and Ms. Stabenow.

H.R. 371: Mrs. Capps.

H.R. 872: Mr. Redmond.

H.R. 915: Mrs. Thurman, Ms. Ros-Lehtinen, Ms. Millender-McDonald, Mr. Bonior, Mr. Baldacci, Mr. Meeks of New York, Ms. Kilpatrick, Mr. Yates, Mr. Schumer, Ms. Roybal-Allard, Ms. Eddie Bernice Johnson of Texas, Mr. Towns, and Mr. Berman.

H.R. 922: Mr. Hostettler.

H.R. 1018: Mr. Lewis of Georgia.

H.R. 1047: Mr. Luther.

H.R. 1126: Ms. Rivers and Mr. Kanjorski.

H.R. 1173: Ms. Lee.

H.R. 1231: Mr. Kildee and Mr. English of Pennsylvania.

H.R. 1241: Ms. Lofgren.

H.R. 1515: Mr. Bliley.

H.R. 1531: Mr. Sandlin.

H.R. 1800: Mr. Murtha.

H.R. 1813: Mr. Ackerman.

H.R. 1915: Mr. Towns.

H.R. 2021: Mr. Boehner, Mr. Linder, and Mr. Bartlett of Maryland.

H.R. 2374: Mr. Waxman.

H.R. 2504: Mr. Snyder and Ms. Rivers.

H.R. 2519: Mr. Davis of Illinois.

H.R. 2599: Ms. Woolsey and Ms. Lee.

H.R. 2602: Mr. English of Pennsylvania.

H.R. 2708: Mr. Watkins, Mr. Hilliard, Ms. Furse, Mr. Leach, Mr. Nethercutt, Mr.

CRAPO, Mr. SHAYS, Mr. SESSIONS, Mr. CALLAHAN, Mrs. EMERSON, and Mr. SMITH of Michigan.

H.R. 2721: Mrs. CUBIN.

H.R. 2800: Mr. CALVERT, Mr. BARRETT of Nebraska, Mr. EVANS, and Mr. GREEN.

H.R. 2817: Mr. SAM JOHNSON, Mr. NUSSLE, Mr. SHERMAN, Mr. SESSIONS, Mr. BILBRAY, Mrs. MORELLA, Mr. BASS, Mr. PAXON, Mr. MALONEY of Connecticut, Mr. OBERSTAR, Mr. BONIOR, and Mr. KNOLLENBERG.

H.R. 2820: Mr. MCGOVERN.

H.R. 2837: Mr. DREIER.

H.R. 2852: Mr. DINGELL.

H.R. 2908: Mr. BEREUTER, Mr. SNOWBARGER, and Mr. OBERSTAR.

H.R. 2942: Mr. COBURN.

H.R. 2968: Mr. BOB SCHAFFER OF COLORADO.

H.R. 3008: Mrs. LINDA SMITH of Washington and Mr. HILL.

H.R. 3050: Mr. MCDERMOTT.

H.R. 3053: Mr. HASTINGS of Washington and Mr. CUMMINGS.

H.R. 3081: Ms. DELAURO, Mr. CLAY, Ms. LEE, Mr. ANDREWS, and Mr. DEUTSCH.

H.R. 3189: Mr. HILL and Mr. HEFLEY.

H.R. 3240: Mr. MARTINEZ.

H.R. 3251: Mr. ABERCROMBIE, Mr. WEXLER, Mr. PRICE of North Carolina, Mr. HEFNER, and Mr. KUCINICH.

H.R. 3259: Mr. BORSKI.

H.R. 3299: Ms. CHRISTIAN-GREEN.

H.R. 3331: Mrs. CUBIN.

H.R. 3334: Mr. SANDLIN.

H.R. 3341: Mr. SNYDER.

H.R. 3342: Mr. BOEHLERT and Mr. BONIOR.

H.R. 3398: Mr. CHABOT.

H.R. 3506: Mr. LEVIN, Mr. PASCRELL, Mr. KLECZKA, and Mr. GORDON.

H.R. 3514: Mr. DAVIS of Illinois.

H.R. 3541: Mr. PAPPAS.

H.R. 3560: Mr. SHAYS.

H.R. 3568: Mr. GILMAN, Mr. ANDREWS, Mr. HINCHEY, Mr. CLEMENT, and Mr. PASTOR.

H.R. 3610: Mr. CUMMINGS, Mr. BAESLER, Mr. JONES, Mr. KIND, Mr. EHLERS, Mr. LEWIS of Kentucky, and Mr. JOHNSON of Wisconsin.

H.R. 3632: Mr. WHITFIELD.

H.R. 3654: Mr. PETERSON of Minnesota.

H.R. 3682: Mrs. NORTHUP, Mr. HALL of Ohio, Mr. MOLLOHAN, Mr. GRAHAM, and Mr. PETRI.

H.R. 3710: Mrs. JOHNSON of Connecticut, Mr. BLAGOJEVICH, Mr. BISHOP, Mr. LATHAM, Mr. MCDERMOTT, Mr. GOODE, Mr. HEFNER, Mr. BARRETT of Nebraska, Mr. MILLER of California, Mr. BROWN of Ohio, Mr. REGULA, Mr. COOK, Mrs. EMERSON, and Mr. PACKARD.

H.R. 3767: Mr. MINGE.

H.R. 3789: Mr. ROGAN.

H.R. 3795: Mr. FORBES.

H.R. 3821: Mr. WAXMAN, Mr. SPENCE, Mr. ROGAN, Mr. HOSTETTLER, Mr. KLUG, Mr. MCHUGH, and Mr. CHRISTENSEN.

H.R. 3879: Mr. HEFLEY, Mr. METCALF, Mr. DEUTSCH, Mr. CANNON, Mr. TAYLOR of North Carolina, Mr. HOUGHTON, and Mrs. NORTHUP.

H.R. 3897: Mr. NADLER.

H.R. 3898: Mr. CHABOT.

H.R. 3900: Mr. NADLER.

H.R. 3919: Mr. CALVERT and Mr. KINGSTON.

H.R. 3937: Mr. THOMPSON.

H.R. 3942: Mr. GREEN, Mr. DOOLEY of California, Mrs. BONO, Mr. DREIER, and Mr. TRAFICANT.

H.R. 3993: Mr. BRYANT and Mr. CLEMENT.

H.R. 4005: Mr. LAZIO of New York and Mr. FOLEY.

H.R. 4016: Mr. MCGOVERN.

H.R. 4022: Mr. PETERSON of Minnesota, Mrs. CHENOWETH, and Mr. METCALF.

H.R. 4049: Mr. BRYANT.

H.R. 4071: Ms. WATERS and Mr. ENGLISH of Pennsylvania.

H.J. Res. 122: Mr. FROST and Mr. HOUGHTON.

H.J. Res. 123: Mr. MCINTOSH, Mr. GOODE, Mr. REDMOND, Mr. NEY, and Mr. BOSWELL.

H. Con. Res. 203: Mr. EVERETT, Mr. ORTIZ, Ms. SANCHEZ, Mrs. MYRICK, Mr. LIPINSKI, Ms. DANNER, Mr. HINCHEY, Mrs. KELLY, and Mr. KIND of Wisconsin.

H. Con. Res. 210: Ms. DELAURO.

H. Con. Res. 258: Mr. ANDREWS and Mr. MEEHAN.

H. Con. Res. 271: Mr. ACKERMAN.

H. Res. 172: Mr. ACKERMAN.

H. Res. 212: Mr. KING of New York and Mr. PETERSON of Minnesota.

H. Res. 425: Mr. ENGLISH of Pennsylvania, Mr. DIXON, Mr. ABERCROMBIE, and Mr. DEFAZIO.

H. Res. 452: Mr. RAHALL, Mr. COBURN, Mr. ROGERS, Mrs. MYRICK, Mr. GOODLATTE and Mr. BURTON of Indiana.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. GILLMOR

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 134: Add at the end of title V the following new section (and conform the table of contents accordingly).

SEC. 510. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.), is amended by adding at the end of the following new section:

"PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS"

"SEC. 326. Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual's employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office."

H.R. 2183

OFFERED BY: MR. SALMON

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 135: Add at the end the following new title:

TITLE —POSTING NAMES OF CERTAIN AIR FORCE ONE PASSENGERS ON INTERNET

SEC. 01. REQUIREMENT THAT NAMES OF PASSENGERS ON AIR FORCE ONE AND AIR FORCE TWO BE MADE AVAILABLE THROUGH THE INTERNET.

(a) IN GENERAL.—The President shall make available through the Internet the name of any non-Government person who is a passenger on an aircraft designated as Air Force One or Air Force Two not later than 30 days after the date that the person is a passenger on such aircraft.

(b) EXCEPTION.—Subsection (a) shall not apply in a case in which the President determines that compliance with such subsection would be contrary to the national security interests of the United States. In any such case, not later than 30 days after the date that the person whose name will not be made available through the Internet was a passenger on the aircraft, the President shall submit to the chairman and ranking member of the Permanent Select Committee on Intelligence of the House of Representatives and of the Select Committee on Intelligence of the Senate—

(1) the name of the person; and

(2) the justification for not making such name available through the Internet.

(c) DEFINITION OF PERSON.—As used in this Act, the term "non-Government person" means a person who is not an officer or employee of the United States, a member of the Armed Forces, or a Member of Congress.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 136: Amend title II to read as follows:

TITLE II—PAYCHECK PROTECTION

SEC. 201. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Doolittle)

AMENDMENT NO. 137: Add at the end the following new section:

SEC. 7. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Bass)

AMENDMENT NO. 138: Strike section 501 and insert the following (and conform the table of contents accordingly):

SEC. 501. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 139: Strike section 501 and insert the following (and conform the table of contents accordingly):

SEC. 501. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Snowbarger)

AMENDMENT NO. 140: Amend section 5(b) to read as follows:

(b) PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.—

(1) IN GENERAL.—Section 316 of such Act (2 U.S.C. 441b), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

AMENDMENT NO. 141: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PAYCHECK PROTECTION

SEC. 401. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 142: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PAYCHECK PROTECTION

SEC. 401. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Obey)

AMENDMENT NO. 143: Insert after title V the following new title (and redesignate the succeeding provisions accordingly):

TITLE VI—PAYCHECK PROTECTION

SEC. 601. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Tierney)

AMENDMENT NO. 144: Insert after title V the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE VI—PAYCHECK PROTECTION

SEC. 601. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Farr)

AMENDMENT NO. 145: Add at the end of title VII the following new section (and conform the table of contents accordingly):

SEC. 704. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as amended by section 304, is further amended by adding at the end the following new subsection:

"(d)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 146: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS

SEC. 401. REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS

"SEC. 324. (a) IN GENERAL.—In such manner as the Commission shall prescribe by regulation, prior to the dissemination of any Federal political advertisement, each operator of a radio broadcasting station, television broadcasting station, or cable system shall report to the Commission the true identity of each advertiser and the cost, duration, and other appropriate information with respect to the advertisement.

"(b) FEDERAL POLITICAL ADVERTISEMENT DEFINED.—In this section, a 'Federal political advertisement' includes any advertisement advocating the passage or defeat of Federal legislation, any advertisement advocating the election or defeat of a candidate for Federal office, and any advertisement characterizing the positions taken by such a candidate.".

H.R. 2183

OFFERED BY: MR. SMITH OF MICHIGAN

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 147: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS

SEC. 401. REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS

"SEC. 324. (a) IN GENERAL.—In such manner as the Commission shall prescribe by regulation, prior to the dissemination of any Federal political advertisement, each operator of a radio broadcasting station, television broadcasting station, or cable system shall report to the Commission the true identity of each advertiser and the cost, duration, and other appropriate information with respect to the advertisement.

"(b) FEDERAL POLITICAL ADVERTISEMENT DEFINED.—In this section, a 'Federal political advertisement' includes any advertisement advocating the passage or defeat of Federal legislation, any advertisement advocating the election or defeat of a candidate for Federal office, and any advertisement characterizing the positions taken by such a candidate.".

H.R. 2183

OFFERED BY: MR. SMITH OF MICHIGAN

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 148: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS

SEC. 401. REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS

"SEC. 324. (a) IN GENERAL.—In such manner as the Commission shall prescribe by regulation, prior to the dissemination of any Federal political advertisement, each operator of a radio broadcasting station, television broadcasting station, or cable system shall report to the Commission the true identity of each advertiser and the cost, duration, and other appropriate information with respect to the advertisement.

"(b) FEDERAL POLITICAL ADVERTISEMENT DEFINED.—In this section, a 'Federal political advertisement' includes any advertisement advocating the passage or defeat of Federal legislation, any advertisement advocating the election or defeat of a candidate for Federal office, and any advertisement characterizing the positions taken by such a candidate.".

H.R. 2183

OFFERED BY: MR. SMITH OF MICHIGAN

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 149: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS

"SEC. 326. (a) IN GENERAL.—In such manner as the Commission shall prescribe by regulation, prior to the dissemination of any Federal political advertisement, each operator of a radio broadcasting station, television broadcasting station, or cable system shall report to the Commission the true identity of each advertiser and the cost, duration, and other appropriate information with respect to the advertisement.

"(b) FEDERAL POLITICAL ADVERTISEMENT DEFINED.—In this section, a 'Federal political advertisement' includes any advertisement advocating the passage or defeat of Federal legislation, any advertisement advocating the election or defeat of a candidate for Federal office, and any advertisement characterizing the positions taken by such a candidate.".

H.R. 2183

OFFERED BY: MR. SNOWBARGER

(To the Amendments Offered By: Mr. Shays)

AMENDMENT NO. 150: Add at the end the following new title:

TITLE —ENHANCING ENFORCEMENT OF CAMPAIGN LAW

SEC. 01. ENHANCING ENFORCEMENT OF CAMPAIGN FINANCE LAW.

(a) MANDATORY IMPRISONMENT FOR CRIMINAL CONDUCT.—Section 309(d)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended—

(1) in the first sentence, by striking "shall be fined, or imprisoned for not more than one year, or both" and inserting "shall be imprisoned for not fewer than 1 year and not more than 10 years"; and

(2) by striking the second sentence.

(b) CONCURRENT AUTHORITY OF ATTORNEY GENERAL TO BRING CRIMINAL ACTIONS.—Section 309(d) of such Act (2 U.S.C. 437g(d)) is amended by adding at the end the following new paragraph:

"(4) In addition to the authority to bring cases referred pursuant to subsection (a)(5), the Attorney General may at any time bring a criminal action for a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions brought with respect to elections occurring after January 1999.

H.R. 2183

OFFERED BY: MR. SNOWBARGER

(To the Amendments Offered By: Mr. Shays)

AMENDMENT NO. 151: Add at the end the following new title:

TITLE —INCREASE IN FEC AUTHORIZATION

SEC. 01. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL ELECTION COMMISSION.

Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by adding at the end the following new sentence: "There are authorized to be appropriated to the Commission $60,000,000 for each of the fiscal years 1999, 2000, and 2001, of which not less than $28,350,000 shall be used during each such fiscal year for enforcement activities.".

H.R. 2183

OFFERED BY: MR. ENGLISH OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 152: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PROHIBITING BUNDLING OF CONTRIBUTIONS.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) No person may make a contribution through an intermediary or conduit, except that a person may facilitate a contribution by providing—

"(A) advice to another person as to how the other person may make a contribution; and

"(B) addressed mailing material or similar items to another person for use by the other person in making a contribution.".

H.R. 2183

OFFERED BY: MR. ENGLISH OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 153: Amend section 301(20)(A)(ii) of the Federal Election Campaign Act of 1971, as added by section 201(b) of the substitute, to read as follows:

"(ii) mentioning a political party or a clearly identified candidate for election for Federal office by name, image, or likeness during the 60-day period which ends on the date of a general election for Federal office (not including any days during such period which occur prior to any primary election in which the candidate involved appears on the ballot), other than a communication which is not made to the general public or a communication which is described in section 301(9)(B)(i); or

H.R. 2183

OFFERED BY: MR. ENGLISH OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 154: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DISCLOSURE OF INFORMATION BY PERSONS CONDUCTING POLLS DURING FEDERAL ELECTION CAMPAIGNS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"DISCLOSURE OF INFORMATION BY PERSONS CONDUCTING POLLS BY TELEPHONE

"SEC. 326. (a) IN GENERAL.—Any person who conducts a poll by telephone or electronic means to interview individuals on opinions relating to any election for Federal office (other than an election for President or Vice President) in which the number of households surveyed is equal to or greater than the applicable threshold described in subsection (b) shall disclose to each respondent to the poll the identity of the person sponsoring the poll or paying the expenses associated with the poll.

"(b) APPLICABLE THRESHOLD OF HOUSEHOLDS SURVEYED.—For purposes of subsection (a), the 'applicable threshold' with respect to a poll is—

"(1) 2,500 households, in the case of a poll relating to an election for the office of Senator or of Representative from a State which is entitled to only one Representative; or

"(2) 1,000 households, in the case of a poll relating to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress from any other State.".

EXTENSIONS OF REMARKS

H.R. 3662, THE U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. SANDLIN. Mr. Speaker, few events in the course of human history have affected the human psyche as profoundly as the attempted extermination of the Jewish race by the Nazi regime in World War II. This dark period in our past serves as a reminder of what must never again come to pass. However, lingering questions regarding the disposition of holocaust victims' assets and the role of neutral countries in the theft of these assets have precluded our conclusively closing the door on this chapter in history. The bill we have before us today, H.R. 3662, the U.S. Holocaust Assets Commission Act of 1998, gives us this opportunity.

In the House Banking and Finance Committee, we have held four hearings of this subject, beginning in December of 1996. In the past two years, several European nations and other nations scattered around the globe have created commissions to investigate their own role in the theft of holocaust victim's assets. The investigations have broadened past individual bank accounts to include such assets as artwork and insurance claims. It is time for the United States to do the same and examine the actions of the U.S. Federal Government with regard to holocaust victims' assets that flowed into America after Hitler seized power in Germany.

The June 2, 1998, preliminary report by the Administration's task force and Under Secretary of State Stuart Eizenstat, represents a significant level of commitment by the U.S. Federal Government and an important step in the process. The report also provides an alarming amount of compelling evidence regarding cooperation with the Nazis by neutral countries. These countries accepted large shipments of gold and other assets plundered from Holocaust victims and exchanged critically needed war materials. It is imperative that we continue to study this issue and develop a deeper understanding of the circumstances and consequences of these events.

H.R. 3662 is a good, bipartisan bill that will help America explore many of these same issues as they may have occurred on our own soil. By December 31, 1999, the President and Congress should receive a report from the commission and will have the information necessary to bring justice and closure to questions of the disposition of holocaust victims' assets in America. It is what we, as a nation, must do. I urge all my colleagues to support his bill.

CARMINE J. SPINELLI—40 YEARS OF FEDERAL CIVIL SERVICE

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise to pay tribute to Mr. Carmine Spinelli of Whitehouse Station, New Jersey. After forty years of Federal civilian service at the United States Army Tank-Automotive and Armaments Command, Armament Research, Development and Engineering Center at Picatinny Arsenal, New Jersey, Carmine will officially retire on July 3, 1998. This evening, June 24, 1998, Mr. Spinelli is being honored for his many years of dedicated service.

Carmine is a native of New Jersey originally from Raritan, a wonderful municipality in Somerset County, and a graduate from Purdue University with a Bachelor of Science Degree in Metallurgical Engineering. He began his civil service career in June 1958 as a Mechanical Engineer in the Feltman Research and Engineering Laboratory, Picatinny Arsenal. For more than thirty years he worked and progressed from a Design Engineer to a Division Chief in the Fire Support Armaments Center in 1985. In this capacity, he was responsible for the management and execution of Life Cycle Engineering.

In June 1990, he was promoted to the Senior Executive Services (equivalent to Brigadier General in the United States Army) and was appointed as the Deputy Director of the Fire Support Armaments. In this position for many years, he managed an organization of more than 1,000 scientists and engineers involved in research, development and engineering of a variety of armaments including, artillery, mortars, mines, demolitions, precision munitions and related fire control systems for the entire United States Army. Mr. Spinelli was appointed to the position of Technical Director at the United States Army Armament Research, Development and Engineering Center (an SES rank equivalent to a Major General in the United States Army) in April 1995. Not only was Mr. Spinelli responsible for all technical operations, he managed an annual operating budget of 600 million dollars and a technical staff of over 2,000 scientists and engineers with approximately 2,000 support personnel.

I would be hard pressed to list all of Carmine's accomplishments and special citations here today. But, I must highlight the fact that Carmine has been instrumental in the many successes Picatinny Arsenal has achieved. In 1995, Picatinny Arsenal received the Quality Improvement Prototype; Co-winner, Army R&D Organization of the Year. In 1996, Picatinny Arsenal was awarded the Best Medium Size Installation; R&D Center of Excellence; Commander in Chief Award for Installation Excellence; Presidential Award for Quality; Quality Partner Award from Quality New Jersey and in 1997 the R&D Center of Excellence. As you know, these awards are the most prestigious and coveted in the military. In fact, they are often referred to as the Triple Crown of military achievements. Personally, Carmine has received the Army's highest civilian award, he Decoration for Exceptional Civilian Service Award, 1990.

Mr. Speaker, I ask that you join me, our colleagues, Carmine's family and friends and his colleagues at Picatinny Arsenal in recognizing Carmine Spinelli's many outstanding and invaluable contributions to New Jersey and to our nation. His dedication and service can only be described as above and beyond the call of duty. His work has kept our young men and women in our military safe and well equipped wherever they serve, whether at home or abroad. For his lifetime of work, we are deeply grateful.

REMEMBERING DONALD E. KIDWELL, SR.

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. DAVIS of Virginia. Mr. Speaker, it is with deep sadness that I rise today to announce the passing of Donald E. Kidwell Sr. His contributions to Prince William County will be long remembered. Don died unexpectedly of cardiac arrest at Mary Washington Hospital in Fredericksburg. He was only 54. It is hard for me to believe that such a dedicated citizen is gone.

In addition to being born in Northern Virginia, he lived in and served the area for his entire life. He attended the University of Virginia from 1961 to 1963 and then graduated from George Mason University in 1970 with a Bachelor of Arts in history. Don made his living as president of Kidwell Title and Abstract Co., although his penchant for local politics led him to serve two four-year terms on the Prince William County Board of Supervisors.

Don, an Arlington native, represented the Woodbridge District on the board from 1980 to 1988. In 1991, he retired from local politics following an unsuccessful campaign against Democrat Kathleen Seefeldt in the race for the first-ever chairman of the board. However, he never lost touch with the political scene. He had a true love for Prince William County and its politics. Don always lived life to the fullest and his unfailing jovial manners remained with him till the end.

Even when his title office opened on Saturdays to make time for overflow work, Don always made time for community service activities. He could be found at any number of civic callings including as a negotiator on Prince William County's behalf with the Woodbridge

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

District, Manassas, and Manassas Park and as former chairman of the Potomac-Rappahanock Transportation District. In addition, he sat on the board of the Prince William County Symphony, and he was the president of the Boys' and Girls' Club of Prince William County.

Donald is survived by his wife Jacqueline as well as five children, two brothers and two sisters.

Mr. Speaker, I know that my colleagues and the citizens of Prince William County join me in mourning Donald's passing. His presence in the community will be missed, but his many accomplishments and good deeds will be fondly remembered.

PERSONAL EXPLANATION

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FORD. Mr. Speaker, on Tuesday, June 16, 1998, I was unavoidably detained on official business and missed the following rollcall votes: No. 232 and No. 233. Had I been present, I would have voted "aye" on rollcall No. 232 and "aye" on rollcall No. 233.

Mr. Speaker, on Wednesday, June 17, 1998, I was unavoidably detained at the White House and missed rollcall vote No. 234. Had I been present, I would have voted "nay" on rollcall No. 234.

PLEDGE OF ALLEGIANCE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. PACKARD. Mr. Speaker, I rise today to reiterate my allegiance and pride in our nation, its flag and the words we speak to express these beliefs. Recently in my home district, a high school student refused to stand and say the words, "I Pledge Allegiance to the Flag, of the United States of America, . . . " While I have been disappointed to learn of the students refusal, perhaps it can serve as a reminder of just why we say the pledge.

The words we call "The Pledge of Allegiance" were first written on paper in 1892 by Francis Bellamy, a Baptist minister. Bellamy was also a chairman of a committee of state superintendents of education in the National Education Association. Part of his job description was to prepare the program for the public schools' quadricentennial celebration for Columbus Day in 1892. Bellamy structured this public school program around a flag raising ceremony and a flag statute, now known as "The Pledge of Allegiance."

Mr. Bellamy also jotted down a journal of what he was thinking while be formulated our nation's words of Allegiance. It reads, "The true reason for allegiance to the Flag is the 'republic for which it stands' . . . And what does that vast thing, the Republic mean? It is the concise political word for the Nation—the One Nation which the Civil War was fought to prove. To make the One Nation idea clear, we must specify that it is indivisible, as Webster and Lincoln used to repeat in their great speeches."

Mr. Speaker, as you know, every day this Congress meets, someone in the U.S. House of Representatives gives a prayer and recites "The Pledge of Allegiance." I personally see this as a symbol of respect and pride in our country, and I am thankful each day that I can serve our nation.

IN HONOR OF A VALUED VETERAN, JUEL MARIFJEREN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to pay my respects to the memory of Juel Marifjeren, who passed away on Wednesday May 20, 1998. The life of Juel Marifjeren was taken prematurely as he was preparing to go home from a day of work. I would like to take this time to extend my condolences to the family and friends of Juel Marifjeren, especially his wife, Kathleen and two children, Elizabeth and Steven.

Juel Marifjeren was a loving husband, father and respected employee of the United States Army from 1967 to 1969. Juel Marijeren dedicated his life to serving others, and his fellow veterans. He will be sorely missed by all who have come in contact with Juel.

It is a privilege for me to rise today to honor a fine man, husband, father and veteran. May he rest in peace, and may the Lord grant peace and comfort to the family and friends of Juel Marifjeren.

THE OFFICIAL LAUNCH OF EASTBAY WORKS AT THE OAKLAND PRIVATE INDUSTRY COUNCIL'S OAKLAND CAREER CENTER

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Ms. LEE. Mr. Speaker, it gives me great pleasure to rise today to congratulate the Oakland Private Industry Council as it celebrates the official launch of EASTBAY Works, a one-stop career and human resources center. A total of seventeen one-stop centers will operate throughout the East Bay and the Oakland Private Industry Council is proud to have an EASTBAY Works site located at their Oakland Career Center.

EASTBAY Works is the direct result of a collaborative effort among organizations which recognized the need for coordinated, comprehensive services from the work force development community. Its purpose is to advance the economic well-being of the region by developing and maintaining a skilled workforce. This will be accomplished through a customer-focused collaboration of employment, training, economic development and educational partners working together to meet the needs of employers, job seekers and workers.

EASTBAY Works will serve a wide range of individuals, such as, career changers, welfare recipients looking to enter the workplace, down-sized middle managers, under-employed workers, recent graduates, youth and more. It will offer a broad range of free services and resources, including: a career resource room, with telephones, faxes, and computers; job listings; job search skills training; information about and referral to job training programs; labor market information and on-line access to the state of California's Employment Development Department.

Employers will also receive services through EASTBAY Works. These employers will be matched with an employer representative who will provide services including; job posting capability in the career center and through the Internet, recruiting assistance with access to a large diverse pool of job applicants, labor market data and information about tax credits, hiring incentives and business permits.

EASTBAY Works is an exciting and innovative endeavor which will serve as a model for career centers across the entire nation.

FASTENER QUALITY ACT AMENDMENTS

SPEECH OF

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. HASTERT. Mr. Speaker, I rise in support of H.R. 3824, the Fastener Quality Act Amendments. I would like to commend the work of the Science Committee, Chairman SENSENBRENNER and Mr. BROWN; as well as the efforts of Chairwoman MORELLA and Mr. BARCIA of the Technology Subcommittee.

Mr. Speaker, H.R. 3824 is important and urgently needed legislation. As my colleagues know, the Fastener Quality Act was enacted eight years ago when there was considerable concern about defective and counterfeit fasteners, mostly manufactured in foreign countries, which were found in military equipment, bridges, and airplanes.

However, much has changed over the past eight years, especially in terms of the technology now employed by the fastener industry to guarantee quality. This bill accomplishes two important goals. First, it eliminates the unnecessary and duplicative regulatory burden on fasteners produced to the standards and specifications of aviation manufacturers which are already regulated by the FAA. And, secondly, this Act delays implementation of the Final Rule for the Fastener Quality Act issued on April 14, 1998 and due to be implemented on July 26, 1998.

During this delay, the Secretary of Commerce will undertake and review the Fastener Quality Act in light of the new advances in technology made by the fastener industry and determine what changes are needed, if any, to assure consumer safety on the one hand and prevent unnecessary and outdated regulation on the other.

Mr. Speaker, the simple fact is that in many ways the industry has moved beyond the Fastener Quality Act passed eight years ago.

Since 1990, enormous strides have been made by both the manufacturers of fasteners and their customers in the way they insure the quality and safety of their products. For example, although the Fastener Quality Act originally envisioned an end-of-the-line lot testing procedures, the fastener industry's quality assurance systems have evolved substantially beyond this to testing throughout the manufacturing process. Even NIST concedes that this method is far superior to lot testing.

Although NIST attempted to accommodate these new procedures in their Final Rule, I am concerned that they were not able to go far enough. The Final Rule does not fully accommodate the new advances in quality demanded by major users of fasteners such as the auto industry. Because of this, if the Final Rule is allowed to go into force on July 26, 1998, serious disruptions to our economy could result.

I am particularly pleased that during the delay in implementation of the Final Rule, this bill requires the Secretary of Commerce to issue a report to Congress on possible changes needed in this Act to account for the advances in quality techniques now common in the fastener industry. It is important that Congress gain a clear understanding of the impact this regulation will have upon our economy, the technological improvements that the fastener industry has made over the past eight years, and the improvements in quality that are likely to occur in the future as the result of further technological advances. It is probable that, as a result of this report, Congress will have to revisit the Fastener Quality Act to insure that the highest quality standards, either in place now or that will arise in the future, are not legislated out of existence.

Mr. Speaker, this is clearly a case of where the best intentions went astray. Although the concerns that prompted the adoption of the Fastener Quality Act were real, the solution proposed by this legislation actually threatens the very quality it seeks to insure. The clear problem with the Fastener Quality Act is that it attempts to legislate advances in technology. It is very difficult for anyone to see into the future and determine what tools will be available to industry in terms of their manufacturing processes and quality control. It is my hope that the Secretary of Commerce in his report to Congress will suggest ways in which changes to the law can be made to guarantee the quality and safety of critical fasteners, but in a manner that allows for, and promotes, both the technology of today and of the future.

Mr. Speaker, I again wish to thank the distinguished Chairman of the Science Committee and urge my colleagues to support this important legislation.

HONORING DR. NANCY W. DICKEY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. BENTSEN. Mr. Speaker, I rise to congratulate Dr. Nancy W. Dickey as she becomes president of the American Medical Association and to recognize the tremendous contributions she has made to the Texas A&M University Health Science Center College of Medicine and the nation's medical community. She will be honored at A Star for Texas dinner on July 24, 1998, benefiting the Dean's Excellence Scholarship Fund to increase scholarships for economically disadvantaged students.

On June 17, 1998, Dr. Dickey became the first woman to assume the presidency of the American Medical Association. She is also an associate professor in the Department of Family and Community Medicine at Texas A&M University Health Science Center College of Medicine.

Dr. Dickey joined the College of Medicine faculty in January 1996. In addition to teaching, she directs both the Family Practice Residency Foundation of the Brazos Valley and the Family Medicine Center in Bryan, Texas, which provides training for up to 18 family medicine residents.

Dr. Dickey assumed her first leadership role with the AMA in 1977 when she served as the first elected resident member of the Council on Medical Services. She was elected to the AMA Board of Trustees in 1989, serving as chair of the Board's Finance committee, as Vice Chair of the Board, and later as Chair. She was AMA commissioner to the Joint Commission on Accreditation of Health Care Organizations from 1989–1995.

Dr. Dickey served as a member of the AMA's Council on Ethical and Judicial Affairs from 1980–1989 and as the Council's Chair from 1984–1987. She has been a powerful voice for the AMA in its opposition to physician-assisted suicide and is often called upon to testify regarding the national debate on medical policy and other issues. She was also instrumental in helping to create and launch one of the Association's newest initiatives, the AMA's Patient Safety Foundation.

Dr. Dickey received both her M.D. and her residency training at the University of Texas Medical School at Houston, where she was a recipient of the Distinguished Alumni Award. She also served as vice president of the Texas Medical Association from 1986–1987, is a fellow of the American Academy of Family Physicians, and has been a certified Diplomate of the American Board of Family Practice since 1994.

I commend Dr. Dickey on her numerous achievements and her contributions to the medical community, and I congratulate her on becoming President of the AMA. She is a caring physician, an excellent teacher, an expert on health care policy and medical ethics, a respected role model, and a pathbreaking leader. I have no doubt that the future will bring even greater accomplishments that will benefit the nation and the practice of medicine.

HONORING MENTAL HEALTH ADVOCATES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. GILMAN. Mr. Speaker, today I rise to recognize the outstanding mental health volunteers and professionals who are being honored by the National Mental Health Association at the 1998 Clifford Beard National Mental Health Conference. I urge my colleagues to join me in acknowledging these outstanding individuals for their efforts in the field of mental health. The Mental Health Association of Orange County, New York has shown great innovation in the field and were honored at this convention.

The National Mental Health Association is the only organization dedicated to addressing all aspects of mental health illness. NMHA works with a network of 330 nationwide affiliates to promote mental health and prevent mental health disorders, and achieve victory over mental illnesses through advocacy, education, research and service.

For their impressive innovation and creativity, the Mental Health Association in Orange County will receive the NMHA Innovation in Programming Award. The Invisible Children's Program works to support parents with a diagnosis of a mental illness in their efforts to be the best possible parent and to keep the family unit together. Studied by researchers throughout the world, this program has served nearly 500 individuals, lessened hospitalizations, and decreased the numbers of children placed in foster care.

The Mental Health Association in Orange County, Inc. seeks to promote the mental health and emotional well-being of Orange County residents, working toward the prevention of mental illnesses and developmental disabilities. In partnership with consumers and their families, MHA strives to fulfill its mission through direct services, public education, advocacy and responsiveness in times of community emergency.

The MHA is a private, non-profit organization which provided free mental health service to 22,000 Orange County residents by over 300 volunteers in 1997. Volunteers answer hotlines, provide companionship, direct services, and assist with fundraisers. The Orange County Mental Health Association is funded through state, county, and federal grants, and is a United Way member agency.

Mr. Speaker, please join me in recognizing the accomplishments of the Orange County Mental Health Association. The members of this organization has provided invaluable services to the residents of our county, and is deserving of the honor being bestowed upon them.

CONDEMNING THE BRUTAL KILLING OF MR. JAMES BYRD, JR.

SPEECH OF

HON. DONNA M. CHRISTIAN-GREEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise today to address the tragedy which occurred last week in Jasper, Texas, the violent death of Mr. James Byrd, Jr., and I thank Representative WATERS for her leadership in calling this evening's special order.

Mr. Speaker, we are at the end of the 20th century and three decades past the vicious acts of the sixties, and yet here we are in 1998 faced with the brutal reality that racism is not dead.

This crime on at least two counts—race and disability—is clearly a hate crime, as defined by Federal law. It was a heinous act that should alert the entire country that we as a nation do have a problem with differences, even today.

It is clear that racism still exists, and that it exists even in communities like ours where on the surface, different races, ethnicities and nationalities appear to be in harmony. As a member of the CBC, and a leader in the Virgin Islands, as well as the Nation, it is important that I re-commit my efforts to ridding our communities of all divisiveness, prejudice and intolerance. I call on all the leaders of this Nation, political or otherwise, to do the same.

TAX CODE TERMINATION ACT

SPEECH OF

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. DAVIS of Florida. Mr. Speaker, I rise in opposition to H.R. 3097, the Tax Code Termination Act. This legislation may sound great on a bumper sticker but it has no place on the floor of the House of Representatives. This bill would simply terminate the tax code without any guarantee that it will be replaced by a simpler, fairer tax system.

I understand the frustration with the current tax system and wholeheartedly agree with those who believe it is overly complex and in desperate need of reform. We all know that the current tax code results in extreme bureaucratic costs, unintended loopholes, and headaches for every American taxpayer. But the answer is to reform the code. The answer is to hold substantive hearings on alternative proposals. The answer is to take responsible action to improve the system. This bill is neither responsible nor substantive and it is neither reform nor the answer.

As elected representatives we have a responsibility to govern. Rather than sitting down together and discussing alternative tax systems and their relative merits, this legislation takes the approach that if we set up a train wreck down the line, we are going to be forced to come together and make decisions. Well, we all remember how well the train wreck approach worked during the government shutdowns of 1995. Unfortunately, the consequences of this game of chicken are far more sweeping, putting at risk the entire American economy.

Mr. Speaker, we should not put our economy at risk for the sake of political posturing. We all know passage of this bill will not move us one step closer to real tax reform. Let us reject this legislation and instead begin a serious dialogue on how best to reform our Nation's tax code.

1998 SPIRIT OF ACHIEVEMENT AWARD

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the recipients of the Spirit of Achievement Award.

Each year, I recognize students in the 8th grade graduating classes who have excelled in the classroom, completed community service projects, and participated in extracurricular activities. These students are to be commended for their dedication, leadership, and community pride. They do represent the best and brightest of today's youth.

I am honored to announce the recipients of the 1998 Spirit of Achievement Award:

St. Camillus School: Katarzyna Zagorski and Gregory Jachymiak
Dore School: Timeka Cooley and Benjamin Ayala
St. Jane De Chantal School: Krystyna Kowalkowski and Andrew Wilk
Hearst School: Shemika Perkins and Arthur Bailey
St. Bruno School: Katarzyna Rogala and Matthew Chyba
Kinzie School: Christina Smith and Daniel Zajaczkowski
St. Daniel the Prophet School: Stephanie Berent and Samuel Pavelka
Byrne School: Tara Murphy and Nicholas Walker
St. Richard School: Alexandra Komonrowski and Michael Poineau
Mark Twain School: Mary Gacek and Devin Miarka
St. Symphorosa School: Lauren Ewalt and Anthony Miller
Nathan Hale School: Adriana Misterka and Lukasz Kulesza
St. Rene School: Gina Augustyn and Daniel DeBias
Peck School: Armando Garcia and Richard Piwowarski
Our Lady of Snows School: Bryan Kaminski and Kevin Siedlecki
Edward School: Ewelina Kalinowska and Ali Panjwani
Gloria Dei School: Kaitlin Reedy and Bethany Giebel

Mr. Speaker, I congratulate these students on their graduation from grammar school. I salute them for their remarkable accomplishments in and out of the classroom. But most importantly, my best wishes to each and every recipient as they enter high school and encounter new and exciting challenges.

PERSONAL EXPLANATION

HON. JOHN R. THUNE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. THUNE. Mr. Speaker, I was unable to vote on roll call votes 193, 194, 195, in order to accompany the Vice President as we assessed the horrible damage suffered in Spencer, South Dakota. As my colleagues may recall, a tornado struck this town of approximately 300 people, destroying nearly every structure in town. Had I been present, I would have voted "aye" on each of the votes.

TAX CODE TERMINATION ACT

SPEECH OF

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. PACKARD. Mr. Speaker, I rise today in support of H.R. 3097, The Tax Code Termination Act. This bill will sunset the tax code by 2002 and force policy makers in Washington to implement a fair replacement.

April 15th should not be a day of anxiety and tension for our constituents. American businesses will spend 3.4 billion hours, and individuals will spend 1.7 billion hours, trying to comply with the tax code. That's equivalent to a staff of three million people working full time, year round, just on taxes. H.R. 3097 will hold Congress accountable for amending the code by December 31, 2002, just a short four years away.

The horror stories my constituents have shared with me on simply filing their EZForm 1040 are ludicrous. The EZForm 1040 is the IRS' "simplest" return, and yet it has 33 pages of instructions! Mr. Speaker, if the IRS has trouble understanding all the rules, subrules and instructions that go along with filing taxes, we cannot expect the American public to accomplish this without havoc and hassle.

This complicated system has made it extraordinarily difficult for people to fill out their tax forms, often resulting in the costly process of going to an accountant to file. That means they must pay more money just to find out how much more money they owe in taxes! Tax simplification would ease the paperwork burden for average taxpayers while reducing the government's cost of administering and collecting taxes.

Mr. Speaker, Washington created this problem and it is time Washington corrects it. I rise in strong support of H.R. 3097. We must end the IRS and its abominable tax code now.

GOOD ADVICE ON NORTH KOREA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. HAMILTON. Mr. Speaker, managing our relations with North Korea is one of the toughest challenges confronting American diplomats today.

Until a few years ago, North Korea seemed determined to move forward with a clandestine nuclear weapons program. In October 1994, the Clinton administration negotiated a landmark agreement with North Korea that has frozen North Korea's weapons program and holds out the promise of eliminating this threat to regional security and to our global nonproliferation goals.

A few days ago, the Los Angeles Times published an article written by James Laney, who was the U.S. Ambassador to South Korea until last year, and Jason Shaplen, an expert on North Korea, which lays out other steps the United States might take to manage our relationship with North Korea.

Given the importance of this issue, I insert this article for printing in the CONGRESSIONAL RECORD so that Members might have an opportunity to read the advice offered by two of our country's foremost Korean experts.

ENGAGING PYONGYANG IS ROUTE TO STABILITY—KOREA: THE U.S. NEEDS TO REASSURE THE NORTH THAT IT ISN'T SEEKING ITS DEMISE AND TO INCREASE CONTACTS

(By James Laney and Jason T. Shaplen)

South Korean president Kim Dae Jung's visit to the U.S. has put the focus on how to manage an increasingly desperate North Korea. Since assuming office in February, Kim has indicated that he intends to break the Cold War mentality that has stymied progress on the Korean peninsula for the past 45 years and implement a bold new policy toward the North—a policy based on engagement. The U.S. should support his initiative and take steps of its own to promote engagement that moves the peninsula, home to 37,000 U.S. troops, toward greater stability. There are three ways the U.S. can do this.

Issue a statement that Washington does not seek the North's collapse. In his inaugural address, Kim stated that his government, which sits only 30 miles from the DMZ, neither seeks to absorb the North nor actively promote its collapse. Washington, 7,000 miles farther away, should do the same.

Kim's call for reconciliation was not a rash statement made for political effect. It was based on the reality that pursuing a policy of collapse is futile. Barring unforeseen events, neither Kim Jong IL, the North's reclusive leader, nor his regime is likely to disappear in the near future. Even if the situation in the North should change, neighboring China is likely to offer aid that ensures its survival.

Stating clearly that the U.S. does not actively seek the North's collapse (while also recognizing that there is no moral equivalency between the North and South) represents the most sensible approach toward promoting stability. Confronted with a positive statement of this nature, it would be more difficult for North Korea's military to assume an aggressive posture.

Greater engagement with the North. Issuing a statement that the U.S. does not seek the North's collapse will only bring meaningful change if it is followed with a series of initiatives that seek to promote greater engagement, particularly in the economic arena.

To this end, the U.S., on a case-by-case basis, should lift economic sanctions imposed on North Korea as a result of the Trading With the Enemy Act. Allowing investment will force the North to learn more about our economic system and its benefits. One requirement that could be placed on lifting sanctions is that investment in the North must be in the form of U.S.-South Korean joint ventures.

The case for lifting sanctions has some strong proponents. Since his election, Kim Dae Jung has boldly increased the amount and type of investments South Korean firms can make in the North and has suggested that Washington lift sanctions.

Support for existing initiatives. Policy toward North Korea in the pre-Kim Dae Jung era was not without success. Four-party peace talks to replace the truce that stopped the Korean War with a formal peace treaty began last year. The talks include North and South Korea, the U.S. and China. shortly after these talks began, Pyongyang and Seoul resumed direct, bilateral dialogue in Beijing.

Similarly, the Korean Peninsula Energy Development Organization has been a success. Founded by the U.S., South Korea and Japan to implement portions of the landmark 1994 U.S.-North Korean Agreed Framework (in which Pyongyang agreed to scrap its suspect nuclear program in exchange for two proliferation-resistant nuclear reactors), KEDO has formed a professional relationship with the North. Working on the ground in North Korea and across the table from in New York, KEDO and North Korea have signed scores of internationally binding agreements that have allowed hundreds of South Koreans to travel to the North for the nuclear project. KEDO's prime contractor for the nuclear project. KEDO's prime contractor for the project is a South Korean firm. This means that at the height of construction, thousands of South Koreans will work side by side with thousands of North Koreans, building not only safer nuclear reactors, but greater understanding and, it is hoped, mutual confidence.

These and other initiatives signal an acknowledgment of necessity, if not desire by the North to engage. As such, they deserve the continued political and, in the case of KEDO, financial support of the administration and Congress.

Managing North Korea is a very difficult task. The situation remains precarious and deterrence must remain the foundation of the U.S.-South Korean approach to the North. That said, the combination of Pyongyang's increasing desperation and Kim Dae Jung's refreshing vision presents an opportunity that Washington and Seoul must not let pass.

H.R. 1151 AND CREDIT UNION CHARTER CONVERSIONS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. LAFALCE. Mr. Speaker, this body acted swiftly and decisively to assure the availability of financial services for all Americans when it passed, by an 411–8 vote, H.R. 1151, the Credit Union Membership Access Act. This legislation preserves the right of millions of Americans to retain their membership in credit unions and to continue to benefit from credit union services. I am pleased to have been one of the authors of this important legislation.

In developing this bill, the Banking Committee went to great lengths to achieve consensus legislation that would protect consumers' choice of financial services, ensure proper regulatory supervision of credit unions and strengthen credit unions' long-standing commitment to serving all segments in their communities. As passed by the House, H.R. 1151 accomplishes all of these goals. However, the bill was recently amended during consideration by the Senate Banking Committee and now includes new provisions that are of great concern to me and demand the careful scrutiny of the House.

As passed by the House, Section 202 of H.R. 1151 requires the National Credit Union Administration (NCUA) to review its rules and regulations that govern the conversion of federal credit unions to mutual thrift institution charters. The intent is to assure that these rules do not permit unfair conversions and require objective disclosure of all relevant facts about any possible conversion to credit union members. However, the Senate Banking version of H.R. 1151 would arbitrarily and drastically revise NCUA's conversion rules. If enacted, the Senate bill changes would permit credit union conversions under rules that are far less stringent than the conversion regulations for any other type of financial institution. That would be absolutely unacceptable.

Under current NCUA regulations, if a credit union—as a member-owned financial cooperative—wishes to convert to a thrift charter, it must first obtain the approval of a majority of the credit union's members. This majority vote requirement is necessary to protect the interests of credit union members, but it is not so difficult as to pose a barrier to conversions. It is noteworthy that practically every credit union that has sought to convert to a mutual thrift charter—with one exception—has met this majority vote requirement and has successfully converted. The regulations now in place have worked well.

However, the Senate Banking Committee version of Section 202 would significantly rewrite these conversion regulations, making the process substantially easier and greatly scaling back necessary regulatory oversight. If enacted into law this provision would authorize the conversion of insured credit unions to mutual savings institutions without the prior approval of any regulator, either the National Credit Union Administration or the Office of Thrift Supervision.

In addition, the Senate proposal would permit conversions with only an affirmative vote of a simple majority of the members of the credit union who are voting in an election. Let me emphasize that this is not a majority of the people or families who use and depend upon the credit union, only a simple majority of those who actually vote. This could permit a small minority of credit union officers and members to change the charter of a credit union with minimal knowledge and participation of the majority of members whose financial security would be drastically affected. This may or may not be likely. But under these eased conversion standards, it certainly is very possible, and wrong.

An example of how stronger conversion criteria can work both to protect the interests of members while permitting change to meet market conditions can be found right outside my Congressional district in Western New York. Eastman Savings and Loan Association of Rochester, New York, was a New York chartered mutual savings and loan association that desired to convert to a credit union. ESL's own by-laws and the New York State banking laws impose a number of strict conversion requirements, both in terms of the number of eligible votes that had to be cast and the size of the majority required for approval. As a result, ESL had to meet one of two possible tests for conversion: 66.7% of the total possible votes had to be favorable or 75% of all votes cast had to be favorable. ESL successfully made the conversion with an affirmative vote of 98.7% of votes cast. ESL's directors attribute the huge success of this conversion vote to the added preparation and articulation of the purpose and plan for conversion that was required to meet this higher approval standard.

If the House concurs in the Senate proposals to ease current conversion requirements for credit unions I believe we will be inviting abuse. Credit unions are non-profit institutions that are chartered to serve a public purpose. This purpose and ownership structures should not be changed without significant involvement of both federal regulators and the majority of affected members. Any standard for a credit union's conversion to another type of financial institution must continue to require, at a minimum, that a majority of the credit union's membership participate in a conversion vote and a majority of those voting approve the conversion and that the credit union regulator, NCUA, must continue to have authority over the conversion process. The public's interest and the interests of members and their families necessitate this minimal level of involvement by both regulators and credit union members.

TRIBUTE TO SHERIFF STEVE MAGARIAN

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Fresno County Sheriff Steve Magarian. Sheriff Magarian has been an inspirational role model to the law enforcement here in the 19th Congressional District.

As Chief Executive Officer for the County of Fresno Sheriff's Department, Sheriff Magarian leads, directs and manages a highly sophisticated, diversified and complex organization. Operating throughout a 6,000-square mile area, he holds responsibility for meeting the needs of residents throughout Fresno County, with an annual Department budget in excess of 560 million dollars and personnel of approximately 1,000.

In his vital role, Sheriff Magarian has earned the public's trust, confidence, and support. Through his hard work, he established the department's primary mission. It is a mission that upholds fairness, justice and responsiveness to public needs and feelings while enforcing the law and protecting life and property.

Sheriff Magarian's leadership has guided the efforts and demeanor of the Department to conform with the high standards expected by the public. In administering the Patrol, Detective, Jail and Administrative divisions, his underlying commitment is to maintain the integrity of the constitutional rights as established by the framers of our Constitution.

Sheriff Magarian graduated from California State University, Fresno in 1972. In 1974 he received his Masters Degree in Criminology with distinction.

Sheriff Magarian has worked hard in the law enforcement arena. He created and implemented a county-wide narcotic suppression program through acquisition of a $500,000 state grant. This grant has been increased to $900,000 and approved for its eight consecutive year. He also developed a highly successful Tactical Unit within the Patrol Division which targeted property crimes and arrested dozens of criminals. At a cost of only $35,000, this Unit successfully recovered several hundred thousand dollars in stolen property and returned property to its legal owners. As noted above these are just some of the contributions Mr. Magarian has accomplished.

Sheriff Magarian's 30-year career with Fresno County Sheriff's Department has been marked by significant law enforcement and management experience.

Mr. Speaker, I am honored to have Sheriff Magarian as a law enforcement in the 19th Congressional District. I congratulate him on his lifetime of accomplishments and ask my colleagues to join me in wishing him every success on his future endeavors.

RECOGNITION OF O.D. WYATT HIGH SCHOOL BOYS STATE TRACK TEAM

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FROST. Mr. Speaker, I rise today to bring to your attention the remarkable efforts and acclamations of the track team from the Chaparrals of O.D. Wyatt High School in Fort Worth, Texas. These fine young men not only won the University Interscholastic League state championships, but left all their fellow competitors behind. Headlining the team is senior sprinter Demario Wesley, who was individually honored by the Fort Worth Star Telegram as the male track athlete of the year. Mr. Wesley placed first in all three events he entered. Just one year after trying to run on an ankle with bone spurs, Wesley won the 100 meter dash in a time of 10.23 seconds, the 200 meter run in a time of 20.74 as well as anchoring the 4x100 meter relay. With Wesley taking the leading position, Wyatt won the state competition by a 26 point margin. Wyatt's most impressive accomplishment came in the 4x100 meter relay victory when Milton Wesley, Monte Clopton, Michael Franklin and Demario Wesley broke their own national record. I would like to recognize the extraordinary efforts of this exemplary team as well as their coach Lee Williams whose hard work has inspired his team to victory. These young men have not only set a standard for future Wyatt boys track teams, they have proven that next years stars are currently in our schools and in our homes. Mr. Speaker, let us join in congratulating O.D. Wyatt High School on their accomplishments at the state track championships.

PERSONAL EXPLANATION

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. SESSIONS. Mr. Speaker, on rollcall no. 243, I was inadvertently detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. ETHERIDGE. Mr. Speaker, due to a necessary visit to the doctor's office Thursday morning, I was absent from the chamber during rollcall votes 226, 227, and 228. Had I been present, I would have voted "no" on rollcall 226, "yes" on rollcall 227 and "no" on rollcall 228.

A BILL TO AMEND THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce legislation to amend the Indian Employment, Training and Related Services Demonstration Act of 1992. My legislation will provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance and to emphasize the need for job creation in Alaska native communities and on Indian reservations.

Since its enactment in 1992, the "477" program of the Indian Employment, Training and Related Services Demonstration Act, has become one of the few successful economic development programs in Indian country. This program was implemented to help tribes address severe problems in employment and poverty faced in their communities. It allows tribal governments to consolidate formula funded employment, training and related programs into one streamlined, efficient program, which enable tribes to reduce administrative time and costs, and increase services to their members. Alaska tribes have informed me that they have reported great savings in administering employment and training programs through consolidation of application and reporting requirements.

On October 9, 1997, Senator CAMPBELL introduced S. 1279 and on this same date, Senator MURKOWSKI introduced S. 1281, which proposed amendments to the "477" program, and included Alaska-specific provisions. On May 14, 1998, the Senate Committee on Indian Affairs held a committee oversight hearing to discuss the provisions of the program. S. 1279, as amended, incorporates several provisions of S. 1281, and makes other technical corrections. The Senate Indian Affairs Committee held a mark-up of their two bills and favorably reported S. 1279 out of Committee.

My legislation is identical to S. 1279, as reported out of committee, and would at long last address the extreme unemployment in Alaska native communities and to provide young Alaska natives with both educational and job skills so they can fully participate and contribute to Alaska's economy. The bill I am introducing today will lead to further economic growth and more efficient use of Indian job training dollars. I urge my colleagues to support my bill

RECOGNIZING WHEELING AND ROLLING MEADOWS HIGH SCHOOLS' PARTICIPATION IN THE CAPITOL HILL ROBOTICS INVITATIONAL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. PORTER. Mr. Speaker, it is my great pleasure to rise today to recognize the students and teachers from Wheeling and Rolling Meadows High Schools in Illinois who have been selected to participate here today on Capitol Hill in the "Robotics Invitational." These students and teachers are part of a national robotics program that is supported by the FIRST Foundation—For Inspiration and Recognition of Science and Technology. This creative program engages young people in science and engineering through fun activities that have practical applications. Earlier this year, over 9,000 students, representing 200 teams participated in regional contests that led to finals at the Disney Epcot Center in Florida. Working with identical boxes of raw materials and credit for the purchase of additional supplies, these teams set out to design a robot that could play ball like Sammy Sosa. I am proud to say that the robot designed by the Wheeling and Rolling Meadow could play in the Majors and I am sure that they will do very well in today's competition.

Science and engineering is an extremely important component of a high school education. Excellence in these fields has helped to propel the United States to its leadership role in the world today. While the *Mars Pathfinder* was developed from slightly more than a small box of raw materials, the individuals who helped to accomplish this tremendous feat most likely had their interest sparked by engineering competitions similar to the one on Capitol Hill today.

Best of luck to Wheeling, Rolling Meadow and the other teams in today's competition and I hope that these young people will continue their education and even pursue careers in the exciting fields of science and engineering.

PRAISE FOR ENGINEERED SOLUTIONS, AND THE STUDENTS FROM THE STEVENS INSTITUTE OF TECHNOLOGY AND HOBOKEN HIGH SCHOOL

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. ROTHMAN. Mr. Speaker, today I rise to join my colleagues in paying tribute to the 200 high school teams across the country who participated in a robotics competition put on by FIRST (For Inspiration and Recognition of Science and Technology). I would especially like to recognize the team from Northern New Jersey comprised of Engineered Solutions from Ft. Lee, New Jersey, and high school students from the Stevens Institute of Technology and Hoboken High School.

This competition underscores the work of FIRST, a foundation which partners high school students with engineers from corporations and small businesses, scientists from NASA and the military, and mentors from world class universities. The unique FIRST competition allows students to get hands-on experience in developing cutting-edge design and manufacturing processes in an energetic, competitive environment. This program represents a unique method for getting students excited about science and technology.

I commend the excellent work done by the students on the Engineered Solutions/Stevens Institute of Technology/Hoboken High School team. And I wish the students from the other 200 teams across the country all the best.

IN HONOR OF THE HERNDON ROTARY CLUB'S CITIZEN OF THE YEAR

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. DAVIS of Virginia. Mr. Speaker, it gives me great pleasure to rise and pay tribute to Peggy Vetter, the thirty-third recipient of the Herndon Rotary Club's Citizen of the Year Award. For the past twenty-two years, she has devoted her time and effort to extensive volunteer and leadership activities throughout Herndon.

In 1976, shortly after moving to the area, Peggy founded the Herndon Observer newspaper. The Observer was one of the first newspapers in the growing area. While the newspaper was initially published just twice monthly, it allowed for the town and its citizens to communicate and gave everyone a voice in the community. Peggy sold the paper in 1990, but continues to report on Herndon government as well as its people and events.

Peggy's involvement in the community and its many facets did not stop there. While working at her paper she supported the community's youth by hiring high school students as correspondents and office helpers. In addition, she supported fund-raising efforts for youth sports, the Boy Scouts, and the Girl Scouts.

Her skills with community fundraisers led her to chair the Rotary Club's annual efforts on behalf of the Embry Rucker Shelter, which has collected thousands of dollars' worth of clothing and supplies for those temporarily homeless. She participated in a wide range of activities with the Rotary Club, from cleaning up Spring Branch to ringing bells for the Salvation Army to acting as a Herndon Festival Marshal.

On her own, she has volunteered at her children's schools, served for five years as a Cub Scout den mother, and helped found the American Women's Club in Kingston, Jamaica. In addition, she served on the Herndon Chamber of Commerce Board of Directors for many years. She was honored in 1996 as Woman of the Year by the Herndon Business and Professional Woman's Club.

Peggy lived in several places and traveled extensively before settling in Herndon. She was born in Valpariso, Indiana, went to high school in Niles, Michigan, and then attended St. Mary's College at Notre Dame. She started her career as a journalist during World War II, serving as a reporter and editor for the Niles Daily Star. Following her marriage to her husband Don, she served as an assistant society editor of the Lansing State Journal an a capital correspondent for the Detroit Free Press and Times.

Her husband's job with Pan Am Airlines led her and her three children to travel around the world to places such as Guam, Jamaica, Puerto Rico, Guatemala, Miami, before coming to the Washington, D.C. metropolitan area in 1974.

Mr. Speaker, I know that my colleagues join me in honoring and thanking Peggy Vetter for all of her hard work to improve the Herndon community. Her spirit and dedication to public service is truly outstanding, and we congratulate her for being named the Herndon Rotary Club's Citizen of the Year.

CONGRATULATIONS TO FALLON HEALTHCARE SYSTEM

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. McGOVERN. Mr. Speaker, today I rise to recognize twenty-one years of dedicated service and commitment to the health of thousands of patients across the state of Massachusetts. Fallon Healthcare System celebrates not only twenty-one years of operation, but also marks this event by the enrollment of their 200,000th member. I am proud to play a role in recognizing Fallon here today as they play a vital part in the economy of the region and are a critical provider of care to the community.

Fallon was founded in 1977 as the first Health Maintenance Organization (HMO) in Central Massachusetts and, after just two decades, was twice named one of the best HMOs in America by US News and World Report. This organization has also been recognized by Newsweek, The Wall Street Journal, and many other national and local advocacy groups, publications, and health care specialists.

Fallon has been a leader in the community with efforts to provide health care to citizens both inside and outside of their health plan. Their efforts to assist the elderly, the poor, children, and to reach out to the community are all signs of their commitment to the health of the citizens in Massachusetts.

Mr. Speaker, I ask my colleagues to join me in celebrating this important occasion in the history of Fallon Healthcare System.

THE 200TH ANNIVERSARY OF THE TOWNSHIP OF FAIRFIELD, ESSEX COUNTY, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to congratulate the people of the Township of Fairfield, County of Essex, New Jersey as they commemorate the 200th anniversary of the incorporation of their community.

In the early years, shortly after Connecticut settlers founded Newark in 1666, a group moved out to the northwest and settled in what is now Fairfield. The settlers bought the land, known as Fairfield, from the Indians. In 1701, eight proprietors from England came together and formed the East Jersey Society and purchased a 13,500-acre tract of land from the top of the First Watchung Mountain to the Passaic River, which was patented Horseneck. They built their homes on high ground and fed their stock from hay cut in the Bit Piece and Little Piece Meadows. The New Jersey State Legislature created Caldwell Township. The boundaries were drawn from the county line to Mt. Pleasant Avenue, Livingston, and from the Passaic River to the top of the first Mountain. The twenty-eight mile township was named for Reverend James Caldwell, who was pastor of the Presbyterian Church where St. Aloysius R.C. Church, Caldwell now stands.

On April 8, 1799, the first town meeting was held and nine school districts were established. Also, at the meeting a $200 budget was voted to defray the expenses of the school districts. The Fairfield district's first school antedated the formation of Caldwell Township, a school that was built just before or immediately following the Revolutionary War. Classes were instructed in the Dutch language. In 1957, a new school was built at the intersection of Horseneck and Fairfield Roads. In 1892, the first town to break away from Caldwell Township in a dispute over road taxes was the Borough of Caldwell. This marked the beginning of a succession of towns including, Verona, North Caldwell, Essex Fells, West Caldwell, Roseland and Cedar Grove. This left Caldwell Township which is now Fairfield with an area of 10.4 square miles. By the end of the century, Fairfield would be faced with more seceding territories.

With the invention of the automobile came the necessity for a speed limit in Fairfield. On December 4, 1899, an ordinance was passed designating a speed limit of 8 miles per hour. A couple of years later, the speed limit was increased to 10 miles per hour (five miles while turning corners) for any horse, mule or vehicle. The ordinance also indicated that any wheeled vehicle must have a bell or gong of sufficient power to give warning of an approach. In 1919, it came to the attention of the Township committees that the Passaic River had become a popular recreational area and the committee found it necessary to make it unlawful to bathe in the waters of Caldwell Township without being clothed. Other problems involving the river had become more serious. The lowlands have always been subjected to flooding. In fact, the Township's flood control program dates back to 1844.

The 1930's saw Fairfield begin to evolve from a farm community to a more suburban community. As the population continued to increase over the 1,000 person mark, an organized police department was established in 1937. The year 1940 saw industrial development move into Fairfield with the construction of the Curtis Wright airplane factory. In the 1960's a campaign for a municipal name change was underfoot. As the community's population continued to boom it was apparent that the Township was in need of its own postal facility. However, the Township of Caldwell found itself unable to obtain a facility under that name because of the confusion with Caldwell Borough, the post office through which the community was served. As a consequence, Mayor Stepehen Szabo suggested that the municipality again become known as Fairfield. The idea was quickly endorsed by other local officials and from most of the community.

Mr. Speaker, my fellow colleagues, please join me in congratulating the Township of Fairfield and its citizens as they celebrate this milestone.

SPORTSMEN'S MEMORIAL ACT OF 1998

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. DUNCAN. Mr. Speaker, today, I introduced the Sportsmen's Memorial Act of 1998. This legislation will honor this Nation's sportsmen by initiating a process through which a memorial will be established in, or around, the District of Columbia.

I think everyone will agree that the conservation of the Nation's fish and wildlife resources is of critical importance to all of our citizens.

Many government agencies have been created to manage our natural resources. In addition, many national, state and local associations have been established to support conservation efforts.

However, standing at the forefront of these collective efforts are sportsmen, whose financial support to the Nation's fish and wildlife conservation efforts number in the tens of billions of dollars.

Sportsmen have been the financial and philosophical backbone of successful fish and wildlife management throughout the 20th century.

The support of these individuals has allowed fish and wildlife managers to protect and restore millions of acres of habitat, engage in quality research on a multitude of fish and wildlife species, and actively manage our natural resources on a day-to-day basis.

In addition, sportsmen, through their purchase of state hunting and fishing licenses, stamps, and tags, have contributed billions of dollars directly to wildlife agencies.

This support has allowed fish and wildlife managers to achieve some of the greatest success stories.

For all of these reasons, I believe it is appropriate that we honor these men and women with a memorial in the National Capital Region.

I encourage all of my colleagues to join me in honoring the sportsmen of this Country by cosponsoring the Sportsmen Memorial Act of 1998.

JOINT HEARING—SENATE LABOR AND HUMAN RESOURCES AND HOUSE COMMERCE COMMITTEE; ORGAN DONATION ALLOCATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. STARK. Mr. Speaker, I would like to commend Chairmen JEFFORDS and BLILEY for conducting hearings on the problem of organ allocation. As they well known, organs have not been allocated in a fair way to benefit patients in the past and we are in a position now to take a stand for patients and for fairness.

This is a simple issue of fairness and quality. If you are a patient in need of a transplant and you live in Tennessee, the average time you spend on the waiting list is about 21 days. If you live in my part of the country, the San Francisco Bay Area, the average waiting time for that same patient is over 300 days.

In every part of the country, the Cleveland Plain Dealer reports that minority candidates wait longer than their white counterparts for available organs.

Is this fair? When my good friend Congressman MOAKLEY was diagnosed with hepatitis B and was in need for a liver transplant, his doctors told him to leave Boston and move to Virginia to increase his chances of obtaining a liver.

Fairness is half of this fight. Quality is the other. There is a lot of money to be made in organ transplants. Too many centers have been opened to increase the prestige and the profits of a local hospital—and not because they do a good job. In fact, in general the lower volume small transplant centers have poorer outcomes than the high volume transplant centers. The fact is, having a transplant center has become the equivalent of health pork. Many of these centers are like the excess projects in the recently-passed highway bill: centers without a justification. But unlike highway pork, these centers often end up killing patients because they do not do as good a job as the high volume centers. I really think it is immoral for centers who have a lower success rate than the high volume centers to be fighting the Department's regulation. Their actions are a disgrace to the Hippocractic Oath.

The proliferation of poor quality transplant centers not only wastes lives, it wastes money. The United States has 289 hospitals doing transplants—and that is an enormous commitment of capital. I have read that a hospital has to invest about $10 million to be able to do heart transplants.

These proliferating costs are part of what drives health inflation in the United Sates and part of what places such huge budget pressures on Medicare. Concentrating transplants in fewer, high-quality, life-saving centers would allow us to save hundreds of millions of dollars in the years to come. The Department's regulation gives us the potential to focus on Centers of Excellence where we not only save lives, but can obtain economies of scale necessary to preserve the Medicare program.

If my colleagues are serious about putting patients first, what is so onerous about a system that proposes to base transplant decisions on common medical criteria on a medical need list—not geography, not income, not even levels of insurance coverage—just pure professional medical opinion and medical need.

This hearing is about putting patients first—not putting transplant bureaucracies first. I can think of no better way to put patients first than to make the system fair for all. I urge the Committees to support the Department's regulations.

A BILL TO AMEND THE INDIAN HEALTH CARE IMPROVEMENT ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce legislation with my distinguished colleague, Mr. DALE KILDEE of Michigan, to amend the Indian Health Care Improvement Act (IHCIA). In 1988, pursuant to Section 405 of the IHCIA, the Indian Health Service (IHS) was directed to select up to four tribally-operated IHS hospitals to participate in a demonstration program to test methods for the direct billing for and receipt of payment for health services provided to Medicare and Medicaid eligible patients. This was established to determine whether collections would be increased through direct involvement of tribal health care providers versus the current practice which required billings and collections be routed through the IHS.

In 1996, Congress extended this demonstration program until 1998. This extension allowed Congress additional time with which to consider whether to permanently authorize the collection program. The law also required the IHS to submit a report to Congress on the demonstration program on September 30, 1996, the same day the program was originally to expire. The report was to evaluate whether the objectives were fulfilled and whether direct billing should be allowed for other tribal providers who operate an IHS facility. This report is still undergoing Departmental review, however, it is our understanding that the Secretary of Health and Human Services and the Indian Health Service are very pleased with the success of the demonstration program.

All four participants have reported a dramatic increase of collections for Medicare and Medicaid services, which provided additional revenues for IHS programs at these facilities. In addition, there has been a significant reduction in the turn-around time between billing and receipt of payment and an increase in efficiency by being able to track their own billings and collections in order to act quickly to resolve questions and problems.

On behalf of my constituents, the Bristol Bay Area Health Corporation and the South East Area Regional Health Corporation, I am introducing this legislation to provide permanent status for the demonstration program established by Section 405 of the Indian Health Care Improvement Act, to provide a "grandfather" clause for the current four demonstration participants to enable them to continue their programs without interruption, and to expand eligibility for the program to tribes or tribal organizations who operated or are served by an IHS hospital or clinic.

ALASKA NATIVE AND AMERICAN INDIAN DIRECT REIMBURSEMENT ACT OF 1998

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. KILDEE. Mr. Speaker, I rise to urge my colleagues to support legislation I am introducing today with Resources Committee Chairman YOUNG that would permanently authorize and expand the Medicare and Medicaid direct collections demonstration program under section 405 of the Indian Health Care Improvement Act.

The Medicare and Medicaid direct collections demonstration program currently allows four tribal health care operators who operate an entire Indian Health Service hospital or clinic to bill directly and collect Medicare and Medicaid reimbursements instead of having to deal with the bureaucracy at the Indian Health Service. The current participants are the Bristol Bay Health Corporation and the Southeast Regional Health Corporation in Alaska, the Mississippi Choctaw Health Center, and the Choctaw Tribe of Oklahoma.

The demonstration program has been fully tested over the past decade. All of the participants—and the Department of Health and Human Services—report that the program is a great success. In fact, the program has: Significantly reduced the turnaround time between billing and the receipt of payment for Medicare and Medicaid services; increased the administrative efficiency of the participating facilities by empowering them to track their own Medicare and Medicaid billings and collections; and improved collections for Medicare and Medicaid services, which in turn have provided badly-needed revenues for Indian and Alaska Native health care.

In 1996, when the demonstration program was about to expire, Congress extended it through fiscal year 1998. This extension has allowed the participants to continue their direct billing and collection efforts and has given Congress additional time to consider whether to authorize the program permanently.

Because the demonstration program is again set to expire on September 30, Congress must act quickly to recognize the benefits of the demonstration program by enacting legislation that simply would permanently authorize it and expand it to other eligible tribal participants.

The Alaska Native and American Indian Direct Reimbursement Act of 1998 is an identical companion bill to legislation introduced in the Senate on April 29 and sponsored by Senators MURKOWSKI, LOTT, BAUCUS, and INHOFE. The Indian Health Service and the Health Care Financing Administration support it.

I hope that my colleagues also will support this important legislation and that the Resources Committee and this House will favorably consider it as soon as possible so this successful program can continue to increase the administrative efficiency of participating Alaska native and American Indian health care facilities.

HONORING AUDIOVOX AND TOSHIBA: A VERY SPECIAL RELATIONSHIP

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today to honor a very special and unique relationship between the well-known Japanese company, Toshiba, and a great American company based on Long Island, Audiovox Corporation. For the last 14 years they have shared an incredible partnership in cellular phone manufacturing and distribution, which has led to this day, during which we are marking the 7 millionth cellular phone that has derived from this very special relationship. In fact, I have taken the liberty of proclaiming this day, "Audiovox-Toshiba Day" in the 5th District of New York.

At a ceremony today at Audiovox's headquarters in the town of Happauge in Suffolk County on Long Island, Toshiba will be presenting a gold phone to mark this remarkable milestone. Mr. Takao Kishida, General Manager of the Mobile Communications Division of Toshiba and Mr. Kunio Horiouchi, Department Manager of the division, will be presenting the phone on behalf of Pizo Nishimuro, President of Toshiba. Accepting this unique award on behalf of Audiovox will be two very good close friends of mine, Phillip Christopher, President and CEO of Audiovox Communications Corporation (ACC), and John J. Shalam, Chairman of Audiovox.

Mr. Speaker, as I mentioned before, the nature of the relationship has been Toshiba manufacturing the phones and Audiovox marketing them in North America. I'm sure my colleagues realize that there are countless numbers of companies in the world who manufacture cellular phones. However, over half of the phones that Audiovox has sold over the course of almost 15 years have come from Toshiba's production line, and, Audiovox officials do not hesitate for one minute to say that Toshiba is the best—based on their quality, their integrity and character, and their loyalty to this special relationship. That's why I think it's so important to highlight this special relationship as an example of what can come of the very special bond that has existed over the past 50 years between the United States and Japan. Regardless of the differences we may encounter in our general trade relationship, I wanted to take a moment to recognize the unique partnership between Toshiba and Audiovox, and the remarkable achievements that they have reached together. This is an exemplary union that should be held up to the highest regard, to demonstrate to others the opportunities that exist between our countries and to encourage other companies to engage in similar ventures.

Trade is so very much a critical component of U.S. policy, particularly in this day and age as we become more of a global village. Mr. Speaker and my colleagues, please join with me today as we honor two truly energetic and viable companies who have chosen to engage in a partnership that has only served to complement each companies' strengths as well as continuing to highlight the special bond between the U.S. and Japan.

A TRIBUTE TO MICHAEL J. KANE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, writing of Sir Thomas More, Robert Whittinton observed that he was "a man for all seasons." As I pay tribute today to my good friend, Michael Kane, on the occasion of his retirement from the Monson Public Schools system, the same sentiment comes to mind.

Though words cannot fairly describe Mike Kane's philanthropic approach to life, I would like to detail some of the ways in which he has put his talents to use to serve others. Mike Kane began his career as a Science and Mathematics Teacher at South Main Street School in Monson. He went on to be Vice Principal of Monson Junior-Senior High School and later Principal of that same school. Totaling 37 years, Mike's career was built around a most noble pursuit—the education of our youth.

While committed to instilling the importance of academic pursuits in the young minds that he has reached, Mike Kane has also consistently stressed in his teaching and by example the unique role that athletic challenges play in one's development. Mike's years as high school Baseball and Girl's Basketball coach as well as his involvement and leadership with the Massachusetts Interscholastic Athletic Association Basketball Tournament Committee and Sectional Seeding Committee for more than 25 years epitomizes this deeply held belief.

In addition to his dedication to these endeavors, Mike Kane has also been seriously involved with the National Foundation of the March of Dimes. In both the Monson and Pioneer Valley chapters of this organization, Mike has served as Chairman during his tenure of membership and has also been on the Pioneer Valley's Board of Directors. Donating his time to such a worthy cause offers further testament to the quality of Mike Kane's character.

An active member of the Massachusetts Teachers' Association and the National Education Association, Mike Kane has brought to the forefront of state and national organizations the same innovative ideas that he has shared with students, teachers, and administrators in Monson for 37 years.

The hats worn by Mike Kane—Teacher, Principal, Coach, Volunteer, and Craftsman—are those of one singular man committed to education, to athletics, to service, and to excellence. I am proud not only to honor and to recognize his achievements today, but to know him through his good work.

CONDEMNING THE BRUTAL KILLING OF MR. JAMES BYRD, JR.

SPEECH OF

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mrs. MEEK of Florida. Mr. Speaker, I am pleased to join with my colleagues in the Congressional Black Caucus and Americans of goodwill throughout the country tonight in condemning the brutal, heinous murder of James Byrd, Jr. in Jasper, Texas on June 6, by a gang of lawless thugs.

Violence and hatred in our society hurt us all.

Yet as we gather today to denounce this brutal murder, I am hopeful that in Mr. Byrd's memory that we as a nation will go forth and affirm that we are still committed to justice, and to equality in our country.

We've seen too much hatred, too much killing. We must let the death of James Byrd, Jr. make us better, not bitter.

I am hopeful that just as the citizens of Jasper, both black and white, have come together in a remarkable fashion and chosen redemption over retaliation, that this tragic event will serve as a catalyst to bring all America together truly as one America.

THE IMPORTED FOOD SAFETY ACT OF 1998

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. DINGELL. Mr. Speaker, today I am introducing the Imported Food Safety Act of 1998 which will give the Food and Drug Administration (FDA) new authority and much needed resources to protect American consumers from unsafe imported food. I am very pleased to have 15 of my Democratic colleagues on the Commerce Committee joining me as original cosponsors in introducing this important legislation. It is my sincere hope that many more Members, including my Republican colleagues, will soon join us in responding to consumer concerns over the safety of the food we eat.

U.S. food safety standards are among the highest in the world. In spite of this fact, millions of Americans each year are unknowing victims of illness attributable to food-borne bacteria, viruses, parasites, and pesticides. According to a recent General Accounting Office (GAO) report, as many as 33 million Americans each year become ill from the foods they eat. We also know that many cases of food-borne illness are not reported. GAO, therefore, estimates the total number of food-borne illnesses to exceed 81 million each year. Among these cases, more than 9,100 result in death. The U.S. Department of Agriculture's Economic Research Service estimates "the costs for medical treatment and productivity losses associated with these illnesses and deaths range from $6.6 billion to $37.1 billion."

Increased media attention on food-borne illness outbreaks has turned, once unfamiliar scientific names, into household words. Recently, an outbreak of food poisoning from salmonella in cereal was reported in 11 states. E. Coli 0157 has been found in apple juice and hamburger, cyclospora in raspberries, Listeria in ice cream, Cryptosporidium in water, and viral Hepatitis A in frozen strawberries served in a school lunch program.

The population of our country is growing and changing. Exposure to food-borne pathogens is particularly dangerous for the most vulnerable members of the public, such as children, pregnant women, the elderly, those with HIV/AIDS, cancer and other persons whose immune systems are compromised.

The number of food-borne illness outbreaks has increased in recent years, and so has the volume of foreign food imports coming into our country. In its recent report, GAO said that the Federal government cannot ensure that imported foods are safe. The FDA, itself has acknowledged that it is "in danger of being overwhelmed by the volume of products reaching U.S. ports."

The volume of imported food has doubled over the last five years, while the frequency of FDA inspections has declined sharply during this same period of time. More than 38 percent of the fresh fruit and more than 12 percent of the fresh vegetables that Americans now consume each year are imported.

Most Americans would be alarmed to learn that just a small fraction, less than two per cent, of the 2.7 million food entries coming into this country are ever inspected or tested by the FDA. Even fewer, only 0.2 percent of food entries, are tested for microbiological contamination.

In a recent letter, however, FDA said that it "has no assignments for monitoring imported fresh fruits and vegetables for presence of pathogenic microorganisms." In fiscal year 1997, all of the 251 microbiological samples FDA collected that year, were in response to food-borne illness outbreaks. None were for preventive detection.

The outrageous and wholly intolerable conclusion one must draw is that American consumers are being used as guinea pigs.

FDA has stated that there is a "critical need for rapid, accurate methods to detect, identify and quantify pathogens. . . ." The testing methods currently being used at FDA can take up to two weeks to isolate and identify pathogens in food samples. What is needed are quicker detection methods, or "real time tests" that yield results in approximately 60 minutes, to identify pathogenic contamination, especially at busy ports of entry. But currently, FDA is not funding research to develop these tests, nor do they have plans to develop these tests in the future.

It is clear that FDA is lacking the necessary resources to regulate the global food marketplace. Unlike the U.S. Department of Agriculture (USDA), FDA does not have the authority to deny product entry at the border or to permit imports only from agency approved suppliers in foreign countries. The GAO reported that FDA's procedures for ensuring that unsafe imported foods do not reach consumers are vulnerable to abuse by unscrupulous importers. According to GAO, some importers ignore FDA's orders to return, to destroy or to re-export their shipments. By the time FDA decides to inspect shipments, in some cases, the importers have already marketed the goods.

In response to this crisis, the President has said FDA needs increased resources, more authority, and improved research and technology. The Imported Food Safety Act of 1998 addresses each of these points.

This legislation provides additional resources in the form of a modest user fee on imported foods to increase the number of FDA inspectors at ports of entry in the U.S. Proceeds from the user fee would also be used for a "Manhattan Project" to develop "real time" tests (results within 60 minutes) to detect E. Coli, salmonella, and other microbial and pesticide contaminants in imported food. Without tests that produce quick results, there is no way FDA inspectors can detect pathogens in imported food before it is distributed to consumers. Finally, the legislation gives FDA authority, comparable to that of the USDA with respect to imported poultry and meat, to stop unsafe food at the border and to assure that is ultimate disposition is not America's dinner table.

The Imported Food Safety Act of 1998 focuses on these three key areas: authority; research; and resources.

INCREASED REGULATORY AUTHORITY FOR FDA

The recent GAO study of the imported food safety program points out that: "In some cases, when the Food and Drug Administration decides to inspect shipments, the importers have already marketed the goods." "[W]hen the [FDA] finds contamination and calls for importers to return shipments to the Customs Service for destruction or reexport, importers ignore this requirement or substitute other goods for the original shipment. Such cases of noncompliance seldom result in a significant penalty."

FDA currently lacks the authority to impose criminal penalties on importers that circumvent FDA's import procedures. FDA reliance on the importers' bond agreement with Customs, has left the agency without an adequate economic deterrent to the distribution of adulterated products. Current penalties, namely the forfeiture of a bond, are inadequate and are regarded as a cost of doing business. Under the current bond system, GAO reports that "even if the maximum damages had been collected, the importer would have still made a profit on the sale of the shipment." This bill would subject such behavior to tough penalties that will be a strong deterrent to circumventing the current regulatory system. These penalties are the same as those used by USDA in their imported meat inspection program.

The bill would also prohibit an importer from commercially distributing foreign-produced food, without FDA approval. An importer whose food is refused entry by FDA would be responsible for the disposition of re-exportation of such food products. Failing to do so would make the importer subject to penalties under the Federal Food Drug and Cosmetic Act.

DEVELOPMENT OF "REAL-TIME" LABORATORY METHODS TO TEST FOR PATHOGENS TO BE USED IN BORDER INSPECTIONS

FDA wrote in a January 16, 1998 letter that there is a "critical need for rapid, accurate methods to detect, identify and quantify pathogens in a wide variety of environments . . ."

The methods for detecting a wide range of bacterial, viral, and parasitic pathogens in or on fresh fruits and vegetables are limited . . ."

This bill would provide additional funds for research and development on test methods to detect E. coli, salmonella and other disease-causing microorganisms and pesticide residues in imported food, as it enters the U.S. and before it is distributed to the public. The bill requires FDA to devote resources to developing such tests within three years of the date of enactment. This funding will be in addition to FDA appropriated funds and will be collected through a modest, $20 per entry, user fee on imported food.

USER FEE FOR IMPORTED FOOD

This legislation also provides for a modest user fee to be paid to the FDA for each entry of foreign food imported into the U.S. It is clear that the current Majority in Congress is not prepared to appropriate funds needed to protect Americans from unsafe food. Funds for the President's food safety initiative were recently zeroed out at the Senate Appropriations Committee and in the House, the President's initiative received only a token funding level.

A user fee on imported food, like the user fee in the Imported Food Safety Act, would ensure that FDA has much needed resources to protect American consumers from unsafe imported food. The proceeds from this user fee would be used to fund much needed research efforts on "real time" test methods for detecting pathogenic contaminants in food and to fund increased FDA efforts to inspect foreign fresh and packaged foods coming into the country.

The U.S. imports approximately 2.7 million entries of food each year that are valued at approximately $36 billion. The bill provides that a per entry fee of no more than $20 would be imposed on food imports. This fee is not based on the value of a shipment of imported food. Instead, it is an amount based on the cost of processing and approving food imports, including the cost of sampling and testing.

COUNTRY-OF-ORIGIN LABELING

Finally, this bill requires country-of-origin labeling of all imported foods. Restaurants and other prepared-food service establishments are exempted from complying with the country-of-origin labeling requirement. We often forget that the toughest, and many times the best, regulators are America's consumers. This bill gives consumers information that allows them to make informed choices with respect to the conditions under which the food they buy is produced.

Maintaining public confidence in the safety of the food supply is of paramount importance. People must be confident that the food they purchase and provide for themselves and their families is safe. Country-of-origin labeling will empower consumers, giving them greater information on which to base their food purchasing decisions. This is especially important in view of the now all too frequent outbreaks of food-borne illness.

We need to focus our efforts on eradicating food-borne illness in this country. As our consumption of imported food continues to grow, we must find ways of ensuring that foreign produced food meets our health and safety standards. It simply is no longer acceptable for government to blame its failures on the increased volume of imports or the fact that detection methods are not available.

FDA must be given the authority, the resources, and the responsibility to ensure that foreign produced foods get to the consumers of this country, if, and only if, they meet U.S. health and safety standards.

The Imported Food Safety Act of 1998 would give FDA, for the first time, the authority, resources, and responsibility it needs to tackle this problem in a meaningful way. This is good public health policy, and the American people deserve no less. I urge my colleagues to support this important legislation.

JUSTICE DEPARTMENT AGREES TO REVIEW ACCUSATIONS AGAINST INDEPENDENT COUNSEL STARR

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. CONYERS. Mr. Speaker, Attorney General Janet Reno's announcement today that allegations of improper conduct by Independent Counsel Ken Starr have been referred to the Justice Department's Office of Professional Responsibility is an appropriate first step. Over the past few days, serious questions concerning the behavior of Mr. Starr and his staff have been raised. On the one hand, a respected journalist, Steven Brill, says that Mr. Starr admitted leaking grand jury information. For his part, Mr. Starr does not deny meeting with reporters on an "off the record basis." Instead, he says that the information he provided during those meetings was not covered by Rule 6(e) of the Federal Rules of Criminal Procedure.

To resolve this dispute, any investigation must determine two important things. First, exactly what information did Mr. Starr give to reporters during his "off the record" meetings? Second, what are the legal rules that govern what an Independent Counsel can say to a reporter? In his recent letter of complaint to Mr.

Brill, the Independent Counsel seems to take the position that Rule 6(e) should be interpreted very narrowly to apply only to disclosures of events or testimony that actually occur in the grand jury room. The law in the District of Columbia Circuit does not support that view.

In its opinion in the Dow Jones case, which was decided in May of this year, the D.C. Circuit wrote that Rule 6(e) reaches "not only what has occurred and what is occurring, but also what is likely to occur. Encompassed within the rule of secrecy are the identities of witnesses or jurors, the substance of testimony as well as actual transcripts, the strategy or direction of the investigation, the deliberations of questions of jurors, and the like."

The Dow Jones case makes clear that Rule 6(e) applies much more broadly than the Independent Counsel has argued in his public statements over the past few days. A review by the Justice Department's Office of Professional Responsibility is a good first step toward resolving the important factual and legal issues that are disputed in this case.

WELCOMING SECRETARY OF STATE MADELEINE K. ALBRIGHT TO MINNESOTA

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. VENTO. Mr. Speaker, I am honored and privileged to submit to the RECORD Secretary of State Madeleine K. Albright's insightful and promising commencement address to the University of Minnesota College of Liberal Arts on Sunday, June 14, 1998 for Members review. I hope my colleagues will examine its message: America must lead. We must lead in the pursuit of global freedom and democracy, enforcing greater human rights, supporting the nuclear test ban agreement, limiting the proliferation of nuclear weapons, striving to improve the working conditions around the world and protecting earth's natural resources. This address was a powerful statement and was very well received by the graduates and the general public.

UNIVERSITY OF MINNESOTA COLLEGE OF LIBERAL ARTS SPRING COMMENCEMENT ADDRESS, JUNE 14, 1998

(By Secretary of State Madeleine K. Albright)

Thank you, Vice-President Mondale, for that wonderful introduction. It's great to see you again and thank you for welcoming me to your state.

Regents of the University, President Yudof, Dean Rosenstone, honorary degree recipient Estes, Teacher of the Year Professor Sugnet, U.S. Representative Bruce Vento, Members of the class of 1998 and your families, faculty, and friends, I am delighted to be here and honored that you asked me to share this day with you.

To the parents here this morning, let me say that I understand how you feel. I had three daughters graduate from college and each time the emotions were the same: intense pride—and immense relief.

To the Class of '98, I add my heartfelt congratulations to those of Fritz Mondale. Today is a day to celebrate; it is the payoff for all the late nights in the library and the long hours studying. Graduation is one of the five great milestones in life. The others are birth, marriage, death and the day you finally pay off your student loan.

Now, at last, only one thing still stands between you and your degree. And that is my speech. The bad news is that I am a former professor. Even my soundbites are fifty minutes long.

The good news is that I will not inform you that you had more fun in college than you will ever have again, for that might depress you. I will not place the weight of the world upon your shoulders, for that might intimidate you. And I will not lecture you about your social habits, for that will always be your parents' job.

Instead, I want to discuss with you some of the choices which we as a society and as a nation face. For nations are like people. Each must choose whether to live their lives selfishly and complacently or to act with courage and faith.

We are privileged to reside in a country that, through most of this century, has chosen the latter course, to lead. So that today, we are helping to shape events in every region on every continent in every corner of the world.

We exercise this leadership not out of sentiment, but out of necessity. For we Americans want to live, and we want our children to live, in peace, prosperity and freedom. But as the new century draws near, we cannot guarantee these blessings for ourselves if others do not have them as well.

Earlier this spring, at the Coast Guard Academy and the University of Maryland, I spoke of some of the specific steps we are taking to advance these goals: to reinvigorate our alliances, for example, and to build a more open and fair system of trade. This is especially important in states like Minnesota, where companies such as Cargill, General Mills, Honeywell, Pillsbury and 3M have made you export leaders.

But today, I want to address a theme that ties the broad goals of our foreign policy together. For I have found as Secretary of State that now, more than ever, the great dividing line in the world is not between East and West, North and South or rich and poor; it is between those paralyzed by the memories and habits of the past, and those energized by prospects for the future.

That is not rhetoric; it is reality.

Consider, for example, nuclear weapons. The recent decisions by India and Pakistan to conduct nuclear tests reflect old thinking about national greatness, and old fears stemming from a boundary dispute that goes back more than five decades.

The Indian Prime Minister justified his action by saying that his country "has the sanction of her own past glory." But if that rationale made any sense, which it does not, other inheritors of past glory, from the modern day Egyptians and Babylonians to the Incas and Aztecs, would be out setting off atomic blasts.

Our message to the leaders of South Asia and nations everywhere is that if you want the world's respect—don't set off nuclear bombs; educate your people.

If you want the world's understanding; don't get into an arms race—use technology to prosper in the global economy.

And if you want the world's help; don't talk about how much you can destroy—show us how much freedom and opportunity and tolerance and respect for human dignity you can create. That is the badge of greatness. And in that quest, every nation that is prepared to help itself can count on the help of the United States.

The bomb blasts in South Asia should serve as a wake-up call to the world. The Cold War has ended, but the danger posed by nuclear weapons obviously has not. We must do all we can to reduce the role that nuclear weapons play and the risks that they entail. And we are.

President Clinton has proposed to Russia a new round of arms reductions that could bring our arsenals down to 80% below Cold War peaks.

We are working hard to ensure that all nuclear materials are securely guarded and safely handled, so that no nukes become loose nukes.

We have made stopping the spread of nuclear and biological weapons and poison gas a top priority in our relations with Russia, China, Ukraine and other key countries.

And last year, the President submitted to the Senate a Comprehensive Test Ban Treaty to ban nuclear explosive tests of any size, for any purpose, in any place, for all time. There could be no greater gift to the future. Now, more than ever, India and Pakistan should sign that agreement.

And, now more than ever, the United States Senate should stop shilly-shallying around and approve it for America. Because if we want others to refrain from nuclear tests, and we do; others will want us to promise the same; and we should. On this critical issue, at this perilous time, our leadership should be unambiguous, decisive and strong.

Tragically, one of the recurring themes of the twentieth century and of all history has been the competition by different nations and peoples for land, resources and power. As the new century draws near, our corresponding challenge is to restrain and channel such competitions, so that differences are resolved peacefully and with respect for the legitimate rights of all.

Here again, almost wherever you look, you will see people struggling to reconcile their hopes for the future with their memories of the past. You will see some whose actions and thoughts are dictated almost entirely by old grievances, who are embittered and think only of revenge. They are the prisoners of history.

But you will see others who share the same memories and bear the same scars, but are nevertheless taking courageous action to find common ground with old adversaries. They are the shapers of history. And they are driven by hope and determination to build a future for their children that is better than the past.

You can be proud that the United States is standing shoulder to shoulder with the peacemakers against the bombthrowers; supporting the Good Friday agreement in Northern Ireland; trying to end conflict in the Horn of Africa; working with our partners to stop violence and repression in the Balkans; and striving to overcome setbacks in the quest for a just and lasting peace in the Middle East.

In each case, America is on the side of those determined not to re-live the past, but rather to learn from it and improve upon it.

That is not international social work, as some suggest. It is smart for America, because we are better off when regional conflicts do not arise, threatening friends, creating economic disruptions and generating refugees. And it is also right to help others avoid unnecessary bloodshed, and enable people to enjoy what President Clinton has called the quiet miracle of a normal life.

The divide between past and future is evident also in attitudes towards the environment where, all too often, we still hear the old conventional wisdom:

"Don't worry, our natural resources are inexhaustible."

"Don't act, environmental protection costs too much."

"Don't get excited, nature can recover on her own from even the worst pollution."

Well, I can't speak for Mother Nature, but not only am I a mother, I am a grandmother of three, and there are times I want to shout from the rooftops, "Wake up."

We are about to enter a century when there will be far more of us around the world, living closer together, consuming more, demanding more, using more and throwing more away.

Isn't it only common sense that we take reasonable steps to restrain population growth and safeguard the health of our air and the cleanliness of our rivers, lakes and coasts? For if we fail to do that, we will deny our children and our children's children the legacy of abundance we ourselves inherited.

That would be a felony against the future. And it is not acceptable—to you, or to me.

We have to recognize, moreover, that effective environmental protection must be a multinational enterprise. It requires global action.

Today, leading scientists agree that greenhouse gases are warming our planet.

Those stuck in the past say:

"Don't worry, let's keep pumping more and more of those gases into our atmosphere. Let's hope the freakish tornadoes and floods we've been experiencing are not related to global climate change. Let's choose to believe that the predicted sea level rise and the sudden changes in farm production won't happen. Let's pretend that the anticipated increase in heat-related death and disease will not strike—or at least not us."

"Better yet, let's not think about it at all. Let's forget, for example, that the past five months have been the hottest January to May in recorded history. Let's wrap ourselves in denial and bury ourselves like an un-Golden Gopher in the sand."

I have a different view. I don't think America should hide. I think America should lead.

We emit more greenhouse gases than any other country—by far. We should set an example. That is the only way to persuade developing countries such as China, India and Brazil to grow in ways that are environmentally friendly. And that matters because, if they repeat our mistakes, we may find our nation and our world increasingly unlivable. In time, we could face a slow motion environmental Armageddon.

That is why the Clinton Administration is working to ensure that both industrialized and developing countries participate in the effort to control global climate change.

We have adopted an approach that will provide a boon to the new environmental technologies America has developed. We have agreed to targets for reducing greenhouse gas emissions that are achievable and fair.

Above all, we are insisting that action be taken now—not twenty years from now—when the costs will be higher and the job much harder. In this historic effort, we will need, and I hope we will have, the wholehearted support of the North Star State.

Finally, the divide between future and past is evident in attitudes around the world toward democracy and human rights.

Some cling to the false sense of order that comes when political dissent is stifled and everyone knows their place. They haul out the old stereotypes and say that, "Well, freedom may work in some places, but the people in such and such a country are not ready; they do not really want it; they do not really need it."

To use a diplomatic term of art, that is balderdash.

When I was still a little girl, my family was driven twice from its home—first by Hitler and then by Stalin. So call me prejudiced. But I believe in freedom.

I believe that, for a society to reach its potential, its people must be free to choose their leaders, publish their thoughts, worship their God and pursue their dreams.

That is a lesson we have learned time and again this century, from South Africa to South Korea and from Central Europe to Central America. It is a lesson we hope will be applied now in Indonesia and Nigeria. In each country, new leaders have an historic opportunity to bring their nation into the democratic fold. If that is their choice, the United States will do all it can to help.

Because, if we want the circle of freedom to grow, we must assist those who are doing their best to help themselves by nurturing civil liberties, defeating crime, creating open markets, and building democratic institutions.

Second, we must be willing to speak out for human rights and for religious and political freedoms whether they are under assault in a small country such as Burma or a big country such as China. And if we are told to mind our own business, we must respond that human rights are our business because, as Martin Luther King once said, "Injustice anywhere is a threat to justice everywhere."

Third, we must strive to improve working conditions around the world. Because I suspect you are like me. When we buy a blouse or a shirt, we want to know that it was not produced by people who are under-age, under coercion, in prison or denied their basic right to organize.

We Americans cannot and will not accept a global economy that rewards the lowest bidder without regard to standards. We want a future where profits come from perspiration and inspiration, not exploitation.

Fourth, we must do all we can to advance the status of women, because no country can grow strong and free when denied the talents of half its people.

In years past, we have made enormous progress. But today, around the world, terrible abuses are still being committed against women. These include domestic violence, dowry murders, mutilation and forced prostitution. Some say all this is cultural and there's nothing we can do about it. I say it's criminal and we each have an obligation to stop it.

Finally, the United States must continue to lead the world in its support for the international war crimes tribunals, because we believe that the perpetrators of genocide and ethnic cleansing should be held accountable and those who see rape as just another tactic of war must pay for their crimes.

Members of the Class of 1998: Today, you will graduate into a world of accelerating and astonishing change, where technological breakthroughs occur daily, trends may disappear in a week, and events of just a few years ago can seem like ancient history.

But some things have not changed.

The dynamism of the Twin Cities.

The beauty of the Land of Ten Thousand Lakes.

The excellence of this College and University.

The integrity of Walter Mondale.

And the purpose of America.

Fifty years ago, across the river in St. Paul, President Harry Truman spoke of the strength of democracy and of our country. He did not stress the power of our armed forces, though powerful they were.

He did not mention the mighty American economy, though we were responsible for almost half of the world's production at the time. He did not emphasize the vastness of our territory or the size of our population. He spoke instead of a deeper and more profound source of strength.

"Hitler", said President Truman, "learned that efficiency without justice is a vain thing. Democracy does not work that way. Democracy is a matter of faith—a faith in the soul of man—a faith in human rights. That is the kind of faith that moves mountains—that's the kind of faith that hurled the (resources of the) Iron Range at the Nazis."

"Faith gives value to all things," President Truman concluded, "Without faith, the people perish."

This afternoon, at this celebration of warm memory and high expectation, I summon each of you in the name of our country and of all who have worked and sacrificed to build it, to embrace the faith that your courage and your perseverance will make a difference.

And that every life changed by your example; every community enriched by your giving; every problem solved by your diligence; and every barrier to justice brought down by your determination, will ennoble your own life, inspire others, help fulfill the American Dream, and explode outward the boundaries of what is achievable on this earth.

Class of 1998: As I look out among you, all I see are future shapers and history makers. The world is waiting. The new century is yours to build. Go for it. And may God bless you all. Thank you very much.

A TRIBUTE TO THE ORDER OF AMERICAN HELLENIC EDUCATIONAL PROGRESSIVE ASSOCIATION (AHEPA) CHAPTER NUMBER 78

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. VISCLOSKY. Mr. Speaker, I am pleased to commend the Order of American Hellenic Educational Progressive Association (Ahepa), Chapter Number 78, who in conjunction with the Daughters of Penelope, Mentor Chapter Number 81, will be hosting the 68th Hoosier District Number 12 Annual Convention in Merrillville, Indiana this weekend, June 19–21, 1998. On Saturday, June 20, as part of the convention's festivities, the following six outstanding members of the Order of Ahepa, and the Northwest Indiana community will be receiving their prestigious Fifty Year Member Pins: Mr. Spiro Cappony, of Griffith; Mr. James Kallimani, of Gary; Mr. Deno Manolopoulos, of Valparaiso; Mr. Nick Pangere, of Merrillville; Mr. John Trakas, of Crown Point; and Mr. Tony Zerites, of Crown Point.

Each of these six men has dedicated fifty years of service to all facets of the Order of Ahepa, his community, and the noteworthy humanitarian charities and activities to which the

Order or Ahepa donates effort, time, and money. These loyal and dedicated individuals share this prestigious honor with approximately fifty-seven additional Chapter 78 members who have already attained Fifty Year Member status.

The Order of Ahepa is an international fraternal order with chapters in the United States, Canada, Australia, New Zealand, and the Bahama Islands. It was founded in 1922 in Atlanta, Georgia, to help immigrants from Europe, especially Greece, assimilate into the American way of life. It taught the new arrivals the customs and language, and helped them to become good, productive citizens in their new, adopted country. Today, the Order of Ahepa is still concerned with aiding immigrants, as well as monitoring the current events in Greece, becoming involved with the region's community, and supporting the aging members of the Northwest Indiana Greek community. Nationally, the Order of Ahepa works with the United States Department of Housing and Urban Development (HUD) to build and maintain senior citizen apartments. Chapter 78 of the Order of Ahepa, based in Merrillville, is quite proud of the three 50-unit buildings that it maintains in conjunction with HUD and the Town Board of Merrillville. Indeed, I commend the Order of Ahepa for providing a safe, clean living environment for area seniors.

Besides the outstanding senior housing program, Chapter 78 of the Order of Ahepa supports many other charitable organizations, including food pantries at the St. Constantine Cathedral in Merrillville and another one in Hobart, and St. Basil's Academy in Boston, Massachusetts. Besides helping other charitable organizations, the local Order of Ahepa Chapter directly helps such groups as Hearing Impaired Children in the Catholic Diocese of Gary; the Merrillville and Hobart Police Departments; the Hobart Fire Department's school fire safety awareness programs; the Greek Orthodox Cathedral; Our Lady of Perpetual Help's Ministry to the Physically and Mentally Challenged; and Holy Cross College in Boston.

Mr. Speaker, I ask you and my other distinguished colleagues to join me om saluting Spiro Cappony, James Kallimani, Deno Manolopoulos, Nick Pangere, John Trakas, and Tony Zerites, of the Chapter 78 Order of Ahepa, for their distinguished service, dedication, and leadership. Through their hard work and commitment, they have furthered the goals of the Order of Ahepa in bringing together the members of the Greek community for the betterment of everyone in Northwest Indiana.

IN HONOR OF LA SAGRADA FAMILIA PARISH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor La Sagrada Familia Parish, which is celebrating its dedication on June 21.

The Hispanic Catholic community of Cleveland has wanted a parish of its own since the early 1950s. At that point there were at least five different parishes that Spanish speaking people attended. By the early 1970s the Hispanic Catholic community had grown so large that it needed its own parish. In 1973, a small group began with a special service at St. Stephen's Church. Eventually developed into the community of San Juan Bautista. There were still many people without a parish, however, so in 1980 the idea for La Sagrada Familia Parish began. It took eighteen years, but the dream is now a reality. On June 21 the dedication ceremony will take place.

To understand the magnitude of the accomplishment, we must recognize the collective contribution of this congregation: Persistence, a dedication to hard work, a devotion to the community, and a commitment to progress. The La Sagrada Familia Parish has demonstrated that vision, combined with spirit, leads to boundless achievement.

The Hispanic Catholic community has added a spirit of diversity and tradition to the neighborhood of the near west side. Always willing to help others, the community has made a difference, taking advantage of resources of time and caring to improve the lot of its neighbors in need. The community has waited for a long time for a parish of its own, and with La Sagrada Familia, the dream is accomplished, the prayers have been answered. The dedication of La Sagrada Familia Parish serves as a reminder of the community's devotion to the service of others. The dedication of this church should be a source of pride for all of Cleveland's Hispanic Catholic community.

La Sagrada Familia Parish is the product of years of planning, fund-raising, and hard work. This is a proud moment for Cleveland and its Hispanic Catholic community. My fellow colleagues, please join me in congratulating this parish and in wishing parishioners many happy years in their new home.

WELCOMING THE FIRST-EVER DISTRICT OF COLUMBIA WNBA TEAM—THE WASHINGTON MYSTICS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Ms. NORTON. Mr. Speaker, I am proud to welcome the first-ever D.C. Women's National Basketball Association team to our nation's capital. This moment comes on top of other news that the District for the first time received acclaim as the best place to live in the East from Money' Magazine. Together these firsts affirm that Washington, D.C. is truly a special city, and not only because D.C. is our nation's capital.

Tomorrow, I will join thousands of fans at the MCI Center to see our first home game against Utah. The District is very proud of this team, which will be led by standout shooting guard Nikki McCray, the lead scorer on the 1996 gold medal winning U.S. Olympic team. Head Coach Jim Lewis promises a full-court offense, using the fast break and aggressive defense, which are sure to be exciting viewing for the fans here in Washington.

I would also like to commend and thank team owner, Abe Pollin, Irene Pollin and Susan O'Malley, president of the Mystics organization, for their vision and commitment to making women's professional basketball a reality here in the District.

This team is important to the fans here in the District, including the many young girls among them who look to these outstanding women athletes as role models. Last year, we celebrated the 25th anniversary of Title IX and today the fruits of this achievement are being recognized. This important legislation contributed in large part to the participation of more than 100,000 women in intercollegiate athletics in 1997, a fourfold increase since 1971. In the 1996 Summer Olympic Games, American women won a record 19 Olympic medals. Thousands of women today, including many WNBA players have benefitted from athletic scholarships that simply were unheard of before Title IX. The number of girls participating in high school athletics has risen from fewer than 300,000 in 1971 to 2.4 million today. Girls' participation in high school basketball increased 300% from 1971 to 1995! Research suggests that girls who participate in sports are more likely to experience academic success and to graduate from high school than those who do not play sports. Half of all girls who participate in sports experience higher-than-average levels of self-esteem and less depression.

We welcome the Washington Mystics' team—Nikki McCray, Heidi Burge, Deborah Carter, Keri Chaconas, Tammy Jackson, Penny Moore, Murriel Page, Alessandra Santos de Oliveira, Adreinne Shuler, Leila de Souza Sobral, and Rita Williams. We look forward to their contributions to the community and to the basketball profession. Go Mystics!

TRIBUTE TO MR. ELLIOT ROBSON

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FORD. Mr. Speaker, Mr. Speaker, I rise today to ask my colleagues in the House of Representatives to join me in honoring an accomplished young man from Memphis, Tennessee, Mr. Elliot Robson. As a student at White Station High School in Memphis, Tennessee, Elliot has excelled in all of his subjects, but he has developed exceptional competence in history.

This week, Mr. Robson is participating in the National History Day Competition at University of Maryland at College Park where he is competing with approximately 78 of his peers for the Senior Individual Exhibit Award. This national competition is the culmination of a rigorous set of contests at the local and state level where middle, junior, and high school students conduct primary research, write papers, and prepare media presentations on significant historical events.

National History Day is the product of a year-long educational program aimed at fostering achievement and intellectual growth among students from all backgrounds and regions of the nation. This year, the National

History Day theme is "Migrations in History: People, Ideas, Culture." Mr. Robson chose to study Jewish immigration, a topic about which he gained knowledge during his education at Beth Sholom Religious School.

Mr. Robson is to be commended for his success. I ask my colleagues to join me in honoring an individual who through his efforts in this competition has demonstrated exceptional educational achievement. I urge Mr. Robson to continue to build upon this strong educational base and to continue to provide a model for other students around the country. Please join me in commending Mr. Robson and wishing him the best in his future endeavors.

GAMBLING AND AMERICA'S YOUTH

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. WOLF. Mr. Speaker, I want to call to my colleagues' attention a story on the front page of the June 16 New York Times titled, "Those Seductive Snake Eyes: Tales of Growing Up Gambling." The bad news is that gambling is growing. The worse news is that gambling addiction is growing fastest among young people.

The article says, "There is a growing concern among experts on compulsive gambling about the number of youths who—confronted with state lotteries, the growth of family-oriented casinos and sometimes lax enforcement of wagering laws—gamble at an earlier and earlier age and gamble excessively."

The story quotes a recent Harvard Medical School study which was conducted by Dr. Howard Shaffer which found that the rate of problem gambling among adolescents is more than twice the rate for adults.

This article is shocking. It cites stories of young people who have hit the bottom young—and all because of gambling.

One young man got hooked on gambling as a teenager. The problem was so bad, his parents had to put locks on all the rooms and closets in the house so he wouldn't run out and sell the family belongings to gamble. He has been to prison twice for credit card fraud and writing false checks. Later in the article, he talks about how he first got interested in gambling. When he was growing up, he used to help his grandmother pick lottery numbers at a neighborhood store, and he used to go with her on her gambling trips to Atlantic City. He would wait for her outside the casino, peering in the window and wishing he could play, too.

The article talks about another young person who started gambling when he was 13 years old. With his buddies, this teen used to play craps near his house, place bets on pick-up basketball games, and play a dice game called "see-low." Now he is in a treatment center for drug and gambling problems.

The New York Times piece said that in one high school in the Northeast U.S., kids said they knew a fellow student who was a professional bookie who booked bets right there at their high school. Amazingly, that school set up a mock-casino as part of its prom night festivities. The school principal said the students had no problem with the various games—they knew them well and apparently needed no coaching.

But this is a problem everywhere, in all of America. According to the article, a Louisiana State University study conducted last year found that among Louisiana young people aged 18 to 21, one in seven were, and I quote, "problem gamblers, some of them pathological—youths with a chronic and progessive psychological disorder characterized by an emotional dependence on gambling and a loss of control over their gambling."

Everyone is worried about tobacco use among teenagers, and I am, too. But we've got another problem, and we really need to pay attention.

I hope this country wakes up. I hope our governors wake up. I hope this Congress wakes up.

[From the New York Times, June 16, 1998]

THOSE SEDUCTIVE SNAKE EYES: TALES OF GROWING UP GAMBLING

(By Brett Pulley)

ATLANTIC CITY—Like a first kiss, getting the car keys for the first time or walking into a bar and buying a first drink, gambling has become a rite of passage for young people on their way to adulthood.

With casinos in 26 states and lotteries in 38, youths who have watched their parents choose from a hefty menu of legal gambling activities right in their backyards are going on dates, spending their prom nights and joining college classmates at the nearest casinos.

Along with this change in the American cultural scene, there is a growing concern among experts on compulsive gambling about the number of youths who—confronted with state lotteries, the growth of family-oriented casinos and sometimes lax enforcement of wagering laws—gamble at an earlier and earlier age and gamble excessively.

These experts fear that the proliferation of youthful gambling will lead to more cases like that of a young Philadelphia man who became an addicted gambler as a teen-ager. For the young man, now 27, the "bottom" came after he had made two trips to prison for credit card fraud and writing false checks, attempted suicide and robbed his family.

"By the time I was 17, my parents had put a lock on everything in the house—bedrooms, pantries, closets," said the man, Michael, who is in a treatment program for compulsive gamblers. Like other addicts in recovery programs, Michael agreed to be identified only by his first name. "If I could take 30 towels out of the linen closet I would sell them for $10 to place a bet," he recalled.

A study conducted last year by Louisiana State University found that one in seven Louisianians ages 18 to 21 were problem gamblers, some of them pathological—youths with a chronic and progressive psychological disorder characterized by an emotional dependence on gambling and a loss of control over their gambling.

Dr. Howard Shaffer, a professor of psychology at Harvard University, recently conducted an analysis of nationwide studies of gambling addiction. He found that the rate of problem gambling among adolescents was 9.4 percent, more than twice the 3.8 percent rate for adults. "Young people have been gambling since the beginning of time," he said. "But I think now, for the first time, young people are growing up having lived their entire lives in a social environment where gambling is promoted and socially accepted.

"It used to be that young people said, 'I'm 21, let's go have a drink.' Now they say, 'I'm 21, let's go gamble'."

Children get their lessons in wagering all around them—from the sports trading cards that they buy hoping to find one with an instant and large monetary value, to the chocolate chip cookie company that advertises during Saturday morning cartoons, offering $1,000 to the lucky child who buys a package with the chocolate chips missing. And although children have been gambling for years, the fundamental principle of gambling—buying a chance to win more money—is indeed more pervasive in the lives of young people than it has ever been, some experts say.

The local governments that sponsor lotteries, as well as the casino industry and other businesses, do their part, whether intentional or not, to enhance gambling's appeal in the eyes of the young. Lottery scratch cards have bright, cartoonish graphics. Video poker machines resemble the video machines that a generation of children have grown up playing. Video arcades for children along the Boardwalk in Atlantic City include reconditioned slot machines that work just like the real thing but offer prizes instead of money. And the casino industry, by surrounding itself with amusement parks and attractions that appeal to the young, has given parents a reason to bring children along when they visit places like Atlantic City and Las Vegas, introducing adolescents to casinos and cultivating future gamblers.

"Market-savvy managers are grooming the next generation," said Marvin Roffman, a Philadelphia-based gambling analyst. "The kids go to the amusement park for the day, and when the family gets back to the hotel room, Dad is talking about how he did at the blackjack tables and Mom is talking about how she did at the slots. The kids are listening and it's making an impression on them."

With so many other things to worry about, like teen-age pregnancy, drug abuse and drunken driving, many parents and educators say they have not yet focused on gambling as one of their major concerns.

"I know we have students, probably a large number of students, who gamble," conceded William Steele, the principal of Atlantic City High School. On the desk in his outer office, there is a stack of pamphlets for students to read about compulsive gambling. And although the school's student resource center lists counseling for problem gambling as one of the services it provides, Mr. Steele admitted that little has been done to encourage students to seek help for gambling problems. "It's not an area that we have taken a keen interest in," he said.

It is true that like other rites of passage, gambling will prove harmless in the long term for most of the young people who try it. Dr. Shaffer said that many teen-agers experimented with gambling and lost interest as they became adults. One primary reason that teen-agers are so interested in gambling, he said, is that adults have failed to inform them of the dangers. "I think it's because of the whole social milieu that we've provided these young people," he said.

THE PROBLEM—TEEN-AGERS LOSING CONTROL OF THE DICE

While much is left to be learned about the long-term impact of gambling's pervasiveness, it is already quite clear that some youths are destined to have problems with their gambling. Gambling experts estimate that 10 to 15 percent of youths who gamble become "problem gamblers," meaning they suffer some loss of control over their gambling behavior. And according to the Council on Compulsive Gambling of New Jersey, of those who experience more severe problems and become pathological gamblers, most are people who start gambling before they reach 14.

One such case is that of Malcolm, a 17-year-old youth from Plainfield, N.J., who at 13 was playing craps in his neighborhood and wagering on pick-up basketball games and "see-low," a game played with three dice that is popular among teen-age gamblers.

"I always gambled, so I thought that I may have a problem," Malcolm said. After a recent conviction for marijuana possession, Malcolm was sent to New Hope Foundation, an in-patient addiction center in Marlboro, N.J. Compulsive gambling was diagnosed, and now he receives treatment for both drug and gambling problems.

Cole DiMattio, one of Malcolm's counselors at the center, said that it was Malcolm's interest in gambling that led him to drugs. "All of his gambling," Mr. DiMattio said, "looking for that crowd, brought him into the drug culture." When he was a child, Malcolm said in a recent telephone interview, his parents often played the state lottery and visited the casinos in Atlantic City. "They didn't take me with them" he said. "But I wanted to go."

Valerie Lorenz, executive director of the Compulsive Gambling Center, a treatment program in Baltimore, said that while many teen-agers were compulsive gamblers, few sought treatment while they were still in their teens. "It just takes a while for the addiction to develop," she said.

Michael is a case in point. He traced his interest in gambling back to growing up in Phiadelphia, where he helped his grandmother pick lottery numbers at the corner store and joined her on frequent trips to Atlantic City, an hour's drive away. He recalled standing outside the old Playboy casino, peering through its gigantic window.

"I stood outside that glass and watched my grandmother and thought, all I ever want in life is to be on the other side of that glass," he said.

He got on the other side before long, he said, and by 15 he had used fake ID's and was a regular at the casinos, receiving free limousine rides to and from Philadelphia and compliementary hotel rooms from casinos that rarely qestioned his age. Betting $100 to $2,000 a hand on blackjack, he financed his gambling any way he could. He said he robbed local prostitutes several times and in a single week wrote $35,000 in bad checks at the bank where his father was a vice president.

"One of those prostitutes could have blown my head off," he said. "But it didn't matter, as long as I was able to stay in action, that's all that mattered." He is now married, working at a bakery and living in southern New Jersey. He attends meetings of Gamblers Anonymous, he said, and has not placed a bet in four years.

But not all young problem gamblers are able to withstand the travails wrought by their excessive wagering. Last November, just after running up a $6,000 debt betting on the World Series, Moshe Pergament, a 19-year-old college student from an affluent Long Island family, decided to end his gambling, and his life. He bought a toy handgun and drove erratically on the Long Island Expressway, causing police officers to stop him. When he was pulled over, he aimed the gun at the officers, who responded by shooting and killing him. The police said they found letters in Mr. Pergament's car that revealed the gambling debt and his intention of having the police shoot him, a phenomenon known as "sucide by cop."

THE POLICING—OFFICIALS WATCH, TRYING TO RESPOND

In parts of the country where gambling has flourished especially fast, the problem with under-age gambling is particularly acute. In Louisiana, a state that has long had horse racing and back-room card games but over the last decade has added riverboat casinos, video poker machines, a state lottery and casinos operated by American Indians, officials were jolted into action after the Louisiana State University study found that youths there were three times as likely as adults to become problem gamblers. The study, conducted by the department of psychiatry, surveyed 12,066 adolescents grades six through twelve in public and private schools in the 1996–97 school year.

The Louisiana State Legislature this year raised to 21 from 18 the minimum age for playing the state lottery and video poker machines inside more than 5,000 bars, restaurants and truck stops. Most states require lottery players to be at least 18. About half the states with casinos or video poker and slot machines allow 18-year-olds to play, while the other half, including Nevada and New Jersey, require those gamblers to be at least 21. The majority of states with parimutuel betting on events like horse racing, dog racing and jai aiai allow 18-year-olds to bet.

In Louisiana, after a local television reporter used an undercover camera recently to show that under age gamblers were easily boarding the more than a dozen casino riverboats docked around the state, state gambling regulators are now threatening to rescind the licenses of casino operators who cannot keep under-age gamblers off their boats. In other states with legalized gambling, there are similar concerns. A citizen watchdog group in Illinois, for example, recently filmed under-age students drinking and gambling on the state's riverboats. The state gaming board then took steps to enforce age minimums.

"The truth of the matter is under-age gambling is a little like under-age drinking," said John Kennedy, Louisiana's secretary of revenue and a member of the state gaming control board. "Minors, by definition, don't have the reasoning power of adults. If you don't have the reasoning power, then you can't know your limits."

Still, many teen-agers simply do not want to wait until they are old enough to gamble. In Atlantic City last year 38,502 juveniles were escorted out of the city's 12 casinos, according to the state's casino control commission. An additional 52,364 under-age would-be gamblers tried to enter a casino and were turned away.

Too often, though, experts say, enforcement is lax.

A familiar scene played itself out recently at the Tropicana Casino here. Madelyn Carabello was locked in a hypnotic trance as she dropped coins in a slot machine and watched the reels spin to a stop. After she had been playing for an hour and a half, a security guard approached her and asked for identification, then escorted her out. If her flawlessly youthful face, striped denim jeans and tennis shoes were not enough to tip the casino's security staff that it had an under-age gambler in its midst, surely the gold pendant around her neck was a dead giveaway. It was a large heart, surrounding the numeral 19, her age.

But despite her age, it was not the first time that Ms. Carabello, a freshman at the Fashion Institute of Technology in New York City, had gambled in a casino.

She recalled the eagerness with which she and 10 classmates boarded a gambling boat on their prom night in Miami.

"We heard that you only had to be 18" to gamble on the boat, she said. "I had heard how it was in a casino, that you could win money and stuff. I was like, 'Okay, let's do it.' "

Youths gamble because they see everyone around them doing it, not because they care that lotteries are sanctioned by the state or that casinos are legal, said Henry Lesieur, president of the Institute for Problem Gambling in Pawtucket, R.I.

"I don't think that kids are thinking at this level," he said, "whether the state sanctions it or not is irrelevant. What is relevant is that it is available in places like the grocery store and they can see it being advertised on TV."

The casino industry, keenly aware of the potential for compulsive gambling to become the bane that nicotine addiction is to the tobacco industry—and aware that a Presidential commission will issue a comprehensive report next year on the impact of gambling on the country—has recently begun to acknowledge the problem and take preemptive steps. New programs to discourage under-age gambling are being paid for and implemented by the industry, and studies on compulsive gambling, particularly among under-age gamblers, are being conducted through research grants from the industry.

"Most of the under-age gaming going on in this country is not going on inside the casinos," said Frank Fahrenkopf, president of the American Gaming Association, the casino industry's lobbying organization. He pointed out that many young people gamble on sports and play lotteries. "We are trying to reach out to that area of the population."

The interest that children develop in gambling often starts long before they are old enough to sneak into a casino. A group of Long Island parents, concerned that their young children were hooked on sports trading cards, filed lawsuits against six of the major sports trading card companies in 1996, claiming that the companies have colluded to conduct an illegal gambling enterprise by inserting rare and valuable cards that could instantly be redeemed for cash. The lawsuits, filed in New York, New Jersey, Texas and California, are pending, although one claim in Texas was dismissed by the court there. James M. Schaefer, an anthropologist at Union College in Schenectady, N.Y., who conducted research for the plaintiffs, visited card shops and sports memorabilia shows where the cards are bought and traded. What he found was that children as young as 6 were doing what is known as insert card chasing, spending $2 to $6 for a pack of cards, ripping them open, quickly flipping through them in search of the valuable inserts, discarding the "garbage cards" and buying more.

"The kids are driven to find a valuable insert card, and they'll spend all the money they have to find it." Mr. Schaefer said. Some gambling opponents have raised similar concerns about other seemingly benign products aimed at children, like the scratch-and-win promotions often offered by McDonald's, and a current promotion by Nabisco, which offers $1,000 to anyone who finds a bag of Chips a'hoy cookies without any chocolate chips. Ann Smith, a spokeswoman for Nabisco, denied that such promotions encourage gambling. "They are purchasing the product," she said. "It's a consumer promotion geared toward added value."

THE NEXT BET—COPING IN A CULTURE OF GAMBLING

Many students in places like Atlantic City become familiar with casino games because they work after school or in summer at the casinos. Although customers must be 21, the minimum age for working at a casino is 18. Many young gamblers said that they had jobs and financed their habit using the same disposable income that other young people spend at the movies or the mall. However, gambling experts said that many of those who gamble at school or elsewhere come from affluent families and have more money than the average student. Casinos here and in other cities have created opportunities for young people. In addition to jobs, they provide a wide range of assistance to local teeagers, from scholarships to mentoring programs. But with some of those same young people becoming increasingly fascinated with gambling, some communities are now questioning whether they should accept any largess from the casinos in their neighborhoods.

In Louisiana, casino employees participate in career days at high schools, and casinos have donated to students everything from pumpkins for Halloween to playing cards emblazoned with casino logos. But now, after opponents of gambling complained that these donations were only veiled attempts by the casinos to cultivate future loyal customers, gambling regulators are considering a ban on donations from casinos to students. "We are trying to make a determination as to whether the stuff they do in the schools is marketing," said Hillary Crain, chairman of the state's gaming control board.

Many experts said that the best method for dealing with the escalating interest in gambling among youths is to teach them more about the potential downside to gambling, and to get them to better understand probability, the ratio of the number of times that something will probably occur to the number of possible occurrences. If they better understood the extent to which the odds are against them, experts said, fewer children would be so anxious to gamble. Still, said Edward Looney, the executive director of the Council on Compulsive Gambling of New Jersey, "Youngsters are youngsters, and gambling is an exciting thing for them to do because it's risky."

But even as schools preach against gambling, in many places it has become a part of the culture of adolescence. Growing up in Warwick, R.I., where residents can bet on the state lottery, jai alai and dog races, play video lottery machines or drive to the Fox woods casino an hour away in Connecticut, Seth Jackson anxiously, awaited the day he would turn 21 and could step into a big, rambunctious casino to gamble to his heart's content.

"It was a big deal for me the first time," Mr. Jackson, 22 a senior at George Washington University, said during a recent "senior week" bus trip to Atlantic City, the gambling capital of the East Coast. "Everybody around me gambled when I was growing up." he said, as he stood surrounded by classmates and slot machines inside the Tropicana.

At Atlantic City High School here, students said that betting on sports and playing card games for money was common. Several students said in interviews that they knew of a fellow student who worked as a professional bookie, laying odds on games and collecting bets. "The guy books bets right in school," said Tom Le, 16 a sophomore.

In May, on the night of the school's senior prom, one of the activities arranged for the evening was a mock casino, set up inside the cafeteria. Students received clips and played casino games like blackjack and craps. "I was really astonished at how well they knew the games," said Mr. Steele, the principal. He said he believed that gambling had captured the fancy of young people because it made them feel like adults. "I guess it's a nice feeling to go into the casino, play and receive complimentary drinks," he said. "How can you tell them, here it is, it's exciting, but you can't do it? We have to face it, it's here to stay. It's a matter that's going to have to be dealt with. I don't know how. Just hope and pray that it's done on a small scale."

HOUSE OF REPRESENTATIVES—*Friday, June 19, 1998*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. LATOURETTE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 19, 1998.

I hereby designate the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

With gratefulness and joy we celebrate that Your grace, O God, is sufficient for all our needs and available to us in all the reaches of our lives. If we live with the good fortune of life, You are there, and if we suffer and know anguish, You are there. Whether in the heights of happiness or in the depths of despair, whether at the end of the day or at the morning light, in youth or age, in all the seasons of our existence, we can be confident that Your spirit leads us and Your grace accepts us, whatever we have been and wherever we are.

For all these great gifts, O God, we offer our praise and thanksgiving. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr. BALLENGER) come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

The message also announced that the Senate passed bills of the following titles, in which concurrence of the House is requested:

S. 1104. An act to direct the Secretary of the Interior to make corrections in maps relating to the Coastal Barrier Resources System.

S. 1279. An act to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senators as members of the Senate Delegation to the Mexico-United States Interparliamentary Group meeting during the Second Session of the One Hundred Fifth Congress, to be held in Morelia, Mexico, June 19–21, 1998—

The Senator from Kansas (Mr. ROBERTS); and

The Senator from Alabama (Mr. SESSIONS).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will entertain five 1-minutes on each side.

HAPPY FATHER'S DAY FROM THE FATHERHOOD PROMOTION TASK FORCE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, as the cochair of the Task Force on Fatherhood Promotion, I rise today to discuss the importance of a faithful father.

With Father's Day this Sunday, it is vital that we pause to thank the men across this country who have given time to their children, love them, discipline them and show their commitment to keeping a family together.

When more than 50 percent of all adults agree that fathers today spend less time with their children than their own fathers did with them, this should cause us to pause. We must consider the reality that only if we spend time with our kids now will they desire time with us later.

As Father's Day comes and goes again, we should resolve that the most important relationship we will ever cultivate will not be here in the halls of Congress, or over dinner downtown, or at a campaign fund-raiser, but will be the ones that develop in our own homes.

To all those fathers who are working to be good dads:

Keep up the valuable work that you are doing. Society and, most importantly, your own kids will say, "Thank you."

PRIVATIZATION SCHEMES TRADE AWAY SOCIAL SECURITY'S GUARANTEE FOR A WALL STREET GAMBLE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, investing Social Security in the stock market concedes to the hysteria manufactured by Wall Street. They exaggerate Social Security's actuarial imbalance and call it a crisis. There is no crisis. With current tax and benefit rates remaining constant, Social Security will pay 100 percent of the benefits of future recipients until 2032 without any change whatsoever. That is according to the most conservative estimates which assume extremely low economic growth rates and high unemployment.

What private sector initiative can promise the same? What other program backed by the full faith and credit of the United States? None. Only Social Security is guaranteed.

Privatization schemes trade away Social Security's guarantee for a Wall Street gamble. What goes up must go down. All forms of privatization constitute a cave-in and a back-track.

Members of Congress will soon be offering a resolution that says Congress must guarantee that all obligations to current and future Social Security beneficiaries will be paid in full. Americans need to hear Congress reaffirm its commitments to its citizens.

Stand up for Social Security.

THE PROBLEM IN EDUCATION IS NOT A QUESTION OF MONEY

(Mr. GIBBONS asked and was given permission to address the House for 1

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, will we ever learn from history?

Last year the liberal Democrats said, "We need to spend more money on education because it will improve the education of our children." And so Congress voted to do so. The year before that, the message was exactly the same: Spend more money. And Congress did.

And the year before that, we heard the same arguments: Spend more money, and children will do better in school. And Congress did.

And the year before that, the liberals were in full cry demanding that more money be spent on education because that will surely improve student performance. And indeed Congress bowed to those demands.

But somehow we have still failed schools, and student performance is as dismal as ever.

My question is to the other side: At what point do they conclude that the problem in education is not a question of money? Is the other side utterly incapable of thinking seriously about the question, or will no amount of failure, absolutely no amount of evidence, ever have the slightest impact on their thinking?

Mr. Speaker, I yield back the balance of any thinking time they may have.

BEAM ME UP—TEACHERS IN AMERICA CANNOT EVEN MENTION GOD?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Mildred Rosario, a sixth grade teacher in the Bronx, was fired. Mildred was fired for attempting to comfort her students over the drowning loss of a fellow classmate by simply saying he was in heaven.

Mildred was fired for saying, I quote, he was in heaven.

Unbelievable.

In America teachers can pass out condoms in school. Teachers can pass out needles. Teachers can even have forums and discussions on devil worship. But in America teachers cannot even mention God.

Beam me up.

A Nation that can discuss devil worship in our schools but cannot even mention God is a Nation that has lost both its sense of values and its sense of common sense.

Mr. Speaker, I yield back any problems we have in our schools.

THE PRESIDENT IS OPPOSED TO EDUCATION SAVINGS ACCOUNTS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, it is not very useful or helpful to debate another man's motives. After all, how can one possibly know the true motives in another man's heart? But how else can we explain the President's opposition to perhaps the best single thing this Congress has done for our Nation's children this year in the area of education?

Yesterday the President indicated that he plans to veto the Coverdell legislation that would allow parents, guardians, even corporations and unions to set aside up to $2,000 per year in tax-free savings accounts.

Think about this: The President is opposed to education savings accounts. This is something that middle-class parents have been calling for for years. What could possibly explain the opposition of most of the Democrat Party to this pro-education bill? Could it be that this party is utterly, totally, inextricably beholden to the teachers' unions, special interests that fight every single reform that might threaten their power?

This is special-interest politics at its worst, and our children are the ones who are being short-changed by it.

WHERE DO THE REPUBLICANS STAND?

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, Republicans continue to do everything they can to block the teen smoking and the campaign finance legislation. They want to preserve soft money and keep the obscenely large contributions from big tobacco and other special interests rolling in to fill their campaign coffers.

We know on Wednesday Senate Republicans killed the comprehensive bill to help stop teen smoking, and the GOP's efforts showed where the Republicans stand: in the pocket of the big tobacco companies who want to snuff out any real efforts to prevent kids from smoking.

And now we see the same thing happening with regard to managed care reform, patient protections. We have not been able to get a hearing on patient protections; we have not had any effort really to try to bring a bill to the floor that would reform managed care in the way that most Americans want to see something happen this year in Congress, to make it possible for us to have quality health care in this country.

What we are seeing here on a regular basis is Republican efforts to kill every major piece of progressive legislation, whether it is the tobacco settlement, it is campaign finance reform, or it is managed care reform.

AMERICA NEEDS REAL EDUCATION REFORM

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, what would it take to convince education bureaucrats that reformers are pro-education? Would an effort to give parents more control over their children's education do it? Would a program that gives children trapped in terrible schools the opportunity to go to a better school do it? How about reforms in place around the country that offer disadvantaged children real hope for the first time?

No, none of these are satisfactory to the education bureaucrats, because they oppose everything we are attempting to do—from charter schools to parental choice to improve education. The only way to convince them is simply keep sending more money to spend from Washington, D.C.

We Republicans reject this failed philosophy. We are going to pass legislation to give control, as Governor John Engler says, to parents who love their children, and take it away from bureaucrats who love their paychecks.

BEST WISHES TO THE MEMBERS UNDERTAKING THE STUDY OF OUR CURRENT RELATIONSHIP WITH CHINA IN AN ELECTION YEAR

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Mr. Speaker, yesterday this House voted to fund a $2.5 million study of our current relationship with China. The newly-appointed chairman, a Republican, the gentleman from California (CHRIS COX) and the ranking member, a Democrat, the gentleman from Washington (NORM DICKS), two well-respected Members of this body, deserve our support and respect as they begin investigating whether our decades-long policy and current procedures allowing commercial American satellites to be launched by Chinese rockets have inadvertently allowed transfer to the Chinese of information useful to the Chinese missile program. These are issues deserving thoughtful analysis, but unfortunately for the gentleman from California and the gentleman from Washington they undertake this investigation at a time of intense rhetoric and prejudgment, and of course elections are 4½ months away.

Mr. Speaker, I encourage this body to let these Members do their work unobstructed by the hot rhetoric that sometimes overtakes this body. The gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS) and the other members of this committee, we wish them well.

KILLER CONGRESSMEN

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, yesterday's Washington Post headlines says it all: GOP Kills McCain Tobacco Bill. And in this body the Republicans leadership is trying to derail campaign finance reform.

Let me add what the Philadelphia Inquirer says today: Killer Congressmen. So unfair to call this a do-nothing Congress. Top Republicans on the Hill are putting in a lot of hard work right now. Think it is easy to kill off the tobacco bill and campaign financing reform at the same time? That is what they did yesterday, and that is what they continue to try to do.

The gentleman from Georgia (Mr. GINGRICH) and his minions are killing off campaign finance reform. It is an astute gamble. Thwarting the Shays-Meehan bill may hurt their ability to pose as reformers, but it will keep open the soft money spigot they count on to hold their House majority.

What more proof do we need that our political system is hopelessly broken? Vote to fix our political system, vote to end big money in campaigns, and vote for real campaign finance reform. Vote for the Meehan-Shays bill.

PROVIDING FOR CONSIDERATION OF H.R. 4059, THE MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 477 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 477

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. Pending the adoption by the Congress of a concurrent resolution on the budget for fiscal year 1999, the following allocations contemplated by section 302(a) of the Congressional Budget Act of 1974 shall be considered as made to the Committee on Appropriations:

(1) New discretionary budget authority: $531,961,000,000.

(2) Discretionary outlays: $562,277,000,000.

(3) New mandatory budget authority: $298,105,000,000.

(4) Mandatory outlays: $290,858,000,000.

□ 0915

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

House Resolution 477 is an open rule providing for the consideration of H.R. 4059, the Military Construction Appropriations bill for fiscal year 1999.

The rule provides for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Appropriations. Further, the rule waives points of order against the consideration of the bill for failure to comply with clause 2 of Rule XXI, prohibiting unauthorized appropriations or legislative appropriations in general appropriations bills, and clause 6 of Rule XXI, prohibiting reappropriations in general appropriations bills.

Further, Members who have preprinted their amendments in the CONGRESSIONAL RECORD prior to their consideration will be given priority recognition to offer their amendments if otherwise consistent with House rules.

In addition, the rule grants the Chairman of the Committee of the Whole the authority to postpone votes and reduce voting time to 5 minutes, provided that the first vote in a series is not less than 15 minutes.

The rule provides for one motion to recommit, with or without instructions.

Finally, because we are still without a budget resolution conference report, the rule provides that the allocations required by the Budget Act, section 302(a) of the Congressional Budget Act of 1974 that sets out the process requiring those numbers, shall be considered as made to the Committee on Appropriations. In other words, Mr. Speaker, we are using last year's budget resolution numbers, as adjusted for economic assumptions.

The Committee on Rules hearing was cordial and bipartisan, which I am told is a reflection of how the Subcommittee on Military Construction of the Committee on Appropriations has acted during the stewardship of the gentleman from California (Mr. PACKARD), the chairman of the subcommittee, and the gentleman from North Carolina (Mr. HEFNER), the ranking member. The gentleman from North Carolina (Mr. HEFNER) has been a tremendous asset to this House, and his contributions to a better quality of life for our men and women in uniform are truly commendable.

I support this open rule as well as the underlying bill. The bill funds military construction, family housing and base closure for the Department of Defense for the fiscal year ending September 30, 1999. The spending level represents a reduction in the underlying bill of $1 billion from last year's bill, $8.2 billion this year versus $9.2 billion for 1998, a reduction from last year's bill, and I believe that the bill contains a reasonable amount of spending, with the majority of the money going to family housing.

I commend the gentleman from California (Mr. PACKARD) and the gentleman from North Carolina (Mr. HEFNER) for their hard work and cooperation in bringing forward this Military Construction Appropriations bill, and I would urge the adoption of both the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I want to thank my colleague from Florida (Mr. DIAZ-BALART) for yielding me the time, and I yield myself such time as I may consume.

This resolution, which is H. Res. 477, is an open rule. It will allow for full and fair debate on H.R. 4059, which is the Military Construction Appropriations bill for fiscal year 1999.

As my colleague from Florida described, this rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

This rule permits germane amendments under the 5-minute rule, which is the normal amending process in the House. All Members on both sides of the aisle will have the opportunity to offer amendments.

The Committee on Rules reported this rule without opposition in a voice vote.

This bill appropriates $8.2 billion for military construction, housing for military members and their families, hospitals, and construction projects associated with base closings. This represents a cut of about 11 percent below the level appropriated last year.

The bill funds necessary capital improvements to our Nation's military facilities. The bill places a special emphasis on the planning and the construction of several barracks, family housing and operational facilities.

The bill contains funding for 3 projects at Wright-Patterson Air Force Base, which is partially located in my district. This includes money to restore 40 units of family housing.

The bill also funds construction of a building to consolidate the Aeronautical System Center's acquisition support functions.

The third Wright-Patterson project will renovate a C-141-C flight simulation training facility for the Air Force Reserve.

I also wish to call to the attention of my colleagues an extra provision in the rule which essentially scraps the budget resolution that we just passed on the floor of this House 2 weeks ago.

The rule we are now voting on establishes that the Committee on Appropriations will use last year's spending targets, not the ones we adopted in the House this year.

Mr. Speaker, passage of this bill is important to our national defense and to our fighting forces.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, we have no further speakers at this time.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, this is really an incredible process that we are going through here this morning. When the majority party took control of the House, they said they would do things differently, and they sure have. If we take a look at what has happened, this House has, or is supposed to have, an orderly budget process. We are supposed to produce a budget resolution which defines priorities and defines overall spending patterns, and then and only then are committees supposed to bring up their legislation which fits within the budget resolution which has been passed.

Instead, this House, this year, under this leadership has blown that process to smithereens. First it started with the highway bill, which before the budget resolution was even considered ran that horse out of the barn. That bill wound up spending about $25 billion more than the budget allowed it to spend.

Then this House passed the Kasich budget, which indicated that they were going to make substantial reductions below the budget which we agreed to last year. This chart demonstrates the difference between the Kasich budget and the budget that had been agreed to on a bipartisan basis with the White House last year. Under that bipartisan agreement last year, we are already supposed to be cutting domestic discretionary spending $43 billion below current services. Under the Kasich plan which this House passed, which that side of the aisle passed, those cuts are increased to $64 billion by the fourth year.

But then, having posed for political holy pictures by saying that they are going to cut that amount in the generic, what has happened? They then bring to the floor appropriation bills which do not meet the Kasich targets, and now we are supposed to, under this rule, for instance, approve a proposal which has a $1.4 billion adjustment in this year alone to the Kasich budget. That is not the only variance from the Kasich budget that we have here today, and it certainly is not the only variation from square budgeting.

Because in addition to this $1.4 billion gimmick, the committee is also bringing appropriation bills to the floor which exempt from the caps, which they just imposed, spending to solve our computer problem for the year 2000; in addition to which they brought additional spending to the floor in the defense bill which provides an additional amount of spending above the cap for computer security.

In addition to that, the majority party which for years has said that the CBO should be the Bible when it comes to determining what spending levels are, they have just decided that they are going to direct the CBO to say that the defense bill costs $2.5 billion less than it actually costs.

So when we total it all up, we have a $1.4 billion gimmick in this rule this morning. We had in the defense bill almost $5 billion in excess of the caps if those caps are going to be counted on a real basis; plus, we have in the Treasury Post Office appropriation bill another $2 billion in excess of where the caps are supposed to bring us in.

So at this point I would simply say, it is very, very difficult to figure out what the rules are, because so far we have been proceeding under 3 different sets of rules, 3 different sets of assumptions within the past 3 weeks.

I have finally figured out what the rules are for spending this year. The rules are whatever the Speaker's office says they are. So I am going to vote against this rule because I think that this is an incredible way to run a railroad.

What has happened is that the Republican leadership has brought to the floor the Kasich budget resolution, which pretended to their most conservative Members within the Republican Caucus that they intended to make these deep reductions shown by this chart. They are now bringing appropriation bills to the floor which totally ignore those levels. All I can say, fellows, if this is your idea of reform, I would hate to see your idea of what the status quo is all about.

Mr. DIAZ-BALART. Mr. Speaker, we have no further speakers at this time.

I yield myself such time as I may consume to simply reiterate that the underlying legislation being brought to the floor this morning has a cut in it, a reduction in funding of $1 billion. That is not a reduction in growth, that is an actual cut of $1 billion from last year's bill, and that the Budget Act of 1974 is complied with with the procedure that we are following this morning.

Equally as important, the legislation that we are bringing to the floor this morning is under an open rule where every Member will have the opportunity to propose any amendment that the membership may wish to.

We are striving to bring as many pieces of legislation to the floor with open rules as possible. We are proud of our record in that regard, and we will continue to bring as much legislation as possible to the floor under this open rule process which grants every Member the opportunity to bring forth any amendment that is germane.

So with that in mind and stating it once again that this is an open rule, I would urge the adoption of the rule and reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, let me explain to the House our problem. This bill has a totally nongermane provision in it, this resolution. For the first time in the 15 or 16 years that I have been in the House, and longer for the gentleman from Wisconsin (Mr. OBEY), we are using a rule to comply with the Budget Act. We are making budget process procedures here in a rule.

□ 0930

Buried in this rule dealing with military construction appropriations is a major budget resolution provision. No notice. Simply stuck in there with the numbers. So that anyone who did not follow the numbers would not really understand the significance of this provision.

But here is the significance of it. This is an admission of failure. The Budget Act says that the budget resolution must be completed by Congress, through the House, through the Senate, through conference, a concurrent resolution passed by April 15. We are already more than two months delinquent. More delinquent, later than ever before in the 25 years that we have had a budget process.

In order to complete the process, the reason we have this deadline is so that the Committee on Appropriations can begin its allocation process. It has 13 subcommittees. The resolutions that we pass of spending functions has to be allocated to the separate subcommittees. And unless we get this done timely, the Committee on Appropriations cannot get their bills to the floor.

But anticipating that we might not do it timely, there is a provision in the Budget Act that gives the chairman of the Committee on the Budget the authority to file a spending allocation which the Committee on Appropriations can then take and suballocate. It is section 302(a)(5) of the Budget Act.

So, Mr. Speaker, we have a procedure established not by rule of the House, not by a resolution, but established by law. It is statutory law of the United States giving the chairman of the Committee on the Budget the authority to notify the chairman of the Committee on Appropriations that this is his spending allocation which he can suballocate.

So the first question is why did we not follow black letter rules? Why did we not follow the statutory law of the United States as prescribed in the Budget Act? Why do we bury in a MILCON rule this arcane provision that nobody would understand unless he followed the letter of the budget process? What is happening here? What is this all about? A totally nongermane provision buried for the first time in a construction bill. Why do not we simply have the chairman of the Committee on the Budget write the letter that is necessary?

Then we notice there is a slight discrepancy, if we consider a billion dollars slight, because these numbers add up to $1.1 billion in budget authority and $1.4 billion in actual spending, we call it outlays, more than was provided for in the Kasich resolution, the House Republican resolution which narrowly passed the House just a couple of weeks ago.

So the whole House spoke on this subject and passed a resolution a couple of weeks ago, and already we are beginning to unravel that resolution. We saw it almost unravel here on the House floor. And the last thing I said about it is we passed a resolution, but what have we passed? Because the black hole in the middle of it leaves as much unresolved as resolved. Here we begin to see one of the mysteries of the black hole in the middle of that resolution. We have to come out here and patch it up with a military construction spending resolution on the House Floor.

But nobody should mistake the import of this. We have just raised spending and, therefore, I guess reduced the tax cut that the Republicans would make in their budget resolution by at least a $1.1 billion. The resolution we passed, even though we had passed ISTEA, the renewal of the highway funding bill called T–21, the Transportation Equity Act for the 21st Century, even though we had passed that and even though that increased spending under the Balanced Budget Agreement above the Balanced Budget Agreement by $35 billion and that had to be accommodated, the budget resolution passed by this House totally ignored it and left it to be worked out later. And here we are working it out in this stealthy fashion. A billion here, a billion there, and pretty soon we are talking real money. This is some way to run a budget process.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I agree with the gentleman that this is a stealthy process. Will this budget fly in the rain? I know the B–2 will not fly in the rain. Will this budget fly in the rain?

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must commend my dear friends on the other side of the aisle for their extraordinary imagination and parliamentary ability, parliamentary ability which obviously is connected to imagination.

A number of points have just been made that were fascinating. Number one, that a mysterious provision has been buried in this rule. That was said more than one. Very interesting. My recollection this morning was that the Speaker recognized me first and that I granted time to my dear friend, the gentleman from Ohio (Mr. HALL). The gentleman from Massachusetts (Mr. MOAKLEY) was here on the floor first, so I granted time to the gentleman from Massachusetts and then the gentleman from Ohio has been controlling the time for our distinguished friends on the other side of the aisle.

Now, when the Speaker recognized me and I made a brief statement this morning describing the rule, this open rule with which we are bringing the underlying legislation to the floor, it is not only in the rule but I mentioned on the floor and I will repeat, because we are still without a budget resolution conference report the rule provides that the allocations required by the Budget Act, section 302(a) of the Congressional Budget Act of 1974 that sets out the process requiring those numbers, shall be considered as made to the Committee on Appropriations.

In other words, we are using last year's budget resolution numbers as adjusted for economic assumptions.

Mr. POMEROY. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from North Dakota.

Mr. POMEROY. Mr. Speaker, I have a question on that specific point, because the Budget Act provides a way for the appropriations process to go forward in the absence of a budget resolution. It requires a letter from the chairman, and that is specifically provided under section 302(a)(5) of the Federal code.

The Budget chairman is directed then to write a letter relative to the allocations and that allows the appropriations process to move.

Will the gentleman tell us whether the chairman has written a letter as provided in the Budget Act?

Mr. DIAZ-BALART. Mr. Speaker, reclaiming my time, we have complied not only with the spirit but with the letter of the law, the Budget Act. And I have in my possession, and I would be glad to give my distinguished friend a copy, a letter from the chairman of the Committee on Appropriations where the following among other things is stated:

This procedure that we are using, that complies not only with the spirit but with the letter of the Budget Act, has been done in previous years when the conference on the budget resolution was late. And further, the chair of the Committee on Appropriations states if the conference agreement on the budget resolution should adjust these numbers that we are using in this appropriations bill that is brought to the floor today, the committee will adjust, the Committee on Appropriations will adjust its allocation and reflect such changes in further suballocations for later bills.

But what I wanted to make reference to was in regard to the great imagination showed by my colleagues on the other side of the aisle when they talk about the stealth procedures that are being utilized. Stealth procedures. When I brought out, the Committee on Rules brought out in his rule in writing for everyone interested to read, but I brought out in my oral statement this morning opening this debate what we are doing fully in compliance with the Budget Act of 1974. So that is something I think is important to point out.

Also, Mr. Speaker, I would like to point out that was stated more than once by our distinguished friends that we are raising spending. I remember I used to be in the State legislature in Florida and a lot of times when discussions would occur with regard to reductions in the growth of government spending, those would be called cuts.

Here in Washington in the 6 years since I have been here, often we have seen that when reductions in the growth of government are referred to, they are called cuts. And yet the underlying legislation that we are bringing this morning to the floor, the military construction bill, does not reflect a reduction in the growth of government spending. No, no. It brings to the floor an actual cut in the budget of a billion dollars, from $9.2 billion to $8.2 billion.

So what I am saying is obviously what we are seeing this morning is great talent, imagination, parliamentary ability. But I think that I certainly have never seen in the context of an open rule being brought to the floor for legislation so that all these amendments and all these ideas and all this imagination can be reflected in the context of an open rule, where every Member can come to the floor and debate ad infinitum if they wish in the context of our open rule, Mr. Speaker, which is something that was very rare when the other side controlled the majority, we are seeing all these signs of imagination. All of these signs of parliamentary ability. All of these signs of talent.

Mr. Speaker, I would say to my colleagues on the other side of the aisle, why not wait and during the open rule which we are granting, which is something that they rarely gave to us, why not wait during all the time in the world that we are granting for all of this maneuvering on the open floor?

Instead, they bring it during the open rule to obfuscate the fact that we are bringing an open rule. To obfuscate the fact that they rarely brought an open rule. To divert the attention of the membership to the fact that this Republican majority has a much higher percentage of open rules that it brings to the floor than the Democrats when they were in the majority.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentleman from Ohio (Mr. HALL) for yielding me this time.

Mr. Speaker, I would ask the gentleman from Florida (Mr. DIAZ-BALART), my friend, if he might take a question.

Mr. DIAZ-BALART. Mr. Speaker, if the gentleman would yield, I would be glad to.

Mr. POMEROY. Mr. Speaker, the question gets to that letter that I was asking about, and I did not want to pursue it on the gentleman's time, so he could make his point. But it really relates specifically to the legal requirements before this body under the Budget Act.

Mr. Speaker, I ask the gentleman whether a letter had been submitted by the chairman of the Committee on the Budget, as required under section 302(a)(5) of the Budget Act. I reminded the gentleman that the budget laws for this country say that when there is not a budget resolution passed by Congress, the procedure provided in the statute is to have the Committee on the Budget Chairman submit a letter with the spending allocations.

The gentleman said he had received a letter from the chairman, and quoted from it.

Mr. DIAZ-BALART. Mr. Speaker, of the Committee on Appropriations.

Mr. POMEROY. Oh, the gentleman received a letter from the Appropriations chairman.

Mr. DIAZ-BALART. That is the letter that I have before me.

Mr. POMEROY. Mr. Speaker, reclaiming my time, I appreciate the gentleman for making that distinction.

Mr. Speaker, I have a follow-up question. The Budget Act does not provide or specify in any way about a letter from the Committee on Appropriations chairman. The procedure is that the Committee on the Budget chairman must submit a letter relative to the spending allocations so that the body may proceed.

My question is has the Committee on the Budget chairman submitted a letter pursuant to the legal requirement of the Budget Act?

Mr. DIAZ-BALART. Mr. Speaker, if the gentleman would continue to yield, I am not in possession of that letter. But what I do know is that the procedure set forth by the Budget Act has been fully complied with, and that the Budget Act contemplates the possibility that we are dealing with at this time. This is not the first time we are dealing with it and in that contemplation, if I may answer——

Mr. POMEROY. Mr. Speaker, my time is running, so if the gentleman would get to the point, please.

Mr. DIAZ-BALART. Then I cannot answer the gentleman's question if he will not give me the time to answer his question.

Mr. POMEROY. Mr. Speaker, reclaiming my time, I think we have a filibuster going on. Reclaiming my time. Let me really take issue with the gentleman from Florida from the majority when he says that the Budget Act has been fully complied with. It has not.

There is a procedure. The procedure is, first of all, the House and Senate have to pass a budget resolution by April 15. Obviously, that has not taken place. There is a fail-safe provision, because I will be the first to admit the Democratic majority routinely blew that April 15 deadline. But the follow-up provision is that the Committee on the Budget chairman must submit a letter with the spending allocations. Here the gentleman from Florida says he has no letter from the Committee on the Budget chairman. He says that the act has been fully complied with, but he has no letter. That cannot be case.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, what needs to be understood is that this is not a rule on the military construction bill. This is a rule which allows this House to totally ignore the budget resolution that just passed 2 weeks ago on this and every another appropriation bill that comes to the House.

□ 0945

That is the problem, this is not a military construction rule. This is a rule that blows away the votes that my colleagues just cast 2 weeks ago in favor of the Kasich budget, and my colleagues are trying to hide it.

Mr. POMEROY. Reclaiming my time, I hope every Member watching this is aware that, in essence, this is nothing more than a flat-out House amendment of the budget we passed 2 weeks ago, an amendment adding more than $1 billion in spending, because the figures simply do not jive.

This rule would allow spending at the rate of $531.9 billion, and the Budget Act is $530.8 billion, a difference of well over a billion dollars in budget authority, nearly $1.4 billion in budget outlay. What they are trying to do in the rule is essentially amend the budget that we had enacted just 2 weeks ago.

My question, though, continues to be whether or not there is even legal authority for this provision because the Budget Act sets the rules. The rules are you have got a budget resolution. If you do not have a budget resolution, you have a budget chairman letter. We do not have the resolution. We do not have the letter. I seriously question whether or not this procedure comports with the Budget Act.

I will be checking with the Parliamentarian in terms of whether or not a point of order might be raised in terms of whether this body is acting outside of Federal law relative to this budget issue.

I do want to emphasize, as an aside, that this has nothing to do with MILCON. In fact, the gentleman from California (Mr. PACKARD) and the gentleman from North Carolina (Mr. HEFNER) are known for their bipartisan fairness. As a minority member, I can tell you that the MILCON committee has always listened carefully to my concerns and been respectable to them.

Mr. DIAZ-BALART. Mr. Speaker, I would simply reiterate that we are fully complying with the Budget Act of 1974 and all other laws and obviously the rules of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from Ohio (Mr. HALL) for yielding me this time.

Mr. Speaker, to my friend from Florida, if he wishes to respond, I will be glad to yield him some time. The gentleman brags that this is an open rule. We have always had open rules on MILCON bills ever since I have been in this Congress. We have always had an open process on military construction. But the amendment in the rule that we are concerned about deals with budget allocations which has nothing to do with the MILCON budget.

My question is, the gentleman is bragging that this is an open process that we will be able to offer any amendments that we want to once this rule is adopted. Once this rule is adopted, will I be able to offer an amendment that will adjust the budget allocations on the MILCON bill?

Mr. Speaker, I yield to the gentleman from Florida to answer that question.

Mr. DIAZ-BALART. The gentleman, as one of the most distinguished Members of this House and someone who is extraordinarily knowledgeable of the rules of the House knows——

Mr. CARDIN. That I will not be able to offer an amendment.

Mr. DIAZ-BALART. That the gentleman can oppose the previous question on this rule and make that point precisely to oppose the previous question.

Mr. CARDIN. Reclaiming my time.

Mr. DIAZ-BALART. Fine.

Mr. CARDIN. For the rule that my colleagues brought out that they brag is an open rule that deals with the budget allocations for this country, if it is adopted, I am not going to be able to offer any amendments to adjust those budget allocations, because it is not even germane to the rule that is being brought out to consider the MILCON bill.

Be honest out here as to how my colleagues are handling this. This is not the regular procedures of the House. The regular procedures of the House would be that we would adopt a budget resolution, and that would become the allocations. That is supposed to be done by April 15. My colleagues missed that deadline.

So now the Committee on the Budget chairman is supposed to give allocations. The Committee on the Budget chairman has different views than the Committee on Appropriations chairman. So the Committee on the Budget chairman is not even here to defend these allocations.

Let me just compliment my friend, the gentleman from South Carolina (Mr. SPRATT), because he offered an alternative budget that dealt with discretionary spending which was in compliance with the Balanced Budget Act of last year.

My colleagues are now accepting some of the allocations from the gentleman from South Carolina (Mr. SPRATT), but our problem is how are we going to pay for it? Are we going to go into the surplus and use the surplus and not protect Social Security? Are we going to cut Medicare? How are we going to pay for this? These are questions we ask when we do a budget resolution.

A budget resolution should mean something around here. But, no, my colleagues bring out a resolution from the Committee on Rules that changes the budget resolution that was passed on this floor. Then my colleagues say it is an open process, and we have no opportunity to offer any amendments to deal with it.

So my colleagues just cannot get their act together on this budget. We understand that. My colleagues have got differences with their own caucus, but they are not willing to bring everybody into the process. If they did, as we did last year, we would be able to reach a bipartisan agreement and be able to move forward with the appropriation process. But that is not what they are interested in doing.

Mr. Speaker, I yield to my friend, the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, the gentleman from Florida makes much of the fact that this is an open rule. I defy him to name one year when the Democratic Party, when it was in control, brought to the floor anything but an open rule on the military construction bill.

Mr. CARDIN. Mr. Speaker, I am glad to yield to the gentleman from Florida if he can tell us when there has not been an open rule on MILCON.

Mr. DIAZ-BALART. Mr. Speaker, what I am most impacted by at this point——

Mr. OBEY. Can the gentleman name a year?

Mr. DIAZ-BALART. If the gentleman wants to interrupt me before I can even answer my questions, then that is his prerogative. I am not going to be answering with constant interruptions. The gentleman thinks he is funny by getting up and saying, will you yield, and before I can even answer, he does not even allow me to answer.

Mr. OBEY. The gentleman is avoiding the question.

Mr. DIAZ-BALART. In the Committee on Rules, neither you there nor anyone else was asking to change this rule.

Mr. OBEY. The answer is there was not a year.

Mr. DIAZ-BALART. So the bottom line is this is an open rule, Mr. Speaker. We are proud of this open rule. It is a lot better than the other side did when they controlled the majority.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The gentlemen will suspend.

The time is controlled by the gentleman from Maryland (Mr. CARDIN). The Chair would ask the indulgence of Members to speak one at a time and only when yielded to.

Mr. CARDIN. Mr. Speaker, I appreciate that. Just to respond, on a military construction rule, I did not think it was necessary for me to go to the Committee on Rules to talk about budget allocations. I would have thought that the Committee on Rules would be dealing with military construction. I admit that was naive on my part. I should know that this Committee on Rules would do anything it wants to do.

But let me tell my colleagues something, in the 12 years that I have been here, to answer the ranking member on the Committee on Appropriations, we have never had anything but an open rule on military construction.

Mr. DIAZ-BALART. Mr. Speaker, I yield as much time as he may consume to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I have been sitting over in my office listening to what has been going on here. I have been a Member of this body for 20 years. I served 16 years in the minority. In those 16 years, I have seen the Democratic majority in an arrogant way treat this minority like they were a piece of you know what.

When we took over 4 years ago, when the American people decided they have had enough of this hypocrisy, we began to produce rules that were fair to both the majority and the minority in this House. Sure, they are not always open rules. They cannot be. You know that. You were in the majority for 16 years.

But when I hear people come on the floor today and start criticizing this military construction rule, which is an open rule, and it has one little addendum that was not even questioned, but when I hear people come on this floor and start saying, oh, you are picking up last year's budget levels, let me tell my colleagues what would happen if we did not do that, Mr. Speaker.

Suppose it were not in here. Do you know how the reverse of this debate would be going? The same people, the same Members would be saying, oh, you know, this is terrible. You Republicans have not adopted the budget yet. So we cannot go ahead with our appropriation bills. It is imperative that we go ahead right now and we pass these appropriations bills.

So my colleagues would be arguing just the opposite of what they are today. The one thing that the American people will not accept is hypocrisy. I mean, stand up here and say it one way or the other, but do not say it both ways.

Mr. OBEY. Mr. Speaker, will the gentleman yield on that?

Mr. SOLOMON. I yield to the gentleman from Wisconsin, one of my best friends in this body.

Mr. OBEY. Mr. Speaker, let me make perfectly clear to the gentleman from New York, there is nothing wrong with the rule on the military construction bill. The problem is the new budget resolution that my colleagues have slipped into it which allows them to spend billions of dollars more than they told the country they were going to spend just 10 days ago. That is the problem. If the gentleman is looking for a definition of hypocrisy, I would suggest that maybe he ought to look at that.

Mr. SOLOMON. Let me say to my good friend, he has a photostatic memory. I know him. I have served with him for 20 years. He pulls things out of the air, and I say how did he remember that. Sometimes, most of the times, it is truthful. But let me do the same thing. I have got a little photostatic memory, too.

Back on July 23, 1985, in H.R. 5231, there is the exact same deeming provision sponsored by the gentleman from Wisconsin (Mr. OBEY). That is what the Committee on Rules did.

Mr. OBEY. But what did it deem?

Mr. SOLOMON. It deemed it. That is exactly what we are doing here.

Mr. OBEY. The difference is what it deems, not whether there is a deeming provision.

Mr. SOLOMON. Regular order.

The SPEAKER pro tempore. The time is controlled by the gentleman from New York.

Mr. SOLOMON. The gentleman knows that, if and when the budgeteers get together over in that other body, and they are a little more arrogant than the Democratic majority used to be over here, as a matter of fact, they are a lot more arrogant in most cases; but when they finally get together and they adopt the budget, I see my good friend from South Carolina rising, then we will revert right back to the same kind of caps that we had before.

Can I go back to my office, I have not been there in 2 weeks, and try to get caught up on my work so I can catch a plane to go back to my district?

Mr. SPRATT. Mr. Speaker, will the gentleman yield before he goes back to his office?

Mr. SOLOMON. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, I want the gentleman to go back to his office and answer his mail. We cannot meet with the other body until we have a conference committee. We passed a resolution 2 weeks ago. When are we going to conference? After the July 4th break. That is about July 15.

Mr. SOLOMON. Let me say to my good friend, he knows there are 100 egos over there. There are Republican egos. There are Democrat egos. We are dealing with all kinds of people, especially one man named BYRD over there. I mean, you know, he is some bird. He is a very nice gentleman.

Mr. SPRATT. But we cannot deal with anything until we have a conference. We do not even have one established.

Mr. SOLOMON. My colleagues know what is going on right now. I just wanted to set the record straight to my very good friends on that side of the aisle.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would admonish all Members to avoid personal references to Members of the other body.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, we have had a fascinating discussion, and I want to emphasize, too, I have no problem with the rule on military construction. That is not the issue that has me upset and concerned today.

I am glad to see the chairman of the Committee on Rules has stayed on the floor, because, with all of the statements that have been made about fair rules, I would like to take the opportunity now to ask him: Why did the gentleman deny the opportunity of the Blue Dogs to have our budget voted upon on this floor so that some of this might not have occurred today?

Mr. Speaker, I yield to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, we have been explaining that for a long time. I brought the President's tax increases on this floor. There were about $78 billion in them.

Mr. STENHOLM. I must reclaim my time.

Mr. SOLOMON. Let me finish. The gentleman asked me to answer his question, I say to my friend.

Mr. STENHOLM. Okay.

Mr. SOLOMON. In other words, we gave an opportunity to the American people through their representatives, and that is exactly why the Blue Dogs were not made in order. We could have made in order 50 alternatives if we wanted to. We asked our side not to do it. We asked your side not to do it. Let us have an up or down vote on the alternatives.

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Mr. STENHOLM. Mr. Speaker, with all do respect, and I want to continue to yield to the gentleman, because he did see fit to give the CATs a vote. So what he just said is a little bit disingenuous because he allowed a Republican substitute but he chose not to let the Blue Dogs.

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield, I will say to my good friend that, yes, we did allow the CATs and we allowed the gentleman from South Carolina (Mr. SPRATT), too.

By the way, I want to tell the gentleman from South Carolina that the deeming portion that was in the 1985 bill was offered by one of the most respected and admired members of the Committee on Rules, also from the State of South Carolina, Mr. Butler Derrick. I just wanted the gentleman to know that.

Mr. SPRATT. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from South Carolina.

Mr. SPRATT. Could I just ask the gentleman, Mr. Speaker, in 1985, did the deeming resolution raise the allocation above that which the House had just approved 2 weeks before? This is $1.4 billion more than the whole House approved.

Mr. SOLOMON. Well, if the gentleman will continue to yield, the only way to continue with the appropriation process so we do not get into a position of shutting down the government, the only way is to deem last year's figures, which is what we did in 1985. The gentleman knows that.

Mr. STENHOLM. Reclaiming my time, Mr. Speaker, I think it is clear to everyone that we are completely and totally ignoring the rules of the budget process. That is a given.

There is no problem with the military construction bill we will take up. It is an open rule, a fair rule, and one that can be discussed. My problem today, as the ranking member of the House Committee on Agriculture, I have some very strong concerns about the allocation that the leadership of the House, written in the Speaker's office, has given to agriculture. I am sure others will have the same.

I have no problem with the total amount of spending. We have made that very, very clear. The Blue Dog budget, what we have before us today, is a cap on spending. I have no problems with that. But I have a problem with prioritization. Because, in my opinion, there are some real needs in agricultural research, in rural housing, in conservation programs, numerous cooperative State research, education, extension, that are being cut, that are not as high a priority as the legislative branch of government. Why we are increasing $100 million on the House of Representatives and then cutting in these areas of extreme importance, I do not understand, and we will have more to talk about that later.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Speaker, we are not here to be critical of the military construction subcommittee. The gentleman from North Carolina (Mr. HEFNER) and the gentleman from California (Mr. PACKARD) have done their job. We are not even here to be critical of the gentleman from New York (Mr. SOLOMON), who is just carrying the burden of leadership. What we are here to say is that this rule, uniquely, among the 13, is designed to pass a budget in real terms that will apply to the appropriations process, and nobody really knows that until we came to the floor this morning and discovered buried in this MilCon rule an increase in allocation of $1.1 billion in budget authority and $1.4 billion in outlays so that we could practically do, even to the degree we can, the business of this country.

In fact, the Republicans had a breakdown in the budget process. They have had to promise the moderates, the gentleman from Delaware (Mr. CASTLE) and others, that they would not raise taxes; and they had to prove to the CATs that they would cut taxes $110 billion; they have told the veterans' lobby that they will not cut veterans' programs; and they have told the moderates they would not cut Medicare and Medicaid. At the same time, they have had to promise the gentleman from South Carolina (Mr. SPENCE) they would increase defense spending.

It does not add up, my colleagues. They cannot pass a budget resolution. I do not even know that Mr. DOMENICI and Senator LOTT have reached any agreement on what the Senate ought to be doing. So what we are doing today is passing the budget resolution.

Everyone ought to know that this is not a rule on military construction. In practical terms, it is a way to get by the inability of this majority to function; to pass a budget. They want to be all things to all people, and it does not add up. As a consequence, the appropriators have to proceed. Because, if not, we will end up shutting the government down again, having a continuing resolution and looking inept.

So my colleagues should vote as they will on this rule, but should not be deluded into thinking it is simply a $1 billion cut in MilCon spending. This rule will define the entire appropriations process for the rest of this summer. If we are going to proceed on this basis, we might as well just forget the Committee on the Budget, forget the conference, that may or may not ever reach a conclusion, and simply go back to the system we had before the budget reforms of the 1970s.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume to say that, first of all, it is important to reiterate, because we have heard so often today it being alleged that we are doing something stealthily, that not only did we have a hearing and a markup in the Committee on Rules for this resolution that we are bringing to the floor today, in order to bring before us the underlying legislation of the military construction appropriations bill, but, today, in our presentation, our initial presentation, we talked about how we are complying with the Budget Act of 1974 through this procedure.

And then with regard to the so-called unprecedented nature of what we are doing, my dear friend, the gentleman from California (Mr. FAZIO), just said that we are, in effect, to paraphrase him, getting rid of the budget process. Our friends, when they controlled the majority in 1985, did this. Because at that time a conference report on the budget had not been passed as well. But they did not do it in June. They did not do it on June 19. No, it was July 24 that year that the budget process had not been completed. And they also brought a rule forward, in order to comply with the Budget Act, doing the same thing, deeming last year's numbers for this year's. So the reality is it has neither been done in a stealthy way, much less in an unprecedented way.

But I want to point out one very important point, because speaker, after speaker, after speaker on the other side have mentioned they have nothing against this military construction bill. Oh, no, no, no, this military construction bill is very good, and the gentleman from North Carolina (Mr. HEFNER), of course, has to be congratulated, and the gentleman from California (Mr. PACKARD). And speaker, after speaker, after speaker reiterate the fact they have nothing against the military construction bill; that it is very important to pass the military construction bill.

Let us keep one thing in mind. If our distinguished friends manage to defeat this rule today, if our distinguished colleagues on the other side of the aisle manage to defeat this rule, what they will be doing is denying our men and women in uniform the military construction bill. And let there be no doubt that all this fancy debate and imaginative performance that we have seen here today will have, if it is successful, the outcome, the effect, of denying the gentleman from North Carolina and the gentleman from California the opportunity to come to the floor today and to present a piece of legislation which is very necessary to our men and women in uniform throughout this country and those who are serving in so-called peacekeeping missions like in Bosnia.

So have no doubt, distinguished colleagues, as to what we are doing. This is not unprecedented. It was done in 1985, and not in June but in July. It was not stealthily done. It was publicly done in the Committee on Rules under the leadership of the gentleman from New York (Mr. SOLOMON). And again today we brought it out in our oral statement at the very beginning. What we are dealing with is bringing forth legislation that is critical to the national security of this country. So let us clarify and make clear exactly where we are and what we are dealing with.

If we want to continue talking as though we were in the model United Nations, like I was in college, because that is what I have been reminded of today with some of the speeches on the other side of the aisle, very theoretical and nice sounding speeches, but we are not talking model United Nations or model parliaments like when we were in high school or college. This is the military construction bill of the United States that we are bringing to the floor today. It is about time that we get to this legislation, and it is about time that we pass it today, and that is why I urge passage of the rule and passage of the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield the balance of my time to the gentleman from South Carolina (Mr. SPRATT), the ranking minority member on the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply say that the assertion of turning down this rule will deny anything to anybody in the military is absolute, total, flat nonsense.

This military construction bill is going to pass with bipartisan support. The problem is that there is added an illegitimate and, in my view, strange and sneaky way around the Kasich budget in the rule, and that is the objection. So do not drag out the red herring about endangering military. That is absolute, total, bald-face nonsense.

Mr. SPRATT. Mr. Speaker, let me make clear to everybody that this is not a tempest in a teapot. The money is not so significant in a budget of $1.7 trillion, but the precedent is vitally important.

A few weeks ago this House passed a budget resolution, narrowly passed it, which provided $530,863,000,000 for discretionary spending. Budget authority. And $560,885,000,000 for outlays. Now, the chairman of the Committee on Appropriations has requested an increase of $1.1 billion in budget authority and $1.4 billion in outlays. This procedure is not in compliance with the Budget Act.

Section 302(a)(5) allows the chairman of the Committee on the Budget, when there is no budget resolution, to write a letter to the Committee on Appropriations and set a level so that the committee can then suballocate that overall level to 13 different committees and we can proceed with bills like this. But in this case it is not the chairman of the Committee on the Budget, it is the chairman of the Committee on Appropriations, and he is actually requesting more than the House approved.

So in two important respects we are deviating from the budget procedures that we have established and followed for 25 years so that we can spend $1.7 trillion in a reasonably fair, orderly and systematic manner.

What we see here is a continuation of a trend, a sort of defiance, an indifference to the established procedure for the budget process. This is the latest budget resolution that we have seen; the longest delinquency in producing a concurrent budget resolution in 25 years. When we finally, 2 months late, got the budget resolution to the House floor, it came to the House floor 10:30 p.m. and we debated it into the wee hours of the morning.

And as we took it up, we noted that this budget resolution, which was a majority resolution, the Republican resolution, had a huge black hole in the middle of it. Because even though we had passed a highway spending bill that exceeded the balanced budget agreement by $35 billion, and set new levels of spending for transportation in that amount, the budget resolution wholly ignored what the Congress had done and left unresolved exactly how those spending increases would be accommodated in the resolution. And then, when there were not enough votes to pass it, it unraveled still further on the House floor.

This is no way to run a budget process, Mr. Speaker.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

What we have been alleging and bringing forth, the military construction bill, is not bald-faced horsefeathers, or some other regional folkloric terminology the gentleman from Wisconsin is so good at using. It is a very serious matter, this legislation, and it is very important to the national security of this country.

And these arguments, I think, we have refuted most effectively, in terms of this having been supposedly surreptitious or unprecedented. That is not true. It is not true, and I feel very proud of the gentleman from California (Mr. PACKARD) and of the chairman of the Committee on Rules in bringing forth this legislation under an open rule. And we have a very distinguished and admirable record of bringing forth important pieces of legislation, and most legislation, under open rules.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SOLOMON), the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me just briefly say that, first of all, this rule is not going to be defeated because every Republican is going to vote for this rule, and I will see to it. That means it is going to pass. And there are also a lot of good Democrats that are going to vote for this rule, because it is absolutely imperative.

Everyone knows, and the gentleman from Wisconsin (Mr. OBEY) knows, as does the gentleman from Maryland (Mr. CARDIN), that if we do not have this provision in the first appropriation bill coming up, it means a point of order lies against all other appropriation bills. So I will say to my good friend, the gentleman from Miami, Florida (Mr. LINCOLN DIAZ-BALART), it is not just the military construction appropriation bill, it is the veterans' bill, the Departments of Veterans and Housing, but it is every Federal program.

Mr. Speaker, we have some people around here that just want to raise points of order against everything. And we all know that they would do it. It stops dead in its tracks every single appropriation bill for every Federal program that we have today. So Members ought to come over here, vote for this rule, and then vote for the bill. It is terribly important.

When we talk about veterans or the military construction budget, right now we are in a dilemma, because the defense budget of this country, and I see the gentleman from Missouri (Mr. IKE SKELTON), one of the best Democrats that ever served in this body over there, ranking member of the Committee on National Security, he knows if we stop these appropriation bills we are stopping research and development in our military and we are stopping procurement. These contracts have to go forward so that the young men and women serving in our military today have the best state-of-the-art that we can give them. God forbid if they are ever called into harm's way. And with what is happening in nuclear proliferation around this world, it can happen tomorrow, in Kosovo and other places.

Let us use some sense here. Stop being hypocritical and come over here and vote for the rule.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. PACKARD).

Mr. PACKARD. Mr. Speaker, I thank the gentleman for yielding me this time.

I did not intend to speak. I thought this rule would go quickly and we would be done almost an hour ago. There is not anyone more controversial in this body than the gentleman from North Carolina (Mr. HEFNER) and myself. I recognize that. But it was a surprise that we found so much controversy on this rule.

My colleagues on the other side of the aisle cannot have it both ways. They cannot complain about the slowness of the process and the fact that we are not bringing the appropriation bills to the floor, and then proceed to prevent us from bringing our appropriation bills to the floor.

We simply feel that we are following the procedures under the circumstances we find ourselves in. We are following the procedures to allow us to bring this and all the other appropriations bills to the floor as rapidly as we can.

□ 1015

I intend to be on the floor, the gentleman from North Carolina (Mr. HEFNER) and I, next Monday, the very next legislative day. If we do not pass this rule, it obviously prevents us from doing so. If we do not follow that, then each appropriations bill will be delayed and then my colleagues will have another legitimate reason to say that we are not moving forward with the appropriating process and we are leading to a shutdown or a continuing resolution. That is what we heard today.

All we are asking in this rule is to allow us to bring the military construction bill to the floor next Monday and do our job. We have cut this bill over 10 percent from last year's appropriated level. The President cut it 15 percent. We have had to add on in this bill to even make it so that we are doing some semblance of a job of taking care of our military needs.

All we are asking at this time is that they allow us to move forward by passing this rule.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I simply want to make it clear, we have absolutely no criticism of the job the gentleman has done. He has simply run into an accident that started out to happen to somebody else. That is the problem here.

I want to make clear that when we do get to his bill, there will be a lot of Democrats supporting his bill, including this one.

Mr. PACKARD. But the fact is, my colleagues, we will not get to my bill and the Hefner bill unless we pass this rule. We hope that all Members will help us do that.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

I obviously support this rule. It is a fair rule. It is an open rule. It is important to bring the underlying legislation to the floor as soon as possible. The gentleman from California (Mr. PACKARD) has stated that we will have it on the next legislative day, on Monday, on the floor if we pass this rule. So I urge my colleagues to vote for it.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. LATOURETTE). The previous question was ordered.

Mr. OBEY. Mr. Speaker, I ask unanimous consent to divide the question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. SOLOMON. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PROVIDING FOR CONSIDERATION OF H.R. 4060, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 478 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 478

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 7 of rule XXI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2, 5(b), or 6 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), the distinguished ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 478 makes in order H.R. 4060, the fiscal year 1999 Energy and Water Development Appropriations bill, under a completely open rule, which the Committee on Rules reported by voice vote.

As is customary, the rule provides for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Appropriations.

The rule waives clause 7 of rule XXI, which requires printed hearings and reports to be available 3 days prior to consideration of an appropriations bill. Waiving this rule facilitates consideration of this noncontroversial bill, which the Subcommittee on Energy and Water reported by voice vote.

The rule also waives clause 2 of rule XXI, which prohibits legislating on an appropriations bill. The Committee on Rules conferred with the authorizers and determined there was no opposition to this waiver.

Similarly, the Committee on Ways and Means has no problem with waiving clause 5(b) of rule XXI, which addresses tax and tariff provisions under that committee's jurisdiction. The rule also waives clause 6 of rule XXI, which prohibits reappropriations in a general appropriations bill.

To ensure an orderly amendment process, the rule allows the Chair to accord priority recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. Further, the Chair may postpone and reduce votes to 5 minutes, as long as the first vote in any series is a 15-minute vote.

Finally, the rule provides for the customary motion to recommit, with or without instructions.

Mr. Speaker, like many of my colleagues, I was shocked to learn that the President's fiscal year 1999 budget proposal would cut spending for the construction of new levees, flood walls, and other protective water infrastructure by almost 50 percent.

In fact, the recommended funding levels for these projects, managed by the Army Corps of Engineers, would be the lowest in real dollars in the history of the civil works program.

How quickly the administration forgets. It was only 5 years ago that the Midwest was ravaged by floods which caused millions of dollars in damage and waged a devastating human emotional toll on those citizens who lost their homes, businesses, and communities to ever-rising flood waters.

Even more recently, the State of California has battled unrelenting floods that left the citizens searching for the means to rebuild their communities.

It is unclear where the next flood tragedy will appear. But eviscerating the construction budget of the Corps of Engineers only ensures that the damage will be more widespread.

Our recent past should convince us that investing in a defense system to prevent flood damage is far preferable to spending the money on cleanup after lives have been destroyed.

My constituents in central Ohio would be directly affected by the shortsightedness of the administration's budget. The West Columbus floodwall is currently being built to protect the homes and businesses along our Scioto River from catastrophic floods.

In 1913, 1937, and 1959, the Scioto overflowed its banks, causing millions of dollars' worth of damage to both residential and commercial property. Without floodwall protection, 17,000 residents continue to be placed at risk of life, injury and personal hardship. And that is only my story.

Construction of the West Columbus floodwall has been on track since it began in 1993. The U.S. Army Corps of Engineers identified a need for $16 billion in the next fiscal year to keep the project on schedule toward completion. Yet, the President slashed the Corps' budget.

I would like to commend the gentleman from Pennsylvania (Mr. MCDADE), the chairman, and the gentleman from California (Mr. FAZIO), the ranking member, and the rest of my colleagues on the Appropriations Subcommittee on Energy and Water for crafting a very fiscally responsible bill that restores these devastating cuts proposed in the President's budget, while at the same time keeping spending below the fiscal year 1998 level.

As my colleagues know, the energy and water bill provides funding for much more than flood protection. This legislation funds the Bureau of Reclamation, the Department of Energy, the Appalachian Regional Commission, and the Nuclear Regulatory Commission.

In their bill, the subcommittee was able to increase spending on programs, such as the solar and renewable programs, science programs, and the atomic energy defense activities.

The bill also includes important funding for defense environmental management and cleanup of hazardous and radioactive materials. These dollars will clean up sites throughout the country which were contaminated during the production of nuclear weapons.

Additionally, provisions of the bill seek to increase the efficiency of the Department of Energy through contract competition and reevaluation of the Department's organizational structure.

Mr. Speaker, the final product of the work of the subcommittee is $78.7 million below fiscal year 1998, keeping us on track to a balanced budget and a smaller, smarter government.

My colleagues in the Committee on Rules, both Democrat and Republican, had nothing but praise for the efforts of the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from California (Mr. FAZIO) to produce a balanced, bipartisan bill.

Mr. Speaker, I urge my colleagues to support this fair and open rule, which will provide for a thorough debate of spending priorities.

Further, I urge my colleagues to support the subcommittee's fine work by voting yes on this responsible energy and water appropriations bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague my dear friend the gentlewoman from Ohio (Ms. PRYCE) for yielding me the customary half hour.

Mr. Speaker, I rise in support of this rule and I urge my colleagues to support the Energy and Water Appropriations bills. I must say, though, Mr. Speaker, there is something curious in the bill.

Last year, my good friend the gentleman from New York (Mr. SOLOMON), the chairman, talked about the Armey protocol in which any provision objected by the authorizing committee members will be exposed to a point of order. But this year, the very first year it comes up, my Republican colleagues have decided to abandon the principles of the Armey protocol in terms of this rule.

Specifically, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Virginia (Mr. BLILEY), the ranking member and the chairman of the Committee on Commerce, the authorizing committee, wrote a letter objecting to the legislative language in this bill that falls within their jurisdiction. The request was completely ignored by the Republicans on the Committee on Rules, breaking faith with their own leadership protocol.

In terms of the bill, though, I want to congratulate my colleagues the gentleman from California (Mr. FAZIO) and the gentleman from Pennsylvania (Mr. MCDADE) for another job very well done. They and their colleagues have worked hard and long to give us a bill that meets most of our energy and water infrastructure needs, and for that we owe them a great debt of gratitude.

This appropriations bill will provide $3.9 billion dollars for the Army Corps of Engineers, which is above President Clinton's request but still less than we appropriated last year. That means that the level of funding is somewhere near what is required to fund worthy projects which are authorized and are ready for construction.

The bill also contains funding for the Department of Energy, which is $305 million more than last year but $867 million less than the President requested.

Unfortunately, we are just now beginning to feel the restraints of the Balanced Budget Agreement which was enacted only last year, and that means that many deserving energy initiatives could not be as fully funded as we had hoped.

For example, the Energy Department should be spending some of their time developing clean, non-greenhouse gas power sources. But the freeze this bill imposes on the solar and renewable energy program will seriously undermine that effort.

The bill also denies the administration's request for an additional $110 million for research and development related to global climate changes.

Mr. Speaker, this is the energy we need to develop in order to reduce greenhouse gas emissions and lower people's energy costs.

Mr. Speaker, the bill also makes some potentially dangerous cuts in the funding to clean up nuclear waste. And, Mr. Speaker, if the Energy Department does not clean up nuclear waste, who will?

□ 1030

Finally, the bill increases funding for basic science research and development. We are pleased that the committee was able to provide some increase over the President's budget request for fusion energy programs.

There were some really difficult choices for the Committee on Appropriations this year, mainly due to the strict limits in the balanced budget agreement. This means that any extra funding given to one program has to come out at the expense of other very important programs.

But, Mr. Speaker, this bill is coming to the floor with an open rule, and any Member that has an amendment that conforms to House rules can present it.

I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I continue to reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, in contrast to the last rule, I fully support this rule, and I want to explain why and explain the difference.

We heard speakers on the previous rule suggest that if we voted that rule down, that somehow we in the Democratic minority would be responsible for holding up the appropriations process. I would simply make the point to my friends on the majority side of the aisle, you are in the majority, you have the votes to pass any provision you want and any rule you want on this House floor, and you have demonstrated that many times. But I would just simply say this. Do not ask us to support a rule on the companion bill that was just before us simply because you cannot get your act together on passing the basic budget in the first place. When that budget was before this House, which changed the agreement that you had reached with the President of the United States last year to establish a very different trend line for appropriations than was the case in that bipartisan budget agreement, we warned you at that time that the budget resolution that you were passing would never pass your own Republican Members in the other body, in the Senate. You ignored that warning, and now you are finding out that that is true. You are finding out that your own Republican colleagues in the Senate believe that the budget that you passed was extreme, and, in fact, the rules preclude me from naming other Senators but the Senator who is chairman of the Budget Committee in the Senate, a Republican, said as much.

I would simply ask, why did we go through the charade of passing that budget in the first place if you yourselves did not intend to abide by it? That is my question today.

Mr. Speaker, I would simply say that what you have done in the previous rule in contrast to this one, in the previous rule what you did was bring to the floor a stealth provision which calls for the amending of the budget resolution which you passed with such fanfare just 2 weeks ago. I find that procedure quaint but not surprising, because it simply demonstrates what everyone knew but did not admit when that bill was before us, that that budget was essentially a political document to allow the majority party to pretend that it had room in the budget for a tax cut when in fact it is not able to pass the budget resolution which would make that tax cut possible.

I will simply say, I will vote for the rule on this bill, because this rule does not contain that gimmick. The previous rule simply asked every member of our party and every member of yours to ignore the very rules which you imposed on this House just 10 days ago. Maybe you can explain that in your caucus. I would find it very difficult to explain in ours.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Speaker, this is a troubling time for me. We were before the Committee on Rules on Military Construction, and I think it is a very good bill that we put together with limited funds. But there is an old saying that goes, "Oh what a tangled web we weave when first we practice to deceive."

If I might just remind Members the process that went on just a week ago. We had on this floor a budget. We had the Kasich budget; we had the Republican substitute, which did not pass; we had a so-called Blue Dog budget that tracked very closely to what the budget was in the other body that had the votes to pass, but it was not made in order by the Committee on Rules.

Members who have been here for quite some time know that the Committee on Rules is the Speaker's committee. The Speaker decides, and he can call the shots on what comes out of the Committee on Rules. They did not see fit to put in place a budget that could have passed here and would have gone a long way to implement the balanced budget that we have. We do not want to put that in order because it will pass.

Then we talk about campaign reform for all these years. We come and they offer a rule on campaign financing, and they put all of these amendments in order, many of them nongermane, and then they have an amendment that says if something is declared unconstitutional, the whole bill goes down the tubes, a procedure that would absolutely do away with any campaign reform.

The gentleman from California (Mr. PACKARD) and I worked very hard on this military construction bill. It is regrettable that we come down to a situation where we have to have this debate on the rule. But this is just the beginning. There are other appropriations bills that are going to come to this House, and everybody put out press releases that voted for the balanced budget, especially on the Republican side, and the Speaker said not 3 days ago, we balanced the budget, we did all these things, but what you have done, you have done it with a phony vehicle. You have done it with a phony budget.

This is just the beginning of what is going to happen on these appropriations bills. Either you are going to bust the caps or you are going to waive points of order and you are going to go use emergency amendments, you are going to use fake emergencies to get around the Committee on the Budget. The money is still going to be there, you are going to spend the money, but it is just not going to show up. It is going to show up without offsets and it is going to blow the balanced budget.

This is troubling to me. The gentleman from Florida, bless his heart, he is very emotional. We want to pass Military Construction. I was chairman for over 10 years. The things that he mentioned are not even in the military construction budget. This is a scare tactic.

Mr. Speaker, Military Construction is a good bill. This is a good bill. This does not have the emergency moneys in this one that gets around, but Defense does. Defense has a tremendous amount of money, and I support the defense budget. But when we get to these things, when we get all of these appropriations bills and all the emergencies are counted in, guess what? The gentleman from Wisconsin (Mr. NEUMANN) is exactly right when he was contesting what we were doing in appropriations. It was not popular, but he was exactly right, because you voted for that budget and you voted for it with cuts that were unspecified, and you have programs that nobody wanted to talk about that were unspecified cuts. It was a phony budget that was passed then, and it got no better since it has been passed. I do not like to question rules, but to me this is something that is just going to get worse and worse and worse.

Like I said years ago, this budget is so ugly, like the lady that had the kid that was so ugly they had to get a pork chop around its neck to get the dogs to play with it. This budget, you could not tie enough around its neck to get anybody to play with it. It is a terrible thing for this body to be considering this, because we are going to have to do a lot of this work over again because this budget is phony and these points are going to be raised on other appropriations bills, and rightfully so.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the last two speakers were referring to the rules debate immediately preceding this, and to some other extraneous matters. This Member was not present for that very spirited debate. As I understand it, it was a procedural attempt to keep the legislative ball rolling and the appropriations process on track. But, nonetheless, this rule is not objectionable. I am gratified to hear the gentlemen approve of this rule. After all, it is wide open, and it is as fair as it could be made fair.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, all I want to say, the gentlewoman did not miss a thing by not being here when the other rule was considered.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule for consideration of H.R. 4060, the Fiscal Year 1999 Energy and Water Appropriations bill. I first want to thank the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from California (Mr. FAZIO) for their hard work on this important legislation. I also want to thank the gentleman from Texas (Mr. EDWARDS) for the help he has provided my office on this bill. I am especially pleased by the support this legislation provides for addressing the chronic flooding problems of Harris County, Texas. In 1994 southeast Texas suffered some of the worst flooding our area had ever seen. This and more recent floods are a clear reminder that our lives, our infrastructure and our economy depend on sound watershed management. I am pleased that H.R. 4060 includes vital funding for several flood control projects in the Houston area, including Brays, Sims, and Hunting and White Oak bayous.

I am most grateful for the committee's decision to fully fund the Brays Bayou project at $6 million for fiscal year 1999. This flood control project is necessary to improve flood protection for an extensively developed urban area along the Brays in the southwest Harris County. The project consists of three miles of channel improvements, three flood detention basins and seven miles of stream diversion and will provide a 25-year level of flood protection.

The administration's budget did not provide any request for this funding so I appreciate the committee taking the action. I also appreciate that the bill fully funds the ongoing project for Sims Bayou at $18 million rather than the administration's request of $9 million. This is critical to keep this project ongoing to help with the chronic flooding in the area.

Finally, Mr. Speaker, I am pleased that the legislation provides the $60 million which was requested by the U.S. Army Corps of Engineers for the dredging and deepening and widening of the Houston ship channel. This is critically important. This is the second largest port in the Nation, creating more than 200,000 jobs in our area. The administration had only requested $5 million. This is necessary to get the Houston port project on track and moving forward. This is both an economically and fiscally sound project as well as environmentally sound where the port has worked with the environmental community in the Houston area to make the project sound and workable.

I appreciate the work of the chairman and the ranking member on this bill.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Speaker, I rise in support of the rule for H.R. 4060, the Energy and Water Development Appropriations bill for the fiscal year 1999. Bipartisanship has long been the hallmark of this committee, and I am very pleased to report that this spirit has continued during consideration of this year's bill. It was particularly challenging to draft this bill with a painfully low administration request for the Corps of Engineers budget on one side, more than $800 million below what we appropriated just last year, and important, yet expensive DOE-proposed initiatives on the other side.

Although we have improved our position somewhat with the budget allocation, we have still not been able to make this bill whole by any stretch of the imagination. The best that can be said is that we have administered the pain as evenhandedly as possible.

If Members are wondering why the gentleman from Pennsylvania (Mr. MCDADE) and I are retiring, it is because despite adding more than $700 million over the President's budget request to the water development side of the bill, which is so important to our colleagues after two El Nino winters, the bill is still $200 million below last year's level. Consequently, the committee has had to make some tough decisions and adopt some commonsense decision rules in the bill by not funding new construction starts, not funding unauthorized projects and not funding recreation projects unless they are tangential to a flood control or navigation project.

Even so, there are many authorized construction projects in the pipeline which do not receive funding. The operations and maintenance account, dredging and upkeep of our harbors and navigable waterways, is still funded more than $100 million below last year.

□ 1045

These necessary cuts hit home across the country including the important Calfed initiative in my home State of California, an initiative supported by a large number of the California delegation on a bipartisan basis that is $45 million below the $120 million that our committee recommended just last year.

We are clearly feeling the effects of the balanced budget agreement in our bill, and I suspect that, as a pattern, we will have to get used to it for many years to come. Insufficient funding for meritorious water development projects that are important to our Nation's economy will be the watch word for many budget years in the future.

On the energy side of the equation we face similar budget constraints. We had to balance new priorities like the Spallation Neutron Source while sustaining numerous other DOE programs that are essential to the Nation, and while I would like to see an increase in the number for solar and renewable energy programs, I am pleased that this account did not sustain any cuts given the difficult environment in which the committee was forced to work.

I understand the reasoning behind the committee report's words of caution to the administration pertaining to policy decisions and sound science with regard to global climate change, but I would like to reiterate that the energy efficiency programs funded in this bill are programs that our Nation has been investing in for years, long before the debate over global climate change occurred. I believe that any debate relating to climate change in the Kyoto Protocol should be conducted independently of this bill.

The committee was able to provide an increased diffusion energy program above the administration's request. I am pleased the committee has also provided generous increases in the basic science research and development account and in areas such as high energy physics.

This bill continues to support the crucial effort of our Nation to maintain our nuclear weapons stockpile through the National Ignition Facility and the ASCI program. Because of the tight allocation, there are shortfalls in some areas like the Uranium Enrichment Decontamination and Decommissioning Fund, and I would like to be able to address this and other shortfalls in conference, if it is at all possible.

In short, I think that the gentleman from Pennsylvania (Mr. McDade) and our committee have done a good job in a tough year. Mr. McDade, who cannot be with us today, I think is a strong advocate of all of the demands that are placed on this bill by people looking to develop the economies of their local regions and districts. He and I support the open rule, but I believe this bill can withstand any amendments that may be proposed on the floor just as it did last year.

So I ask for a yes vote on the rule and a yes vote on the Energy and Water Appropriations bill in hopes that when we get to conference with the other body we may be able to do more of the legitimate requests that have been made of us that we have unfortunately been unable to account for in this bill.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the remarks of the gentleman from California, the ranking member, and I also appreciate his hard work, that of the entire committee and that of the gentleman from Pennsylvania (Mr. McDade) for a very tough job under difficult circumstances.

I have no further speakers, Mr. Speaker.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. LaTourette). The pending business is the vote de novo of agreeing to the resolution, House Resolution 477, on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 178, not voting 24, as follows:

[Roll No. 248]

YEAS—231

Abercrombie
Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Hall (OH)
Hansen
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Mink
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—178

Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)

DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Gutierrez
Hall (TX)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rangel
Rivers
Rodriguez
Roemer
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—24

Barr
Blunt
Cooksey
Gonzalez
Green
Gutknecht
Hastert
Hastings (FL)
Jefferson
Lewis (GA)
Martinez
McDade
McIntosh
McNulty
Meeks (NY)
Oxley
Parker
Reyes
Rothman
Schumer
Shaw
Sununu
Torres
Weldon (FL)

□ 1107

Mr. POMEROY changed his vote from "yea" to "nay."

Messrs. MURTHA, KANJORSKI, MOLLOHAN and RAHALL changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HASTERT. Mr. Speaker, on rollcall No. 248, I was unavoidably detained. Had I been present, I would have voted "yes."

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2183.

□ 1110

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183), to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. COLLINS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, June 18, 1998, a request for a recorded vote on Amendment No. 132 offered by the gentleman from California (Mr. THOMAS) to amendment No. 13 in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS) had been postponed.

AMENDMENT NO. 132 OFFERED BY MR. THOMAS TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on Amendment No. 132 offered by the gentleman from California (Mr. THOMAS) to Amendment No. 13 in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS) on which further proceedings were postponed and on which the yeas prevailed by voice vote.

The Clerk will redesignate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 132 offered by Mr. THOMAS to Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

Amend section 601 to read as follows (and conform the table of contents accordingly):

SEC. 601. NONSEVERABILITY OF PROVISIONS.

If any provision of this Act or any amendment made by this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act or any amendment made by this Act shall be treated as invalid.

In the heading for title VI, strike **SEVERABILITY** and insert **NONSEVERABILITY** (and conform the table of contents accordingly.)

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 254, not voting 24, as follows:

[Roll No. 249]

AYES—155

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bliley
Boehner
Bonilla
Bono
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coburn
Collins
Combest
Cox
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Frost
Gekas
Gibbons
Gillmor
Goodlatte
Goodling
Granger
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McInnis
McKeon
Mica
Miller (FL)
Myrick
Nethercutt
Ney
Northup
Norwood
Obey
Oxley
Packard
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Radanovich
Redmond
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Sabo
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)

NOES—254

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Campbell
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Cook
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Goode
Gordon
Goss
Graham
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)

McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Nadler
Neal
Neumann
Nussle
Oberstar
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Rivers
Rodriguez
Roemer
Roukema
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scott
Serrano
Shays
Sherman
Sisisky
Skelton
Slaughter
Smith (MI)
Smith, Adam
Smith, Linda
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—24

Barr
Blunt
Cooksey
Gonzalez
Green
Gutknecht
Hastings (FL)
Kasich
Lewis (GA)
Martinez
McDade
McIntosh
McNulty
Meeks (NY)
Morella
Parker
Reyes
Rothman
Schumer
Shaw
Skaggs
Sununu
Torres
Weldon (FL)

□ 1127

The clerk announced the following pair:

On this vote:

Mr. McIntosh for, with Mrs. Morella against.

Mr. WAXMAN changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. COLLINS). Are there any further amendments to the Shays amendment?

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, too many Americans believe our campaign finance system is corrupt. We must treat this illness in the body politic which, in my opinion, if ignored, will undermine our democracy.

Like beauty, of course, genuine reform may be in the eye of the beholder. In my view, genuine reform must purge from Federal elections unregulated soft money which has become so pervasive. Meehan-Shays does that.

Reform should be subject to disclosure. The issue ads which are so clearly intended to influence elections must be covered. Meehan-Shays does that.

Reform, in my opinion, should level the playing field for challenges by further restricting franked mail in election years. Meehan-Shays does that.

Reform, as well, should encourage wealthy candidates to limit personal spending and toughen disclaimers on ads, giving voters better information with which to judge content. Meehan-Shays does that.

Reform also should enhance candidate disclosure by giving the public quick access via the Internet. Meehan-Shays does that.

Meehan-Shays does all of these good things, Mr. Chairman, but, by any standard, is breathtakingly modest. Yet, in this Republican Congress, its enactment is in doubt. Though there are good provisions in other bills, I will support Meehan-Shays as our best hope of fixing some problems now.

I might say that I know the distinguished gentlewoman from New York (Mrs. MALONEY) has an amendment that she will be now offering, which I also strongly support, which, in effect, says that, although there are reforms in Meehan-Shays that we want to adopt, there is more yet to do. She will establish a commission to look further at how we can make our election laws better.

Having said what reform is, let me say what it is not. Reform is not the Paycheck Protection Act, a Republican proposal to gag working Americans. Californians wisely rejected, Mr. Chairman, the paycheck protections last month as we did in March. Hopefully, this part of the Republican vendetta against working families will finally disappear.

Reform is not repealing all contribution limits. This would just tilt the playing field even more toward the affluent and away from ordinary Americans, for whom giving $1,000 to candidates is beyond reach, let alone $25,000.

Reform is not repeal of public financing of presidential elections, which ended the thrilling campaigns of yesteryear financed out of the suitcases stuffed with untraceable cash.

Finally, reform is not underfunding the Federal Election Commission. Republicans argue we do not need new laws, just enforcement of current ones. Yet, House committees have recommended funding for next year for campaign law enforcement that is simply inadequate. The majority are generous with rhetoric, but not with the resources the FEC needs to police campaigns.

Mr. Chairman, this debate that we are now engaged in is not designed, unfortunately, to facilitate the passage of reform. Indeed, many of us believe, perhaps cynically, that it is designed to undercut, undermine, and defeat campaign finance reform. In fact, many leaders on the Republican side make no secret of their antipathy towards reform legislation and particularly the Meehan-Shays legislation.

I hope that, notwithstanding this disastrous procedure, notwithstanding the opposition of many in the Republican leadership and many Republicans, notwithstanding those who would undercut reform efforts, I am hopeful that, through it all, that we will, nevertheless, have the courage and the wisdom and the common sense to pass Meehan-Shays.

AMENDMENT NO. 30 OFFERED BY MRS. MALONEY OF NEW YORK TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mrs. MALONEY of New York. Mr. Chairman, I offer amendment No. 30 to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 30 offered by Mrs. MALONEY of New York to Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

TITLE —INDEPENDENT COMMISSION ON CAMPAIGN FINANCE REFORM

SEC. 01. ESTABLISHMENT AND PURPOSE OF COMMISSION.

There is established a commission to be known as the "Independent Commission on Campaign Finance Reform" (referred to in this title as the "Commission"). The purposes of the Commission are to study the laws relating to the financing of political activity and to report and recommend legislation to reform those laws.

SEC. 402. MEMBERSHIP OF COMMISSION.

(a) COMPOSITION.—The Commission shall be composed of 12 members appointed within 15 days after the date of the enactment of this Act by the President from among individuals who are not incumbent Members of Congress and who are specially qualified to serve on the Commission by reason of education, training, or experience.

(b) APPOINTMENT.—

(1) IN GENERAL.—Members shall be appointed as follows:

(A) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the Speaker of the House of Representatives.

(B) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the majority leader of the Senate.

(C) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the House of Representatives.

(D) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the Senate.

(2) FAILURE TO SUBMIT LIST OF NOMINEES.—If an official described in any of the subparagraphs of paragraph (1) fails to submit a list of nominees to the President during the 15-day period which begins on the date of the enactment of this Act—

(A) such subparagraph shall no longer apply; and

(B) the President shall appoint 3 members (one of whom shall be a political independent) who meet the requirements described in subsection (a) and such other criteria as the President may apply.

(3) POLITICAL INDEPENDENT DEFINED.—In this subsection, the term "political independent" means an individual who at no time after January 1992—

(A) has held elective office as a member of the Democratic or Republican party;

(B) has received any wages or salary from the Democratic or Republican party or from a Democratic or Republican party office-holder or candidate; or

(C) has provided substantial volunteer services or made any substantial contribution to the Democratic or Republican party or to a Democratic or Republican party office-holder or candidate.

(c) CHAIRMAN.—At the time of the appointment, the President shall designate one member of the Commission as Chairman of the Commission

(d) TERMS.—The members of the Commission shall serve for the life of the Commission.

(e) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) POLITICAL AFFILIATION.—Not more than 4 members of the Commission may be of the same political party.

SEC. 403. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. In carrying out the preceding sentence, the Commission shall ensure that a substantial number of its meetings are open meetings, with significant opportunities for testimony from members of the general public.

(b) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The approval of at least 9 members of the Commission is required when approving all or a portion of the recommended legislation. Any member of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this section.

SEC. 404. ADMINISTRATIVE PROVISIONS.

(a) PAY AND TRAVEL EXPENSES OF MEMBERS.—(1) Each member of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(b) STAFF DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a staff director, who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) STAFF OF COMMISSION; SERVICES.—

(1) IN GENERAL.—When the approval of the Commission, the staff director of the Commission may appoint and fix the pay of additional personnel. The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(2) EXPERTS AND CONSULTANTS.—The Commission may procure by contract the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

SEC. 405. REPORT AND RECOMMENDED LEGISLATION.

(a) REPORT.—Not later than the expiration of the 180-day period which begins on the date on which the second session of the One Hundred Fifth Congress adjourns sine die, the Commission shall submit to the President, the Speaker and minority leader of the House of Representatives, and the majority and minority leader of the Senate a report of the activities of the Commission.

(b) RECOMMENDATIONS; DRAFT OF LEGISLATION.—The report under subsection (a) shall include any recommendations for changes in the laws (including regulations) governing the financing of political activity (taking into account the provisions of this Act and the amendments made by this Act), including any changes in the rules of the Senate or the House of Representatives, to which 9 or more members of the Commission may agree, together with drafts of—

(1) any legislation (including technical and conforming provisions) recommended by the Commission to implement such recommendations; and

(2) any proposed amendment to the Constitution recommended by the Commission as necessary to implement such recommendations, except that if the Commission includes such a proposed amendment in its report, it shall also include recommendations (and drafts) for legislation which may be implemented prior to the adoption of such proposed amendment.

(c) GOALS OF RECOMMENDATIONS AND LEGISLATION.—In making recommendations and preparing drafts of legislation under this section, the Commission shall consider the following to be its primary goals;

(1) Encouraging fair and open Federal elections which provide voters with meaningful information about candidates and issues.

(2) Eliminating the disproportionate influence of special interest financing of Federal elections.

(3) Creating a more equitable electoral system for challengers and incumbents.

SEC. 406. EXPEDITED CONGRESSIONAL CONSIDERATION OF LEGISLATION.

(a) IN GENERAL.—If any legislation is introduced the substance of which implements a recommendation of the Commission submitted under section 05(b) (including a joint resolution proposing an amendment to the Constitution), subject to subsection (b), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of the legislation in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) SPECIAL RULES.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on House Oversight of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Rules and Administration of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the recommendation involved is submitted under section 05(b).

(3) Notwithstanding subsection (d)(2) of section 2908 of such Act—

(A) debate on the legislation in the House of Representatives, and on all debatable motions and appeals in connection with the legislation, shall be limited to not more than 10 hours, divided equally between those favoring and those opposing the legislation;

(B) debate on the legislation in the Senate, and on all debatable motions and appeals in connection with the legislation, shall be limited to not more than 10 hours, divided equally between those favoring and those opposing the legislation; and

(C) debate in the Senate on any single debatable motion and appeal in connection with the legislation shall be limited to not more than 1 hour, divided equally between the mover and the manager of the bill (except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee), and the majority and minority leader may each allot additional time from time under such leader's control to any Senator during the consideration of any debatable motion or appeal.

SEC. 407. TERMINATION.

The Commission shall cease to exist 90 days after the date of the submission of its report under section 05.

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as are necessary to carry out its duties under this title.

Mrs. MALONEY of New York. Mr. Chairman, my amendment which I offer along with the gentleman from Michigan (Mr. DINGELL) and with the support of the gentleman of Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS), it is a bipartisan amendment.

It would create an independent commission to study and recommend changes to our campaign finance laws. This amendment is identical to the substitute introduced earlier this week by the gentleman from Washington (Mr. WHITE) and the gentleman from New Jersey (Mr. FRANKS) except for one important point.

The White amendment, had it passed, might have blocked and killed the Shays-Meehan bill. Due to the structure of the rule, had the White amendment received more votes than Shays-Meehan, it would have prevented Shays-Meehan from becoming law.

This amendment works in conjunction with Shays-Meehan. It strengthens and supports Shays-Meehan. It lets us fix some of the most important problems with our campaign finance system today and creates a commission to solve the problems that remain tomorrow.

I think this option is the best of both worlds. Shays-Meehan can be signed into law so that we can ban soft money and provide for greater disclosure of our third-party expenditures; but, at the same time, we will create a commission to fix problems that are not addressed in Shays-Meehan.

Mr. Chairman, I see that we have many, many amendments ahead of us on this substitute. I am sure that many of these amendments are strong. But if the House agrees to this commission proposal, then I hope my colleagues will withdraw their amendments. I certainly plan to withdraw the amendments that I had hoped to introduce, not because I do not think that they are strong and important, but, with this commission, we now have another vehicle to take a serious look at all of these issues that remain to be done and report back with a proposal for addressing them.

Mr. Chairman, we have a choice before us. We can spend until August debating every problem, every issue on campaign finance and the hundreds of amendments made in order under this rule, and we may never finish this debate. Or we can pass this amendment and pass Shays-Meehan and let the commission address the remaining problems. I think the choice is clear.

I urge all Members to support the Maloney-Dingell amendment and to withdraw any of their own amendments so that we can finally pass Shays-Meehan and take a real step toward restoring the faith of the American people in their electoral process.

Mr. Chairman, I yield to my colleague, the gentleman from Connecticut (Mr. SHAYS), who has worked so hard on campaign finance in a bipartisan spirit.

Mr. SHAYS. Mr. Chairman, I thank the gentlewoman for yielding. On behalf of those who are supporting this reform legislation, we gladly accept this substantive amendment by the gentlewoman from New York (Mrs. MALONEY) and the gentleman from Michigan (Mr. DINGELL).

It improves the bill. It will enable us to deal with issues that are not dealt with in the Shays-Meehan reform legislation. I urge the amendment's passage. I do not think we to have too much debate about it.

Mrs. MALONEY of New York. Mr. Chairman, I yield back the balance of my time.

Mr. FARR of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of this amendment. As many of my colleagues know, I have a major bill that is also going to be considered. But I think the most important bill, the one that everyone is consolidated around and can be passed is the Shays-Meehan bill.

I ask this body, when it comes time to vote for that bill, if you do not vote for it now, when will you vote for it? If you do not vote for it, who will vote for it?

This body has been able to rise to the occasion when asked by the American people to address the issue of campaign finance reform. This body in the 101st session of Congress passed a comprehensive campaign finance reform bill. In the 102nd session, this body passed a bill. In the 103rd session, this body passed a bill.

All of those bills received far in excess the minimum number of 218 votes. They were all bipartisan votes. So we have in the past been able to rise to the occasion and adopt very comprehensive campaign finance reform.

This amendment should be adopted because we always need to be looking farther than what we are able to legislate. America is changing, and the style of campaigning and the style of running for office is changing.

We will not have all the answers in one bill. A commission needs to look at where we go as we merge into the 21st Century. For a democracy to survive, we have got to have active participation. Politics is not a spectator sport. It is a participatory requirement to sustain a country, to sustain a government in an era when people are getting turned off and thinking that their vote does not make any difference or thinking that money in politics buys such influence so a common voter cannot have an influence.

Yet, we see time and time again where elections around this country are won by just a few votes. Even in this House, we have had Members who have won by as little as four votes. We know that votes count. We ought to be doing things to really engage people in participating in the process.

We are moving into an era where telecommunications is playing more and more of a role in communication. Our old ideas about regulating campaigns have not really taken that into consideration. A commission certainly can look into that.

A lot of voters in a lot of States are now voting by mail. In California, it has been very popular. Oregon elected a United States Senator entirely by a mail ballot election. A lot of issues were raised in that. A commission can look at that and figure out whether those are things that we as a Congress ought to be looking at.

Public financing has been suggested as a voluntary effort. Maine has adopted it. Is it good for other States. Is it good to Congress at a national level. These are options that a commission can look at. We certainly need to all encourage a greater participation. We need to encourage greater participation.

I do not think we have all the answers. We, as Members, go home every weekend. We go out and have constituent meetings. We are always trying. We are talking to schools. The galleries are filled. We have students in here all day. There are probably classrooms on the steps right now if it is not raining outside. We are always engaging them and telling them the importance of participating in the process.

But as we say this, we watch how many people participate in elections. You have to register to vote in this country. Even those who are registered are not all the qualified adult persons. Those who are 18, American citizens, and have resided at least for 30 days in a community, those are the qualified voters in America. Yet, only half of the qualified voters register to vote, and only half of the registered voters turn out to vote.

If we are in the business of selling democracy, we are doing a very lousy job. We need to have commissions take a look at how we can better encourage people to do that. This amendment will do that. But most important, I think, to build confidence in America, we need to show them that, in 1998, this House, the House of Representatives, can pass a bipartisan bill that is both comprehensive and substantive that leads us another step towards regaining confidence in the American citizens, that their government in Washington can be a government that is true to the principles of this country. That is why we need to pass the Shays-Meehan.

I started this support for this amendment indicating that, if not now, when? My colleagues, Shays-Meehan, if not now, when?

Mr. METCALF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support for this amendment. I supported the amendment of the gentleman from Washington (Mr. WHITE), which was similar, but this is somewhat different. This amendment will strengthen this bill. I think that it is very critical to do that.

Mr. Chairman, I yield to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, the Meehan-Shays bill provides for a soft money ban. It recognizes that sham issue ads. It are truly campaign ads and treats them as campaign ads. It codifies Beck and improves FEC disclosure and enforcement. The legislation provides that we put a ban on unsolicited franked mass mailings 6 months to the election, that is May on, and makes it clear that foreign money and fund-raising on government property are illegal. It presently is not illegal to raise soft money from foreigners or on federal property.

□ 1145

Believe it or not, it is not illegal. We make sure that people know it is.

I would just reiterate that we are prepared to vote right now on the commission bill. We have debated it long and hard, and pointed out when we debated the White proposal as a standing substitute, that we agreed with many of the merits, as long as we took a stand now to deal with soft money, deal with the sham issue ads, codify Beck and so on.

So we are prepared to support the Dingell-Maloney amendment to the reform bill, the Meehan-Shays bill, and I hope we can move forward on this because I know we have lots more amendments to deal with that Members would like to introduce.

Mr. Chairman, I thank the gentleman for yielding to me.

Mr. METCALF. Mr. Chairman, I want to just add that campaign finance reform is critical to restoring citizen confidence in our election process, and I think this is a part of it.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I first want to commend my good friend, the distinguished gentlewoman from New York (Mrs. MALONEY), and my colleagues the gentleman from Washington (Mr. WHITE), the gentleman from New Jersey (Mr. FRANKS), and the gentleman from California (Mr. HORN) for the good work which they have done on the commission amendment, something which I believe will be helpful to the legislation. I believe that their dedication and effort in this matter does them great, great credit. I particularly want to pay tribute to the gentlewoman from New York (Mrs. MALONEY) for the remarkable courage, fortitude and diligence which she has shown in this matter.

It was, I would observe, Mr. Chairman, yesterday that I chose to vote "present", with great regret, against the amendment which I had hoped to offer in the form of a commission substitute. I did not vote this way because I believed that the commission was no longer a viable idea but, unfortunately, because of the rather extraordinary rule structure making the commission bill a possible roadblock to passing desperately needed comprehensive campaign reform in the form of the Shays-Meehan proposal. This is something which we must do in the public interest, because I think almost every Member of this Congress, and certainly the public at large, is disgusted with the regrettable situation we find with regard to financing our campaigns.

I originally joined with the other lead sponsors to create a device which would bring about a quick assured vote on a responsible proposal. We have that before us in the form of Shays-Meehan. I would observe that it is a proposal which is endorsed by both my good friend the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN), and I want to commend them for their effort on this matter and thank them for their assistance to us in this undertaking.

The amendment that is offered by the gentlewoman from New York and I not only strengthens the Shays-Meehan substitute, but it will study campaign reform ideas that are not already addressed in Shays-Meehan. It should please any Member that believes Shays-Meehan does not go far enough. The commission will clearly have the authority and the ability to study and address any additional improvements needed in our campaign system, consistent with the policies in the Constitution.

I should note that this is a good proposal. It enhances, it expands, it enriches, and it benefits the system that we would find under Shays-Meehan. And I would note that yesterday a large number of my colleagues voted for this. I would note that they now have an opportunity to vote for it and Shays-Meehan both, and I urge them to do so. That is in the public interest and is what the public wants.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words.

We had a vote the other night on the commission bill, and it was not quite as successful as I would like, and I think many of those of us who voted for the commission are considering whether we should vote for this particular amendment. If possible, I would like to engage the gentlewoman from New York or the gentleman from Michigan in just a brief colloquy to make sure I understand exactly how this would work.

It is my understanding that if this amendment is adopted, the commission would be part of the Shays-Meehan bill. And if the Shays-Meehan bill passes, the commission, in the form that we had originally proposed it, would be included in that bill. Does that mean that, assuming it is signed into law, that the commission could then go to work, come back to Congress with a package that would amend Shays-Meehan; or would its hands be tied in any particular way?

Mrs. MALONEY of New York. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentlewoman from New York.

Mrs. MALONEY of New York. As the gentleman knows, the commission bill is an appendage of Shays-Meehan. We would enact in this Congress, send to the Senate, the President would sign into law Shays-Meehan. All of the aspects of Shays-Meehan would become law.

Then, as the gentleman knows, our bill in the next Congress, the commission would go into effect for 180 days with 12 appointments, 4 Republicans, 4 Democrats, 4 Independents. It must have a supermajority of 9 votes to come back with an expedited review. That ensures that at least one Republican, one Democrat and one Independent agree. They can then come back to this floor for an up or down vote.

The likelihood of any part of Shays-Meehan being repealed, although it could be, is about as likely as a two-headed cow coming out of this commission, coming back. I do not think it would happen. I do not believe it would happen. It is beyond belief to me. But it possibly could. Again, it would have to be passed by this House.

Mr. WHITE. That is my understanding, too. Let me just ask the gentleman from Connecticut whether that is his understanding.

We do not exactly know what the commission would do, but it would at least be possible the commission could come back and propose changes that might change the Shays-Meehan approach?

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Connecticut.

Mr. SHAYS. We accept the commission bill without any restraints. It is the gentleman's bill, as it is the gentleman from New Jersey (Mr. FRANKS), the gentlewoman from New York (Mrs. MALONEY), and the gentleman from Michigan (Mr. DINGELL).

It could recommend whatever it wants. We would make an assumption that they might not deal, and probably would not deal with items that had already been dealt with, but they are free to do it, and we know that and accept it. And we know the House ultimately has a chance to vote on it. It is truly the gentleman's amendment without any restraints.

Mr. WHITE. Mr. Chairman, I appreciate that very much and, based on those representations, I intend to vote for this amendment.

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words.

Before I make my presentation, I would like to ask the gentlewoman a question. As I understand it, the gentlewoman will have four Independents as part of the commission. As the only Independent in Congress, that issue is of some significance to me.

We know how Democrats and Republicans might be appointed. Ross Perot is not the only Independent in America. Some of us do not have many billions of dollars but also consider ourselves Independents. How would those Independents be selected?

Mrs. MALONEY of New York. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentlewoman from New York.

Mrs. MALONEY of New York. How they are selected is the members are appointed by the President on recommendations made by the four leaders in the House and in the Senate. The Republican Speaker, the Democrat minority leader, the Republican leader in the Senate and the Democratic minority leader would make the recommendations.

Mr. SANDERS. Including Independents?

Mrs. MALONEY of New York. Yes.

Mr. SANDERS. Maybe we might want to chat on that. I am not so sure it would be a great idea for the leadership of the Democrat and Republican Party to decide who represents the Independent political movement in this country, of which there are more of than there are Democrats and Republicans. But having said that, I thank the gentlewoman for her efforts.

I would say this, Mr. Chairman. As a strong supporter of Shays-Meehan, and understanding that I would go further, but I think that is the likely legislation that might pass and I will support it, the main point that we have got to understand is the American people know very, very well today that the political process in Congress and throughout this country is controlled by big money interests who make huge contributions to both political parties.

Just this past week we know that the Republican Party held a fund-raising dinner in Washington for some of the wealthiest and most powerful people in America and they walked away with $11 million in one night. And, of course, the Democratic party, maybe not quite so successfully, tries hard to do the same thing.

Mr. Chairman, sometimes I think people think that when we talk about campaign finance reform this is an inside-the-beltway issue; that it is something esoteric; that it does not affect them. Wrong. Campaign finance reform is an issue which affects every American in every aspect of public policy.

This week the Republican leadership in the Senate killed legislation that would have required the tobacco industry to compensate our society for the death and disease it has created. Was there some connection between the defeat of this legislation and the many millions of dollars in soft money that went to the Republican Party from the tobacco interest? I think one has got to be very naive not to see the connection.

Mr. Chairman, Americans, people in our country, pay more money than any other people in the industrialized world for prescription drugs, and the Federal Government continues to provide hundreds of millions of dollars in corporate welfare to the pharmaceutical industry. Is there any connection between the $18 million that the drug companies have provided to both political parties since 1991 and the outrageously high cost of prescription drugs in this country? Once again, one would have to be very naive not to see the connection.

Mr. Chairman, this Congress continues to spend billions of dollars for weapons that we do not need, including B-2 bombers that cost us over $2 billion a plane. Meanwhile, we cut back on health care, education, desperately-needed housing, Medicare, Medicaid, and many other programs that ordinary Americans need. Is there a connection between the fact that the aerospace industry and military contractors contributed $5 million during the 1996 election cycle to the high rate of military spending? I think, again, you have got to be naive.

Last year, Mr. Chairman, in the budget bill passed by this Congress, we provided huge tax breaks to some of the largest corporations and wealthiest people in America. Meanwhile, and this is an important point to be heard, the wealthiest one quarter of 1 percent contributed over 80 percent of all campaign contributions. Should we be shocked that, having received all of this money from the richest people in America, Congress decided that most of the tax breaks would go to the very rich while, at the same time, we cut back on Medicare?

Mr. Chairman, we have heard a whole lot about the role that labor unions play in the political process. Do they contribute a lot of money? Yes, they do. But let us not forget that in the 1995–1996 election cycle corporations and groups and individuals representing business interests outspent labor 11 to 1.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. COLLINS). The Chair reminds Members not to refer to Senate actions on any other measures.

Mr. TIERNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, sometimes we hear about a commission and we wonder what more do we need to do to study what we should do to reform the way we raise money for campaigns in this country. And while I have some reservations about this, I do want to say that we do have a vote here today on the Shays-Meehan bill, and I will support that, because I think it is a step in the right direction. However, maybe it does make sense that after passing Shays-Meehan we also talk about what steps we might take in the future, and perhaps this commission is the way to address that.

I view the passage of that measure, the Shays-Meehan bill, as a step, an important step, but only a step towards where we need to end up. I am going to vote for it because it will eliminate the insidious influence of soft money, but it still preserves an element of the status quo in the current way we do business.

The current system is, to many Americans, broken, Mr. Chairman, and it is broken for them beyond repair. They believe it cannot be fixed and they really believe it must be replaced. I have an alternative amendment before this House that we will address within the next few weeks. Unfortunately, several weeks down the line because, as I understand it, we are not going to debate this issue next week, and then we have 2 weeks in the District. But at some point, perhaps, we will get to the alternative that proposes to end the private money chase in campaign finance.

It is called the Clean Money Option. And it is just that. It is an option for those that want to continue to raise money privately and to use private resources in the campaigning. They will be able to proceed on that basis. But there is an option for those of us and the American public who believe we should do away with private resources and influence. It is an approach that has already been passed into law by the Vermont State legislature and the Maine ballot initiative.

Under the clean money system, a candidate agrees to forego all private contributions, including his or her own, and accepts spending limits and a limited allocation to run their campaign from publicly-financed election funds.

□ 1200

It is not a blank check. Participating candidates must meet all local ballot qualification requirements and gather a significant number of $5 qualifying contributions from the voters they seek to represent.

Clean-money campaign reform is both simple to understand and sweeping in its scope. It is a voluntary system, as I said, that meets the test of constitutionality under the Supreme Court's ruling in Buckley vs. Valeo that effectively provides a level playing field for all candidates who are able to demonstrate a substantial amount of popular support.

It strengthens American democracy by returning political power to the ballot box. None of the other approaches currently under debate or that will be under debate come close to this comprehensive solution because they all preserve a central role for private money.

What makes the clean-money campaign reform different is that it attacks the root cause of the crisis, namely, a system funded on private money that comes from a small fraction of the electorate and is dominated by wealthy special interests.

As elected public officials, we should owe our allegiance to the people who sent us here, not to the largest campaign contributors. It comes down to this, Mr. Chairman: Who should own the office in which we serve, the public or the private-monied interests?

The public gets this issue, Mr. Chairman. They know what needs to be done. Various clean-money campaign reform bills and ballot initiatives and grass root movements are now in motion in at least 3 dozen states across this country. If we cannot act here in Washington to change this system, the voters will do it for us. Get ready. Because if it is not happening in the states of my colleagues already, it will be; and this is in fact the wave of the future.

Mr. Chairman, the clean-money reform has solutions to particular problems. There are 4 major complaints that voters have about the current system. One is that political campaigns cost too much money and last too long. The solution in our bill would be that campaigns have strict spending limits that could only begin once the money is disbursed.

Another problem cited is that special interests have too much influence and certainly the perception of that. The solution is that participating candidates could not receive direct contributions from private sources.

People complain that candidates spend way too much time chasing campaign contributions. The solution in the bill would be that there would be no need for that fund-raising. Candidates can focus on the issues and the public concerns if they choose, although they have the option to continue the private-money chase if they like.

The fourth complaint is that good people cannot win. The solution is that the clean-money option would create a level playing field and encourage more people to run.

This clean-money option, Mr. Chairman, is not a pipe dream. It is the law in two states and the subject of budding grass roots advocacy campaigns in nearly 40 others. Four states and localities, Arizona, Massachusetts, Missouri, and New York City, are poised to place similar initiatives on the November ballot.

Moreover, extensive polling has found public support in around 2-1 across all social and demographic groups, even among the self-described conservative Republicans. Newspapers from around the country have editorialized the support of clean money, including U.S.A. Today, The Boston Globe, St. Louis Post Dispatch, The Minneapolis Star Tribune, and many, many others.

Mr. Chairman, this is the direction we go. I hope the commission brings us closer to that point.

Mr. MEEHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment.

I would like to take this opportunity to thank my colleagues, especially the gentleman from Michigan (Mr. DINGELL) and the gentlewoman from New York (Mrs. MALONEY) for the merging of their substitute with the Shays-Meehan bill.

In putting together a comprehensive campaign finance reform bill, it is a very difficult task and we look to get proper compromises on both sides of the aisle. The fact is that the gentleman from Michigan (Mr. DINGELL) and the gentlewoman from New York (Mrs. MALONEY) have a good proposal. It is a proposal that stems out from the meeting in Claremont, New Hampshire, 3 years ago, where the Speaker and the President shook hands and greed to establish a commission, and the gentlewoman from New York (Mrs. MALONEY) in a race to the floor of the House to introduce a bill. And I support that effort.

I also want to acknowledge the gentleman from Washington (Mr. WHITE) the gentleman from New Jersey (Mr. FRANKS) and the gentleman from California (Mr. HORN) on the Republican side for all of their efforts.

The merging of the supporters of a commission with the supporters of the Shays-Meehan bill means that we are now at that critical majority where we have a majority of the Members of this House finally ready, willing, and able to pass real campaign finance reform.

That would not be possible without compromises being made, like people like the gentleman from California (Mr. FARR) and the gentleman from Massachusetts (Mr. TIERNEY) all who have excellent proposals who are merging and coming together with the Shays-Meehan substitute so that we can forge a majority in this House.

If we look at the votes that have been held thus far, it is very encouraging to those who have been fighting for reform. The vote on the commission bill with Members voting present or against it so it will not provide an impediment to passing the Shays-Meehan bill and the most recent votes that would have gutted the Shays-Meehan bill was resoundly defeated.

What we see here is a critical mass of Members from both sides of the aisle, from all parts of the country, who have joined together to reach compromise to pass real campaign finance reform.

I thank the Members on both sides of the aisle who are forging this very important critical majority. I look forward to getting through these amendments as soon as we can. Because the evidence is clear and overwhelming that we have a majority of the Members of this House who are prepared to pass the Shays-Meehan bill.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I want to state my strong support for the amendment offered by Representative CAROLYN MALONEY to the Shays-Meehan campaign finance reform bill. This amendment creates a 12-member commission to recommend changes to current campaign finance law.

I am a strong supporter of the Shays-Meehan bill and look forward to its enactment, but we all recognize that there may be some aspects of the current system of financing political campaigns that may not be addressed by the Shays-Meehan bill. The commission will serve as a necessary backstop, so as we encounter unanticipated campaign finance issues, we have a process to review and make recommendations to resolve these issues. I think this commission amendment is an important addition to the Shays-Meehan bill.

I did not support and voted against an earlier substitute to the underlying campaign finance bill that just provided a commission approach to address the abuses in the current campaign finance system. It is way past time for more review and study of the problems in our current system. We know what the problems are and the Shays-Meehan bill addresses these problems. To just enact a review commission would only further delay legislating on this important issue.

Our job here is to make laws. We can not continue to abdicate that responsibility on the issue of campaign finance reform. We have a good bill before us—the Shays-Meehan bill. The Maloney amendment will make this good bill better. Therefore, I strongly support the Shays-Meehan bill with the Maloney commission amendment and I urge all my colleagues to work together to enact this important bipartisan legislation.

The CHAIRMAN pro tempore (Mr. COLLINS). The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOOLITTLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 325, noes 78, answered "present" 1, not voting 29, as follows:

[Roll No. 250]

AYES—325

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Burr
Calvert
Camp
Campbell
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (WA)
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa

Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kim
Kind (WI)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Myrick
Nadler
Neal
Nethercutt
Ney
Norwood
Nussle
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickett
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thune
Thurman
Tierney
Towns
Traficant
Turner
Upton
Velzquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOES—78

Archer
Armey
Bachus
Baker
Ballenger
Bateman
Boehner
Bonilla
Brady (TX)
Bunning
Burton
Buyer
Callahan
Canady
Cannon
Chenoweth
Collins
Combest
Crane
Cubin
DeLay
Doolittle
Everett
Fossella
Fowler
Frank (MA)
Gekas
Granger
Hansen
Hastert
Hayworth
Hefley
Hostettler
Hulshof
Hutchinson
Johnson (CT)
King (NY)
Lewis (CA)
Lewis (KY)
Linder
McCollum
McCrery
McDermott
McKeon
Miller (FL)
Mollohan
Moran (KS)
Murtha
Neumann
Northup
Oberstar
Obey
Oxley
Paul
Paxon
Pickering
Pitts
Pombo
Radanovich
Rogan
Sabo
Salmon
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Skeen
Smith (OR)
Smith (TX)
Souder
Stump
Thomas
Thornberry
Tiahrt
Watt (NC)
Whitfield
Wicker
Young (FL)

ANSWERED "PRESENT"—1

English

NOT VOTING—29

Barr
Blunt
Coburn
Cooksey
Gephardt
Gonzalez
Goodling
Green
Gutknecht
Hastings (FL)
Johnson, Sam
Kasich
Kennedy (MA)
Kennelly
Klug
Lewis (GA)
Martinez
McDade
McNulty
Meeks (NY)
Morella
Parker
Pomeroy
Reyes
Rothman
Sununu
Torres
Weldon (FL)
Wise

□ 1224

Messrs. TIAHRT, FOSSELLA, BURTON of Indiana and Mrs. NORTHUP changed their vote from "aye" to "no."

Mr. McHUGH and Ms. MILLENDER-McDONALD changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

Mr. MEEHAN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts is recognized for 5 minutes.

There was no objection.

Mr. MEEHAN. Mr. Chairman, my understanding is the next amendment will be the Gillmor amendment, at which time a vote would be expected sometime just after 1 o'clock. Then we would go to other amendments, but there would not be a vote after the Gillmor amendment, that would be sometime after 1 o'clock. That is my understanding, and I think it would be helpful to Members to get what the schedule is.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. MEEHAN. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, I believe the gentleman has a correct understanding with the only correction being that if we can begin the Gillmor amendment and we can conclude it before 1 o'clock, there is no reason to wait until 1 o'clock to vote on it, if there are only two or three speakers on the Gillmor amendment.

My understanding is that both of the authors of this particular substitute are willing to accept the amendment as written if we could keep to a minimum the discussion of that amendment. As soon as the Gillmor amendment is voted on, that would be the last vote for the day. But if we begin discussing any other amendments, there would be no more votes and we would rise at 2 o'clock regardless of where we were in the discussion of any amendment.

Mr. MEEHAN. Certainly there may be some other people that want to speak on amendments, but I just wanted to get a clear understanding of what the schedule was so that Members could make their plans.

Mr. THOMAS. If the gentleman will yield further, the bottom line is the Gillmor amendment will be the last vote of the day, whenever that occurs prior to 2 o'clock.

AMENDMENT OFFERED BY MR. GILLMOR TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. GILLMOR. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. GILLMOR to Amendment No. 13 in the Nature of a Substitute Offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS

"SEC. 326. (a) IN GENERAL.—Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual's employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office.

"(b) NO EFFECT ON GEOGRAPHIC RESTRICTIONS ON CONTRIBUTIONS.—Subsection (a) may not be construed to affect any restriction under this title regarding the portion of contributions accepted by a candidate from persons residing in a particular geographic area.".

Mr. GILLMOR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. COLLINS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILLMOR. Mr. Chairman, the amendment which the gentleman from Tennessee (Mr. TANNER) and I are offering would reaffirm in law a vital national interest, namely, that all Americans eligible to vote be treated in the same way by the Federal Election Campaign Act. The Gillmor-Tanner amendment is necessary because proposals have been made, both in this body and at the FEC, which would treat nearly 5 million Americans as second-class citizens politically. Namely, such proposals would deny American citizens who work for American subsidiaries of companies which are headquartered abroad an avenue of political association and participation that is guaranteed all other Americans, namely, the right to voluntarily contribute money to political candidates through political action committees sponsored by their employers.

Mr. Chairman, in my home State of Ohio, more than 218,000 Ohioans are employed by American subsidiaries of companies headquartered abroad, and there are more than 5 million Americans nationwide. That number is growing daily. It will get larger still as soon as the merger between Chrysler and Daimler-Benz is completed to form a new Daimler-Chrysler corporation.

□ 1230

It makes no sense to tell these Americans that today they may contribute to their company's political action committee, but the day the merger is completed they instantly become second class citizens and are denied this avenue of political participation. Even though the name on the paycheck may change, these employees remain American citizens, and the vagaries of corporate mergers should not be permitted to deny them their rights as Americans.

Just as past barriers were erected to discourage participation in the political process, some of today's propositions attempt to deny participation based on where an American chooses to work. Just as discriminatory behavior was wrong then, it is wrong now. Foreign nationals should not be allowed to contribute to American campaigns. That practice is already against the law, and I believe we ought to uphold that law, and this amendment in no way changes the illegality of foreign campaign contributions.

Furthermore, both the current law and the Federal Election Commission regulations prohibit foreign nationals' contributions to or any foreign national decision-making with respect to either corporate or labor-sponsored political action committees, and those prohibitions would not be amended by this amendment.

In closing, Mr. Chairman, the political rights of American citizens must not be limited by race, gender or place of employment, and a vote for the Gillmor-Tanner amendment would protect the right of American citizens to be treated equally by our current election law and any reforms that may eventually be enacted.

Mr. Chairman, I yield to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I know that the gentleman from Tennessee (Mr. TANNER) wants to speak. I just want to speak on behalf of the Meehan-Shays supporters, that we do support this amendment. It is a right of American citizens today.

I know we will have other amendments to consider, but we do support it and would urge others to support it as well.

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Chairman, I rise in strong support of this amendment which I think is really an affirmation of existing law and one, however, that is needed because the debate, the discussion, of overseas contributions has been muddled to a point where some have implied that perhaps those who work for corporations that are headquartered in other parts of the world should be prevented from participating in our political system.

We are part of a global economy, and increasingly who we work for is going to change during the time in which we work for them. Gentleman pointed out the Daimler-Benz-Chrysler merger as a good example of a long-standing American corporation where its employees have contributed both to its union's political action fund and its corporate PAC, and under some proposals that have been made their rates will be truncated and eliminated.

It seems to me the American people ought to be able to participate in politics regardless of the vagaries of who they work for at any given time. We all know that increasingly the subsidiaries, or even the companies that once were independent have become affiliated with entities that have not only multiple owners in terms of stockholders in most countries in the world, but perhaps the corporate headquarters anywhere else.

This amendment is, I think, an important reassertion of what should be a fundamental right for every American.

Mr. TANNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I would associate myself with the remarks of the gentleman from California (Mr. FAZIO).

Obviously the vagaries of employment are that on any given time a corporate entity may or may not be a foreign-held corporation, but the American citizen who wants to participate and contribute through such devices as are legally available to American citizens to do so should be maintained, and I think that is appropriate, and I support the gentleman's amendment.

Mr. TANNER. Reclaiming my time, Mr. Chairman, I understand the sponsors of the amendment are going to agree to this, and so in order to save time I submit my statement in support of the Gillmor amendment for the RECORD.

Mr. Chairman, I rise to urge my colleagues to support an amendment which I have co-sponsored with my colleague from Ohio, Mr. GILMOR, which would very simply protect the rights of all American citizens who are eligible to vote by ensuring that they will not be discriminated against as the result of changes we make to our campaign finance law.

In our zeal to pass some kind of campaign finance reform, let's not inadvertently take away rights from Americans to participate in our electoral process. I think we all agree that we should be very careful not to pass any reform which hinders Americans from participating.

Our amendment would make it clear that U.S. citizens who work for companies in the United States which happen to be foreign-owned will not lose the rights they presently enjoy to fully participate in federal campaigns.

An amendment being proposed later in this debate would bar U.S. subsidiaries of foreign-owned companies from operating PACS. Under this proposal, the definition of "foreign" would be decided by degree of ownership. Any company that is more than 51 percent foreign-owned would not be allowed to operate a PAC—regardless of the number of employees they have in the U.S. or the extent of their contributions to the U.S. economy.

Let me first reiterate that U.S. law presently forbids foreign nationals from participating in any way in federal elections, including contributing to and making decisions about a PAC.

Many U.S. subsidiaries make substantial contributions to our economy and are stellar corporate citizens. To discriminate against them and the U.S. citizens they hire is simply wrong. For instance, both Hardees and Burger King are foreign-owned, yet they—like U.S.-owned McDonalds—are U.S. institutions which hire American citizens to work in the thousands of restaurants all across my state and throughout this country. It would simply be unfair to deny American employees of Hardees and Burger King the basic right of participating in a PAC while ensuring American employees of McDonalds that they would continue to have the right to fully participate in their own government's election process.

After all, those employees at Hardees and Burger King pay taxes, shop at local stores, volunteer for the local charities and otherwise contribute to their communities just as their neighbors do who work for U.S.-owned companies. I urge all of my colleagues to ask constituents in your district who work for U.S. subsidiaries if they should be treated as "foreign". I am sure the response will convince you that it is patently unfair to discriminate against these American workers.

U.S. subsidiaries of companies based outside the U.S. are increasingly important participants in the American economy. In my home state of Tennessee:

138,200 Tennessee workers are employed by U.S. subsidiaries.

From 1980 to 1995, Tennessee employment at U.S. subsidiaries increased more than five times faster than all jobs in Tennessee.

Employees at U.S. subsidiaries constitute over 6% of Tennessee's total work force.

Support the rights of ALL Americans to participate fully in our political process and give these employees at U.S. subsidiaries the assurance that we will not treat them as second class citizens.

Support the Gilmor-Tanner amendment.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wanted to take this opportunity because I will be offering amendments later in the month concerning foreign contributions to U.S.

campaigns, and I respect my colleague from Ohio and his desire to preserve the rights of U.S. citizens regardless of where they work to participate in our political system. But I have to say to both the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) that sometimes what appears is not always everything that should appear in the offering of an amendment, and I think, as we move through this bill, there may be the opportunity to refine some of the concepts in the amendment currently on the floor from other issues that also bear on the subject of national interest versus any purely private interest. And I think under our laws it is pretty clear that U.S. elections should be for U.S. citizens and that we have a problem in this country in foreign money infecting U.S. campaigns on both sides of the aisle.

Mr. Chairman, we have seen what has happened when millions and millions of dollars manages to come into this country either as independent expenditures or for various candidates not being disclosed properly, and in some cases, even though the law says foreign citizens shall not contribute, in fact they end up contributing because the disclosure requirements for foreign contributions are not kept in a separate category at the FEC.

This issue is not as simple as it first appears on the surface, and so I would say with all due respect to my colleague from Ohio, though I respect the right of individual Americans to contribute to campaigns, I draw the line where in fact those contributions are coming from foreign interests. I do not care who those foreign interests are, this is a nationally sovereign country, and we should be able to safeguard the election processes inside our nation.

Now let me draw an example for those of us who served during this period of time when Toshiba Company through a subsidiary in northern Europe gave away U.S. submarine technology to the then Soviet state, and if I were asked if I think Toshiba should be able to contribute to U.S. elections, I would say absolutely not. Their ability to try to subvert the rightful penalties that they should have paid for that incredible act against this country and our national security should not have been rewarded by allowing that corporation to participate in any way in the U.S. political process.

Now for their employees, for their employees to be able to participate as U.S. citizens they should be able to participate in their elections if they wish to support a candidate absolutely. But there are serious problems with the way in which foreign contributions are booked and with the way in which records are kept at the FEC.

I have studied this now for almost 10 years. I know this issue inside and out.

So I would just say that I would vote present on the proposal offered by the gentleman from Ohio (Mr. GILLMOR) if it were brought to a full vote here. I would encourage the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) to work with us as we try to get equal disclosure on foreign contributions into the elections in this country and to try to draw a very clear line here on what we are talking about.

Mr. Chairman, there is a difference between U.S. citizens and foreign interest participating in U.S. elections.

Mr. SHAYS. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I thank the gentlewoman from Ohio (Ms. KAPTUR) for the tone of her message and the strength of her message, and I agree with her comments, and one of the challenges that we have is, as these amendments come in, make sure we are touching base with all sides and making sure that we are able to meld this process so we can accommodate the various sincere and real concerns that Members have such as the gentlewoman, and I appreciate her present vote, and I appreciate her comments.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Connecticut (Mr. SHAYS) very much, and I thank my colleague from Ohio (Mr. GILLMOR) for alerting me to the fact that this amendment would be discussed, and we look forward to working with the gentleman as our amendment comes up on the floor.

Mrs. KELLY. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Gillmor-Tanner amendment which seeks to ensure that all American citizens are treated equally under the law. The political rights of American voters should not be determined by where they work.

Just as our Nation has assured equal political participation for all citizens regardless of race, gender or national origin, we should ensure that no class of Americans are denied an avenue of political participation that is available to all other Americans.

In my home State of New York nearly 349,000 American citizens work for American subsidiaries of companies headquartered abroad. It makes no sense that my constituent who works at their American-owned McDonald's can join with fellow employees and contribute to campaigns through a political action committee while their neighbor who works at a foreign-owned Burger King or Hardee's is denied this avenue of participation in our political system.

Mr. Chairman, it is only fair and common sense that we provide in our election law a provision to ensure that all Americans receive the same opportunities and avenues of political participation. I urge my colleagues to support the Gillmor-Tanner amendment.

Mr. PRICE of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Gillmor-Tanner amendment. I come from a State where the number of employees of U.S. subsidiaries of corporations headquartered in other countries has grown by 233 percent since 1980. Two of the largest employers in the high-tech Research Triangle Park, for example, Nortel and Glaxo-Wellcome, collectively employ 15,000 people in North Carolina. They make tremendous contributions to the U.S. economy, to the North Carolina economy, and to our local communities. It is unfair to discriminate against American citizens who are employees of these companies.

It is already illegal, Mr. Chairman, for foreign nationals to participate in political action committees. PACs are operated by U.S. employees, and funds for PACs are provided only by U.S. employees. There is no reason to deny U.S. citizens the right to participate fully in the political process, and that includes financial participation.

The Gillmor-Tanner amendment is a straightforward amendment ensuring that all U.S. citizens are treated equally under our campaign finance laws regardless of where they work.

I encourage all colleagues to support this sensible and fair provision.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in support of the Gillmor amendment. This amendment has a simple objective: it ensures that American citizens who can vote in elections are not prohibited from participating in the political process solely because they work for U.S. subsidiaries of foreign-owned companies.

Although Federal election law already bars foreign nationals and foreign corporations from contributing to Federal candidates, in the current debate on campaign finance reform, amendments have been filed that would not only restrict foreign nationals from participating, but American citizens employed by foreign-owned companies as well.

Mr. Chairman, while intended to reduce foreign influence on our elections, such a change in election law would only end up excluding a class of Americans from enjoying rights held by all others. This approach would not only be unfair to the 209,000 residents of my state of New Jersey who work for U.S. subsidiaries of foreign-owned companies, but would also be constitutionally indefensible. The Gillmor amendment makes clear that campaign finance reform should apply equally to all Americans, and I urge my colleagues to support it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. GILLMOR) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GILLMOR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 395, noes 0, answered "present" 3, not voting 35, as follows:

[Roll No. 251]

AYES—395

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Jones
Kanjorski
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

ANSWERED "PRESENT"—3

Johnson, E. B.
Kaptur
Leach

NOT VOTING—35

Baker
Barr
Blunt
Callahan
Coburn
Conyers
Cooksey
Cox
Everett
Gephardt
Gonzalez
Goodling
Green
Gutknecht
Hastings (FL)
Holden
Johnson, Sam
Kasich
Kennedy (MA)
Lewis (GA)
Martinez
McDade
McNulty
Meeks (NY)
Morella
Ortiz
Parker
Reyes
Rothman
Salmon
Smith (NJ)
Solomon
Sununu
Torres
Weldon (FL)

☐ 1300

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Chairman, regrettably I was unavoidably detained for rollcall votes 250 (Maloney Amendment) and 251 (Gillmor Amendment). Had I been present, I would have voted "yes" on both rollcall votes 250 and 251.

PERSONAL EXPLANATION

Mrs. MORELLA. Mr. Chairman, because of a family matter, I unfortunately missed three rollcall votes (249, 250, 251) pertaining to campaign finance reform.

I would have voted "no" on rollcall No. 249, the Thomas amendment to add a nonseverability clause, "yes" on rollcall No. 250, the Maloney amendment providing for a commission on campaign finance reform, and "yes" on rollcall No. 251, the Gillmor amendment to ensure every voter can participate in the political process.

I strongly oppose the Thomas amendment. It goes too far; the amendment strikes the provision in Shays-Meehan stating that if any part of the bill is found unconstitutional, the remainder stays intact, and it adds a provision stating that if any part is found unconstitutional, the entire bill is invalid. This Congress has passed several bills with severability clauses, including the Balanced Budget Act of 1997. Bills that are silent on the issue are considered by the courts to be severable. The Thomas anti-severability approach is highly unusual, and found in only four of the thousands of bills introduced this Congress.

I support the Maloney amendment, which would create a 12-member commission to recommend changes to current campaign finance law. The commission must submit recommendations, approved by at least 9 of the 12 members, within six months of the end of this Congress, and be considered under expedited procedures. The commission would be comprised of an equal number of Republican and Democratic appointees. While I strongly support the Shays-Meehan bill, I favor further reforms to our system, and this commission gives us the opportunity to further reform our system.

AMENDMENT NO. 82 OFFERED BY MR. DOOLITTLE TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. DOOLITTLE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore (Mr. COLLINS). The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 82 offered by Mr. DOOLITTLE to amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

Strike section 301(20)(B) of the Federal Election Campaign Act of 1971, as added by section 201(b) of the substitute, and insert the following:

"(B) NONAPPLICATION TO PUBLICATIONS ON VOTING RECORDS.—The term 'express advocacy' shall not apply with respect to any communication which provides information or commentary on the voting record of, or positions on issues taken by, any individual holding Federal office or any candidate for election for Federal office, unless the communication contains explicit words expressly urging a vote for or against any identified candidate or political party.".

Mr. DOOLITTLE. Mr. Chairman, I am going to offer this amendment which is short and to the point. I believe I will just read it, because it makes the point.

It is entitled the Nonapplication to Publications on Voting Records: The term "express advocacy" shall not apply with respect to any communication which provides information or commentary on the voting record of, or positions on issues taken by, any individual holding Federal office or any candidate for election for Federal office, unless the communication contains explicit words expressly urging a vote for or against any identified candidate or political party.

Mr. Chairman, the effect of this language is to preserve the Buckley opinion, which of course is going to stand whether or not we enact Shays-Meehan. But it is to make sure that we do not place citizens in jeopardy for exercising their God-given right to free speech protected in the U.S. Constitution.

The Buckley case, which is so demeaned by our left-wing reformers, is quite clear on this. And it was a case that was a very strong case by judges, most of whom supported it. We have heard Buckley defamed time and time again. I want to quote a couple of things from Buckley and my colleagues will see why it has remained the constitutional foundation for so many years.

In the words of Buckley, The Federal Election Campaign Act, known as FECA, their regulation:

> . . . apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for public office . . . this construction would restrict the application of FECA regulations to communications containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject."

Now, here are the so-called magic words that are demeaned by our left-wing reformers. But the reason we have such words is further explained by the Court itself.

> ". . . the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest."

And then we come to this, and this really is the philosophical underpinning of the First Amendment. It explains how that applies to these disastrous attempts such as Shays-Meehan to abridge our freedom of speech. And it goes on to say:

> Whether words intended and designed to fall short of invitation would miss that mark is a question both of intent and effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning.
>
> Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim.

This is why we have all said on our side that Shays-Meehan is patently unconstitutional on its face, because its regulation compels the speaker to hedge and trim.

Now, in Shays-Meehan, they claim they allow voter guides, but their regulation compels the speaker to hedge and trim. Why? Because there is a requirement that it be done in an "educational manner." Clearly, it is intended to require only a flat recitation of facts and to bar commentary or advocacy on an event or issue.

But certainly the scorecards and voter guides put out by issue groups and labor unions do reflect a point of view. They do contain commentary. And under the First Amendment, they have every right to do so.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DOOLITTLE) has expired.

(By unanimous consent, Mr. DOOLITTLE was allowed to proceed for 3 additional minutes.)

Mr. DOOLITTLE. Mr. Chairman, also the requirement in Shays-Meehan is that the publication must contain, "no words that in context have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates."

See, this is the inference they are talking about here where whatever inference may be drawn as to its intent and meaning. All of a sudden a Federal bureaucratic czar is going to determine whether or not what citizens have said in their voter guide fell within the law or outside the law. It chills the speech.

Mr. Chairman, I ask my colleagues to just think of this. Any organization that wants to distribute a voter guide, such as the Christian Coalition, such as National Right to Life, such as, I think the Abortion Rights Action League does them, any organization is now going to have to have in the back of its mind, and in its bank account, a half-million dollars, knowing that they will then be prepared to withstand a prosecution by the Federal bureaucratic czar who may determine that through the inference and so forth of the words, that the words fell within the scope of the Shays-Meehan law and, therefore, can be punished.

Now, the First Amendment of course would never allow this. But as we all know, when we have statutes that infringe on the Constitution, the only way to deal with that problem is to go through the extremely time-consuming and costly litigation process. So this puts every issue advocacy group in the country in jeopardy. They will all have to raise more money in order to fight the half-million dollar legal battle. I think that is wrong.

By the way, a voter guide, here is one from the Christian Coalition, this is what a lot of the incumbents who are not casting votes consistent with the wishes of the Christian Coalition get very upset by. This is very influential and it is definitely determined to influence the outcome of elections, which the Constitution says they have the right to do.

But it takes a Member's vote, they have votes probably of 20 different things or so, and it lists the voting records of everybody around the country. But it is an advocacy thing. It does have a point of view, because it says, "How did your congressmen and senators vote on issues critical to the family?" And on the backside it says, "Christian Coalition, giving pro-family Americans a voice in their government again."

Well, I think would it not be safe to infer that if Members are casting antifamily votes as related by the Christian Coalition, that they would think that Member should be defeated rather than elected? I do not think it is a large jump in logic to understand that that would be the intent.

When we get into the language of Shays-Meehan, they then are violating what can be done because this is not neutral. They now have words and context that can add no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates. Under Shays-Meehan, they are not just doing a flat recitation of facts such as they intend by the words "educational manner."

Therefore, Mr. Chairman, we need this amendment and I urge my colleagues to adopt it.

Mr. LEVIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I am looking for the language of the amendment. It does not really state it correctly. It says nonapplication to publications of voting records. And everybody should understand this goes far beyond voting records. It goes to all communications.

Let me read it. "The term 'express advocacy' shall not apply with respect to any communication which provides information or commentary on the voting record of or positions on issues taken by . . ." So it is anything in a political campaign. ". . . by any individual holding Federal office or any candidate for election for Federal office, unless the communication contains explicit words expressly urging a vote for or against any identified candidate or political party."

So the amendment offered by the gentleman from California is not really related to voting guides. What it does is try to strike all of the language within Shays-Meehan relating to express advocacy, to issue ads. Let no one be unclear about that.

□ 1315

Secondly, I wish we would stop talking about people who are for this bill as left wing reformers, I say to the gentleman from California, because when he says that, he is demeaning the gentleman across the aisle from him, the gentleman from Connecticut (Mr.

SHAYS). He is demeaning the gentleman from Tennessee (Mr. WAMP) who has been actively involved, the gentleman from Maryland (Mr. GILCHREST), the gentleman from New York (Mr. BOEHLERT), the gentleman from California (Mr. CAMPBELL), the gentleman from South Carolina (Mr. SANFORD), and others, and Mr. MCCAIN.

My colleagues may disagree with their fellow or sister Republicans. Do not call them by an epithet. This debate serves better than that. No one is calling my colleagues a right wing nut.

We are also not demeaning the Supreme Court. By the way, if it is patently unconstitutional on its face, then do not present an amendment. The court will eliminate it. The problem with my colleague's position is that that is not true, and that is what they are worried about.

The 9th Circuit, which is not filled with left wing reformers, has interpreted the decision, the Buckley decision. There is a circuit that disagrees with it. But the 9th Circuit has said this, and we essentially, in this bill, attempt to follow the language in Furgatch or the gist of it.

Here is what they say: We begin with the proposition that express advocacy is not strictly limited to communications using certain key phrases. The short list of words included in the Supreme Court opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. LEVIN. I am happy to yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, Furgatch is an express advocacy case and is perfectly consistent with our beliefs in the Buckley case. Furgatch, as I understand the case, the court named, I do not know, seven or eight words in the Buckley case, and Furgatch, the facts of the case amounted to essentially the same thing. That is all it says. But it is express advocacy. It does not advocate blurring the line between express advocacy of election or defeat of a candidate versus everything else.

Mr. LEVIN. I say to the gentleman, then, go back and read Shays-Meehan. Go back and read it, because all it says is, within the last 60 days, especially if there is express advocacy, if you attack a candidate, but do not say vote against, or if you say things that do not exactly say vote for, that, still, if the clear purpose is a political ad, it shall fall within independent expenditures and be controlled by the regulations with the FEC.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield again?

Mr. LEVIN. I yield to the gentleman from California.

Mr. DOOLITTLE. Only to say, right up until now and even now, it is clear we do not have to look at what the purpose or the intent is. Unless the words themselves are express and advocating the election or defeat of a candidate, then it is not subject to regulation.

The man in Furgatch said, I think it is Harvey Furgatch ran this ad and said, do not let them do this, meaning defeat them. I think they were talking about Jimmy Carter. It is quite clear. We should not seek to blur the line.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. LEVIN) has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 3 additional minutes.)

Mr. LEVIN. Mr. Chairman, I would suggest, then, between now and next week that the gentleman should get together with the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) because I just think that his language is contrary to what he says he understands Furgatch to be.

He says, unless the communication contains explicit words expressly urging a vote for or against any identified candidate. That is, rewrite your amendment, then.

Let me just go on. Let me just finish, if I might. It goes on to say, a test requiring the magic words elect, support, et cetera, or their nearly perfect synonyms, for finding of express advocacy would preserve the First Amendment right of unfettered expression only at the expense of eviscerating the Federal election campaign ad.

No one is trying to gag anybody. If they want to do a political ad that essentially wants people to vote for or against, what they say is fall within the independent expenditure and other provisions of the law, which has limits on what can be expended and has requirements for disclosure, which is not true of these ads that are clearly campaign ads, that are clearly political ads.

But the people do not know who put the money up. They are hidden. They are endless. There is a flood of hidden, in terms of its support, of hidden money. That is what we say should not happen.

Now, look, in terms of the brochures, voter guides, if you think the language on voter guides is not clear enough, then amend that. But the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) have carefully tried to spell this out.

They say that a printed communication is not included if it presents information in an educational manner solely about the voting record or position on the campaign issue of two or more candidates. If it is not education, if it is essentially political, it should fall within the purview of the ad.

Now, look, no one is talking about a czar. We have laws on independent expenditures that the FEC has to enforce. The Supreme Court was worried about this 20 years ago. A lot has happened in the last 20 years, to include this bombardment of so-called issue ads that are really political ads.

If Members adopt this amendment, they are essentially eviscerating the issue advocacy provisions, the effort in Shays-Meehan to call and regulate political, what is really political and a campaign ad that is really a campaign ad.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to lend my voice to the debate on campaign finance reform and reluctantly stand in opposition to the amendment of my good friend, the gentleman from California (Mr. DOOLITTLE).

The issue at hand is express advocacy, and the courts have made a number of statements on this, and there are a number of conflicting comments on express advocacy and whatever the magic words are. Buckley makes a statement. Lower courts have been split on this issue.

But I think it is very important, if for no other reason, for the Congress to have some legislative history on what express advocacy is. I am of the strong opinion that when we do this, the Shays-Meehan legislative framework provides the kind of structure we need to ensure that those who want to advocate a position, an issue, or even a candidate be heard in a responsible manner.

Shays-Meehan does not limit the First Amendment rights for free speech. It provides a framework in which rigorous mental debate, rigorous mental effort, intellectual discussion can be pushed for. It does not limit free speech. It holds speech to a standard. It holds free speech and those who are giving it to be held accountable. It just does not let the broad array of anybody's opinion based on good judgment, good facts, or based on absolutely nothing go out into the free media. So I have a strong position, and I would hope my colleagues vote for Shays-Meehan.

I just want to make a couple of other points. Our responsibility as Congress is to ensure protection from the public against corruption. I do not think anybody in this House Chamber would say that too much money or money expended in years passed or in this election cycle, especially in some of the elections and special elections that are going on right now do not put forth or masquerade as putting forth the truth.

We have too much money in certain instances being put forth against Republicans and Democrats that do not support good, legislative, fundamental, sound issues. We as Members of Congress, I strongly feel, have the broad ability to protect the public in the political process from corruption and the appearance of corruption.

The Supreme Court specifically noted on a number of times that contribution limits do not undermine robust and effective discussion for candidates. Myself, I do not take, and I am not advocating this for everybody, even though I have an amendment, I do not take any PAC money. I do not take any money out of the district. You have to be eligible to vote for me as a candidate to contribute to my campaign.

That way, I do not raise a whole lot of money in campaign, but I can tell my colleagues that my campaigns, my discussions in campaigns, and my debates, even though I have been outspent six to one, seven to one, eight to one all across the board in most of my campaigns, I still have a rigorous and robust debate.

I would advocate that for everyone. But I think this Congress has the right, the power, and the broad responsibility to protect the public from political corruption and the appearance of corruption.

The Shays-Meehan bill does not affect, I will throw this in very quickly, State campaigns or State politics or State elections. It does regulate State party activity to the extent that it affects Federal elections. I think this is a positive thing.

Mr. Chairman, I will make two last quick points. Number one, the Supreme Court makes a statement. They make a ruling, and that is fine. To the extent we live with that, but we still have the option and the ability and the freedom and the responsibility to question that decision. That is what democracy is.

We are debating this issue. It is an exchange of information with a sense of tolerance for somebody else's opinion wherever they lie on the political spectrum. Then we vote. That is what is happening here.

The last point I would like to make is, in my judgment, the question here is, will we continue to allow campaign ads to bypass campaign finance laws simply because they appear to be such?

The CHAIRMAN pro tempore. The time of the gentleman from Maryland (Mr. GILCHREST) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. GILCHREST was allowed to proceed for 2 additional minutes.)

Mr. GILCHREST. Mr. Chairman, let me make this one last point, the question is should campaign ads escape finance laws simply because they are crafted to masquerade as something else? I do not think so. So I strongly urge my colleagues to vote for Shays-Meehan.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding to me. He is a dear friend of mine, and I appreciate my dear friend's well intentions. But we are debating the Doolittle amendment that exempts certain groups like the Christian Coalition from this bill and allows the Christian Coalition to pass out their voter guides.

The gentleman made two statements, and I ask him to clarify them for me. The gentleman said these groups should be held accountable. My question is, by whom? Second, that these groups are corrupting. They are corrupting. What about the Christian Coalition is corrupting the process by handing out a voter guide?

Mr. GILCHREST. Mr. Chairman, reclaiming my time, I think, number one, we, as Members of Congress, should continue to debate the kinds of language and the kinds of things that the overall American public would consider as real campaign advocacy.

There is an election in New Mexico right now, I would tell my colleagues of this House, where the kinds of campaign rhetoric against one of the candidates, which happens to be a Republican, is absolutely false. There are blatant lies. That is what I would assume and strongly feel that this legislation would get at.

I would never say that the Christian Coalition in its information packet about candidates and their voting record is masquerading as something other than what it is. I think they would be protected under Shays-Meehan. I do not see the Christian Coalition packet of information about Members of Congress any different from that of the League of Women Voters.

The CHAIRMAN pro tempore. The time of the gentleman from Maryland (Mr. GILCHREST) has again expired.

(On request of Mr. DOOLITTLE, and by unanimous consent, Mr. GILCHREST was allowed to proceed for 3 additional minutes.)

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, what does the gentleman understand the term in the Shays-Meehan to mean in an educational manner?

Mr. SHAYS. Mr. Chairman, will the gentleman yield? I can answer.

Mr. GILCHREST. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, we just need to know exactly what is in the bill, and then we can argue it. We say a voting record and voting guide exception. The term "express advocacy" does not include a printed communication that prevents information in an educational manner solely about the voting record or position on a candidate issued on two or more candidates that is not made in coordination with the candidate, political party, or agent of the candidate or party or a candidate's agent or a person who is coordinating with a candidate's agents. Third, it does not contain a phrase such as vote for, reelect, support, cast your ballot for, name of candidate for Congress, name of candidate in 1997, vote against, defeat, reject, and so on.

□ 1330

This 1994 Christian Coalition guide is legal. And what the gentleman wants to do is he wants to strike out the very language we put in the bill. I would just point out to the gentleman this is allowed under our bill, and the gentleman is taking it out.

Mr. GILCHREST. Reclaiming my time, Mr. Chairman, I would say to the gentleman from California that I would agree with the interpretation of the author of the bill; that the statement the gentleman from Connecticut (Mr. SHAYS) just read in no uncertain terms protects the brochure that the gentleman is holding for the Christian Coalition.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from California.

Mr. DOOLITTLE. Then support my amendment and then it will make it unambiguous. The problem with the Shays-Meehan language is it is ambiguous because we have the phrase "in an educational manner".

Mr. GILCHREST. Reclaiming my time, my interpretation of the bill and that section of the bill is that if we take that out, then what the gentleman is trying to do becomes more ambiguous. I think the specifics of the Shays language offers a concrete protection for the Christian Coalition's advocacy material.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Michigan.

Mr. LEVIN. I wish to say to the gentleman from California that he says it relates to voting records. It is a misstatement of what it applies to. It applies to any communication. And it says that it will not be covered by Federal regulation unless there are explicit words urging a vote for or against.

What the gentleman is doing is trying to totally vitiate the express advocacy provisions. And the gentleman has said it so well, the gentleman who has the time. The gentleman is so right in saying that we should not allow ads to masquerade for something that they are not.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Texas.

Mr. DELAY. The gentleman is absolutely wrong. He is reaffirming the express advocacy affirmed by the Supreme Court through Buckley-Valeo, Colorado, and many other decisions.

Ms. RIVERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to speak to two issues which are very much related around this issue, which is soft money and express advocacy. Both are currently being used to deliver campaign ads by skirting campaign laws.

Soft money is meant to be used for general party building. It is meant to benefit the party as a whole, not to benefit any particular candidate. Express advocacy ads are meant to speak to issues and not to expressly advocate for the election or defeat of any single candidate. Currently, both of these laws and both of these activities have huge loopholes that are being exploited shamelessly by groups across the political spectrum.

Consider a real, not hypothetical, series of ads that ran this last cycle in New York. The people who ran these ads argued that publicly attacking one candidate in a race is not a benefit to the other candidate and should not be considered so. It is an interesting interpretation. $750,000 of soft money was spent to attack one candidate in a two-candidate race under the argument that this should be protected because it was, of course, not a benefit to the other candidate.

Let me tell my colleagues what the express language used was. On the air, the suggestion was that candidate number one was for more taxes, for more welfare. Candidate number one would tax and spend. Candidate number one was responsible for the mess in Albany. And the ad finished up by flashing the telephone number of the candidate and urging viewers to call and tell this candidate to cut taxes, not take another bite out of our paychecks.

Now, my understanding is that when these ads aired, there were no tax votes imminent in the assembly where that candidate was serving. There was no specific issue that was mentioned. The only message that one can glean from this particular ad was the one that was meant to be gleaned, which is to turn public opinion against the featured candidate, and $750,000 of soft money was used to air these ads.

The reforms embodied in Shays-Meehan are meant to shut down these sort of semantic shenanigans. Changes are needed because parties and organizations on both sides of the political aisle are currently abusing the system. My belief is that those who are pursuing real issue advocacy should have no problem doing so in a system reformed by Shays-Meehan. This is just another alarmist argument meant to frighten Members away from the reforms that our constituents want.

Mr. MEEHAN. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Actually, Mr. Chairman, the gentlewoman has brought up an interesting point. These ads, that are supposedly issue ads, let us talk turkey here and do one of the ads. I have it right here.

Now, this is an ad we cannot find out where the money came from, but it was spent by a tax exempt organization founded on June 20th, 1996 called Citizens For a Republic Education Fund. Here is the ad.

"Senate candidate Winston Bryant's budget as Attorney General increased by 71 percent. Bryant has taken taxpayer funded junkets to the Virgin Islands, Alaska and Arizona. And spent $100,000 on new furniture. Unfortunately, as the State's top law enforcement official, he's never opposed the parole of any convicted criminal, even rapists and murderers. And almost 4,000 Arkansas prisoners have been sent back to prison for crimes committed while they were out on parole. Winston Bryant: government waste, political junkets, soft on crime. Call Winston Bryant and tell him to give the money back."

Now, if somebody wants to run an ad like that, that is fine, but the American public has a right to know who funded that ad. The American public has a right to know what money is behind that kind of a negative ad.

And that is what we are talking about here. The gentleman's amendment would gut our ability to have the public know who has funded that ad. Voters in any district, in any State, anywhere in America have an absolute unequivocal right to know who funded that particular ad, as well the first amendment guarantees a right to run that ad. That is a negative ad that can be run anywhere in America. But the public deserves to know who funded an ad like that.

And that is what this debate, by the way, is all about. The question is does the public have a right to know when somebody blatantly uses a negative political ad in a race and spends $300,000. The public has a right to know.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my intention to save at least 2 of those 5 minutes for any individuals who wishes to engage me in debate so that we have a good exchange of views, and, indeed, I would like to begin with a point that has, to my judgment, not yet been raised.

The amendment by my good friend and colleague, the gentleman from California (Mr. DOOLITTLE), not only puts in a provision regarding the use of the so-called magic words as the only definition of express advocacy, but it strikes the provision in the bill that has other tests, and that is where I wish to focus. I have not heard the debate focus on it yet. Because one of those other tests says that the so-called advocacy in question cannot be "made in coordination with a candidate." Instead, the amendment of the gentleman from California says that as long as the magic words are not used, "vote for this candidate", "vote against this candidate", it is to be permitted.

So the legislative history will be absolutely clear, if the amendment of the gentleman from California passes, it will replace this language in the bill of the gentleman from Connecticut (Mr. SHAYS). So that it was the intention of the author and the intention of the House, if we pass this, to allow, as express advocacy, to allow as any advocacy so long as it does not use the words, "even if it is in coordination with a candidate."

Now, here is the example that I want to emphasize. Suppose, for example, then, that the Christian Coalition or the National Abortion Rights Action League, to choose a different point of view, sits down with a candidate and says, "When do you want the voter guide to go out; how big print do you want; which issues do you want to suggest that we inform the public about; give us the good photograph instead of the bad photograph." In other words, they operate hand in glove with the candidate. That would be permitted under the amendment of the gentleman from California so long as the words "vote for" or "against" were not used.

Because I think that has to be an inadvertent error, I will now yield to my colleague from California as much time as he would like to take, hoping he will save me some time to respond, to explain if I have it wrong.

Mr. DOOLITTLE. Mr. Chairman, let me say that my amendment is pretty clear, I think. What the gentleman was describing was exactly what Bill Clinton and AL GORE did in this last election.

Now, Shays-Meehan wants to make that illegal. I do not want to make that illegal, although I will render it unnecessary because we will wipe away this monstrous regulation in present law that the big government, is that okay to say, or the pro-government reformers gave us 25 years ago, and instead we will just remove the limits and then the contributor can give to the candidate. That is the natural flow of money. We will not have to have these diversions and circumventions, soft money, issue advocacy, et cetera. It can just go right to the candidate.

I do not outlaw any of that, because we have a first amendment which protects speech.

Mr. CAMPBELL. I want to reclaim my time so I can respond to the gentleman, and then maybe we will get unanimous consent to continue, but I would like to respond. It is always a pleasure dealing with my colleague from California. He is honest, direct, and he has admitted my point was right, and let me repeat it.

What President Clinton did in the last campaign, which would be outlawed by the gentleman from Connecticut, is permitted by the gentleman's amendment. And that means, to wit, that the candidate sits down with a group, works through which issues will be identified in the so-called legislative information card, works out the text, works out the timing, works out the printing, works out the picture, works out everything to help the candidate, but so long as the magic words are not used, it is permitted.

My friend from California is candid. He admits that is what his amendment will do, and that is why we must vote against it.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Texas.

Mr. DELAY. I wanted to quickly point out, Mr. Chairman, the fact that the gentleman from Massachusetts, when he brought this ad up, has nothing to do with the gentleman's amendment. What we are talking about are voter guides. That is what his amendment addresses and has nothing to do with what the gentleman from Massachusetts is trying to portray. We are talking about voter guides here.

And the point I would make is a different point than the gentleman was pointing out. The gentleman from Connecticut failed to read, if he had read the last of his bill, where it says, "no reasonable meaning other than to urge the election or defeat." And I pointed out that in the voter guide I held up, the Christian Coalition guide, if we took that guide and distributed it in a church, then a reasonable meaning person would describe that as advocacy for the person that was against abortion, against homosexual type things that are on that voter guide.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. CAMPBELL) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 1 additional minute.)

Mr. DELAY. Mr. Chairman, will the gentleman continue to yield?

Mr. CAMPBELL. I yield to the gentleman from Texas.

Mr. DELAY. So the point is that the Christian Coalition, NARAL, or anybody else would not, under the Shays-Meehan bill, be able to put out their voter guides.

Mr. CAMPBELL. I thank the gentleman for his courtesy, Mr. Chairman, and I want him to stay in the well just to be sure. My point was a different one, and I will just hammer my point home, because I believe I have the right to do so.

The language in the Doolittle amendment removes the prohibition against coordinated expenditures for voter guides. So I am not now dealing with what the gentleman's dispute with the gentleman from Massachusetts may be, but just on this one question. I read the Doolittle amendment as saying that even if an organization works with the candidate for choosing the issues, for how they phrase them, for when the voter guides go out and how many people get it, indeed, the addresses that it is sent to, so long as they do not use the words "vote for" or "vote against", it would be permitted.

Now, that issue, the gentleman from Texas did not address. I want to make clear he is not disagreeing with me that that is the effect of the amendment of the gentleman from California.

Mr. DELAY. Well, if the gentleman wishes to continue to yield, I would suggest he yield to the gentleman from California, because he knows more about his amendment on that particular point.

Mr. CAMPBELL. I will be happy to do so, but I wanted to hammer home the point first that the gentleman from Texas was not disagreeing with me.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. CAMPBELL) has expired.

(On request of Mr. DOOLITTLE, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from California.

Mr. DOOLITTLE. What I would say to the gentleman, Mr. Chairman, is that while I support the coordination language that we talked about, I want to make the point that this amendment does not deal with it. All this amendment deals with is basically allowing communication with regard to voting records to require terms of express advocacy.

Mr. CAMPBELL. The gentleman's amendment begins, and I am reading, "Strike section 30.120(b)", and what the gentleman strikes in that is exactly what I quoted, the prohibition on coordination. So I really did think the gentleman did not intend this. That is what I prefaced this by.

But if the gentleman looks at his amendment, it begins, "Strike section 30.120(b)", and section 30.120(b) says we cannot do this if, among other things, it is coordinated.

□ 1345

Mr. DOOLITTLE. Mr. Chairman, if the gentleman will continue to yield, I am trying to get a copy of the language to respond. I am looking at what our language strikes, and it does not say anything about coordination.

Mr. CAMPBELL. I direct the attention of the gentleman to 30.120(b) on page 12 of the draft bill, line 14 of the voting record and voting guide exception. I draw the attention of the gentleman to little 2, line 21, that is "not made in coordination with the candidate."

You are striking that provision. Your amendment says "strike section 30.120(b)."

Mr. DOOLITTLE. I just got a copy of the bill. Give me the line again.

Mr. CAMPBELL. Page 12, line 21.

Mr. DOOLITTLE. I guess we are not going to be able to clear this up because I do not really have the same text that the gentleman does. This is going to continue and we will address the issue upon continuation.

Mr. CAMPBELL. In closing, anyone can make a mistake. I am not suggesting that the gentleman has. But if he has, I do not think he intended that result. It is, nevertheless, a devastating result and it is reason to vote against the amendment.

Mrs. CAPPS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in opposition to the amendment by my colleague the gentleman from California (Mr. DOOLITTLE) and I oppose this amendment because it strikes me at the very heart of what is good about the Shays-Meehan campaign finance bill, a bill which, although it is not a perfect bill, but which addresses two of the major loopholes in current campaign finance law.

Current law, and under Shays-Meehan as well, free speech is not opposed, people have the right to address issues. But the topic that I want to speak about in a very personal and direct way, because it happened to me just a few months ago, has to do with so-called issue ads. These ads are not issue ads when they directly support or attack a candidate's point of view even though they do not expressly say "vote for" or "vote against." They use the picture of the candidate. They mention the candidate's name.

I want to even become more personal with my own experience. In a hard-fought race in the 22nd District of California, my opponent and I both faced this new phenomenon in our current campaign situation. I am speaking now about $300,000 ads that were used to support me. And I opposed those ads because they were issue ads that did direct voters to vote for me but did not do so under current laws, which, in the right way, regulate the way campaigns should be run.

In other words, they did so under this giant loophole which we have allowed and these laws, these issues and the people behind them which are not disclosed, the amount of money that they can contribute is not limited, the source of their funds are not disclosed, and these ads are not accountable. They directly influence the way campaigns are handled.

It even became common knowledge in my race in the special election in California in March that eventually these issue people said, candidates themselves will be incidental in congressional races, that they are looking for these people who espouse particular issues, particular ideas about issues, who want to have a platform and they see the congressional campaign as a very good platform on which to run their issues.

They do not care about the people who live in the district. They do not particularly care about the candidate. They want a national platform and a national voice for their issue. And maybe it is a good issue. Maybe it is not.

But by not regulating this particular part of campaigns, we are allowing them access to the way candidates become elected officials and it is really doing an injustice I believe to the very core of what this House of Representatives is about.

If we are elected to represent constituents, then we owe it to those constituents to speak to the issues which they care about and which we feel legitimately qualified to speak about. And it is the responsibility of this House to do something about our races.

I am not talking about presidential races. I am not talking about state raises. I am talking about how we are elected to this House. We are elected every 2 years. These people, those folks who want their issues put before the public, they know they have got a great audience in our congressional races. And they told us in March, in California in the 22nd District, "You watch out now, we are going to do this in your races," I am talking about people that supported me, "and then we are going to go full bore in November across this country and we are going to change the way elections occur."

We have the responsibility I believe. And that is why, when I came to Congress, the day after I was sworn in, I knew I owed it to my constituents to get busy on this and I asked, where is the bill that is bipartisan that will address this issue of these so-called sham ads?

I feel very deeply about this particular part. I am not talking about the voter cards. I am talking about the ads on television, very expensive ads. They crowded our airwaves in California to the degree that constituents came up to me and said, "What is this? This does not sound like anything we have been talking about in your race."

It is demeaning to the process by which we come to this place. It is turning off our constituents. It is making them feel like we and they are pawns to a national idea, a good idea or a bad idea. I am not debating the merits of the issue. I am talking about what we are doing here in this body.

The CHAIRMAN pro tempore (Mr. COLLINS). The time of the gentlewoman from California (Mrs. CAPPS) has expired.

(On request of Mr. DOOLITTLE, and by unanimous consent, Mrs. CAPPS was allowed to proceed for 3 additional minutes.)

Mr. DOOLITTLE. Mr. Chairman, will the gentlewoman yield?

Mrs. CAPPS. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, the gentlewoman and I think feel similarly about the trend of our elections. We draw different conclusions as to what is the cause of this. But in response to the question "where is the bill that addresses this?" I would submit my bill addresses this, H.R. 965. Because I would submit it is the severe limits on hard-money contributions, which are contributions by contributors directed to candidates, that are driving this problem.

The Constitution allows, under the various court rulings, which I think are generally correct, people to contribute and express their point of view. It limits contributions right now to candidates. But they can still, under the Constitution, comment on issues.

As my colleagues heard me quote from Buckley the line between issues and candidates, it is hard to distinguish. That is why the Court in order to preserve free speech, said that, in order to fall under the scope of regulation, they have to have words of express advocacy which are clearly related to the election or defeat of the candidate.

What I think this bill is going to do is actually go against the result my colleague seeks to achieve and I frankly seek to achieve, which is that more of our money in campaigns should be centered from the candidate, not from groups out on the periphery that are getting as close to the line as they can without crossing it and influencing the election.

Mr. FARR of California. Mr. Chairman, will the gentlewoman yield?

Mrs. CAPPS. I yield to the gentleman from California.

Mr. FARR of California. The campaign of the gentlewoman from California (Mrs. CAPPS) is very well-known in this country. And what she is saying is her campaign was taken over by outside influences, both her campaign and her opponent's, and these outside influences were not accountable to anybody in their district because they did not have to disclose who they were and where the money came from.

Basically, what is happening here is the American public knows there is a campaign season, there is a beginning and there is an end and they know what goes on in between. There ought to be something we know who is saying it.

They could call somebody a rotten SOB. They could call somebody good. They could call somebody evil. They could say all kinds of things about them. But as long as they do not have to say vote for or against them but they say everything but that, they can destroy them. And they as a consumer, as a voting person, they have no idea who has paid for all that. They do not even know who it is because they usually make up fake titles about what they are. They are always good citizens for something, but then all they do is talk about evil.

So the campaign of the gentlewoman showed to America something that we in Congress were not even aware was going to happen, and that is that it is totally out of control, that we are going to have messages all over this country by people that are totally unaccountable.

If we pass this amendment, it will make it worse. Because the amendment says they can have any commentary, any commentary, they can say anything about anybody they want to as long as they do not say vote yes or no. So they put out this message that is very evil and derogatory and they do not have to be accountable.

That is not the way the American public is. Everything we are doing in this country is trying to make consumers have more information. We are labeling what they eat. We are labeling what we sell them. We are labeling what they borrow their money from. And we ought to label what their candidates have to deal with. It is a bad amendment.

Mr. WHITFIELD. Mr. Chairman, I move to strike the requisite number of words.

First, of all, I know the gentleman from Massachusetts (Mr. MEEHAN) a while ago was talking about this ad that ran, and I am assuming it ran on television. I assume it ran on television.

Mr. MEEHAN. If the gentleman will yield, I did not see it on television, but I read the transcript of it and it was a television ad and about $300,000 worth.

Mr. WHITFIELD. Reclaiming my time, I think all of us are very much concerned about any ads that run without a disclaimer.

I talked to some FEC lawyers yesterday about that very point; and it is my understanding that if an ad like that runs anywhere without a disclaimer, they can go to the Federal Communications Commission because they have a law and regulations that prohibit those type of ads.

I agree with the gentleman that we do not need ads running on television or anywhere else that does not have a disclaimer on them. But the FEC does have some rules that disclaimers are required.

Mr. MEEHAN. If the gentleman would further yield, it is not so much the problem of the disclaimer on the bottom of the advertisement. The problem is that nobody knows where this money came from. The problem is we have an ad that is clearly meant to influence an election; and when we run ads that are clearly meant to influence an election, the public has a right to know where the money came from. That is what the issue is.

Mr. WHITFIELD. The only point I would raise there is that that brings up the whole issue of the right of privacy of individuals who contribute or organizations that contribute; and the Supreme Court, in certain cases, has indicated that they have a right to keep that private. But that is another issue that we could talk about another day.

Mr. MEEHAN. If the gentleman would continue to yield, people have a right to privacy. However, when people spend their money to influence elections in this country, the Supreme Court has clearly indicated that the public does have a right to know who is spending money and how much they are spending and where it is coming from to influence elections.

Under this amendment that is being offered by the gentleman from California (Mr. DOOLITTLE) basically, it says, any communication, any commentary on the voting record positions or anything else would be okay. That is a different right to privacy.

Mr. WHITFIELD. Well, all I would say is that, if the gentleman is talking about the hard money, of course, anybody can go down to the FEC and get a record and they will know who gave him money or anybody else in this Chamber and it is spelled out very explicitly.

I think soft money is a little bit of a different issue. If it is independent expenditures, they are required to file their report with the FEC anyway. In issue advocacy, if it is a political committee, it is required to file a report.

But my colleague is right, other groups do not have to file a report. And I think we can find some cases where the Court has said that is free speech and it is a little bit different than hard money and they do not have to go file all these reports, because they can make the argument that in filing all these reports it provides an obstacle for people engaging in the political process.

I want to just touch on for a moment, the reason that I object to what my colleagues all have done on this voting record guide is that in paragraph 3 they basically lay out the language as set out in Buckley vs. Valeo, the so-called bright line, and if they had stopped after the word "reject," I mean, I would not have had any problem with it myself. But the Court has repeatedly said that they do have to use these express words.

□ 1400

As a matter of fact, the question I would ask, the FEC is a group of government employees and they are going to have to make the decision about what does this mean. Does this ad, or a campaign slogan or words in context have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates? I think different people looking at a particular ad can come up with different conclusions.

I would say to the gentleman that in the Maine case, almost the exact language was used in that case where it said could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates, and the Supreme Court ruled that as unconstitutional. I think the point we are trying to make is I think you are going to be inviting another overturn by the Supreme Court on that.

The gentleman mentioned the Furgatch case which is exactly right. Basically they said the simple holding of Furgatch was in those instances where political communications do include an explicit directive to voters to take some course of action, then they are going to say that that is express advocacy. In that case, they said, "Don't let him do it."

I would also say to the gentleman that that case was decided in the Ninth Circuit. The Ninth Circuit has been turned over 27 of 28 times it went to the Supreme Court. I think we have a legitimate concern about the stifling of speech that could go on by the way you are expanding this definition. That is simply the point that I would like to make.

Mr. SHAYS. Mr. Chairman, subject to the agreement I think of all sides, this debate will continue, and we will have further information provided from both sides, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. COBLE) having assumed the chair, Mr. COLLINS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Florida (Mr. GOSS) so I may traditionally as I do at this time of the week inquire of the majority as to the schedule for the coming week.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from California for yielding.

Mr. Speaker, I am pleased to announce that we have concluded legislative business for this week.

The House will next meet on Monday, June 22, at 12:30 p.m. for morning hour and at 2 p.m. for legislative business.

On Monday, we will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices. Members should note that we do not expect any recorded votes before 5 p.m. on Monday, June 22.

On Monday, we will also consider H.R. 4059, the Military Construction Appropriations Act, and H.R. 4060, the Energy and Water Development Appropriations Act.

On Tuesday, June 23, the House will meet at 9 a.m. for morning hour and 10 a.m. for legislative business. We will again consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices.

On Tuesday, the House will also take up the Agricultural Appropriations Act. Mr. Speaker, on Tuesday evening, Republicans and Democrats will face off in the annual charity congressional baseball game. We hope to finish legislative business by 5 p.m. and head to the diamond for batting practice.

On Wednesday, June 24, the House will meet at 10 a.m. to consider the following legislation:

The Treasury and General Government Appropriations Act; and the Department of Defense Appropriations Act.

On Thursday, June 25, the House will meet at 10 a.m. to consider the Legislative Branch Appropriations Act.

Mr. Speaker, we hope to conclude legislative business for the week by 6 p.m. on Thursday, June 25.

Friday, June 26, as we know marks the beginning of the Independence Day District Work Period from which the House will return on Tuesday, July 14.

Mr. FAZIO of California. If I could reclaim my time, I would like to ask the gentleman if he could tell us when we would next begin debate on the campaign finance reform issue. It looks, as it appears to, that we will be on appropriations bills all week. Is there a date in the future, 2, 3 weeks out when we might get back to this subject we have just been debating today?

Mr. GOSS. If the gentleman will yield further, as the distinguished gentleman well knows, the debate is well underway on this and has certainly caught the interest of the Members, and I think the people who are interested in this subject and will continue on. Obviously next week we have a very heavy schedule of appropriations bills which are, I think, the highest priority for this body at this time, and so my guess is, unless we have some kind of a serious change in what I have outlined, that we will not get back to the question of campaign finance until shortly after the break. It is impossible to say exactly when, but there is a general understanding that it will happen at about that time, so far as we can foresee the schedule at this moment.

Mr. FAZIO of California. Reclaiming my time, I am constrained to note that we have taken up three amendments and we have 258 of them in order that are nongermane and a number more that obviously are germane and could be developed here on the floor. I am concerned obviously that, while the debate has begun, we have not made a lot of progress on this very important issue.

Could the gentleman tell me whether we would be in late on Monday evening as well as Wednesday evening, given the fact that the baseball game will intrude on Tuesday and we are obviously hoping to get away on schedule on Thursday. Is there any sense the Members could obtain as to how late we would be here on Monday and Wednesday?

Mr. GOSS. If the gentleman will yield further, I would estimate, although I would not want to guarantee, but the best guess at this point would appear to be 7 p.m. to 8 p.m. as a range for Monday night, and, depending on other matters, it looks like now 10-ish or about Wednesday.

Mr. FAZIO of California. Reclaiming my time, is it possible that we would take up a budget decision to go to conference at any time next week which would involve, as the gentleman from South Carolina has been intending to offer, an instruction of conferees on the budget resolution?

Mr. GOSS. If the gentleman will yield further, I am advised that that is a subject that is very timely and in fact is presently under discussion and that we will have to await further notice from the leadership on.

Mr. FAZIO of California. But that is, reclaiming my time, a possibility that we might have before the 14th of July, at least a conference on the budget resolution?

Mr. GOSS. If the gentleman will yield further, I think that there are many possibilities for continuing good legislation, and, as he knows, we will seize them all. With regard to the gentleman's observations on the number of amendments on campaign finance, surely we are going to have a full, deliberative debate on this subject which is, of course, what we all want.

Mr. FAZIO of California. Mr. Speaker, I appreciate the gentleman's comments.

ADJOURNMENT TO MONDAY, JUNE 22, 1998

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CARVILLE'S ENEMIES LIST

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, you know there are a lot of lists in the world. There is the top 40 list of hit music, there is the top 10 list that Letterman is so famous for. There is the list of the World Series winners, the most valuable players, the Oscar winners and so forth. But then of course the White House keeps a series of lists. We all remember the list Secretary of Energy Hazel O'Leary had of friendly and unfriendly reporters. There are the lists that the White House had of 900 private citizens who were deemed enemies of the State because they were Republicans, and of course there is the donors list which they have in the tax-paid-for computer at the White House.

But now there is a new list put out by James Carville, the Clinton right-hand man. This is the list of enemies of the administration. Who is on this list? Such hard-core right wingers as Lamar Alexander. Keep that in mind next time putting on a plaid shirt. Such guys as the gentleman from Illinois (Mr. HYDE); oh, is he not a fire storm kind of guy? I mean one of the fairest and most respected Members of the House from both sides is on the list as an enemy of the State.

And then there is Bill Bennett. Of course we know what he did. He wrote that book of virtues which is offensive to the administration.

So I am going to submit this for the RECORD, Mr. Speaker.

JUNE 18, 1998.

JUDICIAL WATCH UNCOVERS CARVILLE "ENEMIES LIST"

CARVILLE DOCUMENTS AND FILES SHOW INFORMATION COMPILED ON PERCEIVED CLINTON ADVERSARIES

Documents produced by James Carville and his Education Information Project (EIP) in response to a Judicial Watch subpoena in its Filegate case show that Carville uses the organization as a means to compile information on perceived adversaries of President Clinton. In addition to Judicial Watch, the documents indicate that Carville targets and/or keeps files on the following persons and groups:

Independent Counsel Kenneth Starr, Independent Counsel Donald Smaltz, House Speaker Newt Gingrich, Congressman Henry Hyde, Richard Mellon Scaife, Olin Foundation, Landmark Legal Foundation, Congressman Dan Burton, Congressman Bob Barr, David Bossie, Kathleen Willey, Jacob Stein, Judge David Sentelle, Jim Guy Tucker, Paula Jones, Citizens for Honest Government, Bradley Foundation, Senator Jesse Helms.

Senator Fred Thompson, Senator Lauch Faircloth, Pat Robinson, David Brock, Floyd Brown, Governor Mike Huckabee, Congressman Jack Kingston, Brent Bozell, Concord Coalition, Common Cause, Susan Carpenter McMillan, Gil Davis, David Hale, Dick Morris, Richard DeVos/Amway, Lamar Alexander, Bill Bennett, Joe DiGenova.

The documents also indicate that Carville likely works with Clinton lawyers David Kendall and Mickey Kantor in compiling some of his information on Kenneth Starr. Other evidence produced by Carville suggests that EIP considered, at least, using President Clinton's private investigator Terry Lenzner and his firm IGI to investigate Independent Counsel Kenneth Starr.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AWARD OF DIRECTOR'S MEDAL TO RICHARD G. FECTEAU AND JOHN T. DOWNEY ON JUNE 25, 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GOSS) is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I rise today to recognize the extraordinary service and sacrifice for this Nation of two officers of the Central Intelligence Agency, Mr. Richard G. Fecteau and Mr. John T. Downey.

On June 25, 1998, George Tenet, the Director of the Central Intelligence Agency, will present the Director's Medal to Dick Fecteau and Jack Downey for reasons that, to some extent, I am able to describe in this forum today.

Except for their kind indulgence in allowing me to commemorate this event on the floor of the House, Dick Fecteau and Jack Downey will receive their awards as privately and as quietly as they served, and sacrificed for, our country.

In 1951, fresh from college, Dick Fecteau and Jack Downey joined the clandestine service of the Central Intelligence Agency. After a period of training, they were sent to east Asia to conduct agent re-supply and pick-up operations over China as part of our war effort in Korea.

In such operations, Mr. Fecteau and Mr. Downey were to drop supplies and to retrieve agents for debriefing by flying in low, among the trees, and literally snatching agents from the ground. These operations are extremely difficult and demanding in peacetime. Needless to say, in war zones, they are outright perilous.

In November 1952, Mr. Fecteau and Mr. Downey were part of a crew that was to fly into China, swoop to tree level, and snatch an agent from the ground. As their plane descended and approached the snatch site, it was hit by machine gun and small arms fire. The plane crashed and burned, killing the two pilots. Mr. Fecteau and Mr. Downey survived, but they were captured by the forces of the People's Republic of China.

In 1954, 2 years later, China sentenced Mr. Fecteau and Mr. Downey to life in prison. Their sentencing was, I understand, the first time that the families of the two learned that they were still alive. Over the next 20 years, Mr. Fecteau and Mr. Downey were subjected to extensive and aggressive interrogations and to long periods of solitary confinement. Year after year the two endured this suffering and deprivation and they did so with dignity and courage and an abiding faith in our country.

This Nation ultimately did not fail them. In December of 1971, nearly 20 years later, our government finally obtained the release of Dick Fecteau. And in March of 1973, we obtained the release of Jack Downey.

Dick Fecteau returned to the agency and continued his career. In 1976 he retired and joined the staff of Boston University, his alma mater, as assistant director of athletics. He retired from BU in 1989. Today Dick Fecteau lives with his wife, Peg, outside of Boston.

Jack Downey retired from the agency in 1973. Some of us feel that a baccalaureate from Yale is perfectly serviceable; but Jack, however, went on from there to Harvard Law School, and in 1976 he entered legal practice. In 1990 he was appointed to the bench in Connecticut and became a senior judge in the State system. Today Judge Downey lives with his wife, Audrey, in New Haven.

These, Mr. Speaker, are the extraordinary stories of two extraordinary people. Their awards, it seems to me, are most properly for the totality of their lives; for answering their country's call; for engaging in perilous operations under fire; for enduring unimaginable hardship in Chinese prisons; and, perhaps most of all, for returning to their families, to their communities and to their country and continuing to contribute and give and make a difference in their communities.

□ 1415

These awards, Mr. Speaker, are for the extraordinary lives of Dick Fecteau and Jack Downey. I am honored to commemorate their lives before this body.

Dick and Jack, thank you and Godspeed. May this Nation always have citizens such as you to count on.

STOP CODDLING YELTSIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLOMON) is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, I would like to insert for the record an excellent article on Russia policy by our colleague BEN GILMAN, the Chairman of the International Relations Committee.

Unlike the Clinton administration, Chairman GILMAN cuts to the heart of the matter concerning Russia's economic problems. Instead of the simple-minded, knee-jerk reaction of giving the Russian government more money, as President Clinton has proposed, Chairman GILMAN correctly places the blame, and responsibility, for Russia's woes where it belongs: squarely on the shoulders of the Russian government.

This massively corrupt regime, composed almost entirely of former Communist party bureaucrats, has engaged in wholesale theft of money and wealth that properly belongs to Russian, American, and international taxpayers.

It is a scandal of worldwide proportions and it has been not just neglected, but in fact contributed to, by the Clinton administration's policy of maintaining a wide open spigot of taxpayer money to the Russian government, unlinked in any way to Russian government behavior or policy.

Chairman GILMAN has done us a favor by enlightening us with this article, Mr. Speaker. Let us hope that the Administration, and this Congress, heed his advice to at least temporarily stanch the money flow to the Russian regime and begin demanding real economic reform and better foreign policy behavior from Boris Yeltsin.

STOP CODDLING YELTSIN

President Clinton has announced his support for a possible new IMF loan to Russia, potentially totaling $10 billion. Instead of rushing to provide that assistance to President Boris Yeltsin's government, we ought to stop, ask some questions and seek changes in Russian policies.

Russian foreign policy today appears to have one unfortunate objective. With his oft-repeated mantra of seeking a "multipolar world," Yeltsin's foreign minister and foreign director of Russia's intelligence service, Yevgeny Primakov, appears intent on creating challenges to America's global leadership, challenges we must assume the United States will overcome only after providing concessions to Russia.

Thus, just as the United States seeks to persuade Russia to participate in the larger effort by the community of nations to fight proliferation of weapons of mass destruction, enforce United Nations mandates in places such as Iraq and pursue solutions to other global problems, Primakov appears more interested in pursuing a price for Russia's cooperation.

Despite American concerns, the Yeltsin government has extensive relations with Iran, a supporter of international terrorism intent on becoming a regional military power in the Persian Gulf. Russia provides advanced weapons and military technology to China, likely to contribute to future challenges to the ability of American forces to defend our friends in the Pacific, as Chinese missile firings off Taiwan have portended. Communist Cuba, with Russian encouragement, continues to seek Soviet-design reactors, despite American concerns.

As America seeks to stabilize the former Soviet states, Russia has involved itself in ethnic conflicts on its periphery through covert arms supplies and other means, and has cut its neighbors' access to energy pipelines. Moscow has failed to ratify the START II arms reduction treaty and demands questionable revisions in other arms treaties. Oddly, despite its financial constraints, the Yeltsin government has found the means to help finance the Soviet-style dictatorship of President Alexander Lukashenko in Belarus.

Yeltsin's government is characterized as "reform-minded" but suffering from massive tax evasion. The reality is a bit different. Yeltsin's personal support for reforms has in fact been inconsistent. At key points since 1991, he has simply withdrawn to his dacha, leaving lower officials to fend for themselves. At other times he has reversed steps needed to move forward.

But this unwillingness to pursue reforms vigorously has now caught up with Yeltsin. Despite massive debt rescheduling, private loans, considerable foreign aid and large loans from the IMF and World Bank, Russia is now approaching a fiscal train wreck. The pain of planned budget cuts might indeed be alleviated by an additional IMF loan, but another worrisome reality in Russia—corruption and related flight of capital—underlines how temporary that relief would be.

Veniyamin Sokolov, a director of the Russian equivalent of the U.S. General Accounting Office, recently visited the United States, speaking of the routine theft of money from Russian government and industry. Russian nuclear reactor operators, coal miners and other average workers have protested over unpaid wages in recent years. It would seem that that problem can now be traced to such theft.

A recent study brings home to us the consequences of this, estimating that while Russia's foreign borrowings in recent years have totaled $99 billion, a full $103 billion in capital has been spirited out of the country. Thus, much that Russia has borrowed has not gone into productive investment to create a bigger tax base but has instead filled the gaps left by the disappearance of billions of dollars worth of Russian capital. Meanwhile, Russian households and entrepreneurs starve for such capital, operating on a barter basis, which, again, cuts into Russia's tax base.

Now Russia's borrowing to pay its bills has created burgeoning short-term debt payments. Last year, a quarter of the government budget went to pay debt interest, and that figure will now rise.

Boris Yeltsin cannot simply make bellicose statements about tax cheats and resume business as usual. And American officials should not rationalize new loans by simplistically depicting a "reform-minded" government. It is also not an answer to say that without loans nuclear-armed Russia would fall apart, with subsequent instability placing America at risk. Given current trends in Russia, such instability is already likely, and soon, unless President Clinton insists on real change in Russian foreign and domestic policy now.

If President Yeltsin fails to attack corruption at the highest levels, Russian money will continue to disappear—and the Russian people's patience is not limitless. Unless Yeltsin engages in comprehensive economic reform—and stays engaged—foreign investment in Russia will not grow. Finally, if

President Yeltsin doesn't begin to work sincerely with the United States to prevent proliferation of weapons of mass destruction to countries such as Iran and Iraq, and to resolve ethnic conflicts, particularly in the Balkans and the Caucasus, Russian domestic instability will be compounded by growing instability outside Russia's borders.

This is a pivotal moment in our relationship with Russia. Now is the time to insist on steps by President Yeltsin that will put the American-Russian relationship—and reforms in Russia—back on the right track.

INTERNATIONAL MONETARY FUND

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. SAXTON) is recognized for 60 minutes as the designee of the majority leader.

Mr. SAXTON. Mr. Speaker, I have taken this time today to talk about an issue which I think is of extreme importance to the American people and, I must say, one that does not get front-page newspaper attention very often. That issue involves a request by our administration for $18 billion to fund the International Monetary Fund.

As I said, this is not always a front-burner issue, and so I take this time today to reflect on it inasmuch as Vice President GORE yesterday made some rather disparaging remarks about those of us who do not share his position that it would be timely at this time to vote for an appropriation of $18 billion to add to the International Monetary Fund.

Mr. Speaker, yesterday Vice President GORE, I think, made some rather exaggerated and unfortunate political remarks on a variety of subjects including this one:

According to press reports today the Vice President labeled opponents of the IMF appropriation, or at least those of us who would like to reform the IMF operation along with some kind of an appropriation, the Vice President labeled us as under the influence of a dangerous and growing isolationism.

Mr. Speaker, this attempt to associate IMF reformers with isolationism is simply not credible.

In recent months I have talked to a number of economists who are opposed to the IMF operation as it stands today. Some of these economists have testified before us at the Joint Economic Committee as well as other committees here in the Congress both in this House and in the other body. If we have disagreements of policy, we ought to talk about it. But not one of the economists critical of the IMF was an isolationist or a protectionist, and neither am I. If we have these disagreements, they ought to be discussed openly, and that is why I am here today.

Let us talk about these issues: transparency, moral hazard, subsidized interest rates, taxpayer exposure and other conditions that are associated with IMF loans to other countries. Unfortunately the Vice President seems more inclined to score partisan points rather than to discuss the substance of IMF issues.

Mr. Speaker, let me discuss these issues one at a time.

First, the amount of money that the IMF has at its disposal and then what it has requested through our administration as an additional appropriation or quota. Second, the issue of moral hazard, which essentially means loaning money at subsidized interest rates. Three, conditions that are associated with IMF loans which have oftentimes proven to be less than helpful to the receiving economies that we are trying to boost up. Fourth, the issue of secrecy. The IMF does operate largely in a cloak of secrecy, and therefore a fourth point that I will discuss this afternoon is that of more transparency for the IMF. Fifth, exposure of taxpayer dollars. Yes, if we vote for an appropriation of $18 billion, there surely will be an exposure of taxpayers' dollars, and $18 billion even here in Washington, Mr. Speaker, as you know is still a lot of money. And six, the sixth point that I would like to speak on this afternoon is that the IMF, the International Monetary Fund, does have available assets at its disposal which it has as of this date left remained untapped, and depending on how you count that can be as much as very close to 80 or $90 billion.

So let me begin by saying what got my attention on this issue almost a year ago was the amount of money that the IMF today has in its coffers which have come from the United States Treasury and their current request for 18 or $17.9 billion, and I am going to say 18 billion because it is a round number. Actually the number for the record, Mr. Speaker, is 17.9 billion, pretty close to 18 billion.

Since 1945, when the IMF was put into business for the first time, our total appropriations, called a quota, total quota dollars to the IMF have been $36 billion. Last summer the IMF came to the Department of the Treasury and Treasury Secretary Rubin came to the Congress and said they needed an extra $18 billion.

Now you do not have to be an expert at arithmetic or math to understand that $18 billion is about 50 percent of what we have given them since 1945, and, Mr. Speaker, I would point out to all those who are listening that $18 billion is a tremendous amount of money particularly in light of the fact that we are fighting here every day to keep our budget balanced. $18 billion, a 50 percent increase, Mr. Speaker, in 1 year after 45 years of accumulating expenditures, which now have come to $36 billion; it seems like a lot to ask us to do, $18 billion in one single appropriation.

And I was surprised, therefore, to find out even after that request came to us that that is about half what they think they will need. In other words, if they have already gotten 36 billion, and they have now indicated that they are going to come back in a few years for another $18 billion, that means they want to increase our quota by a hundred percent or very close to it.

And so I begin to ask myself, I said this is very curious. For the past 53 years we have given or lent them $36 billion, and in 1 year they came back and wanted 18. There must be some reason for this. So we began to study almost a year ago what it is the IMF does with our money and why it is that they might need this kind of an increase. And we found, Mr. Speaker, that in countries recently like Korea, and Russia, and Indonesia, and Thailand large amounts of money have been left to institutions in those countries to help bolster their economic position, and what we found, Mr. Speaker, was that these loans on average over the last decade or so have averaged about 4.7 percent in terms of the interest rate that the IMF charges with moneys that we have provided and, I must say, that other countries have provided as well.

Now I would ask anyone who is listening today if they could get a loan in today's market at 4.7 percent, I dare say that there would be a lot of people who would be anxious to get those kinds of loans, and, as a matter of fact, that is exactly what happens with the countries around the world where these loans are offered at 4.7 percent. They like this program, and so, as their economies begin to falter for one reason or another, perhaps it is because of faults that are inherent in their banking systems; we had a banking system problem here a few years ago when we had savings and loans fail; perhaps it is something like that or perhaps there are some other economic difficulties in some of their institutions in their countries, and they say, "Well, where do we go for help? I mean how do we solve this problem? Well, we have got some very painful things that we could do on our own, or we could ask the International Monetary Fund to give us one of those subsidized loans at 4½ or 4.7 percent."

And so what this does, Mr. Speaker, is to create a tremendous demand in the world markets for subsidized loans subsidized by American taxpayers' dollars for loans from the IMF, and that, we discovered, was the reason, after a great deal of study, that the IMF needs more money. Because of their policies they are expanding their role in the world economy to the point where they have requested this 50 percent increase in quota from the United States and, we believe, will be back, if they are successful in obtaining this and expanding their economic activities throughout the world, we believe that in just a few years they will be back with another request for a like amount.

Now we asked the question of ourselves: Is this what we want to believe is an appropriate use of these kinds or these numbers of dollars from United States taxpayers, and that is a question that I guess everyone can answer for themselves, but it seems to me that we have some domestic needs, we had some discussions this morning about our national security and how we are spending less today than we were in 1985 in real dollars, and so there are many things that we want to consider when we begin to look at whether or not we want to appropriate this kind of money to provide for an expansion of an international loan program being subsidized by American taxpayers dollars.

The third point that I would like to mention is the IMF practice of imposing what we think are sometimes appropriate but oftentimes inappropriate conditions that go along with the loans. And the way this happens is that the IMF officials, oftentimes represented also by, I might say, officials from the United States Treasury, in offering to make loans negotiate certain types of conditions that go along with the loans. For example, it may be thought that it would be a good idea to change the way a country has its banking system structured, or at some times the IMF officials might think it is a good idea to devalue currency, or they may think it is a good idea to get out of a deficit spending program that may be inherent in some country's practices by increasing taxes. And those of you who have heard me talk many times before know that those of us on the Joint Economic Committee, at least on the Republican side and I think it is fair to say on both sides of the aisle have questions about whether or not these conditions are appropriate.

As a matter of fact, a few weeks ago I had the opportunity to visit with some officials from the Korean government in Korea, and we talked about these matters and the reforms that are underway as part of the conditions of loans the International Monetary Funds have made in Korea, and there were questions raised about whether or not they were appropriate by me, and there was a great deal of talk about it, and then, as I went out and left the meetings and rode out through the commerce sections of Seoul there in South Korea, I noticed that there were some signs on the shop windows, and of course they were written in Korean and I could not tell what they said. But in the middle of the signs, the three American letters IMF. IMF were there in the middle of the signs.

□ 1430

So I said to the gentleman who was with me, what do these signs say in Korea that have the letters "IMF" in the middle? He said, well, they say different things, but they are all very meaningful. They essentially say that the IMF is here and that things are very bad, and that the IMF is part of that because of the conditions that the IMF apparently has imposed, and therefore, we are having a big sale because nobody can afford to buy our goods at regular market prices, and so we have cut-rate sales going on because the IMF is here. That is because, Mr. Speaker, the conditions that are imposed by the IMF are often very harmful and hurtful to the economy of the countries that the IMF is proposing to try to help.

So what we might want to do if we are going to address the issues involved here with the IMF, and I hope the Vice President may take note of these things, is to have a thorough review of how the IMF arrives at its decisions, not only about interest rates, but also about this point focusing on conditions that accompany the loans.

Number 4, Mr. Speaker, we discovered during our studies of the International Monetary Fund that it is, in fact, very difficult to study the International Monetary Fund and how it works because they work in a cloak of secrecy. We began last summer making requests for information from the IMF, and it was not forthcoming. We asked again and again and again for information and it was not forthcoming. We soon learned that the IMF does, in fact, insist upon a level of secrecy that prevents those of us who are here in Congress, representatives of the American people, prevents us from doing an in-depth study of the IMF in answering such questions as: what are the criteria that are used to identify a country that needs help? What are the criteria that are used to identify conditions that are imposed? What are the criteria that are used for studying the effects of loans that are made by the IMF? And questions as those are things that we, as responsible individuals who are asked to vote for an $18 billion appropriations, ought to have access to before we, as representatives of the American people, are asked to vote on those issues.

So as to the issue of secrecy or transparency, we call upon them for a more transparent system so that we can see into the system and see what it is doing.

Now, I must say in fairness that partway through the process the officials from the IMF said to my staff, tell Congressman SAXTON to come over, and if he promises to look at the documents, and if he promises not to tell anybody what he sees, well, he is welcome to come.

Mr. Speaker, that is not the point. The point is that the American people who provide these dollars, and economists and experts in financial matters in this country, have as much right to see that information as Members of Congress or as people who administer the IMF itself. So this issue of transparency or secrecy is the fourth point that I believe needs to be strongly addressed.

The fifth point is what I call exposure of taxpayers' dollars. Now, there are those who advocate the $18 billion appropriation without reforms; there are those who say that this really does not cost the taxpayers a dime. I think that was the phrase that was used; it does not cost the taxpayers in this country a dime, because in exchange for the $18 billion, we get a promissory note. So the promissory note becomes an asset in our portfolio, and in exchange, there is simply a transfer of assets.

I have a hard time, I have a hard time with that because if we have the $18 billion, we can apply it against our national debt; or if we decide in this body that we need to spend it on national security, we can spend it on national security; or if we decide that we want to spend it on education or environmental protection, we can do that; or if we decide we want a tax cut, we can apply it to the cost of a tax cut. But I dare say that it would be somewhat difficult to take the IMF's IOU or the promissory note that they signed for us and make the same kinds of use of it so it may be considered an asset, but it is certainly not a liquid asset; it is certainly not the same kind of asset that we transfer to the IMF in exchange for the promissory note.

So I have a difficult time understanding the argument that it does not cost the taxpayers a dime for that reason, and I also have a difficult time understanding how it is that that great big bureaucracy that is downtown here in Washington, D.C. known as the IMF with thousands of square feet of office space and secretaries and administrators and computers and all of those things that have to be paid for that comes out of the IMF funds as well. So whether we accept the argument that trading dollars for an IOU does not cost, if we accept the fact that that does not cost the taxpayers a dollar, which I do not, so there certainly is an expenditure and there certainly is an exposure of taxpayer dollars.

Now, so far here today I have tried to be as explicit as possible about the fact that the IMF already has $36 billion of our money and it has asked for a 50 percent increase, because they want to expand their activities, because they believe it is the right thing to do, and we ought to question that and have an opportunity to study it and talk about it.

Second, there is the issue that we call moral hazard; that is, continuing to bail people out with subsidized interest rates, which is not a very painful thing for them to do. As a matter of fact, I have said this before, and I do not mean to trivialize this issue, but if there were a bank across the street from the front of the Capitol that had a sign on the front of it that said, come on over and we will provide you with a 4.5 percent interest rate, I bet there would be a long line in front of that building. So this issue of moral hazard and subsidized interest rates encourages the wrong kind of behavior. It encourages the kind of behavior that we are trying to quell or to stop because of the incentive that is built into receiving low, cut-rate, subsidized loans.

Also, the conditions that are imposed on countries, whether or not they are helpful, perhaps sometimes they are hurtful. I believe that sometimes they are, and I have gone into that. The issue of transparency or secrecy is also I believe very important, and the issue of the exposure of taxpayers' dollars is also important.

Let me conclude with point number 6 which I think is very important. Secretary Rubin and other proponents, both in the United States Treasury as well as in the IMF, and some people here in the House have said, they need the money. Whether one agrees with everything the IMF does or not, they perform a valuable function and therefore, they really need the money.

I would just point out to my colleagues, Mr. Speaker, the IMF currently has assets that include $40 billion in cash, $25 billion in a program which gives them the authority to borrow $25 billion; they have $30 billion in gold. Now, if I add all of this up, that looks like it comes to $95 billion in assets already, and some are making the argument that they need the money because of the need to go around the world and expand programs.

So I guess I would just return to my initial point that the Vice President brought this issue up yesterday, and it was reported in today's newspapers that we who oppose flat out appropriating $18 billion without reforms are somehow isolationists, that is not true; nothing could be further from the truth. If we can get the transparency that we need, if we can study the process through which the officials at the IMF proceed, if we can understand the necessity for the conditions that we think are sometimes harmful; if we can do something about this moral hazard issue so it does not encourage people to come back to us time after time after time for bailout after bailout after bailout, then perhaps those of us who call ourselves IMF reformers will be willing to proceed with a new IMF appropriation of some kind.

So, Mr. Speaker, I have made the points here that are important to be made. I am sorry that the Vice President has an inaccurate assessment of our motivations. They are, in fact, honorable, and we, in fact, do want the IMF to work, and we think that with some changes, it will work, and this House ought to proceed to seriously consider those changes or those reforms in conjunction with any appropriation that is made for these purposes.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCDADE (at the request of Mr. ARMEY) for today, on account of medical reasons.

Mr. MARTINEZ (at the request of Mr. GEPHARDT) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FAZIO of California) to revise and extend their remarks and include extraneous material:)

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. SOLOMON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FAZIO of California) and to include extraneous material:)

Mr. ADAM SMITH of Washington.
Mr. BONIOR.
Mr. KIND.
Ms. ESHOO.
Mr. KLECZKA.
Mr. SERRANO.
Mrs. CLAYTON.
Mr. TOWNS.
Mr. KENNEDY of Massachusetts.
Ms. NORTON.
Mr. CLYBURN.
Mr. GREEN.
Mr. HAMILTON.
Ms. JACKSON-LEE of Texas.
Mr. LIPINSKI.

(The following Members (at the request of Mr. GOSS) and to include extraneous material:)

Mr. PAPPAS.
Mr. BURTON of Indiana.
Mr. FRANKS of New Jersey.
Mr. GILMAN.
Mr. ROGAN.
Mr. GOODLING.
Mrs. MORELLA.
Mr. PACKARD.

(The following Members (at the request of Mr. SAXTON) and to include extraneous material:)

Mr. DELAY.
Mr. GEKAS.

ADJOURNMENT

Mr. SAXTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until Monday, June 22, 1998, at 12:30 p.m. for morning hour debates.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the first quarter of 1998 by Committees of the U.S. House of Representatives, as well as a consolidated report of foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the second quarter of 1998, pursuant to Public Law 95–384, and for miscellaneous groups in connection with official foreign travel during the calendar year 1998 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE OVERSIGHT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
FOR HOUSE COMMITTEES											
PLEASE NOTE: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return.											

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL THOMAS, Chairman, May 20, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO COLOMBIA, CHILE, ARGENTINA, AND PERU, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 2 AND APR. 9, 1998

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Dr. James Ford	4/2	4/3	Colombia		271.00						271.00
	4/3	4/5	Chile		548.00						548.00
	4/5	4/7	Argentina		546.00						546.00
	4/7	4/9	Peru		612.00						612.00
Committee total					1,977.00						1,977.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES FORD, May 4, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO TAIWAN, THAILAND, BURMA, MALAYSIA, AND THE PHILIPPINES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 4 AND APR. 17, 1998

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Albert Santoli	4/5	4/8	Taiwan		805.00						805.00
	4/8	4/14	Thailand		1,140.00						1,140.00
	4/13	4/13	Burma								
	4/14	4/15	Malaysia		177.00						177.00
	4/15	4/17	Philippines		198.00						198.00
Committee total					2,320.00						2,320.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ALBERT M. SANTOLI, May 5, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO KENYA, AND SUDAN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 25 AND MAY 31, 1998

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Kimberly A. Miller	5/25	5/31	Kenya		412.00						412.00
	5/27	5/30	Sudan		560.00						560.00
Commercial Airfare							6,759.57				6,759.57
Committee total					972.00		6,759.57				7,731.57

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KIMBERLY A. MILLER, June 4, 1998.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9736. A letter from the Assistant Secretary, for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting the annual Report to Congress for 1996 and 1997 on The Operation of the Enterprise for the Americas Facility; to the Committee on Agriculture.

9737. A letter from the the Acting Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of June 1, 1998, pursuant to 2 U.S.C. 685(e); (H. Doc. No. 105—274); to the Committee on Appropriations and ordered to be printed.

9738. A letter from the Acting Director, Office of Management and Budget, transmitting the Mid-Session Review of the 1998—2003 budget, pursuant to 31 U.S.C. 1106(a); to the Committee on the Budget.

9739. A letter from the Clerk, United States Court of Appeals, transmitting two opinions of the United States Court of Appeals for the District of Columbia Circuit; to the Committee on Education and the Workforce.

9740. A letter from the Director, Defense Security Assistance Agency, transmitting a report authorizing the transfer of up to $100M in defense articles and services to the Government of Bosnia-Herzegovina, pursuant to Public Law 104—107, section 540(c) (110 Stat. 736); to the Committee on International Relations.

9741. A letter from the Director, Defense Security Assistance Agency, transmitting the listing of all outstanding Letters of Offer to sell any major defense equipment for $1 million or more; the listing of all Letters of Offer that were accepted, as of March 31, 1998, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

9742. A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1997, through March 31, 1998, and the semiannual Management Report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9743. A letter from the Secretary of Agriculture, transmitting the 6-month report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100—504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

9744. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a report entitled "Compliance Simplification and Enforcement Reform Under Sections 213 and 223 of the Small Business Regulatory Enforcement Fairness Act of 1996"; to the Committee on the Judiciary.

9745. A letter from the Director, Office of Government Relations, SMITHsonian Institution, transmitting a copy of the "Annual Proceedings of the One-Hundred Sixth Continental Congress" of the National Society of the Daughters of the American Revolution, pursuant to 36 U.S.C. 18b; to the Committee on the Judiciary.

9746. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Track Safety Standards; Miscellaneous Proposed Revisions [Docket No. RST-90-1, Notice No. 8] (RIN: 2130-AA75) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9747. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Waiver For Canadian Electric Utility Motor Carriers From Alcohol And Controlled Substances Testing [FHWA Docket No. FHWA-97-3202] received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9748. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone;

Skull Creek, Hilton Head Island SC [COTP Savannah 98–034] (RIN: 2115–AA97) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9749. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone: Great Catskills Triathlon, Hudson River, Kingston, New York [CGD01–98–040] (RIN: 2115–AA97) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9750. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: EZ Challenge Speed Boat Race, Ohio River, Beech Bottom, West Virginia [CGD08–98–037] (RIN: 2115–AE46) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9751. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL [CGDO7–98–029] (RIN: 2115–AE47) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9752. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Merger of the Uniform States Waterway Marking System with the United States Aids to Navigation [USCG 97–3112] [CGD 97–018] (RIN: 2115–AF45) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9753. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL [CGD07–98–025] (RIN: 2115–AE47) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9754. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Passaic River, NJ [CGD01–97–020] (RIN: 2115–AE47) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9755. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SA 330F, G, and J Helicopters [Docket No. 97–SW–07–AD; Amendment 39–10572; AD 98–12–16] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9756. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Time of Designation for Restricted Areas; CA [Airspace Docket No. 98–AWP–13] (RIN: 2120–AA66) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9757. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Models 35, A35, B35, and 35R Airplanes [Docket No. 98–CE–55–AD] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9758. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model H.P. 137 Jetstream Mk.1, Jetstream Model 3101, Jetstream Model 3201, and Jetstream 200 Series Airplanes [Docket No. 97–CE–110–AD; Amendment 39–10577; AD 98–12–23] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9759. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Realignment of Colored Federal Airway; AK [Airspace Docket No. 98–AAL–3] (RIN: 2120–AA66) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9760. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Alteration of Restricted Areas; New Jersey and New York [Airspace Docket No. 98–AEA–3] (RIN: 2120–AA66) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9761. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Homer, AK [Airspace Docket No. 98–AAL–2] received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9762. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes [Docket No. 97–NM–64–AD; Amendment 39–10589; AD 98–13–01] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9763. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320 Series Airplanes [Docket No. 97–NM–194–AD; Amendment 39–10586; AD 98–12–33] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9764. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes [Docket No. 98–NM–98–AD; Amendment 39–10588; AD 98–12–35] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9765. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes [Docket No. 98–NM–85–AD; Amendment 39–10587; AD 98–12–34] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9766. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–12 Airplanes [Docket No. 97–CE–08–AD; Amendment 39–10596; AD 98–13–08] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9767. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model AS-K13 Sailplanes [Docket No. 98–CE–04–AD; Amendment 39–10593; AD 98–13–05] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9768. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Models DG–100 and DG–400 Gliders [Docket No. 97–CE–133–AD; Amendment 39–10592; AD 98–13–04] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9769. A letter from the U.S. Trade Representative, Office of the President, transmitting a report on recent developments regarding implementation of section 301 of the Trade Act of 1974, covering the period June 1996 through January 1998 and reflects the effectiveness of this trade remedy in eliminating or reducing foreign unfair trade practices, pursuant to 19 U.S.C. 2419; to the Committee on Ways and Means.

9770. A letter from the Executive Director, Civil Air Patrol, transmitting the 1997 Civil Air Patrol Report to Congress, pursuant to 36 U.S.C. 207; jointly to the Committees on National Security and Transportation and Infrastructure.

9771. A letter from the Assistant Secretary (Civil Rights), Office for Civil Rights, transmitting the Fiscal Year 1997 Annual Report to Congress, pursuant to 20 U.S.C. 3413(b)(1); jointly to the Committees on Education and the Workforce and the Judiciary.

9772. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report entitled "Report to Congress on Iran-Related Multilateral Sanction Regime Efforts," pursuant to Public Law 104—172; jointly to the Committees on International Relations, Banking and Financial Services, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and references to the proper calendar, as follows:

Mr. HYDE: Committee on the Judiciary. H.R. 3849. A bill to amend the Communications Act of 1934 to establish a national policy against Federal and State regulation of Internet access and online services, and to exercise congressional jurisdiction over interstate and foreign commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce conducted over the Internet, and for other purposes; with amendments (Rept. 105–570, Pt. 2). Ordered to be printed.

Mr. GOODLING: Committee on Education and the Workforce. H.R. 3892. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a program to help children and youth learn English, and for other purposes; with an amendment (Rept. 105–587). Referred to the Committee of the Whole House on the State of the Union.

Mr. SKEEN. Committee on Appropriations. H.R. 4101. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs, for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–588). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1965. Referral to the Committees on Ways and Means and Commerce extended for a period ending not later than August 7, 1998.

H.R. 2281. Referral to the Committees on Ways and Means and Commerce extended for a period ending not later than June 26, 1998.

H.R. 3849. Referral to the Committees on Ways and Means and Rules extended for a period ending not later than June 26, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. McCOLLUM (for himself, Mr. Schumer, Mr. Hyde, Mr. Conyers, Mr. Buyer, Mr. Gekas, Mr. Barr of Georgia, Mr. Hutchinson, Mr. Chabot, Mr. Coble, Ms. Jackson-Lee, Mr. Meehan, Mr. Graham, Mr. Wexler, and Mr. Cunningham):

H.R. 4090. A bill to provide for a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty; to the Committee on the Judiciary.

By Mr. SKEEN:

H.R. 4091. A bill to dissolve the Minerals Management Service of the Department of the Interior; to the Committee on Resources.

By Mr. ABERCROMBIE (for himself, Mr. Sanders, Mr. Sandlin, Mrs. Lowey, Ms. DeLauro, Mr. Boswell, Ms. Millender-McDonald, Mr. Ford, Mr. Borski, Mrs. Mink of Hawaii, and Mr. Cummings):

H.R. 4092. A bill to amend title XVIII of the Social Security Act to increase the amount of payment under the Medicare program for pap smear laboratory tests; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DeLAURO (for herself, Mr. Hilliard, Mr. Hastings of Florida, Mr. ,Frost, Mr. Kleczka, Mr. Sandlin, Mr. Lampson, Ms. Pelosi, Mr. Maloney of Connecticut, Mr. Wynn, Mr. Menendez, Mr. Lewis of Georgia, and Mr. Cummings):

H.R. 4093. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require group health plans and health insurance coverage to establish hospital lengths of stay based on a determination by an appropriate physician in consultation with the patient; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of New Jersey (for himself and Mr. Meehan):

H.R. 4094. A bill to provide for comprehensive brownfields assessment, cleanup, and redevelopment; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEJDENSON (for himself, Mr. Gilman, Mr. Hamilton, Mr. Berman, Mr. Smith of New Jersey, Mr. Rohrabacher, Ms. Pelosi, Mr. McDermott, Ms. Ros-Lehtinen, Mr. Payne, Mr. Clement, Mr. Vento, Mrs. Morella, Mr. Delahunt, Mr. Olver, Mr. Luther, Mr. Miller of California, Ms. Waters, Mr. Hastings of Florida, Mr. Jackson, Mr. Barrett of Wisconsin, Mr. Minge, Mr. Sherman, Mr. Ackerman, Ms. Rivers, Mr. Gutierrez, Mr. Wexler, Mr. Frank of Massachusetts, Mr. Kennedy of Rhode Island, Mr. Cummings, Mr. Brown of Ohio, Mr. Nadler, Ms. Velázquez, Mr. Towns, Mr. Dixon, Mr. Kildee, Mr. Rothman, Ms. Hooley of Oregon, and Mr. Moran of Virginia):

H.R. 4095. A bill to provide that the President shall attempt to establish an international arms sales code of conduct with all Wassenaar Arrangement countries; to the Committee on International Relations.

By Mr. GEKAS (for himself, Mr. Hayworth, Mr. Ballenger, Mr. Bartlett of Maryland, Mrs. Bono, Mr. Bryant, Mr. Burton of Indiana, Mr. Canady of Florida, Mr. Chabot, Mrs. Chenoweth, Mr. Coble, Mrs. Cubin, Mr. Deal of Georgia, Mr. Duncan, Mr. Ehrlich, Mr. English of Pennsylvania, Mr. Ewing, Mr. Gibbons, Mr. Gilchrest, Mr. Hansen, Mr. Herger, Mr. Hilleary, Mr. Hostettler, Mr. Istook, Mr. Jones, Mrs. Kelly, Mr. Kingston, Mr. Kolbe, Mr. Largent, Mr. LaHood, Mr. Lewis of California, Mr. Lewis of Kentucky, Mr. Linder, Mr. Mica, Mr. Neumann, Mr. Paxon, Mr. Pitts, Mr. Pombo, Mr. Radanovich, Mr. Redmond, Mr. Salmon, Mr. Scarborough, Mr. Bob Schaffer, Mr. Sessions, Mr. Shadegg, Mr. Smith of Texas, Mr. Smith of Michigan, Mr. Snowbarger, Mr. Stump, Mr. Talent, Mr. Thomas, Mr. Tiahrt, Mr. Watkins, and Mr. Watts of Oklahoma):

H.R. 4096. A bill to amend title 5, United States Code, to provide for Congressional review of rules establishing or increasing taxes; to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. NORTON:

H.R. 4097. A bill to provide transitional community employment for unemployed persons, and other individuals in poverty, who live in certain identified communities, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR:

H.R. 4098. A bill to authorize the Commandant of the Coast Guard to convey the real property comprising Coast Guard Light Station Two Harbors, located in Lake County, Minnesota, to the Lake County Historical Society; to the Committee on Transportation and Infrastructure.

By Mr. RIGGS:

H.R. 4099. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1999, 2000, 2001, 2002, and 2003, and for other purposes; to the Committee on Education and the Workforce.

By Mr. McCOLLUM:

H.R. 4100. A bill to amend title 18, United States Code, with respect to the employment of Federal prisoners, and for other purposes; to the Committee on the Judiciary.

By Mr. SKEEN:

H.R. 4101. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

By Mr. FOX of Pennsylvania (for himself, Mr. Nethercutt, Ms. Furse, Mr. McNulty, Mr. Baldacci, Ms. Lofgren, Ms. Kilpatrick, Mr. Cummings, Mr. Romero-Barcelo, Mr. Towns, Mr. Underwood, Mr. Frost, Mr. Forbes, Mr. Sanders, and Mr. Pappas):

H. Con. Res. 291. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to raise public awareness of diabetes and to promote public support for diabetes research; to the Committee on Government Reform and Oversight.

By Mr. CAMPBELL (for himself, Mr. Payne, and Mr. Hastings of Florida):

H. Con. Res. 292. Concurrent resolution calling for an end to the recent conflict between Eritrea and Ethiopia, and for other purposes; to the Committee on International Relations.

By Mr. DeLAY:

H. Res. 480. A resolution expressing the sense of the House of Representatives concerning the assertion of protective function privilege; to the Committee on the Judiciary.

By Mr. WATTS of Oklahoma (for himself, Mr. Bunning of Kentucky, and Mr. Ryun):

H. Res. 481. A resolution expressing the sense of the House of Representatives that professional sports leagues and the International Olympic Committee should help reinforce the unacceptability and harmfulness of illegal drug use by establishing clear guidelines and penalties, and that athletes using illegal drugs who do not identify the person who provided the illegal drugs and successfully complete a drug treatment program should be suspended from play for a minimum of one year without pay; to the Committee on Commerce, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Bartlett of Maryland.

H.R. 619: Mr. Borski, Mr. Stokes, Mr. Ehlers, Mr. Diaz-Balart, and Mr. Kind of Wisconsin.

H.R. 1126: Mr. Engel, Mr. Moran of Kansas, and Mr. Rohrabacher.

H.R. 1146: Mrs. Myrick.

H.R. 1231: Mr. Pappas.

H.R. 1234: Mr. Brady of Pennsylvania and Ms. Jackson-Lee.

H.R. 1334: Mr. Shays, Mr. Sisisky, Mr. King of New York, and Mr. McNulty.

H.R. 1382: Mr. BROWN of California, Mr. LAFALCE, Mr. DOYLE, and Mr. SAWYER.

H.R. 1401: Ms. ROS-LEHTINEN.

H.R. 2023: Ms. McCARTHY of Missouri.

H.R. 2110: Ms. WOOLSEY.

H.R. 2273: Mr. PASCRELL, Mr. OBERSTAR, Mr. LIVINGSTON, Mr. SCHUMER, Mr. GILMAN, Mr. SERRANO, and Mr. DOOLEY of California.

H.R. 2613: Mr. EHLERS and Mr. CLYBURN.

H.R. 2721: Mr. NEY.

H.R. 2819: Mr. WELLER and Mr. JEFFERSON.

H.R. 2826: Mr. ACKERMAN.

H.R. 3053: Mr. HILLIARD and Mr. HASTINGS of Florida.

H.R. 3101: Mr. KLECZKA.

H.R. 3248: Ms. CHRISTIAN-GREEN.

H.R. 3290: Mr. FOLEY, Mr. BERMAN, Mr. KUCINICH, Mr. FRELINGHUYSEN, Mr. QUINN, Mr. CAMP, and Mr. JEFFERSON.

H.R. 3342: Mr. KILDEE.

H.R. 3506: Mr. KENNEDY of Massachusetts, Mr. DIXON, Mr. WISE, Mr. BROWN of California, Mr. BENTSEN, and Mr. DAVIS of Florida.

H.R. 3572: Mrs. EMERSON, Mr. DOOLITTLE, Mr. KILDEE, Mr. WATTS of Oklahoma, Mr. BARCIA of Michigan, Mr. KLUG, Mr. LEWIS of Georgia, Mr. SKELTON, and Mr. CHRISTENSEN.

H.R. 3584: Mr. LUCAS of Oklahoma.

H.R. 3605: Mr. JEFFERSON and Ms. HOOLEY of Oregon.

H.R. 3637: Mr. ENGEL, Ms. KILPATRICK, Ms. NORTON, Mr. VENTO, Mr. SAWYER, Ms. McKINNEY, and Mr. DAVIS of Illinois.

H.R. 3660: Mrs. THURMAN.

H.R. 3672: Mr. MANTON and Mr. KLECZKA.

H.R. 3720: Mr. SENSENBRENNER and Mr. PETERSON of Minnesota.

H.R. 3764: Mr. KENNEDY of Rhode Island, Ms. SLAUGHTER, Mr. BEREUTER, and Mr. LAMPSON.

H.R. 3810: Mr. PALLONE, Mr. SMITH of New Jersey, Mr. PAPPAS, Mr. ROTHMAN, Mr. FRELINGHUYSEN, Mr. MENENDEZ, and Mr. LOBIONDO.

H.R. 3865: Mr. HOBSON, Mr. PARKER, Mr. WOLF, Mr. DICKEY, Ms. DUNN of Washington, Mr. HULSHOF, Mr. McCOLLUM, Mr. MICA, Mr. OXLEY, Mr. SHIMKUS, Mr. JONES, and Mr. COBLE.

H.R. 3870: Mr. REDMOND, Mr. HAYWORTH, Ms. PRYCE of Ohio, Mr. PAPPAS, and Mr. SNOWBARGER.

H.R. 3879: Mr. LAHOOD and Mr. ROYCE.

H.R. 3888: Mr. BISHOP and Mr. CASTLE.

H.R. 3892: Mr. HILLEARY.

H.R. 3911: Mr. STARK and Ms. ESHOO.

H.R. 3925: Ms. WOOLSEY.

H.R. 3980: Mr. WATTS of Oklahoma.

H.R. 3995: Ms. LEE, Mr. COYNE, Mr. KENNEDY of Massachusetts, Mr. GEJDENSON, Mr. FROST, and Mrs. THURMAN.

H.R. 4005: Mr. McCOLLUM.

H.R. 4018: Mr. MINGE, Mr. MORAN of Virginia, Mr. TIERNEY, Mr. KENNEDY of Massachusetts, Mr. McDERMOTT, and Mr. GUTIERREZ.

H.R. 4019: Mr. BLUNT and Mr. HYDE.

H.R. 4032: Mr. HAYWORTH, Mr. LATOURETTE, and Mr. WAMP.

H.R. 4065: Mr. CANNON and Mr. MANZULLO.

H.R. 4066: Mr. PAYNE, Mr. PAPPAS, and Mr. HALL of Ohio.

H.R. 4075: Mr. GOODE.

H.J. Res. 123: Mr. SKEEN, Mr. MORAN of Kansas, Mr. HILL, Mr. SESSIONS, Ms. STABENOW, and Mr. SHIMKUS.

H. Con. Res. 27: Mr. BRADY of Pennsylvania and Mr. KLECZKA.

H. Con. Res. 210: Mr. FORD.

H. Con. Res. 224: Mr. SHAYS.

H. Con. Res. 254: Mr. WATTS of Oklahoma and Mr. SNYDER.

H. Con. Res. 268: Mr. ACKERMAN.

H. Con. Res. 288: Mr. ENGLISH of Pennsylvania, Mr. MICA, and Mr. ADERHOLT.

H. Con. Res. 290: Mrs. EMERSON, Mr. SMITH of Michigan, and Mr. KLUG.

H. Res. 37: Mr. ENGLISH of Pennsylvania.

H. Res. 171: Ms. JACKSON-LEE.

H. Res. 218: Mr. OWENS, Mr. ROMERO-BARCELÓ, Ms. DELAURO, Mr. COOK, Mr. KIND of Wisconsin, and Mr. LAMPSON.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. YATES on H. Res. 141: Glenn Poshard and David E. Bonior

Petition 4 by Ms. SLAUGHTER on H.R. 306: Pat Danner, Peter A. DeFazio, Thomas M. Barrett, Leonard L. Boswell, Eddie Bernice Johnson, Cynthia A. McKinney, Rod R. Blagojevich, Dennis J. Kucinich, Anna G. Eshoo, Zoe Lofgren, George Miller, Sam Farr, W.G. Bill Hefner, Sam Gejdenson, Barbara Lee, Vic Fazio, Carolyn B. Maloney, Marcy Kaptur, Carolyn C. Kilpatrick, Bruce F. Vento, Bob Clement, Elizabeth Furse, Maxine Waters, Dale E. Kildee, Jim McDermott, Bernard Sanders, Sheila Jackson-Lee, John Lewis, Sherrod Brown, James P. McGovern, Lloyd Doggett, Nick Lampson, Ted Strickland, Chet Edwards, Frank Pallone, Jr., Maurice D. Hinchey, Carrie P. Meek, Charles E. Schumer, Steny H. Hoyer, Eliot L. Engel, Patrick J. Kennedy, David E. Bonior, Ciro D. Rodriguez, Sander M. Levin, Lynn N. Rivers, and Lynn C. Woolsey.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

AG. APPROPS., FY 99

OFFERED BY: MR. BEREUTER

AMENDMENT NO. 1: At the end of the title relating to "GENERAL PROVISIONS", insert the following new section:

SEC. . Section 538(f) of the Housing Act of 1949 (42 U.S.C. 1490p–2(f)) is amended by adding after and below paragraph (5) the following:

"The Secretary may not deny a guarantee under this section on the basis that the interest on the loan, or on an obligation supporting the loan, for which the guarantee is sought is exempt from inclusion in gross income for purposes of chapter 1 of the Internal Revenue Code of 1986.".

H.R. 4060

OFFERED BY: MR. FOLEY

AMENDMENT NO. 1: Page 15, line 23, after the first dollar amount, insert the following: "(reduced by $5,000,000)".

SENATE—*Friday, June 19, 1998*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, as we approach this Father's Day weekend, we praise You that You are our Heavenly Father from whom we learn what true fatherhood really means. You exemplify the perfect blend of admonition and affirmation, discipline and nurture, encouragement and inspiration.

May this Father's Day be more than a celebration honoring fathers, but a day of calling fathers to their responsibility for the spiritual and character formation of their children. In this time of dropout dads and absentee fathers, when 21 million children in America live without a father in their homes, we ask You to instigate a father movement.

Bless the families of our land. Stir fathers who have abdicated their leadership. When fathers are silent about their faith, children miss the strength and courage of learning how to trust You with the ups and downs of life. We need a great spiritual awakening. Thank You for waking up the fathers of the land and for a Father's Day dedicated to the recovery of the role of strong fathers to love their wives and their children. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Tennessee, is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of the Department of Defense authorization bill.

It is hoped that Members who wish to offer amendments to the defense bill will come to the floor during today's session to offer and debate their amendments under short time agreements.

The majority leader has announced that there will be no votes during today's session. Therefore, any votes ordered with respect to the DOD bill, or any other legislative or executive items, will be postponed to occur at a later date.

The leader would like to remind Members that the Independence Day recess is fast approaching and therefore the cooperation of all Members will be necessary to make progress on a number of important items, including appropriations bills, any available conference reports, the Higher Education Act, the DOD authorization bill, and any other legislative or executive items that may be cleared for action.

I thank my colleagues for their attention.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The PRESIDENT pro tempore. The clerk will report the unfinished business.

The legislative clerk read as follows:

A bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Feinstein amendment No. 2405, to express the sense of the Senate regarding the Indian nuclear tests.

Brownback amendment No. 2407 (to amendment No. 2405), to repeal a restriction on the provision of certain assistance and other transfers to Pakistan.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I ask unanimous consent that the cost estimate for S. 2057 prepared by the Congressional Budget Office be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 9, 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2057, the National Defense Authorization Act for Fiscal Year 1999.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, JUNE 9, 1998

S. 2057: NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES ON MAY 11, 1998

SUMMARY

S. 2057 would authorize appropriations for 1999 for the military functions of the Department of Defense (DoD) and the Department of Energy (DOE). It also would prescribe personnel strengths for each active duty and selected reserve component of the U.S. armed forces. Assuming appropriation of the amounts authorized for 1999, CBO estimates that enacting S. 2057 would result in additional discretionary spending from 1999 appropriations of $269 billion over the 1999–2003 period, including $1.9 billion that would be designated as emergency funding. In addition, the bill contains provisions that would lower the cost of discretionary defense programs over the 2000–2003 period by about $4.8 billion.

The bill would affect direct spending through land conveyances, the sale of naval vessels, loss of receipts from the auction of the electromagnetic spectrum, changes to military retirement and survivor benefit programs, and other provisions. CBO estimates that the bill would raise direct spending by $71 million in 1999 and by $1.1 billion over the 1999–2003 period. It also would generate receipts from assets sales totaling $251 million in 1999. The combined effect would be to lower spending by $180 million in 1999 but raise it by $826 million over the 1999–2003 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

S. 2057 would require some airlines to extend federal government rates to reservists traveling to and from their inactive duty stations. This requirement may be a private-sector mandate as defined by the Unfunded Mandates Reform Act (UMRA). However, the cost of this provision would be small, and well below the threshold established by UMRA. UMRA excludes from application of that act legislative provisions that are necessary for the national security. CBO has determined that all other provisions in S. 2057 either fit within this exclusion or do not contain intergovernmental mandates as defined by UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2057 is shown in Table 1, assuming that the bill will be enacted by October 1, 1998.

Authorizations of Appropriations

The bill would authorize specific appropriations totaling $273.5 billion in 1999 for military programs in DoD and DOE. The bill would authorize $271.6 billion for ongoing programs and $1.9 billion on an emergency basis to cover the incremental costs of operations in and around Bosnia and Herzegovina (see Table 2). These costs would fall within budget function 050 (national defense). The estimate assumes that the amounts authorized will be appropriated for 1999. Outlays are estimated based on historical spending patterns. In addition, S. 2057 would authorize specific appropriations for other budget functions: $117 million for the Naval Petroleum Reserve (function 270); $71 million for the Armed Forces Retirement Home (function 700).

The bill also contains provisions that would affect various costs, mostly for personnel, that would be covered by the fiscal year 1999 authorization and by authorizations in future years. Table 3 contains estimates of these amounts. In addition to the costs covered by the 1999 authorizations in the bill, these provisions would lower estimated costs by $4.8 billion over the 2000–2003 period. The following sections describe the estimated authorizations shown in Table 3 and provide information about CBO's cost estimates.

Endstrength

The bill would specifically authorize appropriations of $70.4 billion for military pay and allowances in 1999. Under the bill, the authorized endstrengths in 1999 for active-duty personnel and personnel in the Selected Reserve would total 1,395,780 and 877,094, respectively. Compared to the minimum endstrength level set in current law—1,431,379 active-duty personnel—the endstrength specified in S. 2057 would lower personnel costs by $1.5 billion to $1.7 billion annually.

Also the bill would authorize an endstrength of 8,000 in 1999 for the Coast Guard Reserve. This authorization would cost about $69 million and would fall under budget function 400, transportation.

Grade Structure. Section 415 would change the grade structure of active-duty personnel in support of the reserves. This change would not increase the overall endstrength, but would result in more promotions. The provision would cost about $3 million a year.

TABLE 1.—BUDGETARY IMPACT OF S. 2057 AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION ACTION						
Spending Under Current Law for Defense Programs:						
Budget Authority [1]	270,786	0	0	0	0	0
Estimated Outlays	269,058	91,071	33,952	15,117	6,586	3,047
Proposed Changes:						
Regular Authorizations:						
Authorization Level	0	271,867	0	0	0	0
Estimated Outlays	0	179,519	54,255	20,578	9,103	3,590
Emergency Authorizations:						
Authorization Level	0	1,859	0	0	0	0
Estimated Outlays	0	1,533	283	32	8	0
Spending Under S. 2057 for Defense Programs:						
Authorization Level [1]	270,786	273,726	0	0	0	0
Estimated Outlays	269,058	272,123	88,490	35,727	15,697	6,637
DIRECT SPENDING						
Estimated Budget Authority	0	71	74	264	508	160
Estimated Outlays	0	71	74	264	508	160
ASSET SALES [2]						
Estimated Budget Authority	0	−251	(3)	(3)	(3)	(3)
Estimated Outlays	0	−251	(3)	(3)	(3)	(3)

[1] The 1998 level is the amount appropriated for programs authorized by the bill.

[2] Under the Balanced Budget Act of 1997, proceeds from a nonroutine asset sale may be counted for purposes of pay-as-you-go scoring only if the sale would entail no net financial cost to the government. CBO estimates that the nonroutine asset sales that would result from enacting S. 2057 would generate a net savings to the government, and therefore that the proceeds would be counted for pay-as-you-go purposes.

[3] CBO does not have enough information to estimate the budgetary impact of land conveyances that would be authorized under S. 2057.

Note: Costs of the bill would fall under budget function 505 (national defense), except for certain other items as noted in the text.

TABLE 2.—SPECIFIC AUTHORIZATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1999, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

[By fiscal year, in millions of dollars]

Category	1999	2000	2001	2002	2003
Military Personnel:					
Authorization Level	70,434	0	0	0	0
Estimated Outlays	66,472	3,451	211	70	0
Operation and Maintenance:					
Authorization Level	94,314	0	0	0	0
Estimated Outlays	71,370	17,474	3,062	1,073	439
Procurement:					
Authorization Level	49,782	0	0	0	0
Estimated Outlays	11,601	14,107	12,469	6,446	2,586
Research, Development, Test, and Evaluation:					
Authorization Level	36,271	0	0	0	0
Estimated Outlays	18,882	13,306	2,730	689	241
Military Construction and Family Housing:					
Authorization Level	8,277	0	0	0	0
Estimated Outlays	2,630	2,536	1,497	795	255
Atomic Energy Defense Activities:					
Authorization Level	11,918	0	0	0	0
Estimated Outlays	7,893	3,266	615	48	48
Other Accounts:					
Authorization Level	802	0	0	0	0
Estimated Outlays	330	168	113	41	40
General Transfer Authority:					
Authorization Level	0	0	0	0	0
Estimated Outlays	280	−60	−120	−60	−20
Subtotal—Regular Authorizations:					
Authorization Level	271,798	0	0	0	0
Estimated Outlays	179,457	54,248	20,578	9,103	3,590
Emergency Authorizations:					
Authorization Level	1,859	0	0	0	0
Estimated Outlays	1,533	283	32	8	0
Total:					
Authorization Level	273,657	0	0	0	0
Estimated Outlays	180,990	54,531	20,610	9,111	3,590

TABLE 3.—ESTIMATED AUTHORIZATIONS OF APPROPRIATIONS FOR SELECTED PROVISIONS IN S. 2057 AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

[By fiscal year, in millions of dollars]

Category	1999	2000	2001	2002	2003
Endstrengths:					
Department of Defense:					
Estimated Authorization Level	−1,485	−1,537	−1,595	−1,647	−1,700
Estimated Outlays	−1,402	−1,524	−1,585	−1,639	−1,690
Coast Guard Reserve:					
Estimated Authorization Level	69	0	0	0	0

TABLE 3.—ESTIMATED AUTHORIZATIONS OF APPROPRIATIONS FOR SELECTED PROVISIONS IN S. 2057 AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES—Continued

[By fiscal year, in millions of dollars]

Category	1999	2000	2001	2002	2003
Estimated Outlays	62	7	0	0	0
Grade Structure:					
Estimated Authorization Level	3	3	3	3	3
Estimated Outlays	3	3	3	3	3
Compensation and Benefits (DoD):					
Military Pay Raise in 1999:					
Estimated Authorization Level	6	6	6	6	6
Estimated Outlays	6	6	6	6	6
Expiring Bonuses and Allowances:					
Enlistment/reenlistment Bonuses (Active):					
Estimated Authorization Level	0	43	13	12	9
Estimated Outlays	0	41	15	12	9
Aviation and Nuclear Special Pay:					
Estimated Authorization Level	0	23	8	8	7
Estimated Outlays	0	21	9	8	7
Various Bonuses (Reserve):					
Estimated Authorization Level	0	14	11	8	4
Estimated Outlays	0	13	12	9	4
Special Pay for Nurses:					
Estimated Authorization Level	0	3	0	0	0
Estimated Outlays	0	3	0	0	0
Voluntary Separation/Early Retirement:					
Estimated Authorization Level	0	160	160	160	160
Estimated Outlays	0	155	160	160	160
Benefits for Involuntary Separations:					
Estimated Authorization Level	0	40	40	40	40
Estimated Outlays	0	38	40	40	40
Recruiting Incentives:					
Estimated Authorization Level	32	28	22	20	20
Estimated Outlays	32	28	22	20	20
Termination of Survivor Premiums:					
Estimated Authorization Level	21	22	22	23	23
Estimated Outlays	21	22	22	23	23
Changes in Reenlistment Bonuses:					
Estimated Authorization Level	10	6	4	4	2
Estimated Outlays	10	6	4	4	2
Education Loan Repayment:					
Estimated Authorization Level	10	10	5	0	0
Estimated Outlays	10	10	5	0	0
Incentive Payments to Civilian Employees:					
Estimated Authorization Level	0	42	41	154	125
Estimated Outlays	0	42	41	154	125
Health Care Provisions:					
Estimated Authorization Level	14	25	26	27	5
Estimated Outlays	14	25	26	27	5
Long-Term Charter of a Naval Vessel:					
Estimated Authorization Level	77	24	0	0	0
Estimated Outlays	4	10	11	10	11
Limitation of Price Preference for SDBs:					
Estimated Authorization Level	–8	–8	–8	–9	–9
Estimated Outlays	–8	–8	–8	–9	–9
Other Provisions:					
Estimated Authorization Level	5	5	9	6	5
Estimated Outlays	5	5	9	6	5
Total Authorization of Appropriations:					
Estimated Authorization Level	–1,246	–1,091	–1,233	–1,185	–1,300
Estimated Outlays	–1,243	–1,097	–1,208	–1,116	1,279

Note: For every item in this table except one, the 1999 impacts are included in the amounts specifically authorized to be appropriated in the bill. Those amounts are shown in Table 2. Only the authorization of endstrength for the Coast Guard Reserve is additive to the amounts in Table 2.

Compensation and Benefits

S. 2057 contains several provisions that would affect military compensation and benefits.

Pay Raises. Section 601 would raise basic pay by 3.1 percent or $1.2 billion in 1999. Because the pay raise would be the same as under current law, section 601 would have no incremental costs. Section 602 would increase the pay rates for cadets and midshipmen at the service academies. The incremental cost of this provision would be $6 million annually.

Expiring Bonuses and Allowances. Several sections would extend for three months DoD's authority to pay certain bonuses and allowances to current personnel. The authority is scheduled to expire at the end of fiscal year 1999, but in some cases renewing authorities for even brief periods results in costs over several years because payments are made in installments. CBO estimates that payment of enlistment and reenlistment bonuses for active duty personnel would cost $43 million in fiscal year 2000. The cost of extending special payments for aviators and nuclear-qualified personnel would be $23 million in 2000. Payment authorities for various bonuses for the Selected and Ready Reserve would total $14 million in 2000. We estimate that authorities to make special payments to nurse officer candidates, registered nurses, and nurse anesthetists would cost $3 million in 2000. The estimated cost of all these bonuses and allowances is $163 million over the 2000–2003 period.

Voluntary Separation Benefits and Early Retirement. Section 522 would extend for four years DoD's authority to separate personnel by paying voluntary separation benefits and offering early retirement. Because DoD has made relatively little use of the voluntary separation benefit in recent years, CBO estimates the cost of extending that authority would be less than $10 million a year. However, recent experience indicates that early retirement incentives may be used more often. CBO estimates that DoD would spend about $150 million annually to cover the costs of extending an option to retire early.

Benefits for Involuntary Separations. Section 522 would also extend for four years transitional benefits for former military personnel who have left service involuntarily. These benefits include travel and transportation allowances, payments for storing household goods, and access to health care, commissaries, and family housing. CBO estimates that costs for extending these benefits would total $40 million a year starting in 2000.

Recruiting Incentives. The bill would change restrictions governing two recruiting incentives that would be extended through January 1, 2000. Section 616 would increase the maximum enlistment bonus in the Army from $4,000 to $6,000 for individuals who enlist for three years and score 50 or above on the Armed Forces Qualification Test. Based on current recruitment goals, CBO estimates that costs for enlistment bonuses would increase by $4 million in 1999 and about $2 million in 2000. Under current law, enlistees cannot receive both the college fund benefits and an enlistment bonus. Section 619 would also allow certain enlistees to receive both recruitment incentives, which CBO estimates would cost $8 million in 1999, $6 million in 2000, and $2 million in 2001.

In addition, the maximum benefit from the military college funds under section 618 would increase in 1999 from $40,000 to $50,000, at an estimated cost to the military pay accounts of $20 million a year.

Termination of Premiums for Survivor Benefits. Under section 631 a military retiree participating in the Survivor Benefit Plan (SBP) would stop paying premiums after paying them for 30 years and reaching 70 years of age. This provision would increase the payment that DoD makes to the Military Retirement Trust Fund for accruing retirement benefits. CBO estimates that those costs would average about $22 million a year over the first several years. The provision would also lead to increases in direct spending as discussed below.

Changes in Reenlistment Bonus Eligibility. The services extend reenlistment bonuses to personnel in specialities characterized by inadequate manning, low retention, and high replacement costs. The maximum bonus payment under current law is $45,000, but no more than ten percent of the bonuses can exceed $20,000. Section 615 would remove the ten percent restriction and allow the services to extend reenlistment bonuses to reserve members performing active guard and reserve duty. CBO estimates that these changes would cost about $10 million in 1999 and $26 million over the 1999–2003 period.

Caps on Education Loan Repayment. The bill would increase the authorized caps on loans that DoD may repay for health professionals serving in the Selected Reserve and who have critical skills. The repayment caps would increase from $3,000 per year and $20,000 in total to $20,000 and $50,000, respectively. The provision would cost an estimated $10 million in 1999 and $25 million over the 1999–2003 period.

Incentive Payments to Civilian Employees

CBO estimates that together sections 1103 and 1104 would raise discretionary costs by $362 million and direct spending by $343 million over the 1999–2003 period. Section 1103 would extend DoD's authority to offer incentive payments to civilian employees who voluntarily retire or resign. This authority, currently scheduled to expire at the end of fiscal year 2001, would be extended through fiscal year 2003. Section 1104 would authorize DoD to target offers of early retirement to specific groups of employees. DoD frequently offers incentive payments and early retirement to the same employees, and has found that the two methods are more effective when used together.

As a result, the net impact of enacting both sections 1103 and 1104, on both DoD workforce reductions and the budget, is greater than the individual impact of each provision.

Based on information provided by DoD and the Office of Personnel Management (OPM), CBO estimates that section 1103 would increase discretionary spending by $244 million in 2002 and 2003. Section 1104 would increase discretionary costs by $76 million between 2000 and 2003. If both provisions were enacted, discretionary spending would increase by an additional $42 million in 2002 and 2003. These costs reflect additional incentive payments and deposits to the Civil Service Trust Fund that DoD would be required to make for each employee who accepts an incentive payment. These figures also incorporate savings that DoD would realize due to lower spending on severance payments associated with involuntary separations. Additional information about the budgetary impact of these provisions is provided below in the discussion of impacts on direct spending.

Military Health Care Programs and Benefits

Title VII contains several provisions that would affect health care programs and benefits although only a few would have a budgetary impact.

Demonstration Projects. Section 707 would require DoD to establish three demonstration projects involving health benefits for certain beneficiaries who are eligible for Medicare and who live 40 miles or more from a military treatment facility (MTF), a so-called catchment area. Specifically, one project would offer mail-order pharmacy benefits; another would offer Tricare as supplemental coverage to Medicare; and a third would offer supplemental coverage under the Federal Employee Health Benefits Program (FEHBP). The bill would cap DoD's costs at $60 million a year for the term of the demonstrations. The budgetary impact of section 707 would include both an increase in spending subject to appropriation and direct spending.

CBO estimates that DoD would spend $14 million in 1999 and $104 million over the 1999–2003 period for the demonstrations of providing mail-order pharmacy benefits and Tricare coverage as a supplement to Medicare. Those costs would be subject to appropriation. (The direct spending costs of the third demonstration are discussed below with other provisions affecting direct spending.) The estimate assumes that 11,000 beneficiaries eligible for Medicare reside in each of six demonstration sites, based on the average number of such individuals living outside catchment areas. This estimate assumes DoD would offer benefits under each project to roughly the same number of beneficiaries. (Thus, DoD's spending on each project would depend on the per capita cost of the benefits offered.) Alternatively, DoD could design the demonstration to spend roughly the same amount on each project. If this were the case, DoD would spend roughly $40 million annually on these two projects.

Dependents' Dental Premiums. Under current law, participating dependents of active-duty personnel must pay part of the premium for dental care coverage, but the amount is capped at $20 per month per family. Section 701 would allow DoD to adjust the participants' premiums by the military pay raise. CBO estimates that this provision would reduce DoD's costs by a negligible amount in 1999 but that savings would increase by about $500,000 annually thereafter, totaling $6 million over the 1999–2002 period.

Automatic Enrollment and Reenrollment in Tricare Prime. Under current law, if dependents of active-duty personnel want to join Tricare Prime, they must enroll each year. Enrollees can choose either military or civilian primary care providers or they may be assigned to civilian providers if an MTF reaches its enrollment capacity. Section 703 would provide that dependents of members in grades E–4 or below who live outside a catchment area be automatically enrolled in Tricare Prime at the MTF. They would remain enrolled at the MTF until they elect to disenroll or become ineligible for coverage.

Although automatic enrollment could encourage some dependents who do not currently rely on military health care to join Tricare, CBO believes that the costs to DoD would be negligible because nearly all dependents of members in grades E–4 and below already use the military health system. But, if automatic enrollment encourages current participants in Tricare Extra and Tricare Standard to get care from the MTFs instead, then DoD would incur more costs in its direct care system. However, only a small part of this population would be likely to change providers based solely on automatic enrollment, and because Tricare contractors would experience lower health care costs from shifts to the MTFs, at least some of DoD's extra costs would be offset by adjustments to the price of the managed care contracts.

Authority to Provide Tricare Coverage. Under current law beneficiaries lose eligibility for Tircare once they are eligible for Medicare. Section 704 would allow DoD to extend Tricare eligibility through June 30, 1999, for certain beneficiaries who have become eligible for Medicare because of a disability but who have not enrolled in Medicare Part B. CBO estimates that DoD would spend about $3 million in health care costs for these individuals, based on information from DoD on the number of affected beneficiaries. Information from DoD suggests that its has been willing to pay these expenses even though current law does not require it. Thus, assuming that DoD would continue to pay these costs under current law, this provision would have no net budgetary impact.

Long-Term Charter of Naval Vessels

Section 1012 would authorize the Secretary of the Navy to charter three vessels in support of submarine rescue, escort, and towing. Two of the vessels would be leased through 2005 and a third vessel would be leased through 2012. The charter would be a capital lease that would cost about $101 million through 2003. Because two charters would begin in 1999 and the third would begin in 2000, the estimated authorizations is counted in those two years. The estimate is based on information provided by the Navy and the owner of the vessels.

Limitation of the Price Preference for SDBs

Under current law, DoD may enter into contracts with small disadvantaged businesses (SDBs) to pay prices that exceed the fair market price in order to facilitate awarding at least five percent of its contracts to SDBs. Section 803 would deny that authority except when DoD failed to reach that goal in the preceding fiscal year. Information from DoD suggests that contracts awarded to SDBs in recent years have exceeded the goal and have resulted in annual price premiums totaling between $7.5 million and $10 million. On this basis, CBO estimates that section 803 would save $8 million a year.

Other Provisions.

The bill contains several other provisions that would have a budgetary impact totaling about $5 million annually.

DARPA Personnel Management. Section 1105 would authorize the Secretary of defense to appoint not more than 20 eminent experts in science and engineering to work in research and development projects administered by the Defense Advanced Research Projects Agency (DARPA). The authorization would extend over the five-year period beginning on the date of the enactment S. 2057. CBO estimates that implementing section 1105 would cost $3 million a year over the 1999–2003 period.

Pay Increase for Safety Personnel at Defense Nuclear Facilities. Under current law, the salary of safety personnel at defense nuclear facilities may not exceed the rate of pay or Level IV of the Executive Schedule. Section 3142 would change that limit to Level III, an increase of about $7,500 per person per year. CBO estimates that this provision would raise DOE's personnel costs by less than $2 million a year for about 200 individuals.

National Defense Panel. Section 905 would authorize the Secretary of Defense to establish a National Defense Panel in 2001 and every four years there after to recommend a 10- and 20-year defense plan. The panel would consist of a chairman and eight other individuals from the private sector who are recognized experts in national security matters. The chairman would have the authority to hire an executive director and staff. CBO estimates that implementing section 905 would cost $4 million in 2001 and $1 million in 2002.

Reductions in Headquarters Staff. Section 904 would require the Secretary of Defense to reduce staffing in headquarters and various DoD agencies by the end of fiscal year 2003. Because total military personnel are determined by end strength requirements, CBO assumes that the provision would mainly affect civilian employees. Starting from the employment level of October 1, 1996, section 904 would require the elimination of approximately 33,000 civilian positions at estimated annual savings of about $2.1 billion once the reduction is fully accomplished. Because such reductions are occurring under current law, CBO does not estimate additional savings under section 904.

Director Spending and Asset Sales

S. 2057 contains several provisions that would affect direct spending and asset sales. As shown in Table 4, the bill would raise direct spending by $71 million in 1999 and $1,077 million over the 1999–2003 period. CBO estimates that it would raise receipts from asset sales by about $251 million in 1999.

Forgone Spectrum Receipts.

CBO estimates that the provisions in section 1062 regarding licenses for the use of the electromagnetic spectrum would result in a loss of offsetting receipts that could range from a few hundred million to several billion dollars over the 1999–2003 period. Existing law requires the transfer of certain frequencies from federal to nonfederal jurisdiction, and the subsequent assignment of licenses to use those frequencies to private entities through auctions conducted by the Federal Communications Commission (FCC). Under current law, the costs of relocating federal users are a federal responsibility and would be financed during appropriated funds. Under this bill, nonfederal entities would be obligated to compensate federal agencies in advance for costs incurred to relocate out of the portion of the spectrum being licensed for commercial use. Agency spending of the receipts collected from the licensees would be subject to appropriation.

The provisions in section 1062 could apply to spectrum auctions that are projected to generate about $9 billion in receipts over the 1999–2003 period under current law. Obligating prospective bidders to pay the relocation costs associated with specific licenses would significantly depress interest in many, if not most, of those auctions. For example, recent reports have suggested that relocating certain DoD functions could cost an average of about 20 cents per megahertz per person, which is more than half the average price received in 1997 for wireless telecommunications licenses (the D, E, and F block auctions). Consequently, CBO estimates that offsetting receipts from spectrum licenses would be 5 percent to 10 percent lower than under current law because of the uncertainty associated with the added liability to the prospective licenses. In addition, CBO expects that the FCC would not receive bids for some portions of the spectrum because the projected cost of relocating federal users out of certain spectrum would likely exceed the market value of some licenses. As a result, we estimate that enacting section 1062 would reduce offsetting receipts by a total of $800 million over the next five years. The loss of receipts could be significantly higher, depending on the extent to which bidders lack confidence in the estimates of their liability for relocation costs. Finally, CBO anticipates that some auctions would be postponed to allow time for federal agencies to finalize cost estimates and develop procedures for releasing information to bidders. Such delays would reduce auction receipts in 1999 but would have no significant net effect over time.

TABLE 4.—DIRECT SPENDING AND ASSET SALES IN S. 2057

[By fiscal year, budget authority and outlays in millions of dollars]

Category	1999	2000	2001	2002	2003
DIRECT SPENDING					
Forgone Spectrum Receipts	100	75	200	400	25
Incentive Payments to Civilian Employees:					
Section 1103 incentives	0	0	0	−9	24
Section 1104 incentives	0	10	64	99	75
Interactive effects	0	0	0	15	65
Subtotal	0	10	64	105	164
Premiums for Survivor Benefits	−5	−5	−5	−5	−5
FEHB Demonstration Project	3	30	41	44	12
Spending of Travel Rebates	2	2	2	2	2
Leases of Naval Vessels	−29	−38	−38	−38	−38
Land Conveyance Spending	(1)	(1)	(1)	(1)	(1)
Total Direct Spending	71	74	264	508	160
ASSET SALES[2]					
Sale of Naval Vessels	−151	0	0	0	0
Stockpile Sales	−100	0	0	0	0
Land Conveyances	(3)	(3)	(3)	(3)	(3)
Total Asset Sales	−251	(3)	(3)	(3)	(3)
DIRECT SPENDING AND ASSET SALES					
Total	−180	74	264	508	160

[1] CBO does not have enough information to estimate the direct spending from land conveyances in S. 2057. Some provisions would authorize spending from the proceeds of certain asset sales, and although proceeds and spending would cancel each other over time they would not do so on a yearly basis. Another provision would authorize a sale with payment delayed for 10 years; that provision would have a subsidy cost under credit reform.

[2] Under the Balanced Budget Act of 1997, proceeds from a nonroutine asset sale may be counted for purposes of pay-as-you-go scoring only if the sale would entail no net financial cost to the government. CBO estimates that the nonroutine asset sales that would result from enacting S. 2057 would generate a net savings to the government, and therefore that the proceeds would be counted for pay-as-you-go purposes.

[3] CBO does not have enough information to estimate the budgetary impact of land conveyances that would be authorized under S. 2057.

Incentive Payments to Civilian Employees

In addition to their impact on discretionary spending (discussed above), sections 1103 and 1104 of the bill would affect direct spending. Enacting both sections 1103 and 1104 would increase the number of employees taking incentive payments and retiring early in 2002 and 2003, and the budgetary impact of the two provisions taken together is greater than their separate impacts. CBO estimates that sections 1103 and 1104 would raise direct spending by about $343 million (in budget functions 600 and 950) over the 1999-2003 period.

Section 1103. This provision would allow DoD to offer incentive payments to employees who voluntarily retire or resign in fiscal years 2002 and 2003. These payments would induce some employees to retire—and begin receiving federal retirement benefits—earlier than they would otherwise. These additional benefit payments represent direct spending. In later years, annual federal retirement outlays would be lower than under current law because employees who retire earlier would receive a smaller annuity. By itself, section 1103 would increase net direct spending by a total of $15 million in 2002 and 2003.

Based on information from DoD, CBO estimates that about 7,900 employees would accept incentive payments in 2002 and 2003 (see Table 5). CBO assumes that about 60 percent of these employees would retire at the same time under current law; the rest would be induced to retire one to two years early. As a result, CBO estimates that spending on federal retirement benefits would increase by $76 million during the 2002-2003 period. In later years, annual spending on retirement benefits would decrease by about $15 million relative to current law.

DoD would be required to make a deposit to the Civil Service Trust Fund equal to 15 percent of final pay for each employee who accepts an incentive payment. CBO estimates that these deposits would be about $7,700 per employee and would increase deposits received by the trust fund by $61 million in 2002–2003.

Section 1104. Federal agencies that are undergoing a major reorganization or reduction in force may, with the approval of the OPM, offer their employees retirement benefits earlier than would normally be allowed. OPM and agencies have traditionally used a number of criteria to target offers of early retirement to particular groups of employees and thus address agencies' specific personnel needs. In September 1997, the Court of Appeals for the District of Columbia in Torres v. OPM struck down many of these criteria, ruling that OPM lacked the necessary statutory authority. The recent supplemental appropriations bill (Public Law 105–174) granted OPM the necessary authority, but only through fiscal year 1999. Section 1104 would permanently codify the previous practice for DoD and, in the absence of section 1103, would increase direct spending by $248 million over the 2000–2003 period.

TABLE 5.—ESTIMATED NUMBER OF CIVILIAN EMPLOYEES OF DOD WHO WOULD RECEIVE INCENTIVE PAYMENTS AND TAKE EARLY RETIREMENT UNDER SECTIONS 1103 AND 1104

[Number of employees receiving each benefit]

	1999	2000	2001	2002	2003
CHANGES UNDER SECTION 1103					
Incentive Payments	0	0	0	4,300	3,600
Early Retirement	0	0	0	200	200
CHANGES UNDER SECTION 1104					
Incentive Payments	0	2,300	2,300	0	0
Early Retirement	0	2,500	2,500	200	200
CHANGES BASED ON INTERACTIONS					
Incentive Payments	0	0	0	1,700	1,400
Early Retirement	0	0	0	1,300	1,200
TOTAL UNDER S. 2057					
Incentive Payments	0	2,300	2,300	6,000	5,000
Early Retirement	0	2,500	2,500	1,700	1,600

Note: According to information from DoD, it plans to reduce its civilian workforce by 23,000 in 1999; 28,000 in 2000; 32,000 in 2001; 13,000 in 2002; and 12,000 in 2003. The CBO estimate of the number of employees receiving incentive payments and early retirements is also based on information from DoD. Because some individuals would receive both benefits, the figures are not additive.

Based on information from DoD and OPM, CBO believes that the *Torres* decision will lead agencies to sharply curtail their use of early retirement. Applications since the *Torres* decision indicate that the number of DoD employees projected to take early retirement are about 30 percent of pre-*Torres* levels. Without a change in law, DoD will have to rely more heavily on involuntary separations in order to reach its workforce reduction goals from 2000 to 2003. However, some employees who would have taken early retirement before the *Torres* decision will avoid the involuntary separations and continue working until taking regular retirement in later years. Because these employees will receive a higher annuity than they would have by retiring early, long-term spending on federal retirement benefits should increase in the wake of the *Torres* decision.

CBO estimates that section 1104 would increase the number of DoD employees taking early retirement in 2000 and 2001 by 5,000, and in 2002 and 2003 by about 400. The increase projected for 2002 and 2003 is much smaller because DoD does not currently have authority to offer incentive payments in those years. Moreover, DoD's workforce reduction targets for 2002 and 2003 are smaller than those for 2000 and 2001. The increase in early retirements would raise spending on federal retirement benefits by $289 million between 2000 and 2003. But by 2008, spending on benefits would be $40 million lower than under current law.

CBO also estimates that many of the 5,000 additional early retirees in 2000 and 2001 would accept incentive payments. For these employees, DoD would make $41 million in additional deposits to the Civil Service Trust Fund.

Interaction Between Sections. DoD frequently offers incentive payments and early retirement to the same employees, and has found that the two methods are more effective when used together. As a result, the net impact of enacting both sections 1103 and 1104, on DoD workforce reductions and the budget, is greater than the individual impact of each provision. CBO estimates that enactment of both sections would result in an additional 3,100 employees taking incentive payments and an extra 2,500 employees taking early retirement in 2002 and 2003. CBO estimates that taken together the provisions would raise direct spending by about $343 million over the 2000–2003 period or about $80 million more than if they had no interaction.

Termination of Premiums for Survivor Benefits

Under section 631, a military retiree participating in the Survivor Benefit Plan (SBP) would stop paying premiums after paying them for 30 years and reaching 70 years of age. Because the bill would specify October 1, 2003, as the effective date, no costs would be incurred until that time. However, CBO estimates that some individuals who would stop participating in SBP under current law would continue to pay premiums under section 631. Thus, CBO estimates that the government would collect additional premiums of about $5 million a year until 2004 when costs would more than offset the additional receipts. Direct spending costs (in budget function 600) would be about $59 million in 2004 and would reach about $120 million in 2008. Net costs would continue to increase after 2008 before leveling off.

Demonstration Projects for Medicare-Eligible Military Retirees

Section 707 would require DoD to establish three demonstration projects to offer certain health benefits to military beneficiaries who are also eligible for Medicare. Two of the projects would raise direct spending by a total of $3 million in 1999 and $130 million over the 1999–2003 period.

CBO estimates that the project that would allow coverage under the FEHB program would raise direct spending by $103 million from 2000 through 2003. This estimate assumes that DoD offers enrollment to 22,000 individuals residing in two catchment areas and that 70 percent of them would join the program. Most of the increase in direct spending would be DoD's payment of the government contribution toward the FEHB premium. A small portion of the direct spending increase would be higher expenditures in the Medicare program because beneficiaries who acquire supplemental health coverage tend to use more Medicare services overall. CBO estimates that Medicare expenditures (in budget function 570) would rise by $22 million over the 1999–2003 period. There would be no budgetary impact in 1999 from this project because the FEHB project would begin on January 1, 2000, and end on December 31, 2003.

CBO believes that the demonstration project offering Tricare supplemental coverage would also increase Medicare spending. To the extent that this benefit covers most or all of the Medicare deductibles and copayments, spending in the Medicare program would rise for the participants who acquire supplemental coverage through this project. Assuming that if the Tricare supplemental is like the most commonly purchased commercial Medigap plan, which covers the Medicare inpatient deductible and outpatient copayments, then Medicare spending would rise by about $3 million in 1999 and $26 million over the 1999–2003 period.

Spending From Rebates

Section 802 would give DoD the authority to spend rebates it receives from travel agencies under contracts with the department. Under current law, DoD is prevented from spending receipts that stem from certain contracts or that are credited to an appropriation that has lapsed. By allowing such funds to be spent, CBO estimates that section 802 would increase outlays by about $2 million a year.

Leases and Sales of Naval Vessels

Section 1013 would authorize the transfer of 22 naval vessels to foreign countries: six by grant, eleven by sale, and five by lease or sale. CBO estimates the transfer would increase offsetting receipts by $332 million over the 1999–2003 period—$151 million from the sale of ships and $181 million in lease payments. The estimate assumes the five ships authorized for transfer by sale or lease will be leased for five years, with quarterly payments beginning in the second quarter of fiscal year 1999.

Stockpile Sales

The bill would authorize DoD to sell several materials contained in the National Defense Stockpile to achieve receipts totaling $100 million in 1999. CBO estimates that DoD would be able to sell the materials authorized for disposal and raise the receipts required by the bill.

Land Conveyances

The bill contains several provisions that would convey land to nonfederal entities. CBO cannot estimate the aggregate budgetary impact because DoD has not assessed the market value of all the affected properties.

Section 2821 would authorize the sale of about 5,000 acres to the Indiana Reuse Authority and section 2823 would convey about 1,000 acres to Hamilton County, Tennessee. In each case, payment would occur 10 years after the land was transferred. The delayed payment would represent loans by the United States under procedures established by the Federal Credit Reform Act of 1990. The budgetary impact would be the difference between the sale price and the subsidy cost. However, because DoD does not know the market value of the land, CBO cannot estimate the budgetary effects.

Sections 2821 and 2823 also would grant the Secretary of the Army authority to accept and spend reimbursements from local authorities for administrative expenses incurred during the conveyances. Because receipts and spending would offset each other, this authority would have no net budgetary impact.

Other sections would either authorize DoD to give or sell parcels of property that GSA might sell under its disposal procedures. CBO estimates that these sections would not have a significant budgetary impact.

Other Provisions

The following provisions would have an insignificant budgetary impact:

Section 313 would allow DoD to collect landing fees for the use of military airfields by civil aircraft and to use the fees to fund the operation and maintenance of the airfields during fiscal years 1999 and 2000.

Section 511 would allow National Guard officers to compute their time-in-grade for retirement purposes from the date they are confirmed by the Senate.

Section 512 would allow reserve generals and flag officers who are involuntarily transferred from active status to retire at a higher grade if they have served two years, instead of three years, at that grade.

Section 522 would allow a limited number of reserve commissioned officers who retire voluntarily to retire at a higher grade if they have served two years, instead of three years, at that grade.

Section 632 would require certain retirees to begin paying premiums under the Survivor Benefit Plan the month following a court order.

Title XXXV would authorize the Panama Canal Commission (PCC) to solicit and accept donations of funds, property, and services from nonfederal sources for the purpose of carrying out promotion activities. This provision would have no net effect on direct spending because any new offsetting collections would be deposited into the PCC's revolving fund, from which they would be spent without further appropriation.

Section 1052 would allow the superintendents of the military academies to receive and spend funds awarded from research grants.

Section 1054 would allow DoD to spend reimbursements from companies that damage personal property during shipping if DoD has reimbursed the owners of the property.

Section 1056 would allow military historical centers to spend the amounts they collect as fees for providing information to the public.

Section 1061 would increase the amount of funding that would be derived from fees and spent for a program to commemorate the 50th anniversary of the Korean War.

Title XXIX, the Juniper Butte Range Land Withdrawal Act, would reserve approximately 12,000 acres of public land in Owyhee County, Idaho, for use by the Secretary of the Air Force for training and other defense-related purposes. Implementing title XXIX could lead to a decrease in offsetting receipts from grazing on federal lands, but because implementation would depend on appropriation action, CBO estimates that enactment of title XXIX would not, by itself, affect direct spending or receipts.

PAY-AS-YOU-GO CONSIDERATIONS

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending on receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	−180	74	264	508	160	253	174	119	90	45
Changes in receipts						Not applicable					

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

The Unfunded Mandates Reform Act of 1995 (UMRA) excludes from application of that act legislative provisions that are necessary for the national security. CBO has determined that the provisions in S. 2057 either fit within this exclusion or do not contain intergovernmental mandates as defined by UMRA.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

One provision of S. 2057 could impose a new private-sector mandate. Section 623 of title VI would require airlines and other common carriers under contract with the General Services Administration to provide transportation at the contracted federal government rate to reservists traveling to and from their inactive duty training station. To the extent that the contracted government rate is lower than available commercial rates, this provision would reduce carriers' revenues and income. About 700,000 reservists are required to participate in monthly drills and annual training. The annual cost of this provision would be well below the $100 million threshold set by UMRA, since most reservists travel to their training bases by private automobile rather than by common carrier. Furthermore, once the General Services Administration renegotiates its service agreements with the carriers, this provision would become a standard condition of the contract that the carriers accept, and would therefore no longer constitute a private-sector mandate.

PREVIOUS CBO ESTIMATE

On May 12, 1998, CBO prepared a cost estimate for H.R. 3616, the National Defense Authorization Act for Fiscal year 1999, as ordered reported by the House Committee on National Security.

Estimate prepared by:

Federal Cost: The estimates for defense programs were prepared by Valerie Barton (military retirement), Shawn Bishop (health programs), Kent Christensen (military construction and other defense), Jeannette Deshong (military and civilian personnel), Raymond Hall (procurement, RDT&E, stockpile sales, and atomic energy defense activities), Dawn Sauter (operation and maintenance), and Joseph C. Whitehill (sale of naval vessels). They can be reached at 226-2840.

Eric Rollins prepared the estimates for incentive payments to civilian employees (sections 1103 and 1104). He can be reached at 226-2820.

Kathy Gramp prepared the estimates of forgone receipts from auctioning the electromagnetic spectrum. Victoria. V. Heid prepared the estimate for the withdrawal of the Juniper Butte Range Lands, and Deborah Reis prepared the estimate for the Panama Canal Commission. They can be reached at 226-2860.

Impact on State, Local, and Tribal Governments: Leo Lex (225-3220).

Impact on the Private Sector: R. William Thomas (226-2900).

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

Mr. THURMOND. Mr. President, I ask unanimous consent that Senate floor privileges be granted to staff members of the Armed Services Committee during the pendency of S. 2057, the National Defense Authorization Act for Fiscal Year 1999, for today and each day the measure is pending before the Senate and for the rollcall votes thereon:

Les Brownlee, Staff Director; George Lauffer, Deputy Staff Director; Scott Stucky, General Counsel; David Lyles, Minority Staff Director; and Peter Levine, Minority Counsel.

Charlie Abell, John R. Barnes, Stuart H. Cain, Lucia Monica Chavez, Christine E. Cowart, Daniel J. Cox, Jr., Madelyn D. DeBobes, John DeCrosta, and Marie F. Dickinson.

Keaverny Donovan, Shawn H. Edwards, Jonathan L. Etherton, Pamela L. Farrell, Richard W. Fieldhouse, Maria A. Finley, Jan Gordon, Greighton Greene, Gary M. Hall, and Patrick "Pt" Henry.

Larry J. Hoag, Andrew W. Johnson, Melinda M. Koutsoumpas, Lawrence J. Lanzillotta, Henry C. Leventis, Paul M. Longsworth, Stephen L. Madey, Jr., Michael J. McCord, J. Reaves McLeod, and John H. Miller.

Ann M. Mittermeyer, Bert K. Mizusawa, Cindy Pearson, Sharen E. Reaves, Moultrie D. Roberts, Cord A. Sterling, Eric H. Thoemmes, Roslyne D. Turner, and D. Banks Willis.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, today the Senate is back to consider S. 2057, the National Defense Authorization Act for Fiscal Year 1999. I am hopeful that we will be able to finish the floor action on this bill quickly, and I am looking forward to the floor debate.

Mr. President, this bill is an important piece of legislation that enhances our national security. The Armed Services Committee has reported a sound bill which provides a 3.1 percent pay raise for the uniformed services, restores appropriate funding levels for the construction and maintenance of both bachelor and family housing, and increases investment in future modernization to ensure that the Department of Defense can leverage advances in technology and maintain our future force readiness.

This bill recommends a number of policy initiatives and spending increases which improve the readiness of the reserve forces and permit greater use of the expertise and capabilities of the reserve components.

Under the budget agreement, we have not added funds to the defense budget this year. However, as I stated when the Budget Resolution was on the floor, I believe that we are not providing adequate funds for defense and that we must reverse this negative spending trend.

Mr. President, as a result of the budget agreement reached last year, nondefense discretionary spending received significant increases while defense continued its downward spending trends—not even keeping pace with inflation. During the fiscal year 1998 appropriations process, the national security appropriations bill had the lowest percentage increase from fiscal year 1997 funding level than any of the other appropriations bills. In fact, military construction appropriations had a negative 6.2 percent change over the fiscal year 1997 funding levels, making funding for national defense grow at one-fifth the rate of domestic spending increases.

Since the end of the Cold War, the active military end strength has been reduced from 2.2 million men and women to a little over 1.4 million. Annual defense spending continues to decline from a level of $400 billion in fiscal year 1986 to about $260 billion, in equivalent, inflation-adjusted dollars.

Mr. President, I have been pleased to hear that many of my colleagues including, the Chairman of the Appropriations Committee and the Chairman of the Budget Committee believe, as I do, and have been recently quoted in the press that defense spending must be increased, and the negative spending trend for defense must be reversed. The gap between our military capability and our commitments around the world continues to widen. We can no longer carry out the ambitious foreign policy of this Administration with the level of resources allocated for defense and still maintain our current readiness posture. We will not require less of our servicemen and women in the future. We must meet our obligation to provide adequate resources for our national security.

In this bill, the Committee has achieved a better balance among near-term readiness, long-term readiness, quality of life and adequate, safe and reliable nuclear weapons capabilities.

Mr. President, I would like to take a moment to thank the Chairman of the Appropriations Committee and his staff for their close cooperation with our Committee this year. I cannot recall a time when we have worked together as closely as we have this year. I believe that cooperation is reflected in both of our bills, and I commend the Chairman and the Members of the Appropriations Committee and their fine staff for their work this year.

I urge my colleagues to come to the floor and offer their amendments, but I would also like to remind my colleagues that any amendments to the defense authorization bill that would increase spending should be accompanied by offsetting reductions.

My hope is that colleagues will support this bill and join the Members of the Armed Services Committee in passing this bill with a strong bipartisan vote.

I wish to thank the Chair, and yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me again commend Senator THURMOND for his leadership on the committee. His chairmanship has been a distinguished one. He has worked hard to keep us together as a bipartisan committee. We have adopted this bill on a bipartisan basis. He and his staff have worked with me and our staff to work out the problems that we have had, and where there have been disagreements we have resolved them and moved on to other areas of importance. We are ready to get back to work on our bill. As the chairman mentioned, the Appropriations Committee has already reported the DOD appropriations bill, and we worked cooperatively with them, so it is important that we complete action on this authorization bill so we can get to conference.

We have been working with Senators for the past several weeks on a number of amendments which we have been able to clear, and I hope that we can act on those cleared amendments here this morning.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I just take this opportunity to thank Senator LEVIN and the Members of the minority for their fine cooperation and working with us on this defense bill. Senator LEVIN is always ready to cooperate, and he renders this country a great service.

Mr. LEVIN. I thank the Senator.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I offer an amendment to the underlying National Defense Authorization Act, amendment 2387, which I filed on May 20.

The PRESIDING OFFICER. It would take unanimous consent at this point to call up an amendment.

Mr. HUTCHINSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is an amendment by Senator BROWNBACK, a second-degree amendment.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that we lay aside the pending business for the purpose of offering amendments.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HUTCHINSON. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I would like to speak on several amendments which I would have offered today had objection not been raised. These amendments, to which objection has been raised on the basis that they are controversial, are, word for word, provisions that passed the U.S. House of Representatives many months ago by overwhelming margins.

The first amendment I will be speaking on passed the House of Representatives by a margin of 415 to 1. It is that amendment dealing with coerced and forced abortions in the Nation of China to which objection has been raised and to which I will speak this morning.

I further point out, these amendments were filed May 20, a month ago, to the defense authorization bill, and I announced my intent, even prior to that, to offer these amendments and to ensure that those provisions which passed the House with such overwhelming support, reflecting overwhelming public support for these provisions, would have an opportunity to be voted on in the U.S. Senate.

I think those votes would have occurred much sooner had they not been tied up in committee. I think that they have overwhelming support, not only by the country, not only by the U.S. House of Representatives, but by the U.S. Senate, and when we have a chance to vote on them—and we will—that we will see them pass this body just as assuredly, and by the same kind of margin, as they passed the House.

So, while there may be objection raised on the basis that they are controversial amendments, I think when the vote happens we will find they are really not controversial at all. I think we are going to find very few Senators willing to cast nay votes on amendments which are so commonsensical and so reflect the moral values of the American people. We will have an opportunity to find out later, but objection has been raised.

The intent in offering these amendments somehow has been construed as being an effort to embarrass the President. I have no desire to embarrass the President on the eve of his trip. I do think it is important we send a certain message, and a clear, resounding message, to the Chinese Communist Government as to how important human rights abuses in that Nation—how important they are to our country, to our people, and to our Government.

I would have been delighted to have had this debate and this vote a month ago. Had it not been for prolonged, extended debate on the tobacco bill, that would have happened. So the timing for the offering of these amendments is not such to have some design to embarrass the President on the eve of his trip to Beijing. The timing was unavoidable because of the prolonged, extended debate on the tobacco bill that I think ran into 4 weeks. But I remind my colleagues on the floor this morning, these amendments were offered a month ago, there was public attention paid to these amendments a month ago, and it was clearly announced that I intended to offer them a month ago. I think it is unfortunate we cannot go ahead and offer those amendments to the defense authorization bill today.

The amendment, as I say, mirrors the language that passed overwhelmingly on the floor of the House. It would do two things. First, it condemns those officials of the Chinese Communist Party, the Government of the People's Republic of China, and other Chinese nationals involved in forced abortions and sterilization. I hardly think that is controversial. I do not think there are many people in this country who would say we should not condemn the practice of forced abortions and forced sterilizations. So the amendment does that.

Second, the amendment would prevent such persons from entering or remaining in the United States. That is, it would deny visas to those Communist Government officials who are involved in the practice of forced sterilizations and forced abortions in the Nation of China. It would be based upon credible evidence, and that credible evidence would be ascertained by the Secretary of State. So, to the extent that that information is available, to the extent that we have factual evidence that a person is involved in this horrendous practice, as determined by our Secretary of State, then visas would be denied to those individuals.

I just find it very difficult to see anything controversial about those two provisions in this amendment, but objection has been raised, although it passed by 415 to 1 in the House of Representatives. The objection has been raised on the basis of it being controversial because it condemns those Chinese Communist Party officials involved in abortions and sterilizations and would prevent them from receiving visas to travel to this country if the Secretary of State so determined that credible evidence indicated they were involved in that. That is the controversial amendment we are not allowed to offer today to the defense authorization bill.

In an attempt to reach a 1 percent annual population growth rate, Chinese authorities, in 1979, instituted a policy of allowing one child per couple, providing monetary bonuses and other benefits as incentives. In subsequent years, it has been widely reported that women with one living child, who become pregnant a second time, are often subjected to rigorous pressure to end the pregnancy and undergo sterilization.

Forced abortion and sterilization have not only been used in Communist China to regulate the number of children but to eliminate those regarded as defective under China's eugenics policy, the so-called natal and health care law. This law requires couples at risk of transmitting disabling congenital defects to their children to use birth control or undergo sterilization.

China's leadership has admitted that coerced abortions and involuntary sterilizations occur but insists that officials involved in such incidents are acting outside the law and are punished. The extent to which this policy is carried out is not known, and while its enforcement is not uniform throughout China, the very fact that such a policy exists is abhorrent to people around the world who believe in basic human rights.

China's population control officials, working with employers and work unit officials, routinely monitor women's menstrual cycles. They subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment and, in some instances, physical force.

The aborting of unauthorized pregnancies, regardless of the stage of pregnancy—first trimester, second trimester, or even third trimester—is apparently, in China, a routine occurrence. Some have argued that China commits about half a million third-trimester abortions annually. Most of these babies are fully viable when they are killed, and virtually all of these abortions are performed against the mother's will.

I have also been told by those who have studied this issue that women are often imprisoned, brainwashed, and refused food until they finally break down and agree to the performing of an abortion. The actual methods by which doctors carry out these procedures are often unnerving and horrific. It has been reported that doctors commonly inject women with a shot of Rivalor, commonly known as "the poison shot," which directly causes congestive heart failure in the baby. The baby slowly dies over the course of 2 or 3 days, at which time the baby will be delivered dead.

I have also been made aware of reports that Chinese doctors also inject pure formaldehyde into the baby's soft spot of their head or the skull is crushed by the doctor's forceps.

Steven Mosher, the Director of Asian Studies at California's Claremont Institute, can personally account for seeing doctors carrying "chokers." These chokers are similar to our white twisty garbage ties. They are placed around the baby's neck during delivery. The baby then dies of painful strangulation over a period of about 5 minutes.

A government that would force women to undergo these kinds of grisly procedures obviously has no respect for basic human rights.

China currently has legislation that requires women to be sterilized after conceiving two children, and they even go so far as to demand sterilization of either the man or the woman if traces of a "serious hereditary disease" are found in an effort to eliminate the presence of children with handicaps, illnesses or other characteristics they might consider to be "abnormal."

Numerous international organizations have found that the Chinese Government utilizes in the sterilization method to control population horrendous practices. Mr. President, the practice of forced abortions by the Communist Chinese Government was truly exposed to America when my good friend and my former colleague in the House, Congressman CHRIS SMITH, chairman of the International Operations and Human Rights Subcommittee of the House International Relations Committee held a hearing just less than 2 weeks ago, June 10. This hearing featured compelling testimony from a former administrator of China's Planned Birth Control Office on the use of coercive population control in order to achieve the Communist Government's one-child-per-couple limit.

Ms. Gao Xiao Duan, the former head of China's Planned Birth Control Office from 1984 to 1988, admitted—and we have heard testimony of what she said before the House subcommittee less than 2 weeks ago, the former head of the birth control office of Communist China, this is what she testified. She said:

> Once I found a woman who was 9 months pregnant, but did not have a birth-allowed certificate. According to the policy, she was forced to undergo an abortion surgery. In the operation room, I saw how the aborted child's lips were sucking, how its limbs were stretching. A physician injected poison into its skull and the child died, and it was thrown into the trash can. To help a tyrant do evils was not what I wanted. I could not bear seeing all those mothers grief-stricken by induced delivery and sterilization. I could not live with this on my conscience. I, too, after all, am a mother.

That was her very vivid, very powerful testimony before the House subcommittee, this former head of China's Planned Birth Control Office from 1984 to 1988. I think that her testimony, so very compelling, demands this body and this Government and this administration to take a stand in every way possible against these kinds of practices.

In addition, Mrs. Gao Xiao Duan admitted:

> When I was in my hometown in China, I saw how a large number of pregnant women were hiding anywhere they could. Some of them were 9 months pregnant, but were forced to undergo abortion procedures just the same—simply because they had no "birth-allowed certificates." The government dismantled the houses of some of them and made them homeless. The government's planned birth policy is extremely stern. In my native village, I saw how many women were looking for places to hide at night, because the government usually catches people at night. All this made me terrified.

There are those who apologize for the Chinese Government. They say, "Oh, things are better, but these are not things going on today." Here is someone who knows. Here is someone who was involved in it. Here is someone who became so guilt-stricken by her own involvement in this practice that she couldn't stand it any longer and has come forward to tell that story.

In her testimony, she discussed the abortions that occurred in jails where women were placed in jail who were fighting the physician's attempts to abort her child. She spoke of not only the jails where they were incarcerated, but she spoke of the abortion bed where women were tied in by leather straps and where those terrible procedures were performed. Their homes were destroyed if they fought the Government strictures on the one-child policy.

What does our own State Department say? If we are not willing to accept the testimony of someone who put their own future in jeopardy by coming forward before a House subcommittee and telling their very vivid, compelling story, perhaps we will listen to our own State Department, because in the most recent human rights report on China issued only a few months ago, our own State Department said:

> The Government does not authorize the use of force to compel persons to submit to abortion or sterilization, but officials acknowledge that there are instances of forced abortions and sterilizations. . . . Poor supervision of local officials under intense pressure to meet family planning targets results in instances of abuse, including forced abortion and sterilization. . . . There are credible reports that several women were forced to undergo abortions of unauthorized pregnancies in Fujian. . . . Newspapers in Shenyang reported that family planning agents convinced a woman 7 months pregnant to take "appropriate measures."

That is an abortion, although she was in the seventh month.

> A well-documented incident of a 1994 forced 8-month abortion has been reported in the coastal province of Guangdong. A 1995 incident involving a forced sterilization was also reported in Guangdong.

That is from the State Department. That is the end of the quote from our own State Department report.

The Chinese Communist Government will deny that it is the official policy to encourage coerced abortions. They acknowledge that. Even the Chinese Communist Government acknowledges that these terrible practices occur.

What do other human rights organizations say? We have heard from a former director of the birth control agency in China. We have heard from our own State Department, but independent groups that monitor human rights abuses in China have weighed in as well.

Amnesty International has expressed its strong opposition to these coerced abortions, forced sterilization practices. In a 1996 report, "Women in China: Detained, Victimized, but Mobilized," it iterated its profound concerns about these practices:

> Testimonies have indicated that officials have resorted to physical coercion resulting in torture or cruel, inhuman and degrading treatment when faced with this pressure. Family planning cadres continue to be disciplined and fired for failing to keep birth quotas.

This is from Amnesty International. While Amnesty International takes no position on the official birth control policy in China, they are concerned about the human rights violations which result from its coercive application. Like many of the human rights organizations that monitor China, I am concerned by reports that forced abortion and sterilization have been carried out by or at the instigation of people acting in an official capacity—such as family planning officials—against women who are detained, restricted or forcibly taken from their homes to have the operation.

Previous reports by Amnesty International and other organizations have cited a wide range of evidence regarding the use of forcible measures taken from official family planning reports and regulations. Articles in the official Chinese press, testimonies from former family-planning officials, and testimonies from victims of forced abortion all attest that this is all too common still in 1997 in China.

Reports have also detailed cases of hostages being taken and ill-treatment by officials of the relatives of couples who failed to pay birth control fines or who had fled their villages attempting to avoid abortion or sterilization.

The Chinese authorities have never responded to such reports in detail. In recent years, they have simply asserted that "coercion is not permitted," but they admit that it is going on. Mr. President, I am concerned that there is no evidence the Chinese authorities have yet set in place effective measures to ensure that such coercion is not only forbidden on paper, but punished and prevented in practice.

I have been unable to find any instance of sanctions taken against officials who perpetuate such violations. In other words, the Chinese Communist Government today in the enforcement of their one-child policy turns a blind eye to local officials who use coercion, who use force, to compel women to have abortions against their will.

Mr. President, the absence of laws and regulations in China concerning coercive family planning has become even more cause for concern since 1995. Since that time, China has made numerous commitments at the international level to combating violence against women. However, the absence of any substantive laws regulating forced abortions and sterilization appear to widen the potential for coercion.

Mr. President, I am aware that some have concerns about how we can assure compliance with this amendment's requirement that visas be denied to individuals involved with these nefarious practices of forced abortions, of forced abortions and sterilizations. While I would expect a determined effort would be made to identify persons involved in such actions prior to the issuance of such visas, I recognize that enforcement will not be easy in every instance. And I would state that what is most important is that we provide both a strong condemnation of these practices, which the amendment does, and that we provide a mechanism for taking action against those responsible for them when credible information about their activities comes to light.

Let me reiterate, there is absolutely nothing controversial about this amendment. We are talking about the kinds of family planning practices condemned across the political spectrum, by all who are concerned about moral values and basic human rights, that we take the modest action of saying we ought to condemn it as a government and we ought to deny visas to those who are perpetuating the practice in China, that to the extent we can identify them, to the extent that credible information comes forward, they should not be given visas to travel to this country. I do not believe—I really in my heart—do not believe there is anybody on the other side of the aisle who thinks this is a bad thing to do. So I am perplexed and I am befuddled that anybody would object to this amendment as being controversial.

Not only is China an increasing threat internationally, but within their own borders they continue to oppress their own people. And we should not simply turn a blind eye and say we do not want to talk about it or that it might cause embarrassment to either our President or to the Chinese Government. What a pitiful excuse for not addressing the issue.

Involuntary abortion or sterilization should be condemned, and it should be condemned in the strongest terms as a violation of human rights, a violation of the first order.

I want to read a brief excerpt from Nicholas Kristof and his wife Sheryl Wudunn from their book, the 1994 book, "China Wakes, The Struggle for the Soul of a Rising Power." Mr. Kristof was the New York Times' Beijing bureau chief, and his wife Ms. Wudunn was a New York Times Beijing correspondent in the late 1980s. They are the only married couple to have ever won the Pulitzer Prize award.

In 1989, Mr. Kristof and Ms. Wudunn were awarded with the Pulitzer Prize for their reporting during the Tiananmen Square massacre. They saw firsthand the Chinese Government's reprehensible practices. In particular, apart from the Tiananmen Square massacre, they saw firsthand the practices of forced abortions and sterilizations.

This is what they wrote, these two prize-winning authors. They wrote:

> The family planning authorities routinely forced young women to undergo abortions and sterilization. The township authorities send teams into the villages once or twice a year to collect all the women who are due to be fitted with an IUD or to be sterilized. Some run away, in hopes they can remain fertile and have another baby, and the authorities then send goons to the women's relatives in other villages, even in other provinces, to find and sterilize them. Usually, they do not have to drag a woman to the operating table; when half a dozen men surround her home and order her to come out, she may not see much sense in fighting back.

Mr. President, the bottom line is that the practice of forced abortion and sterilization is inhumane. The practice is repugnant, and it is morally reprehensible.

This amendment, which I hope to be able to offer in the near future—this amendment is not about a peculiarly American view of rights. It is not even about whether you are pro-life or pro-choice. It does not have a thing to do with this amendment. The use of force coercion, intimidation to commit such crimes against humanity is something that we all as a freedom-loving people—Democrat, Republican, pro-life, pro-choice—that all of us can join together in vigorously denouncing.

I remind you again, what this amendment does is to condemn the practice and say, to the extent that we can identify these individuals, with credible information—the Secretary of State can do that—we will deny them visas. This amendment, this "very controversial" amendment, passed by a vote of 415–1 in the House of Representatives, this amendment to which objection has been made today on the basis of it being controversial.

Mr. President, were I able to offer additional amendments today—and I had four prepared to be offered—I would move to amendment No. 2423, which I will not offer, but I intend to debate and make a statement on.

This is another "controversial" amendment. It passed the House of Representatives by a vote of 366–54. I filed this amendment back on May 20, almost a month ago. I announced my intent at that time that I would offer this amendment to the defense authorization bill. It mirrors the language that passed the House of Representatives. It would do three things.

It states, as congressional policy, that religious freedom should be a major facet of the President's policy towards China. Secondly, the amendment would prohibit the use of American funds appropriated for the Department of State, USIA or AID to pay for the travel of Communist Chinese officials involved in the monitoring of government-approved churches in China, or the formulation of implementation of policies to repress worship.

So it would deny our Government paying the travel expenses for those who are involved in the Chinese Communist Government in monitoring and supervising churches, places of worship, and those who were involved in the repression and the persecution of religious minorities.

Thirdly, it would deny visas to officials engaged in religious persecution—not the head of Government, not Cabinet members; we would exempt them; and not those who are the official heads of the Patriotic churches, but to Government officials involved in the persecution and repression of religious minorities—they would be denied visas. The conditions and the criteria would be the same—credible information, credible evidence as determined by the Secretary of State.

Mr. President, since the founding of the People's Republic of China almost 50 years ago, the Chinese Government has too often been involved in the persecution of religious believers. And they have subjected all religious groups in China to comprehensive control by the state and the Chinese Communist Party.

The five officially recognized religious denominations have been reorganized into state-controlled associations, as the Chinese Buddhist, the Daoist, the Islamic, the Patriotic Catholic associations, and the Protestant Three-Self Patriotic Movement. Even within the pale of these authorized religions, Tibetan Buddhists and Uigher Moslems in Xinjiang have been subjected to wholesale persecution because of the enduring links between their religion and their national aspirations. For similar reasons, the Chinese Government has forcibly severed all links between Chinese Catholics and Protestants and their foreign coreligionists.

In fact, while I was in China in January, I met with a group of American nationalists, American expatriates, who are doing business in China. They attend church in China and have an American church. It has to be an American church by law. They cannot allow Chinese people to attend. They have almost 1,000 Americans who attend this church. But in meeting with them, they said, were they to allow any of the Chinese nationals to attend and to worship with them, they would be shut down because of the Chinese Government's fear of any influence from outside its own borders.

Millions of other religious believers, according to some estimates, the large majority of Chinese, have been deemed to fall outside these five recognized faiths and are simply denied any status as believers and are subjected to criminal penalties for practicing what the Government calls "superstition" or "folk beliefs."

Even congregations of authorized denominations are kept under rigid state control through mandatory registration, a requirement enforced with unprecedented severity through the last several years, what they called an anticrime crackdown. The anticrime crackdown became the rationale for cracking down on religious minorities in China. It has been very severe in recent years. Registration entails full state control over religious doctrines.

I met with seminary officials while I was in China in Shanghai. We had a very interesting discussion. They are recognized, authorized, registered with the Government. But they made it very clear, as well, that there are certain things they are not allowed to do. I asked, could you go down the street, rent a building, and open that building for church services? There was a Government official sitting in the room, and they cast a weary glance at the Government officials, and they said no, that would not be tolerated; worship has to be done in approved places. I said, could you go out on the street, upstairs—we were meeting in a basement—could you go upstairs and pass out religious literature? Once again, a kind of weary glance at the Government officials in the room and they said no, that would not be permitted; religion must be constrained to certain geographical locations—a far different idea of what religious freedom is—in China today.

The content of preaching in sermons is controlled by the Government. It is not permitted to preach on the "second coming of Christ." That would be a taboo subject. They would not allow that to be taught or proclaimed in a Protestant or Catholic church in China.

The selection of clergy—controlled by the Government. Financial affairs, religious materials, building programs—you can't go build a church without getting a zoning requirement. It is a means of controlling the growth, as well as restriction on educational and social welfare projects. There is a complete bar on proselytizing persons under 18 and an official veto over baptism at any age. Registered congregations must reveal the names and addresses of all congregants.

The head of the state's Religious Affairs Bureau said in 1996, "Our aim is not registration for its own sake but control over places for religious activities, as well as over all religious activities themselves." I don't know how you could be much more upfront, much more candid, than this official was, an individual who is the head of the entire China state Religious Affairs Bureau and very recently, in 1996, said, "Our aim is not registration . . ." just to register, our goal is "control over places for religious activities, as well as over all religious activities themselves." The key word is the word "control." That is the reason they require churches, synagogues, Buddhist temples, that is why they require all religious activities to be approved and sanctioned by the Government. Religious organizations are required to promote socialism and patriotism, while the massive state and party propaganda apparatus vigorously promotes atheism and combat superstition. While the Government officially promotes atheism, they demand that the churches support and promote patriotism.

Why is there this intense effort to control religion in China? I suggest if you look back to the ancient Roman empire, you can find an example of why that is so important to the Communist Chinese Government. It was the policy of the Roman empire that they practice what they called "religious tolerance." You could have any religion you wanted, so long as whatever religious faith you were, you were willing to acknowledge Caesar as the ultimate sovereign. It would demand that, regardless of your faith, you say Caesar is Lord. That is where Christianity ran into problems in the Roman empire—it was the persecuted religion—because Christians wouldn't say Caesar is Lord, the ultimate sovereign. They saw there was a sovereign, a control beyond the Government, beyond Caesar.

May I suggest that is exactly the fear of the Chinese Communist Government. While they repressed all political dissent, our own State Department says that all of the political dissidents, all in the democracy movement have been incarcerated, exiled, or executed. So they have eliminated that threat. They see now that which is beyond their control as being the rapid growth of religion. And religion is growing. It is in a tremendous revival. People of faith are multiplying in China. Thus, we find the Chinese Government cracking down on religion because they see that as, in the long term, a threat to their power and their control because here is a body of people who see a loyalty beyond the Government in Beijing. So they crack down.

The Chinese Government and the Communist Party have in recent years intensified these efforts to expel religious believers from the Government, the military, and the party, ordering a nationwide purging of believers in January 1995. In spite of this, there is a phenomenal growth occurring among people of faith in China.

But I am deeply concerned about the mounting campaign against people of faith in China. The Roman Catholic Church has been made—at least the part of the Roman Catholic Church that recognizes the Vatican and the papal authority in Rome—has been made effectively illegal in China today. Priests, bishops, people of faith have been imprisoned and harassed. Zheng Yunsu, the leader of a Jesus family, a Protestant community in Shandong Province, is one of many behind bars today simply for practicing their faith. He was arrested during a police raid in the community in 1992. Then he was sentenced to 12 years imprisonment for disrupting—listen to this—for "disrupting public order and swindling." His four sons and other members of the group were also imprisoned. I believe those individuals are prisoners of conscience and prisoners of faith.

Such persecution of religious groups has followed a substantial religious revival of China in the past 15 years. The Christian community—much of the expansion has been in religious groups that conduct their activities outside the Protestant and Catholic churches recognized by the Government.

When I visited China in January, I attended a church that worshiped openly, but in order to worship openly, they had to be approved, they had to be sanctioned, they had to be registered by the Government. But the explosive growth among believers in China today of all faiths is occurring primarily among the unregistered, the underground church, the house church movement.

Here we have a picture that was smuggled out of one of those house churches. You can see, I think, not only the enthusiasm and the faith and the devotion. The picture is worth a thousand words. There are more than a thousand words articulated by that picture. The response of the Chinese Government to this growth of faith has been to crack down, to incarcerate, to persecute, to economically penalize those who would dare to worship according to the dictates of their conscience. That is why we believe we should take a stand. That is what this amendment is all about—condemn the practice, deny visas to those involved in it. I am sorry, but I have a hard time discerning how that could be controversial.

Mr. President, these peaceful but unregistered religious gatherings have been raided by police. Gatherings like this have been raided by police. Those attending have been beaten, threatened, and detained. Many of those detained are required to pay heavy fines as a condition for release. Those regarded as "leaders" are usually kept in custody and either sentenced to prison terms or administratively detained without charge or trial.

I was talking just last night with a lobbyist, a lobbyist for a very major American corporation. If I could mention the name of the corporation, everyone would immediately recognize it as being one of the leading companies in this country. This lobbyist engaged me in a discussion on China. I didn't bring it up, he did. He said, "I want to talk to you about your convictions on China." Then he said, "Senator, our people in Beijing say that there is religious freedom in China today." Then I began to tell about some of the things that are actually going on, some of what I learned even while I was there. I think that there is a tremendous disinformation to say that things are OK.

These aren't American views of freedom, these are basic human values. People of faith ought to be able to worship according to the dictates of their conscience and their own hearts, without fear of intimidation, without fear of incarceration, without fear of economic penalty.

In January 1994, two national regulations on religious activities came into force. Notably, Mr. President, they banned religious activities which "undermine national unity and social stability." Let me say that again. They banned religious activities which "undermine national unity and social stability." Whatever in the world does that mean?

That it the whole point. It is subject to the whims of any local official who wants to interpret it. Under the broad rubric of these two regulations, any activity could be construed as undermining the Chinese Government and, therefore, constitute a threat punishable by prosecution, imprisonment, arrest, and bodily harm.

These regulations also require that all "places of religious activities" be registered with the authorities, according to the rules formulated by China's Religious Affairs Bureau.

This means, in effect, Mr. President, that religious groups that do not have official approval may not obtain registration, and that those involved in religious activities in unregistered places may be detained and punished. In other words, if you started a worship service in your home, you could not get official sanction, be registered, and you would be subject to detainment or punishment. Provided in these new regulations are detention and criminal penalties for any violation.

During this past year, police raids on religious gatherings organized by independent groups have continued, with hundreds of Protestants and Catholics reportedly detained as a result. More than 300 Christians were reported to have been detained in what appears to have been a crackdown by local police on unregistered Protestant houses and churches.

The evidence is clear that there is an intensified Chinese effort to repress religious liberty. This repression ranges from ransacking homes in Tibet in search of banned pictures of the Dalai Lama to destroying or closing 18,000 Buddhist shrines last spring alone. Ministers, priests, and monks are routinely arrested and imprisoned, tortured, and sometimes killed for the mere expression of their faith.

Mr. President, I believe not only should we adopt this amendment, which passed with over 350 votes in the House of Representatives, I believe that the President, on his trip to China, should raise this issue to the highest level. I hope he will do that. He said he is not intending to meet with dissidents. I hope he will change his mind. I hope that he will say what the Chinese people can't say, and that while the Chinese people are gagged, our President won't be gagged. He will have the opportunity and I hope he will talk about these issues.

Mr. President, in Paul Marshall's critically acclaimed book "Their Blood Cries Out," an authoritative book on religious persecution around the globe, the case of Bishop Su is documented. During Bishop Su's 15 years in China's prison system, he was subjected to various forms of torture. They go through very graphic detail in recounting the kinds of suffering that this bishop endured. Unfortunately, that is not the exception.

The State Department's most recent report on religious freedom states:

> . . . the government of China has sought to restrict all actual religious practice to government-authorized religious organizations and registered places of worship.

That is what they have sought to do. Then our State Department goes into a great deal of detail, enunciating exactly the kinds of abuses that are too common in China today.

There are only a handful of churches that are open in all of Beijing, not because there are not worshipers or believers, but because of the practice of the Government. The legal provisions requiring registration of all religious groups have been used against various groups, including members of Protestant house churches who organize religious meetings in their private homes without having registered with the authorities. Many of these groups and the members of these groups don't register out of a personal conviction. They don't believe it would be proper. They feel they would be restricting their own faith and what they could say and do; so they don't register. Then they face detainment and fines and harassment by the police. Some house churches have voluntarily suspended their meetings because many members were being harassed, and others have regularly changed premises and meeting times for worship, moving from place to place to avoid detection by the authorities. Some congregations have even stopped singing during the worship time in order to avoid detection.

Pressure to register is reported to have increased in the past year. Reports from various areas show that official control over religious activities has been stepped up. Unregistered Protestant churches in Shanghai have been under increased Government pressure since December of 1994 when authorities announced that "it was illegal to hold religious activities in unregistered places of worship." The authorities reportedly threatened to fine any person found attending or leading an unregistered house church meeting. Religious books, religious tapes, and even collection boxes and offering plates have been confiscated by Government officials.

Mr. President, I say to my colleagues that the human costs are higher for unregistered or unauthorized clergy and believers. It is too high. We should and we must denounce it, condemn it, and speak out against it. Today, hundreds of people are serving long prison sentences in China—Buddhists, Taoists, Moslems, Catholics, and Protestants—for simply practicing their religious faith.

The Beijing government sentenced a 76-year-old Protestant leader to 15 years in prison for the "high crime" of distributing Bibles. Where do you get a Bible in China? There is a lot of talk about how, today, the Chinese Government permits the printing of Bibles. That is true. They set a quota every year. They allow a certain number to be printed, but they can only be distributed in churches, in places of worship which are officially recognized, sanctioned and registered by the Communist government. That is how you get a Bible in China. So this man, 76 years old, was arrested for distributing Bibles illegally. He was sentenced to 15 years.

But it is controversial for us to condemn that with an amendment to the Department of Defense authorization. Somehow, it is controversial to deny visas to those who are perpetrating these kinds of atrocities against religious believers. I am sorry.

The Government then sentenced a 65-year-old evangelical elder to an 11-year prison term for belonging to an unauthorized evangelical group. They sentenced a 60-year-old Roman Catholic priest to 2 years of "reeducation through labor" for unknown charges. He had previously spent 13 years in prison because of his refusal to renounce the Vatican. The 6-year-old Panchen Lama—the second highest dignitary in Tibetan Buddhism—has been detained for a year and a half, and his whereabouts are unknown. Scores of Tibetan Buddhists who refused to participate in the Communist Chinese sham enthronement of Beijing's "Panchen Lama" have been sent to prison. One leading Buddhist spiritual teacher committed suicide rather than to take part in the charade.

I have another chart I want to show you. These are simple news accounts that have occurred—all of them within the last 2 weeks. They are reports in the mainstream media during the last 2 weeks.

June 14, The Portland Oregonian reported that:

> Chinese police interrogated and threatened three dissidents who urged President Clinton to press Chinese leaders on human rights during the summit. . . . Police ransacked the homes of Leng and Tang, confiscated the computers, and took the two to a local precinct.

This is occurring within weeks of the President's visit. Instead of things getting better, they are rounding up dissidents in preparation for the President's visit. That is how little they comprehend the value of human rights. That is how little they understand what our concerns are in this country. Instead of releasing dissidents, instead of encouraging free expression, they round them up.

I think we have all read about the unflattering book published in China about our President. What do they do? They round up the books and don't let the books be in the bookstores when our President visits. That is China today.

On June 18, the Far Eastern Economic Review reported that, "Beijing warned the Vatican not to use the Internet or other media channels to interfere with China's religious affairs policies." This is June 18. So it is very current in what the Chinese Government is saying, warning the Vatican not to use the Internet to interfere with their internal, domestic, religious affairs policies.

On June 16, the New York Times reported on "an hour-long documentary on President Jiang Zemin's state visit to the United States last year." And it continues. On June 16, the New York Times reported that the Japan Economic News Wire reported that, "In the run-up of President Bill Clinton's visit to China, a veteran Chinese dissident has been indicted for helping another activist escape to Hong Kong."

Once again, do you know what gets the publicity? The four, or five, or six high-profile prisoners—I will not use the word "release" because they are not released, they are exiled. They are allowed out of prison and sent to the United States. They said, "Don't return." This administration would like to say that is a victory for human rights? We used to say that was a travesty of human rights, if you were released from prison, exiled from your country, and not allowed to go back to your homes and families. This is hailed as a victory for human rights. Think about the five or six released. Just remember. Right now, in preparation for the President's visit, they are rounding up the dissidents so there won't be anything that might be embarrassing to the Chinese Government or to the President. Freedom is embarrassing, you know.

June 15, the Asian Pulse reported:

> U.S. Ambassador to China, James Sasser, said today that many of the sanctions imposed on China by the United States after the 1989 Tiananmen Square massacre could be lifted in the "not too distant future."

The only reason I put this quote in from the Asia Pulse is that we would be giving these signals out, that our Ambassador would be giving these signals out, in view of—this is what they are doing. They are cracking down, they are rounding up the dissidents, they are persecuting believers, and we say we are going to lift the sanctions that were imposed after the massacre.

On June 15, the South China Morning Post reported that, "Dissidents in several areas, including Shanghai and Weifang In Shangdong Province and Xian, the first stop for President Clinton, have complained of harassment. Incidents include home raids, detention, telephone tapping, and confiscation of computers."

I suppose the appropriate thing when you have a visit of the major heads of states, you clean up the streets, paint the buildings, you put your best foot forward, and put your best face on. But the way the Chinese Government views it is, round up anybody that might say something that could be contrary to the party line.

I am going to go back. This is back to June 6. The New York Times reported that "a bishop in the underground Catholic church has been arrested." This received about 2 inches of print in the New York Times. When Wei was released, it was banner headlines. But when the underground bishop was arrested, it got about 2 inches on page A4 of the New York times. But at least it was there.

If you will take note, the American people can see that this is what is ongoing.

When I have the opportunity to offer this amendment—and I will—when the Senate has an opportunity to work its will on this amendment, I will urge my colleagues to vote in favor of this amendment, controversial though it has been deemed, that passed the House of Representatives with over 350 votes, and, in so doing, to send a clear and unmistakable message to the Chinese Government that religious persecution is repugnant, reprehensible, and that such practices will have consequences.

I remind you once again that this amendment simply says: We condemn such practices. Not only do we condemn them, to the extent that we are able to identify those who are involved in those practices, we are not going to sanction your travel to this country by granting you a visa.

I don't know how well it can be enforced. I know there are human rights groups out there that monitor what is going on in China. I believe that for government officials, which have an egregious record of religious persecution, that we can identify them when credible information can be brought forward. The Secretary of State can make that determination. And it will send a good and solid signal that this is an important issue to the American people, which would deny them the right to travel to this country.

Were I permitted to offer an additional amendment that I filed originally back on May 20—a month ago—I would offer it were I able to today.

It is, once again, one of those amendments that mirrors the language passed by the House of Representatives several months ago by overwhelming bipartisan margins. This particular language passed 354 to 59. I can't offer it today because it has been regarded as controversial. This is what it would do. It would direct the President to instruct the United States representatives to vote against taxpayers' subsidized loans to the People's Republic of China.

The second thing it would do is, it would require United States directors at United States financial institutions, like the IMF and the World Bank, to vote against concessional loans to the People's Republic of China, and it defines concessional loans this way: as those with highly subsidized interest rates, a grace period for repayment of 5 years or more, and maturities of 20 years or more.

This is just not something that I offer lightly. I think the facts indicate that the People's Republic of China today has a tremendous infusion of capital, the private sector primarily. In the international sector, they have great infusions of capital. They have an economy that is growing two or three times as fast as the U.S. economy. Given the human rights record of China, it is unconscionable for us to require United States taxpayers to subsidize loans to the People's Republic of China. They have enjoyed ready access to international capital through commercial loans, direct investments, sales of securities, bond sales, and through foreign aid.

International commercial lending to the People's Republic of China had $49 billion in loans outstanding from private creditors in 1995. Capital is certainly available without the taxpayer subsidizing it.

Regarding international direct investment to the People's Republic of China, from 1993 through 1995 it totaled $97 billion. In 1996 alone, there was $47 billion directly invested in China securities. The Chinese securities—the aggregate value of outstanding Chinese securities currently held by Chinese nationals and foreign persons is $175 billion. From 1993 to 1995, foreign persons invested over $10 billion in Chinese stocks.

My point is that there is ample, there is ready, capital available for Chinese economic development.

International assistance and foreign aid: The People's Republic of China received almost $1 billion in foreign aid grants, and an additional $1.5 billion in technical assistance grants from 1993 through 1995, and in 1995 received $5.5 billion in bilateral assistance loans, including concessional aid and export credits.

Mr. President, despite China's access to international capital and world financial markets, international financial institutions, which have annually provided it with more than $4 billion in loans in recent years amounting to almost a third of the loan commitments of the Asian Development Bank and 17 percent of the loan approvals by the International Bank for Reconstruction and Development in 1995, we are asked to continue to subsidize these loans to Chinese corporations.

I think it is time that we cease doing this. China borrows more from the International Bank for Reconstruction and Development and the Asian Development Bank than any other country in the world, and loan commitments from those institutions to China quadrupled, from $1.1 billion in 1985 to $4.3 billion by 1995. In spite of the fact that you have all of this ready capital available for economic development in China, they are utilizing these subsidized loans at an ever greater rate.

Mr. President, I believe strongly that America's taxpayer dollars should not be used to create unfair advantages for industry's control by foreign governments. However, when the World Bank lends money to Communist Chinese industries out of its Poverty Fund, that is exactly the result that we have.

I say to my colleagues that these loans are not only contrary to American interests and the purposes of the Poverty Fund, but they are also unnecessary, given Chinese industry's ready access to foreign investment, including $48 billion in loans from private creditors in 1995 and $97 billion in international direct investments from 1993 to 1995, and $10.5 billion in investment in Chinese stocks by foreigners from 1993 to 1995, and billions more in various types of foreign investments. I find it inappropriate that the World Bank and the Asian Development Bank loaned China $4.3 billion in both 1995 and 1996, and of the 1995 loan amount, $480 million of it, almost $1/2 billion of it came from the World Bank's poverty fund, its concessional loan affiliate, the International Development Association. As concessional loans, these funds are by definition below market and therefore subsidized by those who fund it—the American taxpayer.

This amendment will address what I call the "Chinese wall," the wall that was erected between economic and political considerations. Inherent in the bylaws of international financial institutions are provisions that direct the officers of these institutions to neither interfere in the political affairs of any member nor shall they—and I am quoting from their bylaws, shall not interfere in the "political affairs of any member, nor shall they be influenced in their decisions by the political character of the members or members concerned. Only economic considerations shall be relevant to their decisions."

So in the bylaws of these lending institutions, international lending institutions, there is a prohibition from considering the political practices of the applicant. I believe that it is these bylaws that provide a shield behind which numerous international financial institutions continue to provide financing to countries, specifically Communist China, that engage in the most egregious abuses of human rights; so long as they carry out the economic recommendations agreed upon, they can receive the loans. They can continue to receive these subsidized loans. I think that is wrong. I think that should be a consideration, these human rights abuses that are ongoing.

This amendment clearly states that "repressive and oppressive" regimes should not get a loan. In addition, this amendment clearly sets out substantive principles that should be adhered to by any U.S. national conducting an industrial cooperation project in China.

In other words, while it is a sense of Congress and is nonbinding, the amendment would lay out certain principles by which American corporations conducting business, industrial cooperation in China should adhere.

During my time in China and since, and visiting with large American corporations doing business in China, I was continually told that an American presence in China would have the effect of transmitting American values. If we just allow these companies to set up shop, sell their products, or put the components together and export them back to our country, because we have a $50 billion trade imbalance with China, if we will do that, if we will increase trade and allow companies to operate there, the result will be a quicker liberalization and a more rapid democratization of China.

That is what I have heard for the last 5 years since I came to Congress. I haven't seen it happen. In fact, what I saw was corporate officials who said we have a cozy relationship with Beijing and we have to maintain that cozy relationship in order to do business in China. And so instead of reflecting American values and human rights values and concern about repression and oppression, instead of concern about religious persecution, instead of concern about coerced abortions and American officials standing up and denouncing the Beijing government for these ongoing practices, they say in order to do business over here, we can't say those kinds of things; we can't take those kinds of stands, but let us operate and somehow these values, which we hold deep in our heart—but, unfortunately, they are too often hidden—are going to be transmitted.

And so we would just simply, with a sense of the Congress, lay out some principles that I think are important for American companies to utilize if we are, in fact, to help spark the kind of change that we all want to see in China.

So we suggest suspending the use of any goods, wares, articles, or merchandise that the U.S. national has reason to believe were mined, produced, or manufactured by convict labor or forced labor, and refuse to use forced labor in the industrial cooperation project.

Pretty good principle to start with, don't you think, for our companies operating in China to try to monitor better—some of them are doing a good job, some of them are not doing a good job at all, but to try to monitor those products that are coming from slave labor camps and to pledge they will not use those products.

Secondly, to seek to ensure that political or religious views, sex, ethnic or national background involvement in political activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the industrial cooperation project.

The second principle of the sense of the Congress would simply say that because somebody spoke out and expressed themselves on a political issue which might be contrary to the party line, they should not be fired or be penalized because of that, not be not allowed to work or have employment.

Then we suggest that these projects should discourage any Chinese military presence on the premises of any industrial cooperation project which involves dual-use technologies.

The news accounts this morning which said that China has refused to agree to an agreement to retarget their missiles, 13 of which are currently aimed at American cities, I think underscores the importance of that principle for American companies doing business in China, that we are not going to have a military presence on those premises that involve dual-use technologies.

And then we suggest that they provide the Department of State with information relevant to the Department's efforts to collect information on prisoners for the purpose of the Prisoner Information Registry. If American companies want to make a difference in operating in China, that is something they can do, help our State Department monitor the human rights abuses that are ongoing.

And then finally we suggest they should promote freedom of expression, including the freedom to seek, receive, and impart information on ideas of all kinds. Nonbinding for the private sector but principles, I think, that lay out what our companies should be utilizing in their efforts to work in China.

Mr. President, this Chinese wall that has prohibited consideration of political practices and human rights abuses must come tumbling down. This amendment would help do that.

And then if we accept this amendment when it is offered, and I hope we will and I think we will—we should—it will spark a rethinking inside international financial institutions and our own Treasury Department. This rethinking should be based on the United States not wanting to reward repressive regimes, countries like China that commit the most egregious of human rights abuses with taxpayer-subsidized loans.

Our watchwords on this floor have been and should be "freedom and liberty." Part of those watchwords is that we not reward regimes with concessional loans, subsidized by the American taxpayer, when these kinds of practices continue. So I am going to urge, when I have the opportunity to offer this amendment and have a vote on that amendment, my colleagues to take that stand, not because the President is going to China but because it is the right thing to do, because it was the right thing to do last year when the House of Representatives voted on it. It is the right thing for the Senate to do.

I wish we could have voted on it on May 20 when I filed the amendment. It in no way is meant to embarrass the President. It is an effort to reflect the values of the American people and, as he takes this trip, to buttress his ability to stand in Tiananmen Square and say, "Congress thinks this is important; the American people believe this is important."

Mr. President, if I were able to, I would offer a fourth amendment—I had intended to offer a fourth amendment, and when I have the opportunity, I will. It is an amendment I filed June 16. It also is an amendment that mirrors language that passed overwhelmingly on the floor of the House of Representatives. The vote was 401 to 21—401 to 21. It would authorize an appropriation of $22 million for Radio Free Asia and Voice of America for fiscal year 1999. This amendment was deemed controversial, but it passed 401 to 121. It would authorize $22 million for Radio Free Asia and Voice of America.

The President's fiscal year 1999 budget request for Radio Free Asia was $19.4 million. This amendment would surpass the President's request by almost $3 million. Radio Free Asia funding comes out of the United States Information Agency, which is a related agency of the State Department. It is funded through the Commerce-State-Justice appropriations bill.

The second thing the amendment would do would be to facilitate a 24-hour-a-day broadcast to China in the Mandarin, Cantonese, and Tibetan dialects as well as other major dialects, including those spoken in Xinjiang.

Let's put that chart up.

Additional funding for RFA, Radio Free Asia, would also facilitate construction of transmitters in the Mariana Islands and accelerate the improvements to the Tinian Island transmitters so they will be completed by June 30, 1998, instead of January 1, 1999.

This map of China is pockmarked with little orange labels. Each one of those orange labels represents a location in China in which the citizens of China have managed to get correspondence out to Radio Free Asia, expressing their appreciation for the work that Radio Free Asia does. The greatest tool that we have in bringing about change in China is to get the truth, to get the message of democracy and freedom, in to the Chinese people. This amendment will be a step toward doing that.

If passed, it will assist with the creation of a Cantonese language service with 16 journalists, including 3 based in Hong Kong and 2 roving between the United States and east Asia. The amendment would require the President to report on a plan to achieve continuous broadcasting in Asia within 90 days.

I believe this is a simple amendment to understand. It encourages freedom in China, which we all want—freedom in China. We disagree sometimes on methods and strategies, we see different ways to achieve it, but I do believe all my colleagues in the U.S. Senate want to see a free China.

I want to say to my colleagues, we should all agree also that reaching Chinese listeners in all dialects, encouraging the free flow of information, can and will serve as the greatest means by which we can get the truth into China. It will be the surrogate media; it will be the substitute for the absent free media in Communist China today.

A fundamental prerequisite to political and economic freedom is an informed citizen. However, the Communist Chinese Government has accordingly made censorship and control of information available to its citizens its top priority. The Communist Chinese Government maintains control by simply not letting the people know. It is getting harder and harder to do, because of the Internet and other means of international communications, but they go to great lengths to keep the Chinese people from knowing the truth. Radio Free Asia plays a fundamental role, a vital role, in getting the truth in to the citizens of China. This amendment will help to make that a priority.

In addition to China's traditional methods—controlling the media, suffocating secrecy, and misinformation, massive use of wiretapping, informants, and other forms of surveillance to restrict private sources of accurate information—the regime is building an infrastructure for Internet use that will permit the state to filter and monitor information on this freest communication media. It is a perfect example of the priority Communist China places on the political control over economic development. The New China News Agency even censors commercial news from Dow Jones and Reuters.

The United States still supports the free flow of information around the globe. This is one means by which we can underscore that. That is what this amendment does. In fact, people now free of communism's grip on the now-defunct Soviet Union and Warsaw Pact attest to the role that Radio Free Europe and Radio Liberty played as surrogate news services in these countries. These relatively inexpensive, independently run news services served as the best substitute for the free media that was absent in the old Soviet Union. Similarly, Radio Free Asia provides cost-effective surrogate services to permit the free flow of information to the Chinese people.

I have come down to this floor time and time again to explain why I believe this administration's policy toward China is misguided. I do not favor a policy of isolation; I favor a policy of true engagement; I fear this administration's policy has not been one of engagement; it has been one of appeasement. We have not engaged them on human rights, we have not engaged them on national security, we really haven't engaged them on trade, because we have a $50 billion trade deficit with this Government. But while I have many disagreements with the President, I applaud his recent remarks concerning Radio Free Asia at the National Geographic Society in a speech last week, I believe it was. In the President's own words, the President said this:

> I have told President Jiang that when it comes to human rights and religious freedom, China remains on the wrong side of history. . . . In support of that message, we are strengthening Radio Free Asia.

It needs to be strengthened. I appreciate the President saying that, and I believe, because of that, he would be glad to support this amendment. I applaud his words, because Radio Free Asia is broadcasting under the banner of truthful information to the lingering Communist lands—specifically, China—and it has been too often underfinanced by this Congress, they have been undermanned, and they have been overworked.

I believe that Radio Free Asia's mission is to do for Asia what Radio Free Europe did for Eastern Europe. That mission is to broadcast the truthful information to countries where the Communist governments ban all free expression by their so-called domestic news services. The mission of Radio Free Asia is simply to replicate the kind of radio services, in the Communist countries it targets, that those Communist countries would have, were they really free countries, were the government to allow it, were there not government censorship.

I live in northwest Arkansas. The population in Benton and in Washington Counties in northwest Arkansas is probably 250,000 people. In those two counties we have over 20 independently-owned radio stations; population 250,000. I was in the radio business. I got out because that is too competitive—20 radio stations with 250,000 people—but that is the free market. That is the right of every American, every entrepreneur—to go out and scrape and take a loan out, if need be, apply with the FCC, get a license, get a building permit, build that tower, and start a radio station. That is what we did, from ground up. We have 20 radio stations now in that two-county area.

When I was in Beijing in January—Beijing, China, one of the largest cities population-wise in the world—there was not one independent, free, operating radio station. That says about all that needs to be said about whether China is really making progress, whether China is on the right side of history. The President was right, they are on the wrong side of history. In all of Beijing, not one independent newspaper. I get mad at the newspapers sometimes in Arkansas. They say things I don't like, or they take a position I don't agree with. Boy, when I look at the alternative, when I look at China today and I think about a city in which all of the newspapers are controlled by the Government, I thank God for that free press. Radio Free Asia, increasing the funds, providing them the resources, ensuring that they are going to be broadcasting in all of the dialects in China and broadcasting around the clock, is the best single step that we can take to bring about the wanted change in China.

Mr. President, current U.S.-China policies have been debated, are being debated, and will continue to be debated by this Congress. Members on both sides of the aisle differ on the best paths and avenues to promote and secure freedom and liberty for the Chinese people, but this amendment, although it has been called controversial this morning, although I have not been allowed to offer it this morning, even though the vote would occur next week, this amendment is not controversial. This amendment simply says the greatest means we have of changing China is to get information in.

The amendment is not pro-China or anti-China. The amendment is pro-freedom. I am perplexed that we cannot offer it today. The Senate, the Congress, the President, the American people need to send a clear message to China and other Communist countries that the U.S. Congress will take all necessary steps to ensure that freedom has a chance to blossom.

I am bothered, frankly, that as we have seen the preparations for the President's trip, it has become a microcosm of the broader China policy. Originally, the President wanted to go to China in November. China said, "We want you to come in June." That is the anniversary, the ninth anniversary, of the Tiananmen massacre, when hundreds of unarmed, innocent democracy protesters were gunned down by the Chinese Government. And the Chinese Government says, "We want you, Mr. President, to come in June." The President agreed.

The President originally was going to stop in Japan on this trip, but the Chinese Communist Government objected: "We don't want you to stop in Japan, we don't want you to stop anywhere, because President Jiang, when he went to the United States, went directly to the United States; that is exactly what we want you to do because we are equals." The President said, "OK, we won't stop in Japan, we'll make a direct trip."

The President originally was going to have a shorter trip. The Chinese Government said, "President Jiang stayed 9 days in the United States, and we want a 9-day visit to China." We don't want to embarrass, we don't want a loss of face, so we conceded, we acquiesced.

The U.S. House of Representatives voted overwhelmingly, over 400, to say, "Mr. President, please don't be received at Tiananmen Square." That is what the elected representatives of the people of this country said, but the Chinese Government said, "This is where we give official receptions." We acquiesced. We didn't want to violate protocol. You know what I thought about protocol, I thought about that student, that portrait, that picture of that lone student standing in the way of oncoming tanks. Boy, did he violate protocol. Thank goodness he did. But we acquiesced once again, and the fact is, I can't find where we didn't acquiesce. It is not a policy of give and take. It is a policy of give and give.

These modest amendments, which I will some day be able to offer and on which we will have a vote—such as increasing the funding for Radio Free Asia—is a useful instrument for demonstrating, along with diplomatic and economic ties, concern for the well-being, concern for human rights. Basic human rights in China will always be an integral part of the foreign policy of this country. That is the debate that is ongoing: Are we going to have a foreign policy devoid of values that says trade at any price, or will we, as we always have done, say human rights matters and that values will be reflected in our basic policies of this country toward the nations of the world?

I look forward to the continuing debate, and I look forward to the opportunity that we will have to offer these amendments. I reiterate before I yield the floor, Mr. President, the timing of the offering of these amendments is not to embarrass the President. These amendments were announced over a month ago. Most of them were filed a month ago and would have been offered a month ago had we had the DOD authorization on the floor a month ago. Timing is not to embarrass the President on the eve of his trip.

I might add that since they are being debated and will be voted on, either before or during the President's trip to China, I hope they will strengthen the President's hand, that they will give him a stronger argument to make on behalf of human rights as he visits with Chinese Government leaders. I hope the President will be able to point to these votes in the House and the Senate as he stands on Tiananmen Square, or as he makes his speech in the People's Congress and he says, "These are values that are important. Look at the votes in the U.S. Senate, look at what we are doing on Radio Free Asia, on human rights, on coerced abortions, on religious persecution. For the representatives elected by the people of my country, these are important issues, and I am going to speak about them." I hope the President will say this to the Chinese Communist Government leaders: "You may gag your people, but you cannot gag me, and I will speak for them."

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have listened with great interest to our distinguished colleague. The fervor of his beliefs and his goals is quite clear through the excellent delivery of his remarks.

We spoke yesterday, I in the capacity of assisting the distinguished chairman in trying to manage this bill. I think the Senator is aware of the fact that there are bipartisan objections to bringing up his amendments. The Senator has seen this letter, I presume?

Mr. HUTCHINSON. If the Senator will yield, I will respond to the Senator from Virginia. I only became aware only as you speak that there were bipartisan objections. Earlier today, on the other side of the aisle there were objections to bringing these amendments up today. I might add, these amendments were filed a month ago. As I spoke to the majority leader earlier this week, he was aware and it has been publicly reported these amendments were going to be offered to the DOD authorization.

The majority leader encouraged me to stay on Friday so I would be able to offer these amendments earlier as opposed to later. He encouraged me not to wait until Monday or Tuesday in the debate, but offer them today, Friday. It was my plan not to return to my home State so I would be able to offer these amendments today.

I am now aware there are objections, perplexing to me, obviously, because they passed by such margins in the House. Yes, I am aware there are objections. I am certainly no less committed to ensuring that these amendments will be debated and will be voted on. I think they are greatly important, and I think they are germane, and I think they are appropriate. I intend, when given the opportunity, to press for debate and for a vote.

Mr. WARNER. Mr. President, I thank our distinguished colleague. Certainly, I defer to the understandings that he has reached with our distinguished majority leader. Momentarily, I hope to be in consultation with him—Mr. THURMOND and I—on the phone, and I wonder if time permits the Senator to wait just for a brief period until we can clarify this.

In the meantime, Mr. President, I ask unanimous consent to have printed in the RECORD the "Dear colleague" letter which both Republicans and Democrats have indicated a desire not to have these amendments brought up, just for purposes of the Record.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 15, 1998.

DEAR COLLEAGUE: When the Senate returns to consideration of the DOD Authorization bill, S. 2057, we expect a series of amendments to be offered concerning the People's Republic of China. These amendments, if accepted, would do serious damage to our bilateral relationship and halt a decade of U.S. efforts to encourage greater Chinese adherence to international norms in such areas of nonproliferation, human rights, and trade.

In relative terms, in the last year China has shown improvement in several areas which the U.S. has specifically indicated are important to us. Relations with Taiwan have stabilized, several prominent dissidents have been released from prison, enforcement of our agreements on intellectual property rights has been stepped up, the reversion of Hong Kong has gone smoothly, and China's agreement not to devalue its currency helped to stabilize Asia's economic crisis.

Has this been enough change? Clearly not. But the question is: how do we best encourage more change in China? Do we do so by isolating one fourth of the world's population, by denying visas to most members of its government, by denying it access to any international concessional loans, and by backing it into a corner and declaring it a pariah as these amendments would do?

Or, rather, is the better course to engage China, to expand dialogue, to invite China to live up to its aspirations as a world power, to expose the country to the norms of democracy and human rights and thereby draw it further into the family of nations?

We are all for human rights; there's no dispute about that. But the question is, how do we best achieve human rights? We think it's through engagement.

We urge you to look beyond the artfully-crafted titles of these amendments to their actual content and effect. One would require the United States to oppose the provision of any international concessional loan to China, its citizens, or businesses, even if the loan were to be used in a manner which would promote democracy or human rights. This same amendment would require every U.S. national involved in conducting any significant business in China to register with the Commerce Department and to agree to abide by a set of government-imposed "business principles" mandated in the amendment. On the eve of President Clinton's trip to China, the raft of radical China-related amendments threatens to undermine our relationship just when it is most crucial to advance vital U.S. interests.

Several of the amendments contain provisions which are sufficiently vague so as to effectively bar the grant of any entrance visa to the United States to every member of the Chinese government. Those provisions not only countervene many of our international treaty commitments, but are completely at odds with one of the amendments which would prohibit the United States from funding the participation of a great proportion of Chinese officials in any State Department, USIA, or USAID conference, exchange program, or activity; and with another amendment which urges agencies of the U.S. Government to increase exchange programs between our two countries.

Finally, many of the amendments are drawn from bills which have yet to be considered by the committee of jurisdiction, the Foreign Relations Committee. That committee will review the bills at a June 18 hearing, and they are scheduled to be marked-up in committee on June 23. Legislation such as this that would have such a profound effect on U.S.-China relations warrants careful committee consideration. They should not be the subject of an attempt to circumvent the committee process.

In the short twenty years since we first officially engaged China, that country has opened up to the outside world, rejected Maoism, initiated extensive market reforms, witnessed a growing grass-roots movement towards increased democratization, agreed to be bound by major international nonproliferation and human rights agreements, and is on the verge of dismantling its state-run enterprises. We can continue to nurture that transformation through further engagement, or we can capitulate to the voices of isolation and containment that these amendments represent and negate all the advances made so far.

We hope that you will agree with us and choose engagement. We strongly urge you to vote against these amendments.

Sincerely,

Craig Thomas, Chairman, Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations;
Frank H. Murkowski, Chairman, Committee on Energy and Natural Resources;
Chuck Hagel, Chairman, Subcomm. on International Economic Policy, Committee on Foreign Relations;
Joseph R. Biden, Jr., Ranking Member, Committee on Foreign Relations;
John F. Kerry, Ranking Member, Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations;
Gordon Smith, Chairman, Subcommittee on European Affairs, Committee on Foreign Relations;
Rod Grams, Chairman, Subcommittee on International Operations, Committee on Foreign Relations;
Charles S. Robb, Ranking Member, Subcommittee on Near East/South Asian Affairs, Committee on Foreign Relations;
Dianne Feinstein, Ranking Member, Subcommittee on International Operations, Committee on Foreign Relations;
Joseph I. Lieberman, Ranking Member, Subcommittee on Acquisition and Technology, Committee on Armed Services.

Mr. WARNER. I will have an opportunity to visit with my distinguished friend momentarily. I thank you very much for the opportunity to do so.

Mr. President, I see the presence of the former distinguished majority leader, a member of the Armed Services Committee. I think he desires to seek recognition.

So I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia, Mr. WARNER. I have some remarks, but they are not on the bill, and I will be happy to wait until others have had a chance to speak on the bill, if it is so desired. I wanted to address some remarks to West Virginia's birthday which is on the morrow and also to Father's Day, which is on Sunday. But I will be very happy to delay my remarks until a later hour, if I can just get some indication of when I might be able to have the floor. I yield to the distinguished Senator from Michigan, if he can enlighten me on this point.

Mr. LEVIN. Mr. President, I wonder if I might just have the floor for a few moments to comment on the remarks of our friend from Arkansas. It won't take me more than 2 or 3 minutes, if he can yield the floor for that purpose. I ask unanimous consent that I be yielded 5 minutes at this time and then the floor return to the Senator from West Virginia.

Mr. THURMOND. Mr. President, I so ask.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I will address our friend from Arkansas first. Let me add my comments to the Senator from Virginia. We were just informed last night that this bill was going to be brought back to the floor. We expected there would be the resolution of two appropriations bills before this bill came to the floor. We didn't know when the bill would come back until late last night.

As the Senator from Virginia has indicated, there was a "Dear Colleague" letter circulated indicating objections to any consideration of amendments relative to China, specifically those that might involve visas and other things in that letter, of which I am sure the Senator has a copy.

In addition, there is a specific objection which the chairman of the Subcommittee on East Asian and Pacific Affairs, as indicated in his letter to the majority leader, to any setting aside, or to quote him: "I object to any unanimous consent request designed to come to a time agreement on or to bring up such an amendment." And the amendment that he is referring to is any amendment in this dealing with the People's Republic of China.

So as one of the managers of the bill here, the minority manager, I have the responsibility, as does the manager on the majority side, to protect Members when there are unanimous consent requests, knowing of objections to those requests.

I, too, join our good friend from Virginia in expressing regret to the Senator from Arkansas for his inconvenience, but we were just informed last night. We were never asked whether or not there would be agreement to setting aside amendments and so forth so that the amendment or amendments of the Senator from Arkansas can be brought up.

Having said all that, there is at least one of these amendments which I am hoping, perhaps, we might be able to get agreement on before this day is over; that is the fourth amendment, which has been dealt with by the Foreign Relations Committee. Unlike the first three amendments, which have not been, the fourth amendment, I understand, has been dealt with by the Foreign Relations Committee. Perhaps we could get that amendment cleared before the debate is over today. We would have to go back to the signers of these letters with these objections in order to accomplish that. But I surely would like to accommodate our friend from Arkansas, if we can, at least to that extent.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my distinguished colleague. Momentarily, a telephone message or conversation will take place with the distinguished majority leader, and quite likely, the writers of that letter. So we may have further developments here shortly, I wish to advise my colleague, and the distinguished Senator from Arkansas. I know you have a pressing need to return home, and we are going to try and accommodate everybody as much as we can.

Mr. President, I see the presence of a distinguished member of the committee here.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia, Mr. WARNER, for his kindness.

And I also thank the distinguished Senator from Michigan, Mr. LEVIN, for his consideration and courtesy and kindness as well.

HAPPY BIRTHDAY, WEST VIRGINIA

Mr. BYRD. Mr. President, on June 20, 1863, in the midst of the great Civil War, in which father fought against son and brother fought against brother, a new star in the constellation that we see on that flag was born. It was the 35th star. The great State of West Virginia became a separate government. Its motto, quite appropriate, considering the history of its birth, is "Montani semper liberi"—"Mountaineers are always free." And so I salute my State on its birthday, which will be on tomorrow, as I said; 1863–1998, 135 years, its 135th birthday. Happy Birthday, West Virginia!

Mr. President, I invite my friends in the Senate to visit West Virginia. When I was in the State legislature, 52 years ago, we had only 4 miles of divided four-lane highways. Think of it—4 miles of divided four-lane highways in all of West Virginia, 52 years ago.

Then commenting on that fact was Raul Tunley, writing in the Saturday Evening Post of February 6, 1960, when he said, with reference to West Virginia's highway system, that it was not to be compared with the highway systems of its neighboring States. His exact words were "Its [highway system] is decades behind that of its neighbors." That was 1960. I was in the Senate at that time, and those words were seared on my memory. "Its highway system is decades behind that of its neighbors."

Well, Mr. President, come to West Virginia now. Many times I have stopped in hotels and motels in West Virginia. I have met travelers from other States, tourists who have come to West Virginia to see its majestic mountains, its viridescent hills and its iridescent sunsets, and they have commented to me, glowingly, upon our highways, the highways that we now have in West Virginia, the State which Raul Tunley disparagingly wrote about in 1960, saying that "Its highway system is decades"—not years—"decades behind that of its neighbors."

Well, Mr. President, we in West Virginia welcome visitors from other States. I trust that Senators at one time or another will have traveled in West Virginia, and that they will have met its fine citizens and tested their hospitality and seen the beauties of nature, all of God's creation, in those mountains.

I have visited over 800 of the 1,000 post offices in West Virginia. So I have had an opportunity to get up the hollows and visit up the creeks and over the hills and in the mountains. I have had an opportunity to see much of West Virginia by virtue of my travels.

And interestingly, Mr. President, West Virginia's post offices, the names of communities and places in West Virginia, tell many stories. If you travel through West Virginia, you can go from Acme to Zenith, from Pax to War. You can sample Justice, Independence and Liberty without leaving your car, and you can drive in Harmony or Confidence, or, if traffic is bad, in Shock. You may even choose to settle in New Era or perhaps in Paradise. Maybe Friendly or Hometown is where you want to sink your roots.

On the other hand, Odd may suit your fancy, if Looneyville, Pickle Street, Pinch, Droop, or Left Hand fail to meet your requirements. These are all place names in West Virginia—towns, cities, and small communities whose names still reflect the hopes and humors of those who settled my quirky but wonderful home state.

Some of these new inhabitants clearly had been elsewhere, or perhaps had missed the homes they left behind, for the map of West Virginia reads like a world atlas. You can tour the sights of Athens, Belgium, Cairo, Turkey, Ireland, London, Rangoon, Shanghai, Waterloo, Medina, Vienna, Congo, Glasgow, Ghent, and Genoa without a passport—without crossing more than a county line! You could even Tango in Montecarlo. You can see much of the United States as well, including Auburn, Augusta, Bismark, Cleveland, Miami, Dallas, Newark, Denver, Washington, and Wyoming. And if these big cities overwhelm you, the lower key attractions of Minnie, Little, or Peewee might be soothing, but if your dreams and fantasies are truly wondrous, then Cinderella—Cinderella, Cinderella—is the place for you.

Some names are more evocative of the settlers' beautiful and wild new surroundings, such as Grassy Meadows, Green Valley, Clear Creek, Deepwater, Lake, Limestone, Shady Spring, Cold Stream, Coldwater, Three Forks, Falling Waters, and even Falling Rock. And speaking of Three Forks, West Virginia's schoolchildren are good in math. When I was a boy, we had the old spelling matches and the arithemetic matches on Friday afternoons. So we are good in math. So there is Onego, there is Two Run, there is Three Forks, there is Three Mile, Three Churches, there is Four Mile, Four States, Five Forks, and Six and even Hundred.

Speaking of falling rock, in fact, rocks figure rather prominently in my state of old mountains. West Virginia communities include, simply, Rock, as well as Rock Camp, Rock Castle, Rock Cave, Rock Creek, Rock Oak, Rockport, Rockcliff, Rockford, Rock Gap, Rock Lick, Rock Valley, and Rock View, in addition to the more flavorful Salt Rock. And of course the trees and animals are not to be overlooked, trees and animals discovered by the settlers are also recorded on the maps—Apple Grove, Birch River, Oak Hill, Paw Paw, Piney View, Willow Island, Beaver, Bob White, Pidgeon, Buffalo, Panther, Wildcat, Deerwalk, Trout, Pike, Wolfcreek—Wolfcreek Hollow is where I spent my boyhood years—Elk Garden, Crow, Duck, and of course, as was already mentioned, Turkey, West Virginia. I am proud to say that in West Virginia, sites as pristine and beautiful as those discovered over two centuries ago can still be savored by today's generations. I proudly offer the spectacular chasm of the New River Gorge, the monumental beauty of Seneca Rocks, the ecological rarity of Dolly Sods, the unique variety and interest of Canaan Valley, where, when I was minority leader, I took all of the democratic Senators there on a weekend for meetings. Sometimes these meetings are called retreats. I think I was the first Senate leader to take Members of the Senate to retreats and especially to the choice, unique retreat, *sui generis*, in Canaan Valley, WV.

There are the scenic and historic virtues of Harpers Ferry at the confluence of two famous rivers—the gentle Shenandoah and the mighty Potomac. The Potomac River rises where? In the highlands of West Virginia. This is just a short list of West Virginia's many natural treasures.

Of course, West Virginia and King Coal were once nearly synonymous, and the importance that mining played in the life and economy of early West Virginia is also evident in her place names. Alloy, Coalburg, Coal City, Coalfield, Coal Fork, Coal Mountain, Coalton, Coalwood, Coketon, Colliers, Lead Mine, Montcoal, Nitro, Petroleum, and Vulcan, West Virginia, all clearly pay homage to the valuable natural treasure that underlies West Virginia's beauty.

Romance—Shakespeare—had he lived in a later time—may have been thinking of Romance, WV, when he wrote "Romeo and Juliet." Romance has its place as well, both as a community and in the affection of the early settlers for their lady loves, enshrined in countless communities named after them, from Alice and Rachel and Sarah to Minnie and Dollie and Naoma, West Virginia. But some of the most interesting place names relate to the concern that our forebears had to pay to the weather and atmospheric conditions in those days before electricity, central heating, and air conditioning. Ah, what a world it was! West Virginia has towns named Cyclone, Hurricane, Mt. Storm, Skygusty, Tornado, Sun, Twilight, Snowflake, Frost, Mud, and Windy. Clearly, El Nino is not the only weather phenomenon to etch a name for itself in people's memories.

If West Virginia had much to offer those who ventured into her steep mountains, followed her coursing streams in those early days, she has so, so much more to offer the world today.

Instead of 4 miles of four-lane, divided highways, as in 1947, she today has 900 miles of four-lane, divided highways. In addition to her stunning good looks, this lady State of the mountains offers the brawn, the brain, and the talents of her hard-working and thoroughly modern populace.

In towns and cities dotted with institutions of higher learning, West Virginia produces the intellectual firepower to combine with the fabled brute strength of her coal miners, her "John Henrys" of old. The transportation system, including the interstate highways and connectors, rail, air, and even river routes, is increasingly interconnected and modern. For those who do not wish to transport goods or to commute in traffic, West Virginia offers an extensive fiberoptic telecommunications network that allows today's cyber workers to combine high-technology jobs with an uncrowded pastoral setting—imagine that, an uncrowded pastoral setting; how majestic, how beautiful West Virginia seems—a low crime rate, and great family life.

By this fall, West Virginia will even boast eight distance learning nodes, allowing her citizens to maintain and expand their high-technology edge. In West Virginia, you can surf a standing river wave in a brightly colored kayak or surf the net through a computer modem.

Well, Mr. President, may I say to my good friend from Nebraska, Senator KERREY, I have spent my career in public service, and the underlying theme of that half-century of labor is one of nurturing the infrastructure that will allow the natural talents of West Virginia's people to flourish, providing the support and encouragement for West Virginians of all ages to come, come to West Virginia, come to seek a good education, and the necessary transportation links and other services to attract businesses to the State so that these skilled and devoted sons and daughters of the mountains might remain close to home.

While my work has required that I spend much of my time away from the hills and hollows of my youth, I cherish every report of new businesses choosing to establish themselves in West Virginia and West Virginia companies adding jobs and products to their operations in the State. These reports mean that my dreams for West Virginia are coming true, that the dream of so many West Virginians to remain in West Virginia and to raise new generations of mountaineers is becoming a reality. I see that energy and optimism throughout the State as new opportunities, new roads, and new buildings rise alongside the gentle reminders of the great and historic legacy of West Virginia's earlier settlers. It is, after all, proof that Confidence and Paradise can still be found in West Virginia, not far from Prosperity in Raleigh County, WV.

So, Saturday, June 20, is the 135th birthday of West Virginia's establishment as the 35th star in the constellation on our national flag. I know that God's blessings have shone down on her people, on her mountains, on her green hills, and on her green valleys, and that I have been blessed to be a part of securing for her a bright future.

Happy birthday, West Virginia, and best wishes to you always! Montani semper liberi—mountaineers are always free! Mr. President, take that message to China: Mountaineers are always free.

FATHER'S DAY

Mr. BYRD. Mr. President, on Sunday, June 21, Americans will take time to honor the Nation's fathers. The Bible tells us to "honor thy father and thy mother." But at times, fathers have received less public attention and appreciation than mothers. Mother's Day, after all, has been recognized on a continuing basis since 1914, while Father's Day has only been an official holiday for a little over 25 years.

Mr. President, my State has a proud, though little noted, role in the history of Father's Day. According to the American Book of Days, Fairmont, WV, held a church service honoring fathers in July 1908. The idea did not begin to catch on, however, until a woman by the name of Sonora Smart Dodd launched a campaign the following year to establish a day celebrating fatherhood. A resident of Spokane, WA—one of Washington's diligent, able, and respected Senators presently presides over the U.S. Senate—Mrs. Dodd reportedly wanted to honor her own father, a widower who raised her and her five brothers by himself on a farm in eastern Washington State. As I mentioned, a Senator from Washington State is presiding over the Senate, Senator SLADE GORTON. He is the chairman of the Interior Appropriations Subcommittee in the Senate and is one of the most knowledgeable Members on the subject matter of that subcommittee. He is an excellent chairman. But we are talking today about a lady from his State, the State which he so honorably represents, the State of Washington.

Thanks to Mrs. Dodd's efforts, the first official Father's Day was held in Spokane on June 19, on the third Sunday in June 1910. President Woodrow Wilson, who fathered three daughters, and President Calvin Coolidge, who had two sons, endorsed the concept of Father's Day, and various Congresses considered different resolutions making Father's Day an official holiday.

Finally, in 1972, Congress passed and President Nixon signed into law a bill making Fathers' Day a national holiday.

I remember as a child watching my stepfather, my uncle, who was the only dad I ever knew, Titus Dalton Byrd. I remember watching him set forth to toil in the mines, a hard way to make a living, no future, sometimes $2 a day, working in the black bowels of the Earth, in water holes, under mountains of rocks overhead, loading coal. I saw him set forth to work. I suspect that much of what I have achieved in life can be traced to the example of patience, tireless diligence, that he set for me.

He was a poor man, a humble man, a quiet man. I never heard him use God's name in vain in all my days with him. And when he left this world, he left owing no man a penny. He was an honest, hard-working man, one who accepted his lot in life without complaint. I never in my life saw him sit down at the table—no matter how meager, how humble, the fare—and utter the slightest complaint, never a complaint about mom's cooking, although she was an excellent cook, never a complaint. He never complained about anything.

Like so many children with their fathers, I continue to be indebted to that man, one of the greatest men that I have ever known in life. And I have known a lot of so-called great men, statesmen, leaders, Senators, Governors, shahs, kings, princes. My dad was a truly great man, great because he symbolized the great things in life: honesty, integrity, respect for his neighbor, love for his God, faith in his country. He loved his family. He loved me.

I shall always be indebted to him for teaching me by his conduct the virtuous and proper path to take in life, not that I have always followed that path. But if a parent will ingrain these principles in his children, the child may from time to time wander from the righteous path, but in time he will return because the old lessons, the old verities, the eternal values, taught and inculcated into the minds of the children, will always, always remain and will become a part of that life and a part of the next generation.

The Bible tells us in Ecclesiastes, chapter 9, 10th verse, "Whatsoever thy hand findeth to do, do it with thy might." That old dad taught me that. And I took the maxim seriously because he took it seriously. He worked hard, very hard.

Senators can't know it unless they lived in the mining towns. They can't know the hard drudgery, the discouraging life of the coal miner and his family.

And my old dad always strove to do his very best, no matter how simple or unexciting the job in the mines. Many men's lives—my neighbors, my friends, fathers—depended in a very literal sense upon the quality of each other's work and upon the carefulness of each other's work. A careless lighting of a match might snuff out the lives of the fathers of hundreds of children. Think of Monongah, WV, where more than 300 lives were taken in one day by an explosion, an explosion in a mine.

I recall now how late in the afternoon I would go out on the porch and look up the railroad tracks and wait for my uncle, my dad. I never lived with my natural father. My mother died with the influenza epidemic in 1918. I lacked just a few days being 1 year old. I never lived with my father after the day she died. And I never saw him during the next 15 years, and then I was able only to visit with him 1 week. That was my natural father. I had three brothers and a sister, but only recently did I learn that I had a fourth brother, who died at childbirth. I grew up in the hands of these wonderful, wonderful people, this old couple who had had one child before I was born. He died of scarlet fever. This old couple took me on my mother's leaving this earthly life. And they brought me from North Carolina to West Virginia. So this was my dad. This was my mom. I have no recollections of my natural mother.

But these were the people who raised me. They didn't have much, but they had love for me. I never heard them quarrel at any time in their 53 years of marriage. Not a quarrel did I ever hear. My wife and I have been married 61 years. I can't say we haven't had a few spats. But my old mom used to say, "One thing you must remember, both of you, don't you both get mad at the same time." When one gets mad, the other shouldn't get mad. The other shouldn't say anything. Just sit down, be quiet. So that was her recipe, and it worked.

I used to look up the railroad tracks and wait for my dad to return from his day in the mines, swinging his dinner bucket beside him. I treasured my time with him. He encouraged me to read, to draw, and to learn music. Like so many fathers, he wanted me to have a better life than he had had. He set about encouraging my interests and in building my confidence.

I suspect that many of my colleagues learned to throw a ball or to fly a kite under the tutelage of their fathers. Fathers played such an integral role in many of the memories that many of us have of our childhood. We picture those fathers tending the weekend barbecue, fork in one hand and a plate of hot dogs or hamburgers in the other, sitting patiently in the stands of the Little League ball game cheering our successes, consoling us afterwards about our less than successful efforts; or teaching us with a mixture of stern caution and warm affection how to drive the family car. That is not an experience or memory of mine. But I know that it is with many others. Such moments are as precious as pearls, and we string them together in our minds to make a beautiful necklace of memories.

Fathers can be stern, of course, but what father is more worthy than the one who selflessly serves as a garden stake for his young child?

I grow a few tomato plants, and I always have a stake to hold those tomato plants until they are strong enough that they can climb and make it with the help of still larger stakes.

So, what father is more worthy than the father who serves as a garden stake for his child, using his own example to encourage the tender young sapling to grow up straight and to grow tall? Good fathers are like good gardeners. They prepare the soil carefully and they coddle the seedlings before handing them off and planting them in the soil of life. And, even then, they weed out the bad influences, prune the bad habits, support and train the tender shoots with discipline and order and fertilize with affection.

Let me close, Mr. President, with a short poem by Grace V. Watkins entitled, "I Heard My Father Pray."

Once in the night I heard my father pray.
The house was sleeping, and the dark above
The hill was wide. I listened to him say
Such phrases of devotion and of love,
So far beyond his customary fashion,
I held my breath for wonder. Then he spoke
My name with tenderness and such compassion.
Forgotten fountains in my heart awoke.
That night I learned that love is not a thing
Measured by eloquence of hand or tongue,
That sometimes those who voice no whispering
Of their affection harbor love as strong,
As powerful and deathless as the sod,
But mentioned only when they talk with God.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to commend the able Senator from West Virginia for the remarks he just made. He has told us about that great State that has so many places named for other places in this country, so many places. He has told us about his history and the hardships he underwent and he has overcome. We are very proud of him. I consider him a man of integrity, ability and dedication. All that he has done in this body is a credit to him.

I have never heard unfavorable remarks about Senator BYRD. Everything I have heard and learned about him has been good. And after hearing his talk this morning, I am convinced that all the experience he has in his life has influenced him throughout his entire career, which is quite remarkable. He has brought out so many instances of how other States are connected with his State; his State is intertwined with so many different places.

Incidentally, in West Virginia there is a town or community named Thurmond. I don't know whether the Senator is familiar with it or not. He did not mention that, but I mention it to show that South Carolina has a connection with West Virginia, and we are very proud of the connection that we have with the Senator and his State. Again, I wish the Senator long life and much happiness and continued success in all of his undertakings.

Mr. BYRD. Mr. President, if I may again claim the floor just for 2 or 3 minutes, I thank the senior Member of this body for his preeminently gracious and charitable remarks.

There is a place named Thurmond in West Virginia. It is down on the New River, and it is a very historic place, an old railroad town. There was a poker game there that continued for several years. I have heard various stories about this poker game that lasted 7 years. Some said it lasted 10, 11 or 12 years. It was evidently a long, long time in its existence.

Thurmond is just a small town now—not to be called even a town. But I am very proud that Senator THURMOND of South Carolina has reminded me of Thurmond, WV. I hope Senators will travel through Thurmond at some point. It is on one side of the river, and on one side of the railroad tracks. One can see the beautiful mountain peaks on each side.

I thank the Senator, too, for his services to his State and to his country. If one reads his biography, one will find that he is truly a remarkable Senator who has led an extraordinary and remarkable political career, a career in public service. He honors me with his kind words, and I am thankful to the divine hand that guides us all for having let me live and serve in this body with STROM THURMOND now for 40 years. I am grateful for my friendship with him and most appreciative of his kind words this morning.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me just join Senator THURMOND in thanking Senator BYRD for his eloquent remarks on his home State on its birthday. We all join the Senator in wishing West Virginia happy birthday and on his tribute to fathers. What the Senator said about his family, his stepfather, his uncle, and other men who had such an impact on his life, brave men, modest men, men of modest means who had such an impact on his life, all live through him in us and those memories are shared with us. They become part of all of us. And so I want to thank the Senator from West Virginia for sharing those memories with us.

I talk a lot back home about lifelong learning. When I talk to students when they graduate, whether high school or college, I say it is the learning that lies ahead of them also which is so important and they should never stop learning. We have greater opportunities for that now as adults because of some of the efforts, as a matter of fact, which the Senator from West Virginia has made to make possible lifelong learning for our citizens.

We all still learn from Senator BYRD. It has been a learning experience for me, being with him in this Chamber, since the first day I was here, and that learning experience has never ceased. I do not know of any Member of this body who has not gained a great deal of wisdom and knowledge from serving here with the senior Senator from West Virginia. So I thank the Senator for taking the time he did this morning to share those thoughts with us.

Mr. BYRD. Mr. President, if I may just comment briefly, Tennyson said, "I am a part of all that I have met," and we are all a part of each other. I am a part of CARL LEVIN. CARL LEVIN is a part of me. I am proud to serve in this body with CARL LEVIN, Senator LEVIN. He is a man who when he studies a bill, studies it with infinite care, dissecting each comma and period, semicolon, colon, each word, each phrase.

The Bible says, "Seest thou a man diligent in his business; he shall stand before kings." Senator LEVIN is a man with diligence and ability, and I am proud to know him, proud to serve with him. He is the ranking member on the Armed Services Committee on which I serve with Senator WARNER, who is the ranking member on the Republican side. I thank him. He has always been very generous, very kind, very thoughtful to me. And I hope to predict that within just a few weeks he will join me in lauding the Supreme Court of the United States for holding that the Line-Item Veto Act is unconstitutional. He has fought that battle with me, and I hope we are able to join in triumph as Roman Emperors on that great day. May it come.

Mr. LEVIN. A hope in which I share, may I say. Thank you, ROBERT.

Mr. WARNER. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Michigan and our great and courageous chairman of the Armed Services Committee, Mr. THURMOND. For all of us who have joined here today, and Senator KERREY and others, to listen to those beautiful remarks, of course they evoke memories of our own parents.

My father was a medical doctor who practiced surgery and gynecology in the greater metropolitan Washington area all his life. He was proud of his heritage from the central part of Virginia, from whence his father and mother came. I often think that no matter what riches there are available in the world, there is no greater gift of God or anyone else than to have loving and strong parents. To the extent I have succeeded modestly in life, I owe it almost entirely to a wonderful father and a wonderful mother, who lived to be 96 years old.

Senator BYRD, you have left a profound mark on all of our lives. We visited momentarily here before those remarks about the birthday of West Virginia. I continue to make the offer to rejoin Virginia and West Virginia, bond them together as they once were, and I will yield the position of the senior Senator from Virginia and allow my colleague to be the senior Senator. Just how Senator ROBB will fit into that, I am not sure.

Mr. LEVIN. Where does that leave CHUCK?

Mr. WARNER. We will work out those modest details as we go along. But you have greatly enriched the lives of all of us.

What a treasured experience—to have the opportunity to listen to Senator BYRD on the floor on this and many other subjects.

Perhaps before the day ends, you will give us a quote, relative to Cicero, as you give Senator LEVIN and me a little token of what you feel about so strongly.

Mr. President, I will be consulting with the distinguished chairman of our committee and the ranking member regarding the remainder of the day. But we will continue actively on this bill. At this moment, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. BYRD. Mr. President, will the Senator from Nebraska allow me to respond just briefly to the Senator from Virginia, Mr. WARNER? I want to express my gratitude to him for his very lavish and profuse words with respect to me. He shares with us great riches, as we enjoy his friendship and work with him. I look upon him as a great American. He is on the Armed Services Committee, a former Member of a President's Cabinet—Secretary of the Navy. He has demonstrated by his patriotism and public service the kind of service that we should try to emulate.

I thank him very much for his kind words. They mean much to me.

Mr. WARNER. I thank the Senator from West Virginia, my friend.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. First of all, I come to the floor to offer some comments on S. 2057, a 412-page law that is before us. But I had the pleasure, as many others did on the floor, to listen to the statement of the distinguished Senator from West Virginia about not only West Virginia, but also on Father's Day.

I want to offer my praise as well, not just for the Senator's statement, but for the Senator's service. The senior Senator from West Virginia has not only made the lives of the people of West Virginia better, but he has also made the lives of the people of America better and, for those of us who have had the opportunity to learn from him, we hope our service is better as well.

I am grateful for the advice and counsel and the assistance that the distinguished Senator has given me. But I am most grateful for those times when I had the opportunity to sit and listen to his views and his capacity to connect the strength and courage of individuals in the past to what we do here on this floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. KERREY. Mr. President, I will connect what I say here about this piece of legislation with Father's Day. I had the occasion, during our last recess, to take my 23-year-old son and my 21-year-old daughter to Omaha Beach. I was in the audience on the 6th of June, 1994, in Antelope Park in Lincoln, NE, where, among other people, I heard at that time the senior Senator from Nebraska, Senator Exon, and many other speakers talk about that day on the 6th of June, 1944, when very young men crossed the English Channel in the early morning and, as they approached the beaches of Normandy in France—now quite quiet, now nowhere near as hostile as it was on that morning—the bullets from the German trenches rained down upon the beach. And the soldiers, as they approached the beach that morning, could hear the bullets raking the front of their landing craft. Those of us who have experienced bullets raking in any environment at all understand the courage that it took to lower those gates and leave those boats, knowing that it was highly likely that they were going to be shot and that it was even a higher probability, in those early landing craft, that they would die.

On the occasion that I took my son and daughter, this year, to Omaha Beach, I pointed out the crosses there in this very quiet, reverential place—that each one of them is a story. Each one of them is a son. Each one of them was either a potential father or perhaps was a father themselves, leaving behind grieving sons and daughters who remember that extraordinary service.

So, on Father's Day I am apt, I suspect as many of us who have served are—apt to reflect, not only upon my father, but also upon the fathers who are no longer with us as a consequence of their service, as a consequence of their heroism, as a consequence of their courage. And I, as an individual, am always more impressed with the courage and the heroism that is done, as the distinguished Senator from West Virginia was describing in his own father, without any expectation that there would be a television camera recording the act, or a newspaper reporter writing it down, or any glory whatsoever, necessarily, coming to that individual.

The most important act of heroism is that act of heroism that occurs when nobody is observing what you do. That is when character is built. That is when the strength of, not just the individual, but the strength of the Nation, comes through as well. These young men who landed on that beach on the 6th of June, 1944, knew that they perhaps would die with no one there recording what it was that they had done.

I am struck, not just on Father's Day, but on many other days as well, how blessed we are as a result of the sacrifices that our fathers made for us and our forefathers made for us.

As I begin my comments on this piece of legislation, I can't help but connect with what the distinguished Senator from West Virginia, the senior Senator, was talking about earlier about fathers and sacrifice and the nobility of character that is developed in that moment when you do what your father told you to do. You follow not just the straight and narrow path, but often the most difficult path. My own father's most important lesson to me was that the easy road is apt to be the wrong road; the easy course is apt to be the wrong course. It is that difficult path that we very often must choose.

I am here on the floor to make that observation about this particular piece of legislation, Mr. President, S. 2057, 35 titles, 412 pages. I came here as a former Governor, as a former businessperson, and the longer that I am on the job of writing laws, the more impressed I am that there is a connection between these laws and our lives. It may be that some of these words in this piece of legislation I disagree with, and I may come to the floor and try to change some of these words, but none of us should doubt that these words are important, that they create an authorization in law that enables us to have an Army, a Marine Corps, a Navy, an Air Force, and a Coast Guard. It frames for us and authorizes for us what we will need to defend our Nation.

One of the things that I hear very often when I am talking to the citizens of my State whom I represent is they will say to me, "Well, Senator, what threats are there? The cold war is over. For gosh sakes, what threats are there today to the people of the United States of America that would justify this expenditure, not just of money but of lives?"

Understand, we are not just authorizing the creation of an Army, a Navy, a Marine Corps, an Air Force, and a Coast Guard, we are asking young men and women to come in and swear an oath to their country and defend the people and, if necessary, not only to risk their lives, but even to give their lives in a cause that we on this floor declared important, as we have done in Bosnia, as we have done throughout the world not just in this year but in past years.

My answer is, unfortunately it was not readily apparent in the 1920s that there was a threat. Thus, Americans in the 1920s said, "We have suffered enough in the Great War," the so-called war to end all wars. It was supposed to be the last war of mankind. We had a treaty at Versailles in 1919. It was believed that was all we had to do. So we came home and wrote laws in response to people saying, "We've had enough." We wrote laws that downsized our military, that said there is no apparent threat in the 1920s, so we maintained just a skeleton force, if that.

Mr. President, my father was a 6-year-old in Chicago in 1919, and little did he know that the move to demilitarize this Nation, the move to isolate this Nation, the move to say that we are going to take care of America first and only would result not just in his having to serve in the Army, and he was being prepared for the assault of Japan when Hiroshima and Nagasaki bombs were dropped and Japan surrendered, but his older brother, John, went to the Philippines expecting in 1941 to return happily a year later, but he was among those who were, on the 8th of December, the day after the attack on Pearl Harbor in Hawaii, he was among those who were on the island in the Philippines unprepared for an attack—unprepared—and, as a consequence, they not only suffered the Bataan death march, but suffered horribly over the next few years.

It may not be that we see a threat of enormous dimensions today, but this piece of legislation, I hope, prepares us for the threat that we don't see, for the threat that may occur tomorrow. I hope that we understand as we write this piece of legislation that there are men and women who are serving us in our Armed Forces.

I know that the Armed Services Committee has written in to make certain that they are not only given a sufficient amount of resources to train and prepare themselves, but that they are given adequate housing and that they are given adequate health care and that they are given other things as a consequence of us knowing and understanding that they are serving us and putting themselves at risk in service to us.

Another area that I think we also need to understand is that there is diplomacy that occurs simultaneously with our authorizing and preparing our defenses. One very important piece of diplomacy will occur next week when our President, our Commander in Chief, travels to the People's Republic of China, the largest nation on Earth, the most populous nation on Earth, still a Communist nation, still, in my opinion, suffering as a result of not having what we have, and that is the blessings of liberty, of a government of, by and for the people.

I hope that on this defense authorization bill we will not make it more difficult for the President to engage in diplomacy. I hope that we are able to restrain ourselves. I know that there is interest in China. I know there will be amendments that will come to the floor, but I hope that we will not make diplomacy more difficult, Mr. President.

Diplomacy is the effort that we make to say that we are going to do all we can, not just to keep our defenses strong to prepare for a threat we may not see today, not just to keep our defenses strong so we discourage bad behavior, but diplomacy is an effort we make to prevent wars from happening in the first place.

To that end, I would like to comment a bit on some diplomacy. On Wednesday of this week, the Secretary of State, Madeleine Albright, gave a speech about Asia, and especially she commented about the need to change our policies carefully toward the nation of Iran.

I rise, indeed, to note two important events in the often troubled relationship between the United States and Iran. One of these events, Secretary of State Albright's speech to the Asia Society on Wednesday night, and the other event is the World Cup soccer match in France between the teams of the United States and Iran. This event on Sunday is a far smaller event, but it is, nonetheless, still important. First, the speech of Secretary Albright is an intellectual event, and the second, the soccer match between the United States and Iran, is a physical event.

The first deals with the sweep of history, the sweep of culture and religion, and the second takes place in the here and now. Yet, both, in my judgment, are major departures in a complex and extremely difficult relationship. At the level of Governments, the United States and Iran have disliked and suspected each other for 19 years. At the human level, Americans and Iranians have expressed their resentments toward the other country as they almost unconsciously grow closer to each other at the same time.

Mr. President, with each passing year, and especially with events such as the election of President Khatami and the warm reception accorded to the American wrestling team in Iran, the gulf between our antagonistic Government-to-Government relations, and the more positive relations between the Americans and Iranians are becoming more apparent.

Secretary Albright took an important first step Wednesday night toward closing that gulf. The importance is by no means diminished by the initial negative response that was heard yesterday on Iran's state radio. Secretary Albright recognized Mr. Khatami as the choice of 70 percent of the Iranian voters, and that he embodies their desire for change for greater freedom, for a society based on the rule of law, for a more moderate foreign policy leading to an end of Iran's international isolation.

She also noted that Mr. Khatami has started to change Iranian policies of long-term concern to us. At the same time, Secretary Albright noted considerable caution. She said Mr. Khatami does not control the entire Iranian Government, and that is perhaps the most notable observation for all of us who are trying to decide what to do, on the one hand, with Mr. Khatami's very moderate and positive statements and the continued behavior in the overall Government that appears to be in conflict.

The intelligence services, the military, the Revolutionary Guards are outside the control of Mr. Khatami. They respond to Supreme Jurisconsult Khamenei and the more controversial leaders whose candidate was defeated by Khatami in last year's election. As a result, Iran's behavior is somewhat schizophrenic.

For example, with regard to the Arab-Israel peace process, Mr. Khatami invited Yasser Arafat to Tehran and accepted Palestinian decisions to negotiate for peace. But Iran also continues to emit harsh anti-Israeli rhetoric, which does not advance the cause of peace. Khatami has condemned terrorism, but Iran continues to support anti-Israeli terrorist groups like Hezbollah and terrorizes Iranian exile opponents of the regime. Iran has made progress against illegal drugs and is beginning to reform its institutions. But allies of Khatami, such as the mayor of Tehran and the Interior Minister, are threatened with trials, which are forms of intimidation by the old guard.

As Secretary of State Albright noted, Iran has welcomed large numbers of Afghan refugees. Iran has also improved its relations with its Arab neighbors in the Gulf. But its development of weapons of mass destruction must give these same neighbors considerable pause. In no way could today's Iran be called a force for stability in the region.

Secretary Albright was clear that American concerns remain and that U.S. policy toward Iran will not change until Iranian policies, and the actions flowing from those policies, change first. But she also held out the possibility for better relations, which must be tantalizing to many of the Iranian majority who voted for Khatami. The possibility should be equally tantalizing to Americans who want peace, who want security, and who want democracy for all the states of the Middle East.

But closure will not come easily, Mr. President, or quickly. I will never completely get over the Iranian holding of our Embassy staff hostage in Tehran for over a year, and I suspect many other Americans agree with me. The death sentence which Iran applies to a writer whose book offends them and who is thereby condemned to a life in hiding deeply offends me. Let me add that if it is proven beyond a reasonable doubt that Iran was involved in the killing of 19 American airmen at Khobar Towers, the consequences for Iran will be severe and the possibility for better relations with us will be zero.

Major changes in Iranian behavior must precede an improvement in relations between the United States and Iran, and Secretary Albright's measured tone this Wednesday reflects the administration's sober understanding of this reality. But she reminded Iran that our problem with them is not their culture or their religion, both of which we respect; the problem is Iranian actions. If those actions change, we will develop a roadmap for better relations over time.

Meanwhile, at the human level of athletics, this coming Sunday in Lyons, France, or in universities across the United States, Iranians and Americans accept each other as individuals, compete fairly, and come to know each other as friends. We relearn how much more we have in common in our fundamental aspirations for our lives and our children's lives. If the Iranian Government chooses, our Governments can relate in the same way, and a key region will be safer.

Mr. President, I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President. May I commend my friend and colleague from Nebraska for his usual eloquence. When he reflects on past experiences and provides some insight into some of the actions that this country has taken, and those who wear the uniform of this country have taken, all Americans do well to listen, in my judgment. I have enormous respect for him.

He has drawn our attention today to some important developments that have taken place or will take place in the next week. And I continue to commend him for his leadership in those areas. I have enjoyed an association that goes over a long time. We did not know each other in Vietnam, but we served together as Governors, and we came to this institution together. And I am very proud to call him a friend.

Mr. WARNER. If the Senator will yield, I wish to associate myself with the remarks of my colleague from Virginia in regards to the distinguished Senator from Nebraska and how we all have profound respect for his judgments, his remarks, particularly as they relate to the security interests of this country, which he has served and continues to serve very aptly.

Mr. ROBB. Mr. President, I was pleased to be able to yield to my distinguished senior colleague notwithstanding an earlier conversation that appeared to combine two very fine States in ways that might not work to the complete satisfaction of the two junior Senators from those States.

Mr. President, the defense bill before us today is a solid package. It represents a bipartisan effort on the part of the committee and a delicate balance between funding our readiness today and preparing for the wars of tomorrow.

We are hearing a familiar ring with regard to defense spending. Force structure and end strength have been slashed by over 30 percent. Overseas commitments have increased significantly and are pushing our troops to their limits. Procurement funding is down by over 70 percent. And our vehicles, ships, and aircraft inventories are too old and cannot be sustained at current production rates.

On the other hand, we are now, in the context of imminent major military challenges, in a relatively benign period. The end of the cold war has allowed us to reduce force structure and end strength by roughly one-third and procurement by well over half. Despite this, we are still spending at 85 percent of the average cold war peacetime spending levels, and we will continue to do so at least through 2003—85 percent.

We have gone from 18 to 10 Army divisions, 36 to 20 fighter wing equivalents, and 15 to 11 carriers. Yet we have only cut the budget top line by 15 percent.

How do we explain this? In part, Mr. President, by increased overseas commitments. Yet even Bosnia involves only about a third of the division and is costing us less than 1 percent of the defense budget. In part, we are spending more for weapons. But weapons procurement is down by over 70 percent, and each new weapon is much more lethal than its predecessor, allowing us to buy fewer.

In part, we are having to spend much more for maintenance per vehicle or ship or aircraft or weapon because many of these systems are so old. But new systems entering the inventory require far less maintenance, and much of the maintenance is now being done for less by the private sector.

How then can we explain to the American taxpayer that we have cut forces by over a third but have only cut the budget by half? And that amounts to only about 15 percent. The obvious and unequivocal answer is infrastructure. Infrastructure means the facilities and other assets that support our troops on the front line. Above all, it means bases.

Last month, we received a BRAC report required by last year's defense authorization bill. The report involved analysis of 259 bases that the military departments identified as major installations and concluded that DOD has about 23 percent excess capacity.

The report went on to indicate that new base closure commissions in 2001 and 2005, if bold enough to close the bulk of the remaining excess, will add $21 billion in the years 2008 through 2015 and $3 billion every year thereafter.

Needless to say, Mr. President, I am deeply disappointed that this Congress is unwilling to authorize another base realignment and closure commission at this time.

If we don't have the courage to shut down these unneeded facilities to quit wasting so flagrantly the taxpayers' money, we will continue to stress our forces to their limits, to lose troops in droves that we've spent billions to recruit and train, and to fail to invest in the weapons, that will maintain our substantial military edge.

I am especially troubled by those who will not support another BRAC then turn around and attack the Administration and the Congress for underfunding the military for deploying U.S. forces to contingencies overseas, or for procuring too few weapons.

Mr. President, I understand, objections to BRAC, related to privatization-in-place of depot work in Texas and California even though this issue is mostly behind us, the atmosphere, remains unnecessarily charged. But the real issue here concerns who is being punished by Congressional indignation, with the BRAC process as a result of the recent depot controversy?

In the end, we only punish those who most need the benefits of infrastructure savings. First, we punish the nation's taxpayers when we fail to make the best use of the resources with which they entrust us. Second, we punish today's soldiers, sailors, airmen and marines, whose readiness depends on sufficient reliable resources for equipment, training and operations through the year. Finally, we punish tomorrow's force, as we continue to mortgage, research, development, and modernization of equipment necessary to keep America strong into the 21st century.

At its most basic level, getting rid of excess infrastructure, consistent with American public expectations, is just a good government. I reiterate may disappointment that we do not have the support needed to deal with this wasteful situation.

Mr. President, I nonetheless support the bill in its current form. It includes many badly needed provisions, including a 3.1-percent pay raise for our troops, funding for Bosnia, and funding for numerous modern systems to replace those that are simply too old to effectively wage future battles and to be maintained at reasonable costs. I look forward to the continued deliberations on this important legislation, not only with my fellow members of the Senate Armed Services Committee but with the entire Senate on the important issues and challenges that face our Nation today.

With that, I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

OIL SPILLS IN PUGET SOUND

Mr. GORTON. Mr. President, I will take this opportunity to thank my colleague, Senator THURMOND, and the other managers of this bill, for agreeing to a modest amendment of my own in their bill. They and their staffs have been most helpful in this effort.

That amendment is a sense-of-the-Senate resolution urging the Navy to take immediate action to control oil spills from Naval vessels at U.S. ports. This amendment is the result of a discouraging performance by the navy in my home State of Washington this year. There have been six significant oil spills from Naval vessels in Puget Sound in 1998. In my opinion, that is six spills too many.

The Puget Sound is the jewel of Washington. With Mount Rainer to the east and the Olympic Peninsula to the West, Puget Sound is one of the most beautiful places in the State, and in my admittedly biased opinion, in the country. Tourists and recreationists alike enjoy sailing, fishing, and ferry rides on the Sound. The Sound is home to abundant marine life. Thousands of people in Washington are dedicated to keeping Puget Sound clean so that its magnificence can be enjoyed by generations to come.

So, Mr. President, I am disturbed when the carelessness of Naval personnel on vessels docked in the Sound for repairs at the Naval Shipyard in Bremerton or Naval Station Everett pollutes that beautiful body of water. Six oil spills in as many months is a poor record by any standard.

I urge my colleagues to join me in pushing the Navy to take immediate steps to curb the number of oil spills caused by Naval personnel in U.S. waters. More attention to the risk of oil spills, more training to teach Naval personnel how to avoid spills, and improved liaison with local communities where spills occur should go a long way to improve the Navy's environmental record. Oil spills, Mr. President, can and should be limited.

I thank the Armed Services Committee, the bill managers and their staffs for working with me to pass this important amendment.

Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business on two additional subjects.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GORTON pertaining to the introduction of S. 2196 are located in today's RECORD under "Submission on Introduced Bills and Joint Resolutions.")

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2735

Mr. WARNER. Mr. President, I have just been in consultation with the distinguished majority leader. Acting on his behalf and at his instruction, I take the following steps:

I move to recommit the pending bill to the Armed Services Committee with instructions to report back forthwith with all amendments agreed to in status quo, and with the following amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] moves to recommit the pending bill, S. 2057, to the Armed Services Committee with instructions to report back forthwith with all amendments agreed to in status quo, and with the following amendment No. 2735, for Mr. WARNER.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 2735

(Purpose: Condemning Forced Abortions in the People's Republic of China)

At the appropriate place insert:

TITLE —FORCED ABORTIONS IN CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Forced Abortion Condemnation Act".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. . DENIAL OF ENTRY INTO THE UNITED STATES OF PERSONS IN THE PEOPLE'S REPUBLIC OF CHINA ENGAGED IN ENFORCEMENT OF FORCED ABORTION POLICY.

The Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

SEC. . WAIVER.

The President may waive the requirement contained in section ___ with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2736 TO MOTION TO RECOMMIT

(Purpose: Condemning forced abortions in the People's Republic of China)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 2736 to the motion to recommit with Amendment No. 2735.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment, strike all after "FORCED" and insert the following:

ABORTIONS IN CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Forced Abortion Condemnation Act".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. . DENIAL OF ENTRY INTO THE UNITED STATES OF PERSONS IN THE PEOPLE'S REPUBLIC OF CHINA ENGAGED IN ENFORCEMENT OF FORCED ABORTION POLICY.

The Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

SEC. . WAIVER.

The President may waive the requirement contained in section ___ with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

(3) This Section shall become effective 1 day after enactment.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

The Chair is advised by the Parliamentarian that 11 are needed to get the yeas and nays.

Mr. WARNER. Mr. President, while the Chair is seeking to consult with the Parliamentarian, I want to say that this is an effort to keep this very important bill moving. I feel very strongly that this is a limited opportunity for the Senate to consider the annual authorization bill. The majority leader, in consultation with the Democrat leader, has decided that we have the balance of this day. We hope to have votes at 5 o'clock on Monday. I will address that later. We will have Tuesday and such part of Wednesday as the leadership will give us to complete this very important piece of legislation.

Given this extremely narrow window of opportunity, I hope that we can proceed today to have a parliamentary situation, which is in place and which will enable the distinguished majority leader and the Democrat leader, on Monday, to address the Senate and keep this bill active.

It is so important because I had the opportunity last night to visit with the Secretary of State, as I had earlier in the day the opportunity to have breakfast with the Secretary of Defense.

And our country is working with our principal allies in regard to the very serious issues and fractious situations surrounding Kosovo and the need for clarification of our position as it relates to Bosnia.

Mr. President, It is very interesting. I remember the extensive debates here on the issue of Bosnia. This Senator time and time again was opposed to sending in the ground forces. But, nevertheless, that decision was made. It was always the thought that you have to contain the Bosnia-Herzegovina geographic area to preclude a spillover into the Kosovo region, a region which I visited at one point with the distinguished former majority leader, Senator Dole.

Mr. President, I understand that I can at this time ask for the yeas and nays on the first-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Are the yeas and nays ordered on the second-degree amendment, Mr. President?

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays on the second-degree?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. I understand the ruling of the Chair is that the yeas and nays are on all of the amendments.

The PRESIDING OFFICER. The yeas and nays are ordered.

The Parliamentarian advises me that the yeas and nays have been ordered on the motion and on the first-degree amendment to the motion.

AMENDMENT NO. 2737 TO AMENDMENT NO. 2736

(Purpose: Condemning human rights abuses in the People's Republic of China)

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an amendment numbered 2737 to amendment No. 2736.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

CLOTURE MOTION

Mr. WARNER. Mr. President, I send a cloture motion, at the instruction of the distinguished majority leader, to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon S. 2057 (Calendar No. 362), a bill to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Strom Thurmond, John Warner, Dan Coats, James Inhofe, Dirk Kempthorne, Pat Roberts, Bob Smith, Rick Santorum, John McCain, Olympia Snowe, Larry Craig, Jesse Helms, Charles Robb, Trent Lott, Don Nickles, and Ted Stevens.

Mr. WARNER. Mr. President, for the information of all Senators, this cloture vote will occur on Tuesday, June 23, at a time to be determined by the majority leader after notification of the Democratic leader. I do now, however, ask that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. For the information of all Senators, a cloture motion was just filed on the DOD authorization bill in an effort to keep the bill free from extraneous matters. Under rule XXII, all Senators must file first-degree amendments by 1 p.m. on Monday, and the second-degree amendments up to 1 hour prior to the cloture vote.

Mr. President, the amendments which have just been filed, of course, are offered by the distinguished Senator from Arkansas. I will be in consultation with the majority leader. But at the present time, it is the intention of the Senator from Virginia, in his capacity as comanager of the chairman, Mr. THURMOND, to have a taking of those amendments. I just wish to inform all Senators of that intention, because this is an effort to keep this bill once again moving so that we can continue to have action by the Senate on this bill.

Does my distinguished colleague at this point wish to address the clearances of the amendments that are pending?

Mr. LEVIN. Mr. President, I wonder if the Senator from Virginia will yield.

Mr. WARNER. I just yield for a question.

Mr. LEVIN. I wonder whether or not it is inconvenient to anyone if we put in a brief quorum call for 5 minutes to allow me to do something that I need to attend to, if that would not inconvenience any other Senator.

Mr. WARNER. Perhaps there are some who wish to address the Senate in the intervening period.

I see no Senator seeking recognition. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, earlier today I had the distinct honor of attending a 75th anniversary ceremony held at the Naval Research Laboratory here in the Anacostia area of our Nation's capital. For 75 years, the U.S. Navy has conducted research on all aspects of radio, radar, sonar, space, and the like. It is a facility that is without comparison anywhere in the world in terms of its excellence.

I ask unanimous consent that an article in today's Washington Post be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. WARNER. In today's Washington Post, on page 23, is a brief description of the historic work that has been performed by this laboratory.

I say with a great sense of humility I was asked to speak because of the fact that I am a graduate of a school that was conducted at this laboratory during World War II. Young men, and to my recollection, a few young women, were trained as radio/radar technicians. It was a 15-month course. Barely a third of those who started this course ever completed it because it was 6 days and 6 nights, and those were not unusual hours during wartime, and then for the period after the cessation of the war in Europe and the Pacific, the momentum kept up, but they turned out remarkably trained young people, and I was privileged to be one of them.

I remember on the day of graduation—and these are the basic remarks that I deliver today—an admiral stood up and addressed us, and he said, "You understand how to maintain," which means fix, "every piece of equipment in the United States Navy through which an electron flows."

Thousands of young persons went through that program, then reported to the fleet, whether it was a ship or submarine or an airplane, and they were immediately able to go in and examine the most complicated pieces of equipment and repair them. And that was before the black box era, where today, if there is a malfunction of a piece of electronic equipment, by and large, the technician goes in and pulls the box, takes a spare box out and pushes it right in, and the equipment starts up.

No, in those days we had to take the time to take off the covering, go in with electronic devices to try to find the faulty vacuum tube. We did not have solid circuitry in those days to any extent. It was vacuum tubes, great big capacitors. But that was the equipment that gave the eyes and ears to the U.S. Navy, and we shared it with our allies.

I always believed that this laboratory contributed in a very significant way to the ultimate victory of the U.S. forces, together with our allies. Radar, which was a distinct advantage that the United States and Britain had, was basically developed simultaneously in Great Britain and at this laboratory. That gave us an enormous, what we called a force multiplier, over the axis forces, because we had the eyes and ears to project out distances which are small by today's measure but in those days very significant, and to detect the presence of ships and aircraft to give the American and allied forces early warning. I don't know how many lives were saved.

This laboratory really was the vision of Thomas Alva Edison, who we all recognize as one of the great pioneer scientists in American history. He had an active role in this institution in 1923. Then for a while he phased out, and then he came back.

I commend the tens of thousands of people who through the 75 years of history, both civilian and uniform, Navy and Marine, and, indeed, officers and enlisted of other services who have trained there and their contribution to world freedom.

Mr. President, I thank the Chair. I yield the floor.

EXHIBIT 1

NAVY LAB UNCLOAKS A SECRET, CELEBRATES ITS BREAKTHROUGHS

(By Steve Vogel)

The veil was pulled away from a Cold War secret this week at the Naval Research Laboratory in Southwest Washington.

Speaking to an audience of scientists, lab employees and reporters, top U.S. intelligence officials on Wednesday disclosed the existence of a previously classified spy satellite system.

The system, known as Galactic Radiation and Background (GRAB), was launched in June 1960 and became the nation's first reconnaissance satellite system, gathering information on Soviet air defense radars only weeks after Francis Gary Power's U-2 was shot down over the Soviet Union.

For the NRL, which this week is celebrating its 75th anniversary, the public disclosure of GRAB was a relatively rare moment in the sun.

Spread over 100 buildings on a 130 acre site along the Potomac, NRL has been responsible for a host of critical scientific developments, from the discovery of radar in the 1920s to directing the first American satellite program—the Vanguard project—in the 1950s, to a pivotal role more recently in developing the Global Positioning System.

GRAB, which was proposed, developed, built and operated by NRL, was "a milestone in the history of the laboratory in the history of U.S. intelligence," said Keith Hall, director of the National Reconnaissance Office, in announcing the declassification.

Addressing the family members of NRL employees in the audience, Rear Adm. Lowell Jacoby, the director of naval intelligence, said, "For many of you, this is the first opportunity to hear what your husband or your father or your grandfather or whoever were doing every day when they came to work at NRL."

The lab, though little known today to many Washingtonians, including the thousands of commuters who drive past it every day on Interstate 295 just above the Blue Plains water treatment plant, is inextricably linked to some of the 20th century's major scientific breakthroughs.

Those accomplishments are being celebrated this week in a ceremony and a five-day symposium.

"There's a real long history of firsts that came out of this lab," said Ed Senasack, head of the lab's spacecraft engineering department.

The lab has provided many things, not the least of them "time to think," said Jerome Karle, who has worked at the lab since 1946. Karle, with his partner and wife, Isabella Karle, used his time to develop a theory for determining molecular structure, for which he was awarded the Nobel Prize for chemistry in 1985.

That research, like much of the work at NRL, has had implications far beyond military technology. "The ability to get these fundamental structures has revolutionized the pharmaceutical industry, because it provides fundamental information about drugs and their activities and processes," Karle, 80, said in an interview at the lab where he and his 76-year-old wife still lead groundbreaking research.

"NRL is a research lab. It's where the ideas come from," says Gerald Borsuk, a scientist who has worked at the lab for three decades. "NRL has kept research going here when industry has shut theirs down. Nobody wants to spend money on research, because it won't pay off for 10 years."

The lab began with an offhand remark made by Thomas Edison to a newspaper reporter. What the country needed, the great American inventor told an interviewer in 1915, was an idea factory.

It took eight years and even some lobbying help from Edison to get congressional funding, but in 1923, the lab opened on the site of an annex to the Navy's Bellevue Arsenal, a location that won out over competing proposals from Annapolis and West Orange, N.J.

Peeved that the site near his own lab in New Jersey had not been selected, Edison refused to attend the commissioning ceremony and predicted the lab would develop into a home for incompetent naval officers who would take the work out of the hands of scientists. But within a few years, impressed by the lab's early successes, Edison admitted that his fears were without foundation.

One of those early successes—the discovery of radar—happened more or less by accident in the early 1920s. NRL researchers who were experimenting with radio sent signals across the Potomac to a receiver on Hains Point. "As ship traffic would pass through, they noticed the phenomenon that was radar," said Capt. Bruce Buckley, commanding officer of the NRL. Though the Navy was slow to act on the discovery, the NRL was to play a key role in developing radar for military use.

In the early years, because NRL was off the beaten track, some hardy employees living in Virginia rowed to work across the Potomac. Well into the 1950s, many employees commuted to work on launches that ferried workers from Alexandria and the Washington Navy Yard.

Space exploration became a major part of the lab's operations in the 1940s, when NRL scientists conducted cosmic ray and other experiments by launching captured German V-2 rockets. Many of the most important V-2 experiments were the brainchild of a NRL scientist named Herbert Friedman, a man now considered a space pioneer.

"It was a wonderful opportunity," Friedman, 82, but still active at NRL, recalled recently. "It opened up an entirely new vision of how the sun interacts with the ionosphere."

The lab's most recognizable physical feature, a 50-foot radio telescope atop the headquarters building, was installed in the early 1950s. Though no longer operating, the telescope was used in determining the surface temperatures of Venus, Mars and Jupiter.

Vanguard I, developed by NRL, was launched into orbit in 1958 and is still there; in March, the satellite marked its 40th year in space, by far the record for any man-made satellite.

Civilian scientists at NRL praise the Navy's stewardship of the lab, which operates with about $800 million in annual funding and has around 3,400 employees. "The Navy has kept NRL alive, despite having lots of freaks here, and guys in sandals, and geeks, and you don't know what they'll come up with next," said Borsuk.

Throughout much of NRL's history, the military leadership has been "very quick to support anybody with ideas," said Friedman.

But there is concern at the lab about a growing sentiment in Congress, in the aftermath of the Cold War, against funding research unless it is guaranteed to have concrete results.

"In the past, there weren't [funding problems], but there are pressures outside the military that have made life much more difficult," said Nobel laureate Karle. "It is post-Cold War, but it's accelerating now."

Mr. THURMOND. I ask unanimous consent that the pending amendments be set aside solely for the purpose of adopting a series of amendments which have been agreed to by both sides. I further ask unanimous consent that upon the disposition of this series of cleared amendments, the amendments set aside once again become the pending amendments.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, of course I will not object. I understand that the second unanimous consent agreement would read that upon the disposition of this series of cleared amendments, the amendments set aside once again become the pending business. Is that the Chair's understanding?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. LEVIN. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2738

(Purpose: To reduce amounts authorized to be appropriated under titles I, II, and III and division B in order to reflect savings resulting from revised economic assumptions, and to increase funding for operation and maintenance for the Army National Guard and funding for verification and control technology of the Department of Energy)

Mr. THURMOND. Mr. President, I offer an amendment which would reduce the amounts authorized to be appropriated in the Department of Defense for inflation savings. The amendment also increases readiness funding for the Army National Guard by $120 million and $20 million for arms control in the Department of Energy.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 2738.

The amendment is as follows:

At the end of subtitle A of title X, add the following:

SEC. 1005. REDUCTIONS IN FISCAL YEAR 1998 AUTHORIZATIONS OF APPROPRIATIONS FOR DIVISION A AND DIVISION B AND INCREASES IN CERTAIN AUTHORIZATIONS OF APPROPRIATIONS.

(a) Total Reduction.—Notwithstanding any other provision in this division, amounts authorized to be appropriated under other provisions of this division are reduced in accordance with subsection (b) by the total amount of $421,900,000 in order to reflect savings resulting from revised economic assumptions.

(b) Distribution of Reduction.—

(1) Procurement.—Amounts authorized to be appropriated for procurement under title I are reduced as follows:

(A) Army.—For the Army:

(i) Aircraft.—For aircraft under section 101(1), by $4,000,000.

(ii) Missiles.—For missiles under section 101(2), by $4,000,000.

(iii) Weapons and tracked combat vehicles.—For weapons and tracked combat vehicles under section 101(3), by $4,000,000.

(iv) Ammunition.—For ammunition under section 101(4), by $3,000,000.

(v) Other procurement.—For other procurement under section 101(5), by $9,000,000.

(B) Navy and marine corps.—For the Navy, Marine Corps, or both the Navy and Marine Corps:

(i) Aircraft.—For aircraft under section 102(a)(1), by $22,000,000.

(ii) Weapons.—For weapons, including missiles and torpedoes, under section 102(a)(2), by $4,000,000.

(iii) Shipbuilding and conversion.—For shipbuilding and conversion under section 102(a)(3), by $18,000,000.

(iv) Other procurement.—For other procurement under section 102(a)(4), by $12,000,000.

(v) Marine corps procurement.—For procurement for the Marine Corps under section 102(b), by $2,000,000.

(vi) Ammunition.—For ammunition under section 102(c), by $1,000,000.

(C) Air Force.—For the Air Force:

(i) Aircraft.—For aircraft under section 103(1), by $23,000,000.

(ii) Missiles.—For missiles under section 103(2), by $7,000,000.

(iii) Ammunition.—For ammunition under section 103(3), by $1,000,000.

(iv) Other procurement.—For other procurement under section 103(4), by $17,500,000.

(D) Defense-wide activities.—For the Department of Defense for Defense-wide activities under section 104, by $5,800,000.

(E) Chemical demilitarization program.—For the destruction of lethal chemical agents and munitions and of chemical warfare material under section 107, by $3,000,000.

(2) RDT&E.—Amounts authorized to be appropriated for research, development, test, and evaluation under title II are reduced as follows:

(A) Army.—For the Army under section 201(1), by $10,000,000.

(B) Navy.—For the Navy under section 201(2), by $20,000,000.

(C) Air force.—For the Air Force under section 201(3), by $39,000,000.

(D) Defense-wide activities.—For Defense-wide activities under section 201(4), by $26,700,000.

(3) Operation and maintenance.—Amounts authorized to be appropriated for operation and maintenance under title III are reduced as follows:

(A) Army.—For the Army under section 301(a)(1), by $24,000,000.

(B) Navy.—For the Navy under section 301(a)(2), by $32,000,000.

(C) Marine corps.—For the Marine Corps under section 301(a)(3), by $4,000,000.

(D) Air force.—For the Air Force under section 301(a)(4), by $31,000,000.

(E) Defense-wide activities.—For Defense-wide activities under section 301(a)(6), by $17,600,000.

(F) Army reserve.—For the Army Reserve under section 301(a)(7), by $2,000,000.

(G) Naval reserve.—For the Naval Reserve under section 301(a)(8), by $2,000,000.

(H) Air force reserve.—For the Air Force Reserve under section 301(a)(10), by $2,000,000.

(I) Army national guard.—For the Army National Guard under section 301(a)(11), by $4,000,000.

(J) Air national guard.—For the Air National Guard under section 301(a)(12), by $4,000,000.

(K) Environmental restoration, army.—For Environmental Restoration, Army under section 301(a)(15), by $1,000,000.

(L) Environmental restoration, navy.—For Environmental Restoration, Navy under section 301(a)(16), by $1,000,000.

(M) Environmental restoration, air force.—For Environmental Restoration, Air Force under section 301(a)(17), by $1,000,000.

(N) Environmental restoration, defense-wide.—For Environmental Restoration, Defense-wide under section 301(a)(18), by $1,000,000.

(O) Drug interdiction and counter-drug activities, defense-wide.—For Drug Interdiction and Counter-drug Activities, Defense-wide under section 301(a)(21), by $2,000,000.

(P) Medical programs, defense.—For Medical Programs, Defense under section 301(a)(23), by $36,000,000.

(4) Military construction, army.—Amounts authorized to be appropriated for military construction, Army, under title XXI by section 2104(a) are reduced by $5,000,000, of which $3,000,000 shall be a reduction of support of military family housing under section 2104(a)(5)(B).

(5) Military construction, navy.—Amounts authorized to be appropriated for military construction, Navy, under title XXII by section 2204(a) are reduced by $5,000,000, of which—

(A) $1,000,000 shall be a reduction of construction and acquisition of military family housing under section 2204(a)(5)(A); and

(B) $3,000,000 shall be a reduction of support of military family housing under section 2204(a)(5)(B).

(6) Military construction, air force.—Amounts authorized to be appropriated for military construction, Air Force, under title XXIII by section 2304(a) are reduced by $4,000,000, of which—

(A) $1,000,000 shall be a reduction of construction and acquisition of military family housing under section 2304(a)(5)(A); and

(B) $2,000,000 shall be a reduction of support of military family housing under section 2304(a)(5)(B).

(7) Military construction, defense agencies.—Amounts authorized to be appropriated for military construction, Defense Agencies, under title XXIV by section 2404(a) are reduced by $6,300,000, of which $5,000,000 shall be a reduction of defense base closure and realignment under section 2404(a)(10), of which—

(A) $1,000,000 shall be a reduction of defense base closure and realignment, Army;

(B) $2,000,000 shall be a reduction of defense base closure and realignment, Navy; and

(C) $2,000,000 shall be a reduction of defense base closure and realignment, Air Force.

(8) North atlantic treaty organization security investment program.—Amounts authorized to be appropriated for contributions to the North Atlantic Treaty Organization Security Investment program under title XXV by section 2502 are reduced by $1,000,000.

(c) Proportionate Reductions Within Accounts.—The amount provided for each budget activity, budget activity group, budget subactivity group, program, project, or activity under an authorization of appropriations reduced by subsection (b) is hereby reduced by the percentage computed by dividing the total amount of that authorization of appropriations (before the reduction) into the amount by which that total amount is so reduced.

(d) Increase in Certain Authorizations of Appropriations.—

(1) Operation and maintenance, army national guard.—The amount authorized to be appropriated by section 301(a)(11), as reduced by subsection (b)(3)(I), is increased by $120,000,000.

(2) Other defense programs, department of energy.—The amount authorized to be appropriated by section 3103 is increased by $20,000,000, which amount shall be available for intelligence for verification and control technology under paragraph (1)(C) of that section.

Mr. THURMOND. Mr. President, I believe this amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared, Mr. President. We support the amendment.

Mr. THURMOND. Mr. President, I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is agreed to.

The amendment (No. 2738) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2739

(Purpose: To provide increases in the monthly rates of hazardous duty pay for aerial flight crewmembers in grades E–4 through E–9 that are comparable to the increases that took effect in the rates of such pay for other grades in fiscal year 1998)

Mr. LEVIN. Mr. President, on behalf of Senator Biden, I offer an amendment that would increase hazardous duty incentive pay for certain enlisted personnel.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. Levin], for Mr. Biden, proposes an amendment numbered 2739.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle B of title VI, add the following:

SEC. 620. INCREASED HAZARDOUS DUTY PAY FOR AERIAL FLIGHT CREWMEMBERS IN PAY GRADES E–4 TO E–9.

(a) RATES.—The table in section 301(b) of title 37, United States Code, is amended by striking out the items relating to pay grades E–4, E–5, E–6, E–7, E–8, and E–9, and inserting in lieu thereof the following:

"E–9	240
E–8	240
E–7	240
E–6	215
E–5	190
E–4	165".

(b) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

Mr. BIDEN. Mr. President, I rise to speak about an indispensable group of people in our military. Mid- and senior level enlisted air crew men and women are critical to America's military and need to be properly compensated for their valuable service. Last year's Defense Authorization bill included a provision to adjust hazardous duty incentive pay upward by $50 for E–1 to E–3 enlisted air crew personnel and upward by $25 for E–4 air crew personnel. All other enlisted personnel and officers eligible for hazardous duty incentive pay also received an upward adjustment. Unfortunately, E–5 to E–9 air crew personnel were not included in this adjustment.

My amendment provides that $40 increase in hazardous duty incentive pay for the E–5 to E–9 air crew personnel and adds $15 to the increase given to E–4 air crew personnel as of this year.

I thank the managers of this bill, Senator THURMOND and Senator LEVIN, for their support of this important amendment and for their unflagging efforts every year to help the dedicated men and women in our armed services.

It is crucial that we show our appreciation for America's dedicated mid- and senior level enlisted personnel. They provide vital experience in all of the military's flying missions. They are also in demand in the private sector. Commercial airlines are willing to pay for well-trained and experienced flight crews. One look at the missions being flown by U.S. armed forces, from Bosnia to the Persian Gulf to the Korean Peninsula, shows how indispensable experienced air crews are to the defense of U.S. national interests. We cannot afford to keep losing these seasoned professionals.

My amendment is one step toward addressing the problem now—letting these experienced aircrew personnel know that as our armed forces continue to work at a high operations tempo we value their unique and indispensable contribution to America's national interests.

I yield the floor.

Mr. LEVIN. I believe this amendment has been cleared by the other side.

Mr. THURMOND. Mr. President, the amendment has been cleared.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no objection to the amendment, without objection, the amendment is agreed to.

The amendment (No. 2739) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2449

(Purpose: To authorize the transfer of naval vessels to certain foreign countries)

Mr. THURMOND. Mr. President, I call up amendment 2449 which would replace section 1013 of the bill regarding ship transfers to foreign countries. This amendment provides country and ship names for ships available for transfer to foreign countries.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 2449.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment is as follows:

Strike section 1013 of the bill and insert the following:

SEC. 1013. TRANSFERS OF CERTAIN NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) AUTHORITY.—

(1) ARGENTINA.—The Secretary of the Navy is authorized to transfer to the Government of Argentina on a grant basis the tank landing ship Newport (LST 1179).

(2) BRAZIL.—The Secretary of the Navy is authorized to transfer vessels to the Government of Brazil as follows:

(A) On a sale basis, the Newport class tank landing ships Cayuga (LST 1186) and Peoria (LST 1183).

(B) On a combined lease-sale basis, the Cimarron class oiler Merrimack (AO 179).

(3) CHILE.—The Secretary of the Navy is authorized to transfer vessels to the Government of Chile on a sale basis as follows:

(A) The Newport class tank landing ship San Bernardino (LST 1189).

(B) The auxiliary repair dry dock Waterford (ARD 5).

(4) GREECE.—The Secretary of the Navy is authorized to transfer vessels to the Government of Greece as follows:

(A) On a sale basis, the following vessels:

(i) The Oak Ridge class medium dry dock Alamogordo (ARDM 2).

(ii) The Knox class frigates Vreeland (FF 1068) and Trippe (FF 1075).

(B) On a combined lease-sale basis, the Kidd class guided missile destroyers Kidd (DDG 993), Callaghan (DDG 994), Scott (DDG 995) and Chandler (DDG 996).

(C) On a grant basis, the following vessels:

(i) The Knox class frigate Hepburn (FF 1055).

(ii) The Adams class guided missile destroyers Strauss (DDG 16), Semmes (DDG 18), and Waddell (DDG 24).

(5) MEXICO.—The Secretary of the Navy is authorized to transfer to the Government of Mexico on a sale basis the auxiliary repair dry dock San Onofre (ARD 30) and the Knox class frigate Pharris (FF 1094).

(6) PHILIPPINES.—The Secretary of the Navy is authorized to transfer to the Government of the Philippines on a sale basis the Stalwart class ocean surveillance ship Triumph (T-AGOS 4).

(7) PORTUGAL.—The Secretary of the Navy is authorized to transfer to the Government of Portugal on a grant basis the Stalwart class ocean surveillance ship Assurance (T-AGOS 5).

(8) SPAIN.—The Secretary of the Navy is authorized to transfer to the Government of Spain on a sale basis the Newport class tank landing ships Harlan County (LST 1196) and Barnstable County (LST 1197).

(9) TAIWAN.—The Secretary of the Navy is authorized to transfer vessels to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) on a sale basis as follows:

(A) The Knox class frigates Peary (FF 1073), Joseph Hewes (FF 1078), Cook (FF 1083), Brewton (FF 1086), Kirk (FF 1087) and Barbey (FF 1088).

(B) The Newport class tank landing ships Manitowoc (LST 1180) and Sumter (LST 1181).

(C) The floating dry dock Competent (AFDM 6).

(D) The Anchorage class dock landing ship Pensacola (LSD 38).

(10) TURKEY.—The Secretary of the Navy is authorized to transfer vessels to the Government of Turkey as follows:

(A) On a sale basis, the following vessels:

(i) The Oliver Hazard Perry class guided missile frigates Mahlon S. Tisdale (FFG 27), Reid (FFG 30) and Duncan (FFG 10).

(ii) The Knox class frigates Reasoner (FF 1063), Fanning (FF 1076), Bowen (FF 1079), McCandless (FF 1084), Donald Beary (FF 1085), Ainsworth (FF 1090), Thomas C. Hart (FF 1092), and Capodanno (FF 1093).

(B) On a grant basis, the Knox class frigates Paul (FF 1080), Miller (FF 1091), W.S. Simms (FF 1059).

(11) VENEZUELA.—The Secretary of the Navy is authorized to transfer to the Government of Venezuela on a sale basis the unnamed medium auxiliary floating dry dock AFDM 2.

(b) BASIS OF TRANSFER.—

(1) GRANT.—A transfer of a naval vessel authorized to be made on a grant basis under subsection (a) shall be made under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(2) SALE.—A transfer of a naval vessel authorized to be made on a sale basis under subsection (a) shall be made under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(3) COMBINED LEASE-SALE.—(A) A transfer of a naval vessel authorized to be made on a combined lease-sale basis under subsection (a) shall be made under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796 and 2761, respectively) in accordance with this paragraph.

(B) For each naval vessel authorized by subsection (a) for transfer on a lease-sale basis, the Secretary of the Navy is authorized to transfer the vessel under the terms of a lease, with lease payments suspended for the term of the lease, if the country entering into the lease of the vessel simultaneously enters into a foreign military sales agreement for the transfer of title to the leased vessel. Delivery of title to the purchasing country shall not be made until the purchase price of the vessel has been paid in full. Upon delivery of title to the purchasing country, the lease shall terminate.

(C) If the purchasing country fails to make full payment of the purchase price by the date required under the sales agreement, the sales agreement shall be immediately terminated, the suspension of lease payments under the lease shall be vacated, and the United States shall retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date. No interest shall be payable to the recipient by the United States on any amounts that are paid to the United States by the recipient under the sales agreement and are not retained by the United States under the lease.

(c) Requirement for Provision in Advance in an Appropriations Act.—Authority to transfer vessels on a sale or combined lease-sale basis under subsection (a) shall be effective only to the extent that authority to effectuate such transfers, together with appropriations to cover the associated cost (as defined in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a)), are provided in advance in an appropriations Act.

(d) Notification of Congress.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress, for each naval vessel that is to be transferred under this section before January 1, 1999, the notifications required under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) and section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2413).

(e) Grants not Counted in Annual Total of Transferred Excess Defense Articles.—The value of the naval vessels authorized by subsection (a) to be transferred on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) shall not be counted for the purposes of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(f) Costs of Transfers.—Any expense of the United States in connection with a transfer authorized by subsection (a) shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(g) Repair and Refurbishment in United States Shipyards.—The Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(h) Expiration of Authority.—The authority to transfer a vessel under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2449) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2740

(Purpose: To revise and clarify the authority for Federal support of National Guard drug interdiction and counterdrug activities)

Mr. LEVIN. Mr. President, on behalf of Senators Ford, Bond, Lott and Grassley, I offer an amendment which would authorize the expansion of counterdrug activities currently performed by the National Guard.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. Levin], for Mr. Ford, Mr. Bond, Mr. Lott, and Mr. Grassley, proposes an amendment numbered 2740.

The amendment is as follows:

At the end of subtitle D of title III, insert the following:

SEC. ____. REVISION AND CLARIFICATION OF AUTHORITY FOR FEDERAL SUPPORT OF NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

(a) Procurement of Equipment.—Subsection (a)(3) of section 112 of title 32, United States Code, is amended by striking out "and leasing of equipment" and inserting in lieu thereof "and equipment, and the leasing of equipment,".

(b) Training and Readiness.—Subsection (b)(2) of such section is amended to read as follows:

"(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities.

"(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.".

(c) Assistance to Youth and Charitable Organizations.—Subsection (b)(3) of such section is amended to read as follows:

"(2) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

"(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

"(B) in the case of services, the provision of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

"(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.".

(d) Definition of Drug Interdiction and Counter-drug Activities.—Subsection (i)(1) of such section is amended by inserting after "drug interdiction and counter-drug law enforcement activities" the following: ", including drug demand reduction activities,".

Mr. FORD. Mr. President, I'm offering this amendment for myself and my Co-Chairman of the Senate National Guard Caucus, Senator Bond, along with Senators Lott, Stevens and Grassley.

Last year conferees added language to the Fiscal Year 1998 Defense Authorization bill requiring all counter-drug missions conducted by National Guard units to comply with section 2012 of Title 10 and section 508 of Title 32. Before these changes, National Guard men and women supported Federal, State and Local law enforcement agencies in a wide variety of ways from transcription and translation of DEA wiretaps to aerial and ground thermal imaging of suspected indoor marijuana growing to maintaining listening and Observation posts along the Southwest Border. But because of changes in last year's bill, National Guard members now can only participate in counter drug missions if the mission contributes to their military speciality skills or MOS. For example, this means a member of National Guard whose MOS is a radio specialist could only work in that speciality or if an airman is a mechanic he or she could only repair an airplane!

You won't find anyone in the Guard Bureau or the Department of Defense who has ever claimed that counter-drug duty has a negative impact on the training and readiness of National Guard personnel. In fact, there's empirical evidence that counter-drug duty enhances the military readiness of National Guard personnel. And because counter-drug duty is in addition to the required readiness training, it adds no extra readiness training costs. Our amendment will correct this problem, deleting the provisions added in the Fiscal Year 1998 bill, and allowing the National Guard to continue this supportive role in federal, state and local drug demand reduction, as well as interdiction missions.

The amendment would also clarify how National Guard personnel can be used in counter-drug activity when providing support to certain youth and charitable organizations. Our amendment would amend the definition of drug interdiction and counter-drug activities to specify that such activities include drug demand reduction activities. By providing support to youth and charitable organizations as part of state counter-drug activities, demand reduction has been part of the National

Guard program since its inception and has had the approval of the Secretary of Defense. Language in last year's Defense Authorization bill presented major problems in the Guard's ability to interact with these groups.

Our amendment also says that federal funds provided to a state for counter-drug activity can be used to procure or lease equipment. Current law authorizes leasing, but precludes the procurement of equipment. This forces states to lease equipment even though it would be more cost effective to purchase the equipment. Examples of equipment that would be more cost effective to purchase then lease would be Night Vision goggles, Infrared I.D. equipment and Range Finders.

Mr. President, these are just the highlights of the major provisions of this amendment. I ask unanimous consent that a section by section explanation of this amendment be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. FORD. In closing, I want to tell the members of the Armed Services Committee and their staffs how much I appreciate their consideration and willingness to accept this amendment. I know they'll do the best they can to assure this amendment remains in the final bill.

EXHIBIT 1.

SECTION-BY-SECTION ANALYSIS

Subsection (a) would specify that Federal Funds provided to a State under a State plan can be used to procure or lease equipment for the National Guard to use in support of drug interdiction and counter-drug activities. A strict interpretation of the current statutory language would authorize the leasing, but preclude the procurement, of equipment necessary to carry out the purposes of the statute. Such an interpretation would impose unnecessary expenses on the program because it would force states to lease equipment in situations where procuring equipment would be more cost effective. This interpretation would also prevent participation in authorized support missions when necessary equipment cannot be leased. The statute needs to be clarified to ensure that States have flexibility in deciding whether to lease or purchase equipment based on considerations of economy and determinations of necessity.

Subsection (b) would eliminate the provision in paragraph (b)(2) of section 112 that provides that units and personnel of the National Guard can only perform drug interdiction and counter-drug activities that comply with the requirements of section 2012(d) of title 10, United States Code. Paragraph (b)(2) was enacted as part of the Department of Defense Authorization Act for fiscal year 1998 (public law 105-85) to ensure that the use of units and personnel of the National Guard pursuant to a State drug interdiction and counter-drug activities plan is not detrimental to their training and readiness. However, the restrictions in section 2012(d) are not tailored to address the unique nature of the National Guard drug interdiction and counter-drug program. National Guard personnel may derive readiness and preparedness benefits from their participation in activities under section 112, but such activities are in addition to, not in lieu of, required training. If this provision is enacted, National Guard personnel on extended Counterdrug orders will not lose any benefits while performing their required IDT and Annual Training requirements.

Subsection (b) would also facilitate the accomplishment of training, by adding a new provision to enable National Guard members on extended tours of duty in the drug interdiction and counter-drug program to participate in required IDT and AT with their units without breaking their orders for counter-drug duty. During such training periods, covered individuals would be entitled to the same pay and benefits which they would otherwise receive if continuously performing duty for the purpose of carrying out drug interdiction and counter-drug activities. This will ensure that these individuals, while performing AT, do not lose any of the benefits associated with the longer period of counter-drug duty. This will also clarify that such individuals, while performing IDT, are entitled to pay associated with full-time National Guard duty, but not additional drill pay.

Subsection (c) would clarify and revise the provision in subsection (b)(3) of section 112 that makes the restrictions in section 508 of title 32 applicable to situations in which units or members of the National Guard are used, pursuant to a State drug interdiction and counter-drug activities plan, to provide support to certain youth and charitable organizations. Under subsections (a)(3) and (a)(4) of section 508, services cannot be provided to eligible organizations unless the provision of such services enhances military skills and does not result in a significant increase in the cost of training. Because counter-drug activities are not incidental to training, but are in addition to training, these restrictions present a problem. The proposed revision would eliminate these restrictions, but would continue to make the other provisions in section 508 applicable to situations in which services or assistance are provided to an eligible organization as part of a state counter-drug activities plan.

Subsection (d) would amend the definition of drug interdiction and counter-drug activities to specify that such activities for purposes of section 112 include drug demand reduction activities. Although drug demand reduction has been part of the activities carried out under section 112 since the inception of the program, the statute needs to be clarified to specifically include such activities to avoid confusion that results from a strict interpretation of the statute. Like any other counter-drug activities, proposed drug demand reduction activities must have a law enforcement nexus in order to be acceptable under a State plan.

Mr. LEVIN. Mr. President, I believe the other side has cleared this amendment.

Mr. THURMOND. Mr. President, the amendment has been cleared.

The PRESIDING OFFICER. Is there further debate on the amendment? Without objection, the amendment is agreed to.

The amendment (No. 2740) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2741

(Purpose: To establish additional requirements relating to the relocation of Federal frequencies)

Mr. THURMOND. Mr. President, I offer an amendment which would ensure that private sector bidders for the electromagnetic frequency spectrum are provided all relevant information regarding the costs that they will incur as a result of purchasing that spectrum.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 2741.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment is as follows:

On page 264, strike out line 17 and insert in lieu thereof the following:

striking out the second, third, and fourth sentences and inserting in lieu thereof the following: "Any such Federal entity which proposes to so relocate shall notify the NTIA, which in turn shall notify the Commission, before the auction concerned of the marginal costs anticipated to be associated with such relocation or with modifications necessary to accommodate prospective licensees. The Commission in turn shall notify potential bidders of the estimated relocation or modification costs based on the geographic area covered by the proposed licenses before the auction.";

On page 266, strike out line 7 and insert in lieu thereof the following:

trum.

"(E) IMPLEMENTATION PROCEDURES.—The NTIA and the Commission shall develop procedures for the implementation of this paragraph, which procedures shall include a process for resolving any differences that arise between the Federal Government and commercial licensees regarding estimates of relocation or modification costs under this paragraph.

"(F) INAPPLICABILITY TO CERTAIN RELOCATIONS.—With the exception of spectrum located at 1710–1755 Megahertz, the provisions of this paragraph shall not apply to Federal spectrum identified for reallocation in the first reallocation report submitted to the President and Congress under subsection (a).".

(d) REPORTS ON COSTS OF RELOCATIONS.—The head of each department or agency of the Federal Government shall include in the annual budget submission of such department or agency to the Director of the Office of Management and Budget a report assessing the costs to be incurred by such department or agency as a result of any frequency relocations of such department or agency that are anticipated under section 113 of the National Telecommunications Information Administration Organization Act (47 U.S.C. 923) as of the date of such report.

Mr. THURMOND. Mr. President, I believe this amendment has been cleared by the other side.

I urge the amendment be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2741) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2742

(Purpose: To prohibit members of the Armed Forces from entering into correctional facilities to present decorations to persons who commit certain crimes before being presented such decorations)

Mr. LEVIN. Mr. President, on behalf of Senator FEINSTEIN, I offer an amendment that would prohibit members of the Armed Forces from presenting a military award to any person in prisons or correctional facilities.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mrs. FEINSTEIN, proposes an amendment numbered 2742.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle C of title V, add the following:

SEC. 531. PROHIBITION ON ENTRY INTO CORRECTIONAL FACILITIES FOR PRESENTATION OF DECORATIONS TO PERSONS WHO COMMIT CERTAIN CRIMES BEFORE PRESENTATION.

(a) PROHIBITION.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following:

"§ 1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations

"(a) PROHIBITION.—No member of the armed forces may enter into a Federal, State, or local correctional facility for purposes of presenting a decoration to a person who has been convicted of a serious violent felony.

"(b) DEFINITIONS.—In this section:

"(1) The term 'decoration' means any decoration or award that may be presented or awarded to a member of the armed forces.

"(2) The term 'serious violent felony' has the meaning given that term in section 3359(c)(2)(F) of title 18.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end the following:

"1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations.".

Mr. LEVIN. I believe the amendment has been cleared by the other side.

Mr. THURMOND. Mr. President, it has been agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2742) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2743

(Purpose: To make technical amendments relating to military construction projects)

Mr. THURMOND. Mr. President, on behalf of myself and Senator LEVIN, I offer an amendment which makes certain technical corrections relating to several military construction projects incorrectly identified in the bill. The technical corrections will have no funding implications.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. LEVIN, proposes an amendment numbered 2743.

The amendment is as follows:

On page 296, in the table following line 10, strike out the item relating to Fort Dix, New Jersey.

On page 296, in the table following line 10, strike out the item relating to Camp Dawson, West Virginia.

On page 296, in the table following line 10, strike out "$627,007,000" in the amount column in the item relating to the total and insert in lieu thereof "$604,681,000".

On page 298, line 19, strike out "$2,005,630,000" and insert in lieu thereof "$1,983,304,000".

On page 298, line 22, strike out "$539,007,000" and insert in lieu thereof "$516,681,000".

On page 302, in the table following line 23, strike out the item relating to Naval Air Station, Atlanta, Georgia.

On page 302, in the table following line 23, strike out "$39,310,000" in the amount column of the item relating to Naval Shipyard, Pearl Harbor, Hawaii, and insert in lieu thereof "$11,400,000".

On page 302, in the table following line 23, insert after the item relating to Navy Public Works Center, Pearl Harbor, Hawaii, the following new items:

Fleet and Industrial Supply Center, Pearl Harbor	$9,730,000
Naval Station, Pearl Harbor	$18,180,000

On page 302, in the table following line 23, strike out "$446,984,000" in the amount column of the item relating to the total and insert in lieu thereof "$442,884,000".

On page 305, line 16, strike out "$1,741,121,000" and insert in lieu thereof "$1,737,021,000".

On page 305, line 19, strike out "$433,484,000" and insert in lieu thereof "$429,384,000".

On page 307, in the table following line 16, strike out the item relating to McChord Air Force Base, Washington.

On page 307, in the table following line 16, strike out "$469,265,000" in the amount column in the item relating to the total and inserting in lieu thereof "$465,865,000".

On page 310, line 17, strike out "$1,652,734,000" and insert in lieu thereof "$1,649,334,000".

On page 310, line 21, strike out "$469,265,000" and insert in lieu thereof "$465,865,000".

On page 320, line 25, strike out "$95,395,000" and insert in lieu thereof "$108,990,000".

On page 321, line 1, strike out "$107,378,000" and insert in lieu thereof "$116,109,000".

On page 321, line 3, strike out "$15,271,000" and insert in lieu thereof "$19,371,000".

On page 321, line 8, strike out "$20,225,000" and insert in lieu thereof "$23,625,000".

Mr. THURMOND. I believe this amendment has been cleared by the other side.

Mr. LEVIN. Mr. President, we have cleared this amendment.

Mr. THURMOND. I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2743) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2744

(Purpose: To waive time limitations for award of the Distinguished-Service Cross and Distinguished-Service Medal to certain persons)

Mr. THURMOND. Mr. President, on behalf of Senators KEMPTHORNE, CLELAND and AKAKA, I offer an amendment that would waive the time limits for award of the Distinguished Service Cross and Distinguished Service Medal to certain persons. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. KEMPTHORNE, for himself, Mr. CLELAND and Mr. AKAKA proposes an amendment numbered 2744.

The amendment is as follows:

Beginning on page 108, strike out line 21 and all that follows through "(b) APPLICABILITY OF WAIVER.—" on page 109, line 4, and insert in lieu thereof the following:

SEC. 530. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO CERTAIN PERSONS.

(a) WAIVER.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in this section, the award of each such decoration having been determined by the Secretary of the military department concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) DISTINGUISHED-SERVICE CROSS.—Subsection (a) applies to award of the Distinguished-Service Cross of the Army as follows:

(1) To Isaac Camacho of El Paso, Texas, for extraordinary heroism in actions at Camp Hiep Hoa in Vietnam on November 24, 1963, while serving as a member of the Army.

(2) To Bruce P. Crandall of Mesa, Arizona, for extraordinary heroism in actions at Landing Zone X-Ray in Vietnam on November 14, 1965, while serving as a member of the Army.

(3) To Leland B. Fair of Jessieville, Arkansas, for extraordinary heroism in actions in the Philippine Islands on July 4, 1945, while serving as a member of the Army.

(c) DISTINGUISHED-SERVICE MEDAL.—Subsection (a) applies to award of the Distinguished-Service Medal of the Army to Richard P. Sakakida of Fremont, California, for exceptionally meritorious service while a prisoner of war in the Philippine Islands from May 7, 1942, to September 14, 1945, while serving as a member of the Army.

(d) DISTINGUISHED FLYING CROSS.—

Mr. AKAKA. Mr. President, I am very pleased to be joining Senator KEMPTHORNE and Senator CLELAND, chairman and ranking member of the Subcommittee on Personnel, in offering an amendment to the 1999 Defense Authorization Act that would waive current statutory time limitations for award of the Distinguished Service Cross, Distinguished Flying Cross, and the Distinguished Service Medal to certain deserving veterans.

Mr. President, I am especially pleased that this amendment will enable the Department of the Army to award the Distinguished Service Medal (DSM), our third-highest award after the Medal of Honor and Distinguished Service Cross, to the late Lt. Colonel Richard Motoso Sakakida of Fremont, California. The award would honor Colonel Sakakida's meritorious service as an Army intelligence officer and undercover agent in the Philippines during World War II.

Colonel Sakakida, a second-generation Japanese American and former Hawaii native, was recruited by Army military intelligence well before the attack on Pearl Harbor to conduct undercover activities in the Philippines. Then-Sergeant Sakakida served in the Philippines from 1941 to 1945, first as a covert operative spying on the Japanese community, subsequently as a military intelligence staffer for General MacArthur, and still later, after giving up a seat on an escape aircraft to a fellow nisei, as the only Japanese American prisoner of war captured by the Japanese during that conflict.

While a POW, Sakakida was subjected to severe torture—beatings, dislocation of his shoulders, and cigarette burns—by the feared Japanese secret police, the *kempeitai*, without revealing his covert status. After gaining the trust of his captors and assigned menial tasks in the Judge Advocate's office of the Japanese 14th Army, he was able to purloin vital military intelligence, including information on troop movements. He reported this information to General MacArthur's headquarters in Australia via a secret courier service that he helped establish comprising Filipino guerrillas. Some of the information he conveyed to the Allies in this way may have contributed to the destruction of a Japanese naval task force.

He also took advantage of his position to aid secretly a number of Allied prisoners of war who were being held there for trial for attempting to escape; Sakakida smuggled food to them and imaginatively interpreted for them during their trials. One of these men, a naval officer who would later become an Oklahoma supreme court justice, asserted that he escaped execution only through Sakakida's intervention and assistance during his trial.

During this period, Sakakida engaged in perhaps his most daring exploit, the jailbreak of hundreds of Filipino guerrillas from a Japanese prison. Disguised in a stolen Japanese officer's uniform, he managed to free the guerrilla leader Ernest Tupas and hundreds of other imprisoned fighters, who later augmented his intelligence pipeline to MacArthur. Yet, despite the opportunity for escape that was offered on this and other occasions, Sakakida chose to remain a prisoner of war in order to continue his undercover work.

After American forces invaded the Philippines, Sakakida escaped from the retreating Japanese forces at Baguio. During a firefight between American and Japanese troops, he suffered shrapnel wounds in the stomach. For the next several months Sakakida wandered alone in the jungle, living off the land, debilitated by his injuries. He finally happened upon American troops, whom he eventually convinced of his identity. At that point, he was informed that the war was over.

After the war, Sakakida served with the War Crimes Tribunal, obtaining information on war crimes committed by the Japanese in the Philippines. He later transferred to the Air Force, where he led a long and distinguished career with the Office of Special Investigations.

Mr. President, aside from a Purple Heart Award and Prisoner of War Medal, Colonel Sakakida has yet to be honored with an official U.S. military decoration for his amazing service in the Philippines. There are a number of reasons for this oversight, but most are attributable to the official secrecy surrounding his work, which prevented his story from being recognized for what it was until it was too late to consider him for an appropriate decoration. When his accomplishments at last came to light at a veterans convention in 1991, some of Sakakida's supporters, including myself, sought to have him considered for a high award for valor; however, the Army refused to consider any award applications in Sakakida's behalf on the basis that the statutory application deadlines for these awards had expired.

After numerous failed attempts to waive these rules, an opportunity recently presented itself to seek equity for Sakakida under a new provision of law (section 526 of Public Law 104–106) that requires the military services to review the merits of an application for an award, regardless of any statutory time restrictions, if a member of Congress submits such an application. Under the measure, if the military determines that such an award is merited, it may request a waiver from Congress to make the award.

Last March, pursuant to section 526, I asked the Army to review Sakakida's record to determine if he deserved the DSM. In May, the Army responded positively to the request and officially recommended that Congress grant the late veteran a waiver from all time limits pertaining to the award. The amendment that Senator KEMPTHORNE, Senator CLELAND, and I are offering would effectively grant this waiver, clearing the way for the Army to confer the DSM on this amazing individual.

Mr. President, for the late Colonel Sakakida and his wife Cherry, this day has been long in the making. I urge my colleagues to support this amendment to ensure that a true American hero can receive his due, albeit posthumously. This award means a great deal not only to his widow, but to the entire Japanese American community and all those who honor military service to their country.

Should this amendment become law, I would like to recognize the many nisei veterans, including members of the all-nisei Military Intelligence Service, and other supporters whose enthusiasm sustained Sakakida's case. I would also like to single out the efforts of three individuals without whose hard work the Army would never have considered Sakakida's case: Wayne Kiyosaki, who wrote the definitive biography of Colonel Sakakida; Ted Tsukiyama, who served as a key historical resource; and, most importantly, Colonel Harry Fukuhara, whose tireless advocacy in behalf of the late hero reflects his own dedicated service to his nation.

Mr. President, I appreciate the assistance of Senator KEMPTHORNE, Senator CLELAND, and Charlie Abell of the Personnel Subcommittee staff for their support and guidance on this matter. I eagerly await the day when Colonel Sakakida's accomplishments are officially recognized by the U.S. Army.

Mr. THURMOND. I urge the adoption of the amendment.

Mr. LEVIN. The amendment has been cleared by this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2744) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2745

(Purpose: To reduce the authority in section 1012 to enter into long-term charters for three vessels in support of submarine rescue, escort, and towing)

Mr. THURMOND. Mr. President, on behalf of Senator WARNER, I offer an amendment which authorizes the Navy to enter into charter agreements for up to 5 years for three vessels used in support of submarine rescue, escort and towing. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. WARNER, proposes an amendment numbered 2745.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment is as follows:

Strike out section 1012, and insert in lieu thereof the following:

SEC. 1012. LONG-TERM CHARTER OF THREE VESSELS IN SUPPORT OF SUBMARINE RESCUE, ESCORT, AND TOWING.

(a) AUTHORITY.—The Secretary of the Navy may to enter into one or more long-term charters in accordance with section 2401 of title 10, United States Code, for three vessels to support the rescue, escort, and towing of submarines.

(b) VESSELS.—The vessels that may be chartered under subsection (a) are as follows:

(1) The Carolyn Chouest (United States official number D102057).

(2) The Kellie Chouest (United States official number D1038519).

(3) The Dolores Chouest (United States official number D600288).

(c) CHARTER PERIOD.—The period for which a vessel is chartered under subsection (a) may not extend beyond October 1, 2004.

(d) FUNDING.—The funds used for charters entered into under subsection (a) shall be funds authorized to be appropriated under section 301(a)(2).

Mr. LEVIN. The amendment has been cleared on this side.

Mr. THURMOND. The amendment has been cleared. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2745) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2746

(Purpose: To broaden the eligibility for diving duty special pay to include personnel who maintain proficiency as a diver while serving in a position for which diving is a nonprimary duty)

Mr. THURMOND. Mr. President, on behalf of Senator McCAIN, I offer an amendment that would broaden the eligibility for giving special duty pay in the Navy. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. McCAIN proposes an amendment numbered 2746.

The amendment is as follows:

At the end of subtitle B of title VI, add the following:

SEC. 620. DIVING DUTY SPECIAL PAY FOR DIVERS HAVING DIVING DUTY AS A NONPRIMARY DUTY.

(a) ELIGIBILITY FOR MAINTAINING PROFICIENCY.—Section 304(a)(3) of title 37, United States Code, is amended to read as follows:

"(3) either—

"(A) actually performs diving duty while serving in an assignment for which diving is a primary duty; or

"(B) meets the requirements to maintain proficiency as described in paragraph (2) while serving in an assignment that includes diving duty other than as a primary duty.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

Mr. McCAIN. Mr. President, I rise today to offer an amendment that authorizes the Department of Defense to continue "Special Pay: Diving Duty" for Career Divers in assignments where diving is performed as a non-primary duty.

This amendment will allow the services to continue dive pay for individual career divers who maintain diving currency while serving in critical shore and staff assignments in execution of "duty of diving" orders.

The services plan, as a part of the FY00 legislative review process, to incorporate this clear policy regarding dive pay. The Navy intends, in FY99, to terminate dive pay for divers on shore and staff duty pending legislative clarification. Terminating this pay for the intervening year would alienate each and every service member affected. It also makes no sense.

Accepting this amendment will be cost neutral. It simply allows the services to continue paying these critical personnel in the same manner as they are currently being paid. In fact, as in previous years, the FY 1999 Presidential Budget Request includes the funds for this special pay.

The costs associated with rejecting this amendment are much more dear. It will cost 4.5 times more to retrain career divers whose qualifications expire than it would to have those same personnel maintain currency. Additionally—and more importantly—terminating this pay for Army divers, Navy SEALs, Explosive Ordnance Disposal personnel and Air Force Para-rescue members, will take money out of the pockets of the very highly skilled personnel that the services are desperately struggling to retain.

Mr. President, this amendment provides a simple, fiscally smart solution to maintaining critical diving skills for our armed services, and at the same time, sends a positive message to our service personnel. I urge my colleagues to support this critical amendment.

Mr. THURMOND. Mr. President, I urge the Senate adopt the amendment.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2746) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2747

(Purpose: To authorize the Secretary of the Navy to enter into multiyear contracts under certain aircraft procurement programs)

Mr. THURMOND. Mr. President, on behalf of Senators COATS and GLENN, I offer an amendment which would provide authority for the Department of Defense to enter into multiyear contracts for the T-45, E-2C, and AV-8B aircraft. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. COATS, for himself and Mr. GLENN, proposes an amendment numbered 2747.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment is as follows:

At the end of subtitle C of title I, add the following:

SEC. 124. MULTIYEAR PROCUREMENT AUTHORITY FOR CERTAIN AIRCRAFT PROGRAMS.

Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into multiyear contracts for the procurement of the following aircraft:

(1) The AV–8B aircraft.

(2) The E–2C aircraft.

(1) The T–45 aircraft.

Mr. COATS. Mr. President, the administration has requested authority to enter into multi year contract on these three aircraft. Multi-year procurement of these three aircraft is cost effective and has the commitment of the Department of Defense. I support the initiative as a prudent step to ensure we have efficient acquisition of mature defense systems.

Mr. LEVIN. The amendment has been cleared on this side.

Mr. THURMOND. I urge the amendment be adopted.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2747) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2748

(Purpose: To transfer $15,895,000 between Navy authorizations for the remote minehunting system program)

Mr. THURMOND. On behalf of Senator WARNER, I offer an amendment which authorizes a realignment of funds from Other Procurement, Navy, to Research, Development, Test and Evaluation, Navy, in the fiscal year 1999 remote minehunting system program.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. WARNER, proposes an amendment numbered 2748.

The amendment is as follows:

On page 14, line 16, reduce the amount by $15,895,000.

On page 29, line 2, increase the amount by $15,895,000.

Mr. THURMOND. I believe this amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2748) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2749

(Purpose: To modify the authority relating to the Department of Defense Laboratory Revitalization Demonstration Program)

Mr. THURMOND. Mr. President, on behalf of myself, Senator LEVIN, SANTORUM and LIEBERMAN, I offer an amendment which would extend the authority relating to the Department of Defense Laboratory Revitalization Demonstration Program for 5 years.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. LEVIN, Mr. SANTORUM and Mr. LIEBERMAN, proposes an amendment numbered 2749.

The amendment is as follows:

On page 347, below line 23, add the following:

SEC. 2833. MODIFICATION OF AUTHORITY RELATING TO DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) PROGRAM REQUIREMENTS.—Subsection (c) of section 2892 of the National Defense Authorization for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 590; 10 U.S.C. 2805 note) is amended to read as follows:

"(c) PROGRAM REQUIREMENTS.—(1) Not later than 30 days before commencing the program, the Secretary shall establish procedures for the review and approval of requests from Department of Defense laboratories for construction under the program.

"(2) The laboratories at which construction may be carried out under the program may not include Department of Defense laboratories that are contractor-owned.".

(b) REPORT.—Subsection (d) of that section is amended to read as follows:

"(d) REPORT.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendation regarding the desirability of making the authority set forth under subsection (b) permanent.".

(c) EXTENSION.—Subsection (g) of that section is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2003".

Mr. THURMOND. Mr. President, I rise to introduce an amendment that would extend by five years the Department of Defense Laboratory Revitalization Demonstration Program. I am pleased to be joined by Senators LEVIN, SANTORUM, and LIEBERMAN, in sponsoring this amendment. Senator SANTORUM, as the Chairman of the Acquisition and Technology Subcommittee, has been one of the strongest advocates for strengthening our Nation's defense research and development capabilities and I want to thank him for that leadership.

The Senate Armed Services Committee approved the original two-year Laboratory Revitalization Demonstration Program in the National Defense Authorization Act for Fiscal Year 1996. The purpose of the legislation was to afford the Secretary of Defense the flexibility to improve laboratory operations. The specific authority included:

A raise in the minor construction threshold from $1.5 million to $3.0 million for projects that the Secretary concerned may carry out without specific authorization.

A raise in the threshold for unspecified construction projects for which operations and maintenance funds may be used from $300,000 to $1.0 million.

A raise in the threshold for minor military construction projects requiring prior approval by the Secretary concerned from $500,000 to $1.5 million.

These authorities extended for a two-year period and will expire September 30, 1998, unless specifically renewed by Congress. The legislation also directed the Secretary to submit a report to the Congress regarding the program and specifically provide recommendations as to whether this authority should be extended to all DoD laboratories.

On May 14, 1998, the Deputy Secretary of Defense, John Hamre, submitted the required report with the recommendation that the authority should be extended to all DoD owned laboratories and test centers for a five-year full demonstration program.

Mr. President, the experience gained from the two-year demonstration has shown that this program works and that it should be expanded to all laboratories and test centers for a limited time period for further evaluation. Our amendment would support Dr. Hamre's recommendation. At the conclusion of the test the Secretary of Defense would be required to submit a report on the program along with a recommendation regarding the desirability of making the authority permanent.

Mr. President, our amendment would not require any additional funds and would not impose any additional fiscal burden on the Department of Defense. It does hold out the possibility of improving the facilities that conduct the important research and tests on the Nation's military capabilities.

I believe this amendment has been cleared by the other side. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2749) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2750

(Purpose: To redesignate the position of Director of Defense Research and Engineering, abolish the position of Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, and transfer the duties of the latter position to the former position)

Mr. LEVIN. Mr. President, I offer an amendment that would change the name of the Director, Defense Research and Engineering, DDR&E, to Director, Defense Technology and Counter-proliferation, and would also abolish the position of the Assistant to the Secretary of Defense for Nuclear, Chemical and Biological matters and move the Nuclear Weapons Council responsibilities now carried out by that position to the renamed Director, Defense Technology and Counterproliferation.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 2750.

The amendment is as follows:

On page 196, between lines 18 and 19, insert the following:

SEC. 908. REDESIGNATION OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING AS DIRECTOR OF DEFENSE TECHNOLOGY AND COUNTERPROLIFERATION AND TRANSFER OF RESPONSIBILITIES.

(a) REDESIGNATION.—Subsection (a) of section 137 of title 10, United States Code, is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(b) DUTIES.—Subsection (b) of such section 137 is amended to read as follows:

"(b) The Director of Defense Technology and Counterproliferation shall—

"(1) except as otherwise prescribed by the Secretary of Defense, perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition and Technology may prescribe;

"(2) advise the Secretary of Defense on matters relating to nuclear energy and nuclear weapons;

"(3) serve as the Staff Director of the Joint Nuclear Weapons Council under section 179 of this title; and

"(4) perform such other duties as the Secretary of Defense may prescribe.".

(c) ABOLISHMENT OF POSITION OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR NUCLEAR

AND CHEMICAL AND BIOLOGICAL DEFENSE PROGRAMS.—Section 142 of such title is repealed.

(d) CONFORMING AMENDMENTS.—(1) Title 5, United States Code, is amended as follows:

(A) In section 5315, by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof the following:

"Director of Defense Technology and Counterproliferation".

(B) In section 5316, by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.".

(2) Title 10, United States Code, is amended as follows:

(A) In section 131(b), by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Director of Defense Technology and Counterproliferation.".

(B) In section 138(d), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(C) In section 179(c)(2), by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(D) In section 2350a(g)(3), by striking out "Deputy Director, Defense Research and Engineering (Test and Evaluation)" and inserting in lieu thereof "Under secretary of Defense for Acquisition and Technology".

(E) In section 2617(a), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(F) In section 2902(b), by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Director of Defense Technology and Counterproliferation.".

(3) Section 257(a) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 2358 note) is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(4) The National Defense Authorization Act for Fiscal Year 1994 is amended as follows:

(A) In section 802(a) (10 U.S.C. 2358 note), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(B) In section 1605(a)(5), (22 U.S.C. 2751 note) by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(e) CLERICAL AMENDMENTS.—(1) The section heading of section 137 of title 10, United States Code, is amended to read as follows:

"§137. Director of Defense Technology and Counterproliferation".

(2) The table of sections at the beginning of chapter 4 of title 10, United States Code, is amended—

(A) by striking out the item relating to section 137 and inserting in lieu thereof the following:

"137. Director of Defense Technology and Counterproliferation."; and

(B) by striking out the item relating to section 142.

Mr. LEVIN. I believe the amendment has been cleared.

Mr. THURMOND. Mr. President, the amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2750) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2751

(Purpose: To make technical corrections to section 802, relating to procurement of travel services)

Mr. THURMOND. Mr. President, I offer an amendment which would make certain technical corrections relating to section 802, the procurement of travel services. This amendment corrects a reference cited in the original provision and clarifies the year in which a travel rebate may be charged.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 2751.

The amendment is as follows:

On page 160, beginning on line 9, strike out "amount" and all that follows through "section 3202(1)" on line 17, and insert in lieu thereof the following:

amounts were charged.

"(B) For amounts relating to sales for unofficial travel, deposit in nonappropriated fund accounts available for morale, welfare, and recreation programs.

"(c) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' has the meaning given that term in section 2302(1)

Mr. THURMOND. I believe this amendment has been cleared by the other side.

Mr. LEVIN. Mr. President, the amendment has been cleared on this side.

Mr. THURMOND. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2751) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2752

(Purpose: To require a plan for facilitating a rapid transition from successfully completed research under the Small Business Innovation Research Program into defense acquisition programs)

Mr. THURMOND. On behalf of Senator WARNER, I offer an amendment which would require the Department of Defense to give greater consideration to funding research and development projects started under the Small Business Innovative Research Program.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. WARNER, proposes an amendment numbered 2752.

The amendment is as follows:

At the end of title VIII, add the following:

SEC. 812. PLAN FOR RAPID TRANSITION FROM COMPLETION OF SMALL BUSINESS INNOVATION RESEARCH INTO DEFENSE ACQUISITION PROGRAMS.

(a) PLAN REQUIRED.—Not later than February 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for facilitating the rapid transition into Department of Defense acquisition programs of successful first phase and second phase activities under the Small Business Innovation Research program under section 9 of the Small Business Act (15 U.S.C. 638).

(b) CONDITIONS.—The plan submitted under subsection (a) shall—

(1) be consistent with the Small Business Innovation Research program and with recent acquisition reforms that are applicable to the Department of Defense; and

(2) provide—

(A) a high priority for funding the projects under the Small Business Innovation Research program that are likely to be successful under a third phase agreement entered into pursuant to section 9(r) of the Small Business Act (15 U.S.C. 638(r)); and

(B) for favorable consideration, in the acquisition planning process, for funding projects under the Small Business Innovation Research program that are subject to a third phase agreement described in subparagraph (A).

Mr. WARNER. Mr. President, I rise today to offer an amendment to the Defense Authorization Bill that will begin to address concerns that I have with regard to the ability of high technology, small businesses to compete in the defense acquisition arena. This amendment, I hope, will lay the groundwork for reforming the acquisition and budgeting process so that the Department of Defense can take greater advantage of technological innovations developed by small, high-tech companies. The amendment does not change any law or policy, it simply directs the Secretary of Defense to investigate ways that the Department of Defense could improve the acquisition process so as to enable the rapid incorporation of high technology innovations into existing defense programs.

Mr. President, small businesses generate a disproportionately large share of the technological innovations in this country. Studies have found that small businesses originate more than two times as many innovations per employee as large businesses.

The Small Business Innovation Research (SBIR) program was created by the Small Business Innovation Development Act of 1982. It is intended to stimulate technological innovation by using small businesses to meet federal research and development needs. The SBIR program has proven to be a highly effective way of leveraging the creativity of small, high technology companies. A 1997 Government Accounting Office (GAO) study of the Department of Defense's SBIR program concluded that "quality projects are being funded."

The SBIR program provides small businesses with the opportunity to demonstrate innovative ideas that meet the specific research and development needs of the Department of Defense. Under Phases I and II of the program—the research and development phases—small businesses can develop and prove their ideas. Phase III of the SBIR program is for the acquisition and procurement of successful projects. Due to the rapid pace of technological change, the innovative products developed under the SBIR program often have direct applicability to ongoing major defense acquisition programs, where incorporation of the product could immediately result in performance improvement and/or cost reduction. The problem lies in taking a worthy high technology project—one that could provide an immediate benefit to an ongoing defense program—and moving rapidly from SBIR's Phases I and II (R&D), to Phase III (acquisition).

In the current environment, where major defense acquisition programs are often contracted with a single large contractor, it is difficult for a small business to get their high tech innovation inserted into the acquisition cycle. The amendment that I am introducing simply directs the Secretary of Defense to investigate and report on processes that would facilitate the rapid transition of successful SBIR projects into DoD acquisition programs. My goal is to lay the foundation for changes that will improve the incorporation of high technology innovation in defense programs.

Mr. President, I urge my colleagues to support this amendment.

Mr. THURMOND. I believe this amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared on this side.

Mr. THURMOND. I urge the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2752) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2753

(Purpose: To set aside RDT&E funds for a NATO alliance ground surveillance concept definition)

Mr. LEVIN. Mr. President, on behalf of Senator LIEBERMAN, I offer an amendment that provides authority for the Department of Defense to set aside funds for a NATO alliance ground surveillance concept definition.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN, for Mr. LIEBERMAN, proposes an amendment numbered 2753.

The amendment is as follows:

At the end of subtitle B of title II, add the following:

SEC. 219. NATO ALLIANCE GROUND SURVEILLANCE CONCEPT DEFINITION.

Amounts authorized to be appropriated under subtitle A are available for a NATO alliance ground surveillance concept definition that is based on the Joint Surveillance Target Attack Radar System (Joint STARS) Radar Technology Insertion Program (RTIP) sensor of the United States, as follows:

(1) Of the amount authorized to be appropriated under section 201(1), $6,400,000.

(2) Of the amount authorized to be appropriated under section 201(3), $3,500,000.

Mr. COATS. Mr. President, last year DOD had an initiative to have NATO adopt the JSTARS system as the NATO alliance ground surveillance system, but NATO subsequently decided not to acquire the B-707-based US JSTARS aircraft.

After that decision, the US offered a concept to integrate a variant of the US JSTARS Radar Technology Insertion Program (RTIP) sensor into an aircraft of NATO's choice. In April, NATO's Conference of National Armaments Directors (CNAD) approved a one year concept definition study to flesh out this alternative. However, the April decision was too late to affect the budget request, so that unless the Department gets the authority that would be provided by this amendment, the concept definition effort would slip by a year.

Mr. THURMOND. Mr. President, the amendment has been cleared here.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2753) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2754

(Purpose: To provide a period of open enrollment for the Survivor Benefit Plan)

Mr. THURMOND. Mr. President, on behalf of Senator WARNER, I offer an amendment that provides for 1-year open season to permit active and reserve military retirees the opportunity to enroll in the Survivor Benefit Plan.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. WARNER, proposes an amendment numbered 2754.

The amendment is as follows:

At the end of subtitle D of title VI, add the following:

SEC. 634. SURVIVOR BENEFIT PLAN OPEN ENROLLMENT PERIOD.

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (d).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code (or chapter 67 of such title as in effect before October 5, 1994), but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) MANNER OF MAKING ELECTIONS.—

(1) IN GENERAL.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Except as provided in paragraph (2), any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(2) ELECTION MUST BE VOLUNTARY.—An election under this section is not effective unless the person making the election declares the election to be voluntary. An election to participate in the Survivor Benefit Plan under this section may not be required by any court. An election to participate or not to participate in the Survivor Benefit Plan is not subject to the concurrence of a spouse or former spouse of the person.

(c) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(d) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on March 1, 1999.

(e) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(f) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(g) PREMIUMS FOR OPEN ENROLLMENT ELECTION.—

(1) PREMIUMS TO BE CHARGED.—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(A) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(2) PREMIUMS TO BE CREDITED TO RETIREMENT FUND.—Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(h) DEFINITIONS.—In this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "Supplemental Survivor Benefit Plan" means the program established under subchapter III of chapter 73 of title 10, United States Code.

(3) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(4) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

(5) The term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

Mr. WARNER. Mr. President, since its enactment some 26 years ago, the Survivor Benefit Plan has been a source of financial security for military retirees and their dependents. Should the military retiree pre-decease his or her spouse, the plan allows for the spouse to continue to receive a percentage of the retiree's income benefit. This is a program that truly works for our retirees, those who dedicated a large portion of their lives to the service of their country, and I strongly support its continuation.

In the past, Congress has understood that changes occur in the lives of military retirees and has tailored the Survivor Benefit Program accordingly. Retirement from the military is unlike retirement from any other type of employment. Military personnel generally retire in their late 30s or early 40s. They spend a large portion of their lives in military retirement. During this period, their lives can change significantly. The circumstances in which they found themselves at the time of their retirement may be dramatically altered over the years. Admittedly, this is more the exception than the rule, but for some retirees it is a fact of life.

The Congress has previously offered limited open enrollment periods, or "open seasons" for retirees to participate in the Survivor Benefit Plan: once in 1981 and again in 1991. These open seasons are a recognition of the fact that some retirees who initially did not elect to participate in the Survivor Benefit Plan have found themselves in circumstances where they would welcome the opportunity to participate in the Plan. In the case of the first two open seasons, retirees who entered the program after their retirement date were required to pay a lump sum amount appropriate to what they would have paid since their retirement date. This ensured that the system was fair to those who chose to enroll upon retirement.

I believe it is once again time to offer an open season to address the concerns of a small number of retirees who are interested in participating in the plan. The amendment that I am offering allows retirees who had not elected to participate in the Survivor Benefit Plan at the time of their retirement the opportunity to do so. The enrollment period would be limited to one year and would require a lump sum payment by the retiree in the amount that he or she would have paid in premiums, with accrued interest, since the date of their retirement. The amendment also allows the defense secretary to make adjustments to the retirees premium to ensure the actuarial soundness of the Plan's fund.

Mr. LEVIN. Mr. President, I would like to make a few remarks about the amendment my friend, Senator WARNER, has offered concerning an open season for enrollment in the military Survivor Benefit Program.

I understand my colleague's views that it is time to offer the possibility of enrollment in this plan to retirees who have, under different circumstances, chosen not to enroll.

I have been told that the Department of Defense has determined that the amendment, as written, is actuarially sound. As I understand it, that means that this amendment requires the Secretary of Defense to set premiums for those who enroll during the proposed open season so that these individuals pay back amounts equal to the amounts they would have paid had they enrolled upon retirement.

According to DOD, this amendment is not unfair in a monetary sense to those who enrolled upon retirement and have been paying premiums into this program since that time.

Nonetheless, I still have several concerns. This amendment would allow all retirees, regardless of the state of their health, to buy into the program and, in effect, purchase annuities for their spouses that could cover any number of years. Even though the Department believes the amendment to be actuarially sound, this could, in my view, work to the detriment of the military retirement fund from which survivors' annuities are paid.

What if all the new enrollees were terminally ill? A 90-year old retiree could conceivably enroll under the Warner amendment, pay premiums for two years and then leave an annuity for his survivors that would be paid from the retirement funds for a long time.

I also remain concerned about the effect this open season would have on the tendency of younger military personnel to enroll in the program upon retirement. I am concerned that an open season like this would serve as a disincentive to enrollment by encouraging service men and women not to enroll at the time they retire and, instead, gamble that Congress will authorize another open season at some point before they die. If this is the case, it would not be in the best interests of the program or the service members.

Because of these concerns and the Department's objections, I look forward to working with Senator WARNER between now and the end of conference to address these concerns.

Mr. THURMOND. I believe this amendment has been cleared by the other side. I urge the Senate adopt the amendment.

Mr. LEVIN. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2754) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2755

(Purpose: To revise a definition of the term "senior executive" for purposes of the limitation on allowability of compensation for certain contractor personnel)

Mr. THURMOND. Mr. President, on behalf of Senators THOMPSON, GLENN, THURMOND, LEVIN, SANTORUM and LIEBERMAN, I offer an amendment which clarifies the current statutory limitations with regard to the reimbursement of executive compensation under Government contracts.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. THOMPSON, for himself, Mr. GLENN, Mr. THURMOND, Mr. LEVIN, Mr. SANTORUM and Mr. LIEBERMAN, proposes an amendment numbered 2755.

The amendment is as follows:

At the end of title VIII, add the following:

SEC. 812. SENIOR EXECUTIVES COVERED BY LIMITATION ON ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL.

(a) DEFENSE CONTRACTS.—Section 2324(l)(5) of title 10, United States Code, is amended to read as follows:

"(5) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

(b) NON-DEFENSE CONTRACTS.—Section 306(m)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(m)(2)) is amended to read as follows:

"(2) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

(c) CONFORMING AMENDMENT.—Section 39(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 435(c)(2)) is amended to read as follows:

"(2) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

Mr. THOMPSON. Mr. President, I will offer three technical amendments on behalf of myself as chairman of the Governmental Affairs Committee and Senator GLENN, the Committee's ranking minority member, and Senators THURMOND, LEVIN, SANTORUM, and LIEBERMAN. Senator GLENN and I thank the chairman and ranking member of the Armed Services Committee for their cooperation and assistance in preparing these amendments which will benefit not only the procurement process within the Department of Defense, but other agencies across the Federal Government as well.

EXECUTIVE COMPENSATION

The National Defense Authorization Act for Fiscal Year 1998 included a provision prohibiting executive agencies from reimbursing the salaries (in cost-type contracts) of contractors' senior executives in excess of the median income for senior executives in all publicly-traded corporations ($340,000 per year). The provision was intended to apply to the five most highly-paid executives of a defense contractor, and of each division of the contractor. However, the provision caused unnecessary confusion as to which contractor officials were covered, because it used terms that are not currently defined in statute or regulation.

The proposed amendment would address this problem by defining "senior executives" of a contractor as "the five most highly compensated employees in management positions at each home office and segment of the contractor." The terms "home office" and "segment" are defined in regulation (subpart 31.001 of the Federal Acquisition Regulation and Cost Accounting Standard 403-30(a)) and are understood by both government and private sector procurement officials.

Mr. LEVIN. The amendment has been cleared on this side.

Mr. THURMOND. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2755) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2756

(Purpose: To apply certain revisions of commercial pricing regulations government wide)

Mr. THURMOND. Mr. President, on behalf of Senators THOMPSON, GLENN, THURMOND, LEVIN, SANTORUM, and LIEBERMAN, I offer an amendment which extends to civilian agencies the requirements under section 805 of the bill to issue regulations clarifying procedures for establishing reasonableness of the prices charged for sole-sourced commercial items.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. THOMPSON, for himself, Mr. GLENN, Mr. THURMOND, Mr. LEVIN, Mr. SANTORUM, and Mr. LIEBERMAN, proposes an amendment numbered 2756.

The amendment is as follows:

Beginning on page 162, strike out line 23 and all that follows through "that clarify" on page 163, line 2, and insert in lieu thereof the following:

"or subsection (b)(1)(B) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b), from the requirements for submission of certified cost or pricing data under that section.

"(c) COMMERCIAL PRICING REGULATIONS.—(1) The Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act shall be revised to clarify".

Mr. THOMPSON. Mr. President, section 805 of the bill contains the "Defense Commercial Pricing Management Improvement Act," which is designed to improve DoD's management practices and help address the spare parts pricing problems identified in the Armed Services Subcommittee on Acquisition & Technology hearing on March 18. Among other things, section 805 would require the Secretary of Defense to issue regulations clarifying the procedures and methods to be used in determining the reasonableness of prices charged for sole-source commercial items.

The amendment would provide that the regulations should be issued on a government-wide basis, as a part of the Federal Acquisition Regulation and applicable to all federal procurements, rather than being issued by the Secretary of Defense and applicable only to DoD procurements. This change is consistent with the Senate's ten-year effort to place DoD and civilian agency procurements on an equal statutory footing.

Mr. LEVIN. The amendment has been cleared on this side.

Mr. THURMOND. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2756) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2757

(Purpose: To prevent the automatic application to a subcontract of an exceptional waiver of requirements for submission of cost or pricing data that is granted in the case of the prime contract)

Mr. THURMOND. Mr. President, on behalf of Senators THOMPSON, GLENN, THURMOND, LEVIN, SANTORUM, and LIEBERMAN, I offer an amendment which provides specific authority for the heads of Government agencies to waive requirements for subcontractors to provide certified costs and pricing data under the Truth in Negotiations Act in exceptional in cases in which prime contractors are not required to provide such data.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. THOMPSON, for himself, Mr. GLENN, Mr. THURMOND, Mr. LEVIN, Mr. SANTORUM, and Mr. LIEBERMAN, proposes an amendment numbered 2757.

The amendment is as follows:

At the end of title VIII, add the following:

SEC. 812. SEPARATE DETERMINATIONS OF EXCEPTIONAL WAIVERS OF TRUTH IN NEGOTIATION REQUIREMENTS FOR PRIME CONTRACTS AND SUBCONTRACTS.

(a) DEFENSE PROCUREMENTS.—Section 2306a(a)(5) of title 10, United States Code, is amended to read as follows:

"(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the agency concerned determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.".

(b) NON-DEFENSE PROCUREMENTS.—Section 304A(a)(5) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(a)(5)) is amended to read as follows:

"(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the executive agency concerned determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.".

Mr. THOMPSON. Mr. President, the Truth In Negotiations Act authorizes agencies to waive the requirement for contractors to provide certified cost or pricing data in "exceptional circumstances." Under current law, however, a subcontractor under a contract or subcontract for which an exceptional circumstances waiver has been granted may still be subject to the requirement to provide certified cost or pricing data.

The administration has requested a change to this law to provide that exceptional circumstances waivers extend not only to a contract or subcontract, but also to subcontractors under that contract or subcontract. The proposed amendment would give agencies the authority to grant waivers that extend to subcontractors under a contract or subcontract, but would not require that they do so in every case. In addition, it would make a technical change to correct a section reference.

At the same time, the sponsors of the amendment are concerned by some of the statements made by the Administration in submitting the proposed amendment. The section-by-section analysis of the Administration proposal contains the following statements:

> The Federal Acquisition Streamlining Act revised [the Truth in Negotiations Act] to permit the head of the procuring activity to grant waivers, rather than the head of the agency. In response to the legislative change, the Federal Acquisition Regulation was revised to encourage the use of waivers when the contracting officer can determine the contract price to be fair and reasonable without the submission of cost or pricing data. As a result, more waivers are being granted today than previously.
>
> If the government does not require certified cost or pricing data from a prime contractor because contract price can be determined to be fair and reasonable without the submission of such data, then it should be presumed that there is no need to collect the data from lower tiers.

The sponsors disagree with the implication that a waiver is appropriate whenever a contracting officer thinks that he can determine the contract price to be fair and reasonable without the submission of cost or pricing data. The Truth In Negotiations Act, as amended, still specifies that a waiver may be granted only in "exceptional circumstances."

It is the view of the sponsors that the term "exceptional circumstances" requires more than the mere belief of the contracting officer that it may be possible to determine the contract price to be fair and reasonable without the submission of cost or pricing data. For example, a waiver may be appropriate in circumstances where it would be possible to determine price reasonableness without the submission of cost or pricing data and the contracting officer determines that it would not be possible to enter a contract with a particular contractor in the absence of a waiver.

The amendment would give agencies the flexibility to extend exceptional circumstances waivers to subcontractors when it is appropriate to do so. However, it is the expectation of the sponsors that the executive branch will clarify the circumstances in which an "exceptional circumstances" waiver may be granted, consistent with the understanding of Congress, as expressed in this statement.

Mr. LEVIN. The amendment has been cleared on this side, Mr. President.

Mr. THURMOND. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2757) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2758

(Purpose: To amend title 10, United States Code, to require physicians providing military health care to possess unrestricted licenses, and to require the establishment of a system for monitoring the satisfaction of applicable continuing medical education requirements the satisfaction by those physician)

Mr. THURMOND. Mr. President, on behalf of Senators DEWINE and INHOFE, I offer an amendment that requires physicians to possess unrestricted medical licenses and requires the Secretary of Defense to establish a mechanism to ensure military physicians meet the continuing education requirements for their State license.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from South Carolina [Mr. THURMOND], for Mr. DEWINE, for himself, and Mr. INHOFE, proposes an amendment numbered 2758.

The amendment is as follows:

At the end of title VII, add the following:

SEC. . PROFESSIONAL QUALIFICATIONS OF PHYSICIANS PROVIDING MILITARY HEALTH CARE.

(a) REQUIREMENT FOR UNRESTRICTED LICENSE.—Section 1094(a)(1) of title 10, United States Code, is amended by adding at the end the following: "In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.".

(b) SATISFACTION OF CONTINUING MEDICAL EDUCATION REQUIREMENTS.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1094 the following new section:

"§ 1094a. Continuing medical education requirements: system for monitoring physician compliance

"The Secretary of Defense shall establish a mechanism for ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician satisfies the continuing medical education requirements applicable to the physician.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1094a. Continuing medical education requirements: system for monitoring physician compliance.".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on October 1, 1998.

(2) The system required by section 1094a of title 10, United States Code (as added by subsection (b)), shall take effect on the date that is three years after the date of the enactment of this Act.

Mr. DEWINE. Mr. President, the amendment I am offering today on behalf of myself and my colleague from Oklahoma, Mr. INHOFE, is a very simple, straightforward amendment. It would simply require that all Defense Department physicians have unrestricted licenses in order to practice medicine. In addition, our amendment would require the Department of Defense to set up a monitoring system to ensure that military physicians obtain continuing medical education in his or her specialty. This amendment is about ensuring that the men and women of our armed forces, as well as their families, are guaranteed a physician corps that meets the same professional standards of civilian practitioners.

A number of individuals deserve credit for this initiative. First, I commend my friend and colleague from Springfield, Ohio, Congressman DAVE HOBSON. Congressman HOBSON is one of the true best friends of our military families, and he has been a true leader in Congress to ensure these families have available to them a high quality health care system. He is the lead sponsor of similar legislation in the House of Representatives, along with thirteen of his colleagues.

Congressman HOBSON is not the only one from the Dayton area that has shown an interest in health care quality for military families. Last October, a series of articles were written by the Dayton Daily News on the quality of military health care.

One particular issue highlighted in this series involved the license requirements for doctors who practice medicine at military facilities. While civilian doctors hold a license in the state where they practice, military physicians can hold a license from one state and practice medicine in U.S. military facilities in all fifty states and around the world. This exemption is needed obviously because military doctors frequently are transferred to other facilities.

That general requirement makes good sense. After all, it is impractical to have more than 13,000 military doctors applying and testing for a new license every time they move, which can average one move for every two to three years, and does not include the possibility of no notice deployments and yearly exercises. Two of the key requirements of military health care is mobility and flexibility, and both must remain to be the case.

Generally, the system works well. Unfortunately, one state has been offering "special" licenses for doctors practicing at mental institutions, Indian reservations, and military facilities.

The Dayton Daily News reported last year that 77 military doctors received "special" medical licenses, which were easier to obtain and has less rigorous testing requirements. In essence, the "special" license lowered the level of standardized competency.

The amendment I introduced today will eliminate this loop hole. Specifically, it will require the Defense Department to have their physicians carry a current "unrestricted" license.

To their credit, our armed forces, through the regulatory process, already are moving toward the very same goals of this legislation. Our amendment simply codifies in the law this basic requirement—to ensure that there is a minimum standard of professional competency.

Just as important, under our amendment, the mobility and flexibility of military health care would be maintained by allowing the "unrestricted" license to be issued by any state, but it will not be a "specialized" license that would be able to circumnavigate proficiency standards.

Military personnel and their families deserve to have the peace of mind that no matter where they are stationed, or where they are treated, they will receive the same level of competent health care.

This amendment, Mr. President, gives military personnel and their families this peace of mind.

I am pleased that our amendment has the support of the National Military Families Association (NFMA) and the American Association of Physician Specialists (AAPS). I ask unanimous consent that the letters of support for this amendment from NFMA and AAPS be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AAPS, AMERICAN ASSOCIATION OF
PHYSICIAN SPECIALISTS, INC.,
Atlanta, GA, May 14, 1998.

Hon. MIKE DEWINE,
U.S. Senate, 140 Russell Senate Office Building, Washington, DC.

DEAR SENATOR DEWINE: On behalf of the American Association of Physician Specialists (AAPS), I am writing to express our support for your proposed amendment to the Defense Authorization Bill, S. 2057, regarding providing military health care. As a national organization representing thousands of physicians in all specialties and types of practices throughout the United States, AAPS is deeply concerned with the issue of professional standards and qualifications for physicians in practice areas. AAPS was founded in 1952 to provide a clinically recognized mechanism for specialty certification of physicians with advanced training. As the administrative home for 12 approved Boards of Certification, AAPS strives daily to ensure the availability of verifiably trained, certified physicians to provide quality health care to both military personnel, and the civilian population.

We thank you for your attention to this important issue, and offer our support and services, should our expertise be of any assistance.

Sincerely,

WILLIAM J. CARBONE,
Executive Director.

NMFA, NATIONAL
MILITARY FAMILY ASSOCIATION,
Alexandria, VA, May 13, 1998.

Hon. MIKE DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: The National Military Family Association (NMFA) strongly supports your proposed amendment that would place into law the requirement that all military physicians must possess an unrestricted license to practice medicine. The discovery earlier this year, by members of the media, that military physicians with restricted licenses were providing medical care to service members, military retirees, and their family members created significant concerns within the military beneficiary community. The fact that the current Surgeons General and the Acting Assistant Secretary of Defense for Health Affairs was unaware of this situation was most troubling.

NMFA is aware that the Department of Defense has instituted policies to require unrestricted licenses of their military physicians, but feel it important that this initiative is incorporated into law. Since present military health care leaders were unaware of the restricted license situation, NMFA fears that corporate memory could again become blurred and a repeat of the problem could occur.

NMFA very much appreciates your concern for military families and your interest in assuring them of the quality of the physicians within the military health care system.

Sincerely,

JAMES M. MUTTER,
Colonel, USMC (Ret), President.

Mr. DEWINE. Mr. President, I urge my colleagues to support this important quality of life initiative for our military personnel and their families.

Mr. LEVIN. The amendment has been cleared on this side, Mr. President.

Mr. THURMOND. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2758) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2759

(Purpose: To clarify the eligibility of dependents of United States Customs Service employees to enroll in Department of Defense dependents schools in Puerto Rico)

Mr. THURMOND. Mr. President, on behalf of Senator GRASSLEY, I offer an amendment that clarifies that children of U.S. Customs Service agents assigned in Puerto Rico can attend DOD dependent school without regard to any time limits, and that if the agent is killed in the line of duty, the dependents can remain enrolled in the DOD schools during the school year in which the agent was killed, and that DOD cannot charge the Customs Service tuition for these students.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. GRASSLEY, proposes an amendment numbered 2759.

The amendment is as follows:

Strike out section 1055, and insert in lieu thereof the following:

SEC. 1055. ELIGIBILITY FOR ATTENDANCE AT DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.

(a) MILITARY DEPENDENTS.—Subsection (a) of section 2164 of title 10, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (2); and

(3) by adding at the end of paragraph (2), as so designated, the following: "The Secretary may also permit a dependent of a member of the armed forces to enroll in such a program if the dependent is residing in such a jurisdiction, whether on or off a military installation, while the member is assigned away from that jurisdiction on a remote or unaccompanied assignment under permanent change of station orders.".

(b) EMPLOYEE DEPENDENTS.—Subsection (c)(2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The Secretary may extend the enrollment of a dependent referred to in subparagraph (A) in the program for more than five consecutive school years if the Secretary determines that the dependent is eligible under paragraph (1), space is available in the program, and adequate arrangements are made for reimbursement of the Secretary for the costs to the Secretary of the educational services provided for the dependent. An extension shall be for only one school year, but the Secretary may authorize a successive extension each year for the next school year upon making the determinations required under the preceding sentence for that next school year.".

(c) CUSTOMS SERVICE EMPLOYEE DEPENDENTS IN PUERTO RICO.—(1) Subsection (c) of such section is further amended by adding at the end the following:

"(4)(A) A dependent of a United States Customs Service employee who resides in Puerto Rico but not on a military installation may enroll in an educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico.

"(B) Notwithstanding the limitation on duration of enrollment set forth in paragraph (2), a dependent described in subparagraph (A) who is enrolled in an education program described in that subparagraph may be removed from the program only for good cause (as determined by the Secretary). No requirement under that paragraph for reimbursement of the Secretary for the costs of educational services provided for the dependent shall apply with respect to the dependent.

"(C) In the event of the death in the line of duty of an employee described in subparagraph (A), a dependent of the employee may remain enrolled in an educational program described in that subparagraph until—

"(i) the end of the academic year in which the death occurs; or

"(ii) the dependent is removed for good cause (as so determined).".

(2) The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and apply to academic years beginning on or after that date.

Mr. GRASSLEY. Mr. President, I would like to draw attention to a problem in our drug control program. It concerns something that the Department of Defense (DoD) is not doing. And frankly it's embarrassing. Today, the men and women of federal law enforcement constantly put their lives at risk in an effort to fight the increasing flow of illicit drugs into our country. Not only do we face the threat of an increase of drugs in our children's schools and on our streets, but our law enforcement officers continue to face a rising tide of violence at our borders and in our cities as a result of the drug trade. We continue to see the flow of narcotics across the Southern tier of the U.S. to include Puerto Rico. Law enforcement personnel and their commitment to the mission to fight the war on drugs work many long hours, sometimes late into the evening and are subject to changes in their schedules at a moments notice. The families of these officers also feel the pressures of the job they perform. This brings me to the point I would like to make.

The front lines of the U.S. Customs Service are not just a problem of guntoting drug thugs. They face more than long hours and risky situations. While they deal with all these things, they must shoulder the additional burden of coping with bureaucratic bumbledom. This added load is a result of DoD officiousness and unwillingness to cooperate. The language of instruction in Puerto Rico public schools is Spanish and not English. Therefore, the only affordable English-language school option for U.S. Customs' personnel is the DoD school. However, current legislation and DoD policy is creating a hardship for Customs' employees and their families. This unnecessarily affects our counter-drug efforts by undermining morale.

It is my understanding that the children of these law enforcement personnel have been attending DoD schools in Puerto Rico for more than 20 years. Throughout the years, changes in legislation and DoD policy have placed numerous restrictions on Customs and other Federal civilian agencies. Customs has recently augmented its workforce in Puerto Rico under its Operation Gateway initiative in light of the continuing and heightened threat of narcotics smuggling and money laundering in the Caribbean Basin. I supported this initiative. This session I will also stress the need for better coordination of our interdiction strategy, particularly the need to develop a "Southern Tier' concept. This initiative will strive to focus resources in a more comprehensive way to protect our southern frontier. Puerto Rico is crucial to this strategy. Current legislation and DoD's policy requirements are, however, obstacles to the effective implementation of this aggressive enforcement initiative in terms of recruitment and retention of Customs employers because as I stated earlier, there are no English speaking public schools in Puerto Rico.

I think it is ridiculous that Customs' efforts in Puerto Rico—the men and women who deal daily with difficult and dangerous situations—should find their attention distracted by something like this.

The U.S. Customs Service interdicts more drugs than any other Government Agency. Based on the size of the work force of Customs in Puerto Rico, their critical law enforcement mission, difficulty in recruiting, and the negative affect this policy is having on their employees and families (over 150 children of Customs employees are currently enrolled in the program), I would like to see a swift solution to these problems.

Recently, a Customs Special Agent was killed in an accident while assisting the U.S. Secret Service on a Presidential detail that highlights another problem. My legislation will also address a concern raised by this case. It happens that the children of this agent currently attend classes in the DoD school. It is my understanding that a special exception from the Secretary of Defense was necessary in order for these children to continue in the DoD school program for the remainder of the school year. DoD has dragged its feet. My amendment will deal with this and similar situations.

My staff has tried to work out a deal, but DoD has not been very responsive. I personally wrote the Secretary of Defense to work out a solution. I got a response from a low-level bureaucrat who responded just like, well, a bureaucrat. It is my understanding that the only answer from DoD is, "nothing can be done", I am told that the only solution is to "change the legislation".

This amendment is essential in order to address the current problems that I have described for these employees and their families and I look forward to working with you to ensure that our efforts to protect our country from illicit drugs is effective and adequately supported. I hope that my colleagues will look at this legislation and join me in supporting this. It is enough of a burden on the families of the dedicated men and women who labor to protect our borders without further weighing them down with senseless red tape.

Mr. LEVIN. The amendment has been cleared on this side.

Mr. THURMOND. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2759) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2760

(Purpose: Relating to the so-called "1 plus 1 barracks initiative")

Mr. THURMOND. Mr. President, on behalf of Senator ROBERTS, I offer an amendment which requires the Secretary of Defense to report on the "One-Plus-One" barracks standard and certify that it is necessary in order to assure retention of first-term enlisted personnel of the Armed Forces.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. ROBERTS, proposes an amendment numbered 2760.

The amendment is as follows:

At the appropriate place in title XXVIII, insert the following:

SEC. 28 . REPORT AND REQUIREMENT RELATING TO "1 PLUS 1 BARRACKS INITIATIVE".

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretaries of the military departments, submit to Congress a report on the costs and benefits of implementing the initiative to build single occupancy barracks rooms with a shared bath, the so-called "1 plus 1 barracks initiative".

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A justification for the initiative referred to in subsection (a), including a description of the manner in which the initiative is designed to assure the retention of first-term enlisted members of the Armed Forces in adequate numbers.

(2) A description of the experiences of the military departments with the retention of first-term enlisted members of the Armed Forces, including—

(A) a comparison of such experiences before implementation of the initiative with such experiences after implementation of the initiative; and

(B) an analysis of the basis for any change in retention rates of such members that has arisen since implementation of the initiative.

(3) Any information indicating that the lack of single occupancy barracks rooms with a shared bath has been or is the basis of the decision of first-term members of the Armed Forces not to reenlist in the Armed Forces.

(4) Any information indicating that the lack of such barracks rooms has hampered recruitment for the Armed Forces or that the construction of such barracks rooms would substantially improve recruitment.

(5) The cost for each Armed Force of implementing the initiative, including the amount of funds obligated or expended on the initiative before the date of enactment of this Act and the amount of funds required to be expended after that date to complete the initiative.

(6) The views of each of the Chiefs of Staff of the Armed Forces regarding the initiative and regarding any alternatives to the initiative having the potential of assuring the retention of first-term enlisted members of the Armed Forces in adequate numbers.

(7) A cost-benefit analysis of the initiative.

(c) LIMITATION ON FY 2000 FUNDING REQUEST.—The Secretary of Defense may not submit to Congress any request for funding for the so-called "1 plus 1 barracks initiative" in fiscal year 2000 unless the Secretary certifies to Congress that further implementation of the initiative is necessary in order to assure the retention of first-term enlisted members of the Armed Forces in adequate numbers.

Mr. LEVIN. The amendment has been cleared on this side.

Mr. THURMOND. I urge the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2760) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2761

(Purpose: To express the sense of Congress that a higher priority should be given drug interdiction and counterdrug activities of the Department of Defense under the global Military Force Policy)

Mr. LEVIN. Mr. President, on behalf of Senators GRAHAM, DEWINE, and GRASSLEY, I offer an amendment which expresses the sense of the Congress that the Department of Defense should raise its priority of counternarcotics so that it is at the same level as peacekeeping operations.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. GRAHAM, for himself, Mr. DEWINE, and Mr. GRASSLEY, proposes an amendment numbered 2761.

The amendment is as follows:

At the end of subtitle D of title III, add the following:

SEC. 334. SENSE OF CONGRESS REGARDING PRIORITY OF DRUG INTERDICTION AND COUNTERDRUG ACTIVITIES.

It is the sense of Congress that the Secretary of Defense should revise the Global Military Force Policy of the Department of Defense—

(1) to treat the international drug interdiction and counter-drug activities of the department as a military operation other than war, thereby elevating the priority given such activities under the policy to the next priority below the priority given to war under the policy and to the same priority as is given to peacekeeping operations under the department to drug interdiction and counter-drug activities in accordance with the priority given those activities.

Mr. LEVIN. Mr. President, I believe the amendment has been cleared by the other side.

Mr. THURMOND. Mr. President, the amendment has been cleared.

The PRESIDING OFFICER (Mr. GORTON). Without objection, the amendment is agreed to.

The amendment (No. 2761) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2762

(Purpose: To authorize the Secretary of the Navy to enter into a barter agreement during fiscal years 1999 through 2003 to exchange vehicles for repair and remanufacture of ribbon bridges for the Marine Corps)

Mr. THURMOND. Mr. President, on behalf of Senator SANTORUM, I offer an amendment which authorizes the Secretary of the Navy to enter into a barter agreement involving the exchange of excess trucks for ribbon bridges for the Marine Corps.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. SANTORUM, proposes an amendment numbered 2762.

The amendment is as follows:

At the end of title VIII, add the following:

SEC. 812. FIVE-YEAR AUTHORITY FOR SECRETARY OF THE NAVY TO EXCHANGE CERTAIN ITEMS.

(a) BARTER AUTHORITY.—The Secretary of the Navy may enter into a barter agreement to exchange trucks and other tactical vehicles for the repair and remanufacture of ribbon bridges for the Marine Corps in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)), except that the requirement for items exchanged under that section to be similar items shall not apply to the authority under this subsection.

(b) PERIOD OF AUTHORITY.—The authority to enter into agreements under subsection (a) and to make exchanges under any such agreement is effective during the 5-year period beginning on October 1, 1998, and ending at the end of September 30, 2003.

Mr. SANTORUM. Mr. President, this amendment to S. 2057, the Fiscal Year 1999 Defense Authorization Act, provides authority for the United States Marine Corps to enter into a barter agreement with a commercial entity for the purpose of allowing existing Marine Corps ribbon bridges to be remanufactured into an Improved Ribbon Bridge configuration.

The Marine Corps has 250 bays [length] of ribbon bridge, of which 180 require repair. The ribbon bridge is the Marine Corps' only floating bridge capability and is used to allow vehicles to cross streams and gullies. The ribbon bridge bays used by the Marine Corps are approximately 20 years old. Due to limited fiscal resources and higher priorities, it is unlikely that the ribbon bridge upgrade will successfully compete for funding.

It is my understanding that a remanufacture of these existing bridges to the Improved Ribbon Bridge configuration will provide an additional 15–20 years of service from these bridges. I am aware that the Marine Corps and Office of the Secretary of Defense supports this amendment.

Mr. LEVIN. The amendment has been cleared, Mr. President.

Mr. THURMOND. I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2762) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2763

(Purpose: To enhance the fiscal position of the Center for Hemispheric Defense Studies for meeting the increasing responsibilities designated for the Center by the Secretary of Defense)

Mr. LEVIN. On behalf of Senator GRAHAM of Florida, I offer an amendment that would enhance the fiscal position of the Center for Hemispheric Defense Studies.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. GRAHAM proposes an amendment numbered 2763.

The amendment is as follows:

At the end of title IX, add the following:

SEC. 908. CENTER FOR HEMISPHERIC DEFENSE STUDIES.

(a) FUNDING FOR CENTER FOR HEMISPHERIC DEFENSE STUDIES.—(1) Chapter 108 of title 10, United States Code, is amended by adding at the end the following:

"§ 2166. National Defense University: funding of component institution

"Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2166. National Defense University: funding of component institution."

(b) CONFORMING AMENDMENT.—Section 1050 of title 10, United States Code, is amended by inserting "Secretary of Defense or the" before "Secretary of a military department".

Mr. LEVIN. Mr. President, I believe this amendment has been cleared by the other side.

Mr. THURMOND. Mr. President, the amendment has been cleared by this side.

Mr. LEVIN. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2763) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2764

(Purpose: To authorize the Secretary of Energy to enter into cost-sharing partnerships to operate the Hazardous Materials Management and Emergency Response training facility, Richland, Washington)

Mr. THURMOND. Mr. President, on behalf of Senators GORTON and MURRAY, I offer an amendment which would authorize the Secretary of Energy to enter into cost-sharing partnerships to operate the Hazardous Materials Management and Emergency Response training facility in Richland, WA.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. GORTON, for himself and Mrs. MURRAY, proposes an amendment numbered 2764.

The amendment is as follows:

At the end of subtitle C of title XXXI, insert the following:

SEC. 3137. COST-SHARING FOR OPERATION OF THE HAZARDOUS MATERIALS MANAGEMENT AND EMERGENCY RESPONSE TRAINING FACILITY, RICHLAND, WASHINGTON.

(a) AUTHORITY.—The Secretary of Energy may enter into partnership arrangements with Federal and non-Federal entities to share the costs of operating the Hazardous Materials Management and Emergency Response training facility authorized under section 3140 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 3088). Such arrangements may include the exchange of equipment and services.

Mr. THURMOND. I believe the amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2764) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2765

(Purpose: To add home school diploma recipients to the pilot program for treating GED recipients as high school graduates for enlistment purposes)

Mr. THURMOND. Mr. President, on behalf of Senator COVERDELL, I offer an amendment that would add home schooling graduates to a pilot program in which they would be permitted to enlist in the military services as if they possessed a high school diploma.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. COVERDELL, proposes an amendment numbered 2765.

The amendment is as follows:

Strike out section 529, and insert in lieu thereof the following:

SEC. 529. PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTING IN THE ARMED FORCES.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish a pilot program to assess whether the Armed Forces could better meet recruiting requirements by treating GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces. The Secretary of each military department shall administer the pilot program for the armed force or armed forces under the jurisdiction of the Secretary.

(b) ELIGIBLE RECIPIENTS.—(1) Under the pilot program, a person shall be treated as having graduated from high school with a high school diploma for the purpose described in subsection (a) if the person—

(A) has completed a general education development program while participating in the National Guard Challenge Program and is a GED recipient; or

(B) is a home school diploma recipient and provides a transcript demonstrating completion of high school to the military department involved under the pilot program.

(2) For the purposes of this section, a person is a GED recipient if the person, after completing a general education development program, has obtained certification of high school equivalency by meeting State requirements and passing a State approved exam that is administered for the purpose of providing an appraisal of the person's achievement or performance in the broad subject matter areas usually required for high school graduates.

(3) For the purposes of this section, a person is a home school diploma recipient if the person has received a diploma for completing a program of education through the high school level at a home school, without regard to whether the home school is treated as a private school under the law of the State in which located.

(c) ANNUAL LIMIT ON NUMBER.—Not more than 1,250 GED recipients, and not more than 1,250 home school diploma recipients, enlisted by an armed force in any fiscal year may be treated under the pilot program as having graduated from high school with a high school diploma.

(d) PERIOD FOR PILOT PROGRAM.—The pilot program shall be in effect for five fiscal years beginning on October 1, 1998.

(e) REPORT.—(1) Not later than February 1, 2004, the Secretary of Defense shall submit a report on the pilot program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2)(A) The report shall include the assessment of the Secretary of Defense, and any assessment of any of the Secretaries of the military departments, regarding the value of, and any necessity for, authority to treat GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces.

(B) The Secretary shall also set forth in the report, by armed force for each fiscal year of the pilot program, a comparison of the performance of the persons who enlisted in that armed force during the fiscal year as GED or home school diploma recipients treated under the pilot program as having graduated from high school with a high school diploma with the performance of the persons who enlisted in that armed force during the same fiscal year after having graduated from high school with a high school diploma, with respect to the following:

(i) Attrition.

(ii) Discipline.

(iii) Adaptability to military life.

(iv) Aptitude for mastering the skills necessary for technical specialties.

(v) Reenlistment rates.

(f) REFERENCE TO NATIONAL GUARD CHALLENGE PROGRAM.—The National Guard Challenge Program referred to in this section is a program conducted under section 509 of title 32, United States Code.

(g) STATE DEFINED.—In this section, the term "State" has the meaning given that term in section 509(*l*)(1) of title 32, United States Code.

Mr. COVERDELL. Mr. President, I rise today to offer an amendment to S. 2057, the Defense Authorization Bill. The Defense Authorization bill as currently written contains a section authorizing a pilot program promoting GED recipients to Tier I recruiting status for the Armed Forces. My amendment would simply add graduates of home schools to this pilot program.

All service branches of the military have limited openings for recruits. As a result, military recruiters utilize a system in which they give preference to applicants who have at least graduated from high school. These are Tier I applicants. Currently, home schoolers have Tier II status, meaning only when a recruiter cannot find a Tier I applicant to fill an opening does a home schooler come up for consideration. This is true despite evidence indicating that the average home schooled student scores in at least the 80th percentile in all subjects on standardized tests while the typical public school student scores around the 50th percentile. This would indicate that home schoolers complete an educational program at least as rigorous as that of the average high school student. Why then should home schoolers not be placed in the same recruiting tier as their high school counterparts?

While the Department of Defense has concerns that home schoolers have higher attrition rates than other Tier I candidates, there is not a significant enough body of evidence to support these claims. Certainly, retaining soldiers is a large concern for all services. However, due to their Tier II status, very few home schoolers have been recruited into the military over the past ten years. Accordingly, no valid statistical sample exists demonstrating home schoolers' attrition rates. It is the intent of my amendment to establish a valid statistical sample of attrition rates for home schoolers upon which the Armed Services can make a more educated assessment of its tier assignments.

Mr. President, the Armed Forces in recent years have experienced recruiting problems. While they actively work to address these issues I believe Congress should also look at possible solutions. My amendment is an attempt to do just that. I offer today not only an opportunity for home schoolers, but an opportunity for the military to explore fully a new recruiting tool.

Mr. THURMOND. I believe the amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2765) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2766

(Purpose: To state the sense of the Senate regarding oil spill prevention training for personnel on board Navy vessels)

Mr. THURMOND. On behalf of Senator GORTON, I offer an amendment that would express the sense of the Senate that the Secretary of the Navy should ensure that appropriate Navy personnel assigned to ships are trained in oil spill prevention measures.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. GORTON, proposes an amendment numbered 2766.

The amendment is as follows:

On page 59, below line 20, add the following:

SEC. 328. SENSE OF SENATE REGARDING OIL SPILL PREVENTION TRAINING FOR PERSONNEL ON BOARD NAVY VESSELS.

(a) FINDINGS.—The Senate makes the following findings:

(1) There have been six significant oil spills in Puget Sound, Washington, in 1998, five at Puget Sound Naval Shipyard (including three from the U.S.S. Kitty Hawk, one from the U.S.S. Carl Vinson, and one from the U.S.S. Sacramento) and one at Naval Station Everett from the U.S.S. Paul F. Foster.

(2) Navy personnel on board vessels, and not shipyard employees, were primarily responsible for a majority of these oil spills at Puget Sound Naval Shipyard.

(3) Oil spills have the potential to damage the local environment, killing microscopic organisms, contributing to air pollution, harming plants and marine animals, and increasing overall pollution levels in Puget Sound.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Navy should take immediate action to significantly reduce the risk of vessel oil spills, including the minimization of fuel oil transfers, the assurance of proper training and qualifications of all Naval personnel in occupations that may contribute to or minimize the risk of shipboard oil spills, and the improvement of liaison with local authorities concerning oil spill prevention and response activities.

Mr. THURMOND. I believe the amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2766) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2767

(Purpose: To add $4,000,000 for research and development on the expeditionary common automatic recovery and landing system and $1,000,000 for research and development on the K-band testing obscuration pairing system, and to offset the increase by reducing the amount for Marine Corps procurement for communications and electronics infrastructure support by $5,000,000)

Mr. LEVIN. Mr. President, on behalf of Senator REID, I offer an amendment which would add funds for research and development for the expeditionary common automatic recovery and landing system and the K-band testing obscuration pairing system, offset by reducing the amount for Marine Corps procurement for communications and electronics infrastructure.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. REID, proposes an amendment numbered 2767.

The amendment is as follows:

In section 201(2), strike out "$8,199,102,000" and insert in lieu thereof "$8,204,102,000".

In section 102(b), strike out "$915,558,000" and insert in lieu thereof "$910,558,000".

Mr. COATS. Mr. President, this amendment allows for the inclusion of budget authority to continue work on the expeditionary common automatic recovery system (ECARS), which is a launch and recovery system that DoD is using for unmanned aerial vehicles. ECARS would be an adaptation of that system to provide a landing system for Marine Corps helicopters in places where the Marines have not had an opportunity to establish the full air control system.

The K-band testing obscuration pairing system (K-TOPS) program would provide a training scoring system to allow the Marines to conduct realistic training in the presence of smoke or other obscurants on a simulated battlefield. Since these programs are for the Marine Corps, the source of budget authority for them is in the communications and infrastructure support program contained in the Procurement, Marine Corps (PMC) account.

Mr. LEVIN. Mr. President, I believe the amendment has been cleared by the other side.

Mr. THURMOND. Mr. President, the amendment has been cleared.

Mr. LEVIN. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2767) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2768

(Purpose: To expand certain land conveyance authority, Eglin Air Force Base, Florida)

Mr. THURMOND. Mr. President, on behalf of Senator MACK, I offer an amendment which would amend the Military Construction Act of 1979 to authorize an additional conveyance, at fair market value, of 4 acres at Eglin Air Force Base to the Air Force Enlisted Men's Widows and Dependents Home Foundation, Inc.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. MACK, proposes an amendment numbered 2768.

The amendment is as follows:

On page 342, below line 22, add the following:

SEC. 2827. EXPANSION OF LAND CONVEYANCE AUTHORITY, EGLIN AIR FORCE BASE, FLORIDA.

Section 809(c) of the Military Construction Authorization Act, 1979 (Public Law 95–356;

92 Stat. 587), as amended by section 2826 of the Military Construction Authorization Act, 1989 (division B of Public Law 100–456; 102 Stat. 2123), is further amended by striking out "and a third parcel containing forty-two acres" and inserting in lieu thereof ", a third parcel containing forty-two acres, a fourth parcel containing approximately 3.43 acres, and a fifth parcel containing approximately 0.56 acres".

Mr. THURMOND. Mr. President, I believe this amendment has been cleared by the other side.

Mr. LEVIN. Mr. President, the amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2768) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2769

(Purpose: To authorize the conveyance of certain water rights and related rights at Rocky Mountain Arsenal, Colorado, for purposes of acquiring certain perpetual contracts for water)

Mr. THURMOND. Mr. President, on behalf of Senators ALLARD and CAMPBELL, I offer an amendment that would replace an erratic water supply at Rocky Mountain Arsenal with a constant water supply, satisfy the Army's obligation to provide water to a community impacted by RMA contamination, provide for a permanent water supply for the Refuge, reduce operating costs associated with water access, and provide for needed water storage facilities.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. ALLARD, for himself and Mr. CAMPBELL, proposes an amendment numbered 2769.

The amendment is as follows:

On page 342, below line 22, add the following:

SEC. 2827. CONVEYANCE OF WATER RIGHTS AND RELATED INTERESTS, ROCKY MOUNTAIN ARSENAL, COLORADO, FOR PURPOSES OF ACQUISITION OF PERPETUAL CONTRACTS FOR WATER.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Army may convey any and all interest of the United States in the water rights and related rights at Rocky Mountain Arsenal, Colorado, described in subsection (b) to the City and County of Denver, Colorado, acting through its Board of Water Commissioners.

(b) COVERED WATER RIGHTS AND RELATED RIGHTS.—The water rights and related rights authorized to be conveyed under subsection (a) are the following:

(1) Any and all interest in 300 acre rights to water from Antero Reservoir as set forth in Antero Reservoir Contract No. 382 dated August 22, 1923, for 160 acre rights; Antero Reservoir Contract No. 383 dated August 22, 1923, for 50 acre rights; Antero Reservoir Contract No. 384 dated October 30, 1923, for 40 acre rights; Antero Reservoir Contract No. 387 dated March 3, 1923, for 50 acre rights; and Supplemental Contract No. 382–383–384–387 dated July 24, 1932, defining the amount of water to be delivered under the 300 acre rights in the prior contracts as 220 acre feet.

(2) Any and all interest in the 305 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Fitzsimons Army Medical Center and currently subject to cost assessments pursuant to Denver Water Department contract #001990.

(3) Any and all interest in the 2,603.55 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Rocky Mountain Arsenal in Adams County, Colorado, and currently subject to cost assessments by the Denver Water Department, including 680 acre rights transferred from Lowry Field to the Rocky Mountain Arsenal by the October 5, 1943, agreement between the City and County of Denver, acting by and through its Board of Water Commissioners, and the United States of America.

(4) Any and all interest in 4,058.34 acre rights of water not currently subject to cost assessments by the Denver Water Department.

(5) A new easement for the placement of water lines approximately 50 feet wide inside the Southern boundary of Rocky Mountain Arsenal and across the Reserve Center along the northern side of 56th Avenue.

(6) A permanent easement for utilities where Denver has an existing temporary easement near the southern and western boundaries of Rocky Mountain Arsenal.

(c) CONSIDERATION.—(1) The Secretary of the Army may make the conveyance under subsection (a) only if the Board of Water Commissioners, on behalf of the City and County of Denver, Colorado—

(A) enters into a permanent contract with the Secretary of the Army for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal; and

(B) enters into a permanent contract with the Secretary of the Interior for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal National Wildlife Refuge, Colorado.

(2) Section 2809(e) of title 10, United States Code, shall not operate to limit the term of the contract entered into under paragraph (1)(A).

(d) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary of the Army may not make the conveyance authorized by subsection (a) until the execution of the proposed agreement provided for under subsection (c) between the City and County of Denver, Colorado, acting through its Board of Water Commissioners, the South Adams County Water and Sanitation District, the United States Fish and Wildlife Service, and the Army.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Mr. ALLARD. Mr. President, today Senator CAMPBELL and I are offering a technical amendment to the 1999 Defense Authorization Bill which would authorize the transfer of water interests held by the Army at the Rocky Mountain Arsenal, including rights in Highland Canal and Antero Reservoir. Before I give the details of the amendment, I want to thank Chairman THURMOND and Senator LEVIN for accepting this amendment and for all the hard work by the Armed Service staff, who without their active engagement in this process, this important amendment would never have been possible.

As the clean-up at the Rocky Mountain Arsenal has progressed, quite well I might add, there has always been a great need for water. However, as with much of the West, water is a commodity and a way to provide water has been an area of discussion between all the parties since the clean-up began. Unfortunately, the United States' acre rights to water in the High Line Canal have proved inadequate to supply the Army's needs for non-potable water at the Arsenal.

In a June 11, 1996 Record of Decision, the Army, Shell, and South Adams County Water and Sanitation District (SACWSD) entered into a Memorandum of Understanding by which the Army and Shell agreed to acquire and deliver 4000 acre-feet of water to SACWSD.

However, after a lengthy investigation, it was determined that the only realistic source of potable water for SACWSD was by arranging a permanent contract with the Denver Water Board. Also, it was determined that the only way to be certain that the Refuge received a long term supply of 1200 acre-feet of non-potable water was to obtain the same from the Denver Water Board's non-potable reuse facility pursuant to a perpetual contract.

During these discussions, the Denver Water Board desired to acquire all of the Army's interest in the irrigation canal and reservoir company in order to reduce the cost of operating those facilities and consolidate its ownership to the rights of the rights to receive water from those facilities. On December 19, 1997, the Army, the Fish & Wildlife Service, SACWSD, and the Denver Water Board entered into a Memorandum of Understanding (MOU). The purpose of the MOU was to accomplish the goals of each of the parties as follows:

a. Denver will provide SACWSD with 4000 acre-feet of potable water in fulfillment of the Army's responsibility under the June 11, 1996 MOU.

b. SACWSD will provide Denver with certain storage facilities and cash to compensate Denver for the potable water supply.

c. Denver will provide the Army and the Fish & Wildlife Service with short and long term water supplies. The short term supplies will be 2800 acre-feet, and the permanent supply will be 1200 acre-feet of non-potable reuse water per year as a guaranteed supply. In addition, Denver will supply 50 acre-feet of annual potable water supply.

d. The Army will transfer to Denver its interests in the canal and reservoir companies which currently serve as the source of the Arsenal water supply.

The result of these understandings fulfills the federal government's responsibility under the Record of Decision to insure a permanent and a firm supply of water for the ultimate needs of the Refuge and the federal government's responsibility to provide a potable supply of SACWSD.

Because of the nature of the legal status of the Army's interest in the canal and reservoir companies and the nature of the interests to be received by the federal government from Denver as a permanent supply, there was uncertainty whether federal legislation would be required. It was determined federal legislation is required to avoid the problems associated with the disposal of government property, pursuant to the Federal Property and Administrative Services Act.

However, the property being disposed of is not excess property and, therefore, not readily disposed of under normal procedures. The water supply being received in exchange is a perpetual contract supply and not a real property interest, precluding a like kind exchange. This exchange is for utility contracts or lease agreements that will replace acre rights to water as the mechanisms for the delivery of nonpotable water to the Arsenal and Fitzsimons. My understanding is that this has been confirmed by GSA, which is the main decisionmaker on excess property.

All of the federal agencies and involved divisions of local and State governments are supportive of federal legislation and the agreements that it will implement, including Fitzsimons. It must be underscored that this amendment recognizes that the legal status of these rights are not being changed, nor are the rights being disposed of, rather the rights are being exchanged for permanent water contracts from Denver. There will be no change in the amount of flow through the South Platte and that Colorado water law will fully apply to this situation.

While this amendment may seem technical and minor on the surface, this transfer of water interests is an important part of the overall solution in the clean-up of the Arsenal.

Again, I thank the Chairman and Ranking Member for accepting this important amendment and I thank their staff in working with my staff to make this happen.

Mr. THURMOND. Mr. President, I believe the amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared.

Mr. THURMOND. I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is adopted.

The amendment (No. 2769) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2770

(Purpose: To make available $2,500,000 for the activities of the Hanford Health Information Network)

Mr. LEVIN. Mr. President, on behalf of Senator MURRAY, I offer an amendment which would make available $2.5 million from funds at the Department of Energy's Hanford site for the Hanford Health Information Network.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mrs. MURRAY, for herself, Mr. KEMPTHORNE, Mr. WYDEN and Mr. SMITH of Oregon, proposes an amendment numbered 2770.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. HANFORD HEALTH INFORMATION NETWORK.

Of the funds authorized to be appropriated or otherwise made available to the Department of Energy by section 3102, $2,500,000 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834), as amended by section 3138(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3087).

Mr. LEVIN. Mr. President, I believe the amendment has been cleared by the other side.

Mr. THURMOND. Mr. President, the amendment has been cleared on this side.

Mr. LEVIN. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2770) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2771

(Purpose: To extend the authority of the Secretary of Energy to appoint certain scientific, engineering, and technical personnel)

Mr. THURMOND. Mr. President, on behalf of myself and Senator BINGAMAN, I offer an amendment which would extend the Secretary of Energy's authority to appoint certain scientific and technical personnel to critical health and safety posts.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for himself and Mr. BINGAMAN, proposes an amendment numbered 2771.

The amendment is as follows:

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 3161(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

Mr. THURMOND. Mr. President, I believe the amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2771) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2772

(Purpose: To extend the authority of the Department of Energy to pay voluntary separation incentive payments through December 31, 2000)

Mr. THURMOND. Mr. President, on behalf of myself and Senator BINGAMAN, I offer an amendment which would extend the Secretary of Energy's authority to make voluntary separation incentive payments to its Federal employees.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for himself and Mr. BINGAMAN, proposes an amendment numbered 2772.

The amendment is as follows:

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) EXTENSION.—Notwithstanding subsection (c)(2)(D) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–383; 5 U.S.C. 5597 note), the Department of Energy may pay voluntary separation incentive payments to qualifying employees who voluntarily separate (whether by retirement or resignation) before January 1, 2001.

(b) EXERCISE OF AUTHORITY.—The Department shall pay voluntary separation incentive payments under subsection (a) in accordance with the provisions of such section 663.

Mr. THURMOND. Mr. President, I believe this amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the Senate adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2772) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2773

(Purpose: To extend and reauthorize the Defense Production Act of 1950)

Mr. THURMOND. Mr. President, on behalf of Senators GRAMS and D'AMATO, I offer an amendment which would reauthorize the Defense Production Act of 1950 for a period of 1 year.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. GRAMS, for himself and Mr. D'AMATO, proposes an amendment numbered 2773.

The amendment is as follows:

SECTION 1. EXTENSION AND REAUTHORIZATION OF DEFENSE PRODUCTION ACT OF 1950.

(a) EXTENSION OF TERMINATION DATE.—Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

(b) EXTENSION OF AUTHORIZATION.—Section 711(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(b)) is amended by striking "and 1998" and inserting "1998, and 1999".

Mr. GRAMS. Mr. President, this amendment will extend the authorization of the authorities under the Defense Production Act for one year through September 30, 1999.

This matter is under the jurisdiction of the Senate Banking Committee, on which I serve as the Subcommittee on International Finance Chairman which handles this issue. Chairman D'AMATO and Ranking Member SARBANES of the Banking Committee, as well as Ranking Member of the International Finance Subcommittee, Senator MOSELEY-BRAUN, all have agreed to support this one-year extension as an amendment to the Defense Authorization bill to facilitate this matter in a year when floor time is becoming scarce.

The Defense Production Act (DPA) is the primary authority for executive branch activities to ensure the timely availability of resources for national defense and civil emergency preparedness and response. It was first enacted in 1950 to mobilize the nation's productive capacity during the Korean War and ensures the availability of critical materials needed both for national defense and for catastrophic civil disasters. It allows criminal sanctions to prevent hoarding of critical materials. The DPA also authorizes the President to use financial incentives to encourage contractors to establish or expand industrial capacity for defense needs.

The "Exon-Florio" language which authorizes the President to prohibit foreign investment if such investment threatens national security is also included in this Act.

While DPA's primary function is to ensure resources are available in times of war, the DPA, as administered through the Federal Emergency Management Agency (FEMA) also provides assistance during natural disasters. For instance, FEMA used the DPA to procure resources needed during the 1997 flood disaster in my own State of Minnesota.

The Administration had requested some minor changes in the DPA. However, because committee and floor time is scarce this year, they agreed to a one-year extension. It is the goal of the Banking Committee to consider these changes, and a longer term reauthorization, next year.

Mr. President, I thank the floor leaders for agreeing to facilitate this amendment as part of the DOD bill.

Mr. THURMOND. Mr. President, I believe this amendment has been cleared by the other side.

Mr. LEVIN. Mr. President, the amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2773) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2774

(Purpose: To establish certain budgeting and other policies regarding United States operations in Bosnia and Herzegovina)

Mr. THURMOND. Mr. President, I offer an Armed Services Committee amendment that would express the sense of Congress that future year funding for operations in Bosnia be included above the topline in the defense budget and that U.S. forces in Bosnia should not act as civil police. In addition, our amendment would require the President to submit a report to Congress on the status of the establishment of the Multinational Support Unit.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 2774.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. BUDGETING FOR CONTINUED PARTICIPATION OF UNITED STATES FORCES IN NATO OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) Funding levels in the Department of Defense budget have not been sufficient to pay for the deployment of United States ground combat forces in Bosnia and Herzegovina that began in fiscal year 1996.

(2) The Department of Defense has used funds from the operation and maintenance accounts of the Armed Forces to pay for the operations because the funding levels included in the defense budgets for fiscal years 1996 and 1997 have not been adequate to maintain operations in Bosnia and Herzegovina.

(3) Funds necessary to continue United States participation in the NATO operations in Bosnia and Herzegovina, and to replace operation and maintenance funds used for the operations, have been requested by the President as supplemental appropriations in fiscal years 1996 and 1997. The Department of Defense has also proposed to reprogram previously appropriated funds to make up the shortfall for continued United States operations in Bosnia and Herzegovina.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) The discretionary spending limit established for the defense category for fiscal year 1998 in the Balanced Budget and Emergency Deficit Control Act of 1985 does not take into account the continued deployment of United States forces in Bosnia and Herzegovina after June 30, 1998. Therefore, the President requested emergency supplemental appropriations for the Bosnia and Herzegovina mission through September 30, 1998.

(6) Amounts for operations in Bosnia and Herzegovina were not included in the original budget proposed by the President for the Department of Defense for fiscal year 1999.

(7) The President requested $1,858,600,000 in emergency appropriations in his March 4, 1998 amendment to the fiscal year 1999 budget to cover the shortfall in funding in the fiscal year 1999 for the costs of extending the mission in Bosnia.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should include in the budget for the Department of Defense that the President submits to Congress under section 1105(a) of title 31, United States Code, for each fiscal year sufficient amounts to pay for any proposed continuation of the participation of United States forces in NATO operations in Bosnia and Herzegovina for that fiscal year; and

(2) amounts included in the budget for that purpose should not be transferred from amounts that would otherwise be proposed in the budget of any of the Armed Forces in accordance with the future-years defense program related to that budget, or any other agency of the Executive Branch, but, instead, should be an overall increase in the budget for the Department of Defense.

SEC. 1065. NATO PARTICIPATION IN THE PERFORMANCE OF PUBLIC SECURITY FUNCTIONS OF CIVILIAN AUTHORITIES IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization (NATO) has approved the creation of a multi-national specialized unit of gendarmes- or para-military police composed of European security forces to help promote public security in Bosnia and Herzegovina as a part of the post-June 1998 mission for the Stabilization Force (SFOR) authorized under the United Nations Security Council Resolution 1088 (December 12, 1996).

(2) On at least four occasions, beginning in July 1997, the Stabilization Force (SFOR) has been involved, pursuant to military annex 1(A) of the Dayton Agreement, in carrying out missions for the specific purpose of detaining war criminals, and on at least one of those occasions United States forces were directly involved in carrying out the mission.

(b) SENSE OF CONGRESS.—It is the sense of Congress that United States forces should not serve as civil police in Bosnia and Herzegovina.

(c) REQUIREMENT FOR REPORT.—The President shall submit to Congress, not later than October 1, 1998, a report on the status of the NATO force of gendarmes or paramilitary police referred to in subsection (a)(1), including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

Mr. THURMOND. Mr. President, my amendment would address three items, funds in the future years defense program for operations in Bosnia, concern about the use of U.S. forces in a law enforcement capacity, and the status of establishing the NATO multinational security force.

Funding for military forces participating in the NATO operation in Bosnia is the responsibility of the contributing nation. It is estimated that the U.S. costs of participating in the NATO operation will be close to $10 billion by the end of fiscal year 1999.

The Administration has failed to provide adequate funds in the defense budget to fund U.S. participation in the NATO operation since November 1995, consequently reprogramming and rescissions of defense funds, as well as supplemental appropriations have been used to pay for those costs.

In March, pursuant to legislation in the fiscal year 1998 defense authorization and appropriations bills, the President notified the Congress of his intention to extend the deployment of U.S. forces in Bosnia beyond June 30, 1998, and certified that it was in the national security interests for U.S. forces to remain in Bosnia so that conditions could be established to allow the implementation of the Dayton Accords without the support of a major NATO-led military force.

The President's announcement to extend the deployment of U.S. forces in Bosnia after June 30, 1998 once again resulted in a funding shortfall for operations in Bosnia for fiscal year 1998, as well as for fiscal year 1999. To take care of the shortfalls in fiscal year 1998, the Congress provided an emergency appropriation.

Once again, because they were unaware that the President would extend the participation of U.S. forces in the NATO operation in Bosnia, the Department of Defense and the military services did not include funds in the President's fiscal year 1999 budget request for defense. Thereby creating once again, a funding shortfall for operations in Bosnia in fiscal year 1999. To cover those costs anticipated in fiscal year 1999, but not provided for in the defense budget, the Committee has recommended an emergency authorization of $1.9 billion for operations in Bosnia in fiscal year 1999.

Mr. President, U.S. forces will be in Bosnia for at least another year or two, if not longer, unless the Congress mandates their withdrawal. It is time for the President to include the funds necessary to pay for the operations in Bosnia in the fiscal year 2000 and future year budgets for defense above the top line in the balanced budget agreement. If the defense budget is not increased to pay for the costs associated with this operation in Bosnia, the Congress will once again be faced with reprogramming defense funds, or providing emergency appropriations.

If the Congress has to reprogram defense funds, or rescind defense programs, the military services will most likely have to transfer procurement and research and development dollars meant for modernization and replacement of equipment before it becomes obsolete and unsupportable.

Transferring funds from the military service budgets for operations in Bosnia will result in reducing training opportunities, delaying real property maintenance, deferring depot maintenance, or reducing base operations and quality of life. We need to protect the readiness of our forces. Failure of the Administration to increase funding in future defense budgets to pay for operations in Bosnia would cause disruptions and in funding inefficiencies in our acquisition programs.

My amendment would express the sense of Congress that the President should include funds for operations in Bosnia in the future years defense funds, and that those funds should not come from amounts that would otherwise be proposed for defense or the military services in accordance with the future years defense plan, but should be provided above the top line in the balanced budget agreement.

My amendment would also express the concerns of Congress, as it did similarly in the fiscal year 1998 defense authorization and appropriation bills, that U.S. forces should not participate in law enforcement activities as civil police.

The International Police Task Force was formed by the United Nations in response to a requirement in the Dayton Accords. In addition to training and advising local law enforcement authorities and personnel, the responsibility of this international police task force is to monitor, observe and facilitate law enforcement activities. The international police force also has no authority to arrest or detain people, to include indicted war criminals. Because the international police force is not armed, on many occasions NATO military forces have accompanied members of the IPTF to provide protection in the event there is a breakdown in law and order. NATO forces have not intervened during incidents of violence involving unarmed civilians. However, NATO troops have taken action against paramilitary or "special police" units, such as the kind that guard indicted war criminals like Mr. Karadicz.

Earlier this year, the Congress was informed by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff that NATO would be establishing an 800-man paramilitary police force to respond to civil disturbances, such as the ones I just mentioned.

Lastly, with regard with NATO's establishment of a Multinational Specialized Unit to respond to civil disturbances, my amendment would require the President to report on the status of NATO establishing the MSU, the mission of the MSU, its composition, and the extent to which U.S. military forces will participate in the MSU, if any role.

Mr. President, I believe the amendment has been cleared by the other side.

Mr. LEVIN. Mr. President, the amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2774) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2775

(Purpose: To require the Secretary of Defense to submit to Congress a report on the objectives of a contingency operation when the President submits to Congress the first request for funding the operation)

Mr. THURMOND. Mr. President, on behalf of Senators SNOWE and CLELAND, I offer an amendment which has been approved by the Armed Services Committee and that would require the Secretary of Defense to submit to Congress a report on the objectives of any contingency operation involving the deployment of 500 or more U.S. military forces when the President requests funds for those operations.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Ms. SNOWE, for herself and

Mr. CLELAND, proposes an amendment numbered 2775.

The amendment is as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. SUBMISSION OF REPORT ON OBJECTIVES OF A CONTINGENCY OPERATION WITH FIRST REQUEST FOR FUNDING THE OPERATION.

(a) FINDINGS.—Congress makes the following findings:

(1) On May 3, 1994, the President issued Presidential Decision Directive 25 declaring that American participation in United Nations and other peace operations would depend in part on whether the role of United States forces is tied to clear objectives and an endpoint for United States participation can be identified.

(2) Between that date and mid-1998, the President and other executive branch officials have obligated or requested appropriations of approximately $9,400,000,000 for military-related operations throughout Bosnia and Herzegovina without providing to Congress, in conjunction with the budget submission for any fiscal year, a strategic plan for such operations under the criteria set forth in that Presidential Decision Directive.

(3) Between November 27, 1995, and mid-1998 the President has established three deadlines, since elapsed, for the termination of United States military-related operations throughout Bosnia and Herzegovina.

(4) On December 17, 1997, the President announced that United States ground combat forces would remain in Bosnia and Herzegovina for an unknown period of time.

(5) Approximately 47,880 United States military personnel (excluding personnel serving in units assigned to the Republic of Korea) have participated in 14 international contingency operations between fiscal years 1991 and 1998.

(6) The 1998 posture statements of the Navy and Air Force included declarations that the pace of military operations over fiscal year 1997 adversely affected the readiness of non-deployed forces, personnel retention rates, and spare parts inventories of the Navy and Air Force.

(b) INFORMATION TO BE REPORTED WITH FUNDING REQUEST.—Section 113 of title 10, United States Code, is amended by adding at the end the following:

"(*l*) INFORMATION TO ACCOMPANY INITIAL FUNDING REQUEST FOR CONTINGENCY OPERATION.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

"(1) What clear and distinct objectives guide the activities of United States forces in the operation.

"(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.".

Mr. THURMOND. Mr. President, I believe this amendment has been cleared on the other side.

Mr. LEVIN. The amendment has been cleared.

Mr. THURMOND. Mr. President, I urge that the amendment be adopted.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2775) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2776

(Purpose: Pilot program for revitalizing the laboratories and test and evaluation centers of the Department of Defense)

Mr. LEVIN. Mr. President, on behalf of Senators ROBB and SANTORUM, I offer an amendment which would provide authority to conduct a pilot program for revitalizing the laboratories and test and evaluation centers of the Department of Defense.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. ROBB, for himself and Mr. SANTORUM, proposes amendment No. 2776.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. PILOT PROGRAM FOR REVITALIZING THE LABORATORIES AND TEST AND EVALUATION CENTERS OF THE DEPARTMENT OF DEFENSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Officials of the Department of Defense are critically dependent on the science and technology laboratories and test and evaluation centers, of the department—

(A) to exploit commercial technology for unique military purposes;

(B) to develop advanced technology in precise areas;

(C) to provide the officials with objective advice and counsel on science and technology matters; and

(D) to lead the decisionmaking that identifies the most cost-effective procurements of military equipment and services.

(2) The laboratories and test and evaluation centers are facing a number of challenges that, if not overcome, could limit the productivity and self-sustainability of the laboratories and centers, including—

(A) the declining funding provided for science and technology in the technology base program of the Department of Defense;

(B) difficulties experienced in recruiting, retaining, and motivating high-quality personnel; and

(C) the complex web of policies and regulatory constraints that restrict authority of managers to operate the laboratories and centers in a businesslike fashion.

(3) Congress has provided tools to deal with the changing nature of technological development in the defense sector by encouraging closer cooperation with industry and university research and by authorizing demonstrations of alternative personnel systems.

(4) A number of laboratories and test and evaluation centers have addressed the challenges and are employing a variety of innovative methods, such as the so-called "Federated Lab Concept" undertaken at the Army Research Laboratory, to maintain the high quality of the technical program, to provide a challenging work environment for researchers, and to meet the high cost demands of maintaining facilities that are equal or superior in quality to comparable facilities anywhere in the world.

(b) COMMENDATION.—Congress commends the Secretary of Defense for the progress made by the science and technology laboratories and test and evaluation centers to achieve the results described in subsection (a)(4) and encourages the Secretary to take the actions necessary to ensure continued progress for the laboratories and test and evaluation centers in developing cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(c) PILOT PROGRAM.—(1) In conjunction with the plan for restructuring and revitalizing the science and technology laboratories and test and evaluation centers of the Department of Defense that is required by section 906 of this Act, the Secretary of Defense may carry out a pilot program to demonstrate improved cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation center, of each military department with authority for the following:

(A) To explore innovative methods for quickly, efficiently, and fairly entering into cooperative relationships with universities and other private sector entities with respect to the performance of research and development functions.

(B) To waive any restrictions on the demonstration and implementation of such methods that are not required by law.

(C) To develop or expand innovative methods of operation that provide more defense research for each dollar of cost, including to carry out such initiatives as focusing on the performance of core functions and adopting more business-like practices.

(3) In selecting the laboratories and centers for participation in the pilot program, the Secretary shall consider laboratories and centers where innovative management techniques have been demonstrated, particularly as documented under sections 1115 through 1119 of title 31, United States Code, relating to Government agency performance and results.

(4) The Secretary may carry out the pilot program at each selected laboratory and center for a period of three years beginning not later than March 1, 1999.

(d) REPORTS.—(1) Not later than March 1, 1999, the Secretary of Defense shall submit a report on the implementation of the pilot program to Congress. The report shall include the following:

(A) Each laboratory and center selected for the pilot program.

(B) To the extent possible, a description of the innovative concepts that are to be tested at each laboratory or center.

(C) The criteria to be used for measuring the success of each concept to be tested.

(2) Promptly after the expiration of the period for participation of a laboratory or center in the pilot program, the Secretary of Defense shall submit to Congress a final report on the participation of the laboratory or center in the pilot program. The report shall contain the following:

(A) A description of the concepts tested.

(B) The results of the testing.

(C) The lessons learned.

(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at the laboratory or center under the pilot program.

Mr. LEVIN. I believe the amendment has been cleared on the other side.

Mr. THURMOND. The amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2776) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2777

(Purpose: To protect the voting rights of military personnel)

Mr. THURMOND. Mr. President, on behalf of Senators GRAMM and MCCAIN, I offer an amendment which will protect the voting rights of the military personnel.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. GRAMM for himself and Mr. MCCAIN, proposes an amendment numbered 2777.

The amendment is as follows:

On page 130, between lines 11 and 12, insert the following:

SEC. 644. VOTING RIGHTS OF MILITARY PERSONNEL.

(a) GUARANTEE OF RESIDENCY.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by adding at the end the following:

"SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

(b) STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.—(1) Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(A) by inserting "(a) ELECTIONS FOR FEDERAL OFFICES.—" before "Each State shall—"; and

(B) by adding at the end the following:

"(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(2) The heading of title I of such Act is amended by striking out **"FOR FEDERAL OFFICE"**.

Mr. THURMOND. I believe this amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2777) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

AMENDMENT NO. 2778

(Purpose: To require a review and report on research on pharmacological interventions for reversing brain injury resulting from head injuries incurred in combat or exposures to chemical weapons)

Mr. THURMOND. On behalf of Senator WARNER, I offer an amendment which would require the Secretary of Defense to review and report to Congress on research concerning pharmacological interventions for reversing brain injury.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. WARNER, proposes an amendment numbered 2778.

The amendment is as follows:

At the end of subtitle C of title II, add the following:

SEC. 232. REVIEW OF PHARMACOLOGICAL INTERVENTIONS FOR REVERSING BRAIN INJURY.

(a) REVIEW AND REPORT REQUIRED.—The Assistant Secretary of Defense for Health Affairs shall review research on pharmacological interventions for reversing brain injury and, not later than March 31, 1999, submit a report on the results of the review to Congress.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) The potential for pharmacological interventions for reversing brain injury to reduce mortality and morbidity in cases of head injuries incurred in combat or resulting from exposures to chemical weapons or agents.

(2) The potential utility of such interventions for the Armed Forces.

(3) A conclusion regarding whether funding for research on such interventions should be included in the budget for the Department of Defense for fiscal year 2000.

Mr. THURMOND. I believe this amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2778) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2779

(Purpose: To modify the authority relating to the demonstration project to provide the FEHBP health care option to medicare-eligible military health care beneficiaries)

Mr. THURMOND. On behalf of Senators BOND, SHELBY, COVERDELL, and FAIRCLOTH, I offer an amendment that would amend section 707 to accelerate the Federal Employees Health Benefit Program (FEHBP) demonstration and increase the number of sites from two to four.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. BOND, for himself, Mr. SHELBY, Mr. COVERDELL, and Mr. FAIRCLOTH, proposes an amendment numbered 2779.

The amendment is as follows:

On page 157, strike out line 7 and insert the following:

(h) ADDITIONAL REQUIREMENTS RELATING TO FEHBP DEMONSTRATION PROJECT.—(1) Notwithstanding subsection (a)(2), the Secretary shall commence the demonstration project under subsection (d) on July 1, 1999.

(2) Notwithstanding subsection (c), the Secretary shall carry out the demonstration project under subsection (d) in four separate areas, of which—

(A) two shall meet the requirements of subsection (c)(1)(A); and

(B) two others shall meet the requirements of subsection (c)(1)(B).

(3)(A) Notwithstanding subsection (f), the Secretary shall provide for an annual evaluation of the demonstration project under subsection (d) that meets the requirements of subsection (f)(2).

(B) The Comptroller shall review each evaluation provided for under subparagraph (A).

(C) Not later than September 15 in each of 2000 through 2004, the Secretary shall submit a report on the results of the evaluation under subparagraph (A) during such year, together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(D) Not later than December 31 in each of 2000 through 2004, the Comptroller General shall submit a report on the results of the review under subparagraph (B) during such year to the committees referred to in subparagraph (C).

(i) DEFINITIONS.—In this section:

Mr. BOND. Mr. President, I rise today to introduce an amendment on behalf of myself, Mr. SHELBY, Mr. COVERDELL, and Mr. FAIRCLOTH.

This vital measure would enhance the Federal Employees Health Benefits Program (FEHBP) demonstration provisions currently included in the Department of Defense Authorization bill to evaluate the feasibility of using this effective program to ensure the availability of adequate health care for Medicare-eligible retirees under the military health care system.

Specifically, this amendment increases the number of FEHBP sites from two to four and accelerates the implementation of the program from January of 2000 to July of 1999.

Mr. President, our nation's military retirees are facing a grave health care crisis. Current trends, such as base closures, the downsizing of military treatment facilities, and the introduction of TRICARE, have all hindered access to health care services for military retirees aged 65 and over. In theory, Medicare-eligible retirees can receive health care services at military treatment facilities on a space available basis; however, active duty and their dependents have priority.

Therefore, in reality, space is rarely available—resulting in military retirees being "locked out" of the Department of Defense's (DoD) health care delivery system. And because of their considered "secondary status", many retirees are forced to travel great distances to receive even the minimum of care.

Further, when compared to what other Federal and private sector retirees receive in terms of health care options, it is clear that the current health care choices for military retirees are woefully inadequate and downright inexcusable.

This is outrageous. The bottom line is military retirees aged 65 and older do not have time to wait for health care solutions, especially when our nation is losing 30,000 world War II veterans each month. It is high time that the federal government lives up to its promise of providing health care to those who honorably served our country.

Although this amendment is not everything I wanted, it is a step in the right direction. I am pleased that the Armed Services Committee was able to address this problem, but I remain concerned that the DoD Authorization bill caps total funding for all the various demonstration projects at $60 million a year, of which only a portion would be available for the FEHBP demonstration.

Mr. President, I understand the budgetary constraints that the Committee faces; however, this does not excuse us from our moral obligation to provide those military retirees who faithfully and selflessly served our country in times of war and in times of peace the health care they deserve. Our country must live up to the promise of providing military retirees more dependable, consistent, and affordable care while simultaneously applying equitable standards of health care for all federal retirees.

Make no doubt about it—this battle has just begun. I look forward to working with my colleagues in conference in securing increased funding and sites for this purpose—as represented in the House's DoD Authorization bill. And again, I thank the distinguished Chairmen, Senator THURMOND, and Senator KEMPTHORNE, for their efforts.

Mr. THURMOND. I believe this amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2779) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2780

(Purpose: To authorize amounts for NATO common-funded budgets)

Mr. LEVIN. Mr. President, on behalf of myself and Senator THURMOND, I offer an amendment which would authorize funds for the NATO military budget and the NATO Security Investment Program for fiscal year 1999.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. THURMOND, proposes an amendment numbered 2780.

The amendment is as follows:

At the end of subtitle B of title II, insert the following:

SEC. 219. NATO COMMON-FUNDED CIVIL BUDGET.

Of the amount authorized to be appropriated by section 201(1), $750,000 shall be available for contributions for the common-funded Civil Budget of NATO.

At the end of subtitle B of title III, insert the following:

SEC. 314. NATO COMMON-FUNDED MILITARY BUDGET.

Of the amount authorized to be appropriated by section 30(a)(1), $227,377,000 shall be available for contributions for the common-funded Military Budget of NATO.

At the end of subtitle A of title X, insert the following:

SEC. 1014. AMOUNT AUTHORIZED FOR CONTRIBUTIONS FOR NATO COMMON-FUNDED BUDGETS.

(a) TOTAL AMOUNT.—Contributions are authorized to be made in fiscal year 1999 for the common-funded budgets of NATO, out of funds available for the Department of Defense for that purpose, in the total amount that is equal to the sum of (1) the amounts of the unexpended balances, as of the end of fiscal year 1998, of funds appropriated for fiscal years before fiscal year 1999 for payments for such budgets, (2) the amount authorized to be appropriated under section 301(a)(1) that is available for contributions for the NATO common-funded military budget under section 314, (3) the amount authorized to be appropriated under section 201(1) that is available for contribution for the NATO common-funded civil budget under section 219, and (4) the total amount of the contributions authorized to be made under section 2501.

(b) DEFINITION.—In this section, the term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of NATO (and any successor or additional account or program of NATO).

Mr. LEVIN. I believe the amendment has been cleared.

Mr. THURMOND. The amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2780) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

AMENDMENT NO. 2781

(Purpose: To require reports on the development of the European Security and Defense Identity within the NATO alliance)

Mr. LEVIN. Mr. President, I offer an amendment which would require the Secretary of Defense to provide a report to Congress on the development of the NATO European Security Defense Initiative by December 15, 1998, and thereafter on a semiannual basis, until such time as the Secretary of Defense states that an ESDI has been fully established.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 2781.

The amendment is as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. REPORTS ON THE DEVELOPMENT OF THE EUROPEAN SECURITY AND DEFENSE IDENTITY.

(a) REQUIREMENT FOR REPORTS.—The Secretary of Defense shall submit to the congressional defense committees in accordance with this section reports on the development of the European Security and Defense Identity (ESDI) within the NATO Alliance that would enable the Western European Union (WEU), with the consent of the NATO Alliance, to assume the political control and strategic direction of NATO assets and capabilities made available by the Alliance.

(b) REPORTS TO BE SUBMITTED.—The reports required to be submitted under subsection (a) are as follows:

(1) An initial report, submitted not later than December 15, 1998, that contains a discussion of the actions taken, and the plans for future actions, to build the European Security and Defense Identity, together with the matters required under subsection (c).

(2) A semiannual report on the progress made toward establishing the European Security and Defense Identity, submitted not later than March 15 and December 15 of each year after 1998.

(c) CONTENT OF REPORTS.—The Secretary shall include in each report under this section the following:

(1) A discussion of the arrangements between NATO and the Western European Union for the release, transfer, monitoring, return, and recall of NATO assets and capabilities.

(2) A discussion of the development of such planning and other capabilities by the Western European Union that are necessary to provide political control and strategic direction of NATO assets and capabilities.

(3) A discussion of the development of terms of reference for the Deputy Supreme Allied Commander, Europe, with respect to the European Security and Defense Identity.

(4) A discussion of the arrangements for the assignment or appointment of NATO officers to serve in two positions concurrently (commonly referred to as "dual-hatting").

(5) A discussion of the development of the Combined Joint Task Force (CJTF) concept, including lessons-learning from the NATO-led Stabilization Force in Bosnia.

(6) Identification within the NATO Alliance of the types of separable but not separate capabilities, assets, and support assets for Western European Union-led operations.

(7) Identification of separable but not separate headquarters, headquarters elements, and command positions for command and conduct of Western European Union-led operations.

(8) The conduct by NATO, at the request of and in coordination with the Western European Union, of military planning and exercises for illustrative missions.

(9) A discussion of the arrangements between NATO and the Western European Union for the sharing of information, including intelligence.

(10) Such other information as the Secretary considers useful for a complete understanding of the establishment of the European Security and Defense Identity within the NATO Alliance.

(d) TERMINATION OF SEMIANNUAL REPORTING REQUIREMENT.—No report is required under subsection (b)(2) after the Secretary submits under that subsection a report in which the Secretary states that the European Security and Defense Identity has been fully established.

Mr. LEVIN. I believe this amendment has been cleared on the other side.

Mr. THURMOND. The amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2781) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I have brief remarks in concluding today, a very productive day on the defense authorization bill.

I wish to personally thank the distinguished chairman, Mr. THURMOND, and the ranking member, for covering a number of amendments today, including those of the Senator from Virginia while I was momentarily off the floor. Chairman THURMOND will bring the bill back up again on Monday. It will be the business.

I will have further extensive remarks on Monday as regards the complex issue of Bosnia and Herzegovina. The American commitments there in connection with our NATO allies are very important commitments, and certain observations relative to Kosovo.

Given the cloture motion, I am not sure whether our bill will have opened the opportunity for amendments on these issues. It is a subject that has been carefully considered by the Armed Services Committee in four meetings. We feel very strongly that there is an obligation in the Congress, which no one has spoken to with greater clarity and greater sincerity than the senior Senator from West Virginia, Mr. BYRD. He did so at a hearing of the Armed Services Committee on June 4 of this year. Senator BYRD and Senator HUTCHISON of Texas have worked very hard and diligently on this subject. But I am not sure as to what will evolve in the days to come on this bill.

I wish to make several observations about this subject. I, too, have thought about introducing an amendment on this subject. But these are the concerns that I have.

None of us could perceive with specificity what has happened in Kosovo, what is happening today, and what could happen in the future. That is a key that is directly linked to the continuing policies of the United States, together with our allies in Bosnia.

Great progress has been made in Bosnia towards the Dayton accords. I was not in favor at any time and voted against the introduction of U.S. ground forces. Nevertheless, that decision was made and endorsed by the Congress of the United States. They have performed absolutely courageously, and have contributed to a measure of peace and stability that exists in Bosnia today. They have worked remarkably well with our allies. There are some 13 various allies which have contributed to this NATO-led force to bring about the current stability. I will speak further on Monday as to the details.

But I want to comment on a couple of factors that I hope Senators will take into consideration should they want to go into further discussions of this area.

First, there will be very important elections held in the political structure of Bosnia in September. Hopefully, the outcome of those elections, in terms of the candidates that succeed, will further move efforts towards achieving the Dayton accords. We cannot anticipate here in June what that situation will be, nor can we anticipate with any specificity the problems in Kosovo. Hopefully, the initiatives, indeed, by President Yeltsin, by President Clinton, and by many others in the United Kingdom and France will address that situation so that we will not witness further tragic displacement of people from their homes, communities, and to worsen the flow of refugees from that region. We simply cannot stand by and watch that persecution.

I remember so well. We always talked in terms of Bosnia, that we have to contain that so it will not spill over into the Kosovo region. Now just the reverse has taken place. It is Kosovo which threatens to spill over, dislodge, and disrupt some of the achievements that have occurred so far in Bosnia.

So the elections are important. The unfolding developments in Kosovo—we cannot predict today what they will be a month from now, or 6 months from now.

Further, there will be a new Congress elected by the people of our country in November. They will take their seats, such Members as new Members who come and those who will depart. We will have a new Congress.

It seems to me that the new Congress is entitled to take a fresh look at this situation.

We also must take into consideration that we are working today with our allies on a variety of contingencies as they relate to Kosovo, and any legislation which is directed to the future of our commitment in Bosnia; that is, the extent the ground forces remain in place, the extent perhaps of their withdrawal and the force levels and the like, sends signals to people, particularly President Milosevic, who, indeed, is the prime perpetrator of the problems in that region, in my judgment, and we have to be very careful, because on the one hand if we address the future of U.S. commitments in Bosnia and at the same time we are trying to work out contingency plans with our allies, those two actions, in my judgment, have to go hand in hand.

So it is terribly important that those addressing this issue take into consideration again the transitory nature of the Kosovo problem, the elections that are coming up, and the fact there will be a new Congress, and therefore any action that we take should not be taken—and I am hesitant to think we should take any action now—with regard to dictating in many respects to the Commander in Chief what is to be done in that region beginning, say, next spring. I think we have to be very careful to recognize the constitutional responsibilities of President Clinton in this area, and we should do nothing to abridge those constitutional responsibilities.

So having said that, I will address this subject further on Monday, but I just wanted to lay down in today's RECORD some of my concerns about this very important issue. It is driven in large measure by the fact that the Armed Forces of the United States today have expended some $9.4 billion for the Bosnia action to date and through fiscal year 1998, and those dollars could, in my judgment, have been spent very wisely for modernization, for research and development, and for readiness. Those three areas are of prime concern as regards our military today, and they are very, very serious concerns. We will address those areas further as we consider the authorization bill. But it is an expensive commitment there in terms of dollars and U.S. troops, and it seems to me that we have to continually work with our allies so that those allies, particularly the European allies, take a greater percentage of this burden in the months to come.

It is clear that we cannot hope to achieve the Dayton accords in a period of time, perhaps within a year or so. General Clarke, when he appeared before our committee, could not in any way—and we understand this—specify his estimate of time within which those accords of Dayton could be achieved. But nevertheless, it is the allied forces under the NATO in place today that have enabled the progress to date that we are all very fortunate to witness.

Now, Mr. President, I will return now to the closing business of today's session of the Senate.

MORNING BUSINESS

Mr. WARNER. I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak up to 10 minutes each. In one instance I will soon allocate 15 minutes at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALAN GREENSPAN AND ANTITRUST

Mr. GORTON. Mr. President, the Senate Judiciary Committee heard testimony on Tuesday from Federal Reserve Board Chairman Alan Greenspan and the Assistant Attorney General for Antitrust, Joel Klein. The hearing was called to discuss the economic impacts of the recent wave of mergers and acquisitions and the role of federal antitrust enforcers in today's economy.

While the subject matter was narrow, nothing less than the future of the American economy is at stake in the debate between those in this nation who believe in the power and efficiency of the free market and those who advocate government control of the market.

Both sides in the debate, and both witnesses at the hearing, claim to be working toward the same goals: consumer protection, competition, and economic expansion. But the contrast in the means each side advocates to achieve those ends is astonishing.

Alan Greenspan, arguably one of the most powerful men in the world, urged "humility" on the part of government antitrust enforcers, while Joel Klein pushed for more government intervention and more taxpayer money for his division at the Department of Justice.

Once again Mr. President, I find the attitude of the Clinton/Gore Administration's Justice Department disturbing. It is quite apparent to this Senator that Joel Klein and his staff are anti-business, anti-success, and anti-economic growth.

Mr. Klein pled for more, not less, government control of the economy. In fact, in his testimony Mr. Klein said, "we reject categorically the notion that markets will self-correct and we should sit back and watch." Instead, Mr. Klein believes the government should control every move of America's most successful and innovative companies in the name of competition and consumer protection. His statement strikes me as an endorsement of the very kind of socialist-style command and control economics embraced by the Soviet Union that led to its collapse, not the free market principles on which the United States economy is based.

Mr. Greenspan, on the other hand, a long-time champion of the free market, made the case that the Justice Department and the Federal Trade Commission have been overstepping their bounds recently in predicting how mergers will affect the economy of the future, and in prohibiting mergers on the basis of predictions about that economic future. He said, "I would like to see far more firm roots to our judgments as to whether particular market positions do, in fact, undercut competition or are only presumed on the basis of some generalized judgment of how economic forces are going to evolve." Chairman Greenspan went on to point out that, "history is strewn with people making projections which have turned out to be grossly inaccurate."

The Chairman of the Federal Reserve Board, despite his power to do otherwise, represents and advocates the same common sense approach to competition and consumer welfare as that advocated by our founding fathers. His vision is one in which the government rarely intervenes in the free market that, left alone, can provide more benefits and broader economic wealth for consumers than the smartest government planners and politicians. His vision is one in which American entrepreneurs invent amazing new products and compete openly with one another in a free, but relentless marketplace, to meet the constantly changing demands of consumers.

It is Mr. Greenspan's vision that has contributed to the greatest economic growth in this nation's history; that of the Justice Department would undermine it.

In contrast to those of Mr. Greenspan's, Mr. Klein's comments reveal an elitist, government-knows-best approach to economics. Under the guise of consumer protection, Mr. Klein advocates government control of the marketplace in order to prop up businesses that cannot compete successfully on their own.

I, for one, Mr. President, believe Mr. Greenspan's approach to be correct and to be the one that has and will serve the American consumers and the American economy best.

As Mr. Greenspan so eloquently put it, "Through skill, perseverance, luck, or political connections, competitors have always pressed for market dominance. It is free, open markets that act to thwart achievement of such dominance, and in the process direct the competitive drive, which seeks economic survival, towards the improvement of products, greater productivity, and the amassing and distribution of wealth. Adam Smith's invisible hand does apparently work."

Let us look, for example, at the Justice Department's case against Microsoft—the most successful and innovative company in the U.S. software industry. In this case, the Justice Department argues that Microsoft does not allow computer manufacturers to customize the desktop. Mr. Klein's solution to this problem is for the government to force Microsoft to allow competing desktops to be displayed on Microsoft's own operating system software.

But only a few weeks after Mr. Klein filed suit against Microsoft on this front, the free market has produced its own solution. A small, start-up software company in Seattle called Pixel has begun marketing a product that makes use of the sliver of black screen space surrounding Microsoft's Windows display on the desktop. Using this empty space, Pixel's software will allow computer manufacturers to display their own control bar. The control bar gives users direct access to web sites chosen by the computer manufacturer.

In the next few weeks, Packard Bell and NEC will start shipping computers with Pixel's new control bar on the opening screen.

Compaq Computer has come up with its own alternative. The company announced last week that it will provide a special keyboard with a new range of personal computers that incorporate function keys for instant access to e-mail, news, weather, shopping, and other features.

Like the Pixel software, this new keyboard enables Compaq to partner directly with Internet publishers and access providers, effectively bypassing Windows.

These innovations make it clear that the free market works much faster and much more effectively than government intervention. It is a lesson that the Administration and Assistant Attorney General Klein should take to heart.

Mr. Klein's counterpart at the Federal Trade Commission, Robert Pitofsky, recently filed a similar case against Intel, another highly successful high tech company that has come under fire for its very success.

The FTC has charged that Intel, in attempting to protect its own intellectual property, is engaging in anti-competitive business practices. This suit comes at the very time that Intel is facing the toughest competition in the microprocessor market that it has faced in its history as a company. The FTC is as perverse as is the Department of Justice.

Mr. Greenspan's testimony is a breath of fresh air in an increasingly stifling era of big government intervention in the free market. I urge my colleagues in the United States Senate to heed Mr. Greenspan's words and to join me in my efforts to bring reason back into the debate over antitrust policy.

SENATOR LOTT'S PROPOSED HEALTH UNANIMOUS CONSENT REQUEST

Mr. KENNEDY. Mr. President, I hope very much that in the coming days, we will be able to begin debate in the full Senate on another major issue of vital importance to the country—the reforms needed in our health care system to end the abuses by HMOs and health insurance companies. Critical decisions on health care should be made by doctors and their patients, not by insurance industry accountants. It is long past time for Congress to act to protect patients and end these abuses. We face a growing crisis of confidence in health care.

A recent survey found that an astonishing 80 percent of Americans now believe that their quality of care is often compromised by their insurance plan to save money. And, too often, they are absolutely right.

One reason for this concern is the explosive growth in managed care. In 1987, only 13 percent of privately insured Americans were enrolled in HMOs. Today 75 percent are in some form of managed care.

This issue goes to the heart of health care and the fundamental doctor-patient relationship. At its best, managed care offers the opportunity to achieve greater efficiency and greater quality in health care.

In too many cases, however, the priority has become greater profits, not greater health. HMOs and conventional insurance companies alike have abused the system by denying coverage for treatments that their customers need and that their premiums should have guaranteed.

In California, a Kaiser Foundation study found that almost half of all patients reported a problem with their health plan. Substantial numbers reported that the plan's actions caused unnecessary pain and suffering, delayed recovery, or even resulted in permanent disabilities.

Projected to the national level, these results indicate that 30 million Americans develop additional health problems because of their plan's abusive practices—and a shocking 11 million develop permanent disabilities.

The dishonor roll of those victimized by insurance company abuse grows every day. A baby loses his hands and feet because his parents believe they have to take him to a distant emergency room rather than the one close to their home.

A Senate aide suffers a devastating stoke, which might have been far milder if her HMO had not refused to send her to an emergency room. The HMO now even refuses to pay for her wheelchair.

A woman is forced to undergo a mastectomy as an outpatient, against her doctor's recommendation. She is sent home in pain, with tubes still dangling from her body.

A doctor is denied future referrals under a managed car plan, because he told a patient about an expensive treatment that could save her life.

The parents of a child suffering from a rare cancer are told that life-saving surgery should be performed by an unqualified doctor who happens to be on the plan's list, rather than by a specialist at the nearby cancer center equipped to perform the operation.

A San Diego paraplegic asks for referral to a rehabilitation specialist. Her HMO refuses, and she develops a severe pressure wound that a rehabilitation specialist would have routinely checked and treated. She is forced to undergo surgery, and is hospitalized for a year with round-the-clock nursing care.

A child suffers a severe shoulder dislocation in a gym class. Frantic school officials make repeated calls to her HMO for authorization to call an ambulance. The accident has cut off the flow of blood to her arm. Fortunately, a mother who was also an emergency room physician was there and was able to give immediate treatment. Otherwise, the child might have lost her arm.

The list of these abuses goes on and on.

Many of us in Congress have offered legislation to end these abuses.

Our proposal is a common sense program that guarantees the American people the fundamental protections that every good insurance company already provides, and that every American who pays insurance premiums deserves to have when serious illness strikes.

But the Republican Leadership's position on these protections is to protect the insurance industry instead of protecting patients. They know that they can't do that in the light of day before the American people. So their strategy has been to work behind closed doors to kill the bill. Keep it bottled up in committee. No markup. No floor vote. Delay, deny, and obfuscate—and hope the clock runs out.

And while the Republican Leadership keeps the bill bottled up, they call on the insurance companies and their right-wing allies to use their vast resources to manipulate public opinion. The National Journal reported in November that "a coalition of business groups, corporations, and health care associations is planning a $1 million-plus public relations and grass roots blitz to derail new legislation calling for increased regulation of health plans." Just a few weeks ago, it was reported that the special interest opponents have now spent more than $3 million to defeat our common sense proposals.

According to the Washington Post of November 5 last year, "Three years after they killed President Clinton's massive health plan, Republican leaders in Congress have embarked on a crusade to block a new generation of federal efforts aimed at regulating the quality of medical care Americans receive."

The article goes on to report that members of the antireform coalition were invited to what was billed as the first in a Series of Briefings for Republican Staff Members. "Clinton Care Returns: The Trojan Horse Strategy." That is what the invitation said to the briefing, sponsored by Senate Majority Leader TRENT LOTT and Senate Majority Whip DON NICKLES—"Clinton Care Returns: The Trojan Horse Strategy."

It is obvious that the Senate Republican leadership is no friend of health reform.

According to a memo from one of the participants in the briefing, "The message we are getting from House and Senate leadership is that we are in a war and we need to start fighting like we are in a war." It went on to say, "Republican leadership is now engaged on this issue and is issuing strong directives to all players in the insurance and employer community to get activated." Their message: "Get off your butts; get out your wallets."

The special interests have responded. They are now pouring millions of dollars into a PR campaign to confuse and intimidate patients, and they are pouring hundreds of thousands of dollars into Republican campaign committees.

One of the directives the GOP leadership gave to their anti-reform coalition was to "write the definitive piece of paper trashing all these bills"—trashing all these bills. It apparently did not matter to the Republican leadership what was actually in the bills—they were all to be trashed.

Willis Gradison, the head of the Health Insurance Association of America, was asked in an interview published in the Rocky Mountain News to sum up the coalition's strategy. According to the article, Mr. Gradison replied, "There's a lot to be said for 'just say no.'" The author of the article goes on to report that, "At a strategy session last month called by a top aide to Senator DON NICKLES, Gradison advised Republicans to avoid taking public positions that could draw fire during the election campaign. Opponents will rely on Republican leaders in both chambers to keep managed care legislation bottled up in committee."

So there you have it. Keep patient protections bottled up. Order your special interest friends to "get off their butts and get out their wallets." Deliver a massive campaign of misinformation and disinformation. Just say yes to the special interests—and just say no to the American people.

We saw the results of that strategy in the Senate yesterday when the Republicans put the interests of the tobacco companies ahead of the interests of the American children. Next, it is good medical care for American families that will be sacrificed on the altar of special interest profits, if the Republican leadership has its way.

But those leaders are feeling the heat. Yesterday, the Republican leader tried a new tactic to try to persuade the American people that he is not trying to block managed care reform. But the tactic was another transparent attempt to dodge full and fair debate on this important issue of health reform.

The Republican leader proposed an agreement under which the Senate could potentially take up our legislation, which is called the Patients' Bill of Rights. But the proposal is clearly not defined to allow a fair debate or give American families the protections they need. Instead, it is designed to give Republican Senators yet one more excuse for not taking up this critical legislation.

First, it puts off action for several more weeks, even though time is clearly running out in this session of Congress, even though the American people have already been waiting for more than a year for action, even though every day we delay, more abuses take place and more patients suffer needless pain and illness.

Next, the agreement proposed by the Republican leader would let him bring up any health care bill at all—not a hint of what that could be. Yet he would limit Democrats to offering the text of S. 1891, as introduced, without revisions. The Republican leader is not even proposing that we bring up the complete Patients' Bill of Rights, which is S. 1890. Instead, he wants us to offer a companion bill that does not provide patients with the right to hold health plans accountable for medical decisions that result in injury or death. It does not provide protections for those who buy health insurance on their own, without assistance from an employer. It is not the real Patients' Bill of Rights.

In addition, the proposed agreement asks for a vote "on or in relation to" the unnamed Republican bill and the Democratic substitute. Again, a Trojan horse. This does not guarantee a clear vote or final action. The Republican leadership could meet this requirement by simply having procedural votes—on cloture, a point of order, or motion to table. Under this proposal, the American people will never find out where the Senate stands on patient protections.

Adding insult to injury, the proposal further states that even if we win a vote—even if we win a vote—he reserves the right to kill the bill by returning it to the Senate calendar after the vote.

This is what his proposal says:

> . . . and following those votes, it be in order for the majority leader to return the legislation to the calendar.

So even if we win the vote, this gives the authority to the majority leader to send it back to the calendar. Generally, if you win the vote around here on a piece of legislation, it goes to the House of Representatives, or if it has been in the House of Representatives, it goes to the President of the United States. That is the way you legislate—but not under the proposal of the Republican leadership, and not on the issue of the Patients' Bill of Rights, which he continues to refuse to schedule in this session of the Congress.

This is bizarre, Mr. President. I know he announced it at a press conference, rather than sharing it with the Democratic leader and those who have been involved in the issue, which is generally the process and procedure. I don't know whether he thought that by issuing it at a press conference he would be able to flummox the American people into thinking he was really doing something, in order for the majority leader to return the legislation to the calendar.

So after we debate for weeks, he is instructing the Democrats which bill to bring up, while he is keeping open his options. He is saying that any vote that is in relation to it, any vote at all, will answer the requirements of the proposal; and if we win the final vote, he can still put the legislation right back on the calendar.

Mr. President, that is not even the end of it. Finally, the proposed agreement states that no other health care proposal—no bills, no amendments—can be considered this year on the issue. No health care proposal—none. This could even preclude further consideration of tobacco legislation.

This is what it says, Mr. President:

> Finally, I ask unanimous consent that it not be in order to offer any legislation, motion, or amendment relative to health care prior to the initiation of this agreement, and following the execution of the agreement, it not be in order to offer any legislation, motion, or amendment relative to health care for the remainder of the 105th Congress.

I ask unanimous consent that the text of this unanimous consent request be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Health Care Consent

I ask unanimous consent that prior to the August recess, the majority leader, after notification of the minority leader, shall turn to the consideration of a bill to be introduced by the majority leader, or his designee, regarding Health Care.

I further ask that the Senate proceed to its immediate consideration and following the reporting by the clerk, Senator DASCHLE or his designee be recognized to offer as a substitute the text of S. 1891, as introduced on March 31, 1998.

I further ask that during the consideration of the Health Care issue, it be in order for members to offer Health Care amendments in the first and second degree.

I further ask unanimous consent that the chair not entertain a motion to adjourn or recess for the August recess prior to a vote on or in relation to the majority leader's bill and the minority leader's amendment, and following those votes, it be in order for the majority leader to return the legislation to the calendar.

Finally, I ask unanimous consent that it not be in order to offer any legislation, motion or amendment relative to Health Care prior to the initiation of this agreement, and following the execution of the agreement, it not be in order to offer any legislation, motion or amendment relative to Health Care for the remainder of the 105th Congress.

Mr. KENNEDY. So you can't offer anything to do with the health care of the American people prior to this, or after this, or after the Republican leader puts this proposal back on the calendar to shelve it. In other words, the Republican leadership says to the Senate of the United States: You can't deal with anything affecting the health care of the American people for the rest of this Congress.

Come on, Mr. President. Come on, Mr. President. This is just the day after the Republican leadership tried to sink the tobacco bill. Now they are out there trying to deny us the opportunity to debate one of the most important health care bills that is before the American people.

Mr. President, it is just unbelievable to me to think that the majority leader's proposal was going to be considered in good faith by our Democratic leader, or by any Member—not just leadership—by any Member. We are all equals in this body.

Those who are interested in health care ought to be concerned when a proposal is put forward to muzzle the U.S. Senate on health care. What does the Republican leadership fear? What do they fear about a full and open debate on the Patients' Bill of Rights? What do they fear in a debate about trying to give an opportunity for the Senate to express itself to permit our uninsured citizens between the ages of 55 and 64 to be able to buy into the Medicare system? What do they fear about having an open and full debate on that issue, if the individuals are going to pay full premiums? What do they have to fear about the possibility of requiring that companies of 50 or more employees have some requirement to provide health care for their employees? Can't we have a debate on that issue? Can't we have a rollcall on that issue?

Some will agree. Some will differ. Let the American people make a judgment about how their representatives stand. No, no, not if the majority leader, on behalf of the Republicans, have their way.

This proposal says "not be in order to offer any legislation, motion, or amendment relative to health care prior to the initiation of the agreement,'' which is sometime just before the August recess, for the next several weeks, and for the rest of this session following completion of this proposed agreement. If we were to proceed with it, we would be absolutely curtailed from any kind of effort to try to address health care for the American people. This could even preclude further consideration of tobacco legislation, or proposals to extend health insurance to uninsured Americans between the ages of 55 and 64, or improvements in Medicare package for senior citizens, or appropriations for the National Institutes of Health and other health programs, or legislation on the privacy of medical records—the list goes on and on.

Many of us believe that as we move on into the millennium, it is going to be the millennium of the life sciences with extraordinary scientific breakthroughs. And the Republican leader wants to silence us from having some opportunity to debate that priority?

Mr. President, it prohibits consideration of any legislation dealing with the problems of the privacy of our medical records, and the dangers that exist in terms of the proliferation of medical records. There are enormously important issues relating to the privacy of medical records that Republicans and Democrats have tried to address. But we are foreclosed from any opportunity to consider that under this proposal.

Mr. President, it often takes, as we all know, many votes to pass legislation important to American families. Rarely can we do so on the first attempt. These arbitrary, unfair restrictions serve only to strengthen the power of the special interests. We have heard where those special interests are. We understand what they are doing at the present time—raising millions of dollars, and going on with these distortions and misrepresentations.

The networks were hardly quiet after the tobacco industry was able to disrupt the kind of successful conclusion of legislation here in the U.S. Senate that would protect our children. The airwaves are polluted again with distortions and millions of dollars in trying to do a similar job on the Patients' Bill of Rights. They are not going to succeed in either one, Mr. President.

It is said that you can fool some of the people all of the time, all of the people some of the time, but not all of the people all of the time.

This unanimous consent request isn't going to fool any of the people any of the time. The American people want patient protections. They deserve them and know parliamentary maneuvers. No public relations campaign is going to allow the Republican leadership to avoid responsibility if this Congress does not pass strong HMO reform legislation this year.

REGULATING THE TENNESSEE VALLEY AUTHORITY

Mr. FORD. Mr. President, I rise to comment on the concerns I have about recent proposals to dramatically change the regulatory structure of the Tennessee Valley Authority. Recently, legislation was introduced to make dramatic changes in the regulatory structure of TVA, starting with the granting of regulatory authority to the Federal Energy Regulatory Commission.

TVA has had remarkably stable rates over the last decade, with only one significant rate increase during this time period. I agreed that TVA has not been run perfectly through the years. However, to consider a substantial regulatory overhaul for this agency at a time when comprehensive electric industry deregulation is right around the corner appears to me to be premature and unwise. Legislation to impose additional regulatory controls at a time when the Congress is beginning to seriously consider significantly less regulation for the rest of the industry seems contradictory to me.

In addition, I have concerns about the impact of such a proposal on the coal industry in my state. I would strongly oppose efforts to impose a new federal regulatory layer that may limit the flexibility of TVA to purchase Kentucky coal. TVA buys over 26 million tons of Kentucky coal per year, which adds $600 million to the economy of my State. TVA is responsible for more than 20 percent of all coal purchases in Kentucky.

I have heard from many Kentuckians who are concerned about this new regulatory proposal. I wish to place my colleagues on notice that I will strongly oppose any such regulatory scheme, and will oppose other overhaul efforts outside of the context of deregulation legislation. It makes no sense to consider two major regulatory changes in such a short period of time.

UTAH JAZZ—WESTERN CONFERENCE NBA CHAMPS

Mr. HATCH. Mr. President, I rise today to congratulate my home team, the Utah Jazz, on their remarkable season and thrilling playoff run. For the second straight year, the Jazz won the NBA's Western Conference in impressive fashion and lost a well-fought series to the Chicago Bulls by the slimmest of margins.

As one of the team's most faithful fans, I share the heartache of the players and coaches, who came so close to reaching their goal only to fall one point short of a seventh game. However, I am confident that Jazz fans everywhere share my feelings of pride in the season that these gutsy, tenacious players gave us to enjoy.

To those players who believe that professional sports have become just another business with big salaries and product licenses, I will simply say that the Utah Jazz personify everything that is good about the game of basketball. The Jazz believe in teamwork, pure fundamentals, courage, and determination.

Basketball fans throughout the country have become enamored with the Jazz and their old-fashioned work ethic. Often facing younger and more athletic teams, the Jazz have relied on their trademark discipline and teamwork to overwhelm their opponents.

However, it is not just the Jazz's triumphs on the basketball court that are spectacular—such as winning over 76 percent of this season's games and compiling an 11–3 mark through the Western Conference playoffs, punctuated by a 4-game sweep of the formidable Los Angeles Lakers. The examples they set for our youth off the court are just as noteworthy. Many of the players give of their time, talents and money to better our community. They have been unafraid to display to the world that you can be a superstar *and* a good citizen, friend, and father. Our team is made up of high caliber individuals. They have worked hard, believed in each other, and have displayed tremendous poise and dignity throughout a challenging season.

Once again this year, Utahns were privileged to watch the timeless duo of John Stockton and Karl Marlone work their magic.

By flawlessly executing there signature pick-and-roll time and time again, these two basketball legends led the Jazz to a 62-win season that classified as the best record in the NBA this season and included 2 wins and no losses in match-up with the Bulls. In fact, if you take into account every game in which the Jazz and the Bulls faced one another this year, each team won four. So, the way I see it, the Bulls win in Game 6 achieved a draw in the Jazz-Bulls rivalry for the entire '97–'98.

I do want to congratulate the Chicago Bulls on another fine season and a tremendous victory in the Finals. My hat is off to Michael Jordan and the Bulls for a spectacular playoff performance. Michael Jordan's skills and superb performances will be applauded for many years to come. No one can dispute that this team is comprised of very talented players who have excited and entertained basketball fans around the world for most of this decade.

Years from now, as I look back at this Jazz team, I will fondly remember this remarkable season and the joy they brought to all their fans. It has been my pleasure to attend many games at the Delta Center and to join in the cheering and excitement. It has been my honor to represent the state with the classiest team in the NBA.

The Utah Jazz would not have been able to achieve such success without the contributions and talents of some very key people. I commend head coach Jerry Sloan and his staff for the gritty, hard-nosed approach that they have given to the team. Coach Sloan never gave excuses when things went awry and always expected his players to give their best efforts, every minute of every game. He has the complete respect of all of his players—the greatest accolade a coach can receive.

Jazz Owner Larry Miller knew what it would mean for Utah to have its own NBA basketball team. He enabled the Jazz to stay in Salt Lake City. He has displayed great leadership and commitment to the team and the community throughout his many years of owning this team.

Team President Frank Layden has always encouraged, motivated, and commanded respect from the players and the community. His enthusiasm creates community spirit and strengthens conviction in our team.

And Scott Layden's savvy, and superb sense of what makes a champion has continued to propel the Jazz to greater heights. He has always conducted the business of the Jazz with professionalism, and is one of the most highly-respected front office people in the league.

To the players, I offer my congratulations on an exceptional season. Each of these fine individuals—Karl, John, Jeff, Byron, Greg, Antoine, Shandon, Howard, Chris, Adam, Greg, and Jacque—contributed greatly to the success of this team. On behalf of Jazz fans everywhere, I thank you all for taking us on yet another memorable journey to the NBA Finals. Let's do it gain next year.

Mr. President, I am proud of the Jazz and the unique spirit of unity that they have brought to the state of Utah. Win or lose, they act with professionalism and class both on and off the court. They are champions in every sense of the word.

CHANGES TO THE RULES FOR REGULATION OF THE SENATE WING OF THE UNITED STATES CAPITOL

Mr. WARNER. Mr. President, I ask unanimous consent to have printed in the RECORD a committee motion of the Committee on Rules and Administration relating to changes to the Rules for Regulation of the Senate Wing of the United States Capitol.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON RULES AND
ADMINISTRATION,
Washington, DC, June 18, 1998.

COMMITTEE ON RULES AND ADMINISTRATION
COMMITTEE MOTION

THE COMMITTEE HEREBY adopts the following changes to the Rules for Regulation of the Senate Wing of the United States Capitol.

1. In recognition of the fact that these rules are also applicable to the Senate Office Buildings, the name of these rules is changed to read: "Rules for Regulation of the Senate Wing of the United States Capitol and Senate Office Buildings."

2. In recognition of the fact that Rule X addresses the barber shop and bathrooms and is outdated and no longer needed, the text of Rule X is revoked.

3. The following is adopted and substituted for the text of Rule X:

"Smoking is prohibited in all public places and unassigned space within the Senate Wing of the Capitol and the Senate Office Buildings, with the exception of one ventilated smoking area in the Senate Wing of the Capitol and each of the Senate Office Buildings, as designated by the Architect of the Capitol with the approval of the Chairman of the Committee on Rules and Administration. Senators, Chairmen of Committees in consultation with the Ranking Member, the Secretary of the Senate, the Sergeant at Arms, the Architect of the Capitol, the Chaplain, and heads of support organizations assigned space in the Senate Wing of the Capitol or the Senate Office Buildings may each establish smoking policies for all office space assigned to them."

WENDELL H. FORD,
Ranking Member.
JOHN WARNER,
Chairman.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1677. A bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act (Rept. No. 105–218).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

H.R. 1211. A bill for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical Corporation.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 176. A resolution proclaiming the week of October 18 through October 24, 1998, as "National Character Counts Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 104–17 Convention For the Protection of Plants (Exec. Rept. 105–15).

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991, and signed by the United States on October 25, 1991 (Treaty Doc. 104–17), subject to the reservation of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) RESERVATION.—The advice and consent of the Senate is subject to the following reservation, which shall be included in the instrument of ratification and shall be binding on the President:

PROTECTION FOR ASEXUALLY REPRODUCED VARIETIES.—Pursuant to article 35(2), the United States will continue to provide protection for asexually reproduced varieties by an industrial property title other than a breeder's right and will not, therefore, apply the terms of this Convention to those varieties.

(b) DECLARATION.—The advice and consent of the Senate is subject to the following declarations:

(1) LIMITED RESERVATIONS PROVISIONS.—It is the Sense of the Senate that a "limited reservations" proviso, such as that contained in Article 35, has the effect of inhibiting the Senate in its exercise of its constitutional duty to give advice and consent to ratification of a treaty, and the Senate's approval of this treaty should not be construed as a precedent for acquiescence to future treaties containing such a provision.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105–4 International Grains Agreement, 1995 (Exec. Rept. 105–16).

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Grains Trade Convention and Food Aid Convention constituting the International Grains Agreement, 1995, signed by the United States on June 26, 1995 (Treaty Doc. 105–4), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The advice and consent of the Senate is subject to the following declarations:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105-35 Trademark Law Treaty With Regulations (Exec. Rept. 105-17).

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Trademark Law Treaty done at Geneva October 27, 1994, with Regulations, signed by the United States on October 28, 1994 (Treaty Doc. 105-35), subject to the declarations of subsection (a), and the proviso of subsection (b).

(a) DECLARATIONS.—The advice and consent of the Senate is subject to the following declarations:

(1) LIMITED RESERVATIONS PROVISIONS.—It is the Sense of the Senate that a "limited reservations" provision, such as that contained in Article 21, has the effect of inhibiting the Senate in its exercise of its constitutional duty to give advice and consent to ratification of a treaty, and the Senate's approval of this treaty should not be construed as a precedent for acquiescence to future treaties containing such a provision.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 104-376 Amendments To the Convention On the International Maritime Organization (Exec. Rept. 105-18).

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amendments to the Convention on the International Maritime Organization, adopted on November 7, 1991, and November 4, 1993 (Treaty Doc. 105-36), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The advice and consent of the Senate is subject to the following declaration:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROBERTS:

S. 2194. A bill to amend the Arms Export Control Act to provide the President with discretionary authority to impose nuclear nonproliferation controls on a foreign country; to the Committee on Foreign Relations.

By Mr. COCHRAN (for himself, and Mr. LOTT):

S. 2195. A bill to authorize the Secretary of Agriculture to sell or exchange the Gulfport Research Laboratory and other Forest Service administrative sites in the State of Mississippi, to provide for a new research facility, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GORTON (for himself, Mrs. MURRAY, Mr. GRAMS, and Mr. BINGAMAN):

S. 2196. A bill to amend the Public Health Service Act to provide for establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SANTORUM:

S. 2197. A bill to amend the Internal Revenue Code of 1986 to provide an election of a deduction in lieu of a basis increase where indebtedness secured by property has original issue discount and is held by a cash method taxpayer; to the Committee on Finance.

By Mr. ASHCROFT:

S. 2198. A bill to amend title 5, United States Code, to provide for Congressional review of rules establishing or increasing taxes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself, Mr. BROWNBACK, and Mr. TORRICELLI):

S. Res. 252. A resolution expressing the sense of the Senate regarding a resolution to the Kashmir dispute; to the Committee on Foreign Relations.

By Ms. MOSELEY-BRAUN (for herself and Mr. LEVIN):

S. Con. Res. 104. A concurrent resolution commemorating the 50th anniversary of the integration of the Armed Forces; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERTS:

S. 2194. A bill to amend the Arms Export Control Act to provide the President with discretionary authority to impose nuclear nonproliferation controls on a foreign country; to the Committee on Foreign Relations.

NUCLEAR NONPROLIFERATION LEGISLATION

• Mr. ROBERTS. Mr. President, today I am introducing a bill that gives the President full discretionary authority to address the nuclear tests recently conducted by India and Pakistan. My bill does not require the severe mandatory sanctions imposed on India and Pakistan be removed. Nuclear proliferation is a deadly serious issue. The actions of India and Pakistan deserve a strong response from the United States and the rest of the world.

Sanctions are only one of several policy tools. Obviously, one of the best policy weapons we have available is hard-nosed diplomacy to prevent such nuclear incidents from occurring in the first place.

The President must have full flexibility to implement a strong foreign policy that addresses the recklessness of Pakistan, India or any other nation that defines the world community. However, the Administration should be able to do so without the constraints of a Congressionally mandated list of sanctions. This flexibility should also include the authority to remove sanctions when appropriate or when in the best interest of the United States.

Under current law, the United States must impose specific and mandatory sanctions on any non-nuclear weapons state that receives or detonates a nuclear device. This mandated action removes the President's authority to custom-tailor sanctions and set them for a specific period of time. These constraints dangerously restrict the President's ability to respond to world events.

My bill provides the Administration with discretionary authority over sanctions placed on nations that practice nuclear proliferation. The President and his diplomatic corp are given the authority to either impose or not impose sanctions. They can decide the degree of sanctions. They can later remove or modify any sanctions. Additionally, the President is required to report his intentions to Congress within 30 days of informing the violating country of the sanctions. If it disagrees, Congress remains free to react legislatively.

This bill represents an important step toward what I hope will be a critical debate regarding U.S. foreign policy. Unilateral sanctions rarely achieve their goals. Instead, they damage U.S.

businesses and workers. They diminish U.S. strength and prestige in international affairs. They generate resentment from allies and competitors alike.

I would remind you that we now have in place unilateral sanctions against more than 70 nations representing almost three-fourths of the world's populations. Those are markets lost to the American economy.

Congress and the Administration must now work together to reassess all instances where unilateral sanctions are imposed. This bill represent an excellent step in the right direction.●

By Mr. GORTON (for himself, Mrs. MURRAY, Mr. GRAMS, and Mr. BINGAMAN):

S. 2196. A bill to amend the Public Health Service Act to provide for establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes; to the Committee on Labor and Human Resources.

CARDIAC ARREST SURVIVAL ACT

Mr. GORTON. Mr. President, every day almost 1,000 Americans suffer from Sudden Cardiac Arrest. It can claim the life of a promising young athlete, a friend or family member regardless of age or health. Sudden Cardiac Arrest occurs when the heart's electrical impulses become chaotic causing the heart to stop pumping blood. Tragically, 95 percent of Americans who suffer from sudden cardiac arrest will die. Today, I am introducing a bill that can change that statistic.

We know that quick implementation of "Chain of Survival"—calling 911, administering CPR and early access to defibrillation can dramatically improve survival rates for victims of Sudden Cardiac Arrest. Unfortunately, early access to defibrillation may be the most critical link in the chain and the most difficult to come by. The Cardiac Arrest Survival Act aims to improve community access to automatic external defibrillators (AEDs), a machine designed to shock the heart and restore its normal rhythm. If every community across America made this easy-to-use technology more readily available, we could increase the survival rate of cardiac arrest and possibly save 250 lives each day and 100,000 lives each year.

My home state of Washington has a long history of encouraging the use of AEDs. King County, Washington boasts one of the highest cardiac arrest survival rates in the nation at 30 percent—far above the national average survival rate of 5 percent. Communities that have improved survival rates have ensured that Emergency Medical Technicians are trained and equipped with automatic external defibrillators. Some communities have located AEDs in public places like sports stadiums, airports and shopping malls, and others have worked to ensure that police and firefighters, often the first to respond to an emergency, are trained and equipped with AEDs.

Although the technology is proven effective, access to defibrillators outside the hospital setting is limited. Patient care and survival suffer from a patchwork of different state laws. Less than half of the nation's Emergency Medical Technicians are even trained and equipped to use AEDs. The Cardiac Arrest Survival Act aims to reduce the number of cardiac arrest fatalities by encouraging a uniform system of state laws and to improve current emergency medical training programs.

The bill asks the National Heart, Lung, and Blood Institute to work on model state legislation that addresses some of the barriers to community access to AEDs such as good samaritan immunity and public placement of these machines. NHLBI will also work with the National Highway Transportation and Safety Administration to update the current medical training curriculum to reflect the improvement in technology. The bill will also coordinate a database to collect information on cardiac arrest from existing databases on emergency care. While the bill is far from mandating anything, I am convinced we can reduce the number of cardiac arrest fatalities by encouraging states to train more people to use AEDs right on the scene in a way that the state of Washington is already doing.

The Cardiac Arrest Survival Act is the Senate companion to a bill introduced by Congressman STEARNS in the House of Representatives that currently has 80 cosponsors. The bill enjoys broad support from more than seventy associations including the American Heart Association, the American Red Cross, the American Academy of Pediatrics, the Congressional Fire Services Institute Advisory Committee with some 45 members, the Washington State Medical Association, the Washington State Hospital Association and a number of other supporters. I am also pleased to be joined by my colleagues Senators MURRAY, GRAMS, and BINGAMAN as original cosponsors of the bill, the full text of which I ask be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cardiac Arrest Survival Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Each year more than 350,000 adults suffer cardiac arrest, usually away from a hospital. More than 95 percent of them will die, in many cases, because lifesaving defibrillators arrive on the scene too late, if at all.

(2) These cardiac arrest deaths occur primarily from occult underlying heart disease and from drownings, allergic or sensitivity reactions, or electrical shocks.

(3) Survival from cardiac arrest requires successful early implementation of a chain of events, the chain of survival which begins when the person sustains a cardiac arrest and continues until the person arrives at the hospital.

(4) A successful chain of survival requires the first person on the scene to take rapid and simple initial steps to care for the patient and to assure the patient promptly enters the emergency medical services system.

(5) The first persons on the scene when an arrest occurs are typically lay persons who are friends or family of the victim, fire services, public safety personnel, basic life support emergency medical services providers, teachers, coaches, and supervisors of sports or other extracurricular activities, providers of day care, school bus drivers, lifeguards, attendants at public gatherings, coworkers, and other leaders within the community.

(6) A coordinated Federal response is necessary to ensure that appropriate and timely lifesaving interventions are provided to persons sustaining nontraumatic cardiac arrest. The Federal response should include, but not be limited to—

(A) significantly expanded research concerning the efficacy of various methods of providing immediate out-of-hospital lifesaving interventions to the nontraumatic cardiac arrest patient;

(B) the development of research-based, nationally uniform, easily learned and well retained model core educational content concerning the use of such lifesaving interventions by health care professionals, allied health personnel, emergency medical services personnel, public safety personnel, and other persons who are likely to arrive immediately at the scene of a sudden cardiac arrest;

(C) an identification of the legal, political, financial, and other barriers to implementing these lifesaving interventions; and

(D) the development of model State legislation to reduce identified barriers and to enhance each State's response to this significant problem.

SEC. 3. NATIONAL INSTITUTES OF HEALTH MODEL PROGRAM ON THE FIRST LINKS IN THE CHAIN OF SURVIVAL.

Section 421 of the Public Health Service Act (42 U.S.C. 285b–3) is amended by adding at the end the following subsection:

"(c) Programs under subsection (a)(1)(E) (relating to emergency medical services and preventive, diagnostic, therapeutic, and rehabilitative approaches) shall include programs for the following:

"(1) The development and dissemination, in coordination with the emergency services guidelines promulgated under section 402(a) of title 23, United States Code, by the Associate Administrator for Traffic Safety Programs, Department of Transportation, of a core content for a model State training program applicable to cardiac arrest for inclusion in appropriate current emergency medical services educational curricula and training programs that address lifesaving interventions, including cardiopulmonary resuscitation and defibrillation. In developing the core content for such program, the Director of the Institute may rely upon the content of similar curricula and training programs developed by national nonprofit entities. The core content of such program—

"(A) may be used by health care professionals, allied health personnel, emergency medical services personnel, public safety personnel, and any other persons who are likely to arrive immediately at the scene of a sudden cardiac arrest (in this subsection referred to as 'cardiac arrest care providers') to provide lifesaving interventions, including cardiopulmonary resuscitation and defibrillation;

"(B) shall include age-specific criteria for the use of particular techniques, which shall include infants and children; and

"(C) shall be reevaluated as additional interventions are shown to be effective.

"(2) The operation of a limited demonstration project to provide training in such core content for cardiac arrest care providers to validate the effectiveness of the training program.

"(3) The definition and identification of cardiac arrest care providers, by personal relationship, exposure to arrest or trauma, occupation (including health professionals), or otherwise, who could provide benefit to victims of out-of-hospital arrest by comprehension of such core content.

"(4) The establishment of criteria for completion and comprehension of such core content, including consideration of inclusion in health and safety educational curricula.

"(5) The identification and development of equipment and supplies that should be accessible to cardiac arrest care providers to permit lifesaving interventions by preplacement of such equipment in appropriate locations insofar as such activities are consistent with the development of the core content and utilize information derived from such studies by the National Institutes of Health on investigation in cardiac resuscitation.

"(6) The development in accordance with this paragraph of model State legislation (or Federal legislation applicable to Federal territories, facilities, and employees). In developing the model legislation, the Director of the Institute shall cooperate with the Attorney General, and may consult with nonprofit private organizations that are involved in the drafting of model State legislation. The model legislation shall be developed in accordance with the following:

"(A) The purpose of the model legislation shall be to ensure—

"(i) access to emergency medical services through consideration of a requirement for public placement of lifesaving equipment; and

"(ii) good samaritan immunity for cardiac arrest care providers; those involved with the instruction of the training programs; and owners and managers of property where equipment is placed.

"(B) In the development of the model legislation, there shall be consideration of requirements for training in the core content and use of lifesaving equipment for State licensure or credentialing of health professionals or other occupations or employment of other individuals who may be defined as cardiac arrest care providers under paragraph (3).

"(7) The coordination of a national database for reporting and collecting information relating to the incidence of cardiac arrest, the circumstances surrounding such arrests, the rate of survival, the effect of age, and whether interventions, including cardiac arrest care provider interventions, or other aspects of the chain of survival, improve the rate of survival. The development of such database shall be coordinated with other existing databases on emergency care that have been developed under the authority of the National Highway Traffic Safety Administration and the Centers for Disease Control and Prevention.".

By Mr. ASHCROFT:

S. 2198. A bill to amend title 5, United States Code, to provide for Congressional review of rules establishing or increasing taxes; to the Committee on Governmental Affairs.

THE TAXPAYERS' DEFENSE ACT

Mr. ASHCROFT. Mr. President, I rise today to introduce the Taxpayer's Defense Act. Quite simply, this bill prohibits any agency from establishing a tax on the American people.

Mr. President, as we all know, the United States was founded on one simple and fundamental principle—no taxation without representation.

In "The Second Treatise of Government", John Locke said, "if anyone shall claim a power to lay and levy taxes on the people . . . without . . . consent of the people, he thereby . . . subverts the end of government." According to Locke, consent required agreement by a majority of the people, "either by themselves or their representatives chosen by them." The Declaration of Independence listed, among the despotic acts of King George, his "imposing taxes on us without our consent."

The Boston Tea Party remains the symbol of Americans' opposition to taxation without representation. The Constitutional authority—given only to Congress—to establish federal taxes is clear. Its reasoning also is clear. It is the Congress that represents the people. Only Congress considers and weighs every issue that rises to national importance. While federal agencies consider their own priorities to be paramount, only Congress can determine which goals merit a tax on the American people.

The modern era of restricted federal budgets, however, threatens to erode the essential principle of "no taxation without representation." In many subtle and often hidden ways, federal agencies are receiving from Congress the power to tax.

They tax by adding unnecessary charges to legitimate government user fees. They tax through federal mandates. These taxes pass the cost of government on to the American people—without their knowledge.

The worst example of administrative taxation is the Federal Communications Commission's Universal Service tax. "Universal service" is the idea that everyone should have access to affordable telecommunications services. It originated at the beginning of the century when the first national telecommunications service was still being created. This idea was expanded in the Telecommunications Act of 1996, which allowed the FCC to extend universal service funds to provide "discount telecommunications services" to schools, libraries, and rural health care facilities.

Most importantly, the Act gave the FCC the power to decide the level of "contributions"—taxes—that telecommunications companies would have to pay to support universal service. The FCC now determines how much must be collected in taxes that subsidize a variety of "universal service" spending programs. Long distance providers pass the costs on to consumers in the form of higher telephone bills. In the first half of 1998, the tax was $625 million, and the Clinton Administration's budget projects it will rise to $10 billion per year. This administrative tax is already out of control.

This is possible because Congress delegated its authority to tax. The FCC is able to collect taxpayer dollars at levels it sets—without approval from Congress or the people. The FCC can defy Congress and the people because it has the power to levy taxes.

Mr. President, some people thought the tax and spend liberals had left Washington. Not so. Washington interest groups who want to feed at this new federal trough already are geared up to accuse the Republic Congress of cutting funding for education and health care if any attempt is made to rein in the FCC. They will frame the issue as a matter of federal entitlements for sympathetic causes and groups.

The most sympathetic group is the American taxpayer, whose money is being taken, laundered through the Washington bureaucracy, and returned for purposes set by unelected Washington bureaucrats. This is why the FCC must be required to get the approval of Congress before setting future tax rates.

Should tax dollars be used for Federal universal service programs and what amounts or should Americans spend what they earn on their own, real, local priorities? Requiring Congress to review any administrative taxes would answer this question.

My bill would create a new section to the Congressional Review Act for mandatory review of certain agency rules. Any rule that establishes or raises a tax would have to be submitted to and receive the approval of Congress before taking effect. In essence, the act would disable agencies from setting taxes, but would allow them to formulate proposals under existing rulemaking procedures.

Once submitted to Congress, a taxing regulation would be introduced in both the House and Senate by the majority leader. The rule would then be subject to expedited procedures, allowing a prompt decision on whether or not to approve a rule. The rule would have to be approved by both Houses and signed by the President.

Congress must not allow a Federal agency—unelected and unaccountable

Federal bureaucrats—to determine the amount of taxes hardworking Americans must pay. The Taxpayers' Defense Act will require Congress to stand up and face the American people when it decides to tax. The cry of "no taxation without representation" has gone up in the land before, and today we are hearing it again. It is time that we respond.

ADDITIONAL COSPONSORS

S. 1147

At the request of Mr. WELLSTONE, the names of the Senator from New York (Mr. MOYNIHAN) and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of S. 1147, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage.

S. 1251

At the request of Mr. BREAUX, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1334

At the request of Mr. BOND, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1647

At the request of Mr. BAUCUS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 2112

At the request of Mr. ENZI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2112, a bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

S. 2151

At the request of Mr. NICKLES, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. CRAIG), the Senator from Michigan (Mr. ABRAHAM), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Colorado (Mr. ALLARD), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 2151, a bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. DODD, the names of the Senator from Maine (Ms. COLLINS), the Senator from Oregon (Mr. SMITH), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Concurrent Resolution 95, a concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance.

SENATE CONCURRENT RESOLUTION 104—COMMEMORATING THE 50TH ANNIVERSARY OF THE INTEGRATION OF THE ARMED FORCES

Ms. MOSELEY-BRAUN (for herself and Mr. LEVIN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 104

Whereas 50 years ago on July 28, 1948, President Truman issued Executive Order No. 9981 that stated that it is essential that there be maintained in the Armed Services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense;

Whereas President Truman declared that there shall be equality of treatment and opportunity for all persons in the Armed Services without regard to race, color, religion, or national origin;

Whereas soon after the Executive order was issued American soldiers fighting in Korea led the way to a fully integrated Army;

Whereas after the enactment of the Civil Rights Act of 1964, the Armed Forces resolved to implement the legislation as a new opportunity to provide all members of the Armed Forces with freedom from discrimination within and outside its military communities;

Whereas the efforts of the Armed Forces to ensure the equality of treatment and opportunity for its members contributed significantly to the advancement of that goal for all Americans;

Whereas minorities serve today in senior leadership positions throughout the Armed Forces, as officers, senior noncommissioned officers, and civilian leaders; and

Whereas the Armed Forces have demonstrated a total and continuing commitment to ensuring the equality of treatment and opportunity for all persons in the Total Force, both military and civilian: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the United States Armed Forces for its efforts, leadership, and success in providing equality of treatment and opportunity; and

(2) recognizes the commemoration by the Department of Defense on July 24, 1998, of the 50th anniversary of the integration of the Armed Forces.

SENATE RESOLUTION 252—EXPRESSING THE SENSE OF THE SENATE REGARDING A RESOLUTION TO THE KASHMIR DISPUTE

Mr. HARKIN (for himself, Mr. BROWNBACK, and Mr. TORRICELLI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 252

Whereas the detonation of nuclear explosive devices by India and Pakistan in May of 1998 has underscored the need to reexamine relations between India and Pakistan;

Whereas a spiraling nuclear arms race in South Asia would threaten the national security of the United States, and international peace and security;

Whereas for more than half a century, Pakistan and India have had a dispute involving the Jammu and Kashmir region and tensions remain high;

Whereas three times in the past 50 years, the two nations fought wars against each other, two of these wars directly involving Jammu and Kashmir;

Whereas it is in the interest of United States security and world peace for Pakistan and India to arrive at a peaceful and just settlement of the dispute through talks between the two nations, which takes into account the wishes of the affected population;

Whereas the human rights situation in Jammu and Kashmir continues to deteriorate despite repeated efforts by international human rights groups;

Whereas a resolution to the Jammu and Kashmir dispute would foster economic and social development in the region;

Whereas the United States has a long and important history with both India and Pakistan, and bears a responsibility as a world leader to help facilitate a peaceful resolution to the Jammu and Kashmir dispute; and

Whereas the United States and the United Nations can both play a critical role in helping to resolve the dispute over Jammu and Kashmir and in fostering better relations between Pakistan and India: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should make a high priority the promotion of peace and stability in South Asia, as well as normalization of relations between India and Pakistan;

(2) it is critical for the United States and the world community to give a greater priority to resolving the long-standing dispute between India and Pakistan over the Jammu and Kashmir region;

(3) the United States Permanent Representative to the United Nations should propose to the United Nations Security Council a meeting with the representatives to the United Nations from India and Pakistan for the purpose of discussions about the security situation in South Asia, including regional stability, nuclear disarmament and arms control, and trade;

(4) the United States Permanent Representative to the United Nations should raise the issue of the Jammu and Kashmir dispute within the Security Council and promote the establishment of a United Nations-sponsored mediator for the conflict; and

(5) the President should request India to allow United Nations human rights officials, including the Special Rapporteur on Torture, to visit the Jammu and Kashmir region and to have unrestricted access to meeting with people in that region, including those in detention.

Mr. HARKIN. Mr. President, today I submit a resolution on behalf of myself, Senator BROWNBACK and Senator TORRICELLI, which addresses a critical issue in South Asia. It calls for a peaceful and just settlement of the dispute over Kashmir.

For the better part of half a century, Pakistan and India have had a territorial dispute involving the Jammu and Kashmir region—commonly referred to simply as Kashmir. Three times in the past 50 years, these two nations have fought against one another, two of these wars were over Kashmir. International security experts have long considered South Asia generally, and Kashmir specifically, a "nuclear flash point." These long-standing tensions between Pakistan and India have only worsened with their testing of nuclear weapons last month. It is more important than ever to take a serious look at Pakistan-India relations.

A peaceful resolution to the Kashmir dispute is not only in the interest of the peoples of South Asia, it is also in the interest of the United States. Our nation has had a long and important history with both countries. I think the United states is very aware of the dangers to our own national security, as well as the peace and security of the whole world, if the Kashmir dispute continues without resolution.

Further, a peaceful resolution to this conflict would foster economic and social development of the Kashmir region, as well as the rest of South Asia. It would also curb many of the human rights abuses which continue despite the efforts by many international groups.

As a world leader, we must take the initiative to help negotiate a peaceful and just end to the dispute in the Kashmir region that follows the wishes of those affected. And both the United States and the United Nations can play an important role in finding a resolution to the dispute over Kashmir, and in improving relations between Pakistan and India. While the Administration and the international community have taken several steps to address these problems, more action is required.

This Senate resolution states that resolving the Kashmir dispute should be a top U.S. priority, as well as that of the world community. Furthermore, this resolution asks our Ambassador to the United Nations to call a meeting of the Security Council with representatives from both India and Pakistan for the purpose of discussing security in South Asia. It also advises the Administration to raise the issue of Kashmir with the Security Council and promote the possibility of a U.N. sponsored mediator for the conflict. Finally, this resolution requests that the President ask the Indian Government to allow UN human rights officials to visit the Kashmir region.

I believe the resolution outlines some important next steps for the U.S. to help facilitate a reasonable and just solution to the Kashmir dispute and normalization of relations between India and Pakistan. It is time for the United States Government and the world to act in a productive manner that will help attain stability in South Asia. We cannot turn a blind eye to this long-standing conflict any longer and must seek a peaceful end to this dispute which not only benefits the countries involved, but will ultimately benefit the world.

I urge my colleagues to support this resolution.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

ROBERTS AMENDMENT NO. 2730

(Ordered to lie on the table.)

Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill (S. 2057) to authorize appropriations for the fiscal year 19099 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title X, add the following:

SEC. ___. PRESIDENTIAL AUTHORITY TO IMPOSE NUCLEAR NONPROLIFERATION CONTROLS.

(a) AMENDMENT OF THE ARMS EXPORT CONTROL ACT.—

(1) REPROCESSING TRANSFERS; ILLEGAL EXPORTS.—Section 102(a) of the Arms Export Control Act (22 U.S.C. 2799aa–1(a)) is amended by striking "no funds" and all that follows through "making guarantees," and inserting the following: "the President may suspend or terminate the provision of economic assistance under the Foreign Assistance Act of 1961 (including economic support fund assistance under chapter 4 of part II of that Act) or military assistance, grant military education and training, or peacekeeping assistance under part II of that Act, or the extension of military credits or the making of guarantees under the Arms Export Control Act,".

(2) TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES.—Section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)) is amended—

(A) in paragraph (1), by striking "shall forthwith impose" and inserting "may impose";

(B) by striking paragraphs (4), (5), and (7);

(C) by redesignating paragraphs (6) and (8) as paragraphs (4) and (5), respectively; and

(D) by amending paragraph (4) (as redesignated) to read as follows:

"(4) If the President decides to impose any sanction against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform that country and shall impose the sanction beginning 30 days after submitting to Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of that sanction.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made by the President before, on, or after the date of enactment of this Act.

MURKOWSKI AMENDMENTS NOS. 2731–2732

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted two amendments intended to be proposed by him to the bill S. 2057, supra; as follows:

AMENDMENT NO. 2731

At the end of subtitle D of title X, add the following:

SEC. .

Notwithstanding any other provision of law:

(a) It is the Sense of the Senate that:

(1) Compliance with the April 29, 2007 deadline for demilitarization of the United States chemical weapons stockpile mandated by the Chemical Weapons Convention is of primary importance;

(2) The Department of Defense and the Department of the Army should make certain that internal command structures are streamlined and that those with immediate responsibility for the chemical weapons demilitarization program have sufficient stature in nature and scope to meet the April 29, 2007 deadline.

(b) OFFICE FOR CHEMICAL WEAPON DEMILITARIZATION.

(1) As Executive Agent for the chemical weapon demilitarization program, the Department of the Army shall facilitate, expedite, and accelerate the disposal of the chemical weapon stockpile in order to comply with the April 29, 2007, mandatory completion date established by the Chemical Weapons Convention.

(2)(A) The Secretary of the Army shall designate or establish one office to provide oversight and policy guidance for all chemical weapons demilitarization, Chemical Weapons Convention, and related issues. This office shall have executing authority and responsibility for the annual Chemical Weapons Demilitarization Appropriation.

(B) The office provided for in this subsection may (i) delegate such authorities and functions to U.S. agencies as are necessary to comply with the April 29, 2007, deadline; and (ii) negotiate and execute such incentive contracts with non-governmental entities as are necessary to comply with the April 29, 2007 deadline.

(C) For budget issues within the purview of the Department of Defense as provided for in section 1412 of PL 99-145 (as amended), the office created by this subsection shall report through the Army Acquisition Executive to the Defense Acquisition Executive.

(D)(i) The position having responsibilities for this office shall be considered a career-reserved position as defined in section 3132(a)(8) of title 5.

(ii) The Secretary of the Army shall assign an officer from the Army Acquisition Corps to act as a military deputy for this office.

(E) The Secretary of the Army may assign such other responsibilities to the office created by this subsection as the Secretary deems appropriate.

(F)(i) The Assembled Chemical Weapons Assessment Program created by PL 104-208 shall continue to report to the Undersecretary of Defense for Acquisition and Technology.

(ii) The office created in this subsection shall transfer such funds to the Assembled Chemical Weapons Assessment as are made available by Congress.

Amendment No. 2732

At the appropriate place, insert the following:

SEC. .

Notwithstanding any other provision of law:

(a) It is the Sense of the Senate that:

(1) Compliance with the April 29, 2007 deadline for destruction of the United States chemical weapons stockpile mandated by the Chemical Weapons Convention is of primary importance;

(2) The President should request that all federal agencies assist the Department of Defense and the Department of the Army in facilitating, expediting and accelerating the destruction of the United States chemical weapons stockpile; and

(3) The Department of Defense and the Department of the Army should make certain that internal command structures are well-defined and streamlined avoiding unnecessary oversight layers, and that those with immediate responsibility for the chemical weapons demilitarization program have positions sufficient in stature and scope to meet the April 29, 2007 deadline.

(b)(1) The Secretary of the Army shall enter into an Interagency Agreement with the Administrator of the Environmental Protection Agency no later than December 31, 1998, to facilitate, expedite and accelerate all issues and permits necessary to destroy the chemical weapons stockpile as mandated by the Chemical Weapons Convention.

(2) Notwithstanding any other provision of law, the Secretary of the Army may provide such funds or resources to the Environmental Protection Agency as he deems necessary to effectuate the Interagency Agreement provided for in subsection (b)(1).

(3) In its annual Chemical Weapons Demilitarization Report to Congress, the Department of Defense shall provide a detailed explanation of the ongoing status of all federal and state permits needed to destroy the chemical weapons stockpile and the impact of those permits on the program cost and destruction schedule.

GRAMM AMENDMENT NO. 2733

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 130, between lines 11 and 12, insert the following:

SEC. 644. VOTING RIGHTS OF MILITARY PERSONNEL.

(a) Guarantee of Residency.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by adding at the end the following:

"Sec. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

(b) State Responsibility To Guarantee Military Voting Rights.—(1) Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(A) by inserting "(a) Elections for Federal Offices.—" before "Each State shall—"; and

(B) by adding at the end the following:

"(b) Elections for State and Local Offices.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(2) The heading of title I of such Act is amended by striking out "**FOR FEDERAL OFFICE**".

HUTCHINSON AMENDMENT NO. 2734

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 2057, supra; as follows:

Add at the end the following new title:

TITLE —RADIO FREE ASIA

SEC. . SHORT TITLE.

This title may be cited as the "Radio Free Asia Act of 1998".

SEC. . FINDINGS.

Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February of 1996 the "Interim Internet Management Rules", which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the Inernet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Radio Free Asia currently broadcasts only 5 hours a day in the Mandarin dialect and 2 hours a day in Tibetan.

(6) Voice of America currently broadcasts only 10 hours a day in Mandarin and 3½ hours a day in Tibetan.

(7) Radio Free Asia and Voice of America should develop 24-hour-a-day service in Mandarin, Cantonese, and Tibetan, as well as further broadcasting capability in the dialects spoken in the People's Republic of China.

(8) Radio Free Asia and Voice of America, in working toward continuously broadcasting to the People's Republic of China in multiple languages, have the capability to immediately establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and Voice of America.

(9) Simultaneous broadcasting on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) Authorization of Appropriations for Radio Free Asia.—

(1) Authorization of appropriations.—There are authorized to be appropriated for "Radio Free Asia" $30,000,000 for fiscal year 1998 and $22,000,000 for fiscal year 1999.

(2) Limitations.—

(A) Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $8,000,000 is authorized to be appropriated for one-time capital costs.

(B) Of the funds under paragraph (1), $700,000 is authorized to be appropriated for each such fiscal year for additional personnel to staff Cantonese language broadcasting.

(C) Of the funds under paragraph (1), $100,000 is authorized to be appropriated for each of the fiscal years 1998 and 1999 for additional personnel to staff Hmong language broadcasting.

(b) Authorization of Appropriations for International Broadcasting to China and

NORTH KOREA.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Activities" for fiscal years 1998 and 1999, there are authorized to be appropriated for "International Broadcasting Activities" $10,000,000 for fiscal year 1998 and $7,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China and North Korea.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated for "Radio Construction" for fiscal years 1998 and 1999, there are authorized to be appropriated for "Radio Construction" $10,000,000 for fiscal year 1998 and $3,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China.

(2) LIMITATION.—Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $3,000,000 is authorized to be appropriated to facilitate the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

(d) ALLOCATION.—Of the amounts authorized to be appropriated for "International Broadcasting Activities", the Director of the United States Information Agency and the Board of Broadcasting Governors shall seek to ensure that the amounts make available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(e) ALLOCATION OF FUNDS FOR NORTH KOREA.—Of the funds under subsection (b), $2,000,000 is authorized to be appropriated for each fiscal year for additional personnel and broadcasting targeted at North Korea.

SEC. . REPORTING REQUIREMENT.

Not later than 90 days after the date of enactment of this Act, in consultation with the Board of Broadcasting Governors, the President shall prepare and transmit to Congress a report on a plan to achieve continuous broadcasting of Radio Free Asia and Voice of America to the People's Republic of China in multiple major dialects and languages.

SEC. . UTILIZATION OF UNITED STATES INTERNATIONAL BROADCASTING SERVICES FOR PUBLIC SERVICE ANNOUNCEMENTS REGARDING FUGITIVES FROM UNITED STATES JUSTICE.

United States international broadcasting services, particularly the Voice of America, shall produce and broadcast public service announcements, by radio, television, and Internet, regarding fugitives from the criminal justice system of the United States, including cases of international child abduction.

WARNER AMENDMENT NO. 2735

Mr. WARNER proposed an amendment to the motion to recommit the bill, S. 2057, supra; as follows:

At the appropriate place insert:

Title —Forced Abortions in China

SEC. . SHORT TITLE.

This title may be cited as the "Forced Abortion Condemnation Act".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. . DENIAL OF ENTRY INTO THE UNITED STATES OF PERSONS IN THE PEOPLE'S REPUBLIC OF CHINA ENGAGED IN ENFORCEMENT OF FORCED ABORTION POLICY.

The Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

SEC. . WAIVER.

The President may waive the requirement contained in section with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

HUTCHINSON AMENDMENT NO. 2736

Mr. WARNER (for Mr. HUTCHINSON) proposed an amendment to the motion to recommit the bill, S. 2057, supra; as follows:

In the amendment, strike all after "FORCED" and insert the following:

ABORTIONS IN CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Forced Abortion Condemnation Act".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. . DENIAL OF ENTRY INTO THE UNITED STATES OF PERSONS IN THE PEOPLE'S REPUBLIC OF CHINA ENGAGED IN ENFORCEMENT OF FORCED ABORTION POLICY.

The Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

SEC. . WAIVER.

The President may waive the requirement contained in section with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

(3) This section shall become effective 1 day after enactment.

HUTCHINSON AMENDMENT NO. 2737

Mr. WARNER (for Mr. HUTCHINSON) proposed an amendment to amendment No. 2736 proposed by him to the bill, S. 2057, supra; as follows:

At the end of the amendment, add the following:

TITLE

SEC. . SHORT TITLE.

This title may be cited as the "Forced Abortion Condemnation Act".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. . DENIAL OF ENTRY INTO THE UNITED STATES OF PERSONS IN THE PEOPLE'S REPUBLIC OF CHINA ENGAGED IN ENFORCEMENT OF FORCED ABORTION POLICY.

The Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

SEC. . WAIVER.

The President may waive the requirement contained in section with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

This title may be cited as the "Communist China Subsidy Reduction Act of 1998".

SEC. . FINDINGS.

Congress finds that—

(1) the People's Republic of China has enjoyed ready access to international capital through commercial loans, direct investment, sales of securities, bond sales, and foreign aid;

(2) regarding international commercial lending, the People's Republic of China had $48,000,000,000 in loans outstanding from private creditors in 1995;

(3) regarding international direct investment, international direct investment in the People's Republic of China from 1993 through 1995 totaled $97,151,000,000, and in 1996 alone totaled $47,000,000,000;

(4) regarding investment in Chinese securities, the aggregate value of outstanding Chinese securities currently held by Chinese nationals and foreign persons is $175,000,000,000, and from 1993 through 1995 foreign persons invested $10,540,000,000 in Chinese stocks;

(5) regarding investment in Chinese bonds, entities controlled by the Government of the People's Republic of China have issued 75 bonds since 1988, including 36 dollar-denominated bond offerings valued at more than $6,700,000,000, and the total value of long-term Chinese bonds outstanding as of January 1, 1996, was $11,709,000,000;

(6) regarding international assistance, the People's Republic of China received almost $1,000,000,000 in foreign aid grants and an additional $1,566,000,000 in technical assistance grants from 1993 through 1995, and in 1995 received $5,540,000,000 in bilateral assistance loans, including concessional aid, export credits, and related assistance; and

(7) regarding international financial institutions—

(A) despite the People's Republic of China's access to international capital and world financial markets, international financial institutions have annually provided it with more than $4,000,000,000 in loans in recent years, amounting to almost a third of the loan commitments of the Asian Development Bank and 17.1 percent of the loan approvals by the International Bank for Reconstruction and Development in 1995; and

(B) the People's Republic of China borrows more from the International Bank for Reconstruction and Development and the Asian Development Bank than any other country, and loan commitments from those institutions to the People's Republic of China quadrupled from $1,100,000,000 in 1985 to $4,300,000,000 by 1995.

SEC. . OPPOSITION OF UNITED STATES TO CONCESSIONAL LOANS TO THE PEOPLE'S REPUBLIC OF CHINA.

Title XV of the International Financial Institutions Act (22 U.S.C. 262o–262o–1) is amended by adding at the end the following:

"SEC. 1503. OPPOSITION OF UNITED STATES TO CONCESSIONAL LOANS TO THE PEOPLE'S REPUBLIC OF CHINA.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Directors at each international financial institution (as defined in section 1702(c)(2) of the International Financial Institutions Act) to use the voice and vote of the United States to oppose the provision by the institution of concessional loans to the People's Republic of China, any citizen or national of the People's Republic of China, or any entity established in the People's Republic of China.

"(b) CONCESSIONAL LOANS DEFINED.—As used in subsection (a), the term 'concessional loans' means loans with highly subsidized interest rates, grace periods for repayment of 5 years or more, and maturities of 20 years or more.".

SEC. . PRINCIPLES THAT SHOULD BE ADHERED TO BY ANY UNITED STATES NATIONAL CONDUCTING AN INDUSTRIAL COOPERATION PROJECT IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) PURPOSE.—It is the purpose of this section to create principles governing the conduct of industrial cooperation projects of United States nationals in the People's Republic of China.

(b) STATEMENT OF PRINCIPLES.—It is the sense of Congress that any United States national conducting an industrial cooperation project in the People's Republic of China should:

(1) Suspend the use of any goods, wares, articles, or merchandise that the United States national has reason to believe were mined, produced, or manufactured, in whole or in part, by convict labor or forced labor, and refuse to use forced labor in the industrial cooperation project.

(2) Seek to ensure that political or religious views, sex, ethnic or national background, involvement in political activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the industrial cooperation project. The United States national should not discriminate in terms or conditions of employment in the industrial cooperation project against persons with past records of arrest or internal exile for nonviolent protest or membership in unofficial organizations committed to nonviolence.

(3) Ensure that methods of production used in the industrial cooperation project do not pose an unnecessary physical danger to workers and neighboring populations or property, and that the industrial cooperation project does not unnecessarily risk harm to the surrounding environment; and consult with community leaders regarding environmental protection with respect to the industrial cooperation project.

(4) Strive to establish a private business enterprise when involved in an industrial cooperation project with the Government of the People's Republic of China or other state entity.

(5) Discourage any Chinese military presence on the premises of any industrial cooperation projects which involve dual-use technologies.

(6) Undertake to promote freedom of association and assembly among the employees of the United States national. The United States national should protest any infringement by the Government of the People's Republic of China of these freedoms to the International Labor Organization's office in Beijing.

(7) Provide the Department of State with information relevant to the Department's efforts to collect information on prisoners for the purposes of the Prisoner Information Registry, and for other purposes.

(8) Discourage or undertake to prevent compulsory political indoctrination programs from taking place on the premises of the industrial cooperation project.

(9) Promote freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media. To this end, the United States national should raise with appropriate authorities of the Government of the People's Republic of China concerns about restrictions on the free flow of information.

(10) Undertake to prevent harassment of workers who, consistent with the United Nations World Population Plan of Action, decide freely and responsibly the number and spacing of their children; and prohibit compulsory population control activities on the premises of the industrial cooperation project.

(c) PROMOTION OF PRINCIPLES BY OTHER NATIONS.—The Secretary of State shall forward a copy of the principles set forth in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

(d) REGISTRATION REQUIREMENT.—

(1) IN GENERAL.—Each United States national conducting an industrial cooperation project in the People's Republic of China shall register with the Secretary of State and indicate that the United States national agrees to implement the principles set forth in subsection (b). No fee shall be required for registration under this subsection.

(2) PREFERENCE FOR PARTICIPATION IN TRADE MISSIONS.—The Secretary of Commerce shall consult the register prior to the selection of private sector participants in any form of trade mission to China, and undertake to involve those United States nationals that have registered their adoption of the principles set forth above.

(e) DEFINITIONS.—As used in this section—

(1) the term "industrial cooperation project" refers to a for-profit activity the business operations of which employ more than 25 individuals or have assets greater than $25,000; and

(2) the term "United States national" means—

(A) a citizen or national of the United States or a permanent resident of the United States; and

(B) a corporation, partnership, or other business association organized under the laws of the United States, any State or territory thereof, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

SEC. . PROMOTION OF EDUCATIONAL, CULTURAL, SCIENTIFIC, AGRICULTURAL, MILITARY, LEGAL, POLITICAL, AND ARTISTIC EXCHANGES BETWEEN THE UNITED STATES AND CHINA.

(a) EXCHANGES BETWEEN THE UNITED STATES AND CHINA.—Agencies of the United States Government which engage in educational, cultural, scientific, agricultural, military, legal, political, and artistic exchanges shall endeavor to initiate or expand such exchange programs with regard to China.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a federally chartered not-for-profit organization should be established to fund exchanges between the United States and China through private donations.

SEC. . CONGRESSIONAL STATEMENT OF POLICY.

It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China. As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds. In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed. The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. . PROHIBITION ON USE OF FUNDS FOR THE PARTICIPATION OF CERTAIN CHINESE OFFICIALS IN CONFERENCES, EXCHANGES, PROGRAMS, AND ACTIVITIES.

(a) PROHIBITION.—Notwithstanding any other provision of law, for fiscal years after fiscal year 1997, no funds appropriated or otherwise made available for the Department of State, the United States Information Agency, and the United States Agency for International Development may be used for the purpose of providing travel expenses and per diem for the participation of nationals of the People's Republic of China described in paragraphs (1) and (2) in conferences, exchanges, programs, and activities:

(1) The head or political secretary of any of the following Chinese Government-created or approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The National Congress of Catholic Representatives.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant "Three Self" Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any military or civilian official or employee of the Government of the People's Republic of China who carried out or directed the carrying out of any of the following policies or practices:

(A) Formulating, drafting, or implementing repressive religious policies.

(B) Imprisoning, detaining, or harassing individuals on religious grounds.

(C) Promoting or participating in policies or practices which hinder religious activities or the free expression of religious beliefs.

(b) CERTIFICATION.—

(1) Each Federal agency subject to the prohibition of subsection (a) shall certify in writing to the appropriate congressional committees no later than 120 days after the date of enactment of this Act, and every 90 days thereafter, that it did not pay, either directly or through a contractor or grantee, for travel expenses or per diem of any national of the People's Republic of China described in subsection (a).

(2) Each certification under paragraph (1) shall be supported by the following information:

(A) The name of each employee of any agency of the Government of the People's Republic of China whose travel expenses or per diem were paid by funds of the reporting agency of the United States Government.

(B) The procedures employed by the reporting agency of the United States Government to ascertain whether each individual under subparagraph (A) did or did not participate in activities described in subsection (a)(2).

(C) The reporting agency's basis for concluding that each individual under subparagraph (A) did not participate in such activities.

(c) DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of this section the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. . CERTAIN OFFICIALS OF THE PEOPLE'S REPUBLIC OF CHINA INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

(a) REQUIREMENT.—Notwithstanding any other provision of law, any national of the People's Republic of China described in section (a)(2) (except the head of state, the head of government, and cabinet level ministers) shall be ineligible to receive visas and shall be excluded from admission into the United States.

(b) WAIVER.—The President may waive the requirement in subsection (a) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees (as defined in section (c)) containing a justification for the waiver.

SEC. . SUNSET PROVISION.

Sections and shall cease to have effect 4 years after the date of the enactment of this Act.

THURMOND AMENDMENT NO. 2738

Mr. THURMOND proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle A of title X, add the following:

SEC. 1005. REDUCTIONS IN FISCAL YEAR 1998 AUTHORIZATIONS OF APPROPRIATIONS FOR DIVISION A AND DIVISION B AND INCREASES IN CERTAIN AUTHORIZATIONS OF APPROPRIATIONS.

(a) Total Reduction.—Notwithstanding any other provision in this division, amounts authorized to be appropriated under other provisions of this division are reduced in accordance with subsection (b) by the total amount of $421,900,000 in order to reflect savings resulting from revised economic assumptions.

(b) Distribution of Reduction.—

(1) Procurement.—Amounts authorized to be appropriated for procurement under title I are reduced as follows:

(A) Army.—For the Army:

(i) Aircraft.—For aircraft under section 101(1), by $4,000,000.

(ii) Missiles.—For missiles under section 101(2), by $4,000,000.

(iii) Weapons and tracked combat vehicles.—For weapons and tracked combat vehicles under section 101(3), by $4,000,000.

(iv) Ammunition.—For ammunition under section 101(4), by $3,000,000.

(v) Other procurement.—For other procurement under section 101(5), by $9,000,000.

(B) Navy and marine corps.—For the Navy, Marine Corps, or both the Navy and Marine Corps:

(i) Aircraft.—For aircraft under section 102(a)(1), by $22,000,000.

(ii) Weapons.—For weapons, including missiles and torpedoes, under section 102(a)(2), by $4,000,000.

(iii) Shipbuilding and conversion.—For shipbuilding and conversion under section 102(a)(3), by $18,000,000.

(iv) Other procurement.—For other procurement , under section 102(a)(4), by $12,000,000.

(v) Marine corps procurement.—For procurement for the Marine Corps under section 102(b), by $2,000,000.

(vi) Ammunition.—For ammunition under section 102(c), by $1,000,000.

(C) Air Force.—For the Air Force:

(i) Aircraft.—For aircraft under section 103(1), by $23,000,000.

(ii) Missiles.—For missiles under section 103(2), by $7,000,000.

(iii) Ammunition.—For ammunition under section 103(3), by $1,000,000.

(iv) Other procurement.—For other procurement under section 103(4), by $17,500,000.

(D) Defense-wide activities.—For the Department of Defense for Defense-wide activities under section 104, by $5,800,000.

(E) Chemical demilitarization program.—For the destruction of lethal chemical agents and munitions and of chemical warfare material under section 107, by $3,000,000.

(2) RDT&E.—Amounts authorized to be appropriated for research, development, test, and evaluation under title II are reduced as follows:

(A) Army.—For the Army under section 201(1), by $10,000,000.

(B) Navy.—For the Navy under section 201(2), by $20,000,000.

(C) Air force.—For the Air Force under section 201(3), by $39,000,000.

(D) Defense-wide activities.—For Defense-wide activities under section 201(4), by $26,700,000.

(3) Operation and maintenance.—Amounts authorized to be appropriated for operation and maintenance under title III are reduced as follows:

(A) Army.—For the Army under section 301(a)(1), by $24,000,000.

(B) Navy.—For the Navy under section 301(a)(2), by $32,000,000.

(C) Marine corps.—For the Marine Corps under section 301(a)(3), by $4,000,000.

(D) Air force.—For the Air Force under section 301(a)(4), by $31,000,000.

(E) Defense-wide activities.—For Defense-wide activities under section 301(a)(6), by $17,600,000.

(F) Army reserve.—For the Army Reserve under section 301(a)(7), by $2,000,000.

(G) Naval reserve.—For the Naval Reserve under section 301(a)(8), by $2,000,000.

(H) Air force reserve.—For the Air Force Reserve under section 301(a)(10), by $2,000,000.

(I) Army national guard.—For the Army National Guard under section 301(a)(11), by $4,000,000.

(J) Air national guard.—For the Air National Guard under section 301(a)(12), by $4,000,000.

(K) Environmental restoration, army.—For Environmental Restoration, Army under section 301(a)(15), by $1,000,000.

(L) Environmental restoration, navy.—For Environmental Restoration, Navy under section 301(a)(16), by $1,000,000.

(M) Environmental restoration, air force.—For Environmental Restoration, Air Force under section 301(a)(17), by $1,000,000.

(N) Environmental restoration, defense-wide.—For Environmental Restoration, Defense-wide under section 301(a)(18), by $1,000,000.

(O) Drug interdiction and counter-drug activities, defense-wide.—For Drug Interdiction and Counter-drug Activities, Defense-wide under section 301(a)(21), by $2,000,000.

(P) Medical programs, defense.—For Medical Programs, Defense under section 301(a)(23), by $36,000,000.

(4) Military construction, army.—Amounts authorized to be appropriated for military construction, Army, under title XXI by section 2104(a) are reduced by $5,000,000, of which $3,000,000 shall be a reduction of support of military family housing under section 2104(a)(5)(B).

(5) Military construction, navy.—Amounts authorized to be appropriated for military construction, Navy, under title XXII by section 2204(a) are reduced by $5,000,000, of which—

(A) $1,000,000 shall be a reduction of construction and acquisition of military family housing under section 2204(a)(5)(A); and

(B) $3,000,000 shall be a reduction of support of military family housing under section 2204(a)(5)(B).

(6) Military construction, air force.—Amounts authorized to be appropriated for military construction, Air Force, under title XXIII by section 2304(a) are reduced by $4,000,000, of which—

(A) $1,000,000 shall be a reduction of construction and acquisition of military family housing under section 2304(a)(5)(A); and

(B) $2,000,000 shall be a reduction of support of military family housing under section 2304(a)(5)(B).

(7) Military construction, defense agencies.—Amounts authorized to be appropriated for military construction, Defense Agencies, under title XXIV by section 2404(a) are reduced by $6,300,000, of which $5,000,000 shall be a reduction of defense base closure and realignment under section 2404(a)(10), of which—

(A) $1,000,000 shall be a reduction of defense base closure and realignment, Army;

(B) $2,000,000 shall be a reduction of defense base closure and realignment, Navy; and

(C) $2,000,000 shall be a reduction of defense base closure and realignment, Air Force.

(8) North atlantic treaty organization security investment program.—Amounts authorized to be appropriated for contributions to the North Atlantic Treaty Organization Security Investment program under title XXV by section 2502 are reduced by $1,000,000.

(c) Proportionate Reductions Within Accounts.—The amount provided for each budget activity, budget activity group, budget subactivity group, program, project, or activity under an authorization of appropriations reduced by subsection (b) is hereby reduced by the percentage computed by dividing the total amount of that authorization of appropriations (before the reduction) into the amount by which that total amount is so reduced.

(d) Increase in Certain Authorizations of Appropriations.—

(1) Operation and maintenance, army national guard.—The amount authorized to be appropriated by section 301(a)(11), as reduced by subsection (b)(3)(I), is increased by $120,000,000.

(2) Other defense programs, department of energy.—The amount authorized to be appropriated by section 3103 is increased by $20,000,000, which amount shall be available for verification and control technology under paragraph (1)(C) of that section.

BIDEN AMENDMENT NO. 2739

Mr. LEVIN (for Mr. Biden) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title VI, add the following:

SEC. 620. INCREASED HAZARDOUS DUTY PAY FOR AERIAL FLIGHT CREWMEMBERS IN PAY GRADES E-4 TO E-9.

(a) Rates.—The table in section 301(b) of title 37, United States Code, is amended by striking out the items relating to pay grades E-4, E-5, E-6, E-7, E-8, and E-9, and inserting in lieu thereof the following:

“E–9	240
E–8	240
E–7	240
E–6	215
E–5	190
E–4	165”.

(b) Effective Date.—This section and the amendment made by this section shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

FORD (AND OTHERS) AMENDMENT NO. 2740

Mr. LEVIN (for Mr. Ford, for himself, Mr. Bond, Mr. Lott, Mr. Stevens, and Mr. Grassley) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title III, insert the following:

SEC. ___. REVISION AND CLARIFICATION OF AUTHORITY FOR FEDERAL SUPPORT OF NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

(a) PROCUREMENT OF EQUIPMENT.—Subsection (a)(3) of section 112 of title 32, United States Code, is amended by striking out “and leasing of equipment” and inserting in lieu thereof “and equipment, and the leasing of equipment,”.

(b) TRAINING AND READINESS.—Subsection (b)(2) of such section is amended to read as follows:

“(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities.

“(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.”.

(c) ASSISTANCE TO YOUTH AND CHARITABLE ORGANIZATIONS.—Subsection (b)(3) of such section is amended to read as follows:

“(2) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

“(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

“(B) in the case of services, the provision of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

“(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.”.

(d) DEFINITION OF DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.—Subsection (i)(1) of such section is amended by inserting after “drug interdiction and counter-drug law enforcement activities” the following: “, including drug demand reduction activities,”.

THURMOND AMENDMENT NO. 2741

Mr. THURMOND proposed an amendment to the bill, S. 2057, supra; as follows:

On page 264, strike out line 17 and insert in lieu thereof the following:

striking out the second, third, and fourth sentences and inserting in lieu thereof the following: “Any such Federal entity which proposes to so relocate shall notify the NTIA, which in turn shall notify the Commission, before the auction concerned of the marginal costs anticipated to be associated with such relocation or with modifications necessary to accommodate prospective licensees. The Commission in turn shall notify potential bidders of the estimated relocation or modification costs based on the geographic area covered by the proposed licenses before the auction.”;

On page 266, strike out line 7 and insert in lieu thereof the following:

trum.

“(E) IMPLEMENTATION PROCEDURES.—The NTIA and the Commission shall develop procedures for the implementation of this paragraph, which procedures shall include a process for resolving any differences that arise between the Federal Government and commercial licensees regarding estimates of relocation or modification costs under this paragraph.

“(F) INAPPLICABILITY TO CERTAIN RELOCATIONS.—With the exception of spectrum located at 1710–1755 Megahertz, the provisions of this paragraph shall not apply to Federal spectrum identified for reallocation in the first reallocation report submitted to the President and Congress under subsection (a).”.

(d) REPORTS ON COSTS OF RELOCATIONS.—The head of each department or agency of the Federal Government shall include in the annual budget submission of such department or agency to the Director of the Office of Management and Budget a report assessing the costs to be incurred by such department or agency as a result of any frequency relocations of such department or agency that are anticipated under section 113 of the National Telecommunications Information Administration Organization Act (47 U.S.C. 923) as of the date of such report.

FEINSTEIN AMENDMENT NO. 2742

Mr. LEVIN (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title V, add the following:

SEC. 531. PROHIBITION ON ENTRY INTO CORRECTIONAL FACILITIES FOR PRESENTATION OF DECORATIONS TO PERSONS WHO COMMIT CERTAIN CRIMES BEFORE PRESENTATION.

(a) PROHIBITION.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following:

“§ 1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations

“(a) PROHIBITION.—No member of the armed forces may enter into a Federal, State, or local correctional facility for purposes of presenting a decoration to a person who has been convicted of a serious violent felony.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘decoration’ means any decoration or award that may be presented or awarded to a member of the armed forces.

“(2) The term ‘serious violent felony’ has the meaning given that term in section 3359(c)(2)(F) of title 18.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end the following:

“1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations.”.

THURMOND (AND LEVIN) AMENDMENT NO. 2743

Mr. THURMOND (for himself, and Mr. LEVIN) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 296, in the table following line 10, strike out the item relating to Fort Dix, New Jersey.

On page 296, in the table following line 10, strike out the item relating to Camp Dawson, West Virginia.

On page 296, in the table following line 10, strike out “$627,007,000” in the amount column in the item relating to the total and insert in lieu thereof “$604,681,000”.

On page 298, line 19, strike out “$2,005,630,000” and insert in lieu thereof “$1,983,304,000”.

On page 298, line 22, strike out “$539,007,000” and insert in lieu thereof “$516,681,000”.

On page 302, in the table following line 23, strike out the item relating to Naval Air Station, Atlanta, Georgia.

On page 302, in the table following line 23, strike out “$39,310,000” in the amount column of the item relating to Naval Shipyard, Pearl Harbor, Hawaii, and insert in lieu thereof “$11,400,000”.

On page 302, in the table following line 23, insert after the item relating to Navy Public Works Center, Pearl Harbor, Hawaii, the following new items:

Fleet and Industrial Supply Center, Pearl Harbor	$9,730,000
Naval Station, Pearl Harbor	$18,180,000

On page 302, in the table following line 23, strike out “$446,984,000” in the amount column of the item relating to the total and insert in lieu thereof “$442,884,000”.

On page 305, line 16, strike out “$1,741,121,000” and insert in lieu thereof “$1,737,021,000”.

On page 305, line 19, strike out “$433,484,000” and insert in lieu thereof “$429,384,000”.

On page 307, in the table following line 16, strike out the item relating to McChord Air Force Base, Washington.

On page 307, in the table following line 16, strike out “$469,265,000” in the amount column in the item relating to the total and inserting in lieu thereof “$465,865,000”.

On page 310, line 17, strike out “$1,652,734,000” and insert in lieu thereof “$1,649,334,000”.

On page 310, line 21, strike out “$469,265,000” and insert in lieu thereof “$465,865,000”.

On page 320, line 25, strike out “$95,395,000” and insert in lieu thereof “$108,990,000”.

On page 321, line 1, strike out “$107,378,000” and insert in lieu thereof “$116,109,000”.

On page 321, line 3, strike out “$15,271,000” and insert in lieu thereof “$19,371,000”.

On page 321, line 8, strike out “$20,225,000” and insert in lieu thereof “$23,625,000”.

KEMPTHORNE (AND OTHERS) AMENDMENT NO. 2744

Mr. THURMOND (for Mr. KEMPTHORNE, for himself, Mr. CLELAND, and Mr. AKAKA) proposed an amendment to the bill, S. 2057, supra; as follows:

Beginning on page 108, strike out line 21 and all that follows through “(b) APPLICABILITY OF WAIVER.—” on page 109, line 4, and insert in lieu thereof the following:

SEC. 530. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO CERTAIN PERSONS.

(a) Waiver.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in this section, the award of each such decoration having been determined by the Secretary of the military department concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) Distinguished-Service Cross.—Subsection (a) applies to award of the Distinguished-Service Cross of the Army as follows:

(1) To Isaac Camacho of El Paso, Texas, for extraordinary heroism in actions at Camp Hiep Hoa in Vietnam on November 24, 1963, while serving as a member of the Army.

(2) To Bruce P. Crandall of Mesa, Arizona, for extraordinary heroism in actions at Landing Zone X-Ray in Vietnam on November 14, 1965, while serving as a member of the Army.

(3) To Leland B. Fair of Jessieville, Arkansas, for extraordinary heroism in actions in the Philippine Islands on July 4, 1945, while serving as a member of the Army.

(c) Distinguished-Service Medal.—Subsection (a) applies to award of the Distinguished-Service Medal of the Army to Richard P. Sakakida of Fremont, California, for exceptionally meritorious service while a prisoner of war in the Philippine Islands from May 7, 1942, to September 14, 1945, while serving as a member of the Army.

(d) Distinguished Flying Cross.—

WARNER AMENDMENT NO. 2745

Mr. THURMOND (for Mr. Warner) proposed an amendment to the bill, S. 2057, supra; as follows:

Strike out section 1012, and insert in lieu thereof the following:

SEC. 1012. LONG-TERM CHARTER OF THREE VESSELS IN SUPPORT OF SUBMARINE RESCUE, ESCORT, AND TOWING.

(a) Authority.—The Secretary of the Navy may to enter into one or more long-term charters in accordance with section 2401 of title 10, United States Code, for three vessels to support the rescue, escort, and towing of submarines.

(b) Vessels.—The vessels that may be chartered under subsection (a) are as follows:

(1) The Carolyn Chouest (United States official number D102057).

(2) The Kellie Chouest (United States official number D1038519).

(3) The Dolores Chouest (United States official number D600288).

(c) Charter Period.—The period for which a vessel is chartered under subsection (a) may not extend beyond October 1, 2004.

(d) Funding.—The funds used for charters entered into under subsection (a) shall be funds authorized to be appropriated under section 301(a)(2).

McCAIN AMENDMENT NO. 2746

Mr. THURMOND (for Mr. McCain) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title VI, add the following:

SEC. 620. DIVING DUTY SPECIAL PAY FOR DIVERS HAVING DIVING DUTY AS A NONPRIMARY DUTY.

(a) Eligibility for Maintaining Proficiency.—Section 304(a)(3) of title 37, United States Code, is amended to read as follows:

"(3) either—

"(A) actually performs diving duty while serving in an assignment for which diving is a primary duty; or

"(B) meets the requirements to maintain proficiency as described in paragraph (2) while serving in an assignment that includes diving duty other than as a primary duty.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

COATS AMENDMENT NO. 2747

Mr. THURMOND (for Mr. Coats) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title I, add the following:

SEC. 124. MULTIYEAR PROCUREMENT AUTHORITY FOR CERTAIN AIRCRAFT PROGRAMS.

Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into multiyear contracts for the procurement of the following aircraft:

(1) The AV-8B aircraft.

(2) The E-2C aircraft.

(3) The T-45 aircraft.

WARNER AMENDMENT NO. 2748

Mr. THURMOND (for Mr. Warner) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 14, line 16, reduce the amount by $15,895,000.

On page 29, line 2, increase the amount by $15,895,000.

THURMOND (AND OTHERS) AMENDMENT NO. 2749

Mr. THURMOND (for himself, Mr. Levin, Mr. Santorum, and Mr. Lieberman) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 347, below line 23, add the following:

SEC. 2833. MODIFICATION OF AUTHORITY RELATING TO DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) Program Requirements.—Subsection (c) of section 2892 of the National Defense Authorization for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 590; 10 U.S.C. 2805 note) is amended to read as follows:

"(c) Program Requirements.—(1) Not later than 30 days before commencing the program, the Secretary shall establish procedures for the review and approval of requests from Department of Defense laboratories for construction under the program.

"(2) The laboratories at which construction may be carried out under the program may not include Department of Defense laboratories that are contractor-owned.".

(b) Report.—Subsection (d) of that section is amended to read as follows:

"(d) Report.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendation regarding the desirability of making the authority set forth under subsection (b) permanent.".

(c) Extension.—Subsection (g) of that section is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2003".

LEVIN AMENDMENT NO. 2750

Mr. LEVIN proposed an amendment to the bill, S. 2057, supra; as follows:

On page 196, between lines 18 and 19, insert the following:

SEC. 908. REDESIGNATION OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING AS DIRECTOR OF DEFENSE TECHNOLOGY AND COUNTERPROLIFERATION AND TRANSFER OF RESPONSIBILITIES.

(a) Redesignation.—Subsection (a) of section 137 of title 10, United States Code, is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(b) Duties.—Subsection (b) of such section 137 is amended to read as follows:

"(b) The Director of Defense Technology and Counterproliferation shall—

"(1) except as otherwise prescribed by the Secretary of Defense, perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition and Technology may prescribe;

"(2) advise the Secretary of Defense on matters relating to nuclear energy and nuclear weapons;

"(3) serve as the Staff Director of the Joint Nuclear Weapons Council under section 179 of this title; and

"(4) perform such other duties as the Secretary of Defense may prescribe.".

(c) Abolishment of Position of Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.—Section 142 of such title is repealed.

(d) Conforming Amendments.—(1) Title 5, United States Code, is amended as follows:

(A) In section 5315, by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof the following:

"Director of Defense Technology and Counterproliferation".

(B) In section 5316, by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.".

(2) Title 10, United States Code, is amended as follows:

(A) In section 131(b), by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Director of Defense Technology and Counterproliferation.".

(B) In section 138(d), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(C) In section 179(c)(2), by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(D) In section 2350a(g)(3), by striking out "Deputy Director, Defense Research and Engineering (Test and Evaluation)" and inserting in lieu thereof "Undersecretary of Defense for Acquisition and Technology".

(E) In section 2617(a), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(F) In section 2902(b), by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Director of Defense Technology and Counterproliferation.".

(3) Section 257(a) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 2358 note) is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director

of Defense Technology and Counterproliferation".

(4) The National Defense Authorization Act for Fiscal Year 1994 is amended as follows:

(A) In section 802(a) (10 U.S.C. 2358 note), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(B) In section 1605(a)(5), (22 U.S.C. 2751 note) by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(e) CLERICAL AMENDMENTS.—(1) The section heading of section 137 of title 10, United States Code, is amended to read as follows:

"§137. Director of Defense Technology and Counterproliferation".

(2) The table of sections at the beginning of chapter 4 of title 10, United States Code, is amended—

(A) by striking out the item relating to section 137 and inserting in lieu thereof the following:

"137. Director of Defense Technology and Counterproliferation.";

and

(B) by striking out the item relating to section 142.

THURMOND AMENDMENT NO. 2751

Mr. THURMOND proposed an amendment to the bill, S. 2057, supra; as follows:

On page 160, beginning on line 9, strike out "amount" and all that follows through "section 3202(1)" on line 17, and insert in lieu thereof the following:

"'amounts were charged.

"(B) For amounts relating to sales for unofficial travel, deposit in nonappropriated fund accounts available for morale, welfare, and recreation programs.

"(c) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' has the meaning given that term in section 2302(1)".

WARNER AMENDMENT NO. 2752

Mr. THURMOND (for Mr. WARNER) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of title VIII, add the following:

SEC. 812. PLAN FOR RAPID TRANSITION FROM COMPLETION OF SMALL BUSINESS INNOVATION RESEARCH INTO DEFENSE ACQUISITION PROGRAMS.

(a) PLAN REQUIRED.—Not later than February 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for facilitating the rapid transition into Department of Defense acquisition programs of successful first phase and second phase activities under the Small Business Innovation Research program under section 9 of the Small Business Act (15 U.S.C. 638).

(b) CONDITIONS.—The plan submitted under subsection (a) shall—

(1) be consistent with the Small Business Innovation Research program and with recent acquisition reforms that are applicable to the Department of Defense; and

(2) provide—

(A) a high priority for funding the projects under the Small Business Innovation Research program that are likely to be successful under a third phase agreement entered into pursuant to section 9(r) of the Small Business Act (15 U.S.C. 638(r)); and

(B) for favorable consideration, in the acquisition planning process, for funding projects under the Small Business Innovation Research program that are subject to a third phase agreement described in subparagraph (A).

LIEBERMAN AMENDMENT NO. 2753

Mr. LEVIN (for Mr. LIEBERMAN) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title II, add the following:

SEC. 219. NATO ALLIANCE GROUND SURVEILLANCE CONCEPT DEFINITION.

Amounts authorized to be appropriated under subtitle A are available for a NATO alliance ground surveillance concept definition that is based on the Joint Surveillance Target Attack Radar System (Joint STARS) Radar Technology Insertion Program (RTIP) sensor of the United States, as follows:

(1) Of the amount authorized to be appropriated under section 201(1), $6,400,000.

(2) Of the amount authorized to be appropriated under section 201(3), $3,500,000.

WARNER AMENDMENT NO. 2754

Mr. THURMOND (for Mr. WARNER) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 634. SURVIVOR BENEFIT PLAN OPEN ENROLLMENT PERIOD.

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (d).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code (or chapter 67 of such title as in effect before October 5, 1994), but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) MANNER OF MAKING ELECTIONS.—

(1) IN GENERAL.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Except as provided in paragraph (2), any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(2) ELECTION MUST BE VOLUNTARY.—An election under this section is not effective unless the person making the election declares the election to be voluntary. An election to participate in the Survivor Benefit Plan under this section may not be required by any court. An election to participate or not to participate in the Survivor Benefit Plan is not subject to the concurrence of a spouse or former spouse of the person.

(c) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(d) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on March 1, 1999.

(e) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(f) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(g) PREMIUMS FOR OPEN ENROLLMENT ELECTION.—

(1) PREMIUMS TO BE CHARGED.—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(A) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of

Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(2) Premiums to be credited to retirement fund.—Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(h) Definitions.—In this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "Supplemental Survivor Benefit Plan" means the program established under subchapter III of chapter 73 of title 10, United States Code.

(3) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(4) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

(5) The term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

THOMPSON (AND OTHERS) AMENDMENTS NOS. 2755–2757

Mr. THURMOND (for Mr. Thompson for himself, Mr. Glenn, Mr. Thurmond, Mr. Levin, Mr. Santorum, and Mr. Lieberman) proposed three amendments to the bill, S. 2057, supra; as follows:

Amendment No. 2755

At the end of title VIII, add the following:

SEC. 812. SENIOR EXECUTIVES COVERED BY LIMITATION ON ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL.

(a) Defense Contracts.—Section 2324(l)(5) of title 10, United States Code, is amended to read as follows:

"(5) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and other organizational segment of the contractor.".

(b) Non-Defense Contracts.—Section 306(m)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(m)(2)) is amended to read as follows:

"(2) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and other organizational segment of the contractor.".

(c) Conforming Amendment.—Section 39(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 435(c)(2)) is amended to read as follows:

"(2) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and other organizational segment of the contractor.".

Amendment No. 2756

Beginning on page 162, strike out line 23 and all that follows through "that clarify" on page 163, line 2, and insert in lieu thereof the following:

"or subsection (b)(1)(B) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b), from the requirements for submission of certified cost or pricing data under that section.

"(c) Commercial Pricing Regulations.—(1) The Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act shall be revised to clarify".

Amendment No. 2757

At the end of title VIII, add the following:

SEC. 812. SEPARATE DETERMINATIONS OF EXCEPTIONAL WAIVERS OF TRUTH IN NEGOTIATION REQUIREMENTS FOR PRIME CONTRACTS AND SUBCONTRACTS.

(a) Defense Procurements.—Section 2306a(a)(5) of title 10, United States Code, is amended to read as follows:

"(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the agency concerned determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.".

(b) Non-Defense Procurements.—Section 304A(a)(5) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(a)(5)) is amended to read as follows:

"(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the executive agency concerned determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.".

DeWINE (AND INHOFE) AMENDMENT NO. 2758

Mr. THURMOND (for Mr. DeWine for himself and Mr. Inhofe) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of title VII, add the following:

SEC. . PROFESSIONAL QUALIFICATIONS OF PHYSICIANS PROVIDING MILITARY HEALTH CARE.

(a) Requirement for Unrestricted License.—Section 1094(a)(1) of title 10, United States Code, is amended by adding at the end the following: "In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.".

(b) Satisfaction of Continuing Medical Education Requirements.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1094 the following new section:

"§ 1094a. Continuing medical education requirements: system for monitoring physician compliance

"The Secretary of Defense shall establish a mechanism for ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician satisfies the continuing medical education requirements applicable to the physician.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1094a. Continuing medical education requirements: system for monitoring physician compliance.".

(c) Effective Dates.—(1) The amendment made by subsection (a) shall take effect on October 1, 1998.

(2) The system required by section 1094a of title 10, United States Code (as added by subsection (b)), shall take effect on the date that is three years after the date of the enactment of this Act.

GRASSLEY AMENDMENT NO. 2759

Mr. THURMOND (for Mr. Grassley) proposed an amendment to the bill, S. 2057, supra; as follows:

Strike out section 1055, and insert in lieu thereof the following:

SEC. 1055. ELIGIBILITY FOR ATTENDANCE AT DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.

(a) Military Dependents.—Subsection (a) of section 2164 of title 10, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (2); and

(3) by adding at the end of paragraph (2), as so designated, the following: "The Secretary may also permit a dependent of a member of the armed forces to enroll in such a program if the dependent is residing in such a jurisdiction, whether on or off a military installation, while the member is assigned away from that jurisdiction on a remote or unaccompanied assignment under permanent change of station orders.".

(b) Employee Dependents.—Subsection (c)(2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The Secretary may extend the enrollment of a dependent referred to in subparagraph (A) in the program for more than five consecutive school years if the Secretary determines that the dependent is eligible under paragraph (1), space is available in the program, and adequate arrangements are made for reimbursement of the Secretary for the costs to the Secretary of the educational services provided for the dependent. An extension shall be for only one school year, but the Secretary may authorize a successive extension each year for the next school year upon making the determinations required under the preceding sentence for that next school year.".

(c) Customs Service Employee Dependents in Puerto Rico.—(1) Subsection (c) of such section is further amended by adding at the end the following:

"(4)(A) A dependent of a United States Customs Service employee who resides in Puerto Rico but not on a military installation may enroll in an educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico.

"(B) Notwithstanding the limitation on duration of enrollment set forth in paragraph (2), a dependent described in subparagraph (A) who is enrolled in an education program described in that subparagraph may be removed from the program only for good cause (as determined by the Secretary). No requirement under that paragraph for reimbursement of the Secretary for the costs of educational services provided for the dependent shall apply with respect to the dependent.

"(C) In the event of the death in the line of duty of an employee described in subparagraph (A), a dependent of the employee may remain enrolled in an educational program described in that subparagraph until—

"(i) the end of the academic year in which the death occurs; or

"(ii) the dependent is removed for good cause (as so determined).".

(2) The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and apply to academic years beginning on or after that date.

ROBERTS AMENDMENT NO. 2760

Mr. THURMOND (for Mr. ROBERTS) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place in title XXVIII, insert the following:

SEC. 28__. REPORT AND REQUIREMENT RELATING TO "1 PLUS 1 BARRACKS INITIATIVE".

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretaries of the military departments, submit to Congress a report on the costs and benefits of implementing the initiative to build single occupancy barracks rooms with a shared bath, the so-called "1 plus 1 barracks initiative".

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A justification for the initiative referred to in subsection (a), including a description of the manner in which the initiative is designed to assure the retention of first-term enlisted members of the Armed Forces in adequate numbers.

(2) A description of the experiences of the military departments with the retention of first-term enlisted members of the Armed Forces, including—

(A) a comparison of such experiences before implementation of the initiative with such experiences after implementation of the initiative; and

(B) an analysis of the basis for any change in retention rates of such members that has arisen since implementation of the initiative.

(3) Any information indicating that the lack of single occupancy barracks rooms with a shared bath has been or is the basis of the decision of first-term members of the Armed Forces not to reenlist in the Armed Forces.

(4) Any information indicating that the lack of such barracks rooms has hampered recruitment for the Armed Forces or that the construction of such barracks rooms would substantially improve recruitment.

(5) The cost for each Armed Force of implementing the initiative, including the amount of funds obligated or expended on the initiative before the date of enactment of this Act and the amount of funds required to be expended after that date to complete the initiative.

(6) The views of each of the Chiefs of Staff of the Armed Forces regarding the initiative and regarding any alternatives to the initiative having the potential of assuring the retention of first-term enlisted members of the Armed Forces in adequate numbers.

(7) A cost-benefit analysis of the initiative.

(c) LIMITATION ON FY 2000 FUNDING REQUEST.—The Secretary of Defense may not submit to Congress any request for funding for the so-called "1 plus 1 barracks initiative" in fiscal year 2000 unless the Secretary certifies to Congress that further implementation of the initiative is necessary in order to assure the retention of first-term enlisted members of the Armed Forces in adequate numbers.

GRAHAM (AND OTHERS) AMENDMENT NO. 2761

Mr. LEVIN (for Mr. GRAHAM for himself, Mr. DEWINE, and Mr. GRASSLEY) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title III, add the following:

SEC. 334. SENSE OF CONGRESS REGARDING PRIORITY OF DRUG INTERDICTION AND COUNTERDRUG ACTIVITIES.

It is the sense of Congress that the Secretary of Defense should revise the Global Military Force Policy of the Department of Defense—

(1) to treat the international drug interdiction and counter-drug activities of the department as a military operation other than war, thereby elevating the priority given such activities under the policy to the next priority below the priority given to war under the policy and to the same priority as is given to peacekeeping operations under the policy; and

(2) to allocate the assets of the department to drug interdiction and counter-drug activities in accordance with the priority given those activities.

SANTORUM AMENDMENT NO. 2762

Mr. THURMOND (for Mr. SANTORUM) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of title VIII, add the following:

SEC. 812. FIVE-YEAR AUTHORITY FOR SECRETARY OF THE NAVY TO EXCHANGE CERTAIN ITEMS.

(a) BARTER AUTHORITY.—The Secretary of the Navy may enter into a barter agreement to exchange trucks and other tactical vehicles for the repair and remanufacture of ribbon bridges for the Marine Corps in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)), except that the requirement for items exchanged under that section to be similar items shall not apply to the authority under this subsection.

(b) PERIOD OF AUTHORITY.—The authority to enter into agreements under subsection (a) and to make exchanges under any such agreement is effective during the 5-year period beginning on October 1, 1998, and ending at the end of September 30, 2003.

GRAHAM AMENDMENT NO. 2763

Mr. LEVIN (for Mr. GRAHAM) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of title IX, add the following:

SEC. 908. CENTER FOR HEMISPHERIC DEFENSE STUDIES.

(a) FUNDING FOR CENTER FOR HEMISPHERIC DEFENSE STUDIES.—(1) Chapter 108 of title 10, United States Code, is amended by adding at the end the following:

"§2166. National Defense University: funding of component institution

"Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2166. National Defense University: funding of component institution.".

(b) CONFORMING AMENDMENT.—Section 1050 of title 10, United States Code, is amended by inserting "Secretary of Defense or the" before "Secretary of a military department".

GORTON (AND MURRAY) AMENDMENT NO. 2764

Mr. THURMOND (for Mr. GORTON for himself and Mrs. MURRAY) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title XXXI, insert the following:

SEC. 3137. COST-SHARING FOR OPERATION OF THE HAZARDOUS MATERIALS MANAGEMENT AND EMERGENCY RESPONSE TRAINING FACILITY, RICHLAND, WASHINGTON.

(a) AUTHORITY.—The Secretary of Energy may enter into partnership arrangements with Federal and non-Federal entities to share the costs of operating the Hazardous Materials Management and Emergency Response training facility authorized under section 3140 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3088). Such arrangements may include the exchange of equipment and services.

COVERDELL AMENDMENT NO. 2765

Mr. THURMOND (for Mr. COVERDELL) proposed an amendment to the bill, S. 2057, supra; as follows:

Strike out section 529, and insert in lieu thereof the following:

SEC. 529. PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTING IN THE ARMED FORCES.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish a pilot program to assess whether the Armed Forces could better meet recruiting requirements by treating GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces. The Secretary of each military department shall administer the pilot program for the armed force or armed forces under the jurisdiction of the Secretary.

(b) ELIGIBLE RECIPIENTS.—(1) Under the pilot program, a person shall be treated as having graduated from high school with a high school diploma for the purpose described in subsection (a) if the person—

(A) has completed a general education development program while participating in the National Guard Challenge Program and is a GED recipient; or

(B) is a home school diploma recipient and provides a transcript demonstrating completion of high school to the military department involved under the pilot program.

(2) For the purposes of this section, a person is a GED recipient if the person, after completing a general education development program, has obtained certification of high school equivalency by meeting State requirements and passing a State approved exam that is administered for the purpose of providing an appraisal of the person's achievement or performance in the broad subject matter areas usually required for high school graduates.

(3) For the purposes of this section, a person is a home school diploma recipient if the person has received a diploma for completing

a program of education through the high school level at a home school, without regard to whether the home school is treated as a private school under the law of the State in which located.

(c) Annual Limit on Number.—Not more than 1,250 GED recipients, and not more than 1,250 home school diploma recipients, enlisted by an armed force in any fiscal year may be treated under the pilot program as having graduated from high school with a high school diploma.

(d) Period for Pilot Program.—The pilot program shall be in effect for five fiscal years beginning on October 1, 1998.

(e) Report.—(1) Not later than February 1, 2004, the Secretary of Defense shall submit a report on the pilot program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2)(A) The report shall include the assessment of the Secretary of Defense, and any assessment of any of the Secretaries of the military departments, regarding the value of, and any necessity for, authority to treat GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces.

(B) The Secretary shall also set forth in the report, by armed force for each fiscal year of the pilot program, a comparison of the performance of the persons who enlisted in that armed force during the fiscal year as GED or home school diploma recipients treated under the pilot program as having graduated from high school with a high school diploma with the performance of the persons who enlisted in that armed force during the same fiscal year after having graduated from high school with a high school diploma, with respect to the following:

(i) Attrition.

(ii) Discipline.

(iii) Adaptability to military life.

(iv) Aptitude for mastering the skills necessary for technical specialties.

(v) Reenlistment rates.

(f) Reference to National Guard Challenge Program.—The National Guard Challenge Program referred to in this section is a program conducted under section 509 of title 32, United States Code.

(g) State Defined.—In this section, the term "State" has the meaning given that term in section 509(*l*)(1) of title 32, United States Code.

GORTON AMENDMENT NO. 2766

Mr. THURMOND (for Mr. Gorton) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 59, below line 20, add the following:

SEC. 328. SENSE OF SENATE REGARDING OIL SPILL PREVENTION TRAINING FOR PERSONNEL ON BOARD NAVY VESSELS.

(a) Findings.—The Senate makes the following findings:

(1) There have been six significant oil spills in Puget Sound, Washington, in 1998, five at Puget Sound Naval Shipyard (including three from the U.S.S. Kitty Hawk, one from the U.S.S. Carl Vinson, and one from the U.S.S. Sacramento) and one at Naval Station Everett from the U.S.S. Paul F. Foster.

(2) Navy personnel on board vessels, and not shipyard employees, were primarily responsible for a majority of these oil spills at Puget Sound Naval Shipyard.

(3) Oil spills have the potential to damage the local environment, killing microscopic organisms, contributing to air pollution, harming plants and marine animals, and increasing overall pollution levels in Puget Sound.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of the Navy should take immediate action to significantly reduce the risk of vessel oil spills, including the minimization of fuel oil transfers, the assurance of proper training and qualifications of all Naval personnel in occupations that may contribute to or minimize the risk of shipboard oil spills, and the improvement of liaison with local authorities concerning oil spill prevention and response activities.

REID AMENDMENT NO. 2767

Mr. LEVIN (for Mr. Reid) proposed an amendment to the bill, S. 2057, supra; as follows:

In section 201(2), strike out "$8,199,102,000" and insert in lieu thereof "$8,204,102,000".

In section 102(b), strike out "$915,558,000" and insert in lieu thereof "$910,558,000".

MACK AMENDMENT NO. 2768

Mr. THURMOND (for Mr. Mack) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. EXPANSION OF LAND CONVEYANCE AUTHORITY, EGLIN AIR FORCE BASE, FLORIDA.

Section 809(c) of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 587), as amended by section 2826 of the Military Construction Authorization Act, 1989 (division B of Public Law 100–456; 102 Stat. 2123), is further amended by striking out "and a third parcel containing forty-two acres" and inserting in lieu thereof ", a third parcel containing forty-two acres, a fourth parcel containing approximately 3.43 acres, and a fifth parcel containing approximately 0.56 acres".

ALLARD (AND CAMPBELL) AMENDMENT NO. 2769

Mr. THURMOND (for Mr. Allard for himself, and Mr. Campbell) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. CONVEYANCE OF WATER RIGHTS AND RELATED INTERESTS, ROCKY MOUNTAIN ARSENAL, COLORADO, FOR PURPOSES OF ACQUISITION OF PERPETUAL CONTRACTS FOR WATER.

(a) Conveyance Authorized.—Subject to subsection (c), the Secretary of the Army may convey any and all interest of the United States in the water rights and related rights at Rocky Mountain Arsenal, Colorado, described in subsection (b) to the City and County of Denver, Colorado, acting through its Board of Water Commissioners.

(b) Covered Water Rights and Related Rights.—The water rights and related rights authorized to be conveyed under subsection (a) are the following:

(1) Any and all interest in 300 acre rights to water from Antero Reservoir as set forth in Antero Reservoir Contract No. 382 dated August 22, 1923, for 160 acre rights; Antero Reservoir Contract No. 383 dated August 22, 1923, for 50 acre rights; Antero Reservoir Contract No. 384 dated October 30, 1923, for 40 acre rights; Antero Reservoir Contract No. 387 dated March 3, 1923, for 50 acre rights; and Supplemental Contract No. 382–383–384–387 dated July 24, 1932, defining the amount of water to be delivered under the 300 acre rights in the prior contracts as 220 acre feet.

(2) Any and all interest in the 305 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Fitzsimons Army Medical Center and currently subject to cost assessments pursuant to Denver Water Department contract #001990.

(3) Any and all interest in the 2,603.55 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Rocky Mountain Arsenal in Adams County, Colorado, and currently subject to cost assessments by the Denver Water Department, including 680 acre rights transferred from Lowry Field to the Rocky Mountain Arsenal by the October 5, 1943, agreement between the City and County of Denver, acting by and through its Board of Water Commissioners, and the United States of America.

(4) Any and all interest in 4,058.34 acre rights of water not currently subject to cost assessments by the Denver Water Department.

(5) A new easement for the placement of water lines approximately 50 feet wide inside the Southern boundary of Rocky Mountain Arsenal and across the Reserve Center along the northern side of 56th Avenue.

(6) A permanent easement for utilities where Denver has an existing temporary easement near the southern and western boundaries of Rocky Mountain Arsenal.

(c) Consideration.—(1) The Secretary of the Army may make the conveyance under subsection (a) only if the Board of Water Commissioners, on behalf of the City and County of Denver, Colorado—

(A) enters into a permanent contract with the Secretary of the Army for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal; and

(B) enters into a permanent contract with the Secretary of the Interior for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal National Wildlife Refuge, Colorado.

(2) Section 2809(e) of title 10, United States Code, shall not operate to limit the term of the contract entered into under paragraph (1)(A).

(d) Requirement Relating to Conveyance.—The Secretary of the Army may not make the conveyance authorized by subsection (a) until the execution of the proposed agreement provided for under subsection (c) between the City and County of Denver, Colorado, acting through its Board of Water Commissioners, the South Adams County Water and Sanitation District, the United States Fish and Wildlife Service, and the Army.

(e) Additional Terms and Conditions.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

MURRAY (AND OTHERS) AMENDMENT NO. 2770

Mr. LEVIN (for Mrs. Murray for herself, Mr. Kempthorne, Mr. Wyden, and Mr. Smith of Oregon) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. HANFORD HEALTH INFORMATION NETWORK.

Of the funds authorized to be appropriated or otherwise made available to the Department of Energy by section 3102, $2,500,000 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834), as amended by section 3138(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3087).

THURMOND (AND BINGAMAN) AMENDMENTS NOS. 2771–2772

Mr. THURMOND (for himself, and Mr. BINGAMAN) proposed two amendments to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2771

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 3161(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

AMENDMENT NO. 2772

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) EXTENSION.—Notwithstanding subsection (c)(2)(D) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–383; 5 U.S.C. 5597 note), the Department of Energy may pay voluntary separation incentive payments to qualifying employees who voluntarily separate (whether by retirement or resignation) before January 1, 2001.

(b) EXERCISE OF AUTHORITY.—The Department shall pay voluntary separation incentive payments under subsection (a) in accordance with the provisions of such section 663.

GRAMS (AND D'AMATO) AMENDMENT NO. 2773

Mr. THURMOND (for Mr. GRAMS for himself, and Mr. D'AMATO) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place, insert:

SECTION 1. EXTENSION AND REAUTHORIZATION OF DEFENSE PRODUCTION ACT OF 1950.

(a) EXTENSION OF TERMINATION DATE.—Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

(b) EXTENSION OF AUTHORIZATION.—Section 711(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(b)) is amended by striking "and 1998" and inserting "1998, and 1999".

THURMOND AMENDMENT NO. 2774

Mr. THURMOND proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. BUDGETING FOR CONTINUED PARTICIPATION OF UNITED STATES FORCES IN NATO OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) Funding levels in the Department of Defense budget have not been sufficient to pay for the deployment of United States ground combat forces in Bosnia and Herzegovina that began in fiscal year 1996.

(2) The Department of Defense has used funds from the operation and maintenance accounts of the Armed Forces to pay for the operations because the funding levels included in the defense budgets for fiscal years 1996 and 1997 have not been adequate to maintain operations in Bosnia and Herzegovina.

(3) Funds necessary to continue United States participation in the NATO operations in Bosnia and Herzegovina, and to replace operation and maintenance funds used for the operations, have been requested by the President as supplemental appropriations in fiscal years 1996 and 1997. The Department of Defense has also proposed to reprogram previously appropriated funds to make up the shortfall for continued United States operations in Bosnia and Herzegovina.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) The discretionary spending limit established for the defense category for fiscal year 1998 in the Balanced Budget and Emergency Deficit Control Act of 1985 does not take into account the continued deployment of United States forces in Bosnia and Herzegovina after June 30, 1998. Therefore, the President requested emergency supplemental appropriations for the Bosnia and Herzegovina mission through September 30, 1998.

(6) Amounts for operations in Bosnia and Herzegovina were not included in the original budget proposed by the President for the Department of Defense for fiscal year 1999.

(7) The President requested $1,858,600,000 in emergency appropriations in his March 4, 1998 amendment to the fiscal year 1999 budget to cover the shortfall in funding in the fiscal year 1999 for the costs of extending the mission in Bosnia.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should include in the budget for the Department of Defense that the President submits to Congress under section 1105(a) of title 31, United States Code, for each fiscal year sufficient amounts to pay for any proposed continuation of the participation of United States forces in NATO operations in Bosnia and Herzegovina for that fiscal year; and

(2) amounts included in the budget for that purpose should not be transferred from amounts that would otherwise be proposed in the budget of any of the Armed Forces in accordance with the future-years defense program related to that budget, or any other agency of the Executive Branch, but, instead, should be an overall increase in the budget for the Department of Defense.

SEC. 1065. NATO PARTICIPATION IN THE PERFORMANCE OF PUBLIC SECURITY FUNCTIONS OF CIVILIAN AUTHORITIES IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization (NATO) has approved the creation of a multi-national specialized unit of gendarmes- or para-military police composed of European security forces to help promote public security in Bosnia and Herzegovina as a part of the post-June 1998 mission for the Stabilization Force (SFOR) authorized under the United Nations Security Council Resolution 1088 (December 12, 1996).

(2) On at least four occasions, beginning in July 1997, the Stabilization Force (SFOR) has been involved, pursuant to military annex 1(A) of the Dayton Agreement, in carrying out missions for the specific purpose of detaining war criminals, and on at least one of those occasions United States forces were directly involved in carrying out the mission.

(b) SENSE OF CONGRESS.—It is the sense of Congress that United States forces should not serve as civil police in Bosnia and Herzegovina.

(c) REQUIREMENT FOR REPORT.—The President shall submit to Congress, not later than October 1, 1998, a report on the status of the NATO force of gendarmes or paramilitary police referred to in subsection (a)(1), including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

SNOWE (AND CLELAND) AMENDMENT NO. 2775

Mr. THURMOND (for Ms. SNOWE for herself and Mr. CLELAND) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. SUBMISSION OF REPORT ON OBJECTIVES OF A CONTINGENCY OPERATION WITH FIRST REQUEST FOR FUNDING THE OPERATION.

(a) FINDINGS.—Congress makes the following findings:

(1) On May 3, 1994, the President issued Presidential Decision Directive 25 declaring that American participation in United Nations and other peace operations would depend in part on whether the role of United States forces is tied to clear objectives and an endpoint for United States participation can be identified.

(2) Between that date and mid-1998, the President and other executive branch officials have obligated or requested appropriations of approximately $9,400,000,000 for military-related operations throughout Bosnia and Herzegovina without providing to Congress, in conjunction with the budget submission for any fiscal year, a strategic plan for such operations under the criteria set forth in that Presidential Decision Directive.

(3) Between November 27, 1995, and mid-1998 the President has established three deadlines, since elapsed, for the termination of United States military-related operations throughout Bosnia and Herzegovina.

(4) On December 17, 1997, the President announced that United States ground combat forces would remain in Bosnia and Herzegovina for an unknown period of time.

(5) Approximately 47,880 United States military personnel (excluding personnel

serving in units assigned to the Republic of Korea) have participated in 14 international contingency operations between fiscal years 1991 and 1998.

(6) The 1998 posture statements of the Navy and Air Force included declarations that the pace of military operations over fiscal year 1997 adversely affected the readiness of non-deployed forces, personnel retention rates, and spare parts inventories of the Navy and Air Force.

(b) INFORMATION TO BE REPORTED WITH FUNDING REQUEST.—Section 113 of title 10, United States Code, is amended by adding at the end the following:

"(*l*) INFORMATION TO ACCOMPANY INITIAL FUNDING REQUEST FOR CONTINGENCY OPERATION.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

"(1) What clear and distinct objectives guide the activities of United States forces in the operation.

"(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.".

ROBB (AND SANTORUM) AMENDMENT NO. 2776

Mr. LEVIN (for Mr. ROBB for himself, and Mr. SANTORUM) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. PILOT PROGRAM FOR REVITALIZING THE LABORATORIES AND TEST AND EVALUATION CENTERS OF THE DEPARTMENT OF DEFENSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Officials of the Department of Defense are critically dependent on the science and technology laboratories and test and evaluation centers, of the department—

(A) to exploit commercial technology for unique military purposes;

(B) to develop advanced technology in precise areas;

(C) to provide the officials with objective advice and ,counsel on science and technology matters; and

(D) to lead the decisionmaking that identifies the most cost-effective procurements of military equipment and services.

(2) The laboratories and test and evaluation centers are facing a number of challenges that, if not overcome, could limit the productivity and self-sustainability of the laboratories and centers, including—

(A) the declining funding provided for science and technology in the technology base program of the Department of Defense;

(B) difficulties experienced in recruiting, retaining, and motivating high-quality personnel; and

(C) the complex web of policies and regulatory constraints that restrict authority of managers to operate the laboratories and centers in a businesslike fashion.

(3) Congress has provided tools to deal with the changing nature of technological development in the defense sector by encouraging closer cooperation with industry and university research and by authorizing demonstrations of alternative personnel systems.

(4) A number of laboratories and test and evaluation centers have addressed the challenges and are employing a variety of innovative methods, such as the so-called "Federated Lab Concept" undertaken at the Army Research Laboratory, to maintain the high quality of the technical program, to provide a challenging work environment for researchers, and to meet the high cost demands of maintaining facilities that are equal or superior in quality to comparable facilities anywhere in the world.

(b) COMMENDATION.—Congress commends the Secretary of Defense for the progress made by the science and technology laboratories and test and evaluation centers to achieve the results described in subsection (a)(4) and encourages the Secretary to take the actions necessary to ensure continued progress for the laboratories and test and evaluation centers in developing cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(c) PILOT PROGRAM.—(1) In conjunction with the plan for restructuring and revitalizing the science and technology laboratories and test and evaluation centers of the Department of Defense that is required by section 906 of this Act, the Secretary of Defense may carry out a pilot program to demonstrate improved cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation center, of each military department with authority for the following:

(A) To explore innovative methods for quickly, efficiently, and fairly entering into cooperative relationships with universities and other private sector entities with respect to the performance of research and development functions.

(B) To waive any restrictions on the demonstration and implementation of such methods that are not required by law.

(C) To develop or expand innovative methods of operation that provide more defense research for each dollar of cost, including to carry out such initiatives as focusing on the performance of core functions and adopting more business-like practices.

(3) In selecting the laboratories and centers for participation in the pilot program, the Secretary shall consider laboratories and centers where innovative management techniques have been demonstrated, particularly as documented under sections 1115 through 1119 of title 31, United States Code, relating to Government agency performance and results.

(4) The Secretary may carry out the pilot program at each selected laboratory and center for a period of three years beginning not later than March 1, 1999.

(d) REPORTS.—(1) Not later than March 1, 1999, the Secretary of Defense shall submit a report on the implementation of the pilot program to Congress. The report shall include the following:

(A) Each laboratory and center selected for the pilot program.

(B) To the extent possible, a description of the innovative concepts that are to be tested at each laboratory or center.

(C) The criteria to be used for measuring the success of each concept to be tested.

(2) Promptly after the expiration of the period for participation of a laboratory or center in the pilot program, the Secretary of Defense shall submit to Congress a final report on the participation of the laboratory or center in the pilot program. The report shall contain the following:

(A) A description of the concepts tested.

(B) The results of the testing.

(C) The lessons learned.

(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at the laboratory or center under the pilot program.

GRAMM (AND McCAIN) AMENDMENT NO. 2777

Mr. THURMOND (for Mr. GRAMM for himself, and Mr. MCCAIN) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 130, between lines 11 and 12, insert the following:

SEC. 644. VOTING RIGHTS OF MILITARY PERSONNEL.

(a) GUARANTEE OF RESIDENCY.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by adding at the end the following:

"SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

(b) STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.—(1) Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(A) by inserting "(a) ELECTIONS FOR FEDERAL OFFICES.—" before "Each State shall—"; and

(B) by adding at the end the following:

"(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(2) The heading of title I of such Act is amended by striking out **"FOR FEDERAL OFFICE"**.

WARNER AMENDMENT NO. 2778

Mr. THURMOND (for Mr. WARNER) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title II, add the following:

SEC. 232. REVIEW OF PHARMACOLOGICAL INTERVENTIONS FOR REVERSING BRAIN INJURY.

(a) REVIEW AND REPORT REQUIRED.—The Assistant Secretary of Defense for Health Affairs shall review research on pharmacological interventions for reversing brain injury and, not later than March 31, 1999, submit a report on the results of the review to Congress.

(b) Content of Report.—The report shall include the following:

(1) The potential for pharmacological interventions for reversing brain injury to reduce mortality and morbidity in cases of head injuries incurred in combat or resulting from exposures to chemical weapons or agents.

(2) The potential utility of such interventions for the Armed Forces.

(3) A conclusion regarding whether funding for research on such interventions should be included in the budget for the Department of Defense for fiscal year 2000.

BOND (AND OTHERS) AMENDMENT NO. 2779

Mr. THURMOND (for Mr. Bond for himself, Mr. Shelby, and Mr. Faircloth) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 157, strike out line 7 and insert the following:

(h) Additional Requirements Relating to FEHBP Demonstration Project.—(1) Notwithstanding subsection (a)(2), the Secretary shall commence the demonstration project under subsection (d) on July 1, 1999.

(2) Notwithstanding subsection (c), the Secretary shall carry out the demonstration project under subsection (d) in four separate areas, of which—

(A) two shall meet the requirements of subsection (c)(1)(A); and

(B) two others shall meet the requirements of subsection (c)(1)(B).

(3)(A) Notwithstanding subsection (f), the Secretary shall provide for an annual evaluation of the demonstration project under subsection (d) that meets the requirements of subsection (f)(2).

(B) The Comptroller shall review each evaluation provided for under subparagraph (A).

(C) Not later than September 15 in each of 2000 through 2004, the Secretary shall submit a report on the results of the evaluation under subparagraph (A) during such year, together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(D) Not later than December 31 in each of 2000 through 2004, the Comptroller General shall submit a report on the results of the review under subparagraph (B) during such year to the committees referred to in subparagraph (C).

(i) Definitions.—In this section:

LEVIN (AND THURMOND) AMENDMENT NO. 2780

Mr. LEVIN (for himself, and Mr. Thurmond) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title II, insert the following:

SEC. 219. NATO COMMON-FUNDED CIVIL BUDGET.

Of the amount authorized to be appropriated by section 201(1), $750,000 shall be available for contributions for the common-funded Civil Budget of NATO.

At the end of subtitle B of title III, insert the following:

SEC. 314. NATO COMMON-FUNDED MILITARY BUDGET.

Of the amount authorized to be appropriated by section 30(a)(1), $227,377,000 shall be available for contributions for the common-funded Military Budget of NATO.

At the end of subtitle A of title X, insert the following:

SEC. 1014. AMOUNT AUTHORIZED FOR CONTRIBUTIONS FOR NATO COMMON-FUNDED BUDGETS.

(a) Total Amount.—Contributions are authorized to be made in fiscal year 1999 for the common-funded budgets of NATO, out of funds available for the Department of Defense for that purpose, in the total amount that is equal to the sum of (1) the amounts of the unexpended balances, as of the end of fiscal year 1998, of funds appropriated for fiscal years before fiscal year 1999 for payments for such budgets, (2) the amount authorized to be appropriated under section 301(a)(1) that is available for contributions for the NATO common-funded military budget under section 314, (3) the amount authorized to be appropriated under section 201(1) that is available for contribution for the NATO common-funded civil budget under section 219, and (4) the total amount of the contributions authorized to be made under section 2501.

(b) Definition.—In this section, the term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of NATO (and any successor or additional account or program of NATO).

LEVIN AMENDMENT NO. 2781

Mr. LEVIN proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. REPORTS ON THE DEVELOPMENT OF THE EUROPEAN SECURITY AND DEFENSE IDENTITY.

(a) Requirement for Reports.—The Secretary of Defense shall submit to the congressional defense committees in accordance with this section reports on the development of the European Security and Defense Identity (ESDI) within the NATO Alliance that would enable the Western European Union (WEU), with the consent of the NATO Alliance, to assume the political control and strategic direction of NATO assets and capabilities made available by the Alliance.

(b) Reports To Be Submitted.—The reports required to be submitted under subsection (a) are as follows:

(1) An initial report, submitted not later than December 15, 1998, that contains a discussion of the actions taken, and the plans for future actions, to build the European Security and Defense Identity, together with the matters required under subsection (c).

(2) A semiannual report on the progress made toward establishing the European Security and Defense Identity, submitted not later than March 15 and December 15 of each year after 1998.

(c) Content of Reports.—The Secretary shall include in each report under this section the following:

(1) A discussion of the arrangements between NATO and the Western European Union for the release, transfer, monitoring, return, and recall of NATO assets and capabilities.

(2) A discussion of the development of such planning and other capabilities by the Western European Union that are necessary to provide political control and strategic direction of NATO assets and capabilities.

(3) A discussion of the development of terms of reference for the Deputy Supreme Allied Commander, Europe, with respect to the European Security and Defense Identity.

(4) A discussion of the arrangements for the assignment or appointment of NATO officers to serve in two positions concurrently (commonly referred to as "dual-hatting").

(5) A discussion of the development of the Combined Joint Task Force (CJTF) concept, including lessons-learning from the NATO-led Stabilization Force in Bosnia.

(6) Identification within the NATO Alliance of the types of separable but not separate capabilities, assets, and support assets for Western European Union-led operations.

(7) Identification of separable but not separate headquarters, headquarters elements, and command positions for command and conduct of Western European Union-led operations.

(8) The conduct by NATO, at the request of and in coordination with the Western European Union, of military planning and exercises for illustrative missions.

(9) A discussion of the arrangements between NATO and the Western European Union for the sharing of information, including intelligence.

(10) Such other information as the Secretary considers useful for a complete understanding of the establishment of the European Security and Defense Identity within the NATO Alliance.

(d) Termination of Semiannual Reporting Requirement.—No report is required under subsection (b)(2) after the Secretary submits under that subsection a report in which the Secretary states that the European Security and Defense Identity has been fully established.

NAZI WAR CRIMES DISCLOSURE ACT

DeWINE (AND LEAHY) AMENDMENT NO. 2782

Mr. WARNER (for DeWine for himself and Mr. Leahy) proposed an amendment to the bill (S. 1379) to amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nazi War Crimes Disclosure Act".

SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS INTERAGENCY WORKING GROUP.

(a) Definitions.—In this section the term—

(1) "agency" has the meaning given such term under section 551 of title 5, United States Code;

(2) "Interagency Group" means the Nazi War Criminal Records Interagency Working Group established under subsection (b);

(3) "Nazi war criminal records" has the meaning given such term under section 3 of this Act; and

(4) "record" means a Nazi war criminal record.

(b) Establishment of Interagency Group.—

(1) In general.—Not later than 60 days after the date of enactment of this Act, the

President shall establish the Nazi War Criminal Records Interagency Working Group, which shall remain in existence for 3 years after the date the Interagency Group is established.

(2) MEMBERSHIP.—The President shall appoint to the Interagency Group individuals whom the President determines will most completely and effectively carry out the functions of the Interagency Group within the time limitations provided in this section, including the Director of the Holocaust Museum, the Historian of the Department of State, the Archivist of the United States, the head of any other agency the President considers appropriate, and no more than 3 other persons. The head of an agency appointed by the President may designate an appropriate officer to serve on the Interagency Group in lieu of the head of such agency.

(3) INITIAL MEETING.—Not later than 90 days after the date of enactment of this Act, the Interagency Group shall hold an initial meeting and begin the functions required under this section.

(c) FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Interagency Group shall, to the greatest extent possible consistent with section 3 of this Act—

(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all classified Nazi war criminal records of the United States;

(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

(3) submit a report to Congress, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

(d) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS REGARDING PERSONS WHO COMMITTED NAZI WAR CRIMES.

(a) NAZI WAR CRIMINAL RECORDS.—For purposes of this Act, the term "Nazi war criminal records" means classified records or portions of records that—

(1) pertain to any person with respect to whom the United States Government, in its sole discretion, has grounds to believe ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government of Germany;

(B) any government in any area occupied by the military forces of the Nazi government of Germany;

(C) any government established with the assistance or cooperation of the Nazi government of Germany; or

(D) any government which was an ally of the Nazi government of Germany; or

(2) pertain to any transaction as to which the United States Government, in its sole discretion, has grounds to believe—

(A) involved assets taken from persecuted persons during the period beginning on March 23, 1933, and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any nation then allied with that government; and

(B) such transaction was completed without the assent of the owners of those assets or their heirs or assigns or other legitimate representatives.

(b) RELEASE OF RECORDS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Nazi War Criminal Records Interagency Working Group shall release in their entirety Nazi war criminal records that are described in subsection (a).

(2) EXCEPTION FOR PRIVACY, ETC.—An agency head may exempt from release under paragraph (1) specific information, that would—

(A) constitute a clearly unwarranted invasion of personal privacy;

(B) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

(C) reveal information that would assist in the development or use of weapons of mass destruction;

(D) reveal information that would impair United States cryptologic systems or activities;

(E) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

(F) reveal actual United States military war plans that remain in effect;

(G) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

(H) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

(I) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

(J) violate a treaty or international agreement.

(3) APPLICATION OF EXEMPTIONS.—

(A) IN GENERAL.—In applying the exemptions listed in subparagraphs (B) through (J) of paragraph (2), there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records. Assertion of such exemption may only be made when the agency head determines that disclosure and release would be harmful to a specific interest identified in the exemption. An agency head who makes such a determination shall promptly report it to the committees of Congress with appropriate jurisdiction, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight of the House of Representatives. The exemptions set forth in paragraph (2) shall constitute the only authority pursuant to which an agency head may exempt records otherwise subject to release under paragraph (1).

(B) APPLICATION OF TITLE 5.—A determination by an agency head to apply an exemption listed in subparagraphs (B) through (I) of paragraph (2) shall be subject to the same standard of review that applies in the case of records withheld under section 552(b)(1) of title 5, United States Code.

(4) LIMITATION ON APPLICATION.—This subsection shall not apply to records—

(A) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

(B) solely in the possession, custody, or control of that office.

(c) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701(a) of the National Security Act of 1947 (50 U.S.C. 431) shall not apply to any operational file, or any portion of any operational file, that constitutes a Nazi war criminal record under section 3 of this Act.

SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

(a) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

(b) REQUESTER.—For purposes of this section, the term "requester" means any person who was persecuted in the manner described under section 3(a)(1) of this Act who requests a Nazi war criminal record.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

SMITH AMENDMENT NO. 2783

(Ordered to lie on the table.)

Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. ISSUANCE OF BURIAL FLAGS FOR DECEASED MEMBERS AND FORMER MEMBERS OF THE SELECTED RESERVE.

Section 2301(a) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) deceased individual who—

"(A) was serving as a member of the Selected Reserve (as described in section 10143 of title 10) at the time of death;

"(B) had served at least one enlistment, or the period of initial obligated service, as a member of the Selected Reserve and was discharged from service in the Armed Forces under conditions not less favorable than honorable; or

"(C) was discharged from service in the Armed Forces under conditions not less favorable than honorable by reason of a disability incurred or aggravated in line of duty during the individual's initial enlistment, or period of initial obligated service, as a member of the Selected Reserve.".

THOMAS (AND ENZI) AMENDMENTS NOS. 2784–2785

(Ordered to lie on the table.)

Mr. THOMAS (for himself and Mr. ENZI) submitted two amendments intended to be proposed by them to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2784

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. PROHIBITION ON RETURN OF VETERANS MEMORIAL OBJECTS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(a) PROHIBITION.—Notwithstanding section 2572 of title 10, United States Code, or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or entity controlled by a foreign government, or otherwise transfer or convey such object to a person or entity for purposes of the ultimate transfer or conveyance of such object to a foreign country or entity controlled by a foreign government, unless specifically authorized by law.

(b) DEFINITIONS.—In this section:

(1) ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.—The term "entity controlled by a foreign government" has the meaning given that term in section 2536(c)(1) of title 10, United States Code.

(2) VETERANS MEMORIAL OBJECT.—The term "veterans memorial object" means any object, including a physical structure or portion thereof, that—

(A) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

(B) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the United States Armed Forces; and

(C) was brought to the United States from abroad as a memorial of combat abroad.

AMENDMENT NO. 2785

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. PROHIBITION ON RETURN OF VETERANS MEMORIAL OBJECTS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(a) PROHIBITION.—Notwithstanding section 2572 of title 10, United States Code, or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or entity controlled by a foreign government, or otherwise transfer or convey such object to a person or entity for purposes of the ultimate transfer or conveyance of such object to a foreign country or entity controlled by a foreign government, unless specifically authorized by law.

(b) DEFINITIONS.—In this section:

(1) ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.—The term "entity controlled by a foreign government" has the meaning given that term in section 2536(c)(1) of title 10, United States Code.

(2) VETERANS MEMORIAL OBJECT.—The term "veterans memorial object" means any object, including a physical structure or portion thereof, that—

(A) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

(B) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the United States Armed Forces;

(C) caused, or contributed to bringing about, the death in combat or combat-related duties of members of the United States Armed Forces; and

(D) was brought to the United States from abroad as a memorial of combat abroad.

HUTCHISON AMENDMENTS NOS. 2786–2787

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted two amendments intended to be proposed by her to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2786

On page 222, below line 21, add the following:

SEC. 1031. REPORT ON REDUCTION OF INFRASTRUCTURE COSTS AT BROOKS AIR FORCE BASE, TEXAS.

(a) REQUIREMENT.—Not later than December 31, 1998, the Secretary of Defense shall, in consultation with the Secretary of the Air Force, submit to the congressional defense committees a report on means of reducing significantly the infrastructure costs at Brooks Air Force Base, Texas, while also maintaining or improving the support for Department of Defense missions and personnel provided through Brooks Air Force Base.

(b) ELEMENTS.—The report shall include the following:

(1) A description of any barriers (including barriers under law and through policy) to improved infrastructure management at Brooks Air Force Base.

(2) A description of means of reducing infrastructure management costs at Brooks Air Force Base through cost-sharing arrangements and more cost-effective utilization of property.

(3) A description of any potential public partnerships or public-private partnerships to enhance management and operations at Brooks Air Force Base.

(4) An assessment of any potential for expanding infrastructure management opportunities at Brooks Air Force Base as a result of initiative considered at the Base or at other installations.

(5) An analysis (including appropriate data) on current and projected costs of the ownership or lease of Brooks Air Force Base under a variety of ownership or leasing scenarios, including the savings that would accrue to the Air Force under such scenarios and a schedule for achieving such savings.

(6) Any recommendations relating to reducing the infrastructure costs at Brooks Air Force Base that the Secretary considers appropriate.

AMENDMENT NO. 2787

On page 342, below line 22, add the following:

SEC. 2827. CONVEYANCE OF UTILITY SYSTEMS, LONE STAR ARMY AMMUNITION PLANT, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey all right, title, and interest of the United States in and to any utility system, or part thereof, including any real property associated with such system, at the Lone Star Army Ammunition Plant, Texas, to the redevelopment authority for the Red River Army Depot, Texas, in conjunction with the disposal of property at the Depot under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(b) CONSTRUCTION.—Nothing in subsection (a) may be construed to prohibit or otherwise limit the Secretary from conveying any utility system referred to in that subsection under any other provision of law, including section 2688 of title 10, United States Code.

(c) UTILITY SYSTEM DEFINED.—In this section, the term "utility system" has the meaning given that term in section 2688(g) of title 10, United States Code.

ADDITIONAL STATEMENTS

THE NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT OF 1998

• Mr. DODD. Mr. President, with this week's defeat of S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act of 1998, the Senate has for the time being lost a unique opportunity to create a better future for our nation's children. Cloaked in a procedural vote, the Republican leadership of this body voted to override the will of a majority of our colleagues and scuttle an historic effort to protect our children from the ravages of tobacco. In the end, a determined minority of Republican Senators was more responsible to the wishes of the tobacco industry than the need's of America's children.

Preventing the devastation that tobacco wreaks on our children was the impetus for the considerable work that went into the drafting of this bill over the past several months. It is also the reason why many of us have been willing to devote a significant portion of the Senate's time—almost four weeks—to this cause.

We know that ninety-five percent of all adult smokers begin smoking as children. An estimated 3,000 youth start to smoke each day—a number that has been increasing for the last five years. One thousand of those children will die early as a result of taking up this deadly habit. Provisions in this legislation would have reduced by two-thirds the number of children who smoke.

Those who voted to abandon this effort have chosen to allow our children to continue purchasing over 256 million packs of cigarettes per year, providing over $500 million in revenues to tobacco companies. They have chosen to do nothing to prevent sickness and death that are certain to befall millions of children who become addicted to tobacco.

This bill would have been a tremendous step in the right direction. As originally drafted it would have comprehensively addressed the epidemic of youth smoking by funding anti-smoking campaigns and smoking cessation programs, reducing the ability of young people to buy cigarettes, and limiting the ability of tobacco manufacturers to market to children. There were also a number of other improvements offered to the bill during debate on the floor, which I was proud to support.

In particular, I was pleased to see two amendments incorporated into the bill that would have provided strong disincentives for tobacco manufacturers to continue to market to America's children. The first provision would have ensured that tobacco companies would be penalized if they marketed to children by denying them the ability to claim a tax deduction for those advertising expenses. A second amendment would require the tobacco industry to pay stiffer lookback penalties if youth smoking reduction targets were not met.

Public health and economic experts agree that the cornerstone of any effort to reduce youth smoking is a steep increase in the price of tobacco over a short time. That is why I strongly supported an amendment to increase the price of cigarettes by $1.50 per pack, the minimum amount of increase that experts agree is needed to reduce youth smoking. This price increase would have reduced the number of children smoking by 60% in one year, kept 2.7 million kids from starting smoking, and would have saved 800,000 lives. While I was disappointed that the proposal was defeated, I was encouraged that a majority of the Senate resoundingly rejected an attempt to strip from the bill the original $1.10 per pack increase—one of the bill's strongest weapons against youth smoking.

I was also proud to support a provision that would have improved the quality of child care and made it more affordable and accessible to all Americans. By setting aside for child care 50 percent of the federal portion of tobacco funds going to states, this provision would have provided a solid foundation and a concrete committment to the future health and safety of our children.

There were also a number of amendments to this legislation which I opposed out of concern that they would have significantly weakened its impact. First, I was unable to support an amendment that would have denied tobacco manufacturers any limitation on annual liabilities. Like the Administration, I believe that some limitations on liability were necessary in order to maximize our chances of passing a bill that would actually succeed in curbing youth smoking. Without such provisions, members of the industry were prepared to argue that their First Amendment rights were violated. They would have tied the legislation up in courts for decades, while leaving America's children unprotected.

Several amendments concerning limits on lawyers fees were also considered as part of the debate on this bill. While the lowest proposed limit would have perhaps inadvertently limited access by individuals to attorneys willing to take their cases, I supported subsequent amendments which offered less onerous limitations on the amount attorneys can charge to bring suit against the misdeeds of the tobacco industry.

I was troubled by efforts of some Members to divert the funds dedicated in this bill for public health purposes. For instance, while I have been a staunch supporter of anti-drug legislation, I was unable to support an amendment that would have gutted anti-tobacco public health programs in the bill in favor of poorly crafted anti-drug provisions. This amendment would have diverted public education funds to private-school vouchers for victims of school violence. A main flaw in this concept is that it offers assistance only after a student has been victimized, but does nothing to prevent crimes against children before they happen. This amendment would have also overridden the collective bargaining rights of employees of the Customs Service, undermining a successful anti-drug program developed through cooperative labor-management relations. It would have also barred Federal funds and limited non-federal funds for needle exchange programs—programs that have effectively helped control the spread of the deadly AIDS virus in our communities. Not surprisingly, this amendment was opposed by several law enforcement entities.

In contrast, the Democratic alternative, which I did support, would not have jeopardized funding for public health. This alternative would have included tough money laundering provisions, not present in the Coverdell amendment, which would have provided critical assistance to law enforcement to combat drug problems. Rather than weakening the Customs Service, it would have increased the drug interdiction budget for the agency as well as for the Coast Guard and the Department of Defense, using general revenues. In addition, the Democratic alternative would have created financial incentives for states to report on and improve the safety of schools.

I also felt compelled to vote against the marriage penalty amendment offered by the Republicans because, in my view, the amendment did not provide targeted relief to those who need it most. In fact, 60 percent of the tax cut in the provision would have gone to couples who currently enjoy a marriage bonus. Moreover, this amendment was a costly measure—costing 50 percent more in the first 10 years than the Democratic alternative that was offered, which I was pleased to support. In addition, the Republican amendment would have been partially funded in the out-years by tapping into the projected budget surplus, potentially leaving fewer funds available for long-term Social Security reform.

The Democratic alternative to this amendment would have reduced the marriage penalty in the tax code by a much greater extent than the Republican proposal for most couples with incomes below $60,000. Indeed, this amendment was carefully targeted and would cut the marriage tax penalty more for a greater number of families. Furthermore, this proposal would have cost far less than the Republican proposal, while preserving the capacity of the tobacco bill to fulfill its fundamental purposes: cutting youth smoking, recompensing states and tobacco farmers, and improving the medical knowledge about the treatment of tobacco-related illnesses.

Mr. President, this was not a perfect bill. However, even with its flaws, it would have marked a dramatic step forward in the effort to protect children from the dangers of smoking. I was disappointed by its demise. But I firmly believe that its defeat is only a temporary one. The health of our children is simply too important for this Congress to ignore. I look forward to working with colleagues on both sides of the aisle in the days to come to address this critical issue.•

TRIBUTE TO ADITI GARG OF NEW HAMPSHIRE, 1998 DISCOVER CARD STATE TRIBUTE AWARD SCHOLARSHIP RECIPIENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Aditi Garg of New Hampshire for receiving the Discover Card State Tribute Award Scholarship for 1998.

Established in 1992, the Discover Card Tribute Award program honors outstanding high school juniors and seniors across the United States and overseas schools. The Tribute Award Program honors excellence in community service, leadership, special talents, unique endeavors and obstacles overcome. Of nearly 11,000 students nationwide who applied this year, only those who most exemplify these characteristics receive the scholarships. Winners may use their scholarships for any type of post-high school education or training.

Gold, silver, bronze and merit State Tribute Award scholarships are awarded in three categories of study: Arts and Humanities, Trade and Technical or Science, Business and Technology. Due to her outstanding written statement, Aditi received a silver award in the category of Science, Business and Technology Studies.

It is no wonder Aditi is one of the recipients of such a competitive award. She is a member of the National Honor Society at her high school in Salem, New Hampshire. She is also a member of the varsity tennis team, studies Indian classical dance and enjoys her volunteer work at Holy Family Hospital in Methuen, Massachusetts. Both in school and in the greater society, Aditi stands out as a model student and citizen.

I wish to congratulate Aditi for all of her accomplishments, and especially for being a distinguished recipient of the Discover Card State Tribute Award. It is an honor to represent Aditi Garg in the United States Senate.•

AN AUTHENTIC AMERICAN HERO IN OUR MIDST

• Mr. KERRY. Mr. President, those of us who serve with our distinguished colleague from Ohio, Senator JOHN GLENN, have long known him to be a very special American. We have had the privilege of working with someone who, in his Senate service that might be characterized as his third career, has demonstrated his capability as an accomplished statesman and politician. He has capably provided strong leadership to the committees on which he has served, notably including but certainly not limited to his work as Chairman and Ranking Member of the Committee on Governmental Affairs in fields as diverse as counterproliferation and government efficiency.

JOHN GLENN's public service, of course, follows his other two careers—most recently as a very successful businessman in our free enterprise economy, and, of course, as an accomplished military pilot with a distinguished record culminating in the distinction of being the first American to orbit the earth in space as one of the original seven Mercury astronauts.

This fall, Senator GLENN expects to return to space to participate in important experiments concerning the effects of space travel on senior citizens. In some ways to those of us who know him well, and watch the pace at which he works and his amazing capacity for the nearly interminable activity that consumes the lives of our nation's elected officials, it is difficult for us to see him as a senior citizen. But the calendar tells us that Senator GLENN is well into his 70's—and, in fact, will see his 77th birthday very soon. We wish him well, and, once again, many years after the first time our nation held its breath and offered him our prayers and best wishes, we will do so again later this year when he and his fellow Discovery crew members board the shuttle for the flight in which he will serve as a crew member.

On Tuesday night of this week, we colleagues in the Senate honored Senator GLENN, and met his fellow crew members, at a dinner in the Capitol. On that occasion, the Senate Democratic Leader TOM DASCHLE delivered remarks in honor of JOHN GLENN. Because Senator DASCHLE's remarks eloquently and succinctly captured much about JOHN GLENN that I believe others should know, I ask that those remarks be printed in the RECORD.•

REMARKS BY SENATE DEMOCRAT LEADER TOM DASCHLE HONORING JOHN GLENN, AN OLD-FASHIONED AMERICAN HERO

Every time I hear John talk about wanting to go back up into space to study the effects of space flight on aging bodies I think, "Right. What does he know about aging bodies?" John Glenn is the only person I know who can do pushups with one hand and salute the flag with the other at the same time.

So, I appointed a task force to investigate the real reasons John wants to blast back into space. Tonight, I'm releasing their report. Here are the top three reasons, in Letterman style:

Number three: It turns out, he left his billfold up there the first trip.

Number two: Before he leaves Congress, he wants to pioneer the ultimate CODEL.

And reason number one: He wants to explore places to send Ken Starr on his next assignment.

Actually, the reason John is going back into space is the same reason he's doing practically everything in his life. It is, quite simply, to serve his country.

We are here tonight to pay tribute to an old-fashioned American hero, and to thank Annie, and all the Glenn children and grandchildren, for sharing so much of John with America for so long.

About two years ago, Linda and I had the privilege of flying to China with several other members, including John and Annie. During the flight, we were able to persuade John to recollect that incredible mission aboard Friendship 7.

He told us about losing all communication during re-entry, about having to guide his spacecraft manually during the most critical point in re-entry, about seeing pieces of his spacecraft splitting off in a big fireball.

We all huddled around him with our eyes wide open. No one said a word. Listening to him, I felt the same awe I had felt when I was 14 years old, sitting in a classroom in Aberdeen, South Dakota, watching TV accounts of that flight.

I feel that inspiration now, when I think about what will be the next chapter in the life of this amazing man.

A lot of people tend to think of two John Glenns: Colonel John Glenn, the astronaut-hero; and Senator John Glenn. The truth is, there is only John Glenn—the patriot.

Love for his country is what sent John into space. It's what brought him to Washington, and compelled him to work so diligently over all these years in the Senate. As he said, when he announced that he would not seek re-election: Despite all our problems—despite our sometimes inefficient bureaucracies . . . or any of the other problems we love to complain about, America—this grand experiment in democracy—this ongoing work in progress—is still the greatest nation in the history of the world and still a shining beacon of hope and opportunity.

People who have been there say you see the world differently from space. You see the "big picture." You see how small and interconnected our planet is. Perhaps it's because he came to the Senate with that perspective that John has fought so hard against nuclear proliferation. As a Wall Street Journal reporter wrote recently, "He has been the Senate scold who lectured everybody who would listen, and some who wouldn't, about the need to stop the spread of nuclear arms."

I don't know about that "Senate scold" part. But I do know that America is lucky that John Glenn went up the first time and gained that perspective. And the country is very lucky that he is going up again. And those of us who are his colleagues are the luckiest of all, for having had the chance to serve with, and be inspired by him, between his two trips.•

TRIBUTE TO SUSAN WOOD OF NEW HAMPSHIRE 1998 DISCOVER CARD STATE TRIBUTE AWARD SCHOLARSHIP RECIPIENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Susan Wood of New Hampshire for receiving the Discover Card State Tribute Award Scholarship for 1998.

Established in 1992, the Discover Card Tribute Award program honors outstanding high school juniors and seniors across the United States and overseas schools. The Tribute Award Program honors excellence in community service, leadership, special talents, unique endeavors and obstacles overcome. Of nearly 11,000 students nationwide who applied this year, only those who most exemplify these characteristics receive the scholarships. Winners may use their scholarships for any type of post-high school education or training.

Gold, silver, bronze and merit State Tribute Award scholarships are awarded in three categories of study: Arts and Humanities, Trade and Technical or Science, Business and Technology. Due to her outstanding written statement, Susan received a silver award in the category of Trade and Technical Studies.

It is no wonder Susan is one of the recipients of such a competitive award. She is a long-standing member of 4H on the National Level and has served as President of her local chapter. Through 4H, she has volunteered for many community service projects. As a member of an equestrian team, Susan has displayed her leadership qualities by competing successfully, riding in the Eastern States Fair competitions. She is also a member of the Junior National Honor Society at her high school in West Swanzey, New Hampshire. Susan shines as a model student, athlete and citizen.

I wish to congratulate Susan for all of her accomplishments, and especially for being a distinguished recipient of the Discover Card State Tribute Award. It is an honor to represent Susan Wood in the United States Senate.•

ACKNOWLEDGING THE EXCELLENT WORK OF HEATHER MACLAUGHLIN AND ALAN JOHNSTON

• Mr. WELLSTONE. Mr. President, I rise today to acknowledge the excellent work of two musicians from Minnesota. On June 4, Heather MacLaughlin and Alan Johnston performed at the Kennedy Center. These two are not only excellent musicians, but they are teachers and leaders as well.

Ms. MacLaughlin is one of the Twin Cities' leading collaborative pianists. She has performed with the Minnesota Orchestra and St. Paul Chamber Orchestra and her performances have been aired on both Minnesota and National Public Radio. She is a recipient of the prestigious McKnight Artist Fellowship award with violinist Leslie Shank. This award will allow the two performers to record the Bartok Sonatas for violin and piano and showcase their talents to a national audience.

Mr. Johnston is the founder of the Minneapolis Guitar Quartet (MGC) which is nationally recognized for its excellence. The MGC has performed throughout the United States and on the nationally syndicated radio program St. Paul Sunday Morning. In addition, they have also represented the United States abroad, performing in South America and Spain.

On June 4, these two outstanding performers were invited to showcase their talents here in our nation's capital at the Kennedy Center for the Performing Arts. Through this performance the people of Washington benefitted from the talent that we in Minnesota have already been exposed to.

MacLaughlin and Johnston carry on the tradition of great performers who share their knowledge with others so that they, too, may realize their potential. Both are teachers at the MacPhail Center for the Arts in Minneapolis. The MacPhail Center was founded by Minneapolis Symphony member William S. MacPhail in 1907. It has grown out of its humble beginnings of four teachers and 82 students into the second largest community music school in the country. Its 125 instructors teach in over 40 instrument areas, and the school has exceptional programs in Early Childhood Arts and in Suzuki Talent Education.

We in Minnesota are proud of our strong arts community and of the tradition that the Twin Cities area is developing as a center for artistic and cultural expression. The MacPhail Center has made an enormous contribution to the study and enjoyment of music in our community. I am pleased to congratulate the MacPhail Center as well as Heather MacLaughlin and Alan Johnston.•

TRIBUTE TO SARA D. McLAUGHLIN OF NEW HAMPSHIRE, 1998 DISCOVER CARD STATE TRIBUTE AWARD SCHOLARSHIP RECIPIENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Sara McLaughlin of New Hampshire for receiving the Discover Card State Tribute Award Scholarship for 1998.

Established in 1992, the Discover Card Tribute Award program honors outstanding high school juniors and seniors across the United States and overseas schools. The Tribute Award Program honors excellence in community service, leadership, special talents, unique endeavors and obstacles overcome. Of nearly 11,000 students nationwide who applied this year, only those who most exemplify these characteristics receive the scholarships. Winners may use their scholarships for any type of post-high school education or training.

Gold, silver, bronze and merit State Tribute Award scholarships are awarded in three categories of study: Arts and Humanities, Trade and Technical or Science, Business and Technology. Due to her outstanding written statement, Sara received a gold award in the category of Science, Business and Technology Studies.

It is no wonder Sara is one of the recipients of such a competitive award. The many activities in which she participates at Gilford Middle High School in Gilford, New Hampshire, include Students Against Drunk Driving, multiple drama productions and Student Council, where she was appointed vice president for two consecutive years. Sara is also a New England ranked competitive swimmer. In addition, she finds time to participate in the "Big Brother, Big Sister" program and Interact Society, a local community service group. She currently holds a ranking of third in her academic class, and aspires to study medicine in the coming years. Sara's many accomplishments and involvements easily illustrate her importance as a model student, leader and citizen in society.

I wish to congratulate Sara for all of her accomplishments, and especially for being a distinguished recipient of the Discover Card State Tribute Award. It is an honor to represent Sara D. McLaughlin in the United States Senate.•

WEST VIRGINIA'S 135TH ANNIVERSARY

• Mr. ROCKEFELLER. Mr. President, I would like to pause for a moment to recognize the achievements of the great state of West Virginia, a land of rugged beauty, vast natural and mineral resources, and a hard-working citizenry. The people of West Virginia celebrate these qualities every day, but today is a special occasion when we celebrate West Virginia's 135th anniversary. It was June 20, 1863 when West Virginia rose from the pain of a house divided and took its place as the nation's 35th state.

The patriotism and commitment to freedom that led West Virginia to split from Virginia in this country's darkest hour have defined the state's history since then. West Virginia was the first state to institute Rural Free Delivery of mail, and its miners led the way in the progressive labor movements of the early 1900's. A leading producer of coal and steel, West Virginia and its people were essential to this nation's wartime economy.

West Virginia's economy continues to expand into the 21st Century. The state is now on track to become a major producer of everything from automobile engines to aircraft to telemarketing services. In addition, more tourists than ever flock to West Virginia's mountains and valleys for their scenic beauty, recreation opportunities, and friendly folk. West Virginia offers skiing in the winter, blazing colors in the fall, hiking and water sports in the spring and summer, and treasures like historic Harpers Ferry yearround.

I am proud to represent West Virginia in this distinguished body. I hope my colleagues will join me in celebrating West Virginia's 135th year in the Union, and that they and their constituents can gain inspiration from West Virginia's motto, Mountaineers Are Always Free.•

TRIBUTE TO ANDREA L. ALDRICH OF NEW HAMPSHIRE, 1998 DISCOVER CARD STATE TRIBUTE AWARD SCHOLARSHIP RECIPIENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Andrea Aldrich of New Hampshire for receiving the Discover Card State Tribute Award Scholarship for 1998.

Established in 1992, the Discover Card Tribute Award program honors outstanding high school juniors and seniors across the United States and overseas schools. The Tribute Award Program honors excellence in community service, leadership, special talents, unique endeavors, and obstacles overcome. Of nearly 11,000 students nationwide who applied this year, only those who most exemplify these characteristics receive the scholarships. Winners may use their scholarships for any type of post-high school education or training.

Gold, silver, bronze and merit State Tribute Award scholarships are awarded in three categories of study: Arts and Humanities, Trade and Technical or Science, Business and Technology. Due to her outstanding written statement, Andrea received a gold award in the category of Trade and Technical Studies.

It is no wonder Andrea is one of the recipients of such a competitive award. A member of National Honor Society, student council, a peer mediator, and captain of the varsity cheerleading team at Plymouth Regional High School in Plymouth, New Hampshire, Andrea has proven her leadership abilities in varying experiences.

In addition, she has found the time to improve the community around her in many ways. In 1995, a self-initiated community service program was begun by Andrea in order to assist underprivileged school-age children in obtaining school supplies. This program, entitled "School Collectibles," has been so successful that it led to Andrea's receiving a bronze 1997 Prudential Spirit of Community Award in New Hampshire. In order to extend her services beyond the state, Andrea paid her own way to Philadelphia to volunteer at St. Francis' Soup Kitchen for an entire

April school vacation. She has long been involved in theater productions at school, and has been a dancer for many years. Andrea's generosity, leadership skills and talent in theater illustrate only some of the outstanding characteristics that make her a model citizen and a well-rounded, motivated person.

I wish to congratulate Andrea for all of her accomplishments, and especially for being a distinguished recipient of the Discover Card State Tribute Award. It is an honor to represent Andrea L. Aldrich in the United States Senate.•

FISCAL YEAR 1999 ENERGY/WATER APPROPRIATIONS BILL

• Mr. McCAIN. Mr. President, I voted in favor of this bill, the FY 1999 Energy/Water Appropriations bill. There is much to support in the bill.

In particular, it provides essential resources to preserve and maintain our nation's waterways, support safe and efficient cleanup of nuclear waste, and promote more constructive utilization of our energy resources. And while the bill increases spending for these items over last year's level, the overall spending provided in this bill is more than $350 million less than the amount requested by the Administration.

However, as elected officials, we bear no greater responsibility than to ensure that the American people's hard-earned tax dollars are utilized in the most prudent fashion for essential government functions and services. Open and fair consideration of federal expenditures is the cornerstone of maintaining public confidence in their government.

I fully realize the daunting task faced by the Appropriations Committee in allocating limited funds among diverse, competing interests and priorities. Yet I am disappointed when the decisions on priorities reflect not national priorities, but parochial and political priorities.

As we begin the appropriations season with consideration of the FY 1999 Energy/Water Appropriations bill, I am once again astounded at the volume and creativity of the shortcuts that the Congress uses to circumvent the normal, merit-based review of spending decisions.

This bill includes over $920 million for hundreds of earmarks in both bill and report language. These are earmarks for projects that are unrequested, unauthorized, and location-specific, and that have not been considered in the appropriate merit-based review process. It also contains earmarks for vaguely stated projects for which only a cursory explanation, or none at all, is provided to the Senate.

Mr. President, I prepared a list of objectionable provisions in this bill, which totalled 19 pages. This list is available on my website at http://www.senate.gov/mccain.

Let me take just a moment to bring to my colleagues' attention some of the most egregious provisions in this legislation:

An earmark of an additional $3.9 million for maintaining outdoor recreation facilities at Ponce de Leon, Florida. It is somewhat hard to imagine what types of facilities in a single location require nearly $4 million in maintenance per year.

An earmark of $200,000 for feasibility studies along the Alabama River below the Claiborne Lock and Dam to determine measures necessary to improve the navigation channel in order for projects along the river to realize their full economic potential.

Certainly, it would be unfortunate if the businesses located along this stretch of the Alabama River were hindered in any way from economic success by virtue of the condition of the navigation channel. However, would it not be reasonable to expect those businesses and local communities to contribute at least to studying possible improvements to enhance their operations?

An earmark of $8 million to initiate a general reevaluation report to determine the feasibility of further deepening the Miami Harbor Channel in Florida and providing reimbursement to local sponsors. Mind you, this is not $8 million to deepen the channel—it is simply to study the feasibility of deepening the channel. And this $8 million is not necessarily the full amount that will be required to complete that study and, of course, to reimburse local sponsors of the project.

An earmark of an additional $5 million in the flood control account for construction at the Louisiana State Penitentiary. Unfortunately, the committee report sheds no light on what type of construction is involved, nor does it provide any justification for an increase of $5 million above a request of just $400,000.

An additional $2.3 million earmarked in a line item entitled "Project modification for improvement of the environment" for the Lower Hamm Creek, Washington, restoration project. This seems to be a start-to-finish sort of add-on; the report language states this funding is to be used to "complete plans and specifications, and initiate and complete construction" of the project. Let's hope there is not another add-on next year.

An earmarked add-on of $5 million for the Alaska Power Administration, for which no funding was requested. This entity is in the process of being sold to the State of Alaska, but this bill requires the taxpayers to spend $5 million, in addition to the $2.5 million already spent, to repair or replace a cable prior to the sale.

And finally, with all due respect to my colleague from Alaska, the Chairman of the Appropriations Committee, I must question the earmark of $20 million to establish a new commission, called the Denali Commission. This commission is established to prepare a comprehensive plan to spur Alaska's economic growth. I have several concerns about this supposedly temporary commission. Why are all Americans required to contribute to the preparation of this study, which will benefit only Alaska? Will this commission follow the same costly footsteps as the Appalachian Regional Commission, which was established as a temporary entity and, 30 years later, will receive $67 million more from taxpayers across America?

Mr. President, this is the kind of behind-the-scenes sidestepping of the checks and balances on federal spending that continues to undermine the public's trust in their elected officials. The practice of earmarking projects based on parochial, rather than national, interests is one of the principal reasons the public holds the Congress in low esteem.

Ironically, Mr. President, the Committee admonishes the Administration for "inappropriate uses of appropriations" in its report language. Yet, this bill endorses, in fact, mandates inappropriate spending to the tune of $920 million.

I had thought that we were making positive progress in eliminating wasteful and unnecessary spending from the legislative process. Unfortunately, the earmarks and set-asides in this bill greatly exceed the level in last year's Energy/Water Appropriations bill. Last year, the Senate earmarked $312 million in its version of the bill. This bill earmarks $920 million, which is nearly three times the amount of earmarks in last year's bill.

Mr. President, is it any wonder that Americans continue to express a sense of cynicism about government?

Mr. President, I urge my colleagues on both sides of the aisle and in both Houses to work harder to curb our habit of funneling resources to provincial ventures. Serving the public good must continue to be our mandate, and we can only live up to that charge by keeping the process free of unfair and unnecessary spending that further burdens the American taxpayer.•

FIFTEENTH ANNIVERSARY OF THE CONGRESS-BUNDESTAG YOUTH EXCHANGE PROGRAM

• Mr. LUGAR. Mr. President, it is my pleasure today to recall that fifteen years ago, the U.S. Congress and the Bundestag of the Federal Republic of Germany resolved to establish and cosponsor the Congress-Bundestag Youth Exchange Program (CBYX). This decision was in recognition of the longstanding ties of friendship between the peoples of Germany and the United

States, in particular the special sense of partnership that existed, and still exists, between our two legislatures, and the importance of continuing to build and strengthen that relationship.

Our common aim was to make a lasting and substantial contribution to the peace of the world by making it possible for young people from our two countries, regardless of their means, to spend a school year abroad, learning about the other country's culture and way of life through extended first-hand experience. We recognized then, and we should reaffirm now, that this kind and quality of people-to-people exchange is crucial to building and maintaining understanding between nations.

Since June of 1983, over 11,000 young people from Germany and the U.S. have participated in this exchange. Perhaps more importantly, German and American families have hosted these 11,000 participants, taking them into their homes and communities, forming enduring friendships, and nurturing their ability to see the world through another's eyes. The earliest of these participants are mature adults now, many of them assuming positions of leadership in their communities, their horizons forever broadened in their youth by their experience in the Congress-Bundestag Youth Exchange.

Citizens like these are the foundation upon which the close partnership between Germany and the U.S. ultimately rests. As we look forward to even greater unity among the nations of a Europe that will soon include countries once separated by the Iron Curtain and we recognize the leading role that Germany plays in that process, the importance of this partnership is abundantly clear. The success of the CBYX program over the past fifteen years forms one of the essential elements of this bond, and we should do whatever we can to ensure the program's future.

Threfore, on the occasion of the fifteenth anniversary of this remarkable program, I extend very special greetings on behalf of the United States Senate to our fellow legislators in the German Bundestag. I sincerely hope that the Congress-Bundestag Youth Exchange Program continues to strengthen the deep ties of friendship and understanding between our two peoples.•

TRIBUTE TO TOM A. ROGERS OF NEW HAMPSHIRE, 1998 DISCOVER CARD STATE TRIBUTE AWARD SCHOLARSHIP RECIPIENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Tom A. Rogers of New Hampshire for receiving the Discover Card State Tribute Award Scholarship for 1998.

Established in 1992, the Discover Card Tribute Award program honors outstanding high school juniors and seniors across the United States and overseas schools. The Tribute Award Program honors excellence in community service, leadership, special talents, unique endeavors and obstacles overcome. Of nearly 11,000 students nationwide who applied this year, only those who most exemplify these characteristics receive the scholarships. Winners may use their scholarships for any type of post-high school education or training.

Gold, silver, bronze and merit State Tribute Award scholarships are awarded in three categories of study: Arts and Humanities, Trade and Technical or Science, Business and Technology. Due to his outstanding written statement, Tom received a bronze award in the category of Science, Business and Technology Studies.

It is no wonder Tom is one of the recipients of such a competitive award. A member of National Honor Society, and currently ranked first in his academic class, Tom is nothing short of a model student for all of his peers. In addition, he is a member of the Math Team, Outing Club and the Cross Country Team at Farmington High School in Farmington, New Hampshire. Due to his stellar academic achievements, Tom participates in University of New Hampshire's "Project Search," a lecture series designed to allow advanced students across the state meet one another and discuss various topics of importance. All of the activities in which Tom participates illustrate his integral role as a member of his community.

I wish to congratulate Tom for all of his accomplishments, and especially for being a distinguished recipient of the Discover Card State Tribute Award. It is an honor to represent Tom A. Rogers in the United States Senate.•

TRIBUTE TO MICHELLE K. FRANKE OF NEW HAMPSHIRE, 1998 DISCOVER CARD STATE TRIBUTE AWARD SCHOLARSHIP RECIPIENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Michelle K. Franke of New Hampshire for receiving the Discover Card State Tribute Award Scholarship for 1998.

Established in 1992, the Discover Card Tribute Award program honors outstanding high school juniors and seniors across the United States and overseas schools. The Tribute Award Program honors excellence in community service, leadership, special talents, unique endeavors and obstacles overcome. Of nearly 11,000 students nationwide who applied this year, only those who most exemplify these characteristics receive the scholarships. Winners may use their scholarships for any type of post-high school education or training.

Gold, silver, bronze and merit State Tribute Award scholarships are awarded in three categories of study: Arts and Humanities, Trade and Technical or Science, Business and Technology. Due to her outstanding written statement, Michelle received a bronze award in the category of Arts and Humanities Studies.

It is no wonder Michelle is one of the recipients of such a competitive award. Throughout the past three years, Michelle's activities have included the National Honor Society, track team, cross country running team, poetry club and drama club at Kennett High School in Conway, New Hampshire. She has represented her school and community at the Summer Institute for the Gifted, the Teen Institute, the Teen Leadership Conference and the World Affairs Seminar. Michelle is also a volunteer at the public library and at a local nursing home.

In addition, Michelle will be traveling to Poland this summer for the purpose of meeting with Polish teens and helping them with their English proficiency. This trip illustrates Michelle's commitment not only to her immediate community, but to all of humanity. Not only is Michelle incredibly active within the community, but she has also maintained outstanding grades, and she is currently ranked second in her academic class. Michelle continuously shines as a model student and citizen.

I wish to congratulate Michelle for all of her accomplishments, and especially for being a distinguished recipient of the Discover Card State Tribute Award. It is an honor to represent Michelle K. Franke in the United States Senate.•

TRIBUTE TO GRAZIELLA G. MATTY OF NEW HAMPSHIRE, 1998 DISCOVER CARD STATE TRIBUTE AWARD SCHOLARSHIP RECIPIENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Graziella G. Matty of New Hampshire for receiving the Discover Card State Tribute Award Scholarship for 1998.

Established in 1992, the Discover Card Tribute Award program honors outstanding high school juniors and seniors across the United States and overseas schools. The Tribute Award Program honors excellence in community service, leadership, special talents, unique endeavors and obstacles overcome. Of nearly 11,000 students nationwide who applied this year, only those who most exemplify these characteristics receive the scholarships. Winners may use their scholarships for any type of post-high school education or training.

Gold, silver, bronze and merit State Tribute Award scholarships are awarded in three categories of study: Arts and Humanities, Trade and Technical or Science, Business and Technology.

Due to her outstanding personal statement, Graziella received a silver award in the category of Arts and Humanities Studies.

It is no wonder Graziella is one of the recipients of such a competitive award. As a member of the National Honor Society, captain of the Debate Team, and ambassador for the Hugh O'Brian Youth Foundation, she has demonstrated her leadership abilities continuously at Salem High School in Salem, New Hampshire. Graziella has also displayed a marked interest in archaeology by excelling in an archaeologic methods collegiate level course at Plymouth State College, and she was named the "New Hampshire Archaeology Rookie of the Year" in 1997.

In addition, Graziella finds time to participate in the Model UN and play soccer for the varsity team. In various facets of her school life and greater community, Graziella has successfully illustrated her importance as a model student and citizen.

I wish to congratulate Graziella for all of her accomplishments, and especially for being a distinguished recipient of the Discover Card State Tribute Award. It is an honor to represent Graziella G. Matty in the United States Senate.●

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF SUSAN MOLLWAY

Mr. WARNER. As in executive session, I ask unanimous consent that on Monday, June 22, at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session for the consideration of Calendar No. 596, the nomination of Susan Mollway. I further ask unanimous consent there be 2 hours for debate equally divided between the chairman and ranking member of the Judiciary Committee. I finally ask unanimous consent that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, and following that vote the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

50TH ANNIVERSARY OF THE INTEGRATION OF THE ARMED FORCES

Mr. WARNER. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 104 introduced earlier today by Senator MOSELEY-BRAUN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Con. Res. 104) commemorating the 50th anniversary of the Armed Forces.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MOSELEY-BRAUN. Mr. President, I am honored today to offer a resolution that celebrates the 50 year anniversary of the integration of the U.S. Armed Forces. This resolution commemorates that historic day, July 28, 1948, when this country took a bold new step toward ensuring that our Armed Services reflected the tenets of democracy that this country stands for.

Dr. Martin Luther King once said that the Declaration of Independence was a Declaration of Intent. By that he meant that the commitments of that eternal document, when written, did not at the time apply to all Americans, but only to some of them. Women are excluded altogether, native Americans and poor had less rights than landowners, and blacks were counted as three-fifths of a person. And yet, the vision and the truth of the principles set forth in the Declaration and Constitution of this great country have been the bedrock foundation of the patriotism of all Americans over time, no matter their condition at the time of its crafting, and no matter how difficult the struggle for equality and realization of that intent.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

The rights so eloquently articulated in the Declaration defined in the Constitution could only be established, and later defended, by a strong military. Our armed forces, indeed all Americans, owe a debt of gratitude to President Truman, who fifty years ago strengthened our military and our society by issuing Executive Order No. 9981 thereby integrating the U.S. Armed Forces.

Americans of African descent were eager to defend the ideal and the promise of this noble experiment in self-government from the very beginning. During the Revolutionary War, more than 5,000 free blacks fought to establish these United States of America. Rhode Island had a black battalion, and African-American men and women served in units from the various states as laborers, spies, nurses, cavalry, and infantrymen. During the Civil War, Harriet Tubman served as a union spy, a volunteer nurse, and a freedom fighter. So often was she in the field, that some soldiers affectionately dubbed her "General Tubman."

In no military conflict were Americans of African descent unwilling to offer their very lives to the service of their country, no matter the condition of their citizenship. My own grandfather served in the Army in World War I, and I have vague recollections of stories of the experiences he had in France during that world-shaping cataclysm. He left, and returned to an America of Jim Crow apartheid, but was proud to have done his part to preserve freedom. His service, and that of others was founded on their sincere love of America, and their belief in its ideals. He believed in the Declaration of Intent, and was prepared to give his life in behalf of its promise.

Continuing that tradition, my father served in World War II. Up until World War II, enlistment of Americans of African descent had been limited, but one year after Pearl Harbor, there were approximately 400,000 African Americans in the Army. By the end of the war, there were more than 150,000 in the Navy. In 1948, Harry Truman moved the Declaration of Intent closer to reality when he integrated the armed forces. He made it possible for Americans of color to participate as Americans in defense of the ideal liberty. By Executive Order 9981, he was able to breath life into the promise of equality, and in so doing gave added honor to the valor and commitment of all Americans.

In all branches of the military service, the decision to end the divisions based on color and race allowed this country to tap the talents of 100% of her people, and in so doing, expand and strengthened the pool of talent in defense of the liberties of us all.

The audacity of Truman's decision and his vision, were controversial at the time, but the wisdom of it paved the way not only or a winning military, but a nation's opportunity to live up to its promise. The valor of many of those who served was overlooked or downplayed at the time, as the nation undertook the slow adjustment to the change Truman encouraged. We are just now, after a Shaw University study and the reexamination of some of their contributions, acknowledging the role and heroism of some of those soldiers. Just last year, the President awarded medals of honor to seven black Americans for their valor in World War II.

Truman recognized the value of diversity. It lay not only in the singular talent and contributions of some, but in the collective vigor of the whole. Our great nation has been forged by the sacrifice of Americans of every stripe, by the values which define us as one people. The military services have led the country in providing opportunities for excellence, and the defense of our country has benefitted from that leadership. Excellence and honor, valor and patriotism are values which bring us together as Americans, and shape our national character. Truman's decision made us a "More Perfect Nation" and continues to this day to be a shining example of leadership.

I urge my colleagues to join me in sponsoring this resolution, and in doing so celebrating the diversity of our nation's Armed Forces.

Mr. WARNER. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Con. Res. 104), with its preamble, reads as follows:

Whereas 50 years ago on July 28, 1948, President Truman issued Executive Order No. 9981 that stated that it is essential that there be maintained in the Armed Services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense;

Whereas President Truman declared that there shall be equality of treatment and opportunity for all persons in the Armed Services without regard to race, color, religion, or national origin;

Whereas soon after the Executive order was issued American soldiers fighting in Korea led the way to a fully integrated Army;

Whereas after the enactment of the Civil Rights Act of 1964, the Armed Forces resolved to implement the legislation as a new opportunity to provide all members of the Armed Forces with freedom from discrimination within and outside its military communities;

Whereas the efforts of the Armed Forces to ensure the equality of treatment and opportunity for its members contributed significantly to the advancement of that goal for all Americans;

Whereas minorities serve today in senior leadership positions throughout the Armed Forces, as officers, senior non-commissioned officers, and civilian leaders; and

Whereas the Armed Forces have demonstrated a total and continuing commitment to ensuring the equality of treatment and opportunity for all persons in the Total Force, both military and civilian: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the United States Armed Forces for its efforts, leadership, and success in providing equality of treatment and opportunity; and

(2) recognizes the commemoration by the Department of Defense on July 24, 1998, of the 50th anniversary of the integration of the Armed Forces.

NAZI WAR CRIMES DISCLOSURE ACT

Mr. WARNER. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 323, S. 1379.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1379) to amend section 552 of title V, United States Code and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[SEC. 4. EXPEDITED PROCESSING OF REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

[(a) DEFINITIONS.—In this section, the term—

[(1) "Nazi war criminal record" has the meaning given the term under section 552(h)(1) of title 5, United States Code (as added by section 2(a)(2) of this Act); and

[(2) "requester" means any person who was persecuted in the manner described under section 552(h)(1)(A) of title 5, United States Code (as added by section 2(a)(2) of this Act), who requests a Nazi war criminal record.

[(b) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

[SEC. 5. EFFECTIVE DATE.

[The amendments made by this Act shall apply to requests under section 552 of title 5, United States Code (known as Freedom of Information Act requests) received by an agency after the expiration of the 90-day period beginning on the date of enactment of this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nazi War Crimes Disclosure Act".

SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS INTERAGENCY WORKING GROUP.

(a) DEFINITIONS.—In this section the term—

(1) "agency" has the meaning given such term under section 551 of title 5, United States Code;

(2) "Interagency Group" means the Nazi War Criminal Records Interagency Working Group established under subsection (b);

(3) "Nazi war criminal records" has the meaning given such term under section 3 of this Act; and

(4) "record" means a Nazi war criminal record.

(b) ESTABLISHMENT OF INTERAGENCY GROUP.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the President shall establish the Nazi War Criminal Records Interagency Working Group.

(2) MEMBERSHIP.—The President shall appoint to the Interagency Group the heads of agencies who the President determines will most completely and effectively carry out the functions of the Interagency Group within the time limitations provided in this section. The head of an agency appointed by the President may designate an appropriate officer to serve on the Interagency Group in lieu of the head of such agency.

(3) INITIAL MEETING.—Not later than 90 days after the date of enactment of this Act, the Interagency Group shall hold an initial meeting and begin the functions required under this section.

(c) FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Interagency Group shall, to the greatest extent possible consistent with section 3 of this Act—

(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all Nazi war criminal records of the United States;

(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

(3) submit a report to Congress describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS REGARDING PERSONS WHO COMMITTED NAZI WAR CRIMES.

(a) NAZI WAR CRIMINAL RECORDS.—For purposes of this Act, the term "Nazi war criminal records" means records or portions of records that—

(1) pertain to the activities of any person with respect to which the United States Government, in its sole discretion, has grounds to believe—

(A) occurred, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(i) the Nazi government of Germany;

(ii) any government in any area occupied by the military forces of the Nazi government of Germany;

(iii) any government established with the assistance or cooperation of the Nazi government of Germany; or

(iv) any government which was an ally of the Nazi government of Germany; and

(B) involved the ordering, incitement, assistance, or other participation in the persecution of any person because of race, religion, national origin, or political opinion; or

(2) pertain to any transaction as to which the United States Government, in its sole discretion, has grounds to believe—

(A) involved assets taken from persecuted persons during the period beginning on March 23, 1933, and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any nation then allied with that government; and

(B) such transaction was completed without the assent of the owners of those assets or their heirs or assigns or other legitimate representatives.

(b) RELEASE OF RECORDS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Nazi War Criminal Records Interagency Working Group shall release in their entirety Nazi war criminal records that are described in subsection (a).

(2) EXCEPTION FOR PRIVACY, ETC.—An agency head may exempt from release under paragraph (1) specific information, that would—

(A) constitute a clearly unwarranted invasion of personal privacy;

(B) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

(C) reveal information that would assist in the development or use of weapons of mass destruction;

(D) reveal information that would impair United States cryptologic systems or activities;

(E) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

(F) reveal actual United States military war plans that remain in effect;

(G) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

(H) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

(I) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

(J) violate a statute, treaty, or international agreement.

(3) APPLICATION OF EXEMPTIONS.—In applying the exemptions listed in subparagraphs (B) through (J) of paragraph (2), there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records. Assertion of such exemption may only be made when the agency head determines that disclosure and release would be harmful to a specific interest identified in the exemption. An agency head who makes such a determination shall promptly report it to the committees of Congress with appropriate jurisdiction, including the Senate Committee on the Judiciary.

(4) LIMITATION ON APPLICATION.—This subsection shall not apply to records—

(A) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

(B) solely in the possession, custody, or control of that office.

(c) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701 of the National Security Act of 1947 (50 U.S.C. 431) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Subsection (a) shall not apply to any operational file, or any portion of any operational file, that constitutes a Nazi war criminal record under section 3 of the Nazi War Crimes Disclosure Act.".

SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

(a) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

(b) REQUESTER.—For purposes of this section, the term "requester" means any person who was persecuted in the manner described under section 3(a)(1)(B) of this Act who requests a Nazi war criminal record.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

AMENDMENT NO. 2782

Mr. WARNER. Senator DEWINE and Senator LEAHY have a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DEWINE, for himself and Mr. LEAHY, proposes an amendment numbered 2782.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nazi War Crimes Disclosure Act".

SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS INTERAGENCY WORKING GROUP.

(a) DEFINITIONS.—In this section the term—

(1) "agency" has the meaning given such term under section 551 of title 5, United States Code;

(2) "Interagency Group" means the Nazi War Criminal Records Interagency Working Group established under subsection (b);

(3) "Nazi war criminal records" has the meaning given such term under section 3 of this Act; and

(4) "record" means a Nazi war criminal record.

(b) ESTABLISHMENT OF INTERAGENCY GROUP.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the President shall establish the Nazi War Criminal Records Interagency Working Group, which shall remain in existence for 3 years after the date the Interagency Group is established.

(2) MEMBERSHIP.—The President shall appoint to the Interagency Group individuals whom the President determines will most completely and effectively carry out the functions of the Interagency Group within the time limitations provided in this section, including the Director of the Holocaust Museum, the Historian of the Department of State, the Archivist of the United States, the head of any other agency the President considers appropriate, and no more than 3 other persons. The head of an agency appointed by the President may designate an appropriate officer to serve on the Interagency Group in lieu of the head of such agency.

(3) INITIAL MEETING.—Not later than 90 days after the date of enactment of this Act, the Interagency Group shall hold an initial meeting and begin the functions required under this section.

(c) FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Interagency Group shall, to the greatest extent possible consistent with section 3 of this Act—

(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all classified Nazi war criminal records of the United States;

(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

(3) submit a report to Congress, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

(d) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS REGARDING PERSONS WHO COMMITTED NAZI WAR CRIMES.

(a) NAZI WAR CRIMINAL RECORDS.—For purposes of this Act, the term "Nazi war criminal records" means classified records or portions of records that—

(1) pertain to any person with respect to whom the United States Government, in its sole discretion, has grounds to believe ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government of Germany;

(B) any government in any area occupied by the military forces of the Nazi government of Germany;

(C) any government established with the assistance or cooperation of the Nazi government of Germany; or

(D) any government which was an ally of the Nazi government of Germany; or

(2) pertain to any transaction as to which the United States Government, in its sole discretion, has grounds to believe—

(A) involved assets taken from persecuted persons during the period beginning on March 23, 1933, and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any nation then allied with that government; and

(B) such transaction was completed without the assent of the owners of those assets or their heirs or assigns or other legitimate representatives.

(b) RELEASE OF RECORDS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Nazi War Criminal Records Interagency Working Group shall release in their entirety Nazi war criminal records that are described in subsection (a).

(2) EXCEPTION FOR PRIVACY, ETC.—An agency head may exempt from release under paragraph (1) specific information, that would—

(A) constitute a clearly unwarranted invasion of personal privacy;

(B) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

(C) reveal information that would assist in the development or use of weapons of mass destruction;

(D) reveal information that would impair United States cryptologic systems or activities;

(E) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

(F) reveal actual United States military war plans that remain in effect;

(G) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

(H) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

(I) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

(J) violate a treaty or international agreement.

(3) APPLICATION OF EXEMPTIONS.—

(A) IN GENERAL.—In applying the exemptions listed in subparagraphs (B) through (J) of paragraph (2), there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records. Assertion of such exemption may only be made when the agency head determines that disclosure and release would be harmful to a specific interest identified in the exemption. An agency head who makes such a determination shall promptly report it to the committees of Congress with appropriate jurisdiction, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight of the House of Representatives. The exemptions set forth in paragraph (2) shall constitute the only authority pursuant to which an agency head may exempt records otherwise subject to release under paragraph (1).

(B) APPLICATION OF TITLE 5.—A determination by an agency head to apply an exemption listed in subparagraphs (B) through (I) of paragraph (2) shall be subject to the same standard of review that applies in the case of records withheld under section 552(b)(1) of title 5, United States Code.

(4) LIMITATION ON APPLICATION.—This subsection shall not apply to records—

(A) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

(B) solely in the possession, custody, or control of that office.

(c) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701(a) of the National Security Act of 1947 (50 U.S.C. 431) shall not apply to any operational file, or any portion of any operational file, that constitutes a Nazi war criminal record under section 3 of this Act.

SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

(a) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

(b) REQUESTER.—For purposes of this section, the term "requester" means any person who was persecuted in the manner described under section 3(a)(1) of this Act who requests a Nazi war criminal record.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

Mr. DEWINE. Mr. President, I am very pleased that the Senate is about to pass S. 1379, the Nazi War Crimes Disclosure Act. I introduced this legislation along with my friend from New York, Senator MOYNIHAN, and fifteen of my colleagues on November 5 of last year. Our Judiciary Committee Chairman, Senator HATCH, and the Ranking Member, Senator LEAHY, strongly support this bill. Indeed, I want to thank Senator LEAHY and his staff for their tireless work in helping to bring this legislation to the floor. As an authority on the Freedom of Information Act, or "FOIA" (pronounced FOYA), Senator LEAHY has made very useful suggestions that I have incorporated into the substitute. These changes satisfy privacy concerns raised by FOIA and Privacy Act professionals. Finally, I want to underscore that we would not be here today without Senator MOYNIHAN and his staff. He has brought to our work the unique insights on the classification system that he gained as chairman of the Commission on Protecting and Reducing Government Secrecy Classification.

The Nazi War Crimes Disclosure Act represents what I hope will be the culmination of work begun in the last Congress to release U.S. government-held records of Nazi war criminals, the Nazi Holocaust and the trafficking of Nazi-held assets.

Just two years ago, we celebrated the 50th anniversary of the end of the Second World War, and with it, the end of the Nazis' death grip on an entire continent. Since that time, searingly detailed accounts of the Nazi Holocaust have provided more and more evidence of the true magnitude of the atrocities that were committed.

We have learned so much. Yet, if the last few years are any indication, we still have a great deal more to learn.

After the fall of communist rule, Russia and several former Soviet-bloc nations opened volumes of secret files on Nazi war crimes. Argentina has cooperated in the public release of its files. British government records are being declassified and made available for public scrutiny. And over the course of last year, Swiss banks and the Swiss government have been under intense international pressure to make a full accounting of unclaimed funds belonging to Holocaust victims, as well as Nazi assets that may have once belonged to Holocaust victims.

Mr. President, here at home, our own government has been gradually making records available about what it knew of Nazi-related activities and atrocities. Last year, a government-conducted study revealed new information about what the U.S. Government knew regarding the transfer and flow of funds held by Nazi officials. This report found that the U.S. government was aware that the Nazi mint took gold stolen from European central banks and melted it together with gold obtained in horrible fashion—gold obtained from tooth-fillings, wedding bands and other items seized from death-camp victims.

Mr. Chairman, the photos I have on display are several aerial U.S. intelligence photographs taken in 1944 of Auschwitz, with prisoners being led to the gas chambers. These pictures were discovered by photo analysts from the Central Intelligence Agency in 1978. They confirm what we had heard from the Polish underground that a "death camp" did in fact exist at Auschwitz. They also demonstrated that our government had photographs of these camps as these atrocities were occurring.

These pictures tell a grisly story. How many more such pictures or documents exist? With the legislation before us, we intend to answer that question.

Both Congress and the President have taken action to promote the release of government-held records during this tragic era. On April 17, 1995, the President issued an executive order calling for the release of national security data and information older than 25 years. Late in the 104th Congress, thanks to the tireless efforts of my friend from New York, Senator MOYNIHAN, and Representative CAROLYN MALONEY and several others, we passed a sense of the Congress resolution, which stated that all U.S. Government agencies should make public any records in its possession about individuals who are alleged to have committed Nazi war crimes. The President agreed, noting that learning the remaining secrets about the Holocaust is clearly in the public interest.

The Nazi War Crimes Disclosure Act is designed to put the concerns expressed by the last Congress into strong action. First, the bill would allow for expedited processing of FOIA requests of survivors of Nazi persecution. These individuals are growing older every day, and the time remaining for them to obtain answers to the questions that have troubled them for five decades will soon come to an end. We owe it to those who suffered—and to those who seek to prevent future genocides—to disclose fully and completely all the records in the United States on this issue.

Second, the bill would establish the Nazi War Criminal Records Interagency Working Group. This Working Group would to the greatest extent possible locate, identify, inventory, declassify and make available for the public all Nazi war records held by the United States. This means that all materials would be required to be released in their entirety unless a Federal agency head concludes that the release of all or part of these records would compromise privacy or national security interests. The agency head must notify Congress of any determination to not release records. Thus, we in the Senate would be in a position to review the material being withheld to ensure that it was being done for valid reasons consistent with this legislation.

The Director of the Holocaust Museum, the Archivist of the United States, and the Historian of the Department of State are specifically appointed to sit on the task force because of their unique expertise on this subject. Further, to help the interagency group complete its task, the President is authorized to appoint the head of any other Agency and up to three additional people with expertise on this subject who can assist with the identification and disclosure of relevant documents.

This pro-active search is necessary, because a full government search and inventory has never been completed. For example, some documents that surfaced this spring were found among materials related to Southeast Asia.

Our bill is targeted toward two classes of Nazi-related materials: First, war crimes information regarding Nazi persecutions; and two, any information related to transactions involving assets of Holocaust and other Nazi victims.

In summary, what we are trying to do with this bill is strike a clear balance among our government's legitimate national security interests, the legitimate privacy interests of individuals, and the people's desire to know the truth about Nazi atrocities. These records, once released, will be held in a repository at the National Archives.

Let me enumerate several changes which we have made since the bill was unanimously reported out by the full Judiciary Committee last March:

Section 3(b)3(B) was revised to make clear that the standard of judicial deference currently accorded to agency classification decisions under exemption (b)(1) of the FOIA applies to exemption decisions rendered by Heads of Agency's making a withholding decision under Section 3(b). As the Committee of Conference recognized when exemption (b)(1) was amended in 1974, executive departments responsible for national defense and foreign policy matters have unique insights into what possible adverse effects might occur as a result of public disclosure of a particular classified record. Accordingly, it is expected that federal courts, in reviewing a decision by an Agency head that disclosure and release of a Nazi War Record would be harmful to a specific interest identified in an exemption herein, will accord substantial weight to an agency's affidavit or other submission concerning the record in question.

Records held by the Office of Special Investigations (OSI) of the Department of Justice are specifically exempted. Nonetheless, because of the substantial expertise at OSI, it can reasonably be expected that OSI will be asked to assist with the review of records held by other agencies. OSI is currently engaged in an effort to close ongoing investigations and prosecutions of alleged war criminals. Thus, to ensure that the high priority investigations continue and all relevant documents found during the search are quickly reviewed for declassification, my colleagues and I have asked the Appropriations Committee to provide a small increase of $2 million in OSI's budget to enable the staff to take on and complete both of these tasks.

Section 2(b)(1) has been revised to extend the life of the interagency group from one to three years in recognition of the fact that there are extensive document holdings that must be reviewed. The bulk of this work should be done in the first year. The three year life of the Working Group cannot become an excuse to proceed slowly.

This bill not only addresses the acts of Nazi War Criminals, but also addresses those who transferred, sold or otherwise disposed of assets involuntarily taken from persecuted persons by, under the direction of, or on behalf of, or under the authority of the former Nazi Government of Germany or any nation then allied with that government.

This bill is a bipartisan effort to ensure the Federal Government has done all it can to ensure Holocaust victims and their families can obtain the answers they need.

The clock is running, and time is running out for so many victims of the Holocaust. They, and history itself, deserve to know as much as possible about this tragic chapter in the story of humanity.

I thank my colleagues for their strong support for this legislation.

Mr. HATCH. Mr. President, as an original cosponsor of S. 1379, the Nazi War Crimes Disclosure Act, I am very pleased that the Senate is about to pass this important piece of legislation. I congratulate Senator DEWINE and Senator LEAHY for their bipartisan effort in drafting a bill which addresses the legitimate concerns of federal agencies which will be subject to this legislation, while at the same time ensuring that the original intent and purpose of the law is carried out. Passage of the Nazi War Crimes Disclosure Act will facilitate the speedy gathering and release of documents in the possession of the government which relate to the persecution of, and theft of assets from, the many millions of victims of Nazi atrocities.

Our government has an obligation to locate, and make public, documents in the government's possession which shed light on Nazi war criminals, their nefarious allies, and their crimes. Over the fifty-three years since the defeat of Germany and its cohorts, and the discovery of the atrocities committed in the name of Naziism, we have learned a great deal about the organization, operation, and financial structure of that regime. However, recent revelations concerning the acts of certain Swiss banks in the laundering of Holocaust victims' assets show us how much more there is to learn.

By passing this bill, we are providing a means of access to information that will be of invaluable assistance in providing answers to those seeking to learn about the past. But just as importantly, by studying that information and learning the lessons of history, we can help ensure that such actions will never be repeated in the future.

Mr. MOYNIHAN. Mr. President, today the Senate takes an important step in the search to unfold the events of the holocaust by adopting the Nazi War Crimes Disclosure Act. This bill requires the disclosure of classified information, currently held by the United States government, regarding individuals who participated in Nazi war crimes, and stolen assets of the victims of Nazi war crimes. The bill also requires a government-wide search of records to ensure the release of as many relevant documents as possible.

Researchers seeking information on Nazi war criminals and the assets of their victims will have unprecedented access to relevant materials in the possession of the United States government, which until now have remained classified. It is my view that these documents have been held far too long. Well beyond the time when their disclosure might have posed a threat to national security—if indeed such disclosure ever did.

While reviewing relevant material for declassification, officials will be required to maintain a strong presumption that relevant material should be declassified. This is based on the "balancing test" included in the bill which presumes that the public interest in the release of Holocaust records outweighs the damage to national security that might reasonably be expected to result from disclosure. This provision is in keeping with the Report of the Commission on Protecting and Reducing Government Secrecy which recommended that such a balancing test be applied in all classification decisions.

With the passing of time it becomes ever more important to document Nazi war crimes, lest the enormity of those crimes be lost to history. The greater access which this legislation provides will add clarity to this subject. I applaud those researchers who continue to pursue this important work. Those who suffered from the Holocaust are reaching the end of their life-span. We owe it to them to make available as much information about that terrible period as possible. This is our solemn task.

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing this important legislation, the "Nazi War Crimes Disclosure Act," S. 1379. Last year, Congress passed a resolution calling upon federal agencies to make public any records in their possession about individuals who are alleged to have committed Nazi war crimes. I agree with the original sponsors of this bill, Senators MOYNIHAN, DEWINE, KOHL, D'AMATO, DODD and HATCH, who said in a Dear Colleague letter in October, 1997, that this bill "would put last year's words into action."

The substitute amendment we consider today requires creation of an interagency working group to collect and release classified Nazi war crime records within one year, and gives Nazi war crime victims expedited access to these records under the Freedom of Information Act (FOIA). These victims are growing older and we should ensure that if they are interested in seeing these records, their requests should be honored as speedily as possible.

I first became aware of this bill when I testified in June 1996 at a hearing before the House Government Reform and Oversight Committee (GRO). That hearing focused on my Electronic FOIA amendments, which were enacted later that year, and the Nazi War Crimes Disclosure Act, H.R. 1281, which had been introduced by that Committee's

Ranking Member, Representative CAROLYN MALONEY.

Moving oral testimony and written statements were presented at that hearing about the need for full disclosure by federal agencies about what our government knew, and when, about Nazi atrocities and the criminals who committed those atrocities. Rabbi Marvin Hier (the Dean and Founder of the Simon Wiesenthal Center), the Jewish Community Relations Council, the Anti-Defamation League, the Orthodox Union, the American Jewish Committee, and others, committed to teaching the lessons of the Holocaust expressed their strong support for full disclosure of Nazi war crime records. War Crimes Disclosure Act, Health Information Privacy Protection Act, and S. 1090, Electronic Freedom of Information Improvement Act of 1995: Hearing on H.R. 1281 and S. 1090 before the Subcommittee on Government Management, Information, and Technology of the House Comm. on Government Reform and Oversight, 104th Cong., 2d Sess. 17–30 (1996).

To the extent that records pertaining to Nazi war criminals remain classified over fifty years since the end of the war, we should take action to disclose those records. No Nazi war criminal should be protected by government secrecy rules. This is what happened with government records pertaining to Kurt Waldheim: the Central Intelligence Agency withheld critical information from researchers about Waldheim's collaboration with the Nazis, even as other government agencies were placing him on the list of individuals forbidden to enter our country because of suspected war crimes. Moreover, an extensive Justice Department report on Waldheim completed in 1987 was then kept secret for six long years, before Attorney General Reno, in response to a FOIA lawsuit, released the document in 1994. The United States government should not help Nazi war criminals keep their past crimes secret. This bill is an important step to ensure our government does not.

Senator DEWINE and I worked closely on a substitute amendment to this bill that was offered in the Judiciary Committee and favorably reported on March 5, 1998, with the unanimous backing of Committee Members. Further refinements to the bill are reflected in the Manager's amendment considered by the Senate today to address the legitimate concerns raised by the Department of Justice, our intelligence agencies, press associations and others who use the FOIA regularly, as well as those who have a personal stake and interest in full disclosure of Nazi War crime records.

The bill calls for the Nazi War Criminal Records Interagency Working Group to be created by the President shortly after enactment and authorizes this Group to operate for three years. The Working Group will include as members the Director of the Holocaust Museum, the Historian of the Department of State, the Archivist of the United States, and heads of agencies selected by the President. In addition, the President may select from the private sector up to three other persons whom he considers appropriate to assist in completely and effectively carrying out the functions of the Interagency Group.

The Interagency Group is tasked under the bill with locating, identifying, inventorying, recommending for declassification and making available to the public at the National Archives and Records Administration all classified Nazi War criminal records in the possession of federal agencies, and submit to Congress, including to the Senate Committee on the Judiciary and the House Committee on GRO, a report describing its activities. While the bill requires that these tasks be completed within one year, the Interagency Group is authorized for a full three years in the event that certain of these tasks require additional time. The bill also authorizes the appropriation of any necessary funds.

The original Senate bill defined the records of suspected Nazis subject to disclosure so broadly that it could conceivably have covered many irrelevant records, such as social security records, medical records or tax records, even though such records may have had nothing to do with the person's possible activities as a Nazi. This raised certain privacy issues as well as concerns about the burden on federal agencies to collect, review and disclose records, which had no bearing on the person's activities as a Nazi or our government's knowledge of that person's war crimes.

The Manager's amendment addresses these concerns by limiting the records subject to disclosure to classified Nazi war criminal records and retaining an exemption for those records, or parts thereof, that would "constitute a clearly unwarranted invasion of personal privacy."

The bill now defines "Nazi war criminal records" as those classified records or portions of records pertaining to persons who, from March 23, 1933 through May 8, 1945, under the direction or in association with the Nazis ordered, incited, assisted or otherwise participated in the persecution of any person on account of their race, religion, national origin or political opinion, as well as to any transaction involving the assets of those persecuted persons when the transaction involved assets taken without their consent or the consent of their heirs. Determination of the classified records that fall within the scope of the bill is given to the "sole discretion" of the agencies in possession of the records.

The original bill would have amended the FOIA with a new section of Nazi war crime records containing ten newly-created exemptions separate from those under the current FOIA. I have spent many years fighting for more openness in government. I was very concerned that creating these new exemptions might set a dangerous precedent—though entirely unintentional on the part of the original sponsors—of expanding FOIA exemptions. At a minimum, these new exemptions would have created confusion about how the current FOIA exemptions were to be interpreted and applied. These concerns about the new exemptions have been resolved by taking the work of the Interagency Group out of the FOIA and making its activities the subject of a free standing law.

The Interagency Group is required to release the classified Nazi war criminal records covered by the bill in their entirety, subject to ten enumerated exemptions. The first exemption in section 3(b)(2)(A) of the bill is for records or parts thereof that "constitute a clearly unwarranted invasion of personal privacy." This is the same standard used in the sixth exemption of the Freedom of Information Act (FOIA, 5 U.S.C. 552(b)(6)). In the FOIA context, the phrase enunciates a policy of a balancing of interests between the protection of an individual's private affairs from unnecessary public scrutiny, and the preservation of the public's right to government records. Committee reports underlying the original FOIA of 1966 indicate that the exemption is to protect "intimate" or "personal" details in files such as those maintained by the Veterans Administration (now the Department of Veterans Affairs), the Department of Health, Education, and Welfare (now the Department of Health and Human Services and the Department of Education), and the Selective Service System. As with the other FOIA exemptions, the personal privacy exception in the FOIA is permissively applied, and it has come to be understood that the balancing of interests tilts in favor of disclosure.

Transferring the FOIA experience to the use of the same phrase in exemption (A) of the Nazi War Crimes Disclosure Act, it is the intent that the same balancing of interests—between the protection of an individual's private affairs from unnecessary public scrutiny and the preservation of the public's right to government records—occur when the disclosure of Nazi war criminal records is under consideration. The exemption may be used to protect intimate or personal details, such as an individual's medical history, marital status, legitimacy of children, family fights or domestic affairs, and sexual inclination or associations. While the right to privacy of deceased persons is not entirely settled, we expect the Department of Justice and other agencies to follow the majority rule that death extinguishes a person's privacy rights.

Indeed, I note that "[t]he Department of Justice has long followed this rule as a matter of policy." U.S. Dep't of Justice, Freedom of Information Act Guide & Privacy Act Overview, September 1997.

Thus, the personal privacy exemption in the bill is to be permissively applied, and the balancing of interests tilts in favor of disclosure.

Likewise, the balancing of the other Nazi War Crimes Disclosure Act exemptions tilts in favor of disclosure. Section 3(b)(3)(A) of the bill states that, in applying exemptions (B) through (J), "there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records." The bill conditions exercise of all the exemptions, including the privacy exemption in section 3(b)(2)(A), by an agency head on a determination that the disclosure and release would be harmful to a specific interest identified in the exemption. To facilitate oversight of this legislation, an agency head who makes this determination is required to report the application of the exemption promptly to the appropriate Committees of the Congress, including the Senate Committee on the Judiciary and the House Committee on GRO.

The original bill contained a presumption that public disclosure of the Nazi war crime records outweighs national security interests. The Department of Justice questioned whether this provision, and others, raised separation of powers concerns by encroaching on the Presidential prerogative to decide what records and information should be classified to protect national security. The presumption was modified during Committee consideration of the bill simply to make clear that the public interest would be served by disclosure and release of the subject records.

The bill does not provide a blanket exemption for classified material, but instead lists a number of particular national security concerns that could warrant nondisclosure. The Justice Department may continue to have constitutional separation of powers concerns that the bill substitutes congressional rules for the President's executive order on the classification of documents. This would be unfortunate and unjustified.

The 1997 Report of the Commission on Protecting and Reducing Government Secrecy Classification (hereafter, the "1997 Report"), at page 15, notes that the security classification system is "an area in which the President and the Congress 'may have concurrent authority, or in which its distribution is uncertain,'' citing *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 637 (1952). Moreover, Congress has prescribed standards to govern elements of classification and declassification in other contexts, including the Atomic Energy Act of 1954, the National Security Act of 1947, and the Assassination Records Collection Act of 1992, which the 1997 Report explains "established broad standards for the declassification of records concerning the assassination of President Kennedy."

"The classification . . . systems are no longer trusted by many inside and outside the Government." 1997 Report, at page XXI. This is particularly true with respect to classified Nazi war crimes records since, at least in the case of Kurt Waldheim, government secrecy rules were used to shield what our government knew about his Nazi collaboration from public view for too many years. I agree with the comment in the 1997 Report that "by allowing for a fuller understanding of the past, [greater openness] provides opportunities to learn lessons from what has gone before—making it easier to resolve issues concerning the Government's past actions and helping prepare for the future."

The bill makes clear, in section 3(b)(3)(A), that the enumerated exemptions shall constitute the only authority whereby an agency head may exempt records subject to this Act from release. This provision clarifies legislative intent that, in the case of Nazi war criminal records only, no other protective authority is controlling except the enumerated exemptions. Thus, the exemptions in section 3(b)(2) take precedence over the protective provisions of statutes such as the Privacy Act (5 U.S.C. 552a), the National Security Act of 1947 (50 U.S.C. 403-3(c)(6)), and the Central Intelligence Agency Act (50 U.S.C. 403g). Indeed, section 3(c) of the bill, expressly waives the operational file exemption contained in section 701 of the National Security Act of 1947. The amendment also eliminates the application of the exemptions of the Freedom of Information Act (5 U.S.C. 552(b)(1)–(9)); it also overrides the privacy protections of all other statues, in favor of the privacy exemption set forth in section 3(b)(2)(A). These waivers of other statutory protections and, most particularly those waivers of the National Security Act provisions, recognize the extraordinary and unique nature of the Nazi war criminal records. These records warrant this special treatment so that the United States may lead and fully participate in the growing international movement to open to public scrutiny official records on the conduct of particular governments and institutions during World War II.

In addition to the enumerated exemptions, the bill exempts from disclosure the records of the Office of Special Investigations (OSI) of the Department of Justice, which continues to investigate, prosecute and extradite suspected Nazi war criminals. Concerns about the impact of this bill on the work of OSI were raised by the Department of Justice, and others, at the original House hearing on this bill in 1996. This bill addresses those concerns and will do nothing to undermine the critical work of this section. Moreover, Senators DEWINE and I, and others, have requested that funding for OSI be increased to ensure adequate personnel are available to handle any increased workload due to the passage of this legislation.

While the number of arrests of suspected Nazi war criminals may be dwindling, some are still on the loose, as we so dramatically witnessed by the arrest in Germany just a few short months ago, in March 1998, of a man identified in news reports as Alfons Goetzfried. This suspected Nazi war criminal was a former low-ranking Gestapo officer who apparently acknowledged in prior statements personally shooting to death 500 people, including women and children, at a death camp in Poland in November 1943. The work of the OSI continues to be of vital importance.

Judicial review of agency determinations to apply the exemptions and the operations of the Interagency Group will be available under the Administrative Procedure Act. We appreciate, however, that executive agencies responsible for national defense and foreign policy matters have unique insights into the adverse effects that might occur as a result of the inappropriate public disclosure of a particular classified record. Accordingly, we expect that federal courts, in reviewing determinations by agency heads that disclosure and release of a record covered by this bill would be harmful to a specific interest identified in an exemption, will accord substantial weight to the agency's affidavit or other submission concerning the status of the disputed record. Indeed, the bill makes this expectation explicit in section 3(b)(3)(B), which states that in applying the exemptions in paragraphs (3)(b)(2)(B) through (I) dealing with specific national defense and foreign policy information, the standard of review is the same as applied to the withholding of records under the FOIA for properly classified matters.

Finally, section 4 of the bill provides for the expedited processing of FOIA requests for Nazi war criminal records by any Holocaust victims, as provided in section 552(a)(6)(E) of title 5, United States Code. We expect that any withholding of requested records due to their classified nature, under section (b)(1) of the FOIA, will be highly limited once the Working Group has been able to perform its work.

It has been a pleasure to work with Senator DEWINE on this matter in the Judiciary Committee, and with Senator MOYNIHAN and others on reaching a consensus on this important bill. This legislation is long overdue, and I urge its prompt enactment.

Mr. WARNER. I ask unanimous consent the amendment be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Amendment (No. 2782) was agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 1379), as amended, was considered read the third time and passed.

REMOVAL OF INJUNCTION OF SECRECY

Mr. WARNER. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 19, 1998, by the President of the United States:

Treaty With Estonia on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 105–52).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I further ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Estonia on Mutual Legal Assistance in Criminal Matters, signed at Washington on April 2, 1998. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activity more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including "white-collar" crime and drug-trafficking offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking the testimony or statements of persons; providing documents, records, and articles of evidence; locating or identifying persons or items; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets, restitution, and collection of fines; and rendering any other form of assistance not prohibited by the laws of the Requested State.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 19, 1998.*

Mr. WARNER. Mr. President, that concludes the matters on behalf of the distinguished majority leader and the Democratic leader. Therefore, the Chair, I am sure, will soon recognize the distinguished Senator from North Dakota for purposes of a presentation to the Senate for a period not to exceed 15 minutes.

ORDERS FOR MONDAY, JUNE 22, 1998

Mr. WARNER. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, June 22. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 2057, the Department of Defense authorization bill.

I now ask unanimous consent that at 3 p.m. on Monday, the Senate proceed as under the previous order into executive session for the consideration of Executive Calendar No. 596.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. For the information of all Senators, the Senate will reconvene on Monday at 12 noon and resume the defense authorization bill. It is hoped that Members will come to the floor to offer and debate amendments on the defense bill under short time agreements. As ordered, at 3 o'clock, the Senate will begin 2 hours of debate on the nomination of Susan Mollway to be a U.S. district judge. It is expected that the first vote of Monday's session will occur at 5 p.m. on the confirmation of that nomination.

The Senate may have an additional rollcall vote on Monday on or in relation to a pending amendment to the defense authorization bill. Therefore, the next rollcall votes will occur at 5 p.m. on Monday, June 22.

As a reminder to all Members, a cloture motion was filed today to the DOD bill. The cloture vote will occur on Tuesday, June 23, hopefully before 12 noon. Under rule XXII, Senators have until 1 p.m. on Monday to file first-degree amendments.

The majority leader would like to remind all Members that the Independence Day recess is fast approaching. Cooperation of all Members will be necessary for the Senate to complete work on many important items, including the defense authorization bill, the appropriations bills, the Higher Education Act, the conference report on the Coverdell education bill, and any other legislative or executive items that may be cleared for action.

ORDER FOR ADJOURNMENT

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of our distinguished colleague, Senator DORGAN, for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from North Dakota.

SOLID FARM POLICY

Mr. DORGAN. Mr. President, I had not intended to come to the floor to make a few comments today until I read a story about a press conference that was held in the Senate here yesterday by some Senators about farm policy. A group of Senators held a press conference on farm policy of this country and said, "We've got a good, solid farm policy. The problem is not the farm bill. The problem is the farm bill is not being implemented properly."

We have a good, solid farm policy? Are they kidding? What planet are they living on if they think we have a good, solid farm policy? What we have is a new farm policy written by people who don't know much about farming and it is called the Agricultural Market Transition Act, and what it is transitioning is family farmers straight out of business.

Farm families are going broke in our State in record numbers. In fact, there are more auction sales of family farmers this year than ever before, and they have had so many auction sales of family farmers in North Dakota that they have had to call auctioneers out of retirement to handle the sales.

There is a lot more than statistics about losing these farmers. Farmers plant a seed in the spring and then hope it will grow. They hope it doesn't hail and insects don't come and the crop doesn't get diseased. And if it does come above the ground and then eventually if they escape all those weather disasters, they harvest in the fall and they hope maybe they will get a decent price for their crop.

These families struggle hard, they work hard and they risk everything they have. Guess what? This current farm policy is a mess. We have prices that are in the tank for grain, and family farmers out there, who are raising grain and trying to take it to the market these days, discover that they have lost their shirts. And then we have people saying that we have a good, solid farm policy.

I had a farm meeting in North Dakota and a fellow stood up. He was a big rugged fellow, kind of a husky build. He had kind of a black beard. He stood up and he started speaking. He said, "My granddad farmed, my dad farmed, and I farmed for 23 years." Then he got tears in his eyes and his chin began to quiver, and he said, "The problem is, I can't continue anymore." That is more than just losing a business. That is losing their life's dream. And, now, we have people who say we have a good, solid farm policy.

I didn't vote for this previous farm bill that was passed a couple of years ago. There were people involved in writing that who wouldn't know a dairy cow from a Dairy Queen. The fact is, they don't know much about farming. I would counsel them, if they think it is a good farm policy: Go buy yourself a farm. Go buy yourself a farm, take your suit off and gas up the tractor and plant a crop. Then risk your money and hope all summer you are able to harvest, and when you do, then truck it to the elevator and sell it for $3 a bushel after you put $5 a bushel into raising it.

Then add up your bank balance, and then ask yourself if you think it is good farm policy? Ask yourself, after you have lost your shirt and lost your suit and lost your savings, ask yourself whether you think it is a good farm policy.

Of course it is not a good farm policy. The fact is, the little guy is going broke; the big guys are getting rich. I am talking about the folks who take the product off the farm and they haul it and they process it. They take that grain and they puff it and they crisp it, they do everything with it. The miller and grocery manufacturers and everybody else are all making money. But it is the person out there who is trying to run a family farm who is not doing well.

I find it interesting, the people who do not seem to care much about that are the same people around here who bellow every day about being profamily. Nobody in politics in this town is profamily if they are not willing to stand up and be profamily farmer, in my judgment.

Let me show a chart that demonstrates part of the problem in my State, the State of North Dakota. This area here, the red area, means that these folks have had a disaster declaration every single year for 5 years in a row, weather related. One third of our counties, you can't do much about that. That is not a family farm's fault. These are weather-related disasters, 5 years in a row, every year. The orange one-half our counties is 4 out of 5; the yellow two-thirds of our counties have had disasters 3 out of 5 years.

In addition to having the weather problem—here is what has happened to the price of wheat. It has fallen like an elevator, straight down. The price of wheat was up here when the Freedom to Farm bill or the Market Transition Act was passed. Here is the price of wheat now at a five-year low.

Here is what happened to net income to North Dakota farmers, according to the U.S. Department of Labor statistics. North Dakota's net farm income dropped 98 percent for family farmers. That is 98 percent. They virtually lost all of their income. What has happened to those family farmers out there struggling with grain prices that are terrible, and with weather problems?

The price of a tractor goes up, as you can see. The price of a combine goes up. The price of fertilizer goes up. The price of diesel fuel goes up. So their income goes down, way down, and all the prices they pay for their input go up.

Then what has happened to the folks who take that grain and do something with it? Bread profits, the price of a bushel of wheat goes from $5.50 to $3. Do you think you see lower bread prices in the grocery store? You don't. What happens is the profits for the folks who are making bread go right here.

These folks who constructed the farm policy that we have in this country today called this "Market Transition Act"; that is, transitioning family farmers right off the family farm. They said, "We don't need a price support anymore for family farmers. Let them take their own risks, and if the market price for grain is dropping, too bad. Tough luck." So they set up a circumstance where you end up having no deficiency payments. They put, instead, a declining payment, which at the end of 7 years phases out and goes to zero.

It is interesting, at the press conference yesterday that was held by some Senators, they said the problem is we cannot retreat. The rest of the world is not going to retreat. The fact is, in much of the rest of the world they understand family farmers are important and they have policies that try to support and help family farmers and keep them on the farm. It is this country that has decided, as a matter of policy by the majority party in this Congress, that family farmers really don't matter very much. Oh, giant agrifactories will farm the land from California to Maine, I suppose. They don't seem to care who farms the land, because they think family farmers don't matter.

They say, "We can fix all this. First of all, the policy is sound, and we can fix it. We will fix it with fast track, fast track trade authority."

Gosh, there is a new idea. Fast track trade authority. We send an American trade negotiator up to Canada to negotiate with Canada; send him to Mexico to negotiate with Mexico; send him to Geneva to negotiate GATT. We had an $11 billion trade deficit with Canada and we negotiated with them and it went from an $11 billion deficit to a $23 billion deficit. Does anybody think that is going to help family farmers? And, incidentally, the trade deficit with Canada is exacerbated by a flood of Canadian grain coming to our border, undercutting our grain. It is unfairly subsidized. Nobody seems to be willing to do much about it.

We have a $2 billion surplus with Mexico, negotiate a treaty, and the surplus goes to a huge deficit, $15 billion deficit. It doesn't look like that is progress to me.

Do you want to see how the Mexican trade agreement works? Look at it through the eye of a potato. Try to take a potato across the Mexican border, a raw potato. You can't do that very easily, but you can see french fries coming north. Or how about a bean? How about a bean going across the Mexican border? Do you think we can export unlimited quantities of beans? I am sorry, no, our negotiator said no, we don't care much about beans.

What about beer? Do you like Mexican beer? You can buy plenty of it in the United States. You like American beer, in Mexico? I am sorry, you will have great trouble finding it because our negotiators, in my judgment, did an incompetent job in negotiating the trade agreement with Canada and Mexico.

And, yes, GATT. When I say the GATT agreement, do you know a ship pulled up at a dock in Stockton, CA, a few weeks ago loaded with European barley. This was feed barley, which in fact is not worth very much, probably a couple of dollars a bushel or less—subsidized by $1.10 a bushel by the Europeans, shipped into this country where we already have a surplus of barley, and guess what, it was legal. It was legal under GATT. You can do that under the trade agreement our negotiators negotiated, you can ship in barley with a subsidy that is almost 50 percent of the market price of the product. Who are these people kidding?

Do we want to send negotiators out to negotiate more of these agreements, and they are going to help our country? I don't think so.

The fact is, the people who held a press conference yesterday and said this farm policy works just fine don't have the foggiest idea of what is going on on the family farm. They say, "Well, let's go to fast track and have more of this trade." All that has done is set you back. I am for opening foreign markets and forcing opportunities to market more of our grain overseas, but that is not what is happening with our trade agreements.

I find it interesting. They said one of the ways that will solve this farm problem is farmers' savings accounts. Oh, yeah? Where are the farmers going to get the savings? If you are able to raise wheat and lose $2 a bushel for selling it, you are going to get a lot of savings, so we are going to produce farmers' savings accounts.

Maybe the people who held the press conference will be able to tell farmers where they are going to get savings, when the price for wheat is in the tank, and when they pulled the rug out from under family farmers saying they don't need a safety net. They said, in effect, we don't care if there are family farmers left in this country.

What we need to do, Mr. President, is to reestablish a safety net and recognize that this transition program doesn't make any sense. Yes, farmers ought to have all the planning flexibility in the world. This Congress ought to decide that family farmers matter, and we ought to do as Europe and others do and decide there ought to be some basic support mechanism for family farming. We have a minimum wage for lower-income working folks, but we say to the family out there on the farm, "You're on your own. Oh, you can try and market your beef to big packing plants"—where four of them control almost 85 percent of the beef packing and they have a fist around the neck of the bottle. They say to the farmer and rancher, "You go ahead and market up in that direction and the big packing plants are going to tell you what you're going to get, and if you don't like what you get, tough luck; you're out of business."

Or people raising wheat or barley, we say, "You can market with the grain companies. They have an iron fist around the neck of the bottle where you are going to market, and if you don't like the price, tough luck; you're out of business."

The fact is, when we get an industry or a big special interest in this country that has a headache, you have a dozen people in the Senate rushing to see if they can't pat their pillow and give them aspirin and help them take a nap.

The big interests in this country have plenty of friends around here. It's just the little guy who is left in the dust. You have family farmers who don't have a lot of money. They don't have a lot of clout. They are not like the tobacco industry. They are not able to spend $50 million or $100 million worth of advertising on their issue. The tobacco industry this week was able to turn back this tobacco bill because they were able to advertise all across this country.

What about the issue of stopping teen smoking. Well, the tobacco industry won; kids lost. The tobacco industry had money, kids didn't. If you're a big interest, you have big money, and you can find plenty of folks to care about your interest in the Congress.

The question is, Will there be enough people caring about the interests of family farmers in the coming weeks to decide we are going to intervene and try to save a network of family farms in this country? We ought to resurrect the safety net. There ought to be at least some sort of marketing loan that gives farmers a decent price if they don't get it from the marketplace. I much sooner they get it from the marketplace, but if it is not there, farmers need some help. They ought to get some indemnity payments for the crop diseases that have been pervasive in my State and other States. The crop disease is called scab. We ought to have a Crop Insurance Program that works, and if it doesn't work, let's make it work.

We ought to have something in place that starts to do something about market concentration. Yes, let's look into the livestock industry, the railroads, the big packing plants, and in all the areas where concentration exists. All that concentration squeezes down on family farmers and takes potential profits away from family farmers.

Finally, those who talk about trade, it seems to me ought to spend their time not talking about going to some sort of fast track where the record has been a disaster for this country and for our producers and, yes, especially for our farmers. They ought to talk about sanctions.

We don't like Cuba, so we say we are going to have sanctions against Cuba. We don't like Libya, so we have sanctions against Libya. We don't like Iraq, so we're going to have sanctions against Iraq. We don't like Iran, so we're going to have sanctions against Iran. India and Pakistan detonate nuclear devices, so we're going to have sanctions against those countries.

Ten percent of the markets in the world are off limits to farmers. These sanctions have something to do with national security decisions. The defense authorization bill deals with national security. It seems to me if you are taking markets away from family farmers, you ought to pay them for it. Why should family farmers lose markets and be told, "Well, you're going to contribute now to our national security interest because we are taking this market away from you; yes, your price is going to go down, and, yes, you are going to lose money. Be a good American; you accept the cost."

In virtually every other area in this country, we do something about that. If it were big business, we would come in with a big policy to reimburse them. You don't think when the big exporters lose money that they are not reimbursed? It is interesting to me that virtually every time something happens that causes a substantial disruption in part of our economy, somebody is here saying we ought to do something about it, but there is not much discussion about family farmers, and I really regret that.

I know some people say, "Well, this country is New York and Los Angeles and a few big airports in between, and what you fly over and look out at is just rural territory." Food doesn't come from a plastic bottle; food doesn't come from a package. It comes, in most cases, from the land, and the rural people in this country. These are people who come from my home area in Hettinger County, ND, who decided long ago they love the land and they want to live on the land. They want to raise their children on the land, and they have 500, 800, or 1,000 acres. They have risked everything they have and everything they own to try to make a living. Yet, we come along with this farm policy that says we are different from Europe, from Japan or other countries. We have a policy that doesn't care whether family farmers continue to exist. Our policy says if the marketplace gives them a decent price, fine; if it doesn't, tough luck, because we believe in the free market.

There is no free market in agriculture. What an absurd contention. There has never been a free market in agriculture and will not be a free market. Our farmers are asked to compete not just against European farmers, they are asked to compete against European farmers and the European Governments. Our farmers are asked to sell in circumstances where our trade negotiators negotiate agreements and you can't get enough T-bone steak into Tokyo.

Did you know that T-bone steaks are roughly $30 a pound into Tokyo? Do you know why? Because we can't get enough beef into Japan. Why can't we? Because their market is closed. We are getting more than we used to.

We have a $50 to $60 billion trade deficit with Japan, but we still don't get enough beef into Japan. We don't get enough wheat into China. I can stand here all day and talk about the problems we impose on family farmers to interrupt their markets because of incompetent trade negotiators and unenforced trade agreements. We negotiate an agreement and we forget about it in a month. They were bad agreements to start with, and they are rarely enforced, if at all. I am just saying that the economic all-stars in this country are its family farmers. If this Congress doesn't decide that broad-based economic ownership matters in this country, then it will have made a very large mistake.

I am standing on this side of the aisle. So that means I am a Democrat. That is how I came to Congress. I ran for the U.S. Senate as a Democrat, and I believe in the Jeffersonian strain of the Democratic Party, and its support for broadly-based economic ownership. We believe that the broad-based economic ownership provides the guarantee of economic freedom and, therefore, the guarantee of ultimate political freedoms in this country. I think that is a very, very important issue.

I have come to the floor of the Senate recently talking about concentration in this country. Every day you hear about a new merger, when two huge behemoth American corporations decide to get married. We didn't even know they were dating or having secret discussions. All of a sudden, we discover they have taken out a marriage license. They love each other. What they love is the profits.

Now we have bank after bank, telecommunications companies—you name it—they are all marrying up. The bigger the better. The free market in this country and the market system in this country works only when you have broad-based ownership and robust competition. Concentration means less competition.

Family farmers, individuals all across this country turn on the yard light at night, worship at their local church, and try to send their kids to school, and do a good job, and make a little profit on the farm. All that those family farmers ask is to participate in a market system that works. Almost in every instance they discover that all their input costs are increased by the largest corporations in the land that produce these products. And when they go to market with the products they raise, they discover is worth very, very little. When they try to market it up through an income stream, they find that if they are marketing a cow or a hog, they are marketing through packing plants that are too concentrated to have what is called a "free market." And the same is true with grain.

So, Mr. President, in the coming week or so, you are going to see a lot of activity on this issue. Our family farmers deserve the same kind of interest, in their long-term economic health, as the large special interests get here on the floor of the Senate.

The piece that I referenced at the start, written by Curt Anderson, an Associated Press farm writer, referenced a press conference yesterday. To all of those who attended the press conference yesterday, telling us that we have a good solid farm policy, I say nonsense; this farm policy is a miserable failure. Anybody here who cares about family farmers as I do, and anybody here who cares whether we have family farmers in this country's future ought to be coming to the floor of this Senate and helping us change this farm policy to one that really provides some help to families who are struggling in this country, trying to run their family farms.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL MONDAY, JUNE 22, 1998

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 12 noon, Monday, June 22, 1998.

Thereupon, the Senate, at 3:20 p.m., adjourned until Monday, June 22, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 19, 1998:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. ROGER G. DEKOK, 6795.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SAUL N. RAMIREZ, JR., OF TEXAS, TO BE DEPUTY SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE DWIGHT P. ROBINSON, RESIGNED.

DEPARTMENT OF STATE

ERIC DAVID NEWSOM, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE THOMAS E. MCNAMARA, RESIGNED.

EXTENSIONS OF REMARKS

IN HONOR OF RALPH J. PERK

HON. DENNIS J. KUCINICH
OF OHIO
HON. JOHN A. BOEHNER
OF OHIO
HON. SHERROD BROWN
OF OHIO
HON. STEVE CHABOT
OF OHIO
HON. PAUL E. GILLMOR
OF OHIO
HON. TONY P. HALL
OF OHIO
HON. DAVID L. HOBSON
OF OHIO
HON. MARCY KAPTUR
OF OHIO
HON. JOHN R. KASICH
OF OHIO
HON. STEVE C. LaTOURETTE
OF OHIO
HON. ROBERT W. NEY
OF OHIO
HON. MICHAEL G. OXLEY
OF OHIO
HON. ROB PORTMAN
OF OHIO
HON. DEBORAH PRYCE
OF OHIO
HON. RALPH REGULA
OF OHIO
HON. THOMAS C. SAWYER
OF OHIO
HON. LOUIS STOKES
OF OHIO
HON. TED STRICKLAND
OF OHIO
HON. JAMES A. TRAFICANT, JR.
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Friday, June 19, 1998

Mr. KUCINICH. Mr. Speaker, I along with my colleagues from Ohio, Messrs. BOEHNER, BROWN, CHABOT, GILLMOR, HALL, HOBSON, Ms. KAPTUR, Messrs. KASICH, LATOURETTE, NEY, OXLEY, PORTMAN, Ms. PRYCE, Messrs. REGULA, SAWYER, STOKES, STRICKLAND, and TRAFICANT rise to salute an extraordinary public servant, Ralph J. Perk. He has devoted his life to helping others and is beloved by the people of Cleveland, the people of Ohio, and people throughout the world.

Born under the shadow of the steel mill smokestacks of Cleveland, Ralph Perk was raised in poverty. At age 7, he began his day delivering the morning paper and ended it delivering the evening paper. At age twelve he began selling ice door to door. During the Depression of the 40s when he was still selling ice, Perk routinely extended credit to poor families. "If we don't give them ice, their children's milk will spoil," Perk would say. So, instead of making one-hundred dollars a week, he made twelve. That generosity and heart, paid rich dividends when Perk entered politics. Every election, the families he helped during the depression became the nucleus of Perk's campaigns. Their loyalty could not have been bought at any price. From those humble beginnings, Ralph Perk rose to serve five terms on the Cleveland City Council and nine years as county auditor.

In 1971 Ralph Perk was elected the 51st Mayor of Cleveland. He was not bound by party label. Rather, he achieved his popularity by following public service rather than party politics. His motto was simple: Do hard work, keep in touch with the people, and serve honestly. He did all three.

As Mayor, he deeply cared for those whom he represented. He secured hundreds of millions of dollars from the federal government to improve the city. And despite high inflation and a recession, Mayor Perk delivered quality basic city services to the neighborhoods of Cleveland.

Although he achieved high office in his city, Ralph Perk never forgot his humble beginnings and continued to help others. He understood people and their needs; but more important, he truly cared. He helped organize the diverse ethnic community and imbued it with a common pride in Cleveland. He was the founder of the Nationality Movement in Cleveland; and a driving force behind the recognition of the rights and cultural heritage of ethnic American in the United States. He served on numerous civic and fraternal organizations including, The Citizens League, The Council on Human Relations and The Knights of Columbus.

My fellow colleagues, Ralph Perk does not seek our praise. He is far above it. Rather, I ask you to join me in recognizing him for his many contributions. For if we learn from his dedication, we will all be better public servants.

HONORING REVEREND ROBERT O. SIMPSON'S 25TH PASTORAL ANNIVERSARY

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Friday, June 19, 1998

Mr. TOWNS. Mr. Speaker, I rise today to honor Reverend Robert O. Simpson's 25th Pastoral Anniversary at Janes United Methodist Church, Brooklyn, New York.

Reverend Robert O. Simpson assumed responsibilities as Pastor of Janes United Methodist Church in July 1973. Reverend Simpson's formal education began, ironically, in a nursery school at Janes United Methodist Church. He attended both public and private schools in Brooklyn before earning a Master of Divinity Degree from Yale Divinity School in June 1973.

Since Reverend Simpson's tenure at Janes United Methodist Church, active membership has tripled. Many positive programs have been implemented. The Church's Community Outreach has included a tutorial program, the Senior Citizens' Friendship Club, the Voter Registration and Information Project, the Meals-on-Wheels Program for the homebound elderly or disabled in the community, and "God's Sheltering Arms," Janes' ministry to the homeless who inhabit public places.

Reverend Simpson's greatest challenge came in 1984, when a fire destroyed Janes Church. With his dynamic leadership, Reverend Simpson led his congregation through this crisis. With his hard work and dedication, the new Janes Church was built and consecrated in April 1991.

Mr. Speaker, I ask you to join me in saluting Reverend Robert O. Simpson on the occasion of his 25th Pastoral Anniversary at Janes United Methodist Church.

TRIBUTE TO THE BRONX-LEBANON HOSPITAL CENTER AND THE AIDS RESEARCH COMMUNITY ADVISORY BOARD

HON. JOSÉ E. SERRANO
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Friday, June 19, 1998

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Bronx-Lebanon Hospital Center and the AIDS Research Community Advisory Board for their commitment to fighting AIDS and preventing the spreading of the deadly HIV. On Saturday, June 20, they will hold a prevention fair, Safety Jam, for adolescents and adults at the Claremont Neighborhood Center in the South Bronx.

Safety Jam will feature informative educational presentations and workshops on issues related to health and HIV prevention. Fun, food, live multicultural entertainment, and free raffles will be provided throughout the day, helping to draw people to the fair.

It is a privilege for me to represent the 16th district of New York, where the Bronx-Lebanon Hospital Center is located. I have witnessed first-hand the exemplary work they are doing for our community and I am deeply impressed.

Mr. Speaker, I hope my colleagues will join me in honoring the physicians, nurses, caseworkers, administrators, clerical workers, and all of the other caregivers and support staff of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Bronx-Lebanon Hospital Center and the AIDS Research Community Advisory Board for their outstanding efforts at this important milestone, and in wishing them continued success.

TRIBUTE TO FREDERICK C. JONES, SR.

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to my friend Frederick C. Jones, Sr. as he is retiring from state government.

He most recently was the Project Supervisor of Vocational Rehabilitation Services at South Carolina State Hospital. His duties included coordinating and implementing Vocational Rehabilitation services for seriously mentally ill patients within inpatient and community based mental health programs. He has been involved in Vocational Rehabilitation for much of his career, along with work with juveniles.

Mr. Jones is a life member of National Rehabilitation Association, a member of Professional Staff Association, SCVR, a member of the Action Council for Cross Cultural Studies, chairman of the Membership Committee of Capital City Club, and a member of St. John Baptist Church, in Hopkins South Carolina. He is best known to Columbians and South Carolinians as the manager of the "Friends Band" and for the musical accompaniment of his lovely wife Bunny.

Mr. Speaker, I ask you to join with me in wishing my friend Frederick C. Jones, Sr. a fulfilling retirement.

ASSISTANT CHIEF PATRICK D. BRENNAN: A POINT-OF-LIGHT FOR ALL AMERICANS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. OWENS. Mr. Speaker, it is generally recognized that the great drop in the national crime rate is due mostly to changes in the deployment of police officers and in the adoption of new attitudes with respect to police and community partnerships. No police and law enforcement leader in America has done more to advance these approaches and methods than Assistant Chief Patrick D. Brennan, one of New York's and Brooklyn's finest. On the occasion of the retirement of Chief Brennan we wish to express our gratitude and appreciation for his many years of service. I have met him at many late night community meetings and I know that Assistant Chief Brennan deserves the rest he will be able to get after retirement. On behalf of the constituents of the 11th Congressional District I salute Patrick D. Brennan as a POINT-OF-LIGHT for all America.

Assistant Chief Patrick D. Brennan, who is retiring after serving as the commanding Officer of Patrol Borough Brooklyn South, began his career with the New York City Police Department as a patrolman for the 84th Precinct in September 1965. Before achieving the rank of Assistant Chief in July 1997, he was promoted to Sergeant in May 1973; Lieutenant in March 1984; Captain in December 1987; Deputy Inspector in May 1993; Inspector in October 1994; and Deputy Chief in August 1995. Assistant Chief Brennan has served as the Commanding Officer of the 5th, 72nd, 84th and 90th Precincts, as well as the Criminal Justice Bureau. He has served as the Commanding Officer of the 5th and 70th Precincts and 72nd Precinct Detective squad. Before joining the New York City Police Department, Assistant Chief Brennan received a Bachelor of Science Degree from John Jay College.

Throughout his career, Assistant Chief Brennan has been supported by his wife, Monica, for 35 years. They are the proud parents of six children: Maureen, Tara Ann, Martin, Dermott, John and Patrick.

Mr. Speaker, Brooklyn has encountered many problems involving the police within the last five years. Some very dramatic cases have received national attention. We must all strive to maintain a balanced perspective and continue to understand that the great majority of our police officers are productive and dedicated citizens. From the ranks of law enforcement we also repeatedly see the emergence of outstanding leaders like this one. Assistant Chief Patrick D. Brennan is an outstanding POINT-OF-LIGHT whose career can inspire all Americans.

CONGRATULATING REGINAL RYAN FOR HIS AWARD-WINNING AMVET ESSAY "MY FAVORITE AMERICAN HERO"

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. EDWARDS. Mr. Speaker, I rise today to recognize and congratulate an exceptional young man, Reginal Ryan of Itasca, Texas, which is in my 11th Congressional District. Reginal recently won the AMVET's Americanism state level competition for ninth graders with a strong and moving essay entitled "My Favorite American Hero."

Reginal is a 15-year-old sophomore at Itasca High School. His accomplishment is all the more extraordinary considering that late last year he was living on the streets in Austin, Texas. However, he now lives in the Presbyterian Orphans Home in Itasca where he spends time putting together prize winning essays.

His prize for winning the AMVET's contest is an all expense paid trip to Valley Forge, Penn., to visit the Freedoms Foundation. Members of AMVET's Post 72 in Hillsboro were so moved by his essay that they took up an additional collection to finance a trip to Washington, D.C. While in Washington, Reginal's wish to visit the Tomb of the Unknown Soldier and pay his respects was fulfilled.

I ask members to join me in congratulating this special young man for his accomplishment. I would also like to share his essay with the members.

MY FAVORITE AMERICAN HERO

(By Reginal Ryan)

My favorite American hero does not have a name, but I assure you he is real in many ways. Everyone remembers and knows what he did for our country and how he gives his life for others with devotion. He has shown commitment in many examples of his compassion as in the many wars in which he has fought such as World War I and World War II and even Vietnam.

My favorite American hero represents the heart of our country, because he is the common American. When called to serve, he is always ready and willing to protect his country by fighting in strange and foreign lands far away from home, away from friends and family with no assurance that he would ever return to them. Nevertheless, it was important for him to go to ensure that the freedom of America would be preserved.

My favorite American hero is visited by many people each year. They are always quiet and reverent in his presence. Flowers are often presented to him. The visitors come from all across America, and many shed a few tears as they leave because he may be their hero, too. It is the common thread that links and unites all Americans.

Because he is a true hero, he is the most likely to come to my mind. Symbolically, he stands for all the freedom fighters we have today in America. His efforts have allowed me and all Americans to continue to exercise all rights as a citizen of the United States. He has helped to preserve my life, my liberties, and my pursuit of happiness.

I hope by now that everyone who reads this, knows that my favorite American hero is the "Unknown Soldier." It matters not that he does not have a specific name. What matters is that he stands for every soldier who has ever fought to keep our nation free. This gift is the greatest gift America can receive—the gift of freedom. I hope someday I get to pay my respects at the Tomb of the Unknown Soldier.

SALUTING OLD GLORY: OUR FLAG AND ITS DEFENDERS

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. ROGAN. Mr. Speaker, this past Sunday, my family and I joined millions across the country to celebrate Flag Day. With its passage, I would like to share with my colleagues the story of one of my constituents.

Vito Cannella was born in Italy and later naturalized as an American citizen. He is a lifelong public servant, dedicated to serving our community and our nation. As a public official in Los Angeles County, he is committed to working to share the benefits of his adopted homeland with his neighbors. His patriotism is a lesson for us all.

Upset by anti-government protests and civil unrest during the 1960's, Vito joined with Bill Bailey, an old friend, and set about preserving and defending our most precious national emblem: The American flag. In 1966, the two Montrose, California residents worked with local civic groups to convince our former colleague H. Allen Smith to introduce and successfully pass House Joint Resolution 763. With its passage, the week surrounding Flag

Day was thereafter dedicated national Flag Week. Sadly, this holiday has been quietly omitted from news stories ever since. It is my hope that this will change.

Mr. Speaker, the Stars and Stripes are a noble symbol of our republic. As we stand in this chamber, we rise before this bold symbol of our freedom. As we engage in debate with our colleagues on the other side of the aisle, we should take pride in our right of dissension. And as we work to shape policy affecting our children, we should be ever mindful of those who sacrificed so much for this right. We honor all these by recognizing Flag Week.

I challenge my colleagues to do their part to spread the word and celebrate this important holiday. Too often, the news of Flag Week is pushed aside for flashier stories, or relegated to the back pages on a slow news days. It is our duty to carry on the proud tradition of this week.

Mr. Speaker, progress in our country often originates from the efforts of just one man. The establishment of Flag Week serves as an important reminder of the same. In recognition of Vito Cannella's patriotism, and to honor the sacrifice of Americans through the ages dedicated to preserving our liberty, I ask my colleagues to join me in celebrating Flag Week, 1998.

HABITAT FOR HUMANITY HOUSTON PROJECT

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to acknowledge the contributions to my district that Habitat for Humanity and its sponsors have made to my district over the past week.

Through the efforts of former-President Jimmy Carter, Habitat for Humanity, a handful of private sponsors, and several thousand miracle-working volunteers, 100 homes will be built for needy families this week in the city of Houston.

Houston was chosen as the site for this project because of its tremendous need for housing. Of the 1.7 million people that live in the city, 150,000 of them are considered to be "marginally" homeless. That number is completely unacceptable for America's fourth largest city.

Even when people are able to find housing, there is a good chance that it will be inadequate. Over 100,000 of the housing units in Houston are dilapidated, and 72,000 of them are officially overcrowded.

Yet as awful as those conditions are, there are still over 9,000 families on waiting lists for public housing. Unfortunately, the government cannot solve the housing shortage for all of them. Someone else needs to step up to the bat and help these people help themselves. Fellow colleagues, someone has.

Habitat for Humanity and the Jimmy Carter Work Project have come to bat for the people of Houston. With them, they brought an army of volunteers, and a fabulous group of sponsors.

The supplies needed for these 100 houses were all supplied by contributions from private corporations, organizations, church groups, and businesses. Many of these organizations also contributed manpower, either through their employees or their members. I am grateful to all of them. Specifically, I want to name those sponsors who made donations for the homes built in my district. They include: South Main Baptist Church; U.C.C. Celebration House; Presbyterian House—First Grace, Memorial Drive and St. Andrews; St. John the Divine Episcopal; St. Martin's Episcopal Church; Congregation Beth Israel; Congregation Emanu El; Presbyterian House No. 2; the Shell Oil Company Foundation; Umland International House; the Junior League of Houston; Fondren Foundation; Exxon; St. Luke's Episcopal Health System; Notre Dame Alumni Association; Notre Dame Student Chapter; El Paso Energy; Continental Airlines; Newsradio 740 KTRH; The Brown Foundation; Apache; Friends of Habitat; Stanley Tools; Dow Chemical; Indianapolis Life; PMI; Paul Leonard House; Weyerhauser Co.; Churchs Chicken; the Aluminum Association; Southwest Airlines/Oprah Angels; the Farris Foundation Inc.; Houston Habitat for Humanity Revolving Fund; Houston Apartment Association; and Habitat World. To all the sponsors—You have all done a great service to this community, and to our future generations. I congratulate you all.

I also want to thank and congratulate a particular group of very special people—the Gibson Family. I worked alongside of Mr. and Mrs. Gibson for the better part of the day on Monday. They have two girls, both under the age of ten, and they have another child on the way. For the past few years, they have lived in a small apartment in a dilapidated building, the whole while, looking for ways that they could better their living situation. Like many families, they have searched for options that would keep them from having to send their hard-earned money to the landlord every month, knowing that they would never own a piece of that property.

I am happy to report to you that the Gibson Family, with the help of Habitat for Humanity and their sponsors, are on their way to owning their first house. They had to work hard, physically, to get this opportunity, but they seized it.

T.S. Eliot once said, "Home is where one starts from." With the help of President Carter, Habitat for Humanity, and thousands of volunteers and sponsors, the Gibson Family has a new start. It is a fresh chance to raise their children, and grandchildren in a way which every American deserves. I also want to congratulate the other 99 families who will also be receiving homes as a part of this effort. Each and every one of them deserves this tremendous opportunity as well.

As grateful as I am, for this effort to better the community in Houston, there is still substantial work to be done, and need left. There are still too many people who need adequate shelter. There are still too many cities who need adequate housing. There are far too many children growing up in unsuitable conditions.

I hope there are many more people, out there across America, who are willing to follow the example of the miracle-workers of Houston. I urge corporate America to follow the lead of the many corporate sponsors I named earlier, who put aside profit for the sake of humanity.

I pledge my loyal support to Habitat for Humanity and the people that make it work—the sponsors and the volunteers. I ask that my colleagues do the same. These people truly embody the best of the human spirit, and I applaud their heroic efforts.

JAPAN: IT'S TIME FOR REFORM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. LIPINSKI. Mr. Speaker, Japan's economy is in recession. As an editorial in the Thursday, June 18 edition of The Washington Post noted, "the fact that once again U.S. pressure was needed to spur a commitment to reform is one more sad indication of the abdication of leadership in Japan."

While Japan has been a strong and loyal ally of the U.S. since the end of World War Ii, that does not mean friends cannot provide constructive criticism. I have some constructive criticism for Japan.

As one of the world's largest economies, Japan has a responsibility to provide open and fair market access for imports. To this day, Japan continues to maintain restrictive barriers to its domestic market. While Japan has reduced tariff rates on imports to reasonable levels, non-tariff barriers continue to hinder imported goods and services from the U.S. and other parts of the world.

From 1996 to 1997, the U.S.-Japan trade deficit increased from $47.6 billion to $55.7 billion. Our trade deficit with Japan is the largest out of any other nation in the world, and it points to the systemic problems with Japan's market.

Now is the time for Japan to show real leadership to the international community by initiating wide-spread economic reforms specifically targeted to rescinding excessive and outdated government regulations. A U.S. Trade Representative report stated, "[Japan's] unnecessary regulations restrain economic growth, raise the cost of doing business in Japan, lower the standard of living for Japanese consumers, and impede imports." Japanese economists estimate that 40 percent of all economic activity in Japan is regulated by the government. The regulations included burdensome testing and certification requirements, outdated price control measures, and unnecessary and archaic standards.

While I understand that most of these regulations were implemented when Japan was still a developing nation when it was necessary to protect certain infant industries, they are no longer needed and, in fact, retards Japan's economic growth. A nation with a mature economy such as Japan's must jettison those outdated regulations in order to expand the economy. Japan's reluctance to do so has clearly caused its current recession. By placing archaic and unnecessary restrictions to imports, Japan has only wound up hurting itself.

The solution to Japan's economic problems, Mr. Speaker, is quite simple. The Administration must work with Congress to put more pressure on Japan to provide open and fair markets, and Japan must take the necessary steps to fully honor its trade agreements with the U.S. Only by implementing this and other reform measures can the Japanese economy recover from its current recession.

HONORING REVEREND DR. WASHINGTON L. LUNDY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. TOWNS. Mr. Speaker, I rise today to honor Reverend Washington L. Lundy's 30th Pastoral Anniversary at the Evening Star Baptist Church in Brooklyn, New York.

Reverend Lundy is a native of McKenney, Virginia. Prior to his appointment at the Evening Star Baptist Church, Reverend Lundy had experience in pastoring at First Baptist Church in McKenney, Virginia. Following his appointment to the Evening Star Baptist Church, Reverend Lundy obtained a Bachelor of Sacred Theology and a Doctor of Divinity from Baltimore College of Bible in 1971 and 1975, respectively.

Since Reverend Lundy's tenure at Evening Star Baptist Church, many wonderful things have happened to both the church and the surrounding community. Reverend Lundy founded the Eastern Baptist Association School of Religion in 1989. The Reverend also led the congregation through a five million-dollar renovation and dedication in 1994.

Reverend Lundy's accomplishments do not end there. In 1991, C.S.B.C. Housing Development named him Father of the Year. Reverend Lundy also received the Contemporary Leadership Award in July, 1992, and the History Maker Award in February, 1995. In addition to this, Franklin Avenue, in Brooklyn, New York will soon be named "Dr. Washington Lee Lundy" Boulevard.

Mr. Speaker, I ask you to join me in saluting Reverend Washington L. Lundy on the occasion of his 30th Pastoral Anniversary at the Evening Star Baptist Church.

TRIBUTE TO THE MECHLER HALL SENIOR CENTER

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Mechler Hall Senior Center for a decade of success working for senior citizens in the South Bronx.

On Wednesday, June 24, the Mechler Hall Senior Center will celebrate as a Tenth Anniversary Party at the Holy Family Church on Watson Avenue, where the Center is located.

The Mechler Hall Senior Center was established in 1988 as a non-profit, all-volunteer community-based organization to serve the needs of senior citizens in our community.

During the past ten years, the dynamic Mechler Hall Senior Center has been instrumental in providing the services that senior citizens need. It serves meals to 115 people daily and organizes activities for about 150 people. Its wide range of programs and services to the community include: counseling, seminars, workshops, dancing lessons, trips, aerobics, nutritional programs, knitting, and drawing lessons, among other activities.

It is a privilege for me to represent the 16th district of New York, where Mechler Hall Senior Center is located. I have witnessed firsthand the exemplary work they are doing for our community, and I am deeply impressed.

Mr. Speaker, I ask my colleagues to join me in recognizing the Mechler Hall Senior Center for a decade of achievements in the Bronx and in wishing them continued success.

TRIBUTE TO INTERNATIONAL SOCIETY ON HYPERTENSION IN BLACKS

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to the International Society on Hypertension in Blacks. Their Society is about to hold its 13th International Interdisciplinary Conference on Hypertension in Blacks, and I believe it is timely to recognize their efforts to publicize a disease that has disproportionately affected minority populations.

The International Society on Hypertension in Blacks encourages increased medical research efforts, supports hypertension awareness programs targeted to minority communities, and lends assistance to put an end to the alarming statistics that show the greater prevalence of severe hypertension in Africa Americans.

The International Society works to promote treatment for all. Hypertension affects one out of three African Americans compared to one out of four people in the general population. One of the challenges to prevention or control is to adequately address the physiologic, epidemiologic and genetic differences to develop strategies appropriate for each population.

Mr. Speaker, I ask you to join me today in honoring the International Society on Hypertension in Blacks for their efforts to initiate such research forums at their annual conference and their work to spread information to community members.

FORMER REAGAN AND BUSH JUSTICE OFFICIAL CALLS FOR INVESTIGATION OF MR. STARR'S LEAKS TO THE PRESS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. CONYERS. Mr. Speaker, I enter into the RECORD the following opinion editorial from today's New York Times.

KENNETH STARR STRETCHES THE RULES

(By Ronald K. Noble)

What are we to make of Steven Brill's article contending that Kenneth Starr, the independent counsel, and his deputy, Jackie Bennett, may have leaked grand jury information about their investigation of President Clinton?

Many opponents of Mr. Clinton want to dismiss Mr. Brill's article, which appeared this week in his magazine, Brill's Content. But that would be a mistake. These leaks may violate Federal laws and Justice Department regulations. The possibility of such improper disclosures must be investigated.

In his article, Mr. Brill wrote that Mr. Starr and Mr. Bennett had given reporters background information—including accounts by witnesses who were to appear before a grand jury—regarding the investigation into Mr. Clinton's relationship with Monica Lewinsky.

Mr. Starr has issued two denials to the article. His first denial did not challenge Mr. Brill's facts; instead, the independent counsel challenged the conclusion that such disclosures were illegal and unethical.

In his second denial, Mr. Starr stated that his office "does not release grand jury material either directly or indirectly, on the record or off the record" and that it "does not release (and never has released) information provided by witnesses during interviews, except as authorized by law."

These denials beg the question of what Mr. Starr considers grand jury material, what he believes is authorized by law and what he and Mr. Bennett actually said to reporters. Indeed, before the Brill article appeared this week, many press reports had already attributed information about the investigation to the prosecutor's office.

We don't know all the facts, but Mr. Starr, as quoted in Mr. Brill's article, does not give us confidence about his interpretation of the law and Justice Department regulations. In the article, Mr. Starr said that certain disclosures do not violate a Federal criminal law that prohibits prosecutors from disclosing information about grand jury proceedings.

"If you are talking about what witnesses tell F.B.I. agents before they testify in the grand jury or about related matters," Mr. Starr said, that is "definitely not grand jury information."

Mr. Starr also said that the Justice Department's ethical guidelines allow disclosures when the public needs reassurance that an investigation is being conducted properly. Indeed, in the article, Mr. Starr suggested that it was his duty to make such disclosures if doing so would boost the public's confidence in his office.

But the laws on disclosure contain few loopholes. Last May, the United States Court of Appeals for the District of Columbia ruled that it is a violation of Federal law not only to release unauthorized information about what witnesses said to the grand jury, but also to disclose what witnesses said to prosecutors and agents in preparing for their grand jury testimony.

Moreover, Mr. Starr and his staff members are also covered by the Privacy Act, which prohibits disclosing confidential information about individuals. This law covers all Federal employees, not just prosecutors, who have access to such information because of their jobs.

Justice Department guidelines are no more lenient. To make a case for an exception, Mr. Starr seems to rely on a department rule that allows disclosure of "matters about which the community needs to be reassured that an appropriate law-enforcement agency is investigating the incident."

This is a stretch. The Justice Department specifically forbids prosecutors from answering questions about an ongoing criminal investigation or from commenting on its progress—including the serving of subpoenas before the documents have been publicly filed. And department guidelines on media relations state that no one in the department should release information that is likely to prejudice any legal matter.

In short, there are few situations where substantive information on an investigation can be released. And if information is released, it should be on the record. Any off-the-record conversation between prosecutors and reporters is by definition suspect. If the prosecutor is permitted to say what he is saying and is prepared to be held accountable for it—why not do so on the record? That way the public and the judge presiding over the grand jury investigation can decide whether the prosecutor is following the rules.

Last February Mr. Starr claimed that he was investigating whether his office was leaking information. Given the allegations about Mr. Starr's and Mr. Bennett's background conversations with reporters, one wonders how thorough that inquiry could have been.

Now, Mr. Starr has no choice but to ask for an independent investigation to determine what, if any, information his office revealed to the press and whether that information violated any rules. Unless action is taken quickly, it will appear that the Independent Counsel's Office is above the law.

DEPARTMENT OF THE INTERIOR REORGANIZATION

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. SKEEN. Mr. Speaker, last month I introduced legislation to reorganize the United States Forest Service in an attempt to bring reform to that troubled federal agency. Today, I introduce legislation to further the goal of streamlining government and save additional money for the taxpayers of this nation, without decreasing services.

Continuing what Congress began in 1995, my legislation would dissolve the Department of Interior's (DOI) Minerals Management Service (MMS) and transfer the two major functions to other locations in DOI. By this transfer, the Department would realize significant savings by elimination of the administrative support component of the current MMS.

Under this legislation, the Minerals Management component of MMS would be transferred to the Bureau of Land Management. The Royalty Management component would be transferred to the office of the Assistant Secretary for Policy, Management and Budget. Day to day operations of these two divisions would go on, almost totally undisturbed by this legislation.

I would point out that the MMS was established in 1982, following an internal reorganization of the Department of Interior. Expectations for the new federal agency were high. The MMS took components that were formerly located elsewhere in the Department and placed them under one roof, headed by a director appointed by the Secretary of the Interior. The Outer Continental Shelf (OCS) oil and gas leasing program was expected to be the real centerpiece of this new agency. Leasing activities were to be expanded from small areas in California, the Gulf of Mexico and in Alaska to large areas off the entire East and West Coasts as well as the Eastern Gulf of Mexico. Industry interest was extremely high and energy self sufficiency was just around the corner.

However, something happened along the way and public support for this effort never materialized. In fact, in spite of an outstanding safety and environmental record, widespread and rabid opposition to expansion of the program developed and continues today. Therefore, the grand plans of 1982 never materialized. In fact, just last week, President Clinton called for extending the current Congressional moratorium on oil and gas activities in these new areas for another 10 years. For all practical purposes, the OCS program today remains active in the Gulf of Mexico and in Alaska waters. The program remains a vital component of our energy supply. This is especially true for natural gas.

In terms of the royalty management program, the lack of expansion of federal oil and gas leasing and production, coupled with technological advances, have diminished the need for widespread expansion of this component of the MMS. With Congressional interest in new Royalty-in-Kind proposals, MMS royalty management could well downsize even further.

The American taxpayers, who in essence are government's stockholders, are demanding a leaner government. This legislation is a step towards that goal. We cannot wait for this Administration to do the right thing. It is time for Congress to act.

HONORING DR. THOMAS P. GRISSOM, JR.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. TOWNS. Mr. Speaker, I rise today to honor the dedication and achievements of Dr. Thomas P. Grissom, Jr.

Dr. Grissom has earned two Doctorate degrees, and it was his desire to teach before retiring.

Dr. Thomas P. Grissom, Jr. has a vast amount of experience as a pastor. He began his ministry 49 years and 9 months ago. He first became the Associate Pastor of St. Mark United Methodist Church in Manhattan. From there he went to Janes United Methodist Church in Brooklyn. After this position, he moved to Taylor Memorial Church in Oakland, California. He later returned to New York in October 1980 to pastor Salem United Methodist Church in Manhattan. He remained at Salem until the end of June in 1990. On the first Sunday of July 1990, Dr. Grissom became the Pastor of Hanson Place Central United Methodist Church, where he has served until the present time.

Mr. Speaker, please join me in saluting Dr. Thomas P. Grissom, Jr. for his tremendous devotion and dedication to his profession.

THE STRATEGIC TRANSITIONAL EMPLOYMENT PROGRAM (STEP)

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Ms. NORTON. Mr. Speaker, today, I introduce the Strategic Transitional Employment Program Act or STEP, and I thank Senator WELLSTONE, who will introduce the bill in the Senate today, for his leadership. The unemployment rates in many parts of this region are so low that almost anybody can find a job. Yet in the District and other large cities and in rural areas, unemployment rates remain unaffected by the excellent Clinton economy. Entire sections of our society scratch their collective heads at daily reports of the splendid economy.

The STEP Act seeks to link long-term unemployed Americans with the roaring economy. It provides the three indispensable elements that most often are missing: job readiness, job experience and job placement. STEP is tightly structured. The program would be available only for individuals who meet three criteria: individuals unemployed for 15 weeks or more, whose families are at or below the poverty line, and who live in communities of concentrated poverty and unemployment.

Clearly, individuals who face all three of these conditions are walled off from self-sufficiency. If they have not found jobs after 87 months of an exceptional economy, we cannot expect jobs for them to appear miraculously. They obviously need our help. Transitional jobs that provide work experience while some transportation and child care services are provided can make the vital difference. Unlike some job programs, at the end, STEP would come with vital job placement for those who had not found work in 12 months. Moreover, paid part-time participation in education and training, including college, would insert a vital missing link to decent employment sadly lacking in last year's welfare bill.

I am also preparing an Omnibus Welfare Reform Amendments bill that will incorporate amendments from members of the House to last year's welfare reform statute, in the hope that one or the other provision might be pulled out for passage. However, STEP hops over welfare reform and confronts the missing ingredient for all the long-term unemployed—a realistic way to get them to a real job that pays a liveable wage.

STEP's $20 billion cost over four years, creating 1.8 million entry level jobs, would be money well spent from a budget that now boast a surplus. The challenge to those who have no plan for the hard core unemployed is, if not this what? The challenge to those who do not want to spend the money is, if not in this roaring economy, when?

TRIBUTE TO ROBERT EDWARD BATES, JR. AND STANLEY K. WILLIAMS

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Robert Edward Bates, Jr. and Stanley K. Williams who will be honored as Men of the Year by the Shiloh Baptist Church of Washington, D.C. on Sunday, June 21, 1998.

It has been my privilege to have known Robert Bates for many years. He has been a member of Shiloh Baptist Church since his youth. He is the son of the late Deacon and Mrs. Robert E. Bates, Sr. He was a member of the Fund-raising Committee for the Henry C. Gregory, III Family Life Center and currently serves as Chairman of the Family Life Center Foundation Board.

Active in the civil rights movement, Mr. Bates worked as an aide to Senator Edward Kennedy early in his career and went on to a successful career with Mobil Oil Company. He was one of the first African Americans to represent a major company on legislative matters on Capitol Hill. While secure in his own position, he established the Second Wednesdays Group, an organization to enhance opportunities for African Americans in the lobbying arena. In addition, Mr. Bates has been a strong supporter of the Congressional Black Caucus and the Congressional Black Caucus Foundation. He is the father of three—Dawn, Hillman and Brandon.

After joining Shiloh nearly two decades ago, Stanley Williams immersed himself in church activities. Today, he serves as Vice President of the Brotherhood of Shiloh Men. He has been a Sunday School teacher in the Youth Department and served as an Assistant Superintendent; Chairman of the Men's Day Committee; and, Co-chaired the Children's Day Committee. He was recently appointed by the Pastor to Co-Chair the Victory Through Faith Campaign Committee.

Mr. Williams currently works at the U.S. Department of Labor where he serves as the Director of Veterans' Employment and Training. He recently was recognized by the Assistant Secretary of Labor for his outstanding knowledge and dedication in his field. He is married to Judy C. Williams and is the father of two children, Lanita and Malek.

Mr. Speaker, as we celebrate Father's Day across the country this Sunday, I ask you and my colleagues to join me in saluting these two outstanding fathers—Robert Edward Bates, Jr. and Stanley K. Williams today for their dedication to the Shiloh Baptist Church, their families, and to the community.

PERSONAL EXPLANATION

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. BERRY. Mr. Speaker, on June 17, I was speaking before a group of Arkansas students and missed roll call vote No. 237. If I had been here, I would have voted "present."

PERSONAL EXPLANATION

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. BALDACCI. Mr. Speaker, yesterday the House voted on final passage of the Conference Report to accompany H.R. 2646, the Education Savings Act for Public and Private Schools. I do not believe that we should be taking resources away from our public schools and directing them towards private schools. I am strongly opposed to H.R. 2646, and cast my vote against the Conference Report (Roll Call Vote No. 243). Therefore, I was concerned to discover this morning that I was listed as not voting on Roll Call No. 243. Apparently, my vote was not properly recorded by the electronic voting system. I am deeply concerned about this incident.

COMMEMORATING THE 15TH ANNIVERSARY OF THE CONGRESS-BUNDESTAG YOUTH EXCHANGE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. HAMILTON. Mr. Speaker, I would like to draw the attention of my colleagues to the 15th anniversary on June 19th of the creation of the Congress-Bundestag Youth Exchange.

In 1983, marking the 300 years of German immigration to the United States, the Congress and the German Bundestag created a unique program, the Congress-Bundestag Youth Exchange. This exchange was designed to ensure that the close ties of friendship and partnership which had developed between our two countries since the founding of the Federal Republic of Germany would continue in successor generations, and to foster the relationship between our two national legislative bodies.

In each of the past fifteen years, up to 800 American and German high school students and young professionals have taken part in this program. The high school students become aware of the wider world and establish ties which will benefit them for the rest of their lives. Thanks to a combination of classroom education and on-the-job training during their year abroad, young professionals are able to bring valuable experience into their working life: Americans can take advantage of Germany's "dual system" of education and practical training, while German youth can benefit from American strengths in areas such as telecommunications, environmental technology and the service sector. In both cases, the young people of our two countries gain knowledge and experience which will serve them well later in life.

Let me quote from the letter of a recently-returned American high school student, reflecting on her year in Germany:

> Now, I am able to speak Germany fluently. I have made many strong friendships and have experienced a culture I was not used to; I have learned a great deal about who I am and about life in general. I have learned to be more tolerant of others and the ideas that they offer. Being an exchange student does not just benefit the exchange. My first weeks in Germany were spent trying to disprove many of the stereotypes the Germans had about the United States and its society. Through this Exchange, all participants are able to return home feeling proud that they had the opportunity to represent the United States.

The Congress-Bundestag Youth Exchange program also organizes reciprocal visits by staffers of the Congress and Bundestag. I hope that more of my colleagues will encourage their staffers to take advantage of this opportunity to get to know Germany and the working of its government and legislature. The staff exchange can be of tremendous assistance as our two countries grapple with shared problems.

Germany is a uniquely important ally of the United States. We have a strong national interest in maintaining the closest ties and the best understanding possible with both the current leadership and the successor generation. The Congress-Bundestag Youth Exchange represents one of the best ways to cement our partnership. During his recent visit to Germany, marking the 50th anniversary of the Berlin Airlift, President Clinton declared, "we will be working hard to expand our support for the Congress-Bundestag Youth Exchange, which has already given more than 10,000 German and American students the chance to visit each other's countries."

German leaders in the Bundestag value the relationship with the United States and with the Congress, and recognize the contribution which the Congress-Bundestag Youth Exchange program has made to the close ties which exist. On June 19th, the President of the German Bundestag, Prof. Rita S ssmuth, will mark the 15th anniversary of the Congress-Bundestag Youth Exchange program by sending the Bundestag's greetings to all Members of Congress and by congratulating the 200 American participants in this year's program, who will be present during the Bundestag session.

Mr. Speaker, I invite my colleagues in the House of Representatives to join me in extending special greetings to our fellow legislators in the Bundestag, in commemorating the creation of this exchange and in noting its contribution to the distinctive ties between the peoples and the governments of these two great nations.

INTRODUCTION OF THE TAXPAYER'S DEFENSE ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. GEKAS. Mr. Speaker, today I join with Mr. HAYWORTH and 52 of our colleagues to introduce the Taxpayer's Defense Act. This bill simply provides that no federal agency may establish or raise a tax without the approval of Congress.

One of the principles on which the United States was founded was that there should be no taxation without representation.

In the Second Treatise of Government, John Locke said, "[f]f any one shall claim a power to lay and levy taxes on the people, . . . without . . . consent of the people, he thereby . . . subverts the end of government." Consent, according to Locke, could only be given by a majority of the people, "either by themselves or their representatives chosen by them." The Boston Tea Party celebrated Americans' opposition to taxation without representation. And the Declaration of Independence listed, among the despotic acts of King George, "imposing Taxes on us without our Consent." First among the powers that the Constitution gave to the Congress, our new government's representative branch, was the power to levy taxes.

The logic of having only Congress establish federal taxes is clear: only Congress considers and weighs every economic and social issue that rises to national importance. While any faction, agency, or sub-agency of the government may view its own priorities as paramount, only Congress can decide which goals are of the importance to merit spending taxpayer dollars. Only Congress can determine the level at which taxpayer dollars should be spent.

The American ban on taxation without representation has not been seriously challenged during our nation's history. The modern era of restricted federal budgets, however, threatens to erode the essential principle of "no taxation without representation." In ways that are often subtle or hidden, federal agencies are taking on—or receiving from Congress—the power to tax. They may tax by adding extra charges onto legitimate fees charged for services they provide. They may tax by requiring businesses to take on affirmative obligations (as opposed to complying with proscriptions on behavior that harms the public) as a condition of operating. Administrative taxes pass the costs of government progrms on to American consumers in the form of higher prices. These secret taxes tend to be deeply regressive and they add inefficiencies to the economy. The take money from everyone without helping anyone.

The worst example of administrative taxation is the Federal Communications Commission's Universal Service Tax. "Universal service" is the idea that everyone should have access to affordable telecommunications services. It originated at the beginning of the century when the nation was still being strung with telephone wires. The Telecommunications Act of 1996 included provisions that allowed the FCC to extend universal service, ensuring that telecommunications are available to all areas of the country and to institutions that benefit the community, like schools, libraries, and rural health care facilities.

Most importantly, the Act gave the FCC the power to decide the level of "contributions"—taxes—that long-distance providers would have to pay to support universal service. The FCC now determines how much can be collected in taxes to subsidize a variety of "universal service" spending programs. It charges long-distance providers, who pass the costs on to consumers in the form of higher telephone bills. In the first half of 1998, the tax was $625 million, and the Clinton Administration's budget projects it will rise to $10 billion per year. Mr. Speaker, this administrative tax is already out of control.

The FCC's provisions for universal service have many flaws. Among them are three "administrative corporations" set up by the FCC. The General Accounting Office has determined that the establishment of these corporations was illegal. The head of one of these corporations was, until recently, paid $200,000 dollars per year—as much as the President of the United States. And reports are already coming in about sweetheart deals between government contractors and their State government friends, who have access to huge amounts of easy universal service money.

The FCC has been contumacious to the will of Congress in implementing the Universal Service Tax. Chairman BLILEY has assiduously pursued the FCC's missteps and misdeeds, as have I. In the Commercial and Administrative Law Subcommittee, I chaired a hearing on administrative taxation, focusing particularly on the Universal Service Tax, on February 26, 1998, at which I raised several issues and concerns. The FCC's response to my concerns, and those of many other Members, has been anemic at best.

This can only happen because the FCC collects taxpayer dollars at levels it sets without approval from Congress or the people. The FCC can defy Congress and the people because it has the power to levy taxes on its own. It can ignore Congress without threatening its generous spending programs, which cost Americans millions and millions of dollars. Mr. Speaker, some people thought the tax-and-spend liberals had left Washington. Not so.

Washington interest groups who want to feed at this federal trough are already geared up to accuse the Republican Congress of cutting funding for education and health care if any attempt is made to rein in the FCC. They will cynically frame the issue as a matter of federal entitlements for sympathetic causes and groups.

But the most sympathetic group is the American taxpayer, whose money is being taken, laundered through the Washington bureaucracy, and returned (in dramatically reduced amounts) for purposes set by unelected Washington poohbahs. This is why we must require the FCC, and all agencies, to get the approval of Congress before setting future tax rates.

Should tax dollars be used for federal universal service programs? In what amounts? Or should Americans spend what they earn on their own, locally determined priorities? Requiring Congress to review any administrative taxes would answer this question.

My bill would create a new subchapter within the Congressional Review Act for mandatory review of certain agency rules. Any rule that establishes or raises a tax would have to be submitted to Congress and receive the approval of Congress before it could take effect. In essence, the Act would disable agencies from establishing or raising taxes, but allow them to formulate proposals for Congress to consider, under existing rulemaking procedures. It is a version of a bill introduced and ably advocated for by Mr. HAYWORTH. He joins me today as a leading cosponsor of this bill.

Once submitted to Congress, a taxing regulation would be introduced (by request) in each House of Congress by the Majority Leader. The rule would then be subject to expedited procedures, allowing a prompt decision on whether or not it should take effect. The rule would take effect once a bill approving it was passed by both Houses of Congress and signed by the President. If the rule were approved, the agency would retain power to reverse the regulation, lower the amount of the tax, or take any otherwise legal actions with respect to the rule.

Mr. Speaker, the cry of "no taxation without representation" has gone up in the land before, and today we are hearing it again. Congress must not allow a federal agency comprised of unelected bureaucrats to determine the amount of taxes hardworking Americans must pay. While preserving needed flexibility, the Taxpayer's Defense Act will allow Congress alone to determine the purposes to which precious tax dollars will be put.

PERSONAL EXPLANATION

HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. ADAM SMITH of Washington. Mr. Speaker, I was unavoidably detained on the evening of June 11, 1998, and unfortunately missed roll call votes 230 and 231. If present I would have voted "yea" on roll call vote 230 and "yea" on roll call vote 231.

HONORING THE SAVE OUR YOUTH INITIATIVE'S CONGRESSIONAL YOUTH COUNCIL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. TOWNS. Mr. Speaker, I rise today to honor the member of my Save Our Youth Initiative's Congressional Youth Council.

One of the major challenges facing Brooklyn, and other parts of our Nation, is finding ways to open doors of opportunity for youth who constitute a disproportionately large share of the unemployed, underemployed, and incarcerated. Through the Save Our Youth Initiative, I am striving to eliminate this bleak outlook for our youth, and to provide the necessary resources so that youth can build successful lives. An important vehicle in this effort is my Congressional Youth Council.

Since Spring 1996, the Youth Council's leadership role in the community encourages youth to become more active citizens. Through organizing community forums such as a Youth Town Hall meeting attended by over 200 youth and adults, participating in public hearings and other local events, and discussing policy issues with public officials such as Mayor Rudolph Giuliani and Brooklyn Borough President Howard Golden, these youth blossomed into dedicated advocates. Each young leader—April Hudson, Irvin Daniels, Felix Ramos, Akilah Holder, Tanya Cruz, Latoya Baker, Dunni Owolabi, Jethro Jelldine, Nicole Brathwaite, Michelle Warner, Yolanshe, Alexander, Fellanthin King, and Kalonji Curwen—is a shining beacon of hope for the future of our community.

I am tremendously proud of their achievements in both school and the community. This month, four of these dedicated youth advocates will receive their New York State high school diplomas. They have truly shown that Generation X is a generation of excellence.

Mr. Speaker, it is with great pride that I ask my colleagues to join me in saluting all of the members of my Congressional Youth Council.

TRIBUTE TO INTEGRATION 2000

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. BONIOR. Mr. Speaker, each year a new group of children walks into a school for the first time. They are our future leaders, the hope of America. Students rely on the support they get from parents, mentors, and teachers as they prepare for their future. Harry Istok, at Malow Junior High in Shelby Township, MI, has developed an innovative technical program called Integration 2000. With the help and support of businesses throughout the Metro Detroit area, Integration 2000 has changed the way we look at technical education in Michigan.

Harry Istok is a veteran teacher. For twenty-seven years, he has taught drafting to students at Malow Junior High. But during the school year of 1995/1996, Harry took drafting to a new level. By taking skills from art, drafting, technology education, and general business, Harry integrated the manufacturing side to show students how their final product would be produced. Students in 7th, 8th, and 9th grades have designed, engineered, manufactured and marketed products such as key chains and pen and pencil holders proudly bearing the Malow Mustang. Harry Istok is preparing students for life after secondary school. Harry has stated, "the whole purpose of education after the Industrial Revolution is to prepare students for the world of work. We have to show the kids that there are viable alternatives to a four year college education." Integration 2000 provides students and business with the opportunity to work together in a hands-on educational environment.

Since 1995, Harry has enlisted twenty-seven area businesses to participate in Integration 2000. Each business donates time and materials to the education of the students. Without their dedication and commitment Integration 2000 would not be possible. On March 8, 1998, Harry and his partners were honored with the Program Excellence Award at the 60th International Technology Education Association in Fort Worth, Texas. The participating businesses are: RCO Engineering, Northern Metalcraft, Joint Production Technologies, Thunder Tool, Shoe Design, Entire Reproductions, Rhetech, Pinnacle Technologies, Proper Mold, Macomb Sheet Metal, P-Ess Sheet Metal, Breed Technologies, Kinzer Collision, International Hardcoat, Shelby Mold Inc., Modulated Metals Inc., E & E Engineering, Advanced Machining Ltd., Mt. Clemens Steel Inc., R.-J.'s E.D.M., DCT Inc., Unique Fabricating, Acra Grinding, 3-Dimensional Services, Powder Cote II, Interplas and Consumers Lumber.

As a parent and congressman, I am impressed so many young people will have the opportunity to experience the world of high tech manufacturing when they are as young as twelve years old. Harry Istok's vision has brought together a unique partnership between Malow Junior High and businesses in southeastern Michigan. Integration 2000 will serve as an example for other schools to follow. I would like to thank Harry and all of his twenty-seven partners for their lasting contribution to education in the United States.

PERSONAL EXPLANATION

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mrs. CLAYTON. Mr. Speaker, during roll call vote numbers 245, 246, and 247, I was unavoidably detained. Had I been present, I would have voted yes on 245, and no on 246, and 247.

BANKRUPTCY REFORM ACT OF 1998

SPEECH OF

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes:

Mr. SANDLIN. Mr. Chairman, I rise today in qualified support of this legislation to overhaul our nation's bankruptcy laws. H.R. 3150 is an imperfect bill that addresses a very real and pressing problem. I will vote for this bill to advance it through this stage of the legislative process. However, if this bill does not improve in conference negotiations with the other body, I am prepared to vote against the conference report.

Although the rate of personal bankruptcy filings in Texas in 1996 was well below the national average, it is still high at 8.4 bankruptcies per 1000 households. Nationally, filings increased 20% from 1996 to 1997, and the economic cost of these bankruptcies is passed on to all consumers, creating a hidden tax of $400 on every household.

While there are multiple factors contributing to this recent surge in bankruptcy filings, the ease with which a debtor can file for Chapter 7 bankruptcy is surely one of them. There are certainly scattered cases of debtors running up their debt and then filing Chapter 7 bankruptcy to discharge that debt when they are capable of paying a substantial portion. The bankruptcy system should not assist debtors in evading debts they could otherwise pay. Instead, our nation's bankruptcy laws should offer a fair and honest way for those overwhelmed by financial pressures to pay off as much of their debt as they can and begin a fresh start.

This bill takes a good initial step at limiting a debtor's ability to "game the system" or take advantage of our bankruptcy code. However, the bankruptcy code affects millions of working Americans annually, and any changes to the code will have significant ramifications for many of them. We must undertake any rewrite of this code with extreme diligence and caution.

Amendments to this bill, both in committee and on the House floor, addressing child support and alimony payments, have allayed some of my fears. However, I still have significant lingering concerns that making some credit card debt nondischargeable places this debt in direct competition with child support and alimony payments. Although child support and alimony payments retain priority designation, credit card companies will generally have a better ability to collect these debts than an ex-spouse. Before this bill is enacted into law, we must be absolutely certain that it will not benefit credit card companies at the expense of women and children who rely on these payments for their survival.

This bill, as reported by the House Committee on Judiciary, would have preempted provisions in the Texas Constitution which protect a debtor's homestead from seizure. The bill would have capped the homestead exemption at $100,000, while Texas law has no monetary limit on the homestead exemption. I was adamantly opposed to this provision, and was pleased that it was eliminated from the bill on the House floor. However, I still have concerns that this bill would intrude on state law by prohibiting a debtor from exempting assets transferred into one's homestead within one year of filing for bankruptcy. I hope to see this provision eliminated from the bill in negotiations with Senate.

I will vote for this bill now, but I urge the conference committee to address these very significant issues before this legislation returns to the House for final passage. If women and children are not adequately protected in this rewrite of the bankruptcy code, I will vote against the conference report.

RECOGNIZING WPST'S DAVE McKAY AS TOP 40 SMALL MARKET PROGRAM DIRECTOR OF THE YEAR

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. PAPPAS. Mr. Speaker, I rise today in recognition of Mr. Dave McKay who was recently named Top 40 Small Market Program Director of the Year at the Gavin Seminar in San Diego, California. He is truly outstanding at what he does, making it my pleasure to recognize him today.

Every day many of us enjoy listening to the radio but are probably largely unaware of the hard work that goes into a successful broadcast. It is rare that we have the opportunity to give our thanks to those who stand out in the radio industry and provide us with daily entertainment.

Selected from hundreds of candidates across the country, Mr. McKay has proven to be at the top of his field, as is evident by the fact that he has received this honor for two consecutive years. He graduated from the University of Maryland in 1992 and has excelled in his endeavors ever since. Hired immediately as an air talent at WPST in 1993, he was recognized as a great prospect in the industry. Just five months later, he was promoted to the position of Music Director, a position that gained him many accolades. As Music Director, Mr. McKay won $10,000 in the AIR Competition, one of the greatest achievements in the radio industry, as well as numerous other awards. Finally, in 1996, he was named Program Director at WPST, a position that he remains in at this time.

Mr. Speaker, I am proud to be able to recognize Dave McKay for his recent honor in being named as the Top 40 Small Market Program Director of the year. I want to congratulate him and wish him and WPST my best wishes.

FOURTH ANNUAL CITIZENSHIP DAY EVENT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. GREEN. Mr. Speaker, June 13, my staff and I hosted our Fourth Annual Citizenship Day Event. This is a one-stop application processing opportunity for residents who wish to become U.S. citizens.

With the help of local volunteers, elected officials, and community-based organizations, we were able to help 350 residents take their first step to becoming a U.S. citizen.

The Citizenship Day process consisted of completing INS forms, taking photographs, and having attorneys and INS representatives review the application. Upon completing this process, the application is photocopied for the applicant and immediately mailed to INS.

Every year, I am amazed at the number of people who attend this event. While some of us do tend to take for granted that we live in a great a country, others wait in line all night long simply to submit an application to become a U.S. citizen.

Although an event like this takes many months of coordinating and planning, the rewards are remarkable. Not only does it provide a service to our community, but it also increases awareness among legal residents about the importance of becoming a citizen. Moreover, it's encouraging to see volunteers return every year to contribute their time and effort.

I am extremely thankful of the following volunteers, groups and organizations who assisted in making this event possible: Houston Community College—Northeast Campus, Harris County Constable Victor Trevino, Immigration and Naturalization Service, United States Postal Service, Houston Industries, League of United Latin American Citizens, National Association of Latino Elected Officials, Hispanic Women in Leadership, Rio Posada Restaurant, Fiesta Mart, Inc., Hispanic Organization of Postal Employees, Houston Coca Cola Bottling Co., Pizza Hut, Chase Bank, Telemundo—Channel 48, Univision—Channel 45, College Democrats @ University of Houston, Quan, Burdette & Perez, Attorneys at Law, Esther Alaniz, Alicia Almendariz, David Airhart, Artie Blanco, Delia Barajas, Debra Barnes, Yasmine Cadena, Mary Closner, Mitchell Contreras, Romero Cruz, Hector De Leon, Anselmo Davila, Armando Entenza, Arthur Flores, Charles Flores, Dr. Margaret Ford, Celia Garcia, Cyndi Garza, Juan Garcia, Rosa Garcia, Reynaldo Garza, Victor Gonzalez, Juana Gonzalez, Priscilla Gonzalez, Manuel Gonzalez, Mary Guerrero, Rebecca Guerrero, Joe Granados, Ben D. Huynh, Ana Maria Lopez, Dorothy Ledezma, Alfred Martinez, John Martinez, Benny Martinez, Margaret Mata, Edward Melendez, Josephine Mendoza, John Meyer, Diana Morales, Sally Morin, Mercedes Nassar, Janie Munoz, Frances Munoz, Art Murillo, Ana Nunez, Sandra M. Orellana, Juan Padilla, Cesar De Paz, Richard Perez, Candy Perez, Andre Rodriguez, Jesse P. Ramirez, Francisco Rodriquez, Mayor Cipriano Romero, Juana Rosales, Rosa Ruelas, Yeannett Salazar, Thomas Sanchez, Olga Soliz, Diana Trevino, Marco Torres, Vera Vasquez, Suzanne Villareal, Patricia Valdez, Ralph Vazquez, and Shahid Waheed.

OSHA WORKPLACE VIOLENCE RECOMMENDATIONS

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. BALLENGER. Mr. Speaker, the Occupational Safety and Health Administration recently issued a document called "Recommendations for Workplace Violence Prevention in Late-Night Retail Establishments."

Although workplace violence is an issue that we are all concerned about, I and many of my colleagues have serious reservations about OSHA's involvement in this issue. In September 1996, more than 100 members of the House of Representatives wrote to then Assistant Secretary for OSHA, Joseph Dear, regarding an earlier set of "guidelines" for workplace violence prevention programs for night retail establishments, expressing a number of concerns, including the enforceability of the guidelines and the lack of scientific basis and procedural safeguards in their promulgation.

I continue to be concerned that OSHA's involvement in workplace violence has not been supported by objective analysis nor been subject to procedural safeguards. There is little evidence that OSHA is in a better position than state and local authorities to investigate incidents of workplace violence perpetrated by either 3rd parties or co-workers, or that OSHA's involvement in those investigations would help to bring the perpetrators to justice.

Nonetheless, I do want to underline a clarification that OSHA made in its recent recommendations for late night retail establishments. It is my understanding from both the actual text of OSHA's final recommendations, as well as from comments made by OSHA officials, that its recommendations are not a new standard or regulation, and do not create any new OSHA duties, and that an employer's decision not to adopt any of the recommendations will not be deemed evidence of a violation of the General Duty Clause in section 5(a)(1) of the Occupational Safety and Health Act. To quote OSHA's recommendations directly, "These recommendations do not impose, and are not intended to result in, the imposition of any new legal obligations or constraints on employers or the states."

Mr. Speaker, a great many employers in the late night retail industry have worked hard to develop violence prevention programs that may not conform to all of OSHA's recommendations. It is my understanding that OSHA's recent "recommendations" are intended as suggestions to late night retailers of a variety of steps that may be taken as part of such violence prevention programs. The particular recommendations in the April 28 OSHA document are not intended to create any legal obligation, duty or consequence.

Mr. Speaker, workplace violence, like violence throughout our society, is a serious problem. Employers in all sectors of the economy are taking steps to prevent violence against their employees, whether it be violence perpetrated by 3rd parties or by disgruntled and disturbed employees. I commend OSHA for clarifying that its recommendations do not impose new legal duties on employers but are intended to provide employers with suggestions and recommendations of steps that employers may consider as part of their own efforts to reduce the likelihood of violence occurring against employees in their workplaces.

A TRIBUTE TO MR. PAUL C. ZANOWIC

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to pay tribute to Mr. Paul C. Zanowic, who served as a law enforcement officer in Somerset County, New Jersey for fifty years.

President Warren G. Harding once said, "Whenever a man contributes to the betterment of his community, whenever he contributes to the enlarged influence of his State, whenever he contributes to the greater glory of the Republic and makes it a better place in which to live and in which to invite men to participate and aspire, he contributes to himself as he contributes to the welfare of his fellow men."

Paul Zanowic dedicated his life to the betterment of his community, through the honorable profession of law enforcement. On February 12, 1998, Paul Zanowic reached his 91st birthday. His commitment to public duty and the public trust truly deserves recognition by this body.

Paul Zanowic started as a patrolman with the North Plainfield Police Department in 1931. After serving as the Officer in Charge of the Detective Bureau for eight years, he was elevated to Chief of Police in North Plainfield, New Jersey, in 1960, which is in my Congressional district. Beginning in 1967, he was elected to four straight terms by the citizens of Somerset County to serve as their Sheriff. He retired from law enforcement in 1980. His tenure as Chief of Police was marked by his becoming President of the New Jersey State Association of Chiefs of Police and he has the honor of being the first Chief ever elected to office in the Association from Somerset County. He was past president of the North Plainfield Police Benevolent Association, and received an honorary lifetime membership in the New Jersey State PBA.

Mr. Speaker, distinguished colleagues, please join me in honoring the dedication of Paul C. Zanowic. His record of public service should serve as a model for the citizens of our Nation.

LAWRENCE MEINWALD, OUTSTANDING CITIZEN OF GOSHEN, NEW YORK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. GILMAN. Mr. Speaker, I rise today to call to the attention of our colleagues the birthday of an outstanding American and resident of the Town of Goshen, New York, Lawrence Meinwald. Today, Mr. Meinwald celebrates his 84th birthday, and I want to take this opportunity to share with our colleagues the remarkable life story of this incredible person.

Mr. Meinwald came to the United States in 1920 as a young boy from Warsaw, Poland. His first ten days in America were spent at Ellis Island while waiting to enter our Nation. Ellis Island had such a strong impact on him that he decided to make New York State his home, and remains unpersuaded by the recent ruling reverting Ellis Island to New Jersey.

Larry Meinwald, along with his wife, Carolyn, have made lasting contributions to their adopted home of Goshen, New York. Chief among these contributions has been the complete restoration of eight commercial buildings in the Village of Goshen, all which preserve the historic nature of the area.

Mr. Meinwald's most recent restoration is that of an office building at the very spot at which the former Erie and Western Railroad had the initial trip on what proved to be a long and fruitful era. During that period Goshen served as a major rail distribution center. In recognition of this important maiden run, George M. Lyons, the Mayor of Goshen, has named the street "Railroad Avenue."

Mr. Speaker, I invite our colleagues to join with me in extending birthday greetings and our best wishes to this outstanding American citizen, Mr. Lawrence Meinwald.

FATHER'S DAY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. PACKARD. Mr. Speaker, I rise today to honor our Nation's fathers. As all of us are aware, this Sunday, June 21 is Father's Day. While Father's Day is a relatively new holiday, originating in the early part of this century, there is no limit to the amount of respect and honor we have shown our fathers over the years.

In 1909, a daughter thought of the idea of Father's Day. She and her five siblings had been raised by her father after their mother died. She wanted to honor her father, realizing as she reached adulthood how much he had sacrificed for her and her brothers and sisters. The concept of Father's Day was born.

Our parents often teach us many things about life that we don't realize at the time of the lesson; however, slowly we metamorphose into this person that "becomes like our parent." I still live and remember many of the lessons my own father taught me. My father was one of the most honest, loving, men of integrity I have ever known. He taught me the value of hard work, and of a faith born not of words, but deeds. I couldn't have asked for a better example of all that is good in a man, than the example of my dad.

Mr. Speaker, again, I rise today to extend my gratitude to those fathers in our Nation who remember the job they have and keep the promises made to their children.

RECOGNIZING THE EFFORTS OF THE NEW JERSEY BROADCASTERS ASSOCIATION

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. PAPPAS. Mr. Speaker, I rise today in recognition of the New Jersey Broadcasters Association whose outstanding work has affected the lives of many of my constituents. They have truly served the public interest in the communities of New Jersey, and for this I commend them.

Broadcasters have a mandate to serve the public interest of the communities in which they operate. Given the diversity of communities in New Jersey as well as in the entire United States, there are a multitude of needs to be addressed over the public airwaves. Whether it be public service announcements, public affairs programs, or the communications of other various community issues, the NJBA has educated and involved the citizens of New Jersey in a unique way.

They have gained the respect of the listening audience by reporting on those issues important to the community. Issues such as AIDS, alcohol abuse, drunk driving, and crime are addressed by the association and relayed to the public through public service campaigns. Our youth are significantly affected by what they hear over the radio, and based upon the outstanding job by the NJBA, they are being steered in the right direction. In addition, emergency closings of businesses and schools as well as local weather crises are reported by stations through the NJBA.

New Jersey radio and TV stations, through the good work of the NJBA, do so much good work each and every day to assist in the improvement of the community. All events and activities that they work on, no matter what the size, are important to the citizens of New Jersey.

Mr. Speaker, I would like to take this opportunity to thank Phil Roberts and the entire NJBA for their continuous excellent work and wish them every future success in keeping the citizens of New Jersey educated and informed.

PERSONAL EXPLANATION

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Ms. ESHOO. Mr. Speaker, I was unavoidably detained on June 16, as United Flight #200, scheduled to depart San Francisco at 8 am did not depart until 10 am due to mechanical difficulties. I landed at Dulles International Airport at 5:34 pm, and therefore missed Rollcall votes 232 and 233. Had I been present I would have voted "aye" on both.

A TRIBUTE TO STEVE OHLY—1998 ROBERT WOOD JOHNSON FOUNDATION COMMUNITY HEALTH LEADER

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. KLECZKA. Mr. Speaker, one of the greatest pleasures of serving in Congress is the opportunity to recognize the exceptional individuals of our Nation. Today, I rise to pay tribute to one such person, my constituent Steve Ohly, for his many contributions to the City of Milwaukee, Wisconsin. Recently, Steve was recognized by the Robert Wood Johnson Foundation Community Health Leadership Program as one of ten outstanding American leaders who have found innovative ways to bring health care to communities whose needs have been ignored and unmet.

I would like to offer my congratulations to Steve on his receipt of this distinguished award and to take this time to touch on his accomplishments. Steve, a nurse practitioner by trade, was instrumental in founding the Madison Street Outreach Clinic on Milwaukee's south side in 1994. From the outset, the Madison Street Outreach Clinic has been a welcome and open door for the city's uninsured and homeless. The clinic provides health care to families and individuals, who because of poverty, hopelessness, location, immigration status, mental or physical illness, face unique and difficult obstacles to receiving needed services through more traditional channels.

The Madison Street Clinic serves the most ethnically diverse community in the State and every month more than 600 patients walk through the clinic doors for care.

In addition, in 1997, Steve helped open the Clarke Square Family Health Center, the Midwest's first medical clinic to operate in a grocery store. The clinic, located in the neighborhood Pick 'N Save, is open seven days a week and provides both primary and urgent care to patients who live in the area. Truly "one-stop shopping," Clarke Square provides a safe environment in the central city for individuals to receive primary and urgent care services right in the grocery store.

Through the efforts of Steve Ohly, countless homeless and unemployed Milwaukeeans are given needed medical care and a chance to lead more healthy and productive lives. I congratulate Steve and thank him for his tireless dedication and service to our great city. Mr. Speaker, I ask that you, and the other Members, join with me in honoring Steve for his commitment to his community and acknowledge his admirable service as a role model to our entire Nation.

INTRODUCTION OF RESOLUTION REGARDING PROTECTING FUNCTION PRIVILEGE

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. DELAY. Mr. Speaker, today I am introducing a resolution expressing the sense of the House of Representatives that President Clinton should immediately withdraw his appeal of the U.S. District Court for the District of Columbia's recent decision rejecting the fabricated "protective function privilege." Judge Johnson correctly observed that this new privilege, which would prevent Secret Service agents from testifying, is not based in the Constitution, statute or common law. In short, there is no legal basis for a protective function privilege.

The fact that this administration would assert such a specious privilege is deeply troubling for a number of reasons. First, the president has apparently decided, contrary to his public pronouncements, that he will not cooperate with the grand jury investigation. I recall President Clinton looking the American people in the eye and proclaiming that the "American people have a right to get answers" regarding questions about the Monica Lewinsky investigation? He said it was his intention to supply more information rather than less, sooner rather than later. Does any one recall his promise to give "as many answers as we can, as soon as we can, at the appropriate time, consistent with our obligation to also cooperate with the investigations."

Instead, the President has decided to hide behind an army of lawyers, most of whom are paid with taxpayer money. President Clinton and his attorneys have decided to throw as many legal obstacles in front of the investigation as possible. They have apparently been instructed to go so far as to claim the newly fabricated "protective function privilege." The Attorney General should be ashamed that she is now part of the conspiracy of obstruction and silence.

Mr. Speaker, I am also concerned about the assertion of this privilege because of the signal it sends across America. President Clinton is demonstrating that if one has enough money and power, one can use the legal system to delay, obstruct, and avoid accountability. The President is willing to abuse America's justice system to avoid coming clean with the American people. Like so many of his liberal friends, the President and his lawyers urged the court to legislate a new law where there was none. That is not the appropriate use of our court system. Only Congress can make new laws in this area as Judge Johnson so aptly noted. If the President is so concerned about harm to himself or the Secret Service, he should propose legislation to Congress not abuse our judicial system.

Mr. Speaker, I urge the President to direct the Attorney General to immediately withdraw her appeal of Judge Johnson's correct decision. The time has come for the President to fulfill his commitment to the American people.

I also ask that the resolution, various editorials, and a letter from Professor Jonathan Turley on behalf of former Attorneys General Barr, Thornburgh, Meese, and Bell be included in the RECORD immediately following this statement.

H. RES. —

Whereas the Office of the Independent Counsel and a Federal grand jury are investigating allegations of personal wrongdoing and possible crimes in the White House;

Whereas certain Secret Service agents asserted a "protective function privilege" and refused to answer questions before a Federal grand jury (In Re Grand Jury Proceedings, Misc. No. 91-148 (NHJ), redacted version at 1, (D.D.C. May 22, 1998) (hereinafter referred to as "Grand Jury Proceedings"));

Whereas "none of the questions at issue relate to the protective techniques or procedures of the Secret Service" (Grand Jury Proceedings at 1);

Whereas Federal Rule of Evidence 501 provides that evidentiary privileges "shall be governed by the principles of the common law as they may be interpreted by the Courts of the United States in the light of reason and experience";

Whereas the Supreme Court has interpreted Rule 501 to require courts to consider whether the asserted privilege is historically rooted in Federal law, whether any States have recognized the privilege, and public policy interests (*Grand Jury Proceedings* at 2, *citing Jaffee v. Redmond*, 518 U.S. 1, 12–15 (1996));

Whereas the Supreme Court has emphasized that it is "disinclined to exercise [its] authority [under Rule 501] expansively" (*University of Pennsylvania v. EEOC*, 493 U.S. 182, 189 (1990)) and has cautioned that privileges "are not lightly created nor expansively construed, for they are in derogation of the search for truth" (*U.S. v. Nixon*, 418 U.S. 683, 710 (1974));

Whereas the district court found "no constitutional basis for recognizing a protective function privilege," "no history of the privilege in Federal common or statutory law," "[n]o State [recognition of] a protective function privilege or its equivalent," and "the policy arguments advanced by the Secret Service are not strong enough to overcome the grand jury's substantial interest in obtaining evidence of crimes or to cause this Court to create a new testimonial privilege" (*Grand Jury Proceedings*) at 3, 6–9;

Whereas no administration has ever sought congressional enactment of a protective function privilege;

Whereas Chief Judge Norma Holloway Johnson refused to establish a protective function privilege (*Grand Jury Proceedings* at 9) and correctly noted such claims should be made to Congress, not to the courts (*Grand Jury Proceedings* at 4);

Whereas the Attorney General, who is the Nation's chief law enforcement official, should not assert claims of privilege, such as the protective function privilege, that have no basis in law and the assertion of which substantially delays the work of the grand jury;

Whereas former Attorneys General Barr, Thornburgh, Meese, and Bell encouraged Attorney General Reno to forego appealing the district court's decision because they believe the decision was "legally and historically well-founded," and "any appeal would likely result in an opinion that would only magnify the precedential damage to the Executive Branch" (Letter from Professor Jonathan Turley to Attorney General Reno, May 25, 1998); and

Whereas the Attorney General has appealed the district court's decision: Now, therefore, be it

Resolved, That it is the sense of the House that the President of the United States, if he believes such a policy is warranted, should submit to the Congress proposed legislation which would establish a protective function privilege and also direct the Attorney General to immediately withdraw the appeal of the district court's decision in the matter styled *In Re Grand Jury Proceedings*, Misc. No. 91-148 (NHJ), *redacted version*, (D.D.C. May 22, 1998).

[From the Las Vegas Review-Journal, May 27, 1998]

PHANTOM "PRIVILEGE"

By now, everybody who follows the White House scandals knows that a federal judge has shot down the groundless claim that Secret Service agents enjoy some special "privilege" which shields them from having to testify in court proceedings.

Arguing on the president's behalf, the Justice Department contended that compelling Secret Service agents to testify would damage the relationship between the president and the agents assigned to protect him and would put the president's life, and those of future chief executives, in jeopardy.

Last week, federal district court judge Norma Holloway Johnson ruled that Secret Service agents enjoy no immunity from testifying—no "privilege" whatsoever under law, precedent, tradition or even the rules of common sense.

Judge Johnson's decision is worth examining further because it helps expose the White House "privilege" ploy for what it was: the latest in a host of tactical moves designed not to "protect the presidency"—as Mr. Clinton's more simple-minded apologists would have it—but to delay, to obfuscate and to keep the president's fat out of the fire for as long as possible.

In her ruling, Judge Johnson found:

(1) The Constitution says nothing and implies nothing about any such privilege for the Secret Service.

(2) Nowhere in U.S. history or custom or common law—or in the law of any state as regards protection for governors—is there any basis for such a claim.

(3) Not only did Congress not give the Secret Service immunity from testifying, Judge Johnson wrote in reference to the United States Code, "under section 535(b), Congress imposed a duty on all executive branch personnel to report criminal activity by government officers and employees to the attorney general. . . . Secret Service employees are not only executive branch personnel subject to 535(b), but they are also law enforcement officers."

(4) Wrote Judge Johnson: "The court is not ultimately persuaded that a president would put his life at risk for fear that a Secret Service agent might be called to testify before a grand jury" on a rare occasion.

In all respects, the judge's ruling was sound and correct. Only Mr. Clinton's most vapid defenders can believe that "the presidency" is somehow harmed by calling upon Secret Service agents to tell the truth about possible felonious actions.

[From the Tampa Tribune, May 23, 1998]

SECRET SERVICE AGENTS AND THE LAW

In plenty of palaces in the backwaters of the world, a dictator's bodyguards never testify against the boss. It is outrageous that such an issue should even be under debate here.

Yet the Justice Department is arguing that Secret Service agents assigned to protect the president shouldn't be allowed to answer questions by the special prosecutor investigating possible obstruction of justice in the Monica Lewinsky episode.

The White House argues that if Secret Service agents had to tell what they might have seen while guarding the president, it would destroy their "relationship" with him and damage their ability to protect him. The president would "push the agents away," says Justice Department lawyer Gary Grindler.

That assumes the president is doing things he wouldn't want a grand jury to know about. Requiring agents to see no evil would require them to help obstruct justice, which is to say make them assist their boss in the commission of a crime. For officers sworn to uphold the law, such a position is untenable.

Whitewater prosecutor Kenneth Starr is right that absolutely nothing in federal law allows for such a privilege. In our form of government, no one is above the law. Starr points out that federal law actually requires employees of the executive branch to report any evidence of a crime.

Even the president himself can be subpoenaed to testify. Surely his bodyguards don't deserve more protection than he does.

If the president, in his desperation to avoid embarrassment or worse, is allowed to turn the Secret Service into the Silent Service, he will have done the country a great disservice.

[From the Washington Times, May 26, 1998]

THE PRESIDENT'S TOUGH TIMES IN COURT

Things certainly have all been going Kenneth Starr's way, legally speaking, in his attempts to carry out a thorough investigation of possible perjury, subornation of perjury and obstruction of justice by Bill Clinton, Vernon Jordan and Monica Lewinsky.

U.S. District Judge Nora Holloway Johnson found in Mr. Starr's favor when she rejected the demonstrably preposterous White House claim that conversations Mr. Clinton had with aides Bruce Lindsey and Sidney Blumenthal about how to deal with the President's Lewinsky problem were covered by executive privilege.

Judge Johnson also came down on Mr. Starr's side in rejecting Miss Lewinsky's claim that Mr. Starr had made an immunity deal with her on which he then reneged. An appeals court last week refused to overturn that decision, which leaves Miss Lewinsky with the delicate task of squaring her sworn testimony that she and Bill Clinton had no sexual relationship with her statements on the Linda Tripp tapes that she had indeed had such a relationship, that she was prepared to lie about it in her sworn deposition, and that she hoped Mrs. Tripp would do the same.

And, putting another chink in the Clintons' stone wall, last week Judge Johnson agreed with Mr. Starr that there is no legal basis for granting a hitherto unheard of "protective function privilege" to Secret Service agents who guard the president, and that the state's interest in gathering evidence in a criminal case must outweigh qualms about any damage that might be done to the trust between a president and his guards. Actually, Judge Johnson cut right to the heart of the issue in the particular case of this particular president.

"The court is not ultimately persuaded," wrote the judge, "that a president would put his life at risk for fear that a Secret Service agent might be called to testify before a grand jury about observed conduct or overheard statements. . . . When people act within the law, they do not ordinarily push away those they trust or rely upon for fear that their actions will be reported to a grand jury. . . . It is not at all clear that a president would push Secret Service protection away if he were acting legally or even if he were engaged in personally embarrassing acts. Such actions are extremely unlikely to become the subject of a grand jury investigation."

In other words, as has been suggested before in this space, a president could feel free to do a lot of things in front of his Secret Service detail—short of breaking the law, that is—without conjuring up the spectre of the grand jury. Only a president who had broken the law would have reason to worry that the agents guarding him might be asked to testify against him.

President Clinton himself, clearly distraught about the ruling, warned that it would have a "chilling" effect—and went on to commit the kind of inadvertent honesty that may be becoming a habit (such as his statement at his recent press conference that he is the last person in the world who ought to comment on the question of character). Thinking to chastise Mr. Starr for demanding Secret Service testimony, the president said after the ruling, "I don't think anyone ever thought about [Secret Service agents testifying] because no one ever thought that anyone would ever abuse the responsibility that the Secret Service has to the president and to the president's family. . . . But we're living in a time which is without precedent, where actions are being taken without precedent, and we just have to live with the consequences."

Mr. Clinton and his various legal problems in a nutshell, no?

GEORGE WASHINGTON UNIVERSITY,
LAW SCHOOL,
Washington, DC, May 25, 1998.

Hon. JANET RENO,
Attorney General of the United States,
U.S. Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: I am writing on behalf of four former United States Attorneys General, who have asked me to assist them in the on-going controversy over the proposed "protective function privilege." In deference to the Court and your office, the former Attorneys General have been highly circumspect in their public statements on this issue despite their strong concerns about the proposed privilege. After the May 22, 1998 decision by the Court, however, these concerns have become more acute with the possible appeal of the decision rejecting the proposed privilege. It is to the question of an appeal that I wish to convey the view of former Attorneys General William P. Barr, Griffin B. Bell, Edwin Meese III, and Richard L. Thornburgh.

It is the collective view of the former Attorneys General that the decision of Chief Judge Norma Holloway Johnson was legally and historically well-founded. Moreover, any appeal would likely result in an opinion that would only magnify the precedential damage to the Executive Branch. While Secret Service Director Lewis Merletti has already stated his intention to appeal this matter to the United States Supreme Court, it falls to you and Solicitor General Seth Waxman to make such a decision. For the reasons stated below, the former Attorneys General encourage you to exercise your authority to forego an appeal in this matter.

The former Attorneys General take no position on the merits or underlying allegations of this investigation. However, the former Attorneys General have watched the on-going confrontation between the White House and the Office of the Independent Counsel with increasing unease and concern. As the investigation becomes more embroiled in claims of executive privilege, the danger of lasting and negative consequences for both the Executive Branch and the legal system has grown considerably. In an area with little prior litigation, we have already seen a series of new rulings on issues ranging from attorney-client privilege to presidential communications to civil liability of sitting Presidents. While many of these rulings were not unexpected, they constitute significant limitations for future presidents. Despite their unease, the former Attorneys General have avoided any direct involvement in the crisis and waited for the decision of the trial court in the hope that an appeal would not be taken after the widely anticipated rejection of the proposed privilege.

As you know, during their service over the last two decades for both Democratic and Republican administrations, the former Attorneys General have played central roles in the development of executive privilege principles and advocated the rights of the Executive Branch on numerous occasions. While strong supporters of executive privilege, they feel equally strongly that such privilege claims must be carefully balanced and cautiously invoked in litigation. Certainly, such claims should not suddenly emerge from the fog and frenzy of litigation with no historical antecedent or legal precedent. In adopting such common law privileges, the Supreme Court relies upon "historical antecedents" and evidence that the privilege is "established" and "indelibly ensconced in our common law." *United States* v. *Gillock*, 445 U.S. 360, 366, 368 (1980). Accordingly, common law privileges develop slowly within the federal system through general acceptance and recognition. Judge Benjamin Cardozo described this gradual process as developing "inch by inch" and "measured . . . by decades and even centuries." Benjamin N. Cardozo, The Nature of the Judicial Process 25 (1921).

In comparison, rather than developing a new privilege by precedential inches, the proposed protective function privilege represents a great leap—in the wrong direction. This proposed privilege was suddenly crafted to meet the immediate demands of a criminal investigation. Rather than offering "historical antecedents," the proposed privilege would spring fully grown without prior recognition or development in the common law. Rather than emerge through general acceptance, the privilege would be created amidst sharp divisions and opposition among the Bar and legal academics. Moreover, a protective function privilege appears to be designed to permit what is expressly disavowed in established privileges, specifically (1) a general claim of privilege that is not directly tied to specific presidential communications or policy processes, and (2) a refusal to supply information in criminal inquiries as a matter of common law.

Not only is there an absence of any prior judicial recognition of this privilege, the proposed privilege would conflict with the traditional view of the obligations of federal employees in supplying information in criminal proceedings. As noted by the United States Court of Appeals for the Eighth Circuit in *In re: Grand Jury Subpoena Duces Tecum*, 112 F.3d 910, 919 (8th Cir. 1997) (citing 28 U.S.C. §535(b)(1994)) "executive branch employees, including attorneys, are under a statutory duty to report criminal wrongdoing by other employees to the Attorney General." Courts have repeatedly stressed that law enforcement personnel have an obligation running to the public to disclose any evidence of crime and the failure to do so would be grounds for removal, or even prosecution, in some circumstances.

While the proposed privilege refers to the protective function of the Secret Service, it is important to note that the actual physical protection of the President, and information relevant to protective functions, is not at risk of disclosure. Existing common law privileges and statutory sources protect security-related information. Most security-related documents and information would be easily shielded from disclosure under the military and state secrets privilege. In addition to this established privilege, classification laws impose heavy restrictions and procedures for the disclosure of such information. Thus, the protective function privilege would not serve any direct protective function in the withholding of sensitive information.

Ironically, as to non-security related information, the proposed privilege cannot possibly achieve its objective of assured confidentiality since it shields only a small percentage of the federal employees who witness presidential communications and conduct. Specifically, the proposed privilege would not prevent the identical communications from being revealed by legal staff, political staff, administrative staff, household staff, retired security staff, or state or local security officers. For example, in the Oval Office, a pantry is staffed by employees who can be (and have been) called as witnesses in criminal investigations. As public employees, these employees must give relevant testimony to criminal investigators. Likewise, White House lawyers, secretaries, and administrative staff can be (and have been) called to testify in criminal investigations. These "unprivileged" employees would hear the same communications presumably overheard by Secret Service agents. Even security staff would not be completely barred from disclosures under a protective function privilege. The President is often guarded by a host of state and federal law enforcement personnel beyond the relatively small contingent of Secret Service personnel. As a result, this proposed privilege would achieve little in terms of added guarantees of nondisclosure for the President but would change much of our traditional view of the Secret Service and its function.

In the end, all that will be achieved is an alarming anomaly in which every public employee in the White House, from office secretaries to cabinet secretaries, would be required to give evidence of criminal conduct with the sole exception of the law enforcement officers stationed at the White House. Only the personnel trained to enforce federal law would be exempt from the most basic fulfillment of public employment. This would be a considerable, but hardly a commendable, achievement.

The proposed privilege would be equally unique in its invocation and application. Unlike the standard executive privilege protecting presidential communications, the proposed privilege would be invoked by the Secretary of the Treasury rather than the President of the United States. Not only would the new privilege invest this single cabinet officer with unique and troubling authority, it allows a political appointee of a President to create a major barrier to a criminal investigation that is, by statute, meant to be independent of the Executive Branch. *Morrison* v. *Olson*, 487 U.S. 654, 661 (1988). Such exclusive and unilateral authority claimed by the Secretary of the Treasury is completely unprecedented and unanticipated in our history.

Even if successful on appeal, this privilege would be secured at a tremendous and prohibitive cost for the traditions of the Secret Service. Created as a law enforcement agency, the new privilege would shift an obligation running currently to the public in favor of an obligation running to the personal household of the President. This creates a unit more closely analogized to a Praetorian or palace guard and introduces a dangerous ambiguity for law enforcement officers. Secret Service agents are law enforcement professionals, not members of a personal household guard. Moreover, a new privilege would create a legal morass for future cases for other law enforcement officers. Federal law enforcement Officers, including United States Marshals, currently guard hundreds of dignitaries, judges, and other officials. The status and controlling duties of these individuals would become hopelessly and dangerously ambiguous under a protective function privilege. Currently, there is a clear line for protective personnel. Their jobs require them to protect the physical safety of those officials in their care but their status as law enforcement officers require them to share any relevant criminal evidence. This has been a bright-line rule under which federal enforcement personnel have served for many decades without objection.

The common law cannot guarantee a President that his conduct will never be the subject of criminal investigation. However, few Presidents have ever been the subject of criminal allegations and even fewer have faced criminal inquiries. The likelihood of future court-sanctioned inquiries into either criminal or non-criminal conduct of the President is extremely remote. In any area where a President may fear possible allegations of criminal conduct, the chilling effect of a criminal inquiry would be a positive, not a negative, influence. Put simply, it is not in the public's interest for their President to feel comfortable discussing possible criminal information in front of any public servant, let alone a law enforcement officer.

The former Attorneys General are deeply concerned about the inherent dangers in recognizing a special privilege for the Secret Service. To that end, the former Attorneys General have asked me to prepare an *amici curiae* brief opposing the privilege for their consideration, should an appeal be taken in this case. The immediate question, however, rests with your evaluation of the relative merits and costs of an appeal from the Court's decision. There are clearly many competing interests weighing into the decision of an appeal in the case. In making this decision, I hope that the unique perspective of your predecessors will assist you in the coming days.

Respectfully,

JONATHAN TURLEY,
Professor of Law.

ELLIS ISLAND MEDALS OF HONOR AWARDS CEREMONY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 19, 1998

Mr. BURTON of Indiana. Mr. Speaker, I submit the following:

ELLIS ISLAND MEDALS OF HONOR AWARDS CEREMONY—NECO CHAIRMAN WILLIAM DENIS FUGAZY LEADS DRAMATIC CEREMONY DEDICATD TO LATE MEDAL RECIPIENT, ERIC BREINDEL AND LINDA EASTMAN MCCARTNEY

Ellis Island, NY, May 9—Standing on the hallowed grounds of Ellis Island—the portal through which 17 million immigrants entered the United States—a cast of ethnic Americans who have made significant contributions to the life of this nation, among them Senator George Mitchell; New York Times photojournalist Dith Pran; College Football's All-Time Winningest Coach Eddie Robinson; and the U.S. Olympic Women's Hockey Team today were presented with the coveted Ellis Island Medal of Honor at an emotionally uplifting ceremony.

NECO's annual medal ceremony and reception on Ellis Island in New York Harbor is the Nation's largest celebration of ethnic pride. This year's event was dedicated to the memory of Eric Breindel, a 1994 Ellis Island Medal recipient and Linda Eastman McCartney.

Representing a rainbow of ethnic origins, this year's recipients received their awards in the shadow of the historic Great Hall, where the first footsteps were taken by the millions of immigrants who entered the U.S. in the latter part of the nineteenth century.

"Today we honor great ethnic Americans who, through their achievements and contributions, and in the spirit of their ethnic origins, have enriched this country and have become role models for future generations," said NECO Chairman William Denis Fugazy. "In addition, we honor the immigrant experience—those who passed through this Great Hall decades ago, and the new immigrants who arrive on American soil seeking opportunity."

Mr. Fugazy added, "It doesn't matter how you got here or if you already were here. Ellis Island is a symbol of the freedom, diversity and opportunity-ingredients inherent in the fabric of this nation. Although many recipients have no familial ties to Ellis Island, their ancestors share similar histories of struggle and hope for a better life here."

Established in 1986 by NECO, the Ellis Island Medals of Honor pay tribute to the ancestry groups that comprise America's unique cultural mosaic. To date, approximately 1000 ethnic American citizens and native Americans have received medals.

NECO is the largest organization of its kind in the U.S. serving as an umbrella group for 250 ethnic organizations and whose mandate is to preserve ethnic diversity, promote ethnic and religious equality, tolerance and harmony, and to combat injustice, hatred and bigotry.

Ellis Island Medal of Honor recipients are selected each year through a national nomination process. Screening committees from NECO's member organizations select the final nominees, who are then considered by the Board of Directors.

1998 ELLIS ISLAND MEDAL OF HONOR RECIPIENTS

Anthony S. Abbate, Italian, Business Leader.
Hon. Gary L. Ackerman, Eastern European, Member of Congress.
William H. Adkins, African, Business Leader.
Antigone Agris, Hellenic, Business Leader.
Ace (Armando) Alagna, Italian, Publisher.
John B. Alfieri, Esq., Italian, Attorney.
John A. Allison IV, Scottish/Irish, Business Leader.
John A. Amos, African, Actor/Playwright.
Ernie Anastos, Hellenic, News Journalist/Author.
Thomas V. Angott, Italian, Business Leader.
Michael S. Ansari, Iranian, Business Leader.
Norman R. Augustine, German, Business Leader/Educator.
William J. Avery, Irish/Welsh, Business Leader.
Farhad Azima, Persian, Business Leader.
Brian M. Barefoot, English/German, Community Leader.
Archbishop Khajag Barsamian, Armenian, Religious Leader.
George D. Behrakis, Hellenic, Business Leader.
Hon. Joseph W. Bellacosa, Italian, Judge of the Court of Appeals.
Francis X. Bellotti, Italian, Attorney.
Eric A. Benhamou, French, Business Leader.
Michael Berry, Esq., Lebanese, Community Leader.
Albert C. Bersticker, German, Corporate Executive.
Elias Betzios, Hellenic, Community Leader.
Thomas R. Bolling, Swedish, Business Leader.
Frank J. Branchini, Irish/Italian, Business Leader.
John G. Breen, Scottish/Irish, Business Leader.
Duncan A. Bruce, Scottish, Author/Community Leader.
Michael G. Cantonis, Hellenic, Business Leader.
Louis J. Cappelli, Italian, Business Leader.
Hon. Richard Conway Casey, Irish, United States District Court Judge.
Robert B. Catell, Italian, Business Leader.
William Cavanaugh III, Irish, Business Leader.
Jerry D. Choate, English, Business/Community Leader.
Christopher Christodoulu, Cypriot, Educator/Lecturer.
Dr. Kenneth A. Ciongoli, Italian, Community Leader.
E. Virgil Conway, Irish, Public Official.
Dr. Takey Crist, Hellenic, Community Leader/Educator.
Karen Davis, Swiss/German, Philanthropic Leader.
Diane H. Dayson, African, Business Leader.
Theodore Deikel, Russian, Business Leader.
George J. Delaney, Irish, Business Leader.
Hon. Gustave Diamond, Hellenic, Justice.
Jim Donald, Irish, Business Leader.
Lewis Robert Elias, M.D., Lenanese, Medical Practitioner.
Victor Elmaleh, Moroccan, Business Leader.
Pamela Fiori, Italian, Journalist.
Brian T. Gilson, Norwegian/German/Italian, Business Leader.
Richard H. Girgenti, Italian, Attorney.
Bernice Gottlieb, Austrian/Hungarian, Advocate for Children.
Charlie N. Hall, Sr., African, Labor Leader.
James F. Hardymon, English, Business Leader.
Derek C. Hathaway, English, Business/Community Leader.
William Hetzler, German, Community Leader.
John A. Holy, Slovak, Publisher.
Vahakn S. Hovnanian, Armenian, Business/Community Leader.
Darrell Edward Issa, Lebanese, Business Leader.
Robert M. Johnson, Swedish/English, Business Leader.
Mitchell J. Joseph, Italian, Business Leader.
Thomas Peter Kazas, Hellenic, Business Leader.
Hon. John F. Keenan, French Canadian/Irish, U.S. District Judge.
Andrew Sokchu Kim, Korean, Business/Community Leader.
A. Eugene Kohn, European, Architect.
Alexander R. Koproski, Polish, Business/Community Leader.
Haralambos S. Kostakopoulos, Ph.D., Hellenic, Business Leader.
Thomas C. Kyrus, Cypriot, Business/Community Leader.
Vincent V. LaBruna, DDS, Italian, Community Leader/Educator.
Lee Liu, Chinese, Business Leader.
Dr. Pamela Loren, Argentinean/English, Business Leader.
William Losapio, Italian, Business Leader.
Alan Barry Lubin, Russian, Labor Leader/Educator.
Leon Machiz, Russian, Business Leader.
Hon. Carolyn B. Maloney, English/Irish/French, Member of Congress.
Joseph L. Mancino, Italian, Business Leader.
Frank G. Mancuso, Italian, Business Leader.
John Willard Marriott Jr., English, Business Leader.
Anthony A. Massaro, Italian, Business Leader.
Fernando Mateo, Hispanic, Community Leader.
Joseph M. Mattone, Esq., Italian, Business Leader.
Col. William Surles McArthur, Jr., Scottish, Astronaut.
Linda Eastman McCartney, (Posthumous).
Michael R. McCoy, Irish, Business Leader.
Bryan M. McGuire, Irish, Business Leader.
Josie Anderson McMillian, African, Labor Leader.
James R. Mellor, English, Business Leader.
Hon. Robert Menendez, Cuban, Member of Congress.
Arthur L. Mercante, Italian, Community Leader.
Lee Miglin, (Posthumous).
Alan B. Miller, Russian, Business Leader.
Hon. Patsy T. Mink, Japanese, Member of Congress.
Hon. George Mitchell, Lebanese/Irish, Senator.
Tita Scandalis Monti, Hellenic, Community Leader/Philanthropist.
William D. Moses, Syrian, Business/Community Leader.
Thomas J. Murphy, Irish, Community Leader.
Mary Murphy, Irish, Television Journalist.
John Francis O'Brien, Irish/Italian, Business Leader.
Cmdr. Timothy Stuart O'Leary, USN, Irish/Croat, Naval Officer.
Harry J. Pappas, Hellenic, Business Leader.
Carl F. Pascarella, Italian, Business Leader.
Nicholas Anthony Penachio, Italian, Business Leader.
James George Petheriotes, Hellenic, Community/Business Leader.
William G. Poist, German, Business Leader.
Dith Pran, Cambodian, Photojournalist/Lecturer.
Leslie C. Quick, III, Irish, Business Leader.
Bradford J. Race, Jr., Irish/English, Secretary to the Governor.
John G. Rangos, Sr., Hellenic, Business Leader.
Michael T. Reddy, Irish, Business Leader.
Ronald K. Richey, Swedish/Scottish/Irish/German, Business Leader.
P. Anthony Ridder, German/French, Business Leader.
John J. Rigas, Hellenic, Business Leader.
Eddie Robinson, African, College Football's All-Time Winningest Coach.
Edward J. Robson, English, Business Leader.
Steven A. Rosenberg, MD, PhD, Eastern European, Surgeon/Scientist.
Robert J. Rotatori, Esq., Italian, Attorney/Educator.
Dr. John W. Ryan, Irish, Educator.
Philip Adeeb Salem, MD, Lebanese, Educator/Research Scientist.
Joseph D. Sargent, CLU, Irish/English, Business Leader.
George D. Schwab, PH.D, Latvian, Foreign Policy Leader.
Steven Seagal, French Canadian/Italian, Actor/producer.
Tosano J. Simonetti, Italian, Business Leader.
Amb. Richard Sklar, Russian/Hungarian, Ambassador to the U.N.
Orin R. Smith, English, Business Leader.
Philip J. Smith, Irish, Business Leader.
William S. Stavropoulos, Hellenic, Business Leader.
Michael R. Steed, Irish, Business Leader.
Pergrouhi (Najarian) Svajian, PhD., Armenian, Educator.
Laszlo N. Tauber, M.D., Hungarian, Surgeon/Real Estate Investor/Philanthropist.
Hon. Nicholas Tsoucalas, Hellenic, Judge.
Vincent Viola, Italian, Business Leader.
Randi Weingarten, Russian/German, Labor Leader/Educator.
Melvyn I. Weiss, Esq., Russian/Hungarian, Attorney.
H. Daniel Wenstrup, Danish, Business Leader.
Siggi B. Wilzig, German/Prussian, Business Leader/Holocaust Lecturer.
Margaret W. Wong, Chinese, Community Leader.
John B. Yasinsky, Lithuanian, Business Leader.
Zachariah P. Zachariah, M.D., Asian Indian, Physician/Community Leader.
Robert Thomas Zito, Italian, Business Leader.

Past Ellis Island Medal of Honor recipients have included several U.S. Presidents, entertainers, athletes, entrepreneurs, religious leaders and business executives, such as William Clinton, Ronald Reagan, Jimmy Carter, Gerald Ford, George Bush, Richard Nixon, George Pataki, Mario Cuomo, Bob Hope, Frank Sinatra, Michael Douglas, Gloria Estefan, Coretta Scott King, Rosa Parks, Elie Wiesel, Muhammad Ali, Mickey Mantle, General Norman Schwarzkopf, Barbara Walters, Terry Anderson and Dr. Michael DeBakey.

Congratulations To The 1998 Ellis Island Medal of Honor Recipients.

SENATE—*Monday, June 22, 1998*

The Senate met at 12 noon and was called to order by the Honorable JON KYL, a Senator from the State of Arizona.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, we respond to the repeated biblical admonition to give You praise for the gift of life and to thank You for Your daily goodness, faithfulness, and grace in answer to our prayers for each other. You seek our gratitude because it turns all of life into a constant expression of love to You. All that we have and are is a gift from Your gracious care.

Today we thank You for the Senate family of friends. You not only have called the Senators to lead this Nation but to share with each other a deep friendship of mutual caring. In times of personal need and in times of special blessing, they stand together to encourage each other and rejoice with each other.

As we begin this new week, we are united in mutual thanksgiving. We praise You for the continued healing of Senator ARLEN SPECTER. Bless him and return him to work with Your strength.

And today, we join with Senator TRENT and Tricia Lott in delight in the birth of their grandson, Chester Trent Lott III, born Saturday evening to Chet and Diane Lott. Thank You, dear Father, for this wonderful child of promise.

Now we commit to You the work of this day. Draw us into deeper friendship with You and with each other. In the Name of our Lord and Saviour. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The ACTING PRESIDENT pro tempore. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The bill clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 22, 1998.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON KYL, a Senator from the State of Arizona, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. KYL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished Senator from Iowa.

SCHEDULE

Mr. GRASSLEY. Mr. President, on behalf of the leader, I will announce today's business. Today, the Senate will resume the defense authorization bill. It is hoped that Members will come to the floor to offer and debate amendments to the defense bill under short time agreements.

As ordered, at 3 o'clock, the Senate will begin 2 hours of debate on the nomination of Susan Mollway to be U.S. district judge. It is expected that the first vote of today's session will occur at 5 p.m. on the confirmation of that nomination.

As a reminder to all Members, a cloture motion was filed on Friday to the DOD bill. The cloture vote will occur tomorrow, Tuesday, June 23, at a time to be determined by the two leaders. Under rule XXII, Senators have until 1 p.m. today to file first-degree amendments. The cloture vote will not necessarily be the first vote of Tuesday's session, so Members may expect early morning votes on amendments to the defense bill.

The majority leader would like to remind all Members that the Independence Day recess is fast approaching. The cooperation of all Members will be necessary for the Senate to complete work on many important items, including appropriations bills, the Higher Education Act, the Department of Defense authorization bill, the conference reports on the Coverdell education bill and the IRS reform bill, and any other legislative or executive items that may be cleared for action.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2057, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Feinstein amendment No. 2405, to express the sense of the Senate regarding the Indian nuclear tests.

Brownback amendment No. 2407 (to amendment No. 2405), to repeal a restriction on the provision of certain assistance and other transfers to Pakistan.

Warner motion to recommit the bill to the Committee on Armed Services with instructions to report back forthwith with all amendments agreed to in status quo and with a Warner amendment No. 2735 (to the instructions on the motion to recommit), condemning forced abortions in the People's Republic of China.

Warner amendment No. 2736 (to the instructions of the motion to recommit), of a perfecting nature.

Warner amendment No. 2737 (to amendment No. 2736), condemning human rights abuses in the People's Republic of China.

PRIVILEGE OF THE FLOOR

The ACTING PRESIDENT pro tempore. Without objection, John Rood is granted floor privileges during consideration of the pending debate of the defense authorization bill, S. 2057.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I will make some comments on the defense bill that we are considering.

This defense authorization bill, as reported by the Armed Services Committee, contains essential elements to ensure that our military men and women and the equipment that we have are prepared to respond when and if needed for our national security. Funds are included in the bill that continue to modernize the force and continue to improve the quality of life for our military personnel and families.

The bill remains within the limits of last year's budget agreement. It cuts spending by about 1 percent in real terms from last year. The committee approved a budget of $270.6 billion in budget authority.

The bill represents a number of very difficult choices—choices that we had to make when we proposed increases in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

funding for the programs that the committee wanted to increase. For every dollar of increase, of course, we had to find funds elsewhere and, accordingly, there are some cuts in the budget that came from the administration. There are a few significant departures from funding levels in programs that were in the budget last year. In my view, it is a more "responsible" budget than we have had here on the Senate floor in several years with regard to our defense spending.

That said, the relative stability in the bill can be a good thing. It can also prevent us from moving swiftly in important directions that require a timely response. I want to speak to some of those in a moment.

At its best, the bill takes good care of the military personnel and their families. It contains a 3.1 percent pay raise, effective January 1, and three health care demonstration projects for retired military personnel, who are over 65, and for their families. These projects are designed to meet the concerns voiced by retirees who have served their country and seek equitable and quality health care services. There is a provision to enhance cooperation between the Veterans' Administration and the Department of Defense in providing health care to dual-eligible beneficiaries. There is a continuation of pilot and nuclear personnel bonuses and increased limits on certain bonuses to enhance recruitment and retention. There is increased funding for construction and upgrades of family housing. There are provisions to make it easier for military families to move when they are required to move.

For my home State of New Mexico, the bill includes significant funding for our military bases and our National Laboratories that will benefit not only my State but the Nation. It includes funds for the High Energy Laser Test Facility and the Tactical High Energy Laser Program at White Sands Missile Range. It includes funding for the high-tech research being conducted at Phillips Laboratory in Albuquerque. It includes substantial funding for the defense programs at Los Alamos and Sandia to support their work in the stockpile stewardship program, nonproliferation research and development, and nuclear security assistance programs. It includes funds for military construction projects that we have been seeking—a new support facility for National Guard in Taos, NM, refurbishment of facilities and new family housing at Kirtland Air Force Base, a new war readiness facility at Holloman Air Force Base, and a badly needed runway repair project at Cannon Air Force Base.

Mr. President, for all the good things that this bill provides for our military personnel and to the facilities in my State and to the Nation, there are still some aspects of the bill that I find troubling.

The bill continues to place relatively greater emphasis on programs that address potential, rather than actual, long-term threats for which there is no current deployment requirement. Increased spending in those areas has come at the expense of programs designed to meet near-term threats which are actual and for which validated requirements exist.

For example, the bill contains $1.1 billion for strategic missile defense programs, including national missile defense and space-based laser programs; that is an increase of $100 million over the President's request. That $1.1 billion is compared to $675 million for programs designed to reduce the threat of proliferation of nuclear, chemical, and biological weapons. The committee approved cuts in funding to proliferation prevention programs at a time when India's actions, and now Pakistan's actions, remind us of the immediacy of such threats.

Information provided to the committee indicates that the intercontinental ballistic missile threat for which the national missile defense is intended is limited. The Intelligence people told our committee that such threats from rogue nations are not likely to occur for many years in the future.

The tradeoff seems clear to me. The committee prefers to allocate the lion's share of resources to meet a poorly defined threat that lies somewhere in the distant future, rather than allocating resources to meet the near-term, real world threat of proliferation of weapons of mass destruction.

Particularly, the bill does not fully fund programs intended to meet the threat of proliferation of weapons grade fissile materials, highly enriched uranium, and plutonium. A small amount of any of these materials in knowledgeable hands could wreak havoc upon our cities.

It is extremely important that we continue to work cooperatively with Russia and with other former Soviet States to account for and secure former Soviet nuclear weapons and related nuclear materials.

Despite the clear and present danger of that threat, the committee chose to reduce funding for the DOD's cooperative threat reduction program, also known as the Nunn-LUGAR program, by $2 million after considering much deeper cuts.

The committee cut similar programs managed by the Department of Energy by $20 million. Those programs are designed to improve the security of Russian nuclear weapons and materials and to provide protection against their theft, unauthorized use, or accidental misuse.

The Department of Energy's materials protection control and accounting program provides those security measures to a small portion of Russia's nuclear arsenal. With more funding, that program could provide greater security against the threat of smuggling dangerous materials to terrorists or rogue nations.

Instead, if the bill is passed as it stands, funding for this program—an essential program for our Nation's security now and in the future—is going to be cut. Efforts to secure hundreds of tons of nuclear materials at 53 sites will be delayed.

Mr. President, I spoke of India and Pakistan a moment ago. I would like to take a few more minutes to relate that problem to this defense bill. Shocking as India and Pakistan's nuclear tests have been, they should serve as a wakeup call to this country and to the Senate. The proliferation clock ticks on, while the Senate defers debate and consideration of the Comprehensive Test Ban Treaty. Other nonnuclear States could be reconsidering their positions on nuclear weapons in light of events in south Asia.

China, who is a signatory to the Comprehensive Test Ban Treaty, may now choose not to ratify. The U.S.—the first to sign the treaty—should have led the effort to implement a comprehensive testing ban before now. Perhaps our leadership in that area could have forestalled the tests in south Asia. Instead, the Senate has chosen not to step forward. Now we see ourselves more as a follower than as a leader in this area.

One element that could support a leadership role in ratifying a comprehensive test ban is an effective nuclear stockpile stewardship program. That program is an essential element for ensuring the safety and reliability of our nuclear weapons in the absence of testing. The directors of our National Laboratories at Livermore, Los Alamos, and Sandia have testified about the effectiveness of that program in the absence of nuclear testing. In spite of that testimony, this bill reduces funding by $145 million in prior year balances that, according to the DOE, no longer exist.

Without sufficient funding for the stockpile stewardship program, this bill threatens the likelihood of ratifying the Comprehensive Test Ban Treaty. Failure to ratify that treaty plays into the hands of the Indian and Pakistani Governments and could encourage other nonnuclear nations to follow their lead. The result will be a far more dangerous world than the one we live in today.

Mr. President, I am concerned that while many of my colleagues are focused on the long-term future security issues, they may have their focus in the wrong place. Funding for basic research and development and building, the building blocks for future technological advances, continues to receive low priority in this defense budget. It is not anticipated to increase for the foreseeable future under current Department of Defense plans.

My colleagues acknowledged when considering this bill that funding for basic research and development has often been and remains a bill payer for other programs.

Efforts to identify this problem and establish long-term spending goals for basic research were rejected during the deliberations in the committee on this bill.

I believe that the high-tech future so many of us in the Senate consider an axiom of America's future security is unlikely to become a reality in the defense area unless we make the investment that is needed in the future today.

In addition, funding for the Nation's test and evaluation facilities and their operations lags behind efforts to modernize our weapons.

I have seen this with personnel cuts, neglect of infrastructure, and aging instrumentation at White Sands Missile Range in my State. These cuts reflect a low priority that has been given to the testing activities across the Department of Defense in this budget.

These cuts suggest that even if our technical genius continues to provide new technological opportunities, we may not be able to adequately evaluate whether they will actually work as intended.

Mr. President, I am concerned about the inertia contained in this bill. I believe that in many ways it fails to meet our most immediate high priority security concerns. It may also fail to lay a sound scientific foundation for the long-term security needs of our country.

I urge my colleagues to consider these large issues as we consider the bill this week. We have an opportunity to fix some of these problems. I hope we are able to do so. I intend to have one or more amendments to offer later in the week which will help us to accomplish that.

Mr. President, let me yield the floor and suggest the absence of a quorum at this point.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CORRECTION OF THE RECORD

Mr. BYRD. Mr. President, I wish to make a couple of corrections in the RECORD of Friday, June 19.

In the middle column on page S. 6661, where I quote Tennyson, the RECORD indicates that I quoted Tennyson as saying, "I am a part of all that I have met, and we are all a part of each other."

Mr. President, only the first clause is an accurate quote by Tennyson. The second clause was an editorial comment of my own. It should not be included in Tennyson's quote. So I ask unanimous consent that in the permanent RECORD Tennyson's quote as quoted by me read, "I am a part of all that I have met," and take out the quotation mark at the end of the sentence which appears in the RECORD in the middle column.

The next correction I should like to make is in the same speech, the same page, S. 6661, middle column. I am quoted as saying, "The Bible says, 'see us now a man diligent in his business; he shall stand before kings.'"

That is a misquote. I did not say, "See us now." I said, "Seest thou." "Seest thou a man diligent in his business; he shall stand before kings."

I ask unanimous consent that that correction be made in the permanent RECORD. Sometimes in talking I sound like I have my mouth full of turnips, and I am sure it is hard for the Official Reporters to catch the diction correctly. So I ask that those corrections be made.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, those of us who had the real privilege to be in the Chamber during Friday had the benefit of an absolutely magnificent set of remarks by our distinguished colleague, the senior Senator from West Virginia, the former majority leader of the Senate. I reflected over the course of the weekend on those remarks. I urge others to take a look at the RECORD today which, with these minor corrections, clearly sets forth those remarks. I thank the Senator.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. WARNER. Mr. President, we are in the process of resuming consideration of S. 2057, the National Defense Authorization Act for fiscal year 1999. On behalf of Chairman THURMOND and the distinguished ranking member, I urge Senators who have amendments to the bill to bring their amendments to the floor. Last Friday, Chairman THURMOND, together with the distinguished Senator from Michigan, Mr. LEVIN, cleared some 45 amendments to this important bill. The majority and minority staffs of the Committee on the Armed Forces will continue to work today with others and Members to get further amendments cleared.

I remind Senators that a cloture vote on S. 2057 will occur tomorrow, at a time to be determined by the majority leader after consultation with the Democrat leader. And if cloture is imposed, all nongermane amendments which have not already been adopted will be terminated. Therefore, I urge Senators to come to the floor. The bill will be up until 3 o'clock today, according to the previous order. Hopefully, we can conclude a profitable day towards further concluding this bill which must be concluded this week.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just clarify what my colleague from Virginia said. My understanding is that the present parliamentary situation is that no amendments can be offered unless that is done with unanimous consent; is that correct?

Mr. WARNER. The Senator is correct.

Mr. BINGAMAN. We are urging people to come to the floor and try to obtain that unanimous consent. But those Senators who do have amendments that have not been agreed to are not able to offer those amendments at this time.

Mr. WARNER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, in response to the observation of my distinguished colleague, the situation is that there are pending amendments, of course. I hope my colleague and I, and such others who are managing this bill throughout the day, can work out accommodations and perhaps get unanimous consent for other amendments so we can proceed. I thank the Chair.

Mr. BINGAMAN. Mr. President, since we do have a lull in the proceedings, I have filed two amendments that together would incorporate in this year's defense bill the key provisions of S. 2081, which is the National Defense Science and Technology Investment Act of 1998. Consistent with the strong bipartisan support for defense research, I am very pleased to say that we have Senator SANTORUM, Senator LIEBERMAN, Senator LOTT, Senator FRIST, all as original cosponsors of this bill and also as sponsors of these complementary amendments.

I will not, of course, try to get a vote on these at this point because it would require unanimous consent to do so, but I would like to just briefly describe what the amendments do so when the opportunity comes to have a vote, people will be informed.

These amendments lay the fiscal framework for the defense research that is needed to achieve, early in the next century, what the Department of Defense calls full spectrum dominance, that is the ability of our Armed Forces to dominate potential adversaries across the entire spectrum of military operations, from humanitarian operations through the highest intensity conflicted.

One of the two amendments sets goals that would result in the Defense Science and Technology Program budget reaching the equivalent of at least $9 billion in today's dollars by the year 2008; that would be an increase of 16 percent above today's level. The other amendment sets similar increased goals for the nonproliferation research at the Department of Energy.

It is worth focusing on why defense research is so important. Much of the technology that gave the United States a quick victory with so very few casualties in Desert Storm came out of defense-related research in the 1960s and 1970s. Those kinds of results, plus the fact that our military remains the most technologically sophisticated in the world, have fostered a broad agreement that defense research is one of the best investments that our country makes, one providing enormous long-term returns to our military. Even with the cold war over, there are a number of reasons why now is the time to vigorously invest in defense research.

First, as the Department of Defense has noted, the two keys to this full spectrum dominance, which is the cornerstone of our strategy as we move forward—the two keys will be information superiority and, second, technological innovation.

The Department of Defense has been the preeminent Federal agency funding the disciplines that undergird these two key enablers, for example, supporting roughly 80 percent of the federally sponsored research in electrical engineering, 50 percent of that in computer science and mathematics. No other organizations, public or private, can substitute for the unique role and focus of the Department of Defense in these research areas. We simply will not be able to achieve this so-called full spectrum dominance without a vigorous program of defense research.

A second important point is that the global spread of advanced technology and a nascent revolution in military affairs are creating new threats to the United States which will challenge our ability to achieve full spectrum dominance. Those are threats requiring new responses and requiring new technology. They include information warfare; cheap, precise cruise missiles and the spread of weapons of mass destruction.

Recent events in India and Pakistan, which I alluded to earlier, may have concentrated our thinking on this last problem, this threat of the spread of weapons of mass destruction. In the words of the National Defense Panel, "We must lead the coming technological revolution or be vulnerable to it." That said, right now we are in a relatively secure interlude in our international relations. We are in a time where we can afford to work on transforming our military forces. While the world is still a dangerous place, it will be even more dangerous in the future. So now is the time for the defense research to be accomplished, which is needed to achieve this full spectrum dominance.

When you look, though, at DOD's current science and technology budget plans, they do not reflect these realities. The out-year budgets are basically flat in real terms, out to the year 2003, at a level of around $200 million lower than the 1998 level. This is the money that pays for the research and concept experimentation needed to invent and try out new military capabilities. Worse yet, the budget of the Department of Energy for nonproliferation research is slated to decline by about 20 percent in real terms by the year 2003.

These budget plans are not consistent with the vision of full spectrum dominance. They are not consistent with the threats on the horizon or with the opportunity that we have today. These two amendments that I filed would promote budget plans that are consistent with the vision, threats and opportunity. What they do is this: From fiscal year 2003 to fiscal year 2008, the first amendment would give the Secretary of Defense a goal—not a requirement, but a goal—to increase the defense science and technology budget request by at least 2 percent a year over inflation greater than the previous year's budget request. The other amendment gives the same 2 percent goal, 2 percent increased goal to the Secretary of Energy for nonproliferation research.

The end result will be a defense science and technology budget that reaches at least $9 billion in today's dollars by 2008, an increase of $1.2 billion, or 16 percent over the 1998 level. The budget for nonproliferation research would increase it around 23 percent over today's level.

These budget increases are significant for research, yet they are modest and achievable when you look at our overall defense budget. If you look at a graph of the projected Science and Technology Program budget under this agreement, you can see that the increases will be, No. 1, gradual; that is, the total increase by 2008 will be less than some year-to-year changes in the past. Also, the increase will be smooth in that they will not be a huge change from the Defense Department's current plans at the start. They will also be reasonable; the $9 billion endpoint is comparable with previous levels of science after technology funding.

Achieving these increases will require some shifting the funds within the DOD budget. The total amount shifted will be only around half a percent of the total DOD budget over 10 years.

I am extremely confident the Secretary of Defense will be able to make this kind of gradual shift without damaging other priorities. I am also quite sure that this is a priority need for our country.

Technological supremacy has been a keystone of our security strategy since World War II. Supporting that supremacy has been this defense research. The coming decade is the time to start increasing the investment in our national security. These amendments are a modest bipartisan, sensible and achievable approach to make that investment. I am sure that these modest increases will yield substantial returns to our military.

I hope that when we get an opportunity to vote on these amendments that my colleagues will join me and Senators SANTORUM, LIEBERMAN, LOTT and FRIST in supporting both of these important amendments.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I rise to address the ongoing debate in the Senate connected to the pending business, I believe, regarding United States relations with the People's Republic of China.

As the Senate considers the Department of Defense authorization bill, S. 2057, a number of my colleagues and I have been working to try to find a vehicle, or vehicles, through which to present amendments to this bill, intended to put United States-China relations on the path toward what we consider to be meaningful engagement. Many of our amendments have already been filed. Two of these, one to combat slave labor in China and the other to monitor People's Liberation Army companies operating in the United States, were adopted by voice vote last month. This shows, I believe, the substantial support among Senators for measures upholding principles of freedom and human rights and measures protecting the national security interests of the United States.

Today I would like to clarify the intents of the remaining amendments and the context in which we hope to offer them. Put simply, I and my colleagues seek meaningful engagement with the Chinese Government, consistent with our moral principles and with our national security interests. On this, I believe, all Americans are agreed. Unfortunately, this administration's policies towards China have, in my opinion, failed to produce that kind of relationship. For that reason, I believe amendments intended to promote meaningful engagement are necessary.

Some people have charged that any attempt to go beyond current policies of what I consider to be hollow engagement with China will necessarily lead to isolationism. I disagree. I believe a more reasoned approach lies between the extremes of appeasement on the one hand and isolationism on the other. The problem with current discussions regarding United States-China relations, in my view, is best illustrated by debates over most-favored-nation trading status. Until recently, debates over our relations with China have focused almost entirely and exclusively on whether we should extend or revoke China's MFN status.

It is time, in my view, to move the discussion out of the MFN box and to find common means to achieve common American goals. Revoking MFN would punish Americans with higher prices without significantly affecting the Chinese Government and its policies, and it would also punish innocent Chinese citizens by withdrawing economic opportunities provided by United States trade and investment. Even in the short term, in my view, we should not underestimate trade and investment's positive impact. "Already," writes China expert Stephen J. Yates of the Heritage Foundation, Chinese "employees at U.S. firms earn higher wages and are free to choose where to live, what to eat, and how to educate and care for their children."

It is my belief that MFN, by itself, is a necessary element of any meaningful engagement between the United States and China. However, MFN alone is not sufficient to bring the changes so sorely needed in China or to protect the principles and interests of the United States. Unfortunately, the Clinton administration has not pursued the policies necessary to make meaningful engagement possible.

The administration has claimed that our current relationship with the People's Republic of China has improved through a process of constructive engagement. On this view, the Chinese Government has improved its behavior in a number of areas out of a desire to maintain good relations with the United States. Specific examples have been cited, including the release of a small number of dissidents, movement toward protection of intellectual property, and China's alleged steadiness during the continuing Asian financial crisis.

I understand my colleagues' continuing hopes that these events might lead to better relations in the future between the United States and China. However, in my view, these hopes must be tempered by a realistic assessment of current Chinese Government practices and behavior. We all want the United States to be able to engage in an open and frank relationship with the Chinese Government, one in which each side can present its views on a broad range of issues, confident that the other side will promptly respond to their concerns and live up to international standards of human rights and mutual security.

Unfortunately, our relationship with China has yet to reach that stage of mutual trust and responsibility. In particular, a clear-eyed view of China's human rights record shows that the hollow engagement that has characterized America's role in its relations with China in recent years has not led to substantive reform. Although the international community roundly condemned the Chinese Government's crushing of prodemocracy demonstrations in Tiananmen Square along with the killing of thousands of student protesters and the imprisonment of many more, Chinese officials continue to claim their actions were justified. They continue to insist that their violent actions were a valid response to a counterrevolutionary riot.

Indeed, Chinese officials now want to place our President at the scene of this crime as a sign of their righteousness. Likewise, even as the administration continues to claim a new era of Chinese nonproliferation resulting from the recent summit, fresh reports have arisen of Chinese assistance to Iranian missile programs and the Chinese decision to abandon previous assurances to observe the Missile Technology Regime's export control standards.

Finally, it is important to recognize that definitive investigations are underway regarding the administration's export control policy toward China and its effect on national security. But it is also important to note that the administration has uniformly waived any sanctions for even the most egregious of Chinese actions harming our national security interests.

The bottom line is that we currently lack the tools with which to pursue meaningful engagement with China. Current policies of hollow engagement allow Chinese leaders to believe that the United States will overlook almost any action on their part simply in order to keep them happy. This provides China's leaders with little incentive to change their behavior or beliefs to bring them more closely into alignment with international standards.

The result is that our Government now constantly finds itself reacting to China's actions in an incoherent, ad hoc fashion. This has produced an unfortunate and increasing abandonment of the principles of freedom and defense of fundamental human rights on which our Nation is based, as well as a failure to fully protect the national security interests of the United States. The United States must, in my view, enunciate a clear and compelling policy disapproving Chinese violations of human rights and international conventions regarding national security. This requires, at a minimum, that we recognize that China's current leadership neither accepts nor acts upon the principle of friendship in international or domestic relations.

Mr. President, I think this is an important debate. I think it is a debate that we need to have here in the Senate. I regret that the current procedural roadblocks that seem to exist will make it very difficult for us to fully act through the amendments that many of us would like to bring up and prevent us from having the kind of full and clear discussion in this debate that I think the Senate should make happen. Consequently, I find myself a bit frustrated today. I would like to applaud the Senator from Arkansas for the ongoing efforts he has engaged in to try to bring these issues to the floor of the Senate, to try to make it possible for us to have the kind of debate that I think many of us wish would occur.

I hope that his efforts with many of us working together can be ultimately successful. If it cannot happen in the context of the current bill, then I think a group of us will find other vehicles coming to the floor of the Senate on which it can be possible for us to have this debate. But whether it happens now or happens later, I think the message to the administration should be clear and to the American people it should be clear: We are deeply concerned about the human rights policies of China. We are deeply concerned about the implications of their policies on American national security, and we in the U.S. Senate are not going to sit idly by and allow these policies to continue without ultimately having the kind of full and detailed debate, discussion and action that they require.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for about 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

A LONGTIME FRIEND—ALBERT McDERMOTT

Mr. STEVENS. Mr. President, it is with a sadness and real heavy heart that I report to the Senate that the former chief counsel of the Appropriations Committee passed away this morning at 7 a.m. at NIH. Albert McDermott was a longtime friend. He and I met during the Eisenhower administration when he was the Assistant Secretary of Labor and I was Assistant Secretary of the Interior.

After having been with the Hotel-Motel Association for some 25 years, I convinced him to join the staff of the Rules Committee when I became the ranking member of that committee. He came on board, as I recall, in about 1991. He was a graduate of Georgetown Law School, a distinguished naval officer in World War II who was in charge of an LCT, landing craft tank, that hit Normandy beach several times, I believe.

He became the chief of staff of the Rules Committee when I became chairman, and then moved to the Governmental Affairs Committee and was chief of staff there. When I became chairman of the Appropriations Committee, I asked him to take on the job of counsel for the Appropriations Committee.

He retired from that position late last year. He was a grand friend, and I shall miss him very much. He was my best man when Catherine and I were married and I was his best man when he married at the age of 70.

He has left behind his beloved wife, and she was a longtime friend. Krieks is a great friend now of my wife Catherine. She was also very close to my first wife, Ann.

I announce to the Senate that there will be a visitation at Gawler's Funeral Home on Wisconsin Avenue from 7:30 p.m. to 9:30 p.m. on Thursday and a memorial service at 10 a.m. at the Annunciation Church on Massachusetts Avenue in Northwest.

Thank you, Mr. President.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, having served on the Rules Committee with Mr. STEVENS, the chairman, I remember him very well. I add my expression of deepest sympathy to his family.

Mr. STEVENS. I thank the Senator.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. WARNER. Mr. President, I have advised the distinguished ranking member of the Armed Services Committee of what I am about to do. Hopefully, this announcement will lend some clarity to the procedural situation we are now in.

AMENDMENT NO. 2737, AS MODIFIED

Mr. WARNER. Mr. President, on behalf of Senator HUTCHINSON, I modify the pending amendment with the additional text now at the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the amendment, add the following:

TITLE

SEC. . SHORT TITLE.

This title may be cited as the "Forced Abortion Condemnation Act".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. . DENIAL OF ENTRY INTO THE UNITED STATES OF PERSONS IN THE PEOPLE'S REPUBLIC OF CHINA ENGAGED IN ENFORCEMENT OF FORCED ABORTION POLICY.

The Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

SEC. . WAIVER.

The President may waive the requirement contained in section with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

This title may be cited as the "Communist China Subsidy Reduction Act of 1998".

SEC. . FINDINGS.

Congress finds that—

(1) the People's Republic of China has enjoyed ready access to international capital through commercial loans, direct investment, sales of securities, bond sales, and foreign aid;

(2) regarding international commercial lending, the People's Republic of China had $48,000,000,000 in loans outstanding from private creditors in 1995;

(3) regarding international direct investment, international direct investment in the People's Republic of China from 1993 through 1995 totaled $97,151,000,000, and in 1996 alone totaled $47,000,000,000;

(4) regarding investment in Chinese securities, the aggregate value of outstanding Chinese securities currently held by Chinese nationals and foreign persons is $175,000,000,000, and from 1993 through 1995 foreign persons invested $10,540,000,000 in Chinese stocks;

(5) regarding investment in Chinese bonds, entities controlled by the Government of the People's Republic of China have issued 75 bonds since 1988, including 36 dollar-denominated bond offerings valued at more than $6,700,000,000, and the total value of long-term Chinese bonds outstanding as of January 1, 1996, was $11,709,000,000;

(6) regarding international assistance, the People's Republic of China received almost $1,000,000,000 in foreign aid grants and an additional $1,566,000,000 in technical assistance grants from 1993 through 1995, and in 1995 received $5,540,000,000 in bilateral assistance loans, including concessional aid, export credits, and related assistance; and

(7) regarding international financial institutions—

(A) despite the People's Republic of China's access to international capital and world financial markets, international financial institutions have annually provided it with more than $4,000,000,000 in loans in recent years, amounting to almost a third of the loan commitments of the Asian Development Bank and 17.1 percent of the loan approvals by the International Bank for Reconstruction and Development in 1995; and

(B) the People's Republic of China borrows more from the International Bank for Reconstruction and Development and the Asian Development Bank than any other country, and loan commitments from those institutions to the People's Republic of China quadrupled from $1,100,000,000 in 1985 to $4,300,000,000 by 1995.

SEC. . OPPOSITION OF UNITED STATES TO CONCESSIONAL LOANS TO THE PEOPLE'S REPUBLIC OF CHINA.

Title XV of the International Financial Institutions Act (22 U.S.C. 262o–262o–1) is amended by adding at the end the following:

"SEC. 1503. OPPOSITION OF UNITED STATES TO CONCESSIONAL LOANS TO THE PEOPLE'S REPUBLIC OF CHINA.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Directors at each international financial institution (as defined in section 1702(c)(2) of the International Financial Institutions Act) to use the voice and vote of the United States to oppose the provision by the institution of concessional loans to the People's Republic of China, any citizen or national of the People's Republic of China, or any entity established in the People's Republic of China.

"(b) CONCESSIONAL LOANS DEFINED.—As used in subsection (a), the term 'concessional loans' means loans with highly subsidized interest rates, grace periods for repayment of 5 years or more, and maturities of 20 years or more.".

SEC. ____. PRINCIPLES THAT SHOULD BE ADHERED TO BY ANY UNITED STATES NATIONAL CONDUCTING AN INDUSTRIAL COOPERATION PROJECT IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) PURPOSE.—It is the purpose of this section to create principles governing the conduct of industrial cooperation projects of United States nationals in the People's Republic of China.

(b) STATEMENT OF PRINCIPLES.—It is the sense of Congress that any United States national conducting an industrial cooperation project in the People's Republic of China should:

(1) Suspend the use of any goods, wares, articles, or merchandise that the United States national has reason to believe were mined, produced, or manufactured, in whole or in part, by convict labor or forced labor, and refuse to use forced labor in the industrial cooperation project.

(2) Seek to ensure that political or religious views, sex, ethnic or national background, involvement in political activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the industrial cooperation project. The United States national should not discriminate in terms or conditions of employment in the industrial cooperation project against persons with past records of arrest or internal exile for nonviolent protest or membership in unofficial organizations committed to nonviolence.

(3) Ensure that methods of production used in the industrial cooperation project do not pose an unnecessary physical danger to workers and neighboring populations or property, and that the industrial cooperation project does not unnecessarily risk harm to the surrounding environment; and consult with community leaders regarding environmental protection with respect to the industrial cooperation project.

(4) Strive to establish a private business enterprise when involved in an industrial cooperation project with the Government of the People's Republic of China or other state entity.

(5) Discourage any Chinese military presence on the premises of any industrial cooperation projects which involve dual-use technologies.

(6) Undertake to promote freedom of association and assembly among the employees of the United States national. The United States national should protest any infringement by the Government of the People's Republic of China of these freedoms to the International Labor Organization's office in Beijing.

(7) Provide the Department of State with information relevant to the Department's efforts to collect information on prisoners for the purposes of the Prisoner Information Registry, and for other purposes.

(8) Discourage or undertake to prevent compulsory political indoctrination programs from taking place on the premises of the industrial cooperation project.

(9) Promote freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media. To this end, the United States national should raise with appropriate authorities of the Government of the People's Republic of China concerns about restrictions on the free flow of information.

(10) Undertake to prevent harassment of workers who, consistent with the United Nations World Population Plan of Action, decide freely and responsibly the number and spacing of their children; and prohibit compulsory population control activities on the premises of the industrial cooperation project.

(c) PROMOTION OF PRINCIPLES BY OTHER NATIONS.—The Secretary of State shall forward a copy of the principles set forth in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

(d) REGISTRATION REQUIREMENT.—

(1) IN GENERAL.—Each United States national conducting an industrial cooperation project in the People's Republic of China shall register with the Secretary of State and indicate that the United States national agrees to implement the principles set forth in subsection (b). No fee shall be required for registration under this subsection.

(2) PREFERENCE FOR PARTICIPATION IN TRADE MISSIONS.—The Secretary of Commerce shall consult the register prior to the selection of private sector participants in any form of trade mission to China, and undertake to involve those United States nationals that have registered their adoption of the principles set forth above.

(e) DEFINITIONS.—As used in this section—

(1) the term "industrial cooperation project" refers to a for-profit activity the business operations of which employ more than 25 individuals or have assets greater than $25,000; and

(2) the term "United States national" means—

(A) a citizen or national of the United States or a permanent resident of the United States; and

(B) a corporation, partnership, or other business association organized under the laws of the United States, any State or territory thereof, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

SEC. ____. PROMOTION OF EDUCATIONAL, CULTURAL, SCIENTIFIC, AGRICULTURAL, MILITARY, LEGAL, POLITICAL, AND ARTISTIC EXCHANGES BETWEEN THE UNITED STATES AND CHINA.

(a) EXCHANGES BETWEEN THE UNITED STATES AND CHINA.—Agencies of the United States Government which engage in educational, cultural, scientific, agricultural, military, legal, political, and artistic exchanges shall endeavor to initiate or expand such exchange programs with regard to China.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a federally chartered not-for-profit organization should be established to fund exchanges between the United States and China through private donations.

SEC. ____. CONGRESSIONAL STATEMENT OF POLICY.

It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China. As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds. In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed. The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. ____. PROHIBITION ON USE OF FUNDS FOR THE PARTICIPATION OF CERTAIN CHINESE OFFICIALS IN CONFERENCES, EXCHANGES, PROGRAMS, AND ACTIVITIES.

(a) PROHIBITION.—Notwithstanding any other provision of law, for fiscal years after fiscal year 1997, no funds appropriated or otherwise made available for the Department of State, the United States Information Agency, and the United States Agency for International Development may be used for the purpose of providing travel expenses and per diem for the participation of nationals of the People's Republic of China described in paragraphs (1) and (2) in conferences, exchanges, programs, and activities:

(1) The head or political secretary of any of the following Chinese Government-created or approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The National Congress of Catholic Representatives.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant "Three Self" Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any military or civilian official or employee of the Government of the People's Republic of China who carried out or directed the carrying out of any of the following policies or practices:

(A) Formulating, drafting, or implementing repressive religious policies.

(B) Imprisoning, detaining, or harassing individuals on religious grounds.

(C) Promoting or participating in policies or practices which hinder religious activities or the free expression of religious beliefs.

(b) CERTIFICATION.—

(1) Each Federal agency subject to the prohibition of subsection (a) shall certify in writing to the appropriate congressional committees no later than 120 days after the date of enactment of this Act, and every 90 days thereafter, that it did not pay, either directly or through a contractor or grantee, for travel expenses or per diem of any national of the People's Republic of China described in subsection (a).

(2) Each certification under paragraph (1) shall be supported by the following information:

(A) The name of each employee of any agency of the Government of the People's

Republic of China whose travel expenses or per diem were paid by funds of the reporting agency of the United States Government.

(B) The procedures employed by the reporting agency of the United States Government to ascertain whether each individual under subparagraph (A) did or did not participate in activities described in subsection (a)(2).

(C) The reporting agency's basis for concluding that each individual under subparagraph (A) did not participate in such activities.

(c) DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of this section the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. . CERTAIN OFFICIALS OF THE PEOPLE'S REPUBLIC OF CHINA INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

(a) REQUIREMENT.—Notwithstanding any other provision of law, any national of the People's Republic of China described in section (a)(2) (except the head of state, the head of government, and cabinet level ministers) shall be ineligible to receive visas and shall be excluded from admission into the United States.

(b) WAIVER.—The President may waive the requirement in subsection (a) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees (as defined in section (c)) containing a justification for the waiver.

SEC. . SUNSET PROVISION.

Sections and shall cease to have effect 4 years after the date of the enactment of this Act.

SEC. . SATELLITE CONTROLS UNDER THE UNITED STATES MUNITIONS LIST.

(a) CONTROL OF SATELLITES ON THE UNITED STATES MUNITIONS LIST.—Notwithstanding any other provision of law, the export control of satellites and related items on the Commerce Control List of dual-use items in the Export Administration Regulations (15 C.F.R. Part 730 et seq.) on the day before the effective date of this section shall be considered, on or after such date, to be transferred to the United States Munitions List under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) REPORT.—Each report to Congress submitted pursuant to section 902(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) to waive the restrictions contained in that Act on the export to the People's Republic of China of United States-origin satellites and defense articles on the United States Munitions List shall be accompanied by a detailed justification setting forth—

(1) a detailed description of all militarily sensitive characteristics integrated within, or associated with, the satellite;

(2) an estimate of the number of United States civilian contract personnel expected to be needed in country to carry out the proposed satellite launch;

(3) a detailed description of—

(A) the United States Government's plan to monitor the proposed satellite launch to ensure that no unauthorized transfer of technology occurs, together with an estimate of the number of officers and employees of the United States Government expected to be needed in country to carry out monitoring of the proposed satellite launch; and

(B) the manner in which the costs of such monitoring shall be borne; and

(4) the reasons why the proposed satellite launch is in the national security interest of the United States, including—

(A) the impact of the proposed export on employment in the United States, including the number of new jobs created in the United States, on a State-by-State basis, as a direct result of the proposed export;

(B) the number of existing jobs in the United States that would be lost, on a State-by-State basis, as a direct result of the proposed export not being licensed;

(C) the impact of the proposed export on the balance of trade between the United States and China and a reduction in the current United States trade deficit with China;

(D) the impact of the proposed export on China's transition from a nonmarket to a market economy and the long-term economic benefit to the United States;

(E) the impact of the proposed export on opening new markets to American-made products through China's purchase of United States-made goods and services not directly related to the proposed export;

(F) the impact of the proposed export on reducing acts, policies, and practices that constitute significant trade barriers to United States exports or foreign direct investment in China by United States nationals;

(G) the increase in the United States overall market share for goods and services in comparison to Japan, France, Germany, the United Kingdom, and Russia;

(H) the impact of the proposed export on China's willingness to modify its commercial and trade laws, practices, and regulations to make American-made goods and services more accessible to that market; and

(I) the impact of the proposed export on China's willingness to reduce formal and informal trade barriers and tariffs, duties, and other fees on American-made goods and services entering China.

(c) NATIONAL SECURITY WAIVER FOR THE EXPORT OF SATELLITES TO CHINA.—Section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 22 U.S.C. 2151 note) is amended by inserting before the period at the end the following: ", except that, in the case of a proposed export of a satellite under subsection (a)(5), on a case-by-case basis, that it is in the national security interests of the United States to do so".

(d) DEFINITIONS.—In this section:

(1) MILITARILY SENSITIVE CHARACTERISTICS.—The term "militarily sensitive characteristics" includes, but is not limited to, antijamming capability, antennas, crosslinks, baseband processing, encryption devices, radiation-hardened devices, propulsion systems, pointing accuracy, or kick motors.

(2) RELATED ITEMS.—The term "related items" means the satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines described in the report submitted to Congress by the Department of State on February 6, 1998, pursuant to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)).

(e) EFFECTIVE DATE.—This section shall take effect 15 days after the date of enactment of this Act.

SEC. . DEPUTY UNDER SECRETARY OF DEFENSE FOR TECHNOLOGY SECURITY POLICY.

(a) ESTABLISHMENT OF POSITION.—Section 134 of title 10, United States Code, is amended by adding at the end the following:

"(d)(1) There is a Deputy Under Secretary of Defense for Technology Security Policy in the Office of the Under Secretary. The Deputy Under Secretary serves as the Director of the Defense Technology Security Administration.

"(2) The Deputy Under Secretary has only the following duties:

"(A) To supervise activities of the Department of Defense relating to export controls.

"(B) To develop for the Department of Defense policies and positions regarding the appropriate export control policies and procedures that are necessary to protect the national security interests of the United States.

"(3) The Deputy Under Secretary may report directly to the Secretary of Defense on the matters that are within the duties of the Deputy Under Secretary.".

(b) IMPLEMENTATION.—The Secretary of Defense shall complete the actions necessary to implement section 134(d) of title 10, United States Code (as added by subsection (a)), not later than 45 days after the date of the enactment of this Act.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Secretary for implementing section 134(d) of title 10, United States Code, as added by subsection (a). The report shall include the following:

(1) A description of any organizational changes that are to be made within the Department of Defense to implement the provision.

(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after the provision is implemented, together with a discussion of how that role compares to the Chairman's role in those activities before the implementation of the provision.

(d) LIMITATION.—Unless specifically authorized and appropriated for such purpose, no funds may be obligated to relocate office space or personnel of the Defense Technology Security Administration.

Mr. WARNER. Mr. President, it will be my intention to move to table this amendment at approximately 11 a.m. tomorrow, Tuesday, June 23. I will be working with Senator LEVIN to reach an agreement as to the exact time. Members will be notified as soon as that time agreement has been reached. In addition, other votes could occur prior to the scheduled weekly recess for our party conferences, which begins at 12:30 p.m. on Tuesday. I thank all colleagues for their attention to this matter.

Mr. President, I hope that while we only have another 50 minutes on the bill prior to business, according to the pending order, that there will be statements and other matters relating to this bill so that we can make as productive use of the time as possible. I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I thank my friend from Virginia for the statement he has made. I know all Members of the Senate will be on notice accordingly.

I take this moment to speak generally to the amendment that is before the Senate regarding China policy and the overall question before the country about China policy, as President Clinton prepares to leave for China later this week.

Mr. President, this debate is nothing new. Nonetheless, it takes on a special meaning and intensity, because it happens in the week in which the President will go to China. I understand the Senator from Arkansas, who is the proponent of most of the amendments, has stated over and over again that it was not his intention that these amendments be brought up in the week in which the President was going to China, and I know that is absolutely the fact. These amendments were filed earlier. He had discussed them earlier. It just happens that here we are on this bill, and they are coming up.

I hope that we will proceed, may I say, with an appropriate sense of respect for the mission that the President will carry out on all our behalf, because, though we may have different sides of this American policy towards China that we speak to on the floor, I know that we all hope and pray that the President's trip will be successful, in the sense that it will not only strengthen our bilateral relationship with China, but will do so based on honest exchange and principle, including the very principles that are the subject of some of the amendments that are before us, most particularly human rights, proliferation, which is to say security, and trade policy, and the others as well.

Mr. President, this question of our relationship with China is, in some ways, the most difficult, complicated and yet the most important of our foreign and defense policies because of the size of China, the enormous changes that are occurring in China, and the significant role that China will play in the next century as a true military, economic superpower. The question of our policy is often described as a choice between engagement or nonengagement, which is to say engagement, on the one hand, or isolation and containment on the other.

Well, I favor engagement. I think that the truth is when you come down to it, there are very few people here that I have heard in the Senate who really want to isolate China, or that is the stated intention of their policy. The question then becomes, I believe, not whether or not to engage; China is too big for us not to engage with; we are too sensible for us to try to isolate or contain this great country with such a long and proud history. The question then becomes, How do we engage? And do we engage in a way that works together in an honest, principled fashion to not only improve our relations—military, economic, ideological, philosophical—but to improve the lot, the plight, the lives of people in China consistent with our own principles.

My fear is that some of the amendments that are offered here on this bill, and some of the statements of intention that have been made regarding American policy toward China, while they may want a form of engagement or they may acknowledge the inevitability of engagement with China, they do so in a way that is confrontational, in some sense is punitive, perhaps without justification for all the punitive qualities, and in the end will put us in a course of conflict with China which many of us feel is not necessary. That, I think, is the issue drawn by these amendments. Yes, engagement, but what kind of engagement will it be?

On the other side there is an engagement that would be so devoid of honesty and principle that it would sacrifice America's national interests and our traditional values, human rights being at the top of them, which is to say it would be engagement for the sake of engagement, to yield, if you will, to the People's Republic of China in any point of conflict between us. That is as unacceptable as the policy on the other side of isolation and attempted containment.

I think we have to see if we can work together here to find a common ground on which we engage honestly and consistent with our principles and interests, which is to say we have an interest—military, economic, philosophical—in engaging China in the world community, in building peaceful relationships and prosperous relationships with her, but that engagement must be honest in the sense that we do not conceal our differences, and principled in the sense that we do not yield on the principles that make us uniquely American.

I hope out of the kind of debate that—though it is awkward to have it the week that the President is going to China—but I hope that out of the debate that is occurring here on these amendments, and the debate that I am sure will follow on MFN as the days and weeks go by, that we will be able to find a common ground.

It is not surprising that this debate is occurring. China is not only a big country and an important country, but it is a country with a different culture and history from ours. It is a country that lived under a remarkably rigid, ideological, Communist dictatorship for a long period of time that has seen outbursts, spasmodic alterations in the political status quo, and it is different from us. So these differences about how to engage China, what to expect of China, are not surprising. And we express those in the debate that is occurring on this bill.

My own strong support for the policy of engagement—honest, principled, direct engagement; one that I think is in our national interest—is premised on a conclusion which is that that policy of engagement, begun 26 years ago by President Nixon, followed by every President since of both political parties, has worked. We have had tough times, crises in the relationship—cultural revolution two decades ago; and very fresh, still stinging for us, the tragedy on Tiananmen Square a little less than a decade ago.

But overall, if you look at the changes, the revolutionary changes within this country, China, I believe the facts indicate that the policy of engagement has produced a China today that is significantly different than the China of two decades ago of the cultural revolution, and one decade ago of the Tiananmen Square tragedy—an atrocity—that it is a country today that is moving in exactly the direction we would want it to, remarkably toward a market economy—and I will speak in a moment more to that—and also more in the direction of human rights than before, though, God knows, not enough.

But remember, again, we are dealing with a culture and a country very different from ours, a culture and a country during communism and before so large that it lived with the constant fear of the leadership, of the disintegration of this enormous national entity, a country in which leaders have traditionally portrayed themselves as riding on the back of a tiger. But the changes have most assuredly occurred.

It has been fascinating in the last month or so just to pay a little bit of extra attention to the newspaper reports from China, not so much the political reports, but what might be called feature stories in the press. And they showed a China that is dramatically different, much more like us than it was before.

There was a story a while back in one of the papers about the fact that half of the villages in China have held elections. It was a concerted effort by the leadership—not unlimited; that is for sure—but a concerted effort by the leadership of China to introduce some form of participatory electoral system in half of the villages in China, almost 500,000 villages.

There was another story about a professor at a university in Beijing, a brilliant man, from the article, who had an idea for a new technology; this kind of thing that happens around America, particularly in places like Silicon Valley. It did not happen in Communist China. But he found his way to some capital, started a company, and is doing brilliantly. He is excited about his stock options. Wow. That is not one of Mao's—I do not remember stock options being in Mao's little red book.

There was a different kind of story about a change in the use of the media. Remember, under Mao the television or the propaganda instruments only had one—it was all straight ahead. It was all: "Support Mao. Support the State." There was a story about a gentleman who is producing the most popular sitcom on television in China. He had been, I am proud to say, in my own State of Connecticut, in Waterford at the Eugene O'Neill Theater for a period of months studying and saw "The Cosby Show" and was inspired by it. I take some license here, but he went back and created the Chinese version of "Cosby," the most popular show in China at this point.

There was an announcement of the sale of 3 million state-owned residences to people, to citizens of China, property ownership fundamental to our view of the world, not theirs; tens of thousands of State-owned enterprises about to be privatized or closed down because they are inefficient.

Under the leadership I would describe as revolutionary, of the new Premier, Zhu Rongji, one of the ways in which the Communist State controls the lives and political behavior of all of its citizens is by employing all of its citizens. Once you take these tens of thousands, hundreds of thousands, of State-owned enterprises, privatize them, and people are not working for the State any more but working for private owners, you have the conditions for a whole new expression and experience of freedom—remarkable, remarkable changes.

Let me talk about religion, because it is of real interest to me. I worked with colleagues and cosponsored one of the two bills before this body that try to put religious freedom and protection from religious persecution and discrimination at the center of our foreign policy and impose penalties on countries or at least alter our relationship with countries that don't respect the bedrock American principle of freedom of religion.

Last March, Senator MACK, a colleague and dear friend from Florida, and I went to China. It happened to be Holy Week, the week before Easter. Senator MACK went to mass each day. The churches were more or less full.

Let me read from a New York Times article of just less than a week ago, June 17, so you can get a flavor of the changes that are occurring, and yet the enormous changes that have not yet occurred that we need to have occurring. I will read briefly from the New York Times of June 17, an article by Eric Eckholm, from Nanjing. The article begins with a report that:

> New Bibles stream forth from a computerized printing press in this onetime southern capital at a rate of two and a half million a year for sale to Christians all over China. [Bibles in Chinese, of course.]
>
> * * * * *
>
> Critics in the West point to the restrictions and repression as evidence of systematic persecution, while the Government's defenders here point, instead, to the relative freedom most Christians now enjoy.
>
> Paradoxically, the rising outcry abroad comes as Christianity in China, especially evangelical Protestantism, is growing explosively. The Rev. Don Argue [many of us are privileged to know in this Chamber], recent president of the National Association of Evangelicals in the United States, says China may be experiencing "the single greatest Revival in the history of Christianity."
>
> Much of that growth has occurred with official acquiescence, and though they remain a small minority in a giant country, millions of Chinese people like Zhang Linmei, a 32-year-old worshiper at St. Paul's [in Nanjing], find the same comfort in religion that Christians do anywhere, without worrying much about politics.
>
> "I feel life is meaningless in society at large," Zhang said after services as she picked up her 5-year-old daughter, dressed in her finest, from Sunday school.
>
> "This is the only reliable place in my life," Zhang added.
>
> "The situation for religion is in many ways the best it's been since 1949," [the year of the Communist revolution] said Richard Madsen, an expert on Chinese religion at the University of California at San Diego. Though the Government still controls their growth and closely monitors their activities, he said, the official churches enjoy more autonomy [today] than [ever] in the past.
>
> Even the illegal churches—[of course, here we get to the problem] unregistered Protestant churches and openly pro-Vatican Catholic groups—function without serious trouble in many places, Dr. Madsen and others say. But those who refuse to pledge support to the Government and its apparatus of religious control, and those with unorthodox or ecstatic styles of worship, can face harsh repression. The situation is similar for other major religions here, including Buddhists and Muslims. Many believers now enjoy relative freedom, but Tibetan Buddhists who consider the Dalai Lama their leader face repression.

Finally, a few more paragraphs which I think express the explosion in belief and freedom to believe, and yet the repression that still exists for those who trouble and offend particularly provincial administrators, administrators of the various Chinese provinces, or touch a vulnerable cord in the Chinese experience, which is the fear of a loyalty to a force outside of China and beyond the Government.

I read again from the New York Times article of June 17 last week:

> Officials say Catholics now number four million, while outside researchers say the true total may be closer to 10 million, with many secretly accepting the Pope as the true head of their church.
>
> The peculiar hybrid state of Christianity here reflects the obsession of the Communist party with control: virtually any organization, whether political or social or religious, must gain party approval.
>
> The party is an officially atheist organization that asserts that religion will eventually wither away. But in a policy spelled out in the early 1980's, the Government officially guarantees freedom of religion—within prescribed boundaries including a required allegiance to the state, adherence to certain styles of worship and limits on church construction, evangelizing and the baptism of children, among other rules.

Of course, those are all unacceptable to us.

> For those willing to accommodate, the 1990's seem a golden time.
>
> "From our perspective, now is the best time ever for implementing the policy of religious freedom," said Han Wenzao, who as president of the China Christian Council is the national leader of the official Protestant church and a prime link to the Communist Government. "The criterion should be, is the word of God being propagated or not? [And Mr. Han Wenzao says] It is and it's good."

Well, that is a rational report, sobering and disappointing in the continuation of official sanctions, repression, anxiety about religion; and yet, clearly, the momentum is all in favor of faith. That, too, represents a maturing, a changing and development within the mind and outlook of the leadership of China. I think it is at least in part a reaction to the centrality that we have placed on religious freedom, absent persecution, in our relations with the People's Republic of China.

So, I hope we will pass one of these bills that set up a system in our Government to rank and report on the state of religious freedom in all the countries of the world. Of course, I don't favor a specific action regarding the People's Republic of China, because that tends to scapegoat them and it tends to create a confrontation between us separately that is not necessary. They ought to be part of the overall policy that I hope this Senate will adopt, that Congress will adopt, before this session ends and, most particularly, to the events of this week.

I hope and believe that when the President meets with Jiang Zemin, when he speaks with the people of China publicly, he will raise this question of religious persecution in a way that he couldn't do if he were not engaged and wouldn't do if we were not honestly and principally engaged; he will speak directly to why it is so important to us in America that countries with which we have normal, bilateral relations respect the right of their citizens to worship God as they choose. That was the initial, primal motivation for those who founded this country. It is right there in the first or second paragraph—first substantive paragraph of the Declaration of Independence, in the first amendment to our Constitution, the beginning of the Bill of Rights. It is what we are about. If we are not directly and principally engaged with that, if our President of the United States does not go to China, the kind of progress that I have described in which I say the glass is certainly half full and getting fuller, the opportunities for that will be lost.

I want to say just a word more about national security, because these amendments, after all, are attached to the Department of Defense authorization bill, S. 2057.

In a literal sense, a parliamentary sense, it seems to me personally that these amendments are not germane. That is a matter of parliamentary conclusion, which I will leave to others. But I want to say that the question of our relations with the People's Republic of China, the question of how we engage and whether we engage with the People's Republic of China is at the center of our national security policy, of our defense policy today and, even more so, in the next century.

We have many important security relationships in the world, beginning with our allies in Europe, and in Japan. Our ability to manage our relationship with the People's Republic of China will, in my opinion, as much as any other relation we have, determine whether or not we will live in a world that remains secure in our time, but whether our children, and whether the pages here, as they grow to be adults, will live in a world that is secure. That is the destiny of China—with 1.2 billion people who are building a military, it is strategically located, an enormous country.

Look at the situations in the world which worry us now—most recently, the explosions of atomic weapons by India and Pakistan on the Asian subcontinent. Our ability to work with them, as we have been doing since those explosions, greatly strengthens our capacity to limit the possibility that the conflict on the subcontinent will break into a worse conflict, and a nightmare would be a nuclear war.

Consider where we would be today in implementing the policy on the Asian subcontinent if we were not engaged with China, if we could not work with the permanent five members of the Security Council and with China on a problem such as that. Take the Korean peninsula. We have in excess of 30,000 American soldiers there. It is probably the most heavily armed border in the world. Our ability to keep the peace there and, in fact, to begin to move beyond, in the absence of conflict, to better relations between the parties there is very important to us. It is materially helped by our engagement with China—our ability to work with the two Koreas, China, and the United States to try to create more stability and ultimately, perhaps, a reunification of the two parts of Korea.

Take our interest in the Persian Gulf, in the Middle East—an interest so clearly vital to our national security that we sent a half million troops there about 7 years ago in the Persian Gulf war. China and United States will begin to have shared interests—and perhaps even if we are not engaged, a shared competition, as China grows economically—for the energy resources in the Persian Gulf area, for the oil. We have to have a good relationship with China to be able to manage that competition for energy in a way that doesn't break into conflict.

More immediately, the Middle East, Persian Gulf—always a tinderbox in our time—we deeply fear the proliferation of weapons of mass destruction, of ballistic missiles, particularly in Iran. My sense is that the engagement with China has assisted us materially in cutting down the flow of component parts to the Iranians for the development of nuclear weapons, which is not so with missile proliferation, as far as I can tell. I hope and trust that the President will discuss that directly with the leadership of China in the summit that is to come later this week.

But, again, an engagement with China offers us the prospect, in return for what China seeks in our bilateral relationship, including not only economic gain but recognition, stature, involvement in world organizations—in return for that, hopefully, we will be in a position to convince the leadership in China to cut back on any of the component parts of ballistic missiles, which they are selling to Iran, or any other countries that threaten our security, because that is part of what it means to be engaged.

Incidentally, Mr. President, in this regard—and I know there are some amendments that maybe have been put forth that deal with proliferation—this Chamber, a short while ago, passed the Iran Missile Sanctions Act, also passed by the House, on its way to the President. The concern expressed about that bill had mostly to do with its impact on Russia as a major supply of component parts for missile construction in Iran. But Russia is not mentioned in that bill. That is a generic bill. That is the way we ought to deal with problems like proliferation—not to single out the Chinese, but, you know, the PRC, People's Republic of China, will be affected by that legislation, and entities within it will be deprived of doing business with the United States if there is evidence that they are contributing to the ballistic missile capacity of the Iranians. We would not have those opportunities if we were not engaged honestly and in a principled way.

So I draw the conclusion that though these amendments may, in one sense, parliamentary, be ill placed on this bill, that they touch a larger issue. It is the right issue and the right point, which is that our ability to manage our relations with China in our time, and particularly as we head into the next century, will substantially affect the national security of the United States.

Let us say we stopped engaging and we attempted to isolate or contain China. Think of the turmoil that would cause to our allies in Taiwan, our great, dear friends and allies in Taiwan. Think about the prospect of an independent—disengaged from the United States—People's Republic of China, growing stronger in the next century. Could our allies in that region—even our best ally, Japan—maintain as close a relationship with us when China was an emerging strength and was hostile to the United States because we attempted to contain them? I think not.

So, Mr. President, I hope we can find a more constructive course to go forward with than being unnecessarily punitive about everything that happens in the People's Republic of China that doesn't please us. A lot will happen there that doesn't please us. But it is in our overriding national interest, militarily, economically, and ideologically, to continue to be engaged in an honest and direct way.

In my opinion, there is ultimately no choice. And I hope we can find ways—short of some of the amendments that have been put onto this bill—to reason together and come up with common approaches because, as I said at the outset, as much as I support engagement, engagement cannot allow us to become spineless. I don't think it has been in our time. Since President Nixon, and since Tiananmen, and President Bush, and on into President Clinton, I think we have been strong and demanding. It is an appropriate role for Congress to continue to work with the administration to make sure that is the case.

Finally, I will offer for the review of my colleagues, at some point, a bill I was privileged to introduce last fall, in October, with three colleagues, which constituted two Republicans and two Democrats, including myself; Senators BOB KERREY of Nebraska; CHUCK HAGEL of Nebraska, and FRANK MURKOWSKI. I believe it is Senate bill 1303. It is an attempt to create a legislative expression of support for a policy of honest, direct, tough principled engagement with China, that is in our interest, and to create some bilateral entities, commissions, and working groups to work through in a demanding way—and some of them including Members of Congress —these points of conflict that we have with China to see if we cannot build on them instead of striking down and undercutting the relationship as a result of those areas in which we disagree.

I hope at some point to be able to bring this bill to the floor and to either in whole or in part as an amendment ask my colleagues to consider it as an expression of a policy, but also as evidence of a particular way to express that policy to establish a United States-China trade and investment commission, to establish a bilateral energy committee, to establish a bilateral food committee, to establish a U.S. human rights commission to not only create a bilateral dialog on human rights, but for us to have an opportunity directly to speak to the Chinese about how important it is to us, but also to create an opportunity to review the Chinese, province by province, in these areas of concern to us—human rights, proliferation, trade, environment—and to use a carrot instead of a stick, and to offer to those provinces that measure up closer to our standards and ideals: OPIC insurance financing backing, clear access to Eximbank financing that is not available now but only through a Presidential waiver to move constructively, honestly, forward; an understanding that both peoples and both countries have to gain from this involvement, and particularly understanding that the people of China for whose freedom we work and pray and from whose increasing freedom we take great joy.

They are the ones that I think will ultimately suffer as much as we will from a policy of isolation and containment, and will gain from a policy of direct and principled engagement.

I thank my colleagues for giving me the opportunity to speak.

It would be my intention on the motion to table that the Senator from Virginia has said he will put in tomorrow to vote to table, because while I think this has been a constructive debate, I don't think this is the week to be taking action in the way that some of these amendments would, and I don't favor most of the amendments as expressing the kind of policy of engagement that I think is so much in our American national interests.

I thank my colleagues. I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that current business be set aside for the purpose of immediate consideration of my amendment No. 2405.

Mr. LIEBERMAN. Mr. President, with respect, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. INHOFE. Mr. President, I had the intention, and still have the intention at some later time, of reintroducing the amendment that is at the desk.

What it effectively does is address the potential problem and influence that a company called COSCO, the Chinese Ocean Shipping Company, will have on the United States.

Mr. President, the Chinese Ocean Shipping Company is Communist China's largest shipping group. It has more than doubled the number of ships that our entire U.S. Navy has. This group has been given preferential treatment by this country and other countries for some period of time. It wasn't long ago that they were given the opportunity to have ports at both ends of the Panama Canal, the Ports of Colon and Cristobal, and our country was supportive of that.

This 25-year lease gives them an abundance of control in the Panama Canal and was to cost $22 million a year. But the deal that was made would be to waive that amount of money, and to waive the labor laws and veto rights over a period of approximately 2 years.

Other areas where we have given preferential treatment to COSCO fall in the area of taxpayer-guaranteed loans.

COSCO was the first shipping company owned by Beijing government to receive a U.S. Federal loan guarantee under a 40-year-old Transportation Department program designed to help American shipyards win business. This was a $138 million loan, which constituted 87.5 percent of the cost of the projects to build four container ships in Alabama. The ships were never built. They did not go through. Nonetheless, the permission was given.

There are many other areas where they have received preferential treatment. Since the 1950s, ships from Communist nations have been forced to give 4 day's notice before they could dock near U.S. military establishments. This was to give the U.S. officials early warning about possible spying and this type of thing. The restriction still applies to countries like Cambodia, Vietnam, Russia, and some of the other former Soviet Republics. But in a deal that was worked out in December of 1996, the United States cut China's wait at a dozen sensitive ports from 4 days to 1 day.

Make sure we understand what we have done here. We have allowed this company to only have to wait 1 day, and all the rest of the Communist nations have to wait 4 days. Cambodia still has to wait 4 days. Vietnam still has to wait 4 days. Russia still has to wait 4 days, but China only 1 day.

U.S. firms still can't get sole-tenancy leases at Chinese ports, yet COSCO got just such rights last year from Long Beach, CA. What a lease—a vacant U.S. Naval Station with no security check. What they are attempting to do now is to get the rest of that closed operation.

We are talking about several hundred acres very strategically located.

It is kind of interesting, since we have been giving such preferential treatment to the Chinese Ocean Shipping Company. Why are we doing this?

I think it is important to understand that this shipping company is not a part of the private sector. This is owned by the Chinese Government. It is owned specifically by the People's Liberation Army of Communist China. So their interests are not just in mercantile—not just in ships—but also they have military interests. COSCO reports to the Chinese Ministry of Communications, which falls under the State Council, which in turn is led by the Communist Party Politburo member and Premier Li Peng.

If we are looking at the problems that have come up and surfaced and have caused many of us to be concerned, we might want to remember that back in March of 1996 a COSCO ship, the *Empress Phoenix*, transported 2,000 illegal AK-47 automatic weapons to be used in street gangs in Los Angeles. It was intended to be sold to the California street gangs, and this has been verified. The corporation was the Norinco Corporation, which is controlled by the People's Liberation Army. Fortunately, the guns were confiscated as a part of an FBI sting operation.

Mr. President, it is certainly no coincidence that the firm is also the employer of record of Wang Jun, which is the well-known Chinese arms dealer who attended a recent radio address in this country.

Mr. President, only last week the Washington Times reported that a COSCO ship was on its way to Pakistan.

Now we are talking about shipping, carrying, nuclear technology and equipment in violation of an international nonproliferation agreement. We are talking about carrying this information, carrying this technology, carrying this nuclear technology to Pakistan from China, a clear violation.

The COSCO ships have previously been used to transport military and strategic cargoes, including components for ballistic missiles from China and North Korea to such countries as Pakistan, Iran, Iraq, Syria, and just most recently, we learned last week, Libya.

So I think that we have a great deal of our Nation's security at risk by allowing them—continuing to allow them to have this lease.

With that in mind, I would again renew my unanimous consent request. I will wait and give adequate time for someone to come in, if there is an objection, but my unanimous consent request would be to set aside the pending business for the immediate consideration of my amendment No. 2405.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. I respectfully object.

The PRESIDING OFFICER. The Chair hears an objection.

Mr. INHOFE. I thank the Chair.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, in the few minutes we have, I would like to respond to my good friend and colleague from Connecticut, to some of the comments he made about the pending business and the amendments I have offered regarding China.

He spoke of engagement and the necessity of the engagement policy, and as has so often been the case with administration defenders and the defenders of the engagement policy, they would present a false dichotomy in that if you are not for the current administration's policy, then you are an isolationist. I would suggest it is not engagement or isolation; it is how we are going to engage China.

I would further suggest that the policy this administration has pursued has failed in engaging China adequately. That is evident in a whole host of areas, not the least of which are the abuses addressed by these amendments.

So when my good friend from Connecticut said that he is opposed to these amendments, I was tempted to ask specifically what amendment is it—denying visas to those who perform forced abortions, or is it denying visas to government individuals involved in religious persecution? What is it precisely that is objectionable about these? I would think, rather than undermining the President's hand as he goes to China, this in fact strengthens his hand, strengthens his ability to deal in a more forthright way with those issues of concern to all Americans.

My good friend from Connecticut also spoke in glowing terms of the "changed China." It is becoming more common to hear of the "changed China."

In the edition of Newsweek magazine which just came out is a cover article, a beautiful cover article, entitled "The New China." "The New China."

Well, I wish that as we looked at the experience of the Chinese people today and what has happened since 9 years ago and the Tiananmen massacre, we could be reassured that there were students to gather on the Tiananmen plaza during the President's visit next week, in fact they would receive a different greeting than they did 9 years ago when they were mowed down with gunfire.

Well, is China different? Is it a new China? These are just reports in the last 3 weeks. New York Times, June 6: A bishop in the underground Catholic Church has been arrested, was detained on May 31 while traveling to his village.

This is the changed China.

June 14, the Portland Oregonian reports that Chinese police interrogated and threatened three dissidents who urged President Clinton to press Chinese leaders on human rights during the summit. Police ransacked the homes, confiscated their computers, took two to local precincts. June 14.

June 15, South China Morning Post: Dissidents in several areas including Shanghai and Weifang in Shangdong Province, the first stop for Mr. Clinton, have complained of harassment. Incidents have included home raids, detention, telephone tapping and confiscation of computers.

June 16, Japan Economic News Wire. In the runup to President Bill Clinton's visit to China, a veteran Chinese dissident has been indicted for helping another activist escape to Hong Kong.

June 18, Far Eastern Economic Review reports that Beijing warned the Vatican, "Don't use the Internet or other media channels to interfere with Chinese religious affairs policies." And we could go on and on.

That is the last 3 weeks, Mr. President, of news accounts of what is going on in China. That is the "new China." We want to present China today in some kind of rose-colored glasses, that everything is fine, when in fact it is not.

Mr. INHOFE. Will the Senator yield? Will the Senator yield for a question?

Mr. HUTCHINSON. I would love to yield to my good friend from Oklahoma, but I have 5 minutes left. Unfortunately, the Presiding Officer has assured me he is going to gavel me quiet at 3 o'clock, so I am going to have to talk very quickly.

The issue of religious freedom was raised, and my friend from Connecticut spoke once again in glowing terms of improved conditions in China on the issue of religious freedom. While my friend quoted from the New York Times—my good friend and distinguished colleague, whom I admire greatly—I would like to quote from the State Department's Report on Religious Freedom in China just issued in the last—it is a 1997 report just issued recently on China, and I will quote just a portion of this.

> Some religious groups have registered while others were refused registration and others have not applied. Many groups have been reluctant to comply due to principled opposition to state control of religion, unwillingness to limit their activities or refusal to compromise their position on matters such as abortion. They fear adverse consequences if they reveal as required the names and addresses of members and details about leadership activities, finances and contacts in China or abroad.
>
> Guided by a central policy directive of October 1996 that launched a national campaign to suppress unauthorized religious groups and social organizations, Chinese authorities in some areas made strong efforts to crack down on the activities of unregistered Catholic and Protestant movements. They raided and closed several hundred house church groups, many with significant memberships, properties and financial resources.

And it goes on and gives many examples of that. So, in fact, our State Department—whatever else the New York Times may say, our State Department says that conditions in China are deplorable and that in fact there has been a crackdown on those who would defy the Government by not registering because of principled opposition to the Government's policy.

Now, we say—and I have heard it argued even today—that the church and religious organizations in China are flourishing. Well, they are growing, but I would just suggest that they are growing in spite of Government policy, in spite of the persecution, not because there has somehow been a blossoming of religious freedom in China.

As I think back to the early days of Christianity and how the Roman empire cracked down with great intensity upon the infant Christian faith, the Christian faith mushroomed and spread all across the known world at that time. But they did so in spite of intense persecution, and actually Christianity began to demise when suddenly it was made the "official religion." So to say somehow growth equates with freedom in China today, I simply reject that.

I have much, much more that I would like to say. I do want to say a word about the President's plans to be received in Tiananmen Square. Mrs. Ding Zilin, mother of a 17-year-old student who was killed in 1989 in the Tiananmen protest, said that she hoped President Clinton would make a strong gesture. Her husband is associate professor of philosophy at the People's University in Beijing. They said this. They objected to the pomp and ceremony in Tiananmen Square as the red carpet "is dyed with the blood of our relatives who have fallen."

I wonder, with the emphasis upon property control, if the President would feel the same about following protocol if those hundreds of students who were slain had included some American students, perhaps there as foreign exchange students.

One thing is certain. When the President goes to Tiananmen, it will be peaceful. It will be quiet. All dissidents will have been rounded up, and there will be no embarrassing protesters. When President Jiang Zemin came to the United States, there were protesters. When Jiang was asked about it, he mocked the protesters, saying with a smile that periodically he heard little voices and noises in his ear. There will be no such embarrassing little noises in his ear when President Clinton goes to Tiananmen Square.

How do we turn what I think is an unfortunate decision to go to Tiananmen Square into something positive? Perhaps the President could give a Reagan-like speech, when President Reagan went to the Berlin Wall in 1987 and he said, "Tear down this wall."

It was Jiang who said that all of the protest in 1989 was "much ado about nothing." That was the President's attitude—much ado about nothing. Perhaps President Clinton could ask for an official apology. Perhaps he could ask for the release of the dissidents. They have never investigated; they have never apologized; they have never released the dissidents. Perhaps he could take a lead from the Italian President, who last week, after the official reception, returned to Tiananmen Square, where he prayed and where he meditated and where he remembered those who fell. Perhaps the President, in going to Tiananmen, could bring a wreath in memory of those.

And then I would suggest this as well, that when the President raises the issue of human rights, he does so not before a press briefing but that he does so on his broadcast to the Chinese people. And if he will do so, it will be at least a small step in turning what I think is an unfortunate image for the world to see, into something that can be positive in this trip to China.

Mr. President, I yield the floor.

Mr. THOMAS. Mr. President, I come to the floor briefly today to address the China-related amendments to the S. 2057, the DOD Authorization bill, as the Chairman of the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations—the subcommittee with jurisdiction over the subject matter of these amendments.

Unfortunately, the proponents of these amendments chose a day to debate these provisions when it was clear that many of the amendments' detractors would be out of town. As a result, many of the latter are not here today to participate in this important discussion. While I strongly oppose these amendments, as I believe do a majority of the members of the full Foreign Relations Committee, I myself have commitments preventing me from spending any significant time today on the floor.

So in order to express the thrust of my position on these amendments, Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of a "Dear Colleague" letter dated June 15, 1998, of which I am the primary signatory; a copy of my opening statement from a hearing before my subcommittee dated June 18, 1998; and finally pages 1, 2 and 6 through 9 of a statement by Assistant Secretary Stanley Roth.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 15, 1998.

DEAR COLLEAGUE: When the Senate returns to consideration of the DOD Authorization bill, S. 2057, we expect a series of amendments to be offered concerning the People's Republic of China. These amendments, if accepted, would do serious damage to our bilateral relationship and halt a decade of U.S. efforts to encourage greater Chinese adherence to international norms in such areas of nonproliferation, human rights, and trade.

In relative terms, in the last year China has shown improvement in several areas which the U.S. has specifically indicated are important to us. Relations with Taiwan have stabilized, several prominent dissidents have been released from prison, enforcement of our agreements on intellectual property rights has been stepped up, the reversion of Hong Kong has gone smoothly, and China's agreement not to devalue its currency helped to stabilize Asia's economic crisis.

Has this been enough change: Clearly not. But the question is: how do we best encourage more change in China? Do we do so by isolating one fourth of the world's population, by denying visas to most members of its government, by denying it access to any international concessional loans, and by backing it into a corner and declaring it a pariah as these amendments would do?

Or, rather, is the better course to engage China, to expand dialogue, to invite China to live up to its aspirations as a world power, to expose the country to the norms of democracy and human rights and thereby draw it further into the family of nations?

We are all for human rights; there's no dispute about that. But the question is, how do we best achieve human rights? We think it's through engagement.

We urge you to look beyond the artfully-crafted titles of these amendments to their actual content and effect. One would require the United States to oppose the provision of any international concessional loan to China, its citizens, or businesses, even if the loan were to be used in a manner which would promote democracy or human rights. This same amendment would require every U.S. national involved in conducting any significant business in China to register with the Commerce Department and to agree to abide by a set of government-imposed "business principles" mandated in the amendment. On the eve of President Clinton's trip to China, the raft of radical China-related amendments threatens to undermine our relationship just when it is most crucial to advance vital U.S. interests.

Several of the amendments contain provisions which are sufficiently vague so as to effectively bar the grant of any entrance visa to the United States to every member of the Chinese government. Those provisions not only countervene many of our international treaty commitments, but are completely at odds with one of the amendments which would prohibit the United States from funding the participation of a great proportion of Chinese officials in any State Department, USIA, or USAID conference, exchange program, or activity; and with another amendment which urges agencies of the U.S. Government to increase exchange programs between our two countries.

Finally, many of the amendments are drawn from bills which have yet to be considered by the committee of jurisdiction, the Foreign Relations Committee. That committee will review the bills at a June 18 hearing, and they are scheduled to be marked-up in committee on June 23. Legislation such as this that would have such a profound effect on US-China relations warrants careful committee consideration. They should not be the subject of an attempt to circumvent the committee process.

In the short twenty years since we first officially engaged China, that country has opened up to the outside world, rejected Maoism, initiated extensive market reforms, witnessed a growing grass-roots movement towards increased democratization, agreed to be bound by major international nonproliferation and human rights agreements, and is on the verge of dismantling its state-run enterprises. We can continue to nurture that transformation through further engagement, or we can capitulate to the voices of isolation and containment that these amendments represent and negate all the advances made so far.

We hope that you will agree with us and choose engagement. We strongly urge you to vote against these amendments.

Sincerely,

Craig Thomas, Chairman, Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations; Joseph R. Biden, Jr., Ranking Member, Committee on Foreign Relations; Frank H. Murkowski, Chairman, Committee on Energy and Natural Resources; John F. Kerry; Ranking Member, Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations; Chuck Hagel, Chairman, Subcommittee on International Economic Policy, Committee on Foreign Relations; Gordon Smith, Chairman, Subcommittee on European Affairs, Committee on Foreign Relations; Rod Grams, Chairman, Subcommittee on International Operations, Committee on Foreign Relations; Dianne Feinstein, Ranking Member, Subcommittee on International Operations, Committee on Foreign Relations; Charles S. Robb, Ranking Member, Subcommittee on Near East/South Asian Affairs, Committee on Foreign Relations; Joseph I. Lieberman, Ranking Member, Subcommittee on Acquisition and Technology, Committee on Armed Services.

Opening Statement of Senator Craig Thomas, Chairman, Subcommittee on East Asian & Pacific Affairs, June 18, 1998

Good Morning. Today the Subcommittee meets to consider current Congressional views of the U.S.-China relationship. If we had had this hearing just six months ago, I believe that we'd be examining an entirely different climate. But due to a variety of circumstances—the timing of the President's visit to Beijing, a growing effort to emphasize human rights, both the Loral and campaign finance allegations, a question of foreign policy leadership in general and Asia policy in particular on the part of the Administration, to name a few—the Congressional spotlight is focused brightly on China, and the light is harsh.

As of today, in this Congress there have been 25 pieces of legislation introduced in the Senate and 51 in the House dealing solely with China. That's excluding authorization and appropriations bills, or amendments and riders to other non-China specific legislation and is more than in the last three Congresses. A majority of them involve sanctioning or otherwise castigating China for its behavior in a variety of fields, good examples being five bills presently pending before this Committee: HR 967, 2358, 2386, 2570, and 2605.

One would require the United States to oppose the provision of any international concessional loan to China, its citizens, or businesses, even if the loan were to be used in a manner which would promote democracy or human rights. This same amendment would require every U.S. national involved in conducting any significant business in China to register with the Commerce Department and to agree to abide by a set of government-imposed "business principles" mandated in the amendment. On the eve of President Clinton's trip to China, the raft of strident China-related bills and amendments threatens to challenge our relationship just at a time in its development when it is most crucial to advance vital U.S. interests.

Several of the bills contain provisions which are sufficiently vague so as to effectively bar the grant of any entrance visa to the United States to every member of the Chinese government. Those provisions not only contravene many of our international treaty commitments, but are completely at odds with one of the bills which would prohibit the United States from funding the participation of a great proportion of Chinese officials in any State Department, USIA, or SAID conference, exchange program, or activity; and with another amendment which urges agencies of the U.S. Government to increase exchange programs between our two countries. Finally, many of the provisions in the bills are redundant, reflecting legislation which has either already passed out of the Committee or out of the Senate.

Targeting China at this time strikes me as somewhat ironic. In relative terms, during the last year China has shown improvement in several areas which the U.S. has specifically indicated are important to us. Relations with Taiwan have stabilized and intergovernmental contacts have increased. Several prominent dissidents have been released from prison. Enforcement of our trade agreements on intellectual property rights has been stepped up. Despite predictions to the contrary, the reversion of Hong Kong has gone smoothly and Beijing has maintained its distance. And at the height of the Asian financial crisis, China agreed not to devalue its currency thereby helping to stabilize the crisis.

Has this been enough change? Clearly not. But the question is: how do we best encourage more change in China? Do we do so by isolating one fourth of the world's population, by denying visas to most members of its government, by denying it access to any international concessional loans, and by backing it into a corner and declaring it a pariah as these bills would do?

Or, rather is the better course to engage China, to expand dialogue, to invite China to live up to its aspirations as a world player, to expose the country to the norms of democracy and human rights and thereby draw it further into the family of nations?

We're all for human rights—there's no dispute about that. We agree on the message we want the Chinese to hear—stop the human rights abuses, stop facilitating the proliferation of dangerous weapons, stop the trade inequities. As the Chairman of the Senate Subcommittee on East Asian and Pacific Affairs, I have been extremely active in making clear to the Chinese our disappointment with their actions in these and other related areas. But the question is, how do we best achieve human rights? I think it's through engagement.

In the short twenty years since we first officially engaged China, that country has opened up to the outside world, rejected Maoism, initiated extensive market reforms, witnessed a growing grass-roots movement towards increased democratization, agreed to be bound by major international nonproliferation and human rights agreements, and is on the verge of dismantling its state-run enterprises. We can continue to nurture that transformation through further engagement, or we can capitulate to the voices of isolation and containment that these five House bills in particular represent and negate all the advances made so far.

The purpose of this hearing is to explore the current climate in Congress, to examine these bills, and to explore alternatives to them that will continue to advance both our interests and China's transformation.

TESTIMONY OF STANLEY O. ROTH, ASSISTANT SECRETARY OF STATE FOR EAST ASIAN AND PACIFIC AFFAIRS, SENATE FOREIGN RELATIONS COMMITTEE, ASIA PACIFIC SUBCOMMITTEE, JUNE 18, 1998

Mr. Chairman, thank you for the invitation to address the Subcommittee on the important issue of pending China legislation in the Senate. This is, of course, a timely hearing, with the President's historic trip to China only a week away. I therefore welcome this opportunity to lay out the Administration's position on the bills before the Senate and look forward to engaging Committee members in a productive dialogue on this matter.

My testimony will be divided into three parts. First, I will review the reasons why a stronger, more constructive relationship with China is in the U.S. interest. Second, I will outline the Clinton Administration's strategy of engagement, highlighting what we have accomplished while noting the obstacles we still face. Finally I will explain the Administration's position on each of the five China-related bills currently before the Senate, examining the impact such legislation would have on our ability to engage the Chinese.

CHINA AFFECTS U.S. INTERESTS

Mr. Chairman, peace and stability in East Asia and the Pacific is a fundamental prerequisite for U.S. security and prosperity. Nearly one half the world's people live in countries bordering the Asia Pacific region and over half of all economic activity in the world is conducted there. Four of the world's major powers rub shoulders in Northeast Asia while some of the most strategically important waterways on the globe flow through Southeast Asia. The U.S. itself is as much a Pacific nation as an Atlantic one, with the states of Alaska, California, Oregon and Washington bordering on the Pacific Ocean and Hawaii surrounded by it. American citizens in Guam, American Samoa, and the Commonwealth of the Northern Marianas live closer to Asian capitals than to our own, vast numbers of Americans work in the Asia-Pacific region, and an increasingly large number of Americans trace their ancestry back to the Pacific Rim.

For these and many other reasons, the U.S. has remained committed to the Asia-Pacific region and has spent its resources and blood defending and strengthening our stake in the region. Since coming to office, President Clinton has repeatedly made clear that America will remain an Asia-Pacific power. We maintain a sizable military presence in Asia; enjoy a vibrant network of mutual security alliances with Australia, Japan, the Philippines, the Republic of Korea and Thailand; and have significant economic ties with most countries in the region. . . .

PENDING LEGISLATION

The sponsors of the China-related legislation before the Senate clearly share our goal of positively influencing China's development. The bills in question seek to bring an end to human rights violations, religious persecution, forced prison labor and coercive family planning policies in China and thus are very much in line with the Administration's own objectives.

The question, once again, is one of approach. How do we best effect those changes in the PRC?

H.R. 967 and H.R. 2570 both mandate a denial of visas to Chinese officials alleged to be involved in religious persecution (in the case of the former) or forced abortions (in the case of the latter). While the Administration opposes such repugnant practices and wholeheartedly agrees they must be addressed, these bills would restrict our ability to engage influential individuals in the very dialogue that has begun to produce tangible results.

For example, the heads of the Religious Affairs and Family Planning Bureaus are people we want to invite to the United States again and again. The more Chinese leaders see of the U.S., the more they are exposed to our point of view and our way of life. We would be doing a disservice to the very people we endeavor to help if we cut off dialogue with those officials who shape the very policies we want to change. Such unilateral action on our part, moreover, could prompt Beijing to impose its own visa restrictions, further limiting the ability of U.S. officials and religious figures to advocate their views in China.

In addition, these bills impinge upon the President's constitutional prerogatives regarding the conduct of foreign relations of the United States. Decisions whether and when to issue visas to foreign government officials necessarily implicate the most sensitive foreign policy considerations, concerning which the Executive requires maximum flexibility.

H.R. 2605, which requires U.S. directors at International Financial Institutions to oppose the provision of concessional loans to China, would have the effect of punishing the Chinese people most in need of international assistance. The United States, as a matter of policy, has not since the Tiananmen Square crackdown supported development bank lending to China except for projects designed to help meet basic human needs. Concessional loans to China from the World Bank, for example, are only granted for the purposes of poverty alleviation. These loans support agricultural, rural health, educational and rural water supply programs in some of the poorest areas of the country. A vote against such lending would thus be a vote against the Chinese people.

Moreover, World Bank member donors agreed in 1996 that China, owing to its improved creditworthiness, would cease concessional borrowing. The Bank's concessional loans to China are thus to be terminated at the end of FY1999.

H.R. 2358 is fundamentally different than the first three bills in that it seeks to expand rather than limit U.S. engagement in China. The bill allocates new monies for additional human rights monitors at U.S. Embassies/Consulates in China; authorizes funds to the NED for democracy, civil society, and rule of law programming; and requires the Secretary of State to use funds from the East Asia/Pacific Regional democracy fund to provide grants to NGOs for similar programs. Human rights reporting and the promotion of democracy, civil society and rule of law have long been among this Administration's highest priorities in China, and thus we do not oppose, in principle, any of the above provisions. We would note, however, that the East Asia/Pacific democracy fund is a limited fund with competing demands. There is much work to be done to promote democracy at this time of great change in the Asia-Pacific, and thus we ask that Congress give Secretary Albright maximum flexibility in allocating these scarce resources.

The bill further requires the Secretary of State to establish a Prisoner Information Registry for China. We are sympathetic to the idea of establishing a prisoner registry and recognize the importance of such a registry to our human rights work. We caution, however, that the U.S. government is not the right institution for the task. Aside from the logistical difficulties of gaining access to the families and friends of Chinese dissidents, U.S. Government contact with such individuals could actually place them in further jeopardy. We believe that NGOs are far better equipped to carry out these kinds of contacts. Several groups and individual activists, including Human Rights Watch, Human

Rights in Asia, and John Kamm, already maintain such lists. Thus rather than undertake to compile and maintain an accurate registry, the State Department might play a more useful role in coordinating those groups already actively engaged in this issue.

Finally, H.R. 2358 requires the Secretary of State to submit a separate, annual human rights in China report to the HIRC and the SFRC. Documenting and making public the human rights situation in China is indeed of critical importance. We have accordingly given a great deal of attention to China in our annual "Country Reports on Human Rights Practices." The Department and our missions abroad expend enormous energy and resources preparing this report, and the final product routinely receives high marks for its thoroughness and integrity.

An additional study on China would be redundant and thus wasteful of taxpayer dollars. We already make extensive efforts to cover those topics earmarked for attention in H.R. 2358: religious persecution, development of democratic institutions and the rule of law. That said, we welcome suggestions on how to improve the reports and would gladly open a dialogue with the Congress on this important issue.

The last bill I want to address today, H.R. 2386, requires the Secretary of Defense to produce a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system for Taiwan. Let me state up front and emphatically that the Clinton Administration remains firmly committed to fulfilling the security and arms transfer provisions of the Taiwan Relations Act. We have demonstrated this commitment through the transfer of F-16s, *Knox* class frigates, helicopters and tanks as well as a variety of air to air, surface to air, and anti-ship defensive missiles and will continue to assist Taiwan in meeting its defense needs.

Consistent with our obligations under the TRA, we regularly consult with Taiwan as to how it can best address a broad range of security threats, including the threat posed by ballistic missiles. We have briefed Taiwan, as we have many other friends, on the concept of theater missile defense (TMD). Officials in Taiwan are currently assessing their own capabilities and needs, an have not, to date, indicated interest in acquiring TMD. Requiring a study of this kind thus gets ahead of the situation on the ground in Taiwan and may not even be consistent with the approach Taiwan officials will ultimately want to take. We are accordingly opposed to the legislation.

Again, let me restate that we are steadfast in our commitment to meet Taiwan's defense needs. But while making it possible for Taiwan to acquire the wherewithal to defend itself, we must recognize that security over the long term depends upon more than military factors. In the end, stability in the Strait will be contingent upon the ability of the two sides to come to terms with each other. For this reason the Administration has encouraged Taipei an Beijing to reopen dialogue, making it clear to both sides that dialogue is the most promising way to defuse tensions and build confidence. In that regard, we are encouraged by recent signs of a willingness on both sides of the Strait to resume talks.

Mr. Chairman, as Secretary Albright has often said, there is no greater opportunity—or challenge—in U.S. foreign policy today than to encourage China's integration into the world community. While the Administration shares fully the concerns which inform the bills before the Senate today, we do not believe that proscribing engagement with broad categories of Chinese people and mandating U.S. rejection of aid intended to meet basic human needs will help to change those policies and practices with which we disagree.

These concerns can be best addressed by continuing to engage Chinese leaders on the full range of security, economic and political issues. President Clinton's upcoming trip to China is intended to do just that, and thus is an opportunity to make progress on the very human rights issues addressed in today's legislation. Our strategy of engagement has met with considerable success thus far, and I am confident that with the support of the Congress we will continue to make progress in the lead up to the summit and beyond.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I know my friend from Arkansas has been waiting. I just want to say very briefly in response to my other friend from Arkansas, the question, I think, and we will debate this more tomorrow, is whether things are better today for the people of China than they were at the time of Tiananmen. I say much better. Are they where they ought to be? No. Absolutely not. Is it moving in the right direction as a result of our engagement? Yes.

Mr. BUMPERS. Mr. President, I know my good friend Senator INOUYE is here because he has a judgeship nomination he feels very strongly about. I have waited here for over an hour now, and I ask unanimous consent I be permitted to speak for 10 minutes on the Hutchinson amendment.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. BUMPERS. Mr. President, let me say it is with some regret I rise in opposition to an amendment by my distinguished colleague and good friend from Arkansas, Senator HUTCHINSON. It is never pleasant to take an opposite viewpoint from your colleague, but I feel very strongly about this, as does he.

Let me say, first of all, I have no quarrel or suggestion that any of the information that Senator HUTCHINSON has just given us about conditions in China are incorrect. I do not know that they are correct, but I am sure he has checked out the facts he just gave the Senate. What I want to say is, if you had been in China with me in 1978 at the end of the Cultural Revolution, and it was at the end of the Cultural Revolution, and if you had heard the stories or if you had read the documentation since the end of the Cultural Revolution about what went on in China, I suggest this debate ought to be not about where China is, but how far she has come since 1978.

On the issue of religion in China, according to the New York Times, in 1979 there were three active churches in China. Today there are 12,000. In addition to the 12,000 temples and churches in China, it is estimated that over 25,000 religious groups meet in the homes of members every week, and nobody has tried to stop that. On the contrary, when you think of the growth from 3 to 12,000, China should receive some recognition for what they have done and the improvements they have made.

Nobody in the U.S. Senate will take issue with some of the accusations here that have been made about China's opposition to religions of all kinds. Nobody will argue that China has a good human rights record. Nobody will argue with very much of what has been said here. What we are arguing here is a simple philosophical point that I feel strongly about, and that is that China is 10 times more likely to allow the kind of progress that is going on there today, which has been absolutely phenomenal, when they are engaged in dialog with nations like the United States with whom they would like to have good relations, than it would be if we try to tell a great nation of between 1 billion and 2 billion people—25 percent of the Earth's population resides in China—they are much more likely to behave themselves when they are dealing with people who constructively engage them than they are with people who ignore them and try to impose sanctions.

What if China said, "We are not going to do business with the United States anymore until they pay the United Nations dues? We are paid up. It is the United States that is the deadbeat. They owe the United Nations $900 million."

You would hear a hue and outcry in this country that would drown out every rock band in America.

Mr. President, China has a long way to go. Nobody argues that. But I can tell you that by the President constructively engaging China, presumably he will talk to them forcefully about human rights, inquire and talk to them forcefully about the issue of forced abortion, talk to them about religion, talk to them about political freedoms and how much better off they would be, talk to them about nuclear weaponry and how we are relying on China to temper one of the most volatile dangerous regions in the world, between India and Pakistan.

If you read the Washington Post yesterday, read the interview with President Jiang, you heard him say that he was shocked to hear India use, as one of its excuses for exploding a nuclear weapon—a weapon—he was shocked that they used China as a threat to India as one of the reasons. China and India have not been big bosom buddies. I am not suggesting that. As a matter of fact, it hasn't been too long since they had a border war. But, in my opinion, China is not the reason they exploded a nuclear bomb. The reason they exploded a nuclear weapon is because the Indians and Pakistanis mistrust each other, and one of the main reasons they distrust each other is because of their religious differences. If you look around the world, you will find most of the wars, most of the dissent going on in the world today is because of religion—in Ireland, in Bosnia, in China, in India and Pakistan.

Mr. President, I think we ought to utilize China as a possible broker in the fight on the Korean peninsula, as well as between India and Pakistan—that whole region of the world.

I heard something the other day. I don't know whether it is true or not. I heard some guy on NPR talking about the criminal justice of the United States. There are 70,000 people in the United States in prison who are innocent. That is not the best record in the world, if that is true. I expect it is probably close to true. Every day you read about somebody who gets out of prison who has been there 10 years because he was found, finally, to be innocent. Nobody's criminal justice system is perfect. I am not saying there are not a lot more people imprisoned in China who are innocent. All I am saying is for any nation to hold itself out as perfect and to castigate other nations for being imperfect is the height of hypocrisy.

Mr. President, nobody disagrees with the issues that are being raised in this amendment, nor is anybody suggesting the President not engage the Chinese very forcefully on those issues. We have a trade imbalance with China. They sell us a lot more than we sell them. But I can tell you, if you took away the $5 billion in goods we sell to China every year, there would be a lot of jobs lost in this country, and the people who sell in China, and other people who buy from China, are opposed, very strongly opposed to this amendment.

Two final points. A lot of people have a very difficult time since the Soviet Union disappeared. They have a very difficult time accepting the idea that we don't have anybody to hate. We had the Soviet Union for 70 years. It was so much fun. We didn't have to debate about who the enemy was; we knew it was the Soviet Union. We built weapons galore, trillions of dollars' worth, because of the threat of the Soviet Union.

The Soviet Union is not around anymore, and we have been searching frantically for somebody with which to replace the Soviet Union, somebody we could hate with a great deal of gusto and vigor.

I have watched for the past 2 years. I have watched the anti-China decibel level rise to unprecedented rates. China has been elected. I am not suggesting this amendment is offered because of the hatred for China. I am telling you, you cannot keep 270 billion dollars' worth of defense going a year unless you have an enemy. The military industrial complex has decided that is China, so we are going to continue to build weapons, and we are going to continue to make China the bad guy.

As I say, when you say these things, it looks as if you are being apologetic or defensive. I am not, not for a moment. I am simply saying that is a fact, and I can tell you, since those bombs exploded in India and Pakistan, it is a very ominous sign, and I can tell you the threat to civilization has gone up exponentially.

When the President is going to visit a country which has signed the Comprehensive Test Ban Treaty, which has signed the Conventional Weapons Treaty, Conventional Weapons Convention, and which has agreed to quit shipping any information of any nuclear value to Iran, those are things that would never have happened if the Hutchinson amendment was in place. I feel quite sure the Hutchinson amendment will be defeated. I hope so.

He is my colleague, and I regret taking a position opposite him on any issue, but on this one, I can tell you, in my opinion, common sense dictates that the President do exactly what he is doing. I wish him well. I yield the floor.

EXECUTIVE SESSION

The PRESIDING OFFICER (Ms. COLLINS). Under the previous order, the hour of 3 p.m. having arrived, the Senate will now proceed to Executive Session to consider the nomination of Susan Oki Mollway to be United States District Judge for the District of Hawaii, which the clerk will report.

NOMINATION OF SUSAN OKI MOLLWAY, OF HAWAII, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII

The bill clerk read the nomination of Susan Oki Mollway to be United States District Judge for the District of Hawaii.

The PRESIDING OFFICER. Under the previous order, there are 2 hours for debate on the nomination, equally divided.

The Senate proceeded to consider the nomination.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, before I proceed, I thank my dear friend from Utah, the distinguished chairman of the Judiciary Committee, Mr. HATCH, for reporting out the nomination of Susan Oki Mollway. I also thank my friend from Vermont, the ranking Democrat on the committee, Mr. LEAHY, for his encouragement throughout this process. And, if I may, I acknowledge and thank the majority leader of the Senate, the distinguished Senator from Mississippi, Mr. LOTT, for scheduling this matter this afternoon. I am certain the people of Hawaii are most grateful for this.

Madam President, I am pleased to recommend to my colleagues for their approval the President's nominee to the U.S. district court for the district of Hawaii, Ms. Susan Oki Mollway. Ms. Mollway was nominated to fill a vacancy created more than 3 years ago by the untimely and unexpected death of the Honorable Harold F. Fong.

An empty judgeship is considered a judicial emergency after 18 months. This seat has been vacant for more than twice that time. In 1990, under Public Law 101-65, the Congress determined that Hawaii's Federal caseload called for increasing its Federal bench from three to four positions. However, the Honorable Helen Gillmor was not confirmed for that fourth seat until October 31, 1994.

Then Judge Fong passed away on April 20, 1995, returning Hawaii to three sitting district judges. Thus, Hawaii has had the benefit of the fourth judgeship for less than 6 months since its authorization in 1990.

For the year 1997, the weighted case filings for the three sitting district judges in Hawaii was 706 cases per judge. To give you a sense of what this means, the Federal Judicial Conference's standard indication of the need for additional judgeship is 430 weighted case filings per judge. Ours is 706. Needless to say, Hawaii has justifiably requested that a fifth judgeship be approved.

When Judge Fong passed away, Senator AKAKA and I undertook the job of interviewing and considering nearly 40 candidates for this judgeship. After personally meeting with these candidates and reviewing their individual backgrounds, Senator AKAKA and I were pleased to recommend Ms. Susan Oki Mollway to the President.

Ms. Mollway is ready for the position of U.S. district judge, and I believe she is absolutely worthy of your favorable consideration. The majority of the American Bar Association Standing Committee on the Federal Judiciary has given her the highest rating of "well qualified" for this judicial position.

By way of professional background, Ms. Mollway graduated at the top of her class from the University of Hawaii with a degree in English literature. She received later her master's degree in the same field. Then Ms. Mollway went on to Harvard Law School where she graduated cum laude in 1981.

For the past 17 years, Ms. Mollway has had a very successful litigation practice with one of the largest and most respected law firms in the State of Hawaii. She has been a partner in that firm's litigation department since 1986. Her impressive litigation experience includes a wide array of areas from Federal labor law to contract disputes to lender liability and appearances before every level of the State and Federal courts, as well as a successful appearance before the U.S. Supreme Court in 1994.

Ms. Mollway has also taught appellate advocacy at the University of Hawaii's William S. Richardson School of Law and has participated as an arbitrator with Hawaii's court-annexed arbitration program. I have no hesitation in giving my highest recommendation to Ms. Susan Oki Mollway.

Questions have been raised about Ms. Mollway's former membership on the board of directorship of the American Civil Liberties Union of Hawaii. More particularly, she has been asked to give her personal views on such matters as same-sex marriage, mandatory minimum sentencing, the death penalty, and employee drug testing. Ms. Mollway has responded to these questions and I believe has given a complete account of her own activities with the ACLU. With respect to her personal views, in most instances, Ms. Mollway has stated that she has not formed any personal opinions.

More important, as one who may become a Federal trial judge, she clearly understands that her personal opinions are not relevant to the decisions she will make as a judge. Rather, Ms. Mollway has unambiguously and repeatedly recognized in her responses the authority of the Constitution, Federal statutes as passed by the Congress, and case precedent from higher courts. Furthermore, Ms. Mollway has unwaveringly stated that there is nothing whatsoever that prevents her from abiding by and applying applicable law and precedent in cases that may come before her as a Federal district judge. I am certain she will do just that and serve the Federal judiciary and the State of Hawaii with reason, balance, and integrity.

Madam President, on a more personal note, I would like to make a few comments about Ms. Mollway's family background, because I have known Susan Oki Mollway virtually all her life.

The question that comes before us is why did she join the ACLU? People do things because of background or some experience in life.

As a young law student, she began to research the life of Japanese-Americans in the United States. And she came across rather strange decisions made by the Court and also by the Congress of the United States. These are chapters in the history of the United States that many of us would like to forget. But I think it might be well if we reviewed them at this moment.

Ms. Mollway found out, for example, that in 1922 the Supreme Court of the United States declared that Japanese were not qualified for citizenship; in other words, they were singled out among all the peoples of the United States and said, "You cannot be a naturalized citizen." Everyone else could be.

Then in 1924, the Congress of the United States, in enacting the immigration laws, declared that if people are not qualified for citizenship, they may not immigrate to the United States. So once again the Japanese were singled out and told that they may not come here as immigrants.

Then we all know that on December 7, that day of infamy, the Japanese attacked Pearl Harbor. Soon thereafter, on February 19, 1942, an Executive order was issued authorizing the Army of the United States to establish, throughout the United States, 10 concentration camps and to place in these camps, for the duration of the war, all Japanese, whether they be citizens or not; and the vast majority were citizens. They were never tried. They were never charged with any crime. Due process was totally ignored. But there they were.

Then on March 17 of that year, 1942, a strange decision was rendered and made known. The Selective Service System declared that Japanese-Americans would be designated 4-C. Most Americans may not be aware of what 4-C stands for. Madam President, 1-A is that that person is physically and mentally fit to put on the uniform; 4-F is just the opposite. 4-C is the designation for "enemy alien." And so on March 17, 1942, I was declared an enemy alien. Ms. Mollway's father was also declared an enemy alien. But we proceeded to petition the Government, and I am glad to report that, about 9 months later, the President of the United States issued an order saying that Americanism is not a matter of race or color, Americanism is a matter of mind and heart, and authorized the formation of a special combat team of volunteers.

The response was astounding to everyone. In Hawaii, over 85 percent of those eligible to put on the uniform volunteered. What is more astounding than that, hundreds of men who were behind barbed wires in these camps also stepped forward to volunteer to be given the opportunity of demonstrating their Americanism and their loyalty.

Many Americans may not be aware of this, but this combat team, at the end of the war, was declared to be the most decorated in the history of the United States Army. There is no evidence or history of any subversive activity on the part of any member. Furthermore, in all of the investigations that were held since the end of that war, they could find not one instance of Japanese involvement in sabotage of fifth column activities.

Ms. Mollway read these things, and she did research. And it is obvious for any young person who comes across information of that nature to be quite concerned. And she found that the ACLU was an organization that was concerned about the Constitution, to preserve and defend that most sacred of documents of Americans. And she was especially concerned about the Bill of Rights. So it was natural for her, just as I joined the ACLU because of my concern about the Constitution. But that does not make me any less an American.

But this chapter in our lives ends with a burst of glory. I am certain Americans will remember that for the first time a mighty nation, a superpower, admitted their wrong and apologized, and apologized to the 120,000 Americans of Japanese ancestry who were incarcerated without due process of law.

I am pleased to tell you that Susan Oki Mollway's father and I volunteered and we served in this regiment. And Susan could have no better role model to guide her life, professionally or personally, than her own father, who happens to be a lawyer also. I am certain that she mirrors her father in her love of country, in her commitment to the Constitution, and in her patriotism.

Once again, Madam President, I wish to thank my distinguished friend from Utah, the chairman of the committee, for reporting this measure. I also wish to thank Mr. TRENT LOTT, the majority leader of the U.S. Senate, for scheduling this matter. We will be forever grateful.

Thank you very much.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I thank my dear colleague for his kind remarks on the floor. I just want to again express my regard for him and for the service he has given to his country, not only being an effective and very important and powerful U.S. Senator, but also as a hero, in my eyes, having served our country in the war and having sacrificed greatly for our country.

From my point of view, if he wants a judgeship nominee, he is going to be given the benefit of the doubt in every way. And I have to say, in the case of Susan Oki Mollway of Hawaii, I do support her for this position as a United States district court judge. I plan to vote for her nomination, as I did in committee. If confirmed—and I believe she will be confirmed—Ms. Mollway will be the 270th Clinton judicial nominee to be reported by the Judiciary Committee and confirmed by the Senate.

In light of this record of accomplishment and in light of some recent remarks made on the floor of the Senate, I thought it would be appropriate for me to spend a few minutes reviewing our record in processing President Clinton's nominees.

I have been working with White House Counsel Chuck Ruff to ensure that the nomination and confirmation process is a collaborative one between the White House and the Members of the Senate. I think it is fair to say that after a few bumpy months in which the process suffered due to inadequate consultation between the White House and some Senators, the process is now working rather smoothly. I think the progress is due to the White House's renewed commitment to good-faith consultation with Senators of both parties.

I strongly believe that we must do our best to reduce the 73 current vacancies in the Federal courts. But, frankly, there are limits to what we can do given the administration's performance so far. The fact of the matter is that, of the 45 nominees currently pending, 15 of those were received during the last month alone. And it takes 3 to 6 months just to process Federal district and circuit court judges. These are very tough positions. These are positions that are lifetime appointments, and they deserve the scrutiny that we have always applied on the committee, whether the committee has been controlled by Democrats or Republicans.

Of the 45 total judicial nominees that are pending, 10 are individuals simply renominated from last Congress. Last year, the administration renominated a total of 23 nominees from the 104th Congress. Thirteen of them have been confirmed, but some of the others have some problems. That is why they were held over.

Of those 73 vacancies, 28 have not yet received a nominee, and it was only a few months ago when better than half of the total vacancies of around 81 or 82 did not have a nominee. Like I said, we have received 15 nominees within the last month. So, many of the vacancies come as a result not of the committee's slow pace but of the administration's inaction.

Moreover, of the 115 judicial nominees sent forward to the committee this Congress, 82 of them have had hearings. Of the 82 nominees who have had hearings, 74 have been reported out of the committee. Of those 74 nominees reported out of the committee, 66 have been confirmed and 7 are pending on the Senate floor. One of those seven will be confirmed shortly, I hope, in the form of Susan Oki Mollway.

Assuming most of these nominees the committee has processed are confirmed, I think you will see that our efforts compare quite favorably to prior Congresses in terms of the number of judges confirmed at this point in the second session of the Congress, especially if you look at the recent Democrat-controlled Congresses. For example, during the second session of the 102nd Congress, when President Bush was in office and the Democrats controlled the Senate and therefore the Judiciary Committee, guess how many nominees had been confirmed by July of 1992? Thirty. That is all. How many Clinton nominees this year will we have confirmed were we to stop confirming judges after today? Thirty-one. And we are not through with this session yet. As of July 1, 1990, the Democratic Senate had only confirmed 25 of the Bush nominees nominated that year. As of July 1, 1988, only 21 of Reagan nominees confirmed that year had been confirmed by the Democrat-controlled Senate. So the plain fact is that we are right on track, if not ahead of previous Congresses.

Now, while I am concerned that some vacancies need to be filled, I think there has been considerable distortion of the overall situation. There is by no means an unprecedented level of vacancies. In fact, there are more sitting judges today than there were throughout virtually all of the Reagan and Bush administrations. As of today, we have 767 active Federal judges. In addition, there are also well over 400 senior judges who can, and often do, hear cases.

Keep in mind that the Clinton administration is on record as having stated that 63 vacancies—a vacancy rate just over 7 percent—is considered virtual full employment of the Federal Judiciary. They were right; when we have around 60 vacancies, we have virtually full employment. It is natural that there will always be some vacancies in light of the turnaround time involved in receiving and reviewing nominees. That is as it should be. Seventy-three vacancies, however, is a vacancy rate of 9 percent. Now, how can a vacancy rate from 7 percent to 9 percent convert "full employment" into a "crisis"?

Moreover, compare today's 73 vacancies to the vacancies under a Democratic Senate during President Bush's Administration. In May 1991 there were 148 vacancies, and in May 1992 there were 117 vacancies. I find it interesting that at that time I don't recall a single news article or floor speech on judicial vacancies. So, in short, I think it is quite unfair and, frankly, inaccurate to report that the Republican Congress has created a vacancy crisis in our courts.

While the debate about vacancy rates on our Federal courts is not unimportant, it remains more important that the Senate perform its advise and consent function thoroughly and responsibly. Federal judges serve for life and perform an important constitutional function, without direct political accountability to the people. Accordingly, the Senate should never move too quickly on nominations before it. I do not believe that we are moving too quickly on this nominee. This nominee is getting considered today, and I hope that she passes.

Just this past year, we saw two examples of what can happen when we try to move nominations along perhaps too quickly. In one instance, a sitting Federal district judge nominated for a very important Federal appeals court was forced to withdraw the nomination after he had a hearing in the Judiciary Committee when it was discovered that he had lied about certain details of his background.

In another instance, a nominee for a Federal district court was reported out of the Judiciary Committee before all the details of her record as a judge on a State trial court were known. As it happens, the district attorney in the nominee's city and the district attorneys' association in her home State have all recently come to publicly oppose the nomination, setting forth facts demonstrating a very serious antiprosecution bias in her judicial record.

It is cases like these that underscore the importance of proceeding very deliberately with nominations for these most important life-tenured positions. Even so, you can be too deliberate; you can delay these too much. I think under my tenure as chairman of the committee we have not done that. I hope that our colleagues on the other side realize that.

In closing, I feel I should respond to some unfortunate remarks made recently on the floor of the Senate. I am referring to a speech where one of my colleagues accused the Senate majority of "stalling Hispanic women and minority nominees" because of "ethnic and gender biases."

Day in and day out, the Judiciary Committee routinely has evaluated and reported on literally hundreds of Clinton judicial nominees without any regard whatever to the nominee's race, gender, religion, or ethnic origin. And the Senate has gone on to confirm those Clinton nominees—269 of them, up until today. Should Susan Oki Mollway be confirmed, the number will be 270 judges. Indeed, according to statistics compiled by the liberal judicial watchdog group, the Alliance for Justice, no fewer than 70 of these nominees were women, 42 were African Americans, 13 were Hispanics, and 4 were Asian Americans. These figures do not include the more than 235 Department of Justice and White House nominees—non-judicial nominees, if you will—approved by the Senate Judiciary Committee whom Republicans have confirmed for President Clinton.

Anyone can cite individual isolated examples of unexpedited consideration but I flatly reject that these amount to what my colleague called a "disturbing pattern" of "ethnic and gender bias." I do not think it would be appropriate for me at this point to discuss why each of his examples fails to support his point. Suffice it for me to say here that members of the Judiciary Committee are well aware that many nominees lack the support of home-State Senators, have a record that raises serious questions of character and judicial temperament, or have some other background difficulty that necessitated further investigation.

I do not believe it does the Senate well, nor do I believe it does the Committee well, to engage in this sort of "wedge" politics. I hope my colleagues will refrain from such unproductive attacks. They are not only unproductive, they are unfair and, in my opinion, somewhat vicious.

To suggest that the Committee or this majority is motivated by improper bias of any kind is simply wrong, and the record shows it. In addition, I will not allow such accusations to force us to abdicate the Senate's responsibility to ensure that the Senate adequately and fully discharges its constitutional advise and consent function for nominees for life-tenured judicial office.

Having said all of this, I would like to lend my support for Susan Oki Mollway and to the distinguished Senators from Hawaii, both of whom I admire very much. I have to say that the distinguished Senator from Hawaii, Senator INOUYE, has known Susan Oki Mollway virtually all her life. He has known her father, who also, likewise, is a hero.

I examined her record, and, yes, there are things that naturally raised the hackles of some on the committee, but I have to say that she is an extremely intelligent women with an extremely well balanced background. I have to say that I believe she ought to be supported here on the floor today, and I intend to do everything I can to support her.

Susan Oki Mollway was nominated for district judge from the District of Hawaii on January 7 of last year. I personally apologize to my two colleagues for this having taken so long to get to the floor. She has a B.A. and an M.A. in English from the University of Hawaii. That alone is pretty impressive, but she received her J.D. cum laude from Harvard University in 1981. That is also pretty impressive.

Currently, she is a partner with the Honolulu firm of Cades, Schutte, Fleming and Wright. She also currently serves as director to the Hawaii Justice Foundation and the Hawaii Women's Legal Foundation, both unpaid positions, organizations that focus on local issues and/or raise money for charitable organizations. In addition, she was the recipient of the Outstanding Woman Lawyer of the Year award in 1987. She is an exceptional person—in my opinion, one who should be able to fill this position in a way that will bring honor to the Federal courts. I hope that is true. I have no way of being absolutely sure, but I am relying on the recommendations of our two colleagues from Hawaii and the extensive background investigation the Committee performed on Susan Oki Mollway. I hope our colleagues in the Senate will support her. I believe she is worthy of support.

I think my colleagues know that I take these nominations very seriously. We look at them very seriously. We do extensive background checks and investigations, as did our friends on the other side when they were in control of the committee. I try to be down the line, down the middle, and I try to make sure people are treated fairly. Naturally, I resent it when somebody indicates in any conversation that there may be some impropriety or improper bias involved with regard to some of the nominees who have been or are currently pending before the Senate and/or the Judiciary Committee.

I am very concerned, as Judiciary Committee chairman, that we do our jobs well. I am very concerned that we do them in a way that is fair. I am very concerned that we get the best people we can on the Federal bench. After all, these are lifetime appointments. It is often said that Federal judges are the "closest thing to God" in this life because they have so much power, and once they are there, you really can't get rid of them. They are not really politically accountable or directly accountable to the American people because they don't have to stand for reelection, which I think is a very good thing because that keeps the Federal judicial system above politics, hopefully, or at least less involved in politics than any other branch of our Government. I think the judiciary has served our country well. I have seen great liberal judges and great conservative judges, and I have seen lousy liberal judges and lousy conservative judges on the Federal bench. Ideology isn't necessarily the determining factor as to whether a judge will serve in the best possible manner as a member of the Federal bench.

So it is important that we find people of high caliber, high quality, high ethics, with good work habits, that are honest and decent, to fill these positions. I believe Susan Oki Mollway fits all of those categories.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii, Mr. INOUYE.

Mr. INOUYE. Madam President, I thank my distinguished friend from Utah for his warm and generous remarks. I am most grateful.

I yield to my colleague from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii, Mr. AKAKA, is recognized.

Mr. AKAKA. Madam President, it is with great pleasure that I take the floor today to speak on behalf of Ms. Susan Oki Mollway, the President's nominee to the U.S. District Court for the District of Hawaii.

I wholeheartedly support Ms. Mollway, who, if confirmed, will fill the fourth seat on the Hawaii court. I also want to join with the remarks of my senior Senator, who eloquently and passionately spoke about Susan Oki Mollway and her family. He also spoke about our interviewing her for this position and how impressed we were with her caliber, the kind of person that she is. I also want to thank chairman ORRIN HATCH of Utah for his support and for reporting this out of committee, and also Senator PAT LEAHY, the ranking member from Vermont on the committee, and members of the committee for reporting this nominee out to the floor. I also want to thank our majority leader, TRENT LOTT of Mississippi, for permitting it to be on the floor today.

This has been a long journey for us. This position has been vacant since the untimely passing of Judge Harold Fong in April of 1995. As the senior Senator from Hawaii noted, the caseload in the District of Hawaii continues to increase. This has been very, very difficult for Hawaii. The recently adjusted 1997 Federal Court Management Statistics Report found that the U.S. District Court, District of Hawaii, is the eighth busiest court out of 91 in the country, and the third busiest in the ninth circuit.

Therefore, it is critical that the vacancy on the Hawaii court is filled. Senator INOUYE and I believe that Susan Oki Mollway is the most qualified candidate for this position.

Ms. Mollway enjoys the highest rating of "well qualified" from the majority of the American Bar Association's Standing Committee on the Federal Judiciary. To quote some of her colleagues in Hawaii, "We have come to know her as a highly ethical, careful, dedicated, intelligent, articulate, caring, and energetic lawyer." Ms. Mollway is known for her professional skills, her sense of ethics, and a moral compassion—qualities needed for service on the Federal bench.

Senator INOUYE has already recounted Ms. Mollway's education, professional, and family background. However, I do wish to point out that, as a Harvard Law School graduate, she could have stayed on the mainland like so many of Hawaii's young people. Instead, she returned to Hawaii, the home of her parents, where she joined one of Honolulu's best-known law firms —Cades Schutte Fleming & Wright.

As a specialist in civil litigation, Ms. Mollway handles a wide range of cases and has appeared before every level of the State and Federal courts, including a successful appearance before the U.S. Supreme Court in 1994.

Ms. Mollway has responded fully to those who have questioned her on her former position on the board of directors of the Hawaii chapter of the American Civil Liberties Union. Senator INOUYE has mentioned this about her. Prior to her board membership, the ACLU-Hawaii filed a friend of the court brief in support of plaintiffs in the Hawaii same-sex marriage case. Although she was aware of ACLU-Hawaii's position and activities in the same-sex marriage case, as a board member Susan Mollway was never called on to play an active role.

Furthermore, Ms. Mollway understands that her personal opinions are not relevant to the decisions she would make as a Federal judge. She has stated that she recognizes the authority of the Constitution, Federal statutes as passed by the Congress, and case precedent from higher courts as the judicial guidelines to follow in court deliberation.

I believe my colleagues will agree with me that Susan Mollway's credentials are impressive. She is an individual of the highest integrity, whose dedication to her profession is admired by all. I am pleased to lend my support to Ms. Mollway and urge my colleagues to vote in favor of this nominee whose confirmation will bring the U.S. District Court in Hawaii to its full complement.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I am honored to have the opportunity to make some remarks on the occasion of this nomination. First, I want to say how much I respect both of the Senators from Hawaii. I believe that they take very seriously the nomination of a U.S. district judge, and I believe they have sought to fulfill their responsibilities well in that regard.

Having been a practitioner in Federal court myself—full-time as a U.S. attorney for 15 years, and another 5 years or so in private practice—I have a deep feeling about the judiciary, what it needs to be, and the standards it ought to uphold. I believe it ought to be a disinterested applicator of the law, regardless of politics, ideology, and those sorts of things. I believe we ought to look for nominees that do that. Both for my respect for the distinguished Senators from Hawaii and my respect for this nominee make it difficult for me to stand here and suggest, as I will, that we ought not to confirm this nominee for the Federal bench. I have no doubt that she is a person of integrity and character. But I want to share some concerns that I have about this nomination, and why I think it ought not be confirmed.

Also, let me express my respect for the distinguished chairman of the Senate Judiciary Committee. There is no finer constitutional lawyer in this body than Senator HATCH. He is a man of integrity and ability. He works hard every day in our committee to make sure nominees are given a fair shake, and that the nominations are moved along at a steady pace, as they continue to do. I know that he considered carefully the problems that this nominee had before he agreed to vote in favor of this nominee. I know he respects the opinion of both Senators from Hawaii.

I note that the committee voted 12 to 6, with six Senators voting against the nomination. I think that suggests that there was a genuine unease by a considerable number of the committee with regard to this nominee.

It is impossible to know for sure what anyone will do on the bench. This nominee may turn out to be a very restrained and rigorous judicial nominee and judge, consistent with some of the great judges in history. But we have to look at the nominees' backgrounds and the positions they have taken over the years to try to analyze how they might perform on the bench.

The Senate is given under the Constitution the power to advise and consent with the President. These nominees are lifetime appointees. They will serve throughout their entire life making decisions day after day, week after week, month after month, year after year. And, as Senator HATCH said, they are not accountable to the people. It is really the most anti-democratic aspect of our entire American government, but I support it. I am not in favor of electing Federal judges. I therefore believe it is our responsibility to give careful thought to those to whom we give that position.

First, let me note one thing. It does appear that the district of Hawaii is in need of a judge. Their caseload is 700 weighted cases per judge. It is a heavy caseload. We have a judicial circuit in Alabama that has a higher caseload, and it is, indeed, a high caseload. I am sure another judge is needed to do that work. I know all of us are active in various activities. And I think it is appropriate that we be asked about those activities when we are nominated for a position like this.

What do we know about this nominee? We know that she was a voluntary member of the American Civil Liberties Union for a number of years—may still be—and was an active member of the board of directors and a fundraiser for the Hawaii ACLU during 1995 and 1996.

During that time, the Hawaii ACLU took a number of positions. I am certain that as a board member she did not sign those pleadings, and maybe did not personally conduct in-depth research. In fact, I think she suggested she has not researched each one of these issues. But I think it is appropriate for us to ask about those positions, as we did on the committee. She did not disavow any of them.

In 1996, in Hawaii, an ACLU executive or administrator stated, "The laws that discriminate based on sexual orientation are as reprehensible as laws that at one time protected segregation."

The point of that discussion was testimony on the recognition of homosexual marriages. And, in fact, the ACLU official was taking the position that Hawaii should take on the question of affirming, ratifying, respecting, and acknowledging homosexual unions. He was suggesting that those who would oppose it would be the same as those who opposed integration.

I would have to say that is outside the mainstream of law. As attorney general of Alabama, I had the occasion to have my staff do some research on this. We found no place in the history of America that any State or government agency ever recognized a homosexual union. It is not recognized, to my knowledge, any place in any culture in the world and reflects an odd and historically inaccurate view of the law. But that was the organization's position, of which she was a board member and a fundraiser.

In 1995, the ACLU opposed legislation that would have required HIV testing for persons indicted for sexual crimes. I would suggest that there is an extreme anxiousness and justifiable concern about these kinds of activities.

When a person is arrested for a sexual crime and there is a victim that may have been infected with HIV, I think it is perfectly appropriate for a judicial authority require as a condition of the suspect's release that person to be tested to see if they have passed on such a horrible disease to the victim.

Also, I suggest that we have a large number of people in the ACLU active in opposing all drug testing. That is a very, very important matter of public interest. It is unfounded in constitutional law and at least in most properly applied cases of drug testing. We will have more drug testing in the future, because we are concerned about young people and others who are using drugs.

In 1995, the ACLU in Hawaii, of which this individual was a board member and fundraiser, opposed an ordinance that banned overnight sleeping in parks.

We have learned in recent months pretty clearly that it is important and necessary for a city and police departments to take control of their streets. We learned in New York that the panhandlers and those who are in the parks can, in fact, undermine public safety. Mayor Guiliani in New York has taken great leadership in that regard, and has substantially driven down the crime rate in New York.

It is small matters like this which sometimes turn into much larger matters. This is the kind of frustration that cities and counties and police departments around the country feel when they are challenged about the steps they have to take to preserve public safety.

In 1965, the Hawaii ACLU, of which this nominee was a board member and fundraiser, opposed drug testing in the workplace, saying, "The ACLU opposes random and indiscriminate drug testing in the workplace, not only on privacy grounds but also because such drug testing does not detect current impairment."

Madam President, one of the most beneficial acts that has been done to fight drugs in America, in my opinion, is drug testing in the workplace. A businessman who cares about his employees, who sets a high standard, who wants to eliminate theft, who wants to reduce accidents, who wants to protect the health of his or her employees sends out a clear message that drug use is not acceptable in their company, and they drug test fairly and objectively. The tests are very reliable today and make the workplace safer by protecting the lives and safety of employees, eliminating and reducing crime and theft by the employees, and avoiding injury to those who come into contact with those employees. Furthermore, they also encourage employees to stay drug free. You are encouraging them by insisting on a high standard. And perhaps that employee when they go home will tell their wife or husband who suggests that they might use drugs, "No, we shouldn't do it. I am going to be tested at work."

Drug testing has been a great success. But it has been a long, hard legal fight. In case after case, the ACLU position has been rejected.

I must admit, as a person who has been involved in the fight against drugs, that it concerns me that our nominee is a person who was a board member of an organization that voluntarily went out and tried to obstruct workplace drug testing.

In 1995, the Hawaii ACLU opposed another common occurrence in America, the very popular minimum sentence in criminal cases. State after State after State has followed the Federal law that says that under certain circumstances, crimes with certain prior convictions will be punished with at least a minimum sentence if convicted. And that process has worked; I believe it has helped us identify repeat offenders, to lock them up for longer periods of time, and I am confident that that is one of the primary reasons we have seen a reduction in crime among adults. We are doing a better job of identifying serious, repeat, violent offenders through these "three strikes you're out" laws and mandatory sentencing laws, and it is no small concern to me as a prosecutor, a Federal and State prosecutor, that our nominee for this position has supported the position of the ACLU that mandatory minimum sentences ought not to be approved.

In addition, the Hawaii ACLU has opposed a Federal Stop Turning Out Prisoners Act and the Community Notification of Sex Offenders Act. Those are some of the positions that they have taken during the 1995 period in which this nominee was a member of the board and a fundraiser. Now, when asked at our confirmation hearing if there were any policy positions of the Hawaii ACLU that she disagreed with while on the board of directors, Ms. Mollway answered, "I cannot think of any."

Now, I believe that is a sufficient basis for a Senate Member to have a serious concern about this nominee, and that is why at least six members of the Judiciary Committee cast a "no" vote. We respect those who have nominated her; we respect her; but we have serious concerns about her nomination to the Federal bench.

In addition, in recent years the ACLU has taken other positions that are outside the mainstream of legal and current American thought. They oppose the death penalty. They oppose three-strikes sentencing laws around the country. They oppose school vouchers for sectarian schools. They have opposition to V chips in televisions to screen out violence. They oppose voluntary labeling of music albums as to their content. They support the legality of partial-birth abortion. They support the constitutionality and use of racial preferences and oppose some of the laws that eliminate that. And they support the decriminalization of drugs; that is, the legalization of drugs.

Such positions are not mainstream thought in this country. That is not mainstream law that is being advocated. They have done some good things over the years. They have taken some positions that were courageous and were proved to be right and furthered our country, but this nominee in the last few years was an active member of an organization that took some of the positions I just mentioned, in court.

Now, I have voted for an ACLU member, maybe more than once, to be confirmed, but I want to share some other things that concern me and affect my decision, and I hope other Senators will consider this as they decide what standard they will use when they consider whether to consent to this nomination.

This nominee will be a district judge within the Ninth Circuit Court of Appeals that includes Hawaii, California, Oregon, Washington, Idaho, Arizona, Nevada and Alaska. Over the years that circuit has been recognized as the most liberal circuit in America. It has also been recognized as a court that has been out of touch with mainstream American law. In the last term of the U.S. Supreme Court, the Supreme Court reviewed 28 cases that arose from the ninth circuit, and of those 28 cases, they reversed 27 of them. This has been a pattern over quite a number of years.

Just last month, the ninth circuit became the first circuit in America to rule that the Prison Litigation Reform Act is unconstitutional. That was passed by this Congress. It was a magnificent act to eliminate this repetition of appeals by prisoners that have clogged courts for years, and I have seen it personally, and so many of them are extraordinarily frivolous. But it was carefully considered by this body. Every other circuit that has addressed this issue has upheld the constitutionality of the Prison Litigation Reform Act, including the 1st circuit, the 4th circuit, the 6th circuit, the 8th circuit, and the 11th circuit. They have upheld it as constitutional, but once again the ninth circuit is out of step with that group.

Recently, in the last month or so, the Supreme Court harshly criticized the ninth circuit for granting a habeas corpus petition—that is, a petition by a prisoner—that had overturned the death sentence of a convicted rapist and murderer. In reversing this conviction, the ninth circuit opinion reversed a conviction that had gone to the California Supreme Court four times, that had gone to the U.S. Supreme Court two times. The defendant had been on death row for well over 10 years and there was little dispute about his guilt or innocence. And so the Supreme Court really was frustrated by this. This was a midnight stay of execution, within 24 or 48 hours of the carrying out of this death penalty case that had been on death row for years and was reversed by them.

Some would say, as Ms. Mollway did, I will follow the laws. Sometimes we have to wonder what the law is in the ninth circuit. We know that they have been extraordinarily sensitive to death penalty cases beyond, in my opinion, rationality. We know that in many cases the court-appointed attorneys' fees in death cases in California or in the ninth circuit have exceeded $1 million for the court-appointed attorneys to defend those who have been charged, since the appeals go on for years and years. And, as I recall, the amount of money spent on that in the ninth circuit matches all the other circuits in America in expense.

So we have a problem with that, and we need judges who know what the law is, who make every effort to guarantee that the innocent are found innocent, their convictions reversed if need be, and are given a fair trial. That is absolutely guaranteed by our Constitution and should never be denied. But, Madam President, when you have these kinds of appeals, it makes a mockery of the law, it undermines the public respect for the law, it places the courts in disrespect, and I think this circuit is rightly criticized for that.

Recently, the New York Times referred to the ninth circuit as "the country's most liberal circuit" and noted that it was viewed by a majority on the Supreme Court as "a rogue circuit."

I would say that is a serious matter. I believe, based on this nominee's background, her positions on issue after issue, her activities with the ACLU in Hawaii, that we have indications that instead of being a part of a renaissance in the ninth circuit, to improve the ninth circuit and bring it back into the mainstream of American law, that she would, in fact, be more of the same: the same liberal, activist, anti-law-enforcement mentality that has gotten this circuit out of whack with the rest of the Nation.

District judges are not circuit judges; I don't mean to suggest that they are; but they are part of the circuit. It was a district judge recently who ruled the California Proposition 209, the civil rights initiative that would eliminate racial preferences, violated the Constitution of the United States. Fortunately, a panel of even the ninth circuit unanimously agreed that was not correct and the court found there is no doubt that Proposition 209 was constitutional. And the Supreme Court refused to reverse that—in effect, affirmed that decision.

So I would just say to my distinguished friends from Hawaii, we do need to be careful about what is happening on our benches. We do have, in certain parts of this country, courts that are going beyond the traditional role of judges, going beyond the traditional role of courts. It is breeding a disrespect, it is undermining law enforcement, it is delaying the carrying out of justly imposed sentences, and we need to make sure that we do something about that. I, for one, have stated publicly for some time now that I feel a special obligation and a special concern to look at the nominees for the ninth circuit, to make sure that those nominees are going to be part of a solution to this problem rather than part of the problem.

Based on my analysis and my sincere belief about it, I have concluded that I should vote "no," and I will urge my fellow Senators also to vote no.

This nominee is a person of quality and intellect, but I believe she is not the right nominee at this time for this position.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. I am most grateful to the distinguished Senator from Alabama for his reasoned argument on the matter before us.

In order to further clarify the record, if I may, Madam President, I ask unanimous consent that a letter dated March 9, 1998, addressed to the chairman of the Committee on the Judiciary, with responses to additional questions from Senator THURMOND and Senator SESSIONS, be printed in the RECORD.

There being no objection, the Letter was ordered to be printed in the RECORD, as follows:

CADES SCHUTTE FLEMING & WRIGHT,
Honolulu, HI, March 9, 1998.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC

DEAR SENATOR HATCH: Thank you very much for giving me the opportunity to respond to additional questions from Senators Thurmond and Sessions. I am enclosing my responses to the questions delivered to me on March 9, 1998.

Very truly yours,
SUSAN OKI MOLLWAY.

Attachments.

ANSWERS OF SUSAN OKI MOLLWAY TO ADDITIONAL QUESTIONS FROM SENATOR SESSIONS

1. In your legal opinion, is the Prison Legal Reform Act constitutional?

Yes. This law is presumed to be constitutional. It has been upheld by several appellate courts (*e.g., Hadix* v. *Johnson*, 133 F.3d 940 (6th Cir. 1998); *Benjamin* v. *Jacobson*, 124 F.3d 162 (2d Cir. 1997); *Plyler* v. *Moore*, 100 F.3d 365 (4th Cir. 1996), *Cert. den.*, 117 S. Ct. 2460 (1997)). I have no personal views that would prevent me from following applicable law in this or any other area.

2. In your legal opinion, is the 1995 Habeas Corpus Reform constitutional?

Yes. This law is presumed to be constitutional. It has been upheld as constitutional in *Felker* v. *Turpin*, 116 S. Ct. 2333 (1996). Again, I have no personal views that would prevent me from following applicable law in this or any other area.

If confirmed, you will preside over many employment discrimination cases as a federal judge.

3. In a suit challenging a government racial preference, quota, or set-aside, will you follow the 1995 *Adarand* v. *Pena* decision and subject that racial preference to the strictest judicial scrutiny?

Yes, if confirmed, I will follow *Adarand* v. *Pena* and subject any government racial preference, quota, or set-aside to the strictest judicial scrutiny.

4. In your legal opinion, how difficult is it for any government program or statute to survive strict scrutiny?

It is extremely difficult for a government racial preference, quota, or set-aside to survive strict scrutiny. The program or statute must be narrowly tailored to meet a compelling state interest. *Adarand* v. *Pena* makes it clear that this is a very heavy burden to overcome.

5. Is the California Civil Rights Initiative constitutional?

Yes. In *Coalition for Economic Equity* v. *Wilson*, 122 F. 3d 692 (9th Cir.), *Cert. den.*, 118 S. Ct. 397 (1997), the Ninth Circuit upheld the initiative.

6. Is there a constitutional right to homosexual marriage under the U.S. Constitution?

Bowers v. *Hardwick*, 478 U.S. 185 (1986), and the Defense of Marriage Act, which is presumptively constitutional, indicate that there is no constitutional right to homosexual marriage under the United States Constitution. I have no personal belief that would prevent me from following applicable law in this or any other area.

Mr. KENNEDY. Madam President, I strongly support Susan Oki Mollway's nomination to the federal district court in Hawaii. Her nomination has now been pending before the Senate for 2½ years. It is long past time to confirm this able nominee.

Ms. Mollway's credentials are impressive. She is a Harvard Law School graduate and a partner at a prestigious Hawaii law firm, where her practice has included complex civil litigation. In 1987, she was voted Outstanding Woman Lawyer by the Hawaii Women Lawyers. She successfully argued a case before the Supreme Court of the United States in 1994.

Ms. Mollway has the support of every member of Hawaii's congressional delegation, and the federal judges in Hawaii hold her in the highest regard. She would be the first Asian-American woman to sit on the federal bench.

Some of our colleagues oppose this nomination because Ms. Mollway served on the Board of Directors of the ACLU in Hawaii, at a time when the ACLU was active in the same-sex marriage debate in that state. In fact, much of the ACLU's involvement in that debate took place long before Ms. Mollway became a member of the Board of Directors. In addition, Ms. Mollway has emphatically stated that she never voted on the position the ACLU should take on this issue or on any other litigation or legislation. The opposition to her nomination is unjustified, and it is no basis for denying confirmation.

Unfortunately, Ms. Mollway is just one of the many well-qualified women and minority nominees who have been arbitrarily delayed by the Senate and subjected to unfair ideological hazing.

In fact, in this Republican Senate, women are four times more likely than men to be held up for more than a year. Forty-three percent of the nominees currently on the Senate calendar are women. In the last three months, the Senate Republican leadership has allowed only one woman to be confirmed to the federal bench, while confirming 15 men. And, 16 out of 21 —that's 76 percent—of the nominees carried over from last year's session are women or minorities.

I urge my colleagues to support Ms. Mollway's nomination. It is time to end the logjam of qualified women and minority nominees. It is time to provide relief to the federal district court in Hawaii, whose caseload has doubled in the last 5 years. It is long past time to confirm Susan Oki Mollway. Her qualifications are outstanding and I am confident that she will serve with great distinction on that court. Frankly, the Senate should confirm her—and apologize to her as well.

Mr. INOUYE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I want to say a couple of words about this nomination. I am very pleased that Susan Mollway's nomination has finally reached the Senate floor. As others have noted, it is a long, long time in coming. I am told that it has taken 2½ years. But today she is finally going to get a vote, and I am confident that she will be confirmed.

I think it is quite an impressive story. Susan Mollway, first nominated for the U.S. District Court for the District of Hawaii in December of 1995, was reported favorably by the Senate Judiciary Committee on April 25 of 1996. Nothing happened, of course, with that nomination, and she was renominated again on January 7 of 1997 and again reported out favorably by the Judiciary Committee.

She must be the most patient woman in the world. For all this time, with all this uncertainty, with all of the implications professionally, it has been a long wait, not only for her, but for Hawaii.

The seat which Ms. Mollway has been nominated to has been vacant now for 3 years, since April of 1995. Were it not for the extraordinary persistence of our colleagues from Hawaii, the senior Senator, DANIEL INOUYE, and the junior Senator, DANIEL AKAKA, we would not be here this afternoon. It is only their persistence and the extraordinary credibility and, frankly, persistence that they have demonstrated for all this time that we are now celebrating this moment.

Their persistence is well invested. Susan Mollway is fully qualified and will be an extraordinary credit to the bench. She is a partner in the Honolulu law firm of Cades, Schutte, Fleming and Wright where she went upon graduation from Harvard Law School.

She has practiced in a broad range of areas, including a successful argument before the U.S. Supreme Court. She has won numerous awards, including the Hawaii Women Lawyers' Outstanding Woman Lawyer Award in 1987.

The granddaughter of a "picture bride" and a plantation worker in Hawaii, Ms. Mollway and her family have learned strength and commitment from their story. Her father left high school during World War II to join a Japanese-American unit of the U.S. Army. Together with Senator INOUYE, he fought in Europe as part of the 442nd Regiment Combat Team, the most decorated military unit of its size in World War II. At the same time, people he knew were among the thousands of Japanese-Americans interned by our own Federal Government. Later, Ms. Mollway's father used his veteran's benefits to attend Harvard. Clearly, his daughter now understands the great joy and honor of being an American, but also the burdens and barriers faced by some in our society.

We are all proud of the distance we have come as a society in ending the kind of discrimination faced by Japanese-Americans of Ms. Mollway's father's generation, but the confirmation of this judge to be now U.S. district judge will mark yet another step in this progress. Susan Mollway is an outstanding nominee and deserves to be confirmed.

I, again, congratulate my two colleagues from Hawaii, and I call upon all of my colleagues to vote in her favor in 40 minutes.

I yield the floor.

Mr. INOUYE. Madam President, I ask unanimous consent that Senator SESSIONS and I be permitted to yield back the remainder of our time and that at the hour of 5 p.m., a rollcall vote be taken on this matter.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. INOUYE. Madam President, may I change that to 5:10?

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator wish to request the yeas and nays at this time?

Mr. INOUYE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

MORNING BUSINESS

Mr. INOUYE. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Thank you very much, Madam President.

SECRET HOLDS ON NOMINATIONS AND LEGISLATION

Mr. WYDEN. Madam President, only 52 legislative days remain in this session. Dozens of nominations are pending, and more than 400 items are on the calendar. Being an election year, this is a recipe for the explosion of a little-known procedure, but one that is extraordinarily important as the Senate moves to the end of the session. I speak today about the issue of secret holds on nominations and legislation before this body.

Nowhere in the Constitution nor in our Federal statutes is there any mention of the right of a U.S. Senator to put a secret hold on a bill or a nomination. Nevertheless, this power is one of the two or three most significant powers that a Member of the U.S. Senate can have. In effect, this power allows any Member of the U.S. Senate, in secret, to block a nomination or a piece of legislation from even being considered on the floor of this body.

I have talked to citizens at home about this. They are stunned that any Member of the U.S. Senate would have the power to be able to block something. But what really galls them is the right to do it in secret without there being any accountability whatsoever.

I am of the view that it is appropriate that Members of the U.S. Senate, in efforts to represent our constituents, have the power to make decisions that are going to affect dramatically the lives of millions of Americans. But I think that extraordinary power ought to be accompanied by real responsibility. Certainly if one Member of the U.S. Senate is going to block this body from even considering a bill or a nomination, it should be accompanied by public disclosure.

Our friend, Senator GRASSLEY, has come on to the floor. The Presiding Officer and our colleagues know that for more than a year he and I have been trying to bring some sunshine to the U.S. Senate. We have been trying to change the rules so that if a Member does singlehandedly seek to block a nomination or a bill from coming to this floor, they would be required, as part of the Standing Order of the Senate, to stipulate in the CONGRESSIONAL RECORD that they were, in fact, that individual.

We are moving to that part of the legislative session where the secret hold is most abused. Very shortly, in this body we will begin a game that I call legislative hide and seek. We will have holds on nominations and bills. Outside this Capitol Building there will be lobbyists trying to figure out who has put a secret hold on a particular bill or nomination. And this entire process contributes to the cynicism and skepticism that so many Americans have about our government today.

Madam President and colleagues, it came to light in the fall of 1997—which, as we all know, wasn't an election year—that there were 42 holds in play at one time. As I mentioned, this game of legislative hide and seek was underway outside these Chambers.

At that time, Senator GRASSLEY and I were able to win on a voice vote an amendment to change the Senate's Standing Orders to require public disclosure of a hold. But then, in what was really the ultimate irony, our effort to end secret holds was secretly killed in a conference committee and vanished when the D.C. appropriations bill was brought back before the Senate.

I hope now with just over 50 legislative days remaining, that the Senate would on a bipartisan basis change this particular longstanding tradition—a tradition noted nowhere in the Constitution, our Federal statutes or Senate rules—and bring some openness and some sunshine to this body.

The hold started out as simply an effort to try to accommodate our colleagues. If a Member of the U.S. Senate had a spouse who was ill or a relative who faced a particular problem, they could, on a Monday, say, "I can't be there on Tuesday, would it be possible to hold things over for a couple of days so I could address a matter that was important to my constituents?"

That is not what Senator GRASSLEY and I are talking about. We are not talking about the right of a Senator to be present to discuss an issue important to them and to their constituents. We are talking about making sure that when a Member of the U.S. Senate digs in and digs in to block a particular nomination or a bill from either coming to the floor or ever being considered at all, that at that point they would be required to disclose publicly that they are the individual who is blocking consideration by the Senate.

Under our amendment no Member of the U.S. Senate would lose their power to place a hold on a bill. A Senator's power would be absolutely unchanged with respect to the right to place a hold on legislation. All that Senator GRASSLEY and I are saying is when you put on that hold, be straight with the American people. Let the Senate and let the American people know that you are the person who feels strongly about a particular issue. Make sure that it is possible, then, for us to find out where in the discussion of a particular nomination or piece of legislation the Senate is considering there is a problem. This has not been the case, and this situation is getting increasingly serious.

In the two years since I have been here I have seen more and more abuse of this process. We are seeing in a number of instances that even the Senators themselves don't know that a hold is being placed in their name. I have had Senators come to me and say, "I learned that one of my staff"—or someone else's staff—"put a hold on a bill," and the Senator I was working with didn't even know that a hold had been placed on the legislation.

This ought to be an easy reform for the U.S. Senate. It simply would require openness, public disclosure, and an opportunity for every Member of the Senate and for the American people to know who, in fact, feels sufficiently strongly about that bill, that they are the one keeping this body from considering it.

A number of public interest organizations and opinion leaders have come out in favor of the effort being pursued by myself and Senator GRASSLEY. I will close my opening remarks and then yield my time to Senator GRASSLEY, with just a quick statement from a Washington Post editorial that came out in favor of this effort.

The Washington Post said:

> It's time members of the Senate stand up and answer to each other and the public for such actions. What are they scared of?

That, Madam President, is what this issue is all about. It doesn't pass the smell test to keep this information from the American people. There is not a town meeting in our country where it is possible for a Member of the U.S. Senate to say, "I'm involved in making decisions that affect millions of people and billions of dollars, but you know, I'm not going to tell you anything about it. I'm not going to let you in on this particular procedure."

Again, this is a procedure that has evolved over the years, that is written down nowhere, not in the rules, not in the statutes, and not even in the Constitution.

Madam President, it is time to ensure that when Senators exercise the extraordinary powers that we are accorded in the Constitution and the laws of our land, that those powers be met with responsibility, powers that make it clear that when there is legislation affecting billions of dollars and countless Americans that we are going to let the public in on the way the Senate does its business.

Senator GRASSLEY and I filed our amendment to the Department of Defense authorization bill. It is our intention to bring this bipartisan amendment before the Senate at the earliest opportunity. We want to make it very clear that between now and the fall, when we are likely to have 60, 70, 80 secret holds and this game of hide and seek is being played all over the Capitol, Senator GRASSLEY and I want to have the Senate rules changed so that the public will know at the end of a session how and when these important decisions are being made.

Before I conclude, let me just say to my colleague from Iowa, who has joined us on the floor to speak after me this afternoon, I have enjoyed working with him on many issues. I serve on the Senate Aging Committee, which he so ably Chairs, but I am particularly appreciative of the chance to work with him on this issue. We have had a bipartisan team pursuing this matter for many, many months. We want it understood that there is absolutely nothing partisan, nothing Democrat, nothing Republican, about our desire to bring real openness and accountability to the U.S. Senate. This isn't about partisan politics. This is about good government. This is about making sure that in the last days of a Senate session we are no longer playing legislative hide and seek, but are making decisions in a way that we are accountable to the public, and that the American people can follow. We want to contribute to confidence in the way the Senate does its business, rather than to what we face today, which is additional skepticism and cynicism by virtue of the fact that the Senate does so much business at the end of a session in secret.

I thank my colleague from Iowa, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Parliamentary inquiry. Is there any time limits? I know we vote at 5:00.

The PRESIDING OFFICER. The Senate is in morning business until 5:10, at which time a vote will occur.

Mr. GRASSLEY. Madam President, before I start to debate this issue, I should say thank you to my colleague from Oregon for his leadership in this area. He has worked very hard on it. I have been very happy to be supportive of him—and I am fully supportive of him. I have told him how secret holds have affected me and now both he and I practice what we preach—that is, we declare our intentions to put a hold on a piece of legislation if we decide to take that action. Obviously, being open about placing a hold has worked for us and it is a sound practice.

I want to state the proposition that eventually what is right is going to win out in the Senate. I know that constituents are skeptical about right winning out in this body, and I suppose sometimes it takes a long time for right to win out; but I believe if you feel you are in the right, and that you are pursuing the right course of action and, particularly, as in this case, when your opponents don't have a lot to say about what you are trying to do, I think you can be confident that you are pretty much on the right course. There wasn't much opposition to this expressed on the floor of the Senate last year. My guess is that there won't be a lot expressed this year either, and eventually we will win. I think we will win this year. But if we don't, we are going to win sometime on this proposition because it is so right and because we are not going to give up.

I know persistence pays because it took me about 6 years, ending in 1995, to get Congress covered by a lot of legislation that it exempted itself from. A lot of laws were applicable to the rest of the country and were not applicable to those of us on Capitol Hill. That was wrong. It was recognized as being wrong. So I presented the motions to accomplish the goal of getting Congress to obey the laws everyone else had to follow. They were hardly ever argued against on the floor of this assembly. But in the "dark dungeons" where conference committees are held, somehow those provisions were taken out—until after about 6 years of discussing the issue of congressional exemptions, and the public becoming more aware of this shameful situation, finally there was enough embarrassment brought to Congress that we could not keep that exemption from those laws any longer. So we passed the Congressional Accountability Act early in 1995. It was the first bill signed that year by the President of the United States. We have ended those exemptions that were so wrong.

I still remember that, early on in that period of time, how my colleagues would just say privately to me, "What a terrible catastrophe it is going to be for the Congress to have to live under these laws that apply to the rest of the Nation"—laws like civil rights laws, worker safety laws, et cetera. We have had to live under those laws for 3 years now, and it hasn't harmed us at all. It has been good for the country to have those of us that make laws have to actually understand the bureaucratic morass and red tape you have to go through to meet those laws, and some of the conditions on employment, some of the working conditions in the office, some of the wage and hour issues that private employers have to go through. We understand those now. We have to be sympathetic to their arguments more because we have to live under those laws.

Well, that is one example of right ultimately winning. That brings me to what is right about this. There are plenty of reasons for holds, and there is nothing really wrong with holds. There is nothing that our legislation says is wrong with holds. But the reasons can be purely political. Sometimes holds are put on for one colleague to use as leverage with another colleague, to move something that maybe another individual is blocking. There can be truly flawed legislation, and maybe there such holds legitimately allow more time to work things out. However, other holds can be purely a stalling tactic. A hold could be all could be for all of those reasons and more. It doesn't matter what the reason is. We don't find fault with those reasons. We only say that the people that are exercising the hold, for whatever reason, ought to say so, and why.

It is going to cause the Senate, I think, with our amendment, to be run more openly and efficiently. It is going to lift one of the veils of secrecy. It is not going to lift all of the veils of secrecy in a parliamentary body. I don't know that I would call that all of them be lifted. I am not sure I could even enumerate all of the layers of secrecy that might go on. But this is one form of secrecy that is not legitimate.

As I said, we do not ban holds or the use of them, for whatever reason they might be made. We just stipulate that they must be made public so that we know who is putting the hold on. We would like to know why the hold is being put on, but that is not even a requirement in our legislation. Just tell who you are. You don't even have to say why. It is pretty simple. It is pretty reasonable.

A lot of my colleagues, I think, fear retribution. If they are putting a hold on for a legitimate reason, why should they have to fear that? Maybe the greater good of the body, the greater good of the country would be their motivation. They might think they would experience some sort of retribution and that is why they may not want their hold to be known. I say that, after 2 or 3 years of practicing open holds myself, there is no fear of a hold being known. I can tell you this: I probably was somewhat nervous the first time I announced that I was going to make public in the CONGRESSIONAL RECORD why I was putting a hold on. I thought that maybe I was opening myself up to a lot of retribution, a lot of trouble that I don't need. I probably don't use holds very often. You could probably count the number of times on one hand that I would use a hold in the course of a Congress. Regardless, the times that I have done it, I can tell you that there is no pain. No harm came to me. There is no retribution that came to me as a result of it from any of my colleagues. And 98 others beside Senator WYDEN and myself could do that, and they don't.

I can tell you about the problems I have had finding out who has a hold, why they have a hold; and then we have had these rotating holds where somebody has found out and some friend will put a hold on in his place. You run those things down. It is not a very productive way to be a Senator. If I can go to the CONGRESSIONAL RECORD and find out who doesn't like my proposition, who doesn't like this nominee, et cetera, I can go to that individual and just talk up front about the reason, and I think it will even speed up the work of the Senate. If each Senator can be a little more efficient, then the Senate is going to be a little more efficient body as a whole.

So this is one of those things that, from every angle—every reason for making a hold open is a good reason. Look at all of the prospective opposition to it and the reasons for the opposition. First of all, people don't very freely express opposition to it. But when they do express an argument against making holds open, it is not a very good reason to be against it. When you have these public policy arguments for making holds open that are good, good, good, why should we waste any time? They just ought to be adopted; they ought to be a part of the practice and make the public's business more public. That is what the Wyden-Grassley amendment is all about. I hope my colleagues will support us in this effort.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Madam President, on behalf of the Senator from Illinois, Mr. RICHARD J. DURBIN, I ask unanimous consent that Mr. Christopher Midura, a legislative fellow with his staff, be accorded privileges of the floor during consideration of both S. 2057 and S. 2132.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL DAIRY POLICY

Mr. FEINGOLD. Madam President, I rise today to discuss our archaic and unjust Federal Dairy Policy: it is hopelessly out-of-date, completely out-of-touch with reality and an outrageous way to treat the hard-working dairy farmers of the Upper Midwest, particularly Wisconsin.

Federal dairy policy has been putting small dairy farms out of business at an alarming rate, Madam President. The Northeast loses 200 dairy farms per year, which is bad enough. Meanwhile, Wisconsin is losing 200 per month, which is disastrous. That's about 5 dairy farms per day! The greatest force driving Wisconsin's dairy farmers out of business and off the land is the current structure of the Federal Dairy Program.

The Federal Dairy Program was developed back in the 1930's, when the Upper Midwest was seen as the primary producer of fluid milk. The idea was to encourage the development of local supplies of milk in other areas of the country that had not produced enough to meet local needs. It wasn't a bad idea for the 1930's, but those days are gone.

Six decades ago, the poor condition of America's transportation infrastructure and the lack of portable refrigeration technology prevented Upper Midwest producers from shipping fresh fluid milk to other parts of the country. Providing an artificial boost to milk prices in other regions to encourage local production made sense, in the 1930's, that is.

So, in 1937, we passed legislation authorizing higher prices outside the Upper Midwest. These artificial bumps in prices are referred to as Class I differentials. Mr. President, this system is sometimes referred to as the "Eau Claire" system. Do you know why? Believe it or not, it's called the Eau Claire system because it allows dairy farmers to receive a higher price for their milk in proportion to the distance of their farms from Eau Claire, Wisconsin.

So the farther away you are from Eau Claire the better off you are. A dairy farmer, as any dairy farmer from Wisconsin, would tell you that a better name really for this system is the anti-Eau Claire system, because it doesn't treat farmers very well who live close to Eau Claire, Wisconsin.

The system's entire purpose was designed to put dairy farmers in Wisconsin and its neighboring states at a disadvantage. And unfortunately it worked well—too well. Now, we look on as trucks from other regions of the country come into Wisconsin, historically America's dairyland, with milk to be processed into cheese and yogurt. The current Federal Dairy Program is now working only to shortchange the Upper Midwest, and in particular, Wisconsin dairy farmers.

Madam President, it's time to change a system that is completely out of date and is short-changing upper Midwest dairy farmers to the brink of extinction.

But, instead, we have further aggravated the inequities of the Federal milk marketing orders system. Despite the discrimination against dairy farmers in Wisconsin under the Eau Claire rule, the 1996 Farm Bill provided the final nail in the coffin when it authorized the formation of the Northeast Interstate Dairy Compact.

Madam President, the Northeast Interstate Dairy Compact sounds benign, but its effect has been anything but, magnifying the existing inequities of the system. It establishes a commission for six Northeastern States—Vermont, Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

The Northeast Interstate Dairy Compact Commission is empowered to set minimum prices for fluid milk higher even than those established under Federal Milk Marketing Orders. Never mind that the Federal milk marketing order system, under the Eau Claire rule, already provided farmers in the region with minimum prices higher than those received by most other dairy farmers throughout the nation.

The compact not only allows the six States to set artificially high prices for their producers, it allows them to block entry of lower priced milk from producers in competing States. To give them an even bigger advantage, processors in the region get a subsidy to export their higher priced milk to non-compact States. It's a windfall for Northeast dairy farmers. It's also plainly unfair and unjust to the rest of the country.

Who can defend this system with a straight face? This compact amounts to nothing short of government-sponsored price fixing. It's outrageously unfair, and it's also bad policy: It blatantly interferes with interstate commerce and wildly distorts the marketplace by erecting artificial barriers around one specially protected region of the Nation; it arbitrarily provides preferential price treatment for farmers in the Northeast at the expense of farmers in other regions who work just as hard, who love their homes just as much and whose products are just as good or better; it irresponsibly encourages excess milk production in one region without establishing effective supply control. This practice flaunts basic economic principles and ignores the obvious risk that it will drive down milk prices for producers everywhere else in the country; you don't often hear about it but the compact imposes higher retail milk prices on the millions of consumers in the Compact region; it also imposes higher costs on every taxpayer because we all pay for nutrition programs such as food stamps and the national school lunch programs that provide milk and other dairy products.

As a price-fixing device, the Northeast Interstate Dairy Compact is unprecedented in the history of this Nation. In its breadth and its disregard for economic reality, it's in a class by itself.

Madam President, in addition to the current problems, language in the reported Agriculture Appropriations bill in the other body extends USDA's rulemaking period by six months, thereby extending the life of the Northeast Interstate Dairy Compact by six months. Wisconsin's producers cannot withstand another six months of these unfair pricing policies.

Wisconsin's dairy farmers are being economically crippled by these policies. It's time to bring justice to federal dairy policy, and give Wisconsin dairy farmers a fair shot in the market place.

In an effort to repair some of the damage that sixty years of this awful system has caused, I have worked with colleagues to bring the true nature of this system to light and offer some alternatives.

To strike at the heart of the problem, I have introduced legislation in the Senate to kill the notorious Eau Claire system. The measure simply would forbid USDA from using Eau Claire, Wisconsin as the sole basing point when pricing milk.

And I am cosponsoring legislation to repeal the Northeast Interstate Dairy Compact. I'm working hard to prevent the compact's extension and expansion, and to prevent the formation of other regional dairy compacts. Compacts of this kind are unfair and they need to be abolished along with this entire system which has been plaguing Wisconsin farmers for more than sixty years.

Also, I have cosponsored the Dairy Reform Act of 1998, introduced by Senator GRAMS, which establishes that the minimum Class I price differential will be the same for each marketing order at $1.80/hundredweight. What could be more fair than that? Given a level playing field, I know Wisconsin farmers can compete against any farmers in the nation.

The Dairy Reform Act ensures that the Class I differentials will no longer vary according to an arbitrary geographic measure—like the distance from Eau Claire, Wisconsin. This legislation identifies one of the most bizarre and unjustly punitive provisions in the current system, and corrects it. There is no justification to support non-uniform Class I differentials in present day policy.

I first learned of the profound inequity of the Federal dairy program when I served in the Wisconsin State Legislature. There, I spearheaded the effort to provide state funds for a lawsuit against the United States Department of Agriculture. Challenging the system, we argued that USDA had no sound and justifiable economic basis for their milk pricing system. The states of Wisconsin and Minnesota, working together, repeated that argument relentlessly in the courts for over ten years in an effort to beat back the system.

In November of last year, the people of Wisconsin and Minnesota won that case. Federal District Judge David Doty ruled in favor of a more equitable dairy pricing system and enjoined the Secretary of Agriculture from enforcing USDA's "arbitrary and capricious" Class I differentials. Madam President, in other words, a federal judge could find no rational justification for this archaic system and ruled the whole scheme illegal.

Although the case is now in the appellate court, I am optimistic that Doty's ruling will be upheld. As I said, Judge Doty found the current pricing system "arbitrary and capricious."

Most recently, the USDA came up with a proposed rule that included two different options to replace the old system: Option 1A is virtually identical to the status quo and is totally unacceptable to the majority of Wisconsin dairy farmers. Option 1B is a modest step in the right direction and a good place to begin reform efforts. I was optimistic when Secretary Glickman announced USDA's proposed rule for milk marketing order reform and his stated preference for Option 1B.

If there was any question of the intense, personal effect this discriminatory policy has on Wisconsin's dairy farmers, I would hope, after visiting with over 500 producers, consumer advocates, and local officials at an informal hearing in Green Bay, that USDA's doubts could be put to rest.

At the USDA listening session in Green Bay, more than 500 people showed up, demanding a fair shake. At the sessions in New York, Georgia and Texas, a total of 240 people showed up. Wisconsin had more than double the attendance than the other locations combined. That difference in attendance didn't happen just because of Wisconsin's tradition of good citizenship. They showed up in Green Bay by the hundreds because they know they are getting a raw deal. Those Wisconsinites showed up to demand reform. They showed up to demand a better system, a chance to preserve economic viability and the opportunity to continue their way of life.

Day after day, season after season, we are losing small farms at an alarming rate. While these operations disappear, we are seeing the emergence of larger dairy farms. The trend toward fewer but larger dairy operations is mirrored in most States throughout the Nation. The economic losses associated with the reduction in the number of small farms go well beyond the impact on the individual farm families who must wrest themselves from the land.

The loss of these farms has hurt their rural communities, where small family-owned dairy farms are the key to economic stability. They deserve better: we need a system in which their farms are viable and their work can be fairly rewarded.

In conclusion, I will continue to work with Wisconsin family farmers and other concerned Wisconsinites in the fight to preserve and protect our family dairy farms by restoring some semblance of fairness and economic integrity to our outdated, out-of-touch, milk pricing system. In the process, we will save an important piece of American agricultural history and a priceless part of Wisconsin's culture.

As USDA considers Federal Milk Marketing Order reform, I urge the Department to set aside 60 years of inequality and senseless regionalism to do what is best for this nation's dairy industry. These policies are out-of-date, out-of-touch and, frankly, an outrageous way to treat Wisconsin dairy farmers. For those farmers, who are watching as their neighbors sell their livestock to cover their bills and abandon the land of their parents and grandparents, USDA's decision could mean the demise or the survival of their way of life. It is time to do the right thing on dairy pricing policy. Wisconsin farmers demand it, Wisconsin's consumers demand it, and, above all, Justice demands it.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

EXECUTIVE SESSION

NOMINATION OF SUSAN OKI MOLLWAY TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII

VOTE

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Susan Oki Mollway to be United States District Judge for the district of Hawaii.

The question occurs on the confirmation of the nomination. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Rhode Island (Mr. CHAFEE), the Senator from New York (Mr. D'AMATO), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Vermont (Mr. LEAHY), the Senator from Illinois (Ms. MOSELEY-BRAUN), and the Senator from Nevada (Mr. REID) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), would vote "aye."

The result was announced—yeas 56, nays 34, as follows:

[Rollcall Vote No. 166 Ex.]

YEAS—56

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Cochran
Collins
Conrad
Daschle
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Hagel
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Levin
Lieberman
Lugar
Mack
Mikulski
Moynihan
Murray
Reed
Robb
Rockefeller
Roth
Sarbanes
Smith (OR)
Snowe
Stevens
Thompson
Torricelli
Wellstone
Wyden

NAYS—34

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Campbell
Coats
Coverdell
Craig
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
McCain
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Thurmond
Warner

NOT VOTING—10

Bennett
Chafee
D'Amato
Domenici
Leahy
Moseley-Braun
Murkowski
Reid
Specter
Thomas

The nomination was confirmed.

Mr. INOUYE. Madam President, I move to reconsider the vote.

Mr. AKAKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senate will now return to legislative session.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. THOMPSON. Madam President, I ask unanimous consent that the pending motion and amendments be laid aside and it be in order for me to call up amendment No. 2813 relative to tax compensation at Fort Campbell and no second-degree amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Madam President, I object.

Mr. THOMPSON. Madam President, I regret the objection of my colleague. At this time, I put Members on notice that I will attempt to get this issue agreed to on the next available bill. This is an important issue to many people in my State. Consequently, I hope to have the cooperation of a majority of colleagues when I move next to enact this legislation.

I yield the floor.

Mr. FEINGOLD. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EFFORT TO REMOVE FEC GENERAL COUNSEL

Mr. FEINGOLD. Madam President, I rise to talk about an effort under way in this Congress to hamstring the agency charged with enforcing the Federal election laws—the Federal Election Commission. This effort is happening very quietly under the guise of routine agency appropriations, but it has deadly serious consequences in terms of the independence of the Federal Election Commission. I think it is important to call the Senate's attention to it and give notice that I intend to do everything in my power to make sure it doesn't happen.

Here is what is happening. The Appropriations Committee of the other body has included a provision in the funding bill for the FEC that would result in the firing of the Commission's general counsel and staff director. That's right, Madam President. The Congress is now going to get involved in the personnel decisions of the FEC, the agency that we have charged with overseeing us and the way we conduct our reelection campaigns. Some in the Congress want to fire two career civil servants who are simply trying to do their job to make campaign information available to the public and enforce the election laws.

Lawrence Noble, the General Counsel, has served the agency since 1987. John Surina, the Staff Director, has been in that position since 1983. These are not political appointees. They were put in their jobs by a bipartisan majority vote of the Commission, as required by law. In fact, both of these individuals were unanimously approved by the FEC when they were appointed. They provide crucial institutional continuity, especially now that, as of last year, we have put a one-term limit on the Commissioners themselves.

But now, unfortunately, some members of Congress apparently don't like some things that the Commission has done. And so they are trying to engineer, what I would call, a quiet coup. They want to require that these two staff positions be refilled every four years by an affirmative vote of four Commissioners. And they specify that this requirement will apply to the current occupants of the positions. So Mr. Noble and Mr. Surina will lose their jobs at the end of this year, unless the Commission votes to reappoint them.

Of course, the Commission itself is in great turmoil. Only two members are serving the terms to which they were appointed. Two members are holdovers, their terms having expired in April 1995. A fifth member is also a holdover, although the President has resubmitted his name. And the sixth slot has been vacant since October 1995. So the Congress has hardly been blameless if the Commission seems at times to be at sea. And now here we are about to create two other vacancies, more turmoil and lack of direction at this crucial agency.

Madam President, specifying by law that top staff positions in the agency must be refilled every four years is unprecedented. The Congressional Research Service has told me that there are three independent agencies—the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, and the National Labor Relations Board—where the General Counsel is actually a political appointee, nominated by the President and confirmed by the Senate. In each of these cases, the General Counsel has direct statutory authority.

But in every other independent agency, including the FEC—and there are lots of agencies, Madam President—the FCC, the SEC, the CPSC, the FTC, the CFTC, and many more. In all of these agencies, the General Counsel is appointed by either the Chairman or the entire body.

And guess how many of those General Counsels are required to be fired after four years unless they are reappointed and reconfirmed by the appointing entity. The answer is none. Not one.

Madam President, I ask unanimous consent that a memorandum from the Congressional Research Service on this issue be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

To: Honorable Russell D. Feingold, Attention: Bob Schiff.
From: Rogelio Garcia, Specialist in American National Government, Government Division.
Subject: Appointments to Positions of General Counsel and of Staff Director on Independent Regulatory and Other Collegial Boards and Commissions.[1]

This memorandum responds to your request for information regarding appointments to the position of general counsel and of staff director, or its equivalent, or independent regulatory and other collegial boards and commissions. Specifically, you inquired about the number of such positions to which the President makes appointments with the advice and consent of the Senate. You also wanted to know if the positions included a fixed term of office, and, if they did, what happened to the incumbent when the term expired.

The position of general counsel at three of 32 independent regulatory and other collegial boards and commissions is subject to Senate confirmation. (The position of staff director, where it exists is not subject to Senate confirmation in any of the 32 agencies.) The three requiring Senate confirmation are the Equal Employment Opportunity Commission (EEOC), Federal Labor Relations Authority (FLRA), and National Labor Relations Board (NLRB). The general counsel positions at the three agencies are for fixed terms of office. At the EEOC, the general counsel is appointed to a 4-year term, and remains in office at the end of the term until replaced (42 U.S.C. 2000e–4(b)); at the FLRA, the general counsel is appointed to a 5-year term, and must leave office when the term expires (5 U.S.C. 7104(f)(1)); and at the NLRB, the general counsel is appointed to a 4-year term and must leave office when the term expires (29 U.S.C. 153(d)).

It appears that the above three general counsel positions were made subject to Senate confirmation because of the special responsibilities assigned directly to them by statute. The general counsel for the EEOC is charged directly with responsibility for the conduct of litigation regarding the commission's enforcement provisions and civil actions.[2] The general counsel for the FLRA has direct statutory authority to investigate alleged unfair labor practices and file and prosecute complaints, as well as "direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices . . ."[3] Finally, the general counsel for the NLRB "exercise[s] general supervision over all attorneys employed by the Board (other than administrative law judges and legal assistants to Board members) and over the officers and employees in the regional offices, and has final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under [29 U.S.C. 160], and in respect of the prosecution of such complaints before the Board . . ."[4]

The general counsels at the other 29 agencies, and the staff director, where the position exists, are appointed either by the agency's governing board, i.e., the board of directors, or the chairman, subject to the general policies, directives, or approval of the governing board. In at least nine agencies, the governing board appoints the general counsel, staff director, and other employees.[5] In at least five agencies, the chairman, governed by the policies and directives of the governing body, makes the appointment.[6] In two agencies, the chairman makes the appointment on "behalf of the commission."[7] In one agency, the chairman appoints the general counsel and staff director, as well as certain other officers, subject to the approval of the commission.[8] Finally, in one agency, the chairman makes the appointment subject to disapproval by a majority vote of the commissioners.[9] None of the appointments is for a fixed term of office. They are all indefinite appointments, and, with two exceptions, the incumbents may be removed at any time by the appointing authority.[10]

If I may be of further assistance, please call me at 7–8687.

FOOTNOTES

[1] The position of general counsel in large independent agencies, and at the department level as opposed to the administration or bureau level, in each executive department is subject to Senate confirmation. None of the positions, however, is for a fixed term of office.

[2] 42 U.S.C. 2000e–4(b)(1).

[3] 5 U.S.C. 7104(f) (2) and (3)

[4] 29 U.S.C. 153(d).

[5] Commodity Futures Trading Commission (7 USC 4a (c) and (d)), Federal Communications Commission (47 U.S.C. 154(f)(1)), Federal Election Commission (20 U.S.C. 437c(f)(1)), Federal Mine Safety Health Review Commission (30 U.S.C. 823(b)(2)), Federal Trade Commission (15 U.S.C. 42, National Mediation Board (45 U.S.C. 154 Third), Railroad Retirement Board (42 U.S.C. 231f(9), Tennessee Valley Authority (16 U.S.C. 831b), and Securities and Exchange Commission (15 U.S.C. 78d(b)).

[6] Defense Nuclear Facilities Safety Board (42 U.S.C. 286(c)), Farm Credit Administration (12 U.S.C. 2245(b)), National Transportation Safety Board (49 U.S.C. 1111(e)(1)), Nuclear Regulatory Commission (42 U.S.C. 5841(a)(2)), and Surface Transportation Board (49 U.S.C. 701(a)(2)).

[7] Federal Energy Regulatory Commission (42 U.S.C. 7171(c)), and Occupational Safety and Health Review Commission (29 U.S.C. 661(e)).

[8] Consumer Product Safety Commission (15 U.S.C. 2053(g)(1)(A)).

[9] U.S. International Trade Commission (19 U.S.C. 1331(a)(1)).

[10] The chairman of the Consumer Product Safety Commission may remove the general counsel or executive director with the approval of the commission (15 U.S.C. 2053(g)(1)(B)); and the chairman of the U.S. International Trade Commission may remove the general counsel or other high official, subject to the approval of the governing body (19 U.S.C. 1331(c)(2)(A)).

Mr. FEINGOLD. Madam President, this is a whole new procedure invented, I have to assume, because some Members of Congress are, in effect, out to "get" Mr. Noble and Mr. Surina.

Oh, and by the way, there is not a single agency where the Staff Director is a political appointee or has to be reappointed by the commissioners themselves after a set term. Not one. Frankly, Madam President, the inclusion of the Staff Director in this provision in the House Appropriations bill seems to me to be a smokescreen designed to make this provision seem even-handed. What is really going on here, I believe, is that some in the Congress are trying to send a message to Mr. Noble, the General Counsel, and through him, to the Commission. Some powerful members of Congress don't like some of the cases that Mr. Noble has recommended bringing. So they want him out.

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[1] See footnotes at end of memorandum.

In recent years, the FEC has undertaken a number of controversial actions in an attempt to enforce the law that the Congress has written. Some of these cases have taken on powerful political figures or groups. The FEC pursued a highly publicized case against GOPAC, a group closely connected to the Speaker of the House. It has an ongoing action against the Christian Coalition alleging that that group illegally coordinated its activities with Republican candidates. And, of course, it has pursued cases and rulemaking proceedings under a more expansive definition of what constitutes express advocacy than some in this Congress believe is appropriate.

All of these actions are objectionable to people on the Republican side of the aisle. But let's remember that there is a flip side. The Commission has assessed significant fines against the 1992 Clinton campaign and the Kentucky Democratic Party. It has pursued litigation against the National Organization for Women and has pending cases against the California Democratic Party concerning its use of soft money, and the advocacy group Public Citizen, alleging that it coordinated its activities with a primary opponent of the Speaker of the House.

The bottom line, Madam President, is that the FEC is trying to do its job, even when we in Congress don't give it adequate resources to do it. And there is another crucial point about these actions. Each and every one of the cases or rulemakings I have mentioned was approved by a majority of the Commission.

Now that is significant, Madam President, because unlike most agencies, the FEC is evenly balanced with Republican and Democratic members. It was carefully designed not to allow either party to have control. So a General Counsel can't just work with one party. In order to file a case, he must get at least four votes from the Commission, including at least one from each party. Now that leads to problems sometimes, because if the Commission deadlocks, a General Counsel recommendation cannot go forward. But the bottom line is that every official action of the FEC must be bipartisan.

So what we have here, Madam President, is an effort to intimidate. The proponents of this firing want to punish the FEC's General Counsel for bringing forward recommendations to enforce the law. Even though in all of the cases I have mentioned, a bipartisan majority of the Commission has agreed with him.

I should mention one other recommendation that Mr. Noble has made that has not received a majority vote of the Commission, and so is not going forward yet. Mr. Noble has recommended that the Commission takes steps to reduce or eliminate certain kinds of soft money contributions. And we know there are some powerful Members of this body who disagree with that idea.

You know, it is really fascinating that some of the same people who are pushing this provision, trying to remove the current General Counsel say that we don't need to enact campaign finance reform, we just need to enforce current law. Well, you can't argue that we need to enforce current law and at the same time be trying to fire the chief law enforcement officer of the agency. That just doesn't make sense. If this provision goes through, and Mr. Noble is relieved of his duties at the end of the year, it may be months before a new General Counsel can be chosen that will get the bipartisan support that is required. So right after the 1998 elections, there will be no one to head up the crucially important enforcement functions of the FEC.

Madam President, we cannot let that happen. We need to let the professional staff of the FEC do its job. Surely the 3 to 3 party split on the Commission is enough to make sure that the Commission doesn't go off on a partisan vendetta. Now we need to stop the partisan vendetta that this proposal represents.

That is why I intend to offer an amendment when the FEC's appropriation bill comes to floor to make clear that the Senate does not want this House proposal to be part of the final bill. And I will urge the President to veto this bill if it is included. I certainly hope, Madam President, that those who want to see our election laws enforced will vote with me when that amendment is offered.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CAMPBELL. I ask unanimous consent there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, June 19, 1998, the federal debt stood at $5,493,981,708,739.93 (Five trillion, four hundred ninety-three billion, nine hundred eighty-one million, seven hundred eight thousand, seven hundred thirty-nine dollars and ninety-three cents).

One year ago, June 19, 1997, the federal debt stood at $5,330,019,000,000 (Five trillion, three hundred thirty billion, nineteen million).

Twenty-five years ago, June 19, 1973, the federal debt stood at $455,362,000,000 (Four hundred fifty-five billion, three hundred sixty-two million) which reflects a debt increase of more than $5 trillion—$5,038,619,708,739.93 (Five trillion, thirty-eight billion, six hundred nineteen million, seven hundred eight thousand, seven hundred thirty-nine dollars and ninety-three cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5575. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice—Continuation of Representation Following Death of a Claimant or Appellant" (RIN2900-AI87) received on June 18, 1998; to the Committee on Veterans Affairs.

EC-5576. A communication from the Manager of the Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding popcorn crop insurance provisions (RIN0563-AB48) received on June 12, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5577. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation regarding modernization of the commercial operations of the U.S. Customs Service; to the Committee on Finance.

EC–5578. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, a listing of documents sent to the Senate since March 1996; to the Committee on Finance.

EC–5579. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Changes in Accounting Periods and in Methods of Accounting" (Rev. Proc. 98–39) received on June 18, 1998; to the Committee on Finance.

EC–5580. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, a report of the texts of international agreements, other than treaties, and background statements (98–76—98–80); to the Committee on Foreign Relations.

EC–5581. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Place of Application" (Notice 2800) received on June 18, 1998; to the Committee on Foreign Relations.

EC–5582. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule regarding the Pilot Preferred Surety Bond Guarantee Program received on June 18, 1998; to the Committee on Small Business.

EC–5583. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Disaster Loan Program" received on June 18, 1998; to the Committee on Small Business.

EC–5584. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Business Loan Program" received on June 18, 1998; to the Committee on Small Business.

EC–5585. A communication from the Secretary of Commerce, transmitting, a draft of proposed legislation entitled "The Public Broadcasting Digital Investment Act"; to the Committee on Commerce, Science, and Transportation.

EC–5586. A communication from the Secretary of Transportation, transmitting, the report entitled "Importing Noncomplying Motor Vehicles" for calendar year 1997; to the Committee on Commerce, Science, and Transportation.

EC–5587. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the Pacific Offshore Cetacean Take Reduction Plan (RIN0648–AI84) received on June 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5588. A communication from the Assistant Administrator of the National Ocean Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "The Monterey Bay National Marine Sanctuary" received on June 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5589. A communication from the Assistant Administrator of the National Ocean Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the anchoring of vessels in the Florida Keys National Marine Sanctuary (Docket 971014245–7245–01) received on June 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5590. A communication from the ADM—Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Electronic Tariff Filing System" received on June 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5591. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, notice of a correction regarding the report of a rule on the biochemical phospholipid pesticide Lyso-PE (EC5423), which was incorrectly reported by the agency under FRL5795–1 instead of the correct FRL5795–7; to the Committee on Environment and Public Works.

EC–5592. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of Fee Schedules; 100% Fee Recovery, FY 1998" (RIN3150–AF83) received on June 18, 1998; to the Committee on Environment and Public Works.

EC–5593. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Reporting Requirements for Risk/Benefit Information; Amendment and Correction" (FRL5792–2) received on June 17, 1998; to the Committee on Environment and Public Works.

EC–5594. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding emission standards for industrial process cooling towers (FRL6112–7) received on June 17, 1998; to the Committee on Environment and Public Works.

EC–5595. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding residues of the pesticide buprofezin (FRL5794–7) received on June 17, 1998; to the Committee on Environment and Public Works.

EC–5596. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the San Joaquin Valley Unified Air Pollution Control District (FRL6112–5) received on June 17, 1998; to the Committee on Environment and Public Works.

EC–5597. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of interim and final revisions to the Federal Acquisition Regulation; to the Committee on Governmental Affairs.

EC–5598. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–358 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5599. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–359 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5600. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–360 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5601. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–361 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5602. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–362 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5603. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–368 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5604. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–369 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5605. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–370 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5606. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–373 adopted by the Council on May 5, 1998; to the Committee on Governmental Affairs.

EC–5607. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5608. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the annual report under the Federal Managers Financial Integrity Act for the year ending September 30, 1995; to the Committee on Governmental Affairs.

EC–5609. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the annual report under the Federal Managers Financial Integrity Act for the year ending September 30, 1996; to the Committee on Governmental Affairs.

EC–5610. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the annual report under the Federal Managers Financial Integrity Act for the year ending September 30, 1997; to the Committee on Governmental Affairs.

EC–5611. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Notice of Final Funding Priorities for Fiscal Years 1998–1999 for Certain Centers and Projects" received on June 18, 1998; to the Committee on Labor and Human Resources.

EC–5612. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule regarding procedures governing board meetings of the National Credit Union Administration received on June 18, 1998; to the Committee on Small Business.

EC–5613. A communication from the President and Chairman of the Export-Import

Bank of the United States, transmitting, the Revised Annual Performance Plan for fiscal year 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5614. A communication from the Secretary of Defense, transmitting, notice of military retirements; to the Committee on Armed Services.

EC–5615. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Direct Award of 8 (a) Contracts" (Case 98–DO11) received on June 18, 1998; to the Committee on Armed Services.

EC–5616. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Recodification of Certain Tolerance Regulations" (FRL5777–7) received on June 18, 1998; to the Committee on Environment and Public Works.

EC–5617. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Peroxyacetic Acid; Exemption From the Requirement of a Tolerance; Correction" (FRL5797–3) received on June 18, 1998; to the Committee on Environment and Public Works.

EC–5618. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding hydrogen peroxide pesticide tolerances (FRL5797–4) received on June 18, 1998; to the Committee on Environment and Public Works.

EC–5619. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding fludioxonil pesticide tolerances (FRL5797–5) received on June 18, 1998; to the Committee on Environment and Public Works.

EC–5620. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding California gasoline refiners (FRL6114–4) received on June 18, 1998; to the Committee on Environment and Public Works.

EC–5621. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5622. A communication from the Inspector General of the General Services Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5623. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the annual report for fiscal year 1997; to the Committee on Governmental Affairs.

EC–5624. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule regarding additions to the Committee's Procurement List received on June 18, 1998; to the Committee on Governmental Affairs.

EC–5625. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, a report on the internal accounting and administrative controls of the ARC for fiscal year 1997; to the Committee on Governmental Affairs.

EC–5626. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Adjustment of Status to That of Person Admitted for Permanent Residence" (RIN1125-AA20) received on June 18, 1998; to the Committee on the Judiciary.

EC–5627. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule regarding procedures on suspension of deportation and cancellation of removal (RIN1125-AA230) received on June 18, 1998; to the Committee on the Judiciary.

EC–5628. A communication from the Acting Chair of the Federal Subsistence Board, transmitting, pursuant to law, the report of a rule entitled "Subsistence Taking of Fish and Wildlife Regulations" (RIN1018-AE12) received on June 18, 1998; to the Committee on Energy and Natural Resources.

EC–5629. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Waiver for Canadian Electric Utility Motor Carriers From Alcohol and Controlled Substances Testing" (Docket FHWA-97-3202) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5630. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Skull Creek, Hilton Head Island, SC - COTP Savannah 98-034" (RIN2115-AA97) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5631. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Cessna Aircraft Company model 182S airplanes (Docket 98-CE-59-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5632. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Glaser-Dirks Flugzeugbau GmbH Models DG-100 and DG-400 Gliders (Docket 97-CE-133-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5633. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Alexander Schleicher Segelflugzeugbau Model AS-K13 Sailplanes (Docket 98-CE-04-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5634. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Pilatus Aircraft Ltd. Model PC-12 Airplanes (Docket 97-CE-08-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5635. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Construcciones Aeronauticas, S.A. (CASA) model CNJ-235 series airplanes (Docket 98-NM-85-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5636. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Fokker model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes (Docket 98-NM-98-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5637. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Airbus model A320 series airplanes (Docket 97-NM-194-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5638. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Areospatial model ATR42 and ATR72 series airplanes (Docket 98-NM-64-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5639. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Homer, AK" (Docket 98-AAL-2) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5640. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Alteration of Restricted Areas; New Jersey and New York" (Docket 98-AEA-3) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5641. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Realignment of Colored Federal Airway; AK" (Docket 98-AAL-3) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5642. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain British Aerospace Jetstream model airplanes (Docket 97-CE-110-AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5643. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Raytheon Aircraft Company models 35, A35, B35, and 35R airplanes (Docket 98–CE–55–AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5644. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Time of Designation for Restricted Areas; CA" (Docket 98–AWP–13) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5645. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model SA 330F, G, and J Helicopters" (Docket 97–SW–07–AD) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5646. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Passaic River, NJ" (Docket 01–97–020) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5647. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL" (Docket 07–98 –025) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5648. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Merger of the Uniform States Waterway Marking System with the United States Aids to Navigation" (Docket 97–018) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5649. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL" (Docket 07–98–029) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5650. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations: EZ Challenge Speed Boat Race, Ohio River, Beech Bottom, West Virginia" (Docket 08–98–037) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5651. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Great Catskills Triathlon, Hudson River, Kingston, New York" (Docket 01–98–040) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5652. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Track Safety Standards" (Docket RST–90–1) received on June 18, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, with amendments:

S. 1758. A bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests (Rept. No. 105–219).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TORRICELLI:

S. 2199. A bill to amend the Marine Mammal Protection Act of 1972 to establish a Marine Mammal Rescue Grant Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. 2200. A bill to amend the Internal Revenue Code of 1986 to make the exclusion for amounts received under group legal services plans permanent; to the Committee on Finance.

By Mr. TORRICELLI (for himself, Mr. GORTON, Mr. FEINGOLD, Mr. MACK, Mr. SESSIONS, Mr. THURMOND, Ms. LANDRIEU, Mr. BREAUX, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. KOHL, Mr. INHOFE, Mr. SMITH of Oregon, and Mr. SHELBY):

S. 2201. A bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI:

S. 2199. A bill to amend the Marine Mammal Protection Act of 1972 to establish a Marine Mammal Rescue Grant Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE MARINE MAMMAL RESCUE FUND OF 1998

Mr. TORRICELLI. Mr. President, I rise today with my colleague from New Jersey, Senator LAUTENBURG, to introduce the "Marine Mammal Rescue Fund of 1998." This legislation will amend the Marine Mammal Protection Act of 1972 by establishing a grant program that Marine Mammal Stranding Centers and Networks can use to support the important work they do in responding to marine mammal strandings and mortality events.

Since the enactment of the Marine Mammal Protection Act in 1972, 47 facilities nationally have been authorized to handle the rehabilitation of stranded marine mammals and over 400 individuals and facilities across the country are part of an authorized National Stranding Network that responds to strandings and deaths.

Mr. President, these facilities and individuals provide our country with a variety of critical services, including rescue, housing, care, rehabilitation, transport, and tracking of marine mammals and sea turtles, as well as assistance in investigating mortality events, tissue sampling, and removal of carcasses. They also work very closely with the National Marine Fisheries Service, a variety of environmental groups, and with state and local officials in rescuing, tracking and protecting marine mammals and sea turtles on the Endangered Species List. Yet they rely primarily on private donations, fundraisers, and foundation grants for their operating budgets. They receive no federal assistance, and a very few of them get some financial assistance from their states.

As an example, Mr. President, the Marine Mammal Stranding Center located in Brigantine in my home state of New Jersey was formed in 1978. To-date, it has responded to over 1,500 calls for stranded whales, dolphins, seals and sea turtles that have washed ashore on New Jersey's beaches. It has also been called on to assist in strandings as far away as Delaware, Maryland, and Virginia. Yet, their operating budget for the past year was just under $300,000, with less than 6 percent ($17,000) coming from the state. Although the Stranding Center in Brigantine has never turned down a request for assistance with a stranding, trying to maintain that level of responsiveness and service becomes increasingly more difficult each year.

Virtually all the money raised by the Center, Mr. President, goes to pay for the feeding, care, and transportation of rescued marine mammals, rehabilitation (including medical care), insurance, day-to-day operation of the Center, and staff payroll. Too many times the staff are called upon to pay out-of-pocket expenses in travel, subsistence, and quarters while responding to strandings or mortality events.

Mr. President, this should not happen. These people are performing a great service to Americans across the country, and they are being asked to pay their own way as well. And when responding to mortality events, Mr. President, they are performing work that protects public health and helps assess the potential danger to human life and to other marine mammals.

I feel very strongly that we should be providing some support to the people who are doing this work. To that end, Mr. President, the legislation I am introducing would create the Marine Mammal Rescue Fund under the Marine Mammal Protection Act. It would authorize funding at $5,000,000.00, annually, over the next five years, for grants to Marine Mammal Stranding Centers and Stranding Network Members authorized by the National Marine Fisheries Service (NMFS). Grants would not exceed $100,000.00 per year, and would require a 25 percent non-federal funding matching requirement.

I am proud to offer this legislation on behalf of the Stranding Centers across the country, and look forward to working with my colleagues to ensure its passage. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARINE MAMMAL RESCUE GRANT PROGRAM.

(a) IN GENERAL.—Title IV of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.) is amended—

(1) by redesignating sections 408 and 409 as sections 409 and 410, respectively; and

(2) by inserting after section 407 the following:

"SEC. 408. MARINE MAMMAL RESCUE GRANT PROGRAM.

"(a) Definitions.—In this section:

"(1) Administrator.—The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration.

"(2) Chief.—The term 'Chief' means the Chief of the Office.

"(3) Secretary.—The term 'Secretary' means the Secretary of Commerce.

"(4) Stranding center.—The term 'stranding center' means a center with respect to which the Secretary has entered into an agreement referred to in section 403 to take marine mammals under section 109(h)(1) in response to a stranding.

"(b) Grants.—

"(1) In general.—Subject to the availability of appropriations, the Secretary, acting through the Chief, shall conduct a grant program to be known as the Marine Mammal Rescue Grant Program, to provide grants to eligible stranding centers and eligible stranding network participants for the recovery or treatment of marine mammals and the collection of health information relating to marine mammals.

"(2) Application.—In order to receive a grant under this section, a stranding center or stranding network participant shall submit an application in such form and manner as the Secretary, acting through the Chief, may prescribe.

"(3) Eligibility criteria.—The Secretary, acting through the Chief and in consultation with stranding network participants, shall establish criteria for eligibility for participation in the grant program under this section.

"(4) Limitation.—The amount of a grant awarded under this section shall not exceed $100,000.

"(5) Matching requirement.—The non-Federal share for an activity conducted by a grant recipient under the grant program under this section shall be 25 percent of the cost of that activity.

"(6) Authorization of appropriations.—There are authorized to be appropriated to the Department of Commerce to carry out the grant program under this section, $5,000,000 for each of fiscal years 1999 through 2003.".

(b) Clerical Amendment.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 (86 Stat. 1027) is amended by striking the items relating to sections 408 and 409 and inserting the following:

"Sec. 408. Marine Mammal Rescue Grant Program.
"Sec. 409. Authorization of appropriations.
"Sec. 410. Definitions.".

By Mr. D'AMATO:

S. 2200. A bill to amend the Internal Revenue Code of 1986 to make the exclusion for amounts received under group legal services plans permanent; to the Committee on Finance.

EXCLUSION FOR QUALIFIED EMPLOYER-PROVIDED GROUP LEGAL SERVICES

Mr. D'AMATO. Mr. President, today I am introducing legislation to reinstate, and make permanent, the employee exclusion for amounts received under qualified employer-provided group legal services plans.

This bill amends section 120 of the Internal Revenue Code and becomes effective for tax years beginning after June 30, 1998. It provides that an employee does not have to pay income and social security taxes for a qualified employer-provided group legal services plan. The annual premium is limited to $70 per person. In order to qualify, a plan must fulfill certain requirements, one of which states that benefits may not discriminate in favor of highly compensated employees.

The tax exclusion of group legal services is not a new provision. In fact, prior to its expiration in June of 1992, employees had been allowed to exclude such benefits from their gross income since 1976, albeit through seven extensions from Congress. I believe it is time to reinstate this measure on a permanent basis.

Employer-provided group legal plans have time and again proven their value in extending low-cost legal advice to working Americans. The reality for middle class wage earners is that they cannot afford the services of an attorney and thus cannot afford to obtain advice for issues relating to child support enforcement, adoptions, wills, landlord/tenant situations and consumer debt problems. Because it provides access to legal advice, this employer-provided benefit assists working Americans in avoiding the family disintegration and job disruption that can result from neglected legal issues.

In New York, these plans affect hundreds of thousands of employees and members of their families. These New Yorkers are employed as school teachers, municipal workers, hotel and hospital employees, law enforcement personnel and thousands working in our many service industries. Many of our citizens, though employed, are earning enough only for basic necessities.

A working mother seeking to enforce an order of child support gains access to the assistance of a lawyer through these legal benefit plans and avoids the need to rely on public assistance. A consumer debt problem can lead to a garnished salary, and eviction, the loss of a job, and dependency on public assistance. The relatively minor cost of providing this favorable tax treatment is repaid innumerable times by keeping the wage earner focused on his/her job, keeping a family in housing and intact, and removing the threat to moderate income workers to remaining self-sufficient.

Employer-provided legal benefit packages produce economies in both the purchase of legal services for a large group and in the delivery of those services at a reduced price. Because they provide a cost-effective approach, these employer-sponsored legal benefit plans are in the best American tradition of pragmatic, voluntary group action to meet common needs.

Restoring equity to the tax treatment of this benefit by placing it on equal footing with other statutory fringe benefits is a goal worth achieving. As an aspect of middle class tax relief, a high return on the cost of this benefit is realized for the estimated 2.5 million working Americans who gain access to critical legal advice through its operation.

Mr. President, there is no reason why we should not reinstate and make permanent this tax exclusion. In the past, the Senate repeatedly affirmed its commitment to assuring the availability of legal services. I urge my colleagues to join me in this effort to restore fair tax treatment of employer-provided group legal services.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED GROUP LEGAL SERVICE PLANS.

(a) General Rule.—Subsection (e) of section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans) is amended to read as follows:

"(e) Termination.—This section and section 501(c)(20) shall apply to—

"(1) taxable years beginning after December 31, 1976, and before July 1, 1992, and

"(2) taxable years beginning after June 30, 1998."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after June 30, 1998.

By Mr. TORRICELLI (for himself, Mr. Gorton, Mr. Feingold, Mr. Mack, Mr. Sessions, Mr. Thurmond, Ms. Landrieu, Mr. Breaux, Mr. Hollings, Mr. Lautenberg, Mr. Kohl, Mr. Inhofe, Mr. Smith of Oregon, and Mr. Shelby):

S. 2201. A bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network, to the Committee on Labor and Human Resources.

ORGAN DONATION LEGISLATION

Mr. TORRICELLI. Mr. President, I rise today to introduce legislation that addresses a potential crisis in our organ donation system. Proposed regulations by the U.S. Department of Health and Human Services (HHS) would have devastating effects on community-based transplant programs by prohibiting states from offering organs to their own sickest residents before making them available nationwide.

There is no more noble a deed than donating one's organs so that another may live. In the past 15 years, the national transplant system has saved over 200,000 lives. In my state of New Jersey, over 10,000 people in the past 10 years have received life-saving transplants.

Notwithstanding this success, there is a critical shortage of organs for donation. Less than one percent of Americans offer their organs for donation upon their death. Eleven people die every day in this country waiting for an organ.

The changes proposed by HHS, however well intentioned, fail to adequately address the national shortage of donated organs and create a system which may actually increase waiting times in many areas of the country. By directing the United Network for Organ Sharing (UNOS) to develop a system which removes geography as a factor in organ donation, the regulations will significantly increase waiting times in states with efficient systems. For instance, at University Hospital in New Jersey, the State's largest liver transplant center, the waiting period for a liver in 1997 was only 26 days, compared to a 250 day national waiting period. Forcing facilities, like University Hospital, to first offer donated organs nationwide will undoubtedly lead to longer waiting periods.

These unintended consequences will be felt most greatly among patients with disadvantaged backgrounds. In my State of New Jersey, we are extremely fortunate to have a system that is fair and efficient. New Jersey's unique system of certificate of need and charity care ensures that the most critical patients get organs first regardless of insurance. A national organ donation system will force the smaller transplant centers that serve the uninsured and underinsured to close as the vast majority of organs go to the handful of the nation's largest transplant centers with the longest waiting lists. Without access to smaller programs, many patients will be faced with the hardship of registering with out-of-state programs that may turn them away due to lack of insurance. Those who are accepted will be forced to travel out of state at great medical risk and financial hardship.

Mr. President, the legislation I introduce today is a bipartisan effort. I am pleased to be joined by my colleagues, Senators GORTON, FEINGOLD, MACK, SESSIONS, THURMOND, LANDRIEU, BREAUX, HOLLINGS, LAUTENBERG, KOHL, INHOFE, G. SMITH, and SHELBY. Our bill will delay for one year the Secretary's ability to issue regulations regarding the nation's organ donation system. The delay will allow HHS to further consult with the medical community, particularly those serving low-income patients, to develop workable guidelines for organ donation. In addition, the legislation calls on HHS to conduct a pilot study to determine the impact of any regulations before implementation. Finally, the legislation finds that provisions of the proposed changes with respect to standardized ranking and listing criteria, enforcement measures, and disclosure requirements are a potential good first step in improving the nation's organ donation system.

For the past 15 years, the national organ procurement and allocation system has existed without federal regulation. During this time, each State has developed a unique system to meet their individual needs. Many states, such as New Jersey, have focused on serving uninsured and underprivileged populations. Clearly, improvements can be made to increase the efficiency and effectiveness of organ donation nationwide. The legislation I am introducing today will allow us to meet these objectives by providing greater time for a more thoughtful debate.

Mr. President, I ask at this time that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The national transplant system, established by the National Organ Transplant Act of 1984, has saved over 200,000 lives. In 1998, 20,000 lives were saved by donated organs. Approximately 60,000 Americans currently are awaiting an organ transplant.

(2) Every 16 minutes a new name is added to the national organ waiting list.

(3) Every day in the United States, 11 people on the national waiting list die (more than 4,000 every year) because there are not enough donated organs.

(4) Eliminating the geographic criteria for donor organ allocation, as proposed by the Department of Health and Human Services, will have potentially negative consequences for the nation.

(5) Eliminating the geographic criteria for donor organ allocation will make organ transplants economically prohibitive for a large percentage of the population, especially for the 22 percent of transplant recipients covered under the medicaid program.

(6) The following provisions proposed by the Department of Health and Human Services with respect to organ donation are appropriate and workable and should be studied—

(A) the standardized listing criteria for patient placement on lists; .

(B) the standardized criteria for determining current medical status based on objective and measurable medical criteria;

(C) the provision of enforcement authority; and

(D) the requirement of full and timely disclosure by transplant centers of waiting list times and survival statistics to potential patients.

SEC. 2. DELAY OF EFFECTIVE DATE OF FINAL RULE REGARDING ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) IN GENERAL.—During the 1-year period beginning on the date of the enactment of this Act, the Secretary of Health and Human Services may not modify regulations that, as of such date, are in effect with respect to the operation of the Organ Procurement and Transplantation Network under section 372 of the Public Health Service Act (42 U.S.C. 274), including regulations under section 1138 of the Social Security Act (42 U.S.C. 1320b-8) with respect to such Network. During such 1-year period, the final rule published in the Federal Register to establish part 121 in title 42, Code of Federal Regulations, has no legal effect.

(b) GUIDELINES.—During the 1-year period described in subsection (a), the Secretary of Health and Human Services shall consult with appropriate individuals and organizations in the medical community, including national and local organ donation organizations (including those serving low-income patients), to develop workable guidelines with respect to the operation of the Organ Procurement and Transplantation Network.

(c) STUDY.—Prior to the implementation of any modifications to the regulations described in subsection (a), the Secretary of Health and Human Services shall conduct a study to determine the impact of such proposed modifications on indigent care, economic and geographic access to transplantation services, transplantation outcome and survival rate, and waiting list time by organ. The Secretary shall ensure that any such modifications, together with the results of the study, are open for public comment for a period of at least 90-days prior to the effective date of such modifications.

Mr. FEINGOLD. Mr. President, I join my colleagues, Senator TORRICELLI, Senator GORTON, and others in introducing legislation to delay the effective date of the final rule promulgated by the Secretary of HHS regarding the Organ Procurement and Transplantation Network. This legislation is a crucial step in ensuring that implementation of the Department of Health and Human Services' Interim Final Rule regarding does not jeopardize patients' access to life-saving human organs in regions of the country that have been providing organ transplantation services efficiently.

Mr. President, organ donation, allocation and transplantation are extremely sensitive issues. They are issues that patients, families and health professionals agonize over because they quite literally can determine who lives and who dies. They agonize over these decisions because there are so many more people in need of organs than there are organs to transplant.

Mr. President, I want to share with my colleagues a fact that may not be well known, and that is that, according to statistics gathered by the United Network for Organ Sharing, UNO, Wisconsin's two organ procurement organizations—or "OPOs" as they are called—are two of the most successful in the entire country with respect to the ratio of organs procured per million in the population. Those two OPOs, one at the University of Wisconsin Medical School in Madison, the other at Froedtert Hospital in Milwaukee, have a truly impressive track record for conducting the community education and outreach that is so important in helping people make the decision about whether or not to donate organs. Through the tremendous work of Wisconsin's OPOs and our 4 transplant centers, nearly 700 Wisconsinites received life-saving kidney, heart, liver, lung and pancreas transplants in 1997 alone.

Mr. President, as you and many other colleagues may already know, the Secretary of Health and Human Services proposed a rule earlier this year to revamp the way the nations donated organs are allocated.

Mr. President, the legislation my colleagues and I are introducing today would delay implementation of the Department of Health and Human Services' final rule on organ allocation pending further, more detailed examination of the impact of that rule on regional dislocation, transplantation outcome and survival rate, and waiting list time. While I have the highest regard for the intent behind the rule's issuance—the promoting of fairness—I nevertheless have serious concerns about the impact many of the proposed changes are going to have for states like Wisconsin that are served by smaller, community-based transplant centers. It is simply not clear to me that using a so-called "National list" for potential organ recipients would improve upon the current system for allocation or make the system more "fair." In fact, what specialists in the Wisconsin transplant community have told me is that the opposite is true: that a "National list" could dramatically increase "cold ischemic time" leading to higher rates of transplant rejection, and that a "National list" would likely result in longer waiting times in areas such as Wisconsin that have operated efficiently and successfully.

Mr. President, additionally study prior to implementation of the rule is vitally important to ensure that a federal agency doesn't take action that—while well-intentioned—inadvertently harms populations served by smaller, community-based organizations. My hope is that further study over the course of the one year delay, combined with further cooperation between HHS, professional and community-based organizations will result in a final rule whose implementation will not harm regions of the country that—because of a tremendous amount of grassroots work, patient and family education, and deep personal involvement by health care professionals—are currently well-served under the current system.

ADDITIONAL COSPONSORS

S. 314

At the request of Mr. THOMAS, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 314, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 617

At the request of Mr. JOHNSON, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 1094

At the request of Mr. ALLARD, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1094, a bill to authorize the use of certain public housing operating funds to provide tenant-based assistance to public housing residents.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Utah [Mr. HATCH] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from North Dakota [Mr. DORGAN], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1680

At the request of Mr. DORGAN, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to clarify that licensed pharmacists are not subject to the surety bond requirements under the medicare program.

S. 1734

At the request of Mrs. HUTCHISON, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1734, A bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1754

At the request of Mr. FRIST, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Wyoming [Mr. ENZI] were added as cosponsors of S. 1754, a bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1981, A bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2049

At the request of Mr. KERREY, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. DODD], the Senator from Alabama [Mr. SESSIONS], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2098

At the request of Mr. CAMPBELL, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 2098, a bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surroundings those public lands and acquired lands.

S. 2100

At the request of Mr. DODD, his name was added as a cosponsor of S. 2100, a bill to amend the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses.

S. 2102

At the request of Mr. FEINGOLD, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 2102, a bill to promote democracy and good governance in Nigeria, and for other purposes.

S. 2114

At the request of Mr. DURBIN, the name of the Senator from Connecticut

[Mr. LIEBERMAN] was added as a cosponsor of S. 2114, a bill to amend the Violence Against Women Act of 1994, the Family Violence Prevention and Services Act, the Older Americans Act of 1965, and the Public Health Service Act to ensure that older women are protected from institutional, community, and domestic violence and sexual assault and to improve outreach efforts and other services available to older women victimized by such violence, and for other purposes.

S. 2185

At the request of Mr. KENNEDY, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2185, a bill to protect children from firearms violence.

S. 2196

At the request of Mr. GORTON, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2196, a bill to amend the Public Health Service Act to provide for establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes.

SENATE RESOLUTION 189

At the request of Mr. TORRICELLI, the names of the Senator from Maine [Ms. COLLINS], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Resolution 189, a resolution honoring the 150th anniversary of the United States Women's Rights Movement that was initiated by the 1848 Women's Rights Convention held in Seneca Falls, New York, and calling for a national celebration of women's rights in 1998.

SENATE RESOLUTION 207

At the request of Mr. JEFFORDS, the names of the Senator from Arizona [Mr. KYL] and the Senator from Maine [Ms. SNOWE] were added as cosponsors of Senate Resolution 207, a resolution commemorating the 20th anniversary of the founding of the Vietnam Veterans of America.

SENATE RESOLUTION 237

At the request of Mr. FEINGOLD, the names of the Senator from California [Mrs. BOXER] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Resolution 237, a resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

AMENDMENT NO. 2736

At the request of Mr. HUTCHINSON the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of amendment No. 2736 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2737

At the request of Mr. HUTCHINSON the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of amendment No. 2737 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

FORD (AND McCONNELL) AMENDMENT NO. 2788

(Ordered to lie on the table.)

Mr. FORD (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by them to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title I, insert the following:

SEC. 117. ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.

(a) PROGRAM MANAGEMENT.—The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to incineration. In performing such function, the program manager shall act independently of the program manager for the baseline chemical demilitarization program and shall report to the Under Secretary of Defense for Acquisition and Technology.

(b) POST-DEMONSTRATION ACTIVITIES.—(1) The program manager for the Assembled Chemical Weapons Assessment may undertake the activities that are necessary to ensure that an alternative technology for the destruction of lethal chemical munitions can be implemented immediately after—

(A) the technology has been demonstrated successful; and

(B) the Under Secretary of Defense for Acquisition and Technology has submitted a report on the demonstration to Congress.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than June 1, 1999.

(c) INDEPENDENT EVALUATION.—The Under Secretary of Defense for Acquisition and Technology shall provide for two evaluations of the cost and schedule of the Assembled Chemical Weapons Assessment to be performed, and for each such evaluation to be submitted to the Under Secretary, not later than September 30, 1999. One of the evaluations shall be performed by a nongovernmental organization qualified to make such an evaluation, and the other evaluation shall be performed separately by the Cost Analysis Improvement Group of the Department of Defense.

(d) PILOT FACILITIES CONTRACTS.—(1) The Under Secretary of Defense for Acquisition and Technology shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary—

(A) certifies in writing to Congress is—

(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction of the munitions under the Chemical Weapons Convention; and

(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

(4) In this subsection, the term "Chemical Weapons Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

(e) FUNDING.—(1) Of the total amount authorized to be appropriated under section 107, $18,000,000 shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

(B) Planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, including planning and preparation for—

(i) continued development of the technology leading to deployment of the technology for use;

(ii) satisfaction of requirements for environmental permits;

(iii) demonstration, testing, and evaluation;

(iv) initiation of actions to design a pilot plant;

(v) provision of support at the field office or depot level for deployment of the technology for use; and

(vi) educational outreach to the public to engender support for the deployment.

(C) The independent evaluation of cost and schedule required under subsection (c).

(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

(f) AMENDMENTS NECESSARY FOR IMPLEMENTATION.—(1) Section 409 of Public Law 91–121 is amended—

(A) in subsection (b) (50 U.S.C. 1512)—

(i) by striking out "warfare" in the matter preceding paragraph (1);

(ii) by inserting "or munition" after "agent" each place it appears; and

(iii) in paragraph (4)(B), by inserting "or munitions" after "agents";

(B) in subsection (c) (50 U.S.C. 1513)—

(i) by striking out "warfare" in paragraph (1)(A) and the first sentence of paragraph (2);

(ii) by inserting "or munition" after "agent" each place it appears; and

(iii) by inserting "agents or" before munitions in the first sentence of paragraph (2);

(C) by striking out subsection (d) (50 U.S.C. 1514) and inserting in lieu thereof the following:

"(d) As used in this section, the term 'United States', unless otherwise indicated, means the several States, the District of Columbia, and the territories and possessions of the United States."; and

(D) in subsection (g) (50 U.S.C. 1517), by striking out "warfare agent" both places it appears and inserting in lieu thereof "agent or munition".

(2) Section 143 of Public Law 103–337 (50 U.S.C. 1512a) is amended—

(A) by striking out "chemical weapons stockpile" both places it appears and inserting in lieu thereof "lethal chemical agents and munitions stockpile";

(B) in subsection (a)—

(i) by inserting "lethal" before "chemical munition" both places it appears; and

(ii) by inserting "agent or" before "munition" each of the four places it appears; and

(C) in subsection (b)—

(i) by striking out "any chemical munitions" and inserting in lieu thereof "any lethal chemical agents or munitions";

(ii) by striking out "such munitions" both places it appears and inserting in lieu thereof "such agents or munitions"; and

(iii) by striking out "chemical munitions stockpile" and inserting in lieu thereof "lethal chemical agents and munitions stockpile".

(g) ASSEMBLED CHEMICAL WEAPONS ASSESSMENT DEFINED.—In this section, the term "Assembled Chemical Weapons Assessment" means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104–208; 110 Stat. 3009–101; 50 U.S.C. 1521 note).

FORD AMENDMENTS NOS. 2789–2790

(Ordered to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2789

At the end of the bill, add the following new section:

SEC. . STUDY ON NON-RESIDENT WAGE EARNERS AT FEDERAL FACILITIES.

(a) The Secretary of the Treasury shall conduct a study which—

(1) identifies all federal facilities located within 50 miles of the border of an adjacent State;

(2) estimates the number of non-resident wage earners employed at such federal facilities; and

(3) compiles and describes all agreements or compacts between States regarding the taxation of non-resident wage earners employed at such facilities.

(b) The Secretary shall transmit the results of such study to the Congress not later than 180 days after the enactment of this Act.

AMENDMENT NO. 2790

In lieu of the matter proposed to be inserted, insert the following:

SEC. . STUDY ON NON-RESIDENT WAGE EARNERS AT FEDERAL FACILITIES.

(a) The Secretary of the Treasury shall conduct a study which—

(1) identifies all federal facilities located within 50 miles of the border of an adjacent State;

(2) estimates the number of non-resident wage earners employed at such federal facilities; and

(3) compiles and describes all agreements or compacts between States regarding the taxation of non-resident wage earners employed at such facilities.

(b) The Secretary shall transmit the results of such study to the Congress not later than 180 days after the enactment of this Act.

MIKULSKI (AND OTHERS) AMENDMENT NO. 2791

(Ordered to lie on the table.)

Ms. MIKULSKI (for herself, Mr. GLENN, and Mr. SARBANES) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title X, add the following:

SEC. 1014. SHIP SCRAPPING PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of the Navy shall carry out a vessel scrapping pilot program within the United States during fiscal years 1999 and 2000. The scope of the program shall be that which the Secretary determines is sufficient to gather data on the cost of scrapping Government vessels domestically and to demonstrate cost effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.

(b) CONTRACT AWARD.—(1) The Secretary shall award a contract or contracts under subsection (a) to the offeror or offerors that the Secretary determines will provide the best value to the United States, taking into account such factors as the Secretary considers appropriate.

(2) In making a best value determination under this subsection, the Secretary shall give a greater weight to technical and performance-related factors than to cost and price-related factors.

(3) The Secretary shall give significant weight to the technical qualifications and past performance of the contractor and the major subcontractors or team members of the contractor in the following areas:

(A) Compliance with applicable Federal, State, and local laws and regulations for environmental and worker protection.

(B) Ability to safely remove handle and abate hazardous materials such as polychlorinated biphenyls, asbestos and lead.

(C) Experience with ship construction, conversion, repair or scrapping.

(D) Ability to manage workers safely in the following processes and procedures:

(i) Metal cutting and heating.

(ii) Working in confined and enclosed spaces.

(iii) Fire prevention and protection.

(iv) Health and sanitation.

(v) Handling and control of polychlorinated biphenyls, asbestos, lead, and other hazardous materials.

(vi) Operation and use of magnetic cranes or heavy lift cranes.

(vii) Use of personal protection equipment.

(viii) Emergency spill and containment capability;

(E) Ability to provide an overall plan and schedule to remove, tow, moor, demilitarize, dismantle, transport, and sell salvage materials and scrap in a safe and cost effective manner in compliance with applicable Federal, State, and local laws and regulations.

(F) Ability to provide an effective scrap site spill containment prevention and emergency response plan.

(G) The ability to ensure that subcontractors adhere to applicable Federal, State and local laws and regulations for environmental and worker safety.

(4) Nothing in this subsection shall be construed to require the Secretary to disclose the specific weight of evaluation factors to potential offerors or to the public.

(c) CONTRACT TERMS AND CONDITIONS.—The contract or contracts awarded by the Secretary pursuant to subsection (b) shall, at a minimum, provide for—

(1) the transfer of the vessel or vessels to the contractor or contractors;

(2) the sharing by any appropriate contracting method of the costs of scrapping the vessel or vessels between the government and the contractor or contractors;

(3) a performance incentive for a successful record of environmental and worker protection; and

(4) Government access to contractor records in accordance with the requirements of section 2313 of title 10, United States Code.

(d) REPORTS.—(1) Not later than September 30, 1999, the Secretary of the Navy shall submit an interim report on the pilot program to the congressional defense committees. The report shall contain the following:

(A) The procedures used for the solicitation and award of a contract or contracts under the pilot program.

(B) The contract or contracts awarded under the pilot program.

(2) Not later than September 30, 2000, the Secretary of the Navy shall submit a final report on the pilot program to the congressional defense committees. The report shall contain the following:

(A) The results of the pilot program and the performance of the contractors under such program.

(B) The Secretary's procurement strategy for future ship scrapping activities.

SARBANES AMENDMENT NO. 2792

(Ordered to lie on the table.)

Mr. SARBANES submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 347, below line 23, add the following:

SEC. 2833. EMERGENCY REPAIRS AND STABILIZATION MEASURES, FOREST GLEN ANNEX OF WALTER REED ARMY MEDICAL CENTER, MARYLAND.

Of the amounts authorized to be appropriated by this Act, $2,000,000 shall be available for the completion of roofing and other emergency repairs and stabilization measures at the historic district of the Forest Glen Annex of Walter Reed Army Medical Center, Maryland, in accordance with the plan submitted under section 2865 of the National Defense Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2806).

REID (AND OTHERS) AMENDMENT NO. 2793

(Ordered to lie on the table.)

Mr. REID (for himself, Mr. INOUYE, Mr. BRYAN, Mr. WYDEN, Mr. KERREY, and Mr. DURBIN) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

Strike out page 348, line 1, and all that follows through page 366, line 13.

MURRAY (AND OTHERS) AMENDMENT NO. 2794

(Ordered to lie on the table.)

Mrs. MURRAY (for herself, Ms. SNOWE, Mr. ROBB, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KERREY, Ms. MOSELEY-BRAUN, and Mrs. BOXER) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of title VII add the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out "(a) RESTRICTION ON USE OF FUNDS.—".

WYDEN (AND SMITH) AMENDMENTS NOS. 2795–2797

(Ordered to lie on the table.)

Mr. WYDEN (for himself and Mr. SMITH of Oregon) submitted three amendments intended to be proposed by them to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2795

On page 219, between lines 8 and 9, insert the following:

(c) ADDITIONAL REPORT MATTERS.—The report shall also include an assessment of the current Department of Defense aviation accident investigation process, including the following:

(1) An assessment of the effectiveness of the current military aviation accident investigation process in identifying the cause of military aviation accidents and correcting problems so identified in a timely manner.

(2) An assessment whether or not the procedures for sharing the results of military aviation accident investigations among the military departments should be improved.

(3) An assessment of the advisability of a centralized training facility and course of instruction for military aviation accident investigators.

(4) An assessment of the advisability of continuing to ensure that military aviation safety investigation reports are afforded protection from public release and use in subsequent civil and criminal proceedings comparable to the protection currently provided National Transportation Safety Board investigation reports and accident investigation reports.

(5) An assessment of any costs or cost avoidances that would result from the elimination of any overlap in military aviation accident investigation activities conducted under the current so-called "two-track" investigation process.

(6) Any improvements or modifications in the current military aviation accident investigation process that the Secretary considers appropriate to reduce the potential for aviation accidents and increase public confidence in the process.

AMENDMENT NO. 2796

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. SENSE OF SENATE REGARDING MEMORANDA OF UNDERSTANDING WITH THE STATE OF OREGON RELATING TO HANFORD.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Energy and the State of Washington have entered into memoranda of understanding with the State of Oregon to provide the State of Oregon greater involvement in decisions regarding the Hanford Reservation.

(2) Hanford has an impact on the State of Oregon, and the State of Oregon has an interest in the decisions made regarding Hanford.

(3) The Department of Energy and the State of Washington are to be congratulated for entering into the memoranda of understanding with the State of Oregon regarding Hanford.

(b) SENSE OF SENATE.—It is the sense of the Senate to—

(1) encourage the Department of Energy and the State of Washington to implement the memoranda of understanding regarding Hanford in ways that result in continued involvement by the State of Oregon in decisions of concern to the State of Oregon regarding Hanford; and

(2) encourage the Department of Energy and the State of Washington to continue similar efforts to permit ongoing participation by the State of Oregon in the decisions regarding Hanford that may affect the environment or public health or safety of the citizens of the State of Oregon.

AMENDMENT NO. 2797

On page 196, between lines 18 and 19, insert the following:

SEC. 908. MILITARY AVIATION ACCIDENT INVESTIGATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) A February 1998 General Accounting Office review of military aircraft safety entitled "Military Aircraft Safety: Serious Accidents Remain at Historically Low Levels" noted that the military experienced fewer serious aviation mishaps in fiscal years 1996 and 1997 than in previous fiscal years, but there still remains a need for the Department of Defense to improve significantly its procedures for investigating military aviation accidents.

(2) This need was demonstrated by the aftermath of serious military aviation mishaps, including the tragic crash of a C–130 aircraft off the coast of Northern California that killed 10 Reservists from Oregon on November 22, 1996.

(3) The current Department investigation process for military aviation accidents (the so-called "two-track" investigation process), which involves privileged safety investigations and public legal investigations, continues to result in significant hardship for the families and relatives of members of the Armed Forces involved in military aviation accidents and a lack of overall public confidence in the investigation process and may result in a significant waste of resources due to overlapping activities in such investigations.

(4) Although the report required by section 1046 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1888) stated that "DoD found no evidence that changing existing investigation processes to more closely resemble those of the NTSB would help DoD to find more answers more quickly, or accurately", the Department can still improve its aviation safety by fully examining all options for improving or replacing its current aviation accident investigation processes.

(5) The inter-service working group formed as a result of that report has contributed to progress in military aviation accident investigations by identifying ways to improve family assistance, as has the formal policy direction coordinated by the Office of the Secretary of Defense.

(6) Such progress includes the issuance of Air Force Instruction 90–701 entitled "Assistance to Families of Persons Involved in Air Force Aviation Mishaps", that attempts to meet the need for a more timely flow of relevant information to families, a family liaison officer, and the establishment of the Air Force Office of Family Assistance. However, formal policy directions and Air Force instructions have not adequately addressed the failure to provide primary next of kin of members of the Armed Forces involved in military aviation accidents with interim reports regarding the course of investigations into such accidents, which failure causes much hardship for such kin and results in a loss of credibility regarding Air Force investigations into such accidents.

(7) The report referred to in paragraph (4) concluded that the Department would "benefit from the disappearance of the misperception that the privileged portion of the safety investigation exists to hide unfavorable information".

(8) That report further specified that "[e]ach Military Department has procedures in place to provide redacted copies of the final [privileged] safety report to the families. However, families must formally request a copy of the final safety investigation report".

(9) Current efforts to improve family notification would be enhanced by the issuance by the Secretary of Defense of uniform regulations to improve the timeliness and reliability of information provided to the primary next of kin of persons involved in military aviation accidents during and following both the legal investigation and safety investigation phases of such investigations.

(b) EVALUATION OF DEPARTMENT OF DEFENSE AVIATION ACCIDENT INVESTIGATION PROCEDURES.—(1) The Secretary of Defense shall establish a task force to—

(A) review the procedures employed by the Department of Defense to conduct military aviation accident investigations; and

(B) identify mechanisms for improving such investigations and the military aviation accident investigation process.

(2) The Secretary shall appoint to the task force the following:

(A) An appropriate number of members of the Armed Forces, including both members of the regular components and the reserve components, who have experience relating to military aviation or investigations into military aviation accidents.

(B) An appropriate number of former members of the Armed Forces who have such experience.

(C) With the concurrence of the member concerned, a member of the National Transportation Safety Board.

(3)(A) The task force shall submit to Congress an interim report and a final report on its activities under this subsection. The interim report shall be submitted on December 1, 1998, and the final report shall be submitted on March 31, 1999.

(B) Each report under subparagraph (A) shall include the following:

(i) An assessment of the advisability of conducting all military aviation accident investigations through an entity that is independent of the military departments.

(ii) An assessment of the effectiveness of the current military aviation accident investigation process in identifying the cause of military aviation accidents and correcting problems so identified in a timely manner.

(iii) An assessment whether or not the procedures for sharing the results of military aviation accident investigations among the military departments should be improved.

(iv) An assessment of the advisability of a centralized training facility and course of instruction for military aviation accident investigators.

(v) An assessment of the advisability of continuing to ensure that military aviation safety investigation reports are afforded protection from public release and use in subsequent civil and criminal proceedings comparable to the protection currently provided National Transportation Safety Board investigation reports and accident investigation reports.

(vi) An assessment of any costs or cost avoidances that would result from the elimination of any overlap in military aviation accident investigation activities conducted under the current so-called "two-track" investigation process.

(vii) Any improvements or modifications in the current military aviation accident investigation process that the task force considers appropriate to reduce the potential for aviation accidents and increase public confidence in the process.

(c) UNIFORM REGULATIONS FOR RELEASE OF INTERIM SAFETY INVESTIGATION REPORTS.—(1)(A) Not later than May 1, 1999, the Secretary of Defense shall prescribe regulations that provide for the release to the family members of persons involved in military aviation accidents, and to members of the public, of reports referred to in paragraph (2).

(B) The regulations shall apply uniformly to each military department.

(2) A report under paragraph (1) is a report on the findings of any ongoing privileged safety investigation into an accident referred to in that paragraph. Such report shall be in a redacted form or other form appropriate to preserve witness confidentiality and to minimize the effects of the release of information in such report on national security.

(3) Reports under paragraph (1) shall be made available—

(A) in the case of family members, at least once every 14 days during the course of the investigation concerned; and

(B) in the case of members of the public, on request.

WYDEN (AND GRASSLEY) AMENDMENT NO. 2798

(Ordered to lie on the table.)

Mr. WYDEN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page , after line , insert the following:

SEC. . ELIMINATING SECRET SENATE HOLDS.

(a) STANDING ORDER.—It is a standing order of the Senate that a Senator who provides notice to leadership of his or her intention to object to proceeding to a motion or matter shall disclose the objection or hold in the Congressional Record not later than 2 session days after the date of the notice.

(b) RULEMAKING.—This section is adopted—

(1) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the Senate to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

LEVIN (AND BINGAMAN) AMENDMENT NO. 2799

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. REASSIGNMENT OF RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.

Section 3158 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 626) is amended—

(1) by striking out "The Office" and inserting in lieu thereof "(a) RETENTION OF RESPONSIBILITY.—Except as provided in subsection (b), the Office"; and

(2) by adding at the end the following:

"(b) REASSIGNMENT OF RESPONSIBILITY.—(1) The Secretary may reassign responsibility for the Program within the Department.

"(2) The Secretary may not exercise the authority in paragraph (1) until 30 days after the date on which the Secretary submits to the congressional defense committees a report setting forth the following:

"(A) The programs, funding, and personnel to be reassigned.

"(B) A description of the emergency response function of the Department, including the organizational structure of the function.

"(C) A position description for the director of emergency response of the Department and a plan for recruiting to fill the position.

"(D) A plan for establishing research and development requirements for the Program, including funding for the plan.

"(E) A description of the roles and responsibilities for emergency response of each headquarters office and field facility in the Department.

"(F) A plan for the implementation of operations of the emergency management center in the Department.".

BINGAMAN (AND OTHERS) AMENDMENTS NOS. 2800–2801

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself, Mr. SANTORUM, Mr. LIEBERMAN, Mr. LOTT, and Mr. FRIST) submitted two amendments intended to be proposed by them to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2800

At the end of subtitle D of title X add the following:

"SEC. 1064. DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.

"(a) FUNDING REQUIREMENTS FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM BUDGET.—For each of the fiscal years 2000 through 2008, it shall be an objective of the Secretary of Defense to increase the budget for the Defense Science and Technology Program for the fiscal year over the budget for that program for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

"(b) GUIDELINES FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.—

"(1) RELATIONSHIP OF DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO UNIVERSITY RESEARCH.—The following shall be key objectives of the Defense Science and Technology Program—

"(A) the sustainment of research and capabilities in scientific and engineering disciplines critical to the Department of Defense;

"(B) the education and training of the next generation of scientists and engineers in disciplines that are relevant to future Defense systems, particularly through the conduct of basic research; and

"(C) the continued support of the Defense Experimental Program to Stimulate Competitive Research and research programs at historically black colleges and universities and minority institutions.

"(2) RELATIONSHIP OF THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO COMMERCIAL RESEARCH AND TECHNOLOGY.—

"(A) In supporting projects within the Defense Science and Technology Program, the Secretary of Defense shall attempt to leverage commercial research, technology, products, and processes for the benefit of the Department of Defense.

"(B) Funds made available for projects and programs of the Defense Science and Technology Program may be used only for the benefit of the Department of Defense, which includes—

"(i) the development of technology that has only military applications;

"(ii) the development of militarily useful, commercially viable technology; or

"(iii) the adaption of commercial technology, products, or processes for military purposes.

"(3) SYNERGISTIC MANAGEMENT OF RESEARCH AND DEVELOPMENT.—The Secretary of Defense may allocate a combination of funds available for the Department of Defense for basic and applied research and for advanced development to support any individual project or program within the Defense Science and Technology Program. This flexibility is not intended to change the allocation of funds in any fiscal year among basic and applied research and advanced development.

"(c) Definitions.—In this section:

"(1) The term "Defense Science and Technology Program" means basic and applied research and advanced development.

"(2) The term "basic and applied research" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

"(3) The term "advanced development" means work funded in program elements for defense research and development under Department of Defense category 6.3.".

Amendment No. 2801

On page 398, between lines 9 and 10, insert the following:

"SEC. 3144. FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF ENERGY.

"(a) Funding Requirements for the Nonproliferation Science and Technology Activities Budget.—For each of the fiscal years 2000 through 2008, it shall be an objective of the Secretary of Energy to increase the budget for the nonproliferation science and technology activities for the fiscal year over the budget for those activities for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

"(b) Nonproliferation Science and Technology Activities Defined.—In this section, the term "nonproliferation science and technology activities" means activities (including program direction activities) relating to preventing and countering the proliferation of weapons of mass destruction that are funded by the Department of Energy under the following programs and projects:

"(1) The Verification and Control Technology program within the Office of Nonproliferation and National Security;

"(2) Projects under the "Technology and Systems Development" element of the Nuclear Safeguard and Security program within the Office of Nonproliferation and National Security.

"(3) Projects relating to a national capability to assess the credibility of radiological and extortion threats, or to combat nuclear materials trafficking or terrorism, under the Emergency Management program within the Office of Nonproliferation and National Security.

"(4) Projects relating to the development or integration of new technology to respond to emergencies and threats involving the presence, or possible presence, of weapons of mass destruction, radiological emergencies, and related terrorist threats, under the Office of Defense Programs.".

BUMPERS AMENDMENT NO. 2802

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

Strike from line 1, page 25 through page 27, line 10, and insert in lieu there of the following:

SEC. 133. LIMITATION ON ADVANCE PROCUREMENT OF F-22 AIRCRAFT.—

Amounts available for the Department of Defense for any fiscal year for the F-22 aircraft program may not be obligated for advance procurement for the six Lot II F-22 aircraft before the date that is 30 days after the date on which the Secretary of Defense submits a certification to the congressional defense committees that the Air Force has completed 601 hours of flight testing of F-22 flight test vehicles.

KENNEDY AMENDMENT NO. 2803

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. SENSE OF THE SENATE REGARDING DECLASSIFICATION OF CLASSIFIED INFORMATION OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF ENERGY.

It is the sense of the Senate that the Secretary of Defense and the Secretary of Energy should submit to Congress a request for funds in fiscal year 2000 for activities relating to the declassification of information under the jurisdiction of such Secretaries in order to fulfill the obligations and commitments of such Secretaries under Executive Order No. 12958 and the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq,) and to the stakeholders.

BAUCUS AMENDMENTS NOS. 2804–2807

(Ordered to lie on the table.)

Mr. BAUCUS submitted four amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2804

At the end of subtitle B of title V, add the following:

SEC. 516. REPEAL OF DUAL STATUS REQUIREMENTS FOR MILITARY TECHNICIANS.

(a) Repeals.—The following provisions of law are repealed:

(1) Subsections (d) and (e) of section 10216 of title 10, United States Code.

(2) Section 10217 of such title.

(3) Section 523 of the Public Law 105–85 (111 Stat. 1737).

(4) Section 8016 of Public Law 104–61 (109 Stat. 654; 10 U.S.C. 10101 note).

(b) Prohibition on Implementation of Plan.—No plan submitted to Congress under section 523(d) of Public Law 105–85 (111 Stat. 1737) may be implemented.

(c) Conforming Amendments to Title 10.—(1) Section 115(g) of title 10, United States Code, is amended by striking out "(dual status)" both places it appears.

(2) Section 115a(h) of such title is amended—

(A) by striking out "(displayed in the aggregate and separately for military technicians (dual status) and non-dual status military technicians)" in the matter preceding paragraph (1); and

(B) by adding at the end the following:

"(3) Within each of the numbers under paragraph (1), the numbers of military technicians who are not themselves members of a reserve component (so-called 'single-status' technicians), with a further display of such numbers as specified in paragraph (2).".

(3) Section 10216 of such title is amended—

(A) by striking out "(dual status)" each place that it appears;

(B) in subsection (a), by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(C) in subsection (b)—

(i) by striking out "MILITARY TECHNICIANS (DUAL STATUS).—" in the subsection heading and inserting in lieu thereof "DUAL STATUS MILITARY TECHNICIANS.—"; and

(ii) by inserting "dual status" after "supporting authorizations for"; and

(D) in subsection (c)(1), by inserting "dual status" before "military technicians" each place that it appears in subparagraphs (A), (B), (C), and (D).

(4) The heading of such section is amended by striking out "**(dual status)**".

(5) The table of sections at the beginning of chapter 1007 of title 10, United States Code, is amended by striking out the items relating to section 10216 and 10217 and inserting in lieu thereof the following:

"10216. Military technicians.".

(d) Conforming Amendment to Title 32.—Section 709(b) of title 32, United States Code, is amended by striking out "A technician" and inserting in lieu thereof "Except as prescribed by the Secretary concerned, a technician".

Amendment No. 2805

At the end of subtitle B of title V, add the following:

SEC. 516. PROHIBITION ON REQUIRING NATIONAL GUARD MILITARY TECHNICIANS TO WEAR MILITARY UNIFORMS WHILE PERFORMING CIVILIAN SERVICE.

(a) Prohibition.—(1) Subchapter I of chapter 59 of title 5, United States Code, is amended by adding at the end the following:

"§ 5904. National Guard military technicians: wearing of military uniforms not required

"(a) Prohibition.—A National Guard military technician may not be required, by regulation or otherwise, to wear a military uniform while performing civilian service.

"(b) Definitions.—For the purposes of this section—

"(1) the term 'National Guard military technician' means an employee appointed by an adjutant general designated by the Secretary concerned under section 709(c) of title 32;

"(2) the term 'military uniform' means the uniform, or a distinctive part of the uniform, of the Army or Air Force (as defined under regulations prescribed by the Secretary of Defense); and

"(3) the term 'civilian service' means service other than service compensable under chapter 3 of title 37.".

(2) The table of sections at the beginning of chapter 59 of title 5, United States Code, is amended by inserting after the item relating to section 5903 the following:

"5904. National Guard military technicians: wearing of military uniforms not required.".

(b) Conforming Amendments.—(1) Section 5903 of title 5, United States Code, is amended by striking "this subchapter" and inserting "sections 5901 and 5902".

(2) Section 709(b) of title 32, United States Code, is amended—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraph (3).

(3) Section 417 of title 37, United States Code, is amended by striking out subsection (d).

(4) Section 418 of title 37, United States Code, is amended—

(A) by striking out "(a)" at the beginning of subsection (a); and

(B) by striking out subsections (b) and (c).

(c) Effective Date.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

AMENDMENT NO. 2806

At the appropriate place, insert the following:

AGRICULTURAL RESEARCH SERVICE

For research efforts of the Agricultural Research Service of the Department of Agriculture for counter-narcotics research activities, $13,000,000, of which—

(1) $5,000,000 shall be used for chemical and biological crop eradication technologies;

(2) $2,000,000 shall be used for narcotics plant identification, chemistry, and biotechnology;

(3) $1,000,000 shall be used for worldwide crop identification, detection, tagging, and production estimation technology; and

(4) $5,000,000 shall be used for improving the disease resistance, yield, and economic competitiveness of commercial crops that can be promoted as alternatives to the production of narcotics plants.

For a contract with a commercial entity for the product development, environmental testing, registration, production, aerial distribution system development, product effectiveness monitoring, and modification of multiple mycoherbicides to control narcotic crops (including coca, poppy, and cannabis), $10,000,000, except that the entity shall—

(1) to be eligible to enter into the contract, have—

(A) long-term international experience with diseases of narcotic crops.

(B) intellectual property involving seed-borne dispersal formulations;

(C) the availability of state-of-the-art containment or quarantine facilities;

(D) country-specific mycoherbicide formulations;

(E) specialized fungicide resistant formulations; and

(F) special security arrangements; and

(2) report to a member of the Senior Executive Service in the Department of Agriculture.

At the appropriate place, insert the following:

SEC. . MASTER PLAN FOR MYCOHERBICIDES TO CONTROL NARCOTIC CROPS.

(a) IN GENERAL.—The Secretary of Agriculture shall develop a 10-year master plan for the use of mycoherbicides to control narcotic crops (including coca, poppy, and cannabis).

(b) COORDINATION.—The Secretary shall develop the plan in coordination with—

(1) the Office of National Drug Control Policy (ONDCP);

(2) the Bureau for International Narcotics and Law Enforcement Activities (INL) of the Department of State;

(3) the Drug Enforcement Administration (DEA) of the Department of Justice;

(4) the Department of Defense;

(5) the United States Information Agency (USIA); and

(6) other appropriate agencies.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress that describes the activities undertaken to carry out this section.

AMENDMENT NO. 2807

On page 18, before the period at the end of line 4, add the following: ": *Provided, further*, That, of the total amount appropriated under this heading, $10,500,000 shall be made available for a curatorial collections and processing facility at the Museum of the Rockies, a division of Montana State University-Bozeman.

FEINGOLD AMENDMENTS NOS. 2808–2809

(Ordered to lie on the table.)

Mr. FEINGOLD submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2808

At the end of subtitle B of title II, add the following:

SEC. . TERMINATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of the Navy shall terminate the Extremely Low Frequency Communication System program.

(b) PAYMENT OF TERMINATION COSTS.—Funds that are available on or after the date of the enactment of this Act for the Department of Defense for obligation for the Extremely Low Frequency Communication System program of the Navy may be obligated for that program only for payment of the costs associated with the termination of the program.

(c) USE OF SAVINGS FOR NATIONAL GUARD.—Funds referred to in subsection (b) that are not necessary for terminating the program under this section shall be transferred (in accordance with such allocation between the Army National Guard and the Air National Guard as the Secretary of Defense shall direct) to funds available for the Army National Guard and the Air National Guard for operation and maintenance for the same fiscal year as the funds transferred, shall be merged with the funds to which transferred, and shall be available for the same period and purposes as the funds to which transferred.

AMENDMENT NO. 2809

At the end of subtitle C of title X, add the following:

SEC. 1031. ANNUAL GAO REVIEW OF F/A-18E/F AIRCRAFT PROGRAM.

(a) REVIEW AND REPORT REQUIRED.—Not later than June 15 of each year, the Comptroller General shall review the F/A–18E/F aircraft program and submit to Congress a report on the results of the review. The Comptroller General shall also submit to Congress with each report a certification regarding whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(b) CONTENT OF REPORT.—The report submitted on the program each year shall include the following:

(1) The extent to which engineering and manufacturing development and operational test and evaluation under the program are meeting the goals established for engineering and manufacturing development and operational test and evaluation under the program, including the performance, cost, and schedule goals.

(2) The status of modifications expected to have a significant effect on the cost or performance of the F/A–18E/F aircraft.

(c) DURATION OF REQUIREMENT.—The Comptroller General shall submit the first report under this section not later than June 15, 1999. No report is required under this section after the full rate production contract is awarded under the program.

(d) REQUIREMENT TO SUPPORT ANNUAL GAO REVIEW.—The Secretary of Defense and the prime contractors under the F/A–18E/F aircraft program shall timely provide the Comptroller General with such information on the program, including information on program performance, as the Comptroller General considers necessary to carry out the responsibilities under this section.

FEINSTEIN (AND BOXER) AMENDMENTS NOS. 2810–2811

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2810

At the end of subtitle B of title X, add the following:

SEC. 1014. HOMEPORTING OF ONE IOWA-CLASS BATTLESHIP IN SAN FRANCISCO.

One of the Iowa-class battleships on the Naval Vessel Register shall be homeported at the Port of San Francisco, California.

AMENDMENT NO. 2811

At the end of subtitle B of title X, add the following:

SEC. 1014. HOMEPORTING OF ONE IOWA-CLASS BATTLESHIP IN SAN FRANCISCO.

It is the sense of Congress that one of the Iowa-class battleships on the Naval Vessel Register should be homeported at the Port of San Francisco, California.

FRIST AMENDMENT NO. 2812

(Ordered to lie on the table.)

Mr. FRIST submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title X, add the following:

SEC. 1013. SENSE OF CONGRESS CONCERNING THE NAMING OF AN LPD-17 VESSEL.

It is the sense of Congress that, consistent with section 1018 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 425), the next unnamed vessel of the LPD–17 class of amphibious vessels should be named the U.S.S. Clifton B. Cates, in honor of Marine General Clifton B. Cates (1893–1970), a native of Tennessee whose distinguished career of service in the Marine Corps included combat service in World War I so heroic that he became the most decorated Marine Corps officer of World War I, included exemplary combat leadership from Guadalcanal to Tinian and Iwo Jima and beyond in the Pacific Theater during World War II, and culminated in Lieutenant General Cates being appointed the 19th Commandant of the Marine Corps, a position in which he led the Marine Corps' efficient and alacritous response to the invasion of the Republic of South Korea by Communist North Korea.

THOMPSON (AND OTHERS) AMENDMENT NO. 2813

(Ordered to lie on the table.)

Mr. THOMPSON (for himself, Mr. FRIST, Mr. GORTON, Mrs. MURRAY, Mr. DASCHLE, and Mr. JOHNSON) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. LIMITATION ON STATE AUTHORITY TO TAX COMPENSATION PAID TO INDIVIDUALS PERFORMING SERVICES AT FORT CAMPBELL, KENTUCKY.

(a) In General.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"§115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky

"Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(b) Conforming Amendment.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.".

(c) Effective Date.—The amendments made by this section shall apply to pay and compensation paid after the date of the enactment of this Act.

SEC. 1065. CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN FEDERAL EMPLOYEES.

(a) In General.—Section 111 of title 4, United States Code, is amended—

(1) by inserting "(a) General Rule.—" before "The United States" the first place it appears, and

(2) by adding at the end the following:

"(b) Treatment of Certain Federal Employees Employed at Federal Hydroelectric Facilities Located on the Columbia River.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

"(1) which is owned by the United States,

"(2) which is located on the Columbia River, and

"(3) portions of which are within the States of Oregon and Washington,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

"(c) Treatment of Certain Federal Employees Employed at Federal Hydroelectric Facilities Located on the Missouri River.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

"(1) which is owned by the United States,

"(2) which is located on the Missouri River, and

"(3) portions of which are within the States of South Dakota and Nebraska,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to pay and compensation paid after the date of the enactment of this Act.

INOUYE AMENDMENTS NOS. 2814–2815

(Ordered to lie on the table.)

Mr. INOUYE submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2814

On page 76, between lines 7 and 8, insert the following:

SEC. 349. AUTHORITY TO PAY CLAIMS OF CERTAIN CONTRACTOR EMPLOYEES.

Of the amount authorized to be appropriated by section 301, $300,000 shall be available to the Secretary of the Navy for the purpose of paying claims of former employees of Airspace Technology Corporation for unpaid back wages and benefits for work performed by the employees of that Corporation under Department of the Navy contracts N000600–89–C–0958, N000600–89–0959, N000600–90–C–0894, and DAAB–07–89–C–B917.

Amendment No. 2815

At the appropriate place, insert:

Sec. 2833. Not later than December 1, 1998, the Secretary of Defense shall submit to the President and the Congressional Defense Committees a report regarding the potential for development of Ford Island within the Pearl Harbor Naval Complex, Oahu, Hawaii through an integrated resourcing plan incorporating both appropriated funds and one or more public-private ventures. This report shall consider innovative resource development measures, including but not limited to, an enhanced-use leasing program similar to that of the Department of Veterans Affairs as well as the sale or other disposal of land in Hawaii under the control of the Navy as part of an overall program for Ford Island development. The report shall include proposed legislation for carrying out the measures recommended therein.

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 2816

(Ordered to lie on the table.)

Mr. ROCKEFELLER (for himself, Mr. DURBIN, and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page 41, below line 23, add the following:

SEC. 219. DOD/VA COOPERATIVE RESEARCH PROGRAM.

(a) Availability of Funds.—Of the amount authorized to be appropriated by section 201(4), $20,000,000 shall be available for the Dod/VA Cooperative Research Program.

(b) Executive Agent.—The Secretary of Defense shall be the executive agent for the utilization of the funds made available by subsection (a).

• Mr. ROCKEFELLER. Mr. President, as Ranking Member of the Senate Committee on Veterans' Affairs, I have an especially strong interest in the history of illnesses and health concerns that follow military deployments. We have all observed the effects of post-conflict illnesses among our Gulf War veterans who returned with poorly understood, undiagnosed illnesses, and our Vietnam veterans with health problems related to exposure to Agent Orange. This legacy is not just a problem of our most recent conflicts; our Atomic-era veterans are still fighting for recognition of health conditions related to radiation exposures they experienced in service to their country 50 years ago.

If there is any single lesson to be learned from this history, it is that the Department of Defense and the Department of Veterans Affairs have not always been aggressive enough in pursuing the immediate health consequences of military conflicts. Too many times our veterans have had to wait years before post-conflict illnesses are recognized as real problems that require firm commitments of research and treatment programs. These delays have come at a cost to the veterans who have had to fight for this recognition, and they have come at a cost to the government's credibility on this important issue.

I believe it is time to consider establishing an independent entity with the capacity to evaluate government efforts to monitor the health of servicemembers following military conflicts, and to evaluate whether servicemembers are being effectively treated for illnesses that occur following such deployments. There have been suggestions for the need for such an entity within DoD and VA, but I believe that important health expertise outside these agencies is required as well. Indeed, it may be that the best approach is one that pulls together expertise from VA, DoD, and health care professionals and researchers from centers of medical excellence in fields such as toxicology, occupational medicine, and other disciplines.

Therefore, I would like to submit an amendment to the Department of Defense Authorization to require the Secretary to enter into an agreement with the National Academy of Sciences to assess the feasibility of establishing, as an independent entity, a National Center for the Study of Military Health.

The proposed Center for the Study of Military Health would evaluate and monitor interagency coordination on issues relating to post-deployment health concerns of members of the Armed Forces, including outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health related activities.

In addition, this center would evaluate the health care provided to members of the Armed Services both before and after their deployment on military operations. The proposed center would monitor and direct government efforts to evaluate the health of servicemembers upon their return from military deployments, for purposes of ensuring the rapid identification of any trends in diseases or injuries that result from such operations. Such an independent health center could also serve an important role in providing training of health care professionals in DoD and VA in the evaluation and treatment of post-conflict diseases and health conditions, including nonspecific and unexplained illnesses.

While some have argued that it is time to take some of these responsibilities away from existing agencies, I would suggest that this is a matter for careful study and thoughtful deliberation. Therefore, this amendment would require the National Academy of Sciences to assess the feasibility of such an independent health entity. In their report to the Secretary of Defense, the Academy should provide a recommendation of the feasibility of such an entity and justification for such a recommendation. If such a center is recommended by the Academy, their report should also provide recommendations regarding the organizational placement of the entity; the health and science expertise that would be necessary; the scope and nature of the activities and responsibilities of the entity; and mechanisms for ensuring that the recommendations of the entity are carried out by DoD and VA.

Mr. President, as Ranking Member of the Committee on Veterans' Affairs, there have been too many times when I have heard agency officials testify that poorly understood, unexplained illnesses are a common, inevitable occurrence of every military conflict. With the tremendous advances achieved elsewhere in medical and military technologies, I find the acceptance of these illnesses as an inevitability to be unacceptable. I hope that this amendment will offer an initial step to better prevention and treatment of these post-conflict illnesss.●

ROCKEFELLER AMENDMENT NO. 2817

(Ordered to lie on the table.)

Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 157, between lines 13 and 14, insert the following:

SEC. 708. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) Agreement for Assessment.—The Secretary of Defense shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) Assessment.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) Report.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(B) The Committee on National Security and the Committee on Veterans' Affairs of the House of Representatives.

TORRICELLI AMENDMENTS NOS. 2818–2821

(Ordered to lie on the table.)

Mr. TORRICELLI submitted four amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2818

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. PROHIBITIONS RELATING TO EXPLOSIVE MATERIALS.

(a) Prohibition of Sale, Delivery, or Transfer of Explosive Materials to Certain Individuals.—Section 842 of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) Prohibition of Sale, Delivery, or Transfer of Explosive Materials to Certain Individuals.—It shall be unlawful for any licensee to knowingly sell, deliver, or transfer any explosive materials to any individual who—

"(1) is less than 21 years of age;

"(2) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(3) is a fugitive from justice;

"(4) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(5) has been adjudicated as a mental defective or has been committed to any mental institution;

"(6) being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (*l*), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

"(7) has been discharged from the Armed Forces under dishonorable conditions;

"(8) having been a citizen of the United States, has renounced his citizenship;

"(9) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

"(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

"(10) has been convicted in any court of a misdemeanor crime of domestic violence.".

(b) Prohibition on Shipping, Transporting, Possession, or Receipt of Explosives by Certain Individuals.—Section 842 of title 18, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) Prohibition on Shipping, Transporting, Possession, or Receipt of Explosives by Certain Individuals.—It shall be unlawful for any person to ship or transport in interstate or foreign commerce, or possess, in or affecting commerce, any explosive, or to receive any explosive that has been shipped or transported in interstate or foreign commerce, if that person—

"(1) is less than 21 years of age;

"(2) has been convicted in any court, of a crime punishable by imprisonment for a term exceeding 1 year;

"(3) is a fugitive from justice;

"(4) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(5) has been adjudicated as a mental defective or who has been committed to a mental institution;

"(6) being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (*l*), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

"(7) has been discharged from the Armed Forces under dishonorable conditions;

"(8) having been a citizen of the United States, has renounced his citizenship; or

"(9) is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

"(10) has been convicted in any court of a misdemeanor crime of domestic violence.".

(c) Exceptions and Waiver for Certain Individuals.—Section 842 of title 18, United States Code, is amended by adding at the end the following:

"(*l*) Exceptions and Waiver for Certain Individuals.—

"(1) Definitions.—In this subsection—

"(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

"(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

"(2) Exceptions.—Subsections (d)(5)(B) and (p)(5)(B) do not apply to any alien who has been lawfully admitted to the United States pursuant to a nonimmigrant visa, if that alien is—

"(A) admitted to the United States for lawful hunting or sporting purposes;

"(B) a foreign military personnel on official assignment to the United States;

"(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

"(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

"(3) Waiver.—

"(A) In general.—Any individual who has been admitted to the United States under a nonimmigrant visa and who is not described in paragraph (2), may receive a waiver from the applicability of subsection (d)(5)(B) or (p)(5)(B), if—

"(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (B); and

"(ii) the Attorney General approves the petition.

"(B) Petitions.—Each petition under subparagraph (A)(i) shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to engage in any activity prohibited under subsection (d) or (p), as applicable, and certifying that the petitioner would not otherwise be prohibited from engaging in that activity under subsection (d) or (p), as applicable.".

Amendment No. 2819

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. PROHIBITIONS RELATING TO EXPLOSIVE MATERIALS.

(a) Prohibition of Sale, Delivery, or Transfer of Explosive Materials to Certain Individuals.—Section 842 of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) Prohibition of Sale, Delivery, or Transfer of Explosive Materials to Certain Individuals.—It shall be unlawful for any licensee to knowingly sell, deliver, or transfer any explosive materials to any individual who—

"(1) is less than 21 years of age;

"(2) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(3) is a fugitive from justice;

"(4) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(5) has been adjudicated as a mental defective or has been committed to any mental institution;

"(6) being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (*l*), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

"(7) has been discharged from the Armed Forces under dishonorable conditions;

"(8) having been a citizen of the United States, has renounced his citizenship;

"(9) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

"(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

"(10) has been convicted in any court of a misdemeanor crime of domestic violence.".

(b) Prohibition on Shipping, Transporting, Possession, or Receipt of Explosives by Certain Individuals.—Section 842 of title 18, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) Prohibition on Shipping, Transporting, Possession, or Receipt of Explosives by Certain Individuals.—It shall be unlawful for any person to ship or transport in interstate or foreign commerce, or possess, in or affecting commerce, any explosive, or to receive any explosive that has been shipped or transported in interstate or foreign commerce, if that person—

"(1) is less than 21 years of age;

"(2) has been convicted in any court, of a crime punishable by imprisonment for a term exceeding 1 year;

"(3) is a fugitive from justice;

"(4) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(5) has been adjudicated as a mental defective or who has been committed to a mental institution;

"(6) being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (*l*), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

"(7) has been discharged from the Armed Forces under dishonorable conditions;

"(8) having been a citizen of the United States, has renounced his citizenship; or

"(9) is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

"(10) has been convicted in any court of a misdemeanor crime of domestic violence.".

(c) Exceptions and Waiver for Certain Individuals.—Section 842 of title 18, United States Code, is amended by adding at the end the following:

"(*l*) Exceptions and Waiver for Certain Individuals.—

"(1) Definitions.—In this subsection—

"(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

"(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

"(2) Exceptions.—Subsections (d)(5)(B) and (p)(5)(B) do not apply to any alien who has been lawfully admitted to the United States pursuant to a nonimmigrant visa, if that alien is—

"(A) admitted to the United States for lawful hunting or sporting purposes;

"(B) a foreign military personnel on official assignment to the United States;

"(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

"(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

"(3) Waiver.—

"(A) In general.—Any individual who has been admitted to the United States under a nonimmigrant visa and who is not described in paragraph (2), may receive a waiver from the applicability of subsection (d)(5)(B) or (p)(5)(B), if—

"(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (B); and

"(ii) the Attorney General approves the petition.

"(B) Petitions.—Each petition under subparagraph (A)(i) shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to engage in any activity prohibited under subsection (d) or (p), as applicable, and certifying that the petitioner would not otherwise be prohibited from engaging in that activity under subsection (d) or (p), as applicable.".

Amendment No. 2820

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

"(d) Death or Life Imprisonment for Crimes Against Children.—Notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2251 shall, unless a sentence of death is imposed, be sentenced to imprisonment for life, if the victim of the offense—

"(1) is less than 14 years of age at the time of the offense; and

"(2) dies as a result of the offense.".

Amendment No. 2821

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

"(d) Death or Life Imprisonment for Crimes Against Children.—Notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2251 shall, unless a sentence of death is imposed, be sentenced to imprisonment for life, if the victim of the offense—

"(1) is less than 14 years of age at the time of the offense; and

"(2) dies as a result of the offense.".

GRASSLEY AMENDMENT NO. 2822

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. DEMILITARIZATION AND EXPORTATION OF DEFENSE PROPERTY.

(a) Centralized Assignment of Demilitarization Codes for Defense Property.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2572 the following:

"§2573. Demilitarization codes for defense property

"(a) Authority.—The Secretary of Defense shall—

"(1) assign the demilitarization codes to the property (other than real property) of the Department of Defense; and

"(2) take any action that the Secretary considers necessary to ensure that the property assigned demilitarization codes is demilitarized in accordance with the assigned codes.

"(b) Supremacy of Codes.—A demilitarization code assigned to an item of property by the Secretary of Defense under this section shall take precedence over any demilitarization code assigned to the item before the date of enactment of the National Defense Authorization Act for Fiscal Year 1999 by any other official in the Department of Defense.

"(c) Enforcement.—The Secretary of Defense shall commit the personnel and resources to the exercise of authority under subsection (a) that are necessary to ensure that—

"(1) appropriate demilitarization codes are assigned to property of the Department of Defense; and

"(2) property is demilitarized in accordance with the assigned codes.

"(d) Annual Report.—The Secretary of Defense shall include in the annual report submitted to Congress under section 113(c)(1) of this title a discussion of the following:

"(1) The exercise of the authority under this section during the fiscal year preceding the fiscal year in which the report is submitted.

"(2) Any changes in the exercise of the authority that are taking place in the fiscal year in which the report is submitted or are planned for that fiscal year or any subsequent fiscal year.

"(e) Definitions.—In this section:

"(1) The term 'demilitarization code', with respect to property, means a code that identifies the extent to which the property must be demilitarized before disposal.

"(2) The term 'demilitarize', with respect to property, means to destroy the military offensive or defensive advantages inherent in the property, by mutilation, cutting, crushing, scrapping, melting, burning, or altering the property so that the property cannot be used for the purpose for which it was originally made.".

(2) The table of sections at the beginning of such chapter 153 is amended by inserting after the item relating to section 2572 the following:

"2573. Demilitarization codes for defense property.".

(b) Criminal Offense.—(1) Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§554. Violations of regulated acts involving the exportation of United States property

"(a) Any person who—

"(1) fraudulently or knowingly exports or otherwise sends from the United States (as defined in section 545 of this title), or attempts to export or send from the United States any merchandise contrary to any law of the United States; or

"(2) receives, conceals, buys, sells, or in any manner facilitates, the transportation, concealment, or sale of any merchandise prior to exportation, knowing that the merchandise is intended for exportation in violation of Federal law;

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) The penalties under this section shall be in addition to any other applicable criminal penalty.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"554. Violations of regulated acts involving the exportation of United States property.".

COATS AMENDMENTS NOS. 2823–2825

(Ordered to lie on the table.)

Mr. COATS submitted three amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2823

At the end of subtitle D of title X, add the following:

SEC. 1064. CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM.

Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 50 U.S.C. 1521) is amended by adding at the end of subsection (c) the following:

"(4)(A) The Director of the Federal Emergency Management Agency shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

"(i) the storage of any such agents and munitions at military installations in the continental United States; or

"(ii) the destruction of such agents and munitions at facilities referred to in paragraph (1)(B).

"(B) No assistance may be provided under this paragraph after the completion of the destruction of the United States stockpile of lethal chemical agents and munitions.".

Amendment No. 2824

At the end of title XXXV, add the following:

SEC. 3513. DESIGNATION OF OFFICER OF THE DEPARTMENT OF DEFENSE AS A MEMBER AND CHAIRMAN OF THE PANAMA CANAL COMMISSION SUPERVISORY BOARD.

Section 1102(a) (22 U.S.C. 3612(a)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Commission shall be supervised by a Board composed of nine members. An official of the Department of Defense, or an officer of the Armed Forces, designated by the Secretary of Defense shall be one of the members and the Chairman of the Board."; and

(2) in the last sentence, by striking out "Secretary of Defense or a designee of the Secretary of Defense" and inserting in lieu thereof "Chairman of the Board".

Amendment No. 2825

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. DEBARMENT OF COMPANIES TRANSFERRING SENSITIVE TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA FROM CONTRACTING WITH THE DEPARTMENT OF DEFENSE.

(a) Findings.—Congress makes the following findings:

(1) The People's Republic of China is an authoritarian state that has acted and continues to act in a manner threatening to her neighbors and the United States.

(2) A nuclear-capable power, China is believed to have strategic missiles targeted at the United States.

(3) China launched ballistic missiles during the Spring of 1996 over portions of Taiwan in a show of force calculated to influence the presidential elections in Taiwan

(4) Responding to United States affirmation of support for Taiwan, a Chinese official in 1996 reportedly threatened a United States city with destruction should the United States act to defend Taiwan from an attack.

(5) Despite denials of hegemonic intent and criticism of other nations for allegedly pursuing hegemony in the region, China has attacked her neighbors, India and Vietnam, and threatened others, notably the Philippines, over disputed territory.

(6) Having brutally subjugated a long-independent nation, Tibet, in 1950, China continues to pursue policies that are clearly inimical to the Tibetan people. China systematically violates the most basic human rights though the denial of religious freedom, the jailing and persecution of the political opposition, and the immoral policy of forced abortion to control population growth.

(7) China is a proliferator of ballistic missile technology and nuclear technology.

(8) China supported the development by Pakistan of ballistic missiles and nuclear weapons.

(9) China supports missile development programs in Libya and Iran.

(10) China provided cruise missiles to Iran that currently threaten commercial shipping and United States naval vessels in the Persian Gulf.

(11) China appears to have a policy aimed at coercing United States companies as well as companies in over countries to transfer technology in order to obtain market access. According to a 1997 press report, "no country makes such demands across as wide a variety of industries as China does.". This has led one Administration official to characterize as blackmail the insistence of China that "to sell here, you have to locate here, and give us technology.".

(12) A number of questionable transfers of sensitive United States technology to China have occurred.

(13) In 1993, an American-backed joint venture transferred sensitive communications technology to a Chinese company headed by an official of the People's Liberation Army, reportedly over the objection of various officials of the Department of Defense and the National Security Agency.

(14) Advanced dual-use machine tools were sold to China in 1994 over the objections of a senior analyst of the Defense Technology Security Agency. These machine tools subsequently were found at a Chinese missile plant in violation of the export license.

(15) Two United States defense contractors appear to have transferred sensitive technical information to China in 1996 that may have enabled China to dramatically increase the reliability and capabilities of its space launch vehicles and strategic missiles.

(b) DEBARMENT.—(1) The Secretary of Defense shall debar from contracting with the Department of Defense, for a period of time provided for under paragraph (2), any company that has transferred sensitive technology to the People's Republic of China without the prior authorization of the United States Government.

(2) Debarment under paragraph (1) shall be for a period determined appropriate by the Secretary, but not less than five years.

(3) Debarment shall commence under paragraph (1) as of the first day of the fiscal year commencing after the later of the date of the determination by the Secretary that the transfer in question occurred without prior authorization of the United States Government.

(c) DEFINITIONS.—In this section:

(1) The term "debar" has the meaning given that term in section 2393(c) of title 10, United States Code.

(2) The term "sensitive technology" means any military or dual-use technologies or hardware covered by the Export Administration Act of 1979, and the regulations implementing that Act.

DEWINE AMENDMENT NO. 2826

(Ordered to lie on the table.)

Mr. DEWINE submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 204, below line 22, add the following:

SEC. 1014. CONVEYANCE OF NDRF VESSEL EX-USS LORAIN COUNTY.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-USS LORAIN COUNTY (LST–1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the "recipient"), for use as a memorial to Ohio veterans.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance of from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

FAIRCLOTH AMENDMENT NO. 2827

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 321, between lines 16 and 17, insert the following:

SEC. 2603. NATIONAL GUARD MILITARY EDUCATIONAL FACILITY, FORT BRAGG, NORTH CAROLINA.

(a) AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2601(1)(A) is hereby increased by $8,300,000.

(b) AVAILABILITY OF FUNDS.—Funds available as a result of the increase in the authorization of appropriations made by subsection (a) shall be available for purposes of construction of the National Guard Military Educational Facility at Fort Bragg, North Carolina.

(c) OFFSET.—The amount authorized to be appropriated by section 2502 is hereby reduced by $8,300,000.

WARNER AMENDMENTS NOS. 2828–2830

(Ordered to lie on the table.)

Mr. WARNER submitted three amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2828

At the end of title VIII, add the following:

SEC. 812. CLARIFICATION OF RESPONSIBILITY FOR SUBMISSION OF INFORMATION ON PRICES PREVIOUSLY CHARGED FOR PROPERTY OR SERVICES OFFERED.

(a) ARMED SERVICES PROCUREMENTS.—Section 2306a(d)(1) of title 10, United States Code is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 304A(d)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)(1)), is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(c) CRITERIA FOR CERTAIN DETERMINATIONS.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to include criteria for contracting officers to apply for determining the specific price information that an offeror should be required to submit under section 2306(d) of title 10, United States Code, or section 304A(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)).

AMENDMENT NO. 2829

At the end of subtitle D of title X, add the following:

SEC. 1064. DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.

(a) DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.—The Mariners' Museum building located at 100 Museum Drive, Newport News, Virginia, and the South Street Seaport Museum buildings located at 207 Front Street, New York, New York, shall be known and designated as "America's National Maritime Museum".

(b) REFERENCE TO AMERICA'S NATIONAL MARITIME MUSEUM.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the buildings referred to in subsection (a) shall be deemed to be a reference to America's National Maritime Museum.

AMENDMENT NO. 2830

At the end of subtitle D of title X, add the following:

SEC. 1064. TRANSFER OF DEFENSE AUTOMATED PRINTING SERVICE FUNCTIONS.

(b) REPORT.—Not later than March 31, 1999, the Secretary of Defense shall submit to the

Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the printing functions of the Defense Automated Printing Service. The report shall contain the following:

(1) The functions that the Secretary determines are inherently national security functions and, as such, need to be performed within the Department of Defense, together with a detailed justification for the determination for each such function.

(2) The functions that the Secretary determines are appropriate for transfer to the General Services Administration or the Government Printing Office.

(3) A plan to transfer to the General Services Administration, the Government Printing Office, or other entity, the printing functions of the Defense Automated Printing Service that are not identified under paragraph (1) as being inherently national security functions.

(4) Any recommended legislation and any administrative action that is necessary for transferring the functions in accordance with the plan.

(5) A discussion of the costs or savings associated with the transfers provided for in the plan.

(b) EXTENSION OF REQUIREMENT FOR COMPETITIVE PROCUREMENT OF SERVICES.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 266), as amended by section 351(a) of Public Law 104–201 (110 Stat. 2490) and section 387(a)(1) of Public Law 105–85 (111 Stat. 1713), is further amended by striking out "1998" and inserting in lieu thereof "1999".

MURKOWSKI AMENDMENT NO. 2831

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place in the bill insert, the following:

SEC.   . Between November 1 and February 29 of each year, when ice conditions in Cook Inlet can threaten physical deliveries of fuel by barge, a refiner that qualifies as a small, disadvantaged business shall, without diminishing any of the benefits that accrue as a result of such status, be permitted to use barrel-for-barrel fuel exchange agreements with other refiners to meet the terms of any contractual arrangement with the Defense Energy Supply Center for the delivery of fuel to Defense Energy Supply Point-Anchorage.

DOMENICI AMENDMENTS NOS. 2832–2833

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2832

At the end of subtitle B of title II, add the following:

SEC. 219. SCORPIUS LOW COST LAUNCH DEVELOPMENT PROGRAM.

(a) AMOUNT FROM DEFENSE-WIDE FUNDING.—Of the total amount authorized to be appropriated under section 201(4), $20,000,000 is available for the Scorpius Low Cost Launch Development program.

(b) OFFSETTING REDUCTIONS.—(1) Of the amount authorized to be appropriated by section 201(3), $13,383,993,000 is available for the Air Space Technology program.

(2) Of the total amount authorized to be appropriated under section 201(4), $9,832,764,000 is available for the Ballistic Missile Defense Organization Follow-on and Support Technology program.

AMENDMENT NO. 2833

On page 29 strike section 214 and insert the following:

SEC. 214. AIRBORNE LASER PROGRAM—FUNDING FOR THE PROGRAM.

Of the amount authorized to be appropriated under section 201(3), $292,000,000 shall be available for the Airborne Laser Program.

GORTON (AND SMITH) AMENDMENT NO. 2834

(Ordered to lie on the table.)

Mr. GORTON (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC.   . PRESIDENTIAL AUTHORITY TO IMPOSE NUCLEAR NONPROLIFERATION CONTROLS.

(a) AMENDMENT OF THE ARMS EXPORT CONTROL ACT.—

(1) REPROCESSING TRANSFERS; ILLEGAL EXPORTS.—Section 102(a) of the Arms Export Control Act (22 U.S.C. 2799aa–1(a)) is amended by striking "no funds" and all that follows through "making guarantees," and inserting the following: "the President may suspend or terminate the provision of economic assistance under the Foreign Assistance Act of 1961 (including economic support fund assistance under chapter 4 of part II of that Act) or military assistance, grant military education and training, or peacekeeping assistance under part II of that Act, or the extension of military credits or the making of guarantees under the Arms Export Control Act,".

(2) TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES.—Section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)) is amended—

(A) in paragraph (1), by striking "shall forthwith impose" and inserting "may impose";

(B) by striking paragraphs (4), (5), and (7);

(C) by redesignating paragraphs (6) and (8) as paragraphs (4) and (5), respectively; and

(D) by amending paragraph (4) (as redesignated) to read as follows:

"(4) If the President decides to impose any sanction against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform that country and shall impose the sanction beginning 30 days after submitting to Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of that sanction.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made by the President before, on, or after the date of enactment of this Act.

THOMAS (AND ENZI) AMENDMENT NO. 2835

(Ordered to lie on the table.)

Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page 320, line 25, strike out "$95,395,000" and insert in lieu thereof "$108,979,000".

KYL (AND MURKOWSKI) AMENDMENT NO. 2836

(Ordered to lie on the table.)

Mr. KYL (for himself and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. INCREASED MISSILE THREAT IN ASIA-PACIFIC REGION.

(a) FINDINGS.—Congress makes the following findings:

(1) United States forces and allies in the Asia-Pacific region face a growing missile threat from China and North Korea.

(2) China has embarked on a program to modernize its theater and strategic missile programs and has shown a willingness to use ballistic missiles to intimidate its neighbors. During Taiwan's national legislative elections in 1995, China fired six M–9 ballistic missiles to an area about 100 miles north of Taiwan. Less than a year later, on the eve of Taiwan's first democratic presidential election, China again launched M–9 missiles to areas within 30 miles north and south of Taiwan, thereby establishing a virtual blockade of the two primary ports of Taiwan.

(3) North Korea's missile program is becoming more advanced. According to a recent Department of Defense report, North Korea has deployed several hundred Scud missiles that are capable of reaching targets in South Korea. North Korea has started to deploy the No Dong missile, which will have sufficient range to target nearly all of Japan, and is continuing to develop a longer-range ballistic missile that will be capable of reaching Alaska and Hawaii.

(4) Theater missile defenses are vitally needed to protect American forces and interests in the Asia-Pacific region.

(5) The sale of United States ballistic missile defense items to Taiwan is consistent with the provisions of the Taiwan Relations Act, which states that "the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.".

(b) SENSE OF CONGRESS REGARDING RESTRICTIONS ON DEPLOYMENT OF UNITED STATES THEATER MISSILE DEFENSES.—It is the sense of Congress that the President should not adopt any policies or negotiate any agreements that restrict the deployment of theater missile defense systems operated by United States forces or allies.

(c) STUDY AND REPORT.—(1) The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect Taiwan, South Korea, and Japan from ballistic missile attack. The study shall include a description of appropriate measures by which the United States would cooperate with Taiwan, South Korea, and Japan and provide them with an advanced local-area ballistic missile defense system.

(2) Not later than January 1, 1999, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(A) the results of the study conducted under paragraph (1);

(B) the factors used to obtain such results; and

(C) a description of any existing United States missile defense system that could be transferred to Taiwan and Japan in accordance with the Taiwan Relations Act in order to allow Taiwan and Japan to provide for their self-defense against limited ballistic missile attacks.

(3) The report shall be submitted in both classified and unclassified form.

(d) Sense of Congress Regarding Transfer of Ballistic Missile Defense Systems.—It is the sense of Congress that the President, if requested by the Government of Taiwan, South Korea, or Japan and in accordance with the results of the study conducted under subsection (c), should sell, at full market value, to the requesting nation appropriate defense articles or defense services under the foreign military sales program under chapter 2 of the Arms Export Control Act (22 U.S.C. 2761 et seq.) for the purpose of establishing and operating a local-area ballistic missile defense system to protect Taiwan, including the Penghu Islands, Kinmen, and Matsu, South Korea, or Japan, as the case may be, against limited ballistic missile attack.

(e) Statement of Policy Relating to United States Theater Missile Defenses for the Asia-Pacific Region.—Congress declares that it is in the national interest of the United States that Taiwan be included in any effort at ballistic missile defense cooperation, networking, or interoperability with friendly and allied nations in the Asia-Pacific region.

(f) Sense of Congress Urging the President To Declare to the People's Republic of China the Commitment of the American People to Security and Democracy in Taiwan.—It is the sense of Congress that the President should make clear to the leadership of the People's Republic of China the firm commitment of the American people to security and democracy for the people of Taiwan and that the United States fully expects that security issues on both sides of the Taiwan Strait will be resolved by peaceful means.

(g) Sense of Congress Regarding Taiwan.—It is the sense of Congress that—

(1) the transfer of Hong Kong to the People's Republic of China does not alter the current and future status of Taiwan;

(2) the future of Taiwan should be determined by peaceful means through a democratic process; and

(3) the United States, in accordance with the Taiwan Relations Act and the constitutional processes of the United States, should assist in the defense of Taiwan in case of threats or military attack by the People's Republic of China against Taiwan.

HUTCHISON AMENDMENT NO. 2837

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 2057, supra; as follows:

At the end of Title II, Subtitle B, (page 41, after line 23) insert the following new Section:

SEC. . ACCELERATION OF H-1 UPGRADE PROGRAM.

(a) Of the amounts authorized to be appropriated under Section 201(2), $121,942,000 shall be available only for the upgrade of H-1 rotary wing aircraft.

KYL AMENDMENT NO. 2838

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. COMMISSION TO ASSESS THE RELIABILITY SAFETY AND SECURITY OF THE UNITED STATES NUCLEAR DETERRENT.

(a) Establishment.—There is hereby established a commission to be known as the "Commission for Assessment of the Reliability, Safety, and Security of the United States Nuclear Deterrent".

(b) Composition.—(1) The Commission shall be composed of six members who shall be appointed from among private citizens of the United States with knowledge and expertise in the technical aspects of design, maintenance, and deployment of nuclear weapons, as follows:

(A) Two members appointed by the Majority Leader of the Senate.

(B) One member appointed by the Minority Leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) One member appointed by the Minority Leader of the House of Representatives.

(2) The Senate Majority Leader and the Speaker of the House of Representatives shall each appoint one member to serve for five years and one member to serve for two years. The Minority Leaders of the Senate and House of Representatives shall each appoint one member to serve for five years. A member may be reappointed.

(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(4) All members of the Commission shall hold appropriate security clearances.

(c) Chairman.—The Majority Leader of the Senate, after consultation with the Speaker of the House of Representatives and the Minority Leaders of the Senate and House of Representatives, shall designate one of the members of the Commission, without regard to the term of appointment of that member, to serve as Chairman of the Commission.

(d) Duties of Commission.—(1) Each year the Commission shall assess, for Congress—

(A) the safety, security, and reliability of the nuclear deterrent forces of the United States; and

(B) the annual certification on the safety, security, and reliability of the nuclear weapons stockpile of the United States that is provided by the directors of the national weapons laboratories through the Secretary of Energy to the President.

(2) The Commission shall submit to Congress an annual report, in classified form, setting forth the findings and conclusions resulting from each assessment.

(e) Cooperation of Other Agencies.—(1) The Commission may secure directly from the Department of Energy, the Department of Defense, or any of the national weapons laboratories or plants or any other Federal department or agency information that the Commission considers necessary for the Commission to carry out its duties.

(2) For carrying out its duties, the Commission shall be provided full and timely cooperation by the Secretary of Energy, the Secretary of Defense, the Commander of United States Strategic Command, the Directors of the Los Alamos National Laboratory, the Lawrence Livermore National Laboratory, the Sandia National Laboratories, the Savannah River Site, the Y-12 Plant, the Pantex Facility, and the Kansas City Plant, and any other official of the United States that the Chairman determines as having information described in paragraph (1).

(3) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(f) Commission Procedures.—(1) The Commission shall meet at the call of the Chairman.

(2) Four members of the Commission shall constitute a quorum, except that the Commission may designate a lesser number of members as a quorum for the purpose of holding hearings. The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(3) Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this section.

(4) The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. Findings and conclusions of a panel of the Commission may not be considered findings and conclusions of the Commission unless approved by the Commission.

(5) The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out its duties, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(g) Personnel Matters.—(1) A member of the Commission shall be compensated at the daily equivalent of the rate of basic pay established for level V of the Executive Schedule under 5316 of title 5, United States Code, for each day on which the member is engaged in any meeting, hearing, briefing, or other work in the performance of duties of the Commission.

(2) A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Commission.

(3) The Chairman of the Commission may, without regard to the provisions of the title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a non-reimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(5) The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not

exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule and under section 5316 of such title.

(h) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary of Defense and the Secretary of Energy shall furnish the Commission with any administrative and support services requested by the Commission and with office space within the Washington, District Columbia, metropolitan area that is sufficient for the administrative offices of the Commission and for holding general meetings of Commission.

(i) FUNDING.—The Secretary of Defense and the Secretary of Energy shall each contribute 50 percent of the amount of funds that are necessary for the Commission to carry out its duties. Upon receiving from the Chairman of the Commission a written certification of the amount of funds that is necessary for funding the activities of the Commission for a period, the Secretaries shall promptly make available to the Commission funds in the total amount specified in the certification. Funds available for the Department of Defense for Defense-wide research, development, test, and evaluation shall be available for the Department of Defense contribution. Funds available for the Department of Energy for atomic energy defense activities shall be available for the Department of Energy contribution.

(j) TERMINATION OF THE COMMISSION.—The Commission shall terminate three years after the date of the appointment of the member designated as Chairman.

(k) INITIAL IMPLEMENTATION.—All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

JEFFORDS (AND LEAHY) AMENDMENT NO. 2839

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

Strike out section 413, and insert in lieu thereof the following:

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

(a) MINIMUM STRENGTHS.—The number of military technicians (dual status) of each of the reserve components of the Army and the Air Force as of September 30, 1999, shall be at least the following:

(1) For the Army Reserve, 5,395.

(2) For the Army National Guard of the United States, 23,125.

(3) For the Air Force Reserve, 9,761.

(4) For the Air National Guard of the United States, 22,408.

(b) NON-DUAL STATUS MILITARY TECHNICIANS NOT INCLUDED.—In this section, the term "military technician (dual status)" has the meaning given the term in section 10216(a) of title 10, United State Code, and does not include a non-dual status technician (within the meaning of section 10217 of such title).

At the end of subtitle C of title X, add the following:

SEC. 1031. REVIEW AND REPORT REGARDING THE DISTRIBUTION OF NATIONAL GUARD RESOURCES AMONG STATES.

(a) REQUIREMENT FOR REVIEW.—The Chief of the National Guard Bureau shall review the process used for planning for an appropriate distribution of resources among the States for the National Guard of the States.

(b) PURPOSE OF REVIEW.—The purpose of the review is to determine whether the process provides for adequately funding the National Guard of the States that have within the National Guard no unit or few units categorized in readiness tiers I, II, and III.

(c) MATTERS REVIEWED.—The matters reviewed shall include the following:

(1) The factors considered for the process of determining the distribution of resources, including the weights assigned to the factors.

(2) The extent to which the process results in planning for the units of the States described in subsection (b) to be funded at the levels necessary to optimize the preparedness of the units to meet the mission requirements applicable to the units.

(3) The effects that funding at levels determined under the process will have on the National Guard of those States in the future, including the effects on unit readiness, recruitment, and continued use of existing National Guard armories and other facilities.

(d) REPORT.—Not later than March 15, 1999, the Chief of the National Guard Bureau shall submit a report on the results of the review to the congressional defense committees.

COVERDELL (AND OTHERS) AMENDMENT NO. 2840

(Ordered to lie on the table.)

Mr. COVERDELL (for himself, Mr. BREAUX, and Mr. DEWINE) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. FEDERAL FACILITIES CLEAN WATER COMPLIANCE.

(a) APPLICATION OF CERTAIN PROVISIONS TO FEDERAL FACILITIES.—Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by striking subsection (a) and inserting the following:

"(a) COMPLIANCE.—

"(1) DEFINITION OF REASONABLE SERVICE CHARGE.—In this subsection, the term 'reasonable service charge' includes but is not limited to—

"(A) a fee or charge assessed in connection with the processing, issuance, renewal, or amendment of a permit, review of a plan, study, or other document, or inspection or monitoring of a facility; and

"(B) any other nondiscriminatory charge that is assessed in connection with a Federal, State, interstate, or local regulatory program concerning the control and abatement of water pollution.

"(2) REQUIREMENT.—Each department, agency, and instrumentality of the executive, legislative, or judicial branch of the Federal Government that has jurisdiction over any property or facility, or is engaged in any activity that results, or that may result, in the discharge or runoff of a pollutant shall be subject to, and shall comply with, all Federal, State, interstate, and local substantive and procedural requirements (including any requirement for a permit or reporting, any provision for injunctive relief and such sanctions as are imposed by a Federal or State court to enforce the relief, and any requirement for the payment of a reasonable service charge) concerning the control and abatement of water pollution in the same manner, and to the same extent, as any other person is subject to the requirements.

"(3) WAIVER OF SOVEREIGN IMMUNITY.—The United States waives any immunity otherwise applicable to the United States with respect to any substantive or procedural requirement described in paragraph (2), including but not limited to immunity from process in an administrative or court action seeking—

"(A) injunctive relief;

"(B) imposition of a sanction referred to in this subsection;

"(C) enforcement of an administrative order;

"(D) imposition of an administrative penalty or fine; or

"(E) payment of a reasonable service charge.

"(4) ADMINISTRATIVE ORDERS AND PENALTIES.—The substantive and procedural requirements described in paragraph (2) include but are not limited to all administrative orders and all civil and administrative penalties or fines, regardless of whether the penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(5) INJUNCTIVE RELIEF.—The United States (including any agent, employee, or officer of the United States) shall not be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any injunctive relief referred to in paragraph (2).

"(6) CIVIL PENALTIES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning the control and abatement of water pollution with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(7) CRIMINAL PENALTIES.—

"(A) AGENTS, EMPLOYEES, AND OFFICERS.—An agent, employee, or officer of the United States shall be subject to a criminal sanction (including but not limited to a fine or imprisonment) under any Federal or State law concerning the control and abatement of water pollution.

"(B) DEPARTMENTS, AGENCIES, AND INSTRUMENTALITIES.—No department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to a sanction referred to in subparagraph (A).

"(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—

"(1) IN GENERAL.—

"(A) COMMENCEMENT.—The Administrator, the Secretary of the Army, and the Secretary of the department in which the Coast Guard is operating may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities authorized by this Act.

"(B) MANNER AND CIRCUMSTANCES.—The Administrator or Secretary, as applicable, shall initiate an administrative enforcement action against such a department, agency, or instrumentality in the same manner and under the same circumstances as the Administrator or Secretary would initiate such an action against another person.

"(C) CONSENT ORDERS.—Any voluntary resolution or settlement of an action described in subparagraph (B) shall be set forth in a consent order.

"(2) OPPORTUNITY TO CONFER.—An administrative order issued to a department, agency, or instrumentality under paragraph (1) shall not become final until the department, agency, or instrumentality has had the opportunity to confer with the Administrator or Secretary, as applicable.

"(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM THE FEDERAL GOVERNMENT.—Unless a State law in effect on the date of enactment of this subsection or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of a substantive or procedural requirement described in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(b) DEFINITION OF PERSON.—

(1) GENERAL DEFINITIONS.—Section 502(5) of the Federal Water Pollution Control Act (33 U.S.C. 1362(5)) is amended—

(A) by striking "or any" and inserting "an"; and

(B) by inserting before the period at the end the following: "or a department, agency, or instrumentality of the United States".

(2) OIL AND HAZARDOUS SUBSTANCE LIABILITY PROGRAM.—Section 311(a)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(7)) is amended—

(A) by striking "a"; and

(B) by inserting before the semicolon at the end the following: "and a department, agency, or instrumentality of the United States".

COVERDELL AMENDMENT NO. 2841

(Ordered to lie on the table.)

Mr. COVERDELL submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. COVERAGE OF FEDERAL FACILITIES UNDER THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986.

Section 329(7) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11049(7)) is amended by inserting "or the United States" before the period at the end.

GRAMS AMENDMENT NO. 2842

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 634. PRESENTATION OF UNITED STATES FLAG TO MEMBERS OF THE ARMED FORCES.

(a) ARMY.—(1) Chapter 353 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 3681. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Army shall present a United States flag to a member of any component of the Army upon the release of the member from active duty for retirement.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 6141 or 8681 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 3684 the following:

"3681. Presentation of flag upon retirement at end of active duty service.".

(b) NAVY AND MARINE CORPS.—(1) Chapter 561 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 6141. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Navy shall present a United States flag to a member of any component of the Navy or Marine Corps upon the release of the member from active duty for retirement or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 8681 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 6151 the following:

"6141. Presentation of flag upon retirement at end of active duty service.".

(c) AIR FORCE.—(1) Chapter 853 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 8681. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Air Force shall present a United States flag to a member of any component of the Air Force upon the release of the member from active duty for retirement.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 6141 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 8684 the following:

"8681. Presentation of flag upon retirement at end of active duty service.".

(d) REQUIREMENT FOR ADVANCE APPROPRIATIONS.—The Secretary of a military department may present flags under authority provided the Secretary in section 3681, 6141, or 8681 title 10, United States Code (as added by this section), only to the extent that funds for such presentations are appropriated for that purpose in advance.

(e) EFFECTIVE DATE.—Sections 3681, 6141, and 8681 of title 10, United States Code (as added by this section shall take effect on October 1, 1998, and shall apply with respect to releases described in those sections on or after that date.

HUTCHISON AMENDMENT NO. 2843

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 2057, supra; as follows:

On page 222, below line 21, add the following:

SEC. 1031. REPORT ON REDUCTION OF INFRASTRUCTURE COSTS AT BROOKS AIR FORCE BASE, TEXAS.

(a) REQUIREMENT.—Not later than December 31, 1998, the Secretary of the Air Force shall, in consultation with the Secretary of Defense, submit to the congressional defense committees a report on means of reducing significantly the infrastructure costs at Brooks Air Force Base, Texas, while also maintaining or improving the support for Department of Defense missions and personnel provided through Brooks Air Force Base.

(b) ELEMENTS.—The report shall include the following:

(1) A description of any barriers (including barriers under law and through policy) to improved infrastructure management at Brooks Air Force Base.

(2) A description of means of reducing infrastructure management costs at Brooks Air Force Base through cost-sharing arrangements and more cost-effective utilization of property.

(3) A description of any potential public partnerships or public-private partnerships to enhance management and operations at Brooks Air Force Base.

(4) An assessment of any potential for expanding infrastructure management opportunities at Brooks Air Force Base as a result of initiative considered at the Base or at other installations.

(5) An analysis (including appropriate data) on current and projected costs of the ownership or lease of Brooks Air Force Base under a variety of ownership or leasing scenarios, including the savings that would accrue to the Air Force under such scenarios and a schedule for achieving such savings.

(6) Any recommendations relating to reducing the infrastructure costs at Brooks Air Force Base that the Secretary considers appropriate.

THURMOND AMENDMENT NO. 2844

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. SENSE OF CONGRESS REGARDING CONTINUED PARTICIPATION OF UNITED STATES FORCES IN OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The contributions of the people of the United States and other nations have, in large measure, resulted in the suspension of fighting and alleviated the suffering of the people of Bosnia and Herzegovina since December 1995.

(2) the people of the United States have expended approximately $9,500,000,000 in tax dollars between 1992 and mid-1998 just in support of the United States military operations in Bosnia to achieve those results.

(3) Efforts to restore the economy and political structure in Bosnia and Herzegovina have achieved some success in accordance with the Dayton Agreement.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) There is, however, no accurate estimate of the time needed to accomplish the civilian implementation tasks outlined in the Dayton Agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States ground combat forces should not remain in Bosnia and Herzegovina indefinitely in view of the world-wide commitments of the Armed Forces of the United States;

(2) the President should work with NATO allies and the other nations whose military forces are participating in the NATO-led Stabilization Force to remove United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the safety of those forces and the accomplishment of the Stabilization Force's military tasks;

(3) a NATO-led force without the participation of United States ground combat forces in Bosnia and Herzegovina might be suitable for a European follow-on force for Bosnia and Herzegovina;

(4) United States leaders potentially could decide to provide appropriate support to a European or NATO-led follow-on force for Bosnia and Herzegovina, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region;

(5) the President should inform the European NATO allies of this expression of the sense of Congress and should strongly urge them to undertake preparations for establishing a European or a NATO-led force as a follow-on force to the NATO-led Stabilization Force if needed to maintain peace and stability in Bosnia and Herzegovina; and

(6) the President should consult closely with the congressional leadership and the congressional defense committees with respect to the progress being made toward achieving a sustainable peace in Bosnia and Herzegovina and the progress being made toward a reduction and ultimate withdrawal of United States ground combat forces from Bosnia and Herzegovina.

(c) DAYTON AGREEMENT DEFINED.—In this section, the term "Dayton Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

THURMOND (AND LEVIN) AMENDMENT NO. 2845

(Ordered to lie on the table.)

Mr. THURMOND (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. SENSE OF CONGRESS REGARDING CONTINUED PARTICIPATION OF UNITED STATES FORCES IN OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The contributions of the people of the United States and other nations have, in large measure, resulted in the suspension of fighting and alleviated the suffering of the people of Bosnia and Herzegovina since December 1995.

(2) the people of the United States have expended approximately $9,500,000,000 in tax dollars between 1992 and mid-1998 just in support of the United States military operations in Bosnia to achieve those results.

(3) Efforts to restore the economy and political structure in Bosnia and Herzegovina have achieved some success in accordance with the Dayton Agreement.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) There is, however, no accurate estimate of the time needed to accomplish the civilian implementation tasks outlined in the Dayton Agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States ground combat forces should not remain in Bosnia and Herzegovina indefinitely in view of the world-wide commitments of the Armed Forces of the United States;

(2) the President should work with NATO allies and the other nations whose military forces are participating in the NATO-led Stabilization Force to withdraw United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the safety of those forces and the accomplishment of the Stabilization Force's military tasks;

(3) a NATO-led force without the participation of United States ground combat forces in Bosnia and Herzegovina might be suitable for a follow-on force for Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission;

(4) United States leaders potentially could decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force for Bosnia and Herzegovina, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region;

(5) the President should inform the European NATO allies of this expression of the sense of Congress and should strongly urge them to undertake preparations for establishing a Western European Union-led or a NATO-led force as a follow-on force to the NATO-led Stabilization Force if needed to maintain peace and stability in Bosnia and Herzegovina; and

(6) the President should consult closely with the congressional leadership and the congressional defense committees with respect to the progress being made toward achieving a sustainable peace in Bosnia and Herzegovina and the progress being made toward a reduction and ultimate withdrawal of United States ground combat forces from Bosnia and Herzegovina.

(c) DAYTON AGREEMENT DEFINED.—In this section, the term "Dayton Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

THURMOND AMENDMENT NO. 2846

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 347, below line 23, add the following:

SEC. 2833. REPORT ON LEASING AND OTHER ALTERNATIVE USES OF NON-EXCESS MILITARY PROPERTY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense, with the support of the chiefs of staff of the Armed Forces, is calling for the closure of additional military installations in the United States as a means of eliminating excess capacity in such installations.

(2) The Secretary has stated that the closure of additional military installations in the United States is essential if the United States is to have the funds required to buy critically needed new weapons and equipment.

(3) The prospect of redevelopment of military installations closed under the Defense Base Closure and Realignment Act of 1990 has provoked significant private sector interest in military installations as potential locations for commercial development.

(4) Excess capacity in Department of Defense installations is a valuable asset, and the utilization of such capacity presents a potential economic benefit for the Department and the Nation.

(5) The experiences of the Department have demonstrated that the military departments and private businesses can carry out activities at the same military installation simultaneously.

(6) Section 2667 of title 10, United States Code, authorizes the Secretaries of the military departments to lease, upon terms that promote the national defense or are in the public interest, real property that is—

(A) under the control of such departments;

(B) not for the time needed for public use; and

(C) not excess to the requirements of the United States.

(b) REPORT.—Not later than February 1, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the following:

(1) The number and purpose of the leases entered into under section 2667 of title 10, United States Code, during the five-year period ending on the date of enactment of this Act.

(2) The types and amounts of payments received under the leases specified in paragraph (1).

(3) The costs, if any, foregone as a result of the leases specified in paragraph (1).

(4) A discussion of the positive and negative aspects of leasing real property and surplus capacity at military installations to the private sector, including the potential impact on force protection.

(5) A description of the current efforts of the Department of Defense to identify for the private sector any surplus capacity at military installations that could be leased or otherwise used by the private sector.

(6) A proposal for any legislation that the Secretary considers appropriate to enhance the ability of the Department to utilize surplus capacity in military installations in order to improve military readiness, achieve cost savings with respect to such installations, or decrease the cost of operating such installations.

(7) An estimate of the amount of income that could accrue to the Department as a result of the enhanced authority proposed under paragraph (6) during the five-year period beginning on the effective date of such enhanced authority.

(8) A discussion of the extent to which any such income should be reserved for the use of

the installations exercising such authority and of the extent to which installations are likely to enter into such leases if they cannot retain such income.

WARNER AMENDMENT NO. 2847

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. TRANSFER OF DEFENSE AUTOMATED PRINTING SERVICE FUNCTIONS.

(b) REPORT.—Not later than March 31, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the printing functions of the Defense Automated Printing Service. The report shall contain the following:

(1) The functions that the Secretary determines are inherently national security functions and, as such, need to be performed within the Department of Defense, together with a detailed justification for the determination for each such function.

(2) The functions that the Secretary determines are appropriate for transfer to the General Services Administration or the Government Printing Office.

(3) A plan to transfer to the General Services Administration or the Government Printing Office the printing functions of the Defense Automated Printing Service that are not identified under paragraph (1) as being inherently national security functions.

(4) Any recommended legislation and any administrative action that is necessary for transferring the functions in accordance with the plan.

(5) A discussion of the costs or savings associated with the transfers provided for in the plan.

(b) EXTENSION OF REQUIREMENT FOR COMPETITIVE PROCUREMENT OF SERVICES.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 266), as amended by section 351(a) of Public Law 104-201 (110 Stat. 2490) and section 387(a)(1) of Public Law 105-85 (111 Stat. 1713), is further amended by striking out "1998" and inserting in lieu thereof "1999".

THURMOND AMENDMENT NO. 2848

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. AUTHORITY FOR WAIVER OF MORATORIUM ON ARMED FORCES USE OF ANTIPERSONNEL LANDMINES.

Section 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 751) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) WAIVER AUTHORITY.—(1) The President may waive the moratorium set forth in subsection (a) if the President determines that the waiver is necessary in the national security interests of the United States.

"(2) The President shall notify the President pro tempore of the Senate and the Speaker of the House of Representatives of the exercise of the authority provided by paragraph (1).".

SANTORUM AMENDMENT NO. 2849

(Ordered to lie on the table.)

Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 14, line 23, increase the amount by $17,000,000.

On page 42, line 23, reduce the amount by $17,000,000.

THURMOND AMENDMENTS NOS. 2850–2851

(Ordered to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2850

On page 64, line 7, strike out "(d)", and insert in lieu thereof the following:

(3) The waiver authority under paragraph (1) does not apply to the limitation in subsection (d) or the limitation in section 2208(*l*)(3) of title 10, United States Code (as added by subsection (e)).

(d) FISCAL YEAR 1999 LIMITATION ON ADVANCE BILLINGS.—(1) The total amount of the advance billings rendered or imposed for the working-capital funds of the Department of Defense and the Defense Business Operations Fund in fiscal year 1999—

(A) for the Department of the Navy, may not exceed $500,000,000; and

(B) for the Department of the Air Force, may not exceed $500,000,000.

(2) In paragraph (1), the term "advance billing" has the meaning given such term in section 2208(*l*) of title 10, United States Code.

(e) PERMANENT LIMITATION ON ADVANCE BILLINGS.—(1) Section 2208(*l*) of title 10, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed $1,000,000,000.".

(2) Section 2208(*l*)(3) of such title, as added by paragraph (1), applies to fiscal years after fiscal year 1999.

(f)

AMENDMENT NO. 2851

Beginning on page 400, line 10, strike out "$100,000,000" and all that follows through page 401, line 12, and insert in lieu thereof the following:

$103,000,000 by the end of fiscal year 1999 and $377,000,000 by the end of fiscal year 2003.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Beryllium Metal, vacuum cast	227 short tons
Chromium Metal—EL	8,511 short tons
Columbium Carbide Powder	21,372 pounds contained
Columbium Ferro	249,395 pounds contained
Columbium Concentrates	1,733,454 pounds contained
Chromium Ferroalloy	92,000 short tons
Diamond, Stones	3,000,000 carats
Germanium Metal	28,198 kilograms
Indium	14,248 troy ounces
Palladium	1,227,831 troy ounces
Platinum	439,887 troy ounces
Tantalum Carbide Powder	22,681 pounds contained
Tantalum Metal Powder	50,000 pounds contained
Tantalum Minerals	1,751,364 pounds contained
Tantalum Oxide	122,730 pounds contained
Tungsten Ferro	2,024,143 pounds
Tungsten Carbide Powder	2,032,954 pounds
Tungsten Metal Powder	1,898,009 pounds
Tungsten Ores & Concentrates	76,358,230 pounds

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) AUTHORIZATION OF SALE.—The authority provided by this section to dispose of materials contained in the National Defense Stockpile so as to result in receipts of $100,000,000 of the amount specified for fiscal year 1999 in subsection (a) by the end of that fiscal year shall be effective only to the extent provided in advance in appropriation Acts.

SEC. 3304. USE OF STOCKPILE FUNDS FOR CERTAIN ENVIRONMENTAL REMEDIATION, RESTORATION, WASTE MANAGEMENT, AND COMPLIANCE ACTIVITIES.

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L), respectively; and

(2) by inserting after subparagraph (I) the following new subparagraph (J):

"(J) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the Government under an administrative decision or negotiated agreement.".

LOTT AMENDMENT NO. 2852

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE NAVAL HOME.

(a) APPOINTMENT AND QUALIFICATIONS OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (a) of section 1517 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 417) is amended—

(1) in paragraph (2)—

(A) by striking out "Each Director" and inserting in lieu thereof "The Director of the United States Soldiers' and Airmen's Home"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) meet the requirements of paragraph (4).";

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs (3) and (4):

"(3) The Director, and any Deputy Director, of the Naval Home shall be appointed by the Secretary of Defense from among persons recommended by the Secretaries of the military departments who—

"(A) in the case of the position of Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0–5;

"(B) in the case of the position of Deputy Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0–4; and

"(C) meet the requirements of paragraph (4).

"(4) Each Director shall have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and significant military background.".

(b) TERM OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (c) of such section is amended—

(1) by striking out "(c) TERM OF DIRECTOR.—" and all that follows through "A Director" in the second sentence and inserting in lieu thereof "(c) TERMS OF DIRECTORS.—(1) The term of office of the Director of the United States Soldiers' and Airmen's Home shall be five years. The Director"; and

(2) by adding at the end the following new paragraph:

"(2) The Director and the Deputy Director of the Naval Home shall serve at the pleasure of the Secretary of Defense.".

(c) DEFINITIONS.—Such section is further amended by adding at the end the following:

"(g) DEFINITIONS.—In this section:

"(1) The term 'United States Soldiers' and Airmen's Home' means the separate facility of the Retirement Home that is known as the United States Soldiers' and Airmen's Home.

"(2) The term 'Naval Home' means the separate facility of the Retirement Home that is known as the Naval Home.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

D'AMATO AMENDMENT NO. 2853

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. LAND CONVEYANCE, SKANEATELES, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Town of Skaneateles, New York (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 147.10 acres in Skaneateles, New York, and commonly known as the "Federal Farm". The purpose of the conveyance is to permit the Town to develop the parcel for public benefit, including for recreational purposes.

(b) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used by the Town in accordance with that subsection, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

BOND AMENDMENT NO. 2854

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 323, in the third table following line 9, insert after the item relating to Camp Shelby, Mississippi, the following new item:

Missouri	National Guard Training Site, Jefferson City	Multi-Purpose Range	$2,236,000

GRAMS AMENDMENT NO. 2855

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. LAND CONVEYANCE, NAVAL AIR RESERVE CENTER, MINNEAPOLIS, MINNESOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without any consideration other than the consideration provided for under subsection (c), to the Minneapolis-St. Paul Metropolitan Airports Commission, Minnesota (in this section referred to as the "Commission"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 32 acres located in Minneapolis, Minnesota, and comprising the Naval Air Reserve Center, Minneapolis, Minnesota. The purpose of the conveyance is to facilitate expansion of the Minneapolis-St. Paul International Airport.

(b) ALTERNATIVE LEASE AUTHORITY.—(1) The Secretary may, in lieu of the conveyance authorized by subsection (a), elect to lease the property referred to in that subsection to the Commission if the Secretary determines that a lease of the property would better serve the interests of the United States.

(2) Notwithstanding any other provision of law, the term of the lease under this subsection may not exceed 99 years.

(3) The Secretary may not require any consideration as part of the lease under this subsection other than the consideration provided for under subsection (c).

(c) CONSIDERATION.—As consideration for the conveyance under subsection (a), or the lease under subsection (b), the Commission shall—

(1) provide for such facilities as the Secretary considers appropriate for the Naval Reserve to replace the facilities conveyed or leased under this section—

(A) by—

(i) conveying to the United States, without any consideration other than the consideration provided for under subsection (a), all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the conveyance authorized by subsection (a); or

(ii) leasing to the United States, for a term of 99 years and without any consideration other than the consideration provided for under subsection (b), a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the lease authorized by subsection (b); and

(B) assuming the costs of designing and constructing such facilities on the parcel conveyed or leased under subparagraph (A); and

(2) assume any reasonable costs incurred by the Secretary in relocating the operations of the Naval Air Reserve Center to the facilities constructed under paragraph (1)(B).

(d) Requirement Relating to Conveyance.—The Secretary may not make the conveyance authorized by subsection (a), or enter into the lease authorized by subsection (b), until the facilities to be constructed under subsection (c) are available for the relocation of the operations of the Naval Air Reserve Center.

(e) Agreement Relating to Conveyance.—If the Secretary determines to proceed with the conveyance authorized by subsection (a), or the lease authorized by subsection (b), the Secretary and the Commission shall enter into an agreement specifying the terms and conditions under which the conveyance or lease will occur.

(f) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a), or leased under subsection (b), and to be conveyed or leased under subsection (c)(1)(A), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Commission.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a), or the lease under subsection (b), as the Secretary considers appropriate to protect the interests of the United States.

THOMAS (AND ENZI) AMENDMENT NO. 2856

(Ordered to lie on the table.)

Mr. THOMAS (for himself and Mr. Enzi) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. PROHIBITION ON RETURN OF VETERANS MEMORIAL OBJECTS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(a) Prohibition.—Notwithstanding section 2572 of title 10, United States Code, or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or entity controlled by a foreign government, or otherwise transfer or convey such object to a person or entity for purposes of the ultimate transfer or conveyance of such object to a foreign country or entity controlled by a foreign government, unless specifically authorized by law.

(b) Definitions.—In this section:

(1) Entity controlled by a foreign government.—The term "entity controlled by a foreign government" has the meaning given that term in section 2536(c)(1) of title 10, United States Code.

(2) Veterans memorial object.—The term "veterans memorial object" means any object, including a physical structure or portion thereof, that—

(A) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

(B) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the United States Armed Forces; and

(C) was brought to the United States from abroad as a memorial of combat abroad.

JEFFORDS (AND LEAHY) AMENDMENT NO. 2857

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself and Mr. Leahy) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

Strike out section 413, and insert in lieu thereof the following:

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

(a) Minimum Strengths.—The number of military technicians (dual status) of each of the reserve components of the Army and the Air Force as of September 30, 1999, shall be at least the following:

(1) For the Army Reserve, 5,395.

(2) For the Army National Guard of the United States, 23,125.

(3) For the Air Force Reserve, 9,761.

(4) For the Air National Guard of the United States, 22,408.

(b) Non-Dual Status Military Technicians Not Included.—In this section, the term "military technician (dual status)" has the meaning given the term in section 10216(a) of title 10, United State Code, and does not include a non-dual status technician (within the meaning of section 10217 of such title).

At the end of subtitle C of title X, add the following:

SEC. 1031. REVIEW AND REPORT REGARDING THE DISTRIBUTION OF NATIONAL GUARD RESOURCES AMONG STATES.

(a) Requirement for Review.—The Chief of the National Guard Bureau shall review the process used for planning for an appropriate distribution of resources among the States for the National Guard of the States.

(b) Purpose of Review.—The purpose of the review is to determine whether the process provides for adequately funding the National Guard of the States that have within the National Guard no unit or few units categorized in readiness tiers I, II, and III.

(c) Matters Reviewed.—The matters reviewed shall include the following:

(1) The factors considered for the process of determining the distribution of resources, including the weights assigned to the factors.

(2) The extent to which the process results in planning for the units of the States described in subsection (b) to be funded at the levels necessary to optimize the preparedness of the units to meet the mission requirements applicable to the units.

(3) The effects that funding at levels determined under the process will have on the National Guard of those States in the future, including the effects on unit readiness, recruitment, and continued use of existing National Guard armories and other facilities.

(d) Report.—Not later than March 15, 1999, the Chief of the National Guard Bureau shall submit a report on the results of the review to the congressional defense committees.

BINGAMAN (AND OTHERS) AMENDMENT NO. 2858

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself, Mr. Santorum, Mr. Lieberman, Mr. Lott, and Mr. Frist) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

"SEC. 1064. DEFENSE SCIENCE AND TECHNOLOGY PROGRAM

"(a) Funding Requirements for the Defense Science and Technology Program Budget.—For each of the fiscal years 2000 through 2008, it shall be an objective of the Secretary of Defense to increase the budget for the Defense Science and Technology Program for the fiscal year over the budget for that program for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

"(b) Guidelines for the Defense Science and Technology Program

"(1) Relationship of Defense Science and Technology Program to University Research—The following shall be key objectives of the Defense Science and Technology Program—

"(A) the sustainment of research capabilities in scientific and engineering disciplines critical to the Department of Defense;

"(B) the education and training of the next generation of scientists and engineers in disciplines that are relevant to future Defense systems, particularly through the conduct of basic research; and

"(C) the continued support of the Defense Experimental Program to Stimulate Competitive Research and research programs at historically black colleges and universities and minority institutions.

"(2) Relationship of the Defense Science and Technology Program to Commercial Research and Technology.

"(A) In supporting projects within the Defense Science and Technology Program, the Secretary of Defense shall attempt to leverage commercial research, technology, products, and processes for the benefit of the Department of Defense.

"(B) Funds made available for projects and programs of the Defense Science and Technology Program may be used only for the benefit of the Department of Defense, which includes—

"(i) the development of technology that has only military applications;

"(ii) the development of militarily useful, commercially viable technology; or

"(iii) the adaption of commercial technology, products, or processes for military purposes.

"(3) Synergistic Management of Research and Development.—The Secretary of Defense may allocate a combination of funds available for the Department of Defense for basic and applied research and for advanced development to support any individual project or program within the Defense Science and Technology Program. This flexibility is not intended to change the allocation of funds in any fiscal year among basic and applied research and advanced development.

"(c) Definitions.—In this section:

"(1) The term "Defense Science and Technology Program" means basic and applied research and advanced development.

"(2) The term "basic and applied research" means work funded in program elements for defense research and development under the Department of Defense category 6.1 or 6.2.

"(3) The term "advanced development" means work funded in program elements for defense research and development under Department of Defense category 6.3.".

On page 398, between lines 9 and 10, insert the following:

"SEC. 3144. FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF ENERGY

"(a) Funding Requirements for the Nonproliferation Science and Technology Activities Budget.—For each of the fiscal years 2000 through 2008, it shall be an objective of the Secretary of Energy to increase the budget for the nonproliferation science and technology activities for the fiscal year over the budget for those activities for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

"(b) Nonproliferation Science and Technology Activities Defined.—In this section, the term "nonproliferation science and technology activities" means activities (including program direction activities) relating to preventing and countering the proliferation of weapons of mass destruction that are funded by the Department of Energy under the following programs and projects:

"(1) The Verification and Control Technology program within the Office of Nonproliferation and National Security;

"(2) Projects under the "Technology and Systems Development" element of the Nuclear Safeguards and Security program within the Office of Nonproliferation and National Security.

"(3) Projects relating to a national capability to assess the credibility of radiological and extortion threats, or to combat nuclear materials trafficking or terrorism, under the Emergency Management program within the Office of Nonproliferation and National Security.

"(4) Projects relating to the development or integration of new technology to respond to emergencies and threats involving the presence, or possible presence, of weapons of mass destruction, radiological emergencies, and related terrorist threats, under the Office of Defense Programs.".

BYRD AMENDMENTS NOS. 2859–2860

(Ordered to lie on the table.)

Mr. BYRD submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2859

At the end of title VII, add the following:

SEC. 708. WAIVER OF INFORMED CONSENT REQUIREMENT FOR ADMINISTRATION OF CERTAIN DRUGS TO MEMBERS OF ARMED FORCES.

(a) Requirement for Concurrence of President in Waiver Determination.—Section 1107 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Waiver of Consent Requirement.—The Secretary of Defense may waive the requirement for prior consent imposed under the regulations required under section 505(i)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(4)) if the Secretary determines that obtaining consent is not feasible or is contrary to the best interests of the members involved and the President provides to the Secretary a written statement that the President concurs in the determination.".

(b) Time and Form of Notice.—(1) Subsection (b) of such section is amended by striking out ", if practicable" and all that follows through "first administered to the member".

(2) Subsection (c) of such section is amended by striking out "unless the Secretary of Defense determines" and all that follows through "alternative method".

(c) Clarification of Authority.—Subsection (a)(1) of such section is amended by inserting after "Whenever" the following: ", under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)),".

Amendment No. 2860

At the end of subtitle E of title III, add the following:

SEC. 349. PROHIBITIONS REGARDING EVALUATION OF MERIT OF SELLING MALT BEVERAGES AND WINE IN COMMISSARY STORES AS EXCHANGE SYSTEM MERCHANDISE.

Neither the Secretary of Defense nor any other official of the Department of Defense may—

(1) by contract or otherwise, conduct a survey of eligible patrons of the commissary store system to determine patron interest in having commissary stores sell malt beverages and wine as exchange store merchandise; or

(2) conduct a demonstration project to evaluate the merit of selling malt beverages and wine in commissary stores as exchange store merchandise.

GRAHAM AMENDMENT NO. 2861

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 213, between lines 21 and 22, insert the following:

(a) Findings.—Congress makes the following findings:

(1) Because of the way computers store and process dates, most computers will not function properly, or at all, after January 1, 2000, a problem that is commonly referred to as the year 2000 problem.

(2) The United States Government is currently conducting a massive program to identify and correct computer systems that suffer from the year 2000 problem.

(3) The cost to the Department of Defense of correcting this problem in its computer systems has been estimated to be more than $1,000,000,000.

(4) Other nations have failed to initiate aggressive action to identify and correct the year 2000 problem within their own computers.

(5) Unless other nations initiate aggressive actions to ensure the reliability and stability of certain communications and strategic systems, United States nationally security may be jeopardized.

On page 213, line 22, strike out "(a)" and insert in lieu thereof "(b)".

On page 214, line 7, strike out "(b)" and insert in lieu thereof "(c)".

On page 215, between lines 20 and 21, insert the following:

(9) The countries that have critical computer-based systems any disruption of which, due to not being year 2000 compliant, would cause a significant potential national security risk to the United States.

(10) A discussion of the cooperative agreements between the United States and other nations to assist those nations in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in their communications and strategic systems, or other systems identified by the Secretary of Defense, that make the systems not year 2000 compliant.

(11) A discussion of the threat posed to the national security interests of the United States from any potential failure of strategic systems of foreign countries that are not year 2000 compliant.

On page 215, line 21, strike out "(c)" and insert in lieu thereof "(d)".

On page 215, between lines 23 and 24, insert the following:

(e) International Cooperative Agreements.—(1) The Secretary of Defense may enter into a cooperative agreement with a representative of any foreign government to provide for the United States to assist the foreign government in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in communications, strategic, or other systems of that foreign government that make the systems not year 2000 compliant; and

(2) Funds authorized to be appropriated under section 301(24) shall be available for carrying out any such agreement for fiscal year 1999.

On page 215, line 24, strike out "(d)" and insert in lieu thereof "(f)".

DODD AMENDMENTS NOS. 2862–2863

(Ordered to lie on the table.)

Mr. DODD submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2862

On page 157, between lines 13 and 14, insert the following:

SEC. 708. PUBLIC HEALTH GOALS REGARDING LYME DISEASE; FIVE-YEAR PLAN.

(a) In General.—

(1) Goals.—After consultation with the Secretary of Health and Human Services, the Secretary of Defense (in this section referred to as the "Secretary") shall—

(A) establish the goals described in paragraphs (3) through (5);

(B) through the medical and health care components of the Department of Defense, carry out activities toward achieving the goals, which may include activities carried out directly by the Secretary and activities carried out through awards of grants or contracts to public or nonprofit private entities; and

(C) in carrying out subparagraph (B), give priority—

(i) first, to achieving the goal under paragraph (3);

(ii) second, to achieving the goal under paragraph (4); and

(iii) third, to achieving the goal under paragraph (5).

(2) Five-year plan.—In carrying out paragraph (1), the Secretary shall establish a plan that, for the five fiscal years following the date of enactment of this Act, provides for the activities that are to be carried out during such fiscal years toward achieving the goals under paragraphs (3) through (5). The plan shall, as appropriate to such goals, provide for the coordination of programs and activities regarding Lyme disease and related tick-borne infections that are conducted or supported by the Federal Government.

(3) First goal: direct detection test.—For purposes of paragraph (1), the goal described in this paragraph is the development of—

(A) a test for accurately determining whether an individual who has been bitten by a tick has Lyme disease; and

(B) a test for accurately determining whether a patient with such disease has been cured of the disease, thereby eliminating the bacterial infection.

(4) Second goal: indicator regarding accurate diagnosis.—For purposes of paragraph (1), the goal described in this paragraph is to determine the average number of visits to physicians that, under medical and health care programs of the Department of

Defense, are made by patients with Lyme disease or related tick-borne infections before a diagnosis of the infection involved is made. In carrying out activities toward such goal, the Secretary shall conduct a study of patients and physicians in two or more geographic areas in which there is a significant incidence or prevalence of cases of Lyme disease and related tick-borne infections.

(5) THIRD GOAL: PHYSICIAN KNOWLEDGE.—For purposes of paragraph (1), the goals described in this paragraph are, with respect to physicians in medical and health care programs of the Department of Defense, to make a significant increase in the number of such physicians who have an appropriate level of knowledge regarding Lyme disease and related tick-borne infections, and to develop and apply an objective method of determining the number of such physicians who have such knowledge.

(b) LYME DISEASE TASK FORCE.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, there shall be established in accordance with this subsection an advisory committee to be known as the Lyme Disease Task force (in this section referred to as the "Task Force").

(2) DUTIES.—The Task Force shall provide advice to the Secretary with respect to achieving the goals under subsection (a), including advice on the plan under paragraph (2) of such subsection.

(3) COMPOSITION.—The Task Force shall be composed of 11 members with appropriate knowledge or experience regarding Lyme disease and related tick-borne infections. Of such members—

(A) two shall be appointed by the Secretary of Defense;

(B) three shall be appointed by the Secretary of Health and Human Services, after consultation with the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health;

(C) three shall be appointed by the Speaker of the House of Representatives, after consultation with the Minority Leader of the House; and

(D) three shall be appointed by the President Pro Tempore of the Senate, after consultation with the Minority Leader of the Senate.

(4) CHAIR.—The Task Force shall, from among the members of the Task Force, designate an individual to serve as the chair of the Task Force.

(5) MEETINGS.—The Task Force shall meet at the call of the Chair or a majority of the members.

(6) TERM OF SERVICE.—The term of service of a member of the Task Force is the duration of the Task Force.

(7) VACANCIES.—Any vacancy in the membership of the Task Force shall be filled in the manner in which the original appointment was made and does not affect the power of the remaining members to carry out the duties of the Task Force.

(8) COMPENSATION; REIMBURSEMENT OF EXPENSES.—Members of the Task Force may not receive compensation for service on the Task Force. Such members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Task Force.

(9) STAFF; ADMINISTRATIVE SUPPORT.—The Secretary shall, on a reimbursable basis, provide to the Task Force such staff, administrative support, and other assistance as may be necessary for the Task Force to carry out the duties under paragraph (2) effectively.

(10) TERMINATION.—The Task Force shall terminate 90 days after the end of the fifth fiscal year that begins after the date of enactment of this Act.

(c) ANNUAL REPORTS.—The Secretary shall submit to Congress periodic reports on the activities carried out under this section and the extent of progress being made toward the goals established under subsection (a). The first such report shall be submitted not later than 18 months after the date of enactment of this Act, and subsequent reports shall be submitted annually thereafter until the goals are met.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated by this Act for Defense Health Programs, $3,000,000 shall be available for carrying out this section.

AMENDMENT NO. 2863

At the end of subtitle D of title X, add the following:

SEC. 1064. COMPUTER SECURITY AND INFORMATION MANAGEMENT COORDINATOR.

(a) IN GENERAL.—Section 5131 of the Information Technology Management Reform Act of 1996 (40 U.S.C. 1441) is amended by adding at the end the following:

"(f) COMPUTER SECURITY AND INFORMATION MANAGEMENT COORDINATOR.—

"(1) IN GENERAL.—In carrying out the functions under section 3504(g) of title 44, United States Code, the Director, acting through the Administrator of the Office of Information and Regulatory Affairs and the Computer Security and Information Management Coordinator appointed under paragraph (3), shall serve as the primary coordinator for computer security policies and practices of agencies listed in section 901(b) of title 31, United States Code (referred to in this subsection as 'covered agencies').

"(2) DUTIES.—In carrying out paragraph (1), the Director, acting through the Administrator of the Office of Information and Regulatory Affairs and the Computer Security and Information Management Coordinator appointed under paragraph (3), shall—

"(A) ensure that the each Chief Information Officer appointed under section 3506 of title 44, United States Code, for a covered agency, has—

"(i) primary responsibility for ensuring that the agency is carrying out an effective computer security policy that meets the requirements of this section; and

"(ii) authority to assist the agency head in the enforcement of such an effective computer security policy;

"(B) coordinate the computer security activities of all covered agencies;

"(C) as necessary, cooperate with appropriate Federal officials to ensure that the Federal Government is capable of protecting the security of Federal computer systems, including detecting intrusions, and prosecuting persons who gain unauthorized access to computer systems of covered agencies;

"(D) ensure the coordination of budget requests for computer security programs of covered agencies;

"(E) with the assistance of the Secretary of Commerce, advise chief information officers or the heads of covered agencies concerning improvements that may be made to computer security;

"(F) with the cooperation of the Attorney General, assist the heads of covered agencies in initiating enforcement actions to address violations of computer security; and

"(G) serve as a liaison with representatives of private industry with respect to the coordination of computer security matters between the Federal Government and private industry.

"(3) INFORMATION MANAGEMENT AND COMPUTER SECURITY COORDINATOR.—Not later than 60 days after the date of enactment of this subsection, the Director shall appoint a Computer Security and Information Management Coordinator.

"(4) REPORTS.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Director, in cooperation with the Chief Information Officers Council established under Executive Order No. 13011, shall prepare, and submit to Congress, a report that contains—

"(A) a summary of the activities of the Office of Management and Budget in carrying out paragraph (2); and

"(B) for each covered agency, an evaluation of the effectiveness of computer security of that agency.".

(b) CONFORMING AMENDMENT.—Section 5141(b)(1) of the Information Technology Management Reform Act of 1996 (40 U.S.C. 1451(b)(1)) is amended by inserting "5131(f)," after "5125,".

HOLLINGS AMENDMENTS NOS. 2864–2866

(Ordered to lie on the table.)

Mr. HOLLINGS submitted three amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2864

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. PROHIBITION ON USE OF FUNDS FOR COMMERCIAL LIGHT WATER REACTORS FOR PRODUCTION OF TRITIUM.

(a) PROHIBITION.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available for the Department of Energy for any fiscal year after fiscal year 1998 may be obligated or expended for the design, construction, or acquisition of facilities or services related to the use of a commercial light water reactor for the production of tritium.

(b) EXCEPTION.—Subsection (a) shall not apply to the use of funds for the completion of the current demonstration project at the Watts Bar Nuclear Plant.

AMENDMENT NO. 2865

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. PROHIBITION ON USE OF TRITIUM PRODUCED IN FACILITIES LICENSED UNDER THE ATOMIC ENERGY ACT FOR NUCLEAR EXPLOSIVE PURPOSES.

Section 57(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(e)) is amended by inserting "or tritium" after "section 11,".

AMENDMENT NO. 2866

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. PROHIBITION ON USE OF FUNDS FOR USE OF TRITIUM PRODUCED IN FACILITIES LICENSED UNDER ATOMIC ENERGY ACT FOR NUCLEAR EXPLOSIVE PURPOSES.

Notwithstanding any other provision of law, no funds authorized to be appropriated by this Act, or otherwise available under any other Act, may be used by any instrumentality of the United States or any other person to transfer, reprocess, use, or otherwise make available any tritium produced in a facility licensed under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) for nuclear explosives purposes.

BIDEN AMENDMENTS NOS. 2867–2869

(Ordered to lie on the table.)

Mr. BIDEN submittted three amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2867

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. NONPROLIFERATION ACTIVITIES.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 3103(1)(B) is hereby increased by $45,000,000.

(b) OFFSET.—The amount authorized to be appropriated by section 103(2) is hereby decreased by $45,000,000.

(c) INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.—Of the amount authorized to be appropriated by section 3103(1)(B), as increased by subsection (a), $30,000,000 shall be available for the Initiatives for Proliferation Prevention program.

(d) NUCLEAR CITIES INITIATIVE.—Of the amount authorized to be appropriated by section 3103(1)(B), as increased by subsection (a), $30,000,000 shall be available for the purpose of implementing the initiative arising pursuant to the March 1998 discussions between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation (the so-called "nuclear cities" initiative).

AMENDMENT NO. 2868

At the end of subtitle B of title III, add the following:

SEC. 314. COOPERATIVE THREAT REDUCTION PROGRAMS TO PROVIDE RESEARCH OPPORTUNITIES FOR FORMER SOVIET EXPERTS.

(a) TREATMENT OF ASSISTANCE.—Assistance described in subsection (b) shall not be considered assistance to promote defense conversion for the purposes of section 1403(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1960) and any other provision of law that limits authority to provide assistance to Russia or any other former state of the Soviet Union to promote defense conversion.

(b) ASSISTANCE COVERED.—Subsection (a) applies to assistance that is provided under any of the Cooperative Threat Reduction programs in order to enable former Soviet personnel with expertise on weapons of mass destruction to pursue full-time research activities that do not involve—

(1) nuclear weapons or components of nuclear weapons;

(2) chemical weapons or precursors of chemical weapons; or

(3) biological weapons or dangerous pathogens that have been used in biological weapons programs.

AMENDMENT NO. 2869

On page 76, between lines 7 and 8, insert the following:

SEC. 349. SAFEGUARDING OF CHEMICAL AND BIOLOGICAL WEAPONS MATERIALS OF THE FORMER SOVIET UNION.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 301(24) is hereby increased by $10,000,000.

(b) OFFSET.—The amount authorized to be appropriated by section 103(2) is hereby reduced by $10,000,000.

(c) SAFEGUARDING OF CHEMICAL AND BIOLOGICAL WEAPONS MATERIALS OF FORMER SOVIET UNION.—Of the amount authorized to be appropriated by section 301(24), as increased by subsection (a), $10,000,000 shall be available for the purpose of programs to safeguard chemical and biological weapons materials in the former Soviet Union that would otherwise be at risk of diversion to other countries or to terrorist or criminal groups.

BIDEN (AND LEVIN) AMENDMENT NO. 2870

(Ordered to lie on the table.)

Mr. BIDEN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra, as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. REPORT ON THE PEACEFUL EMPLOYMENT OF FORMER SOVIET EXPERTS ON WEAPONS OF MASS DESTRUCTION.

(a) REPORT REQUIRED.—Not later than January 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the need for and the feasibility of programs, other than those involving the development or promotion of commercially viable proposals, to further United States nonproliferation objectives regarding former Soviet experts in ballistic missiles or weapons of mass destruction. The report shall contain an analysis of the following:

(1) The number of such former Soviet experts who are, or are likely to become within the coming decade, unemployed, underemployed, or unpaid and, therefore, at risk of accepting export orders, contracts, or job offers from countries developing weapons of mass destruction.

(2) The extent to which the development of nonthreatening, commercially viable products and services, with or without United States assistance, can reasonably be expected to employ such former experts.

(3) The extent to which noncommercial research and development or environmental remediation projects could usefully employ additional such former experts.

(4) The likely cost and benefits of a 10-year program of United States or international assistance to such noncommercial projects.

(b) CONSULTATION REQUIREMENT.—The report shall be prepared in consultation with the Secretary of State, the Secretary of Energy, and such other officials as the Secretary of Defense considers appropriate.

ASHCROFT AMENDMENT NO. 2871

(Ordered to lie on the table.)

Mr. ASHCROFT submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . NUCLEAR COOPERATION AMENDMENT.

(a)(1) No goods or services may be transferred to China under the 1985 United States-China nuclear cooperation agreement, unless the President certifies to the Majority Leader of the Senate, the Speaker of the House of Representatives, and the appropriate congressional committees that China is not assisting, attempting to assist, or encouraging any other country in the development of a nuclear explosive device and has not engaged in such activity for a period of two years prior to the date of the certification.

(2) Each certification under paragraph (1) shall be effective only through April 30 of the following year.

(b)(1) For each year after the year of initial certification under subsection (a), no goods or services may be transferred to China under the 1985 United States-China nuclear cooperation agreement on or after May 1 of that year unless before that date the President has certified to the Majority Leader of the Senate, the Speaker of the House of Representatives, and the appropriate congressional committees that—

(A) China is not and has not engaged in any effort, since the President's last certification, to assist, attempt to assist, or encourage any other country in the development of a nuclear explosive device (as defined in section 830 of the Nuclear Proliferation Prevention Act of 1994); and

(B) China has not diverted nuclear equipment or technology of United States origin for use in its nuclear weapons program and that China is fully cooperating with United States efforts to verify China's peaceful use of nuclear equipment and technology of United States origin.

(2) The President's certification under paragraph (1)(B) shall include a report in classified form with an unclassified summary documenting the procedures and processes of United States verification of China's peaceful use of nuclear equipment and technology of United States origin and the degree of China's cooperation with such verification efforts, particularly China's allowance or refusal of post-shipment verification inspections.

(3) A certification under this subsection shall be effective only through April 30 of the year following the year in which the certification is made.

(c) As used in this section, the term "appropriate congressional committees" means the Foreign Relations Committee, the Select Committee on Intelligence, the Armed Services Committee of the Senate, the International Relations Committee, the National Security Committee, and the Intelligence Committee of the House of Representatives.

SNOWE AMENDMENT NO. 2872

(Ordered to lie on the table.)

Ms. SNOWE submitted an amendment intended to be proposed by her to the bill, S. 2057, supra; as follows:

At the appropriate place, insert:

SEC. . FEDERAL TASK FORCE ON REGIONAL THREATS TO INTERNATIONAL SECURITY.

(a) FINDINGS.—Congress makes the following findings:

(1) On May 11, 1998 and May 13, 1998, the Government of India broke a 24-year voluntary moratorium by conducting five underground nuclear tests.

(2) The Secretary of Defense predicted thereafter that these tests by the Government of India could induce other nations to obtain nuclear weapons technologies.

(3) On May 28, 1998, the Government of Pakistan announced that for the first time, it had conducted five underground nuclear tests and acknowledged ongoing efforts to place nuclear warheads on missiles capable of striking any target in India.

(4) The Director of Central Intelligence has accepted the June 2, 1998 findings of an independent investigation revealing that the Central Intelligence Agency lacked adequate

analytical capabilities to detect the explosions in India despite satellite-generated evidence to the contrary and repeated declarations by Indian government representatives of an intent to improve the country's nuclear arsenal.

(5) 1997 assessments by the United States Air Force and the Central Intelligence Agency conflicted on the issue of whether the May 10, 1996 transmission to the Government of China of a private industry report exploring the potential causes of an earlier rocket crash contained information that may advance Chinese nuclear launch capabilities.

(6) The president did not receive or review the Air Force assessment prior to his February 18, 1998 approval of a license for the export of a commercial satellite to China.

(7) A March 11, 1998 report by the National Air Intelligence Center concluded that Chinese strategic missiles with nuclear warheads pose a threat to the United States.

(b) CREATION OF THE FEDERAL TASK FORCE ON REGIONAL THREATS TO INTERNATIONAL SECURITY.

The president shall create from among all appropriate federal agencies, including the Departments of State, Defense, and Commerce, as well as military and foreign intelligence organizations, a standing Task Force on Regional Threats to International Security. The Task Force, with the approval of the president, shall develop and execute plans, in cooperation with foreign allied governments when appropriate, for;

(1) the active mediation of the United States to foster negotiations between or among foreign governments engaged in civil, ethnic, or geographic conflicts that increase the risk of the acquisition, testing, or the deployment of Weapons of Mass Destruction.

(2) trade, economic reform, and investment programs to promote the market-based development of nations to reduce incentives for the pursuit or use of such weapons.

(3) a revised and integrated intelligence network that gathers, analyzes, and transmit all vital data to the president in advance of policy decisions related to such weapons.

(c) REPORTING REQUIREMENTS.—The Task Force shall issue bi-annual reports to Congress on the progress made in executing its responsibilities pursuant to Subsections (1), (2), and (3) of Section (b).

(d) EFFECTIVE DATE OF THE TASK FORCE.—The president must establish the Task Force no later than 60 days after the effective date of this act.

(e) RENEWAL OF TASK FORCE AUTHORITY.—Unless extended by an act of Congress or an executive order of the president, the statutory authority of the Task Force shall expire on October 1, 2000.

DOMENICI (AND BINGAMAN) AMENDMENT NO. 2873

(Ordered to lie on the table.)

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. ACTIVITIES OF THE CONTRACTOR-OPERATED FACILITIES OF THE DEPARTMENT OF ENERGY.

(a) RESEARCH AND ACTIVITIES ON BEHALF OF NON-DEPARTMENT PERSONS AND ENTITIES.—(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) through contractor-operated facilities of the Department of Energy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, and include, but are not limited to, research and activities authorized under the following:

(A) Section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053).

(B) Section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817).

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) CHARGES.—(1) The Secretary shall impose on the department, agency, or person or entity for whom research and other activities are carried out under subsection (a) a charge for such research and activities equal to not more than the full cost incurred by the contractor concerned in carrying out such research and activities, which cost shall include—

(A) the direct cost incurred by the contractor in carrying out such research and activities; and

(B) the overhead cost associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent of the full cost incurred by the contractor concerned in carrying out the research and activities concerned.

(B) The Secretary shall waive the imposition of the Federal administrative charge required by subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after the date of enactment of this Act, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

(c) PILOT PROGRAM OF REDUCED FACILITY OVERHEAD CHARGES.—(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary and the contractor concerned shall determine the facility overhead charges to be imposed under the pilot program based on their joint review of all items included in the overhead costs of the facility concerned in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and other appropriate committees of the House of Representatives an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

(d) PARTNERSHIPS AND INTERACTIONS.—(1) The Secretary of Energy shall encourage partnerships and interactions between each contractor-operated facility of the Department of Energy and universities and private businesses.

(2) The Secretary may take into account the progress of each contractor-operated facility of the Department in developing and expanding partnerships and interactions under paragraph (1) in evaluating the annual performance of such contractor-operated facility.

(e) SMALL BUSINESS TECHNOLOGY PARTNERSHIP PROGRAM.—(1) The Secretary may require that each contractor operating a facility of the Department establish a program at such facility under which the contractor shall enter into partnerships with small businesses at such facility relating to technology.

(2) The amount of funds expended by a contractor under a program under paragraph (1) at a particular facility may not exceed an amount equal to 0.25 percent of the total operating budget of the facility.

(3) Amounts expended by a contractor under a program—

(A) shall be used to cover the costs (including research and development costs and technical assistance costs) incurred by the contractor in connection with activities under the program; and

(B) may not be used for direct grants to small businesses.

(4) The Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and the appropriate committee of the House of Representatives, together with the budget of the President for each fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, an assessment of the program under this subsection during the preceding year, including the effectiveness of the program in providing opportunities for small businesses to interact with and use the resources of the contractor-operated facilities of the Department.

WYDEN AMENDMENT NO. 2874

(Ordered to lie on the table.)

Mr. WYDEN submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. REVIEW OF CALCULATION OF OVERHEAD COSTS OF CLEANUP AT DEPARTMENT OF ENERGY SITES.

(a) REVIEW.—(1) The Comptroller General shall—

(A) carry out a review of the methods currently used by the Department of Energy for calculating overhead costs (including direct overhead costs and indirect overhead costs) associated with the cleanup of Department sites; and

(B) pursuant to the review, identify how such costs are allocated among different program and budget accounts of the Department.

(2) The review shall include the following:

(A) All activities whose costs are spread across other accounts of a Department site or of any contractor performing work at a site.

(B) Support service overhead costs, including activities or services which are paid for on a per-unit-used basis.

(C) All fees, awards, and other profit on indirect and support service overhead costs or fees that are not attributed to performance on a single project.

(D) Any portion of contractor costs for which there is no competitive bid.

(E) All computer service and information management costs that have been previously reported as overhead costs.

(F) Any other costs that the Comptroller General considers appropriate to categorize as direct or indirect overhead costs.

(b) REPORT.—Not later than January 31, 1999, the Comptroller General shall submit to Congress a report setting forth the findings of the Comptroller as a result of the review under subsection (a). The report shall include the recommendations of the Comptroller regarding means of standardizing the methods used by the Department for allocating and reporting overhead costs associated with the cleanup of Department sites.

THOMAS AMENDMENT NO. 2875

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 320, line 25, strike out "$95,395,000" and insert in lieu thereof "$108,979,000".

KERRY (AND McCAIN) AMENDMENTS NOS. 2876–2878

(Ordered to lie on the table.)

Mr. KERRY (for himself and Mr. MCCAIN) submitted three amendments intended to be proposed by them to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2876

At the end of subtitle D of title X, add the following:

SEC. 1064. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF FORMER SOUTH VIETNAMESE COMMANDOS IN CONNECTION WITH UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress makes the following findings:

(1) South Vietnamese commandos were recruited by the United States as part of OPLAN 34A or its predecessor or OPLAN 35 from 1961 to 1970.

(2) The commandos conducted covert operations in North Vietnam during the Vietnam conflict.

(3) Many of the commandos were captured and imprisoned by North Vietnamese forces, some for as long as 20 years.

(4) The commandos served and fought proudly during the Vietnam conflict.

(5) Many of the commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict.

(6) Many of the Vietnamese commandos now reside in the United States.

(b) SENSE OF CONGRESS—Congress recognizes and honors the former South Vietnamese commandos for their heroism, sacrifice, and service in connection with United States armed forces during the Vietnam conflict.

AMENDMENT NO. 2877

On page 127, between lines 12 and 13, insert the following:

SEC. 634. CLARIFICATION OF RECIPIENT OF PAYMENTS TO PERSONS CAPTURED OR INTERNED BY NORTH VIETNAM.

Section 657(f)(1) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2585) is amended by striking out "The actual disbursement" and inserting in lieu thereof "Notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement".

AMENDMENT NO. 2878

On page 127, between lines 12 and 13, insert the following:

SEC. 634. ELIGIBILITY FOR PAYMENTS OF CERTAIN SURVIVORS OF CAPTURED AND INTERNED VIETNAMESE OPERATIVES WHO WERE UNMARRIED AND CHILDLESS AT DEATH.

Section 657(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2585) is amended by adding at the end the following:

"(3) In the case of a decedent who had not been married at the time of death—

"(A) to the surviving parents; or

"(B) if there are no surviving parents, to the surviving siblings by blood of the decedent, in equal shares.".

ROCKEFELLER AMENDMENTS NOS. 2879–2880

(Ordered to lie on the table.)

Mr. ROCKEFELLER submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2879

On page 412, below line 2, add the following:

DIVISION D—TRANSPORTATION PROGRAM TECHNICAL CORRECTIONS

SEC. 4001. SHORT TITLE.

This division may be cited as the "TEA 21 Restoration Act".

SEC. 702. AUTHORIZATION AND PROGRAM SUBTITLE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1101(a) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (13)—

(A) by striking "$1,025,695,000" and inserting "$1,029,473,500";

(B) by striking "$1,398,675,000" and inserting "$1,403,827,500";

(C) by striking "$1,678,410,000" the first place it appears and inserting "$1,684,593,000";

(D) by striking "$1,678,410,000" the second place it appears and inserting "$1,684,593,000";

(E) by striking "$1,771,655,000" the first place it appears and inserting "$1,778,181,500"; and

(F) by striking "$1,771,655,000" the second place it appears and inserting "$1,778,181,500"; and

(2) in paragraph (14)—

(A) by striking "1998" and inserting "1999"; and

(B) by inserting before "$5,000,000" the following: "$10,000,000 for fiscal year 1998".

(b) OBLIGATION LIMITATIONS.—

(1) GENERAL LIMITATION.—Section 1102(a) of such Act is amended—

(A) in paragraph (2) by striking "$25,431,000,000" and inserting "$25,511,000,000";

(B) in paragraph (3) by striking "$26,155,000,000" and inserting "$26,245,000,000";

(C) in paragraph (4) by striking "$26,651,000,000" and inserting "$26,761,000,000";

(D) in paragraph (5) by striking "$27,235,000,000" and inserting "$27,355,000,000"; and

(E) in paragraph (6) by striking "$27,681,000,000" and inserting "$27,811,000,000".

(2) TRANSPORTATION RESEARCH PROGRAMS.—Section 1102(e) of such Act is amended—

(A) by striking "3" and inserting "5";

(B) by striking "VI" and inserting "V"; and

(C) by inserting before the period at the end the following: "; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years".

(3) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Section 1102(f) of such Act is amended by striking "(other than the program under section 160 of title 23, United States Code)".

(c) APPORTIONMENTS.—Section 1103 of such Act is amended—

(1) in subsection (l) by adding at the end the following:

"(5) Section 150 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.";

(2) in subsection (n) by inserting "of title 23, United States Code" after "206"; and

(3) by adding at the end the following:

"(o) TECHNICAL ADJUSTMENTS.—Section 104 of title 23, United States Code, is amended—

"(1) in subsection (a)(1) (as amended by subsection (a) of this section) by striking 'under section 103';

"(2) in subsection (b) (as amended by subsection (b) of this section)—

"(A) in paragraph (1)(A) by striking '1999 through 2003' and inserting '1998 through 2002'; and

"(B) in paragraph (4)(B)(i) by striking 'on lanes on Interstate System' and all that follows through 'in each State' and inserting 'on Interstate System routes open to traffic in each State'; and

"(3) in subsection (e)(2) (as added by subsection (d)(6) of this section) by striking '104, 144, or 157' and inserting '104, 105, or 144'.".

(d) MINIMUM GUARANTEE.—Section 1104 of such Act is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 105 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

"(1) in subsection (a) by adding at the end the following: 'The minimum amount allocated to a State under this section for a fiscal year shall be $1,000,000.';

"(2) in subsection (c)(1) by striking '50 percent of';

"(3) in subsection (c)(1)(A) by inserting '(other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs)' after 'subsection (a)';

"(4) in subsection (c)(1)(B) by striking 'all States' and inserting 'each State';

"(5) in subsection (c)(2)—

"(A) by striking 'apportion' and inserting 'administer'; and

"(B) by striking 'apportioned' and inserting 'administered'; and

"(6) in subsection (f)—

"(A) by inserting 'percentage' before 'return' each place it appears;

"(B) in paragraph (2) by striking 'for the preceding fiscal year was equal to or less than' and inserting 'in the table in subsection (b) was equal to'; and

"(C) in paragraph (3)—

"(i) by inserting 'proportionately' before 'adjust';

"(ii) by striking 'set forth'; and

"(iii) by striking 'do not exceed' and inserting 'is equal to'.".

(e) REVENUE ALIGNED BUDGET AUTHORITY.—Section 1105 of such Act is amended by adding at the end the following:

"(c) TECHNICAL CORRECTIONS.—Section 110 of such title (as amended by subsection (a)) is amended—

"(1) by striking subsection (a) and inserting the following:

'(a) IN GENERAL.—

'(1) ALLOCATION.—On October 15 of fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate for such fiscal year an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) if the amount determined pursuant to such section for such fiscal year is greater than zero.

'(2) REDUCTION.—If the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) for fiscal year 2000 or any fiscal year thereafter is less than zero, the Secretary on October 1 of the succeeding fiscal year shall reduce proportionately the amount of sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) by an aggregate amount equal to the amount determined pursuant to such section.';

"(2) in subsections (b)(2) and (b)(4) by striking 'subsection (a)' and inserting 'subsection (a)(1)'; and

"(3) in subsection (c) by striking 'Maintenance program, the' and inserting 'and'.".

(f) INTERSTATE MAINTENANCE PROGRAM.—Section 1107 of such Act is amended by adding at the end the following:

"(d) TECHNICAL AMENDMENTS.—Section 119 of such title (as amended by subsection (a)) is amended—

"(1) in subsection (b)—

"(A) by striking '104(b)(5)(B)' and inserting '104(b)(4)'; and

"(B) by striking '104(b)(5)(A)' each place it appears and inserting '104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century)'; and

"(2) in subsection (c) by striking '104(b)(5)(B)' each place it appears and inserting '104(b)(4)'.".

(g) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 1110(d)(2) of such Act is amended—

(1) by striking "149(c)" and inserting "149(e)"; and

(2) by striking "that reduce" and inserting "reduce".

(h) HIGHWAY USE TAX EVASION PROJECTS.—Section 1114 of such Act is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 143 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

"(1) in subsection (c)(1) by striking 'April 1' and inserting 'August 1';

"(2) in subsection (c)(3) by inserting 'PRIORITY' after 'FUNDING'; and

"(3) in subsection (c)(3) by inserting 'and prior to funding any other activity under this section,' after '2003,'.".

(i) FEDERAL LANDS HIGHWAYS PROGRAM.—Section 1115 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(f) CONFORMING AMENDMENTS.—

"(1) FEDERAL SHARE.—Subsections (j) and (k) of section 120 of title 23, United States Code (as added by subsection (a) of this section), are redesignated as subsections (k) and (l), respectively.

"(2) RESERVATION OF FUNDS.—Section 202(d)(4)(B) of such title (as added by subsection (b)(4) of this section) is amended by striking 'to, apply sodium acetate/formate de-icer to,' and inserting ', sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions'.

"(3) ELIMINATION OF DUPLICATIVE PROVISION.—Section 144(g) of such title is amended by striking paragraph (4).".

(j) WOODROW WILSON MEMORIAL BRIDGE CORRECTION.—Section 1116 of such Act is amended by adding at the end the following:

"(e) TECHNICAL CORRECTION.—Sections 404(5) and 407(c)(2)(C)(iii) of such Act (as amended by subsections (a)(2) and (b)(2), respectively) are amended by striking 'the record of decision' each place it appears and inserting 'a record of decision'.".

(k) TECHNICAL CORRECTION.—Section 1117 of such Act is amended in subsections (a) and (b) by striking "section 102" each place it appears and inserting "section 1101(a)(6)".

SEC. 703. RESTORATIONS TO GENERAL PROVISIONS SUBTITLE.

(a) IN GENERAL.—Subtitle B of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1224. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

"(a) HISTORIC COVERED BRIDGE DEFINED.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations under subsection (d), the Secretary shall—

"(1) collect and disseminate information concerning historic covered bridges;

"(2) foster educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research, and study techniques, on protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) DIRECT FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) TYPES OF PROJECT.—A grant under paragraph (1) may be made for a project—

"(A) to rehabilitate or repair a historic covered bridge; and

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) AUTHENTICITY.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) FUNDING.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1999 through 2003. Such funds shall remain available until expended.

"SEC. 1225. SUBSTITUTE PROJECT.

"(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Mayor of the District of Columbia, the Secretary may approve substitute highway and transit projects under section 103(e)(4) of title 23, United States Code (as in effect on the day before the date of enactment of this Act), in lieu of construction of the Barney Circle Freeway project in the District of Columbia, as identified in the 1991 Interstate Cost Estimate.

"(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute project or projects under subsection (a)—

"(1) the cost of construction of the Barney Circle Freeway Modification project shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956; and

"(2) substitute projects approved pursuant to this section shall be funded from interstate construction funds apportioned or allocated to the District of Columbia that are not expended and not subject to lapse on the date of enactment of this Act.

"(c) FEDERAL SHARE.—The Federal share payable on account of a project or activity approved under this section shall be 85 percent of the cost thereof; except that the exception set forth in section 120(b)(2) of title 23, United States Code, shall apply.

"(d) LIMITATION ON ELIGIBILITY.—Any substitute project approved pursuant to subsection (a) (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction, or construction must have commenced, before the last day of the 4-year period beginning on the date of enactment of this Act. If the substitute project is not under contract for construction, or construction has not commenced, by such last day, the Secretary shall withdraw approval of the substitute project.

"SEC. 1226. FISCAL, ADMINISTRATIVE, AND OTHER AMENDMENTS.

"(a) ADVANCED CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

"(1) in subsection (b)—

"(A) by moving the text of paragraph (1) (including subparagraphs (A) and (B)) 2 ems to the left;

"(B) by striking 'PROJECTS' and all that follows through 'When a State' and inserting 'PROJECTS.—When a State';

"(C) by striking paragraphs (2) and (3);

"(D) by striking '(A) prior' and inserting '(1) prior'; and

"(E) by striking '(B) the project' and inserting '(2) the project';

"(2) by striking subsection (c); and

"(3) by redesignating subsection (d) as subsection (c).

"(b) Availability of Funds.—Section 118 of such title is amended—

"(1) in the subsection heading of subsection (b) by striking '; Discretionary Projects'; and

"(2) by striking subsection (e) and inserting the following:

'(e) Effect of Release of Funds.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of the project agreement, shall be credited to the same program funding category previously apportioned to the State and shall be immediately available for expenditure.'.".

"(c) Advances to States.—Section 124 of such title is amended—

"(1) by striking '(a)' the first place it appears; and

"(2) by striking subsection (b).

"(d) Diversion.—Section 126 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1222 the following:

"Sec. 1223. Transportation assistance for Olympic cities.
"Sec. 1224. National historic covered bridge preservation.
"Sec. 1225. Substitute project.
"Sec. 1226. Fiscal, administrative, and other amendments.".

(c) Metropolitan Planning Technical Adjustment.—Section 1203 of such Act is amended by adding at the end the following:

"(o) Technical Adjustment.—Section 134(h)(5)(A) of title 23, United States Code (as amended by subsection (h) of this section), is amended by striking 'for implementation'.".

(d) Amendments to Prior Surface Transportation Laws.—Section 1211 of such Act is amended—

(1) in subsection (i)(3)(E) by striking "subparagraph (D)" and inserting "subparagraph (C)";

(2) in subsection (i) by adding at the end the following:

"(4) Technical amendments.—Section 1105(e)(5)(B)(i) of such Act (as amended by paragraph (3) of this subsection) is amended—

"(A) by striking 'subsection (c)(18)(B)(i)' and inserting 'subsection (c)(18)(D)(i)';

"(B) by 'striking 'subsection (c)(18)(B)(ii)' and inserting 'subsection (c)(18)(D)(ii)'; and

"(C) by adding at the end the following: 'The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I-86.'.";

(3) by striking subsection (j);

(4) in subsection (k)—

(A) by striking "along" in paragraph (1) and inserting "from"; and

(B) by adding at the end the following:

"(4) Texas state highway 99.—Texas State Highway 99 (also known as 'Grand Parkway') shall be considered as 1 option in the I-69 route studies performed by the Texas Department of Transportation for the designation of I-69 Bypass in Houston, Texas."; and

(5) by redesignating subsections (g) through (i) and (k) through (n) as subsections (f) through (h) and (i) through (l), respectively.

(e) Miscellaneous.—Section 1212 of such Act is amended—

(1) in the second sentence of subsection (q)(1) by striking "advance curriculum" and inserting "advanced curriculum";

(2) in subsection (r)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) $2,000,000 for fiscal year 1999 and $2,500,000 for fiscal year 2000.";

(3) in subsection (s)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) $23,000,000 for fiscal year 1999.";

(4) in subsection (u)—

(A) by inserting "the Secretary shall approve, and" before "the Commonwealth";

(B) by inserting a comma after "with"; and

(C) by inserting "(as redefined by this Act)" after "80"; and

(5) by redesignating subsections (k) through (z) as subsections (e) through (t), respectively.

(f) Puerto Rico Highway Program.—Section 1214(r) of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(3) Treatment of funds.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

"(A) For purposes of this subsection, such amounts shall be treated as being apportioned to Puerto Rico under sections 104(b), 144, and 206 of title 23, United States Code, for each program funded under such sections in an amount determined by multiplying—

"(i) the aggregate of such amounts for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(II) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(B) The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under such section for purposes of the imposition of any penalty provisions in titles 23 and 49, United States Code.

"(C) Subject to subparagraph (B), nothing in this subsection shall be construed as affecting any allocation under section 105 of title 23, United States Code, and any apportionment under sections 104 and 144 of such title.".

(g) Designated Transportation Enhancement Activities.—Section 1215 of such Act—

(1) is amended in each of subsections (d), (e), (f), and (g)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) the amounts specified in such paragraph for the fiscal years specified in such paragraph."; and

(2) in subsection (d)(1) by inserting "on Route 50" after "measures".

(h) Eligibility.—Section 1217 of such Act is amended—

(1) in subsection (d) by striking "104(b)(4)" and inserting "104(b)(5)(A)";

(2) in subsection (i) by striking "120(l)(1)" and inserting "120(j)(1)"; and

(3) in subsection (j) by adding at the end the following: "$3,000,000 of the amounts made available for item 164 of the table contained in section 1602 shall be made available on October 1, 1998, to the Pennsylvania Turnpike Commission to carry out this subsection.".

(i) Magnetic Levitation Transportation Technology Deployment Program.—Section 1218 of such Act is amended by adding at the end the following:

"(c) Technical Amendments.—Section 322 of title 23, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (a)(3) by striking 'or under 50 miles per hour';

"(2) in subsection (d)—

"(A) in paragraph (1) by striking 'or low-speed'; and

"(B) in paragraph (2)—

"(i) in subparagraph (A) by striking '(h)(1)(A)' and inserting '(h)(1)'; and

"(ii) in subparagraph (B) by striking '(h)(4)' and inserting '(h)(3)';

"(3) in subsection (h)(1)(B)(i) by inserting '(other than subsection (i))' after 'this section'; and

"(4) by adding at the end the following:

'(i) Low-Speed Project.—

'(1) In general.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, $5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

'(2) Noncontract authority authorization of appropriations.—

'(A) In general.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

'(B) Availability.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

'(i) shall not be available in advance of an annual appropriation; and

'(ii) shall remain available until expended.'.".

(j) Transportation Assistance for Olympic Cities.—Section 1223(f) of such Act is amended by inserting before the period at the end the following: "or Special Olympics International".

SEC. 704. RESTORATIONS TO PROGRAM STREAMLINING AND FLEXIBILITY SUBTITLE.

(a) In General.—Subtitle C of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1311. DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS.

"(a) Establishment of Criteria.—The Secretary shall establish criteria for all discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account). To the extent practicable, such criteria shall conform to the Executive Order No. 12893 (relating to infrastructure investment).

"(b) Selection Process.—

"(1) Limitation on acceptance of applications.—Before accepting applications for grants under any discretionary program for which funds are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by this Act (including the amendments made by this Act), the Secretary shall publish the criteria established under subsection (a). Such publication shall identify all statutory criteria and any criteria established by regulation that will apply to the program.

"(2) EXPLANATION.—Not less often than quarterly, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of the projects selected under discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account) and an explanation of how the projects were selected based on the criteria established under subsection (a).

"(c) MINIMUM COVERED PROGRAMS.—At a minimum, the criteria established under subsection (a) and the selection process established by subsection (b) shall apply to the following programs:

"(1) The intelligent transportation system deployment program under title V.

"(2) The national corridor planning and development program.

"(3) The coordinated border infrastructure and safety program.

"(4) The construction of ferry boats and ferry terminal facilities.

"(5) The national scenic byways program.

"(6) The Interstate discretionary program.

"(7) The discretionary bridge program.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of such Act is amended—

(1) by striking the following:

"Sec. 1309. Major investment study integration.".

and inserting the following:

"Sec. 1308. Major investment study integration.";

and

(2) by inserting after the item relating to section 1310 the following:

"Sec. 1311. Discretionary grant selection criteria and process.".

(c) REVIEW PROCESS.—Section 1309 of the Transportation Equity Act for the 21st Century is amended—

(1) in subsection (a)(1) by inserting after "highway construction" the following: "and mass transit";

(2) in subsection (d) by inserting after "Code," the following: "or chapter 53 of title 49, United States Code,"; and

(3) in subsection (e)(1)—

(A) by inserting "or recipient" after "a State";

(B) by inserting after "provide funds" the following: "for a highway project"; and

(C) by inserting after "Code," the following: "or for a mass transit project made available under chapter 53 of title 49, United States Code,".

SEC. 705. RESTORATIONS TO SAFETY SUBTITLE.

(a) IN GENERAL.—Subtitle D of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1405. OPEN CONTAINER LAWS.

"(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

'§154. Open container requirements

'(a) DEFINITIONS.—In this section, the following definitions apply:

'(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" has the meaning given the term in section 158(c).

'(2) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

'(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term "open alcoholic beverage container" means any bottle, can, or other receptacle—

'(A) that contains any amount of alcoholic beverage; and

'(B)(i) that is open or has a broken seal; or

'(ii) the contents of which are partially removed.

'(4) PASSENGER AREA.—The term "passenger area" shall have the meaning given the term by the Secretary by regulation.

'(b) OPEN CONTAINER LAWS.—

'(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

'(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

'(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or

'(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

'(c) TRANSFER OF FUNDS.—

'(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

'(A) to be used for alcohol-impaired driving countermeasures; or

'(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

'(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

'(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

'(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

'(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from 1 or more of the following:

'(A) The apportionment of the State under section 104(b)(1).

'(B) The apportionment of the State under section 104(b)(3).

'(C) The apportionment of the State under section 104(b)(4).

'(6) TRANSFER OF OBLIGATION AUTHORITY.—

'(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

'(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

'(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

'(ii) the ratio that—

'(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

'(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

'(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.'.

"(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 153 the following:

'154. Open container requirements.'.

"SEC. 1406. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

"(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

'§164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

'(a) DEFINITIONS.—In this section, the following definitions apply:

'(1) ALCOHOL CONCENTRATION.—The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

'(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

'(3) LICENSE SUSPENSION.—The term "license suspension" means the suspension of all driving privileges.

‘(4) Motor vehicle.—The term “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

‘(5) Repeat intoxicated driver law.—The term “repeat intoxicated driver law” means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

‘(A) receive a driver’s license suspension for not less than 1 year;

‘(B) be subject to the impoundment or immobilization of each of the individual’s motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;

‘(C) receive an assessment of the individual’s degree of abuse of alcohol and treatment as appropriate; and

‘(D) receive—

‘(i) in the case of the second offense—

‘(I) an assignment of not less than 30 days of community service; or

‘(II) not less than 5 days of imprisonment; and

‘(ii) in the case of the third or subsequent offense—

‘(I) an assignment of not less than 60 days of community service; or

‘(II) not less than 10 days of imprisonment.

‘(b) Transfer of Funds.—

‘(1) Fiscal years 2001 and 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

‘(A) to be used for alcohol-impaired driving countermeasures; or

‘(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

‘(2) Fiscal year 2003 and fiscal years thereafter.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

‘(3) Use for hazard elimination program.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

‘(4) Federal share.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

‘(5) Derivation of amount to be transferred.—The amount to be transferred under paragraph (1) or (2) may be derived from 1 or more of the following:

‘(A) The apportionment of the State under section 104(b)(1).

‘(B) The apportionment of the State under section 104(b)(3).

‘(C) The apportionment of the State under section 104(b)(4).

‘(6) Transfer of obligation authority.—

‘(A) In general.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

‘(B) Amount.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

‘(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

‘(ii) the ratio that—

‘(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

‘(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

‘(7) Limitation on applicability of obligation limitation.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.’.

“(b) Conforming Amendment.—The analysis for chapter 1 of such title is amended by adding at the end the following:

‘164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.’.”.

(b) Conforming Amendment.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1403 the following:

“Sec. 1404. Safety incentives to prevent operation of motor vehicles by intoxicated persons.

“Sec. 1405. Open container laws.

“Sec. 1406. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.”.

(c) Roadside Safety Technologies.—Section 1402(a)(2) of such Act is amended by striking “directive” and inserting “redirective”.

SEC. 706. ELIMINATION OF DUPLICATE PROVISIONS.

(a) San Mateo County, California.—Section 1113 of the Transportation Equity Act for the 21st Century is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (c) as subsection (d).

(b) Value Pricing Pilot Program.—Section 1216(a) of such Act is amended by adding at the end the following:

“(8) Conforming amendments.—

“(A) Section 1012(b)(6) of such Act (as amended by paragraph (5) of this subsection) is amended by striking ‘146(c)’ and inserting ‘102(a)’.

“(B) Section 1012(b)(8) of such Act (as added by paragraph (7) of this subsection) is amended—

“(i) in subparagraph (C) by striking ‘under this subsection’ and inserting ‘to carry out this subsection’;

“(ii) in subparagraph (D)—

“(I) by striking ‘under this paragraph’ and inserting ‘to carry out this subsection’; and

“(II) by striking ‘by this paragraph’ and inserting ‘to carry out this subsection’;

“(iii) by striking subparagraph (A); and

“(iv) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.”.

(c) National Defense Highways Outside the United States.—Section 1214(e) of such Act is amended to read as follows:

“(e) Minnesota Transportation History Network.—

“(1) In general.—The Secretary shall award a grant to the Minnesota Historical Society for the establishment of the Minnesota Transportation History Network to include major exhibits, interpretive programs at national historic landmark sites, and outreach programs with county and local historical organizations.

“(2) Coordination.—In carrying out subsection (a), the Secretary shall coordinate with officials of the Minnesota Historical Society.

“(3) Authorization of appropriations.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $1,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.

“(4) Applicability of title 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.”.

(d) Entrance Paving at Ninigret National Wildlife Refuge.—Section 1214(i) of such Act is amended by striking “$750,000” each place it appears and inserting “$75,000”.

SEC. 707. HIGHWAY FINANCE.

(a) In General.—Section 1503 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

“(c) Technical Amendments.—Section 188 of title 23, United States Code (as added by subsection (a) of this section), is amended—

“(1) in subsection (a)(2) by striking ‘1998’ and inserting ‘1999’; and

“(2) in subsection (c)—

“(A) by striking ‘1998’ and inserting ‘1999’; and

“(B) by striking the table and inserting the following:

‘Fiscal year:	**Maximum amount of credit:**
1999	$1,600,000,000
2000	$1,800,000,000
2001	$2,200,000,000
2002	$2,400,000,000
2003	$2,600,000,000.’.”.

(b) Conforming Amendments.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in the item relating to section 1119 by striking “and safety”; and

(2) by striking the items relating to subtitle E of title I and inserting the following:

“Subtitle E—Finance

“Chapter 1—Transportation Infrastructure Finance and Innovation

“Sec. 1501. Short title.

“Sec. 1502. Findings.

“Sec. 1503. Establishment of program.

“Sec. 1504. Duties of the Secretary.

"CHAPTER 2—STATE INFRASTRUCTURE BANK PILOT PROGRAM

"Sec. 1511. State infrastructure bank pilot program.".

SEC. 708. HIGH PRIORITY PROJECTS TECHNICAL CORRECTIONS.

The table contained in section 1602 of the Transportation Equity Act for the 21st Century is amended—

(1) in item 1 by striking "1.275" and inserting "1.7";

(2) in item 82 by striking "30.675" and inserting "32.4";

(3) in item 107 by striking "1.125" and inserting "1.44";

(4) in item 121 by striking "10.5" and inserting "5.0";

(5) in item 140 by inserting "-VFHS Center" after "Park";

(6) in item 151 by striking "5.666" and inserting "8.666";

(7) in item 164—

(A) by inserting ", and $3,000,000 for the period of fiscal years 1998 and 1999 shall be made available to carry out section 1217(j)" after "Pennsylvania"; and

(B) by striking "25" and inserting "24.78";

(8) by striking item 166 and inserting the following:

"166.	Michigan	Improve Tenth Street, Port Huron	1.8";

(9) by striking item 242 and inserting the following:

"242.	Minnesota	Construct Third Street North, CSAH 81, Waite Park and St. Cloud	1.0";

(10) by striking item 250 and inserting the following:

"250.	Indiana	Reconstruct Old Merridan Corridor from Pennsylvania Avenue to Gilford Road	1.35";

(11) in item 255 by striking "2.25" and inserting "3.0";

(12) in item 263 by striking "Upgrade Highway 99 between State Highway 70 and Lincoln Road, Sutter County" and inserting "Upgrade Highway 99, Sutter County";

(13) in item 288 by striking "3.75" and inserting "5.0";

(14) in item 290 by striking "3.5" and inserting "3.0";

(15) in item 345 by striking "8" and inserting "19.4";

(16) in item 418 by striking "2" and inserting "2.5";

(17) in item 421 by striking "11" and inserting "6";

(18) in item 508 by striking "1.8" and inserting "2.4";

(19) by striking item 525 and inserting the following:

"525.	Alaska	Construct Bradfield Canal Road	1";

(20) in item 540 by striking "1.5" and inserting "2.0";

(21) in item 576 by striking "0.52275" and inserting "0.69275";

(22) in item 588 by striking "2.5" and inserting "3.0";

(23) in item 591 by striking "10" and inserting "5";

(24) in item 635 by striking "1.875" and inserting "2.15";

(25) in item 669 by striking "3" and inserting "3.5";

(26) in item 702 by striking "10.5" and inserting "10";

(27) in item 746 by inserting ", and for the purchase of the Block House in Scott County, Virginia" after "Forest";

(28) in item 755 by striking "1.125" and inserting "1.5";

(29) in item 769 by striking "Construct new I-95 interchange with Highway 99W, Tehama County" and inserting "Construct new I-5 interchange with Highway 99W, Tehama County";

(30) in item 770 by striking "1.35" and inserting "1.0";

(31) in item 789 by striking "2.0625" and inserting "1.0";

(32) in item 803 by striking "Tomahark" and inserting "Tomahawk";

(33) in item 836 by striking "Construct" and all that follows through "for" and inserting "To the National Park Service for construction of the";

(34) in item 854 by striking "0.75" and inserting "1";

(35) in item 863 by striking "9" and inserting "4.75";

(36) in item 887 by striking "0.75" and inserting "3.21";

(37) in item 891 by striking "19.5" and inserting "25.0";

(38) in item 902 by striking "10.5" and inserting "14.0";

(39) by striking item 1065 and inserting the following:

"1065.	Texas	Construct a 4-lane divided highway on Artcraft Road from I–10 to Route 375 in El Paso	5";

(40) in item 1192 by striking "24.97725" and inserting "24.55725";

(41) in item 1200 by striking "Upgrade (all weather) on U.S. 2, U.S. 41, and M 35" and inserting "Upgrade (all weather) on Delta County's reroute of U.S. 2, U.S. 41, and M 35";

(42) in item 1245 by striking "3" and inserting "3.5";

(43) in item 1271 by striking "Spur" and all that follows through "U.S. 59" and inserting "rail-grade separations (Rosenberg Bypass) at U.S. 59(S)";

(44) in item 1278 by striking "28.18" and inserting "22.0";

(45) in item 1288 by inserting "30" after "U.S.";

(46) in item 1338 by striking "5.5" and inserting "3.5";

(47) in item 1383 by striking "0.525" and inserting "0.35";

(48) in item 1395 by striking "Construct" and all that follows through "Road" and inserting "Upgrade Route 219 between Meyersdale and Somerset";

(49) in item 1468 by striking "Reconstruct" and all that follows through "U.S. 23" and inserting "Conduct engineering and design and improve I-94 in Calhoun and Jackson Counties";

(50) in item 1474—

(A) by striking "in Euclid" and inserting "and London Road in Cleveland"; and

(B) by striking "3.75" and inserting "8.0";

(51) in item 1535 by striking "Stanford" and inserting "Stamford";

(52) in item 1538 by striking "and Winchester" and inserting ", Winchester, and Torrington";

(53) by striking item 1546 and inserting the following:

"1546.	Michigan	Construct Bridge-to-Bay bike path, St. Clair County	0.450";

(54) by striking item 1549 and inserting the following:

"1549.	New York	Center for Advanced Simulation and Technology, at Dowling College	0.6";

(55) in item 1663 by striking "26.5" and inserting "27.5";

(56) in item 1703 by striking "I–80" and inserting "I–180";

(57) in item 1726 by striking "I–179" and inserting "I–79";

(58) by striking item 1770 and inserting the following:

"1770.	Virginia	Operate and conduct research on the 'Smart Road' in Blacksburg	6.025";

(59) in item 1810 by striking "Construct Rio Rancho Highway" and inserting "Northwest Albuquerque/Rio Rancho high priority roads";

(60) in item 1815 by striking "High" and all that follows through "projects" and inserting "Highway and bridge projects that Delaware provides for by law";

(61) in item 1844 by striking "Prepare" and inserting "Repair";

(62) by striking item 1850 and inserting the following:

"1850.	Missouri	Resurface and maintain roads located in Missouri State parks	5";

(63) in item 661 by striking "SR 800" and inserting "SR 78";

(64) in item 1704 by inserting ", Pittsburgh," after "Road"; and

(65) in item 1710 by inserting ", Bethlehem" after "site".

SEC. 709. FEDERAL TRANSIT ADMINISTRATION PROGRAMS.

(a) DEFINITIONS.—Section 3003 of the Federal Transit Act of 1998 is amended—

(1) by inserting "(a) IN GENERAL.—" before "Section 5302"; and

(2) by adding at the end the following:

"(b) CONFORMING AMENDMENTS.—Section 5302 (as amended by subsection (a) of this section) is amended in subsection (a)(1)(G)(i) by striking 'daycare and' and inserting 'daycare or'.".

(b) METROPOLITAN PLANNING.—Section 3004 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking subparagraph (A) and inserting the following:

"(A) by striking 'general local government representing' and inserting 'general purpose local government that together represent'; and";

(B) in paragraph (3) by striking "and" at the end;

(C) in paragraph (4) by striking subparagraph (A) and inserting the following:

"(A) by striking 'general local government representing' and inserting 'general purpose local government that together represent'; and";

(D) by redesignating paragraph (4) as paragraph (5); and

(E) by inserting after paragraph (3) the following:

"(3) in paragraph (4)(A) by striking '(3)' and inserting '(5)'; and";

(2) in subsection (d) by striking the closing quotation marks and the final period at the end and inserting the following:

'(5) COORDINATION.—If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

'(6) LAKE TAHOE REGION.—

'(A) DEFINITION.—In this paragraph, the term "Lake Tahoe region" has the meaning given the term "region" in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

'(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

'(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

'(ii) coordinate the transportation planning process with the planning process required of State and local governments under this chapter and sections 134 and 135 of title 23.

'(C) INTERSTATE COMPACT.—

'(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

'(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

'(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

'(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of this chapter and under title 23, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

'(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

'(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

'(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.'."; and

(3) by adding at the end the following:

"(f) TECHNICAL ADJUSTMENTS.—Section 5303(f) is amended—

"(1) in paragraph (1) (as amended by subsection (e)(1) of this subsection)—

"(A) in subparagraph (C) by striking 'and' at the end;

"(B) in subparagraph (D) by striking the period at the end and inserting '; and';

"(C) by adding at the end the following:

'(E) the financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range plan if reasonable additional resources beyond those identified in the financial plan were available, except that, for the purpose of developing the long-range plan, the metropolitan planning organization and the State shall cooperatively develop estimates of funds that will be available to support plan implementation.'; and

"(2) by adding at the end the following:

'(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (1)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (1)(B).'.".

(c) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 3005 of the Federal Transit Act of 1998 is amended—

(1) in the section heading by inserting "**metropolitan**" before "**transportation**"; and

(2) by adding at the end the following:

"(d) TECHNICAL ADJUSTMENTS.—Section 5304 is amended—

"(1) in subsection (a) (as amended by subsection (a) of this section)—

"(A) by striking 'In cooperation with' and inserting the following:

'(1) IN GENERAL.—In cooperation with'; and

"(B) by adding at the end the following:

'(2) FUNDING ESTIMATE.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.';

"(2) in subsection (b)(2)—

"(A) in subparagraph (B) by striking 'and' at the end; and

"(B) in subparagraph (C) (as added by subsection (b) of this section) by striking 'strategies which may include' and inserting the following: 'strategies; and

'(D) may include'; and

"(3) in subsection (c) by striking paragraph (4) (as amended by subsection (c) of this section) and inserting the following:

'(4) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

'(A) IN GENERAL.—Notwithstanding subsection (b)(2)(D), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(D).

'(B) ACTION BY SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the plan under subsection (b)(2) for inclusion in an approved transportation improvement plan.'.".

(d) TRANSPORTATION MANAGEMENT AREAS.—Section 3006(d) of the Federal Transit Act of 1998 is amended to read as follows:

"(d) PROJECT SELECTION.—Section 5305(d)(1) is amended to read as follows: '(1)(A) All federally funded projects carried out within the boundaries of a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge and interstate maintenance program) or under this chapter shall be selected from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

'(B) Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the interstate maintenance program shall be selected from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.'.".

(e) URBANIZED AREA FORMULA GRANTS.—Section 3007 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(h) TECHNICAL ADJUSTMENTS.—

"(1) GENERAL AUTHORITY.—Section 5307(b) (as amended by subsection (c)(1)(B) of this section) is amended by adding at the end the following: 'The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.'.

"(2) REPORT.—Section 5307(k)(3) (as amended by subsection (f) of this section) is amended by inserting 'preceding' before 'fiscal year'.".

(f) CLEAN FUELS FORMULA GRANT PROGRAM.—Section 3008 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 5308(e)(2) (as added by subsection (a) of this section) is amended by striking '$50,000,000' and inserting '35 percent'.".

(g) CAPITAL INVESTMENT GRANTS AND LOANS.—Section 3009 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(k) TECHNICAL ADJUSTMENTS.—

"(1) CRITERIA.—Section 5309(e) (as amended by subsection (e) of this section) is amended—

"(A) in paragraph (3)(C) by striking 'urban' and inserting 'suburban';

"(B) in the second sentence of paragraph (6) by striking 'or not' and all that follows through ', based' and inserting 'or "not recommended", based'; and

"(C) in the last sentence of paragraph (6) by inserting 'of the' before 'criteria established'.

"(2) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—Section 5309(g) (as amended by subsection (f) of this section) is amended in paragraph (4) by striking '5338(a)' and all that follows through '2003' and inserting '5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems'.

"(3) ALLOCATING AMOUNTS.—Section 5309(m) (as amended by subsection (g) of this section) is amended—

"(A) in paragraph (1) by inserting '(b)' after '5338';

"(B) by striking paragraph (2) and inserting the following:

'(2) NEW FIXED GUIDEWAY GRANTS.—

'(A) LIMITATION ON AMOUNTS AVAILABLE FOR ACTIVITIES OTHER THAN FINAL DESIGN AND CONSTRUCTION.—Not more than 8 percent of the amounts made available in each fiscal year by paragraph (1)(B) shall be available for activities other than final design and construction.

'(B) FUNDING FOR FERRY BOAT SYSTEMS.—

'(i) AMOUNTS UNDER (1)(B).—Of the amounts made available under paragraph (1)(B), $10,400,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

'(ii) AMOUNTS UNDER 5338(H)(5).—Of the amounts appropriated under section 5338(h)(5), $3,600,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.';

"(C) by redesignating paragraph (4) as paragraph (3)(C);

"(D) in paragraph (3) by adding at the end the following:

'(D) OTHER THAN URBANIZED AREAS.—Of amounts made available by paragraph (1)(C), not less than 5.5 percent shall be available in each fiscal year for other than urbanized areas.';

"(E) by striking paragraph (5); and

"(F) by inserting after paragraph (3) the following:

'(4) ELIGIBILITY FOR ASSISTANCE FOR MULTIPLE PROJECTS.—A person applying for or receiving assistance for a project described in subparagraph (A), (B), or (C) of paragraph (1) may receive assistance for a project described in any other of such subparagraphs.'.".

(h) REFERENCES TO FULL FUNDING GRANT AGREEMENTS.—Section 3009(h)(3) of the Federal Transit Act of 1998 is amended—

(1) by striking "and" at the end of subparagraph (A)(ii);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following:

"(C) in section 5328(a)(4) by striking 'section 5309(m)(2) of this title' and inserting '5309(o)(1)'; and

"(D) in section 5309(n)(2) by striking 'in a way' and inserting 'in a manner'.".

(i) DOLLAR VALUE OF MOBILITY IMPROVEMENTS.—Section 3010(b)(2) of the Federal Transit Act of 1998 is amended by striking "Secretary" and inserting "Comptroller General".

(j) INTELLIGENT TRANSPORTATION SYSTEM APPLICATIONS.—Section 3012 of the Federal Transit Act of 1998 is amended by moving paragraph (3) of subsection (a) to the end of subsection (b) and by redesignating such paragraph (3) as paragraph (4).

(k) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c)(2) by adding at the end the following: "Financial assistance made available under this subsection and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code."; and

(2) by adding at the end the following:

"(d) TRAINING AND CURRICULUM DEVELOPMENT.—

"(1) IN GENERAL.—Any funds made available by section 5338(e)(2)(C)(iii) of title 49, United States Code, shall be available in equal amounts for transportation research, training, and curriculum development at institutions identified in subparagraphs (E) and (F) of section 5505(j)(3) of such title.

"(2) SPECIAL RULE.—If the institutions identified in paragraph (1) are selected pursuant to 5505(i)(3)(B) of such title in fiscal year 2002 or 2003, the funds made available to carry out this subsection shall be available to those institutions to carry out the activities required pursuant to section 5505(i)(3)(B) of such title for that fiscal year.".

(l) NATIONAL TRANSIT INSTITUTE.—Section 3017(a) of the Federal Transit Act of 1998 is amended to read as follows:

"(a) IN GENERAL.—Section 5315 is amended—

"(1) in the section heading by striking '**mass transportation** and inserting '**transit**';

"(2) in subsection (a)—

"(A) by striking 'mass transportation' in the first sentence and inserting 'transit';

"(B) in paragraph (5) by inserting 'and architectural design' before the semicolon at the end;

"(C) in paragraph (7) by striking 'carrying out' and inserting 'delivering';

"(D) in paragraph (11) by inserting ', construction management, insurance, and risk management' before the semicolon at the end;

"(E) in paragraph (13) by striking 'and' at the end;

"(F) in paragraph (14) by striking the period at the end and inserting a semicolon; and

"(G) by adding at the end the following:

'(15) innovative finance; and

'(16) workplace safety.'.".

(m) PILOT PROGRAM.—Section 3021(a) of the Federal Transit Act of 1998 is amended by inserting "single-State" before "pilot program".

(n) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—Section 3022 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(b) CONFORMING AMENDMENT.—Section 5325(b) (as redesignated by subsection (a)(2) of this section) is amended—

"(1) by inserting 'or requirement' after 'A contract'; and

"(2) by inserting before the last sentence the following: 'When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23.'.".

(o) CONFORMING AMENDMENT.—Section 3027 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c) by striking "600,000" each place it appears and inserting "900,000"; and

(2) by adding at the end the following:

"(d) CONFORMING AMENDMENT.—The item relating to section 5336 in the table of sections for chapter 53 is amended by striking 'block grants' and inserting 'formula grants'.".

(p) APPORTIONMENT FOR FIXED GUIDEWAY MODERNIZATION.—Section 3028 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) CONFORMING AMENDMENTS.—Section 5337(a) (as amended by subsection (a) of this section) is amended—

"(1) in paragraph (2)(B) by striking '(e)' and inserting '(e)(1)';

"(2) in paragraph (3)(D)—

"(A) by striking '(ii)'; and

"(B) by striking '(e)' and inserting '(e)(1)';

"(3) in paragraph (4) by striking '(e)' and inserting '(e)(1)';

"(4) in paragraph (5)(A) by striking '(e)' and inserting '(e)(2)';

"(5) in paragraph (5)(B) by striking '(e)' and inserting '(e)(2)';

"(6) in paragraph (6) by striking '(e)' each place it appears and inserting '(e)(2)'; and

"(7) in paragraph (7) by striking '(e)' each place it appears and inserting '(e)(2)'.".

(q) AUTHORIZATIONS.—Section 3029 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 5338 (as amended by subsection (a) of this section) is amended—

"(1) in subsection (c)(2)(A)(i) by striking '$43,200,000' and inserting '$42,200,000';

"(2) in subsection (c)(2)(A)(ii) by striking '$46,400,000' and inserting '$48,400,000';

"(3) in subsection (c)(2)(A)(iii) by striking '$51,200,000' and inserting '$50,200,000';

"(4) in subsection (c)(2)(A)(iv) by striking '$52,800,000' and inserting '$53,800,000';

"(5) in subsection (c)(2)(A)(v) by striking '$57,600,000' and inserting '$58,600,000';

"(6) in subsection (d)(2)(C)(iii) by inserting before the semicolon ', including not more than $1,000,000 shall be available to carry out section 5315(a)(16)';

"(7) in subsection (e)—

"(A) by striking '5317(b)' each place it appears and inserting '5505';

"(B) in paragraph (1) by striking 'There are' and inserting 'Subject to paragraph (2)(C), there are';

"(C) in paragraph (2)—

"(i) in subparagraph (A) by striking 'There shall' and inserting 'Subject to subparagraph (C), there shall';

"(ii) in subparagraph (B) by striking 'In addition' and inserting 'Subject to subparagraph (C), in addition'; and

"(iii) by adding at the end the following:

'(C) FUNDING OF CENTERS.—

'(i) Of the amounts made available under subparagraph (A) and paragraph (1) for each fiscal year—

'(I) $2,000,000 shall be available for the center identified in section 5505(j)(4)(A); and

'(II) $2,000,000 shall be available for the center identified in section 5505(j)(4)(F).

'(ii) For each of fiscal years 1998 through 2001, of the amounts made available under this paragraph and paragraph (1)—

'(I) $400,000 shall be available from amounts made available under subparagraph (A) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3); and

'(II) $350,000 shall be available from amounts made available under subparagraph (B) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3).

'(iii) Any amounts made available under this paragraph or paragraph (1) for any fiscal year that remain after distribution under clauses (i) and (ii), shall be available for the purposes identified in section 3015(d) of the Federal Transit Act of 1998.'; and

"(D) by adding at the end the following:

'(3) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.';

"(8) in subsection (g)(2) by striking '(c)(2)(B),' and all that follows through '(f)(2)(B),' and inserting '(c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B),';

"(9) in subsection (h) by inserting 'under the Transportation Discretionary Spending Guarantee for the Mass Transit Category' after 'through (f)'; and

"(10) in subsection (h)(5) by striking subparagraphs (A) through (E) and inserting the following:

'(A) for fiscal year 1999 $400,000,000;

'(B) for fiscal year 2000 $410,000,000;

'(C) for fiscal year 2001 $420,000,000;

'(D) for fiscal year 2002 $430,000,000; and

'(E) for fiscal year 2003 $430,000,000;'.".

(r) PROJECTS FOR FIXED GUIDEWAY SYSTEMS.—Section 3030 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)—

(A) in paragraph (8) by inserting "North-" before "South";

(B) in paragraph (42) by striking "Maryland" and inserting "Baltimore";

(C) in paragraph (103) by striking "busway" and inserting "Boulevard transitway";

(D) in paragraph (106) by inserting "CTA" before "Douglas";

(E) by striking paragraph (108) and inserting the following:

"(108) Greater Albuquerque Mass Transit Project."; and

(F) by adding at the end the following:

"(109) Hartford City Light Rail Connection to Central Business District.

"(110) Providence–Boston Commuter Rail.

"(111) New York–St. George's Ferry Intermodal Terminal.

"(112) New York–Midtown West Ferry Terminal.

"(113) Pinellas County–Mobility Initiative Project.

"(114) Atlanta–MARTA Extension (S. De Kalb-Lindbergh).";

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

"(2) Sioux City–Light Rail.";

(B) by striking paragraph (40) and inserting the following:

"(40) Santa Fe–El Dorado Rail Link.";

(C) by striking paragraph (44) and inserting the following:

"(44) Albuquerque-High Capacity Corridor.";

(D) by striking paragraph (53) and inserting the following:

"(53) San Jacinto–Branch Line (Riverside County)."; and

(E) by adding at the end the following:

"(69) Chicago–Northwest Rail Transit Corridor.

"(70) Vermont–Burlington-Essex Commuter Rail."; and

(3) in subsection (c)—

(A) in paragraph (1)(A)—

(i) in the matter preceding clause (i) by inserting "(even if the project is not listed in subsection (a) or (b))" before the colon;

(ii) by striking clause (ii) and inserting the following:

"(ii) San Diego Mission Valley and Mid-Coast Corridor, $325,000,000.";

(iii) by striking clause (v) and inserting the following:

"(v) Hartford City Light Rail Connection to Central Business District, $33,000,000.";

(iv) by striking clause (xxiii) and inserting the following:

"(xxiii) Kansas City–I-35 Commuter Rail, $30,000,000.";

(v) in clause (xxxii) by striking "Whitehall Ferry Terminal" and inserting "Staten Island Ferry-Whitehall Intermodal Terminal";

(vi) by striking clause (xxxv) and inserting the following:

"(xxxv) New York–Midtown West Ferry Terminal, $16,300,000.";

(vii) in clause (xxxix) by striking "Allegheny County" and inserting "Pittsburgh";

(viii) by striking clause (xvi) and inserting the following:

"(xvi) Northeast Indianapolis Corridor, $10,000,000.";

(ix) by striking clause (xxix) and inserting the following:

"(xxix) Greater Albuquerque Mass Transit Project, $90,000,000.";

(x) by striking clause (xliii) and inserting the following:

"(xliii) Providence–Boston Commuter Rail, $10,000,000.";

(xi) by striking clause (xlix) and inserting the following:

"(xlix) Seattle Sound Move Corridor, $40,000,000."; and

(xii) by striking clause (li) and inserting the following:

"(li) Dallas-Ft. Worth RAILTRAN (Phase-II), $12,000,000.";

(B) by striking the heading for subsection (c)(2) and inserting "ADDITIONAL AMOUNTS"; and

(C) in paragraph (3) by inserting after the first sentence the following: "The project shall also be exempted from all requirements relating to criteria for grants and loans for fixed guideway systems under section 5309(e) of such title and from regulations required under that section.".

(s) NEW JERSEY URBAN CORE PROJECT.—Section 3030(e) of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(4) TECHNICAL ADJUSTMENT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (as amended by paragraph (3)(B) of this subsection) is amended—

"(A) by striking 'of the West Shore Line' and inserting 'or the West Shore Line'; and

"(B) by striking 'directly connected to' and all that follows through 'Newark International Airport' the first place it appears.".

(t) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS.—Section 3030 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(h) TECHNICAL ADJUSTMENT.—Section 3035(nn) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2134) (as amended by subsection (g)(1)(C) of this section) is amended by inserting after 'expenditure of' the following: 'section 5309 funds to the aggregate expenditure of'.".

(u) BUS PROJECTS.—Section 3031 of the Federal Transit Act of 1998 is amended—

(1) in the table contained in subsection (a)—

(A) by striking item 64;

(B) in item 69 by striking "Rensslear" each place it appears and inserting "Rensselaer";

(C) in item 103 by striking "facilities and"; and

(D) by striking item 150;

(2) by striking the heading for subsection (b) and inserting "ADDITIONAL AMOUNTS";

(3) in subsection (b) by inserting after "2000" the first place it appears "with funds made available under section 5338(h)(6) of such title"; and

(4) in item 2 of the table contained in subsection (b) by striking "Rensslear" each place it appears and inserting "Rensselaer".

(v) CONTRACTING OUT STUDY.—Section 3032 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a) by striking "3" and inserting "6";

(2) in subsection (d) by striking "the Mass Transit Account of the Highway Trust Fund" and inserting "funds made available under section 5338(f)(2) of title 49, United States Code,";

(3) in subsection (d) by striking "1998" and inserting "1999"; and

(4) in subsection (e) by striking "subsection (c)" and inserting "subsection (d)".

(w) JOB ACCESS AND REVERSE COMMUTE GRANTS.—Section 3037 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)(4)(A)—

(A) by inserting "designated recipients under section 5307(a)(2) of title 49, United States Code," after "from among"; and

(B) by inserting a comma after "and agencies";

(2) in subsection (b)(4)(B)—

(A) by striking "at least" and inserting "less than";

(B) by inserting "designated recipients under section 5307(a)(2) of title 49, United States Code," after "from among"; and

(C) by inserting "and agencies," after "authorities";

(3) in subsection (f)(2)—

(A) by striking "(including bicycling)"; and

(B) by inserting "(including bicycling)" after "additional services";

(4) in subsection (h)(2)(B) by striking "403(a)(5)(C)(ii)" and inserting "403(a)(5)(C)(vi)";

(5) in the heading for subsection (l)(1)(C) by striking "FROM THE GENERAL FUND";

(6) in subsection (l)(1)(C) by inserting "under the Transportation Discretionary Spending Guarantee for the Mass Transit Category" after "(B)"; and

(7) in subsection (l)(3)(B) by striking "at least" and inserting "less than".

(x) Rural Transportation Accessibility Incentive Program.—Section 3038 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)(1)(A) by inserting before the semicolon "or connecting 1 or more rural communities with an urban area not in close proximity";

(2) in subsection (g)(1)—

(A) by inserting "over-the-road buses used substantially or exclusively in" after "operators of"; and

(B) by inserting at the end the following: "Such sums shall remain available until expended."; and

(3) in subsection (g)(2)—

(A) by striking "each of"; and

(B) by adding at the end the following: "Such sums shall remain available until expended.".

(y) Study of Transit Needs in National Parks and Related Public Lands.—Section 3039(b) of the Federal Transit Act of 1998 is amended—

(1) in paragraph (1) by striking "in order to carry" and inserting "assist in carrying"; and

(2) by adding at the end the following:

"(3) Definition.—For purposes of this subsection, the term 'Federal land management agencies' means the National Park Service, the United States Fish and Wildlife Service, and the Bureau of Land Management.".

(z) Obligation Ceiling.—Section 3040 of the Federal Transit Act of 1998 is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) $5,797,000,000 in fiscal year 2000;"; and

(2) in paragraph (4) by striking "$6,746,000,000" and inserting "$6,747,000,000".

SEC. 710. MOTOR CARRIER SAFETY TECHNICAL CORRECTION.

Section 4011 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(h) Technical Amendments.—Section 31314 (as amended by subsection (g) of this section) is amended—

"(1) in subsections (a) and (b) by striking '(3), and (5)' each place it appears and inserting '(3), and (4)'; and

"(2) by striking subsection (d).".

SEC. 711. RESTORATIONS TO RESEARCH TITLE.

(a) University Transportation Research Funding.—Section 5001(a)(7) of the Transportation Equity Act for the 21st Century is amended—

(1) by striking "$31,150,000" each place it appears and inserting "$25,650,000";

(2) by striking "$32,750,000" each place it appears and inserting "$27,250,000"; and

(3) by striking "$32,000,000" each place it appears and inserting "$26,500,000".

(b) Obligation Ceiling.—Section 5002 of such Act is amended by striking "$403,150,000" and all that follows through "$468,000,000" and inserting "$397,650,000 for fiscal year 1998, $403,650,000 for fiscal year 1999, $422,450,000 for fiscal year 2000, $437,250,000 for fiscal year 2001, $447,500,000 for fiscal year 2002, and $462,500,000".

(c) Use of Funds for ITS.—Section 5210 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(d) Use of Innovative Financing.—

"(1) In general.—The Secretary may use up to 25 percent of the funds made available to carry out this subtitle to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this subtitle and that have significant intelligent transportation system elements.

"(2) Consistency with other law.—Credit assistance described in paragraph (1) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1998.".

(d) University Transportation Research.—Section 5110 of such Act is amended by adding at the end the following:

"(d) Technical Adjustments.—Section 5505 of title 49, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (g)(2) by striking 'section 5506,' and inserting 'section 508 of title 23, United States Code,';

"(2) in subsection (i)—

"(A) by inserting 'Subject to section 5338(e):' after '(i) Number and Amount of Grants.—'; and

"(B) by striking 'institutions' each place it appears and inserting 'institutions or groups of institutions'; and

"(3) in subsection (j)(4)(B) by striking 'on behalf of' and all that follows before the period and inserting 'on behalf of a consortium which may also include West Virginia University Institute of Technology, the College of West Virginia, and Bluefield State College'.".

(e) Technical Corrections.—Section 5115 of such Act is amended—

(1) in subsection (a) by striking "Director" and inserting "Director of the Bureau of Transportation Statistics";

(2) in subsection (b) by striking "Bureau" and inserting "Bureau of Transportation Statistics,"; and

(3) in subsection (c) by striking "paragraph (1)" and inserting "subsection (a)".

(f) Corrections to Certain Oklahoma Projects.—Section 5116 of such Act is amended—

(1) in subsection (e)(2) by striking "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001" and inserting "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002"; and

(2) in subsection (f)(2) by striking "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002" and inserting "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001".

(g) Intelligent Transportation Infrastructure Reference.—Section 5117(b)(3)(B)(ii) of such Act is amended by striking "local departments of transportation" and inserting "the Department of Transportation".

(h) Fundamental Properties of Asphalts and Modified Asphalts.—Section 5117(b)(5)(B) of such Act is amended—

(1) by striking "1999" and inserting "1998"; and

(2) by striking "$3,000,000 per fiscal year" and inserting "$1,000,000 for fiscal year 1998 and $3,000,000 for each of fiscal years 1999 through 2003".

SEC. 712. AUTOMOBILE SAFETY AND INFORMATION.

(a) Reference.—Section 7104 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(c) Conforming Amendment.—Section 30105(a) of title 49, United States Code (as amended by subsection (a) of this section), is amended by inserting after 'Secretary' the following: 'for the National Highway Traffic Safety Administration'.".

(b) Clean Vessel Act Funding.—Section 7403 of such Act is amended—

(1) by inserting "(a) In General.—" before "Section 4(b)"; and

(2) by adding at the end the following:

"(b) Technical Amendment.—Section 4(b)(3)(B) of the 1950 Act (as amended by subsection (a) of this section) is amended by striking '6404(d)' and inserting '7404(d)'.".

(c) Boating Infrastructure.—Section 7404(b) of such Act is amended by striking "6402" and inserting "7402".

SEC. 713. TECHNICAL CORRECTIONS REGARDING SUBTITLE A OF TITLE VIII.

(a) Amendment to Offsetting Adjustment for Discretionary Spending Limit.—Section 8101(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (1) by striking "$25,173,000,000" and inserting "$25,144,000,000"; and

(2) in paragraph (2) by striking "$26,045,000,000" and inserting "$26,009,000,000".

(b) Amendments for Highway Category.—Section 8101 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(f) Technical Amendments.—Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by subsection (c) of this Act) is amended—

"(1) by striking 'Century and' and inserting 'Century or';

"(2) by striking 'as amended by this section,' and inserting 'as amended by the Transportation Equity Act for the 21st Century,'; and

"(3) by adding at the end the following new flush sentence:

'Such term also refers to the Washington Metropolitan Transit Authority account (69-1128-0-1-401) only for fiscal year 1999 only for appropriations provided pursuant to authorizations contained in section 14 of Public Law 96–184 and Public Law 101–551.'.".

(c) Technical Amendment.—Section 8102 of the Transportation Equity Act for the 21st Century is amended by inserting before the period at the end the following: "or from section 1102 of this Act".

SEC. 714. REPEAL OF PROVISIONS RELATING TO VETERANS BENEFITS.

The Veterans Benefits Act of 1998 (subtitle B of title VIII of the Transportation Equity Act for 21st Century) is repealed and shall be treated as if not enacted.

SEC. 715. TECHNICAL CORRECTIONS REGARDING TITLE IX.

(a) Highway Trust Fund.—Subsection (f) of section 9002 of the Transportation Equity

Act for the 21st Century is amended by adding at the end the following new paragraphs:

"(4) The last sentence of section 9503(c)(1), as amended by subsection (d), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(5) Paragraph (3) of section 9503(e), as amended by subsection (d), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.".

(b) BOAT SAFETY ACCOUNT AND SPORT FISH RESTORATION ACCOUNT.—Section 9005 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new subsection:

"(f) CLERICAL AMENDMENTS.—

"(1) Subparagraph (A) of section 9504(b)(2), as amended by subsection (b)(1), is amended by striking 'the date of the enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(2) Subparagraph (B) of section 9504(b)(2), as added by subsection (b)(3), is amended by striking 'such Act' and inserting 'the TEA 21 Restoration Act'.

"(3) Subparagraph (C) of section 9504(b)(2), as amended by subsection (b)(2) and redesignated by subsection (b)(3), is amended by striking 'the date of the enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(4) Subsection (c) of section 9504, as amended by subsection (c)(2), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.".

SEC. 716. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect simultaneously with the enactment of the Transportation Equity Act for the 21st Century. For purposes of all Federal laws, the amendments made by this title shall be treated as being included in the Transportation Equity Act for the 21st Century at the time of the enactment of such Act, and the provisions of such Act (including the amendments made by such Act) (as in effect on the day before the date of enactment of this Act) that are amended by this title shall be treated as not being enacted.

AMENDMENT NO. 2880

On page 412, below line 2, add the following:

DIVISION D—TRANSPORTATION PROGRAM TECHNICAL CORRECTIONS

SEC. 4001. SHORT TITLE.

This division may be cited as the "TEA 21 Restoration Act".

SEC. 702. AUTHORIZATION AND PROGRAM SUBTITLE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1101(a) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (13)—

(A) by striking "$1,025,695,000" and inserting "$1,029,473,500";

(B) by striking "$1,398,675,000" and inserting "$1,403,827,500";

(C) by striking "$1,678,410,000" the first place it appears and inserting "$1,684,593,000";

(D) by striking "$1,678,410,000" the second place it appears and inserting "$1,684,593,000";

(E) by striking "$1,771,655,000" the first place it appears and inserting "$1,778,181,500"; and

(F) by striking "$1,771,655,000" the second place it appears and inserting "$1,778,181,500"; and

(2) in paragraph (14)—

(A) by striking "1998" and inserting "1999"; and

(B) by inserting before "$5,000,000" the following: "$10,000,000 for fiscal year 1998".

(b) OBLIGATION LIMITATIONS.—

(1) GENERAL LIMITATION.—Section 1102(a) of such Act is amended—

(A) in paragraph (2) by striking "$25,431,000,000" and inserting "$25,511,000,000";

(B) in paragraph (3) by striking "$26,155,000,000" and inserting "$26,245,000,000";

(C) in paragraph (4) by striking "$26,651,000,000" and inserting "$26,761,000,000";

(D) in paragraph (5) by striking "$27,235,000,000" and inserting "$27,355,000,000"; and

(E) in paragraph (6) by striking "$27,681,000,000" and inserting "$27,811,000,000".

(2) TRANSPORTATION RESEARCH PROGRAMS.—Section 1102(e) of such Act is amended—

(A) by striking "3" and inserting "5";

(B) by striking "VI" and inserting "V"; and

(C) by inserting before the period at the end the following: "; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years".

(3) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Section 1102(f) of such Act is amended by striking "(other than the program under section 160 of title 23, United States Code)".

(c) APPORTIONMENTS.—Section 1103 of such Act is amended—

(1) in subsection (l) by adding at the end the following:

"(5) Section 150 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.";

(2) in subsection (n) by inserting "of title 23, United States Code" after "206"; and

(3) by adding at the end the following:

"(o) TECHNICAL ADJUSTMENTS.—Section 104 of title 23, United States Code, is amended—

"(1) in subsection (a)(1) (as amended by subsection (a) of this section) by striking 'under section 103';

"(2) in subsection (b) (as amended by subsection (b) of this section)—

"(A) in paragraph (1)(A) by striking '1999 through 2003' and inserting '1998 through 2002'; and

"(B) in paragraph (4)(B)(i) by striking 'on lanes on Interstate System' and all that follows through 'in each State' and inserting 'on Interstate System routes open to traffic in each State'; and

"(3) in subsection (e)(2) (as added by subsection (d)(6) of this section) by striking '104, 144, or 157' and inserting '104, 105, or 144'.".

(d) MINIMUM GUARANTEE.—Section 1104 of such Act is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 105 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

"(1) in subsection (a) by adding at the end the following: 'The minimum amount allocated to a State under this section for a fiscal year shall be $1,000,000.';

"(2) in subsection (c)(1) by striking '50 percent of';

"(3) in subsection (c)(1)(A) by inserting '(other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs)' after 'subsection (a)';

"(4) in subsection (c)(1)(B) by striking 'all States' and inserting 'each State';

"(5) in subsection (c)(2)—

"(A) by striking 'apportion' and inserting 'administer'; and

"(B) by striking 'apportioned' and inserting 'administered'; and

"(6) in subsection (f)—

"(A) by inserting 'percentage' before 'return' each place it appears;

"(B) in paragraph (2) by striking 'for the preceding fiscal year was equal to or less than' and inserting 'in the table in subsection (b) was equal to'; and

"(C) in paragraph (3)—

"(i) by inserting 'proportionately' before 'adjust';

"(ii) by striking 'set forth'; and

"(iii) by striking 'do not exceed' and inserting 'is equal to'.".

(e) REVENUE ALIGNED BUDGET AUTHORITY.—Section 1105 of such Act is amended by adding at the end the following:

"(c) TECHNICAL CORRECTIONS.—Section 110 of such title (as amended by subsection (a)) is amended—

"(1) by striking subsection (a) and inserting the following:

'(a) IN GENERAL.—

'(1) ALLOCATION.—On October 15 of fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate for such fiscal year an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) if the amount determined pursuant to such section for such fiscal year is greater than zero.

'(2) REDUCTION.—If the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) for fiscal year 2000 or any fiscal year thereafter is less than zero, the Secretary on October 1 of the succeeding fiscal year shall reduce proportionately the amount of sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) by an aggregate amount equal to the amount determined pursuant to such section.';

"(2) in subsections (b)(2) and (b)(4) by striking 'subsection (a)' and inserting 'subsection (a)(1)'; and

"(3) in subsection (c) by striking 'Maintenance program, the' and inserting 'and'.".

(f) INTERSTATE MAINTENANCE PROGRAM.—Section 1107 of such Act is amended by adding at the end the following:

"(d) TECHNICAL AMENDMENTS.—Section 119 of such title (as amended by subsection (a)) is amended—

"(1) in subsection (b)—

"(A) by striking '104(b)(5)(B)' and inserting '104(b)(4)'; and

"(B) by striking '104(b)(5)(A)' each place it appears and inserting '104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century)'; and

"(2) in subsection (c) by striking '104(b)(5)(B)' each place it appears and inserting '104(b)(4)'.".

(g) Congestion Mitigation and Air Quality Improvement Program.—Section 1110(d)(2) of such Act is amended—

(1) by striking "149(c)" and inserting "149(e)"; and

(2) by striking "that reduce" and inserting "reduce".

(h) Highway Use Tax Evasion Projects.—Section 1114 of such Act is amended by adding at the end the following:

"(c) Technical Adjustments.—Section 143 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

"(1) in subsection (c)(1) by striking 'April 1' and inserting 'August 1';

"(2) in subsection (c)(3) by inserting 'Priority' after 'Funding'; and

"(3) in subsection (c)(3) by inserting 'and prior to funding any other activity under this section,' after '2003,'.".

(i) Federal Lands Highways Program.—Section 1115 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(f) Conforming Amendments.—

"(1) Federal share.—Subsections (j) and (k) of section 120 of title 23, United States Code (as added by subsection (a) of this section), are redesignated as subsections (k) and (l), respectively.

"(2) Reservation of funds.—Section 202(d)(4)(B) of such title (as added by subsection (b)(4) of this section) is amended by striking 'to, apply sodium acetate/formate de-icer to,' and inserting ', sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions'.

"(3) Elimination of duplicative provision.—Section 144(g) of such title is amended by striking paragraph (4).".

(j) Woodrow Wilson Memorial Bridge Correction.—Section 1116 of such Act is amended by adding at the end the following:

"(e) Technical Correction.—Sections 404(5) and 407(c)(2)(C)(iii) of such Act (as amended by subsections (a)(2) and (b)(2), respectively) are amended by striking 'the record of decision' each place it appears and inserting 'a record of decision'.".

(k) Technical Correction.—Section 1117 of such Act is amended in subsections (a) and (b) by striking "section 102" each place it appears and inserting "section 1101(a)(6)".

SEC. 703. RESTORATIONS TO GENERAL PROVISIONS SUBTITLE.

(a) In General.—Subtitle B of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1224. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

"(a) Historic Covered Bridge Defined.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) Historic Covered Bridge Preservation.—Subject to the availability of appropriations under subsection (d), the Secretary shall—

"(1) collect and disseminate information concerning historic covered bridges;

"(2) foster educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research, and study techniques, on protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) Direct Federal Assistance.—

"(1) In general.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) Types of project.—A grant under paragraph (1) may be made for a project—

"(A) to rehabilitate or repair a historic covered bridge; and

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) Authenticity.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) Federal share.—The Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) Funding.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1999 through 2003. Such funds shall remain available until expended.

"SEC. 1225. SUBSTITUTE PROJECT.

"(a) Approval of Project.—Notwithstanding any other provision of law, upon the request of the Mayor of the District of Columbia, the Secretary may approve substitute highway and transit projects under section 103(e)(4) of title 23, United States Code (as in effect on the day before the date of enactment of this Act), in lieu of construction of the Barney Circle Freeway project in the District of Columbia, as identified in the 1991 Interstate Cost Estimate.

"(b) Eligibility for Federal Assistance.—Upon approval of any substitute project or projects under subsection (a)—

"(1) the cost of construction of the Barney Circle Freeway Modification project shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956; and

"(2) substitute projects approved pursuant to this section shall be funded from interstate construction funds apportioned or allocated to the District of Columbia that are not expended and not subject to lapse on the date of enactment of this Act.

"(c) Federal Share.—The Federal share payable on account of a project or activity approved under this section shall be 85 percent of the oost thereof; except that the exception set forth in section 120(b)(2) of title 23, United States Code, shall apply.

"(d) Limitation on Eligibility.—Any substitute project approved pursuant to subsection (a) (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction, or construction must have commenced, before the last day of the 4-year period beginning on the date of enactment of this Act. If the substitute project is not under contract for construction, or construction has not commenced, by such last day, the Secretary shall withdraw approval of the substitute project.

"SEC. 1226. FISCAL, ADMINISTRATIVE, AND OTHER AMENDMENTS.

"(a) Advanced Construction.—Section 115 of title 23, United States Code, is amended—

"(1) in subsection (b)—

"(A) by moving the text of paragraph (1) (including subparagraphs (A) and (B)) 2 ems to the left;

"(B) by striking 'Projects' and all that follows through 'When a State' and inserting 'Projects.—When a State';

"(C) by striking paragraphs (2) and (3);

"(D) by striking '(A) prior' and inserting '(1) prior'; and

"(E) by striking '(B) the project' and inserting '(2) the project';

"(2) by striking subsection (c); and

"(3) by redesignating subsection (d) as subsection (c).

"(b) Availability of Funds.—Section 118 of such title is amended—

"(1) in the subsection heading of subsection (b) by striking '; Discretionary Projects'; and

"(2) by striking subsection (e) and inserting the following:

'(e) Effect of Release of Funds.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of the project agreement, shall be credited to the same program funding category previously apportioned to the State and shall be immediately available for expenditure.'.".

"(c) Advances to States.—Section 124 of such title is amended—

"(1) by striking '(a)' the first place it appears; and

"(2) by striking subsection (b).

"(d) Diversion.—Section 126 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1222 the following:

"Sec. 1223. Transportation assistance for Olympic cities.
"Sec. 1224. National historic covered bridge preservation.
"Sec. 1225. Substitute project.
"Sec. 1226. Fiscal, administrative, and other amendments.".

(c) Metropolitan Planning Technical Adjustment.—Section 1203 of such Act is amended by adding at the end the following:

"(o) Technical Adjustment.—Section 134(h)(5)(A) of title 23, United States Code (as amended by subsection (h) of this section), is amended by striking 'for implementation'.".

(d) Amendments to Prior Surface Transportation Laws.—Section 1211 of such Act is amended—

(1) in subsection (i)(3)(E) by striking "subparagraph (D)" and inserting "subparagraph (C)";

(2) in subsection (i) by adding at the end the following:

"(4) Technical amendments.—Section 1105(e)(5)(B)(i) of such Act (as amended by paragraph (3) of this subsection) is amended—

"(A) by striking 'subsection (c)(18)(B)(i)' and inserting 'subsection (c)(18)(D)(i)';

"(B) by striking 'subsection (c)(18)(B)(ii)' and inserting 'subsection (c)(18)(D)(ii)'; and

"(C) by adding at the end the following: 'The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I–86.'.";

(3) by striking subsection (j);

(4) in subsection (k)—

"(A) by striking "along" in paragraph (1) and inserting "from"; and

(B) by adding at the end the following:

"(4) TEXAS STATE HIGHWAY 99.—Texas State Highway 99 (also known as 'Grand Parkway') shall be considered as 1 option in the I–69 route studies performed by the Texas Department of Transportation for the designation of I–69 Bypass in Houston, Texas."; and

(5) by redesignating subsections (g) through (i) and (k) through (n) as subsections (f) through (h) and (i) through (l), respectively.

(e) MISCELLANEOUS.—Section 1212 of such Act is amended—

(1) in the second sentence of subsection (q)(1) by striking "advance curriculum" and inserting "advanced curriculum";

(2) in subsection (r)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) $2,000,000 for fiscal year 1999 and $2,500,000 for fiscal year 2000.";

(3) in subsection (s)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) $23,000,000 for fiscal year 1999.";

(4) in subsection (u)—

(A) by inserting "the Secretary shall approve, and" before "the Commonwealth";

(B) by inserting a comma after "with"; and

(C) by inserting "(as redefined by this Act)" after "80"; and

(5) by redesignating subsections (k) through (z) as subsections (e) through (t), respectively.

(f) PUERTO RICO HIGHWAY PROGRAM.—Section 1214(r) of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(3) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

"(A) For purposes of this subsection, such amounts shall be treated as being apportioned to Puerto Rico under sections 104(b), 144, and 206 of title 23, United States Code, for each program funded under such sections in an amount determined by multiplying—

"(i) the aggregate of such amounts for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(II) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(B) The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under such section for purposes of the imposition of any penalty provisions in titles 23 and 49, United States Code.

"(C) Subject to subparagraph (B), nothing in this subsection shall be construed as affecting any allocation under section 105 of title 23, United States Code, and any apportionment under sections 104 and 144 of such title.".

(g) DESIGNATED TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 1215 of such Act—

(1) is amended in each of subsections (d), (e), (f), and (g)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) the amounts specified in such paragraph for the fiscal years specified in such paragraph."; and

(2) in subsection (d)(1) by inserting "on Route 50" after "measures".

(h) ELIGIBILITY.—Section 1217 of such Act is amended—

(1) in subsection (d) by striking "104(b)(4)" and inserting "104(b)(5)(A)";

(2) in subsection (i) by striking "120(l)(1)" and inserting "120(j)(1)"; and

(3) in subsection (j) by adding at the end the following: "$3,000,000 of the amounts made available for item 164 of the table contained in section 1602 shall be made available on October 1, 1998, to the Pennsylvania Turnpike Commission to carry out this subsection.".

(i) MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.—Section 1218 of such Act is amended by adding at the end the following:

"(c) TECHNICAL AMENDMENTS.—Section 322 of title 23, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (a)(3) by striking 'or under 50 miles per hour';

"(2) in subsection (d)—

"(A) in paragraph (1) by striking 'or low-speed'; and

"(B) in paragraph (2)—

"(i) in subparagraph (A) by striking '(h)(1)(A)' and inserting '(h)(1)'; and

"(ii) in subparagraph (B) by striking '(h)(4)' and inserting '(h)(3)';

"(3) in subsection (h)(1)(B)(i) by inserting '(other than subsection (i))' after 'this section'; and

"(4) by adding at the end the following:

'(i) LOW-SPEED PROJECT.—

'(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, $5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

'(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

'(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

'(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

'(i) shall not be available in advance of an annual appropriation; and

'(ii) shall remain available until expended.'.".

(j) TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.—Section 1223(f) of such Act is amended by inserting before the period at the end the following: "or Special Olympics International".

SEC. 704. RESTORATIONS TO PROGRAM STREAMLINING AND FLEXIBILITY SUBTITLE.

(a) IN GENERAL.—Subtitle C of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1311. DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS.

"(a) ESTABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for all discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account). To the extent practicable, such criteria shall conform to the Executive Order No. 12893 (relating to infrastructure investment).

"(b) SELECTION PROCESS.—

"(1) LIMITATION ON ACCEPTANCE OF APPLICATIONS.—Before accepting applications for grants under any discretionary program for which funds are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by this Act (including the amendments made by this Act), the Secretary shall publish the criteria established under subsection (a). Such publication shall identify all statutory criteria and any criteria established by regulation that will apply to the program.

"(2) EXPLANATION.—Not less often than quarterly, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of the projects selected under discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account) and an explanation of how the projects were selected based on the criteria established under subsection (a).

"(c) MINIMUM COVERED PROGRAMS.—At a minimum, the criteria established under subsection (a) and the selection process established by subsection (b) shall apply to the following programs:

"(1) The intelligent transportation system deployment program under title V.

"(2) The national corridor planning and development program.

"(3) The coordinated border infrastructure and safety program.

"(4) The construction of ferry boats and ferry terminal facilities.

"(5) The national scenic byways program.

"(6) The Interstate discretionary program.

"(7) The discretionary bridge program.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of such Act is amended—

(1) by striking the following:

"Sec. 1309. Major investment study integration.".

and inserting the following:

"Sec. 1308. Major investment study integration.";

and

(2) by inserting after the item relating to section 1310 the following:

"Sec. 1311. Discretionary grant selection criteria and process.".

(c) REVIEW PROCESS.—Section 1309 of the Transportation Equity Act for the 21st Century is amended—

(1) in subsection (a)(1) by inserting after "highway construction" the following: "and mass transit";

(2) in subsection (d) by inserting after "Code," the following: "or chapter 53 of title 49, United States Code,"; and

(3) in subsection (e)(1)—

(A) by inserting "or recipient" after "a State";

(B) by inserting after "provide funds" the following: "for a highway project"; and

(C) by inserting after "Code," the following: "or for a mass transit project made available under chapter 53 of title 49, United States Code,".

SEC. 705. RESTORATIONS TO SAFETY SUBTITLE.

(a) IN GENERAL.—Subtitle D of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

“SEC. 1405. OPEN CONTAINER LAWS.

“(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

‘§ 154. Open container requirements

‘(a) DEFINITIONS.—In this section, the following definitions apply:

‘(1) ALCOHOLIC BEVERAGE.—The term “alcoholic beverage” has the meaning given the term in section 158(c).

‘(2) MOTOR VEHICLE.—The term “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

‘(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term “open alcoholic beverage container” means any bottle, can, or other receptacle—

‘(A) that contains any amount of alcoholic beverage; and

‘(B)(i) that is open or has a broken seal; or

‘(ii) the contents of which are partially removed.

‘(4) PASSENGER AREA.—The term “passenger area” shall have the meaning given the term by the Secretary by regulation.

‘(b) OPEN CONTAINER LAWS.—

‘(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

‘(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

‘(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or

‘(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

‘(c) TRANSFER OF FUNDS.—

‘(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

‘(A) to be used for alcohol-impaired driving countermeasures; or

‘(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

‘(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

‘(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

‘(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

‘(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from 1 or more of the following:

‘(A) The apportionment of the State under section 104(b)(1).

‘(B) The apportionment of the State under section 104(b)(3).

‘(C) The apportionment of the State under section 104(b)(4).

‘(6) TRANSFER OF OBLIGATION AUTHORITY.—

‘(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

‘(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

‘(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

‘(ii) the ratio that—

‘(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

‘(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

‘(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.’.

“(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 153 the following:

‘154. Open container requirements.’.

“SEC. 1406. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

“(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

‘§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

‘(a) DEFINITIONS.—In this section, the following definitions apply:

‘(1) ALCOHOL CONCENTRATION.—The term “alcohol concentration” means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

‘(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms “driving while intoxicated” and “driving under the influence” mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

‘(3) LICENSE SUSPENSION.—The term “license suspension” means the suspension of all driving privileges.

‘(4) MOTOR VEHICLE.—The term “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

‘(5) REPEAT INTOXICATED DRIVER LAW.—The term “repeat intoxicated driver law” means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

‘(A) receive a driver's license suspension for not less than 1 year;

‘(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;

‘(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

‘(D) receive—

‘(i) in the case of the second offense—

‘(I) an assignment of not less than 30 days of community service; or

‘(II) not less than 5 days of imprisonment; and

‘(ii) in the case of the third or subsequent offense—

‘(I) an assignment of not less than 60 days of community service; or

‘(II) not less than 10 days of imprisonment.

‘(b) TRANSFER OF FUNDS.—

‘(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

‘(A) to be used for alcohol-impaired driving countermeasures; or

‘(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

‘(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

'(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

'(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

'(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from 1 or more of the following:

'(A) The apportionment of the State under section 104(b)(1).

'(B) The apportionment of the State under section 104(b)(3).

'(C) The apportionment of the State under section 104(b)(4).

'(6) TRANSFER OF OBLIGATION AUTHORITY.—

'(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

'(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

'(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

'(ii) the ratio that—

'(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

'(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

'(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.'.

"(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following:

'164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.'.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1403 the following:

"Sec. 1404. Safety incentives to prevent operation of motor vehicles by intoxicated persons.

"Sec. 1405. Open container laws.

"Sec. 1406. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

(c) ROADSIDE SAFETY TECHNOLOGIES.—Section 1402(a)(2) of such Act is amended by striking "directive" and inserting "redirective".

SEC. 706. ELIMINATION OF DUPLICATE PROVISIONS.

(a) SAN MATEO COUNTY, CALIFORNIA.—Section 1113 of the Transportation Equity Act for the 21st Century is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (c) as subsection (d).

(b) VALUE PRICING PILOT PROGRAM.—Section 1216(a) of such Act is amended by adding at the end the following:

"(8) CONFORMING AMENDMENTS.—

"(A) Section 1012(b)(6) of such Act (as amended by paragraph (5) of this subsection) is amended by striking '146(c)' and inserting '102(a)'.

"(B) Section 1012(b)(8) of such Act (as added by paragraph (7) of this subsection) is amended—

"(i) in subparagraph (C) by striking 'under this subsection' and inserting 'to carry out this subsection';

"(ii) in subparagraph (D)—

"(I) by striking 'under this paragraph' and inserting 'to carry out this subsection'; and

"(II) by striking 'by this paragraph' and inserting 'to carry out this subsection';

"(iii) by striking subparagraph (A); and

"(iv) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.".

(c) NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.—Section 1214(e) of such Act is amended to read as follows:

"(e) MINNESOTA TRANSPORTATION HISTORY NETWORK.—

"(1) IN GENERAL.—The Secretary shall award a grant to the Minnesota Historical Society for the establishment of the Minnesota Transportation History Network to include major exhibits, interpretive programs at national historic landmark sites, and outreach programs with county and local historical organizations.

"(2) COORDINATION.—In carrying out subsection (a), the Secretary shall coordinate with officials of the Minnesota Historical Society.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $1,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.

"(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.".

(d) ENTRANCE PAVING AT NINIGRET NATIONAL WILDLIFE REFUGE.—Section 1214(i) of such Act is amended by striking "$750,000" each place it appears and inserting "$75,000".

SEC. 707. HIGHWAY FINANCE.

(a) IN GENERAL.—Section 1503 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(c) TECHNICAL AMENDMENTS.—Section 188 of title 23, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (a)(2) by striking '1998' and inserting '1999'; and

"(2) in subsection (c)—

"(A) by striking '1998' and inserting '1999'; and

"(B) by striking the table and inserting the following:

'Fiscal year:	**Maximum amount of credit:**
1999	$1,600,000,000
2000	$1,800,000,000
2001	$2,200,000,000
2002	$2,400,000,000
2003	$2,600,000,000.'.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in the item relating to section 1119 by striking "and safety"; and

(2) by striking the items relating to subtitle E of title I and inserting the following:

"Subtitle E—Finance

"CHAPTER 1—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

"Sec. 1501. Short title.
"Sec. 1502. Findings.
"Sec. 1503. Establishment of program.
"Sec. 1504. Duties of the Secretary.

"CHAPTER 2—STATE INFRASTRUCTURE BANK PILOT PROGRAM

"Sec. 1511. State infrastructure bank pilot program.".

SEC. 708. HIGH PRIORITY PROJECTS TECHNICAL CORRECTIONS.

The table contained in section 1602 of the Transportation Equity Act for the 21st Century is amended—

(1) in item 1 by striking "1.275" and inserting "1.7";

(2) in item 82 by striking "30.675" and inserting "32.4";

(3) in item 107 by striking "1.125" and inserting "1.44";

(4) in item 121 by striking "10.5" and inserting "5.0";

(5) in item 140 by inserting "-VFHS Center" after "Park";

(6) in item 151 by striking "5.666" and inserting "8.666";

(7) in item 164—

(A) by inserting ", and $3,000,000 for the period of fiscal years 1998 and 1999 shall be made available to carry out section 1217(j)" after "Pennsylvania"; and

(B) by striking "25" and inserting "24.78";

(8) by striking item 166 and inserting the following:

"166.	Michigan	Improve Tenth Street, Port Huron	1.8";

(9) by striking item 242 and inserting the following:

"242.	Minnesota	Construct Third Street North, CSAH 81, Waite Park and St. Cloud	1.0";

(10) by striking item 250 and inserting the following:

"250.	Indiana	Reconstruct Old Merridan Corridor from Pennsylvania Avenue to Gilford Road	1.35";

(11) in item 255 by striking "2.25" and inserting "3.0";

(12) in item 263 by striking "Upgrade Highway 99 between State Highway 70 and Lincoln Road, Sutter County" and inserting "Upgrade Highway 99, Sutter County";

(13) in item 288 by striking "3.75" and inserting "5.0";

(14) in item 290 by striking "3.5" and inserting "3.0";

(15) in item 345 by striking "8" and inserting "19.4";

(16) in item 418 by striking "2" and inserting "2.5";

(17) in item 421 by striking "11" and inserting "6";

(18) in item 508 by striking "1.8" and inserting "2.4";

(19) by striking item 525 and inserting the following:

"525.	Alaska	Construct Bradfield Canal Road	1";

(20) in item 540 by striking "1.5" and inserting "2.0";

(21) in item 576 by striking "0.52275" and inserting "0.69275";

(22) in item 588 by striking "2.5" and inserting "3.0";

(23) in item 591 by striking "10" and inserting "5";

(24) in item 635 by striking "1.875" and inserting "2.15";

(25) in item 669 by striking "3" and inserting "3.5";

(26) in item 702 by striking "10.5" and inserting "10";

(27) in item 746 by inserting ", and for the purchase of the Block House in Scott County, Virginia" after "Forest";

(28) in item 755 by striking "1.125" and inserting "1.5";

(29) in item 769 by striking "Construct new I–95 interchange with Highway 99W, Tehama County" and inserting "Construct new I–5 interchange with Highway 99W, Tehama County";

(30) in item 770 by striking "1.35" and inserting "1.0";

(31) in item 789 by striking "2.0625" and inserting "1.0";

(32) in item 803 by striking "Tomahark" and inserting "Tomahawk";

(33) in item 836 by striking "Construct" and all that follows through "for" and inserting "To the National Park Service for construction of the";

(34) in item 854 by striking "0.75" and inserting "1";

(35) in item 863 by striking "9" and inserting "4.75";

(36) in item 887 by striking "0.75" and inserting "3.21";

(37) in item 891 by striking "19.5" and inserting "25.0";

(38) in item 902 by striking "10.5" and inserting "14.0";

(39) by striking item 1065 and inserting the following:

"1065.	Texas	Construct a 4-lane divided highway on Artcraft Road from I–10 to Route 375 in El Paso	5";

(40) in item 1192 by striking "24.97725" and inserting "24.55725";

(41) in item 1200 by striking "Upgrade (all weather) on U.S. 2, U.S. 41, and M 35" and inserting "Upgrade (all weather) on Delta County's reroute of U.S. 2, U.S. 41, and M 35";

(42) in item 1245 by striking "3" and inserting "3.5";

(43) in item 1271 by striking "Spur" and all that follows through "U.S. 59" and inserting "rail-grade separations (Rosenberg Bypass) at U.S. 59(S)";

(44) in item 1278 by striking "28.18" and inserting "22.0";

(45) in item 1288 by inserting "30" after "U.S.";

(46) in item 1338 by striking "5.5" and inserting "3.5";

(47) in item 1383 by striking "0.525" and inserting "0.35";

(48) in item 1395 by striking "Construct" and all that follows through "Road" and inserting "Upgrade Route 219 between Meyersdale and Somerset";

(49) in item 1468 by striking "Reconstruct" and all that follows through "U.S. 23" and inserting "Conduct engineering and design and improve I–94 in Calhoun and Jackson Counties";

(50) in item 1474—

(A) by striking "in Euclid" and inserting "and London Road in Cleveland"; and

(B) by striking "3.75" and inserting "8.0";

(51) in item 1535 by striking "Stanford" and inserting "Stamford";

(52) in item 1538 by striking "and Winchester" and inserting ", Winchester, and Torrington";

(53) by striking item 1546 and inserting the following:

"1546.	Michigan	Construct Bridge-to-Bay bike path, St. Clair County	0.450";

(54) by striking item 1549 and inserting the following:

"1549.	New York	Center for Advanced Simulation and Technology, at Dowling College	0.6";

(55) in item 1663 by striking "26.5" and inserting "27.5";

(56) in item 1703 by striking "I–80" and inserting "I–180";

(57) in item 1726 by striking "I–179" and inserting "I–79";

(58) by striking item 1770 and inserting the following:

"1770.	Virginia	Operate and conduct research on the 'Smart Road' in Blacksburg	6.025";

(59) in item 1810 by striking "Construct Rio Rancho Highway" and inserting "Northwest Albuquerque/Rio Rancho high priority roads";

(60) in item 1815 by striking "High" and all that follows through "projects" and inserting "Highway and bridge projects that Delaware provides for by law";

(61) in item 1844 by striking "Prepare" and inserting "Repair";

(62) by striking item 1850 and inserting the following:

"1850.	Missouri	Resurface and maintain roads located in Missouri State parks	5";

(63) in item 661 by striking "SR 800" and inserting "SR 78";

(64) in item 1704 by inserting ", Pittsburgh," after "Road"; and

(65) in item 1710 by inserting ", Bethlehem" after "site".

SEC. 709. FEDERAL TRANSIT ADMINISTRATION PROGRAMS.

(a) DEFINITIONS.—Section 3003 of the Federal Transit Act of 1998 is amended—

(1) by inserting "(a) IN GENERAL.—" before "Section 5302"; and

(2) by adding at the end the following:

"(b) CONFORMING AMENDMENTS.—Section 5302 (as amended by subsection (a) of this section) is amended in subsection (a)(1)(G)(i) by striking 'daycare and' and inserting 'daycare or'.".

(b) METROPOLITAN PLANNING.—Section 3004 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking subparagraph (A) and inserting the following:

"(A) by striking 'general local government representing' and inserting 'general purpose local government that together represent'; and";

(B) in paragraph (3) by striking "and" at the end;

(C) in paragraph (4) by striking subparagraph (A) and inserting the following:

"(A) by striking 'general local government representing' and inserting 'general purpose local government that together represent'; and";

(D) by redesignating paragraph (4) as paragraph (5); and

(E) by inserting after paragraph (3) the following:

"(3) in paragraph (4)(A) by striking '(3)' and inserting '(5)'; and";

(2) in subsection (d) by striking the closing quotation marks and the final period at the end and inserting the following:

'(5) COORDINATION.—If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

'(6) LAKE TAHOE REGION.—

'(A) DEFINITION.—In this paragraph, the term "Lake Tahoe region" has the meaning given the term "region" in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

'(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

'(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

'(ii) coordinate the transportation planning process with the planning process required of State and local governments under this chapter and sections 134 and 135 of title 23.

'(C) INTERSTATE COMPACT.—

'(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

'(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

'(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

'(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of this chapter and under title 23, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

'(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

'(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

'(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.'."; and

(3) by adding at the end the following:

"(f) TECHNICAL ADJUSTMENTS.—Section 5303(f) is amended—

"(1) in paragraph (1) (as amended by subsection (e)(1) of this subsection)—

"(A) in subparagraph (C) by striking 'and' at the end;

"(B) in subparagraph (D) by striking the period at the end and inserting '; and';

"(C) by adding at the end the following:

'(E) the financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range plan if reasonable additional resources beyond those identified in the financial plan were available, except that, for the purpose of developing the long-range plan, the metropolitan planning organization and the State shall cooperatively develop estimates of funds that will be available to support plan implementation.'; and

"(2) by adding at the end the following:

'(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (1)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (1)(B).'.".

(c) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 3005 of the Federal Transit Act of 1998 is amended—

(1) in the section heading by inserting "**metropolitan**" before "**transportation**"; and

(2) by adding at the end the following:

"(d) TECHNICAL ADJUSTMENTS.—Section 5304 is amended—

"(1) in subsection (a) (as amended by subsection (a) of this section)—

"(A) by striking 'In cooperation with' and inserting the following:

'(1) IN GENERAL.—In cooperation with'; and

"(B) by adding at the end the following:

'(2) FUNDING ESTIMATE.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.';

"(2) in subsection (b)(2)—

"(A) in subparagraph (B) by striking 'and' at the end; and

"(B) in subparagraph (C) (as added by subsection (b) of this section) by striking 'strategies which may include' and inserting the following: 'strategies; and

'(D) may include'; and

"(3) in subsection (c) by striking paragraph (4) (as amended by subsection (c) of this section) and inserting the following:

'(4) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

'(A) IN GENERAL.—Notwithstanding subsection (b)(2)(D), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(D).

'(B) ACTION BY SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the plan under subsection (b)(2) for inclusion in an approved transportation improvement plan.'.".

(d) TRANSPORTATION MANAGEMENT AREAS.—Section 3006(d) of the Federal Transit Act of 1998 is amended to read as follows:

"(d) PROJECT SELECTION.—Section 5305(d)(1) is amended to read as follows: '(1)(A) All federally funded projects carried out within the boundaries of a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge and interstate maintenance program) or under this chapter shall be selected from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

'(B) Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the interstate maintenance program shall be selected from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.'.".

(e) URBANIZED AREA FORMULA GRANTS.—Section 3007 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(h) TECHNICAL ADJUSTMENTS.—

"(1) GENERAL AUTHORITY.—Section 5307(b) (as amended by subsection (c)(1)(B) of this section) is amended by adding at the end the following: 'The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.'.

"(2) REPORT.—Section 5307(k)(3) (as amended by subsection (f) of this section) is amended by inserting 'preceding' before 'fiscal year'.".

(f) CLEAN FUELS FORMULA GRANT PROGRAM.—Section 3008 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 5308(e)(2) (as added by subsection (a) of this section) is amended by striking '$50,000,000' and inserting '35 percent'.".

(g) CAPITAL INVESTMENT GRANTS AND LOANS.—Section 3009 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(k) TECHNICAL ADJUSTMENTS.—

"(1) CRITERIA.—Section 5309(e) (as amended by subsection (e) of this section) is amended—

"(A) in paragraph (3)(C) by striking 'urban' and inserting 'suburban';

"(B) in the second sentence of paragraph (6) by striking 'or not' and all that follows through ', based' and inserting 'or "not recommended", based'; and

"(C) in the last sentence of paragraph (6) by inserting 'of the' before 'criteria established'.

"(2) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—Section 5309(g) (as amended by subsection (f) of this section) is amended in paragraph (4) by striking '5338(a)' and all that follows through '2003' and inserting '5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems'.

"(3) ALLOCATING AMOUNTS.—Section 5309(m) (as amended by subsection (g) of this section) is amended—

"(A) in paragraph (1) by inserting '(b)' after '5338';

"(B) by striking paragraph (2) and inserting the following:

'(2) NEW FIXED GUIDEWAY GRANTS.—

'(A) LIMITATION ON AMOUNTS AVAILABLE FOR ACTIVITIES OTHER THAN FINAL DESIGN AND CONSTRUCTION.—Not more than 8 percent of the amounts made available in each fiscal year by paragraph (1)(B) shall be available for activities other than final design and construction.

'(B) FUNDING FOR FERRY BOAT SYSTEMS.—

'(i) AMOUNTS UNDER (1)(B).—Of the amounts made available under paragraph (1)(B), $10,400,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

'(ii) AMOUNTS UNDER 5338(H)(5).—Of the amounts appropriated under section 5338(h)(5), $3,600,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.';

"(C) by redesignating paragraph (4) as paragraph (3)(C);

"(D) in paragraph (3) by adding at the end the following:

'(D) OTHER THAN URBANIZED AREAS.—Of amounts made available by paragraph (1)(C), not less than 5.5 percent shall be available in each fiscal year for other than urbanized areas.';

"(E) by striking paragraph (5); and

"(F) by inserting after paragraph (3) the following:

'(4) ELIGIBILITY FOR ASSISTANCE FOR MULTIPLE PROJECTS.—A person applying for or receiving assistance for a project described in subparagraph (A), (B), or (C) of paragraph (1) may receive assistance for a project described in any other of such subparagraphs.'.".

(h) REFERENCES TO FULL FUNDING GRANT AGREEMENTS.—Section 3009(h)(3) of the Federal Transit Act of 1998 is amended—

(1) by striking "and" at the end of subparagraph (A)(ii);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following:

"(C) in section 5328(a)(4) by striking 'section 5309(m)(2) of this title' and inserting '5309(o)(1)'; and

"(D) in section 5309(n)(2) by striking 'in a way' and inserting 'in a manner'.".

(i) DOLLAR VALUE OF MOBILITY IMPROVEMENTS.—Section 3010(b)(2) of the Federal Transit Act of 1998 is amended by striking "Secretary" and inserting "Comptroller General".

(j) INTELLIGENT TRANSPORTATION SYSTEM APPLICATIONS.—Section 3012 of the Federal Transit Act of 1998 is amended by moving paragraph (3) of subsection (a) to the end of subsection (b) and by redesignating such paragraph (3) as paragraph (4).

(k) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c)(2) by adding at the end the following: "Financial assistance made available under this subsection and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code."; and

(2) by adding at the end the following:

"(d) TRAINING AND CURRICULUM DEVELOPMENT.—

"(1) IN GENERAL.—Any funds made available by section 5338(e)(2)(C)(iii) of title 49, United States Code, shall be available in equal amounts for transportation research, training, and curriculum development at institutions identified in subparagraphs (E) and (F) of section 5505(j)(3) of such title.

"(2) SPECIAL RULE.—If the institutions identified in paragraph (1) are selected pursuant to 5505(i)(3)(B) of such title in fiscal year 2002 or 2003, the funds made available to carry out this subsection shall be available to those institutions to carry out the activities required pursuant to section 5505(i)(3)(B) of such title for that fiscal year.".

(l) NATIONAL TRANSIT INSTITUTE.—Section 3017(a) of the Federal Transit Act of 1998 is amended to read as follows:

"(a) IN GENERAL.—Section 5315 is amended—

"(1) in the section heading by striking '**MASS TRANSPORTATION** and inserting '**TRANSIT**';

"(2) in subsection (a)—

"(A) by striking 'mass transportation' in the first sentence and inserting 'transit';

"(B) in paragraph (5) by inserting 'and architectural design' before the semicolon at the end;

"(C) in paragraph (7) by striking 'carrying out' and inserting 'delivering';

"(D) in paragraph (11) by inserting ', construction management, insurance, and risk management' before the semicolon at the end;

"(E) in paragraph (13) by striking 'and' at the end;

"(F) in paragraph (14) by striking the period at the end and inserting a semicolon; and

"(G) by adding at the end the following:

'(15) innovative finance; and

'(16) workplace safety.'.".

(m) PILOT PROGRAM.—Section 3021(a) of the Federal Transit Act of 1998 is amended by inserting "single-State" before "pilot program".

(n) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—Section 3022 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(b) CONFORMING AMENDMENT.—Section 5325(b) (as redesignated by subsection (a)(2) of this section) is amended—

"(1) by inserting 'or requirement' after 'A contract'; and

"(2) by inserting before the last sentence the following: 'When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23.'.".

(o) CONFORMING AMENDMENT.—Section 3027 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c) by striking "600,000" each place it appears and inserting "900,000"; and

(2) by adding at the end the following:

"(d) CONFORMING AMENDMENT.—The item relating to section 5336 in the table of sections for chapter 53 is amended by striking 'block grants' and inserting 'formula grants'.".

(p) APPORTIONMENT FOR FIXED GUIDEWAY MODERNIZATION.—Section 3028 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) CONFORMING AMENDMENTS.—Section 5337(a) (as amended by subsection (a) of this section) is amended—

"(1) in paragraph (2)(B) by striking '(e)' and inserting '(e)(1)';

"(2) in paragraph (3)(D)—

"(A) by striking '(ii)'; and

"(B) by striking '(e)' and inserting '(e)(1)';

"(3) in paragraph (4) by striking '(e)' and inserting '(e)(1)';

"(4) in paragraph (5)(A) by striking '(e)' and inserting '(e)(2)';

"(5) in paragraph (5)(B) by striking '(e)' and inserting '(e)(2)';

"(6) in paragraph (6) by striking '(e)' each place it appears and inserting '(e)(2)'; and

"(7) in paragraph (7) by striking '(e)' each place it appears and inserting '(e)(2)'.".

(q) AUTHORIZATIONS.—Section 3029 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 5338 (as amended by subsection (a) of this section) is amended—

"(1) in subsection (c)(2)(A)(i) by striking '$43,200,000' and inserting '$42,200,000';

"(2) in subsection (c)(2)(A)(ii) by striking '$46,400,000' and inserting '$48,400,000';

"(3) in subsection (c)(2)(A)(iii) by striking '$51,200,000' and inserting '$50,200,000';

"(4) in subsection (c)(2)(A)(iv) by striking '$52,800,000' and inserting '$53,800,000';

"(5) in subsection (c)(2)(A)(v) by striking '$57,600,000' and inserting '$58,600,000';

"(6) in subsection (d)(2)(C)(iii) by inserting before the semicolon ', including not more than $1,000,000 shall be available to carry out section 5315(a)(16)';

"(7) in subsection (e)—

"(A) by striking '5317(b)' each place it appears and inserting '5505';

"(B) in paragraph (1) by striking 'There are' and inserting 'Subject to paragraph (2)(C), there are';

"(C) in paragraph (2)—

"(i) in subparagraph (A) by striking 'There shall' and inserting 'Subject to subparagraph (C), there shall';

"(ii) in subparagraph (B) by striking 'In addition' and inserting 'Subject to subparagraph (C), in addition'; and

"(iii) by adding at the end the following:

'(C) FUNDING OF CENTERS.—

'(i) Of the amounts made available under subparagraph (A) and paragraph (1) for each fiscal year—

'(I) $2,000,000 shall be available for the center identified in section 5505(j)(4)(A); and

'(II) $2,000,000 shall be available for the center identified in section 5505(j)(4)(F).

'(ii) For each of fiscal years 1998 through 2001, of the amounts made available under this paragraph and paragraph (1)—

'(I) $400,000 shall be available from amounts made available under subparagraph (A) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3); and

'(II) $350,000 shall be available from amounts made available under subparagraph (B) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3).

'(iii) Any amounts made available under this paragraph or paragraph (1) for any fiscal year that remain after distribution under clauses (i) and (ii), shall be available for the purposes identified in section 3015(d) of the Federal Transit Act of 1998.'; and

"(D) by adding at the end the following:

'(3) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.';

"(8) in subsection (g)(2) by striking '(c)(2)(B),' and all that follows through '(f)(2)(B),' and inserting '(c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B),';

"(9) in subsection (h) by inserting 'under the Transportation Discretionary Spending Guarantee for the Mass Transit Category' after 'through (f)'; and

"(10) in subsection (h)(5) by striking subparagraphs (A) through (E) and inserting the following:

'(A) for fiscal year 1999 $400,000,000;

'(B) for fiscal year 2000 $410,000,000;

'(C) for fiscal year 2001 $420,000,000;

'(D) for fiscal year 2002 $430,000,000; and

'(E) for fiscal year 2003 $430,000,000;'.".

(r) PROJECTS FOR FIXED GUIDEWAY SYSTEMS.—Section 3030 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)—

(A) in paragraph (8) by inserting "North-" before "South";

(B) in paragraph (42) by striking "Maryland" and inserting "Baltimore";

(C) in paragraph (103) by striking "busway" and inserting "Boulevard transitway";

(D) in paragraph (106) by inserting "CTA" before "Douglas";

(E) by striking paragraph (108) and inserting the following:

"(108) Greater Albuquerque Mass Transit Project."; and

(F) by adding at the end the following:

"(109) Hartford City Light Rail Connection to Central Business District.

"(110) Providence-Boston Commuter Rail.

"(111) New York-St. George's Ferry Intermodal Terminal.

"(112) New York-Midtown West Ferry Terminal.

"(113) Pinellas County-Mobility Initiative Project.

"(114) Atlanta-MARTA Extension (S. De Kalb-Lindbergh).";

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

"(2) Sioux City-Light Rail.";

(B) by striking paragraph (40) and inserting the following:

"(40) Santa Fe-El Dorado Rail Link.";

(C) by striking paragraph (44) and inserting the following:

"(44) Albuquerque-High Capacity Corridor.";

(D) by striking paragraph (53) and inserting the following:

"(53) San Jacinto-Branch Line (Riverside County)."; and

(E) by adding at the end the following:

"(69) Chicágo-Northwest Rail Transit Corridor.

"(70) Vermont-Burlington-Essex Commuter Rail."; and

(3) in subsection (c)—

(A) in paragraph (1)(A)—

(i) in the matter preceding clause (i) by inserting "(even if the project is not listed in subsection (a) or (b))" before the colon;

(ii) by striking clause (ii) and inserting the following:

"(ii) San Diego Mission Valley and Mid-Coast Corridor, $325,000,000.";

(iii) by striking clause (v) and inserting the following:

"(v) Hartford City Light Rail Connection to Central Business District, $33,000,000.";

(iv) by striking clause (xxiii) and inserting the following:

"(xxiii) Kansas City-I-35 Commuter Rail, $30,000,000.";

(v) in clause (xxxii) by striking "Whitehall Ferry Terminal" and inserting "Staten Island Ferry-Whitehall Intermodal Terminal";

(vi) by striking clause (xxxv) and inserting the following:

"(xxxv) New York-Midtown West Ferry Terminal, $16,300,000.";

(vii) in clause (xxxix) by striking "Allegheny County" and inserting "Pittsburgh";

(viii) by striking clause (xvi) and inserting the following:

"(xvi) Northeast Indianapolis Corridor, $10,000,000.";

(ix) by striking clause (xxix) and inserting the following:

"(xxix) Greater Albuquerque Mass Transit Project, $90,000,000.";

(x) by striking clause (xliii) and inserting the following:

"(xliii) Providence-Boston Commuter Rail, $10,000,000.";

(xi) by striking clause (xlix) and inserting the following:

"(xlix) SEATAC-Personal Rapid Transit, $40,000,000."; and

(xii) by striking clause (li) and inserting the following:

"(li) Dallas-Ft. Worth RAILTRAN (Phase-II), $12,000,000.";

(B) by striking the heading for subsection (c)(2) and inserting "ADDITIONAL AMOUNTS"; and

(C) in paragraph (3) by inserting after the first sentence the following: "The project shall also be exempted from all requirements relating to criteria for grants and loans for fixed guideway systems under section 5309(e) of such title and from regulations required under that section.".

(s) NEW JERSEY URBAN CORE PROJECT.—Section 3030(e) of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(4) TECHNICAL ADJUSTMENT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (as amended by paragraph (3)(B) of this subsection) is amended—

"(A) by striking 'of the West Shore Line' and inserting 'or the West Shore Line'; and

"(B) by striking 'directly connected to' and all that follows through 'Newark International Airport' the first place it appears.".

(t) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS.—Section 3030 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(h) TECHNICAL ADJUSTMENT.—Section 3035(nn) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2134) (as amended by subsection (g)(1)(C) of this section) is amended by inserting after 'expenditure of' the following: 'section 5309 funds to the aggregate expenditure of'.".

(u) BUS PROJECTS.—Section 3031 of the Federal Transit Act of 1998 is amended—

(1) in the table contained in subsection (a)—

(A) by striking item 64;

(B) in item 69 by striking "Rensslear" each place it appears and inserting "Rensselaer";

(C) in item 103 by striking "facilities and"; and

(D) by striking item 150;

(2) by striking the heading for subsection (b) and inserting "ADDITIONAL AMOUNTS";

(3) in subsection (b) by inserting after "2000" the first place it appears "with funds made available under section 5338(h)(6) of such title"; and

(4) in item 2 of the table contained in subsection (b) by striking "Rensslear" each place it appears and inserting "Rensselaer".

(v) CONTRACTING OUT STUDY.—Section 3032 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a) by striking "3" and inserting "6";

(2) in subsection (d) by striking "the Mass Transit Account of the Highway Trust Fund" and inserting "funds made available under section 5338(f)(2) of title 49, United States Code,";

(3) in subsection (d) by striking "1998" and inserting "1999"; and

(4) in subsection (e) by striking "subsection (c)" and inserting "subsection (d)".

(w) JOB ACCESS AND REVERSE COMMUTE GRANTS.—Section 3037 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)(4)(A)—

(A) by inserting "designated recipients under section 5307(a)(2) of title 49, United States Code," after "from among"; and

(B) by inserting a comma after "and agencies";

(2) in subsection (b)(4)(B)—

(A) by striking "at least" and inserting "less than";

(B) by inserting "designated recipients under section 5307(a)(2) of title 49, United States Code," after "from among"; and

(C) by inserting "and agencies," after "authorities";

(3) in subsection (f)(2)—

(A) by striking "(including bicycling)"; and

(B) by inserting "(including bicycling)" after "additional services";

(4) in subsection (h)(2)(B) by striking "403(a)(5)(C)(ii)" and inserting "403(a)(5)(C)(vi)";

(5) in the heading for subsection (l)(1)(C) by striking "FROM THE GENERAL FUND";

(6) in subsection (l)(1)(C) by inserting "under the Transportation Discretionary Spending Guarantee for the Mass Transit Category" after "(B)"; and

(7) in subsection (l)(3)(B) by striking "at least" and inserting "less than".

(x) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)(1)(A) by inserting before the semicolon "or connecting 1 or more rural communities with an urban area not in close proximity";

(2) in subsection (g)(1)—

(A) by inserting "over-the-road buses used substantially or exclusively in" after "operators of"; and

(B) by inserting at the end the following: "Such sums shall remain available until expended."; and

(3) in subsection (g)(2)—

(A) by striking "each of"; and

(B) by adding at the end the following: "Such sums shall remain available until expended.".

(y) STUDY OF TRANSIT NEEDS IN NATIONAL PARKS AND RELATED PUBLIC LANDS.—Section 3039(b) of the Federal Transit Act of 1998 is amended—

(1) in paragraph (1) by striking "in order to carry" and inserting "assist in carrying"; and

(2) by adding at the end the following:

"(3) DEFINITION.—For purposes of this subsection, the term 'Federal land management agencies' means the National Park Service, the United States Fish and Wildlife Service, and the Bureau of Land Management.".

(z) OBLIGATION CEILING.—Section 3040 of the Federal Transit Act of 1998 is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) $5,797,000,000 in fiscal year 2000;"; and

(2) in paragraph (4) by striking "$6,746,000,000" and inserting "$6,747,000,000".

SEC. 710. MOTOR CARRIER SAFETY TECHNICAL CORRECTION.

Section 4011 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(h) Technical Amendments.—Section 31314 (as amended by subsection (g) of this section) is amended—

"(1) in subsections (a) and (b) by striking '(3), and (5)' each place it appears and inserting '(3), and (4)'; and

"(2) by striking subsection (d).".

SEC. 711. RESTORATIONS TO RESEARCH TITLE.

(a) University Transportation Research Funding.—Section 5001(a)(7) of the Transportation Equity Act for the 21st Century is amended—

(1) by striking "$31,150,000" each place it appears and inserting "$25,650,000";

(2) by striking "$32,750,000" each place it appears and inserting "$27,250,000"; and

(3) by striking "$32,000,000" each place it appears and inserting "$26,500,000".

(b) Obligation Ceiling.—Section 5002 of such Act is amended by striking "$403,150,000" and all that follows through "$468,000,000" and inserting "$397,650,000 for fiscal year 1998, $403,650,000 for fiscal year 1999, $422,450,000 for fiscal year 2000, $437,250,000 for fiscal year 2001, $447,500,000 for fiscal year 2002, and $462,500,000".

(c) Use of Funds for ITS.—Section 5210 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(d) Use of Innovative Financing.—

"(1) In general.—The Secretary may use up to 25 percent of the funds made available to carry out this subtitle to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this subtitle and that have significant intelligent transportation system elements.

"(2) Consistency with other law.—Credit assistance described in paragraph (1) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1998.".

(d) University Transportation Research.—Section 5110 of such Act is amended by adding at the end the following:

"(d) Technical Adjustments.—Section 5505 of title 49, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (g)(2) by striking 'section 5506,' and inserting 'section 508 of title 23, United States Code,';

"(2) in subsection (i)—

"(A) by inserting 'Subject to section 5338(e):' after '(1) Number and Amount of Grants.—'; and

"(B) by striking 'institutions' each place it appears and inserting 'institutions or groups of institutions'; and

"(3) in subsection (j)(4)(B) by striking 'on behalf of' and all that follows before the period and inserting 'on behalf of a consortium which may also include West Virginia University Institute of Technology, the College of West Virginia, and Bluefield State College'.".

(e) Technical Corrections.—Section 5115 of such Act is amended—

(1) in subsection (a) by striking "Director" and inserting "Director of the Bureau of Transportation Statistics";

(2) in subsection (b) by striking "Bureau" and inserting "Bureau of Transportation Statistics,"; and

(3) in subsection (c) by striking "paragraph (1)" and inserting "subsection (a)".

(f) Corrections to Certain Oklahoma Projects.—Section 5116 of such Act is amended—

(1) in subsection (e)(2) by striking "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001" and inserting "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002"; and

(2) in subsection (f)(2) by striking "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002" and inserting "$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001".

(g) Intelligent Transportation Infrastructure Reference.—Section 5117(b)(3)(B)(ii) of such Act is amended by striking "local departments of transportation" and inserting "the Department of Transportation".

(h) Fundamental Properties of Asphalts and Modified Asphalts.—Section 5117(b)(5)(B) of such Act is amended—

(1) by striking "1999" and inserting "1998"; and

(2) by striking "$3,000,000 per fiscal year" and inserting "$1,000,000 for fiscal year 1998 and $3,000,000 for each of fiscal years 1999 through 2003".

SEC. 712. AUTOMOBILE SAFETY AND INFORMATION.

(a) Reference.—Section 7104 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(c) Conforming Amendment.—Section 30105(a) of title 49, United States Code (as amended by subsection (a) of this section), is amended by inserting after 'Secretary' the following: 'for the National Highway Traffic Safety Administration'.".

(b) Clean Vessel Act Funding.—Section 7403 of such Act is amended—

(1) by inserting "(a) In General.—" before "Section 4(b)"; and

(2) by adding at the end the following:

"(b) Technical Amendment.—Section 4(b)(3)(B) of the 1950 Act (as amended by subsection (a) of this section) is amended by striking '6404(d)' and inserting '7404(d)'.".

(c) Boating Infrastructure.—Section 7404(b) of such Act is amended by striking "6402" and inserting "7402".

SEC. 713. TECHNICAL CORRECTIONS REGARDING SUBTITLE A OF TITLE VIII.

(a) Amendment to Offsetting Adjustment for Discretionary Spending Limit.—Section 8101(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (1) by striking "$25,173,000,000" and inserting "$25,144,000,000"; and

(2) in paragraph (2) by striking "$26,045,000,000" and inserting "$26,009,000,000".

(b) Amendments for Highway Category.—Section 8101 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(f) Technical Amendments.—Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by subsection (c) of this Act) is amended—

"(1) by striking 'Century and' and inserting 'Century or';

"(2) by striking 'as amended by this section,' and inserting 'as amended by the Transportation Equity Act for the 21st Century,'; and

"(3) by adding at the end the following new flush sentence:

'Such term also refers to the Washington Metropolitan Transit Authority account (69-1128-0-1-401) only for fiscal year 1999 only for appropriations provided pursuant to authorizations contained in section 14 of Public Law 96–184 and Public Law 101–551.'.".

(c) Technical Amendment.—Section 8102 of the Transportation Equity Act for the 21st Century is amended by inserting before the period at the end the following: "or from section 1102 of this Act".

SEC. 714. REPEAL OF PROVISIONS RELATING TO VETERANS BENEFITS.

The Veterans Benefits Act of 1998 (subtitle B of title VIII of the Transportation Equity Act for 21st Century) is repealed and shall be treated as if not enacted.

SEC. 715. TECHNICAL CORRECTIONS REGARDING TITLE IX.

(a) Highway Trust Fund.—Subsection (f) of section 9002 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new paragraphs:

"(4) The last sentence of section 9503(c)(1), as amended by subsection (d), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(5) Paragraph (3) of section 9503(e), as amended by subsection (d), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.".

(b) Boat Safety Account and Sport Fish Restoration Account.—Section 9005 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new subsection:

"(f) Clerical Amendments.—

"(1) Subparagraph (A) of section 9504(b)(2), as amended by subsection (b)(1), is amended by striking 'the date of the enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(2) Subparagraph (B) of section 9504(b)(2), as added by subsection (b)(3), is amended by striking 'such Act' and inserting 'the TEA 21 Restoration Act'.

"(3) Subparagraph (C) of section 9504(b)(2), as amended by subsection (b)(2) and redesignated by subsection (b)(3), is amended by striking 'the date of the enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(4) Subsection (c) of section 9504, as amended by subsection (c)(2), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.".

SEC. 716. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect simultaneously with the enactment of the Transportation Equity Act for the 21st Century. For purposes of all Federal laws, the amendments made by this title shall be treated as being included in the Transportation Equity Act for the 21st Century at the time of the enactment of such Act, and the provisions of such Act (including the amendments made by such Act) (as in effect on the day before the date of enactment of this Act) that are amended by this title shall be treated as not being enacted.

HUTCHISON (AND BYRD) AMENDMENTS NOS. 2881–2882

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. Byrd) submitted two amendments intended to be proposed by them to the bill, S. 2057, supra; as follows:

Amendment No. 2881

At the end of division A of the bill, insert the following new title:

TITLE XIII—REDUCTION IN UNITED STATES GROUND FORCES IN BOSNIA AND HERZEGOVINA.

SEC. 1301. FINDINGS.

Congress finds the following:

(1) The United States Armed Forces in Bosnia and Herzegovina have accomplished the military mission assigned to them as a component of the Implementation Force.

(2) The continuing and open-ended commitment of United States ground forces in Bosnia and Herzegovina is subject to the oversight authority of Congress.

(3) Congress may limit the use of appropriated funds to create the conditions for an orderly and honorable drawdown of the United States Armed Forces from Bosnia and Herzegovina.

(4) On November 27, 1995, the President affirmed that United States participation in the multinational military Implementation Force in Bosnia and Herzegovina would terminate in about one year.

(5) The President declared the expiration date of the mandate for the Implementation Force to be December 20, 1996.

(6) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed confidence that the Implementation Force would complete its mission after approximately one year.

(7) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed the critical importance of establishing a firm deadline for termination of the mission of the United States forces, without which there would be a potential for expansion of the mission.

(8) On October 3, 1996, the Chairman of the Joint Chiefs of Staff announced the intention of the President to delay the removal of United States forces from Bosnia and Herzegovina until March 1997.

(9) In November 1996, the President announced his intention to further extend the deployment of United States forces in Bosnia and Herzegovina until June 1998.

(10) The President did not request authorization by the Congress of a policy that would result in the further deployment of the United States forces in Bosnia and Herzegovina until June 1998.

(11) Notwithstanding the lapse of two previously established deadlines, the reaffirmation of those deadlines by senior national security officials, and the endorsement by those same national security officials of the importance of having a deadline as a hedge against an expanded mission, the President announced on December 17, 1997, that establishing a deadline had been a mistake and that United States ground combat forces were committed to the NATO-led mission in Bosnia and Herzegovina for the indefinite future.

(12) NATO military forces have increased their participation in law enforcement, particularly police, activities in Bosnia and Herzegovina.

(13) Successive United States commanders of NATO forces have stated on several occasions that, in accordance with the Dayton Peace Agreement, the principal responsibility for such law enforcement and police activities lies with the Bosnian parties themselves.

SEC. 1302. PRESIDENTIAL REPORT TO CONGRESS.

(a) PRESIDENTIAL PLAN.—

(1) IN GENERAL.—Not later than February 2, 1999, the President shall submit to Congress a report containing a plan to reduce, by not later than February 2, 2000, the number of personnel in the United States ground force in Bosnia and Herzegovina so that the total number of such personnel equals the average number of personnel in the ground forces of Great Britain, Germany, France, and Italy in Bosnia and Herzegovina.

(2) CONTENTS OF PLAN.—The plan shall contain—

(A) a timetable for the drawdown of military personnel from Bosnia and Herzegovina;

(B) the level of ground forces that will remain there after the reduction of forces is completed; and

(C) a statement of the budget authority necessary—

(i) to implement the plan; and

(ii) to sustain operations in Bosnia and Herzegovina at the reduced level after the plan takes effect.

(b) ADDITIONAL CONTENTS OF THE REPORT.—In addition to the requirements of subsection (a), the report shall contain the following:

(1) BUDGET AUTHORITY.—A description of the means by which the budget authority will be provided, whether out of unobligated balances of current defense appropriations or through a request for an additional authorization of appropriations.

(2) ANALYSIS OF FORCE LEVELS.—An analysis of the number of additional military personnel that would be necessary—

(A) for protection of the withdrawing forces as the drawdown proceeds;

(B) to protect United States diplomatic facilities in Bosnia and Herzegovina on the date of the enactment of this Act;

(C) in a noncombatant role, to advise the commanders of the North Atlantic Treaty Organization peacekeeping operations in Bosnia and Herzegovina; and

(D) as part of NATO containment operations in regions adjacent to Bosnia and Herzegovina.

SEC. 1303. LIMITATION ON FUNDING.

(a) LIMITATION.—Effective 30 days after the report described in section 1302(a) is submitted, or is required to be submitted, whichever occurs first, funds available to the Department of Defense for fiscal year 2000 may not be obligated or expended to support a number of military personnel in the ground elements of the United States Armed Forces in Bosnia and Herzegovina in excess of the level specified in the report required by section 1302(a), if within the 30-day period, there is enacted, in accordance with section 1306, a joint resolution approving the plan contained in the report.

(b) EXPEDITED RESOLUTION.—For the purposes of subsection (a), the term "joint resolution" means only a joint resolution that sets forth as the matter after the resolving clause only the following: "That the President's plan contained in the report transmitted pursuant to section 1302 of the National Defense Authorization Act for Fiscal Year 1999 is approved.".

SEC. 1304. SUSPENSION OF DEADLINES UNDER THE DRAWDOWN TIMETABLE.

(a) IN GENERAL.—Except as provided in subsection (b), the President may suspend compliance with a deadline under the drawdown timetable established in a plan approved by Congress pursuant to section 1303, if the President determines and certifies to the chairmen and ranking members of the Committee on National Security and the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate that such suspension is necessary—

(1) for the security of the forces of the United States Armed Forces in Bosnia and Herzegovina; or

(2) in response to a military emergency requiring the involvement of United States forces in operations in Bosnia and Herzegovina.

(b) LIMITATION.—

(1) IN GENERAL.—A suspension under subsection (a) may not exceed 90 days unless there is enacted a joint resolution, in accordance with section 1306, authorizing the extension of the suspension.

(2) EXPEDITED RESOLUTION.—For purposes of paragraph (1), the term "joint resolution" means only a joint resolution the matter after the resolving clause of which is as follows: "That Congress authorizes the further suspension of compliance with a deadline under the drawdown timetable under section 1304 of the National Defense Authorization Act for Fiscal Year 1999".

SEC. 1305. LIMITATION ON SUPPORT FOR LAW ENFORCEMENT ACTIVITIES.

None of the funds available to the Department of Defense for any fiscal year may be obligated or expended on or after the date of the enactment of this Act for the—

(1) conduct of, or direct support for, law enforcement and police activities in Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life;

(2) conduct of, or support for, any activity in Bosnia and Herzegovina that may have the effect of jeopardizing the primary mission of the NATO-led force in preventing armed conflict between the Federation of Bosnia and Herzegovina and the Republika Srpska (hereinafter in this section referred to as the "Bosnian Entities");

(3) transfer of refugees within Bosnia and Herzegovina that, in the opinion of the commander of NATO forces involved in such transfer—

(A) has as one of its purposes the acquisition of control by one of the Bosnian Entities of territory allocated to the other of the Bosnian Entities under the Dayton Peace Agreement; or

(B) may expose forces of the United States Armed Forces to substantial risk of harm; and

(4) implementation of any decision to change the legal status of any territory within Bosnia and Herzegovina unless expressly agreed to by all signatories to the Dayton Peace Agreement.

SEC. 1306. PROCEDURES FOR JOINT RESOLUTION OF APPROVAL.

(a) REFERRAL OF RESOLUTIONS.—A resolution described in section 1303(b) or 1304(b) that is introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. A resolution described in section 1303(b) or 1304(b) that is introduced in the House of Representatives shall be referred to the Committee on National Security of the House of Representatives.

(b) DISCHARGE OF COMMITTEES.—If the committee to which is referred a resolution described in section 1303(b) or 1304(b) has not reported such resolution (or an identical resolution) at the end of 7 calendar days after its introduction, the committee shall be deemed to be discharged from further consideration of the resolution and the resolution shall be placed on the appropriate calendar of the House involved.

(c) MOTIONS TO PROCEED TO THE CONSIDERATION OF THE RESOLUTIONS.—Whenever the committee to which a resolution is referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in section 1303(b) or 1304(b), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain unfinished business of the respective House until disposed of.

(d) Time for Debate.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(e) Vote on Final Passage.—Immediately following the conclusion of the debate on a resolution described in section 1303(b) or 1304(b), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(f) Appeals.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in section 1303(b) or 1304(b) shall be decided without debate.

(g) Treatment of Other House's Resolution.—If, before the passage by one House of a resolution of that House described in section 1303(b) or 1304(b), that House receives from the other House a resolution described in section 1303(b) or 1304(b), then the following procedures shall apply:

(1) The resolution of the other House shall not be referred to a committee.

(2) With respect to a resolution described in section 1303(b) or 1304(b) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(h) Presidential Vetoes.—

(1) In general.—Upon receipt of a message from the President returning the joint resolution unsigned to the House of origin and setting further his objections to the joint resolution, the House receiving the message shall immediately enter the objections at large on the journal of that House and the House shall proceed to the immediate reconsideration of the joint resolution the objections of the President to the contrary notwithstanding or of a motion to proceed to the immediate reconsideration of the joint resolution, or the joint resolution and objections shall lie on the table. Upon receipt of a message of a House transmitting the joint resolution and the objections of the President, the House receiving the message shall proceed to the immediate reconsideration of the joint resolution the objections of the President to the contrary notwithstanding or of a motion to proceed to the immediate reconsideration of the joint resolution, or the joint resolution and objections shall lie on the table. A motion to refer the joint resolution to a committee shall not be in order in either House.

(2) Motion to proceed.—After the receipt of a message by a House as described in paragraph (1), it is at any time in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the reconsideration of the joint resolution the objections of the President to the contrary notwithstanding. The motion is highly privileged in the House of Representatives and is a question of highest privilege in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the reconsideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(3) Limit on debate.—Debate on reconsideration of the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to notwithstanding the objections of the President or disagreed is not in order.

(4) Vote to override veto.—Immediately following the conclusion of the debate on reconsideration of the resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on the question of passage, the objections of the President to the contrary notwithstanding, shall occur.

(i) Rules of the Senate and the House.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such as it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in section 1303(b) or 1304(b), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Amendment No. 2882

At the end of Sec. 1030(a), add the following subparagraph (7):

(7) A proposal that outlines the steps that would be necessary to reduce, by not later than February 2, 2000, the number of personnel in the United States ground force the Stabilization Force in Bosnia and Herzegovina so that the total number of such personnel equals the average number of personnel in the ground forces of Great Britain, Germany, France, and Italy in Bosnia and Herzegovina as of that date.

(A) The proposal shall contain—

(i) a timetable for the drawdown of military personnel from Bosnia and Herzegovina;

(ii) the level of ground forces that would remain there after the reduction of forces were completed; and

(iii) a statement of the budget authority that would be needed to implement the plan and sustain operations in Bosnia and Herzegovina at the reduced level.

(B) In addition, the proposal shall also contain a description of the means by which the budget authority would be provided, whether out of unobligated balances of current defense appropriations or through a request for an additional authorization of appropriations.

(C) Effective 30 days after this proposal is submitted, funds available to the Department of Defense for fiscal year 2000 may not be obligated or expended to support a number of military personnel in the ground elements of the United States Armed Forces in Bosnia and Herzegovina in excess of the level specified in the report.

SARBANES AMENDMENT NO. 2883

(Ordered to lie on the table.)

Mr. SARBANES submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 295, between lines 17 and 18, insert the following:

TITLE XIII—NATIONAL MILITARY MUSEUM FOUNDATION

SEC. 1301. ESTABLISHMENT OF NATIONAL MILITARY MUSEUM FOUNDATION.

There is established a nonprofit corporation to be known as the National Military Museum Foundation (in this title referred to as the "Foundation"). The Foundation is not an agency or instrumentality of the United States.

SEC. 1302. PURPOSES.

The Foundation shall have the following purposes:

(1) To encourage and facilitate the preservation of military artifacts having historical or technological significance.

(2) To promote innovative solutions to the problems associated with the preservation of such artifacts.

(3) To facilitate research on and educational activities relating to military history.

(4) To promote voluntary partnerships between the Federal Government and the private sector for the preservation of such artifacts and of military history.

(5) To facilitate the display of such artifacts for the education and benefit of the public.

(6) To develop publications and other interpretive materials pertinent to the historical collections of the Armed Forces that will supplement similar publications and materials available from public, private, and corporate sources.

(7) To provide financial support for educational, interpretive, and conservation programs of the Armed Forces relating to such artifacts.

(8) To broaden public understanding of the role of the military in United States history.

(9) To recognize and honor the individuals who have served in the Armed Forces of the United States.

SEC. 1303. BOARD OF DIRECTORS.

(a) Board of Directors.—(1) The Foundation shall have a Board of Directors (in this title referred to as the "Board") composed of nine individuals appointed by the Secretary of Defense from among individuals who are United States citizens.

(2) Of the individuals appointed under paragraph (1)—

(A) at least one shall have an expertise in historic preservation;

(B) at least one shall have an expertise in military history;

(C) at least one shall have an expertise in the administration of museums; and

(D) at least one shall have an expertise in military technology and materiel.

(b) CHAIRPERSON.—(1) The Secretary shall designate one of the individuals first appointed to the Board under subsection (a) as the chairperson of the Board. The individual so designated shall serve as chairperson for a term of 2 years.

(2) Upon the expiration of the term of chairperson of the individual designated as chairperson under paragraph (1), or of the term of a chairperson elected under this paragraph, the members of the Board shall elect a chairperson of the Board from among its members.

(c) TERM.—(1) Subject to paragraph (2), members appointed to the Board shall serve on the Board for a term of 4 years.

(2) If a member of the Board misses three consecutive meetings of the Board, the Board may remove the member from the Board for that reason.

(d) VACANCY.—Any vacancy in the Board shall not affect its powers but shall be filled, not later than 60 days after the vacancy, in the same manner in which the original appointment was made.

(e) QUORUM.—A majority of the members of the Board shall constitute a quorum.

(f) MEETINGS.—The Board shall meet at the call of the chairperson of the Board. The Board shall meet at least once a year.

SEC. 1304. ORGANIZATIONAL MATTERS.

The members of the Board first appointed under section 1303(a) shall—

(1) adopt a constitution and bylaws for the Foundation;

(2) serve as incorporators of the Foundation; and

(3) take whatever other actions the Board determines appropriate in order to establish the Foundation as a nonprofit corporation.

SEC. 1305. OFFICERS AND EMPLOYEES.

(a) EXECUTIVE DIRECTOR.—The Foundation shall have an executive director appointed by the Board and such other officers as the Board may appoint. The executive director and the other officers of the Foundation shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(b) EMPLOYEES.—Subject to the approval of the Board, the Foundation may employ such individuals, and at such rates of compensation, as the executive director determines appropriate.

(c) VOLUNTEERS.—Subject to the approval of the Board, the Foundation may accept the services of volunteers in the performance of the functions of the Foundation.

(d) SERVICE OF FEDERAL EMPLOYEES.—A person who is a full-time or part-time employee of the Federal Government may not serve as a full-time or part-time employee of the Foundation and shall not be considered for any purpose an employee of the Foundation.

SEC. 1306. POWERS AND RESPONSIBILITIES.

In order to carry out the purposes of this title, the Foundation may—

(1) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

(2) enter into contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Foundation; and

(3) enter into such other contracts, leases, cooperative agreements, and other transactions at the executive director of the Foundation considers appropriate to carry out the activities of the Foundation.

SEC. 1307. AUDITS.

(a) AUDITS.—The first section of the Act entitled "An Act to provide for the audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

"(80) The National Military Museum Foundation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that the chairperson of the Board notifies the Secretary of Defense of the incorporation of the Foundation under this title.

SEC. 1308. REPORTS.

As soon as practicable after the end of each fiscal year of the Foundation, the Board shall submit to Congress and to the Secretary of Defense a report on the activities of the Foundation during the preceding fiscal year, including a full and complete statement of the receipts, expenditures, investment activities, and other financial activities of the Foundation during such fiscal year.

SEC. 1309. INITIAL SUPPORT.

(a) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated by section 301, $250,000 shall be available for the purpose of making a grant to the Foundation in order to assist the Foundation in defraying the costs of its activities. Such amount shall be available for such purpose until expended.

(b) ADDITIONAL SUPPORT.—In each of fiscal years 1999 through 2001, the Secretary of Defense may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

HARKIN AMENDMENTS NOS. 2884–2888

(Ordered to lie on the table.)

Mr. HARKIN submitted five amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2884

At the end of subtitle B of title II, add the following:

SEC. 219. PERSIAN GULF ILLNESSES.

(a) ADDITIONAL AMOUNT FOR PERSIAN GULF ILLNESSES.—The total amount authorized to be appropriated under this title for research and development relating to Persian Gulf illnesses is the total amount authorized to be appropriated for such purpose under the other provisions of this title plus $15,000,000.

(b) REDUCED AMOUNT FOR FOREIGN MILITARY COMPARATIVE TESTING PROGRAM.—Of the amount authorized to be appropriated under section 201(4), $17,684,000 shall be available for the Foreign Military Comparative Testing program.

AMENDMENT NO. 2885

At the end of subtitle B of title II, add the following:

SEC. 219. PERSIAN GULF ILLNESSES.

(a) ADDITIONAL AMOUNT FOR PERSIAN GULF ILLNESSES.—The total amount authorized to be appropriated under this title for research and development relating to Persian Gulf illnesses is the total amount authorized to be appropriated for such purpose under the other provisions of this title plus $15,000,000.

AMENDMENT NO. 2886

On page 25, line 16, increase the dollar figure by the sum $15,000,000.

AMENDMENT NO. 2887

On page 25, line 16, subtract from the dollar figure, the sum $1,000.

AMENDMENT NO. 2888

At the end of subtitle E of title III, add the following:

SEC. 349. INVENTORY MANAGEMENT OF IN-TRANSIT SECONDARY ITEMS.

(a) REQUIREMENT FOR PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a plan to address problems with Department of Defense management of the department's inventories of in-transit secondary items as follows:

(1) The vulnerability of in-transit secondary items to loss through fraud, waste, and abuse.

(2) Loss of oversight of in-transit secondary items, including any loss of oversight when items are being transported by commercial carriers.

(3) Loss of accountability for in-transit secondary items due to either a delay of delivery of the items or a lack of notification of a delivery of the items.

(b) CONTENT OF PLAN.— The plan shall include, for each of the problems described in subsection (a), the following information:

(1) The actions to be taken to correct the problems.

(2) Statements of objectives.

(3) Performance measures and schedules.

(4) An identification of any resources that may be necessary for correcting the problem, together with an estimate of the annual costs.

(c) GAO REVIEWS.—(1) Not later than 60 days after the date on which the Secretary of Defense submits the plan to Congress, the Comptroller General shall review the plan and submit to Congress any comments that the Comptroller General considers appropriate regarding the plan.

(2) The Comptroller General shall monitor any implementation of the plan and, not later than one year after the date referred to in paragraph (1), submit to Congress an assessment of the extent to which the plan has been implemented.

HARKIN (AND OTHERS) AMENDMENT NO. 2889

(Ordered to lie on the table.)

Mr. HARKIN (for himself, Mr. BROWNBACK, Mr. TORRICELLI, and Mr. JOHNSON) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. . RESOLUTION OF JAMMU AND KASHMIR DISPUTE.

(a) FINDINGS.—Congress finds that—

(1) the detonation of nuclear explosive devices by India and Pakistan in May of 1998 has underscored the need to reexamine relations between India and Pakistan;

(2) a spiraling nuclear arms race in South Asia would threaten the national security of the United States, and international peace and security;

(3) for more than half a century, Pakistan and India have had a dispute involving the Jammu and Kashmir region and tensions remain high;

(4) three times in the past 50 years, the two nations fought wars against each other, two of these wars directly involving Jammu and Kashmir;

(5) it is in the interest of United States security and world peace for Pakistan and India to arrive at a peaceful and just settlement of the dispute through talks between the two nations, which takes into account the wishes of the affected population;

(6) the human rights situation in Jammu and Kashmir continues to deteriorate despite repeated efforts by international human rights groups;

(7) a resolution to the Jammu and Kashmir dispute would foster economic and social development in the region;

(8) the United States has a long and important history with both India and Pakistan, and bears a responsibility as a world leader to help facilitate a peaceful resolution to the Jammu and Kashmir dispute; and

(9) the United States and the United Nations can both play a critical role in helping to resolve the dispute over Jammu and Kashmir and in fostering better relations between Pakistan and India.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should make a high priority the promotion of peace and stability in South Asia, as well as normalization of relations between India and Pakistan;

(2) it is critical for the United States and the world community to give a greater priority to resolving the long-standing dispute between India and Pakistan over the Jammu and Kashmir region;

(3) the United States Permanent Representative to the United Nations should propose to the United Nations Security Council a meeting with the representatives to the United Nations from India and Pakistan for the purpose of discussions about the security situation in South Asia, including regional stability, nuclear disarmament and arms control, and trade;

(4) the United States Permanent Representative to the United Nations should raise the issue of the Jammu and Kashmir dispute within the Security Council and promote the establishment of a United Nations-sponsored mediator for the conflict; and

(5) the President should request India to allow United Nations human rights officials, including the Special Rapporteur on Torture, to visit the Jammu and Kashmir region and to have unrestricted access to meeting with people in that region, including those in detention.

HARKIN (AND WELLSTONE) AMENDMENTS NOS. 2890–2891

(Ordered to lie on the table.)

Mr. HARKIN (for himself and Mr. WELLSTONE) submitted two amendments intended to be proposed by them to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2890

At the end of subtitle A of title X, add the following:

SEC. . TRANSFER TO DEPARTMENT OF VETERANS AFFAIRS.

(a) TRANSFER REQUIRED.—The Secretary of Defense shall transfer to the Department of Veterans Affairs $329,000,000 of the amounts appropriated for the Department of Defense pursuant to the authorizations of appropriations in this Act. The Secretary shall select the funds for transfer, and shall transfer the funds, in a manner that causes the least significant harm to the readiness of the Armed Forces and the quality of life of military personnel and their families.

(b) USE OF TRANSFERRED FUNDS.—Funds transferred pursuant to subsection (a) shall be available for health care programs of the Department of Veterans Affairs.

AMENDMENT NO. 2891

At the end of subtitle A of title X, add the following:

SEC. . TRANSFER TO DEPARTMENT OF VETERANS AFFAIRS.

(a) TRANSFER REQUIRED.—The Secretary of Defense shall transfer to the Department of Veterans Affairs $329,000,000 of the amounts appropriated for the Department of Defense pursuant to the authorizations of appropriations in this Act. The Secretary shall select the funds for transfer, and shall transfer the funds, in a manner that causes the least significant harm to the readiness of the Armed Forces and the quality of life of military personnel and their families.

(b) USE OF TRANSFERRED FUNDS.—Funds transferred pursuant to subsection (a) shall be available for health care programs of the Department of Veterans Affairs.

KEMPTHORNE AMENDMENTS NOS. 2892–2893

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2892

On page 348, strike out line 1 and all that follows through page 366, line 13, and insert in lieu thereof the following:

TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

SEC. 2901. SHORT TITLE.

This title may be cited as the "Juniper Butte Range Withdrawal Act".

SEC. 2902. WITHDRAWAL AND RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Juniper Butte Range, Idaho, referred to in subsection (c), are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws, but not the Materials Act of 1947 (30 U.S.C. 601-604).

(b) RESERVED USES.—The land withdrawn under subsection (a) are reserved for use by the Secretary of the Air Force for—

(1) a high hazard training area;

(2) dropping non-explosive training ordnance with spotting charges;

(3) electronic warfare and tactical maneuvering and air support;

(4) other defense-related purposes consistent with the purposes specified in paragraphs (1), (2), and (3), including continued natural resource management and environmental remediation in accordance with section 2916;

(c) SITE DEVELOPMENT PLANS.—Site development plans shall be prepared prior to construction; site development plans shall be incorporated in the Integrated Natural Resource Management Plan identified in section 2909; and, except for any minimal improvements, development on the withdrawn lands of any facilities beyond those proposed and analyzed in the Air Force's Enhanced Training in Idaho Environmental Impact Statement, the Enhanced Training in Idaho Record of Decision dated March 10, 1998, and the site development plans shall be contingent upon review and approval of the Idaho State Director, Bureau of Land Management.

(d) GENERAL DESCRIPTION.—The public lands withdrawn and reserved by this section comprise approximately 11,300 acres of public land in Owhyee County, Idaho, as generally depicted on the map entitled "Juniper Butte Range Withdrawal-Proposed", dated June 1998, that will be filed in accordance with section 2903. The withdrawal is for an approximately 10,600-acre tactical training range, a 640-acre no-drop target site, four 5-acre no-drop target sites and nine 1-acre electronic threat emitter sites.

SEC. 2903. MAP AND LEGAL DESCRIPTION.

(a) IN GENERAL.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map or maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) INCORPORATION BY REFERENCE.—Such maps and legal description shall have the same force and effect as if included in this title.

(c) CORRECTION OF ERRORS.—The Secretary of the Interior may correct clerical and typographical errors in such map or maps and legal description.

(d) AVAILABILITY.—Copies of such map or maps and the legal description shall be available for public inspection in the office of the Idaho State Director of the Bureau of Land Management; the offices of the managers of the Lower Snake River District, Bureau Field Office and Jarbidge Field Office of the Bureau of Land Management; and the Office of the Commander, Mountain Home Air Force Base, Idaho. To the extent practicable, the Secretary of the Interior shall adopt the legal description and maps prepared by the Secretary of the Air Force in support of this Title.

(e) The Secretary of the Air Force shall reimburse the Secretary of the Interior for the costs incurred by the Department of the Interior in implementing this section.

SEC. 2904. AGENCY AGREEMENT

The Bureau of Land Management and the Air Force have agreed upon additional mitigation measures associated with this land withdrawal as specified in the "ENHANCED TRAINING IN IDAHO Memorandum of Understanding Between The Bureau of Land Management and The United States Air Force" that is dated June ——, 1998. This agreement specifies that these mitigation measures will be adopted as part of the Air Force's Record of Decision for Enhanced Training in Idaho. Congress endorses this collaborative effort between the agencies and directs that the agreement be implemented; provided, however, that the parties may, in accordance with the National Environmental Policy Act of 1969, as amended, mutually agree to modify the mitigation measures specified in the agreement in light of experience gained through the actions called for in the agreement or as a result of changed military circumstances; provided further, that neither the agreement, any modification thereof, nor this section creates any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

SEC. 2905. RIGHT-OF-WAY GRANTS.

In addition to the withdrawal under section 2902 and in accordance with all applicable laws, the Secretary of the Interior shall process and grant the Secretary of the Air Force rights-of-way using the Department of the Interior regulations and policies in effect at the time of filing applications for the one-quarter acre electronic warfare threat emitter sites, roads, powerlines, and other ancillary facilities as described and analyzed in the Enhanced Training in Idaho Final Environmental Impact Statement, dated January 1998.

SEC. 2906. INDIAN SACRED SITES.

(a) Management.—In the management of the Federal lands withdrawn and reserved by this title, the Air Force shall, to the extent practicable and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the integrity of such sacred sites. The Air Force shall maintain the confidentiality of such sites where appropriate. The term "sacred site" shall mean any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the Air Force of the existence of such a site. The term "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law No. 103-454, 108 Stat. 4791, and "Indian" refers to a member of such an Indian tribe.

(b) Consultation.—Air Force officials at Mountain Home Air Force Base shall regularly consult with the Tribal Chairman of the Shoshone-Paiute Tribes of the Duck Valley Reservation to assure that tribal government rights and concerns are fully considered during the development of the Juniper Butte Range.

SEC. 2907. ACTIONS CONCERNING RANCHING OPERATIONS IN WITHDRAWN AREA.

The Secretary of the Air Force is authorized and directed to, upon such terms and conditions as the Secretary of the Air Force considers just and in the national interest, conclude and implement agreements with the grazing permittees to provide appropriate consideration, including future grazing arrangements. Upon the conclusion of these agreements, the Assistant Secretary, Land and Minerals Management, shall grant rights-of-way and approvals and take such actions as are necessary to implement promptly this title and the agreements with the grazing permittees. The Secretary of the Air Force and the Secretary of the Interior shall allow the grazing permittees for lands withdrawn and reserved by this title to continue their activities on the lands in accordance with the permits and their applicable regulations until the Secretary of the Air Force has fully implemented the agreement with the grazing permittees under this section. Upon the implementation of these agreements, the Bureau of Land Management is authorized and directed, subject to the limitations included in this section, to terminate grazing on the lands withdrawn.

SEC. 2908. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.

(a) In General.—Except as provided in section 2916(d), during the withdrawal and reservation of any lands under this title, the Secretary of the Air Force shall manage such lands for purposes relating to the uses set forth in section 2902(b).

(b) Management According To Plan.—The lands withdrawn and reserved by this title shall be managed in accordance with the provisions of this title under the integrated natural resources management plan prepared under section 2909.

(c) Authority To Close Land.—If the Secretary of the Air Force determines that military operations, public safety, or the interests of national security require the closure to public use of any road, trail or other portion of the lands withdrawn by this title that are commonly in public use, the Secretary of the Air Force may take such action: Provided, that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. During closures, the Secretary of the Air Force shall keep appropriate warning notices posted and take appropriate steps to notify the public about the closure.

(d) Lease Authority.—The Secretary of the Air Force may enter into leases for State lands with the State of Idaho in support of the Juniper Butte Range and operations at the Juniper Butte Range.

(e) Prevention and Suppression of Fire.—

(1) The Secretary of the Air Force shall take appropriate precautions to prevent and suppress brush fires and range fires that occur within the boundaries of the Juniper Butte Range, as well as brush and range fires occurring outside the boundaries of the Range resulting from military activities.

(2) Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Air Force may obligate funds appropriated or otherwise available to the Secretary of the Air Force to enter into contracts for firefighting.

(3)(A) The memorandum of understanding under section 2910 shall provide for the Bureau of Land Management to assist the Secretary of the Air Force in the suppression of the fires described in paragraph (1).

(B) The memorandum of understanding shall provide that the Secretary of the Air Force reimburse the Bureau of Land Management for any costs incurred by the Bureau of Land Management under this paragraph.

(f) Use of Mineral Materials.—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601 et seq.), the Secretary of the Air Force may use, from the lands withdrawn and reserved by this title, sand, gravel, or similar mineral material resources of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs of the Juniper Butte Range.

SEC. 2909. INTEGRATED NATURAL RESOURCE MANAGEMENT PLAN.

(a) Requirement.—

(1) Not later than 2 years after the date of enactment of this title, the Secretary of the Air Force shall, in cooperation with the Secretary of the Interior, the State of Idaho and Owyhee County, develop an integrated natural resources management plan to address the management of the resources of the lands withdrawn and reserved by this title during their withdrawal and reservation under this title. Additionally, the Integrated Natural Resource Management Plan will address mitigation and monitoring activities by the Air Force for State and Federal lands affected by military training activities associated with the Juniper Butte Range. The foregoing will be done cooperatively between the Air Force and the Bureau of Land Management, the State of Idaho and Owyhee County.

(2) Except as otherwise provided under this title, the integrated natural resources management plan under this section shall be developed in accordance with, and meet the requirements of, section 101 of the Sikes Act (16 U.S.C. 670a).

(3) Site development plans shall be prepared prior to construction of facilities. These plans shall be reviewed by the Bureau of Land Management for Federal lands and the State of Idaho for State lands for consistency with the proposal assessed in the Enhanced Training in Idaho Environmental Impact Statement. The portion of the site development plans describing reconfigurable or replacement targets may be conceptual.

(b) Elements.—The integrated natural resources management plan under subsection (a) shall—

(1) include provisions for the proper management and protection of the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title and for the use of such resources in a manner consistent with the uses set forth in section 2902(b);

(2) permit livestock grazing at the discretion of the Secretary of the Air Force in accordance with section 2907 or any other authorities relating to livestock grazing that are available to that Secretary;

(3) permit fencing, water pipeline modifications and extensions, and the construction of aboveground water reservoirs, and the maintenance and repair of these items on the lands withdrawn and reserved by this title, and on other lands under the jurisdiction of the Bureau of Land Management; and

(4) otherwise provide for the management by the Secretary of Air Force of any lands withdrawn and reserved by this title while retained under the jurisdiction of that Secretary under this title.

(c) Periodic Review.—The Secretary of the Air Force shall, in cooperation with the Secretary of the Interior and the State of Idaho, review the adequacy of the provisions of the integrated natural resources management plan developed under this section at least once every 5 years after the effective date of the plan.

SEC. 2910. MEMORANDUM OF UNDERSTANDING.

(a) Requirement.—The Secretary of the Air Force, the Secretary of the Interior, and the Governor of the State of Idaho shall jointly enter into a memorandum of understanding to implement the integrated natural resources management plan required under section 2909.

(b) Term.—The memorandum of understanding under subsection (a) shall apply to any lands withdrawn and reserved by this title until their relinquishment by the Secretary of the Air Force under this title.

(c) Modification.—The memorandum of understanding under subsection (a) may be modified by agreement of all the parties specified in that subsection.

SEC. 2911. MAINTENANCE OF ROADS.

The Secretary of the Air Force shall enter into agreements with the Owyhee County Highway District, Idaho, and the Three Creek Good Roads Highway District, Idaho, under which the Secretary of the Air Force shall pay the costs of road maintenance incurred by such districts that are attributable to Air Force operations associated with the Juniper Butte Range.

SEC. 2912. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in subsection 2908(f), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Juniper Butte Range in accordance with the Act of February 28, 1958 (known as the Engle Act; 43 U.S.C. 155–158).

SEC. 2913. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with the provision of section 2671 of title 10, United States Code.

SEC. 2914. WATER RIGHTS.

(a) LIMITATION.—The Secretary of the Air Force shall not seek or obtain any water rights associated with any water pipeline modified or extended, or above ground water reservoir constructed, for purposes of consideration under section 2907.

(b) NEW RIGHTS.—

(1) Nothing in this title shall be construed to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title.

(2) Nothing in this title shall be construed to authorize the appropriation of water on the lands withdrawn and reserved by this title by the United States after the date of enactment of this title unless such appropriation is carried out in accordance with the laws of the State of Idaho.

(c) APPLICABILITY.—This section may not be construed to affect any water rights acquired by the United States before the date of enactment of this title.

SEC. 2915. DURATION OF WITHDRAWAL.

(a) TERMINATION.—

(1) Except as otherwise provided in this section and section 2916, the withdrawal and reservation of lands by this title shall, unless extended as provided herein, terminate at one minute before midnight on the 25th anniversary of the date of the enactment of this title.

(2) At the time of termination, the previously withdrawn lands shall not be open to the general land laws including the mining laws and the mineral and geothermal leasing laws until the Secretary of the Interior publishes in the Federal Register an appropriate order which shall state the date upon which such lands shall be opened.

(b) RELINQUISHMENT.—

(1) If the Secretary of the Air Force determines under subsection (c) of this section that the Air Force has no continuing military need for any lands withdrawn and reserved by this title, the Secretary of the Air Force shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands back to the Secretary of the Interior.

(2) The Secretary of the Interior may accept jurisdiction over any lands covered by a notice of intent to relinquish jurisdiction under paragraph (1) if the Secretary of the Interior determines that the Secretary of the Air Force has completed the environmental review required under section 2916(a) and the conditions under section 2916(c) have been met.

(3) If the Secretary of the Interior decides to accept jurisdiction over lands under paragraph (2) before the date of termination, as provided for in subsection (a)(1) of this section, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(A) revoke the withdrawal and reservation of such lands under this title;

(B) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(C) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(4) The Secretary of the Interior shall manage any lands relinquished under this subsection as multiple use status lands.

(5) If the Secretary of the Interior declines pursuant to paragraph (b)(2) of this section to accept jurisdiction of any parcel of the land proposed for relinquishment that parcel shall remain under the continued administration of the Secretary of the Air Force pursuant to section 2916(d).

(c) EXTENSION.—

(1) In the case of any lands withdrawn and reserved by this title that the Air Force proposes to include in a notice of extension because of continued military need under paragraph (2) of this subsection, the Secretary of the Air Force shall prior to issuing the notice under paragraph (2)—

(A) evaluate the environmental effects of the extension of the withdrawal and reservation of such lands in accordance with all applicable laws and regulations; and

(B) hold at least one public meeting in the State of Idaho regarding that evaluation.

(2) Notice of need for extension of withdrawal—

(A) Not later than 2 years before the termination of the withdrawal and reservation of lands by this title under subsection (a), the Secretary of the Air Force shall notify Congress and the Secretary of the Interior as to whether or not the Air Force has a continuing military need for any of the lands withdrawn and reserved by this title, and not previously relinquished under this section, after the termination date as specified in subsection (a) of this section.

(B) The Secretary of the Air force shall specify in the notice under subparagraph (A) the duration of any extension or further extension of withdrawal and reservation of such lands under this title; Provided however, the duration of each extension or further extension shall not exceed 25 years.

(C) The notice under subparagraph (A) shall be published in the Federal Register and a newspaper of local distribution with the opportunity for comments, within a 60-day period, which shall be provided to the Secretary of the Air Force and the Secretary of the Interior.

(3) Effect of notification.—

(A) Subject to subparagraph (B), in the case of any lands withdrawn and reserved by this title that are covered by a notice of extension under subsection (c)(2), the withdrawal and reservation of such lands shall extend under the provisions of this title after the termination date otherwise provided for under subsection (a) for such period as is specified in the notice under subsection (c)(2).

(B) Subparagraph (A) shall not apply with respect to any lands covered by a notice referred to in that paragraph until 90 legislative days after the date on which the notice with respect to such lands is submitted to Congress under paragraph (2).

SEC. 2916. ENVIRONMENTAL REMEDIATION OF RELINQUISHED WITHDRAWN LANDS OR UPON TERMINATION OF WITHDRAWAL.

(a) ENVIRONMENTAL REVIEW.—

(1) Before submitting under section 2915 a notice of an intent to relinquish jurisdiction over lands withdrawn and reserved by this title, and in all cases not later than two years prior to the date of termination of withdrawal and reservation, the Secretary of the Air Force shall, in consultation with the Secretary of the Interior, complete a review that fully characterizes the environmental conditions of such lands (including any water and air associated with such lands) in order to identify any contamination on such lands.

(2) The Secretary of the Air Force shall submit to the Secretary of the Interior a copy of the review prepared with respect to any lands under paragraph (1). The Secretary of the Air Force shall also submit at the same time any notice of intent to relinquish jurisdiction over such lands under section 2915.

(3) The Secretary of the Air Force shall submit a copy of any such review to Congress.

(b) ENVIRONMENTAL REMEDIATION OF LANDS.—The Secretary of the Air Force shall, in accordance with applicable State and Federal law, carry out and complete environmental remediation—

(1) before relinquishing jurisdiction to the Secretary of the Interior over any lands identified in a notice of intent to relinquish under subsection 2915(b); or,

(2) prior to the date of termination of the withdrawal and reservation, except as provided under subsection (d) of this section.

(c) POSTPONEMENT OF RELINQUISHMENT.—The Secretary of the Interior shall not accept jurisdiction over any lands that are the subject of activities under subsection (b) of this section until the Secretary of the Interior determines that environmental conditions on the lands are such that—

(1) all necessary environmental remediation has been completed by the Secretary of the Air Force;

(2) the lands are safe for nonmilitary uses; and

(3) the lands could be opened consistent with the Secretary of the Interior's public land management responsibilities.

(d) JURISDICTION WHEN WITHDRAWAL TERMINATES.—If the determination required by section (c) cannot be achieved for any parcel of land subject to the withdrawal and reservation prior to the termination date of the withdrawal and reservation, the Secretary of the Air Force shall retain administrative jurisdiction over such parcels of land notwithstanding the termination date for the limited purposes of:

(1) environmental remediation activities under subsection (b); and,

(2) any activities relating to the management of such lands after the termination of the withdrawal reservation for military purposes that are provided for in the integrated natural resources management plan under section 2909.

(e) REQUEST FOR APPROPRIATIONS.—The Secretary of the Air Force shall request an appropriation pursuant to section 2919 sufficient to accomplish the remediation under this title.

SEC. 2917. DELEGATION OF AUTHORITY.

(a) AIR FORCE FUNCTIONS.—Except for executing the agreement referred to in section 2907, the Secretary of the Air Force may delegate that Secretary's functions under this title.

(b) INTERIOR FUNCTIONS.—

(1) Except as provided in paragraph (2), the Secretary of the Interior may delegate that Secretary's functions under this title.

(2) The order referred to in section 2915(b)(3) may be approved and signed only

by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Interior.

(3) The approvals granted by the Bureau of Land Management shall be pursuant to the decisions of the Secretary of the Interior, or the Assistant Secretary for Land and Minerals Management.

SEC. 2918. SENSE OF SENATE REGARDING MONITORING OF WITHDRAWN LANDS.

(a) Finding.—The Senate finds that there is a need for the Department of the Air Force, the Bureau of Land Management, the State of Idaho, and Owyhee County to develop a cooperative effort to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of the Air Force should ensure that the budgetary planning of the Department of the Air Force makes available sufficient funds to assure Air Force participation in the cooperative effort developed by the Department of the Air Force, the Bureau of Land Management, and the State of Idaho to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

SEC. 2919. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

Amendment No. 2893

On page 348, strike out line 1 and all that follows through page 366, line 13, and insert in lieu thereof the following:

TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

SEC. 2901. SHORT TITLE.

This title may be cited as the "Juniper Butte Range Withdrawal Act".

SEC. 2902. WITHDRAWAL AND RESERVATION.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Juniper Butte Range, Idaho, referred to in subsection (c), are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws, but not the Materials Act of 1947 (30 U.S.C. 601–604).

(b) Reserved Uses.—The land withdrawn under subsection (a) are reserved for use by the Secretary of the Air Force for—

(1) a high hazard training area;

(2) dropping non-explosive training ordnance with spotting charges;

(3) electronic warfare and tactical maneuvering and air support;

(4) other defense-related purposes consistent with the purposes specified in paragraphs (1), (2), and (3), including continued natural resource management and environmental remediation in accordance with section 2916;

(c) Site Development Plans.—Site development plans shall be prepared prior to construction; site development plans shall be incorporated in the Integrated Natural Resource Management Plan identified in section 2909; and, except for any minimal improvements, development on the withdrawn lands of any facilities beyond those proposed and analyzed in the Air Force's Enhanced Training in Idaho Environmental Impact Statement, the Enhanced Training in Idaho Record of Decision dated March 10, 1998, and the site development plans shall be contingent upon review and approval of the Idaho State Director, Bureau of Land Management.

(d) General Description.—The public lands withdrawn and reserved by this section comprise approximately 11,300 acres of public land in Owhyee County, Idaho, as generally depicted on the map entitled "Juniper Butte Range Withdrawal-Proposed", dated June 1998, that will be filed in accordance with section 2903. The withdrawal is for an approximately 10,600-acre tactical training range, a 640-acre no-drop target site, four 5-acre no-drop target sites and nine 1-acre electronic threat emitter sites.

SEC. 2903. MAP AND LEGAL DESCRIPTION.

(a) In General.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map or maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) Incorporation by Reference.—Such maps and legal description shall have the same force and effect as if included in this title.

(c) Correction of Errors.—The Secretary of the Interior may correct clerical and typographical errors in such map or maps and legal description.

(d) Availability.—Copies of such map or maps and the legal description shall be available for public inspection in the office of the Idaho State Director of the Bureau of Land Management; the offices of the managers of the Lower Snake River District, Bureau Field Office and Jarbidge Field Office of the Bureau of Land Management; and the Office of the Commander, Mountain Home Air Force Base, Idaho. To the extent practicable, the Secretary of the Interior shall adopt the legal description and maps prepared by the Secretary of the Air Force in support of this Title.

(e) The Secretary of the Air Force shall reimburse the Secretary of the Interior for the costs incurred by the Department of the Interior in implementing this section.

SEC. 2905. RIGHT-OF-WAY GRANTS.

In addition to the withdrawal under section 2902 and in accordance with all applicable laws, the Secretary of the Interior shall process and grant the Secretary of the Air Force rights-of-way using the Department of the Interior regulations and policies in effect at the time of filing applications for the one-quarter acre electronic warfare threat emitter sites, roads, powerlines, and other ancillary facilities as described and analyzed in the Enhanced Training in Idaho Final Environmental Impact Statement, dated January 1998.

SEC. 2907. ACTIONS CONCERNING RANCHING OPERATIONS IN WITHDRAWN AREA.

The Secretary of the Air Force is authorized and directed to, upon such terms and conditions as the Secretary of the Air Force considers just and in the national interest, conclude and implement agreements with the grazing permittees to provide appropriate consideration, including future grazing arrangements. Upon the conclusion of these agreements, the Assistant Secretary, Land and Minerals Management, shall grant rights-of-way and approvals and take such actions as are necessary to implement promptly this title and the agreements with the grazing permittees. The Secretary of the Air Force and the Secretary of the Interior shall allow the grazing permittees for lands withdrawn and reserved by this title to continue their activities on the lands in accordance with the permits and their applicable regulations until the Secretary of the Air Force has fully implemented the agreement with the grazing permittees under this section. Upon the implementation of these agreements, the Bureau of Land Management is authorized and directed, subject to the limitations included in this section, to terminate grazing on the lands withdrawn.

SEC. 2908. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.

(a) In General.—Except as provided in section 2916(d), during the withdrawal and reservation of any lands under this title, the Secretary of the Air Force shall manage such lands for purposes relating to the uses set forth in section 2902(b).

(b) Management According To Plan.—The lands withdrawn and reserved by this title shall be managed in accordance with the provisions of this title under the integrated natural resources management plan prepared under section 2909.

(c) Authority To Close Land.—If the Secretary of the Air Force determines that military operations, public safety, or the interests of national security require the closure to public use of any road, trail or other portion of the lands withdrawn by this title that are commonly in public use, the Secretary of the Air Force may take such action; Provided, that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. During closures, the Secretary of the Air Force shall keep appropriate warning notices posted and take appropriate steps to notify the public about the closure.

(d) Lease Authority.—The Secretary of the Air Force may enter into leases for State lands with the State of Idaho in support of the Juniper Butte Range and operations at the Juniper Butte Range.

(e) Prevention and Suppression of Fire.—

(1) The Secretary of the Air Force shall take appropriate precautions to prevent and suppress brush fires and range fires that occur within the boundaries of the Juniper Butte Range, as well as brush and range fires occurring outside the boundaries of the Range resulting from military activities.

(2) Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Air Force may obligate funds appropriated or otherwise available to the Secretary of the Air Force to enter into contracts for firefighting.

(3)(A) The memorandum of understanding under section 2910 shall provide for the Bureau of Land Management to assist the Secretary of the Air Force in the suppression of the fires described in paragraph (1).

(B) The memorandum of understanding shall provide that the Secretary of the Air Force reimburse the Bureau of Land Management for any costs incurred by the Bureau of Land Management under this paragraph.

(f) Use of Mineral Materials.—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601 et seq.), the Secretary of the Air Force may use, from the lands withdrawn and reserved by this title, sand, gravel, or similar mineral material resources of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs of the Juniper Butte Range.

SEC. 2909. INTEGRATED NATURAL RESOURCE MANAGEMENT PLAN.

(a) REQUIREMENT.—

(1) Not later than 2 years after the date of enactment of this title, the Secretary of the Air Force shall, in cooperation with the Secretary of the Interior, the State of Idaho and Owyhee County, develop an integrated natural resources management plan to address the management of the resources of the lands withdrawn and reserved by this title during their withdrawal and reservation under this title. Additionally, the Integrated Natural Resource Management Plan will address mitigation and monitoring activities by the Air Force for State and Federal lands affected by military training activities associated with the Juniper Butte Range. The foregoing will be done cooperatively between the Air Force and the Bureau of Land Management, the State of Idaho and Owyhee County.

(2) Except as otherwise provided under this title, the integrated natural resources management plan under this section shall be developed in accordance with, and meet the requirements of, section 101 of the Sikes Act (16 U.S.C. 670a).

(3) Site development plans shall be prepared prior to construction of facilities. These plans shall be reviewed by the Bureau of Land Management for Federal lands and the State of Idaho for State lands for consistency with the proposal assessed in the Enhanced Training in Idaho Environmental Impact Statement. The portion of the site development plans describing reconfigurable or replacement targets may be conceptual.

(b) ELEMENTS.—The integrated natural resources management plan under subsection (a) shall—

(1) include provisions for the proper management and protection of the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title and for the use of such resources in a manner consistent with the uses set forth in section 2902(b);

(2) permit livestock grazing at the discretion of the Secretary of the Air Force in accordance with section 2907 or any other authorities relating to livestock grazing that are available to that Secretary;

(3) permit fencing, water pipeline modifications and extensions, and the construction of aboveground water reservoirs, and the maintenance and repair of these items on the lands withdrawn and reserved by this title, and on other lands under the jurisdiction of the Bureau of Land Management; and

(4) otherwise provide for the management by the Secretary of Air Force of any lands withdrawn and reserved by this title while retained under the jurisdiction of that Secretary under this title.

(c) PERIODIC REVIEW.—The Secretary of the Air Force shall, in cooperation with the Secretary of the Interior and the State of Idaho, review the adequacy of the provisions of the integrated natural resources management plan developed under this section at least once every 5 years after the effective date of the plan.

SEC. 2910. MEMORANDUM OF UNDERSTANDING.

(a) REQUIREMENT.—The Secretary of the Air Force, the Secretary of the Interior, and the Governor of the State of Idaho shall jointly enter into a memorandum of understanding to implement the integrated natural resources management plan required under section 2909.

(b) TERM.—The memorandum of understanding under subsection (a) shall apply to any lands withdrawn and reserved by this title until their relinquishment by the Secretary of the Air Force under this title.

(c) MODIFICATION.—The memorandum of understanding under subsection (a) may be modified by agreement of all the parties specified in that subsection.

SEC. 2911. MAINTENANCE OF ROADS.

The Secretary of the Air Force shall enter into agreements with the Owyhee County Highway District, Idaho, and the Three Creek Good Roads Highway District, Idaho, under which the Secretary of the Air Force shall pay the costs of road maintenance incurred by such districts that are attributable to Air Force operations associated with the Juniper Butte Range.

SEC. 2912. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in subsection 2908(f), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Juniper Butte Range in accordance with the Act of February 28, 1958 (known as the Engle Act; 43 U.S.C. 155–158).

SEC. 2913. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with the provision of section 2671 of title 10, United States Code.

SEC. 2914. WATER RIGHTS.

(a) LIMITATION.—The Secretary of the Air Force shall not seek or obtain any water rights associated with any water pipeline modified or extended, or above ground water reservoir constructed, for purposes of consideration under section 2907.

(b) NEW RIGHTS.—

(1) Nothing in this title shall be construed to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title.

(2) Nothing in this title shall be construed to authorize the appropriation of water on the lands withdrawn and reserved by this title by the United States after the date of enactment of this title unless such appropriation is carried out in accordance with the laws of the State of Idaho.

(c) APPLICABILITY.—This section may not be construed to affect any water rights acquired by the United States before the date of enactment of this title.

SEC. 2915. DURATION OF WITHDRAWAL.

(a) TERMINATION.—

(1) Except as otherwise provided in this section and section 2916, the withdrawal and reservation of lands by this title shall, unless extended as provided herein, terminate at one minute before midnight on the 25th anniversary of the date of the enactment of this title.

(2) At the time of termination, the previously withdrawn lands shall not be open to the general land laws including the mining laws and the mineral and geothermal leasing laws until the Secretary of the Interior publishes in the Federal Register an appropriate order which shall state the date upon which such lands shall be opened.

(b) RELINQUISHMENT.—

(1) If the Secretary of the Air Force determines under subsection (c) of this section that the Air Force has no continuing military need for any lands withdrawn and reserved by this title, the Secretary of the Air Force shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands back to the Secretary of the Interior.

(2) The Secretary of the Interior may accept jurisdiction over any lands covered by a notice of intent to relinquish jurisdiction under paragraph (1) if the Secretary of the Interior determines that the Secretary of the Air Force has completed the environmental review required under section 2916(a) and the conditions under section 2916(c) have been met.

(3) If the Secretary of the Interior decides to accept jurisdiction over lands under paragraph (2) before the date of termination, as provided for in subsection (a)(1) of this section, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(A) revoke the withdrawal and reservation of such lands under this title;

(B) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(C) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(4) The Secretary of the Interior shall manage any lands relinquished under this subsection as multiple use status lands.

(5) If the Secretary of the Interior declines pursuant to paragraph (b)(2) of this section to accept jurisdiction of any parcel of the land proposed for relinquishment that parcel shall remain under the continued administration of the Secretary of the Air Force pursuant to section 2916(d).

(c) EXTENSION.—

(1) In the case of any lands withdrawn and reserved by this title that the Air Force proposes to include in a notice of extension because of continued military need under paragraph (2) of this subsection, the Secretary of the Air Force shall prior to issuing the notice under paragraph (2)—

(A) evaluate the environmental effects of the extension of the withdrawal and reservation of such lands in accordance with all applicable laws and regulations; and

(B) hold at least one public meeting in the State of Idaho regarding that evaluation.

(2) Notice of need for extension of withdrawal—

(A) Not later than 2 years before the termination of the withdrawal and reservation of lands by this title under subsection (a), the Secretary of the Air Force shall notify Congress and the Secretary of the Interior as to whether or not the Air Force has a continuing military need for any of the lands withdrawn and reserved by this title, and not previously relinquished under this section, after the termination date as specified in subsection (a) of this section.

(B) The Secretary of the Air force shall specify in the notice under subparagraph (A) the duration of any extension or further extension of withdrawal and reservation of such lands under this title: Provided however, the duration of each extension or further extension shall not exceed 25 years.

(C) The notice under subparagraph (A) shall be published in the Federal Register and a newspaper of local distribution with the opportunity for comments, within a 60-day period, which shall be provided to the Secretary of the Air Force and the Secretary of the Interior.

(3) Effect of notification.—

(A) Subject to subparagraph (B), in the case of any lands withdrawn and reserved by this title that are covered by a notice of extension under subsection (c)(2), the withdrawal and reservation of such lands shall extend under the provisions of this title after the termination date otherwise provided for under subsection (a) for such period as is specified in the notice under subsection (c)(2).

(B) Subparagraph (A) shall not apply with respect to any lands covered by a notice referred to in that paragraph until 90 legislative days after the date on which the notice with respect to such lands is submitted to Congress under paragraph (2).

SEC. 2916. ENVIRONMENTAL REMEDIATION OF RELINQUISHED WITHDRAWN LANDS OR UPON TERMINATION OF WITHDRAWAL.

(a) ENVIRONMENTAL REVIEW.—

(1) Before submitting under section 2915 a notice of an intent to relinquish jurisdiction over lands withdrawn and reserved by this title, and in all cases not later than two years prior to the date of termination of withdrawal and reservation, the Secretary of the Air Force shall, in consultation with the Secretary of the Interior, complete a review that fully characterizes the environmental conditions of such lands (including any water and air associated with such lands) in order to identify any contamination on such lands.

(2) The Secretary of the Air Force shall submit to the Secretary of the Interior a copy of the review prepared with respect to any lands under paragraph (1). The Secretary of the Air Force shall also submit at the same time any notice of intent to relinquish jurisdiction over such lands under section 2915.

(3) The Secretary of the Air Force shall submit a copy of any such review to Congress.

(b) ENVIRONMENTAL REMEDIATION OF LANDS.—The Secretary of the Air Force shall, in accordance with applicable State and Federal law, carry out and complete environmental remediation—

(1) before relinquishing jurisdiction to the Secretary of the Interior over any lands identified in a notice of intent to relinquish under subsection 2915(b); or,

(2) prior to the date of termination of the withdrawal and reservation, except as provided under subsection (d) of this section.

(c) POSTPONEMENT OF RELINQUISHMENT.—The Secretary of the Interior shall not accept jurisdiction over any lands that are the subject of activities under subsection (b) of this section until the Secretary of the Interior determines that environmental conditions on the lands are such that—

(1) all necessary environmental remediation has been completed by the Secretary of the Air Force;

(2) the lands are safe for nonmilitary uses; and

(3) the lands could be opened consistent with the Secretary of the Interior's public land management responsibilities.

(d) JURISDICTION WHEN WITHDRAWAL TERMINATES.—If the determination required by section (c) cannot be achieved for any parcel of land subject to the withdrawal and reservation prior to the termination date of the withdrawal and reservation, the Secretary of the Air Force shall retain administrative jurisdiction over such parcels of land notwithstanding the termination date for the limited purposes of:

(1) environmental remediation activities under subsection (b); and,

(2) any activities relating to the management of such lands after the termination of the withdrawal reservation for military purposes that are provided for in the integrated natural resources management plan under section 2909.

(e) REQUEST FOR APPROPRIATIONS.—The Secretary of the Air Force shall request an appropriation pursuant to section 2919 sufficient to accomplish the remediation under this title.

SEC. 2917. DELEGATION OF AUTHORITY.

(a) AIR FORCE FUNCTIONS.—Except for executing the agreement referred to in section 2907, the Secretary of the Air Force may delegate that Secretary's functions under this title.

(b) INTERIOR FUNCTIONS.—

(1) Except as provided in paragraph (2), the Secretary of the Interior may delegate that Secretary's functions under this title.

(2) The order referred to in section 2915(b)(3) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Interior.

(3) The approvals granted by the Bureau of Land Management shall be pursuant to the decisions of the Secretary of the Interior, or the Assistant Secretary for Land and Minerals Management.

SEC. 2918. SENSE OF SENATE REGARDING MONITORING OF WITHDRAWN LANDS.

(a) FINDING.—The Senate finds that there is a need for the Department of the Air Force, the Bureau of Land Management, the State of Idaho, and Owyhee County to develop a cooperative effort to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Air Force should ensure that the budgetary planning of the Department of the Air Force makes available sufficient funds to assure Air Force participation in the cooperative effort developed by the Department of the Air Force, the Bureau of Land Management, and the State of Idaho to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

SEC. 2919. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

WELLSTONE AMENDMENT NO. 2894

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place, add the following:

Paragraph (1) of section 1076(e) of Title 10, United States Code, is amended to read as follows:

(1) The administering Secretary shall furnish an abused dependent of a former member of a uniformed service described in paragraph (4), during that period that the abused dependent is in receipt of transitional compensation under section 1059 of this title, with medical and dental care, including mental health services, in facilities of the uniformed services in accordance with the same eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member.

TORRICELLI (AND LAUTENBERG) AMENDMENT NO. 2895

(Ordered to lie on the table.)

Mr. TORRICELLI (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle E of title III, add the following:

SEC. 350. PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.

Not later than March 31, 1999, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the likelihood that the cost savings projected to occur from such reductions will actually be achieved.

ROBB AMENDMENT NO. 2896

(Ordered to lie on the table.)

Mr. ROBB submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. STANDARDIZATION OF AREAS OF RESPONSIBILITY FOR DEPARTMENTS AND AGENCIES HAVING MISSIONS ABROAD.

(a) STANDARDIZATION.—(1) The President shall submit to Congress a proposal for standardizing the geographic areas of responsibility of the departments and agencies of the Federal Government with respect to the responsibilities, if any, of those departments and agencies for matters abroad that involve the national security interests of the United States.

(2) The standardization of areas of responsibility of the departments and agencies under paragraph (1) shall conform the areas of responsibility of such departments and agencies to the geographic areas of responsibility assigned to the unified combatant commands.

(b) CONSULTATION.—In preparing the standardization of areas of responsibility under subsection (a), the President should consult with the Secretary of Defense, the Secretary of State, the Director of Central Intelligence, the National Security Advisor, the heads of the other departments and agencies to be covered by the standardization rules, and such other Federal officials as the President considers appropriate.

ROBB (AND COATS) AMENDMENT NO. 2897

(Ordered to lie on the table.)

Mr. ROBB (for himself, and Mr. COATS) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page 196, between lines 18 and 19, insert the following:

SEC. 908. PANEL ON INFRASTRUCTURE REFORM.

(a) ESTABLISHMENT.—Not later than December 1, 1998, the Secretary of Defense shall establish a nonpartisan, independent panel to be known as the Panel on Infrastructure Reform (in this section referred to as the "Panel"). The Panel shall have the duties set forth in this section.

(b) MEMBERSHIP.—The Panel shall be composed of a chairman and six other individuals appointed by the Secretary, in consultation with the Chairman and Ranking Member of the Committee on Armed Services of the

Senate and the Chairman and Ranking Member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to defense and civilian infrastructure in the United States.

(c) DUTIES.—(1) The Panel shall—

(A) carry out an assessment of the current infrastructure and the projected infrastructure of the Department of Defense in order to identify the infrastructure required to sustain the proposed force structure of the Armed Forces through 2015;

(B) identify the infrastructure that is or will be excess to the infrastructure identified under paragraph (1); and

(C) develop a plan for restructuring the infrastructure in order to reduce unnecessary costs and inefficiencies associated with the infrastructure and to improve the effectiveness of the infrastructure in supporting the warfighting missions of the Armed Forces.

(2) In carrying out its duties under this subsection, the Panel shall, to the maximum extent practicable take into account the results and findings of the following:

(A) The Report of the Department of Defense on Base Realignment and Closure, dated April 1998.

(B) The Report of the National Defense Panel, dated December 1997.

(C) The Defense Reform Initiative, dated November 1997.

(D) The Report of the Quadrennial Defense Review, dated May 1997.

(E) The Report of the Commission on Roles and Missions of the Armed Forces, dated May 1995.

(d) REPORT.—(1) Not later than October 31, 1999, the Panel shall submit to the Secretary a report on its activities under subsection (c) the report shall—

(A) review the concept for future warfighting described in the document entitled "Joint Vision 2010" and assess how the infrastructure of the Department of Defense can be restructured to better support the operational concepts outlined in that document;

(B) assume the authorization of a base closure round in 2001;

(C) assess other restructuring options for the infrastructure that may be required to sustain the proposed force structure of the Armed Forces through 2015;

(D) assess the benefits, risks, and feasibility of new concepts for the infrastructure, including joint bases and facilities, so-called "superbases", offshore bases, and the co-called "new base concept" outlined in the report of the National Defense Panel;

(E) assess opportunities for further regionalization of administrative and other functions shared across many installations;

(F) assess the need for excess installation capacity in light of future remobilization requirements and prospects for further reductions in overseas basing options;

(G) assess the need for construction of new installations in the United States;

(H) assess the future role of overseas installations in supporting the proposed force structure of the Armed Forces;

(I) compare the infrastructure design of the United States with the defense infrastructure designs of other nations;

(J) recommend such modifications in the 1990 base closure law as the Panel considers appropriate to improve the efficiency and objectivity of the base closure process;

(K) compare the merits of requiring one additional round of base closures under that law with the merits of requiring more than one additional round of base closures under that law;

(L) recommend such alternative methods of eliminating excess infrastructure capacity as the Panel considers appropriate;

(M) develop methods and measures to further improve the ability of the Department of Defense to compare categories of infrastructure across the military departments;

(N) to the extent practicable, estimate the funding required to implement the changes proposed by the Panel, as well as the savings to be anticipated from such changes; and

(O) propose any recommendations for legislation that the Panel considers appropriate.

(2) Not later than November 30, 1999, the Secretary shall, after consultation with the Chairman of the Joint Chiefs of Staff, submit to the committees referred to in subsection (b) a copy of the report under paragraph (1), together with the Secretary's comments on the report.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

(f) PERSONNEL MATTERS.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel.

(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director, and a staff of not more than four additional individuals, if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

(g) ADMINISTRATIVE PROVISIONS.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

(h) PAYMENT OF PANEL EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

(i) TERMINATION.—The Panel shall terminate 30 days after the date on which the Panel submits its report to the Secretary under subsection (d)(1).

(j) DEFINITIONS.—In this section:

(1) The term "infrastructure" means the facilities, equipment, personnel, and other programs and activities of the Department of Defense that provide support to combat mission programs of the Department, including programs and activities relating to acquisition, installation support, central command, control, and communications, force management, central logistics, central medical, central personnel, and central training.

(2) The term "1990 base closure law" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

BINGAMAN AMENDMENTS NOS. 2898–2901

(Ordered to lie on the table.)

Mr. BINGAMAN submitted four amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2898

On page 16, line 8, strike "$780,150,000", and insert in lieu thereof "$855,150,000".

On page 14, line 1, strike "$1,466,508,000", and insert in lieu thereof "$1,402,508,000".

On page 14, line 5, strike "$1,010,155,000", and insert in lieu thereof "$999,150,000".

AMENDMENT NO. 2899

On page 16, line 8, strike "$780,150,000", and insert in lieu thereof "$855,150,000".

AMENDMENT NO. 2900

On page 14, line 1, strike "$1,466,508,000", and insert in lieu thereof "$1,402,508,000".

AMENDMENT NO. 2901

On page 14, line 5, strike "$1,010,155,000", and insert in lieu thereof "$999,150,000".

WELLSTONE AMENDMENT NO. 2902

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 200, between lines 14 and 15, insert the following:

SEC. 1005. CHILD DEVELOPMENT PROGRAM.

(a) Additional Funding.—The amount authorized to be appropriated by this Act for the Child Development Program of the Department of Defense is hereby increased by $270,000,000.

(b) Offset.—(1) Notwithstanding any other provision of this Act, the total amount authorized to be appropriated by this Act (other than the amount authorized to be appropriated for the Child Development Program) is reduced by $270,000,000.

(2) The Secretary of Defense shall allocate the amount of the reduction made by paragraph (1) equitably across each budget activity, budget activity group, budget subactivity group, program, project, or activity for which funds are authorized to be appropriated by this Act.

(c) Use of Funds.—(1) The amount made available by subsection (a) shall be available for obligation and expenditure as follows:

(A) $41,000,000 shall be available in fiscal year 1999.

(B) $46,000,000 shall be available in fiscal year 2000.

(C) $53,000,000 shall be available in fiscal year 2001.

(D) $61,000,000 shall be available in fiscal year 2002.

(E) $70,000,000 shall be available in fiscal year 2003.

(2) Amounts available under this section shall be available for any programs under the Child Development Program, including programs for school-age care.

KENNEDY AMENDMENT NO. 2903

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 76, between lines 7 and 8, insert the following:

SEC. . JOINT DEPARTMENT OF DEFENSE—DEPARTMENT OF HEALTH AND HUMAN SERVICES PROGRAM TO PROMOTE KEY ELEMENTS OF THE MILITARY CHILDCARE SYSTEM.

(a) $10 million shall be reduced from line 44, Other Procurement Army for the ACUS Modification Program and made available for the program described under paragraph (B).

(b) The Secretary of Defense in cooperation with the Secretary of Health and Human Services shall design and implement a national program of technical assistance to states and communities to promote the key elements of the military child care model (including family child care networks, salary scales, accreditation, and monitoring.) At least 75 percent of funds shall be provided in the form of initiative matching grants to states and local communities interested in demonstrating key elements of the DOD childcare model.

BROWNBACK AMENDMENT NO. 2904

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. . SENSE OF SENATE REGARDING THE AUGUST 1995 ASSASSINATION ATTEMPT AGAINST PRESIDENT SHEVARDNADZE OF GEORGIA.

(a) Findings.—Congress makes the following findings:

(1) On Tuesday, August 29, 1995, President Eduard Shevardnadze of Georgia narrowly survived a car bomb attack as he departed his offices in the Georgian Parliament building to attend the signing ceremony for the new constitution of Georgia.

(2) The former Chief of the Georgian National Security Service, Lieutenant General Igor Giorgadze, after being implicated in organizing the August 29, 1995, assassination attempt on President Shevardnadze, fled Georgia from the Russian-controlled Varziani airbase on a Russian military aircraft.

(3) Lieutenant General Giorgadze has been seen openly in Moscow and is believed to have been given residence at a Russian government facility despite the fact that Interpol is conducting a search for Lieutenant General Giorgadze for his role in the assassination attempt against President Shervardnadze.

(4) The Russian Interior Ministry claims that it is unable to locate Lieutenant General Giorgadze in Moscow.

(5) The Georgian Security and Interior Ministries presented information to the Russian Interior Ministry on November 13, 1996; January 17, 1997; March 7, 1997; March 24, 1997 and August 12, 1997, which included the exact location in Moscow of where Lieutenant General Giorgadze's family lived, the exact location where Lieutenant General Giorgadze lived outside of Moscow in a dacha of the Russian Ministry of Defense; as well as the changing official Russian government license tag numbers and description of the automobile that Lieutenant General Giorgadze uses; the people he associates with; the apartments he visits, and the places including restaurants, markets, and companies, that he frequents.

(6) On May 12, 1998, the Moscow-based Russian newspaper Zavtra carried an interview with Lieutenant General Giorgadze in which Lieutenant General Giorgadze calls for the overthrow of the Government of Georgia.

(7) Title II of the Foreign Operations Appropriations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118) prohibits assistance to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the national sovereignty of any other new independent state.

(b) Sense of the Senate.—It is the sense of the Senate that the Secretary of Defense should—

(1) urge the Government of the Russian Federation to extradite the former Chief of the Georgian National Security Service, Lieutenant General Igor Giorgadze, to Georgia for the purpose of standing trial for his role in the attempted assassination of Georgian President Eduard Shevardnadze on August 29, 1995;

(2) request cooperation from the Minister of Defense of the Russian Federation in ensuring that Russian military bases on Georgian territory are no longer used to facilitate the escape of assassins seeking to kill the freely elected President of Georgia;

(3) make any joint United States-Russian programs funded under the authority of the National Defense Authorization Act for Fiscal Year 1999 contingent upon Russian respect for the national sovereignty of its neighbors; and

(4) use all authorities available to the Department of Defense to provide urgent and immediate assistance to bolster the training of personnel, and the delivery of equipment such as weapons, vehicles, vehicle armor, body armor, secure communications, surveillance and counter surveillance equipment, and bomb detection equipment, to ensure to the maximum extent practicable the personal security of President Shevardnadze.

SESSIONS AMENDMENTS NOS. 2905–2907

(Ordered to lie on the table.)

Mr. SESSIONS submitted three amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2905

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. DEADLINE FOR SELECTION OF TECHNOLOGY FOR TRITIUM PRODUCTION.

(a) Deadline.—The Secretary of Energy shall select a technology for the production of tritium not later than December 31, 1998.

(b) Options Available for Selection.—Notwithstanding any provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Secretary shall make the selection under subsection (a) from between the following:

(1) The light-water reactor facility (Bellefonte Plant) in Hollywood, Alabama.

(2) Accelerator production of tritium.

Amendment No. 2906

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. DEADLINE FOR SELECTION OF TECHNOLOGY FOR TRITIUM PRODUCTION.

(a) Deadline.—The Secretary of Energy shall select a technology for the production of tritium not later than December 31, 1998.

(b) Options Available for Selection.—Notwithstanding any provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Secretary shall make the selection under subsection (a) from between the following:

(1) A United States Government owned and operated commercial light water reactor.

(2) Accelerator production of tritium.

Amendment No. 2907

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. DEADLINE FOR SELECTION OF TECHNOLOGY FOR TRITIUM PRODUCTION.

(a) Deadline.—The Secretary of Energy shall select a technology for the production of tritium not later than December 31, 1998.

(b) Options Available for Selection.—Notwithstanding any provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), after the completion of the Department of Energy's evaluation of their Interagency Review on the production of Tritium, the Secretary shall make the selection for tritium production consistent with the laws, regulations and procedures of the Department of Energy as stated in subsection (a).

BROWNBACK AMENDMENT NO. 2908

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle A of title XXVII, add the following:

SEC. 2705. LIMITATION RELATING TO HOUSING OF RECRUITS DURING BASIC TRAINING.

(a) Limitation.—None of the funds authorized to be appropriated by this division may be used for military construction unless the Secretary of the military department having jurisdiction of that armed force—

(1) requires by October 1, 2001 that during basic training, male and female recruits of that armed force be housed in separate barracks or other troop housing facilities; and

(2) if the Secretary of the military department concerned determines that facilities at that installation are insufficient for the purposes of compliance with the requirement for separate housing, the Secretary shall require that male and female recruits not be housed on the same floor of a barracks or other troop housing facility; and

(3) restricts the access by drill sergeants and other training personnel to a barracks floor on which recruits are housed during basic training, after the end of the training day, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor, other than in case of an emergency or other exigent circumstance.

(b) SECTION 527 NOT TO TAKE EFFECT.—Section 527 shall not take effect.

STEVENS AMENDMENTS NOS. 2909–2911

(Ordered to lie on the table.)

Mr. STEVENS submitted three amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2909

At the end of subtitle B of title VI, add the following:

SEC. 620. RETENTION INCENTIVES INITIATIVE FOR CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.

(a) REQUIREMENT FOR NEW INCENTIVES.—The Secretary of Defense shall establish and provide for members of the Armed Forces qualified in critically short military occupational specialties a series of new incentives that the Secretary considers potentially effective for increasing the rates at which those members are retained in the Armed Forces for service in such specialties.

(b) CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.—For the purposes of this section, a military occupational specialty is a critically short military occupational specialty for an armed force if the number of members retained in that armed force in fiscal year 1998 for service in that specialty is less than 50 percent of the number of members of that armed force that were projected to be retained in that armed force for service in the specialty by the Secretary of the military department concerned as of October 1, 1997.

(c) INCENTIVES.—It is the sense of Congress that, among the new incentives established and provided under this section, the Secretary of Defense should include the following incentives:

(1) Family support and leave allowances.

(2) Increased special reenlistment or retention bonuses.

(3) Repayment of educational loans.

(4) Priority of selection for assignment to preferred permanent duty station or for extension at permanent duty station.

(5) Modified leave policies.

(6) Special consideration for Government housing or additional housing allowances.

(d) RELATIONSHIP TO OTHER INCENTIVES.—Incentives provided under this section are in addition to any special pay or other benefit that is authorized under any other provision of law.

(e) REPORTS.—(1) Not later than July 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report that identifies, for each of the Armed Forces, the critically short military occupational specialties to which incentives under this section are to apply.

(2) Not later than October 15, 1998, the Secretary of Defense shall submit to the congressional defense committees a report that specifies, for each of the Armed Forces, the incentives that are to be provided under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Defense for fiscal year 1999, in addition amounts authorized under the other provisions of this Act, such amount as may be necessary to carry out this section.

AMENDMENT NO. 2910

On page 199 of the bill, delete Subsection (c) of Sec. 1002.

AMENDMENT NO. 2911

In lieu of subsection (c) of Sec. 1002 in the bill insert the following:

"Senate Resolution 209, as agreed to by the Senate on April 2, 1998, is modified by striking the following text:

(1) $266,635,000,000 in total budget outlays, and

(2) $271,570,000,000 in total new budget authority; and inserting in lieu thereof the following:

(1) $268,169,000,000 in total budget outlays, and

(2) $273,428,600,000 in total new budget authority;"

SMITH AMENDMENT NO. 2912

(Ordered to lie on the table.)

Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. POLICY ON DEPLOYMENT OF UNITED STATES FORCES IN BOSNIA AND HERZEGOVINA.

(a) LIMITATION.—None of the funds authorized to be appropriated under this Act may be expended after March 31, 1999, to support the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina unless, on or before such date, each House of Congress votes on passage of legislation that, if adopted, would specifically authorize the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina.

(b) PLAN FOR WITHDRAWAL OF FORCES.—If legislation referred to in subsection (a) is not presented to the President on or before March 31, 1999, the President shall submit to Congress, not later than September 30, 1999, a plan that provides for the ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina to be withdrawn from Bosnia and Herzegovina in an orderly and safe manner.

(c) PROHIBITION.—

(1) USE OF FUNDS AFTER MARCH 31, 1999.—After March 31, 1999, none of the funds authorized to be appropriated by this or any other Act may be obligated or expended to support the continued deployment of United States ground combat forces in Bosnia and Herzegovina, except for the purpose of implementing the withdrawal plan.

(2) CONDITION.—The prohibition on use of funds in paragraph (1) shall not take effect if a joint resolution described in subsection (d)(1) is enacted on or before March 31, 1999.

(d) PROCEDURES FOR JOINT RESOLUTION OF APPROVAL.—

(1) CONTENT OF JOINT RESOLUTION.—For the purposes of subsection (c)(2), "joint resolution" means only a joint resolution that sets forth as the matter after the resolving clause only the following: "That the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina is authorized.".

(2) REFERRAL TO COMMITTEE.—A resolution described in paragraph (1) that is introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the Committee on National Security of the House of Representatives.

(3) DISCHARGE OF COMMITTEE.—If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 7 calendar days after its introduction, the committee shall be deemed to be discharged from further consideration of the resolution and the resolution shall be placed on the appropriate calendar of the House involved.

(4) FLOOR CONSIDERATION.—

(A) IN GENERAL.—When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) CONSIDERATION OF VETO.—

(A) ACTION UPON RECEIPT OF MESSAGE.—Upon receipt of a message from the President returning the joint resolution unsigned to the House of origin and setting forth his objections to the joint resolution, the House receiving the message shall immediately enter the objections at large on the journal of that House and the House shall proceed to the immediate reconsideration of the joint resolution the objections of the President to the contrary notwithstanding or of a motion to proceed to the immediate reconsideration of the joint resolution, or the joint resolution and objections shall lie on the table. Upon receipt of a message of a House transmitting the joint resolution and the objections of the President, the House receiving the message shall proceed to the immediate reconsideration of the joint resolution the objections of the President to the contrary notwithstanding or of a motion to proceed to the immediate reconsideration of the joint resolution, or the joint resolution and objections shall lie on the table. A motion to refer the joint resolution to a committee shall not be in order in either House.

(B) MOTION TO PROCEED.—After the receipt of a message by a House as described in subparagraph (A), it is at any time in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the reconsideration of the joint resolution the objections of the President to the contrary notwithstanding. The motion is highly privileged in the House of Representatives and is a question of highest privilege in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the reconsideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(C) DEBATE.—Debate on reconsideration of the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to notwithstanding the objections of the President or disagreed to is not in order.

(D) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on reconsideration of the resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on the question of passage, the objections of the President to the contrary notwithstanding, shall occur.

(7) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

DOMENICI (AND BINGAMAN) AMENDMENT NO. 2913

(Ordered to lie on the table.)

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. ACTIVITIES OF THE CONTRACTOR-OPERATED FACILITIES OF THE DEPARTMENT OF ENERGY.

(a) RESEARCH AND ACTIVITIES ON BEHALF OF NON-DEPARTMENT PERSONS AND ENTITIES.—(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) through contractor-operated facilities of the Department of Energy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, and include, but are not limited to, research and activities authorized under the following:

(A) Section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053).

(B) Section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817).

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) CHARGES.—(1) The Secretary shall impose on the department, agency, or person or entity for whom research and other activities are carried out under subsection (a) a charge for such research and activities equal to not more than the full cost incurred by the contractor concerned in carrying out such research and activities, which cost shall include—

(A) the direct cost incurred by the contractor in carrying out such research and activities; and

(B) the overhead cost associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent of the full cost incurred by the contractor concerned in carrying out the research and activities concerned.

(B) The Secretary shall waive the imposition of the Federal administrative charge required by subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after the date of enactment of this Act, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

(c) PILOT PROGRAM OF REDUCED FACILITY OVERHEAD CHARGES.—(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary and the contractor concerned shall determine the facility overhead charges to be imposed under the pilot program based on their joint review of all items included in the overhead costs of the facility concerned in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and other appropriate committees of the House of Representatives an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

(d) PARTNERSHIPS AND INTERACTIONS.—(1) The Secretary of Energy shall encourage partnerships and interactions between each contractor-operated facility of the Department of Energy and universities and private businesses.

(2) The Secretary may take into account the progress of each contractor-operated facility of the Department in developing and expanding partnerships and interactions under paragraph (1) in evaluating the annual performance of such contractor-operated facility.

(e) SMALL BUSINESS TECHNOLOGY PARTNERSHIP PROGRAM.—(1) The Secretary may require that each contractor operating a facility of the Department establish a program at such facility under which the contractor shall enter into partnerships with small businesses at such facility relating to technology.

(2) The amount of funds expended by a contractor under a program under paragraph (1) at a particular facility may not exceed an amount equal to 0.25 percent of the total operating budget of the facility.

(3) Amounts expended by a contractor under a program—

(A) shall be used to cover the costs (including research and development costs and technical assistance costs) incurred by the contractor in connection with activities under the program; and

(B) may not be used for direct grants to small businesses.

(4) The Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and the appropriate committee of the House of Representatives, together with the budget of the President for each fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, an assessment of the program under this subsection during the preceding year, including the effectiveness of the program in providing opportunities for small businesses to interact with and use the resources of the contractor-operated facilities of the Department.

• Mr. DOMENICI. Mr. President, partnerships among our federal laboratories, universities, and industry provide important benefits to our nation. They help to create innovative new products and services that drive our economy and improve our quality of life. Today I submit the DOE Partnership Amendment to the National Defense Authorization Bill for Fiscal Year 1999. This Amendment improves the capabilities at the DOE sites for effective partnerships and interactions with other federal agencies, with the private sector, and with universities.

I have personally observed the positive impacts of well crafted partnerships. These partnerships enhance the ability of the laboratories and other contractor-operated facilities of the Department of Energy to accomplish their federal missions at the same time that the companies benefit though enhanced competitiveness from the technical resources available at these sites.

I have also seen important successes achieved by other federal agencies and companies that utilized the resources of the national laboratories and other Department sites through contract research mechanisms. Contract research enables these sites to contribute their technical expertise in cases where the private sector can not supply a customer's needs. Partnerships and other interactions enable companies and other agencies to accomplish their own missions better, faster, and cheaper.

I've seen spectacular examples where small businesses have been created around breakthrough technologies from the national laboratories and other contractor-operated sites of the DOE. But, at present, only the Department's Defense Programs has a specific program for small business partnerships and assistance.

All programs of the Department have expertise that can be driving small business successes. Historically, in the United States, small businesses have often been the most innovative and the fastest to exploit new technical opportunities—all of the Department's programs should be open to the small business interactions that Defense Programs has so effectively utilized.

I have been concerned that barriers to these partnerships and interactions continue to exist within the Department of Energy. In addition, the Department's laboratories and other sites need continuing encouragement to be fully receptive to partnership opportunities that meet both their own mission objectives and industry's goals. And finally, small business interactions should be encouraged across the Department of Energy, not only in Defense Programs.

For these reasons, I introduced S. 1874 on March 27, 1998, the Department of Energy Small Business and Industry Partnership Enhancement Act of 1998, which was co-sponsored by Senators Thompson, Craig, Kempthorne, Bingaman, Reid, and Lieberman. The National Coalition for Advanced Manufacturing, or NACFAM, endorsed our actions with S. 1874, describing it as "a crucial step in reducing barriers to cooperation between the national laboratories and private industry, higher education institutions, non-profit entities, and state and local governments." NACFAM also noted that this "bill supports our shared conviction that collaborative R&D will further strengthen America's productivity growth and national security."

Today I submit, with Senator BINGAMAN as a co-sponsor, language for amendment of the National Defense Authorization Bill for Fiscal Year 1999 that accomplishes almost the same goals as S. 1874. This Amendment was developed through consultation with several of the co-sponsors, the Senate Energy and Natural Resources Committee, the Senate Committee on Armed Services, and the Department of Energy.

This Amendment removes barriers to more effective utilization of all of the Department's contractor-operated facilities by industry, other federal agencies, and universities. The Amendment covers all the Department's contractor-operated facilities—national laboratories and their other sites like Kansas City, Pantex, Hanford, Savannah River, or the Nevada Test Site.

This Amendment also provides important encouragement to the contractor-operated sites to increase their partnerships and other interactions with universities and companies. And finally, it creates opportunities for small businesses to benefit from the technical resources available at all of the Department's contractor-operated facilities.

This Amendment supplements the authority of the Atomic Energy Act, which limited the areas wherein the Department's facilities could provide research and other services, not in competition with the private sector, to only those mission areas undertaken in the earliest days of the AEC. My Amendment recognizes that the Department's responsibilities are far broader than the original AEC, and that all parts of the Department should be available to help on a contract basis wherever capabilities are not available from private industry.

One barrier at the Department to contract research involves charges added by the Department to the cost of work accomplished by a site. At some laboratories, these charges now range up to 25%. This Amendment requires that charges to customers for research and other services at these facilities be fully recovered, and sharply limits addition of extra charges by the Department to only 3%. The Amendment further requires waiver of these extra charges for small business and non-profit entities and provides a process for the Secretary of Energy to continue any pre-existing waivers.

The Amendment creates a five-year pilot program for external customers that enables facilities to examine their overhead rates and determine if an alternative lower rate serves to cover services actually used by these customers. For example, where companies or universities do not require secure facilities or do not utilize the extensive special nuclear material capabilities of the laboratories, then the customer will be charged an overhead rate that excludes security costs and environmental legacy costs. This pilot program will enable the Department and facilities to evaluate the impact of these lower overhead rates for one important class of external customers. The Department is required to report in 2003 on the interim results of this Pilot and to provide recommendations on possibly continuing this Pilot and even extending it to include other federal customers.

The Amendment provides direct encouragement for expansion of partnerships and interactions with companies and universities by requiring that each facility be annually judged for success in expanding these interactions in ways that support each facility's missions. The Amendment requires that the external partnership and interaction program be considered in evaluating the annual contract performance at each site.

And finally, the Amendment sets up a new Small Business Partnership Program in which all of the Department sites participate. This action will enable small businesses across the United States to better access and partner with any of the Department's contractor-owned facilities. A fund for such interactions up to 0.25 percent of the total site budget is available for these small business interactions.

With these changes, Mr. President, the Department of Energy facilities will be better able to meet their critical national missions, while at the same time assisting other federal agencies, large and small businesses, and universities in better meeting their goals and missions.●

THURMOND (AND DOMENICI) AMENDMENT NO. 2914

(Ordered to lie on the table.)

Mr. THURMOND (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the appropriate place add the following:

Section 3307 of title 5, United States Code, is amended as follows:

(1) by striking in subsection (a) "and (d)" and inserting in its place "(d), (e), and (f)"; and

(2) by adding the following new subsection (f) after subsection (e): "(f) The Secretary of Energy may determine and fix the maximum age limit for an original appointment to a position as a Department of Energy nuclear materials courier, so defined by section 8331(27) of this title.

SEC. 2. Section 8331 of Title 5, United States Code, is amended as follows:

By adding the following new paragraph (27) after paragraph (26):

"(27) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position".

SEC. 3 (a) The first sentence of Section 8334(a)(1) of Title 5, United States Code, is amended by striking "and a firefighter," and inserting in its place "a firefighter, and a Department of Energy nuclear materials courier,".

(b) Section 8334(c) of Title 5, United States Code, is amended by adding the following new schedule after the schedule for a Member of the Capitol Police:

"Department of Energy nuclear materials courier for courier service (while employed by DOE and its predecessor agencies):
5: July 1, 1942 to June 30, 1948.
6: July 1, 1948 to October 31, 1956.
6½: November 1, 1956 to December 31, 1969.
7: January 1, 1970 to December 31, 1974.
7½: After December 31, 1974.".

SEC. 4. Section 8336(c)(1) of Title 5, United States Code, is amended by striking "or firefighter" and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 5. Section 8401 of title 5, United States Code, is amended as follows:

By adding the following new paragraph (33) after paragraph (32): "(33) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapons components, strategic quantities of special nuclear materials, or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 6. Section 8412(d) of Title 5, United States Code, is amended by striking "or firefighter" in paragraphs (1) and (2) and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier.".

SEC. 7. Section 8415(g) of Title 5, United States Code, is amended by striking "firefighter" and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 8. Section 8422(a)(3) of Title 5, United States Code, is amended by striking "firefighter" in the schedule and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 9. Sections 8423(a)(1)(B)(i) and 8423(a)(3)(A) of Title 5, United States Code, are amended by striking "Firefighters" and inserting in its place "firefighters, Department of Energy nuclear materials couriers,".

SEC. 10. Section 8335(b) of title 5, United States Code, is amended by adding the words "or Department of Energy Nuclear Materials Couriers" after the word "officer" in the second sentence.

SEC. 11. These amendments are effective at the beginning of the first pay period after the date of enactment of this Act.

CONRAD (AND OTHERS) AMENDMENT NO. 2915

(Ordered to lie on the table.)

Mr. CONRAD (for himself, Mr. KEMPTHORNE, Mr. KENNEDY, and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the appropriate place in subtitle D of title X, insert the following:

SEC. RUSSIAN NON-STRATEGIC NUCLEAR WEAPONS.

(a) SENSE OF THE SENATE.—It is the Sense of the Senate that

(1) the 7,000 to 12,000 or more non-strategic (or "tactical") nuclear weapons estimated by the United States Strategic Command to be in the Russian arsenal may present the greatest threat of sale or theft of a nuclear warhead in the world today;

(2) as the number of deployed strategic warheads in the Russian and United States arsenals declines to just a few thousand under the START accords, Russia's vast superiority in tactical nuclear warheads—many of which have yields equivalent to strategic nuclear weapons—could become strategically destabilizing;

(3) while the United States has unilaterally reduced its inventory of tactical nuclear warheads by nearly ninety percent since the end of the Cold War, Russia is behind schedule in implementing the steep tactical nuclear arms reductions pledged by former Soviet President Gorbachev in 1991 and Russian President Yeltsin in 1992, perpetuating the dangers from Russia's tactical nuclear stockpile;

(4) the President of the United States should call on the Russian Federation to expedite reduction of its tactical nuclear arsenal in accordance with the promises made in 1991 and 1992, and pledge continued cooperation from the United States in reducing Russia's tactical nuclear stockpile; and

(5) it is a top foreign policy priority of the United States to work aggressively to reduce the threats from the non-strategic nuclear arsenal of the Russian Federation, through continued cooperation on accounting for, security, and reducing Russia's stockpile of tactical nuclear warheads and associated fissile material.

(b) REPORT.—Not later than March 15, 1999, the Secretary of Defense shall submit to the Congress a report on Russia's non-strategic nuclear weapons, including

(1) estimates regarding the current numbers, types, yields, viability, and locations of such warheads;

(2) an assessment of the strategic implications of the Russian Federation's non-strategic arsenal, including the potential use of such warheads in a strategic role or the use of their components in strategic nuclear systems;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of such warheads, including an analysis of Russian command and control as it concerns the use of tactical nuclear warheads;

(4) a summary of past, current, and planned efforts to work cooperatively with the Russian Federation to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile material; and

(5) options for additional threat reduction initiatives concerning Russia's tactical nuclear stockpile.

This report shall include the views of the Director of Central Intelligence and the Commander in Chief of the United States Strategic Command.

BYRD AMENDMENT NO. 2916

(Ordered to lie on the table.)

Mr. BYRD submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

Strike out section 527, and insert in lieu thereof the following:

SEC. 527. REQUIREMENTS RELATING TO RECRUIT BASIC TRAINING.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate platoons and separate housing for male and female recruits

"(a) SEPARATE PLATOONS.—The Secretary of the Army shall require that during basic training—

"(1) male recruits shall be assigned to platoons consisting only of male recruits; and

"(2) female recruits shall be assigned to platoons consisting only of female recruits.

"(b) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Army determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate platoons and separate housing for male and female recruits.".

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate small units and separate housing for male and female recruits.

"§ 6931. Recruit basic training: separate small units and separate housing for male and female recruits

"(a) SEPARATE SMALL UNIT ORGANIZATION.—The Secretary of the Navy shall require that during basic training—

"(1) male recruits in the Navy shall be assigned to divisions, and male recruits in the Marine Corps shall be assigned to platoons, consisting only of male recruits; and

"(2) female recruits in the Navy shall be assigned to divisions, and female recruits in the Marine Corps shall be assigned to platoons, consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Navy determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for that purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9319. Recruit basic training: separate flights and separate housing for male and female recruits

"(a) SEPARATE FLIGHTS.—The Secretary of the Air Force shall require that during basic training—

"(1) male recruits shall be assigned to flights consisting only of male recruits; and

"(2) female recruits shall be assigned to flights consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Air Force determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a dormitory or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate flights and separate housing for male and female recruits.".

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

SANTORUM AMENDMENTS NOS. 2917–2918

(Ordered to lie on the table.)

Mr. SANTORUM submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2917

On page 157, between lines 13 and 14, insert the following:

(i) REQUIREMENT RELATING TO PHARMACY BENEFIT.—In carrying out the demonstration projects under this section, the Secretary shall ensure that the copayments, deductibles, or other financial incentives or disincentives applicable to participating eligible individuals with respect to prescription drugs apply uniformly regardless of the delivery method of the prescription drugs concerned.

AMENDMENT NO. 2918

At the appropriate place, insert the following new section:

SEC. . The Committee directs the Secretary of Defense to complete a review of the Defense Automated Printing Service (DAPS), utilizing a private sector source, and provide a report by March 31, 1999. The report shall include:

(1) A list of each inherently national security-oriented and non-inherently national security-oriented functions performed by DAPS;

(2) A description of the management structure of DAPS, including the location of all DAPS sites;

(3) The total number of personnel employed by DAPS and their location;

(4) A description of the functions performed by DAPS and the number of DAPS employees performing each of the DAPS functions;

(5) A site assessment of the type of equipment at each DAPS site;

(6) The type and explanation of the networking and technology integration linking all DAPS sites;

(7) Identify current and future customer requirements;

(8) Assess the effectiveness of DAPS current structure in supporting current and future customer needs and plans to address any shortcomings;

(9) Identify and discuss best business practices that are utilized by DAPS, and such practices that could be utilized by DAPS; and

(10) Provide options on maximizing the DAPS structure and services to provide the most cost effective service to its customers.

BAUCUS AMENDMENT NO. 2919

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place add the following:

In Title III—Operation and Maintenance, Sec. 301. Operation and Maintenance Funding, (17) Environmental Restoration Defensewide, there is authorized to be appropriated under this heading, $10,500,000 for a curatorial collections and processing facility at the Museum of the Rockies, a division of Montana State University-Bozeman.

D'AMATO AMENDMENT NO. 2920

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

CHAPTER 45. THE UNIFORM

SEC. 772. WHEN WEARING BY PERSONS NOT ON ACTIVE DUTY AUTHORIZED.

"Chapter 45 of title 10, United States Code, is amended by adding at the end of section 772, the following new subsection:

"(k) A member of a state militia force (other than the Army National Guard or the Air National Guard) or a state defense force that is authorized and administered pursuant to state law may wear the uniform prescribed for that state militia force or that state defense force by competent state authority."

KYL AMENDMENT NO. 2921

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

Section 3155 of National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106) is amended by inserting the following:

"(c) Agencies, including the National Archives and Records Administration, shall conduct a visual inspection of all permanent records of historical value which are 25 years old of older prior to declassification to ascertain that they contain no pages with Restricted Data or Formerly Restricted Data (FRD) markings (as defined by the Atomic Energy Act or 1954, as amended). Record collection in which marked RD or FRD is found shall be set aside pending the completion of a review by the Department of Energy."

BAUCUS AMENDMENT NO. 2922

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

Strike page 51, line 3—page 52 line 9 and replace with the following:

"(a) Authority To Transport.—(1) Subject to paragraphs (2) and (3), the Secretary of the Defense and the Secretaries of the military departments may provide for the transportation into the customs territory of the United States of polychlorinated biphenyls generated by or under the control of the Department of Defense for purposes of their disposal, treatment, or storage in the customs territory of the United States.

"(2) Polychlorinated biphenyls may be transported into the customs territory of the United States under paragraph (1) only if the Administrator of the Environmental Protection Agency determines that: (A) the transportation and disposal, treatment or storage will not result in an unreasonable risk of injury to health or the environment; and (B) there is no reasonably available alternative location for disposition in an environmentally sound manner.

"(3) Not later than 60 days after enactment of this Act, the Department shall submit to the Administrator of EPA a plan that provides for the transportation and disposition of foreign manufactured PCBs that the Department seeks to transport to the United States from abroad. The plan shall include information that specifies the type, volume, concentration and source of all PCBs that the Department seeks to transport to the United States, the identification of the receiving facility, and information required under subparagraph (2)(B). If, after public notice and comment, the Administrator of EPA determines that the plan meets the criteria under paragraph (2), the Department may transport PCBs in accordance with the plan.

"(b) Disposal.—(1) The disposal, treatment, and storage of polychlorinated biphenyls transported into the customs territory of the United States under subsection (a) shall be governed by the provisions of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(2) A chemical waste landfill may not be used for the disposal, treatment, or storage of polychlorinated biphenyls transported into the customs territory of the United States under subsection (a) unless the landfill meets all of the technical requirements specified in section 761.75(b)(8) of title 40, Code of Federal Regulations, as in effect on the date that was one year before the date of enactment of the National Defense Authorization Act for Fiscal Year 1999.

"(c) Customs Territory of the United States Defined.—In this section, the term 'customs territory of the United States' has the meaning given that term in General Note 2 of the Harmonized Tariff Schedule of the United States.".

"(d) The Department shall submit to Congress an annual report on the transport and disposal of PCBs under this section.

DURBIN AMENDMENT NO. 2923

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place add the following:

SEC. 708. AVAILABILITY OF REHABILITATIVE SERVICES UNDER TRICARE FOR HEAD INJURIES.

The Assistant Secretary of Defense for Health Affairs shall revise the TRICARE policy manual to clarify that rehabilitative services are available to a patient for a head injury when the treating physician certifies that such services would be beneficial for the patient and there is potential for the patient to recover from the injury.

The Assistant Secretary of Defense for Health Affairs shall review whether each regional TRICARE PRIME health plan has a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage.

If a plan does not have an adequate network of providers in proximity to the location where the enrollee or their family is stationed, then the plan will refer the individual to another appropriate health care provider, specialist, facility, or center, at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist or facility that is a participating provider.

DODD AMENDMENTS NOS. 2924–2925

(Ordered to lie on the table.)

Mr. DODD submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2924

At the appropriate place, insert the following:

SEC. 634. ARMY PENSION PROGRAM.

(a) $750,000 will be authorized to be appropriated from existing Department of the Army funds to alleviate the backlog of pension packages for Army, Army Reserve and National Guard retirees.

(b) The Secretary of the Army shall alleviate such backlog by December 31, 1998 and report to Congress no later than January 31, 1999 regarding the current status of the backlog and what, if any, additional measures are needed to ensure that pension packages are processed in a timely fashion.

Amendment No. 2925

At the appropriate place, insert the following:

SEC. 634. ARMY PENSION PROGRAM.

(a) $750,000 will be authorized to be appropriated from existing Department of the Army funds to alleviate the backlog of pension packages for Army, Army Reserve and National Guard retirees.

(b) The Secretary of the Army shall alleviate such backlog by December 31, 1998 and report to Congress no later than January 31, 1999 regarding the current status of the backlog and what, if any, additional measures are needed to ensure that pension packages are processed in a timely fashion.

LEAHY AMENDMENT NO. 2926

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 42, between lines 9 and 10, insert the following:

SEC. 232. LANDMINES.

(a) Availability of Funds.—(1) Of the amounts authorized to be appropriated in section 201, $17,200,000 shall be available for activities relating to the identification, adaptation, modification, research, and development of existing and new tactics, technologies, and operational concepts that—

(A) would provide a combat capability that is comparable to the combat capability provided by anti-personnel landmines, including anti-personnel landmines used in mixed mine systems; and

(B) comply with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) The amount available under paragraph (1) shall be derived as follows:

(A) $12,500,000 shall be available from amounts authorized to be appropriated by section 201(1).

(B) $4,700,000 shall be available from amounts authorized to be appropriated by section 201(4).

(b) Studies.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall enter into a contract with each of two appropriate scientific organizations for purposes of identifying existing and new tactics, technologies, and concepts referred to in subsection (a).

(2) Each contract shall require the organization concerned to submit a report to the Secretary and to Congress, not later than one year after the execution of such contract, describing the activities under such contract and including recommendations with respect to the adaptation, modification, and research and development of existing and new tactics, technologies, and concepts identified under such contract.

(3) Amounts available under subsection (a) shall be available for purposes of the contracts under this subsection.

(c) Reports.—Not later than April 1 of each of 1999 through 2001, the Secretary shall submit to the congressional defense committees a report describing the progress made in identifying and deploying tactics, technologies, and concepts referred to in subsection (a).

(d) Definitions.—In this section:

(1) Anti-personnel landmine.—The term "anti-personnel landmine" has the meaning given the term "anti-personnel mine" in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) Mixed mine system.—The term "mixed mine system" includes any system in which an anti-vehicle landmine or other munition is constructed with or used with one or more anti-personnel landmines, but does not include an anti-handling device as that term is defined in Article 2 of the Convention on the

Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

GRAMM AMENDMENTS NOS. 2927–2928

(Ordered to lie on the table.)

Mr. GRAMM submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2927

At the appropriate place, add the following:

SEC. . INCREASED NUMBER OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AUTHORIZED AT EACH SENIOR MILITARY COLLEGE.

Section 2107(h) of title 10, United States Code, is amended by adding at the end the following:

"(3)(A) Subject to subparagraph (B), up to 40 entering freshmen midshipmen of the Naval Reserve Officers' Training Corps at each senior military college shall receive financial assistance under this section. Midshipmen must be qualified by the Navy and must choose to attend the senior military college.

"(B) In the case of a senior military college with more than 1,000 members of its total Corps of Cadets at the college, the number under subparagraph (A) shall be increased by one for each 100 members of its total Corps of Cadets at such college in excess of 1,000 members. The Corps of Cadets' size shall be based on the enrollment at the beginning of the academic year.

"(C) In this paragraph, the term 'senior military college' means an institution of higher education listed in section 2111a(d) of this title.".

"(D) Nothing in this section shall prevent the Navy from allowing a larger number of midshipmen to attend a given senior military college.

AMENDMENT NO. 2928

SEC. 644. INCREASED NUMBER OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AUTHORIZED AT EACH SENIOR MILITARY COLLEGE.

Section 2107(h) of title 10, United States Code, is amended by adding at the end the following:

"(3)(A) Subject to subparagraph (B), up to 40 entering freshmen midshipmen of the Naval Reserve Officers' Training Corps at each senior military college shall received financial assistance under this section. Midshipmen must be qualified by the Navy and must choose to attend the senior military college.

"(B) In the case of a senior military college with more than 1,000 members of its total Corps of Cadets at the college, the number under subparagraph (A) shall be increased by one for each 100 members of its total Corps of Cadets at such college in excess of 1,000 members. The Corps of Cadets' size shall be based on the enrollment at the beginning of the academic year.

"(C) In this paragraph, the term 'senior military college' means an institution of higher education listed in section 2111a(d) of this title.".

"(D) Nothing in this section shall prevent the Navy from allowing a larger number of midshipmen to attend a given senior military college.

KENNEDY AMENDMENT NO. 2929

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place add the following:

Subtitle E—Other Programs

SEC. 141. ASSISTANCE AND GRANTS TO STATE AND LOCAL GOVERNMENTS FOR IMPLEMENTATION OF KEY ELEMENTS OF THE MILITARY CHILD CARE MODEL.

(a) PROGRAM.—The Secretary of Defense shall, in consultation with the Secretary of Health and Human Services, develop and implement a program of assistance to State and local governments nationwide in order to promote the implementation by such governments of the key elements of the military child care model (including family child care networks, salary scales, accreditation, and monitoring, and other programs and requirements associated with that model).

(b) PROGRAM ELEMENTS.—(1) Under the program, the Secretary shall—

(A) provide technical assistance to State and local governments nationwide in the implementation of the key elements of the military child care model; and

(B) make grants to States interested in demonstrating key elements of the model for purposes of the implementation of such elements by such States and localities within such States.

(2) The Secretary may make a grant to a State under paragraph (1)(B) only if the State commits an amount equal to the amount of the grant for purposes of the implementation by the State and localities within the State of the key elements of the military child care model.

(c) USES OF FUNDS.—Of the amounts available under subsection (d) for the program under this section—

(1) not less than 75 percent shall be available for grants under subparagraph (B) of subsection (b)(1); and

(2) the remainder shall be available for the provision of technical assistance under subparagraph (A) of subsection (b)(1).

(d) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated by section 101(5), $10,000,000 shall be available for purposes of the program under this section.

WARNER AMENDMENT NO. 2930

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to amendment No. 2791 submitted by Ms. MIKULSKI to the bill, S. 2057, supra; as follows:

Beginning on page 2, strike out line 12 and all that follows through page 4, line 5.

WARNER AMENDMENT NO. 2931

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

Beginning on page 2, strike out line 12 and all that follows through page 4, line 5.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that an Executive Session of the Senate Committee on Labor and Human Resources, will be held on Wednesday, June 24, 1998, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The Committee will consider Human Services Reauthorization Amendments of 1998.

For further information, please call the committee, 202/224–5375.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, June 24, 1998 at 2:30 p.m. to conduct a business meeting to mark up S. 1925, to make technical corrections to laws relating to Native Americans and; S. 1998, to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, to be followed immediately by a joint hearing with the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act; and S. 1899, the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reservation Water Rights Settlement Act of 1998. The meeting/hearing will be held in room 628 of the Dirksen Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 202/224–2251.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, June 25, 1998, 10:00 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is "Health Insurance and Older Workers." For further information, please call the committee, 202/224–5375.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Committee on Energy and Natural Resources of the Senate.

The hearing will take place in Kenai, Alaska at the Kenai Visitor and Convention Bureau on Friday, August 21, 1998, at 9:00 a.m. The Kenai visitor and Convention Bureau is located at 11471 Kenai Spur Highway, Kenai, Alaska.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Amie Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent on behalf of the

Government Affairs Committee to meet on Monday, June 22, 1998, at 2:00 p.m. for a hearing on the nomination of Jacob J. Lew to be Director of the Office of Management and Budget

The PRESIDING OFFICER. Without objection, it is so ordered.

CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Caucus on International Narcotics Control be authorized to meet in Miami, Florida, during the session of the Senate on Monday, June 22 at 9:00 a.m. to receive testimony on drug trafficking and the flow of illegal drugs into Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NOMINATION OF LOUIS CALDERA TO BE SECRETARY OF THE ARMY

• Mr. WARNER. Mr. President, in considering the nomination of Louis Caldera before the Senate Armed Services Committee to be the Secretary of the Army, I raised the issue of the Washington Aqueduct—the public water system for the Metropolitan Washington area that is owned by the Federal government and administered by the Corps of Engineers.

As my colleagues may recall, the conditions at the Washington Aqueduct gained national attention when the Environmental Protection Agency issued a "boil-water" order in December, 1993 for the metropolitan Washington region. There was significant concern that the water supply for the nation's capital was contaminated. This incident brought to light the significant capital improvements that are needed at the facility to meet current federal drinking water standards.

In order to address the tremendous water quality issues that are facing the District, Arlington County, and the city of Falls Church, I included in the Safe Drinking Water Act Amendments of 1996, Section 306 entitled the Washington Aqueduct. I wrote this section so that the customers of the Washington Aqueduct would have a reliable and safe source of drinkable water. The Aqueduct is in need of many capital improvements to insure that the water remains safe and drinkable. Improvements to the Aqueduct are self-financed by the users. It is estimated that significant costs remain, between $250 and $400 million.

To allow for these crucial improvements, Section 306 directs the Army Corps of Engineers to transfer the Washington Aqueduct, with the consent of a majority of the three customers, to a non-federal, public or private entity. Since this effort would be a significant undertaking, the Safe Drinking Water Act gave the customers and the Corps three years, until August 6, 1999, to gain consensus. Congress authorized the Corps to borrow funds from the Treasury during an interim three year period to begin the necessary infrastructure improvements. This borrowing authority totaled $75 million and would be repaid by the ratepayers.

Recently, I learned that the Corps has signed a Memorandum of Understanding with the three customers for the Corps to retain ownership of the Aqueduct.

There are problems with the Corps remaining the owner of the Washington Aqueduct, besides that this seems inconsistent with existing law. First and foremost, the Corps does not have the means to finance the capital improvements that are needed. Once the three year borrowing expires, the Corps only has means to finance daily operations at the Corps. Given the current condition at the Aqueduct, this is hardly the way to insure that the ratepayers have drinkable water. In addition, in the event of another boil water scare, the Corps would have no means to address the immediate problem. If the Corps does not have funding to perform needed upgrades to the Aqueduct nor have the financing to address an emergency situation, it seems to me that, consistent with current law, they should not retain ownership of the Corps.

In questioning Mr. Caldera about this situation, I have received assurances that the Army will fully implement the provisions of the Safe Drinking Water Act. This Wednesday a meeting will be held with all the relevant parties to develop a course of action on this matter. I am encouraged by Mr. Caldera's attention to this important regional issue. He has pledged to work with me to resolve this impasse so that the region can afford to proceed with the necessary modernization plan for the Aqueduct. Without proceeding with privatization or the development of a new regional entity, I remain concerned that the schedule for improvements will be delayed or that the citizens of this region will experience severe water rate hikes.•

TRIBUTE TO HUGH McINTOSH

• Mr. HOLLINGS. Mr. President, today I call this body's attention to Hugh M. McIntosh's special contribution to the performing arts in the nation's Capital. Hugh has worked long and hard to foster the growth and appreciation of the arts, particularly through his service as a Trustee of the Ford's Theatre Society.

The Society is the not-for-profit organization that brings new musicals, American classics, and other live entertainment to that historic stage. After the assassination of President Lincoln, Ford's Theatre was used as an office and warehouse until an act of Congress initiated the Theatre's restoration, which was completed in 1968. This year's Gala for the President celebrated these 30 years of memorable performances illuminating the character and vibrancy of American life.

As a partner in the law firm of Vinson & Elkins, L.L.P., Hugh McIntosh has guided Ford's governing board and staff through legal thickets, including contract negotiations with playwrights and agents, strategic planning, development of ethical guidelines, and day-to-day legal questions. Hugh has worked closely with Frankie Hewitt, the Ford Theatre Society's founder and producing artistic director, and with the National Park Service, which administers the Theatre as a public museum.

Hugh is a discerning theater-goer, and his love of "a good show" has fueled his enthusiasm for contributing backstage at Ford's. He is a strong supporter of education and outreach programs that invites a diverse audience to Ford's and aim to foster a greater appreciation of the performing arts in the Washington area.

But as valuable as Hugh's legal expertise has been to Ford's Theatre, his greatest contribution has been to bring wisdom, a sense of perspective, and quiet humor to the complex issues facing the Theatre's performing artists and playwrights.

It is these special qualities, in fact, which will assure Hugh's success in the new direction his life is about to take. This fall, Hugh will begin studying theology at the Harvard School of Divinity. If Hugh is called to pastoral service, he may find many friends from Ford's Theatre in his pews.

At its June meeting, the Ford Theatre Society's Board of Trustees honored Hugh McIntosh with a resolution thanking him for his invaluable service to the Theatre. Mr. President, I ask that the text of this resolution be printed in the RECORD.

The text of the resolution follows:

A RESOLUTION OF THE FORD'S THEATRE SOCIETY

Whereas Hugh M. McIntosh, Esq. has faithfully pursued the interests of the Ford's Theatre Society as a Trustee; and

Whereas Mr. McIntosh has diligently rendered complex issues comprehensible to the Board of Trustees and its Executive Committee; and

Whereas Mr. McIntosh's gentle humor and patience have been invaluable in many situations and occasions; and

Whereas Mr. McIntosh has energetically marshaled the resources of many talented colleagues in serving Ford's Theatre: and

Whereas Mr. McIntosh has determined that he must now pursue another field of study, work and service;

Therefore be it Resolved, that the Trustees of the Ford's Theatre Society offer Mr. McIntosh their profound appreciation for his work; and

The Trustees express their gratitude to the firm of Vinson & Elkins, L.L.P., for its dedication to the interests of Ford's Theatre, and furthermore

The Trustees wish Mr. McIntosh all success in his new endeavors.

(signed)

SAMUEL D. CHILCOTE, JR.,
Chairman of the Board of Trustees.
MRS. FRITZ HOLLINGS,
Vice Chairman.
MRS. PAUL LAXALT,
Secretary.
RONALD H. WALKER,
Treasurer.
FRANKIE HEWITT,
Executive Producer.

June 16, 1998.●

MONTANA TECH FOUNDATION 1998 DISTINGUISHED LEADERSHIP AWARD—MR. DON PEOPLES, SR.

● Mr. BURNS. Mr. President, it is my great pleasure to congratulate Mr. Don Peoples, Sr. of Butte, Montana for being recognized as the 1998 recipient of the Distinguished Leadership Award by the Montana Tech Foundation.

I have known Don for many years and his commitment to the city of Butte is certainly a reflection of his love for the All-America City! While serving as Butte's Chief Executive, Don lead a team of dedicated folks that revived Butte's economy after the loss of a major mining company in 1982.

After serving ten years in that role, Don left local government to become a leading voice for the private sector. Today, he is President and Chief Executive Officer of MSE, Inc. MSE is now one of Butte's top employers.

His company is currently working with the National Aeronautics and Space Administration (NASA) on a variety of projects that will help launch the next generation space shuttle and other research projects. The United States Defense Department is also working with MSE to develop technologies for use in pollution control and cleanup. The company is also researching new methods for heavy metal and mine waste remediation projects.

I believe that because of Don's tenacity, this kind of cutting edge technology is being tested in Butte, Montana.

I also applaud Don's commitment to many other organizations and committees in the mining city. He continues to make a difference through his affiliations with the United Way, Carroll College, St. James Community Hospital, Butte Central Schools, and so many other worthwhile causes.

I must also acknowledge Don's wife Cathy and their four grown children—Don, Jr., Tracey, Doug, and Kevin—as they celebrate this honor. I am convinced that their love and support have helped Don achieve so many goals throughout the years.

I always say Montanans have very special qualities. Mr. Don Peoples, Sr. is truly a special Montanan and for that I congratulate him.●

COMMEMORATION OF THE NATIONAL MUSEUM OF CIVIL WAR MEDICINE

● Mr. KEMPTHORNE. Mr. President, I would to take a moment to speak about the National Museum of Civil War Medicine, in Frederick, Maryland, which I recently had the great honor of once again visiting.

On September 17, 1862, the Union and Confederacy engaged in a massive engagement at Sharpsburg, Maryland, which was also known as the Battle of Antietam, so named after the small creek around which Union troops were consolidated. Confederate General Robert E. Lee and his 40,000 Southern troops were pitted against Federal General George B. McClellan and 87,000 Union soldiers. Quotations researched by the Antietam National Battlefield staff and volunteers help us visualize the battle and its toll.

> On the forenoon of the 15th, the blue uniforms of the Federals appeared among the trees that crowned the heights on the eastern bank of the Antietam. The number increased, and larger and larger grew the field of the blue until it seemed to stretch as the eye could see, and from the tops of the mountains down to the edges of the stream gathered the great army of McClellan.—Lt. Gen. James Longstreet, CSA, Commander, Longstreet's Corps, Army of Northern Virginia.
>
> We were massed 'in column by company' in a cornfield; the night was close, air heavy . . . some rainfall . . . The air was perfumed with a mixture of crushed green corn stalks, ragweed, and clover. We made our beds between rows of corn and would not remove our accouterments.—Private Miles C. Huyette, Company B, 125th Pennsylvania Infantry.
>
> Suddenly a stir beginning far up on the right, and running like a wave along the line, brought the regiment to its feet. A silence fell on everyone at once, for each felt that the momentous 'now' had come.—Pvt. David L. Thompson, Company G, 9th New York Volunteers.
>
> In the time that I am writing every stalk of corn in the northern and greater part of the field was cut as closely as could have been done with a knife, and the slain lay in rows precisely as they had stood in their ranks a few moments before. It was never my fortune to witness a more bloody, dismal battlefield.—Maj. General Joseph Hooker, USA, Commander, I Corps, Army of the Potomac.

Antietam became the bloodiest day in American history. At the close of the day, more men were wounded or killed at Antietam than on any other single day of the Civil War: 12,410 Union troops, and 10,700 Confederates.

Whether Union or Confederate, when a soldier fell on the battlefield, he was an American. Frederick, Maryland, was the recipient of the thousands of fallen soldiers.

The National Museum of Civil War Medicine, in Frederick, seeks to highlight the sacrifice made by countless American soldiers in their quest to advance the values of this great nation that was, as Abraham Lincoln explained, "conceived in liberty." In fact, those slain on the battlefield at Antietam were prepared for burial in the very building that now houses the National Museum of Civil War Medicine.

> The force of a mini ball or piece of shell striking any solid portion of a person is astonishing; it comes like a blow from a sledge hammer, and the recipient finds himself sprawling on the ground before he is conscious of being hit; then he feels about for the wound, the benumbing blow deadening sensation for a few moments. Unless struck in the head or about the heart, men mortally wounded live some time, often in great pain, and toss about upon the ground.—History of the 35th Massachusetts Volunteers.
>
> Under the dark shade of a towering oak near the Dunker Church lay the lifeless form of a drummer boy, apparently not more than seventeen years of age, flaxen hair and eyes of blue and form of delicate mould. As I approached him I stooped down and as I did so I perceived a bloody mark upon his forehead . . . It showed where the leaden messenger of death had produced the wound that caused his death. His lips were compressed, his eyes half open, a bright smile played upon his countenance. By his side lay his tenor drum, never to be tapped again.—Pvt. J.D. Hicks, Company K, 125th Pennsylvania Volunteers.

"It is well war is so frightful," General Lee wrote, "otherwise we should become too fond of it." Indeed, this museum allows the visitor to get a feel for the ravages of war. Located in the museum are numerous exhibits detailing how Civil War-era doctors and nurses dealt with the wounded and near-dead who were brought off the battlefield to be cared for.

> Comrades with wounds of all conceivable shapes were brought in and placed side by side as thick as they could lay, and the bloody work of amputation commenced.—George Allen, Company A, 6th New York Volunteers.

The former Surgeon General of the United States, C. Everett Koop, has remarked that the Civil War represented a "watershed in American medical history." The visitor to this museum becomes keenly aware of this, and learns of Civil War-era medical advances in the fields of anesthesia, surgery, sanitation, and the introduction of mobile medical corps to the armed forces.

Mr. President, I find that I have a personal bond to the town of Frederick, this museum, and what it represents. My great-grandfather, Charles Kempthorne, was a member of Company Three of the Third Regiment of the Wisconsin Infantry Volunteers. He, like many other brave soldiers, was wounded on September 17, 1862, at the Battle of Antietam. It was in the town of Frederick that his wounds were treated and he began his convalescence. In time he was transferred to Washington, D.C., where he served until he was honorably discharged on June 29, 1864.

Commemoration is indeed an important duty, not only to honor the dead, but also to keep alive the ideals that they died for. Mr. President, I am pleased to see that the National Museum for Civil War Medicine has undertaken the important task of remembering a crucial component of Civil War history.

I would like to commend those people who have made the National Museum of Civil War Medicine a reality. Dr. Gordon E. Dammann, Dr. F. Terry Hambrecht, JaNeen Smith, Debbie Moone, and volunteers Dianne Marvinney, Rebecca Coffey, Bill Witt, among many others, are doing an excellent job with the museum.

On behalf of my great-grandfather, Charles Kempthorne, I say thank you to the community of Frederick for its compassion so many years ago, and as a citizen I commend the National Museum of Civil War Medicine for helping those of us today realize that the cost of freedom did not come easy, but was often achieved with the loss of blood and life by brave Americans on both sides.

> Both before and after a battle, sad and solemn thoughts come to the soldier. Before the conflict they were of apprehension; after the strife there is a sense of relief; but the thinned ranks, the knowledge that the comrade who stood by your side in the morning never will stand there again, bring inexpressible sadness—Charles Carleton Coffin, Army Correspondent, Boston Journal.•

REMEMBERING RICK JAMESON

• Mr. ABRAHAM. Mr. President, I rise today to recognize the passing of one of the great leaders of Michigan's conservation community. On Saturday, my friend Richard Jameson, the executive director of the Michigan United Conservation Clubs, succumbed to liver cancer. Rick was 48 years old.

Rick was an environmentalist and an avid outdoorsman whose roots extended beyond our state. A native of Oklahoma, he received his bachelor's and master's degrees in natural resources management from Michigan State University and began working for the Michigan United Conservation Clubs in 1976. Rick's expertise and hard work were quickly recognized and in 1980 he headed back to his home state to serve as executive director of the Oklahoma Wildlife Federation. He continued in that capacity for eight years until 1988, when MUCC was fortunate enough to lure him back to serve as assistant executive director.

Rick was a strong and dedicated environmentalist. Among his accomplishments was the passage of Michigan's beverage container deposit law; a law which has been widely acknowledged as greatly reducing litter in our state. Rick also played a vital role in providing Michigan voters the opportunity to pass a constitutional amendment that will ensure a constant source of funds for Michigan's state parks.

Rick was also an avid outdoorsman. Here, too, he achieved important successes. He was instrumental in securing the overwhelming approval of a campaign which will guarantee that Michigan game animals are managed on the basis of sound biological science. He also helped defeat another initiative which would have virtually eliminated bear hunting in the state of Michigan.

In short, Mr. President, I believe that Rick Jameson was one of the few individuals who truly understood the importance of both conservation and sportsman's rights. He spent his life's work protecting both as few others could.

And Rick was a fighter. Despite suffering the effects of both his illness and the chemotherapy he was undergoing, Rick continued to work as long as possible. My office consulted with him as recently as last month, soliciting his input on legislation I have drafted and on other bills pending in the Senate. When it came to conservation, hunting and fishing, there was no one in the state whose opinion I trusted more than Rick's.

Rick is survived by his wife of 18 years, Robbie, his daughter, Christine, and two brothers. My thoughts and prayers go out to them.•

TRIBUTE TO ROBERT V. OGLE

• Mr. WARNER. Mr. President, I rise today to pay special tribute to the retirement of Robert V. Ogle, an extraordinary individual who has rendered thirty-five years of federal service not only to the Commonwealth of Virginia, but also to the nation.

Mr. Ogle, who resides in Virginia Beach, Virginia, will soon enter into retirement after a lifetime of service in the Norfolk District of the United States Army Corps of Engineers. With the exception of a year of study in Washington and six months in the Naval Air Reserve, his entire career has been spent in the Planning Division of the Norfolk District Corps of Engineers.

During his time in the Norfolk District, Mr. Ogle's expertise and professionalism facilitated his ascendance to the Chief of the Planning Division. His responsibilities included Reconnaissance Studies, Feasibility Studies, Limited Reevaluation Reports, and General Reevaluation Reports associated with the General Investigation Program. In addition to these responsibilities, Mr. Ogle's innovation was illustrated by his incorporation and development of a Technical Review process that serves to ensure sound decision-making practices. Preceding his duties as the Chief of the Planning Division, Mr. Ogle served within the Norfolk District as the Chief of the Plan Formulation Branch, the Director of Planning, and the Chief of the Hydraulics and Hydrology branch.

Throughout his thirty-five year career as a professional engineer, Mr. Ogle has received numerous awards and distinctions in recognition of his exceptional career. Among them, Mr. Ogle has twice received the Commander's Award for excellent work within the Norfolk District. Mr. Ogle is also a member of the Virginia Society of Professional Engineers and the American Society of Civil Engineers. In addition, he has received the Exceptional Performance Rating eight times during his career, a distinction that exemplifies his commitment and service to our nation.

Mr. President, Mr. Ogle's thirty-five years of federal service and his exceptional performance ratings serve as a testament of his dedication to the environmental improvement of the Commonwealth of Virginia and our country. I urge my colleagues to stand and join me in paying tribute to Robert V. Ogle, and in wishing him happiness and contentment in his well-deserved retirement.•

PRINTED CIRCUIT INVESTMENT ACT

• Mr. ABRAHAM. Mr. President, I rise to join my colleagues, Senator MACK and Senator GRAMS, in sponsoring the "Printed Circuit Investment Act." This legislation will remove a significant barrier to technological investment and innovation in this country by updating the tax code's treatment of the electronic interconnection industry.

Mr. President, manufacturers of printed wiring boards and printed wiring assemblies currently must depreciate their production equipment over a 5 years period. Given the speed with which technological advances continue to come in our high-tech industry, 5 years is an unreasonable amount of time for depreciation. In effect, the tax code is penalizing these companies for keeping up with their competition in the global marketplace. This not fair, nor is it in accordance with our national interests. In the fast-paced information age in which we live, we cannot afford to hobble our high-tech companies with outdated tax policies.

This is why I am pleased to support legislation reducing to 3 years the time over which companies in the electronic interconnection industry must depreciate their production equipment. Through this measure we can encourage greater investment among electronic interconnection manufacturers and keep our high-tech industry competitive in the global marketplace.

I urge my colleagues to join in supporting this legislation.•

ORDERS FOR TUESDAY, JUNE 23, 1998

Mr. CAMPBELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, June 23. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate then resume consideration of S. 2057, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I further ask unanimous consent that the Senate stand in recess from 12:30 until 2:15 p.m. to allow the weekly party caucuses to meet; further, that following the party caucuses, at 2:15 p.m., the Senate proceed to vote on the motion to invoke cloture on S. 2057, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. I further ask unanimous consent that, following the cloture vote, Senator HATCH be recognized to speak for up to 20 minutes, followed by Senator FEINSTEIN for up to 20 minutes, as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CAMPBELL. Madam President, for the information of all Senators, the Senate will reconvene on Tuesday, at 9:30 a.m., and resume consideration of the defense authorization bill. It is hoped that Members will come to the floor to offer and debate amendments to the defense bill under short time agreements. It is expected that a motion to table the pending Hutchinson amendment will be made at approximately 10:15 a.m. Therefore, Members should expect the first rollcall vote of Tuesday's session at approximately 10:15 a.m. Further votes may occur Tuesday morning with respect to the Department of Defense bill prior to the weekly party luncheon recess. When the Senate reconvenes at 2:15 p.m. following the party luncheons, the Senate will immediately vote on cloture on the defense bill.

The majority leader would like to remind Members that the Independence Day recess is fast approaching. The cooperation of all Members is requested for the Senate to complete action on many important bills, including appropriations bills, the Higher Education Act, the Department of Defense authorization bill, conference reports on the Coverdell education bill, the IRS reform bill, and any other legislative or executive items that may be cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CAMPBELL. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:21 p.m., adjourned until Tuesday, June 23, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1998:

The Judiciary

LYNN JEANNE BUSH, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE WILKES C. ROBINSON, RETIRED.

CONFIRMATION

Executive Nomination Confirmed by the Senate June 22, 1998:

The Judiciary

SUSAN OKI MOLLWAY, OF HAWAII, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII.

HOUSE OF REPRESENTATIVES—*Monday, June 22, 1998*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 22, 1998.

I hereby designate the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a bill and a concurrent resolution of the following titles, in which concurrence of the House is requested:

S. 1379. An act to amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

S. Con. Res. 104. Concurrent resolution commemorating the 50th anniversary of the integration of the Armed Forces.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. WISE) for 5 minutes.

HAZARDOUS MATERIALS TRANSPORTATION ON RAILROADS

Mr. WISE. Mr. Speaker, this weekend was quite an eventful one in West Virginia in the Cabell County area where we had another hazardous materials derailment. This is the second one in a little over a year in that area.

Happily there were no fatalities. A limited number of people were hospitalized briefly. A hundred families will have to be evacuated and most of them will be back today.

Beginning yesterday, I was in personal contact with the National Transportation Safety Board team in the area, as well as the FRA. I have just spoken personally this morning with the National Transportation Safety Board team. At this point, the cause of this accident is still unknown. Of the roughly 150 railcars, 34 of them derailed, a couple of chemical tanker cars punctured, and formaldehyde and chlorine were released.

Their focus is presently looking at one hopper car to see whether it could have had some problems, and the track is yet to be inspected in that area. The mechanical problems, to the extent there might have been some, are still to be examined.

The good news is that the emergency response teams that arrived did exactly the right things. They made the decisions that needed to be made and evacuated the families that needed to be evacuated. Of course, we will continue to dig out from this for a period of time. The immediate concern is what happens to the groundwater. Most of the homes in that area are on wells and that will have to be evaluated closely.

Mr. Speaker, it is important that this Congress deal with the problem of hazardous materials transportation on railroads. Indeed, legislation that I have introduced and that we have been trying to move I believe will do that, particularly in setting up regional response teams.

Mr. Speaker, in light of the fact that this is the second hazardous materials accident in almost a year, I have today requested the Federal Railroad Administrator to perform a comprehensive review of hazardous materials transportation in this particular area of West Virginia.

Mr. Speaker, we are a hazardous materials transportation corridor. We have a large concentration of our own chemical industry and also we are transporting large amounts of hazardous materials from other States and other regions through this area. So, it is important that we undertake every possible action to make sure that these railway lines are as safe as possible.

There was one fatality last year in Scary, which was not anywhere near the same cause that caused this one. But the fact of the matter is that when transporting hazardous materials, we have to make sure that these rail lines are absolutely as safe as possible and that the emergency responders are as well trained as possible.

In my request today to the Federal Railroad Administrator, I have asked several things. I have asked that there be a comprehensive review, working with CSX and the others involved. A comprehensive review of the safety of hazardous materials transportation in this area of West Virginia.

Second, I have asked some specific questions. Is there adequate inspection of the cars, the tank cars, at the plant when they are being loaded and before they roll out, versus being transported into the yards and being inspected there?

Is there adequate inspection of the track? Because if hazardous materials are rolling over these tracks on a regular basis, we have to make sure that the safest standards are maintained.

Are the personnel adequate and are they trained that need to do these inspections? Are we taking extra effort when we are dealing with hazardous materials?

Mr. Speaker, I have also asked the FRA and the National Transportation Safety Board to look at the adequacy of emergency response. The emergency responders did an excellent job this weekend. There is no doubt about it. But do they need more resources? Do they need more training? Do they need more equipment? Did Operation Respond function as we hoped that it would when we had it installed just last year?

It seems clear that whenever there is hazardous materials transportation along the rails that we must work together, the FRA, the National Transportation Safety Board, the railroad companies themselves, the emergency responders themselves, all work together to make sure that the emergency responders have the resources they need along that railroad right of way.

They are the ones that get called out at noon on Saturday when nobody else is around to handle 34 cars that have just derailed.

Mr. Speaker, we have made progress. Last year following the Scary tragedy, CSX working with FRA undertook a comprehensive wall-to-wall safety audit. I met in April, along with Jolene Molitoris the administrator of the FRA, with CSX personnel and we came away feeling good about some of the improvements that clearly have been made. But clearly we must all continue working even more, because hazardous materials transportation challenges us

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

all to the highest possible safety standards.

So today I have written a letter to the administrator of the FRA. I have been in personal contact with the NTSB teams on the ground in West Virginia. We are going to request that there be a comprehensive review of safety measures in place along this hazardous materials corridor, and we want to make sure that this cleanup is undertaken in as quick a manner and safe a manner as possible.

CARDIAC ARREST SURVIVAL ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, last week, Senator SLADE GORTON joined with me in sponsoring the Cardiac Arrest Survival Act. This legislation was developed with the assistance of the American Heart Association and the American Red Cross. I will be introducing this bill this week and I urge my colleagues to join me as original cosponsors.

What is the purpose of this bill? I think that could best be told by retelling a personal experience that I heard last week during our press conference on this legislation.

A Mr. Bob Adams provides us with one of the most compelling reasons to pass the Cardiac Arrest Survival Act. Mr. Speaker, he is still alive today because of an automatic external defibrillator, an AED. Let me explain.

On July 3, 1997, Bob Adams, who was 42 years old at the time, was walking through Grand Central Station in New York City when his heart stopped and he collapsed. He is a lawyer in a firm with 450 people, a husband, a father of three children.

He was in perfect health and in fact he had always experienced good health. In fact, Bob would tell that he was the least likely person in his firm of 450 employees to have an experience such as this. He was captain of his college basketball team, played professional basketball in Europe, and today is a nationally known college basketball referee.

Despite being in perfect health with no history of heart disease, this young man went into cardiac arrest the day before a holiday weekend in a place where half a million people pass through every day.

Mr. Speaker, timing was everything for Bob Adams. On July 2, the day before he collapsed, the automatic external defibrillator that the Metro North Commuter Railroad had ordered for use in Grand Central Station had just arrived. Luckily, the staff had also been well trained, not knowing they would have to test their skills so soon.

Bob's heart was stopped for approximately 5 minutes before the AED was unpacked from its shipping box and everyone hoped that it came with charged batteries. Thanks to the trained staff at the station, and an emergency medical technician who happened to be present, Bob's life was saved.

Doctors have never determined why Bob suffered a cardiac arrest. It simply stopped. Bob and his wife and three children are grateful that there was an AED in Grand Central Station on that particular day.

While Mr. Adams' story is more dramatic than most, my colleagues might be surprised to learn that more than 350,000 Americans suffer a sudden cardiac arrest every year. Fewer than 10 percent will be discharged from a hospital alive. The key to survival is timely initiation of a series of events, easily communicated as the "chain of survival."

The chain includes early activation of the emergency medical service, CPR, rapid defibrillation, and early advanced cardiac life support. Weakness in any link lessens the chance of survival and condemns the efforts of an emergency medical system to poor results. After as little as 10 minutes, very few resuscitation attempts are successful.

Mr. Speaker, the Cardiac Arrest Survival Act would require the development of: One, a model State training program for first responders and bystanders in lifesaving interventions.

Two, model State legislation to ensure access to emergency medical services, including consideration of the very necessary training for use of lifesaving equipment.

Three, directs the coordination of a national database in conjunction with existing databases relating to the incidents of cardiac arrest and whether interventions, including bystanders or first responders, improved the rate of survival.

Mr. Speaker, we need to pass this type of bill. It is not expensive. It encourages joint partnership between the commercial and the private industry. This bill will ensure that all Americans will have the same protection available to them should they ever be caught in such a life-threatening position as Bob Adams.

PLIGHT OF ALEXANDER NIKITIN HAS BROAD INTERNATIONAL IMPLICATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Colorado (Mr. SKAGGS) is recognized during morning hour debates for 5 minutes.

Mr. SKAGGS. Mr. Speaker, I rise today to bring to my colleagues' attention the case of Alexander Nikitin, a case that has broad implications for the future of democracy, free speech, and the rule of law in Russia.

Nikitin is a retired Russian Navy captain who coauthored this report, "The Russian Northern Fleet: Sources of Radioactive Contamination," published by the environmental group Bellona. The report outlines a potential Chernobyl in slow motion from the release of radioactivity in the Russian northern fleet's nuclear submarines and storage facilities for nuclear waste.

The report describes an environmental disaster waiting to happen with retired and rusting nuclear-powered submarines still containing highly radioactive fuel docked at the Kola Peninsula in the Arctic Circle. Unprotected nuclear waste reportedly is also stored at bases and shipyards near Murmansk.

Mr. Speaker, if such a report were released about the U.S. fleet, it would be a national scandal. Clearly, this report, if published during the Communist rule of the Soviet Union, would have been repressed and its author charged with treason.

Unfortunately, that is exactly what has happened in Russia today. The report is banned and Nikitin has been charged with treason and releasing State secrets. This despite the fact that all the information in the report was taken from open, documented sources.

The saga of Nikitin's legal trouble is a sorry one. He was arrested and jailed for almost a year. Then he was released as the various investigations proceeded, but not allowed to travel outside of St. Petersburg. He was charged incredibly on six separation occasions for violating six different sets of secret decrees.

Most recently on May 8, Russia's General Prosecutor charged Nikitin with treason, for the first time, and for releasing state secrets for the seventh time, but is no longer basing the charges on secret decrees. Rather than a victory for the rule of law, however, this new development is an even more egregious abuse because the charges are now based on exactly nothing. There were no public decrees defining secrets at time Nikitin allegedly revealed them, so the prosecutor has now violated the most fundamental principle of the rule of law: that one cannot be charged for a crime that was not defined at the time it happened.

☐ 1245

These charges represent a very disturbing return to the old Soviet ways of prosecuting someone to repress and intimidate them.

One might ask, why should we care about this? There are many reasons. The world's environment belongs to all of us and a Chernobyl in slow motion should be of grave concern to the whole world. More specifically, for the U.S. Congress, we should be concerned because the United States is assisting Russia in building a facility in Murmansk for processing nuclear waste.

But it is what this case says about Russia today that should be of equal concern. Will Russian citizens really have the right to free speech? Will they be able to publish reports critical of the government without being arrested and prosecuted? Can Russia possibly face up to its massive environmental problems if it does not even want to hear about them? Will the rule of law emerge in Russia?

I ask my colleagues to join me in speaking out about this case, as many already have, sending letters to President Yeltsin as well as to Vice President GORE and Secretary of State Albright. I will be seeking an appointment with Russia's Ambassador to the United States to discuss the case, and I hope some colleagues will join me there as well.

There is too much at stake here—Russia's continuing progress as a free market, democratic country with the rule of law as its basis—too much at stake to ignore this critical case.

NATIONAL DEFENSE

The SPEAKER pro tempore (Mr. PETRI). Under the Speaker's announced policy of January 21, 1997, the gentleman from North Carolina (Mr. JONES) is recognized during morning hour debates for 5 minutes.

Mr. JONES. Mr. Speaker, over the last recess, while attending several Memorial Day services, I spent time focusing on the state of our dwindling national defense. By failing to maintain a strong military, we are dishonoring those who have served and died for our freedom. Unfortunately, the next century will not be as peaceful as once envisioned.

Surprising the U.S. intelligence community, India and Pakistan have conducted nuclear weapons tests. It has been reported that Iraq has enough deadly biological weapons to kill every human being on earth. Just last week North Korea threatened the United States that they would not cease the production of nuclear weapons unless they were compensated. Despite administration claims that no nuclear missiles are aimed at American children, a CIA report reveals that 13 of China's 18 long-range strategic missiles have nuclear warheads aimed at U.S. cities.

Mr. Speaker, we do not live in a safe world. America faces new threats and dangers each and every day, and yet we continue to take risks with our military capabilities that would have been unthinkable a generation ago.

Our forces today are 32 percent smaller than they were just 10 years ago. In 1992 we had 18 Army divisions; we now have 10. In 1992 we had 24 fighter wings; we now have 13. In 1992 we had 546 Navy ships; we now have less than 300. In the last year the Navy has cut the Arsenal Ship, delayed the development of the next generation aircraft carrier, and cut its near term purchase of tactical aircraft by 45 percent.

This month the Army announced that it would downsize 6 divisions, cutting troop level 13 percent. Today I just read that the Marine Corps' entire procurement budget is now less than 1 week's worth of sales at Wal-Mart.

Mr. Speaker, I want to repeat that. The Marine Corps' entire procurement budget is now less than 1 week's worth of sales at Wal-Mart.

Our forces are dwindling and yet new threats to our freedoms are ever increasing. Quite frankly, we are taking our freedom for granted. The American family feels protected and safe. Mom and dad tell their children that they live in a peaceful world. They rest easy, hoping their government is adequately defending America.

But what they do not know is that right now, while nuclear missiles are aimed at U.S. cities, our troops do not even have the basic ammunition they need. The Army is $1.7 billion short of basic ammunition, and the Marine Corps has a shortfall in ammunition of over $193 million.

Mr. Speaker, I want to repeat that also. The Army is $1.7 billion short of basic ammunition, and the Marine Corps has a shortfall in ammunition of over $193 million. What they do not know is that in May, a Navy fighter squadron commander informed his superiors that only two of his squadron's 14 Tomcat fighter jets are mission capable because of a lack of spare parts.

He said in his official report, and I quote, I strongly believe that it is my duty to protect my aircrews. Living at the end of the parts food chain can present difficult challenges and obstacles that may be unmanageable. We no longer have the tools to do our job. We must provide aircrews with the necessary flights to get them combat ready for the safety of this Nation.

We are not telling the American people about the state of our military, Mr. Speaker. I and many of my colleagues in Congress have called upon the administration, senior military and the press to tell the hard truth to the American people.

While the President has cut defense nearly in half, he has deployed our troops 25 times during his tenure. In fact, the President has deployed U.S. troops more often than any other President in peacetime since World War II. These peacekeeping deployments have cost the taxpayers over $13 billion and have bled our forces. The reality is our troops are learning peacekeeping and forgetting war fighting.

These peacekeeping deployments have also kept our men and women in uniform away from their homes and families for lengthy periods of time and have thereby decreased their morale.

We cannot continue to ask our military to do more with less. In the name of those who have fought and who have died for this country, we must continue to maintain our military readiness. I urge my colleagues to help preserve our freedom and security. We must support our armed forces.

May God bless America.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 51 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. NETHERCUTT) at 2 p.m.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We pray with the Psalmist who said, "We give thanks to Thee, O God; we give thanks. We call on Thy name and recount Thy wondrous deeds."

We remember Your marvelous deeds, O God, and we celebrate the wonders of Your creation, for You have created this place where we live and learn, where there is work and play, where there is laughter and there are tears. You have given us a free will to choose the right over the wrong, the good over evil, and the honorable over the shameful.

While we praise Your name, O God, for the majesty of what You have given us, so we pray that we will be good stewards of the opportunities we have to "do justice, love mercy, and ever walk humbly with You." Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GIBBONS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GIBBONS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

BUILDING A NATIONAL MISSILE DEFENSE SYSTEM

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, there are a few issues which separate liberals and conservatives in dramatic fashion. Taxes, of course, is one, and crime is another. But defense and national security issues also illustrate two sharply different visions, different world views, which distinguish conservatives from liberals.

Liberals just love arms control agreements. They put almost boundless faith in a piece of paper between America and countries which are hostile to everything we hold dear, and they take great comfort in the ability of these agreements to keep America safe. Conservatives, on the other hand, look at all human history and are skeptical of such agreements, instead placing greater faith in a strong and secure defense.

Given these two world views, it is time to reexamine our current vulnerability to ballistic missile attack.

There is a piece of paper that exists to assure us that America is safe from ballistic attack. But this deliberate policy of vulnerability to ballistic missile attack is foolish, and dangerous. It is time that conservatives act with prudence and demand that Americans be protected by building a national missile defense system.

GOING FROM "SPEAK SOFTLY AND CARRY A BIG STICK" TO "TAKE THE FIFTH AND CARRY A TOOTHPICK"

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, China blocks access to our products, sells missiles to our enemies, and, if that is not enough to tax your migraine, the President now wants to reward them with permanent most-favored-nation trade status.

I think it is time to tell it like it is. When it comes to China, we have gone from "speak softly and carry a big stick" to "take the Fifth and carry a toothpick."

Beam me up.

I yield back now all of the new trucks that General Motors will be building in China.

Unbelievable.

ESTABLISH PROGRAM TO REDUCE VIOLENCE AND SUBSTANCE ABUSE AMONG YOUTH

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, as a Nation we can no longer sit idly by and watch while the violence in our schools continues to rise. That is why I will be holding a town forum on school violence in my district on July 7th, 1998.

Recently, acts of school violence have taken place all across this country, such as the nationally publicized incidents in Arkansas, Ohio, Pennsylvania and Oregon. Our children's lives and their promising future are at stake.

It is important to realize that this battle will not be won from Washington, but from the streets, neighborhoods and schools in the communities where our children live.

I encourage all Members to hold a town forum on school violence in their districts, and establish a program that supports and encourages local communities to create a comprehensive, long-term plan that will reduce violence and substance abuse among our youth.

This is the only way we are going to get to save our children from a growing deadly cycle of drugs and violence in our schools and communities.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1999, 2000, AND 2001

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3303) to authorize appropriations for the Department of Justice for fiscal years 1999, 2000 and 2001; to authorize appropriations for fiscal years 1999 and 2000 to carry out certain programs administered by the Department of Justice, to amend title 28 of the United States Code with respect to the use of funds available to the Department of Justice; and for other purposes, as amended.

The Clerk read as follows:

H.R. 3303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1999, 2000, and 2001".

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1999, 2000, AND 2001

Subtitle A—Specific Provisions

SEC. 101. SUMS AUTHORIZED TO BE APPROPRIATED.

There are authorized to be appropriated for fiscal years 1999, 2000, and 2001, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof), the following sums:

(1) For General Administration, salaries and expenses: $238,085,000 for fiscal year 1999, $249,989,000 for fiscal year 2000, and $262,489,000 for fiscal year 2001.

(2) For Administrative Review and Appeals: $144,863,000 for fiscal year 1999, $152,106,000 for fiscal year 2000, and $159,712,000 for fiscal year 2001, for administration of pardon and clemency petitions and for immigration related activities.

(3) For the Office of Inspector General: $34,610,000 for fiscal year 1999, $36,341,000 for fiscal year 2000, and $38,158,000 for fiscal year 2001, which shall include—

(A) not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on the certificate of the Attorney General; and

(B) funds for the purchase, lease, maintenance, and operation of motor vehicles without regard to the general purchase price limitation.

(4) For General Legal Activities: $485,506,000 for fiscal year 1999, $509,781,000 for fiscal year 2000, and $535,270,000 for fiscal year 2001, which shall include—

(A) not less than $4,000,000 for each fiscal year for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed $20,000 for each fiscal year to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General.

(5) For the Antitrust Division: $102,845,000 for fiscal year 1999, $107,987,000 for fiscal year 2000, and $113,386,000 for fiscal year 2001.

(6) For United States Attorneys: $1,106,993,000 for fiscal year 1999, $1,162,343,000 for fiscal year 2000, and $1,220,460,000 for fiscal year 2001.

(7) For the Federal Bureau of Investigation: $3,014,654,000 for fiscal year 1999, $3,164,679,000 for fiscal year 2000, and $3,322,913,000 for fiscal year 2001, which shall include—

(A) not to exceed $14,146,000 for each fiscal year—

(i) for construction, acquisition, or renovation of buildings (including equipment for such buildings) and sites, by purchase or as otherwise authorized by law;

(ii) for conversion or extension of federally owned buildings; and

(iii) for preliminary planning and design of projects;

to remain available until expended; and

(B) not to exceed $70,000 for each fiscal year to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General.

(8) For the United States Marshals Service: $529,143,000 for fiscal year 1999, $554,785,000 for fiscal year 2000, and $582,525,000 for fiscal year 2001, which shall include—

(A) not to exceed $6,300,000 for each fiscal year—

(i) for construction, acquisition, or renovation of buildings (including equipment for such buildings) and sites, by purchase or as otherwise authorized by law;

(ii) for conversion or extension of federally owned buildings; and

(iii) for preliminary planning and design of projects;

to remain available until expended; and

(B) $10,000,000 for each fiscal year for administrative expenses of the Justice Prisoner and Alien Transportation System to remain available until expended.

(9) For the Drug Enforcement Administration: $1,193,102,000 for fiscal year 1999, $1,252,358,000 for fiscal year 2000, and $1,314,994,000 for fiscal year 2001, which shall include—

(A) not to exceed $8,000,000 for each fiscal year—

(i) for construction, acquisition, or renovation of buildings (including equipment for such buildings) and sites, by purchase or as otherwise authorized by law;

(ii) for conversion or extension of federally owned buildings; and

(iii) for preliminary planning and design of projects;

to remain available until expended;

(B) not to exceed $70,000 for each fiscal year to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General; and

(C) not to exceed $15,000,000 for each fiscal year for diversion control.

(10) For the Immigration and Naturalization Service: $2,727,490,000 for fiscal year 1999, $2,839,756,000 for fiscal year 2000, and $2,981,544,000 for fiscal year 2001, which shall include—

(A) not to exceed $118,170,000 for each fiscal year—

(i) for construction, acquisition, or renovation of buildings (including equipment for such buildings) and sites, by purchase or as otherwise authorized by law;

(ii) for conversion or extension of federally owned buildings; and

(iii) for preliminary planning and design of projects;

to remain available until expended;

(B) not to exceed $50,000 for each fiscal year to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General; and

(C) not to exceed $4,000,000 for each fiscal year to establish and operate—

(i) a district office in Memphis, Tennessee, for the States of Tennessee, Arkansas, and Kentucky, and the portion of the State of Mississippi north of the city of Jackson;

(ii) a district office in San Jose, California, for the counties of Monterey, Santa Clara, San Benito, and Santa Cruz of the State of California;

(iii) a suboffice in Nashville, Tennessee, for the counties of Anderson, Blount, Campbell, Cannon, Carter, Cheatham, Claiborne, Clay, Cocke, Cumberland, Davidson, DeKalb, Dickson, Fentress, Grainger, Greene, Hamblen, Hancock, Hawkins, Houston, Humphreys, Jackson, Jefferson, Johnson, Knox, Loudon, Macon, Monroe, Montgomery, Morgan, Overton, Pickett, Putnam, Roane, Robertson, Rutherford, Scott, Sevier, Smith, Stewart, Sullivan, Sumner, Trousdale, Unicoi, Union, Washington, White, Williamson, and Wilson of the State of Tennessee; and

(iv) a district office in Charlotte, North Carolina, for the States of North Carolina and South Carolina.

(11) For Fees and Expenses of Witnesses: $95,000,000 for fiscal year 1999, $99,750,000 for fiscal year 2000, and $104,738,000 for fiscal year 2001, which shall remain available until expended and which shall include not to exceed $6,000,000 for each fiscal year for planning, construction, renovation, maintenance, remodeling, and repair of buildings, and the purchase of equipment incidental thereto, for protected witness safesites.

(12) For Interagency Crime and Drug Enforcement: $304,014,000 for fiscal year 1999, $319,215,000 for fiscal year 2000, and $335,176,000 for fiscal year 2001, for expenses not otherwise provided for, for the investigation and prosecution of individuals involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(13) For the Federal Prison System, including the National Institute of Corrections: $4,508,480,000 for fiscal year 1999, $4,733,900,000 for fiscal year 2000, and $4,970,595,000 for fiscal year 2001.

(14) For the Foreign Claims Settlement Commission: $1,335,000 for fiscal year 1999, $1,402,000 for fiscal year 2000, and $1,472,000 for fiscal year 2001.

(15) For the Community Relations Service: $8,899,000 for fiscal year 1999, $9,344,000 for fiscal year 2000, and $9,812,000 for fiscal year 2001.

(16) For the Assets Forfeiture Fund: $23,000,000 for fiscal year 1999, $24,150,000 for fiscal year 2000, and $25,358,000 for fiscal year 2001, as may be necessary for the payment of expenses as authorized by section 524 of title 28, United States Code.

(17) For Support of United States Prisoners in Non-Federal Institutions: $450,858,000 for fiscal year 1999, $473,401,000 for fiscal year 2000, and $497,072,000 for fiscal year 2001, which shall remain available until expended. Such sums may be expended to reimburse appropriate health care providers for the care, diagnosis, and treatment of United States prisoners and individuals adjudicated in Federal courts as not guilty by reason of insanity, but only at rates that do not exceed the actual cost of such care, diagnosis, and treatment. Not to exceed $20,000,000 for each fiscal year shall remain available until expended for the purpose of entering into contracts for only the reasonable and actual cost to assist the government of any State, territory, or political subdivision thereof for purposes of renovating, constructing, and equipping any facility that confines Federal detainees, in accordance with regulations to be issued by the Attorney General comparable to the regulations issued under section 4006 of title 18, United States Code.

(18) For the United States Parole Commission: $7,621,000 for fiscal year 1999, $8,002,000 for fiscal year 2000, and $8,402,000 for fiscal year 2001.

SEC. 102. FEDERAL PRISON INDUSTRIES.

Notwithstanding section 4129 of title 18, United States Code, not to exceed $3,266,000 for fiscal year 1999, and not to exceed $3,429,000 for fiscal year 2000, and not to exceed $3,601,000 for fiscal year 2001, of the funds available to Federal Prison Industries may be used for—

(1) administrative expenses; and

(2) services authorized by section 3109 of title 5, United States Code;

to be computed on an accrual basis in accordance with the current prescribed accounting system of Federal Prison Industries. Such funds shall be exclusive of depreciation, payment of claims, and expenditures that such accounting system requires to be capitalized or charged to the cost of commodities acquired or produced (including selling and shipping expenses) and expenses incurred in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property of Federal Prison Industries.

Subtitle B—General Provisions

SEC. 151. APPOINTMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS; REDUCTION OF CERTAIN LITIGATION POSITIONS.

(a) APPOINTMENTS REQUIRED.—Not later than September 30, 2000, the Attorney General may exercise authority under section 542 of title 28, United States Code, to appoint 200 assistant United States attorneys in addition to the number of assistant United States attorneys serving on the date of the enactment of this Act.

(b) SELECTION OF APPOINTEES.—Individuals first appointed under subsection (a) shall be appointed from among attorneys who are incumbents of 200 full-time litigation positions in divisions of the Department of Justice and whose official duty station is at the seat of Government.

(c) TERMINATION OF POSITIONS.—Each of the 200 litigation positions that become vacant by reason of an appointment made in accordance with subsections (a) and (b) shall be terminated at the time the vacancy arises.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1999 and 2000 to carry out this section.

TITLE II—AUTHORIZATIONS OF APPROPRIATIONS FOR PROGRAMS

SEC. 201. AMENDMENTS TO THE CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.

(a) EXPEDITIOUS DEPORTATION FOR DENIED ASYLUM APPLICANTS.—Section 130005(c) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1158 note) is amended—

(1) in paragraph (3) by striking "and" at the end,

(2) in paragraph (4) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(5) $90,000,000 for fiscal year 1999; and

"(6) $90,000,000 for fiscal year 2000.".

(b) AMENDMENTS TO VIOLENCE AGAINST WOMEN ACT OF 1994.—*Section 40114 of the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat 1910) is amended—*

(1) in paragraph (2) by striking "and" at the end,

(2) in paragraph (3) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(4) $500,000 for fiscal year 1999; and

"(5) $500,000 for fiscal year 2000.".

(c) Improving Border Controls.—Section 130006(a) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1101 note) is amended—

(1) in paragraph (3) by striking "and" at the end,

(2) in paragraph (4) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(5) $200,000,000 for fiscal year 1999; and

"(6) $200,000,000 for fiscal year 2000.".

(d) Expanded Special Deportation Proceedings.—Section 130007(d) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1252 note) is amended—

(1) in paragraph (3) by striking "and" at the end.

(2) in paragraph (4) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(5) $2,000,000 for fiscal year 1999; and

"(6) $2,000,000 for fiscal year 2000.".

(e) Training Programs.—Section 40152(c) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13941(c)) is amended by striking paragraphs (1) and (2), and inserting the following:

"(1) $1,000,000 for fiscal year 1999; and

"(2) $1,000,000 for fiscal year 2000.".

(f) Missing Alzheimer's Disease Patient Alert Program.—Section 240001(d) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14181(d)) is amended—

(1) in paragraph (2) by striking "and" at the end,

(2) in paragraph (3) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(4) $900,000 for fiscal year 1999; and

"(5) $900,000 for fiscal year 2000.".

(g) Motor Vehicle Theft Prevention Program.—Section 220002(h) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14171(h)) is amended—

(1) in paragraph (2) by striking "and" at the end,

(2) in paragraph (3) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(4) $750,000 for fiscal year 1999; and

"(5) $750,000 for fiscal year 2000.".

(h) Rural Domestic Violence and Child Abuse Enforcement Assistance Act.—Section 40295(c)(1) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13971(c)(1)) is amended—

(1) in subparagraph (B) by striking "and" at the end,

(2) in subparagraph (C) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(D) $15,000,000 for fiscal year 1999; and

"(E) $15,000,000 for fiscal year 2000.".

SEC. 202. AMENDMENTS TO THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996.

The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1214) is amended—

(1) in section 819(b) by striking "for fiscal" and all that follows through "section", and inserting "to carry out this section $5,000,000 for fiscal year 1999 and $5,000,000 for fiscal year 2000", and

(2) in section 821 by striking "not more than $10,000,000 for fiscal year 1997" and inserting "$10,000,000 for fiscal year 1999 and $10,000,000 for fiscal year 2000".

SEC. 203. AUTHORITY TO TRANSFER PROPERTY OF MARGINAL VALUE.

Section 524(c)(9)(B) of title 28, United States Code, is amended—

(1) by striking "year 1997" and inserting "years 1999 and 2000"; and

(2) by adding at the end the following:

"Such transfer shall be subject to satisfaction by the recipient involved of any outstanding lien against the property transferred.".

SEC. 204. COMMUNICATIONS ASSISTANCE.

The Communications Assistance for Law Enforcement Act (47 U.S.C. 1001–1021) is amended—

(1) in section 108(c)(3) by striking "on or before January 1, 1995" and inserting "before October 1, 2000",

(2) in section 109—

(A) in subsection (a)—

(i) in the heading by striking "January 1, 1995" and inserting "October 1, 2000", and

(ii) by striking "January 1, 1995" and inserting "October 1, 2000",

(B) in subsection (b)—

(i) in the heading by striking "January 1, 1995" and inserting "October 1, 2000",

(ii) in paragraph (1)—

(I) in the matter preceding subparagraph (A) by striking "January 1, 1995" and inserting "October 1, 2000", and

(II) in subparagraph (J) by striking "January 1, 1995" and inserting "October 1, 2000", and

(iii) in paragraph (2) by striking "January 1, 1995" and inserting "October 1, 2000", and

(C) in subsection (d)—

(i) in the heading by striking "January 1, 1995" and inserting "October 1, 2000", and

(ii) by striking "January 1, 1995" and inserting "October 1, 2000",

(3) in section 110 by striking "and 1998" and inserting "1998, 1999, and 2000", and

(4) in section 111(b) by striking "on the date that is 4 years after the date of enactment of this Act" and inserting "October 1, 2000".

SEC. 205. CRIMINAL ALIEN ASSISTANCE.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking subparagraphs (A) through (F) and inserting the following:

"(A) $750,000,000 for fiscal year 1999;

"(B) $800,000,000 for fiscal year 2000; and

"(C) $850,000,000 for fiscal year 2001.".

TITLE III—PERMANENT ENABLING PROVISIONS

SEC. 301. PERMANENT AUTHORITY.

(a) Amendment.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"§ 530B. Authority to use available funds

"(a) Permitted Uses.—Except to the extent provided otherwise by law applicable to funds available to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) and in addition to authority provided in subsections (a) and (b) of section 524 of this title, the Attorney General may use such funds as follows:

"(1) General permitted uses.—Such funds may be used for the following:

"(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, or police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then current fiscal year.

"(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

"(C) Services of experts and consultants, including private counsel, as authorized by section 3109 of title 5, and at rates of pay for individuals not to exceed the maximum daily rate payable from time to time under section 5332 of title 5.

"(D) Not to exceed $200,000 for each fiscal year for official receptions and representation expenses, in accordance with distributions, procedures, and regulations established by the Attorney General.

"(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General.

"(F) Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

"(G) In accordance with procedures established and regulations issued by the Attorney General—

"(i) attendance at meetings and seminars;

"(ii) conferences and training; and

"(iii) advances of public moneys under section 3324 of title 31.

Travel advances of such funds to law enforcement personnel engaged in undercover activity shall be considered to be public money for purposes of section 3527 of title 31.

"(H) For the conduct of its activities, including for contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

"(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and regulations issued by the Attorney General.

"(2) Specific permitted uses.—

"(A) Aircraft and boats.—Funds available for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

"(B) Payment of rewards; purchase of evidence.—Funds available for the Federal Bureau of Investigation, for the Drug Enforcement Administration, for the Immigration and Naturalization Service, and for the Federal Prison System may be used for the payment of rewards, for the purchase of evidence, and for payment for information in connection with law enforcement.

"(C) Purchase of ammunition and firearms; firearms competitions.—Funds available for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for—

"(i) the purchase of ammunition and firearms; and

"(ii) participation in firearms competitions.

"(3) Uniforms.—Funds available for the Immigration and Naturalization Service and for the Federal Prison System may be used for expenses or allowances for uniforms as authorized by section 5901 of title 5 but without regard to the general purchase price limitation for the then current fiscal year.

"(4) FEES AND EXPENSES OF WITNESSES.—Funds available for Fees and Expenses of Witnesses may be used for expenses, mileage, compensation, and per diem in lieu of subsistence, of witnesses as authorized by law (including advances of public money), but no witness may be paid more than 1 attendance fee for any 1 calendar day.

"(5) FEDERAL BUREAU OF INVESTIGATION.—(A) Funds available to the Federal Bureau of Investigation may be used for the conduct of its activities, including for—

"(i) expenses necessary for the detection and prosecution of crimes against the United States;

"(ii) protection of the person of the Attorney General;

"(iii) investigations regarding official matters under the control of the Department of Justice and the Department of State, as may be directed by the Attorney General;

"(iv) the confidential lease of surveillance sites for law enforcement purposes; and

"(v) acquisition, collection, classification, and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, of cities, and of such other institutions, as authorized by law, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies.

"(B)(i) The Federal Bureau of Investigation may establish and collect fees for the processing of noncriminal employment and licensing fingerprint records. Such fees shall represent the full cost of furnishing the service.

"(ii) Such fees collected shall be credited to the Salaries and Expenses, Federal Bureau of Investigation appropriation without regard to section 3302(b) of title 31 and, to the extent specified in appropriations Acts, shall be available until expended for salaries and other expenses incurred in processing such records.

"(iii) No fee shall be assessed in connection with the processing of requests for criminal history records by criminal justice agencies for criminal justice purposes or for employment in criminal justice agencies.

"(6) IMMIGRATION AND NATURALIZATION SERVICE.—Funds available for the Immigration and Naturalization Service may be used for the administration and enforcement of laws relating to immigration, naturalization, and alien registration, including for—

"(A) acquisition of land as sites for enforcement fences, and construction incidental to such fences;

"(B) cash advances to aliens for meals and lodging en route;

"(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

"(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

"(7) FEDERAL PRISON SYSTEM.—Funds available for the Federal Prison System may be used for the conduct of its activities, including for—

"(A) the administration, operation, and maintenance of Federal penal and correctional institutions, including inmate medical services and inmate legal services, within the Federal prison system;

"(B) planning, acquisition of sites, and construction of new facilities, including—

"(i) the purchase and acquisition of facilities, and remodeling and equipping of such facilities, for penal and correctional institutions; and

"(ii) the payment of United States prisoners for work performed in the activities described in this subparagraph;

which shall remain available until expended;

"(C) construction of buildings at prison camps and acquisition of land as authorized by section 4010 of title 18;

"(D) the labor of the United States prisoners performed in the construction, remodeling, renovating, converting, expanding, planning, designing, maintaining, or equipping of prison buildings or facilities; and

"(E) the purchase and exchange of farm products and livestock.

"(b) RELATED PROVISIONS.—

"(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—None of the funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney (other than an individual employed to provide services as a foreign attorney in special cases) unless such individual is duly licensed and authorized to practice as an attorney under the law of a State, a territory of the United States, or the District of Columbia.

"(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as a reimbursement to a governmental unit in the Department of Justice, to another Federal entity, or to a unit of State or local government may be used under the authority applicable to such unit or such entity that receives such reimbursement.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"530B. Authority to use available funds.".

SEC. 302. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) AMENDMENT.—Chapter 31 of title 28, United States Code, as amended by section 301, is amended by adding at the end the following:

"§ 530C. Report on enforcement of laws

"(a) REPORT REQUIRED.—The Attorney General shall transmit a report to each House of the Congress in any case in which the Attorney General—

"(1) establishes a policy to refrain from enforcing any provision of any Federal statute whose enforcement is the responsibility of the Department of Justice, because of the position of the Attorney General that such provision is not constitutional; or

"(2) determines that the Department of Justice will contest, or will refrain from defending, in any judicial, administrative, or other proceeding, any provision of any Federal statute, because of the position of the Attorney General that such provision is not constitutional.

"(b) DEADLINE FOR REPORT.—Any report required by subsection (a) shall be transmitted not later than 30 days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

"(1) specify the provision of the Federal statute involved;

"(2) include a detailed statement of the reasons for the position of the Attorney General; and

"(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the proceeding involved.

"(c) DECLARATION.—In the case of a determination specified in subsection (a)(2), the representative of the Department of Justice participating in the proceeding shall make a declaration in such proceeding that the position of the Attorney General on the constitutionality of the provision of the Federal statute involved is the position of the executive branch of the Federal Government.".

"(b) TECHNICAL AMENDMENT.—The table of sections for chapter 31 of title 28, United States Code, as amended by section 301, is amended by adding at the end the following:

"530C. Report on enforcement of laws.".

SEC. 303. PROTECTION OF THE ATTORNEY GENERAL.

Section 533(2) of title 28, United States Code, is amended by inserting "or the person of the Attorney General" before the semicolon at the end.

TITLE IV—MISCELLANEOUS

SEC. 401. REPEALERS.

(a) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL INSTITUTE OF CORRECTIONS—Chapter 319 of title 18, United States Code, is amended—

(1) by striking section 4353; and

(2) in the table of sections for such chapter by striking the item relating to section 4353.

(b) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES MARSHALS SERVICE.—Section 561 of title 28, United States Code, is amended by striking subsection (i).

SEC. 402. TECHNICAL AMENDMENT.

Section 542(c)(5) of title 28, United States Code, is amended by striking "Fund" the 2nd place it appears and inserting "Fund.".

SEC. 403. APPLICABILITY OF TITLE III.

The amendments made by title III shall not apply with respect to funds available for any fiscal year ending before fiscal year 1999.

SEC. 404. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to modify or supersede the application or operation of the Public Buildings Act of 1959 (40 U.S.C. 601-619).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3303.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 3303, the Department of Justice Appropriation Authorization Act for fiscal years 1999, 2000 and 2001. This important bipartisan legislation, which I introduced with the gentleman from Michigan (Mr. CONYERS) in March, is a comprehensive 3-year authorization of the Justice Department's activities and programs.

On April 29, 1998, the Committee on the Judiciary reported the bill as amended by voice vote.

As you know, authorization is the process by which Congress creates, amends and extends programs in response to national needs. It is perhaps the most important oversight tool that Congress can employ. Through authorization, legislative committees establish program objectives and they set ceilings on the amounts that may be appropriated for them. Once a Federal program has been authorized, the Committee on Appropriations recommends the actual budget authority, which allows Federal agencies to enter into obligations and actually spend the money that is authorized.

With respect to the Department of Justice, the law requires that all money appropriated must first be authorized by an act of Congress. Notwithstanding this obligation to authorize, Congress has not properly reauthorized the department's activities since 1979. Since that time, several attempts have failed, either because of bad timing or because the reauthorization bills were loaded with controversial amendments.

This 19-year failure to properly reauthorize the department has forced the appropriations committees in both houses to reauthorize and appropriate money. This reauthorization money endeavor is both an attempt to improve the efficiency of the department and an opportunity to reaffirm the authority and responsibility of the Committee on the Judiciary.

Let me say, the passage of this bill today does not mean the end of the Committee on the Judiciary's oversight of the department. To the contrary, it is my intention that, with the assistance of recently approved additional staff and resources, the committee will take an even closer look at the operations and policies of the department in the coming months.

Let me briefly summarize H.R. 3303. The bill contains four titles.

Title I authorizes appropriations to carry out the work of the various components of the department for fiscal years 1999, 2000 and 2001. Title I largely adheres to the department's budget request for fiscal year 1999 by providing nearly $15.5 billion, and it would authorize a 5 percent increase for fiscal years 2000 and 2001.

The proposed increases for fiscal years 2000 and 2001, though an approximation of the department's actual budgetary requirements, are the result of consultations with the department and an analysis of the historical trend. I have a high degree of confidence that the H.R. 3303 appropriation authorizations for fiscal years 2000 and 2001 are accurate.

Section 151 of title I would authorize, but not require, the Attorney General to transfer 200 lawyers from among the six litigating divisions at Justice Department headquarters in Washington, D.C. to the U.S. Attorneys. The provision is intended to raise the productivity of Washington-based lawyers who litigate criminal and civil cases for the department across the Nation by moving them to the field.

Title II reauthorizes for two additional years a number of successful programs whose authorizations will expire at the end of fiscal year 1998. These reauthorized programs will, for example, expedite the deportation of aliens who have been denied asylum, combat violence against women, and fund specialized training for and equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks.

Section 204 of title II would amend the Communications Assistance for Law Enforcement Act, also known as CALEA, by changing the effective date for purposes of compliance enforcement and the grandfathering of telecommunications carrier equipment facilities and services. This amendment does not alter the substance or effect of CALEA, and it enjoys widespread bipartisan support.

Title III would grant permanent authorization for certain inherent and non-controversial functions of the department. The department has requested permanent authorizing authority in the past, and proposed authority has appeared in several reauthorization bills since the last reauthorization in 1979.

Title III largely mirrors the language of these earlier bills, except to the extent it has been updated to meet the changing needs of Federal law enforcement in the 1990s. I believe the department should have, for example, permanent authority to purchase aircraft and police-type motor vehicles, as well as firearms, ammunition and uniforms, for its employees. This permanent authority would be subject to available appropriations.

Title IV would, among other things, repeal the permanent open-ended authorization of the United States Marshals Service. The service's permanent authorization is an anomaly among the department's components that immunizes it from congressional scrutiny. It should be subject to the same oversight that other department components of the departments are.

H.R. 3303 would grant the Marshals Service narrower permanent authority in line with the permanent authority to be granted the rest of the department.

Mr. Speaker, H.R. 3303 reaffirms the role of Congress in the oversight of the Justice Department. Through this reauthorization endeavor and our continuing oversight, we will enhance the department's efficiency and increase public confidence in all of its many missions. I urge my colleagues to support the passage of this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary, for bringing this legislation to the floor. I do want to state that the gentleman from Michigan (Mr. CONYERS), the ranking Democrat of the committee, is necessarily not here with us because of transportation problems from his home district.

Mr. Speaker, this bill marks the first time in 19 years that the Committee on the Judiciary has sought to reauthorize the Department of Justice. In putting this legislation together, the gentleman from Illinois (Mr. HYDE) and I principally relied on the recommendations of the Department of Justice. It was a rare opportunity for bipartisan participation, and the bill was voted on out of committee by voice vote.

The responsibilities of the Department of Justice are wide-ranging and the department, by and large, has done a good job in enforcing laws to protect American citizens.

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Not only does the department have the responsibilities of apprehending, prosecuting, and incarcerating criminal offenders, it must also uphold the civil rights of all Americans, enforce the laws to protect the environment, ensure competition of business in the private sector by fighting potential monopolies, fight against fraud, terrorism, and drug trafficking, and enforce the immigration and naturalization laws.

Mr. Speaker, the department has been extremely successful in reducing the incidence of violent crime, particularly in the area of hate crimes, in reducing juvenile violence, and enforcing our laws at the border to prevent migrant trafficking.

Mr. Speaker, this legislation is an important piece of legislation, and certainly deserves the full support of the Members of this House. Again, I thank the chairman, the gentleman from Illinois, for his leadership on this bill, and I urge my colleagues to support H.R. 3303.

Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I thank our friend from American Samoa for stepping in when the Committee on the Judiciary was, on our side, temporarily absent. I appreciate his doing this and yielding me this time.

Mr. Speaker, I am not going to oppose this bill. I am not going to support it very enthusiastically, but I do not expect my lack of enthusiasm seriously to disturb anybody at this point.

But I do take the floor to make the point that I am disappointed that we are making so little progress on the reform of the prison industry system.

We have a paradox in this country. We have strong laws against the importation of goods that are made by prison labor overseas, and many of the Members who are concerned about human rights point to prison labor as an example of a violation of human rights.

But for some reason that principle appears to dissolve when it hits salt water. It is a very important principle for us overseas, but for reasons I have not been able to discover, because no one who supports the policy will tell me, we ignore it domestically. We employ prison labor.

I am in favor of prisoners being usefully employed. I am in favor of whatever rehabilitative effects come from prison labor. But I do not understand that part of the rehabilitation of prisoners is sending them out to take orders. Prisoners do not do a great deal of marketing. Indeed, there have even been concerns to the extent to which they have been able to do some telemarketing.

I say that because I am very much in favor of inmates being given useful work, but it does not seem to me that we should be selling their product in competition with things made by citizens and others working in the free market.

The current prison labor system not only sends some things out into competition, but reserves certain areas of that market for prison labor and does not even allow the free market to compete. That seems to me wholly inappropriate. We would object if this was done internationally.

An insistence on reforming these sets of rules which lock out free enterprise from the prison labor system in fact unites the National Federation of Independent Businesses and the AFL-CIO.

I have worked with the gentleman from Michigan (Mr. HOEKSTRA), the gentleman from North Carolina (Mr. COBLE), and others to try to reform that system. I believe we could have a system in which prisoners are employed, but in which they do not get this competitive advantage over others.

Indeed, I believe we should be exploring the extent to which we can have prisoners make things and give them away, donate them to various groups that are insufficiently funded to be in the market. That is, I think there is a demand in day care centers, in homeless shelters and in other places so that furniture, clothing, curtains, things that are made in prison industries could in fact be distributed. I hope we will look at this.

Many of us have been frustrated, and I and others have been pushing for a look at this. When this bill came up in committee we raised the issue, and offered an amendment tentatively, and withdrew it because we were assured by the chairman of the subcommittee there would be some progress.

The progress has been very slow. I am pleased that we now have a hearing set up for this week on alternatives. There is a bill that the subcommittee chairman has drafted that many of us who have been trying to change the system do not like. We have our own version.

I hope that we will, after this hearing, be able to proceed to some committee consideration of this, ultimately getting it to the floor. We are late in the year. I do not have high hopes that we are going to pass a bill this year, but why should this bill be any different? We are not passing a lot of anything this year.

On the other hand, I would hope we would get a fair enough start in this process so we could assure people who are concerned that we are serious about that and that, frankly, realistically, early next year we would be dealing on the floor with some legislation.

I see the chairman there. Mr. Speaker, I ask the subcommittee chairman, who I see approaching the microphone. I hope he would give me some assurance.

Mr. McCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Speaker, the gentleman has very cordially been involved with us in trying to move a product towards the floor and ultimately get a chance for it.

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Speaker, I am reaching the point where I am behaving more cordially than I feel.

Mr. McCOLLUM. If the gentleman will continue to yield, Mr. Speaker, we always understand that, I say to the gentleman from Massachusetts (Mr. FRANK).

At any rate, as the gentleman well stated, we do have a hearing set this Thursday. It would be my hope that when we get back from the recess that we will have at least one more hearing, and then mark the bill up in subcommittee. I, as the gentleman, do not know the progress that will be made all the way through, but it would be nice to have that bill through the Committee on the Judiciary, and maybe the whole House would be able to vote on a product with the gentleman.

I share with him, and want to put it on the record, I share with the gentleman that the current structure of the Federal prison industries is not appropriate. I do not think the mandatory source rule is a good idea to continue. I do think we may differ on some of the details, but we need to find a way to have prisoners not only meaningfully engaged in work, but find some way where labor and small business can participate.

Mr. FRANK of Massachusetts. I thank the gentleman. I wonder if the chairman of the full committee might indicate what his view is on what the chairman of subcommittee has just said.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, I associate myself completely with the remarks of the gentleman from Florida.

Mr. FRANK of Massachusetts. I thank the chairman of the full committee.

Mr. Speaker, given the importance of this and the fact that we are making some progress, I thank my friend from American Samoa. I look forward to our being able to begin the serious process of making some changes in the prison system.

Mr. GOODLATTE. Mr. Speaker, I rise today in support of H.R. 3303, the Department of Justice Authorization Act. I would like to comment briefly on provisions in Section 204 (Communications Assistance).

The original purpose of the Communications Assistance for Law Enforcement Act of 1994 (CALEA) was to preserve the government's ability, pursuant to a court order, to intercept communications which utilized advanced telecommunications technology, while protecting the privacy of communications and without impeding the introduction of new technology, features, and services. CALEA was intended to refine the telecommunication's industry's existing duty to cooperate in the conduct of electronic surveillance and to establish procedures based on public accountability and industry standard-setting.

CALEA permitted the telecommunications industry itself to develop technical standards to implement the requirements of the Act, and established a process for the Attorney General to identify law enforcement's capacity requirements for electronic surveillance. Unfortunately, these standards have been delayed due to a dispute over their breadth and scope, and are now under review by the Federal Communications Commission (FCC). CALEA also required the FBI, on behalf of the Attorney General, to issue its notice of electronic surveillance capacity in 1995. However, this notice was not provided to the industry until March, 1998.

The Act requires the federal government to reimburse telecommunications carriers for their just and reasonable costs to develop and implement the assistance capability requirements of CALEA. Existing carrier networks were to be "grandfathered" unless the government agreed to pay for their retrofitting. Increases in carrier network capacity to accommodate law enforcement's electronic surveillance needs were to be paid for by the government. To date, however, virtually no funds have been expended to implement CALEA.

Mr. Speaker, delays in the implementation of CALEA have prevented the telecommunications industry and law enforcement from complying with its provisions. It is appropriate to recognize the effect of the delays of the implementation of CALEA by moving both its effective and "grandfather" dates. H.R. 3303 recognizes the reality of the delays of implementing this important crime-fighting legislation and gives both the telecommunications industry and law enforcement additional time to prepare for CALEA's implementation.

Mr. BLILEY. Mr. Speaker, section 204 of H.R. 3303 contains an amendment to the Communications Assistance for Law Enforcement Act (Public Law 103–414), commonly referred to as "CALEA." Specifically, the provisions would extend the authorization for the Attorney General to provide reimbursements to certain telecommunications carriers that comply with the provisions of CALEA.

CALEA was enacted into law at the end of the 103d Congress. The purpose of the law is sound: prevent the curtailment of legal wiretaps by our nation's law enforcement community as communications technology advances. The digital age and digitalization of the telecommunications industry makes legal interception of communications more difficult and time consuming. In addition, making digital telecommunications equipment capable of wiretapping is costly and complex as much of the equipment must be altered or modified. CALEA was intended to set up a mechanism whereby the Federal government would reimburse telecommunications carriers for certain qualifying equipment costs caused by complying with the provisions of CALEA.

It is clear that there has been significant disagreement between portions of the U.S. Government and the telecommunications industry regarding the implementation of CALEA. I am hopeful that all parties can work out any differences. I ask that everyone involved redouble their efforts to come to an acceptable resolution. I am hopeful that Congress does not have to revisit this issue again, but we will if necessary.

Section 204 is a simple extension of the authorization of the Attorney General to provide payments to telecommunications carriers with certain qualifications beyond the original statutory deadline. Without this provision, much of the initial $500,000 provided for under the bill would not be authorized to be disbursed. To date, only about $100,000 has been disbursed by the Attorney General. It is important that all of the tools designed to foster telecommunications equipment compliance with the goals of CALEA be available to the relevant parties.

Under an agreement worked out in the 103d Congress, jurisdiction over issues contained in CALEA are split between the House Committees on the Judiciary and Commerce. While title II of CALEA contains provisions relating to jurisdiction common to the House Judiciary Committee and title III of the law contains provisions common to the Commerce Committee's jurisdiction, title I contains provisions that are traditionally shared between the two committees. As section 204 is an amendment to title I of CALEA, specifically section 110, it falls within the shared jurisdiction category.

I will not object to section 204 of H.R. 3303 and I will not seek a referral of the bill to the Commerce Committee because this important provision should move forward as quickly as possible. However, I plan to continue to closely monitor the implementation of the CALEA provisions. Further, the Commerce Committee intends to fully exercise its rights and jurisdiction over CALEA matters in the future, especially if this issue or other CALEA-related matters need further congressional attention.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the United States Department of Justice is the premier law enforcement institution in the world. With more than 108,000 employees, the Department has primary responsibility for protecting American citizens from crime, ensuring the healthy competition of businesses in our free enterprise system, safeguarding the consumer, and for enforcing our nation's drug, immigration and naturalization laws.

The Justice Department does an outstanding job in carrying out its mission. DOJ's accomplishments are impressive. They have taken us one step closer to answering the concerns of all Americans—to make our streets safer, eliminate the scourge of drugs, reduce youth violence, strengthen our borders against illegal immigration, protect our environment, ensure our civil rights, combat violence against women, and ensure equal justice for all.

Last year, the national violent crime rate dropped for the fifth year in a row, marking the longest period of decline in 25 years.

Between 1994 and 1995, violent crime dropped 12.4 percent—the largest drop since the Department's survey of such statistics began in 1973.

The juvenile violent crime arrest rate increased 69 percent between 1987 and 1994. Between 1994 and 1996, the violent crime rate decreased by 11.9 percent.

The COPS program has awarded grants to increase the number of police on the streets by 57,500, more than halfway to the goal of 100,000 community police officers by the year 2000.

The Department of Justice awarded grants totalling $184.6 million for Violence Against Women programs and $46 million to 336 communities to help make police organizations more responsive to domestic violence.

The Department of Justice has deported criminal aliens in record numbers. Last year, over 37,000 criminal aliens were deported.

DOJ continues to play a lead role in the enforcement of the nation's civil rights laws, which define and prohibit unlawful discrimination in a wide rage of areas, including employment, housing, voting, and education.

I am pleased that Chairman HYDE has sought to rekindle the relationship between this Committee and the Justice Department and I congratulate him on the efforts he has made to work in cooperation with DOJ in drafting H.R. 3003, the legislation reauthorizing the Department of Justice.

As I review this legislation there are two points upon which I would like to comment. The first is funding for the Department over the next three years. The Department of Justice has expanded rapidly over the last 15 years. In 1981, DOJ had a budget of $2.3 billion. In response to DOJ's growing responsibilities in enforcing the nation's criminal and civil laws, the Department's budget request for Fiscal Year 1999 has increased exceeds $20 billion.

H.R. 3303 reflects that request and authorizes a 5 percent increase in each of the Fiscal Years 2000 and 2001. This will allow the Department to expand as necessary to fulfill its role as the nation's premier law enforcement agency.

Second, I was pleased to see the reauthorization of the Rural Domestic Violence and Child Adult Enforcement Assistance Act. As an advocate for women's and children's issues, I strongly support reauthorization of these important programs.

Domestic violence is a horror and tragedy that should have no place in our society, but instead it is an all too common reality. Domestic violence is a public and personal health problem that affects the lives of millions of women and their families. Two million to four million women each year become victims of violence at the hands of an intimate—a husband, ex-husband, boyfriend, or ex-boyfriend. There is a 20–30% lifetime risk for a woman to be battered.

In 1995, almost 1 million children—2,700 a day—were abused or neglected. This number was up almost 25 percent since 1990. The number of children seriously injured by abuse nearly quadrupled between 1986 and 1993, according to interviews with child-serving professionals.

Reauthorizing the Rural Domestic Violence and Child Adult Enforcement Assistance Act is critical in our nation's battle to stamp out the abuse of these most vulnerable of its citizens.

Ms. LOFGREN. Mr. Speaker, I am extremely pleased that we were able to work in a bipartisan manner to include my amendment to this legislation to extend some of the deadlines for telecommunications carriers to comply with requirements under the Communications Assistance for Law Enforcement Act (CALEA). I offered this amendment at full Judiciary Committee markup, where it garnered support from Members on both sides of the aisle, but withdrew it with assurances from Crime Subcommittee Chairman McCOLLUM that he would introduce and push for enactment of legislation to address these and other issues related to CALEA. We have yet to see action on CALEA-related legislation, so it is necessary to address the matter in this bill.

Mr. Speaker, the CALEA implementation process has not gone as Congress had expected when CALEA was enacted in 1994. While all parties—the Administration, the telecommunications industry, and privacy and civil liberties organizations—have negotiated in good faith, clearly a resolution is not close at hand.

In fact, the parties have now petitioned the Federal Communications Commission (FCC) to break the impasse.

Certainly, all involved can share some of the blame, but I do not think that the telecommunications industry and our civil liberties should be made to suffer for the lack of an agreement. My amendment merely creates a "safety valve" to remove the pressure from the impending October 1 deadline, and recognizes the reality of the delays in the negotiating process. The Justice Department has already admitted that CALEA-compliant solutions will not be "available" from manufacturers until 1999–2001, regardless of what transpires. It is not fair to punish industry for failing to provide this technology faster than even the Justice Department has deemed possible.

Therefore, like Congressman BARR's bill (H.R. 3321), my amendment postpones deadline for compliance with CALEA from this October until October 1, 2000. This should provide the parties and the FCC time to come to an agreement, and to test and deploy agreed-upon solutions.

It is also unfair to force industry to pay for recent upgrades made to their "embedded base" that do not conform to nonexistent CALEA standards. The original Act provided that all upgrades made after January 1, 1995 would be the responsibility of telecommunications carriers, and they would bear the cost of modifying their equipment to conform with CALEA after that date. It has obviously been necessary for industry to upgrade their equipment in the last three and a half years, and no one in Congress believed that so much time would be necessary to complete this process. Therefore, it is not appropriate to place the cost burden of anticipated equipment modifications on telecommunications companies and their customers.

My amendment, also like the Barr bill, would grandfather in all equipment deployed and installed before October 1, 2000. Industry would be responsible for retrofitting noncompliant equipment installed after that date.

This is a narrow fix to an immediate and critical problem. If an agreement is not reached by October 1, industry would be liable for fines and for the costs of upgrading much of their equipment. The FBI has been using this as a bargaining tool in their discussions with industry and civil liberties groups, but this is not the atmosphere in which these discussions were supposed to take place.

This amendment will merely give a reprieve to the negotiators, and allow for a full and deliberate resolution of this critical issue. Congress will have greater leeway to monitor the FCC's attempts to break the impasse and to ratify or alter any proposed compromise. Even with enactment of this provision, many other contentious issues will remain, but this legislation is not the proper vehicle for resolving those issues.

Mr. Speaker, I am glad that we were able to include my amendment in this important legislation, and I look forward to working with my colleagues on continued efforts to implement CALEA.

Mr. BARR of Georgia. Mr. Speaker, I rise today in support of the Department of Justice Appropriation Authorization Act for Fiscal Years 1999, 2000, and 2001. As the original author of the CALEA Implementation Amendment of 1998, H.R. 3321, the Department of Justice Appropriation Authorization Act, H.R. 3003, contains language in Section 204 which embodied the principles of my bill. I believe it is incumbent on us in Congress to recognize the delays that have occurred in the implementing of the Communications Assistance to Law Enforcement Act of 1994 (CALEA), by extending the time for compliance, and to clarify the "grandfathered" status of existing telecommunication network equipment facilities and services during the time period the CALEA-compliant technology is developed.

The purpose of CALEA is to preserve the federal government's ability, pursuant to a court order or other lawful authorization, to intercept communications involving advanced telecommunication technologies, while protecting the privacy of communications and without impeding the introduction of new technologies, features, and services. CALEA further defined the telecommunication industry's duty to cooperate in the conduct of electronic surveillance, and to establish procedures based on public accountability and industry standard setting.

CALEA necessarily involved a balancing of interests of the telecommunications industry, law enforcement, and privacy groups. The law allowed the telecommunication industry to develop standards to implement the requirements of CALEA and establish a process for the U.S. Attorney General to identify capacity requirements for electronic surveillance. The law required the federal government to reimburse carriers their just and reasonable costs incurred in modifying existing equipment, services or features necessary to comply with the assistance capability requirements of the law. The CALEA law also required the federal government pay for delays in the implementation of the law that have prevented the telecommunication industry and law enforcement from complying with its provisions.

The development and adoption of industry technical standards have been delayed, and these standards are now being challenged before the Federal Communications Commission by both law enforcement and privacy groups. The release of the federal government's capacity notice for electronic surveillance needs was over two and a half years late. It is clear from the telecommunication's equipment manufacturers that no CALEA-compliant technology will be available for purchase and implementation by telecommunication carriers by the effective date, currently set for October 25, 1998. Further, since the enactment of CALEA, substantial changes have occurred in the telecommunication industry, such as the enactment of the Telecommunication Act of 1996, which resulted in many new entrants in the industry and other changes in the competitive marketplace. Finally, during the four year "transition period" initially contemplated by Congress for the implementation of CALEA, the telecommunication industry has installed and continued to deploy technology and equipment which is not compliant with assistance capacity requirements of CALEA, since "CALEA technology" has not been fully developed or designed into such equipment.

Mr. Speaker, House of Representatives Report No. 103–827 makes it clear the Federal Government intended to bear the costs of CALEA implementation during the four-year transition period between the enactment and the effective dates. Congress recognized it was much more economical to design new telecommunications switching equipment, features, and services the necessary assistance capability requirements, rather than to retrofit such equipment, features, and services after the fact. Congress recognized some retrofitting would nonetheless be necessary, provided that carriers would be in compliance with CALEA absent a commitment by law enforcement to reimburse the full and reasonable costs of carriers for such modifications to their existing equipment.

The Department of Justice Appropriation Authorization Act recognizes during the four year transition virtually no federal government funds have been expended to reimburse the telecommunication industry for its implementation costs of CALEA. During the first year transition period, virtually all telecommunications carrier equipment which has been installed or deployed is based on pre-CALEA technology and does not include those features necessary to implement the assistance capacity requirements of CALEA.

It is therefore necessary to extend the time of compliance to enable the industry to complete the standard setting and development processes required to implement CALEA in an economical and efficient fashion, and to recognize existing telecommunications carrier equipment, features, and services should be grandfathered during the interim.

On the completion of the development of CALEA compliant-technology, the federal government can decide which carrier equipment it chooses to retrofit at Federal Government expense and the manufacturers can then design CALEA capabilities and services to be deployed in carrier networks in the future.

Thus, it is necessary to move both the effective and the "grandfather" dates of CALEA to recognize the delays in CALEA implementation and to ensure its implementation continues as intended by Congress.

Mr. Speaker, it is also necessary to clarify the meaning of several terms in the cost reimbursement provisions of CALEA. The use of the terms "installed" and "deployed" in CALEA are intended to make clear Congress intended separate and distinct meanings of these terms as they are used in CALEA. The term, "installed," refers to equipment actually in place and operable to the network of carriers. The term, "deployed," relates to equipment, facilities or services that are commercially available within the telecommunication industry, to be utilized by a carrier whether or not equipment, facilities or services were actually installed or utilized within the network of the carrier. The term, "deployed," is also intended to refer to technology available to the industry.

The use of these terms recognizes Congress clearly intended to retrofit the federal government expenses, or grandfather the existing networks of carriers to the extent they were installed or deployed prior to the development of CALEA-compliant technology based on industry standards developed to meet assistance capacity requirements of CALEA. The terms, "significantly upgraded" or "otherwise undergoes major modifications," were intended to mean the carriers' obligations to assume the costs of implementing CALEA technology in a particular network switch, is not triggered until a particular network switch is fundamentally altered, such as by upgrading or replacing it with a new fundamentally altered switch technology. For example, changing from digital to asynchronous transfer mode (ATM) switching technology.

Thus, once CALEA-compliant technology is developed and can be designed into switches deployed in carrier networks, the costs of such deployment shift to the industry. Prior to that time, however, existing carrier networks are "grandfathered" unless retrofitted at federal government expense as intended by Congress. In addition, switch upgrades or modifications performed by carriers to meet federal or state regulatory mandates or other requirements, such as number portability requirements, are not to be considered a "significant upgrade" or a "major modification" for purposes of CALEA.

Mr. Speaker, these provisions should make clear that existing carrier networks are grandfathered, unless retrofitted at federal government expense. The effective date for compliance with CALEA has been extended for approximately two years to provide additional time for industry development of CALEA-compliant technology in response to industry technical standards to meet the assistance capacity requirements of CALEA.

I support this important legislation and ask my colleagues to support the Department of Justice Appropriation Authorization Act, H.R. 3303.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the bill, H.R. 3303, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS THAT UNITED STATES SHOULD SUPPORT FEDERAL LAW ENFORCEMENT AGENTS' EFFORTS REGARDING MEXICAN FINANCIAL INSTITUTIONS

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 288) expressing the sense of the Congress that the United States should support the efforts of Federal law enforcement agents engaged in investigation and prosecution of money laundering associated with Mexican financial institutions.

The Clerk read as follows:

H. CON. RES. 288

Whereas, Mexico is an important ally of the United States and these countries' economies, cultures, and security interests are permanently intertwined;

Whereas illegal drugs continue to destroy our cities and kill our children, the illegal international narcotics trade poses a direct and pernicious threat to the vital national interests of the United States, and combating this threat is one of our Nation's highest priorities;

Whereas Mexico is one of the major source countries for narcotic drugs and other controlled substances entering the United States;

Whereas criminal organizations engage in money laundering to reap the financial benefits of the illegal narcotics trade and combating money laundering is a necessary and integral part of a national strategy to combat the narcotics trade;

Whereas Mexico is currently unable to limit meaningfully the laundering of drug proceeds in its financial institutions, as noted in the Department of State's 1997 International Narcotics Control Strategy Report, which indicates that Mexico "continues to be the money laundering haven of choice for the transportation of US cash drug proceeds";

Whereas, despite the commitment of President Zedillo to combat drug trafficking and money laundering, the Government of Mexico "acknowledges that narcotics-related corruption is pervasive and entrenched within the criminal justice system and that it has spread beyond that sector", as demonstrated by the February 1997 arrest of the chief of Mexico's National Counternarcotics Institute on charges of accepting bribes from, and complicity with, the drug cartels, shortly after receiving confidential briefings from United States law enforcement agencies;

Whereas progressively more violent, organized, and widespread illegal drug operations constitute a threat not only to the health and well-being of the Mexican people but also to the integrity of the Mexican Government and its law enforcement agencies;

Whereas the vast majority of people and public servants in Mexico support ridding their country of this dark and sinister threat;

Whereas the United States Customs Service, in conjunction with other United States law enforcement agencies, recently concluded "Operation Casablanca", the largest undercover money laundering investigation in the history of the United States, in which over 100 persons were arrested and 3 Mexican financial institutions were indicted;

Whereas Operation Casablanca is in the interest of the people of the United States, as it strikes a direct blow against the laundering of the proceeds of illegal drug sales in Mexican financial institutions and is necessary for an effective effort against money laundering in the United States;

Whereas United States law enforcement agents participating in Operation Casablanca placed themselves in peril of severe injury or death in order to combat the illegal narcotics trade;

Whereas recently the Government of Mexico has reportedly announced a desire to investigate and possibly prosecute United States law enforcement officials involved in Operation Casablanca on the ground that United States law enforcement agents allegedly operated on Mexican soil without prior notification of the Government of Mexico;

Whereas the Government of Mexico had been notified of the broad concept but not details of a money laundering investigation;

Whereas notification of details could have jeopardized the safety of United States law enforcement officials; and

Whereas notification to foreign governments of the specifics of undercover money laundering .investigations conducted by the United States could, under certain circumstances, render ineffective such investigations, which would be contrary to the interests of the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) undercover law enforcement investigations, including under appropriate circumstances sting operations, are necessary to counter increasingly sophisticated money laundering schemes that involve financial institutions in this country and other countries, including Mexico; and

(2) the United States should not agree to extradite to Mexico United States law enforcement agents involved in Operation Casablanca for actions taken within the scope of Operation Casablanca.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution expresses the sense of the Congress that the United States should support the efforts of Federal law enforcement agents engaged in the investigation and prosecution of money laundering associated with Mexican financial institutions.

I want to commend my good friend, the gentleman from Alabama (Mr. BACHUS), the chairman of the Committee on Banking and Financial Services' Subcommittee on General Oversight and Investigations, for introducing this important legislation and for his leadership on this issue.

The United States and all the western democracies are under attack from a global problem that only grows worse and more complex by the day, money laundering. Every day throughout the United States and around the world narcotraffickers and organized crime syndicates engage in thousands of financial transactions to conceal their ill-gotten gains. These international criminal organizations are driven by greed, and the laundering of their proceeds is their only pathway to profit.

The magnitude of the money laundering problem can only be grasped in relation to the global drug problem. The illegal drug business is now estimated to generate $800 billion to $1 trillion annually in sales, more than the entire global petrochemical industry.

Such a magnitude of drug-tainted money poses a constant threat of political corruption and destabilization around the world. More than 600 metric tons of cocaine are trafficked from South America each year, of which nearly 500 metric tons are destined for the United States. Colombian heroin, with unprecedented purity and low prices, is showing up around the country. Mexican drug gangs have grown so strong and sophisticated they now rival Colombian cartels, and pose what

DEA administrator Tom Constantine has called the premier law enforcement threat facing the United States today.

Hand-in-hand with the growth of these sophisticated international drug trafficking organizations has come the growth of money laundering. Today money laundering has reached alarming and unprecedented levels on both the national and international level. It is now estimated by law enforcement and banking officials that as much as $500 billion, or 2 percent of the global domestic product, is laundered each year.

The law enforcement challenge throughout the world is daunting. Consider the challenge posed by the money transmitting business. The world's intricate wire transfer system moves over $2 trillion a day, involving more than 500,000 transactions.

As law enforcement has sought to uncover and prosecute money laundering over the years, the methods used by drug organizations to launder their money have grown increasingly complex and exotic. Criminals who commit crimes abroad are using the U.S. and its financial institutions as havens for laundered funds, at the same time as criminals are committing offenses in the U.S. and using foreign banks and banks' secrecy jurisdictions to conceal the proceeds of their crimes.

In short, today's sophisticated and well-financed criminals respect no international border. The problem is particularly acute in Mexico, which, according to the U.S. State Department, and I quote, "Continues to be the money laundering haven of choice for the transportation of cash drug proceeds."

As such, Mexico is a vital if not the vital link in the international crime chain which now spans the globe and threatens economic and political stability around the world.

It is against this backdrop that the United States law enforcement agencies, led by the United States Customs Service, carried out an extensive 3-year undercover money laundering investigation of certain Mexican financial institutions and individuals. The investigation led to the arrest of 167 people, the indictment of three Mexican banks, the seizure of $110 million, and several tons of drugs.

In supporting this resolution, there are a few points that need to be made. First, at the same time that I support the resolution, I support the Mexican government's efforts to address the drug crisis. I believe the Mexican government is making gains in its counternarcotics effort. I have reached this conclusion after spending time in Mexico carefully examining the counter drug programs underway and being developed. More must be done, but I believe the Mexican government is moving in the right direction.

Second, in supporting this resolution, I am not somehow condemning Mexico. As the resolution makes clear, Mexico is an important ally of the United States, and these two countries' economies, cultures, and security interests are permanently intertwined.

Rather, in supporting the resolution, I am supporting U.S. law enforcement agents who place their lives in danger in an effort to confront the international drug epidemic engulfing our country and children. I am supporting the U.S. law enforcement agencies, whose careful planning and execution led to the largest and most important money laundering investigation in the United States history, and I am joining Americans and Mexicans and citizens from around the globe in condemning those who knowingly assist drug traffickers to launder their profits.

It does not matter what your nationality is, if you aid and abet those who traffic to launder their blood-stained drug money, you deserve the unequivocal condemnation of the international community, and should be vigorously investigated and prosecuted to the full extent of the law.

Mr. Speaker, nothing poses a greater threat to democratic institutions around the world than the drug epidemic and drug corruption. Simply put, money laundering is the enemy of the rule of law, and we must support its vigorous prosecution wherever and whenever it is uncovered.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise this afternoon in support of this resolution, but I also rise to let Members know and understand that there are things that are very important that are included in this resolution, and there are issues that are confrontational that I think are counterproductive.

As a former law enforcement officer who conducted and supervised undercover operations and investigations along our Nation's border, I can certainly appreciate the intent of this resolution.

□ 1430

Let me state in the strongest possible terms that the extradition of our U.S. Customs agents should never even be an issue. They were doing their jobs. They effectively did their jobs to the extent that people that are guilty of money laundering are under arrest and will be tried soon. Undercover law enforcement investigations, including sting operations, are a necessary component of our national security and we must protect the agents that are involved always.

Operation Casablanca was a success, and we should congratulate the men and women of the United States Customs Service. Three prominent Mexican banks and 26 Mexican bankers have been indicted, and more than 8,000 pounds of marijuana and 4,000 pounds of cocaine have been seized during the course of this investigation.

Mr. Speaker, I rise this afternoon in support of this resolution. However, I do have some reservations with the language of the resolution in its current context. In my view, this is just an opportunity for some to attack Mexico once again, instead of fomenting an understanding and hopefully working with our counterparts to have them understand the seriousness and the importance of operations such as this that decommission organizations that are a threat to the national security of both the United States and Mexico.

I liken some of the language the same as we annually get into in the certification process. The language of this resolution does not constructively, in my opinion, engage Mexico. It engages in a lot more fingerpointing. I think that instead of blaming Mexico for feeding this Nation's $50 billion a year drug habit, I would encourage all of my colleagues to engage our neighbors to the south in constructive dialogue.

Mr. Speaker, I spent this weekend with 13 of my colleagues from Congress and 20 of our counterparts from the Mexican Parliament at the 37th Annual U.S./Mexico Interparliamentary Meeting in Morelia, Michoacan, Mexico. We discussed this very issue. I think we discussed it perhaps an hour longer than we should have.

Part of what we need to do as Members of Congress is engage in a constructive dialogue with our counterparts. We left Morelia, Michoacan, Mexico, with a better understanding of each other and we pledged to continue to work throughout this year to make sure that each of us understands the challenge, each of us understands the dynamics, and most importantly, each one of us has the ability to engage in constructive dialogue to the benefit of both the United States and Mexico.

Mr. Speaker, I think that this afternoon as we stand here and engage in dialogue about this resolution, which is vitally important to the men and women that serve this country in a law enforcement capacity, I think we should keep one thing in perspective. That is that we have two arenas to concern ourselves with. The first one is the arena where agents of both countries engage in an operational manner to protect our constituents. The second one is the political arena where much is said, but very little is accomplished because of fingerpointing.

Mr. Speaker, I hope we keep things in perspective. I hope we are able to engage in constructive dialogue.

Mr. MCCOLLUM. Mr. Speaker, I yield 6½ minutes to the gentleman from Alabama (Mr. BACHUS), the author of this resolution.

Mr. BACHUS. Mr. Speaker, I thank the gentleman from Florida (Mr. MCCOLLUM) for yielding me this time, and I thank the gentleman from Texas (Mr. REYES) for his comments. I will tell the gentleman that he and I share some of the same concerns.

In fact, I served as Assistant Attorney General and legal counsel for a State agency that seized more drugs 2 straight years than any other State agency in the United States. Unfortunately, most of those drugs made their way through Mexico.

Mr. Speaker, we do have to be in partnership with Mexico, and I hope that this resolution brings a greater understanding, particularly when the Mexican Government has indicated that they may ask for extradition of our agents. I am glad that the gentleman from Texas agrees that that is inappropriate.

Mr. Speaker, I rise in support of this resolution. The gentleman from Florida (Chairman MCCOLLUM) has already said that it expresses the support of the House for our enforcement agencies involved in the successful money laundering investigation, code named Operation Casablanca, and it expresses the view of the House that it would be inappropriate and indefensible to accept any request from the Mexican Government that these courageous American agents be extradited.

Operation Casablanca was announced last month by the Treasury and Justice Departments and it was the largest money laundering investigation in the history of the United States. Three things are clear. First, the drug trade is a scourge on both the United States and Mexico, and the people of both nations are committed to fighting this threat.

Second, Operation Casablanca struck a major blow to the Colombian and Mexican drug cartels and their dirty money men.

Finally, the U.S. Customs agents who placed their lives on the line to conduct this operation should be commended, not threatened with prosecution.

As chairman of the Subcommittee on General Oversight and Investigations of the House Committee on Banking and Financial Services, I have conducted several hearings to examine money laundering, including one September 1996 to examine the issue of money laundering in Mexican financial institutions.

That hearing painted a quite disturbing picture. The drug thugs who have caused harm in virtually every American community have essentially two choices after they receive cash for their poisonous product. They can smuggle the money out as cash or they can utilize financial institutions through "smurfing," peso brokering, and other techniques.

Our United States banks and other financial institutions have done a fairly good job of closing the front door to money laundering by rigorous enforcement of the Bank Secrecy Act. However, it is a different story in Mexico.

The bottom line is that once drug proceeds cross the border, it is virtually impossible to trace them and money laundering is done with ease. This year, the State Department's International Narcotics Control Strategy Report states, "Mexico continues to be the money laundering haven of choice for the transportation of U.S. cash drug proceeds."

Mexico has recently enacted money laundering legislation, but it neither has the regulatory infrastructure nor the reliable personnel at this time to enforce those rules. Our best strategy in the short run is law enforcement infiltration of criminal organizations and corrupt financial institutions.

That is what Operation Casablanca did, and that is why Operation Casablanca is so significant. The Customs Service and other agents are to be commended for undertaking this risky but courageous investigation. In one operation, our Customs Service was able to penetrate high into the Mexican and Colombian criminal organizations and flush out many of the financial institutions and banks serving them.

Over a dozen Mexican and Venezuelan banks were implicated. It will be some time before the banking friends of the narco-traffickers feel laundering for the cartels is a relatively risk-free way to make a dirty fortune.

We do not know all the details about Operation Casablanca. We do know that Mexican authorities were notified of the Casablanca probe, but were not notified of all the details. That is because specific information would have endangered the lives of our law enforcement agents. The sad reality is that we cannot do this type of operation at this time and share specific information with Mexico. Neither can we halt the war against the drug cartels.

We would not tolerate missiles being stationed in Mexico and aimed at the United States. The drug threat is every bit as sinister.

In conclusion, Operation Casablanca will prove to be a watershed event in our joint fight against drugs. Mexico can no longer remain in a state of denial about complicity of their financial institutions with the drug trade. In the short run, it was an embarrassment for Mexico, as demonstrated by their angry reaction. While their shock is predictable, their threats against U.S. law enforcement agents was disappointing and should not be given credence.

It is truly outrageous for the Government of Mexico to threaten to seek extradition of our law enforcement agents, even reportedly going to the ludicrous extreme of offering to swap narco-traffickers for law enforcement agents. United States agents place their lives on the line. We in Washington should never lose sight of the fact that the drug cartel operation is not fought by paper-pushers here in Washington, but by men and women of our law enforcement agencies who are out on the front lines.

It is a mystery to me why the administration and the State Department have not put forth stronger statements in support of our law enforcement agencies. But if they will not take the lead in supporting our agents, Congress must.

Democrats, Republicans and Independents have joined together in cosponsoring this legislation. This morning every Member received a letter from the gentleman from New York (Mr. HINCHEY), a New York Democrat; the gentleman from Vermont (Mr. SANDERS), the House's only Independent; and myself urging all Members to support this resolution. Twelve other Democratic cosponsors have joined us.

Mr. Speaker, I hope the United States and Mexico will work together and not let drug fighting take a back seat to diplomatic and political concerns. The bottom line is that our law enforcement agents should not be prosecuted or even threatened for fighting the drug thugs.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT), himself a former prosecutor.

Mr. DELAHUNT. Mr. Speaker, I did not intend to speak to this particular resolution, I am here on another matter. But I think it is important for me to comment on the fact that I too attended, along with the gentleman from Texas (Mr. REYES), my friend, the Interparliamentary Conference that occurred this past weekend in Morelia, Mexico, where this issue received considerable discussion among Members of Congress and our counterparts in the Mexican Parliament.

I was very pleased to hear the statement by the gentleman from Florida (Mr. MCCOLLUM) chairman of the Subcommittee on Crime, regarding the, should I say "improvement" in terms of the activity of the Mexican officials regarding drug trafficking.

I sensed a sincere and genuine commitment to a cooperative joint effort to deal with the issues surrounding drug trafficking. So I think it was important that the gentleman from Florida included that in his remarks, and I wish to associate myself with them.

Mr. Speaker, I would state that last year I voted against certification. But after my experience this weekend, I intend to join the chair of the Subcommittee on Crime in supporting certification, because I think what I gleaned from our discussions was very, very positive.

At the same time, the issue of Operation Casablanca was raised. I wish to publicly state and commend the gentleman from New York (Mr. GILMAN), the chair of the Committee on International Relations, for a very forthright and clear and unequivocal statement regarding the position of Congress and the assembled Members of the United States delegation in our adamant opposition to any consideration of extradition of any U.S. agent involved in this particular undertaking.

I wish to make that a matter of record and commend the gentleman from New York for his insistence that that is simply untenable in terms of the United States Congress.

Again, I think it was clear to me as the gentleman from Alabama (Mr. BACHUS) just indicated, that there are many factual facts that are still unclear, that the question is still murky in terms of the notification. And it might be appropriate for us to communicate with the administration and with the appropriate counterparts in the Mexican Government to determine what constitutes adequate notification, because it is clear that notice was given at the very highest levels of the Mexican law enforcement apparatus.

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However, it would appear that that information did not receive any further dissemination, which I suggest and submit might very well be entirely appropriate, given the covert and sensitive nature of, in fact, what was occurring, particularly in light of the fact that in these kinds of operations there is a high risk of personal safety and potential loss of life to any U.S. agent or any informant that might be cooperating with law enforcement.

I also think it is important to understand, too, that while we talk about Mexico, in fact 90 percent of the illegal activity that was discovered and investigated occurred within our own boundaries. So I just thought it was important for me to make those statements and to acknowledge the leadership of the gentleman from New York (Mr. GILMAN) over the course of this weekend.

Mr. BACHUS. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Alabama.

Mr. BACHUS. What this resolution says, and I hope it was a message that we carried to Mexico, is that this fight against narco-traffickers is a dangerous one, and we simply do not need to let our law enforcement agencies be made pawns in a diplomatic or political struggle. I appreciate what the gentleman has said, but I think we ought to make it clear that extradition is not an appropriate path.

Mr. DELAHUNT. Reclaiming my time, Mr. Speaker, I would suggest to the gentleman that that, in fact, was the message that was delivered forcefully and eloquently by the chairman of the Committee on International Relations, the gentleman from New York (Mr. GILMAN).

Mr. BACHUS. I thank the gentleman.

Mr. McCOLLUM. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN), distinguished chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I rise in strong support of this resolution before us, H. Con. Res. 288, that supports our U.S. law enforcement efforts on the issue of drug traffickers' use of money laundering through Mexican banking institutions. I want to strongly commend the gentleman from Alabama (Mr. BACHUS) for introducing this important measure at a timely moment.

I want to take this opportunity to compliment our Customs Service for a highly successful and important money laundering undercover operation, code named Casablanca. All of us are proud of their outstanding efforts to take the profit and benefit out of the illicit drug trade which targets our communities, kills our youngsters. Operation Casablanca benefited the interests of the people of both Mexico and the United States.

This past weekend in Mexico I was pleased to join the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Texas (Mr. REYES) at our annual interparliamentary meetings with the members of the Mexican Congress. It was chaired by the gentleman from Arizona (Mr. KOLBE) and the Senator from Kansas, Senator PAT ROBERTS, and we were joined with a delegation of over 10 Members of both Congress and the Senate where we had the opportunity to extensively discuss this serious matter with our Mexican colleagues.

Many of our Mexican counterparts expressed opposition to our Casablanca investigation, and while our Mexican colleagues were concerned about one issue, the issue of Mexican sovereignty, as a result of this operation, we reminded them of the much larger picture, one that, if ignored, would be a grave and serious risk to both of our nations.

We reminded our Mexican colleagues that the greatest threat to their sovereignty and the sovereignty of many other free and democratic Nations around the globe today is not operations like Casablanca. The real threat is the continued trafficking of illicit drugs and the inevitable violence and corruption which flows so freely from this deadly, corrosive trade in narcotics.

The undercover Casablanca operation helped to destroy a major money laundering ring of Colombian and Mexican drug dealers who were using several Mexican banks and some high level bankers to launder and disguise billions of dollars of their ill-gotten gains. The dirty drug-related monies came from our streets, the streets of key U.S. cities like Chicago, Los Angeles, Houston and New York. Millions of drug dealer assets have also been seized, along with tons of illicit drugs.

In addition, the record needs to be clear that no U.S. government sting money was used. It was all dirty drug money which was being laundered.

The U.S. Customs Service did not entice, did not lure any Mexican bankers into this web of crime and corruption. The corrupt Mexican bankers all came to their attention either from drug dealers or other Mexican bankers already engaged in money laundering for the two major drug cartels.

Let it also be noted that the Deputy Attorney General of Mexico and a high level Mexican treasury official were duly informed very early on in the investigation by the U.S. Customs Service of this operation. The Mexican authorities were even asked to help but never responded to our Customs officials.

However, when the Casablanca operation was concluded and the copies of the indictments were provided to Mexican authorities, it did result in five Mexican bankers being arrested in Mexico, based upon U.S. investigations.

Finally, the millions of dollars that this operation uncovered flowing from our streets and communities from illicit drug trade demonstrate how serious the challenge is from these drug dealers and the corruption that they foster in the banking systems and on democratic institutions around the globe.

In conclusion, let me say we need to provide support for and encourage these investigative operations and not put blame on our courageous investigators, and hope that we can achieve more concrete support on both sides of the border in the future. By working together, let us both, Mexico and the United States, be certain that the sovereignty and integrity of both of our nations will be fully protected and that our war against drugs will be even more effective.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

I just want to wrap the discussion up by again complimenting the gentleman from Alabama (Mr. BACHUS) for creating this resolution. I think it sends an important message to our law enforcement community as much as anything else, especially to the Customs Service, that they have done a job that needs to be praised. It is a job well done. And to our neighbors to the south, I think it sends a message of our concerns that continue while at the same time extending recognition of their cooperation, the fact that they are indeed participating.

I do not know how many Members understood that the resolution addresses a great deal of detail. I do not know how many understood what Casablanca really was all about. I would just like to point out that essentially what happens in money laundering like this and what happened, as I understand it, in this case is that certain active drug dealers in the United States with connections to Mexico and Colombia decided to use some dummy accounts and some real accounts in American banks in California to ship some funds down to Mexico.

They found some cooperative second tier bankers. I am not sure if they found the top people. I do not think they did. I think we are talking about some major banks in Mexico we would all be concerned about if they were here. They found several of them, some bankers to cooperate. And they sent this money back to the United States into some legitimate looking accounts, again here in the country, that then allowed them to forward the money ultimately on to sources such as Colombia drug cartel leaders in a cleansed way, appearing to be all legitimate transactions.

If not for the cooperation and assistance of these Mexican bankers, who have been pointed out in detail today, there would not have been a money laundering operation and the proceeds of the illegal drug sales inside the United States would never have gotten back in a covered fashion, in an obscure fashion, to those who committed the most heinous of crimes, the producers and suppliers of these drugs in the source countries. So while it is a little complicated in its essence, I thought we ought to at least explain to anyone, our colleagues that might be listening to this, how the operation worked. The very complexity itself deserves attention, and the Treasury Department and the Customs Service law enforcement officials deserve praise for their efforts at meticulously documenting this trail and making it all come to fruition as they did.

I strongly urge the adoption of this resolution. I support it, and I appreciate very much the gentleman from Alabama offering it.

Mr. LAFALCE. Mr. Speaker, I rise in support of the Resolution offered by the gentleman from Alabama and commend my colleague on the Banking Committee for bringing this important issue to the attention of the House of Representatives.

The testimony received by the Banking Committee in our June 11 hearing on Operation Casablanca demonstrated the courage and bravery of the federal agents who literally risked their lives by operating an anti-money laundering scheme involving some of the most dangerous and vicious drug dealers in the world. It is indeed fitting that we put the House of Representatives on record against any extradition proceedings involving these courageous men and women.

This resolution raises another issue. Operation Casablanca was successful because of the growing effectiveness of our nation's anti-money laundering policies. The financial services industry must report deposits and withdrawals of cash in excess of $10,000 and financial institutions must file suspicious activity reports consistent with their "Know Your Customer" guidelines. Only with these programs in place could the criminals be convinced that Operation Casablanca was real.

And finally, the well planned coordination and cooperation between a number of Department of Treasury and Department of Justice law enforcement agencies permitted the sting operation to work as designed. I commend not only the agents in the field but the supervisors and management teams throughout the Administration who are making money laundering a crime that just doesn't pay.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the motion offered by the gentleman from Florida (Mr. MCCOLLUM) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 288.

The question was taken.

Mr. MCCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF HOUSE THAT BOARD OF GOVERNORS OF UNITED STATES POSTAL SERVICE SHOULD REJECT RECOMMENDED POSTAGE RATE INCREASE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 452) expressing the sense of the House of Representatives that the Board of Governors of the United States Postal Service should reject the recommended decision issued by the Postal Rate Commission on May 11, 1998, to the extent that it provides for any increase in postage rates.

The Clerk read as follows:

H. RES. 452

Whereas the United States Postal Service has realized a cumulative net income of approximately $5,800,000,000 during the past three and one-half fiscal years;

Whereas the national rate of inflation has declined substantially during that time;

Whereas the postal customers and taxpayers of the United States deserve to share in the recent financial gains of the Postal Service;

Whereas any increase in postage rates affects every citizen, resident, and business in the United States, and is especially harmful to individuals living on low or fixed incomes;

Whereas the Postal Rate Commission issued a recommended decision on May 11, 1998, that proposes, among other things, increases in certain postage rates;

Whereas it has been estimated that the proposed rate increase for first-class mail would increase the annual revenue of the Postal Service by approximately $1,000,000,000; and

Whereas the Board of Governors of the Postal Service is expected to meet in June 1998 to act upon the recommended decision: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Board of Governors of the United States Postal Service should reject the recommended decision issued by the Postal Rate Commission on May 11, 1998, to the extent that it provides for any increase in postage rates.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to commend the gentleman from Iowa (Mr. LATHAM), one of my better friends here in this body and a diligent member of the Committee on Appropriations, for sponsoring the legislation before us today. He has been joined by 49 Members in cosponsorship of H. Res. 452.

The bill, Mr. Speaker, addresses a small topic; that is, a penny, the fact that penny by penny, the United States Postal Service will be able to raise $1 billion per year. Mr. Speaker, that penny may be insignificant for some, but when paid collectively by all mailers, the accumulation is significant, $1 billion.

The question is, why does the United States Postal Service require this additional annual $1 billion when it has, over each of the past four years, made more than $1 billion in profit? That is a fairly significant balance.

Postal ratemaking is a complicated and specialized process in itself. The statutory provisions for changing rates are also unique. The law provides that the Postal Service may request rate increases. The request is sent to the Postal Rate Commission, which must review all of the documentation within 10 months and render a recommended decision that is fair and equitable.

The recommended decision of the PRC must provide sufficient revenues so that the Postal Service will, quote, break even. The governors then may approve, allow under protest, reject, or modify that decision.

The Postal Service showed an approximate $1.8 billion surplus in fiscal year 1995, a $1.5 billion surplus in fiscal year 1996, a $1.2 billion surplus in fiscal year 1997. However, last July the Postal Service requested increased rates because it estimated that it would be deficient by $1.4 billion. It turns out, Mr.

Speaker, that in mid-1998 the net operating surplus of the Service was more than $1.3 billion.

The chairman of the Postal Rate Commission, during a May 11 press briefing on this recommended decision, said, and I quote, "The commission believes that the Postal Service is unlikely, in the absence of either the economy going into a free fall, a spending binge or some very creative accounting, to incur any of the $1.4 billion loss it projected for fiscal year 1998. We believe the service may have seriously misestimated its need for a rate hike."

Additionally, the PRC discovered that the Postal Service based its estimates on 1996 data which did not reflect the current changes. It must be noted that the inflation rate is lower than anticipated. Therefore, costs to the Postal Service are lowered and its financial situation is stronger.

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The Postal Rate Commission's hands are tied by law. The PRC is not permitted to substitute its judgment over the recommendation by the Postal Service even though the PRC did comment that they do not believe that the Postal Service needs to raise rates to break even in fiscal year 1998.

The PRC did, however, cut the original Postal Service request by almost a third and reluctantly granted a raise in the price of a first-class stamp without which other types of mail would have undergone economic consequences.

The chairman of the PRC said, "We can, however, recognize and account for known and certain changes that have occurred since the request was filed. This we have done."

Mr. Speaker, it is my strong belief that, given these circumstances, all Members of this House will want to be on record as to whether or not they believe a postal rate increase is a responsible course of action at this time.

I urge all of our colleagues to support H. Res. 452. This resolution simply expresses the sense of the House of Representatives that the Postal Board of Governors reject the recommended postal rate increase.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform and Oversight, and the Subcommittee on the Postal Service, I deeply regret the fact that H. Res. 452 was never referred to our subcommittee for consideration.

House Resolution 452 was introduced on June 3 of this month and referred to the Committee on Government Reform and Oversight. On June 19, committee consideration of the measure was waived by the gentleman from Indiana (Mr. BURTON), the chairman.

The Subcommittee on the Postal Service, chaired by the gentleman from New York (Mr. MCHUGH), is the proper forum for discussion and legislation relating to the United States Postal Service. Indeed, House Rule 10, Establishment and Jurisdiction of Standing Committees, grants the Committee on Government Reform and Oversight sole jurisdiction over the Postal Service, generally including the transportation of the mails.

House Resolution 452 never had the opportunity to be considered by the subcommittee of the gentleman from New York (Mr. MCHUGH). This is especially noteworthy given the fact that the gentleman from New York (Mr. MCHUGH) and his staff had been actively engaged in the drafting and redrafting of postal reform legislation over the past 3 years.

H. Res. 452 has not followed what I would consider to be the proper legislative process. The Postal Reorganization Act of 1970 shifted rate making authority from the Congress, where it had become a politically charged process, to two presidentially appointed bodies, the Postal Service Board of Governors and the Postal Rate Commission.

House Resolution 452, by expressing congressional opposition to a process currently before the Postal Board of Governors interjects itself into that very process. The Postal Rate Commission has issued its decision on the postal rate increase, and the matter is before the Postal Board of Governors. I urge that we respect the statutory process or request hearings on this process by the gentleman from New York (Mr. MCHUGH).

Mr. Speaker, whenever we start talking about increasing rates or increasing taxes, I think that every Member of this House perks up, and all of our antennas go out. I for one believe that we should get every ounce of service out of every dollar generated, whether it be on the basis of fees or in taxes.

In addition, whenever an idea or a proposal for raising and/or generating additional revenue is put on the table, there should be maximum time and opportunity for discussion and debate. Therefore, I had hoped that this item would have come before our subcommittee under the leadership of the gentleman from New York (Mr. MCHUGH) so that we could have had a full-blown discussion. There is still time for this to happen. I would urge that we do so.

In addition, the matter is currently, as I stated before, before the Postal Service Board of Governors. I hope that we would give them an opportunity as well to act.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. LATHAM), author of H. Res. 452.

Mr. LATHAM. Mr. Speaker, I wanted to personally thank my good friend from Ohio (Mr. LATOURETTE) for being here today and also express my appreciation to the gentleman from Indiana (Mr. BURTON), chairman of the full committee, and the gentleman from New York (Mr. MCHUGH) of the subcommittee for waiving jurisdiction, because this is very time sensitive. They are going to make this decision next Monday.

I think the people's House has a right to express an opinion. This is a sense of the House resolution, expressing an opinion. Mr. Speaker, I rise today to urge my colleagues to support this sense of the House resolution calling for the United States Postal Board of Governors to reject the $1.6 billion postage rate increase recommended last month by the Postal Rate Commission.

This $1.6 billion rate hike, of which $1 billion will fall upon senders of first-class letters, will affect every American, but primarily those who are poor and are on fixed incomes. Whether we are sending a Father's Day card, a "get well" card to our grandmother, or just paying our monthly bills, the Postal Service will be hitting us up for even more change out of our pocket.

Just to add insult to injury, the Postal Service even raised rates on certified mail, which millions of Americans use to send in their taxes to the IRS.

Included in this $1.6 billion rate hike or stamp tax is an increase in rates for nonprofit mailers. Local churches, temples, and charities in every Member's district will have to pay about 11 percent more per mailing they send out. As we all know, mailings are often the lifeblood of these organization's donations.

That is why the Alliance of Nonprofit Mailers, and it has more than 150 member organizations, strongly support this resolution. The Alliance includes a broad spectrum of organizations such as the AARP, the American Cancer Society, the American Farm Bureau, the International Association of Fire Fighters, AFL-CIO, Disabled American Veterans, Citizens for a Sound Economy, American Baptist Churches, B'nai B'rith International, the Salvation Army, the YMCA, Rutgers University, UCLA, the Chesapeake Bay Foundation, the National Association of School Boards, the World Wildlife Fund and Consumers Union of the U.S. Also nonprofit periodical publishers such as the National Geographic Society will be hit hardest by the stamp tax.

Again, all this adds up to a $1.6 billion tax on the American people if this rate increase goes into effect. However, it could have been even worse. In fact, the Postal Service's own recommendation was for a $2.4 billion rate increase, but the Postal Rate Commission, forced to recommend a rate hike, slashed the Postal Service's plan by $745 million.

This rate hike is all the more outrageous since the Postal Service has actually made a profit during the last 3½ years, and listen to this, of $5.9 billion. Let me say that again. They made a profit in the last 3½ years of $5.9 billion. That is better than most Fortune 500 companies.

However, by law, the Postal Service is not supposed to make a profit, but, instead, break even. Though, about three-fourths of this year already, the Postal Service is running a $1.4 billion profit, hardly a sign of an organization which needs a large infusion of cash.

This is the same Postal Service that would like this Congress to pass legislation to grant it more autonomy in how postage rates are set. If the current situation is any indication, can Americans really entrust the Postal Service with that sort of power?

The law says that the Postal Service may, from time to time, request that the Postal Rate Commission recommend a hike in rates or fees so that the Postal Service can meet its expected costs. That is, as long as it will equal "nearly as practicable total estimated cost of the Postal Service." This is the so-called break-even requirement.

So why did the Postal Rate Commission recommend last month to grant a rate increase, albeit of less magnitude than originally asked for? According to Edward Gleiman, who is Chairman of the Postal Rate Commission, the Postal Board of Governors left them with little choice.

The Board of Governors rejected a proposal by the Commission to delay a decision on the rate increase until more accurate financial data was available, and, therefore, the Commission was forced to decide on the Postal Service's rate increase.

In the event that the Postal Rate Commission did not act, the Board of Governors would have exercised its authority to increase rates temporarily. Gleiman stated on behalf of the Commission that, "while we do not believe, given its strong financial situation, that the service needs to raise rates to break even in fiscal year 1998, we may not second-guess them and send the request back." The decision is in the hands of the Postal Board of Governors.

I think it is evident that the leadership of the Postal Service has forgotten that they operate a public trust. This $1.6 billion stamp tax represents a break in that trust. I urge all my colleagues to join me in sending a clear and unanimous message to the Postal Board of Governors to reject this huge stamp tax.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, my colleague may very well have captured the real spirit and essence of where the sense of this House might be. I would be the first to agree that the Postal Service has been operating with a level of efficiency, a level of effectiveness, and has, indeed, been turning a profit, which is what we would like to see all businesses do.

By no stretch of the imagination would I want to suggest that I or any of my colleagues would be seeking an increase, as a matter of fact, especially when we talk about not-for-profits who are hard-pressed and hard hurt, even especially when we are talking about some of our businesses and commercial interests that also must, in fact, thrive as well as survive.

I agree with my colleague that setting the rates is a very complex matter. I would have been pleased to hear the dialogue, the discussion. I would have been pleased to hear from the Board of Governors if they were to make such a decision, or from the Rate Commission, their rationale for even making such a proposal. Knowing full well that it was nothing more than a proposal, I would have appreciated that dialogue and that information.

The power of this House reminds me of a discussion I heard the other day about three umpires who were discussing how they call close balls and strikes. The first umpire said, well, let me tell you, all of the close ones, with me, are balls. The second umpire said, well, let me tell you, with me, all of the close ones are strikes. The third umpire said, well, let me tell you, as far as I am concerned, none of them ain't nothing till I call them.

I think that is the way it is with this House. We can hear proposals, we can hear ideas, we can hear what others would have to say, but the bottom line or the final word is, indeed, ours. So I am not in opposition to the concept to the idea or even the bottom line. We would have just appreciated more opportunity to engage in the dialogue in our subcommittee and to have had an opportunity to more thoroughly explore the concept.

Mr. LATHAM. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from Iowa.

Mr. LATHAM. Mr. Speaker, I would not disagree with the gentleman, but the fact of the matter is, with the decision being made next Monday, the time sensitive nature of that situation, I am very much appreciative of the fact that the gentleman from Indiana (Mr. BURTON) and the gentleman from New York (Mr. MCHUGH) allowed us to go forward, because I think it is very important in that the people's House express an opinion.

We are representing the people. I think that is the one part of this whole equation that has been left out is what the effects are on the people out there that we represent.

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I apologize that because of the time sensitive nature of this that we had to proceed in this manner. I would hope that he would continue the oversight job that I know he will and to continue his work, but I think this is very important, for us to make a statement here today for the people.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman very much and would just suggest that I am sure that we will do that under the very able and capable leadership of the gentleman from New York (Mr. MCHUGH) and the gentleman from Pennsylvania (Mr. FATTAH). We look forward actually to engaging in as much dialogue relative to postal oversight as we possibly can have.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding back, I just wanted to make a couple of observations about the gentleman from Illinois' observations, because he has in the 105th Congress demonstrated himself to be not only a very studious but also a very insightful Member not only of the full committee but also of the Subcommittee on Postal Service and I know that this Member very much appreciates his input and appreciates his getting into the issues that affect all matters that come under the jurisdiction of the committee.

Mr. Speaker, we had an oversight hearing last week in which the gentleman from New York (Mr. MCHUGH) presided. We had the opportunity, all of us, to interchange with the new Postmaster General, Mr. Henderson. I think we are all impressed with his ability to lead the Postal Service into the next generation. But also testifying at that hearing was the General Accounting Office. I was struck by their remarks relative to this postal rate increase that they were particularly concerned about the quality and the quantity of information that had been supplied by the Postal Service to the PRC before making this recommendation.

I am also struck by the gentleman from Iowa's remark that this decision will be made next Monday and time is of the essence; and, lastly, just to reiterate something I think the gentleman from Iowa said, when the PRC came out with its decision, sadly, and why I think this House needs to become involved, in their May 11 document, they indicated that complicating an already challenging case was the finding by the PRC that the Postal Service's financial projections and underlying cost data from 1996 were outdated and contained what appeared to be serious computational errors. As the gentleman from Iowa stated, the PRC then recommended to the Board of Governors that would it not be better to delay a decision even though they had this 10-month clock ticking, but would it not be better to delay a decision and have it right rather than to conform with the requirement of getting it decided.

But, sadly, the Board of Governors rejected that. The head of the PRC said, in a response reflecting a preference for form over substance, "The Governors rejected the proposal and reminded the Commission that it was obligated to complete the case in 10 months."

I think the gentleman from Iowa's resolution, I am sure the gentleman from Illinois and all his colleagues on his side of the aisle would rather that the Board of Governors get it right than get it done quickly. It is for that reason that I would respectfully request that this House pass H. Res. 452.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and agree to the resolution, House Resolution 452.

The question was taken.

Mr. LATHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 452.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MARTIN LUTHER KING, JR., MEMORIAL

Mrs. LINDA SMITH of Washington. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 113) approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

The Clerk read as follows:

H.J. RES. 113

Whereas section 508 of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 1003 note; 110 Stat. 4157) authorized the Alpha Phi Alpha Fraternity to establish a memorial on Federal land in the District of Columbia to honor Martin Luther King, Jr.;

Whereas section 6(a) of the Commemorative Works Act (40 U.S.C. 1006(a)) provides that the location of a commemorative work in the area described as Area I (within the meaning of the Act) shall be deemed not authorized unless approved by law not later than 150 days after notification to Congress that the Secretary of the Interior recommends location of the commemorative work in Area I; and

Whereas the Secretary of the Interior has notified Congress of the recommendation of the Secretary that the memorial be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARTIN LUTHER KING, JR., MEMORIAL.

The location of the commemorative work to honor Martin Luther King, Jr., authorized by section 508 of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 1003 note; 110 Stat. 4157), within Area I is approved under section 6(a) of the Commemorative Works Act (40 U.S.C. 1006(a)).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Washington (Mrs. LINDA SMITH) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentlewoman from Washington (Mrs. LINDA SMITH).

Mrs. LINDA SMITH of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 113 was introduced by the gentlewoman from Maryland (Mrs. MORELLA) who is to be congratulated for working very hard to get this to the floor today.

Mr. Speaker, House Joint Resolution 113 would approve the establishment of a memorial to Dr. Martin Luther King, Jr., at a site located in Area 1 in the District of Columbia. The Department of the Interior, in consultation with the National Capital Park and Planning Commission and the Commission on Fine Arts, will select the final site and approve the design. As per the Commemorative Works Act, this recommendation must be approved by law no later than 150 days from the date of the Secretary's notification.

Mr. Speaker, Congress passed legislation in 1996 to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Dr. Martin Luther King, Jr. This fraternity, which Dr. King joined in 1952, is one of the oldest predominantly African-American fraternities in the Nation. They will secure all of the money to build this memorial to Dr. King through private contributions. The fraternity wishes to honor Dr. King's remarkable role with a memorial in the Nation's capital. This memorial will provide a tangible recognition that will assist in passing Dr. King's message of liberty and justice for all from generation to generation.

Mr. Speaker, this is a well-deserved and completely bipartisan measure that is also supported by the administration. I urge my colleagues to support House Joint Resolution 113.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentlewoman from Washington for her management of this legislation on behalf of the majority.

Mr. Speaker, House Joint Resolution 113 provides for congressional approval of the Secretary of the Interior's recent decision to recommend placement of the Martin Luther King, Jr., Memorial in Area 1 of our Nation's capital.

As we all well know, Mr. Speaker, Martin Luther King, Jr., in my opinion was the greatest civil rights leader of the 20th century. Congress has previously authorized the establishment of a Martin Luther King, Jr., Memorial to honor Dr. King and his accomplishments. Pursuant to the Commemorative Works Act, a review of possible locations in which to place the memorial was done. Secretary Babbitt has determined that placement of the Martin Luther King Memorial in the central area of our Nation's capital is appropriate.

Mr. Speaker, there is some urgency in getting this legislation enacted. Under the Commemorative Works Act, if the Secretary's recommendation is not approved by an act of Congress within 150 days, it is deemed disapproved. I support the speedy passage of this legislation so that work can continue on providing an appropriate memorial to Martin Luther King, Jr. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. LINDA SMITH of Washington. Mr. Speaker, I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. DIXON).

Mr. DIXON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, on this occasion, I am reminded of our good friend Mo Udall who passed away several years ago when he said that everything that needs to be said on this has been said.

Certainly this memorial to Dr. King is a tribute to his outstanding works. I am very proud that I am a member of the fraternity that is sponsoring this activity. I would point out that the funds to be used are strictly private funds and will be raised by the Alpha Phi Alpha Fraternity.

Mr. Speaker, I rise today in strong support of this important legislation and thank my colleague, Rep. CONNIE MORELLA for her work on the bill. I also thank the Majority Leader for his prompt scheduling of this measure, as well as Resources Chairman DON YOUNG and Ranking Member GEORGE MILLER for their Committee's timely consideration of the bill.

H.J. Res 113 authorizes placement of a memorial honoring Dr. Martin Luther King, Jr. in Area I of the District of Columbia. In the 104th Congress, we passed legislation (P.L. 104–333) authorizing Alpha Phi Alpha Fraternity, Inc. to raise private funds for the design and construction of the memorial. I commend my fraternity brothers for their good work on this effort and the progress they have made.

Dr. Martin Luther King, Jr. stands among the great figures of American history. He richly deserves the distinct honor that is the goal of this legislation. His mission and methods embody American ideals of freedom, equality, and democracy. Dr. King's legacy enriches American civil and political life and captures the heart, mind, and soul of America.

On February 24, 1998, Interior Secretary Bruce Babbitt notified Congress of his recommendation that the memorial to Dr. King be sited within Area I of the District of Columbia. Under the Commemorative Works Act, this recommendation must be approved by Congress no later than 150 days from the date of the Secretary's notification. H.J. Res. 113 and its counterpart in the Senate, S.J. Res. 41, must be approved by Congress no later than July 24, 1998. I urge my colleagues to support this legislation and urge the Senate to act swiftly on the bill.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I also want to commend and congratulate all of those who have been involved in processing this resolution to the point of where it is today. I stand as a proud Member of Alpha Phi Alpha Fraternity. I have never felt more proud of the organization of which I am a life member than when it made the decision that in honor of one of its members, in honor of one of the greatest leaders that our Nation, or any Nation, has ever seen, in honor of Dr. Martin Luther King, Jr., it would establish a bust.

I also echo the sentiments of the gentleman from California who pointed out the fact that these are private funds, that these are men all over America who are willing to make use of their own resources so that their resources could be a lasting testament to a member of their group. All has indeed been said that needs to be said. I am simply very proud this day to be a member of the Alpha Phi Alpha Fraternity, and I am proud to be a Member of this august body that I believe will make this decision in honor of a lasting tribute to Dr. Martin Luther King Jr.

Mr. Speaker, as a life member of the oldest African American of Predominately Black Greek letter Fraternity in America, I am proud to rise in support of this resolution approving the location of a Martin Luther King Jr. Memorial in the Nation's Capital.

First of all Mr. Speaker, I thank the gentleman from American Samoa, Mr. FALEOMAVAEGA for yielding and I thank all of those who have been involved in bringing the legislation to this point. I also associate myself with the remarks made by my colleague and brother, the gentleman from California, Mr. DIXON.

As has already been stated, everything which need saying, has already been said Therefore, let me just say that I am proud to be a Member of Alpha Phi Alpha and to know that my brothers are prepared to go into their own pockets and make use of their own resources to provide an appropriate memorial to our brother, and the greatest leader of this century, Dr. Martin Luther King Jr.

Again, I am proud to be an Alpha, I am proud to be a member of this August Body, the United States House of Representatives as we pay tribute to one of America's Most Distinguished Citizens.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, I am informed that I made a very bad faux pas just a second ago. I guess this is the second time within a short period of time that that has occurred; and, that is, that I thought that I had read that former Member of Congress Mo Udall had passed away, but I understand that he is in a nursing home VA Hospital, and I extend my apologies to him and to his family.

Mrs. MORELLA. Mr. Speaker, I appreciate the opportunity to bring H.J. Res. 113 to the House floor under suspension. This resolution would grant the Alpha Phi Alpha fraternity the authority to establish a memorial to Martin Luther King, Jr., at a site located in Area I in the District of Columbia.

I particularly want to thank Subcommittee Chairman JIM HANSEN, Resources Committee Chairman DON YOUNG and Ranking Minority Member GEORGE MILLER for their support and their assistance in moving this bill through the House.

As the sponsor of the resolution, I am enthusiastic about the memorial, and I am committed to seeing it built. I would like to recognize the other chief sponsor of this resolution, Congressman JULIAN DIXON, and the men of Alpha Phi Alpha fraternity, in particular, George Sealy and Al Bailey, for their vision to create a memorial to one of our truly great Americans. This memorial will stand as a testament to the tireless efforts of these "men of distinction" and serve as an inspiration to residents of the area and visitors to our Nation's Capital.

In 1996, Congress passed legislation to authorize Alpha Phi Alpha fraternity to establish a memorial to Martin Luther King. Under Public Law 104–333, the Alpha Phi Alpha fraternity may build a memorial to Dr. King through private contributions. No U.S. funds will be used to pay the costs incurred for the design, installation, construction or maintenance of the memorial. Rather, Alpha Phi Alpha has organized private fundraising efforts to pay for all phases of the monument's establishment.

On January 29, 1998, the Secretary of the Interior notified Congress of his recommendation that the memorial to Martin Luther King, Jr., be established within Area I of the District of Columbia. This recommendation must be approved by law no later than 150 days from the date of the Secretary's notification.

No American has embodied more genuinely the spirit of unity and cooperation which is so desperately needed in order to address effectively the social and economic problems which plague our nation, than Dr. King. His principles of nonviolence are known throughout the world and have had a profound impact on our country. This doctrine earned him the Nobel Prize for Peace in 1964.

Alpha Phi Alpha, which Dr. King joined in 1952, is one of the oldest predominantly African-American fraternities in the nation. Alpha Phi Alpha has 700 chapters in 42 states, and its members include some of the most prominent leaders and distinguished public officials within the United States. The fraternity wishes to honor Dr. King's remarkable role with a memorial in the Nation's Capital. The memorial will provide a tangible recognition that will assist in passing Dr. King's message from generation to generation.

A King memorial is long overdue. Dr. King believed in addressing a problem through positive and constructive action, through education and nonviolence. A King memorial would be a place of hope where all Americans ever after can contemplate Dr. King's words and deeds and act upon them. Speedy passage of this legislation will ensure that Dr. King's message of hope and peace is passed from generation to generation.

Mrs. MEEK of Florida. Mr. Speaker, I rise in strong support of H.J. Res. 113. Dr. Martin Luther King epitomizes the spirit of the Civil Rights Movement and it is only fitting that we salute him with a national memorial on the National Mall.

As the founder of the Southern Christian Leadership Conference and the president of the Montgomery Improvement Association, Dr. King provided pivotal leadership through one of the most turbulent times of the 21st Century—the Civil Rights Era.

Reverend King embodied the philosophy of nonviolent, direct action based on the Christian principles of love and understanding. Although there was opposition to his vision, nonviolent political protest only became a major force in American politics under the leadership of Dr. King.

Dr. King's concept of "somebodiness" gave black and poor people a new sense of worth and dignity. Dr. King's speech at the Lincoln Memorial during the March on Washington in 1963; his acceptance speech of the Nobel Peace Prize; his last sermon at Ebenezer Baptist Church; and his final speech in Memphis are among the greatest and most inspirational speeches in the history of our country, and his letter from the Birmingham Jail ranks among the most important American documents.

Dr. King's influence can be summarized in a quote from an article written by a young high school student from Rainer Beach High School in Seattle, Washington, which was printed in the Seattle Times newspaper, "The struggle Dr. Martin Luther King Jr. had was not a wonderful struggle. It was a struggle through racism and segregation. When the maker of the dream died, his dream still lived on in the world."

With the thoughts of this high school student in mind, I ask that my colleagues in the U.S. House of Representatives salute Dr. Martin Luther King in the Nation's Capital by supporting H.J. Res. 113.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Washington (Mrs. LINDA SMITH) that the House suspend the rules and pass the joint resolution, House Joint Resolution 113.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. LINDA SMITH of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

CAPE COD NATIONAL SEASHORE AMENDMENTS

Mrs. LINDA SMITH of Washington. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2411) to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission, as amended.

The Clerk read as follows:

H.R. 2411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CAPE COD NATIONAL SEASHORE.

(a) LAND EXCHANGE AND BOUNDARY ADJUSTMENT.—Section 2 of Public Law 87–126 (16 U.S.C. 459b–1) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) The Secretary may convey to the town of Provincetown, Massachusetts, a parcel of real property consisting of approximately 7.62 acres of Federal land within such area in exchange for approximately 11.157 acres of land outside of such area, as depicted on the map entitled 'Cape Cod National Seashore Boundary Revision Map', dated May, 1997, and numbered 609/80,801, to allow for the establishment of a municipal facility to serve the town that is restricted to solid waste transfer and recycling facilities and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary shall modify the boundary of the Cape Cod National Seashore to include the land that has been added.".

(b) REAUTHORIZATION OF ADVISORY COMMISSION.—Section 8(a) of such Act (16 U.S.C. 459b–7(a)) is amended by striking the second sentence and inserting the following new sentence: "The Commission shall terminate September 26, 2008.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Washington (Mrs. LINDA SMITH) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentlewoman from Washington (Mrs. LINDA SMITH).

Mrs. LINDA SMITH of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2411 is a bill introduced by the gentleman from Massachusetts (Mr. DELAHUNT). The gentleman from Massachusetts is to be commended on a bill which successfully resolves an environmentally sensitive issue and will benefit the people of Massachusetts.

H.R. 2411 provides for a land exchange and minor boundary adjustment to the Cape Code National Seashore consistent with requirements of the omnibus parks bill enacted last year. It conveys to Provincetown, Massachusetts, 7.6 acres of Federal land in exchange for approximately 11.2 acres of land outside the park, and modifies the park boundary to include the added land. In addition, the bill extends the statutory term of the Cape Cod National Seashore Advisory Commission by 10 years to September 2008. The Commission has provided valuable guidance to the Park Service and given local officials and community members a voice in the management of the Seashore.

This bill is noncontroversial and is supported by the administration. I urge my colleagues to support H.R. 2411.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of legislation which I sponsored which would resolve two matters concerning the Cape Cod National Seashore in Massachusetts. I wish to thank the gentlewoman from Washington for her management of this bill.

☐ 1530

First, as she indicated, the bill would extend the statutory term of the Cape Cod National Seashore Advisory Commission for some 10 years. Since the seashore was created during the Kennedy administration, the commission has indeed provided invaluable guidance to the National Park Service and given residents of lower Cape Cod towns a voice in the management of the seashore. This extension is strongly supported by local, State and National Park Service officials.

In addition, again as the gentlewoman indicated, the bill includes minor boundary adjustments to the national seashore consistent with requirements enacted last year. These adjustments resolve a decade-old dispute concerning the construction of a solid waste transfer station and is part of a settlement agreement among the Park Service, the Commonwealth of Massachusetts and the town of Provincetown.

Let me conclude, Mr. Speaker, by thanking and acknowledging the support and the assistance of the Chair of the full committee, the gentleman from Alaska (Mr. YOUNG) and the Chair of the subcommittee, the gentleman from Utah (Mr. HANSEN) as well as the ranking member of the full committee, the gentleman from California (Mr. MILLER) and my friend, the ranking member of the subcommittee on National Parks and Public Lands, the gentleman from American Samoa (Mr. FALEOMAVAEGA).

I urge my colleagues to support this noncontroversial yet important legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. LINDA SMITH of Washington. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield 3 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

(Mr. FALEOMAVAEGA asked and was given permission to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I support H.R. 2411, as was introduced by my colleague and a Member of the Committee on Resources, the gentleman from Massachusetts (Mr. DELAHUNT). This is a piece of legislation that is supported by the National Park Service as well as the local community.

The bill has two provisions. The first provision authorizes a minor land exchange between the National Park Service and the town of Provincetown. The second provision extends of the term of the Cape Cod National Seashore Advisory Commission. This advisory commission has been in existence since the seashore was established and works with the National Park Service and the local community on numerous issues.

Mr. Speaker, when the committee marked up 2411, it adopted an amendment to the bill that spells out the uses that are permitted on the exchange property and limits the extension of the advisory commission to 2008. These changes have been agreed upon by the National Park Service and the gentleman from Massachusetts, and I do support these provisions as well.

Mr. Speaker, I urge my colleagues to support this piece of legislation.

Mrs. LINDA SMITH of Washington. Mr. Speaker, I yield back the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the motion offered by the gentlewoman from Washington (Mrs. LINDA SMITH) that the House suspend the rules and pass the bill, H.R. 2411, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. LINDA SMITH of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2411, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 35 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1620

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. NETHERCUTT) at 4 o'clock and 20 minutes p.m.

APPOINTMENT OF MEMBERS TO SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore (Mr. NETHERCUTT). Without objection, and pursuant to the provisions of section 3(a) of House Resolution 463, 105th Congress, the Chair appoints the following Members of the House to the U.S. National Security and Military/Commercial Concerns with the People's Republic of China:

Mr. COX of California, Chairman,
Mr. GOSS,
Mr. BEREUTER,
Mr. HANSEN,
Mr. WELDON of Pennsylvania,
Mr. DICKS,
Mr. SPRATT,
Ms. ROYBAL-ALLARD,
Mr. SCOTT.

There was no objection.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. NETHERCUTT). Pursuant to House Resolution 477 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4059.

☐ 1621

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, with Mr. PEASE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. PACKARD) and the gentleman from North Carolina (Mr. HEFNER) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. PACKARD).

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by expressing my deep appreciation to the gentleman from North Carolina (Mr. HEFNER), ranking member of the subcommittee. He has served for 12 years as chairman of this subcommittee and has made a great contribution to the Congress. He is leaving at the end of this year, and it has been a true pleasure for me to be able to work with him on this subcommittee. I will say more about that in a moment.

Mr. Chairman, it is a privilege for me to recommend this military construction bill to the Congress for adoption. It is a very stringent bill. It does not meet the needs, nor the requirements of military construction, but it is basically all that we have to work with, the numbers were given to us.

Actually, the administration presented a budget request that is considerably lower than last year's appropriated level, about $1.4 billion dollars lower. That is a 15 percent cut from last year's appropriated level. We have had to add to that level, to the President's request, about $450 million or we would have never been able to have met even the most dire military construction needs.

Mr. Chairman, we do not see any controversy on this bill. We feel that it is a very good bipartisan bill. The minority and the majority have worked very closely on it in crafting the bill. We also have worked very closely with the authorizing committee. In fact, this bill really reflects the authorizing committee bill and we are pleased to present it to the House.

In conclusion, I want to again mention that we have had the great privilege of working with the gentleman from North Carolina (Mr. HEFNER), who will be leaving the Congress. And I might mention that we included in the bill a recommendation that a military highway in his district be named after him, the "W.G. 'Bill' Hefner All American Parkway."

We think that it is important that the gentleman be remembered in this way for his great contribution to military construction, to the Congress, and to the United States Government.

Mr. Chairman, I submit the following for the RECORD:

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1999 (H.R. 4059)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Military construction, Army	714,377,000	790,876,000	780,599,000	+66,222,000	-10,277,000
Military construction, Navy	683,666,000	468,150,000	570,643,000	-113,023,000	+102,493,000
Military construction, Air Force	701,855,000	454,810,000	550,475,000	-151,380,000	+95,665,000
Military construction, Defense-wide	646,342,000	491,675,000	611,075,000	-35,267,000	+119,400,000
Total, Active components	2,746,240,000	2,205,511,000	2,512,792,000	-233,448,000	+307,281,000
Military construction, Army National Guard	118,350,000	47,675,000	70,338,000	-48,012,000	+22,663,000
Emergency appropriations (P.L. 105-174)	3,700,000			-3,700,000	
Military construction, Air National Guard	190,444,000	34,761,000	97,701,000	-92,743,000	+62,940,000
Military construction, Army Reserve	74,167,000	71,287,000	71,894,000	-2,273,000	+607,000
Military construction, Naval Reserve	47,329,000	15,271,000	33,721,000	-13,608,000	+18,450,000
Military construction, Air Force Reserve	30,243,000	10,535,000	35,371,000	+5,128,000	+24,836,000
Total, Reserve components	464,233,000	179,529,000	309,025,000	-155,208,000	+129,496,000
Total, Military construction	3,210,473,000	2,385,040,000	2,821,817,000	-388,656,000	+436,777,000
NATO Security Investment Program	152,600,000	185,000,000	169,000,000	+16,400,000	-16,000,000
Family housing, Army:					
New construction	101,650,000	70,100,000	41,700,000	-59,950,000	-28,400,000
Construction improvements	86,100,000	28,629,000	37,429,000	-48,671,000	+8,800,000
Planning and design	9,550,000	6,350,000	6,350,000	-3,200,000	
General reduction		-1,639,000	-2,639,000	-2,639,000	-1,000,000
Subtotal, construction	197,300,000	103,440,000	82,840,000	-114,460,000	-20,600,000
Operation and maintenance	1,140,568,000	1,104,733,000	1,097,697,000	-42,871,000	-7,036,000
Total, Family housing, Army	1,337,868,000	1,208,173,000	1,180,537,000	-157,331,000	-27,636,000
Family housing, Navy and Marine Corps:					
New construction	175,196,000	59,504,000	29,125,000	-146,071,000	-30,379,000
Construction improvements	203,536,000	211,991,000	92,037,000	-111,499,000	-119,954,000
Planning and design	15,100,000	15,618,000	15,618,000	+518,000	
General reduction		-6,323,000	-6,323,000	-6,323,000	
Subtotal, construction	393,832,000	280,790,000	130,457,000	-263,375,000	-150,333,000
Operation and maintenance	976,504,000	915,293,000	915,293,000	-61,211,000	
Emergency appropriations (P.L. 105-174)	18,100,000			-18,100,000	
Total, Family housing, Navy	1,388,436,000	1,196,083,000	1,045,750,000	-342,686,000	-150,333,000
Family housing, Air Force:					
New construction	159,943,000	140,499,000	124,344,000	-35,599,000	-16,155,000
Construction improvements	123,795,000	81,778,000	81,778,000	-42,017,000	
Planning and design	11,971,000	11,342,000	11,342,000	-629,000	
General reduction		-7,584,000	-9,584,000	-9,584,000	-2,000,000
Subtotal, construction	295,709,000	226,035,000	207,880,000	-87,829,000	-18,155,000
Operation and maintenance	830,234,000	789,995,000	785,204,000	-45,030,000	-4,791,000
Emergency appropriations (P.L. 105-174)	2,400,000			-2,400,000	
Total, Family housing, Air Force	1,128,343,000	1,016,030,000	993,084,000	-135,259,000	-22,946,000
Family housing, Defense-wide:					
Construction improvements	4,900,000	345,000	345,000	-4,555,000	
Planning and design	50,000			-50,000	
Subtotal, construction	4,950,000	345,000	345,000	-4,605,000	
Operation and maintenance	32,724,000	36,899,000	36,899,000	+4,175,000	
Total, Family housing, Defense-wide	37,674,000	37,244,000	37,244,000	-430,000	
Department of Defense Family Housing Improvement Fund		7,000,000	242,438,000	+242,438,000	+235,438,000
Homeowners Assistance Fund, Defense		12,800,000	7,500,000	+7,500,000	-5,300,000
Total, Family housing	3,892,321,000	3,477,330,000	3,506,553,000	-385,768,000	+29,223,000
New construction	(436,789,000)	(270,103,000)	(195,169,000)	(-241,620,000)	(-74,934,000)
Construction improvements	(418,331,000)	(322,743,000)	(211,589,000)	(-206,742,000)	(-111,154,000)
Planning and design	(36,671,000)	(33,310,000)	(33,310,000)	(-3,361,000)	
General reduction		(-15,546,000)	(-18,546,000)	(-18,546,000)	(-3,000,000)
Operation and maintenance	(2,980,030,000)	(2,846,920,000)	(2,835,093,000)	(-144,937,000)	(-11,827,000)
Family Housing Improvement Fund		(7,000,000)	(242,438,000)	(+242,438,000)	(+235,438,000)
Homeowners Assistance Fund		(12,800,000)	(7,500,000)	(+7,500,000)	(-5,300,000)
Emergency appropriations (P.L. 105-174)	(20,500,000)			(-20,500,000)	
Base realignment and closure accounts:					
Part II	116,754,000			-116,754,000	
Part III	768,702,000	433,464,000	433,464,000	-335,238,000	
Part IV	1,175,398,000	1,297,240,000	1,297,240,000	+121,842,000	
Emergency appropriations (P.L. 105-174)	1,020,000			-1,020,000	
Total, Base realignment and closure accounts	2,061,874,000	1,730,704,000	1,730,704,000	-331,170,000	

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1999 (H.R. 4059)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Family housing, Navy and Marine Corps (FY99 Sec. 125)		6,000,000	6,000,000	+6,000,000	
Revised economic assumption (FY98 Sec. 125)	-108,800,000			+108,800,000	
Grand total:					
New budget (obligational) authority	9,208,468,000	7,784,074,000	8,234,074,000	-974,394,000	+450,000,000
Appropriations	(9,183,248,000)	(7,784,074,000)	(8,234,074,000)	(-949,174,000)	(+450,000,000)
Emergency appropriations (P.L. 105-174)	(25,220,000)			(-25,220,000)	

Mr. PACKARD. Mr. Chairman, I reserve the balance of my time.

Mr. HEFNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, at the risk of forgetting it or letting it pass, I certainly want to thank the staff on both sides of the aisle, who I think are the finest staff that I have ever worked with in the committees in all of my tenure here on Capitol Hill.

They have done yeoman's work. They have worked very, very hard. They are dedicated people, and I want to thank them very much for their hard work.

It goes without saying, the admiration that I have for the gentleman from California (Chairman PACKARD). He has done a remarkable job. He is a joy to work with. We worked very closely together, and what we bring today is a bill that we believe that everyone in this body can support, even though it does not meet the needs for our men and women in the service. But it is beyond our reach to do the kinds of things that we would like to do because of our allocation. Because of budgetary constraints, we are not able to do the kind of things we want to do in family housing, but it does provide $8.2 billion for military construction and the last two rounds of the base closings.

Mr. Chairman, this is one of the bills that comes to this House every cycle in which we never have enough money to do the things that we would like to do for quality of life and to make sure that young men and women coming into our service will want to stay and serve their country. But we have done the best that we could in putting this bill together as far as it relates to quality of life and retention in our Armed Forces.

Mr. Chairman, I want to again thank the gentleman from California (Mr. PACKARD) and all the staff for putting together this bill. I would hope that we would have 100 percent participation, and that all of that 100 percent would vote for our bill when the roll is called and maybe we will have 100 percent.

Mr. Chairman, I reserve the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I thank the distinguished gentleman from California (Mr. PACKARD) for yielding me this time for the purpose of a colloquy.

Mr. Chairman, as the gentleman knows, I am very eager to see design funding for the P-208 aircraft platform interface, the API laboratory consolidation project, move forward this year at Lakehurst Naval Air Engineering Station. I would ask the gentleman, is it accurate to say that this bill, H.R. 4059, provides the necessary funding for the design of the API lab and will keep the Navy on track for construction in fiscal Year 2000?

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, the funding is included in this bill, H.R. 4059, for planning and design of the API lab for fiscal year 1999. The Navy is expected to move ahead with the planning and design of this project beginning on October 1 of this year, so that the construction can take place as scheduled in fiscal year 2000.

Mr. SMITH of New Jersey. Mr. Chairman, reclaiming my time, I thank the gentleman for affording me this opportunity to clarify the funding situation for the API lab at Lakehurst. There have been far too many delays with this project already, and H.R. 4059 will finally set the wheels in motion to begin the construction of the API lab at Lakehurst in fiscal year 2000.

Mr. PACKARD. Mr. Chairman, if the gentleman would continue to yield, I thank him for his efforts and leadership and advocacy on behalf of the API lab project at Lakehurst. The gentleman's leadership on this bill will help the Navy to meet the challenge of naval aviation.

Mr. Chairman, I reserve the balance of my time.

Mr. HEFNER. Mr. Chairman, I yield 7 minutes to the gentleman from Massachusetts (Mr. OLVER), one of the members of the subcommittee.

Mr. OLVER. Mr. Chairman, I thank the gentleman from North Carolina (Mr. HEFNER), our ranking member, for yielding me this time. I want to thank the gentleman from California (Chairman PACKARD), a truly "gentle man," for his leadership and his evenhandedness in putting together this bill, our bill, H.R. 4059.

□ 1630

The gentleman from California (Mr. PACKARD), chairman, and the ranking member, the gentleman from North Carolina (Mr. HEFNER) and their excellent staff, particularly Hank Moore and Tom Forhan, have made my 2 years on the subcommittee a learning experience and a pleasure.

On my side of the aisle, what can I say about the retiring ranking member that has not already been said in the newspapers here in Washington and in North Carolina? The gentleman has made a lasting mark on this subcommittee as both chairman and ranking member, and he will be greatly missed. We all wish him the best from here.

This bill is as good as I think it can be, given the allocation that has really been foisted upon the subcommittee by the 1997 Balanced Budget Act, and I certainly urge its very quick passage.

I must send up a couple of signals, which lie somewhere between yellow cautionary and red crisis, in relation to the whole subject of military construction, because this bill, if it were enacted exactly as it is, would be more than $2 billion below the appropriated level just four years ago. That is a huge hit on a budget which is really in the $10 billion category, $10 billion level in the first place.

So one might ask, what does it matter? Some Members think that the military construction bill is all hangars and armories, but it is really a lot more than that. It is environmental compliance and cleanup. It is energy conservation. It is hospital and medical facilities. It is child development centers. It is family housing for the growing numbers of our peacetime service personnel who have spouses and children.

I would like to focus on just that one last category, the family housing program, for just a minute, pointing out that the gentleman from North Carolina (Mr. HEFNER), when he was Chair, and the gentleman from California (Mr. PACKARD) in the past several years that he has been the Chair for the committee, have labored mightily each year to support the family housing program and do the best they could with the numbers that we have been given.

But if this bill is enacted, as I am sure, if it is enacted as it has been proposed here under the constraints of the

Balanced Budget Act of 1997, the program for family housing will be down 19 percent, down in actual dollars by 19 percent since fiscal year 1996, from fiscal year 1996 to the present.

I just would like to address, call Members' attention, call the membership's attention to the sections in the report on H.R. 4059 on family housing, a report that points out that military family housing and the need for that has changed with the all volunteer structure of the force. Whereas 40 years ago only about 40 percent of our military personnel had families, now, 40 years later, it is over 60 percent who have families. Today the family housing program is the quality of life incentive that attracts and retains, and I am quoting really from the report, dedicated individuals to serve in the military. The housing deficiencies are a severe disincentive to reenlistment.

Now, it has been the Department of Defense policy that married couples will live off base with their families whenever it is possible and when there is housing available, and a good number of them do live off base. One out of roughly 8 is living off base in substandard housing because there is not adequate housing in the area for them. And in spite of the policy, with that policy, and because there is not adequate housing available, we have under the Department of Defense a total of over 300,000 units of housing on base, and the majority of that housing, the majority of those units are substandard. And in order to do the replacement and bring up to standard those housing units would require something like $15 billion.

Now, with the kind of appropriation that we are having forced upon this subcommittee by the terms of the Balanced Budget Act, it is almost inevitable that we are not going to be able to catch up on this family housing need, that we are going to fall further behind on that, despite what I have said is the yeoman effort on the part of the ranking member, when he was chairman, and the present chairman to try to deal with that.

I just want to speak to that as one issue or problem when that budget is dropping by as much as it is in the appropriated, final appropriated levels. In totality, this budget funds training and housing and health care and child care for the men and women who do our dirty work, and they deserve every penny that is in this bill and they deserve more.

Mr. PACKARD. Mr. Chairman, I reserve the balance of my time.

Mr. HEFNER. Mr. Chairman, I yield 6 minutes to the gentleman from Texas (Mr. EDWARDS), a valued member of the subcommittee.

Mr. EDWARDS. Mr. Chairman, I thank the gentleman for yielding me the time.

No war was ever won with technology alone. Battles and wars, whether in the 15th century or in the 20th or 21st century, require quality men and women, dedicated to our country, well trained, capable of defending our national interest. That is why this piece of legislation is so important to our Nation and our children's future.

It is important because in this legislation is the funding for quality of life issues for our military families. In today's all volunteer force, I can think of few things more important to our long-term national security than ensuring quality housing facilities and day care facilities for military families, often split by thousands of miles as the father or mother are off deployed to other nations, or even fighting for the interests of our country, while their children remain at home.

I want to say that I am deeply disappointed that this bill spends $1 billion less before inflation is even taken into account than the military construction budget of just one year ago. It seems to me that a Congress that can somehow find $20 to $30 billion for increased funding for potholes and highways in the recent highway bill ought not to have to cut day-care centers and housing programs for men and women willing to put their lives on the line for this country. But that criticism, that disappointment has nothing to do with the leadership of the Committee on Appropriations or this subcommittee. That is a decision made at a different pay level.

I would urge Speaker GINGRICH and the leadership of this House and the Committee on the Budget, who made the decision to cut military construction funding by $1 billion this year, to reconsider that cut and that budget as we review the budget in the months ahead.

I must say, as a compliment to those people who did not set the overall level of spending, no two Members could have done a better job in fighting for our military families and their quality of life than the gentleman from California (Mr. PACKARD), chairman of the subcommittee, and the gentleman from North Carolina (Mr. HEFNER), the ranking member. I want to applaud them not only for their dedication to military families and a strong national defense, but I want to applaud them for the bipartisan manner in which they have put this bill together.

The reason, Mr. Chairman, people will not see a lot of Members on the floor during this debate, the reason there will not be an visceral disagreement of debate on this issue is simply because the gentlemen have done the business of the House and our country the way it should be done, on a fair, bipartisan basis. For that, we all say thank you to both of them.

I think the bipartisan nature of Mr. PACKARD and Mr. HEFNER's work together should be a model, not an exception to the rule, for this and future Congresses.

Finally, Mr. Chairman, the reason I truly wanted to be on the floor of the House this afternoon was to say thank you for a lifetime of service to our colleague and my dear friend, the gentleman from North Carolina (Mr. HEFNER). In the 7½ years I have had the privilege to serve in this body, I have considered no one a better friend than the gentleman from North Carolina (Mr. HEFNER), who took this young green Member from the State of Texas under his wing and helped me as I tried to learn the process of Congress in my effort to represent Ft. Hood, which is now the largest populated Army installation in the world.

Not only through his service as chairman of the Subcommittee on Military Construction for over a decade but also because of his many years of service as a member of the very powerful military subcommittee of the Committee on Appropriations, the gentleman from North Carolina (Mr. HEFNER) has made a difference for the military families of this Nation. He has made a difference in ensuring that America has a strong national defense. On behalf of my two little boys, who will live in a safer world because of the service in Congress of the gentleman from North Carolina (Mr. HEFNER), I want to express my deep-felt gratitude to the gentleman from North Carolina. I know in the weeks and months ahead, many, many of my colleagues will join me in reflecting these feelings toward the gentleman from North Carolina (Mr. HEFNER) and his service.

Let me also say beyond the scope of these two important committees on which he serves, I have seen no Member that has shown greater courage on the floor of this House week after week, month after month. When one comes to floor and looks up at Mr. HEFNER's light, yeah or nay on a bill, they may not know the best political vote but they know what the right vote is. As someone who was not here in 1981, I can only imagine how difficult it was for a southern Democrat from North Carolina to vote against President Reagan's tax bill, which, in the opinion of some, not all, had something to do with the increased national debt that we face today.

But whether you agreed or disagreed with him, to have the courage to vote "no" on that bill and "yes" and "no" on so many other important pieces of legislation, to be motivated by doing what his conscience told him was right, that is the sort of thing that causes all of us throughout the country, as well as the constituents of his in North Carolina, to have a deep and abiding respect for the gentleman from North Carolina (Mr. HEFNER).

So on behalf of my colleagues that serve on the committee and all others who are here and who will be here in the days ahead to speak of the gentleman from North Carolina (Mr. HEFNER), recognizing this is his last time to come to the floor as part of leadership in bringing the military construction budget to this House, I want to express my lifelong respect and gratitude for Mr. HEFNER's friendship and leadership on behalf of our Nation.

Mr. PACKARD. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. LIVINGSTON), chairman of the full Committee on Appropriations.

Mr. LIVINGSTON. Mr. Chairman, I first want to rise and congratulate the chairman, the gentleman from California (Mr. PACKARD), and the ranking member, the gentleman from North Carolina (Mr. HEFNER), for once again doing the outstanding job that both of them are accustomed to doing on this bill. The gentleman from Texas preceded me by pointing out a few problems that they had to work with. He failed to mention, though, that the administration had underfunded the military construction part of the budget by some $1.4 billion.

I share his concern that we should not deprive the men and women of the military of the accoutrements that lead to a better quality of life for them. And for that reason, within our given budget limits, within the fact that we are living within a balanced budget with very strict budget ceilings, I am very pleased that we were able to put back in $450 million into this subcommittee so that they could apply that money to the needs of the servicemen and women of America.

I am concerned. I share his concern that the administration would underfund this account by $1.4 billion. That being said, in the same bipartisan fashion that the gentleman used who preceded me, let me say that the two gentlemen that manage this bill exemplify the type of bipartisan spirit that is not only welcomed but is so critically necessary to the conduct of the business of the House of Representatives.

□ 1645

Together they have worked well on behalf of both the young men and women of our armed services and on behalf of America. I just want to congratulate them from the bottom of my heart.

But I want to reiterate and exaggerate those congratulations to the gentleman from North Carolina (Mr. HEFNER) from Concord, North Carolina, about 60 miles from Fort Bragg, who has represented the Eighth Congressional District of North Carolina so well since he was first elected in Congress in 1974.

The fact is that the gentleman began service on this subcommittee in 1981. Whether as chairman of the subcommittee when his team was in the majority or as ranking member when our team took over the majority, the fact is that he has been steadfast in his devotion to serve America and to serve the people who have rendered themselves valiant service in the cause of America in uniform.

I particularly appreciate the effort that the gentleman has made on behalf of America's military, but also I want to say that he has distinguished himself in so many other ways during his service here. First, he is a great golfer who participated with me in one of the most memorable golf events in my life, which I did not distinguish myself, but he certainly did. He played well, and I will let him complete the record on the rest of it.

Secondly, he is a man of enormous sensibilities and great sense of humor. He has played host to the chile cookoff, which is a function that occurs on an annual basis for congressional wives. Try as we might, we have never been able to come up with anybody who could compare with him in hosting this event. I must say I saw his performance this year, and I think he outdid even himself.

The gentleman has got a wonderful sense of humor. He not only is an accomplished musician and accomplished musical performer, but as a stand-up comic, he is unparalleled. I want to thank him for his service to this country. I want to thank him for his spirit of bipartisanship which contributed mightily to this bill. I want to take this opportunity to wish him and his family all of the best of luck and success in everything that he does henceforth.

Mr. HEFNER. Mr. Chairman, I ask unanimous consent that we have 2 extra hours.

The CHAIRMAN. The Chair cannot entertain such a request at this time.

Mr. HEFNER. Mr. Chairman, could the Chair enlighten us as to how much time is remaining for each side?

The CHAIRMAN. The gentleman from North Carolina (Mr. HEFNER) has 15½ minutes remaining. The gentleman from California (Mr. PACKARD) has 20½ minutes remaining.

Mr. HEFNER. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member on the Committee on Appropriations

Mr. OBEY. Mr. Chairman, I very much thank the gentleman for the time. I simply wanted to come to the floor to really pay honor to the gentleman who is managing this bill on this side of the aisle for the last time, the gentleman from North Carolina (Mr. HEFNER).

I have known Bill since the first day he walked into this institution, and I have never seen a day when he did not bring honor to this House by his service. He has, as our chairman has already indicated, a wonderful sense of humor. He has a wonderful sense of music. He also has a wonderful sense of honor.

Those that know him know that religion means a lot to him. But as we have seen him demonstrate often on this floor, he also has a very healthy skepticism about the use to which some politicians put religion, or at least their professed religiosity.

The gentleman has indicated time and time again that he recognizes all too often the propensity of some people in public life to wrap an economic or political message in a religious ribbon and call it religion when it is, in fact, something very, very different, something which demeans God and demeans religion.

He, I think, understands that there are some things in life that are too important to politicize, religion being one of them. I have admired for so long his ability on an issue to be righteous without being sanctimonious.

He has, I think, demonstrated in countless ways on countless days a sense of justice, a sense of outrage against injustice, and most of all, a political courage that we wish would be emulated more often on this floor than it is.

In addition to being a first-rate legislator, he is a first-rate human being. I for one will miss him greatly. I will miss his good judgment. I will miss his good temper. I will miss his wonderful sense of humor. I will certainly miss the opportunities that I have had through the years to play my bluegrass harmonica in backup to his gospel singing. His gospel singing is better than my bluegrass harmonica, but we have had a lot of fun doing that.

I simply want to say to young people who will be entering this House in the future, they could do a lot worse than to emulate the style of the gentleman from North Carolina. He has brought grace to this House. He has brought determination and courage and guts to this House.

As someone else indicated, I have never heard him ask what is the political vote. I have often heard him ask what is the right vote. That is the right question that ought to be asked in this institution.

So, Bill, we are going to miss you, but we know that wherever you are, you will be keeping an eye on us. From time to time, I think you will be pulling our leash to let us know when you think we are getting out of line. It has been a pleasure to serve with you.

Mr. PACKARD. Mr. Chairman, I reserve the balance of my time for closing.

Mr. HEFNER. Mr. Chairman, I yield myself such time as I may consume.

We still have just a couple speakers, but I did not realize that these folks were going to say these nice things about me after all these years. I guess it is just a pent-up exuberance that they have been building up over the years, hoping one day I would retire and they would be able to say nice things.

I was kind of hoping for a watch, but I guess that is not going to materialize.

At least, I have a road that is going to be named after me. I am working with the Governor of North Carolina to see if we can make it into a toll road which will be some benefit in my old age and in my retirement.

But serving in this body has been something that I could never have dreamed about when I was a kid growing up in rural Alabama. I had never been to the capital of Alabama, Montgomery, let alone to think someday I would be able to come to the Capitol of the United States and represent a half a million people. So it has really been a tremendous experience for me.

I defend this body and I defend the Members in this body, because I believe that if we take all 435 of us and we put us up to the scrutiny and put 435 average citizens across this country up to the same scrutiny, that we would stack up very, very well among the rank and file of people in this country.

We all want the same things for our country, for our States, and for our families. We just have a little bit different way sometimes how we want to get there. But it has been an honor for me to serve in this body, and it has certainly been an honor for me to serve on this committee and this subcommittee.

Mr. Chairman, I yield 5 minutes to the gentlewoman from the 18th District of Texas, (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from North Carolina for yielding to me. He took away my momentum. That watch was coming, but we are checking the gift rule.

But I could not come to the floor for a better occasion than to thank the gentleman from California (Mr. PACKARD) as well for his leadership and certainly the ranking member.

I think that any time someone maintains themselves in this body for 24 years, has seen the conclusion of the Vietnam War, one of the most tragic periods in our history, watching just a few miles down the road the return of the 265-plus Marine bodies in the Lebanon tragedy, and certainly now at one point facing the crisis in Bosnia.

I think the ranking member knows full well the importance of our military personnel and particularly this committee that helps to house them and respect them for who they are. So I personally, as a nonmember of the committee, wanted to thank the gentleman from North Carolina (Mr. HEFNER) for his leadership and as well his quiet deliberation.

There is good humor in what he says on many occasions, but there is also wisdom. I thank the gentleman as a second-term Member for his wisdom and for challenging the rest of us that we should combine debate and adversarial activities with knowledge and wisdom and sensitivity, and I appreciate and applaud him for that.

This bill is an important bill. I am not a member of the community of those who are on this committee, but as I go about my business in Texas, I consider Texas sort of a feeder school for the United States military.

Throughout my district, high school students are enrolled in ROTC. Many of them look to the United States as a source for their future, and I applaud them for that and encourage them for that. In fact, as someone representing what has been termed as a majority minority district, I go in particular to the inner city schools and encourage those that are interested in the U.S. military to become involved.

For that reason, this military construction appropriations bill is very important, because my young people who enter into the military make it a career, and bring their families there who need the kind of housing that will be provided by this legislation, troop housing, hospitals, and medical facilities, NATO infrastructure, and other activities associated with base closings which Texas knows so much about.

I would have wanted more, but I applaud the leadership of the ranking member and chairperson for bringing about the funding that we now have. It is more than the administration would have provided. I am glad of that.

Unfortunately, I wish that we could press the button, if you will, for more money for our family housing; though the $3.5 billion for family housing is 43 percent of the total, $635 for new barracks, 10 percent more than requested, but, again, we need to do more.

The measure also provides the $1.7 billion for base realignment, $31 million for new construction and improvements to existing day care centers. If I might, Mr. Chairman, I would like to dwell on that for a moment.

First of all, in this military construction scenario, I would like to emphasize the access and the availability of including our local businesses, our small and minority businesses in assisting with this construction, whether it is domestically or foreign.

That is a very important economic piece to many of our communities. I want to ensure that at least my voice is heard to ensure that our military, knowing that the affirmative action has not been eliminated in Federal law, that we make sure that we outreach to the small businesses.

But I really wanted to focus as a member and participant in the Congressional Children's Caucus on the importance of the increased money for day care. Let me thank the gentleman from California (Mr. PACKARD). Let me thank the ranking member as well for having emphasized something that I have heard from military personnel over and over.

Most critical is what H.R. 4059 does for our children. There are roughly 300,000 children involved in military day care. So the additional monies is extremely important. The Secretary of Defense established a goal of providing quality child care to 65 percent of the potential need in 1992.

I think we will be there when we are able to provide 80 percent of the child care need that is so very important. DOD will be conducting a demonstration project to review ways of providing child care services by using third-party contracting. I encourage that as a participant of the Congressional Children's Caucus.

I would also say that we must emphasize and make sure that we have the right kind of family housing. So let us remember that these men and women are, in fact, the survival of the freedom of the democratic principles of our country.

Can we do any less than to provide them with safe housing, good hospitals, and, yes, protection and protected environment for their children? I applaud this legislation, and I thank the two gentleman for their collaborative efforts. Most importantly, let me salute my ranking member for the highway and byway, but for his leadership and for his commitment.

Mr. Chairman, I rise today to address H.R. 4059, the Military Construction Appropriations bill for FY 1999.

In general, the bill provides a total of $8.2 billion for military construction, including family and troop housing, hospitals and medical facilities, NATO infrastructure, and activities associated with the last two rounds of base closings. I am pleased that the bill includes:

$3.5 billion for family housing (43% of the bill's total), slightly more than the President requested, but 10% less than was appropriated in FY 1998;

$635 million for new barracks, 10% more than requested, but 24% less than the current appropriation;

The measure also provides $1.7 billion for base realignment and closures previously authorized by Congress (16% less than in current year); and

H.R. 4059 appropriates $31 million for new construction and improvements to existing daycare centers for military dependents ($8 million more than the administration's request).

As chair of the Children's Caucus, I am very pleased that money is increased for daycare. In short, the measure goes far in accomplishing much for the well-being of our military. Most critical is what H.R. 4059 seeks to do for children and their parents. There are roughly 300,000 children involved in military daycare.

First, the Appropriations Committee has recommended an additional $7.9 million above the budget estimate of $23.15 million for a total appropriation of (roughly) $31 million for new construction, or improvements, for child development centers.

In 1992, the secretary of defense established a goal of providing quality child care to 65% of the potential need in 1992. The Army proudly met the 65% goal this year. The Marine Corps expects to reach the goal by 2002, and the Air Force and Navy are programmed to reach 65% by 2003. The Appropriations Committee notes that to optimally meet the DOD's demand an 80% goal must be achieved.

The Appropriations Committee correctly recognizes the increased importance of these centers due to the rising number of single military parents, dual military couples, and military personnel with a civilian employed spouse. The Committee report states that the DOD is encouraged to maintain all efforts possible to meet 80% of the child care need.

Second, the DOD is conducting demonstration projects to review ways of providing child care services by using third party contracting, such as purchasing spaces in accredited child development centers by buying down the cost for military families. The Defense Logistics Agency is testing, for example, the management and operation of a military-constructed child development center by a private contractor in Ohio.

As a co-chair of the Children's Caucus in the House, I commend these efforts to secure quality housing and child care facilities for the children of our nation's fighting men and women.

Another key component of Military Construction Appropriations bill is family housing for the men and women of our nation's armed services. The committee report takes note of the changing nature, if you will, of military housing as our all-volunteer force has led to more service members with families. This change has coincided with a general decline in the standard of housing suitable for today's military to create a severe discincentive to re-enlistment.

Of the amount appropriated for family housing, the bill allocates the president's request of $2.8 billion to operate and maintain existing family housing units. The funds are used for maintenance and repair, furnishings, management, services, utilities, leasing, interest, mortgage insurance and miscellaneous expenses.

What's more, this measure appropriates $301 million for the construction of 1,871 new family housing units ($31 million more than the administration's request). The total includes $105 million from the Family Housing Improvement Fund.

Furthermore, the bill also provides $7.5 million for the Homeowners' Assistance Fund for F.Y. 1999 ($5 million less than requested by the president). The fund helps personnel who have been affected by the closure of military bases.

Mr. Chairman, I strongly encourage my esteemed colleagues to support H.R. 4059.

□ 1700

Mr. HEFNER. Mr. Chairman, I apologize for all the speakers, but the requests just keep coming in. Far be it from me to curtail anybody wanting to say a nice word after all these years on my behalf.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), a very good friend who is one of the finer Members of this House.

Mr. PALLONE. Mr. Chairman, let me just say about the gentleman from North Carolina (Mr. HEFNER), I know a lot has been mentioned about his years of service and his sense of humor and his musical abilities, and all those are certainly true, but I just want to say, I have only been here 10 years, but I have noticed on many occasions both within our Democratic Caucus as well as on this House floor where his statements have been crucial in swaying the Members of this body to vote a certain way or to support certain legislation. In many ways he has been one of those people that is sort of the conscience of this body and particularly of our Democratic Caucus. I know that has been recognized, but I do not know if it was mentioned today. We will sorely miss him because of what he contributes to this body and to our Democratic Caucus.

Mr. Chairman, I just want to thank the gentleman from North Carolina (Mr. HEFNER) again and also the gentleman from California (Mr. PACKARD) for this legislation. I also want to thank the gentleman from New Jersey (Mr. PAPPAS) who cochairs our Save our Fort Committee, which is a bipartisan committee that deals with two military bases in our two districts, Fort Monmouth and Earle Naval Weapons Depot.

Two projects for which funding was included in this bill are of importance to us. One is the addition to the Communication and Electronics Command Software Engineering Center at Fort Monmouth and the second is the design study for berthing pier replacements at Naval Weapons Station Earle. Expansion of Seacom's Software Engineering Center will allow Fort Monmouth to intensify its efforts to ensure American soldiers have the types of technological advantages that are the hallmark of U.S. military forces around the world.

With respect to Earle, Piers 2 and 3 were constructed in 1944, and after over 40 years the time has come to replace them. Because the pier complex at Earle is one of the Navy's most important facilities on the eastern seaboard, it is extremely important that resources be provided for their upkeep. I am very pleased the committee has recognized the importance of Earle's mission and thank my colleagues for approving the first step of the DOD's long-term plan to modernize Piers 2 and 3 at Earle.

I just want to thank again my colleagues on the committee, and particularly the chairman and retiring member the gentleman from North Carolina.

Mr. PACKARD. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I rise in strong support of H.R. 4059. I would also like to express a very special and sincere thanks to the chairman of the appropriations subcommittee, the gentleman from California (Mr. PACKARD); and to also express appreciation to the ranking Democrat of the subcommittee, the distinguished gentleman from North Carolina who is receiving such understandably high praise today in light of his career here in the House. And, of course, I thank the chairman and the ranking member of the full committee for their assistance.

Their assistance to this Member relates to efforts in approving funding for the Nebraska National Guard Joint Army-Air Medical Training Facility located in Nebraska's First Congressional District which I represent. I know it is particularly important in light of the limited financial resources for the subcommittee's work this year.

The new facility will be a unique cost saving military construction project for both Nebraska's Army and Air National Guard units. It will provide resources jointly to fund the construction project. While this joint funding construction arrangement is unusual and was initially bureaucratically challenged, to say the least, it is the reasonable way to go, for a jointly used facility is by far the most cost-effective and economical use of taxpayer resources. Is it not ironic that taking the most cost-effective approach in spending the taxpayers' money is not always the easiest bureaucratic course? This project will go a long way toward improving the quality of training that the Army and the Air National Guard health professionals will receive, and will also improve the quality of health care provided to their personnel.

In conclusion, I want to express my sincere thanks to the National Guard Bureau and especially to the authorizing and appropriating subcommittees for assisting this Member in his efforts to make this joint, cost-effective project a reality. The gentleman from California (Mr. PACKARD) and his staff have been assisting this Member in this effort for more than a year now to bring us to this point. I thank the gentleman for that effort. This is a frugally prepared piece of legislation worthy of support. I urge my colleagues to vote "aye."

Mr. HEFNER. Mr. Chairman, I have one other speaker, but I would be remiss if I did not single out one particular person who has been very dedicated to this process and to this subcommittee, Liz Dawson, who has labored absolutely far beyond the call of duty. Liz, we are going to miss you. We hope the very best for you. You have done a tremendous job through all these years.

Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Chairman, in this institution through the years we see many people come and go. The great wealth of American ability is that they get replaced by capable individuals that go on to represent their constituents. It is not often that a vacuum is felt in this Chamber. This is a very vibrant country. Most of us when we leave here and go back to our personal lives, while occasionally remembered, the society runs just fine, and the institution runs fine.

We are going to miss our friend the gentleman from North Carolina (Mr. HEFNER). We are going to miss him not just because of his personality and his friendship but because the courage he has exhibited on this floor over and over again on so many issues. People always talk about political courage as if there is a political benefit for political courage, but I think most people inside this institution know that oftentimes in the instances where there is the greatest political courage, there is actually a larger political cost. You lose more votes for being courageous. You are often safer playing in the middle of the road.

The gentleman from North Carolina has not done that. In the years here on tough vote after tough vote, he stood up for what he believed to be right, right for the country and right for his constituents. At times I guess it has cost him some votes back home. But from the people that know him and admire him as I do, it just increased our respect for the work he has done here.

We often do not get this sentimental in speaking about each other, but in the 18 years that I will be here at the end of this term, I cannot think of but several other Members that I hold in the same high standard as I do the gentleman from North Carolina. He has been a good friend, he has been a great Member of Congress, and he has used his political base and capital for the betterment of this country and his district. For that we all owe him a great debt of gratitude.

Mr. HEFNER. Mr. Chairman, I hope that every Member of this body will vote "aye" on this military construction bill, and I yield back the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I wish to conclude this debate by just simply saying how much I appreciate the work that the staff has done on my side of the aisle. Liz Dawson, Hank Moore and Mary Arnold have done yeoman's work for years on this subcommittee and certainly have made my job easy. On the Democratic side, Tom Forhan and Irene Schecter. We deeply appreciate the work that each of our staff does. They serve the gentleman from North Carolina and myself very well.

I really appreciate the Members who have come to the floor on both sides of the aisle and expressed their feelings about the character and the service of the gentleman from North Carolina, and I certainly wish to relate myself to those remarks. He has been a remarkable Member. I have deep love and affection for him and for the work he has done for the country.

Mr. BUYER. Mr. Chairman, I rise in support of this bill. This bill appropriates $450 million above the President's request for military construction. However, it represents a total decrease of approximately $974 million from last year's bill.

As a member of the installations and facilities authorizing subcommittee, I continue to be concerned about the backlog of unfunded military construction projects in our Armed Forces. Those concerns are evident throughout this bill.

I would like to highlight two areas. The bill provides $125 million for chemical weapons demilitarization, including $29.5 million for the Newport Army Ammunition Plant in Indiana. Timely destruction of our chemical weapons is a time-sensitive problem. This bill, along with National Security Committee's authorization bill, outlines the long-term plan to destroy the stockpile.

The bill also appropriates $309 million for Guard and Reserve construction. Maintaining our Guard and Reserve facilities is a key to readiness. While the bill provides nearly $130 million more than the Presidents request, the total is $155 million less than last year's amount.

In this 14th year of real decline in the Defense budget, I intend to vote for this bill, but with the warning that we need to pay more attention to Defense spending if we intend to remain the sole remaining superpower in this world.

Mr. FAZIO of California. Mr. Chairman, I rise in support of the Military Construction Appropriations bill which provides $8.2 billion for the construction of up-to-date facilities for our hard-working men and women in the military and their families. I, along with my colleagues on the Military Construction Appropriations Subcommittee, feel that this is a good bill that addresses serious health and human safety issues at our aging military bases.

I am pleased that 2 crucial projects in my area are included in the bill. One of these projects is replacement of the antiquated, 30-year old Air Traffic Control Tower at Travis Air Force base. I've been up in that tower a number of times and felt the entire structure sway under my feet, and I can vouch for the absolute necessity to have a new one built as soon as possible. The current tower is extremely dangerous, and I'm pleased that construction of a new tower can begin this year.

Antoher important provision included in the bill is language instructing the Army to demolish buildings and clean up environmental hazards at the Rio Vista Army Reserve Center in an expedited fashion. The Rio Vista Army Reserve Center was all but abandoned in the late 80's, and the Army has done little to maintain the property since that time. With my help in 1994, the residents of Rio Vista jumped at the chance to take over the base property and convert it to a recreational area. But the slow pace of the Army's environmental clean-up has hampered the community's efforts to begin construction of new facilities. I am pleased that the community can now put their plans into action.

Because of these and other important health and safety projects in the Military Construction Appropriations bill, I would urge my colleagues to vote for the bill.

Mr. BISHOP. Mr. Chairman, I rise today in support of H.R. 4059, the Military Construction Appropriations Bill for Fiscal Year 1999. I wish to commend Chairman PACKARD, Ranking Member HEFNER and the Committee on Appropriations for crafting a bill which provides the necessary funding to improve the quality of life for our men and women in the Armed Forces.

I believe that this measure goes far in addressing the backlog in readiness, revitalization, and quality of life projects. The measure before us today will fund the planning and construction of several barracks, family housing and operational facilities.

The Second Congressional District of Georgia is home to three military installations; Fort Benning, home of the 75th Ranger Regiment, Moody Air Force Base in Valdosta, home of the 347th Fighter Wing, and the Marine Corps Logistics Center in Albany. I have seen first hand the excellent work that our fighting men and women do, often under very difficult circumstances. Our responsibility is to make their jobs easier. We cannot expect to attract qualified recruits if we provide inadequate facilities for them to work out of.

This measure would provide Fort Benning with $28,600,000 to construct barracks, a soldier community building, a battalion headquarters with classroom building, and company operations buildings. It will also provide the Marine Corps Logistics Base in Albany $2,800,000 with a Child Development Center which will increase the Base's current capacity of 228 to over 300 children. This center will address the growing demand for quality child care on our bases. And, it will provide $11,000,000 for alterations to a medical and a dental clinic. These expansion and modernization plans will positively contribute to the delivery of quality health care and patient accessibility to quality medical care.

The portions of the bill I just spoke of place a human face on this debate. We know that we have the most technologically advanced military in the world. It is time we improve the quality of life for the men and women who are the heart and soul of that military. This bill does a very good job of doing just that! Therefore, I strongly urge my colleagues to support this measure.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in

Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, and for other purposes, namely:

Military Construction, Army

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $780,599,000, to remain available until September 30, 2003: *Provided*, That of this amount, not to exceed $63,792,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Mrs. CLAYTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank Members on both sides for allowing me to do this. I came late to be a part of what I guess will be the gentleman from North Carolina's official management of the military construction bill. I would be remiss if I did not have an opportunity to join with my colleagues in saying what a yeoman's job he has done, but what an outstanding job he has done for the State of North Carolina and how grateful we are for his leadership. We will miss him for a lot of things. Among those as being uniquely the gentleman from North Carolina not only as singer, a kidder and a joker but being a legislator with heart and having the gumption to speak his feeling so people would know his passion. But also for the people that we jointly represent, the people of Cumberland County. That is where Fort Bragg is.

I certainly would be remiss on this last bill if the military men and women who serve our country so well in that area did not through me say thank you for all the things that he has done for the military throughout the United States but particularly for Fort Bragg.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Military Construction, Navy

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $570,643,000, to remain available until September 30, 2003: *Provided*, That of this amount, not to exceed $60,346,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Military Construction, Air Force

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $550,475,000, to remain available until September 30, 2003: *Provided*, That of this amount, not to exceed $37,592,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Military Construction, Defense-wide

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $611,075,000, to remain available until September 30, 2003: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $24,866,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Military Construction, Army National Guard

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $70,338,000, to remain available until September 30, 2003.

Military Construction, Air National Guard

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $97,701,000, to remain available until September 30, 2003.

Military Construction, Army Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $71,894,000, to remain available until September 30, 2003.

Military Construction, Naval Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $33,721,000, to remain available until September 30, 2003.

Military Construction, Air Force Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $35,371,000, to remain available until September 30, 2003.

North Atlantic Treaty Organization Security Investment Program

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in Military Construction Authorization Acts and section 2806 of title 10, United States Code, $169,000,000, to remain available until expended.

Family Housing, Army

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $82,840,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, $1,097,697,000; in all $1,180,537,000.

Family Housing, Navy and Marine Corps

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $130,457,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, $915,293,000; in all $1,045,750,000.

Family Housing, Air Force

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $207,880,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, $785,204,000; in all $993,084,000.

Family Housing, Defense-wide

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $345,000, to remain available until September 30, 2003; for Operation and Maintenance, $36,899,000; in all $37,244,000.

Department of Defense Family Housing Improvement Fund

For the Department of Defense Family Housing Improvement Fund, $242,438,000, to remain available until expended: *Provided*, That of this amount, not to exceed $7,000,000 shall be the sole source of funds available during the current fiscal year for planning, administrative, and oversight costs incurred by the Housing Revitalization Support Office relating to military family housing initiatives and military unaccompanied housing initiatives pursuant to 10 U.S.C. 2883, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

Homeowners Assistance Fund, Defense

For activities authorized by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), $7,500,000, to remain available until expended.

Base Realignment and Closure Account, Part III

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $433,464,000, to remain available until expended: *Provided*, That not more than $271,800,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Base Realignment and Closure Account, Part IV

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $1,297,240,000, to remain available until expended: *Provided*, That not more than $426,036,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

General Provisions

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; or (2) purchases negotiated by the Attorney General or his designee; or (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Gulf, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

(TRANSFER OF FUNDS)

SEC. 118. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Gulf to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

(TRANSFER OF FUNDS)

SEC. 123. (a) Subject to thirty days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Fund shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

(b) Subject to thirty days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for the acquisition or construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Fund shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military unaccompanied housing and ancillary supporting facilities.

SEC. 124. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing or military unaccompanied housing, the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term "congressional defense committees" means the following:

(1) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on National Security and the Military Construction Subcommittee, Committee on Appropriations of the House of Representatives.

SEC. 125. Payments received by the Secretary of the Navy pursuant to subsection (b)(1) of section 2842 of the National Defense Authorization Act, 1993 (Public Law 102–484) are appropriated and shall be available for the purposes authorized in subsection (d) of that section.

SEC. 126. It is the sense of the Congress that the Secretary of the Army should name the "All American Parkway" at Fort Bragg, North Carolina, as the "W.G. 'Bill' Hefner All American Parkway".

Mr. PACKARD (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 19, line 21, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments?

If not, the Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Military Construction Appropriations Act, 1999".

The CHAIRMAN. If there are no further amendments, pursuant to the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BEREUTER) having assumed the chair, Mr. PEASE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 477, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1715

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

Pursuant to clause 5 of rule I, further proceedings are postponed until later today.

GENERAL LEAVE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON H.R. 4103, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

Mr. LIVINGSTON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 105–591) on the bill (H.R. 4103) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. All points of order are reserved on the bill.

REPORT ON H.R. 4104, TREASURY DEPARTMENT, UNITED STATES POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATION ACT, 1999

Mr. LIVINGSTON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 105–592) on the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. All points of order are reserved on the bill.

GENERAL LEAVE

Mr. MCDADE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4060, making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes, and that I be permitted to include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 478 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 4060.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes, with Mr. BARRETT of Nebraska in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from Texas (Mr. EDWARDS) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of the energy and water bill making appropriations for fiscal year 1999. I want to point out to my colleagues that this bill was reported about a week ago unanimously by the Committee on Appropriations, and just about a week before that it was also reported unanimously by our subcommittee.

We in the subcommittee had a tremendous challenge this year, a tough bill, difficult to work, primarily because we had a budget that was inadequate.

I do not believe there was a scintilla of doubt among the membership that when we saw the budget for the Corps of Engineers particularly we knew that we could not execute it. But the Members hunkered down, on both sides of the aisle, and re-wrote this bill, Mr. Chairman, from the bottom up. We reordered priorities, we focused resources on areas of investment promising the greatest returns, we demanded greater efficiencies, and produced a bill that in my view is both fiscally responsive and protective of so many interests within the jurisdiction of the Subcommittee on Energy and Water Development.

Total spending on the bill is $20.65 billion. That represents a reduction of $80 million from fiscal year 1998 and $649 million below the budget request. Of the total amount, $11.8 billion, just about 60 percent of every penny spent in this bill, is for the atomic energy defense activities of the Department of Energy. The remaining $8.7 billion is for domestic programs, and it represents a decrease of $473 million from the current fiscal year and $284 million from the budget request.

Mr. Chairman, I just want to point out to my colleagues in the House that in reordering those priorities that we talked about, we looked at highly significant projects that we could complete in an efficient and effective way. My colleagues will see this bill unanimously appropriating $63 million for the Los Angeles harbor project, and $60 million for the Houston-Galveston navigation project, and $60 million for the L.A. County drainage area project, where human lives are at stake and where people of lower incomes have been forced to pay ever-rising insurance costs to try to stay in their homes.

We have completed a work that represents a togetherness on the subcommittee and on the full committee, and that respects the necessary programs to keep this Nation strong. There is, as far as I know, and I think I can speak with authority, no dissent from any member of the committee on this bill. I hope that all Members will support this bill.

Mr. Chairman: I rise in support of the Energy and Water Development Appropriations Bill for fiscal year 1999. The bill was reported without dissent by the Committee on Appropriations last Tuesday, June 16.

The Committee has faced—and, I believe, has met—a tremendous challenge in assembling a responsible bill within the constraints of a significantly reduced allocation for domestic discretionary programs. By reordering budgetary priorities, focusing resources on areas of investment promising the greatest returns, and demanding greater efficiencies from program managers, we have produced a bill that is both fiscally responsible and protective of the vital services within the jurisdiction of the Subcommittee on Energy and Water Development.

Total spending in the bill is $20.65 billion, a reduction of $80 million from fiscal year 1998 and $649 million from the budget request. Of the total amount, $11.8 billion—approximately 60 percent of the total spending in the bill—is for the atomic energy defense activities of the Department of Energy. The remaining $8.7 billion for domestic programs represents a decrease of $473 million from the current fiscal year and $284 million from the budget request.

Although the Committee faced severe budgetary constraints, it was able to thoroughly reject and repudiate the Administration's proposal to decimate the civil works program of the Corps of Engineers. The budget request for the Corps—a reduction of $948 million from the fiscal year 1998 level—was completely irresponsible. The Administration presented a proposal to halve the Corps' construction budget. According to the testimony of the Corps, this would be, in terms of real dollars, the lowest construction budget in the history of the civil works program.

Our recommendation for the Corps of Engineers is nearly $4 billion. While this is $202 million below the fiscal year 1998 level, it is $745 million above the budget request. Where the Administration proposed to terminate scores of construction projects, place dozens more on life support, increase costs, and extend project completion schedules, the Committee has concentrated available resources on continuing projects in the construction pipeline, and funding them at levels that, in several cases, represent the Corps' maximum capability for fiscal year 1999. This includes $63 million for the Los Angeles Harbor project, $60 million for the Houston-Galveston navigation channels project; $60 million for the Los Angeles County Drainage Area project; $15 million for construction and operation and maintenance of the Boston Harbor project; and dozens more.

By focusing on the traditional and vital missions of flood control, navigation and shoreline protection, the Commission has drawn a sharp distinction between its priorities and those of the Administration. Still, we labored under serious budget constraints, and as a consequence, we were unable to fund new starts in the Construction, General account of the Corps of Engineers.

The Committee acknowledges that there are many very worthy projects that were unable to receive funding because of the Administration's opposition to beach renourishment projects and its failure to include sufficient funding in the budget for a viable civil works program. The Committee would have liked to provide funding for worthy projects, like the Brevard County Shoreline Protection project. The Federal government has an obligation to address problems that have arisen because of Corps projects, like the erosion along Brevard County's shoreline that has been caused by construction of a Federal inlet. The Committee, which does not share the Administration's antipathy toward shoreline protection, will continue to work toward the provision of sufficient funding for these worthy projects.

Title II of the bill funds the Bureau of Reclamation within the Department of the Interior. Our recommendation includes $804 million for Title II. This is a reduction of $112 million from the FY 98 level and $131 million from the budget request. Now that the West has been reclaimed and the Bureau has changed its mission to one of water resource protection and management, it is time to begin a serious dialogue on the agency's future and abiding role in western resource issues. The Committee is anxious to participate in that discussion.

Title III of the bill provides funding for all of the atomic energy defense activities, and most of the domestic discretionary activities, of the Department of Energy. Of the $16.2 billion provided for DOE, $11.8 billion is for atomic energy defense activities. This funding provides for stewardship of our nuclear weapons stockpile, arms control and nonproliferation activities, and naval reactor research and development. In terms of dollars this bill's largest commitment is to cleaning up the environmental degradation that is the legacy of decades of nuclear weapons production. The bill provides over $6.3 billion for environmental restoration and waste management activities of the Department of Energy.

The non-defense activities of the DOE are funded at or near fiscal year 1998 levels. One notable exception is funding for domestic science programs, which were increased by $164 million (or 7 percent) to provide first year funding for construction of the Spallation Neutron Source in Tennessee, and additional funding to operate existing science facilities.

Title IV of the bill funds independent agencies. The amount in Title IV is $103 million, a decrease of $175 million from the budget request and $396 million from the budget request. There are two principal components of this sizable reduction. First, the Committee recommendation includes no new funding for the highway program of the Appalachian Regional Commission. Funding for that program will now come from the Highway Trust Fund, pursuant to the recently enacted highway bill. Second, the bill includes no new funding for the nonpower programs of the Tennessee Valley Authority. Consistent with Public Law 105–62, TVA is empowered and directed to continue funding those programs with internally generated revenues and savings.

Mr. Chairman, I want to commend the Members of the Subcommittee on Energy and Water for their hard work and for their commitment to working through a vast number of difficult issues and choices for fiscal year 1999. I am deeply appreciative of their contributions and their dedication to this bill.

I am especially pleased to commend the Ranking Minority Member on the Energy and Water Subcommittee, the Honorable VIC FAZIO. The Energy and Water Bill has enjoyed a long tradition of bipartisanship, and the gentleman from California has done everything within his power to perpetuate that tradition. I am grateful for his service to the Subcommittee, to the House of Representatives, and to the country.

Mr. Chairman, I urge all of my colleagues to support the Energy and Water Development Appropriations Bill for fiscal year 1999.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 1999 (H.R. 4060)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF DEFENSE - CIVIL					
DEPARTMENT OF THE ARMY					
Corps of Engineers - Civil					
General investigations	156,804,000	150,000,000	162,823,000	+6,019,000	+12,823,000
Construction, general	1,468,373,000	784,000,000	1,452,629,000	-15,744,000	+668,629,000
Contingent emergency appropriation	5,000,000			-5,000,000	
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	296,212,000	280,000,000	312,077,000	+15,865,000	+32,077,000
Operation and maintenance, general	1,740,025,000	1,603,000,000	1,640,499,000	-99,526,000	+37,499,000
Emergency appropriations (P.L. 105-174)	105,185,000			-105,185,000	
Regulatory program	106,000,000	117,000,000	110,000,000	+4,000,000	-7,000,000
Flood control and coastal emergencies	4,000,000			-4,000,000	
Formerly utilized sites remedial action program	140,000,000			-140,000,000	
Defense function		140,000,000	140,000,000	+140,000,000	
General expenses	148,000,000	148,000,000	148,000,000		
Total, title I, Department of Defense - Civil	4,169,599,000	3,222,000,000	3,966,028,000	-203,571,000	+744,028,000
TITLE II - DEPARTMENT OF THE INTERIOR					
Central Utah Project Completion Account					
Central Utah project construction	23,743,000	22,189,000	24,189,000	+446,000	+2,000,000
Fish, wildlife, and recreation mitigation and conservation	11,610,000	12,476,000	10,476,000	-1,134,000	-2,000,000
Utah reclamation mitigation and conservation account	5,000,000	5,000,000	5,000,000		
Program oversight and administration	800,000	1,283,000	1,283,000	+483,000	
Total, Central Utah project completion account	41,153,000	40,948,000	40,948,000	-205,000	
Bureau of Reclamation					
Water and related resources	694,348,000	640,124,000	596,254,000	-98,094,000	-43,870,000
(By transfer)		(25,800,000)	(25,800,000)	(+25,800,000)	
Emergency appropriations (P.L. 105-174)	4,520,000			-4,520,000	
California Bay-Delta ecosystem restoration	85,000,000	143,300,000	75,000,000	-10,000,000	-68,300,000
Loan program	10,425,000	12,425,000	12,425,000	+2,000,000	
(Limitation on direct loans)	(31,000,000)	(38,000,000)	(38,000,000)	(+7,000,000)	
Policy and administration	47,558,000	48,000,000	46,000,000	-1,558,000	-2,000,000
Colorado River Dam fund (by transfer, permanent authority)	(-5,592,000)			(+5,592,000)	
Central Valley project restoration fund	33,130,000	49,500,000	33,130,000		-16,370,000
Total, Bureau of Reclamation	874,981,000	893,349,000	762,809,000	-112,172,000	-130,540,000
Total, title II, Department of the Interior	916,134,000	934,297,000	803,757,000	-112,377,000	-130,540,000
(By transfer)	(-5,592,000)	(25,800,000)	(25,800,000)	(+31,392,000)	
TITLE III - DEPARTMENT OF ENERGY					
Energy supply	906,807,000	1,129,042,000	882,834,000	-23,973,000	-246,208,000
Non-defense environmental management	497,059,000	462,000,000	466,700,000	-30,359,000	+4,700,000
Uranium enrichment decontamination and decommissioning fund	220,200,000	277,000,000	225,000,000	+4,800,000	-52,000,000
Science	2,235,708,000	2,482,460,000	2,399,500,000	+163,792,000	-82,960,000
Nuclear Waste Disposal Fund	160,000,000	190,000,000	160,000,000		-30,000,000
Departmental administration	224,155,000	245,788,000	175,365,000	-48,790,000	-70,423,000
Miscellaneous revenues	-136,738,000	-136,530,000	-136,530,000	+208,000	
Net appropriation	87,417,000	109,258,000	38,835,000	-48,582,000	-70,423,000
Office of the Inspector General	27,500,000	29,500,000	14,500,000	-13,000,000	-15,000,000
Environmental restoration and waste management:					
Defense function	(5,520,238,000)	(5,783,000,000)	(5,683,651,000)	(+163,413,000)	(-99,349,000)
Non-defense function	(717,259,000)	(739,000,000)	(691,700,000)	(-25,559,000)	(-47,300,000)
Total	(6,237,497,000)	(6,522,000,000)	(6,375,351,000)	(+137,854,000)	(-146,649,000)
Atomic Energy Defense Activities					
Weapons activities	4,146,692,000	4,500,000,000	4,142,100,000	-4,592,000	-357,900,000
Defense environmental restoration and waste management	4,429,438,000	4,259,903,000	4,358,554,000	-70,884,000	+98,651,000
Defense facilities closure projects	890,800,000	1,006,240,000	1,038,240,000	+147,440,000	+32,000,000
Defense environmental management privatization	200,000,000	516,857,000	286,857,000	+86,857,000	-230,000,000
Subtotal, Defense environmental management	5,520,238,000	5,783,000,000	5,683,651,000	+163,413,000	-99,349,000
Other defense activities	1,666,008,000	1,667,160,000	1,761,260,000	+95,252,000	+94,100,000
Defense nuclear waste disposal	190,000,000	190,000,000	190,000,000		
Total, Atomic Energy Defense Activities	11,522,938,000	12,140,160,000	11,777,011,000	+254,073,000	-363,149,000
Power Marketing Administrations					
Operation and maintenance, Alaska Power Administration	3,500,000			-3,500,000	
Capital assets acquisition	10,000,000			-10,000,000	
Operation and maintenance, Southeastern Power Administration	12,222,000	8,500,000	8,500,000	-3,722,000	
Operation and maintenance, Southwestern Power Administration	25,210,000	26,000,000	24,710,000	-500,000	-1,290,000

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 1999 (H.R. 4060)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	189,043,000	215,435,000	205,000,000	+15,957,000	-10,435,000
(By transfer, permanent authority)	(5,592,000)			(-5,592,000)	
Falcon and Amistad operating and maintenance fund	970,000	1,010,000	970,000		-40,000
Total, Power Marketing Administrations	240,945,000	250,945,000	239,180,000	-1,765,000	-11,765,000
Federal Energy Regulatory Commission					
Salaries and expenses	162,141,000	168,898,000	166,500,000	+4,359,000	-2,398,000
Revenues applied	-162,141,000	-168,898,000	-166,500,000	-4,359,000	+2,398,000
Total, title III, Department of Energy	15,898,574,000	17,070,365,000	16,203,560,000	+304,986,000	-866,805,000
(By transfer)	(5,592,000)			(-5,592,000)	
TITLE IV - INDEPENDENT AGENCIES					
Appalachian Regional Commission	170,000,000	67,000,000	65,900,000	-104,100,000	-1,100,000
Defense Nuclear Facilities Safety Board	17,000,000	17,500,000	16,500,000	-500,000	-1,000,000
Nuclear Regulatory Commission:					
Salaries and expenses	468,000,000	483,340,000	462,700,000	-5,300,000	-20,640,000
Revenues	-450,000,000	-152,341,000	-444,700,000	+5,300,000	-292,359,000
Subtotal	18,000,000	330,999,000	18,000,000		-312,999,000
Office of Inspector General	4,800,000	5,300,000	4,800,000		-500,000
Revenues	-4,800,000	-1,749,000	-4,800,000		-3,051,000
Subtotal		3,551,000			-3,551,000
Total	18,000,000	334,550,000	18,000,000		-316,550,000
Nuclear Waste Technical Review Board	2,600,000	2,950,000	2,600,000		-350,000
Tennessee Valley Authority: Tennessee Valley Authority Fund	70,000,000	76,800,000		-70,000,000	-76,800,000
Total, title IV, Independent agencies	277,600,000	498,800,000	103,000,000	-174,600,000	-395,800,000
Grand total:					
New budget (obligational) authority	21,261,907,000	21,725,462,000	21,076,345,000	-185,562,000	-649,117,000
Appropriations	(21,147,202,000)	(21,725,462,000)	(21,076,345,000)	(-70,857,000)	(-649,117,000)
Emergency appropriations	(109,705,000)			(-109,705,000)	
Contingent emergency appropriation	(5,000,000)			(-5,000,000)	
(By transfer)		(25,800,000)	(25,800,000)	(+25,800,000)	

Mr. McDADE. Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS. Mr. Chairman, I yield myself such time as I may consume. I rise in support of H.R. 4060, the energy and water appropriation bill for fiscal year 1999.

The gentleman from California (Mr. FAZIO), the ranking member of this important subcommittee, will be on the floor in just a few moments, but in the meantime, Mr. Chairman, I would like to pay tribute to two leaders of this subcommittee who, along with the gentleman from North Carolina (Mr. HEFNER) whom we honored a few minutes ago, are retiring at the end of this Congress.

This will represent the last time that the gentleman from Pennsylvania (Mr. JOE McDADE), the chairman, and the ranking member, the gentleman from California (Mr. VIC FAZIO), will be responsible for bringing the energy and water appropriations bill to the floor of this House, and on behalf of all of us who have had the privilege to serve with both of these leaders in Congress, I want to thank them for their lifetime of service to our Nation.

Let me begin with the gentleman from Pennsylvania, and while we often say, Mr. Chairman, "gentleman" when referring to our colleagues on this floor, I think whoever coined that phrase must have had Mr. McDADE in mind when he developed that word because I could think of no better way to describe the chairman, our friend and colleague of this committee, then to say he is a gentleman from head to toe. His lifetime of service, over 3 decades of commitment to our country and this House, are living proof of that. In all the times that I have known him he has served with great dignity and honesty and integrity.

And while I have only had the honor of serving on his particular subcommittee for a year and a half, I want to say, Mr. Chairman, that when I was coming onto the Committee on Appropriations I asked a former member of this subcommittee, Mr. CHAPMAN of Texas, which subcommittee I should consider serving on, and he said to me that the most important factor I ought to look at is not just the substance of the committee but the chairman of that committee. For that reason he said without doubt I should ask to be on that subcommittee because the gentleman from Pennsylvania (Mr. McDADE) is the kind of Member that all Americans could be proud of.

And once again there is not a floor full of Members on this floor for the very reason that the gentleman from Pennsylvania (Mr. McDADE) has handled this business like he handles all of his business, in a fair, evenhanded and on a totally nonpartisan basis.

So, Mr. Chairman, on behalf of all of us in this House and families all across America from his district to mine who will live in a better country, better flood control, better safety in terms of the proliferation of nuclear weapons around the world; for those and so many more important issues that are part of this bill and other bills the gentleman from Pennsylvania has been a part of, I want to express my lasting gratitude to the gentleman for his sacrifice and service on behalf of this country.

Let me also say, Mr. Chairman, that the gentleman from California (Mr. FAZIO), the ranking member of this subcommittee, will be retiring at the end of this Congress, so this will also be the last time he comes to the floor as a ranking member to push the energy and water appropriations bill.

Time will not permit me to list all of the accomplishments of the gentleman from California (Mr. FAZIO), but no one in this House would doubt that he has been one of the true leaders in the House of Representatives for his many years of service as former chairman of the Democratic Campaign Committee, as being a leading spokesman for the Democratic Party and Democratic Members of this House. But in serving as a leading member of the Committee on Appropriations he put that partisanship aside, particularly on the energy and water bill, because he knew that providing flood protection and providing funds for research for renewable sources of energy to make our country economically sound for decades to come, he knew that in providing efforts to try to stop the proliferation of nuclear weapons across the Soviet Union, the former Soviet Union, and through other countries in the world, he knew that those efforts were far more important than any particular party, and in that capacity Mr. FAZIO has fought hard to bring legislation to this floor that will reflect well upon this body for many years and many decades to come.

Finally, as a member of this committee, let me just thank the chairman and ranking member for working on this particular bill under the limits of a very difficult budget, but to work in a way that the taxpayers would be proud, and using limited resources to focus on priority programs from flood control to nuclear weapons proliferation. They spent these dollars in a way that I think will be good for this country, and I think the best reflection of that was the committee vote, which as the chairman said was a unanimous vote of both Democrats and Republicans.

Mr. Chairman, I reserve the balance of my time.

Mr. MCDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. LIVINGSTON) the very able chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Chairman, I want to thank my friend, colleague, mentor, and guidance counselor, the gentleman from Pennsylvania (Mr. JOE MCDADE) not only for yielding this time to me, but for doing such an outstanding job both as chairman of his subcommittee but also as a Member of Congress since his appearance here on the scene in Washington, D.C. back in 1963.

I certainly rise to support his bill. It is one of the most important bills in the appropriations process, at least from the standpoint of a Member who lives in New Orleans, in the center of the Mississippi River Valley watershed, because all that water that comes down from the drainage area that starts up in Minnesota and comes through our territory, and I want to say that the gentleman from Pennsylvania (Mr. MCDADE) together with the gentleman from California (Mr. FAZIO) has certainly worked with all of the members on the subcommittee to make sure that their responsibility has been carried out in a sensitive manner and that the people of Louisiana and all throughout the watershed have been protected from the onslaught of floods.

But let me simply say on a personal note that first of all the gentleman from Pennsylvania (Mr. MCDADE) has been a wonderful Member of Congress, and this is his last year as chairman and last year as a Member of the House of Representatives, and of all the Members that we might talk about today or that we might think about today he is going to be one of the most sorely missed.

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JOE MCDADE has not only a wealth of experience that he has brought to his role over these last many years, but he has got incredibly good judgment. He is a gifted politician in the finest sense of the word. Where some of us get led astray into areas of legislative domain that might seem to sink the most able of us, I guarantee you that JOE MCDADE rises above the tide and carries the way so that others can follow.

He was born in Scranton, and still lives there. He has represented Lackawanna County, Pennsylvania, in a number of ways since his graduation from Notre Dame in 1953 and at the University of Pennsylvania where he got his LLB. He was a clerk to a Federal judge; he practiced law; he became city solicitor of the city of Scranton; and then, in 1963, he was elected to the Congress of the United States.

I have had the pleasure of serving with JOE since my appearance in Congress in 1977, but more closely since I got to be a member of the Committee on Appropriations in 1980. We have served closely together on the same subcommittees. I just want to say that I have never seen a more able, more capable, more skilled legislator than JOE MCDADE. He has had a remarkable career.

I just want to take the opportunity to wish JOE and his wife Sarah and their family all of the best, a long, healthy, happy lifetime of success, and send with them the good wishes that all of us here who have had the pleasure and honor of serving with him extend to them, so that he will know that he can always come back, because he has got lots of friends here.

Mr. Chairman, I would take another couple of minutes to say that VIC FAZIO is another outstanding Member who came on the scene after I did, in the 96th Congress. I was elected in the 95th. VIC FAZIO likewise has shown the skill, and understanding on legislative process that, frankly, few other Members have exhibited.

VIC has been elected to a number of partisan positions on his own side. He has been a formidable adversary, and, at the same time, he has conducted his affairs in good humor and with the ability to compromise when he has to and in bipartisan fashion. That is appreciated from this side of the aisle. He has been a friend, and we certainly want to extend our best wishes to him. I am sorry, apparently his flight has been delayed and he is not yet here today for the discussion of this bill but we want him to know that we send our best wishes to him and to his family for lots of success and happiness as he leaves Congress.

Finally, to MIKE PARKER, who came over to the Republican side of the aisle from the other side, after he first arrived here a few years ago, with great foresight, since we took the majority about the time that he made the switch, and has shown extraordinary diplomatic and legislative skills in his performance here.

MIKE has not been here as long as the other two, but he is a very, very talented guy, and a fellow who has got great judgment, upon which all of us have had the opportunity to value and treasure, because we find that he is a person that we can indeed rely on. We are going to miss him greatly, from the standpoint of leadership on the Committee on Appropriations and throughout the Republican Conference.

We wish him well in Mississippi, and hope that his political career is not over, that he will have other things in mind, and that his leadership will serve the people of Mississippi and the people of America in great fashion.

So with all of these three people, I want to say thank you for your service to the Committee on Appropriations, to this subcommittee and to the people of America. We value and treasure your friendship, we wish you well and bon voyage when you depart from Congress, but we thank you for the opportunity for allowing us to serve with you.

Mr. EDWARDS. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I too want to extend my congratulations to the distinguished careers of the chairman and ranking member, and especially in one regard, and that is that they have been true champions of a great national treasure that we have in the country called the Mississippi River. In fact, in this appropriations bill, we nearly fully fund a very important program affecting the Mississippi River called the environmental management program that is a multistate, multiagency cooperative effort in order to collect data and monitor resources and conduct some habitat restoration on the Mississippi in order to preserve this treasure for future generations. It affects the upper Mississippi in particular, but I have always said that if we blow it up there, there is going to be consequences down south.

I look forward to working with these gentlemen throughout the course of the year in reauthorizing the environmental management program, and I too want to again just congratulate them on the leadership that they have shown on this issue, an issue that not only affects me and my constituents in western Wisconsin, but millions of people throughout middle America who appreciate the river and the multiple uses that we all share and use the river for.

As we consider the energy and water appropriations bill for fiscal year 1999, I want to commend the chairman and members of the Appropriations Committee for prioritizing funding for one of our Nation's most treasured natural resources, the Mississippi River. By providing nearly full funding, the environmental management program [EMP] for the Mississippi River will continue to excel at restoring and monitoring the long-term ecological health of one of our Nation's most treasured waterways.

During this Congress, I have worked with Representative OBERSTAR, Representative LEACH, and Representative GUTKNECHT to form the Bipartisan Upper Mississippi River Task Force. Sixteen Members of Congress—eight Members from each side of the aisle—have come together, in a bipartisan fashion, in recognition of the national importance of the navigational, recreational, and environmental benefits this Nation enjoys because of a healthy, vibrant Mississippi River. The Upper Mississippi River Task Force has repeatedly voiced its unwavering support for fully funding the EMP. I thank the members of the task force for their bipartisanship, diligence, and perseverance in supporting our Nation's interest in the Mississippi River.

The EMP is a cooperative effort of the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Geological Survey, and the five Upper Mississippi River Basin States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin to evaluate, restore and enhance the river and wetland habitat along 1200 miles of the Upper Mississippi and Illinois Rivers. The EMP is a tremendous example of how Federal funds support the successful multi-state, multi-agency cooperation responsible for ensuring a healthy, vital Upper Mississippi River system.

The EMP is an essential tool in maintaining the quality of the river environment, as well as recreational and economic opportunities along the Mississippi River. Navigation along the Upper Mississippi River supports 400,000 full or part time jobs, which produces over $4 billion in individual income, Recreation use of the river generates 12 million visitors and spending of $1.2 billion in direct and indirect expenditures in the communities along the Mississippi.

I would also like to commend the Appropriations Committee for funding the La Farge Dam land transfer, an Army Corps of Engineers project in my district in western Wisconsin. The funding in this bill finally allow the Federal Government to return the Kickapoo reserve lands to the people of western Wisconsin. It will begin to restore the natural surroundings so that visitors from across the country may once again enjoy the beautiful bluffs and flowing waters of the Kickapoo River. I look forward to working with the conference committee to guarantee that the Corps of Engineers fulfills its financial obligations under current authorizing legislation by providing the necessary funds to the transferees.

Mr. McDADE. Mr. Chairman, I am very pleased to yield 4 minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Chairman, I rise today to express my strong support for this bill, but first I, too, want to pay tribute to a gentleman who has become my friend. I am sorry that the gentleman from California (Mr. FAZIO) is not here, he will be along shortly, but let me just pay for a moment tribute to the man that I believe has earned the respect of this whole House, the gentleman from Pennsylvania (JOE McDADE).

Along with VIC FAZIO, their spirit of cooperation is commendable. But the competence and the thoughtfulness of JOE McDADE, his years of hard work, it will take many of us to fill the congressional shoes of Chairman JOE McDADE. His character, his warmth, and, speaking on a personal note, his kindness and courtesy to me, and the fact that he is truly a gentleman in every respect, I will truly miss him, his counsel, his guidance, but never, however, his friendship. I will keep that.

Along with Chairman McDADE, I see that Mr. FAZIO is here now, and I will extend and salute a hail, how are you. Certainly, as well, the competence of this man, VIC FAZIO, and his ability to work both sides of the aisle, has been something that I think this committee has benefitted by and this House has benefitted by.

Along with JOE McDADE and VIC FAZIO, I would like to salute efforts by the Subcommittee on Energy and Water Development staff for bringing this strong bill to the floor. The administration's budget request, especially the funding shortfall they created in the water projects, was unworkable, if not irresponsible. This bill is responsible and balanced.

Just a few portions I would like to focus on. This year the administration more than doubled the budget request for climate change initiatives, creating a $1.7 billion government-wide umbrella to fund existing and new programs. Since the Senate has not yet ratified the Kyoto Protocol, it seems the administration has put the cart in front of the horse.

I wanted to thank the gentleman from Pennsylvania (Chairman McDADE) and the subcommittee staff for taking my concerns about Kyoto into account in this year's bill. Specifically I am pleased that the committee provided none of the $100 million increase requested by the administration to further research towards the goals of meeting the Kyoto Accord.

Also the committee was critical of the administration's tendency to devote half of its resources to advanced policy instead of conducting scientific research. The $27 million was cut to $13.5 million, in half, to reflect this criticism.

Furthermore, I support this bill's focusing on closing out the former defense and nuclear facilities. When I was first assigned to this Subcommittee on Energy and Water Development of the Committee on Appropriations, the Department of Energy reported we would not complete clean up of the environmental management sites until after the year 2075, with a total cost of some $230 billion. We are now looking to close all of the small EM sites and even some the larger sites, including Fernald in Ohio and Rocky Flats in Colorado by the year 2006. The reduction of landlord costs may be in the tens of billions of dollars.

Frankly, I also want to express my strong support for the nuclear energy and research initiative, NERI, and the nuclear energy water research grant program. I am pleased have we have included $5 million for the NERI program. This program is designed to reinvigorate the Department of Energy's nuclear energy R&D based on competitive and peer-reviewed applications concerning such issues as more efficient reactor designs, lower costs, improved safety, better on-site storage and proliferation resistant reactors.

Mr. Chairman, I urge support for this important R&D program and I urge support for the energy and water appropriations bill.

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Chairman, I thank the gentleman for yielding me time. I also want to extend my congratulations and appreciation for the outstanding work that the chairman and the ranking member have done on the appropriation. Both of them have gallantly looked at our natural resources and tried to appropriate, with resources that are scarce, as efficiently and as passionately and caring so as to preserve those resources.

In particular I am appreciative and urge the support of this appropriation, because it indeed allows North Carolina to have the opportunity to widen their port authorities. The port authorities there have been historically valuable to the East Coast, but, in particular, to North Carolina. So you have allowed us to have at least $8.3 million that would allow us to go towards the long-range plan. Obviously the State is doing its part, the private sector is doing its part, and I am appreciative that the Federal Government is doing its part to allow us to have at least 80,000 jobs in our State as part of that.

Mr. Chairman, I urge support of the appropriation. I thank both the chairman and ranking member. My hat is off to the gentleman from California (Mr. FAZIO) for all of the fine work he has done for the people of America.

Mr. McDADE. Mr. Chairman, I am delighted to yield 3 minutes to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I rise in strong support of this bill, for several reasons, not the least of which is the expertise and the judgment and wisdom that the chairman and the ranking member have put into this bill.

This is a bittersweet moment, I think, for all of us on this committee, and in fact the Congress, to see a fine bill like this brought to the floor, the finest that I have seen in my experience, given the circumstances; sweet in that respect, but bitter in that we are losing two of the most able gentleman this House has been able to have for many years.

JOE McDADE, as has been said, is leaving us after this term. We wish we could talk him into staying, but I think his mind is set. The same for VIC FAZIO. But these two men have offered leadership at a time when we need leadership, and they have done it in a bipartisan, in fact, nonpartisan way, and we are certainly going to miss them deeply and long on this subcommittee and on the full committee and, of course, in this body. We wish for each of them happiness and success in the years to come.

The chairman has done an outstanding job in producing this appropriations bill, which adequately funds such diverse programs as nuclear weapons research, to solar and renewable energy technologies, to water infrastructure projects, to critical rural development programs like the Appalachian Regional Commission. This is not an easy bill to write.

I am particularly grateful for the chairman's efforts in increasing the administration's requested level for the Army Corps of Engineers. The President had the audacity to propose a funding level nearly $2 billion below the level required to continue ongoing water infrastructure projects at their optimal level. The President's request was the lowest budget request in terms of real dollars in the history of the civil works program of the United States.

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This bill goes a long way toward getting those projects back on track. The recommendation is $3.97 billion. That will ensure that vital national priorities of flood control, navigation, and shoreline protection are adequately funded.

The gentleman from Pennsylvania (Chairman McDADE) and his very capable staff have put together something that we can all be proud of, and I truly appreciate their insight and their responsiveness.

As has been said, we are losing a true patriot and statesman in the gentleman from Pennsylvania (Mr. JOE McDADE). He has provided leadership, courage, and overwhelming devotion to the American people for nearly four decades in this body. This institution will not be the same without JOE McDADE.

The same can be said of our friend, the gentleman from California (Mr. FAZIO), and of course, the gentleman from Mississippi (Mr. MIKE PARKER), who has served on this subcommittee admirably and well. He will be sorely missed, as well.

Whatever endeavors each decides to undertake in the future, I know they will display the same compassion and understanding and devotion as they always have here in the body. It has been a great personal honor to have served with them, and I wish for them and their family all the best. God speed.

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Chairman, first of all, I would like to thank both the gentleman from Pennsylvania (Chairman McDADE) and our ranking member, the gentleman from California (Mr. FAZIO), for the service not only that they have provided to their districts over the years, but also to our great Nation. We will miss them, all of us will. I am not saying that just because they have been kind to the Port of Houston for a number of years, even before I was involved in serving in Congress.

But Mr. Chairman, I rise in support of the bill. It is a second year appropriation for the deepening and widening of the Port of Houston, and the committee, in its wisdom, with our only Texan on the committee, the gentleman from Texas (Mr. CHET EDWARDS), provided for $60 million for the deepening and widening of the Houston ship channel.

It is so important, not just for Houston but for all of America, because it generates $300 million annually for America in customs fees, and $213 million annually for local taxes.

The expansion of the Port of Houston and the Houston ship channel is important not only because it is the busiest port in foreign tonnage, and second in domestic tonnage, with more than 6,435 vessels navigating the channel annually. Again, this is a second year appropriation of $60 million.

Again, I would like to thank both the chairman and the ranking member for their service, but also the gentleman from Texas (Mr. EDWARDS), a neighbor of ours from Waco, Texas, for his efforts.

Mr. McDADE. Mr. Chairman, I am pleased to yield 3 minutes to the able gentleman from New Jersey (Mr. FRELINGHUYSEN), a very valued member of our subcommittee.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of this energy and water appropriations bill for fiscal year 1999. First, let me thank the gentleman from Pennsylvania (Chairman McDADE) and the ranking member, the gentleman from California (Mr. FAZIO), for their bipartisan effort in bringing this bill to the floor, and to thank our excellent committee staff for their assistance, as well.

This will be these gentlemen's final energy and water bill presented in this House. As a member of this subcommittee, I have learned to depend on them for their outstanding guidance and for their incredible institutional memory. It is difficult to comprehend how we will be able to work without them. Their retirement from Congress will leave a big hole in this institution, and I will miss both of them as friends and leaders.

This bill before the House today stresses national priorities while keeping our commitment to downsizing the Federal Government. Unlike the President's budget request in January for the Army Corps of Engineers, this bill does maintain critical funding for flood safety, coastal protection, and dredging projects throughout my home State of New Jersey and throughout our Nation.

This bill flatly rejects the Administration's efforts to back away from these types of national commitments and investments, and restores funds needed to protect American life and property, and promotes our international competitiveness.

Of particular concern to me were efforts to shortchange our Nation's ports. In New York and our New Jersey harbor alone, the President's request was over $40 million short for what was needed to keep these important dredging projects on time and on track.

International trade is too important to jeopardize, and ships cannot enter our ports without adequate channel depth. Too many jobs depend on the Army Corp's work, literally $70 billion annually in commerce for both New York and New Jersey.

In addition to the civil works program, this bill also funds many important scientific programs, and I am particularly happy that the committee moved ahead on fusion power research. I am disappointed that there is no funding for international fusion power, but I am grateful to the committee for their leadership and work on it.

Mr. FAZIO of California. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the full committee.

Mr. OBEY. Mr. Chairman, I just want to take this time to note that this is the last time that the gentleman from California (Mr. FAZIO) and the gentleman from Pennsylvania (Mr. McDADE) will be managing a regular appropriation bill on this floor because of their retirement. I just have to say something about both gentlemen.

As far as the gentleman from California (Mr. FAZIO) is concerned, I can think of no more decent person who has ever served in this institution. He is not only a person of immense graciousness personally, but he is a person who is willing to take on any task for the benefit of the national interest.

He is one of the people in this place who recognizes that there are many times when the job of governing has to take precedence over politics, and has never ceased to act on that assumption. He has also, in virtually every issue that I have ever seen him deal with, consistently insisted on putting public interest ahead of virtually every other interest. He is one of those rare people in politics who is, first and foremost, a workhorse rather than a show horse. I will miss him very much personally. I know the rest of this House will, as well.

As far as the gentleman from Pennsylvania (Mr. McDADE) is concerned, he had already established a reputation for legislative quality and leadership when I arrived here as a freshman. I never cease to marvel at the talent with which he handled every responsibility given to him during the years that I have served or watched him in this body.

I have to say that he has demonstrated to me time and time again that he is a person of absolute integrity and extreme wisdom, to boot. He has treated Members fairly regardless of their partisan stripe, and he certainly is, as is the gentleman from California (Mr. FAZIO), what people who truly care about this institution call "institutional men." They are both institutional men. They recognize the needs of this institution in the finest sense of that recognition. I am going to greatly miss both of them.

Mr. McDADE. Mr. Chairman, I am delighted to yield 2 minutes to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Chairman, I would like to associate myself with the remarks that have been made here this evening for the gentleman from Pennsylvania (Mr. McDADE) and the ranking member, the gentleman from California (Mr. FAZIO), two great Members who are going to be missed a great deal next year.

Mr. Chairman, I would like to commend the chairman, the gentleman from Pennsylvania (Mr. JOE McDADE) and the ranking member, the gentleman from California (Mr. FAZIO), for crafting a bill that maintains funding for the Army Corps of Engineers and many critical projects, but also remains true to the budget parameters we have set here in Congress.

The Energy and Water Development Act preserves our commitment to cleaning up nuclear waste, maintaining our waterways, and promoting the future energy needs of each American.

Mr. Chairman, as a member of the Committee on Appropriations, I voted in favor of this bill in committee, in particular because of a project important to the people of Sioux City, Iowa. Sioux City is one of the many cities in America established on a river, and while the river remains the lifeblood of the city, the people oftentimes find themselves at its mercy.

The Perry Creek Flood Control Project is funded in this bill. This important flood control project removes fear of flooding for downtown Sioux City and for a large community of retirees. The project enjoys the support of local funding, and allows the city to further redevelop its infrastructure without losing investors due to unforeseen disasters.

The Perry Creek Flood Control Project is one of several funded in this bill to protect towns and cities at risk from flooding. I want to thank the chairman and the committee for working with me to make sure this project received appropriate funding. I recognize the Committee on Appropriations has faced a daunting task in writing bills with very limited amount of resources. For Sioux City, for many other cities in similar situations, I encourage my colleagues to support this bill.

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I, too, join with all of our colleagues in commending the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from California (Mr. FAZIO) for the tremendous work they have provided on behalf of this country.

I understand that this year we had one of the most difficult decisions and conflicts in trying to move the appropriations bills forward because of the tight fiscal constraints they were working under. It was very clear in the energy and water appropriation bill, which I support, that we were in a situation where we were not able to fund any new starts because we had to meet the priorities of continuing our funding for ongoing projects.

Given the tight fiscal constraints, I greatly appreciate the efforts of my colleagues on the committee to provide much needed funds for other high priority water resource development and flood control projects that are vital to the safety and well-being of the residents of the San Joaquin Valley.

However, I will continue to work to secure funding to address a particular flooding problem along a river referred to as the White River. The situation there is dire, and Federal assistance is vital to achieving a long-term solution.

This past February the area around Earlimart in Tulare and Kern Counties was flooded for the fifth time in 40 years. State and Federal disaster assistance was granted to assist the town of 5,000 residents. It is this project which we need to fund at least for a reconnaissance study. I look forward to working with the committee to secure that.

Mr. McDADE. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, I want to express my concern about the level of funding in the bill for the Everglades restoration, to get right to the point. Specifically, I am concerned about the level of funding for the Kissimmee River Restoration Project, the Central and Southern Florida Project, as well as funding provided for the Everglades Critical Projects.

Clearly, the committee has done a very judicious job of balancing the competing interests in a very difficult bill. It goes without saying that the committee's task was not made any easier by the Clinton administration's irresponsible, if not reckless, budget request, which essentially gutted all funds for beach renourishment work by the Corps.

As the Committee sought to restore these devastating cuts, it had a lot of devastating choices to make, I know. Unfortunately, that has resulted in fewer funds available for the Corps and its responsibilities when it comes to the Everglades.

Earlier today I received an analysis prepared by the Jacksonville District of the Army Corps which estimates that the progress on all of these projects, the Kissimmee River restoration, the Central and Southern Florida Project, and the Everglades Critical Projects, would be significantly delayed if these funding levels were enacted.

Mr. Chairman, suffice it to say that the Federal Government has made a significant commitment to the restoration of the Everglades, a vital national treasure. As the energy and water bill moves to conference, I would request the committee review the analysis prepared by the Jacksonville District of the Corps.

I want to thank the chairman and the ranking member of the Committee on Appropriations again for their hard work, and look forward to moving forward on this issue.

The gentleman from Pennsylvania (Mr. JOE McDADE) has been a great friend of Florida, a Member of Congress who is, I think, outstanding. He has been a mentor of mine. He has served his district and our country faithfully, professionally, successfully, with integrity, and for a long time. I think we would say just about the same thing for the gentleman from California (Mr. FAZIO), except it was California, in his case.

I am proud to know these Members, and I hope they can help us with the Everglades.

Mr. Chairman, I include this Corps analysis for the RECORD.

The material referred to is as follows:

	FY98 project allocations	FY99 budget request	Senate markup	House markup
C&SF	$21,833	$40,800	$25,000	$20,900
Kissimmee	2,817	27,300	10,000	3,500
Critical projects	4,009	20,000	10,000	3,000

CENTRAL & SOUTHERN FLORIDA

All assumptions are made with the understanding that funding will only be delayed for one year and required funding will be available in the following year.

If Senate Budget is Adopted ($25,000,000 allocation)

West Palm Beach (C–51): Delay in funding for relocations may not impact the overall project schedule. Delay in funding S–360, G–312, and levees (components of Stormwater Treatment Area 1 East) would not significantly impact the project. The project would likely still be completed within the overall completion schedule.

South Dade (C–111): Delay in funding for S–332A, B, and C pumping plants, and Levees and Canal work will not significantly impact the overall project completion. Recent requirements for a new GRR supplement have caused this delay to be necessary regardless of funding.

Upper St. Johns: Delays in funding L74N and S–96E will increase the overall project completion time.

If House Budget is Adopted ($20,900,000 allocation)

West Palm Beach (C–51): Delay in funding for relocations may not impact the overall project schedule. Delay in funding S–360, G–312, and levees (components of Stormwater Treatment Area 1 East) would not significantly impact the project. However, the additional cuts would delay completion of Pump Station S–362 (Stormwater Treatment Area 1 East outflow pump station) which would delay the overall project completion. The time could not be made up regardless of the follow-on funding.

Comprehensive Restudy: The additional cuts will adversely impact work on the Restudy. A delay in funding will result in completion beyond the mandatory completion dates.

South Dade (C–111): Delay in funding for S–332A, B, and C pumping plants, and Levees and Canal work will not significantly impact the overall project completion. Recent requirements for a new GRR supplement have caused this delay to be necessary regardless of funding.

Upper St. Johns: Delays in funding L74N and S–96E will increase the overall project completion time.

KISSIMMEE RIVER RESTORATION

If Senate Budget is Adopted ($10,000,000 allocation)

Contract 3 (S–65 Modification), CNT 4C (local levee removal), and Contract 2 (Canal widening for C–35 & 36) can be completed.

Contract 14A (to remove 1M CY of material) can be completed. Contact 14B (to remove 5M CY of material) will not be awarded in FY 99. The entire 6M CY of material of Contract 14A & B must be removed before any work in the lower basin is initiated.

Majority of the environmental restoration benefits are claimed in the lower basin. However, if the request is reduced to 10 million, the initial environmental component Contract 7 (Reach 1 Backfill of canal C–38) will definitely not be awarded in FY 99. A prior commitment was made to initiate Reach 1 Backfill by 30 March 1999. This commitment will not be met. The remaining three reaches will also be delayed, and the corresponding environmental benefits will not be obtained. Engineering efforts in preparing P&S for future contracts will be downscaled because of limited funds and no A–E contract awards in 1999.

To implement the Reach 1 backfill contract, flood control features of Istokpoga basin (Contract 6, a large tributary within Reach (1) will need to be addressed. If the Istokpoga works is delayed, the Corps will go to condemnation, tie-up resources, cause additional delays, and Reach 1 Backfill cannot be initiated.

The balance of FY 1999 will be used to prepare P&S which will be shelved until funds become available.

If House Budget is Adopted ($3,500,000 allocation)

In addition to the above, Contract 14A (to remove 1M CY of material) will not be awarded in FY98. As noted above, all of Contract 14 needs to be completed before implementation of the lower basin works. None of the primary restoration benefits will be obtained in FY 99.

CRITICAL PROJECTS

If Senate Budget is Adopted ($10,000,000 allocation)

With a funding level of 10 million, NEPA, and design development could not be initiated on 4 projects for which letter reports have been developed: Seminole Tribe Big Cypress, Loxahatchee Slough, L–31E and Melaluеca Quarantine Facility. In addition, the South Dade County Agriculture and Rural Area Retention and South Biscayne Bay Watershed Management Plan studies could not be initiated. Since WRDA 96 requires that the Critical Projects be initiated by 30 September 1999, all projects listed above could not be implemented under this authority.

If House Budget is Adopted ($3,000,000 allocation)

With a funding level of 3 million, NEPA, and design development will not be initiated on 9 projects for which letter reports have been developed: Golden Gate Estates, Tamiami Trail Culverts, Lake Okeechobee Water Retention/Phosphous Removal, Ten Mile Creek, Lake Trafford, Southern Crew, Seminole Tribe Big Cypress, Loxahatchee Slough, L–31E, and Melalueca Quarantine Facility. In addition, the South Dade County Agriculture and Rural Area Retention and South Biscayne Bay Watershed Management Plan studies could not be initiated. Since WRDA 96 requires that the Critical Projects be initiated by 30 September 1999, all projects listed above could not be implemented under this authority.

CRITICAL PROJECT RANK

Rank/cummulative cost	Project/sponsor	Project summary (cost in millions)
1—$2.3 mil	East Canal Structures/SFWMD	Increase water to Pennsucco wetlands, reduce seepage using gated control structures ($2.3 mil).
2—$6.6 mil	Tamiami Trail Culverts/SFWMD	Install culvert structures to improve sheetflow of surface water within the watersheds of Ten Thousands Islands National refuge, Southern Golden Gates Estates, Fakahatchee Strand State Preserve, Big Cypress National Preserve, and Everglades National Park ($4.3 mil).
3—$17 mil	Melaleucca Eradication Project and other Exotic Plants/SFWMD	Improve existing quarantine facility @ Gainesville, construct new facility, implement biological controls ($10.4 mil).
4—$23 mil	Florida Keys Carrying Capacity/Florida Department of Community Affairs.	Develop information database, decision-making tool for infrastructure development, investment ($6 mil).
5—$36.5 mil	Western C–11 Water Quality Treatment Project/SFWMD	Develop measures to ensure water released into Everglades meets yet to be established standards. Best management practices, water quality measurements, water retention areas ($13.5 mil).
6—$81.5 mil	Seminole Tribe Big Cypress Reservation Water Conservation Plan/Seminole Tribe.	Water conservation pan includes construction of conveyance systems, canal bypass, irrigation storage cells in Basins 1, 2, 3, and 4 which compose the western portion of the Big Cypress Reservation. This project is designed to meet 50 pph, phosphorus, which is the current performance level designed to be achieved by the Everglades Construction Project. Should design performance level for phosphorous become more stringent, this project is designed to be able to incorporate additional technology ($45 mil).
7—$97.1 mil	Southern Golden Gate Estates Hydrologic Restoration/SFWMD	Land acquisition, spreader canals, canal plugs, pump stations to provide redistribution of flows to restore area overdrained which has resulted in reduction of aquifer storage, reduction of wetland functions, invasion of upland vegetation, increased frequency of forest fires and increased fresh water discharges to the estuary. Variations of freshwater discharges at large amplitudes have resulted in large fluctuations of salinity level and eliminated or displaced a high proportion of the benthic, midwater and fish plankton communities in the Ten Thousand Island Estuary ($15.6 mil).
8—$104.6 mil	South Dade Agriculture & Rural Land Use & Water Management Plan/Metropolitan Dade County.	Provide database for development of land use plan with focus on rural and agriculture. Retention. Water management focuses on storm water management ($7.5 mil).
9—$135.6 mil	Southern Crew Project Addition/Imperial River Flowways/SFWMD	Land acquisition totaling 4,670 acres removal of canal berms, single family homes, debris, till material and agricultural canal and berms and installation of equalizer culverts, and replacement of undersized culverts and bridges that impede flows (31 mil).
10—$147.6 mil	Lake Okeechobee Water Retention/Phosphorus Removal/SFWMD	Reduce number of drained wetlands in the northern watershed of Lake O, as well as create new ones, remove ditch connections. Isolate phosphorous loaded wetlands and provide peak flow attenuation of water to the lake, resulting in a more gradual rise in lake stage during heavy rainfall periods and a slower drop in lake stage during drought. Result in fewer freshwater discharges to tide from Caloossahatchee and St Lucie Canals as dictated by Lake O, regulation schedule ($12 mil).
11—$175.5 mil	Ten-Mile Creek Water Preserve Area/SFWMD	Land acquisition totaling 1200 to 2000 acres in eastern portion of basin and construction of an above ground impoundment for stormwater detention purposes. Infrastructures includes pump stations to develop impoundments for stormwater and redesign and reconstruction of adjacent tidal discharge control structure and perhaps constructed wetland or flow-through marsh for water quality improvement purposes ($30 mil).
12—$175.5 mil	L–28 Modification Report/SFWMD	Restore more natural bydrologic conditions in the Big Cypress National Reserve. Restore hydropatterns within Big Cypress, modifications to L–28, Tamiami Trail and Loop Rd will be evaluated (MOVED TO RESTUDY EFFORT).
13—$185.6 mil	Loxahatchee Slough Ecosystem Restoration/SFWMD	Water control structure at C–18 to reflood slough ($8 mil).
14—$187.6 mil	Geodetic Vertical Control Surveys/Florida Department of Environmental Protection.	1250 miles of second-order, Class I Surveys for improved accuracy of natural systems data, analysis ($2 mil).
15—$203.6 mil	Lake Trafford Restoration/Florida Department of Environmental Protection.	Lake restoration project consists of the removal of 7 million cubic yards of unconsolidated sediments with upland disposal ($16 mil).
16—$204.8 mil	L–31E Flow Redistribution Project/SFWMD	Spreader canals, eliminate point discharges ($1.2 mil).
17—$207.2 mil	Henderson Creek Belle Meade Restoration/Florida Department of Environmental Protection.	Land acquisition of approximately 125 acres, installation of culverts, filling ditches, roadbed removal, exotic removal, berm creation and development of filter marsh water management system to return a portion of the historic timing, duration, and volume of freshwater inflow, as well as providing much needed treatment of stormwater, into Rookery Bay ($2.4 mil).
18—$211.1 mil	Lake Okeechobee Tributary Sediment Dredging/SFWMD	Dredge phosphorous rich sediments from primary, tertiary canals and field ditches leading into lake. These sediments are mobilized during high flows ($3.8 mil).
19—$228.7 mil	Develop & Implement Agricultural BMP's in C111 Basin/Florida Department of Agriculture and Consumer Affairs.	Development, and implementation of the latest technologies to fruit, vegetable, landscape, and ornamental growers and urban homeowners in the eastern C–111 Basin to minimize ground and surface pollution, advance water use efficiency, manage plant diseases, insects, and weeds largely by biological based technologies, and reduce the vulnerability of crops to persistently high water table. BMP's implementation will protect the Biscayne aquifer and prevent introduction of toxicants and undesirable levels of nutrients into fragile marine and terrestrial ecosystems ($17.7 mil).
20—$229.2 mil	North Fork New River Restoration/Florida Department of Environmental Protection.	This portion of the river is only remaining section left in its natural state. Contamination from nearby septic tanks and sewage lines has degraded water quality, habitat. Plans to restore include spot dredging, and improvement of water circulation, a feasibility study, revegetation with native species, identification of contaminants, and promoting urban infill development ($0.52 mil).
21—$232.4 mil	L–8 Canal-Water Catchment Area—Loxahatchee Slough Infrastructure Improvements/West Palm Beach County.	Dredge L–8 and add pump capacity to take water from L–8 and route to West Palm to catchment area ($3.2 mil).
22—$237.4 mil	Florida Keys Tidal Creek Restoration/Florida Department of Environmental Protection.	Relocating culverts to restore flow to tidal creeds at Tarpon Creek just south of Mile Marker 54 on Fat Deer Key, an unnamed creek between Fat Deer Key, and Long Point Key south of Mile Marker 56. Adequate culverting will improve circulation, flushing, water quality and habitat which have been degraded from accumulation of organic material in these creeks (approx $5 mil).
23—$239.4 mil	Lake Worth Restoration	Remove organically enriched sediments ($2 mil).
24—$251.9 mil	Wetlands-Based Water Reclamation Project/West Palm Beach County.	Water reclamation project that recharges aquifer, reduces discharges to tide and dependence on Lake O for drinking water purposes and creates and restores 2,000 acres of environmentally sensitive wetlands ($12.5 mil).
25—$257.4 mil	Lake Okeechobee Project Aquifer Storage and Recovery/SFWMD	Water from Lake O injected into aquifer for later retrieval ($5.5 mil).
26—$282.4 mil	Miccosukee Water Management Area/Miccosukee Tribe	Installation of pump station, spreader canals control structures and levees. (approx $25 mil).
27—$283.5 mil	Six Permanent Water Monitoring and Meteorological Stations/Florida Department of Environmental Protection.	Real time hydrological, and meteorlogical data for trend analysis ($1.1 mil).
28—$285.1 mil	Nutrient Removal and Dosing Studies for ENP/SFWMD	Development of water quality standards, phosphorous thresholds ($1.6 mil).
29—$293.1 mil	WCA 3B Seepage Reduction/SFWMD	Installation of underground seepage barriers using grant technology. The barrier would be located between S–334 and S–335. Project would reduce losses flowing out of WCA–38B ($8 mil).
30—$299.1 mil	Hillsboro Pilot Aquifer Storage and Recovery Project/SFWMD	This project will implement a regional storage and recovery demonstration project in the Hillsboro canal region to capture and store excess flows that are currently released to tide for use during dry periods. Recovery of the water will be utilized to recharge local utility wellfields helping to prevent further inland migration of the saline interface ($6 mil).
31—$304.1 mil	Lakes Park Restoration Project/Florida Department of Environmental Protection.	Construction of a 40 acre marsh/flowway in an abandoned rock mine to improve present habitat conditions and water quality trends discharging to Hendry Creek and Estero Bay. The project will include removal of exotic vegetation, and planting of native vegetation of 11 acres of uplands and 9 acres of littoral zone ($5 mil).
32—$304.2 mil	Town of Ft Myers Beach/Florida Department of Environmental Protection.	Identification of stormwater hotspots, reducing non-stormwater discharges through one or more retrofit projects. Goal is to reduce pollutant loading into Estero Bay ($0.120 mil).
33	Palm Beach CO Water Utilities Department Winsberg Farms Constructed Wetland/Palm Beach County.	Develop 175 acre parcel of purposes of wetland construction. Reclamation of 10mgd of water, recharge local groundwater, recharge area canal network.
34	Spring Creek Reconnection and Rehydration project/SFWMD	
35	Restoration of Pineland & Hardwood Hammocks on Previously Rock Plowed Land in C–111 Basin Dade County/University of Florida Critprol.	Restore South Florida slash pine and hardwood hammock species on a 200 ft wide strip on each side of the two miles of SR 9336 from the C–11 canal to the L–31W canal. Project will demonstrate the techniques required to re-establish native conifer and hardwood forests on land that has been rock plowed ($0.80 mil).

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, I want to echo the remarks of my colleagues with respect to the chairman, the gentleman from Pennsylvania (Mr. MCDADE), and the ranking member, the gentleman from California (Mr. FAZIO), on the work they have done on this bill and on the work they have done in Congress.

□ 1800

I had the opportunity not too long ago to be associate staff to the House Committee on Appropriations, and they were giants at that time. And now I had the opportunity to come back as a Member and go and ask them for help on this bill, and they have certainly provided it.

Mr. Chairman, I rise in strong support of H.R. 4060. In particular, I want to mention what they have done to continue the funding for the Sims Bayou project by putting in what the Corps of Engineers requested, the Brays Bayou project, both of which run through my district, as well as fully funding the Corps' request for the Port of Houston deepening and widening project which is critical to our area's economy.

Mr. Chairman, finally I would like to say that both the chairman and the ranking member had the wisdom and the foresight to stand up to the Office of Management and Budget and to the administration on how they were going to fund construction projects, and to say we could do it within the Balanced Budget Act with no new starts, but to do it on an incremental basis rather than fully fund and assure that we continue to meet the needs of our Nation.

Mr. McDADE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Pennsylvania (Chairman McDADE) for yielding me this time.

Mr. Chairman, as the gentleman may know, Assateague Island National Seashore is in my district. This coastal barrier island has been home to feral ponies for more than 300 years, habitat for a number of endangered species, and protects homes on the mainland from the full force of Atlantic hurricanes.

When the Ocean City Inlet was blown through by hurricanes in the 1930s, a jetty was constructed to protect the inlet from closing so the business enterprises could be protected. However, the flow of sand that naturally replenished Assateague was cut off and the island has been eroding every since.

The Assateague restoration project is currently authorized at about $16.9 million, of which we need in the near future about $4 million. Severe storms in January and February of this year caused a wash-over along 7 miles of the island and, as a result, the island is now under imminent threat of breach.

Without the support of this Congress, it would be difficult to continue the project that is necessary to protect the island and mitigate the problems of the homes behind the barrier island.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, let me say that the gentleman from Maryland, my able friend, has brought this very forcefully to my attention. We know what a treasure those barrier islands are. I want to assure the gentleman that he will have my full effort as this bill moves through conference.

Mr. GILCHREST. Mr. Chairman, reclaiming my time, I thank the gentleman for his help on this. I also want to wish the gentleman Godspeed and a great retirement.

Mr. FAZIO of California. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. VISCLOSKY), who if reelected is likely to be the ranking member of this subcommittee in the next Congress.

Mr. VISCLOSKY. Mr. Chairman, I thank the gentleman from California (Mr. FAZIO) for yielding me this time.

First of all, I rise in strong support of the legislation before the House. Secondly, I rise to thank the gentleman from California (Mr. FAZIO) and the gentleman from Pennsylvania (Chairman McDADE) for continuing the bipartisan tradition of this subcommittee.

As the gentleman from Wisconsin (Mr. OBEY) had mentioned earlier, we have two individuals before us who, while Republican and Democrat, always put the public's interest before their party's. They have always put the public's interest before their own, and have continued this subcommittee on a bipartisan track and have provided the House today with a quality piece of legislation.

Mr. Chairman, on a personal note I would say to the gentleman from California (Mr. FAZIO), I will miss him. This House will miss him. He is a good friend. He is a leader of our party and of this Nation. He is one of the most competent legislators I have ever known and is possessed of a kind heart. I really, really have appreciated the time I have been able to spend with the gentleman.

Mr. Chairman, I would also say to the gentleman from Pennsylvania (Mr. McDADE) that he too is a friend and is imbued with a great deal of integrity. As I said on an earlier occasion a couple of weeks ago, the most precious thing any of us have to give any other individual is our time, because that is the one thing we all possess in our lives that is limited. The gentleman from Pennsylvania has been selfless in the time that he has given me. He has given me his expertise. He has given me his wisdom. He has given me good advice. Unfortunately, sometimes I do not always want to hear that advice. But more times than not, I followed it to my benefit.

Mr. Chairman, the gentleman too has been a great friend. We will all miss him. And from the bottom of my heart, I deeply appreciate everything he has done for me.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. McDADE) for yielding me this time.

Mr. Chairman, I have just one simple question I would like to ask with regard to whether it is the committee's intent that the solar and renewable energy funds be targeted to projects developed by nongovernmental organizations that produce the greatest reductions in CO_2 on a metric ton basis within the project's life cycle, that have an existing private funding component, that have a high potential of becoming totally privately financed in the shortest period of time, and are not dependent on the development of new technologies or operational systems in order to be successful.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, let me say to the gentleman that he is correct. It is the committee's intent to fund only those projects which produce results.

Mr. KOLBE. Mr. Chairman, reclaiming my time, I thank the gentleman for yielding and would join my colleagues in thanking him for the tremendous service that he has given this subcommittee, the full committee, the Congress, and our Nation. We wish him well in retirement.

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me add my accolades for the gentleman from California (Mr. FAZIO) for being an American hero and one that has provided great service to this Nation.

Mr. Chairman, I would say to the gentleman from Pennsylvania (Chairman McDADE) "thank you so very much" for the collaborative effort and leadership on these important issues. These are bread and butter issues.

Mr. Chairman, I thank both of my colleagues on behalf of the 759 homes of constituents of mine in 1994 who suffered the flooding of the Sims Bayou. We are gratified for the $18 million in total and the $8.5 million, which is an increase of what we would have gotten, to work with the Army Corps of Engineers.

We are particularly delighted as well for the full funding of the Port of Houston, a very vital aspect of the economy of Houston. We know it was the collaborative work of the gentleman from Pennsylvania (Chairman McDADE) and the gentleman from California (Mr. FAZIO) who brought this about, along with the gentleman from Texas (Mr. EDWARDS) and the gentleman from Mississippi (Mr. PARKER).

Mr. Chairman, let me congratulate the Army Corps of Engineers. We would hope that as it moves to extend to the Martin Luther King and Airport Boulevard and Cullen Boulevard, that we can get it finished much earlier than the year 2006, for I would not like to see those 759 homes flooded again.

Mr. Chairman, I cannot thank these gentlemen enough. I look forward to working with this committee in the future. I say to both of my colleagues as they retire: Godspeed.

I rise in support of H.R. 4060, the Energy and Water Development Appropriations for Fiscal Year 1999. I support this bill mainly because it provides $413 million which is (39%) more for the Army Corps of Engineers construction programs than requested by the Administration.

The Administration originally requested $9.4 million for the continued construction of the Sims Bayou Project in Houston, Texas. The Subcommittee on Energy and Water Development specifically earmarked an additional $8.5 million Above the Administration's original request, which brings the total funding for the project to $18 million.

Mr. Chairman, the Sims Bayou Project is a project that stretches through my district. Over the course of recent years, the Sims Bayou has seen massive amounts of flooding. Citizens in my congressional district, have been flooded out of their homes, and their lives have been disrupted.

In 1994, 759 homes were flooded as a result of the overflow from the Sims Bayou. That is 759 families that were forced to leave their homes.

I mainly support the conference report, Mr. Chairman, because the subcommittee has earmarked in this bill $18 million for the construction and improvement of the Sims Bayou project that will soon be underway by the Army Corps of Engineers.

I would like to thank the Army Corps of Engineers for their cooperation in bringing relief to the people of the 18th Congressional District in order to avoid dangerous flooding.

The Subcommittee on Energy and Water Development added an additional $8.5 million for the construction of this Sims Bayou project and it remains in this conference report. I am quite certain, Mr. Chairman, that this project would not have been able to go forward if this additional money would not have been granted by the Subcommittee.

For that I have to thank Chairman McDADE, Ranking Member FAZIO, and my friends and colleagues CHET EDWARDS, and MIKE PARKER who sit on the Appropriations Committee.

However, Mr. Chairman, I would like to call on the Army Corps of Engineers to do everything that they can to accelerate the completion of this project. The project will now extend to Martin Luther King and Airport Boulevards, and Mykaw to Cullen Boulevard.

This is flooding that can be remedied and the project must be completed before the expected date of 2006. While I applaud the Army Corps of Engineers for their cooperation, this is unacceptable for the people in my congressional district who are suffering.

They need relief and I know that they can not wait until the expected completion date of 2006. This must be done and I will work with the Army Corps of Engineers and local officials to ensure that this is done. I urge my colleagues to vote yes on this conference report.

Mr. McDADE. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Chairman, the gentleman from Pennsylvania (Mr. McDADE) deserves credit for sustaining Federal renewable energy RD&D. I would like to clarify the intent of the report language as it pertains to the solar energy research and development programs.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT of Maryland. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, let me say that we have made every effort to try to fund the renewable energy RD&D account. And we intend that the committee language not prohibit legitimate research cost sharing with U.S. industry in solar R&D programs.

Mr. BARTLETT of Maryland. Mr. Chairman, reclaiming my time, I thank the gentleman for a good job. I would like to clarify that the intent of the committee was not to prevent the Federal solar programs from cost sharing. I congratulate the gentleman on a well-earned retirement.

Mr. FAZIO of California. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, for working people, the most important asset that they have is their job. It supports their home, their family, their children, their hopes, their life. This bill will save and increase good-paying American jobs.

Mr. Chairman, I want to commend the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from California (Mr. FAZIO) for crafting a bill that, in a time of fiscal belt-tighening and hard choices, makes the right choice to keep American jobs as the top priority.

The Port of New York and New Jersey, a good part of it, is in my district. It is the economic lifeline for the northeast region. Mr. Chairman, 180,000 jobs and $20 billion in economic activity is generated though the port. If my colleagues live in the Northeast, there is a good chance that the things that they buy are coming from the port or that they are dependent upon other goods, products, or machinery coming through the port.

Mr. Chairman, to keep those goods coming here on the increasingly large industrial ships, we need deeper channels and modern port facilities. If we do not modernize, the larger ships will go elsewhere and goods may start coming into Canada instead of our harbor.

That hurts everyone in this country and the national impact could be enormous. That is not acceptable.

This bill sends a message that we will not stand by and let American jobs go elsewhere. To our friends up north in Canada, let the message from this House be clear. We are committed to shipping commerce. We are committed to these ports.

I understand that deepening and dredging our harbor is not glamorous work. Other pet projects sound better and are easier to publicize. But modernizing our ports means not just saving but creating hundreds of thousands of jobs and billions of dollars in commerce in the years to come. It is the long-sided view. It is the view this bill takes.

Finally, I want to congratulate both the gentleman from Pennsylvania (Chairman McDADE) and the gentleman from California (Mr. FAZIO) on their many years of dedicated service. These are the kind of people we need in public service; people who put the needs of their constituents and the Nation above all else. We will miss them and I know that both gentlemen will find new ways to serve their fellow countrymen and women like they have done so well in the people's House.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Utah (Mr. COOK).

Mr. COOK. Mr. Chairman, I would like to compliment the Subcommittee on Energy and Water Development, particularly the gentleman from Pennsylvania (Chairman McDADE) and the gentleman from California (Mr. FAZIO), ranking member, on their fine work with the 1999 energy and water development appropriations bill.

Mr. Chairman, there is one issue that is of particular concern to me, and I would like to engage in a brief colloquy with the distinguished gentleman from Pennsylvania.

Mr. Chairman, a program particularly important to my constituents in Utah, the geothermal research and development, is cut in this bill from $29.5 million in fiscal 1998 to $27.5 million in fiscal 1999. I realize the Senate approved a version that indicates geothermal R&D would be about $31.25 million.

I want to point out that geothermal energy means jobs. Some 30,000 U.S. workers are employed through geothermal electric revenues. Geothermal energy means royalty and production payments, more than $41 million is returned annually to the U.S. Treasury. And it also means a cleaner environment. Sixteen million tons of carbon dioxide, 20,000 tons of sulfur dioxide, 41,000 tons of nitrogen oxide, and 1,300 tons of particulate matter are avoided each year by geothermal energy productions.

Mr. Chairman, I appreciate the gentleman's consideration of this concern, and I would urge the committee to address the geothermal R&D funding shortfall in its conference with the Senate so that geothermal's important national benefits can continue to accrue in the future.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. COOK. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I appreciate the gentleman from Utah (Mr. COOK) for bringing this to the attention of the committee. As the gentleman knows, we had a very severe and constrained budget. As we work our way through conference, we will be looking forward to working with the gentleman further.

Mr. COOK. Mr. Chairman, reclaiming my time, I appreciate that very much, and I again wish the gentleman congratulations on his wonderful work.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

In further response to the gentleman from Utah (Mr. COOK), I would like to thank him for his remarks and I thank the gentleman from Pennsylvania (Mr. McDADE) for his attention to this very important energy efficiency program supported in this bill.

As many of my colleagues know, I have been a longtime advocate of solar and renewable energy programs. Programs that support energy efficiency are critical to our economy, national energy security, and the environment.

Mr. Chairman, we have the responsibility to future generations to address environmental and economic concerns linked to historical energy technologies. We must support efforts to bring new, cleaner energy-efficient technologies to market.

If programs deriving energy from such diverse sources as the sun, wind, and biomass are to be successfully competitive in the coming years, they must undoubtedly have the support of Congress. I would have liked the number for solar renewable programs to have included some of the increases submitted in the administration's budget request.

But, unfortunately, this year the allocation for the energy and water bill, and perhaps all 13 of our spending bills, did not permit such increases in many very important programs. Although the bill we are considering today provides an increase of $5.1 million over last year's appropriation for solar and renewable energy programs, I agree with the gentleman from Utah (Mr. COOK) that it is unfortunate that the very important geothermal R&D program received a cut.

But let me point out with regard to the total amount of funding this bill provides for renewable energy programs, that committee was able to draft a bill that in many ways was considerably higher than the renewable levels in the Senate before Mr. JEFFORDS' amendment.

I believe the original amended Senate numbers for solar and renewable energy programs were $345.5 million, compared with the House bill which provided $351.4 million for these programs.

Mr. Chairman, I would also like to point out that the Senate bill is a total of $21.7 billion, whereas the House total is only $20.6. This is particularly important in the context of the Jeffords amendment, which added $70 million in solar and renewable energy programs by taking a 1.6 percent across-the-board cut of domestic DOE programs.

□ 1815

At $1.1 billion below the Senate bill, this amendment would have been particularly difficult to achieve here in the House, as it would have cut even further into other important programs that this bill is committed to funding. I support energy efficient technologies, and I will work with our distinguished chairman and the Senate to address funding for geothermal R&D programs in addition to other solar and renewable programs in the House conference with the Senate.

We certainly have done well, given the context of this total bill.

I rise in support of H.R. 4060, the Energy and Water Appropriations Bill for FY '99. I've enjoyed working with JOE MCDADE. Our job was made significantly tougher by the Administration's budget submission this year.

Although we've improved our position with the budget allocation, we have still not been able to make up what is truly needed after two El Nino seasons.

If you are wondering why JOE MCDADE and I are retiring, it's because, despite adding more than $700 million to the President's budget request for the water projects that are so important to our colleagues, the bill is still $200 million below last year's level. This whole question of the budget agreement of last year, and Republican efforts to make additional budget cuts in this year's budget resolution is one worth examining, especially for our bill which is usually so popular with members.

My colleagues have seen this chart during consideration of the budget resolution, showing the effects of these budget cuts on all nondefense discretionary programs. The comparison to level funding, taking inflation into account, leaves spending at 18% below current services by the year 2003. But now let's see the effect of these kinds of cuts on just one popular program—the Army Corps of Engineers civil works program—which is responsible for operations and maintenance of our ports and waterways, as well as flood control projects across the nation.

Based only on the budget caps agreed to by Congress and the President last year, you can see that we have a significant divergence beginning this year between what the Corps could do—its capability—and what the Corps will be able to do with the level of funding we are providing in this bill and are likely to provide in the years to come based on that budget agreement.

Adoption of the Republican budget plan would make these lines diverge even more greatly. But it is also something to consider as we take up these other pieces of legislation which encroach on the non-defense discretionary programs.

Whether it is BESTEA or a new agricultural research program, other deserving needs that are keys to the American economy can only be adversely affected as a result.

Realize these are authorized projects we are talking about—not counting the new authorizations that may stem from a Water Resources Development Act to come this year.

So take a good look, because these are the outcomes of our decisions, and they will continue to affect us for many years to come.

So there has been a fair amount of pain to be administered this year, but I commend JOE MCDADE for adopting the common-sense decision-rules that are reflected in this bill, and for being evenhanded in administering them without regard to party.

For those who think that subcommittee members have been spared from our budget constraints, I would point out that our subcommittee has recommended only $75 million for a California initiative supported by 45 members of the California delegation—$10 million below last year's number and $45 million below the $120 million that our subcommittee recommended last year.

And the Central Valley Project Restoration Fund—a fund that derives from assessments on water and power users was not spared.

Due to budget constraints and because this fund is subject to appropriation, we have held it to $33 million—$16 million below the budget request—and I hope we can do something at conference if at all possible to ensure that the collections from these users don't exceed what we are able to appropriate.

On the Energy side of the equation, we faced similar budget constraints. We had to balance new priorities, like the Spallaton Neutron Source, while sustaining numerous other DOE programs that are essential to the nation.

While I would like to see an increase in the number for solar and renewable energy programs, I am pleased that this account did not sustain any cuts, given the difficult environment in which the committee was forced to work.

I understand the reasoning behind the committee report's words of caution to the Administration pertaining to policy decisions and sound science with regard to global climate change, but I would like to reiterate that the energy efficiency programs funded in this bill are programs that our nation has been investing in for years, long before the debate over global climate change.

I believe that any debate relating to climate change and the Kyoto Protocol should be conducted independently of this bill.

The Committee was able to provide an increase to fusion energy programs above the Administration's request.

I am pleased that the Committee has also provided generous increases in basic science research and development in the science account, in areas such as high energy physics.

This bill continues to support the crucial effort of our nation to maintain our nuclear weapons stockpile through the National Ignition Facility and the ASCI program.

Because of the tight allocation, there are shortfalls in some areas like the Uranium Enrichment Decontamination and Decommissioning (D&D) Fund, and I would like to be able to address this and other shortfalls in conference if at all possible.

I would also like to see some money added back to the cuts sustained by Departmental Administration. I believe the Department, under new leadership in many program areas, is committed to reducing excess administrative costs and striving to operate more efficiently.

In short, I commend JOE MCDADE for doing a good job in a tough year.

I believe we have done the best job possible under the circumstances—we will certainly try to do even better in conference if at all possible—but I believe this is still a bill that should be supported by our colleagues.

This is the last time I'll help bring an E&W bill to this committee—19 of my 20 years in the House have been on the Appropriations Committee and on the Energy and Water Subcommittee.

In one sense, not much has changed—when I got there, Tom Bevill and John Myers were the senior members for each party, and until last year, that was still the case.

But I can think of significant changes that have affected our process over the years, especially on the side of water projects.

Not so many years ago, we had significant carry-overs in the Corps' budget from year to year—as high as $800 million.

Some carry-over is good—it gives the Corps flexibility to keep construction projects on an optimum construction schedule, and it means we don't have to appropriate every dime to get a project underway successfully.

However, budget constraints have virtually eliminated that carryover over the last few years, creating anxieties for local communities who hold on to appropriated funds tighter and tighter, even when they can't be spent immediately. There have been a number of other significant changes in the way the Corps does business:

(1) Projects that are being constructed are smaller, greener and have a higher non-federal cost-share.

(2) The Corps has shaved the time it takes to complete the study phase of a project and initiate construction.

(3) The federal cost-share has gone down and the non-federal sponsors of water resource projects are less interested in the Corps doing a project than the Corps becoming a partner with local, state and even nonprofit entities to complete a project.

(4) The non-federal sponsors are more and more interested in gaining a greater voice in all phases of a project, from the planning phase to the engineering work to the actual construction.

(5) In many instances non-federal sponsors are seeking out the opportunity to expedite their projects by paying for them up front. With non-federal dollars, and gaining the opportunity—not the guarantee—to get reimbursed by some future Congress for the federal share of a project. This lets the non-federal sponsor exert greater control over the project and frequently construct it faster and, sometimes, even at less cost than the traditional way. Many of the nation's large communities would like this to become the new norm for the way water resource projects are constructed in this country.

(6) Communities are looking more and more at the Corps as an agency with engineering expertise that can help them solve a wide variety of engineering problems, not just water resource problems. Communities want the Corps to help them do site assessments and even some remediation for lightly contaminated brownfield sites that stand as an impediment to redevelopment of our inner city corridors. Communities are asking the Corps to help them develop cost-effective engineering solutions to their urban water resource needs—from deficiencies in their combined stormwater and wastewater systems to restoring stream banks in urban creeks and rivers. And, communities in my state are asking the Corps to help them develop plans to make their water systems more reliable in the event of a major earthquake. The Corps is responding and is doing a good job in these new areas. And, the future will certainly see more reliance on the Corps for its capacity to solve complex engineering problems of all kinds.

(7) And finally, to its credit, the Corps has resisted becoming a granting agency such as some of its sister agencies, like EPA, nor should it be. But the Corps does need to equip itself with the tools that will make it more effective in the new role of federal water resource partner. Certainly, contracting more work out, obtaining the authority to enter into cooperative agreements and issue grants for certain types of work, are all critical to the Corps' success in the years ahead.

In summary, the years have flown by, but I believe this subcommittee has served the needs of our country well, and has balanced strongly competing interests very well.

It has not always been an easy task but with partners like JOE MCDADE, Tom Bevill, and John Myers, it is a committee that has gotten the job done in a bipartisan spirit.

I ask for the support of my colleagues for H.R. 4060, another bill which is presented in this same spirit.

Mr. Chairman, I reserve the balance of my time.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana, Mr. BUYER.

Mr. BUYER. Mr. Chairman, I include for the RECORD my statement in support of the fiscal year 1999 energy and water appropriations, and thank both of the gentlemen for their contributions to this bill and their service to our country.

I would like to thank Chairman MCDADE and Ranking Member FAZIO for their bi-partisan and expedient work in bringing this measure to the House Floor.

Included in this Energy and Water Appropriations Bill for Fiscal Year 1999, is a continuation of funds for the Army Corps of Engineers Feasibility Study for the Kankakee River Basin in Indiana and Illinois.

The support for this project spans both political parties in Indiana and Illinois. I appreciate the cooperation of the numerous Members who have offered their support and assistance for this vitally important project.

For years, Indiana and Illinois were caught up in the court system because of flooding disputes. With a joint Congressional effort, the suits were stopped and efforts were instead focused upon finding a resolution through a basin wide Army Corps of Engineers study.

The reconnaissance study has been completed and the feasibility study is beginning. The $940,000 funding that is provided in this bill for the continuation of the feasibility study will provide for a long-term solution to this problem which the residents of Northwest Indiana and Northeast Illinois deserve.

Indiana is interested in participating as a local sponsor for the Indiana portion of the Kankakee River Basin feasibility study as indicated in the follow-on letter from the Indiana Department of Natural Resources.

INDIANA DEPARTMENT OF
NATURAL RESOURCES,
Indianapolis, IN, May 15, 1998.

Mr. PAUL MOHRBARDT,
Acting Chief of Planning Division, U.S. Army Corps of Engineers, Chicago District, Chicago, IL.

DEAR MR. MOHRBARDT: The Indiana Department of Natural Resources (DNR) is interested in participating as a local sponsor for the Indiana portion of the Kankakee River Basin feasibility study. As a state agency, we are willing and able to participate in this study. We have reviewed the expedited reconnaissance analysis, preliminary project study plan, and model feasibility cost share agreement and understand our role and responsibilities as a local sponsor for this project. While the DNR will be the source of the required funds for this study, the DNR will be joint sponsors with the Kankakee River Basin Commission (KRBC) for the State of Indiana.

The DNR is aware of the non-federal cost sharing requirements for this project. It is our understanding that the initial estimates for the feasibility study require a cash and in-kind contribution of just under $800,000 from the Indiana joint sponsors (DNR and KRBC). It is our understanding that up to 50 percent of the contribution can be appropriate in-kind services and that the remaining balance must be cash. It is our further understanding that our contribution is not required in full during the first year, but will be spread over the study term as mutually agreed upon.

The DNR understands that this letter is an expression of intent. Execution of a feasibility cost share agreement with the US Army Corps of Engineers will be dependent on the availability of funds. However, at this time the DNR looks forward to jointly developing the feasibility study scope of work and a cost sharing agreement with the Corps.

Sincerely,

LORI F. KAPLAN,
Deputy Director.

Mr. McDADE. Mr. Chairman, I yield 30 seconds to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, the Clinton administration's fiscal year 1999 budget request included $25 million for a new, unauthorized program, the Challenge 21 Riverine Ecosystem Restoration and Flood Mitigation program. Knowing that this program has not been authorized by Congress and that the gentleman's committee has not appropriated any funds for the program, am I correct in understanding that any Federal spending on the Challenge 21 program would constitute an illegal use of Federal funds?

Mr. McDADE. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentleman from Pennsylvania.

Mr. McDADE. As usual, the gentlewoman from Missouri is absolutely correct.

Mrs. EMERSON. I thank the gentleman for clarifying this matter.

Mr. FAZIO of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I rise in support of this very fine appropriations bill.

Mr. FAZIO of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise to thank the gentleman very much for the funding provided in this bill for helping to solve major flood control and water supply problems in the El Paso-Juarez area. These resources will allow our local and State officials to move forward with environmental improvements on the border.

There is, however, one request that I would urge the gentleman to consider during the House-Senate conference on this bill. The Senate bill includes $1 million for the El Paso wastewater reclamation program which is not in the

House bill. The wastewater reclamation program is our top water resource priority in the El Paso area. I urge my colleagues to accept the Senate level for this program.

Knowing that the budget is tight, I would offer a recommendation or suggestion for a budget offset that would make the $1 million increase budget neutral. The El Paso area flood control project is provided with $5 million in the bill which is needed and generous. However, I believe that we can stage the work on the flood control project so that this amount could be reduced to $4 million in fiscal year 1999, with a reduced amount of $1 million shifted to the wastewater reclamation program, again, our top priority.

Again, I want to thank the gentleman for his kind assistance on any help that he can provide in adjusting the funding to meet our El Paso priority. I also want to echo the comments of my colleagues in thanking both him and the ranking member for all their years of service. My only regret is that I did not have longer to serve with both of them.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. REYES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to thank the gentleman for bringing this to the attention of the committee and assure him that as this bill moves along we will give it all the consideration we can. I appreciate his bringing to it our attention.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. PACKARD).

Mr. PACKARD. Mr. Chairman, I rise in full support of this bill.

Mr. McDADE. Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Chairman, I am particularly pleased that the committee has included report language regarding the Caddo Lake Wetlands. I want to clarify that the committee has included this language for the purpose of directing the Bureau of Reclamation to use funds appropriated in fiscal year 1997 to continue the Caddo Lake Wetlands project.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SANDLIN. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, the gentleman's statement is correct.

Mr. SANDLIN. Mr. Chairman, I also want to clarify that of the $630,000 provided in fiscal year 1997, the Bureau of Reclamation provided $200,000 for the Caddo Lake Scholars program and that the remaining balance of funds should be committed to the Cypress Valley Alliance.

Mr. McDADE. Mr. Chairman, the gentleman is accurate again. The committee directs the Bureau of Reclamation to use the balance of previously appropriated funds for other wetland development components of the Caddo Lake Wetlands project as previously dictated.

Mr. SANDLIN. I thank the distinguished chairman for this clarification, and thank him for his long service to the House, and the gentleman from California (Mr. FAZIO) for his service. I urge my colleagues to support this bill.

Mr. FAZIO of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I thank the gentleman for the opportunity to do a colloquy.

First, if I may, I would like to thank the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from California (Mr. FAZIO) for all their years of service to this House. They have always conducted themselves in a bipartisan manner. That is why we see a bill such as the energy and water appropriations bill each and every year coming forward with very bipartisan support to be passed without much argument on the floor.

On and off the floor they have conducted themselves in a very genteel manner, and they are a great example for young Members like myself. For those who argue for term limits, I do not think they recognize or they fail certainly to recognize the attributes that the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from California (Mr. FAZIO) bring to this honorable institution. They know when their term limits are. I thank the people in Pennsylvania and California for bringing these two gentlemen to the service of their country and thank them for their years of service.

Mr. Chairman, I would like to engage the gentleman from Pennsylvania (Mr. McDADE) in a colloquy about the Cedar River Harbor project in my district, if I may. As my friend from Pennsylvania is aware, last year the subcommittee was extremely helpful by including an appropriation for the repair of the east breakwater at Cedar River Harbor.

During the implementation of this project, however, the Army Corps of Engineers found that the current was different than expected. In order to protect the harbor, repairs are also needed and are also necessary to the west breakwater. The Corps has the necessary funds to complete repairs on the west breakwater left over, as leftover money from the fiscal year 1998 appropriations. This is not a new authorization. It is merely a clarification for the Army Corps of Engineers. They simply need to be able to use these funds for repair of the west breakwater in addition to the east breakwater.

The appropriated amount last year was $2.377 million. The Corps has already contracted for the east breakwater at $1.2 million for the repair. That would leave us $1.177 to repair the west breakwater.

Without the ability to repair the west breakwater, I am afraid our efforts to protect this harbor would be futile.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to express my thanks to the gentleman and that of the committee for his diligence in bringing this issue to our attention. I want to assure him that it seems as though the equities are with him and that we will continue to work this problem as we go through conference.

Mr. STUPAK. I thank the gentleman for his clarification, and thank him and appreciate the opportunity to work with him in the future as this moves on to conference.

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, I rise today in support of H.R. 4060, which provides invaluable Federal assistance for flood control shore protection and navigation projects in my home State of New Jersey.

I want to thank the gentleman from Pennsylvania (Mr. McDADE), the gentleman from California (Mr. FAZIO) and all the members of the Subcommittee on Energy and Water Development for their leadership in preparing this bill, including my colleague, the gentleman from New Jersey (Mr. FRELINGHUYSEN), who has worked so hard on these projects.

I wanted to say one thing: I greatly appreciate the committee's continued commitment to water infrastructure projects, and in particular the committee's continued rejection of efforts on behalf of the administration to eliminate the traditional role of the Army Corps of Engineers in shore protection projects in particular.

Let me just say two things to my retiring colleagues here. For the gentleman from Pennsylvania (Mr. McDADE), he has always been a person that I could go to on a bipartisan basis and ask for help. I will definitely remember that for a long time.

With regard to the gentleman from California (Mr. FAZIO), he is someone that I have asked for advice on a number of occasions for a number of things, and in many ways I really model myself after him in terms of my congressional career. We will have other opportunities to thank these individuals over the course of the year, but I do want to thank them today.

Mr. McDADE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Mexico (Mr. REDMOND).

Mr. REDMOND. Mr. Chairman, I rise in support of H.R. 4060, and I would like to thank the chairman for entering into a colloquy with me.

I support H.R. 4060. However, I have one concern in regard to the $8 million for the waste isolation pilot project for the Santa Fe bypass relief route. The relief route is overdue for construction. The amount was removed during committee.

I respectfully ask that it be reinstated in conference to the Senate bill, if at all possible. I want to thank the chairman for working with us on this particular bill.

This is very important so that we can get the nuclear waste away from Los Alamos National Lab, also Rocky Flats, Colorado, and also in Idaho. It needs to bypass the city of Santa Fe.

Most importantly, Mr. Chairman, it has been great working with the gentleman, and I wish him the best, especially in his retirement, that he gets to play with his 8-year-old son.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. REDMOND. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I thank the gentleman for bringing the matter to our attention. We expect to work with him diligently as we go through conference.

Mr. FAZIO of California. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I join all of my colleagues in congratulating and really saying thanks to the chairman and the ranking member who have done more for this country, really, than few other Members.

To the gentleman from California (Mr. FAZIO), personally, if I have had literally one key mentor in Congress, it has been him.

I would join many of my colleagues today to say that as good as this bill is, our hope from a Florida perspective is that the legislation could have gone a little bit further towards the President's request in terms of Everglades restoration projects.

I am planning on introducing for the record an Army Corps of Engineers analysis which talks about the specifics of programs, if this is the ultimate budget, that will not be funded. Congress has made an incredible commitment in the 6 years I have been here towards this.

Mr. Chairman, I include for the record the following:

	Fiscal year 1998 project allocations	Fiscal year 1999 Budget request	Senate markup	House markup
C&SF	$21,833	$40,800	$25,000	$20,900
Kissimmee	2,817	27,300	10,000	3,500
Critical projects	4,009	20,000	10,000	3,000

CENTRAL & SOUTHERN FLORIDA

All assumptions are made with the understanding that funding will only be delayed for one year and required funding will be available in the following year.

If Senate Budget is Adopted ($25,000,000 allocation):

West Palm Beach (C–51): Delay in funding for relocations may not impact the overall project schedule. Delay in funding S–360, G–312, and levees (components of Stormwater Treatment Area 1 East) would not significantly impact the project. The project would likely still be completed within the overall completion schedule.

South Dade (C–111): Delay in funding for S–332A, B, and C pumping plants, and Levees and the Canal work will not significantly impact the overall project completion. Recent requirements for a new GRR supplement have caused this delay to be necessary regardless of funding.

Upper St. Johns: Delays in funding L74N and S–96E will increase the overall project completion time.

If House Budget is Adopted ($20,900,000 allocation):

West Palm Beach (C–51): Delay in funding for relocations may not impact the overall project schedule. Delay in funding S–360, G–312, and levees (components of Stormwater Treatment Area 1 East) would not significantly impact the project. However, the additional cuts would delay completion of pump Station S–362 (Stormwater Treatment Area 1 East outflow pump station) which would delay the overall project completion. The time could not be made up regardless of the follow-on funding.

Comprehensive Restudy: The additional cuts will adversely impact work on the Restudy. A delay in funding will result in completion beyond the mandatory completion dates.

South Dade (C–111): Delay in funding for S–332A, B, and C pumping plants, and Levees and Canal work will not significantly impact the overall project completion. Recent requirements for a new GRR supplement have caused this delay to be necessary regardless of funding.

Upper St. Johns: Delays in funding L74N and S–96E will increase the overall project completion time.

KISSIMMEE RIVER RESTORATION

If Senate Budget is Adopted ($10,000,000 allocation):

Contract 3(S–65 Modification), CNT 4C (local levee removal), and Contract 2 (Canal widening for C–35 & 36) can be completed.

Contract 14A (to remove 1M CY of material) can be completed. Contract 14B (to remove 5M CY of material) will not be awarded in FY 99. The entire 6M CY of material of Contract 14A & B must be removed before any work in the lower basin is initiated.

Majority of the environmental restoration benefits are claimed in the lower basin. However, if the request is reduced to 10 million, the initial environmental component Contract 7 (Reach 1 Backfill of canal C–38) will definitely not be awarded in FY 99. A prior commitment was made to initiate Reach 1 Backfill by 30 March 1999. This commitment will not be met. The remaining three reaches will also be delayed, and the corresponding environmental benefits will not be obtained. Engineering efforts in preparing P&S for future contracts will be downscaled because of limited funds and no A–E contract awards in 1999.

To implement the Reach 1 backfill contract, flood control features of Istokpoga basin (Contract 6, a large tributary within Reach 1) will need to be addressed. If the Istokpoga works is delayed, the Corps will go to condemnation, tie-up resources, cause additional delays, and Reach 1 Backfill cannot be initiated.

The balance of FY 1999 will be used to prepare P&S which will be shelved until funds become available.

If House Budget is Adopted ($3,500,000 allocation):

In addition to the above, Contract 14A (to remove 1M CY of material) will not be awarded in FY98. As noted above, all of Contract 14 needs to be completed before implementation of the lower basin works. None of the primary restoration benefits will be obtained in FY 99.

CRITICAL PROJECTS

If Senate Budget is Adopted ($10,000,000 allocation):

With a funding level of 10 million, NEPA, and design development could not be initiated on 4 projects for which letter reports have been developed: Seminole Tribe Big Cypress, Loxahatchee Slough, L–31E and Melalueca Quarantine Facility. In addition, the South Dade County Agriculture and Rural Area Retention and South Biscayne Bay Watershed Management Plan studies could not be initiated. Since WRDA 96 requires that the Critical Projects be initiated by 30 September 1999, all projects listed above could not be implemented under this authority.

If House Budget is Adopted ($3,000,000 allocation):

With a funding level of 3 million, NEPA, and design development will not be initiated on 9 projects for which letter reports have been developed: Golden Gate Estates, Tamiami Trail Culverts, Lake Okeechobee Water Retention/Phosphous Removal, Ten Mile Creek, Lake Trafford, Southern Crew, Seminole Tribe Big Cypress, Loxahatchee Slough, L–31E, and Melalueca Quarantine Facility. In addition, the South Dade County Agriculture and Rural Area Retention and South Biscayne Bay Watershed Management Plan studies could not be initiated. Since WRDA 96 requires that the Critical Projects be initiated by 30 September 1999, all projects listed above could not be implemented under this authority.

Mr. Chairman, I yield to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding to me.

I would like to join with him in thanking the committee for what they have put in this particular bill with the shore protection, as the gentleman from New Jersey just was speaking to, but most particularly I think to really impress upon the committee that it is most important on these Everglades projects to move at least substantially towards the Senate markup document at this time, knowing that there is not going to be enough money to get back to the President's budget.

But these are very important projects. The Kissimmee River going back to the natural flow into Lake Okeechobee and then south through the Sharks Slough to the Florida Bay, this is tremendously important to the Everglades and should be of utmost importance to this committee and this Congress.

I would also like to point out that one of the facilities that would be lost if we do not at least go towards the Senate would be the Melalueca Quarantine Facility, which is tremendously important.

Mr. McDADE. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from Pennsylvania (Mr. McDADE) has 1 minute remaining, and the gentleman from California (Mr. FAZIO) has 2 minutes remaining.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

I have been fortunate to serve on this subcommittee for 19 years, and I must say I have always enjoyed the bipartisan atmosphere in which the work has been conducted. Tom Bevill and John Myers were the senior members of each party for almost all the time that I have served on this committee, but my years with the gentleman from Pennsylvania (Mr. McDADE) have been particularly gratifying and enjoyable.

He is the wonderful guy we have heard him described as by so many colleagues today. We obviously have a very tough bill. This is not a bill we have enjoyed bringing to the floor, because it is significantly below what we would like to spend in light of what we spent in the last year.

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What I mean by that is there are many, many worthy projects that have not been funded in this bill because we simply have not been given the allocation.

We all understand that that will be the case for the future. I hope to, in a few minutes, using some charts, point out the degree to which discretionary spending has been reduced across the spectrum.

We have also seen the end of the carryovers. There was a time when this committee carried over $800 million in unexpended Corps appropriations that gave great flexibility so that those communities that were not immediately capable of spending money could make it available to others. Those days have ended as well. Communities are holding on to their bucks, making it harder and harder for the Corps to put the money where it can do the most good.

So the gentleman from Pennsylvania (Mr. McDADE) and I leave the Congress a little bit concerned about what we leave this bill to in the future, knowing that there are good and worthy people who take our place, but knowing as well that the credible demands, particularly on the water side of this bill, after two El Nino winters make it very difficult for this Congress to be in a position to respond legitimately to the concerns that are brought about, not just from economic development interests, not just from public safety and flood protection interests, not just from environmental interests, but from the whole spectrum of our local and State governmental bodies that are adding increasingly large amounts of their own money to match those that we provide for the Corps.

But I have to say, Mr. Chairman, I think this committee has done a worthy job this year, as it has during the last 19 I have served on this committee. We do the best we can, and we know that Members will understand and support us as I hope they will tonight unanimously.

Mr. McDADE. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I thank the gentleman for yielding to me. I wanted to thank the chairman for his distinguished leadership on this subcommittee for all of these years, and thank the gentleman from California (Mr. FAZIO) and all the members of the subcommittee.

I rise today in support of the bill as the cochairman of the Upper Mississippi River Task Force, which is a bipartisan group of Members who work together to protect this historical natural resource.

The EMP, the Environmental Management Program was something that was started a number of years ago and really has been a model of success. The EMP program forces commercial concerns, environmental concerns, and those with recreational concerns to work together to protect the Mississippi River.

The House has approved $19 million for this program as part of its fiscal year 1999 budget. I would point out that this is more than the President has requested. But I would also say that this has been something that the House has done a better job over the last several years of funding than has been requested by the administration.

But this is a classy example of a win-win situation where environmental concerns, recreational concerns, commercial concerns are all brought together, people work together to create a better Mississippi River, a better environment, and frankly I think this is a model program for the rest of the country. I thank the chairman and the ranking member and members of the committee for funding it this year.

Mr. ABERCROMBIE. Mr. Chairman, today the House is debating the appropriations for the Energy and Water budget. I would like to bring to your attention the funding for the U.S. Department of Energy's program "Hydrogen from Renewable Resources." This very successful program conducts research into the renewable production and storage of hydrogen. At the University of Hawaii, the program has been so successful that it was rated as a "U.S. DOE Center of Excellence in Hydrogen Research and Education."

Last year, with a total budget of $16 million, approximately $6.9 million was allocated to core research and development for the hydrogen research program. This year, the House Appropriations Committee proposes to increase the funding to $18 million while the Senate has pursued a budget of $29 million. However, despite the Administration's $10 million request for research funding, the House Appropriations Committee has reduced the research budget to $3 million.

Reduction of core research and development to only $3 million would be damaging to critical research programs at universities, within the national DOE laboratories, and to the University of Hawaii Center of Excellence.

As we move forward with this appropriation process, I strongly urge that sufficient funding will be dedicated to this renewable energy resource.

Mr. STRICKLAND. Mr. Chairman, I rise today to express my concern for funding the management of the depleted uranium hexafluoride (DUF6) currently stored at the facilities in Piketon, Ohio and Paducah, Kentucky.

Depleted uranium hexafluoride (DUF6) is hazardous and extremely corrosive. These materials are known as "tails" and are the result of years of enriching uranium for nuclear fuel in commercial power plants. Atmospheric releases of DUF6, if they occurred, would pose a significant threat to workers at the sites and communities surrounding those sites.

The United States Enrichment Corporation (USEC) was established in the Energy Policy Act of 1992 to assume responsibility for the Department of Energy's (DOE) uranium enrichment program. Currently, USEC has accrued approximately $400 million from the private sector which is supposed to be utilized to clean up the "tails" it has generated. The 1992 Energy Policy Act not only transferred the Department's uranium enrichment program to USEC, but it also included a requirement that USEC prepare a strategic plan to privatize the corporation, and today, that privatization plan is near completion. The $400 million specifically earmarked for cleaning up the "tails" will be transferred to the General Fund of the Treasury upon completion of privatization. I am anxious to see that these funds accrued by USEC for cleaning up the "tails" are used to meet that need after privatization.

I have been greatly disturbed to learn that the plans for privatization call for job losses totaling between 600 and 1700 workers at the Ohio and Kentucky facilities. Ensuring that the $400 million is spent to dispose of USEC's DUF6 at both of the Gaseous Diffusion plants would certainly help to mitigate the workforce reductions by employing the displaced workers.

It would make sense to ensure that the $400 million currently accrued by USEC to fund the management and disposition of the USEC "tails" continue to be earmarked for cleaning up the "tails" rather than diverted to some purpose for which it was not intended. I will continue to work to ensure that a solution is reached before the final sale of USEC.

Mr. POMEROY. Mr. Chairman, while I will be voting for the Energy and Water Appropriations bill at this early point in the legislative process, I want my colleagues to know that the funding in this measure for several important water projects in North Dakota are not adequate and must be improved in conference committee.

I am particularly disappointed that the Subcommittee appears to be relying on the Senates' funding commitments for the Devils Lake outlet, the Buford-Trenton irrigation district flowage easements, and the Garrison Diversion MR and I projects to avoid committing appropriate and required funding levels in the House.

I will be working closely with the House conferees to obtain a fair result for North Dakota in the conference committee and regret the House bill in its present forum falls so far short of the mark.

I am voting for the bill to move us to the next step in the process—conference committee—because I believe this will be the fastest way to make the needed improvements to this bill.

Mr. BROWN of California. Mr. Chairman, I want to congratulate the Chairman of the Energy and Water Subcommittee, Mr. McDADE and Mr. FAZIO, the ranking Member, for their hard work to bring this bill forward in a difficult year. As the ranking Member of the Science Committee, my particular concern rests with the civilian research and development accounts at the Department of Energy.

In what is a difficult year for funding choices, I believe the Subcommittee has done a fairly good job. Overall, the civilian research accounts are up 2.5% compared to FY 1998 leaving energy activities holding their own when measured against inflation. Compared to the administration's request, or my personal preferences, this result is somewhat disappointing. The administration asked for $288 million more than the Committee has provided and those funds would have gone to very worthy, very important projects.

As disappointing as this outcome may be for some, I must warn my colleagues and my friends in the research community, that this may be as good as it gets. The House-passed budget would impose devastating cuts on the Function 270 accounts in the fiscal years 2000 through 2003 and those cuts, if we agree to take that budget proposal seriously, would fall primarily on energy programs in this bill and the Interior Appropriations bill.

I must mention some specific concerns with the bill as it stands and I hope that my friends from the Subcommittee will work with me to address these issues as we move to Conference.

EXTERNAL REGULATION AT LAWRENCE BERKELEY LAB

Section 508 of this bill removes DOEs authority to self-regulate the Lawrence Berkeley Laboratory and calls for a report to be submitted that would detail the transition from DOE regulation of environment, safety and health to NRC and OSHA regulation.

I support the goal of external regulation of DOE facilities because I believe that cost-savings will result, but more importantly, because I believe that there is an inherent conflict of interest in having the people who are responsible for environment and worker health and safety be the same people who are responsible for personnel.

However, I do not support the external regulation language in this bill. The language legislates on an appropriations bill, bypassing the authorizing Committees who have jurisdiction over this issue. The Science Committee has had a long interest and involvement in the issue of how and whether DOE facilities should be externally regulated. Last month, two Science Subcommittees held a joint hearing on this matter in which Betsy Moler, the Deputy Secretary of Energy, agreed to work with us in developing a process by which the DOE would move to an externally regulated system.

I further object to this language because I believe that it does not adequately address the complexity of the many issues that external regulation of DOE facilities must resolve. For instance, the language implies that the NRC will have to clean up and decommission the Bevatron, a mothballed facility at Lawrence Berkeley. That could cost $200 million. Moreover, the language provides no guidance about key issues such as whether NRC should license or certify the facility, or whether the NRC is intended to regulate medical accelerators which are currently State-regulated. I note that the administration has indicated that OSHA and the State of California lack legal authority to regulate at a Department of Energy lab, which raises the specter of a lab lacking health and safety standards; an unintended consequence of this legislative language, but one which may put workers and community lives at risk.

I look forward to working with the Appropriations Committee to clarify and improve the guidance for this first step at externally regulating DOE facilities.

NEXT GENERATION INTERNET IN H.R. 4060

The Appropriations Committee report on H.R. 4060 sets the appropriations level for the Department of Energy's Computational and Technology Research program at $22 million below the Administration's request. This reduction is explicitly designated as zeroing the DOE's requested funding for the Next Generation Internet initiative. The report language goes on to suggest that the NGI initiative had not been adequately justified. I believe the position the Appropriations Committee has taken is incorrect and will impede research that would provide significant benefits for the nation.

When the NGI was first proposed in the spring of 1997, as part of the President's fiscal year 1998 budget request, the rationale and plan for the initiative were incomplete. As a result, the Science Committee did not authorize appropriations for the program in its fiscal year 1998 DOE authorization bill nor in its authorization bills last year for the other agencies participating in NGI. However, later in 1997, a detailed NGI implementation plan was released, and the Science Committee held hearings last fall to examine the program.

On the basis of the Committee's findings from that review, an authorization bill, H.R. 3332, was written for the NGI initiative. The Science Committee reported the bill in May, including an authorization of appropriations at the level of the Administration's request. We expected that DOE would be a major participant in the NGI initiative, and I am disappointed to find that the appropriations bill now under consideration by the House withholds appropriations for DOE.

The NGI is an important research initiative that is designed to increase the capacity, extend the capabilities, and improve the reliability of the Internet and related data networks. It is an outgrowth of collaborative R&D efforts among government, industry and academia to advance the capabilities of high performance computer networks. These past R&D efforts, initiated under the High Performance Computing Act of 1991, have shown that such collaboration spurs technological advances by creating a critical mass of talent, spreading risk, and leveraging resources.

The basic idea of the NGI initiative is to accelerate the capabilities of the Internet to support demanding multimedia and interactive applications. The future network capabilities envisioned are necessary for research, educational uses, and commercial uses that will require levels of service that are not now available. The approach taken by NGI will continue the successful, close collaboration among the government, industry and academia that led to the creation and early development of the existing Internet.

Research results from NGI will be rapidly transferred to the commercial Internet, and consequently, made available for all Internet users, because commercial network providers will be participants in the NGI initiative. This research is needed to ensure that the future capabilities of the Internet will effectively support its growing role in commerce, research, and education. In summary, the activities planned under NGI will help maintain the nation's predominant position in computer networking technology.

Prohibiting the Department of Energy from participating in NGI will damage the multiagency program, with its interdependent R&D components. Adequate justifications for support for NGI are provided by the February 1998 implementation plan released by the National Coordination Office for Computing, Information, and Communications and by the testimony presented to the Science Committee. Also, the Science Committee, which is the principal committee of jurisdiction, has reported an authorization bill for the overall NGI program.

The companion bill to H.R. 4060 reported in the other body includes NGI funding for DOE. I strongly urge the Appropriations Committee to reconsider the position taken by the House report and, during the conference on H.R. 4060, to provide for DOE's participation in NGI.

SOLAR AND RENEWABLES FUNDING IN H.R. 4060

Mr. Chairman, I also want to state my concern that H.R. 4060 fails to fund the increase in renewable energy funding requested by the Administration. I recognize that money is quite tight and that difficult choices need to be made. Nevertheless, I am concerned that the Committee may have chosen to eliminate this funding on the unsound belief that such funding would somehow constitute "back-door" implementation of the Kyoto agreement on climate change.

Mr. Chairman, I recognize that many of my colleagues have reservations about the Kyoto agreement. The Administration itself has said that it is incomplete, and that therefore it will not submit it for Senate ratification until we have secured meaningful participation from key developing countries. The Administration has also repeatedly said that it will not attempt to implement the Kyoto agreement without Senate ratification.

Despite these assurances, a number of Members are attacking elements of the President's budget which serve critical national goals but also have the ancillary benefit of reducing greenhouse gas emissions. Such is the President's request for the "Climate Change Technology Initiative," which proposes $2.7 billion in additional research and development spending at several federal agencies. This increased funding would largely expand existing research programs which have served us well for many years.

In this bill, for example, the Department of Energy's solar and renewable research programs have made dramatic progress in improving the performance of solar and renewable energy while lowering its cost. This is precisely the type of long-range, risk-taking research that properly should be carried out by the Federal government. By its nature, not everything DOE does will succeed; but past performance leads us to hope that DOE can help develop solar and renewable energy sources to become more competitive with other energy sources in the future.

It should be in our interest to encourage the development of a diverse energy portfolio—one that does not rely predominantly on limited, non-renewable and polluting fossil fuels. It should also be in our interest to encourage energy security, instead of relying—as we do—on increasing amounts of imported foreign oil to meet our energy demands.

And, finely, solar and renewable energy provide us with a cheap insurance policy against climate change. I understand that many Members are unconvinced that that climate change is already occurring, and are waiting to see stronger proof. I also understand, as I stated before, that many Members have reservations about the provisions of the Kyoto protocol. But we cannot wait for a smoking gun or the perfect treaty to make a start now on developing the technologies that we may well need ten or fifteen or even twenty years from now. By cutting off this research now, we are choking off our future options and saddling those that follow us with harder, not easier, choices. This is an abdication of responsibility for future generations.

Mr. Chairman, funding solar and renewable energy R&D is the right thing to do. It is not a backdoor implementation of the Kyoto protocol. There's nothing mandatory, there's nothing regulatory, about energy research and development programs. These are win-win investments that meet our energy needs while giving us some options for addressing the greenhouse problem.

I certainly hope that the Chairman and the Ranking Member of the Subcommittee on Energy and Water can find a way to increase the funding for DOE's solar and renewable programs when they go to conference.

H.R. 4060 SECTION 306 PROVISIONS ON LAB COMPETITION

Finally, I note Section 306 of the bill, which addresses a very serious issue of Energy labs competing with the private sector. We place labs in a precarious position to do work that is in the public's interest and for which there may not be an obvious commercial interest and simultaneously to behave in a more profit-oriented manner. It is my understanding that Sec. 306 is intended to address a rather narrow, though disturbing, instance of a lab hijacking technology already developed in the private sector.

My concern with the language in the bill is that it is overly broad and will place a horrific bureaucratic burden on the Department at the same time that we want them to work leaner and smarter. I hope that we can work together to improve this language at conference or find another solution to this issue so that language of such sweeping magnitude is unnecessary. I want to assure those concerned about this issue that I would be happy to have the Science Committee investigate this issue and hold hearings on it.

Mr. PACKARD. Mr. Chairman, I rise today to convey my deepest gratitude to two of my colleagues. Both the Chairman and Ranking Minority of the Energy and Water Appropriations Committee, JOE MCDADE and VIC FAZIO, will soon leave this body and both will be deeply missed.

I've known both of these men for the entirety of my time here in Congress and I have been fortunate enough to work with them both on many occasions. As a Californian, I feel especially grateful to Mr. FAZIO for his unwavering commitment to our state. He has been one of the most dedicated Members of this House and has consistently supported the interests of not only his constituents, but of all Californians.

As a fellow Appropriations Subcommittee Chairman, I have a deep appreciation for the remarkable job JOE MCDADE does in bringing a fair, responsible bill to this floor each year. His hard work and dedication consistently results in legislation capable of stretching federal dollars to respond to the many needs across the nation under the jurisdiction of his Subcommittee.

Mr. Chairman, this year is no exception. The legislation both Mr. MCDADE and Mr. FAZIO have brought before this House is nothing short of exceptional. I fully support it and urge my colleagues to vote in its favor.

Mr. Chairman, both of these men have been true leaders of this House and true American champions. Their presence here will be missed, but their legacies will not be soon forgotten.

Mr. PAYNE. Mr. Chairman, I rise in strong support of the Energy and Water Appropriations Bill. Let me add my voice to those expressing gratitude to Chairman MCDADE and Ranking Member FAZIO for their hard work. I would also like to personally thank my New Jersey colleague who serves on the Subcommittee, RODNEY FRELINGHUYSEN, for his responsiveness to my request for funding for a major economic development project in my home city of Newark. I was pleased to have the opportunity to testify before the Subcommittee earlier this year, as I have many times in the past, in behalf of the development of the Joseph Minish Waterfront park and Historic Area in downtown Newark.

The $5 million included in this bill for the development of the waterfront will allow us to continue moving forward with the project, which has already received $10 million for construction. In recent years, the city of Newark, the nation's third oldest major city, has been greatly enhanced by a number of improvements and additions. We are especially proud of our new Performing Arts Center, a world class cultural center which has already attracted visitors from around the world. The development of the waterfront will complement the Performing Arts Center and provide a great attraction for both visitors and local residents. Specifically, the funding will allow us to proceed with the restoration of 3000 feet of riverbank and wetlands as well as the construction of one thousand feet of bulkhead along the river.

Mr. Chairman, this funding represents a solid investment in the future of a great city. Again, in behalf of my constituents, I thank the Subcommittee for its support of this key economic development initiative.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 4060, making Appropriations for Energy and Water Development for Fiscal Year 1999.

This bill provides funds for critical flood control and navigation projects in Contra Costa County and the San Francisco Bay Area of California. I appreciate the Committee's continued support for these projects.

I am particularly pleased that the Committee's bill will assist in the continuation of funding Federal participation in the Bay-Delta ecosystem restoration programs authorized by the California Bay-Delta Environmental Enhancement and Water Security Act. However, I note that the FY 1999 appropriation for Bay-Delta is significantly less than the requested amount, and also reflects a reduction from the FY 1998 funding level. I encourage our Conferees to restore funding for this important program. Funding the Bay-Delta programs at the FY 1998 level will allow us to continue critical work to restore the many components of this huge area that have been damaged by human activity.

The Committee bill raises for the second year a problem with the Central Valley Project Restoration Fund. According to the Committee Report, appropriations for the Restoration Fund will be severely reduced again in FY 1999. This reduction is misguided and jeopardizes important environmental programs.

The projects financed with the CVP Restoration Fund are broadly supported and many are non-discretionary projects that must be completed in a limited amount of time. I hope there will be opportunities to reconsider the reductions to the Restoration Fund.

Language in the report for this bill directs the Bureau of Reclamation to use its $3 million appropriation for the Animas-LaPlata project to "implement the modification to the project required by the proposed amendments to the Colorado Ute Indian Water Rights Settlement Act." In effect, the report tells the Bureau to build a controversial project that has not been authorized by the Congress.

The Bureau should not follow this unwise dictate since there is no legislation authorizing the modification to the project.

I am pleased that bill includes $200,000 that the Administration requested for the Army Corps of Engineers to initiate a feasibility study on the removal of the underwater hazards to navigation near Alcatraz Island. Although submerged even at low tide, these rock outcroppings could be struck by deep draft container and especially oil tanker vessels that frequently pass nearby, posing a substantial risk of an oil spill.

The feasibility study will investigate environmental impacts and mitigation, and develop project implementation alternatives and cost estimates. I appreciate the Subcommittee's continuing support of this important navigation project to protect both the environment and the economy of San Francisco Bay.

I thank the Committee for its hard work on this legislation, and I urge my colleagues to support H.R. 4060.

Mr. BEREUTER. Mr. Chairman, this Member would like to commend the distinguished gentleman from Pennsylvania (Mr. McDADE), the Chairman of the Energy and Water Development Appropriations Subcommittee, and the distinguished gentleman from California (Mr. FAZIO), the Ranking Member of the Subcommittee for their exceptional work in bringing this bill to the Floor.

This Member recognizes that extremely tight budgetary constraints made the job of the Subcommittee much more difficult this year. Therefore, the Subcommittee is to be commended for its diligence in creating such a fiscally responsible bill. In light of these budgetary pressures, this Member would like to express his appreciation to the Subcommittee and formally recognize that the Energy and Water Development appropriations bill for fiscal year 1999 includes funding for several water projects that are of great importance to Nebraska.

This Member greatly appreciates the $8 million funding level provided for the four-state Missouri River Mitigation Project. This represents a much-needed increase over the Administration's insufficient request for this important project. The funding is needed to restore fish and wildlife habitat lost due to the Federally sponsored channelization and stabilization projects of the Pick-Sloan era. The islands, wetlands, and flat floodplains needed to support the wildlife and waterfowl that once lived along the river are gone. An estimated 475,000 acres of habitat in Iowa, Nebraska, Missouri and Kansas have been lost. Today's fishery resources are estimated to be only one-fifth of those which existed in pre-development days.

In 1986, the Congress authorized over $50 million to fund the Missouri River Mitigation Project to restore fish and wildlife habitat lost due to the construction of structures to implement the Pick-Sloan plan.

In addition, this bill provides additional funding for flood-related projects of tremendous importance to residents of Nebraska's 1st Congressional District. Mr. Chairman, flooding in 1993 temporarily closed Interstate 80 and seriously threatened the Lincoln municipal water system which is located along the Platte River near Ashland, Nebraska. Therefore, this Member is extremely pleased the Committee agreed to continue funding for the Lower Platte River and Tributaries Flood Control Study. This study should help formulate and develop feasible solutions which will alleviate future flood problems along the Lower Platte River and tributaries. In addition, a related study was authorized by Section 503(d)(11) of the Water Resources Development Act of 1996.

Mr. Chairman, additionally, the bill provides continued funding for an ongoing floodplain study of the Antelope Creek which runs through the heart of Nebraska's capital city, Lincoln. The purpose of the study is to find a solution to multi-faceted problems involving the flood control and drainage problems in Antelope Creek as well as existing transportation and safety problems all within the context of broad land use issues. This Member continues to have a strong interest in this project since this Member was responsible for stimulating the City of Lincoln, the Lower Platte South Natural Resources District, and the University of Nebraska-Lincoln to work jointly and cooperatively with the Army Corps of Engineers to identify an effective flood control system for Antelope Creek in the downtown of Lincoln.

Antelope Creek, which was originally a small meandering stream, became a straightened urban drainage channel as Lincoln grew and urbanized. Resulting erosion has deepened and widened the channel and created an unstable situation. A ten-foot by twenty-foot (height and width) closed underground conduit that was constructed between 1911 and 1916 now requires significant maintenance and major rehabilitation. A dangerous flood threat to adjacent public and private facilities exists.

The goals of the study are to anticipate and provide for the control of flooding of Antelope Creek, map the floodway, evaluate the condition of the underground conduit, make recommendations for any necessary repair, suggest the appropriate limitations of neighborhood and UN–L city campus development within current defined boundaries, eliminate fragmentation of the city campus, minimize vehicle/pedestrian/bicycle conflicts while providing adequate capacity, and improve bikeway and pedestrian systems.

This Member is also pleased that the bill provides $200,000 for operation and maintenance and $150,000 for construction of the Missouri National Recreational River Project. This project addresses a serious problem by protecting the river banks from the extraordinary and excessive erosion rates caused by the sporadic and varying releases from the Gavins Point Dam. These erosion rates are a result of previous work on the river by the Federal Government.

Finally, Mr. Chairman, this Member recognizes that H.R. 4060 also provides funding for Army Corps projects in Nebraska at the following sites: Harlan County Lake; Papillion Creek and Tributaries; Gavins Point Dam, Lewis and Clark Lake; Salt Creek and Tributaries; and Wood River.

Again, Mr. Chairman, this Member commends the distinguished gentleman from Pennsylvania (Mr. McDADE), the Chairman of the Energy and Water Development Appropriations Subcommittee, and the distinguished gentleman from California (Mr. FAZIO), the ranking member of the Subcommittee for their support of projects which are important to Nebraska and the First Congressional District, as well as to the people living in the Missouri River Basin. Since the distinguished gentleman from Pennsylvania (Mr. McDADE) earlier announced his intention not to seek reelection to the House, may I most sincerely commend, congratulate and thank the gentleman for the tremendous contributions he has made to America by the extraordinary effort and leadership he has demonstrated on the Appropriations Committee and through other responsibilities he has so ably discharged in his public service while a Member of the House. I recall as if it was only yesterday how the gentleman gave such friendly and quality advice and assistance to this Member when I arrived to serve on the House Small Business Committee in 1979 where the gentleman from Pennsylvania served as the ranking minority member. Thank you, my colleague and friend and very best wishes to you and your family during the remainder of this year and after you leave the House.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $162,823,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Delaware Bay Coastline, Delaware and New Jersey, $570,000;

Tampa Harbor, Alafia Channel, Florida, $200,000;

Barnegat Inlet to Little Egg Harbor Inlet, New Jersey, $322,000;

Brigantine Inlet to Great Egg Harbor Inlet, New Jersey, $313,000;

Great Egg Harbor Inlet to Townsends Inlet, New Jersey, $300,000;

Lower Cape May Meadows—Cape May Point, New Jersey, $100,000;

Manasquan Inlet to Barnegat Inlet, New Jersey, $400,000;

Raritan Bay to Sandy Hook Bay, New Jersey, $1,100,000;

Townsends Inlet to Cape May Inlet, New Jersey, $500,000: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $700,000 of the funds appropriated in Public Law 102–377 for the Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, project for the feasibility phase of the Red River Navigation, Southwest Arkansas, study: *Provided further*, That the Secretary of the Army is directed to use $500,000 of the funds appropriated herein to implement section 211(f)(7) of Public Law 104–303 (110 Stat. 3684) and to reimburse the non-Federal sponsor a portion of the Federal share of project costs for the Hunting Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas: *Provided further*, That the Secretary of the Army is directed to use $300,000 of the funds appropriated herein to implement section 211(f)(8) of Public Law 104–303 (110 Stat. 3684) and to reimburse the non-Federal sponsor a portion of the Federal share of project costs for the project for flood control, White Oak Bayou watershed, Texas.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government' to construction), $1,456,529,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104–303; and of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri; Lock and Dam 14, Mississippi River, Iowa; Lock and Dam 24, Part 1, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota, projects, and of which funds are provided for the following projects in the amounts specified:

Norco Bluffs, California, $4,400,000;

Tybee Island, Georgia, $1,200,000;

Indianapolis Central Waterfront, Indiana, $4,000,000;

Indiana Shoreline Erosion, Indiana, $700,000;

Ohio River Flood Protection, Indiana, $1,700,000;

Harlan/Clover Fork, Williamsburg, Middlesboro, Martin County, Pike County, and Town of Martin elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, Kentucky, $26,730,000;

Southern and Eastern Kentucky, Kentucky, $4,000,000;

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $18,000,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, $3,000,000;

Southeast Louisiana, Louisiana, $85,200,000;

Jackson County, Mississippi, $7,000,000;

Passaic River Streambank Restoration, New Jersey, $5,000,000;

Lackawanna River, Olyphant, Pennsylvania, $14,400,000;

Lackawanna River, Scranton, Pennsylvania, $43,551,000;

South Central Pennsylvania Environment Improvement Program, $45,000,000, of which $15,000,000 shall be available only for water-related environmental infrastructure and resource protection and development projects in Lackawanna, Lycoming, Susquehanna, Wyoming, Pike, and Monroe counties in Pennsylvania in accordance with the purposes of subsection (a) and requirements of subsections (b) through (e) of section 313 of the Water Resources Development Act of 1992, as amended;

Wallisville Lake, Texas, $5,500,000;

Virginia Beach, Virginia (Hurricane Protection), $13,000,000;

West Virginia and Pennsylvania Flood Control, West Virginia and Pennsylvania, $750,000: *Provided*, That the Secretary of the Army is directed to incorporate the economic analyses for the Green Ridge and Plot sections of the Lackawanna River, Scranton, Pennsylvania, project with the economic analysis for the Albright Street section of the project, and to cost-share and implement these combined sections as a single project with no separable elements, except that each section may be undertaken individually when the non-Federal sponsor provides the applicable local cooperation requirements; *Provided further*, That any funds heretofore appropriated and made available in Public Law 103–126 for projects associated with the restoration of the Lackawanna River Basin Greenway Corridor, Pennsylvania, may be utilized by the Secretary of the Army in carrying out other projects and activities on the Lackawanna River in Pennsylvania; *Provided further*, That the Secretary of the Army is directed to use $6,000,000 of the funds appropriated herein to implement section 211(f)(6) of Public Law 104–303 (110 Stat. 3683) and to reimburse the non-Federal sponsor a portion of the Federal share of project construction costs for the flood control components comprising the Brays Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas.

Mr. FAZIO of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think there has been a lot of very legitimate discussion on this bill and on the rule leading up to it about what has been presented to us by the administration in their Corps budget this year.

The gentleman from Pennsylvania (Mr. McDADE) and I worked very, very hard to get back to a figure which is $200 million below what we should be spending this year. We came from $900 million down. The administration's budget was terribly troubling to all of us, but I think we have got to put this in a larger context, and that is the declining nondefense discretionary programs.

As we can see, the funding freeze, which is essentially what we are learning to live with, based on the agreement made last year between the two parties, is trending downward. Republicans have talked about reductions of an even greater amount.

Current services are going, in effect, off the chart. The demand for the Corps' program vastly exceeds what any of us envision being able to provide. If I could see the next chart, I would like to point out that the Corps itself is telling us that the legitimate requests made of it, program needs, are far beyond what is going to be available under the spending caps that we just agreed to.

My purpose is not to make a partisan speech on the quintessential nonpartisan bill of the year. My point is simply to say, yes, the administration's budget was too deeply cut, but so will others in the future be if we keep on the trend line we have been on on nondefense discretionary spending.

I am very concerned about this because the Corps' construction budget is being augmented by a tremendous infusion of State and local funding. We have, as I said earlier, done away with those carryover balances that this committee used to utilize very effectively, at one time as much as $800 million. That is gone. We have lost that flexibility.

All I am saying is that none of us can be critical of budgets that will be presented to this Congress in the future by any administration of either party when we have this kind of nondefense discretionary future out there ahead of us.

The Corps' programs are good and worthy. They are legitimate. They need to be funded. As we view not only the highway bill this year or the authorization for the research in the Agriculture Department, as we look at all of the proposed budget resolutions still to be resolved out there ahead of us, we see, I think, a recipe for disaster in the Corps budget. I hope we can, frankly, all get beyond the partisanship and understand that the future for the things that our constituents demand of us in this area is bleak.

Mr. HASTINGS of Washington. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from Pennsylvania (Mr. McDADE), the chairman. First, I would like to say how much I appreciated working with the gentleman and the ranking member during these past 2 years. Both of them have worked closely with us to make sure that critical nuclear cleanup efforts are fully funded and effectively managed. I wish the both of them the very best.

Mr. Chairman, I wanted to raise an issue for the Committee's consideration as this bill moves into conference. As the gentleman knows, research into the field of medical isotopes has moved forward at a record pace over the past several years. In one recent clinical trial, medical isotope therapy demonstrated a 75 to 80 percent success rate against non-Hodgkins lymphoma patients diagnosed as terminal. New research into alpha-emitting isotopes appears to be even more promising. Yet, today more than 90 percent of our research and treatment isotopes are imported. A recent strike at a Canadian reactor threatened to undermine diagnostic medical treatments nationwide.

A state-of-the-art facility in my district, the Fast Flux Test Facility, is now under consideration for production of these valuable cancer fighting tools. In addition, the facility could serve as an interim or backup source of tritium, at a savings of billions of dollars over other alternatives.

As the chairman knows, the House fully funded the President's request but transferred that request into the Department's environmental management account. The Senate, on the other hand, cut $4 million from the program, but placed it into the energy research account as requested.

Although the $31 million provided for the program is inadequate to fund either start-up or shutdown, I understand that the administration is working to correct this situation.

I wonder if the gentleman from Pennsylvania (Mr. McDade) might be willing to work with us on these two issues.

Mr. McDADE. Mr. Chairman, will the distinguished gentleman yield to me?

Mr. HASTINGS of Washington. I am happy to yield to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to say how grateful we are to the gentleman for bringing this forcefully to our attention. It is our intention to work with him to ensure the program is appropriately funded and in the accurate place.

Mr. HASTINGS of Washington. Good. I thank the gentleman. If the gentleman would continue into a colloquy, I have one more inquiry.

During a June 10 hearing in the Committee on Resources, witnesses from the National Park Service testified that the U.S. Army Corps of Engineers is not properly complying with the implementing regulations of the Native American Graves Protection and Repatriation Act of 1990, or NAGPRA. These witnesses indicated that errors on the part of the Corps have resulted in a lawsuit against the Federal Government for mishandling cultural resources found on land owned by the Corps.

Mr. Chairman, it was my intention to offer an amendment to set aside $10,000 to the U.S. Army Corps of Engineers overhead account to pay for a study on the Corps' compliance with NAGPRA. However, after discussions with the committee staff, I believe that the Corps could be persuaded to review this issue without amending the bill before us today.

Would the gentleman from Pennsylvania be willing to join me in a letter to the U.S. Army Corps of Engineers requesting a review of its compliance with this law?

Mr. Chairman, I will yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, may I say to my friend, I would be delighted to join in such a letter. The subcommittee is deeply interested in the issue. We will be happy to work with the gentleman.

Mr. HASTINGS of Washington. Good. I appreciate the gentleman's assistance with us on this matter.

Once again, I add my congratulations to the gentleman for a successful tenure here and success in getting this bill through the House tonight.

Mr. SKAGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to join in the shameless piling on of compliments and bouquets being thrown at the gentleman from Pennsylvania (Mr. McDade) and the gentleman from California (Mr. Fazio) who are gentlemen, I think, that really set the standard for mutual respect, good working relationships, good humor, basic decency, care for the institution, and all manner of good things.

I was going to say I will miss you, but I will be gone next year, too. If I had the foresight to pattern my career after the gentleman from California (Mr. Fazio), I would have gotten a lot further, but I did not think of doing it early enough. Anyway, my respects and high regard to both of the gentlemen.

I wanted to thank the subcommittee and its good staff in particular for the provisions that are included in the bill with regard to nuclear weapons plant cleanup. I think the very farsighted provision for funding the Rocky Flats closure fund even somewhat higher than the President's request, really will enable progress to be made there toward the hope for a closure by the year 2006, and in the process saving the taxpayers something on the order of $1 billion. So I really appreciate the help there.

There is, however, one provision in the Senate bill that may complicate life for us with regard to both the Rocky Flats situation and elsewhere, and I would like to engage the gentleman from Pennsylvania (Mr. McDade) briefly in a discussion about that.

Section 306 of the Senate bill would apparently prohibit any steps to decrease radioactive concentration of wastes in order to meet the criteria for wastes that can be shipped to the Waste Isolation Pilot Project in New Mexico.

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I do not know what the rationale for this provision may be, but I am informed that it could make it much less likely that wastes from Rocky Flats could be sent to WIPP in accordance with the current timetable. In fact, it could mean that the Department of Energy would have to use money that could go for cleanup instead to build a new facility at Rocky Flats to store wastes that otherwise could be sooner sent to WIPP. Estimates are that this might cost $20 million to $40 million for construction, and another $10 million a year to operate.

I am sure the chairman, at least I hope the chairman agrees that this would be an undesirable result, and I hope he will work to resolve this matter in conference and eliminate whatever confusion this Senate bill provision may have sown into this matter.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the gentleman for yielding. May I say to him that one of the highlights of my service in the Congress was the opportunity to serve with him as a member of the Committee on Appropriations for more decades than we probably both want to admit. He will be missed. I hope to continue our relationship in life on the outside of the Capitol.

Let me say that we have no higher priority than concluding the cleanup site at Rocky Flats. We believe it is working well, we have put a lot of money on that effort, and we do not intend to back off it. I am not sure where that provision came from, but I want to assure the gentleman, it has our attention and we appreciate him bringing this to our attention again.

Mr. SKAGGS. Mr. Chairman, I thank the gentleman very much. I just in closing wanted to note two other provisions. As the chairman is aware, the bill provides somewhat less funds than were requested for the section 3161 program, the transition support for workers that are being phased out of these weapons plants around the country. I am fully aware of the difficult budget circumstances but just wanted to flag that item in hopes that both we can replenish some of the funding and also be at least open to the possibility that there will be out-year needs beyond the cutoff date currently included in the bill.

Mr. GIBBONS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all I would like to join my colleagues also in extending my congratulations to the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from California (Mr. FAZIO) for their hard work on this bill. Both their time here, their commitment and service to America is certainly and greatly appreciated by me as well as the entire Congress.

Mr. Chairman, the reason I am here is to discuss the ability of the State of Nevada and all affected local governments to carry out their oversight authority on the proposed Yucca Mountain project in Nevada. This oversight authority was granted to them in the Nuclear Waste Policy Act of 1982. Currently the Department of Energy is conducting tests to determine if the Yucca Mountain site will be a permanent repository for nuclear waste.

When the Nuclear Waste Policy Act of 1982 was created, Members of this body felt that it was imperative for the State of Nevada and all affected local governments to have sufficient resources to carry out their own oversight. These necessary funds are used to properly oversee tests the Department of Energy is carrying out to determine whether or not Yucca Mountain is suitable or not suitable as a permanent nuclear waste site.

This was a very critical part of the 1982 act, because it allowed Nevada, and particularly the citizens and residents of that State, to have confidence in the scientific studies and especially the validity of those tests that the Department of Energy has been conducting. These resources will allow for State and local governments to continue to perform their own independent validation tests to ensure the best science is used to determine site suitability.

It has been my experience that these local and State scientists have been unbiased in their work and as such have produced needed assurances that only the best scientific data is used to determine the hydrologic and geologic character of Yucca Mountain.

Mr. Chairman, we have over 1.8 million people in Nevada, and their safety and quality of life in this debate should not be ignored, making it imperative that we provide the financial resources to ensure the State of Nevada and affected local governments are able to monitor and report on this activity.

Therefore, I would ask that the House conferees work with me to get $4.875 million for the State of Nevada and $5.54 million for affected local governments included in this appropriation. These appropriation amounts are consistent with the moneys appropriated in the Senate fiscal year 1999 Energy and Water Development Appropriations Act.

As the Federal Government moves to designate Yucca Mountain as a permanent nuclear waste repository, it becomes imperative that we address the scientific and safety concerns of the citizens of Nevada.

Again, I would like to thank the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from California (Mr. FAZIO) for their work on this bill. I would appreciate their willingness to work with me on this very important issue.

Mr. WAMP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I certainly want to stop, too, as a member of the Committee on Appropriations and pay my respects to the gentleman from California (Mr. FAZIO) and the gentleman from Pennsylvania (Mr. McDADE). In my 2 years, a short term on the committee, I have just thoroughly enjoyed the working relationship that I have with these two men and am constantly amazed at how much they know about the work that they do. Sometimes in this institution Members do not follow in the level of detail what these two gentlemen do day in and day out on the Subcommittee on Energy and Water Development, knowing every single program area, the funding amounts, the priorities, somehow keeping it all in perspective and serving this institution so well. I could not be more unhappy that two people are leaving this body at the same time as the gentleman from California and the gentleman from Pennsylvania. They have served our country with such distinction. They will be sorely missed.

Mr. Chairman, as they know, I have been an advocate for the environmental cleanup efforts in Oak Ridge, Tennessee. Following the successful Manhattan Project and winning the Cold War and our nuclear buildup, now we have got the responsibility of cleaning it up. They also know that of the three gaseous diffusion plants in this country, one of them is in Oak Ridge, Tennessee. The Energy Policy Act of 1992 very specifically told the Congress to fund the cleanup at these sites in the future. We had those funding requests made for this fiscal year. Unfortunately at a time which they have articulated so well of declining discretionary accounts, we did not have the funding to fully fund the President's request for this coming year for the decontamination and decommissioning of these gaseous diffusion plants. The President asked for $277 million. The Senate marked up a $200 million level at the committee, and then reduced it by $3 million on the Senate floor last week. So the Senate is at $197 million. The President's request was at $277 million. The House did add money back in and brought us to a $225 million level.

I just appeal to the conferees as we come to the floor today to clear what I hope to be unanimous certification of our Energy and Water bill here today, and they deserve a unanimous vote from the full House, I want the conferees to know that the $225 million even that the House Committee on Appropriations passed is still not sufficient. We need really $15 million more to get to a level of $240 million in order to not miss a stride in the environmental cleanup which is so important to all three gaseous diffusion sites, but particularly in the State of Tennessee where we constantly wrestle with the State of Tennessee on meeting our compliance levels and meeting our timing on the environmental cleanup as called for in the Energy Policy Act which we all know was a comprehensive piece of legislation affecting all of the nuclear sites in America.

I appeal to the conferees with much gratitude that the House appropriators saw fit to increase the level from the Senate mark to $225 million, I just appeal that we find $15 million more somehow as we approach the final Energy and Water conference report for fiscal year 1999, trying to get us to the $240 million level so that this important cleanup can continue.

Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, some Members might remember the rather confusing battle of the Fazio-DeFazio amendments last year. Unfortunately we will be deprived of that confusion in the future with the retirement of the gentleman from California. But the issue over which we disagreed will be before the Congress in future years. I have concerns in the way it is presented in the report language here. I decided to forgo an amendment this year since we are in limbo on the Animas-La Plata project; that is, it is not determined how or if it will go forward and in what form, so I decided not to come to the floor this year with an amendment to delete the funds. But what we find in the bill is language that says they should go ahead post haste with an alternative, whatever that might be, which of course is not authorized by law. Perhaps it would be the alternative advocated by the gentleman from Colorado (Mr. McINNIS) who represents that district who has a bill, H.R. 3478, which has not even yet had a hearing. I think it would be most unusual and probably illegal for the Bureau of Reclamation to begin a project which has not even had a hearing in Congress, let alone being authorized. I would suggest that that language in the report should be, and probably will be, ignored by the administration.

The point here, this project was not justifiable, the massive amount of money. It was being sold as settling the legitimate claims of the Ute Indian tribe. However, it was much, much more than that, many hundreds of millions of dollars more, and it was not going to deliver water to that tribe. So some alternatives have been proposed. No one has as of yet authorized any of those alternatives. One called Animas-La Plata Lite is favored by the gentleman who represents the district, but it has not been heard, it has not been voted on, it is not law, and you cannot lawfully spend money on that project.

There are other alternatives that have been proposed. At some point, the committee of jurisdiction on which I sit, the authorizing committee, is going to have to hold hearings, puzzle through the potential alternatives, and come up with a solution which settles the legitimate claims of that tribe and protects the taxpayers at the same time. I do not believe we quite have that formula before us.

Mr. Chairman, I am rising just to point out this language in the report. Since the language would order the Bureau to do something which is illegal, I assume that the language will not be quite worth the paper it is printed on. I look forward to future discussion of this issue in committee and on the floor of the House as we move forward to authorizing a fair and just settlement but something which also protects the Federal Treasury.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today not to complain a bit about the work of the gentleman from Pennsylvania (Mr. McDade) or the gentleman from California (Mr. Fazio) in terms of the subcommittee report that is before us, but rather to say that a very interesting experience has been mine in recent weeks as I have observed these two gentlemen approaching today, for as has been said many a time before today, they both are contemplating leaving the House at the end of this session.

In beautiful northern California, in spite of the fact that there is a propensity even in that great State for people surrounding the State capital to often point a finger at elected officials and wonder what they are all about, in the last several weeks, suddenly out of the woodwork all kinds of people are saying, "Oh my God, what are we going to do? Vic Fazio is not going to be there to represent us anymore." Suddenly citizens are beginning to realize that, unnoticed in many ways, almost never has there been quite the contribution to their community that has been made by their Congressman from Sacramento and regions that surround.

In beautiful downtown Scranton, Pennsylvania, a similar occurrence of people for years and years and years have been pointing around at what local officials in one location or another have not quite done to their satisfaction, and they too in the last many weeks have begun to say, "Oh my God, what are we going to do without Joe McDade to take care of our problems" that we ask about always at the last moment.

Mr. Chairman, it is important for us to note that in public affairs, most problems have absolutely very little to do with partisan politics. If there are two gentlemen who serve this House well who recognize that more than these two, I do not know who they are. Both the gentleman from Pennsylvania and the gentleman from California have been a great tribute to the House of Representatives. It has been my privilege to know them as human beings and as personal friends, but most important to have the opportunity to rise and say that I am proud just to be their colleague.

Mr. FAZIO of California. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. FAZIO of California. Mr. Chairman, first of all let me say how much I appreciate the gentleman from California (Mr. Lewis) and want him to know that in the future when people come to me and ask how we are going to accomplish this or that, I am going to simply refer them to him, because I know his interest in the region personally and in our State generally will motivate him to take up any unfulfilled task. I do appreciate him very much.

Mr. Chairman, I wanted to simply for the record indicate that the committee has taken no position on Animas-La Plata this year. The money in the bill was the administration's budget request to fund ongoing activities of the Romer-Schoettler process, which is the Governor and Lieutenant Governor trying to find a solution to this problem at Animas-La Plata. Included in that request of the administration is funding for data collection, analysis of endangered species issues and other environmental, cultural and hydrological issues. It is obviously our understanding that the Colorado delegation is pursuing this project through the normal authorization process.

□ 1900

The proposed project has been reduced from a price tag that was originally about $750 million to currently an estimate of around $250 million. The proposal by environmental groups to give the Utes a cash settlement has been rejected by both the Tribal Council of the Ute and the Mountain Ute Nations.

This is a subject that has been debated for 30 years, and I know the gentleman from Pennsylvania (Mr. McDade) joins me in hoping that we are about to see a successful conclusion to this controversy brought about in terms of fulfilling our responsibilities to both the Indian tribes. I certainly hope that we can at least stay the course with this issue so that the process of accommodation that is underway in Colorado can be completed.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $312,077,000, to remain available until expended.

Operation and Maintenance, General

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,637,719,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that Fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that Fund for construction, operation, and maintenance of outdoor recreation facilities, and of which $4,200,000 is provided for repair of Chickamauga Lock, Tennessee, subject to authorization.

Regulatory Program

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $110,000,000, to remain available until expended.

Formerly Utilized Sites Remedial Action Program

For expenses necessary to clean up contaminated sites throughout the United States where work was performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended.

General Expenses

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Water Resources Support Center, and headquarters support functions at the USACE Finance Center; $148,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: *Provided further*, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

Administrative Provision

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, and for activities related to the Uintah and Upalco Units authorized by 43 U.S.C. 620, $39,665,000, to remain available until expended, of which $15,476,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided*, That of the amounts deposited into that account, $5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Central Utah Project Completion Act and $10,476,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,283,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian Tribes, and others, $622,054,000, to remain available until expended, of which $1,873,000 shall be available for transfer to the Upper Colorado River Basin Fund and $49,908,000 shall be available for transfer to the Lower Colorado River Basin Development Fund, and of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can' be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That of the total appropriated, $25,800,000 shall be derived by transfer of unexpended balances from the Bureau of Reclamation Working Capital Fund.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $12,000,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $38,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $33,130,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575.

CALIFORNIA BAY-DELTA ECOSYSTEM RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of the Interior and other participating Federal agencies in carrying out the California Bay-Delta Environmental Enhancement and Water Security Act consistent with plans to be approved by the Secretary of the Interior, in consultation with such Federal agencies, $75,000,000, to remain available until expended, of which such amounts as may be necessary to conform with such plans shall be transferred to appropriate accounts of such Federal agencies: *Provided*, That such funds may be obligated only as non-Federal sources provide their share in accordance with the cost-sharing agreement required under section 102(d) of such Act: *Provided further*, That such funds may be obligated prior to the completion of a final programmatic environmental impact statement only if: (1) consistent with 40 CFR 1506.1(c); and (2) used for purposes that the Secretary finds are of sufficiently high priority to warrant such an expenditure.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $46,000,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed six passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, and uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 22 passenger motor vehicles for replacement only, $882,834,000, of which not to exceed $3,000 may be used for official reception and representation expenses for transparency activities.

Mr. McDADE (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 15, line 25, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there amendments to that portion of the bill?

AMENDMENT NO. 1 OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FOLEY:

Page 15, line 23, after the first dollar amount, insert the following: "(reduced by $5,000,000)".

Mr. McDADE. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Florida (Mr. FOLEY) will control 10 minutes.

Is there an opponent?

Mr. McDADE. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. As the opponent of the amendment, the gentleman from Pennsylvania (Mr. McDADE) will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to thank the gentleman from Pennsylvania (Mr. McDADE) for his fine work and particularly for all he has done for the Everglades and so many Florida projects which our entire State and Nation have benefited from.

And I hate to spoil the parade. I do have an amendment today on his bill that would strike $5 million in funding for the Department of Energy's newly proposed Nuclear Energy Research Initiative, also known as NERI, and I am not opposed, Mr. Chairman, to nuclear power or its research. In fact, I have a reactor in my district and I fully support its continued existence, but I will not allow taxpayers to pay for research that benefits an industry that had $141 billion in revenue last year alone.

Mr. Chairman, everything but the kitchen sink seems to be fair game for this program. They want R&D funds to focus on their competitiveness including operations, maintenance and fuel costs. This program contains large elements of the Nuclear Energy Security program that Congress choose not to fund last year. NES and NERI both would fund efforts to examine reactor aging issues, fuel economics and advanced instrumentation and controls. Some of this same research is already performed by the Nuclear Regulatory Commission.

The proponents of this program claim it is independently peer reviewed, but the reviewers are from universities, national labs and industry, the very same people who will receive the funds. Where exactly is the independence in that?

Our constituent tax dollars should not be spent on new and questionable Department of Energy programs for an already mature industry, yet this is exactly what the DOE is suggesting we do in the newly-proposed and unauthorized Nuclear Energy Research Initiative. This program is clear-cut corporate welfare. While it benefits a whole industry, it nevertheless benefits them with taxpayers' money, and that is wrong.

Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I rise to ask my colleagues to support the Foley-Miller-Markey-Kucinich-Sanders amendment. Our amendment would strike the Nuclear Energy Research Initiative. It is a $5 million subsidy that props up the commercial nuclear power industry and may keep open aging and potentially dangerous plants beyond the initial term of their licenses.

There are two powerful reasons to support our amendment:

First, giving more money to the nuclear industry is throwing good money after bad. Since 1950 taxpayers have handed the nuclear industry $47 billion in subsidies. In addition to the billions in Federal subsidies, nukes have cost American consumers a bundle. According to Komanoff Energy Associates, nuclear power has cost ratepayers a premium of $160 billion for electricity between 1968 and 1990. After all these billions we have already spent propping up the nuclear industry, there is no good reason for throwing away more taxpayer money.

Second, subsidizing nuclear power is bad environmental policy. Nuclear power poisons the environment with radiation emissions and creates tons of radioactive waste. Far from being clean, nuclear power is toxic. If there is something to spend money on, it would be on how to deal safely with the waste the nukes have already created.

Right now we do not have a policy to safely move the waste, we do not have a policy to safely store the waste. This policy here only creates more of it. It is time we put an end to it.

Support the Foley-Miller-Markey-Kucinich-Sanders amendment. Join all the other interest groups from all over the country who are concerned about good neighborhoods, safe neighborhoods, and are concerned about utility ratepayers. Support this amendment.

Mr. FOLEY. Mr. Chairman, I reserve the balance of my time.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment. My good friend from Florida, as usual, does his homework very well and presents a good case, but unfortunately I believe it is the wrong case.

This Nation depends on nuclear power for about 20 percent of its electricity generation. Within the umbrella of energy resources in this bill there was appropriated $880 million for energy supply research activities, and this $5 million sum is included in the bill for scientific research.

Now it seems to me that is a reasonable course for the committee to pursue. It is reasonable, I think, for us to put out that amount of money to make sure that the 20 percent we are talking about, and who knows what tomorrow may bring, will have scientific research behind it.

Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Chairman, I rise in very strong opposition to this amendment.

Mr. Chairman, I understand the moves that the gentlemen are taking here. It is good to cut spending. Spending is an excess that we could, of course, look at in a number of areas but, very honestly, not at the heart of something like this.

The NERI program is designed to reinvigorate the Department of Energy's nuclear energy R&D based on competitive, and I will explain that in just a moment, competitive and peer-reviewed applications concerning such issues as more efficient reactor designs, lower costs, improved safety, better onsite storage techniques and proliferation-resistant reactors.

Now PCAST, the President's Committee of Advisers on Science and Technology panel, recommended further nuclear energy research and development to ensure our Nation's nuclear energy program is strong and growing. Specifically they encouraged R&D in the areas of nuclear waste, nonproliferation and nuclear safety. They also expressed a concern about whether nuclear energy is economically viable. With the NERI program we will conduct research that will address these concerns and pave the way for nuclear energy to emerge as a more prominent energy source for the United States.

There is no shortage of funding for the other areas of energy supply research. The chairman alluded to that. Last year we appropriated $296 million for solar and renewables R&D. This year we recommended $351 million, and the Senate has over $4 million assigned to solar and renewables. This includes $70 million for photovoltaics, $33 million for wind energy and $101 million for biomass/biofuels research, and fossil energy R&D last year received $362 million and will likely receive a similar amount this year.

In contrast, last year nuclear energy received only, the research end of it, only $7 million. This bill has increased the funding level for nuclear energy research to a total of $17 million, $5 million for NERI and $12 million for the university research programs which I also support.

Now the gentlemen have talked about some of the money that has been spent in nuclear research. A lot of that was weapons research. Let me tell my colleagues since 1976 we have spent $1.45 billion on solar and renewable energy sources, which generates below 1 percent of this country's electricity supply. Alternatively, since 1973 we have spent $1 billion on nuclear R&D, and nuclear energy plants produced nearly 20 percent of the Nation's electricity, let me remind my colleagues of this, and they produced 40 percent of all new electricity generation since 1973.

This year let us make sure we get an appropriate level of funding for nuclear R&D for this year. As I have already stated, it is the safe, clean and reliable energy source to carry us into the future.

The NERI program is set up with competitive peer-reviewed research that will be a coordinated effort between the national laboratories, universities and industry. Now what does that mean, competitive peer-reviewed research? What it means is we will get the best science available with no favoritism toward any specific university, Federal laboratory, company or industry. Instead they will have to compete for the research grant, which will ensure we get the best science available, perhaps to a university in one of my colleague's States.

There are some who might claim this is corporate welfare. This is simply untrue, and those who are claiming that ought to study the solar and renewable energy research and development which is rife with technology transfer programs and commercialization, and very little, if any, that is peer-reviewed science. To the contrary, the NERI program will be competitive, peer-reviewed research that is basic research to continue this safe, clean, low-emission energy source.

The Clinton administration has requested $24 million for this program. I support a higher level of funding. I am glad to see we provide some funding for this important program.

Another good reason to support nuclear R&D such as the NERI program is as follows:

As many of my colleagues might know, I and some others had the opportunity to attend the global climate change meeting in Kyoto back in December. That is where the administration signed on to an agreement to reduce the U.S. greenhouse gas emissions to 7 percent below 1990 levels by the years 2008 through 2012. I have been quite critical about the U.S. supporting a treaty which places the U.S. and other industrial nations at a competitive disadvantage to the 132 nations which have no reduction requirements.

In Kyoto, Japan was a strong proponent for placing strict reductions on greenhouse gas emissions on the industrial nations. However, they also have an existing plan for reaching their reduction requirement. With 44 existing commercial nuclear power plants already, they have a construction plan to build at least 20 more. Since nuclear power emits no greenhouse gas emissions, this alone will allow them to reach their reduction target. In the U.S. there appears to be no similar plan to use new commercial nuclear energy plants to reduce the U.S.'s greenhouse gas emissions, and in fact in a deregulated electricity market we may see some of our older plants shut down.

We have a great opportunity, I believe, to bring America back to the option of nuclear energy. Nuclear energy such as they have in Europe and Japan and elsewhere has provided safe, reliable energy, a source that does not emit greenhouse gases. Support the NERI program. Make sure the best nuclear minds in the world are right here in the U.S.

I urge my colleagues to oppose this amendment.

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Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, this is a great amendment. Do you remember the old horror movie, The Night of the Living Dead, where the dead came back from their graves to stalk the Earth again? Well, that is what this program is, it is a dead government program.

We killed almost the identical program last year, but Adam Smith spins in his grave as we stand out here trying to figure out how to give subsidies to Westinghouse and General Electric and other Fortune 500 companies, for them to figure out how to develop nuclear energy electrical generating capacity, when they have been in that business for 50 years.

It would be one thing if they are starving. They are the wealthiest companies in the United States. The electric utility industry is the wealthiest industry in the United States. Over a 50-year period, we here on the floor of Congress have given this industry $47 billion in subsidies.

What is the net result? We are now debating here in Congress, and in every State legislature in the country, something called stranded investments in electrical restructuring. What does stranded investments mean? Well, it is a euphemism for the word nuclear power plant, meaning how do we get this off of our books? How do we have ratepayers subsidize this boondoggle?

In the marketplace, oil is cheaper in generating electricity, gas is cheaper in generating electricity, coal is cheaper in generating electricity and wind is cheaper in generating electricity, but we are supposed to subsidize Fortune 500 companies in a technology that is more expensive?

Mr. Chairman, no electric utility has purchased one of these since 1973. If they think it is such a great idea, why do they not build them themselves? They have got more money than the Federal Government, if they want to invest in it. But asking the taxpayers to have themselves tipped upside down and shake another 5 or 10 million bucks out of them for an industry that has not been able to figure out in 50 years how to make this technology effective in the marketplace, is just a complete and total waste of money.

Mr. Chairman, the Foley amendment, on a bipartisan basis, Democrat and Republican, is something that each one of us should be able to back tonight to prove that we are faithful to the taxpayers' message to us that we should stop squandering their money, handing it over to the private sector, investing in programs that would not work in the real world marketplace.

Vote "yes" on the Foley amendment.

Mr. McDADE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. FAZIO), the able ranking member of the subcommittee.

Mr. FAZIO of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment and want to state unequivocally the administration's opposition to it as well. This is not the nuclear energy security program that I think some of the critics of NERI are attacking today. This program is not a program that has risen from the dead. It is a new program which has within it the potential of bringing together universities, the National Laboratories and the private sector to spend a very, very small amount of the Department of Energy's research funding, less than one-half of 1 percent of their total DOE research funding, as a matter of fact. One-fifth of the amount in this bill is what is left of the administration's request, which was far greater, a $50 million request made by the President's science and technology advisors, transformed to a $24 million request by OMB, and all we provided for was $5 million, a very small contribution to keep a seat at the table in the ongoing international discussions over nuclear energy technology.

Mr. Chairman, I think it would be foolish for this Congress to zero out this very modest funding for an area of energy supply that still presents 20 percent of the total electrical generation in this country, and, regrettably, I am sure, from the perspective of a number of those who have cosponsored this amendment, continues to be not only internationally on the offensive, an increasingly large provision of electrical generation in Europe and Japan, but also, as the gentleman from Michigan (Mr. KNOLLENBERG) has said, potentially a major contribution to the issues of global climate change. I know we have had some controversy around that issue.

Mr. Chairman, for us to turn down this very small sum of money at this point in our history, I think, would be very foolish.

Mr. Chairman, I include for the RECORD a letter to the chairman of the Subcommittee on Energy and Water Development from William D. Magwood, IV, the acting director of the Office of Nuclear Energy, Science and Technology.

DEPARTMENT OF ENERGY,
Washington, DC, June 22, 1998.

Hon. JOSEPH M. McDADE,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We understand that when the Energy and Water Development Appropriations bill comes to the floor for consideration by the full House, an amendment will be offered to strike funding for the Department of Energy's Nuclear Energy Research Initiative (NERI). Opponents of this research program characterize it as a "corporate welfare" program that is simply a repackaging of the unfunded Nuclear Energy Security program the Department proposed for FY 1998. These characterizations are inaccurate, and the Department urges you to oppose any amendment to remove funding for this important initiative.

Since the end of fiscal year 1997, the Departmental has engaged experts from U.S. universities, the national laboratories, and industry to help develop a new approach to nuclear energy research and development. In particular, we have heeded the recommendations of the President's Committee of Advisors on Science and Technology on nuclear energy research and development. As a result, our fiscal year 1999 proposals represent a significant departure from past nuclear research and development programs.

Our proposed NERI program, if funded, will help the United States maintain its scientific and technological leadership by sponsoring research to address the complex, long-term problems associated with nuclear energy—such as proliferation, waste, economics, and safety. The program will apply independent, National Science Foundation-style peer review to competitively select the best research proposals from among a wide range of sources including national laboratories, academia, and industry.

In addition, the Nuclear Energy Research Initiative will benefit from the advice of the Nuclear Energy Research Advisory Committee which is being formed to help guide these and other Office of Nuclear Energy, Science and Technology programs. The advisory committee will include both proponents and critics of nuclear power, and will allow the Department to more effectively engage the academic community, national laboratories, and other interested parties in the planning and execution of our programs.

In contrast, the Nuclear Energy Security program proposed for FY 1998 was a narrowly focused program designed to address specific technical issues. The program was to be directed by Department of Energy staff with little opportunity for input from industry, academia, or critics of nuclear technology and without the benefit of an independent advisory committee. Also unlike NERI, the Nuclear Energy Security program was focused on working with commercial utilities in the near-term to relicense existing nuclear power plants. NERI, on the other hand, will support research that goes far beyond that envisioned under the Nuclear Energy Security program. The technologies to be investigated under NERI could provide long-term benefits that transcend simple economics and help address important national issues such as nuclear waste generation and proliferation.

The $5 million in the House bill for NERI represents one-fifth of the amount proposed by the Department and less than one-half of one percent of the total DOE energy research funding in the House bill, while nuclear power provides over 20 percent of the electricity produced in the United States. While a very modest investment, this funding will enable the United States to join other advanced countries in conducting long-term, advanced research into nuclear technology. In doing so, the United States can explore new technologies that may be vital in the future, reassert its leadership role in nuclear technology, and maintain its endangered "seat at the table" in the on-going international discussion over nuclear energy technologies and issues.

We believe that the proposed program will help maintain the continued viability of nuclear power in the United States, and the Department asks you to oppose any amendment to strike funding for this program.

Sincerely,

WILLIAM D. MAGWOOD, IV
Acting Director,
Office of Nuclear Energy, Science and Technology.

Mr. FOLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in strong support of this amendment, which cuts the remaining $5 million from the nuclear energy research initiative to zero, and that is precisely where this appropriation should be. I want to congratulate the gentleman from Florida (Mr. FOLEY), the gentleman from California (Mr. MILLER), the gentleman from Ohio (Mr. KUCINICH) and the gentleman from Massachusetts (Mr. MARKEY) for their strong efforts in this area.

Mr. Chairman, now is not the time to continue our investment in nuclear energy. It is time to put increased Federal resources into renewable sources of energy, including solar and wind research and other sustainable and potentially inexpensive sources of energy.

This Nation has poured $47 billion into the nuclear industry since 1950 and, frankly, that is enough. Renewable sources of energy did not even receive support until 1974, and since then these clean energy sources have been funded at far lower levels than nuclear energy.

Mr. Chairman, the fact is that nuclear energy produces radioactive waste that must go somewhere, and that waste will pollute the environment for thousands of years. I have heard some reference to the fact that nuclear energy is clean energy. If those Members think it is so clean, they may want to stand up and volunteer to be the recipients of the nuclear waste that is being produced all over this country. But I am not so sure they are prepared to accept that "clean waste." After all of the discussion, after all of the billions of dollars, the fact is, we simply today still do not know how to get rid of nuclear waste.

Mr. Chairman, this is a good amendment. It is supported and endorsed by the Friends of the Earth, the League of Conservation Voters, Public Citizen, Safe Energy Communication Council, the Sierra Club, the U.S. Public Interest Research Group, and the Natural Resources Defense Counsel. Let us save the taxpayers money. Let us not pour another $5 million into corporate welfare. Let us support this amendment.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho (Mr. CRAPO).

Mr. CRAPO. Mr. Chairman, I rise in opposition to this amendment.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to underline to the House that the money contained in this bill is for science, pure science. There is no money going to the Fortune 500 that my friend referred to. It is going to be peer-reviewed science, in order that we as a Nation may be assured that we are getting the best science in a very complicated area.

Let me just indicate to the House three possible areas that are on the table to be peer-reviewed and to which money will be allocated at some point.

Number one, proliferation-resistant reactor and fuel technologies. Proliferation-resistant fuels, one of the great issues that exists in our country. If we went to Russia we would find material floating all over the country that is capable of being converted to weapons grade compounds.

Secondly, nuclear safety and risk analysis. If we look at that issue, you can find units all over the world that are modeled on Chernobyl that need science, and that is another issue this program addresses.

Let me just point out the third one: new technologies for nuclear wastes. There is no more vexing problem in this country than the cleanup problem that is needed to bring our country back to where it was in the era before the creation of atomic weaponry. Nobody has a solution to it. It is costing us a fortune. This science will be used to try to find a solution.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, just for 5 seconds, everyone should come over here and defeat this amendment. This amendment is a disaster. I thank the gentleman for his comments. I concur with them.

Mr. FOLEY. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Florida is recognized for 1 minute.

Mr. FOLEY. Mr. Chairman, in closing, let me suggest to Members that when we had debate in the committee on this very issue, we asked Mr. Magwood who would be responsible for the implementation of the language. Is there any possibility of major advanced reactor programs which had been terminated by Congress being funded by this program? He said, "I guess from the legal perspective, it is not precluded, so clearly this could open up the door."

Mr. Chairman, this is a $20 billion bill: $2.4 billion for research for high-energy nuclear physics, basic energy services; $232 million for fusion energy R&D; $228 million for nuclear energy programs. We are not asking to cut a lot of money. We are asking for $5 million of savings on a $20 billion bill.

The program is ill-defined. It does not provide any guidelines that I think we can successfully track. Congress last year cut the funding for these programs. So I would suggest to my colleagues, in the interest of fairness, to support our amendment and save the government $5 million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FOLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FOLEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 478, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

The point of no quorum is considered withdrawn.

The Clerk will read.

The Clerk read as follows:

Non-Defense Environmental Management

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, $466,700,000, to remain available until expended.

Uranium Enrichment Decontamination and Decommissioning Fund

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $225,000,000, to be derived from the Fund, to remain available until expended: *Provided*, That $30,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

Science

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 5 passenger motor vehicles for replacement only, $2,399,500,000, to remain available until expended: *Provided*, That in addition, $7,600,000 of the unobligated balances originally available for Superconducting Super Collider termination activities shall be made available for other activities under this heading.

Nuclear Waste Disposal Fund

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $160,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund: *Provided*, That none of the funds provided herein shall be distributed to the State of Nevada or affected units of local government (as defined by Public Law 97-425) by direct payment, grant, or other means, for financial assistance under section 116 of the Nuclear Waste Policy Act of 1982, as amended: *Provided further*, That the foregoing proviso shall not apply to payments in lieu of taxes under section 116(c)(3)(A) of the Nuclear Waste Policy Act of 1982, as amended.

Departmental Administration

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $5,000), $175,365,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $136,530,000 in fiscal year 1999 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $38,835,000.

Office of the Inspector General

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $14,500,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

Weapons Activities

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; the purchase of not to exceed one fixed wing aircraft; and the purchase of passenger motor vehicles (not to exceed 32 for replacement only, and one bus), $4,142,100,000, to remain available until expended.

Defense Environmental Restoration and Waste Management

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 3 new sedans and 6 for replacement only, of which 3 are sedans, 2 are buses, and 1 is an ambulance), $4,358,554,000, to remain available until expended.

Defense Facilities Closure Projects

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, $1,038,240,000, to remain available until expended.

Defense Environmental Management Privatization

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), $286,857,000, to remain available until expended.

Other Defense Activities

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,761,260,000, to remain available until expended.

Defense Nuclear Waste Disposal

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $190,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed $1,500.

During fiscal year 1999, no new direct loan obligations may be made.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $8,500,000, to remain available until expended; in addition, notwithstanding 31 U.S.C. 3302, not to exceed $28,000,000 in reimbursements, of which $20,000,000 is for transmission wheeling and ancillary services and $8,000,000 is for power purchases at the Richard B. Russell Project, to remain available until expended.

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $24,710,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,200,000 in reimbursements, to remain available until expended.

Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $205,000,000, to remain available until expended, of which $195,787,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, $5,036,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992.

Falcon and Amistad Operating and Maintenance Fund

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $970,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $166,500,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $166,500,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1999 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $0.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award a management and operating contract unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 302. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award, amend, or modify a contract in a manner that deviates from the Federal Acquisition Regulation, unless the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 303. None of the funds appropriated by this Act or any prior appropriations Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy; under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 304. None of the funds appropriated by this Act or any prior appropriations Act may be used to augment the $29,800,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 305. None of the funds appropriated by this Act or any prior appropriations Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

SEC. 306. (a) Except as provided in subsection (b), none of the funds appropriated by this Act or any prior appropriations Act may be used by any program, project, or activity of the Department of Energy to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary of Energy determines that the articles or services are not available from a commercial source in the United States.

(b) Subsection (a) does not apply to the transmission and sale of electricity by any Federal power marketing administration.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 307. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

Mr. McDADE (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 28, line 2, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. DAN SCHAEFER OF COLORADO

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAN SCHAEFER of Colorado:

Page 28, insert after line 2 the following:

WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

SEC. 308. None of the funds appropriated by this Act or any prior appropriations Act may be used to provide economic assistance or miscellaneous payments under section 15 of the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579, 106 Stat. 4777) until the Waste Isolation Pilot Plant commences disposal operations.

Mr. McDADE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

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Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, may I say to my distinguished friend, the gentleman from Colorado, and the distinguished chairman of one of the most important committees of the Congress, he has kept us totally informed. We are in support of his amendment, and we accept it.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Chairman, I certainly understand the concern that moves the gentleman to bring this amendment. I am sure we will examine this issue further as we prepare for conference.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I thank both gentlemen, and I particularly thank both gentlemen for their long service here in the Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. DAN SCHAEFER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

Mr. McDADE. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 37, line 13, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the remainder of the bill through page 37, line 13, is as follows:

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $65,900,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $16,500,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $5,000); $462,700,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $14,800,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $444,700,000 in fiscal year 1999 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That $3,200,000 of the funds herein appropriated for regulatory reviews and other assistance provided to the Department of Energy and other Federal agencies shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at not more than $18,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,800,000, to remain available until expended: *Provided*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $2,600,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of title 18, United States Code.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program—Alternative Repayment Plan" and the "SJVDP—Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal Reclamation law.

SEC. 504. None of the funds made available in this or any other Act may be used to restart the High Flux Beam Reactor.

SEC. 505. Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990, as amended, (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

SEC. 506. (a) Funds appropriated for "Nuclear Regulatory Commission—Salaries and Expenses" shall be available to the Commission for the following additional purposes:

(1) Employment of aliens.

(2) Services authorized by section 3109 of title 5, United States Code.

(3) Publication and dissemination of atomic information.

(4) Purchase, repair, and cleaning of uniforms.

(5) Reimbursements to the General Services Administration for security guard services.

(6) Hire of passenger motor vehicles and aircraft.

(7) Transfers of funds to other agencies of the Federal Government for the performance of the work for which such funds are appropriated, and such transferred funds may be merged with the appropriations to which they are transferred.

(8) Transfers to the Office of Inspector General of the Commission, not to exceed an additional amount equal to 5 percent of the amount otherwise appropriated to the Office for the fiscal year. Notice of such transfers shall be submitted to the Committees on Appropriations.

(b) Funds appropriated for "Nuclear Regulatory Commission—Office of Inspector General" shall be available to the Office for the additional purposes described in paragraphs (2) and (7) of subsection (a).

(c) Moneys received by the Commission for the cooperative nuclear research program, services rendered to State governments, foreign governments, and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended.

(d) This section shall apply to fiscal year 1999 and each succeeding fiscal year.

SEC. 507. Sec. 505 of Public Law 102–377, the Fiscal Year 1993 Energy and Water Development Appropriations Act, and section 208 of Public Law 99–349, the Urgent Supplemental Appropriations Act, 1986, are repealed.

IMPLEMENTATION OF EXTERNAL REGULATION

SEC. 508. (a) TRANSFER OF AUTHORITY.—Notwithstanding any other provision of law, no later than March 31, 1999, the Department of Energy shall not implement and enforce its own regulatory system, through rules, regulations, orders, or standards, with regard to the Ernest Orlando Lawrence Berkeley National Laboratory for environment, safety, and health, but shall be regulated by the appropriate Federal, State, and local agencies as provided by the applicable Federal, State, and local laws and regulations: *Provided*, That for this facility, the Department shall be deemed to be a "person" under the Atomic Energy Act of 1954, as amended.

(b) DEPARTMENT OF ENERGY REPORTING REQUIREMENT.—By October 31, 1998, the Secretary of Energy shall transmit to the Congress a plan for termination of its authority to regulate its contractors and to self-regulate its own operations in the areas of environment, safety, and health at the facility named in section (a). The report shall include—

(1) A detailed transition plan, giving the schedule for termination of self-regulation authority as outlined in section (a), including the activities to be coordinated with the Nuclear Regulatory Commission (NRC) and the Occupational Safety and Health Administration (OSHA);

(2) A description of any issues remaining to be resolved with the NRC and OSHA or other external regulators, and a timetable for resolving such issues before March 31, 1999; and

(3) An estimate of the current annual cost of administering and implementing self-regulation of environment, safety, and health activities at all Department of Energy facilities, and an estimate of the number of Federal and contractor employees currently administering and implementing self-regulation of environment, safety and health activities at each of the facilities. For the Lawrence Berkeley National Laboratory, there should also be an estimate of the cost of the external regulators based on the pilot project of simulated NRC regulation which has already been conducted; an estimate of the cost and number of Federal and contractor employees currently administering and implementing self-regulation of environment, safety and health activities at the Laboratory; and an estimate of the extent and schedule by which the Department and Laboratory staffs will be reduced as a result of implementation of section (a).

(c) NUCLEAR REGULATORY COMMISSION REPORTING REQUIREMENT.—By January 30, 1999, the Chairman of the Nuclear Regulatory Commission shall submit to Congress a plan for regulating accelerator-produced radioactive material, and ionizing radiation generating machines at Department of Energy facilities. The report shall:

(1) Recommend what statutory changes, if any, would be needed to provide the Commission with the authority to regulate accelerator use at Department of Energy facilities;

(2) Identify what additional Commission resources would be needed to accomplish such regulation; and

(3) Identify any existing technical or regulatory obstacles to the Commission regulation of accelerator use.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. FOLEY

The CHAIRMAN. If not, the pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. FOLEY) on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 147, noes 261, not voting 25, as follows:

[Roll No. 252]

AYES—147

Abercrombie
Allen
Andrews
Bachus
Baldacci
Barrett (WI)
Bass
Bilbray
Blagojevich
Blumenauer
Bonior
Brown (OH)
Campbell
Capps
Chabot
Christensen
Clay
Coble
Coburn
Conyers
Cox
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
Delahunt
DeLauro
Doggett
Duncan
Engel
English
Ensign
Evans
Farr
Foley
Frank (MA)
Franks (NJ)
Furse
Gejdenson
Gephardt
Gibbons
Harman
Hastings (FL)
Hefley
Hilliard
Hinchey
Hooley
Hulshof
Hutchinson
Inglis
Jackson (IL)
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klug
Kucinich
LaHood
Lampson
Lantos
Largent
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Markey
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McInnis
McIntosh
McKinney
Meeks (NY)
Menendez
Metcalf
Miller (FL)
Minge
Mink
Moakley
Morella
Neal
Neumann
Ney
Oberstar
Olver
Pallone
Pappas
Paul
Paxon
Payne
Pelosi
Peterson (MN)
Petri
Pitts
Ramstad
Rivers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanchez
Sanders
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Smith (NJ)
Smith, Adam
Snowbarger
Stabenow
Stark
Stearns
Stokes
Sununu
Talent
Thune
Tierney
Velázquez
Vento
Waters
Waxman
Wexler
Weygand
Whitfield
Woolsey
Yates

NOES—261

Aderholt
Archer
Armey
Baesler
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chambliss
Chenoweth
Clayton
Clement
Clyburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (VA)
DeGette
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fossella
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kelly
Kim
King (NY)
Klink
Knollenberg
Kolbe
LaFalce
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas
Manton
Manzullo
Martinez
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McIntyre
McKeon
Meek (FL)
Mica
Millender-McDonald
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Northup
Norwood
Nussle
Obey
Ortiz
Packard
Parker
Pastor
Pease
Peterson (PA)
Pickering
Pickett
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Ryun
Sandlin
Sawyer
Saxton
Schaefer, Dan
Scott
Sessions
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snyder
Solomon
Souder
Spence
Spratt
Stenholm
Strickland
Stump
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (PA)
Weller
White
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—25

Ackerman
Baker
Becerra
Cannon
Carson
Gonzalez
Gordon
Gutierrez
Livingston
Maloney (NY)
McNulty
Meehan
Miller (CA)
Nadler
Owens
Oxley
Pascrell
Portman
Poshard
Rangel
Rush
Schumer
Torres
Towns
Weldon (FL)

□ 1952

Mrs. NORTHUP and Messrs. RODRIGUEZ, SPRATT, GOSS, WELLER, DAVIS of Virginia, EHLERS, HOSTETTLER and EHRLICH changed their vote from "aye" to "no."

Ms. DELAURO, Ms. KILPATRICK, and Messrs. BACHUS, LEWIS of Georgia, DEAL of Georgia, and BOB SCHAFFER of Colorado changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the final lines of the bill.

The Clerk read as follows:

> This Act may be cited as the "Energy and Water Development Appropriations Act, 1999".

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. BARRETT of Nebraska, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 478, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

Without objection, the proceedings on H.R. 4059 will resume immediately after this vote, and the Chair will reduce to 5 minutes the minimum time for any electronic vote on the passage of H.R. 4059.

There was no objection.

The vote was taken by electronic device, and there were—yeas 405, nays 4, not voting 24, as follows:

[Roll No. 253]

YEAS—405

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement

Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—4

Ensign
Gibbons
Paul
Sensenbrenner

NOT VOTING—24

Ackerman
Baker
Becerra
Cannon
Carson
Gonzalez
Gordon
Gutierrez
Maloney (NY)
McNulty
Meehan
Miller (CA)
Nadler
Owens
Oxley
Pascrell
Portman
Poshard
Rangel
Rush
Schumer
Torres
Towns
Weldon (FL)

□ 2010

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaTourette). Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each question on which further proceedings were postponed earlier today in the following order:

H.R. 4059, by the yeas and nays; House Concurrent Resolution 288, by the yeas and nays; House Resolution 452, by the yeas and nays; approval of the Journal, de novo.

Pursuant to the previous order of today, the Chair will reduce to 5 minutes the time for each electronic vote, including the first such vote in this series.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. The pending business is the question of passage of the bill, H.R. 4059, on which further proceedings were postponed.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 10, not voting 27, as follows:

[Roll No. 254]

YEAS—396

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker

Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—10

Conyers
Frank (MA)
Furse
Lofgren
McKinney
Paul
Royce
Sensenbrenner
Stark
Yates

NOT VOTING—27

Ackerman
Baker
Becerra
Cannon
Carson
Gonzalez
Gordon
Gutierrez
Hobson
Maloney (NY)
Manton
McNulty
Meehan
Miller (CA)
Nadler
Owens
Oxley
Pascrell
Porter
Portman
Poshard
Rangel
Rush
Schumer
Torres
Towns
Weldon (FL)

☐ 2018

Mrs. CHENOWETH changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, on rollcall No. 254, I was unavoidably detained on the telephone regarding tomorrow's markup of my subcommittee appropriation bill for Labor, Health and Human Services, and Education. I regret greatly missing this vote. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. HOBSON. Mr. Speaker, on rollcall No. 254, I was unavoidably detained. Had I been present, I would have voted "yes."

SENSE OF CONGRESS THAT UNITED STATES SHOULD SUPPORT FEDERAL LAW ENFORCEMENT AGENTS' EFFORTS REGARDING MEXICAN FINANCIAL INSTITUTIONS

The SPEAKER pro tempore (Mr. LATOURETTE). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 288.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MCCOLLUM) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 288, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 404, nays 3, not voting 26, as follows:

[Roll No. 255]

YEAS—404

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—3

Kolbe
Paul
Sanford

NOT VOTING—26

Ackerman
Baker
Becerra
Cannon
Carson
Gonzalez
Gordon
Gutierrez
Herger
Maloney (NY)
Manton
McNulty
Meehan
Miller (CA)
Nadler
Owens
Oxley
Pascrell
Portman
Poshard
Rangel
Rush
Schumer
Torres
Towns
Weldon (FL)

☐ 2026

Mr. SANFORD and Mr. KOLBE changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF HOUSE THAT BOARD OF GOVERNORS OF UNITED STATES POSTAL SERVICE SHOULD REJECT RECOMMENDED POSTAGE RATE INCREASE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 452.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and agree to the resolution, H. Res. 452, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 12, not voting 28, as follows:

[Roll No. 256]

YEAS—393

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—12

Borski
Brady (PA)
Campbell
Ehlers
Hoyer
Klink
Kolbe
LaHood
McHale
Sanford
Smith, Adam
Thomas

NOT VOTING—28

Ackerman
Baker
Becerra
Cannon
Carson
Cox
Gonzalez
Gordon
Gutierrez
Kasich
Maloney (NY)
Manton
McNulty
Meehan
Miller (CA)
Nadler
Owens
Oxley
Pascrell
Portman
Poshard
Rangel
Rush
Schumer
Shuster
Torres
Towns
Weldon (FL)

□ 2034

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PORTMAN. Mr. Speaker, because I was in my district conducting a town meeting, I was absent for rollcall votes 252, 253, 254, 255 and 256.

Had I been in attendance, I would have voted "yea" on rollcall votes 252, 253, 254, 255, and 256.

THE JOURNAL

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2908

Mr. WATT of North Carolina. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2908, a bill to repeal the patient transfer provision in the 1997 Balanced Budget Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERSONAL EXPLANATION

Mr. SKAGGS. Mr. Speaker, I include for the RECORD a listing of how I would have voted on several missed votes during a recent illness last month.

VOTES MISSED DURING ILLNESS

Mr. Speaker, last month I underwent emergency surgery and then spent some time recuperating. As a result, I missed a number of recorded votes. Had I been present, I would have voted as follows:

On vote number 122—no.
On vote number 123—yes.
On vote number 124—no.
On vote number 125—yes.
On vote number 126—yes.
On vote number 127—no.
On vote number 128—yes.
On vote number 129—no.
On vote number 130—yes.
On vote number 131—yes.
On vote number 132—no.
On vote number 133—no.
On vote number 134—no.
On vote number 135—yes.

On vote number 136—yes.
On vote number 137—no.
On vote number 138—yes.
On vote number 139—yes.
On vote number 140—yes.
On vote number 141—yes.
On vote number 142—yes.
On vote number 143—yes.
On vote number 144—no.
On vote number 145—no.
On vote number 146—yes.
On vote number 147—yes.
On vote number 148—yes.
On vote number 149—yes.
On vote number 150—no.
On vote number 151—no.
On vote number 152—no.
On vote number 153—no.
On vote number 154—yes.
On vote number 155—no.
On vote number 156—yes.
On vote number 157—yes.
On vote number 158—yes.
On vote number 159—yes.
On vote number 160—no.
On vote number 161—yes.
On vote number 162—yes.
On vote number 163—no.
On vote number 175—yes.
On vote number 178—yes.
On vote number 181—yes.
On vote number 182—no.
On vote number 183—yes.
On vote number 184—yes.
On vote number 185—yes.
On vote number 186—no.
On vote number 187—no.
On vote number 188—no.
On vote number 189—yes.
On vote number 190—yes.
On vote number 191—yes.
On vote number 192—no.

PERSONAL EXPLANATION

Mrs. MINK of Hawaii. Mr. Speaker, according to the printed RECORD, I was recorded as not voting on rollcall 247 on Thursday, June 18, 1998. I was on the floor and voting.

I wish to have the fact reflected that had I been recorded, I would have voted "no."

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BLUNT). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RESTRICTIONS ON DISCLOSURE OF INFORMATION BY PROSECUTORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I include for the RECORD the following excerpts from the Department of Justice guidelines, the Rules of Professional Responsibility for the District of Columbia Bar, the American Bar Association's Standards of Professional Conduct, and the Rule of the District Court of the District of Columbia concerning a prosecutor's obligations not to publicly disclose confidential investigative information.

The material referred to is as follows:

DEPARTMENT OF JUSTICE GUIDELINES RE: LEAKS TO PRESS

1-7.510 *Non-Disclosure of Information*

At no time shall any component or personnel of the Department of Justice furnish any statement or information that he or she knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding.

(United States Attorneys' Manual, Chapter 7, Section 1-7.510)

1-7.530 *Disclosure of Information Concerning Ongoing Investigations*

a. Except as provided in subparagraph (b) of this paragraph, components and personnel of the Department shall not respond to questions about the existence of an ongoing investigation or comment on its nature or progress, including such things as the issuance or serving of a subpoena, prior to the public filing of the document.

b. In matters that have already received substantial publicity, or about which the community needs to be reassured that the appropriate law enforcement agency is investigating the incident, or where release of information is necessary to protect the public interest, safety, or welfare, comments about or confirmation of an ongoing investigation may need to be made

1-7.550 *Concerns of Prejudice*

Because the release of certain types of information could tend to prejudice an adjudicative proceeding, Department personnel should refrain from making available the following:

a. Observations about a defendant's character;

b. Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement;

c. Reference to investigative procedures, such as fingerprints, polygraph examinations, ballistics tests, or forensics services, including DNA testing, or to the refusal by the defendant to submit to such tests or examinations;

d. Statements concerning the identity, testimony, or credibility of prospective witnesses;

e. Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial;

f. Any opinion as to the defendant's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea of a lesser offense.

(United States Attorneys' Manual Chapter 7, Section 1-7.550)

RULES OF PROFESSIONAL RESPONSIBILITY (DC BAR) RE: LEAKS TO PRESS

Rule 3.8 Special Responsibilities of a Prosecutor

The Prosecutor in a Criminal Case Shall Not:

(f) Except for statements which are necessary to inform the public of the nature and extent of the prosecutor's action and which serve a legitimate law enforcement purpose, make extrajudicial comments which serve to heighten condemnation of the accused;

(District of Columbia Rules of Court—Rules Governing the District of Columbia Bar. Appendix A, Rules of Professional Conduct Advocate, Rule 3.8)

Comment [2] . . . Indeed, because of the power and visibility of a prosecutor, the prosecutor's compliance with these Rules, and recognition of the need to refrain even from some actions technically allowed to other lawyers under the Rules, may, in certain instances, be of special importance. For example, Rule 3.6 prohibits extrajudicial statements that will have a substantial likelihood of destroying the impartiality of the judge or jury. In the context of a criminal prosecution, pretrial publicity can present the further problem of giving the public the incorrect impression that the accused is guilty before having been proven guilty through the due process of the law. It is unavoidable, of course, that the publication of an indictment may itself have severe consequences for an accused. What is avoidable, however, is extrajudicial comment by a prosecutor that serves unnecessarily to heighten public condemnation of the accused without a legitimate law enforcement purpose before the criminal process has taken its course. When that occurs, even if the ultimate trial is not prejudiced, the accused may be subjected to unfair and unnecessary condemnation before the trial takes place. Accordingly, a prosecutor should use special care to avoid publicity, such as through televised press conferences, which would unnecessarily heighten condemnation of the accused.

(District of Columbia Rules of Court—Rules Governing the District of Columbia Bar. Appendix A, Rules of Professional Conduct Advocate, Comment 2)

Comment [3] Nothing in this comment, however, is intended to suggest that a prosecutor may not inform the public of such matters as whether an official investigation has ended or is continuing, or who participated in it, and the prosecutor may respond to press inquiries to clarify such things as technicalities of the indictment, the status of the matter, or the legal procedures that will follow. Also, a prosecutor should be free to respond, insofar as necessary, to any extrajudicial allegations by the defense of unprofessional or unlawful conduct on the part of the prosecutor's office.

(District of Columbia Rules of Court—Rules Governing the District of Columbia Bar. Appendix A, Rules of Professional Conduct Advocate, Comment 3)

ABA STANDARDS RE: LEAKS TO PRESS

Standards 3-1.4 Public Statements

(a) A prosecutor should not make or authorize the making of an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the prosecutor knows or reasonably should know that it will have a substantial likelihood of prejudicing a criminal proceeding.

(b) A prosecutor should exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the prosecutor from making an extrajudicial statement that the prosecutor would be prohibited from making under this Standard.

(ABA Standards for Criminal Justice: Prosecution Function and Defense Function, 3rd ed., Standard 3-1.4.0, p. 12-13)

Relationship to Other Standards (Standard 3-1.4)

. . . Both Model Rule 3.6 and the Fair Trial and Free Press Standards contain lists of the types of statements that can ordinarily be presumed to violate or not to violate the strictures of this section. Fair Trial and Free Press Standards 8-1.1(b) and (c) provide as follows:

(b) Statements relating to the following matters are ordinarily likely to have a substantial likelihood of prejudicing a criminal proceeding:

* * * * *

(3) the opinion of the lawyer on the guilt of the defendant, the merits of the case or the merits of the evidence in the case;

(4) the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make a statement;

(5) the performance of any examinations or tests, or the accused's refusal or failure to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

* * * * *

(8) information which the lawyer knows or has reason to know would be inadmissible as evidence in a trial;

Standard 3-1.5 Duty to Respond to Misconduct

(a) Where a prosecutor knows that another person associated with the prosecutor's office is engaged in action, intends to act or refuses to act in a manner that is a violation of a legal obligation to the prosecutor's office or a violation of law, the prosecutor should follow the policies of the prosecutor's office concerning such matters.

(ABA Standards for Criminal Justice Prosecution Function and Defense Function, Standard 3-1.5 (a), p. 17)

D.C. DISTRICT COURT RULES RE: LEAKS TO PRESS

RULES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Title III. Criminal Rules.

(b) Conduct of Attorneys in Criminal Cases.

(1) It is the duty of the lawyer or law firm not to release or authorize release of information or opinion which a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which the lawyer or the law firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(2) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

(3) the prosecution . . . shall not release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, relating to that matter and concerning:

(ii) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(iii) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(v) The possibility of a plea of guilty to the offense charged or a lesser offense;

(vi) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(District of Columbia Rules of Court—Rules of the US District Court for D.C., Title III. Criminal Rules, Rule 308b)

(c) Orders in Widely Publicized or Sensational Cases. In a widely publicized or sensational criminal case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties, witnesses and attorneys likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such an order.

(District of Columbia Rules of Court—Rules of the US District Court for D.C., Title III. Criminal Rules, Rule 308b)

Mr. Speaker, the Department of Justice guidelines concerning leaks to the press, 1-7.510, Non-Disclosure of Information:

At no time shall any component or personnel of the Department of Justice furnish any statement or information that he or she knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding.

From the United States Attorneys' Manual, Chapter 7, Section 1-7.510.

Disclosure of Information Concerning Ongoing Investigations:

The Department shall not respond to questions about the existence of an ongoing investigation or comment on its nature or progress.

1-7.550. Concerns of Prejudice:

Department personnel should refrain from making available the following:

Section a. Observations about a defendant's character;

Section b. Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement;

Section d. Statements concerning the identity, testimony, or credibility of prospective witnesses;

Section e. Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial;

Section f. Any opinion as to the defendant's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea of a lesser offense.

From the United States Attorneys' Manual, Chapter 7, Section 1-7.550.

Rules of Professional Responsibility of the D.C. Bar, re Leaks to the Press.

Rule 3.8. Special Responsibilities of a Prosecutor:

The prosecutor in a criminal case shall not make extrajudicial comments which serve to heighten condemnation of the accused. For example, Rule 3.6 prohibits extrajudicial statements that will have a substantial likelihood of destroying the impartiality of the judge or jury. What is avoidable is extrajudicial comment by a prosecutor that serves unnecessarily to heighten public condemnation of the accused without a legitimate law enforcement purpose before the criminal process has taken its course.

Finally, Mr. Speaker, with regard to the American Bar Association's standards concerning leaks to the press.

Standards 3-1.4(b):

A prosecutor should exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the prosecutor from making an extrajudicial statement that the prosecutor would be prohibited from making under this Standard. Statements relating to the following matters are ordinarily likely to have a substantial likelihood of prejudicing a criminal procedure.

□ 2045

The opinion of the lawyer on the guilt of the defendant, the merits of the case or the merits of the evidence in the case, the existence or contents of any confession, admission or statement by the accused, or the refusal or failure of the accused to make a statement.

SUPPORT MY LEGISLATION TO REFORM THE IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to address my colleagues tonight with regard to the importance of the reform of IRS. They certainly have gone a step in the right direction, Mr. Speaker, both in the House and the Senate with the IRS restructuring format, and that is certainly a bill I expect to have conference committee approve, have both Chambers approve and then eventually be signed by the President.

But added on to that is certainly another piece of legislation called the Taxpayer Bill of Rights III which I have introduced, Mr. Speaker, and its purpose is to make sure we go even further for our constituents to make sure that they are protected when it comes to dealings with the IRS. We only have to look to September of 1997 when the Senate Finance Committee held hearings and had IRS agents under anonymity, under hoods with scrambled speech testifying in front of Mr. ROTH's committee just to the problems that have been outlined, whether it be fishing expeditions or the fact that mom and pop stores were the ones that were targeted for IRS investigations, the ones least likely to have either attorneys or accountants to assist them in determining whether or not an IRS tax was due or not.

And so in my legislation, besides the fact that we changed the burden of proof, instead of presuming that in fact the constituents are guilty, instead the constituents or taxpayers in this case will be presumed innocent and the IRS Commissioner would have to prove otherwise, in addition the legislation calls for increased probable cause, no more quotas.

As you have heard the testimony in the Senate hearings, there in fact were quotas for different IRS offices across the country which said there had to be so many audits or investigations, and certainly having quotas is certainly not the kind of jurisprudence that our courts envisioned or this country through its leaders would envision.

In addition, the bill calls for whistleblower protection, so if you report wrongdoing by an IRS employee or an office, that in fact you could not be audited then because you came forth to tell the truth.

In addition, the IRS would be responsible for any bad advice it gives, just as much as anyone else would who is in a similar official setting. IRS would be held to whatever advice it does give even though others may have relied to their detriment.

In addition, when the IRS overreaches and causes a taxpayer, an individual, business or legal loss, then the IRS would be responsible for that, and obviously it is our hope that through the anecdotal evidence which has been brought forward in the Senate hearings as well as House hearings, that in fact the American public can feel more secure as a result of this legislation, that there will not be quotas, fishing expeditions or in fact overreaching by the IRS in the future.

And finally, the bill calls for mediators to be appointed, Mr. Speaker, in the event that a taxpayer wants to settle a claim, that in fact the IRS would have to appoint a mediator for the purpose of trying to settle that claim.

And I applaud Members on both sides of the aisle for their efforts to work together to make sure we recast the IRS into an agency that is concentrated on service and in fairness. And while I am sure most of the IRS, if not the majority of the employees working there are doing what they think is best, the fact is that we have to change the code and the way the IRS is operating under changes of burden of proof which will, together with the agency, make sure that we make the reforms that the American people want and they deserve.

CRISIS IN AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. MINGE) is recognized for 5 minutes.

Mr. MINGE. Mr. Speaker, in the late 1990's we are facing a crisis in agriculture that is reminiscent of what we faced in the mid-1980's. It is also reminiscent of what we faced a century ago when William Jennings Bryan talked about crucifying American farmers on a cross of gold, when he talked about how our cities could be burned or factories could be destroyed and they would rise again, but if you destroy American agriculture, you can destroy our civilization. We have a unique responsibility, I submit, at the Federal level to show a continuing concern about the state of the agricultural economy.

It is unique in our country in the sense that we have a virtually pure form of competition for many of the crops and products that we produce among the producers. It is a true law of supply and demand that governs the market and governs the price. Other sectors of our economy are not bound by these stark principles to nearly the same extent.

Businesses can choose and work to differentiate the service that they provide, the product that they sell, from the competition. It may not be different, but the perception is it is different. Whether it be breakfast food, beer or some other commodity, we know that through careful advertising and brand promotion the consumers feel that they actually are receiving something substantially different from one producer compared to another.

But if you go to the country and you say you are interested in buying No. 2 yellow corn, it does not make any difference which farm that corn came from. No. 2 yellow corn is fungible with all other No. 2 yellow corn produced, or spring wheat or durum wheat or soybeans, and the list of products grown on our farms goes on and on.

Similarly, although one hog producer can strive for better genetics and more efficient production, when it comes to the marketplace, as long as those genetics and that production principle is basically the same, one farmer is receiving the same price as the next.

So what has this led to here in the late 1990s? Well, the price of corn in my part of the country, the northern corn belt, is dropping to $2 a bushel and possibly lower. We see wheat dropping below $3 a bushel. These two key crops are more important to the American farm economy than any others, and when the prices are dropping in those key crops, and we know that production costs are up, we are talking about some pretty serious difficulty.

In 1996 we passed a new farm bill with a 7-year life. It provided for transition payments and transition programs. And how was that farm bill serving us in the late 1990's, just barely 2 years later? My colleagues, I regret to report it is not serving us well.

The transition payments, which are costing the U.S. Treasury tens of billions of dollars, have been capitalized into land costs, higher rents for producers, more difficult for new and beginning farmers to establish themselves. Unfortunately, these transition payments are not providing the farmers with a nest egg that they can put to one side in a good year and use in a poor year. Instead, it is money that has to be spent in what was hoped to be a good year, and when the poor year comes there is nothing at all.

We are in a poor year. Figures from the U.S. Commerce Department indicate that agricultural income is down 98 percent in North Dakota, 98 percent from 1996 to 1997. In Missouri it is down 72 percent. In Minnesota it is down 38 percent. These are dramatic figures. It is leading to hundreds, if not thousands, of bankruptcies and farm closures and foreclosures.

We must act in this body to recognize that unless Congress and the Federal Government helps farmers by creating tools that they can use to manage risk, we are going to continue to lose hundreds of thousands of farmers over the next few years in the United States, a loss we cannot afford.

DO NOT VETO THE IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BERMAN) is recognized for 5 minutes.

Mr. BERMAN. Mr. Speaker, I am taking out this special order here today in conjunction with my friend and colleague from Texas (Mr. FROST) to discuss H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997. The President must decide tomorrow whether or not to veto H.R. 2709, which was sent to him on June 10.

This is legislation which Congress and the administration have discussed and debated again and again. It was first introduced in October 1997, followed by hearings and briefings with the administration, including at least two lengthy meetings between Vice President GORE and congressional sponsors of the legislation. In June it was sent to the President after a 392 to 22 vote.

The Senate passed this legislation 90 TO 4. It has such great support in the Congress because it is aimed at halting one of the major threats to international stability, Iran's program of developing missile delivery systems for its nuclear, chemical and biological weapons program.

There is no doubt about the Iranian program. Iran's Shihab-3 and Shihab-4 missiles are being designed with external help, reportedly primarily but not exclusively Russian, to a range of 930 to 1,250 miles. There have been additional reports that the Iranian objective is to develop a multistage, intercontinental missile with a range of 3,500 miles.

I agree with the Secretary of State that we should engage Iran. We should not let the memory of the taking of American hostages in our Embassy in Tehran almost 20 years ago forever determine our relationships with Iran. We should seek to expand our person-to-person contacts and work to resolve differences that separate us.

However, it is important to note that while President Khatami is pursuing more moderate domestic policies, it is not clear how much control he exercises or what his real intentions are with respect to foreign and defense policy. We cannot ignore the threat Iran's weapons programs and support for terrorism pose to regional peace and American interests in people. We should not change our policy toward Iran without seeing significant changes in Iran's behavior.

Iran's weapons of mass destruction programs continue to be of grave concern. U.S. officials have said publicly that Iran has a large and increasingly self-sufficient chemical weapons program and probably has produced biological warfare agents as well. Administration officials have publicly confirmed that Iran is trying to acquire a nuclear weapons capability.

And while Iranian President Khatami has categorically rejected terrorist attacks against civilians, he has yet to back his words with action. According to State Department's most recent report on terrorism, Iran remains the most active state sponsor of terrorism. Last fall Iran hosted representatives of numerous terrorist groups at a conference of liberation movements where they discussed greater coordination and support for some of the groups.

When the administration waived the Iran and Libya Sanctions Act of 1996, sanctions on European companies and Malaysia, it said that it did so because it wanted to focus on preventing proliferation rather than preventing investments in the Iranian oil industry. While I do not endorse the administration's rationale for the ILSA sanctions waiver, I cannot help but note that the Iran Missile Proliferation Sanctions Act does what the administration says it wants. It focuses on proliferation.

It would be incongruous for the administration to veto this bill, because we can already see the consequence of the administration's waivers of the ILSA sanctions. The President should welcome this legislation, not decry it.

□ 2100

On too many occasions in the past 3½ years, the leadership in this House has tried to tie the President's hand in foreign policy and overrule his prerogative to lead on national security matters. This is not such an effort.

Although the President must make a classified report to Congress of "credible information on foreign entities which have transferred missile technology to Iran," it is the President who determines what is credible. Thirty days later he must impose sanctions on those entities. These sanctions are not targeted against any country or government, but are narrowly targeted against the companies themselves, and the President may waive the imposition of sanctions, either because he is persuaded that the information contained in the report to Congress is incorrect or if he determines that the waiver is essential to the national security. And what are the sanctions that we are talking about? Simply that the entity or company that has proliferated this missile technology to Iran faces the loss of exports.

The bill has been significantly improved since it was first introduced. First, it is no longer retroactive beyond January 1998. Second, it allows for a classified report to be submitted to the Congress and permits the President to suspend sanctions. Third, it is limited to the transfer of items already contained on the Missile Technology Control Regime (MTCR) list—goods which are widely considered as benefiting a missile system—or additional items which the President determines to be of concern.

When this bill was debated last November in the House, the Administration suggested that the standard of evidence was so low that the U.S. would be forced to impose "erroneously" sanctions on foreigners. I find this to be a difficult argument to accept. The concept of this or any Administration "rushing to an erroneous judgment" on any issue subject to the availability and evaluation of intelligence data is hard to imagine. Is "credible information" so weak a standard that it would result in the erroneous imposition of sanctions when the President has the discretion to determine whether or not the information is credible? If the President has evidence that seemingly credible information is not accurate, then by definition the information is no longer credible.

With a great deal of evidence accumulated since 1994, the Administration still has not determined whether or not to sanction China for transferring entire M–11 missiles to Pakistan.

Yes, there are existing sanctions laws which attempt to restrict weapons proliferation. This bill is different from some existing laws because, unlike the Iran-Iraq Arms Non-Proliferation Act of 1992, and unlike existing law, the President must report to the Congress credible information about a violation and then he has thirty days to impose a sanction unless he uses the waiver procedure. There is no doubt that this legislation makes it more difficult for the President to evade responsibility for imposing sanctions. Some may think it best to make it easier for the President to evade the intent of the Congress. That is not my view.

This bill should not be construed as anti-Russian—it applies to companies anywhere that aid Iran. Administration officials say that this legislation will damage our relationship with Russia at a time when Moscow is tightening controls over sensitive exports. If, indeed, the Russians are taking steps that comply with the Act's provisions, they will not be sanctioned. Even if Russian companies are sanctioned, U.S.-Russian relations will survive because our two countries have many shared interests and concerns. We cannot afford to stop working with each other. And the United States remains committed to strengthening Russia's democratic transition. The bill now comports with Russian law and should be construed as a cooperative tool in our joint struggle to stop the dangerous flow of illegal technology to Iran.

The Russian Government has taken many positive steps to restrict sensitive exports. On May 5th the Deputy Head of Administration of the Russian President stated that "Military and dual purpose technologies constitute the national treasure of Russia, which has been created by successive generations of our people. Therefore the export control shall completely exclude any possibility of squandering unique domestic technologies, materials, parts, intellectual property, and prevent leaks of classified state and military data." This is a very helpful statement and the additional measures that the Russians have taken to control exports are also praiseworthy. They are a tribute to the seriousness with which the Russians take this issue and a tribute to the Administration, especially Vice President GORE, who has worked extraordinarily hard with the Russians to come to a common understanding of the seriousness of the Iranian threat and to a common approach to confronting that threat.

Vetoing this bill would be a mistake, sending instead a signal that the Administration is not as committed as it claims to be in preventing Iran from threatening its neighbors and the world.

The strong support that this legislation has received indicates that should the President veto this bill, his veto will be over-ridden. This legislation makes a substantial contribution to the fight against proliferation and has the overwhelming support of the U.S. Congress.

THE IRAN MISSILE PROLIFERATION SANCTIONS ACT

The SPEAKER pro tempore (Mr. BLUNT). Under a previous order of the House, the gentleman from Texas (Mr. FROST) is recognized for 5 minutes.

Mr. FROST. Mr. Speaker, I rise to join my colleague, the gentleman from California, in support of H.R. 2709, the Iran Missile Proliferation Sanctions Act, and to urge the President to sign this most important legislative initiative.

This is an important proposal that seeks to protect United States national security interests in the Middle East by stemming the flow of missile technology and expertise to Iran. While the administration may have objections to several of the sanctions imposed by the bill, I would submit that the President's authority to make foreign policy is protected in the bill by granting him the authority to waive those sanctions under specific circumstances.

Mr. Speaker, this proposal is especially important since intelligence reports show if Iran succeeds in its efforts to acquire weapons of mass destruction and the missiles to deliver them, within a year it could have the indigenous capability to begin assembly and testing of ballistic missiles capable of hitting Israel, other targets in the Middle East, as well as parts of Europe and Asia.

Mr. Speaker, Iran already possesses chemical weapons and is intensely working toward acquiring biological and nuclear weapons capability. These are dangerous trends, Mr. Speaker, and the United States must take action to stop these developments.

What is troubling is that technology and expertise has come to Iran from foreign companies, primarily, but not exclusively, Russian companies. In previous years, China and North Korea provided this assistance; today, Russian companies are providing highly advanced technology. In fact, Mr. Speaker, U.S. military intelligence reports, reports that have been publicly cited, have indicated that Russian entities signed contracts this year to help produce liquid-fueled ballistics missiles, such as the SS-4.

In addition, there have been sales of Russian high technology laser equipment and negotiations between the Russians and Iran for other supplies for the manufacture of missiles as well as the construction of the wind tunnels necessary to test the missiles.

Mr. Speaker, some 9,000 scientists, engineers and technicians from the former Soviet Union are currently in Iran as advisors. Some of these experts are teaching subjects ranging from missile guidance systems to firing circuitry and pyrotechnics of explosive systems. Others are aiding in the rebuilding of the Bushehr nuclear reactor, and the technical advice being given in this project could very well enhance Iran's capability to develop nuclear weapons.

Mr. Speaker, this flow of technology and expertise continues, in spite of the fact that in January of this year, then Russian Prime Minister Chernomyrdin issued a decree to restrict the export of dual-use technology. In addition, Russia is a member of the Missile Technology Control Regime, a volunteer arrangement among countries which share a common interest in arresting missile proliferation. Russia along with the 27 other signatory countries, which includes the United States, has agreed to participate in a regime which consists of common export guidelines applied to a common list of controlled items. But, Mr. Speaker, in spite of Russia's international commitments, Russian entities continue to provide this deadly technology to Iran.

So what is to be done, Mr. Speaker? There are currently sanction requirements in place for those companies which engage in this type of technology transfer. The Iran-Iraq Arms Nonproliferation Act of 1992 requires the President to sanction the governments of those countries who knowingly supply Iran or Iraq with advanced conventional weaponry or technology that contributes to their acquisition of weapons of mass destruction. These sanctions would suspend U.S. assistance to these governments, would suspend codevelopment and coproduction agreements, and would suspend military and dual-use technology agreements that might lead to the transfer of technology or weapons to either Iran or Iraq.

In addition, Mr. Speaker, the Arms Export Control Act and the Export Administration Act both require the imposition of sanctions on governments and entities that violate the Missile Technology Control Regime. Unfortunately, the administration has chosen not to apply the sanctions available in existing law, choosing rather to pursue diplomatic solutions. But, Mr. Speaker, it appears these diplomatic solutions have not cut off the flow of these dangerous technologies to a nation with whom we do not have diplomatic relations.

H.R. 2709 was introduced last fall to press for an end to Russian missile cooperation with Iran. The legislation would sanction any company involved in providing missile technology to Iran. These sanctions should provide the United States with a means to attack the spread of weapons of mass destruction in the Middle East, and, while we might find ourselves standing alone in this fight, it is a worthy stand for us to take. The Congress is on record as supporting this legislation. The bill has 271 cosponsors in the House and 82 cosponsors in the Senate, and passed both houses by an overwhelming bipartisan majority.

Mr. Speaker, if we stand alone in our willingness to stop the spread of death and destruction in the Middle East, then so be it. Our stand is morally correct and the administration should join with the Congress in supporting the imposition of sanctions on those who put financial gain ahead of peace.

SUPPORT FOR THE IRAN MISSILE PROLIFERATION SANCTIONS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

Mr. SHERMAN. Mr. Speaker, I rise to associate myself with the comments of my colleagues, the gentleman from California (Mr. BERMAN) and the gentleman from Texas (Mr. FROST), and to urge the President to sign legislation that would impose sanctions on those entities that are helping Iran develop ballistic missiles. Ballistic missiles in the hands of the government in Teheran would be destabilizing to the entire Middle East. We do not need to provide assistance to those companies that are assisting this ballistic missile program.

We should seek a rapprochement with the people of Iran. We should look at the recent elections in which a relative moderate, and I emphasize the word relative moderate, was elected President and exercises some authority within the government of Iran. The people of Iran, though, do not benefit from ballistic missiles. Ballistic missiles are not an essential element of the economic development of Iran. Ballistic missiles would simply give the Iranian Government an opportunity to create mischief and death in the entire Middle East area.

The President should welcome the most recent legislation, not as an interference, but rather as a bolstering of his own policies, to control ballistic missile technology.

Mr. Speaker, I urge the President to sign the legislation, and I associate myself with the comments of my colleagues.

DISASTER FACING AGRICULTURE BASE OF NORTH DAKOTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota (Mr. POMEROY) is recognized for 5 minutes.

Mr. POMEROY. Mr. Speaker, a year ago Grand Forks, North Dakota, was ravaged by flooding waters from the Red River. The eyes of the Nation watched with horror as this city of 50,000 suffered not just a devastating flooding event, but, in the middle of all else, fires began in the downtown that ravaged 11 of the major buildings in downtown Grand Forks as well. The attention of this body was focused on that event, and the assistance resulting in the disaster supplemental appropriations bill really played a very critical role in our ability to begin the rebuilding process, a process that continues even today.

Today I take the floor to tell you of another disaster, a disaster that, at least as far as North Dakota is concerned, is every bit as threatening, every bit as devastating, every bit as disastrous as the Grand Forks flood. But this disaster, chances are you will have never heard of, not seen a second of television footage, and be utterly unaware it is occurring. This is a stealth disaster, and it is a disaster facing the agriculture base of the State of North Dakota.

This chart tells the story, just as clearly as this story can be told. The U.S. Department of Commerce reported that in 1996, the net farm income in North Dakota totaled $764 million. One year later, that total had fallen to $15 million net farm income for the entire State, a drop of 98 percent.

The average North Dakota producer lost $23,000 last year, and the average North Dakota producer is, by the way, a family farm, relatively modest in income levels, even in the best of years; a loss of $23,000 last year. Across the State, those making loans available to farmers report that 80 of the borrowers lost money last year.

This disaster is the stealth disaster. Hopefully the remarks of my colleague, the gentleman from Minnesota (Mr. MINGE), the remarks I am making, and our ongoing effort will make it less of a stealth disaster in the weeks to come, but its depth and its consequences are as serious as I could possibly begin to tell you.

One of the consequences inevitably of the kind of economic results I have just spoken of is revealed in this kind of cryptic gallows humor cartoon. It says "'tis spring, 'tis spring," and it has got the vultures flying over the farm auction postings, a very apt characterization of precisely what is reflected in the newspapers advertising farm auctions. Pages and pages and pages of auction sales reflecting the end of a multi-generation of family farming operations.

Typically each and every auction revealed in these many pages will be a family farm, initially homesteaded, perhaps a century ago, and then farmed successfully now for several generations, until the devastation we have now seen has made continuation of that family farming entity impossible.

Why is this happening? What could possibly be bringing this about? Well, first of all, it is a combination of disastrous production conditions, coupled with disastrous prices, and all occurring in the backdrop of a new farm policy, a farm policy of this country that essentially has substantially reduced in meaningful ways the types of support and assistance the Federal Government had previously maintained for decades to family farmers when they get into trouble.

I think it is important for us to look at the changes in farm policy and draw conclusions in terms of what we must do in the future to react. Clearly, the results shown in North Dakota show the existing safety net is not meeting the challenge facing the farmers in our area and across the country.

REGARDING THE TURKISH TRANSFER OF F-16s TO CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, on June 18th, the Turkish Government sent six F-16s to Northern Cyprus and issued a warning to Greece about its military activity on Cyprus.

The movement by Turkey of F-16s is cause for alarm, because in recent months Ankara has stepped up its belligerent rhetoric over the Cyprus problem. Last month, Turkey abruptly changed its position in the Cyprus peace negotiations and began insisting that three new preconditions be met before meaningful negotiations could take place. This unreasonable turnabout prompted a public rebuke of the Turks from Ambassador Richard Holbrooke, the President's Special Emissary for Cyprus.

With the recent deployment of F-16s to Northern Cyprus, Ankara has edged an already volatile situation that much closer to military confrontation.

□ 2115

What I find to be particularly abhorrent is that the Turks are using American weaponry to destabilize this region.

I and many of my colleagues here in the House have pointed out time and again on the House floor, in committee proceedings, and with legislation that the Turkish presence on the island of Cyprus with 35,000 troops is illegal. Turkey is the only country in the world that has recognized northern Cyprus as an independent country.

Ankara's presence in northern Cyprus, incidentally, is being bolstered by far more than American F-16s. Turkish forces are well-equipped with a laundry list of sophisticated American weaponry. The United States should not allow Ankara to use American-made weapons to enforce the illegal occupation of Cyprus. Using American weapons in this fashion may well be a violation of the Arms Export Control Act.

Turkish arms transfers are not specific to Cyprus, I should point out, Mr. Speaker. There are also illegal transfers of U.S. or NATO standard weapons and other military supplies being sent to Azerbaijan by Turkey. Turkey has long sided with Azerbaijan.

One of the major complications of the Nagorno-Karabagh conflict is the blockade of Armenia and Karabagh by Azerbaijan, and the Turkish blockade of Armenia in support of Azerbaijan. These blockades have made life hard for the Armenian people, stopping vitally needed relief supplies from the U.S. and other countries. Now Turkey is funneling military equipment to Azerbaijan, equipment I have seen myself in a previous visit to the front lines in Nagorno-Karabagh.

Just a few weeks ago I opposed the suggestion that appeared in the media that Turkey may want to transfer American F-16 fighter planes to Azerbaijan. That country already has air superiority because it inherited a lot more airplanes from the Soviet Union than did Armenia. F-16s would give Azerbaijan overwhelming air superiority.

There are now suggestions that Turkey may transfer advanced NATO howitzer or cannon artillery to Azerbaijan. Mr. Speaker, I will be asking my colleagues to join me in sending a letter to the chairman of the Committee on International Relations asking that he hold hearings on the use of American weapons by Turkey in northern Cyprus and Azerbaijan. Any use of American weaponry by Turkey that violates U.S. foreign policy and national security interests must be met with a swift and vigorous change in U.S. policy.

I would also encourage all of my colleagues to join me in pressuring Turkey to be a partner in the search for a lasting peace in the region, and not a contributor to a continuing cycle of violence and tensions.

EXPRESSING CONCERN REGARDING STATEMENT OF DR. THOMAS HOFELLER

The SPEAKER pro tempore (Mr. BLUNT). Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to express my concern for statements attributed to Dr. Thomas Hofeller, the staff director of the Subcommittee on the Census. Dr. Hofeller's comments appeared in David Broder's column in the Washington Post yesterday entitled "Playing Hard Ball on the Census."

In the article, Mr. Hofeller is supposed to have suggested that "Someone should remind Secretary Bill Daley that if he counts people the way he wants to by using sampling, his brother, Chicago's Mayor Richard M. Daley, could find himself trying to run a majority-minority city."

I am not exactly sure what that means, but if these remarks are correctly attributed to the head of the staff of the Subcommittee on the Census, then I am concerned, because I find them to be reprehensible, deplorable, irresponsible, offensive, and yes, even race-laden.

These comments give Americans a real glimpse at some of the rationale behind not using sampling techniques. The comments by Dr. Hofeller suggests that if we do the Census the way the National Academy of Sciences and other professional organizations have suggested that we do it, then someone in some places will not like the results, because minorities in some instances will become the majority.

These vile comments seem designed to put fear in the hearts and minds of non-minority Americans. The comments divide, rather than unite, at a time when we should be coming together as one America.

In addition, what is more troubling is the fact that the comments expressed do not concern themselves with a fair and accurate Census, which should be the goal of every American.

Mr. Hofeller's remarks, if true, suggest that we should continue the pattern of undercounting African Americans, Asian-Americans, Hispanics, the poor, and other minorities. His comments indicate that a fair and accurate census could shift the composition of people in Chicago and other places throughout the country.

What we are dealing with is the fact that there has been a serious undercount of minorities in this country since the first census was taken in 1790. In Chicago during the last census, over 68,000 people were missed. As a result of being missed, millions of dollars in Federal funds were lost. Residents in Chicago were short-changed. Communities throughout the country who were undercounted were short-changed on resources and funds for social services, transit, and education alike.

The reality is that the census should in fact be about a fair and accurate count; nothing more, nothing less. Let us get down with the rhetoric of politics and talk about the real deal, which is counting the American people.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4101, DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. SOLOMON (during the special order of the gentleman from Michigan, Mr. BONIOR) from the Committee on Rules, submitted a privileged report (Rept. No. 105-593) on the resolution (H. Res. 482) providing for the consideration of the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

UNIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan (Mr. BONIOR) is recognized for 60 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, I am joined tonight by my colleagues, the gentleman from Illinois (Mr. DAVIS) who just spoke, the chief deputy whip of our party, the gentlewoman from Connecticut (Ms. DELAURO), the gentlewoman from California (Ms. BARBARA LEE), and the gentlewoman from California (Ms. LYNN WOOLSEY), as well.

We are here this evening, Mr. Speaker, to talk about unions. We say that word with pride. Earlier this year, many of us heard powerful, real life experience stories by Betty Dumas, Cathy Sharp, and Juan Mazylmian about the challenges they faced when they tried to organize their workplace; a basic right, to organize your workplace for wages, for benefits.

For Juan, he and his fellow asbestos removal workers in New York won union recognition and a shot at a better life. For Cathy Sharp, she struggled in a hospital system where she worked in San Diego and she won union recognition, and a contract that gives nurses more input into the care of their patients.

For Betty Dumas and her fellow workers at the Avondale shipyard in New Orleans, their fight goes on. It is a brave fight, but their resolve remains stronger than ever. They will win that fight, because they are standing up for folks who they work beside every day who are deprived of decent wages and decent benefits and the things that many of us take for granted today at the workplace.

These three individuals touched us in a very special, fundamental way when they spoke to us at our conference in Virginia. We understood their fights were for basic human respect and for basic human dignity.

This week, and particularly on the 24th of June this week, many of us are lending our voices and our support to working men and women around the country. We will be speaking out about their efforts to improve their future. On the 24th, a day to make our voices heard, workers will be showcasing their ambitions and their visions and their successes, and yes, even their heartaches, in their effort to come together to form a union.

It is not easy to do. I will talk about that in a second. There are activities planned in over 70 communities to highlight workers' basic, fundamental rights to organize. From Seattle to Miami and from Burlington to San Diego there will be activities to celebrate past victories, and to remind us of the work that is yet to be done.

Some will say, how difficult is it to join a union? To give you some idea of how hard it is for workers to join together to form a union, let me try to offer an analogy. Imagine waking up the morning after the November election and reading the headlines: Challengers win; challenger wins. Incumbent files objection to the way the election was conducted. The court will issue a decision within 2 to 5 years. Incumbent to hold office pending outcome of litigation. End of headline.

This sounds absurd and profoundly undemocratic, but that is what is happening. That is what is happening to workers in our country whenever they win an NLRB election. That is the National Labor Relations Board's election.

Just winning takes tremendous courage and resolve. Employers and their sophisticated anti-union consultants commonly launch campaigns of terror and fear against workers who try to form a union. Once a worker steps onto their employer's property, their basic human rights of free speech and freedom of assembly and free press, they get left at the curbside.

Workers face union-busting tactics such as threats of being fired or taking away their health insurance; or being forced to attend a compulsory anti-union meeting, either in large groups or in one-on-one shakedown sessions; or threats of moving the plant to Mexico or other countries.

There is in this country, and I am sad to report this, but there is in the country today a multi-million dollar industry that is established just to quash organizing drives in America. Against these odds, workers need all the help they can get.

That is why more and more organizing drives have become community campaigns. Religious and community leaders are speaking out more and more to improve the quality of life of their families and friends and neighbors. There is greater recognition that these drives are part of a larger cause, the fight for human rights and for basic justice.

Organizing not only improves the lives of individual workers, but also the entire community. When those wages go up because workers can come together and band together and bargain for a good contract and good wages, that money gets circulated throughout the community and everyone benefits. It does not stay in a few pockets.

Organized workers get contracts and salaries which set the standard for other workers in the community who may not be unionized, so they bring up everybody's wages, not just union workers.

There is a huge wage gap in this country today. I think everybody realizes that that gap is growing, and it is as wide as it has been in decades. It is wider than any other western democratic society, capitalist society, today. Today the struggle to reduce the ever-expanding wage gap between the top 20 percent and the rest of us is an important struggle, and it will be the struggle that will be waged over the next decade.

The only way to restore some semblance of economic justice to this country is if the labor movement grows. When the labor movement grew after the Second World War, the pie for America was shared by all. When productivity grew 90 percent, wages grew 90 percent during the 1950s. But during the 1960s and the 1970s and 80s and 90s, we saw that productivity continue to grow but the wage level for workers continued to decline. It declined significantly. That is why we have this huge wage gap.

One of the reasons it declined is because membership in unions across the country, which was at a high of about 40 percent in the 1950s, has slipped to about 15 percent today, and about 10 percent among the private sector.

The workers' struggle for union representation and free association is deeply interlinked with overall economic disparity and participation in our democracy. In order to win, we need to build an alliance between union members, churches, progressive organizations, and public officials who care about workers.

If we can do that, if we can shed some light on union-busting activities going on in the workplace, we can win this battle. Winning takes a good deal of teamwork. Members of Congress I believe have a responsibility to speak out.

That is why about a week ago, at my alma mater, the University of Iowa, I was saddened to see that the university's hospital system is fighting the right of 2,000 registered nurses and professionals to organize with the Service Employees International Union. Not only are they fighting it, the university has hired a known union-busting firm, Management Service Associates, MSA, to try to defeat the organizing drive.

So I called several officials at the university to ask them to terminate their association with MSA, and to take a neutral stance in the organizing drive to allow workers to determine for themselves, in a free and open and a democratic way, if in fact they wanted to band together to bargain collectively for their wages and their benefits and their work.

It is my understanding that Senator HARKIN has done the same thing.

□ 2130

The situation in Iowa is just one of the organizing drives that is being highlighted this week. There are many truly remarkable success stories throughout the country that are part of what we call "A Day to Make Our Voices Heard." I just want to mention a couple of them now, and then I will be happy to yield to my colleagues.

In Detroit, some 2,000 employees at the Detroit Medical Center won an agreement that states when a majority of workers sign cards in support of a union, the employer will recognize the union. So they will not have to go to the NLRB and wait 2 years, and 3 years, and 4 years, and 5 years to be recognized. That is the way to break unions, by not recognizing what the people democratically have voted for.

The card check, which is basically people standing up and saying, "I want it," will cut through all of that red tape and restore the economic democratic feature of union organizing.

In Dallas, 9,000 teachers won representation by the American Federation of Teachers, partially because they worked hard to elect a sympathetic school board.

In Cincinnati, 350 school bus drivers gained representation by the Amalgamated Transit Union with the help of the clergy, the NAACP, and elected school board members and other unions. They all banded together as community and said we think this is important, that people ought to have a right to come together democratically to bargain for the sweat and the work that they perform for our community.

In Washington, D.C., 700 parking lot attendants won representation by the Hotel Employees and Restaurant Employees and a first contract by gaining support from the leaders in the Ethiopian community. They went to the community that had a stake in this. Parking lot customers, property owners, the Ethiopian community all came together and said there ought to be economic justice for these people.

The list continues from Brookline, Massachusetts, to New Haven, Connecticut, to Watsonville, California, and all across the country. And that is why many of us are gathered here tonight and will participate in other activities throughout the week.

When organizing drives are successful, they empower communities in ways we cannot imagine. For workers throughout the country the fight for dignity and respect is truly a fight about basic democratic rights.

So tonight we stand with those workers who have stood together to make a difference in their communities. And we also stand with those workers who are still fighting to organize. The challenges are great and the courage that it takes so often is just mind-boggling. People standing up and saying they want to fight, knowing that in fact their wages could be gone the next day, their benefits taken away. They could be fined like Betty Dumas was fired over at Avondale.

People who rely on that check to take care of their kids every week, knowing that they are going out on a limb for economic democracy knowing the consequences. And many suffer the consequences. It takes great courage. The challenges are great, but it is worth it. Workers who build community coalitions and go through organizing drives are fundamentally participating in our democracy, taking pride in their work and building a better place to live, not only for them and their children but for future generations to come.

I think about my community in the Detroit metropolitan area, and I remember the struggle of the autoworkers back in 1936 and 1937 in the sitdown strikes in Flint and Detroit. My grandfather participated in those sitdown strikes. My father is a union man too. I remember him telling me he used to throw sandwiches into the autoworker yards to those who were sitting down and would not move until they got their bargaining rights.

What does that mean for us today? It means that that struggle that went on in 1936 and 1937 provided us with a buoyant, resourceful, strong middle-class and provided good wages and health care benefits and built the middle class in this country. What it did was that movement provided us with a decent work hour, the 8-hour day, overtime pay, workers' comp, unemployment comp, health insurance. All of these benefits, pension benefits, cost of living increases that we take for granted today, they were built by the struggle of people who had the courage to say we have the right to bargain for our work, for our sweat, as a democratic right.

It seems like every week we see another headline about this million dollar merger or that billion dollar buyout. They keep getting bigger and bigger all the time. And in the process, a handful of people at the top, the CEOs who seem to get golden parachutes just for jumping out of bed in the morning, they become less and less accountable to our country and to our communities.

That is why unions are so important. Unions give working men and women a voice. They help level the playing field. Unions build a stronger democracy by giving people a say in the decisions that affect their jobs and their future. They honor the values of loyalty, commitment, pride, and community.

So it is with deep pleasure, Mr. Speaker, that I am here with my dear friends tonight talking about this effort, and this week and I would be delighted to yield to them for any comments that they would care to make this evening. I thank them for their indulgence.

Mr. Speaker, I yield to the gentlewoman from California (Ms. WOOLSEY), my friend.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Michigan for yielding, and I would like to thank our wonderful minority whip for pulling this evening together and being so absolutely passionate about workers of this country. I thank him for leading the way.

Mr. Speaker, I knew the American workers were in trouble when one of the first changes that the Republicans made as the new majority was to completely eliminate, to remove the word "labor" from the committee that I served on. It was called the House Committee on Education and Labor. First they called it the Committee on Education and Economic Opportunities. Absolutely removing the word "labor." Then 2 years later, even the Republicans had trouble totally ignoring American workers so they changed the name again. This time it was to the Committee on Education and the Workforce. Again, no mention of labor.

The new name they tried to make them look softer, of course. But it did not. It did not change their negative attitude an iota. In fact, one Member of the new majority on the committee kept probing and pushing and insulting workers and those of us who supported American workers. One meeting, one hearing we had, and I will never forget it, this Member on the other side of the aisle referred to the Secretary of Labor, Robert Reich, as he was testifying before us, the Secretary of Labor, he referred to him as a Marxist and told him that he had read all of Carl Marx's writings and he had read all of Secretary Reich's writings and he saw no difference. This is the same Member who referred to me on the committee as a Communist because I was defending organized labor.

So that was a heads-up, and let me know what kind of year we were going to have and how hard we had to work, because working Americans were not going to be represented by the majority at this time in our House of Representatives.

Mr. Speaker, well, it was all right for me. He can call me anything he wants, because I want to tell my colleagues, I am one person who is very proud to speak out for organized labor, for the working men and women of this country. It is because of organized labor that we have a middle class in the United States. That is why we are the country that we are. That is why we are this great Nation. It is because of organized labor that American workers have been able to afford to work and raise a family on their wages. And they get benefits, if it is part of organized labor, pensions as part of organized labor.

Today, some of these expectations that people have that they were able to count on are eroding. We need labor unions more today than ever before. In the "Education and Anti-labor Committee" that I sit on, we are marking up a series of OSHA reform bills that will weaken the Occupational Safety and Health Administration. If these bills were to become law, American workers would be at a greater risk of on-the-job injuries and health effects and death than ever before. Well, not ever before, but since we have had OSHA in place.

Mr. BONIOR. And, Mr. Speaker, we still have today, it is my understanding, 50,000 Americans who lose their lives on the job every year. Fifty thousand.

Ms. WOOLSEY. Mr. Speaker, that is right. But since OSHA was passed in 1970, the job fatality rate has been cut in half and injury rates have also declined significantly. That ought to be example enough that we do not weaken it. If anything, we strengthen and learn from mistakes and we fix errors and we go forward and make sure that more people are safe than fewer. But Republicans in both the House and the Senate are pushing legislation that will make it more difficult for OSHA to issue protective standards; that will limit OSHA's ability to enforce our current standards, particularly in case of willful or criminal violations. Their legislation would weaken workers' right to know about unsafe workplace conditions, and would make it harder for them to address their own safety concerns within the workplace.

My colleagues on the other side of the aisle seem to think that American workers have too many safety and health protections. Last year, 6,112 workers were killed by traumatic injuries, and that is a Bureau of Labor Statistics figure. Another 50,000 workers died, as the gentleman from Michigan (Mr. BONIOR) said, from occupational diseases. And that is a National Institute of Occupational Safety and Health, NIOSH, statistic. And more than 6.2 million workers in the private sector were injured on the job. That is an AFL-CIO statistic.

Thank goodness workers have unions to help them fight the Republicans' effort to turn back the clock on worker safety. These bills should be called "OSHA deform." It should not be called reform. They are trying to undo the progress we have made instead of build on the progress and go forward.

Unions are also speaking up for American workers against legislation that would diminish workers' wage and hour protection under the Fair Labor Standards Act. We have comp time legislation. We have sales incentive compensation acts that have been passed out of this House. Both of them would be all right if the worker had a choice. If they wanted to participate in a comp time program, then it would be their choice, not the employer's. If the worker wanted to go without overtime pay to work in a less than $20,000 a year job, that would be the worker's choice. But, no, it will be the employer's choice.

They are also working on legislation that would legalize company-formed and controlled unions, and that is called the TEAM Act. Legislation would make it impossible for unions to speak for workers in the public arena. And that is the Paycheck Fairness Act and campaign finance reform.

The gentleman spoke about the wage disparity between American workers and their bosses. He said that this disparity has never been greater. In 1960, we will go there first, the average pay for a chief executive officer of the largest U.S. corporations was 12 times greater than the average wage of a factory worker. That was in 1960. Today those CEOs receive wages and compensations worth more than 135 times the wages and benefits of the average employee at the same corporation.

In 1960, it was 12 times greater. In 1998, it is more than 135 times greater. We wonder what is happening to our middle class. It is all going to the top and the working poor are getting greater and greater.

Today, millions of Americans came to work. They came on time. They did a good job. They worked in the workplace to the very best of their ability. And they did not earn enough money to bring themselves and their families above the poverty level. These workers and millions of others all across America need to join together, need to organize so that they can have better lives and so that the lives of their families will be more secure.

□ 2145

They join labor unions so that they can improve their wages, their working conditions, their benefits, their safety conditions and their future pensions.

I am proud, because I am supported and I do support nurses and teachers, firefighters, truck drivers, waitresses, carpenters, electricians and all the other working men and women of this country, and those who belong to labor unions.

Union members work every day to keep America strong and to keep America safe. I am proud to work here in the Congress for them and for all working men and women in this country.

I thank the gentleman, again, for pulling this evening together.

Mr. BONIOR. Mr. Speaker, I thank the gentlewoman for her eloquent statement, a statement with passion.

I just wanted to pick up on one point that the gentlewoman from California made. That is the disparity that has been created because of the lack of union representation in this country today. We have a minimum wage in this country that pays $5.15 an hour. We have 12 million people working in America who earn the minimum wage, 12 million people. We have another 8 million just above the minimum wage, about 20 million people working at that minimum wage level.

For a single mom with two kids, do you know what that minimum wage pays? It pays less than $11,000 a year. That is $2,600, as the gentlewoman said, below the poverty level today for a family of three. And when we talk about unions, unions do not have folks in their organizations that make the minimum wage. Very few do. They make a good wage, but they argue for the minimum wage because they understand the moral responsibility to make sure that people live on a living wage today. So they help not only folks who belong to those organizations, union organizations, but they help others as well.

We can do a much, much better job in our country today in moving forward with decent wages and benefits than we have. So I thank my colleague from California for her comments tonight.

Ms. WOOLSEY. Mr. Speaker, if the gentleman will continue to yield, when we talk about the minimum wage, when we were voting to pass and raise the minimum wage a year or so ago, my very favorite delicatessen in Petaluma where I get my coffee, because it is the best any place, the owner came to me and said, "Oh, Woolsey, don't raise the minimum wage. How am I going to stay in business?" And all his workers were very quiet, and I said, Steve, just think how many more people could come in and afford your coffee lattes if they earned enough money so that they could have this privilege to come in here like I do. And all of his workers cheered.

Mr. BONIOR. That is a good story. It is not just the people in restaurants and coffee shops, it is the people who take care of our children at day care, take care of our parents and our grandparents in elder care and nursing homes, the folks who clean our offices, who are cleaning them right now, a lot of folks are making wages, and they have no recourse in terms of getting a better wage or getting the benefits they need, the health care for their family or kids, because they do not have anybody representing them.

That is what unions do, they pool the resources of people together and they say, basically, we are going to work with you to help you get represented at the bargaining table for a decent wage and decent benefits.

When we had strong unions in this country that matched productivity, we had a healthy, very healthy economy. And we have watched that erode now, as union membership and other things have transpired, our trade policy and other things that have eroded the leverage of workers in our society today. I thank my colleague for her comments.

Mr. Speaker, I yield to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I am just delighted to be a part of this effort tonight to join with my colleagues and to thank the gentleman from Michigan (Mr. BONIOR) for organizing this special order and particularly the conversation, the dialogue between yourself and the gentlewoman from California (Ms. WOOLSEY) in a reminder about the early history of the labor movement, what it has created and your words, it created the middle class.

It created the place where the bulk of this country is coming from, the people who are the backbone of the United States. And what it accomplished in terms of safety in the workplace, fair and decent wages, the benefits that people enjoy today and oftentimes we forget, we forget what it was like, and we take so much for granted. That is why the notion of a June 24 and Americans honoring working men and women and helping others to remember and to organize and to get out there to help people who are trying to take some difficult first steps in trying to, one, hold on to what we have and to create new and better opportunities for working men and women in the country through unions, through a wonderful institution, the heart and soul of what the United States is about.

It is the thought of workers joining together to look at improving their living standards, their communities, their companies and making them better places. Oftentimes, as I said, we forget that, when we are together and we argue and fight, what a tremendous balancing force against runaway corporate power in this country and, again, one of your terms, economic justice. That is what the fight, that is what it is all about.

Mr. BONIOR. And also the economic democracy piece, I think people often overlook that aspect of organized workers of unions, of organized labor. What they brought to the democracy table of America. They infused America with a new group of people who were interested in government, in making sure that the city council worked, the school board worked, the State legislature worked, the Federal Government had representation that shared their views.

I think people often forget that it was a labor union movement in Poland that broke the back of Communism. It was Solidarity. Unions bring texture in many, many different ways. I think the gentlewoman from Connecticut has touched on one that moved me to respond.

Ms. DELAURO. My mother worked in a sweatshop.

Mr. BONIOR. I know she did.

Ms. DELAURO. In a sweatshop. It was because of the union movement, there are still problems, there are still sweatshops. We do not like to think about that, but that is the case. But we broke the back of that kind of work for people in this country and in this instance, in these industries, particularly for women, working for two pennies a collar or for 50 cents for making a whole dress and just slave labor. That is the guts of this.

I want to mention, you mentioned New Haven, Connecticut because we talk about what has happened in the past. We want to talk about modern day organizing and what we are about.

There was a recent, real big victory in New Haven, the labor movement, in organizing at the new Omni, the New Haven Omni hotel just this past April. The 230 employees, they won the right to openly choose their own union through a card check, union cards signed by a majority of the employees.

It was a real victory over the longstanding insistence of the corporation for a secret ballot. How did this occur in essence? It is, again, the new organizing, through community efforts, having local government, the Federal Government. I was proud to work with the union folks, civil rights groups, clergy, academics, students who worked together. They had hearings. They met with hotel managers. They threatened boycotts. But more than that, they participated in a dialogue.

It was a communitywide dialogue about why we needed for local 217 to be able to sign these cards to determine whether or not there would be a union there. That is the kind of engagement we need today. That is what is going on. And as you have said so often, we should not be afraid, as public servants, as public officials, to engage in this process, because it is not going to be something that is happening in isolation over here, where no one is paying attention, because the movement today, the union movement today is as relevant to people's lives for all the reasons that you gave and our colleague from California gave and so that it has got to be alive. It has got to be vibrant, and it has to be strong.

It is only through the engagement of those of us who oftentimes have a microphone and can serve with others that we can help to better the livelihood of those in our society today who, in fact, have seen their wages either stay the same or to go down over the last couple of decades. When we have seen the top of the scale, the CEOs, seeing their salaries increase and their stock options increase and people laid off in this country.

There are lots of other Members who want to engage in this effort. I am just truly proud to join here today, and it should not be only June 24. We ought to be speaking out. We ought to be organizing and helping to make sure that we have people with decent living wages better than that and that they have the kinds of workplace conditions that they are entitled to for their daily labor.

Mr. BONIOR. I thank my colleague for her comments. They are very apt and very well and passionately delivered.

I yield to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. As I listened to you and the gentlewoman, you just sort of sparked some memories of mine. And especially as we talked about how much a part of our democracy union organizing and the development of labor unions is. I am reminded that Benjamin Franklin, one of the fathers of the country, father of the Constitution, Franklin organized the printer's union and one of the very first unions that existed. I mean Benjamin Franklin, even then, understanding the need for people to come together.

Then we go down the line, Franklin Delano Roosevelt etched the right to organize into the legal component of our country, of our country. Martin Luther King was actually organizing sanitation workers in Memphis when he was killed. So there has always been a relationship between the quest for overall freedom and development of all people in this country and the organization of labor unions.

Actually, Benjamin Franklin was also an abolitionist, so there was an easing merging of the recognition of both.

One of the reasons, I think, that other nations with all of our problems, with all of our needs, but one of the reasons that other nations often seek to emulate us is because we have this ongoing component of struggle, never ending, always becoming, always recognizing, yes, we have made a lot of progress, we have come a long way, but there is still great distances to go.

□ 2200

We see plant closings all over America. We see individuals who have been displaced by the hundreds and thousands. An interesting statistic, the individuals who are displaced, generally, many of them never ever reach the point of earning the same amount of money afterwards that they were earning before they lost their basic job.

Mr. BONIOR. Mr. Speaker, can I share a story with the gentleman on that very point? I did not mean to interrupt, but I wanted to tell a little story that hits that very point.

I was on a bus trip down to Atlanta, Georgia with the gentleman from Georgia (Mr. LEWIS) and the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Michigan (Mr. STUPAK), a few of my colleagues.

We visited Lucent Industries. They made telephones. This company had lured people from all over the country to come to work in this sort of center gathering factory outside of Atlanta. After a while, they closed their shops and went to Mexico to make these phones.

I remember meeting a woman in the parking lot, because 300 of them showed up to greet us to talk about how they all lost their jobs. This woman by the name of, I think it was Annie Harris, told us she was being paid $13.50 an hour. She was a member of the Communication Workers. She had a pension. She had health care. She had a good job; $13.50 an hour to make these telephones.

When they closed up shop, she lost her job. They went to Mexico and paid their workers $1 an hour to make their phones. She got, as the gentleman from Illinois (Mr. DAVIS) pointed out, another job. She worked a cash register at Target department store. She sold that same phone that she used to make for prices that are the same or more than they were being sold when she was making $13.50 an hour.

So it is right, people are working in this country. The unemployment rate has come down, but often, as the gentleman just pointed out, people who do not belong to unions today are working at levels far below what they were making when they had jobs where they were being represented by unions.

Mr. DAVIS of Illinois. The gentleman mentioned SEIU organizing, and I am reminded of an incident that recently happened in my community where I was just totally saddened.

There was an effort to organize a group of hospital workers. Some members of the African American community took the position that why should blacks join a labor union. They sort of launched a campaign by saying, well, the unions have not done anything for African Americans. I was pained, because I was saying to myself, "How little you actually know. How little you really understand."

A. Philip Randolph, who put together the Sleeping Car Porters, who became a group of very dignified individuals who traveled all over America taking not only information, not only doing their work, but oftentimes taking black newspapers to parts of the country where there were not any, taking the Chicago Defender, the Pittsburgh Courier, the Chronicle, papers and information.

So I just want to commend you, again, for putting together this opportunity for us to continue to raise our voices, to continue to recognize the need to implement those men and women who are on the firing lines every day, working to raise the quality of life and the level of living not only for themselves, but for all of America.

I certainly am pleased to join with the gentleman. I want to see the minimum wage raised to what becomes what we call a livable wage. I think America will flourish as we continue to organize and develop our people.

Mr. BONIOR. Mr. Speaker, I thank the gentleman very much for his thoughtful statements and his historical perspective on one of our Founding Fathers.

Mr. Speaker, I am happy to yield to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, first, I want to express my appreciation for the leadership that the distinguished gentleman from Michigan (Mr. BONIOR), the Democratic whip, has consistently given on the difficulties that working people experience in this country.

The gentleman's deep commitment to economic justice for wage earners is reflected in the work that he has done in this House, of which the special order on "A Day To Make Our Voice Heard" is a part. This is my first time, really, that I have participated in a special order since being elected to the House of Representatives.

Mr. BONIOR. We welcome the gentlewoman, and we appreciate her participating and speaking out on this issue.

Ms. LEE. Yes. I am proud that my first time out is about the importance of labor unions and working men and women and how they have enhanced and continue to struggle to enhance the quality of life for all Americans.

On June 24, working women and men all over this country will rise to speak out about their efforts to improve their and their families' lives. Many of these working people have joined with others in unions to strengthen their individual efforts to better their lives.

In organizing as groups of workers, there are many stories of successes, but there are also tragic stories of heartaches in these attempts. Some of us forget, and younger ones have not been taught, that part of the American economic miracle of our country is the value placed on labor.

With the enormous exception of the labor forced from captured, enslaved Africans and indentured labor from Asia and other continents, the price of labor in the United States, as compared to the rest of the world, was high.

African Americans have a proud history of organizing. We know that early labor organizers suffered broken bones and death on the picket line. As difficult as these battles were, we know that it was even more trying for African Americans.

We can be proud of brother C. L. Dellums, the uncle of my predecessor, Congressman Ronald V. Dellums. C. L. Dellums, from Oakland, California, was one of the primary organizers of the Sleeping Car Porters Union and the California counterpart to the A. Philip Randolph Trade Union Movement.

The Sleeping Car Porters Union was the first black union. The establishment of this union changed the perception of African Americans in America. Prior to that time, African Americans were brought in to break strikes by taking advantage of their financial oppression. We just heard from the gentleman from Illinois (Mr. DAVIS) that this is still occurring in this country. Employers use the classic strategy of pitting oppressed worker against oppressed worker, black, white, Asian, Latino.

The formation of this black union changed the whole labor dynamic in America because black labor could see that we could be part of a union movement, and thus this was a very significant step in the American labor movement.

These bloody battles waged by our labor progenitors brought better wages, health care, pensions, housing for workers. But we also know that battles, even those that were won at great costs, were not known or valued by those who did not struggle. So we have to learn and fight anew.

We do have recent successes. One, of course, is the defeat of Proposition 226 in California in the last June primary.

Mr. BONIOR. Mr. Speaker, it was a fascinating effort and wonderful effort by workers coming across California to make this happen. Someone told me that 26,000 people were activated to defeat this antiworker provision.

Ms. LEE. Mr. Speaker, the gentleman is absolutely correct. But it was not only defeated by labor unions and workers, it was a coalition of young people and unemployed. It was a fabulous coalition. I believe that is a testament as to what is really going on in this country.

This was an attempt to block employee contributions to unions. Yet, it would have continued to allow corporate contributions to political campaigns. The issue alarmed and energized voters all over California and all over the country and brought out 7 percent more voters actually in my district. Proposition 226 was defeated 53 percent to 47 percent.

Flowing from that success is the failed attempt now to place a similar bill on Nevada's ballot. A Nevada court ruled that the proposal was a violation of the First Amendment right of free speech. But workers who try to gain decent, living wages and working conditions oftentimes have to pay dearly for their successes.

Were working conditions and wages adequate, working people would not spend the time or the money or expose themselves to the dangers, and there are some real dangers that come with fighting for economic justice.

A decision to strike only follows when workers collectively blow the whistle on work conditions. It is really the final straw used to get the attention of the employer.

The employer's retaliatory lockouts, business closures, and transfers of operation to Mexico, Indonesia, and China, with their pools of exploited labor, threaten the very livelihood of workers and their families here in America.

Workers take action knowing that the cost of gaining dignity at work is the likely destruction of their livelihood and family economic security. We need international unions to protect workers all over the world.

Let me just tell you, in California, workers who live in my district and who work in Burlington Northern/Santa Fe's Richmond Intermodal Yard were fired because they joined the ILWU last September. As soon as they negotiated decent wage and benefits at $12 an hour, the railroad took away the contract to load and unload its trains and gave it to another contractor, Parsec, a company with a long history of union busting.

According to the 1998 newsletter called Labor Notes, a worker named Sabrina Giles went to work 7 years ago keeping track of huge shipments at the yard. Over the years, she trained one worker after another in the difficult art of tracking the million-dollar cargos shipped by giant corporations.

But while others moved up to better jobs and higher pay, she stayed on in one place watching her wages inch slowly from $8 to $9.50 an hour. The people she saw moving ahead were mostly white, she says, the friends and relatives of supervisors. According to Giles, who is an African American woman, this yard was full of favoritism, racism, and sexism.

A couple of points on the farm workers in California I would like to mention. Farm workers have been struggling for decades for the right to organize and have minimally decent working conditions. The situation of the strawberry workers in Watsonville, California is extreme and has consequences not only for the workers but for their children.

The most dangerous life-threatening aspect of their work is constant exposure to a wide range of very powerful pesticides and insecticides. Women farm workers suffer the additional burden of sexual harassment.

A third problem concerns not only the health of the worker, but the health of the consumers of strawberries and other produce because of the lack of toilet facilities in the field. Why do we wait until we have a severe epidemic of hepatitis before we react? The problem has persisted over and over and over again.

Also we are looking at the issue of janitors on the West Coast that are mostly immigrant men and women. They work for minimum wages, for no benefits, more than the normal workload, and many of these workers are employed by contractors who sometimes keep up to 50 percent of their wages.

We held hearings when I was in the California Senate, and we found that contractors negotiated a dollar amount for the contract. Subsequent to that, they paid the workers about 50 percent less than what they were being reimbursed for. Unfortunately, these workers now have no benefits. And now they are trying to circumvent the unions by having their employees form company unions, which offer substantial benefits and circumvent any effort to improve the working conditions.

So the Janitors for Justice effort to improve working conditions continues, and we will not rest until each and every janitor is treated with justice and with fairness.

Finally, and let me just say, most of my colleagues I know serve constituents, the majority of whom are not CEOs and millionaires. So I urge this Congress to react by enacting legislation that supports working people.

I want to thank the gentleman from Michigan (Mr. BONIOR) for allowing the American people to hear stories tonight of the importance of our labor union movement and the actual successes and the struggles of working men and women in this country.

Mr. BONIOR. I thank the gentlewoman from California (Ms. LEE) for her comments and her passionate concern about this issue and for talking about 226 and the farm workers and the janitors that need justice and for her comments. We thank her for participating tonight.

Mr. Speaker, I yield to my friend the gentleman from Texas (Mr. GREEN), my good friend, for comments.

Mr. GREEN. Mr. Speaker, I thank our Democratic whip for organizing this special order in recognition of June 24, when American workers will use the day to celebrate victories we have had in protecting the right to organize and bargain collectively to improve living standards and working conditions. This is an important day I think we need to remember but also recognize we still have a long way to go.

The right to join a union is a basic civil right, and unions are an avenue to equity, fair treatment, and economic stability for working people. I know hearing my colleagues tonight, and the gentleman mentioned it earlier, around the world, the right to bargain collectively and independently is so important to industrialized democracies; in Poland, the success of the solidarity union. Around the world, in China and some of our, both competitors and countries we try to work with, the right to organize and bargain collectively is so important.

□ 2215

Let me just give a small commercial. I have a bill, H.R. 2848, the Labor Relations First Contract Negotiations Act. The bill was introduced to allow rights of employees to organize and bargain collectively for living standards. This bill would require mediation and ultimately arbitration if an employer and newly elected representative had not reached a collective bargaining agreement within 60 days. We have time after time in our country right now where there is an election, yet there is no contract months and months afterwards. Yet the workers have voted to have union representation. That bill is important. I would like to see if we had a bill this session I could at least have a debate on that piece of legislation so we can move that further, so they do not necessarily get bogged down in NLRB by both sides oftentimes, and either management or labor could exercise that right.

Let me talk about something that is happening in Harris County, in Houston, Texas on the 24th. Our Harris County AFL–CIO is having a Justice Bus Tour. Let me talk about the five stops they are going to have. One of them is our new baseball stadium that a lot of us supported in downtown Houston that is being predominantly built by nonunion labor. The building trades are fighting for fair wages and a voice for those workers. In fact, the International Union of Operating Engineers is currently conducting an organizing campaign with the crane operators there at that site. All of us love baseball. I know the gentleman does, too. I love the Houston Astros. We would like to make sure that the people building that stadium are being paid a fair wage.

The second stop is not actually in my district, where the Oil, Chemical and Atomic Workers Union, Local 4-227 has been locked out of Crown Petroleum for 2 years. I have been out there for those anniversaries of that lockout. I have spoken at the union hall about Crown Petroleum's not being able to negotiate with their workers who are my constituents and live all over Harris County but the plant is actually in my district. That is so wrong for those workers there.

The third stop will be at Union Tank Car Company. Last April, the United

Steel Workers won an election for the workers by a two to one margin. The company disregarded the workers' choice and used delaying tactics and legal challenges to overturn the election. The workers there will speak to the fact that Union Tank Car disrespected the decision made by its workers and is using a variety of tactics to keep the union out. Over 100 workers are expected to meet that justice bus there at that location. The event is also being coordinated with one of the company's headquarters in Chicago, so between Houston and Chicago hopefully we will get Union Tank Car's attention.

The fourth stop will be at a Kroger grocery store represented by United Food and Commercial Workers, both Locals 408 and 455. The grocery store workers will award Kroger for being such a good employer that respects their workers. They will also thank Kroger for its support for the United Farm Workers in their organizing efforts for the strawberry workers in California.

Mr. BONIOR. Mr. Speaker, I think that is a really important point, that we recognize the corporations and the companies who respect their workers and treat them with dignity. I am glad that part of the justice bus tour in Houston is going to do that, is going to let the community know that these people are really part of the community, they care about it, they care about the workers and the people who shop in their store. Kroger deserves a lot of credit.

Mr. GREEN. There is both positive and negative reinforcement in this tour. Another stop will be at Columbia Lighting, represented by the IBEW, International Brotherhood of Electrical Workers Local 716. The company tried to decertify, but they lost the election and so that company shut down that plant. That is so wrong at Columbia Lighting. The workers will talk about that company's attempt to get rid of the union. They failed on decertification but now they are just shutting the plant down.

We have a long way to go. We have a lot of success, a great history in our country of recognizing workers, their right to organize. We have a long way to go. I want to thank the gentleman from Michigan (Mr. BONIOR) for his effort tonight and look forward to continue working with him to make sure that not only do we fight for justice all over the world for workers but we also recognize we have to fight for it in our own country.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Texas for all his support and help and for coming and staying late this evening to express his views on this.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. I thank the gentleman for yielding.

Mr. Speaker, let me congratulate the gentleman from Michigan (Mr. BONIOR) for the outstanding work that he continues to do and my colleagues who have taken time tonight to talk about this very important issue. I applaud working Americans, because on Wednesday, June 24, we will support workers' rights to organize a union. We know that this voice will be heard nationwide. They will share with us their desire to improve the working conditions and how unions help them achieve their goals for a better workplace.

Unions are good for America. They emphasize the fact that organizing unions is the basic American way. I believe that it is also important that we come together to promote policies which will help working people.

It has been documented that 77 percent of employers distribute anti-union literature, and that 50 percent of employers in one study threatened to fire all workers if they joined a union. Such anti-union efforts harm working Americans. First, on average, nonunion workers earn 33 percent less than their union counterparts. Second, these activities hamper the ability of working Americans to express their views on their work experience to their employer.

Mr. Speaker, we have seen this Congress try to suppress the voices of workers. They have attempted to pass legislation which would eliminate the ability of working families to participate in political activity cloaked under the guise of campaign reform. They have attacked the National Labor Relations Board, the body responsible for enforcing the National Labor Relations Act. Because those efforts have been unsuccessful, they have sought to overturn the National Labor Relations Act itself.

ON WORKERS' RIGHTS TO ORGANIZE

The SPEAKER pro tempore (Mr. BLUNT). Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, as I had indicated, there are a number of moves that have been done in this Congress.

I started to talk about the fact that there is a Section A(2)(a) in the National Labor Relations Act which gives the board equal footing. It is pro-labor, it is pro-corporate. But there is an attempt now to weaken the labor part of the National Labor Relations Act.

We have seen the TEAM Act, which is a bill that would allow the employer, the boss, to select a negotiating team. I think that we know that if you have the ability to pick the people who will negotiate with you, you will indeed select the weaker person.

There is an attempt in the District, in an appropriations bill, there was an attempt to eliminate Davis-Bacon on school construction in the District of Columbia. Davis-Bacon was a bill passed by two Republicans who wanted to keep the prevailing wage for working people when scalawags and carpetbaggers came in to drop the wages from the South into the North. Here we see an attempt to repeal the Davis-Bacon Act.

We have seen an attempt to end salting. Salting is simply a union worker who works in a nonunion shop, holds a card and on his time off, after work, on lunch hour, he may talk to other employees about perhaps becoming a member of a union. There is a bill working its way through the House to make it illegal for a person who is a salter to work.

We have seen the comp time. I worked on the clock. I drove a truck. I was a warehouseman, I was a lumber worker, I was a longshoreman, I was a waiter. Overtime was what was important as I worked my way through college and worked to keep my family's income high enough to support my family. The comp time bill will eliminate overtime. You will then get time off when the employer finds that there is time that things are slow. That is not fair. People need overtime. Low wage workers look forward to overtime. That is the only way they are able to make ends meet.

Mr. Speaker, I would just like to say that we must continue to push. June 24 is a time that we should all come together.

Mr. Speaker, I yield to the minority whip to allow him to wrap up this outstanding job that he has done.

Mr. Speaker, I rise this evening to applaud working Americans who on Wednesday, June 24th will make their support for the right to organize a union heard nationwide. They will share with us their desire to improve their working conditions, and how unions have helped them achieve their goals for a better workplace. They will emphasize the fact that organizing unions is a basic legal right of all Americans. I believe that it is also a basic need for working Americans. Workers need to have the ability to join together and promote policies which advance their best interests. If workers are unable to express their views in an organized way, their voices will be silenced. Many companies and industry leaders support unions.

However, still others work to keep unions out of their shops and factories in an effort to silence the voices of their employees. For example, it has been documented that 77 percent of employers distribute anti-union literature and 50 percent of employers in one study threatened to fire all workers if they joined a union. Such anti-union efforts harm the working American in many ways. First, on average non-union workers earn 33 percent less than their union counterparts.

Second, these activities hamper the ability of working Americans to express their views on their work experience to their employer. And most importantly, anti-union efforts block working Americans from being involved with industry decisions that affect their lives and the lives of their families.

The Republican-led Congress has done their part to suppress the voices raised in support of working Americans. They have attempted to pass legislation which would have eliminated the ability of working families to participate in political activity cloaked under the guise of campaign finance reform.

They have attacked the National Labor Relations Board, the body responsible for enforcing the National Labor Relations Act. And because those efforts have been unsuccessful, they have sought to overturn the National Labor Relations Act itself. We have seen the TEAM Act which allows the employer to select the negotiating team for the employees which would give the employer, the boss, unfair advantage in the negotiations. In an attempt to repeal *Davis-Bacon,* the prevailing wage law here in the District of Columbia for school construction there is a move to pass a law which will eliminate salting, a person who is a union member working at a non-union shop who on his or her own time tries to encourage people to consider becoming a member of a union. The Republican Party is opposing the proposed increase in the minimum wage. The Comp Time Bill which eliminates overtime because workers will be required to work overtime at straight time and will be given comp time at a later time.

The stakes are high. With all the anti-union sentiment among employers and the support that they have here among the Republican leadership in Congress, workers now more than ever before, must be empowered to advocate for and effect change in their working conditions.

There is no doubt that without unions, we will silence the average hard-working American. Such silence will only widen the income gap and increase the number of dissatisfied workers. That is why June 24th is important.

On that day we must celebrate those who have come together and worked for better representation and respect through union involvement. We also must make more Americans aware of their right to organize and help them not to be discouraged by their employers in their effort to organize.

In closing, I urge my colleagues here in Congress to support American workers everywhere by recognizing and celebrating the importance of union organization on Wednesday, June 24th.

Mr. BONIOR. I thank the gentleman for yielding.

Mr. Speaker, let me just conclude with this final remark. The people that we are talking about tonight are the people who take care of our children in day care, the right for them to organize; the people who take care of our parents and grandparents in elder care, the people who clean our offices, the people who make our roads and our bridges and build our buildings. These are the workers of the country. They have a right, a fundamental American, democratic right to come together and to organize and to bargain for their work, for decent wages, for good benefits. They are a part of the community. What we are saying this evening is that their rights to bargain collectively together, to organize, are being impeded in a way that none of us thought was possible nor would happen when the laws were developed, taking 2, 3, 4, 5, sometimes 6 and 7 years to get organized by the National Labor Relations Board because of all the loopholes in the law today. We need to come together as a community, religious leaders, civic leaders, political leaders, and stand up and say, "This is wrong. Folks have a right to come together and to organize."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. OWENS, (at the request of Mr. GEPHARDT) for today, on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MINK of Hawaii) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Mr. MINGE, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. BERMAN, for 5 minutes, today.
Mr. FROST, for 5 minutes, today.
Mr. POMEROY, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. DAVIS of Illinois, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.
Mr. BONIOR, for 60 minutes, today.
Mr. OWENS, for 60 minutes, today.

(The following Members (at the request of Mr. FOX of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. INGLIS of South Carolina, for 5 minutes, on June 23.
Mr. MILLER of Florida, for 5 minutes, on June 23.
Mr. FOX of Pennsylvania, for 5 minutes, today.
Mr. SMITH of Michigan, for 5 minutes, on June 23.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PAYNE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MINK of Hawaii) and to include extraneous material:)

Mr. KANJORSKI.
Mr. LIPINSKI.
Mr. PASCRELL.
Mr. ROTHMAN.
Mr. McDERMOTT.
Mr. BERMAN.
Ms. JACKSON-LEE of Texas.
Mr. KIND.
Mr. ACKERMAN.
Mr. MILLER of California.
Mr. PAYNE.
Mr. CONYERS.
Mr. RAHALL.

(The following Members (at the request of Mr. FOX of Pennsylvania) and to include extraneous material:)

Mr. BOB SCHAFFER of Colorado.
Mr. McCOLLUM.
Mr. GILMAN.
Mr. DeLAY.
Mrs. EMERSON.
Mr. HORN.
Mr. GUTKNECHT.
Mr. COBLE.
Mr. BLILEY.

(The following Members (at the request of Mr. BONIOR) and to include extraneous material:)

Mr. PRICE of North Carolina.
Mr. HALL of Texas.
Mr. ABERCROMBIE.

ADJOURNMENT

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 28 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 23, 1998, at 9 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9773. A letter from the Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education, transmitting a notice of the Final Funding Priorities for Rehabilitation Research and Training Centers, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

9774. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Notice of Final Funding Priorities for Fiscal Years 1998–1999 for Certain Centers and Projects—received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9775. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards [Docket No. NHTSA 98–3949] (RIN: 2127–AG58) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9776. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory

Commission, transmitting the Commission's final rule—License Applications for Certain Items Containing Byproduct Material (RIN: 3150–AF76) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9777. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 15–98 which is regarding Amendment 2 to the Agreement between the U.S. and Israel for the Arrow Deployability Program (ADP), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9778. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of Political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

9779. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9780. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–369, "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9781. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–370, "International Fuel Tax Agreement Amendment Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9782. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–368, "Public Employee Relations Board Amendment Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9783. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–359, "Uniform Statutory Form Power of Attorney Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9784. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–362, "Eastern Market Open Air Retailing Second Temporary Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9785. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–361, "Moratorium on the Issuance of New Retailer's Licenses Class B and Closing of a Public Alley in Square 5259, S.O. 92–45, Applicant Extension Temporary Amendment Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9786. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–360, "Designation of Excepted Service Positions Temporary Amendment Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9787. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–358, "Library and Public Housing Drug Free Zone Amendment Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9788. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–373, "Health Insurance Portability and Accountability Federal Law Conformity, Motor Vehicle Insurance, Regulatory Reform, and Consumer Law Temporary Amendment Act of 1998," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

9789. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List; Additions and Deletions—received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9790. A letter from the Acting Chair, Fish and Wildlife Service, transmitting the Service's final rule—Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—1998–1999 Subsistence Taking of Fish and Wildlife Regulations (RIN: 1018–AE12) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9791. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure for the Mothership Sector [Docket No. 971229312–7312–01; I.D. 052898A] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9792. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Cessna Aircraft Company Model 182S Airplanes [Docket No. 98–CE–59–AD; Amendment 39–10598; AD 98–13–10] (RIN: 2120–AA64) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9793. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and in methods of accounting [Revenue Procedure 98–39] received June 16, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9794. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations and Related Reporting Requirements [TD 8770] (RIN: 1545–AP81; RIN: 1545–AI32) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. House Joint Resolution 113. Resolution approving the location of a Martin Luther King, Jr. Memorial in the Nation's Capital (Rept. 105–589). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee on Appropriations. Report on the Suballocation of Budget Totals for Fiscal Year 1999 (Rept. 105–590). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. H.R. 4103. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–591). Referred to the Committee of the Whole House on the State of the Union.

Mr. KOLBE: Committee on Appropriations. H.R. 4104. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–592). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 482. Resolution providing for consideration of the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–593). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SCHUMER:

H.R. 4102. A bill to establish an early childhood education services referral hotline; to amend the Child Care and Development Block Grant Act of 1990 to authorize additional appropriations and to authorize activities to improve the quality of child care services; to amend the Internal Revenue Code of 1986 to provide credit for employer expenses in providing certain dependent care services, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Florida:

H.R. 4103. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

By Mr. KOLBE:

H.R. 4104. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

By Mr. COX of California:

H.R. 4105. A bill to establish a national policy against State and local interference with interstate commerce on the Internet, to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, to establish a national policy against federal and state regulation of Internet access and online services, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Commerce, Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ABERCROMBIE:

H.R. 4106. A bill to amend the Internal Revenue Code of 1986 to allow businesses a deduction for meals provided employees on premise, and for other purposes; to the Committee on Ways and Means.

By Mr. McCOLLUM:

H.R. 4107. A bill to establish the United States Immigration Court; to the Committee on the Judiciary.

By Mr. GANSKE:

H. Con. Res. 293. Concurrent resolution expressing the sense of the Congress on the importance of enacting patient protection legislation; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS (for herself, Mr. Conyers, Mr. Clay, Mr. Stokes, Mr. Rangel, Mr. Dixon, Mr. Owens, Mr. Towns, Mr. Lewis of Georgia, Mr. Payne, Ms. Norton, Mr. Jefferson, Mrs. Clayton, Mr. Bishop, Ms. Brown of Florida, Mr. Clyburn, Mr. Hastings of Florida, Mr. Hilliard, Ms. Eddie Bernice Johnson of Texas, Ms. McKinney, Mrs. Meek of Florida, Mr. Rush, Mr. Scott, Mr. Watt of North Carolina, Mr. Wynn, Mr. Thompson, Mr. Fattah, Ms. Jackson-Lee, Mr. Jackson, Ms. Millender-McDonald, Mr. Cummings, Ms. Carson, Ms. Christian-Green, Mr. Davis of Illinois, Mr. Ford, Ms. Kilpatrick, Mr. Meeks of New York, and Ms. Lee):

H. Con. Res. 294. Concurrent resolution recognizing the 50th Anniversary of the integration of the Armed Forces, and for other purposes; to the Committee on National Security.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Ms. LEE introduced a bill (H.R. 4108) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel SARAH B; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 306: Mr. Taylor of Mississippi, Mr. Menendez, and Mr. Pappas.

H.R. 687: Mr. Poshard and Ms. Lee.

H.R. 902: Mr. Pickering.

H.R. 953: Mr. Levin and Ms. Lee.

H.R. 1061: Ms. Stabenow and Mr. LaFalce.

H.R. 1126: Mr. Minge and Mr. Roemer.

H.R. 1134: Mr. Lazio of New York.

H.R. 1202: Ms. Hooley of Oregon, Mr. Kind of Wisconsin, and Mr. Barrett of Wisconsin.

H.R. 1689: Mr. Andrews.

H.R. 1712: Mr. Hill.

H.R. 1858: Ms. Lee.

H.R. 2124: Mr. Bliley.

H.R. 2198: Mr. Lazio of New York.

H.R. 2281: Mr. Pickering.

H.R. 2380: Mr. Nussle.

H.R. 2733: Mr. Barcia of Michigan, Ms. Woolsey, Mr. Moran of Kansas, Mr. Stark, Ms. Hooley of Oregon, Mr. Bilbray, and Mr. Rothman.

H.R. 2923: Mr. Blumenauer.

H.R. 3179: Mr. Nadler.

H.R. 3240: Mr. Filner.

H.R. 3293: Mr. Lantos and Ms. Kilpatrick.

H.R. 3396: Mr. Bishop, Mr. Minge, Mr. Metcalf, and Mr. Lampson.

H.R. 3400: Ms. Jackson-Lee and Mr. Ford.

H.R. 3514: Mr. Poshard.

H.R. 3594: Mr. Paul and Mrs. Emerson.

H.R. 3604: Mr. Stark.

H.R. 3605: Mr. Brady of Texas.

H.R. 3634: Mr. Hoyer, Mr. Bereuter, Mr. McIntyre, Mr. Chambliss, Mr. Boyd, Mrs. Clayton, Mr. Bentsen, Mrs. Myrick, Mr. Price of North Carolina, Mr. Campbell, Mr. Lewis of Kentucky, Mr. Souder, Mr. Ehlers, Mr. Knollenberg, Mr. Bachus, Mr. Watts of Oklahoma, Mr. Thornberry, Mr. Baesler, Mr. Walsh, Mr. Hayworth, Mr. Sessions, Mr. Largent, Mr. Combest, Mr. John, Mr. Smith of New Jersey, Mr. Tanner, Mr. Smith of Texas, Mr. Manzulo, and Mr. Rahall.

H.R. 3636: Mr. Farr of California.

H.R. 3684: Mrs. Cubin.

H.R. 3722: Mr. Redmond.

H.R. 3736: Mr. Thornberry and Mr. Campbell.

H.R. 3783: Mr. Doolittle.

H.R. 3795: Mrs. Lowey and Mrs. Roukema.

H.R. 3875: Ms. Roybal-Allard, Mr. Dixon, Mr. Blumenauer, and Mr. Stark.

H.R. 3923: Mr. Baesler and Mr. Bunning of Kentucky.

H.R. 3940: Mr. Filner, Mr. Torres, and Mr. McDermott.

H.R. 3941: Mr. Baesler.

H.R. 3949: Mr. Hostettler, Mr. Nethercutt, Mr. Turner, Mr. Goodling, Mr. Bartlett of Maryland, Mr. Burton of Indiana, Mr. Bliley, Mr. Peterson of Minnesota, Mr. Gordon, and Mr. Portman.

H.R. 3975: Mr. Souder.

H.R. 3980: Mr. Sandlin.

H.R. 3985: Ms. Carson, Mr. Luther, and Mr. Riley.

H.R. 3990: Mr. Kanjorski and Mr. Manton.

H.R. 4019: Mr. Taylor of North Carolina and Mr. Packard.

H.R. 4070: Mr. McGovern.

H.R. 4078: Ms. Christian-Green, Mr. Pascrell, Mr. jackson, and Mr. Sisisky.

H.J. Res. 123: Mr. Duncan, Mr. Chambliss, Mr. Leach, Mr. Watts of Oklahoma, and Mr. Foley.

H. Con. Res. 55: Mr. Saxton.

H. Con. Res. 203: Mr. LaHood and Mr. Walsh.

H. Con. Res. 274: Mr. McCollum, Mr. Scarborough, Mr. Frost, and Mrs. Morella.

H. Con. Res. 278: Mr. Fossella, Mr. Peterson of Pennsylvania, Mr. Hefley, Mr. Watts of Oklahoma, Mr. Kim, Mr. Christensen, and Mr. Hilleary.

H. Con. Res. 287: Ms. Kilpatrick.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2908: Mr. WATT of North Carolina.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4101

Offered By: Mr. Bass

Amendment No. 2: Insert before the short title the following new section:

Sec. (a) Limitation on Use of Funds.—Not more than $18,800,000 of the funds made available in this Act may be used for the Wildlife Services Program under the heading "Animal and Plant Health Inspection Service."

(b) Corresponding Reduction in Funds.—The amount otherwise provided by this Act for salaries and expenses under the heading "Animal and Plant Health Inspection Service" is hereby reduced by $10,000,000.

H.R. 4101

Offered by: Mr. Dooley of California

Amendment No. 3: Add after the final section the following new section:

Sec.   . The amounts otherwise provided by this Act are revised by reducing the amount made available for the Department of Agriculture for special grants for agricultural research under the heading "research and education activities-Cooperative State Research, Education, and Extension Service" and providing an additional amount for the Department of Agriculture (consisting of $49,273,000 for section 401 of the Agricultural Research, Extension, and Education Act of 1998 notwithstanding section 730), both in the amount of $49,273,000.

H.R. 4101

Offered by: Mr. Foley

Amendment No. 4: Page 69, after line 14, insert the following section:

Sec. 739. None of the funds made available in this Act to the Food and Drug Administration may be expended to implement or enforce any rule that prohibits the manufacture, distribution, or sale of metered-dose inhalers that use chlorofluorocarbons.

H.R. 4101

Offered By: Mr. Hall of Ohio

Amendment No. 5: Page 13, line 14, insert "(reduced by $8,000,000)" after the dollar figure.

Page 14, line 24, insert "(reduced by $8,000,000)" after the dollar figure.

Page 15, line 18, insert "(reduced by $9,000,000)" after the dollar figure.

Page 17, line 4, insert "(reduced by $9,000,000)" after the dollar figure.

Page 48, line 9, insert "(increased by $10,000,000)" after the dollar figure.

H.R. 4101

Offered By: Mr. Neumann

Amendment No. 6: Add after the final section the following new section:

Sec.   . None of the funds appropriated or otherwise made available by this Act may be used to make available or administer, or to pay the salaries of personnel of the Department of Agriculture who make available or administer, a nonrecourse loan to a producer of quota peanuts during fiscal year 1999 under section 155 of the Agricultural Market Transition Act (7 U.S.C. 7271) at a national average loan rate in excess of $550 per ton for quota peanuts.

H.R. 4101

Offered By: Mr. Obey

Amendment No. 7: Strike out section 736.

H.R. 4101

Offered By: Mr. Petri

Amendment No. 8: At the end of section 736 (page 68, line 2), add the following new sentence: "Notwithstanding section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)), congressional consent for the Northeast Interstate Dairy Compact shall terminate on April 4, 1999.

H.R. 4101

Offered By: Mr. Petri

Amendment No. 9: Add after the final section the following new section:

SEC. ___. None of the funds made available in this Act may be used to assist or cooperate with, or to pay the salaries of personnel of the Department of Agriculture who assist or cooperate with, the Northeast Interstate Dairy Compact referred to in section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) after April 4, 1999.

H.R. 4101

OFFERED BY: MR. SANDERS

AMENDMENT NO. 10: In the item in title I relating to "RESEARCH AND EDUCATION ACTIVITIES" under the heading "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE", insert after the dollar amount relating to "sustainable agriculture research and education" the following: "(increased by $2,000,000)".

In the item in title I relating to "RESEARCH AND EDUCATION ACTIVITIES" under the heading "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE", insert after the final dollar amount the following: "(increased by $2,000,000)".

In the item in title I relating to "SALARIES AND EXPENSES" under the heading "ANIMAL AND PLANT HEALTH INSPECTION SERVICE", insert after the first dollar amount the following: "(reduced by $2,000,000)".

H.R. 4101

OFFERED BY: MR. SANDERS

AMENDMENT NO. 11: Page 35, line 3, insert after the dollar amount "(increased by $10,000,000)".

Page 53, line 13, insert after the second dollar amount "(reduced by $10,000,000)".

H.R. 4101

OFFERED BY: MR. SANDERS

AMENDMENT NO. 12: In the item in title III relating to "SALARIES AND EXPENSES" under the heading "RURAL BUSINESS-COOPERATIVE SERVICE", insert after the first dollar amount the following: "(increased by $5,000,000)".

In the item in title V relating to "EXPORT CREDIT" under the heading "FOREIGN ASSISTANCE AND RELATED PROGRAMS", insert after the dollar amount the following: "(reduced by $5,000,000)".

H.R. 4101

OFFERED BY: MR. SANDERS

AMENDMENT NO. 13: In the item in title IV relating to "FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS", insert after the dollar amount "(increased by $10,000,000)".

In the item in title VI relating to "FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES", insert after the second dollar amount "(reduced by $10,000,000)".

H.R. 4101

OFFERED BY: MR. SANDERS

AMENDMENT NO. 14: Add after the final section the following new section:

SEC. ___. For an additional amount for the Department of Agriculture (consisting of an additional $10,000,000 for "RURAL COMMUNITY ADVANCEMENT PROGRAM"), and none of the funds made available in this Act may be used to implement or otherwise carry out the amendments made by section 737, $10,000,000.

H.R. 4101

OFFERED BY: MRS. LINDA SMITH OF WASHINGTON

AMENDMENT NO. 15: Add after the final section the following new section:

SEC. ___. None of the funds made available in this Act to the Department of Agriculture may be used to make available or administer, or to pay the salaries of personnel of the Department of Agriculture who make available or administer, any crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop disaster assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for tobacco.

H.R. 4103

OFFERED BY: MR. SANDERS

AMENDMENT NO. 1: At the end of title VIII (page ___, after line ___), insert the following new section:

SEC. ___. None of the funds appropriated or otherwise made available by this Act may be used to enter into or renew a contract with any company owned, or partially owned, by the People's Republic of China or the People's Liberation Army of the People's Republic of China.

H.R. 4103

OFFERED BY: MR. SANDERS

AMENDMENT NO. 2: At the end of title VIII (page ___, after line ___), insert the following new section:

SEC. ___. The amounts otherwise provided by this Act are revised by reducing the total amount provided in title IV for research, development, test, and evaluation for federally funded research and development centers and increasing the amount provided in title II for the StarBase National Guard program by $9,000,000 and $6,000,000, respectively.

H.R. 4104

OFFERED BY: MR. SANDERS

AMENDMENT NO. 1: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ___. None of the funds made available in this Act may be used to pay the salary of any officer or employee of the Federal Government (including any officer or employee of the Executive Office of the President) who certifies, approves, or processes any loan or credit to a foreign entity or government of a foreign country from any amount in the exchange stabilization fund under section 5302 of title 31, United States Code.

H.R. 4104

OFFERED BY: MR. SESSIONS

AMENDMENT NO. 2: In title III, in the item relating to "OFFICE OF ADMINISTRATION—SALARIES AND EXPENSES", after the dollar amount, insert "(reduced by $5,000,000)".

In title III, in the item relating to "FEDERAL DRUG CONTROL PROGRAMS—HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM"—

(1) after the first dollar amount, insert "(increased by $5,000,000)"; and

(2) after "designated High Intensity Drug Trafficking Areas," insert the following: "of which $5,000,000 shall be for a High Intensity Drug Trafficking Area in Dallas-Fort Worth, Texas, designated in compliance with existing law;".

H.R. 4104

OFFERED BY: MR. SESSIONS

AMENDMENT NO. 3: In title III, in the item relating to "OFFICE OF ADMINISTRATION—SALARIES AND EXPENSES", after the dollar amount, insert "(reduced by $5,000,000)".

In title III, in the item relating to "FEDERAL DRUG CONTROL PROGRAMS—HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM", after the first dollar amount, insert "(increased by $5,000,000)".

EXTENSIONS OF REMARKS

OUR NATION'S DEFENSE

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to address the important topic of our nation's defense. One of America's leading experts in national security issues and U.S. defense strategy lives in my home state of Colorado. Mr. James H. Hughes of Englewood, Colorado, has written countless articles concerning this topic. I would like to submit Mr. Hughes' latest article entitled "Defense: America's Decision" for the RECORD.

DEFENSE: AMERICA'S DECISION

(By James H. Hughes)

President Clinton's blatant efforts aiding the proliferation of ballistic missiles and nuclear weapons technology, selling U.S. satellite and ballistic missile technology and foreign policy in return for political campaign contributions from the Chinese army and other questionable parties, has manifested itself in the escalating tension and aggressive nuclear testing between India and Pakistan.

Pakistan's six nuclear tests were a response to India's five nuclear tests in May 1998, including India's test of a thermonuclear device (hydrogen bomb). India's nuclear tests were in turn a response to Pakistan's flight test on April 6, 1998 of its new intermediate range ballistic missile called the Ghuari. The significance of Pakistan's flight test of its Ghuari intermediate range ballistic missile deserves our understanding.

The Ghuari ballistic missile increases Pakistan's ability to deliver nuclear warheads from a range of 186 miles (using Pakistan's Chinese-made and designed M-11 missiles) to 930 miles. In one step the Ghuari enables Pakistan to strike targets from along its border to targets deep inside India, threatening practically the entire Indian subcontinent. Pakistan's flight test of the Ghuari precipitated India's nuclear tests, especially as Pakistan belligerently claimed the Ghuari could strike many Indian cities.

India correctly perceives President Clinton could care less about the risks India faces from Pakistan's new ballistic missile. Indeed, President Clinton could care less about our own defense against long-range ballistic missiles. Since taking office in 1993, President Clinton has cut and stripped down our advanced ballistic missile efforts, and insists we remain undefended against intermediate and long-range ballistic missiles.

President Clinton, rather than even attempting to reassure India diplomatically against Pakistan's aggressive stance with its Ghuari ballistic missile, has played the role of a stooge for the proliferation of ballistic missile and nuclear weapons technology by China and Russia. India had little choice but to test its nuclear weapons to deter Pakistan.

China provided Pakistan with the ballistic missile technology and expertise to build the Ghuari and its nuclear weapons program, in violation of nonproliferation agreements with the U.S. President Clinton has not sought to enforce nonproliferation agreements with China, rather President Clinton has sought "inventive legal interpretation to avoid sanctions under U.S. proliferation laws" (Majority Report of the Senate Subcommittee on International Security, Proliferation, and Federal Services, January 1998, p. 10).

We should enforce our nonproliferation agreements with China and halt our transfers of advanced technology. If we deploy a ballistic missile defense in space where it could defend against ballistic missiles launched from anywhere including India or Pakistan, we would provide for our own defense and could defend other countries from ballistic missiles. A ballistic missile defense in space would increase our prospect for peace.

Mr. Speaker, I think Mr. Hughes has issued another thoughtful report and it is important that we take a good look at our current defense policy and focus on the safety of Americans now and in the future.

TRIBUTE TO THE GREATER WILKES-BARRE LABOR COUNCIL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Greater Wilkes-Barre Labor Council, the United Way of Wyoming Valley, and the City of Wilkes-Barre, the most populous city in Pennsylvania's Eleventh Congressional District. These three entities were recently honored by the AFL–CIO at its National Conference on Community Services. I am proud to bring this outstanding alliance to the attention of my colleagues.

1998 marks the 50th anniversary of the partnership between the Greater Wilkes-Barre Labor Council and the United Way of Wyoming Valley. The AFL–CIO award recognizes outstanding community services, activities and programs provided by the United Way and the Labor Council. The City of Wilkes-Barre was named a Model City in Community Services for the Northeast Region for its affiliation with the partnership.

Some of the programs recognized by the award included: union counseling, blood drives, services to retirees, food drives, and a wealth of other volunteer activities.

Mr. Speaker, the Labor Council consists of more than forty unions of a diverse nature and has active standing committees on Community Services, Education, and Political Action and Legislation.

My good friend Sam Bianco has been the President of the Labor Council for the past 19 years and an active United Way volunteer for nearly 40 years. Betty Friday has been the Chair of the Labor Council's Community Services Committee for 17 years and a United Way Volunteer for 40 years. Another good friend Lois Hartel, the Council Secretary, has been an active United Way Volunteer for 25 years and a past recipient of the prestigious United Way of America's Joseph Beirne Community Services Award.

These hard-working, dedicated people and the others working with them on countless volunteer committees deserve our gratitude and respect. I join with the community in congratulating the Greater Wilkes-Barre Labor Council, the Wyoming Valley United Way, and the City of Wilkes-Barre for sharing this outstanding honor and bringing pride to Northeastern Pennsylvania.

IN SUPPORT OF FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H. Res. 399, a resolution urging Congress and the President to fully fund the Individuals With Disabilities Education Act.

In passing IDEA in 1975, Congress required the Federal, State and local governments to share the cost of educating children with disabilities. When enacted, the Federal Government was to assume 40 percent of the national average per pupil expense for such children.

While Congress has authorized this amount since 1982, the appropriation amount has never come close to the stated goal of 40 percent. Last year, it reached the highest level ever at 11 percent. The balance has been left to the State and local governments.

The result has been an enormous unfunded mandate on State and local school systems to absorb the cost of educating students with disabilities. In doing so, local school districts must divert funding away from other students and education activities. This has had the unfortunate impact of draining school budgets, decreasing the quality of education and unfairly burdening the taxpayers.

Mr. Speaker, it is time for both Congress and the President to demonstrate that they are truly interested in our Nation's children's education. By fully funding IDEA, Congress will simultaneously ease the burden on local school budgets while ensuring that students with disabilities receive the same quality of education as their non-disabled counterparts.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE 25TH ANNIVERSARY OF FATHER JOE ORLANDI'S ORDINATION TO THE PRIESTHOOD

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. PASCRELL. Mr. Speaker, it is with great pleasure that I call to your attention the 25th anniversary of Father Joe Orlandi's ordination into the priesthood.

Joe Orlandi was born in Subiaco, Italy on December 8, 1947, the child of Augusto and Teresa Orlandi. He studied at the Pontificio College Leoniano in Rome. On July 25, 1970 at the invitation of the diocese of Paterson, Joe continued his theological studies at the Immaculate Conception Seminary, Darlington, New Jersey. In 1971 while still completing his studies, Joe was assigned to our Lady of Pompeii Church in my hometown of Paterson, New Jersey. All who met him there found him to be a caring friend and a trusted spiritual advisor.

In 1973, following the completion of his theological studies, Joe was ordained a priest in Paterson by Bishop Lawrence B. Casey. His first assignment was Mt. Carmel Parish in Boonton. It wasn't too long before his parishioners at Mt. Carmel grew to know and love Father Joe, and many families invited him into their homes for traditional Italian meals and warm conversation. Father Joe was the determining factor in several parishioners' tour to Rome in 1975.

That same year, Father Joe was appointed associate pastor of St. Brendan Church in Clifton. His extraordinary leadership qualities were soon recognized and in 1978 he was appointed co-pastor of St. Brendan. As moderator of the Youth Group, Father Joe had a positive impact upon many young people whose successful adult lives today reflect his advice and guidance. Father Joe gives selflessly of his time and energy. He is a Boy Scout Moderator, Teacher of Religious Education in St. Brendan School, bingo chairman, as well as director of the Diocese of Paterson Engagement Encounter weekends.

Deeply grateful to his adopted country, Father Joe joined the United States Army Reserve as a Chaplain in 1980, counseling countless soldiers and their families, during times of peace and times of heightened tensions. Father Joe continues to minister to the spiritual needs of the men and women who serve in our nation's Army Reserve.

On June 15, 1990, our dynamic Priest brought a new spirit to the nationally recognized historic parish of St. Michael, Paterson. Father Joe has been an ever-watchful guardian of the public good, never failing to speak out in the interests of the larger community he serves. Many a newcomer to our shores and many a senior citizen can also thank Father Joe for freely sharing with them his extensive knowledge and expertise in immigration and social security matters.

Mr. Speaker, I ask that you join me, our colleagues, his parishioners, and the State of New Jersey in recognizing Father Joe Orlandi's exceptional contributions to our society on this 25th anniversary of his ordination.

A TRIBUTE TO SUSAN WESTERBERG PRAGER, DEAN OF THE UCLA SCHOOL OF LAW

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Susan Westerberg Prager, who is stepping down after 16 years as Dean of the UCLA School of Law. Dean Prager has compiled an extraordinary record. Under her leadership, the UCLA School of Law enhanced its reputation for excellence in scholarship, achieved diversity among the student body and added exceptional faculty members.

By any measure UCLA is now among the elite law schools in the United States. As an alumnus of the UCLA School of Law, I take great pride in Dean Prager's many noteworthy accomplishments.

Dean Prager started her career in politics and then made the transition to law. Her political work included stints with Sen. Thomas Kuchel and Rep. Paul McCloskey. Her distinguished academic life includes both a B.A. and M.A. in history from Stanford University and, in 1971, a law degree from UCLA. Two years later she joined the faculty at the UCLA School of Law.

Dean Prager's areas of expertise include family law, real property, community property and historic preservation law. The last is especially appropriate as she is the co-owner of two Los Angeles Cultural-Historic Monuments. She has also lectured and written extensively on such subjects as women's rights, legal education, marital property law and affirmative action. Her frequent public appearances in Southern California have helped boost the profile of the law school.

Dean Prager has an impressive résumé of honors, awards and commendations. To name but a few: she received the Legal Services Award from the Mexican American Legal Defense & Educational Fund; was presented the BayKeeper Circle Award by the Santa Monica BayKeeper and was given a "Women of Action" Award by the Israel Cancer Research Fund. This year the UCLA Law Alumni Association is presenting Susan with the Lifetime Achievement Award.

I ask my colleagues to join me in saluting Susan Westerberg Prager, who leaves behind an unparalled record of achievement as Dean of the UCLA School of Law. Her contributions to the field of law and legal education will never be forgotten.

* * *

TRIBUTE TO KOREAN WAR VETERANS

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. ROTHMAN. Mr. Speaker, I rise today to pay tribute to the Korean War veterans of New Jersey, who gathered on May 31, 1998, to designate Kinderkamack Road as the "Korean War Veterans Roadway." This wonderful dedication ceremony was organized at the suggestion of Mr. Richard T. Bozzone, Commander of the Chorwon Chapter of the American Korean War Veterans of New Jersey.

On June 25, 1950, North Korean forces invaded South Korea, setting the stage for the men and women of America's armed forces to enjoin a crucial battle against communist expansionism. Battle by battle, skirmish by skirmish, America's fighting forces heroically pushed back the North Korean aggressors.

The sacrifice and valor displayed by America's Korean War veterans should never be forgotten. And for this reason the designation of the "Korean War Veterans Roadway" will serve as a daily reminder to the residents of northern New Jersey of the American soldiers who served, and those who died, in defense of liberty on the Korean peninsula.

I want to thank Commander Bozzone and all the members of the Chorwon Chapter of the American Korean War Veterans for initiating this project. Their successful effort to name a major roadway, which runs through nine Bergen County towns, in honor of America's Korean War veterans, is a tribute that will long endure.

* * *

FORMER ACLU LEADERS ARE WRONG

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. DELAY. Mr. Speaker, when it comes to the issue of freedom of speech and campaign reform, the New York Times and so-called "reformers" take a curious position. They ignore the warnings of the ACLU and argue the Shays/Meehan bill is constitutional because former leaders of the American Civil Liberties Union (ACLU) have changed their position and now support overturning the Buckley decision.

The attached statement by the current ACLU leadership sets the record straight. On the issue of campaign reform and freedom of speech the current board of the ACLU is absolutely correct—overturning Buckley is a threat to the First Amendment of the Constitution. These former ACLU leaders are pushing proposals that run counter to our first freedom—freedom of speech. These former leaders do not have the support of the ACLU's national board and do not represent the over 250,000 members of the ACLU. These former leaders are wrong.

ACLU CAMPAIGN FINANCE POSITION PROTECTS FREE SPEECH

(Statement of Nadine Strossen, President; Ira Glasser, Executive Director; and Laura W. Murphy, Legislative Director)

WASHINGTON.—Nine former leaders of the American Civil Liberties Union today released a statement saying that they have changed their positions on campaign finance and now disagree with legal scholars, Supreme Court Justices and the ACLU's longstanding policy to seek the highest constitutional protection for political speech.

In their statement, these leaders argue that the Supreme Court misread the First Amendment in 1976 when it issued its ruling in *Buckley v. Valeo*, which struck down legislative limits on campaign expenditures in a holding that reflected many legal precedents and has been repeatedly reaffirmed. Our former ACLU colleagues say that our opposition to current legislation allows members of Congress to hide behind an unjustified constitutional smokescreen.

We are untroubled by the questions they raise and believe that it is they who allow members of Congress and President Clinton to hide behind so-called reforms that are both unconstitutional and ineffective. As long as measures like McCain-Feingold or Shays-Meehan are allowed to masquerade as reform, neither Congress nor President Clinton will get serious about adopting *true* reform, which we believe lies in the direction of fair and adequate public financing.

Just last year, we offered Burt Neuborne, a former ACLU Legal Director and one of the principal opponents of our campaign finance policies, the opportunity to argue his position before the ACLU's 83-member National Board. After hours of debate and discussion, Neuborne completely failed to shift the ACLU Board to his view. Many Board members in fact argued that Neuborne's position was in direct conflict with the First Amendment rights that form the foundation of our democracy. Ultimately, the one Board member who had offered a motion to radically alter our long-standing policy withdrew it rather than allowing it to come to a vote.

Yet our former ACLU colleagues persist, offering sweeping proposals that would constitute a wholesale breach of First Amendment rights and that ignore the real-world impact of limits on speech. They speak approvingly of efforts to impose "reasonable limits on campaign spending" without saying specifically what such regulations would do. But when we look at those consequences it becomes clear that current campaign finance measures would do immeasurable damage to political speech. The devil as the cliche goes, is in the details.

A key provision of both McCain-Feingold and Shays-Meehan would, for example, establish limits that effectively bar any individual or organization from explicitly criticizing a public official—perhaps the single most important type of free speech in our democracy—when the official is up for re-election within 60 days. If that kind of law had governed the recent New York City mayoral election, it would have effectively barred the ACLU (and other non-partisan groups) from criticizing incumbent Mayor Giuliani by name on the subject of police brutality in the wake of the horrific Abner Louima incident precisely during the pre-election period when such criticism is most audible. That prohibition would have gagged us even though the ACLU has never endorsed or opposed any candidate for elective office and is barred by our non-partisan structure from doing so. Similarly, anti-choice groups like the National Right to Life Committee would be effectively barred from criticizing candidates who support reproductive freedom. Yet such criticism of public officials is exactly what the First Amendment was intended to protect.

In contrast, there are many reform measures the ACLU supports that would protect and increase political speech. These include instituting public financing, improving certain disclosure requirements, establishing vouchers for discount broadcast and print electoral ads, reinstating a tax credit for political contributions, extending the franking privilege to qualified candidates and requiring accountability of and providing resources to the Federal Elections Commission. None of those proposed reforms would run afoul of the First Amendment.

Still, our former ACLU colleagues press proposals that would inevitably limit political speech. We continue to shake our heads, wondering how such measures can be regarded as "reforms" by anyone who is genuinely committed to the First Amendment.

REP. BELFANTI RECOGNIZED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to my colleague and close friend, State Representative Robert E. Belfanti, Jr. Bob will be honored by the Susquehanna Valley Boy Scouts Council at the Council's July 7 American Distinguished Citizen Dinner. I am pleased and proud to be able to participate in this prestigious event.

Mr. Speaker, Bob Belfanti represents parts of my congressional district in Northumberland County, Montour County, and Columbia County. I have been proud to work with him on numerous occasions since I was first elected in 1984. I consider him a close personal friend.

Born in 1948 to Robert and Rose Belfanti, Bob attended local schools in Mount Carmel, Pennsylvania, in what is part of the District he now represents. He was active in Scouting and became an Eagle Scout in 1961. He graduated high school in 1966 and enlisted in the United States Marine Corps the following July. Bob served in Vietnam and was decorated six times. Following his tour of duty in Vietnam, Bob attended the University of North Carolina on a special Inservice Program. In 1971, Bob received an honorable discharge from the Corps but remained active in a Reserve unit for another two years.

In 1972, Bob began electrician school and graduated as a journeyman in 1975. He operated his own contracting company prior to his election to the Pennsylvania General Assembly in 1980.

Active in numerous local organizations, Representative Belfanti is a member of the AmVets, N.E. Economic Development Council, Lions, Knights of Columbus, Veterans of Foreign Wars, American Legion, UNICO, and various Scouting organizations. Bob was listed in Who's Who in American Politics, received the Outstanding Young Men of America Award, National Young Democrat Award, and the National Leadership Award.

Bob's legislative efforts have ranged from employment issues to the environment. He has helped his district move beyond its coal mining heritage and toward the 21st century with millions in grant money for everything from technology to sewage treatment.

Mr. Speaker, Bob Belfanti is a proven leader, an able legislator, and a concerned citizen. I am proud to join with his wife Cece, his sons, his friends, and the community in paying tribute to his outstanding career and his dedication to his community. I am pleased to have had the opportunity to bring Bob's many accomplishments to the attention of my colleagues and I wish my good friend continued success, good health, and prosperity.

HONORING NEAL BROXMEYER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today to share with my colleagues in the House of Representatives the story of a man whose life, which ended all too soon in 1996 at age 43, was dedicated to the pursuit of truth.

Neal Howard Broxmeyer searched for truth with a great intensity. He was long immersed in spiritual work which brought tremendous peace. A beloved and respected leader of the School of Practical Philosophy, he played a major role in establishing its Abraham Lincoln School for Boys and Girls on the upper east side in Manhattan. His 9-year-old son is a student there, and is very proud of the role his Dad played. Indeed, it was one of Neal's precious dreams to see the school flourish and grow.

Neal's devotion to his family was exemplary. He naturally included within his family the many people whose lives intersected with his. In that sense, Neal's family included his associates and colleagues at Fairfield Properties, where he was a partner. His brothers have said that he was an excellent businessman, known for his honesty and his integrity. He was seen as the "heart and soul" of his business, and he was referred to as the "light of the office."

Neal Broxmeyer was a man who always looked beyond his own needs. He led his life in keeping with the maxim: Set no limits in service, and encouraged others to do the same. He was always available to others. He cherished the community in which he lived and was very happy to be part of the community association. He led the way in establishing the security patrol in the community, and always said "How could I not take it on?"

Neal was a simple man who was extraordinary. Always there, steady and balanced; never looking for faults in others, but instead finding the goodness in everyone. Everything and everyone who benefited from his attention, concern, insight, wisdom, counsel, and warmth understands that there was "absence of claim." Although not rigid, Neal was highly disciplined. His life, though very short, was filled with a quality beyond most. Nothing, it seems, was wasted.

Neal is survived by his loving family: His beloved wife Susan; their children, Dara, Jennifer, and David; by his parents, Muriel and Joseph; and by his brothers Mark and Gary.

June 23, 1998 will mark the inauguration of the Neal Broxmeyer Scholarship Fund. This fund will help to keep alive the memory and vision of this extraordinary man. Mr. Speaker, it is my privilege and distinct honor to bring the brief life of Neal Howard Broxmeyer to the attention of my colleagues and hope they will join me in paying tribute to an outstanding human being.

IN SUPPORT OF ADDITIONAL FUNDING AND AWARENESS ABOUT POLYCYSTIC KIDNEY DISEASE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. McDERMOTT. Mr. Speaker, the Polycystic Kidney Research Foundation held a conference here on June 19–21. Four hundred patients, physicians, and researchers gathered to review the latest developments in research for a treatment and cure. Supporters visited members of the House and Senate to ask for a commitment to increased funding at the National Institutes of Health in research for this disease which affects 600,000 Americans. Polycystic Kidney Disease (PKD) is the most common life-threatening genetic disease and costs $1.5 billion yearly in Medicare funding. Scientists are hopeful that with increased funding in research the disease can be treated or cured within the next five years.

Attached is an article which describes recent gains we've made in combatting PKD and how important continued research will be to finding a cure. I urge my colleagues to take the time to read this article and learn more about this terrible disease.

[From Contemporary Dialysis & Nephrology, Sept. 1997]

GENETIC BREAKTHROUGHS TAKE CENTER STAGE IN ACCELERATING POLYCYSTIC KIDNEY DISEASE DRAMA

(By Michael D. O'Neill)

INTRODUCTION

"I believe the future holds the prospect of fundamental breakthroughs that will allow us to develop treatments that will change the basic biology of polycystic kidney disease (PKD)."

This hopeful message was delivered by Josephine Briggs, MD, director of the Division of Kidney, Urologic, and Hematologic Diseases in the National Institutes of Health's National Institute of Diabetes and Digestive and Kidney Disease (NIDDK), in her luncheon address at the 8th Annual Conference on PKD, sponsored by the Polycystic Kidney Research (PKR) Foundation, in Nashville, TN.

In 1982, Joseph H. Bruening and Jared J. Grantham, MD, founded the PKR Foundation to determine the cause, improve clinical treatment, and discover a cure for PKD. Today, the organization is the major funder of private PKD research grants and the disseminators of information about the disease worldwide to physicians, researchers, patients, and the general public.

Briggs' optimism was based on a continuing series of dramatic discoveries related to the genetics and molecular biology of PKD. These discoveries have come at an ever-increasing pace following identification of the PKD1 and PKD2 genes in 1994–1995 and 1996, respectively, and have roughly paralleled an increasing rate of PKD-directed research funding by both the NIH and the PKR Foundation.

ADDITIONAL ADVANCES

Additional advances in the last few months have generated even more excitement. Gregory Germino, MD, a nephrologist at The Johns Hopkins University School of Medicine, Baltimore, MD, has shown evidence that a two-hit mechanism initiates cyst formation in PKD and suggested that intervention to prevent the second hit may impact the course of the disease.

Germino has shown that the normal PKD1 and PKD2 proteins physically interact with each other in the cell membrane and probably participate in a common cellular path way. This finding may explain why defects in either of these genes, located on different chromosomes, can cause the same clinical disease.

Briggs termed these discoveries "enormous, dramatic, and, in some cases, very surprising." She said that "have implications not only for PKD, but perhaps for other diseases as well."

Germino described his findings at one of the conference's many informative workshop sessions. Attendees also heard encouraging news about the prognosis for children with autosomal recessive PKD (ARPKD), and prenatal diagnosis of ARPKD. They also received updates on numerous other areas of PKD research and treatment.

In her address, Briggs also commented on the future of funding for PKD research and stressed the need for industry involvement on the parts of both the biotech and pharmaceutical industries.

PKD BACKGROUND

PKD is a systemic disease. The most common problems are associated with the kidneys, where fluid-filled cysts can develop and lead to End-Stage Renal Disease (ESRD). As with other forms of ESRD, dialysis and transplantation are the available treatments.

There are two major forms of PKD—the more common, autosomal dominant (ADPKD) form that chiefly affects adults, and the much rarer autosomal recessive (ARPKD) form that affects children.

ADPKD affects an estimated 600,000 people in the U.S. and 12.5 million around the world. It is said to be the most common life-threatening genetic disease.

In the US, over 1,000 people die each year from PKD, and an additional 2,000 develop kidney-failure. Costs to US taxpayers from dialysis, transplants, and treatment related to this disease are estimated at more than $1 billion annually.

Defects in the PKD1 gene on chromosome 16 are responsible for 85% of ADPKD while defects in the PKD2 gene on chromosome 4 are responsible for about 15%. A third gene (PKD3), which has not yet been pinpointed, is defective in a small number of ADPKD families. The gene for ARPKD has not yet been identified, but it has been located within a small region of chromosome 6.

THE TWO-HIT MECHANISM

ADPKD patients are born with one defective PKD gene and one functional PKD gene. For PKD1-associated ADPKD, Germino has shown compelling evidence that cysts develop from a subset of kidney cells in which both PKD1 genes are defective.

Germino describes this as a two-hit mechanism. The first hit is being born with one broken PKD1 gene. The second hit is sustaining damage to the remaining functional PKD1 gene. This second hit leaves the cell with no way to produce the normal PKD1 protein, and that deficiency somehow leads to cyst formation.

This two-hit model is particularly attractive because it offers an explanation for two-fundamental puzzles of PKD, namely the highly variable course of the disease and the focal nature of cyst formation (in PKD, only one out of every 100 or 1,000 nephron tubule cells actually goes on to become a cyst—the vast majority of these cells are completely normal).

This argument proposes that the cysts develop only from those cells that experience second hits and that the variable disease course might be traceable to variable frequencies of the second hits in different individuals.

CELL MEMBRANE INTERACTION

The second dramatic finding, reported in the June 1997 issue of Nature Genetics, is that the normal PKD1 and PKD2 proteins interact in the cell membrane and probably work together in a common cellular pathway. As noted earlier, this finding may explain why defects in either of these genes can cause the same clinical disease.

"By understanding pieces of this cellular pathway and the steps involved, we hope that we can one day design safe and effective therapies for PKD," Germino said.

HOPE FOR ARPKD PATIENTS

Encouraging news concerning ARPKD was reported by Lisa Guay-Woodford, MD, a pediatrician and assistant professor of Medicine at the University of Alabama-Birmingham.

"Still, in 1997, there is a sense among the general medical community that ARPKD is a universally fatal disease," she remarked. "The answer is that it is not. While it's true that 30%–50% of these children will not survive the newborn period, results from two recent studies have shown that, if a child with ARPKD can survive the first year of life, that child has a reasonably good prognosis."

Guay-Woodford said that, if sufficient family information is available, it's possible to carry out prenatal diagnosis for this disease, using DNA-based genetic linkage analysis. With collaborators, Guay-Woodford has performed such diagnoses in a number of cases where the fetus was known to be at risk for ARPKD.

NIH AND PKD FUNDING

In her luncheon address, Briggs stressed the urgent need for the biotech and pharmaceutical industries to become more involved in the funding of PKD research. She noted that the estimated cost of taking a single drug to market is $270 million, which exceeds the entire NIH budget for kidney disease research.

"If we are going to eventually see new drugs for PKD, we also need pharmaceutical and biotech investment," she said.

While noting that NIH funding for PKD research had increased significantly—from $70,000 (one grant) in 1982 to $7.3 million (46 grants) in 1996, Briggs, a nephrologist and kidney researcher, expressed her desire for increased NIH funding in the area of PKD research. The PKR Foundation has previously stated that annual NIH funding for PKD research has trailed allocations for diseases that affect fewer people. Cystic fibrosis, for example affects 30,000 people in the US and received $61 million in annual funding from the NIH in 1996 while PKD affects 600,000 and received only $7.3 million.

In 1996, the PKR Foundation funded $536,000 in PKD research and will fund $750,000 by the end of this year.

"We directly fund individual investigators at major teaching and research institutions and heavily promote the need for increased PKD investigation at the federal level," according to Dan Larson, PKR Foundation president. "We plan to work closely with Dr. Briggs and the appropriations committees to add a zero to the current PKD research allocation of $7.3 million."

GIVE THEM AN ADULT WHO CARES

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. PAYNE. Mr. Speaker, as youngsters we're taught about pride and humility and how we must use them if we are to serve well and succeed in life. Today, proud and humble, I would like to join others as they honor and recognize my brother, William, for his work as a New Jersey State Assemblyman representing the 29th Legislative District. Tomorrow at an event at the prestigious law firm of Gibbons, DelDeo, Dolan, Griffinger & Vecchione in Newark, New Jersey, family, friends, colleagues and supporters will gather to thank and further encourage Assemblyman Payne on the leadership he has continuously exhibited to benefit the lives of those less fortunate among us.

Assemblyman Payne is serving his first term where he is a member of the powerful Appropriations Committee. My brother, Bill, is no stranger to the political process. He was the first African American elected as District Leader in Newark's North Ward in 1955. He unsuccessfully sought municipal elected office in 1962 when he lost by 399 votes a run-off election for Councilman-at-Large. He ran a spirited race for South Ward Councilman in 1966 which was also unsuccessful. Over the years he has assisted numerous citizens in their quest for elected office. He was among the first to encourage Kenneth A. Gibson, Newark's first African American Mayor, to actively seek political office. And, of course, I am another of his proteges. Since taking the oath of office this year in January, Assemblyman Payne has energized the New Jersey Legislative Black and Latino Caucus.

I would like to bring my colleagues attention to two pieces of legislation Assemblyman Payne has introduced—a bill establishing a 21-member Amistad Commission to develop education and public awareness programs about the history of slavery in America and the post-slavery triumphs of African Americans.

He has also introduced a bill that would require all the New Jersey's school districts to have a program that links troubled children with volunteers who promise to spend at least one hour a week with them for at least one year. Prior to his election, Assemblyman Payne has actively recruited hundreds of mentors to work with some of our troubled youth. These mentors occupations ranged from doctors and lawyers to retirees and laborers—people who knew the importance of being a caring adult in the lives of sometimes confused and troubled youngsters. Assemblyman Payne was himself a mentor to a young man who was destined to get into trouble. Today, Rahjan Williams, the mentee, is looking forward to attending college to become an accountant.

Mr. Speaker, I am sure my colleagues will join me as I extend congratulations and best wishes to my only brother of whom I am extremely proud. And I wish to thank those who are honoring him, especially his son-in-law Wilfredo Benitez, an up and coming young attorney with the host law firm

"KUDZU" CONCLUDES SUCCESSFUL WASHINGTON RUN

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. PRICE of North Carolina. Mr. Speaker, I would like to recognize the artistic merit and creative talents of North Carolinians Doug Marlette, Jack Herrick, and Bland Simpson, creators of "Kudzu: A Southern Musical." This musical production has been playing at the Ford's Theatre in Washington, DC for almost sixteen weeks, has received glowing reviews from the New York Times, the Boston Globe, and other publications, and has lifted the spirits of thousands who have been privileged, as I was last week, to see the show.

The musical is based on the syndicated comic strip "Kudzu," illustrated by Pulitzer Prize-winning editorial cartoonist Doug Marlette. The Red Clay Ramblers, a talented and versatile musical group from Chapel Hill, are featured along with an excellent cast. The production explores life in a small Southern town called Bypass and focuses on the life, loves, and mishaps of a character named Kudzu (which is also the name of the incredible vine that has engulfed half the town but hides wondrous treasurers beneath).

Having grown up in a small Southern town myself, I could easily identify with their portrayal of the South and instantly recognize many of the characters! However, you do not have to be Southern, or even follow the antics of Kudzu, Rev. Will B. Dunn, and the other Bypass regulars in the comics, to enjoy this family show. Doug Marlette, Jack Herrick and Bland Simpson wrote a clever and entertaining script and incorporated great bluegrass and Dixieland music to make this production enjoyable for all audiences. It's as funny as can be, but it also tugs at the heartstrings and reminds us of the things that matter most in life.

I commend this North Carolina trio, the cast of "Kudzu," and director Lisa Portes for their tremendous work in making this production such a success. They tell a great story and I am proud that they call North Carolina home.

HONORING TERRI THOMSON

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today to honor and congratulate Terri Thomson, on her swearing in as the Queens member of the New York City Board of Education. She is a dynamic and energetic individual, who will work tirelessly on behalf of the thousands of students in the New York City Public School System.

Terri bagan working as a staff assistant in my Queens office when I served in the New York State Senate. I quickly became impressed with her work ethic, and her political savvy. Shortly after being elected to Congress in 1983, I promoted her to be my district administrator where she served with the utmost integrity and compassion until 1990. In this capacity, she made a difference in the lives of thousands of my constituents. Aside from being an invaluable political ally, she became the dearest of friends both to me and to my family.

After leaving my office, she was hired by Citibank as the Director of Community Relations and was eventually promoted to be the Vice President of City and State Governmental Relations. At Citibank she helped school principals with professional training and worked to integrate new technology into the public school system. Moreover, she was able to introduce students to the Internet and demonstrated its application to commercial banking.

Throughout her career, Terri has been deeply involved in the community. She also serves as the Vice Chair of the Brooklyn Sports Foundation, which seeks to create an indoor sports facility for the New York City Public School System. Terri has also been involved with the Queens Chamber of Commerce and the Queens Public Library where she sought to improve both economic and educational opportunities for the entire community.

Terri's commitment to the community, her understanding of the issues, and her public and private sector experience make her uniquely qualified for a position on the New York City Board of Education. I am fully confident that she will be thoroughly equipped to grapple with the enormous complexities of the New York City Public School System. Thus, I ask all of my colleagues in the House of Representatives to join me in honoring this extraordinary individual whose dedication to the community will continue to make a significant difference in the lives of thousands of New Yorkers.

PERSONAL EXPLANATION

HON. GIL GUTKNECHT

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. GUTKNECHT. Mr. Speaker, last Thursday and Friday, June 18 and 19, due to my son's graduation, I missed roll call votes 245 to 251. Had I been present I would have voted as follows:

On roll call vote number 245, on establishing the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China, yea.

On roll call vote number 246, on ordering the previous question on the resolution establishing the rule for further consideration of H.R. 2183, yea.

On roll call vote number 247, on agreeing to the resolution establishing the rule for further consideration of H.R. 2183, yea.

On roll call vote number 248, on agreeing to the resolution establishing an open rule for consideration of H.R. 4059, the military construction appropriations bill, yea.

On roll call vote number 249, on agreeing to the Thomas amendment to the Shays substitute to H.R. 2183, the Bipartisan Campaign Integrity Act, yea.

On roll call vote number 250, on agreeing to the Maloney amendment to the Shays substitute to H.R. 2183, the Bipartisan Campaign Integrity Act, yea.

On roll call vote number 251, on agreeing to the Gillmor amendment to the Shays substitute to H.R. 2183, the Bipartisan Campaign Integrity Act, yea.

U.S. IMMIGRATION COURT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation to establish a new United States Immigration Court. The title of the bill is the "United States Immigration Court Act of 1998." This bill would remove the immigration adjudication functions from the Justice Department and invest them in a new Article I court. The court would be composed of a trial division and an appellate division whose decisions would be appealable to the Court of Appeals for the Federal Circuit.

The system for adjudicating immigration matters has matured tremendously over the last 15 years. Special inquiry judges have become true immigration judges. The Board of Immigration Appeals has been greatly expanded, and the whole Executive Office for Immigration Review has been separated from the Immigration and Naturalization Service.

Yet much of this system, including the Board of Immigration Appeals, does not exist in statute. And while separated from the INS, aliens still take their cases before judges who are employed by the same department as the trial attorneys who are prosecuting them.

It is time to take the next logical step and create a comprehensive adjudicatory system in statute. Such a system should be independent of the Justice Department. This is not a new concept—in fact, I first introduced legislation to take this step back in 1982. I continue to believe that an Article I court would allow for more efficient and streamline consideration of immigration claims with enhanced confidence by aliens and practitioners in the fairness and independence of the process.

The bill introduced today provides a solid framework on which to build debate on this important and far-reaching reform. I look forward to working with all interested parties in fine-tuning and further developing this proposal where necessary and enacting this much needed reform. It is my hope to see real progress made on this matter and I urge my colleagues to support the United States Immigration Court Act of 1998.

HONORING MEMBERS OF THE LION 4 UNIT OF WORLD WAR II

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. COBLE. Mr. Speaker, I would like to take this opportunity to recognize a little-known, but immensely significant, group that valiantly served our country in World War II. This heroic group of individuals, members of the "Lion 4" unit, served to supply and repair the many needs of the huge Navy presence in the Pacific theater. This unit, along with the other brave soldiers who fought the war in the Pacific, helped us defeat the Japanese and end the war months earlier than expected. We shall never forget the accomplishments of these men, some of America's true heroes.

The Lion 4 unit landed on the Admirality Islands north of New Guinea, with the daunting task of having to build a base equal to Pearl Harbor in size and function, with room to anchor over 400 ships. They landed on February 29, 1944, and by March 10, a severely damaged airfield was operational, providing pivotal air support during the war. Amazingly, at least 36 major units were operational by July, merely five months after the Lion 4 had first landed! These men had almost single-handedly created the largest and most important naval and air base in the Pacific Theatre. This in spite of knee-deep mud, torrential rainfall, 120 degree temperatures, malaria, and the constant risk of death from the ongoing war around them. They built this base so that the fighting troops could get supplies and repairs, and the time saved, in addition to the Lion 4's service, served to cut short the war and break the back of the Japanese forces.

On behalf of the men and women of the Sixth District of North Carolina, we proudly honor these men for their service to our country. The following men, members of Lion Four/Navy 3205 Association, are among the servicemen who helped keep our country free and proud:

Marlon Adrian, Albert Aguero, Edwin Anguiski, Robert Archer, Ford Basel, Leonard Bearce, Ralph Benavidez, S.Q. Berry, Donald Berry, Henry J. Bozenski, Donald Bratt, Robert Bridges, Robert Bridges, George Briggs, Ernest Brown, Harold Brown, Williams Burg, Lenard Callaway, Loran Cambell, Pat Cannavino, Harold Cazaubon, Morris J. Coe, Marion Cook, George Crosley, Jesse Daniels, Carrol Day, Fred Defield, Martin Delozier, John Dick, Augustine DiSano, Malone Downes, Irvine Downs, Earl Dressen, Robert Dunn, Frank Durbin, James Eby, Carl Eitel, Max Ellis, Howard Espenson, Joseph Frendling, D.P. Garner, Shelton Gautreaux, William Gaydos, George Gerberding, John Geschrey, John Glaser, Charles Granger, Chester Grobschmidt, Sam Guerrero, Frank Halder, E. Lee Hall, Garry Hanson, Robert Hartigan, Robert Harwood, Thomas Hatcher, Ralph Hayes, George Haymes, James Heand, Robert Hecke, Charles Heiss, Forrest Herron, Jr., John Herzog, Preston Hoalst, Frank Hogan, Charles Hoggett, Douglas Hood, Kenneth Hoyt, William Hutchison, Joe Jacob, Clifford James, James Jensen, Farris Jobe, Hal Johnson, Sylvester Kapoclus, James Kauffman, Eugene Kennedy, Chester Kershner, Andrew Kube, Herman Kuhns, Robert Laflame, Marshall Leach, Bernard Lease, Marvin Leasure, Larry Leonard, Arthur Ludwig, Daniel Lukach, Paul Mahan, Charles Majewski, Perry Martin, Ken Mathews, William Maxwell, Charles McCabe, Eugene McCardell, Joseph Melillo, Jake Miller, Thomas Miller, Frank Moesher, Lawrence Moon, Dale Mulholand, Miles Mutchler, Evan Nardone, Glen Nelson, Donald Nephew, John Newkirk, William O'Dea, Howard Olson, Richard Ostrem, James Owens, Ingert Pederson, James Pennebaker, Walter Pensak, Robert Phipps, William Piper, Donald Pittelko, I.C. Plaza, Marvin Plunkett, Floyd Prater, Melvin Rabbitt, Douglas Ragsdale, Al Raiola, George Roe, Robert Rosenburg, Irven Rustad, John Ruth, Paul Sanders, John Sarbach, Alvin Saxton, Roland Schomer, Oron Schuch, Carl Schultz, Robert Schultz, Harold Schwocho, Eldon Shomo, Paul Siler, Roy Smith, Ruben Stahl, C. Stewart, Wm. Stiffler, Phillip Storm, Robert Stower, John Streicher, Buford Swartwood, Robert Tafel, Louis Tangney, Ernest Taube, Lowell Ter Borch, John Thomas, Ronald Trabucco, Walker Treadway, Joshua Treat III, Robert Trevorah, Frank Van Poppelen, John Van Soest, Charles Vicory, John Ward, Chuck Washner, Harry Waugh, William Webb, Harry Weiss, Hal Wenick, B.F. Williams, Sherwood Williams, Loren Yates, and Frank Zehner.

Family members will be representing the following deceased members of Lion 4 at the next gathering in Williamsburg, Virginia: Herbert Banning, Edward Boyle, Mr. Daningger, Brayn Driggers, Thomas Hutchison, Bert Lancaster, Robert Riehm, Eugene Rushing, Arthur Schussler, Arnold Vann, Donald Williams, Edward Winikaitis, and Glen Zunke.

As we sit here today, a half century after World War II, the need remains to honor those brave men and women who secured our freedom. On behalf of the citizens of the Sixth District of North Carolina, we express our deepest gratitude to the members of Lion Four and all the units that helped keep America free; we shall never forget their sacrifices.

HONORING THE MEMORY OF REVEREND BOYD R. KIFER

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. HORN. Mr. Speaker, my community is mourning the loss of one of its most active and involved citizens, Reverend Boyd R. Kifer. Boyd Kifer was born on December 13, 1925, in Muskogee, Oklahoma. As a child in Muskogee, he and his family were active in the Church of the Nazarene, which he was to serve for the greater part of his life. His father taught him the brick-laying trade, and he used this skill in the building of several churches in the years to come.

After graduation from what is now Southern Nazarene University, Rev. Kifer began his ministerial career in Pawnee, Oklahoma. Desiring further education, he moved his family to Kansas City, Missouri, to attend the Nazarene Theological Seminary, where he graduated in 1958. Rev. Kifer had a remarkable pastoral career. He served congregations in California for twenty years. In 1978 he embarked on two careers, continuing his ministry as interim pastor throughout southern California. He touched thousands of people, ministering to over eighty congregations during times of transition.

The second career Rev. Kifer embarked upon was as administrator of the congressional office of United States Congressman Glenn R. Anderson. It was in this capacity that I knew him and valued his positive impact on everyone he met. He served as an effective liaison between Congressman Anderson and the constituents and community leaders in the district. He was a familiar and respected figure at every public event in Long Beach. After the Congressman's retirement, Boyd continued to serve the Anderson family with joy and dedication.

His experience in the church and in the community prepared him to enjoy people. Boyd was compassionate, concerned, helpful, and humorous. Boyd will be greatly missed in our community. He is survived by two daughters, Kristie Kifer and Mindy Pengilly, both of northern California; two sisters, Dorothy Sayes of Oklahoma and Neva Bozeman of Colorado, and one brother, Gene Kifer of Texas, and a multitude of friends.

PRAISE FOR MR. GERRY CALABRESE WHO IS RETIRING AFTER 43 YEARS OF SERVICE TO THE PEOPLE OF BERGEN COUNTY, NEW JERSEY

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. ROTHMAN. Mr. Speaker, I rise today to honor a legendary public servant in Bergen County, New Jersey, Mr. Gerry Calabrese. Through decades of service, Mr. Calabrese has distinguished himself as a gentleman who puts the welfare of the people of New Jersey above his own.

Gerry began his career in public service by fighting for the American cause of freedom in World War II. After returning a hero, Gerry turned to his education and entered St. John's University where he was honored as an All-American basketball player. Upon graduation, Gerry continued playing on the hardwood with the National Basketball Association's Syracuse Nationals. However, his true vocation of stewardship to the people of his community was just around corner.

After retiring from the NBA, Mr. Calabrese was elected to the Cliffside Park Borough Council in 1955. In 1959 he was elected to his first term as the Borough's Mayor. And since 1965, he has served continuously as Cliffside Park's chief executive. His final term will expire in 1999. During his tenure, he has opened the Mayor's office to local men and women empowering them to become active in the political process and establishing a level of constituent service previously unparalleled in Northern New Jersey. Not stopping there, he also served on the Bergen County Board of Freeholders from 1975 to 1985 (functioning as its chairman in 1984), as Bergen County Democratic Chairman from 1991 to 1998, the New Jersey delegation to the National Democratic Convention in 1988 and 1992, on the New Jersey Board of Public Utilities from 1960 to 1987 (retiring as Director of Water and Sewage for the State of New Jersey), and on the 1992 New Jersey Congressional Re-Districting Committee.

A beloved father and grandfather, Gerry Calabrese has earned the respect of men and women of all political parties and all walks of life. In reflection of his time of service, he has been honored by local chapters of UNICO, B'nai B'rith, the Police Benevolent Association, the New Jersey State Association of Chiefs of Police, the Polish American Democratic Club, the Veterans of Foreign Wars, the American Legion, the Elks Lodge, and the Amvets. It will be difficult to imagine Bergen County without him as one of our most revered and respected mayors. Cliffside Park's next Mayor will have enormous shoes to fill when Mayor Calabrese leaves the office he has held for forty years. As this chapter of Gerry's life comes to an end, I wish him, his wife Marion, and his children and grandchildren, all the very best for a long, happy, and healthy retirement.

IN RECOGNITION OF DR. GEORGE F. HAMM

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. HALL of Texas. Mr. Speaker, I rise today to honor a close friend, dedicated educator and great American, Dr. George F. Hamm, President of the University of Texas at Tyler, who is retiring this month following an illustrious tenure of seventeen years. Having known George throughout that time, I have had the opportunity to observe his professional accomplishments, which are considerable, and to witness the impact that he has had on higher education in East Texas. His accomplishments were not unilateral, however, for he always had his lovely and intelligent and talented wife, Jane, at his side. Theirs was a partnership that forged a plan for UT Tyler.

George has been engaged in higher education administration and teaching since 1962, including a distinguished career in student services administration at Arizona State University prior to coming to the University of Texas at Tyler. Since being named President in 1981, Dr. Hamm has provided unmatched leadership and vision to the University. In 1982, Dr. Hamm achieved the first of a long line of accomplishments, when the University surpassed the 2,000 student enrollment mark for the first time. In 1983, under Dr. Hamm's guidance, a master's degree program in public planning and administration was established. This master's program was just the first significant expansion of educational opportunities for East Texans through the addition of numerous programs at the bachelors' and graduate levels. Just a few of the graduate programs established under Dr. Hamm's direct supervision include: teaching, English, mathematics, engineering and biology. Again in 1983, UT Tyler hit another enrollment milestone, as it passed the 3,000 student plateau.

In 1984, as a direct result of Dr. Hamm's ability to further the University's stature, Texas voters added UT Tyler as a beneficiary of Texas' Permanent University Fund. In 1986, Dr. Hamm was awarded the Arizona State University Centennial Medallion, as a "Man Ahead of His Times", for providing equal educational opportunities for minorities. Then in 1990, with the University's reputation and popularity growing by leaps and bounds, UT Tyler awarded its 10,000th academic degree. Never ceasing, Dr. Hamm's vision led to the implementation of an interactive video instruction program in 1991. This state-of-the-art technology enables students in several cities to save time and money while pursuing their educational goals. In 1996, President Hamm received the International Distinguished Service Award from Sister Cities International.

Finally, after years of hard work and dedication, in 1997, the Texas Legislature approved the University of Texas at Tyler as a four-year institution, and in 1998 UT Tyler's first freshman class was accepted for admission. Also in 1997, the Texas Legislature approved development of a UT Tyler campus in Longview and UT Tyler was selected for $6.9 million U.S.-Ukraine Community Partnerships for Training and Education Project.

After seventeen years of unparalleled leadership and vision, Dr. George F. Hamm will retire as President of the University of Texas at Tyler on June 30, 1998. As President of UT Tyler, Dr. Hamm dedicated his intellect, talents and energy to build a first-rate educational institution in East Texas. His goals were for many years elusive dreams, but thanks to his vision, perseverance and leadership, these dreams have become reality.

It has been an honor and a privilege to work with George during these past seventeen years, and I will be forever grateful for the guidance and friendship he has offered me and for all that he has accomplished for Tyler and East Texas.

Mr. Speaker, when we adjourn today's session, let us do so in honor of and respect for this great American.

TRIBUTE IN MEMORY OF U.S. REPRESENTATIVE BILL EMERSON

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mrs. EMERSON. Mr. Speaker, I rise today to pay tribute to the memory of U.S. Representative Bill Emerson. On this, the second anniversary of Bill's passing, I thought that I would share with all of you the story of "Billy" Emerson. I recently wrote the following as my weekly column so that I could share these very special memories with some of Bill's closest friends and most trusted advisors—the people of the Eighth Congressional District of Missouri.

Graduation Day for our Congressional Pages was just a couple of weeks ago. As we said our fond farewells to those high school juniors who have worked long and hard in the House of Representatives since August 1997, it got me thinking about some of the wonderful stories Bill used to tell when he was a Page back in the 83rd Congress. As many of you know, Bill's first interest in having a career in government came as a result of his experience as a Page, and it was this knowledge and love for the Congress that made him such a valuable part of the institution.

I'd like to share with you the "Billy" Emerson story—the story of how Bill became a Page in the first place.

Bill's Grandpa, W.G. "Bill" Reinemer, was for many years a local elected official in Jefferson County, Bill's home county, and lived with Bill and his mother after Bill's Grandmother died. Grandpa Reinemer was a tremendous influence in Bill's life, and Bill tagged alongside him to every political rally and event Grandpa attended. In 1952, the year General Eisenhower was running for President, Bill decided that he had to help elect "Ike" as President and did everything from manning telephones to stuffing envelopes to making speeches for him. At the same time, Grandpa promised Bill that if Ike won the presidency that he, Bill, could go to Washington for the General's Inauguration. You can imagine how that gave Bill even more incentive to do everything possible to ensure that Ike won the election!

During the campaign, Bill happened to be reading a Boys' State publication, which had a story about being a Page In Congress. This gave Bill another idea. Perhaps if he could become a Page, then he could go to Washington to help Ike run the country. So, Bill wrote letters to every Member of the House of Representatives and Senate, asking if he could be their Page. Many rejections came primarily because Bill wasn't from the same state as these Members, except for one. And the one partially positive letter he did receive came from Congressman Tom Curtis of St. Louis. Congressman Curtis told Bill that if Ike won the election and if the Republicans took control of Congress, then it might be possible that Curtis could appoint Bill as his Page. While there was an awful lot of "ifs" and "mights" in the letter, Bill was not discouraged and was hopeful that he might get the appointment.

However, once the election was over and Ike won, Bill still hadn't heard form Curtis. And it came time for him to go to Washington, as Grandpa had promised, for the Inauguration. His mom and Grandpa put him on the train to Washington (by himself), where he would be staying with family friends who lived in Alexandria, Virginia. He had his ticket for the Inaugural ceremony, and was so excited to be going to Washington to "help" Ike get inaugurated. Once there, he decided to go up to Congressman Curtis' office in the Cannon Building to see if any decisions had been made about his appointment as a Page.

When Bill arrived in Curtis' office he introduced himself to the receptionist, Marilyn, who promply replied, "You're Billy Emerson from Hillsboro, Missouri?" And he replied that he was. Marilyn said that Congressman Curtis had been looking all over for him and had tried reaching him at home in Hillsboro, but of course, he wasn't there. She then took him to see Curtis in his office, and there were several other prominent Republicans in the office too. Congressman Curtis greeted Bill, and then introduced him to the others. He said, "Folks, I'd like you to meet Bill Emerson from Hillsboro, Missouri, He's my new page." And this was the very first time Bill learned that he had indeed been appointed Curtis' Page and would be able to realize his dream of "helping" Ike run the government.

Bill didn't have a chance to go home to Hillsboro before starting work as a Page. His mom cried and cried, and had to send all his clothes to him, because he began working immediately. The highlight of his career as a Page was the very first time president Eisenhower addressed the Congress at his State of the Union speech. Bill was standing along the middle aisle where the President enters the House Chamber and as the President passed him, Bill put out his hand to shake the President's, and said, "Hi, Mr. President." The President patted Bill on the head and said, "Son, I sure need your help up here," You can only imagine how Bill felt—all he had wanted to do was come to Washington to help the President and then the President actually asked him for his help. He didn't wash his hand for a week.

I've always loved the Billy Emerson story, and have told it hundreds of times over the past 23 years. I think it captures the essence of the man Bill was. A man dedicated to his country and the principles upon which our Founding Fathers formed a government of, for and by the people. A man inspired by history who wanted to preserve our system of government for generations to come. And a man who wanted to inspire young people to get involved, to understand that you can do and be anything in life as long as you're willing to work for it. It doesn't matter where you come from, the color of your skin, or how little money your family has. The only thing that matters is you, and whether you're willing to make a commitment to do everything possible to realize your dream.

Monday, June 22, marks the second anniversary of Bill's death. But Bill lives on in all of our hearts, and a day doesn't go by when we haven't reminisced about one of his many stories and life lessons. I feel blessed to walk down the same corridors he did, and feel blessed to have spent 21 years as his wife. He was an inspiration to so many, but perhaps most of all to those of us he called family. God Bless you, Bill. We sure miss you.

PORK BARREL JOURNALISM

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. RAHALL. Mr. Speaker, the term "pork barrel politics" has been in the lexicon for many, many years and is most often used by the media to cast a negative connotation to an earmark by a Member of Congress of federal funds for a specified project in his or her Congressional District or State. It is my experience that when the media uses this term it usually has no first-hand knowledge about the project itself, and instead, relies on hearsay to support its contention that the project constitutes "pork." This is what I would call "pork barrel journalism."

I submit for the RECORD an excellent example of pork barrel journalism exposed by Steven Brill, in the August 1998, edition of Brill's Content.

[From Brill's Content, August 1998]

QUALITY CONTROL

A U.S. SENATOR WRITES A LETTER TO THE WASHINGTON POST CLAIMING THAT AN EYE-CATCHING STORY ABOUT HIM IS COMPLETELY WRONG. WHAT HAPPENS? NOTHING.

Last December, I noticed a curious letter to The Washington Post from Senator Robert Byrd, of West Virginia. The subject was an article that had run in the Post detailing the senator's supposed role in getting a National Park Service project funded in his state—a role the Post cited as an example of lawmakers turning the service "into their personal pork barrel."

Here are the highlights of Byrd's letter:

"The very first paragraph of the article speaks of a renovated train depot . . . asking 'Why did the National Park Service spend $2.5 million turning a railroad station into a visitor center for a town with a population of eight? The compelling reason—Senator Robert C. Byrd . . . who glides past on Amtrak's Cardinal Limited from time to time, heading to and from his home in Sophia, a few miles south.'

"Funny thing, I do not ride the . . . train to and from Sophia and I have never done so. In fact, in the long existence of that train—which does not go to Sophia—I doubt that I have ridden it more than three times, and the last time was probably a decade ago.

"Not so funny is the suggestion that the historic preservation of that building and the town of Thurmond . . . would be undertaken as a result of such whimsy. Equally ridiculous is the falsehood that I 'slipped' the New River Gorge National River park unit into federal legislation 'unwanted' The recommendation to have the New River Gorge managed by the National Park Service was made by the Interior Department . . . [B]ecause of my concern for the costs associated with this plan . . . I have not supported the Park Service proposal for complete restoration of the town of Thurmond. And in the case of the depot, I forced the Park Service to complete the project at a cost considerably less than its original estimate."

In short, Byrd claimed that the entire story was totally, even comically, wrong. To which the Post replied . . . well, it didn't Byrd's letter ran without comment. So, who was right?

Brill's Content staff writer Rachel Taylor reached Martha McAreer an editor of the Post's letters page. No comment from the paper was added, said McAreer, because "letters to the editor allow readers to voice differences of opinion."

Could it really be a matter of opinion whether the senator had actually ridden the train or "slipped" the project in "unwanted;" by the federal agencies involved?

A discussion with the article's author, Frank Greve, the respected national correspondent for Knight-Ridder Newspapers, whose wire service had supplied the story to the Post was stranger still. "So what's the problem," Greve began, after having read Byrd's letter, which he told me he had not seen before my inquiry to him. "He's entitled to his opinion."

"Is it a matter of opinion that he rode the train to and from his home and that that's why the depot go funded?"

"Well, I heard he did," said Greve. "And I know he lives near there."

"Is it a matter of opinion that he slipped the bill in unwanted?"

"I was told that," Greve answered.

"Did you call him and ask?"

"Sure, I called his office," Greve continued.

"What did you ask them?"

"I told them I was calling because I was interested in the history of the project, so they suggested I call a former [congressional] staff guy because the project was so long ago. He was one of my sources."

Greve also pointed out that his original wire service article had included a paragraph saying that Byrd had cut the budget for the depot, but that the Post had cut that section from the version it had published.

But for Greve to call Byrd to say he was interested in the history of the project rather than to ask specifically about the train rides or about slipping the project into the budget unwanted, is like calling someone and saying you are doing a story about the history of his family when you're about to write that he has been accused of incest.

Greve finally urged me to call two of his sources for the story—a former congressional staffer and a former Park Service official—on the condition that I not name them.

The first "source" said he had talked to Greve "generally about the Park Service pork-barrel abuses" and he "heard that either Byrd or a West Virginia congressman had wanted to slip the River Gorge project in." But he was "not sure about who it was or even if it was either of them. . . . It was an old story everyone sort of liked to tell. . . . You know, an apocryphal story."

The second "source," the former Park Service official, said he told Greve that Byrd's involvement "sounded right," but that he had "no way of" really knowing because the park project "was way before my time."

When told of the accounts provided by his "sources," Greve sighed, and then said, in near-disgust, "Look everyone knows that this is the way the world works in Washington. What's the big deal?"

Actually, it is a big deal. Most of us think this indeed is the way Washington works, and I know I always thought of Byrd as the embodiment of all that. So a story like this piles on to our preconceived notions and makes us all the more cynical and ready to believe the next story. Conversely, when a story about how the world probably does work, written by a respected reporter, turns out to depend on an anecdote that doesn't seem to hold up, otherwise good journalism is discredited.

But what may be more important than whether Greve's story is correct, is what happened after Byrd wrote his letter. Which is that nothing happened.

Greve freely conceded that no one at Knight-Ridder ever asked him about the Byrd letter. Knight-Ridder Washington bureau chief Gary Blonston confirms that "I never heard anything about a letter." (Blonston also notes that he was hospitalized at the time the letter was published).

As for the Post, when shown Byrd's letter two months after he published it, executive editor Leonard Downie said, "I've never seen it. . . . In fact, I must admit I don't read letters to the editor." (As the Post's executive editor, Downie is the editor to whom an aggrieved reader presumably writes; it is he who is responsible for all news coverage.)

Wouldn't Downie likely see a letter like this from a senator? "If it were directed to me personally, I think I would," He said. "But if it is just sent to the paper I don't know who would see it on the news side [as opposed to the editorial page editors like McAteer, who oversee the letters page]. I suppose we should systematize that."

It is impossible to imagine that the producer of any other consumer product, such as a car or an appliance, could or would ignore this kind of complaint about a defective product, let alone one from someone important. If only because most other enterprises would fear embarrassment in the marketplace or a lawsuit, this absence of basic quality control would be unfathomable. (Greve would win any libel suit as long as he could show he really believed the Byrd story might be true—but that defense for a defective car or toaster would be laughed out of court.)

So what's important here is that at two of the most respected (and deservedly so) news organizations in the world, the senator's letter was a non-event.

A footnote: The original Washington Post story generated lots of editorials across the country attacking pork-barrel politics. And, two weeks after the Byrd letter appeared, one of my heroes in journalism—Charles Peters, the editor of the Washington Monthly—cited the Greve article as an example of tax dollars misspent because "the money was slipped into the budget" by Sen. Byrd. Asked how he had checked the article, or if he had called Byrd for comment, Peters, who is from West Virginia and knows Byrd, said, "It would be unheard of that this would happen without somebody's intervention. I'd be incredulous if Byrd wasn't behind it. . . . I guess it could have been a congressman, but I doubt it. But I did no checking because something like this just has the ring of truth."

"SOURCES SAY"

Let's have a contest.

I'll extend a subscription for an additional year to the reader who, by July 15, sends us the news article or transcript of a television or on-line newscast that has the most uses per 100 words of the specific phrase "sources say." The winner and the offending author will be announced next issue.

We want to stamp out the common use of a phrase that is never defensible. At the least, a reporter can always tell us if there are two sources or 20. Surely he knows. Similarly, he can almost always provide some kind of description of the unnamed source that suggests the source's knowledge or possible bias, even if he cannot be identified.

The principle is simple and, again, it has to do with quality control for this particular consumer product: providing clear information is an achievable goal, especially when journalists ask us to trust them—and their unnamed sources.

This reminds me of one of the laziest, most duplicitous things that nonfiction authors do in their acknowledgements at the beginning of a book. Here's an example: "More than 300 people were interviewed for this book . . ." Doesn't this author know how many? Was it 301 or 33,001? Why can't he tell us? Is 300 a figure of speech? Why trust him with anything else in the rest of the book if he's this lazy with that kind of easy fact?

That's a quote from the acknowledgements page of a book I wrote in 1978.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 23, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 24

9:30 a.m.

Energy and Natural Resources

Business meeting, to to consider pending calendar business.

SD–366

Labor and Human Resources

Business meeting, to mark up proposed legislation authorizing funds for human services programs.

SD–430

10:00 a.m.

Banking, Housing, and Urban Affairs

To resume hearings on H.R. 10, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers.

SD–538

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold hearings to examine the Asian financial crisis.

SD–419

Governmental Affairs

To resume hearings to examine the state of computer security within Federal, State and local agencies.

SD–342

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

2:00 p.m.

Judiciary

Immigration Subcommittee

To hold hearings on the agricultural guestworker program.

SD–226

2:30 p.m.

Indian Affairs

Business meeting, to mark up S. 1925, to make certain technical corrections in laws relating to Native Americans, and S. 1998, to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park.

SD–628

2:45 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold joint hearings with the Committee on Indian Affairs on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, entitled "Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".

SD–628

Indian Affairs

To hold joint hearings with the Committee on Energy and Natural Resources' Subcommittee on Water and Power on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, entitled "Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".

SD-628

4:00 p.m.

Foreign Relations

European Affairs Subcommittee

To hold hearings to examine United States policy in Kosovo.

SD-419

JUNE 25

9:00 a.m.

Judiciary

Business meeting, to mark up S.J. Res. 40 and H.J. Res. 54, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States, and S.J. Res. 44, proposing an amendment to the Constitution of the United States to protect the rights of crime victims, and to consider other pending calendar business.

SD-226

9:30 a.m.

Energy and Natural Resources

To hold hearings on the nomination of William Lloyd Massey, of Arkansas, to be a Member of the Federal Energy Regulatory Commission.

SD-366

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on H.r. 10, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers.

SD-538

Labor and Human Resources

To hold hearings to examine health insurance coverage for older workers.

SD-430

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

10:30 a.m.

Governmental Affairs

To hold hearings to examine the Defense Technology Security Administration's role in approving critical technology exports.

SD-342

2:00 p.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 2146, to provide for the exchange of certain lands within the State of Utah.

SD-366

Foreign Relations

To hold closed hearings to examine Chinese missile proliferation.

S-407, Capitol

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to review the judgeship needs of the 6th and 7th Circuits.

SD-226

JULY 8

9:30 a.m.

Indian Affairs

To hold hearings on S. 1905, to provide for equitable compensation for the Cheyenne River Sioux Tribe, H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, S. 391, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and S. 1419, to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park.

SR-485

JULY 9

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine the adequacy of procedures and systems used by the Department of Agriculture Food Safety and Inspection Service and the Department of Health and Human Services Food and Drug Administration to oversee the safety of food imported into the United States, focusing on the outbreak of Cyclospora associated with fresh raspberries imported into the U.S. from Central America.

SD-342

JULY 14

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 1515, to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, S. 2111, to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, and S. 2117, to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system.

SD-366

JULY 15

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to review a recent concept release by the Commodity Futures Trading Commission on over-th-counter derivatives, and on related proposals by the Treasury Department, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission.

SR-332

9:30 a.m.

Indian Affairs

To hold hearings on S. 2097, to encourage and facilitate the resolution of conflicts involving Indian tribes.

SR-485

JULY 21

10:00 a.m.

Judiciary

To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.

SD-226

JULY 22

9:30 a.m.

Indian Affairs

To hold joint hearings with the House Resources Committee on S. 1770, to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, and to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and H.R. 3782, to compensate certain Indian tribes for known errors in their tribal trust fund accounts, and to establish a process for settling other disputes regarding tribal trust fund accounts.

SR-485

OCTOBER 6

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.

345 Cannon Building

POSTPONEMENTS

JUNE 24

9:30 a.m.

Judiciary

To hold hearings to examine fairness in punitive damage awards.

SD-226

SENATE—*Tuesday, June 23, 1998*

The Senate met at 9:29 and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, ultimate Judge of us all, free us from the pejorative judgements that put others down when they do not agree with us. We develop a litmus test to judge others. Sometimes, when they don't measure up, we question their value and make condemnatory judgements of them. Most serious of all, we think our categorization justifies our lack of prayer for them. Often we self-righteously neglect in our prayers the very people who most need Your blessing.

Give us Samuel's heart to say, "Far be it from me that I should sin against the Lord in ceasing to pray for you."—I Samuel 12:23. Remind us that You alone have the power to change the minds and hearts of people if we will be faithful to pray for them. Make us intercessors for all those You have placed on our hearts—even those we previously have condemned with our judgements. We accept Your authority: "Judgement is mine, says the Lord." I pray this in the Name of Jesus who, with Moses and the prophets, taught us to do to others what we would wish they would do to us. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. COATS. Mr. President, today the Senate will resume consideration of the defense authorization bill. Currently pending to that bill is a Hutchinson amendment relating to China. It is expected that a tabling motion will be made on that amendment at approximately 10:15 a.m. this morning. Further votes could occur with respect to the defense bill prior to the 12:30 policy luncheon recess. Under a previous order, following the party lunches at 2:15, the Senate will proceed to a cloture vote on the defense bill. Members are reminded that under rule XXII they have until 12:30 p.m. today to file second-degree amendments to the defense bill.

The leader would like to remind all Members that there are only 4 days left before the Independence Day recess. There are still several important items to be considered this week, including appropriations bills, the conference reports accompanying the Coverdell education bill, the IRS reform bill, the Higher Education Act, and any other legislative or executive items that may be cleared for action also may be considered this week. Therefore, the cooperation of all Members will be needed to successfully complete the Senate's work this week.

I thank my colleagues for their attention.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2057, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2057) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Feinstein amendment No. 2405, to express the sense of the Senate regarding the Indian nuclear tests.

Brownback amendment No. 2407 (to amendment No. 2405), to repeal a restriction on the provision of certain assistance and other transfers to Pakistan.

Warner motion to recommit the bill to the Committee on Armed Services with instructions to report back forthwith with all amendments agreed to in status quo and with a Warner amendment No. 2735 (to the instructions on the motion to recommit), condemning forced abortions in the People's Republic of China.

Warner amendment No. 2736 (to the instructions of the motion to recommit), of a perfecting nature.

Warner modified amendment No. 2737 (to amendment No. 2736), condemning human rights abuses in the People's Republic of China.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 2737, AS MODIFIED

Mr. HUTCHINSON. Mr. President, am I correct in my understanding, the Warner-Hutchinson amendment is the pending business?

The PRESIDING OFFICER. Amendment No. 2737 is pending.

Mr. HUTCHINSON. Mr. President, I would like to speak for a few minutes about that amendment which I authored and which I anticipate Senator WARNER will move, at 10:15, to table.

It has become evident to me that tabling motions in this institution at one time were far more meaningful: that in this case there will be an effort to vote against tabling, simply for the purpose of making that vote meaningless. There are those who simply do not want a straight up or down, clean vote on the substance of these amendments. What they want to do is cease embarrassing themselves by being seen voting against amendments that are supported broadly by the American people and are substantively what we ought to do: condemn forced abortion, deny visas to those who are performing them, condemn religious persecution, deny visas to those who are involved in it. Those are the kinds of things the American people support. But those who simply want to avoid having to cast that vote at this time are going to vote against tabling it and, by so doing, prevent any kind of clean up or down vote on the substance of these amendments.

There is no time agreement. We will have a cloture vote later today. So they seem to have found a means by which, on a parliamentary basis, they can avoid having to take a stand on what we need to be taking a stand about.

They will argue this is the wrong time; we should not do this on the eve of the President's departure for China. I would simply say, this amendment, really four amendments that have been now wedded together, this amendment strengthens the hand of our President as he goes to China. It gives him greater voice and it gives him a greater tool as both the House and the Senate will then have been on record on the substance of these amendments. The President will be able to express to the Chinese people, with the full backing of Congress, his deep concern about these issues.

How important this is, and how much progress still needs to be made in China, was very evident today by the headline in the Washington Times. The headline in the Washington Times this morning is: "Beijing Pulls Visas of Three U.S. Reporters: Move Targets Radio Free Asia."

In a move that is absolutely astounding, it shows that China simply doesn't get it. In a move that reflects the fact that they simply don't understand what freedom and liberty and a free press is all about, they have denied visas to three reporters previously approved by this administration to travel to China and to cover the events of the President's visit.

I have learned to appreciate more and more Radio Free Asia and the outstanding work they do and the outstanding job they perform and the outstanding coverage that they provide. Now we find that these three reporters are going to be denied the opportunity to go. The Chinese Government has refused to give them permission to come because—why? Because, apparently, they are afraid that some of that coverage might put the Beijing government in a poor light.

As I mentioned yesterday, in my remarks on the floor, Newsweek magazine chose this edition, on the eve of the President's trip, to highlight the new China. In fact, the cover article is headlined, "The New China." I would only quote one portion of the article:

> In large measure, the central question surrounding Clinton's trip is whether China has really changed since 1989.
>
> Walking around the glittering shopping malls of Beijing, talking to the members of the newly affluent Chinese middle class, it is plain that China is not the country it was 9 years ago. Official language has changed; China's leaders no longer deny what happened in Tiananmen Square, but focus on what has happened since—an embrace of market economics and new political and legal rights. More important, on the streets and in the media, "unofficial" China is giving real shape to such rights.

I will repeat that last sentence, "Unofficial China is giving real shape to such rights," political and legal rights, that is.

The question before this Senate is what is official China doing? And it is obvious from the headline in the Washington Times today, the story that they broke, that Beijing pulled the visas of three U.S. reporters, indicates what official China is doing today is yet, still, very deplorable.

In the State Department report on China for 1997, the human rights report on China, they have section 2, dealing with respect for civil liberties. In particular, they address this issue of a free press and our State Department's report says:

> There are 10,000 openly distributed publications in China, including 2,200 newspapers. During the year, the Central Propaganda Department instructed all provinces and municipalities to set up a special team to review publications.

Now listen:

> All media employees are under explicit, public orders to follow [Chinese Communist Party] directives and "guide public opinion" as directed by political authorities. Both formal and informal guidelines continue to require reporters to avoid coverage of sensitive subjects and negative news. Journalists also must protect State secrets in accordance with State Security Law. These public orders, guidelines, and laws greatly restrict the freedom of broadcast journalists and newspapers to report the news and leads to a high degree of self-censorship. In October leading dailies in China carried a translation of a major policy speech by a foreign official; however, a lengthy section on human rights was dropped from the translation.

I believe our State Department report on human rights conditions in China once again reflects very clearly how far China has to go and how deplorable civil rights and human rights conditions in China really are. And in the particular area of freedom of speech and press, we find there is a very, very rigid censorship that controls the media in China.

Nowhere was that censorship more evident than in Beijing's decision to pull the visas of these U.S. reporters seeking to provide coverage on the President's trip. I urge all of my colleagues in the U.S. Senate to read in its entirety the China Country Report on Human Rights Practices for 1997. It is in fact, I believe, a great eye-opener and deals not only with the area of the press, but deals with the issues of forced abortions and religious persecution which the amendment that is pending before this body deals with explicitly.

Mr. President, as we will be voting on this motion to table at 10:15 today, and we think about the issue of forced abortions, I have heard in recent days China apologists explain that really what is going on in China isn't all that bad. And the defense goes something like this: China's official family policy, family planning policy, forbids coercion; it forbids forced abortions or forced sterilizations. They will say that is the official position of the Chinese Government. The problem is, that has never been codified. It has never been written down.

So while the Beijing authorities will say, "Yes, we do not tolerate forced abortions or coercion in family planning practices," that has never been codified and put into the law of the land in China.

The Chinese Government will acknowledge that local officials, under great pressure to meet population targets, sometimes utilize these coercive practices. So while they will argue this is not the public policy of China to permit coerced abortions, they will acknowledge, because such targets are placed and such financial incentives are placed over local officials, that local officials sometimes go over the edge and will use these coercive practices in enforcing the one-child policy in China.

In defense of the fact that these practices are tolerated, China will explain that it is a very large country, and it is simply impossible for the central Government to maintain and punish those who break the official ban on coercive family planning practices. That is the rationale that is given. China apologists, of which there are many in this country, will say, "We have to be understanding. They don't officially permit this. It's local officials who get out of hand. And, after all, China is a big country. We can't expect they're going to be able to enforce this consistently."

When I hear that rationale, what I immediately think of is the fact that, according to our State Department report, every known dissident in China has been rounded up and incarcerated. Somehow the central Chinese Government manages to monitor and find those who might speak out for human rights or for democracy or for freedom in China today. The central Government has no problem in enforcing their very rigid control of the population. And yet they want to excuse themselves from any kind of enforcement in preventing coerced family planning practices in China.

If the one-child policy results in pressure for local officials to engage in force, then the central Government ought to change that central Government policy and simply remove the kinds of incentives that have resulted from local officials coercing women to have abortions when they do not want to. If, according to our State Department, all dissidents have been silenced, then surely the central Government that can monitor democracy dissidents all over the vast country can surely monitor and control rogue officials who practice these very horrendous procedures on unwilling women in China.

The Chinese authorities, in 1979, instituted the policy of allowing one child per couple, providing monetary bonuses and other benefits as incentives for that one-child policy. In subsequent years, it has been widely reported that women with one living child, who become pregnant a second time, are subjected to rigorous pressure to end the pregnancies and undergo sterilization.

Forced abortions and sterilization, Mr. President, have not only been used in Communist China to regulate the number of children, but to eliminate those regarded as "defective" under China's very inhumane eugenics policy. They call their law the natal and health care law. What a misnomer. This law requires couples at risk of transmitting disabling congenital defects to their children to use birth control or undergo forced sterilization.

China currently has legislation that requires women to be sterilized after conceiving two children, and they even go so far as to demand sterilization of either the man or the woman if traces of a serious hereditary disease is found in an effort to eliminate the presence of children with handicaps, to eliminate the presence of children with illnesses or other characteristics they might consider to be "abnormal." That eugenics policy is abhorrent and it is morally reprehensible. It is the practice, it is the law of the land in China today.

The amendment that is before us would address this issue. It would put us on record in condemning this practice and be at least a symbolic step in denying visas to those for whom there is credible evidence are involved in the practice.

Chinese population control officials, working with employers and work unit officials, routinely monitor women's menstrual cycles, incredibly enough. They subject women who conceive without Government authorization—they do not have a certificate to conceive—to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and in some instances physical force.

It has been estimated that China commits about a half a million third-trimester abortions every year. Most of these babies are fully viable when they are killed. Virtually all of these abortions are performed against the mother's will.

Steven Mosher, the director of Asian studies at California's Claremont Institute, can personally account to seeing doctors carrying chokers. These chokers are similar to the little garbage ties that we use to tie up garbage bags. They are placed around the little baby's neck during delivery. The baby then dies of a painful strangulation over a period of about 5 minutes.

To my colleagues, I say a government that would force women to undergo these kinds of grisly procedures has no conception of and no respect for human rights.

On June 10, my colleague in the House, CHRIS SMITH, the chairman of the Human Rights Subcommittee on International Relations, held a hearing on this ongoing practice in China. Gao Xiao Duan, the former head of China's Planned Birth Control Office from 1984 to 1988, provided powerful testimony about what she went through, what she was called upon to enforce, and her own nightmarish experience until she was unable and unwilling to live with a guilty conscience because of what she was doing. She resigned. She left. She got out of that grisly business.

Well, it is that kind of practice, along with what I have in the past elaborated on related to religious persecution that is ongoing in China today, on which this body needs to take a stand. The House of Representatives voted for these measures, and voted for them overwhelmingly. The forced abortion provision in the House of Representatives passed by a vote of 415-1. And it is time that the Senate quit stalling and quit dragging its feet, quit avoiding these issues.

It is time that we faced the abuses in China forthrightly and honestly. And I believe, far from embarrassing the President as he makes this trip to China, it is incumbent upon us to strengthen his ability to address human rights issues at Tiananmen Square and in dealing and meeting with Government officials throughout China, throughout his 8-day visit in China.

So I ask my colleagues to rethink the desire of many to avoid a clean up-and-down vote on the substance of these amendments, which, frankly, I have heard no one get up and argue that this is the wrong position to take or this should not be the public policy of our country. Instead, I have heard vague talk that we should not vote at this time with efforts to try to avoid taking a clear stand on this issue.

I commend the Washington Post on their editorial today of June 23. I ask unanimous consent that editorial, "The Case of Li Hai" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 23, 1998]

THE CASE OF LI HAI

Li Hai, 44, a former teacher at the Chinese Medical College, is serving a nine-year sentence in Beijing's Liangxiang Prison. His crime: assembling a list of people jailed for taking part in pro-democracy demonstrations in Tiananmen Square in 1989. From the Beijing area alone, he documented more than 700. Of those, 158—mostly workers, rather than students—received sentences of more than nine years and are presumed still held. Many were sentenced to life in prison, from a 22-year-old named Sun Chuanheng to a 76-year-old named Wang Jiaxiang. Li Hai himself was convicted of "prying into and gathering . . . state secrets."

We thought of Mr. Li Hai as we read President Clinton's explanation in Newsweek yesterday of "Why I'm Going to Beijing." Mr. Clinton wrote of the "real progress—though far from enough" that China has made in human rights during the past year. That progress, according to the president, consists of the release of "several prominent dissidents"; President Jiang Zemin's receiving a delegation of American religious leaders; and China's announcement of its "intention to sign" an important international treaty on human rights. That's a rather threadbare litany, even before you take account of the fact that two of the three releases for which the administration takes credit relate to dissidents who have been forced into exile, and that China has not said when it will ratify the human rights treaty, even if—as President Jiang stated in a separate Newsweek interview—it signs the document this fall.

How meager these accomplishments in human rights really are becomes clear when you stack them up against the administration's own decidedly modest goals back in 1996, when it already had downgraded the priority of human rights. According to reporting by The Post's Barton Gellman, the Clinton administration offered China a package deal in November of that year: It would no longer support a United Nations resolution calling attention to China's human rights abuses if China would release seven prominent dissidents, sign two international treaties on human rights, allow the International Committee of the Red Cross to visit Chinese prisons and establish a forum of U.S. and Chinese human rights groups. When China failed to fully meet any of the demands, and rebuffed the United States on two of them, Mr. Clinton said that was good enough. This again calls to mind what is disquieting about his China policy: not that he is pursuing a policy of engagement but that the engagement too often is on China's terms.

Tomorrow Mr. Clinton will leave for China, the first president to visit since the Tiananmen massacre. His aides promise that he will speak out on human rights while there, and there is a chance he will meet with the mother of a student killed in Tiananmen. The first could be valuable if his remarks are broadcast on Chinese television; the second, an important symbol, especially because many relatives of Tiananmen victims continue to be persecuted and harassed. But Mr. Clinton's remarks, above all, should be honest. For the sake of Li Hai, the 158 he documented and the many he did not find, Mr. Clinton should not trumpet "real progress" in a human rights record where no such progress exists.

Mr. HUTCHINSON. I will quote a portion of that editorial today from the Washington Post:

Li Hai, 44, a former teacher at the Chinese Medical College, is serving a nine-year sentence in Beijing's Liangxiang Prison. His crime: assembling a list of people jailed for taking part in pro-democracy demonstrations in Tiananmen Square in 1989. From the Beijing area alone, he documented more than 700. Of those, 158—mostly workers, rather than students—received sentences of more than nine years and are presumed still held. Many were sentenced to life in prison, from a 22-year-old named Sun Chuanheng to a 76-year-old named Wang Jiaxiang. Li Hai himself was convicted of "prying into and gathering . . . state secrets."

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Mr. President, exactly so. We should not create progress where it does not exist. We should not pretend that there is progress where it has not been demonstrated. The exile of high-profile dissidents, their exile to the United States, people who are then told, you are free so long as you never return to your homeland, your fatherland—this is what is hailed as human rights progress? I, for one, will say no, that is not true.

The abuses are great. It is time that the U.S. Senate took its stand. It is time that the U.S. Senate quit avoiding our responsibility, as the elected representatives, to the people of this country and that we be willing to simply cast our own convictions on these amendments, that we not, through parliamentary tactics, through what is now called "throwing a vote," try to make a vote meaningless by everyone voting contrary to their own beliefs so as to avoid a clear up-or-down vote on which the American people can make a judgment.

Let there be no mistake. Let's all understand what we are doing when we vote at 10:15 today. For those who are opposed to these amendments, to vote against tabling is a vote of deception to the American people. It may, in the minds of many, make this vote meaningless. Let us be sure in this country in which freedom reigns, in which the American people, I think, are quite discerning—they will be able to see through the charade of simply circumventing a vote on substance. They will be able to see the pretense of voting one way when you believe another, so that you can avoid voting on the substance and say this is a bad thing, for us to condemn forced abortions, we shouldn't do that; it is a bad thing for us to deny visas for those involved in it; it is a bad thing for the U.S. Government to condemn religious persecution, the persecution of minorities in China, Tibet. No one says that, and yet the efforts were made to avoid a substantive vote on these amendments today.

I mentioned just a moment ago the high-profile dissidents who have been exiled from their homeland, none of those more prominent than Wei Jingsheng. It has been my privilege and honor to get to know some of those dissidents, who have been exiled, who now in this country advocate for democracy in their homeland. The story of Wei Jingsheng is one of the most intriguing and most inspiring.

I am quoting now from Orvile Schell's "Mandate of Heaven":

> Wei Jingsheng, a young electrician working at the Beijing zoo, and editor of a publication called "Explorations," became one of the most trenchant critics of the Chinese Government. On December 5, 1978, he posted a critique of Deng's Modernization Program that insisted that modernizing agriculture, industry, science and technology and national defense without also embracing a fifth modernization, namely, democracy, was futile. That was his crime. He dared to critique his leaders' philosophy by saying, "We may modernize agriculture, industry, science, technology, and defense, but unless we have structural change in the area of democracy, it will be futile."

That was his crime.

Then Wei Jinsheng asked this:

> "What is true democracy?" his wall poster asked. It means the right of people to choose their own representatives, who will work according to their will and in their interests. Only this can be called democracy. Furthermore, the people must have power to replace their representatives any time so that these representatives cannot go on deceiving others in the name of the people. We hold that people should not give any political leader unconditional trust. Does Deng want democracy? No, he does not, asserted Wei. Then as if he were engaged in an actual face-to-face with Deng, Wei Jingsheng added, we cannot help asking, what do you think democracy means if the people do not have a right to express their ideas freely? How can one speak of democracy? If refusing to allow other people to criticize those in power is your idea of democracy, then what is the difference between this and what is euphemistically called the dictatorship of the proletarian?
>
> We was soon arrested. Wei was sentenced to 15 years in prison on charges of having sold state secrets to a foreigner. In jail, he became a troublesome reminder of the party's arbitrary power to suppress political opposition, until he was finally released in the fall of 1993 in an effort by the Chinese government to enhance its chances of bringing the 2000 Olympic games to Beijing.

Mr. KERRY. Will the Senator yield for a point of inquiry?

Mr. HUTCHINSON. I am happy to yield.

Mr. KERRY. We have a vote at 10:15, and there are a couple folks who hope to make a comments. Could the Senator perhaps indicate to the Senate when he might be concluding?

Mr. HUTCHINSON. I was on the verge of concluding my remarks.

Mr. KERRY. I thank my colleague. I apologize.

Mr. HUTCHINSON. I was quoting from Orvile Schell's "Mandate of Heaven," the background and inspiring story of Wei Jingsheng, who went to prison, spent many years in prison, because he dared to say democracy isn't democracy until there is freedom to criticize your elected officials.

The headline today in the Washington Time says it all: "Beijing Government Denies Visas to Three Reporters."

They do not understand freedom. We need to take a stand in this body to say that the practices and the human rights abuses that continue in China are wrong. If they will say that, we will do what is within our power to truly engage the Chinese, the Chinese government, by confronting them where they are wrong, encouraging them where they are making progress.

This administration has done too little. This amendment today can be a step in the right direction. It can be a step in which we take a forthright stand for human rights and convey a message as our President goes, convey a message to the Chinese Government, that human rights are taken seriously in this country, that human rights will not take a back seat to trade.

I yield the floor.

Mr. LEVIN. Mr. President, the amendment before the Senate raises very, very serious issues that I think all of us have some strong feelings about, hopefully on the same side of the issue. I can't imagine there is a Member of this body who would support religious repression, forced sterilization, forced abortion, or the other activities which too often occur in this world, including in China.

It is because this amendment raises such serious issues that it seems to me there are going to be many people who, understandably, are going to want to pursue what those issues are and to see whether we should not, indeed, address those activities, not just for China but for wherever they occur.

One of the questions which this amendment raises is religious repression—intolerable, anywhere. Intolerable, whether it occurs in China or in Saudi Arabia or any other country.

This amendment is aimed exclusively at China. The issues that it raises are incredibly serious; the activities that are described are incredibly reprehensible and deplorable, wherever they occur. The question is whether or not this country should adopt a policy of denying visas and, if so, whether or not it is a policy which is manageable; can we determine which of the hundred of thousands of visa applicants—for instance, which were issued to Chinese nationals—probably millions in other countries—can be investigated. If so, by whom and under. what circumstances? Is it a practical policy?

On the Armed Services Committee, we have not held hearings on this. This is not something that comes within our jurisdiction. This is a Foreign Relations Committee issue, which they, hopefully, have either looked at or will look at. This has to do with the State Department and Justice Department, not the Defense Department.

So we are sitting here with a defense bill, being presented with a very serious issue that should be dealt with, I believe, generically, wherever the activity occurs, and it should be aimed at any country—not just at one, but all countries where these activities occur—and it should be a policy that can be implemented.

Does this amendment meet that test? I think there are people who feel that, no, it doesn't. But it raises such serious issues that we ought to find a way to deal with these issues. I am one of those people. I am second to none in terms of my opposition to religious repression. My family has felt enough of that through our generation. I am second to none in terms of what I believe is the reprehensible character of a forced abortion or a sterilization policy. We don't have to take second seats to each other in terms of our abhorrence of those kinds of activities. But I would hope that, as a body that tries to deliberate on a policy and apply it wherever it should be applied, we would take enough time to ask ourselves if forced abortion is reprehensible, and do we want anybody who perpetrates it to have a visa. If so, apply it uniformly; if not, apply it uniformly.

We have an amendment which says the top leaders of the country—the policymakers—are exempt from the denial of a visa. The Cabinet officers in China, presumably, who make policy, can get visas; but any 200,000 nationals of China are supposed to be investigated to see whether or not they implemented a reprehensible policy. You let the Cabinet officers off the hook, but the 200,000 nationals beneath the Cabinet officers are the ones whose visa applications presumably are supposed to be investigated. Why are we letting the policymakers off the hook? Why do they get visas to come in here, but people who may or may not have been implementing the policy are the ones whose visa applications will be investigated?

We have a 1,500-page book, "State Department Analysis of Human Rights Violations Around the World." It is a very useful book. Just open to a page just about anyplace—on page 1,561 it relates to Saudi Arabia: "The Government does not permit public non-Moslem religious activities. Non-Moslem worshipers risk arrest, lashing and deportation for engaging in religious activities that attract official attention."

Now, the policy of denying visas may or may not be workable, but we surely ought to apply it uniformly where the activity is as reprehensible in one country as it is in another. But the amendment before us doesn't do that. It singles out a single country; it singles out 10 pages of those 1,500 pages and says that this is where we are going to apply the visa denial policy. Is that what we want to do as a Senate? Should we take the time to decide whether or not we want to do it that way? I think we ought to. Is a policy of religious persecution or forced abortion as reprehensible if it occurs there, as well as if it occurs elsewhere? I think it is.

So what we have before us is a very, very sincere effort to address a real human rights problem—more than one—pages and pages of human rights problems in China. I said 10, but I wasn't sure; it could be 50 for all I know. These are huge human rights violations in China—huge. The Senator from Arkansas is correct in pointing them out, in my book. I give him credit for pointing them out. But there are issues that are raised, which must be addressed by a Senate that is serious about addressing these issues uniformly, generically, wherever they exist. In my book, that is what we should try to find a way to do.

Can we do this on a defense authorization bill? I do not believe that we are going to be able to resolve these issues here. Should we acknowledge that the issues are indeed real ones? I think we should find a way to do that.

So there is going to be some real reluctance, in my judgment—honest reluctance, may I say to my friend from Arkansas—to table an amendment from those who nonetheless have questions as to whether or not this amendment should apply to people who engage in activities wherever they engage in them, not just in China, and should apply to top level officials, not just to the 200,000 nationals beneath them who applied for visas. So however people vote on the motion—and I hope everybody is troubled by the activity equally and with the same commitment and passion as our friend from Arkansas—I believe that will reflect, in their judgment, a decision as to whether or not the issue is an important issue, as I believe and I think all of us believe it is, but also how do we deal with it on a defense authorization bill. That is an honest dilemma that people feel.

So the suggestion that people who will vote against tabling may disagree with the Senator from Arkansas, I don't believe is a fair accusation about many of us who will vote against tabling. Many of us who will vote against tabling have a lot of issues that we feel should be resolved relative to the issue that has been raised by the Senator from Arkansas—honest, legitimate improvements that could be made or considerations that could be made on the points he has raised, including the few that I have just enumerated here. Do we want to apply this to top officials? If so, why are they given exemption? Do we want to apply it wherever the activities occur, not just in China? If so, why is this limited to China? Is this a workable process when you have millions of visa applications—200,000 from China alone? We don't know on the Armed Services Committee. We have surely not had an opportunity to have a hearing into this subject, which I think would have been highly useful prior to this amendment coming to the floor.

Mr. President, there will be an effort, I know, to table this, or a motion that Senator WARNER hopes to make around 10:15. I know there is at least one other speaker who wants to be heard.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, there is no more important role that the U.S. Senate plays than its role to advise and consent on treaties, as well as its larger role on foreign policy. In the 14 years that I have had the privilege of serving in the U.S. Senate, I have watched the Senate choose carefully, usually, how it exercises that authority.

We have had some great debates here in the Senate at appropriate times over issues of enormous consequence to our country. And our efforts have usually been—I can remember some of these debates very well, whether it was over the Contras, or over the appointment of nuclear weapons in Europe, or over relationships with China previously—that where Presidents have been executing their constitutional authority on behalf of our country to engage in direct diplomacy, the Senate has tried normally to exercise both restraint and good judgment about what we choose to take up, when, and how as it might affect those policies.

I know that there has always been a conscious effort in the Senate to try to be judicious about respecting the ability of the President of the United States to speak for the country. I know from personal history here that there were times when President Reagan, or President Bush may have been poised to travel to another country and engage in direct diplomacy, and we were beseeched by our colleagues not to raise X, Y or Z issue in a particular way, not to raise it but in a particular way that might do mischief to the larger interests of the country.

I simply am confounded and disturbed and troubled by what is happening here.

One might ask the question: What has happened to the U.S. Senate? What has happened to the disparate issues within this body where we try to reach across the aisle in the interests of our country and put politics aside just for a few days and a few hours?

There isn't anybody in the U.S. Senate who doesn't understand how horrendous the policies of China are with respect to human rights. And there are 365 days a year where we can choose to make that clear in any number of ways, and we do, whether in hearings, or in press conferences, or even in legislation. But to be coming to the floor of the U.S. Senate the day before the President of the United States leaves to speak for our country—not for a party, for our country—and diminish the capacity of that President to go to China carrying the full measure of support of the Nation is nothing less than mischievous and partisan.

I think it is entirely appropriate for any Senator to give any speech he or she wants whenever he or she wants. Any Senator can come to the floor at any time and raise an issue. That is appropriate. Any Senator can have a series of press conferences. Any Senator can introduce legislation. But what are we doing amending the Foreign Relations Authorization Act on the Defense Act without even having hearings within the Foreign Relations Committee? And why is it that we are suddenly discussing satellite technology when everybody knows that about every committee in the U.S. Senate has an investigation going on and none of them have reported back? None of them they have reported back. Yet, here we are with legislation on satellite technology which has no purpose other than to try to play a partisan political hand.

What is horrendous about this is that it isn't just transparent. It isn't just partisan. It isn't just obvious. It is dangerous. It is damaging.

It diminishes the ability of the President to go with a sense that he has sort of a clear playing field, if you will, an ability to be able to play out what has been a carefully thought-out, several-month strategy of how to engage in this particular summitry.

It has already been made difficult enough by another set of issues. India and Pakistan have altered 50 years of understanding with respect to nuclear weaponry. We have huge issues about Tibet, enormous issues about the Asian flu. Holding China to its promise to maintain the valuation on its currency, not to devalue; enormous issues with respect to Burma, Cambodia where they are trying to hold elections and restore what was a huge U.N. investment in democracy; enormous interests with respect to the South China Sea; relationship with the Spratly Islands; China and its aggressiveness within that region; a whole set of any issues with respect to North Korea as a consequence of what has happened with respect to India and Pakistan and North Korea's statements that they now want to move to abrogate the agreements that we reached with respect to nuclear weaponry and nuclear power.

Those are substantive, significant, enormous issues that go so far beyond day-to-day partisanship and concerns of party. It is mind-boggling.

So what excuse is there for turning the defense authorization bill into a bonanza for political gamesmanship with respect to China on the eve of the President leaving? I think it is inexcusable, notwithstanding the merits of the amendment. No one is going to argue the merits of the amendment. What American is going to stand up and say, "Oh. I am for forced abortion?" I mean is this really the issue that we ought to be dealing with in the context of DOD right now? No. It certainly is an issue worthy of dealing with at any time. And I am confident that the President of the United States could raise that and a whole host of issues with the Chinese.

This morning we had a breakfast with the Secretary of State talking about her trip to China. I didn't notice the Senators of concern here with these amendments at that breakfast working on what she might be raising. I didn't notice them at a number of briefings recently with Sandy Berger or other people working on the precursor effort to lay down what might happen there. There is a world of difference between trying to achieve these things, and in a realistic way, and playing out the politics on the floor of the U.S. Senate.

Mr. President, I cannot say enough. This institution has a great tradition. And some of that tradition is a great part of history. Senator Vandenberg made a name that stays in history based on a willingness to reach across the aisle. Traditionally, every time we have ever seen a President go, I have heard talk on the floor of the Senate about how we ought to be judicious and how we ought to be cautious and how we ought to strengthen the hand of the President and not engage in this kind of politics, as appropriate as the substance and merits may be. And they are. There is no issue about the substance and the merits here; none whatsoever. It is 100 to nothing as to what you are going to do. But that is what even makes more of a mockery of the politics of it because it is 100 to nothing, because this is so clear it even underscores more, I think, the meddling nature and the politics of what is happening here.

Mr. President, I know there is a desire to try to have a vote now. I am saddened to see the Senate engage in this kind of activity in the hours before the President of the United States goes to engage the most populous nation in the world and a nuclear power in the most serious set of discussions we have had in a long time, in my judgment. It is so inappropriate that I think we should just not have a series of votes on this measure until we make up our mind that we are going to legislate intelligently and seriously about the issues of the defense authorization bill and not a set of larger foreign policy goals.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I know that everyone is expecting a vote shortly, and the distinguished Senator from Virginia has noted that he will be making a motion to table in just a moment. But I want to take a couple of minutes simply to applaud the two previous speakers.

Let me thank the distinguished Senator from Michigan and the Senator from Massachusetts both for their eloquence and their passion with which they articulated their views. Clearly these issues deserve a lot more attention and consideration and careful thought than what they have been given so far.

We have heard a couple of speeches; that is it. As the Senator from Michigan has noted, these deserve an opportunity to be heard and thoughtfully considered in ways that ought to include committee consideration, ought to include other amendments, ought to include other countries. And that, in essence, is what argument the Senator from Michigan made, I think, with a great deal of authenticity and authority this morning.

Then the issue of timing. Mr. President, if there was ever a question about what it was these amendments were truly designed to do, it is simply, as the Senator from Massachusetts noted, designed to embarrass the President of the United States on the eve of his trip.

That is what this is about. And I hope Republicans and Democrats understand, what comes around goes around. And I hope everyone understands that, in the past moments of equal import, this isn't what the Senate did, this isn't the way the Senate operated; on a bipartisan basis, we would send the head of state off to another country with a clear understanding that we would stop at the water's edge when it came to sending the wrong message, that we would send President Bush to another country with the realization that we were behind him, that we would send President Reagan to Reykjavik with a clear understanding that he had very big issues he had to deal with and we were going to protect his right to stand united for this country in negotiations as important as they were.

Time after time, in situation after situation, we put politics aside. We knew what we had to do. We knew there was a time for politics, there was a time for issues, and there was a time to pull together as Americans, saying, look, we don't support you, Mr. President, on virtually anything, but when it comes to this, what could be more important?

Well, there are some in this Chamber who have come to the conclusion that that is no longer the way we do business here. We do not care what message we send about the importance of American unity. We do not care whether progress is going to be made on a historic trip of this kind. We do not really care whether or not he comes back with a collective appreciation of new accomplishments having to do with trade and maybe even human rights and shipments abroad and abortion and all of the other issues dealing with human rights. That doesn't matter, because we want to make our points on the Senate floor.

Mr. President, I hope we take a collective step back. I hope we take a good look at what message this sends. And I will tell all of my colleagues, I see this as a procedural vote. I am not going to vote to table, because I am not going to allow one single vote on China this week. And if we are going to play this game, we are not going to have any votes on defense either. I am going to be voting against cloture, because I don't want to see any votes on defense, any votes on China, any votes that are as reckless as they would be cast were we to have votes this afternoon or on any other issue regarding China or other matters pertaining to defense.

So it is over. We might as well pull this bill. We are not going to have those votes. We are not going to embarrass this President. We are going to stick to procedural votes, and we will let everybody make their own decision. But we are not going to have votes on substance when it comes to issues of this import.

So, Mr. President, that is my position. I hope my colleagues will subscribe to it. I hope that we can come back to our senses and do the right thing, come together in a bipartisan way and send the right message. We are not doing that right now.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, as one of the comanagers of this bill, together with the distinguished chairman of the committee, Mr. THURMOND, I receive that news as very disheartening. It is imperative that the defense bill go forward. As you know, Defense Appropriations is prepared to complete their work. And if you get out of sync the authorizations/appropriations cycle, it does not work to the benefit of the overall Department.

On this issue, there is a bipartisan feeling. I am going to move to table, against the will of a considerable number of my colleagues, and I know that there are others here who are going to join me; I don't know what in number. So it is not, I think, quite the political structure as our distinguished Democratic leader has observed.

So, Mr. President, what I would like to do is to ask unanimous consent that I be recognized in 5 minutes for the purpose of tabling, and that 5 minutes is to accommodate the Senator from California so that she might make her remarks.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. Is there an objection?

Mr. COATS. Reserving the right to object, if there is going to be additional time allotted—the Senator from Arkansas spoke; the Senator from Massachusetts spoke—if there is going to be additional time allotted, I believe it ought to be allotted on an equally shared basis. If additional Senators are going to speak, this Senator would like to speak for an equal amount of time, whatever that time is.

Mr. WARNER. I know the leadership is quite anxious to have this vote. Why don't we just ask for—say I be recognized in 8 minutes—for 4 minutes on this side and 4 minutes on this side in the control of—does the Senator from Indiana wish to control the 4 minutes?

Mr. COATS. I would be happy to.

The PRESIDING OFFICER. Is there an objection?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Reserving the right to object, let me inquire of the manager, the Rose Garden signing for our agriculture research bill occurs at 10:30. My hope had been that the vote would occur—I think that perhaps was the manager's intent—so that those of us involved in that legislation could be there. Therefore, the additional time gives some of us a problem.

Mr. WARNER. Mr. President, if I might just speak with the Democratic leader.

Mr. President, we did our very best to accommodate the Senator from California. The Senator from Virginia now moves to table amendment No. 2737 and asks for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2737. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The result was announced—yeas 14, nays 82, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—14

Cochran
Grams
Hagel
Jeffords
Lieberman
Lugar
McCain
Robb
Roberts
Roth
Smith (OR)
Stevens
Thomas
Warner

NAYS—82

Abraham
Akaka
Allard
Ashcroft
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Cleland
Coats
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lott
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Snowe
Thompson
Thurmond
Torricelli
Wellstone
Wyden

NOT VOTING—4

Bennett
Chafee
Domenici
Specter

The motion to lay on the table the amendment (No. 2737) was rejected.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. LOTT. Mr. President, I ask for division on the Hutchinson amendment.

The PRESIDING OFFICER. The amendment is divided.

The Democratic leader.

Mr. DASCHLE. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered on division I.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HUTCHINSON. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I inquire of the Senator from California as to how long she would foresee speaking? There were a number of comments made as to my motivation on this amendment and questioning the timeliness. I would like to have an opportunity to respond.

In addition, we have a division on the amendment and I would like to speak to that division of my amendment.

Rather than yielding for a lengthy speech, I think we need to proceed with the division.

Mrs. FEINSTEIN. Mr. President, if I may respond, I will try to truncate my remarks to the distinguished Senator.

This is a major interest of mine. I believe I have some things to say about the resolution, the situation in general, which have some merit. There is no time agreement at the present time, and I have been waiting.

I would like to make my remarks in their entirety.

DIVISION I OF AMENDMENT 2737, AS MODIFIED

Mr. HUTCHINSON. Mr. President, the pending business is the division, the first amendment dealing with forced abortions. I would be glad to yield 5 minutes to the Senator from California to make some remarks, but I would really like——

The PRESIDING OFFICER. The Presiding Officer would observe there is no time agreed to.

The Senator from Arkansas has the floor.

Mr. HUTCHINSON. I ask unanimous consent that the Senator from California be granted 5 minutes.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. An objection is heard.

Mr. HUTCHINSON. Mr. President, the amendment before the Senate deals with forced abortions, forced abortions in China. Some of the comments earlier regarding this amendment questioned my motivation in offering——

The PRESIDING OFFICER. The Senator from Arkansas has the floor. There was an objection to the request by the Senator from California in regard to her request, so the Senator from Arkansas has the floor and the Senator is recognized.

Mr. HUTCHINSON. I thank you, Mr. President.

Questions were raised as to my intention and motivation in offering an amendment on forced abortions in China. I would like to point out to my colleagues who question my motivation of the timing of the amendments, these are amendments, word for word, that passed the House of Representatives last year. They passed the House of Representatives last year.

Mr. KERRY. Will the Senator yield?

Mr. HUTCHINSON. I will not yield for a question at this time.

The PRESIDING OFFICER. The Senator declines to yield.

The Senator from Arkansas is recognized.

Mr. HUTCHINSON. The question was raised as to the timing of these amendments being offered. The accusation was made this is strictly to score political points. I have no desire to score political points. I would have greatly desired to have the amendments voted on 1 month ago, 2 months ago, or 6 months ago.

Those who have followed the China policy debate will be well aware that these amendments passed the U.S. House of Representatives last year, have been pending in the Foreign Affairs Committee in the Senate for months, and have languished in that committee without having a hearing.

Therefore, I think it was perfectly appropriate to file these amendments. The forced abortion amendment was filed more than a month ago on the Department of Defense authorization bill. The provision in the overall amendment dealing with religious persecution in China was filed May 18, well over a month ago.

I remind my colleague there was never any intent that somehow this debate, on the eve of the President's trip to China—if we had not had a 4-week hiatus in debating tobacco in this Chamber, perhaps we would have had DOD up a month ago and would have had an opportunity to have these amendments voted on a month ago. But that wasn't the case. To question my motivation and the motivation of many of my colleagues who feel very deeply about the human rights abuses that are ongoing in China today, I think, is to do us a disservice; and to question our patriotism is wrong. In fact, to question our support for the President as he makes this trip is wrong, because I do support him. To the extent that he will raise human rights issues, to the extent that he will engage Chinese leadership on nuclear proliferation and proliferation of weapons of mass destruction, and to the extent that the President will engage the Chinese leadership on trade issues, I support him for that. I am glad for that. I believe the amendments I have offered will strengthen the President's ability to deal with the Chinese Government on these sensitive human rights issues.

We have talked somewhat about the forced abortion provision. I think it is an important part of this. The very powerful subcommittee hearing that Congressman CHRIS SMITH had only a couple of weeks ago, which received wide publicity, perhaps brought to a new level the awareness of the American people regarding the terrible practice of coerced abortions and coerced sterilizations in China today. That is the amendment that is before us at this time.

People have questioned why we should deal with China and not deal with the broader context of a host of human rights abuses that exist around the world. During the course of the debate on China, I have heard repeatedly that we should not try to isolate China and that one out of every four people in the world lives in China. That is why it is worthwhile for us to deal with the human rights abuses in this nation singularly and specifically. And, truly, the kinds of practices that have been all too commonplace in China deserve our attention.

I also point out to my colleagues that the issue before us in this amendment is not one of being pro-life or being pro-choice, because people on both sides of the life issue condemn the kinds of practices that are going on in China today in which coerced abortions are used in too many cases, where the one-child family planning policy has not been adhered to.

So I believe that not only is this a timely amendment, in the sense that it passed the House last year and has been languishing—we have not had an opportunity. Amendments were filed over a year ago. It is quite appropriate that we deal specifically with the case of China and the abuses that are going on there. Once again, had the President delayed the trip, if he were going in November, I would still be pushing for these amendments to be voted on now. I am not a Johnny-come-lately to the China debate. We were involved in this during the MFN debates during my 4 years in the House. This is an issue I feel strongly about. It is an issue I am simply not going to be quiet about. I think if we are to highlight the kinds of freedoms that we as Americans cherish on the eve of our President's trip to a country that is repressed—and today we found out that even three reporters with Radio Free Asia are being denied visas—this is an opportunity for us to do it. We can do it in this country by even disagreeing, at times, with the foreign policy of our country.

(Mr. GRAMS assumed the chair.)

Mr. KYL. Will the Senator yield for two questions?

Mr. HUTCHINSON. Yes, without losing the floor, I will be glad to yield for a question.

Mr. KYL. The Senator just mentioned the denial, or the reported denial, of visas for three people from Radio Free Asia who, as I gather, wanted to be part of the trip to China and to accompany the President's entourage to report on defense. Do I understand that to be the news report that the Senator from Arkansas was just referring to?

Mr. HUTCHINSON. I say to the Senator, it is my understanding that they had already been approved by the administration to travel to China and that it was only at the 11th hour that the Chinese Government denied their visas and their right to go and provide coverage for the President's summit in Beijing.

Mr. KYL. Right. It seems to me—and this is the predicate for my second question—many of us are uncomfortable with some of the sanctions that we have automatically initiated. I personally have some concern about the sanctions on India and Pakistan, for example, notwithstanding the objection, of course, to what they did. The question has been asked: If not sanctions, then what?

I remember when I was in the House of Representatives asking the question of the then-Secretary of Defense, what kind of foreign policy options do we have diplomatically, economically, militarily, and so on, if we are not going to invoke sanctions, trying to affect policies in other countries that we have deep disagreement with, including the kind of policies the Senator from Arkansas was talking about. One of his answers was that there are literally hundreds of decisions each week that are made by various Departments of the U.S. Government, as well as private entities, that have some impact on our relationships with another country.

One of the things I recall having been mentioned was visa policy, for example. Now, the Chinese Government appears to be using the granting or denial of visas to make points with respect to their foreign policy. If the Senator from Arkansas is correct—and I recall the news report this morning—they are actually denying the visas of three people whom they have a beef with because they have been involved in sending signals, radio transmissions about freedom, to their country, and apparently they don't like that. One way of dealing with it is to deny the visas of these three people—at least, if I have that correct.

My question to the Senator from Arkansas is: Is it his view that policies such as dealing with visas of people wanting to travel from another country to China are perhaps another more focused, more targeted, more sophisticated way to deal with some of these policy issues than just slapping on sanctions—although there are appropriate sanctions—depending on what the situation is?

Mr. HUTCHINSON. I appreciate the question. I think the Senator is exactly right, that visas and the denial of visas can be used to make a political point. The irony of the vote we just cast has not been lost upon you. I hope it hasn't been lost upon the people of the United States. We basically denied a vote and we rejected the possibility of voting up or down on denying visas for those where there is credible evidence that they are involved in forced abortions or religious persecution. We do that on the day that, as the news reported, the Chinese denied visas to those seeking to report on news events, to report to the people of China what is going on at the summit.

So it is highly ironic. I know Senator KYL has been greatly involved in the broader reform of our sanctions laws. I think that is a worthwhile endeavor. But that effort does not preclude us from taking these kinds of narrowly targeted actions. That is why the amendment dealing with forced abortions and the denial of visas to those involved in forced abortions and forced sterilization is an appropriate step for us to take, short of MFN, short of trade sanctions, but still with the ability to send a very powerful message.

Mr. KYL. May I ask one other question?

Mr. HUTCHINSON. I will yield for a question without losing my right to the floor.

Mr. KYL. The headline is "Beijing Pulls Visas of Three U.S. Reporters; Move Targets Radio Free Asia."

Deep in the article, it is noted that the three reporters were not all American citizens, but that is really irrelevant to the point here. The point is that the Chinese Government, apparently, uses the granting or denial of visas as a way to effectuate aspects of its foreign policy. It would be difficult, therefore, it seems to me, for the Chinese Government to argue that there is anything wrong with the United States Government using that same kind of visa authority to make points with respect to our foreign policy.

My question is this: If it is United States policy that the kind of forced sterilization and abortion policy China has is inimical to the human rights and freedoms that we enjoy here in the United States and have urged upon the Chinese people, then why would it be inappropriate for the United States Government to use the very same—let me rephrase the question. What would lead us to think that the Chinese Government would have any right to object to the use of visa policy, since the Chinese Government itself has used visa policy to effectuate their foreign policy considerations?

Why would there be any objection, per se, to the use of visa policy by the United States?

Mr. HUTCHINSON. Your logic is compelling. There should be no objection to the United States utilizing denial of visas as a furtherance of our foreign policy and our belief in human rights, because it is now obvious that it is the practice of the Chinese Government, when they feel it is in their security interests or their national interests, to deny visas. They have no compunction about doing that. In fact, to me, as we look at the buildup to this trip, there has been a lot of give and take, a lot of negotiating that has gone on. It seems to me that we have made many concessions in leading up to this trip. We have been concerned about embarrassing, about causing them to lose faith, about being insensitive to their situation. But for the Chinese Government to deny visas for Radio Free Asia reporters I think is a tremendous kick in the teeth to the American Government and to the American people, who value the freedom of the press so preciously and put such high esteem upon that freedom.

So it is unfortunate that this has happened, and it is, I think, all too reflective of the attitude of the Chinese Government toward the freedom of the press and freedom in general to have made this clampdown. They just do not seem to get it—rounding up dissidents in Tiananmen Square in preparation for the President. We would rather have a protester there. How heartening it would be to the American people to see someone holding up a sign saying "Free Tibet" there in Tiananmen Square. But no. Their idea is stability at all costs, even if that means repression of the Chinese people.

Mr. ASHCROFT. Will the Senator yield for a question?

Mr. HUTCHINSON. I yield to the Senator from Missouri while controlling the floor.

Mr. ASHCROFT. If I am not mistaken, Congressman SMITH held a pretty dramatic set of hearings, and there was testimony at the hearing about forced abortions in China. Is the Senator aware of that hearing?

Mr. HUTCHINSON. I am quite aware of that hearing.

Mr. ASHCROFT. I suppose that the Senator is aware of the testimony that was given at that hearing.

Mr. HUTCHINSON. I say to the Senator from Missouri, in answering the question, that I am quite aware of the testimony. I have examined closely the testimony that was presented, especially by Ms. Gao Xiao Duan.

Mr. ASHCROFT. Is this the woman who was there at the site, understanding exactly what was happening there?

Mr. HUTCHINSON. She was actually the director, it is my understanding, and supervised and implemented the one-child policy.

Further yielding for a question.

Mr. ASHCROFT. So she was the person who was implementing a one-child policy, which was a policy of forcing abortions for subsequent pregnancies.

Mr. HUTCHINSON. That is my understanding. And she was quite accurate in her testimony.

Mr. ASHCROFT. Did she say there were techniques used to make people get abortions, that there was intimidation?

I have heard they threatened to burn houses and that they did other things that would intimidate individuals.

Was that part of the testimony?

Mr. HUTCHINSON. It indeed was.

Let me read one statement that Ms. Gao Xiao Duan made in her testimony. She said, "In all of those 14 years I was a monster in the daytime injuring others by the Chinese Communist authorities' barbaric, planned birth policy. But, in the evening, I was like all other women and mothers enjoying my life with my children. I could not live such a dual life any more. To all those injured women, to all those children who were killed, I want to repent and say sincerely that I am sorry."

That was very powerful testimony that she presented that day.

She did talk about methods of intimidation and the fines that were enforced, as well as the physical intimidation, and the carrying them off to jail if they refused to have an abortion, and the very severe physical methods that were used, as well as the financial.

Yielding for a question.

Mr. ASHCROFT. There was incarceration. I am asking the Senator: If the woman refused to get an abortion, she would be hauled off to jail?

Mr. HUTCHINSON. That is correct.

Mr. ASHCROFT. Beyond that, they would take the resources, by fining her, that she might otherwise use to support her family.

Mr. HUTCHINSON. The Senator is correct. They called them—"population jail cells" was the terminology that she used. Women were rounded up, held in population jail cells, forced and coerced to submit to the killing of their children. There was, I think, an eye opener for the American people to hear this very powerful testimony.

Mr. ASHCROFT. This is the testimony of an individual who was involved in the practice. Is this some American reporter who has testimony or an individual who was part of this operation?

Mr. HUTCHINSON. In responding to the question of the Senator from Missouri, she was the former head of China's planned birth control office from 1984 to 1998. For 14 years she held that position. Only recently did she leave.

Mr. ASHCROFT. Was her testimony such that this was an isolated incident, or was her testimony that this was the kind of pattern or practice that had been done over a term of years?

Mr. HUTCHINSON. It was presented as being a very common practice. I think maybe that was part of what was so shocking. I say to the Senator from Missouri, in response to the question, that the presentation in defense of China has been that these are isolated instances of coerced abortion and forced sterilizations, that they are in remote areas, difficult areas to enforce, that the central Government doesn't approve of this, local forces simply do it on their own. I think the testimony of this person, who was the head of the office, actively involved in it, demonstrates this was a very systematic, planned program of coercion that was used across the nation in villages and cities.

Mr. ASHCROFT. I take it the Senator doesn't use the word "coercion" lightly. This isn't just an abortion clinic; this is a place where people were forced to go to have abortions.

Mr. HUTCHINSON. The Senator is correct. I did not use the term "coercion" lightly. I think "coercion" has to be beyond merely fines, although fines can be very intimidating. Homes were wrecked and destroyed, and the person wasn't able to pay the fine, if they violated the one-child policy.

I yield for a further question.

Mr. ASHCROFT. Is the Senator telling me that if the person was jailed and fined and the fines somehow didn't deter the individuals, their homes were destroyed?

Mr. HUTCHINSON. The Senator is correct. That is why I think the term "coercion" is the proper term, because it involved physical force. They would be physically removed. They would be taken to jail cells. They would be forced to have an abortion.

Mr. ASHCROFT. The Senator's amendment is designed to say that the United States of America—I am asking the question—will not extend visas to individuals who were involved in this kind of coerced abortion activity?

Mr. HUTCHINSON. Responding to the Senator, this amendment condemns the practice, which I am sure everybody in this Chamber would. It goes further and says that visas will be denied to those individuals for whom there is credible evidence that they have been involved in perpetrating the practice of coerced abortions. That credible evidence would be determined by the Department of State, by the Secretary of State herself, if need be.

When we talk about enforcement, when we talk about the number of people involved, we are talking here, speaking in this amendment, about credible evidence, and there are human rights groups as well who monitor the conditions in China, who monitor human rights abuses in China, who come forward with reports. And there will be and has been from time to time evidence of individuals who are involved in this horrendous practice. We would say that those individuals for whom there is credible evidence that they have been involved in forced abortions should not be allowed to receive a visa and travel to the United States.

Mr. ASHCROFT. May I ask the Senator one more question?

Mr. HUTCHINSON. I will be glad to yield for a question.

Mr. ASHCROFT. So the Senator's amendment is not to deny a visa to someone who had an abortion or someone who has participated in an abortion clinic that wasn't a coerced abortion. You are just focused on this situation where people were intimidated, coerced, sometimes jailed, sometimes fined, sometimes actually had their homes demolished to force them to destroy an unborn child. Your amendment focuses on persons who are involved in that kind of coercive behavior to force individuals—who want to preserve the life of the child—to destroy the child. Those individuals are the ones that would be denied a visa to enter the United States by this amendment.

Mr. HUTCHINSON. In response to the Senator's question, it is the perpetrator that we are concerned about, it is the person who is enforcing this terrible inhumane policy, brutal policy, grizzly practice of the Government. This certainly isn't the victim. This is a very pro-victim amendment. We want to defend the rights.

I might add again, as I said before, that this is not a pro-life, pro-choice issue.

We are dealing here with a practice that is condemned by all civilized societies and that is coerced; forced abortions using physical force to compel a woman to have an abortion against her will. To vote on this, whether it was a month ago, or whether it be 6 months ago, or on this, the eve of the President's trip, in no way would undercut the ability of the Chief Executive of this country to speak about our foreign policy and our values as a people. In fact, I believe sincerely this will strengthen the ability of our Chief Executive, our President, to go to China, to go to Beijing, to speak with Chinese officials and to defend our values with the full support of the Senate and the House of Representatives and the American people.

Mr. ASHCROFT. May I ask another question?

Mr. HUTCHINSON. I will yield for an additional question.

Mr. ASHCROFT. The Chinese have intimated that they can't control coercive abortion activity in remote regions. I think the testimony we have heard belies that, but the Chinese officials say this is in remote areas. Would the Senator say that China also is unable to control political discussion and political dissent, or are they pretty good at controlling political dissent and just not very good at controlling coerced abortions?

Mr. HUTCHINSON. In response to the Senator's question, what belies the contention that this is a matter of enforcement, what belies the defense that the China apologists make that these are remote areas, it is a vast country, that there is no possible way to prevent some of these abuses, what belies that is, in fact, our own State Department's report which indicates that all political dissidents have been rounded up; that they are—if you hold a protest in some distant province, I assure you the central Government is going to know about it and that you are going to be dealing with the central Government. And so the ability of the central Government to control free speech, free press, freedom of expression really refutes the notion that they are unable to enforce a policy against coerced abortions.

Mr. ASHCROFT. Would the Senator say——

Mr. HUTCHINSON. I will yield for an additional question.

Mr. ASHCROFT. The Senator would say, then, that if the Chinese Government were as vigorous in its defense of the freedom of individuals to have children without destroying them as it is to repress the freedom of people to speak against the government, there would be a far different situation in China today?

Mr. HUTCHINSON. I certainly agree with that statement. I agree. In answering the question, I think that is a correct assertion; that if as much intensity were placed on opening China, on encouraging free expression, on encouraging dissent, as there is on the enforcement of repressive family planning policies and coercive family planning policies, then I think it would be a far different China, and there would be a far different attitude by the American people and by our Government.

The President is correct. I do not believe we can reach our full potential in our relationship with China until we see a revolution in the structure of China, until we see a revolution in freedom in China. I believe that will come. The question is does it come through the current policy, which I think fails to fully engage.

You know, those of us who are critics of the current administration's China policy have been called isolationists. I believe the real isolationists in this debate are those who want to turn a blind eye to things like coerced abortions, those who want to pretend that religious persecution is not going on in China and don't want to address it. So when we find those today who say this is the wrong timing and we don't want to vote on this, this isn't the appropriate time to vote on coerced abortion, this isn't the appropriate time to vote on religious persecution, that appears to me to be something other than an engagement policy. That would seem to me to be an isolationist policy. We don't want to engage them. We should. We should engage them on a full range of issues, including human rights.

And my concern about this administration's policy is that human rights, which at one time was placed on the first tier, when President Clinton, then candidate Clinton said he would not coddle dictators from Baghdad to Beijing, that now is dropped from the first tier to at least the third tier, with trade being No. 1; security, to the extent it is being engaged, No 2; and human rights dropping down to No. 3. I believe, if we are going to have a policy of engagement—and truly have a policy of engagement—we must fully engage them equally on all of these fronts.

Mr. ASHCROFT. Will the Senator from Arkansas yield for another question?

Mr. HUTCHINSON. I yield for another question.

Mr. ASHCROFT. Does the Senator from Arkansas feel that the way China treats its own citizens—its willingness to coerce them into having forced abortions—reflects the way they feel about human rights and the way they feel about the rights of citizens around the world? And would he care to comment on how that might reflect the rather callous view of the Chinese who are targeting American citizens with what they call city-buster nuclear weapons on their ICBMs? Does the Senator think there is a relationship between this disregard for life that is expressed in coerced abortion policy and the willingness to target peace-loving people in the United States with city-buster nuclear weapons on long-range ICBMs?

Mr. HUTCHINSON. In response to the Senator's question, I would say to the Senator from Missouri that, indeed, there is a relationship. I believe that when life is cheapened in one area, whether that is demonstrated through forced labor, slave labor camps, laogai camps, as they are called in China; whether it is demonstrated through religious persecution and the exile and execution of religious dissidents, religious minorities, or whether it is demonstrated through coerced abortion practices, the cheapening of human life carries over into all aspects of a nation's policy. So the willingness of the Chinese Government, according to the CIA report, to have 13 of their ICBMs targeting the American cities—and as the Senator calls them, city-busters, because the purpose is to have a wide devastation—I think it is related, directly related to that cheapening of human life and the lack of respect for the dignity of human life.

So I would respond to the Senator that way. I certainly think there is a relationship. I appreciate the Senator's question.

I would just say in concluding on this amendment that our own State Department in issuing its China Country Report for 1997 on Human Rights Practices in China addressed this issue of forced abortions. I will only read a small portion of the State Department's report. I think it underscores how serious the situation is. This isn't something that human rights activists on the left and the right in the United States are dreaming up. It is not some fiction that we have created. Our own State Department, in examining the human rights conditions in China, has assessed it this way.

> Penalties for excess births can also be levied against local officials and the mothers' work units, thus creating multiple sources of pressure. Fines for giving birth without authorization vary, but they can be a formidable disincentive. According to the State Family Planning Commission 1996 family planning manual, over 24 million fines were assessed between 1985 and 1993 for children born outside family planning rules. In Fujian, the standard fine has been calculated to be twice a family's gross annual income.

That is to violate the family planning rulings in China makes you suspect, makes you vulnerable to a fine that would be twice your gross annual income. That is an incredibly difficult burden to place on this kind of a so-called violation.

> Additional unauthorized births incur fines assessed in increments of 50 percent per child. In Guangzhou the standard fine is calculated to be 30 to 50 percent of 7 years' income for the average resident. In some cases a "social compensation fee" is also imposed. Unpaid fines have sometimes resulted in confiscation or destruction of homes and personal property by local officials. Central government officials acknowledge that such incidents occur, but insist that cases like these are not the norm nor in line with official policy.
>
> The government prohibits the use of force to compel persons to submit to abortion or sterilization, but poor supervision of local officials who are under intense pressure to meet family planning targets can result in instances of abuse including forced abortion and sterilization.

And the report goes on into great detail, and I think provides clear documentation for the need for this amendment.

I think also if you consider, once again, the testimony that was presented before the House Subcommittee on International Operations and Human Rights, the testimony concerning the implementation of the abortion policy of China and the one-child policy of China is truly frightening. I will simply read some of these points to establish the routine the family planning bureau is following:

> I. To establish a computer bank of all women of child-bearing age in the town [whatever town size it might be], including their dates of birth, marriages, children, contraceptive ring insertions, pregnancies, abortions, child-bearing capabilities, etc.
>
> II. To issue "birth-allowed certificates" to women who meet the policy and regulations of the central and provincial planned-birth committees, and are therefore allowed to give birth to children. . . . Without a certificate, women are not allowed to give birth to children.

You have to apply. You have to get a certificate. You have to get permission to birth a child.

> Should a woman be found pregnant without a certificate, abortion surgery is performed immediately, regardless of how many months she is pregnant.

I spoke earlier that estimates range as high as a half-million third trimester abortions in China each year. And then, to issue "birth not allowed" notices. Such notices are sent to couples when the data concludes that they do not meet the requirements of the policy and are, therefore, not allowed to give birth. A couple whose first born is a boy, or whose first born is a girl but who give birth to a second child, boy or girl, receives such a notice after a period of 3 years and 2 months. Such notices are made public. The purpose of this is to make it known to everyone that the couple is in violation of the policy, therefore facilitating supervision of the couple.

They issue birth control measure implementation notices. They impose monetary penalties on those who violate the provincial regulations. Should they refuse to pay these penalties, supervision team members will apprehend and detain them as long as they do not pay.

The PBO regularly supervises and examines how staff members of Planned Parenthood offices in 22 villages perform their duties. They write monthly synopses of the planned birth reports, which are signed by the town head and the town Communist Party. They analyze informant materials. They have established, in China, a system of informants in accordance with the informing system, and have put these cases on file for investigation.

They have planned birth cadres. There was testimony before Congressman SMITH's subcommittee indicating that these cadres, and the number of people involved in this program, has increased dramatically in recent years, indicating that rather than retreating from this coercive practice, they, instead, are pursuing it with new vigor.

We go on in this testimony. I think it should be a concern to all Americans that this practice is being tolerated and that we have not taken, as the foreign policy of our country, a strong, strong position which this amendment would allow us to do.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I commend the Senator from Arkansas for his outstanding work in this respect. I believe this is an item upon which the Senate must vote, ought to vote, should vote. I am distressed that the minority leader has indicated that votes on these issues would be inappropriate. It seems like they are an embarrassment, potentially, to the President. I think the policy which we have pursued is an embarrassment to the United States of America, and I think we need to change our policy to make clear that we reject the kind of activity which has been spoken of by the Senator from Arkansas.

With that particular thought in mind, and understanding the merit of this particular division, which would deny visas to those who have been actively involved and for whom credible evidence has been developed in the coerced abortion area, I move to table the first division of Senator HUTCHINSON's amendment.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. LEVIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. I further ask unanimous consent that the motion be temporarily laid aside for Senator FEINSTEIN to speak. Following her statement, no later than 12:30, the tabling vote to occur.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from California is now recognized.

Mrs. FEINSTEIN. Mr. President, I rise on this occasion to share several thoughts. Let me begin by saying, on the amendment before us, I don't believe there is any Member of this body who is for forced abortion. I do not believe there is any Member of this body who would countenance it, who believes it is good public policy and who is reserved about saying that. Therefore, I think we would all hope the President of the United States would come back with a specific commitment in this area from China.

The question I have, that is deeply disturbing to me, is the Senate is being asked to consider amendments on China policy on the eve of, and even during, President Clinton's visit to China. There used to be a bipartisan consensus on foreign policy in this country. There used to be an understanding that when the President is going overseas, Members of both parties would come together, would wish him well, and would support him. I think, certainly in the last 10 or 15 years, this has been the case. I am very concerned that some are using U.S. policy and China as a political or a partisan issue.

I note, with some disappointment, that no Republican of either House has agreed to accompany the President on his trip. To me, this gives credibility to the assumption that the Republicans are going to use the trip in a political way. And I think this is very, very dangerous. What I hope to point out in my remarks is some of the danger inherent in this kind of policy.

Let me, for a moment, talk about the amendments that are before us. Many are controversial. Some would ban various officials from entering the United States; others would prohibit the United States from supporting international loans to China; many run counterproductive to achieving progress with China. Rather, they push division and they encourage China's historic isolationist tendencies.

Just yesterday, language was added that would move the jurisdiction of certain technological export controls from the Commerce Department to the State Department. This is a serious proposal. It is worth looking at. But the majority and minority leaders have appointed task forces to study the issue and assign various committees to look into it.

The vote on this proposal today would be to render a verdict on an investigation when that investigation has barely gotten underway. Anyone who thinks the President's trip will be made more successful by the Senate's consideration of these issues knows very little about China.

I think the President's trip represents an important step forward in building a healthy United States-China relationship. We have major interests. Human rights? Of course, including religious freedom and autonomy for the people of Tibet.

For 9 years, I have been bringing messages from the Dalai Lama to the President of China asking that there be discussions between the two. I hope that the President will plead that cause, both with President Jiang Zemin as well as in his public addresses in university settings.

But right now the times are extremely urgent. We have a kind of economic meltdown going on throughout most of the Asian continent. And this financial crisis is combined with the very serious situation with respect to India and Pakistan.

To underline the dangers that India, Pakistan, and, indeed, the entire international community are faced with on the eve of this trip, I would like to take a few minutes here today to review what we know about the Indian and Pakistani nuclear programs, their capabilities, and what would likely result in a nuclear exchange between India and Pakistan if we are unable to forge a real and lasting peace in the region and the current south Asian political and security environment.

First, what kind of nuclear weapons did India and Pakistan test?

The Indian Government claims to have tested three different designs on May 11, 1998: a fission bomb with a yield of 12 kilotons, explosive power equivalent to 12,000 tons of TNT; a "thermonuclear device," with the yield of 43 kilotons; and a "low-yield" device. On May 13, India claims to have tested two additional devices that produced a total yield of less than 1 kiloton.

For comparison, the bomb that destroyed Hiroshima in 1945 produced an estimated yield of 18 kilotons. So one of these Indian tests was over 2½ times the size of the Hiroshima bomb.

According to leading nongovernmental analysts, the low-yield device tested in May of this year was likely a compact design intended for deployment on India's medium-range missiles. The subkiloton tests, according to India, provided information needed to perfect computer simulations of nuclear explosions that could be used in subsequent weapons design work, possibly without the need for future testing.

For its part, Pakistan claims to have detonated five simultaneous nuclear tests on May 28, of boosted devices made with highly enriched uranium, which Samar Mobarik Mand, head of their nuclear test program, claimed produced a total yield in the range of 40 to 45 kilotons. Bear in mind again, Hiroshima was 18. Pakistan conducted an additional nuclear test on May 30. Mand claimed the yield was in the range of 15 to 18 kilotons.

Pakistan has stated that all six tests were boosted fission devices, some of which are designed for deployment on the new Ghauri medium-range missile. The head of Pakistan's nuclear weapons program, A.Q. Khan, claims that although Pakistan has not built a hydrogen bomb, it has conducted research and is capable of building such a device should the Government decide to do so.

U.S. intelligence, as well as independent analysts, have raised some serious questions about the claims made by both India and Pakistan regarding the number and yield of the tests each has claimed to have conducted. Although there is a certain reassurance to be found in these questions—perhaps neither India nor Pakistan is as far along in developing nuclear weapons as they might like us to believe—ultimately, such quibbling rings hollow.

Regardless of the exact number or the exact yield of the Indian and Pakistani tests, these tests have made it abundantly clear that both India and Pakistan must now be considered capable of developing and deploying nuclear weapons, and that both hope to gain political and security leverage from this capability.

Secondly, although neither India nor Pakistan are now nuclear weapons states, given their demonstrated capabilities, how many nuclear weapons could India and Pakistan make?

India's nuclear bombs are fueled by plutonium, a manmade byproduct of fissioning uranium in nuclear reactors. At the end of 1995, India had a total inventory of 315 to 345 kilograms of weapons-grade plutonium, according to a study of world plutonium and highly enriched uranium inventories by independent analysts David Albright, Frans Berkhout, and William Walker.

Assuming that 5 kilograms of plutonium are required to build a bomb, this would give India enough plutonium for some 63 to 69 weapons. So let us assume they have that ability.

Pakistan's bombs are fueled with highly enriched uranium, enriched at its unsafeguarded centrifuge facility at Kahuta. Under pressure from the United States, Pakistan halted production of highly enriched uranium in 1991, but reportedly resumed highly enriched uranium production some months ago. After last month's tests, Pakistan still possesses 335 to 400 kilograms of weapons-grade uranium, enough for some 16 to 20 nuclear bombs, according to the Institute for Science and International Security.

If Pakistan is using boosted warhead designs, as it claims, it would produce a considerably larger number of weapons from the same amount of material, depending on the considerations of yield and weight of individual warheads.

In addition, earlier this year, Pakistan's unsafeguarded plutonium production reactor at Khushab went into operation. It is estimated that this reactor can produce enough plutonium for at least one to three bombs a year.

Thirdly, how would India and Pakistan deliver these nuclear weapons? Both nations possess advanced military aircraft that would be capable of delivering nuclear weapons. India's military deploys such aircraft as the Jaguar, the Mirage 2000, the MiG–27, and the MiG–29. Pakistan's military aircraft include nuclear-capable, United States-supplied F–16 fighters.

Of greater concern, because of their speed and invulnerability to conventional air-defense systems, are both nations' ballistic missiles.

India's Privthi missile, based on the U.S. Scout, has a range of 150–250 kilometers, depending upon the size of the payload. The two-stage Agni missile, based upon Soviet and German technology, has a much greater range, 1,500 to 2,500 kilometers. India claims the ability to hit targets anywhere in Pakistan with the Agni missile.

Pakistan is believed to have about 30 nuclear-capable M–11 missiles supplied by China. This is a bad thing. The second load of M–11s, to all intents and purposes, have never been delivered. We believe it is important that the President secure, ratify, and maintain the commitment that no further M–11s be sent by China to Pakistan. These missiles have a range of 280–300 kilometers.

Pakistan's recently developed Ghauri missile, developed with the Chinese' and North Korea's assistance, has a range of 1,500 kilometers. Its flight tests in early April may have been one of the factors that moved India's Government to resume nuclear testing.

A.Q. Khan, father of the Pakistani bomb, claims that the nuclear devices tested by Pakistan "could very easily be put on our Ghauri missiles." According to Kahn, Ghauri is the only nuclear-capable Pakistani missile at this time but other missiles could be modified for the mission if necessary. These missiles reduce warning time on both sides to nearly zero, making any nuclear crisis extremely unstable. India could hit targets in Pakistan in 4 minutes, and Pakistan could hit Indian targets in under 12 minutes.

All of this development has been going on, and we are debating forced abortion, but we have this "macro" situation evolving right on China's doorstep.

Now, what would be the likely result of a nuclear exchange between India and Pakistan? In 1990, when President Bush was first unable to certify under the Pressler amendment that Pakistan had not acquired nuclear capability, the Department of Energy requested the Program in Arms Control, Disarmament, and International Security at the University of Illinois to conduct a study of nuclear proliferation in south Asia. One of the papers commissioned for that study estimates what the casualties of that war would be if India and Pakistan were to wage war. The study, based on unclassified sources, projected damage for three different scenarios, depending on the size and scale of a nuclear exchange between India and Pakistan, from a war with limited nuclear retaliation to a full-scale exchange.

The results are chilling. At the lowest level, the study determined that there would be between 500,000 and 1 million immediate fatalities on each side in a limited nuclear exchange where the only targets were military centers—500,000 to 1 million people killed in a limited exchange of only military centers. At least another million people would be injured in the attacks, and hundreds of thousands more could be expected to die in the fallout and nuclear poisoning which would follow.

In a larger exchange which would include an attack on urban centers in both countries, this study estimated that, at a minimum, there would be 15 million Pakistani and 30 million Indian immediate fatalities, with millions more injured and expensive economic disruption. South Asia would be reduced to a virtual wasteland.

These projections, I should point out, were based on a 1980 census data projected to 1990. If these figures were recreated today, we could expect the projections, with current census figures, to be that much greater.

Think about the magnitude of such a disaster—45 million immediate deaths within a matter of minutes, almost as many killed in India and Pakistan in a few minutes as were killed around the world during the entire 6 years of World War II. It is a number that boggles the mind. In fact, I find it difficult to believe that I find myself here on the floor of the U.S. Senate discussing such scenarios, such carnage, such loss of human life; it is not within the realm of reality. Yet today this is precisely the danger which India and Pakistan face unless both states, with the support and assistance of the international community—and that includes both China and the United States—are able to take clear and immediate steps to end the current crisis and begin the process of building peace in Asia.

This brings me to the final issue I would like to address: What is the current security and political environment in south Asia?

In the aftermath of the tests, both India and Pakistan have indicated a willingness to enter into peace talks. On June 12, the Indian Foreign Ministry stated, "India is committed to fostering a relationship of trust and friendship with Pakistan based on mutual respect and regard for each other's concerns." Pakistan has also offered to resume peace talks. Neither side, however, appears willing to act to back up this rhetoric. Despite their stated good intentions, as of yet there is no agreement on a time, a place, a format, to enter into discussions to address either the nuclear crisis or other important security issues such as Kashmir or the south Asian security agenda.

This situation is especially troubling because without any confidence and security-building measures in place, without any dialog and discussion, India and Pakistan are especially vulnerable to an inadvertent crisis or to a relatively minor incident sparking a larger conflict.

On just this past Friday—let me give an example—June 19, the press reported an incident in which five armed men, suspected to be Muslim terrorists by Indian authorities, attacked a Hindu wedding party in a mountain village in Kashmir, killing 25 people. Just a week earlier, Pakistani authorities held Indian intelligence to be accountable for planting a bomb on a crowded train. These are two examples of the kinds of incidents which could well launch a nuclear episode. Without dialog, for sure these are the sorts of events that are open to misinterpretation, can lead to miscalculation, escalation, and tragedy of the most horrific sort.

The President of the United States tomorrow leaves for China. We can debate forced abortion. You have an unprecedented currency crisis in Asia. You have major turmoil in Indonesia. You have a very serious situation in Thailand, in South Korea. We see the Japanese yen continuing to deteriorate even after the weekend meetings. Many people there felt that Japan has no formula to recover. And you have the significance and importance escalating now, that the Chinese renminbi, the Hong Kong dollar, not be devalued. This, in itself, will take an unprecedented act of courage on the part of the Chinese.

I believe substantial diplomatic pressure must be brought by the President of the United States to convince the Chinese that against all of this they must hold firm. At the same time, in China, you have an almost impossible situation for the Chinese to maintain. You have the closure of the large state-owned industries taking place and forcing tens of millions of people into unemployment.

The President of China has recently said what he considers an acceptable rate of unemployment—3.5 percent. It would be very lucky if China could confine themselves to that figure. But to have this growing unemployment and still refuse to devalue their currency is a major gesture to the Western World, because what most of these countries seek to do is cut off American markets further and flood our country with their consumer goods at a lower cost. And this is precisely the reason we have the trade imbalance as it is today.

So these are the macro problems, Mr. President, that I respectfully submit to you are appropriate for the major policymaking body of the United States of America to be deliberating—the future of the world. And I really regret that we get into the kind of discussion that can only have one effect: drive China to be less cooperative, more inclined to devalue, but hopefully not less inclined to care about their southern border or what North Korea is doing over their northeastern border. But these are problems of life and death for millions and millions of people. I feel so strongly and I so strongly urge this body that this is not the time for divisiveness. This is not the time for partisanship. This is not the time for some to make hay when the President of the United States is going to Asia to meet with the largest exploding country on Earth to try to chart a relationship that can come to grips with the nuclear facts I have just spelled out.

Facts. Facts of life. Facts like, if there is one single miscalculation, like a Muslim terrorist event, another train bombing, a premature launching of a nuclear missile, it could result in the loss of tens of millions of lives all across the Asian continent. This is what our leaders should be discussing—how to develop a strategic partnership, how to force India and Pakistan to the table, how to set up the kind of commitments that are necessary to forge a consensus on Kashmir; how to solve India border problems with China; how to open markets so that the trade imbalance does not continue; how to maintain intellectual property rights in China; how to have China bring in a retail consumer market from the United States, which they have been reluctant to do; how to build on the rule of law.

You know, people in this body are great critics—particularly people who have never been to China, don't know China, have never read a history book on China, don't understand that for 5,000 years China was dominated by one man, generally an emperor who, at a whim, at the snap of his fingers, could put millions of people to death if he so chose; and then the revolutionary war heroes, none of whom had any education; and now by its first group of really educated leadership in the 5,000-year history of that country. I have heard the President of China say directly that, "We will transition from a rule of man to a rule of law, but it cannot happen overnight."

Mr. President, if not the first American mayor, I was certainly one of the first American mayors to visit China in June of 1979, just when that country was coming out of the Cultural Revolution. I have often said that what I saw there was very sobering indeed, because one understands the body language of fear. The body language of fear was prevalent all throughout every city in China that I visited. I have visited China, and I try to go every year; the last time was in September. The changes I have seen are astonishing. Now, remember, this is still a Communist government. There is no prototype on Earth for the kind of change that this Chinese Government is now going through.

I truly believe, as they now try what they call the "socialist experience," which we call a market economy, and as they engage with the West, and as our military leaders are able to engage them—I will never forget when JOHN GLENN and Sam Nunn and I met with the Minister of Defense, and at the end of the conversation I said, "Do you have anything else on your mind?" He said, "Yes." He said, "One of the things that I am concerned about is that we have incidents of American fighter planes overflying Chinese borders." I said, "Well, has anything been done about this?" He said, "No." So I went out and called Bill Perry on the phone, who was then Secretary of State, and that was taken care of.

It has to be known by this body that, up to just less than a month ago, there was no red telephone between our two leaders. As a matter of fact, the first time our two leaders spoke on that red telephone was following the Indian nuclear explosion, where our President called the President of China on that red telephone and said, "Look, this has happened. Will you help?" That is when Jiang Zemin said, "We are of the same mind on this."

Now, don't we want this kind of dialog to take place? Sure, we want to make the Chinese know that forced abortion is repugnant to a civilized society, repugnant to our values, and it is brutal and unfair. Sure, we want them to initiate talks with the Dalai Lama, go to the rule of law, provide due process of law for every citizen in China. That is the guarantee for positive human rights—due process of law. Nobody can be arrested in the middle of the night and hauled to jail and kept there. The first change has already been made. The Chinese have changed administrative detention, which is the summary placement of somebody in custody, and limited it to 30 days. We all know the judiciary of China is under the control of the political party. This needs discussion. The judiciary of China must be independent, it must be paid, it must be forbidden to take money on the side. There must be a new criminal code, a new civil code, based on a new China, a China that is reaching out and interacting with the Western World, such as China never has before.

The history of China must be understood in this. It must be known that after the Boxer Rebellion, in the incident where China lost Hong Kong in the opium wars, China was so humiliated by the West that China turned into itself and never wanted any intercourse with the West. Now we see China changing.

How China changes is the President's quest. Does China go back into itself, reinforce its totalitarian nature, or does China open further interaction with the West; have an economic democracy that one day by the Taiwan model a social democracy must emerge?

This, I say to you, Mr. President, is the fitting goal for the President of the United States, because that will change life as we know it on the planet.

I thank the Chair. I yield the floor.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from South Carolina.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Unless there is objection, the motion to table the previous division is set aside temporarily, and the Senator from South Carolina is recognized.

Mr. ASHCROFT. Reserving the right to object, may I inquire as to when it will be anticipated that the vote will be on the tabling motion?

The PRESIDING OFFICER. And the vote will take place at 12:30, but no later than that.

Mr. ASHCROFT. With the understanding that the vote will take place, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that the pending amendments be set aside solely for the purpose of adopting a series of amendments which have been agreed to by both sides.

I further ask unanimous consent that upon the disposition of this series of cleared amendments, that the motion to table, once again, would become the pending business, and that the vote on the motion to table occur no later than 12:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2942

(Purpose: To clarify the responsibility for submission of information on prices previously charged for property or services offered)

Mr. THURMOND. Mr. President, on behalf of Senator WARNER, I offer an amendment which would amend section 2306(a) of Title X, U.S. Code, and Section 304(a), the Federal Property and Administrative Services Act of 1949 to clarify requirements for appropriate classified information by contractors to Federal agencies.

Mr. President, I believe the amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for Mr. WARNER, proposes an amendment numbered 2942.

The amendment is as follows:

At the end of title VIII, add the following:

SEC. 812. CLARIFICATION OF RESPONSIBILITY FOR SUBMISSION OF INFORMATION ON PRICES PREVIOUSLY CHARGED FOR PROPERTY OR SERVICES OFFERED.

(a) ARMED SERVICES PROCUREMENTS.—Section 2306a(d)(1) of title 10, United States Code is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 304A(d)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)(1)), is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(c) CRITERIA FOR CERTAIN DETERMINATIONS.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to include criteria for contracting officers to apply for determining the specific price information that an offeror should be required to submit under section 2306(d) of title 10, United States Code, or section 304A(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)).

Mr. WARNER. Mr. President, I rise today to offer an amendment which is designed to help find a solution to the recurring problem of the Pentagon paying exorbitant prices for spare parts that are readily available in the commercial marketplace.

In March, we were subjected once again to troubling press accounts of excessive prices being charged the Pentagon for spare parts—in one case the Pentagon's Inspector General found that the Pentagon was charged 280 percent more for commercially available items than in the previous few years. While it is true that such instances of overcharging are now the exception to the rule, we must do everything we can to ensure that our limited defense resources are used wisely. This is essential if we are to maintain public support for, and confidence in, our military establishment.

I commend Senator SANTORUM for the package of legislative reforms he has included in the bill before the Senate. The "Defense Commercial Pricing Management Improvement Act" will go a long way toward setting the Pentagon on a path to correcting the problems identified in the recent DoD Inspector General reports concerning the Department's errors with respect to these overpricing cases.

My amendment will build on the legislation in the bill, but will focus on the responsibility of the contractor for providing adequate cost and pricing data to the government. Under current law, in the case of sole-source contracts for commercially available items, the government contracting officer "shall require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract." Although it was the intent of Congress that the contractor should supply such data as might be requested, that was not explicitly stated in the law and has not always been the practice. In the Sundstrand case reviewed this past February by the DoD Inspector General, the Inspector General found that "Sundstrand * * * refused to provide DLA contracting officers with 'uncertified' cost or pricing data for commercial catalog items." Unfortunately, this is not an isolated incident.

My amendment would clarify existing law to clearly reflect the original intent of Congress by putting a positive requirement on the contractor to provide cost and pricing data if such data is requested by the government contracting officer. If—as in the Sundstrand case—the contractor refuses to provide this information to the government, the contractor would be disqualified from the contract.

If a government contracting officer is to accurately assess the reasonableness of a contract price for a sole-source commercial item, he or she must have access to information on prices previously charged both the government and commercial sector for such item. We must not allow contractors to refuse to provide such information to the government. My amendment will close a loophole in existing law by requiring the submission of such cost and pricing data as the government contracting officer determines is necessary.

I urge my colleagues to support the amendment.

Mr. LEVIN. Mr. President, the amendment has been cleared by this side.

Mr. THURMOND. I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment.

Mr. WARNER. Mr. President, I wish to thank the distinguished chairman and ranking member. It is just an effort by one Senator to see what we can do to further eliminate the ever-present problems associated with the $250 hammer, the $50 screw, and things of this nature, which by virtue of the enormity of the system of procurement, will happen. But this is an effort to see whether or not we can further curtail the number of incidents.

I thank the Chair. I thank the manager.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 2942) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

AMENDMENT NO. 2943

(Purpose: To recognize and honor former South Vietnamese commandos)

Mr. LEVIN. Mr. President, on behalf of Senators KERRY of Massachusetts, MCCAIN, and SMITH of New Hampshire, I offer an amendment that would commend the Vietnamese commandos for their service to the United States during the Vietnam war.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for Mr. KERRY, Mr. MCCAIN, and Mr. SMITH of New Hampshire, proposes an amendment numbered legislative 2943.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF FORMER SOUTH VIETNAMESE COMMANDOS IN CONNECTION WITH UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress makes the following findings:

(1) South Vietnamese commandos were recruited by the United States as part of OPLAN 34A or its predecessor or OPLAN 35 from 1961 to 1970.

(2) The commandos conducted covert operations in North Vietnam during the Vietnam conflict.

(3) Many of the commandos were captured and imprisoned by North Vietnamese forces, some for as long as 20 years.

(4) The commandos served and fought proudly during the Vietnam conflict.

(5) Many of the commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict.

(6) Many of the Vietnamese commandos now reside in the United States.

(b) SENSE OF CONGRESS.—Congress recognizes and honors the former South Vietnamese commandos for their heroism, sacrifice, and service in connection with United States armed forces during the Vietnam conflict.

Mr. KERRY. Mr. President, two years ago Senator MCCAIN and I offered legislation, enacted as part of the FY 97 Defense authorization bill, to reimburse some 500 Vietnamese commandos who were funded and trained by the United States and infiltrated behind enemy lines to perform covert operations during the Vietnam War. Many of them were captured and incarcerated by the Democratic Republic of Vietnam for years and ultimately removed from the payroll by the U.S. government. Our legislation authorized $20 million for reimbursement of the commandos for their years of imprisonment in North Vietnamese prisons and mandated that a lump sum be provided to each claimant determined eligible by the Secretary of Defense.

Pursuant to this legislation a commission has been established in the Defense Department and is now in the process of reviewing claims. Today I am offering three amendments, with Senators MCCAIN and SMITH (of New Hampshire) related to the commando issue.

The first amendment, number 2943, is identical to language in the House-passed Defense authorization bill for this year. This amendment recognizes and honors the commandos for their heroism, sacrifice, and service to the United States during the war.

The second amendment, number 2944, is largely technical and is designed to assist the commission by clarifying the intent of the original legislation with respect to the payment process.

The third amendment, number 2945, rectifies an oversight in the original legislation. Under current law, a commando can bring a claim, or if the commando is deceased, his spouse or children may bring a claim. Through an oversight we failed to consider the possibility that a commando may never have married. The amendment that I am offering resolves this problem by stipulating that the parents, or if they are deceased, the siblings of an unmarried commando may bring a claim. Since the $20 million originally authorized and appropriated for payment of these claims was based on the entire known universe of commandos, no additional funding will be needed to implement this amendment. Nor will this amendment put an additional undue burden on the commission. Our original intention in authoring the commando legislation was to make restitution to all the commandos who served us so faithfully, even when we walked away from them. This amendment ensures that we do that.

Mr. President, these amendments are straightforward and noncontroversial. They are good amendments and I urge their adoption.

Mr. MCCAIN. Mr. President, I rise today in support of an amendment sponsored by myself, Senator KERRY, and Senator SMITH of New Hampshire to express the sense of Congress regarding the heroism, sacrifice, and service of former South Vietnamese Commandos who fought with the United States during the Vietnam war.

From 1961 to 1970, South Vietnamese soldiers were trained and recruited by the Central Intelligence Agency and the Department of Defense to fight behind enemy lines on behalf of the United States. Although the majority of these individuals were captured alive and taken prisoner by North Vietnam, the U.S. government declared them dead in order to avoid paying them for their services.

Senator KERRY and I sponsored legislation contained in the Fiscal year 1997 Defense Authorization bill authorizing payment of up to $30,000 to each Commando determined eligible by the Secretary of Defense.

Our amendment to the FY 1999 Defense Authorization bill makes the following findings:

South Vietnamese Commandos were recruited by the United States for covert operations under OPLAN 34A or its predecessor, OPLAN 35, from 1961 to 1970;

The Commandos conducted covert operations in North Vietnam during the Vietnam conflict;

Many of the Commandos were captured and imprisoned by North Vietnamese forces for periods of up to 20 years;

The Commandos served and fought proudly during the Vietnam conflict;

Many of the Commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict;

Many of the Vietnamese Commandos now reside in the United States.

Consequently, our amendment recognizes and honors the former South Vietnamese Commandos for their service to the United States. We are in debt to these individuals for fighting valiantly on our side during the Vietnam war. They deserve our continued support and gratitude. I urge my colleagues to support this amendment.

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 2943) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2944

(Purpose: To provide for payments to certain survivors of captured and interned Vietnamese operatives who were unmarried and childless at death)

Mr. THURMOND. On behalf Senators KERRY, MCCAIN and SMITH of New Hampshire, I offer an amendment that would enhance the eligibility for payments to certain survivors of captured and interned Vietnamese commandos who were unmarried and childless at death.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. KERRY, Mr. MCCAIN and Mr. SMITH of New Hampshire, proposes an amendment numbered 2944.

The amendment is as follows:

On page 127, between lines 12 and 13, insert the following:

SEC. 634. ELIGIBILITY FOR PAYMENTS OF CERTAIN SURVIVORS OF CAPTURED AND INTERNED VIETNAMESE OPERATIVES WHO WERE UNMARRIED AND CHILDLESS AT DEATH.

Section 657(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public

Law 104-201; 110 Stat. 2585) is amended by adding at the end the following:

"(3) In the case of a decedent who had not been married at the time of death—

"(A) to the surviving parents; or

"(B) if there are no surviving parents, to the surviving siblings by blood of the decedent, in equal shares.".

Mr. McCAIN. Mr. President, I join Senator KERRY and Senator SMITH of New Hampshire in offering this amendment to the Fiscal Year 1999 Defense Authorization bill to allow payment of funds to the surviving parents or siblings of deceased Vietnamese Commandos.

From 1961 to 1970, South Vietnamese soldiers were trained and recruited by the Central Intelligence Agency and the Department of Defense to undertake covert operations behind enemy lines on behalf of the United States. Although the majority of these individuals were captured alive and taken prisoner by North Vietnam, the U.S. government declared them dead in order to avoid paying them for their services.

In 1996, Congress passed legislation I sponsored with Senator KERRY authorizing payment of up to $40,000 to each Commando determined eligible by the Secretary of Defense. In the case of a deceased Commando, payment was authorized to be made to the surviving spouse or, if there was no surviving spouse, to the surviving children of the decedent.

Unfortunately, we did not anticipate the case of deceased Commandos who died unmarried and thus left no spouse or children to claim payment. Our amendment to the FY 1999 Defense Authorization bill would expand eligibility for payments to include the surviving parents or, if there are no surviving parents, to the surviving siblings by blood of the deceased Commando.

Because Congress has already authorized and appropriated funds for payment to each Commando, this amendment has no cost. However, it serves the cause of fairness by entitling relatives of unmarried, deceased Commandos to the payments authorized for those Commandos' service to this country.

Although we did not intend to discriminate against unmarried childless Commandos in our original legislation, our original legislation unwittingly did just that.

Our amendment rights that wrong. I encourage my colleagues to support this legislation on behalf of those Commandos who bravely served behind enemy lines on behalf of the United States.

Mr. THURMOND. Mr. President, I believe this amendment has been cleared by the other side.

Mr. LEVIN. Mr. President, the amendment has been cleared.

The PRESIDING OFFICER. Is there further debate? Is there objection?

Mr. THURMOND. Mr. President, I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2944) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2945

(Purpose: To clarify the recipient of payments to Vietnamese operatives captured and interned by North Vietnam)

Mr. LEVIN. On behalf of Senators KERRY, MCCAIN, and SMITH of New Hampshire, I offer an amendment that would ensure that the Vietnamese commandos receive their rightful share of the funds authorized and appropriated by the Congress.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Messrs. KERRY, MCCAIN, and SMITH of New Hampshire proposes an amendment numbered 2945.

The amendment is as follows:

On page 127, between lines 12 and 13, insert the following:

SEC. 634. CLARIFICATION OF RECIPIENT OF PAYMENTS TO PERSONS CAPTURED OR INTERNED BY NORTH VIETNAM.

Section 657(f)(1) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 194-201; 110 Stat. 2585) is amended by striking out "The actual disbursement" and inserting in lieu thereof "Notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement".

Mr. McCAIN. Mr. President, I join my colleagues Senator KERRY and Senator SMITH of New Hampshire in sponsoring an amendment to the Fiscal Year 1999 Defense Authorization bill to ensure that the Vietnamese Commandos receive their rightful share of the funds Congress authorized and appropriated in return for their service to this country.

From 1961 to 1970, South Vietnamese soldiers were trained and recruited by the Central Intelligence Agency and the Department of Defense to undertake covert operations behind enemy lines on behalf of the United States. Although the majority of these individuals were captured alive and taken prisoner by North Vietnam, the U.S. government declared them dead in order to avoid paying them for their services.

In 1996, Congress passed legislation I sponsored with Senator KERRY authorizing payment of up to $40,000 to each Commando deemed eligible by the Secretary of Defense. These payments were intended to be distributed directly to the Commandos, who could then use a portion of the funds to cover attorney fees and other costs associated with receiving their benefit.

Regrettably, our 1996 legislation did not fully clarify the relationship between Commandos and their attorneys for the purposes of payments, with the result that payments have been flowing to the Commandos' attorneys for disbursement to their intended recipients. Consequently, our amendment seeks to clarify that the actual disbursement of a payment under our 1996 legislation may be made only to the person eligible for the payment, notwithstanding any agreement, including a power of attorney, to the contrary.

It is my hope that this legislation will allow the Commandos to rightfully receive the full payments that are their due. I encourage my colleagues to support this amendment on behalf of those Vietnamese Commandos who sacrificed so much for this country.

The PRESIDING OFFICER. Is there further debate?

If there is no objection, the amendment is agreed to.

The amendment (No. 2945) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2946

(Purpose: To extend the authorization and authorization of appropriations for the construction of an automated 100-meter baffled multi-purpose range at the National Guard Training Site in Jefferson City, Missouri)

Mr. THURMOND. Mr. President, on behalf of Senator BOND, I offer an amendment which would extend the fiscal year 1996 authorization for the construction of an automated multipurpose range as a National Guard training site in Missouri.

Mr. President, I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. BOND, proposes an amendment numbered 2946.

The amendment is as follows:

On page 323, in the third table following line 9, insert after the item relating to Camp Shelby, Mississippi, the following new item:

Missouri	National Guard Training Site, Jefferson City.	Multi-Purpose Range	$2,236,000

Mr. THURMOND. Mr. President, the amendment has been cleared.

Mr. President, I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Is there further discussion?

Without objection, the amendment is agreed to.

The amendment (No. 2946) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2803

(Purpose: To state the sense of the Senate regarding declassification of classified information of the Department of Defense and the Department of Energy)

Mr. LEVIN. Mr. President, on behalf of Senator MCCAIN, I call up amendment No. 2803, which would express the sense of Senate regarding declassification of information of the Departments of Defense and Energy.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. KENNEDY, proposes an amendment numbered 2803.

The amendment is as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. SENSE OF THE SENATE REGARDING DECLASSIFICATION OF CLASSIFIED INFORMATION OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF ENERGY.

It is the sense of the Senate that the Secretary of Defense and the Secretary of Energy should submit to Congress a request for funds in fiscal year 2000 for activities relating to the declassification of information under the jurisdiction of such Secretaries in order to fulfill the obligations and commitments of such Secretaries under Executive Order No. 12958 and the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and to the stakeholders.

Mr. THURMOND. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Is there further discussion?

Without objection, the amendment is agreed to.

The amendment (No. 2803) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2921

Mr. THURMOND. Mr. President, on behalf of Senator KYL, I call up amendment No. 2921, which would require a visual examination of all documents released by the National Archives to ensure that such documents do not contain restricted data or formerly restricted data.

Mr. President, I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. KYL, proposes an amendment numbered 2921.

The amendment is as follows:

Section 3155 of National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106) is amended by inserting the following:

"(c) Agencies, including the National Archives and Records Administration, shall conduct a visual inspection of all permanent records of historical value which are 25 years old of older prior to declassification to ascertain that they contain no pages with Restricted Data or Formerly Restricted Data (FRD) markings (as defined by the Atomic Energy Act of 1954, as amended). Record collection in which marked RD or FRD is found shall be set aside pending the completion of a review by the Department of Energy."

Mr. LEVIN. The amendment has been cleared, Mr. President.

Mr. THURMOND. Mr. President, I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Is there further discussion?

Without objection, the amendment is agreed to.

The amendment (No. 2921) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2947

(Purpose: To highlight the dangers posed by Russia's massive tactical nuclear stockpile, urge the President to call on Russia to proceed expeditiously with promised reductions, and to require a report)

Mr. LEVIN. Mr. President, on behalf of Senators CONRAD, KEMPTHORNE, KENNEDY, BINGAMAN, and myself, I offer an amendment which would express the sense of the Senate that the Russian Federation should live up to its commitments to reduce its massive tactical nuclear stockpiles as it agreed to in 1991 and 1992. The amendment would require the Secretary of Defense to submit a report to Congress on Russia's tactical nuclear weapons stockpile.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. CONRAD, Mr. KEMPTHORNE, Mr. KENNEDY, and Mr. BINGAMAN, proposes an amendment numbered 2947.

The amendment is as follows:

At the appropriate place in subtitle D of title X, insert the following:

SEC. . RUSSIAN NON-STRATEGIC NUCLEAR WEAPONS.

(a) SENSE OF THE SENATE.—It is the Sense of the Senate that

(1) the 7,000 to 12,000 or more non-strategic (or "tactical") nuclear weapons estimated by the United States Strategic Command to be in the Russian arsenal may present the greatest threat of sale or theft of a nuclear warhead in the world today;

(2) as the number of deployed strategic warheads in the Russian and United States arsenals declines to just a few thousand under the START accords, Russia's vast superiority in tactical nuclear warheads—many of which have yields equivalent to strategic nuclear weapons—could become strategically destabilizing;

(3) while the United States has unilaterally reduced its inventory of tactical nuclear weapons by nearly ninety percent since the end of the Cold War, Russia is behind schedule in implementing the steep tactical nuclear arms reductions pledged by former Soviet President Gorbachev in 1991 and Russian President Yeltsin in 1992, perpetuating the dangers from Russia's tactical nuclear stockpile; and,

(4) the President of the United States should call on the Russian Federation to expedite reduction of its tactical nuclear arsenal in accordance with the promises made in 1991 and 1992.

(b) REPORT.—Not later than March 15, 1999, the Secretary of Defense shall submit to the Congress a report on Russia's non-strategic nuclear weapons, including

(1) estimates regarding the current numbers, types, yields, viability, and locations of such warheads;

(2) an assessment of the strategic implications of the Russian Federation's non-strategic arsenal, including the potential use of such warheads in a strategic role or the use of their components in strategic nuclear systems;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of such warheads, including an analysis of Russian command and control as it concerns the use of tactical nuclear warheads; and

(4) a summary of past, current, and planned efforts to work cooperatively with the Russian Federation to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile material.

This report shall include the views of the Director of Central Intelligence and the Commander in Chief of the United States Strategic Command.

Mr. KENNEDY. Mr. President, I share the growing concern over the continuing high levels of tactical nuclear weapons in the arsenals of both Russia and the United States.

We have made substantial progress in reducing the levels of strategic nuclear weapons which threaten world peace and security. This progress has been made through the cooperation and efforts of both our countries and I commend the Reagan, Bush and Clinton Administrations for their efforts.

We have reduced the number of strategic missiles on each side. We have inventoried and controlled dangerous nuclear materials to prevent their theft. We have improved the safety and security of strategic nuclear weapons world-wide.

But, during this time, we have left another dangerous threat untouched—the tactical nuclear weapons built and deployed for battlefield use. These dangerous weapons have received far too little attention in our arms control efforts.

Although they are smaller than strategic nuclear weapons, tactical nuclear weapons are still a massive threat. In the wrong hands, in a terrorist or military attack, these weapons are almost as dangerous as strategic weapons. The potential armed conflicts facing the world today would be far more threatening if tactical nuclear weapons become an option for any side. The effect on stability and our own security could well be catastrophic.

We must take every reasonable measure to ensure that such weapons are never used—not in any armed conflict, not in a terrorist attack, never.

The goal of the Conrad amendment is to reduce, and eventually eliminate, the world's stockpile of tactical nuclear weapons. We must inventory the number and types of these weapons currently held in stockpiles, assess them, and work together to eliminate them.

It is not too much to ask that we pursue two tracks in the effort to deal with the nuclear threat left by the legacy of the Cold War. Reducing and eliminating both strategic and tactical nuclear weapons is the right course for the United States and Russia, and the only one that will ensure our future security.

Mr. THURMOND. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Is there further discussion?

Without objection, the amendment is agreed to.

The amendment (No. 2947) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2948

(Purpose: To amend title 10, United States Code, to provide for the presentation of a United States flag to members of the Armed Forces being released from active duty for retirement)

Mr. THURMOND. Mr. President, on behalf of Senator GRAMS of Minnesota, I offer an amendment that would require service secretaries to present a U.S. flag to each retiring service member. I believe the amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. GRAMS, proposes an amendment numbered 2948.

The amendment is as follows:

At the end of subtitle D of title VI, add the following:

SEC. 634. PRESENTATION OF UNITED STATES FLAG TO MEMBERS OF THE ARMED FORCES.

(a) ARMY.—(1) Chapter 353 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 3681. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Army shall present a United States flag to a member of any component of the Army upon the release of the member from active duty for retirement.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 6141 or 8681 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 3684 the following:

"3681. Presentation of flag upon retirement at end of active duty service.".

(b) NAVY AND MARINE CORPS.—(1) Chapter 561 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 6141. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Navy shall present a United States flag to a member of any component of the Navy or Marine Corps upon the release of the member from active duty for retirement or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 8681 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 6151 the following:

"6141. Presentation of flag upon retirement at end of active duty service.".

(c) AIR FORCE.—(1) Chapter 853 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 8681. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Air Force shall present a United States flag to a member of any component of the Air Force upon the release of the member from active duty for retirement.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 6141 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 8684 the following:

"8681. Presentation of flag upon retirement at end of active duty service.".

(d) REQUIREMENT FOR ADVANCE APPROPRIATIONS.—The Secretary of a military department may present flags under authority provided the Secretary in section 3681, 6141, or 8681 title 10, United States Code (as added by this section), only to the extent that funds for such presentations are appropriated for that purpose in advance.

(e) EFFECTIVE DATE.—Sections 3681, 6141, and 8681 of title 10, United States Code (as added by this section shall take effect on October 1, 1998, and shall apply with respect to releases described in those sections on or after that date.

Mr. GRAMS. Mr. President, I rise today to offer an amendment to the Defense Authorization Bill. Having just celebrated Flag Day, June 14, the symbol of our great country is vividly in mind. In close conjunction with that symbol of freedom, is our freedom guarded by those who serve in our Military Services who have been willing to give their lives for our country.

It seems fitting to show our honor and respect to those who have valiantly and fearlessly carried the banner of our flag into battle. Each one of these battle-ready patriots should carry a memento of their military service home with them—to remind them of our gratitude and their great achievement in keeping the country free. My amendment would present a U.S. flag to each active duty person who has served our country. I know that former Senator Robert Dole has supported this effort as well.

All components of the Military Services, the active duty, the National Guard and the Reserves of the Army, Air Force, Navy and Marines, who have completed honorable tours of duty will be eligible for this gift from a grateful nation.

It seems appropriate that an American flag be presented to those honorably discharged while they are still with us, not just to spread over their caskets as they depart this world. This living symbol will do much to re-invigorate and re-dedicated the whole nation to our reason for being—freedom and liberty for all.

The PRESIDING OFFICER. Is there further discussion?

Mr. LEVIN. The amendment has been cleared on this side.

Mr. THURMOND. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2948) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2949

(Purpose: To require a report on options for the reduction of infrastructure costs at Brooks Air Force Base, Texas)

Mr. THURMOND. Mr. President, on behalf of Senator HUTCHISON, I offer an amendment which would require a report on the options for the reduction of infrastructure costs at Brooks Air Force Base, Texas.

Mr. President, I believe this amendment has been cleared by the other side.

Mr. LEVIN. The amendment has been cleared, Mr. President.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mrs. HUTCHISON, proposes an amendment numbered 2949.

The amendment is as follows:

On page 222, below line 21, add the following:

SEC. 1031. REPORT ON REDUCTION OF INFRASTRUCTURE COSTS AT BROOKS AIR FORCE BASE, TEXAS.

(a) REQUIREMENT.—Not later than December 31, 1998, the Secretary of the Air Force shall, in consultation with the Secretary of Defense, submit to the congressional defense committees a report on means of reducing significantly the infrastructure costs at Brooks Air Force Base, Texas, while also maintaining or improving the support for Department of Defense missions and personnel provided through Brooks Air Force Base.

(b) ELEMENTS.—The report shall include the following:

(1) A description of any barriers (including barriers under law and through policy) to improved infrastructure management at Brooks Air Force Base.

(2) A description of means of reducing infrastructure management costs at Brooks Air Force Base through cost-sharing arrangements and more cost-effective utilization of property.

(3) A description of any potential public partnerships or public-private partnerships to enhance management and operations at Brooks Air Force Base.

(4) An assessment of any potential for expanding infrastructure management opportunities at Brooks Air Force Base as a result of initiative considered at the Base or at other installations.

(5) An analysis (including appropriate data) on current and projected costs of the ownership or lease of Brooks Air Force Base under a variety of ownership or leasing scenarios, including the savings that would accrue to the Air Force under such scenarios and a schedule for achieving such savings.

(6) Any recommendations relating to reducing the infrastructure costs at Brooks Air Force Base that the Secretary considers appropriate.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Is there further discussion?

Without objection, the amendment is agreed to.

The amendment (No. 2949) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2950

Mr. LEVIN. Mr. President, on behalf of Senator INOUYE, I offer an amendment which would require the Secretary of Defense to submit a report regarding the potential for development of Ford Island, Pearl Harbor, Hawaii.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. INOUYE, proposes an amendment numbered 2950.

The amendment is as follows:

SEC. 2833. Not later than December 1, 1988, the Secretary of Defense shall submit to the President and the Congressional Defense Committees a report regarding the potential for development of Ford Island within the Pearl Harbor Naval Complex, Oahu, Hawaii through an integrated resourcing plan incorporating both appropriated funds and one or more public-private ventures. This report shall consider innovative resource development measures, including but not limited to, an enhanced-use leasing program similar to that of the Department of Veterans Affairs as well as the sale or other disposal of land in Hawaii under the control of the Navy as part of an overall program for Ford Island development. The report shall include proposed legislation for carrying out the measures recommended therein.

Mr. LEVIN. Mr. President, I believe the amendment has been cleared by the other side.

Mr. THURMOND. Mr. President, it has been cleared on this side.

The PRESIDING OFFICER. Is there further discussion?

Without objection, the amendment is agreed to.

The amendment (No. 2950) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MTMC'S REENGINEERING PROGRAM

Mr. TORRICELLI. Mr. President, I rise today regarding an issue that is of great concern to myself and the military families in my state. I am referring to the Military Traffic Management Command's (MTMC) proposed re-engineering of the personal property program. The MTMC is responsible for moving service member's household goods when they receive Permanent Change of Station orders, and the current system for doing so has often been criticized for not providing the same quality service that is available in the private sector.

The current system is a $1.1 billion a year industry that is awarded without competition and contains no provisions for the government to enforce quality standards. The status quo has produced a dismal 23% customer satisfaction rate, which is understandable when we consider that one in four military moves results in a claim for missing or broken household goods. To make the situation worse, it takes about 8 months to settle 80% of these claims with the service member, at a cost of $100 million to the government.

For over three years, the Department of Defense has been trying to bring elements of competition and corporate practice into the military program. MTMC's plans will permit full and open competition from all types of companies which provide corporate moving services, and will hold its contractors to standards of performance. It will streamline the personal property program, and introduce accountability to the program through the use of the Federal Acquisition Regulation. The re-engineered program will also make full replacement insurance value available to service families for the first time, and will guarantee that a minimum of 41% of the total contract will be performed by small businesses. The GAO has reviewed this proposal and found it to be superior to the current program.

However, I am concerned that an alternative to the MTMC's re-engineering program, referred to as the Commercial-Like Activities of Superior Service (CLASS), has been included in the House FY99 Defense Authorization bill. This alternative, which is opposed by the Department of Defense, the Military Coalition, the Business Executives for National Security and the Military Mobility Coalition, does not improve the quality of service for our personnel, does not take advantage of current commercial practices, does not provide our military families with a streamlined claims process, and offers no protection for the interests of small business. It is estimated that the CLASS program will cost the DoD about three years and an additional $6 million to implement. I am hopeful that my colleagues in the Senate will reject the CLASS program during the conference committee negotiations, and allow the DoD to move forward with its pilot program.

I urge my colleagues to support MTMC's re-engineering effort and to remember that this is simply a pilot program. It will take place in three states and will encompass only 18,000 shipments out of a total of 650,000 annually, or only three percent of DoD's total annual shipments. Congress has also charged GAO to review the pilot as it is conducted and report back to Congress. If, at the end of this test, there are changes to be made, we can make them at that time.

Mr. President, our military families have waited long enough for us to improve the personal property program, and legislatively changing all of DoD's efforts for some other idea at the last minute would be extremely counterproductive. I look forward to removing this burden from our service personnel, and to working with my colleagues to ensure MTMC's re-engineering program becomes a reality.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that at the conclusion of the vote being taken on the tabling motion for Senator HUTCHISON, I have 10 minutes to address a matter as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, as to the earlier vote on tabling, I initiated the tabling motion in my capacity as comanager of this bill, together with our distinguished chairman. I felt it was the proper thing to do because I attribute to this particular bill, the underlying bill, the annual Authorization Act, the highest priority. It is for the benefit of those who serve in uniform all over the world. It sends a strong message to our allies and enables this country to maintain its responsibility as the sole superpower in the world today. And that is why I am going to do everything I can, together with our distinguished chairman and others, to see that this bill does move forward.

Now that the matter has been divided, then I think I am free to vote my conscience as it relates to such votes as may be taken hereafter regarding the amendments.

I yield the floor.

VOTE ON MOTION TO TABLE DIVISION I OF AMENDMENT NO. 2737

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to the motion to table division I of the amendment No. 2737. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The result was announced—yeas 0, nays 96, as follows:

[Rollcall Vote No. 168 Leg.]

NAYS—96

Abraham
Akaka
Allard
Ashcroft
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—4

Bennett
Domenici
Rockefeller
Specter

The motion to lay on the table division I of the amendment (No. 2737) was rejected.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized for up to 10 minutes.

Mr. LEVIN. I wonder if the Senator will yield for an inquiry.

Mr. ASHCROFT. I am happy to.

Mr. LEVIN. Mr. President, is my understanding correct that under the order, after the 10 minutes of morning business, the Senate will then stand in recess without any intervening unanimous consent requests or motions?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. I thank the Chair.

Mr. ASHCROFT. Mr. President, I have been asked to propound a unanimous consent, and I believe it has been agreed to by both sides. Prior to the Senator leaving the Chamber, I will do that.

Mr. LEVIN. Does the Senator have that to propound now?

Mr. ASHCROFT. Yes.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 2646

Mr. ASHCROFT. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the conference report to accompany H.R. 2646, the Coverdell A+ education bill, it be considered as having been read, and there be 4 hours for debate divided in the following manner:

Two hours under the control of the minority leader, or his designee, with part of their 2 hours divided as follows: Senator KENNEDY, 15 minutes; Senator GRAHAM, 20 minutes; Senator KERRY of Massachusetts, 10 minutes; Senator TORRICELLI, 15 minutes; Senator COVERDELL, or his designee, 2 hours.

I further ask consent that following the expiration or yielding back of time, the Senate proceed to vote on adoption of the conference report, all without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for up to 10 minutes.

U.S.-CHINA RELATIONS

Mr. ASHCROFT. Mr. President, I want to take a few moments to address the situation regarding the policy of the United States and the way in which we relate to the nation of China. The President of the United States is making a trip to the People's Republic of China, and there has been significant debate about this trip, which provides us an opportunity to ask ourselves what kind of policy should we have toward the world's most populous nation.

There have been a number of us who have questioned whether or not the President should go to Tiananmen Square, for example, to celebrate, in some way, his arrival with those who pulled the triggers at the square to crush dissent in 1989. There are a wide variety of pluses and minuses about the Presidential trip. I want to try to put this trip and our policy toward China into a broader perspective in terms of the way foreign policy perhaps ought to be conducted.

First of all, the President has suggested that we either have to do it his way—to support the Presidential visit, welcomed by leaders at the site of a tremendous violation of human rights—or else we have no engagement with China at all. I think this is a false choice. It is not necessary, in order to have a relationship with countries, that we automatically have to have a summit. As a matter of fact, we engage in relationships with very important countries—countries far more influential in some respects than China—and we don't have summits with them on a regular basis. This is the second summit in less than a year with the nation of China.

So the first thing I would like to say is that it is not necessarily essential, in order to pursue a productive policy for a long-term constructive relationship with China, that you have a summit. As a matter of fact, it might be counterproductive. It might impair the development of the kind of healthy, long-term relationship we need if we send the President unduly, or prematurely, to negotiate with or otherwise concede to individuals whose conduct doesn't merit the President's dignifying presence—whose participation in world events is not of a quality that should be legitimized by a visit from the President of the United States.

There has been a false dichotomy presented to the American people, and it has been the choice between either supporting the President's trip to China or being labeled isolationists. That is simply an inappropriate framework to force upon the American people. Most Americans understand that our objectives ought not to be involvement or isolation per se, but that the United States—the greatest Nation of the world—would relate constructively with the People's Republic of China on the basis of sound policy that leads to a constructive and mature relationship.

I believe that we have to have a policy toward China. While I question what the policies the President is pursuing, my reservations in no way suggest that I don't seek good relations with China. As a matter of fact, I think the road to good relations would be paved with better policy and fewer summits.

Allow me to explain. Whether we are talking about the relationships between individuals, or businesses, or institutions, or countries, there are principles that undergird and provide the foundation for good relations. Integrity is one. Relationships have to be based on integrity. People have to be able to trust one another. They have to know that when one says something, it can be trusted. Another component of a good relationship is responsibility. Individuals have to act responsibly. They can't threaten or otherwise endanger the other party if there are going to be sound relationships. Third, there has to be accountability. If we want long-term relationships, if we want a productive relationship, if we want something that can be relied upon and built upon, we have to have the foundation of integrity, responsibility, and accountability.

I suggest that our relationship with China is no different, an must include these kinds of building blocks. We have to have a relationship of integrity, responsibility, and accountability with China. If we don't have it, the future of U.S.-China relations is not bright.

I have some real problems with the way the Chinese have dealt with us. It is a way that does not reflect integrity. It does not reflect responsibility. It does not reflect accountability.

Take, for example, integrity. China last year, after almost 20 years of assuring the world that it doesn't proliferate weapons of mass destruction, was labeled by our own CIA as the world's worst proliferater of weapons of mass destruction. In spite of that, the President said, "We will invite them over for a summit." And the Chinese were invited to the United States in October. As a matter of fact, there were nonproliferation assurances at that summit similar to the assurances that have been made over the past two decades. China pledged that it did not proliferate weapons of mass destruction. We don't involve ourselves in that.

Frankly, just a few short months later, our intelligence resources intercepted negotiations between China and Iran for China to provide anhydrous hydrogen fluoride, a material used to upgrade industrial-strength uranium to weapons-grade uranium. The material was destined for Isfahan, one of Iran's principal sites for manufacturing the explosive core of an atomic device.

It is pretty clear that the absence of integrity in the conduct of the Chinese is dramatic. It is an absence of integrity prior to the last summit, and it is an absence of integrity that followed on the heels of that summit. They will tell you one thing, and they do something else. That is not the basis of integrity that provides the foundation for a sound relationship.

Responsibility is the second key ingredient. I think most Americans were shocked—I was shocked; I was stunned—when it was revealed by our own intelligence sources that the nation of China had as many as 13 intercontinental ballistic missiles targeted on American cities, armed with massive nuclear warheads, termed "city busters." Every city in the United States of America north of southern Florida is within range of these missiles, and they are targeted on the United States of America.

I don't think that is the foundation for summitry. I don't think that is the foundation for a good relationship. We never appeased the Soviet Union while it was targeting nuclear warheads on American cities. Ronald Reagan had a sense of principle. He had a sense of determination that you don't stand as a target, while at the same time offering privileges to your adversary. That is not the kind of policy America has pursued in the past. A policy which sells out America's long-term security interests might facilitate a particular sale, it might obtain a particular favor, but it is not in the long-term best interests of the United States to stand as a target offering concessions to a country pointing nuclear weapons at our cities.

I think it is, of all things, terribly irresponsible of the Chinese to have 13 American cities targeted with their "city buster" nuclear weapons on intercontinental ballistic missiles capable of reaching virtually every city in the United States.

The third important element is accountability. Where do the Chinese stand on accountability? The trade barriers that China has toward the United States are incredible. In recent years, China's tariff levels have been about six times as high on our goods as our tariffs are on Chinese products. Not only that, China imposes nontariff barriers that make it impossible for our companies to penetrate the Chinese market. China treats American companies differently, so that U.S. firms don't have the protection of law in Chinese courts commensurate with the protection the United States extends to foreign investors in our market.

The absence of integrity, the absence of responsibility, the absence of accountability—the absence of these cornerstones of what ought to be U.S. policy means that the house of cards being constructed in summitry with China is in danger of collapse. I think if we are really interested in China policy over the long term, we ought to build the U.S.-China relationship on a foundation that demands integrity, responsibility, and accountability.

When the President's presence implicitly accepts atrocities in China, and when the Administration continues to pursue a bankrupt policy of engaging the Chinese at any cost, the interests of the American people are not served and the United States is not served at its highest and best. It is no wonder that individuals on both sides of the aisle have protested this trip. It is no wonder that this is not a partisan issue. Sure, there may be more Republicans who are willing to stand and talk about this now. But in our news conferences together, we have brought these concerns to the President, saying, you are making a mistake with the kind of things that you are intending with this summit.

The President will likely try to come home with some transaction, or some deal, to say that it was an achievement of the summit. But let us not forget that the real purpose of summits ought to be the development of sound structural relations, the kind of underpinning and foundation that will result in the potential for long-term, beneficial, constructive relationships between countries. As long as we ignore the absence of integrity, we ignore the absence of responsibility, we ignore the absence of accountability, it seems to me that we are not building the kind of relationship based on mutual respect.

I would say this: As a minimum, this summit must end with the President returning to the United States with an assurance that United States cities are not targeted by Chinese ICBMs—with some kind of verification to ensure China's detargeting of American cities is genuine.

The Chinese know that they have not acted with the requisite integrity. They know that they have not acted with the requisite responsibility. I think they understand that they have not acted with the kind of appropriate accountability that would provide the basis for the right foundation for a sound U.S.-China relationship. China, in some ways, may not expect to get the kind of relationship that mature nations dealing with one another on the basis of these values would have.

Maybe that is why the Chinese have attempted to influence elections in America with donations to buy the kind of respect they have not earned with good will.

Of all the things I would expect us to demand at the upcoming summit, one is that illegal contributions from subsidiaries of the Chinese Army not come to contaminate the political process in the United States of America.

I want to say with clarity that an important challenge for the United States is to develop sound long-term relationships with important nations around the world. We cannot develop those relationships, however, without the fundamentals of integrity, responsibility, and accountability.

We have in China today a regime whose brutal repression at home betrays its intentions abroad. America should be sounding liberty's bell, not toasting the tyrants who sent tanks to Tiananmen Square and pulled the triggers there.

I believe we need to find a way to make sure that integrity, responsibility, and accountability are the fundamental components upon which our China policy rests. To legitimize Chinese conduct absent those values, those principles, is likely to result in a long-term U.S.-China relationship with more risk than reward, with more difficulty than cooperation.

Mr. President, I thank you for this opportunity. I thank you for the time you have spent in the Chair.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 1:18 p.m., recessed until 2:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The distinguished majority leader is recognized.

VITIATION OF CLOTURE VOTE

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote scheduled for 2:15 today be vitiated, and the order with respect to the Hatch-Feinstein special order now commence.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, this Senator asks unanimous consent to be permitted to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator is recognized to speak as in morning business.

Mr. ROCKEFELLER. I thank the Presiding Officer very much.

RIGHTS FOR AMERICA'S DISABLED VETERANS

Mr. ROCKEFELLER. Mr. President, I rise today to speak about veterans' rights being bartered away. And I hope that my colleagues both here on the floor and in the various parts of the Capitol will listen to what I have to say, because it may be the last time this can be said.

These rights for veterans are being bartered away in back room deals; they are being done without full Senate consideration; they are being done without amendments; they are being done without the public's knowledge; they are being done in a way which is, to me, shocking. I am referring to the denial of veterans' disability rights that was enacted as part of TEA 21 and the process which is now going on with regard to the technical corrections bill, which is needed to amend drafting errors that were made to TEA 21.

Mr. President, I have been in the Senate now for 13 years. I have been very honored to serve on the Veterans' Affairs Committee. It is part of my Senate service that has truly made me proud. I am proud to be helping real people with genuine human needs. Coming from a great State like West Virginia, which, like the Presiding Officer's State, places great honor on military service, and in serving on the Veterans' Affairs Committee, both of these things have allowed me the opportunity to learn a lot about the sacrifices that millions of our brothers and sisters have made to preserve the freedoms that we too often take for granted. They have earned our respect in ways that many of us will never know, God willing.

I am proud to serve veterans, and I hope to continue to serve them however I can. But I am not so proud of the way this Congress—this Senate—is treating disabled veterans this year, and I wish to talk about it. I am, in fact, ashamed for all of us in the Senate. It is not a pretty story. It makes me very angry, and it makes me very sad. America's veterans—indeed, all Americans—are being subjected to an unprecedented money grab, a shell game, conducted behind closed doors, as part of the highway reauthorization process.

Mr. President, veterans have earned better treatment than they are getting. They have earned more from their Government than a process that denies them their rights without any accountability—They have earned more than a process that is out of control. I repeat, this is a process in which all of the American people are being harmed by what is being done to veterans behind closed doors.

My colleagues all need to know the truth of this. Why is it that we are now willing to look the other way when a conference report grossly exceeds the scope of the underlying original legislation? As my colleagues know, I have been fighting for many months to correct the injustice that we do this year to veterans. It is my duty, Mr. President; it is my right to do so as a single U.S. Senator; and it is my obligation.

Mr. President, we bestow upon the Republican leader the power to control the matters that are brought before this body. If the Democrats control, then the Democratic leader does it. If the Republicans control, the Republican leader has that authority. It is awesome authority. It is an awesome responsibility. But the leader has failed veterans this year.

Why does the Republican leader continue to use his power to deny full Senate consideration of H.R. 3978, the highway corrections bill? What is he afraid of? Why has the leadership turned a deaf ear to America's veterans who have been calling and writing to all of us to petition to have this bill brought to the floor? Why is it that the Republican leader will not give us the opportunity to offer an amendment to H.R. 3978 which would restore veterans' disability rights that were cut off to pay for unprecedented increases in highway funding?

Instead of bringing this bill to the floor for debate and for a single amendment—30 minutes; that is all I ask for, 30 minutes equally divided—the majority leader has simply said that he will find another way to pass this bill—quietly, covertly, out of the light of day and out of the sight of veterans. It is not a pretty sight. That other way, we are now told, will probably be the Internal Revenue Service restructuring conference report that is slated to come to the floor soon.

Now, as all of my colleagues know, when a conference report comes, it is unamendable. So it is a winning tactic. You want to get something passed, you put it into a conference report—and nobody knows about it; and nobody even knows where the conference committee is getting its directions—you put it in, then you bring it to the floor. Nobody can amend it, because it is called a conference report. It is sacred on this floor. It is unamendable, evading the usual process that would have allowed this issue to be fully aired and debated in the Veterans' Affairs Committee, the authorizing committee which has jurisdiction over veterans' compensation matters.

The highway bill conferees this spring took away a benefit that had been granted to disabled veterans under existing law—there is no new program here, it is under existing law. The conferees took something away from disabled American veterans—found disabled because of their inservice smoking addiction, having passed through a terrific series of tests which eliminate virtually all of them.

Now, once again sidestepping the regular process, the Internal Revenue Service restructuring conferees will fail to restore the benefits cut in the highway bill. It will be done at the direction of the Republican leader. And I know something whereof I speak, because I have talked with some of the conferees. That is why I am here to share my sense of outrage with my colleagues.

This is a critical issue of justice and fairness to people who are addicted because of the efforts of the U.S. Government in part, and in some cases in full. And every moment that we wait to correct this injustice, veterans and their families are irreparably harmed.

Right now, the Department of Veterans Affairs is holding veterans' smoking-related disability claims in abeyance, just holding them until this corrections bill is passed. And when I say this "corrections bill," I am talking about a corrections bill we will probably never see, we will never have a chance to debate; there will be no 30 minutes equally divided; there will be no up-or-down vote so Americans will know where people in the Senate stand on this matter—because it is being done in quiet.

All of this means that the VA is not deciding any of these claims.

Some were filed over 5 years ago and those folks have already been waiting all of this time for decisions. Their lives are on hold. Some claimants will have died. In fact, I suspect a lot of them will have died waiting for a decision. Some of their widows will have lost their homes since they did not have a VA check to make ends meet because the veterans' disability compensation has been cut off in secret. Every day that we wait, another veteran or a widow is irreparably harmed. We can't go back, but we can help those who are still waiting.

Let's review the history of what happened here. I understand the Senate wishes to do other things. That is of no concern to me at this moment. What I am concerned about is these people and their future. In a disingenuously conceived fiction, the Clinton administration and the Budget Committee this year created some imaginary "savings." It was a lovely scheme.

I had all the OMB people in my office coming to tell me about the wonderful things that they were going to do with this money and that it would be used to help pay for all the President's projects in his budget, but they were doing it at the expense of disabled American veterans who, until recently, under current law, had the right to file disability claims if they are addicted to nicotine because of the U.S. Government. So they create imaginary savings. The Clinton administration did this, first, by increasing the budget baseline by an artificially inflated, absolutely unrealistic, ridiculous estimate of the cost of disability claims of veterans suffering from smoking-related diseases, and then at the same time by proposing to change existing law to bar disabled veterans from receiving this compensation. Well done, well done. The paper savings they created were then used to fund a huge increase in the highway bill.

Now, these savings, Mr. President, you have to understand, are not real. This is a big shell game. They exist on paper only. They are based on an estimate of 500,000 veterans who would file tobacco-related claims each year. As I have said, so far a total of 8,000 have applied and only 300 claims have been granted. So you can now grasp the ridiculousness of the estimates on the part of the Clinton administration—but still, they came over and argued this. There were calls from the White House, calls from OMB, visits from the White House, visits from OMB.

Experience indicates there is no factual basis for this ridiculous estimate. The reality, as I will say again, is that only 8,000 veterans have filed such claims over the past 6 years. So you can see these numbers are totally pie in the sky, merely a self-interested guess, a self-promoting guess by OMB.

Make no mistake about this, the huge increase in highway spending is, in fact, being paid for by make-believe savings, paid for by a devious fiction which is really spending of the surplus which we all so jealously claim to be protecting. Shame on every one of us, all 100 of us. Shame on us for perpetrating the fiction and then for cutting off of the current law for disabled American veterans who are disabled due to tobacco-related illnesses.

Although based on fiction, the impact of this number shuffling is very hurtful and real. The benefit that has been granted to disabled veterans under existing law has been summarily eliminated by a sleight-of-hand action, without consideration by the authorizing committee—which has jurisdiction, I might add, over compensation issues—in a complete mockery of our budget process and of regular order in the Senate.

We have created new ways of doing things in this body in order to avoid this issue. Now this is what I have called a midnight raid on veterans' benefits. I have used these and other words in the past and I could use stronger words. To put it bluntly, America's veterans have been wronged by back-door trickery. Funding for the veterans' benefits have been cut; imaginary savings have been diverted to pay for highways; and veterans' disability rights have been placed in jeopardy.

No, it is not too late to correct this. It is not too late to correct this injustice done to disabled American veterans. The necessity of passing a technical corrections bill to the highway bill provides the opportunity to do just that. Those interested in the highway projects listed in the corrections bill are very interested in passing this bill. So believe me, we are going to pass it. It is probably going to come to the floor attached to the IRS Restructuring conference report. Or it will come attached to something else. In any case, there will be no chance for the disabled veterans, but plenty of chances for more Federal dollars for highways.

The amendment I offer would strike the veterans' disability compensation offset from the underlying conference report on H.R. 2400. I have requested that it be put to an up-or-down vote so that America's veterans can see, in the light of day, where their elected representatives choose to stand on this issue.

Now, let me be clear what my amendment would and would not do. First and foremost, be assured my amendment strikes no highway project. These projects are already in law. My amendment would fully preserve each and every highway dollar and project that was included in the highway bill. I voted for the highway bill. I support highway funding. I come from West Virginia. Only 4 percent of the land is flat. You think that we don't need roads? Not a single project in West Virginia or any other State will be affected in any way, shape or form by this. Why? Because the projects will be funded through the appropriations process.

Second, my amendment would not trigger a sequester. That is one of the contentions of those who would deny disability benefits to veterans. It is untrue. My amendment is protected by the same budget trickery, to be honest, that covered the TEA 21 bill and that waived certain provisions of the Gramm-Rudman Act.

Third, the amendment I propose does not provide any new benefit to any veteran. It merely restores the state of the law prior to the enactment of the highway bill. The law was based on interpretation of VA's existing obligation to veterans to provide compensation for smoking-related illnesses. Veterans who file claims for smoking-related illnesses would have to meet the same legal and evidentiary requirements as claimants for any other service-connected disability. The test to establish these claims is, as I have indicated, very tough. I remind you, only 300 have passed so far.

The veteran must prove that the addiction to use tobacco began in the military service, that the addiction continued without interruption, and that the addiction resulted in an illness, and that the addiction resulted in a disability. He must prove all of that. Eight-thousand have tried and 300 have been successful. Easy test? Not quite.

It is imperative that the correction bill be brought to the floor where it can be debated and amended. If TEA 21 is permitted to stand uncorrected, an entire category of veterans' disability rights will be eliminated. Even claims of veterans who became ill with tobacco-related illnesses while on active duty will be cut off. And smokers' claims for conditions that may be associated with tobacco use, but are also presumptively service connected—please hear this—based on exposure to Agent Orange or radiation, may also be cut off. What are we doing here?

Moreover, in a provision that truly adds insult to injury, the conference report makes tobacco use in the military an act of "willful misconduct." Do you know what that means, Mr. President? It means that veterans are justifiably outraged that smoking could be considered "willful misconduct," equating smoking with alcohol or substance abuse. They feel betrayed by a Government that encouraged smoking during their service, and now would turn its back on the health problems that resulted.

If H.R. 3978, the corrections bill, is allowed to go forward as drafted, and unamended, veterans and their survivors will forever lose their ability to seek compensation for tobacco-related deaths or illnesses resulting from nicotine dependence that was incurred in service. These veterans will lose their ability to get VA health care. Veterans with service-connected conditions receive priority free health care. If you add it up, if service connection for compensation purposes is barred, using CBO numbers, there will be about 700,000 veterans who will very possibly be turned away from access to VA health care.

The Government's role in fostering veterans' addiction to tobacco during their military service is well known and much "untalked" about in current weeks. Smoking was thought to calm the nerves. I had lunch with one of my best friends the other day, and he told me that back in World War II he was given free cigarettes in C rations and K rations, and discounted cigarettes—cigarettes which didn't have any warning on them until 5 years after the FDA required that they be put on civilian packs of cigarettes. No; they were encouraged to "take a smoke break, relax, calm yourself. Sure, this is battle and training and it is stressful, but this cigarette will help you." The voice of the U.S. Government was speaking.

So all of this represents a shameful abuse of the trust of our young service members. How can we now turn around and call a behavior encouraged by our Government "willful misconduct"? How do we do that? How can we turn our back on these veterans' need for health care? Well, we are doing it by ignoring the consequences of the highway bill and by ignoring America's veterans.

There has been a lot of talk about veterans and smoking in the last few months. As you know, this Chamber adopted an amendment to direct a portion of the proceeds from the tobacco bill—if we can remember that far back—to VA health care. That action, of course, is now meaningless. Senator MCCAIN was for the amendment and so was I. The amendment was for health care, not compensation for the disability of veterans made ill by tobacco that was foisted upon them by the U.S. Government in service to their country.

So we have no tobacco bill now. Those of my colleagues who sought refuge in the tobacco legislation now are going to have to look for some other place for refuge.

Some may also point to the provisions in the highway bill that provide enhancements to some very important VA programs. It was said to me early on, "Senator ROCKEFELLER, you have to understand that we put a lot of things in this technical corrections bill that are for veterans. You can't be against these, because that will cut those things out." And so they put in some enhancements to the GI bill, grants for adaptive automobile equipment, and a few other programs.

I am sorry, but veterans are not to be bought off. Veterans are unanimous in their view of this. This is $1.6 billion in benefits that veterans could have. But the price is the abolition of the right for disabled veterans to seek compensation for tobacco-related illnesses—I am sorry, Mr. President, that price is too dear. Our friends in the veterans community speak with one voice on this issue, and I agree, they cannot support the increase in benefits to one set of veterans, to be paid by the cutting of essential benefits to another class of veterans who already have those benefits under law. Veterans across this Nation reject this attempt to buy them off.

So I repeat—and I am not ordinarily this partisan, and I hope that the Presiding Officer understands that—what is the majority leader scared of on this? Why can't we have a vote on this? This is a basic, moral issue—to determine the way that the U.S. Government chooses to present itself to the American people. There is a fundamental, moral principle involved—undoing current law, under a budget fiction, started by the Clinton administration, and joined in by the majority. So the result of all of that power is that veterans are shut out, dumped, and then cut out of the law from this point forward. Why does the Leader not bring this bill to the floor so it can be debated and amended? Why does he have to move this in the dark of night? Once again, I urge the majority leader to bring this corrections bill to the floor.

I participated in a conversation at the back of this Chamber with one of the conferees on the IRS bill, describing how, oh, yes, it was probable that this technical corrections bill would be put into the IRS conference report. That sounds positive, doesn't it? No, it is highly negative. That means that when it comes to the floor, it cannot be amended or debated. It can only be voted up or down, and the veterans lose on all fronts from that action.

My colleagues need to understand that there is a huge problem with the majority leader's tactic. American veterans will not be fooled by what he and others do here. American veterans are not stupid, and they are angry. They will see through this charade, but most of the Members of the Senate do not see through this charade—the charade of how the funding process began and how the highway money comes out of the surplus and the phony savings. I bet there wouldn't be 12 Senators on this floor, who would understand exactly what happened, how absurd the whole thing is, how embarrassing the whole thing is, and how wrong it is for veterans to not even be given a chance.

America's veterans are justifiably losing their faith in Government. This will accelerate that process for American veterans. They no longer believe that the Government that they fought to preserve intends to meet its obligation to them. I share their fear.

What is obscene about all of this is that this denial of disabled veterans' benefits occurred just before Memorial Day, when everybody on this floor and in the other body was pouring out words of patriotism, appreciation, love, respect, reverence to veterans for all they have done for their country. But in the Halls of Congress, actions often belie these words. If we do not take care of America's veterans now, one might say, who will take care of us in the future? To secure the soldiers we will need in the future, we must maintain the promises made to those who protected us in the past.

Thirty minutes equally divided up or down, Mr. President, I submit is a fair request on behalf of disabled American veterans.

I thank the Presiding Officer.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is recognized to speak for up to 20 minutes as in morning business.

The Senator from Utah.

Mr. HATCH. I thank my colleagues.

Mr. President, it is my understanding that the Senator from Utah has 20 minutes and the Senator from California has 20 minutes.

The PRESIDING OFFICER. The Senator is correct. He will be followed by the Senator from California, who has 20 minutes.

Mr. BREAUX. If the Senator will yield, may I have a few minutes from either Senator?

Mr. HATCH. We will be happy to do so.

TOBACCO LEGISLATION

Mr. HATCH. Mr. President, I rise to announce that—contrary to press reports that tobacco legislation is dead—in fact, a strong, bipartisan effort to enact meaningful tobacco legislation is very much alive and well in the Senate today.

Last week's action by the Senate on the Commerce Committee tobacco bill should not be viewed as a failure by this Senate to pass tough tobacco legislation.

Nor should it be viewed as a victory by tobacco companies and tobacco lobbyists to kill tobacco legislation and deny the public health benefits from a strong bill.

To be fair, there were many criticisms of the Commerce bill. It suffered from a myriad of legal problems, including several unconstitutional provisions. Its costs were very high, perhaps as high as $800 billion. It could have provided enhanced opportunities for black market sales, with accompanying crime and violence.

And, a bad bill was made worse on the floor with adoption of several, additional competing spending priorities which—however well-intentioned—diverted from the primary focus of the bill [e.g. child care, illegal drug abuse, tax cuts.]

In my opinion, the four weeks that the Senate spent on the tobacco bill were a critical and useful exercise in educating ourselves—and the American public—on the numerous complexities of the tobacco issue. By and large, we now have a better understanding of this issue and what Congress should do to develop a good bill.

Accordingly, Senator FEINSTEIN, Senator BREAUX and I have come to the floor today to announce our bipartisan effort to work toward a strong tobacco bill that, we believe, will be acceptable to the vast majority of our colleagues.

There are eight cosponsors on our side and three cosponsors thus far on the Democrat side. And it is bipartisan.

We must not lose sight of the fact that we have a very real opportunity, a compelling opportunity to act on tobacco this year.

We believe the best framework for legislation clearly remains in the provisions of the June 20, 1997 global tobacco settlement that was agreed to by 40 State Attorneys General and the tobacco industry.

This document should serve as the blueprint on which the Senate should act. It should be clean of extraneous provisions and programs and targeted to the overwhelming need to educate our nation's youth on the hazards of tobacco use.

I call upon my colleagues—both Republicans and Democrats—to join us in this bipartisan effort to protect the lives of American youth.

I call upon the President to work with us in a bipartisan effort to forge meaningful tobacco legislation. Without your active participation and support, Mr. President, there can be no tobacco bill. Together we can make a positive and defining difference.

Senator FEINSTEIN, Senator BREAUX and I are prepared to move forward with tobacco legislation that is constitutionally sound and that will protect millions of Americans, both young and old, from the enticement of the deadly tobacco habit. We simply cannot lose this opportunity.

We do not intend to remain on the sidelines while this issue languishes and political rhetoric is thrown back and forth.

Some of my colleagues have stated they intend to offer the Commerce Committee tobacco bill as an amendment to all appropriate legislation on the floor of the Senate. Let me say to my friends that I share your concern that the Senate should pass legislation this year.

I ask that you join us in our bipartisan effort to enact a settlement-based bill. Together we can realize enactment of tobacco legislation that has seemed so illusive over the past several weeks.

I would like to outline this legislation so that my colleagues will understand the basics of the bill that we will file in the future.

Number one, the key to an effective program, according to public health experts, is that it must be comprehensive.

The Hatch-Feinstein bill accomplishes this goal with major provisions that build upon the June 20, 1997, agreement and the plaintiffs' attorneys' settlement proposal. Ours would require $428.5 billion in payments over 25 years. That is $60 billion more than the June 20, 1997 proposal.

Our bill will focus on antitobacco activities, including prevention and research efforts, and give full FDA authority over tobacco products. This is important because no comprehensive, antitobacco bill can be passed without the voluntary cooperation of the tobacco companies.

When the proposed settlement was announced last June, with a record $368.5 billion in industry payments, we were all astounded that the tobacco companies would agree to pay that whopping amount of money. That record amount, that "ceiling" as it were, was astounding. Now there are those who talk like that is nothing.

Our bill will add another $60 billion to that $368.5 billion in required industry payments over 25 years.

I am hopeful our bill will bring the tobacco companies back.

Yes, they will be kicking and screaming. They will be angry. They will be upset. But, I predict they will come back.

There has been considerable debate in this body about the adequacy of the industry payments. I wish we could require $1 trillion in payments.

The plain fact is that we have to be reasonable. If we want a comprehensive and constitutional bill, then we will have to insert provisions to bring the industry back to the discussion. Only with their participation can we have a truly constitutional, comprehensive bill.

Of the $428 billion in industry payments, $100 billion will be devoted to biomedical and behavioral research.

These significant new revenues are devoted to efforts to prevent, treat, and cure tobacco-related and other illnesses. We have included funds for behavioral research as well, so that we can determine the causes for youth tobacco use and determine how best to address them.

Let me emphasize, we provide $100 billion over 25 years, or $4 billion a year, for biomedical and behavioral research, with no possibility the funds will be diverted for other, non-tobacco-related purposes. That is something that will benefit the public health of this country significantly.

We also provide $92 billion for important public health programs to combat youth tobacco use, including counteradvertising, smoking cessation, and public education. Again, this is all for tobacco-related public health programs.

We also include $18.7 billion for tobacco farm families, by melding the Lugar bill and the best of the LEAF Act, Senator FORD's bill, other than continuing the subsidies.

Public health authorities insist that increasing tobacco prices is an important weapon in our anti-youth-tobacco-use arsenal. Law enforcement is equally adamant that price increases will lead to greater opportunities for black market sales. Our bill will substantially enhance law enforcement resources at all levels—Federal, state and local—and will also provide new criminal penalties for trafficking in contraband. The Hatch-Feinstein-Breaux bill will provide $9.4 billion for law enforcement efforts, which will be essential in the eyes of law enforcement.

Turning to another provision, our bill includes $5 billion for tobacco-related programs for Native Americans, who are particularly hard hit by some of the problems that come from tobacco. We provide $200 million a year for these Native American programs.

Let me add that we also give FDA strong and new authority over tobacco products, authority that is in question in light of current litigation over this issue. We also include strong look-back assessments, which, without the tobacco companies on board, will not be constitutional.

In addition, when I say we give FDA strong new authority, we mean it. We not only give them the authority, we give them the authority to ban tobacco products, with the consent of Congress, right from day one. And we require them to issue strong performance standards that industry must meet so that we can be assured that any tobacco products sold in the future, meet government-mandated standards with respect to their critical components, such as tar and nicotine and all other additives. So that is important. That is quite a bit different from what was included in the Commerce bill, where the performance standards were permissive, not mandatory. We keep the industry's feet to the fire by including a strong look-back provision which will provide the industry with the incentives to be good actors, but which will provide stringent penalties if they are not.

We provide $204 billion to the States to settle their suits and provide reimbursement for their Medicaid costs. We waive Federal recoupment of these funds under Medicaid law.

The challenge for Congress is to design a program which works and which will withstand legal challenge. The problem with the Commerce bill, had it passed, is that it would have been litigated for probably 10 years, because it was unconstitutional.

Senator FEINSTEIN, the other cosponsors, and I, have worked very hard to avoid constitutional and other legal pitfalls which handicapped the Commerce bill.

So, to sum up, our bill contains constitutionally permissible advertising and marketing provisions, advertising restraints well-beyond those contained in the FDA rule. We have strong look-back assessments—up to $5 billion in penalties in 2004 and up to $10 billion by the year 2009 if the industry does not meet the reductions in youth-smoking that we set in the bill.

And our bill mandates establishment of a documents depository in a central location, Washington, DC, where all of the tobacco companies will deposit critical industry documents. This will be done by volition, since the companies will have agreed to the protocol contained in the bill. This should make it easier for individual claimants to sue and to recover. And that is no small thing.

Now, under Hatch-Feinstein, the manufacturers, State governments, the Castano litigants, and the Federal Government voluntarily execute a binding and enforceable contractual agreement, so that tobacco companies will have agreed, voluntarily to meet the requirements of the bill.

Similarly, with the industry voluntarily consenting to the agreement, this obviates any constitutional problems with the look-back provision.

We have included several limited liability provisions, which is the one prerequisite to the industry voluntarily agreeing to a bill; this will give the industry greater predictability in their financial exposure due to lawsuits, and which in turn will provide the Federal Government with a more predictable revenue stream to operate its new antitobacco program.

Now, with respect to the limited liability provisions, we settle all Federal, State and local suits, including class actions, in line with the settlement nature of the legislation. That is what the attorneys general did. Shutting off the State litigation allows us to provide the States, counties and cities with guaranteed payments of up to $204 billion, without the need for costly and time-consuming litigation and without Federal Medicaid recovery.

Specifically, we provide $204 billion to the States. Forty percent of the State funds are untied; 60 percent of the State funds are targeted for 14 specific programs.

We fully preserve all individuals' rights to pursue their injury claims, and all individual suits will be preserved and allowed to proceed except for those making claim for treatment only of addiction or dependency.

We settle all past punitive damages in exchange for an unprecedented $100 billion which will be used for biomedical and behavioral research. Future judgments against the industry, with the exception of claims for addiction and dependence, will be subject to punitive damages, but they will also be subject to a cap on total awards during any given year.

May I ask, Mr. President, how much of my time is remaining?

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Utah has 8 minutes remaining.

Mr. HATCH. Let me just proceed a few minutes more before I turn to my colleagues, and then I will reserve the remainder of my time.

The Hatch-Feinstein-Breaux bill contains many provisions that mirror those contained in the proposed settlement of June 20 of last year.

We are trying to accomplish the art of the impossible. We want to enact this astounding settlement, this unprecedented agreement wherein the tobacco companies voluntarily concur in making large annual payments in exchange for unprecedented new advertising bans and future look-back penalties.

If we cannot maintain the consensual nature of the original settlement, then we lose the ability to accomplish many of the key elements of any comprehensive anti-tobacco legislation.

I want us to go home this year proud that we have enacted a good bill, not ashamed of our inaction or our action on a faulty bill.

I thank my colleagues for being willing to support this bill. On the Republican side it is myself, the Senator from Oregon, Mr SMITH, Senator JEFFORDS, Senator GORTON, Senator BENNETT, Senator HUTCHISON, Senator KEMPTHORNE, and Senator DEWINE; on the other side, Senators FEINSTEIN, TORRICELLI and BREAUX. Let me reserve the remainder of my time.

The PRESIDING OFFICER. Under the previous agreement, the Senator from California has up to 20 minutes.

The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair. I would ask that I be notified when 10 minutes of my time has gone by, and I will try to share it with the distinguished Senator from Louisiana.

Mr. President, Senator HATCH and I have prepared our bill based on some ten hearings in the Judiciary Committee and is based on, we believe, would create a consensus to create a bill which would do the following: Create a pure tobacco bill with no additional tax measures, no drug enforcement programs, no voucher programs, but which would provide some incentives for the tobacco industry to agree, while increasing the per-pack price, and this is a gross figure, to about a $1.50 over 10 years. This would include excise and State taxes, wholesale and retail markups, manufacturers take. This bill would also ban all tobacco advertising geared toward children and ensures that the FDA has the necessary regulatory authority to regulate the consents, and to limit nicotine. It would also provide, as Senator HATCH has just said, some $92 billion over 25 years for tobacco-related public health programs, and $100 billion over 25 years for research, with tough look-back provisions that require the industry to reduce youth smoking by 67 percent in 10 years.

It would also require States to negotiate an allocation of tobacco funds to counties that filed lawsuits before the June 20, 1997, deadline.

As you know, the McCain bill as it came out of the Commerce Committee, required a total payment of $516 billion over 25 years. The Hatch-Feinstein proposal requires $428.5 billion over the same period. Under the McCain bill, as amended, it would have diverted about half the funds to programs unrelated to tobacco or public health. Under the McCain bill, there was less money going to public health programs and to the States than under Hatch-Feinstein, since 26 percent of the funds right off the top went to an election year tax cut. For instance, for the first five years, $47.2 billion would be left over after the tax cut, the Coverdell amendment then takes the great bulk of funds available for public health programs and uses it for drug enforcement, border patrol and school vouchers. That bill allocated 40 percent of the remaining funds available for State programs, while Hatch-Feinstein allocates 50 percent of the funds directed to the State.

Under our proposal during the first five years, there would be $10 billion more money for Federal public health research and antitobacco programs. There would also be $7 billion more money for State public health and antitobacco programs. The public health aspect, we believe, is the most important part of this legislation. Additionally, one of the most critical areas which must be addressed for any tobacco legislation to be successful in reducing youth smoking, I believe, is advertising. The tobacco industry knows that millions of smokers quit annually and approximately 400,000 Americans die from smoking-related diseases each year. They also understand that 89 percent of all new smokers are adolescents, and for their market share to continue they must continue to market cigarettes to children, and they do.

So, advertising plays a central role in leading young people to smoke.

We know that tobacco companies can no longer advertise on television or radio, so they use alternative forms of advertising and promotion to persuade teens to start smoking. We know that, despite endless promises by the tobacco companies that they have not and would not market to children, that they would not use advertising to appeal to children, they have done exactly what they promised not to do. And the evidence is staggering.

Mr. President, 87 percent of adolescents could recall seeing one or more tobacco advertisements and half could identify the brand name associated with one of four popular cigarette slogans. As a matter of fact, in 1986 Camel cigarettes ranked seventh in popularity among the youngest age group of smokers, with less than 1 percent of all children smoking Camels. One year after Joe Camel was introduced, the brand jumped to No. 3 among teenage smokers—from No. 7 to No. 3—because of Joe Camel. This shows a clear relationship between advertising and teen smoking.

Three months ago, I saw a tape of a television news report where a beautiful 3-year-old girl was able to match the cartoon Joe Camel with the photo of a cigarette. It was chilling. Even a 3-year-old could associate Joe Camel with cigarettes, and it was a positive association. Some have even said more children recognize Joe Camel than Mickey Mouse. It should not be this way in the United States of America.

Our provisions in this bill with respect to advertising are as follows: The companies would have to agree to ban all outdoor advertising; all Internet advertising; all stadium/arena advertising; sponsorship of athletic, music, and other cultural events; human images in ads; cartoon characters in ads; product placement in movies, TV, video games, youth publications, and live performances; placing tobacco logos on nontobacco merchandise such as hats and T-shirts; color and image advertising except for adult-only locations; all adult magazines and newspapers; music and sound effects in audio and video advertising.

So, if a company wants to advertise in media other than periodicals, promotional material, and point-of-sale materials, it must give a 30-day notice to the FDA. These are broad, far-reaching restrictions which will severely limit exposure of children to tobacco advertising.

Senator HATCH has laid out the liability provisions very well. Something I think we have all learned from this debate is that there should be some form of liability cap. That is the incentive—part of it—for the tobacco companies to comply. Our bill caps liability at $5.5 billion. As Senator HATCH stated, it would terminate all Federal, State, and local suits, Castano action, class action, individual preventive addiction and dependency claims.

But all individual suits will be preserved and allowed to proceed, with the exception of those making addiction or dependency treatment claims for past conduct by the companies. They could continue the addiction and dependency treatment as long as an illness was related. Consolidation would be allowed by court action or by motions to join cases filed by individuals.

Additionally, as I have mentioned, the Joe Camel suit was actually brought by a county, and yet that suit was jettisoned in the prior legislation. So we require that the states with those counties who have filed suit before 6/20/97—San Francisco, Los Angeles, Cook County, New York City, and Erie county—that they would all be recognized and provided for in this particular bill.

I want to speak to the look-back provisions for a moment, because we set tough industry targets to reduce youth smoking and they are the following: 15 percent in 3 years, 30 percent in 5 years, 50 percent in 7 years, and 67 percent in 10 years. And the penalties are actually stronger in our bill. The McCain bill, for example, had $40 million penalty per point when the industry is 1 to 5 percent short; we would have $100 million per point. Under McCain, if an industry is 6 to 20 percent short, their penalty would be $120 million per point plus $200 million. Ours impose $200 million per point. Under McCain, it imposes a penalty cap of $2 billion per year industry-wide and $5 billion per year company-specific cap; in our bill, it is $5 billion per year for 5 years and $10 billion thereafter industry-wide.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. FEINSTEIN. If I might have 1 minute to sum up and then yield to the distinguished Senator from Louisiana?

Another provision in our bill that I want to speak to is the antismuggling provision. I heard so many people say, you don't have to worry about a black market, it is not going to happen. There is a black market today in California based on the present $2-per-pack price. The trick really is how the bill phases in per-pack pricing increases plus FDA's regulation of content and nicotine to see that it is done in a way that does not create an increased black market or increased smuggling. We provide in our bill an additional $9.4 billion over 25 years for enforcement of antismuggling provisions.

So, if the ultimate goal of tobacco legislation is to reduce teen smoking and smoking overall, we believe this bill will pass scrutiny by our colleagues. We offer to work with anyone who cares to work with us.

I would like very much to thank the chairman of the Judiciary Committee. I very much enjoyed working with him on this bill.

I now yield the remainder of my time to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I thank my colleague for yielding some of her time. As well, I thank Chairman HATCH for the work that he did on this legislation. I think the two previous speakers really need to be congratulated for bringing to the Senate a commonsense approach to what has become a very tragic situation. I would like to make just a few comments about it.

You know, in Louisiana, where I am from, there is an old saying that if you like the end product, there are two things you should never watch being made; one is sausage, and the other is laws; because if you like the end product, you don't like the process that you go through to make either laws or sausage. If you observe it too carefully, you will never like the end product, perhaps is what they are trying to say.

The point I am trying to make today is, what has happened on the tobacco legislation, I think, is indeed very, very tragic, because what started out with very good intentions has ended up with a very serious loss for all Americans who are concerned about trying to do something about tobacco. There was a poll by one of the television networks on Friday night. It said that 47 percent of the American people were pleased that the tobacco legislation that came up in the Senate was defeated; 46 percent said that they were disappointed it was defeated. The American people have to be horribly confused about the situation, where we are and what has transpired.

Do you know what we are engaged in now? We are now engaged in Monday morning quarterbacking. Members of both parties are trying to figure out how we can blame each other for the defeat of something that started off so pure and so good, with the best of intentions. Now all you see is spinmeisters saying, well, it is the Republicans' fault, because they are trying to load it up with marriage penalties and vouchers and they made it a tax bill and then they decided it was too loaded up after they loaded it up.

There are some on our side who said, "Well, no, this legislation wasn't nearly enough and wasn't tough enough on tobacco. We can be tougher on the tobacco companies than anybody else. Just watch what we can do when we want to be tough on tobacco companies." So we started with a product that was a good product in the beginning. Then, we made it so difficult that you broke the cooperation between all of the parties that is essential to get any kind of good agreement.

I suggest there is plenty of blame to go around on both sides. That is why 47 percent of the American people believe they are glad the tobacco bill is defeated; 46 percent do not feel happy, that the Senate should have passed it. The American people have to be horribly confused. I think now we have to take a look at where we are. What do we do? Do we continue to play the blame game for the rest of the year? Do we continue to see who can get the most political advantage? Or do we try to make one last desperate but incredibly important effort to put something together that we can pass and that will work?

It is really interesting if you look at what happened. You have to start from where we started. The June 20 attorneys general agreement was a compromise that really got the job done. People have come to the floor of the Senate and said, "I can't be for that because this bill was written by the health groups." Others have said, "I can't be for this bill because this bill was written by the tobacco companies." Or they can't be for this because it was written by the attorneys general or it was written by the plaintiffs' lawyers.

The truth, in fact, is the reason the June 20 attorneys general agreement was so good is because it was written by everyone involved. It was written by the attorneys general, who filed suit on behalf of 40 States against the tobacco companies. It was written by the tobacco companies, who were the ones being sued. It was written by the lawyers for all of the injured plaintiffs who had suffered injuries from smoking-related activities. That is why it worked, because it was not written by just one group, but it was written by everybody who had an interest in trying to get a realistic settlement passed.

Now, all of the people who have now said that what we had on the floor was not nearly enough, I think they thought the June 20 agreement was pretty good. I was just looking at some of the old press releases about the June 20 agreement. One caught my attention the most. It was from the Campaign For Tobacco-Free Kids, which has been one of the strongest advocates for more, more, more, more, more. I understand where they are coming from, and I understand their position.

But when the June 20 agreement came out with the attorneys general and the tobacco companies, which was far less than the bill they opposed on the floor from their perspective, here is what they said about the June 20 agreement:

> The agreement with the tobacco industry announced by the state Attorneys General has the potential to save millions of lives, prevent children from starting to smoke, and help break the cycle of addiction for both children and adults.

They continued:

> This agreement has the potential to achieve more than could be realistically gained by any other means. The agreement can be a historic turning point in the decades-old fight to protect children from tobacco addiction and bring about a fundamental change in the role of tobacco and the tobacco industry in our lives.

They continued by saying:

> The agreement goes well beyond the provisions of the FDA Rule in terms of reducing youth access to tobacco products and curbing tobacco marketing.

It goes on and on and on praising the June 20 agreement. The bill on the Senate floor was far better than this agreement, which they said such wonderful things about, yet because of a desire for more and more and who can be tougher, we ended up getting less and less and less. And where we are today is very unfortunate.

Where we are today is, there is no settlement of any of the lawsuits. No plaintiff has ever put a nickel in their pocket as a result of suing a tobacco company. This would have provided that. No settlements because of where we are; no money for the States for their Medicaid programs; no money for the States for tobacco-related expenses; no money for the National Institutes of Health to do research in this area; no additional authority for FDA to regulate nicotine as a drug; no advertising and marketing restrictions; no targets for reducing teen smoking, with penalties if these targets are not met. There is no help for farmers for getting out of the business.

And what we have now is a debate about whose fault it is. We are arguing about failure. We are arguing that, "It's your fault nothing was done"; "No; it's your fault nothing was done," instead of trying to put together a compromise where we can argue about success, where we can argue about a bill that would provide all of these things that I have just outlined, and the distinguished chairman of the Judiciary Committee outlined and about which the Senator from California spoke. We have none of that now. And we have none of that because of this rush to see who can be tougher and tougher and tougher.

I am suggesting that what Senator HATCH and Senator FEINSTEIN have brought before the Senate is a major undertaking. And we are at the point where it is time for cooler heads to prevail. We have had the political debate. We have had the political arguments. We have had the pollsters talk about who comes out the best. And in fact, the truth is we all come out, I think, looking pretty bad.

So I conclude by thanking Senator HATCH and Senator FEINSTEIN for doing what they are doing. The status of the tobacco legislation now, because of the Senate's action, is that it has been sent back to the Commerce Committee. I think we ought to take this legislation and bring it back to the full Senate.

Now that we have had the political discussion, perhaps we can find a way to come together and do something where everybody can get credit. Both sides can get credit, and the American people will win. Right now we have a situation where I am afraid that everybody is a loser. This is a good, solid, balanced approach that needs to be enacted. Thank you.

Mr. HATCH. I am happy to yield the last couple minutes of my time to the distinguished Senator from California, if she would like.

Mr. President, let me just bring one other point to the Senate's attention. Press articles in the past few days make it abundantly clear the need to enact a national settlement.

Yesterday, the Washington Post had a front page article: "Tobacco Pays for Crusade Against Itself." Think about that for a minute. This article highlights what it calls an "all-fronts attack" on tobacco, a massive counteradvertising campaign paid for by the industry itself. Those potent tools would be used by all 50 States if we enacted a national settlement. The article highlights the strong counter-advertising message that is being delivered in Florida because of the settlement.

Then today, the Post ran another article that was entitled: "Appeals Court Voids Award in Tobacco Suit." This article describes the Florida court of appeals action to overturn a $750,000 judgment against the Brown and Williamson tobacco corporation for a smoker who lost part of his lung to cancer.

Experts agree that the ruling, which overturned a judgement termed by the AMA as a "milestone," has important national implications. This jury award was just the second jury award against a tobacco company in all of our history in this country.

Now, you can go back to the 1960s, when I became a young lawyer in Pittsburgh, PA. The first antitobacco cigarette cancer case in the history of the world was brought to the Federal district court by none other than Jimmy McArdle, one of the greatest plaintiffs' attorneys who ever lived, the lead partner in the law firm McArdle, Harrington, Feeney, and McLaughlin.

That was a big battle. This case was publicized all over the country. It was the first loss of literally hundreds of cases.

The ruling in the Florida case was just the second awarded against tobacco companies, and its reversal once again demonstrates how hard it is to successfully sue the tobacco industry.

This ruling affirms the vitality of the common law doctrine of assumption of risk which bars recovery if the plaintiff knew the risk of his action. Because of the assumption of risk doctrine, the tobacco companies win almost all their cases.

A national settlement bill, such as Hatch-Feinstein, would assure an orderly and rational payout of funds by earmarking annual payments. It would avoid the so-called "race to the courthouse" that has so many of us concerned.

These two Washington Post articles point out the need for a "global" approach in the words of the Attorneys General.

I would happily yield the remainder of my time to my friend from California.

Mrs. FEINSTEIN. I thank the chairman. And I thank him very much for all his work in this area.

I think, just to summarize—and I recognize there is a lot of territorial imperative resounding around this issue. And I hope that can be put into perspective and that we can look to find something around which we can rally.

True, this is a compromise proposal. I hope it will not be dismissed out of hand. It has a liability cap, yes. It has strong look-back provisions. It provides $428 billion over 25 years. It does divide the money 50-50 to federal and state. The money that goes to the State can be used for 14 specific programs. The money that goes to the federal fund is used for tobacco-related research and public health programs. It does have the FDA provisions. It does have strong advertising provisions.

Now, as I have talked to people, there is a kind of purist attitude that "Unless a bill is this or that, I won't vote for it." Well, there are a lot of strong feelings on behalf of all of us. I could say—and it is true—my calls on tobacco reform have run dominantly in the negative, those people opposed to reform. And yet I think there isn't a Member in this body who does not understand that tobacco reform is something that is important, just forged from one statistic—and that is 3,000 young people a day beginning to smoke, and 1,000 of them dying from tobacco-related illnesses.

We know we have to do something. We do know when you raise the price, teenagers stop or are deterred from buying. If you combine that with a strong no-advertising provision and a strong look-back provision to keep the companies honest, I think you have a bill that is about as good as one can get.

So I'm very pleased and proud to join with the chairman of the Judiciary Committee, once again, to offer to work with whomever in this body so that we might be able to introduce a bill that will be looked upon with favor by a majority.

I thank Chairman HATCH and I yield the floor.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. The order of June 18, 1998, in regard to H.R. 4060 has been executed.

The bill is passed, and the conferees have been appointed.

(Pursuant to the order of June 18, 1998, the Senate passed H.R. 4060, making appropriations for energy and water development for the fiscal year ending September 30, 1999, after striking all after the enacting clause and inserting in lieu thereof the text of S. 2138, Senate companion measure, as passed by the Senate. Also, pursuant to the order of June 18, 1998, Senate insisted on its amendment, requested a conference with the House thereon, and the following conferees were appointed on the part of the Senate: Senators DOMENICI, COCHRAN, GORTON, MCCONNELL, BENNETT, BURNS, CRAIG, STEVENS, REID, BYRD, HOLLINGS, MURRAY, KOHL, DORGAN, and INOUYE. The passage of S. 2138 was vitiated and the measure was indefinitely postponed.)

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. BURNS. Mr. President, parliamentary inquiry: What business are we in?

The PRESIDING OFFICER. The Senate is on division I of amendment No. 2137.

Mr. BURNS. Mr. President, I ask unanimous consent that be laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, I ask the Senator to withhold that, if he would, for another few minutes, to see if we can work out a unanimous-consent agreement, pursuant to which he would be able to proceed. Otherwise, I think we would have to object on this side, and perhaps on your side, without that unanimous-consent agreement. We are trying, however, very hard to work out a unanimous-consent agreement to permit the Senator to proceed.

So I ask the Senator to withhold just for a few more minutes to see if we can do that. In the absence of that, I would have to object.

Mr. BURNS. I appreciate the suggestion of the manager of the bill. I will do that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARTISAN FIGHTING OVER FOREIGN RELATIONS POLICY

Mr. BAUCUS. Mr. President, we are here to debate one of the most significant components of our foreign relations policy, and that is the Department of Defense authorization bill.

There is often a great temptation to exploit foreign policy debates for partisan political purposes. We all are tempted. But I believe that when we do—that is, on a foreign policy debate—it is a mistake. Such partisan fighting over critical issues of worldwide importance is both dangerous and counterproductive, and that is why I see engaging in congressional debates over China policy at this time, particularly amendments which are perceived as mischievous, is not a good idea. Although China does not manage its affairs as we would like, it makes little sense to base our relationship entirely on that concern. We should base our relationship, rather, with China on a clear view of United States interests, a foundation of basic American values, and appropriate methods that will secure those interests and advance those values.

China is the fastest growing country in the world. It is the world's most populous country.

It has the largest army in the world, is a nuclear power. China is a force to be reckoned with. And of all the areas our foreign policy must address—peace and security in Asia, prosperity and open trade, environmental protection, the prevention of climate change, and human rights—we will achieve our goals more easily through a cooperative relationship with China than with a destructive one of confrontation, one that seeks common ground and addresses differences frankly rather than through a policy limited to sanctions and confrontations. That is an approach that has succeeded with China over the past 25 years.

China is a large country. The most progressive regions of the country are those engaged in trade with the West. That is no accident. Our presence in China has an enormously positive influence—one that would be lost if we cut off trade or cut off discussions with China.

This relationship with China has grown out of the foresight and the cooperative efforts of those who have gone before us.

Our modern relationship with China began over 25 years ago with a visit to China by President Nixon. President Nixon anticipated the difficult nature of this relationship. But he also recognized the importance of establishing a sound working relationship with the most populous nation in the world.

As Envoy to China, former President Bush continued the efforts to open China to the rest of the world. His work set the stage for the U.S.-China relationship we have today. Perfect, it is not. But it is a relationship, and it can be improved. And it calls to mind other relationships which we have encouraged over the years.

Fifty years ago, we had no relationship with Japan. Since then we forged an enduring alliance with that important nation. It is the work of statesmen like Douglas MacArthur and Yoshida Shigeru after the end of World War II; Dwight Eisenhower and Kishi Nobusuke, who steered the U.S.-Japan Security Treaty through the Senate and Diet in 1960; and Montana's own Mike Mansfield, who served for years as our Ambassador to Japan.

This relationship was not—and is not—a partisan issue. Its champions came from the Democratic Party and the Republican Party. And we have all benefited from their hard work.

This rélationship has weathered great adversity in the last half century—the Chinese Revolution, the Korean war, Vietnam, and 40 years of the cold war. Through it all, this relationship has helped many of the nations in the Pacific give their people better lives.

It is important to remember that we spent years engaged in a standoff with the former Soviet Union. But by engaging that nation, we witnessed the end of the cold war, the end of the conflict and the birth of a new relationship with Russia. It took hard work and cooperation to make this new Russia a reality. The same is true in our dealings with China.

A policy of engagement—tough, frank, hard-nosed engagement—is correct, not because it is in the interest of China, but because it is in the interest of America.

There are still great strides to be made with China, particularly on human rights. It is a mistake to focus only on our differences and to ostracize China.

We must ask ourselves whether we should seek to reform China by continuing engagement in a positive manner, or, instead whether we should seek to force the Chinese to change course by isolation.

I think we ought to pursue the first choice—engagement.

Mr. President, some have suggested that we are appeasing, even coddling, China, that we are ignoring their human rights abuses and other egregious acts, that somehow they are being given undue special treatment. I disagree.

Obviously, there are problems with the way China cracks down on political dissent and treats its dissidents. However, I think the insinuation that there is double standard for China is not correct.

We must continue to speak up when China acts contrary to international norms. Simply put, we cannot and should not look the other way when China disregards its commitments.

However, we cannot have much say in these matters if we do not talk—if we do not engage in constructive dialogue. After all, China's most repressive periods have occurred when China was isolated from the rest of the world.

During the debate on this bill, as we consider amendments we should ask ourselves one question.

Does the amendment strengthen America's hand, and improve our relationship, or will it make things worse?

If the latter, I would urge my colleagues to vote it down.

Let me apply this question to the pending, divided, amendment.

The distinguished Senator from Arkansas has proposed a series of amendments to the DOD authorization bill which aim to change China's behavior through a series of minor but bothersome sanctions.

I deeply appreciate the Senator's reservations with some of China's policies. We all have reservations with some of China's policies. But, I believe this amendment goes about changing them in the wrong fashion.

Surely every Member of Congress would take issue with forced abortions—I would; we all would—religious persecution the same, and the imprisonment of individuals for the expression of political beliefs. That is clear.

Americans hold as their most cherished freedoms the right to worship as they please and speak their minds. It is a measure of the country's greatness that we are allowed to speak freely.

We expect this freedom on this Senate floor and indeed we have it. We expect it in our homes and throughout our workplaces.

It is therefore natural that we extend these freedoms to peoples in other lands. We object strongly when those rights are denied. Clearly, there are other issues concerning China that Americans can disagree with.

Despite significant progress, today's China is still too repressive and too restrictive. Those who would speak out against the government still risk imprisonment, house arrest and the denial of political rights. I wish to change that. We all wish to change that, and change that eventually with the right policies we will.

We must hold China accountable to the human rights agreements it has signed, most notably the universal Declaration of Human Rights.

But alienating China will not convince China. Ostracizing China will not endear it to the practices we would most like to see implemented.

We can continue to facilitate China's transformation through engagement and dialogue or we can give in to the isolationist sentiments that these amendments represent.

As we near the President's departure for China tomorrow, I urge the Senate to express its support for continued engagement of the Chinese Government.

No doubt about it, the President has much to discuss when he gets to Beijing. But it is both important and appropriate that the discussions occur. They must occur. Frank discussions of necessary improvements in China should be forthcoming.

The success of the trip will be enhanced with the endorsement of this body.

Mr. President, today's debate illustrates an even more important point—the need for a bipartisan approach to foreign policy. It has been said that politics ends at the water's edge. When it comes to foreign policy there are no Democrats, there are no Republicans, there are only Americans.

In this world today, there are many serious, global issues: India and Pakistan exploding nuclear bombs, the expansion of NATO, the collapse of the Asian economy. To the maximum extent possible, we must work together to address these issues. But often, partisan actions hinder progress on important issues of national importance.

One such instance is the conflict over funding for the International Monetary Fund.

The attempt to link family planning policy and international financial assistance is an effort to conduct a debate for the benefit of a domestic constituency. If a debate on the IMF is in order, then we should debate the IMF on its merits. But to stall the passage of this important legislation may weaken the hand of the U.S. Government and it may allow real problems to get worse. This is a situation where cooperation is critical.

Last week, I invited my colleagues to join me in an effort to establish a more cooperative, bipartisan approach to our foreign policy matters.

I, along with Senator HAGEL of Nebraska, am working to focus more energy seeking constructive solutions to American foreign policy problems. We intend to work together, to help reduce the rancor that partisan bickering tends to produce.

Just as engagement is the proper way of working with China, so too must we engage each other in order to better articulate Americans' interests and needs aboard.

We are many voices. We represent many ideas. Making progress requires constructive dialogue by all parties, and I encourage my colleagues engage in that discussion.

One final note, Mr. President. When President Clinton travels—when any American President travels overseas—he is the President of the United States of America. He is not a Republican President. He is not a Democratic President. He is the American President. When he travels, we in the U.S. Senate and the House of Representatives must give him our full cooperation. There are other times when he returns when we can debate what our foreign policy should be. But when it comes to foreign policy, we Americans will do much better, our stature in the world will be much higher, if we work out these differences among ourselves so that in the end we truly have a bipartisan foreign policy, a foreign policy that the Congress and the President have worked out together so that we stand taller and get more done than we otherwise might.

There is plenty of room here in domestic politics for partisanship. There is more than enough here for partisanship in domestic politics. I deplore most of it, even in domestic policy, but when it comes to foreign policy, we must stand together.

I urge Senators who have amendments to think twice before offering them, and perhaps bring up that issue when the President returns from his trip to China, because then the country is much better off.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, I understand that Senator HUTCHINSON is now in a position to have the pending China human rights issue withdrawn.

However, before the Senator is recognized, let me put the Senate on notice as to where the bill is going, hopefully, for the next few days, which will take some cooperation, but I believe we are going to get it. I certainly hope so.

Following the withdrawal of the China issue and a statement by Senator HUTCHINSON—and I believe he is on the floor and ready to proceed—the Senate will resume consideration of the DOD authorization until approximately 5 p.m. At that time, the Senate will turn to the Coverdell A+ conference report for approximately 2 hours of debate tonight. The Senate will resume the conference report consideration on Wednesday at 9:30 and, therefore, the vote on final passage will occur around 11:30 on Wednesday on the Coverdell A+ education bill.

The Senate will then resume the DOD authorization bill. It is the hope of both leaders that the bill can move forward and be concluded by the close of business on Wednesday. I realize that is a big order, but we are calling on our leadership.

Mr. LEVIN. Wednesday of this week?

Mr. LOTT. Wednesday of this week, or Thursday at the latest, because we do have a lot of other work to do.

I realize there are some, I don't know, 150 amendments pending. Who are we kidding? That is not only not serious, that is totally laughable. This is the Department of Defense authorization bill which we need to do for our country. This is a bill that the Armed Services Committee has already done the bulk of the work on. While I realize there are a lot of policy issues, a lot of amendments that Senators would like to offer, I hope they will cooperate and we can get this bill completed in a reasonable period of time. This is the fifth day that we have been on the DOD authorization bill. Tomorrow will be the sixth day. So we need to get it concluded. I do now put the Senate on notice that I intend to call up H.R. 2358, relative to the China human rights issue, sometime after July 6, 1998. I will notify all Members when the date has been finalized so all Members will have time to prepare for it. This is an important issue for our country. Senators on the Democratic side have said we should not debate this while the President is going to China. I think, as a matter of fact, that the reverse is the case—that we should make our point, express the Senate's concern on these very important issues before the President goes, but not necessarily while he is there. It is an issue that we need to address further, and we are going to do that sometime after July 6.

Mr. President, I ask unanimous consent that, following a brief statement by Senator HUTCHINSON, the motion to recommit be automatically withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I thank the majority leader for the opportunity to work with him on this issue. I believe the China amendments I have offered have great value. The debate has been healthy, and the debate has been necessary. I, frankly, am willing to stand here and talk about human rights in China in general this week and next week, or as long as it takes. My great objective is to see these provisions become the public policy of this land.

In my opinion, the opponents of these amendments do not have a substantive leg to stand on. The only reason they have brought up to oppose these amendments involves the timing of the offering of these amendments. I remind my colleagues, once again, that I offered these and filed these amendments over a month ago. They have sought to obfuscate the issues, obscure the motivations, and place obstacles in the path of clean and substantive votes. The hollowness of the administration's policy is evident in their unwillingness to embrace these very modest human rights amendments.

Mr. President, if I might say again, the hollowness of the administration's China policy is evident in their unwillingness to embrace even those modest human rights amendments, and the length to which they have gone to block them from a vote on their merits, I think, speaks to the weakness of the policy. The policy has failed. The lack of outrage by this administration over the news today that China denied visa approval for Radio Free Asia reporters, I think, gives powerful testimony to the kind of acquiescence and concessionary spirit that characterizes this administration's policies. It is all too typical.

These issues will not go away, I assure you. Slave labor conditions, forced abortions, forced sterilizations, religious persecution, and proliferation of weapons of mass destruction are real issues. They are not fiction or partisan weapons; they are not used for some kind of political brownie points or "got-you" points. These are real issues that need to be debated, and we need to change our foreign policy in relation to these abuses that are ongoing in China.

If history teaches us anything, history teaches us that appeasement never works. The fact that this administration has refused even to offer the annual resolution at the U.N. convention in Geneva on human rights, I think, is indicative that even the smallest stands for human rights have gone by the wayside. I think it was Edmund Burke who said, "All that is necessary for evil to triumph is for good men to do nothing."

What the Senate has done today on China policy is nothing. The fact that these bills passed overwhelmingly in the House of Representatives, the fact that this body voted not to table them by 80-plus votes, indicates there is strength in their appeal. I want to express my appreciation to the majority leader for the commitment he has made today to bring up H.R. 2358 in July for a vote and that the China issue will be addressed, and that whether it is Senator ABRAHAM or Senator WELLSTONE, or others, who have issues regarding bills regarding China, they will have an opportunity to debate them and to offer them. I compliment and commend the majority leader for that public commitment today. I will continue to press for votes on these provisions. I will look for legislative vehicles, if necessary.

These concerns that I have expressed are not, as they have been portrayed, partisan politics. This afternoon, I attended a press conference in which there were more Democrats than Republicans expressing their concern about the human rights policy of this administration toward China. This is not partisan politics. This has nothing to do with Republicans trying to make points. I probably have as much difference on some of them on my side of the aisle as I do on some of them on the other side of the aisle. So people can stand and say that we should not use foreign policy as an instrument of partisan politics. Well, this is not. This is a bipartisan concern about human rights abuses in China that have not improved under the policy of this administration.

There is much more that we need to do, on a bipartisan basis, to press the cause of basic human rights and democracy in China. It is my sincere hope that President Clinton will take every opportunity to elevate these issues during his trip, which he embarks on tomorrow.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The motion to recommit is withdrawn.

The motion to recommit was withdrawn.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 2407, AS MODIFIED

Mr. BROWNBACK. Mr. President, I believe my amendment No. 2407 is now the pending business. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BROWNBACK. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2407), as modified, is as follows:

In lieu of the matter proposed to be inserted by the amendment, insert the following:

SEC. . SENSE OF SENATE ON NUCLEAR TESTS IN SOUTH ASIA.

(a) FINDINGS.—The Senate finds that—

(1) on May 11 and 13, 1998, the Government of India conducted a series of underground nuclear tests;

(2) on May 28 and 30, 1998, the Government of Pakistan conducted a series of underground nuclear tests;

(3) Although not recognized or accepted as such by the United Nations Security Council, India and Pakistan have declared themselves nuclear weapon states;

(4) India and Pakistan have conducted extensive nuclear weapons research over several decades, resulting in the development of nuclear capabilities and the potential for the attainment of nuclear arsenals and the dangerous proliferation of nuclear weaponry;

(5) India and Pakistan have refused to enter into internationally recognized nuclear non-proliferation agreements, including the Comprehensive Test Ban Treaty, the Treaty on the Non-Proliferation of Nuclear Weapons, and full-scope safeguards agreements with the International Atomic Energy Agency;

(6) India and Pakistan, which have been at war with each other 3 times in the past 50 years, have urgent bilateral conflicts, most notably over the disputed territory of Kashmir;

(7) the testing of nuclear weapons by India and Pakistan has created grave and serious tensions on the Indian subcontinent; and

(8) the United States response to India and Pakistan's nuclear tests has included the imposition of wide-ranging sanctions as called for under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

(b) SENSE OF SENATE.—The Senate—

(1) strongly condemns the decisions by the governments of India and Pakistan to conduct nuclear tests in May 1998;

(2) supports the President's decision to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and Pakistan and invoke all sanctions in that Act;

(3) calls upon members of the international community to impose similar sanctions against India and Pakistan to those imposed by the United States;

(4) calls for the governments of India and Pakistan to commit not to conduct any additional nuclear tests;

(5) urges the governments of India and Pakistan to take immediate steps, bilaterally and under the auspices of the United Nations, to reduce tensions between them;

(6) urges India and Pakistan to engage in high-level dialogue aimed at reducing the likelihood of armed conflict, enacting confidence and security building measures, and resolving areas of dispute;

(7) commends all nations to take steps which will reduce tensions in South Asia, including appropriate measures to prevent the transfer of technology that could further exacerbate the arms race in South Asia, and thus avoid further deterioration of security there;

(8) calls upon the President to seek a diplomatic solution between the governments of India and Pakistan to promote peace and stability in South Asia and resolve the current impasse;

(9) encourages United States leadership in assisting the governments of India and Pakistan to resolve their 50-year conflict over the disputed territory in Kashmir;

(10) urges India and Pakistan to take immediate, binding, and verifiable steps to roll back their nuclear programs and come into compliance with internationally accepted norms regarding the proliferation of weapons of mass destruction; and

(11) urges the United States to reevaluate its bilateral relationship with India and Pakistan, in light of the new regional security realities in South Asia, with the goal of preventing further nuclear and ballistic missile proliferation, diffusing long-standing regional rivalries between India and Pakistan, and securing commitments from them which, if carried out, could result in a calibrated lifting of United States sanctions imposed under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

Mr. BROWNBACK. Mr. President, we have a short period of time to be able to discuss this, because at 5 o'clock we go to the Coverdell amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Mr. President, if the Senator will yield. I think there is some discussion going on now that would enable 10 or 12 minutes on this very important amendment. I would like to take 2 minutes to join with my colleagues who are opposed to it. I would like to speak to it a little bit.

Mr. LOTT. Mr. President, first of all, have the yeas and nays been ordered on this issue?

The PRESIDING OFFICER. No, they have not.

Mr. LOTT. On the Brownback amendment, the yeas and nays have not been ordered?

The PRESIDING OFFICER. That is correct.

Mr. LOTT. I understand there is a possibility we can go ahead and complete action on the Brownback issue after a statement by the Senator from Kansas and Senator WARNER, and perhaps Senator LEVIN would have something to say. If we can get that completed in a reasonable period of time, we can complete that and then go over to the Coverdell education issue.

Do we have any agreement on the time?

Mr. LEVIN. I don't know the length. I want to make inquiry on the yeas and nays issue. Is it not correct that the yeas and nays were ordered on the Feinstein first-degree amendment?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. So the question is, if there is a need for the yeas and nays, we would leave it. If there is no need for a rollcall vote on that, we would need to vitiate, as I understand it, the yeas and nays on the first-degree Feinstein amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. Mr. President, I urge the leadership of the committee to pursue this issue and, hopefully, get to a conclusion, and then we would go to the Coverdell education conference report immediately after that.

Mr. LEVIN. Mr. President, is there a need for the yeas and nays on the first-degree Feinstein amendment? I ask whether the leader would have any objection, if there is no need for it, to vitiating the yeas and nays on the underlying Feinstein first-degree amendment.

Mrs. FEINSTEIN. Mr. President, in response to the comment of the Senator from Michigan, there is no need for the yeas and nays.

Mr. LOTT. Mr. President, let me inquire again about the time so we can get a time agreement. Do we have some indication of how much time is needed? The Senator from Kansas needs how much?

Mr. BROWNBACK. I think we can do all of this in 15 minutes, with all parties being able to speak. That would be my sense. I think I can get my comments done in about 7 minutes or so.

Mr. LOTT. Mr. President, it sounds to me like 20 minutes, equally divided, should be sufficient.

I ask unanimous consent that the time be limited to 20 minutes, equally divided, on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I have an inquiry of the Chair. Then there are no yeas and nays requested on either the first- or second-degree amendments at this time?

The PRESIDING OFFICER. The yeas and nays have not yet been vitiated.

Mr. LEVIN. Would the leader have objection to vitiating the yeas and nays on the Feinstein amendment at this time?

Mr. LOTT. No.

Mr. LEVIN. Mr. President, I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, if I could inquire briefly of the Senator from Virginia who asked to speak on this amendment how much time he might desire on this?

Mr. WARNER. Three minutes.

Mr. BROWNBACK. Mr. President, I ask that I be yielded 7 minutes of the 10 minutes allotted.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BROWNBACK. Mr. President, last month, following India's nuclear tests, I offered legislation to repeal section 620(e) of the Foreign Assistance Act of 1961 (otherwise known as the Pressler amendment). The Pressler amendment concerns restriction on the provision of military assistance and other transfers to Pakistan. When Pakistan blundered into responding to India's nuclear tests with tests of its own, this amendment not only became pointless symbolically, but because of existing sanctions law it was no longer relevant.

How rapidly events change. Last month when I proposed to repeal Pressler, the world was reacting in stunned disbelief to India's nuclear tests. At the time it seemed our only hope in stalling an all out nuclear arms race in South Asia was to offer Pakistan some security assurances, while at the same time urging them in the strongest terms not to be drawn into this dangerous display of nuclear saber rattling. Unfortunately, Pakistan did test, and we are now imposing sanctions rather than lifting them.

The month of May 1998 will be remembered as a time of nuclear anxiety. Tensions were high as the world watched India and Pakistan play nuclear roulette. June has brought some respite; India and Pakistan have declared a moratorium on further nuclear testing, and they are discussing bilateral talks this month. I pray that this nuclear nightmare will pass.

The question of South Asia's regional security and our future relations with India and Pakistan remain issues of abiding concern. What has happened in South Asia is in many ways an indictment of the administration's failed foreign and nonproliferation policies. Consider that, at this very moment Congress is investigating the administration for its export control policies, particularly as they relate to China. These policies have made possible the wholesale proliferation of missile and nuclear technology, not only to Pakistan, but to others, such as Iran.

Mr. President, the testing of nuclear weapons by India and Pakistan, and the resulting security crisis in South Asia should be of grave concern to all of us. We must continue to condemn India and Pakistan's nuclear tests, and urge them to enact confidence and security building measures to reduce the likelihood of armed conflict. We must encourage a more involved role by the United States in seeking a diplomatic solution, and in providing leadership to resolve the conflict over the disputed territory in Jumma Kashmir. We should urge India and Pakistan to roll back their nuclear programs, and to come into compliance with the NPT. In addition the United States should develop policies which will promote stable, democratic, and economically thriving economies in India and Pakistan.

Last week the administration implemented sanctions against India and Pakistan. Although the scope of these sanctions is limited—ending economic aids, loans, and military sales—they will cast a negative pall on our relations until they are lifted. We should not underestimate the symbolic and economic impact of these sanctions. In India, America-bashing has taken the form of boycotting American products and vandalizing establishments selling them. There are reports that foreign capital is fleeing India and Pakistan, and financial markets there have already been badly hurt.

It is premature today to talk about lifting these sanctions, but I don't believe it is too early to begin planning for their gradual removal. For that reason I am considering legislation which could provide for the conditional removal of sanctions against India and Pakistan, based upon progress as outlined in the Geneva Communique.

I think the communiques issued after the P–5 meeting in Geneva, and the G–8 meeting in London are reasonable appeals to India and Pakistan by the nuclear powers. Eighty other nations have joined the P–5 and the G–8 in denouncing these nuclear tests and calling for action by India and Pakistan. But, these appeals will not be met by India and Pakistan simply because they were announced in official communiques.

The Geneva communique said that confidence building measures, incentives, disincentives, and other actions are steps the international community can take in its relations with India and Pakistan. There are a number of actions we in Congress can take to move this process forward. Here are just a few.

We can listen to the concerns put forward by the Indian and Pakistani people. This week I will be leading a delegation to India and Pakistan to hold meetings with their leaders. My goal in visiting India and Pakistan is to hear, first hand, the views and concerns of their leadership. I also want to give assurances that this issue is very much on the front burner for the U.S. Congress. As I said in a hearing two weeks ago, it would be folly to isolate India and Pakistan at this time. We must be engaged. Unfortunately, in recent years U.S. foreign policy in India and Pakistan has been one of estrangement, not engagement.

We can work closely with the administration. This week I plan to invite the State Department Special Coordinator for India and Pakistan and interested members to a round table to explore how we might constructively engage India and Pakistan. I look forward to the results of those meetings.

In all of this—our meetings, our travel to the region, and our discussions with allies—our goal is to halt the proliferation of nuclear weapons in South Asia, restore regional security, and put our bilateral relationships with India and Pakistan back on track. We should settle for no less.

Mr. President, at the appropriate time I will ask for the passage of these bills. I do not believe that we will need a rollcall vote.

Mr. President, how much time is left on our side?

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator has 4 minutes.

Mr. BROWNBACK. Mr. President, I would like to retain the remainder of that.

PRIVILEGE OF THE FLOOR

I ask unanimous consent that Terry Williams, a fellow in my office, be permitted privilege of the floor today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, although the Senator didn't say this, I am a cosponsor.

I want to speak briefly about it. I don't believe in the last decade that there has been a more disturbing fact and change of events on the subcontinent of Asia than the detonation of these nuclear tests. They have taken two countries, and indicated to the world that each has a lethal capacity which is far in excess of the bomb that exploded at Hiroshima.

This morning I detailed the unclassified analyses of what each of these countries has in the type of nuclear weapons, the type of launching devices, the type of plane, and the potential damage in terms of loss of life of humans that could occur. And it is quite mind-boggling.

This resolution essentially calls upon all freedom-loving countries, all members of the international community, to support the United States in its sanctions against both India and Pakistan. It calls for the Governments of India and Pakistan to commit to no further additional nuclear test, and it urges them to take immediate steps bilaterally, and under the auspices of the United Nations, to reduce tensions between them.

This morning I indicated how easy these tensions could increase. I mentioned the bomb on a train. I mentioned 25 people killed at a Hindu wedding, a product of Moslem terrorists. Any one of these events could bring about a miscalculation and produce a nuclear holocaust.

We also in this resolution urge India and Pakistan to take immediate binding and verifiable steps to roll back their nuclear programs and come into compliance with internationally accepted norms regarding proliferation of weapons of mass destruction. And we urge our country to reevaluate our bilateral relationship with India and Pakistan in light of the new regional security realities in south Asia with the goal of preventing further nuclear and ballistic missile proliferation, diffusing longstanding regional rivalry between India and Pakistan, and securing commitments from them, which, if carried out, could result in a calibrated lifting of U.S. sanctions imposed under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

Mr. President, I believe that this resolution has been cleared on all sides. I would certainly urge its passage by voice vote.

Mr. WARNER addressed the Chair.

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I likewise ask to be made a cosponsor of this amendment. I think it is a very responsible effort by our distinguished colleagues, the principal sponsors, and I think the Senate will endorse this, as it will in a voice vote momentarily.

But I would just bring to the attention of colleagues, if we do not handle responsibly this crisis—we, the United States—together with our principal allies, it will signal to other nations that they should begin to look towards the development of weapons of mass destruction. In all likelihood, they cannot afford the expense associated with nuclear weapons, but it will propel them into further areas of chemical and biological.

So that, to me, is the seriousness of this problem, if we do not handle it fairly, evenhandedly, and with a note of understanding. And that brings me to my question, because section (b)(3) urges other nations to impose sanctions. I just wondered, listening very carefully to the Senator from Kansas, who said he is going to travel over there to try to work out greater confidence-building measures and also to try to increase engagement, am I misreading that section as being possibly in conflict with what I hear my two distinguished colleagues as saying?

Mr. BROWNBACK. If I may respond to the Senator from Virginia, it was our intent that the United States has put on a set of sanctions via the GLENN amendment that were automatic, and we thought it important to state that if we are going to take that position, we should be urging other nations to do so as well. Yet, in the longer term, as we get further out here, I think we should be dealing in a dialog of, how do we get these lifted on a step-by-step, confidence-building measure?

At the present time, we are in a unilateral sanctions position, and I think we should urge other nations to join us in that statement, but at the same time I want us to start building the confidence and moving away from those if we can't get other nations to join us in this effort.

Mr. WARNER. I would certainly urge that be done because, in reality, we are not here to say who is at fault; both bear a heavy sense of culpability. Unfortunately, India initiated it. I don't know—as time goes on, perhaps there will be an answer—what recourse Pakistan had. Had not the current leadership taken that action, they might well have been either run out of office or forced out of office. So we cannot be unmindful of the political instabilities in these nations and the reality that if one did it, what recourse the other had other than to do it.

Now, two wrongs do not make a right, but I will listen carefully, and I hope that this section does not send a signal of any rigidity as we should be pursuing greater engagement.

I hope the international community would offer to arbitrate the complexity of the Kashmir problem. It has been there for a long time, and very often, an outside, unbiased, objective collection of nations could come in and render some helpful assistance to alleviate that problem, which is an absolute crisis. Talk about human rights and suffering. There is a war taking place every day—shelling, killing—and it must be brought to a stop.

So I wish to associate myself with the remarks of my two colleagues from Kansas and California. I congratulate them. I think it is a very important measure for the Senate to adopt. But I do hope that you will, on your mission, and others will do what we can to increase engagement and provide for solutions.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I appreciate the comments and wisdom of the Senator from Virginia. We are attempting further engagement.

I also want to recognize my colleague from California, Senator FEINSTEIN, who has been a leader in this overall effort, as well as Senator HARKIN and Senator ROBB. The whole Senate, hopefully, will be engaged in this matter.

Mr. President, if no one else seeks to speak—I guess perhaps there is somebody else. I yield the floor.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. LEVIN. Mr. President, how much time on our side?

The PRESIDING OFFICER. The Senator has 6 minutes 30 seconds.

Mr. LEVIN. I will not use it all. I just want to congratulate the Senators from California and Kansas for their energy, for their persistence, their efforts. It is a very significant statement for the Senate and, I believe, for the world. The concern that is reflected in this resolution—this amendment now—is very significant in terms of what our fears and concerns are. These tests have not brought security to India and Pakistan; they have brought insecurity to the region. They have made the world a lot less secure place. And now we must both state that and seek to try to put this genie back in the bottle to the extent that those tests have helped to release it.

The modifications are important modifications to make sure this is an evenhanded resolution, which it is, following the tests by the two countries. And our staffs have worked very closely with your two staffs. We wish to thank you again for your efforts in pursuing this, and we hope that this resolution is promptly and totally adopted by this Senate.

Mr. MACK. Mr. President, I rise today to express my concern with the pending amendment.

I deeply regret the circumstances regarding India's decision to detonate nuclear devices. But the increased instability in South Asia has been caused by China's proliferation policies, a U.S. foreign policy which favors China over India, and the licensing of technologies by the United States which enhances China's military capabilities.

So I wonder why we would consider strongly condemning the Indian government—the democratically elected Indian government—for taking legal actions in its perceived self interest. And I further question this amendment occurring on a day in which the Senate could not vote to express our concerns with the reprehensible actions taken by the communist party officials running the People's Republic of China.

Mr. President, India has broken no international laws or agreements by choosing to test nuclear devices, and India is not a known proliferator of weapons or weapons technology. We know, however, that China is a proliferator. Of particular concern is Chinese proliferation of weapons and technologies to Pakistan. But today the Senate will vote to condemn India and fail to vote to condemn China.

India and China went to war in 1962. To this day, China continues to occupy 15,000 square miles of Indian territory in Ladakh and it claims sovereignty over the entire 35,000 square miles of India's Northeastern most province. The pending amendment rightly points out that India has not joined the Nuclear Nonproliferation Treaty. But the amendment fails to recognize that the NPT seeks to ensure the current five nuclear powers alone are able to possess nuclear weapons. This means that China can maintain its arsenal, but India cannot. India has not signed the Comprehensive Test Ban Treaty for similar reasons.

Mr. President, there appears to be a serious contradiction represented in our foreign policy which makes no sense to me. It is for this reason that I cannot support this amendment and will vote against it. I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I urge adoption of the amendment.

Mr. LEVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 2407), as modified, was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the first-degree amendment.

The amendment (No. 2405), as amended, was agreed to.

Mr. BROWNBACK. Mr. President, I just say one final thing. I appreciate the committee working with us, the ranking member and chairman of the committee; I thank them very much.

Mr. LEVIN. Mr. President, I did not hear whether there was a motion to reconsider. If not, I move to reconsider that vote.

Mr. BROWNBACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. As I understand, we are due back on this bill at 12 o'clock tomorrow. Is that correct?

The PRESIDING OFFICER. That has not yet been ordered.

Mr. THURMOND. The defense authorization bill.

The PRESIDING OFFICER. It has not yet been ordered.

Mr. THURMOND. Do we anticipate being back at 12 o'clock tomorrow?

The PRESIDING OFFICER. That is the answer to the question.

Mr. THURMOND. I would like for Members who have any amendments to offer to come down and offer these amendments. We have got to push this bill. This is a vital bill. It concerns every citizen in this country. This defense bill is very, very important, and we do not want to be delayed in carrying it on and on. Let's act promptly and show the world that we stand for a strong defense.

I yield the floor.

Mr. LEVIN. Mr. President, let me join the chairman of the committee in urging our colleagues to bring amendments to the floor tomorrow, as we anticipate, when we return to this bill at around noon. We now have removed a major roadblock to considering other amendments, so the floor will be open at that time for other amendments to be considered, and we hope our colleagues will bring those to the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATIONAL SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998—CONFERENCE REPORT

Mr. COVERDELL. Mr. President, I now ask that the Chair lay before the Senate the conference report to accompany H.R. 2646, the Coverdell A+ education bill, and it be considered under the provisions of the earlier consent agreement.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646), have agreed to recommend and do recommend to their respective Houses this report, signed by majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 15, 1998.)

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, first I would like to commend the conferees. I would like to commend Chairman ARCHER of the conference committee. I believe they have brought to the Senate, as they did the House, a sweeping education reform proposal that will affect millions upon millions of American children trying successfully to obtain a quality education. They have obtained a bipartisan approach that has been embraced by some of the more distinguished Members of the other side who will speak to this. To paraphrase Senator LIEBERMAN in the press conference at the announcement of the conference report, he said it was clear to him that the Republican leadership had reached out to his party and to the President, and he thought the time had come for their side to reach out as well. And, therefore, we now begin a discussion of the conference report on education reform in the United States.

Mr. President, first I would like to talk, just briefly, about the number of people who will be affected if what is clearly going to pass the Senate with a very strong vote and has passed the House already and will be sent to the President to consider, is signed by the President. In the first case, some 14 million families will open education savings accounts who are the parents of 20 million children. Think about it. That is about half of the school population in kindergarten through high school that would be the beneficiary—half of the school population of the United States. These are precarious times. As we come to a new century, we have a new tool to use to help parents see to the needs of their children.

What has always been amazing to me about this proposal—which the other side has pointed out almost ridiculously, but I will come to that—is that it is a very modest form of tax relief because it allows the interest buildup on these savings accounts to accrue without being taxed so long as the account is used for an educational purpose. The tax relief, therefore, for these education savings accounts over the next 5 years, is a little over $1 billion, $1 billion to $1.3 billion.

What is amazing is how little incentive it takes to make Americans do huge things, because that limited tax relief will cause those 14 million families on behalf of their 20-plus million children to save over $5 billion. Over 10 years it will cause them to save over $12 billion. It is just amazing.

I was just reading a report where the savings rate in the United States has plunged to 3.9 percent, one of the lowest levels in a half a century. So this becomes win/win, because not only does it cause Americans to save, and large sums of money, but it is for education, the Nation's No. 1 problem by everybody's account as we come to the new century.

It does a lot of other things as well. The conference report will help over 1 million students deal with the costs of higher education because it helps qualified State tuition programs and protects them from tax burdens, and that makes them more valuable. Over 1 million students will benefit from this; 21 States already have these plans and 17 have them under consideration. It has a component in the conference report which came out of the Senate Finance Committee, which will help over 1 million employees expand their continuing education. It will help 1 million employees seek continuing education because it will allow employers to spend up to $5,250 on behalf of an employee's continuing education, and it is not seen as taxable income to the employee. So over a million employees will benefit from it.

It has an arbitrage rebate exception for public school bonds, which will help the construction of public schools.

The provision that was inserted in the Finance Committee from Senator GRAHAM, which I believe is a very good provision which would be broader on school construction, did not become a part of the conference report, I am sorry to say. I hope I will be able to work with the Senator from Florida to expand that at another day.

It includes a provision that was adopted by the Senate with 100 votes, the Reading Excellence Act, which authorizes a literacy program which focuses on training teachers to teach reading with scientifically proven methods like phonics. The House passed similar language unanimously, and the President of the United States endorsed this bill. So here we have a provision that received total bipartisan support and has been endorsed by the President of the United States.

It retains the same-sex school provision of Senator KAY BAILEY HUTCHISON of Texas, which makes it an allowable use of Federal education dollars to fund education reform projects that provide same-gender schools and classrooms as long as comparable educational opportunities are offered for students of both sexes.

It keeps the Senate-passed measure, Teacher Testing Merit Pay, by the Senator from New York; Dollars to the Classroom, which requires 95 percent of Federal education dollars to find their way to the classroom, by the Senator from Arkansas, Senator HUTCHINSON; the Student Improvement Grant Program, offered by the Senator from Idaho, Senator KEMPTHORNE; a multilingualism study, by Senator McCAIN; and SAFE Schools, by Senator DORGAN.

Mr. President, in deference to the chairman of the Finance Committee, who has now arrived, I yield the floor.

Mr. ROTH. Mr. President, I thank very much the distinguished Senator from Georgia for his courtesy. Let me once again applaud and congratulate him for the leadership he has provided in this matter of education, of helping us to show our parents throughout this country it is within reach financially. I think this legislation would never have reached this point had it not been for his active leadership.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, the Federal Government has a responsibility to promote policies and programs that make quality education accessible to students, to their parents, and to their families. Today, students and parents are under an enormous burden when it comes to paying for education. There is serious and legitimate concern about the accessibility of quality schools and teachers and materials necessary for success.

And costs continue to rise.

With the Taxpayer Relief Act of 1997 we succeeded in helping parents and students prepare for and even offset some of the escalating costs associated with higher education. For example:

We created an education savings IRA to allow parents to save for higher education.

We expanded the tax-deferred treatment of State-sponsored prepaid tuition plans.

We restored the tax deduction on student loan interest.

We extended the tax-free treatment of employer-provided educational assistance.

And, we established tax credits—the HOPE scholarship and the Lifetime Learning Credits—for students to use in connection with their education.

Each of these measures goes a long, long way toward helping our students and their families handle the financial burden associated with college life.

But, Mr. President, we did not go far enough. Personally, I would like to have seen more powerful measures. The Senate version of the Taxpayer Relief Act of 1997 actually contained stronger provisions, but they were dropped as part of the conference agreement.

I firmly believe in those stronger measures and so I introduced them as a separate bill on the very day that we passed the Taxpayer Relief Act. My objective then was the same as it is today—to help American families afford the costs of a quality education.

I proposed to push the education IRA from its $500-a-year limit to $2,000 a year, and to allow withdrawals for elementary and secondary school; to make tax-free treatment of employer-provided educational assistance permanent and to reinstate it for graduate education; and to make State-sponsored prepaid tuition programs tax free, not just tax deferred. These were my objectives as 1997 came to a close, and I am happy to say that we have succeeded in adopting many of them with this bill, the Education Savings and School Excellence Act of 1998.

This bill comes out of the Senate Finance Committee with bipartisan support. As I already indicated, the distinguished Senator from Georgia has played a leading role in helping shepherd this important piece of legislation through the Senate. Our bill allows families to increase their contributions to education IRAs from $500 to $2,000 per year. Not only will the $2,000 per year IRA contributions be available for college, but they can be used for students at any level—from kindergarten all the way through college.

As such, the education IRA will be a tremendous asset to parents and students in grade schools and high schools. The money will be available to help cover the costs associated with both public and private schools. And the money can be used for a multitude of necessities—from buying school uniforms or books to purchasing a new computer.

The bill also makes prepaid tuition programs tax free, meaning that students will be able to withdraw on a tax-free basis the savings that accumulate in their prepaid tuition accounts. Parents will have the incentive to put money away today, and their children will have the full benefit of that money tax free tomorrow.

These innovative proposals will be a boon to higher education—to our students and families. Already, 44 States have prepaid tuition programs in effect.

The other six have legislation to create a State plan, or they have implemented a feasibility study. Such programs will become increasingly more attractive to parents and students, as will individual retirement accounts that allow them to meet the educational needs of their family.

As I have said before, these measures are an important step forward. They are important for our families—for our students—for the future. With this legislation, Congress is demonstrating its leadership on education.

It is a very, very important step in the right direction. And I urge my colleagues to support it.

Again, let me thank my distinguished colleague for his leadership and his courtesy in letting me make my statement at this time.

Mr. COVERDELL. Mr. President, I also extend my thanks to the chairman of the Finance Committee for his untiring support and patience throughout the long deliberations and for his contributions not only to this education program we have before us but in the area of financial relief and encouragement to American families for years and years and years.

Mr. ROTH. Thank you.

Mr. COVERDELL. Mr. President, I am going to yield up to 10 minutes to my distinguished colleague from New Jersey. Let me just say, as the principal cosponsor of this education reform package we now have before the Senate, he has worked tirelessly, and not always under the best of circumstances, and has been a remarkable contributor to both the form and the shape and the final substance of the legislation we now have before us.

I yield up to 10 minutes to my distinguished colleague and friend from New Jersey.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I thank the Senator from Georgia for yielding me time, but more than that, for his leadership in the course of this Congress to bring to the floor of the Senate, in its final form, the A+ savings accounts.

I also congratulate the conferees for settling what were some real differences in bringing now, in this final form, the A+ savings accounts in such a manner, I believe, that on a bipartisan basis Senators can be both pleased and proud to lend their support in final passage.

Mr. President, upon passage in the Senate of the A+ savings accounts, seven Democratic Senators joined with me in writing the majority leader, expressing our concern that amendments offered by Senator ASHCROFT and Senator GORTON presented some real difficulties to Democratic Members of the Senate in being able to vote for the conference report.

These two amendments would have either prohibited national school testing, which has been a priority of the Clinton administration, or transformed educational funding by the Federal Government into block grants to the States.

Many of us have believed that block granting many of these worthwhile programs would have placed in jeopardy important Federal initiatives in secondary education. And eliminating testing would have prevented milestones in education which the Clinton administration thought were so important.

It is important for Democratic Senators to know both amendments, in an effort to obtain genuine, broad-based bipartisan support, both amendments are not contained in the conference report. The conference report for A+ savings accounts now is the Coverdell-Torricelli bill as originally proposed. That is why I believe, as we are coming to a vote tomorrow, this legislation deserves bipartisan support.

There is nothing here that every Democratic Member of this Senate cannot enthusiastically support and embrace. Indeed, with all respect to my friend, the senior Senator from Georgia, in its purist form this is an idea consistent with Democratic Party philosophies. It is, in fact, everything that President Clinton offered last year with regard to the financing of higher education. Senator COVERDELL is simply now applying that to grade school and secondary school education.

What a simple idea. How basic. American families can save their own money, in their own savings accounts, without taxation, to educate their own children in the school of their choice. What possible argument could anyone have with that proposal? And yet people have found reason to object: first, that it undermines the public schools. On the contrary, not only does it not undermine the public schools, the Joint Committee on Tax is arguing that 70 percent of all of the families who will save money in these accounts for their own children will use it on behalf of public school students. As designed by Senator COVERDELL, this money will be available for afterschool tutoring of public school students, ironically, hiring public schoolteachers, afterschool activities, computers, school supplies, uniforms of public school students.

This does not only not undermine the public school system, it strengthens it by bringing new resources.

The second argument is that, if this is done, it may not hurt the public schools but it is done to help a privileged few. On the contrary; the income limitations used in this legislation of $110,000 to $140,000 are the same the Senate used last year in establishing savings accounts for colleges. It is believed that 75 percent of all the money in these savings accounts will be saved by families with incomes of less than $70,000 a year. This is a middle-income program to help working families educate their children—public or private.

Then the argument is made, maybe it doesn't undermine the public schools, maybe it isn't just for a privileged few, but it doesn't help everybody. It doesn't help everybody. It doesn't help high-income people who are not below the income limitations, and if truth be told, families with no income, the very poor, will not be able to save money.

One warning I received upon entering a career in the U.S. Congress is, never make the perfect the enemy of the good. I know of no legislation in any form, in any endeavor, by any Senator, which helps everybody all the time. Any Senator who comes to this floor looking for that legislation will live a frustrated life in the U.S. Senate.

Suffice it to say, millions of American families, millions of modest background who simply have a child in a public school but would like them to have a home computer, their child is in public school but they would like them to be able to stay in after school and participate in activities that cost money; they are in an urban school but they would like, under mandatory programs, to get their child a school uniform, buy extra books—this program does work for them. And for those 10 percent of American families that send their child to a private school, a parochial school, the yeshiva, because they believe that is best for their circumstances, it helps to ease the burden of their tuition, it is straightforward, it is direct, and, mostly, it is right for the country.

I will concede that, while I enthusiastically support this proposal, this Congress has not been everything it should have been for education. The President challenged the Senate that, from school testing to the reconstruction of our schools to class size, this Congress should have dedicated itself to improving the quality of American education. And it did not. But it has produced this one idea. It may not be the best idea, it is certainly not the only idea, it will not transform American education, but that does not mean it is not a good idea that can help.

I have often believed, in the current state of American education, that everybody has something to offer and there are many good ideas. Everything is defendable in American education except one thing—the status quo. This challenges the status quo. For the first time in a long time, we are opening the possibility that American families can all see themselves as involved again. If you could change one thing, in my judgment, in education today, it would be the belief that families are relevant again to educating their own children. This is no longer simply something in the hands of government, a school board, a union, Washington, or a State capital; we are responsible for the education of our own children.

Senator COVERDELL has established that on every child's birthday, every grandparent, every aunt and uncle, can be relevant again. They can look at a child they care about and, rather than a meaningless toy, rather than some worthless gift, there is an account. Perhaps you would like that child to have a computer, reading materials, participate in afterschool activity; they are struggling in math or science and they would like to have a tutor. Put money in their account, at Christmas or at any time of the year. Let the extended family be involved on the front lines of educating that child.

Beyond that family, when a labor union sits across the table from a great American industrial employer and they have settled on pension benefits and they have settled on health benefits, let that labor union leader have one more question: How about a contribution to the savings account to help educate the children of my membership?

No, it is not going to solve every problem, but we estimate that this proposal will bring $12 billion of private resources to the education of American children. That can't be wrong. It cannot be wrong—$12 billion of new money is now available to help our children in their secondary school education.

If, at the end of the day, its critics are right and all this money is not used for public education or private education but remains in these accounts, then we believe, our critics taken at face value, the worst that could happen is, this money is rolled over into savings accounts for college—meaning that not only will we be provided this option for secondary school education, but the money will then become available for college education—ironically, in accounts established under the leadership of President Clinton and supported on a bipartisan basis in this Senate.

I believe this will pass the Senate. But more significantly, Senator COVERDELL has introduced this Senate into an important and dramatic new debate. We Democrats and Republicans, liberals and conservative, will be in a competition in the redesign of American education. No better opportunity, no more timely debate, could be visited upon this Congress than this new competition. It is important. It is worthwhile. If we succeed, we will redesign American education.

Senator COVERDELL has made a valuable addition in beginning this debate. I congratulate him for it. I look forward tomorrow, when we both will return to this floor, to introduce this final debate in enacting A+ savings accounts.

I yield the floor.

Mr. COVERDELL. Mr. President, before the Senator from New Jersey leaves, there has been no more eloquent spokesperson for these reforms than he.

You alluded, Senator, to the gift from the grandparent, but you introduced the debate with the suggestion this could be a form of union negotiations, which I think it would.

I just want to point out two points: The $12 billion we cite is not a calculation of the first dollar that would come from outside sources, which makes this savings account unique—that a union, a company, a neighborhood, a church, anything, could adopt a child with a savings account. None of that money is in the calculation of the $12 billion, and there is no way to estimate, but I believe it will match ultimately the parents' contribution of the $12 billion.

The second point I make is that those who have more difficulty saving because of their income strata will have these outside sources, which is one of the reasons for the sponsor contributions that will help open those accounts for those families who have more difficulty.

As the Senator said, we will not get to all of them, no, but a lot that otherwise would have no opportunity for one of these kinds of accounts to be opened.

The last thing I mention, you talk about parent involvement. What better reminder to the parent about the condition of the child than when they get that booklet and look at it once a month and get a notice from the savings and loan, or from the bank, that says how much is in the account, how much is building up for Johnny or Susie, once a month or once a quarter? Fourteen million-plus families will be reminded that we have some work to do here. I think the benefits of that cannot be calculated, and that the bonding begins to occur every time one of those accounts is open. I thank the Senator.

I yield up to 10 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Mr. President, I commend Senator TORRICELLI for his comments on this bill and for his efforts, as well, throughout this entire process. I say to my friend, Senator COVERDELL, again, that this would not have happened if it hadn't been for his commitment to this idea, his persistence, and his willingness to, in essence, say it will never end until we pass it. So I commend him for the effort he has made all throughout these months.

This bill will enable working families to keep more of what they earn, and it includes a number of other important education provisions.

My focus during this debate has been on providing every classroom in America with a competent, caring, and qualified teacher. In my opinion, teachers make all the difference in the learning process.

America's classrooms are staffed with many dedicated, knowledgeable, and hard-working teachers. Nevertheless, in classrooms all over America, teachers are being assigned to teach classes for which they have no formal training.

Consider these statistics: Twenty percent of English classes were taught by teachers who did not have at least a minor in English literature, communications, speech, journalism, English education, or reading education. That is one out of five. Twenty-five percent of mathematics classes were taught by teachers without at least a minor in mathematics or mathematics education. That is one out of four. Thirty-nine percent of life sciences or biology classes were taught by teachers without at least a minor in biology or life science. Fifty-six percent of physical science classes were taught by teachers without at least a minor in physics, chemistry, geology, or earth sciences. More than 50 percent of history or world civilization classes were taught by teachers who did not have at least a minor in history. Students in schools with the highest minority enrollments have less than a 50-percent chance of getting a science or mathematics teacher who holds a license and a degree in the field that he or she teaches.

The amendment I introduced, along with Senator D'AMATO, provides incentives for States to test their teachers on the subject matter they teach and to pay their teachers based on merit and proven performance. In light of the statistics I mentioned before, it is clear that teacher testing is necessary and important.

Our amendment passed the Senate by a vote of 63-35, and I am pleased that it is included in this conference report. The Congress should be proud of this bill and the efforts we have made to promote responsible education policy. I hope this bill will receive broad bipartisan support.

Again, I thank the Senator from Georgia for his hard work and dedication on this bill.

I thank the Chair and yield the floor.

Mr. COVERDELL. Mr. President, I thank the Senator from Florida for his contribution to the legislation that passed the Senate and the legislation before us in the conference report. He has made the point repeatedly that the No. 1 tool for effectiveness in a classroom is a teacher. His work, with regard to perfecting who that teacher is, is to be noted. I thank the Senator from Florida.

Mr. President, I now yield up to 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I rise in support of the conference report to the Educational Savings and School Excellence Act. First of all, before I make my comments, I recognize the leadership of the Senator from Georgia, as my previous colleagues have done. I think he has done a tremendous job in bringing forward the issue of education and what we can do as parents, as Senators, what we can do as school board members, as State legislators, or whatever, to begin to think of innovative ways in which we can improve our educational system. There is no doubt in my mind that we need to have some innovative solutions.

The reason I am supporting this conference report is because this is an innovative approach that involves parents, as well as school board people. It is going to broaden the effort in education. It is going to benefit all schools, whether it is private schools or public schools.

I want to take a few moments to sort of review the history of the A+ accounts. Maybe my colleague has already done that, but I think it is very important that we do that. In doing this, I am going to urge my colleagues to join me in supporting these new opportunities that we are going to be creating for children and their families to receive the best possible education.

Now, reviewing the history a little bit, last year, we authorized educational savings accounts for those individuals who were going to postsecondary education, going on to colleges and vocational schools after graduating from high school. Beginning last June, we introduced this opportunity to more American families by adopting an amendment to the Taxpayer Relief Act, which established education savings accounts. Now, this amendment passed, but it was dropped from the Taxpayer Relief Act bill, due to a veto threat.

Senator COVERDELL's A+ savings account was introduced as a separate bill, and it was passed this spring by a vote of 56-43. I was delighted with the outcome of that vote. Following the recent conference agreement on the Educational Savings and School Excellence Act, I am confident that we have before us a bill that makes sense for all families and children—those who seek private or public education.

The conference report was passed by the House last week, and it is our turn to pass this bill and hand the President a new opportunity to improve education.

I would like to go over a few provisions of the Educational Savings and School Excellence Act, putting forth the A+ accounts. Our legislation increases the dollar amount from $500 to $2,000, the amount that parents can set aside to save for their children's education for both public and private elementary and secondary school expenses.

With the education savings account, the money is never Government money, so issues of Government intervention and the constitutionality of using Government funds for religious schools is not a real argument in this debate.

This bill would empower parents with the financial tools to provide for all of the needs they recognize in their children—needs that teachers or administrators should not be trusted to address in the same way that a parent can.

This bill would allow families, single parents, or anyone earning less than $95,000 annually to deposit up to $2,000 per child in after-tax income into those interest-bearing savings accounts each year.

The option for using these funds are simply endless. Raising a child is expensive—we all know that as parents—whether the child is attending a private school or a public school. My children happen to have attended public schools and I will be the first to admit that education is expensive. This bill will help parents save for computers, tutoring expenses—if you have a child with special needs—uniforms, transportation—if you are in rural areas and you have special transportation needs out there—SAT prep courses, so they can get ready for higher education, postsecondary education, or even tuition for private schools.

Now I would like to go over a few reasons why I am supporting this legislation. I think this bill is simply good news for all students—especially those in public schools.

This legislation does not ignore any school whatsoever. Numerous provisions have been included to improve public education, as well as private education. It assists smaller schools by increasing the amount of school construction bonds that smaller school districts can use. It provides incentives for public schools to strive for higher academic achievement. It encourages teachers to improve literacy programs by training them to use proven methods, such as phonics. It will help students stay in school by authorizing a national dropout prevention program. To make schools more safe, we have included a provision that allows weapons brought to school to be used as evidence in any internal school disciplinary proceedings.

In addition, the bill includes the provision to make savings in qualified State tuition plans completely tax free. These tuition plans are powerful incentives for parents to save for their children's college education.

My State of Colorado is one of 21 States that has already implemented this kind of program. I can tell you from what I have observed in my State of Colorado, it is catching on, and it is popular.

This bill would free up plan holders from having to pay Federal tax on interest buildup. This means more savings for tuition, room, board, and books or supplies. Tax relief for these plans offers yet one more reason to support this conference report.

This bill is about freedom. It is about education. Let's take a step forward in improving our Nation's education system for all American children. I encourage my colleagues to join me in passing the Education Savings and School Excellence Act today and to support the conference report.

Thank you, Mr. President.

Mr. COVERDELL. Mr. President, will the Senator yield?

Mr. ALLARD. I yield to the Senator from Georgia.

Mr. COVERDELL. The Senator was describing the chronology of the account. He hit on a very important point that I want to reinforce. The Senator from New Jersey did it well. That is, last year, with the President's cooperation, Congress initiated and he signed an education savings account that was only $500, and only for higher education. This proposal, according to the description of the Senator from Colorado—which is correct, I might add—says that we will make the $500 go up to $2,000. You can save four times as much. You can use it for higher education or for any grade, kindergarten through high school.

This has taken what we celebrated with bands and celebrations on the White House Lawn last year and made it broader. It is not just $500 for higher education now, it is $2,000. It is not just for higher education, it can be used for kindergarten all the way through high school, or higher education. We use the identical criteria that we used to determine which middle-class families could use it. It is the same.

Am I properly describing the point that the Senator made?

Mr. ALLARD. The Senator has properly described it.

Again, the thing that excites me so much about this particular piece of legislation is, it is for all students. Traditionally, this has always been thought of in terms of postsecondary—actually, through graduation from high school. But now in this particular piece of legislation, we are thinking in terms of kindergarten, first grade, second grade, which gives a lot of flexibility to parents to decide what is the best educational plan for their students, by bringing this plan and incorporating the money that can be used for many, many different purposes. It might be that there is a special-education student out there who needs some special help because of some deficiencies, needs some special help because of deficiencies in hearing or maybe sight; maybe a rural family has some problem with transportation.

This flexibility is going to help education, whether it is private or public schools. I think it is going to improve the general educational effort. The real benefactor in all of this is going to be public education, because it is going to be supportive of what we are already doing in education. It doesn't take away from public education, it adds to it.

I want to compliment the Senator from Georgia on working so very hard on this issue and his leadership. I think it is something that we can all be proud of.

Thank you, Mr. President.

Mr. COVERDELL. I thank the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, just to expand on what the Senator from Colorado said, we talked earlier about the 14 million families that would save up to $12 billion. And those dollars can be used for any educational purpose. As the Senator from Colorado alluded, it can be a computer, it can be a special learning problem that requires special attention, or it can be an afterschool program. I call this money "smart money." What I mean is that this money will ultimately go right to the target of the child's needs. A lot of money in public education can't do that, understandably, with buildings, turning on lights, and paying salaries. But this money will be guided almost like a missile system right to the problem the child has. And it is being guided by those who know best what that problem is—their parents. So the exponential value of this money is much greater than most education dollars can achieve.

Mr. President, I would like to take just a few minutes to sort of underscore why education has become the No. 1 issue in our country and take us back 15 years ago to Secretary Bell, who was President Reagan's first Education Secretary. He had this Department of Education publish a book that became known as "A Nation At Risk." That is the name of the publication. It described a general condition and warned the Nation that we are developing a vast problem in our academic system. But it focused primarily on kindergarten through high school.

It is interesting to look at where we have come since he notified America and the education community that we have a problem.

In that report, "A Nation At Risk," it said international comparisons of student achievement reveal that on 19 academic tests, American students were never first and never second; and, in comparison with other industrialized nations, we were last seven times.

In 1998, 15 years later, a recently released study shows that American 12th graders ranked 19th out of 21 industrialized nations in mathematics and 16th out of 21 in science. In other words, we were never first 15 years ago, we were never second, and we were last seven times. After 15 years of effort, we are 19th out of 21; we are not even close to first or second. And we are 16th out of 21. In other words, we have gone backwards.

Fifteen years ago, 23 million American adults were functionally illiterate, according to the report. And in 1992, 20 percent of the adult population had only rudimentary reading and writing skills. That is going in the wrong direction. Fifteen years ago, 13 percent of all 17-year-olds in the United States were considered functionally illiterate, and functional illiteracy among minority youth may run as high as 40 percent. The literacy level of young adults aged 15 to 21 dropped 11 points from 1984 to 1992, and 25 percent of all 12th graders scored below basics in reading on the 1994 National Assessment of Educational Progress.

Fifteen years ago, "A Nation At Risk" reported that between 1975 and 1980 remedial mathematics courses in public 4-year colleges increased 72 percent and then constituted one-quarter—25 percent—of all mathematics courses taught in these institutions. They were saying, in 4-year colleges, one quarter of all mathematics courses dealt with remedial education. In 1995, 30 percent of first-time college freshmen enrolled in at least one remedial course and 80 percent of all public 4-year universities offered remedial courses.

In other words, Mr. President, in every one of these categories, one after the other, the warning given to us in 1983, 15 years ago, has not caused us—I know it has caused us to spend millions and billions of our dollars, but the point is, as the Senator from New Jersey said a moment ago, the status quo is unacceptable, and the status quo produced results, after having received the warning 15 years ago, that are worse than they were 15 years ago. It is very alarming, the recent study that said only 4 out of 10 students in inner-city schools can now pass a basic math exam, and if you take all the schools and put them together, we get it up to only 6 out of 10.

We cannot accept this. Innovation is being begged for.

If we allow this to continue, for the first time in America—America has never had a caste system. There has always been massive mobility in economic achievement—people on the bottom rung moving up, people on the top moving down. It has been the story of America. But if we keep putting people on the street who cannot read and write, and if we spend another 15 years like we have the last 15, we will produce a permanent economic caste system in the country and we will forever change the nature of this great Republic. We will forever change it if we ever accept a condition by which thousands upon thousands, millions of students come out of high school and cannot effectively read or write.

How much time remains on our side?

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Georgia has 1 hour remaining on his side.

Mr. COVERDELL. That cannot be correct. We had 2 hours equally divided, and I think we began at about 5:20. So I would estimate we have about 5 minutes remaining on our side.

The PRESIDING OFFICER. The Senator is correct. Today he has 5 minutes remaining. Tomorrow he has 1 hour.

Mr. COVERDELL. I see. OK. I understand the point. Tomorrow we have another 2 hours equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. COVERDELL. I see we have been joined by the distinguished Senator from Massachusetts, who will be arguing the other side, and for his benefit I will go on another several minutes here.

Mr. President, the Senator from Massachusetts will endeavor to infer that this undermines public education, and the Secretary of the administration has inferred as much. It is just absolutely incorrect. Mr. President, 70 percent of the 14 million families, 11 million families who open these accounts will have students in public schools, as the Senator from New Jersey noted. Because they are in public schools at the end of the day and this money is divided, the families who have children in public schools will represent about half the $12 billion that is saved over the next decade, and the families who have children in private schools will save the other half.

That is understandable, because the families who have made a decision to send their child to a private school know they have to save more. But the bottom line is, 70 percent of the families will have kids in public schools, 30 percent in private. Fifty percent of the money will support children in public schools, and 50 percent will support children in private schools or home schools.

The other side will try to infer that this is a voucher. Vouchers are the redistribution of public money. The money going into these savings accounts is aftertax dollars, and the only tax benefit available is that the interest earned would be forgiven of tax so long as the dollars were used for an educational purpose. This is not a voucher.

Several people on the other side have suggested that this is insignificant, that it is not a great amount of money, and they are right. The tax incentive is minimal over the 10-year period, but what is stunning about it is how much it causes these American families to save on their own—new money. No board of education has had to raise the millage rate. There is no new State income tax. There is no new Federal income tax. This is the flow of the volunteer money to help students in public, private, and home schools.

The other side likes to infer from time to time that this only benefits the wealthy. Seventy percent of the money would go to families earning $75,000 or less, and we get into all kinds of arguments over which families are what. But I would only make this point, that the determination of who can open these accounts and who benefits from them is middle class driven, and in this legislation we are discussing in the Chamber right now, the criteria are identical to the criteria that were designed by the other side last year, for what really was a minimal savings account of up to $500 to help families for higher education only. And we have said, well, let's expand that; let's let them at least save $2,000, and let's let them use it for any school year—kindergarten all the way through college; let's give them more opportunity and more flexibility.

But the families involved are identical to the families who celebrated last year on the White House lawn when the President signed legislation that created a $500 savings account just for college. And here we are today, saying, let's make it $2,000 for college or any other grade.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from the great State of Massachusetts.

Mr. KENNEDY. Mr. President, I want to congratulate the Senator from Georgia in bringing the legislation to where it is at the present time out of the conference. I admire his persistence, but I believe he is fundamentally wrong in his approach to education.

I want to just mention very briefly, when I arrived over here, the good Senator was talking about the Nation At Risk report. I was in the Senate when the Nation At Risk study was done. We had very extensive hearings on it. The Nation At Risk was primarily a report done by a superb group of education leaders. While I was listening to my friend from Georgia, I was harkening back to the various recommendations of those who had done that extensive study to which the Senator referred.

The fact of the matter is, the Nation at Risk report authored by a bipartisan commission, made recommendations that mirror the recommendations that were made by the President of the United States this year. With all respect to the Senator from Georgia, there is no reference in there about the tax breaks and voucher programs that he has described. What was recommended in the report is the hard work that has been recommended by, not only the Nation At Risk panel, but most of the educators since that time.

What we need is more and better teachers. This is very important, particularly given the fact we are going to need some 2 million more teachers over the period of the next 10 years. The Nation At Risk commission thought that upgrading the skills of teachers is one of the most important things we can do. They also said that raising standards for children so they will be challenged to meet their highest educational ability, instead of dumbing down the curriculum to the lowest expectations.

The Nation At Risk report recommended that we devote more time for learning. That means afterschool programs and extended day programs. And we know that spending more time on learning works. In my own State of Massachusetts, the Timility Middle School in Roxbury, MA, was long known for its low test scores and high suspension rates for students. Under Project Promise, the school extended learning time by 90 minutes 4 days a week and opened for 3 hours on Saturday. The result is more students receive the help they need, parents are more involved, student attendance is up, student absence is down, reading and math scores have improved—by investing in public schools, not abandoning them.

In addition, there is general recognition that you cannot teach children in antiquated schools or schools that are falling apart—yet so many of the nation's schools are. In fact, the GAO found that over $100 billion is needed for help and assistance to rebuild and modernize our schools in our cities, suburbs, and rural communities.

But the Coverdell bill will spend $1.6 billion over 10 years. Is that going to solve all of the problems that have been outlined by my friend from Georgia? That is quite a stretch, particularly because it doesn't help the public schools.

The Coverdell bill is not trying to give support for these kinds of initiatives that are facing communities across this country, with many of these children who are sons and daughters of working families who do not have the ability and resources to be able to put aside the money that would be necessary in this program.

In Waltham, MA, 215 math teachers are learning innovative techniques in teacher training programs. They are working with bankers, engineers, high-tech experts, and college math professors to learn more about math, how to teach it well, and how to link it to the real-world experience of the students.

The early indications are that when these teachers go back to their schools, they are seeing improved academic achievement from the students. But under the Coverdell bill, we won't get any kind of help and assistance for these kinds of innovative programs that are taking place. This legislation does nothing to support innovative programs like these. It does nothing to strengthen public schools. Instead, it uses a regressive tax policy to subsidize vouchers for private schools and gives no significant financial help to working families and no help to children in the Nation's classrooms. What it does is provide an unjustified tax giveaway to the wealthy and to private schools.

Public education is one of the great success stories of American democracy. It makes no sense for Congress to undermine it. Yet this bill turns its back on the Nation's longstanding support for public schools and earmarks tax dollars for private schools. It is an unwarranted step in the wrong direction for education, for public schools, and for the Nation's children. It would spend the $1.6 billion over the next 10 years on subsidies to help the wealthy pay the private school expenses they already pay and do nothing to help the children in the public schools get a better education.

It is important to continue the national investment in children and their future. We should invest more in improving public schools by repairing crumbling facilities, by recruiting more and training better teachers, by reducing class size, by developing responsible afterschool activities, and by taking many other steps.

If we add $1.6 billion to spend on elementary and secondary education, we should spend it wisely on these problems, not waste it on bad education policy and bad tax policy. We should rebuild our public schools, not build new tax shelters for the wealthy.

According to the Joint Tax Committee, over half of the benefits—$800 million—will go to 7 percent of the families with children in private schools. Did you note when my friend from Georgia was here he said: 70 percent of the families that can use this tax break will be making under $70,000. But let's find out where the money is going, Senator. We are not just talking about who may be able to use the program. Let's look at what the Joint Tax Committee says. Let's read the next line. Let's ask where the money is going, not who "may benefit." I heard that out here four or five times in the last hour, look who is going to benefit, all of these families below $70,000—"may benefit." May benefit. The fact is, the Joint Tax Committee has indicated that $800 million, half of all the money, will go to the 7 percent of families whose children are already in private schools.

If you are going to fight for a particular program, at least have the intellectual honesty to state what it is going to do and try to defend it. I can understand why those who support this program run from all the details, try to really say it's doing something that it does not do. With all respect, when I listen to those who have been supporting the program, I have to wonder how this program is going to solve the education problems for the young people? Proponents use the National at Risk as a starting point, but they, again, don't tell you the next line. The Nation at Risk gave recommendations on how to improve education, but they are not the ones included in the Coverdell bill. Here it is. The Joint Tax Committee: 93 percent of the children in the country go to the public schools; 7 percent go to private schools; and 48 percent of the monetary benefit that will come from here will go to the public schools; but 52 percent—more than half—will go to the 7 percent of the children who go to the private schools.

You can say 70 percent of the families that are eligible for this tax break go to the public schools. But that's not where the money goes. And we all know that where the money goes is what counts around here. The money goes to families who already send their children to private school. We believe that we should not abandon the public schools. We ought to commit ourselves to helping and assisting the public schools and the children who attend them.

The bottom line is clear. The scarce tax dollars should be targeted to public schools. They don't have the luxury of closing their doors to students who pose special challenges, such as children with disabilities, limited English-proficient children, or homeless students. This bill will not help children who need help the most.

Parental choice is a mirage. Private schools apply different rules from public schools. Public schools must accept all children. Private schools can decide whether to accept a child or not. The real choice belongs to schools, not to the parents. It belongs to schools, not to the parents. Public schools must accept all children and develop programs to meet their needs. Private schools only accept children who fit the guidelines of their existing policy. So, if we are talking about public funds that are contributed from working families, we ought to be using those funds where the children of those working families go to school.

And that means supporting the public schools. But the majority of the money goes to the 7 percent of families sending their children to private schools.

We have a series of recommendations that have been made by the top education community in this country. They are common-sense recommendations: Smaller classrooms, modernizing schools, upgrading teacher training, and expanding afterschool programs. These have all been outlined here, and they were all rejected on the floor of the U.S. Senate. Then we are asked to accept this bill to support private schools or nothing. We are asked to accept this or nothing.

We even had a modest rehabilitation program by our friend and colleague, the Senator from Florida, Senator GRAHAM, that was dropped in the conference, to try to increase assistance for school construction.

Another program that the President talked about is the Educational Opportunity Zones to provide support to those school districts that are willing to invest in major restructuring, reorganization, and innovation in order to improve student academic achievement. The program provides some incentives for those exciting programs.

You can say, what is an example where that program would work? Chicago is the example for that. Chicago is really doing a very important and effective job to try to give some help and assistance to its schools and to its parents and teachers who are trying to do the job of educating children, to do it right. We recognize that there are many communities that are trying to improve their schools, and we should support them.

I am proud of what the city of Boston is doing, Mr. President. We saw just yesterday the Boston Globe was reporting on the most recent math and reading tests in that city and how, for the first time in many years, there was increased performance of students across the board in reading and math, and in some of the most difficult schools with high suspension rates, dropouts rates—the most troubled schools—how they have been able to see a significant improvement in academic achievement and accomplishment.

That is happening in the public schools among some very needy children in a major city. Why? Because we have had a superintendent and a mayor who are committed to providing resources and discipline to enhance the education of the public schools—not abandon them.

We have nothing against the private schools. There are many wonderful private schools. But we are talking about, in a budget with scarce resources, funds paid in by working families through their taxes. And, in the consideration of the budget, after the President's programs—smaller class size, upgrading the skills for teachers, modernizing our schools, expanding afterschool programs—have been defeated, we are forced to consider this program that does what? Benefits the private schools—benefits the private schools.

So, Mr. President, this proposal does not deserve to go into law. The President is right to veto this proposal. He is right to send it back to the Congress and say, "Start over again. Start over again." We have time to do that. We have been fussing around here for 4 weeks debating the tobacco bill and then find that the point of order was made on it. It could have been made 4 weeks earlier in order to dismiss that as a result of big tobacco.

We are not debating the education priorities of the American people. We are not debating the health care priorities of the American people, such as the Patients' Bill of Rights. People in this country want to see the reform of our health care system to eliminate the abuses of HMO's. Managed care too often means mismanaged care. The American people want these decisions made, that are affecting their health, by doctors and not insurance company accountants. We ought to be debating that. But we cannot debate that. It is nowhere on the Republican leader's schedule.

And we ought to start over here, after the President's veto, and debate, what we can do as a legislative body, with scarce resources, that will make the best, most effective impact on improving the quality of education and achievement and accomplishment for the 90 percent of children in the public schools? Public money for public schools—that is the central challenge. And this particular measure fails on all accounts.

So I hope, Mr. President, that we can get about the business in the remaining days of this Congress and support what we know is being done in rural, urban, and suburban communities, with scarce resources, by creative, dedicated people who are absolutely committed to their children in those communities, who are working tirelessly, exhaustively, to raise academic achievement and improve public schools.

Do we have a ways to go? Yes. Will $1.6 billion solve the whole problem? No, and we should invest more—much more—in improving our public schools. But the question for us today is, Is this the best way to spend $1.6 billion of the American taxpayers' dollars to improve public schools? The answer is no. And for that reason, I believe that this measure should not win the support of the Members of this body.

Mr. President, I know we are under a time fix. Whatever time remains on our side I yield to the good Senator from Minnesota.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota has 16 minutes 30 seconds.

Mr. WELLSTONE. I thank the Chair.

Mr. President, in the spirit of debate, let me just say to my colleagues on the other side of the aisle that I just do not think this passes the credibility test as an education program for our country.

The PRESIDING OFFICER. If the Senator from Minnesota will yield for a minute, the Chair misspoke. The Senator from Minnesota has approximately 40 minutes.

Mr. WELLSTONE. I thank the Chair.

Mr. President, we are talking about a $1.7 billion initiative, and that is over a period of 5 years. The idea is that you can take $2,000 and you can put it in a special account, education account.

Now, for those who are following this debate, I would ask this question: How many families are in a position to take $2,000 out and put it in a savings account for education? This just kind of misses the essence of the reality of the vast majority of families in this country. And that is why the Joint Tax Committee said that this $1.7 billion, over 5 years, which is touted as a major education program for our children, will amount to about $96 for wealthy parents for private schools, and this bill will give the rest of the parents about $7.

So there is the question as to whether or not we want to take public taxpayer money and put it into private schools, but there is also the question, as my colleague from Massachusetts was focusing on, as to who exactly it is going to benefit.

Mr. President, above and beyond the problem that the vast majority of families get no benefit from this, there is another problem. This is, again, a kind of tax policy; it is not an education program. I will get to that in a moment. And the tax benefits go, by and large, to the wealthiest citizens. I guess this is my Republican colleagues' definition of justice or fairness. But I do not think most of the people in the country agree with that.

Where this proposal, however, I think is really most flawed has to do with what it does in education. I have tried to, to the best of my ability as a Senator from Minnesota, about every 2 weeks, to be in a school teaching somewhere. And I see nothing at all in what my colleagues on the other side of the aisle call an education proposal that deals with the real needs.

Will there be any funding to rebuild crumbling schools? No. And, by the way, let me say this again on the floor of the Senate: I have seen too many schools in the South, in the East, in the North, and in the West, where the ceilings are crumbling, they are asbestos laden, with decrepit toilets, without adequate heating systems; and we are not putting any money to help rebuild these crumbling schools.

I would say the pages who are here, the students—what kind of message do we communicate to students who go to those schools about whether we value them or not? There is not one penny in this legislation that does anything about these crumbling schools. That would really be a commitment to public education.

Is there any funding in this amendment—which is, by the way, pitifully inadequate in the first place—that will do anything to reduce class size? Well, no.

If you were to believe that students know a little bit about their own education—I haven't been to one school anywhere in Minnesota or in the country where when I asked students, What do you think would be some of the best things we could do to make education better for you, that students haven't talked about smaller class sizes. Is there anything in this pitifully inadequate proposal in the first place that deals with reducing class size? No.

By the way, colleagues, I have been to too many high schools where students tell me that they are in classes with 45 students. I was in a Los Angeles meeting with some wonderful high school students. They said, "Part of the problem is we are not even missed. Nobody even knows we are there." The school is so overcrowded, the class size is so large, how can any teacher do a good job with 45 students in a class?

Is there anything here that reduces class size? No. Is there anything here that will help make schools safer? No. Is there anything in this legislation that will help train teachers to use new technologies? No. Is there anything in this piece of legislation that will invest in some funding for summer institutes where teachers can meet, compare notes, fire one another up, talk about new ways of teaching and learning? No. Is there anything in this education proposal, or what my colleagues call an education proposal that deals with the learning gap that tries to come to terms with students, by the time they come to kindergarten they are ready to learn; she knows how to spell her name; she knows the alphabet; he knows colors, shapes and sizes; he has been read to widely, and they have that readiness to learn? No. Is there anything in what is called this education legislation that makes a commitment to early childhood development? No. Is there anything in this legislation that helps working families—after all, as my colleague from Massachusetts said, it is their taxpayer money—is there anything in this legislation that speaks to the ordeal that so many young families go through?

I thought we had made some progress. But we really haven't. When Sheila and I were first married, age 19—I don't advise that, by the way, for everyone; we had our first child when we were barely 20, about a year and a half later, David. We had hardly any money. I do advise it—we have been married 35 years; it can work well. My point is—as I get myself in more trouble as I speak—we had our child David, and we hardly had any income. After, I think, six weeks, Sheila had to go back to work.

Now we have family medical leave, but it is unpaid leave. If you don't have much money, you have to work. It was a wrenching experience, a wrenching experience to not be able to spend more time with your infant. She had to work, and I was a student and I was working. So then what happens? As it turns out, we look for what we can afford. There was a woman, a child-care giver, and she takes care of children, and we take him to her. We thought she would be good. But then after a couple of days of picking him up and he was just sort of limp, he had no expression in his face, and he had been so lively before, so we don't know what has happened. So I drop by this home in the middle of the day, and I see all these infants in playpens with pacifiers. They are not being picked up. They are not being touched. I felt so guilty I called my mom and dad and said I am going to quit school; I am going to work. I can't have him put in this situation. And we got some help from my parents. They were able to help us. I don't know how they did it on their income.

Do you think that young parents who have the same experience today like the fact that they know they have no other choice but to drop their infant off in a child-care center? They know that maybe the people there aren't real well trained. People make precious little money that are involved in this area, but what choice do they have? They can't afford $12,000 a year if they have two small children.

Is there anything in this piece of legislation or anything my Republican colleagues are doing in this session, in the Senate, that speaks to this question of how parents can do better by their children; how we can make sure that children come to kindergarten, ready to learn? That is a big education initiative. The answer is no. What do we have instead? $1.7 billion over 5 years, amounting to about $7 per family, and that is called a major education initiative?

Is there anything in this piece of legislation that speaks to afterschool care? Let's have some sympathy with parents—single parents or both parents. Do you think parents like the fact that their 11-year-old—it is astounding, and I forget the percentage, how many 11 and 12-year-olds are home alone; it is a very high percentage. Do you think the parents like the fact they both have to work—they have no other choice—in order to have income. Some of them are working two jobs. They don't even have enough time to be with their children at home they are working so hard.

Do you think a person likes the fact that his or her daughter age 11 or age 7, goes home alone and watches trash TV talk shows and eats junk food and there is nobody to take care of them? Do you think a parent likes the fact when we hear so many things that are not so good that happen between 3 o'clock in the afternoon and 6 p.m.—do you think the parents like that? Wouldn't they like to have some really good school programs, some community programs, where their kids could be doing positive things and wouldn't be home alone, and the only reason they are home alone is because both parents have to work? No, they don't like it. So why don't we help these parents with a real education initiative. There is not a thing in this piece of legislation that deals with that at all.

Mr. President, I have to say that this proposal, which is supposed to be the major education initiative of the Republican Party, provides help in inverse relationship to need, does zero for public education, does practically zero for working families, doesn't represent a step forward, but represents a great leap backward. The President is right to veto this piece of legislation. We must start all over again.

I will just say to my colleagues that I think you are playing with fire. You are playing with fire with a piece of legislation that you tout as a major education reform bill that does next to nothing to make sure that we expand educational opportunity for all of our children in our country.

I thought that children were 100 percent of our future. So I want to know, colleagues, where is our commitment to making sure that there is really good care for children before they even get to kindergarten? Where is our commitment to making sure if we are to follow the advice of all these studies that are coming out, all of this medical evidence about the development of the brain, to make sure that children have really good developmental child care? The answer is there is no commitment here. My colleagues in the majority of the Republican Party have no initiative at all.

Where is the commitment to rebuild the crumbling schools and to have the teacher training and to have smaller class size and to make sure that the Internet and all this new technology means that all the schools are wired and teachers know how to work with it and children and young people become literate in this area? The answer is there is no commitment whatsoever.

Mr. President, I have come to the floor to speak against this piece of legislation. I hope my colleagues will vote against it. I hope the President will veto it. Then we must come back to education again.

Colleagues, it is not enough to be giving speeches about this. I apply that to myself, as well. It is not enough to have photo opportunities with small children. We all love to have our pictures taken with children. It is not enough to be in the schools once in a while. And it is not enough to say that young people are our future. If we don't make the commitment, backed by solid legislation, with resources to get to communities so we can do well for all the children in our country, then from my point of view, we will not have been honest. We will not have done all that we should do. By the way, when I say "honest," I don't mean as in personally honest. Senator COVERDELL, the author of this bill, is a friend and I respect him. But I think in terms of the effect of this, it doesn't honestly reach children in our country; it doesn't honestly contribute to public education; it doesn't honestly contribute to the education of the vast majority of young people in the United States of America. Therefore, colleagues ought to vote against it.

Mr. President, how much time do we have left?

The PRESIDING OFFICER. The Senator has approximately 30 minutes remaining.

Mr. WELLSTONE. Mr. President, before reserving the balance of our time, I want to just comment on one other matter, which I have tried to speak on every week.

I ask unanimous consent that I may speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JAMES HORMEL

Mr. WELLSTONE. Mr. President, it has been—I am trying to remember now—almost a year since James Hormel was voted out of Foreign Relations Committee by a 16–2 vote. I have said this a number of times on the floor of the Senate, and I want to keep saying it.

James Hormel, I think, is eminently qualified to be Ambassador to Luxembourg. He has a very, very, very distinguished record as an educator, as a businessman, as a philanthropist, and as somebody who has given to many, many communities in our country. I see no reason whatsoever why we do not have an up-or-down vote on this on the floor of the U.S. Senate.

Mr. President, I have said it to colleagues directly. I don't say it indirectly. I want to make terribly sure that the reason Mr. James Hormel's nomination has not been brought to the floor is not because of discrimination against him because of his sexual orientation. I hope that is not the case, but I do believe that we need to have an honest discussion about this nomination. We need to have a full-scale debate, and we need to have an up-or-down vote.

I think we should judge people by the content of their character. I think we should judge people by their vision and by their leadership ability. It is my fervent hope that the majority leader will bring this nomination to the floor. I have said that I am looking for a vehicle—we have things kind of snarled up here right now—on which to bring an amendment out that in one way or another will put an even sharper focus on this question.

I do intend to speak out and I intend to use whatever leverage I have as a Senator to continue to push on this question. If Senators have reasons for objecting to Mr. Hormel's nomination, let them come out here and speak. Let us have an honest debate. If, God forbid, there are objections to him based upon his sexual orientation, then I think the U.S. Senate needs to look at itself in the mirror, because I think we can do better than that.

I yield the floor and reserve the balance of our time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

75TH ANNIVERSARY OF CLEMENT AND JESSIE STONE

Mr. THURMOND. Mr. President, I rise today to mark a special date in the lives of two of my friends, Clement and Jessie Stone, who celebrated their 75th wedding anniversary this past weekend.

Mr. Stone is well known to people throughout the world as a successful executive, a generous philanthropist, and for his writings on topics related to business, management, and positive thinking. Millions of people have read his inspirational books, and his insightful advice on the above topics has changed countless lives for the better. Few people are as well known, well read, or well regarded, as Clement Stone and he can truly be proud of all that he has accomplished in his rich and long life.

Despite his considerable wealth, his many awards and recognitions, and his international fame, I am certain that the one thing Clement Stone values and treasures more than anything else in life is his marriage to his high school sweetheart, a union that has lasted three-quarters of one century. It is almost unheard of for two people to be married for 75-years, but Jessie and Clement have not only done so, but I am told that their affection and regard for one another has not waned one bit since they exchanged vows on June 16, 1923. Without question, they are an inspiration to one and all.

As Clement and Jessie mark this auspicious milestone in their lives and their marriage, they will be doing so with friends and family, including a large number of grandchildren and great grandchildren. I join all of them in wishing the Stones a happy anniversary and many more years of health and happiness.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 22, 1998, the federal debt stood at $5,496,659,912,687.35 (Five trillion, four hundred ninety-six billion, six hundred fifty-nine million, nine hundred twelve thousand, six hundred eighty-seven dollars and thirty-five cents).

Five years ago, June 22, 1993, the federal debt stood at $4,299,889,000,000 (Four trillion, two hundred ninety-nine billion, eight hundred eighty-nine million).

Ten years ago, June 22, 1988, the federal debt stood at $2,526,369,000,000 (Two trillion, five hundred twenty-six billion, three hundred sixty-nine million).

Fifteen years ago, June 22, 1983, the federal debt stood at $1,303,008,000,000 (One trillion, three hundred three billion, eight million).

Twenty-five years ago, June 22, 1973, the federal debt stood at $453,584,000,000 (Four hundred fifty-three billion, five hundred eighty-four million) which reflects a debt increase of more than $5 trillion—$5,043,075,912,687.35 (Five trillion, forty-three billion, seventy-five million, nine hundred twelve thousand, six hundred eighty-seven dollars and thirty-five cents) during the past 25 years.

THE VIOLENT AND REPEAT OFFENDER ACT

Mr. LEAHY. Mr. President, since S. 10 was voted out of the Judiciary Committee almost one year ago, I have spoken on the floor of the Senate and at hearings on numerous occasions to urge its Republican sponsors to work with me in a bipartisan and open manner to improve this juvenile crime bill. Instead of dialogue, the sponsors of this legislation have played games of "Hide and Seek" with the revisions they were making to the bill.

I am delighted to see reflected in the brief "DRAFT" summary circulated by the sponsors of the bill that they are finally and belatedly making certain changes that they voted down during the Committee's consideration of this bill. The "devil is in the details", however, so I and my Democratic colleagues are eager to see the full text of this revised bill.

Unfortunately, the sponsors of this bill were not willing to work with me last year when we would have had a much better chance of moving this important legislation. Now, as we head toward the end of this Congress and still face a number of vital appropriations matters to consider, time is running out to complete action on a juvenile crime bill. Those who will suffer from the dilatory manner in which this bill was handled are the children of this country and America's law enforcement officers and prosecutors who are eager for the additional resources available in this bill.

I am delighted to see that the legislation is being revised to include changes proposed by Democrats that the Republican sponsors previously rejected, including:

Retention of State Presumption to Prosecute Juveniles: The revised S. 10 will apparently preserve the "presumption in favor of state prosecution" for juveniles who face concurrent state and federal jurisdiction over the offense committed. This language is clearly based on amendments I and others proposed to avoid the federalization of juvenile crime that has prompted expressions of concern by Chief Justice Rehnquist and the Judicial Conference States have had primary responsibility for handling juvenile cases, and they should continue to do so.

Death Penalty: The new S. 10 apparently would not subject juveniles to the federal death penalty, another policy which Democratic members of the Committee insisted upon during Committee debate. As introduced, S. 10 allowed the imposition of the death penalty for juveniles as young as sixteen.

Increased Flexibility for the Incentive Block Grant program: The strict earmarks in this block grant for building more juvenile facilities, drug testing juveniles and enhancing State recordkeeping systems would have imposed a one-size-fits-all strait jacket on the States. The sponsors of the bill, apparently, have finally recognized how critical it is to provide flexibility to the States because State and local officials are much better able to determine how to reduce juvenile delinquency rates in their own communities.

Revised Recordkeeping Provisions: For over a year, I have repeatedly told my colleagues that no State in the nation would be eligible for S. 10's Incentive Block Grant, since none currently complies with the strict recordkeeping requirements. Moreover, at my request, the Department of Justice conducted a study which concluded that the extensive recordkeeping requirements in this bill would cost States "hundreds of millions of dollars." I urged the authors of this bill to narrow the focus of the recordkeeping to those juveniles who are most likely to be repeat offenders, namely, those who commit acts which would be a felony if committed by an adult. The sponsors have apparently finally heeded these common sense concerns and promise to correct these flaws—even though they voted down amendments I proposed to make these corrections.

Increased Funding for Prosecutors: The sponsors have also finally agreed to double the funds available to prosecutors. It is unfortunate that they refused to work this out in Committee last year so that additional prosecutors could be at work right now.

Improved Sight and Sound Separation Requirement: Last year, I joined with Senators BIDEN and KOHL and other Democrats to urge the adoption of the more protective federal standards for juveniles in State detention facilities but the Republican sponsors of S. 10 rejected these changes to the bill. I am delighted to see that this mean-spirited provision may be modified, and that juveniles held in state facilities will have the same protections from adult inmates as juveniles in federal custody.

Dedicated Prevention Funding: Despite being repeatedly rebuffed when I and my fellow Democrats insisted that prevention programs needed dedicated funding, I am pleased that the sponsors of S. 10 apparently have changed their tune and are promising to dedicate funding to prevention programs. A dedicated fund of $50 million per year is a start.

Revisions to the Federal Firearms Code: I warned my colleagues over a year ago that certain provisions the "Federal Gang Violence Act," incorporated in Title II of S. 10, would lead to the largest increase in the federal regulation of firearms in the history of our nation. No one heeded my advice then, but the sponsors of this bill have apparently finally realized they need to modify these provisions. The revised S. 10 has more than halved the number of firearm offenses that can serve as predicates for gang-related offenses or under the RICO statute.

I remain eager to review the actual text of this revised bill. I also remain hopeful that the sponsors of S. 10 will commit to working openly with me and other Democrats to craft common sense, reasonable approaches to reduce juvenile crime while there is still time in this Congress.

OMNIBUS PATENT ACT OF 1997

Mr. LEAHY. Mr. President, now that we have passed legislation to implement the WIPO copyright treaties, it is time for the Senate to consider another bill of critical importance to America's businesses: The Omnibus Patent Act of 1997, S. 507.

The patent bill has been stalled by Republican holds for over a year. It is time that the Senate turn to it and reform our patent laws. The patent bill was based on a proposal submitted by the Clinton Administration several years ago. It was reported out of the Senate Judiciary Committee on May 22, 1997, with a favorable vote of 17–1 and has the support of every Democrat on the Committee. Its co-sponsors, in addition to myself, include Senators DASCHLE, BINGAMAN, CLELAND, BOXER, HARKIN and LIEBERMAN.

The patent bill would reform the U.S. patent system in important ways. It would slash red tape in the Patent and Trademark Office (PTO); ensure that American inventors are not disadvantaged as compared to foreign inventors by requiring patent applications to be published in the U.S. at the same time they are published abroad; reduce legal fees that are paid by inventors and companies; and require the PTO to develop statewide computer networks with remote library sites to enhance access to electronic patent information for independent inventors and small businesses in rural states.

In Vermont, we have a number of independent inventors and small companies. It is, therefore, especially important to me that this bill be one that helps them just as much as it helps the larger companies. I talked to independent inventors and representatives of smaller companies to see what reforms they recommended. I invited the President of the Vermont Inventors Association to testify before the Senate Judiciary Committee on this bill, and I have tried to make sure that the sound recommendations of small businesses and independent inventors were incorporated in the Hatch-Leahy substitute that the Judiciary Committee reported to the Senate over one year ago.

The White House Conference on Small Businesses, which consists of over 2,000 delegates elected from hundreds of thousands of active small businesses nationwide; the National Association of Women Business Owners; the Small Business Technology Coalition; National Small Business United; the National Venture Capital Association; and the American Small Business Coalition for Patent Reform have concluded that, if enacted, this bill will be of great benefit to small businesses.

What is holding up floor consideration of the bill? I think it is time to debate this bill on the merits. The Senate Republican leadership should schedule prompt action on this important measure.

Our nation's economic prosperity in the coming years will depend on our abilities to invent and protect those inventions through our intellectual property laws. American innovators face global competition, and they need updated laws to continue to lead the world. This modernization of our patent laws is an important component of that essential effort. Along with the legislation the Senate recently approved to implement the WIPO copyright treaties, this bill goes a long way to protecting American ingenuity in the next century. Democrats have been ready to proceed to consider this measure for over a year. With less than 53 legislative days left in this session, I urge the Republican leadership to work with us to schedule action on this important bill.

I ask unanimous consent that a list of letters of support for the patent bill and a few examples from those letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF LETTERS OF SUPPORT OF THE OMNIBUS PATENT ACT OF 1997, S. 507

White House Conference on Small Businesses.

The National Association of Women Business Owners.

The Small Business Technology Coalition.

National Small Business United.

The National Venture Capital Association.

21 Century Patent Coalition—signed by CEOs of 48 American companies.

The Chamber of Commerce of the United States of America.

Pharmaceutical Research and Manufacturers of America, PhRMA.

American Automobile Manufacturers Association.

The Software Publishers Association.

Semiconductor Industry Association.

3M.

IBM.

Intel Corporation.

Caterpillar.

AMP Incorporated.

THE WHITE HOUSE
CONFERENCE ON SMALL BUSINESS,
May 7, 1998.

Hon. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: The White House Conference on Small Business consists of over 2000 delegates elected from hundreds of thousands of active small businesses nationwide. We are the elected technology chairs of the WHCSB and we are charged with, among other things, representing the interests of small business on matters of intellectual property protection.

The issue of patent reform is one of great concern to small manufacturers and technology enterprises. Over the past two years, we have been working to make modifications to the patent reform bills in both Houses so that they are small-business friendly.

We are pleased to hear that an amendment has been offered addressing our concerns with S. 507. We believe that S. 507, as amended, will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving us a more level playing field vis-a-vis our foreign competitors. We wholeheartedly support passage of the bill and appreciate the attention and support you have given to small business.

Sincerely,

The White House Conference on Small Business Technology Chairs: Pat McDonnell, Region I; Ed Wenger, Region II; Jim Woo, Region II; Bill Budinger, Region III; Wanda Gozdz, Region IV; Rob Risser, Region V; Wayne Barlow, Region VIII; Marianne Hamm, Region IX; Chuck Harlowe, Region X.

NATIONAL ASSOCIATION OF
WOMEN BUSINESS OWNERS,
Silver Spring, June 23, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: Attached please find a copy of the April 28 letter sent to Senator Orrin Hatch by NAWBO leadership. This letter expresses the position of NAWBO, on behalf of our membership, regarding S.507 and its impact on small business. The letter contains a series of proposed amendments that NAWBO feels are in the best interest of small business owners and for which we would greatly appreciate your support in the upcoming debate on this legislation.

On behalf of NAWBO members and other small business owners, thank you for your time and efforts regarding this issue. If we may be of further assistance please feel free to contact Debra Hickerson in our national office at (301) 608-2590.

Sincerely,

DIAHANN W. LASSUS, CPA, CFP,
President.

NATIONAL ASSOCIATION OF
WOMEN BUSINESS OWNERS,
Silver Spring, MD, April 28, 1998.

Hon. ORRIN HATCH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: The National Association of Women Business Owners (NAWBO) and its alliance The Small Business Technology Coalition (SBTC) met with the White House Conference on Small Business (WHCSB) Technology Chairs to review S. 507 and its impact on small business. NAWBO supported intellectual property protection as one of the issues at the White House Conference.

The issue of patent reform is one of great concern to small manufacturers and technology enterprises and to all small businesses in general. When a new patent is filed it provides the potential for a new product to come to market. This in turn gives small and medium size businesses the opportunity to be awarded contracts that generate and provide jobs that stimulate our economy.

America's 8 million women business owners are primarily small and medium size companies that generate $2.3 trillion dollars in sales and employ 18.5 million people in the United States. Therefore, in order to insure the growth of the American economy we need to protect our inventors.

It is, therefore, our belief that the proposed series of amendments to S. 507 which if enacted, would make this bill of great benefit to small businesses.

There are three amendments:

1. Title IV—Prior Domestic Commercial Use. We offer an amendment in the form of a substitution. The amendment reorganizes, clarifies and simplifies the wording. The substantive difference is that the amendment removes the opportunity which is presently in S. 507 to use a PDCU defense when the prior user has only made "effective and serious preparation" to commercialize the invention. With this section removed, the prior use defense only applies to technology that was actually reduced to practice at least one year prior to the patent priority date and in commercial use before the patent's priority date. With this amendment, PDCU performs its important function of preventing patents from being mis-used to take the property of others.

2. A new title adding language to 102(g)—Section 104 of the existing U.S. patent law arguably allows a foreign inventor to dodge the restrictions that 102(g) places on a U.S. inventor. The suggested change to 102(g) will make it clear that foreign inventors are also subject to the restriction of 102(g) so that they cannot claim priority dates to inventions that they have abandoned, suppressed or concealed.

3. Title I—The make-up of the Management Advisory Board. We add language to ensure that the proportion of representatives on the board from small and large entities reflects their respective proportion of patent applications filed.

With these changes, we believe that S. 507 will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way toward giving us a more level playing field vis-a-vis our foreign competitors.

With these changes, we will enthusiastically support S. 507.

Sincerely,

Barbara Kasoff, VP, Public Policy Council; Carol Barrows, Secretary, Public Policy Council; Janie Emerson, Director, Public Policy Council; Joan W. Frentz, Director, Public Policy Council; Terry Neese, NAWBO Corporate and Public Policy Consultant; Judith F. Framan, Director, Public Policy Council; Wanda E. Gozdz, Director, Public Policy Council; E. Jill Pollack, Director, Public Policy Council.

SMALL BUSINESS
TECHNOLOGY COALITION,
Washington, DC, May 7, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: The Small Business Technology Coalition is made up of research-intensive, technology-based small business leaders. We serve as a voice for the interests of small high-technology firms both in Washington, DC and throughout the United States.

The issue of patent reform is one of great concern to our members. Since our formation 2 years ago, we have spent a great deal of time examining the various patent bills in both Houses. We have met with several groups including the IPO, 21st Century Patent Coalition, NAM and AIPLA and have come to consensus on issues surrounding the bill.

We understand that an amendment has been offered and believe that S. 507, as amended, will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving us a more level playing field vis-a-vis our foreign competitors. We wholeheartedly support passage of the bill and appreciate the attention and support you have given to small business.

Sincerely,

JAMES T. WOO,
Chairman.

NATIONAL SMALL BUSINESS UNITED,
Washington, DC, May 21, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: National Small Business United is America's oldest, bipartisan, advocacy association and represents the interests of 65,000 small businesses. Many of our member companies are in the high-technology sector. The issue of patent reform is one of great concern to small manufacturers and technology enterprises. We have worked closely with both the White House Conference on Small Business (WHCSB) Technology Chairs and the Small Business Technology Coalition, and share their views on pending patent reform legislation.

We are pleased to hear that an amendment, incorporating the changes requested by the WHCSB Technology Chairs, has been offered addressing small business concerns with S. 507. We believe that S. 507, as amended, will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving American small business a more level playing field vis-a-vis our foreign competitors.

Again, as a representative of small business who rely on the patent system, NSBU wholeheartedly supports and urges the passage of the bill and appreciates the attention and support you have given to small business.

Sincerely,

TODD MCCRACKEN,
President.

NATIONAL VENTURE
CAPITAL ASSOCIATION,
May 29, 1998.

Hon. RICHARD C. SHELBY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SHELBY: Over the past several years the National Venture Capital Association has actively worked to enhance the existing patent term in a manner that would permit biomedical companies to enjoy full 20 year patent protection. In this regard, NVCA has long supported S. 507, the patent reform bill which, in part, would give biomedical companies a greater opportunity to fall within the full 20 year patent protection granted under the GATT/TRIPS law enacted in 1994.

A significant portion of venture capital investments in the United States are made in the biopharmaceutical and medical device fields. In fact, almost one-quarter of the $12 billion invested by venture capitalists last year in emerging companies went into these fields. These companies are the cutting edge of biotechnology and medical innovation. They are giving new and renewed hope for people across virtually the entire spectrum of diseases and afflictions.

To venture capitalists, patents play a fundamental and critical role in the availability of capital and our willingness to invest in biotechnology and medical devices. The reason for such dependency upon patents is that they provide the favorable economics required to justify substantial capital investment for successful product development. The lack of, or the shorter the term of, a patent decreases the attractiveness of a company from the investors' perspective.

S. 507, voted out of the Senate Judiciary Committee on a 17–1 vote, gives the NVCA members the confidence to invest in medical-based companies. The bill is vital to biotechnology patents. NVCA, as well as many in the high technology and inventor communities believe that the few remaining issues can be quickly resolved. Questions regarding contentious matters such as prior user rights can be addressed and debated on the Senate floor through a carefully planned time agreement. Moreover, the prior user rights provision could be modified on the Senate floor to address the concerns of those who still have questions about the provision. However, none of this can be accomplished without an agreement to bring S. 507 to the Senate floor for debate and a vote.

It was unfortunate that S. 507 could not have been part of the highly successful Senate "Technology Week" that Majority Leader Lott orchestrated several weeks ago, as S. 507 truly is of concern to the high technology community. Moreover, the overwhelming support witnessed in the House combined with the clear mandate the Senate Judiciary Committee voiced in approving this patent legislation demonstrates the wide and bipartisan support for patent reform.

On behalf of emerging growth companies, we urge you to support S. 507 and work to see that it can be brought to the Senate floor for debate and a vote as soon as possible.

Sincerely,

M. KATHLEEN BEHRENS,
President.

21ST CENTURY
PATENT COALITION,
Washington, DC, October 22, 1997.

Hon. TRENT LOTT,
Senate Majority Leader, Capitol Building, Washington, DC.

DEAR SENATOR LOTT: We, the chief executives of 48 American companies, are writing to express our strong support for S. 507 (Hatch/Leahy), the "Omnibus Patent Act of 1997", and to urge you to schedule a vote before the Senate adjourns this fall.

S. 507 makes several major improvements in U.S. patent law that will greatly benefit American companies and inventors. The bill (1) insures at least 17 years of exclusive rights to diligent patent owners, (2) eliminates wasteful duplication of R&D by requiring early publication of patent applications that are also published in foreign countries, (3) protects investments in processes and factory equipment of American manufacturers by creating a prior user defense, (4) provides a low-cost, speedy alternative to district court litigation by strengthening the Patent and Trademark Office's reexamination procedure, and (5) improves efficiency of the Patent and Trademark Office.

The substance of this bill has been debated in many Congressional hearings since the beginning of the 104th Congress. The House passed a companion bill earlier this year and S. 507 was favorably reported by the Senate Judiciary Committee by a vote of 17 to 1.

S. 507 enjoys strong bipartisan support, despite the substantial misinformation that has surrounded it. It is time for the Senate to vote on this bill, which will strengthen the U.S. economy and keep jobs in America.

Sincerely,

Grant Saviers, Chairman, CEO and President, Adaptec, Inc.; H.A. Wagner, Chairman of the Board, President, and Chief Executive Officer, Air Products and Chemicals, Inc.; John R. Stafford, Chairman, President and Chief Executive Officer, American Home Products Corp.; John I. Shipp, President, Apollo Camera, L.L.C.; Carol Bartz, Chairman, President and CEO, Autodesk, Inc.; Clateo Castellini, Chairman of the Board, President and CEO, Becton, Dickinson and Co.; Donald V. Fites, Chairman and CEO, Caterpillar Inc.; William J. Hudson, President and Chief Executive Officer, AMP Inc.; James C. Morgan, Chairman and Chief Executive Officer, Applied Materials, Inc.; William H. Williams, President and Chief Executive Officer, Bear Creek Corp.; Gregory Bentley, President, Bentley Systems, Inc.; Frank Baldino, Jr., Ph.D., President and CEO, Cephalon, Inc.; Dominique Goupil, President, Claris Corp.; Hans W. Becherer, Chairman and Chief Executive Officer, Deere & Co.; John A. Krol, Chairman and Chief Executive Officer, E. I. du Pont de Nemours and Co.; George M. C. Fisher, Chairman, President, and Chief Executive Officer, Eastman Kadak Co.; Alex Trotman, Chairman of the Board, Ford Motor Co.; Eckhard Pfeiffer, President and CEO, Compaq Computer Corp.; William S. Stavropoulos, President and Chief Executive Officer, The Dow Chemical Co.; Earnest W. Deavenport, Jr., Chairman and Chief Executive Officer, Eastman Chemical Co.; Robert N. Burt, Chairman of the Board and Chief Executive Officer, FMC Corp.; John D. Opie, Vice Chairman, General Electric Co.; Phillip W. Farmer, Chairman and Chief Executive Officer, Harris Corp.; Thomas F. Kennedy, President and Chief Executive Officer, Hoechst Celanese Corp.; Gordon E. Moore, Chairman, Intel Corp.; Richard A. McGinn, President and Chief Executive Officer, Lucent Technologies; William H. Gates, Chairman and Chief Executive Officer, Microsoft Corp.; Lewis E. Platt, Chairman, President, and Chief Executive Officer, Hewlett-Packard Co.; Louis V. Gerstener, Jr., Chairman and Chief Executive Officer, IBM Corp.; Jeff Papows, President, Lotus Development Corp.; William W. George, Chairman and Chief Executive Officer, Medtronic, Inc.; L. D. DeSimone, Chairman of the Board and Chief Executive Officer, Minnesota Mining and Manufacturing Co.; Edward J. Mooney, Chairman and CEO, Nalco Chemical Co.; William C. Steere, Jr., Chairman of the Board and CEO, Pfizer, Inc.; Charles S. Johnson, Chairman, President and CEO, Pioneer Hi-Bred International, Inc.; H.W. Lichtenberger, Chief Executive Officer, Praxair, Inc.; Jeremiah J. Sheehan, Chairman and Chief Executive Officer, Reynolds Metals Co.; Eric Schmidt, Chairman and CEO, Novell, Inc.; W.W. Allen, Chairman of the Board and Chief Executive Officer, Phillips Petroleum Co.; Gary DiGamillo, Chief Executive Officer, Polaroid Corp.; John E. Pepper, Chairman and CEO, Procter & Gamble; Bill Budinger, Chairman and Chief Executive Officer, Rodel, Inc.; Larry Wilson, Chairman and Chief Executive Officer, Rohm and Haas Co.; Scott McNealy, Chairman of the Board of Directors, President and Chief Executive Officer, Sun Microsystems, Inc.; Melvin R. Goodes, Chief Executive Director, Warner-Lambert Co.; Alan F. Shugart, Chairman, Chief Executive Officer, and President, Seagate Technology; William H. Joyce, Chairman and Chief Executive Officer, Union Carbide Corp.; Ernest H. Drew, Chief Executive Officer, Industries and Technology Group, Westinghouse Electric Corp.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting two treaties and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2411. An act to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission.

H.R. 3303. An act to authorize appropriations for the Department of Justice for the fiscal years 1999, 2000, and 2001; to authorize appropriations for fiscal years 1999 and 2000 to carry out certain programs administered by the Department of Justice; to amend title 28, United States Code with respect to the use of funds available to the Department of Justice; and for other purposes.

H.R. 4059. An act making appropriations for the military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4060. An act making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

H.J. Res. 113. Joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 288. Concurrent resolution expressing the sense of Congress that the United States should support the efforts of Federal law enforcement agents engaged in investigation and prosecution of money laundering associated with Mexican financial institutions.

The message further announced that pursuant to the provisions of 22 U.S.C. 276h, the Speaker appoints the following Members of the House to the Mexico-United States Interparliamentary Group, in addition to Mr. KOLBE of Arizona, Chairman, and Mr. GILMAN of New York, Vice Chairman, appointed on April 27, 1998: Mr. DREIER, Mr. BARTON, Mr. BALLENGER, Mr. MANZULLO, Mr. BILBRAY, Mr. SANFORD, Mr. HAMILTON, Mr. FILNER, Mr. DELAHUNT, and Mr. REYES.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2411. An act to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission; to the Committee on Environment and Public Works.

H.R. 3303. An act to authorize appropriations for the Department of Justice for the fiscal years 1999, 2000, and 2001; to authorize appropriations for fiscal years 1999 and 2000 to carry out certain programs administered by the Department of Justice; to amend title 28, United States Code with respect to the use of funds available to the Department of Justice; and for other purposes; to the Committee on the Judiciary.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 288. Concurrent resolution expressing the sense of Congress that the United States should support the efforts of Federal law enforcement agents engaged in investigation and prosecution of money laundering associated with Mexican financial institutions; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times, and placed on the calendar:

H.J. Res. 113. Joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

The following bill was read the second time and ordered placed on the calendar:

H.R. 4059. An act making appropriations for the military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5653. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of a financial guarantee for the sale of aircraft to Hainan Airlines in the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–5654. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of a financial guarantee for the sale of aircraft to Air Pacific Ltd. of Fiji; to the Committee on Banking, Housing, and Urban Affairs.

EC–5655. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding residue tolerances for the pesticide tebufenozide; to the Committee on Environment and Public Works.

EC–5656. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of base supply functions at Kirkland Air Force Base, New Mexico; to the Committee on Armed Services.

EC–5657. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison on communications functions at Vandenberg Air Force Base, California; to the Committee on Armed Services.

EC–5658. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the report on goods and services provided to the multinational coalition to restore democracy to Haiti; to the Committee on Foreign Relations.

EC–5659. A communication from the Secretary of Agriculture, transmitting, a report on Administration views regarding Committee action on USDA funding and allocations for fiscal year 1999; to the Committee on Appropriations.

EC–5660. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, a report of additions and deletions to the procurement list dated June 10, 1998; to the Committee on Governmental Affairs.

EC–5661. A communication from the Chief of Staff, Office of the Commissioner, Social Security Administration, transmitting, pursuant to law, the report of a rule regarding the extension of expiration dates on listings of medical criteria used to determine certain types of disability received on June 19, 1998; to the Committee on Finance.

EC–5662. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treatment of Hybrid Arrangements Under Subpart F" (Notice 98–35) received on June 22, 1998; to the Committee on Finance.

EC-5663. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Low-Income Housing Credit" (Rev. Rul. 98-31) received on June 22, 1998; to the Committee on Finance.

EC-5664. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of Interior, transmitting, pursuant to law, the report of a rule entitled "Missouri Abandoned Mine Land Reclamation Plan" [MO-034-FOR) received on June 22, 1998; to the Committee on Energy and Natural Resources.

EC-5665. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of Interior, transmitting, pursuant to law, the report of a rule entitled "Mississippi Regulatory Program" [MS-014-FOR) received on June 22, 1998; to the Committee on Energy and Natural Resources.

EC-5666. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of Interior, transmitting, pursuant to law, the report of a rule entitled "Virginia Regulatory Program" (VA-112-FOR) received on June 22, 1998; to the Committee on Energy and Natural Resources.

EC-5667. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tobacco Inspection; Growers' Referendum Results" (Docket TB-97-16) received on June 19, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5668. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Assessment and Apportionment of Administrative Expenses; Technical Change" (RIN-3052-AB83) received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5669. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Study on Health, Safety, and Equipment Standards for Boxing"; to the Committee on Labor and Human Resources.

EC-5670. A communication from the Chairman of the National Skill Standards Board, transmitting, the annual report for calendar year 1997; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-487. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Appropriations.

SENATE RESOLUTION NO. 216

Whereas, The Delaware River represents one of Pennsylvania's and one of the nation's most important water resources, serving as a water supply for 17 million persons in the states of New York, Pennsylvania, New Jersey and Delaware; and

Whereas, The Delaware River is an interstate stream forming the boundary between states for its entire length of 330 miles; and

Whereas, Two major sections of the Delaware River have been designated under the Wild and Scenic Rivers Act; and

Whereas, The remaining section of the Delaware River has been studied and is now in the process of being designated under the Wild and Scenic Rivers Act; and

Whereas, The Delaware River and the Pennsylvania tributaries serve as a major recreational facility for the large population of the New York/Pennsylvania Metropolitan Area; and

Whereas, The Congress of the United States created the Delaware River Basin Compact (Compact) in recognition of the need to coordinate the efforts of the four states and Federal agencies and to establish a management system to oversee the use of water and related natural resources of the Delaware River Basin; and

Whereas, The Compact was enacted by the legislatures of New York, Pennsylvania, New Jersey, and Delaware and by Congress and was signed into law on September 27, 1961, to provide a mechanism to guide the conservation, development and administration of water resources of the river basin; and

Whereas, The Compact established the Delaware River Basin Commission (Commission) as the agency to coordinate the water resources efforts of the four states and the Federal Government and provided the Commission with authority for management and protection of flood plains, water supplies, water quality, watersheds, recreation, fish and wildlife and cultural, visual and other amenities; and

Whereas, The Commission has provided for equitable treatment of all parties without regards to political boundary; and

Whereas, The Commission includes both the Delaware River and Delaware Bay, which serve the port of Pennsylvania, a port that handles the largest volume of petroleum of all United States' ports; and

Whereas, Sections 3.3 and 3.4 of the Compact specifically provide for the Commission, with the consent of the parties in the matter of state of New Jersey v. state of New York et al. 347 U.S. 995 (1954) to apportion the water to and among the states; and

Whereas, The Commission has successfully negotiated all disputes or conflicts between parties without any appeal to the United States Supreme Court; and

Whereas, Section 13.3 of the Compact calls for the adoption and apportionment of the Commission's annual expense budget among the signatory parties to the Compact; and

Whereas, The United States is a duly constituted signatory party to the Compact; and

Whereas, In fiscal years 1996, 1997 and 1998, the Commission duly submitted its approved budgets to the President's Office of Management and Budget (OMB) and Congress; and

Whereas, The Federal Government failed to provide full funding in fiscal year 1996 and failed to provide any funding in fiscal years 1997 and 1998 for the Commission's current expense budget and has, therefore, not met the funding requirement of section 13.3 of the Compact; and

Whereas, The Commission also has adopted and duly submitted to OMB a current expense budget for fiscal year 1999 that includes an apportionment for the Federal Government in the amount of no dollars; and

Whereas, The fair share apportionment of the Commission's annual expense budget for the Federal Government for fiscal year 1999 is $628,000; and

Whereas, The cumulative shortfall of Federal funding for the Commission since fiscal year 1996 to $1.716 million; and

Whereas, The Commission pays the Federal Government approximately $1.3 million per year to purchase storage in the Blue Marsh and Beltzville multipurpose reservoirs; and

Whereas, The Commission is the agent of Congress in the allocation of the waters of the basin among the signatory states; and

Whereas, The Commission, through its regulations and programs, protects interstate waters and the Delaware Bay and provides a forum for the prevention and settlement of interstate disputes that arise over the use of interstate waters; and

Whereas, Through these interstate functions and many other programs and activities, such as the coordination of the basin flood and drought forecasting and warning system, the Commission saves the Federal Government time, resources and money, thus advancing the welfare of the nation; therefore be it

Resolved, The the Senate of Pennsylvania urge the President of the United States and Congress to provide the Commission with funding in an amount equal to what is owed for the Federal Government's share of the Commission's operating budgets for fiscal years 1996, 1997, 1998 and 1999; and be it further

Resolved, That the Senate of Pennsylvania urge the President of the United States and Congress to fulfill the Federal Government's obligation under the Delaware River Basin Compact to annually contribute the apportioned share of the Commission's future operating budgets; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each House of Congress and to each Member of Congress from Pennsylvania.

POM-488. A resolution adopted by the Senate of the Legislature of the commonwealth of Pennsylvania; to the Committee on Appropriations.

SENATE RESOLUTION NO. 183

Whereas, The Susquehanna River represents one of Pennsylvania's and one of the mid-Atlantic region's most important water resources, draining an area of 27,510 square miles and flowing through the states of New York, Pennsylvania and Maryland; and

Whereas, The Susquehanna River provides 50% of the freshwater flowing to the Chesapeake Bay and is classified by the Federal Government as a navigable waterway, factors which emphasize its significance to state, regional and national interests; and

Whereas, The Congress of the United States created the Susquehanna River Basin compact in recognition of the need to coordinate the efforts of the three states and Federal agencies and to establish a management system to oversee the use of water and related natural resources of the Susquehanna River; and

Whereas, The Compact was enacted by the legislatures of New York State, Pennsylvania and Maryland and Congress and was signed into law on December 24, 1970, to provide a mechanism to guide the conservation, development and administration of the water resources of the river basin; and

Whereas, The Compact established the Susquehanna River Basin Commission as the agency to coordinate the water resources efforts of the three states and the Federal Government and provided the Commission with authority for management and protection of flood plains, water supplies, water quality, watersheds, recreation, fish and wildlife, and cultural, visual and other amenities; and

Whereas, Section 14.3 of the Compact calls for an equitable apportionment of the Commission's annual expense budget among the signatory parties to the Compact; and

Whereas, The United States of America is a duly constituted signatory party to the Compact; and

Whereas, In Fiscal Years 1996, 1997 and 1998, the Commission duly submitted its approved budgets to the President's Office of Management and Budget (OMB) and Congress; and

Whereas, The United States failed to provide full funding in Fiscal Year 1996 and failed to provide any funding in Fiscal Years 1997 and 1998 for the Commission's current expense budget and has therefore not met the "equitable" funding requirement of section 14.3 of the Compact; and

Whereas, The Commission also has adopted and duly submitted to OMB a current expense budget for Fiscal Year 1999 that includes an apportionment for the Federal Government in the amount of $400,000; and

Whereas, The cumulative shortfall of Federal funding to the Commission since Fiscal Year 1996 is $1.218 million; and

Whereas, The Commission pays the Federal Government approximately $3.8 million per year to purchase storage in the Cowanesque and Curwensville Flood Control Reservoirs; and

Whereas, The Commission is the agent of Congress in the allocation of the waters of the basin among the signatory states; and

Whereas, The Commission, through its regulations and programs, protects interstate waters and the Chesapeake Bay and provides a forum for the prevention and settlement of interstate disputes that arise over the use of interstate waters; and

Whereas, Through these interstate functions and many other of its programs and activities such as the coordination of the basin flood forecasting and warning system, the Commission saves the Federal Government time, resources and money, thus advancing the welfare of the nation; and

Whereas, On January 15, 1998, the members of the Commission adopted Resolution No. 98–01, authorizing the Commission to offset from payment of moneys made to the Federal Government a sum not to exceed the amount apportioned to the United States in the Commission's officially adopted current expense budget and unpaid by the Federal Government since Fiscal Year 1996; and

Whereas, Resolution No. 98–01 provides that this offset authority will continue in force as long as the United States fails to fund the amount apportioned to the Federal Government in the Commission's current expense budget; and

Whereas, Resolution 98–01 stipulates that the amount to be withheld in the current fiscal year is $1.218 million; therefore be it

Resolved, That the Senate of Pennsylvania support the Commission's decision is withhold from the Federal Government a portion of its reservoir storage payments equal to the amount owed by the Federal Government for its share of the Commission's operating budgets for Fiscal Years 1996, 1997, 1998 and 1999 until such time as the Federal Government provides these funds; and be it further

Resolved, That the Senate of Pennsylvania urge the President of the United States and Congress to provide the Commission with funding in amount equal to what is owed for the Federal Government's share of the Commission's operating budgets for Fiscal Years 1996, 1997, 1998 and 1999; and be it further

Resolved, That the Senate of Pennsylvania urge the President of the United States and Congress to fulfill the Federal Government's obligation under the Susquehanna River Basin Compact to annually contribute an equitably apportioned share of the Commission's future operating budgets, and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–489. A resolution adopted by the Council of the City of Miami Springs, Florida relative to renaming the Everglades National Park; to the Committee on Energy and Natural Resources.

POM–490. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 218

Whereas, The Marine Corps' Iwo Jima Memorial honors the marines who fought on that island during WWII; and

Whereas, The memorial depicts six men as they struggle to raise an American flag atop a mountain, signaling defeat to their enemy and hope to their comrades below; and

Whereas, The battle was the most costly in Marine history. The 36 days of fighting led to 25,851 casualties, over a third of the landing force, including more than 1,000 dead per square mile. More Medals of Honor were won on Iwo Jima than during any other battle in United States history. Admiral Nimitz remarked that among the sailors and marines on Iwo Jima, "uncommon valor was a common virtue"; and

Whereas, The Iwo Jima Memorial may be obscured by an Air Force Memorial—a sprawling 20,000 square-foot, five-story, high-tech, interactive multimedia complex. Such a structure would be appropriate in front of the heavily trafficked Air and Space Museum, the site first approved for the structure; and

Whereas, During National Capital Planning Commission (NCPC) hearings, the location changed abruptly to ground 500 feet in front of the Marines' memorial. Though the NCPC originally noted twice, 7–4 against the site, it reversed its decision in a little-publicized meeting; and

Whereas, The Marine Corps was only informed after the fact. No public hearings were held. The proposal clearly violates a United States law that says, "A commemorative work shall (not encroach) upon any existing commemorative work."; therefore be it

Resolved, That the Senate of Pennsylvania urge the Congress of the United States to consider and pass S–1284, HR–3188 or HR–2313, each of which would prohibit future memorials in the area desired by the Air Force; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–491. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Finance.

SENATE CONCURRENT MEMORIAL 1006

A Concurrent Memorial urging the President and the Congress of the United States to refuse to authorize, endorse, ratify or adopt any international treaty or federal designation that would usurp the authority of the states to establish their own environmental standards.

To the President and the Congress of the United States: Your memorialist respectfully represents:

Whereas, the environmental side agreement to the North American Free Trade Agreement (NAFTA) creates the Commission for Environmental Cooperation (CEC), which is charged with promoting sustainable development, encouraging improved pollution prevention policies, enhancing compliance with environmental laws and regulations and facilitating cooperative environmental efforts among the NAFTA parties. A nongovernmental organization has requested the CEC to prepare a report addressing the cumulative effects of groundwater pumping, grazing and mining on the San Pedro River, the San Pedro Riparian National Conservation Area and the wildlife species that live in this southeastern Arizona area. The CEC has agreed to this petition and has undertaken an independent report examining alleged water problems in the San Pedro River watershed; and

Whereas, this study of the San Pedro River watershed does not in any way relate to the trade relations between Canada, Mexico and the United States that are the stated purpose of the NAFTA environmental arm. Further, the Congress of the United States specifically addressed the San Pedro watershed in 1988 when it passed federal legislation establishing the San Pedro Riparian National Conservation Area to protect the riparian habitat and the area's wildlife, scientific, educational and recreational resources; and

Whereas, although the objectives behind NAFTA are sound and the agreement will continue to create tremendous economic opportunity for this state, the NAFTA environmental side agreement, or any other international treaty or negotiation, should not place states' environmental rights under international authority nor override the states' jurisdiction over their own environmental matters. the CEC study and report represent an unnecessary intrusion of an international environmental entity into state matters that excessively limits the use of both private and public lands in this state; and

Whereas, in 1997 President Bill Clinton established, by Executive Order 13061, the American Heritage Rivers Initiative with three objectives, including natural resource and environmental protection. The initiative requires executive agencies to coordinate federal plans, functions, programs and resources to preserve, protect and restore rivers and their associated resources that are important to our nation's history, culture and natural heritage; and

Whereas, various federal and state authorities are already charged with regulating water resources within the State of Arizona, and numerous grassroots organizations across the nation have been founded to protect and conserve the nation's rivers and watersheds. Designation of additional areas subject to federal involvement in land use management would be unduly restrictive on both the privately and publicly owned land bordering rivers, much of which is already restrictively managed for perceived environmental benefits through designation or proposed designation as wilderness areas, primitive areas, critical habitat or potential habitat for endangered species, conservation areas, areas of critical environmental concern and wild or scenic rivers; and

Whereas, riparian and general conservation efforts are best administered and managed at state or local levels of government, not by an international council or federal entity that is neither familiar with nor affected by the areas in question.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the Congress of the United States take any steps within its power to rectify the situation in southeastern Arizona regarding the intrusion by the international

CEC into the affairs of the San Pedro River watershed.

2. That the Congress of the United States refuse to ratify or adopt future treaties making the states of this nation subject to international intrusion or authority over states' environmental matters.

3. That the President of the United States not authorize or endorse the designation of any river, watershed or river segment within the State of Arizona as an American Heritage River.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM–492. A resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on Foreign Relations.

RESOLUTION—

Whereas, The United States is a signatory to the 1992 United Nations Framework Convention on Global Climate Change (FCCC); and

Whereas, Protocol to expand the scope of the FCCC was negotiated in December 1997, in Kyoto, Japan (Kyoto Protocol), requiring the United States to reduce emissions of greenhouse gases by 7% from 1990 levels during the period 2008 to 2012, with potentially larger emission reductions thereafter; and

Whereas, The Kyoto Protocol would require other major industrial nations to reduce emissions from 1990 levels by 6% to 8% during the period 2008 to 2012, with potentially larger emission reductions thereafter; and

Whereas, President William J. Clinton pledged on October 22, 1997, that "The United States will not assume binding obligations (in Kyoto) unless key developing nations meaningfully participate in this effort"; and

Whereas, On July 25, 1997, the United States Senate adopted Senate Resolution No. 98 by a vote of 95–0 expressing the Sense of the Senate that, inter alia, "the United States should not be signatory to any protocol to, or other agreement regarding, the Framework Convention on Climate Change . . . which would require the advice and consent of the Senate to ratification, and which would mandate new commitments to mitigate greenhouse gas emissions for the Developed Country Parties, unless the protocol or other agreement also mandates specific scheduled commitments within the same compliance period to mitigate greenhouse gas emissions for Developing Country Parties"; and

Whereas, Developing nations who are exempt from greenhouse gas emission limitation requirements in the FCCC refused in the Kyoto negotiations to accept any new commitments for greenhouse gas emission limitations through the Kyoto Protocol or other agreements; and

Whereas, The Kyoto Protocol fails to meet the tests established for acceptance of new climate change commitments by President Clinton and by United States Senate Resolution No. 98; and

Whereas, The United States relies on carbon-based fossil fuels for more than 90% of its total energy supply; and

Whereas, Achieving the emission reductions proposed by the Kyoto Protocol would require more than 35% reduction in projected United States carbon dioxide emissions during the period 2008 to 2012; and

Whereas, Developing countries exempt from emission limitations under the Kyoto Protocol are expected to increase their rates of fossil fuel use over the next two decades and to surpass the United States and other industrialized countries in total emissions of greenhouse gases; and

Whereas, Economic impact studies by the Federal Government estimate that legally binding requirements for the reduction of United States greenhouse gases to 1990 emission levels would result in the loss of more than 900,000 jobs in the United States, sharply increase energy prices, reduce family incomes and wages and cause severe losses of output in energy intensive industries such as aluminum, steel, rubber, chemicals and utilities; and

Whereas, The failure to provide for commitments by developing countries in the Kyoto Protocol creates an unfair competitive imbalance between industrial and developing nations, potentially leading to the transfer of jobs and industrial development from the United States to developing countries; and

Whereas, Increased emissions of greenhouse gases by developing countries would offset any environmental benefits associated with emissions reductions achieved by the United States and by other industrial nations; therefore be it

Resolved (the House of Representatives concurring), That the General Assembly memorialize the President of the United States not to sign the Kyoto Protocol; and be it further

Resolved, That in the event he signs the Kyoto Protocol, the President promptly submit the Kyoto Protocol to the Senate of the United States for its timely consideration; and be it further

Resolved, That the Senate of the United States reject any proposed protocol or other amendment to the FCCC that is inconsistent with this resolution or that does not comply fully with United States Senate Resolution No. 98; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–493. A resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on the Judiciary.

RESOLUTION—

Whereas, During the 104th Congress, Second Session, H.R. 3328 was introduced in the United States House of Representatives; and

Whereas, The legislation, also referred to as the Collegiate Athletics Integrity Act of 1996, prohibited sports agents from influencing college athletes; and

Whereas, The legislation was not enacted by the Congress of the United States; and

Whereas, In the current session of the 105th Congress, legislation needs to be enacted that will prohibit sports agents from influencing college athletes; and

Whereas, It is appropriate to urge Congress to enact such legislation; therefore be it

Resolved (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize Congress to enact legislation prohibiting sports agents from influencing college athletes; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–494. A resolution adopted by the Board of Trustees of Worth Township, Illinois relative to a constitutional amendment protecting the American flag; to the Committee on the Judiciary.

POM–495. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION NO. 42

Whereas, In many situations, the difficulties facing family farming operations are numerous and challenging. The number of farms has declined steadily for many years, both in Michigan and throughout the entire country. For Black farmers across this nation, however, the obstacles to survival are staggering. Recent investigations through the Congressional Black Caucus and organizations like the National Black Farmers Association have revealed the extent of discrimination against African American farm operations. These civil rights violations were contained in recommendations of a task force within the United States Department of Agriculture; and

Whereas, Access to capital, vital component of any farming operation, has been denied to many Black farmers. When not denied outright, through loans refused and ultimate foreclosures, loans for Black farmers often take far longer to be approved. The result of a delay for a farm loan is often financial ruin; and

Whereas, According to the National Black Farmers Association, the USDA foreclosed on 1,000 Black farms in the last several months. Black farmers are losing land at a rate of 9,000 acres a week. At this rate, according to the chair of the Congressional Black Caucus, Black farms will vanish by the year 2000; and

Whereas, The USDA, through it civil rights study group, has identified specific legislative changes to combat discrimination in its policies and programs. Any delay in implementing needed changes and in revamping the department's response to Black farmers is too long; and

Whereas, In April 1998, the Justice Department ruled that most of the approximately 2,000 cases brought by Black farmers with complaints of discrimination between 1983 and 1996 would expire due to the statute of limitations. It is essential that Congress take actions to enable the federal government to respond appropriately to the legitimate claims of these citizens; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we urge the United States Department of Agriculture to take strong steps to halt all discrimination against Black farmers, to settle pending claims, and to memorialize the Congress of the United States to enact legislation to waive the statute of limitations for the discrimination cases brought against the Department of Agriculture between 1983 and 1996; and be it further

Resolved, That copies of this resolution be transmitted to the United States Department of Agriculture, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1754. A bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes (Rept. No. 105–220).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 237. A resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Louis Caldera, of California, to be Secretary of the Army.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Nancy E. Soderberg, of the District of Columbia, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations, to which position she was appointed during the last recess of the Senate.

Nancy E. Soderberg, of the District of Columbia, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador, to which position she was appointed during the last recess of the Senate.

Vivian Lowery Derryck, of Ohio, to be an Assistant Administrator of the Agency for International Development.

Shirley Elizabeth Barnes, of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Madagascar.

Federal Campaign Contribution Reports

Nominee: Shirley E. Barnes.

Post: Madagascar.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knolwedge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee

1. Self: none.
2. Spouse: not married.
3. Children and Spouses: no children.
4. Parents: deceased.
5. Grandparents: deceased.
6. Brothers and spouses: deceased.
7. Sister: none.

Charles Richard Stith, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Nominee: Charles Richard Stith.

Post: Ambassador to Tanzania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knolwedge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee

1. Self: $500, 12/7/93, Alan Wheat; $250, 2/17/94, Ted Kennedy.
2. Spouse: $1000, 12/17/96, Clinton/Gore; $100, 10/17/96, Harvey Gant.
3. Children and Spouses: Percy & Mary, none.
4. Parents: Dorothy McLean (Father deceased) none.
5. Grandparents: deceased.
6. Brothers and spouses: deceased.
7. Sisters and spouses: Rebecca Fanning, none.

Eric S. Edelman, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

Nominee: Eric Steven Edelman.

Post: Republic of Finland.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee

1. Self: none.
2. Spouse: Patricia D. Edelman, none.
3. Children and spouses: Alexander, Stephanie, Terence, Robert, none.
4. Parents: Milton and Frederica Edelman, none.
5. Grandparents: Abraham and Molly Edelman (deceased); Abraham and Cecile Aubry (deceased), none.
6. Brothers and spouses: Marc Edelman and Luanne Fisi: $500,[1] 1994, Steve Stockman[2]; $200, 1995, Pat Hallisey[3]; $6,000, 1996, Pat Hallisey; $100, 1996, NRA Victory Fund; $3,200, 1997, Jeff Harrison.[5]

[1] Gifts in Kind.

[2] Congressional Candidate, Texas.

[3] Mayoral Candidate, League City, Texas.

[4] Gifts in Kind.

[5] City Council Candidate, At-Large seat, League City Texas.

7. Sisters and spouses: Alexandra Edelman, none.

Nancy Halliday Ely-Raphel, of the District of Columbia, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Slovenia.

Nominee: Nancy Halliday Ely-Raphel.

Post: Slovenia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee

1. Self: Nancy Ely-Raphel, none.
2. Spouse, N/A.
3. Children and spouses: John Duff Ely, Sigrid Mueller, Robert Duff Ely, Stephanie Joyce Raphel, none.
4. Parents: Margaret Merritt Halliday, Thomas Clarkson Halliday (deceased), none.
5. Grandparents: Thomas Clarkson Halliday, Petranella Halliday (deceased); William John Merritt, Anna M. Merritt (deceased).
6. Brothers and spouses: Thomas Clarkson Halliday III, Brenda Halliday, none.
7. Sisters and spouses: N/A.

Edward L. Romero, of New Mexico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

Edward L. Romero, of New Mexico, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Andorra.

Nominee: Ed L. Romero.

Post: U.S. Ambassador to Spain.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: see exhibit A.
2. Spouse: see exhibit B.
3. Children and Spouses: see exhibit C.
4. Parents: Isaac Romero (deceased), and Ramona Romero, none.
5. Grandparents: Faustin Romero (deceased), Talpita Romero (deceased); and Lucas Pacheco (deceased), Juanita Pacheco (deceased).
6. Brothers and Spouses: Isaac Romero, none; Jean Malone, none; Randolph Romero, none; and Mary Ann Romero, none.
7. Sisters and Spouses: Elizabeth Martinez, none; and Benjamin Martinez, none.

EXHIBIT A: EDWARD L. ROMERO, FEDERAL CAMPAIGN CONTRIBUTIONS, 1993–PRESENT

Recipient and election	Amount	Date
E. Shirley Baco for Congress (General)	$200	10/21/96
People for Domenici (Primary)	1,000	9/08/95
A Lot of People Who Support Jeff Bingaman (2000 Election) (Primary)	200	8/22/96
Pastor for Arizona (Primary)	1,000	8/02/96
Keefe for Congress 1996 (Primary)	500	07/30/96
John Wertheim for Congress (General)	1,000	03/27/96
Wyden for Senate (General)	500	01/25/96
Senator Gene Green Cong. Campaign (Primary)	500	12/01/95
People for Patty Murray, U.S. Senate Campaign (Primary)	500	07/24/95
Clinton/Gore '96 Primary Comm. (Primary)	1,000	06/14/95
Committee for Congressman Ronald V. Dellums (General)	1,000	10/18/94
Leadership for the Future (Democratic National Comm.) (N/A)	1,000	07/27/94
New Mexicans for Bill Richardson (General)	1,000	07/22/94
Ben Reyes for Congress (Primary)	1,000	02/22/94
Byrne for Congress Committee (Primary)	500	01/05/94
Comm. to Re-Elect Tom Foley (Primary)	1,000	12/23/93
A Lot of People Who Support Jeff Bingaman (1994 Electrion):		
Primary	1,000	06/25/93
General	1,000	06/25/93
Becerra for Congress (Primary)	250	06/07/93
Espy for Congress (Special)	250	03/30/93
Bob Kreuger Campaign (Special)	1,000	03/25/93

EXHIBIT B: CAYETANNA ("TANNA") ROMERO (SPOUSE), FEDERAL CAMPAIGN CONTRIBUTIONS, 1993–PRESENT

Recipient and election	Amount	Date
New Mexicans for Bill Richardson (General)	$1,000	07/22/94
People for Domenici (Primary)	1,000	9/08/95
A Lot of People Who Support Jeff Bingaman:		
Primary	1,000	04/04/95
General	1,000	04/08/94

EXHIBIT C: PETER E. HARROD (SON-IN-LAW), FEDERAL CAMPAIGN CONTRIBUTIONS, 1993–PRESENT

Recipient and election	Amount	Date
New Mexicans for Bill Richardson (General)	$500	07/22/94
A Lot of People Who Support Jeff Bingaman (Primary)	60	06/97

ANNA ROMERO HARROD (DAUGHTER), FEDERAL CAMPAIGN CONTRIBUTIONS, 1993–PRESENT

Recipient and election	Amount	Date
New Mexicans for Bill Richardson (General)	$525	07/22/94

EDWARD STEVEN ROMERO (SON), FEDERAL CAMPAIGN CONTRIBUTIONS, 1993–PRESENT

Recipient and election	Amount	Date
New Mexicans for Bill Richardson (General)	$500	07/22/94
Ray Romero Committee, Inc. (Primary)	250	07/06/96
Friends of Eric Serna for Congress (General)	250	04/07/97
People for Pete Domenici (General)	250	09/16/96

William Davis Clarke, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Eritrea.

Nominee: William D. Clarke.

Post: Eritrea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: none.
2. Spouse: Katsuko M. Clarke, none.
3. Children and Spouses: William, Jr., Robert, Christina Armstrong (Anthony), none.

Parents: James B. (deceased), none; and Laura D. Clarke, none.

Grandparents: James N. Clarke and Sophie Clarke (deceased), Jerome Davis and Annie F. Davis (deceased).

6. Brothers and Spouses: James B. Clarke, Jr., none and Valerie C. Clarke, none.
7. Sisters and Spouses: Anne C. Cessaris, none.

George Williford Boyce Haley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Gambia.

Nominee: George Williford Haley.

Post: Ambassador to The Gambia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: $1,000.00, 1995, Bill Clinton; and $1,000.00, 1995, Bob Dole.
2. Spouse: Doris Haley, $50.00, 1995, Harvey Gantt.
3. Children and Spouses: David and Michelle Haley, none; and Wren and Anne Haley Brown, none.
4. Parents: Simeon and Bertha Palmer Haley (deceased).
5. Grandparents: William and Cynthia Palmer (deceased); and Alexander and Queen Haley (deceased).
6. Brothers and Spouses: Alexander Palmer Haley (deceased); and Julius Cornell Haley, none.
7. Sisters and Spouses: Phillip and Lois Ann Haley Butts, none.

Katherine Hubay Peterson, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Nominee: Katherine Hubay Peterson.

Post: Ambassador to the Kingdom of Lesotho.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: none.
2. Spouse: (my spouse, Arne M. Peterson, and I separated on December 29, 1996. Our divorce will be final in two to three months): none.
3. Children and Spouses: no children.
4. Parents: Paul Hubay (father), deceased; and Ruth Davey Hubay (mother), none.
5. Grandparents: Frederick Norton Davey and Ruth Johnson Davey (both deceased); and Joseph Hubay and Katherine Melnyk Hubay (both deceased).
6. Brothers and Spouses: none.
7. Sisters and Spouses: Davey Hubay (divorced), none.

Jeffrey Davidow, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Nominee: Jeffrey Davidow.

Post: Mexico.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: none.
2. Spouse: Joan Davidow, none.
3. Children and Spouses: Gwen Davidow, none; and Audrey Davidow, none.
4. Parents: Henrietta Davidow (nee Wurf) (deceased), none, and, Alfred Davidow (deceased), none.
5. Grandparents: Sigmund and Mary Wurf (deceased), none, and Abraham and Sarah Davidow (deceased), none.
6. Brothers and Spouses: none.
7. Sisters and Spouses: Ann Davidow Bornstein, none, and Harvey Bornstein, none.

John O'Leary, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

Nominee: John O'Leary.

Post: Ambassador to Chile.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: see attached.
2. Spouse: Patricia Cepeda, see attached.
3. Children and Spouses: Alejandra O'Leary, none, and Gabriela O'Leary, none.
4. Parents: John O'Leary (deceased), and Margaret O'Leary, none.
5. Grandparents: John O'Leary (deceased), Mary O'Leary (deceased); and John Joyce (deceased), Mildred Joyce (deceased).
6. Brothers and Spouses: James and Vicki, Richard, Michael and Deborah and Kevin and Tikva O'Leary, none.

Sisters and Spouses: James and Peggy Powers, none.

ATTACHMENT A

Amount	Date	Donee
		1. John O'Leary
$15	8.9.93	Democratic National Committee
200	5.3.94	Troubh for Congress
500	9.8.95	Baldacci for Congress
1,000	12.30.95	Clinton-Gore '96
500	2.24.96	Baldacci for Congress
500	9.6.96	Allen for Congress
1,000	9.14.96	Brennan for Senate
100	9.14.96	Win in '96
500	11.1.96	Allen for Congress
		2. Patricia Cepeda
500	6.28.94	Andrews for Senate
100	9.30.94	Dutremble for Congress
1,000	12.30.95	Clinton-Gore '96

Michael Craig Lemmon, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

Nominee: Michael C. Lemmon.

Post: Republic of Armenia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: none.
2. Spouse: Michele Herout Lemmon, none.
3. Children and Spouses: Alexander M. Lemmon, none.
4. Parents: Virgil J. and Marion O. Lemmon (deceased), none.
5. Grandparents: Virgil J. and Rose Lemmon (deceased), none and Oliver and Helen Bates (deceased), none.
6. Brothers and Spouses: Randi S. and Jackie Lemmon, none; Shawn V. Lemmon, none; and James P. Lemmon, $100, 1996, Democratic National Committee; $25, 1996, Human Rights Campaign Fund.
7. Sisters and Spouses: Marion E. Van Beelan, none; Maura K. Lemmon, none; Ann T. Lemmon, and Harry Gorman, none; Rose-Marie and Rick Baron, none; and Christie M. Lemmon and Jon Lear, none.

Ruldolf Vilem Perina, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Nominee: Rudolf Vilem Perina.

Post: Ambassador to Republic of Moldova.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: none.
2. Spouse: Ethel Hetherington Perina, none.
3. Children and Spouses: Katherine H. Perina, none; and Alexandra H. Perina, none.
4. Parents: Rudolf Perina (father), $30/per year, annual, Republican Nat. Comm.; and Blanka Skopek (mother), $80/per year, annual, Calif. Republican Assembly.
5. Grandparents: Rudolf and Marta Perina, (deceased); Alois and Marie Blecha, (deceased).
6. Brothers and Spouses: none.
7. Sisters and Spouses: none.

Paul L. Cejas, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Nominee: Paul L. Cejas.

Position: Ambassador to Belgium.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee.

1. Self: see attached schedule.

2. Spouse: see attached schedule.

3. Children and Spouses: Pablo L. Cejas, Helene Christianna Cejas, and Anthony A. Merkofsky, Tiffany Herkofsky, see attached schedules.

4. Parents: Pablo F. Cejas (father), deceased, and Olga Moreno (mother), see attached schedule.

5. Grandparents: Herminia Monendaz de Gomez (grandmother), deceased; Irene Alvaron de Cejas (grandmother), deceased; Jesus Gomez Casas (grandfather), deceased; and Dr. Leandro Cejas (grandfather), deceased.

6. Brothers and Spouses: Richard Cejas (Half Brother), no information available.

7. Sisters and Spouses: Nina Pellegrini (Half Sister) and spouse, Mario, see attached schedule.

FEDERAL CAMPAIGN CONTRIBUTION REPORT

Amount	Date	Donee
		(PAUL L. CEJAS)
$500	2-17-93	Hastings for Congress
1,000	2-20-93	Senator George Mitchell Campaign (D-ME)
2,000	3-20-93	Democratic Senatorial Campaign Comm.
1,000	3-22-93	George Mitchell Campaign (D-ME)
250	4-27-93	Ileana Ros-Lehtinen Campaign (R-FL)
5,000	5-25-93	Democratic Senatorial Campaign Comm.
5,000	8-3-93	Democratic Senatorial Campaign Comm.
250	9-10-93	Bob Menendez for Congress (D-NJ)
5,000	9-10-93	Democratic Senatorial Campaign Comm.
1,000	12-1-93	Ted Kennedy Campaign (D-MASS)
250	12-1-93	Lincoln Diaz-Balart for Congress (R-FL)
250	12-3-93	Lincoln Diaz-Balart for Congress (R-FL)
1,000	12-9-93	Bob Menendez for Congress (D-NJ)
1,000	5-6-94	Lincoln Diaz-Balart for Congress (R-FL)
500	7-5-94	Peter Deutsch for Congress (D-FL)
1,000	9-22-94	Friends of Jim Cooper
3,110	9-22-94	Democratic Senatorial Campaign Comm.
5,000	10-1-94	Dem. Senatorial Campaign Comm.
1,000	10-1-94	Hugh Rodham Campaign
1,500	1-26-95	Democratic Governors Association
1,000	3-1-95	Gephardt in Congress
1,000	3-23-95	Florida Democratic Party
1,000	6-16-95	Lincoln Diaz-Balart for Congress (R-FL)
1,000	9-13-95	Clinton/Gore '96 Primary Comm.
625	9-18-95	Ros-Lehtinen for Congress
5,000	12-1-95	Senator George Mitchell Campaign (D-ME)
35,000	12-6-95	Democratic National Committee
3,000	12-7-95	Democratic Senatorial Campaign Comm.
1,000	2-23-96	Bill Richardson Congressional Campaign (D)
1,000	3-12-96	Peter Deutsch for Congress (D-FL)
20,000	4-1-96	Democratic Senatorial Campaign Comm.
100,000	4-18-96	DNC Non-Federal Account
500	5-30-96	Friends of Bob Graham (D-FL)
500	8-19-96	Byron for Congress
1,400	8-19-96	Democratic National Committee
600	8-23-96	Victory '96
250	9-9-96	Ileana Ros-Lehtinen Campaign (R-FL)
50,000	10-15-96	Florida Win In '96
1,000	10-22-96	Clinton-Gore/GELAC
5,000	1-14-97	Democratic Senatorial Campaign Comm.
15,000	3-1-97	Florida Victory Fund
1,000	3-4-97	Peter Deutsch for Congress (D-FL)
250	3-4-97	Bob Menendez for Congress (D-NJ)
600	4-16-97	Ileana Ros-Lehtinen Campaign (R-FL)
10,000	10-17-97	Democratic Congressional Campaign
1,000	11-6-97	Lincoln Diaz-Balart for Congress (R-FL)
		(TRUDY CEJAS, WIFE)
1,000	4-23-92	Clinton for President
11,582	3-7-94	Democratic Senatorial Campaign Comm.
1,000	8-30-94	Bill Richardson
100	10-1-94	Hugh Rodham Campaign
5,000	10-1-94	Dem. Senatorial Campaign Comm.
1,000	11-16-94	Democratic National Committee
1,000	9-15-95	Clinton-Gore/GELAC
1,000	2-9-96	Torricelli for US Senate (D-NJ)
10,000	9-25-96	Democratic National Committee
1,000	10-10-96	Woman's Campaign Fund
1,000	10-22-96	Clinton-Gore/GELAC
1,000	10-22-96	Friends of Bob Graham
250	3-4-97	Bob Menendez for Congress (D-NJ)
600	4-18-97	Ileana Ros-Lehtinen Campaign (R-FL)
500	11-8-97	Lincoln Diaz-Balart for Congress (R-FL)
		(PABLO CEJAS, SON)
1,000	5-30-96	Friends of Bob Graham (D-FL)
1,000	10-22-96	Clinton-Gore/GELAC
		(H. CHRISTIANNE CEJAS, DAUGHTER)
1,000	10-21-96	Friends of Bob Graham (D-FL)
		(TIFFANY MARKOFSKY, STEPDAUGHTER)
1,000	10-21-96	Friends of Bob Graham (D-FL)
		(ANTHONY A. MARKOFSKY, STEPSON)
1,000	10-24-96	Clinton-Gore/GELAC
		(OLGA MORENO, MOTHER)
1,000	10-22-96	Friends of Bob Graham (D-FL)
1,000	10-24-96	Clinton-Gore/GELAC
		NINA PELLEGRINI (HALF SISTER)
1,000	8-26-96	McConnell Senate Committee (R-CA)
		MARIO PELLEGRINI (SPOUSE OF NINA PELLEGRINI)
1,000	1996	McConnell Senate Committee (R-CA)
600	1997	National Republican Senatorial Committee
120	1997	Republican Presidential Task Force

Cynthia Perrin Schneider, of Maryland to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Nominee: Cynthia Perrin Schneider.

Post: Ambassador to the Netherlands.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: $1,000, 11/3/96, GELAC Clinton-Gore '96; $1,000, 4/14/96, Women's Leadership Forum; and $1,000, 6/95, Clinton-Gore '96.

2. Spouse: Thomas Jay Schneider, $25, 5/22/94, Friends of Jim Mundy; $1,000, 6/24/94, Friends of Jim Cooper; $1,000, 9/29/94, Friends of Jim Cooper; $250, 10/5/94, Friends of Jim Mundy; $1,000, 10/16/94, Sam Coopersmith for U.S. Senate; $250, 10/18/94, Ben Jones for Congress; $1,000, 10/28/94, Friends of Jim Cooper; $250, 11/6/94, Kelly for Congress; $100, 11/6/94, Friends of Andy Cory; $1,000, 12/26/95, Mark Warner for Senate, $1,000, 6/95, Clinton-Gore '96; $50, 1/13/96, Price for Congress; $700, 8/28/96, Victory '96; $250, 9/26/96, MCDCC (Clinton-Gore); $1,000, 11/3/96, GELAC Clinton-Gore '96; and $50, 5/27/96, Don Mooers for Congress Committee.

3. Children and Spouses: Tommie Perrin Schneider, none; and Samuel Thomas Schneider, none.

4. Parents: Judith N. Doman (mother), $250, 4/11/96, Clinton-Gore '96; Nicholas R. Doman (stepfather), $1,000, 6/25/95, Clinton-Gore '96; $1,000, 12/1/95, Gene R. Nichol for Senate; $750, 9/4/97, Gene R. Nichol for Senate; Anthony L. Perrin (father), $50, 1992, George Bush; Mary Louise Barney Perrin (nickname Lee) (stepmother), none.

5. Grandparents: deceased.

6. Brothers and Spouses: Lee James Perrin, none; and Melissa Britt Perrin, none.

7. Sisters and Spouses: No sisters.

Kenneth Spencer Yalowitz, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Georgia.

Nominee: Kenneth Spencer Yalowitz.

Post: Ambassador to the Republic of Georgia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee

1. Self: none.

2. Spouse: Judith G. Yalowitz, none.

3. Children and Spouses: Andrew S. Yalowitz, none.

4. Parents: Henry and Audrey Yalowitz (both deceased).

5. Grandparents: Abraham and Tillie Socol (both deceased); Mr. and Mrs. Edward Yalowitz (both deceased).

6. Brother and Spouse: Edward (deceased) and Nancy Yalowitz, $200, 3/4/94, John J. Cullerton; $200, 3/10/94, John J. Cullerton; and $500, 5/4/94, Democratic National Committee.

7. Sister and Spouse: Melvin and Geraldine Garbow, $1,000, 1994, $1,000, 1995, $1,000, 1996, $1,000, 1997, and $250, 1998. Arnold and Porter Partners Political Action Committee;

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably a list in the Foreign Service which was printed in full in the RECORD of September 3, 1997, and ask unanimous consent, to save the expenses of reprinting on the Executive Calendar, that this nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 3, 1997, at the end of the Senate proceedings.)

In the Foreign Service nomination of John M. O'Keefe, which was received by the Senate and appeared in the RECORD of September 3, 1997.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. LEVIN, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Mr. KENNEDY):

S. 2202. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COVERDELL (for himself and Mr. KYL):

S. 2203. A bill to promote drug-free workplace programs; to the Committee on Small Business.

By Mr. KYL:

S. 2204. A bill to provide for the waiver of fees in the case of certain visas, to modify the schedule for implementation of certain border crossing restrictions, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN:

S. 2205. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis & Clark Expedition, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COATS (for himself, Mr. DODD, Mr. JEFFORDS, and Mr. KENNEDY):

S. 2206. A bill to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY:

S. 2207. A bill to amend the Clayton Act to enhance the authority of the Attorney General to prevent certain mergers and acquisitions that would unreasonably limit competition; to the Committee on the Judiciary.

By Mr. FRIST:

2208. A bill to amend title IX for the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. Res. 253. A resolution expressing the sense of the Senate that the United States Department of Agriculture provide timely assistance to Texas farmers and livestock producers who are experiencing worsening drought conditions; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. LEVIN, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, and Mr. KENNEDY):

S. 2202. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and Forestry.

THE PET PROTECTION AND SAFETY ACT OF 1998

• Mr. AKAKA. Mr. President, today I am introducing the Pet Protection and Safety Act of 1998, a bill to close a serious loophole in the Animal Welfare Act.

Congress passed the Animal Welfare Act over 30 years ago to stop the mistreatment of animals and to prevent the sale of family pets for laboratory experiments. Despite the Animal Welfare Act's well-meaning intentions and the enforcement efforts of the Department of Agriculture, the Act routinely fails to provide pets and pet owners with reliable protection against the actions of USDA-licensed Class B animal dealers, also known as "random source" dealers.

Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against AIDS, cancer, and a host of life-threatening diseases. Animal research has been, and continues to be, fundamental to advancements in medicine. I am not here to argue whether animals should or should not be used in research; rather, I am addressing the unethical practice of selling stolen pets and stray animals to research facilities.

There are less than 40 "random source" animal dealers operating throughout the country who acquire tens of thousands of dogs and cats. Many of these animals are family pets, acquired by so-called "bunchers" who resort to theft and deception as they collect animals and sell them to Class B dealers. "Bunchers" often respond to "free pet to a good home" advertisements, tricking animal owners into giving away their pets by posing as someone interested in adopting the dog or cat. Random source dealers are known to keep hundreds of animals at a time in squalid conditions, providing them with little food or water. The mistreated animals often pass through several hands and across state lines before they are eventually sold by a random source dealer to a research laboratory for $200 to $500 each.

Mr. President, the use of animals in research is subject to legitimate criticism because of the fraud, theft, and abuse that I have just described. Dr. Robert Whitney, former director of the Office of Animal Care and Use at the National Institutes of Health echoed this sentiment when he stated, "The continued existence of these virtually unregulatable Class B dealers erodes the public confidence in our commitment to appropriate procurement, care, and use of animals in the important research to better the health of both humans and animals." While I doubt that laboratories intentionally seek out stolen or fraudulently obtained dogs and cats as research subjects, the fact remains that these animals end up in research laboratories—and little is being done to stop it. Mr. President, it is clear to most observers, including animal welfare organizations around the country, that this problem persists because of random source animal dealers.

The Pet Protection and Safety Act strengthens the Animal Welfare Act by prohibiting the use of random source animal dealers as suppliers of dogs and cats to research laboratories. At the same time, The Pet Protection and Safety Act preserves the integrity of animal research by encouraging research laboratories to obtain animals from legitimate sources that comply with the Animal Welfare Act. Legitimate sources are USDA-licensed Class A dealers or breeders; municipal pounds that choose to release dogs and cats for research purposes; legitimate pet owners who want to donate their animals to research; and private and federal facilities that breed their own animals. These four sources are capable of supplying millions of animals for research, far more cats and dogs than are required by current laboratory demand. Furthermore, at least in the case of using municipal pounds, research laboratories could save money since pound animals cost only a few dollars compared to $200 and $500 per animal charged by random animal dealers. The National Institutes of Health, in an effort to curb abuse and deception, has already adopted policies against the acquisition of dogs and cats from random source dealers.

The Pet Protection and Safety Act also reduces the Department of Agriculture's regulatory burden by allowing the Department to use its resources more efficiently and effectively. Each year, hundreds of thousands of dollars are spent on regulating 40 random source dealers. To combat any future violations of the Animal Welfare Act, the Pet Protection and Safety Act increases the penalties under the Act to a minimum of $1,000 per violation.•

By Mr. LEAHY:

S. 2207. A bill to amend the Clayton Act to enhance the authority of the Attorney General to prevent certain mergers and acquisitions that would unreasonably limit competition; to the Committee on the Judiciary.

ANTITRUST IMPROVEMENTS ACT OF 1998

• Mr. LEAHY. Mr. President, I know that consumers are becoming more and more concerned about the merger mania that has hit the United States—they see the potential for higher prices to consumers and poorer service as industries become far more concentrated in fewer hands.

I am also concerned about this trend, particularly when mergers take place between incumbent monopolies. Specifically, the mergers among Regional Bell Operating Companies, which continue to have a virtual strangle-hold on the local telephone loop, pose the greatest threat to healthy competition in the telecommunications industry.

Indeed, incumbent telephone companies still control over 99% of the local residential telephone markets. In other words, new entrants have captured less than 1% of local residential phone service.

The Telecommunications Act's promise of competition was a sales pitch that has not materialized to benefit American consumers. Instead of competition, we see entrenchment, megamergers, consolidation and the divvying up of markets. Even Edward Whitacre, Jr., the Chairman and Chief Executive Officer of SBC Communications, testified several weeks ago before the Antitrust Subcommittee that "The Act promised competition that has not come."

At a recent judiciary committee hearing on mergers, Alan Greenspan acknowledged that the Act has not lived up to its promises of lower consumer costs and more competition.

Since passage of this law, Southwestern Bell has merged with PacTel into SBC Corporation, and Bell Atlantic has merged with NYNEX. Now, SBC

Corporation is seeking to purchase Ameritech. What once had been seven separate local monopolies will soon be four, with the possibility of more on the horizon. One of my home state newspapers—the Rutland Daily Herald—commented in an editorial that, "It might even seem as if Ma Bell's corpse is coming back to life."

I voted against the Telecommunications Act because I did not believe it was sufficiently procompetitive. I raised a number of concerns as that Act was being considered by the Senate. I said in my floor statement on the day the new law passed:

> Mega-mergers between telecommunications giants, such as the rumored merger between NYNEX and Bell Atlantic, or the gigantic network mergers now underway, raise obvious concerns about concentrating control in a few gigantic companies of both the content and means of distributing the information and entertainment American consumers receive. Competition, not concentration, is the surest way to assure lower prices and greater choices for consumers. Rigorous oversight and enforcement by our antitrust agencies is more important than ever to insure that such mega-mergers do not harm consumers.

I am very concerned that this concentration of ownership in the telecommunications industry is currently proceeding faster than the growth of competition. We are seeing old monopolies getting bigger and expanding their reach.

Upon completion of all the proposed mergers among the Bell companies, most of the local telephone lines in the country will be concentrated in the hands of three to four companies. This will affect not only the millions of people who depend on the companies involved for both basic telephone service and increasingly for an array of advanced telecommunications services, but also competition in the entire industry. The Consumers Union recently testified before the Judiciary Committee's Antitrust Subcommittee that the mergers between Regional Bell Operating Companies could lead to even more mega-mergers within this industry.

I know personally that at my farm in Vermont and here at my office in the District of Columbia and at my home in Virginia, I still have only one choice for dial-tone and local telephone service. That "choice" is the Bell operating company or no service at all. The current mantra of the industry seems to be "one-stop shopping." But if that stop is at a monopoly that is not competing on price and service, I do not think it is the kind of "one-stop shopping" consumers want.

I have been concerned that the distraction of these huge mergers serve only to complicate and delay the companies' compliance with their obligations under the Telecommunications Act to open their networks. That is not good for competition in the local loop. Consolidation is taking precedence over competition. We need to reverse that priority, and make opening up the local loop the focus of the energies of the Bell Operating Companies. Then consolidation, if it happens, would not pose the current risk of creating additional barriers to effective competition.

Big is not necessarily bad. But the Justice Department in the late 1970's worked overtime to divide up the old Ma Bell to assure more competition and provide customers with better service at lower rates. It is ironic that the Telecommunications Act, which was touted as the way to increase competition, is having the reverse effect instead of promoting consolidation among telephone companies.

Before all the pieces of Ma Bell are put together again, Congress should revisit the Telecommunications Act. To ensure competition among Bell Operating Companies and long distance and other companies, as contemplated by passage of this law, we need clearer guidelines and better incentives. Specifically, we should ensure that Bell Operating Companies do not gain more concentrated control over huge percentages of the telephone access lines of this country through mergers, but only through robust competition.

As the Consumers Union recently testified, "If Congress really wants to bring broad-based competition to telecommunications markets, it must rewrite the Telecommunications Act, giving antitrust and regulatory authorities more tools to eliminate the most persistent pockets of telephone and cable monopoly power."

Today I am introducing antitrust legislation that will bar future mergers between Bell Operating Companies or GTE, unless the federal requirements for opening the local loop to competition have been satisfied in at least half of the access lines in each State. I look forward to working with my colleagues on this legislation to make the Telecommunications Act live up to some of its promise.

The bill provides that a "large local telephone company" may not merge with another large local telephone company unless the Attorney General finds that the merger will promote competition for telephone exchange services and exchange access services. Also, before a merger can take place the Federal Communications Commission must find that each large local telephone company has for at least one-half of the access lines in each State served by such carrier, of which as least one-half are residential access lines, fully implemented the requirements of sections 251 and 252 of the Communications Act of 1934.

The bill requires that each large local telephone company that wishes to merge with another must file an application with the Attorney General and the FCC. A review of these applications will be subject to the same time limits set under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

The bill also provides that nothing in this Act shall be construed to modify, impair, or supersede the applicability of the antitrust laws of the United States, or any authority of the Federal Communications Commission, or any authority of the States with respect to mergers and acquisitions of large local telephone companies.

The bill is effective on enactment and has no retroactive effect. It is enforceable by the Attorney General in federal district courts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antitrust Improvements Act of 1998".

SEC. 2. PURPOSE.

The purpose of this Act is to enhance the authority of the Attorney General to prevent certain mergers and acquisitions that would unreasonably limit competition in the telecommunications industry in any case in which certain Federal requirements that would enhance competition are not met.

SEC. 3. RESTRAINT OF TRADE.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. RESTRAINT OF TRADE REGARDING TELECOMMUNICATIONS.

"(a) Large Local Telephone Company Defined.—In this section, the term 'large local telephone company' means a local telephone company that, as of the date of a proposed merger or acquisition covered by this section, serves more than 5 percent of the telephone access lines in the United States.

"(b) Restraint of Trade Regarding Telecommunications.—Notwithstanding any other provision of law, a large local telephone company, including any affiliate of such a company, shall not merge with or acquire a controlling interest in another large local telephone company unless—

"(1) the Attorney General finds that the proposed merger or acquisition will promote competition for telephone exchange services and exchange access services; and

"(2) the Federal Communications Commission finds that each large local telephone company that is a party to the proposed merger or acquisition, with respect to at least ½ of the access lines in each State served by that company, of which at least ½ are residential access lines, has fully implemented the requirements of sections 251 and 252 of the Communications Act of 1934 (47 U.S.C. 251, 252), including the regulations of the Commission and of the States that implement those requirements.

"(c) Report of the Attorney General.—Not later than 10 days after the Attorney General makes a finding described in subsection (b)(1), the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the finding, including an analysis of the effect of the merger or acquisition on competition in the United States telecommunications industry.

"(d) APPLICATION PROCESS.—

"(1) IN GENERAL.—Each large local telephone company or affiliate of a large local telephone company proposing to merge with or acquire a controlling interest in another large local telephone company shall file an application with both the Attorney General and the Federal Communications Commission, on the same day.

"(2) DECISIONS.—The Attorney General and the Federal Communications Commission shall issue a decision regarding the application within the time period applicable to review of mergers under section 7A of this Act.

"(e) JURISDICTION OF THE UNITED STATES COURTS.—

"(1) IN GENERAL.—The district courts of the United States are vested with jurisdiction to prevent and restrain any mergers or acquisitions described in subsection (d) that are inconsistent with a finding under subsection (b) (1) or (2).

"(2) ACTIONS.—The Attorney General may institute proceedings in any district court of the United States in the district in which the defendant resides or is found or has an agent and that court shall order such injunctive, and other relief, as may be appropriate if—

"(A) the Attorney General makes a finding that a proposed merger or acquisition described in subsection (d) does not meet the applicable condition under subsection (b)(1); or

"(B) the Federal Communications Commission makes a finding that 1 or more of the parties to the merger or acquisition referred to in subsection (b)(2) do not meet the requirements specified in that subsection.".

SEC. 4. PRESERVATION OF EXISTING AUTHORITIES.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of the antitrust laws, or any authority of the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.), with respect to mergers, acquisitions, and affiliations of large incumbent local exchange carriers.

(b) ANTITRUST LAWS DEFINED.—In this section, the term "antitrust laws" has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

SEC. 5. APPLICABILITY.

This Act and the amendments made by this Act shall apply to a merger or acquisition of a controlling interest of a large local telephone company (as that term is defined in section 27 of the Clayton Act, as added by section 3 of this Act), occurring on or after the date of enactment of this Act.●

By Mr. FRIST:

S. 2208. A bill to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research; to the Committee on Labor and Human Resources.

HEALTHCARE QUALITY ENHANCEMENT ACT OF 1998

Mr. FRIST. Mr. President, I rise today to advocate better healthcare for Americans and to introduce legislation strengthening the scientific foundation of healthcare quality improvement efforts. Let me make a few introductory comments before summarizing the "Healthcare Quality Enhancement Act of 1998."

First, I want to make it clear: all patients deserve better healthcare quality, not just HMO enrollees as recent discussions have most frequently focused on regarding consumer protections.

All Americans deserve better healthcare. We need healthcare quality improvement that reaches everybody through better healthcare plans, tertiary care centers, fee-for-service solo practices, and all other kinds of patient care.

We should not wait for another movie like the one titled "As Good as It Gets" to talk about healthcare quality for 70% percent of employees and 86% of Medicare beneficiaries who are not traditional-HMO enrollees.

Quality of care fundamentally rests on the achievements of biomedical research. We all know that sound science is the best way to improve quality in patient care. All components of the outcome of healthcare can be effectively improved by statistically valid science: health status can be turned around by transplantation when someone's life is in jeopardy due to a diseased organ; social functioning can be improved by shock wave lithotripsy that leads to faster recovery; and patient satisfaction can be better when children with moderate or severe asthma get proper anti-inflammatory treatment.

While being amazed by the promise of new scientific achievements, few patients realize the implications of abundant and growing production in biomedical research.

Over the past 20 years, the number of articles indexed annually in the Medline database of the National Library of Medicine nearly doubled.

Randomized clinical trials are considered sources of the highest quality evidence on the value of a new intervention. Over the past two decades, the number of clinical trials in my own field of cardiology have increased fivefold.

In health services research, 10 times more clinical trials are published today than 20 years ago (e.g., clinical trials comparing inpatient care with outpatient care, trials of physician profiling and other information interventions).

But we are falling short in our success to disseminate our findings and influence practice behavior.

In spite of all these scientific achievements, we cannot further build up biomedical research production for the next millennium if our network for sharing it with practitioners remains on a nineteenth's century level.

The landmark Early Treatment Diabetic Retinopathy Study was published in 1985. This randomized controlled clinical trial validated a scientific achievement almost a decade earlier. The American Diabetes Association published its eye care guidelines for patients with diabetes mellitus in 1988. Today, the national rate for annual diabetic eye exam is still only 38.4%.

There are more scientific discoveries than ever before, but practical introduction of new scientific discoveries does not seem to be much faster today than it was more than 100 years ago. We need to close the gap between what we know and what we do in healthcare. That requires a federal role in sharing information about what works to improve quality.

All Americans want better healthcare and the federal government must respond by offering helpful information on quality, channeling scientific evidence to clinicians, and investing in research on improving health services.

For this reason, today I am introducing legislation to establish the "Agency for Healthcare Quality" which builds on the platform of the current Agency for Healthcare Policy and Research, but refocuses it on quality to become the central figure in our efforts to improve the quality of healthcare.

Healthcare quality is a matter of personal preference—it means different things to different people. We all remember when healthcare quality became a political showdown, the low back pain guidelines backfired because they were viewed as an attempt to mandate "cook book" medicine, and the Agency for Healthcare Policy and Research had a near death experience.

Over the past three years, since I first came to the United States Senate, I have looked very closely at this agency. The Subcommittee on Public Health and Safety, which I chair, has held three hearings to invite public input on this agency. As a result, this legislation responds to many of the past criticisms of the agency. This legislation will take AHCPR—under a new name—to new heights and will establish it as the center of healthcare quality research for the country.

The new Agency for Healthcare Quality will:

1. promote quality by sharing information. While proven medical advances are made daily, patients are waiting too long to benefit from these discoveries. We must get the science to the people by better sharing of information and more effective dissemination. In addition, the Agency will develop evidence-rating systems to help people in judging the quality of science.

2. build public-private partnerships to advance and share true quality measures. Quality means different things to different people. In collaboration with the private sector, the Agency shall conduct research that can figure out what quality really means to patients and to clinicians, how to

measure quality, and what actions can improve the outcome of healthcare.

3. report annually on the state of quality, and cost, of the nation's healthcare. Americans want to know if they receive good quality healthcare. But compared to what? Statistically accurate, sample-based national surveys will efficiently provide reliable and affordable data —without excessive, overly intrusive, and potentially destructive mandatory reporting requirements.

4. aggressively support improved information systems for health quality. Currently, quality measurement too often requires manual chart reviews for such simple data as frequency of procedures, infection rates, or other complications. Improved computer systems will advance quality scoring and facilitate quality-based decision-making in patient treatment.

5. support primary care research, and address issues of access in underserved areas. While most policy discussions this year are targeting managed care, quality improvement is just as important to the solo private practitioner. The Agency's authority is expanded to support healthcare improvement in all types of office practice—not just managed care. The agency shall specifically address quality in rural and other undeserved areas by advancing telemedicine services which share clinical expertise with more patients.

6. facilitate innovation in patient care with streamlined evaluation and assessment of new technologies. Patients should benefit from proven breakthrough technologies sooner, while inefficient methods should be phased out faster. Today, manufacturers and distributors of new technologies face major hurdles in trying to secure coverage. The Medicare technology committee has been particularly criticized for its process. Criteria are unclear, delays are long, and decisions are unpredictable. The Agency will be accessible to both private and public entities for technology assessments and will share information on assessment methodologies.

7. coordinate quality improvement efforts of the government. Most of the many federal healthcare programs today support some kind of health services research and conduct various quality improvement projects. The Agency shall coordinate these many initiatives to avoid disjointed, uncoordinated, or duplicative efforts.

In summary, we need to practice, not just publish, better patient care. We all want to see better quality.

Real improvement can come from progress in health sciences, from promoting innovation in patient care, and from better practical application of new scientific advances. The Agency for Healthcare Quality will focus on overall improvement in healthcare and enable us to judge the quality of care we receive.

Americans want better healthcare and the federal government shall respond by offering helpful information on quality, channeling scientific evidence to clinicians, and investing in research on improving health services.

Mr. President the "Healthcare Quality Enhancement Act of 1998" will reduce the gap between what we know and what we do in healthcare. The refocused Agency for Healthcare Quality is the right step forward and I urge my colleagues to support this legislation to improve healthcare for all Americans.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. FEINGOLD, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 38, a bill to reduce the number of executive branch political appointees.

S. 71

At the request of Mr. DASCHLE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 71, a bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 505

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 505, a bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

S. 617

At the request of Mr. JOHNSON, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 852

At the request of Mr. LOTT, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 971

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 971, a bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1924

At the request of Mr. MACK, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1976

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1976, a bill to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

S. 2017

At the request of Mr. D'AMATO, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2022

At the request of Mr. DEWINE, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2027

At the request of Mr. BRYAN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2027, a bill to clarify the fair tax treatment of meals provided hotel and restaurant employees in nondiscriminatory employee cafeterias.

S. 2130

At the request of Mr. GRAMS, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2150

At the request of Mr. FRIST, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. 2150, a bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

S. 2151

At the request of Mr. NICKLES, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 2151, a bill to clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

S. 2199

At the request of Mr. TORRICELLI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2199, a bill to amend the Marine Mammal Protection Act of 1972 to establish a Marine Mammal Rescue Grant Program, and for other purposes.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from Kentucky (Mr. MCCONNELL), the Senator from South Carolina (Mr. THURMOND), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. D'AMATO, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Idaho (Mr. KEMPTHORNE), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 237

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of Senate Resolution 237, a resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

AMENDMENT NO. 2405

At the request of Mrs. FEINSTEIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 2405 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. WARNER, his name was added as a cosponsor of amendment No. 2405 proposed to S. 2057, supra.

AMENDMENT NO. 2407

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of amendment No. 2407 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. HARKIN, his name was withdrawn as a cosponsor of amendment No. 2407 proposed to S. 2057, supra.

AMENDMENT NO. 2809

At the request of Mr. FEINGOLD, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 2809 intended to be proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2832

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 2832 intended to be proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2833

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 2833 intended to be proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE RESOLUTION 253—EXPRESSING THE SENSE OF THE SENATE RELATIVE TO TEXAS FARMERS WHO ARE EXPERIENCING DROUGHT CONDITIONS

Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 253

Whereas, the statewide economic impact of the drought on Texas agriculture could be more than $1.7 billion in losses, according to the Texas Agricultural Extension Service;

Whereas, the direct loss of income to agricultural producers is $517 million, which will lead to a loss of another $1.2 billion in economic activity for the state;

Whereas, the National Weather Service has reported that all 10 climatic regions in the State of Texas have received below average rainfall from March through May, a critical time in the production of corn, cotton, sorghum, wheat, and forage;

Whereas, the total losses for Texas cotton producers have already reached an estimated $157 million;

Whereas, nearly half of the State of Texas' rangelands as of May 31, 1998, was rated as "poor" or "very poor" as a result of the lack of rain;

Whereas, the value of lost hay production in the State of Texas will approach an estimated $175 million statewide, leading to an economic impact of $582 million;

Whereas, dryland fruit and vegetable production losses in East Texas have already been estimated at $33 million;

Whereas, the early rains in many parts of Texas produced a large quantity of forage that is now extremely dry and a dangerous source of fuel for wildfires;

Whereas, the Texas Forest Service has indicated that over half the state is in extreme or high danger of wildfires due to the drought conditions.

Resolved, That it is the Sense of the Senate of the United States that the Secretary of Agriculture streamline the drought declaration process to provide necessary relief as quickly as possible; that the Secretary of Agriculture ensure that local Farm Service Agency offices are equipped with full time and emergency personnel in drought-stricken areas to assist producers with disaster loan application packages; that the Secretary of Agriculture instruct the United States Forest Service to assist the State of Texas and the Federal Emergency Management Agency in pre-positioning fire fighting equipment and other appropriate resources in affected Texas counties; that the Secretary of Agriculture authorize haying and grazing on Conservation Reserve Program acreage; that the Secretary of Agriculture convene experts within the Department to develop and implement an emergency plan to help prevent wildfires and to overcome the economic impact of the continuing drought so the Department of Agriculture can provide assistance in a rapid and efficient manner for producers who are suffering from drought conditions.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

LEAHY AMENDMENT NO. 2932

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. 232. LANDMINES.

(a) AVAILABILITY OF FUNDS.—(1) Of the amounts authorized to be appropriated in section 201, $17,200,000 shall be available for activities relating to the identification, adaptation, modification, research, and development of existing and new tactics, technologies, and operational concepts that—

(A) would provide a combat capability that is comparable to the combat capability provided by anti-personnel landmines, including anti-personnel landmines used in mixed mine systems; and

(B) comply with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) The amount available under paragraph (1) shall be derived as follows:

(A) $12,500,000 shall be available from amounts authorized to be appropriated by section 201(1).

(B) $4,700,000 shall be available from amounts authorized to be appropriated by section 201(4).

(b) STUDIES.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall enter into a contract with each of two appropriate scientific organizations for purposes of identifying existing and new tactics, technologies, and concepts referred to in subsection (a).

(2) Each contract shall require the organization concerned to submit a report to the Secretary and to Congress, not later than one year after the execution of such contract, describing the activities under such contract and including recommendations with respect to the adaptation, modification, and research and development of existing and new tactics, technologies, and concepts identified under such contract.

(3) Amounts available under subsection (a) shall be available for purposes of the contracts under this subsection.

(c) REPORTS.—Not later than April 1 of each of 1999 through 2001, the Secretary shall submit to the congressional defense committees a report describing the progress made in identifying and deploying tactics, technologies, and concepts referred to in subsection (a).

(d) DEFINITIONS.—In this section:

(1) ANTI-PERSONNEL LANDMINE.—The term "anti-personnel landmine" has the meaning given the term "anti-personnel mine" in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) MIXED MINE SYSTEM.—The term "mixed mine system" includes any system in which an anti-vehicle landmine or other munition is constructed with or used with one or more anti-personnel landmines, but does not include an anti-handling device as that term is defined in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

BIDEN AMENDMENT NO. 2933

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 2967 submitted by him to the bill, S. 2057, supra; as follows:

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. NONPROLIFERATION ACTIVITIES.

(A) INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.—Of the amount authorized to be appropriated by section 3103(1)(B), $30,000,000 shall be available for the Initiatives for Proliferation Prevention program.

(b) NUCLEAR CITIES INITIATIVE.—Of the amount authorized to be appropriated by section 3103(1)(B), $30,000,000 shall be available for the purpose of implementing the initiative arising pursuant to the March 1998 discussions between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation (the so-called "nuclear cities" initiative).

REID AMENDMENT NO. 2934

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

The provisions of title XXIX are null and void and shall have no effect.

KEMPTHORNE AMENDMENTS NOS. 2935–2936

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2935

On page 348, strike out line 1 and all that follows through page 366, line 13, and insert in lieu thereof the following:

TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

SEC. 2901. SHORT TITLE.

This title may be cited as the "Juniper Butte Range Withdrawal Act".

SEC. 2902. WITHDRAWAL AND RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Juniper Butte Range, Idaho, referred to in subsection (c), are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws, but not the Materials Act of 1947 (30 U.S.C. 601-604).

(b) RESERVED USES.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Air Force for—

(1) a high hazard training area;

(2) dropping non-explosive training ordnance with spotting charges;

(3) electronic warfare and tactical maneuvering and air support;

(4) other defense-related purposes consistent with the purposes specified in paragraphs (1), (2), and (3), including continued natural resource management and environmental remediation in accordance with section 2916;

(c) SITE DEVELOPMENT PLANS.—Site development plans shall be prepared prior to construction; site development plans shall be incorporated in the Integrated Natural Resource Management Plan identified in section 2909; and, except for any minimal improvements, development on the withdrawn lands of any facilities beyond those proposed and analyzed in the Air Force's Enhanced Training in Idaho Environmental Impact Statement, the Enhanced Training in Idaho Record of Decision dated March 10, 1998, and the site development plans shall be contingent upon review and approval of the Idaho State Director, Bureau of Land Management.

(d) GENERAL DESCRIPTION.—The public lands withdrawn and reserved by this section comprise approximately 11,300 acres of public land in Owhyee County, Idaho, as generally depicted on the map entitled "Juniper Butte Range Withdrawal-Proposed", dated June 1998, that will be filed in accordance with section 2903. The withdrawal is for an approximately 10,600-acre tactical training range, a 640-acre no-drop target site, four 5-acre no-drop target sites and nine 1-acre electronic threat emitter sites.

SEC. 2903. MAP AND LEGAL DESCRIPTION.

(a) IN GENERAL.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map or maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) INCORPORATION BY REFERENCE.—Such maps and legal description shall have the same force and effect as if included in this title.

(c) CORRECTION OF ERRORS.—The Secretary of the Interior may correct clerical and typographical errors in such map or maps and legal description.

(d) AVAILABILITY.—Copies of such map or maps and the legal description shall be available for public inspection in the office of the Idaho State Director of the Bureau of Land Management; the offices of the managers of the Lower Snake River District, Bruneau Field Office and Jarbidge Field Office of the Bureau of Land Management; and the Office of the Commander, Mountain Home Air Force Base, Idaho. To the extent practicable, the Secretary of the Interior shall adopt the legal description and maps prepared by the

Secretary of the Air Force in support of this Title.

(e) The Secretary of the Air Force shall reimburse the Secretary of the Interior for the costs incurred by the Department of the Interior in implementing this section.

SEC. 2904. AGENCY AGREEMENT

The Bureau of Land Management and the Air Force have agreed upon additional mitigation measures associated with this land withdrawal as specified in the "ENHANCED TRAINING IN IDAHO Memorandum of Understanding Between The Bureau of Land Management and The United States Air Force" that is dated June , 1998. This agreement specifies that these mitigation measures will be adopted as part of the Air Force's Record of Decision for Enhanced Training in Idaho. Congress endorses this collaborative effort between the agencies and directs that the agreement be implemented; provided, however, that the parties may, in accordance with the National Environmental Policy Act of 1969, as amended, mutually agree to modify the mitigation measures specified in the agreement in light of experience gained through the actions called for in the agreement or as a result of changed military circumstances; provided further, that neither the agreement, any modification thereof, nor this section creates any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

SEC. 2905. RIGHT-OF-WAY GRANTS.

In addition to the withdrawal under section 2902 and in accordance with all applicable laws, the Secretary of the Interior shall process and grant the Secretary of the Air Force rights-of-way using the Department of the Interior regulations and policies in effect at the time of filing applications for the one-quarter acre electronic warfare threat emitter sites, roads, powerlines, and other ancillary facilities as described and analyzed in the Enhanced Training in Idaho Final Environmental Impact Statement, dated January 1998.

SEC. 2906. INDIAN SACRED SITES.

(a) MANAGEMENT.—In the management of the Federal lands withdrawn and reserved by this title, the Air Force shall, to the extent practicable and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the integrity of such sacred sites. The Air Force shall maintain the confidentiality of such sites where appropriate. The term "sacred site" shall mean any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the Air Force of the existence of such a site. The term "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law No. 103-454, 108 Stat. 4791, and "Indian" refers to a member of such an Indian tribe.

(b) CONSULTATION.—Air Force officials at Mountain Home Air Force Base shall regularly consult with the Tribal Chairman of the Shoshone-Paiute Tribes of the Duck Valley Reservation to assure that tribal government rights and concerns are fully considered during the development of the Juniper Butte Range.

SEC. 2907. ACTIONS CONCERNING RANCHING OPERATIONS IN WITHDRAWN AREA.

The Secretary of the Air Force is authorized and directed to, upon such terms and conditions as the Secretary of the Air Force considers just and in the national interest, conclude and implement agreements with the grazing permittees to provide appropriate consideration, including future grazing arrangements. Upon the conclusion of these agreements, the Assistant Secretary, Land and Minerals Management, shall grant rights-of-way and approvals and take such actions as are necessary to implement promptly this title and the agreements with the grazing permittees. The Secretary of the Air Force and the Secretary of the Interior shall allow the grazing permittees for lands withdrawn and reserved by this title to continue their activities on the lands in accordance with the permits and their applicable regulations until the Secretary of the Air Force has fully implemented the agreement with the grazing permittees under this section. Upon the implementation of these agreements, the Bureau of Land Management is authorized and directed, subject to the limitations included in this section, to terminate grazing on the lands withdrawn.

SEC. 2908. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.

(a) IN GENERAL.—Except as provided in section 2916(d), during the withdrawal and reservation of any lands under this title, the Secretary of the Air Force shall manage such lands for purposes relating to the uses set forth in section 2902(b).

(b) MANAGEMENT ACCORDING TO PLAN.—The lands withdrawn and reserved by this title shall be managed in accordance with the provisions of this title under the integrated natural resources management plan prepared under section 2909.

(c) AUTHORITY TO CLOSE LAND.—If the Secretary of the Air Force determines that military operations, public safety, or the interests of national security require the closure to public use of any road, trail or other portion of the lands withdrawn by this title that are commonly in public use, the Secretary of the Air Force may take such action; Provided, that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. During closures, the Secretary of the Air Force shall keep appropriate warning notices posted and take appropriate steps to notify the public about the closure.

(d) LEASE AUTHORITY.—The Secretary of the Air Force may enter into leases for State lands with the State of Idaho in support of the Juniper Butte Range and operations at the Juniper Butte Range.

(e) PREVENTION AND SUPPRESSION OF FIRE.—

(1) The Secretary of the Air Force shall take appropriate precautions to prevent and suppress brush fires and range fires that occur within the boundaries of the Juniper Butte Range, as well as brush and range fires occurring outside the boundaries of the Range resulting from military activities.

(2) Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Air Force may obligate funds appropriated or otherwise available to the Secretary of the Air Force to enter into contracts for firefighting.

(3)(A) The memorandum of understanding under section 2910 shall provide for the Bureau of Land Management to assist the Secretary of the Air Force in the suppression of the fires described in paragraph (1).

(B) The memorandum of understanding shall provide that the Secretary of the Air Force reimburse the Bureau of Land Management for any costs incurred by the Bureau of Land Management under this paragraph.

(f) USE OF MINERAL MATERIALS.—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601 et seq.), the Secretary of the Air Force may use, from the lands withdrawn and reserved by this title, sand, gravel, or similar mineral material resources of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs of the Juniper Butte Range.

SEC. 2909. INTEGRATED NATURAL RESOURCE MANAGEMENT PLAN.

(a) REQUIREMENT.—

(1) Not later than 2 years after the date of enactment of this title, the Secretary of the Air Force shall, in cooperation with the Secretary of the Interior, the State of Idaho and Owyhee County, develop an integrated natural resources management plan to address the management of the resources of the lands withdrawn and reserved by this title during their withdrawal and reservation under this title. Additionally, the Integrated Natural Resource Management Plan will address mitigation and monitoring activities by the Air Force for State and Federal lands affected by military training activities associated with the Juniper Butte Range. The foregoing will be done cooperatively between the Air Force and the Bureau of Land Management, the State of Idaho and Owyhee County.

(2) Except as otherwise provided under this title, the integrated natural resources management plan under this section shall be developed in accordance with, and meet the requirements of, section 101 of the Sikes Act (16 U.S.C. 670a).

(3) Site development plans shall be prepared prior to construction of facilities. These plans shall be reviewed by the Bureau of Land Management for Federal lands and State of Idaho for State lands for consistency with the proposal assessed in the Enhanced Training in Idaho Environmental Impact Statement. The portion of the site development plans describing reconfigurable or replacement targets may be conceptual.

(b) ELEMENTS.—The integrated natural resources management plan under subsection (a) shall—

(1) include provisions for the proper management and protection of the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title and for the use of such resources in a manner consistent with the uses set forth in section 2902(b);

(2) permit livestock grazing at the discretion of the Secretary of the Air Force in accordance with section 2907 or any other authorities relating to livestock grazing that are available to that Secretary;

(3) permit fencing, water pipeline modifications and extensions, and the construction of aboveground water reservoirs, and the maintenance and repair of these items on the lands withdrawn and reserved by this title, and on other lands under the jurisdiction of the Bureau of Land Management; and

(4) otherwise provide for the management by the Secretary of Air Force of any lands withdrawn and reserved by this title while retained under the jurisdiction of that Secretary under this title.

(c) Periodic Review.—The Secretary of the Air Force shall, in cooperation with the Secretary of the Interior and the State of Idaho, review the adequacy of the provisions of the integrated natural resources management plan developed under this section at least once every 5 years after the effective date of the plan.

SEC. 2910. MEMORANDUM OF UNDERSTANDING.

(a) Requirement.—The Secretary of the Air Force, the Secretary of the Interior, and the Governor of the State of Idaho shall jointly enter into a memorandum of understanding to implement the integrated natural resources management plan required under section 2909.

(b) Term.—The memorandum of understanding under subsection (a) shall apply to any lands withdrawn and reserved by this title until their relinquishment by the Secretary of the Air Force under this title.

(c) Modification.—The memorandum of understanding under subsection (a) may be modified by agreement of all the parties specified in that subsection.

SEC. 2911. MAINTENANCE OF ROADS.

The Secretary of the Air Force shall enter into agreements with the Owyhee County Highway District, Idaho, and the Three Creek Good Roads Highway District, Idaho, under which the Secretary of the Air Force shall pay the costs of road maintenance incurred by such districts that are attributable to Air Force operations associated with the Juniper Butte Range.

SEC. 2912. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in subsection 2908(f), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Juniper Butte Range in accordance with the Act of February 28, 1958 (known as the Engle Act; 43 U.S.C. 155–158).

SEC. 2913. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with the provision of section 2671 of title 10, United States Code.

SEC. 2914. WATER RIGHTS.

(a) Limitation.—The Secretary of the Air Force shall not seek or obtain any water rights associated with any water pipeline modified or extended, or above ground water reservoir constructed, for purposes of consideration under section 2907.

(b) New Rights.—

(1) Nothing in this title shall be construed to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title.

(2) Nothing in this title shall be construed to authorize the appropriation of water on the lands withdrawn and reserved by this title by the United States after the date of enactment of this title unless such appropriation is carried out in accordance with the laws of the State of Idaho.

(c) Applicability.—This section may not be construed to affect any water rights acquired by the United States before the date of enactment of this title.

SEC. 2915. DURATION OF WITHDRAWAL.

(a) Termination.—

(1) Except as otherwise provided in this section and section 2916, the withdrawal and reservation of lands by this title shall, unless extended as provided herein, terminate at one minute before midnight on the 25th anniversary of the date of the enactment of this title.

(2) At the time of termination, the previously withdrawn lands shall not be open to the general land laws including the mining laws and the mineral and geothermal leasing laws until the Secretary of the Interior publishes in the Federal Register an appropriate order which shall state the date upon which such lands shall be opened.

(b) Relinquishment.—

(1) If the Secretary of the Air Force determines under subsection (c) of this section that the Air Force has no continuing military need for any lands withdrawn and reserved by this title, the Secretary of the Air Force shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands back to the Secretary of the Interior.

(2) The Secretary of the Interior may accept jurisdiction over any lands covered by a notice of intent to relinquish jurisdiction under paragraph (1) if the Secretary of the Interior determines that the Secretary of the Air Force has completed the environmental review required under section 2916(a) and the conditions under section 2916(c) have been met.

(3) If the Secretary of the Interior decides to accept jurisdiction over lands under paragraph (2) before the date of termination, as provided for in subsection (a)(1) of this section, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(A) revoke the withdrawal and reservation of such lands under this title;

(B) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(C) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(4) The Secretary of the Interior shall manage any lands relinquished under this subsection as multiple use status lands.

(5) If the Secretary of the Interior declines pursuant to paragraph (b)(2) of this section to accept jurisdiction of any parcel of the land proposed for relinquishment that parcel shall remain under the continued administration of the Secretary of the Air Force pursuant to section 2916(d).

(c) Extension.—

(1) In the case of any lands withdrawn and reserved by this title that the Air Force proposes to include in a notice of extension because of continued military need under paragraph (2) of this subsection, the Secretary of the Air Force shall prior to issuing the notice under paragraph (2)—

(A) evaluate the environmental effects of the extension of the withdrawal and reservation of such lands in accordance with all applicable laws and regulations; and

(B) hold at least one public meeting in the State of Idaho regarding that evaluation.

(2) Notice of need for extension of withdrawal—

(A) Not later than 2 years before the termination of the withdrawal and reservation of lands by this title under subsection (a), the Secretary of the Air Force shall notify Congress and the Secretary of the Interior as to whether or not the Air Force has a continuing military need for any of the lands withdrawn and reserved by this title, and not previously relinquished under this section, after the termination date as specified in subsection (a) of this section.

(B) The Secretary of the Air Force shall specify in the notice under subparagraph (A) the duration of any extension or further extension of withdrawal and reservation of such lands under this title; Provided however, the duration of each extension or further extension shall not exceed 25 years.

(C) The notice under subparagraph (A) shall be published in the Federal Register and a newspaper of local distribution with the opportunity for comments, within a 60-day period, which shall be provided to the Secretary of the Air Force and the Secretary of the Interior.

(3) Effect of notification.—

(A) Subject to subparagraph (B), in the case of any lands withdrawn and reserved by this title that are covered by a notice of extension under subsection (c)(2), the withdrawal and reservation of such lands shall extend under the provisions of this title after the termination date otherwise provided for under subsection (a) for such period as is specified in the notice under subsection (c)(2).

(B) Subparagraph (A) shall not apply with respect to any lands covered by a notice referred to in that paragraph until 90 legislative days after the date on which the notice with respect to such lands is submitted to Congress under paragraph (2).

SEC. 2916. ENVIRONMENTAL REMEDIATION OF RELINQUISHED WITHDRAWN LANDS OR UPON TERMINATION OF WITHDRAWAL.

(a) Environmental Review.—

(1) Before submitting under section 2915 a notice of an intent to relinquish jurisdiction over lands withdrawn and reserved by this title, and in all cases not later than two years prior to the date of termination of withdrawal and reservation, the Secretary of the Air Force shall, in consultation with the Secretary of the Interior, complete a review that fully characterizes the environmental conditions of such lands (including any water and air associated with such lands) in order to identify any contamination on such lands.

(2) The Secretary of the Air Force shall submit to the Secretary of the Interior a copy of the review prepared with respect to any lands under paragraph (1). The Secretary of the Air Force shall also submit at the same time any notice of intent to relinquish jurisdiction over such lands under section 2915.

(3) The Secretary of the Air Force shall submit a copy of any such review to Congress.

(b) Environmental Remediation of Lands.—The Secretary of the Air Force shall, in accordance with applicable State and Federal law, carry out and complete environmental remediation—

(1) before relinquishing jurisdiction to the Secretary of the Interior over any lands identified in a notice of intent to relinquish under subsection 2915(b); or,

(2) prior to the date of termination of the withdrawal and reservation, except as provided under subsection (d) of this section.

(c) Postponement of Relinquishment.—The Secretary of the Interior shall not accept jurisdiction over any lands that are the subject of activities under subsection (b) of this section until the Secretary of the Interior determines that environmental conditions on the lands are such that—

(1) all necessary environmental remediation has been completed by the Secretary of the Air Force;

(2) the lands are safe for nonmilitary uses; and

(3) the lands could be opened consistent with the Secretary of the Interior's public land management responsibilities.

(d) Jurisdiction When Withdrawal Terminates.—If the determination required by section (c) cannot be achieved for any parcel of land subject to the withdrawal and reservation prior to the termination date of the withdrawal and reservation, the Secretary of the Air Force shall retain administrative jurisdiction over such parcels of land notwithstanding the termination date for the limited purposes of:

(1) environmental remediation activities under subsection (b); and.

(2) any activities relating to the management of such lands after the termination of the withdrawal reservation for military purposes that are provided for in the integrated natural resources management plan under section 2909.

(e) Request for Appropriations.—The Secretary of the Air Force shall request an appropriation pursuant to section 2919 sufficient to accomplish the remediation under this title.

SEC. 2917. DELEGATION OF AUTHORITY.

(a) Air Force Functions.—Except for executing the agreement referred to in section 2907, the Secretary of the Air Force may delegate that Secretary's functions under this title.

(b) Interior Functions.—

(1) Except as provided in paragraph (2), the Secretary of the Interior may delegate that Secretary's functions under this title.

(2) The order referred to in section 2915(b)(3) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Interior.

(3) The approvals granted by the Bureau of Land Management shall be pursuant to the decisions of the Secretary of the Interior, or the Assistant Secretary for Land and Minerals Management.

SEC. 2918. SENSE OF SENATE REGARDING MONITORING OF WITHDRAWN LANDS.

(a) Finding.—The Senate finds that there is a need for the Department of the Air Force, the Bureau of Land Management, the State of Idaho, and Owyhee County to develop a cooperative effort to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of the Air Force should ensure that the budgetary planning of the Department of the Air Force makes available sufficient funds to assure Air Force participation in the cooperative effort developed by the Department of the Air Force, the Bureau of Land Management, and the State of Idaho to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

SEC. 2919. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

Amendment No. 2936

On page 348, strike out line 1 and all that follows through page 366, line 13, and insert in lieu thereof the following:

TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

SEC. 2901. SHORT TITLE.

This title may be cited as the "Juniper Butte Range Withdrawal Act".

SEC. 2902. WITHDRAWAL AND RESERVATION.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Juniper Butte Range, Idaho, referred to in subsection (c), are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws, but not the Materials Act of 1947 (30 U.S.C. 601-604).

(b) Reserved Uses.—The land withdrawn under subsection (a) are reserved for use by the Secretary of the Air Force for—

(1) a high hazard training area;

(2) dropping non-explosive training ordnance with spotting charges;

(3) electronic warfare and tactical maneuvering and air support;

(4) other defense-related purposes consistent with the purposes specified in paragraphs (1), (2), and (3), including continued natural resource management and environmental remediation in accordance with section 2916;

(c) Site Development Plans.—Site development plans shall be prepared prior to construction; site development plans shall be incorporated in the Integrated Natural Resource Management Plan identified in section 2909; and, except for any minimal improvements, development on the withdrawn lands of any facilities beyond those proposed and analyzed in the Air Force's Enhanced Training in Idaho Environmental Impact Statement, the Enhanced Training in Idaho Record of Decision dated March 10, 1998, and the site development plans shall be contingent upon review and approval of the Idaho State Director, Bureau of Land Management.

(d) General Description.—The public lands withdrawn and reserved by this section comprise approximately 11,300 acres of public land in Owyhee County, Idaho, as generally depicted on the map entitled "Juniper Butte Range Withdrawal-Proposed", dated June 1998, that will be filed in accordance with section 2903. The withdrawal is for an approximately 10,600-acre tactical training range, a 640-acre no-drop target site, four 5-acre no-drop target sites and nine 1-acre electronic threat emitter sites.

SEC. 2903. MAP AND LEGAL DESCRIPTION.

(a) In General.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map or maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) Incorporation by Reference.—Such maps and legal description shall have the same force and effect as if included in this title.

(c) Correction of Errors.—The Secretary of the Interior may correct clerical and typographical errors in such map or maps and legal description.

(d) Availability.—Copies of such map or maps and the legal description shall be available for public inspection in the office of the Idaho State Director of the Bureau of Land Management; the offices of the managers of the Lower Snake River District, Bureau Field Office and Jarbidge Field Office of the Bureau of Land Management; and the Office of the Commander, Mountain Home Air Force Base, Idaho. To the extent practicable, the Secretary of the Interior shall adopt the legal description and maps prepared by the Secretary of the Air Force in support of this Title.

(e) The Secretary of the Air Force shall reimburse the Secretary of the Interior for the costs incurred by the Department of the Interior in implementing this section.

SEC. 2904. RIGHT-OF-WAY GRANTS.

In addition to the withdrawal under section 2902 and in accordance with all applicable laws, the Secretary of the Interior shall process and grant the Secretary of the Air Force rights-of-way using the Department of the Interior regulations and policies in effect at the time of filing applications for the one-quarter acre electronic warfare threat emitter sites, roads, powerlines, and other ancillary facilities as described and analyzed in the Enhanced Training in Idaho Final Environmental Impact Statement, dated January 1998.

SEC. 2905. ACTIONS CONCERNING RANCHING OPERATIONS IN WITHDRAWN AREA.

The Secretary of the Air Force is authorized and directed to, upon such terms and conditions as the Secretary of the Air Force considers just and in the national interest, conclude and implement agreements with the grazing permittees to provide appropriate consideration, including future grazing arrangements. Upon the conclusion of these agreements, the Assistant Secretary, Land and Minerals Management, shall grant rights-of-way and approvals and take such actions as are necessary to implement promptly this title and the agreements with the grazing permittees. The Secretary of the Air Force and the Secretary of the Interior shall allow the grazing permittees for lands withdrawn and reserved by this title to continue their activities on the lands in accordance with the permits and their applicable regulations until the Secretary of the Air Force has fully implemented the agreement with the grazing permittees under this section. Upon the implementation of these agreements, the Bureau of Land Management is authorized and directed, subject to the limitations included in this section, to terminate grazing on the lands withdrawn.

SEC. 2906. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.

(a) In General.—Except as provided in section 2916(d), during the withdrawal and reservation of any lands under this title, the Secretary of the Air Force shall manage such lands for purposes relating to the uses set forth in section 2902(b).

(b) Management According to Plan.—The lands withdrawn and reserved by this title shall be managed in accordance with the provisions of this title under the integrated natural resources management plan prepared under section 2909.

(c) Authority To Close Land.—If the Secretary of the Air Force determines that military operations, public safety, or the interests of national security require the closure to public use of any road, trail or other portion of the lands withdrawn by this title that are commonly in public use, the Secretary of the Air Force may take such action; Provided, that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. During closures, the Secretary of the Air Force shall keep appropriate warning notices posted and take appropriate steps to notify the public about the closure.

(d) Lease Authority.—The Secretary of the Air Force may enter into leases for State lands with the State of Idaho in support of the Juniper Butte Range and operations at the Juniper Butte Range.

(e) Prevention and Suppression of Fire.—

(1) The Secretary of the Air Force shall take appropriate precautions to prevent and suppress brush fires and range fires that occur within the boundaries of the Juniper Butte Range, as well as brush and range fires occurring outside the boundaries of the Range resulting from military activities.

(2) Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Air Force may obligate funds appropriated or otherwise available to the Secretary of the Air Force to enter into contracts for firefighting.

(3)(A) The memorandum of understanding under section 2910 shall provide for the Bureau of Land Management to assist the Secretary of the Air Force in the suppression of the fires described in paragraph (1).

(B) The memorandum of understanding shall provide that the Secretary of the Air Force reimburse the Bureau of Land Management for any costs incurred by the Bureau of Land Management under this paragraph.

(f) USE OF MINERAL MATERIALS.—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601 et seq.), the Secretary of the Air Force may use, from the lands withdrawn and reserved by this title, sand, gravel, or similar mineral material resources of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs of the Juniper Butte Range.

SEC. 2907. INTEGRATED NATURAL RESOURCE MANAGEMENT PLAN.

(a) REQUIREMENT.—

(1) Not later than 2 years after the date of enactment of this title, the Secretary of the Air Force shall, in cooperation with the Secretary of the Interior, the State of Idaho and Owyhee County, develop an integrated natural resources management plan to address the management of the resources of the lands withdrawn and reserved by this title during their withdrawal and reservation under this title. Additionally, the Integrated Natural Resource Management Plan will address mitigation and monitoring activities by the Air Force for State and Federal lands affected by military training activities associated with the Juniper Butte Range. The foregoing will be done cooperatively between the Air Force and the Bureau of Land Management, the State of Idaho and Owyhee County.

(2) Except as otherwise provided under this title, the integrated natural resources management plan under this section shall be developed in accordance with, and meet the requirements of, section 101 of the Sikes Act (16 U.S.C. 670a).

(3) Site development plans shall be prepared prior to construction of facilities. These plans shall be reviewed by the Bureau of Land Management for Federal lands and the State of Idaho for State lands for consistency with the proposal assessed in the Enhanced Training in Idaho Environmental Impact Statement. The portion of the site development plans describing reconfigurable or replacement targets may be conceptual.

(b) ELEMENTS.—The integrated natural resources management plan under subsection (a) shall—

(1) include provisions for the proper management and protection of the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title and for the use of such resources in a manner consistent with the uses set forth in section 2902(b);

(2) permit livestock grazing at the discretion of the Secretary of the Air Force in accordance with section 2907 or any other authorities relating to livestock grazing that are available to that Secretary;

(3) permit fencing, water pipeline modifications and extensions, and the construction of aboveground water reservoirs, and the maintenance and repair of these items on the lands withdrawn and reserved by this title, and on other lands under the jurisdiction of the Bureau of Land Management; and

(4) otherwise provide for the management by the Secretary of Air Force of any lands withdrawn and reserved by this title while retained under the jurisdiction of that Secretary under this title.

(c) PERIODIC REVIEW.—The Secretary of the Air Force shall, in cooperation with the Secretary of the Interior and the State of Idaho, review the adequacy of the provisions of the integrated natural resources management plan developed under this section at least once every 5 years after the effective date of the plan.

SEC. 2908. MEMORANDUM OF UNDERSTANDING.

(a) REQUIREMENT.—The Secretary of the Air Force, the Secretary of the Interior, and the Governor of the State of Idaho shall jointly enter into a memorandum of understanding to implement the integrated natural resources management plan required under section 2909.

(b) TERM.—The memorandum of understanding under subsection (a) shall apply to any lands withdrawn and reserved by this title until their relinquishment by the Secretary of the Air Force under this title.

(c) MODIFICATION.—The memorandum of understanding under subsection (a) may be modified by agreement of all the parties specified in that subsection.

SEC. 2909. MAINTENANCE OF ROADS.

The Secretary of the Air Force shall enter into agreements with the Owyhee County Highway District, Idaho, and the Three Creek Good Roads Highway District, Idaho, under which the Secretary of the Air Force shall pay the costs of road maintenance incurred by such districts that are attributable to Air Force operations associated with the Juniper Butte Range.

SEC. 2910. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in subsection 2908(f), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Juniper Butte Range in accordance with the Act of February 28, 1958 (known as the Engle Act; 43 U.S.C. 155-158).

SEC. 2911. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with the provision of section 2671 of title 10, United States Code.

SEC. 2912. WATER RIGHTS.

(a) LIMITATION.—The Secretary of the Air Force shall not seek or obtain any water rights associated with any water pipeline modified or extended, or above ground water reservoir constructed, for purposes of consideration under section 2907.

(b) NEW RIGHTS.—

(1) Nothing in this title shall be construed to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title.

(2) Nothing in this title shall be construed to authorize the appropriation of water on the lands withdrawn and reserved by this title by the United States after the date of enactment of this title unless such appropriation is carried out in accordance with the laws of the State of Idaho.

(c) APPLICABILITY.—This section may not be construed to affect any water rights acquired by the United States before the date of enactment of this title.

SEC. 2913. DURATION OF WITHDRAWAL.

(a) TERMINATION.—

(1) Except as otherwise provided in this section and section 2916, the withdrawal and reservation of lands by this title shall, unless extended as provided herein, terminate at one minute before midnight on the 25th anniversary of the date of the enactment of this title.

(2) At the time of termination, the previously withdrawn lands shall not be open to the general land laws including the mining laws and the mineral and geothermal leasing laws until the Secretary of the Interior publishes in the Federal Register an appropriate order which shall state the date upon which such lands shall be opened.

(b) RELINQUISHMENT.—

(1) If the Secretary of the Air Force determines under subsection (c) of this section that the Air Force has no continuing military need for any lands withdrawn and reserved by this title, the Secretary of the Air Force shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands back to the Secretary of the Interior.

(2) The Secretary of the Interior may accept jurisdiction over any lands covered by a notice of intent to relinquish jurisdiction under paragraph (1) if the Secretary of the Interior determines that the Secretary of the Air Force has completed the environmental review required under section 2916(a) and the conditions under section 2916(c) have been met.

(3) If the Secretary of the Interior decides to accept jurisdiction over lands under paragraph (2) before the date of termination, as provided for in subsection (a)(1) of this section, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(A) revoke the withdrawal and reservation of such lands under this title;

(B) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(C) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(4) The Secretary of the Interior shall manage any lands relinquished under this subsection as multiple use status lands.

(5) If the Secretary of the Interior declines pursuant to paragraph (b)(2) of this section to accept jurisdiction of any parcel of the land proposed for relinquishment that parcel shall remain under the continued administration of the Secretary of the Air Force pursuant to section 2916(d).

(c) EXTENSION.—

(1) In the case of any lands withdrawn and reserved by this title that the Air Force proposes to include in a notice of extension because of continued military need under paragraph (2) of this subsection, the Secretary of the Air Force shall prior to issuing the notice under paragraph (2)—

(A) evaluate the environmental effects of the extension of the withdrawal and reservation of such lands in accordance with all applicable laws and regulations; and

(B) hold at least one public meeting in the State of Idaho regarding that evaluation.

(2) Notice of need for extension of withdrawal—

(A) Not later than 2 years before the termination of the withdrawal and reservation of lands by this title under subsection (a), the Secretary of the Air Force shall notify Congress and the Secretary of the Interior as to whether or not the Air Force has a continuing military need for any of the lands withdrawn and reserved by this title, and not previously relinquished under this section, after the termination date as specified in subsection (a) of this section.

(B) The Secretary of the Air force shall specify in the notice under subparagraph (A) the duration of any extension or further extension of withdrawal and reservation of such lands under this title; Provided however, the duration of each extension or further extension shall not exceed 25 years.

(C) The notice under subparagraph (A) shall be published in the Federal Register and a newspaper of local distribution with the opportunity for comments, within a 60-day period, which shall be provided to the Secretary of the Air Force and the Secretary of the Interior.

(3) Effect of notification.—

(A) Subject to subparagraph (B), in the case of any lands withdrawn and reserved by this title that are covered by a notice of extension under subsection (c)(2), the withdrawal and reservation of such lands shall extend under the provisions of this title after the termination date otherwise provided for under subsection (a) for such period as is specified in the notice under subsection (c)(2).

(B) Subparagraph (A) shall not apply with respect to any lands covered by a notice referred to in that paragraph until 90 legislative days after the date on which the notice with respect to such lands is submitted to Congress under paragraph (2).

SEC. 2914. ENVIRONMENTAL REMEDIATION OF RELINQUISHED WITHDRAWN LANDS OR UPON TERMINATION OF WITHDRAWAL.

(a) ENVIRONMENTAL REVIEW.—

(1) Before submitting under section 2915 a notice of an intent to relinquish jurisdiction over lands withdrawn and reserved by this title, and in all cases not later than two years prior to the date of termination of withdrawal and reservation, the Secretary of the Air Force shall, in consultation with the Secretary of the Interior, complete a review that fully characterizes the environmental conditions of such lands (including any water and air associated with such lands) in order to identify any contamination on such lands.

(2) The Secretary of the Air Force shall submit to the Secretary of the Interior a copy of the review prepared with respect to any lands under paragraph (1). The Secretary of the Air Force shall also submit at the same time any notice of intent to relinquish jurisdiction over such lands under section 2915.

(3) The Secretary of the Air Force shall submit a copy of any such review to Congress.

(b) ENVIRONMENTAL REMEDIATION OF LANDS.—The Secretary of the Air Force shall, in accordance with applicable State and Federal law, carry out and complete environmental remediation—

(1) before relinquishing jurisdiction to the Secretary of the Interior over any lands identified in a notice of intent to relinquish under subsection 2915(b); or,

(2) prior to the date of termination of the withdrawal and reservation, except as provided under subsection (d) of this section.

(c) POSTPONEMENT OF RELINQUISHMENT.—The Secretary of the Interior shall not accept jurisdiction over any lands that are the subject of activities under subsection (b) of this section until the Secretary of the Interior determines that environmental conditions on the lands are such that—

(1) all necessary environmental remediation has been completed by the Secretary of the Air Force;

(2) the lands are safe for nonmilitary uses; and

(3) the lands could be opened consistent with the Secretary of the Interior's public land management responsibilities.

(d) JURISDICTION WHEN WITHDRAWAL TERMINATES.—If the determination required by section (c) cannot be achieved for any parcel of land subject to the withdrawal and reservation prior to the termination date of the withdrawal and reservation, the Secretary of the Air Force shall retain administrative jurisdiction over such parcels of land notwithstanding the termination date for the limited purposes of:

(1) environmental remediation activities under subsection (b); and,

(2) any activities relating to the management of such lands after the termination of the withdrawal reservation for military purposes that are provided for in the integrated natural resources management plan under section 2909.

(e) REQUEST FOR APPROPRIATIONS.—The Secretary of the Air Force shall request an appropriation pursuant to section 2919 sufficient to accomplish the remediation under this title.

SEC. 2915. DELEGATION OF AUTHORITY.

(a) AIR FORCE FUNCTIONS.—Except for executing the agreement referred to in section 2907, the Secretary of the Air Force may delegate that Secretary's functions under this title.

(b) INTERIOR FUNCTIONS.—

(1) Except as provided in paragraph (2), the Secretary of the Interior may delegate that Secretary's functions under this title.

(2) The order referred to in section 2915(b)(3) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Interior.

(3) The approvals granted by the Bureau of Land Management shall be pursuant to the decisions of the Secretary of the Interior, or the Assistant Secretary for Land and Minerals Management.

SEC. 2916. SENSE OF SENATE REGARDING MONITORING OF WITHDRAWN LANDS.

(a) FINDING.—The Senate finds that there is a need for the Department of the Air Force, the Bureau of Land Management, the State of Idaho, and Owyhee County to develop a cooperative effort to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Air Force should ensure that the budgetary planning of the Department of the Air Force makes available sufficient funds to assure Air Force participation in the cooperative effort developed by the Department of the Air Force, the Bureau of Land Management, and the State of Idaho to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

SEC. 2917. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

WYDEN AMENDMENT NO. 2937

(Ordered to lie on the table.)

Mr. WYDEN submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place add the following:

SEC. 3144. REVIEW OF CALCULATION OF OVERHEAD COSTS OF CLEANUP AT DEPARTMENT OF ENERGY SITES.

(a) REVIEW.—(1) The Comptroller General shall—

(A) carry out a review of the methods currently used by the Department of Energy for calculating overhead costs (including direct overhead costs and indirect overhead costs) associated with the cleanup of Department sites; and

(B) pursuant to the review, identify how such costs are allocated among different program and budget accounts of the Department.

(2) The review shall include the following:

(A) All activities whose costs are spread across other accounts of a Department site or of any contractor performing work at a site.

(B) Support service overhead costs, including activities or services which are paid for on a per-unit-used basis.

(C) All fees, awards, and other profit on indirect and support service overhead costs or fees that are not attributed to performance on a single project.

(D) Any portion of contractor costs for which there is no competitive bid.

(E) All computer service and information management costs that have been previously reported as overhead costs.

(F) Any other costs that the Comptroller General considers appropriate to categorize as direct or indirect overhead costs.

(b) REPORT.—Not later than January 31, 1999, the Comptroller General shall submit to Congress a report setting forth the findings of the Comptroller as a result of the review under subsection (a). The report shall include the recommendations of the Comptroller regarding means of standardizing the methods used by the Department for allocating and reporting overhead costs associated with the cleanup of Department sites.

WYDEN AMENDMENT NO. 2938

(Ordered to lie on the table.)

Mr. WYDEN submitted an amendment intended to be proposed to amendment No. 2874 submitted by him to the bill, S. 2057, supra; as follows:

In Amendment No. 2874, on page 1, after line 8, insert the following:

overhead costs (including direct overhead costs and indirect overhead costs) associated with the cleanup of Department sites; and

(B) pursuant to the review, identify how such costs are allocated among different program and budget accounts of the Department.

(2) The review shall include the following:

(A) All activities whose costs are spread across other accounts of a Department site or of any contractor performing work at a site.

(B) Support service overhead costs, including activities or services which are paid for on a per-unit-used basis.

(C) All fees, awards, and other profit on indirect and support service overhead costs or fees that are not attributed to performance on a single project.

(D) Any portion of contractor costs for which there is no competitive bid.

(E) All computer service and information management costs that have been previously reported as overhead costs.

(F) Any other costs that the Comptroller General considers appropriate to categorize as direct or indirect overhead costs.

BYRD AMENDMENTS NOS. 2939-2940

(Ordered to lie on the table.)

Mr. BYRD submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2939

Strike out the period at the end of subsection (a), and insert in lieu thereof the following:

; and

(4) requires that during basic training—

(A) male recruits be assigned to platoons (in the case of the Army or Marine Corps), divisions (in the case of the Navy), or flights (in the case of the Air Force) that consist only of male recruits; and

(B) female recruits be assigned to platoons (in the case of the Army or Marine Corps), divisions (in the case of the Navy), or flights (in the case of the Air Force) that consist only of female recruits.

AMENDMENT NO. 2940

Beginning on the first page, strike out line 5 and all that follows, and insert in lieu thereof the following:

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate platoons and separate housing for male and female recruits

"(a) SEPARATE PLATOONS.—The Secretary of the Army shall require that during basic training—

"(1) male recruits shall be assigned to platoons consisting only of male recruits; and

"(2) female recruits shall be assigned to platoons consisting only of female recruits.

"(b) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Army determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate platoons and separate housing for male and female recruits.".

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate small units and separate housing for male and female recruits.

"§6931. Recruit basic training: separate small units and separate housing for male and female recruits

"(a) SEPARATE SMALL UNIT ORGANIZATION.—The Secretary of the Navy shall require that during basic training—

"(1) male recruits in the Navy shall be assigned to divisions, and male recruits in the Marine Corps shall be assigned to platoons, consisting only of male recruits; and

"(2) female recruits in the Navy shall be assigned to divisions, and female recruits in the Marine Corps shall be assigned to platoons, consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Navy determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for that purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9319. Recruit basic training: separate flights and separate housing for male and female recruits

"(a) SEPARATE FLIGHTS.—The Secretary of the Air Force shall require that during basic training—

"(1) male recruits shall be assigned to flights consisting only of male recruits; and

"(2) female recruits shall be assigned to flights consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Air Force determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a dormitory or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate flights and separate housing for male and female recruits.".

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

GRAMM AMENDMENT NO. 2941

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place, add the following:

SEC. . LIMITATION RELATING TO NUMBER OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AUTHORIZED AT EACH SENIOR MILITARY COLLEGE.

(a)(1) Funds authorized to be appropriated under this Act for the financial assistance program for the Naval Reserve Officers' Training Corps under section 2107 of title 10, United States Code, may be used for that program only if the policies of the Department of Defense and the Department of the

Navy regarding the program provide that the number of entering freshmen midshipmen who choose to attend a senior military college referred to in section 2111a(d) of such title and who are qualified by the Navy to receive financial assistance under the program at each senior military college be as follows:

(A) up to forty midshipmen.

(B) in the case of a senior military college with more than 1,000 members of its Corps of Cadets, based on the college's enrollment at the beginning of the academic year, one midshipman (in addition to the 40 midshipmen under paragraph (A)) for each 100 members of the Corps of Cadets at such college in excess of 1,000 members.

Nothing in this section shall prevent the Navy from allowing a larger number of midshipmen to attend a given senior military college.

WARNER AMENDMENT NO. 2942

Mr. THURMOND (for Mr. Warner) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of title VIII, add the following:

SEC. 812. CLARIFICATION OF RESPONSIBILITY FOR SUBMISSION OF INFORMATION ON PRICES PREVIOUSLY CHARGED FOR PROPERTY OR SERVICES OFFERED.

(a) Armed Services Procurements.—Section 2306a(d)(1) of title 10, United States Code is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(b) Civilian Agency Procurements.—Section 304A(d)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)(1)), is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(c) Criteria for Certain Determinations.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to include criteria for contracting officers to apply for determining the specific price information that an offeror should be required to submit under section 2306(d) of title 10, United States Code, or section 304A(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)).

KERRY (AND OTHERS) AMENDMENTS NOS. 2943–2945

Mr. LEVIN (for Mr. Kerry for himself, Mr. Smith of New Hampshire, and Mr. McCain) proposed three amendments to the bill, S. 2057, supra; as follows:

Amendment No. 2943

At the end of subtitle D of title X, add the following:

SEC. 1064. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF FORMER SOUTH VIETNAMESE COMMANDOS IN CONNECTION WITH UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) Findings.—Congress makes the following findings:

(1) South Vietnamese commandos were recruited by the United States as part of OPLAN 34A or its predecessor or OPLAN 35 from 1961 to 1970.

(2) The commandos conducted covert operations in North Vietnam during the Vietnam conflict.

(3) Many of the commandos were captured and imprisoned by North Vietnamese forces, some for as long as 20 years.

(4) The commandos served and fought proudly during the Vietnam conflict.

(5) Many of the commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict.

(6) Many of the Vietnamese commandos now reside in the United States.

(b) Sense of Congress—Congress recognizes and honors the former South Vietnamese commandos for their heroism, sacrifice, and service in connection with United States armed forces during the Vietnam conflict.

Amendment No. 2944

On page 127, between lines 12 and 13, insert the following:

SEC. 634. ELIGIBILITY FOR PAYMENTS OF CERTAIN SURVIVORS OF CAPTURED AND INTERNED VIETNAMESE OPERATIVES WHO WERE UNMARRIED AND CHILDLESS AT DEATH.

Section 657(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2585) is amended by adding at the end the following:

"(3) In the case of a decedent who had not been married at the time of death—

"(A) to the surviving parents; or

"(B) if there are no surviving parents, to the surviving siblings by blood of the decedent, in equal shares.".

Amendment No. 2945

On page 127, between lines 12 and 13, insert the following:

SEC. 634. CLARIFICATION OF RECIPIENT OF PAYMENTS TO PERSONS CAPTURED OR INTERNED BY NORTH VIETNAM.

Section 657(f)(1) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2585) is amended by striking out "The actual disbursement" and inserting in lieu thereof "Notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement".

BOND AMENDMENT NO. 2946

Mr. THURMOND (for Mr. Bond) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 323, in the third table following line 9, insert after the item relating to Camp Shelby, Mississippi, the following new item:

Missouri	National Guard Training Site, Jefferson City.	Multi-Purpose Range.	$2,236,000

LEVIN (AND OTHERS) AMENDMENT NO. 2947

Mr. LEVIN (for himself, Mr. Conrad, Mr. Kempthorne, Mr. Kennedy, and Mr. Bingaman) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place in subtitle D of title X, insert the following:

SEC. RUSSIAN NON-STRATEGIC NUCLEAR WEAPONS

(a) Sense of the Senate.—It is the Sense of the Senate that

(1) the 7,000 to 12,000 or more non-strategic (or "tactical") nuclear weapons estimated by the United States Strategic Command to be in the Russian arsenal may present the greatest threat of sale or theft of a nuclear warhead in the world today;

(2) as the number of deployed strategic warheads in the Russian and United States arsenals declines to just a few thousand under the START accords, Russia's vast superiority in tactical nuclear warheads—many of which have yields equivalent to strategic nuclear weapons—could become strategically destabilizing;

(3) while the United States has unilaterally reduced its inventory of tactical nuclear weapons by nearly ninety percent since the end of the Cold War, Russia is behind schedule in implementing the steep tactical nuclear arms reductions pledged by former Soviet President Gorbachev in 1991 and Russian President Yeltsin in 1992, perpetuating the dangers from Russia's tactical nuclear stockpile; and,

(4) the President of the United States should call on the Russian Federation to expedite reduction of its tactical nuclear arsenal in accordance with the promises made in 1991 and 1992.

(b) Report.—Not later than March 15, 1999, the Secretary of Defense shall submit to the Congress a report on Russia's non-strategic nuclear weapons, including

(1) estimates regarding the current numbers, types, yields, viability, and locations of such warheads;

(2) an assessment of the strategic implications of the Russian Federation's non-strategic arsenal, including the potential use of such warheads in a strategic role or the use of their components in strategic nuclear systems;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of such warheads, including an analysis of Russian command and control as it concerns the use of tactical nuclear warheads; and

(4) a summary of past, current, and planned efforts to work cooperatively with the Russian Federation to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile material.

This report shall include the views of the Director of Central Intelligence and the Commander in Chief of the United States Strategic Command.

GRAMS AMENDMENT NO. 2948

Mr. THURMOND (for Mr. Grams) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 634. PRESENTATION OF UNITED STATES FLAG TO MEMBERS OF THE ARMED FORCES.

(a) Army.—(1) Chapter 353 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§3681. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Army shall present a United States flag to a member of any component of the Army upon the release of the member from active duty for retirement.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 6141 or 8681 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 3684 the following:

"3681. Presentation of flag upon retirement at end of active duty service.".

(b) NAVY AND MARINE CORPS.—(1) Chapter 561 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§6141. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Navy shall present a United States flag to a member of any component of the Navy or Marine Corps upon the release of the member from active duty for retirement or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 8681 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 6151 the following:

"6141. Presentation of flag upon retirement at end of active duty service.".

(c) AIR FORCE.—(1) Chapter 853 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§8681. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Air Force shall present a United States flag to a member of any component of the Air Force upon the release of the member from active duty for retirement.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 6141 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 8684 the following:

"8681. Presentation of flag upon retirement at end of active duty service.".

(d) REQUIREMENT FOR ADVANCE APPROPRIATIONS.—The Secretary of a military department may present flags under authority provided the Secretary in section 3681, 6141, or 8681 title 10, United States Code (as added by this section), only to the extent that funds for such presentations are appropriated for that purpose in advance.

(e) EFFECTIVE DATE.—Sections 3681, 6141, and 8681 of title 10, United States Code (as added by this section shall take effect on October 1, 1998, and shall apply with respect to releases described in those sections on or after that date.

HUTCHISON AMENDMENT NO. 2949

Mr. THURMOND (for Mrs. HUTCHISON) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 222, below line 21, add the following:

SEC. 1031. REPORT ON REDUCTION OF INFRASTRUCTURE COSTS AT BROOKS AIR FORCE BASE, TEXAS.

(a) REQUIREMENT.—Not later than December 31, 1998, the Secretary of the Air Force shall, in consultation with the Secretary of the Defense, submit to the congressional defense committees a report on means of reducing significantly the infrastructure costs at Brooks Air Force Base, Texas, while also maintaining or improving the support for Department of Defense missions and personnel provided through Brooks Air Force Base.

(b) ELEMENTS.—The report shall include the following:

(1) A description of any barriers (including barriers under law and through policy) to improved infrastructure management at Brooks Air Force Base.

(2) A description of means of reducing infrastructure management costs at Brooks Air Force Base through cost-sharing arrangements and more cost-effective utilization of property.

(3) A description of any potential public partnerships or public-private partnerships to enhance management and operations at Brooks Air Force Base.

(4) An assessment of any potential for expanding infrastructure management opportunities at Brooks Air Force Base as a result of initiative considered at the Base or at other installations.

(5) An analysis (including appropriate data) on current and projected costs of the ownership or lease of Brooks Air Force Base under a variety of ownership or leasing scenarios, including the savings that would accrue to the Air Force under such scenarios and a schedule for achieving such savings.

(6) Any recommendations relating to reducing the infrastructure costs at Brooks Air Force Base that the Secretary considers appropriate.

INOUYE AMENDMENT NO. 2950

Mr. LEVIN (for Mr. INOUYE) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place, insert:

SEC. 2833. Not later than December 1, 1998, the Secretary of Defense shall submit to the President and the Congressional Defense Committees a report regarding the potential for development of Ford Island within the Pearl Harbor Naval Complex, Oahu, Hawaii through an integrated resourcing plan incorporating both appropriated funds and one or more public-private ventures. This report shall consider innovative resource development measures, including but not limited to, an enhanced-use leasing program similar to that of the Department of Veterans Affairs as well as the sale or other disposal of land in Hawaii under the control of the Navy as part of an overall program for Ford Island development. The report shall include proposed legislation for carrying out the measures recommended therein.

SNOWE AMENDMENTS NOS. 2951-2952

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to amendment No. 2393 proposed by Mrs. FEINSTEIN to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 2951

At the appropriate place, insert:

SEC. . MORATORIUM ON CHANGES OF GENDER-RELATED POLICIES AND PRACTICES PENDING COMPLETION OF THE WORK OF THE COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

Notwithstanding any other provision of law, no official of the Department of Defense may implement any change of policy or official practice in the department regarding separation or integration of members of the Armed Forces on the basis of gender that is within the responsibility of the Commission on Military Training and Gender-Related Issues to review under subtitle F of title V of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 750), before the date on which the commission terminates under section 564 of such Act.

SEC. . EXTENSION OF REPORTING DATES FOR COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

(a) INTERIM REPORT.—Subsection (e)(1) of section 562 of the national Defense Authorization Act for Fiscal Year 1998 (Public law 105-85; 111 Stat. 1754; 10 U.S.C. 113 note) is amended by striking out "April 15, 1998" and inserting in lieu thereof "October 15, 1998."

(b) FINAL REPORT.—Subsection (e)(2) of such section is amended by striking out "September 16, 1998" and inserting in lieu thereof "March 15, 1999."

AMENDMENT NO. 2952

At the appropriate place, insert:

SEC. 527. REQUIREMENTS RELATING TO RECRUIT BASIC TRAINING.

(a) ARMY.—Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) PHYSICALLY SEPARATE HOUSING.—The Secretary of the Army shall provide separate and secure housing for male and female recruits during basic training. Such housing must include physically separate sleeping areas for male and female recruits and physically separate latrine areas for male and female recruits with secure, permanent walls separating male and female recruits in these areas. Each area shall have a separate entrance. The Secretary shall ensure that these areas are under continuous supervision by authorized, trained personnel when recruits are present in the area.

"(b) HOUSING PRIVACY.—The Secretary of the Army shall require that access by drill sergeants and other training personnel to a living area in which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are accompanied by a member of the same gender as the recruits housed in the living area.

"(c) Future Construction.—The Secretary shall ensure that all future housing for recruits during basic training be constructed in such a manner as to facilitate separate and secure areas for each gender.

"(d) Definition of Basic Training.—In this section, basic training means that portion of the Army's initial entry training that constitutes the basic combat training of new recruits."

(b) Clerical Amendment.—The table of sections at the beginning of such chapter 401 is amended by inserting after the item related to section 4318 the following new item:

"4319 Recruit basic training: separate housing and privacy for male and female recruits."

(c) Navy.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:

§7231. Recruit basic training: separate housing and privacy for male and female recruits

"(a) Physically Separate Housing.—The Secretary of the Navy shall provide separate and secure housing for male and female recruits during basic training. Such housing must include physically separate sleeping areas for male and female recruits and physically separate latrine areas for male and female recruits with secure, permanent walls separating male and female recruits in these areas. Each area shall have a separate entrance. Gender separated barracks would also fulfill the above housing requirements. The Secretary shall ensure that these areas are under continuous supervision by authorized, trained personnel when recruits are present in the area.

"(b) Housing Privacy.—The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a living area in which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders or training personnel who are accompanied by a member of the same gender as the recruits housed in the living area.

"(c) Future Construction.—The Secretary shall ensure that all future housing for recruits during basic training be constructed in such a manner as to facilitate separate and secure areas for each gender.

"(d) Definition of Basic Training.—In this section, basic training means that portion of the Navy's initial entry training that constitutes the basic combat training of new recruits.".

(d) Clerical Amendment.—The table of sections at the beginning of such chapter 631 is amended by inserting after the item related to section 7231 the following new item:

"7232. Recruit basic training: separate housing and privacy for male and female recruits."

(e) Air Force.—Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9318. Recruit basic training: separate housing and privacy for male and female recruits

"(a) Physically Separate Housing.—The Secretary of the Air Force shall provide separate and secure housing for male and female recruits during basic training. Such housing must include physically separate sleeping areas for male and female recruits and physically separate latrine areas for male and female recruits with secure, permanent walls separating male and female recruits in these areas. Each area shall have a separate entrance. The Secretary shall ensure that these areas are under continuous supervision by authorized, trained personnel when recruits are present in the area.

"(b) Housing Privacy.—The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a living area in which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are accompanied by a member of the same gender as the recruits housed in the living area.

"(c) Future Construction.—The Secretary shall ensure that all future housing for recruits during basic training be constructed in such a manner as to facilitate separate and secure areas for each gender.

"(d) Definition of Basic Training.—In this section, basic training means that portion of the Air Force's initial entry training that constitutes the basic combat training of new recruits."

(f) Clerical Amendment.—The table of sections at the beginning of such chapter 901 is amended by inserting after the item related to section 9317 the following new item:

"9318. Recruit basic training: separate housing and privacy for male and female recruits."

FRIST (AND THOMPSON) AMENDMENT NO. 2953

(Ordered to lie on the table.)

Mr. FRIST (for himself and Mr. Thompson) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of the amendment, add the following:

(c) Limitation on Funds Available for Naming.—No funds may be used for the purpose of naming the guest house referred to in subsection (a) in accordance with that subsection except funds available for payment of the travel expenses of the Office of the Secretary of the Army.

DODD AMENDMENTS. NOS. 2954–2955

(Ordered to lie on the table.)

Mr. DODD submitted two amendments intended to be proposed by him to the bill. S. 2057, supra; as follows:

Amentment No. 2954

At the appropriate place, insert the following:

SEC. 634. ARMY PENSION PROGRAM.

(a) $750,000 will be authorized to be appropriated from existing Department of the Army funds to alleviate the backlog of pension packages for Army, Army Reserve and National Guard retirees.

(b) The Secretary of the Army shall alleviate such backlog by December 31, 1998 and report to Congress no later than January 31, 1999 regarding the current status of the backlog and what, if any, additional measures are needed to ensure that pension packages are processed in a timely fashion.

Amendment No. 2955

At the appropriate place, insert the following:

SEC. 634. ARMY PENSION PROGRAM.

(a) $750,000 will be authorized to be appropriated from existing Department of the Army funds to alleviate the backlog of pension packages for Army, Army Reserve and National Guard retirees.

(b) The Secretary of the Army shall alleviate such backlog by December 31, 1998 and report to Congress no later than January 31, 1999 regarding the current status of the backlog and what, if any, additional measures are needed to ensure that pension packages are processed in a timely fashion.

BYRD AMENDMENTS. NOS. 2956–2957

(Ordered to lie on the table.)

Mr. BYRD submitted two amendments intended to be proposed by him to the bill, S. 2057, supra; as follows:

Amendment No. 2956

In lieu of the matter proposed to be inserted insert the following:

Sec. ___. (a) Army.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate platoons and separate housing for male and female recruits

"(a) Separate Platoons.—The Secretary of the Army shall require that during basic training—

"(1) male recruits shall be assigned to platoons consisting only of male recruits; and

"(2) female recruits shall be assigned to platoons consisting only of female recruits.

"(b) Separate Housing Facilities.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) Interim Authority for Housing Recruits on Separate Floors.—(1) If the Secretary of the Army determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) Basic Training Defined.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate platoons and separate housing for male and female recruits.".

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

(b) Navy and Marine Corps.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate small units and separate housing for male and female recruits.

"§6931. Recruit basic training: separate small units and separate housing for male and female recruits

"(a) SEPARATE SMALL UNIT ORGANIZATION.—The Secretary of the Navy shall require that during basic training—

"(1) male recruits in the Navy shall be assigned to divisions, and male recruits in the Marine Corps shall be assigned to platoons, consisting only of male recruits; and

"(2) female recruits in the Navy shall be assigned to divisions, and female recruits in the Marine Corps shall be assigned to platoons, consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Navy determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for that purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9319. Recruit basic training: separate flights and separate housing for male and female recruits

"(a) SEPARATE FLIGHTS.—The Secretary of the Air Force shall require that during basic training—

"(1) male recruits shall be assigned to flights consisting only of male recruits; and

"(2) female recruits shall be assigned to flights consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Air Force determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a dormitory or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate flights and separate housing for male and female recruits.".

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

AMENDMENT NO. 2957

At the end of the matter proposed to be inserted, insert the following:

SEC. . (a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate platoons and separate housing for male and female recruits

"(a) SEPARATE PLATOONS.—The Secretary of the Army shall require that during basic training—

"(1) male recruits shall be assigned to platoons consisting only of male recruits; and

"(2) female recruits shall be assigned to platoons consisting only of female recruits.

"(b) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Army determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate platoons and separate housing for male and female recruits.".

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate small units and separate housing for male and female recruits.

"§6931. Recruit basic training: separate small units and separate housing for male and female recruits

"(a) SEPARATE SMALL UNIT ORGANIZATION.—The Secretary of the Navy shall require that during basic training—

"(1) male recruits in the Navy shall be assigned to divisions, and male recruits in the Marine Corps shall be assigned to platoons, consisting only of male recruits; and

"(2) female recruits in the Navy shall be assigned to divisions, and female recruits in the Marine Corps shall be assigned to platoons, consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Navy determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for that purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9319. Recruit basic training: separate flights and separate housing for male and female recruits

"(a) SEPARATE FLIGHTS.—The Secretary of the Air Force shall require that during basic training—

"(1) male recruits shall be assigned to flights consisting only of male recruits; and

"(2) female recruits shall be assigned to flights consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Air Force determines that it is not feasible, during some or all of the period beginning on April 16, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a dormitory or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate flights and separate housing for male and female recruits.".

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

LEVIN AMENDMENT NO. 2958

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

Beginning on the first page, strike out line 5 and all that follows and insert in lieu thereof the following text:

Notwithstanding any other provision of law, no officer of the Department of Defense may implement any change of policy or official practice in the department regarding separation or integration of members of the Armed Forces on the basis of gender that is within the responsibility of the Commission on Military Training and Gender-Related Issues to review under subtitle F of title V of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1750), before the date on which the commission terminates under section 564 of such Act.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Army shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

"(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

"(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

"(b) HOUSING PRIVACY.—The Secretary of the Army shall require that access by drill sergeants and other training personnel to a living area in which recruits are housed during basic training be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants or other training personnel who are of the same sex, or are accompanied by a member of the same sex, as the recruits housed in * * *

* * * * *

"(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Army shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means that part of the initial entry training of the Army that constitutes the basic combat training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate housing and privacy for male and female recruits.".

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.
"6931. Recruit basic training: separate housing and privacy for male and female recruits.

"§6931. Recruit basic training: separate housing and privacy for male and female recruits

"(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Navy shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

"(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

"(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

"(b) HOUSING PRIVACY.—The Secretary of the Navy shall require that access by recruit petty officers and other training personnel to a living area in which recruits are housed during basic training be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit petty officers and other training personnel who are of the same sex, or are accompanied by a member of the same sex, as the recruits housed in that living area.

"(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Navy shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means that part of the initial entry training of the Navy that constitutes the basic combat training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Air Force shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

"(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

"(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

"(b) HOUSING PRIVACY.—The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a living area in which recruits are housed during basic training be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex, or are accompanied by a member of the same sex, as the recruits housed in that living area.

"(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Air Force shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means that part of the initial entry training of the Air Force that constitutes the basic combat training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate housing and privacy for male and female recruits.".

LEVIN AMENDMENT NO. 2959

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to amendment No. 2916 submitted by Mr. BYRD to the bill, S. 2057, supra; as follows:

Beginning on the first page, strike out line 5 and all that follows and insert in lieu thereof the following text:

Notwithstanding any other provision of law, no official of the Department of Defense may implement any change of policy or official practice in the department regarding separation or integration of members of the Armed Forces on the basis of gender that is within the responsibility of the Commission on Military Training and Gender-Related Issues to review under subtitle F of title V of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1750), before the date on which the commission terminates under section 564 of such Act.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Army shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

"(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

"(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

"(b) HOUSING PRIVACY.—The Secretary of the Army shall require that access by drill sergeants and other training personnel to a living area in which recruits are housed during basic training be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants or other training personnel who are of the same sex, or are accompanied by a member of the same sex, as the recruits housed in * * *

* * * * *

"(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Army shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means that part of the initial entry training of the Army that constitutes the basic combat training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate housing and privacy for male and female recruits.".

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate housing and privacy for male and female recruits.

"§ 6931. Recruit basic training: separate housing and privacy for male and female recruits

"(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Navy shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

"(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

"(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

"(b) HOUSING PRIVACY.—The Secretary of the Navy shall require that access by recruit petty officers and other training personnel to a living area in which recruits are housed during basic training be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit petty officers and other training personnel who are of the same sex, or are accompanied by a member of the same sex, as the recruits housed in that living area.

"(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Navy shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means that part of the initial entry training of the Navy that constitutes the basic combat training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Air Force shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

"(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

"(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

"(b) HOUSING PRIVACY.—The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a living area in which recruits are housed during basic training be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex, or are accompanied by a member of the same sex, as the recruits housed in that living area.

"(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Air Force shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means that part of the initial entry training of the Air Force that constitutes the basic combat training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate housing and privacy for male and female recruits.".

LEVIN AMENDMENT NO. 2960

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to amendment No. 2927 submitted by Mr. GRAMM to the bill, S. 2057, supra; as follows:

Beginning on line 3 on the first page, strike out "subject to" and all that follows and insert in lieu thereof the following: "Notwithstanding any other provision of law, all Reserve Officer Training Corps programs in all States shall be treated equitably."

LEVIN AMENDMENT NO. 2961

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to amendment No. 2928 submitted by Mr. GRAMM to the bill, S. 2057, supra; as follows:

Beginning on line 3 on the first page, strike out "subject to" and all that follows and insert in lieu thereof the following: "Notwithstanding any other provision of law, all Reserve Officer Training Corps programs in all States shall be treated equitably."

COATS AMENDMENT NO. 2962

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 2, strike out lines 1 through 19 and insert in lieu thereof the following:

(1) An assessment of the technologies, business practices, functional organizations, and costs associated with Defense Automated Printing Service services as compared to leading commercial technologies, business practices, functional organizations, and costs.

(2) The functions that the Secretary determines are inherently national security functions and, as such, need to be performed within the Department of Defense, together with a detailed justification for the determination for each such function.

(3) The functions that the Secretary determines are appropriate for transfer to the Government Printing Office or another entity.

(4) A plan to transfer to the Government Printing Office or another entity the printing functions of the Defense Automated Printing Service that are not identified under paragraph (2) as being inherently national security functions.

(5) Any recommended legislation and any administrative action that is necessary for transferring the functions in accordance with the plan.

(6) A discussion of the costs or savings associated with the transfers provided for in the plan.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

ABRAHAM AMENDMENTS NOS. 2963–2967

(Ordered to lie on the table.)

Mr. ABRAHAM submitted five amendments intended to be proposed by him to the (S. 2132) making appropriations for the Department of Defense for fiscal year ending September 30, 1999, and for other purposes; as follows:

AMENDMENT NO. 2963

At the appropriate place, insert the following section:

SEC. . EXPRESSING THE SENSE OF THE CONGRESS THAT THE PRESIDENT OF THE UNITED STATES SHOULD RECONSIDER HIS DECISION TO BE FORMALLY RECEIVED IN TIANANMEN SQUARE BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—Congress makes the followings findings:

(1) Nine years ago on June 4, 1989, thousands of Chinese students peacefully gathered in Tiananmen Square to demonstrate their support for freedom and democracy;

(2) It was with horror that the world witnessed the response of the Government of the People's Republic of China as tanks and military units marched into Tiananmen Square;

(3) Chinese soldiers of the People's Republic of China were ordered to fire machine guns and tanks on young, unarmed civilians;

(4) 'Children were killed holding hands with their mothers,' according to a reliable eyewitness account;

(5) According to the same eyewitness account, 'students were crushed by armored personnel carriers';

(6) More than 2,000 Chinese pro-democracy demonstrators died that day, according to the Chinese Red Cross;

(7) Hundreds continue to languish in prisons because of their beliefs in freedom and democracy;

(8) Nine years after the massacre on June 4, 1989, the Government of the People's Republic of China has yet to acknowledge the Tiananmen Square massacre; and

(9) By being formally received in Tiananmen Square, the President would bestow legitimacy on the Chinese government's horrendous actions of 9 years ago;

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should reconsider his decision to be formally received in Tiananmen Square until the Government of the People's Republic of China acknowledges the Tiananmen Square massacre, pledges that such atrocities will never happen again, and releases those Chinese students still imprisoned for supporting freedom and democracy that day.

AMENDMENT NO. 2964

Add at the end the following new titles:

TITLE —MONITORING OF HUMAN RIGHTS ABUSES IN CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Political Freedom in China Act of 1998".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the following conclusions of the United States State Department on human rights in the People's Republic of China in 1996:

(A) The People's Republic of China is "an authoritarian state" in which "citizens lack the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government".

(B) The Government of the People's Republic of China has "continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms".

(C) "[a]buses include torture and mistreatment of prisoners, forced confessions, and arbitrary and incommunicado detention".

(D) "[p]rison conditions remained harsh [and] [t]he Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights".

(E) "[a]lthough the Government denies that it holds political prisoners, the number of persons detained or serving sentences for 'counterrevolutionary crimes' or 'crimes against the state', or for peaceful political or religious activities are believed to number in the thousands".

(F) "[n]onapproved religious groups, including Protestant and Catholic groups . . . experienced intensified repression".

(G) "[s]erious human rights abuses persist in minority areas, including Tibet, Xinjiang, and Inner Mongolia[, and] [c]ontrols on religion and on other fundamental freedoms in these areas have also intensified".

(H) "[o]verall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.".

(2) In addition to the State Department, credible independent human rights organizations have documented an increase in repression in China during 1995, and effective destruction of the dissident movement through the arrest and sentencing of the few remaining pro-democracy and human rights activists not already in prison or exile.

(3) Among those were Li Hai, sentenced to 9 years in prison on December 18, 1996, for gathering information on the victims of the 1989 crackdown, which according to the court's verdict constituted "state secrets"; Liu Nianchun, an independent labor organizer, sentenced to 3 years of "re-education through labor" on July 4, 1996, due to his activities in connection with a petition campaign calling for human rights reforms; and Ngodrup Phuntsog, a Tibetan national, who was arrested in Tibet in 1987 immediately after he returned from a 2-year trip to India, where the Tibetan government in exile is located, and following a secret trial was convicted by the Government of the People's Republic of China of espionage on behalf of the "Ministry of Security of the Dalai clique".

(4) Many political prisoners are suffering from poor conditions and ill-treatment leading to serious medical and health problems, including—

(A) Gao Yu, a journalist sentenced to 6 years in prison in November 1994 and honored by UNESCO in May 1997, has a heart condition; and

(B) Chen Longde, a leading human rights advocate now serving a 3-year reeducation through labor sentence imposed without trial in August 1995, has reportedly been subject to repeated beatings and electric shocks at a labor camp for refusing to confess his guilt.

(5) The People's Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(6) The People's Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. . CONDUCT OF FOREIGN RELATIONS.

(a) RELEASE OF PRISONERS.—The Secretary of State, in all official meetings with the Government of the People's Republic of China, should request the immediate and unconditional release of Ngodrup Phuntsog and other prisoners of conscience in Tibet, as well as in the People's Republic of China.

(b) ACCESS TO PRISONS.—The Secretary of State should seek access for international humanitarian organizations to Drapchi prison and other prisons in Tibet, as well as the People's Republic of China, to ensure that prisoners are not being mistreated and are receiving necessary medical treatment.

(c) DIALOGUE ON FUTURE OF TIBET.—The Secretary of State, in all official meetings with the Government of the People's Republic of China, should call on that country to begin serious discussions with the Dalai Lama or his representatives, without preconditions, on the future of Tibet.

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL PERSONNEL AT DIPLOMATIC POSTS TO MONITOR HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.

There are authorized to be appropriated to support personnel to monitor political repression in the People's Republic of China in the United States' Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong, $2,200,000 for fiscal year 1999 and $2,200,000 for fiscal year 2000.

SEC. . DEMOCRACY BUILDING IN CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR NED.—In addition to such sums as are otherwise authorized to be appropriated for the

"National Endowment for Democracy" for fiscal years 1999 and 2000, there are authorized to be appropriated for the "National Endowment for Democracy" $4,000,000 for fiscal year 1999 and $4,000,000 for fiscal year 2000, which shall be available to promote democracy, civil society, and the development of the rule of law in China.

(b) EAST ASIA-PACIFIC REGIONAL DEMOCRACY FUND.—The Secretary of State shall use funds available in the East Asia-Pacific Regional Democracy Fund to provide grants to nongovernmental organizations to promote democracy, civil society, and the development of the rule of law in China.

SEC. . HUMAN RIGHTS IN CHINA.

(a) REPORTS.—Not later than March 30, 1999, and each subsequent year thereafter, the Secretary of State shall submit to the International Relations Committee of the House of Representatives and the Foreign Relations Committee of the Senate an annual report on human rights in China, including religious persecution, the development of democratic institutions, and the rule of law. Reports shall provide information on each region of China.

(b) PRISONER INFORMATION REGISTRY.—The Secretary of State shall establish a Prisoner Information Registry for China which shall provide information on all political prisoners, prisoners of conscience, and prisoners of faith in China. Such information shall include the changes, judicial processes, administrative actions, use of forced labor, incidences of torture, length of imprisonment, physical and health conditions, and other matters related to the incarceration of such prisoners in China. The Secretary of State is authorized to make funds available to nongovernmental organizations presently engaged in monitoring activities regarding Chinese political prisoners to assist in the creation and maintenance of the registry.

SEC. . SENSE OF CONGRESS CONCERNING ESTABLISHMENT OF A COMMISSION ON SECURITY AND COOPERATION IN ASIA.

It is the sense of Congress that Congress, the President, and the Secretary of State should work with the governments of other countries to establish a Commission on Security and Cooperation in Asia which would be modeled after the Commission on Security and Cooperation in Europe.

SEC. . SENSE OF CONGRESS REGARDING DEMOCRACY IN HONG KONG.

It is the sense of Congress that the people of Hong Kong should continue to have the right and ability to freely elect their legislative representatives, and that the procedure for the conduct of the elections of the legislature of the Hong Kong Special Administrative Region should be determined by the people of Hong Kong through an election law convention, a referendum, or both.

SEC. . SENSE OF CONGRESS RELATING TO ORGAN HARVESTING AND TRANSPLANTING IN THE PEOPLE'S REPUBLIC OF CHINA.

It is the sense of Congress that—

(1) the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes;

(2) the Government of the People's Republic of China should be strongly condemned for such organ harvesting and transplanting practice;

(3) the President should bar from entry into the United States any and all officials of the Government of the People's Republic of China known to be directly involved in such organ harvesting and transplanting practice;

(4) individuals determined to be participating in or otherwise facilitating the sale of such organs in the United States should be prosecuted to the fullest possible extent of the law; and

(5) the appropriate officials in the United States should interview individuals, including doctors, who may have knowledge of such organ harvesting and transplanting practice.

AMENDMENT NO. 2965

At the appropriate place, insert the following section:

SEC. . ENFORCEMENT OF IRAN-IRAQ ARMS NONPROLIFERATION ACT WITH RESPECT TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States that—

(1) the delivery of 60C–802 cruise missiles by the China National Precision Machinery Import Export Corporation to Iran poses a new, direct threat to deployed United States forces in the Middle East and materially contributed to the efforts of Iran to acquire destabilizing numbers and types of advanced conventional weapons; and

(2) the delivery is a violation of the Iran-Iraq Arms Non-Proliferation Act of 1992 (50 U.S.C. 1701 note).

(b) IMPLEMENTATION OF SANCTIONS.—

(1) REQUIREMENT.—The President shall impose on the People's Republic of China the mandatory sanctions set forth in paragraphs (3), (4), and (5) of section 1605(b) of the Iran-Iraq Arms Non-Proliferation Act of 1992.

(2) NONAVAILABILITY OF WAIVER.—For purposes of this section, the President shall not have the authority contained in section 1606 of the Iran-Iraq Non-Proliferation Act of 1992 to waive the sanctions required under paragraph (1).

AMENDMENT NO. 2966

At the appropriate place, insert the following section:

SEC. . SANCTIONS REGARDING CHINA NORTH INDUSTRIES GROUP, CHINA POLY GROUP, AND CERTAIN OTHER ENTITIES AFFILIATED WITH THE PEOPLE'S LIBERATION ARMY.

(a) FINDING; PURPOSE.—

(1) FINDING.—Congress finds that, in May 1996, United States authorities caught representatives of the People's Liberation Army enterprise, China Poly Group, and the civilian defense industrial company, China North Industries Group, attempting to smuggle 2,000 AK–47s into Oakland, California, and offering to sell to Federal undercover agents 300,000 machine guns with silencers, 66-millimeter mortars, hand grenades, and "Red Parakeet" surface-to-air missiles, which, as stated in the criminal complaint against one of those representatives, ". . . could take out a 747" aircraft.

(2) PURPOSE.—The purpose of this section is to impose targeted sanctions against entities affiliated with the People's Liberation Army that engage in the proliferation of weapons of mass destruction, the importation of illegal weapons or firearms into the United States, or espionage in the United States.

(b) SANCTIONS AGAINST CERTAIN PLA AFFILIATES.—

(1) SANCTIONS.—Except as provided in paragraph (2) and subject to paragraph (3), the President shall—

(A) prohibit the importation into the United States of all products that are produced, grown, or manufactured by a covered entity, the parent company of a covered entity, or any affiliate, subsidiary, or successor entity of a covered entity;

(B) direct the Secretary of State and the Attorney General to deny or impose restrictions on the entry into the United States of any foreign national serving as an officer, director, or employee of a covered entity or other entity described in subparagraph (A);

(C) prohibit the issuance to a covered entity or other entity described in subparagraph (A) of licenses in connection with the export of any item on the United States Munitions List;

(D) prohibit the export of a covered entity or other entity described in subparagraph (A) of any goods or technology on which export controls are in effect under section 5 or 6 of the Export Administration Act of 1979;

(E) direct the Export-Import Bank of the United States not to give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit with respect to a covered entity or other entity described in subparagraph (A);

(F) prohibit United States nationals from directly or indirectly issuing any guarantee for any loan or other investment to, issuing any extension of credit to, or making any investment in a covered entity or other entity described in subparagraph (A); and

(G) prohibit the departments and agencies of the United States and United States nationals from entering into any contract with a covered entity or other entity described in subparagraph (A) for the procurement or other provision of goods or services from such entity.

(2) EXCEPTIONS.—

(A) IN GENERAL.—The President shall not impose sanctions under this subsection—

(i) in the case of the procurement of defense articles or defense services—

(I) under contracts or subcontracts that are in effect on October 1, 1998 (including the exercise of options for production quantities to satisfy United States operational military requirements);

(II) if the President determines that the person or entity to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(III) if the President determines that such articles or services are essential to the national security; or

(ii) in the case of—

(I) products or services provided under contracts or binding agreements (as such terms are defined by the President in regulations) or joint ventures entered into before October 1, 1998;

(II) spare parts;

(III) component parts that are not finished products but are essential to United States products or production;

(IV) routine servicing and maintenance of products; or

(V) information and technology products and services.

(B) IMMIGRATION RESTRICTIONS.—The President shall not apply the restrictions described in paragraph (1)(B) to a person described in that paragraph if the President, after consultation with the Attorney General, determines that the presence of the person in the United States is necessary for a Federal or State judicial proceeding against a covered entity or other entity described in paragraph (1)(A).

(3) TERMINATION.—The sanctions under this subsection shall terminate as follows:

(A) In the case of an entity referred to in paragraph (1) or (2) of subsection (c), on the date that is one year after the date of enactment of this Act.

(B) In the case of an entity that becomes a covered entity under paragraph (3) or (4) of subsection (c) by reason of its identification in a report under subsection (d), on the date that is one year after the date on which the entity is identified in such report.

(c) Covered Entities.—For purposes of subsection (b), a covered entity is any of the following:

(1) China North Industries Group.

(2) China Poly Group, also known as Polytechnologies Incorporated or BAOLI.

(3) Any affiliate of the People's Liberation Army identified in a report of the Director of Central Intelligence under subsection (d)(1).

(4) Any affiliate of the People's Liberation Army identified in a report of the Director of the Federal Bureau of Investigation under subsection (d)(2).

(d) Reports on Activities of PLA Affiliates.—

(1) Transfers of sensitive items and technologies.—Not later than 30 days after the date of enactment of this Act and annually thereafter through 2002, the Director of Central Intelligence shall submit to the appropriate members of Congress a report that identifies each entity owned wholly or in part by the People's Liberation Army which, during the 2-year period ending on the date of the report, transferred to any other entity a controlled item for use in the following:

(A) Any item listed in category I or category II of the MTCR Annex.

(B) Activities to develop, produce, stockpile, or deliver chemical or biological weapons.

(C) Nuclear activities in countries that do not maintain full-scope International Atomic Energy Agency safeguards or equivalent full-scope safeguards.

(2) Illegal activities in the United States.—Not later than 30 days after the date of enactment of this Act and annually thereafter through 2002, the Director of the Federal Bureau of Investigation shall submit to the appropriate members of Congress a report that identifies each entity owned wholly or in part by the People's Liberation Army which, during the 2-year period ending on the date of the report, attempted to—

(A) illegally import weapons or firearms into the United States; or

(B) engage in military intelligence collection or espionage in the United States under the cover of commercial business activity.

(3) Form.—Each report under this subsection shall be submitted in classified form.

(e) Definitions.—In this section:

(1) Affiliate.—The term "affiliate" does not include any United States national engaged in a business arrangement with a covered entity or other entity described in subsection (b)(1)(A).

(2) Appropriate members of congress.—The term "appropriate members of Congress" means the following:

(A) The Majority leader and Minority leader of the Senate.

(B) The chairmen and ranking members of the Committee on Foreign Relations and the Committee on Armed Services of the Senate.

(C) The Speaker and Minority leader of the House of Representatives.

(D) The chairmen and ranking members of the Committee on International Relations and the Committee on National Security of the House of Representatives.

(3) Component part.—The term "component part" means any article that is not usable for its intended function without being embedded or integrated into any other product and, if used in the production of a finished product, would be substantially transformed in that process.

(4) Controlled item.—The term "controlled item" means the following:

(A) Any item listed in the MTCR Annex.

(B) Any item listed for control by the Australia Group.

(C) Any item relevant to the nuclear fuel cycle of nuclear explosive applications that are listed for control by the Nuclear Suppliers Group.

(5) Finished product.—The term "finished product" means any article that is usable for its intended function without being embedded in or integrated into any other product, but does not include an article produced by a person or entity other than a covered entity or other entity described in subsection (b)(1)(A) that contains parts or components of such an entity if the parts or components have been substantially transformed during production of the finished product.

(6) Investment.—The term "investment" includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

(A) a loan or loans;

(B) the purchase of a share of ownership;

(C) participation in royalties, earnings, or profits; and

(D) the furnishing of commodities or services pursuant to a lease or other contract, but does not include routine maintenance of property.

(7) MTCR annex.—The term "MTCR Annex" has the meaning given that term in section 74(4) of the Arms Export Control Act (22 U.S.C. 2797c(4)).

(8) United states national.—

(A) In general.—The term "United States national" means—

(i) any United States citizen; and

(ii) any corporation, partnership, or other organization created under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States.

(B) Exception.—The term "United States national" does not include a subsidiary or affiliate of corporation, partnership, or organization that is a United States national if the subsidiary or affiliate is located outside the United States.

Amendment No. 2967

At the appropriate place, insert the following section:

SEC. . U.S. FORCE LEVELS IN ASIA.

(a) Sense of Congress.—It is the Sense of Congress that the current force levels in the Pacific Command Theater of Operations are necessary to the fulfillment of that command's military mission, and are vital to continued peace and stability in the region. Any reductions in those force levels should only be done in close consultation with Congress and with a clear understanding of their impact upon the United States' ability to fulfill its current treaty obligations with other states in the region, as well as to the continued ability of the United States to deter potential aggression in the region.

(b) Annual National Security Strategy Report Requirement.—The Annual National Security Strategy Report as required by Section 603 of Public Law 99-433 should provide specific information as to the adequacy of the capabilities of the United States armed forces to support the implementation of the national security strategy as it relates to the People's Republic of China.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

ROBERTS AMENDMENT NO. 2968

(Ordered to lie on the table.)

Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. ___. PRESIDENTIAL AUTHORITY TO IMPOSE NUCLEAR NONPROLIFERATION CONTROLS.

(a) Amendment of the Arms Export Control Act.—

(1) Reprocessing transfers; illegal exports.—Section 102(a) of the Arms Export Control Act (22 U.S.C. 2799aa-1(a)) is amended by striking "no funds" and all that follows through "making guarantees," and inserting the following: "the President may suspend or terminate the provision of economic assistance under the Foreign Assistance Act of 1961 (including economic support fund assistance under chapter 4 of part II of that Act) or military assistance, grant military education and training, or peacekeeping assistance under part II of that Act, or the extension of military credits or the making of guarantees under the Arms Export Control Act,".

(2) Transfer or use of nuclear explosive devices.—Section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa-1(b)) is amended—

(A) in paragraph (1), by striking "shall forthwith impose" and inserting "may impose";

(B) by striking paragraphs (4), (5), and (7);

(C) by redesignating paragraphs (6) and (8) as paragraphs (4) and (5), respectively; and

(D) by amending paragraph (4) (as redesignated) to read as follows:

"(4) If the President decides to impose any sanction against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform that country and shall impose the sanction beginning 30 days after submitting to Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of that sanction.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to determinations made by the President before, on, or after the date of enactment of this Act.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

ROBERTS AMENDMENT NO. 2969

(Ordered to lie on the table.)

Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 1999 and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. . PRESIDENTIAL AUTHORITY TO IMPOSE NUCLEAR NONPROLIFERATION CONTROLS.

(a) AMENDMENT OF THE ARMS EXPORT CONTROL ACT.—

(1) REPROCESSING TRANSFERS; ILLEGAL EXPORTS.—Section 102(a) of the Arms Export Control Act (22 U.S.C. 2799aa-1(a)) is amended by striking "no funds" and all that follows through "making guarantees," and inserting the following: "the President may suspend or terminate the provision of economic assistance under the Foreign Assistance Act of 1961 (including economic support fund assistance under chapter 4 of part II of that Act) or military assistance, grant military education and training, or peacekeeping assistance under part II of that Act, or the extension of military credits or the making of guarantees under the Arms Export Control Act,".

(2) TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES.—Section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa-1(b)) is amended—

(A) in paragraph (1), by striking "shall forthwith impose" and inserting "may impose";

(B) by striking paragraphs (4), (5), and (7);

(C) by redesignating paragraphs (6) and (8) as paragraphs (4) and (5), respectively; and

(D) by amending paragraph (4) (as redesignated) to read as follows:

"(4) If the President decides to impose any sanction against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform that country and shall impose the sanction beginning 30 days after submitting to Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of that sanction.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made by the President before, on, or after the date of enactment of this Act.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

ROBERTS AMENDMENT NO. 2970

(Ordered to lie on the table.)

Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill, S. 2132, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . PRESIDENTIAL AUTHORITY TO IMPOSE NUCLEAR NONPROLIFERATION CONTROLS.

(a) AMENDMENT OF THE ARMS EXPORT CONTROL ACT.—

(1) REPROCESSING TRANSFERS; ILLEGAL EXPORTS.—Section 102(a) of the Arms Export Control Act (22 U.S.C. 2799aa-1(a)) is amended by striking "no funds" and all that follows through "making guarantees," and inserting the following: "the President may suspend or terminate the provision of economic assistance under the Foreign Assistance Act of 1961 (including economic support fund assistance under chapter 4 of part II of that Act) or military assistance, grant military education and training, or peacekeeping assistance under part II of that Act, or the extension of military credits or the making of guarantees under the Arms Export Control Act,".

(2) TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES.—Section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa-1(b)) is amended—

(A) in paragraph (1), by striking "shall forthwith impose" and inserting "may impose";

(B) by striking paragraphs (4), (5), and (7);

(C) by redesignating paragraphs (6) and (8) as paragraphs (4) and (5), respectively; and

(D) by amending paragraph (4) (as redesignated) to read as follows:

"(4) If the President decides to impose any sanction against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform that country and shall impose the sanction beginning 30 days after submitting to Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of that sanction.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made by the President before, on, or after the date of enactment of this Act.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

ROBERTS AMENDMENT NO. 2971

(Ordered to lie on the table.)

Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill, S. 2159, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . PRESIDENTIAL AUTHORITY TO IMPOSE NUCLEAR NONPROLIFERATION CONTROLS.

(a) AMENDMENT OF THE ARMS EXPORT CONTROL ACT.—

(1) REPROCESSING TRANSFERS; ILLEGAL EXPORTS.—Section 102(a) of the Arms Export Control Act (22 U.S.C. 2799aa-1(a)) is amended by striking "no funds" and all that follows through "making guarantees," and inserting the following: "the President may suspend or terminate the provision of economic assistance under the Foreign Assistance Act of 1961 (including economic support fund assistance under chapter 4 of part II of that Act) or military assistance, grant military education and training, or peacekeeping assistance under part II of that Act, or the extension of military credits or the making of guarantees under the Arms Export Control Act,".

(2) TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES.—Section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa-1(b)) is amended—

(A) in paragraph (1), by striking "shall forthwith impose" and inserting "may impose";

(B) by striking paragraphs (4), (5), and (7);

(C) by redesignating paragraphs (6) and (8) as paragraphs (4) and (5), respectively; and

(D) by amending paragraph (4) (as redesignated) to read as follows:

"(4) If the President decides to impose any sanction against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform that country and shall impose the sanction beginning 30 days after submitting to Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of that sanction.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made by the President before, on, or after the date of enactment of this Act.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

DODD AMENDMENT NO. 2972

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 634. REDUCTION IN BACKLOG OF UNPAID RETIRED PAY.

(a) REQUIREMENT.—The Secretary of the Army shall take such actions as are necessary to achieve, by December 31, 1998, a significant reduction in the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(b) REPORT.—Not later than January 31, 1999, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (a).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

(c) FUNDING.—Of the amount authorized to be appropriated under section 421, $1,700,000 shall be available for carrying out this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, June 23, 1998, at 9:30 a.m. in open session, to consider the nominations of General Richard B. Myers, USAF, to be commander-in-chief, United States Space Command; Vice Admiral Richard W. Mies, USN, to be commander-in-chief, United States Strategic Command; and Lieutenant General Charles T. Robertson, Jr., USAF, to be commander-in-chief, United States Transportation Command and Commander, Air Mobility Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, June 23, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to consider the issue of independence of Puerto Rico.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Tuesday, June 23, 1998, at 2:30 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 23, 1998 at 9:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: "S. 2148, Religious Liberty Protection Act of 1998."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Tuesday, June 23, 9:30 a.m., Hearing Room (SD-406), on the Administration's 1998 Water Resources Development Act, S. 2131; fiscal year 1999 budget request for the Army Corps of Engineers; and related matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ILO DECLARATION ON CORE LABOR STANDARDS

• Mr. MOYNIHAN. Mr. President, I rise to report to the Senate that on June 18, 1998 in Geneva, at the conclusion of the 86th International Labor Conference, the International Labor Organization adopted by an overwhelming margin an important new "Declaration on Fundamental Principles and Rights at Work." The vote was 273 in favor of the new Declaration, zero opposed, with 43 abstentions. The adoption of this measure is a singular achievement and holds great promise for advancing core labor standards in the international community.

Our distinguished Secretary of Labor, the Honorable Alexis M. Herman, deserves much credit, as does Andrew Samet, her able Deputy Under Secretary for International Labor Affairs. Over the last three weeks, Secretary Herman energetically pursued this agreement throughout difficult and long negotiating sessions, and in critical corridor side-bars. Ultimately, she succeeded.

Secretary Herman has characterized the new Declaration and its follow-up mechanism as "a big step forward for the ILO and its members as we enter the 21st Century." In the statement that she issued on June 18, 1998, upon the adoption of the new Declaration, she said:

> With the passage of this declaration, the ILO underlined and clarified the importance of the fundamental rights of workers in an era of economic globalization. It firmly demonstrates that we can and will move forward in an effort to see trade and labor concerns as mutually supportive—not mutually exclusive.

Another of the United States' Delegates to the International Labor Conference, AFL-CIO President John J. Sweeney, called the Declaration "an historic breakthrough that dramatically underscores the importance of basic rights for workers in the global economy." And to emphasize the tripartite nature of the ILO, it should be noted for the record that the U.S. Council for International Business, which is the United States' employer representative to the ILO, was a principal supporter of this new initiative, and has been from the beginning. The Council's President, Abraham Katz, called the new Declaration "a major achievement for the ILO."

In essence, the ILO has bunbled together, in a single declaration, four sets of fundamental rights—the core labor standards embodying the broad principles that are essential to membership in the ILO. Having declared that those rights are fundamental, the document then provides for a monitoring system—a "follow-up" mechanism, to use the ILO's term—to determine how countries are complying with these elemental worker rights.

The four sets of fundamental rights are: (1) Freedom of association and the effective recognition of the right to collective bargaining; (2) the elimination of all forms of forced or compulsory labor; (3) the effective abolition of child labor; and (4) the elimination of discrimination in respect of employment and occupation.

These rights flow directly from three sources. First, from the ILO Constitution itself, which was drafted by a commission headed by Samuel Gompers of the American Federation of Labor and became, in 1919, part XIII of the Treaty of Versailles. Second, from the immensely important Declaration of Philadelphia, which reaffirmed, at the height of World War II, the fundamental principles of the ILO, including freedom of expression and association and the importance of equal opportunity and economic security. Adopted in 1944, the Declaration of Philadelphia was formally annexed to the ILO Constitution two years later. And, not least, these four groups of core labor standards flow from the seven ILO conventions that are recognized as Core Human Rights Conventions.

These seven conventions are not the highly technical agreements that make up the vast majority of the ILO's 181 conventions. Rather, they directly address the rights of working people.

They are:

No. 29—the Forced Labor Convention of 1930;

No. 87—the Freedom of Association and Protection of the Right; to Organize Convention, 1948;

No. 98—the Right to Organize and Collective Bargaining Convention, 1949;

No. 100—the Equal Remuneration Convention of 1951;

No. 105—the Abolition of Forced Labor Convention, 1957;

No. 111—the Discrimination in Employment and Occupation Convention of 1958; and

No. 138—the Minimum Age Convention of 1973.

They are extraordinary conventions. The Social Summit in Copenhagen in 1995 identified six of these ILO conventions as essential to ensuring human rights in the workplace: Nos. 29, 87, 98, 100, 105, and 111. The United Nations High Commissioner for Human Rights has classified them as "International Human Rights Conventions." The Governing Body of the ILO subsequently added to the list of core conventions Convention No. 138, the minimum age convention, in recognition of the importance of matters relating to child labor. These conventions embody the broad principles that are basic to membership in the ILO.

But what makes this year's Declaration so significant, Mr. President, is its second component—the monitoring mechanism, the element that will, if implemented properly, ensure that something will come of all this. For example, the follow-up mechanism will take a look at how China is doing on prison labor, how Pakistan is doing on child labor, how the United States performs with respect to freedom of association. Yes, we will be examined, too.

I spoke to the Senate at some length about this matter during our debate last Fall on the fast track legislation. Indeed, the fast track bill that the Finance Committee reported to the floor contained an explicit endorsement—which was included in the Administration's draft proposal at this Senator's suggestion—of the ILO's efforts in this regard. That section of the Committee's bill, S. 1269, reads as follows:

> It is the policy of the United States to reinforce the trade agreements process by—promoting respect for worker's rights by—(ii) seeking to establish in the International Labor Organization . . . a mechanism for the systematic examination of, and reporting on, the extent to which ILO members promote and enforce the freedom of association, the right to organize and bargain collectively, a prohibition on the use of forced labor, a prohibition on exploitative child labor, and a prohibition on discrimination in employment. . . .

In January of this year, I traveled to Geneva to discuss this new initiative with ILO Director General Michel Hansenne and his deputies. I did so because I believe that this new Declaration has great potential. Its monitoring mechanism could evolve into an effective tool for upgrading global compliance with these core labor standards. I have argued that the monitoring system ought to include inspections, an idea that could gain acceptance over time.

The ILO is the only League of Nations organization that has survived into the era of the United Nations. It arose at a time when the idea of sending inspectors into a country to see whether that country was keeping an agreement would have been thought much too radical. That all changed in the aftermath of World War II, with the creation of the International Atomic Energy Agency in 1957.

With the IAEA, inspections have become established practice over a range of international concerns and international organizations, including the ILO. Although not explicitly provided for in the ILO Constitution, several "inspection" mechanisms have in fact evolved in the organization since the early 1960's. Two are of particular note. ILO Commissions of Inquiry, which investigate members' compliance with ratified conventions in accordance with Article 26 of the ILO Constitution, have conducted on-site investigations since 1961. And the special procedures established under the ILO for examining matters relating to freedom to association have, since 1965, included on-site inspections. Thus it would seem reasonable to suggest that such inspections might eventually be an effective means of reviewing countries' compliance with core labor standards. With this Declaration and its follow-up mechanism, we have a very good beginning.

In fact, this new Declaration and its follow-up mechanism might just be the key to getting our international trade policy back on track. Last November, the trade policy that has guided this country for the past 64 years—since the Reciprocal Trade Agreements Act of 1934—was called sharply into question when the Congress considered the reauthorization of the so-called "fast track" negotiating authority for trade agreements. After a promising start in the Senate, where two procedural votes demonstrated strong support for the measure (68 votes in favor, including a solid majority on both sides of the aisle), the effort foundered in the House when it became clear that there were not enough votes to pass it.

One of the central issues that surfaced during that debate was whether trade agreements should include provisions—in effect, statutory requirements—concerning labor and the environment.

At first, this might should like a good idea. Upon reflection, however, it simply will not work. Developing countries will not accept the proposition that they must reduce their tariff and non-tariff barriers (discriminatory product standards, import licensing requirements, and the like) and, at the same time, willingly adopt stricter environmental and labor standards. Their reaction is understable: they view such proposals as putting them at a double disadvantage—lowering their protection against foreign goods and at the same time increasing their production costs, thus eroding their competitive advantages.

The ILO has a role to play here. Indeed, it was created in 1919 for the express purpose of providing an avenue for governments that wanted to do something to improve labor standards, but were reluctant to do so unilaterally because they feared it would put them at a competitive disadvantage in world commerce.

For 79 years, the ILO has sought to address these matters. Certainly both President Roosevelt and his Secretary of Labor, Frances Perkins, understood well the connection between the ILO and our trade policies, having launched both the Reciprocal Trade Agreements program and the United States' membership in the ILO—two parallel but distinct measures—in the same year, 1934.

The ILO is the one League of Nations organization that we were least likely ever to join, and the only one we did. Even so, the United States has never been an active ratifier of international labor conventions. Of the 181 ILO conventions agreed thus far, the United States has ratified only 12. Indeed, until 1988, the United States had only ratified 7 conventions—6 maritime and one technical—the seventh convention having been ratified in 1953. Then an interval of more than 35 years with no action on the subject.

In 1988, however, a new era commenced: the United States began to ratify substantive labor conventions. Altogether, the United States has approved five ILO conventions since 1988:

Convention No. 144, the 1976, convention on Tripartite Consultation on International Labor Standards, which approved by the Senate on February 1, 1998; Convention No. 147, the Merchant Shipping Convention on Minimum Standards, adopted in 1976, and approved by the Senate February 1, 1988; Convention No. 160 on Labor Statistics, adopted by the ILO in 1985 and approved by the United States Senate on February 20, 1990; Convention No. 105, the Abolition of Forced Labor Convention of 1957, which the Senate approved on May 14, 1991; and Convention No. 150 on Labor Administration, adopted by the ILO in 1978, and approved by the Senate on October 6, 1994.

I was the floor manager for four of these. In all five conventions, we lost the votes of only two Senators on the floor: both on Convention No. 144 regarding tripartite consultation. The other four conventions passed unanimously. Most notable was the Senate's ratification in 1991, by a vote of 97–0, of the first of the "core" human rights conventions—Convention No. 105 on the Abolition of Forced Labor (1957), an area where the ILO has made vital contributions.

As the President announced May 18th, in his historic address to the World Trade Organization at the commemoration of the 50th anniversary of the General Agreement on Tariffs and Trade, he has now transmitted to the Senate for ratification a second "core" convention—Convention No. 111, the Discrimination in Employment and Occupation Convention of 1958, which calls for a national policy to eliminate discrimination in access to employment, training and working conditions.

It may be that there is new life in the ILO, that we have entered a period in which we can look to the ILO for leadership as the United States and our trading partners reap the rewards—and adjust to the challenges—of globalization. In the area of worker rights, the ILO ought to be the place to do it. To remind the Senate, the World Trade Organization, at the conclusion of its first ministerial meeting in Singapore in December 1996, reaffirmed that the ILO was the "competent body" to set and deal with internationally recognized core labor standards. The Director-General of the WTO, Renato Ruggiero, with whom I discussed the ILO initiative at length in January, has lent his strong support. As Ambassador Ruggiero put it in a speech in Bonn on December 9, 1997, the WTO's members agreed at Singapore that "the ILO was the relevant body where the issue of labor standards should be addressed." He noted:

> The fact that the ILO is now making important strides in these areas demonstrates, not only that consensus on the most difficult issues is possible, but that consensus is absolutely critical to real and lasting progress. Supporting the current efforts in the ILO toward reaching a declaration on Fundamental Workers Rights is the best way of demonstrating that the real objective is to promote labor standards and not to seek protectionist measures.

It is possible, Mr. President, that this new Declaration on Fundamental Principles and Rights at Work, together with its monitoring provisions, will give new energy to the ILO at a time when new energy and direction are sorely needed to guide us out of the muddle in which we find ourselves with respect to trade.

I offer my great congratulations to Secretary Herman, to John J. Sweeney, President of the AFL-CIO, and to Abraham Katz, President of the U.S. Council for International Business for this singular achievement, and I ask that the full text of the declaration and its follow-up mechanism, as well as the text of Secretary Herman's statement, be printed in the RECORD.

The material follows:

INTERNATIONAL LABOUR CONFERENCE—86TH SESSION GENEVA, JUNE 1998

ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned to claim freely and on the basis of equality of opportunity their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting fundamental rights at work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the fundamental principles and rights embodied in the Constitution of the Organization and to promote their universal application;

The International Labour Conference,

1. Recalls: (a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances; (b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation.

3. Recognizes the obligation on the Organization to assist its Members in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts: (a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions; (b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of those Conventions; and (c) by helping the Members in their efforts to create a climate for economic and social development.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.

5. Stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.

ANNEX

FOLLOW-UP TO THE DECLARATION

I. OVERALL PURPOSE

1. The aim of the follow-up described below is to encourage the efforts made by the Members of the Organization to promote the fundamental principles and rights enshrined in the Constitution of the ILO and the Declaration of Philadelphia and reaffirmed in this Declaration.

2. In line with this objective, which is of a strictly promotional nature, this follow-up will allow the identification of areas in which the assistance of the Organization through its technical cooperation activities may prove useful to its Members to help them implement these fundamental principles and rights. It is not a substitute for the established supervisory mechanisms, nor shall it impede their functioning; consequently, specific situations within the purview of those mechanisms shall not be examined or re-examined within the framework of this follow-up.

3. The two aspects of this follow-up, described below, are based on existing procedures: the annual follow-up concerning non-ratified fundamental Conventions will entail merely some adaptation of the present modalities of application of article 19, paragraph 5(e) of the Constitution; and the global report will serve to obtain the best results from the procedures carried out pursuant to the Constitution.

II. ANNUAL FOLLOW-UP CONCERNING NON-RATIFIED FUNDAMENTAL CONVENTIONS

A. Purpose and scope

1. The purpose is to provide an opportunity to review each year, by means of simplified procedures to replace the four-year review introduced by the Governing Body in 1995, the efforts made in accordance with the Declaration by Members which have not yet ratified all the fundamental Conventions.

2. The follow-up will cover each year the four areas of fundamental principles and rights specified in the Declaration.

B. Modalities

1. The follow-up will be based on reports requested from Members under article 19, paragraph 5(e) of the Constitution. The report forms will be drawn up so as to obtain information from governments which have not ratified one or more of the fundamental Conventions, on any changes which may have taken place in their law and practice, taking due account of article 23 of the Constitution and established practice.

2. These reports, as compiled by the Office, will be reviewed by the Governing Body.

3. With a view to presenting an introduction to the reports thus compiled, drawing attention to any aspects which might call for a more in-depth discussion, the Office may call upon a group of experts appointed for this purpose by the Governing Body.

4. Adjustments to the Governing Body's existing procedures should be examined to allow Members which are not represented on the Governing Body to provide, in the most appropriate way, clarifications which might prove necessary or useful during Governing Body discussions to supplement the information contained in their reports.

III. GLOBAL REPORT

A. Purpose and scope

1. The purpose of this report is to provide a dynamic global picture relating to each category of fundamental principles and rights noted during the preceding four-year period, and to serve as a basis for assessing the effectiveness of the assistance provided by the Organization, and for determining priorities for the following period, in the form of action plans for technical cooperation designed in particular to mobilize the internal and external resources necessary to carry them out.

2. The report will cover, each year, one of the four categories of fundamental principles and rights in turn.

B. Modalities

1. The report will be drawn up under the responsibility of the Director-General on the basis of official information, or information gathered and assessed in accordance with established procedures. In the case of States which have not ratified the fundamental Conventions, it will be based in particular on the findings of the aforementioned annual follow-up. In the case of Members which have ratified the Conventions concerned, the report will be based in particular on reports as dealt with pursuant to article 22 of the Constitution.

2. This report will be submitted to the Conference for tripartite discussion as a report of the Director-General. The Conference may deal with this report separately from reports under article 12 of its Standing Orders, and may discuss it during a sitting devoted entirely to this report, or in any other appropriate way. It will then be for the Governing Body, at an early session, to draw conclusions from this discussion concerning the priorities and plans of action for technical cooperation to be implemented for the following four-year period.

IV. IT IS UNDERSTOOD THAT:

1. Proposals shall be made for amendments to the Standing Orders of the Governing Body and the Conference which are required to implement the preceding provisions.

2. The Conference shall, in due course, review the operation of this follow-up in the light of the experience acquired to assess whether it has adequately fulfilled the overall purpose articulated in Part I.

The foregoing is the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up duly adopted by the General Conference of the International Labour Organization during its Eighty-sixth Session which was held at Geneva and declared closed the 18 June 1998.

IN FAITH WHEREOF we have appended our signatures this nineteenth day of June 1998.

The President of the Conference,
The Director-General of the
International Labour Office.

"This is a big step forward for the ILO and its members as we enter the 21st Century. With the passage of this Declaration, the ILO has underlined and clarified the importance of the fundamental rights of workers in an era of economic globalization. It firmly demonstrates that we can and will move forward in an effort to see trade and labor concerns as mutually supportive—not mutually exclusive.

As we have said and as President Clinton stated in his speech to the World Trade Organization on May 18, we must continue to forge a working relationship between the ILO and the WTO. We continue to see it as vitally important to a strengthened trading system that we advance the effort to protect basic workers rights. That remains our policy and our commitment.

This Declaration and its follow-up procedure furthers our abilities to pursue these objectives. Nothing in this Declaration restricts our ability to advance together the liberalization of international trade and the protection of basic worker rights. As the ILO has stated, the Declaration does not impose any restrictions in this regard on members.

It is also clear, with this recommitment to core values, that the ILO members have accepted the need to be accountable. And with this action, there will now be a process within the ILO to demonstrate that accountability.

I was honored to be a part of this historic ILO meeting and to work with my colleagues to adopt this crucial Declaration that outlines a vision for the next century for this organization. Clearly we proved in these weeks in Geneva, that a consensus can be reached among governments and between employer and worker groups.

There were long and difficult negotiations over this Declaration, but I was always confident about the outcome because, from the beginning, there was a consensus among us, a shared objective and an historical obligation to do what we have done."•

UNSHACKLE LEADERS OF AMERICA'S EDUCATION

• Mr. COVERDELL. Mr. President, the results of the 1998 Stanford 9 tests—better known as the SAT's—are now available. Overall, the results are dismal. No matter what improvements may be noted here and there, the bottom-line numbers reveal a failing education system that shortchanges the students and parents who rely upon it.

In each of the four categories of performance—below basic, basic, proficient, and advanced, the story is the same. As a group, the kids fall farther behind as they progress through the system. That's the case with regard to both math skills and reading.

That disturbing news is all the more reason for those of us who are committed to structural reform of this country's schools to redouble our efforts, especially in providing education alternatives for low-income families.

In the process, we should not overlook the need for sound management in our schools. Indeed, managerial reforms, implemented on the State and local level, will be crucial to the success of education reform. That is the point made by Donald Bedell, Chairman of the Bedell Group and a longtime consultant in management and organizational structure for major corporations.

Mr. Bedell has outlined his thinking along those lines in a brief paper that exhorts Congress to "unshackle leaders of American education." His insights are on target, and I ask that they be printed in the RECORD.

The material follows:

UNSHACKLE LEADERS OF AMERICA'S EDUCATION

The never-ending and often contentious national debate over the future course of public education disguises the negative impact excessive administrative control exerts on student academic achievement. How?

It concentrates on finding "solutions" in Washington and in state capitols, year after year after year, for each of the endless number of individual school functions that yearn for assistance. Yet, bureaucracies in all four management levels unnecessarily complicate and slow decision-making, cause costs to rise, burden classroom teachers with intolerable administrative burdens, and share responsibility for student academic scores that have stayed flat for a generation. The overhang of irresponsible mandates continues to plague efficient management efforts.

A detailed study of Indianapolis public schools budgets (IPS) by the Friedman Foundation, for example, indicated that annual cost per student was $9,886, (double the U.S. average), school enrollment between 1990 and 1996 dropped from 52,000 to 43,000, while administrative costs rose from $370 to $500 per pupil and little more than 30% of its budget paid for teacher salaries. Its student scholastic record, compared to state, national and IPS results, an average of 10% below the national average, 25% below the state results and 35% below the Catholic school average in Indianapolis.

It seems clear that The Friedman Foundation, and Mayor Goldsmith, believe that the IPS current condition demands a thorough management restructuring including reduction of administrative overhead, including additional voucher programs and turning over several dozen non-education support services to private sector contractors. On any professional cost-benefit analysis, development of effective managers and leaders wins by an overwhelming margin.

Meanwhile, attention of many leaders has been diverted from focusing on laying the foundation, and nurturing it, for more efficient school organization structures at all four levels—each state, local school boards, district superintendents and school principals. They are the management "balance wheel" function that must be charged with primary responsibility for improved education—not Congress, not the Education Secretary, not the President.

Those four entities alone bear the total responsibility to deliver an improving body of high school graduates—not curriculum experts, not standards experts, not teacher selection experts, not police surveillance of students. On the quality of public school leadership and management, as in the business community, rests the future of public schools, in the words of the Educational Research Service as early as 1992.

Unfortunately, organization and management matters are still viewed by some as an overpowering, fearsome, inscrutable, unchanging and monolithic structure manipulated by unknown backroom shadowy characters. Nonetheless this command and control management culture survived world wide for 100 years! Initiated by the King of Prussia in the 1880s, it has served America's military and business organizations well through wars, depressions, industrial revolutions and bloody foreign revolutions. It got the job done and brought a successful conclusion to World War II that left America at the top of the heap in international economic and political affairs.

But, beginning in the 1960s, the emergence of the most stunning and enormous revolutions in the volume and depth of all scientific inquiry, improved product manufacturing, expanded global trade and investment, and vast communications demands, swamped business operations. It forced business management to devise new operational procedures that adjusted to this new reality. It demanded a new flexibility to manage the data, and, to provide opportunities for individuals to increase their contributions to a more productive society.

Organization structure became organic and specific to each institution and its purpose. In business historian Alfred Chandler's words, "Structure follows strategy. But it must be flexible to allow for changes. Organization design and structure require thinking, analysis and a systemic approach. The new organization paradigm turns a monumental relic of the past into a living current organism."

What are the dynamics of such new flexible structures? Maximize personal and financial resources. In Peter Drucker's words, leaders can't allow organization structure to remain static, or "just evolve. The only things that evolve are disorder, friction, malperformance.

What then is the driving force of strategy and tactics? Recognition that all institutions, including public education, are subject to competition. There is no specific structure to strategy development that leaders should follow. But not until a decision is made at the top of the four levels of management to construct a well-articulated purpose, and then to accept discovering, understanding, documenting, and exploiting insights as a means to create more value than competing organizations, can be solid basis of strategy be laid.

Would the education sector face the sometimes painful adjustments of restructuring as the private sector? Not necessarily. Once a long range schedule and target established, the time frame could extend over 5 or even 10 years, taking advantage of personnel attrition and retirements and the influx of new students. Firing 30% of the District of Columbia central office, announced recently, in one fell swoop, could easily be avoided except in severe financial crises.

What are possible Congressional education strategies?

(1) Encourage state governments to unshackle state education leaders by deregulating school boards and by re-invigorating school district superintendents, school boards, principals, and teachers by releasing them from state mandates, statutes, rules and regulations, as former Motorola Chairman Galvin suggested.

(2) Promote an "Executive Scholarship Fund" for 3,000 eligible education sector managers at various levels each education year, for 5 years, for training in business

management practices. The cost? At $5,000 each, maximum cost would amount to $15 million to be borne 20% by grantees, or a net $12 million.

(3) Promote a "Teacher's Management Improvement Fund," for 12,000 eligible teachers each school year for 5 years @ $1500 for a total of $18 million to be borne 20% by grantees or a net of $14.4 million.

(4) Continue to consider funding a wide variety of education programs to states and local entities, despite continuing evidence that student academic remains flat or worse.

(5) Withhold support for a $22 billion 2-year federal funding program for local school building programs, and a $12 billion plan over 7 years to hire 100,000 teachers as proposed by the President.

On any credible professional measurement, the development of effective managers and leaders wins by an overwhelming vote. They can and do make mistakes, but without them, society wanders about in an amorphous atmosphere of confusion and indecision—without positive results. Such an environment would contribute nothing to the development of America.●

THE U.S. COAST GUARD AUXILIARY

● Mr. MURKOWSKI. Mr. President, I rise to call the attention of my colleagues to the distinguished record of the United States Coast Guard Auxiliary, which today marks its 59th year of operation.

Most of us know this fine group of men and women only as the civilian arm of the Coast Guard—a volunteer group of friends and neighbors who offer safe boating and navigation classes, and perform courtesy inspections to ensure that our boats are equipped the way they should be.

However, Mr. President, there is far more to the Auxiliary. The Auxiliary was formed when the clouds of war threatened all the civilized world, and when war came to the United States, the members of the Auxiliary served their country well.

Recently, the commander of United States Coast Guard Group San Francisco, Captain Larry Hall, spoke to Auxiliary Flotilla 5–7 on the 55th anniversary of its formation. His address is a capsule history of the Auxiliary in general, and of San Francisco's "Diablo" flotilla as a specific example, as well as a look at how the Auxiliary and the active-duty Coast Guard work together to keep Americans safe.

Mr. President, I ask to have Captain Hall's remarks printed in the RECORD.

The remarks follow:

REMARKS TO COMMEMORATE THE 55TH ANNIVERSARY OF "DIABLO" FLOTILLA 5–7 COAST GUARD AUXILIARY

(By Captain Lawrence A. Hall, USCG).

Immediate Past District Commodore Marilyn McBain, Vice Commodore Mike Maddox, District Rear Commodore Jack O'Neill, Flotilla Commander Bill Graham, Members of Diablo Flotilla 5–7, fellow members of Team Coast Guard, and friends:

You have honored me with the kind invitation to speak to you on this special occasion * * * to share this important piece of Coast Guard History—of the Coast Guard Auxiliary and the role Flotilla 5–7 played in it. Needless to say, the Auxiliary has been an important part of our Service's history during this century, and as an active-duty Coast Guard member, I'm honored to be associated with you all.

I realize that many of you here tonight have personal memories of World War II, and that some of you served our country with distinction during those years of trial for our nation. Of course, I'm but a youngster, and wasn't even a gleam in my parents' eye until nine years after the war ended! I don't share any of those memories, and had to borrow from someone else. So, before I get too far along in talking about the Auxiliary's early years, let me credit Malcolm Willoughby's book The Coast Guard in World War II, published in 1957 by the U.S. Naval Institute. It's an excellent reference.

Let me start at the beginning * * * The forerunner of the Coast Guard Auxiliary, originally called the Coast Guard Reserve, was created on June 23, 1939. Its missions were to:

Promote safety of life at sea and upon navigable waters,

Disseminate information relating to the laws, rules and regulations concerning motorboats and yachts,

Distribute information and knowledge concerning the operation and yachts, and

Cooperate with the Coast Guard.

It seems that we were just yesterday celebrating the Auxiliary's 50th anniversary—I know we're not getting any older, but shudder to think that somehow time's flown, and next year we'll actually be celebrating the Auxiliary's 60th!

To continue * * * With war underway in Europe, on February 19, 1941, Congress passed the Auxiliary and Reserve Act. The Act in effect created a real military Coast Guard Reserve as we have today, added the uniformed but unpaid Coast Guard Temporary Reserve, and gave you, the civilian arm of the Coast Guard, your present name. Then war broke out * * * and you jumped into action. I've read that Seattle flotillas actually commenced patrols on the evening following the Pearl Harbor Attack. Many patrols were quickly established elsewhere, with Auxiliarists putting in countless hours patrolling in their own vessels. By June 1942 the Auxiliary had grown to about 11,500 people, with 9,500 boats organized into 44 flotillas.

At first any Auxiliary member could volunteer the services of his boat, himself, and crew for temporary service in the Temporary Reserve. In this way, the Coast Guard drew on trained Auxiliarists for the performance of regular Coast Guard duties afloat on a military basis, and the Auxiliary became chiefly a source of military supply.

The program for temporary reservist on full-time duty with pay was originally established to aid the acquisition of badly needed reserve boats and people from the Auxiliary because the need for small craft in the early days was extremely urgent. Men were enrolled for temporary duty for specific periods such as three or five months, and usually assigned to their own vessels. They were not transferred from their particular boat or out of District. Their duty was chiefly with the Coastal Picket Fleet from June through November 1942, when this type of duty was discontinued.

As the war tempo increased and port security responsibilities grew, the Coast Guard leadership realized that the Auxiliary's civilian status prevented their effective wartime use. Not only did Auxiliarists lack military authority, but when going out on anti-submarine warfare patrol, they risked, if captured, being executed as spies! The need for militarization was obvious, the result being that the majority of Auxiliarists were eventually enrolled in the Coast Guard Temporary Reserve. This final setup for the Temporary Reserve, enacted on 29 October 1942, included Auxiliarists in a part-time no-pay status. The Temporary Reserve gradually took over patrol responsibilities from the Auxiliary, with Auxiliary patrols finally being discontinued in 1 January 1943. In the various configurations of the Temporary Reserve, the Auxiliary provided a nucleus of men well-qualified in small boat handling, along with their boats. This force, which by war's end numbered 30,000 Temporary Reservists and 1,000 boats recruited from the Auxiliary, allowed our more able-bodied men to be sent to the combat theaters, and performed a service on the home front which was vital to our national security.

So, it was in this context that the Diablo flotilla was created in 1943. Though I don't have access to much in the way of Flotilla historical records, your Flotilla Commander Bill Graham tells me that, depending on how you count it, the Diablo flotilla was either the sixth flotilla—or one of the first nine flotillas—formed in the Northern Region of the Eleventh District. I'm sure that your predecessors in this Flotilla had a large part in patrolling the lower Sacramento and San Joaquin Rivers as well as the upper San Francisco and San Pablo Bays. People from Diablo Flotilla undoubtedly gave their service to the Temporary Reserve, making a vital contribution to the security of the Bay and Delta areas. I have to think this was no insignificant task, given the strategic sites at the Naval Weapons Station and Port Chicago, Mare Island Naval Shipyard, and the oil refineries of the area. This, and they still performed all their usual boating safety functions.

Now I'll fast forward from the forties to modern times. Flotilla 507 has been an active force in promoting safe boating in the Delta. I note that:

In 1994, under Jack O'Neill's leadership, you were lauded as the District Eleven (Northern Region) outstanding flotilla.

In 1996, with Michael Hays as Flotilla Commander, you were given the award as Outstanding Flotilla in Division 5.

In 1997, led by Tim Martell, you collected two of seven District awards for flotillas, for public affairs and for highest number of vessel examinations.

Looking at recent Auxiliary Management Information System (AUXMIS) reports, which I thank your Immediate Past Commodore and District Staff Officer for Information Systems, Marilyn McBain for making happen, I see you're still building good numbers:

I see strength in your membership—77, which includes 14 Auxiliary Operators!

I see strength in your public education: two Boating Skills and Seamanship (BS&S) and three Sailing and Seamanship (S&S) courses in 1996; four BS&S, one S&S and four Boating Safely courses given in 1997; and 19 class sessions in various courses given so far this year.

I see strength in your vessel examination program: 20 examiners conducting 459 CME's in 1997, up from 210 in 1996—and you've already completed 210 exams so far this year.

I see strength in your Marine Dealer Visit Program, with between five and seven Marine Dealer Visitors making 66 visits in 1996, 88 visits in 1997, and still building numbers this year.

In these and all your other programs—Operations, Public Affairs, Member Training—you show that the Diablo Flotilla is active, is connecting with the public, is making a difference. I hope you still have room on your trophy shelf, since you'll no doubt be adding more "hardware" to it!

This brings us to today. I stand here as the Group Commander within whose area of responsibility you spread the gospel of safe boating. I'm here to tell you that I am your partner in serving the public—the Coast Guard's customers in the lower Delta and Suisun Bay. Our safety missions are mutually dependent, and firmly linked together. Since taking command of Group San Francisco last Summer, I have embarked the Group on the strategy of community interaction. Yes, we in the Group do exist to provide critical search and rescue resources to the citizens of Central California and to enforce Federal laws where necessary. But the greatest of our missions is in protecting the safety of recreational boaters in the area we serve. I see the recreational boater's life as a continuum, starting when they buy and equip their vessel, continuing hopefully with some good education. Then comes the voyage, which usually, hopefully ends safely, but sometimes ends in a search and rescue case or an adverse Coast Guard boarding. In the past we at the Group dwelled too much on that far end of the continuum, especially in our huge number of law enforcement boardings—and I'm sure you read about it in the local maritime press. Where I am guiding our efforts now is to the start of that continuum—before the boater gets underway. To that end, I've directed Group personnel to steer their efforts at meeting and getting to know the boaters:

We're walking the docks, boat ramps, and marinas, seeing the boaters with their vessels, answering their questions, giving advice, steering them toward the products you offer—vessel exams and boating safety courses.

We're making more public appearances: at boat shows, yacht clubs, service clubs, and schools.

We're making friendly contacts with boaters on the water, commending them for safe boating practices, for wearing their personal floatation devices (PFDs), for being conscientious.

We're listening to the boaters, constantly looking for better ways we can serve them.

Finally, to show my regard for your vessel exam program, I have directed Coast Guard crews to not conduct random boardings on recreational vessels showing a current Courtesy Marine Examination sticker. We'll still board all vessels, including those with current CMEs, any time we can articulate a valid reason, such as for unsafe operation. But again, we will not randomly board vessels showing the sticker—proof of their commitment to equip their boats properly. I believe in your vessel exam program, and want to give boaters all possible motivation to let you aboard!

In all our efforts, while we won't ever give up our responsibility to enforce boating safety law when necessary, we're out to show the boating public that we're a partner with them in maximizing success and enjoyment in their boating experience. In face-to-face contact I want them to see that we're real people, just like them, who have an important job to do.

Now, here's where our fortunes really are linked. It's no surprise that we all have been searching for good measures of effectiveness in our boating safety programs—for ways that we can relate our hours of effort into the desired outcome of safer boating. Knowing that the Commandant has established a goal that we save at least 90 percent of distressed boaters after Coast Guard notification, I think we can make a difference there. To that end, I am measuring the number of person hours and personal contacts made by Group San Francisco people. This hopefully will translate in the next couple years to an increase in the number of people coming to you for vessel examinations and registering for safe boating courses—whether Coast Guard Auxiliary or U.S. Power Squadron. Finally, increased vessel exams and boating course students should translate to both a reduction in search and rescue cases among recreational boaters and better outcomes for the cases we do respond to. We're making the effort to encourage boating safety, and hope that our future numbers bear it out.

With this, I ask a couple things of you, the Diablo Flotilla. First, keep up the great work. You've got a rich tradition, going back to earliest days of the Auxiliary. You've got the strength in numbers to keep it going. Second, work to ensure that the quality of your vessel exam and public education programs is second to none, along with your Marine Dealer Visit Program, which is yet another way that we can direct boaters to the services we offer. I'm depending on it and I'm doing the same with the services that we in Group San Francisco perform.

In closing, I'm extremely proud to call you partners, members of Team Coast Guard and Team Group San Francisco. Be proud of where your Flotilla has come from, of the missions you've performed, and of your excellence yet to come. We'll be there with you. May we all be—Semper Paratus. Thank you. •

RETIREMENT OF MR. A. GERALD ERICKSON

• Ms. MOSELEY-BRAUN. Mr. President, I would like to take a few minutes today to recognize a gentleman who is retiring from a distinguished career as President of the Chicago-based Metropolitan Family Services, Mr. A. Gerald Erickson. In his 27 years as President of this valuable agency, Jerry Erickson has demonstrated an outstanding level of commitment to under-served families and individuals in Chicago. Under his leadership, Metropolitan Family Services has a record of great accomplishments in improving the opportunities and quality of life for thousands of low-income Chicagoans.

In 1958, Jerry Erickson began his career with the agency, then known as United Charities, as a social worker fresh out of school and a two year stint in the Army. After earning a Master's Degree in Social Work from the University of Chicago in 1960, Jerry remained with United Charities full time, and in 1971 became President.

Two and a half years ago, and a quarter of a century into Mr. Erickson's tenure, United Charities changed its name to Metropolitan Family Services. Through this and many other organizational changes over the years, Jerry Erickson has remained steadfastly committed to serving the under-privileged residents of the Chicago metropolitan area.

As Chicago's oldest and largest nonsectarian social services organization, Metropolitan Family Services provides services ranging from family counseling to financial education for more than 100,000 families in the Chicago area. The agency operates on an annual budget of approximately $22 million, and has recently concluded a successful $15 million private fundraising campaign. The success of the organization can be attributed to the committed hard work of all of the agency's staff, and to great leadership from Jerry Erickson. Through their efforts, the agency's future will be bright and long-lasting.

Through out his career, Jerry Erickson has carried himself in a soft-spoken, modest manner which has led many of his colleagues in the field of social work to refer to him as the "Jimmy Stewart of social services." Now, in classic Jerry Erickson character, he is quietly retiring as the President of Metropolitan Family Services and is passing the reigns on to a successor he helped choose.

Those who know and work with Jerry Erickson should be heartened by his promise to continue to work as a consultant to social service agencies. And Jerry's successor, Richard Jones, Ph.D., is highly qualified and committed to continuing and expanding the great work of Metropolitan Family Services.

Through his work with Metropolitan Family Services, as well as his participation and leadership in various national social services task forces, associations, and alliances, Jerry Erickson has well earned his reputation as a national leader in social work. Jerry Erickson's work is a model of service for all Americans to follow, and I commend his lasting commitment to serving the most vulnerable in our society.

On behalf of all the lives he has touched in his outstanding career with Metropolitan Family Services, I want to thank him and wish him good luck and Godspeed in all of his new endeavors.•

ALPHA SIGMA TAU CELEBRATES 100TH ANNIVERSARY

• Mr. ABRAHAM. Mr. President, I rise today to recognize an important event that will take place in the state of Michigan. Alpha Sigma Tau, a national sorority, will be celebrating its 100th anniversary this summer.

Alpha Sigma Tau was founded at Michigan State Normal College, (now Eastern Michigan University) Ypsilanti, Michigan on November 4, 1899. The Founding Sisters were: Helene M. Rice, Adiance Rice, May Gephart, Ruth Dutcher, Mayene Tracy, Eva O'Keefe, Mabel Chase and Harriet

Marx. Alpha Sigma Tau aims to attract women of good character and spirit. One of the sororities' main goals is scholastic achievement.

Alpha Sigma Tau was nationalized in 1925. There are 59 active collegiate chapters and 3 active existing colonies in the United States. In 1949, the sorority became a National Panhellenic Council member and was represented on the Executive Committee from 1979 until 1985. Alpha Sigma Tau was honored to have a member serve as President from 1983–85. Alpha Sigma Tau National Foundation, founded in 1985, offers a wide variety of scholarships, awards, grants and loans to the sorority sisters. Additionally, the sorority contributes philanthropically to several causes.

The celebration of the 100th anniversary will take place at the Centennial Convention at the Sheraton Inn in Ann Arbor, Michigan from Tuesday, June 23 until Saturday, June 27. The celebration will include over 300 collegiate and alumnae women and their guests. Alpha Sigma Tau will be presenting Eastern Michigan University with a gift to commemorate the occasion. I extend my warmest regards to all who are involved with this celebration.●

MRS. ELLIE MCNAMARA

● Mr. LEAHY. Mr. President, I rise today with great pleasure to recognize Mrs. Ellie McNamara for a career of exemplary service in Vermont public schools. Her career spans four decades, beginning in 1958 as a fourth grade teacher, and for the last 17 years as principal of the C.P. Smith primary school in Burlington. She will retire at the close of this school year.

There is no better evidence than the work of Mrs. McNamara to the truth of the adage, "There is no substitute for a good teacher."

The devotion with which she met the challenges of teaching and then as a principal won her the hearts and minds of students, faculty and parents alike. She has made a difference.

Even as she moves into retirement she continues to serve as a role model for all of us. I wish her well as she moves into the next stage of her life.

Marcelle and I have known Ellie McNamara, her husband Jim who is a distinguished lawyer and her wonderful family for decades. Burlington and Vermont are proud of her and her family.

I ask that an article regarding her retirement from the Burlington Free Press be printed in the RECORD.

The article follows:

[From the Burlington Free Press, May 28, 1998]

RETIREMENT IS PRINCIPAL LOSS

(By Anne Geggis)

Guests, gifts and tokens celebrating Ellie McNamara's 17 years leading Burlington's C.P. Smith School keep pouring in as the days of her career run out.

The message they all bring: Don't go.

Wednesday, community members ranging from kindergartners to her now-grown students to Gov. Howard Dean gathered to admire the longtime principal's accomplishments. Janet Breen, a mother of three, wasn't the only wistful attendee.

"She's a wonderful woman, wonderful," Breen said. "I wish she'd retire after my toddler left, but that would be 10 years."

Dean told the assembled crowd that McNamara is the reason his kids are in Burlington schools. Faculty members got teary-eyed talking of the fun she has brought to the New North End elementary school.

"It's a huge loss," sighed Leslie Kaigle, a School Board member from the Old North End who has worked with McNamara on school committees. "Her connections with families, with people . . ."

McNamara, however, remains firm that a career started in 1958 teaching his fourth-grade at the now-demolished Converse School, should come to an end now.

"You should leave while the audience is still clapping," she said, flashing her trademark toothy smile.

The force of a personality that can memorize the names of all 358 of her students and their siblings and parents, is something to be reckoned with. In the space of a half hour Wednesday, she examined a scraped knee, started a purple fleece jacket on the road to a reunion with its owner and watched more than 100 wriggling bodies during lunch.

There's a devilish side, too: She's been known to take her hairdresser's phone calls before the superintendent's. Holding a conversation with her requires that eyes remained fixed on her. Look away for a moment and she's gone around a corner. She's often quoted as saying, "I've got to see you. I'll be back on a minute."

But ask what's planned for C.P. Smith's final assembly on the last day of school, and the frenetic pace of this 62-year-old grandmother of six stills.

"The final assembly . . ." she said, a catch in her voice. Eyes suddenly turn misty. "That's when . . . well, I can't talk about it now."

Linda Dion, who has been school secretary for 16 of McNamara's 17 years, picked up where McNamara left off: "At the end of the assembly, the fifth-graders march out as we sing the C.P. Smith song. This time, Ellie will be marching out behind them."

IN RECOGNITION OF THE SESQUICENTENNIAL OF THE VILLAGE OF DIMONDALE

● Mr. LEVIN. Mr. President, I rise today to pay tribute to the Village of Dimondale, located in Eaton County, Michigan, which will hold its Sesquicentennial celebration from June 26–28, 1998.

Dimondale was established in 1848 by Isaac Dimond, a wealthy former New York resident who had purchased 4,000 acres of land in Michigan in 1837. Mr. Dimond and his wife, Sarah, left New York for his "wild land" in Michigan in 1840, after poor investments caused them to lose most of their possessions. In 1848, Mr. Dimond built his house on Jefferson Street, and the Dimondale School District was formed, signifying the establishment of the community. Isaac Dimond founded several businesses in Dimondale, including a saw mill, a general store and a grist mill. In 1860, Isaac Dimond returned to New York, where he died in 1862.

Today's residents of Dimondale are proud to celebrate the history and heritage of Isaac Dimond and the village he created 150 years ago. During the Sesquicentennial festivities, Dimondale residents are encouraged to dress in period clothing while participating in a family picnic and watching a baseball game featuring the Kent Base Ball Club of Grand Rapids, Michigan, which has been in existence for 130 years and which plays by the rules the game followed in the 1800s.

Mr. President, I know my colleagues will join me in congratulating the residents of Dimondale, Michigan, on this special occasion.●

JOEL BARLOW, DIPLOMAT AND PATRIOT

● Mr. LIEBERMAN. Mr. President, I rise to honor one of America's earliest diplomats and a distinguished native of Connecticut, Joel Barlow. On June 28, in a modest ceremony, a bronze biographical tablet will be dedicated to Barlow in the churchyard of the tiny village of Zarnowiec, Poland, where Barlow died and was laid to rest in 1812. The event is organized and the tablet donated by the Joel Barlow Memorial Fund, in cooperation with the American Center of Polish Culture and DACOR, Diplomatic and Consular Officers Retired (of the U.S. State Department).

Joel Barlow was born in 1754 and raised in Redding, Connecticut. His ancestors were among the earliest settlers of the region. After graduating from Yale University in 1778, he took an additional Divinity course and joined George Washington's army as a chaplain, serving for three years until the end of the Revolution. He slipped home from his army duties long enough to marry Ruth Baldwin, the sister of a Yale classmate. They married in secret because of her father's initial objection.

At the close of the war in 1782, the couple moved to Hartford, where Barlow helped publish the magazine "American Mercury," writing political pamphlets, satires, and poetry. He was one of a group of satirical writers, mostly Yale men, known as the "Hartford Wits." At that time, he also completed and published the first version of his American verse epic, "The Vision of Columbus." It is said that in this work, he was the first writer in English to use the words "civil," "civic," and "civilization" in their modern senses. He also envisioned a future international council very much like today's United Nations, dedicated to peacekeeping, cultural exchange, and development of the arts.

In 1786, Barlow studied law and was admitted to the Bar. He worked as a promoter for the Scioto Land Company. In 1788, Barlow went to Paris to promote the sale of the Scioto Land, a huge tract of Ohio wilderness opened by the government for settlement, to European emigrants. A large group of bourgeois French refugees traveled to Ohio to settle in the land, but the American promoters had not made any preparations for their reception, and they met terrible privations in the wilderness. By the time Ruth joined her husband in Paris in 1790, American organizers of the Scioto company were exposed as profiteering frauds; Barlow, however, was proven innocent. The colony, called Gallipolis, survived despite the hardships, but Barlow's reputation with his countrymen had been seriously damaged.

Barlow was in Paris during the fall of the Bastille on July 14, 1789. He was a friend of Thomas Paine and other Revolutionary sympathizers, English and American. He wrote his major tract "Advice to the Privileged Orders" and his verse-satire "The Conspiracy of Kings" in London, where he and Ruth had gone to avoid the Jacobin disorders. The "Advice" so offended the British government that it banned the book and tried to arrest Barlow, who fled into hiding in Paris. His "Letter to the National Convention of France," a proposal for a new French constitution, so impressed the Assembly delegates that in 1792, they made him an honorary citizen of the new Republic, an honor he shared with Washington, Hamilton, Madison, and Paine. In the final throes of the Terror, when Louis XVI and Marie Antoinette were executed in 1793, Barlow was in southeast France helping organize the Savoy, newly captured from Italy, as a political division of the new Republic.

Fluent in French, sympathetic to the Republic, and successful in business, the Barlows were popular with the reformers and intelligentsia, as well as such scientific innovators as the balloonist Montgolfier. They were also close to Robert Fulton, who arrived in France in 1797, and worked for some years on prototypes of his steamboat, torpedo boat, and other engineering projects. Fulton later did the illustrations for a large, handsome second version of Barlow's epic, heavily revised and retitled "The Columbiad," published in Philadelphia in 1807.

In 1796, during Washington's second term, Barlow resolved our first hostage crisis. He was sent to Algiers as consul to help with implementation of our peace treaty with that state and to secure the release of over one hundred American seamen, some of whom had been held captive by Algerian corsairs since 1785. This required great patience and diplomatic skill on his part, not to mention payment of substantial sums to local officials, but he succeeded where others had failed. He stayed on as consul for a year after the hostages were freed before returning to Paris in 1797.

After 18 years abroad, the Barlows returned to America in 1805, hoping to spend the rest of their lives at home. Thomas Jefferson wanted Barlow to write an American history, and in 1807, at Jefferson's urging, the Barlows moved to a house and small estate in Washington that Barlow named Kalorama, "beautiful view" in Greek. However, in 1811, President James Madison appointed Barlow as Minister to France. His task was to negotiate for compensation for French damages to American shipping and to make a trade treaty. Reluctant, but always ready to serve his country, Barlow took his wife, as well as his nephew Thomas as secretary, and returned to France in 1811. Once there, however, Barlow met nothing but delays because of Napoleon's wars in Europe.

Finally, the Emperor, engaged in a winter campaign against Russia, summoned Barlow to meet with him in Poland, in Wilna (now Vilnius). But the French armies were utterly defeated by the Russians and the winter. Napoleon fled south, ignoring his appointment. With Thomas, his staff, and other diplomats, Barlow fled through the freezing weather toward Germany to escape the pursuing Cossacks, missing Napoleon, who hurried straight to France. Barlow died of pneumonia in Zarnowiec, between Warsaw and Krakow, on December 24, 1812. (There is a disagreement about the date; the existing church tablet in Poland gives it as December 26.) It took his nephew more than two weeks to bring news of his death to Ruth in Paris, and it was three months before the news reached America. Joel Barlow was mourned widely in France, but back at home, President Madison was more distressed by the loss of the treaty than of the man. Perhaps this diplomat, patriot, and man of letters had stayed away for too long.•

TRIBUTE TO U.S. DISTRICT COURT JUDGE MATTHEW PERRY

• Mr. HOLLINGS. Mr. President, I rise today to honor one of South Carolina's most beloved citizens and one of the nation's most eminent jurists: U.S. District Court Judge Matthew Perry.

Matthew Perry grew up under "Jim Crow," yet he overcame every barrier to his betterment that society threw up. He relied on his loving and supportive family as well as his own inner strength, wholesome ambition, and unerring moral compass to persevere in the face of naked hatred and discrimination. As one South Carolina newspaper recently noted, he "had the benefits of good guidance and a good head, and the difficult challenge of growing up under a great adversity."

Matthew Perry put this adversity to good use. "Jim Crow" forged his character in steel, and his experience of unjust laws drove him to devote his life to justice. Against long odds, and with much greater effort than that required of more privileged students, he obtained his law degree and set to work to tear down the structure of segregation in South Carolina.

As a lawyer in the 1960s, Matthew Perry was a leading figure in the Civil Rights Movement. He was instrumental in advancing black South Carolinians' rights and played a leading role in many important legal cases, particularly in defending civil rights activists who were prosecuted for their participation in non-violent demonstrations and sit-ins.

Among the significant cases Matthew Perry helped prepare and argue were Edwards v South Carolina, in which the U.S. Supreme Court established important First Amendment protections for demonstrators; Peterson v City of Greenville, in which the Court enlarged the jurisdiction of federal constitutional protections over premises that had previously been considered outside federal anti-discrimination rules; and Newman v Piggie Pork Enterprises, one of the Court's earliest interpretations of the Civil Rights Act of 1964.

Mr. President, today it is difficult to appreciate the courage of Matthew Perry's convictions and devotion to the cause of civil rights for black Americans. He worked long hours without pay, but money was the least of his concerns. In the 1950s and '60s, his advocacy of equal rights for all and an end to segregation earned him the visceral hatred of many, and his activism sometimes placed his life in danger. Yet the lessons of his childhood served him well, and he endured threats and taunts to triumph over a corrupt and fundamentally unjust system. In the end, Matthew Perry's idealism, intelligence, and integrity helped put an end forever to segregation and to firmly establish the universal principle of equality for all.

Mr. President, it was my privilege to recommend to President Jimmy Carter that he nominate Matthew Perry to a seat on the U.S. District Court in South Carolina. In 1979, Matthew Perry was officially appointed to the Court. He was the first and to date only black judge on the Federal District Court in South Carolina.

As always, Judge Perry is a pioneer. His example is an inspiration not just to black attorneys but to aspiring jurists of all classes and races. His life proves that with courage, conviction, and hard work, one can surmount even life's greatest challenges and contribute to society's lasting improvement.

Mr. President, Princeton University recently awarded Judge Perry an honorary Doctor of Laws degree. This moment was one of great pride for Judge

Perry as well as for all South Carolinians. The citation which accompanied the degree is an eloquent tribute to Judge Perry's example and legacy. I ask that the Princeton University's tribute to Judge Matthew Perry be printed in the RECORD.

The tribute follows:

MATTHEW J. PERRY, JR.

DOCTOR OF LAWS

Senior United States District Judge South Carolina. Matthew Perry was appointed in 1979 to the U.S. District Court by President Carter and is the first and only African-American in South Carolina history to hold that position. As a lawyer during the 1960s he was a major force in the Civil Rights Movement in South Carolina. He played a leading role in a number of significant legal cases, especially to assist activists who participated in sit-ins and other demonstrations and who were being criminally prosecuted. Among the cases he helped prepare were *Edwards v. South Carolina*, in which the United States Supreme Court established significant first amendment protections for demonstrators; *Peterson v. City of Greenville*, in which the Supreme Court enlarged the jurisdiction of federal constitutional protections over premises that had previously been thought to be outside federal antidiscrimination rules; and *Newman v. Piggie Pack Enterprises*, one of the Supreme Court's early interpretations of the Civil Rights Act of 1964. For many years he was the only lawyer available in South Carolina to represent African-American defendants in capital cases. South Carolina State University (B.S. 1948; LL.B., 1951).

A pioneer whose tireless and skillful adovocacy helped protect and propel the pioneering actions of others, he was the leading attorney for the Civil Rights Movement in South Carolina. Often without pay, he provided knowledgeable, timely, and wise counsel to young activists we now rightly view as heroes. Inside and outside the courtroom, his legal acumen and his social vision helped to secure Constitutional protections for such freedoms as speech and assembly, and helped to replace discrimination with opportunity. As the first—and so far only—African-American judge on the federal district court in his native state, he extends a lifelong commitment to integrity and fairness, to liberty and justice for all.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NOS. 105-53 AND 105-54

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on June 23, 1998, by the President of the United States:

First, Treaty with Niue on Delimitation of a Maritime Boundary (Treaty Document No. 105-53);

Second, Treaty with Belize for Return of Stolen Vehicles (Treaty Document No. 105-54).

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith, for advice and consent of the Senate to ratification, the Treaty Between the Government of the United States of America and the Government of Niue on the Delimitation of a Maritime Boundary. The Treaty was signed in Wellington May 13, 1997. The report of the Department of State is enclosed for the information of the Senate.

The sole purpose of the Treaty is to establish a maritime boundary in the South Pacific Ocean between the United States territory of American Samoa and Niue. The 279-mile boundary runs in a general east-west direction, with the United States islands of American Samoa to the north, and Niue to the south. The boundary defines the limit within which the United States and Niue may exercise maritime jurisdiction, which includes fishery and other exclusive economic zone jurisdiction.

Niue is in free association with New Zealand. Although it is self-governing on internal matters, Niue conducts its foreign affairs in conjunction with New Zealand. Niue has declared, and does manage, its exclusive economic zone. Therefore, the United States requested, and received, confirmation from New Zealand that the Government of Niue had the requisite competence to enter into this agreement with the United States and to undertake the obligations contained therein.

I believe this Treaty to be fully in the interest of the United States. It reflects the tradition of cooperation and close ties with Niue in this region. This boundary was never disputed.

I recommend that the Senate give early and favorable consideration to this Treaty and advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 23, 1998.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of Belize for the Return of Stolen Vehicles, with Annexes and Protocol, signed at Belmopan on October 3, 1996. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of stolen vehicle treaties being negotiated by the United States in order to eliminate the difficulties faced by owners of vehicles that have been stolen and transported across international borders. When it enters into force, it will be an effective tool to facilitate the return of U.S. vehicles that have been stolen and taken to Belize. The Treaty establishes procedures for the recovery and return of vehicles that are registered, titled, or otherwise documented in the territory of one Party, stolen in the territory of that Party or from one of its nationals, and found in the territory of the other Party.

I recommend that the Senate give early and favorable consideration to the Treaty, with Annexes and Protocol, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 23, 1998.*

EXECUTIVE SESSION

NOMINATION OF EDWARD L. ROMERO TO BE AMBASSADOR TO SPAIN AND AMBASSADOR TO ANDORRA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate go into executive session and proceed to the following nomination reported by the Foreign Relations Committee today:

Edward Romero to be Ambassador to Spain and Ambassador to Andorra.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read the nomination of Edward L. Romero, of New Mexico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Andorra.

The Senate proceeded to consider the nomination.

Mr. DOMENICI. Mr. President, I am pleased to introduce an old personal friend and a highly qualified individual as the nominee for the U.S. Ambassador to Spain.

Ed Romero is not only a native New Mexican, he is a descendant of the Spanish colonists who first settled in New Mexico in 1598. Mr. Romero's personal biography represents both a commitment to his heritage and diligence as a upstanding citizen of this country.

In the fulfillment of his duties as a New Mexican and an American, Mr. Romero headed several delegations to Mexico to forge the relationships necessary to expand business opportunities. He was also a member of the U.S. delegation to the Helsinki accords.

Mr. Romero was the founder and Chief Executive Officer of Advanced Sciences, Inc. Mr. Romero also founded the Albuquerque Hispanic Chamber of Commerce and is currently on the Boards of several Hispanic and Latin American Business and Cultural Associations and Foundations. In his civic and community pursuits, he has been recognized by organizations as diverse as the National Kidney Foundation, New Mexico's Air National Guard and the New Mexico Anti-Defamation League. Mr. Romero has traveled extensively in Spain and speaks fluent Spanish.

Mr. President, it is my pleasure and, indeed, an honor to introduce to the Senate an individual as distinguished and qualified for the position of Ambassador to Spain as Edward Romero. I believe his background and commitment will make him a gracious, competent and effective representative of the U.S. I fully support his nomination and respectfully ask my colleagues in the Senate for their careful consideration of Mr. Romero as the next U.S. Ambassador to Spain.

Mr. FRIST. Mr. President, I ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nomination appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF STATE

Edward L. Romero, of New Mexico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

Edward L. Romero, of New Mexico, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Andorra.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR WEDNESDAY, JUNE 24, 1998

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. on Wednesday, June 24. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of the Coverdell A+ education conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I further ask unanimous consent that there be 2 hours for debate remaining on the Coverdell conference report divided in the following manner:

Senator GRAHAM, 20 minutes; Senator KERRY, 10 minutes; Senator TORRICELLI, 15 minutes; Senator DASCHLE, 15 minutes; Senator COVERDELL, or his designee, 1 hour.

Further, that following the expiration or yielding back of time, the Senate proceed to a vote on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I further ask unanimous consent that following disposition of the education conference report the Senate immediately resume consideration of S. 2057, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, the Senate will reconvene on Wednesday at 9:30 a.m. and resume consideration of the Coverdell education conference report.

Under the previous order, after the expiration or yielding back of debate time, the Senate will proceed to a vote on adoption of the conference report. That vote is expected to occur at approximately 11:30 a.m. Following that vote, the Senate will immediately resume consideration of the defense authorization bill.

The majority leader has announced that it is his hope that the defense bill can be concluded by Wednesday evening, or Thursday at the latest.

Members are encouraged to come to the floor during Wednesday's session to offer and debate their amendments to the defense bill under short time agreements. Therefore, rollcall votes should be expected throughout tomorrow's session of the Senate.

For the remainder of the week, the Senate may also consider the Higher Education Act, the IRS reform conference report, any available appropriations bills, and any other legislative or executive items that may be cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:06 p.m., adjourned until Wednesday, June 24, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 23, 1998:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JANE E. HENNEY, OF NEW MEXICO, TO BE COMMISSIONER OF FOOD AND DRUGS, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE DAVID A. KESSLER, RESIGNED.

COMMODITY FUTURES TRADING COMMISSION

BARBARA PEDERSEN HOLUM, OF MARYLAND, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 2002. (REAPPOINTMENT)

DEPARTMENT OF COMMERCE

KENNETH PREWITT, OF NEW YORK, TO BE DIRECTOR OF THE CENSUS, VICE MARTHA F. RICHE, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 23, 1998:

DEPARTMENT OF STATE

EDWARD L. ROMERO, OF NEW MEXICO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SPAIN.

EDWARD L. ROMERO, OF NEW MEXICO, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANDORRA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, June 23, 1998*

The House met at 9 a.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 21, 1997 the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member except the majority leader and minority leader or the minority whip limited to not to exceed 5 minutes, but in no event shall continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Florida (Mr. SCARBOROUGH) for 5 minutes.

CONGRESS MUST NOT TURN A BLIND EYE TO CHINA'S ABUSES

Mr. SCARBOROUGH. Mr. Speaker, this past weekend, human rights activist and former political prisoner, Harry Wu, was interviewed on "This Week." When asked about America's relations with China, and specifically asked about President Clinton's assertion that one must accept the administration's position towards China or be seen as a backwards isolationist, Mr. Wu responded by stating, "President Clinton said if you disagree with my engagement policy, that means you want to apply isolation. This is too cheap to argue. Okay, today there is nobody talking about isolation. Between isolation and engagement there is something in the middle."

Mr. Speaker, what Mr. Wu may not understand as a recent arrival in the United States of America is what actually underlies the China policy not only of this administration but also of many in this Congress.

Why do we continue to embrace a regime that this President called the "Butchers of Beijing" just a few years ago? Unfortunately, it is because of America's obsession with finance. Our obsession with finance and a Dow Jones over 9,000 points, absolutely mesmerizes politicians who are led to believe they can get away with anything, so long as the Dow is doing well and the economy is clicking along while constituents personal incomes are rising.

The soaring Dow also mesmerizes the wizards of Wall Street, who have been stumbling over each other acting as apologists for the butchers in Beijing. One CEO has said there is actually more democracy in China than in America because, after all, more Chinese vote. The Wall Street Journal reported one defense contractor firm that sent their engineers over to China to train Chinese engineers how to make their jet fighters more competitive with American jet fighters.

Well, unfortunately, I think we are making a grave mistake. I think we are turning our back on the idea that America is the last great hope for a dying world, whether it is us turning a blind eye to the horrors of Sudan where Christians are persecuted, and turning a blind eye simply because we want an oil pipeline over there. Or whether it is turning a blind eye to the Buddhists being brutalized in Tibet because we do not want to, after all, offend China. Or whether it is this China MFN debate where we find out that the Communist Chinese are funneling money to America to influence our elections.

We hear nothing but silence because, after all, we do not want to offend the next great export market for the United States of America.

Mr. Speaker, I think it is regrettable. And I think this false choice that we must somehow either believe in pure, unadulterated free trade with the Communist Chinese regime or risk being isolationists is a false choice that is very dangerous.

Those of us that are opposed to MFN with China are being attacked not only by the President but by lobbyists downtown. BIPAC, a business PAC, has sent an angry memo around talking about backward isolationist Republicans who are not "business friendly."

I am distressed that we are being attacked because of our concern with a regime that is the most oppressive in the world; because we have concerns with a regime that has killed 60 million of their own people since 1949; because we are concerned about a regime that continues to export nuclear technology to Pakistan and Iran; because we are concerned with a regime that continues to steal America's intellectual property; because we are concerned with a regime that continues to abuse human rights; because we are concerned with a regime that continues to persecute hundreds of thousands of Christians and Buddhists and other people seeking religious freedom.

Let us reexamine our China policy.

Russell Kirk once said, "No matter the volume of its steel production, a nation which has disavowed principle is vanquished." And Winston Churchill, when asked about the current state of his party in the 1950s said, "The old conservative party, with its religious convictions and constitutional principles, will disappear and a new party will rise . . . perhaps like the Republican party in the USA . . . rigid, materialistic, and secular, whose opinions will turn on tariffs and who will cause the lobbies to be crowded with the touts of protected industries."

Mr. Speaker, let us hope that does not happen to the Republican Party of the 21st century.

AMERICAN LABOR MOVEMENT: GIVING VOICE TO WORKERS

The SPEAKER pro tempore (Mr. SHIMKUS). Under the Speaker's announced policy of January 21, 1997, the gentleman from Minnesota (Mr. VENTO) is recognized during morning hour debates for 5 minutes.

Mr. VENTO. Mr. Speaker, today I rise to recognize and support those in my district and around the Nation who are joined together in labor unions to promote workers' rights.

In our free market economy and free enterprise system, freedom for workers means the right to choose a representative and have a voice in their wages and their working conditions. Unions provide and organize an effective means for workers to join together to solve problems and participate in discussions regarding their wages, better benefits, safer working conditions, and better opportunities.

Workers should make their voices heard. Today they celebrate such right. I sincerely hope they have a fair hearing; that people in our Nation will, in fact, listen.

Union organizing is supposed to be a right guaranteed by law; however, in many instances employers have directly interfered with worker organizing efforts. The atmosphere of intimidation in many workplaces makes joining a union difficult, if not impossible. This is, of course, unacceptable. It is time for employers, communities, and legislators to support the right of workers to organize.

Unions perform a vital function in the lives of working families. Despite a booming economy, some workers cannot even remember the last time they got a raise. As the unionized share of the work force has declined, income inequity is increasingly dramatic. At a time when U.S. corporations are making record profits and the economy is strong and stable, it seems unreasonable that working people must struggle

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and too often losing in efforts to make ends meet.

American workers, the most productive workers in the world, deserve to share in the bounty of our economy. The benefits and the path to achieve such justified improvements is through union membership within the labor movement, the same folks who brought us the 40-hour work week and, that is right, and importantly the weekend off.

In fact, union negotiating does not just help those members that belong to that labor union. It helps our society in general and has promoted fair wages, fair taxes, and justice throughout our society. Unions attack all wage gaps, the discrepancy between executive pay and that of workers, income differences for women and for people of color, for the disabled, they fight discrimination and actively promote equal treatment and opportunity for all the workers in our society.

Because better pay and conditions help achieve a more productive work force, union workers earn an average of 33 percent more than nonunion workers and are much more likely to have health and pension benefits, the tools that we need to take care of our family.

Today, the simple justice of joining a union and the self-help and freedom to gain a fair wage is a big problem. In countless organizing campaigns, a majority of workers have clearly voiced a desire for union representation. However, more often than not they are obstructed by their employer's antiunion campaigns. Antiunion consulting industries are booming. It is a big business, guiding employers to manipulate the law and distort the intent in order to stall the organizing process, harass it, threaten and terminate workers who are trying to organize and achieve an exclusive representative, a union.

Mr. Speaker, all this is done with minimal, if any, penalties. In fact, the process is so cumbersome that it generally takes years before violations are even rectified. I have seen this happen firsthand in my own State of Minnesota this past year. Employees at the Metrodome Sheraton Hotel began an organizing drive with huge worker support. In fact, 80 percent of the workers, 112 workers of the 140 workers, signed cards supporting a union. But they had to have an election.

The Sheraton management in turn began a high-pressure campaign to put an end to the organizing and defeat the vote. They paid an antiunion consultant $300 an hour to assist them in their task. Management inundated the workplace with antiunion literature; offered pay raises to employees who promised to go along with the company and vote against the union.

Worst of all, the company repeatedly brought small groups of employees into rooms, where the heat was turned up to almost unbearable levels. Workers were lectured for hours about the evils of unions. They got paid for sitting there. They could not speak up or talk back. They could not ask questions. This is in America and this is legal in labor union elections today.

Mr. Speaker, this tactic of course worked. This election was lost by these workers, these hotel restaurant and housemen that worked at the Sheraton Metrodome in Minnesota. Amazingly, this type of antiunion campaign is neither illegal nor uncommon. Eight out of ten private sector employers hire professional consultants when faced with organizing efforts in their business. They do not want workers organized. They do not want workers in a union. They do not want workers to have such rights accorded in law.

Of course, this tactic works. The result is the frustration and intimidation of workers. In the case of the Minneapolis Sheraton, despite overwhelming support at the beginning of the process, the employees voted not to elect an exclusive representative this past May. But this was an election stacked against the workers and their right to have a union.

Mr. Speaker, a strong labor movement helps all Americans. Let us listen today as these voices are raised of working people across this country.

It is our job as elected leaders to ensure that the national and state laws allow our constituents to enjoy the fundamental values of democracy—freedom of speech and freedom of assembly. That includes, under law and custom, the long honored right to have a voice in their wages and working conditions. When workers are denied that voice, they no longer share in the wealth that they create. The health worker can't afford to be treated at the clinics and hospitals in which they labor. Auto workers can't afford to buy and drive the cars they make.

Congress needs to show support beyond voting positively upon labor issues. We can use our leverage to ensure that the rights and interests of America's labor force are advanced, that working families are accorded dignity and respect. Moreover, we have the obligation to make sure that the employers, policies, and laws that shape this relationship are just and workable.

Workers have the right to fully participate in the political arena. However, today the political voice of labor and working families faces the prospect of being silenced. Frankly, big business has the economic leverage to elect candidates who put the interests of corporations first. Corporations outspend labor unions 17 to one in lobbying efforts and other types of political involvement. We have to support labor organizations, so that they have a fair chance to support the candidates who will amplify the voices, views and concerns of the worker and working families.

Unfortunately, in Washington, DC, too much time and energy is focused on controversy, personalities, and political rhetoric. The everyday struggles of working families are often glossed over and shifted to the back burner. Or worse yet, under the guise of reform turned inside out, further limiting and stripping the worker of the limited rights they today hold. It is time to do the right thing, by respecting laborers and their rights, and truly listen to their concerns. On this day, the day for workers to make their voice heard, I speak for Minnesota working families, and working families across the nation, to recognize and support the right to organize. I encourage all of my colleagues to consider the successes and heartaches of those who are trying to join together in this crescendo to make their voices heard.

VETERANS TOBACCO TRUST FUND ACT OF 1998

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, this morning I want to talk about a very important issue that affects all of our veterans. There has been a great deal of discussion about veterans and tobacco-related illnesses. My purpose this morning is to acquaint Members with legislation I plan to introduce this week.

Mr. Speaker, the measure I intend to introduce is entitled the Veterans Tobacco Trust Fund Act of 1998. What this would do is guarantee that a portion of any funds that are received from a national tobacco settlement law, if it occurs, be dedicated to health care for veterans. Very simple.

Many might argue that not one veteran was coerced into smoking. My response to that assertion is that many young men were exposed to tobacco for the first time when they entered the military service. Free cigarettes were provided to them and thus a habit was started during that time of service.

We must ensure that any man or woman who became addicted and consequently developed health problems due to the consumption of tobacco must be given the health care they were promised when they enlisted to serve this country.

My bill would establish a trust fund to be known as the Veterans Tobacco Trust Fund, providing that if a tobacco settlement is enacted, then $3 billion would be credited to the trust fund. The funds would be made available to the Secretary of Veterans Affairs to furnish medical care and to conduct medical research, rehabilitation research, and health systems research related to tobacco addiction.

□ 0915

I also want to clear up an issue which has caused a great deal of consternation among the veterans and here on the House floor. I am referring, of course, to the recent vote we had on H.R. 2400, the Transportation Equity Act.

First, let us be clear on how this evolved. This was proposed by the Clinton administration in the fiscal year

1999 budget, VA budget, in which the President requested that VA disability benefits for tobacco-related illnesses be repealed. I opposed the President's proposal and its inclusion in H.R. 2400, the Transportation Equity Act for the 21st century. I voted for the Obey amendment that sent H.R. 2400 back to conference and to instruct the conferees to remove the language reducing service-connected disability compensation to veterans for smoking-related illnesses. Unfortunately this motion was defeated.

I also joined the gentleman from Arizona (Mr. STUMP), chairman of our Committee on Veterans' Affairs, in sending a letter to the Speaker and to the minority leader, the gentleman from Missouri (Mr. GEPHARDT), voicing strong opposition to any provision that would offset veterans' benefits to pay for other programs.

Regrettably, we were not successful in our effort to prevent the administration's proposal to repeal VA disability compensation benefits for tobacco-related disabilities from being passed in part of H.R. 2400. However, we did prevail in providing benefit increases for veterans going to college on the GI bill, severely disabled veterans needing modifications for automobiles or their homes, and widows of veterans who died from service-connected disability.

As chairman of the Subcommittee on Health, I am committed to finding the funds to compensate the VA for the cost of providing health care for them, including smoking-related illnesses. That is why I developed the Veterans Tobacco Trust Fund Bill, so that funding will be made available should a national tobacco settlement be enacted into law.

Mr. Speaker, I urge my colleagues to join me in my efforts to help our Nation's veterans and sponsor my bill.

ADOPT A RELIGIOUS PRISONER IN VIETNAM

The SPEAKER pro tempore (Mr. SHIMKUS). Under the Speaker's announced policy of January 21, 1997, the gentlewoman from California (Ms. SANCHEZ) is recognized during morning hour debates for 3 minutes.

Ms. SANCHEZ. Mr. Speaker, I rise today to urge my colleagues to participate in the Adopt a Religious Prisoner in Vietnam Campaign, sponsored by the Hoa Hao Buddhist Church of Southern California. Religious believers around the world often suffer abuses, including beatings, tortures, extended incarceration and, yes, even death at the hands of their government, unless their leaders intervene.

As Members of Congress, it is our responsibility to highlight the ongoing repression against religion in Vietnam and the plight of many clergy members and lay leaders who are being detained because of their faith. Reports show that the Hoa Hao Buddhist Church continues to be suppressed. All religious activities and ceremonies are prohibited. Assembly of more than three persons is forbidden, and all assets and properties are being confiscated.

Religious expression is a fundamental right of all people, both here and abroad, and I believe that we should do all we can to affirm this principle. For too long, imprisoned people of faith have been forgotten. With Members of Congress adopting prisoners, we can successfully advocate for religious prisoners suffering persecution at the hands of the Vietnamese government. I adopted Mr. Tran Huu Duyen and Mr. Nam Liem to raise awareness among U.S. decision-makers and the public about religious repercussion in communist Vietnam. What crimes did these men commit to suffer such hard prison sentences?

Mr. Liem is a 58-year-old Buddhist priest who practices religion at a small family temple in Vietnam, and since 1975 he has been arrested and detained by the communist authorities over 50 times for having refused to abandon his religious practice. To date, he has not been released from prison.

After the Communist takeover, Mr. Huu was arrested and charged with plotting to overthrow the people's government, for participating in a political party that was affiliated with the church. Mr. Huu is last known to be in a labor camp in Xuan Loc and, despite his 78 years of age, he is still forced to do hard labor 8 hours a day.

By adopting these prisoners, Members of Congress can generate constant pressure on the Vietnamese authorities to release these religious leaders from detention and to truly respect freedom of religion.

SPENDING BY GOVERNMENT BUREAUCRATS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Tennessee (Mr. DUNCAN) is recognized during morning hour debates for 5 minutes.

Mr. DUNCAN. Mr. Speaker, the Washington Times reported last week that Carol Browner, head of the EPA, had led a junket to Paris at a cost of $60,000 to the American taxpayers. Of course, surely this was done to go to some very vital environmental meetings.

Well, no. This trip was made so she and some of her friends could go to the World Cup soccer games, a $60,000 vacation at the expense of the taxpayers for Carol Browner, our environmental administrator. Five-thousand-dollar first class round trip airfares, $300-a-night hotel rooms and then, of course, as is so often the case with this administration, they cannot take these fancy trips without big campaign contributors.

One guest on this trip was Hassan Nemazee, an Iranian American. Hassan Nemazee has contributed at least $125,000 to the Democratic National Committee in recent years and no telling how much to individual Democratic candidates or other committees. Democratic fund-raisers have now sold nights in the Lincoln bedroom, Commerce Department trips, even nuclear technology in return for campaign contributions. You have to wonder how much they will try to make out of the upcoming or the next Olympic games in Australia.

On another and even more wasteful topic, a GAO report released last month said the cost of the space station has now gone up to $96 billion, over five times the original cost estimates. Today the publication Congress Daily says, "Recent reports from the GAO and the Cost Assessments and Validation Task Force on the space station have left even its biggest supporters acknowledging that problems with costs and Russian participation need to be addressed."

Also Congress Daily reports in the article today that the space station will likely be 2 years behind schedule, with each one month of delay costing $100 million. Congress Daily reports today that the space station will likely be 2 years behind schedule, with each month of delay costing $100 million for a program that is already over five times its original cost estimate.

Each day, every day here in Washington we hear about horrible examples of waste, fraud and abuse.

A few months ago it was reported that there was $23 billion, $23 billion with a "B," in waste and fraud in the Medicare program, $23 billion. The entire State of Tennessee, our entire government in Tennessee does not spend that much in a year and a half for education and everything else that the State does. It does not spend as much as the Medicare program has wasted in just one year.

We recently were told about the National Park Service spending $584,000 per home to build 18 houses, 18 houses for its employees in the Yosemite National Park. One of these homes cost $700,000; $584,000 for homes for employees of the National Park Service.

It is amazing, Mr. Speaker, what Federal bureaucrats can justify or rationalize for themselves. The American people should realize that any money they send here to Washington to our Federal Government will be spent in the least economical, least efficient, most wasteful way possible. It is amazing, Mr. Speaker, what government officials and bureaucrats will do when they are spending other people's money.

THE IMPORTANCE OF THE LABOR MOVEMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from California (Ms. ROYBAL-ALLARD) is recognized during morning hour debates for 4 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, we must never forget a time in our country when American workers were forced to toil in appalling conditions, earning pitifully low wages, a time when men, women and, yes, even our children labored under hazardous conditions even during 12 hour work days without breaks or sick leave. If they were injured or dared to complain about these injustices, they risked losing their jobs.

Today, thankfully, we have a minimum wage, an 8 hour workday, sick leave, health and safety protections, workers' compensation and unemployment insurance, overtime pay, Social Security, pensions and the right to organize.

These hard-won protections may never have been realized without the heroic efforts of organized labor. For it was organized labor that led the campaign to provide free public education to all our Nation's children. And it was organized labor that was a leader in helping to pass landmark legislation such as the Civil Rights Act of 1964, the Equal Pay Act, the Occupational Safety and Health Act and the Age Discrimination Act.

As a result, all Americans benefited. That is why, Mr. Speaker, when a ballot initiative in California threatened labor's very existence, voters stood with our unions. On that June 2nd election day, approximately 25,000 volunteers walked precincts and staffed phone banks, turning out California voters in record numbers, and they defeated Proposition 226, the so-called paycheck protection initiative.

The defeat of this antiworker initiative is not only a triumph for California workers but for working families across America.

By defeating Proposition 226, California voters sent a resounding message that the voices of working families will not be silenced. And so will the rest of the country when similar initiatives around the country and in Congress are introduced, because each day every American benefits from the legacy of labor's invaluable achievements.

Mr. Speaker, Americans have a duty to preserve not only these hard-won gains but labor's ability to advocate for working Americans today and in the future.

THE YEAR 2000 PROBLEM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Washington (Mr. METCALF) is recognized during morning hour debates for 5 minutes.

Mr. METCALF. Mr. Speaker, right now it is about 6:30 a.m. on the West Coast. Imagine if you are waking up and for some reason the power is off and your alarm did not ring. The toaster will not work and the TV will not turn on. The faucet and shower are not working either. Your car pool did not show up and the phone will not work to call in late. Even your cell phone is not working.

The streets are a mess because the street lights are out and, as you stop at the bank, your cash machine says your balance is zero. Beyond that, your flight to Chicago has been canceled. In fact, all flights are canceled, and you finally realize that it is going to be a really bad day.

The year 2000 problem is real. In less than 15 months, we will face a different world. Not only will it be a new millennium but the effect and power of computers running every part of our lives may be more real than ever imagined.

□ 0930

Simply put, the year 2000 bug or Y2K, as it is called, if not corrected could, at worst, lead to catastrophic scenarios and, at best, to major inconveniences.

This body has held hearings on this issue. Research studies have been written. The media has been heralding Y2K. Yet, even though we have seen this problem on the horizon for many years, most governmental agencies are not even close to being compliant regarding the myriad of possible commuter mishaps that will come at midnight on December 31, 1999.

The gentleman from California (Mr. HORN) has done excellent work in his report on Y2K. His findings and his grading system of the public sector are troubling. Yes, he graded the Federal agencies just like students. His findings and his grading of the public sector are very troubling.

Over all, the administration gets an "F" for Y2K preparedness. As a teacher in my life before Congress, I can relate to a grading system. First, students do not like to have their grades waived in front of the class, let alone the whole Nation, but like careless students who procrastinate, a test is in place to check on progress.

Frankly, I found the grades for the recent test of the gentleman from California (Mr. HORN) for Y2K compliance for government agencies clearly abysmal. Since the taxpayers are the financial supporters of these agencies, I think it is appropriate to take a look at a few grades.

The Department of Defense, which oversees the largest nuclear arsenal in the world, run in large by computers, gets a "D". The Environmental Protection Agency, this famous organization which monitors the cleanliness of our water and air, gets a failing "F".

The Department of Education, the agency that should be setting a good example for students, is getting an unsatisfactory "D" in computer compliance. The Department of Energy, regulating everything from nuclear plants to hydroelectric dams is failing miserable with an "F".

The Department of Transportation, the agency that has direct oversight over the Federal Aviation Administration and their control of the skies and airplane traffic, is getting an "F". This really concerns me. I fly a lot. These are just a handful of the grades.

While some progress is being made, serious vulnerabilities still remain. The administration with its departments and agencies must be able to provide the American people with a sound plan to deal with Y2K. The unfortunate truth is that the final test is coming in 18 months. If we fail, we cannot just go back and retake the class. We can only live with the circumstances.

ALL AMERICANS BENEFIT FROM ORGANIZED LABOR

The SPEAKER pro tempore (Mr. SHIMKUS). Under the Speaker's announced policy of January 21, 1997, the gentleman from Pennsylvania (Mr. MASCARA) is recognized during morning hour debates for 2 minutes.

Mr. MASCARA. Mr. Speaker, I rise to praise the hard work and efforts that organized labor has given to this country during the past century. These organized groups of men and women from all walks of life are the backbone of the economic foundation of this great country.

Some may argue that the creation of our great American middle class just happened. No. It was built on the backs of working men and women who belong to labor unions. All workers, including nonunion and white collar workers, were given the same benefits fought for by workers who organized and participated in the collective bargaining process.

All Americans benefited. They benefited by having better wages, safety in the workplace, health care benefits and pensions. These benefits, as well as improved working conditions, are now under assault in this country. All workers in this great Nation should join together this week and support a day to make our voices heard.

We must protect the strides we have made during the last half century. We must never go back to the days of deplorable working conditions. Never.

THREE REPORTERS BANNED FROM PRESIDENT'S CHINA TRAVELS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. MICA) is recognized during morning hour debates for 5 minutes.

Mr. MICA. Mr. Speaker, I am here this morning with three empty chairs, and I would like to talk about the President's visit to China. Not since Genghis Khan led hordes of warriors across the Asian plains has China been invaded by a larger political entourage than President Clinton leads this week.

Accompanying him, at taxpayer expense, will be hordes of aides, staff, military, press, and spinmasters. It is reported that more than 1,200 individuals will accompany the President, and fleets of jumbo jets will transport scores of personnel and equipment across the Pacific.

More than six limousines and dozens of vehicles will be shipped to China to add comfort and security for the President's entourage. But what will not be a part of the President's China visit, Mr. Speaker, are three journalists, three U.S. journalists. I have them symbolized by these three empty chairs up here at the well this morning. Three empty chairs.

Three journalists from Radio Free Asia will not be going to China. There will be three empty seats. Three journalists from Radio Free China will have had their visas denied and revoked by Chinese officials just within the last few hours. It is an outrage on the eve of our President's visit that legitimate journalists covering this visit will be barred from reporting this event for Radio Free China.

There will be three empty seats. As this headline today declares, "Beijing pulls visas of three U.S. reporters," we see these three empty seats that signify those journalists who will not be covering this event.

As someone who has advocated a free trade policy towards China in an effort to secure a more free and open China and a free press for the Chinese, I and many others, again, have been betrayed.

If these reporters were allowed to go, they would certainly cover a lavish banquet at the Great Hall. What they would not report, if they could attend, would be the unjust imprisonment of Chinese, such as teacher Lee Hi; and that is reported in today's Washington Post. I commend that to my colleagues.

Lee Hi, a 44-year-old former teacher at a Chinese medical college is serving a 9-year sentence in Beijing's prison. His crime: assembling a list of people jailed for taking part in pro-democracy demonstrations in Tiananmen Square in 1989 from the Beijing area alone. He documented more than 700 in prison. And 158 of those, mostly workers rather than students, received sentences of more than 9 years and are presumed still held. While President Clinton and the Chinese President dine on a sumptuous meal, Lee Hi and others will rot in Chinese prisons.

Mr. Speaker, without a free press and without freedom for political dissidents, we have, in fact, empty chairs, and we have, in fact, an empty policy towards freedom of dissent in China.

SUPPORT THE BRADY BILL, ORGANIZED LABOR AND AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized during morning hour debates for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, there are a number of issues that I would like to discuss this morning, and I hope sometimes that we can read the writing on the wall. It should not be a surprise to America that the Brady bill lives and works.

In a report by the Department of Justice, we have determined that the Brady bill, the 7-day waiting period that caused such consternation and controversy, has prevented some 70,000 persons from illegally obtaining guns in America.

When every day 14 children are killed by guns in homicide cases totaling 5,110 per year, it seems that the least this Congress could do is listen to common sense and support the continuity, the renewal of the Brady bill.

Yet, now we are facing its extinguishing with something on the order of an instant check. Oh, an instant check with computers may be viable, except some might say the year 2000 provides a strange possibility. But I believe the Brady bill, with the 7-day cooling off period, is something that America needs.

More importantly, I believe that America needs less guns and not more guns. The old story of "guns do not kill, people do" is really getting too old. People and guns do kill. Over the last couple of months, we have seen what youth and guns can do.

The Brady bill is an important legislative initiative that should be continued. Mr. Speaker, I hope that we have enough common sense to continue the Brady bill and give it extra life to protect the lives of our children and our families in America.

Why not? Why would the National Rifle Association want us to extinguish the Brady bill so that we can continue to extinguish more available lives in America? Wake up, America. Call in and support the continuity and the continuation of the Brady bill.

Mr. Speaker, I also wanted to speak this morning to those hardworking men and women who work with organized labor. For some reason, we have discounted the historic place in history that they have gained. We have discounted all of the work that they have done to create better working conditions, safer conditions, and better working hours.

We have discounted the kind of benefits that they have gotten for working men and women, things like good wages and child care. And the tragedy of Proposition 226, when the right side of California, meaning the right perspective, the wrong perspective was trying to extinguish the union's right to organize.

In my State of Texas, in the Houston area, I pay tribute to those workers who have been locked out of Crown Petroleum for over 2 years. All they want is a good place to work and fair working conditions.

What do you think would happen to those families if they did not have organized labor to prop them up to provide them with some minimal income while they are fighting with those who do not believe in justice in the workplace? I support organized labor and its effort to create better working conditions for all of America.

We asked the question what would we be like if we had those kinds of hours, bad working conditions, and poor wages. I think if America thinks for a moment, they would applaud organized labor, and thank them for the hard work they have done, and talk to those who put them in a negative light. Let us support them tomorrow as they move forward on a day of commemoration and appreciation.

Finally, Mr. Speaker, let me cite a story that was in the Wall Street Journal, a Pulitzer Prize winning article that talked about a senior who had made great strides in overcoming his neighborhood that was drug addicted.

An African American youth who was described as living in a country within a country, places where many of us did not experience in growing up, stepping over drug dealers and drug deals as he forced his way to school, being teased because he got good grades.

He is now an emerging senior at Brown University, but he had a 960 SAT. For those who know those scores, you realize that, those are not the scores that would be attractive for a place like Brown University.

But do you know what? He was also a recipient of the policy of affirmative action. So you see, it does not really matter whether or not we have made the great strides. Affirmative action is still needed in this Nation.

As an African American, I am a product of affirmative action, but I did not graduate on affirmative action. I am sick and tired of hearing the attack against lacking the need for affirmative action, California's Proposition 209. We defeated Proposition A in Houston, Texas; the initiative in the State of Washington.

Why does America not wake up? We do better if we work together and not work against each other. Yes, there are still populations in this country that need affirmative action. Do they graduate on it? Do they continue living on it? No, they do not. It is just an opportunity. Let us support affirmative action and opportunity.

SOCIAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 4 minutes.

Mr. SMITH of Michigan. Mr. Speaker, the gentleman from Minnesota (Mr. MINGE), a Member of Congress, and I have introduced a bill, H.R. 4033, that deals with some of the mistakes I think that we have been making regarding Social Security and how we calculate and how we treat the money that government borrows from Social Security, that we borrow from the Social Security Trust Fund, and then spend that money on other programs.

The legislation accomplishes two objectives. First of all, we say that from now on, when the general fund or the government borrows from the Social Security Trust Fund, instead of the blank IOUs, in the future it will be required that we have marketable Treasury bills.

□ 0945

Right now what happens is when there is a surplus coming in from Social Security, and Social Security is a pay-as-you-go program, so existing workers pay in their Social Security tax, immediately that is sent out to existing retirees. Anytime there are more revenues coming in than what is paid out in benefits, it goes into what is called the Social Security trust fund. It is not really a trust fund, though. It is simply considered and treated as additional revenue for the general fund to spend on other social programs.

Number one, what we say in this legislation and what we are proposing is that these become marketable treasury bills that the Social Security trustees can walk around to the corner, to the nearest bank, anyplace, and if they need that money to pay benefits, they can do it without coming and begging to Congress to pay back the money that has been borrowed.

The second thing that we do in that bill is say that from now on when we talk about deficits and surplus, we are not going to consider the extra money that is coming in from Social Security, that goes into the Social Security trust fund and is spent on other programs, as revenue in terms of deciding whether we have got a deficit or surplus in this country. Right now we hear a lot of bragging about the fact that we are going to have a surplus, a surplus in the unified budget that might be as high as $60 billion, $70 billion this year, maybe up to $100 billion next year. But because we are borrowing that $70 billion to $100 billion next year from the Social Security trust fund, it is not really a surplus.

So we say from now on, when OMB and CBO scores whether or not we have a deficit or surplus, we are not going to consider the amount that we borrow from the Social Security trust fund as revenue in terms of pretending that we really have a surplus in this country. I think it is important that we be visible.

I have got a letter from Chairman Allen Greenspan, Chairman of the Fed, that says, "Look, what's important is that we have transparency, that there is a clear understanding of what is happening in this country."

I suggest, Mr. Speaker, and I suggest to the American people that there is not a clear understanding as we brag about a surplus when we are depending on the amount that we are borrowing from the Social Security trust fund as revenue to justify in our calculations that there really is a surplus.

I just quote from Allen Greenspan:

> On the first issue, my basic point would be that the financial markets of switching from investments in nonmarketable to marketable treasuries have little or no effect.

It is important that we be transparent, it is important that we be honest with ourselves in the way we calculate these surpluses so that we can make real and honest policy decisions.

FEDERAL RESERVE SYSTEM,
BOARD OF GOVERNORS,
Washington, DC, June 18, 1998.

Hon. NICK SMITH,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN: I am pleased to respond to your request for my thoughts on the bill you have drafted, H.R. 4033, which would direct the investment of social security trust funds to marketable securities and require that budget surpluses or deficits be reported net of social security flows.

On the first issue, my basic point would be that the financial market effects of switching from investments in nonmarketable to marketable Treasury securities should not be significant. The crux of this matter is that it is the net borrowing requirements of the federal government, on a consolidated basis that encompasses the trust funds, that are key in terms of pressures in financial markets. If the trust funds were simply to purchase marketable rather than nonmarketable securities, the net borrowing from the public would remain the same. Under the circumstances, the question would seem to boil down to a matter of which approach is most attractive in terms of dealing with the technical problems of public debt management.

The preceding remarks effectively anticipate what I would have to say about the second issue regarding accounting. A unified budget concept that encompasses the net flows into or out of the trust funds most effectively captures the short-run influence of the government's fiscal activities on the financial markets and the economy. From this standpoint, it would not be desirable, to my mind, to suppress the unified accounts. On the other hand, a budget accounting that separates out social security receipts and outlays may provide an insight into the longer-term financial condition of the federal government that would be helpful in the planning and policymaking process. As with many issues in accounting, the one-size-fits-all approach is likely to be suboptimal. What is important is that the relevant information be presented in as transparent a fashion as possible, so that eveyone can appreciate the financial consequences of policy actions.

I hope that these comments are helpful. Please let me know if I can be of further assistance.

Sincerely,

ALAN GREENSPAN,
Chairman.

WORKERS' RIGHT TO ORGANIZE

The SPEAKER pro tempore (Mr. SHIMKUS). Under the Speaker's announced policy of January 21, 1997, the gentleman from Massachusetts (Mr. NEAL) is recognized during morning hour debates until 9:50.

Mr. NEAL of Massachusetts. Mr. Speaker, it is important for me to stand here this morning and to recognize the significant influences that unions have had on our local communities. The ability and the right of workers to organize across this Nation have allowed for the most basic civil rights to be upheld. Equal opportunity and treatment, freedom of speech and certainly freedom of assembly.

It is imperative that we as a Congress, acting on behalf of all citizens in this Nation, safeguard the right of workers to organize and to reap the benefits of union membership that have been given to generations in the past. This booming economy that we are now experiencing will only continue to be stimulated by an expansion of unionized workers. However, some employers have used threats of harassment, intimidation and coercion to deter employees from making the choice to join with their coworkers to form unions and, yes, to bargain collectively. Such activity cannot and should not be allowed to continue. It contradicts the core foundations of our democracy.

Unions provide for and ensure equality, stability and security in the workplace. Unions guarantee that the voices of employees, regardless of their level of seniority, educational background or level of expertise, all are heard by employers. Unions afford each worker with a means to resolve disputes and to participate in the decision-making process in their workplace.

It is hypocritical for Congress to fight on behalf of human rights violations worldwide without recognizing the human and civil rights violations that are committed by some employers in America. The right to organize must be observed by all employers, and fear of reprisals against workers must be eradicated. No individual should ever fear losing his or her economic existence merely for expressing an opinion or by association.

The right to organize, the right to collective bargaining, are basic and accepted by the broad mainstream of this Nation. The success that unions have had have helped to lift all of us in America. We recognize these basic rights today and give thanks for the good work that unions have accomplished across America.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 50 minutes a.m.), the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HAYWORTH) at 10 o'clock.

PRAYER

Reverend Mike Coleman, Pastor, Park Methodist Church, Hannibal, Missouri, offered the following prayer:

Let us pray.

Almighty God, who governs the world in righteousness and whose judgments are true and righteous altogether, grant that those who rule over our land and who legislate for us, its citizens, may be of one mind in order to establish true justice and to truly promote the general welfare of all our people.

As You, God of Eternity, anointed leaders and called-forth prophets of old, bring to us again Your spirit which makes holy, and call forth from this august assembly today newly-dedicated prophets and newly-determined leaders who will deliver Your message of truth and not just their own.

Lead us to recognize those true representatives and authentic leaders as men and women who walk with You, who love Your people and can walk with them, who empathize their pain and share their joys, who dream their dreams and strive to accompany them in their common goal.

In Your fire and with Your spirit embolden and commission we the people to empower these, our nationally-elected officials, to serve in ways that bring real glory to Your name.

Endow each of these, our representatives, with a right understanding, a pure purpose and a sound speech. Enable them to rise above all self-seeking and party zeal to the nobler concerns of public good and human brother- and sisterhood.

Cleanse our public life of every evil, subdue in our country all that is harmful, and make us to be a disciplined and devoted people, that we may do Your will on Earth, as it is done in heaven.

We ask these things, O God, in the name of Jesus, Your Son, the Christ. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Georgia (Mr. KINGSTON) come forward and lead the House in the Pledge of Allegiance.

Mr. KINGSTON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes from each side.

PASTOR MICHAEL COLEMAN

(Mr. HULSHOF asked and was given permission to address the House for 1 minute.)

Mr. HULSHOF. Mr. Speaker, today I would like to commend the Reverend Michael Coleman, known as Pastor Mike to his parishioners. This morning Pastor Mike opened the United States House of Representatives with his blessings, and we are thankful that the people of Park Methodist Church in Hannibal, Missouri, were nice enough to share him with those of us here in Washington. It is wonderful to hear him spreading the good news.

Pastor Mike has a reputation for bringing folks together, not just Democrats and Republicans, but communities as well. When he served as president of the Ministerial Alliance in Hermann, Missouri, Pastor Mike led an evangelistic crusade that united churches and aided folks in the recovery of their spirit from the 1993 great flood of the Missouri river.

Pastor Mike was designated the Interfaith Regional Disaster Flood Coordinator, and built a team that included churches working along with the local rural mental health center in dealing with clean-up efforts, with the repair and placement of necessities as well as the emotional care of those who were suffering with post-traumatic stress. This was accomplished as a variety of churches and workers came to the area from all across the country, as they did in many communities.

I would like to thank, Mr. Speaker, Pastor Mike, his wife, Nancy, his daughter, Abi, for taking time out of their busy schedules to visit the Nation's Capital. It is a honor to have Pastor Mike bless the floor of the U.S. House of Representatives.

REGARDING THE PRESIDENT'S EXECUTIVE ORDER ON AFFIRMATIVE ACTION PROGRAMS

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, there he goes again. The President of the United States is trying, once again, to go around the American people to implement his liberal agenda. He signed an executive order that greatly expands affirmative action programs in the Federal Government to include sexual orientation as a protected class.

Now most Americans believe that every human being has basic rights, including the right to life, liberty and the pursuit of happiness, but why should someone's sex life be a reason for special status in our government?

Mr. Speaker, the President is out of touch with the American people. The American people do not want quotas, they do not want special preferences, and they certainly do not want affirmative action based on sexual orientation.

Like the President's efforts to put homosexuals in the military, this executive order should be resisted. The American people stand for fairness, not for special breaks for special interests.

THE RENOVATION OF LINCOLN ELEMENTARY SCHOOL

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, Robert F. Kennedy once said when one of us prospers, all of us prosper, and where one of us falters, so do we all.

Over the weekend in my hometown of South Bend, Indiana, we all succeeded and prospered. That is because our local community came together. Inspired by former coach Digger Phelps, the Rotary club organized a renovation of a local school. We raised $200,000. J.V. Peacock and Tom Forsey did all the organization with this local Rotary Club, and 700 volunteers descended on a school to renovate, refresh and renew a local school.

I commend my local community for this modern-day old fashioned barn raising or refreshing of a local school, I commend this effort at the local community and give them all the credit in the world. This was not a Federal program, this was locally driven, and I hope many other school districts and congressional communities will replicate this fine example of local commitment to our public education system.

SALUTING LOCAL EDUCATION PROGRAMS

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, as we work to strengthen education, I wish to spotlight a few schools in my district that have made great strides for our children.

Every year the California Department of Education recognizes schools from across the State that have established a successful track record. Of the 5,000 elementary schools in California, only 200 receive the California Distinguished School award. I am pleased to report that this year four of those schools are in my district.

While Hamilton, Paradise Canyon, Thomas Edison and Ralph Waldo Emerson Elementary Schools each serve different school districts, one thing remains the same. They are all finding innovative ways to meet the needs of local students.

The Distinguished School Award does not come easily. Schools must first submit to a rigorous application process, endless meetings with State and local officials, and have parents, teachers and even students consulted by a nominating committee. This process encourages schools to develop innovative curricula and increases local involvement.

When it comes to success stories in education, I am proud to be able to look no further than my own district.

REPUBLICAN LEADERSHIP'S POSITION ON TOBACCO AND MANAGED CARE: DO NOTHING

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, working families in America have been told that soon the Republican leadership of the House will unveil proposals to address the crises of teen smoking and managed care. I do not know why America and the press have to wait for some grand unveiling. If my colleagues want to know what the Republican leadership's position is on tobacco and managed care, just read the position papers of the tobacco companies and the insurance industry. If my colleagues want to see the tobacco policies of NEWT GINGRICH, just turn on TV and they will see $50 million worth of tobacco ads which the Speaker fully endorses.

Any new legislation Republicans will lamely attempt to pass off as responsible domestic policy has the stamp of approval of big tobacco and the wealthy insurance industry, which means that it will do nothing.

The gentleman from Georgia (Speaker GINGRICH) and the Republican leadership are so dependent upon special-interest money, all they manage to do is ratify the status quo. Tobacco companies will still be allowed to peddle their poison to our kids, and American working families will still be trapped in inadequate health care plans.

CONGRATULATIONS TO COACH TOM PILE AND THE EDWARDSVILLE TIGERS BASEBALL TEAM

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, after 18 successful years with the Edwardsville High School Tigers, Coach Tom Pile is retiring from coaching baseball. He has never won fewer than 20 games in a season, and his teams have made five State tournament appearances. In 1994 he was elected to the Illinois High School Coaches Association Hall of Fame. Even better, Coach Tom Pile is going out on top. Just recently his Tigers won the Class AA Baseball Championship, being the first Illinois Class AA team to finish with a perfect undefeated season, 40 and 0.

While Coach Tom Pile is a constituent of mine, his daughter, Elizabeth Pile, is on the staff of our colleague, the gentleman from Illinois (Mr. COSTELLO).

Congratulations to the Edwardsville Tigers baseball team for a championship season, and especially Coach Tom Pile for a great coaching career and a great daughter.

THE GREAT SATAN IS TURNING INTO THE GREAT SUCKER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Russia wants another $10 billion, and President Clinton says, "Okay with me," even though the last $10 billion was stolen.

That is right. Russian leaders said, and I quote, "It's missing."

In the words of Marvin Gaye, my colleagues, "What's going on?" Russian leaders steal our money, and then with our money they build nuclear reactors in India against our wishes. Then with our money they build missiles and then sell the missiles to Iran who refers to Uncle Sam as "The Great Satan."

Let me say this, Congress. If we give these people another $10 billion, Uncle Sam will not be called Great Satan any more. We will be known as the Great Sucker all around the world. Ronald Reagan must be absolutely sick to his stomach today.

ART COMPETITION WINNER

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today to talk about art.

Today over 300 high school students from around the country will be recognized for their artistic abilities. It is my pleasure to recognize Grace Denenno, a student at Henderson High School in West Chester, Pennsylvania, as the winner from the 16th Congressional District of Pennsylvania of the congressional "An Artistic Discovery" program. Grace is here right now in the gallery with her parents.

Grace's entry entitled "Hey Babe, Happy Birthday," is a black and white pastel work that draws one to it through its expert application of shades and shadows. It is an example of God-given ability nurtured by the love of her craft. It is an example of what happens when students are allowed to pursue their talents.

I encourage each Member and visitor to our Capitol this year to view all of the art work on display in the corridor between the Cannon Building and the Capitol. They will not be disappointed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would take this time to remind all Members that it is against House rules to specify or refer to visitors in the gallery.

HOME OWNERSHIP OPPORTUNITIES FOR LOW-INCOME FAMILIES IN EL PASO

(Mr. REYES asked and was given permission to address the House for 1 minute.)

Mr. REYES. Mr. Speaker, I rise today to speak about an innovative program which provides remarkable home ownership opportunities for low-income families in El Paso. The Lower Valley Housing Corporation of El Paso has helped more than 300 families in my district. These are families with an average annual income of $13,000 or less, and it helps them to acquire their first homes through a private and public construction financing program.

Working with the USDA's Rural Development Fund, families pre-qualify for financing without down payments by agreeing to provide sweat equity. Each family is required to work on the construction of their homes and also their neighbors' by providing at least 65 percent of the labor.

Because of these do-it-yourself contributions, these homes cost only one-third of what the normal construction costs would be. The result is a move away from an expensive apartment rental to the pride of home ownership where families have equity and affordable payments as low as $300 a month for a $42,000 home.

This program is a model for the Nation. Families build strong communities, celebrate home-building skills and gain the pride of home ownership.

□ 1015

COMMENDING THE HARBIN CLINIC, ROME, GEORGIA

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR of Georgia. Mr. Speaker, in 1897, William Pickens Harbin, M.D., later known as Dr. Will, accepted his brother's offer to join his surgical practice in Rome, Georgia.

Shortly after arriving in Rome in 1898 and borrowing money from his brother to begin his medical practice, Dr. Will left Rome to accept a commission as acting assistant surgeon in the United States Army during the Spanish-American War. He saved his military pay, repaid his brother's loan, and returned to Rome after the war in 1901.

The first practice location for the two Harbin brothers was on the second floor of the building at 206 Broad Street in Rome. Prospective patients would shout up from the sidewalk to learn if one or both doctors were in before walking up the long staircase. The cost of an office visit was usually $1 and home visits ranged from $2 to $3.

Mr. Speaker, today the Harbin Clinic staff includes 112 physicians, representing 27 medical specialties. This Sunday, the 28th of June, 1998, they will hold a ceremony in honor of the clinic's 50th anniversary.

I am proud to salute the Harbin Clinic for all it does to serve our community and heal our citizens.

MANAGED CARE REFORM NOW

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, it is time to bring managed care reform legislation to the floor. The quality of medical care for our citizens has declined considerably, and it is time to act now. Some patients are not getting the best medical care possible.

Medical decisions are being made by insurance company bureaucrats, not by medical providers. If you are badly injured or severely ill, you should not have to worry about your insurance coverage. Patients should be able to obtain quality health care, whether or not they have acquired preauthorization for emergency room treatment.

We need to focus on an anti-gag rule, which allows physicians to talk to their patients, an external-internal appeals process, employee choice of insurance, access to specialty care and decision-maker responsibility, which will make the managed care plan that authorizes or fails to authorize health care procedures, be as accountable as medical providers.

Managed care is not inherently bad, but I do believe protections are needed immediately to protect the American people.

AN OUTRAGE AND AFFRONT TO DEMOCRACY

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, on the eve of the President's visit to China, we learn that the Chinese Government has pulled the visas of three U.S. reporters who work for Radio Free Asia and had planned to cover the President's trip. Mr. Speaker, this is an outrage and an affront to democracy.

Today, an expert in Asian studies at George Washington University said in the Washington Post, "In the end, the Clinton visit is much more about symbolism than substance." Well, if that is the case, then we are sending the wrong signals if we stand idly by and tacitly cooperate in this denial of freedom for these three reporters for Radio Free Asia.

The President frequently uses Radio Free Asia as an example of how the United States should push China to improve human rights without using trade sanctions. It is now time, Mr. Speaker, to put actions with our words. We should stand with our reporters, and if the voice of democracy in Asia cannot travel with the President, then the President should not travel.

ENSURING FREEDOM OF SPEECH AND FREEDOM OF ASSEMBLY

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, a strong labor movement helps all Americans. It is our job as elected leaders to ensure that national and State laws allow our constituents to enjoy the fundamental values of democracy, freedom of speech and freedom of assembly.

That includes under the law and custom the long-honored right of workers to have a voice in wages and working conditions under which they labor. When workers are denied that voice, they no longer share in the wealth that they create. Health workers cannot afford to be treated at the clinics and hospitals at which they labor and autoworkers cannot afford to buy and drive the cars they make.

Congress needs to show support beyond voting positively upon labor issues. We can use our leverage and our role to help ensure that the rights and interests of American workers, the labor force, are advanced, that working families are accorded dignity and respect that indeed they deserve.

Moreover, we have the obligation to make sure that employers' policies and laws that shape this relationship are just and workable. Workers have a right to fully participate in the political arena. However, today, the political voice of labor and working families face the prospect of being silenced.

Mr. Speaker, I hope today we will listen to the voice of workers, as today they are speaking up for the rights they need and merit to participate in the free enterprise economy and gain a just reward for their labors.

IMPROVING THE TAX CODE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, there are three things we need to do to our Tax Code these days: We need to reduce it, we need to simplify it, and we need to change the attitude of the IRS.

Last year Congress reduced taxes for the first time in 16 years. This time we are trying again by eliminating the marriage tax penalty. We also hope to reduce capital gains tax and end the death tax, or at least alleviate it.

We have, last week, passed a bill to end the Tax Code by the year 2002, with the hopes that that will open up the debate and set a deadline for moving towards a flat tax or a sales tax.

Finally, this week we will vote to change the attitude of the IRS in a very important major bill saying that you are innocent until proven guilty in matters before the IRS, and that is something that has never been the case in this country.

Three things that this party is going to do and this Congress is going to do: Reduce the Tax Code, simplify the Tax Code, and change the IRS's attitude.

SCANDAL OVER TECHNOLOGY TRANSFERS TO CHINA

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, recent reports that Loral Corporation may have given highly sensitive information to the Communist Chinese Government during April and May of 1996 and harmed national security are alarming, especially given India's decision last month to conduct nuclear tests, partly in response to China's role in helping Pakistan with its nuclear weapons program.

Then we find out that Bernard Schwartz, the CEO of Loral, was the largest single donor to the Democrat party during the 1996 election cycle. Loral, we know, was given a waiver by the Clinton administration in February of this year to export satellite technology to China, even though the Justice Department was in the middle of a criminal investigation of Loral for its last technology transfer.

Many people want to know if Loral was given a waiver because its CEO gave the Democrat party $632,000 in 1996, and, of course, that would be nearly impossible to prove. But the real scandal, the real scandal, is our policy of giving China dual-use technology that is used in their space program and their military programs, from computers, to machines, to tools, to rocket technology. That is the biggest scandal of all.

REALITY CHECK ON TOBACCO LEGISLATION

(Mr. PETERSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Pennsylvania. Mr. Speaker, it is time for a reality check. Our friends on the opposite side of the aisle claim they are not the party of tobacco.

The reality is that through the eighties and mid-nineties, the Democrats accepted 10 percent more money from the tobacco industry than did Republicans, according to Common Cause. The reality is that three out of five top tobacco PAC recipients in the House are Democrats, with the second biggest recipient being the Democrat minority leader.

The reality is that during the recent tobacco debates, our liberal friends took a Republican proposal and turned it into a $868 billion tax increase. Yes, that is billions with a "B." Additionally, that tax would have placed the heaviest burden on lower income Americans who earn less than $30,000 a year.

The reality is that the recent tobacco proposal would have done little to curtail teenage smoking, which was one of its original intents, and would have turned a number of trial lawyers into very rich people.

I join the Republican leadership to make every effort possible to curtail teenage smoking without massive tax increases. That is reality.

EDUCATION SAVINGS ACCOUNTS

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, an important measure was recently passed by this House that begins to liberate American families. Those of us who talk about values like faith, family and personal responsibility must pursue policies that reinforce those values.

Allowing families to save for their children's education through education savings accounts is one such policy. Fourteen million American kids will benefit from this program. Our friends on the left say that they know best how education dollars should be spent. We say parents do. This is one more chapter in the ongoing debate.

Mr. Speaker, we want to return power and resources from the bureaucratized Federal Government back to American families. The good news is American families are winning.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken later in the day.

DRUG-FREE WORKPLACE ACT OF 1998

Mr. SOUDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3853) to promote drug-free workplace programs, as amended.

The Clerk read as follows:

H.R. 3853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug-Free Workplace Act of 1998".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) 74 percent of adults who use illegal drugs are employed;

(2) small business concerns employ over 50 percent of the Nation's workforce;

(3) in over 88 percent of families with children under the age of 18, at least 1 parent is employed; and

(4) employees who use and abuse addictive substances increase costs for businesses and risk the health and safety of all employees because—

(A) absenteeism is 66 percent higher among drug users than nondrug users;

(B) health benefit utilization is 300 percent higher among drug users than nondrug users;

(C) 47 percent of workplace accidents are drug-related;

(D) disciplinary actions are 90 percent higher among drug users than nondrug users; and

(E) employee turnover is significantly higher among drug users than nondrug users.

(b) PURPOSES.—The purposes of this Act are to—

(1) educate small business concerns about the advantages of a drug-free workplace;

(2) provide financial incentives and technical assistance to enable small business concerns to create a drug-free workplace; and

(3) assist working parents in keeping their children drug-free.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) businesses should adopt drug-free workplace programs; and

(2) States should consider incentives to encourage businesses to adopt drug-free workplace programs. Financial incentives may include—

(A) a reduction in workers' compensation premiums;

(B) a reduction in unemployment insurance premiums;

(C) tax deductions in an amount equal to the amount of expenditures for employee assistance programs, treatment, or drug testing.

Other incentives may include adoption of liability limitation as recommended by the President's Commission on Model State Drug Laws.

SEC. 4. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.

The Small Business Act (15 U.S.C. 636 et seq.) is amended by—

(1) redesignating sections 31 and 32 as sections 32 and 33, respectively; and

(2) inserting the following new section:

"SEC. 31. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—There is established a drug-free workplace demonstration program, under which the Administration may make grants, cooperative agreements, or contracts to eligible intermediaries for the purpose of providing financial and technical assistance to small business concerns seeking to start a drug-free workplace program.

"(b) ELIGIBILITY FOR PARTICIPATION.—An intermediary shall be eligible to receive a grant, cooperative agreement, or contract under subsection (a) if it meets the following criteria:

"(1) It is an organization described in section 501(c)(3) or 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from tax under section 5(a) of such Act, a program of such organization, or provides services to such organization.

"(2) Its purpose is to develop comprehensive drug-free workplace programs or to supply drug-free workplace services, or provide other forms of assistance and services to small businesses.

"(3) It has at least 2 years of experience in drug-free workplace programs or in providing assistance and services to small business concerns.

"(4) It has a drug-free workplace policy in effect.

"(c) REQUIREMENTS FOR PROGRAM.—Any drug-free workplace program developed as a result of this section shall include—

"(1) a written policy, including a clear statement of expectations for workplace behavior, prohibitions against substances in the workplace, and the consequences of violating such expectations and prohibitions;

"(2) training for at least 2 hours for employees;

"(3) additional training for employees who are parents;

"(4) employee drug testing by a drug testing laboratory certified by the Substance Abuse and Mental Health Services Administration, or approved by the Department of Health and Human Services under the Clinical Laboratories Improvements Act of 1967 (42 U.S.C. 263a), or the College of American Pathologists, and each positive result shall be reviewed by a Licensed Medical Review Officer;

"(5) employee access to an employee assistance program, including assessment, referral, and short-term problem resolution; and

"(6) continuing alcohol and drug abuse prevention program.

"(d) EVALUATION AND COORDINATION.—The Small Business Administrator, in coordination with the Secretary of Labor, the Secretary of Health and Human Services, and the Director of the Office of National Drug Control Policy, shall evaluate drug-free workplace programs established as a result of this section and shall submit a report of findings to the Congress not later than 1 year after the date of the enactment of this section.

"(e) ELIGIBLE INTERMEDIARY.—Any eligible intermediary shall be located in a state, the District of Columbia, or the territories.

"(f) DEFINITION OF EMPLOYEE.—For purposes of this section, the term 'employee' includes—

"(1) supervisors;

"(2) managers;

"(3) officers active in management of the business; and

"(4) owners active in management of the business.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to require an employer who attends a program offered by an intermediary to contract for any services offered as part of a drug-free workplace program.

"(h) AUTHORIZATION.—There are authorized to be appropriated to carry out the provisions of this section, $10,000,000 for fiscal year 1999 and such sums may remain available until expended.".

SEC. 5. SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (R) by striking "and";

(2) in subparagraph (S) by striking the period and inserting "; and"; and

(3) by inserting after subparagraph (S) the following new subparagraph:

"(T) providing information and assistance to small business concerns with respect to developing drug-free workplace programs.".

SEC. 6. CONTRACT AUTHORITY.

The Small Business Administrator may contract with and compensate government and private agencies or persons for services related to carrying out the provisions of this Act.

SEC. 7. COLLECTION OF DATA AND STUDY.

(a) COLLECTION AND STUDY.—The Small Business Administrator shall collect data and conduct a study on—

(1) drug use in the workplace among employees of small business concerns;

(2) costs to small business concerns associated with illegal drug use by employees; and

(3) a need for assistance in the small business community to develop drug prevention programs.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Small Business Administrator shall submit a report containing findings and conclusions of the study to the chairmen and ranking members of the Small Business Committees of the House and Senate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. SOUDER) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to join with the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Georgia (Mr. BISHOP) as an original cosponsor of this important legislation.

House Resolution 3853 focuses attention on the important problem of substance abuse in the workplace. As chairman of the Subcommittee on Empowerment, I heard testimony from small business owners from different parts of the country who shared with me the great difference that drug-free workplace policy has made in their businesses.

Larry Guzman, from the district of the gentleman from Arizona (Mr. SALMON), told my subcommittee that a drug-free workplace policy not only reduced stolen inventory and increased productivity in his truss-building company, but did so to such an extent that the business reached three times the size he had originally planned.

An owner of a printing company in Cincinnati in the district of the gentleman from Ohio (Mr. PORTMAN), shared his company's experience. Their drug-free workplace program and the employee assistance component led employees to thank management for helping to support their recovery from addiction.

Larry Bennett, who helped lead Ohio's efforts to introduce the kind of financial incentives for drug-free workplace programs contemplated by this bill, shared the story of another small business where the owner worked with his union employees to develop a drug-free workplace policy to meet the requirements of a subcontractor for his clients. Working together, unions and management developed a comprehensive policy that helped the company retain clients and eventually grow.

We know that 71 percent of substance abusers are employed. We also know that many more are employed by small businesses than larger businesses, for a very simple reason: Most large companies in this country have put together drug testing and drug treatment programs, where small businesses do not have the resources to do so. They are afraid they are going to get sued, they are afraid they are going to have different problems.

We heard at an earlier subcommittee hearing from law enforcement that at a local crack house which police had shut down, they found a list of small businesses in the area that did not have drug testing programs because small businesses had become targets of those who abused drugs, because they know that they can get away with it there because small business owners are so inundated and intimidated, inundated with the problems that they have, with the cash flow problems, and intimidated from the potential legal consequences, that they have become victimized by a lot of drug abusers.

□ 1030

The dealers had been helping these users find jobs in small businesses with which to support their habit.

We also know that the drug-free workplace programs are cost-effective for businesses. That is what we found with the experience of the Fortune 200. Ninety-eight percent of the Fortune 200 have drug-free workplace programs. It has taught us that these are cost-effective. They have increased productivity, they have lowered their insurance costs because of accident reductions, they have decreased absenteeism.

H.R. 3853 will help us spread this cost-effective lifesaving program to small businesses around the country by giving grants to nonprofit organizations that deal with drug testing training for small businesses.

Our goal is to get the dollars not directly in another government program, but to nonprofit organizations with an experience in this training, so that they can work with small businesses in what have been legal, effective programs to eliminate the scourge of drug abuse, to help the individuals involved, to help the productivity in our economy, and to regain the strength of the small business community and their ability not to fall prey to the problems that are plaguing our society in drug abuse.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in reluctant support of H.R. 3853, the Drug-Free Workplace Act of 1998. Mr. Speaker, we all want the goal of a drug-free workplace. The damage that both drugs and alcohol have done on our society can be seen everywhere we look. It is involved in 50 percent of domestic violence cases across the country. We see it in the drug-related crimes that ravage our neighborhoods. It impacts small businesses by robbing them of an estimated $60 billion annually.

To combat this crisis, we need to provide greater assistance on all fronts in this struggle, including to our small businesses. It is unfortunate that only 3 percent of the small businesses have drug-free workplace policies. This is not due to a lack of recognition by small business, but given the choice of meeting payroll, creating a safe workplace, and serving customers, the value of investing time and money into implementing a drug-free workplace can easily get lost in the shuffle.

The question, then, is not whether we should act, but how we should act to create a drug-free workplace. Unfortunately, this legislation falls short in many areas. We have heard from the U.S. Chamber of Commerce and General Barry McCaffrey of the Office of National Drug Control Policy. It should come as no surprise that they support stopping drugs in the workplace.

What should be of concern is that there are some very real issues that must be addressed if we are going to create a successful program. With the adoption of this legislation, the Small Business Administration will begin a new venture into social policy.

I am very concerned that, once again, the committee is creating a new program. This is an area in which the SBA has no knowledge or expertise. Yet, Congress will be committing $10 million to this program. That is the equivalent to the entire SBA budget for our Nation's Women's Business Development Centers. With an estimated SBA budget shortfall of more than $100 million, it is hard to understand where the money will come from.

The reality is that it will be taken from existing programs, like the Small Business Development Centers that exist in almost every community across the country. It will come from the microloan program that is widely depended upon. These and other programs will be curtailed in order to pay for the program that SBA did not ask for and has no experience in administering. Keep that in mind when one of your constituents cannot get a microloan, or the local SBDC has insufficient funds to serve your district.

We are constantly hearing the need to give business flexibility, but the one-size-fits-all approach this legislation takes will severely limit the ability of small businesses to tailor a program that meets their needs. The outcome will be harming many of the businesses we claim we are here today to help.

If we are truly serious about creating a drug-free workplace, then we must create an environment where employees believe that they will be treated fairly. The bill reported out of committee contains no clear guidance about what happens to an employee who tests positive or voluntarily comes forward. These types of inconsistencies will not foster a drug-free workplace, but create an environment filled with tension and uncertainty.

Mr. Speaker, thanks in large part to Democrats on the committee, several improvements to H.R. 3853 were made in the areas of counseling, training, and participation by local chambers of commerce. These changes make the bill much more workable.

While these changes vastly improve this legislation, until we address the cost, flexibility, and employee protections, we may be throwing money at a problem without accomplishing our goal of creating a drug-free workplace.

Mr. Speaker, I reserve the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to make a couple of points. In the Committee on Small Business, the Democrats made 9 amendments. Seven were accepted and only two defeated. The bill was not opposed in committee. We spent 4 hours in markup trying to work through all of the different concerns that were addressed there.

I believe we have an excellent bill. It requires that small businesses have a written plan that spells out consequences of any policy, and training sessions to review the policy. Employees, supervisers, managers, partners, and owners who actively manage the small business will all be subject to any drug-free workplace. We felt we needed to lead by example.

Nonprofit groups with expertise in drug-free workplace policies that will administer the bill must have a long history, and the bill does not in any way change laws that protect workers. I think we have gone out of our way to meet all of the concerns that the minority was raising, in addition to some of the majority members, and made a very, very good bill even better.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN), the distinguished author of this bill, the leader in the House of many of the prevention and demand reduction efforts.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me the time, for allowing me to talk on the legislation, and for all the good work he did in shepherding this bill through his subcommittee and through the Committee on Small Business.

The markup that he just explained was a rather comprehensive and sometimes long series of exchanges, but I think it was good in terms of perfecting the legislation. I applaud the full committee for doing that.

I want to particularly commend the subcommittee chairman, the gentleman from Missouri (Mr. TALENT) for his support of drug-free workplace programs, and in particular, his willingness to expedite this legislation.

Notwithstanding some concerns that the gentlewoman has expressed this morning, I want to also thank the ranking member, the gentlewoman from New York (Ms. NYDIA VELÁZQUEZ) for her support of the legislation, and again, for working with us to help to perfect it.

Let me try to put this bill in some kind of perspective. It is really part of what we hope will be a measured response here in Congress to a vexing national problem, which is how to substantially reduce the growing problem in this country of substance abuse and move towards a drug-free America.

Unfortunately, we are far from that today. In the 1960s about 3 percent of the American population had used illegal drugs. Today that figure is close to about 40 percent. The trends are not helpful. When we look at the last 5 years, for instance, we see a doubling of teenage drug use in this country.

Congress has attacked the problem on a number of fronts. We have expanded efforts to cut off the supply of drugs by increasing funding for so-called source country efforts: destroying coca fields, using the military more efficiently to interdict drugs. We have passed legislation just last month, in fact, to tighten border controls in our country.

Even more encouraging, from my perspective, we have begun a concerted effort here in Congress to get at the heart of the problem by reducing the demand for illegal drugs. That is why this Congress took the unprecedented step last year of working in partnership with the private sector to launch the most aggressive antidrug public service campaign in history. Working with the Partnership for a Drug-Free America and the Office of National Drug Control Policy, we have started a $380 million campaign to change the hearts and minds of America's young people, and to engage parents again in this battle to turn the tide before it is too late.

That is why we passed the Drug-Free Communities Act last year, to jumpstart prevention and education efforts at the local level that are actually working in our communities to mobilize parents, teachers, coaches, ministers, rabbis, law enforcement officials, kids, and yes, employers, in a concerted effort to make our streets safer, to allow our schools to teach, and to reverse the troubling trends we talked about in the last 5 years.

That is why we are putting existing Federal prevention programs under the microscope, to see which ones are working and which ones are not, and to try to maximize the impact of the Federal dollars we are spending on prevention, education, and treatment.

That is why we are working on innovative strategies to try to improve the frankly very disappointing treatment outcomes we see around the country for addicts, and why we are moving legislation this session to put effective treatment into our prisons and our jails.

Today's bill is a part of this overall strategy. It is a critical part of it, because if we do not deal with the workplace, we are not going to get America to kick the habit. The Drug-Free Workplace Act, as the gentleman from Indiana (Mr. SOUDER) and the gentlewoman from New York (Ms. VELÁZQUEZ) have already talked about, is bipartisan legislation that addresses the workplace.

The data tells us that targeting the workplace makes a lot of sense. Over 74 percent of drug users are employed. Substance abusers file 5 times, 5 times the number of workers' compensation claims in this country. Those who use drugs will have 3 to 4 times the number of workplace accidents as nonabusers, and drug users are 2½ times more likely to have absences of 8 days or more.

These numbers highlight the fact that drug abuse threatens safety, it raises costs, it lowers productivity, and most significantly, it has a detrimental impact on the worker that can and must be addressed.

Fortunately, there does seem to be a growing consensus, I think, on both sides of the aisle, cutting across all partisan and really ideological lines, that the workplace is one of the key sectors where we have to address the drug abuse problem.

The bill has garnered strong bipartisan support. The gentleman from Georgia (Mr. SANFORD BISHOP), who we will hear from in a moment, a Democrat from Georgia, and the gentleman from Indiana (Mr. MARK SOUDER), a Republican, join me as original cosponsors of this legislation. General Barry McCaffrey, the Administration's drug czar, director of the Office of National Drug Control Policy, sent a letter expressing the Administration's support of this legislation.

Both sides of the Committee on Small Business, as we have said earlier, have worked hard together constructively to perfect a bill. The amendments from the gentlewoman from New York (Ms. VELÁZQUEZ), the gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN) the gentleman from Illinois (Mr. JACKSON), the gentleman from Illinois (Mr. MANZULLO), the gentlewoman from California (Ms. MILLENDER-MCDONALD), and the gentlewoman from New York (Mrs. MCCARTHY) all offered thoughtful, well-considered amendments, and I am glad they were included in the legislation before us today.

Fortunately, the private sector already recognizes that drug-free workplace policies are good for employees, the community, and businesses. But while 98 percent, 98 percent, of Fortune 200 companies have drug-free workplace policies, only 3 percent of companies with fewer than 100 employees have such policies. So larger businesses are fully engaged in this. It is the smaller businesses where we are not seeing the kinds of results that we would like.

It is certainly not due to any failure on small business's part to recognize the importance of the programs. Like the Fortune 200, small businesses understand that drug-free workplaces will reduce absenteeism and accidents, lower workers' comp costs, health care costs, help to educate parents in the workplace to talk to their kids about the dangers of drugs, and most important, I think, help workers, both those who are not substance abusers who want and demand and deserve a safe workplace, and those who are struggling with addiction and need help.

But the challenges that small businesses face are daunting. Without the economies of scale achieved by larger companies, it is costly. Without human resources staffs, developing written anti-drug policies and providing employee assistance programs can be risky from a liability perspective.

Small businesses are starting to recognize the need for drug-free workplace programs, but they need assistance in implementing these important programs. The high costs of workers' comp insurance for drug-related accidents, the expense of replacing stolen inventory, stolen to pay for a drug habit, the lost productivity of somebody dealing with substance abuse in their family, all are issues small business owners need to address.

Just as we provide technical assistance in developing business plans, identifying loans and other small business services, we need to provide assistance for drug-free workplace programs.

This legislation has three components. First, it urges States to help make drug-free workplace programs more affordable for all companies through innovative programs like workers' compensation premium discounts. Second, it provides grants to nonprofits to help empower small businesses to work together on developing drug-free workplace policies, and to save money by forming consortia to contract for employee assistance and drug testing programs.

Finally, it uses the existing network of over 900 Small Business Development Centers all over the country to provide technical assistance to small businesses as they develop drug-free workplace policies.

Workers' compensation is a natural; in Ohio, we now have a 20 percent discount in place. Seven other States are doing it. It is working well. If we can get more States to do it, we will see a lot more businesses having that financial incentive getting involved in drug-free workplaces.

The nonprofit program in the bill I mentioned will help expand small networks of programs, like the Regional Drug-free Workplace Initiative in Portland, Oregon, the Houston Drug-free Workplace Business Initiative, and the Chicagoland Chamber of Commerce plans, to help these small businesses develop written workplace policies and achieve economies of scale in testing and employee assistance programs.

These programs have met with great success wherever they have been used, and small businesses participate with enthusiasm when they are available.

□ 1045

We can spread the success with a very small Federal investment in a short-term grant program that authorizes the program just for one year to jump start this effort.

Nationwide, communities that implement these programs find that businesses and charitable organizations have been eager to support the programs once they see the effect that they have.

Finally, the last part of the bill, the technical assistance provided by the Small Business Development Centers, will greatly expand access to policy development resources. Over 900 centers would provide support to small businesses in developing drug-free workplace programs, expanding on the excellent work those current SBDCs do in other areas.

We have to remember that small businesses employ over 50 percent of the workers in this country and generate the majority of new jobs in this country. If we are to achieve our goal of a Drug-Free America, they cannot be left out.

With this targeted legislation, we can make a difference with a modest, one-time investment. By reaching out to small businesses that are increasingly interested in getting involved in drug-free workplace programs, we can reach out to them and dramatically expand the reach of these programs to cover 74 percent of the drug users in this country who are employed, and, just as importantly, the working parents of 84 percent of our children.

By expanding these efforts to identify and combat drug use in the workplace, we can reduce the human cost to our society and the direct costs to our economy of drug use. But we will also create a safer work environment for those who work in smaller companies, help the bottom line, and educate parents on getting the message to kids that drug use is wrong and harmful.

For all these reason, this legislation has the strong support of the U.S. Chamber of Commerce, the Institute for a Drug-Free Workplace, the National Alliance for Model State Drug Laws, the Community Anti-Drug Coalitions of America, the Small Business Administration, the Office of National Drug Control Policy, and the Association of Small Business Development Centers.

Mr. Speaker, I hope my colleagues on both sides of the aisle will join us in supporting this important bipartisan bill to make workplaces all across America drug-free, safe, and healthy environments. I commend the gentleman from Indiana (Mr. SOUDER) and the gentlewoman from New York (Ms. VELÁZQUEZ) who led this fight in the committee.

Ms. VELÁZQUEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. BISHOP), one of the main sponsors of the bill who has worked tirelessly on this issue.

Mr. BISHOP. Mr. Speaker, I thank the gentlewoman from New York (Ms. VELÁZQUEZ) for allowing me to speak on this measure.

Mr. Speaker, I wish to commend the gentleman from Ohio (Mr. PORTMAN), the bill's cosponsor with me, the gentleman from Indiana (Chairman SOUDER), the gentlewoman from New York (Ms. VELÁZQUEZ), ranking member, and the members of the Subcommittee on Empowerment for their expeditious consideration of this bill.

I would also like to commend the United States Chamber of Commerce for being willing to step up and get involved.

Mr. Speaker, government cannot do everything and certainly we need law enforcement, we need interdiction, and we need more people policing our streets for drugs. But at the same time, we need to stop the market for them. We need to relieve those people who are addicted.

This bill, I believe, goes a long way to doing that. And the fact that the U.S. Chamber of Commerce has stepped up to the plate and gotten involved demonstrates how well we can work together to create a partnership in addressing such a serious concern as the epidemic of drug use and drug abuse.

Mr. Speaker, I would also like to commend my colleagues in this House, on the committee and across the House, for the bipartisan effort in support of this measure.

Drug abuse and drug use is not a Democrat nor a Republican issue. It is a people issue. It is an issue that compromises the effectiveness of the people and the workers of the United States of America. For that I would like to commend my colleagues for coming together in a bipartisan manner to address this problem.

As a cosponsor, I rise to support this very important legislation which provides funding and the necessary infrastructure to help small businesses, that are the lifeblood of our economy, implement drug-free workplace policies. Ninty-eight percent of the Fortune 200 companies have drug-free workplace programs in operation. They understand the importance of this issue.

According to a 1997 Department of Health and Human Services Substance Abuse and Mental Health Services Administration study, 11 percent of workers in businesses with 25 or fewer employees admitted current illegal drug use, over twice the rate reported by employees in larger firms.

Small businesses understand the necessity for drug-free workplace programs, but do not have the resources and the expertise to implement these programs. This bill will provide them with that assistance.

Mr. Speaker, the abuse of drugs and alcohol in the workplace is a significant hazard to working Americans and it is a serious drain on the economy in terms of lost productivity, increased health costs, and wasted potential. The 1996 Fortune 500 companies Conference Board Survey estimated the cost to the economy from absenteeism, injuries, diminished productivity, to be $200 billion.

The U.S. Chamber's Institute for a Drug-Free Workplace estimates that annual productivity losses from substance abuse amount to $640 for every American workers. This is too high a price to pay, both monetarily and emotionally, as substance abuse not only affects the abuser but everyone around him or her as well.

H.R. 3853 addresses the problem by providing incentives and assistance that will help businesses help their employees as approximately 70 percent of drug users are employed. The bill accomplishes this in three ways.

First, it creates a demonstration grant program for nonprofit intermediaries to provide assistance to small businesses in developing a drug-free workplace by using a variety of strategies to include employee assistance, training, and intervention.

Second, the bill encourages States to provide incentives to businesses that adopt a drug-free workplace policy, such as reducing worker's compensation insurance premiums for drug-free businesses.

And third, the bill uses the over 900 Small Business Development Centers around the country to assist in providing technical assistance to businesses in developing effective drug-free workplace policies.

Mr. Speaker, drug use in all sectors of our society is prevalent and must be attacked on all fronts. H.R. 3853 attacks our drug problem in the workplace. According to the Drug Czar, General Barry McCaffrey, the workplace therefore provides an ideal opportunity to steer the addicted into treatment and to educate both employees and family members on the dangers of drug use.

Therefore, I strongly urge my colleagues to support this measure and vote "yes" for a drug-free workplace. Again, I thank my colleagues, the committee, the ranking member, the chairman, for their courtesies, their kindnesses, and their hard work in bringing this bill to the floor in a very expeditious manner.

Ms. VELÁZQUEZ. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. McCARTHY), who should be commended for her work on improving the training component of this bill.

Mrs. McCARTHY of New York. Mr. Speaker, I thank the gentlewoman from New York (Ms. VELÁZQUEZ) for yielding me this time.

Mr. Speaker, today I rise in support of H.R. 2853, the Drug-Free Workplace Act of 1998. I also commend my colleagues on both sides of the aisle on bringing this bill to the floor. I think it is an important bill and I think it is going to help our small businesses. It has been a pleasure working on the Committee on Small Business on a lot of the issues that we have been doing this year.

Mr. Speaker, drugs in the workplace is a serious and costly problem. Drugs among employees result in increased sick days, accidents, and decreased productivity. Large companies have always recognized this problem and have set up drug-free workplace programs. Unfortunately, although small businesses employ over half the workforce in the country, most small businesses do not have drug-free workplace programs.

We must give small businesses the tools they need to ensure their workplaces are drug-free. The Drug-Free Workplace Act does just that. It provides incentives for small businesses to set up drug-free programs.

One important piece of a drug-free program is training. Training for the supervisors. Training for the employees who participate in the program. As a nurse, I know how complicated drug addiction can be. That is why it is so important for people who are participating with the program to have proper training.

Mr. Speaker, I was delighted that the committee adopted my amendment to strengthen the training requirements. My amendment ensures that small business owners, supervisors, and employees receive the training necessary to make them effective in identifying possible substance abuse problems.

I think this is a commonplace improvement to the bill that will ensure small businesses are able to successfully implement a drug-free workplace program. I think we are doing our small businesses a great service, and I encourage my colleagues to vote for this.

Mr. SOUDER. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. LEWIS), my friend who has been an active member of the Drug Task Force.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in support of H.R. 3853, the Drug-Free Workplace Act of 1998. This legislation is critical in addressing the many problems that result in a workforce that uses drugs.

But I would also like to register my support for the section of the bill that assists working parents in keeping their children drug free. I am currently working on legislation that builds on this provision in H.R. 3853. Specifically, I am looking at establishing incentives to businesses that provide resources and training to parents regarding the importance of speaking to their children about drugs.

Mr. Speaker, as we know, parents are the first line of defense in the prevention and in protecting their children from this terrible plague. Unfortunately, studies show that not enough parents are talking about this important issue with their children.

By giving companies tax breaks, it will encourage them to come up with creative ways to provide parents with the necessary tools to open this discussion. In the end, this will be beneficial to the employer, the employees, the family, and the community.

Mr. Speaker, I look forward to working with members of the Speaker's Task Force for a Drug-Free America on this legislation. In the meantime, I would like to thank the gentleman from Ohio (Mr. PORTMAN) for his efforts, and ask my colleagues to support H.R. 3853.

Ms. VELÁZQUEZ. Mr. Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN), the newest member of the committee, who was instrumental in bringing before our committee the issues of having certified counselors, providing the proper training, and ensuring that the U.S. territories were covered.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I thank the gentlewoman from New York (Ms. VELÁZQUEZ), our ranking member, for yielding me this time and for her leadership.

Mr. Speaker, I rise in support of H.R. 3853, the Drug-Free Workplace Act of 1998. I am pleased that my colleagues on both sides of the aisle consented to include my amendment to ensure that the drug-free workplace counselors and educators provided to small businesses under the demonstration program be fully certified by their State and territorial governments as qualified providers.

Mr. Speaker, as a former small business owner and physician in family practice, I know the value of a drug-free workplace. There are benefits for both the worker and the employer. In light of this measure's provision for mandatory drug testing of businesses who avail themselves of this program, it is important that counselors are not just well-meaning but well trained to advise employers on setting up programs that are well structured, that are based on both employer and employee input, that assist affected employees rather than punish them, and that fit the varied realities of each workplace, considering health, family and confidentiality issues and which can counsel on the consequences of drug testing for both employer and employee.

Mr. Speaker, on the other hand, I am disappointed that my colleagues did not see the wisdom of including in H.R. 3853 the requirement that any training provided to small businesses as a consequence of this bill be culturally appropriate. The American workplace is becoming increasingly diverse. Culturally appropriate training is important because of the very sensitive nature of the issue of drug use and of the need for counselors to be able to communicate clearly when explaining policy and doing counseling for persons of different backgrounds. It is also important to ensure that certain nationalities are not targeted, but that objectivity is maintained in this process.

But, Mr. Speaker, I thank my colleagues on the Committee on Small Business for including another of my amendments which specifically includes U.S. territories, of which my district, the U.S. Virgin Islands, is one.

There are many instances where Americans who live in the U.S. territories are denied access to programs not due to malice, but due to oversight on the part of this body. As an example, the SBA HUBzone program does not include the insular territories due to technicalities in the language, even though the intent of the legislation was to include every American everywhere who is in need of the benefits of the program.

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Mr. Speaker, as my office works diligently with my colleagues to ensure that the territories can benefit from this program, I take this opportunity to remind everyone that the territories are an important part of the American family. I commend the sponsors of this bill. I urge its passage.

Mr. SOUDER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLOMON), distinguished chairman of the Committee on Rules, a warrior in the antidrug effort.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me the time.

Let me first of all just sing the praises for the gentleman from Ohio (Mr. PORTMAN), the gentleman from Illinois (Mr. HASTERT), the gentleman from Indiana (Mr. SOUDER), the gentleman from Kentucky (Mr. LEWIS), the gentleman from Georgia (Mr. BISHOP), and the gentlewoman from New York (Ms. VELÁZQUEZ) for bringing this bill to the floor. It is so terribly important.

Three points need to be made very quickly. Seventy-five percent of all the illegal drug use in America today is not used by people in the inner core cities. It is used by suburbanites who live outside of the cities, who use drugs illegally, recreationally, seventy-five percent of all the drug use in America. If we were to solve that problem, we would knock the value out of drugs.

The other statistic is that 75 percent of all the violent crime in America today is against women and children and it is drug related. Think about that.

Then when you look at the third point, with the skyrocketing use of illegal drugs by our children, not just 17 and 16 and 15 and 14-year-olds but 11, 10, 9, even 9-year-olds, that is just terrible, Mr. Speaker. We are destroying a whole new generation of people.

Back in 1983, President Reagan, at my urging, implemented random drug testing in our military. At that point, 25 percent of all the military were on illegal drugs, 25 percent. Once we implemented random drug testing for everybody, from the buck private to the admirals and generals, within four years the drug use in our military dropped 80 percent. It dropped from 25 percent down to 4 percent.

If we could stop drug use in all Federal employees, all State employees, all county, town, city and village employees and then all the Fortune 500 companies and all of the midsize entrepreneurial companies, drugs would no longer be expensive. People would not use them. There would not be any need for them. And in Colombia they would be making bathtubs instead of exporting drugs into this country. That is how important this is. That is why I praise all of my colleagues for bringing this bill to the floor. It is so badly needed.

God bless them all.

Ms. VELÁZQUEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS), whose work in addressing the need to have testing done by a certified lab was critical in ensuring employees have some protections.

Mr. DAVIS of Illinois. Mr. Speaker, let me first of all commend and congratulate the gentleman from Missouri (Mr. TALENT), the gentlewoman from New York (Ms. VELÁZQUEZ) and actually all of the members of the committee for the outstanding bipartisan manner in which we arrived at bringing this legislation to the floor today.

As a matter of fact, many people throughout America recognize drug use and abuse as having gotten out of hand and as a real menace to society. Therefore, I rise in support of this legislation, and I would note, Mr. Speaker, first of all, that this is a voluntary demonstration project which provides opportunities for small businesses to be meaningfully engaged in efforts to reduce drug use and create safe work environments.

This program is obviously no panacea. However, it is a positive step in the right direction. Therefore, I urge support for it. It provides testing for not only workers but also for managers, for supervisors, for everybody in the workplace. Therefore, no one can accuse it of being discriminatory.

We know that drug use and abuse continue to plague America, and we need bold efforts to really rid it. There are those who would say that this is a minor approach, but I believe, Mr. Speaker, that every step that we take moves us closer to the goal and the goal is to have a drug-free environment. I commend the sponsors. I commend again the gentleman from Missouri (Mr. TALENT), the gentlewoman from New York (Ms. VELÁZQUEZ) and all of my colleagues for an outstanding piece of work and a meaningful piece of legislation.

Mr. SOUDER. Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield 1 minute and 30 seconds to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-McDONALD. Mr. Speaker, I would like to commend both sides for their leadership in bringing such an important topic to the floor.

I am glad that I had a part in this markup, as I brought the issue of alcohol to this program and to ensure that we included language that would require that we had alcohol abuse prevention programs as well as drug abuse prevention programs.

I also want to mention that violence in the workplace, domestic violence is a critical issue with me. I am sorry that we were unable to bring in the counseling for domestic violence in this bill because it is critical. It is an ever-increasing need to address this problem in our workplace.

In one year alone, almost 4 million American women are physically abused by their husbands or boyfriends. With over half of the female population and nearly 90 percent of the male population employed in this country, domestic violence is a public health issue.

I am sorry that we were unable to get this issue in the bill. Domestic violence is a public health problem that we can no longer ignore in the workplace. The issue of domestic violence must become a priority for our country and our Nation's leading businesses.

I thank the gentleman and the gentlewoman for their time, and I would hope that some day we would put domestic violence as part of the Drug Free Workplace Act.

Mr. Speaker, I rise today to offer my thoughts on the Drug-Free Workplace Act of 1998 which is aimed at reducing drug abuse in the workplace. The Small Business Committee marked-up this legislation in an attempt to improve its effectiveness. I am glad to say that many improvements were made. In particular, I am proud of the fact that we were able to include language that would require any drug-free workplace program developed as a result of this bill to include a continuing alcohol and drug abuse prevention program. Prior to my amendment to this bill, there was no mention of alcohol abuse. It is critically important that we address alcohol abuse and addiction when we address drug abuse in the workplace. Prevention of both alcohol and drug abuse is essential for any drug-free workplace program to be successful.

Effective prevention does not occur with just one class or one discussion on the dangers of alcohol or substance abuse. We must ensure that a comprehensive approach will be utilized in accomplishing a productive, drug-free work environment that promotes and protects the life of employees. Such a continuing alcohol and substance abuse program must provide quality prevention and education programs, assess individual alcohol and drug problems, refer individuals struggling with substance abuse problems or addiction to a trained substance abuse treatment professional or facility. Furthermore, such a comprehensive approach provides all employees with the necessary information to be able to see warning signs of substance abuse problems among their colleagues.

Continuing substance abuse prevention programs are a necessity when you consider that more than 70% of drug users and 75% of alcoholics are employed. This is a staggering number that can only be reduced through the use of comprehensive drug-free programs that include prevention as well as a range of effective on-going services that address the complex problems of alcohol and substance abuse.

Although this measure addresses the many issues of alcohol and drug usage on the worksite, the bill could go farther to address some other related issues. One issue that deserves attention is the need to provide counseling for and information on domestic violence. There is an ever increasing need to address this problem. In one year alone, almost four million American women are physically abused by their husbands or boyfriends. With over half of the female population and nearly 90 percent of the male population employed in this country, domestic violence is a public health problem that we can no longer ignore in the workplace.

The issue of domestic violence must become a priority for our country, and our nation's leading businesses agree. In a recent national survey of American businesses, 47 percent of senior executives polled said that domestic violence has a harmful effect on the company's productivity; 44 percent said that it increases health care costs; and 66 percent said that they believe their company's financial performance would benefit from addressing the issue of domestic violence among their employees. The result of these statistics indicate that this problem is affecting more than the women who are abused, but the place in which they work.

Thus, there is the necessity and urgency to provide counseling and education on domestic violence. We must educate both female and male employees on domestic violence. Furthermore, there is a need to recognize the signs of potentially dangerous situations, and how to provide help once the abuse has begun. With such a program in place, we would be able to further address those problems that plague our work environments as well as our homes. It is in this spirit that I encourage my colleagues to continue to work to make the workplace as productive and efficient as possible by addressing not only alcohol and drug abuse, but domestic violence.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself the balance of my time.

In closing, let me once again state that everyone in this Chamber, both Democrats and Republicans, support the goal of the drug free workplace. H.R. 3853 attempts to address this very real problem affecting every aspect of our society.

But if we are truly serious about ending drugs in the workplace, H.R. 3853 will not be fully successful until we address the issue of cost, flexibility and employee protection. I am optimistic that before this program is implemented, these problems will be worked out.

Mr. Speaker, I yield back the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield myself the balance of my time.

I again want to thank the gentleman from Ohio (Mr. PORTMAN) for not only his leadership on this bill but his leadership in focusing on prevention and on treatment as an important part, in addition to interdiction and the judicial approaches to the drug problem, because if we can reduce the usage at the front end, then we do not need to do as much, hopefully, long-term in law enforcement interdiction.

I also want to thank our Speaker, who brought this drug issue to the front of what we are doing in Congress. It is not just this bill today. It has been bills on education. It will be amendments and funding in appropriations bills. If we have a comprehensive effort against drug abuse, illegal narcotics in this country, we, in fact, can make dramatic advances in reducing this scourge in our country.

I also want to thank the gentleman from Illinois (Mr. HASTERT) as well as the co-chairs, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Florida (Mr. MCCOLLUM) of the Drug Task Force, and all the members of the Drug Task Force, the chairman of the Committee on Small Business and the ranking member, the gentleman from Missouri (Mr. TALENT) and the gentlewoman from New York (Ms. VELÁZQUEZ), and also the staff, Al Felzenberg, Harry Katrichis, Tee Rowe, and Emily Murphy, who helped accelerate a bill like this through the committee in a rapid way.

This is a dramatic example of what can happen when both parties work together to benefit the workers of America, the young people of America, the families of America. We are seeing children's lives destroyed by illegal drugs, families destroyed by illegal drugs, our productivity and competitiveness in America destroyed by illegal drugs. This bill is one small step, a part of a continuing effort by this Congress to say, "Say no to drugs," take active action, and we can lick this problem.

Mr. PAUL. Mr. Speaker, I rise in opposition to H.R. 3853, The Drug-Free Workplace Act. Certainly there are many things the Federal Government can do to minimize the negative impact illicit drug users have upon society. Further expanding a philosophically bankrupt national drug war policy with the creation of yet another costly federally-funded program is not the answer.

Specifically, this bill authorizes $10 million in fiscal year 1999 thus further shifting the cost burden from the irresponsible drug user to the taxpayer. Allowing the cost of drug use to fall on the irresponsible drug user rather than allowing that user to socialize his or her costs upon the innocent taxpayer would be a worthwhile step in the right direction. The dangerous socialization of costs is a consequence of various Federal actions.

A Federal Government which reduces the cost of drug use by supplying free needles is one example. But this practice is but a minor example of exactly how the Federal Government has made matters worse by lowering the costs and encouraging the expansion of risky behavior. We must, once and for all, expose the fallacy that problems can be solved simply by cost spreading—in other words, that all risky behavior should be socialized by the government. A Federal Government that accepts responsibility for paying the rehabilitation costs and medical costs of its citizens who act irresponsibly is certain to do only one thing—increase the number of those who engage in such behavior.

If we lower the cost of anything, we necessarily increase the incidence. But this is not only true when we are dealing with drugs. It has to do with cigarettes, alcohol, and all risky behavior. The whole tobacco legislation controversy is the natural consequence of the same flawed policy. That is, because government "must" pay the health costs of people who get sick from dangerous behavior with cigarettes, government must also regulate the tobacco companies and deprive all citizens of liberties which may at times involve risky behavior. Once the taxpayer is called upon to pay, costs skyrocket.

Moreover, the Federal Government further makes matters worse by imposing employment regulations which make it difficult to terminate employees who engage in drug or alcohol abuse. Such a regulatory regime further socializes the costs of irresponsibility upon innocents by forcing employers to continue to pay the salaries and/or health benefits of unsavory employees during rehabilitation periods.

Private employers should already be free to require drug testing as a condition or term of employment. This legislation, however, unnecessarily brings the Federal Government into this process. The threat of liability law suits will dictate that drug testing will be prevalent in jobs where abstinence from drug use is most critical. However, setting up taxpayer-funded federal programs here are not only unnecessary but ill-advised. The newspapers are replete with examples of various lawsuits filed as a consequence of false positives resulting from both scientific and human errors. This legislation involves the Federal Government so far as to require drug testing be completed by only a few government-favored drug testers. This bill also requires those small businesses who participate to mandatorily test employees for drug and alcohol abuse. This proposition treads dangerously on grounds violative of the fourth amendment. While the bill of rights is a limitation upon actions by the Federal Government, it does not restrict the voluntary actions of private employers and their employees. The case becomes far less clear when the Federal Government involves itself in what should simply be a matter of private contract. In fact, government involvement may actually constitute a hindrance upon employers ability to adequately test those employees for whom they feel testing may be a necessary job component.

It should never go unnoticed that, as is so often the case in this Congress, constitutional authority is lacking for the further expansion of the Federal Government into the realm of small business and the means by which they hire reliable employees. The Report on H.R. 3583 cites Article I, Section 8, Clause 18 as the Constitutional authority. This clause reads "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof" (emphasis added). The authority cited requires a foregoing Power which not only is missing from the authority cited for this bill but in my close examination of Article I, Section 8, simply seems not to exist.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I strongly support this bill because I believe that we should always strive to eliminate the vile plague of drug abuse. This measure will provide small businesses with protection from drug use at their workplace.

The bill aptly targets businesses consisting of 25 people or less. Such businesses currently employ approximately over 50 percent of our nation's workforce. Of those adults who abuse drugs, 74 percent are members of the workforce. As the Institute for a Drug-Free Workplace estimates, the majority of illicit drug users work for these small businesses.

The bill authorizes $10 million to the Small Business Administration (SBA) for grants or contracts with not-for-profit organizations to provide small businesses with drug-free workplace programs. This funding is vitally important and seems justifiable in our war against drugs. Compared to many programs, $10 million seems like a bargain.

Moreover, this measure is not simply measured based upon the millions of dollars spent to arrest and prosecute illicit drug users. The national economy is burdened with billions of dollars in losses due to the effects of illicit drug users on small businesses. In fact, the 1996 Conference Board Survey estimated the cost to the economy from absenteeism, injuries, and diminished productivity to be $200 billion. These figures seem reasonable because absenteeism is 66 percent higher among drug users than nondrug users, health benefit utilization is 300 percent higher among drug users than nondrug users, 47 percent of workplace accidents are drug related, disciplinary actions are 90 percent higher among drug users than nondrug users, and employee turnover is significantly higher among drug users than nondrug users.

To limit this disease to mere monetary figures, however, would ignore less tangible, but equally important factors. Although harms such as workplace injuries, lost productivity, and other effects of drug use are readily obtainable, some wounds, such as the costs to families and children, seem less obvious. In over 88 percent of families with children under the age of 18, at least 1 parent is employed. Thus, it seems clear that drug abuse among small business employees has implications that extend well beyond mere economics.

Many small business owners corroborate the notion that illicit drug use affects people on both tangible and intangible levels. One owner, Mr. Guzman, noticed that after opening a successful business, he soon found his business floundering. He discovered stolen inventory and low productivity. Upon learning that drug use represented the sole cause of such problems, Mr. Guzman implemented a drug-free workplace policy. Not only did the problems related to drug use subside, but the owner's business also flourished and profited beyond expectations. Such profits likely filtered down from the business to its employees and those employee's families.

This measure will standardize the policy implementation within Mr. Guzman's business. I laud the goals of this Act, for it seeks to educate the small businesses about the advantages of a drug-free workplace, provided financial incentives and technical assistance to enable small business concerns to create a drug-free workplace, and assist working parents in keeping their children drug-free. Such purposes should receive our praise and admiration. Regardless of political persuasion, these goals further all of our interests.

The specifics of the bill seem both adequate and reasonable. The Act establishes a strong relationship with the SBA and coordinates the SBA's efforts with those of the Secretary of Labor, the Secretary of Health and Human Services, and the Director of the Office of National Drug Control Policy. Together, these entities should be able to implement this praiseworthy program. They may also act as a system of checks and balances.

The measure properly requires written policies, training for employees, additional training for employees who are parents, and access to drug testing laboratories. By providing these standards, the bill sets the foundation for a viable program.

I also commend the writers of this bill for providing a broad definition of employees. By including supervisors, managers, officers, and owners as employees, the measure encompasses those who are in the greatest position of power where the opportunity for drug abuses are conceivably greater.

Given the fact that small businesses must run on equally modest budgets, they likely demand even more protection than the large businesses. Moreover, the effects of drug abuse are more pronounced in their small settings. We must protect these businesses, for they represent the very image of America and the ideals we uphold.

Mr. SOUDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and pass the bill, H.R. 3853, as amended.

The question was taken.

Mr. SOUDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 3853.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4101, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 482 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 482

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI or clause 7 of rule XXI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 or 6 of rule XXI are waived. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I am pleased to inform Members that the Committee on Rules has provided an open rule for the consideration of this very, very important measure, one of the most important appropriation measures that come before this body each and every year.

This means that Members will be able to offer any amendment which complies with the standing rules of the House, and that is the way it should be.

In order to expedite the consideration of this legislation, the requirement that the committee report be available for 3 days is waived. The report was filed on Friday night and was available to all Members yesterday morning.

The rule provides for one hour of general debate, which will be equally divided between the chairman and ranking member of the committee.

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There are two amendments printed in the report accompanying this rule which will be considered as adopted when the rule is passed. The first of these amendments provides relief to certain disadvantaged farmers whose complaints of discrimination were not considered in a timely manner. Through no fault of their own, the statute of limitations ran out.

The amendment limits claims to those between 1993 and 1996. It does not settle any cases, nor should it. It only allows these cases to proceed to be considered by the Department of Agriculture in spite of the statute of limitations.

What that means, Mr. Speaker, is that this provision is self-executed in the rule. So adoption of the rule places the language in the bill to be debated in a few minutes. It does not have to be offered as an amendment.

Adoption of the rule also means that the House will adopt sufficient spending cuts to pay for the cost of the disadvantaged farmers provision as well as paying for a second provision, the Members from agriculture States ought to pay attention to this, a second provision already in the bill to allow the sale of certain commodities to India and Pakistan in spite of the sanctions which recently took effect.

Mr. Speaker, both of these provisions have bipartisan support. The Republican Conference last week settled on a policy that requires that increased spending should be offset with cuts and not labeled as emergency spending. This provision in the rule implements that policy for the agriculture appropriation bill, and I hope will be implemented in all the other appropriation bills that come on this floor.

Because there are some provisions in this bill which constitute legislation on an appropriation bill, and some appropriations for which the authorization has not yet been signed into law, the rule waives the necessary points of order.

This bill also includes a few transfers of funds from one purpose to another, and the rule waives points of order to permit this.

In order to encourage Members to print their amendments in the CONGRESSIONAL RECORD before they are offered, the rule also provides priority and recognition to Members who do preprint their amendments.

Also under this rule, the Chairman of the Committee of the Whole has the authority to postpone and to stack votes so that Members can make more efficient use of their time.

Finally, this rule preserves the right of the minority to offer their final alternative in a motion to recommit just before the vote on adoption of the bill.

Mr. Speaker, I want to commend the distinguished gentleman from New Mexico (Mr. SKEEN), chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, one of the most admired and respected Members of this body, sitting here next to me, and the gentlewoman from Ohio (Ms. KAPTUR), who we have equal admiration and respect for, for their long hours that have been put into producing this piece of legislation.

They have done yeoman work, they and their staffs, over a number of years now. Again, as I mentioned earlier on, this is one of the most important bills that will come before the Congress each and every year.

I particularly want to thank them for upholding the 1995 farm bill as it concerns milk marketing orders, which is the lifeblood of every small dairy farmer in America. This provision will prohibit the Department of Agriculture from changing the rules until we have gone through both a legislative and an appropriations cycle next year.

The Committee on Agriculture, the authorizing committee, has assured me and others who have deep concern about this that they will look at this in a very favorable way.

The agriculture appropriation bill provides the necessary funding also for agricultural programs and related programs such as school lunch programs and the WIC program, which is the assistance for women and infants and children.

Mr. Speaker, I support this rule, and I support the constructive bill that it makes in order.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules, for yielding me the time.

This is an open rule. It will allow full and fair debate on H.R. 4101, which is a bill that appropriates $55.9 billion for agriculture, rural development, and food and nutrition programs in the fiscal year beginning October 1, 1998.

As my colleague the gentleman from New York described, this rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The rule also contains five self-executing amendments. One of those waives the statute of limitations for African American farmers to file discrimination claims against the Agriculture Department. This amendment will help us resolve this lingering injustice.

The Committee on Rules reported the rule by a voice vote. Overall, this is a good rule. It is crafted under difficult circumstances, and I intend to support it. I recognize that the gentleman from New Mexico (Mr. SKEEN), the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies was forced to make difficult choices because the funding allocation for agriculture programs is so low. He worked in a bipartisan fashion, carefully balancing many needs.

However, I am particularly disappointed that this bill cuts $10 million in the Emergency Food Assistance Program which purchases food for needy Americans. The demand is growing for services by the Nation's food banks, emergency feeding centers, and soup kitchens. A survey by the U.S. Conference of Mayors showed that one out of five requests for emergency food in 1997 went unfilled. Now is not the time to cut this vital program. Later, during consideration of the bill, I intend to offer an amendment that will restore the $10 million for the Emergency Food Assistance Program.

I am also concerned that the bill does not adequately fund the WIC program which helps feed infants, children, and their mothers. This bill would cut off benefits to more than 100,000 needy people, at risk, low-income women and their babies.

Mr. Speaker, I believe that the gentleman from New Mexico (Mr. SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR), the subcommittee's ranking minority member, did everything possible to produce a fair bill. The problem lies not with the subcommittee, but with the larger budgetary decisions by this House to constrain so severely discretionary spending. Because the targets are so low, we are forced to pit the needs of the hungry against the needs of farmers and food researchers and everyone else who is funded in this bill.

We have the money. Our economy is booming at rates that have rarely been seen in history, creating hundreds of billions of dollars in the last few years. Not only are we the wealthiest nation in the world, we stand today as the wealthiest nation the world has ever seen.

Surely we can find an extra $10 million to help reduce the food lines in front of our soup kitchens. Surely, out of this new wealth, we can, at the very least, maintain the same level of spending for the emergency needs of poor, hungry people.

This is a disgrace, if we cannot take a tiny percentage of this enormous wealth to feed the needy. We are talking about a $60 billion to $100 billion tax cut. This is unbelievable. We cannot find $10 million more for the EFAP program. That is what our budget agreements are forcing us to do.

This is the bill which feeds our Nation and hungry people around the world. This is the bill which contributes to our agricultural bounty. We should not set such low spending targets.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, let me just say to the gentleman from Ohio (Mr. HALL) that we are prepared to close, get on with the regular business, if the gentleman wants to proceed.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again let me just say that this is one of the most important appropriation bills to come before this House each and every year. I again want to just praise the work of the gentleman from New Mexico (Mr. SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR), ranking minority member, and their staffs for the yeoman work that they have done on this legislation. It is very important. I hope the Members will come over and vote for the rule and then vote for the bill.

Ms. KAPTUR. Mr. Speaker, I rise in support of the rule allowing consideration of H.R. 4101, the Fiscal Year 1999 Agriculture Appropriations Bill.

This rule allows for the orderly consideration of the Agriculture Appropriations Bill.

It waives points of order against unauthorized programs in the bill.

The rule also self-executes an amendment that waives the statute of limitations for minority farmers who have complaints against the Department of Agriculture for discriminatory actions that occurred in the past. This language has been cleared with the Judiciary Committee and the Administration, and we support its inclusion in this bill.

The amendment self-enacted by the rule also provides the necessary offsets for scoring against the bill resulting from both the language providing relief to minority farmers and the scoring created by the provision excluding agricultural exports from sanctions against India and Pakistan.

Again, I support this rule and the amendment it provides for.

My only disappointment is that the rule did not make in order an amendment by Congresswoman Lowey which would provide for civil penalties to be used a tool against meat and poultry plants which violate food safety laws. I support the efforts of the gentlelady from New York on behalf of American consumers, and will work with her to ensure the enactment of that provision.

Mr. Speaker, again I urge my colleagues to support this rule and the Agriculture Appropriations Bill. I thank my colleagues on the Rules Committee, and I yield back the balance of my time.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DRUG-FREE WORKPLACE ACT OF 1998

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3853, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and pass the bill, H.R. 3853, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 9, not voting 22, as follows:

[Roll No. 257]

YEAS—402

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce

LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—9

Clay
Conyers
Fattah
Frank (MA)
Nadler
Paul
Scott
Waters
Watt (NC)

NOT VOTING—22

Ackerman
Baker
Cannon
Gephardt
Gonzalez
Hunter
Lewis (CA)
Miller (CA)
Oberstar
Poshard
Riggs
Rothman
Sanders
Schaefer, Dan
Schumer
Thompson
Torres
Towns
Watkins
Waxman
Whitfield
Yates

☐ 1144

Mr. FATTAH changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WATKINS. Mr. Speaker, I missed rollcall No. 257 due to attending a program with constituents including a student, Sheila Williams and her teacher, Brenda Truesdale from Crowder High School in Pittsburg County, Oklahoma. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. YATES. Mr. Speaker, I missed the last vote. The bells did not ring in my office. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Ms. CARSON. Mr. Speaker, I was unavoidably absent yesterday, Monday, June 22, 1998, and, as a result, missed Rollcall votes 252 through 256.

Had I been present, I would have voted "no" on Rollcall Vote 252; "yes" on Rollcall 253; "yes" on 254; "yes" on 255; and "yes" on Rollcall 256.

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 482 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4101.

☐ 1147

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Mexico (Mr. SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR) each will control 30 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. SKEEN).

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I get into the floor statement I would like to pay my respects to the members of my committee and particularly to the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), and all the members of the committee and the staff and the rest for the fine work that they have done.

Mr. Chairman, I want to thank all my colleagues that have been on the committee on the minority and majority sides, and particularly the staff, the Members' staffs that have worked with us and the committee staff, and I certainly am indebted to all of them.

And, Mr. Chairman, I am pleased to bring before the House H.R. 4101, which makes an appropriation for Agriculture, Rural Development, and the Food and Drug Administration and related agencies.

Mr. Chairman, this bill meets our discretionary allocation of $13.587 billion in budget authority and $14.002 billion in outlays, and the total spending in the bill includes mandatory programs of $55.9 billion, an increase of about $6.4 billion over last year, which mainly reflects the increased spending from Commodity Credit Corporation funds.

Our discretionary allocation is about $130 million less than last year, and this situation is made more difficult because the administration has proposed about $800 million in new spending in the bill that is paid for through user fees, and these user fees all require authorization in law. However, the administration sent up this legislative package only 3 weeks ago.

The reality is that enactment of user fees will not occur. Therefore, any new spending must be offset from existing programs. The committee has tried on a bipartisan basis to construct a bill that funds our highest priorities and deals fairly with the very diverse programs that this bill pays for.

The bill provides an additional $20.5 million for the Food Safety Inspection Service, the third year in a row that meat and poultry inspection have received a major increase. There is also an additional $15.5 million for the food safety initiatives scattered throughout several accounts.

Farm operating loans have been increased by about $200 million, and this program is important to the administration's efforts to end discrimination against minority farmers.

We have increased the Rural Community Advancement Program by $93 million, with most of the increase going to rural water and sewer programs where there is a $3.5 billion backlog of applications for this particular funding.

We have also cut a number of programs, and many are being held to the fiscal year 1998 level.

For the first time in many years we have not provided an increase in the Women, Infants and Children, known as the WIC program, and this bill funds the WIC program at $3.924 billion, the same as fiscal year 1998. Our reason for doing that is the USDA's fiscal estimate of the WIC fiscal year carryover is $180 million, and we believe that number will grow. We also believe that carryover gives the program a very large cushion of support.

Mr. Chairman, I know many of my colleagues are unhappy that some of the programs are not funded at higher levels and that we have to tap mandatory programs just to get us to where we are now. During the course of the past five months we have received about 600 requests from Members, only one of which suggested program reduction. The rest wanted level or increased spending.

I would also like to do more, but the money is just not there. Unlike the Office of Management and Budget, we cannot engage in phony accounting schemes with user fees. We must work in the reality of a very tight budget.

Mr. Chairman, this bill pays for programs that benefit every American every day. It supports food safety and nutrition, whether in rural America or in our largest cities, and it supports agricultural production and research that enables less than 2 percent of our population to feed 270 million Americans and millions more overseas. It supports conservation programs to protect watersheds and the environment, and it supports rural development programs that bring affordable housing and clean water to rural America.

I would say to my colleagues that when they vote for this bill they vote for programs that benefit all their constituents, no matter where they live in this great country, and, Mr. Chairman, I ask my colleagues for their support.

Mr. Chairman, I reserve the balance of my time.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wanted to rise today and commend my good friend, the chairman of our Subcommittee on Agriculture and Rural Development, for his leadership in helping put this bill together, and all the members of our subcommittee who have worked so very, very hard over the last several months.

There are other provisions in this bill that we also need to acknowledge many of our Members. We want to thank the Committee on Rules for allowing several provisions to be included in the base bill that are self-executing concerning the civil rights provisions as well as lifting the sanctions in terms of food for Pakistan. We want to thank the gentleman from Washington (Mr. NETHERCUTT) in that regard, as well as the gentlewoman from California (Ms. WATERS), who worked so very hard along with the gentleman from New York (Mr. SERRANO) on the civil rights provisions in the bill, along with the gentlewoman from North Carolina (Mrs. CLAYTON) and the gentlewoman from Georgia (Ms. MCKINNEY). We are grateful to all these Members and so many more who helped us craft a good bill.

I want to state that without question this particular measure helps keep our Nation at the leading edge for food, fiber, fuel and forest production as well as research, trade and food safety. The jurisdiction of this subcommittee is very broad. There is no question that agriculture is America's leading industry and that our farmers and our agricultural industries remain the most productive in the world, and they well understand, as we do, how difficult it is to maintain our Nation's commitment to excellence in agriculture in these tight budgetary times.

Our bill contains $56.1 billion for 1999 in total budget authority, of which $13.6 billion is for discretionary programs and $42.5 billion is in mandatory programs which we have very little ability to influence. Our bill is $2.2 billion below the administration's budget request, and in fact over two-thirds of our bill's spending is directed in the mandatory area, largely the nutrition programs like our school lunch and breakfast programs as well as the Food Stamp Program. Those comprise nearly two-thirds, 70 percent, of what is in this bill.

We believe this bill is as balanced a bill as we could get to try to accommodate our farmers, the needs of food and drug safety, the needs of rural development in communities across this country as well as protecting the safety of consumers and those in our population who are most nutritionally and medically at risk.

☐ 1200

Our committee has fashioned a bill that is the best possible bill within the allocation it has been dealt, and I want to thank our chairman, the gentleman from New Mexico (Mr. SKEEN) for being gracious and treating both sides of the aisle evenhandedly. I appreciate his bipartisanship and his sensitivity to balancing the burden of these tight funding levels between various constituencies served by this bill.

I would be remiss if I did not point out, however, that the funding levels are simply inadequate for several of our most critically important programs in the bill, beginning with food safety, but also including WIC, the Women, Infants and Children's feeding program, all of our rural conservation programs, our youth tobacco prevention initiative and our rural water and sewer, as well as the temporary emergency feeding programs serving so many of our food kitchens and food banks. Without an additional allocation of resources, we continue to betray our commitment to American farmers, and to all consumers who benefit from the bounty that they produce.

For example, let us go through some of these shortcomings. As hard as we tried, we were unable to fully accommodate the requests for food safety in this bill, which provides only $15 million of the additional funds requested by the President, who asked for $95 million additional funds for the food safety initiative.

In the WIC program, so important to pregnant women and children across this country, the funding level is frozen in the bill at the 1998 level of $3.9 billion, which is $157 million below the President's budget request. This freeze level could mean the reduction of up to a few hundred thousand additional women, infants and children who will not be able to be served by WIC.

In the youth tobacco prevention area, the bill includes $34 million for the President's tobacco initiative. However, the President had requested $100 million over that level, a level of $134 million for the Food and Drug Administration. We could not accommodate that full request.

On the important conservation programs for our farmers, the primary source of technical assistance to producers and landowners are funded at $784.4 million, but this is $5 million below last year's level and $51.9 million below the President's budget request.

This bill makes further reductions in critical mandatory conservation programs such as the Wetlands Reserve Program, the Environmental Quality Incentive Program, which is called EQIP, and the Wildlife Habitat Incentive Program.

In addition, this bill includes no funding for the farmland protection program, because it has not been authorized. These lands are absolutely irreplaceable as a world resource, and it is really sad that in this measure we cannot include continuation of appropriations in that program because the authorizers have not brought that bill forward.

In terms of TEFAP, the Temporary Emergency Food Assistance Program, there is a $10 million reduction in this mandatory program compared to last year. It is under this program that we distribute commodities to individuals greatly in need of assistance. Demand for food assistance at our food banks and soup kitchens is increasing due to the implementation of welfare reform, and I would hope as we move toward conference, that we might be able to find a way at least to keep this program at last year's level, fully aware that the increased demand is occurring in food banks across this country.

In terms of rural water and sewer, while we appreciate the increase of $39.5 million for direct water and sewer loans, we are concerned that this amount simply is not enough. The U.S. Department of Agriculture has told us that over $2.5 billion in backlog remains in the water and sewer program, and we must be able in future years to find additional funding to meet these critical needs for affordable water and sewer necessary to improve the life in our rural areas.

Mr. Chairman, those who serve farmers and work with agriculture are taught over and over again that there is a big difference between money and wealth. Our job on this Committee on Agriculture is to help create the wealth of America through the investments we make in food, fiber, new fuels and forestry production, all essential components.

Market-oriented farm policy means farming for the market and not the government, and requires investments in research and conservation and sustainability, in education and technology transfer, which will keep our agriculture competitive as we move into the new century.

Traditional farm programs under this bill and in the past continue to receive a decreasing portion of Federal support and, in my view, we should be targeting our scarce agricultural dollars to family farmers, especially those who are smaller, to assure competition in an industry now dominated by megagiants.

In recent decades, we have slowly eroded the historic base of American agriculture, the family farmer, moving more in the direction of giant corporate farms. It is kind of interesting to look at the numbers in the area of agriculture trade. We have to work hard to keep our edge in the international marketplace.

As American agricultural exports grow and weather the volatile global markets, foreign agricultural exports are being shipped to the United States in greater magnitude. Since the early 1980s, U.S. agricultural exports initially declined from a level of about $43 billion to a low of $26 billion in 1986, and then hit a record level of $60 billion in exports in 1996. While that looks great in terms of overall dollar value, the fact is that the price per bushel to the average farmer has not really gone up, but in fact they are having to sell greater volumes and try to farm greater acreage in order just to meet the income levels they were able to achieve in the past. In many cases, products that our own farmers grow and process are being replaced by imports coming into our shores.

Mr. Chairman, in closing, I want to express my appreciation again to the gentleman from New Mexico (Mr. SKEEN) for putting together the best bill that we could under the circumstances that we were dealt.

Let me remind our colleagues that the agriculture portion of Federal spending has taken more than its fair share of cuts in these past several years. Discretionary funding for this coming year is $130 million below comparable spending of last year, but total amounts provided under this bill, both in the mandatory and discretionary accounts, have declined by almost 30 percent, by one-third, since 1994. It is clear that agriculture, rural development and nutritional programs continue to bear more than their fair share of overall budget reductions.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WALSH).

Mr. WALSH. Mr. Chairman, I rise in strong support of the bill crafted by the gentleman from New Mexico (Chairman SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR), the ranking member.

Mr. SKEEN. Mr. Chairman, I yield 6 minutes to the gentleman from Washington State (Mr. NETHERCUTT), a member of the committee.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I am delighted to support this agriculture appropriations bill and to salute the gentleman from New Mexico (Chairman SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR), and, most especially, the people on our subcommittee, but also in addition the great professional staff that has assisted in putting this bill together, which has been such a good resource for all of us who serve on this committee.

In particular, we have had a rather arduous undertaking to work through the issue of sanctions exemption that appear in this bill, as the gentlewoman from Ohio (Ms. KAPTUR) mentioned in her opening statement. Fundamentally, this sanctions language is going to be of great assistance to the agriculture community in this country.

The industry, the economy of agriculture, has never been more important with regard to low wheat prices in the West and across the country for other commodities. It is insane that our country would impose unilateral sanctions on the industry that is there to provide food and fiber and assistance to people who are hungry, not only in our country but in all countries of the world, not the least of which are Pakistan and India, which deal very prominently with my State of Washington, in the export of wheat products and wheat to Pakistan. It is a huge market for us, and for the law to impose unilateral sanctions seems to me wrongheaded.

What we tried to do on the subcommittee was to provide the fastest method possible to get the sanctions exemption under the Arms Export Control Act, so we added it to the agriculture appropriations bill, and, through a bipartisan effort, not just within our committee, the subcommittee and the full committee, but outside the committee, the gentleman from Oregon (Chairman SMITH), the gentleman from North Dakota (Mr. POMEROY), the gentleman from Kansas (Mr. MORAN), the gentleman from my own State of Washington (Mr. HASTINGS) on the Committee on Rules, the gentleman from Montana (Mr. HILL), the gentleman from Illinois (Mr. LAHOOD) and many others, who got involved in saying we must exempt these sanctions from agriculture.

It is in the bill, it is a very important measure, and I am delighted it was able to stay through the assistance of a lot of people.

Other than that, this is a bill that funds agriculture research very, very effectively. It goes above the President's request for budget approval of agriculture research and it restores the facilities that were reduced in the budget by the President to Prosser, Washington, and Mandan, North Dakota, which are two very important facilities that will very much help agriculture and agriculture research.

One of the things we passed when we adopted the farm bill two years ago was that we assured the farmers that we must have a strong agriculture research component if the freedom to farm concept is going to be successful. Not only research, but tax relief and exports. Those three components were the most important, as well as regulatory reform.

This bill restores some of that agriculture research funding that is so critical to agriculture research and the success of the agriculture economy across the country.

Mr. Chairman, I want to speak in favor of the special grants. I know it is nice to say "Let's have everything peer-reviewed," but there are some areas of the country that have unique disease programs or yield problems that need a special grant. So I am here to argue very forcefully in favor of special grants, some of which benefit my Pacific Northwest region of the country, but other regions of the country as well. That is a very important component of this bill.

One other thing that I think is very important that is not precisely agriculture-related but affects the welfare of people around the country has to do with diabetes. In the bill we have language that would provide for a pilot demonstration project to rural residents of Hawaii and Washington. They will get access to state-of-the-art health technology and education related to diabetes and diabetes complications through the existing Extension Service county office structure and communications system.

Josslin Diabetes Center, located in Boston, Massachusetts, is recognized as the world leader in diabetes research and clinical care. It is going to lend its technology and advanced care pilot program not only through the Department of Defense and Veterans Affairs, but through the Department of Agriculture. It is going to help Native American people all over this country if we can have this diabetes demonstration project undertaken.

Remember, diabetes affects all races and religions. It especially hits our minority populations, and through this Extension Service assistance, diabetes research will be advanced and people will be helped.

We are going to restore PL 480 programs in this bill. We are going to restore the market access program. We are going to have food distribution program language through the Department of Agriculture that is going to greatly help Native American children. We now give fatty foods through our program under the Indian reservation distribution program, and, with the language that we have imposed here, the Department of Agriculture will be working with the Indian Health Service in trying to work through and make sure we give good food to these Indian children, who are the beneficiaries of this food program, all be they laudable, but we want to be sure these kids are not unnecessarily treated to diabetes.

So, overall, this is a great bill. The gentlewoman from Ohio (Ms. KAPTUR), the gentleman from New Mexico (Mr. SKEEN) and all the professional staff and the full Committee on Appropriations looked very carefully at this bill, and we very much support it. I urge all of my colleagues to resist many of these amendments that would change this bill. Let us pass it today and really assist American agriculture to the greatest extent that we can.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I also want to rise in support of this bill and to commend the gentleman from New Mexico (Chairman SKEEN) and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR) for the very fine, persistent and diligent work they have done to bring this bill to the floor.

This is a comprehensive bill. It affects a wide range of constituents, so there are different sectors of our communities who are concerned about its success or its failure.

□ 1215

I want to tell the Members, this bill does bring some unique opportunities. It is an opportunity to right a wrong. In the self-executing rule that was just passed was a provision of opportunity, removing a stumbling block that thousands of minority black farmers have had in not being able to have their case adjudicated before the courts or administrative remedies. So I want to thank both sides of the aisle, but particularly the gentleman from New Mexico (Mr. SKEEN) and the gentlewoman from Ohio (Ms. MARCY KAPTUR) and the leadership for bringing this to the floor.

It also has the opportunity to make sure we do not use food as a sanction in the cases of India and Pakistan. I think those are obviously commendable areas.

I also want to raise the issue of providing new opportunities for inspection of food and quality of food, new resources for conservation and clean water. Many of our farm areas are impacted and need this additional assistance to make sure they have a continuous opportunity for providing those resources to keep their environment clean.

However, there are some shortcomings to this bill. We just signed the bill on research over at the White House a few minutes ago, and this bill, by this act, will now zero out what we have just said. I think that is a mistake. It removes the infrastructure for water and sewer and some of the housing initiatives that rural areas had. Also, we reduce, in my judgment below the need to do it, both the WIC and nutritional program and the emergency food program. I hope at least we have an opportunity to look at the amendment.

All in all, this is a good bill. It is a bill that not only does a fair appropriation of our scarce resources for a wide range, but we have an opportunity to right a wrong. Righting that wrong is to afford all Americans the opportunity to use our resources for agriculture and growing. The black farmers who have been denied that opportunity want to say, through me, they certainly appreciate this opportunity to have that remedy in court.

Mr. SKEEN. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon (Mr. SMITH).

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of H.R. 4101, the agriculture appropriation bill. I wanted to, indeed, thank the gentleman from New Mexico (Chairman SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR) for bringing up this very important legislation. I wanted to commend both of them and their staffs for their hard work in achieving balance with limited resources.

I want to particularly commend the gentleman from Washington (Mr. NETHERCUTT) for his hard work to eliminate an immediate threat to America's farmers. The Nethercutt amendment included in the bill fixes a problem that was created by, I think, an erroneous interpretation of the Arms Export Control Act.

The Nethercutt amendment clarifies that USDA credit, credit guarantees, or other financial assistance for the purchase or provision of food or agricultural commodities are not included in the sanctions provided for in section 102 of the Arms Export Control Act.

Mr. Chairman, this bill, as reported by the Committee on Rules, also deals with an issue that has directly concerned me and other members of the Committee on Agriculture for the past 2 years, providing access to judicial and administrative remedies to hundreds of black farmers who have been the victims of racial discrimination in the operation of the Department of Agriculture programs.

Because of a statutory limitation, these farmers have been barred from seeking appropriate relief. An amendment worked out by the Committee on the Judiciary and other interested parties, and that is contained in this bill, would allow persons who have filed complaints of racial or other discrimination to seek redress in the Federal court system.

Mr. Chairman, Congress passed a monumental reform to our Nation's agricultural policy in 1996. At that time we eliminated depression-era production controls and subsidies. Congress promised American farmers that we would replace these outdated programs with a new emphasis on research, on risk management, and regulatory reform. Three weeks ago Congress passed the Agricultural Research, Extension, and Education Reform Act of 1998 in which we voted overwhelmingly to shift spending from bureaucracy to the cutting edge of research.

Just a short term ago, today, the President signed that bill into law. Due to tremendous resource constraints and competing priorities, the Committee on Appropriations was forced to offset the cost for existing programs and other new initiatives by eliminating this new and vital research program.

Mr. Chairman, I would like to strongly encourage my friend and colleague, the gentleman from New Mexico (Mr. SKEEN) to work with his counterparts in the Senate to reprioritize programs so they can restore these important funds. I understand that this will be a difficult challenge, but it is essential that this program be funded.

Mr. Chairman, I would ask to enter into a colloquy with the gentleman from New Mexico, Mr. SKEEN.

I would say to the chairman, as he knows, on June 14 the House passed the conference report on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998, by a vote of 364 to 50. The House vote overwhelmingly to shift spending from the bureaucracy to cutting edge research, and allocated $120 million for that purpose.

Unfortunately, the bill before us provides no funding for this program, while the Senate measure includes full funding.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, due to tremendous resource constraints and competing priorities, the Committee on Appropriations was forced to offset the costs for existing programs and other new initiatives by eliminating this new and vital research program.

Mr. SMITH of Oregon. Mr. Chairman, many of our colleagues representing the agriculture community ask that you give funding consideration to this important function when again you meet with the Senate in conference.

Mr. SKEEN. The Committee on Appropriations is often faced with the difficult task of striking a balance among competing and worthy initiatives. Research has always been a priority of mine. I can assure the gentleman that it will be a priority during the conference negotiations. I appreciate gentleman's adherence to it.

Mr. SMITH of Oregon. I indeed thank the chairman for his assistance in this matter.

Ms. KAPTUR. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I would like to engage in a colloquy with the ranking member.

Mr. Chairman, I say to the chairman of the committee and the ranking member, first of all, let me commend them for the outstanding work they have done on bringing this bill to the floor, and also especially for recognizing the unique problems and needs of African-American farmers.

I would like to bring to the Members' attention and to the attention of the floor a project that has significant support but was not included for funding in this bill.

The AGD project is a plant genome sequencing project being undertaken by Loyola University of Chicago, in conjunction with the University of Illinois at Chicago. This is an important project that has positive implications for agriculture and agribusinesses, both in the United States and abroad.

Back on March 16 Members of this body, both Republicans and Democrats, even members of the Committee on Appropriations, requested that specific funding be made available for this project. However, it is my understanding that except in very limited circumstances, no new projects were funded under the research and educational activities account.

I would ask the gentlewoman, is that correct?

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. That is correct.

Mr. DAVIS of Illinois. While I understand that not every project that is requested can be funded, the AGD project is an extremely important one. Congress has already recognized the critical role plant genomic research plays in the improvement of crop production and increased productivity.

I am hopeful that projects like the AGD, which received such vigorous support for funding from so many Members of this body but were not specifically funded in this bill, be given special consideration for funding as we move to conference.

I would appreciate a response, Mr. Chairman.

Ms. KAPTUR. If the gentleman will continue to yield, Mr. Chairman, I want to thank the Congressman for being so vigilant on this particular request for plant genome sequencing at Loyola University of Chicago. No one has been a stronger advocate in this Congress than has the gentleman from Illinois (Mr. DAVIS).

We will work with him as this legislative process moves forward, and urge the gentleman to also consider pursuing funding in the National Science Foundation plant genome initiative. But we will continue to work with the gentleman.

Mr. DAVIS of Illinois. I thank the gentlewoman very much.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Chairman, I seek to enter into a colloquy with my chairman, the gentleman from New Mexico (Mr. SKEEN).

Mr. Chairman, I would like to take just a moment to address the issue of funding for the Agriculture Quarantine Inspection Program that prevents the entry of exotic animals and pests into the United States.

Funding for AQI is of great importance to my district, which includes the two largest agriculture producing counties in the Nation. As we know, the authorized funding level for AQI is $100 million. However, the FY 1999 appropriation for the program was set at $88 million.

Does that mean that the committee believes that the annual appropriation for AQI should only be at $88 million per fiscal year?

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. RADANOVICH. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I thank the gentleman for his concern and his strong support of American agriculture. The committee strongly supports the AQI program, but our budget situation will only allow us a level of $88 million in user fees. There is, however, an additional $30 million in appropriated funds for this program. I thank the gentleman again, and look forward to working with him.

Mr. RADANOVICH. I appreciate the clarification, Mr. Chairman, and look forward to working with the gentleman and all the members of the committee next year in seeking full funding for AQI in the next fiscal year.

Mr. SKEEN. I thank the gentleman.

Ms. KAPTUR. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in strong opposition to this bill as currently drafted. I would urge my colleagues today to support the amendments that will be offered that will strip the dairy provisions from this bill.

More specifically, Mr. Chairman, section 736 was added to this annual agricultural appropriations bill. It allows Congress to delay reforming the Federal milk marketing ordering system for another 6 months. It also allows the ill-advised Northeast Dairy Compact to remain intact for an additional 6 months.

In the 1996 Freedom to Farm bill, Mr. Chairman, Congress was unable to find a legislative remedy for the regional dairy policy which has been in existence for too long that has pitted producers in various regions of this country against one another. That bill instead authorized the Department of Agriculture to develop a market-oriented system.

Now some Members of this Congress, through a back room deal, have decided that reform should be delayed another 6 months, which would also extend to the New England Dairy Compact. Who knows how much longer it is going to be delayed beyond that point?

Mr. Chairman, the Secretary's office has informed me that they are on track for passing the final rule this fall and implementing it early next year. They have had public hearings, they have accepted public comment. They are ready to go forward with this market-oriented reform of dairy policy. This legislation would set that effort back.

I would say, let us stop delaying the inevitable. Instead, let us allow a fair market-oriented dairy policy to take effect. The 1996 farm bill held out the promise that farmers could produce for the marketplace, rather than for a government program. Today dairy farmers and consumers should not be subjected any longer to a Depression-era dairy policy in this country.

Let us let the Department of Agriculture do its job, Mr. Chairman. I would encourage my colleagues to support the amendments that are going to be offered a little later this afternoon that would strip the dairy provisions and allow the Department of Agriculture to move forward on a more market-oriented, fairer system for our dairy producers throughout the entire country.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, as the gentleman knows, Congress debated the issue of national organic standards in 1990 by passing the Organic Foods Production Act, requiring the USDA to implement a national organic program.

The proposed rules, however, did not represent the intent of the Organic Foods Production Act, the recommendations of the National Organic Standards Board, or consumer expectations. Organic foods should be grown and processed without synthetic pesticides or chemicals, and organic livestock should be treated humanely and not medicated with steroids or antibiotics.

Over 200,000 people, including 38 Members of Congress, showed their support for high standards during the public comment period. I would like to ask the chairman if he supports further revision of the proposed rule for organic standards, in collaboration with the NOSB and within the guidelines of the OFPA, and if he supports providing adequate resources for the national organic program and the NOSB.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I would tell the gentleman that Congress has shown its commitment to high organic standards, and that commitment will continue.

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The USDA is committed to developing organic standards that everyone will accept, and the rulemaking procedure should continue with the help of public comments and the NOSB recommendations.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, I applaud USDA for revising the rule. And I hope the gentleman agrees that a second draft be released in a timely manner. I thank the gentleman from New Mexico (MR. SKEEN) for his time, and I look forward to working with him on this issue in the future.

Mr. SKEEN. Mr. Chairman, I too look forward to reviewing the second draft of the proposed rule soon.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have no further requests for time. I want to acknowledge the hardworking members of our staff, certainly Mr. Tim Sanders, Sally Chadbourne, Bobbie Jeanquart, and John Ziolkowski have served us so very well during this process and we want to thank them very, very much for doing the very best job they could for our country.

Mr. Chairman, I yield back the balance of my time.

Mr. SKEEN. Mr. Chairman, I thank the gentlewoman from Ohio (Ms. KAPTUR) and I would to follow her lead on those remarks and the appreciation that we have for the folks that work with us day after day.

Ms. DELAURO. Mr. Chairman, I would like to thank Representative SKEEN and Representative KAPTUR for all of their hard work. I know it has been difficult to balance the many important priorities that this bill must fund, especially given the funding constraints that Congress faces.

I am, however, very concerned that we could not do more to support vital programs that improve the day-to-day-lives of American families. I am concerned that the real and urgent needs of this country—to reduce smoking among young people, to protect the safety of our food, and to ensure high-quality nutrition for mothers and their children—could not receive the full attention that they deserve.

One of the most serious issues before this nation is tobacco use among America's youth. For years, the tobacco industry deliberately targeted children. Now, an astounding 4.5 million 12–17 year-olds smoke. Three thousand young people under the age of 18 become regular smokers each day. And when children this young take up smoking, they do not shake the habit easily. Almost 90 percent of adult smokers began by age 18.

This year, the President requested a $100 million increase to expand FDA enforcement of laws prohibiting tobacco sales to minors and to expand the FDA's national public education campaign to get the word out to Americans across the country that these laws are being enforced. Sadly, this bill does not provide this important investment.

I also am disappointed that, while this bill includes an additional $15 million over current spending levels for the President's food safety initiative, additional resources are not available for both the FDA and USDA to ensure the safety of our food supply. Americans need to be able to sit down together at the table and know that everything possible has been done to ensure that their meals are free from contamination.

But each year, an estimated 9,000 Americans die, and another 5 million get sick, from food-borne pathogens. If we are truly going to protect the health of American families, we must commit greater resources to assure the safety of their food and produce. Americans deserve better safeguards, stronger enforcement, and greater research and understanding of how our food supply becomes contaminated.

Furthermore, I am disappointed that the WIC program could not be funded to reach more mothers and their children. WIC currently guarantees that 7.4 million young women and their children receive adequate nutrition and health advice—preventing future illnesses and other health problems in their lives.

WIC dollars are excellent long-term investments in America's future. Each dollar spent on WIC yields more than three dollars in savings to the government through reduced spending on programs such as Medicaid.

I am pleased that this bill requires WIC to streamline its program and eliminate waste, providing more services to more deserving people, yielding higher returns on the dollar.

Thank you again Representative SKEEN and Representative KAPTUR for crafting this bill under such difficult funding restrictions. But, I must emphasize that, as members of Congress, it is our responsibility to invest in programs that ensure the long-term safety and security of Americans and their families. The Tobacco Initiative, WIC and the Food Safety Initiative do exactly that. They deserve our commitment to the highest levels possible.

Mr. HILLEARY. Mr. Chairman, I rise today in strong support of this important agriculture bill. I want to thank the distinguished Chairman of the Agriculture Appropriations subcommittee for his hard work in bringing a solid bill to the floor in which our agricultural community so desperately relies on.

Additionally, I would like to say that I am in support of the Horse Protection language that is included. As we know, there has been a sizable uproar over the USDA's Animal and Health Inspection Services' (APHIS) implementation of the Horse Protection Strategic Plan.

I have been actively involved with USDA, APHIS, the horse show industry and my constituents on this important issue, trying to strike a common ground on a fair and just plan. I have attended many public and private meetings with all sides and have worked with other Representatives to try and gage USDA's position.

The Horse Protection Act of 1976, protects show horses from injury and abusive training practices. Since 1976, this Act has authorized the establishment of industry inspection programs to assist the Department with its enforcement efforts at more than 1000 Walking Horse shows annually. Six industry regulatory organizations and inspection programs currently have been certified by the Department to conduct inspections and otherwise carry out the regulatory responsibilities of the Act.

In December of 1997, APHIS released its Strategic Plan for Horse Protection outlining several proposals for industry self-regulation. Unfortunately, the Plan does not adequately address all of the issues which need to be resolved. The Committee has included important report language that will assist the USDA and the horse show industry, in reaching fair and universal practices, procedures, penalties and guidelines. There is still a sizable amount of disagreement on who is qualified to regulate and how they are trained to execute inspections. Furthermore, examination procedures outlined in the Strategic Plan do not properly reflect appropriate equine medical principles.

For these reasons, I feel that the Department needs to work closely with the six industry regulatory organizations, as well as Congress, to further develop the proper framework for industry self-regulation.

Although this language does not go as far as I would like in an attempt to iron out all the differences between the Department of Agriculture and the Walking Horse Industry, I am pleased that the Committee has shown its concern for an industry that is vital to Tennessee.

Mr. Chairman, Congress needs to remain engaged in our agricultural oversight function and regain control of the situation surrounding the enforcement of the Horse Protection Act. In that regard, I think we have come one step closer with the language included in this bill.

I hope my colleagues on both sides of the aisle will join me in supporting this important horse protection language, as well as this critical agriculture bill.

Mr. PACKARD. Mr. Chairman, I rise in support of H.R. 4101, The Agriculture Appropriations Act of 1999. I want to specifically acknowledge the provision which allots $1 million for pesticide and crop disease research. This will directly benefit Southern California floriculture and nursery crop producers.

With over 20 percent of the total agriculture share, California farmers rank first in the nation in overall production of nursery products. I want to make sure California farmers have every tool available to continue leading the nation. The research this legislation provides is truly what every California grower can support; higher production that's environmentally friendly.

This research can positively impact rural and suburban economies, and increase international competitiveness by helping prevent the spread of pests and diseases among nursery and floriculture crops. Growers in my community made the need for this research very clear. Much of their own success has been a direct result of similar research.

Mr. Chairman, I would like to commend Mr. Skeen for once again producing an Agriculture Appropriations bill that is beneficial for the American farmer. He has done a fabulous job meeting the needs of our nation's agriculturalists.

Farming is still one of the toughest jobs in America. Our nation's farmers can put in a 40 hour work week by Tuesday noon and I want to make sure that is not forgotten here in Washington.

Mr. BONILLA. Mr. Chairman, I rise in support of the Agriculture Appropriations bill. I know the Chairman has worked very hard to bring a balanced bill to the floor today that addresses all of the challenges that face American Agriculture, whether it be the pests that damage our crops to competing in the world market.

I believe that this bill works to balance the needs of agriculture from Texas to Washington to California to Connecticut. It was a very difficult task to balance all of the important competing interests, but the bill before you today does just that and still meets the needs of a balanced budget. This bill provides money to fund vital agriculture research to help our farmers and ranchers become more competitive and improve production, it supports food safety and conserves our natural resources while improving the lives of those who live in rural America.

More specifically the bill provides funding for the boll weevil eradication program which is vital to cotton producers across the cotton belt. The boll weevil is the primary cotton pest and it has cost our economy billions of dollars. Currently five states have passed referenda and are planning for program initiation. This program is at a pivotal point and the money in this bill will allow for full implementation of the program across the cotton belt.

This bill also contains funding to support a variety of research projects for both plants and animals. One example is a research project that enhances cancer fighting agents that occur naturally in vegetables. A super carrot has already been developed and now they are working on other foods.

The Committee has also made a significant commitment to food safety. The bill increases spending on food safety by $20.6 million.

Not only will our producers be growing more food that is better for you we will be able to maintain our outstanding record on food safety. These are just a few examples of very important projects that are in this bill. The list is certainly much longer.

Americans enjoy the world's safest and most abundant food supply. This bill goes a long way to ensure that Americans will continue to enjoy this privilege in the future. The bill supports the people who keep Americans fed and clothed, our food supply safe and I urge my colleagues to support this bill.

Mr. FAZIO of California. Mr. Chairman, I rise in support of H.R. 4101, the Agriculture Appropriations bill for Fiscal Year 1999.

Although this is only my second year of service on the subcommittee, it is also my last year of service due to my retirement, and I want to congratulate and thank my chairman, JOE SKEEN, and the ranking Democrat, MARCY KAPTUR, for their work and assistance this year. I have enjoyed participating in our budget oversight hearings and offering the perspective of California agriculture, the largest agriculture-producing state in the nation.

H.R. 4101 is not a perfect bill, but it is probably the best bill that could come forth after receiving a budget submission from the Administration based on over $750 million of user fees which have not been enacted by Congress. Based on our allocation, our bill is $130 million less than the fiscal year 1998 appropriations. That meant that many difficult decisions had to be made in putting together a bill that would sustain the types of USDA and FDA activities that Americans expect in the areas of food safety, rural development, research, conservation, market promotion and the many other activities in our bill.

The most controversial part of our decisionmaking stemmed from using savings from mandatory programs—the Fund for Rural America and the new research program in the agricultural research bill—to avoid a set of across-the-board cuts in virtually every program in the bill. Even so, we have held WIC, the Supplemental Nutrition Program for Women, Infants and Children, to last year's appropriations, the first time in many years when we have been unable to provide an increase that would serve additional beneficiaries.

However, we have made some important progress on food safety by adding $15 million to support increased inspection of imported fruits and vegetables by the Food and Drug Administration, as well as new activities of the Food Safety Inspection Service, and new food safety research activities by the Agricultural Research Service and the Cooperative State Research Extension and Economic Service. And $34 million has been provided to continue the President's important initiative to prevent youth smoking.

I have particular praise for several items of importance to California agriculture and to my district.

First, the bill provides funds mandated by the Agriculture Committee for the Market Access Program (MAP). This is a program that traditionally has come under attack on the House floor, but has been supported strongly by the House membership. I am pleased that perhaps this will be the first year that opponents come to their senses and understand both the value of the program and the deepseated support for it.

There is probably no more important tool for export promotion than MAP. In California, where specialty crop agriculture is the rule, export promotion is extremely important.

Agriculture exports climbed to $59.8 billion in fiscal year 1996—up some $19 billion or close to 50 percent since 1990. In an average week this past year, U.S. producers, processors and exporters shipped more than $1.1 billion worth of food and farm products to foreign markets, compared with about $775 million per week at the start of this decade.

The overall export gains raised the fiscal year 1996 agricultural trade surplus to a new record of $27.4 billion. In the most recent comparisons among 11 major industries, agriculture ranked No. 1 as the leading positive contributor to the U.S. merchandise trade balance.

As domestic farm supports are reduced, export markets become even more critical for the economic well-being of our farmers and rural communities, as well as suburban and urban areas that depend upon the employment generated from increased trade.

Agriculture exports strengthen farm income.

Agriculture exports provide jobs for nearly a million Americans.

Agriculture exports generate nearly $100 billion in related economic activity.

MAP is critical to U.S. agriculture's ability to develop, maintain and expand export markets in the new post-GATT environment, and MAP is a proven success.

In California, MAP has been tremendously successful in helping promote exports of California citrus, raisins, walnuts, prunes, almonds, peaches and other specialty crops.

We have to remember that an increase in agriculture exports means jobs: A 10% increase in agricultural exports creates over 13,000 new jobs in agriculture and related industries like manufacturing, processing, marketing and distribution.

For every $1 we invest in MAP, we reap a $16 return in additional agriculture exports. In short, the Market Promotion Program is a program that performs for American taxpayers.

Second, the committee has continued to provide the greatest possible funding for research in two main forms: through the agricultural research stations of the Agricultural Research Service, and through the special grants and competitive grants in the Cooperative State Research Education and Extension Service.

I am particularly grateful that funds have been provided in support of our nutrition research centers. These centers will play an important role in the food safety research that will be a vital part of the food safety initiative. Funds have also been provided to complete the move of the Western Human Nutrition Research Center to the campus of the University of California at Davis. I believe its location there, along with one of the preeminent nutrition programs in the nation as well as our ag and medical schools, will provide the synergy necessary to make important research strides in the years to come.

There are other research areas of importance to California, including alternatives to the use of methyl bromide, PM–10 particulate air quality research, sustainable agriculture practices, and alternatives to rice straw burning. Viticulture research has received a boost in ARS, and that is in keeping with its growing importance to the U.S. economy. The U.S. grape crop, now grown in over 40 states, has doubled in the last decade from $1.35 billion in 1987 to $2.7 billion in 1997. Grapes are now the highest value fruit crop in the nation and the seventh largest crop grown. Long-term research on rootstocks will assist this burgeoning industry.

Another new initiative that has received attention is a special research grant regarding floriculture and nursery crops. Floriculture and nursery crops represent more than 10% of total U.S. farm crop cash receipts, and I believe this research which will be coordinated with the University of California-Davis and will examine environmental, pest and biodiversity issues, is vital to that component of our country's agriculture. Certainly our future success in agriculture, especially market-oriented agriculture as envisioned by the 1996 Farm Bill, will require an on-going commitment to research if we are to maintain the U.S. lead.

I also appreciate the assistance of the committee in resolving a problem that co-ops in California and elsewhere were experiencing with regard to USDA's commodity purchase program. In the committee's view, USDA was using too restrictive an interpretation about small business set-asides which worked not just against co-ops, but against competitive bidding when USDA conducts surplus commodity buys for the school lunch program and other feeding programs. Language included in the bill directs USDA not to prohibit eligibility or participation by farmer-owned cooperatives, essentially recognizing that they are simply associations of small businesses equally deserving of consideration in these competitive bids.

In short, I support the bill and I think JOE SKEEN and MARCY KAPTUR have done a good job under difficult circumstances. I'll look forward to working with them as we see this bill through conference and into enactment.

Mr. POMEROY. Mr. Chairman, I rise in strong support of the Agriculture Appropriations Act and to commend the good work of the chairman of the subcommittee, Mr. SKEEN, and the ranking member, Ms. KAPTUR.

I am especially pleased that the bill includes the legislation introduced by Representative NETHERCUTT and myself to clarify the status USDA export credit programs under the Arms Export Control Act. Following the nuclear tests conducted by India and Pakistan last month, a serious question was raised as to whether the GSM program, which provides guaranteed financing for American agriculture exports, would have to be suspended for India and Pakistan. The resolution of this issue is vitally important to American wheat farmers since Pakistan is the third largest wheat market in the world, accounts for 10 percent of all U.S. wheat exports, and relies on the GSM program for nearly all of its U.S. wheat imports.

The Nethercutt-Pomeroy bill provides needed statutory clarification by specifically excluding USDA export programs from the Arms Export Control Act. I commend Mr. NETHERCUTT for his leadership, and I would also like to thank the Administration for endorsing the legislation. Just this morning, the President personally expressed his support for the Nethercutt bill during the White House signing ceremony of the Agriculture Research bill. With all parties firmly behind the legislation, I am encouraged that it will be swiftly adopted and that market disruption will be held to a minimum.

Mr. Chairman, farmers on the Upper Great Plains are already struggling with miserably low market prices, adverse growing conditions, and devastating crop disease. The crisis in farm country demands a multi-faceted response from Congress, including improvements in crop insurance, an enhanced marketing loan, and an expansion of foreign markets. At a minimum, we should not surrender hard-fought and hard-won foreign markets through unilateral sanctions. The Nethercutt-Pomeroy bill ensures that we will not make that mistake.

I urge my colleagues to support the Agriculture Appropriations Act.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 4101, the Agriculture Appropriations bill for fiscal year 1999.

This Member would like to commend the distinguished gentleman from New Mexico (Mr. SKEEN), the Chairman of the Agriculture Appropriations Subcommittee, and the distinguished gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the Subcommittee for their hard work in bringing this bill to the Floor.

Mr. Chairman, this Member certainly recognizes the severe budget constraints under which the full Appropriations Committee and the Agriculture Appropriations Subcommittee operated. In light of these constraints, this Member is grateful and pleased that this legislation includes funding for several important projects of interest to the State of Nebraska.

First, this Member is pleased that H.R. 4101 provides $475,000 for the Midwest Advanced Food Manufacturing Alliance. The Alliance is an association of twelve leading research universities and corporate partners. Its purpose is to develop and facilitate the transfer of new food manufacturing and processing technologies.

The Alliance awards grants for research projects on a peer review basis. These awards must be supported by an industry partner willing to provide matching funds. During its third year of competition, the Alliance received 16 proposals requesting $627,968 but it was limited to funding 10 proposals for a total of $348,700. Matching funds from industry partners totaled $780,052 with an additional $158,869 from in-kind contributions. These figures convincingly demonstrate how successful the Alliance has been in leveraging support from the food manufacturing and processing industries.

Mr. Chairman, the future viability and competitiveness of the U.S. agricultural industry depends on its ability to adapt to increasing world-wide demands for U.S. exports of intermediate and consumer good exports. In order to meet these changing world-wide demands, agricultural research must also adapt to provide more emphasis on adding value to our basic farm commodities. The Midwest Advanced Food Manufacturing Alliance can provide the necessary cooperative link between universities and industries for the development of competitive food manufacturing and processing technologies. This will, in turn, ensure that the United States agricultural industry remains competitive in a increasingly competitive global economy.

This Member is also pleased that this bill includes $200,000 to fund a drought mitigation project at the Agricultural Meteorology Department at the University of Nebraska-Lincoln. This level of funding will greatly assist in the further development of a national drought mitigation center. Such a center is important to Nebraska and all arid and semi-arid states. Although drought is one of the most complex and least understood of all natural disasters, no centralized source of information currently exists on drought assessment, mitigation, response, and planning efforts. A national drought mitigation center would develop a comprehensive program designed to reduce vulnerability to drought by promoting the development and implementation of appropriate mitigation technologies.

Another important project funded by this bill is the Alliance for Food Protection, a joint project between the University of Nebraska and the University of Georgia. The mission of this Alliance is to assist the development and modification of food processing and preservation technologies. This technology will help ensure that Americans continue to receive the safest and highest quality food possible.

This Member is also pleased that the legislation has agreed to fund the following ongoing Cooperative State Research Service (CSRS) projects at the University of Nebraska-Lincoln:

Food Processing Center—$42,000.
Non-food agricultural products—$64,000.
Sustainable agricultural systems—$59,000.

Also, this Member is pleased that H.R. 4101 includes $125 million for the new Section 538, the rural rental multi-family housing loan guarantee program. The program provides a Federal guarantee on loans made to eligible persons by private lenders. Developers will bring ten percent of the cost of the project to the table, and private lenders will make loans for the balance. The lenders will be given a 100% Federal guarantee on the loans they make. Unlike the current Section 515 direct loan Program, where the full costs are borne by the Federal Government, the only costs to the Federal Government under the 538 Guarantee Program will be for administrative costs and potential defaults.

Mr. Chairman, this Member appreciates the Subcommittee's support for the Department of Agriculture's 502 Unsubsidized Loan Guarantee Program. The program has been very effective in rural communities by guaranteeing loans made by approved lenders to eligible income households in small communities of up to 20,000 residents in non-metropolitan areas and in rural areas. The program provides guarantees for 30 year fixed-rate mortgages for the purchase of an existing home or the construction of a new home. The loan amount may be up to 100 percent of a home's market value, with a maximum mortgage amount of $86,317.

Mr. Chairman, in conclusion, this Member supports H.R. 4101 and urges his colleagues to approve it.

Mr. SKEEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. The amendment printed in House Report 105–593 is adopted.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any proposed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

Production, Processing, and Marketing

Office of the Secretary

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $2,941,000: *Provided*, That not to exceed $11,000 of this amount, along with any unobligated balances of representation funds in the Foreign Agricultural Service, shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

Executive Operations

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,973,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $12,204,000.

Office of Budget and Program Analysis

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $6,120,000.

Office of the Chief Information Officer

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $5,551,000.

Chief Financial Officer

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $4,283,000: *Provided*, That the Chief Financial Officer shall actively market cross-servicing activities of the National Finance Center.

Office of the Assistant Secretary for Administration

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $636,000.

Agriculture Buildings and Facilities and Rental Payments

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for the operation, maintenance, and repair of Agriculture buildings, $132,184,000: *Provided*, That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account. In addition, for construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the programs of the Department, where not otherwise provided, $5,000,000, to remain available until expended; making a total appropriation of $137,184,000.

Hazardous Waste Management

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, 42 U.S.C. 6961, $15,700,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Waste Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

Departmental Administration

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $32,168,000, to provide for necessary expenses for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

Outreach for Socially Disadvantaged Farmers

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $3,000,000, to remain available until expended.

Office of the Assistant Secretary for Congressional Relations

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,668,000: *Provided*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations: *Provided further*, That not less than $2,241,000 shall be transferred to agencies funded in this Act to maintain personnel at the agency level.

Office of Communications

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $8,138,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

Office of the Inspector General

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, $67,178,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000, for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98: *Provided*, That funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of the Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account for law enforcement activities authorized under the Inspector General Act of 1978, to remain available until expended.

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, $30,396,000.

Office of the Under Secretary for Research, Education and Economics

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $560,000.

Economic Research Service

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $67,282,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), the Census of Agriculture Act of 1997 (P.L. 105–113), and other laws, $105,082,000, of which up to $23,141,000 shall be available until expended for the Census of Agriculture: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

Agricultural Research Service

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25% of the total value of the land or interests transferred out of Federal ownership, $755,816,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $250,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center, including an easement to the University of Maryland to construct the Transgenic Animal Facility which upon completion shall be accepted by the Secretary as a gift: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law. None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

In fiscal year 1999 the agency is authorized to charge fees, commensurate with the fair market value, for any permit, easement, lease, or other special use authorization for the occupancy or use of land and facilities (including land and facilities at the Beltsville Agricultural Research Center) issued by the agency as authorized by law, and such fees shall be credited to this account, and shall remain available until expended, for authorized purposes.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $61,380,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

Cooperative State Research, Education, and Extension Service

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $168,734,000 to carry into effect the provisions of the Hatch Act (7 U.S.C. 361a–i); $20,497,000 for grants for cooperative forestry research (16 U.S.C. 582a–a7); $27,735,000 for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222); $49,273,000 for special grants for agricultural research (7 U.S.C. 450i(c)); $15,048,000 for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)); $99,550,000 for competitive research grants (7 U.S.C. 450i(b)); $4,775,000 for the support of animal health and disease programs (7 U.S.C. 3195); $700,000 for supplemental and alternative crops and products (7 U.S.C. 3319d); $3,000,000 for higher education graduate fellowships grants (7 U.S.C. 3152(b)(6)), to remain available until expended (7 U.S.C. 2209b); $4,350,000 for higher education challenge grants (7 U.S.C. 3152(b)(1)); $1,000,000 for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), to remain available until expended (7 U.S.C. 2209b); $3,000,000 for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241); $3,880,000 for aquaculture grants (7 U.S.C. 3322); $8,000,000 for sustainable agriculture research and education (7 U.S.C. 5811); $9,200,000 for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, to remain available until expended (7 U.S.C. 2209b); $1,450,000 for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382; $200,000 for teaching grants for public secondary education and 2-year postsecondary education (7 U.S.C. 3152(h)), to remain available until expended; and $10,733,000 for necessary expenses of Research and Education Activities, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $431,125,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

Native American Institutions Endowment Fund

For establishment of a Native American institutions endowment fund, as authorized by Public Law 103–382 (7 U.S.C. 301 note), $4,600,000.

EXTENSION ACTIVITIES

Payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $268,493,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $2,000,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $56,147,000; payments for a pesticides applicator training program under section 3(d) of the Act, $300,000; payments for the pest management program under section 3(d) of the Act, $10,783,000; payments for the farm safety program under section 3(d) of the Act, $3,000,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,214,000; payments to upgrade 1890 land-grant college research, extension, and teaching facilities as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $8,549,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $908,000; payments for a groundwater quality program under section 3(d) of the Act, $10,061,000; payments for youth-at-risk programs under section 3(d) of the Act, $9,000,000; payments for a food safety program under section 3(d) of the Act, $3,500,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $3,192,000; payments for Indian reservation agents under section 3(d) of the Act, $1,672,000; payments for sustainable agriculture programs under section 3(d) of the Act, $3,309,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University, $25,090,000; and for Federal administration and coordination including administration of the Smith-Lever Act, and the Act of September 29, 1977 (7 U.S.C. 341–349), and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $7,571,000; in all, $416,789,000: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Office of the Assistant Secretary for Marketing and Regulatory Programs

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, the Agricultural Marketing Service, and the Grain Inspection, Packers and Stockyards Administration, $642,000.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947 (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $424,500,000, of which $4,105,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, and section 102 of the Act of September 21, 1944, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 1999 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 1999, $88,000,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $5,200,000, to remain available until expended.

Agricultural Marketing Service

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $46,567,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $60,730,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Appropriations Committees.

Funds for Strengthening Markets, Income, and Supply (Section 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,998,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, and the Agricultural Act of 1961.

Payments to States and Possessions

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,200,000.

Grain Inspection, Packers and Stockyards Administration

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $27,542,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $42,557,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Appropriations Committees.

Food Safety and Inspection Service

For necessary expenses of the Office of the Under Secretary for Food Safety and to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, $609,250,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided*, That this appropriation shall not be available for shell egg surveillance under section 5(d) of the Egg Products Inspection Act (21 U.S.C. 1034(d)): *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Office of the Under Secretary for Farm and Foreign Agricultural Services

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $597,000.

Farm Service Agency

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $724,499,000, of which not less than $10,000,000 is for purchases of equipment or studies related to the Service Center Initiative Common Computing Environment: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

State Mediation Grants

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101–5106), $2,000,000.

Dairy Indemnity Program

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of: (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer; or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968 (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $450,000, to remain available until expended (7 U.S.C. 220(b): *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

Agricultural Credit Insurance Fund Program Account

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $500,031,000 of which $425,031,000 shall be for guaranteed loans; operating loans, $1,976,000,000 of which $1,276,000,000 shall be for unsubsidized guaranteed loans and $200,000,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $100,000,000; and for credit sales of acquired property, $25,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $17,986,000 of which $6,758,000 shall be for guaranteed loans; operating loans, $62,630,000 of which $11,000,000 shall be for unsubsidized guaranteed loans and $17,480,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $153,000; for emergency insured loans, $5,900,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $1,440,000; and for credit sales of acquired property, $3,260,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $219,861,000 of which $209,861,000 shall be transferred to and merged with the "Farm Service Agency, Salaries and Expenses" account.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933), $64,000,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

Corporations

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

Federal Crop Insurance Corporation Fund

For payments as authorized by section 516 of the Federal Crop Insurance Act such sums as may be necessary, to remain available until expended (7 U.S.C. 2209b).

Commodity Credit Corporation Fund

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1999, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $8,439,000,000 in the President's fiscal year 1999 Budget Request (H. Doc. 105–177)), but not to exceed $8,439,000,000, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1999, the Commodity Credit Corporation shall not expend more than $5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, 42 U.S.C. 6961: *Provided*, That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation in this Act.

Mr. SKEEN (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 29, line 26 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II

CONSERVATION PROGRAMS

Office of the Under Secretary for Natural Resources and Environment

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $719,000.

NATURAL RESOURCES CONSERVATION SERVICE

Conservation Operations

For necessary expenses for carrying out the programs administered by the Natural Resources Conservation Service, including the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $641,243,000, to remain available until expended (7 U.S.C. 2209b), of which not less than $5,990,000 is for snow survey and water forecasting and not less than $7,825,000 is for operation and establishment of the plant materials centers: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–f) in demonstration projects: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2).

Watershed Surveys and Planning

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1009), $9,545,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $110,000 shall be available for employment under 5 U.S.C. 3109.

Watershed and Flood Prevention Operations

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $97,850,000, to remain available until expended (7 U.S.C. 2209b) (of which up to $15,000,000 may be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a)): *Provided*, That not to exceed $47,000,000 of this appropriation shall be available for technical assistance: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

Resource Conservation and Development

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607), the Act of April 27, 1935 (16 U.S.C. 590a–f), and the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $35,000,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

TITLE III

RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS

Office of the Under Secretary for Rural Development

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $611,000.

Rural Development

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, and 1932, except for sections 381E–H, 381N, and 381O of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009f), $745,172,000, to remain available until expended, of which $35,717,000 shall be for rural community programs described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act; of which $658,955,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act; and of which $50,500,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided*, That of the amount appropriated for rural utilities programs, not to exceed $20,000,000 shall be for water and waste disposal systems to benefit the colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; not to exceed $15,000,000 shall be for technical assistance grants for rural waste systems pursuant to section 306(a)(14) of such Act; and not to exceed $5,400,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the total amounts appropriated, not to exceed $20,048,000 shall be available through June 30, 1999, for empowerment zones and enterprise communities, as authorized by Public Law 103–66, of which $1,200,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $18,700,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act; of which $148,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act.

Rural Housing Service

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, *as amended*, to be available from funds in the rural housing insurance fund, as follows: $3,930,600,000 for loans to section 502 borrowers, as determined by the Secretary, of which $3,000,000,000 shall be for unsubsidized guaranteed loans; $25,001,000 for section 504 housing repair loans; $125,000,000 for section 538 guaranteed multi-family housing loans; $20,000,000 for section 514 farm labor housing; $100,000,000 for section 515 rental housing; $5,000,000 for section 524 site loans; $25,000,000 for credit sales of acquired property, of which up to $5,001,000 may be for multi-family credit sales; and $5,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $112,700,000, of which $2,700,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $8,808,000; section 538 multi-family housing guaranteed loans, $2,900,000; section 514 farm labor housing, $10,406,000; section 515 rental housing, $48,250,000; section 524 site loans, $17,000; credit sales of acquired property, $3,492,000, of which up to $2,416,000 may be for multi-family credit sales; and section 523 self-help housing land development loans, $282,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $354,785,000, which shall be transferred to and merged with the appropriation for "Rural Housing Service—Salaries and Expenses".

Rental Assistance Program

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, as amended, $583,397,000; and in addition such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during fiscal year 1999 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

Mutual and Self-Help Housing Grants

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $26,000,000, to remain available until expended (7 U.S.C. 2209b).

Rural Housing Assistance Grants

(INCLUDING TRANSFERS OF FUNDS)

For grants and contracts for housing for domestic farm labor, very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service as authorized by 42 U.S.C. 1474, 1479(c), 1486, 1490e, and 1490m, $41,000,000, to remain available until expended: *Provided*, That of the total amount appropriated, $1,200,000 shall be for empowerment zones and enterprise communities, as authorized by Public Law 103–66: *Provided further*, That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1999, they shall remain available for other authorized purposes under this head.

Salaries and Expenses

For necessary expenses of the Rural Housing Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, title V of the Housing Act of 1949, and cooperative agreements, $57,958,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $520,000 may be used for employment under 5 U.S.C. 3109.

Rural Business—Cooperative Service

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, $17,622,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $35,000,000: *Provided further*, That through June 30, 1999, of the total amount appropriated, $3,345,000 shall be available for the cost of direct loans for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, to subsidize gross obligations for the principal amount of direct loans, $7,246,000.

In addition, for administrative expenses to carry out the direct loan programs, $3,499,000 shall be transferred to and merged with the appropriation for "Rural Business-Cooperative Service—Salaries and Expenses".

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $15,000,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $3,783,000.

Of the funds derived from interest on the cushion of credit payments in fiscal year 1999, as authorized by section 313 of the Rural Electrification Act of 1936, $3,783,000 shall not be obligated and $3,783,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $3,300,000, of which up to $1,300,000 may be available for cooperative agreements for the appropriate technology transfer for rural areas program.

SALARIES AND EXPENSES

For necessary expenses of the Rural Business-Cooperative Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act; section 1323 of the Food Security Act of 1985; the Cooperative Marketing Act of 1926; for activities relating to the marketing aspects of cooperatives, including economic research findings, as authorized by the Agricultural Marketing Act of 1946; for activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $25,680,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $260,000 may be used for employment under 5 U.S.C. 3109.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935), shall be made as follows: 5 percent rural electrification loans, $71,500,000; 5 percent rural telecommunications loans, $75,000,000; cost of money rural telecommunications loans, $300,000,000; municipal rate rural electric loans, $295,000,000; and loans made pursuant to section 306 of that Act, rural electric, $700,000,000 and rural telecommunications, $120,000,000, to remain available until expended.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of direct loans, $16,667,000; cost of municipal rate loans, $25,842,000; cost of money rural telecommunications loans, $810,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $29,982,000, which shall be transferred to and merged with the appropriation for "Rural Utilities Service—Salaries and Expenses".

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1999 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $175,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935), $4,638,000.

In addition, for administrative expenses necessary to carry out the loan programs, $3,000,000, which shall be transferred to and merged with the appropriation for "Rural Utilities Service—Salaries and Expenses".

DISTANCE LEARNING AND TELEMEDICINE PROGRAM

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., $10,180,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided*, That the costs of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

SALARIES AND EXPENSES

For necessary expenses of the Rural Utilities Service, including administering the programs authorized by the Rural Electrification Act of 1936, and the Consolidated Farm and Rural Development Act, and for cooperative agreements, $33,000,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $105,000 may be used for employment under 5 U.S.C. 3109.

TITLE IV

DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $9,218,647,000, to remain available through September 30, 2000, of which $4,170,497,000 is hereby appropriated and $5,048,150,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to $4,300,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $3,924,000,000, to remain available through September 30, 2000: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to $12,000,000 may be used to carry out the farmers' market nutrition program from any funds not needed to maintain current caseload levels: *Provided further*, That notwithstanding sections 17(g), (h), and (i) of such Act, the Secretary shall adjust fiscal year 1999 State allocations to reflect food funds available to the State from fiscal year 1998 under sections 17(i)(3)(A)(ii) and 17(i)(3)(D): *Provided further*, That the Secretary shall allocate funds recovered from fiscal year 1998 first to States to maintain stability funding levels, as defined by regulations promulgated under section 17(g), and then to give first priority for the allocation of any remaining funds to States whose funding is less than their fair share of funds, as defined by regulations promulgated under section 17(g) unless the Secretary has published a revised funding formula regulation prior to the allocation of fiscal year 1999 funds: *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of the Child Nutrition Act of 1966: *Provided further*, That State agencies required to procure infant formula using a competitive bidding system may use funds appropriated by this Act to purchase infant formula under a cost containment contract entered into after September 30, 1996, only if the contract was awarded to the bidder offering the lowest net price, as defined by section 17(b)(20) of the Child Nutrition Act of 1966, unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than five percent.

AMENDMENT NO. 5 OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Chairman, I offer an amendment.

Mr. SKEEN. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from New Mexico reserves a point of order.

Is the gentleman from Ohio referring to his amendment that was printed in the RECORD?

Mr. HALL of Ohio. I am, Mr. Chairman.

The CHAIRMAN. The amendment that the gentleman is offering is printed on page 13 of the bill. Is there objection to the amendment of the gentleman from Ohio (Mr. HALL) printed on page 13 being considered at this point?

Mr. SKEEN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The Clerk will report the amendment pending the reservation of objection.

The Clerk read as follows:

Amendment No. 5 offered by Mr. HALL of Ohio:

Page 13, line 14, insert "(reduced by $8,000,000)" after the dollar figure.

Page 14, line 24, insert "(reduced by $8,000,000)" after the dollar figure.

Page 15, line 18, insert "(reduced by $9,000,000)" after the dollar figure.

Page 17, line 4, insert "(reduced by $9,000,000)" after the dollar figure.

Page 48, line 9, insert "(increased by $10,000,000)" after the dollar figure.

Mr. HALL of Ohio. Mr. Chairman, I ask unanimous consent to offer this amendment out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. SKEEN. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. HALL of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am offering an amendment which the gentleman from New Mexico was very much aware of. I suggested that I would be offering this amendment on the floor. I had not realized when I was in my office in a meeting that the agriculture bill was being called up and the discussion on the bill would go so quickly.

My amendment was in order. It was printed in the Record. It has been in the Record since last night. The problem is that the Reading Clerk went beyond the section. Therefore, I had to ask for unanimous consent. I would just ask for the gentleman's indulgence and that he would accept the amendment so that we could have a colloquy, if we could go back and I could offer this out of order.

It is not because we did not try. It is because the gentleman moved so quickly in the whole process here on the floor. This is a very important amendment.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I understand the gentleman's predicament and I would offer him this; that we will work with him in conference on this particular matter. But at the present time, it is out of order and I will maintain that objection.

Mr. HALL of Ohio. Mr. Chairman, I will take the time that I have. I am sorry that the gentleman does not see fit to accept this amendment. I do not know what the threat is.

The amendment essentially restores $10 million that has been cut from the emergency food assistance program, it is called TEFAP, in the fiscal year 1999 agriculture appropriations bill. This additional $10 million is needed to fully fund this critical antihunger program at the authorized level of $100 million.

□ 1245

There is no question that more and more Americans are hungry and they are turning to food banks throughout our Nation for help. Study after study, Second Harvest, the U.S. Conference of Mayors, my own study shows that there has been countless news reports of more and more people asking for food. If Members have any doubts, visit the local food banks in their own districts.

I hate to be here cutting good programs, but hungry people ought to come first. The United States has the strongest economy in a generation, and yet hunger remains a serious problem for many people. The cuts that I propose still leave these programs with funding levels that have increased over the past year, and they keep funding for food banks flat.

When we cut food stamps by $23 billion to pay for welfare reform, we committed to paying $145 million to cover the increased demand on food banks. That is nowhere near enough to do the job. But cutting food banks even further in a year of increased need is unconscionable.

Food is the least expensive, most effective ingredient in a successful welfare reform. People cannot work on empty stomachs.

We are blessed in this country. There is no question about it. This bill is approximately $55 billion. I realize that the chairman and ranking minority member are under a difficult task of trying to find money for all these different programs, but if we cannot find an additional $10 million out of existing programs, especially programs that have been increased, there is something the matter with us.

If we are considering a $60- to $100 billion tax cut and we cannot give $10 million extra to TEFAP, I cannot believe it. I cannot believe that the chairman is denying my amendment here when, about as fair as I could be, I offered that amendment, told the gentleman I was going to offer the amendment. The fact that it went too quickly, that we cannot consider this. I have to take the gentleman, though, at his word, since he objected to the amendment being offered, that he will try to restore this money of $10 million. It is vitally needed. If anybody doubts me on this floor, call their food banks and their soup kitchens in this country. I guarantee them they will find out there are hundreds of thousands of extra people, mostly working poor and senior citizens, that are asking for food all over this country.

It does not seem possible that at a time when this country has a balanced budget, tremendous employment, the most wealthy Nation in the world, that we have 25 to 30 million people asking for food at soup kitchens and food banks. These are not people on welfare. These are people that are hurting.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I understand the gentleman's feelings and his fervor for this, because we have had a discussion on this topic. I am going to maintain the rule, but I will, as I offered before, work with the gentleman in the conference to see if we cannot come to some solution on this thing either one way or the other. I take the gentleman at his word and I understand how dedicated he is.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

I would like to say to the gentleman from Ohio (Mr. Hall) that I do not think that there is a Member of this institution on either side of the aisle and in either Chamber who is more dedicated and more fervent and more committed to serving the needs of hungry people in our country and in other countries than is the gentleman from Ohio (Mr. Hall).

We have tried very, very hard and done the best that we could to the moment in this bill we are bringing to the floor to deal with the emergency needs across this country in our feeding kitchens. We know that they are there, and the gentleman from Ohio (Mr. Hall) has made us more aware of these needs. I could not let the moment go by without recognizing him and his dedication to this cause.

On the merits, he is absolutely correct. I know that this is the case in our State of Ohio, with all of the changes made in welfare reform, and I understand the pressures that our chairman was under as we tried to mark and cut and trim and do everything we could to produce a bill that satisfied across the board.

I would say to the gentleman from Ohio (Mr. Hall) that I will work very hard, as we move toward conference, with him and with our chairman and with the conferees to try to see if we cannot do better than we have done to this point.

One of the changes that we did make in the bill was to provide greater administrative flexibility to the States in the administration of the $135 million that is in the measure for these programs. This should free up some commodities to food banks. It is still not enough, but we would hope that the States and the Governors would pay particular attention to these changes. That does not solve the gentleman's problem, which is the gross amount included for this account. I wanted to give the gentleman an opportunity to expand on his earlier statements, if he wishes at this point.

Mr. HALL of Ohio. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Ohio.

Mr. HALL of Ohio. Mr. Chairman, I thank the gentlewoman for yielding to me and certainly thank her for her very kind words. I want to thank the gentleman from New Mexico (Mr. Skeen) as well.

I know it seems that we can be lulled asleep in this country thinking that everything is going so well. The fact is that we do have a budget that is balanced. We have people that are working. We have very low unemployment across this country. But at the same time, according to the U.S. Conference of Mayors, according to Second Harvest, according to a survey that I did with 200 food banks across this country, we have somewhere between 15 percent and well over 100 percent in some parts of our country of the increase of people asking for food in the last six months, and it is staggering. It does not seem possible.

These people are not people that are on public assistance. These are not people that qualify for any help. These are people, somewhere in the area of about 25 to 30 million people, that are two or three, sometimes four days a month, they go to bed, and their children, without food.

What happens is, after they pay their rent and they pay for the utility bills, they run out of money. These are the working poor and, in many cases, senior citizens. It is this group of people that find themselves going to food banks and soup kitchens. This is up in the last six months to the last year, not only at a minimum of 15 percent but it is up well over 100 percent increase.

What is happening at the same time is that a lot of the food chains and food markets and groups that give food are getting so much better in their estimate of not only food collection but inventories, and what is happening is that a lot of the food that they would normally donate is not coming into food banks and soup kitchens. So we find ourselves in a situation in which last year, under the welfare reform bill, $23 billion was cut over the next four or five years out of food stamps. So money was increased to the tune of about $100 million last year to the TEFAP program. But now I find that we are cutting back on the program.

What my amendment is trying to do is restore $10 million, period. I realize that there are so many sections of this bill that are important. And when I have to cut one area to give to another, it is not a question that the area that is being cut is a bad area or a frivolous area, it is a good area. It is question of what is the priority.

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support for the conservation programs in this bill. But in doing so, I want to express my deep disappointment that their funding has been cut. So I guess this might fall under the heading of a qualified endorsement.

Conservation programs were an integral part of the farm bill in 1996, and they are crucial to safeguarding our supply of clean water. Programs like the Environmental Quality Incentives Program, the Wildlife Incentives Program, the Wetlands Reserve Program and the Consolidated Farm Option help protect our environment by assisting farmers.

These programs help farmers protect water quality by installing buffer strips along streams and rivers to prevent soil and pollution run off. They help farmers develop innovative waste treatment projects to control the growing impact on water quality by animal feedlots. And they help farmers restore and protect vital wetlands, continuing the goal of no net loss of wetlands first announced by President George Bush.

And what is more, the programs accomplish these goals without the threat of regulation. They are completely voluntary. They are incentives based, and they have the overwhelming support of the Congress, as was demonstrated by the 372–37 vote for the conservation title of the 1996 farm bill, probably our single greatest environmental achievement in the 104th Congress.

So, Mr. Chairman, I support this bill, but I want to draw attention to the shortfall in these vital programs. The Senate committee has taken a somewhat different approach, giving a higher priority to these important conservation environment programs. I hope that when all is said and done, these programs will emerge from conference with more funding than is in the House bill, more like those funds provided in the Senate bill.

It is important for American agriculture. It is important for the environment. It is important for America.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word. I do this for purposes of entering into two colloquies with the chairman.

Mr. Chairman, it is my understanding that the reason for the inclusion of report language directing that the cost of providing technical assistance to the EQIP program will be fully funded within the EQIP, as provided in the Federal Agriculture Improvement Act of 1996, was to help ensure that other areas of technical assistance, such as grazing land improvement and ensuring water quality would not suffer.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I tell the gentleman that that is correct. The subcommittee is concerned that the NRCS has undertaken and has been asked by Congress to carry out a number of functions complicating their ability to fulfill their longstanding role of delivering technical assistance in the field in partnership with the conservation districts.

Mr. STENHOLM. Mr. Chairman, I thank the chairman for that response.

The chairman is aware that the Office of Management and Budget has directed that the agency will only receive a reimbursement of 10 percent for carrying out the EQIP program in fiscal year 1999 as opposed to the 19 percent level received in 1998. Would the chairman agree that the OMB should reexamine this decision?

I ask this question, particularly in light of the greatly increasing work the NRCS is doing with livestock producers and water supply districts to protect the quality of our water supply. As the gentleman is aware, the Environmental Protection Agency is going to be placing increasing regulatory demands on livestock producers. I would hope that we could do more to help install the best management practices available to stave off enforcement actions that may come about because of these proposed regulatory actions.

Mr. SKEEN. Mr. Chairman, if the gentleman will continue to yield, the gentleman's concerns are not unwarranted. I will work with him to ensure that our farmers and ranchers will have the needed assistance to meet present and future environmental demands. I would also hope that OMB would reexamine the impact of their decision on reimbursement levels as we complete the work on this legislation.

Mr. STENHOLM. Mr. Chairman, I thank the chairman for that response. I assure him that I will work with him and with OMB to see that they may reexamine those decisions.

Second colloquy, I know the chairman is aware, again, of the tremendous regulatory burdens facing many of our Nation's livestock producers. In light of these burdens, there is a tremendous need to develop innovative, market-based solutions for livestock-related water quality concerns.

A project to do just that has been proposed by a broad coalition of dairy producers, local governments and researchers in the Bosque watershed of central Texas. This project would facilitate evaluation of promising waste utilization technologies and would work to develop markets in order to enhance the value of these by-products.

□ 1300

Unfortunately, because their project necessarily involves both research and actual market development, they have found it rather complicated to secure funding under either the research or the rural development categories.

I believe this is a worthy project deserving funding from USDA rural development and hope the gentleman from New Mexico would look at this as we go to conference.

Mr. SKEEN. I will respond to the gentleman by saying I am aware of the project the gentleman is referring to, and I share his concern regarding the challenges of such innovative efforts. I would certainly encourage the Department to give serious consideration to this project when evaluating rural development priorities. In addition, I will happily work with the gentleman from Texas should any other appropriate research funds become available during this conference.

Mr. STENHOLM. I thank the gentleman from New Mexico for that response.

Mr. SERRANO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I would like to offer my thanks both to the gentleman from New Mexico (Mr. SKEEN), chairman of the subcommittee, and the gentlewoman from Ohio (Ms. KAPTUR), ranking member, as well as the leadership of the committee, the gentleman from Louisiana (Mr. LIVINGSTON) and the gentleman from Wisconsin (Mr. OBEY) on the work that has been done on this bill.

These days it is not easy to put a bill like this together with all of the cuts that we are facing in this Congress and throughout our government. So when, in fact, we set out to try to help the very people who need help, and we move on the road to accomplishing that, it is something that we have to be commended for.

While it is a difficult bill to put together, I think the final result, with yet some minor changes, may, in fact, address the needs of so many people in this country.

Most importantly, I would like to thank the leadership on both sides for accepting into the rule an amendment that I worked on for many months this year and which many people were working on which would deal with the issue of African American and minority farmers.

This action was necessary because the Justice Department had determined that the statute of limitations prevents the USDA from providing compensatory damages to individuals who allege discrimination in USDA programs if those individuals did not file a complaint in Federal district court within 2 years of the alleged discrimination, even if they had filed a complaint in USDA's administrative process.

In fact, a Civil Rights Action Team report, issued in February, 1997, concluded that USDA had not been effectively resolving civil rights complaints from 1993 to 1996. Since then, USDA has new civil rights leadership and, with the help of Congress, has rebuilt the civil rights investigatory and settlement infrastructure.

USDA now has in place a process where each case is investigated, compensation claims are subjected to independent economic analysis, and officials from the office of civil rights and the office of the new associate general counsel for civil rights issue written findings of investigations and prepare and review settlements.

But without addressing the issue that is addressed in this bill, USDA would not be able to effectively resolve discrimination complaints filed against it by a group of farmers who deserve our attention. So it is important to understand what we have accomplished here today.

I think it is also most important to understand that it was done on a bipartisan fashion. We have for so many years wanted very much to move in the direction of being fair with everyone. These farmers had been treated unfairly, and, yet, there was no way to deal with this issue.

So today I think we have accomplished a lot, and it is a great day. We have solved, and we are on the road to a very serious solution of this problem. I know that this issue will come up again in conference, but I wanted to thank the gentleman from New Mexico (Mr. SKEEN), the gentlewoman from Ohio (Ms. KAPTUR), and the leadership of the committee for allowing this amendment to be part of the final product.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $22,591,806,000, of which $100,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That funds made available for Employment and Training under this head shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act, as amended.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) and, the Emergency Food Assistance Act of 1983, $131,000,000, to remain available through September 30, 2000: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD DONATION PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note), and section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a), $141,081,000, to remain available through September 30, 2000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services and of the domestic food programs funded under this Act, $108,311,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law and of which $2,000,000 shall be available for obligation only after promulgation of a final rule to curb vendor related fraud: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE AND GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $140,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $135,561,000, of which $3,231,000 may be transferred from the Export Loan Program account in this Act, and $1,035,000 may be transferred from the Public Law 480 program account in this Act: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 PROGRAM AND GRANT ACCOUNTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, and 1731–1736g), as follows: (1) $182,624,000 for Public Law 480 title I credit, including Food for Progress programs; (2) $14,890,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985; (3) $837,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $25,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided*, That not to exceed 15 percent of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further*, That such sums shall remain available until expended (7 U.S.C. 2209b).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit agreements under said Act, $158,499,000.

Mr. SANDERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from New Mexico (Mr. SKEEN), if I might. I had planned to offer an amendment to increase funding for the rural community advancement program by $10 million in order to fund a national pilot program to promote agritourism.

The purpose of this program is to provide another means of income for America's struggling family farmers. I think the plight of the family farmer in America is well documented, and I do not need to get into it right now. But as I said before, I am impressed with the work done in New Mexico with the rural economic development through tourism program.

I know the gentleman from New Mexico (Mr. SKEEN) has been very active in that program. I think it would be very useful to expand this general concept into a national program. I think it is working well in New Mexico, and I think it could work well throughout rural America.

However, I understand that the funding authority for the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies has decreased significantly for fiscal year 1999, and I would, therefore, like to get a commitment from the gentleman from New Mexico to work with me in the future to fund a pilot national agritourism program for fiscal year 2000.

Mr. SKEEN. Mr. Chairman, will the gentleman yield to me?

Mr. SANDERS. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I want to tell the gentleman that he has picked on a good program, because it has been very, very good in its operation in New Mexico. I hope that we could extend that. I will pledge to the gentleman that I will work with him to help develop this program into a nationally recognized program.

Mr. SANDERS. That is really good. I think farmers, dairy farmers, and others need additional sources of income. Agritourism has proved successful in New Mexico and other States. I look forward to working with the gentleman in the future to consider it a national concept.

Mr. SKEEN. The gentleman should consider it done.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 480 are utilized, $1,850,000.

Commodity Credit Corporation Export Loans Program Account

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $3,820,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which not to exceed $3,231,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Foreign Agricultural Service, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Farm Service Agency.

EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,500,000,000 in credit guarantees under its export credit guarantee program extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 202(a) and (b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING MARKETS EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its export guarantee program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging markets, as authorized by section 1542 of Public Law 101–624 (7 U.S.C. 5622 note).

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $1,003,772,000, of which not to exceed $132,273,000 in fees pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act may be credited to this appropriation and remain available until expended; and of which $500,000 shall be available for development of the systems and regulations necessary to implement the program under section 409(h) of such Act: *Provided*, That fees derived from applications received during fiscal year 1999 shall be subject to the fiscal year 1999 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

In addition, fees pursuant to section 354 of the Public Health Service Act may be credited to this account, to remain available until expended.

In addition, fees pursuant to section 801 of the Federal Food, Drug, and Cosmetic Act may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $11,350,000, to remain available until expended (7 U.S.C. 2209b).

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act, $88,294,000, including not to exceed $5,428,000 to be transferred to this appropriation from fees collected pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act and credited to the Food and Drug Administration Salaries and Expenses appropriation: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 5 percent of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

Financial Management Service

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1994, as authorized, $2,565,000.

INDEPENDENT AGENCIES

Commodity Futures Trading Commission

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $62,140,000, including not to exceed $1,000 for official reception and representation expenses: *Provided*, That the Commission is authorized to charge reasonable fees to attendees of Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation.

FARM CREDIT ADMINISTRATION

Limitation of Administrative Expenses

Not to exceed $35,800,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1999 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 440 passenger motor vehicles, of which 437 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954 (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit fly program, and integrated systems acquisition project; Farm Service Agency, salaries and expenses funds made available to county committees; and Foreign Agricultural Service, middle-income country training program.

New obligational authority for the boll weevil program; up to 10 percent of the screwworm program of the Animal and Plant Health Inspection Service; Food Safety and Inspection Service, field automation and information management project; funds appropriated for rental payments; funds for the Native American Institutions Endowment Fund in the Cooperative State Research, Education, and Extension Service; and funds for the competitive research grants (7 U.S.C. 450i(b)), shall remain available until expended.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 710. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1998 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 711. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 712. With the exception of grants awarded under the Small Business Innovation Development Act of 1982, Public Law 97–219 (15 U.S.C. 638), none of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research, Education, and Extension Service that exceed 14 percent of total Federal funds provided under each award.

SEC. 713. Notwithstanding any other provisions of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 714. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 1999 shall remain available until expended to cover obligations made in fiscal year 1999 for the following accounts: the rural development loan fund program account; the Rural Telephone Bank program account; the rural electrification and telecommunications loans program account; and the rural economic development loans program account.

SEC. 715. Such sums as may be necessary for fiscal year 1999 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 716. Notwithstanding the Federal Grant and Cooperative Agreement Act, marketing services of the Agricultural Marketing Service; Grain Inspection, Packers and Stockyards Administration; and the Animal and Plant Health Inspection Service may use cooperative agreements to reflect a relationship between the Agricultural Marketing Service, the Grain Inspection, Packers and Stockyards Administration or the Animal and Plant Health Inspection Service and a State or Cooperator to carry out agricultural marketing programs or to carry out programs to protect the Nation's animal and plant resources.

SEC. 717. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 718. None of the funds made available in this Act may be used to provide assistance to, or to pay the salaries of personnel who carry out a market promotion/market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) that provides assistance to the United States Mink Export Development Council or any mink industry trade association.

SEC. 719. Of the funds made available by this Act, not more than $1,400,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 720. None of the funds appropriated in this Act may be used to carry out the provisions of section 918 of Public Law 104–127, the Federal Agriculture Improvement and Reform Act.

SEC. 721. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 722. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 723. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 724. Funds made available to the Farm Service Agency, the Natural Resources Conservation Service, and the Rural Development agencies may be used to support a staff office established to provide common support services, including the common computer system for use by such agencies.

SEC. 725. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out the provisions of section 793 of Public Law 104–127, the Federal Agriculture Improvement and Reform Act of 1996, as amended.

SEC. 726. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out a wildlife habitat incentives program authorized by section 387 of Public Law 104–127.

SEC. 727. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out an environmental quality incentives program authorized by sections 334–341 of Public Law 104–127 in excess of $174,000,000.

SEC. 728. None of the funds appropriated or otherwise made available by this Act shall be used to enroll in excess of 130,000 acres in the fiscal year 1999 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 729. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out the emergency food assistance program authorized by section 27(a) of the Food Stamp Act if such program exceeds $90,000,000.

SEC. 730. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998.

SEC. 731. Notwithstanding any other provision of law, the City of Big Spring, Texas shall be eligible to participate in rural housing programs administered by the Rural Housing Service.

SEC. 732. Notwithstanding any other provision of law, the Municipality of Carolina, Puerto Rico shall be eligible for grants and loans administered by the Rural Utilities Service.

SEC. 733. Notwithstanding section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009), the definitions of rural areas for certain business programs administered by the Rural Business-Cooperative Service and the community facilities programs administered by the Rural Housing Service shall be those provided for in statute and regulations prior to the enactment of Public Law 104–127.

SEC. 734. None of the funds appropriated or otherwise made available by this Act shall be used to carry out any commodity purchase program that would prohibit eligibility or participation by farmer-owned cooperatives.

SEC. 735. Meaning of "Antibacterial". Section 512(d)(4)(D)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(4)(D)(iii)) is amended by inserting before the semicolon the following: ", except that for purposes of this clause, antibacterial ingredient or animal drug does not include the ionophore or arsenical classes of animal drugs".

Mr. SKEEN (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 67, line 15 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. Are there amendments to the portion of the bill just read?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 736. In issuing the final rule to implement the amendments to Federal milk marketing orders required by subsection (a) of section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253), none of the funds appropriated or otherwise made available to the Secretary by this Act, any other Act, or any other source may be used to issue the rule other than during the period of February 1, 1999, through April 4, 1999, and only if the actual implementation of the amendments as part of Federal milk marketing orders takes effect on October 1, 1999.

AMENDMENT NO. 7 OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 7 offered by Mr. OBEY:
>
> Strike out section 736.

Mr. OBEY. Mr. Chairman, this will take a little time because I need to go back into some history to explain what is happening here today.

In 1938, the Congress passed legislation which established a series of milk marketing orders which, in essence, had the government setting prices for fluid milk based on where that milk was manufactured in the country. That made sense in 1938 when we did not have refrigeration, we did not have quality highways; it does not make sense today. It simply encourages overproduction, and it costs the taxpayer, and it hurts the consumers, and it hurts a lot of farmers in a number of regions around the country.

In the 1985 farm bill, Congressman Coehlo was instrumental in making a legislative change to that provision in law, first time that the Congress had interfered up until that time. Whatever differentials were provided for a Class I pricing were provided by administrative decision on a neutral basis. But that 1985 law added to the differential, and it raised the cost of milk products in a number of sections around the country.

As a result, today a farmer in Florida is required by law to receive $3 more per 100 pounds of milk than a farmer from my neck of the country is. A farmer from New York for fluid milk is required by law to be paid $2 more per 100 pounds on average than farmers in my section of the country.

We tried to change that in the farm bill that passed 2 years ago. Our efforts culminated in the amendment being offered that was offered at that time by Mr. Gunderson who was, at that time, the Republican chair of the Subcommittee on Livestock, Dairy and Poultry, and he tried to offer an amendment which would in a wholesale way reform that system.

He was rebuffed. He was told by the leadership of the House, no, there will not be any ability to offer an amendment to change this on the House floor. We are going to block you in the Committee on Rules. The only remedy that you will have is administrative.

Proceeding under authority in the farm bill to review the situation, Secretary Glickman has reviewed the seven options that he had before him for reforming this monstrosity, and he has proposed two for consideration by farmers. One is called Option 1–A. The other is called Option 1–B. The agency prefers 1–B, which is a tiny modest reform of the existing system. The status quo is represented by Option 1–A.

What is happening is that the very people who told us that we could not have a legislative remedy are now saying we cannot have an administrative remedy either. What they are saying is they are, in essence, delaying the ability of the Secretary to produce a reformed recommendation.

What that means is the Congress is saying, Mr. Secretary, Mr. Glickman, do not bother to even think about changing the milk marketing order system, because we will override you legislatively. That is why they have this delay in allowing the Secretary to propose his amendment.

I think that is illegitimate, and that is why I have a simple motion to strike that provision of the bill. Under the normal rules of the House, I should have been allowed to simply strike the section on a point of order because this section of the bill is clearly legislating on an appropriation bill. It is illegal under the rules of the House. It is not under the jurisdiction of the Committee on Appropriations.

I should have been allowed to strike that. I was not allowed to do so because that illegitimate section was protected by the rule. So now this is the only opportunity we have to have any discussion whatsoever of this proposal.

There is one other problem associated with what is in the bill. It also, by indirection, extends what is known as the Northeastern Dairy Compact. I do not blame representatives from any region of the country for trying to get a better deal for their farmers, but it should not come at the expense of farmers in other sections of the country, and it should not come at the expense of consumers.

What this provision in the bill provides is that it also allows for another 6-month extension of the Northeastern Dairy Compact. That will continue to raise prices for consumers in that region. It will continue to fence out from that region all dairy products produced in any other section of the country.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, I find it ironic that some of the same people in this House who have lectured us on the need to open trade barriers internationally are now saying, oh, but we should proceed to erect trade barriers within the Continental United States. That is exactly what the continuation of the Northeastern Dairy Compact would do.

So this amendment is very simple. It simply strikes the provision in the bill which extends the existing milk marketing order system and prevents the Secretary from offering reforms to it until he has waited another 6 months. It would also follow the original intent of the Northeastern Dairy Compact and end that compact at the same time.

If we believe in bringing dairy into a free market system rather than having government dictate the price that farmers are paid, we will vote for this amendment. It will be fair to consumers. It will be much fairer to the farmers in many sections of the country than the existing situation is. It will certainly be fairer to my farmers.

I think if anyone votes against this amendment and claims with a straight face to be a free marketer, he has been looking at a different dictionary than I have.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I am happy to yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I am delighted to see my friend, the gentleman from Wisconsin, my good friend, suddenly defending the free market theory when on so many issues we have stood together and said that it is absolutely appropriate to protect working people, to protect family farmers against the changes in the free market.

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Mr. OBEY. Reclaiming my time, I have no objection to protecting people from the unfair aspects of the free market, provided that you protect everybody. But the way this works is you are protecting your farmers at the expense of farmers in every other section of the country, and I do not regard that as a legitimate way to proceed.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me just rise in the strongest possible opposition to the motion to strike this extremely important provision in this bill. This provision is vital to the long-term livelihood of the dairy farmers throughout this entire country.

I am about to show my colleagues a chart that shows dairy farmers all across America. It does not matter whether you are from the Northeast, the Southeast, the Southwest, anywhere except in Wisconsin, they would lose and they would lose badly. Our farmers would be out of business. There would not be a farm left in Massachusetts, in New York, in New England, anywhere in New England, in Vermont if this legislation were to be defeated here today.

Let me take a moment to correctly characterize the dairy provisions of the 1996 farm bill as I was the author of those provisions just over 2 years ago along with the gentleman from Louisiana (Mr. LIVINGSTON), the chairman of the Committee on Appropriations; and also the gentleman from New Mexico (Mr. SKEEN), the chairman of the subcommittee.

The 1996 farm bill calls for reform in dairy, government purchases of product are phased out, eliminating the Federal budget outlays to dairy, marketing orders are consolidated and pricing adjustments are to be made. However, it was made explicitly clear in the deliberations over the 1996 farm bill that the basic pricing structure of the Federal dairy program that is so vitally important to the dairy men and women across this Nation would be maintained, without question. That is what the legislation says.

Some would argue that the Federal dairy program divides our Nation's dairy farmers into regions of haves and have-nots. The facts simply do not support that claim, Mr. Chairman. The Class I differentials that are such a popular target of the sponsors of this amendment in reality do not translate to higher producer pay prices.

As the USDA mailbox prices indicate, the Upper Midwest consistently receives higher farm-gate prices than all other regions with the exception of Florida. Over the last three years Wisconsin milk prices have averaged $0.39 per hundredweight higher than the prices received by my New York dairymen.

Mr. Chairman, the federal milk marketing order system is the life blood of the dairy farmers of this country.

Taking money out of the pockets of dairy farmers, as USDA proposes, is not the intent of this Congress and it will only accelerate dairy farm attrition and reduce local supplies of fresh fluid milk.

No one—not dairy farmers, not consumers—benefits from depressed farm milk prices.

In February, dairy producers in my district came to me and explained how the proposed USDA plan would in one fell swoop annihilate the already tight margins challenging their family businesses today.

Other Members, many other Members, from the many diverse dairy producing heard similar messages and we came together to publicly criticize the USDA plan regions—238 Members in this House and 61 in the Senate.

The dairy program may be complex and many Members today will claim they don't understand it, but please know—your farmers understand very well the impacts these policies have on their livelihoods.

Let's step back and look at this provision for what it truly is. The provision provides a 6-month across the board extension to all the dairy reform provisions of the Farm Bill to ensure that our nation's family dairy farmers are treated fairly under the federal milk marketing order reform.

It ensures that the damaging USDA proposal cannot be implemented while Congress is out of town and cannot respond to a rule that levy heavy costs on producers around the country to the clear benefit of one region.

Under the proposal, nearly 50 cents is taken away from my New York producers when they already receive 40 cents less per hundredweight than Wisconsin producers.

That is what I call unfair.

Support the extension, support Congressional oversight and oppose the Obey amendment to strike.

Mr. Chairman, in upstate New York in the Hudson Valley, we have farmers that have farmed that land for generations. These people have probably a net income between the husband, the wife and one child, in other words, gross income of about $31,000, if they are lucky, and most of them are less than that. How do they get that? If they are lucky, under the present milk marketing order system, which is a price support, not paid for by the Government, not one nickel paid for by the Government, but, in other words, the farmer might make $8,000, with all that work that goes into this over the course of a year. In order to maintain the farm and to maintain even a standard of living, the wife has to go out and she has to work for a catheter firm where she might make 12 or $13,000; and the one son who gets up at 4 o'clock in the morning when it is 30 below zero up there, the one son gets up, helps to milk the cows, then he goes to work in some other area, and in total they have an income of $31,000 and they barely are able to pay the taxes and keep that farm going. That is why we are losing farms by the hundreds, because people from New York City with all their money come up and then when they see the farmer no longer can make it, his son decides not to be the 16th generation, in other words, to work on that farm, and they no longer can make it, then somebody comes up there, they buy this farm, they renovate this farmhouse, and these wealthy people live happily ever after. But the farm is gone. They are gone by the hundreds and hundreds and hundreds.

Milk price supports, regardless of what the gentleman is going to say, simply guarantees that in every part of the country, you are going to lose money if we do not maintain those milk price supports. Take a look at this chart. Every single State in the union, except Wisconsin, loses money. Wisconsin makes money.

Let me just clarify for the last time what happened in 1996. I had just gotten out of a hospital, 30 days, where I had cancer, came on this floor and got into an argument with the gentleman from Rhode Island (Mr. KENNEDY), which I probably should not have been here, over guns; and the next day we took up this bill. The explicit bill said that we will maintain milk marketing orders, we will let the Secretary of Agriculture shrink those orders from 34 or 35 down to a workable 13 or 14. That was the order we gave.

Now, we have over 238 Members of this Congress coming from New York City, from the rural areas like the gentleman from Vermont who have signed this letter to Mr. Glickman saying, "You have to live up to the law. The law says we will maintain milk marketing orders."

The gentlemen from Wisconsin, this gentleman from Wisconsin (Mr. OBEY), they want to abolish it. They want to abolish it because they know their farmers will make more money if it is abolished, but all the rest of us will lose and lose badly.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLOMON) has expired.

(On request of Mr. OBEY, and by unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Wisconsin, someone I respect greatly.

Mr. OBEY. Let me simply ask the gentleman, outside of the fact that his State has 31 Members in this House and our State has 9, is there any other reason why his farmers should be required by law to receive $2 for every 100 pounds of fluid milk, $2 more for every hundred pounds of milk than my farmers are allowed to receive under the law?

Does the gentleman not believe that the market should determine what the price is rather than which State has the most votes on the floor of the House?

Mr. SOLOMON. That is exactly why we need the Northeastern Compact. It is why they need a Southeastern Compact. Because what it does, it guarantees that 8 million people in New York City and another 10 million upstate are going to get fresh milk, not coming from Wisconsin or someplace else; produced in the Hudson Valley of New York State.

Now, let us clear it up one more time. There is an overproduction of milk in the Northeast. Do you know how much we overproduce? I mean all these farmers that we are talking about. Two percent.

Do you know where the real overproduction comes? It comes from the area of the gentleman from Wisconsin (Mr. OBEY). You know it, the whole country knows it, and you want to make even more money for your farmers. I do not begrudge you that, but do not put ours out of business. That is what you are doing.

Mr. OBEY. If the gentleman will yield on that point, let me simply ask, does the gentleman really believe that we should be establishing internal trade barriers to milk products in this country while we are being told that we should abandon trade barriers internationally?

Mr. SOLOMON. Did the gentleman ever live or work on a dairy farm? I grew up on a dairy farm in Okeechobee, Florida.

Mr. OBEY. You bet I did.

Mr. SOLOMON. Let me tell you something. Fresh milk means everything. We cannot abolish small dairy farms from across the country and depend on 5,000 herd of cattle owned by people that do not even belong in the dairy business, these international conglomerates. We do not want to depend on them. We want small dairy farmers in America.

Mr. OBEY. If the gentleman will yield further, the average farm in my district is 50 cows. That is already a giant. The gentleman makes the best possible argument for the worst case that you have on the merits.

Mr. SOLOMON. I plead with the gentleman to join us.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the dean of the Wisconsin delegation the gentleman from Wisconsin (Mr. OBEY) and his amendment.

Mr. Chairman, the fact of the matter is that the Federal milk marketing order system has been gradually strangling the dairy producers of Wisconsin. There is no doubt about it. Before the Federal Government got into this business, Wisconsin was known as America's dairyland. We were by far number one in dairy production.

Since the Federal Government got into this in the Depression and then it has been extended, what we have seen is the pattern where gradually the producers of Wisconsin have been squeezed out of business. I will yield to no one in the country in their concern about dairy producers, but I would question them being concerned about dairy producers just because they happen to be next door rather than across the United States. The fact of the matter is the effect of the Northeast Compact and of the milk marketing order system has been to put hard-working dairy farmers out of business net in the United States.

The reason really that the impact is disproportionate on Wisconsin is due to the different structure of our dairy industry historically from many other areas of the country. Most of the areas of the country were historically fluid milk producing areas of the country for urban consumers. In Wisconsin, 90 percent of our milk on average historically has gone into value-added processed products, cheese, butter and the like, and then shipped all across the United States.

Over years as people learned how to manipulate the milk marketing order system, what has happened is that they have used the price supports to help them produce fluid milk for their local consumers, they have used that to subsidize excess production, and then manufactured that excess production into butter and cheese and so on, driving Wisconsin producers out of business.

The fact of the matter is we are no longer America's dairyland in Wisconsin. We are number two, both in milk production and now, for the first time in several generations, in the number of cows, to California. That is because, not that Wisconsin farmers do not work hard, not that they are relatively inefficient but because of the discrimination against the upper Midwest that is inherent in the Federal Government milk marketing program. The time has come to end that program and not keep it alive.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, let me simply observe that all through the debate last year, we were told, "You guys aren't going to get the opportunity to offer an amendment on this floor because we're going to prevent you from doing that by a special rule in the Rules Committee, so you aren't going to get a legislative remedy. You are going to have to rely on the USDA to come up with an objective reevaluation through their analysis."

Now that USDA has done so and the Secretary of Agriculture has indicated clearly that this system needs some reform, even though the reform he has proposed is the most minimal of the options offered outside of the status quo, we are now being told, "No, sorry, guys, don't bother. Mr. Secretary, don't bother, because if you try to adjust it, we're going to hammer you down legislatively."

That is what that provision is about in the bill. We are offering this amendment so that we finally get an opportunity to deal with this issue the way we should have been allowed to get an opportunity when the bill was originally before us.

Mr. KIND. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Chairman, as the gentleman from Wisconsin knows very well, this is June Dairy Month back in Wisconsin. We have got 72 dairy breakfasts going on. Twenty-four thousand family farms are celebrating June Dairy Month right now. Since 1980 alone, because of this antiquated Depression-era Federal milk marketing order system, we have suffered half, half of the family farms that have gone out of business in the last 18 years. Roughly five or six family farms a day are going out of business because of this price differential that is pitting region against region.

This is a golden opportunity for this Congress to finally come together, bring the competing regions together, finally hammer out one coherent national dairy policy that will get rid of these trade barriers that are now existing from region to region and start positioning our dairy producers for the 21st century so we can compete internationally. Rather than subsidizing inefficient dairy operations at home, we should be looking beyond our borders in how we can gain access to these opening markets overseas. We are not going to do that as long as we perpetuate this discriminatory form of dairy policy that works by and large to the disadvantage of farmers in Wisconsin. I have got 9,000 of those family farms in my district alone.

Eau Claire, the city, has been the epicenter of this discriminatory policy. That is what has to change. I thank the gentleman for yielding.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Wisconsin. Indeed I feel a little bit like an exhibit in an SAT question, "What doesn't belong in this sequence?" because I find myself in among all the Wisconsinites, and I am not motivated similarly to them. I bid them all a happy June Dairy Month. I was previously unaware of its existence and I probably will not celebrate it other than today. I am speaking for the consumers in favor of the amendment. Let me address the free market question.

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I have generally believed that we should, when we are dealing with production, rely on the powerful pro-production, pro-efficiency mechanism of the free market. I differ with some of my colleagues here in believing that the government then has some responsibility to provide safety nets. So I want to see these dairy farmers who are not doing well get the benefit of health care. I differ from some of my colleagues maybe in that. I do think, however, we make a distinction. The free market is the best way to govern production. Then the government intervenes to deal with people who may not be doing well.

What I am struck by are the number of my colleagues who are ordinarily supporters of the free market who trash it in this regard. My friend from New York, who I had always thought of as a great conservative, says that there are people who do not belong in the dairy business. Apparently we have a new function now. We in the Congress will decide who belongs in the dairy business and who does not belong in the dairy business. I do not think we belong in the business of deciding who belongs in the dairy business, and therefore we ought to get to this amendment.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, no, I did not mean that at all. What I meant was, I say to the gentleman from Massachusetts, we went through an S&L crisis, as my colleagues know, a number of years ago. And I know, and I will get the gentleman from Massachusetts some more time; okay?

But as my colleagues know, what happened was when we changed the guaranteed deposits, as my colleagues know, everybody got into the banking business. My colleagues and I decided we were going to be bankers, and we jumped in because it was all going to be federally guaranteed. Now we have got the same kind of people jumping into the dairy business.

Mr. FRANK of Massachusetts. Mr. Chairman, let me say I apologize for responding to what the gentleman said rather than what he meant, but my psychic powers are not as strong today as they have been.

I differ with the analogy. In the S&L business we did try very hard to put the S&L owners out of business. Those who were, in fact, culpable, we protected the depositors but not the owners.

But this is the issue, and I have all these free market people on the other side. I mean, maybe I am a sloppy reader. I thought I was familiar generally with the works of Milton Friedman, Friedrich Von Hayek, Ludwig Von Mises and Daffy Von Duck and whoever else the gentleman is citing. I must have missed the footnote that said none of this applies to farming. Somehow apparently in this whole body of intellectual activity that the friends of the free mark, there is an exception for farming.

What are we told? There is overproduction, my friend from New York says. Too many people are producing, there are people who can barely make it. And what is the solution? It is that the government step in and protect that overproduction, let us have government rules that guarantee that people can continue to overproduce.

It is the role of the market to deal with this in a fair way. If there are people who will then suffer, I am for health care for them, I am for better education programs for their children, and I am for trying to protect them. What this does is artificially keep prices high in the parts of the country so that poor consumers have to pay higher milk prices.

Let us also understand that there is no magical source of money here. If we are going to pay some farmers more money than they would otherwise get because of government rules and it is not coming from the taxpayer, it must be coming from the consumers. And indeed I am, I guess, in the minority in my region in opposing the dairy compact because that is another example of mercantilism to protect a small number of people who apparently would not make it in a free market system. We require others to subsidize them.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield again to the gentleman from New York.

Mr. SOLOMON. As my colleagues know, I just do not quite understand this because I have got some strange allies, too. The Liberal Party in the State of New York; we have a Republican, a Democrat, a Liberal, a Conservative Party; the Liberal Party of the State of New York, which are consumer-oriented, support my position.

Mr. FRANK of Massachusetts. First of all, Mr. Chairman, let me say two things to the gentleman.

First of all, I am somewhat familiar with the political history of New York, and there is less justification for the continued existence of that Liberal Party, which is a vestige, as the gentleman knows, than there is for some of these dairy farms that cannot make it on their own. The Liberal Party in New York is a patronage farm, and my colleague wants to subsidize them. But beyond that, what the gentleman is saying is that the consumer should be willing to subsidize this because the consumer will get fresh milk.

Mr. Chairman, I think I will let the consumer make that decision. I do not think the United States House of Representatives has to say to the consumer, "Look, we're going to make this choice for you. We will set rules that make you pay higher because you'll be getting fresh milk."

Consumers are capable of making that decision. If in fact people are not willing to pay enough of a premium to buy the extra milk, then we will not have it.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield first to the gentleman from Vermont.

Mr. SOLOMON. Why does the gentleman not yield to me first?

Mr. FRANK of Massachusetts. I yield first to the gentleman from Vermont because I have not yielded to him yet at all. It is the same side, it is equity. They are both against the free market. We are talking about socialist economics, one versus the other. That is okay.

I yield to the gentleman from Vermont.

Mr. SANDERS. What we are talking about is six States, among other things, and the legislatures and the Governors of six States and the people of six States coming together and saying, yes, it is terribly important that we save family farmers today and in the future.

In terms of consumers, I say to the gentleman from Massachusetts (Mr. FRANK), let me suggest this: that family farms in the weeds around this country go out of business, and if dairy is controlled by a handful of multinational agribusiness corporations, if my colleagues think the consumers are going to get a good deal, they are wrong.

Mr. FRANK of Massachusetts. Mr. Chairman, excuse me, I am taking back my time. I only have 2 minutes.

No, I do disagree with the gentleman on exactly that. It is always the argument on behalf of the people who are less efficient that efficiency will lead to price increases. I understand there are people who do not believe the market works. I disagree with that. In the first place there is no danger, in my view, of the milk production business being dominated by three or four or five entities. There will continue to be competition.

Secondly, as for preserving the family farms, I would like to try to preserve family farms, but I would like to preserve family plumbers, family small grocery stores. One of the problems we have here is that we are singling out one occupation, small farming, which is not well served apparently by current economics and saying, "We'll preserve you with subsidies and with extra consumer funds and not anyone else."

As far as the sick States are concerned, yes, I know all States have voted for that. I have seen times in my life which States have voted incorrectly. I believe, as a representative of one of those States, that in fact the people I represent are poorly served by a mechanism which increases the price because we make the choice for them if they pay more.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I will yield once more to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I also am concerned about consumer prices, and the question we have to ask is, in the last 20 years, at least in my State, the real price that farmers have gotten for milk has declined in real price by 50 percent.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has again expired.

(On request of Mr. SANDERS, and by unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 1 additional minute.)

Mr. SANDERS. Mr. Chairman, if the gentleman will yield, the issue here to think about, if we are concerned about consumers, is why, if the real price that family farmers have received has gone down by 50 percent and farmers all over this country are being driven off of the land, why in the supermarkets the prices have gone up.

Mr. FRANK of Massachusetts. Let me respond. I would say to the gentleman, Mr. Chairman, that the price paid to the farmer is not the only price. There are processing costs, there are trucking costs, there are costs in having the store, and I know the gentleman is much more critical of the market than I. I would point out to many of my colleagues on the other side that the view of the market he is taking, he is being consistent, is not one they usually take. They are the ones that are making a very blatant exception for this one favored profession. I differ with the gentleman from Vermont about this. I understand that is his view. I do believe the market generally works, but the price paid to the producer is by far the only element.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would simply like to point out the problem with the gentleman from Vermont's argument. It is that he intervenes only in support of some of the farmers in this country. Many other farmers are driven out of business by the very action that is being defended on this House floor today.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, now that the entertainment is over, we ought to be talking about the issue that is before us and the amendment before us, and having survived these dairy wars in the past, I thought it was possible that we might get by one more time, but of course that did not happen.

Frankly, I became involved because I believed that this was not the time or the place to debate again the finality of what is going to happen to dairy. It was my understanding that my colleagues in 1996 passed a bill called the Freedom to Farm bill which ends subsidies, and I thought that was the process that we were going through.

But that did not occur, and in an effort to assist the people in the Midwest I offered a program to merely extend for 6 months the existing issue, all in a manner to keep the peace. Well, obviously the people in the Midwest are now suggesting that that is not enough, but it was a compromise, and it was agreed to by the gentleman on this side and ladies and gentlemen on that side. We thought it was a agreement.

Now what is wrong with allowing the authorizers and the appropriators another session, since this is late in this one and since, thank God, I will not be here to have to enlist in this argument again, what is wrong with allowing the next Congress, authorizers and appropriators, to deliberate and debate this issue in depth? I thought I was offering a reasonable amendment. I was congratulated, by the way, by some Members on their side and my side on reaching a reasonable agreement.

Mr. KIND. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Chairman, just from a personal point of view, one of the concerns I have is even if this amendment fails and we get the 6-month extension, we are merely delaying the inevitable. We have been in touch with the Department of Agriculture. They have been having hearings, they have been receiving public comment. They propose two options right now. They are ready to move forward on issuing a rule this fall and implementing that rule early next year, just as the Freedom to Farm bill authorized them to do just 2 short years ago.

Let us get on with it right now. We do not want to have another big dairy fight on this House floor now.

Mr. SMITH of Oregon. Reclaiming my time, Mr. Chairman, I understand the gentleman's point. My point is simply this. We have reached an agreement and a compromise, I thought. Now keep it. Vote this amendment down.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from New York.

Mr. SOLOMON. Let me just clarify one thing because, as my colleagues know, we are trying to have some comity here, but, as my colleagues know, this gentleman now who is retiring, he is chairman of the Committee on Agriculture, has gone, bent over backwards to try to compromise so that we could work this issue out over the next 6 months or so. I will not be here either. But let me tell my colleagues what he did.

I went out and got 250 signatures in support of ramming through an order on the Secretary of Agriculture to implement I–A. We could have done that. We could have rubbed their noses in it. The gentleman from Oregon came to me and said, "You shouldn't be doing that." He came to the gentleman from Louisiana (Mr. LIVINGSTON) and said, "You shouldn't be doing that."

Incidentally, we already had 61 Senators. As my colleagues know, that is more than we even need to force something on the floor over there in support of our position.

So we all backed off and we all sat down because of the chairman of the

Committee on Agriculture and said, "All right, if you want a 6-month extension, we'll agree to it." It is part of an agreement that we all made, and that is why we should not even be going through this debate right now. We should have gone perhaps the other way and settled it once and for all.

But I for one commend the gentleman because he was acting in good faith, and we all went along with him.

Mr. SMITH of Oregon. Mr. Chairman, I yield to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I rise in strong opposition to the amendment and in support of the gentleman's enlightened position.

Mr. Chairman, I rise in strong opposition to the amendment.

The amendment would eliminate the extension of the current milk marketing rules and the Northeast Dairy Compact by an additional 6 months, from April 1999 to October 1999. This extension is necessary to ensure that Congress is able to fully understand and properly oversee the Department of Agriculture's efforts to reform the federal milk marketing rules.

Why is this necessary? Because when Agriculture Secretary Dan Glickman announced the proposed rule for the reform of the federal milk marketing order system, he outlined a "preferred" plan, known as "Option 1–B", which would dramatically reduce dairy farm income in almost all regions of the country. Option 1–B will reduce annual dairy farm income by approximately $365 million nation-wide at a time when many dairy farmers are barely able to hold on to their farms and their way of life. I think it is fair to expect that Option 1–B would put many farmers out of business.

In response, 238 Members of this body sent Secretary Glickman a letter criticizing the Secretary's "preferred" option and voicing strong bipartisan support for the other option outlined in the proposed rule—a fair and equitable option, known as "Option 1–A."

Despite the overwhelming support for Option 1–A, USDA appears to be moving forward with efforts to implement its preferred plan, Option 1–B, early next year.

This is why the next Congress, the 106th Congress, must have adequate time to review and act on USDA's final rule. The extension provision in the bill does not mandate any specific reform of the federal milk marketing rules. It merely ensures that Congress will have the opportunity to properly oversee USDA's rulemaking on behalf of the American people and dairy farmers, in particular.

With that, I urge my colleagues to oppose the amendment and any other amendment which would delete or weaken the extension provision.

Mr. SMITH of Oregon. Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I just wondered why, when extending for 6 months the Secretary's marketing order determination, they include in the extension for 6 months the New England Dairy Compact, since the two are not related.

Mr. SMITH of Oregon. Mr. Chairman, the gentleman has an amendment in which we will have plenty of time to discuss that, and I will be happy to. I think it was to extend the total program compacts that were involved. That is the reason, and frankly it was not debated at length. We will debate the gentleman's amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BALDACCI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment that has been offered, that would eliminate this extension as it was negotiated by the chairman of the committee, and I commend the chairman of the committee and the ranking member, the gentleman from Texas (Mr. STENHOLM) for being able to come to some reasonable judgment in terms of how this should continue on for an additional 6 months until the department and the affiliated groups can come to some resolution of this.

□ 1345

The extension applies to all the provisions of dairy reform and would ensure that Congress will have that time to review and respond to a rule that would not hurt the dairy farmers around the country.

I ask my colleagues not to be misled by the extravagant claims of the industrial cartel organized in opposition to the compact of dairy farmers. I think it is important to clarify some points. I think the most important thing that all of us recognize is the importance of small family farms, small dairy farms, not only in terms of economic dollars and sense, but what they provide to communities, whether it is the participation in the 4–H program, and there are 35,000 young people in our State of Maine that are part of those 4–H programs, or whether it is part of Future Farmers of America program.

A lot of the agricultural policies that have been established have benefitted large agri-businesses and forced a lot of the small farmers to get into larger businesses. We want to preserve this heritage and this culture in the compact, and the issues that are being dealt with by the department is a compact between the consumer and the farmers because of the importance of both.

I believe today, when we are talking about the values and we are talking about culture and passing it on from one generation to the next, I think it is very important to maintain at least this glue which holds communities together.

When you are talking about surpluses and the fact that it is felt that maybe in the Northeast they have contributed to that surplus, the facts do not bear that out. In fact, it was the West and Midwest that produced 99.8 percent of all the surplus purchased this year; it was not the Northeast.

The compact has not increased the cost to the government for nutritional programs. In fact, WIC and the school nutrition programs have been exempted from increases associated with that compact. The compact does not cost the USDA any money, and the compact commission contracts with the market administrator and pays for the services provided.

So I ask my colleagues to oppose the amendment that is being offered by the gentleman from Wisconsin, which eliminates this extension and would allow for a true debate to continue on.

In my first session on the Committee on Agriculture there was an attempt to basically turn dairy policy on its head, because at that time the chairman of the subcommittee happened to be from the part of Wisconsin that is under discussion today. What came out of that discussion was that all regions of the country have the same interests. I would submit to Members here, what is happening in the Northeast is happening in the Southeast, is going to happen in the West and all over, because of the same very underlying issues that are impacting in the Northeast.

So I ask my colleagues to both oppose this amendment and the additional amendment that is being offered in this session.

Mr. WALSH. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, the debate that we have heard thus far points out fairly clearly the issues that are at stake. There was a lot of discussion regarding the dairy compact. That is not the issue here. The issue here is an extension of all existing dairy legislation under this appropriations bill for 6 more months. It treats everyone equally. It treats the States involved in the compact, it treats the State of California, and it treats Wisconsin all equally. This is merely an extension of the existing law.

As the gentleman from New York (Mr. SOLOMON) pointed out, there are 250 Members of this House who are on record in support of Option 1–A. There are 61 Senators who are on record in support of Option 1–A.

We believe that we have the votes to win this. We still believe that. But out of deference to the chairman of the Committee on Agriculture, he said "Let's compromise on this, this is not an authorizing bill, this is an appropriations bill, we will merely extend the law," that is what we propose to do here.

Now, fairly clearly, you have seen members of the State of Wisconsin's delegation standing up doing their level best to protect their farmers as they see it. The reason is because they believe that Option 1–A hurts their farmers and helps the rest of the country at the expense of their farmers. All the economic data shows Wisconsin farmers are not harmed by this legislation; they just do not do as well as they would under Option 1-B.

The problem with that is Option 1-B does harm our farmers, the rest of the country's farmers. So what we are asking is that we extend this law further so that Secretary Glickman can get a better read on what exactly is going out there in the country. The professional people on his staff recommended Option 1-A, the law that we believe that the rest of the country believes would be good for the dairy industry.

The political appointees and Secretary's staff recommended Option 1-B, I am sure out of deference to the very distinguished ranking member of the Committee on Appropriations who hails from the State of Wisconsin. He has done a very good job in protecting his farmers.

But, it is very clear, the lines are drawn. There is Wisconsin and Minnesota, and then there is the rest of the country. But we are not even choosing here between the upper Midwest and the rest of the country. We are merely saying give us the opportunity to let this law extend out over a period of another 6 months from when it is scheduled to finish up, and give us, the Members of Congress, an opportunity to work with the Secretary, and we hope to help him to see the light that Option 1-A is the best direction to travel in. But this treats the compact States, the upper Midwestern States, the State of California and the rest of the country, equally, by merely extending the law.

So I would urge strong rejection of the gentleman's amendment.

Mr. JOHNSON of Wisconsin. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment basically just asks this Congress to stick to its original deal, the deal that was made here a couple of years ago, and that is why I vigorously rise today to support this amendment.

What it does is just restore order to the underlying bill, that continues to punish not just the dairy farmers in Wisconsin, but a lot of them in the Midwest.

If we put the situation in perspective, we are working under what I think most people agree is an outdated dinosaur that we call our dairy policy. It disregards the advance of time, the advance of transportation and technology, and, as was referenced here earlier today, in spite of all the talk about the global economy and competing in the rest of the world, we continue to want to put up artificial barriers within our country.

We have spent 60 years rewarding dairy farmers with higher prices based on the distance that the cows are located from Eau Claire, Wisconsin. As a result, just some farmers, and it has been pointed out they are in Eau Claire, but that is how the original dairy policy is based, in Wisconsin, on the distance from Eau Claire. So the farmers who live there and work in America's dairyland have struggled, while dairy producers elsewhere have thrived.

That was not punishment enough. Two years ago Congress made a deal and gave the freedom to farm to farmers who produce commodities other than dairy, giving those producers new opportunities. Meanwhile, they delayed the freedom to farm and reform for dairy farmers until April of 1999. If that was not punishment enough, Congress in the same bill created the Northeast Dairy Compact, the subject of some of the debate today.

What happened as a result? It cost taxpayers money. We produced surplus milk at twice the rate of the rest of the Nation. It cost consumers money in the grocery store, raising the price of milk in that area, and it gives unfair leverage to farmers in the Northeast at the expense of the Midwest.

It further divides the country. It pits region against region, farmer against farmer, and what we are trying to do here is have a level playing field. What we asked for in other countries, we are asking for that in our country.

Today what we have before us, as was pointed out, this is an appropriations bill. It is supposed to be absent of legislative language. Now it would further delay the implementation of what has been called for 2 years ago, reform in the dairy pricing policy. It would further extend the harmful Northeast Dairy Compact.

Now Congress wants to tell Midwest farmers to wait longer for freedom. We have wandered for 60 years under a policy that still relates to the distance the cows are located from Eau Claire, Wisconsin. We do not want to wait any longer.

In speaking of agreements, this bill is a giant leap backwards. It is a return to the stone age of dairy policy. Congress 2 years ago put a process in place that would reform dairy prices, and that was the deal by April of 1999. It may not be perfect, but it was a deal. Now, today, we want to turn our back on our deal.

I think that is an outrage. Everybody in this House who talks about the free market system ought to be outraged. Everybody in the House who champions less government interference ought to be outraged. Everybody who praises less government spending also ought to be outraged.

I urge my colleagues to join in support of the gentleman from Wisconsin (Mr. OBEY), to support this amendment that is before us, to reject the back door legislative tricks and support the fairness and dairy price reform.

I know we will have a further amendment from the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Minnesota (Mr. PETERSON), but I think this amendment is one that will serve us well, that will stick to the original deal that we had to change and really reform the dairy policy, and yet let the USDA do it by April of 1999.

We said let USDA make the decision. Let us let them make the decision on the schedule that was originally intended. I support and ask for support for this amendment.

Mr. KIND. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Wisconsin. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Chairman, I would like to ask my friend a question. The gentleman represents the Eighth District of the northeastern part of Wisconsin. As the gentleman is traveling around his district, meeting with family farmers and dairy farmers in his area, is the gentleman hearing from them that they are looking for any special handout or privilege as producers of dairy products, as compared to the rest of the Nation?

Mr. JOHNSON of Wisconsin. Mr. Chairman, reclaiming my time, our farmers are not looking for a special deal. They are concerned about dairy farmers all across the country. The problem is we do not want to have artificial barriers, more compacts created all across the country. We need this amendment to move on with the process of dairy reform.

Mr. NEUMANN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to take this debate from where it is, with a bunch of people out here in ties and suits, and bring this discussion back home to what it really means back in Wisconsin.

My first job was on a dairy farm. I used to get to that farm at 7 o'clock in the morning. I was a teenager at the time. By the time I got to that dairy farm, the farmer had already milked the cows and was headed in to breakfast.

Dairy farmers are hardworking individuals in this country. My wife's family had dairy cows, and I would like the authors of this amendment to hear these words, because they are very real. There are no cows on that farm where my first job was. My wife's family, dairy farmers for years, for generations, there are no cows on that dairy farm any more.

There is a good reason that the dairy farmers in Wisconsin are going out of business. It is the advantage, the unfair advantage, that is being given people around this country, because people out here in this Congress wearing suits are taking away the opportunity for our people to compete on a level playing field.

Where are all the free-traders? Where are all the people that say we should have a fair marketplace to produce our products and to market our products? Where are all those people in this debate?

Then I hear we are protecting the Wisconsin farmers. Come on, we are not protecting the Wisconsin farmers. We are asking that those farmers be given a fair shake across this country, and they are not being given that right now. I personally think it is a tad unfair when the government steps into the picture and credits $3 per hundredweight in one part of the country, and then goes to Wisconsin and says if you happen to live close to Eau Claire, Wisconsin, you are not eligible for that $3 per hundredweight.

What happened to all of those people that I hear on the floor of the House regularly saying we want a fair level playing field on the world marketplace? What about the United States of America? Why do we not get a fair level playing field for our dairy farmers here?

Then I hear, well, we ought to just extend this thing for 6 months. Shoot, I am beginning to think we are treating this like the notch problem, and every time I bring up the notch victim problem in this country, everybody laughs and says it is going to go away. Well, that problem is not going to go away either, and those people are being mistreated too.

But the point is we are now starting to treat the dairy issue in the same way as we are treating the notch problem. If you wait long enough, I am convinced there are Members in this Congress that believe our dairy farmers in the Midwest are all going to be out of business, and shoot, if you think about it, if you have got a $3 per hundredweight advantage in one part of the country, it is likely to put them out of business.

I think they believe if they wait long enough and we stall this issue off far enough, that it is going to put enough farmers out of business that we will no longer have to deal with the problem.

□ 1400

I think it is time Congress gets out of the way. I think it is time we return to a competitive atmosphere, so that dairy farmers in this country can compete not only with each other, but can compete in the world markets.

The government cannot step into these pictures and control the price of these products around the country, giving unfair advantages to certain parts of this country, if we wish to restore this.

I just conclude my remarks by saying the concept of pricing a product based on how far you happen to have your herd of cows located from Eau Claire, Wisconsin, is a situation that I have yet to hear anyone in this city reasonably explain to me why we would come up with that kind of a solution in the first place, much less why we would let it stay in place for this large number of years.

Mr. Chairman, I strongly support the Obey amendment. It is time we make a decision and create a level playing field in this country for our dairy farmers, and it is something that should be done sooner rather than later. The right idea is not to stall off the decision.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to my friend, the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Wisconsin.

Mr. OLVER. Mr. Chairman, I just want to say here that there is no one in this room, whether they are on one side or the other side of this issue, who can claim that the family dairy farmers in dairy farms in their part of the country are somehow prospering under the present system of milk marketing orders that we are using, not if they happen to live in upper New York State, where the gentleman who chairs the Committee on Rules comes from; not if they happen to live in Wisconsin, where the ranking member comes from; not if they happen to be the chairman of the Committee on Appropriations, coming from Louisiana; or the gentleman from Vermont, in an exporter State; or myself, in an importer State, in Massachusetts.

Mr. Chairman, in the agriculture authorization bill in 1997, we authorized a limited set of changes. After looking at a number of different options, the Secretary of Agriculture has come up with two favorite options, two options, really, 1(a) and 1(b); under 1(a), which is the more moderate of these, a small number of changes, nearly the status quo; and 1(b), which is a pretty radical change, at least as viewed by farmers, as viewed by farmer cooperatives all over the country.

More than a majority of Members of both the House and Senate, more than a majority of both parties in both branches have written to the Secretary of Agriculture asking him to choose option 1(a), there is no question, from all parts of this country, except, by the way, from the area within a couple of hundred miles from Eau Claire, Wisconsin, which somehow is the center of the universe as far as milk is concerned.

From other parts of this country, that is where that majority comes from, from States all over this country. They do that because they believe that it will slow, at least slow if not prevent, because I do not think it will be prevented, the move to milk monopolies. They believe that it protects the capacity to have consumers have access to a fresh and local supply of milk. They believe that option 1(b) would accelerate the loss of family dairy farms in places all over the country except for those within a short distance from Eau Claire. It is no wonder the Members from Wisconsin are getting up, given that option 1(b) clearly changes the playing field.

Who is to know in this arcane system whether we have a level playing field or not, if it may be slightly tilted; but this amendment, as it has been offered by the gentleman from Wisconsin, would tilt that whole system very heavily in the direction of accelerating the loss of family dairy farms in other parts of this country; also because the majority believes it is unfair to then impose a system which clearly then has relative beneficial effects for one portion of this country at the expense of every other portion of this country.

So this is a carefully crafted proposal to extend by 6 months, so that the appropriators and the authorizers can see exactly what it is that is put forward as a milk marketing system by the Secretary of Agriculture, and so they can respond within the fiscal year that that goes into effect. That is what this extension is about.

I think the chairman of the Committee on Agriculture, the gentleman from Oregon (Mr. SMITH) said it quite well, that that is what this is about, making certain that the appropriators and authorizers for all of these issues can look at it within that fiscal year that we would be in.

I certainly hope that the amendment will not be adopted.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would just like to point out one thing. The gentleman indicated that what we were trying to do is to tilt the system in favor of our region of this country.

I would point out that right now the law requires farmers in the gentleman's region of the country to be paid several dollars per hundred pounds of milk more than ours. The option favored by the Secretary simply eliminates 25 percent or less of that unfair advantage.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a great deal of talk this afternoon about free markets. There has been a great deal of talk about one region over another region having a benefit. That certainly is a discussion that we need to have.

I think the House floor at this point is not the place to discuss whether the Northeast Dairy Compact has an advantage over the Wisconsin or Midwest dairy farmers. We are going to disagree on it. I strongly urge a no vote on this amendment. This can be taken up. We can extend it for 6 months. This is a discussion we need to have.

Mr. Chairman, we should not be discussing ending a program that is unfair to one part of this country and then transfer that problem to another part of this country. That is going to be the result of this vote if it passes.

I would like to take this to a slightly different perspective. This country was founded on four things, and that is why we are very successful: democracy, which is what we see here; character, which for the most part is what we see here; an abundance of natural resources; and an endless frontier.

Our endless frontier is virtually gone. Our open space is becoming gobbled up by a lot of things, including development. Our natural resources are diminishing quickly. So what we have left to keep this country going, to keep the prosperity and the quality of life that people want for generations to come, is our ability to discuss in an intellectual fashion how we manage what we have left for future generations.

The idea of a free market is what this country is founded upon, for the most part. General Motors prospers, Westinghouse prospers, industry prospers, but agriculture is different in some ways. General Motors can still work if it rains. Westinghouse can still work if there is a drought. If there is a severe drought in certain parts of this country, they prosper, and agriculture suffers and sometimes becomes eliminated.

So unless we understand the mechanism of agriculture, and I know the gentleman from Massachusetts may not be here, but he talked about a free market system. A free market system is fine if we had an endless frontier, because we would have thousands and thousands and thousands and thousands of acres in excess. But what we have is thousands and thousands and thousands of acres being developed every single year. Millions of acres are lost from agriculture to development in one form or another.

So the idea that this country must continue to manage, yes, and the Congress needs to be engaged in that process, about how we can make it fair across the board.

I think a 6-month extension is the right thing to do. I think Wisconsin and the Northeast Dairy Compact, the people in California, need to continue to debate and discuss over that period of time what they can do to ensure that the family farm, which is another issue of discussion here, and the family farm is different than the export farm by a long shot.

The corporate farm turns farmers into employees. It does not take farmers and continue to allow them to be farmers, it turns them into employees. We can see that in the poultry industry. A poultry grower, for the most part, in this country, is not a farmer. He or she is an employee. We want to reverse that, if we can. We want to make sure that that does not happen in the dairy industry.

One last comment. This is a complicated issue. People are talking about, let the prices take care of it. Let free markets take care of it. The price of a bushel of corn today is the same as it was, given the season, 40 years ago. The price of a bushel of corn that the farmer grows to feed his cow is the same as it was 40 years ago. The price of a combine that harvested that corn 40 years ago was about $25,000. Today it is well in excess of $100,000, and it is closing in on $200,000, so the small family farm is being squeezed.

The gentleman from Wisconsin was talking about that, that the Wisconsin farmers are having a difficult time, but so are the farmers in Maryland and New York and Massachusetts and all over this country.

We have to stop arguing bitterly with each other and make sure that we understand that the foundation upon the food source of this country is not corporate agriculture that will get out of it as soon as the profits are gone, but those who love the culture, those who love farming. That is the family farm.

So I would urge a no vote on the amendment, with all due respect to the people from the Midwest and Wisconsin, and let us get together as soon as we can this summer, with those who represent the small family farms from all across this country, and discuss this problem.

Mr. SANDERS. I move to strike the requisite number of words, Mr. Chairman.

I would like to pick up on some of the points the gentleman from Maryland (Mr. GILCHREST) made, because in truth, this is a very sad debate. I will not forget several years ago when farm families from Wisconsin and Minnesota came to my office. They were here for some national meeting. They knew that I was concerned about the preservation of the family farm. I will not forget the women farmers weeping in my office as they fought desperately to keep their farms going in Wisconsin and in Minnesota.

The family farmers in Wisconsin and in Minnesota are being hurt, that is true, but I want the Members to understand that the farmers in Vermont are also being driven off the land. Some of the best people in our State who have worked year after year, they love the land, they want to produce a good, healthy product, they want their kids on the land, they are also being driven off the land.

It is a sad state of affairs that we have to fight against each other. We should be working together. We talk about the issue of preserving the family farm, as the gentleman from Maryland (Mr. GILCHREST) pointed out. This is an issue of food security. If anyone believes that it is a good thing for this country that thousands of farmers in Wisconsin, in Vermont, and all over this country who produce what we eat get driven off of the land, and that we are reduced to dependency on imports from abroad, or we are reduced to being dependent on a handful of large corporations to charge us any price they want, if people think that is a good idea, they are dead wrong. It is not a good idea.

As the gentleman from Maryland (Mr. GILCHREST) pointed out, preserving the family farm is not just about food, it is protecting our environment. Do we really want to see our open space in rural America converted into malls and parking lots? I do not think so. It is about preserving our rural economy and our way of life, in part.

The free market does some things very well, but it does not do everything very well. I think there should be a commitment to preserving the family farm all over this country.

As the gentleman from New York (Mr. SOLOMON) has pointed out and others have pointed out, there is a letter that has been circulated that has over 250 Members of the House in support of that. Let me just briefly quote some of the sections from that letter relevant to this debate.

I quote from the letter:

"Option 1(b) would further reduce the price of milk received by farmers in almost all regions of the country. It will be reducing local supplies of fresh, fluid milk, and increasing costs for consumers."

I continue: "According to USDA's own analysis, option 1(b) would reduce dairy farmer income. It will be accelerating the already disturbing trend of American dairy farms being forced out of business. Many of the farms affected will be small family farms."

The point we are making here is that, as the gentleman from Maryland (Mr. GILCHREST) indicated, we need to come together to preserve dairy farms in the Northeast, in the Midwest, and on the West Coast. One of the things we have done in New England that people throughout the country are beginning to look at is the concept of the dairy compact.

If some people think we are going to be able to preserve family farms who are struggling too hard to exist through the market economy, when we can import cheap milk from Mexico or New Zealand, I beg to differ. I think it is appropriate to say that in our democratic society, for those of us who believe in dairy farming, in family farming, that it is appropriate for the government to intervene with the support of the people.

I would reiterate that in New England six States have come together, six State legislatures have come together, Democrat, Republican, Independents, in Maine; six Governors with different philosophical leanings have come together. This idea is spreading around the country.

☐ 1415

I would hope that perhaps the Midwest might think of the idea of a compact. I think if it does end up costing the consumer a few cents more on the gallon, consumers all over this country know how important it is to preserve the family farm. I would love to work with my friends from Wisconsin in protecting the family farms in that region of the country as well.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I do not disagree with a single thing that the gentleman has said. I would simply make the point that despite his best intentions, and mine, we are now operating under a set of laws which in essence, as far as trade is concerned, is a pretty good deal for grain farmers but is a disaster for dairy farmers, because Canada has not been required to live under the same rules that we are required to live under. And so we have been told, "Sorry, boys, you're on your own."

It just seems to me that if we in fact are going to be abandoning dairy farmers to the marketplace, then that marketplace——

The CHAIRMAN. The time of the gentleman from Vermont (Mr. SANDERS) has expired.

(On request of Mr. OBEY, and by unanimous consent, Mr. SANDERS was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, then it seems to me that that market ought to at least be a real market. Despite everything that has been said here today, no one can tell me yet why it is fair, why it is in the tradition of equal treatment under the law, for the law to require farmers in one section of the country, in Florida, for instance, to pay farmers $2 more or $3 more per hundred pounds of milk than they get in our region. That is just not fair.

Mr. SANDERS. Mr. Chairman, reclaiming my time, there are 250 signers to a letter in support of 1-A. There are 60 supporters in the Senate on the same concept. I urge a "no" vote on the Obey amendment.

Mr. GUTKNECHT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it has been said that if one appreciates law or good sausage, he should watch neither being made. And today maybe we ought to add cheese to that description, because this is really kind of an ugly display of region against region.

Several years ago we all cheered when the Berlin Wall came down. And not too long after that the flag over the Kremlin came down for the last time. And when it did, one of the business newspapers ran an editorial. I thought it was the Wall Street Journal, but it was not. They ran an editorial and the headline said, "Markets are more powerful than armies."

If we look at the Soviet experiment, for 70 years what they tried to do was hold back markets. What they found was it cannot be done. It will not work. And it is true of milk. It is true of our commodities.

The gentleman from Maryland (Mr. GILCHREST), I agreed with much of what he said. But let us just examine. He said what the dairy farmers, and what the farmers in his area or the farmers around the country today, what they are paying for a combine is enormously different from what they were paying 20 years ago. And what they receive for their commodities, whether it is corn or soybeans or wheat or milk or whatever they produce, is different today than it was 20 years ago.

In many respects, farming is a tougher business today than it has ever been. If we talk to our farmers, and I have as well, they will tell us that. What they will also tell us is that the prices of corn is the same whether it is grown in Iowa or Minnesota or Vermont or anywhere else. We do not have different prices for corn. We do not have different prices for soybeans. It is the same, whether it is grown in one area of the country or another.

The entire milk marketing order system is Byzantine. It is antimarket. It may have made some sense back in 1935, but it makes no sense today in the day of the interstate transportation network, in the day of advanced refrigeration so that the milk can be produced on a farm in Minnesota or Wisconsin one day and literally be in a bottling plant in Washington, D.C. the next.

Mr. Chairman, the whole idea of this one region against the other is anti-American. One of the reasons that the colonists came together and organized this country was so that we would not have States setting up barriers against other States. The idea of a dairy compact is un-American.

It really is not just about dairy; it is about if we really care about free trade. We will probably have several debates here in the next several months about free trade and opening up markets, whether it is in Asia or the European Union. Many of us want to have fast track so that we can negotiate more trade agreements with our trading partners.

Would it not be great if we had fast track between Minnesota and Vermont so that dairy products could move back and forth across State borders? This whole concept is crazy.

Let me just finish with this. For people to stand on the House floor with a straight face and say that we must defend to the end this dairy policy, which incidentally has cost us 152,000 dairy farmers over the last 10 years. Let me say that again. The system we have today that many are up on the floor of the House today defending has cost us 152,000 dairy farmers. It is an abysmal failure. It is Byzantine. It is anti-American. It is what the colonies came together to fight against and it should be stopped.

One of the reasons we are so aggressive today in fighting the extension is because we have fought it so long. This fight has been going on for 60 years and now they are saying is all we want is another 6-month extension. We fear, and I think we have reason to fear, that then there will be another 6-month extension.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. GUTKNECHT. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I appreciate the differences that we have in the Northeast Dairy Compact, but it is really not appropriate to call it un-American. In fact, it is the essence of what America is about.

Six States at the grassroots level, people came together and they went to their legislatures and they went to their governors and they came forward to do what they thought was best for the people in their own State.

So I understand the gentleman's differences, but he should not refer to it as un-American. It is democracy at work.

Mr. GUTKNECHT. Mr. Chairman, reclaiming my time, the commerce clause of the Constitution, and in fact we ought to have some debate within the Committee on the Judiciary, I think the gentleman from Illinois (Chairman HYDE) has a much different view of what this is all about. For States to come together and put up trade barriers around those States in my opinion, and I stick with my term, is un-American and it is unconstitutional in my view. But worse than that, it is bad economics. It makes no sense.

Let me close with this. Some may know that I am also an auctioneer. And this is one thing I understand about auctions. Markets are much more powerful than anything we can do. We can suspend the law of supply and demand only so long, but we cannot repeal it. Ultimately, the markets will prevail. They will prevail over the Northeast Dairy Compact and any other compacts that ultimately are created.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. GUTKNECHT. I yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I would be interested in the gentleman's description of the Northeast Dairy Compact that apparently leads him to believe——

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. GUTKNECHT) has expired.

(On request of Mr. SOLOMON, and by unanimous consent, Mr. GUTKNECHT was allowed to proceed for 2 additional minutes.)

Mr. McHUGH. Mr. Chairman, if the gentleman would continue to yield, I think this is an important question that creates some differences in this debate and it should be resolved. But I would be interested to hear what leads the gentleman to believe that the Northeast Dairy Compact as currently construed, number one, puts trade barriers that prohibits the importation of milk, whether it comes from his State or any other, into the region; and, number two, on its face apparently leads him to believe that it is unconstitutional, assuming that unconstitutionality is consistent with being un-American.

Mr. GUTKNECHT. Mr. Chairman, reclaiming my time, first of all let me say I am not a Supreme Court Justice. I only have one opinion. But in my opinion, any time that States come together to try and create trade barriers, and I might just yield back to the gentleman to ask what is the purpose of the dairy compact if it is not to keep out other dairy products from other parts of the country?

Mr. McHUGH. Mr. Chairman, there it is absolutely no prohibition, implied or explicit, in this or any other compact that, by the way are constitutionally authorized, that prices the importation of product. What it affects is the price of that product paid by the developers and paid by the processing plants once the milk is there. It has nothing to do with the importation of the milk from the farm gate.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. GUTKNECHT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, the compact acts as a tariff barrier because processors have to pay the higher price to any farmer, whether that farmer lives in the New England region or not. That means if a Minnesota farmer or Wisconsin farmer can produce the product for less price, they have to add to their price before they can sell in that region. That is why it serves as a trade barrier.

Mr. McHUGH. Mr. Chairman, if the gentleman would again yield, what the gentleman just said by his very words proves the points. He said it treats all producers equally. That is absolutely correct, and I appreciate the gentleman clarifying that for me, because I think there is a lot of misunderstanding here.

Mr. OBEY. Mr. Chairman, it requires one to ignore price.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a lot has been said about this "Byzantine" procedure, as described by my friend who preceded me. The fact is we are dealing with an arcane set of laws that go back to the 1930's. They may have had great wisdom and sense back then in a different age, and perhaps they have lost their rationale since all of that time has gone under the bridge.

The fact is, as I understand the original intent, Wisconsin was the center of the universe. Eau Claire was the primary designated place for the production and pricing of milk. And, for whatever reason back in those days, they decided that the farther we get away from Eau Claire, pronouncing it correctly this time, the more could be added on to the price of milk for transportation.

So obviously the objective was to get fresh and clean and safe milk in the hands of the consumers all over America. If the center of production was in Wisconsin, by the time it got to Florida the price of milk was substantially higher. By the time it got to New York, it was substantially higher. By the time it got to California, perhaps it was substantially higher.

That trend is represented in this particular chart, presented according to figures of the USDA. At any rate, there is no real consensus that can be drawn from this chart except to show that at Wisconsin begins the trend, and as we get farther and farther away, the prices through 1996 when the farm bill took place went up as we got away from Wisconsin.

So the farm bill came along and they said, look, make some sense out of this program. We in the Congress told the Secretary of Agriculture come up with a plan that simplifies it, that hopefully reforms the program, that moves towards the goals of a freer market. Come up with a plan that provides some continuity for the milk farmer.

Now, bear in mind, whether the dairy farmer is in Wisconsin or Minnesota or in New York or in Maryland or in Louisiana, where I used to have 500 dairy farms and now have about 370 because they were forced to go out of business, the dairy farmer is probably one of the hardest working people on earth. He gets up early in the morning; goes out to milk his cows; goes about the rest of his chores. By the end of the day, goes out to milk his cows and goes to bed, because there is no time left in the rest of the day. And come hell or high water, rain or storm, freezing or heat, he has got to milk those cows. His family chips in, his wife, his children. And they participate in trying to make a living, a very meager living, whether it is in Wisconsin or otherwise.

In Wisconsin and Minnesota, 80 percent of what they produce goes to hard products which is not fluid milk, butter fat or to powdered milk or cheese. But this argument is about fluid milk. Wisconsin and Minnesota only put less than 20 percent of their product in fluid milk.

But these are farmers in New York and Maryland and the Southeast and Louisiana. Most of their product goes to fluid milk. They are getting squeezed. They are getting squeezed to the point that they cannot meet the costs of production and they are getting thrown out of office, or rather thrown out of work. Excuse me. That is us that get thrown out of office. They get thrown out of work. They lose their farms. We can find another job, but they can only find one farm.

So, the Secretary of Agriculture was given the responsibility of coming up with a plan that would simplify this procedure. Well, according to the milk marketing order reform proposed rule, again the USDA's own figures, this is an analysis of the option 1-B plan that Secretary Glickman was coming up with.

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In case Members want to find waves and continuity here, I do not think they will be able to do it. Numbers all over the lot.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. LIVINGSTON) has expired.

(By unanimous consent, Mr. LIVINGSTON was allowed to proceed for 2 additional minutes.)

Mr. LIVINGSTON. Mr. Chairman, that looks to me to be one of the most complex charts available known to man. That is supposed to simplify the situation. In effect, what it does is create a situation described by my friend from New York in his chart. The only people that survive under Secretary Glickman's proposal are the people in Minnesota and Wisconsin. Everybody else loses money and ultimately goes out of business.

If you have the 1-A section, it is somewhat more simple than this, but at least there is reform. What we propose here and what the gentleman from Wisconsin proposes to strike is language which does not say that this (option 1-B) is impossible, although it looks impossible to me. It does not say that 1-A is impossible. It does not say that dairy compacts in the Northeast or the Southwest or anywhere else are automatic.

It simply puts a moratorium on it from April 4 to October 1 of 1999 so that any rule that the Secretary of Agriculture comes up with can be reviewed by Congress and, yes, can be reviewed by the State legislatures in order to determine that if it is too dictatorial. And if it does not make sense like this, it can be reversed legislatively and we can go back to a plan that makes sense. Is that too much to ask?

Evidently it is, because my friend from Wisconsin has offered up a motion that would strike this provision, strike this simple one-case-serves-all moratorium, prevent an illogical plan from being put into place for 6 months, put a hold on existing law until we can study it a little bit further. I do not think that is well taken.

For that reason, I urge the rejection of the motion by the gentleman from Wisconsin, rejection of this amendment, maintenance of the status quo for 6 simple months.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. LIVINGSTON) has again expired.

(On request of Mr. OBEY, and by unanimous consent, Mr. LIVINGSTON was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me simply put that chart in context. That chart represents as far as the Secretary is allowed to go under the law in simplifying milk marketing orders. What we wanted to do in our region legislatively, and we were denied that opportunity by the House leadership, we wanted to create a situation under which, under the Gunderson amendment, the colors on that entire map would be the same because there would be only one milk marketing order. You are attacking us for the limits which you yourself have imposed on the agreement. That is the fallaciousness of the argument.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. LIVINGSTON) has again expired.

(By unanimous consent, Mr. LIVINGSTON was allowed to proceed for 1 additional minute.)

Mr. LIVINGSTON. Mr. Chairman, the chart depicts 1-B that Secretary Glickman intended to move us toward. This chart, which I withheld for no particular reason except that I do not understand it either, but it is a heck of a lot easier than the other one, this is 1-A. It looks better.

Mr. OBEY. Mr. Chairman, if the gentleman will continue to yield, the gentleman needs to understand that within both options there are variations within the State which neither of those charts demonstrate. The existing system is far worse than you show on either one of those charts.

Mr. LIVINGSTON. I would suggest that before we leap into the fire from the frying pan, let us maintain the existing system, keep it simple and come up with a better plan than option 1-B.

Mr. PETERSON of Minnesota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to speak, but I just think it needs to be pointed out that a lot of this debate is centered on something that really is not at the heart of the problem. Everything we are talking about here today basically has to do with fluid milk.

Fluid milk is only 40 percent of the milk that is produced and consumed in this country. So this debate really does not get at the heart of the problem that we have with dairy. I think it just needs to be pointed out.

Up in the Northeast where they have the compact, as I understand it, 60 percent of the milk up there goes into fluid and 40 percent goes into manufacturing. And I further understand that they are right now taking comments up in the Northeast Compact to talk about exporting their excess milk that has been created by this compact because it is hurting the premiums that they are getting for their manufactured milk. That points out the whole fallacy of this whole situation, where we are trying to somehow or another legislate dairy policy by impacting fluid milk.

I think the gentleman from Minnesota (Mr. GUTKNECHT) made a good point when he said that we cannot really repeal economics.

Mr. MCHUGH. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Minnesota. I yield to the gentleman from New York.

Mr. MCHUGH. Mr. Chairman, the point the gentleman just made about exporting in the Northeast, I am assuming he is speaking of the entire Northeast dairy production region. I have heard this mentioned before. I would be interested where the statistics are that show that the Northeast region is a producer of surplus. I have heard that several times and, quite honestly, as someone who has been involved in dairy policy at the State and Federal level for 20 years, I have never seen it.

Mr. PETERSON of Minnesota. I said manufacturing milk that goes into cheese and powder and manufacturing purposes. One of the reasons that we have a problem with the compact and why we are into this 1-A, 1-B debate is that in Minnesota, 86 percent of our milk goes into manufacturing. Only 14 percent goes into fluid. A compact does not help us. We do not have enough fluid milk to make any difference in material effect for our farmers.

The Northeast Compact, if you took Boston out of the Northeast Compact, it would not work. The only reason it works is you have jacked up the price in Boston where you have a big market, and you are shipping the money out to Vermont. And it works because you have got a way that you can artificially set this price.

The only thing that I am saying about this, what we are concerned about is, if you artificially jack up the price of fluid milk over and above the class 1 differentials, which you are doing with these compacts, what you are going to do is you are going to invariably create more milk that is going to have to go into manufacturing. What that does in the end is, it reduces the prices in Minnesota and in Wisconsin.

That is why we are concerned about this. If you would keep all of your milk up there in the Northeast and if you would not impact the rest of our market, we would not care what you did. The problem is that you are right now taking comments in the Northeast to figure out how to get that extra milk that would go into manufacturing, that is lowering your manufacturing prices into other parts of the country, and that is why we have a concern about it.

I just wanted Members to understand that to have a debate about fluid milk misses the whole point. The problem in this country is the way we price manufacturing milk. We have not had a debate about that up to this point.

Mr. MCHUGH. Mr. Chairman, if the gentleman will continue to yield, I do not disagree with everything the gentleman said, particularly the very, I think, succinct point that this debate does not get to the heart of the challenges facing dairy policy in this country across the board. The gentleman, my friend, and I have had discussions about this. I know that his heart is in the same place mine is, and that is trying to do something that affects the benefit of every dairy farmer.

But a couple of points of clarification. First of all, I want the gentleman to understand that when he says "you in the Northeast," New York State that I represent is not in the dairy compact. Darn it. I wish we were, but that is another story.

The second is, traditionally, currently New York State, and it is not just the gentleman's comments that caught my ear but others have said today, the Northeast is a deficit region, has been, is now and is likely to be. He speaks about his concerns of the future. If I could tell the future, I would be at OTB right now. The gentleman may join me.

The fact of the matter is, we can paint any kind of terrorist scenario. The reality is that the compact has not been the force that has produced excess milk. The Northeast is still a deficit region. And honestly, I do not see when you are creating a compact where you can take the largest municipality out of it and say, "if that were not there." It is there. And as much as I love the Yankees over the Red Sox, I hope Boston is going to be there for a long time.

I thank the gentleman for yielding.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the Obey motion to strike this language. I came to the floor with a somewhat open mind, not having been active on this particular provision, but being concerned about it, as we moved through the appropriations process. I underline "appropriations process."

I think about some of the other authorizing language on this appropriations bill and how we have arrived at that language. For example, when the gentleman from Washington (Mr. NETHERCUTT) brought up the proposal that is now incorporated in the bill that dealt with lifting agriculture from the sanctions mandate in Pakistan, there was give-and-take on the committee. Members did not agree, but ultimately, by the time we got to the floor, we were able to work out our concerns on that authorizing language on this bill.

The same is true with the civil rights provisions in this bill. We technically should not have those provisions in this bill. We recognized a national need. There were differences of opinion. We had problems finding the money, shifting accounts, but we did it together on a bipartisan basis.

What is troubling to me, in a bill that is very, very broadly acceptable in this Chamber, is we now have a provision that was incorporated as authorizing language dealing with a very, very important subject where thousands and thousands and thousands of livelihoods are at stake. And a Member like myself, who comes from the State of Ohio, where many of our dairy farmers have already been wiped out, so in a sense we are more neutral than other places because we are not as impacted directly as some of the others that are still struggling in their regions, but what troubles me is, when I see charts by our chairman of the full committee, the gentleman from Louisiana (Mr. LIVINGSTON), who has some piece of the truth, and someone else has a piece of the dream over here from Wisconsin and maybe another one from Massachusetts, that we are really not doing our best legislatively to present a bill here that has accommodated the differences in bringing it to the floor.

So though I like some of what I hear in the way that the compact works to the advantage to preserve farming in the northeastern part of the country, this is really, thus far, the only part of the bill that has come before us here where there is this kind of major disagreement. It makes me concerned about the manner in which this particular provision was put into this appropriations bill. That is not how we work.

We had a couple amendments offered in the committee at the subcommittee level. But truly, we did not have the working relationship that we did on the other issues. I just wanted to put that on the record because it is too important to ignore.

Frankly, it should come through the authorizing committee, not the Committee on Appropriations, because this thing is extremely complicated and delicate. And no matter what we do, if we are not careful here, somebody, lots of somebodies are going to be hurt, whether it is directly farm families, whether it is consumers. And I guess I feel, as ranking member on this subcommittee, extremely uncomfortable that we could not have handled this particular measure in the same way as we did the other authorizing language that has been put on our bill where differences were worked out.

This is extremely controversial. And because of it, because I am sensing that a major set of interests around our country feel that they have not been properly accommodated, I will support the Obey amendment.

I would beg of the chairman of the full committee, in view of what he has said here, and the chairman of the Committee on Rules, to exercise their will in the same way as was done on some of the other issues that are in this bill, because no part of this country, no set of working people, no farmers, no consumers should be harmed by what we do here.

I have grave doubts as I have listened. And therefore, I will support the Obey amendment.

Mr. SOLOMON. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, let me say to the gentlewoman from Ohio, for whom I have the greatest respect, as she knows, she and I have worked on many issues together, this is a part of a compromise. If we go back to the grain sales that were involved with India and Pakistan, we worked out a compromise when we came to the floor.

The CHAIRMAN. The time of the gentlewoman from Ohio (Ms. KAPTUR) has expired.

(On request of Mr. SOLOMON, and by unanimous consent, Ms. KAPTUR was allowed to proceed for 1 additional minute.)

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Mr. SOLOMON. When it came to the disadvantaged farmers, we worked with the administration. The administration wanted the monies paid for out of school lunches. We objected to that. So we worked out a compromise. We brought it to this floor. Everybody was satisfied.

On this issue, the chairman of the Committee on Agriculture stood his ground and worked with everybody to try to get a compromise that we could live with by delaying this for 6 months, giving us the ability for the authorizers to act, the appropriators next year to act. That was all a part of a compromise, I say to the gentlewoman from Ohio. That is really why we are here.

We could have gone about it the other way and been one-way about it. That was not the right way to do it. We were all trying to work together, and we did.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for that statement, but it appears by this 2 hours of debate now that certain people must not have been talked to, and we should not have been presenting a bill like this which has such a controversial provision in it.

I would hope that, in listening to what has happened here, that perhaps some of these other interests could be accommodated and listened to down the road. But this is atypical of the rest of the bill.

Mr. KIND. Mr. Chairman, I move to strike the requisite number of words.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SOLOMON. Mr. Chairman, did the gentleman not speak?

The CHAIRMAN. The gentleman from Wisconsin has not been recognized on his own time.

The gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

Mr. KIND. Mr. Chairman, I want to associate myself with the remarks of the gentlewoman of Ohio. I do not think there was a meeting of the minds as far as the compromise that is being discussed right now on the House floor; otherwise, we would not be having this debate for over 2 hours.

I appreciate what the chairman of the Committee on Agriculture was attempting to do. I also appreciate the comments of the gentleman from Maryland (Mr. GILCHREST) about this is not the proper place to have the debate. If not now, when?

Of course we need to have this debate. We need to have this discussion in front of the American people because this is very serious legislation that we are talking about.

I am deeply troubled by the fact that this authorizing language is coming into the appropriations bill. This is something that, again, all the regions of the country and the representatives and the interests that are being affected by this legislation should come together at the same table and try to hammer out one coherent national dairy policy.

That is not what is being done. Instead, we are going to go back to this old antiquated Federal order system that pits region against region. We are going to perpetuate that who knows when. There is a 6-month extension right now, but who knows what is going to come when that 6 months is concluded. This is an opportunity for us really to come together.

I think we can all stipulate that farming and being a dairy family is a very noble, very honorable occupation. All of us could stand on the House floor and tell story after story of the plight of dairy farmers throughout the country. There is no question about it. But what this really comes down to is a question of fundamental fairness.

Just a little history. Sixty years ago, back in 1935 when the old order system was established, there were some supply problems in various parts of the region. In order to encourage getting the production of dairy products to those regions, this Federal order system was established.

Anyone who has had a business understands that not only do we need to produce the product, but we have to get that product to market. Perhaps 60 years ago there was difficulty in doing that, but the circumstances have changed. The market has changed.

As my friend from Minnesota (Mr. GUTKNECHT) pointed out, we have got an interstate highway system right now, refrigeration means, in order to transport fluid milk around the country. That is not the problem.

What we need to do right now is be thinking forward on this issue, thinking creatively on how we are going to be able to avert a crisis that is impending in the dairy industry, not region against region but internationally. Because other dairy industries in other countries are now starting to position themselves to start taking advantage of market opportunities as they open up overseas.

We are still having the 60-year-old debate today talking about removing the trade barriers within our own borders. What we should be talking about is how do we position the dairy farmers today in order to compete tomorrow in the international market. Until we are able to get to that issue, we are going to leave our dairy farmers at a distinct disadvantage starting early next century.

By this prop-up price differential system that we have right now, that discriminates against producers the closer they are to a city in my district, Eau Claire, Wisconsin, what we are going to end up doing is encouraging inefficient dairy operations to continue to exist, and we are going to encourage other operations outside our borders to start moving their product into the United States at an unfair competitive advantage to our dairy farmers because of this old system that we refuse to come to grips with. That is the discussion that we really should be having today.

Everyone is going to stand up and defend their interests and their regions, and good representatives, they will do that. I never thought I would be on the House floor hearing my good friend, the gentleman from New York (Mr. SOLOMON), associate himself with the liberal economic interests in the upper Northeast, but that is in fact what he did today.

We need to be thinking more creatively than what we are doing right now. This discussion should go on. This debate should go on. But so should the process that was put in place just a couple of short years ago under the Freedom to Farm bill where the Department of Agriculture was given the authority to take a look at the Federal order system and to come up with some options of where we go from here.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. KIND. I am happy to yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, I would just like to ask a question. Can we treat an industry like agriculture or the dairy industry in the same way we treat an industry such as General Motors, Westinghouse, Wal-Mart, in the same frame of understanding as we refer to as a free market system? Can we treat both those industries the same?

Mr. KIND. Mr. Chairman, reclaiming my time, I think we can. I think we have to. I mean, really, is there any philosophical difference between the dairy family who wakes up in the morning to go milk the cows as compared to the family on Main Street with a small business trying to make that business survive and be very competitive in an international market that they are expected to be able to compete in? That is really what it comes down to. It comes down to basic economic principles.

Mr. GILCHREST. Mr. Chairman, will the gentleman continue to yield?

Mr. KIND. Sure. I am happy to yield to the gentleman from Maryland.

Mr. GILCHREST. Is it the same? Wal-Mart or General Motors can operate if they have 11 or 15 or 20 days of rain, but if you have 11 or 15 or 20 days of rain during the haying season, you lose a large crop, or you cannot plant our corn.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time because I have just spent a good part of the past weekend in dairy country in east central Minnesota in my district talking with dairy farmers who were beginning to have some hope that their lot might be improved, that the Department of Agriculture is moving along in its study, as directed by the Congress, to complete the analysis of the milk marketing orders. USDA might come up with some proposal that would establish fairness and fair treatment for these true family dairy farmers who average 50 cows, like the gentleman from Wisconsin mentioned a moment ago, a few that have 100 milking cows.

In the course of that discussion, I recalled a study completed about a year ago by the University of Minnesota Ag Extension Service which documented that there were more dairy cows and more dairy farmers 2 years before Minnesota became a State than there are today in that region of Minnesota, thanks to the whole herd buyout program and thanks in part to the Freedom to Fail at Farming Act of 1996. They are fed up with it.

There are some tragedies out there in rural America. I listened painfully to Harold Eklund, whom I consider one of the best dairy farmers I have ever known, runs the farm himself, has a few hired hands, tell the tragedy of a neighbor who had some health problems—a dairy farmer—the milk check is not big enough to pay the bills. He came home from the hospital, went out to the shed, put some blasting caps on his body, set them off, and blew the top half of his body off.

He is a victim, too, of this policy that favors one region of the country over another, a failed policy that looked good and was good at the time that it was implemented in the 1930s, but today has gone way out of control.

That milk marketing order policy says that the farther away you farm from Eau Claire, Wisconsin, the more you get for your milk. If you really believe in freedom to farm, then let us abolish the milk marketing orders, let us remove the domestic barriers to trade as we did with foreign trade in NAFTA, as we did in trade with Canada. Let us remove the barriers among the States and let the Minnesota—Wisconsin milkshed farmers sell their milk wherever they can, as far away as they can. Let us see how well they compete with those 5,000 cow farms in the southeastern United States, in the southwestern United States, in the desert area where God never intended farming to happen or He would have made it rain there.

Let us not artificially impede the Department of Agriculture from proceeding with the rulemaking that is on track, on milk marketing orders, and which, hopefully, may provide some opportunity, some encouragement for not only the older, established farmers but also for the younger ones who are working their way into farming, who want a future in farming, who are the heart and soul and fiber and fabric of rural America and small town America. Let us vote for the Obey amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise today in opposition to the dairy provision in this bill which delays the implementation of the federal milk marketing order reforms and perpetuates the Northeast Interstate Dairy Compact.

I believe that the current federal milk marketing program is the most egregious and unfair aspect of federal dairy policy. The current federal milk marketing orders were created in the 1930s and were designed to ensure that all regions of the country were adequately supplied with fresh milk. This is obviously not the 1930s and fresh milk is available nationwide. Federal orders need to change to reflect the numerous changes that have taken place through technological advances at every level of dairying—from production to processing; distribution to transportation.

When Congress wrote the 1996 Farm Bill, we look at the rapidly changing agricultural landscape and realized that the old practices of government intervention were no longer working and mandated the USDA reform the program. With the 1996 Farm bill we set a course for greater market orientation in dairy policy, including the phaseout of the dairy price support system. The process for reform is underway. Secretary Glickman has indicated his support of steps toward a more market-oriented milk pricing system. We should not rescind our commitment to reform the federal dairy program by delaying the implementation of this much-needed reform.

Furthermore, the existence of the Northeast Interstate Dairy Compact is a completely discriminatory aspect of the current federal dairy policy. Last year I introduced legislation, H.R. 438, to rescind the consent of Congress to the Northeast Interstate Dairy Compact. To date, there are twenty-six cosponsors. I oppose such compacts because they run counter to the intent and spirit of the U.S. Constitution for free trade between the states. The legal authority for the Northeast Dairy compact was never considered by the House of Representatives but was slipped into the conference report to the 1996 Federal Agriculture Improvement Act, even after failing in the Senate. This is one of the main reasons I voted against this conference report. Nonetheless, one of the conditions of the existing law is that the Northeast Interstate Dairy Compact would terminate concurrent with the Secretary of Agriculture's implementation of the federal milk marketing order consolidation and reforms, currently set at no later than April 4, 1999. Any simple extension of this implementation date would also prolong the existing Northeast Interstate Dairy Compact.

The Compact is detrimental to consumers because the higher milk prices paid to farmers under the compact have been passed on to milk purchasers at the retail level. The Compact is also reducing milk consumption in the region while milk production in New England is increasing, raising the specter of a return to the days of dairy purchases at taxpayer expense. Let the Northeast Interstate Dairy Compact sunset.

I will support the amendments to be offered today by my colleagues Mr. OBEY and Mr. PETRI to remove the provision which delays dairy reforms and perpetuates the anti-competitive dairy pricing cartel, known as the Northeast Interstate Dairy Compact.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The amendment was rejected.

AMENDMENT NO. 8 OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. PETRI:

At the end of section 736 (page 68, line 2), add the following new sentence: "Notwithstanding section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)), congressional consent for the Northeast Interstate Dairy Compact shall terminate on April 4, 1999.

Mr. SOLOMON. Mr. Chairman, I reserve a point of order on the Petri amendment.

Mr. PETRI. Mr. Chairman, this amendment removes a provision in the bill that extends the Northeast Dairy Compact for 6 months. The amendment thus takes us back to current law and allows the compact to sunset as originally intended on April 4 of next year.

This compact, as we know from the legislative history, was inserted in the 1996 farm bill in conference and has never been reviewed by the Committee on the Judiciary or stood for a vote on the floor of the House.

This unprecedented use of the interstate compact provisions of the U.S. Constitution should not be extended, at least without careful review by the Committee on the Judiciary; but even with such review, in my opinion, should not be extended.

The compact established a cartel to raise milk prices in New England, and it has done so. Retail fluid milk prices were raised about 8 percent in Boston. Guess what? Farmers have raised production by three times the national average in Vermont, consumers have lowered their consumption, and mounting surpluses are being turned into milk powder and sold to the U.S. Department of Agriculture.

Calculated properly, the cost of these surplus purchases is actually more than the farmers gained from higher prices. If the farmers actually pay these costs as they are supposed to under the terms of the compact, even they will be net losers from this price-fixing scheme.

If, through some kind of political manipulation, they do not pay for the surplus, the taxpayers will get stuck with the bill. Meanwhile, the existence of this surplus depresses manufactured milk prices and ultimately all milk prices in the rest of the United States.

Seventy years of experience in the Soviet Union should have taught the world that this kind of central planning and market manipulation is doomed to failure. It must be allowed to sunset as intended.

This amendment is supported by over 400 organizations spanning the complete political spectrum, including the National Taxpayers Union, Public Voice for Food and Health Policy, Citizens Against Government Waste, Consumer Alert, the International Dairy Foods Association, Farmers Union Milk Marketing Cooperative, the Milk Industry Foundation, the Competitive Enterprise Institute, Foremost Farms USA Cooperative, Citizens for a Sound Economy, and many, many others.

I urge all of my colleagues to vote for sensible market-oriented policy and to remove an onerous special milk tax from poor consumers by supporting this amendment.

POINT OF ORDER

Mr. SOLOMON. Mr. Chairman, I will not bother to get into a debate. We have already debated my good friend and classmate's amendment, so I will not get into that now.

But I would make a point of order at this time against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill and, therefore, violates clause 2 of rule XXI. The rules states, in pertinent part, "no amendment to a general appropriation bill shall be in order if changing existing law." This amendment does, and I press my point of order.

The CHAIRMAN. Does the gentleman from Wisconsin (Mr. PETRI) wish to be heard on the point of order?

Mr. PETRI. Mr. Chairman, I certainly do.

Mr. Chairman, the bill before us is legislating on an appropriation bill and changes existing law. My amendment would not change existing law. It would change the bill before us to protect and maintain existing law, and, therefore, I feel that it is certainly in order. The only reason that this is necessary is that legislating on appropriations was protected by the rule of my friend and colleague, the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. OBEY. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Wisconsin may be heard on the point of order.

Mr. OBEY. Mr. Chairman, I would simply like to make the following point. I understand the gentleman from New York is objecting to the amendment being offered by the gentleman from Wisconsin (Mr. PETRI) under clause 2 of rule XXI, which prohibits legislation on an appropriation bill.

□ 1500

I would point out that that is exactly what the bill itself does. If the Committee on Rules had not pushed through a special rule, I would have been able to lodge exactly the same point of order against the underlying bill that the gentleman is now lodging against the gentleman from Wisconsin for his amendment. It seems to me highly unfair to use the rules in one place to enforce the status quo and to use the rules in another place to attack the status quo. It would seem to me that if the chairman of the Committee on Rules, who himself reported out the rule under which I was precluded from offering my amendment, is going to support a rule like that, he would, in the interest of fairness, owe it to the gentleman from Wisconsin to allow the same principle to be applied to his amendment.

Mr. SOLOMON. I am just trying to live up to our agreements.

I press my point of order, Mr. Chairman.

The CHAIRMAN. The Chair is prepared to rule.

The amendment offered by the gentleman from Wisconsin (Mr. PETRI) explicitly supersedes a provision of the Agricultural Market Transition Act. As such, it constitutes legislation in violation of clause 2(c) of rule XXI. The amendment adds legislation to the bill, and is not merely perfecting. The waiver in House Resolution 482 only covers provisions in the bill. The point of order is sustained.

The Clerk will read.

The Clerk read as follows:

SEC. 737. Section 102(b)(2)(D) of the Arms Export Control Act (22 U.S.C. 2799aa-1(b)(2)(D)) is amended—

(a) in clause (i) by striking "or" at the end;

(b) in clause (ii) by striking the period at the end and inserting ", or"; and

(c) by inserting after clause (ii) the following:

"(iii) to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture for the purchase or other provision of food or other agricultural commodities.".

(d) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture before, on, or after the date of enactment of this Act through September 30, 1999.

SEC. 738. Whenever the Secretary of Agriculture announces the basic formula price for milk for purposes of Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall include in the announcement an estimate, stated on a per hundredweight basis, of the costs incurred by milk producers, including transportation and marketing costs, to produce milk in the different regions of the United States.

AMENDMENT NO. 1 OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BEREUTER:

At the end of the title relating to "GENERAL PROVISIONS", insert the following new section:

SEC. . Section 538(f) of the Housing Act of 1949 (42 U.S.C. 1490p-2(f)) is amended by adding after and below paragraph (5) the following:

"The Secretary may not deny a guarantee under this section on the basis that the interest on the loan, or on an obligation supporting the loan, for which the guarantee is sought is exempt from inclusion in gross income for purposes of chapter 1 of the Internal Revenue Code of 1986.".

Mr. BEREUTER. Mr. Chairman, I rise today to request approval of this floor amendment and that it be accepted by the Agriculture appropriations subcommittee. It would allow tax-exempt financing to be used in conjunction with the Section 538 housing program of the USDA. The floor amendment is necessary because of an unfortunate OMB ruling whereby tax-exempt financing could not be used in conjunction with the Section 538 housing program of the USDA Rural Housing Service. It is supported by the USDA.

I am prepared and, in fact, do give arguments for it and, in fact, arguments against the decision by OMB. But I understand that the Agriculture appropriations subcommittee chairman and ranking member have seen it.

While this Member believes that the OMB ruling was an incorrect decision, as will be explained, without the change offered in this Member's amendment, the future success of the Section 538 program and as a result the future of rural housing will be harmed.

This Member introduced the Section 538 Multi-family Loan Guarantee Program legislation which was passed into law as a two-year demonstration project in 1996. The Section 538 legislation was introduced to ensure that the housing needs of rural families could be adequately met by the creation of additional rental units in rural areas (cities with population of 20,000 or less). Under the Section 538 program, a Federal guarantee is provided for loans made to eligible for profit or nonprofit applicants by private lenders.

The single biggest reason why the Section 538 program is such an important and needed innovation in rural housing is due to its privatization focus. In the Section 538 program, the USDA guarantees the loan for these multi-family housing projects. As a result, the U.S. Government is not directly lending the money to the borrower, instead private lenders in the free market serve borrowers with the full faith and credit of the U.S. Government standing behind the loans. Guaranteed loan programs can save the Federal Government an enormous amount of money and at the same time allow the free market to construct affordable housing for rural residents.

The Floor amendment that this Member is offering today, which would allow tax exempt bonds to be used in conjunction with the Section 538 program, is imperative for the two following reasons:

1. First, tax exempt bonds decrease the cost of borrowing money which is essential to keep the rents affordable for low and moderate income persons.

2. Second, lenders are more likely to lend money if tax exempt financing is involved. This is because lenders finance these loans in many different ways, but one very attractive means for such financing is for the lender to sell tax exempt bonds on the secondary market. Since bonds have a higher demand in the secondary market if they are tax exempt, this increased demand in turn results in more money for financial institutions to lend to individuals who want to build multifamily units.

The Section 538 program was deemed a worthy project by the U.S. Congress in 1996 when it was enacted into law as a two-year demonstration project in 1997. Since its enactment, the Section 538 program in 1997 has guaranteed $28.1 million for 16 loans in 12 states to build a total of 813 new rental units. (These statistics are provided by the USDA). The success of the Section 538 program has been recognized by the House Appropriations Committee as the bill before us today provides $125 million in funding for the Section 538 program for fiscal year 1999.

The Section 538 program has come too far to have the foundation of the rural affordable housing progam washed away through a tax exempt financing ruling by an anonymous person in the Office of Management and Budget. Tax exempt bonds are essential to the success of this program. This program deserves an opportunity to thrive and give rural residents affordable, and adequate housing, and that is what the amendment this Member is offering today will ensure—an even more successful Section 538 program that can work in conjunction with tax exempt bonds.

In closing, Mr. Chairman, according to the most recent census data, 2.7 million rural families continue to live in substandard housing. The Section 538 program, by utilizing the private market, and if used in conjunction with tax exempt bonds as allowed by this Member's amendment will do much toward reducing the number of rural families living in substandard housing. Therefore, this Member encourages his colleagues to vote for this Member's Floor amendment, which will allow the use of tax exempt bonds in conjunction with the Section 538 program.

QUESTIONS ON CBO ANALYSIS ON TAX EXEMPT BOND ISSUE:

While the Member is pleased to answer any questions from his colleagues regarding this amendment, there is one question that this Member needs to respond to directly—that of the Congressional Budget Office (CBO) cost assessment on the issue of tax exempt financing. This Member believes that the CBO cost assessment over a five-year period (i.e., $14 million) is grossly incorrect as there should be either no cost or a very minimal cost to the use of tax exempt financing in conjunction with the Section 538 program. The four following reasons support this analysis:

1. First, when CBO conducted theire calculations, they used a questionable $150 million amount for the yearly funding for the Section 538 program as a beginning point. The $150 million amount was the amount requested by the USDA to the House and Senate Appropriations Committees for Section 538 funding. However, the House Appropriations Committee, in the bill before us today, provides $125 million in funding while the Senate Appropriations Committee provides $75 million in funding for the Section 538 program. Using the House and Senate funding amounts, a more reasonable assumption could be made that a conference compromise in the amount of $100 million in funding for the Section 538 program will result. The $100 million figure would have been more suitable to use as a basis point for a calculation as compared to the $150 million dollar figure that CBO used. It has been estimated that this flaw in the CBO calculation would reduce the CBO estimate by one-third (Note: The calcuilation correction fact of "one-third" is provided by the Council for Rural and Afforadable Housing.)

2. Secondly, the initial CBO assumption that this provision would leverage new investment financial by additional tax exempt debt is in question. CBO used the assumption that 50% of the bonds used in this program will be tax exempt. This Member believes that this percentage is far too high. This Member is not aware of any USDA program that has come anywhere close to this 50 percent tax exempt bond usage rate. For example, during the first pilot program under Section 538 OMB initially permitted tax exempt bonds to be used, only two out of 50 proposals involved tax exempt financing and both of these two were selected among the 10 successful applicants. Based on

this information, this Member believes that 25% is a more suitable percentage for a tax exempt bond usage rate. In fact, this 25% figure was suggested by the USDA. This Member estimates that the use of the 25% estimate for tax exempt bond usage would reduce the CBO analysis by another one-third (Note: The calculation correction factor of this additional "one-third" is provided by the Council for Rural and Affordable Housing.)

3. Third, the full use of state volume caps by CBO in its calculation is in question as CBO refuses to reveal the volume cap model it used. Without such information from CBO, it is simply impossible for this Member to determine whether CBO in fact used these volume caps adequately.

4. Finally, CBO's calculation is questionable in that it progressively increases revenue loss by $1 million for each year of the five scored years culminating in a $5 million score for the year 2003. Due to the speculative nature of this scoring, especially with the volume cap questions, this Member believes that CBO scoring gets more and more questionable throughout the five-year scoring period.

In conclusion, Mr. Chairman, this Member believes that the above reasons will substantially reduce if not eliminate the C.B.O. scoring of this tax exempt bond usage for the Section 538 program as a revenue loss. Therefore, this Member would again encourage his colleagues to vote for the Floor amendment which would allow tax exempt bonds to be used with the Section 538 program. If anyone has any further questions, I will be more than pleased to answer them.

Mr. Chairman, I yield to the gentleman from New Mexico if he has any comments to make at this point.

Mr. SKEEN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has been a strong supporter of rural housing programs. He deserves great credit for his work on the new Section 538 program. The USDA advises us that they would like this provision in the bill and we are prepared to accept it on our side.

Mr. BEREUTER. I thank the gentleman very much.

Mr. Chairman, I yield to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the appropriations subcommittee.

Ms. KAPTUR. I thank the gentleman for yielding.

Mr. Chairman, we have no objections to this section and it is acceptable to us.

Mr. BEREUTER. I thank the distinguished gentlewoman from Ohio.

Mr. Chairman, I have had good support, extraordinary support, as a matter of fact, from the Agricultural appropriations subcommittee on trying to move ahead with single-family and multi-unit housing. I appreciate that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. DOOLEY OF CALIFORNIA

Mr. DOOLEY of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. DOOLEY of California:

Add after the final section the following new section:

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available for the Department of Agriculture for special grants for agricultural research under the heading "RESEARCH AND EDUCATION ACTIVITIES-COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE" and providing an additional amount for the Department of Agriculture (consisting of $49,273,000 for section 401 of the Agricultural Research, Extension, and Education Act of 1998 notwithstanding section 730), both in the amount of $49,273,000.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto close in 20 minutes, and that the time be equally divided.

The CHAIRMAN. Without objection, the gentleman from California (Mr. DOOLEY) and the gentleman from New Mexico (Mr. SKEEN) each will control 10 minutes.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this morning the President signed into law the Agricultural Research, Extension and Education Reform Act, which was passed by the House earlier this month by a vote of 364-50. This was an exciting event for myself and my colleagues on the Committee on Agriculture who have worked for over a year to develop a comprehensive agricultural research system. One of the most important provisions of this new law is the initiative for Future Agriculture and Food Systems. This new program is intended to provide Federal research dollars to be awarded on a competitive basis to address emerging issues, including agricultural genome, food safety, food technology and human nutrition, new and alternative uses and production of agricultural commodities and products, agriculture biotechnology and farm efficiency and profitability, and natural resource management.

Unfortunately, even before the President had a chance to sign this new law, the Subcommittee on Agriculture zeroed out the new program and used the savings to pay for other programs within its jurisdiction. I certainly recognize the difficulties the chairman had in providing funding to all of the important programs under his jurisdiction. However, I believe that zeroing out of all of the funding in the initiative was misguided.

I am offering an amendment today that would partially restore funding for the initiative for future agriculture and food systems. The amendment is simple. It would delete funding provided under the special grant authority for earmarked projects and use that savings to fund the initiative. In S. 1150, the Congress sent a strong message that earmarked projects should be a thing of the past and that competitive research grants were the model for the future. This philosophy was repeated throughout our bill. In section 406 of the bill, we established a generic authorization for high-priority research projects. In the past, these projects would have been earmarks, but we were able to establish a system whereby all funds would be awarded on a competitive basis and matching funds would be required. In section after section, we repeated the pattern of requiring competition for research money. Now, before the program can even get under way, the bill before us today eliminates funding for this program and resorts to business as usual.

Support for the initiative as a part of S. 1150 was overwhelming. It was supported by all the agricultural organizations, the land grant and nonland grant universities and others. Unfortunately, now they are placed in a difficult position, a position not unlike those of us in Congress. They would be asked to choose between funding for the initiative and funding for other important agricultural programs. It is unfortunate that we are all in this position, but I believe that redirecting research funding in the form of special grants back to the new competitive program is the right approach.

I understand that many of the projects included in this section of the bill are important, but I believe that the goals of these projects could be reached through a competitive process. The interest of agriculture and the taxpayers would be better served through the competitive awarding of money. We need to ask ourselves whether we should be spending Federal dollars on research that would not be able to withstand a competitive process. We have scarce Federal dollars. No one knows that better than our colleagues who serve on the Committee on Appropriations. But I believe that it is irresponsible for this Congress to earmark funds for programs that are unauthorized.

I know that this is a difficult fight. I ask my colleagues to support my amendment that will allow us to go down the path we voted on just a few weeks ago that ended the earmarking of research projects.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had these special grants we have developed all through the years. The system has worked very well and been very productive. I do not think at this time that we want to see us to lose that system or the way that we have been handling it. Therefore, I strongly oppose the gentleman's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in regard to the comments made by the gentleman from New Mexico, I think that what I am simply proposing is that all the programs that have been earmarked are programs that could well have merit. But I contend that in order to do the best job in meeting the priorities of agriculture and the priorities of farmers in this country and at the same time ensuring that the taxpayers are getting the greatest return on the investment of their dollars that we should be funding agricultural research programs based on a competitive basis, and that many of the programs that are earmarked in the appropriations bill will receive funding on a competitive basis. But why should they not be required to compete with other agricultural research priorities? Why should we identify a set of programs to be funded at the expense of funding other programs when they have not gone through a competitive process?

I am one of the strongest supporters of agricultural research. I think there are some great projects that are funded in the earmarks section of it. But why do we not do justice to the farmers of this country and justice to the taxpayers of this country to ensuring that the tax dollars that we invest in agricultural research will be done in a matter which ensure that they are meeting the highest priorities of the farmers of this country.

I urge my colleagues to vote in support of this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I support the gentleman in his opposition to this particular amendment. I think every single account in agriculture, whether it is research, whether it is conservation, whether it deals with emergency feeding, whether it is WIC, school lunch, we can go down the list, every single account needs more money and wants more money. I think we have been very fair. In the research accounts, I think that we accommodate various interests around the country. We just do not favor one set of perhaps powerful interests that would want to do research. On behalf of the United States of America, I think we have produced a good bill. A lot of this research is continuing research.

It is unfortunate that when additional research dollars were sought and they attempted to make them mandatory, of course, there were no funds, user fees or other sources of revenue that could help us pay for those research projects. I think it would be unfair to try to rearrange the order that we have set now within the bill. I think we have been very fair to the research accounts. Unfortunately if people want more dollars for research, they are going to have to come up with revenue sources to pay for them. I support the chairman in his opposition to this amendment.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume. I would like to remind the gentleman, too, that we have a tremendous amount of competition on the basis of these grants that we are granting now. Because of the lack of funding for all the programs, they are intensely, I think, interrogated as far as how valid they are and how much they will yield to the system. I do not think that this is the way to go. I am still constrained to oppose it. I do not think we need to have a competition board or something like that. We do that every session that we work these over, and we go back and review them as well.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DOOLEY).

The amendment was rejected.

AMENDMENT NO. 6 OFFERED BY MR. NEUMANN

Mr. NEUMANN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. Neumann:

Add after the final section the following new section:

SEC.   . None of the funds appropriated or otherwise made available by this Act may be used to make available or administer, or to pay the salaries of personnel of the Department of Agriculture who make available or administer, a nonrecourse loan to a producer of quota peanuts during fiscal year 1999 under section 155 of the Agricultural Market Transition Act (7 U.S.C. 7271) at a national average loan rate in excess of $550 per ton for quota peanuts.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes, and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin (Mr. NEUMANN) is recognized for 15 minutes.

Mr. NEUMANN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to start this debate by just reading a couple of lines out of a Washington Times article of July 7, 1997. It says:

> Congress is doing something really nutty. It is making Americans pay 33 cents for every jar of peanuts we buy as part of a continuing effort to help farmers who have been dead for half a century.

Here is what is going on in the peanut program. It was developed back in the 1930s much like the dairy debate that we heard earlier here today, a program that was developed in the 1930s for specific purposes. What they did is they limited the amount of peanuts that could be sold here in the United States. They issued a quota as to how many pounds could be sold here under a certain price structure. The program was designed originally to be temporary. And as with many programs out here in this Congress, the temporary program is still going on. It was developed in 1934 and it is still going on here in 1998.

□ 1500

I have to say that in the building business when we built a company that provided 250 job opportunities, we could not get by on technology and systems that were in existence in 1986 by 1990 when I left the company, much less looking at programs that worked in 1934 and would still be in use today, and that is the case with the peanut program.

Here is how it works:

There is a limited number of quotas that are owned by individuals. Now, if we have this quota, we can market peanuts for consumption here in United States of America. Of course they get $650 per ton for the peanuts that they market here in the United States of America. Now, if they market peanuts or grow peanuts outside the quotas, they can still sell them in the world markets. In the world markets the price of peanuts is about $350 a ton, instead of $650 that we are marketing for here in the United States.

So what does that really translate into? The consumer here in the United States of America is being asked to pay a subsidy from $350, which is the market price in the world market, to $650 a ton, so the consumers here in America are forced to pay this additional price.

What has happened over the years, of course, is that the farmers that were originally intended to benefit from this back in the Depression era, those farmers are now deceased. They are not here any more, so they do not exist. So what they did is, they passed their quota on as part of an inheritance, so it went through generation after generation, and as might be expected, the person that inherited the quota no longer is doing the farming. So we are now in a situation where 68 percent of all quota owners no longer do the farming.

So what we really have, and up until very recently these quotas were owned by people in foreign countries like France and Germany and so on, and what would happen is a farmer here in the United States would buy the right to sell peanuts at this subsidized price at $650 a ton. They would buy the right to sell the peanuts here in the United States of America at this escalated price, and the quota owner would simply get a check at the end of each year.

This whole program is just plain senseless in today's markets. We should allow the peanuts to be sold at market prices here in the United States of America just like they are anywhere else in the world.

Now I should clarify just for the record that quotas are no longer owned by people in foreign countries, but they are now owned by doctors and lawyers and attorneys and wealthy people in general in the United States of America.

So what happens? A farmer goes to this person owning a quota here in the United States of America. They ask the farmer if they will sell them the right to market peanuts here in the United States of America at this subsidized or at this higher price. So the farmer then goes to work, puts in all the effort, all the time, raises the peanut crop and then sells it at the $650 a ton, but the farmer does not get to keep the $650 a ton. The person who owns the quota gets the money for it, and of course the consumer pays the additional price.

I strongly urge that we at least end this 1930's program and bring the United States of America and all the free traders in this country and all the people that say they want a fair and even playing field, let us bring the peanut program and the peanut farmers into the 1990's, just like we are trying to do with the dairy products. It is time we end this program, and that is the purpose of this amendment.

I would add one more thing under this amendment. We did not try to bring the price all the way down to $350 a ton. We simply said we are going to take it the next step and bring it to $550, with the hopes that in future years we can get to an actual free market system. So all the amendment does is bring it closer to market price. It does not even bring it all the way to market price.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. EWING) the chairman of the subcommittee of jurisdiction.

Mr. EWING. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this is an argument that we seem to go through every year, unfortunately, and I think it is too bad that we constantly attack farmers regardless of what their crop may be. This is indeed an attack on peanut farmers and the peanut economy in this country. It is not the place that we should be reforming the peanut program, on the ag appropriation bill. No hearings, no discussions, just come in here and we will slash this program.

The sponsor of the bill, I think, is misinformed or uninformed when he talks about the world price of peanuts. The world price of peanuts is really not the value of peanuts. It is the value of peanuts that are dumped on the world market, a big difference, and the program that we have in effect, a no-cost program to the Federal Government, is there to protect the American peanut farmer from imports of cheap peanuts which are subsidized by the governments of those producers.

My colleagues, this is not a good way to make farm policy. I suggest that we do as we have in the past, that we turn back this amendment and that we live up to our contract with America's peanut farmers.

Mr. NEUMANN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Neumann amendment to the farm bill which puts a price support level of $550 per ton on peanuts. This amendment represents a modest step in the direction of reform. It does not end their program or pull the rug out from under peanut farmers. However, it does send a message to the peanut, confectionery and bakery industries in districts and States like mine, Illinois, that they need not continue to pay an inflated price for peanuts as they operate in more than 50 locations, employ over 15,000 people and generate more than $600 million in annual payroll compensation to workers.

It is difficult to find anything unique or in the national interest which demands that peanuts get special preferential treatment over other commodities such as wheat, corn, grains, sorghum, barley, oats, soybeans, rice and cotton, all of which have been transitioned to the free market.

Mr. Chairman, the area that I come from, Chicago, is the hub of confectionery and peanut product manufacturing. I urge that this amendment be supported. It is good for business, it is good for America.

Mr. SKEEN. Mr. Chairman, I yield 7½ minutes to the gentlewoman from Ohio (Ms. KAPTUR) for purposes of control.

Ms. KAPTUR. Mr. Chairman, I yield that 7½ minutes to the gentlewoman from North Carolina (Mrs. CLAYTON) to control.

The CHAIRMAN. Without objection, the gentlewoman from North Carolina (Mrs. CLAYTON) will control 7½ minutes.

There was no objection.

Mrs. CLAYTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank my colleagues very much for allowing me to control this time, and I tell my colleagues that this is an old argument, an old story, but it is an unfortunate one and it is an appropriate one. Here we go again trying to really make scapegoats of farmers and the rural communities, and here we go again also trying to equate the world market to the lowest common denominator to make sure that our farmers indeed lose.

This is a regional crop. I can tell my colleagues rural communities will be devastated if indeed this amendment is passed.

Mr. Chairman, I note my ranking member from the Committee on Agriculture has come.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I thank the gentlewoman for yielding this time to me, and as someone else said a moment ago, here we go again. It seems like every year at this time the manufacturers are never satisfied until the peanut program is eliminated.

But I just did a fascinating amount of research right here in this body. I have in my hand M&M peanuts, which I like both products very well. One has peanuts, one does not. I went into the Democratic cloakroom, and I asked how much are these, and they said 60 cents each, and I said I will take two. Now my colleagues can go out in the store and buy it for 55 cents, but roughly that is the same amount that we were paying for these products last year.

What was fascinating, though, is when I went over into the Republican cloakroom and I said I would like to buy the same M&M peanuts, well, I hate to tell my colleagues on this side of the aisle, but they need to start buying their products over on this side because it costs you 75 cents for the same two M&M peanut packages. So I think we are going to have a run on business over on our side.

But this just proves the point. With all due respect to my colleagues who are offering this amendment again, this has nothing to do with what consumers are going to pay for peanut products, even the peanut butter argument. It is fascinating. The gentleman from Wisconsin (Mr. NEUMANN) made the argument on peanut butter. The best bargain prices for peanut butter in the world are in the United States, and yet some people, and we can go anywhere in the world and we will pay more for our peanut butter. We can go to Mexico and we will pay $2.55. Here in the United States it is $2.10.

What they are trying to do with this amendment today is once again destroy peanut farmers in America. That is what they are trying to do, and they are using philosophical arguments that have no standing whatsoever with fact. When we can take these two products here and see the differences, we should not kid ourselves that we are going to do the consumer any favor by adopting this amendment. We will not.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. SMITH) the chairman of the Committee on Agriculture.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, unfortunately we have this exercise it seems every appropriation period where we attack the contract that was entered into in 1996 between Members of Congress and farmers in America. This is another attack to violate the agreement reached when we said at that time, passing legislation at that time, that we would continue the subsidy program until 2002 where it would all end.

Now farmers understand that process, the bankers that farmers do business with understand that process, and plans have been made for that purpose. Now to turn our backs, turn this Congress' back on the contract that was agreed to in 1996, is wrong. It should not happen, and it will not happen, and we will not let it happen.

Now for all the tobacco and peanut farmers in the Northwest, I am asking my colleagues, and there are not any by the way, in the name of good sense and common sense and agreement I am asking my colleagues to vote down this amendment. The point is and was made, there are shellers, there are manufacturers, there are farmers. Everybody is coming at this from another angle. This is a no net cost to taxpayers. Vote down this amendment.

Mr. NEUMANN. Mr. Chairman, I yield myself 15 seconds.

I just like to put this argument back in proper perspective. This is about the United States Government stepping into a situation and dictating that the consumer pay more than market price for a product. That is what this argument is about. It is not about whether it costs 30 cents or 60 or 75.

Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Chairman, I would like to register an objection.

I am a guy who loves peanut butter, and I have discovered, my research, it cost me 33 cents more for an 18 ounce jar, and I think that the Members on the other side of the aisle should get together and vote me a subsidy of 33 cents for every jar of peanut butter I consume a year because, after all, why should I not be entitled to be subsidized as the peanut farmer is?

This argument is really an argument. It is bipartisan in nature. There are those on both sides of the aisle that want to support the peanut farmer. If we talk about the peanut farmer, my heart goes out to him, too, except when we look at the reality of the situation, 22 percent of the peanut farmers are deriving 80 percent of the profits from these quotas.

Seventy-five percent or two-thirds of the licensees of these peanut support systems are not farmers. They are owners of land and owners of licenses. Some of them inherit them as a matter of inheritance from father and grandfather, and we are saying here that we are fighting for these poor farmers.

A lot of them live on Wall Street, the holders of these licenses, because this is a negotiated saleable item, a commodity that is sold in this country, and it is just time that, if we are talking about free markets and we are talking about competition, we are not suggesting to go straight to a free market. We are suggesting a simple 10 percent reduction in support costs.

And I just want to remind all the Members how many people would be screaming aloud here if we guaranteed the price of steel that would have to be consumed by auto manufacturers or other users of steel in this country.

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What if we said oh, these people have made their investment and always produced steel, they have got to get a fair guaranteed price by the Congress of the United States. What happened to our Congress, our supposedly free marketeers? This is not asking for a free market; it is asking for something nearer to a fairer market. If it does not happen, the hypocrisy we will express in doing this, and when I hear our friends talk about it is going to end in 2002, well, I am not a gambler, but if anyone would want to step to the back of the Chamber, I would make a wager that in 2002 there is going to be an excuse to continue to subsidize licensee holders on Wall Street, New York, with the payment from American consumers to protect the markets of the license holders of peanuts. You will not be wrong. It is going to happen. We know it is going to happen.

All we are saying is maybe let us just give the indication to the American people that we are going to reduce this hard support system for peanut farmers by just 10 percent now. Let us see what the effect is on the marketplace. Let us see how competitive it makes our candy business. Let us not run the risk of encouraging our candy manufacturers to move to Mexico, right across the Texas line, and buy peanuts $300 cheaper from Texas than they can today.

I urge my friends to support this amendment.

Mrs. CLAYTON. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in opposition to this repetitive, redundant amendment. It seems that we have got to face this every year. But 2 years ago we forged an agreement between the government and our farmers, and investment decisions have been made based on a 7-year farm bill. Now, after 2 years, we are threatening to renege on that commitment.

I think that is absolutely awful. We have made a contract with our farmers. They have relied, to their detriment, on that; and here we come now as a Congress and want to pull the rug out from under them. It is not fair, it is not right, it is un-American, and we just not ought to do it.

Mr. Chairman, I believe we ought to vote this amendment down today, just as we voted it down last year and just as we voted it down the year before that. This is a bad amendment, it does not reflect good policy.

The statistics that the gentleman from Pennsylvania (Mr. KANJORSKI) cited are based on obsolete information. We have a no-net-cost peanut program now. It does not cost the government a thing. What we are trying to do is protect American farmers and make sure they have a level playing field with producers in other parts of the world with whom they have to compete.

This is a bad amendment. It rejects and reneges on the contract we have made with our farmers and it sets bad precedent. We ought to stand up to our agreements and live out this farm bill in a way that our farmers will know that when the Congress speaks, that we can be counted on to keep our word.

Mr. Chairman, I urge the rejection of this amendment, and urge us to pass this bill and get on with the business of this House.

Mr. NEUMANN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, the peanut program is nuts, just a shell game. It is a hidden tax. It is a hidden tax on American consumers, adding hundreds of millions of dollars to the cost of peanuts.

We have not repealed the law of economics. A jar of peanut butter costs 33 cents more because of the peanut program. These higher prices affect all consumers, but particularly low-income Americans, who often substitute peanuts for higher priced sources of protein. Even the Federal Government is feeling the pinch of higher peanut prices. It has cut its purchases of peanut butter for feeding programs such as school lunches.

In the 1996 farm bill we were promised real reform. However, in my view, this never was realized. We still have a program of fixed peanut prices, government-sponsored peanut shortages, and it is still illegal to grow peanuts without a license.

This amendment is a step in the right direction. It caps the peanut price support at $550 per ton. This is only a 10-percent reduction in the support price. I urge support for this amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Chairman, the gentleman just got up here and said this is simply a reduction of 10 percent. You know, we reduced the support price on peanuts 10 percent in 1996. You know what happened to the price of that jar of peanut butter you just referred to? The price went up. Explain that to me. Explain that to the farmer down there who gets less than 33 cents out of that jar of peanut butter for the peanuts that go into that jar of peanut butter.

This whole thing makes absolutely no sense at all. The gentleman from Texas walked in here with M&M's that contain peanuts and M&M's that do not; M&M's bought on one side of the aisle and others bought on the other side of the aisle at different prices. Let the market control that, and that is what happens.

The cost of peanuts is so minimal in the manufacturing industry that it is absolutely ridiculous to be standing up here arguing about this. But the real point is, this is not a 1934 program, as my friend from Wisconsin said. The current peanut program is a 1996 program. Real reforms were made in the program in 1996. It became more market-oriented, it became a no-net-cost program. There was a 10 percent reduction in the support price in 1996. Most of all, as the gentleman said, it eliminated these quota holders that do not live in the United States. That simply is no longer an argument on this issue.

Most importantly, Mr. Chairman, when you step up here to vote on this particular amendment, you are voting on whether or not you want to live up to a commitment that was made to the farmers in this country in 1996. A vote for this amendment is a vote to jerk that commitment out from under them. A vote against this amendment is a vote to support what we told the peanut farmers in this country in 1996 we would do, and that is that if they would agree to making real reforms in this program, we would agree to continue this program for 7 years, at $610 not $650 a ton.

Mrs. CLAYTON. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Chairman, the peanut farmers are family farmers. The average peanut farm is 98 acres, based on the census. It is not a big farm, it is a small farm. I have the luxury of representing some of them, and they are having a great deal of difficulty.

One of the things we need to recognize is that in 1996 we had an agreement, and we brought that price down from $678 to $610. I ask you, did you see a price cut on the peanut butter and the candies out there? No, and you are not going to see it either.

The main thing is that we need to begin to support our farmers in order for them to be able to get a good price for their product. Consumers have yet to see any cost savings from those cuts that were made in the previous time. Now they want to cut again, arguing much more that the consumers deserve the savings. In fact, just like before, there are no savings.

Mr. Chairman, I ask that Members vote against this amendment.

Mr. NEUMANN. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON), a coauthor of the amendment.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of this amendment. This amendment establishes a loan rate that will bring our prices closer to the world market level. This is simply a step towards preventing the government from artificially raising the price of peanuts through production quotas. In the 1996 farm bill, and Members have referred to this, the peanut subsidy was essentially left out, so we must address it now.

This policy that has been adopted is unfair to, first of all, the consumers, the consumers who are affected by the increase in price, the subsidized price of the peanuts. If it is not the consumers, it is the peanut industry. Someone has to absorb a price whenever the price is artificially increased, so it is either consumers are or the industry itself.

But it is also, and I come from an agricultural State, it is also unfair to those farmers who would like to grow for the U.S. market but do not have a license. I think we need to eliminate that.

Fourthly, it is unfair to the rest of American agriculture, who is so dependent upon exports. In Arkansas, my State, rice and soybeans, we export those worldwide. When you are trying to build an agricultural economy worldwide, we have to defend against the accusation that, well, look at your own country; you are subsidizing, engaging in unfair trade practices. So we need to eliminate those barriers across the board, so that we can increase our exports and so it is fair to all of our agricultural communities.

So I think it is very important that we start reducing this trade barrier, but we also start putting back the free market system into peanut production.

In 1934 the Great Depression led Congress to establish the Federal peanut program to protect the peanut producers and to control the domestic supply. Well, the peanut program is now 64 years old. That is 64 years of price controls, it is 64 years of higher prices for consumers and 64 years of centrally planned economics. It was not remedied in the 1996 farm bill.

Please vote for our amendment today, and end this government program.

Mr. NEUMANN. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of the Neumann amendment. This amendment attempts to keep our promise to the American people, consumers all, to reform the peanut program, one of a number of inappropriate and outdated subsidies.

While the Farm Act gave farmers of agricultural commodities greatly expanded flexibility, removed the heavy hand of government and reduced government payments to farmers, the peanut program continues to waste taxpayer dollars.

This amendment by the gentleman from Wisconsin (Mr. NEUMANN) follows through with our commitment to reform the peanut program. It will ensure that the Secretary of Agriculture provides the small measure of reform that was promised in the farm bill. It deserves our support.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. EVERETT).

Mr. EVERETT. Mr. Chairman, this amendment is based on false information, it is poor from a policy standpoint, and it is unworkable from a practical standpoint. How strange it is that while the author of this amendment just a few hours ago on this floor fought for family farms in Wisconsin, he now offers an amendment that would destroy family farms that he has no interest in.

Opponents continue to claim that this peanut program costs families additional money. That simply is not true. The report that they quote identifies the consumer as corporations, not families. Since the price farmers receive for their peanuts was slashed over 2 years ago, the price of a candy bar has gone up. Not one penny of that money taken from farmers has gone to families, not one penny.

This bill takes money from working farmers and puts it into the hands of greedy corporations.

Mr. Chairman, I yield back what common sense is left in this place.

Mr. NEUMANN. Mr. Chairman, it is my privilege to yield 1 minute to my good friend, the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I am asked often in my fourth year here in the House, what surprises you the most? I must say what surprises me the most, without question, is that my party, the Republican Party, took a majority in this institution for the first time in 40 years, yet agriculture somehow escaped the reforms. It is unbelievable to me that we are still, in the name of reform, slow-walking reform, smiling at the American people, and saying we reformed agriculture.

My goodness, we are so deep in the agriculture business, it survives whatever winds blow through this city. They are so institutionally prominent. Whether it is peanuts, sugar, tobacco, whatever, price supports, subsidies, quotas, they make no sense in the free market. The government should not be this involved in the farm business.

Mr. Chairman, I come from a deep farm history in the Sequatchie Valley of east Tennessee and in northeast Alabama, and the farmers in my part of the world want to be left alone. They want to farm all by themselves, without figuring out what the government is doing next.

Mr. Chairman, I urge my colleagues to vote in favor of this amendment on peanuts. There are several reasons why this amendment is appropriate. Perhaps one of the most important reasons comes from a government policy perspective.

The U.S. peanut program stands out as a glaring example of inconsistency with well-established agricultural trade policy and principles supporting fair and free trade. In a new era of U.S. agriculture, where almost every food commodity is produced and exported competitively in the world market, the peanut program especially stands out as completely contrary to the objectives of the rest of agriculture.

In fact, a 1996 NAFTA case involving, dairy, poultry and eggs illustrates the problems the U.S. peanut program creates for other American commodities. In its pleadings before the domestic peanut market the Canadians even threatened retaliation in the form of a trade case against the peanut program, had there been an adverse panel decision against Canada in the dairy, poultry and egg case.

With exports of U.S. agricultural commodities totalling approximately $60 billion annually, and many more billions of dollars of export potential, it is difficult to understand why both makers and growers of other commodities would jeopardize this export trade in the interests of a relatively small group of peanut quota holders who refuse to compete in world markets. In fact, peanuts represent only one-half of one percent of the total value of all U.S. agriculture commodities.

Almost all U.S. commodity programs stepped up to the plate during the 1996 Farm Bill and agreed to remove restrictions on production. At the same time, peanut quota holders clung to the past and ignored market realities.

The many sectors of agriculture that compete in world markets should no longer allow the peanut program to impair their export opportunities. The future of U.S. agriculture lies in exporting commodities where we have a competitive advantage.

While this amendment does not eliminate the peanut quota program, it begins to move the U.S. peanut quota price support toward the world market price. However, if we want to begin the process of making the peanut program more market-oriented, we should support this amendment.

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Mrs. CLAYTON. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I strongly oppose this amendment. It is amazing to me to listen to people up here who do not farm tell us how farmers make money. It is amazing to me to listen to people who do not have dirt under their fingernails to tell us how we ought to change programs. It is absurd. It is obvious to me they do not really know what it is all about. They have been listening to someone with a textbook. They really ought to go talk to the farmers who are out there right today, in 95-degree weather praying for rain, who have had too much rain, and the peanuts get soggy.

Three years ago this Congress decided it would have a 7-year program. If there is any integrity left in this body, we ought to live up to our commitment and keep this program in place and defeat this amendment.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. I thank the gentleman for yielding me the time.

Mr. Chairman, I just listened to my good friend, the gentleman from Tennessee (Mr. WAMP), speak a moment ago about subsidies for agriculture, and agriculture never changes. I want to dispel everybody of that notion. This is silly.

I do not know whether the gentleman from Tennessee voted for the farm bill or not, but if he did not, or if he did, and a majority of this House did, it made an agreement with people in wheat and peanuts and sugar and the rest to change this system gradually. There is nothing wrong with that. The commitment is to the farmer.

It is easy to say, let us cut everybody off tomorrow. That is fine. I am not one for great subsidies, either. But in the farm bill, we said we were going to gradually make an agreement to eliminate any assistance over a period of years. We did it with peanuts, we did it with wheat, we did it with sugar. We should stick with it.

My argument to anybody who wants to object and wants to change the agreement we made in the farm bill that the majority of this House voted upon, and the President signed into law, is stick with the commitment. Stick with the commitment to gradually adjust our thinking in this country relative to agriculture. That does not mean change peanuts or change sugar or change wheat overnight. It is stick with the agreement.

That is what I object to on this amendment is that we are suddenly saying, let us get more pure, and we are going to change this overnight. A commitment is a commitment with the farmers of this country. We ought to stay with it. I urge a no vote on this amendment.

Mrs. CLAYTON. Mr. Chairman, I yield the remainder of my time to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, just a couple of things to set the record straight. There are no licenses required to grow peanuts. Anyone can grow peanuts. In fact, 120,000 tons of non-quota peanuts found itself into the domestic market over each of the last 2 years.

Here is a list I will put in the record of 10 reforms that were put into the peanut program in the 1996 farm bill, just as the previous speaker was talking about, that have had the result of reducing peanut farmer income by as much as 30 percent.

But that is not enough for our colleagues today on the floor. All commodities have a loan. All commodities have a loan. That is what we are talking about for peanuts today, the loan price for peanuts.

Mr. Chairman, I include for the RECORD the list of 10 points related to the peanut program.

The material referred to is as follows:

THE PEANUT PROGRAM HAS BEEN REFORMED

As a result of changes made to the peanut program in the Federal Agriculture Improvement and Reform Act of 1996, peanut producers have experienced income reductions as much as 30%. Any efforts to further limit the marketing ability of peanut producers will have a devastating effect on peanut production in the United States.

Reforms made to the peanut program:

1. The peanut program is a no-net-cost program. All taxpayer cost has been eliminated. This represents a 7 year savings of $378 million.

2. The support price has been reduced by 10%. Grower income has been reduced with no effect on the cost of operating the program.

3. The support price has been frozen for the life of the Bill. Producers will not be protected from increases in the cost of production.

4. Minimum legislated production floor is eliminated. Growers will plant based on marketplace demands rather than a legislated minimum.

5. Undermarketings are eliminated. Producers will no longer be able to carry-forward produced quota resulting from natural disasters.

6. Regulatory rest frictions are eliminated. Many restrictions on the lease and transfer of peanuts across county lines are eliminated.

7. The peanut program is opened to new producers. Access to the program has been made easier for producers desiring to produce peanuts.

8. More production will shift to family farms. Public entities and out-of-state non-

producers will be ineligible for participation in the program.

9. Severe penalties for producers who do not market their peanuts commercially have been put in place. Growers who abuse the program and refuse to sell their peanuts on the commercial market will be barred from the peanut program for one year. No other commodity marketing loan program has such a severe penalty.

10. Safety-net provisions protecting against the production of lesser quality peanuts has been reduced. The use of this provision has led to a substantial improvement in the quality of peanuts in the edible market by ensuring that damaged peanuts and peanuts contaminated with aflatoxin are not used for domestic edible consumption.

Mr. NEUMANN. Mr. Chairman, in the interest of being a good sport, it is my privilege to yield 30 seconds to my opponent on this particular amendment, the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman very much for yielding time to me. I appreciate the gentleman from Wisconsin (Mr. NEUMANN) giving me this few seconds to say that I hope he has seen a peanut plant since last year, because last year he had never seen one.

Since then, since the gentleman has tried to give the children of Georgia powdered milk today, now they want us to buy Chinese peanuts. They are talking about 16,000 farmers in this country who are God-fearing, church-going, hard-working, taxpaying people and he needs to get off their backs and not be so greedy for the candy manufacturers.

Mr. Chairman, if people like strawberries from Mexico, they are going to love Chinese peanuts.

Mr. NEUMANN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is not quite as it was just explained. This is really about whether or not the United States government is going to interfere and mandate higher prices than the market would bear for peanuts. The price those farmers are farming and selling those peanuts, who are not under the quota, is $350 a ton. Why is it that our American people should pay $650 a ton when the going price in the world market is $350?

This program is bad. The United States government should not be in the business of forcing higher prices. We should have free trade as it relates to peanuts, as we should in many other areas in this country. I would hope all the people that consistently come to the floor of this House and support free and fair trade would come to the floor and support ending peanut subsidies in the United States of America, once and for all.

Mrs. MORELLA. Mr. Chairman, I rise today to support this amendment to ensure that we will achieve the reforms to the peanut program promised in the 1996 Farm Bill. The Neumann amendment would push the peanut industry toward free market policies, and help taxpayers and consumers save millions of dollars. This amendment simply requires the Department of Agriculture to be fair to consumers in establishing the loan level for quota peanuts. The USDA will be required to administer the floor price for quota peanuts at no more than $550 per ton.

The Federal Agricultural and Improvement Reform (FAIR) Act of 1996 provided "freedom to farm" for just about every agricultural commodity, such as corn, soybeans, and wheat. Peanuts are one of two exceptions. Although freedom to farm peanuts was denied by Congress, advocates of the new farm bill did promise a 10 percent reduction in the loan rate to $610 per ton.

Unfortunately, even this minor reform in the federal peanut program has been undercut by the Secretary of Agriculture's administration of the program. By setting an extremely low national production level for quota peanuts, he has effectively restricted peanut supplies so that the actual market price for quota peanuts has averaged about $650 per ton. This is hardly the support level envisioned by Congress. We have not moved the price support for peanuts toward the international market price of approximately $350 per ton.

This amendment would make sure that the Secretary of Agriculture implements the price support intended by Congress and moves the peanut program towards the world price. Although this is a modest step, it will provide some much-needed relief to American consumers and the U.S. peanut industry.

I urge by colleagues to support this amendment to help protect consumers from the government price-fixing peanut program. The exiting quota and price support program for peanuts is anti-consumer, anti-competitive, and inefficient. It needs to be changed. If you are concerned about good government, consumers, and the future of the U.S. peanut industry, I encourage you to vote for this peanut program amendment.

Mr. FAWELL. Mr. Chairman, I rise in support of the amendment offered by my colleagues MARK NEUMANN, PAUL KANJORSKI, and ASA HUTCHINSON, which would provide much needed reform for an out-dated and anachronistic peanut program.

I have long been an opponent of unnecessary agriculture subsidies such as the peanut, sugar, and honey programs. When the House of Representatives considered the 1994 Agriculture Appropriations bill, I offered an amendment to eliminate the notoriously wasteful USDA subsidy to honey producers. By the overwhelming vote of 344–60, the House adopted my amendment, which subsequently became law.

Today Mr. Chairman, we once again have the opportunity to reform an anti-consumer, anti-market program by reducing the price support level in the peanut program from $610 per ton to $550 per ton. This incremental, common sense amendment will move the peanut support price closer to the world market price, benefiting the U.S. taxpayer and consumer.

The current peanut program, which keeps domestic peanut prices artificially high, makes the growing and selling of domestically grown peanuts in the United States illegal without a federal license. That's correct, an American farmer can not grow or sell peanuts without a license, or quota, issued by the United States Department of Agriculture.

Moreover, American peanut users pay nearly double the international price for domestically-grown peanuts as a result of this antiquated depression-era policy. Why are foreign consumers of U.S. peanuts and peanut products paying less than American consumers Mr. Chairman? Because the U.S. Department of Agriculture is keeping peanut prices artificially high by limiting peanut production.

Mr. Chairman, this government subsidy program must be reformed. I see no reason why a handful of quota owners should benefit at the expense of the American consumer. Do not be fooled by the rhetoric of those who contend that the peanut program was reformed in the 1996 "Freedom to Farm" bill: It was not. We still experience a peanut program which is anti-market, anti-consumer, and anti-common sense.

Mr. Chairman, I urge all of my colleagues to support passage of the Neumann-Kanjorski-Hutchinson amendment which will reform this antiquated government subsidy program.

Ms. LOWEY. Mr. Chairman, I rise in support of this amendment, which implements the first step in the Shays-Lowey peanut program elimination bill.

The peanut program epitomizes wasteful, inefficient government spending. It supports peanut quota holders at the expense of 250 million American consumers and taxpayers.

This outdated program is based on a system reminiscent of feudal society. Quotas to sell peanuts are handed down from generation to generation, and two-thirds of the quota owners don't even grow peanuts themselves.

The GAO has estimated that this program passes on $500 million per year in higher peanut prices to consumers.

And what does this mean to average American families?

Well, as a mom who sent her three kids to school with peanut butter and jelly sandwiches for years, I find it unacceptable that this program forces American families to pay an average of 33 cents more for an 18 ounce jar of peanut butter. That's not peanuts!

This amendment is also good for American jobs. Because the price of peanuts in the U.S. is so high, peanut butter and candy bar manufacturers are leaving the U.S. to open up plants in Canada and Mexico. The peanuts can be purchased there at the world market price—half the U.S. price—and the finished product can be brought into the U.S. and sold here. We must lower the artificially high price of domestic peanuts to save these manufacturing jobs.

I urge my colleagues to stand up for American consumers and support this amendment. It is good fiscal and consumer policy.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin (Mr. NEUMANN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. NEUMANN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 482, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. NEUMANN) will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. BASS

Mr. BASS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. BASS:

Insert before the short title the following new section:

SEC. (a) LIMITATION ON USE OF FUNDS.—Not more than $18,800,000 of the funds made available in this Act may be used for the Wildlife Services Program under the heading "ANIMAL AND PLANT HEALTH INSPECTION SERVICE."

(b) CORRESPONDING REDUCTION IN FUNDS.—The amount otherwise provided by this Act for salaries and expenses under the heading "ANIMAL AND PLANT HEALTH INSPECTION SERVICE" is hereby reduced by $10,000,000.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes, and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The gentleman from New Hampshire (Mr. BASS) is recognized for 10 minutes.

Mr. BASS. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Oregon (Mr. DEFAZIO), for purposes of control, pending which I yield myself such time as I may consume.

Mr. Chairman, this amendment would reduce the Wildlife Service's western livestock protection budget from $28.8 million to $18.8 million, a $10 million reduction.

Basically, this is a program that has been funded for the last 4 or 5 years at approximately $26 to $28 million, always a little bit higher than that requested by the administration. It is a program that benefits a relatively few number of cattle and sheep ranchers in the West, and it gives them matching funds, half of which are put up by the State, essentially to shoot animals that may be considered predatory to livestock.

Between 1983 and 1993, quite a bit longer period of time, wildlife services increased by 71 percent. That is adjusted for inflation. The number of coyotes killed was increased by 30 percent. They also succeeded in killing black bears, mountain lions, badgers, and others. Let me just describe, Mr. Chairman, how this goes about.

In 1996, there were 28,575 coyotes killed. The preferred method of killing was the so-called aerial method. The aerial method is basically a means by which you get up in an airplane and you scatter shot on these poor, innocent animals. The other method was cyanide, poisoning these animals with cyanide.

Yet, over the same period of time, there has been no decrease in livestock lost to these predators. Livestock Services report livestock losses in 1996 were 5.8 million, while spending on the program was $9.6 million, not exactly a great rate of return.

Mr. Chairman, we ask ourselves, traditionally in the United States, wildlife protection has been designated to the States. Yet, we have this very strange Federal program that gives approximately $10 million to ranchers to shoot coyotes and other animals that is matched by the State, but goes beyond the way wildlife has traditionally been managed.

Is this really the right level of government to have this program controlled by? Is this really, Mr. Chairman, the best use for Federal tax dollars, to subsidize a few sheep and cattle ranchers? I think not. Does this program work, when we spend almost $10 million to save $6 million in livestock losses?

Let me suggest that the losses among cattle and sheep and other livestock are far greater from other diseases, respiratory and so forth. Perhaps the money would be better spent in other areas.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. SMITH), the chairman of the Committee on Agriculture.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to this amendment. Mr. Chairman, what we have heard is an exaggeration of the issue, exactly. All these predation problems are controlled either by the Oregon Fish and Wildlife Service or the National Fish and Wildlife, and they are only implemented when absolutely essential.

Let me suggest it is far beyond just protecting livestock. Timber resources are sometimes protected against bear and beaver damage; crops such as grass seed production, which is huge in the Willamette Valley in the State of Oregon, from Canada goose damage, and, of course, predation from livestock; protecting the public safety of the Portland International Airport. All of these are issues that this money goes to protect.

Mr. Chairman, to say that a horrible thing is to kill coyotes is from somebody who has never been in coyote country. Let me tell the Members that if they want to make the choice, they either take coyotes or deer and antelope. Which do Members like?

The management of predators is about protecting wildlife, as well, so we cannot say that we are here in the great name of the coyote, while at the same time saying, but we have to protect deer and antelope. Wrong. Therefore, let the professionals determine how this money is to be spent, as they do today. Let them use it in Oregon and around the country when the predators are too numerous for the other animals that are there.

Mr. Chairman, I urge Members not to support this amendment, and to vote against this amendment.

Mr. DEFAZIO. Mr. Chairman, I yield myself 2 minutes and 30 seconds.

Mr. Chairman, in disagreeing with my colleague, the gentleman from Oregon, first, public health and safety is fully protected under this amendment. Crop protection could go forward. What we are targeting is ineffective, lethal, indiscriminate predator control by what is now called the Wildlife Service, and it used to be called Animal Damage Control.

After 50 years, more than 50 years of their activity, there are more coyotes now than there were 50 years ago, because they are doing the wrong thing with their indiscriminate attack. We also have problems with rodents and ground squirrels and mice and all the other things that coyotes would predate upon, preferably to the larger livestock.

We should follow the example of Kansas. Kansas is not sucking up $1 million of Federal money, like a lot of our other Midwestern and western States. They have instituted a State program which uses non-lethal methods, education, uses guard dogs, uses a whole bunch of other methods, much more effectively than their neighboring State of Oklahoma, which has a big coyote problem, or Wyoming, which has only half the density of coyotes, but again, much more predation. Kansas is leading the Nation in this, and they are doing it without a large Federal subsidy. This is a subsidy. It is welfare.

In my own State of Oregon, $403,000 comes from the Federal Government, $270,00 from the State, and not a penny from the beneficiaries. Not one cent is spent on this predator control program by the beneficiaries. Who should be paying? Should the general fund taxpayers of the United States, should the general fund taxpayers of Oregon, or should those who benefit from the activities?

We are not saying they cannot conduct these activities when they have a problem at their own expense, on their own property. We are saying it should not be indiscriminate, it should not be broadcast all across the West, and it should not be done by Federal agents with a subsidy.

This has become a codependent welfare subsidy where Animal Damage Control, by the Wildlife Service, is forwarding their own jobs and their own prospects by inefficiently controlling the problem and not following the path which has been laid out by the Congress, which is in the past to say, look at nonlethal alternatives, look at more effective alternatives, because you are losing your so-called war on predators here.

This is a taxpayer issue, it is an environmental issue. I urge my colleagues to support the amendment.

Mr. SKEEN. Mr. Chairman, I yield 5 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, I wish to rise in opposition to this amendment, though I think it has some very good intentions, and it will no doubt cause discussion inside the Wildlife Service offices across this country.

Nonetheless, it is the only Federal program that we have to control damage by wild animals, not just to farm property but to individuals.

□ 1600

I can think in my own State of Ohio, for example, this program, in cooperation with our State and local agencies, has been involved in establishing a rabies-free barrier to stop the western migration of raccoons infected with rabies.

We have seen this program operate hand in hand with the Centers for Disease Control and State health departments in control of other disease such as Lyme disease and other wildlife-borne disease. I know I am amazed myself sometimes, I live in a city, to watch city dwellers try to encourage deer to come up to their back doors, wild animals. Lyme disease all through our part of the country, and yet they do not see a connection between their behavior and the feeding that they are doing of wild animals.

Mr. Chairman, I think this is a very important program. According to Utah State University, their Institute for Wildlife Biology, overall in our country losses from wildlife damage approach $3 billion annually and fully one-third of that is estimated by the Federal Aviation Administration to be lost by the airline industry from birds.

Today, this particular amendment I think, though it is well-intentioned, would have the net effect of cutting by almost one-quarter the amount of funds we have to spend on animal damage control of our crops and of our populations.

If we take a look at the impact of this program, more than two-thirds of our Nation's farms receive some type of wildlife damage each year. Commodity crops absorb staggering losses from wildlife. These include corn, rice, sunflower, carrots, wheat, sorghum and other seed grain crops.

If we look at ducks and geese who trample, eat, and soil seed and grain crops, young growing crops such as carrots, rice and corn. Deer and smaller mammals eat corn, wheat, decorative shrubbery, sorghum, and garden vegetables.

Black bears damage timber resources by clawing the bark of young trees and disrupting the flow of nutrients necessary for proper growth. And fish-eating birds such as the great blue heron, cormorants, pelicans, and the black-crowned night heron cause aquaculturists, especially catfish and trout farmers, heavy losses each year.

There is not pure right on either side of this equation. But there is a balance which we are trying to strike here. I think that wildlife services very often provides the only viable assistance in minimizing these losses both to plant life, to other animal life, and to human life.

Mr. Chairman, I think that the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from New Hampshire (Mr. BASS) are very wise in trying to encourage modern practices at the Wildlife Service. If there are better ways to deal with these wildlife populations, we certainly should be taking the best research and information into account.

I think the message has been heard loud and clear and we hope that that message will continue. But I do think that these predator control programs are very, very important. Especially living in an area that is both urban and rural, we see this all the time.

So I would object to this particular amendment and would share the view of the gentleman from New Mexico (Mr. SKEEN) that it is important that we keep the funding in the base bill and that we act responsibly to try to maintain levels for a balanced wildlife services program in our country.

Mr. BASS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I appreciate the points that have been brought forward by the gentlewoman from Ohio (Ms. KAPTUR). I would only point out that all of the good points that she makes are portions of the program that would be totally unaffected by this amendment.

She is talking about the human health issue, about the property issue, about crop issue, about natural resources, forest range, and aquaculture. Those are all portions of the program that are separate from the livestock protection program.

What the gentleman from Oregon (Mr. DEFAZIO) and I are trying to do is cut the part that has to do with predator control on western ranches for cattle and sheep farmers. It is a $10 million subsidy to this part of the country for this handful of individuals, matched by the State. It is a large program.

Mr. Chairman, I would point out that I live on a farm in New Hampshire. We have coyotes all over the place. I lost two or three chickens last year to coyotes and nobody gave me a dime to try to get rid of them. These problems happen all over the country and we do not need a Federal subsidy to help bail us out.

Mr. Chairman, I urge support for this amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) for yielding me this time.

Mr. Chairman, I rise to object to this amendment because it is going to have a negative impact on the Wildlife Services Research Center and the mission of the wildlife services in my State and other Western States.

Let me just explain to my colleagues that reading from a story that appeared on June 22, Monday, in USA Today, it headlines, "Arson Fires Ruin Two Agriculture Department Research Stations." The fires occurred in my State over on the west side of the State near Olympia, Washington. They were reported to cause $400,000 worth of damage to these two research facilities that are used for animal damage control. They are in the animal damage control buildings.

The buildings were gutted. This are clearly arson and the investigators are looking into the possibility that animal rights or other protest groups were involved.

So my suggestion is that this amendment sort of feeds into that idea that any research that is conducted at the Federal level that looks at animal pest control or animal predatory control is bad money expended. I reject that argument.

About a dozen State and Federal employees out of these two wildlife research centers develop repellents to keep animals such as deer, elk and beaver away from timber in the early stages of growth. So this whole idea that somehow wildlife services are bad or somehow a subsidy for the control of these kinds of problems is just wrong. I urge the rejection of this amendment.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in response to the gentleman, I support the nonlethal research that was going on at that facility. That is good research. The gentleman's State does not draw hardly any funds from the lethal predator control program. In fact, out of the $10 million spent in the western United States, his State only took $106,000. So Washington is being progressive.

Mr. Chairman, I support the nonlethal, but that is not what this debate is about. The gentleman is off the point. This debate is about $10 million for ineffective, subsidized, indiscriminate lethal predator control, first response by Federal employees on private ranches for private profit. I do not know how to say it any more plainly than that.

It is not about developing alternatives. There is plenty of money left in the budget to develop alternatives. There is plenty of money left to develop the programs that the gentlewoman from Ohio (Ms. KAPTUR) reported. What we cut is $10 million, the subsidized funds, used for lethal predator control.

Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Chairman, I have historically supported this kind of amendment because I feel that the program is not effective, that it is a subsidy, that it does not do the kinds of adequate research that are necessary, and that it uses nonhumane methods. I have said this over and over again.

I am a taxpayer. I contribute to the funding of this program. I will tell my colleagues that I have coyotes, raccoons, badgers in my backyard. To say nothing of the gophers and the squirrels. And I also have raids from egrets and herons that eat up my fish and I do not like it.

Mr. Chairman, I do not get any Federal aid to control that, so it is not fair right there. If it was fair, I would be getting my full share of the funds available for the control of these animals, but it is not.

I think this $10 million cut proposed by the Bass-DeFazio amendment would be a salutary message to the program that they should begin to think in terms of being more fair or equitable, more humane, more scientific in what they were doing and they would end up being more effective.

I rise in strong support of the Bass-DeFazio amendment that cuts $10 million from the FY 99 budget for Animal Damage Control program operations. This $10 million is the amount that would be spent on direct predator control.

The amendment would not require the reduction of any ADC operations affecting human health and safety, nor will it reduce the budget for research toward more effective animal damage prevention and management.

Furthermore, this amendment doesn't even take away the authority of ADC to carry out predator control, but rather it shifts the burden from the taxpayer to the private ranchers who are reaping the benefits of this program.

This amendment even allows other agencies such as Wildlife Services, the Bureau of Land Management, and the Forest Service to cover the costs of ADC's predator control work on problems under the jurisdiction of those agencies.

The Animal Damage Control program was established in 1931 and has never had to undergo the scrutiny of reauthorization. It is obsolete, ineffective, and a perfect example of wasteful government spending.

Besides being economically wasteful, ADC is also contradicting the will of Congress in the way in which it carries out its operations. To this I am referring to ADC's extensive use of lethal controls, such as traps, snares, poisons, and aerial hunting. In 1994, several members of Congress, including myself, requested a GAO study of the ADC program. The GAO report found that ADC used lethal methods in essentially all instances despite the Department's written policies and procedures which call for preference to be given to non-lethal methods.

In addition, ADC's lethal controls are nonselective, killing thousands of non-target animals annually, including rare, threatened, and endangered species.

Even when ADC controls are successful in reducing local levels of coyotes and other large predators, the resulting rise in prey species such as mice and rabbits causes millions of dollars of damage to crops and rangelands, and the increase in mid-sized predator species (earlier held in check by large predator species) harms waterfowl and migratory bird populations.

Some of ADC's activities are valuable, such as controlling bird populations near airports to reduce the risk of collision damage with air planes, and working with the U.S. Fish and Wildlife Service to minimize landowner conflicts in states with recovering wolf populations. These activities would not be affected by this amendment.

However, most of ADC's operations amount to nothing more than federal subsidies for the western livestock industry. We spend millions of dollars every year to indiscriminately kill predators for western ranchers. This subsidy is received by livestock producers who are already receiving other substantial federal subsidies, such as reduced grazing fees on public lands.

Since ADC's costs are borne primarily by taxpayers, not the recipients of these services, there is little incentive for ranchers to improve their husbandry techniques or deter predation.

ADC official policy is to seek cost-sharing whenever possible. ADC also has the authority to levy fees for services. However, these options have not been exercised as they should be and the federal funds are always fully exhausted.

This amendment will demand that there be a more equitable distribution of costs and that these costs be covered by the users, not the American taxpayer.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, looking at this amendment, I know that the drafters of the amendment have been arguing against lethal control. But if we carefully examine their amendment, we will see that they are going to cut 53 percent, or a total of $21 million from the Animal, Plant, and Health Inspection Service for the wildlife services program.

All of this talk about the lethal methods is really immaterial to what this amendment will do. They are going to destroy the opportunity of the Fish and Wildlife Service to control predatory animal problems in almost each of our 50 States if we allow this amendment to pass. We can make arguments about the different amount of control all day. But the fact is that there are various damages to the tune of estimated up to $3 billion annually that occur and this is going to continue to grow.

We as a society will continue to encroach on wildlife. We as a society will continue to have to promote and support wildlife conservation and we will continue to have to learn to allow the wildlife to live with humans and vice versa. That costs money and it costs money from the Fish and Wildlife Service.

Mr. DEFAZIO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in conclusion, what we are talking about here is plain and simple. A $10 million subsidy to private western ranching interests, some in my own district, so I am not cutting something in someone else's district. And to the gentleman from Texas, this is a 30 percent cut in the overall budget and it is only the funds identified by Animal Damage Control Wildlife Services as being used for the ineffective, subsidized, government-agent-run lethal predator control program in the western United States which has given us more coyotes today than when they started spending the money 60 years ago.

Mr. SKEEN. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. BONILLA), to close debate.

Mr. BONILLA. Mr. Chairman, I rise in strong opposition to this amendment. If we support this amendment we are not supporting the safety of children in this country. This would limit our ability to use the wildlife services to protect Americans, specifically children, from predators, to lessen the risk to aviation and lessen the livestock losses sustained by American ranchers.

But more specifically, let us look at some cases where children would be hurt if this money was cut. There have been eight fatal alligator attacks in the last 50 years and three of them have occurred in the last 4 years, including the killing of a 3-year-old. A short while ago, an 18-year-old high school senior was killed by a cougar while out jogging.

Recently in Montana, the Department of Fish and Wildlife captured a cougar on a campus stroll at the University of Montana. And last year, a 4-year-old was mauled by a mountain lion in Colorado.

We have countless cases. Children traveling on aircraft, for example, would be put at risk if animal damage control were not allowed to deal with wildlife that puts aviation at risk near many of the airports in this country.

Mr. Chairman, I urge my colleagues to think seriously about what they are voting for here. A vote for this amendment is voting against the safety of children in this country.

Mr. MILLER of California. Mr. Chairman, I rise in strong support of this amendment. It cuts funding for the animal damage control portion of USDA's "Wildlife Services" Program. These are nice names for an ugly business that needlessly and painfully slaughters wildlife, excusing ranchers and farmers from the responsibility to seek more humane and creative ways to limit damage to crops and livestock from wildlife.

Today, there are a variety of low-cost, humane approaches to controlling wildlife. The trend all across the country is to try to find ways to live with wildlife, on both public and private lands. Yet USDA continues to use leghold traps, poison, and aerial gunning to kill bears, mountain lions, coyotes, and other wildlife. In addition, leghold traps and poisons are indiscriminate methods that end up killing non-target species, including threatened and endangered species.

It is high time for Congress to stop forcing taxpayers to subsidize this senseless slaughter. This program is a throwback to a happily bygone era when we "managed" bison, wolves, grizzly bears, and other species by nearly extirpating them from the landscape. Shouldn't we clean house before the beginning of the 21st century and repeal this program? I urge the House to support the amendment.

Ms. FURSE. Mr. Chairman, I rise today in strong support of the Bass-DeFazio amendment. In past Agriculture Appropriations bills I myself have led the fight to curtail funds for this wasteful and abusive program. Wildlife Services, formerly known as Animal Damage Control, is an anachronism. It was created in 1931 and except for a cosmetic name change the law hasn't been changed or reformed since. This program is based on poor science, and has virtually no accountability to Congress or the general public. The program focuses excessively on lethal control, despite numerous Congressional attempts and GAO investigations to curb this practice. This program wastes taxpayer dollars and is an unnecessary and ineffective government subsidy.

Consider these facts: In every western state in FY 95, ADC spent more money controlling predators than the value of the livestock allegedly lost to predators by ADC beneficiaries.

Western livestock ranchers and ranching associations contribute less than 14 percent annually to the costs of the program. This subsidy puts livestock producers in other areas of the country at a competitive disadvantage.

Between 1983 and 1993, Federal appropriations to ADC increased 71 percent while the number of coyotes killed increased 30 percent but the number of livestock losses to predators did not decline.

From 1990–1994, ADC killed at least 7.8 million animals. This includes non-target species such as bald eagles and ferrets killed by non-selective ADC methods like poisoning, leghold traps and snares.

This amendment will not touch ADC funding to protect human health and safety or endangered species. What it will do is free taxpayers from having to foot the bill for predator control activities that benefit private ranching operations in the West—these interests are free to contract with ADC and pay for those services themselves.

This amendment is supported by taxpayer, conservation, and humane groups which object to public land subsidies that undercut the competitiveness of livestock producers in other regions of the country. Please join us in ending this inappropriate and inhumane taxpayer subsidy. Vote in favor of the Bass-DeFazio amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. BASS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BASS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from New Hampshire (Mr. BASS) will be postponed.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that during the further consideration of H.R. 4101 in the Committee of the Whole, that debate on the Miller amendment related to sugar, if offered, and all amendments thereto, be limited to 60 minutes allocated as follows: 30 minutes to the gentleman from Florida (Mr. MILLER), 15 minutes to the gentleman from New Mexico (Mr. SKEEN), and 15 minutes to the gentlewoman from Ohio (Ms. KAPTUR), or her designee.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

AMENDMENT NO. 6 OFFERED BY MR. NEUMANN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. NEUMANN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate this amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This vote will be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 181, noes 244, not voting 8, as follows:

[Roll No. 258]

AYES—181

Allen
Andrews
Archer
Armey
Barr
Barrett (WI)
Bartlett
Bass
Berman
Bilbray
Blagojevich
Blumenauer
Boehlert
Borski
Brady (PA)
Brown (CA)
Brown (OH)
Burton
Campbell
Capps
Cardin
Castle
Chabot
Christensen
Collins
Cook
Cox
Coyne
Crane
Danner
Davis (IL)
DeGette
Deutsch
Dickey
Doggett
Dooley
Doyle
Duncan
Dunn
Ehlers
Ehrlich
Engel
English
Ensign
Fattah
Fawell
Forbes
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goodling
Gordon
Goss
Greenwood
Gutierrez
Hall (OH)
Harman
Hayworth
Hefley
Hobson
Hoekstra
Hooley
Horn
Hostettler
Hulshof
Hutchinson
Hyde
Inglis
Jackson (IL)
Johnson (CT)
Johnson (WI)
Kanjorski
Kasich
Kennedy (MA)
Kennelly
Kind (WI)
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lantos
LaTourette
Lazio
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McHugh
McInnis
McIntosh
McNulty
Meehan
Menendez
Miller (CA)
Miller (FL)
Moran (VA)
Morella
Nadler
Neal
Neumann
Ney
Northup
Obey
Olver
Pallone
Pappas
Pascrell
Paul
Peterson (PA)
Petri
Pitts
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Rivers
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Rush
Ryun
Salmon
Sanford
Sawyer
Scarborough
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Skaggs
Smith (NJ)
Smith, Adam
Smith, Linda
Snowbarger
Souder
Stark
Strickland
Sununu
Tauscher
Tiahrt
Tierney
Upton
Vento
Visclosky
Wamp
Waxman
Weldon (PA)
Weygand
White
Wolf
Yates

NOES—244

Abercrombie
Ackerman
Aderholt
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barton
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Carson
Chambliss
Chenoweth
Clay
Clayton
Clement
Coble
Coburn
Combest
Condit
Conyers
Cooksey
Costello
Cramer
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Diaz-Balart
Dicks
Dingell
Dixon
Doolittle
Dreier
Edwards
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fazio
Filner
Foley
Ford
Fowler
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Goode
Goodlatte
Graham
Granger
Green
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Holden
Houghton
Hoyer
Hunter
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Kleczka
Klink
LaHood
Lampson
Largent
Latham
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
Lucas
Manton
Martinez
Matsui
McCollum
McCrery
McDade
McDermott
McIntyre
McKeon
McKinney
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Myrick

Nethercutt
Norwood
Nussle
Oberstar
Ortiz
Owens
Oxley
Packard
Parker
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Pickering
Pickett
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Redmond
Reyes
Riley
Rodriguez
Rogers
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Saxton
Schaffer, Bob
Scott
Serrano
Sessions
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Towns
Traficant
Turner
Velázquez
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—8

Cannon
Clyburn
Gonzalez
Hilliard
Payne
Schaefer, Dan
Thompson
Torres

☐ 1635

Mr. JOHN and Mr. DAVIS of Virginia changed their vote from "aye" to "no."

Mrs. LINDA SMITH of Washington and Messrs. KLUG, JACKSON of Illinois, MORAN of Virginia, STARK, NEY, DICKEY, DEUTSCH, SMITH of New Jersey, HYDE, GEKAS, COYNE, and COOK changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. KELLY. Mr. Chairman, on rollcall vote No. 258 I accidentally pressed the wrong button and voted "nay." My intent was to vote "aye." I fully support Mr. NEUMANN's amendment, and believe that the peanut program is well overdue for real reform. I request that the RECORD show that on rollcall vote No. 258, my intent was to vote "aye."

AMENDMENT NO. 2 OFFERED BY MR. BASS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Hampshire (Mr. BASS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 229, noes 193, not voting 11, as follows:

[Roll No. 259]

AYES—229

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barr
Barrett (WI)
Barton
Bass
Becerra
Bereuter
Berman
Bilirakis
Blagojevich
Bliley
Blumenauer
Boehlert
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Buyer
Campbell
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Collins
Conyers
Costello
Cox
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Doyle
Duncan
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Farr
Fattah
Fawell
Filner
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Goodling
Gordon
Goss
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
Lampson
Lantos
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Neumann
Northup
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Paul
Pease
Pelosi
Petri
Porter
Poshard
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schumer
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Skaggs
Smith (NJ)
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Strickland
Sununu
Tauscher
Taylor (MS)
Thurman
Tierney
Towns
Upton
Velázquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wolf
Woolsey
Wynn
Yates

NOES—193

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barrett (NE)
Bartlett
Bateman
Bentsen
Berry
Bilbray
Bishop
Blunt
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Combest
Condit
Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Dickey
Dingell
Dooley
Doolittle
Dreier
Dunn
Edwards
Emerson
Ensign
Etheridge
Everett
Ewing
Fazio
Foley
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
John
Kaptur
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Martinez
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Rogers
Ryun
Salmon
Sandlin
Schaffer, Bob
Scott
Sessions
Shadegg
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Walsh
Watts (OK)
White
Wicker
Wise
Young (AK)
Young (FL)

NOT VOTING—11

Cannon
Clyburn
Gonzalez
Hilliard
Payne
Schaefer, Dan
Slaughter
Tauzin
Thompson
Torres
Watkins

☐ 1644

Mrs. CUBIN and Messrs. STEARNS, McINTOSH and ARCHER changed their vote from "aye" to "no."

Mrs. CLAYTON changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WATKINS. Mr. Chairman, I missed rollcall No. 259. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote 259. Had I been present, I would have voted "yea".

Mr. SKEEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. EVERETT) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3605

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. Brady) be removed as a cosponsor of H.R. 3605. His name was mistakenly added to the list of cosponsors. I regret the error, and I express my apologies to him.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken tomorrow.

INTERNET TAX FREEDOM ACT

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4105) to establish a national policy against State and local interference with interstate commerce on the Internet, to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, to establish a national policy against Federal and State regulation of Internet access and online services, and for other purposes.

The Clerk read as follows:

H.R. 4105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Freedom Act".

SEC. 2. MORATORIUM ON CERTAIN TAXES.

(a) Amendment.—Title 4 of the United States Code is amended by adding at the end the following:

"CHAPTER 6—MORATORIUM ON CERTAIN TAXES

"Sec.
"151. Moratorium.
"152. Advisory commission on electronic commerce.
"153. Legislative recommendations.
"154. Expedited consideration of legislative recommendations.
"155. Definitions.

"§ 151. Moratorium

"(a) Moratorium.—For a period of 3 years following the date of the enactment of this chapter, neither any State, nor any political subdivision thereof, shall impose, assess, collect, or attempt to collect—

"(1) taxes on Internet access;

"(2) bit taxes; or

"(3) multiple or discriminatory taxes on electronic commerce.

"(b) Exception to Moratorium.—(1) Subject to paragraph (2), the moratorium in subsection (a)(1) shall not apply to the following taxes (as applicable), as in effect on the date of the enactment of this chapter, on Internet access:

"(A) State of Connecticut.—Section 12–407(2)(i)(A) of the General Statutes of Connecticut.

"(B) State of Wisconsin.—Section 77.52(2)(a)5 of the Wisconsin Statutes (1995–96).

"(C) State of Iowa.—Section 422.43(1) of the Code of Iowa (1997).

"(D) State of North Dakota.—North Dakota Century Code 57–39.2 and 57–34.

"(E) State of South Dakota.—South Dakota Codified Law Annotated 10–45–5.

"(F) State of New Mexico.—New Mexico Statutes Annotated 7-9–3.

"(G) State of Tennessee.—Tennessee Code Annotated 67–6–221, 67–6–102(23)(iii), and 67–6–702(g).

"(H) State of Ohio.—Chapter 5739 of the Ohio Revised Code.

"(2)(A) Paragraph (1) shall apply with respect to a tax referred to in such paragraph only if the referenced State enacts, during the 1-year period beginning on the date of the enactment of this chapter, a law to expressly affirm that such tax is imposed on Internet access.

"(B) A State that satisfies the requirement specified in subparagraph (A) shall be deemed to have satisfied such requirement immediately after the enactment of this chapter, except that such State may not impute penalties or interest on any tax accrued during the period beginning on the date of the enactment of this Act and ending on the date such State satisfies such requirement.

"(c) Application of Moratorium.—Subsection (a) shall not apply with respect to the provision of Internet access that is offered for sale as part of a package of services that includes services other than Internet access, unless the service provider separately states that portion of the billing that applies to such services on the user's bill.

"§ 152. Advisory Commission on Electronic Commerce

"(a) Establishment of Commission.—There is established a temporary commission to be known as the Advisory Commission on Electronic Commerce (in this chapter referred to as the 'Commission'). The Commission shall—

"(1) be composed of 31 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among individuals specified in subsection (b); and

"(2) conduct its business in accordance with the provisions of this chapter.

"(b) Membership.—

"(1) In general.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

"(A) Three representatives from the Federal Government comprised of the Attorney General, the Secretary of Commerce, and the Secretary of the Treasury, or their respective representatives.

"(B) Fourteen representatives from State, local, and county governments comprised of 2 representatives each from the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, and the United States Conferences of Mayors; and 1 representative each from the International City/County Management Association and the American Legislative Exchange Council.

"(C) Fourteen representatives of taxpayers and business—

"(i) 7 of whom shall be appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate, of whom 3 shall be individuals employed by or affiliated with persons engaged in providing Internet access or communications or transactions that use the Internet, 3 shall be individuals employed by or affiliated with persons engaged in electronic commerce (including at least 1 who is employed by or affiliated with a person also engaged in mail order commerce), and 1 shall be an individual employed by or affiliated with a person engaged in software publishing; and

"(ii) 7 of whom shall be appointed jointly by the minority leader of the House of Representatives and the minority leader of the Senate, of whom 3 shall be individuals employed by or affiliated with persons engaged in providing Internet access or communications or transactions that use the Internet, 3 shall be individuals employed by or affiliated with persons engaged in electronic commerce (including at least 1 who is employed by or affiliated with a person also engaged in mail order commerce), and 1 shall be an individual employed by or affiliated with a person engaged in software publishing.

"(2) Appointments.—Appointments to the Commission shall be made not later than 45 days after the date of enactment of this chapter. The chairperson shall be selected not later than 60 days after the date of the enactment of this chapter.

"(c) Acceptance of Gifts and Grants.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

"(d) Other Resources.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, and the Department of the Treasury. The Commission shall also have reasonable access to use the facilities of the Department of Justice, the Department of Commerce, and the Department of the Treasury for purposes of conducting meetings.

"(e) Sunset.—The existence of the Commission shall terminate—

"(1) when the last of the committees of jurisdiction referred to in section 154 concludes consideration of the legislation proposed under section 153; or

"(2) 3 years after the date of the enactment of this chapter;

whichever occurs first.

"(f) Rules of the Commission.—

"(1) Sixteen members of the Commission shall constitute a quorum for conducting the business of the Commission.

"(2) Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

"(3) The Commission may adopt other rules as needed.

"(g) Duties of the Commission.—The duties of the Commission, to be carried out in consultation with the National Tax Association Communications and Electronic Commerce Tax Project, and other interested persons, may include—

"(1) conducting a thorough study of State and local taxation of transactions using the Internet and Internet access;

"(2) examining the collection and administration of consumption taxes on remote commerce in other countries and the United States, and the impact of such collection on the global economy;

"(3) examining the advantages and disadvantages of authorizing States and local governments to require remote sellers to collect and remit sales and use taxes;

"(4) proposing a uniform system of definitions of remote and electronic commerce that may be subject to sales and use tax within each State;

"(5) examining model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters involving multiple taxation;

"(6) examining a simplified system for administration and collection of sales and use tax for remote commerce, that incorporates all manner of making consumer payments, that would provide for a single statewide sales or use tax rate (which rate may be zero), and would establish a method of distributing to political subdivisions within each State their proportionate share of such taxes, including an examination of collection of sales or use tax by small volume remote sellers only in the State of origin;

"(7) examining ways to simplify the interstate administration of sales and use tax on remote commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, and simplified administrative procedures;

"(8) examining the need for an independent third party collection system that would utilize the Internet to further simplify sales and use tax administration and collection;

"(9) reviewing the efforts of States to collect sales and use taxes owed on purchases from remote sellers, as well as review the appropriateness of increased activities by States to collect sales and use taxes directly from customers of remote sellers;

"(10) examining the level of contacts sufficient to permit a State to impose a sales or use tax on remote commerce that would subject a remote seller to collection obligations imposed by the State, including—

"(A) the definition of a level of contacts below which a State may not impose collection obligations on a remote seller;

"(B) whether or not such obligations are applied in a nondiscriminatory manner with respect to nonremote transactions; and

"(C) the impact of such obligation on small business remote sellers;

"(11) examining making permanent the temporary moratorium described in section 151 with respect to Internet access as well as such other taxes that the Commission deems appropriate;

"(12) examining ways to simplify State and local taxes imposed on the provision of telecommunications services;

"(13) requiring the Commission to hold a public hearing to provide an opportunity for representatives of the general public, taxpayer groups, consumer groups, State and local government officials, and tax-supported institutions to testify; and

"(14) examining other State and local tax issues that are relevant to the duties of the Commission.

"(h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply with respect to the Commission.

"§ 153. Legislative recommendations

"(a) TRANSMISSION OF PROPOSED LEGISLATION.—Not later than 2 years after the date of the enactment of this chapter, the Commission shall transmit to the President and the Congress proposed legislation reflecting any findings concerning the matters described in such section.

"(b) CONTENTS OF PROPOSED LEGISLATION.—The proposed legislation submitted under subsection (a) by the Commission shall have been agreed to by at least 19 members of the Commission and may—

"(1) define with particularity the level of contacts between a State and remote seller that the Commission considers sufficient to permit a State to impose collection obligations on the remote seller and the level of contacts which is not sufficient to impose collection obligations on remote sellers;

"(2) provide that if, and only if, a State has adopted a single sales and use tax rate for remote commerce and established a method of distributing to its political subdivisions their proportionate share of such taxes, and adopted simplified procedures for the administration of its sales and use taxes, including uniform registration, tax returns, remittance requirements, and filing procedures, then such State should be authorized to impose on remote sellers a duty to collect sales or use tax on remote commerce;

"(3) provide that, effective upon the expiration of a 4-year period beginning on the date of the enactment of such legislation, a State that does not have in effect a single sales and use tax rate and simplified administrative procedures shall be deemed to have in effect a sales and use tax rate on remote commerce equal to zero, until such time as such State does adopt a single sales and use tax rate and simplified administrative procedures;

"(4) include uniform definitions of categories of property, goods, services, or information subject to, or exempt from, sales and use taxes;

"(5) make permanent the temporary moratorium described in section 151 with respect to Internet access, as well as such other taxes (including those described in section 151) that the Commission deems appropriate;

"(6) provide a mechanism for the resolution of disputes between States regarding matters involving multiple taxation; and

"(7) include other provisions that the Commission deems necessary.

"(c) RECOMMENDATIONS OF THE PRESIDENT.—Not later than 45 days after the receipt of the Commission's legislative proposals, the President shall review such proposals and submit to the Congress such policy recommendations as the President deems necessary or expedient.

"§ 154. Expedited consideration of legislative recommendations

"(a) Not later than 90 legislative days after the transmission to the Congress by the Commission of the proposed legislation described in section 153, such legislation shall be considered by the respective committees of jurisdiction within the House of Representatives and the Senate, and, if reported, shall be referred to the proper calendar on the floor of each House for final action.

"(b) For purposes of this section, the 90-day period shall be computed by excluding—

"(1) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

"(2) any Saturday and Sunday, not excluded under paragraph (1), when either House is not in session.

"§ 155. Definitions

"For the purposes of this chapter:

"(1) BIT TAX.—The term 'bit tax' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

"(2) COMPUTER SERVER.—The term 'computer server' means a computer that functions as a centralized provider of information and services to multiple recipients.

"(3) DISCRIMINATORY TAX.—The term 'discriminatory tax' means—

"(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

"(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

"(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

"(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means; or

"(iv) establishes a classification of Internet access provider for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

"(B) any tax imposed by a State or political subdivision thereof, if—

"(i) the use of a computer server by a remote seller to create or maintain a site on the Internet is considered a factor in determining a remote seller's tax collection obligation; or

"(ii) a provider of Internet access is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

"(I) the display of a remote seller's information or content on the computer server of a provider of Internet access; or

"(II) the processing of orders through the computer server of a provider of Internet access;

"(4) ELECTRONIC COMMERCE.—The term 'electronic commerce' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

"(5) INFORMATION SERVICES.—The term 'information services' has the meaning given such term in section 3(20) of the Communications Act of 1934 as amended from time to time.

"(6) INTERNET.—The term 'Internet' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

"(7) INTERNET ACCESS.—The term 'Internet access' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

"(8) MULTIPLE TAX.—The term 'multiple tax' means:

"(A) Any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions. The term 'multiple tax' shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof pursuant to a law referred to in section 151(b)(1) on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon. For purposes of this subparagraph, the term 'sales or use tax' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service); or

"(B) Any tax on Internet access if the State or political subdivision thereof classifies such Internet access as telecommunications or communications services under State law and such State or political subdivision thereof has also imposed a tax on the purchase or use of the underlying telecommunications services that are used to provide such Internet access without allowing a credit for other taxes paid, a sale for resale exemption, or other mechanism for eliminating duplicate taxation.

"(9) REMOTE COMMERCE.—The term 'remote commerce' means the sale, lease, license, offer, or delivery of property, goods, services, or information by a seller in 1 State to a purchaser in another State.

"(10) REMOTE SELLER.—The term 'remote seller' means a person who sells, leases, licenses, offers, or delivers property, goods, services, or information from one State to a purchaser in another State.

"(11) STATE.—The term 'State' means any of the several States, the District of Columbia, or any territory or possession of the United States.

"(12) TAX.—The term 'tax' means—

"(A) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

"(B) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

Such term does not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934.

"(13) TELECOMMUNICATIONS SERVICES.—The term 'telecommunications services' has the meaning given such term in section 3(46) of the Communications Act of 1934, as amended from time to time.".

(b) CONFORMING AMENDMENT.—Title 4 of the United States Code is amended in the table of chapters by adding at the end the following:

"6. Moratorium on Certain Taxes .... 151".

SEC. 3. PROVISION OF INTERNET ACCESS AND ONLINE SERVICES.

Title II of the Communications Act of 1934 is amended by inserting after section 230 (47 U.S.C. 230) the following new section:

"SEC. 231. PROHIBITION ON REGULATION OF INTERNET ACCESS AND ONLINE SERVICES.

"(a) PROHIBITION.—The Commission shall have no authority or jurisdiction under this title or section 4(i), nor shall any State commission have any authority or jurisdiction, to regulate the prices or charges paid by subscribers for Internet access or online services.

"(b) PRESERVATION OF AUTHORITY.—Nothing in this subsection shall limit or otherwise affect—

"(1) the Commission's or State commissions' implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act; and

"(2) the Commission's or State commissions' authority to regulate telecommunications carriers that offer Internet access or online services in conjunction with the provision of any telephone toll, telephone exchange, or exchange access services as such terms are defined in title I.

"(c) DEFINITIONS.—As used in this section:

"(1) INTERNET.—The term 'Internet' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected world-wide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

"(2) INTERNET ACCESS.—The term 'Internet access' means a service that enables users to access content, information, and other services offered over the Internet, but does not mean a telecommunications service.

"(3) ONLINE SERVICE.—The term 'online service' means the offering or provision of Internet access with the provision of other information services.".

SEC. 4. FEDERAL REGULATORY FEES.

(a) NO REGULATORY FEES.—Section 9(h) of the Communications Act of 1934 (47 U.S.C. 159(h)) is amended by inserting "; or (3) providers of Internet access or online service" after "(47 C.F.R. Part 97)" .

(b) CONFORMING AMENDMENT.—Section 9(h) of the Communications Act of 1934 (47 U.S.C. 159(h)) is amended by striking "or" that appears before "(2)".

(c) DETERMINATION.—Not later than 1 year after the date of the enactment of this Act, the National Telecommunications and Information Administration shall determine whether any direct or indirect Federal regulatory fees, other than the fees identified in subsection (a), are imposed on providers of Internet access or online services, and if so, make recommendations to the Congress regarding whether such fees should be modified or eliminated.

SEC. 5. REPORT ON FOREIGN COMMERCE.

(a) CONTENTS OF REPORT.—In order to promote electronic commerce, the Secretary of Commerce, in consultation with appropriate committees of the Congress, shall undertake an examination of—

(1) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services;

(2) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, service, or information in foreign markets, and the growth and maturing of the Internet; and

(3) what measures the Government should pursue to foster, promote, and develop electronic commerce in the United States and in foreign markets.

(b) PUBLIC COMMENT.—For purposes of this section, the Secretary of Commerce shall give all interested persons an opportunity to comment on the matters identified in subsection (a) through written or oral presentations of data, views, or arguments.

(c) TRANSMITTAL TO THE PRESIDENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Commerce shall transmit to the President a report containing the results of the examination undertaken in accordance with subsection (a).

(d) RECOMMENDATIONS OF THE PRESIDENT.—Not later than 2 years and 45 days after the date of the enactment of this Act, the President shall review the report described in subsection (c) and submit to the appropriate committees of Congress such policy recommendations as the President deems necessary or expedient.

SEC. 6. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

It is the sense of the Congress that the President should seek bilateral and multilateral agreements to remove barriers to global electronic commerce, through the World Trade Organization, the Organization for Economic Cooperation and Development, the International Telecommunications Union, the Asia Pacific Economic Cooperation Council, the Free Trade Area of the Americas, and other appropriate international fora. Such agreements should require, inter alia, that the provision of Internet access or online services be free from undue and discriminatory regulation by foreign governments and that electronic commercial transactions between United States and foreign providers of property, goods, services, and information be free from undue and discriminatory regulation, international tariffs, and discriminatory taxation.

SEC. 7. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 8. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield 10 minutes to the gentleman from Virginia (Mr. BLILEY) and ask unanimous consent that he may be permitted to yield blocks of time therefrom.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support for this piece of legislation. Everyone in the world knows that the Internet is a magic system that impacts upon every life on the planet in one way or another. The simple transfer of information in so many different ways and in every field of human endeavor gives great promise for the future. Indeed, the real problem is how long government and its influence can be properly visited upon this Internet system, and therein lies the problem. What if anything should be done to allow taxes or taxation or a series of taxes on the access to the Internet? That is a central problem.

We have grappled with that for quite some time, and the central issue has become whether or not we should take our time and really study the issue before we look into that dark realm of taxation as it pertains to the Internet. So the parties have agreed, to a great extent, for the extension of a moratorium on any further action before we really search out the facts in this.

Mr. Speaker, I am certain that the gentleman from Virginia (Mr. BLILEY) will be telling us more about how the moratorium is to be framed and what benefit that will be to the Congress. In the meantime, I want to thank everyone who had something to do with this legislation, including those who testified at the hearing that we held on this matter, representing the several States, the private sector, the executive branch and Members of Congress like the gentleman from California (Mr. COX) who have had a searching inquiry into this piece of legislation.

Mr. Speaker, I include the following letter for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, DC, June 23, 1998.

Hon. NEWT GINGRICH,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I ask that the Committee on Rules be discharged from further consideration of H.R. 4105, the Internet Tax Freedom Act. As you know, the bill was sequentially referred to the Rules Committee on June 22, 1998.

Specifically, the provisions of Section 154, Expedited Consideration of Legislative Recommendations, fall solely within the jurisdiction of the Committee on Rules. Although the Rules Committee has not exercised its original jurisdiction prerogatives on this legislation, the Committee has discussed these provisions with the other committees of jurisdiction, namely the Commerce and Judiciary Committees. Also, it is the understanding of the Rules Committee that the Leadership intends to schedule this bill for floor consideration in the near future. In recognition of these facts, I request that the Rules Committee be discharged from further consideration of this bill.

Nevertheless, I reserve the jurisdiction of the Committee on Rules over all bills relating to the rules, joint rules and the order of business of the House, including any bills containing expedited procedures. However, it would also be my intention to have the Rules Committee represented on any conference committee on this bill.

Thank you for consideration.

Sincerely,

GERALD B.H. SOLOMON,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support the Internet Tax Freedom Act. Electronic commerce over the Internet is one of today's most dynamic and important business segments. By approving this bill, the Congress will be taking yet another strong action to protect and foster the so-called information superhighway. The Committee on the Judiciary has already approved on a bipartisan basis bills protecting copyright in cyberspace and eliminating burdensome encryption controls. This bill will help ensure that State taxes do not impede the vibrancy or growth of the Internet.

The Internet Tax Freedom Act ensures that States do not enact discriminatory or double taxes which discourage the use of the Internet. At the same time, the substitute protects the States' legitimate rights to tax Internet sales transactions in the same manner they tax the sale of ordinary goods.

We also create a moratorium on new taxes on access to the Internet. Currently a complex patchwork of State and local laws creates an impossible situation for online service providers in determining who to tax and to whom to remit. There is also a grandfather clause that will allow current taxes to stay in place if States reaffirm within the 1-year period.

We also set up a balanced commission of representatives from the Federal Government, the States and industry to help develop a coherent blueprint for interstate taxation of Internet transactions and mail order goods in the future. The bill grandfathers those States which currently tax Internet access.

The legislation we are considering today is almost identical to the version approved by the Committee on the Judiciary on a bipartisan basis and reflects substantial negotiation between the interested parties. I thank all of the participants in this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. WHITE), a member of the committee who has worked very hard on this legislation.

Mr. WHITE. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time and especially for taking me out of order. I appreciate that very much.

Mr. Speaker, we have a short window of opportunity on almost all the issues associated with the Internet to do the right thing. The Internet is so new. It is not yet subject to all the special interests who want to twist our policy one way or another. And so we have a short period of time to establish some good, clear, fundamental principles that will help us guide the development of the Internet for a long period of time. We have got a short period because it is not too long, even in the case of the Internet, until the special interests take over.

I would have to say, Mr. Speaker, that in this particular case, we almost missed that window, because if we let this process go on too much longer, our bill would be watered down more, there will be more exceptions, and the next thing we know, the 30,000 local taxing jurisdictions around this country will be able to do whatever they want to with the Internet. We want them to get tax revenue from the Internet but we want them to do it in the right way. That is why it is high time for us to pass this legislation.

Mr. Speaker, this is a good bill. We should pass it. But it is not a perfect bill. I certainly have some reservations about parts of it. We started off with a 6 or 7-year moratorium. We have shortened that substantially. We now have a commission that in addition to looking at just Internet specific issues is going to be looking at all the remote commerce issues. I frankly think that is a little bit of a troubling concept. But by and large it is high time for us to get this done. If we do not take advantage of this window, the window will close and we will never be able to do anything. I urge my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER) the ranking member on the Judiciary subcommittee for our efforts here today.

Mr. NADLER. Mr. Speaker, I rise in support of the Internet Tax Freedom Act. This legislation is the product of long and careful negotiations between the States and the emerging Internet businesses. It strikes a careful balance between the right of States and local jurisdictions to tax commerce within their borders and the need to protect new and developing businesses from discriminatory and multiple overlapping taxes.

□ 1700

It contains a moratorium of limited duration and provides for a balanced commission to study the very complicated questions involved in taxing these new types of transactions. That commission will report back to Congress, and we will then have the benefit of their work to consider how best to proceed in this new arena.

Congress should tread very carefully when it intrudes into areas involving State power to tax, but it is also the responsibility of the Federal Government to ensure that interstate commerce is not overwhelmed by local taxes which cumulatively could have a disastrous national impact. This legislation strikes an appropriate balance between these important concerns and sets the stage for more thoughtful and careful look at this question. Most importantly, it ensures that the Internet will be free to develop and to continue as a vital new force in the economy, and I congratulate those on the committee and on the Committee on Commerce who have worked on it, and I urge its adoption.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT) one of the members of the committee who has been one of the leaders in creating the momentum that brought us to this floor.

Mr. CHABOT. Mr. Speaker, I rise in strong support of this bipartisan legislation, and I would like to thank the gentleman from California (Mr. COX) and the gentleman from Illinois (Mr. HYDE) and the gentleman from Pennsylvania (Mr. GEKAS) and many others who have worked diligently on this particular legislation. I believe that it is important that we move this legislation forward quickly and enact some type of Internet tax moratorium as soon as possible. Many of us are concerned that many of the 30,000 State and local governments who are beginning to explore the possibility of imposing significant taxes and regulations on the Internet might do so, thus severely hampering the ability of this exciting medium to expand in the future.

Mr. Speaker, the Internet is a rapidly growing high-tech industry that many feel represents the future of commerce. In fact, with sales through the Internet expected to reach as high as $600 billion by the year 2002, the Internet provides American companies, consumers and taxpayers opportunities that were inconceivable just a few years ago.

I would again like to emphasize that this legislation represents a compromise. There are still some issues of contention that remain. For example, I am not completely comfortable with the grandfather clause. I am concerned because if this provision remains, it will reward a handful of State tax administrators who rushed to tax the Internet access, placing the cost of Internet access out of reach of many American families.

We took a step in the right direction in the Committee on the Judiciary by stripping out the grandfather exception for cities, but more work needs to be done. I hope that our colleagues in the other body act to further restrict the ability of States to re-enact these taxes. Mr. Speaker, hard-working Ohioans currently pay roughly $30 million in taxes annually for the privilege of signing on to the Internet, and I would like to see those taxes cut, not codified.

Again, I urge my colleagues to support this bipartisan, pro-Internet, pro-taxpayer legislation, and I again thank the gentleman from California (Mr. COX), the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Illinois (Mr. HYDE) and many others.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the ranking member, the gentleman from New York (Mr. NADLER) be permitted to manage the bill from this point on and control the time.

The SPEAKER pro tempore (Mr. EVERETT). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. GEKAS. Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of H.R. 4105, the Internet Tax Freedom Act. The Committee on Commerce is engaged in an extensive review of all electronic commerce issues. We have been gathering information from Federal and State agencies, holding hearings and moving legislative proposals that stimulate the development of an electronic market place for the next century. Consideration of H.R. 4105 today is consistent with our overall electronic commerce agenda, and the legislation will set an invaluable precedent on how Internet-related activities should be addressed in the future.

At a recent hearing we were told that electronic commerce is predicted to grow at an incredible pace in the near future, doubling every year. Estimates of the total value of economic activity conducted electronically for the year 2002 ranged from $200 billion to more than $500 billion. Compare these figures with a mere $2.6 billion of economic activity in 1996. Clearly this level of economic activity will have significant impact on job growth in the United States.

As the Committee on Commerce explores ways to promote electronic commerce, we must also identify potential burdens. H.R. 4105 addresses two of them, unnecessary regulations and excessive taxation.

As a result of the Federal Government largely staying out of the way, we are seeing the development and growth of new markets for Internet access and on-line services. These markets are fully competitive today, and consumers have more choice than ever in selecting access providers and in selecting providers of general or proprietary information. The last thing we need right now is for Federal and State governments to interfere with the development of these markets. H.R. 4105 makes a preemptive strike against such government interference with the Internet.

The other potentially burdensome situation for electronic commerce is State and local taxation. Many States have found ways to tax Internet-related activities, and they do so in an inconsistent manner. For example, some States tax Internet access as computer and data processing services. Other States tax it as either a telecommunications service or information service.

These classification differences are only part of the problem. Given the way data is transmitted over the Internet, some States have challenged fundamental constitutional doctrines in order to assert substantial nexus over out-of-state vendors. Because of these problems, many executives have argued that the taxation of Internet-related activities is the single most significant impediment to the development of electronic commerce in the United States.

H.R. 4105 presents a balanced approach between regulation and taxation of Internet access, on-line services and electronic commerce. It prohibits the FCC and States from regulating the prices of Internet access and on-line services. It also calls for a time out on taxing the Internet and asks for a group of experts to be assembled to study long-term solutions on Internet taxation issues.

I would like to thank the chairman, the gentleman from Illinois (Mr. HYDE), for his leadership on this matter and for sustaining the bill's momentum. I would also like to thank the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. WHITE) for their dedication, and I look forward to working with the other Members as we continue to move the bill through the legislative process.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this legislation. I want to commend the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN) of the Subcommittee on Telecommunications for their work on this issue, and to single out the gentleman from California (Mr. COX) for his leadership on this issue, along with the gentleman from Michigan (Mr. CONYERS) and others, including the gentleman from New York (Mr. NADLER), because we really have put something together here that I think really moves along the discussion on this issue. And I would like to single out Senator WYDEN over on the Senate side, as well, who introduced legislation to this effect with the gentleman from California (Mr. COX) last year.

During the Committee on Commerce consideration of this legislation I expressed support for a moratorium on new Internet-specific taxes, but at the time I believed that the bill needed to be clearer in its scope and its definitions to ensure that no unintended harm was done in the process to any Federal or State regulatory authority to fully implement the provisions of the Telecommunications Act of 1996. All the regulatory fees, tax provisions and, in particular, the universal service provisions of the Telecommunications Act that were painstakingly deliberated upon and subsequently enacted are fully protected by this savings clause contained in the pending bill before us today.

In addition we have attempted to ensure that this tax bill does not do unintended harm to telecommunications policy. I think that this goal is also achieved in the current version of the bill.

This legislation before us this afternoon has been extensively changed since it was introduced and since our initial markup in the Subcommittee on Telecommunications, Trade, and Consumer Protection. The new legislation correctly limits the tax moratorium to Internet access, and the language in the bill more carefully defines such terms so that it is clear for the purposes of this legislation that it does not encompass other activities or services such as telecommunications or telecommunication services.

Moreover, the legislation merely limits FCC and State authority to regulate prices charged directly to subscribers for Internet access or on-line services, but preserves FCC and State authority over any telecommunications carrier which bundles Internet access or on-line services in combination with telephone service.

The legislation offered this evening also fully protects universal service support mechanisms by adding the savings clause that nothing in this legislation shall limit or otherwise affect the implementation of the Telecommunications Act. The legislation makes clear that Section 254 of the Telecommunications Act, which was added by the act of 1996, is fully protected. The Telecommunications Act for the first time specifically codified the principle of universal service and delineated Federal and State responsibilities, rights and obligations for universal service support.

On the tax front the legislation now has a 3-year moratorium on taxes and Internet access.

I think we now begin the dialogue with States and municipalities and governors as this process moves forward. I want to congratulate everyone here as we move this hurry-up offense right before the Fourth of July break, but I think we have tremendous potential if the Senate acts.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to insert statements in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN) the chairman of the subcommittee.

Mr. TAUZIN. I thank the gentleman for yielding this time to me.

Mr. Speaker, let me first of all thank the gentleman from Virginia (Mr. Bliley) and the chairman, the gentleman from Illinois (Mr. HYDE) for coming together on this very important piece of legislation, bringing our two committees into focus here, and to thank the gentleman from Michigan (Mr. DINGELL) and the gentleman from Massachusetts (Mr. MARKEY) for working so closely at subcommittee and full committee level with us on the Committee on Commerce to make this happen.

The first bill, as my colleagues know, was heard by the committee and reported last October, and I think in that regard historically we need to credit the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. WHITE) for the 2-year effort they put into bringing this issue to the House floor today, in trying to resolve what could be a sticky problem of how to make the Internet work with E-commerce in a world of 30,000 different taxing jurisdictions.

As my colleagues know, when the computer married up with the telephone, a whole new world opened up to Americans and to the world community. All of a sudden, when computers married up to telephones, cellular telephone service and PCS service became available, and all of a sudden the whole world became a much smaller place.

Now we are beginning to see the marriage of computers and this incredible telephone industry and the television itself in a world of computers and Internet services that will increasingly bring America and the world closer in the world of commerce. We have gone from the industrial age indeed to the communications or information age, and now we are beginning to see the fruits of it in E-commerce, as electronic commerce becomes the means by which more and more Americans and citizens of this world will do business.

It is critical at this juncture just for us to call a time out to make sure that policy works, that this wonderful world of computers which has delivered so much value to Americans, which has been generally an unregulated world, which has increased in value and dimension and service not only to our citizens but to citizens of the world as it marries up to this highly-regulated world of telephones and television, that we do not make a lot of mistakes that would kill the goose that laid the golden egg.

This moratorium is critical to the progress of electronic customers. I urge the passage of this bill.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I rise in support of the Internet Tax Freedom Act and urge my colleagues to support the measure.

As my colleagues know, a friend of mine in Silicon Valley that I have the privilege of representing here along with the gentlewoman from California (Ms. ESHOO), my colleague, analogized the Internet to the "big bang" and said that after the "big bang" the planets formed and we are about at that time now. The planets are just forming up after the explosion of the Internet. We do know that the Internet will change everything. It will change the way we do business, it will change the way we learn, it will change the way grandparents communicate with grandchildren.

□ 1715

It will change everything in our ordinary life, and it is absolutely essential that we do nothing to impair or hinder the growth of this wonderful technology.

I am actually very proud that we have been able to work together on a bipartisan basis in the Committee on the Judiciary as well as in the Committee on Commerce to achieve this moratorium on taxes. Like my colleague, the gentleman from Ohio (Mr. CHABOT), I do not think this measure is absolutely perfect, but it is not bad. It is certainly worthy of our support. I would hope that we can pass it promptly, and that the Senate will join with us and send it on to the President, who I know will support it as well.

I would say also just this: Having been in local government for 14 years before my service here in Congress, I do understand the bind that local governments find themselves in. So often they are scrambling for revenue to meet the tremendous service needs that they face. I am sympathetic with those needs, but I understand that really it is in no one's interest that we do anything to impair the growth of the

Internet, not in the interests of cities, counties, states, the United States or any of us.

So I commend this bill. I thank my colleagues for bringing it forward.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I rise in strong support of the Internet Tax Freedom Act, and I especially want to compliment my colleague, the gentleman from California (Mr. COX), for his tremendous efforts to get this bill to the House floor. It has not really been an easy process, even though we are all singing the praises of the bill tonight. I salute our committee chairman, the gentleman from Virginia (Mr. BLILEY), the subcommittee chairman, the gentleman from Louisiana (Mr. TAUZIN), and the ranking members.

Mr. Speaker, the legislation tackles two very complicated subjects, the Internet and taxes. To explain legislation about either one in the brief period of time is difficult enough; put them together, and the complexity increases exponentially. That is why this bill, which calls for a time-out on Internet taxation, is so important.

It is clear that precedents are already being set as taxing authorities around the country search for creative ways to define and tax the Internet. States and localities have targeted the Internet as a new resource for funds, given the tremendous growth in electronic commerce over the past few years, but it is time for the activity really to come to a stop, at least until we all have a better understanding of the ramifications that taxation will have on the future of the global information infrastructure.

Representing Silicone Valley, I can tell you that it is rare that high technology companies, particularly Internet companies, come and ask the Federal Government to become more involved in their business. When they do, it is a good indication that a problem exists that could damage the future viability of their industry, and this is an industry that represents the fastest growing segment of our economy.

So this legislation that we are considering today is a sound approach to dealing with the development of inconsistent and, in many cases, unworkable taxation of the Internet. It gives us a chance to study the issue, moving forward only when we fully understand what effects taxation will have on the development of what is becoming a global resource that must be protected.

Mr. Speaker, I urge all of my colleagues to support it.

Mr. BLILEY. Mr. Speaker, I yield the balance of my time, 3½ minutes, to the gentleman from California (Mr. COX), who has put 2 years of hard work on this to bring us to this point.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. COX).

Mr. COX of California. Mr. Speaker, I thank the gentlemen for yielding me time.

Mr. Speaker, I asked for about 45 minutes so I could read the names of all the people that it is important to thank. Because I have a limited period of time, I want to thank certainly those that are here that were the leaders in the effort to bring it to the floor, in particular my chairman, the gentleman from Virginia (Mr. BLILEY), my ranking member, the gentleman from Michigan (Mr. DINGELL), as well as the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), who has shown so much leadership on this, and the gentleman from Michigan (Mr. CONYERS), for their diligent efforts.

We have the subcommittee chairmen, the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Louisiana (Mr. TAUZIN), to thank for this as well, and governors, both early on, and, eventually, almost all of them later. But early on, Governor Wilson of California, my Governor, Pete Wilson, was a leader, as were many of our statewide elected officials in this effort to prevent the Internet from being taxed; the Governor of New York, Governor Pataki; Governor Cellucci in Massachusetts, and Governor Weld before him; Governor Gilmore in Virginia, Governor Allen before him; Governor Bush in Texas; and my partner in all of these negotiations, the Governor of Utah, who also negotiated on behalf of the National Governors Association, Mike Leavitt.

This is now a consensus bill. It is a balanced approach between our national interest in preventing parochial taxation of the Internet and Federal regulation of the Internet, and the concern of State and local governments who want to make sure that they retain their prerogatives.

As we enter the Information Age, the digital age, we are establishing in law a very important principle; that information should be made available as freely and widely as possible throughout the world; it should not be taxed and it should not be regulated. This bill addresses itself to both problems.

It says not only that we will not have new special discriminatory and multiple taxes on the Internet, but also that the FCC, now the Federal Communications Commission, shall not become the "Federal Computer Commission." We will not give the FCC, and we expressly state this in the legislation, the power to regulate the Internet.

Some long time ago, Michael Faraday, the very, very famous inventor, a century-and-a-half ago, had become sufficiently well-known in his own day that he won an audience with the king, King William IV. He had invented the dynamo, the first electric motor, by rotating a current-bearing wire around a magnet, and the king wanted to see him. The king was fascinated with his invention, the dynamo, but he addressed himself to Michael Faraday and said, "But, after all, of what use is it?" Faraday replied, "Sir, I do not know, but of this I am certain: One day you will tax it."

We are a long way further down the road in the revolution wrought by that wonderful revolution of electricity that Faraday helped to perfect, but, without question, the 30,000 State and local tax jurisdictions that could tax the Internet are just as anxious to, so as was the tax collector back in the days of King William IV. We are preventing that today. We might just say tonight, "Read our e-mail; no new taxes."

Mr. Speaker, may I just say that there is one other person that deserves thanks, who is an alumnus of this body. He is now a Senator, RON WYDEN. This is my legislation in the House, but he and I teamed up together to do this, and it is as much his idea as it is my own. I am anxious that the other body move this bill after we give it strong bipartisan if not overwhelming support here tonight and tomorrow, and I think he should be recognized for his efforts as well; an alumnus not only of the House, but of our Committee on Commerce.

Mr. NADLER. Mr. Speaker, to advance the bipartisan support for this bill, in addition to the support given by King William, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I should note that my first name is also WILLIAM, and I do support this bill that puts a moratorium on taxes.

Mr. Speaker, I also want to acknowledge the leadership of the gentleman from California (Mr. COX), who has clearly played a key role in bringing forth this particular proposal. As others have indicated, we are certainly witnessing today the emergence of a vast new global electronic marketplace, which is profoundly transforming the way in which both goods and information are exchanged. Government can either foster this development through wise policies, or impede it through foolish policies. I believe, as others, that it would be very foolish for us to allow the Internet to become encumbered with a patchwork of duplicative and overlapping taxes.

The moratorium provided under the bill before us would ensure instead that policymakers have the opportunity to develop a coherent and uniform policy for the taxation of electronic commerce in the years to come.

As I noted earlier in a hearing of the subcommittee chaired by the gentleman from Pennsylvania (Mr. GEKAS) this past July, the matter is of immense importance to Massachusetts, a world leader in advanced technology, that is second only to Silicone Valley as a home to software producers and other high-tech companies. Last year, some 2,200 Massachusetts-based software companies had 130,000 employees and combined revenues of $7.8 billion. This is a large slice of our State economy and a boon to our Nation's balance of trade.

Massachusetts was among the first States to adopt legislation exempting Internet access services from State sales tax. However, until more States follow Massachusetts' lead, Internet users in the Commonwealth remain vulnerable to discriminatory taxes from jurisdictions outside our borders. That is why this particular proposal is so desperately needed, and I urge our colleagues to give it their support.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, the power to tax is indeed the power to destroy. The Internet not only offers us an amazing way of communication, but it offers a tremendous potential, a revolutionary potential for electronic commerce.

With the Internet still in its rather fragile youth, hasty or excessive use of taxation could easily destroy this wonderful new wellspring of free speech and economic enterprise.

Suppose a Texan finds on the Internet a new software package that could double her business potential and decides to buy it over the Internet. She is sitting at a computer in Texas. The company which produces the product is headquartered in Washington State, and she uses an Internet server that is located in Illinois. Washington, Illinois and Texas and all of their subdivisions that are relevant have a claim to somehow tax this transaction. In a way, the transaction has taken place in each of these three States. Will my neighbor in Austin get a tax bill from all three, plus their subdivisions, or will the States somehow have to fight it out over who gets to tax the most-and-the-first test?

Well, I believe that the current situation is really a mess. We have the potential of over 30,000 jurisdictions that could be doing the taxing. If we do not enact this moratorium, it will mean up to 30,000 hands in the cookie jar, and when all these governments have taken out all the taxes they want, the consumers and the businesses who want to rely on the Internet will have only a few crumbs.

Last year, our bipartisan Information Technology Working Group that I founded with the gentleman from Virginia (Mr. DAVIS) focused attention on this problem and had experts from around the country come in and discuss it.

□ 1730

That is both in my work there and as a representative of central Texas, which is at the forefront of the high-tech economy. I have seen firsthand the tremendous economic potential of the Internet. I believe that the Internet is at its best when government interference is at its least.

The Internet is at its best only when government is at its least. We call for a time out from taxes and a time on for perfecting electronic commerce. I urge my colleagues to support this legislation, which will allow us a 3-year period in which to work together and devise a bipartisan and equitable solution to the future of electronic commerce in this country.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, let me rise in support of this legislation, for if we pass this very important Internet Tax Freedom Act, the Congress will be taking yet another strong action to protect the important highway that we have all been trying to get on, and that is the information superhighway.

I am delighted for the leadership of the gentleman from California (Mr. COX) and others who have worked so very diligently on this legislation. The Committee on the Judiciary has already approved on a bipartisan basis bills protecting copyright in cyperspace and eliminating burdensome encryption controls. This bill will help ensure that State taxes do not impede the vibrancy of growth of the Internet.

However, Mr. Speaker, having come from local government, I am fully aware of the needs for local income. But it is important that States do not enact discriminatory or double taxes which discourage the use of the Internet. It is also important that we give some time, some breathing room. This bill creates a moratorium on new taxes on access to the Internet.

Currently, a complex patchwork of State and local laws create an impossible situation for online service providers in determining who to tax and whom to not tax. Let me also say, Mr. Speaker, that the grandfather clause will allow current taxes to stay in place, and if States reaffirm within one year. This is an important aspect of this legislation.

I have come from local government, being a member of the Houston City Council, and I realize how important income-enhancing activities are to our local governments. I think it is very important that this bill has in it a balanced commission which represents the Federal government, the States, and the industry, to help develop a coherent blueprint for interstate taxation of Internet transactions, mail order goods, in the future.

I am interested particularly, however, in our local city governments and our local county governments. I would like to enter into a colloquy with the gentleman from California (Mr. COX) on this very issue.

I would say to the gentleman from California, I would like to raise the question, as the gentleman well knows, in addition to States within their county and city boundaries, I have worked as a member of the National League of Cities and also with the National Conference of Mayors.

I would like to know that in the setting up of the balanced commission, we would have the opportunity to have the involvement of those organizations.

Mr. COX of California. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from California.

Mr. COX of California. Mr. Speaker, I thank the gentlewoman for yielding to me.

The gentlewoman is exactly correct, that is the way the commission is set up. There will be 14 representatives from State, local, and county governments, including representatives from the National League of Cities, also the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the National Association of Counties, the United States Conference of Mayors, the International City/County Management Association, and the American Legislative Exchange Council.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman.

Reclaiming my time, let me add my applause for this compromise, and the fact that we are moving into the 21st century in promoting the Internet.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this opportunity to say, having talked about the merits of the bill and why it is necessary, and that it is in fact a good compromise between the undoubted necessity of the States and local governments to have the ability to tax the Internet once, and the necessity on the Federal level of having a moratorium now to make sure that we do not have overlapping and commercially destructive rival taxation, this is a good bill.

I want to say a word about the process. First of all, I want to thank and congratulate the chairman of the committee, the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), and the gentleman Pennsylvania (Mr. GEKAS) from the subcommittee, for the cooperative and bipartisan manner which this bill was moved, and the cooperation they have afforded to the gentleman from Michigan (Mr. CONYERS) as ranking member of the Committee on the Judiciary, and myself as ranking member of the subcommittee.

I also want to point out for the RECORD that this bill is entirely and completely within the jurisdiction of the Committee on the Judiciary, and that interstate taxation is within the core jurisdiction of the Committee on the Judiciary, and that the Committee on the Judiciary reported the bill to the floor, and the bill that we have before us now is virtually identical to that bill, and that the bill that the Committee on Commerce reported was stripped of all interstate taxation matters and Internet taxation matters by the Committee on the Judiciary because they have no jurisdiction, and we do not want any precedent set for the future on this bill.

So it is a good bill. I am glad some members of the Committee on Commerce cooperated on this, but the record should reflect that this bill came through the Committee on the Judiciary, and we will have a full record of the history and the extension in the RECORD, because we should not permit a further diminution or attempted diminution of the jurisdiction of the Committee on the Judiciary on this worthy bill.

I urge my colleagues to vote for this bill.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York is quite correct, that the process that was engaged in in order to bring us to this point was emblematic of some of the cooperation that we can determine from both sides of the aisle, and to help the public understand more of a very complex issue.

I was impressed by the witnesses that we had in our particular hearing, because they brought every single perspective possible on the whole world of Internet. That helped us to build the momentum to which I referred earlier which finally led to the compromises and the moratorium that will now be in place when we finally vote on this measure.

Mr. DAVIS of Virginia. Mr. Speaker, I rise today in strong support of H.R. 4105, the Internet Tax Freedom Act. I am proud to have been an original co-sponsor of the pre-cursor to this legislation and believe that it is crucial to the continued development of the Internet.

In the last 5 years, the growth of the Internet has created an entirely new method of communicating: electronic commerce. With this rapid growth we have seen tremendous benefits and revolutionary technology, presenting unprecedented social and economic issues. These changes are forcing national and State legislators to quickly catch up with this growth from a policy-making perspective. The taxation of everyday sales transactions presents many complex economic and constitutional issues that should be resolved in a deliberate and holistic process, rather than a patchwork of rules and court decisions that would likely accompany future efforts by State and local governments to tax Internet transactions and services.

The Internet Tax Freedom Act will give Congress and the technology industry the opportunity to examine Internet taxation issues thoroughly during a 3-year moratorium on State and local Internet taxation. It reflects the truly admirable spirit of cooperation between its chief sponsor, Representative CHRIS COX, and State and local policymakers who were able to come together and work hard on a matter which has multi-faceted consequences on retail businesses, State and local treasuries, continued technological development, and our judicial system, to name a few.

The Internet is a revolutionary technology that has become an integral part of our nation's economic growth. And it promises to expand beyond anything we could imagine. It would be detrimental, I believe, to our nation's leadership in this industry if we were to allow taxation issues to stunt the growth of the Internet. For this reason, I am very pleased that we have been able to bring the Internet Tax Freedom Act to the floor today. And I particularly want to commend Mr. COX for his foresight in introducing this legislation that we will be voting on today.

Mr. THOMAS. Mr. Speaker, I rise to address an issue which will have a dramatic impact on our children, small businesses, and the global economy—the taxation of the Internet. The Internet has not reached its full potential, but electronic commerce has already generated $1 billion. Congress should support H.R. 4105, the Internet Tax Freedom Act, because unwarranted taxation of the Internet would only stifle the growth of this young and dynamic communications system.

This bill is crucial to communications in the 21st Century. Taxation leads to a lack of competition, with the telephone industry as a perfect example. The Internet is a valuable resource to which as many people as possible should have access. If competition is hindered, less people will be able to utilize this important communications tool.

There are many problems with Internet taxation. Several States tax Internet access under existing statutes, including Iowa, Connecticut, Illinois, and the District of Columbia. We need this legislation now because the number of States taxing this industry could expand very quickly as States search for new means to expand their tax base. This bill needs to be passed as a proactive measure, and not a reactive measure after every State has adopted different taxation laws. There are more than 4,000 Internet Service Providers in this country, and most of them are small businesses. How can these small businesses survive when individual States are playing with different tax codes?

The Internet has no specific boundaries and its transmissions are therefore vulnerable to multiple taxation from States and localities. If everyone takes a cut from different points of creation, then State and local taxes will kill the goose that laid the golden egg. Multiple taxation would cause confusion and would provide a disincentive for free dissemination of information and ideas. Because of the Internet's easy accessibility from anywhere in the world, home-bound, disabled, and elderly people have access to information and resources that they would not otherwise have.

American providers of this service need a level playing field in order to remain competitive with other global providers. The growth of Internet and online services will increase the productivity of many different businesses, making them more competitive globally and therefore expanding U.S. sales of new products and services. As we are move toward international agreements on Internet taxation, we must first move to come to a consensus on how we tax the Interet within our own country. Finally, the Internet has shown great possibilities in the future for commercial users. It allows people to create their "own" market.

Our goal is not to permanently make Internet transactions tax-free. We simply want to provide safeguards against multiple or special taxation. We are not trying to make Internet transactions tax-free. Rather, we want to stop multiple or special taxation. For example, a business selling goods in a retail store operates under a single set of tax rules, but a business selling goods over the Internet is subject to much more uncertainty. It is also potentially subject to thousands of State and local taxing jurisdictions.

H.R. 4105 would establish a moratorium on State and local taxes which specifically target the Internet, such as taxes on Internet access or online services. It would also commission a 2-year study of sub-national and foreign taxation of Internet commerce. This study would ensure that lawmakers do not enact new taxes without proper data. Last, the bill calls on the Clinton administration to be as aggressive as possible in keeping the Internet free from anticompetitive taxes and tariffs.

I urge Congress to support H.R. 4105, the Internet Tax Freedom Act. If we allow the Internet to be taxed at different points along the way, we are ultimately restricting access to it. Americans already pay enough taxes. Why should we expose them to multiple taxes on the Internet when it will only restrict the access to, growth of, and competition in this essential resource?

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GEKAS) that the House suspend the rules and pass the bill, H.R. 4105.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

UNFAIRNESS IN TAX CODE: MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, let me explain why enactment of the Marriage Tax Elimination Act is so important for working families, with a series of questions.

Do Americans feel that it is fair that our Tax Code imposes a higher tax on working married couples just because they are married?

Do Americans feel that it is fair that 21 million married working couples pay on the average $1,400 more in higher taxes than an identical couple with an identical income who live together outside of marriage?

Do Americans feel it is right that our Tax Code actually provides an incentive to get divorced?

Twenty-one million couples pay on the average $1,400 more just because they are married. Back in the south suburbs of Chicago where I have the privilege of representing, $1,400 is one year's tuition at Joliet Junior College, our local community college. It is three months of day care at a local day care center. That is real money.

This summer this House made a commitment to address and eliminate the marriage tax penalty with the passage of the House budget resolution just a short 2 weeks ago, a budget that spends less and taxes less. Let us honor that commitment, let us eliminate the marriage tax penalty. Let us eliminate it now.

UNFAIRNESS IN TAX CODE: MARRIAGE TAX PENALTY

Mr. WELLER. Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. Tax Code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

I would also like to commend the leadership of House budget Chairman KASICH for including elimination of the marriage tax penalty as a top priority in this budget resolution. The Republican House Budget Resolution will save a penny on every dollar and use those savings to relieve families of the marriage penalty and restore a sense of justice to every man and women who decides to get married.

Many may recall in January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: cut waste, put America's fiscal house in order, and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School teacher	Couple	Weller/McIntosh II
Adjusted Gross Income	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	$6,550	$6,550	$11,800	$13,100 (Singles x2)
Taxable Income	$23,950 (x .15)	$23,950 (x .15)	$49,200 (Partial x .28)	$47,900 (x .15)
Tax Liability	$3,592.5	$3,592.5	$8,563	$7,185
Marriage Penalty			$1,378	Relief $1,378

Weller-McIntosh II Eliminates the Marriage Tax Penalty

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Millions of married couples are still stinging from April 15th's tax bite and more married couples are realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: a down payment on a house or a car, one year's tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Penalty Elimination Act.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Our new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual. Our bill already has broad bipartisan cosponsorship by Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over."

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty * * * a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. Tax Code should not be one of them.

Lets eliminate The Marriage Tax Penalty and do it now!

WHICH IS BETTER?

Note: The President's Proposal to expand the child care tax credit will pay for only 2 to 3 weeks of child care. The Weller-McIntosh Marriage Tax Elimination Act H.R. 2456, will allow married couples to pay for 3 months of child care.

WHICH IS BETTER, 3 WEEKS OR 3 MONTHS?

[Child Care Options Under the Marriage Tax Elimination Act]

	Average tax relief	Average weekly day care cost	Weeks day care
Marriage tax elimination act	$1,400	$127	11
President's child care tax credit	$358	$127	2.8

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

EXCHANGE OF SPECIAL ORDER TIME

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent to take the 5 minutes of the gentleman from California (Mr. HORN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

A CRITICAL MOMENT FOR THE 2000 DECENNIAL CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, I rise tonight at a critical moment for the 2000 decennial census. Today the President nominated Dr. Ken Prewitt for director of the Census Bureau.

As everyone involved with the 2000 Census knows, the operation is at a high risk for failure. The Government Accounting Office has warned we are headed towards failure, and the Commerce Department's own Inspector General has warned we are headed towards failure.

When I became chairman of the new Subcommittee on the Census, I made a controversial statement. I said I did not have any litmus test for the new census director. I said what we needed was a competent manager who was committed to working cooperatively with Congress.

Unfortunately, I think the President had a litmus test. Dr. Prewitt's background does not have anything to suggest he can lead a huge organization at a time of crisis. He has admitted that he has never run anything of the magnitude of the Census Bureau. Basically, for a short time he ran a think tank, and that is it.

The decennial census is the largest peacetime mobilization in American history. The Census Bureau needs a General Schwarzkopf, not a professor Sherman Klunk, to save the census. So why would the President nominate an academic? Because of politics. Dr. Prewitt supports the President's sampling scheme, so he received the nomination.

Basically, while I had no litmus test, the President certainly did. In recent weeks I have noticed an increasing politicizing of the 2000 census. The President tried to divide America in his most recent speech by promising some areas more money if they followed his plan, without telling the American people which communities he plans to take money from. It is a zero sum game. If you promise one area more, it comes from another part of America.

I have noticed increasingly inflammatory rhetoric from my friends on the other side of the aisle. They have been far too quick to impugn motives and to try and inject divisive politics into the debate over the census.

Mr. Speaker, my job as the chairman of the Subcommittee on the Census is to reflect the interests of the entire House in an honest, reliable, and trusted 2000 census. We are a long way from achieving that type of census.

As soon as we start talking about the substance of how the census will be conducted, someone else wants to talk about politics. When I point that the sampling failed its only test, the response is, the gentleman from Florida (Mr. DAN MILLER) only cares about politics.

When I point out that real Americans who took the time to participate in the census and filled out their forms would have been deleted under a sampling scheme, someone accuses the President of not wanting to count all Americans.

When I point out that Pennsylvania would have lost a congressional seat because of a mistake in the statistical computer model, someone accuses Republicans of trying to deny Federal funds to urban areas.

When I point out the serious policy implications of telling the American people they do not have to participate in the census anymore, the government will figure it out on their own, someone accuses Republicans of only caring about protecting House seats.

Most recently, someone attempted to divide America along racial and ethnic lines. I find this very sad and very disappointing. Earlier this week one staff member with an impeccable record of defending the Voting Rights Act and working to increase minority representation in Congress, State legislatures, and city councils had one comment taken out of context, and one Member on the other side of the aisle sends out a letter entitled, "GOP plays racial politics with the 2000 census."

Mr. Speaker, if the Congress and the administration are going to save the 2000 census from failure, we all need to start talking about substance, not politics. We need to debate the flaws in each other's plans for the census, not publicly guess about each other's motives. My objections to the President's plan are well known. I oppose the use of statistical sampling in the census because it has proved to be less accurate and less reliable.

In 1990, the sample census was found to be less accurate for populations under 100,000, and would have incorrectly taken a seat away from Pennsylvania. Americans who filled out their census forms would have been deleted from the count.

Now the Clinton administration wants to take that failed experiment and increase its size by 5 times, complete it in half the time and with a less trained work force. A less accurate, less fair method is not the proper way to address the serious and difficult issue of minority undercounts. It takes hard work, innovative thinking, and frankly, more resources. That is the issue that should be debated, and not the political motivations of some individuals on both sides of this debate. I hope this House quickly gets back on the track of saving the 2000 census, and leaves the political sideshows to others.

☐ 1745

STATUTE IN SERIOUS NEED OF FIXING

The SPEAKER pro tempore (Mr. DIAZ-BALART). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor to put the Congress on fair warning that there is a statute in serious need of fixing. Women Members of Congress will hold a press conference tomorrow at 11 a.m. to call the attention of the Congress to this predicament. The Supreme Court handed down a decision, the Gebser decision, involving a ninth grade student who was assaulted by her teacher in as much as he had sexual intercourse with her over a period of time.

She sued under title 9 for sexual assault and harassment and the Court found that this Congress had not, in fact, given the Court sufficient guidance so that damages could be awarded under title 9.

This affair with a student began when she was in the eighth grade and joined a high school book discussion group. The teacher often made sexually suggestive remarks to her. Later on, when she went to the ninth grade and was assigned to his class, he lured her into sexual intercourse and apparently had sexual intercourse many times, including during class times.

This youngster did not report this relationship to school officials. She said she was uncertain how to act. I am sure she was utterly confused that this disproportionate power relationship had evolved in this direction. When her parents found out, of course they looked for remedies and among them was a remedy under title 7.

The Court found that she did not report the relationship to school officials. Surprise, surprise. But the Court also found that the school system had not distributed an official grievance procedure for how to lodge complaints with school officials, even though that is required under title 9.

So the Court found that one could not sue under title 9 for teacher-student sexual harassment unless the following four circumstances were met:

First, that the employee had supervisory power over the offending employee; actually knew of the abuse; had the power to end it; and failed to do so. Of course, the school system at top levels could not meet those standards.

Mr. Speaker, if in fact this were a title 7 matter involving a teacher and a principal, and the principal had sexually harassed the teacher in any way, then the teacher would have a cause of action against the school system under title 7. But here we have a minor child who has no cause of action under the only statute available to her.

Mr. Speaker, I can understand the Court's predicament. The Court had implied a cause of action for damages rather than gotten it from the wording of title 9. And so the Court simply does not know how far we in the Congress want the Court to go in allowing damages.

I do not think there is a Member of this body that would not regard damages lying against the school system as the way to deter this kind of harassment, this kind of affair, this kind of assault by a teacher on a student. But the court said, and I quote, absent further direction from Congress, the Court could not go further.

Mr. Speaker, I know I will be joined by other Members of this body, quite apart from the women Members, who will appear with me tomorrow at a press conference to suggest to this body that the only reason the damage element is not laid out is when title 9 was passed 25 years ago, who would have thought that we would be dealing with teacher affairs with an eighth and ninth great student? No, we did not have it in our mind then.

We must have it in our minds now, because it has occurred and we are all embarrassed that there is no remedy. I do not believe we seek this remedy simply because the remedy would be deserved in regard to this case. And if ever there was a damage remedy deserved in this case, it is this case.

The reason this remedy is important here is that we want to deter this kind of conduct and we want to say to school systems that they must pass out a grievance system guidance manual that puts people on notice as to how to file a complaint. And if they do not, then they, themselves, will be liable under the statute.

I am sure that that is what we mean. We must move to do so as soon after the school year for 1999–2000 begins. I regret that this occurred. It is time though for the Congress to move forward and meet its obligations to correct the statute.

PRIVATIZATION EQUALS "SOCIAL INSECURITY"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today in support of preserving our Social Security system. Social Security has worked for 160 million people for nearly 60 years. Study after study concludes that Social Security will be fully funded throughout year 2032, and in need of only minor modifications to make up a relatively small shortfall after that date.

Mr. Speaker, yes, a careful study should be done, but not a rush to privatize this system. Privatization proponents promise huge profits, but ignore the risks and inequity inherent in their plans. High returns do not come without big risks. And why should we rush to turn over our precious retirement system, which provides a guaranteed benefit, to the whims of a very fickle stock market?

Privatization depends on individuals putting their money into retirement accounts, something difficult for low-wage workers, mothers working part-time while raising children, and those who experience family emergencies. Even under a best-case scenario, those who are able to diligently add to their retirement accounts may receive poor investment advice or, worse yet, the entire market could crash. We saw that in our history earlier this century. That is why our Social Security system was established. To provide a fair but guaranteed basic retirement income.

Wall Street wants to take a massive amount of American capital, a portion of every single working American's paycheck, and gamble with it. Yes, Mr. Speaker, gamble with it. The problem of a shortfall after the year 2032, not bankruptcy as slick public relations operatives would have us believe, could be solved without dismantling our entire system. The current successful system keeps half of our elderly citizens out of poverty.

Earlier today, I joined with several of my colleagues in cosponsoring legislation in support of strengthening Social Security to meet the challenges of the next century. In that bill, 57 of us expressed our support for continuing to guarantee a basic retirement for American citizens. We pledged to fight for adopting solutions to restore full funding of the system after the year 2032 that are nondiscriminatory and equitable to Americans of all ages.

Privatization cannot offer that promise, nor any guarantee. The stock market, even with its latest continual rises, is so volatile, so full of risk, that an entire industry has been built around tracking its daily rise and fall by a few or even more percentage points.

Social Security, on the other hand, administers its basic retirement, which everyone has been encouraged to supplement with their own savings and investments, in an equitable way. We as a society then do not have to worry about impoverished mothers, fathers, grandfathers, or worse yet, those who have no living relatives.

Privatization proposals also fail to offer another guarantee to workers that is one cornerstone of Social Security: A monthly check for workers should they become disabled, or for their school-aged children if the worker dies.

Social Security does have enough money to pay all benefits until the year 2032. Sure, adjustments must be made to ensure retirement security for those retiring after that date. Yet even doing nothing, Social Security will pay 75 percent of the benefits then. We must continue to discuss the minor modifications that will continue this reliable program for all future generations.

But Social Security, with its guaranteed and fair benefits, does not need to be scrapped, particularly for a privatized gambling program that would guarantee lifetime "social insecurity" for most and short-term security for the few on Wall Street.

Mr. Speaker, let us keep the Social Security system.

RACIAL OVERTONES TO CENSUS COUNT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SANCHEZ) is recognized for 5 minutes.

Ms. SANCHEZ. Mr. Speaker, there they go again. The Republican leadership of the House fails to match their rhetoric in favor of a color-blind America with deeds.

Last year, Members of this House criticized the investigation of the Dornan election contest because it unfairly questioned the loyalty and the legality of Hispanic and Asian American voters. The process the House employed produced race-based outcomes.

The Republican response was to ignore these facts and to attack their critics for "inciting racism" and "playing the race card." Republican amendments this year to campaign finance reform would discriminate against people of color and would ban the bilingual ballot. Yet Republican candidates mail campaign brochures in Spanish and other languages. And when we point out the hypocrisy, they will attack us once again for "playing the race card."

Yesterday, I was offended to learn of remarks made by the senior Republican staff member working on the new census as reported by the respected journalist David Broder. This staff member, who works for this House, unmistakably revealed that race is a factor in the Republican effort to block an accurate and less expensive census.

As Broder reported, ". . . it is about raw political power, as I was reminded on a recent visit to the GOP command post on Capitol Hill."

When two of my colleagues wrote to the gentleman from Florida (Chairman MILLER) yesterday to express their concern, he fired back a response within hours accusing them of "injecting racial politics into the debate." Once again, when racial bias, prejudice, and base-based outcomes are exposed, the Republican response is to attack the messenger for "playing the race card."

Mr. Speaker, we who oppose government sanctioned racism will not be silenced by these attacks. We will stand in this well as long as it takes to shed light and bring honest debate about the merits of an accurate census.

Race was injected into this process not by those who object to prejudice. Race became an issue by those who have turned this process into a fight over raw political power.

It was the Republican leader who launched this agenda when he said that meeting our constitutional obligation to provide an accurate census of all Americans was "a dagger aimed at the heart of the Republican majority."

Mr. Speaker, if truth is a dagger, if accuracy is aimed at the heart of the Republican majority, then the only thing the leadership of this House should fear is judgment.

THE DEATH OF ANDREW KASSAPIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to remember a young man, an American citizen, who was murdered during a brutal Turkish invasion of Cyprus during the summer of 1974.

Since the 1974 Cyprus invasion, 1,619 people have been missing, including five American citizens. The administration recently submitted the "President's Report to Congress on the Investigation of the Whereabouts of the U.S. Citizens Missing from Cyprus Since 1974." It concludes that four of the missing Americans were probably killed during the violent events of 1974.

It also confirms the belief that one American, Andrew Kassapis, was killed by Turkish-Cypriot militiamen and was buried in a field in Northern Cyprus. The report states that Andrew "died from physical hardship stemming from captivity." His remains are being laid to rest tomorrow, Wednesday, June 24, in Detroit, Michigan.

Twenty-four years after Andrew's death, Cyprus still remains illegally occupied and tensions continue to escalate in a region that is more often marked by strife than accord.

□ 1800

The United States has signaled its commitment to work for a fair solution to the illegal occupation of Cyprus. Unfortunately, our efforts have produced few results due to the reluctance of Turkish leaders to resolve the illegal occupation of Cyprus.

Rauf Denktash, the Turkish-Cypriot leader of the illegally occupied area of Northern Cyprus, has set two preconditions for a Cyprus solution. First, he has demanded that his entity be recognized. The international community only recognizes the legitimate Republic of Cyprus and its leader, President Glafcos Clerides. Second, he said Cyprus's European Union accession talks must be halted before negotiations on Cyprus can resume.

The United States and the international community have emphasized that both demands are unacceptable.

Mr. Speaker, as we lay Andrew Kassapis to rest, it is disheartening that a Cyprus solution is as remote as ever. If we can broker peace in Northern Ireland, we can surely promote a solution in Cyprus. The consequences of our failure and of continued hostilities between Greece and Turkey over Cyprus could result in a weakening of the NATO alliance and the outbreak of military conflict between these two American allies.

We owe it to Andrew and the other missing Americans to support the Cypriot Republic and demand that Turkey respect international law. His death should not be in vain and the solution of Cyprus must be forthcoming.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING HOUSE RESOLUTION 477

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KASICH) is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, pursuant to Sec. 314 of the Congressional Budget Act, I hereby submit for printing in the CONGRESSIONAL RECORD revisions to the allocation for the House Committee on Appropriations pursuant to section 2 of House Resolution 477 to reflect $143,000,000 in additional new budget authority and $134,000,000 in additional outlays for the Earned Income Tax Credit. This will increase the allocation to the Appropriations Committee to $532,104,000,000 in budget authority and $562,411,000,000 in outlays for fiscal year 1999.

As reported by the House Committee on Appropriations, H.R. 4104, a bill making appropriations for Treasury-Postal Service-General Government Appropriations Bill for Fiscal Year 1999, includes $143,000,000 in budget authority and $134,000,000 in outlays for the Earned Income Tax Credit.

These adjustments shall apply while the legislation is under consideration and shall take effect upon final enactment of the legislation.

Questions may be directed to Art Sauer or Jim Bates at x6–7270.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, in recent months there has been a lot of discussion on the House floor dealing with campaign finance reform.

I have spoken out on this issue, and once again I want to make some comments about how I see this problem and what we might do about it. Also I want to mention an amendment that I will be bringing up.

I suspect we will be talking about campaign finance reform for a couple more months. I see this somewhat differently than others. Others see that all we have to do is regulate the money and we are going to solve all our problems. But all governments are prone to be influenced by special interests. That is the nature of government.

So the smaller government that you have, the less influence you have and the less effort there is made to influence the government. But when you have a big government, there will be a lot of people and a lot of groups that will want to influence government, and that is where I see the problem.

Twenty-five years ago in the 1970s, after Watergate, the Congress wrote a lot of rules and regulations. Hundreds of candidates have filled out forms and have done all kinds of things that have been very complicated but have achieved very little. The problem is every bit as bad as it was before, and most people admit that.

I think there is a good reason for that. They were addressing the symptoms rather than the cause. And the cause is, of course, that big government is involved in every aspect of our lives, our personal lives, our economic lives, and also around the world, influencing almost every government in the world. So not only is there an incentive for business people to come here to influence our government, but there are labor groups that come to influence our government. We have international groups and other governments coming to influence us. And until that is settled, we can rest assured that we will continue to have these problems.

But there is another problem that I want to address, and that is the decreased interest in campaigns and elections. Thirty years ago we would have 30 some percent of the people would turn out in the primary elections. Today it is less than 20 percent. It is a steady decline. There is good reason for this because as government gets bigger and as money becomes more influential, and money talks, the little people who have their desires and their voices unheard and want to be heard, they feel very frustrated. So it is understandable and expected that there will be lower and lower turnout in our elections. That is exactly what is happening.

Now, why is this the case? Is it just because they are apathetic? I do not think so. I think a lot of people make wise choices and say it does not make a lot of difference; my vote does not really count because so much money is influencing what happens in Washington with legislation. And yet we have rules and laws throughout the country that make it just about impossible for anybody outside the ordinary two-party system to be represented.

Twenty percent of the people do not bother registering because of the frustration, 20 percent of the people who do register, register as Independents. So that leaves about 60 percent of the vote split between Republicans and Democrats, each getting 30 percent. They are a minority. The people who are really shortchanged are the majority, that 40 percent who feel unrepresented and very frustrated about the situation.

How does this come about? It just happens that Republicans and Democrats tend to control every legislative body in the country, every State legislative body. And, therefore, they write rules and regulations and have high fees for people getting on ballots, and you do not have any competition. And there is lack of interest, and there is a lot of frustration.

Take, for instance, some of the groups that have tried in the past to get on and become known but are frustrated by all these rules. There are Independents, Socialists, Greens, Taxpayers Party, Populists, Libertarians, Constitutionalists, Reform Party, Natural Party, American Party, Liberal Party, Conservative Party, Right to Life, Citizens Party, New Alliance Party, Prohibition Party, States Rights Party. All these people have been totally frustrated because they have so many obstacles put in their way by the requirement of huge numbers of signatures on ballots.

I would like to quote from Richard Winger, who writes a letter called the Ballot Access News. He cites one of the worst examples. He says Florida now requires 242,000 valid signatures to get a minor party or Independent candidate on the ballot of any State-wide office other than President. Only one signature is permitted on each petition sheet. He goes on. And the payment that is required is $8,250.

This is what needs to be changed. I have an amendment to the bill that will change this. I hope all my colleagues will pay attention to it.

ON THE CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, I am pleased today that the President nominated Dr. Kenneth Prewitt to be the next director of the Bureau of the Census. Dr. Prewitt is the current president of the Social Science Research Council. He has been senior vice president of the Rockefeller Foundation, the director of the University of Chicago's National Opinion Research Corporation, chairman of the Political Science Department at the University of Chicago, and vice president of the American Academy of Arts and Sciences.

He has also served on the boards of trustees of Washington University, Southern Methodist University, the Center for Advanced Study and Behavioral Sciences, National Opinion Research Corporation, and the German American Academic Council. He has a long and distinguished career as an administrator and researcher with publications too numerous to mention. He is highly regarded by his colleagues for his scholarship and professionalism.

Mr. Speaker, I was very disappointed that the chairman of the Subcommittee on the Census chose to attack Dr. Prewitt just hours after he was nominated. The chairman referred to Dr. Prewitt as, and I quote, yet another statistical shill. It is just that kind of attack that makes it so difficult to recruit highly qualified and talented individuals to public service. I hope the chairman will apologize to Dr. Prewitt. However, I do not feel that that is likely.

Last week one of the chairman's staff was reported to have made a comment infused with political and racial overtones. This was in an article written by David Broder entitled Playing Hard Ball on the Census in the Washington Post, and it was referenced earlier in the comments of my colleague the gentlewoman from California (Ms. SANCHEZ). The staff member said, and I quote: Someone should remind Bill Daley that if he counts people the way he wants to, his brother could find himself trying to run a majority-minority city.

Unfortunately, rather than repudiate that statement or even to acknowledge that it was a poor choice of words, the gentleman from Florida (Mr. MILLER) offered a feeble excuse that the quote was taken out of context. He is unwilling to apologize for the racial innuendos uttered by his staff. I do not think there is much hope that he will apologize for an abusive comment about a public servant.

Instead, the chairman keeps trying to rewrite history. He tries to call this the Clinton census plan. The truth of the matter is that the plan was created by Dr. Barbara Bryant under President Bush. President Bush signed into law legislation passed by Congress calling for the National Academy of Sciences to advise the Census on planning the 2000 census to be less expensive and more accurate than the census of 1990.

When the planning process initiated by Dr. Bryant and the recommendations of the National Academy of Sciences came together, we had a plan for a census that would be more accurate and less expensive, just as Congress directed. That plan has been endorsed by the American Statistical Association, the Council of Professional Associates on Federal Statistics, the National Association of Business Economists, the Association of University Business and Economic Research, the Association of Public Data Users and many, many others.

Only one organization seems to favor a less accurate and more expensive census in 2000, and that is the Republican National Committee.

The sad truth is that the Census Bureau has developed a plan that will count everyone who lives in America, including blacks and Latinos and the poor and Asians and whites, everyone. But some Members of Congress do not want that to happen. Why? Because they believe not counting certain minorities and the poor is to their political advantage.

The Census Bureau has developed a plan that will count everyone who lives in this country, a plan that is more accurate and less expensive, but some Members of this body do not want that to happen. Instead they want to spend more money to make sure that the census is less accurate. Why? Because they believe that a less accurate census is to their political advantage.

The opponents of a fair and accurate census try to smear the Census Bureau, claiming that the 2000 census will be manipulated for political purposes.

If the opponents have their way, the 2000 census will be manipulated for political purposes, not by the Census Bureau, but by those who want to continue the errors of the past for their own political gain.

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When the planning process initiated by Dr. Bryant and the recommendations of the National Academy of Sciences came together, we had a plan for a census that would be more accurate and less expensive—just as Congress had directed. That plan has been endorsed by the American Statistical Association, The Council of Professional Associates on Federal Statistics, the National Association of Business Economists, the Association of University Business & Economic Research, the Association of Public Data Users, and many others.

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CONGRATULATIONS TO J. KIRK SULLIVAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. CRAPO) is recognized for 5 minutes.

Mr. CRAPO. Mr. Speaker, I rise today to commend a good friend and an Idahoan who has spent many untold hours working for the betterment of his community, his business, our great State of Idaho, and the country.

J. Kirk Sullivan has been a leader in Idaho's business community for many years, and now he is preparing to retire. It is important to note how his achievements and interests have made a difference for so many people, not only in Idaho but throughout the country. Although Kirk was not born in Idaho, and we are going to be willing to forgive him for that, much of his career has been spent working in Idaho. He will retire as a vice president of Boise Cascade Corporation.

He has been a leader in the pulp and paper industry and spent countless hours working with government officials to ensure that business operates in the best manner possible. Most recently he led a team to negotiate the resolution to a very difficult environmental issue, a proposal called the cluster rule. The original proposal would have shut down dozens of paper mills and cost hundreds of jobs.

□ 1815

The new proposal adopted with Kirk's leadership provided continued improvement in the industry's environmental performance and saved those critical jobs upon which families across this country rely.

It is this kind of effort by Kirk Sullivan finding common sense solutions that benefit both the environment as well as the econcmy and the jobs that our families depend on that has made him such an important leader in Idaho.

He has been honored for his service for Idaho's business and selected by the University of Idaho for various awards, including the Honorary Doctor of Science and a Presidential citation.

His community involvement is varied and reaches from the Children's Home Society of Idaho to the board of directors for the Boise Master Chorale Board, to the Idaho Congressional Awards Program.

I might note that I just came here from the Washington, D.C. National Congressional Awards Program in which the Idaho program which Kirk Sullivan so strongly supports was recognized as the strongest State program for the congressional awards system in America.

We just awarded the Gold Metal of Honor to six of Idaho's young, bright people who have come up through the ranks because of the leadership of people like Kirk Sullivan helping to make a difference for our youth. Kirk Sullivan has always sought out the best in his community and has found ways to highlight it.

I am pleased now to congratulate Kirk Sullivan for the tremendous efforts he has undertaken. We know that this is not the end of his service to Idaho and to his country, but I am pleased to count him among my many friends.

I along with many and most of the rest of Idaho, in fact, with the many friends that Kirk has in Idaho, wish him the very best in his retirement. Congratulations, Kirk.

CAMPAIGN FINANCE INVESTIGATION

The SPEAKER pro tempore (Mr. DIAZ-BALART). Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come to the floor tonight as a Member of the House Committee on Government Reform and Oversight in an effort to shed some light on what we have been doing.

The Committee on Government Reform and Oversight is one of the most important committees of Congress. When I came to Congress in 1993, I selected that committee because it is really one of the most important responsibilities in Congress.

Our committee really dates back to 1808 when the Founding Fathers began to see the creation of more and more of a Federal bureaucracy and Federal agencies. They did not really trust the appropriators, and they did not trust the legislators who created programs or those who funded the programs. They set up a separate investigative panel. This goes back to 1808, and that is the genesis of the committee on which I serve, the Committee on Government Reform and Oversight.

It is an important committee in Congress because it is vital to our system. There are many other systems that are similar to the American system but not that have all the checks and balances that the Founding Fathers have put together.

One of our most important responsibilities is to conduct investigations. If you go out and talk to the general public, my colleagues and many people say, well, we are investigating too much, or there is too much cost to investigations; and that really is not the case in our system. That is part of our system and part of the process.

The current Committee on Government Reform and Oversight is also known as the Burton Committee. It has been very difficult to serve on that committee and do an effective job.

The gentleman from Indiana (Mr. BURTON), myself, and other members of the committee are sent here in the stead of the public and the citizens to conduct their business, to look at investigating the agencies and activities at the Federal level. We have tried to take that on with a certain responsibility and fairness; and it has been, indeed, a very difficult task, even up to today.

Since February, we have been asking for a grant of immunity for four witnesses. We go first to the Department of Justice. This is in our campaign investigation of the foreign money that came into the 1996 campaigns. But we went first to the Department of Justice and requested that we could depose and have these witnesses testify and grant immunity that, back in February, we were granted.

Ever since then, Mr. Speaker, we have seen delay. We have seen one tactic to obstruct this investigation after another. Very frustrating. Back after, again, DOJ gave us permission in February and March, the first vote was to deny granting immunity by the Democrats on April 23, a second vote on May 13.

Finally, today, on the eve of the President going to China have we obtained permission and consent to get a grant of immunity to hear these witnesses to conduct the investigation.

I am concerned about the process, the delay, and obstruction to date. It is a serious matter for the Congress because they have managed now to obstruct this investigation, our responsibility under the Constitution, and what the people sent us here for until this date.

This is the last week this House will be in session before we go on recess. We come back in mid July, and we will be here for approximately 3 weeks. So the plan to obstruct, the plan to delay, the plan to subvert the very process that our Founding Fathers has put together has, indeed, succeeded; and it is unfair, because the American people have a right to know.

The very system that has been abused in this campaign finance process, the very system that set up this investigation and review and this cleansing that takes place through a committee like the Committee on Government Reform and Oversight has, in fact, been obstructed in its responsibility.

Then we have charges that we have been too broad in our responsibilities, in our investigation. We did not create Filegate. We had to investigate it. We did not create Travelgate. We had to investigate it. We did not create this fiasco with campaign financing. We have been charged to investigate it.

We have never in the history of this republic that I am aware of had seven independent counsels. The list goes on and on. Mr. Speaker, I am disappointed in what has taken place in an important area of congressional responsibility.

BULLETPROOF VEST ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylania. Mr. Speaker, I rise tonight to congratulate the House in its bipartisan efforts in adopting this Bulletproof Vest Act. This legislation was recently signed by the President. It was worked on by principally the gentleman from Indiana (Mr. VISCLOSKY), the gentleman from New Jersey (Mr. LOBIONDO) and others like myself who are part of the Law Enforcement Caucus who championed this legislation.

There are over 300 cosponsors, Mr. Speaker. This is a high number for any bill in the House. And it is endorsed by every single major law enforcement organization in the country: Fraternal Orders of Police, the Sheriffs' Association, the National DA's Association, and rightfully so.

With 600,000 police officers in the United States, the men and women who represent us in municipal departments and county police departments and State Departments all across the country, as there are 600,000 of them, 150,000 or 25 percent do not have the bulletproof vests which are so important to make sure that we ensure the safety and security of all of our police officers.

So under this bill, the Bulletproof Vest Act, $25 million will be designated as part of the Federal budget in a matching program, 50/50, with Federal and local contribution, making sure that all of those 150,000 officers will now have a vest.

We want to make sure in the United States that having a bulletproof vest will be as standard as having a police shield for every one of our police officers. I know that from our own district attorney where I come from Montgomery, Pennsylvania, Mike Barino said it was the most important bill of the 105th Congress, that we pass this legislation.

So I am pleased that President Clinton has joined the House and Senate in agreeing that this bill is important and has just signed it into law.

We do not have to look to the officer of my hometown Abington township, Joe Dalton, who in 1992 was, in fact, working on a case with many other officers from other departments in apprehending a fugitive who had committed a bank robbery and then proceeded in a high-speed chase through several counties, townships, and municipalities only to keep the police at bay.

Frankly, when the case was continuing, Mr. Dalton, trying to apprehend the defendant, was shot at point-blank range. Had he not been wearing his bulletproof vest, we would have gone to a cemetery and funeral the next day. But as such, because he had the bulletproof vest, we are much richer, and the country is more safe in knowing that people like Joe Dalton can continue to serve his community and our country.

So I am very pleased to thank the House for its efforts and look forward to working on other important law enforcement and crime prevention legislation as we continue this 105th Congress.

UNITED STATES ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin (Mr. NEUMANN) is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, I rise tonight to encourage my colleagues to take a deep breath and slow down, because things are happening very, very fast out here. When things start happening very, very fast in Washington, D.C., what happens is we lose track and we lose sight of what is going on; and the next thing you know, the taxpayers' money starts disappearing like it has done for a generation out here, and it starts disappearing very, very fast.

When this gets out of control, when spending gets out of control in this city, when we forget what had happened before 1995, we quickly get to a point where the idea of reducing taxes or paying off debt or restoring Social Security become impossibilities.

So I rise tonight, and I have not done this presentation in quite some time, but I think it is important, I think it is very important that we remember where it is we are at in this Nation; and that, even though we have come a long way, we have still got some problems facing our country.

This first chart that I brought with me tonight shows that the debt from 1960 to 1980 did not grow very much. But from 1980 forward, this debt has grown right off the wall. Although we made some good progress on it, now we need to remember that, even when we get to a balanced budget, we are here in this picture, and it is still a very, very, very serious problem facing our Nation. When we start talking about spending bills in this community, we cannot let ourselves lose sight of the fact that we are still deeply in debt.

For those that have not seen the number, we are currently $5½ trillion in debt. The number looks like this. It is 5,500, and then it has three, six, nine more zeros after that. It is a huge, huge number.

I used to teach math, and I tried to translate this number so it would mean something to an average person watching this presentation and to my colleagues. If you take that number, 5½ trillion, and you divide it by the number of people in the United States of America, if every, man, woman, and child in the United States were going to pay off just their share of this debt, it would be $20,400 for every man, woman, and child in the United States of America.

For a family of five like mine, I have got three kids, and of course my wife at home, they have literally borrowed $102,000 and again basically over the last 15 years.

Let me put that another way. In this community, they have made the decision to spend $102,000 for every family of five more than they collected in taxes basically over the last 15 years.

The kicker is this bottom number down here, because, you see, this is not just funny money in Washington, D.C. They have to pay interest on this money. The average family of five in the United States of America today is paying $580 a month every month to do absolutely nothing but pay the interest on this Federal debt.

When we think about the mess that we have been given or what has happened in this country, in this legacy that we are about to pass on to the next generation, it is this idea that we are paying this $580 a month; that money belongs out there in the families. It should be the American people's money. When somebody goes to work to earn that money, it is their money. We should not be using it to pay interest on this debt that has been run up.

A lot of people go, well, shoot, that is not me. I do not have to worry about it. I do not have to pay $580 a month in taxes, so it is not me. The reality of this is that, when you look at what you do in society, when you go in the store and buy a loaf of bread, when you buy your kids a pair of shoes, the store owner makes a profit selling the pair of shoes or selling that loaf of bread; or at least we hope they do, because if they do not, they are going out of business.

When they make a profit selling that loaf of bread or selling that pair of shoes, part of that profit gets sent out here to Washington D.C. in taxes. In fact, every group of five people in the United States of America, every family of five or every group of five is in fact paying $580 a month one way or another to allow the interest on this debt to be paid.

When I came out here in 1995, when I was first elected, I came out of the private sector. I came out to this office, the first office I ever held of public office. In the private sector, I was a home builder. I started as a math teacher, and then we started a business in the basement of our home. We wound up building 120 homes a year, providing about 250 job opportunities here in America. It is really what our country is all about.

When I came out here, I came out here with an idea. I came out here with the idea, if we could get government spending under control, we could fix this problem. That idea was very different than the people that were here before.

What I brought with me is a chart that shows the old Gramm-Rudman-Hollings and the promises that were made. The only reason I got elected in the first place is because all of these problems that were made; 1985, Gramm-Rudman-Hollings the first time. In 1987, when they could not make it in the 1985 bill, they fixed it. In 1990, they promised the American people a balanced budget again. They promised the balanced budget, and promised it and promised it and promised it, and they did not do it.

□ 1830

This is just one picture. This is the Gramm-Rudman bill of 1987. This blue line shows what they said they were going to do. The red line shows where the deficit went. They kept making these promises and breaking these promises and the American people got more and more and more upset with what was happening in this institution. Finally they got to 1993. They realized that this problem had to be fixed. So the decision that was made out here in this community looking at this chart is that the right solution was to raise the taxes on the American people.

Just think about this. We got to 1993, they had broken the Gramm-Rudman-Hollings promise of 1985, of 1987, the budget deal of 1990, now they were going to promise a balanced budget by reaching into the pockets of the American taxpayers and getting more money out here to Washington D.C.

What did they do? Well, they raised the gasoline tax. They raised the tax on senior citizens on their Social Security benefits. They raised taxes. The American people rejected that vision. And in 1995 they sent a new group of people out here. They said, "We don't want this done by raising taxes. We want this done by controlling spending." We laid a plan into place out here in 1995 to get to a balanced budget, also.

This blue line shows what we were going to do. We promised a balanced budget by the year 2002. Well, the American people looked at that and said, "Yeah, sure, I'll believe it when I see it." Frankly I do not blame them a bit. If it was me, I would have had the same reaction. But the reality is that we are now 3 years into that plan. Not only are we on track but notice where the red line is in the bottom picture versus the red line in the top picture. We are not only on track to balancing the budget but in fact we are going to run a surplus for the first time since 1969 in 1998. It is the first time in a generation, nearly 30 years, that the United States Government has actually taken in more money than what it wrote out in checks in a given year.

That is good news on the surface. But I think as we go further in this, we need to understand what it is that has led us to this point and what the pressures are that are causing us to go away from it as we fight back day after day in this city the urge to spend more money.

The reason we have reached this point is shown in this picture. We have had good economies between 1969 and today. When we have had good economies, that means more money flows into Washington because people make higher profit and higher salaries, and, of course, then they pay more taxes. Every time we have had a good economy between 1969 and today, Washington simply spent the extra money. But this Congress has been different. Spending was growing at 5.2 percent per year when we got here. But in the face of this strong economy, instead of having spending grow at a faster rate, we got our arms around spending and we slowed the growth rate of Washington spending to a point where it was only going up at 3.2. In fact, we have actually done better this year. It only went up by 2.6 this year, the first year in a long time that we have actually seen spending growth in Washington under the rate of inflation.

So what is really going on out here? It is not draconian cuts that people have been told about, but what has happened is that instead of Washington spending going up at twice the rate of inflation, this Congress has got their arms around it and simply slowed the growth rate of Washington spending to the rate of inflation. It is that slowing of the growth rate of Washington spending, it is this distance between here and here, that has both got us to a balanced budget and put us in a position to cut taxes for the first time in 16 years.

Let me just go through a couple of the tax cuts so it is clear what has happened. Again it is very, very important that my colleagues slow down in this community, take a deep breath, and remember that if we just keep the lid on spending, we can keep doing the good things like balancing the budget, starting to pay down debt, restoring the Social Security system, and, of course, lowering the tax burden on the American people.

The tax cuts that have been passed, last year we reduced capital gains from 28 to 20 percent. If you are a family with children under the age of 17, for each child in that family under the age of 17, you are now able to keep $400 per child more in your own home to spend as you see fit instead of sending it here. If you have got a college student, it is up to a $1,500 tax credit. Let me slow down and translate that into what that really means.

We have some friends back home in Janesville, Wisconsin. They have two kids at home and one is a freshman in college. They are a middle-income family, about a $50,000 a year family. For the two kids at home, next year they will reduce their taxes by $400 and $400 or $800 total; and for their freshman in college they will get a college tuition credit of $1,500. That family of five literally gets to keep $2,300 in their home instead of sending it to Washington, D.C. I think that is a significant move forward for our country. That is all pretty good stuff.

I would like to talk about some of the problems that we still have really staring us in the face. I would like to bring the Social Security issue to the forefront because there has been a lot of discussion on Social Security and how it impacts the budget and is there really a surplus or are we using the Social Security money to make the surplus. There has been a lot of this discussion going on. I would like to make it as clear as possible as we look at the Social Security system.

This year if you look at your paycheck, Social Security is going to be paid to Washington, D.C. Washington is collecting about $480 billion out of the taxpayers' paychecks. They are bringing that $480 billion out here to Washington. They are writing out checks to our senior citizens of about $382 billion. If you think about this for a second, if you have $480 in your checkbook and you write out a check for $382, you would have $98 left over. That is Social Security. They have $480 billion coming in, $382 billion going out, and they have got $98 billion then left over.

The idea is this. It is not any different than it would be in virtually any home across America. This extra money coming in is supposed to go into a savings account. We all know the baby boom generation is rapidly heading toward retirement. There are a lot of us. Since there are so many people in the baby boom generation, there will not be enough money coming in to make good on the Social Security payments. Again if we look at this chart, the money in is 480, the money out is 382. When the baby boom generation gets there, those two numbers turn around and there would be more money going out and not enough money coming in. The idea is that this extra money coming in today is supposed to be in a savings account, and then when the numbers turn around, you go to the savings account, get the money and make good on Social Security.

It is funny that when I am in town hall meetings and I ask the question, "Now, Washington has this extra $98 billion. What do you suppose Washington is doing with the $98 billion?" Everybody in the town hall meeting says, "They're spending it." In fact, that is exactly right.

Washington takes that money, if you think of this center circle as a big government checkbook, they take that $98 billion, they put it in the big government checkbook, they spend everything out of the big government checkbook, and, of course, since there is nothing left they cannot write a check out to the pension fund, to the Social Security fund, so at the end of the year they simply write an IOU so they do not have to write a check out of their checkbook. That is wrong. That practice needs to be stopped.

It is important to understand that when people in Washington are talking about a surplus, they are talking about this circle over here. The $98 billion is in the checkbook and when they write out all the checks but not a check to the Social Security trust fund, if there is some money left they call that a surplus. The good news is that we are currently in surplus in an amount that it is actually more than enough to write the check down here to the Social Security trust fund. That is the first time in a generation.

We have introduced legislation out here; it is called the Social Security Preservation Act; it is H.R. 857. It is pretty straightforward. I think it is pretty commonsense stuff. It simply says that the money collected for Social Security, that $98 billion surplus, it goes directly into the Social Security trust fund. If that does not seem like Einstein kind of stuff to any of my colleagues or any of the folks that might be watching this tonight, it really is not, because in the private sector where I come from, if I would have bought a new car instead of putting the money in the pension fund and then wrote an IOU to the pension fund for my employees, they would have arrested me for doing it. Any executive of any company in America that is responsible for a pension fund cannot spend the money to buy a new executive car and then write an IOU to the pension fund. You have to put real money in the pension fund in any company in America, and certainly any hard-working American would expect that the pension fund actually has money in it. This legislation is called the Social Security Preservation Act. It is very straightforward. It simply says put the money down and into the Social Security trust fund.

Let us talk about tax cuts for a minute. Let us talk about the opportunity to have additional tax cuts for American people. Because there has been a lot of discussion that some people want to use this Social Security surplus for either tax cuts or new Washington spending. That is unacceptable. The Social Security trust fund money belongs in the Social Security trust fund. What if, however, in the general fund, without the Social Security money, there was some money left in the big government checkbook? If there is money left in the general fund, independent of Social Security, or if Washington could find some wasteful government spending that they could get rid of, certainly that is where the opportunity to reduce taxes further comes.

I would like to go to that issue, because what is really at the heart of this thing is if we can find wasteful Washington spending, we can eliminate the wasteful Washington spending and simply return that money to the hard-working people that earn the tax dollars before they send them out to Washington. That is how you get the tax cuts.

Could you do $100 billion of tax cuts? Yes. Could you do $200 billion of tax cuts or even more? Yes. The trick to this thing is understanding that there are two separate accounts here. One is the big government checkbook and one is the Social Security. Government ought to leave their hands off the Social Security money. But if we have got a surplus up here in the general fund, that ought to either be returned to the American people or used to pay off debt.

A lot of people say, "Well, look, you guys, you have been out there for 3 years, all of the government waste is gone and certainly you can't still find some wasteful government spending." I am going to go into that by entering into a little discussion on our audit.

Mr. Speaker, I see the gentleman from Michigan (Mr. HOEKSTRA) has joined me. I would be happy to yield to him.

Mr. HOEKSTRA. I thank the gentleman for yielding. As an introduction to I think where you are headed and what you want to talk about is a GAO report.

Just to give a little bit of background, I think you know that we have been working on a project which we call the American Worker at a Crossroads. It parallels an activity that we have which is Education at a Crossroads. For the last 6 to 8 months, we have had a special group of people taking a look at what is going on in the American workplace and taking a look at the appropriateness of American labor law. Another thing that we asked the staff to do is we said, "Take a look at our spending in the Labor Department."

The Labor Department gets about 29 to $30 billion a year, of which about $12 billion is discretionary, meaning that you and I every year have to vote on where that money is going to be spent and approve it on an annual basis. The staff got together. They met with the different departments within the Labor Department. They had staff interviews. They went to a number of different agencies to get a handle on where this $12 billion goes.

After a period of time we were reviewing this, and they said, "Pete, we've got a problem. We've taken a look at the $12 billion of spending, we've met with the Labor Department, we've talked to a lot of different people, and we can only account for about 75 to 80 percent. Nobody can tell us where 100 percent of this money goes."

It is kind of like, "Whoa." This is 3 to $4 billion a year that nobody really knows where it goes. This is not talking about effectiveness or efficiency or anything like that. "They just cannot tell us, Mr. Hoekstra, this money goes to this department for this agency to do this thing, and these are the people who receive the money."

So we said, "Let's call the General Accounting Office." We called the General Accounting Office. They came over, because I thought maybe I got the wrong staff. I mean, how can you not know where 3 or $4 billion goes?

Mr. NEUMANN. How much is 3 or $4 billion? It is $300,000,000,000. This is a big number.

Mr. HOEKSTRA. The company I used to work for, it was always the fifth year of our annual plan, we would be a billion-dollar company. They finally reached it a couple of years after I left there. But a billion-dollar company makes the Fortune 500 list. There are probably about 270, 280 on the Fortune 500 list. A billion-dollar company employs, at least in the industry that I was in, employs somewhere in the neighborhood of 5 to 6, 7,000 people, not counting the people who distributed the products, not counting the people who supplied to our company. A billion dollars is a big number.

Mr. NEUMANN. Would it be fair to say when we look at the Labor Department, they are missing $3 billion, and if we could cut out that part where they cannot find any, we could apply that $3 billion to tax reductions to the American people?

Mr. HOEKSTRA. I think that is right. I think this leads to where you are going. We then called in the General Accounting Office. I had my staff there. I said, "We've got a problem. I think we have a problem. We've taken a look at the Labor Department. We've taken a look at their discretionary spending. We have met with the Labor Department. We can't account for about 3 to $4 billion."

The response from GAO was, "Yeah."

It is kind of like, "What do you mean, yeah?"

It is kind of like, "Well, what's the problem?"

"Well, we can't find 3 to $4 billion. They can't tell us where it went. We'd like to know who got the money, what they were going to do with it, and whether they actually accomplished the goal and the objectives that we had set here from Congress."

They said, "Well, we're actually completing a report, and we're not surprised that you can't find 3 to $4 billion. We can't find it, either."

It is kind of like, "Oh?"

They said, "This is not just a Labor Department problem. When our report gets issued, you will find that this problem crosses all the different Cabinet posts here in Washington."

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Mr. NEUMANN. Reclaiming my time, I want to show you why that is, because again I come from the private sector, and having run a business, I really thought when I got out here that I was going to find, and these are each account numbers in the government. The national defense, for example, is 050, and international affairs is 150. I really thought what I was going to find is somebody responsible for the money being spent in the national Defense Department, so I thought what we would do is go talk to the folks that were responsible for the money in the 050 category, the national defense committee, and they would actually be responsible for spending that money. So I expected a chart to look kind of like this where we had a category and then somebody actually responsible for spending the money.

Well, I took some time and I put together what it actually looks like out here. Here is what it actually looks like. There is no account that has a particular responsibility across. The lines are all crisscrossing all over the place, and since there are so many different lines for this thing to go to, nobody really knows where the money is going to, and of course that is exactly what led to the GAO report that you got in your hands.

Mr. HOEKSTRA. If the gentleman would yield, I think when we have been out here before, because we are also, we are going to be issuing a report in July that was initiated before we started the Labor Department, because I have also got oversight responsibility for the education department. And I think you may remember over the last year, you know, your spaghetti chart that shows all these lines crisscrossing.

We came up with the same thing in education because we wanted to take a look and say who really has responsibility for helping kids in Washington and helping kids get a good education. That is, I am not debating the point whether we can actually do that in Washington. I am just saying, who in Washington believes that it is their responsibility? Where is this coordinated? We asked the Executive Branch.

We said, "How many education programs are there?" Tabulated them up, we went to GAO, we went to the Congressional Research Service. About 760 different education programs.

Mr. NEUMANN. Just for a second, when you have got 760 different education programs run by the United States Government.

Mr. HOEKSTRA. That is right.

Mr. NEUMANN. Along with every one of those 760 is a huge bureaucracy to run the program, and what is happening is the bureaucrats are getting the money that is supposed to be in the schools helping our kids.

Mr. HOEKSTRA. That is right.

Mr. NEUMANN. And how much would you say out of every dollar?

Mr. HOEKSTRA. Well, we have calculated that because the other, you know, the train of thought is 760, and the first thing is hallelujah, that is why we got an education department, so that we can take these programs and run them through one place, because that is what I would think: Education; education programs. Put them in one place.

Thirty-nine different agencies. Many were programs that sound very, very similar.

So, as we have taken a look at it, as the gentleman has asked, as we have gone around and we have taken a look, where does the money really make a difference? The money makes a difference when it is in the hands of a teacher in a classroom directly benefiting a child. The bureaucrats do not help the child one bit.

So when a dollar comes from Wisconsin or a dollar comes from Michigan for education and goes to Washington, we are estimating that about 60 to 70 cents gets back to a child, gets back to a teacher, gets back to a classroom. Thirty to 40 cents gets eaten up in this, you know, bureaucracy maze here, and we know that the dollar has to get to the child if it is going to make a difference.

So I mean when we talk about reforming education, and we are going to talk about some other things, we can get lots more dollars to the child in the classroom without spending any more money in Washington. All we have to say is we are going to do it different, we are going to take the money, we are not going to feed a bureaucratic machine. We are going to get the money to a teacher and to a child and to a classroom, and the money is going to be there, and we are going to have some proposals, we are making them up tomorrow in committee, to start doing that. It is only $3 billion, only $3 billion.

Mr. NEUMANN. I was just going to object.

Mr. HOEKSTRA. Yes, only $3 billion out of, you know, the $40 to $50 billion that the Education Department spends every year, but, you know, we are starting, and we are going to take it and we are going to put it into opportunity grants, which says we are going to get the money to a child and we are not going to give it to a bureaucrat.

Mr. NEUMANN. Just reclaiming my time, I cannot help but point out that the great State of Wisconsin is out in front of the country again on this issue, as they were with welfare reform under Governor Tommy Thompson. They are now out in front in terms of having parents have the opportunity to choose where their children go to school, what they are taught and how it is taught.

Wisconsin just passed school choice, and of course it is going to be run much like a Pell grant system. I know even in some of the parochial schools there is a lot of concern with the school choice topic, but when we stop and think about it, the United States Government already gives college scholarships called Pell grants even to students that are attending teacher and pastor training schools in a Christian education center.

So the idea that the government could possibly give these scholarships, like Pell grants, without attaching strings is something we are already doing at the college level, and it is now just a matter of expanding that program down so it applies to secondary and eventually K–12 education.

I look forward to it. I think it is a good move forward for Wisconsin. And you know the survey that we just looked at, there were 12,000 teenagers looked at, and they found the single most important thing for crime, for teen smoking, teen pregnancy, for drug use and for education, most important for education, parental involvement with their student. Parental involvement with that teenager is the single most important thing that we can possibly do to bring our kids and bring our education level back up in this country, and I sincerely hope that we figure out how at the national level to allow some of the same things to happen that have happened in Wisconsin.

I do want to jump to a couple of these others because this audit is something the American people should hear about.

Mr. HOEKSTRA. If the gentleman could yield for just a second.

Mr. NEUMANN. Go ahead.

Mr. HOEKSTRA. And, as we go through this audit, I just want to let the gentleman from Wisconsin know that for the last year and a half we have gone through this process at the education department, we have gone through this process at the Labor Department, we have gone through this process at the Corporation for National Service where we have audited them or we, you know, found out. We have done this for the National Endowment for the Arts, and it is very, very consistent. The money does not get to the places that it is intended to go, that we are not making the difference.

So anybody who believes, even if we agreed with every mission that the Federal Government has taken on, and I think you and I probably do not necessarily agree that everything the Federal Government is doing is something that the Federal Government ought to be doing, but even if you agreed with every mission that Washington has assumed today, there is no doubt in my mind that there is a lot of waste, fraud and abuse in the system, that we could deliver better results with the money that we have today and at the same time deliver a tax cut back to the American people. We can do it in the Education Department, we can do it in the Labor Department, we can do it in the Corporation for National Service, and I think the gentleman is going to share some other examples with me.

But we have done this work here on the House side. We have got the background and the data that backs up exactly what this GAO study is going to show.

Mr. NEUMANN. And I think that is the point of this whole discussion. We can do tax cuts without touching the Social Security money. There is absolutely no reason in the world that this government should take the money coming in from Social Security and use it for tax cuts or anything else. That money belongs in the Social Security Trust Fund, but that does not mean we cannot do tax cuts. There is so much waste, fraud and abuse to go out.

I want to again slow down a little bit and just make sure everybody understands what an audit is.

Again, I come out of the private sector. We ran our company, and I will never forget the first time that we wanted to borrow money in a bank, and the bank said you have to have an audit first. And I went: "What's an audit?"

And they said, "Well, an accountant has got to come in, and they got to look at your books, and they got to actually make sure that the money you say you're spending to build that house is actually being spent on, the money, on the house that you say you are building. And not only that, they would like to know that the revenue that you say you're getting from the sale of that house is actually enough to cover the money that you spent on that house."

So what happens is an accountant comes in and he looks at all your home sales over the course of the year, and he pulls out one or two, or she pulls out one or two or three of them. So if you are selling 120 homes a year, they pull out maybe a half dozen total, and they really go through them with a fine-toothed comb to actually make sure that the drywall check that went out for $3,200 actually went to the drywall company and not my rich uncle someplace or whatever.

They actually double check to see that what you say happened in your books actually happened, and that when you get to the bottom line the money in and the money out is actually what you reported on your taxes, and hopefully if the bank is going to lend you money, it made a profit, because if you do not make a profit you are going bankrupt.

Mr. HOEKSTRA. If the gentleman would yield for just a second, it is no different than what happens to an individual when they go apply for a mortgage.

Mr. NEUMANN. Exactly.

Mr. HOEKSTRA. The bank will go and they will verify, they will want to be able to verify your income, they will want to verify the balances on the other loans that you have outstanding, they will want to verify that what you want to buy is actually worth the amount that you want to borrow, and they will audit your records.

Mr. NEUMANN. The difference between a personal audit, though, and a company audit or between a personal audit and this government audit is, in a personal audit when you going to buy a house they verify virtually everything. And I just like to make the point that when they went through this government audit, they pulled out a random sampling to do these lookings. So these examples that I have got here of what they found in the audit, it is not like they audited the entire Navy and looked for every ship the Navy had. They pulled out a limited number.

As a matter of fact, this first one I got a picture of here, they pulled out 79 ships. They could not find 21 out of 79 ships that were supposed to be available. Just think about this for a minute. The Navy says these ships are there and they are waiting to be used. They are called inactive status at this point. Seventy-nine of these ships are supposed to be there. They went looking for these things. They could not find 21.

I mean we are not talking about a rubber ducky here in a bathtub. We are talking about a naval ship that they could not find. Think about what that means if there were ever a serious conflict in this Nation.

That is just one. Let me keep going a little bit.

The Air Force reported that they had this C–130 transport plane, and this is important to understand what this is, and I want to emphasize that this is a statement of concern for the well-being of our young men and women in uniform because just think about this for a minute:

If we were to enter into some sort of military conflict and this C–130 is supposed to be out there, and a C–130 is what they use to move troops around. So you now have these troops in a conflict situation, and we are supposed to take this C–130, and we are supposed to haul more troops up there so that they can be reinforced and not get overrun and literally injured, hurt or injured or killed.

Well, they went looking for this C-130, and it turns out it was destroyed back in 1994. It is almost inconceivable to me that you have a C–130, a transport plane for moving troops around, on your records as available, and you go looking for the thing and you cannot find it.

There is more. This one is really scary.

We are supposed to have a missile launcher, and if you do not recognize what this is, this is what you launch a series of missiles off of. They could not find the missile launcher.

Now since they think they have found it, but we have not verified at this point that they found the right one, and again it is so important to understand how significant this is to the safety and well-being of our men and women in uniform.

But it was not just the military, and I want to make that very clear.

This is the Department of Energy, and what you see here is a Hewitt Packard 3000 corporate business server, weighs 825 pounds, 825 pounds. The thing is 5 feet 2½ inches wide, 3 feet deep. I mean this is a huge piece of equipment. So they went looking for this $141,000 computer, and they could not find the computer either.

It did not stop there. We dug into this audit, and again coming from the private sector, I took some time to really start going through, and this caught my attention obviously. And you know this whole concept that there is no waste in the government and there is no more room for improvement in this government, that is ridiculous. We have got a long ways to go to get this place straightened out, but when I started digging into this some more, I would just like to read a few excerpts.

We had the GAO prepare a special report for my audit. This is what they said about Medicare. Now think about this number, and then think about the Medicare attacks last year. This is what they say on Medicare regarding improper payments: $23 billion, for reasons ranging from inadvertent mistakes to outright fraud and abuse, $23 billion missing out of one agency.

Let me translate into English.

Mr. HOEKSTRA. If the gentleman would yield for just a second, of course the way we calculate here in Washington, I am sure that is $23 billion over 5 years.

Mr. NEUMANN. No, sir, that is $23 billion in a single year. That is almost $100 for every man, woman and child in the whole United States of America, to put this in perspective. You know we throw these billions around like basically speaking that $1 billion is $4 per person. This is nearly $100 for every man, woman and child in the United States of America that is gone, for reasons ranging from inadvertent mistakes to outright fraud and abuse in one single agency.

But listen to this one. If anybody out there is not concerned with these pictures, listen to this. This is what the Air Force Logistics System found, and again now I am quoting word for word from the report that they sent back to my office. Three databases included in the Air Force's central logistics system contained discrepancies on the equipment, on the number of assets on hand, including ground-launched and air-launched cruise missiles, aircraft and helicopters.

Let me translate that into English. They went into the Pentagon, they looked at their central logistics system to try and figure out how many of these missiles they were supposed to have. When they went out in the field to find them, the number they found versus the number they were supposed to have was different numbers.

Let me read this one again, because of all of these things, this one scares the living daylights out of me.

Three databases included in the Air Force's central logistics system contained discrepancies on equipment, on the number of assets on hand, including ground-launched and air-launched cruise missiles.

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When you really go looking for this stuff, they cannot even find the air-launched and ground-launched Cruise Missiles.

Let me give you one more, and I know the gentleman from Michigan would like to jump in on this. The Forest Service, and again we have talked about the Air Force, we have talked about the Navy, we have talked about the Energy Department, we have talked about Medicare and the Air Force again. Let me give you another one. Here is Forest Service. The Forest Service could not determine for what purposes it spent $215 million.

When we look at this government and we look at the tax rate on the American people, and then we go into this sort of thing and we find out what a mixed-up state of affairs we have out here, it is very, very clear to me that if they get their act together to a point where they actually know what they have and know where the money is going to, we can clearly find enough ways to reduce the tax burden on the American worker and accomplish all three of our goals, and that is leaving the government's hands off of Social Security, reduced taxes, and start paying down the Federal debt. But the way you do that is you go after these wasteful government programs.

Mr. HOEKSTRA. I think the gentleman is exactly right. When we have taken a look at the Education Department and when we have taken a look at the Labor Department, they cannot find or tell us where all the money went, and then we come back and we ask them specifically on program-by-program, give us some indication as to whether we are achieving the kind of results, the kind of effectiveness that we would like to have, and there are no benchmarks. We cannot go in and say this is what we are trying to do and these are the kinds of results that we are getting, so that the money we are actually spending is actually making a difference.

So you are identifying, I think, some pretty scary stuff, because you are again identifying, we could not know where the money is going, so that is almost an immediate savings that you could identify that says if we do not know where the money is going, we cannot be getting a whole lot of results for it.

Then the second thing is you can overlay that even when we know where the money is being spent, we do not know the kind of results that we are getting. So if you put that in the context of the Labor Department, we do not know where 25 percent of the money goes, and for 75 percent we do not know whether we are getting the kind of results we want to have.

In education we are spending $100 billion a year. We know that a good portion of that money stays with bureaucrats and bureaucracies, so that we know that that is not helping kids. And then you take a look at the money that is actually filtering down with the strings that are attached to it. And, again, it may be a barrier to a local school, a teacher doing what they feel they need to do in their classroom, because the money comes and tells them what to do. So, again, we do not have an idea as to how effective those dollars are.

Mr. NEUMANN. I think it is very important in this discussion that we point out there is something being done about this. I would just like to walk you through what has happened so far, since we found this, and where we are going next with this thing.

I have to tell you, if this was my home building company and the person responsible for building 79 homes walked in my office and said, "Mark, I have good news for you; I found all but 21 of the 79 homes we built last year," I have to tell you, I would not have the patience for what we are proposing in this legislation.

But when I proposed the legislation and we had our first hearing, we start hearing people concerned that we have gone too far here.

So let me say what has already been done. We brought a resolution to the floor stating this should have consequences to each one of the 24 agencies. That was relatively easy, because when you say "consequence," nobody is hurt because nobody knows what consequences are.

We have gone the next step and I have written a piece of legislation, and here is what it does. It says in each one of the 234 agencies, we are going to identify the group of people responsible for knowing where the money is coming from and knowing where the money is going to and knowing where the equipment is. So we are going to identify the people who are actually responsible for the information contained in these audits.

We are going to give them 12 months. At the end of 12 months, if they cannot pass an audit, that group of people is going to have to find something else to do with their lives other than work for the United States Government. Also the agency will at that point lose 5 percent of their funding.

Now, the idea behind this proposal is twofold. First, we would like to identify the people responsible and actually place responsibility on someone, instead of saying it is that agency over there with no face attached to it. We would like to point out specifically who it is with responsibility for it.

We would like to also empower those people to have the people at the agency work with them to solve the problem. So we want to go at this, and, understand, they have already had four years in this whole thing. The bill started four years ago. So they have had four years already to bring the thing up to speed.

So when we say 12 months, what we are really saying is, we do not want to be heartless about this and go, you are fired tomorrow, although maybe that is what I would do in my own company. You have 12 months to get your act together. You specifically have the responsibility for it, and, if you are not successful, not only are you going to have consequences, but the agency itself should expect to have 5 percent of their funding withheld.

Now, what that should do is get the employees and the agency to work with the people responsible for straightening this mess out to a point where we actually can track the money that is going through, and not only track the money going through, but also track the assets of a particular agency.

Mr. HOEKSTRA. If the gentleman will yield, we are doing some of the same types of things in the whole area of education. You start with a resolution, kind of like what you said, there will be consequences. In the education area we set a goal.

We said that as a Republican Conference, or as a House, we passed a resolution here saying we want 95 cents of every education dollar to reach the classroom.

Tomorrow in committee, we are going to be working on a dollars-to-the-classroom piece of legislation, which is going to take a number of programs and put them into opportunity grants so that the dollars now flow to the classroom, flow to the child, rather than flowing through bureaucracy.

So we are making progress in moving along, in getting at these issues. So it is not just an issue of hey, look, it is broke. It is broke. We are working at constructively going after these problems, identifying why they have come up, how we can fix them, and now we are going through the legislative process of actually making a difference and changing the way things work in Washington.

Mr. NEUMANN. I just want to keep coming back to that point. The key here is as we eliminate this waste, it provides us with the dollars necessary to reduce the tax burden on the American people, while, at the same time, leaving our hands off of Social Security, which is what the Social Security Preservation Act does, and, at the same time, starting to make some payments on the Federal debt.

This is the bright optimistic vision for the future, a debt-free America for our children, Social Security restored for our senior citizens, and a lower tax burden on the American people.

I see that my good friend Mr. KINGSTON has joined us.

Mr. KINGSTON. I thank the gentleman for yielding. I have been listening with much interest on what you two have been doing on this, and I know you have been at it for many years and making progress. One of the things we have come across on the Committee on Appropriations, as you know, is plain out inefficiency, which is what this is, and the biggest example that we hear the most complaints about is the IRS.

One of the examples that was testified is the IRS went into a restaurant in New York, asked the patrons to leave, put down their forks and knives, leave, because the restaurant was behind in their payroll taxes. A month later it was proven that it was a mistake.

So what does the IRS do? They say gee, whiz, we are sorry. Think about that in the private sector, if you had somebody in charge of enforcing a law, a rule or whatever, in your company, and they blew it, just completely blew it.

We are on the verge of passing a bill in on the IRS which is similar to the legislation you are working on for an intangible efficiency, if you will, but of saying that if you are dragged before the IRS, you are innocent until proven guilty, and it will do the same thing that your legislation does and what you are trying to do in education. It makes the individual frontline employee a little more careful to make sure he or she knows exactly what the goal is, what the rules are, and who the victim is. They put their rights out there and makes folks think twice.

As you know, another interesting thing about the IRS is they could not be audited, because their books were in such disarray no one knew where the head of the snake was. But we are taking steps to change that.

Mr. NEUMANN. Reclaiming my time, I would just like to bring you a personal experience from the private sector, because I have had one of these IRS experiences. It is almost like an out-of-body experience when you are done with it, because it is so bad.

When I first started in business, they assigned us two separate Federal tax ID numbers. Now if you want an absolute nightmare, get two Federal tax ID numbers. Because what would happen is we would file the appropriate tax forms under the appropriate tax ID number, but since we had a second tax ID number, the IRS came after us for not filing the forms that we had just filed.

So then we would then refile the forms under the new tax ID number, and, of course, then they would immediately come back after us for the old tax ID number that they still had assigned to my company.

This went on for months. I would pay taxes and they would send me a bill, and I would pay taxes and they would send me another bill. I would look at the bill and say I know I do not owe that money, but it is easier to pay them $600 that they are asking for than to fight with the people. So you would send them another check for $600, and then they would send you another bill a few months later on the other tax ID number.

This went only for a period of I do not remember how long, until finally we got sick of paying them the double tax rate and said we are not going to pay you anymore. We, of course, would pay them the one under one number, but we would not pay under both numbers anymore. It was going to bankrupt us, for crying out loud.

So we finally said we were not going to pay it anymore, and it got within two weeks of them posting a tax notice on my door saying you had not paid your taxes.

Finally, that was back long before I ever thought of Congress, I called the Congressional person, and the Congressional person actually made the IRS people actually sit down and look at the records and how much taxes we paid, and, if my recollection is right, they did send us some of the overpayment back. But it was an absolute nightmare from start to finish.

If you are a small business owner, you cannot afford the time to go fight with the IRS. You got enough to do to keep your head above water and keep from going bankrupt in the first place.

This is our early days. We were just out of our basement. We had started a business in the basement of our home and we were in our first office struggling to make it. I will never forget the hassle we went through as they gave us these two separate ID numbers. So I have some personal experience with it.

Mr. HOEKSTRA. If the gentleman will yield, what we are talking about here is putting accountability into government. I will give you an example. The gentleman from Georgia (Mr. KINGSTON) and I came here in 1993, and one of the first pieces of legislation that came out of the committee that I serve on was called Education and Labor, was the Corporation for National Service, AmeriCorp, a brand new agency.

In 1995, I got responsibility for oversight for the Corporation for National Service. A brand new agency. It filtered in a couple of smaller agencies. In 1997 we did oversight. Because the President promised us this organization would be set up like the best in the private sector, I voted for this bill.

In 1997, none of their books were auditable, meaning that you could not take in an outside auditor and say that the money that came in from the American people and went to the Corporation for National Service was spent the way that it was intended to be spent. They could not tell us where the money went. It also set aside money for the scholarships that these kids earn for college. That was not auditable. It did not have integrity.

What is the response you get? If you say we want to put accountability in, it is like you are against AmeriCorp. It is kind of like, no, we want to know where the American taxpayer money went. We are doing what you had to do in the private sector, what I had to do in the private sector; we had to put accountability into our organizations, and we had to put integrity into the financial structure, because if you do not have accountability and if you do not have integrity, you are out of business. And in Washington, these programs just run on forever.

Mr. NEUMANN. As we talk about this, and I mentioned it earlier in the hour, I do think it is very, very important to keep this in perspective. When we came here three years ago, when all of a sudden it was a different group of people in control the House of Representatives, we had to first stop the bleeding.

We had a deficit of $200 billion a year, plus they were stealing the money out of the Social Security trust fund. We had to stop the bleeding before we could go and look at the next step and start getting into some of these older problems that had to be dealt with.

It is only because we have stopped the bleeding that we have gotten to a balanced budget, we have slowed the growth rate of Washington spending. It is only because we have slowed that bleeding, so-to-speak, or at least dramatically slowed it down, that we are able to now go to the next level and start solving some of the internal injuries, if you like, in this thing.

You first have to get spending under control to get to a point where you can take a look at the next level here, and that is what has been accomplished in three years.

The only reservation I have in this discussion, clearly all of this is wrong, but I think it is very, very important that we keep in perspective how far we have come in three short years, and then how far we still have yet to go.

☐ 1915

The gentleman will remember, when our class came here 3 years ago, one of the projects was to sell a building, and we all worked very hard on that. The gentleman from Michigan I know remembers our group who came 2 years before, we were 100 percent there. But as I recall, we were told that in this massive $1.7 trillion Federal Government, that there were no buildings that they could spare to sell.

I do not remember what actually happened to that. I remember there was a tremendous fight to try to sell one building in the name of symbolism. Did one actually transfer, does the gentleman remember?

Mr. NEUMANN. Mr. Speaker, all I know is in the appropriations process right now we have made the decision to go forward with building more buildings.

In the debate we have had here in the 3 years since I have been here about the draconian cuts imposed on America by the Republican Party, what people have failed to mention is that in fact, spending has kept going up faster than the rate of inflation.

What they actually meant by "draconian cuts" is that instead of letting spending go up at twice the rate of inflation, we were going to stop the growth rate and at least hold it to the rate of inflation. When the gentleman talks about selling a building or building new buildings and so on, we need to understand that government spending is still going up at the rate of inflation. That is why they are struggling to sell off a building.

If we actually got to a point where we went after this waste and fraud and abuse in this government so we actually could reduce spending in real dollars, so that it was no longer going up as fast as inflation, which is what I think all 3 of us standing here would like to see, that is when we can actually do some tax reduction for the American people that is real, and we can also start doing things like eliminating some of the government property that we no longer need.

Mr. HOEKSTRA. If the gentleman will yield, Mr. Speaker, I just want to really thank the gentleman for putting it in perspective, what our priorities are: saving Social Security, paying down the debt, and reducing the tax burden.

Then when we take a look at not discussing the role or the mission of the Federal Government, because that is another debate, but just saying if we collectively decide that we are going to do everything that the government does today, but we are committed to do it more effectively and more efficiently, we can do those three objectives. We can save Social Security, we can pay down the debt, and we can lower taxes, just by saying we are going to be more effective and more efficient.

Then if we decide that certain of these things no longer need to be done by the Federal Government, we can even go faster towards those objectives.

Mr. NEUMANN. I get excited when we get to this point, because all of a sudden we begin to understand that we are no longer in 1993, whining and crying that we cannot do anything other than raise taxes on the American people to solve government problems.

All of a sudden, we understand that if we just get spending under control, we get our arms around some of this stuff and get it stopped, we can actually have this vision for the next generation, that the best days of America can be out in front of us instead of behind us.

If we can start looking, if we think about this for a minute, at controlling spending to the point where we can start paying down the debt, when we pay down the debt, $1 out of every $6 this government spends does nothing but pay interest on the debt. As we pay down the debt, it is easier to put the money aside for Social Security that should be put away for Social Security, and all of a sudden Social Security is safe for our senior citizens.

Of course, as we pay down the debt and the interest goes down all of a sudden, and we do not need that $1 out of $6, we can reduce the tax burden. Think about this vision for the next generation. We pay off the debt and give this Nation to our children debt-free. We stop stealing the Social Security money and in fact put the money back in that has been taken out. Social Security is safe and secure for our senior citizens.

We can reduce the tax burden, so when we look at a family, we do not have to have two people working two jobs each in order to make ends meet, when all of a sudden they do not have to be at that second and third jobs in order to pay their bills because the tax burden is so high.

I get going on this, but it is so important to remember, a generation ago the government, in all the different forms, only took $25 out of every $100 a person earned. Today they take $37 out. That extra $12 they are taking forces people to get a second and a third job, and when they get a second and third job, they spend less time with their kids.

That leads me right back to the education problem the gentleman has been talking about. When parents spend less time with their kids, the outcome is a poorer education, the outcome is more crime problems, more drug problems, more teen pregnancy, more teen smoking. All of the things wrong with our society happen when the folks have to take the second and third job, instead of having at least the opportunity to spend more time with their kids.

Again, I am not naive enough to think that if we simply reduce taxes all of the problems are going to go away. That is not going to happen. If we reduce taxes, at least parents will have the opportunity to make the decision to spend more time with their kids. In education, we need to empower the parents to have a role in the process of deciding what their kids are taught, where it is taught, and how it is taught.

As with we empower parents to make those decisions, they become more involved with their kids' lives, and we should expect a reduction in crime rate, a reduction in teen pregnancy, a reduction in drug use and teen smoking. That is the vision for the next generation we are talking about here.

Mr. HOEKSTRA. If the gentleman will yield, Mr. Speaker, even with the small tax cuts we did last year, the family that the gentleman talked about earlier, it is $2,300 per year that they are going to save. It is $2,300 after taxes.

Mr. NEUMANN. Yes, sir.

Mr. HOEKSTRA. That is about $40 to $50 a week that this family is going to have in increased disposable income. Somebody can say, maybe I will work a few less hours, but it is a choice they can now make that they did not have before.

Mr. NEUMANN. Let me put this in very real terms. That family of 5 I am talking about, they are a $50,000 a year kind of family. When Christmas comes they want to buy presents for their kids, but they are living paycheck to paycheck as they go along. All of a sudden when they get to Christmastime, what happens? The mother takes a second job so they can buy Christmas presents for the kids.

If we get the tax down, they have already the $2,300, we hope to go further, the taxes are down $2,300, she may still take the job and put the money in retirement, but the bottom line is, it is now her choice. It is not done out of necessity to be able to buy the Christmas presents, it is now being done out of choice as opposed to necessity. We have empowered that mother to make the decision at Christmastime to not go out and get a second job so she can pay for the Christmas presents.

How have we done that? We have simply let them keep more of their own money that they earned anyhow, instead of government spending it.

Mr. HOEKSTRA. The gentleman has just said it, not as much for Washington.

Mr. NEUMANN. Exactly.

Mr. KINGSTON. If the gentleman will yield, let us take that a step further. That is what I find so offensive and so absurd about what to do with the surplus. Both Members have outlined, and I am in 100 percent, there is really not a surplus. We have just taken the excess collected for Social Security, mixed it in the general revenues, to hide the deficit that is in the general revenues.

Mr. NEUMANN. Reclaiming my time momentarily, I have good news. I did not bring this out as clearly as I should have. We are now in surplus in both the general fund and in the Social Security fund. There is such good news on the economic front here. We now have a surplus in both funds, both general and Social Security. It is good news.

Mr. KINGSTON. That is excellent news. Let us take the Social Security completely out and do what the gentleman is proposing in his legislation, build a wall around it.

The point I am really getting to, if you are walking down the street and you find a wallet with $100 in it, you do not immediately start thinking, how am I going to spend this? You think about, who does this belong to? How do I get it back to them? That is what we in Washington should be doing with any surplus, saying, whose money is this? How do we get it back to them?

That should be our number one question in the context of let us pay off debt, money we have borrowed; but mostly, let us figure out whose money it is, which is not a hard question to answer, and how do we get it back to them, instead of what new programs should we start and what new buildings, airplanes should we buy, particularly when we are losing objects, large objects, like the gentleman has outlined.

Mr. NEUMANN. Is this not an exciting conversation, especially when we put it in the perspective of where we were 3 or 4 short years ago, where it was the wringing of our hands, and how are we going to get more money out of the pockets of the American taxpayer to give us enough to spend out here?

Now, here we are, standing here having this debate about, well, we are going to be able to put the Social Security money aside. This will be the first year, by the way. This will be the first year that we are actually able to put the Social Security money aside the way it is supposed to be, and it now appears that there is a surplus in the general fund besides. That is the $100 the gentleman is talking about, that surplus in the general fund, not the Social Security fund. That is the money that ought to be used for both tax reduction and restoring the Social Security, paying down the debt as we move forward.

What a wonderful generational objective or goal here, if we could pay off the debt, give the kids a debt-free Nation, restore Social Security so it is safe for today's seniors and the baby boomers, and also lower the tax burden on working Americans. Is that not really—does that not make our congressional service here worth it, if we can bring the country back in that direction, especially when put in the perspective of where we got it 3 or 4 short years ago?

Mr. HOEKSTRA. I thank the gentleman.

MISLEADING STORY BY CNN AND TIME MAGAZINE

The SPEAKER pro tempore (Mr. DIAZ-BALART). Under a previous order of the House, the gentleman from Colorado (Mr. McINNIS) is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, I don't know how many can remember, but about 2 weeks ago CNN started their headline news. Their leading story on CNN was how the United States military used a poisonous gas that by international treaty is a violation and considered a war crime. CNN did not say there was speculation. CNN did not say there was an allegation. The CNN/Time article said it was used to go in and get American defectors.

What CNN/Time failed to mention to the American public was their source of information. The original source of information was a lieutenant. The lieutenant did not remember this gas. In fact, he said he forgot it for 25 years, went without this memory, until he happened to be interviewed by one of the reporters with CNN and Time.

During that interview on Easter Sunday, and by the way, the gentleman is a heavy drinker, he all of a sudden recalled that 25 years ago the United States military went and used poisonous gases on the Viet Cong. It is an international war crime.

So CNN goes to their second source. CNN does not mention to the American public that their second source has filed for a full disability, so he has every incentive to come out and agree with the first source's story.

Guess what? Thank goodness, Newsweek decided to look a little closer, to investigate the facts, not to run a story that impugns the United States government, impugns the United States military, impugns the commanding officers during that period of time, impugns the President of the United States, Richard Nixon, by alleging that this poison gas, a war crime, was used in secret.

No, Newsweek decides to do their homework. Guess what they find out?

They are the ones that come out and say, wait a second, the other people involved in this say this is a bunch of nonsense. The pilots say, it could not possibly happen, we did not have masks. The general, who by the way was a third source for Time/CNN, 88 years old and in an assisted care facility, denies that he said what Time and CNN said he said.

Peter Arnett, we all know Peter Arnett, what was his response to Newsweek? "It is one side of the story. I think it was a fair article." Yes, well, Mr. Arnett, you were not on the receiving end of this thing. How would you like to have your integrity, and to the executives at CNN and Time, how would you like your integrity impugned? How would you like that to happen to you before they went and verified the facts?

Not a credit to Time magazine, not as the partnership of Time/CNN, but in credit to Time, I will say, and in reverence to full disclosure, Time magazine has said that they are going back to the story, they are going to reinvestigate the story, and they will report the facts as they find them. So at least they have acknowledged that they need to look at this just a little closer.

But does this remind Members of a Richard Jewell kind of case? Remember Richard Jewell, the so-called alleged Olympic bomber, who the press could not wait, within hours, and in fact, they were there at the time the police went to Mr. Jewell's apartment? They destroyed the man. Just remember this story. All of us remember 2 weeks ago what Time and CNN did.

Mr. Speaker, I can tell the Members that Time and CNN and every other press, every other publication or every news media in this country expects the United States Congress to have integrity, expects us to check our sources. We know any time or a lot of times we do not, we get barbecued by them. That is as it should be. But it should also run in the other direction.

In my opinion, the United States of America has a military that is second to none, has a military that has lots of officers and lots of enlisted people who have very high integrity, are people of strong dedication, strong moral values.

How do Members think they felt when on the lead story out of CNN, and Time runs a big story in Time magazine, that says that the United States military committed war crimes, war crimes? The same kind of crimes, war crimes, that people were executed after World War II for committing war crimes. These national publications accused our government of committing a war crime by using, by the way, the chemical sarin, of using that chemical.

□ 1930

My gosh, these are two of the leading media institutions in this country, and they have an ethical obligation to check those sources. Thank goodness that Newsweek stepped forward and ran the kind of investigation they ran.

I beg of Time magazine, to all those executive officers, and I hope some of them are listening tonight as I speak to my colleagues here, I beg of these people, go back, check that story. And if that story is not true, give the United States military, the United States military personnel, President Nixon and everybody else that was impugned by those articles and by that press release, give them the same kind of coverage and retraction of this article as you gave in attack as a result of this article.

THOUGHTS ON EVENTS IN TIANANMEN SQUARE

The SPEAKER pro tempore (Mr. DIAZ-BALART). Under a previous order of the House, the gentleman from South Carolina (Mr. INGLIS) is recognized for 5 minutes.

Mr. INGLIS of South Carolina. Mr. Speaker, let me thank the gentleman from New Jersey for allowing me to proceed at this moment, appreciate that very much.

In May of 1989, students began a protest for democratic reforms in Beijing's Tiananmen Square. Their movement began modestly, then swelled to thousands as they occupied the square in what they saw as a people's movement. From the flat stone of the square they erected a 10-foot-tall likeness of the world's most recognizable symbol of freedom, the Statue of Liberty.

Threatened, divided, Beijing's hard-line leaders invoked martial law and ordered the army to the square. Huge throngs, possibly amounting to more than 1 million Chinese, took to the streets to defy martial law and block troops from their planned crackdown on China's young freedom fighters.

The world saw gripping pictures of an unarmed man refusing to give way to an approaching tank.

"With the people behind us, we'll succeed," one student told a reporter. "No government can survive by using the Army against its own citizens."

Tragically, he was wrong.

The New York Times reported the following scene on June 4, 1989:

> Tens of thousands of Chinese troops retook the center of the capital early this morning from pro-democracy protesters, killing scores of students and workers and wounding hundreds more as they fired submachine guns at crowds of people who tried to resist.

The hard-line leaders gave personal attention to the students' Statue of Liberty. "Push it down," they ordered.

We stand with the students. We do not stand with the dictators. The students of freedom look to their teachers, to the shining city on the hill. Lady Liberty searches the horizon for her fallen likeness. She listens for our voice. Let us be her voice.

Let us say for her, as Moses said to Pharaoh, "Let my people go."

Let them go out of your prisons of conscience. Let them go out of your slave labor camps. Let them go out of your forced abortion clinics, and let our brothers and sisters worship our God, the creator and sustainer of the universe. Yes, with Lady Liberty, let us say, "Let my people go."

Last week, 51 Members of this House sent a letter to the President pleading with him not to be received in Tiananmen Square. Go, if you must, to China, but do not go to Tiananmen Square, we urged. Do not let compromise and cajoling wash away the memory of those students.

They died for freedom. Let that stand. Let the dictators know that no American President will be received there, not until the dictators are gone and the teachers of freedom have erected a new Lady Liberty, our gift to the students, the students of freedom.

I was in school when President Reagan, standing in front of the Berlin Wall said, "Mr. Gorbachev, take down this wall."

Many saw the scene as a reckless, silly old man standing against the night calling for the light and truth of freedom. But President Reagan was sure of what he spoke. He stood for freedom. He stood for principle, and he dared to dream of a different and better world.

How can it be that we have shifted so quickly to a place of compromise and appeasement, to a place of favoring corporate profit over foundational principles, to a place of investigating the nearly unutterable, that campaign contributions may have driven the transfer of American-made missile guidance systems to an enemy of freedom?

Last week the House voted 409 to 10 to set up a special nine-member committee with far-reaching authority to look into whether U.S. national security has been undermined in this matter. According to our intelligence agencies, at least 13 intercontinental ballistic missiles with American missile guidance systems may be pointed at the United States of America.

"Knock it down," the dictators ordered. God forbid that it should happen to the real Lady of Liberty. God forbid.

REPORT ON H.R. 4112, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999

Mr. KINGSTON (during the special order of Mr. NEUMANN), from the Committee on Appropriations, submitted a privileged report (Rept. No. 105–595) on the bill (H.R. 4112) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. DIAZ-BALART). Pursuant to clause 8 of rule XXI, all points of order are reserved on the bill.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4103, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

Mr. McINNIS (during the special order of Mr. PALLONE), from the Committee on Rules, submitted a privileged report (Rept. No. 105–596) on the resolution (H. Res. 484) providing for consideration of the bill (H.R. 4103) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4104, TREASURY, POSTAL APPROPRIATIONS ACT, 1999

Mr. McINNIS (during the special order of Mr. PALLONE), from the Committee on Rules, submitted a privileged report (Rept. No. 105–597) on the resolution (H. Res. 485) providing for consideration of the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MANAGED CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, tonight I would like to talk again about the issue of managed care reform, and I have said before on the floor that this issue, without question, has become one of the most important on the minds of Americans, not only in my district but I think throughout the country.

The reason that it has become so important is because patients are being abused within managed care organizations. Patients often lack basic elementary protections from abuse, and these abuses are occurring because insurance companies and not doctors are dictating which patients can get what services under what circumstances.

Within managed care organizations or HMOs, the judgment of doctors is increasingly taking a back seat to the judgment of insurance companies. Medical necessity is being shunted aside by the desire of bureaucrats to make an extra buck, and people are literally dying because they are not getting the medical attention they need and, ironically enough, are in theory paying for through their premiums.

This is not an exaggeration. Myself and the gentleman from Iowa (Dr. GANSKE), who will be joining me tonight, and other colleagues on both sides of the aisle have told numerous stories about people throughout the country who have been negatively impacted by managed care.

As I mentioned before, because of the importance of this issue, there are a number of legislative proposals that have been introduced to give patients the protections they deserve from managed care organizations. And working with the Democratic Caucus' Health Care Task Force, which I co-chair, the gentleman from Michigan (Mr. DINGELL) introduced legislation which would provide patients with a comprehensive set of protections from managed care abuses.

His bill, the Patients Bill of Rights, is not an attempt to destroy managed care. It is an attempt to make it better. To emphasize that point, supporters of managed care reform want just that, reform, not a dismantling of managed care.

The Patients Bill of Rights would help bring about that reform by putting medical decisions back where they belong, with doctors and their patients. I have to mention that this is also a bipartisan bill, with 7 Republican cosponsors, including my colleague the gentleman from Iowa (Dr. GANSKE).

Unfortunately, though, the Patients Bill of Rights does not enjoy the support of the Republican leadership. It is not clear exactly where they stand on the issue of managed care reform. There is still a task force that the Republicans have put together and has been meeting, but so far the Republican leadership has not allowed any managed care reform bill to be heard in committee or to be marked up in committee or to come to the floor, and I believe that that is because of the power of the insurance industry that that has not happened so far.

Mr. Speaker, tonight I just wanted to say that there have been some recent important developments on this issue. I am going to let my colleague, the gentleman from Iowa (Dr. GANSKE) go into some of this, but I just wanted to say that legislation was introduced today by the gentleman from Iowa (Dr. GANSKE) and the gentleman from Michigan (Mr. DINGELL), again on a bipartisan basis, to try to bring the Patients Bill of Rights and possibly other managed care reform to the floor through what we call a discharge petition. Basically a discharge petition is necessary when the House leadership will not allow a bill to come to the floor through the normal committee process.

I just wanted to say how much I appreciate the efforts of my colleague from Iowa, not only in introducing this discharge petition today with the gentleman from Michigan (Mr. DINGELL) but also because the gentleman from Iowa (Dr. GANSKE) has been an outspoken champion and leader of the movement here in the House to bring the Patients Bill of Rights to the floor, and I think he deserves a tremendous amount of credit for that reason.

The only thing I also wanted to mention today about this discharge petition is that I believe that there is a tremendous amount of support for this. As my colleague knows well, we have been working closely with over 150 groups that support the Patients Bill of Rights. I think the Patients Bill of Rights now has 192 cosponsors.

Another bill on managed care reform which the gentleman from Iowa (Dr. GANSKE) has supported, the PARCA bill, has even more cosponsors, from what I understand, so I do not think it is going to be difficult to get support for this discharge petition.

The last thing that I did want to mention though, before yielding to the gentleman, is that we are going to push for this discharge petition over this week and during the congressional recess so that when we come back, we hopefully will get enough signatures so that we can bring the Patients Bill of Rights to the floor.

I am still very concerned that the Republican leadership is going to try to produce a watered-down managed care reform bill. As we know, the Speaker has already rejected one proposal by the GOP task force because it had too many patient protections in it. There are reports now that some patient protections have crept back into the GOP plan and that the task force will come forward with a bill this week or sometime in the future. But I think we need to watch out that it is not legislation that is substantially weaker than the Patients Bill of Rights or the PARCA bill or some of the other strong legislation that we have been pushing. Obviously, we are going to keep a careful eye on that as we proceed over the next few weeks.

With that, Mr. Speaker, I yield to the gentleman from Iowa (Dr. GANSKE).

Mr. GANSKE. Mr. Speaker, I appreciate the remarks of my colleague from New Jersey. Once again, here we are on the floor addressing our colleagues about abuses in managed care as they relate to a Federal law that was passed some 25 years ago called ERISA, Employee Retirement Income Security Act, which basically gave legal immunity to health plans that are health plans for self-insured employer plans.

I think without that prior Federal legislation, we would not need to be here tonight. But because the majority of people who get their insurance from their employer are now in HMOs versus the traditional type of indemnity insurance, and because so few of them have a true choice in terms of the health plan that they choose, many employers now will only offer an employee one plan, take it or leave it, so that if you are talking about choice in the health care marketplace, you are really talking about having to change your job before you have a choice.

I do want to address the issue of the resolution that I introduced today along with Mr. DINGELL. Nothing would please me more than to hear my Republican leadership say before August recess we are going to have a full and fair debate on the floor on managed care. After all, we have two bills, the Patients Bill of Rights, Patient Access to Responsible Care Act, with broad bipartisan support. I think it is well recognized that if there is debate on the floor, one of these bills could easily pass with much more than a majority.

□ 1945

There is significant sentiment in the Republican Conference for a patient protection legislation. So it would please me greatly if my own Republican leadership would come out and say, do you know what, we agree with 9 out of 10 Americans that we should pass Federal legislation with federally enforceable standards for quality protection.

We are going to bring this to the floor in a fair manner, not with the type of rule that we have seen with campaign finance reform, which is death by 1,000 amendments, but a fair rule giving both sides of the issue a chance to debate this issue on the floor, to talk about the abuses in the industry, how to fix them, how to provide protections for the average American similar to the type of protections that we have already passed for Medicare patients and the balanced budget act. We will go into that in a little bit more detail.

So nothing would please me more than to have the leadership not make a discharge petition a necessity. Unfortunately, we have seen over the last 3 months, one delay after another from the Republican Health Care Task Force.

We are told that tomorrow we will hear about some principles of legislation coming out of the task force, but we are also told that a bill is not available to look at. In fact, there may not be a bill available until after the Fourth of July recess.

As everybody knows, we are looking at a shortened legislative session. And I think it is fair to say from conferences I have had with my colleagues that there are some Members of the House and of the Senate that want to delay this legislation and delay it and delay it; delay it until we get into October, and then all of a sudden, gee whiz, we have to adjourn so we can go home and campaign for the fall elections. It is just too bad that we did not get to this issue.

I do not think that that is the right way to go, and so I am looking forward to the Republican leadership responding to the majority of the House bringing this forward for a full debate in a fair way with a fair rule, time-limited fashion, prior to August recess. If that is the case, there will not be any need for a discharge petition.

But I would just like to talk a little bit, before yielding back to my colleague, about why we need this legislation. We could come here to the floor every night, and we could give case after case of an abuse in the managed care in the industry. But I want to just read one story written by the patient about how he was treated by his HMO.

This is related by a fellow by the name of Edward Mycek, and these are his words:

> In November of 1997, I found out that I had prostate cancer. After discussing treatment and recovery options, my doctor advocated surgery to remove the prostate. I decided to get another opinion.
>
> After consulting with the new doctor at Loma Linda University Medical Center, I decided on proton and 3-D conformational radiation treatment. The new physician and his staff concluded that I was an excellent candidate for the treatment for a number of reasons.
>
> The doctors at Loma Linda Medical Center then contacted my insurer, which said that it would pay for the full treatments. In fact, my insurer called back to inform me that the insurance policy covered these treatments, and they would notify the medical center that the procedure had been authorized. The authorization never arrived at the medical center.

So, Mr. Mycek continues:

> Worried about the delay of my care, I called my insurer, who told me that they had reversed the decision. The company claimed that this treatment, this radiation treatment was 'experimental and investigational.' Loma Linda, then faxed factual information to my insurer which explained that the procedure was not experimental or investigational.

In fact, I as a physician have known about this treatment for a long time. It is a commonly accepted type of treatment for prostate cancer.

The medical center doctor also wrote a letter that discussed the differential recovery rates. The radiation had a recovery rate of 98 percent versus 83 percent for surgery.

Mr. Mycek continues:

> After several stressful weeks, I was still denied hope. I asked my insurer what other treatments were covered. They responded by saying they could not say. After being passed back and forth like a ping-pong ball, I could not wait any longer.
>
> On February 17, 1998, after paying up front himself, I began my first of 44 radiation treatments. This is a financial burden on our family. Today I have completed all 44 radiation treatments, and I am due for a checkup.
>
> After all is said and done, Mr. Mycek continues, I still feel that I have been denied needed care by an agent 3,000 miles away, seated at a desk and appointed by the company to decide the quality of care I receive. I have worked for this well-known company for almost 32 years, and this was the first major claim I ever made.
>
> Because my insurer is protected by ERISA, I can recover no damages from them. I do not have the resources to pressure my insurer to provide better care. Is this ERISA law a fair and just medical insurance law to employees?

Mr. Mycek continues. Not by any means.

Well, this is just one example of thousands that we could bring to the floor to discuss why we need to have legislation like this.

I keep hearing from my colleagues, my conservative Republican colleagues, and I should point out that I have one of the more conservative voting records in the House, that, gee whiz, you know, this organization could interfere with free markets.

I would just like to point out an article that appeared in the June 26 issue of Human Events. Human Events is one of the more conservative newspapers in publication. It is published by Eagle Forum. One of the more conservative columnists is a fellow by the name of M. Stanton Evans.

Mr. Evans wrote this article: HMO Rationing Threatens Patients: Why and How Conservatives Should Support PARCA Reform.

Mr. Evans says,

> Once seen as a magic cure for rising health costs, managed care has become a serious problem in its own right.

Remember, this is a very conservative columnist for one of the most conservative weeklies in the country.

He continues:

> Reports of care denial, quicker and sicker release of patients, charges of wrongful death, and suffering are now familiar items. But lobbyists for business, free market think tanks, editorialists with leverage on the GOP, have charged forth defending HMOs from this type of legislation, arguing that a crackdown on managed care would be an intolerable interference with 'the market.'

Mr. Stanton continues:

> However, as previously noted in this column, such arguments are totally off base. HMOs and managed care are not free market in any serious meaning of the term. It is worth repeating the neglected point that HMOs resemble in their basic structure the so-called global budgets of collectivist systems overseas in which a certain fixed amount of money is allocated to pay for everyone's free care. And doctors get the dirty job of denying treatment. They do things this way abroad because there is no market.

Then Mr. Stanton Evans continues:

> The bottom line of this repressive sequence is that HMOs are rationing machines in a government-spawned nonmarket setting, which means the market plea of protecting them from PARCA or a patient bill of rights fizzles.

Finally, Mr. Stanton Evans continues, and he summarizes:

> A more sensible position on the topic might look approximately as follows: First,

> so long as HMOs are called on to ration care in a nonmarket framework, PARCA or something like it should be adopted and amended so as to distinguish between legitimate indemnity insurance on the one hand and top-down health care denial on the other.

I would just like to point out this is a very conservative publication. There is broad bipartisan support across the ideologic spectrum for a patient bill of rights type of legislation. This is something that we ought to move forward on and pass and at least have a debate on the floor of Congress on this issue.

Mr. PALLONE. Mr. Speaker, I appreciate the gentleman's remarks, and I think that there is no question that these patient protections are needed. We will get into more of them.

Mr. Speaker, I would just like to continue along the line of what the gentleman from Iowa (Mr. GANSKE) mentioned. We said over and over again the type of patient protections that we are seeking either with the patient's bill of rights legislation or the PARCA bill is really nothing more than a commonsense approach, the type of protections that I think most Americans would think that they already have with their health plan or with their health insurance but, unfortunately, they do not.

I just wanted to get into two provisions of the patient's bill of rights and give two examples again similar to what the gentleman from Iowa (Mr. GANSKE) did. One is the important access, if you will, to specialty care. The bill, the patient's bill of rights, establishes certain standards to ensure hassle-free access to appropriate specialty care.

What it says basically is that plans must have a process for individuals to access specialty care if they need it. If the plan does not have an appropriate specialist in the network, it must provide an outside referral to such a specialist, at no additional cost to the patient.

I had an example. There is a group called Consumers for Quality Care that actually put out what they call "Casualty of the Day." Every week, they put out some examples of patients who suffered casualties from abuse by HMOs.

This one I think applies very well to this issue of specialty care or lack of access provided by the HMO or the managed care organization to specialty care. If I could just use it as an example. This is Judith Packevicz from Saratoga Springs, New York. Actually, that is a different example I want to give for another one. I apologize.

The example I want to give with regard to the specialty care is Francesca Tenconi, who is an 11-year-old girl from Oakland, California. Again, this is from Consumers for Quality Care. She suffers from, and the gentleman from Iowa (Mr. GANSKE) probably will be able to help me with this better, pemphigus foliaceous.

Mr. GANSKE. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Iowa.

Mr. GANSKE. I believe it is pemphigus foliaceous.

Mr. PALLONE. I am not pronouncing it, but I thank the gentleman for the help. This is an autoimmune disease in which the body's immune system becomes overactive and attacks the protein which adheres to the top layer of skin to the body.

Her parents had to battle with their HMO to insist upon appropriate diagnosis and medical care. According to Donald Tenconi, Francesca's father, her medical insurance ordeal began in December 1995 when, at the age of 11, she developed what was diagnosed as a skin rash.

By March, the condition had spread and become worse. By late April, the condition was so bad she could not attend school. During this period, several requests were made for referrals to specialists outside the HMO, and these were all denied.

Finally, on May 8, 1996, almost 6 months after the first appearance of symptoms, the HMO sent biopsies to out-of-network doctors and finally obtained an accurate diagnosis. The diagnosis was the disease that I mentioned and that the gentleman from Iowa (Mr. GANSKE) translated for me.

Even after receiving the diagnosis, the Tenconis' HMO still insisted on treating the disease primarily with its own doctors, in-network doctors. It was not until February of 1997, over 1 year after the symptoms first appeared, that the HMO finally agreed to allow Francesca to receive care at Stanford Medical Center, which possessed the doctors capable of providing the best care available in the San Francisco Bay area.

Explaining the prolonged and unnecessary pain of lying down without skin on your back for over 1 year, Donald said, this is her father again, "If you feel this pain, you will shed tears of pain, the same pain that Francesca shed night after night, week after week for many months."

Again, I mention it because I think that it is necessary to have the patient protection that provides access to specialty care outside the network when the in-network doctors do not have the ability to take care of the individual.

□ 2000

Under the Patients' Bill of Rights, not only is that the case that they have to allow you to go outside of the network if there is not someone inside who has that specialty ability, but also patients with serious ongoing medical conditions are able to choose a specialist to coordinate their primary and specialty care. So if you have a chronic illness that requires this kind of specialty care over a long period of time, essentially your specialist becomes something like your primary care provider so you do not have to constantly go back and get these referrals.

The other example I wanted to mention, again one of the other major protections that we talk about is that decisions about provision of medical care should be based on what is medically appropriate for the patient. They should not be based on the cost considerations of an accountant or bureaucrat. The Patients' Bill of Rights prohibits health plans from arbitrarily overriding medical decisions by your physicians when these decisions are made according to generally accepted principles of medical practice. Again that refers to length of stay in the hospital, equipment, a particular type of surgery that may be required, that this is supposed to be done based on what is medically appropriate based on the decision of your doctor rather than the bureaucrats.

Again, I think the gentleman from Iowa mentioned the other day an example of somebody who needed a liver transplant. I do not know if this is exactly the same example, but I would just like to mention it again if I could. This is the case I mentioned before, Judith Packevicz from Saratoga Springs, who suffered from a rare form of cancer of the liver. The HMO refused to pay for a liver transplant which was recommended by her oncologist with the support of all her treating physicians. Again, a decision that was made based on what the doctors felt was appropriate under the circumstances to have this liver transplant, but because it cost an estimated $345,000, the HMO, of course, refused to have it done and did not really give an explanation about why. I will say here it was undoubtedly the cost of it. Again they made a decision to deny her this liver transplant even though her son, Thomas Dwyer, was a willing and able donor. There were 13 other friends of Judith who volunteered to donate a part of their liver. So she had somebody willing, able, would not do it because of the cost undoubtedly, and she actually had to bring suit, again under ERISA. She cannot recover damages, only the cost of the procedure that was denied in the first place, and although it is possible that she ultimately would get the liver transplant, there was no way for her really to sue for any damages that would result because of the issue that you brought again which is that the HMO basically cannot be sued for damages.

Mr. GANSKE. If my colleague would yield, for the reasons that we have outlined tonight and in previous special orders, there is broad support by a number of organizations for this. I have eight pages here in fine type of endorsing organizations for both the Patients' Bill of Rights and the Patient Access for Responsible Care Act. With your indulgence, I will just read through a few of these. These are all organizations that have endorsed this type of legislation:

The Alzheimer's Association, the American Academy of Child Psychiatry, the American Academy of Emergency Medicine, the American Academy of Pediatrics, the American Association of Respiratory Care, the American Association of Nurse Anesthetists, the American Association of Pastoral Counselors. I am obviously not hitting all of these organizations on this list, just selecting a few, so for those that I do not mention, forgive me.

The American Association of Retired Persons, AARP, the American Association of Mental Retardation, the American Cancer Society, the American Dental Association, the AFL–CIO, the American Federation of Teachers, the American Heart Association, the American Lung Association, the American Medical Association, the American Nurses Associations, the American Public Health Association, Catholic Charities, Children's Defense Fund, Consumer Federation of America, Consumers Union, Families USA, even companies like Genzyme, League of Women Voters, Meals on Wheels of Lexington, National Association of Rural Mental Health, National Association of Children's Hospitals, National Association of Public Hospitals, National Consumers League, National Council of Senior Citizens, National Multiple Sclerosis Society. These are all organizations. Let me continue.

NETWORK: A National Catholic Social Justice Lobby; Service Employees International Union, United Cerebral Palsy. Mr. Speaker, I submit these lists for the CONGRESSIONAL RECORD, as follows:

ORGANIZATIONS SUPPORTING THE PATIENTS' BILL OF RIGHTS ACT OF 1998

ABC for Health, Inc.
Access Living
AIDS Action
AIDS Law Project of Pennsylvania
Alamo Breast Cancer Foundation and Coalition
Alcohol/Drug Council of North Carolina
Alliance for Rehabilitation Counseling
Alzheimer's Association Greater Richmond Chapter
Alzheimer's Association NYC Chapter
American Academy of Child and Adolescent Psychiatry
American Academy of Emergency Medicine
American Academy of Neurology
American Academy of Pediatrics
American Academy of Physical Medicine and Rehabilitation
American Association for Marriage and Family Therapy
American Association for Psychosocial Rehabilitation
American Association for Respiratory Care
American Association of Children's Residential Centers
American Association of Nurse Anesthetists
American Association of Pastoral Counselors
American Association of Private Practice Psychiatrists
American Association of Retired Persons
American Association of University Women
American Association on Mental Retardation
American Autoimmune Related Diseases Association
American Board of Examiners in Clinical Social Work
American Cancer Society
American College of Emergency Physicians
American College of Obstetricians-Gynecologists (ACOG)
American College of Physicians
American Counseling Association
American Dental Association
American Federation for Medical Research
AFL–CIO
American Federation of State, County, and Municipal Employees
American Federation of Teachers
American Gastroenterological Association
American Group Psychotherapy Association
American Heart Association
American Lung Association
American Medical Association
American Medical Rehabilitation Providers Association
American Music Therapy Association
American Network of Community Options and Resources
American Nurses Association
American Orthopsychiatric Association
American Psychiatric Association
American Psychiatric Nurses Association
American Psychoanalytic Association
American Psychological Association
American Public Health Association
American Speech-Language-Hearing Association
American Therapeutic Recreation Association
Anxiety Disorders Association of America
ARC of Washington State
Asian and Pacific Islander American Health Forum
Association for the Advancement of Psychology
Association for Ambulatory Behavioral Health Care
Association of Behavioral Health Care Management
Bazelon Center for Mental Health Law
Brain Injury Association
California Advocates for Nursing Home Reform
California Breast Cancer Organizations
Catholic Charities of the Southern Tier
Center for Patient Advocacy
Center for Women Policy Studies
Center on Disability and Health
Children and Adults with Attention Deficit Disorders
Child Welfare League of America
Children's Defense Fund
Clinical Social Work Federation
Coalition of Wisconsin Aging Groups
Colorado Ombudsman Program—The Legal Center
Communication Workers of America—Local 1039
Consortium for Citizens with Disabilities Health Task Force
Consumer Federation of America
Consumers Union
Corporation for the Advancement of Psychiatry
Crater District Area Agency on Aging
Dekald Development Disabilities Council
Delta Center for Independent Living
Disabled Rights Action Committee
Eastern Shore Area Agency on Aging/Community Action Agency, Case Management Department
Epilepsy Foundation of America
Families USA Foundation
Family Service America
Family Voices
Federation for Children With Special Needs
Florida Breast Cancer Coalition
Gay Men's Health Crisis
Gazette International Networking Institute (GINI)
General Clinical Research Center Program Directors Association
Genzyme
Glaucoma Research Foundation
Health and Medicine Policy Research Group
Human Rights Campaign
Independent Chiropractic Physicians
International Association of Psychosocial Rehabilitation Services
League of Women Voters
Mary Mahoney Memorial Health Center
Massachusetts Association of Older Americans
Massachusetts Breast Cancer Coalition
Meals on Wheels of Lexington, Inc.
Mental Health Association in Illinois
Mental Health Net
Minnesota Breast Cancer Coalition
National Abortion and Reproductive Rights Action League
National Alliance for the Mentally Ill
National Association for Rural Mental Health
National Association for the Advancement of Orthotics and Prosthetics
National Association of Children's Hospitals
National Association of Development Disabilities Councils
National Association of Homes and Services for Children
National Association of Nurse Practitioners in Reproductive Health
National Association of People with AIDS
National Association of Protection and Advocacy Systems
National Association of Psychiatric Treatment Centers for Children
National Association of Public Hospitals and Health Systems
National Association of Public Hospitals
National Association of School Psychologists
National Association of Social Workers
National Black Woman's Health Project
National Breast Cancer Coalition
National Caucus and Center on Black Aged, Inc.
National Consumers League
National Council for Community Behavioral Healthcare
National Council of Senior Citizens
National Hispanic Council on Aging
National Marfan Foundation
National Mental Health Association
National Multiple Sclerosis Society
National Parent Network on Disabilities
National Partnership for Women & Families
National Patient Advocate Foundation
National Therapeutic Recreation Society
NETWORK: A National Catholic Social Justice Lobby
Nevada Council on Developmental Disabilities
Nevada Council on Independent Living
Nevada Forum on Disability
Nevada Health Care Reform Project
New York City Coalition Against Hunger
New York Immigration Coalition
New York State Nurses Association
North Carolina State AFL–CIO
North Dakota Public Employees Association—AFT 4660
Oklahoman for Improvement of Nursing Care Homes
Older Women's League
Ombudservice
Oregon Advocacy Center

Paralyzed Veterans of America
Permanency Planning Services, Inc.
Physicians for Reproductive Choice and Health
President Clinton
Reform Organization of Welfare (ROWEL)
RESOLVE
Rhode Island Breast Cancer Coalition
Rockland County Senior Health Care Coalition
San Diego Federation of Retired Union Members (FORUM)
San Francisco Peakers Senior Citizens
Service Employees International Union
Service Employees International Union—Local 205
Service Employees International Union—Local 585, AFL–CIO CLC
South Central Connecticut Agency on Aging
Southern Neighborhoods Network
The ARC
Tourette Syndrome Association, Inc.
United Automobile, Aerospace & Agricultural Implement Workers of America (UAW)
United Cerebral Palsy Association
United Church of Christ, Office for Church in Society
Vermont Public Interest Research Group
Voluntary Action Center
Volunteer Trustees of Not-For-Profit Hospitals
West Side Chapter NCSC
Western Kansas Association on Concerns of the Disabled
Women in Touch

GROUPS ENDORSING H.R. 1415, THE PATIENT ACCESS TO RESPONSIBLE CARE ACT

Academy of General Dentistry
American Academy of Child and Adolescent Psychiatry
American Academy of Emergency Medicine
American Academy of Nurse Practitioners
American Association of Children's Residential Centers
American Association of Marriage and Family Therapy
American Association of Nurse Anesthetists
American Association of Oral and Maxillofacial Surgeons
American Association of Pastoral Counselors
American Association of Private Practice Psychiatrists
American Association of Psychiatric Services for Children
American Association of Psychosocial Rehabilitation
American Chiropractic Association
American College of Emergency Physicians
American College of Nurse-Midwives
American College of Radiology
American Counseling Association
American Dental Association
American Federation of Home Health Agencies
American Group Psychotherapy Association
American Mental Health Counselors Association
American Occupational Therapy Association
American Optometric Association
American Orthopsychiatric Association
American Physical Therapy Association
American Podiatric Medical Association
American Psychiatric Association
American Psychiatric Nurses Association
American Psychoanalytic Association
American Psychological Association
American Society of Radiologic Technologists
American Speech-Language-Hearing Association
American Student Dental Association
Anxiety Disorders Association of America
Association for Ambulatory Behavioral Healthcare
Association for the Advancement of Psychology
Association of Behavioral Healthcare Management
Center for Patient Advocacy
Children and Adults with Attention Deficit Disorder
Clinical Social Work Federation
Cooperation for the Advancement of Psychiatry
Family Service America
Home Health Services and Staffing Association
International Association of Psychosocial Rehabilitation Services
Medical Association of Georgia
National Alliance for the Mentally Ill
National Association for Home Care
National Association for Rural Mental Health
National Association of Protection and Advocacy Systems
National Association of Psychiatric Treatment Centers for Children
National Association of Social Workers
National Community Pharmacists Association
National Council for Community Behavioral Healthcare
National Federation of Societies for Clinical Social Work
National Kidney Foundation
National Mental Health Association
Opticians Association of America
Partnership for Recovery
Betty Ford Center
Hazelden Foundation
Valley Hope Association
Research Institute for Independent Living

Mr. Speaker, people say, what is in this legislation? We have already addressed some of this. The funny thing about it when we are looking at all of the opponents to this legislation is that the majority of the Members of Congress have already voted for the majority of items that is in this legislation.

I have here, Mr. Speaker, a side-by-side comparison of the items in Medicare Plus Choice that this House passed last year as it relates to internal appeals, external appeals, access to care, information disclosure, gag rules, advance directives, provider incentives, nondiscrimination, confidentiality of medical records, provider protections, quality measurement, utilization review, health quality boards, and ERISA. I have a side-by-side comparison on this. It is an interesting thing when we talk about the liability issue. A Medicare person who chooses a Medicare Plus Choice plan has the ability to legally redress malpractice, but somebody who is not a Medicare patient cannot under ERISA. This is a side-by-side comparison. Mr. Speaker, I include this comparison for the CONGRESSIONAL RECORD, as follows:

COMPARISON OF PROTECTIONS IN MEDICARE+CHOICE V. PATIENTS' BILL OF RIGHTS

Issue	Medicare+Choice	Patients' Bill of Rights
Internal Appeals	Requires plans to have procedures for reconsideration of adverse decisions	Plans must establish procedures to allow "appealable decisions" to be appealed.
Time for Review	Appeal must be decided within 60 days of receipt	Normal appeals must be completed within 15 days (with extension for up to an additional 10 days).
Expedited Appeals	Generally must be decided within 72 hours	Same.
Qualifications of reviewer	Must be a physician or appropriate specialty not involved in original decision	Review by a "clinical peer," who can be selected by the plan but who must not have participated in the original decision.
Notice of Decision	Patients must be sent a notice of decision and reasons for it. Also must be told of rights to a hearing if amount in controversy is greater than $100.	Patients and provider must be notified of decision and reasons for it and told of any further appeal rights.
External Appeals	External Appeals process must be available after all internal processes are exhausted	Plans must have a process for external appeals if decisions jeopardize a patient's health or exceed a "significant threshold."
Who conducts	The Secretary must contract with outside groups to handle these appeals	Plans must be done by independent and qualified third parties. There can be no financial incentives for these groups to affirm the plan's original denial.
Procedure and timeframe	Appeals are first sent to HCFA, which hears the appeal. If the appeal is again denied, the patient may have rights to a further hearing before an administrative law judge or a U.S. district court.	The external appeal must hear the issue de novo. Decisions must be made in 60 days, except exigent appeals (72 hours). Patients may have rights to further appeals in state court if the plan prevails on appeal.
Review body qualifications	No provision	Standards for external reviewers include: no conflict of interest, review by clinical peers, entity must have legal and medical expertise. Entity must be certified by the State or by HHS.
Costs	No provision	Plan must bear the costs of the appeal.
	ACCESS TO CARE	
General provisions	Requires plans to ensure benefits are accessible with reasonable promptness	Plan must have sufficient mix and distribution to deliver all benefits.
Point of service	Plans may offer enrollees a point of service option	Enrollees must have the option to purchase a point of service plan unless the insurance is provided through more than one issuer or two or more coverage options are offered.
Choice of specialist	Plans must have appropriate access to specialty care	Plans must allow enrollees to select the specialist of their choosing from the list of participating doctors, unless the plan clearly notifies enrollee of limitations on choice.
Ob-gyn care	No provision	Enrollee may designate ob-gyn as primary care provider. Plans may not require pre-authorization for routine ob-gyn care.
Standing referrals	No provision, but plans must make all care available with reasonable promptnes	Enrollees with conditions that require on-going specialty care may get standing referrals.
Clinical trials	No provision	Plans may not discriminate against patients in approved clinical trials and must cover their routine costs.
Prescription drugs	No provision	Plans that use formularies must involve M.D.s and pharmacists in its selection; must disclose formulary to patients; and have a process for patients to get non-formulary drugs when medically necessary.
Emergency care	Prudent lay-person standard, etc	Similar provision.

COMPARISON OF PROTECTIONS IN MEDICARE+CHOICE V. PATIENTS' BILL OF RIGHTS—Continued

Issue	Medicare+Choice	Patients' Bill of Rights
	INFORMATION DISCLOSURE	
General	Secretary must mail to beneficiaries information helpful in selecting plans	Plans must provide information in a timely manner to enrollees. Should be done in a uniform way to allow people to compare different plans.
Specific information that must be disclosed.	Covered benefits, liability for non-covered services, and coverage of emergency services	Same.
Other disclosures	Beneficiary cost-sharing, caps on out of pocket spending, balance billing protections, description of appeal and grievance rights.	Same, plus availability of ombudsman assistance.
Information available upon request	Number of grievances and their aggregate disposition	Same, plus drug formulary information.
Comparative information	Plans must—to the extent possible—give enrollees comparative data on patient satisfaction and outcomes. Also give disenrollment rates.	Summary quality data on patient satisfaction, disenrollment, and the plan's loss ratio. On request, plans must provide information on how they keep information confidential.
Network characteristics	Plans must give enrollees; the number and mix of providers, out of network coverage, any point of service option, any other availability of care through out-of-network providers. Plans must also give HHS enough data to ensure they are in compliance with physician incentive (capitation) rules.	Plans must provide information on: the service area of the plan, out of area coverage, the extent to which benefits from out-of-network providers is available, how enrollees select providers, any point of service option, and the types of financial payments made to providers.
	On request, the plan also must provide a general description of physician payment arrangements.	Same.
Utilization review	Plans must inform enrollees about how utilization review procedures work Upon request, the plan must notify enrollees of their procedures to control utilization of services and expenditures.	Plans must provide information on any prior authorization or review requirements that could result in non-coverage or non-payment.
Provider credentials	No provision (focus is on plans, not providers)	Upon request, plans must make available information on provider credentials and a list of participating providers.
Gag Rules	Bans them, subject to conscience clause	Goes further, as it contains a broader definition of medical communication and protects speech to others within the plan (and also to the public in the whistleblower provision).
Advance Directives	Plans must have policies on advance directives, such as living wills and durable powers of attorney.	No provision.
Provider Incentives	Plans must follow federal law requirements on physician incentive plans and must provide HHS with data to ensure they are in compliance.	Similar provisions.
Non-Discrimination	Plans may not discriminate against individuals based on age, sex, health status (except ESRD status), genetic information, etc.	Similar provision.
Confidentiality of medical records	Plans must establish procedures to protect the privacy of individually identifiable enrollee information. Also requires them to have procedures to ensure accuracy of the records.	Similar provisions.
Ombudsman	No specific provision, but other provisions of law authorize states to establish programs to provide counseling and assistance to Medicare beneficiaries with their health insurance coverage. Funded through a user fee on Medicare+Choice plans.	Federal grant program for the creation and operation of state Ombudsman programs to help consumers choose their plans and to deal the grievances and appeals.
	PROVIDER PROTECTIONS	
Contracting procedures	Plans must have reasonable procedures for physician participation including notice of participation rules, written notice of adverse participation decisions, and a process for appealing those decisions.	Similar provisions. Also requires plans to consult with physicians regarding the plan's medical policies and procedures.
Non-discrimination in selection of providers.	Prevents discrimination based on class of licensure	Similar provision, plus a general prohibition on discriminating in selection based on race, color, sex, sexual orientation, age, etc.
Whistle blower	No provision	Prohibits retaliation against providers who disclose information to appropriate authorities after exhausting internal procedures.
	QUALITY MEASUREMENT	
General provisions	HHS must disseminate information on plan quality, including performance data, disenrollment rates, and enrollee satisfaction.	Plans must collect and share information in uniform manner, including: aggregate utilization, demographics of participants, mortality and morbity rates, enrollee satisfaction, grievance and appeals data, etc. Allows HHS to waive these requirements based on variations in the types of delivery systems.
Internal quality improvement	Medicare+Choice plans must have a quality assurance program that stresses health outcomes and provides for ongoing measurement of the quality of high volume and high risk services and the care of acute and chronic illnesses.	Plans must have ongoing quality assurance programs, with written procedures for systemic review of the quality of health care provided and its consistency with good medical practice. Must have a process for providers and patients to report possible quality concerns. The program must review the plan's drug utilization program. Further provides that these requirements can be met through accreditation by a national accrediting group that the Secretary of HHS says has standards as stringents as those in the bill. The Secretary may provide for variations as needed to reflect differences in plan design.
External quality improvement program	Medicare+Choice plans must have external review of the quality of inpatient and outpatient care and of their response to consumer complaints of poor quality care.	No provision.
	UTILIZATION REVIEW	
General provisions	No provision, but plans must meet rules for initial determination of care	Plans must do utilization review in accordance to written procedures developed with the input of appropriate physicians. Retrospective UR may not revise or modify pre-authorized determinations. Qualified health professionals must oversee review decisions and review a sample of adverse clinical decisions. Prohibits financial incentives to UR agents that result in inappropriate denials. Requires toll-free access of peer review personnel during business hours. Providers and patients dissatisfied with a UR decision must have an opportunity to discuss the decision with the plan's medical director (who has the authority to reverse the decision). Prior authorization decisions must be made within three days of receipt. UR of continued and extended care must be made within one business day. Retrospective review of services must be completed within 30 days. Notice of an adverse action must be writted and included the reasons for the denial and the process for appealing that decision.
Health Care Quality Board	No provision	Directs the President to establish an advisory board to provide information on issues relating to quality monitoring and improvement. The board shall identify, update, and share measures of group health plan quality, advise on the proper minimum data set and standardized formats for information on group health plans.
Mastectomy Stay	No provision	Plans may not limit in-patient stay to less than 48 hours for mastectomy and less than 24 hours for lymph node dissection. The patient is free to leave sooner if she decides to, but the plan may not provide any incentives to patient and provider to avoid these protections.
Breast Reconstruction	No provision	Plans that provide breast surgery as a covered benefit must provide coverage for reconstruction resulting from a mastectomy.
Adequate Reserves	Plans must be licensed under state law and meet state solvency requirements. Establishes a temporary waiver process for PSOs under certain circumstances.	No provision.
ERISA	No provision (though ERISA does not pre-empt a Medicare beneficiary from suing a Medicare+Choice plan for acts of negligence.	Amends ERISA to allow state causes of action to recover damages resulting in personal injury or death. The employer cannot be sued unless they exercise discretionary authority to make medical decisions.

Mr. Speaker, to continue, I will not go through every single item on here, except to point out that, time for review, Medicare Plus Choice, 60 plus days, except that today the President shortened that period. Patients' Bill of Rights, 15 days for a normal appeal, with an extension up to 10 days. Notice of decision. Who conducts the external appeals. Review of qualifications. These are all things that are in Medicare Plus Choice that we hear some of our colleagues oppose. I cannot understand how they could have voted for all of these provisions for Medicare Plus Choice and yet they oppose these items in a Patients' Bill of Rights as being, quote, too bureaucratic. I think that we need patient protections, the Patients' Bill of Rights for all citizens, not just for the ones that we have already voted on for Medicare or for Medicaid.

Mr. PALLONE. Again, I may be being cynical, but I think the reality is that when we put most of those patient protections in the Medicare legislation, in our own Committee on Commerce which both the gentleman and I are a Member of, the bottom line is that when those came to the floor, because of the widespread clamor, if you will, by senior citizen organizations and groups that these protections should be part of the Medicare program, and rightly so, I think the leadership, the House Republican leadership and most of the Members were unwilling to not support that because they were concerned about the power, if you will, and the clout of the senior vote, that they did not want to be denying senior citizens, who vote often and regularly, those kinds of patient protections. A thank-you is due to the seniors and the power of the senior vote and the senior organizations to make sure that that happened, but at the same time it is not fair to deny those protections to everyone else who is under 65 or who happens to not have the benefit of a Medicare program. That is really what we are about here. We are saying that those kinds of patient protections should be available to anyone who has health insurance, who is in a managed care organization or an HMO.

I am glad that you brought this out. It again points out that these are not really anything radical, these are not anything unusual, we have already adopted them for the largest Federal health insurance program, Medicare.

I just wanted to go back, if I can, because I know that the gentleman from Iowa has put a lot of emphasis on the ability to sue and recover costs that is denied now under ERISA, and I talked a little bit about the patient protection with regard to specialty care. I know that, at least from the reports that I have been reading in the various publications that we get on Capitol Hill that those are two areas that the House leadership seems to be reluctant to deal with. It may not actually be part of anything that the Republican leadership ultimately puts together.

Mr. GANSKE. If the gentleman will yield, as a Republican, I have been in favor of legal reform. I have voted for securities litigation reform, I voted for medical malpractice reform. I have voted for product liability reform. But I think we have a problem with ERISA, because we have given basically total legal immunity to health plans. We have not given that legal immunity to any other industry in the country.

When I as a physician am treating a patient, I would never argue that I should have immunity from malpractice. I might argue for some reasonable changes, but I would never argue that I should not have any legal responsibility for malpractice. That is why physicians, nurses, other practitioners carry medical malpractice insurance. And so I think that it is a basic principle of American law that responsibility for decisions should lie where the decision is made. If an HMO is making medical decisions and that results in malpractice, then they ought to be legally liable for that.

In fact, on the front page of last Friday's USA Today, the very front page center story was exactly on this issue. What most American citizens do not realize is that quite frankly when their HMOs if they are through their employer are making decisions, their HMOs do not have any legal responsibility. In my opinion that is wrong, and, quite frankly, I think the vast majority of the House if they would vote on this issue would feel the same way. Would you want to be on the record as voting for legal immunity for an HMO when the HMO has made a malpractice decision?

Mr. PALLONE. Absolutely not.

Mr. GANSKE. I do not think I would want to be and I do not know too many of my Republican colleagues who would want to be on the record for giving an HMO legal immunity for causing somebody's death or disfigurement.

Mr. PALLONE. If I could recapture my time, this was done, as the gentleman pointed out, years ago when HMOs and managed care organizations were not the vehicle for most Americans to get their health insurance. Now this loophole which was there has grown into a tremendous loophole that exists actually for most Americans. I do not know what was being thought of at the time when this was voted on, but the bottom line is the circumstances have changed now, because so many more Americans are impacted by this loophole.

I just wanted to say briefly, if I could, I am not sure that everyone understands when we talk about this inability to sue or this exemption, if you will, from liability, exactly what we mean. The problem is that you can only sue to recover the costs of whatever procedure was needed but denied. You cannot sue for damages. In other words, I will use an example. If you lose, say, an arm or a leg or an eye and you end up victimized for the rest of your life because your HMO denied you the care that could have saved the limb or the eye, you cannot sue for anything other than the cost of what the medical procedure to save the limb or the eye would have been. You cannot sue for losing the body part or for the deterioration of your health condition. So basically you are able to recover a very, very limited amount that does not help you to deal with the problem and the damages that you have suffered. That is really what we are talking about.

Mr. GANSKE. If the gentleman would yield, the opponents to this legislation would say, well, if you pass legislation on this, it would increase the cost of premiums, and, therefore, some employers would choose not to insure their employees.

A recent survey by Kaiser Family and Harvard interviewed 800 small business executives exactly on this issue. They found that even if there were a mild increase in the cost of a premium related to this, that only 1 to 3 percent of those employers would change their coverage. But the interesting thing was that something like two-thirds of those small business owners and executives agreed with the need for legislation to close that loophole. You might ask, why is that? It is because they are also covered by HMOs. More than 50 percent of them have said, we have seen abuses by HMOs either in our employees or in our own families, and we think there should be a remedy for that.

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But I would just like to continue on something else that we are likely to hear about tomorrow, and that is that hopefully the Republican Health Task Force will at least enunciate some principles to legislation, even if we will not see any specifics written in the form of a bill. And one of those things that the GOP task force is looking at is the idea of health marts, and this is basically where you gather, you would extend ERISA to multiple employer working associations, otherwise known as MEWAs, or other groups, so it is an extension of the ERISA exemption.

And I have here a letter from Therese M. Vaughan, the commissioner, the State Insurance Commissioner from the State of Iowa, and she says:

> Dear Representative Ganske: We want to alert you to proposed legislation currently being discussed called HealthMarts. HealthMarts pose a serious concern on several levels . . . A few of our concerns are listed below for your review: The impact of State insurance markets.

She goes on in some detail. Several provisions would allow a health mart to cherry pick to ruin the risk pools. There are problems with Federal enforcement of State law. There are conflicts of interest.

I have a similar letter from Consumers Union on the problems related to health marts. Health marts, if you will remember, are very close to what the Clintons proposed in 1993 with regional groups. So when opponents to our Patient Bill of Rights have accused us of being "Clinton Care", I would sincerely hope that Republicans would not come up with a proposal that is much, much closer to the Clinton plan.

And finally let me say I have a letter here from Blue Cross/Blue Shield and the Health Insurance Association of America that says:

> Dear Representative Ganske: We are writing to express our opposition to proposals that would exempt certain health insurance arrangements, such as association health plans and multiple employer welfare arrangements, from State insurance law and regulatory authority.

Mr. Speaker, insert these 3 letters into the CONGRESSIONAL RECORD.

The letters referred to are as follows:

IOWA DEPARTMENT
OF COMMERCE,
Des Moines, IA, June 18, 1998.

Re HealthMarts.

Hon. GREG GANSKE,
United States Representative, Washington, DC.

DEAR REPRESENTATIVE GANSKE: We want to alert you to proposed legislation currently being discussed called "HealthMarts." HealthMarts pose a serious concern on several levels. These concerns are similar to those we have expressed in the past regarding other proposals that would exempt certain health insurance arrangements (such as association health plans (AHPs) and multiple employer welfare arrangements (MEWAs)), from state law and regulatory authority.

A few of our concerns are listed below for your review.

1. The impact of state insurance markets. HealthMarts would undermine state health reforms by fragmenting the health insurance marketplace. Recent reforms guarantee small employers access to health insurance markets. While insurers selling through HealthMarts would still have to pay premium taxes, other state pooling laws and requirements would be preempted. States require many different types of pooling arrangements. These arrangements are primarily designed to help spread risks through such mechanisms as reinsurance pools, medically indigent pools, and high risk pools. Since HealthMarts only have to meet the rating requirements of the state in which the HealthMart is organized, a HealthMart could organize itself in the state with the least restrictive requirements in order to sell a particular benefit package at a lower rate in a state with more restrictive requirements.

2. Cherry picking. Several provisions would allow a HealthMart to choose which risks it wanted to accept.

A HealthMart is allowed to determine what geographic area it will serve. This will allow a HealthMart to operate in areas that contain healthier populations.

A HealthMart may market selectively within its geographic limits, thus exacerbating the conditions established by allowing the HealthMart to choose its own geographic location.

With state mandated benefit requirements preempted, a HealthMart would be allowed to design its own benefit package. Benefit package design determines who will be interested in purchasing a particular product.

3. Federal enforcement of state law. HealthMarts continue to allow state officials to approve product offering of licensed insurance entities. If an insurance commissioner denies the sale of a product offering and the insurer, selling through a HealthMart, disagrees with the decision of the commissioner, the insurer could appeal to a federal regulatory authority. The federal agency would then review state law and determine if the insurance commissioner properly interpreted her own state law. If, in the view of the federal agency, the insurance commissioner did not make the correct decision, the federal agency would allow the sale of that product and enforce state law regarding that product. This creates the unique situation where the federal government enforces state law.

4. Conflict of Interest. Allowing sellers on the board of an entity intended to act as broker between seller and buyer creates a conflict of interest. HealthMarts will be accepting bids from all insurers within a certain geographic location. The insurers on the board will have access to those bids and may also have access to proprietary information on how the bids were put together. Board insurers would be able to underbid those insurers who do not serve on the board.

HealthMarts undermine the recent efforts undertaken by states to ensure their small business communities have access to affordable health insurance. Iowa's success over the past 7 years in the area of health care reform will be greatly diminished if this legislation is enacted.

We have supported purchasing pools through state legislation that protects the consumer by providing coverage within rate restrictions. We would be happy to work with you on the development of legislation to continue to enhance the ability of individuals and small groups to obtain adequate and meaningful health care coverage.

If you have any questions, please do not hesitate to contact me or my staff. We look forward to working with you on any issues you may have concerning health insurance coverage.

Sincerely,

THERESE M. VAUGHAN,
Commissioner.

BLUE CROSS AND BLUE SHIELD ASSOCIATION, HEALTH INSURANCE ASSOCIATION OF AMERICA,
June 4, 1997.

Hon. GREG GANSKE,
United States House of Representatives, Washington, DC.

DEAR REPRESENTATIVE GANSKE: We are writing to express our opposition to proposals that would exempt certain health insurance arrangements, such as association health plans (AHPs) and multiple employer welfare arrangements (MEWAs), from state insurance law and regulatory authority.

We remain very concerned about proposals to preempt state regulation of federally certified association health plans, including many MEWAs (e.g. H.R. 1515/S. 729). These proposals would undermine the most volatile segments of the insurance market—the individual and small group markets. AHPs could siphon off the healthy (e.g., through selective marketing or by eliminating coverage of certain benefits required by individuals with expensive illnesses), thus leading to significant premium increases for those who remain in the state-regulated pool. The ultimate result: an increase in the uninsured and only the sickest and highest risk individuals remaining in the states' insured market.

We have similar concerns regarding a proposal to create a new type of purchasing entity, called HealthMarts, which has not been reviewed via the committee hearing process. This proposal would exempt health plans offered through a HealthMart from state benefit standards and requirements to pool all small groups for rating purposes. As with AHPs, this proposal raises serious concerns regarding market segmentation and the ability of states to protect their residents. The combination of these two proposals could lead to massive market segmentation and regulatory confusion.

Moreover, these proposals, over time, would lead our nation toward increased federalization of health insurance regulation. Preemption of state regulatory authority would create a regulatory vacuum that would necessitate an exponential increase in federal bureaucracy and federal regulatory authority.

As representatives of the health insurance and health plan community, we are concerned about the issue of access to health coverage for small firms. However, we urge legislators to avoid legislation that unravels the market by helping a limited group of small employers at the expense of other individuals and small groups.

We look forward to an opportunity to work with you regarding proposals that expand coverage without damaging the small group and individual markets.

Sincerely,

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 4, 1998.

BLUE CROSS/BLUE SHIELD AND HIAA OPPOSE REPUBLICAN "HEALTHMART" PROPOSAL

DEAR COLLEAGUE: It's not often that I think the advice from HIAA and Blue Cross/Blue Shield bears repeating, but this time they got it right.

In a letter to Chairman Bliley of the Commerce Committee, the Blue Cross/Blue Shield Association and the Health Insurance Association of America have made clear their opposition to the "HealthMart" proposal being circulated by Rep. Bliley as a potential component of the upcoming Republican health reform proposal.

Their letter states that the HealthMart proposal "would exempt health plans offered through a HealthMart from state benefit standards and requirements to pool all small groups for rating purposes." For those reasons, HealthMarts raise "serious concerns regarding market segmentation and the ability of states to protect their residents."

They conclude their letter by urging "legislators to avoid legislation that unravels the market by helping a limited group of small employers at the expense of other individuals and small groups."

I urge my colleagues to heed their advice.

Sincerely,

PETE STARK.

There are a number of proposals that I am concerned will be in the GOP Health Task Force plan that are not well-thought-out, that are even opposed by the industry, at least as much as some of the patient protection legislation. I am afraid that if you add a number of these additional controversial items to a patient bill of rights type protection, that they will in effect act as poison pills and ensure the defeat of this legislation.

And I would not gainsay anyone's motives on this, but I would simply ask my Republican colleagues to be aware of this potential problem when they put forth their GOP task force.

Mr. PALLONE. Again, if I could ask you to elaborate a little more on this, one of the concerns that I expressed earlier this evening is that the Republican Task Force would come out with patient protections that are less than what is in the Patient Bill of Rights or the PARCA bill, and that is still a concern. But I think what you are voicing now is an additional problem which is not only the possibility of not including some of these patient protections that we would like to see, but also the possibility of adding other things unrelated to patient protections that would sort of muddy the water, if you will, and maybe confuse what goes on here and take away from this issue of patient protection which we are trying to bring forward.

And I know that one of the things I believe you mentioned was the medical malpractice cap, I guess, that we have discussed in the past, and that is something that would.

Mr. GANSKE. If the gentleman would yield, I have argued on the floor, I have encouraged my colleagues, Republican and Democrat, to vote for medical malpractice reform. In fact, the House of Representatives passed that legislation in the last Congress, but we found out that we could not get that through the Senate, and the administration is opposed to it. To put that into a Patient Bill of Rights, a consumer protection bill, would be to realize fully that that bill could not pass, it could not become law.

I continue to be in favor of that legislation, but what I want to see is, I want to see a Patient Bill of Rights passed and become law this year. I think most of the major medical organizations, including the American Medical Association, recognize by loading up other issues into a Patient Bill of Rights you are working to defeat a Patient Bill of Rights, not to advance it.

Mr. PALLONE. Did not the AMA, which has been the biggest supporter of this medical malpractice reform, even say at one point that they did not want to deal with it this year in the context of the patient protections for the exact reason that you just cited, which is very amazing to me because this was always their biggest, one of their biggest, concerns.

Mr. GANSKE. I cannot speak. I am not a representative for that organization. All I can say is I am sure that that organization would like to see those provisions become law at some point in time, but the recognition is there that on this piece of legislation that will be considered a poison pill. We have broad bipartisan consensus and support for a limited Patient Bill of Rights like is in the Patient Bill of Rights bill, 3605, or Patient Access to Responsible Care Act.

It is not like you have to reinvent the wheel. These bills have been out there for some time. They already have broad bipartisan support. It is simply a matter of bringing them to the floor for a debate under a fair rule in a timely fashion before this session runs out.

Mr. PALLONE. Can I just ask you one more thing about the health marts, because I was not sure I understood.

You said that your concern is that ERISA exemptions would be expanded beyond what they already are now to cover health marts? In other words, we would actually have to deal with this exemption from liability in an even broader fashion?

Mr. GANSKE. That would be my understanding, and let me just read from this letter from Blue Cross/Blue Shield Association and the Health Insurance Association of America.

"As representatives of the health insurance and health plan community, we are concerned about the issue of access to health coverage for small firms. However, we urge legislators to avoid legislation that unravels the market by helping a limited group of small employers at the expense of other individuals and small groups."

And I can assure you, as somebody that speaks to a number of insurance companies located in my own district that still provide insurance to individuals outside of the employer market, that if you created this health mart idea, what you would be doing is you would be taking the healthy individuals out of that individual market, thereby making the individual market more sick. That would, therefore, have the effect of raising the premiums significantly for those who still purchase their own health insurance.

And there are a lot of people like that; farmers, for example. I represent a lot of farmers.

So I would certainly advise the GOP Task Force not to include this type of proposal in their health care legislation, but simply to stick with the gentleman from Georgia (Mr. NORWOOD) who has worked on that task force so strongly in terms of a Patient Bill of Rights.

And you need to remember also that there are a number of HMOs that are trying to do an ethical, good job on providing care for their constituents, and many of them have already called upon Congress to pass Federal legislation for a Patient Bill of Rights. We have Kaiser, for instance, or the Health Insurance Plan, HIP, and others. They see a benefit in having some federally-enforceable minimum standards.

It is very similar to what we see if you were buying an automobile. Gee, I mean when you buy an automobile, you know that you are getting headlights that work, brakes that work, turn signals, a seat belt. Those are all a product of Federal and State law for minimum safety standards, and yet there continues to be a great deal of competition in the auto industry. By having some uniform rules on that, we certainly have not moved to a nationalized auto industry any more than by passing a Patient Bill of Rights and having some uniform safety standards would we ever be moving towards a nationalized health insurance system. It is just a matter of common sense.

Mr. PALLONE. I think there is no question that, you know, what we are really talking about here are just basic protections, common sense protections, and as the gentleman has pointed out, the not-for-profit HMOs actually from the very beginning of this year when the President first came out with his patient bill of rights in, I guess it was in his State of the Union address, and there were I think 18 points at that stage or 18 types of protections that were being discussed by the White House, and actually we had many of the not-for-profit HMOs supporting those principles because they are really a floor. They are just a floor of basic protections.

And what happens is, and again I think you mentioned this at some point in the past, is that if the not-for-profit or the good HMOs, whatever their characterizations would be, adhere to these patient protections and then the other ones that are for-profit or for whatever reason do not, it basically creates a noncompetitive situation, becomes cheaper, if you will, for the ones that are not providing the protections to operate.

Mr. GANSKE. And if the gentleman would yield, we have our July 4th recess coming up soon. I would hope that organizations like some of the ones that I have read tonight, all the other organizations that are signed on to passing this type of legislation this year would contact their Congressman and Congresswoman back in their districts and express to them the importance and how this affects real people a lot of the time and how Congress should do something about this this session and not allow this legislation to be bottled up.

Mr. PALLONE. And following up on your comments, and I guess I will close with this:

We know that during this 2-week recess that many Members, including myself, will be having town meetings and forums at which time there will be opportunities for groups or individuals to go to those town meetings and express to their Member of Congress their support and ask them to support the Patient Bill of Rights, or actually ask them to support the discharge petition that you and the gentleman from Michigan (Mr. DINGELL) have now introduced. We need to get as many Members as possible on this discharge petition because, if we can get a majority on the discharge petition by the time we come back or soon after that in the weeks that follow, we can finally bring the Patient Bill of Rights or the PARCA bill, these types of managed care reforms, to the floor.

And again I just want to commend you for your effort in moving in that direction because this is the time. If we are not going to pass this now when there is so much support for it, we are never going to pass it, and we have got to try and get more and more of our colleagues on board.

Mr. GANSKE. If the gentleman would yield, I appreciate the courtesy of being able to do these special orders with you. As I said before earlier in this special order, I would sincerely hope that a discharge petition is not necessary, that the Republican leadership in the House would set a date certain for bringing this legislation to the floor and make sure that it is with a rule that is fair and not a rule similar to the one that we have seen on campaign finance reform.

Mr. PALLONE. Mr. Speaker, I agree with the gentleman and thank him again.

ENDING DISCRIMINATION IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, since the House adjourned early today, I thought I would take the opportunity to come to the floor to speak, as others have done in other forums this week, about a most unfortunate episode that happened earlier this week.

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In an interview on television, Senate Majority Leader TRENT LOTT spoke out about homosexuality in a way that I think maybe was unintentional by him, but, nonetheless, was very hurtful and harmful to people in the gay and lesbian community.

I know that we are not supposed to be urging the Senate to take action on issues, but, without violating that rules of the House, I just want to put in context my own remarks, and that is that there is a confirmation of a nomination of an ambassador, James Hormel, which is hopefully going to come up before the Senate soon.

This nomination was sent from the Senate Foreign Relations Committee to the full Senate, but Senator LOTT has not taken up the issue. It was in the context of an interview about that, I believe, that Senator LOTT made his unfortunate remarks about homosexuality, saying, "It is a sin; it is just like alcohol or sex addiction or kleptomaniacs." Then our own Majority Leader, Mr. ARMEY, said that homosexuality ". . . is a sin. I know it is. It is in the Bible," or words to that effect.

One of the issues that is being raised about Jim Hormel's nomination is that he was seen laughing at a parade where there were people dressed as nuns. Without going into that, I just want to say that between my husband and me and our five children, we have over 100 years, 100 years, of Catholic school education. This is a source of great pride to us and great strength to us. So we certainly have a great deal of respect for the clergy and the nuns who taught us and our children and would not want in any way for them to be demeaned, and I do not think that Jim Hormel has a demeaning bone in his body.

Jim Hormel is a very distinguished leader in our community in the San Francisco Bay area. He is a philanthropist. He has been the Dean of the Law School at the University of Chicago before he came to San Francisco. As I said, he is a great philanthropist, a supporter of the arts and education, is very respected in the business community, is an astute businessman and is a very effective leader. He would make a great ambassador, and his nomination, I think, is a tribute to President Clinton, that he had the courage to name Jim Hormel as ambassador to Luxemburg.

Jim Hormel, because he is gay, his nomination is being held up, and, as I say, unfortunately, the Leaders in the Senate and in the House have characterized his sexual orientation in a way that I think, as I say, is hopefully unintentionally, is most harmful to people in that community.

When we were little people we used to say "sticks and stones will break my bones, but names will never hurt me." But that really was not true then, and it is not true now. We have to be very careful about the power of words and the resonance that those words have as people repeat them and hear them.

It is ironic that this all should happen at a time which is Gay Pride Week throughout the country. Speaking for my own area that I have the privilege of representing, we are blessed in our community with a large gay and lesbian population, and we will have a large parade on Sunday where people who take pride in their own situation as well as their friends will take pride with them, and I will be very honored to join that parade.

I have never felt any bias from our own Majority Leader here, Mr. ARMEY, or Mr. LOTT, our former colleague in the House and now the distinguished Majority Leader in the Senate, because of my support for gay and lesbian rights. I have never thought that Mr. Hormel had ever demeaned my religion or said something or did something objectionable to my religion, Catholicism, because he may have been amused, if that is even so, by people dressed as nuns. Nuns do not even dress as nuns. It is not the same as it used to be.

But I think that it is time for us to have some reconciliation on this. We have to, and this will sound very San Francisco, I know, heighten the sensitivity of our colleagues to the hurt that it does to so many people in our country when they are demeaned by leaders of our country.

Mr. Speaker, I do think this maybe will provide us with an opportunity to say, you know, let us turn down the flame on this issue. The Bible, if we are quoting the Bible, has told my children, my husband and me for our lifetimes, as did our parents, that we are all God's children. They did not say you are all God's children, depending on your sexual orientation. They said we are all God's children, and, as such, worthy of respect, and in every person there is a spark of divinity that is to be respected.

It is that attitude toward people that I think drives many of us into the political arena to do God's work. I do not like to bring politics and religion together, but it is to respect what our religion teaches us for people, that we want everyone to have the same opportunities, whatever their color, their creed or their sexual orientation. Discrimination has no place in our country. Neither does characterization of people because they might be different from us have a place.

So I come to the floor tonight not to criticize, but to reach out to the two majority leaders, in the hope that we can put a stop to these characterizations which, as I say again, and I will say for a third time, may be unintentional, but are, nonetheless, very painful to the people that are described by them.

Jim Hormel is a great American. He is a patriotic American. He is somebody who would bring great honor to our country to represent us abroad. He has already accomplished a great deal just by his courage and by allowing his name to be put forth, and hopefully his nomination will culminate in his being the ambassador to Luxemburg. In any event, it will hopefully also achieve a reconciliation in our country about how we treat people, all people, all God's children. That is what the Bible told us.

As a Catholic, again, I particularly take issue with the fact that some have said that Jim Hormel's nomination is offensive to Catholics by saying, as Jim Hormel's friend, one of the great joys of my life is to be his friend. I would only hope that his nomination accomplishes the ending of discrimination in our country against people, regardless of their sexual orientation.

So in this Gay Pride Week, let us all take pride in each and every one of us, and particularly not make judgments about people for how they are not like us, but to respect them for what they are.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. THOMPSON (at the request of Mr. GEPHARDT) for 10:30 a.m. until 5:00 p.m. today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MALONEY of New York) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Ms. WATERS, for 5 minutes, today.
Ms. SANCHEZ, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

(The following Members (at the request of Mr. MILLER of Florida) to revise and extend their remarks and include extraneous material:)

Mr. SCARBOROUGH, for 5 minutes, on June 24.

Mr. MORAN of Kansas, for 5 minutes, today and on June 24.

Mrs. CHENOWETH, for 5 minutes, on June 24.

Mr. BILIRAKIS, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today.

Mr. BARTLETT of Maryland, for 5 minutes, today.

Mr. CRAPO, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at the request of Ms. NORTON) to revise and extend her remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. INGLIS of South Carolina, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MALONEY of New York) and to include extraneous material:)

Mr. VISCLOSKY.
Mr. KIND.
Mr. OWENS.
Mr. KENNEDY of Massachusetts.
Mr. MILLER of California.
Mr. BARCIA.
Mr. LIPINSKI.
Mr. KUCINICH.
Mr. NADLER.
Ms. LEE.
Mr. CONYERS.
Mr. STUPAK.
Mr. MENENDEZ.

(The following Members (at the request of Mr. MILLER of Florida) and to include extraneous material:)

Mr. LEWIS of California.
Mr. RIGGS.
Mr. COBLE.
Mr. PORTMAN.
Mr. CALVERT.
Mr. RADANOVICH.
Mrs. MORELLA.
Mr. CAMP.
Mr. THOMAS.

(The following Members (at the request of Ms. PELOSI) and to include extraneous material:)

Mr. CAMP.
Mrs. KELLY.
Mr. HOYER.
Mr. ENGEL.
Ms. JACKSON-LEE of Texas.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

ADJOURNMENT

Ms. PELOSI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 38 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 24, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9795. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Community Development Work Study Program; Repayment Requirements [Docket No. FR-4324-F-01] (RIN: 2528-AA08) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9796. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Compensation and Conflicts-of-Interest Rules for Federal Home Loan Bank Employees [No. 98-24] (RIN: 3069-AA76) received June 16, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9797. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Statement of Identity, Nutrition Labeling and Ingredient Labeling of Dietary Supplements; Compliance Policy Guide, Revocation [Docket Nos. 95N-0245 and 94P-0110] (RIN: 0910-AA59) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9798. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Revocation of Lather Brushes Regulation; Correction [Docket No. 97N-0418] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9799. A communication from the President of the United States, transmitting a supplemental report, consistent with the War Powers Resolution, on U.S. contributions in support of peacekeeping efforts in the former Yugoslavia; (H. Doc. No. 105-275); to the Committee on International Relations and ordered to be printed.

9800. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Exports of Humanitarian goods and services to Cuba [Docket No. 980520134-8134-01] (RIN: 0694-AB49) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9801. A communication from the President of the United States, transmitting the report on compliance with the Treaty on Conventional Armed Forces in Europe; to the Committee on International Relations.

9802. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Nonimmigrant Classes; NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, NATO-7; Control Of Employment Of Aliens [INS No. 1328-98] (RIN: 1115-AB52) received June 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9803. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility [INS No. 1751-96] (RIN: 1115-AE29) received June 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2538. A bill to establish a Presidential commission to determine the validity of certain land claims arising out of the Treaty of Guadalupe-Hidalgo of 1848 involving the descendants of persons who were Mexican citizens at the time of the Treaty; with an amendment (Rept. 105-594). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALSH: Committee on Appropriations. H.R. 4112. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105-595). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 484. Resolution providing for consideration of the bill (H.R. 4103) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105-596). Referred to the House Calendar.

Mr. MCINNIS: Committee on Rules. House Resolution 485. Resolution providing for the consideration of the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105-597). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FOX of Pennsylvania (for himself and Mr. BORSKI):

H.R. 4109. A bill to authorize the Gateway Visitor Center at Independence National Historical Park, and for other purposes; to the Committee on Resources.

By Mr. STUMP (for himself, Mr. EVANS, Mr. QUINN, and Mr. FILNER):

H.R. 4110. A bill to provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to make various improvements in education, housing, and cemetery programs of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DOOLITTLE (for himself, Mr. POMBO, Mr. HERGER, and Mr. YOUNG of Alaska):

H.R. 4111. A bill to provide for outlet modifications to Folsom Dam, a study for reconstruction of the Northfork American River Cofferdam, and the transfer to the State of California all right, title, and interest in and to the Auburn Dam, and for other purposes; to the Committee on Resources.

By Mr. WALSH:

H.R. 4112. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes.

By Mr. BALDACCI:

H.R. 4113. A bill to assist the efforts of farmers and cooperatives seeking to engage in value-added processing of agricultural goods; to the Committee on Agriculture.

By Mr. BLAGOJEVICH (for himself and Mr. KENNEDY of Rhode Island):

H.R. 4114. A bill to prohibit internet and mail-order sales of ammunition without a license to deal in firearms, and require licensed firearms dealers to record all sales of 1,000 rounds of ammunition to a single person; to the Committee on the Judiciary.

By Mr. FILNER:

H.R. 4115. A bill to amend title 38, United States Code, to provide for a special period during which a former member of the armed forces may convert a Servicemembers' Group Life Insurance policy to a Veterans' Group Life Insurance policy, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KOLBE:

H.R. 4116. A bill to provide for the waiver of fees in the case of certain visas, to modify the schedule for implementation of certain border crossing restrictions, and for other purposes; to the Committee on the Judiciary.

By Mr. MANTON:

H.R. 4117. A bill to require that an environmental impact statement be prepared evaluating the impact of slot exemptions for operation of new air service at LaGuardia Airport; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA (for herself, Ms. ESHOO, Ms. SLAUGHTER, Mr. HILLIARD, Mr. SERRANO, Mr. KLECZKA, Mr. BALDACCI, Mr. ROMERO-BARCELO, and Mr. NADLER):

H.R. 4118. A bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for the health quality improvement of children in managed care plans and other health plans; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PASTOR:

H.R. 4119. A bill to provide for the restoration of certain Federal land of religious and cultural significance to the Tohono O'odham Nation of Arizona, and for other purposes; to the Committee on Resources.

By Mr. SOLOMON:

H.R. 4120. A bill to amend the Securities Exchange Act of 1934 to provide for an annual limit on the amount of certain fees which may be collected by the Securities and Exchange Commission; to the Committee on Commerce.

By Mr. STEARNS (for himself, Mr. GEKAS, Mr. SERRANO, Mr. WAXMAN, Mr. FROST, Mrs. MINK of Hawaii, Mr. FILNER, Mr. HILLIARD, Mr. MCCOLLUM, Mrs. KENNELLY of Connecticut, Mr. CLEMENT, Mr. SHAYS, Mr. FALEOMAVAEGA, Mr. HASTINGS of Florida, Ms. CARSON, Mr. WOLF, Mr. WALSH, Mr. BOEHLERT, Mrs. LINDA SMITH of Washington, Mr. COOK, and Mr. DELAHUNT):

H.R. 4121. A bill to amend the Public Health Service Act to provide for the establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes; to the Committee on Commerce.

By Mr. VENTO (for himself, Mr. MARKEY, Mr. MILLER of California, Mr. FARR of California, and Ms. DEGETTE):

H.R. 4122. A bill to prohibit the United States government from entering into certain agreements or arrangements related to public lands without the express prior approval of Congress; to the Committee on Resources.

By Mr. NADLER (for himself, Mr. ABERCROMBIE, Mr. BORSKI, Mr. BROWN of California, Mrs. CLAYTON, Mr. CLYBURN, Mr. DAVIS of Illinois, Mr. EVANS, Mr. FILNER, Mr. GREEN, Mr. HALL of Ohio, Mr. HINCHEY, Ms. KAPTUR, Mr. KUCINICH, Mr. LEWIS of Georgia, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. MOAKLEY, Mr. PALLONE, Ms. PELOSI, Mr. RAHALL, Mr. ROMERO-BARCELO, Mr. RUSH, Mr. SCHUMER, Ms. SLAUGHTER, Mr. THOMPSON, Mr. TIERNEY, Ms. WATERS, Mr. YATES, Mr. BERMAN, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Mr. CLEMENT, Mr. CONYERS, Mr. DEFAZIO, Mr. FARR of California, Mr. FRANK of Massachusetts, Mr. GUTIERREZ, Mr. HEFNER, Ms. JACKSON-LEE, Mr. KILDEE, Mr. LAMPSON, Mr. MCDERMOTT, Mrs. MALONEY of New York, Mr. MENENDEZ, Mrs. MINK of Hawaii, Mr. OBERSTAR, Mr. PAYNE, Mr. POMEROY, Mr. RODRIGUEZ, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SERRANO, Mr. STARK, Mrs. THURMAN, Mr. TOWNS, Ms. WOOLSEY, Mr. LAFALCE, and Mr. FALEOMAVAEGA):

H. Res. 483. A resolution expressing the sense of the House of Representatives regarding strengthening the Social Security system to meet the challenges of the next century; to the Committee on Ways and Means.

By Mr. GANSKE (for himself, Mr. DINGELL, Mr. BERRY, and Mr. FORBES):

H. Res. 486. A resolution providing for consideration of the bill (H.R. 3605) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Rules.

By Ms. CHRISTIAN-GREEN (for herself, Ms. KILPATRICK, Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. FILNER, Mr. SNYDER, Mr. WATTS of Oklahoma, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LIPINSKI, Mr. FROST, and Mr. DIXON):

H. Res. 487. A resolution relating to the emancipation of African slaves in the Danish West Indies, now the United States Virgin Islands; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H. Res. 488. A resolution amending the Rules of the House of Representatives to require a two-thirds vote on any bill or joint resolution that, pursuant to fast-track procedures, would implement any trade agreement; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 145: Mr. SHERMAN, Mrs. MYRICK, Mr. VISCLOSKY, and Mr. MEEKS of New York.

H.R. 306: Mr. SKAGGS.

H.R. 371: Mr. OBEY.

H.R. 410: Mr. BUNNING of Kentucky.

H.R. 532: Mr. KLECZKA.

H.R. 611: Mr. BENTSEN and Mr. SHERMAN.

H.R. 633: Mr. DELAHUNT.

H.R. 716: Mr. MCINNIS.

H.R. 746: Mr. KUCINICH.

H.R. 872: Mr. BILIRAKIS and Mr. STRICKLAND.

H.R. 900: Mrs. KELLY.

H.R. 953: Mr. NEAL of Massachusetts.

H.R. 993: Mr. MCINNIS.

H.R. 1126: Ms. KILPATRICK, Mr. MCHALE, and Mr. FAWELL.

H.R. 1375: Mr. TAUZIN.

H.R. 1378: Ms. DUNN of Washington.

H.R. 1382: Ms. VELÁZQUEZ, Mr. LIPINSKI, and Mr. BOEHLERT.

H.R. 1531: Mr. GILCHREST and Ms. SANCHEZ.

H.R. 1624: Ms. KILPATRICK.

H.R. 2021: Mr. ROYCE.

H.R. 2094: Ms. NORTON.

H.R. 2568: Mr. DOOLITTLE.

H.R. 2721: Mr. BOEHNER and Mr. RYUN.

H.R. 2800: Mr. LAHOOD.

H.R. 2837: Mr. SOUDER.

H.R. 2869: Mr. KNOLLENBERG.

H.R. 2873: Mr. KNOLLENBERG.

H.R. 2914: Mr. SANDLIN and Mr. BOUCHER.

H.R. 2987: Mr. SNYDER.

H.R. 2990: Mr. HAYWORTH, Mr. FAZIO of California, Mr. CHAMBLISS, Mr. CONDIT, Mr. SHUSTER, Mr. POSHARD, and Mr. PITTS.

H.R. 3008: Mr. BACHUS.

H.R. 3081: Mr. SHAYS, Mr. BOEHLERT, Mr. ADAM SMITH of Washington, Mr. SCOTT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. VENTO, and Mr. MARKEY.

H.R. 3127: Mr. CONDIT, Mr. NETHERCUTT, and Mr. MORAN of Virginia.

H.R. 3215: Mr. PICKERING.

H.R. 3248: Mr. ADERHOLT, Mr. FRANKS of New Jersey, Mr. WICKER, and Mr. THUNE.

H.R. 3259: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LAFALCE, and Mr. SNYDER.

H.R. 3320: Mr. QUINN, Mr. NADLER, Mr. DINGELL, and Mr. PAYNE.

H.R. 3470: Mrs. CAPPS.

H.R. 3506: Mr. SANDLIN, Mr. LAFALCE, Mr. STUPAK, Ms. MILLENDER-MCDONALD, and Mr. KIM.

H.R. 3531: Mr. RAHALL.

H.R. 3553: Mr. DEUTSCH, Mr. MCNULTY, Ms. LEE, and Ms. JACKSON-LEE.

H.R. 3567: Mr. SHUSTER and Mr. POMEROY.

H.R. 3610: Mr. HINCHEY.

H.R. 3629: Mr. ENSIGN, Mr. STEARNS, Mr. GREEN, Mr. CAMP, and Mrs. MYRICK.

H.R. 3636: Mr. KANJORSKI, Ms. HOOLEY of Oregon, and Mrs. MEEK of Florida.

H.R. 3651: Mr. SCHUMER.

H.R. 3659: Mr. RODRIGUEZ, Mr. HILLEARY, Mr. TALENT, Mr. HASTINGS of Washington, Mr. LEWIS of Kentucky, Mr. HASTERT, Mr. CUNNINGHAM, Mrs. MINK of Hawaii, Mr. FILNER, and Mr. CRAMER.

H.R. 3697: Mr. KLECZKA, Mr. HILLIARD, Mr. THOMPSON, Mr. KUCINICH, and Mr. TORRES.

H.R. 3707: Mr. COBURN, Mr. MANZULLO, Mr. PETRI, and Mr. REDMOND.

H.R. 3736: Mr. SPRATT.

H.R. 3815: Mr. ENSIGN, Mr. THOMPSON, Mr. GEKAS, Mr. HOSTETTLER, Mr. FILNER, Mr. PAUL, and Mr. RAMSTAD.

H.R. 3821: Mr. MCKEON, Mr. COMBEST, Mr. FORBES, Mr. PITTS, Mr. QUINN, and Mr. WEXLER.

H.R. 3831: Mr. HILLIARD, Ms. CARSON, Mr. THOMPSON, and Mr. BARRETT of Wisconsin.

H.R. 3833: Mr. FORD, Ms. KILPATRICK, Mrs. MALONEY of New York, Mr. DEFAZIO, Mr. MCHALE, and Mr. MANTON.

H.R. 3835: Mr. FRANK of Massachusetts, Mr. BROWN of Ohio, Mr. OLVER, Mr. LATHAM, Mr. PRICE of North Carolina, Mr. BOYD, Mr. OBERSTAR, Mr. GOODE, Mr. FILNER, Ms. STABENOW, Mr. SNYDER, Mr. LEWIS of Kentucky, Mr. MARTINEZ, Mr. OXLEY, Mr. HINCHEY, Mr. GILLMOR, and Mr. KENNEDY of Rhode Island.

H.R. 3874: Mr. GREENWOOD.

H.R. 3897: Mr. FATTAH.

H.R. 3900: Mr. LUTHER.

H.R. 3932: Mrs. CAPPS.

H.R. 3937: Mr. LIPINSKI and Mr. BARRETT of Wisconsin.

H.R. 3956: Mr. FRANK of Massachusetts and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 4007: Mr. ENGLISH of Pennsylvania, Mr. NADLER, Mr. SERRANO, Mrs. LOWEY, Mr. BERMAN, Mr. MCNULTY, Mr. RODRIGUEZ, and Mr. BARRETT of Wisconsin.

H.R. 4019: Mr. COOK and Mr. BERMAN.

H.R. 4031: Mr. CLAY.

H.R. 4032: Mr. JONES and Mr. BALLENGER.

H.R. 4034: Mr. TOWNS, Ms. NORTON, Mr. LATOURETTE, and Mr. ENGLISH of Pennsylvania.

H.R. 4046: Ms. DEGETTE.

H.R. 4049: Mr. CANNON.

H.R. 4071: Mr. TAUZIN, Mr. BONIOR, and Mr. WATTS of Oklahoma.

H.R. 4074: Mr. CALVERT.

H.R. 4077: Mr. YOUNG of Alaska.

H.R. 4096: Mr. ADERHOLT, Mrs. EMERSON, Mr. LATHAM, and Mrs. MYRICK.

H.J. Res. 66: Mr. EDWARDS.

H. Con. Res. 228: Mrs. THURMAN.

H. Con. Res. 229: Mr. BARTLETT of Maryland.

H. Con. Res. 246: Mr. KUCINICH.

H. Res. 26: Mr. TOWNS.

H. Res. 37: Mr. FAWELL.

H. Res. 467: Mr. BALDACCI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3605: Mr. BRADY of Texas.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4101

OFFERED BY: MR. HALL OF OHIO

AMENDMENT NO. 16: Page 13, line 14, insert "(reduced by $8,000,000)" after the dollar figure.

Page 14, line 24, insert "(reduced by $8,000,000)" after the dollar figure.

Page 15, line 18, insert "(reduced by $9,000,000)" after the dollar figure.

Page 17, line 4, insert "(reduced by $9,000,000)" after the dollar figure.

Page 48, line 9, insert "(increased by $10,000,000)" after the dollar figure.

H.R. 4101

OFFERED BY: MR. SANDERS

AMENDMENT NO. 17: Insert before the short title the following new section:

SEC.   . The amounts otherwise provided by this Act are revised by reducing the amount made available for "FOOD AND DRUG ADMINISTRATION-SALARIES AND EXPENSES", and increasing the amount made available for "FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS", by $10,000,000.

H.R. 4103

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 3: At the end of the bill (preceding the short title), insert the following:

TITLE X

ADDITIONAL GENERAL PROVISIONS

SEC. 1001. The total amount obligated from new budget authority provided in this Act may not exceed $247,708,522,000.

H.R. 4103

OFFERED BY: MRS. MALONEY OF NEW YORK

AMENDMENT NO. 4: At the end of title VIII (page   , after line   ), insert the following new section:

SEC.   . The amount otherwise provided by this Act for the Defense Logistics Agency shall be reduced by $10,000,000 on April 1, 1999, unless, before that date, the Secretary of Defense establishes specific goals for achieving cost savings and other benefits from the implementation and use of best commercial inventory practices, as identified by the Secretary, and submits a report to the congressional defense committees identifying these goals and explaining how and when each goal will be achieved.

H.R. 4103

OFFERED BY: MR. SANDERS

AMENDMENT NO. 5: At the end of title VIII (page   , after line   ), insert the following new section:

SEC.   . None of the funds appropriated or otherwise made available by this Act may be used to enter into or renew a contract with any company owned, or partially owned, by the People's Republic of China or the People's Liberation Army of the People's Republic of China.

H.R. 4103

OFFERED BY: MR. SANDERS

AMENDMENT NO. 6: At the end of the bill (preceding the short title), insert the following:

TITLE X

ADDITIONAL GENERAL PROVISIONS

SEC. 1001. None of the funds appropriated or otherwise made available by this Act may be used to enter into or renew a contract with Sunbase Asia, Incorporated, or with Southwest Products Company, Incorporated, a subsidiary of Sunbase Asia, Incorporated.

H.R. 4104

OFFERED BY: MR. BLAGOJEVICH

AMENDMENT NO. 4: Page 11, line 7, insert "(increased by $2,000,000)" before "; of which".

Page 46, line 23, insert "(reduced by $2,000,000)" after "$1,554,772,000".

H.R. 4104

OFFERED BY: MRS. MALONEY OF NEW YORK

AMENDMENT NO. 5: Strike section 511 (and redesignate the succeeding sections accordingly).

H.R. 4104

OFFERED BY: MRS. MORELLA

AMENDMENT NO. 6: At the appropriate place in the bill, insert the following:

SEC.   . (a) An Executive agency which provides or proposes to provide child care services for Federal employees may use appropriated funds (otherwise available to such agency for salaries) to provide child care, in a Federal or leased facility, or through contract, for civilian employees of such agency.

(b) Amounts so provided with respect to any such facility or contractor shall be applied to improve the affordability of child care for lower income Federal employees using or seeking to use the child care services offered by such facility or contractor.

(c) The Office of Personnel Management shall, within 180 days after the date of enactment of this Act, issue regulations necessary to carry out this section.

(d) For purposes of this section, the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code, but does not include the General Accounting Office.

H.R. 4104

OFFERED BY: MR. SANDERS

AMENDMENT NO. 7: Page 58, line 1, after the dollar amount, insert the following: "(reduced by $6,000,000) (increased by $6,000,000)".

H.R. 4104

OFFERED BY: MR. SANDERS

AMENDMENT NO. 8: Page 58, line 1, after the dollar amount, insert the following: ", of which $6,000,000 shall be for the National Personnel Record Center".

H.R. 4112

OFFERED BY: MR. GUTIERREZ

AMENDMENT NO. 1: In Title III—General Provisions—after the last section insert the following new section:

SEC. 310. The Architect of the Capitol—

(1) shall develop and implement a cost-effective energy conservation strategy for all facilities currently administered by Congress to achieve a net reduction of 20 percent in energy consumption on the congressional campus compared to fiscal year 1991 consumption levels on a Btu-per-gross-square-foot basis not later than 7 years after the adoption of this resolution;

(2) shall submit to Congress no later than 10 months after the adoption of this resolution a comprehensive energy conservation and management plan which includes life cycle costs methods to determine the cost-effectiveness of proposed energy efficiency projects;

(3) shall submit to the Committee on Appropriations in the Senate and the House of Representatives a request for the amount of appropriations necessary to carry out this resolution;

(4) shall present to Congress annually a report on congressional energy management and conservation programs which details energy expenditures for each facility, energy management and conservation projects, and future priorities to ensure compliance with the requirements of this resolution;

(5) shall perform energy surveys of all congressional buildings and update such surveys as needed;

(6) shall use such surveys to determine the cost and payback period of energy and water conservation measures likely to achieve the required energy consumption levels;

(7) shall install energy and water conservation measures that will achieve the requirements through previously determined life cycle cost methods and procedures;

(8) may contract with nongovernmental entities and employ private sector capital to finance energy conservation projects and achieve energy consumption targets;

(9) may develop innovative contracting methods that will attract private sector funding for the installation of energy-efficient and renewable energy technology to meet the requirements of this resolution;

(10) may participate in the Department of Energy's Financing Renewable Energy and Efficiency (FREE Savings) contracts program for Federal Government facilities; and

(11) shall produce information packages and "how-to" guides for each Member and employing authority of the Congress that detail simple, cost-effective methods to save energy and taxpayer dollars.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE CHILDREN'S HEALTH INSURANCE ACCOUNTABILITY ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mrs. MORELLA. Mr. Speaker, I rise to introduce the Children's Health Insurance Accountability Act. Children are not "little adults." They have health care needs that often require pediatric expertise to understand, diagnose, and treat correctly.

This legislation recognizes the fundamental fact that children's health and developmental needs are different than those of adults. Children, therefore, should not be left out of the debate on managed care quality and consumer protection, as they so often are.

In fact, the President's Advisory Commission neglected to mention children when it released its original "Bill of Rights" last fall. As a result, 121 organizations both nationally and at the local level co-signed a letter to the Commission urging its members not to make the same mistake twice. As a result, the Commission notes in its recently released final report, "Children have health and developmental needs that are markedly different from adults and require age-appropriate care. Developmental changes, dependency on others, and different patterns of illness and injury require that attention be paid to the unique needs of children in the health system." The Commission adds, "Attention to the quality of health care for children is especially important given their health and developmental needs and their promise for the future."

Unfortunately, many of the bills that have been introduced in the Congress to address various aspects of health care quality and consumer protection do not incorporate the special needs of children to receive quality care and appropriate care when needed to ensure their healthy development. What does this mean?

Child-friendly health care means allowing families to pick a pediatrician as the child's primary care provider.

Child-friendly health care means providing children access to a pediatric specialist rather than an adult specialist for a life-threatening, disabling or chronic condition.

Child-friendly health care means allowing families to appeal health plans' decisions to someone who understands the care of children, such as a provider with pediatric expertise.

Child-friendly health care means ensuring that plans report information in a manner that is separate for both the adult and child enrollees using measures that are specific to each group. Health care cannot be "one size fits all." Children need "Straight A" health plans—plans that address children's specific needs in terms of Access to Care, Appeals, and Accountability.

Organizations endorsing this initiative include: the American Academy of Pediatrics, the National Association of Children's Hospitals, the National Organization of Rare Diseases, the ARC of the United States, Families USA, the Association of Maternal and Child Health Programs, the American Academy of Child and Adolescent Psychiatry, the American College of Emergency Physicians, Families USA, the Children's Defense Fund and the National Mental Health Association.

I share the concerns of a growing number of parents about the quality of their children's health care, and I will work to ensure that managed care recognizes children's unique health needs.

A TRIBUTE TO JOHN J. YOUNG

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. PORTMAN. Mr. Speaker, today I rise to recognize the distinguished career of a friend and constituent, John J. Young, upon his retirement as Executive Director of the Hamilton County Alcohol and Drug Addiction Services Board. The ADAS Board is responsible for planning and coordinating alcohol and drug addiction services in Hamilton County, Ohio.

Mr. Young received his Bachelor of Science degree from Xavier University in 1967, and received his Masters in Education from the University of Cincinnati in 1972. He has been an Advanced Member of the American College of Addiction Treatment Administrators since 1989. Prior to his current executive leadership with the ADAS Board, John served over 20 years managing and delivering alcohol and other drug addiction services in the Greater Cincinnati area.

John was instrumental in the conversion of the former Rollman Psychiatric Institute to the Hamilton County Alcohol and Drug Addiction Services Center. His efforts have resulted in developing the alcohol and drug treatment component of the Hamilton County Drug Court, the first such initiative in the state of Ohio. John is also currently co-chair of the Community Task Force of the Coalition for a Drug Free Greater Cincinnati. He is a member of the Governor's Council on Alcohol and Drug Addiction for the State of Ohio, and is a founding member of Ohio's Federation of Alcohol and Drug Addiction Services Boards.

John has not limited his community involvement to just alcohol and drug addiction services. He is Vice President of the Executive Committee of the Hamilton County Family and Children First Council. He is a member of Leadership Cincinnati, Leadership Ohio, the Cincinnatus Association, and the Hamilton County Corrections Planning Board and the Hamilton County Human Services Planning Board.

John Young has devoted much of his career to serving others in our community, and all of us in Cincinnati thank John for his service and wish him well in his future pursuits.

RECOGNIZING MARIA CONTRERAS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, today I rise to recognize a truly unique individual. Maria Contreras is the founder and coordinator of Soldiers of Health in Roxbury, Massachusetts.

Ms. Contreras, an immigrant from the Dominican Republic, was recognized by the Community Health Leadership Program, supported by The Robert Wood Johnson Foundation, as one of this year's ten outstanding individuals changing the shape of health care in America. Selected from more than 500 candidates from all over the country, Ms. Contreras will receive $100,000 for her work to improve access to health and social services for more than 500 families in the Roxbury, Massachusetts area.

A 23-year resident of the Egleston Square neighborhood, Ms. Contreras watched her neighbors suffer violence, depression, illness and isolation. In 1995, when a 16-month old infant was injured in a drive-by shooting, Contreras refused to stand by and watch. She began a dialogue, talking to kids on street corners and meeting with tired parents, frightened neighbors and frustrated police.

Ms. Contreras' attempts at bringing neighbors together were initially met with finding a door slammed in her face. She is an effective advocate. After getting to know many of the youth-at-risk, Ms. Contreras listened to what they had to say and came up with realistic alternatives to hanging out on street corners such as after school tutoring programs, enrollment in GED courses, part and full-time jobs and week-long hiking trips.

In 1996, Ms. Contreras' launched Soldiers of Health, a neighbor-to-neighbor outreach program that addresses the violence, poor health and substandard living conditions by reconnecting people-in-need to available services. Currently, 14 soldiers who live in Egleston Square spend 22 hours each month walking their assigned streets, meeting as many people as possible. They pay attention to the health concerns of the elderly and get to know the kids hanging on the corner. Over time, they break down barriers to link people together whether it is helping them access the medical assistance they need or getting the education that's necessary to move beyond the corner and into a job.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, I want to congratulate and thank Maria Contreras for her dedication and work in making Roxbury a better place and a model for tomorrow.

CONGRATULATIONS TO MACIE HANRAHAN

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. CALVERT. Mr. Speaker, I rise today to congratulate and commend a young lady from my district who has brought pride and honor to her family, friends and school. Macie Hanrahan, a student at Raney Intermediate School in Corona, California, won first place in the junior division individual performance category at National History Day.

National History Day is an annual competition in which students research and learn about events in history. Competitions are held at the district, state and national levels and are judged by historians and educators. Students present their historical findings in papers, exhibits, performances and media presentations. The theme of this year's event was "Migrations in History: People, Ideas, Cultures."

As an American of Irish descent, Macie chose Irish Migration of the 1840's as her topic, with a performance entitled "Deori! Forced From Erin's Soil." In her performance, she used the voices of three girls from Ireland, England and America to show differing perspectives of the Irish potato famine, the forced migration that followed, and the experiences that people of different cultures went through during this time in history. To win this event, Macie conducted exhaustive research, including using the National Archives, the Library of Congress, U.S. and Irish Census Records, and original diaries, letters and newspapers of the time.

On behalf of the residents of the 43rd congressional district of California, I congratulate Macie for her hard work and a job well done and wish her continued success in all of her future endeavors.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

SPEECH OF

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes:

Mr. CRAPO. Mr. Chairman, I rise to express my strong opposition to the Foley-Miller-Markey-Kucinich-Sanders amendment to eliminate funding for the Depart of Energy's (DOE) Nuclear Energy Research Initiative (NERI).

As you know, NERI is the only new nuclear research and development program funded in the FY 1999 Energy and Water Development Appropriations Bill. This new program, which is supported by the President's Committee of Advisors on Science and Technology, will support long-term research in advanced nuclear technologies, such as proliferation-resistant reactor and fuel technologies and high efficiency reactor concepts. This competitive, peer-reviewed grants program will support the best ideas from the United States nuclear industry, universities, and national laboratories. In addition, NERI will help maintain the United States' leadership and expertise in advanced energy technologies.

NERI enjoys strong support from the nuclear industry, universities, and DOE national laboratories. My home state of Idaho is privileged to have some of the most talented nuclear scientists and researchers in the world at the Idaho National Engineering and Environmental Laboratory and at Argonne National Laboratory-West. NERI will permit these world-class scientists and engineers the opportunity to advance nuclear science and engineering well into the next century. If the United States expects to be considered a world leader in nuclear science and technology, it must fund programs like NERI that advance our knowledge in nuclear science and technology.

Mr. Speaker, I urge my colleagues to vote against the amendment.

TRIBUTE TO THE HONORABLE JOHN W.H. BASSETT

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise to pay tribute today to the late John Bassett, a great Canadian and a great friend of the United States.

John Bassett was one of those unique individuals who not only witnessed the great events of our century but who truly helped shape them.

He served with gallantry in World War II, was a broadcast media pioneer, supported the creation of Israel, ushered in the modern sports era, and was a friend to Presidents and Prime Ministers, columnists and news anchors, quarterbacks and hockey centers.

When John died last month, Canada lost an honored citizen and the United States a distinguished ally. And the Kennedy family lost a great friend.

When I was a young boy, Toronto Maple Leaf pucks were always rolling around our house at Hickory Hill and then in the Oval Office when we visited my Uncle Jack there. John Bassett made every Kennedy a fan of his Maple Leafs—and under his ownership in those years, the Toronto team won three consecutive Stanley Cups in the National Hockey League.

He built the Canadian Football League as well by signing a young Joe Theisman out of Notre Dame to quarterback his Toronto Argonauts Football Team. His sports empire grew to include the Birmingham Bulls of the World Hockey League and the Tampa Bay Bandits of the United States Football League, which fielded gridiron greats Steve Spurrier, Larry Csonka, Jim Kiick, and Paul Warfield.

But John Bassett didn't just have an eye for sports talent—he had a genius for marketing it. He bought newspapers and television stations, and used them to turn athletes into celebrities.

His string of newspapers included the Sherbrooke Daily Record, a small paper being published in the Eastern Provinces of Quebec; and the Toronto Telegram, one of Canada's leading dailies up until its demise in 1971. He made sure the Telegram lived on by turning over its newspaper boxes and news library to the Toronto Sun, getting that paper on the newsstands just two days after the Telegram ceased publishing.

In 1960, at the dawn of the modern media age, John founded the television station CFTO–TV in Toronto under the umbrella of Baton Broadcasting. Under his direction, and now that of his son and my good friend Doug Bassett, Baton has become the largest private television broadcasting company in Canada—the owners of 20 TV stations, three national cable channels, and Canada's only private national television network, CTV.

As you might expect, John Bassett the media mogul and sports czar always felt right at home with anyone. I remember my mother describing John sitting at ease aboard Lord Beaverbrook's yacht—five crew members serving each guest, the sleek hull so long it made Rupert Murdoch's boat look like a bathtub.

But she also recalls his great laugh and good spirit sailing in a one-master off the coast of Maine with Robert and Ethel or John and his young bride Jackie—with nothing more than a picnic lunch and a cooler swung over the gunwales.

Like all great men, John had a great heart, and gave generously of his time to great causes. He was personal friends with the founders of modern Israel—David Ben Gurion, Golda Meir, Moshe Dayan and Menachem Begin. He worked tirelessly to support the young state, and became the first non-Jew honored by the Jewish National Fund of Canada for his selfless work.

And after my father's death, John and his family showed great kindness to my family by establishing the Robert F. Kennedy Memorial in Canada, which continues to thrive under the generous leadership of the Bassett family.

While lucky in sports, John wasn't so lucky in politics, twice running for Parliament without success. But typical of John Bassett, he found other ways to serve. In 1989, Prime Minister Brian Mulroney appointed him Chairman of the Security Intelligence Review Committee, the watchdog group for the national security service. He also served as a Privy Councillor of Canada.

In recognition of his career in business, media, sports, and civil and political affairs, John Bassett has received both his country's highest honor, the Companion of the Order of Canada, and the highest honor of his home province, the Order of Ontario.

John Bassett will be missed by many, but especially by his family. My heart goes out to Isabel and Doug and all the Bassett children, grandchildren, and great-grandchildren—indeed to every member of the extended Bassett family who felt the great sweep of his extraordinary life.

John Bassett's life was epic in scope but intensely human in the kindness he showed to everyone along the way. Canada has lost a great citizen, and we've all lost a great friend.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. OWENS. Mr. Speaker, I was detained yesterday and missed the following rollcall votes. Had I been present, I would have voted in the following manner:

H. Con. Res. 228, Money Laundering Investigations in Mexico, rollcall no. 255 "yea".

H. Res. 451, Oppose Increase in Postal Rates, rollcall no. 256 "yea".

H.R. 4059, Military Construction Appropriations for FY 1999, rollcall no. 254 "yea".

H.R. 4060, Energy and Water Development Appropriations for FY 1999, rollcall no. 253 "yea".

Amendments to H.R. 4060 by Rep. FOLEY to eliminate the bill's $5 million in funding for the Energy Department's Nuclear Energy Research Initiative, rollcall no. 252 "nay".

CONGRATULATIONS TO SARA BONILLA

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. RIGGS. Mr. Speaker, Sara Bonilla was born in the small town of Cartago, Costa Rica on May 15, 1956. She is the proud mother of three sons, Fabian Martinez, Juan Carlos and Reuben Augusto, who reside in Batann, Limon, Costa Rica. In 1989, Sara came to the United States to live with relatives in Los Angeles, California.

Since Sara arrived in the United States, she has worked very hard at many different jobs, oftentimes two at a time, to assist her family in Costa Rica. Sara enrolled in and completed classes in both English and computers at a local college. One of the biggest highlights in her life—as well as a big step in her independence—was when she received her driver's license and purchased a used automobile.

Over the years, Sara has constantly sought to improve her English proficiency and her job skills. Today, after ten years, Sara is reaching her goal. Today, at the Masonic Auditorium in San Francisco, California, Sara Bonilla will be sworn in as a citizen of the United States. I offer Sara my congratulations, from one American to another.

INTRODUCTION OF THE SOCIAL SECURITY RESOLUTION

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. NADLER. Mr. Speaker, today, I am proud to introduce House Resolution 483 regarding strengthening of the Social Security system. I am pleased that this resolution has 59 original cosponsors and has been endorsed by 14 national organizations representing millions of Americans.

This is a very important day for Social Security. It marks the true beginning of our national debate about the privatization of this great social insurance program.

I say the true beginning because, until today, the Social Security debate has been one-sided and has shut out the voice of the American people. For too many months, there has been a growing consensus in Washington that privatization—substitution private individual accounts for all or part of Social Security—is a done deal, that economists think it's the only way to go, that young people are clamoring for private accounts, and that Americans in general want it.

This is simply not true. There is no wellspring of public support for privatizing Social Security, there is merely a wellspring of expensive public relations creating the illusion of public support. Today, I am introducing a resolution into the House opposing the creation of private accounts as a substitute for Social Security. This resolution has 59 original co-sponsors and the initial endorsements of national advocacy groups representing Americans of all ages and all walks of life. Together, these initial endorsers represent tens of millions of Americans who are opposed to wrecking the promise of Social Security by privatizing it. Together, I believe this alliance represents the true sense of the American people: that privatizing Social Security is a bad idea and is unnecessary. The early support for this resolution, still in its early stages, should make us question the myth that there is massive public support for partially replacing Social Security with private accounts.

The introduction of this resolution also debunks the myth that there is overwhelming Congressional support for privatization. Fifty-nine Members of Congress, so far, have endorsed this resolution, more than have spoken out in favor of private accounts in general.

This resolution also debunks the well-financed myth that Social Security is in a state of grave crisis. As this year's Trustee report tells us, Social Security—at the very worst—faces a manageable gap of 2.19 percent of taxable payroll. This gap can be closed without reducing Social Security benefits, without raising the retirement age, without forcing individuals to put their retirement income at risk through individual private accounts, and without raising tax rates. This 2.19 percent is not only manageable, but it is quite possibly overstated by the Trustees, who, out of fiduciary caution, use economic assumptions that have been described as extremely pessimistic by leading economists. Let me state it clearly—Social Security is not going bankrupt; Social Security faces a manageable gap which can be closed without dismantling the basic insurance functions it provides.

Finally, I would like to express my hope that the introduction of this resolution will spark a more realistic analysis of privatization. With few exceptions, the creation of private accounts has been presented as a panacea for Social Security's troubles. This view is baffling to many of us in that it overlooks obvious problems with using private stock market accounts as a substitute for Social Security. For example:

The creation of private accounts doesn't account for the millions of children, disabled workers, and widowed spouses who collect disability and survivors' benefits from Social Security;

The switch from a self-funded social program to private accounts will cost Americans many billions of dollars, a transition cost that will hurt the youngest workers the worst;

Individual private accounts fail to protect individuals from severe downturns in the market; and

Even a system of individual private accounts that enjoys a good average return on investment means that millions of Americans whose investment perform below average will be thrust into poverty.

Social Security is not just a retirement program. Social Security is a national insurance program which, for a remarkably low premium, protects Americans from economic misfortune at every stage of our lives. Even at the best of times, people need insurance, and it is vital that we protect Social Security and preserve its current structure. It is my hope that this resolution will help clarify the public debate and move us in that direction.

TRIBUTE TO CATHY FROST

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Fresno Businesswoman Cathy Frost, owner of Bennett Frost Personnel Services, for her efforts and success in the business arena. Cathy Frost's business has grown to be one of the most successful and thriving personnel services in Fresno.

Cathy Frost was born in Selma, California in 1946. She is married to Robert Frost and has two children, Brian and Kevin. Cathy Frost received a Bachelor of Arts degree from San Jose State College.

Bennett Frost Personnel Services is a successful business that began with only three employees and has now grown to 19. Mrs. Frost's interest in making a difference in the community has landed her the distinction of becoming the first woman president of the Fresno Metropolitan Museum. Other activities include serving as the vice-chair of the New United Way campaign and chair of the search committee for an executive director for the same organization. Cathy Frost is also a member of The Business Council, the Human Resource Association and the YMCA search committee for an executive director.

Mr. Speaker, it is with great honor that I pay tribute to Cathy Frost for her efforts and success in the business arena. It is the leadership and care exhibited by Mrs. Frost that should serve as a role model for business owners all over America. I ask my colleagues to join me in wishing Cathy Frost many years of success.

PERSONAL EXPLANATION

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. PORTMAN. Mr. Speaker, a town meeting in my district that was scheduled at a time when the House was not expected to be in session prevented me from being here for yesterday's vote on H.R. 4060, the FY 1999 Energy and Water Development Appropriations bill. I strongly support H.R. 4060. Had I been present, I would have voted "Yes."

This bill contains $275,347,000 for the Fernald Environmental Management Project (FEMP), which is based in my Congressional District near Cincinnati, Ohio. The former Fernald Feed Materials Production Center, now the FEMP, was a Department of Energy facility that was part of the United States' nuclear weapons production complex for nearly forty years from 1951 to 1988. The site is heavily contaminated with nuclear waste and other hazardous materials, and has been the focus of extensive cleanup efforts for several years.

H.R. 4060 fully funds the President's request for the Fernald cleanup under the Defense Facilities Closure Account. The Closure Account is designed to ensure the accelerated cleanup of this site under budget and ahead of the original schedule. Accelerated cleanup will not only result in a considerable savings to the taxpayers but also help to protect public health. I would like to point to a disturbing study recently released by the Center for Disease Control that estimates a 1 to 12 percent increase in lung cancer deaths to residents in the Fernald study area as a result of exposure to radon gas emitted from the site's K–65 Silos. The CDC's findings serve to emphasize the need to fully fund the Closure Account, which would ensure that the accelerated cleanup proceeds on schedule to safeguard the residents in the community from future radioactive exposure.

Mr. Speaker, I believe this funding for the FEMP strongly serves the public interest. I commend Chairman LIVINGSTON, Ranking Member OBEY, Chairman MCDADE, and Ranking Member FAZIO as well as their colleagues on the Appropriations Committee and the Energy and Water Development Subcommittee for including these vital funds in the bill. I also want to thank the House for overwhelmingly approving H.R. 4060 by a vote of 405–4.

HONORING THE 125TH ANNIVERSARY OF JONESFIELD TOWNSHIP

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. CAMP. Mr. Speaker, it is with great pride that I rise to recognize a distinguished Township in Mid-Michigan as it celebrates its 125th Anniversary. Chartered in 1873, Jonesfield Township was originally known as Green—named after the owner of a local lumber mill. Now a 125 years later, Jonesfield Township has grown and prospered around the quiet community of Merrill. Jonesfield is named after one of its earliest settling families, the Jones' which happened to stumble upon the community after taking the wrong road in the attempt to settle in the area surrounding Grand Rapids.

Jonesfield Township and the community of Merrill are known for the closeness of the residents and their friendly community spirit. Its residents classify the area as a quiet farming community. Today, as the community celebrates its 125th Anniversary it recognizes the excellence of the churches, schools, fire department, and farm families that have help development Jonesfield Township into a thriving community. It is the hard work and dedication of many generations that built this community.

This weekend the Jonesfield Township will reflect on its past and the residents can be very proud of their history and growth over the past 125 years. On Saturday, as the citizens of Jonesfield Township reflect on their past—they can be proud of how their community started and where it is today. It is a special, caring community that has grown without sacrificing their special heritage.

SALUTING THE RIGHT TO ORGANIZE INTO LABOR UNIONS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. KUCINICH. Mr. Speaker, today I rise to salute one of our most cherished rights as Americans: the right of working people to bank together and organize into labor unions to achieve higher wages and better working conditions.

When people first go to work for a nonunion employer, they do so as individuals. Often times, they are not familiar with the specific conditions of work at their workplace. Sometimes those conditions are acceptable, and provide the sort of income that can support them and their families. But, too often those conditions are substandard and the wages are insufficient. In this situation, workers discover that they have many interests in common. They find that by joining together they can begin to work out responses and solutions to the problems that they face in the workplace. And they find that organizing into a labor union is their best vehicle to better treatment, improvements in working conditions, and expand respect on the job.

Since the massive organizing drives of the 1930s, unions have come to play an important role in American society. Unions contribute to the stability of our economy by helping to ensure that working people have the income to purchase the products and services of industry. Unions give workers a voice on the job. Unions help to close the wage gap between men and women. And unions help to uphold fairness and equality of opportunity for all their members in the workplace.

Unfortunately, the right to organize is increasingly under attack. Millions of workers would decide to join a union if they could be assured that they would not be punished for making that decision. Instead, workers who express their pro-union sympathies are routinely harassed, forced to undergo closed-door meeting with employers, and even fired.

In my own district on the west side of Cleveland, the right to organize is not safe. For example, a company with $80 million in sales pays its workers at starting wage of $6.25 per hour, barely above the minimum wage. This is a company that received a tax abatement from the City of Cleveland to construct a new building. The company's sales have been growing, but that growth has not translated into higher wages and benefits, or better working conditions. Most employees support themselves and their families on weekly paychecks of less than $200. Retiring employees do not have a pension plan they can count on. Safety conditions are terrible. Employees have lost fingers and, in one case, an arm. When fires have broken out in the plant, employees have been required to continue work.

Faced with these low wages and dangerous conditions, these workers turned to the Union of Needletrades, Industrial and Textile Employees—UNITE. After workers contacted UNITE, 60 percent of them signed cards saying that they wanted the union to represent them. A petition for election has been filed with the National Labor Relations Board. Yet in the first two weeks of the union's organizing campaign, the following has happened: the employer has held captive audience meetings to frighten the workers; the company has threatened to close the factory completely; and the company has intimidated vocal union supporters by issuing written warnings against them, some for work offenses that occurred months earlier. The union predicts that this anti-union campaign will continue and become more intense in the next six weeks before the union election.

I wish I could report this sort of behavior is unusual. But often this is typical action by employers to block the right to organize by any means necessary. This sort of behavior is shameful. It is turning the clock back to the 19th Century, when workers had few rights.

To guarantee the stability and prosperity of our democratic society, workers must have the right to choose—freely and openly—whether to join together with their fellow workers and select the union of their choice. I urge my colleague to stand up and declare that:

Workers have the right to organize;

People have a right to a job . . . at fair wages with decent benefit;

Workers have a right to a safe workplace . . . and a right to compensation if they are injured;

People have a right to decent health care; and

People have a right to participate in the political process.

The foundation for all of these rights is the right to organize. To all those workers and employees who are fighting to exercise that right to organize, I salute you. Your struggle is difficult and painful, but you are proceeding in the finest traditions of our American history.

A TRIBUTE TO CLARK BURRUS, VICE CHAIRMAN, FIRST CHICAGO CAPITAL MARKETS, INC.

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. LIPINSKI. Mr. Speaker, I pay tribute to an outstanding leader and businessman, Mr. Clark Burrus, Vice Chairman of First Chicago Capital Markets, Inc., who was recently honored by the First National Bank of Chicago.

Mr. Burrus has served the First National Bank of Chicago for nearly twenty years, constantly contributing his innovative ideas and valuable insight. Before joining The First National Bank of Chicago, Mr. Burrus served the city of Chicago under Mayors Martin Kennelley, Richard J. Daley, Michael Bilandic, and Jane Byrne. Mr. Burrus was chairman of the Transition Committee on Finance for Mayor Harold Washington and co-chaired Mayor Byrne's Pension Study Commission. Starting in 1975, I had the pleasure of working with Mr. Burrus, while I was an Alderman and he was City Comptroller. It was always a pleasure to work with Mr. Burrus, as he consistently served the city in an unassuming, unselfish, and effective manner.

Mr. Burrus continues to dedicate his time, expertise, and leadership to his community. He serves on various boards and commissions including several health care boards, higher education committees, as well as metropolitan planning councils. He was the past chairman and treasurer of the Chicago Unit Board of Directors of the American Cancer Society. Mr. Burrus is also a current member and past Chairman of the Chicago Transit Authority.

Mr. Speaker, I commend Mr. Clark Burrus for the valuable leadership and knowledge he has contributed to his workplace and community. I would like to extend my best wishes for many more years of service to his community.

"DAY TO MAKE OUR VOICES HEARD"

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. VISCLOSKY. Mr. Speaker, I rise today to talk about the critical importance of union organizing in protecting working families. "The Day To Make Our Voices Heard" campaign highlights successful organizing drives and shows how they improve workers' standards of living and working conditions. The campaign focuses public attention on the many obstacles workers face in exercising their right to union representation. This week's events are especially important in building coalitions among workers, union leaders, as well as political and community leaders—coalitions that will hold up the example of responsible employers and build public pressure against employers who trample the right of their workers to organize.

In Northwest Indiana—the region I represent—and throughout our country, the opportunity to join a union means a guarantee that workers share in the benefits of increased productivity. The ability to join a union means that you will earn an average 34 percent more than a nonunion worker. The ability to join a union means that you are more likely to receive health benefits from your employer and higher quality benefits that will protect your family members in the case of a serious illness. The ability to join a union means that you are more likely to have a decent pension that will provide you and your spouse with a secure retirement. The ability to join a union means that you will have a greater say in how your workplace is run, which will lead to a safer and more productive workplace.

And what has protecting workers' ability to join unions meant to our country? Over the past century, America's unions have helped build the largest middle class in the history of the world. As we move into the next century, good union jobs will continue to be essential to building and maintaining communities that are strong both economically and socially.

Now you would think that the Congress would be doing everything it could to protect workers right to union representation. Sadly, that is not the case. Just this March, the Republican majority in the House pushed through legislation that would overturn a unanimous 1995 Supreme Court decision recognizing the right of all workers to seek employment, regardless of their membership in a union or their support for union representation in their new workplace. And every year, we see attempts in the Congress to cut funding for the National Labor Relations Board—the federal agency responsible for preventing unfair labor practices by employers and unions.

Mr. Speaker, it is high time that Members of the House make our voices heard in support of union organizing efforts across the country. We owe this—higher wages, better benefits, safer workplaces—and much more to the working men and women of America.

A TRIBUTE TO MEGAN JOHNSTON-COX & IRENE SORENSON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine achievement of Megan Johnston-Cox, an eighth grade student from Home Street Middle School in Bishop, California. Megan was a recent competitor in the National History Day Competition (June 14–18) at the University of Maryland. The competition, sponsored by the Constitutional Rights Foundation, involved students from across the United States who submitted essays on this year's theme: "Migration in History: People, Cultures, and Ideas." In fact, Megan's project was selected for display at the National Archives branch office near the University of Maryland on June 17.

Megan qualified for the national competition by first winning California State History Day competitions at both the county and state levels. Her essay, entitled "Farm to Factory: The Migration of Yankee Women," traced the migration of women from the farms to the textile mills in Lowell, Massachusetts. Megan also researched the impact and development of the textile industry in the United States.

Megan's outstanding accomplishments were undoubtedly guided by the leadership of her teacher, Mrs. Irene Sorenson. Irene is a past winner of the Richard Farrell Award from the Constitutional Rights Foundation which recognized her as the National History Day Teacher of Merit in 1995. Also in 1995, Irene sent another student, Will Baylies, to the National History Day competition. Clearly, the dedication of young students such as Megan and Will, and the guidance of teachers like Irene Sorenson, make our public school system the finest in the world.

Mr. Speaker, I ask that you join me and our colleagues in recognizing Megan Johnston-Cox for her fine accomplishment. To say the least, her fine work is admired by all of us. I'd also like to commend Irene Sorenson for her fine leadership and her devotion to such remarkable educational standards. Students like Megan and instructors like Irene set a fine example for us all and it is only appropriate that the House pay tribute to them both today.

HONORING VIRGILIO AND ANGELA BORRELLI

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. ENGEL. Mr. Speaker, Virgilio and Angela Borrelli are celebrating fifty years of marriage. These two marvelous people met before Virgilio went off to serve his country in World War II. He returned in 1946 and began his courtship of Angela and on March 14, 1948 they were married in Saint Anthony's Church in Yonkers, New York.

Angela has been active in the Yonkers Aquahung Women's Democratic Club as well as doing extensive charity work. Virgilio was born in Malito in southern Italy in 1923 and came to America in 1937. He is president of a construction firm and has involved himself extensively in the community. He is a founding member of the Italian City Club. His name is on "The Wall" at Ellis Island.

They and their three children, Sam, Yvonne, and Margaret Angeletti, and five grandchildren, are celebrating this grand occasion. I join all who believe in love in congratulating them for fifty years together.

IN SUPPORT OF A "DAY TO MAKE OUR VOICES HEARD"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. MILLER of California. Mr. Speaker, I rise to express my support for the working men and women in unions around the country who will showcase their ambitions, visions, successes and heartaches in what is being called a "Day to Make our Voices Heard."

We should be proud of their efforts to create unions to give a voice to their aspirations. These men and women embody the democratic ideal. They have joined together to help create better working conditions for themselves and for all Americans.

Unfortunately, the limited rights that workers currently enjoy do not protect them from unfair and uncivil treatment by some employees. And even these limited rights are under attack by the Republican majority.

Let me give you an example from my district of the unfair actions that some employers will take against employees that have joined together to form a union.

One hundred and one workers at Pacific Rail Services, an intermodal yard in Richmond, California, overwhelming voted to join the International Longshore and Warehouse Union last September. The Union negotiated an agreement with Pacific Rail Services, which included wage and benefit increases. But just before it was officially signed, Burlington Northern/Sante Fe pulled the contract from Pacific Rail Services and gave it to another company. All 101 of the newly organized workers at Pacific Rail Services were thrown out on March 15 and a new, non-union workforce brought in.

Despite outrageous acts such as this one, the Republican majority is determined to weaken even further the right of employees to organize and advocate on their own behalf. The majority has already passed a bill through the House to give employers the power to hire and fire workers based solely on their support for union representation.

This so called "Fairness for Small Business and Employees Act of 1998" would undermine one of the most basic rights, the right to freedom of association. The bill permits employees to discriminate against workers on the basis of the workers' union support. It would permit, even encourage, employers to interrogate applicants on their preference for union representation and to refuse to hire an application on this basis.

Attacks like these make "A Day to Make Our Voices Heard" even more important. They remind us that we should be strengthening, not weakening, the rights of employees to ensure they receive fair and timely resolution of their concerns. I join my colleagues in applauding the efforts of workers all across the country to publicize the strong contributions unions make to a productive and civil workplace and highlight unfair business practices, and to bolster the efforts to those of us in Congress to protect workers' rights.

THE RIGHT TO ORGANIZE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. MENENDEZ. Mr. Speaker, only a short time ago at the turn of this century workers faced sweatshops, low wages, no benefits, and unsafe work places—conditions highlighted in books from the period like Upton Sinclair's, The Jungle. These books weren't simply fiction because they described the very real conditions that existed at the time. It's not a period to which I want to return.

Unions played an enormous role in improving these deplorable conditions of the past. But today unions are fighting for their very existence. In our country, as unions have declined, the gap between rich and poor has widened. By attacking unions, the Republicans have been working overtime to return to a past where unions didn't exist but the conditions unions sought to improve did.

Since coming to Congress I've seen labor unions come under attack from all sides: Efforts to repeal Davis-Bacon, pushing down the prevailing wage; decimating OSHA, putting workers' safety at risk; and stalling efforts to raise the minimum wage. That's the climate in Washington.

In spite of these attacks, America's workers still seek to form and join unions. Why? Unions promote the rights of workers, they endorse affirmative action, and they work to close unjustified wage gaps for women and minorities. That's what unions do for American workers.

Mr. Speaker, today's climate is not hospitable to working Americans who wish to organize. There have been documented examples of companies carrying on campaigns to keep their workers from organizing. They've used illegal threats, refusals to promote, illegal warnings, illegal work rules, illegal interrogations, and even illegal surveillance to force workers not to organize.

We can't turn a blind eye to these disturbing practices that workers seeking to organize face everyday. Unfortunately, back-handed tactics and intimidation go a long way to discourage working men and women from organizing. And that's what opponents of unions bank on. These are some of the harshest attacks possible on working Americans and their rights. They're attacks on entities which provide working men and women with the opportunity to improve their lives, their living standards, communities, and companies.

The fact is that not only do union workers earn an average of 33 percent more than non-union workers, but they also are much more likely to have stronger health and pension benefits. We need to let workers know that unions and their members will be there to strongly support the efforts of those who seek to organize. Labor unions help all working Americans—organized or not. That's why tomorrow's "Day to Make Our Voices Heard" events are so important.

Working men and women built this country, and the labor movement's struggle is their struggle. That struggle never ends and must never be taken for granted. The long uphill climb from the turn of this century could be rolled back by an avalanche of Republican anti-worker ploys. Let's bring back freedom of assembly and freedom of speech to the workplace. Let's respect working Americans' free choice when they seek to organize.

IN MEMORY OF REV. ROBERT JOSEPH STEVENS

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. HASTINGS of Florida. Mr. Speaker, it is with great sadness and regret that I must rise today to inform the House that the Rev. Robert J. Stevens recently passed away.

Mr. Speaker, Rev. Stevens was a good friend. And, though he has passed, I want to take this opportunity to stand before you today in order to recognize his remarkable career.

As some of you may know, Rev. Stevens spent most of his career serving as one of South Florida's finest morticians. With sensitivity and compassion, Rev. Stevens worked to comfort mourners during what is always a very difficult time in a person's life.

Rev. Stevens graduated from Palm Beach County's Roosevelt Senior High School in 1958. Furthermore, he completed advanced studies at McAllister College of Embalming in New York and North Carolina A & T University. He returned to South Florida to enter into the Stevens Bros. Funeral Home family business in 1973, where he worked until his death several weeks ago.

Rev. Stevens always believed that his greatest achievement was being called into the Ministry to preach the word of God. He was the founder and pastor of New Christ Missionary Baptist Church in West Palm Beach.

In addition to Rev. Stevens' work in his church and funeral home business, he was an active leader of the Florida State Morticians Association, the National Funeral Directors and Morticians Association, and the Masons. His extraordinary work on behalf of these organizations will continue to preserve his memory, well into the future.

The passing of Rev. Stevens is a difficult one for me personally. However, Mr. Speaker, I know that he will be missed even more by the people of South Florida. He was there for them as a pastor and as a friend. He will surely be missed.

A TRIBUTE TO MAYOR ELIHU HARRIS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Ms. LEE. Mr. Speaker, Mayor Elihu Harris of Oakland has served the public for twenty-one years as an elected official at both the state and municipal levels. For thirteen years, Mr. Harris served as a California State Assemblyman; over the course of his tenure, he served as Chairman of the Joint Legislative

Audit Committee and the Jurisdictional Committee, and sponsored many pieces of legislation that have had a direct impact on the City of Oakland and its citizens.

For the past eight years, Mr. Harris has served as the Mayor of the City of Oakland, leading the drive to rebuild and strengthen our great City. In the wake of the 1989 Loma Prieta earthquake and the 1991 Oakland Hills firestorm—two of the most devastating events in recent city history—among other significant challenges, Harris has provided invaluable leadership and vision, and levied resources to support redevelopment, growth, and community in Oakland.

The Mayor's campaign to renew the City of Oakland has proved highly successful: in 1993, Oakland was designated an All American City by the National Civic League, and Money Magazine has ranked Oakland as one of the top places to live for two consecutive years. Under Harris' watch, crime rates and unemployment have dropped, and the City has experienced a tremendous influx of new business, construction, and jobs.

Equally important is Mr. Harris' record as the People's Champion. Throughout his term, Mayor Harris has worked closely with Oakland's citizens to create new and innovative ways to address important community issues. By providing strong leadership in an atmosphere of inclusiveness, Mr. Harris has mobilized people to believe that they can and will make a difference. A true Citizen-Mayor, Elihu Harris is especially passionate about children and about education: while serving as Oakland's mayor, he launched several important endeavors to support education, among them Camp Read-A-Lot and Project 2000, Ready to Learn.

On June 26, 1998, Mayor Harris will receive an Achievement Award from the Oakland East Bay Democratic Club. The 9th District joins the Oakland East Bay Democratic Club in honoring Mayor Elihu Harris for his years of dedicated service to our community.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

SPEECH OF

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purpose:

Mr. DAVIS of Florida. Mr. Chairman, I rise in support of H.R. 4060, the Fiscal Year 1999 Energy and Water Development Appropriations Bill. Given the limited resources available to the Committee in this era of increasingly tight budgets, this legislation is a balanced bill which represents a bipartisan effort to meet the important energy and water development needs of our Nation.

One area in which I must express concern and disappointment, however, is the funding for the critically important Everglades restoration projects. During last year's historic balanced budget agreement, Everglades funding was held up as one of the few protected domestic discretionary spending priorities. Unfortunately, just one year later, this legislation is unable to meet the critical needs of this restoration effort.

The Everglades National Park is truly one of our Nation's natural treasurers and provides tremendous resources which are vital to the environmental health and quality of life in the State of Florida. While we have made great progress in raising awareness of the fragile nature of this diverse ecosystem, much work remains to be done to restore and protect the park for this and future generations.

My hope is that as we move this process forward and begin to work in conference with the Senate, that we will recede to the Senate levels of funding for this work, specifically for the Army Corps of Engineers construction efforts in Central and Southern Florida, the Kissimmee River, and the Everglades and South Florida Ecosystem Restoration projects.

Mr. Chairman, I look forward to working with Members from both side of the aisle to secure adequate funding for these Everglades restoration projects.

MR. KENDALL'S RESPONSE TO MR. STARR'S PRESS RELEASES CONCERNING THE CONTENT MAGAZINE ARTICLE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to enter into the RECORD the following letter from the President's attorney, David E. Kendall, to Independent Counsel Kenneth Starr.

June 16, 1998.

Hon. KENNETH W. STARR,
Independent Counsel,
1001 Pennsylvania Avenue, N.W.,
Suite 490—North, Washington, DC.

DEAR JUDGE STARR: In the past three days, you have issued two press releases on the subject of leaks from your office. I think it is appropriate to respond to this public relations initiative.

In neither of these two press releases have you denied even a syllable of what the Steve Brill "Pressgate" article quotes you and your staff as saying. You accuse Mr. Brill of misinterpreting but not misquoting, and that's highly significant.

Your statements in the Brill article are at breathtaking variance with your previous public statements about your duties and actions. Your statements consistently have led the public to believe you would tolerate no leaks of any kind. On January 21, 1998, you stated at your public press conference, "I can't comment on the investigation as a matter of practice and of law. I just can't be making comments about the specific aspects of our investigation, including to confirm specific activity or not. . . . As an officer of the court, I just cannot breach confidentiality." At your public press conference on February 5, 1998, you stated in a CNN interview, "I'm not going to comment on the status of our negotiations [with Ms. Lewinsky's lawyers] . . . I hope you understand, especially when you ask a question about the status of someone who might be a witness, that goes to the heart of the grand jury process. . . . Those are obligations of law; they're obligations of ethics. . . . I am under a legal obligation not to talk about facts going before the grand jury." In your public February 6, 1998, letter to me, you stated that "leaks are utterly intolerable" (your words, not mine) and you went on to say "I have made the prohibition of leaks a principal priority of the Office. It is a firing offense, as well as one that leads to criminal prosecution." (Emphasis added).

What is so astonishing about your comments in the Brill article is that they contradict not simply our view but your own frequently and publicly expressed views both about the need to put a stop to leaking and your own protestations about your and your own staff's utter innocence in that regard.

Your press releases do not, however, address three simple points (there is much else that could be said, of course).

(1) If you need to talk to the press, why not do so on the record?

The Rule of the Department of Justice's Criminal Division promulgated by President Reagan's Assistant Attorney General in charge of the Criminal Division was: "Never talk off the record with the media. If you don't want your name associated with particular comments or remarks, you shouldn't make them to media representatives." That's a good rule, because it makes everyone aware of who is making a particular statement, and it's especially important if what you're really trying to do is "engender public confidence" in your office. What possible justification do you have for secrecy? It's irresponsible and (under the circumstance) hypocritical.

(2) You are wrongly applying post-indictment standards of allowable prosecutorial comment.

Caught flat-footed by the Brill article, you've attempted to shift your ground by pointing to rules and opinions regarding post-indictment comment by prosecutors. As you well know, the standards are different after an indictment has been brought. At that point, the grand jury has found probable cause to make a criminal charge, the indictment has been openly announced, the defendant has significant procedural rights, including the right to have counsel appointed who will, among other things be able to respond to prosecutorial comments. Prior to indictment, the rule is that grand jury secrecy, a protection designed for witnesses and persons investigated but never finally charged, mandates prosecutorial silence and the confidentiality of grand jury proceedings.

(3) The view of Rule 6(e) that you express in the Brill article and (now) in your press releases is demonstrably not the law.

You are now attempting to justify leaking by you and your Office by claiming that the information your office has covertly given to the media is not covered by Rule 6(e) because, in your own words as quoted by Mr. Brill, "it is definitely not grand jury information, if you are talking about what witnesses tell FBI agents or us before they testify before the grand jury or about related matters. . . . So, it I a not 6–E." (Emphasis in original.) Again, as you well know, this is not the law of the District of Columbia Circuit (or, for that matter, any other circuit). In the Dow Jones case decided by the United States Court of Appeals for the District of Columbia Circuit on May 5, 1998, that court summarized the secrecy rules legally applicable to grand jury investigations. Citing many cases of this Circuit and others decided over the years, the Court of Appeals emphasized that Rule 6(e) is to be given a broad meaning to encompass much more than simply what transpires within the four walls of the grand jury room. The coverage of the Rule "includes not only has occurred and what is occurring, but also what is likely to occur. Encompassed within the rule of secrecy are the 'identities of witnesses or jurors, the substance of testimony' as well as actual transcripts, 'the strategy or direction of the investigation, the deliberations or questions of jurors, and the like.'" (Emphasis added.) Your public statements in January and February accurately state the law, but your statements to Mr. Brill do not, and the actions of your Office are in violation of the law.

The media leaks by your Office also violate the ethics rules for federal prosecutors, see, e.g., DOJ Manual §§1-7.510; 1-7.530, which under the Independent Counsel Act you are obligated to comply with unless to do so would be "inconsistent with the purposes" of the Act. Complying with the DOJ's anti-leaking guidelines could hardly be "inconsistent" with the mission of your office.

Sincerely,

DAVID E. KENDALL.

A TRIBUTE TO DR. JAMES TOBIN

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. STUPAK. Mr. Speaker, at the age of 74, when most men and women might consider that it's time to settle back and enjoy the benefits of retirement, a medical doctor in my district has signed a four-year contract with his local hospital, Bell Memorial Hospital in Ishpeming, Michigan. This extension means that Dr. James Tobin, who also serves as mayor of his home town of Ishpeming, has now begun his second half-century of practicing medicine.

Actually, it's been more than a half century. The son of a doctor who himself practiced medicine until he was 79, Dr. Tobin admitted to a reporter in a recent story in the Marquette Mining Journal that he delivered his first baby in 1947 while only a medical student. Now, 9,000 babies later, Dr. Tobin still conducts his family practice, including obstetrics and gynecology, performs general surgery, and puts in by his own admission about 60 hours of work a week.

His biography recounts the facts of his life and career. A native of the borough of Queens, New York. A 1948 graduate of the Long Island College of Medicine. A 10-year veteran of the U.S. Army Medical Corps. A resident of Marquette County in my Northern Michigan congressional district since 1962. A member of the Ishpeming city council and four times mayor of Ishpeming. An Ishpeming Chamber of Commerce member and former chamber president. Member of a variety of local, state and national medical societies. A visionary chairman of a Michigan governor's task force whose work helped advance the quality of neonatal care at Marquette General Hospital. Church member. Husband. Father of five girls and one boy. Grieving father of a college-age daughter killed in a tragic automobile accident only last December.

This biographical outline can give us a sketch of Dr. Tobin as a member of his community, but it cannot come close to painting a picture of the impact of a family doctor on those around him. In a lifetime of family medical practice, Dr. Tobin has shared intimately in the lives of thousands and thousands of his friends and neighbors, an involvement rich in the pageantry of life and death. In addition to his human drama, Dr. Tobin in the past 50 years has witnessed a revolution in medicine akin to the revolutions in other branches of science.

Advances in life-saving equipment, medicine and techniques, however, has not come without a trade-off in the way medicine is practiced, as Dr. Tobin frankly admits. Working without the benefit of CAT scans or Ultrasound, doctors once had to more carefully hone their skills of observation. "Your eyes, your fingertips, all of your senses," all came into necessary play, he says, adding, perhaps most importantly, "you had to listen to your patients, too."

We must go beyond the biographical outline, as well, to get a better view of a genuine human being concerned about the health of all individuals in his community. As the Mining Journal stated, Dr. Tobin has tried to follow in his father's footsteps, assuring all those patients who come into his office that they will be treated. "Dad took care of rich and poor alike," Dr. Tobin says in fond recollection. "Nobody ever got turned away for lack of money."

Mr. Speaker, the people of northern Michigan will officially recognize and celebrate this lifetime of dedication—this story for which the final chapters have not yet been written—at a special gathering on June 30. I ask all my colleagues in the U.S. House to join me in praising the selfless commitment of Dr. James Tobin to the health and well-being of his fellow man.

JAMES H. BAKER—A MAN OF HISTORY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. BARCIA. Mr. Speaker, in each of our communities we have the legacy of historic figures who worked to make a difference. In my district and my home town of Bay City, we have the privilege of having been the home of James Baker, the first black to run for a statewide public office in Michigan. His candidacy was one hundred years ago this month, and is a point of history of importance to all Americans.

Les Arndt has written an informative review of James Baker in the June 1998 issue of *Wonderful Times*, I submit this article to be included in the RECORD as part of my statement. I commend Mr. Arndt's column to all of our colleagues.

[From the Wonderful Times, June 1998]

MEMORY LANE

(By Les Arndt)

On June 21, 1898, exactly 100 years ago this month, the People's Party convention in Grand Rapids nominated Bay Cityan James H. Baker for state land commissioner by acclamation, and he became the first black to run for a statewide public office in Michigan.

Baker campaigned throughout Michigan, and excerpts from one of his campaign posters, paid for by the Committee to Elect James H. Baker, on October 12, 1898, read as follows: "To the colored citizens and other voters of Michigan: Whereas the People's Party was the first to recognize a colored man on the same ticket, therefore we ask your individual support for James H. Baker. We know he is worthy and well qualified to fill the position and recommend him for your consideration. We beg you to advocate his cause, not for him alone, for he is paving the way for others."

Bay City was newly chartered when James H. Baker came here in 1867 to make his permanent home and become the keystone to Bay City's black community, after he was mustered out of the First Michigan Infantry as an orderly to General Ely and meritorious service with a black Pennsylvania regiment during several major Civil War campaigns.

The city was still in its infancy, electing a prominent lumberman, Nathan B. Bradley, as mayor only two years previously in the historic first election under city charter, which was held seven days before the end of the Civil War.

When James H. Baker came here in the 1860s, he found only six blacks residing in Bay City. He became a dominant figure not only among fellow blacks but also as a community leader. He bacame a barber, then policeman, and finally the proud owner of the New Crescent Lunch Counter and Ladies' Dining Room at 805 N. Water, which he boasted as "serving no alcoholic drinks."

He was a delegate to the First Colored Men's State Convention at Battle Creek, March 25, 1884; a member of a committee of Michigan Negroes who petitioned the state lawmakers "for the right of suffrage" and avid backer to a movement to send a black delegate-at-large to the Republican National Convention in Chicago in the late 1880s.

Baker was born in Manchester, Va., where his father, also James H., landed after emigrating from Ireland. A son, Oscar W., was born here in August 1879, and he was scarcely six years old when he was struck by a Pere Marquette Railway train at the 11th and Jefferson crossing and eventually lost a leg. That unfortunate accident launched the Bakers' longtime connection with the law.

The father brought suit in young Oscar's name and won a $5,000 judgment. Although bad investments contributed to the dissipation of the cash before Oscar was 21, he went to the University of Michigan Law School with monies earned as secretary to Michigan Lt. Gov. Orin W. Robinson.

Graduating from law school in 1902, Oscar began practice here with white lawyer Lee E. Joslyn. In 1906, he brought suit against the railroad on the grounds it had been a mistake to pay the $5,000 without securing a bond from his father. After winning in Circuit Court here, the Michigan Supreme Court ruled against him, holding that payment of the $5,000 to the attorneys who were to turn it over to the Bakers qualified as a valid procedure.

As a result of the case, insurance companies, railroads, etc. began to require that a guardian be appointed for minors in civil cases.

Oscar, Sr. was the city's first black attorney, and he became a master courtroom psychologist, especially in criminal cases. He served as director for the association which sponsored professional baseball here at the turn of the century.

James H. Baker's grandsons, Oscar J. and James W., were long-time attorneys here, with the former founding what today is the Baker & Selby law firm after graduation from the U-M Law School in 1935. After practicing for nearly a half-century, Oscar Jr. has retired. In 1937, he was chairman of the State Bar's legal redress committee, traveling the state in helping blacks acquire their rights.

In the mid-1960s Oscar Jr. joined the National Lawyer's Guild voting rights promotion in Mississippi for two consecutive summers, participating in civil rights marches. He also participated in civil rights protests in Detroit.

THE WIPO COPYRIGHT TREATIES IMPLEMENTATION ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. COBLE. Mr. Speaker, I submit for the RECORD a copy of correspondence between myself and Congressmen BOUCHER and CAMPBELL on the WIPO Copyright Treaties Implementation Act.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 16, 1998.

Hon. TOM CAMPBELL,
U.S. Representative for the 15th District of California, Washington, DC.
Hon. RICK BOUCHER,
U.S. Representative for the 9th District of Virginia, Washington, DC.

DEAR TOM AND RICK: Thank you for visiting with me in my office recently regarding H.R. 2281, the "WIPO Copyright Treaties Implementation Act." I appreciate the concerns you expressed with respect to H.R. 2281 as it was reported from the House Committee on the Judiciary.

I expressed to you that I would consider your thoughts and respond to you in detail, and am pleased to do so in this letter.

I believe that many of your concerns, which are enumerated in your substitute bill, H.R. 3048, have been addressed already in a reasonable manner in amendments to the bill adopted by the Subcommittee on Courts and Intellectual Property and the Committee on the Judiciary in the House and by the Committee on the Judiciary and on the floor in the Senate (regarding the Senate companion bill, S. 2037). Others have been addressed in legislative history in House Report 105-551 (Part I) which accompanies the bill, as well as in Senate Report 105-190, which accompanies the Senate companion bill. Still others may be addressed as the House Committee on Commerce exercises its sequential jurisdiction over limited portions of the bill and as I work with interested members on developing a manager's amendment to be considered by the whole House. I anticipate including many of the amendments made by the Senate in the manager's amendment, along with other provisions. I anticipate that a conference will be necessary to reconcile the House and Senate versions of the bills.

While I am unable to support the specific provisions of H.R. 3048, for reasons I will explain in this letter, I am willing to work with you in the coming weeks to address additional concerns regarding the impact of this legislation on the application of the "fair use" doctrine in the digital environment and on the consumer electronics industry. I wish to stress, however, that I believe the bill, as amended by the House and Senate thus far, and explained by both the House and the Senate Judiciary Committee reports, already addresses these issues in several constructive ways.

I believe it is important, in order to recognize properly the efforts undertaken by the Congress and the Administration to address the concerns of the consumer electronics and fair use communities, to review the history of H.R. 2281 and to evaluate all of the provisions that have been either added to or deleted from the bill since its development leading to introduction in this Congress. As I am sure you will appreciate, I am sensitive to your concerns and have worked diligently with members and all parties involved to create a balanced and fair proposal that will result in the enactment of legislation this Congress.

In February, 1993, the Administration formed the Information Infrastructure Task Force to implement Administration policies regarding the emergence of the Internet and other digital technologies. This task force formed a Working Group on Intellectual Property Rights to investigate and report on the effect of this new technology on copyright and other rights and to recommend any changes in law or policy. The working group held a public hearing in November, 1993, at which 30 witnesses testified. These witnesses represented the views of copyright owners, libraries and archives, educators, and other interested parties. The working group also solicited written comments and received over 70 statements during a public comment period. Based on oral and written testimony, the working group released a "Green Paper" on July 7, 1994. After releasing the Green Paper, the working group again heard testimony from the public through four days of hearings held around the country. More than 1,500 pages of written testimony were filed during a four-month comment period by more than 150 individuals and organizations.

In March, 1995, then-Chairman Carlos Moorhead solicited informal comments from parties who had submitted testimony regarding the Green Paper, including library and university groups, and computer and electronics groups, in order to work effectively with the Administration on jointly developing any proposed updates to U.S. copyright law that might be necessary in light of emerging technologies.

In summer, 1995, the working group released a "White Paper" based on the oral and written testimony it has received after releasing the Green Paper. The White Paper contained legislative recommendations which were developed from public comment in conjunction with consultation between the House and Senate Judiciary Committees, the Copyright Office and the Administration.

In September, 1995, Chairman Moorhead in the House and Chairman Hatch in the Senate introduced legislation which embodied the recommendations contained in the White Paper and held a joint hearing on November 15, 1995. Testimony was received from the Administration, the World Intellectual Property Organization and the Copyright Office. The House Subcommittee on Courts and Intellectual Property held two days of further hearings in February, 1996. Testimony was received from copyright owners, libraries and archives, educators and other interested parties. In May, 1996, the Senate Judiciary Committee held a further hearing. Testimony was received from copyright owners, libraries and other interested parties. These hearings were supplemented with negotiations in both bodies led by Representative Goodlatte (as authorized by Chairman Moorhead) in the House and by Chairman Hatch in the Senate. Further negotiations were held by the Administration in late summer and fall of 1996.

During consideration of the "NII Copyright Protection Act of 1995," Chairman Moorhead requested that Mr. Boucher and Mr. Berman of California lead negotiations between interested parties regarding the issue of circumvention. While these negotiations were helpful in streamlining and clarifying the issues to be discussed, they ultimately did not result in an agreement.

It is important to note that shortly after its establishment, the Administration task force's working group convened, as part of its consideration, a Conference on Fair Use (CONFU) to explore the effect of digital technologies on the doctrine of fair use, and to develop guidelines for uses of works by libraries and educators. Because of the complexities involved in developing broad-based policies for the adaptation of the fair use doctrine to the digital environment, and due to much disagreement among the participants (including within the library and educational communities), CONFU did not issue its full report until nearly two years after it was convened. An Interim Report was released by CONFU in September 1997 on the first phase of its work. No consensus was reached on how to apply the fair use doctrine to the digital age. In fact, the CONFU working group on interlibrary loan and document delivery concluded in a report to its Chair that it is "premature to draft guidelines for digital transmission of digital documents." The work of CONFU continues today and a final report should be released soon with no agreed conclusions. As you can see, developing sweeping legislation, rather than relying on court-based "case or controversy" applications of the doctrine, is exceedingly difficult to do.

Since before the debate began with the establishment of a task force in the United States in 1993, the international community had also been considering what updates should be made to the Berne Convention on Artistic and Literary Works in order to provide adequate and balanced protection to copyrighted works in the digital age. This culminated in a Diplomatic Conference hosted by the World Intellectual Property Organization at which over 150 countries agreed on changes needed to accomplish this goal.

This goal was not reached easily, however, and many of the issues being debated by the Administration and the Congress in the United States concerning fair use and circumvention were aired at the Diplomatic Conference, with significant changes made to accommodate fair use concerns and the effect on the consumer electronic industries. Representatives of both groups participated in the Conference and aggressively sought to maintain proper limitations on copyright. They succeeded. For example, language was added to ensure that exceptions such as fair use could be extended into the digital environment. The treaty also originally contained very specific language regarding obligations to outlaw circumvention. It was changed to state that all member countries "shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty." This left to each country the development of domestic legislation to accomplish this goal.

After the United States signed the WIPO Treaties, the Administration again began negotiations led by the Department of Commerce and the Patent and Trademark Office, in consultation with the Copyright Office and the Congress, to develop domestic implementing legislation for the treaties. It built upon the efforts already accomplished by the release of the Green Paper and the White Paper and all of the testimony and comments heard as part of that process, the House and Senate bills introduced in the 104th Congress and all of the hearing testimony and negotiations associated with them, and the negotiations held by the Administration leading up to and during the Diplomatic Conference. Again, comments were solicited from fair use and consumer electronics groups. In the summer of 1997, the Administration submitted to the Congress draft legislation to implement the treaties. In July, 1997, Chairman Hatch and I introduced the current pending legislation in each house. Importantly, the legislation was tailored to match the treaty language by establishing legal protection and remedies not against any technological measures whatsoever, but only "against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights."

The fair use and consumer electronics groups succeeded, just as they had at the Diplomatic Conference, in assuring in the introduced version of the bills the maintenance of proper limitations on copyright. The Administration had considered originally banning both the manufacture and use of devices which circumvent effective technological measures and had no specific provision on fair use, since Section 107 of the Copyright Act would, of course, continue to exist after enactment of the legislation. The word "use" was eliminated in the device provision and a specific provision relating to the adoption of the fair use doctrine in the digital environment was added.

As it was introduced, H.R. 2281 contained two important safeguards for fair use. First, the bill dealt separately with technological measures that prevent access and technological measures that prevent copying. As to the latter, the bill contained no prohibition on the act of circumvention itself, leaving users free to circumvent such measures in order to make fair use copies. Second, the savings clause in subsection 1201(d) ensures that defenses to copyright protection, including fair use, are unaffected by the prohibitions on circumvention. For example, circumvention of an effective technological measure that controls access to a work does not preclude, or affect in any way, a defense of fair use for copying the work. Moreover, the bill as introduced did not expand exclusive rights or diminish exceptions and limitations on exclusive rights.

Again, a series of legislative hearings were held by the House and Senate Judiciary Committees at which testimony was again heard from copyright owners, libraries and archives, educators, consumer electronics groups and other interested parties. In February, 1998, almost five years to the date of the establishment of the Administration's working group, taking into account all of the concessions and negotiations leading up to it, the first markup was finally held in Congress by the Subcommittee on Courts and Intellectual Property on this important legislation. As is evident by the timetable involved in the development of this legislation, and considering the number of hearings, negotiations and conferences dedicated to its contents, this bill certainly has not been placed on any "fast-track."

In the course of Subcommittee and Committee consideration of the bill in the House, the gentleman from Massachusetts, the Ranking Democratic Member of the Subcommittee, Mr. Frank, and I, proposed a number of improvements to the bill, which were adopted by the Committee, that benefit libraries and nonprofit educational institutions. We introduced a special "shopping privilege" exemption that permits nonprofit libraries and archives to circumvent effective technological measures in order to decide whether they wish to acquire lawfully a copy of the work. We added a provision that requires a court to remit monetary damages for innocent violations of sections 1201 or 1202. And we eliminated any possibility that nonprofit libraries and archives or educational institutions can be held criminally liable for any violation of sections 1201 or 1202, even when such violations are willful.

These changes add protection to language already included in the bill which safeguard manufacturers of legitimate consumer electronic devices. Unlike the "NII Copyright Protection Act of 1995," which would have prohibited devices "the primary purpose or effect of which is to circumvent," H.R. 2281 sets out three narrow bases for prohibiting devices. A device is prohibited under section 1201 only if it is primarily designed or produced to circumvent, has limited commercially significant use other than to circumvent, or is marketed specifically for use in circumventing. This formulation means that under H.R. 2281, it is not enough for the primary effect of the device to be circumvention. It therefore excludes legitimate multipurpose devices from the prohibition of section 1201. Devices such as VCRs and personal computers do not fall within any of these three categories (unless they are, in reality, black boxes masquerading as VCRs or PCs).

In addition, H.R. 2281 as introduced does not require any manufacturer of a consumer electronic device to accommodate existing or future technological protection measures. "Circumvention," as defined in the bill, requires an affirmative step of "avoiding, bypassing, removing, deactivating, or otherwise impairing a technological protection measure." Language added in the Senate, referred to below, clarified this even further.

In addition to all of the foregoing, there are a number of amendments that were made in the Senate bill that will be included in the manager's amendment to H.R. 2281. These include: an expansion of the exemptions for nonprofit libraries and archives in 17 U.S.C. §108 to cover the making of digital copies without authorization, for purposes of preservation, security or replacement of damaged, lost or stolen copies; an expansion of section 108 to cover the making of digital copies without authorization in order to replace copies in the collection that are in an obsolete format; a provision directing the Register of Copyrights to make recommendations as to any statutory changes needed to apply the limitations on liability of online service providers to nonprofit educational institutions that act in the capacity of service providers; a provision directing the Register of Copyrights to consult with nonprofit libraries and nonprofit educational institutions and submit recommendations on how to promote distance education through digital technologies, including any appropriate statutory changes; a savings provision stating that nothing in section 1201 enlarges or diminishes vicarious or contributory liability for copyright infringement in connection with any technology, product, service, device, component or part thereof; a provision that states explicitly that nothing in section 1201 requires accommodation of present or future technological protection measures; a provision to ensure that the prohibition on circumvention does not limit the ability to decompile computer programs to the extent permitted currently under the doctrine of fair use; and a provision ensuring that technology will be available to enable parents to prevent children's access to indecent material on the Internet.

I believe that these are constructive provisions that precisely and carefully address specific concerns you have raised in H.R. 3048. In order to assure that fair use applies in the digital environment, in addition to the above changes, I have also agreed to include in the manager's amendment an amendment to Section 107 of the Copyright Act to make it continue to be technology-neutral with respect to means of exploitation.

It may be helpful, in addition to discussing what is contained in H.R. 2281 and the Senate companion, and what will be included in the manager's amendment, to raise directly with you some of the identifiable problems I see associated with H.R. 3048 as introduced.

Section 2 of H.R. 3048 would make two changes to Section 107 of the Copyright Act. It would add a specific reference to make explicit that fair use can apply to both analog and digital transmissions and would direct courts, in weighing fair use, to give no independent weight to either (1) the means by which a work is exploited under the authority of the copyright owner, or (2) the copyright owner's use of a copy protection technology. By amending Section 107 in this manner, H.R. 3048 implies that, currently, Section 107 does not apply to digital transmissions, or at a minimum, suggests that uses that are not mentioned specifically in the statute are less favored than those that are. Given that courts have been applying presently the fair use doctrine to digital transmissions, the risks inherent in burdening Section 107 with technology-specific language must be weighed against any benefit of added clarity the amendment would provide. Because no clarity is needed, since courts routinely apply the doctrine to digital transmissions, it is my opinion that the detriments of such a change outweigh any perceived benefits. As I mentioned, I would be pleased to clarify Section 107 by deleting any references to enumerated rights in Section 106 to reaffirm the application of fair use on the digital environment, rather than by placing technology-specific language in the limitation itself.

The other amendment to section 107 you propose would, for the first time, direct courts to ignore possibly relevant information in making a fair use determination. As it has developed over time, courts have been allowed to look, depending on the case or controversy in question, at the totality of the facts and circumstances surrounding a given use. This has enabled courts to reach a fair result. If, for example, a user breaks a "technological lock" in order to gain access to a work, the user has engaged in activity that goes beyond the bounds of traditional fair use. Fair use has never been interpreted to afford users a right of access. The provision you propose would grant to users a right of free access, rather than a right of fair use. H.R. 3048, therefore, in my opinion, changes U.S. policy in an extreme manner that undermines the free market principles protecting a creator's right to control initial access, as opposed to all uses, of his or her work.

H.R. 3048 also would make the "first sale doctrine," codified in Section 109 of the Copyright Act, applicable to digital transmissions of copies of works. The first sale doctrine limits the exclusive rights granted a copyright owner with respect to a particular copy of a work to the first sale or transfer of that copy. Thereafter, the purchaser or transferee of that particular copy may generally sell, lend, rent or give it away without violating the copyright owner's distribution right. This doctrine was created by the courts to secure the alienability of tangible property and to curb any effort by a copyright owner to control the after-market for resales of the same copy of a work.

Section 4 of H.R. 3048 would exempt the performance, distribution or display (and the reproduction, to the extent necessary for the performance, display or distribution) of a lawfully-acquired copy of a work (presumably including, under the bill, one obtained for free through circumvention, as long as such circumvention was done for obtaining a copy to make a fair use of portions of it), by means of a transmission to a single recipient, provided that the "original" copy is destroyed.

In my opinion, this extension of the first sale doctrine is antithetical to the policies the doctrine was intended to further. The alienability of tangible property is not at issue, since no tangible property changes hands in a transmission. Further, it does not address specifically the ability to control the after-market for resales of the same copy of a work, wince in this case distribution of a work by digital transmission necessarily requires a reproduction—it is not the same copy. The bill's answer to this quandary—that the original copy must be destroyed—is unenforceable and certainly not a substitute for disposition of a tangible copy. Destruction involves an affirmative act, generally in the privacy of a home, that is difficult to police and would involve significant invasions of privacy if it were policed effectively.

Further, regardless of whether the original copy is destroyed, the new copy would be free of contractual or other controls placed on the original copy by the copyright owner. It is also likely that this provision would have a much greater impact on an owner's primary market for new copies of a work than the current first sale doctrine has on the primary market for physical copies. Unlike used books, digital information is not subject to wear and tear. The "used" copy is just as desirable as the new one because they are indistinguishable. For this reason, Congress has curtailed the first sale doctrine as it applies to the rental of sound recordings and software in the past, to prevent posing so great a burden on a copyright owner so as to undermine the incentive to create works which is the driving force behind the Copyright Act.

H.R. 3048 would also broaden Section 110(2) of the Copyright Act so that the performance, display, or distribution of any work (rather than just the performance of a nondramatic literary or musical work and the display of any work) through digital transmission (rather than just through audio broadcasts) would be allowed without the permission of the copyright holder, as long as it is received by students, or by government employees as part of their duties. This broad expansion of the distance learning provisions currently codified in the Copyright Act would permit the transmission of a wide variety of Internet-based or other remote-access digital transmission formats for distance education and raises serious questions about safeguards to prevent such transmissions from unauthorized access. In other words, it may facilitate piracy.

Both CONFU and the Senate have discussed the intricacies involved in safeguarding transmissions used for distance learning purposes and have agreed that it is premature to enact specific legislation at this time. As discussed earlier, the Senate has included a provision in its companion bill, which I plan to include in the House manager's amendment, that will provide for a study with legislative recommendations on this issue, within a six-month time frame. This study will be better able to address the complex problems I have identified.

Section 7 of H.R. 3048 would amend Section 301(a) of the Copyright Act to preempt enforcement of certain license terms under state law. Specifically, it would preempt any state statute or common law that would enforce a "non-negotiable license term" governing a "work distributed to the public" if such term limited a copying of material that is not subject to copyright protection or if it restricted the limitations to copyright contained in the Copyright Act. In effect, it would prohibit standard form agreements, used in the context of copies distributed to the public, that purport to govern use of noncopyrightable subject matter or limit certain exceptions and limitations, such as fair use.

The use of standard form licensing agreements has become prevalent in the software and information industries, as owners seek to protect their investment in these products against the risk of unauthorized copying. Section 7 would result in destroying the ability of the producer of a work to create specific licenses tailored to the circumstances of the marketplace, or, in the case of factual databases and other valuable but noncopyrightable works, destroy the most significant form of protection currently available. This could result, for example, in the loss of crucial revenues to stock and commodity exchanges who rely on such contracts to disseminate information.

Attempts to introduce language similar to Section 7 of H.R. 3048 into Article 2B of the Uniform Commercial Code (UCC) have been rejected repeatedly by the UCC Article 2B Drafting Committee on several occasions. The National Conference of Commissioners on Uniform State Laws also rejected a proposal similar to the one you propose as has the American Law Institute. I agree with these bodies that restricting the freedom to contract in the manner proposed in H.R. 3048 would have a negative effect on the availability of information to consumers.

H.R. 3048 also proposes several changes to Section 108 of the Copyright Act regarding archiving and library activities. As you are aware, library groups and copyright owners have come to an agreement regarding changes in this section to update the Act for the digital environment and those changes were incorporated by the Senate in the companion bill. I will include those same provisions in the manager's amendment in the House.

Finally, the new Section 1201 contained in H.R. 3048 would not prohibit manufacturing or trafficking in devices purposely created to gain unauthorized access to copyrighted works, and insofar as it prohibits conduct, would permit circumvention in the first instance for purposes of fair use. In other words, H.R. 3048, as I discussed earlier, would grant to users a right never before allowed—free access to copyrighted works in order to make a fair use. I believe that is unwise policy and tilts the balance away from the protection of works in a free market economy toward the free provision of works to anyone claiming to make a fair use. This would, I believe, ultimately lead to much more litigation against libraries and others who lawfully engage in fair use and ultimately would diminish the number of works made available over new media.

While it would be impossible to communicate to you all of the problems contained in the exact language of H.R. 3048, I wanted to, in truncated form, reveal my serious concerns with the bill. In its current form, for the above reasons and others, I would oppose it as a substitute to H.R. 2281, as amended. I remain dedicated, however, to working with you, as I have in the past, to address your concerns in a reasonable manner that will result successfully in changes to our nation's copyright law that will benefit both owners and users of works.

I truly believe that we are at the beginning of a long process of addressing adaptation to the digital environment. It is not possible at this point to enact legislation that will contemplate all uses of a work and, as CONFU members aptly point out, many will have to be addressed as we move forward. I am committed, however, to preserving fair use in the digital age and thank you for your valuable and continuing insight and interest.

Sincerely,

HOWARD COBLE,
Chairman, Subcommittee on
Courts and Intellectual Property.

HOUSE OF REPRESENTATIVES—*Wednesday, June 24, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BLUNT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 24, 1998.

I hereby designate the Honorable ROY BLUNT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

Rev. David S. Clift, Duck United Methodist Church, Duck, North Carolina, offered the following prayer:

Dear God, our Creator, we acknowledge Your reign over the universe and the affairs of men. You ordained that governments should lead and guide Your people.

Grant these servants wisdom as they take up the mantle of stewardship of a nation and a world.

Grant them inspiration as they endeavor to find answers, solve problems, and dream dreams.

Grant them courage so when they are right, they will be able to stand firm in spite of criticism, persecution, or resistance.

Grant them humility so that when they are wrong, they will be able to change in spite of embarrassment and pride.

Grant them understanding so that they will know when to be courageous and when to be humble.

We express our gratitude for the privilege of living in a free and wonderful land. May we rise up with sacrificial enthusiasm to fulfill the glorious task of keeping alive the hope we call America. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Michigan (Ms. STABENOW) come forward and lead the House in the Pledge of Allegiance.

Ms. STABENOW led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4060. An act making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4060) "An Act making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOMENICI, Mr. COCHRAN, Mr. GORTON, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. REID, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. KOHL, Mr. DORGAN, and Mr. INOUYE, to be the conferees on the part of the Senate.

WELCOMING REV. DAVID CLIFT OF DUCK, NORTH CAROLINA

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, on behalf of my colleagues, I want to thank Rev. David Clift for his opening prayer.

Reverend Clift is pastor of the Duck United Methodist Church located on the beautiful Outer Banks of North Carolina, which is in the Third Congressional District. Since coming to the Outer Banks in 1994, the Reverend has served one of the fastest growing congregations in the State.

Reverend Clift is married to Libby Aull and they have two children, Mark, who is a college student, and Elizabeth, who is in high school.

I personally know several of Reverend Clift's church members who tell me he is a dynamic preacher and is greatly appreciated by his congregation. He is often invited to speak throughout the United Methodist Conference.

Again, I would like to thank Reverend Clift for joining us today and for the work he does every day by serving our Lord and his fellow man.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 1-minutes on each side of the aisle.

CONGRATULATIONS TO HEATHER WILSON UPON HER ELECTION TO CONGRESS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, it is hard for this West Pointer to say, "Go Air Force," but today I must. Yesterday, the voters of New Mexico's First District chose Heather Wilson, an Air Force Academy grad, to replace our friend and departed colleague, Steve Schiff.

I welcome Heather to the Congress, adding to the ranks of distinguished women who currently serve in this body, more than any other time in our Nation's history.

More importantly, I welcome her as a fellow veteran of the armed services. As fewer and fewer veterans elect to serve in Congress, it is important that we have people like Heather Wilson who, even though she served in the Air Force, still understands the need for a strong national defense.

Mr. Speaker, I expect Heather will be a strong and forceful voice for our men and women in uniform, as well as for the common sense family values that are the true strength of this Nation.

Heather Wilson is a worthy and welcome successor to our friend, Steve Schiff.

CONGRESS MUST PASS HMO REFORM

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, one has to wonder what motivates Speaker GINGRICH to continually stop movement on HMO reform.

Today in the paper again a 52-year-old father of five suffers and waits to get a liver transplant, and it is not approved until he is too ill and too sick to get that transplant. My only brother's girlfriend died at 38 years of age as the HMO, the managed care system, delayed. Delayed testing, delayed X-rays, until it was too late.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In Florida, the legislature took a step today. They started to provide patients some rights. This Congress has to get past the Speaker and the Republican leadership and fight for the life and breath of the American people to pass HMO reform.

CRIME IN OUR PUBLIC SCHOOLS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, American schools are under a siege of violence. Recent events have again focused this Nation's attention on violence in American schools.

Despite the long-standing lip service to the problem, media reports have recently highlighted that schools are not safe places of learning.

Mr. Speaker, let me share with this body some alarming statistics. Physical attacks or fights without the use of weapons lead the list of reported crimes in our schools, with about 190,000 such events occurring in any given year.

Moreover, 116,000 incidents of theft or larceny were reported, along with 98,000 incidents of vandalism.

Most alarming, Mr. Speaker, is that serious crimes included 4,000 rapes or sexual assaults, 7,000 robberies, and 11,000 physical attacks or fights with dangerous weapons, knives and guns.

These events are taking place in every congressional district in the country.

Mr. Speaker, the time to act is now. For the safety of our children, it is imperative that this Congress focus its attention on this critical issue.

PATIENT BILL OF RIGHTS

(Ms. STABENOW asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. STABENOW. Mr. Speaker, I would first rise today to commend President Clinton for this week announcing new patient protections for those who are covered by Medicare. The time is now for all of us in the House to join together to extend those same protections to every single person who is covered by health care in this country.

The gentleman from Michigan (Mr. DINGELL) and the gentleman from Iowa (Mr. GANSKE) have come together in an important effort that should not be watered down by other proposals that do not make the test, that do not really protect patients.

Mr. Speaker, we need to make sure that our constituents, as well as ourselves, have access to specialists, that we can have emergency room costs covered when it is necessary, that we have the opportunity to fully discuss with our physicians the kinds of treatments that we need if we are in managed care.

Time is overdue for us to provide the kinds of patient protections necessary in managed care to make sure that our constituents have the quality care that they deserve.

Mr. Speaker, I call upon the House to support the Patient Bill of Rights and to take it up immediately.

DOLLARS TO THE CLASSROOM ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, President Clinton has been calling on Congress to start yet another Federal education program to hire 100,000 new teachers. If the President wants to hire teachers, then he should be ready to support H.R. 3248, the Dollars to the Classroom Act.

The Dollars to the Classroom Act sends 95 percent of the money for 31 Federal education programs directly to local schools. With the flexibility given in the Dollars to the Classroom Act, principals will be able to hire more teachers for America's schools, which our kids deserve.

Our Nation's parents deserve for their education tax dollars to actually reach their child's classroom. Let us stop talking about hiring teachers. Let us actually make it possible by passing the Dollars to the Classroom Act. It is time we put children first in education by directing our tax dollars to the classroom.

CHINA GOBBLING UP AMERICAN NATIONAL SECURITY SECRETS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, on the very day that President Clinton leaves for China, China thumbs their nose at America once again. Check this out.

Top U.S. officials say, and I quote: China stole a top secret device off an American satellite. The theft was so serious, our National Security Agency was forced to change all of our communication codes.

After all of this, the White House still wants a permanent Most Favored Nation trade status for China.

Free trade my ascot, Mr. Speaker.

This is a free ride and a free for all for China, who is gobbling up our national security secrets faster than the President can down a Big Mac and a box of fries. Think about that.

Mr. Speaker, I want to yield back what secret codes, secrets, and national security we have left.

CUT TAXES ON CAPITAL INVESTMENT TO KEEP JOBS IN AMERICA

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the Democrats say we need to keep jobs in America for American workers, Republicans say that we need to keep jobs in America for American workers. The difference is that liberal Democrat policies do everything possible to drive companies overseas or encourage investment capital to go abroad.

Think about it. Democrats rail against "corporate America." They support increasing expansion of regulation and they seek to raise taxes on the people who create and keep jobs. Naturally, businesses respond by moving from a high tax country to a low tax country.

Mr. Speaker, if we want to keep jobs in America, make America the best place in the whole world to open a business, the best place in the whole world to invest, the best place in the whole world to start a business, the best place in the whole world to make a profit, the best place in the whole world to keep profits, the best place in the whole world to build a company and make it grow. We must keep jobs in America.

Mr. Speaker, let us cut taxes on capital investment and make the decision to stay in America the easiest decision in the world.

INTRODUCTION OF THE GUAM CENTENNIAL RESOLUTION

(Mr. UNDERWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UNDERWOOD. Mr. Speaker, just this past Sunday I was on Guam for the reenactment of America's first flag-raising ceremony on Guam. It was on June 21, 1898 that a contingent of American officials, led by Captain Henry Glass, raised the first American flag in the village of Piti.

For many Chamorros, the native people of Guam, it was a time of confusion and apprehension. No one knew how the new authorities would affect the island. And others, after nearly 300 years of Spanish dominion, were sorry to see the Spanish officials and soldiers be whisked away.

However, one thing is certain. The people of Guam deserve the recognition and commitment that the people of this body can provide in commemoration of Guam's centennial anniversary.

For this purpose, today I am introducing a House Resolution which calls on the House of Representatives to recognize Guam's service to the United States and to reaffirm its commitment to Guam's request for political status clarification. I have collaborated extensively with the Democratic and Republican leadership of the House Committee on Resources in formulating the language of this resolution.

Mr. Speaker, I am pleased to note that 40 of my colleagues have agreed to be original cosponsors of the Guam Centennial Resolution. Let us commemorate Guam's 100-year relationship with the United States.

REDUCING CAPITAL GAINS TAXES

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, today Speaker NEWT GINGRICH introduces one of the most important jobs bills that this Congress will consider during this term, and I am talking about the bill to reduce the capital gains tax from 20 percent to 15 percent.

When this has been done in the past, starting in 1978, revenues went up $23 billion. When the capital gains taxes were cut again in 1981, revenues went up $9 billion. And in 1986, when capital gains tax rates were raised and not lowered, revenue loss was about $180 billion.

If we give Americans the opportunity to sell goods at a lower price, they are going to do it. And in doing so, they are going to create more jobs. This would be great for entrepreneurs, for small businesses, for seniors and over one-half of American consumers who right now are savers.

This is a very important jobs bill, and it is a bill that I am looking forward to a good debate on. I think that this Congress would be remiss in its duties if we did not act on it before the end of the session.

AMERICANS NEED A PATIENT'S BILL OF RIGHTS NOW

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, in today's Washington Post there is a front page article that illustrates the immediate need for our Patient's Bill of Rights.

In February of 1997, doctors told a 52-year-old local resident, father of five, that a liver transplant was his only chance to beat liver cancer. The executives of the HMO disagreed and denied coverage for this lifesaving treatment.

Over the next five months this local resident wrote three letters to his HMO, and each was ignored. Finally, five months after his doctors originally told him he needed a transplant, he won an external appeal. The HMO was ordered to pay for the transplant. Five days after he won that appeal, he was too sick to receive that transplant and he died.

Mr. Speaker, how many people have died because of delay in medical care because of this law we have now? If we had a Patient's Bill of Rights that included timely internal and external appeals; access to specialists; point of service options; open communications between patients and providers; and, accountability for these medical decisions, these Americans would not be dying because they are being denied medical care.

Mr. Speaker, we need a Patient's Bill of Rights now.

□ 1015

ON EDUCATION

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, a wise man once defined insanity as doing more of what you have been doing and expecting a different result.

Our friends on the left are talking about giving more money to schools which have produced terrible results, confident in the belief that schools which have failed so miserably the last time Congress gave them more money will do a better job this time around. Republicans talk about improving school performance, for we believe that the focus should be on results, not just on inputs. Democrats talk about spending more money from the Federal Government, unconcerned that Washington bureaucrats will then have more control over our children's education.

Republicans want exactly the opposite. We want parents and local authorities to have more power, and we want less meddling from Washington bureaucrats.

Two different visions and, I submit, two fundamentally different approaches to the education of our children.

AMERICA'S HEALTH CARE SYSTEM

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, have my colleagues heard the response, no room at the inn? That is what we are getting with the health system in America. HMOs, no room at the inn, no room in the emergency room, no hospital bed, no ability to get surgery, no ability to stay in the hospital because one needs to.

Republicans are about to unveil their own do-nothing legislative proposals to address the crisis of teen smoking and managed care reform, but these proposals are not solutions. They are a fig leaf to hide their do-nothing proposals. Instead of supporting real life problems, these programs really apply and listen to the special interests.

That is why I am listening to those who cannot get into hospital beds, who are turned away from emergency rooms, whose children are not diagnosed because we have to call up the HMO to get approval.

We are also going to listen to children today. Three thousand of them start smoking every day, and 1,000 of them will die from smoking. We will have a hearing today to listen to the teenagers of America tell us why we need to pass a bill, a tobacco bill to reform this system, to improve the health system, and to make sure that we do stand on the correct side of legislative history; that is, supporting those who need good health care and to stop tobacco from attacking our children.

ON SOCIAL SECURITY

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, the gentleman from Minnesota (Mr. MINGE) and I, and the gentleman from Wisconsin (Mr. NEUMANN) are introducing legislation, H.R. 4033, that makes changes in the way government borrows from the Social Security trust fund.

It does two things. It provides that from now on when we calculate whether there is a budget surplus or deficit, OMB and CBO, the administration and Congress, shall not consider the money we borrow from the Social Security trust fund as revenue in determining whether or not there is a deficit or surplus.

The other provision in that bill says that from now on when we borrow any money from the Social Security trust fund, it is going to be in the form of marketable Treasury bills rather than the blank IOUs that we have been using in the past.

If the current revenue spending stream continues, it would mean, for the first time in many years, we could have a balanced budget without considering the $90 billion borrowed from Social Security. It is the right track, and we need to keep on that track by passing H.R. 4033. Let us be very honest and clear, borrowing from the Social Security should not be considered revenue and the amount borrowed should be secured by marketable Treasury bills rather than the existing politically dependent nonmarketable IOUs.

STANDING UP FOR NEIGHBORHOODS

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, our Nation exists not simply as a collection of 50 States. The fabric of America is woven through tens of thousands of neighborhoods, the place where we were born, where we grew up, where we live, where we hope to spend the rest of our days.

Those neighborhoods contain familiar landmarks, houses, small businesses, a drugstore here, a restaurant there, places where we gather, where we socialize, where we meet our friends.

Recently the Rite Aid Corporation has been acquiring key corner properties in the Cleveland area and knocking out homes, small businesses, offices and landmarks so that they might become the most profitable drugstore chain. Rite Aid clearly does not care about neighborhood history, about the quality of communities.

One site they acquired, a neighborhood crossroads, was left vacant, weed-strewn and vandalized and littered with debris for a year and a half.

America must stand up for its neighborhoods. Do not patronize businesses which do not respect a neighborhood's history.

ON MANAGED CARE, TEEN SMOKING, AND TAXES

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, we have heard some pretty stiff language in this House this morning concerning managed care, teenage smoking, taxes.

Let us look at the real facts. Managed care can be improved and the Republican Party has a plan to do that. But it is not socialized medicine, that is what the other side wants.

Teenage smoking, we have a plan to address teenage smoking. We all agree on that. Yet the other side has a plan also, a $500 billion, $600 billion plan that grows government and is again a very socialistic approach to teenage smoking.

Capital gains, we have proven that capital gains increases the revenue to this government. The other side would raise taxes, not lower taxes. The real difference is how to accomplish what is needed for America.

The other side believes it is big government, more spending. We believe we have to use our money more wisely, reform government where necessary, and encourage personal responsibility. Those are the answers.

HEALTH CARE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, a few weeks ago I received a letter from a woman in Iowa. She was kicked out of the hospital less than 24 hours after undergoing breast cancer surgery, only to go home in pain and to develop painful infections.

She remarked in her letter how her family dog broke his leg and they took him to the vet. The veterinarian kept the dog for four days. She writes, and I quote, "A dog receives better health care than a woman." She is right, and it is a disgrace.

My bill to provide breast cancer patients with 48 hours in the hospital has been included in the Democratic Patients' Bill of Rights. But the Republican leadership refuses to bring this bill to the floor of the House for a vote.

The GOP seems to be more concerned with protecting the profits of the health insurance industry than protecting the quality of health care for American families. Our pets should not be getting better health care than our families.

It is time to pass the Patients' Bill of Rights.

CONGRATULATIONS CHICAGO BULLS

(Mr. COOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOK. Mr. Speaker, if I could have the gentleman from Illinois (Mr. DAVIS) come up and join me, a year ago I came to the House floor to pay off a bet with the gentleman from Illinois (Mr. JACKSON). I bet him that the Utah Jazz would beat the Bulls. I lost. My payment was a floor speech honoring the Chicago Bulls.

Last night, in preparation for this speech, I dug out that speech I gave last year and I remembered a vaunting conclusion. I was right. My closing words were, "We will see you next year, Mr. Jackson. But next year the results will be different."

Well, it is next year and I am back again, a broken man. I have learned a very important lesson about the evils of betting. And during the playoffs, we all learned a lesson in stamina, commitment and inner strength from the master himself, Michael Jordan.

I agree with Time magazine's assessment this week that what we have seen in Mr. Jordan during his remarkable career we may never see again. I heartily congratulated the gentleman from Illinois (Mr. DAVIS) on winning this and would like to present this from Scottie Pippen to the gentleman and congratulate him again on an outstanding home team and their sixth National Basketball Association Title.

This is a team that has set the standard in basketball for decades to come. And if there ever is another team like them, I hope I have learned to quit betting against them.

ON THE CHICAGO BULLS AND THE UTAH JAZZ

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the most honorable gentleman from Utah for his most gracious concession speech.

Those of us in Chicago spent a lot of time on the edge of our seats. As a matter of fact, we had to put our hospital emergency rooms on alert because so many of our people were about to have heart attacks thinking that Utah might win.

Well, the fact of the matter is that they are both great and outstanding basketball teams who gave America many delights and many thrills. So we want to congratulate the Utah Jazz for being superworthy opponents, and we want to acknowledge their great contribution to the game of basketball.

We want to thank Scottie Pippen, who happens to be my home boy. We both grew up in the State of Arkansas, 12 miles from each other, and I want to thank Scottie for this basketball.

But I also want to make a presentation to the gentleman from Utah (Mr. COOK) so that he will always remember that the Chicago Bulls are indeed number one and that Chicago is a first class city and a world class town.

So on behalf of the Chicago Bulls and all of the people of Chicago, I want to present to the gentleman this Chicago Bulls cap to keep forever and forever and I thank him so very much.

ON THE PATIENTS' BILL OF RIGHTS

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, it is tough to move from basketball back to health care. Perhaps the connection is that last night the congressional baseball game was held and it was injury free, a very remarkable feat.

Mr. Speaker, there is a crisis of confidence in American health care today. A majority of consumers believe that insurance plans often compromise the quality of care to save money. Managed care must be more than managed cost.

I am concerned that we are going to see a fig tree growing in the House of Representatives, proposals from the other side, from the Republican leadership, that are no more than fig leaves. We have seen it with campaign finance reform. We can see it coming with tobacco. It may come with HMOs as well.

The solution to our problem is the Democrat-sponsored Patients' Bill of Rights Act of 1998. It provides access to necessary care. It ensures access to specialists. It provides direct access to a specialist for patients with serious ongoing conditions. It would allow women to see their obstetrician or gynecologist without prior authorization, and it requires access to and payment for emergency room service. It also provides a fair and timely appeals process when health care plans deny care, and it provides protections for the patient-provider relationship.

It does that by banning gag clauses. It protects providers who advocate on behalf of their patients, and prevents drive-through mastectomies.

I urge my colleagues to supported the Patients' Bill of Rights Act of 1998.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker pro tempore (Mr. BLUNT) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 24, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on June 23, 1998 at 9:05 p.m. and said to contain a message from the President whereby he returns without his approval H.R. 2709, the "Iran Missile Proliferation Sanctions Act of 1998."

With warm regards,

ROBIN H. CARLE.

IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1998—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-276)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2709, the "Iran Missile Proliferation Sanctions Act of 1998."

H.R. 2709 would require sanctions to be imposed on foreign individuals and companies if there is "credible information indicating that" they transferred certain items or provided certain types of assistance that contributed to Iran's missile program, or attempted more than once to transfer such items or provide such assistance. These sanctions would last at least 2 years and would prohibit sales of defense articles and services; exports of certain dual-use items; and United States Government assistance.

My Administration unequivocally supports the critical objectives of fighting terrorism and taking steps to halt the transfer of missile technology to nations whose foreign policy practices and nonproliferation policies violate international norms. This legislation, however, is indiscriminate, inflexible, and prejudicial to these efforts, and would in fact undermine the national security objectives of the United States. Taken together, the flaws in H.R. 2709 risk a proliferation of indiscriminate sanctioning worldwide.

Such indiscriminate sanctioning would undermine the credibility of U.S. nonproliferation policy without furthering U.S. nonproliferation objectives. Indeed, the sweeping application of sanctions likely would cause serious friction with many governments, diminishing vital international cooperation across the range of policy areas—military, political, and economic—on which U.S. security and global leadership depend.

Specifically, H.R. 2709 would require the imposition of sanctions based on an unworkably low standard of evidence: "credible information indicating that" certain transfers or attempted transfers had occurred. Such a low standard of evidence could result in the erroneous imposition of sanctions on individuals and business entities worldwide—even in certain instances when they did not know the true end user of the items. The bill would also hinder U.S. efforts to enlist the support of other countries to halt the objectionable activities by imposing an unreasonable standard for waiving the bill's sanctions. In addition, the sanctions proposed by the legislation are disproportionate. A minor violation (e.g., the transfer of a few grams of aluminum powder) would carry the same penalty as a transfer of major proliferation significance. This, too, undermines U.S. credibility and increases foreign opposition to U.S. policy.

H.R. 2709 does not specifically refer to Russia, but it will affect that country. The legislation does not allow flexibility sufficient to reflect the progress made by the Russian government in formulating policies and processes whose goal is to sever links between Russian entities and Iran's ballistic missile program. At the urging of the United States, President Yeltsin, the Prime Minister, Russian security services Chief Kovalev, and Russian Defense Minister Sergeyev have all made clear that proliferation of missiles and weapons of mass destruction is a serious threat to Russia's security. They have called for strict control of sensitive technologies and stressed the strict penalties that will be imposed for violations of Russian law. On January 22 of this year, the Russian government issued a "catch all" executive order providing authority to stop all transfers of dual-use goods and services for missiles and weapons of mass destruction programs, and on May 15 published detailed regulations to implement that order. They have recently developed and circulated a list of end users of concern in Iran, Libya, North Korea, and Pakistan. In the course of regular and active discussion of this issue with the Russian government, the United States has raised problem cases involving cooperation between Russian entities and the Iranian missile program. We have seen progress in this area, and a number of these cases are no longer active concerns.

Precisely because Russia needs to take effective enforcement steps to control the flow of technology, the United States needs to be able to work cooperatively with the Russian government to assure further progress. H.R. 2709 would undercut the cooperation we have worked to achieve with the Russian government without helping us solve the problem of technology transfer. The legislation's unilateral nature could also hurt our increasing cooperation with Russian government agencies in other vital areas such as law enforcement, counter-narcotics, and combating transnational crime. Furthermore, Russia would interpret this law as an infringement of its sovereignty, affecting our ability to work with Russia on broader U.S. policy goals and on regional and global issues.

Finally, Title I of H.R. 2709 is not needed. Existing law, such as the missile technology control provisions of the Arms Export Control Act, provides a sufficient basis for imposing sanctions to prevent missile proliferation to Iran and elsewhere.

I also note that it is disappointing that the Congress attached Title II, the "Chemical Weapons Convention Implementation Act of 1997," to this problematic and counterproductive bill. Because Chemical Weapons Convention (CWC) implementation legislation has not been enacted, the United States has not yet fully carried out its obligations under the CWC. The CWC implementing legislation has strong bipartisan support, and should be passed by the Congress as a free-standing bill without further delay. I note, however, that sections 213(e)(2)(B)(iii), 213(e)(3)(B)(v), and 213(f) of Title II could interfere with certain of my exclusive constitutional powers, and I urge the Congress to correct these constitutional deficiencies.

For the reasons stated, I am compelled to return H.R. 2709 without my approval.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 23, 1998.*

□ 1030

The SPEAKER pro tempore (Mr. GUTKNECHT). The objections of the President will be spread at large upon the Journal and, without objection, the message and bill will be printed as a House document.

There was no objection.

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the message of the President, together with the accompanying bill, H.R. 2709, be referred to the Committee on International Relations.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

UTAH SCHOOLS AND LANDS EXCHANGE ACT OF 1998

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 3830) to provide for the exchange of certain lands within the State of Utah, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

Mr. FALEOMAVAEGA. Mr. Speaker, reserving the right to object, I yield to the gentleman from Utah (Mr. HANSEN) for an explanation of this legislation.

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman from American Samoa yielding to me. Mr. Speaker, H.R. 3830 represents a landmark agreement between the State of Utah and the Department of the Interior to exchange nearly 500,000 acres of lands within the State of Utah to benefit the school children of Utah.

Over 20 years ago, while serving in the Utah State Legislature and as Speaker of the House, I worked closely with then Governor Scott Matheson to solve the problem of the disbursed school trust lands in Utah and the best way to live up to the mandate of generating revenues for the school children of Utah.

Governor Matheson came up with Project Bold, wherein we would block up school trust lands in exchanges with the Federal Government. This seemed like a somewhat radical idea at the time but Governor Matheson actually had foresight that brought us here today.

Finally, during the 103rd Congress we were able to pass Public Law 103–93 that was designed to exchange these lands out of parks and national forests. However, difficulties with placing a value on these isolated tracts became impossible.

Then in September of 1996 President Clinton signed the proclamation that locked up the largest and cleanest supply of coal left in the Nation when he created the new Grand Staircase-Escalante National Monument. Unfortunately, a large share of this coal, not to mention the oil and gas in the monument, belongs to the school children of Utah. Thus, the pressure was on the administration to live up to the promises made by the President to ensure the school children would not suffer from the creation of the monument.

Therefore, on May 8, Secretary Babbitt and Governor Leavitt signed an agreement to trade out all of the school trust lands within national parks, forest service, and the monument for BLM acres elsewhere in the State, substantial coal interests, and $50 million. This is an equal value exchange. It is fair and equitable to all parties involved. I commend the Governor and the Secretary for finding a way to put all of the difficult issues of Utah aside and finally find a solution to help the school children of Utah.

I would like to thank my colleague, the gentleman from American Samoa (Mr. FALEOMAVAEGA) for his help in expediting this legislation to this day, and I appreciate his understanding of this important issue.

Mr. FALEOMAVAEGA. Mr. Speaker, further reserving the right to object, Utah Governor Leavitt and Interior Secretary Babbitt signed a historic and unique agreement on May 8 of this year to provide for an exchange of lands between the State of Utah and the Federal government.

H.R. 3830 legislatively ratifies that agreement, under which the United States would acquire approximately 410,718 acres of land and minerals owned by the State of Utah that are inholdings within the Grand Staircase-Escalante National Monument, units of the national park and national forest systems and two Indian reservations, and in return would transfer to the State approximately 138,647 acres of public land and minerals and $50 million.

The lands involved in the exchange have been a major source of contention for both the State of Utah and the Federal Government. We have spent many hours in the Committee on Resources dealing with issues associated with the lands covered by the agreement. This agreement puts the land exchange issue to rest in what I believe is a fair and equitable manner, and I am all for it.

I want to commend Governor Leavitt and Secretary Babbitt for their leadership. For far too long this issue has frustrated efficient land management, sapped people's energies, and prevented benefits from accruing to the Utah School Trust and the Nation.

These two gentlemen, with the support of many others, recognized that the current situation was doing nothing for the people or the resources. Paraphrasing the former Governor of Utah, Governor Matheson, they have taken a "bold" step in resolving this long-festering issue.

Mr. Speaker, I support H.R. 3830 and hope that my colleagues will also support this legislation.

Mr. HINCHEY. Mr. Speaker, I am very pleased to see the House taking up this legislation today authorizing an exchange agreement between the Interior Department and the State of Utah. The agreement would resolve a number of longstanding problems arising from the enclosure of Utah school trust lands in Federal reservations. I believe that a settlement of these issues will be good news for the people of Utah and the people of all our states.

The agreement may appear to be a local matter, but in fact it concerns all of use, and is important to all of us. The lands and money that Utah's School Trust will receive under the agreement are the property of all Americans, and the land Utah proposes to exchange will become the property of all Americans. And we will be proud to accept them. As a non-Utahn, I want to join my friends and colleagues from Utah in urging that Congress move as quickly as possible on this matter.

Historically, it has been difficult to arrange exchanges in the State of Utah, leaving gaps and inholdings in some of our spectacular national parks there, and most recently, in the new Grand Staircase-Escalante National Monument. Some people thought it would be impossible to work out this exchange, because of the deep differences among the different interested parties. But it has been accomplished. It shows that negotiations can work, and it shows that both sides can come away satisfied.

It takes a real commitment on both sides for negotiations to work. Above all it takes a willingness to face the realities of the situation and to give up dreams of an ideal solution. In this case, many people deserve credit for what has been accomplished. I want to compliment Secretary Babbitt and Governor Leavitt for their commitment to making this process work, and the staffs at the Department of Interior and the Utah School and Institutional Trust Lands Administration for their hard work on the practical details. Here in the House, our colleague CHRIS CANNON deserves special commendation for his dedicated efforts to get this process going. I was happy to work cooperatively with him on this. We have many differences among us on the best disposition of federal lands in Utah, but we have no difference on the question of the importance of settling these exchanges.

Resolution of these exchanges will produce two great benefits for the public. First, SITLA will receive money and lands with real income-producing potential that can increase funding for Utah's schools. I believe that the children almost always benefit when more funding is available for education so I'm delighted with that result. Most importantly, if this bill is enacted, they will start seeing the benefits very quickly. Second, the people of the United States will receive the trust lands now enclosed within the Grand Staircase-Escalante National Monument. This will give the Interior Department the opportunity to manage this magnificent territory in accord with its nature, and not according to arbitrary lines on the map. The possibility that inappropriate development will mar the wild beauty of the Monument or interfere with its wildlife will, I hope, be eliminated with this exchange.

Again, my thanks and congratulations to all who worked on this agreement. I urge my colleagues to support this bill, and hope it will be enacted as soon as possible.

Mr. FALEOMAVAEGA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Utah Schools and Lands Exchange Act of 1998".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The State of Utah owns approximately 176,600 acres of land, as well as approximately 24,165 acres of mineral interests, administered by the Utah School and Institutional Trust Lands Administration, within the exterior boundaries of the Grand Staircase-Escalante National Monument, established by Presidential proclamation on September 18, 1996, pursuant to section 2 of the Antiquities Act of 1906 (16 U.S.C. 431). The State of Utah also owns approximately 200,000 acres of land, and 76,000 acres of mineral interests, administered by the Utah School and Institutional Trust Lands Administration, within the exterior boundaries of several units of the National Park System and the National Forest System, and within certain Indian reservations in Utah. These lands were granted by Congress to the State of Utah pursuant to the Utah Enabling Act, chap. 138, 28 Stat. 107 (1894), to be held in trust for the benefit of the State's public school system and other public institutions.

(2) Many of the State school trust lands within the monument may contain significant economic quantities of mineral resources, including coal, oil, and gas, tar sands, coalbed methane, titanium, uranium, and other energy and metalliferous minerals. Certain State school trust lands within the Monument, like the Federal lands comprising the Monument, have substantial noneconomic scientific, historic, cultural, scenic, recreational, and natural resources, including ancient Native American archeological sites and rare plant and animal communities.

(3) Development of surface and mineral resources on State school trust lands within the monument could be incompatible with the preservation of these scientific and historic resources for which the monument was established. Federal acquisition of State school trust lands within the monument would eliminate this potential incompatibility, and would enhance management of the Grand Staircase-Escalante National Monument.

(4) The United States owns lands and interest in lands outside of the monument that can be transferred to the State of Utah in exchange for the monument inholdings without jeopardizing Federal management objectives or needs.

(5) In 1993, Congress passed and the President signed Public Law 103-93, which contained a process for exchanging State of Utah school trust inholdings in the National Park System, the National Forest System, and certain Indian reservations in Utah. Among other things, it identified various Federal lands and interests in land that were available to exchange for these State inholdings.

(6) Although Public Law 103-93 offered the hope of a prompt, orderly exchange of State inholdings for Federal lands elsewhere, implementation of the legislation has been very slow. Completion of this process is realistically estimated to be many years away, at great expense to both the State and the United States in the form of expert witnesses, lawyers, appraisers, and other litigation costs.

(7) The State also owns approximately 2,560 acres of land in or near the Alton coal field which has been declared an area unsuitable for coal mining under the terms of the Surface Mining Control and Reclamation Act. This land is also administered by the Utah School and Institutional Trust Lands Administration, but its use is limited given this declaration.

(8) The large presence of State school trust land inholdings in the monument, national parks, national forests, and Indian reservations make land and resource management in these areas difficult, costly, and controversial for both the State of Utah and the United States.

(9) It is in the public interest to reach agreement on exchange of inholdings, on terms fair to both the State and the United States. Agreement saves much time and delay in meeting the expectations of the State school and institutional trusts, in simplifying management of Federal and Indian lands and resources, and in avoiding expensive, protracted litigation under Public Law 103-93.

(10) The State of Utah and the United States have reached an agreement under which the State would exchange of all its State school trust lands within the monument, and specified inholdings in national parks, forests, and Indian reservations that are subject to Public Law 103-93, for various Federal lands and interests in lands located outside the monument, including Federal lands and interests identified as available for exchange in Public Law 103-93 and additional Federal lands and interests in lands.

(11) The State school trust lands to be conveyed to the Federal Government include properties within units of the National Park System, the National Forest System, and the Grand Staircase-Escalante National Monument. The Federal assets made available for exchange with the State were selected with a great sensitivity to environmental concerns and a belief and expectation by both parties that Federal assets to be conveyed to the State would be unlikely to trigger significant environmental controversy.

(12) The parties agreed at the outset of negotiations to avoid identifying Federal assets for conveyance to the State where any of the following was known to exist or likely to be an issue as a result of foreseeable future uses of the land: significant wildlife resources, endangered species habitat, significant archaeological resources, areas of critical environmental concern, coal resources requiring surface mining to extract the mineral deposits, wilderness study areas, significant recreational areas, or any other lands known to raise significant environmental concerns of any kind.

(13) The parties further agreed that the use of any mineral interests obtained by the State of Utah where the Federal Government retains surface and other interest, will not conflict with established Federal land and environmental management objectives, and shall be fully subject to all environmental regulations applicable to development of non-Federal mineral interest on Federal lands.

(14) Because the inholdings to be acquired by the Federal Government include properties within the boundaries of some of the most renowned conservation land units in the United States, and because a mission of the Utah School and Institutional Trust Lands Administration is to produce economic benefits for Utah's public schools and other beneficiary institutions, the exchange of lands called for in this agreement will resolve many longstanding environmental conflicts and further the interest of the State trust lands, the school children of Utah, and these conservation resources.

(15) The Congress finds that, under this Agreement taken as a whole, the State interests to be conveyed to the United States by the State of Utah, and the Federal interests and payments to be conveyed to the State of Utah by the United States, are approximately equal in value.

(16) The purpose of this legislation is to enact into law and direct prompt implementation of this historic agreement.

SEC. 3. RATIFICATION OF AGREED EXCHANGE BETWEEN THE STATE OF UTAH AND THE DEPARTMENT OF THE INTERIOR.

(a) AGREEMENT.—The State of Utah and the Department of the Interior have agreed to exchange certain Federal lands, Federal mineral interests, and payment of money for lands and mineral interests managed by the Utah School and Institutional Trust Lands Administration, lands and mineral interests of approximately equal value inheld within the Grand Staircase-Escalante National Monument the Goshute and Navajo Indian Reservations, units of the national park system, the national forest system, and the Alton coal fields.

(b) RATIFICATION.—All terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled "Agreement to Exchange Utah School Trust Lands Between the State of Utah and the United States of America" (herein referred to as "the Agreement") are hereby incorporated in this title, are ratified and confirmed, and set forth the obligations and commitments of the United States, the State of Utah, and Utah School and Institutional Trust Lands Administration (herein referred to as "SITLA"), as a matter of Federal law.

SEC. 4. LEGAL DESCRIPTIONS.

(a) IN GENERAL.—The maps and legal descriptions referred to in the Agreement depict the lands subject to the conveyances.

(b) PUBLIC AVAILABILITY.—The maps and descriptions referred to in the Agreement shall be on file and available for public inspection in the offices of the Secretary of the Interior and the Utah State Director of the Bureau of Land Management.

(c) CONFLICT.—In case of conflict between the maps and the legal descriptions, the legal descriptions shall control.

SEC. 5. COSTS.

The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

SEC. 6. REPEAL OF PUBLIC LAW 103-93 AND PUBLIC LAW 104-211.

The provisions of Public Law 103-93 (107 Stat. 995), other than section 7(b)(1), section 7(b)(3) and section 10(b) thereof, are hereby repealed. Public Law 104-211 (110 Stat. 3013) is hereby repealed.

SEC. 7. CASH PAYMENT PREVIOUSLY AUTHORIZED.

As previously authorized and made available by section 7(b)(1) and (b)(3) of Public Law 103-93, upon completion of all conveyances described in the Agreement, the United States shall pay **$50,000,000** to the State of Utah from funds not otherwise appropriated from the Treasury.

SEC. 8. SCHEDULE FOR CONVEYANCES.

All conveyances under sections 2 and 3 of the agreement shall be completed within 70 days after the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3830, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

MINERAL LEASING IN FORT BERTHOLD INDIAN RESERVATION

Mr. HANSEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2069) to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

Mr. FALEOMAVAEGA. Mr. Speaker, reserving the right to object, I yield to the gentleman from Utah (Mr. HANSEN) to explain the legislation.

Mr. HANSEN. Mr. Speaker, I appreciate my friend, the gentleman from American Samoa, yielding to me.

Mr. Speaker, S. 2069 would permit the leasing of mineral rights in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust of the United States have executed leases to more than 50 percent of the mineral estate of that allotment.

S. 2069 would facilitate oil and gas exploration on the Fort Berthold Indian reservation by allowing the Secretary of Interior to approve mineral leases affecting individually owned Indian land if a majority of the owners of the undivided mineral interest consent to that mineral lease.

S. 2069 would supersede a 1909 law which provides that the Secretary may not approve a mineral lease affecting individually owned Indian land unless every single person who has an undivided mineral interest in that land consents.

Approximately 70 percent of the individually owned tracts of land in the Fort Berthold Indian Reservation are owned by groups of 20 or more individuals. Some tracts are owned by 200 individuals. In many instances these individuals have not been identified, nor can they be located.

The requirements of the 1909 law have proven to be so difficult to meet that very little oil production has taken place on individually owned Indian land within a geological basin which has produced over one billion barrels of oil.

The Mandan Indian Nation and Hidatsa Indian Nation and the Arikara Indian Nation all support S. 2069. The administration supports S. 2069.

The House, on November 12, 1997 passed legislation which contained the language which is now S. 2069. In effect, we will be passing for a second time a bill which can go directly to the White House for the President's signature.

This is a good piece of legislation. It solves a big problem created by an out-of-date law, and I recommend its passage. I appreciate the gentleman yielding to me.

Mr. FALEOMAVAEGA. Further reserving the right to object, Mr. Speaker, this important and bipartisan bill has as its single goal the promotion of economic development on the Fort Berthold Indian Reservation in North Dakota, home to the Mandan, Hidatsa, and Arikara Indian tribes.

Their reservation sits on the oil-rich Williston Basin, and the tribes seek to gain much-needed revenues through a development agreement with the Alberta Energy Company. The lands surrounding the reservation have been the subject of much exploratory activity. That agreement would allow these tribes to develop oil and gas reserves on tribal lands as well as lands allotted to tribal members.

But congressional approval of mineral leasing rights is required in this instance in order to overcome the problem of fractionated heirship, a problem that is widespread throughout Indian country. Basically, fractionated heirship is the result of Federal and Indian policy which provides that lands held in trust for Indians are passed down from generation to generation so that each successive generation of heirs owns an undivided interest in the original lands.

Thus, parcels of lands such as those allotted in Fort Berthold have as many as 200 owners. Seventy percent of the Fort Berthold allotments have 20 owners. So in order to execute a lease, every individual with an ownership interest in a parcel of land has to agree to the lease. If one person objects, the lease will fail. The same thing will happen if one owner cannot be found.

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This arrangement simply creates too much of a headache for interested developers to make it worth their while to bring their activities to allotted Indian lands.

What the Fort Berthold bill does is allow a leasing agreement to go forward when less than 100 percent of the owners of a particular allotment agree to the lease. In this case, the bill requires that at least as many owners as own 50 percent of the ownership interest in an allotment must agree to the lease. Furthermore, the Secretary of the Interior must still approve the leasing arrangements, thus continuing to exercise the United States' trust responsibility. Of course, the bill only applies to the Fort Berthold Reservation.

In a certain sense, Mr. Speaker, there will be a lot of tribes watching this situation. Fractionated heirship is a widespread problem, and it is a major source of the trust funds problem that also plagues the tribes and the administration. The administration has already sent Congress legislation to consolidate allotment ownership. But if the Fort Berthold situation works out well, I believe other tribes may well look to this legislation for ideas as well.

Mr. Speaker, again I thank the gentleman from Utah, the chairman of the Subcommittee on National Parks and Public Lands, for his leadership and management of this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEASES OF ALLOTTED LANDS OF THE FORT BERTHOLD INDIAN RESERVATION.

(a) IN GENERAL.—

(1) DEFINITIONS.—In this section:

(A) INDIAN LAND.—The term "Indian land" means an undivided interest in a single parcel of land that—

(i) is located within the Fort Berthold Indian Reservation in North Dakota; and

(ii) is held in trust or restricted status by the United States.

(B) INDIVIDUALLY OWNED INDIAN LAND.—The term "individually owned Indian land" means Indian land that is owned by 1 or more individuals.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) EFFECT OF APPROVAL BY SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—The Secretary may approve any mineral lease or agreement that affects individually owned Indian land, if—

(i) the owners of a majority of the undivided interest in the Indian land that is the subject of the mineral lease or agreement (including any interest covered by a lease or agreement executed by the Secretary under paragraph (3)) consent to the lease or agreement; and

(ii) the Secretary determines that approving the lease or agreement is in the best interest of the Indian owners of the Indian land.

(B) EFFECT OF APPROVAL.—Upon the approval by the Secretary under subparagraph

(A), the lease or agreement shall be binding, to the same extent as if all of the Indian owners of the Indian land involved had consented to the lease or agreement, upon—

(i) all owners of the undivided interest in the Indian land subject to the lease or agreement (including any interest owned by an Indian tribe); and

(ii) all other parties to the lease or agreement.

(C) DISTRIBUTION OF PROCEEDS.—The proceeds derived from a lease or agreement that is approved by the Secretary under subparagraph (A) shall be distributed to all owners of the Indian land that is subject to the lease or agreement in accordance with the interest owned by each such owner.

(3) EXECUTION OF LEASE OR AGREEMENT BY SECRETARY.—The Secretary may execute a mineral lease or agreement that affects individually owned Indian land on behalf of an Indian owner if—

(A) that owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

(B) the heirs or devisees referred to in subparagraph (A) have been determined, but 1 or more of the heirs or devisees cannot be located.

(4) PUBLIC AUCTION OR ADVERTISED SALE NOT REQUIRED.—It shall not be a requirement for the approval or execution of a lease or agreement under this subsection that the lease or agreement be offered for sale through a public auction or advertised sale.

(b) RULE OF CONSTRUCTION.—This Act supersedes the Act of March 3, 1909 (35 Stat. 783, chapter 263; 25 U.S.C. 396) only to the extent provided in subsection (a).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 482 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4101.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 23, 1998, amendment No. 2 offered by the gentleman from New Hampshire (Mr. BASS) had been disposed of and section 738 had been read.

Are there further amendments to this portion of the bill?

AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

Mr. MILLER of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Florida:

Add after the final section the following new section:

SEC. . None of the funds made available in this Act may be used to make available or administer, or to pay the salaries of personnel of the Department of Agriculture who make available or administer, a loan to a processor of sugarcane or sugar beets during fiscal year 1999 under section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272) at a loan rate in excess of 17 cents per pound for raw cane sugar and 21.9 cents per pound for refined beet sugar.

The CHAIRMAN. Pursuant to the order of the Committee of Tuesday, June 23, 1998, the gentleman from Florida (Mr. MILLER) will control 30 minutes, and the gentleman from New Mexico (Mr. SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR) or her designee each will control 15 minutes.

The Chair recognizes the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Chairman, I yield myself such time as I may consume. This amendment is a modest change in the sugar program in this country, a one-cent change in sugar prices in this country.

Most of my colleagues do not realize that the sugar program is one of those old-fashioned programs where the Federal Government here in Washington has the bureaucracy that set a high price on sugar. This is not part of the free enterprise system that most people think we have. We have a price of sugar that the government sets that is over twice what the price is around the world. In Canada the price of sugar is about 9 cents a pound. In the United States it is about 22, 23 cents a pound. This makes zero economic sense.

In 1996 we passed Freedom to Farm, a very significant and historic piece of legislation for agriculture, because it really had a lot of reforms that were very important and good for this country and good for farmers. Our farmers are very effective and productive farmers and can compete with farmers around the world. We are huge exporters of agricultural products. But while we reformed lots of the grain programs and other programs, we did not reform sugar. Sugar was one product that basically escaped reform in the 1996 farm reform bill. The price of sugar back before we had reform was about 22, 23 cents a pound, and it is staying at that price because the government program continues to exist to force the price up high while world prices have dropped down to about 9 cents a pound.

One of the things I would point out, I remember reading right after the passage of the Freedom to Farm bill what the historic change was. In Time magazine there was an article not focusing on the good things in that bill but about the sugar sweet deal that the sugar farmers got by not reforming sugar and whether it was ABC News who did a story earlier this year about "It's Your Money", or Readers Digest had a story earlier this year, or the New York Times, they all referred to the fact that sugar was not reformed. So as much as my opponents might say, "Oh, we reformed it," the bottom line is sugar prices are the same basically as they were before we reformed it.

Let me describe briefly how the program works. The program works, that we cannot grow enough sugar in this country so we must import sugar. So what the government does is it controls the amount of sugar allowed into this country and by basic supply and demand forces prices up high. So while the world price is about 9 cents right now, in fact, if you look at the Wall Street Journal, you look at commodity prices, you have two prices for sugar, the price we pay in the United States and the price around the world.

What is crazy about this, for example, Australia, one of the largest exporters of sugar in the world, and it is not a subsidized program in Australia, they will sell their sugar to anyone for 9 cents a pound, but the United States, what do they sell it to us for? Twenty-two cents a pound or so. It is crazy. That is foreign aid. That is corporate subsidy of Australian sugar farmers. Whether we import it from the Dominican Republic or Brazil or wherever, we are subsidizing foreign sugar growers in this program.

This program of sugar that we have in this country is bad for consumers, it is bad for jobs, and it is certainly bad for the environment. For the consumers, they pay a higher price for sugar, not just the sugar we buy off the shelves in the store but so many different items of food contain sugar, whether it is the candy, whether it is cough drops, whether it is ice cream or baked goods, sugar is part of that and it is part of the total cost of the production. We all know basic economics will tell you that cost and prices are related.

It is bad for the environment. I come from Florida. A great treasure of the State of Florida is the Florida Everglades. Sadly it has been damaged over the past 50 years for a variety of reasons, not just because of agriculture certainly. We are in the process now of trying to restore the Everglades. We have lost 50 percent of the Florida Everglades for a variety of reasons, for agriculture and development and more people in the State of Florida. But we found out this week that it is going to cost us $7.5 billion over the next 20 years to restore the Everglades as best as we can. A large part of the problem is the amount of acreage going for sugar production, 500,000 acres. And part of the solution is to buy a lot of that sugar land and also to build retention ponds to filter the water that flows off the sugar fields. How much is sugar paying in this plan? Less than 5 percent of the cost. They are not even carrying their full load. But in addition to that, because we have this crazy sugar program, we are having to pay inflated prices for the land we are buying from the sugar farmers. We create a program that makes the land more valuable and creates incentives to produce more sugar in the Everglades, and then we are going to have to go out and buy it and pay this inflated price. That is the kind of screwy government program that this is.

And jobs. This is a job loser in this country. Because we restrict the amount of sugar imported, refineries are closing around this country. They have been closing for years because of this program. These are good jobs, union jobs by the way, because I have got letters of support from organized labor saying, "We're losing union jobs."

It is also bad for the users of sugar. For example, one of the classic cases is Bob's Candy down in Georgia that makes candy canes. They pay this high price for sugar. They have opened a facility down in the Caribbean. The same sugar is costing less than half the amount. Here is a company that has been in business for three generations and they are having a hard time to compete. Whether it is cereal, what have you, the jobs are not coming to this country. They are producing the cough drops in England and sending us cough drops rather than allowing us to manufacture them in this country. It is a job loser in this country.

The bottom line, Mr. Chairman, is that it is bad for the consumer, it is bad for jobs and economic growth in this country, and it is certainly bad for the environment. I think it is time that we get rid of this big government program that no longer belongs in the free enterprise country we live in today.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon (Mr. SMITH), the chairman of the Committee on Agriculture.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is not a minimal issue at all. I hope Members will listen, because again I want to reiterate, a contract was made with agriculture in 1996 that will be ending in the year 2002, that all subsidies on all crops will be eliminated.

In the face of that contract, why are we singling out sugar growers? This is not an attack on sugar companies. This is an attack on people who grow sugar, who work in the fields. Why should we distinguish them from soybeans or wheat or corn, if that happens to be your crop? "Oh, no, we have to identify sugar. Let's take them out of the contract."

I say, "Wrong." We made a contract, let us stick with it.

Is this a minimal question? Well, the people from CoBank do not think so, because the senior Vice President, Mr. Cassidy, wrote a letter to the gentleman from Louisiana (Mr. LIVINGSTON) on June 18, 1998, at which time this senior Vice President said, "Look, we finance about 2,000 customers. There are 1 billion dollars' worth of loans in jeopardy if this amendment passes."

Banks do not operate on tomorrow. They operate on a year and two and three-year commitments. Therefore, we are jeopardizing many, many sugar growers. Why do that? Do not pass this amendment. Stay with the contract the Congress made with farmers and with agriculture until the year 2002.

Mr. Chairman, I include for the RECORD the letter from Mr. Jack Cassidy to Chairman LIVINGSTON.

The text of the letter is as follows:

COBANK,
Denver, CO, June 18, 1998.

Hon. ROBERT L. LIVINGSTON,
Chairman, House Appropriations Committee,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I'm writing to express CoBank's opposition to an amendment to the pending Agricultural Appropriations bill that would effectively end the federal sugar policy.

With $19 billion in assets, CoBank is the largest bank in the Farm Credit System. We provide financing to about 2,000 customers, including agricultural cooperatives, rural utility systems, and to support the export of agricultural products. At present, CoBank has 25 farmer-owned cooperative customers involved in the sugar or sweetener industry, with loans from CoBank totaling nearly $1 billion. CoBank's customers, their farmer members, and CoBank itself have made numerous business decisions and financial commitments based on the seven-year farm bill passed by Congress in 1996. As you know, that legislation included provisions vital to the U.S. sugar industry at no cost to U.S. taxpayers. Great hardship would result to sugar farmers and their cooperatives if Congress fails to live up to the commitments made as part of the farm bill.

For these reasons, we urge you to support the existing farm bill provisions and oppose any proposals that would undermine the existing sugar policy.

Please call me at 1-800/542-8072, extension 4362, if you or your staff have any questions.

Sincerly.

JACK E. CASSIDY,
Senior Vice President.

Ms. KAPTUR. Mr. Chairman, I yield the 15 minutes under my control in this debate to the gentleman from Hawaii (Mr. ABERCROMBIE), a key leader in this House and truly one of the most knowledgeable and hardworking and influential leaders on U.S. sugar policy. I would have to say that no one could be a finer spokesman both for our producers as well as our farm workers than the gentleman from Hawaii.

The CHAIRMAN. Without objection, the gentleman from Hawaii (Mr. ABERCROMBIE) will control 15 minutes, and is recognized.

There was no objection.

Mr. ABERCROMBIE. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

Mr. GEPHARDT. Mr. Chairman, I rise in strong opposition to the Miller amendment. I believe this amendment is nothing more than a proposal to transfer wealth from farmers to giant food corporations. I believe it would harm hardworking farm families in rural communities across this country. Throughout much of farm country, farmers today are struggling. I want to reiterate that. Farmers in the upper Midwest and in the Midwest are struggling and having a very hard time paying their bills. The Republican freedom to fail farm bill has sharply reduced prices for sugar beets, wheat and other commodities. In States like Minnesota, North Dakota, Montana, and Idaho, many family farmers grow both wheat and sugar beets. Wheat prices are down by 50 percent in just 2 years. Fifty percent. Sugar beet prices are down by 12 percent. The sugar program is one of the few areas that these farmers can go to in order to get through very tough times. Now some want to cut this last lifeline for these farmers.

This proposal would also harm rural economic development. The gentleman from Hawaii (Mr. ABERCROMBIE), who strongly opposes this amendment, has told me this program sustains 6,000 good-paying union jobs in his area, his State alone.

The winners under this amendment are big food corporations, not consumers. Although sugar and corn sweetener prices have dropped, sweetened product prices continue to go up. Nothing in this amendment assures consumers that they are going to get lower prices.

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This is a bad effort. It will hurt farmers, it will hurt consumers, it will hurt our rural economy.

Democrats believe our farmers and rural communities deserve a fair return for their hard work.

Let us stand up for farmers and reject this amendment.

Mr. MILLER of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SCHUMER) the cosponsor of this bill who has been leading this effort for years. Maybe this year we will have success.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Florida (Mr. MILLER) for his able and capable leadership on this issue and rise in support of the amendment.

Mr. Chairman, it is time to put an end to the Federal Government's deal with the sugar industry and finally reform one of the most invidious, inefficient, Byzantine, special-interest, Depression-era Federal programs.

What do Americans get from the sugar program? Well, they get an additional $1.4 billion a year in higher prices at the checkout line. They get 500,000 acres of precious Florida wetlands destroyed and another 5 acres of Everglade land destroyed every day. They get to lose thousands of well-paying refinery jobs that are lost and sent overseas, like jobs at Domino Sugar in my district because the price of sugar is twice the world price.

Here is a list. Every red line, a refinery; a good-paying union job, as the gentleman from Florida (Mr. MILLER) mentioned, gone, and huge subsidies to a few wealthy sugar barons.

We heard a lot about the family farmer. Fifty-eight percent of this subsidy, more than half, goes to Florida's Fanjul family, 58 percent of this subsidy goes to one family who one would not characterize as hardworking family farmers. No matter how we refine it, the sugar program is a sour deal.

Opponents of Miller-Schumer warn that our amendment undermines reforms made to the sugar program and hurts family farmers. Well, let us hear the facts. Miller-Schumer begins the critical and long-overdue step toward reform. It simply reduces the amount of money by which the government will subsidize sugar prices. It does not eliminate the subsidies; I think it should, but this is just 1 cent a pound. That is it. The government reduces the loan rate for sugar cane and beets by 1 cent. That is not too much to ask in an industry where the subsidy is $472 an acre; $472 an acre, 1,000 percent more than the subsidies for wheat, corn and cotton.

My friend from Oregon said, "Well, what about wheat, corn, cotton, all the others?" The one group that escaped any reform was sugar. This is just catching them up to the rest. It is the only commodity that was not reformed during the 1996 farm bill. They are still receiving a welfare check.

We have a lot of feeling in this Chamber: Let us get rid of the welfare system. My colleagues tell a poor mother of 18 years old, "Get rid of welfare." They do not tell Mr. Fanjul, "Get rid of welfare." They do not tell the wealthy farmers, "Get rid of welfare," or the big agribusinesses. They are the ones who get the loans.

Now I would like to make another point. We are talking about this issue as we debate campaign finance reform. If there was ever an issue that showed why we needed campaign finance reform, it is sugar.

There are many people of goodwill who disagree with me. Look at their districts and see why. I respect the gentleman from Hawaii and the gentlewoman from Hawaii. I respect the people from the upper Midwest who have lots of sugar beets in their district or some of the people from Florida who may disagree with Mr. MILLER. But we all know one thing in this Chamber. If a couple of wealthy contributors had not spread around the cash, this subsidy would have been gone a long time ago because people who have no interest in this program vote for it time and time and time again. Everyone knows, every single Member knows, that this program is kept alive because of campaign contributions, plain and simple, and the American people pay $1.4 billion for that reason.

So I say in conclusion, if my colleagues care about jobs, vote for Miller-Schumer. If my colleagues care about the environment, and, by the way, the League of Conservation Voters is going to make this a key vote, a key vote this year, then vote for Miller-Schumer. If my colleagues care about consumers and the extra dollars they are paying, vote for Miller-Schumer.

This proposal is long overdue, it is fair, it is transitory. We once and for all ought to do some real reform and not send 58 cents of every dollar our consumers pay to a couple of wealthy individuals who have a lot of clout around here.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EWING).

Mr. EWING. Mr. Chairman, opponents of this program claim that no changes were made in the 1996 farm bill, but that of course is not true. The fact is Congress has made major reforms to the sugar program in the 1996 farm bill, and this would be evident by looking at this chart, which my colleagues can see each of the sections with the red lines marked through it have been eliminated. That part of the program is gone. Over here we have new sugar policy, the reform policy.

Let me tell my colleagues that the sugar program is really protection at the border for the sugar industry in America. Without that protection we will have no sugar industry, and the world price of sugar is not what people say it is. That is the dump sugar price and should be called that.

The people who want to reduce the cost of sugar do not care if we have a sugar industry, they do not care if farmers in America continue to grow sugar. We have already reduced the cost of sugar with the 1996 program changes, and it will probably go down again, and we have said when other countries who subsidize their sugar quit subsidizing their sugar we will reduce the tariffs that protect the American sugar farmer. Protection at the border, that is what we have. There are no checks to the Fanjuls, there are no government checks to anyone. There is no government program subsidy; that is misleading, intentionally misleading. And there is, if my colleagues watched the last speaker's chart, not one refinery that has gone out of business since 1996.

Vote no on this amendment.

Mr. ABERCROMBIE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. MINGE).

Mr. MINGE. Mr. Chairman, the sponsors of this amendment are arguing that a 1-cent-per-pound reduction in the loan rate is minimal and insignificant. Nothing could be further from the truth.

Here is the truth, plain and simple:

The amendment is a $150 million heist from the pockets of thousands of struggling family farmers in 16 States. Unlike the sponsors and supporters of this amendment, I know many of those farmers, and they are fighting to survive.

The truth is the amendment would reduce the 1985 raw sugar price level by 5.6 percent. Are the sponsors of this amendment willing to return to their 1985 salary levels and take an additional 5.6 percent reduction? Now that is a reality check.

We have an economic crisis that is brewing in rural America. Farmers want and need more alternative crops to grow and add value locally. Sugar is an alternative crop that provides a flexible supply of sugar to consumers. We need to continue this program especially in the upper Midwest that is being hit by an agricultural recession.

Mr. MILLER of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I rise in strong support of the Miller-Schumer amendment.

The U.S. sugar market is almost entirely controlled by the Department of Agriculture and the owners who benefit from its subsidies. The USDA's commodity loan program provides recipients loans at below market rates making taxpayers bear all the risks while forcing sugar prices on American consumers at twice the cost of the world market.

The U.S. sugar program stifles competition by not allowing market forces to work. It costs taxpayers millions of dollars a year in higher prices for sugar and sugar-containing products, and it is a job killer in the sugar cane refining industry. Since the program was enacted, thousands have lost their jobs. According to the General Accounting Office, this command-and-control policy costs American consumers 1.4 billion annually.

Mr. Chairman, at a time when we are encouraging foreign countries to implement free-market reforms, American price controls and import quotas should be a thing of the past. The Miller-Schumer amendment will make a modest change by lowering the loan rate 1 cent. This will not end the sugar program nor devastate the sugar producers, but it is a step in the right direction toward ending the sugar subsidy.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. SKEEN. Mr. Chairman I yield 1 minute to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, it is no wonder, as my colleagues know, that people lose faith in government, politics. This government made a contract with American farmers in 1996, and American farmers across the board gave up parts of their farm support programs, and sugar was no different. Sugar gave up its non-recourse loan program. Sugar, in fact, assessed itself $288 million that is going to deficit reduction over the next 7 years. Sugar farmers relying upon that contract, tens of thousands of them in Louisiana, have made long-term commitments, and this little 1-cent reduction in the loan rate that people say will not devastate them translates to a 5.5 percent reduction in the price of sugar for the farmer. For whom? For the big multinational sugar refining corporations.

Oh, yes, there is money and politics involved in this. America made a contract with its farmers. We ought to keep our word today. It is a 7-year contract. American farmers depend upon that contract, have made long-term commitments. Shame on this House if we break our word and violate that contract.

Mr. ABERCROMBIE. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, today I rise to oppose in the strongest possible terms this amendment which would effectively kill off the United States sugar program.

As many of my colleagues know, I represent the second largest sugar producing district in the country. The gentleman from Florida (Mr. MARK FOLEY) my colleague, represents the largest.

Candidly, Mr. Chairman, I find it fascinating that we have Members in this body who know absolutely nothing about the U.S. sugar program. Not only do they not know about the program, they do not know the people that I know that will lose their jobs. It has already started to happen, not only in Florida but in California and in Hawaii where Mr. ABERCROMBIE comes from, and in Nebraska, Texas, Ohio, and Louisiana.

Do my colleagues know that the United States sugar industry creates more than 420,000 jobs in 42 States? Do my colleagues know that the United States sugar industry has a positive annual direct and indirect economic impact on the United States economy of more than $26.2 billion?

Defeat Miller-Schumer.

Mr. Chairman, today I rise to oppose in the strongest possible terms this amendment which would effectively kill off the U.S. sugar program. As many of my colleagues know, I represent the second largest sugar producing district in the country. Candidly, Mr. Chairman, I find it fascinating that we have Members of this body who truly know nothing about the U.S. sugar program. Let me tell my colleagues something. If the Miller-Schumer amendment passes, literally thousands of American workers will be put out of work.

It has already started to happen. Not only in Florida but in California, Hawaii, Nebraska, Texas, Ohio, and Louisiana.

Do my colleagues know that the U.S. sugar industry creates more than 420,000 jobs in 42 states?

Do my colleagues know that the U.S. sugar industry has a positive annual direct and indirect economic impact on the U.S. economy of more than $26.2 billion.

It's just that simple, my friends. The proposed amendment puts hardworking people in the unemployment line. There is no getting around that fact. Since Congress "reformed" the sugar program in 1996, many sugarcane and sugarbeet farmers and many workers in cane and beet processing mills have lost their livelihood. We have lost 14 beet or cane processing mills since 1993. Two beet mills have closed just since Freedom to Farm went into effect. All these mill closures are permanent. As a result, no farmers in those regions can grow beets or cane.

Mr. Chairman, I wish I had more time to get into more of the details. But I don't. But let me be perfectly clear. This amendment is bad not just for sugar growers, but for anyone in one of the 42 states whose job directly or indirectly depends on the sugar industry.

Consider that when voting on this amendment.

I urge my colleagues to vote against this misguided and foolish amendment.

Mr. Chairman, today I rise to oppose in the strongest possible terms this amendment which would effectively kill off the U.S. sugar program. As many of my colleagues know, I represent the second largest sugar producing district in the country. And today we have heard many arguments both in support of, and in opposition to this valuable USDA program. But one of the arguments espoused by supporters of the Miller-Schumer amendment is so egregious that I cannot possibly sit back and listen while they toss around such falsehoods and misrepresentations of the hard-working people of my district.

You have heard that the current sugar program and sugar farmers are not good stewards of the environment and that the sugar companies are irresponsible when it comes to environmental protection—specifically regarding Florida's crown jewel, our Florida Everglades. Well, Mr. Chairman, these claims are patently untrue. As a supporter of the current sugar program and one of the most stalwart champions of environmental protection in this body, I think I am uniquely qualified to respond to some of the critics of this program.

American sugar farmers produce their sugar in a country with the highest environmental standards in the world. American sugar farmers comply with our government standards, at huge costs to their bottom line, and compete with farmers in countries whose governments impose little or no environmental compliance costs.

If there were no production or harvest of sugar in the U.S. we would have to import all of our domestic needs. And from where, Mr. chairman? Let me tell you. Foreign sugar is grown overwhelmingly in developing countries. Most foreign sugar is grown in countries which do not yet have the luxury of imposing environmental compliance costs on their farms and factories. Most foreign sugar is grown in countries that would have to clear rain forests or other fragile lands to increase their production to replace the sugar grown responsibly by American farmers.

Mr. Chairman, some will say that the sugar farmers are not cleaning up the Everglades. This too is false! The Everglades Forever Act of 1994 was developed cooperatively by the federal government, the State of Florida, environmental groups, and Florida farmers. Florida sugar farmers already have committed up to $322 million to this restoration project.

The bottom line is that if you support the amendment proposed today to cripple U.S. sugar policy, you will do double damage to this nation's and the world's environment: (1) The Florida sugar industry will not be around to provide the $322 million for Everglades restoration and preservation. And who knows what kind of development or industry would replace them? And, (2) American sugar production will be replaced with sugar from many of the nations that provide little or no protection for the environment.

I urge my colleagues to vote against this misguided and foolish amendment.

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Mr. MILLER of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, yesterday as we were closing the debate on peanut subsidies, on that particular amendment my good friend, the gentleman from Washington (Mr. NETHERCUTT), said if I would have voted or if I did vote for the Freedom to Farm bill, that I should support these reforms. Well, I want the record to reflect that I did not vote for the Freedom to Farm bill in 1996, because I did not think that the reforms they called for went far enough, if at all, in some cases.

I want to say, too, that our agriculture friends here in this body are the nicest people in the entire House. It is incredible, from the gentleman from Hawaii (Mr. ABERCROMBIE) on this side, to the gentleman from New Mexico (Mr. SKEEN), to the gentleman from Oregon (Mr. SMITH), to the gentleman from Washington (Mr. NETHERCUTT), literally some of the most genuine wonderful people, close to the ground, and they truly represent the farmers' interest in their demeanor and in their civility.

But I really am frustrated that this new majority has reformed virtually everything in sight and come up so grossly short on reforming farm programs. Whether it is tobacco, whether it is peanuts, whether it is sugar, this is still an egregious violation of the free market and of the private sector in this country by the government.

I want to say that I will support the final agriculture appropriations bill, Mr. Chairman, but I want to support these amendments, particularly this amendment, and I want to rise today and speak for the thousands of employees in east Tennessee who love the companies they work for, are proud of their jobs, and they happen to be in the food business.

We hear about all the jobs on both sides, and I certainly would not take exception or make a dispute out of it. But let me tell you, Chattanooga Bakery makes Moon Pies. I have known those folks all my life. McKee Foods makes Little Debbie's, you probably have had one. They sell them all over this hemisphere. The first Coca-Cola bottling plant in the country, Chattanooga, Tennessee. One of the largest M&M Mars plants in the country is in my district. Planters and Life Savers are made in my district. Double Cola is made in my district, Brock & Brock Candy is made in my district.

That is thousands of good jobs, thousands of good jobs, and those people want us to oppose these subsidies because they inflate the price and cut their own benefits in their company. As their employers can pay market price for these commodities, they get better benefits, they get higher wages, and they know it. These are good employers who treat their people well.

The fact is, as sincere as all these folks are, this is corporate welfare, pure and simple. The sugar daddies get away like bandits, and the consumers and the taxpayers pay the price. That is the truth. That is why Citizens Against Government Waste is scoring this vote, a very responsible group that takes a real fair approach to this process, they are scoring this, because they know that these farm price supports, quotas, subsidies, are costing the American taxpayer, costing the American consumer.

Good government says let us finish the job the Republicans have started and truly reform these farm programs. As these amendments come up, I want to stand in support of these amendments.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. BARRETT).

Mr. BARRETT of Nebraska. Mr. Chairman, here we go again. It seems like every year we have to rise and defend our American sugar producers. I think we need to realize that the sugar program is not corporate welfare. Beets and cane are grown in 17 different States in these United States. The sugar beet industry employs 23,000 people in my State alone, and generates about $525 million in economic activity in Nebraska as well. Nationally the industry will generate $288 million between 1996 and 2002 to help us reduce our Federal budget deficit.

I also rise once again, Mr. Chairman, to defend the House Committee on Agriculture. As the gentleman from Illinois so aptly stated, we did reform the sugar program. In 1996 the farm bill created a free domestic sugar market, it froze the support price at 1995 levels, it imposed a penalty on producers who forfeit their crops instead of repaying their marketing loans, and it increased imports, and these changes significantly impacted sugar growers. It certainly affected their bottom line.

Proponents of the amendment believe that the one cent reduction is not going to impact prices, that it would not hurt sugar producers in my particular State. The amendment would cost my producers an additional $60 per acre. At a time when farmers are certainly hurting across this country because of low prices, it is ridiculous to inflict these additional costs, especially when they would help only a few large corporations.

The farm bill in 1996 did reform our sugar policy. It also made a major commitment, a contract with our American farmers. Let us keep that commitment.

Mr. ABERCROMBIE. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Chairman, I rise in strong opposition to the Miller amendment, which abandons our commitment to provide a safety net for America's family farmers. Families who grow sugar need a safety net in case of a natural disaster such as drought or flooding, and that was the commitment that we made 7 years ago when we made the commitment in 1996 for a 7-year commitment to these farmers. Now the amendment would break that promise.

In my State alone, in Michigan, myself, the gentleman from Michigan (Mr. BARCIA) and others have about 23,000 jobs that are tied to the production of sugar; 2,800 families farm sugar beets, many in my district.

Our Nation's sugar farmers are the most efficient in the world. They should not go broke when the weather turns sour for them over one year. If this amendment passes, more American farm families will be vulnerable to the vagaries of the weather, sugar imports will rise, and the sugar will come from producers abroad who use, in many instances, child labor.

Most importantly, consumers will see no benefit. Giant multinational food and soft drink manufacturing companies will only increase their profit margins. They will not pass the savings along to the consumer. They will pocket it, and that is not fair.

Mr. Chairman, I want to thank my colleagues, particularly the gentleman from Hawaii (Mr. ABERCROMBIE) and the gentlewoman from Hawaii (Mrs. MINK), for their strong leadership on this issue. Let us keep our commitment to America's sugar farmers and their families.

I urge my colleagues, oppose this Miller amendment, save our family farms, and save our family farmers who grow sugar.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I rise in opposition to the Miller-Schumer amendment. U.S. sugar policy is a win-win proposition. We win by reducing the debt and by protecting our farmers from unfair foreign trade.

As a member of the House Committee on the Budget, I want my colleagues to know that U.S. sugar policy has been run at no net cost since 1985. Since 1991, the U.S. sugar policy has actually been a revenue raiser for the Federal Treasury.

Former President and Member of this House John Adams said "Facts are stubborn things," and here are some very stubborn facts. The Congressional Budget Office estimates that U.S. sugar policy will generate $288 million in revenue over the life of the farm bill. By law, every single cent of this is earmarked for debt reduction.

U.S. sugar farmers are among the most efficient in the world. Two-thirds of the world's sugar is produced at a higher cost than that in the United States. That is why U.S. sugar farmers endorse free trade. Unfortunately, the world is far from free trade. More than 100 countries produce sugar, and every single one of them intervenes in the market to protect their producers. That is why the world sugar market fails to reflect the real cost of producing sugar.

For the past 15 years, the price of sugar on the world market has averaged only one-half the cost of the average production. When most of our trading partners do not play fair, how can we expect U.S. sugar farmers or any American farmer to unilaterally disarm? Mr. Chairman, unilateral disarmament was a stupid idea during the Cold War, and it is a stupid idea for American farmers.

Mr. Chairman, I support a win-win sugar policy. Let us defeat the Miller-Schumer amendment.

Mr. ABERCROMBIE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I rise in opposition to this cheap-sugar, put-the-farmers-out-of-business amendment.

Mr. ABERCROMBIE. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. BARCIA).

Mr. BARCIA. Mr. Chairman, I have the privilege of representing some the best farmers in the world. They are the ones who give consumers value for their dollar, not like the food processors, who have historically failed to pass along savings while opposing the sugar program.

The proponents of the amendment will tell you that we can buy sugar more cheaply on the world market, but they ignore certain key points. First, every other sugar-producing country in the world has a sugar program that guarantees their growers more than our growers receive. Ninety percent of their sugar is under contract. They sell the remaining 10 percent at fire-sale prices for whatever it will bring, still earning a profit with total revenues. How else can one explain a world market price that for 10 years has been only one-half of the actual average cost of producing sugar?

Second, every time our program has been shut down, the world price has skyrocketed to a multiple of our support price.

Finally, our sugar producers are the first to say they will end their program as soon as other sugar producing nations end their program. No other country has yet stood up to that challenge.

Mr. MILLER of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Chairman, I rise in support of this amendment because I believe it makes common sense. Ultimately I think this debate is really not about sugar, it is not about the sugar subsidy program. What it is really about is 300 years of economic theory and economic practice.

If you think about the words of, whether it is Adam Smith or Milton Friedman, if you were to boil all of those thoughts down, 300 years, you would boil them down to this, and that is to do the most good for the most people, let markets work.

Unlike so many economic theories, if you look at the last 300 years of economic practice, it has validated that. I see that daily with tomato farmers and watermelon farmers and cucumber farmers in my district who live by the markets. In fact, if you were to look at the fall of the Soviet Union, what you would see is not nuclear arms or not armies that brought it down, but markets brought it down.

So the fundamental question in this debate is do we want to let markets work? Should there be a floor price for a product? If you say yes, you are saying the opposite of what economic theory said over 300 years. If you were to say no, if you were to say there should be a floor price, then why not a floor price with computers? Or, they are striking in Detroit, why not a floor price for cars? Or why not a floor price for homes?

We do not do that because it does not make common sense and it does not do the most good for the most people. This is a case where we have a sugar subsidy program that does a lot of good for one particular family. They get $60 million a year in personal benefit, the Fanjul family down in Palm Beach. But for the common farmer, it does not do good, and it does not do good for the consumer. Therefore, I rise in support of this amendment.

Mr. ABERCROMBIE. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I come from Quincy, which is a city bordering the capital city of Massachusetts, Boston. We do not have farms. We are lucky that we have gardens.

My constituents are working people. Many of them are union members. They are Teamsters, they are carpenters. We cannot distinguish between beet sugar and sugar cane, but we do know something about commitments. We know something about fairness. And I understand that there was a commitment made to the small farmer here in America, to the sugar farmer. Many of them visited me during the course of the past 6 months. They have made production plans based upon that commitment. They have made family financial plans based upon that commitment.

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They have made business plans based upon that commitment. I know my people respect commitment. They honor fairness. They also understand that the small farmer in America is under siege by large multinational agribusiness interests.

Let us support them. The small farmer is under siege. My constituents understand that. They respect the historic role of the small farmer here in America, its unique role in this country. We support the small farmer. Defeat Miller-Schumer.

Mr. MILLER of Florida. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, I rise in support of the Miller-Schumer amendment. By protecting sugar growers, the Federal Government sugar price support and quota system effectively doubles the price of sugar for U.S. consumers. The General Accounting Office estimates that the program costs America $1.4 billion a year in higher grocery expenses.

Aside from bilking American consumers, the program also favors large corporate interests over small farmers by focusing a large portion of program benefits on a few corporate farmers. As we have heard from previous speakers, approximately 1 percent of sugar farmers reaped 42 percent of all sugar program benefits in 1991. Within the narrower sugar cane industry, 17 farms accounted for 55 percent of the benefits.

Furthermore, the program does not limit the amount of benefits each sugar producer can receive, allowing a few large farms to accumulate enormous windfalls. In 1991, 33 of the largest sugar farmers in United States each received over $1 million in program benefits. In fact, one of these huge agribusinesses accrued $30 million in program benefits that same year.

The Federal Government sugar program provides a narrow subsidy to an industry that does not need it. Because the program primarily benefits a few large sugar growers at the expense of all American consumers, the sugar price support system and import quota should be repealed. I urge my colleagues to support the Miller-Schumer amendment.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, let us just set the facts straight. Since the 1996 farm bill, wholesale refined sugar prices have dropped 12.1 percent, while retail refined sugar prices have increased to 1.2, ice cream, 2.4; cereal, 6.6; candy, 3.7; cookies and cakes, 3.9.

Let us dispel the fact that this is an environmental vote. The Miami Herald: "Dismantling the U.S. sugar program will not save the Everglades."

Fact two, the working 200 richest in Forbes Magazine, none of them are sugar barons. In fact, the only people mentioned are candy maker Mars and Wrigley, the chewing gum.

Finally, to get a lecture on campaign finance reform from the gentleman from New York (Mr. SCHUMER), the sponsor of the bill, who has $10 million in his campaign account, I think is a little bit sanctimonious.

Please defeat this amendment. It will not solve the problems. In fact, to the contrary. If Members really want to help the consumer, I would ask of the sponsors of the amendment to start pursuing the very people who are charging the consumers more for products when their supplies are costing them less.

Mr. Chairman, I include for the RECORD the following chart and the article entitled "Congress Weighs Sugar."

The material referred to is as follows:

[From the Miami Herald, July 16, 1997]

CONGRESS WEIGHS SUGAR

Granted, Florida's sugar industry is hard to live with. It has a lot of political muscle, which it flexes.

But sugar cane, the plant, is still the most benign crop grown in the Everglades Agricultural Area, requiring less water than rice and releasing fewer polluting nutrients than vegetables or cattle pastures. That's something to consider when arguing—as the U.S. House apparently intends to do in the next few days—whether to dismantle the U.S. sugar program.

Florida Republican Rep. Dan Miller, of Bradenton, and Rep. Charles Schumer, D-N.Y., are offering the amendment, which almost passed last year, to an appropriations bill.

There is, in this free-trade era, a case to be made of abolishing U.S. supports for sugar and other agricultural commodities. The programs do distort the market. That's their purpose—to protect farmers from wildly fluctuating prices and to make sure that they stay in business. The latter is of more than passing interest of other businesses, too, including banks.

Be that as it may, the Miller-Schumer amendment is something of a litmus test among environmentalists who think that all the woes of the Everglades would disappear if Florida's sugar industry disappeared. They seem to assume that land stripped of sugar cane will sprout sawgrass. It won't, and Everglades restoration is not so simple.

Studies show that the crops that might supplant sugar cane would pose greater threats of pollution and that Everglades land once farmed but allowed to lie fallow is quickly overgrown with melaleuca, Brazilian pepper, or other noxious plants posing problems more serious than sugar cane does.

Whether dismantling the U.S. sugar program will put Florida sugar growers out of business is uncertain; they are among the world's most efficient. It is certain, however, that Congress can't save the Everglades merely by dismantling sugar's supports.

Mr. ABERCROMBIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. PETERSON).

Mr. PETERSON of Minnesota. Mr. Chairman, I rise in strong opposition to the bill.

Mr. ABERCROMBIE. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want my colleagues to focus on what this is really all about. It is not about Adam Smith and Milton Friedman. It is much more about Paul and Vanessa Kummer, family farmers near the Red River of North Dakota.

I heard the preceding speaker say this is about big corporate farming producing sugar. We do not even allow under State law corporate farming in North Dakota, but the sugar program is absolutely a vital part of our agriculture.

Our agriculture is under very severe stress, with the value of wheat dropping 33 percent, barley dropping 29 percent, and virtually all of our farmers losing money. The only thing that is lending a level of stability to North Dakota agriculture is the sugar program. If this amendment would pass, the average farmer having 100 acres of sugar beets would lose $6,000 in a single year.

We are on our backs with North Dakota agriculture. We need help. This would absolutely kick us when we are down. Please defeat this amendment.

Mr. MILLER of Florida. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of the Miller-Schumer amendment, and compliment my colleague, the gentleman from Florida (Mr. MILLER) for his outstanding leadership on this issue.

The United States sugar program, as it is spelled out in this legislation, amounts to a sweet deal for the sugar producers. As was pointed out by the gentleman from New Hampshire (Mr. BASS) on the other side of the aisle, only a small percentage of American families benefit, family producers, benefit from this program. It is a raw one for refiners, consumers, and the environment.

I thought programs that we initiate here in Congress were supposed to help people. This one has managed to close 11 of 22 sugar refineries here in the United States. Three of the well-known Domino Sugar refineries have closed their doors, and I am afraid that the one that remains in my district is the next target. It employs hundreds of highly-paid industrial workers, many of them from New York's minority community. By providing price support loan programs to producers, this program is taking jobs away from the American worker at the same time it is driving up costs for the American consumer.

Domestic sugar prices are still twice as high as the world price of sugar. As long as this sugar program remains the same, so will the prices.

The Federal Reserve, the USDA, and the President's Council on Wage and Price Stability all agree on the obvious: Working families would benefit from lower sugar prices. We have a chance to repair the damage brought by this program. We have a chance to sweeten the deal for most Americans. American consumers deserve lower prices, and American workers deserve to keep their jobs. By voting for this amendment, it is a modest one and in the right direction. Vote for Miller-Schumer.

Mr. ABERCROMBIE. Mr. Chairman, I yield 1¼ minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Chairman, when I came to Congress 20 years ago I had hundreds of sugar beet growers in the Sacramento Valley. Today we have far fewer. Acreage is down. We have lost a number of refineries. They are closing because there is not enough product grown anymore, because the growers cannot make a living on the current sugar price.

What we see every year when we have this debate is a fight between the processors, the candy and other sugar-consuming industries, like soft drinks, and those hardy farmers who continue to struggle to remain in businesses. This is a predatory battle, and regardless of what we do today, and I hope we defeat this amendment, it will continue to be a predatory effort to eliminate sugar growers of all types in all 17 States that grow beets or cane sugar.

What we see, unfortunately, is an effort to appeal to consumers and environmentalists. Frankly, if we continue to see dumping from overseas sugar interests we will see the end of this domestic industry, and then we will be at the mercy of people who bring their product here. And sugar prices would certainly increase. If we continue to take land out of agricultural production, it will not help preserve open space. Environmentalists are wrong if they oppose this amendment.

Mr. Chairman, the bottom line here is, for environmentalists to take up this cause and use this as a way of determining how people should vote this fall by using this issue is wrong. We want to preserve agricultural land, we want to preserve open space. We want to take care not to push farmers who farm beets on marginal land out of this industry. This is not just about Florida sugar and the everglades.

Mr. MILLER of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I rise in support of the Miller amendment. I want to say this. We hear over and over again about the poor farmers. Forty-two percent of the sugar program's benefits go to just 1 percent of the sugar producers. Thirty-three of these people get more than $1 million. So much for poor farmers. Or how about this poor struggling farmer, he gets $65 million, $65 million, to one poor little farmer out there.

Mr. Chairman, this is a government-sanctioned cartel. We hear that it does not cost consumers. Listen very carefully when they say that, because the fine print says it costs you, it is just not a direct tax. It costs $1 billion more at the cash register when Americans go to buy products that have sugar in them.

The sugar program was to be reformed in the farm bill. I was here before the farm bill. I was here during the farm bill. I worked for sugar reform. I come from an area where there were reforms on cotton and on peanuts and other commodities, but I can say this, sugar was not reformed. I was there at the time. I served in Congress.

I can say this, since we are talking about a face. Savannah Foods and Industry 2 years ago invited me to their 80-year anniversary. It is a great company in Savannah, Georgia, that refines sugar. They invited me to their 80-year anniversary 2 years ago. Last year they did not.

Why? Because they went out of business. They had to sell because of this government-sanctioned cartel that kept sugar prices higher than what they could sell it for. Because of this government-sanctioned cartel, there are people like Robert Johnson, who worked for the refinery for 18 years, whose daddy worked for the sugar refinery, who is part of the Savannah great economy, and Mr. Johnson is not sure he is going to have a job. It is now owned by what was a competitor, but he does not know what tomorrow will bring, because of a government-sanctioned cartel. Vote for the Miller amendment.

Mr. ABERCROMBIE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me the time, and I appreciate the leadership of the gentleman from Hawaii (Mr. ABERCROMBIE) on seeing that we maintain a domestic sugar industry.

Mr. Chairman, I rise in opposition to this amendment which would further reduce the farm price for sugar. Proponents of this amendment continue to claim they are offering this in the name of "consumers".

Mr. Chairman, let us get the facts straight. There is no such thing as a world free market. No matter how many Members stand up and say it, there is not one. Right now the average world price we hear about is 9.46 cents. The average cost of producing sugar in the world is 18.04 cents. How can anyone in this country compete with the treasuries of governments in other countries?

A lot has been said about the big sugar growers. Let me speak on behalf of 300 sugar farmers in the Rio Grande valley of Texas that depend upon the sugar program. They are the most efficient in the world. If the Miller amendment should pass, they are out of business.

To those that say this concerns the consumer, how can it be in the consumer's best interest when you have wholesale refined sugar dropping by 12.1 cents since last year in the 1996 farm bill, while at the same time the retail price has gone up 1.2 percent; ice cream, 2.4 cents, cereal, 2.6 cents; candy, 3.7 cents, and cookies, 3.9? It is not the sugar growers' fault.

Since the 1996 farm bill reforms went into effect, American sugar farmers have experienced a price drop of 15%—double the drop this amendment intends.

As a result, how much have consumers benefited from this 12% drop in producer prices? To date, the answer is Zero, not a single bit. And the proponents of this amendment would have you believe a further drop in producer prices will help consumers?

What about the prices for products that contain sugar—like ice cream, cereal, candy or cookies? While sugar has been dropping, the prices for these products have been going up. The manufacturers of these products have been paying farmers 12% less for the sugar they buy, but charging retail consumers 2%–4% more for ice cream, cereal, candy and cookies.

Not even the price of sugar on the grocery store shelf has seen a similar reduction in price—in fact, the retail price in grocery stores has increased.

Vote against the Miller-Schumer amendment. It's a blatant grab of $150 million from the pockets of struggling American sugar growers to further fatten the bottom line of already profitable multinational food and beverage manufacturing and retailing corporations.

Mr. MILLER of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, we have heard a lot about how these wealthy families are running these particular sugar operations. I happen to be the representative of the largest sugar producer in the world, but I cannot support the continued price-fixing by this government of sugar.

If Members have sugar farmers in their district living on the land, I can understand their opposing the Miller amendment. If Members have this as a prime industry within their own State, within their own area, I can fully understand that. We do that every day in this body.

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But one thing I cannot understand is not taking into consideration the downstream effect of this price fixing by the Federal Government.

We have heard from the gentlewoman from New York about the closing of Domino Sugar. We have heard from various other Members about how it affects the working American.

The sugar industry today, as far as the farming, is highly mechanized, very highly mechanized. What we are talking about, and we have already Members saying that this is not a subsidy. Baloney, it is not a subsidy. It is a subsidy required and placed upon the consumers of this country. It is a hidden tax. It is an insidious price-fixing by the Federal Government that makes us less competitive on the goods that we produce from sugar itself.

We heard the gentleman from Texas (Mr. STENHOLM) talk about the cost of production was 18-point-some cents. What the Miller amendment does is not do away with the total price structure; it drops it one penny, still well above the cost of production. There is still plenty of profit there.

So let us get this vote straight. This vote and this amendment is pro-consumer. The Miller amendment is pro-environmental. This is a very important environmental vote. I can tell my colleagues, just go down to my Everglades and see the effect of runoff from the sugar industry. I urge my colleagues to vote "yes" on the Miller amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. HILL).

Mr. HILL. Mr. Chairman, I do represent a number of family farmers who are trying to make a living trying to produce sugar in Montana.

Mr. Chairman, we made a commitment to those producers in the agriculture reform measure. What we said to them was we wanted to increase the predictability and stability on the family farm, and we said that this program would increase trade and increase imports and increase competition.

That is what has happened as a consequence of the sugar program. We have done that with no cost to the Treasury. There is no corporate welfare and no subsidy. What this is really about is that the sugar consumers, who are large candy companies, what they want to do is get the benefit of the subsidy of foreign markets. There really is no free market. There is no market in sugar, at least no market that reflects the cost of production.

Our producers can compete with the producers anywhere in the world, but they cannot compete with subsidies that come from foreign markets. What this debate really is about, this debate is not about helping the average American consumer of sugar. This is about helping those large companies who want to enjoy the benefit of the subsidy of foreign governments.

Mr. ABERCROMBIE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii (Mrs. MINK) who I think knows as much or more about the sugar industry and its implications than anyone in the Chamber.

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman from Hawaii (Mr. ABERCROMBIE) for yielding to me this time.

Mr. Chairman, we have heard a lot today, but it is a mystery to me how we can reconcile the notion that when the sugar prices go down by 12 percent and the so-called consumers in the soft drink industry, candies, cakes, and cookies, their prices go up, that there is any relationship with what they are talking about in reality. Let us get real.

The 1996 farm act has caused major reform in the sugar industry. Our prices have gone down. And if someone can believe that if our prices go down, that the other sugar consumers' prices should also go down, just look at the record. It has not. It has gone up.

So support for this Miller-Schumer amendment would be catastrophic. We have done our job in our industry. Our workers are working hard. We talk about the sugar industry or the sugar growers or somehow the producers, we get into an idea that they are robots out there with some rich farmer sitting in the breakfast room and the commodities are getting grown by themselves. Let me tell my colleagues, farmers, producers in the sugar industry are workers.

So this amendment has to do with our belief that workers, sugar workers, farm workers, are the same and they deserve the same breaks insofar as their ability to survive.

My industry in Hawaii has been devastated. We have lost about a dozen major sugar producers in the State of Hawaii. We have about three left. If this amendment should pass, one small plantation on the island of Kauai working about 286 employees will suffer a million dollar loss. It will probably throw that company out of business and the island will be devastated.

For the whole State I am told it is going to cost about $17 million. So today the debate is about workers and about saving American jobs.

Mr. Chairman, I rise today in strong opposition to the Dan Miller-Schumer amendment which is an attempt to break a commitment this Congress made to American Farmers just two years ago in the Farm Bill.

At that time we came to an agreement on how the commodity programs would be run for the next seven years. Reforms were made in the sugar and other programs, and in return farmers had assurances of what they could expect over the next seven years.

Now, once again just like last year, we face an amendment by Mr. DAN MILLER and Mr. SCHUMER that will undo the commitments made in the Farm bill and threaten the future of our domestic sugar industry.

This amendment which would reduce the domestic sugar price supports by $.01 per pound threatens the survival of U.S. sugar farmers and will mean an increase of cheaper foreign sugar into the U.S. marketplace.

Don't be fooled by the argument that if the sugar price support is reduced the consumer would see the savings. This is absolutely not true. Let's look at facts:

Since the Farm Bill passed in 1996 the wholesale price of sugar has dropped by 12%, but have the consumers seen a drop in the price of candy, sodas, or ice cream—No. In fact, the retail price of ice cream has gone up by 2.4%, cereal by 2.6%, candy by 3.7% and cookies/cakes by 3.9%. The price of retail refined sugar has even gone up by 1.2%.

The price of sugar does not drive the consumer cost of products made with sugar. It is the desire for higher profits by the big soft drink, candy and confectionery conglomerates that drives consumer costs.

The Dan Miller-Schumer proponents use consumer cost as an issue to mask the primary motive, which is allow more cheap foreign sugar into the U.S. market so that the mega food-conglomerates can make more money.

They often point to a flawed study General Accounting Office (GAO) did in 1993 and subsequent report in 1997 to promote their idea that the sugar program results in higher cost to consumers. We've heard some of the figures from the GAO report used today, like a $1.4 billion cost to consumers.

I asked the U.S. Department of Agriculture to take a look at what GAO did in it's study. In a response to my inquiry dated October 24, 1995 from Under Secretary Eugene Moos, the USDA found that the GAO used incorrect data and ignored key components of the sugar program when making their conclusions. Furthermore, the GAO study assumes that grocers and food manufacturers would pass every cent of the lower prices right along to consumers.

The USDA further found that even using the GAO's flawed methods, it could still show hundreds of millions of dollars in benefits to the consumers depending upon which years were studied.

The USDA states that had the GAO looked at the time period from 1973–75, rather than 1989–91, the analysis would have showed an annual savings to domestic users and consumers of $350 million to $400 million.

The USDA analysis not only points out the flaws of the GAO study, but it also reinforces the fact that the U.S. sugar growers do not receive subsidies from the federal government and that the sugar program runs at no cost to the government. In fact, U.S. sugar growers pay into the U.S. Treasury $37 million annually through a marketing assessment.

Mr. Chair, U.S. consumers benefit from the U.S. sugar program. They benefit from the stability it ensures, and the access it provides to quality sugar produced by U.S. companies. A strong domestic sugar industry contributes to our economy by producing jobs. Currently the sugar industry accounts for over 400,000 jobs in the United States. Many of these jobs are concentrated in certain areas of the country, and account for a significant part of the economy in those regions.

In Hawaii, we have over 6,000 jobs dependent on the sugar industry. These are good jobs that pay a living wage, include health benefits, retirement and other benefits. U.S. sugar producers are providing these jobs while complying with U.S. labor and environmental law.

The demise of the U.S. sugar industry would mean the loss of these jobs to sugar producers overseas, that do not have labor or environmental protections and in documented cases use child labor to produce cheap sugar.

Are we willing to forsake our own sugar producers so that the international food cartels can buy cheap sugar produced by twelve year-olds in Brazil or Guatemala? I hope not.

A one cent reduction in the sugar price support will determine whether my sugar growers in Hawaii can make it. One company, Gay and Robinson, would lose $1 million in a year as a result of this Miller-Schumer amendment. As a company that is just breaking even, a $1 million loss could mean the end of the company and the jobs that it supports on the island of Kauai which already has a 10% unemployment rate. Our industry in Hawaii could lose $17 million.

Many of you have read recent reports of the dire state of Hawaii's economy. We are not benefiting from the economic boom like the rest of the country. Unemployment rates are high, our tourism industry is lagging because of the downturn in the Asian markets. We have to depend on other segments of our economy such as agriculture to maintain and increase jobs.

Over the last decade Hawaii has seen the loss of many sugar companies. We now have only three companies left. They need to be able to rely on the sugar program as enacted in the 1996 Farm Bill. To amend the program will seriously undercut our economy.

Gay and Robinson has made plans, they've made improvements, they are planning for the future, hopefully to expand and add more jobs to an island that desperately needs employment opportunities. They did these things based on seven years of stability within the sugar program as promised in the Farm Bill.

We cannot go back on our word. Businesses have made decisions based on our commitment, families are depending upon employment based on the commitment we made. This is not a esoteric fight about the simple price of sugar—it is about the lives of working Americans who depend upon a domestic sugar industry for their jobs.

I urge my colleagues to reject the false consumer cost argument based on the GAO report, and vote today for a strong U.S. sugar industry that will continue to provide jobs here in America. Defeat the Dan Miller-Schumer amendment.

Mr. MILLER of Florida. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Miller-Schumer amendment to reform the Federal sugar program. As my colleague from Florida just said, the sugar program is costing jobs in New York and around the country.

In Yonkers, New York, the Refined Sugar Inc. sugar refinery is hanging on by a thread because of this program. There are over 300 of my constituents' jobs at stake at Refined Sugar. And just down the road from Refined Sugar is the Domino Sugar plant in Brooklyn, which is facing the same dire consequences as a result of this program. At Domino 450 jobs are at stake.

Mr. Chairman, it is clear that this grossly outdated program should be eliminated. Our Federal agriculture policy was never intended to benefit a few privileged growers at the expense of 250 million American consumers.

It is time for each Member of Congress to decide who deserves our support, a few wealthy sugar barons or 250 million American consumers. The answer is clear, Mr. Chairman. It is time to end the sugar program.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Chairman, I rise in opposition to the amendment.

Only 2 years ago we enacted major reforms to our sugar policy and they have been tough reforms. Our 1996 farm bill created a free domestic sugar market. We froze the support price at 1995 levels. We required the USDA to impose a penalty on producers who forfeit their crops instead of repaying marketing loans, and sugar is the only commodity with such a penalty.

We even raised by 25 percent the amount that sugar growers pay in a special assessment for debt reduction.

And we increased imports to allow the Secretary of Agriculture to bring more sugar into the United States if we do not produce enough.

These reforms have had a significant impact on our growers. Prices have gone down. Twenty-three thousand industry jobs in Michigan, and nearly 3,000 family farmers in Michigan and farm families all across the country have accepted our reforms, and they are doing the best they can under a new program.

Our sugar program works. It is at no cost to the taxpayers and puts money into the Treasury for debt reduction.

It is not fair to our growers. Let us keep our 7-year commitment, Mr. Chairman. I urge my colleagues to reject the Miller-Schumer amendment.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, I rise to ask Members to vote no on this amendment, and that we keep our promises.

Mr. ABERCROMBIE. Mr. Chairman, may I inquire as to the remaining time for each of us?

The CHAIRMAN. The gentleman from Hawaii (Mr. ABERCROMBIE) has 2 minutes remaining, the gentleman from Florida (Mr. MILLER) has 4 minutes remaining, and the gentleman from New Mexico (Mr. SKEEN) has 3 minutes remaining.

Mr. ABERCROMBIE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, for our colleagues who may not be on the floor with us right now but listening to the exchange, I hope it has been informative. Over the past 25 years in elective office, I have followed a rule: Where we make a contract, a legislative agreement, that we follow it.

Mr. Chairman, we made an agreement for 7 years and we compromised. I did not want to have some of the provisions that we voted for with the sugar bill previously. It has been mentioned by other speakers, and it bears repeating as we close this debate, we had an overwhelming vote on this bill. An overwhelming majority decided that we were coming to an honorable compromise.

To jeopardize it now by raising the issue once again on this one-cent change makes a devastating impact on those who depended on us keeping our word. A 7-year commitment is not very long when it comes to agriculture, when it comes to making banking decisions.

When we talk about special interests, Mr. Speaker, I can tell my colleagues I do represent a special interest, the special interest of people living in Hawaii, in housing that they could not afford if they were not able to keep the jobs they have right now. We are standing up for those who are the field workers, for the farmers and producers. If we keep our word to them, then I think we can hold our heads high as legislators.

Mr. Chairman, we are fighting against wage slavery in the rest of the world. How is it possible for us to say that we can compete in a market in which we have child labor producing sugar, when we have oligarchs in other countries producing sugar and dumping sugar in our market? That is not the kind of thing we would be very proud of as a legacy to the children of our country, to say that we violated labor standards, health standards, environmental standards, all because we wanted to have cheap manufacture of sugar.

Mr. Chairman, I ask in conclusion, please, let us keep our word as legislators. Let us stick to the contract that we wrote with one another. It is working and it is working for America.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) for yielding me this time.

Mr. Chairman, on the family farm a man's word has sealed many a deal. Among working people, a handshake has led to an agreement. In corporate America, they sign on the bottom line and that leads to an understanding. In our judicial system, signing on the bottom line with witnesses is an enforceable contract.

Only in the United States Congress, where we vote in the light of day, in front of the witnesses of the press, before our constituents, where we promulgate the action of this body into the law of the land and print it officially for all to read, is a deal not a deal.

The working men and women who struggle in the heat back home trying to raise a crop to feed their families, I can tell my colleagues, do not look at this as corporate welfare. If any of my colleagues have a doubt, I invite them down. We will put them on a nice tractor with a big comfortable seat. We will let them sit there for 12 hours in the 98-degree heat of summer in south Louisiana. And at the end of the day when they get off that tractor, I hope without help, we will talk about welfare reform. They may have discovered a new concept. If it looks like this, we want it.

Mr. MILLER of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, my amendment is a modest change in the sugar program. A one-penny change in the sugar program. Less than 5 percent in the cost of sugar. In 1996, when we passed the historic Freedom to Farm bill, I offered an amendment to phase out the program. I think we should get rid of the program. But some of the Members, my colleagues, said, "Dan, we do not want to get too dramatic and do too much."

That is why I have come back with a very modest change of one penny on the price of sugar, and we are still over twice the world price even with the penny.

Some Members have talked about a dump price, that we do not have fair competition in the world. I believe we should have fair competition. I think it is wrong when countries subsidize their products. And there are countries, for example France, they subsidize sugar. But there are laws on the books. The Secretary of Agriculture has the power to keep that sugar out of this country. That is right and I fully support that.

But there are many countries that have a free market of sugar. The two largest exporters of sugar, Australia and Brazil, they have increased sugar production by 60 percent, selling on the world market. There is a free market for sugar and our farmers can compete for sugar, just like they do in wheat and corn, and we export the product.

Why are we protecting one industry? Sugar is a relatively small part of the total agricultural production of this country. It is less than 2 percent for sugar and peanuts alone.

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Now, why should my colleagues support this amendment? First of all, this is the sugar daddy of corporate welfare. So for conservatives, it is a big government program that no longer makes any sense. In our free enterprise system, it should go.

That is the reason organizations like Citizens for a Sound Economy, Citizens Against Government Waste, they are going to rate this vote. This is going to be rated by many organizations. Taxpayers for Common Sense, Americans for Tax Reform, are all supporting this amendment.

With respect to the environment, this is a major environmental vote because of the impact sugar has had, and they are not willing to step up to the plate and pay their fair share of the cost of restoration of the Everglades. That is the reason it is going to be a rated vote. The Everglades Trust, the National Audubon Society, the World Wildlife Fund, the Florida Audubon Society, the League of Conservation Voters, are all rating this vote and saying vote for the Miller-Schumer amendment.

We talk about jobs. Organized labor is even supporting this amendment because it is union jobs that are disappearing from the refineries around this country. Whether it is in Baltimore or New York City, we are losing jobs, whether it is the manufacturing jobs down in Georgia where they cannot make candy canes compete because sugar is so expensive.

And ultimately it is the American consumer who is the American taxpayer. We are saying this is a no net cost. In fact, the Federal Government makes a little bit of money on the program, but not really. Because the government is a major purchaser of food products, whether it is the VA hospitals or the military or programs, CBO says it is a $90-million-a-year cost to the Federal Government just in their operations because of the sugar program.

But it is the American consumer who is the one that pays the most. CBO, other economic studies, all show the cost is over a billion dollars a year. In fact, it is $1.4 billion by CBO.

If we want to help the American consumers, if we want to help the environment, if we want to help jobs in this country and if Members believe the government is too big and we need to get rid of these big government programs that try to run everything out of Washington, this is an amendment to support.

I urge my colleagues to support this amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, here they come again, the Members who hate production agriculture, who do not believe that farmers out in the country doing the real work, trying to provide for their families, deserve a chance. Anything to get cheap food. Do not worry about where it comes from or who has to lose their farm, their lifelong occupation, because of the will of the Members who want to put them out of business and think that food only comes from the grocery store.

Members might wonder why a guy from Iowa cares about the sugar program. I will tell my colleagues. It has a dramatic impact on what happens in the Midwest with the price of corn.

We have an example here. The price of corn sweetener, which is in competition with sugar, has been down over 50 percent. Has it had any effect as far as consumer prices? Yes. The carbonated soft drink cost has actually gone up, almost a percent. Anyone who thinks that there is going to be a benefit to the consumer simply is not looking at what are the facts of the situation.

What a lot of these folks would like to see happen is to have the price of sugar go down, put American production out, the sugar producer, the farmer, put him out of business, import a bunch of cheap sugar substitute for corn fructose in the soft drinks. That will cost an already depressed Midwest corn producer at least 25 cents a bushel. And at the low level of corn prices today, that would be devastating.

So Members can listen to the crowd that does not care about agriculture, does not care about families out there working. Members can listen to them and they can listen to reason and we can keep our promise that we made to agriculture in 1996.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. MILLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MILLER of Florida. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 482, further proceedings on the amendment offered by the gentleman from Florida (Mr. MILLER) will be postponed.

The point of order of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYCE:

Add before the short title the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used to carry out section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) or to pay the salaries and expenses of personnel who carry out a market access program under such section.

Mr. ROYCE. Mr. Chairman, I would first like to commend my colleagues on the Committee on Agriculture and the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations. They have done excellent work over the past few years in reducing harmful government interference in American agriculture and putting it on the road back to the market system that works so well.

American farmers are now unshackled and free to produce as they see fit, and American consumers are benefiting from increased production. And American consumers are benefiting from lower prices. That has been one of the most significant achievements of Congress.

However, more work needs to be done. This amendment will prevent money in this bill from being spent on the Market Access Program known as MAP. This program provides $90 million in taxpayer subsidies per year to agribusinesses to support their international advertising. This is a relic from our former government-heavy agriculture system.

I have offered this amendment to eliminate one of what I consider the more egregious corporate welfare programs, with the hope that a trend will develop which would further rid the private sector of an intrusive government.

The Federal Government first began financing corporate advertising in 1985 with the Targeted Export Assistance or TEA. It was established to encourage commercial export markets for U.S. farm products at the time, and then, after a critical audit of the General Accounting Office, it was changed to the Market Promotion Program or MPP. Then after another critical audit, it was changed to the Market Access Program or MAP in 1996.

The names may have changed after every critical audit, but the program has not. Not unlike most good-intentioned Federal programs, Federal funding of advertising turned out to be just another government handout. I do not believe that working men and women should continue to foot the bill for advertising subsidies to multinational corporations. Promotional advertising for products is simply not the role of government. It is the role of those private concerns that benefit from the sale of those products.

In the past we have heard that agriculture is one of the most important businesses in America and that is true. No doubt we will hear this again as we debate this amendment. But the question is not whether agriculture and American farmers are important. Without question, they are. The question is whether MAP is a proper use of taxpayer money. It is not proper, and it is not effective.

The future and continued performance of American agriculture is not contingent upon handing out taxpayers' money for advertising. The success of American agriculture results from the energy and ingenuity of American farmers.

Department of Agriculture studies will no doubt be cited which seem to show that MAP creates jobs and expands the economy by generating several dollars in revenue for each subsidy dollar handed out. These studies are based on inherently flawed methodology. They attribute employment created and exports generated in agriculture to MAP's existence, and this is too good to be true, frankly. What is not taken into consideration is that our economy is strong. It is near full employment. These jobs and exports would have been created anyway. In other words, the rooster is taking credit for the sunrise.

The USDA studies also assume that MAP-funded advertising works. Well, the department has no way to verify either assumption. In fact, a General Accounting Office report found there is no clear relationship, says the GAO, between the amounts spent on government export promotion and changes in the level of U.S. exports.

In a separate report, the GAO questioned whether funds are actually supporting additional promotional activities or if they are simply replacing private industry funds for advertising.

What is obvious on its face is that money handed out by government bureaucrats does not magically multiply through some system of multiplicity. Sure, recipients of MAP will sing its praises; most people that receive free money always will.

I urge support of this amendment.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes, and that the time be equally divided.

I yield 5 minutes of my time to the gentlewoman from Ohio (Ms. KAPTUR), and I ask unanimous consent that she control the time.

The CHAIRMAN pro tempore (Mr. BLUNT). Is there objection to the request of the gentleman from New Mexico?

Mr. SANDERS. Reserving the right to object, Mr. Chairman, is that just on this amendment?

I yield to the gentleman from New Mexico (Mr. SKEEN).

Mr. SKEEN. Mr. Chairman, just on this amendment.

Mr. SANDERS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California (Mr. ROYCE) will control 10 minutes, and the gentleman from New Mexico (Mr. SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR), each will control 5 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. SKEEN).

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EWING).

Mr. EWING. Mr. Chairman, the amendment to eliminate the MAP program, I think many of us would like to see these programs eliminated. But the problem is for American agriculture that we have to compete worldwide. U.S. agriculture exported exports in excess of $55 billion in 1998, resulting in a trade surplus of $25 billion which generated over $100 billion in related economic activity.

One thing that helps us achieve this laudable goal is MAP, the Market Access Program. I just returned from the ministerial meeting of the WTO in Geneva, and I can tell my colleagues, we have problems with the EU, the European Union, who heavily subsidizes their exports. And probably our biggest trade problem in agriculture is with the European Economic Union.

The one thing that they really recognize and are concerned about is our program like MAP, something that helps us get the attention of customers around the world for agricultural products. If we eliminate it at this time, it is like disarming while your adversaries continue to arm. This is minuscule compared to what is spent by the European Community to promote their exports. We need to keep this program until the European Community, until the negotiators of the World Trade Organization can bring other countries to the table and eliminate their subsidies.

I suggest that this is a good no vote for agriculture.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to this amendment. If we think back to the reforms we have made in our farm programs, trade is at the center, international trade is at the center of trying to prepare and improve our programs for the 21st century.

If we look at the trade ledger for our country today, the only positive parts of the account exist in the areas of agriculture largely. Over a third of our domestic production is exported and, in fact, we have been experiencing a record trade surplus just in agriculture of over $30 billion annually while the rest of the budget and trade ledger is in serious deficit at historic levels.

So something in what we are doing is working, and the Market Access Program is an important piece of this puzzle.

If Members look at who we are in competition with, it is U.S. farmers, individual farm families, individual producers against the European Union, against Asian production.

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It is very important that we help these farmers move their product into the international marketplace. This program is targeted to smaller producers and to farmers' cooperatives. It is not helping the big companies.

In fact, if you look at the amount of money in the program, $90 million, it does not even come close to what the European Union is currently spending, over $500 million, half a billion dollars, in trying to promote their products in the international marketplace.

These exports just in agriculture represent well over a million jobs in our country. Quite frankly, unless you have dealt in the international market, you really do not understand how subsidized a lot of our competitors' production actually is. Certainly their advertising programs are. So I would rise in strong opposition to this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for the time. It never ceases to amaze me around here. Everybody seems to want to put the farmers out of business, especially small farmers. The Market Access Program is so vital to, just take one part of the agriculture industry, the apple growers in America, particularly in the Hudson Valley.

We are up there, and the temperatures drop down to 30 or 40 below zero. It is tough enough to make a living as it is. But this Market Access Program has provided vital, vital help to these small farmers, to export our apples into Europe, into Israel and different places.

The European Union does everything they can to stop everything from going in there. This at least gives us a little bit of an advantage. It is like promoting tourism in America. It is necessary. Promoting this kind of a program is so vital to the small dairy farmers in America.

Please defeat this probably well-intentioned amendment by a well-intentioned Member, but it is a bad amendment. Vote no.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, let us summarize why this amendment should be strongly opposed. Why MAP? Why a Market Access Program? It is to help meet foreign competition.

The European Union and other foreign competitors continue to enjoy a 10-to-1 advantage over the U.S. in terms of export subsidies. The European Union and other foreign competitors are moving aggressively in providing other forms of assistance to maintain and expand their share of the world market at the expense of U.S. farmers and ranchers.

The naivete of Members of this body who believe that somehow, some way, unilaterally disarming our farmers is going to allow them to compete in an international marketplace that is controlled by other governments continues to amaze me. Member after Member has stood this morning and offered just that kind of amendment.

Without U.S. policies and programs to help counter such subsidized competition, American farmers and ranchers will continue to be at a substantial disadvantage. In contrast to the high subsidies in Europe, the 1996 farm bill reduced income support to producers in this country over 7 years, making farm income and the economic well-being of American agriculture even more dependent on continued access to foreign markets. Now we hear again an effort to take away the remaining tools.

The MAP represents a successful public-private partnership. MAP is specifically targeted to help small businesses, farm cooperatives, and trade associations meet subsidized competition.

Market Access Program is administered on a cost-share basis by the U.S. Department of Agriculture with farmers, ranchers, and other participants required to contribute up to 50 percent toward the programs cost.

Every $1 invested by United States taxpayers has resulted in $16 in additional U.S. agricultural exports, according to the United States Department of Agriculture.

MAP helps boost U.S. agriculture exports and meet foreign competition. Also, let me say, we have reform. We have listened to the valid criticisms of the MAP program. We are now providing for cost share, direct assistance to small businesses, farm cooperatives, and trade associations. This is what this body has told us to do. This is what the Committee on Agriculture has striven to do.

Funds are to be used only to promote American-grown and produced agriculture commodities and related products. There is a prohibition on assistance to foreign firms and products. There is ongoing review and certification of use of funds and program graduation.

When you have a successful program working we stop subsidizing, and we say go forward in the marketplace, but we continue to attempt to meet foreign competition.

In conclusion, I strongly urge that this amendment be rejected. I hope that the committee, and when we get to conference, will find additional monies in this particular area. As a Nation, we can work to export our products or we can export our jobs.

This amendment, if it passed, will be an export of United States jobs, make no mistake about it. USDA's export programs are a key part of an overall trade strategy that is pro-growth, pro-trade and pro-job. This amendment is anti- all of the above.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Chairman, I thank the gentleman very much for the opportunity to speak against this very ill-advised amendment, which would have a tremendous detrimental effect, not only on the farm family in Iowa, but across this country, but also on our balance of trade situation.

Agriculture exports about $55 billion. For each $1 billion, there are about 20,000 American jobs. It is extremely important to maintain this program so that we can compete in the world market. We have got to also understand that this program is on a 50/50 basis with the producer out there who is paying half of the cost. The corn growers, the Soybean Association, the pork producers, the beef folks, the cattlemen pay their share to make sure that they have the opportunity to promote their American product overseas and to make sure that the jobs stay here in the United States rather than have our foreign competitors take away our jobs.

This is extremely important to continue this very, very valuable program. I would certainly urge a strong no vote to this ill-advised amendment.

The CHAIRMAN. The gentleman from California (Mr. ROYCE) has 10 minutes remaining. The gentleman from New Mexico (Mr. SKEEN) has 1 minute remaining. The gentleman from New Mexico has the right to close.

Mr. ROYCE. Mr. Chairman, I yield 1½ minutes to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, I rise in strong support of the pending amendment. Corporate welfare. Everyone hates corporate welfare. We all talk about it in our districts. Irate taxpayers bristle at the thought of their hard-earned wages being given to large and profitable companies, and justifiably so.

It is one thing to provide temporary welfare assistance to help poor people, the people in need, get back on their feet, but to give billions of dollars in subsidies to large cooperations is absolutely absurd.

Of all the corporate subsidy programs maintained by the Federal Government, the Market Access Program is one of the most notorious.

Since its creation back in 1985, the Market Access Program has provided almost $1.5 billion to some of the biggest and wealthiest corporations in this country. For example, in 1997, fiscal year 1997, they doled out $2.6 million to Sunkist, $1.4 million to Blue Diamond, $700,000 to Welch's Foods, and $600,000 to Ernest and Julio Gallo.

Other companies that have received market access funds include McDonald's to sell Chicken McNuggets, Joseph Seagram and Sons to promote Four Roses Whiskey.

Mr. Chairman, the bottom line that many of the firms that have received Market Access Program funds, including Burger King, CAMPBELL Soup, General Mills, Hershey Foods, Ocean Spray Cranberries, Quaker Oats, Tyson Foods, can afford to pay for their own advertising. They do not need the U.S. Government acting as their ad agency.

I urge my colleagues to support this great amendment.

Mr. ROYCE. Mr. Chairman, I yield myself such time as I may consume.

An argument has been made that we were being out-subsidized by the European Union and other countries throughout the world. I might point out that our economy is outperforming those countries by every measure.

Our per capita gross national product dwarfs most every other country in the world. We have the most productive workers. Our per capita income is highest. Unemployment is almost nonexistent.

I for one do not wish to follow the European model. We should continue striving to shed those vestiges of central planning instead of defending those that had crept into our economy in the past.

Government has no business deciding which companies are worthy of advertising funds. It is the government that must make this decision; in this case, which company gets the funds. That is, frankly, precisely what the free market is there to do, to allocate resources in the most efficient way possible.

The government ought not to be taking tax monies from companies to finance the advertising of their competition, which is the direct result of redistribution.

The main point is really whether private companies should pay for the promotion of their own products or whether the American taxpayer should be forced to pay. We do not force the American taxpayer to pay for other corporate expenses. We do not force them to pay for furniture or office supplies. In this case, we are having them pay for the advertising budget. Why should they be forced to pay for this cost of doing business?

Mr. Chairman, I yield back the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I regret that this amendment was presented to us just a few minutes ago because there are a lot of Members whose constituents strongly support this program but who may not be able to speak because of the lack of notice.

Mr. Chairman, this amendment is as bad in its purpose as it is in its timing, and I strongly urge my colleagues to vote no.

Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. SMITH) to close.

Mr. SMITH of Oregon. Mr. Chairman, let us get back to reality here and directness. The numbers used by these people who attempt to overnight the Market Access Program are 10 years old.

I have just returned from the European Union, Germany, France, Belgium; and let me tell you that if you do not think we are out-subsidized, you should have been with me. There was $45 billion by the European Union, by the way, for agriculture products, $8 billion for export subsidies to European farmers. We are asking here for a very small Market Access Program that helps us advertise our products in foreign countries where we are being outbid every day by the governments.

This idea that these are large corporations is ridiculous. That is in the past. These are small corporations. They are cooperatives such as Sunkist, but these are made up of small operators and small farmers.

Let us not reduce ourselves to the argument that this is a big government payoff. It is a 16-to-1 return of dollars. One dollar for every $16 we receive; $1 invested, we receive $16 back.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from California.

Mr. FAZIO of California. I want to associate myself with the gentleman's remarks and point out that 417 of the 564 companies participating in this program are small businesses by SBA definition.

Mr. Chairman, there is probably no more important tool for export promotion than MAP throughout the U.S. and particularly in California.

MAP was funded at $200 million as recently as 5 years ago, and was authorized at one time for $350 million.

I believe those levels of support were recognition of the importance of market promotion to the American economy.

Now MAP is down to a bare-bones $90 million.

MAP funds go to small companies—FAS says that 417 of the 564 companies participating in MAP qualify as "small" by the SBA definition.

MAP has completely eliminated any branded product promotion by large companies.

MAP funds don't just substitute for marketing efforts the company would have undertaken anyway—in fact, it is a requirement of the program that every dollar has to be matched by the company's own funds as well.

MAP is important to the economy:

Agriculture exports are at approximately $60 billion (FY '96)—an increase of some $19 billion or close to 50 percent since 1990.

In an average week this past year, U.S. producers, processors and exporters shipped more than $1.1 billion worth of food and farm products to foreign markets, compared with about $775 million per week at the start of this decade.

The most recent agricultural trade surplus (FY '96) indicates a new record of $27.4 billion.

In the most recent comparisons among 11 major industries, agriculture ranked No. 1 as the leading positive contributor to the U.S. merchandise trade balance.

As domestic farm supports are reduced, export markets become even more critical for the economic well-being of our farmers and rural communities, let alone the suburban and urban areas that depend upon the employment generated from increased trade.

Agriculture exports strengthen farm income.

Agriculture exports provide jobs for nearly a million Americans.

Agriculture exports generate nearly $100 billion in related economic activity.

MAP is critical to U.S. agriculture's ability to develop, maintain and expand export markets in the new post-GATT environment, and MAP is a proven success.

In California, MAP has been tremendously successful in helping promote exports of California citrus, raisins, walnuts, prunes, almonds, peaches and other specialty crops.

We have to remember that an increase in agriculture exports means jobs: a 10% increase in agricultural exports creates over 13,000 new jobs in agriculture and related industries like manufacturing, processing, marketing and distribution.

Where do those increased ag exports come from?

For every $1 we invest in MAP, we reap a $16 return in additional agriculture exports.

In short, the Market Promotion Program is a program that performs for American taxpayers.

Mr. SMITH of Oregon. Mr. Chairman, I urge Members to vote no on this amendment.

Mr. HERGER. Mr. Chairman, the market access program, or MAP, provides a valuable service, not only to American farmers, but to the entire American economy.

Currently, MAP yields returns of $2 to $7 to the American economy for every dollar of MAP funds spent overseas. The program is aimed at increasing American exports and jobs by helping maintain, develop, and expand U.S. agriculture export markets. In doing this, MAP requires all funds to be used to promote only American grown and produced commodities and related products.

MAP does not fund large multinational corporations, such as McDonalds. Instead, this program, by law, excludes foreign, for-profit companies and focuses on American small businesses. The only for-profit companies allowed to receive MAP funds are small businesses, nonprofit industry organizations, and private firms not represented by an industry group.

Even then, MAP is not a straight handout, but is a valuable cost-share program, where participants are required to contribute toward total program costs from 10 percent for generic products to up to 50 percent or more for brand name products.

MAP was established under the 1990 Farm Act to target primarily value-added products. With traditional commodity support programs being phased out through 2002, MAP will be used as an important tool to increase export markets and help stabilize commodity prices.

MAP is a proven success. Since 1986, when MAP's predecessor, the targeted Export Assistance Program, was first authorized, U.S. agricultural exports have doubled. In 1997 exports amounted to $57.3 billion, resulting in a $22 million agricultural trade surplus, and providing jobs for approximately 1 million Americans.

MAP's success has occurred in spite of increased international competition. Other organizations, such as the European Union, or EU, have aggressively outspent the United States in promoting agricultural commodities. In 1997, the EU budgeted $7.2 billion for export subsidies. The EU and other foreign competitors also spent nearly $500 million on market promotion. However, through promotional campaigns funded in part by MAP, American agriculture can be immensely successful in foreign markets.

Mr. Chairman, this program works and it works well. It is targeted at assisting American small businesses to gain fair access to foreign markets.

Mr. Chairman, I encourage my colleagues to vote for American jobs, to vote for American small businesses, and to vote for support of the Market Access Program.

Mr. FARR of California. Mr. Chairman, MAP HELPS BOOST U.S. AGRICULTURE EXPORTS. U.S. agriculture exports expected to exceed $60 billion. Last year exports amounted to $57.3 billion, resulting in a positive $22 billion agricultural trade surplus, result in a record trade surplus of $30 billion, and generate over $100 billion in related economic activity.

MAP HELPS PROVIDE NEEDED JOBS THROUGHOUT THE U.S. ECONOMY. Over one million Americans have jobs which depend on U.S. agriculture exports. Every billion dollars in U.S. agriculture exports creates as many as 20,000 new jobs.

MAP HELPS MEET SUBSIDIZED FOREIGN COMPETITION. The EU spends more on wine promotion than U.S. spends for all commodities combined. European Union (EU) and other foreign competitors continue to enjoy a 10 to 1 advantage over the U.S. in terms of export subsidies. EU and other foreign competitors are moving aggressively in providing other forms of assistance to maintain and expand their share of the world market at the expense of U.S. farmers and ranchers. Without U.S. policies and programs to help counter such subsidized competition, American farmers and ranchers will be at a substantial disadvantage.

MAP REPRESENTS A SUCCESSFUL PUBLIC-PRIVATE PARTNERSHIP. MAP is specifically targeted to help small businesses, farmer cooperatives and trade associations meet subsidized foreign competition. MAP is administered on a cost-share basis by the U.S. Department of Agriculture with farmers, ranchers and other participants required to contribute up to 50% toward the program's cost. Every $1 invested has resulted in $16 in additional U.S. agricultural exports, according to USDA. MAP helps boost U.S. agriculture exports, meet foreign competition, improve U.S. balance of trade, strengthen farm income, and protect American jobs.

The U.S. must continue to have in place policies and programs which help maintain the ability of American agriculture to compete effectively in a global marketplace still characterized by subsidized foreign competition.

This is especially true under the new Federal Agriculture Improvement and Reform Act of 1996 (FAIR Act), which resulted in the most sweeping reforms in farm policy in over 60 years. While achieving significant budget savings, it reduces income support to producers over 7 years; eliminates acreage reduction programs; and provides increased planting flexibility. More than ever, farm income and the economic well-being of American agriculture are now dependent on continued access to foreign markets and maintaining and strengthening U.S. agricultural exports.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYCE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROYCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 482, further proceedings on the amendment offered by the gentleman from California (Mr. ROYCE) will be postponed.

Mr. BASS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the distinguished subcommittee chairman and another Member of Congress has circulated an e-mail warning to Members that the Bass-DeFazio amendment which passed by a 229 to 193 vote majority may have cut more than we, the authors, stated.

The e-mail message claims the Bass-DeFazio amendment cut nearly $21 million from the Wildlife Services funding which would, as the e-mail declares, put at risk "safe transportation, safe drinking water, and an abundant supply of safe and wholesome food, and, most importantly, the safety of children."

I assure my colleagues that that is not our intent. We worked with the Legislative Counsel over the past couple weeks to draft an amendment that cut only $10 million in Wildlife Services funding for livestock protection, and we did not intend to cut health and safety funding or research funding.

□ 1230

However, because of a drafting error by Legislative Counsel, the amendment may result in an additional cut of $10 million. It may. Not necessarily will, but it may. To clarify the amendment and reassure Members that it will only eliminate livestock protection funding, we need only to insert one word that indicates the funding should be taken from the Wildlife Services operating budget.

In a measure of good faith, I would hope that the gentleman from New Mexico would accept our unanimous-consent request, which I have not made yet, to clarify the amendment. The House has clearly spoken on this issue. By a 36-vote margin, the House is on record as opposing animal control subsidies for ranchers. I hope the chairman would not use a typographical error by Legislative Counsel to stymie the will of the House.

REQUEST FOR MODIFICATION TO AMENDMENT NO. 2 OFFERED BY MR. BASS

Mr. BASS. Mr. Chairman, I ask unanimous consent to accept an additional word "operations" to the amendment that passed the House yesterday by a vote of 229–193.

The CHAIRMAN pro tempore (Mr. BLUNT). Is there objection to the request of the gentleman from New Hampshire?

Mr. SKEEN. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Mr. DeFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is unfortunate that the gentleman from New Mexico objected. What we see here is a last-ditch attempt to preserve a $10 million subsidy to western cattle and sheep ranchers. Half a million dollars of this money flows to my own State, so I am not just out there cutting in other people's States.

Seventeen western States receive $10 million to conduct activities on predator control to protect livestock on private property at no expense to the landowner. Clearly a large majority of the House supported that amendment and that intent. As the gentleman from New Hampshire stated, due to a drafting error by Legislative Counsel, we may have cut more and may have extended the impact beyond that subsidy in the 17 western States to private livestock and ranching interests. So we have a number of opportunities here.

The gentleman from New Hampshire attempted to insert one word, the word "operations," to make absolutely clear what the 36-vote majority of the House intended at that time. I shortly will offer another opportunity to the chairman and would urge the chairman to take it, because I have got to inform Members at this point in time, despite the potential error, the groups that had vital interest in the original vote are no longer interested in the original vote. The scoring will be on the revote. Because even if the chairman objects, the inadvertent language problem can certainly be fixed in the conference committee.

It was the clear intent of the House and a majority of this House to end this subsidy to private ranching interests while fully protecting public health and safety over a range of other issues that are conducted by APHIS out of its $500 million budget. I am going to in a moment give the chairman one more chance, because I know the chairman believes he will prevail and will be able to preserve the $10 million subsidy to the private ranching interests for one more year.

Mr. BASS. Mr. Chairman, will the gentleman yield?

Mr. DeFAZIO. I yield to the gentleman from New Hampshire.

Mr. BASS. Is it not true that either of these two suggested changes can easily be corrected in the committee of conference under technical corrections? There is no need to worry if under the unfortunate circumstance we have a revote that these corrections will not obviously be made, because it is the intent of Congress to make this change.

Mr. DeFAZIO. Mr. Chairman, I reclaim my time and thank the gentleman. There are a plethora of ways that this could be fixed. The simplest way is by the insertion of the word "operations" which the chairman objected to. I am going to propose changing a number. That is one change in one number. That would fix the problem or any potential problem. If the chairman objects there, it could still be fixed in conference or with a technical correction later. That is correct. So clearly the revote, if it occurs, will be on whether or not the Members want to provide a $10 million subsidy to western cattle and ranching interests which I believe a clear majority stated yesterday they do not. That will be the vote that will be rated.

REQUEST FOR MODIFICATION TO AMENDMENT NO. 2 OFFERED BY MR. DE FAZIO

Mr. DeFAZIO. Mr. Chairman, I ask unanimous consent that the language of the original amendment be changed on line 2 to not more than $28,097,000.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

In the matter inserted in the Bass amendment providing for "Limitation on Use of Funds" strike "$18,800,000" and insert "$28,000,000".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. SKEEN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mrs. LINDA SMITH of Washington. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are going to begin a colloquy talking about the tobacco issue. First of all I would like to say that every year since I have been in Congress, I have introduced an amendment, or cosponsored an amendment, to get rid of subsidy for the Risk Management Agency, the crop insurance section, and the net cost of this, of this program. Each year we have lost by a scratch. This year as we went into working on the agriculture bill, we also have another bill which is the tobacco bill coming up. As we have worked on that, none of the objections that I have had have lessened. But it appears that the leadership now has agreed that there will be no cost to taxpayers. They will eliminate all cost to taxpayers of this particular program in the tobacco bill which the Speaker of the House will be introducing in just a few weeks. I would like to have confirmation of that.

Ms. PRYCE of Ohio. Mr. Chairman, will the gentlewoman yield?

Mrs. LINDA SMITH of Washington. I yield to the gentlewoman from Ohio.

Ms. PRYCE of Ohio. I thank the gentlewoman from Washington for yielding for the purpose of this colloquy. I recognize the gentlewoman's longstanding role in trying to solve this program funding issue which we debate each year. I would like to take this opportunity to confirm that we on the Tobacco Task Force and in leadership share her concerns and are committed to correcting this problem as part of our efforts to craft tobacco legislation later next month in a more comprehensive way.

I have to say that I myself personally feel very strongly. I have consistently voted against the subsidy as she has. I would like to see it eliminated. I will confirm that this will be a part of the tobacco legislation.

Mrs. LINDA SMITH of Washington. I thank the gentlewoman for her comments. I want to ask one question to clarify what she just said. She is saying that the tobacco legislation will eliminate any taxpayer support for this program.

Ms. PRYCE of Ohio. That is correct.

Mr. HANSEN. Mr. Chairman, will the gentlewoman yield?

Mrs. LINDA SMITH of Washington. I yield to the gentleman from Utah.

Mr. HANSEN. I appreciate the gentlewoman yielding. As I understand it, the designee for the leadership is the gentlewoman from Ohio (Ms. PRYCE), and we appreciate the great work that we expect her to do which I am sure she will. She is very aware that myself, the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from California (Mr. WAXMAN) have a piece of legislation that we think is an excellent piece of legislation. We are not solidly in cement, but we would like some assurance from the leadership's designee that the language that we are talking about which would give protection as I see it to the small farmer who we are very concerned about would be included in any piece of legislation, whether it be an abbreviation or change of ours, or it be one that the Speaker and the task force comes up with, that we could have that assurance. I think it would make those of us on a bipartisan nature who are working on this feel much better about that if we could have that assurance at this time.

Ms. PRYCE of Ohio. If the gentlewoman will yield, the assurance that the gentleman is asking for is that this subsidy will not any longer be in existence as a result of the tobacco legislation, he has that assurance.

Mr. HANSEN. We do appreciate that. I would hope that the task force would work with us closely on many of the things that are in our legislation which I notice the Speaker of the House on television the other night, I thought he was repeating our bill as he gave his rendition on television, if I may respectfully say that.

Mr. FAZIO of California. Mr. Chairman, will the gentlewoman yield?

Mrs. LINDA SMITH of Washington. I yield to the gentleman from California.

Mr. FAZIO of California. If I could ask the gentlewoman from Ohio to comment further, it has been the assumption that a number of us who have been working on tobacco legislation have had that somehow this would be paid out of the settlement, so that the individual tobacco farmer would not be eliminated from a program that all other farmers could participate in, but that we would relieve the burden that I know a number of Members have had of public support through the general fund of the Government.

Is it contemplated that somehow the companies through the settlement would make available funds to ensure that these growers can participate in this program?

Ms. PRYCE of Ohio. That still is a very viable possibility. We will be working through the next 2 weeks of recess to further that goal. I cannot say exactly that that is how it will happen, but I can say with great assurance that it will no longer be a burden on the American taxpayer.

Mr. FAZIO of California. There may be another approach taken, if the gentlewoman will yield further, that I have not mentioned but still a way in which these growers would not be discriminated against vis-a-vis other agricultural producers?

Ms. PRYCE of Ohio. That is being explored. There are several different proposals on the table. I am sure the gentleman is aware that there are many Members on our side of the aisle that are very interested in this as well. I have been trying to work with them so that these small farmers are not cast out overnight. But it does not belong on the taxpayers' shoulders. I feel the same as the gentlewoman from Washington in that respect.

Mr. FAZIO of California. Mr. Chairman, we look forward to seeing the legislation. Obviously I hope it is a comprehensive approach to the solution to this problem but one that does not leave out the needs of legitimate tobacco farmers in this country.

Mrs. LINDA SMITH of Washington. Mr. Chairman, in conclusion I want to thank the gentlewoman from Ohio for her leadership and the assurance that the taxpayers will no longer pay this, and I will pull my amendment.

AMENDMENT OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COBURN:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 739. None of the funds made available in this Act may be used by the Food and Drug Administration for the testing, development, or approval (including approval of production, manufacturing, or distribution) of any drug for the chemical inducement of abortion.

Mrs. LOWEY. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. The gentlewoman from New York reserves a point of order.

Mr. COBURN. Mr. Chairman, this is a bill that is intended to do a very discrete function. No. 1, we should look at what the definition of the charge to the Food and Drug Administration is. Let me quote from page 96 of this bill:

"The programs of the Food and Drug Administration are designed to achieve a single overall objective, consumer protection."

Mr. Chairman, it is my contention that there is nothing associated with consumer protection in the development and securing of abortifacient drugs, that in fact this is an area far outside the charge of the Food and Drug Administration.

What does this bill not do? This bill has no effect on the development of any drug which has a purpose other than abortifacient of an implanted blastocyst. This amendment will not prohibit the FDA from conducting its legitimate oversight function, and following its guidelines to in fact follow the charge of consumer protection.

Part of the point of order that I am sure will be raised is that this is far reaching and goes outside the scope, which it does not, because it is not intended to completely block research on efficacious drugs.

The other point that I would make, that the charge of the FDA is, is to maintain surveillance over food, drugs, medical devices and electronic products to ensure that they are safe, effective and honestly labeled. The use of abortifacients supported by our tax dollars, researched by our tax dollars, approved by our tax dollars, has nothing to do with the charge of the FDA. It would seem to me that if we wanted to be honest, that this is something that totally should be ignored, is not an area of safe and effective oversight of the FDA, and, in fact, raises several other troubling questions:

Number one is we should be seeking, regardless of our position on pro-life or pro-choice, alternatives to abortion rather than making abortion easier.

Number two, we markedly oversimplify the concept of abortifacient drugs by saying that we can have a pill that will solve this problem.

□ 1245

Number 3, there is significant scientific evidence today that abortion is associated with a marked increase in the incidence of breast cancer.

Number 4, abortion drugs are often dispensed without a doctor's approval and oftentimes endanger a woman's health rather than protect her health. Twelve States already give pharmacists the authority to dispense these drugs without the aid of a physician.

Finally, if we talk about the research that has been done on the abortifacient drugs that are presently available or used in that manner, what we find is they are extremely ineffective. If my colleagues look at the studies that have been done in Brazil or in Europe on the multitude of drugs that are followed by this concept, what they will find is that 8 to 10 percent failure rate to accomplish what they were intended to do. What we find also is what has happened to the children that have been exposed to these drugs, and again let me bring this back.

What is the charge of the FDA? The charge of the Food and Drug Administration is safety, is consumer protection. Having Federal dollars spent to perfect and introduce and license and hold up a drug that takes away life goes completely opposite of the charge of the Food and Drug Administration.

Finally I would like to describe for my colleagues what happens to children who have been exposed to this. About 12 percent of the women who are exposed to the abortifacients that are out there now end up having to have an instrumented procedure. So, first of all, it fails for those 12 percent. Another 12 percent of the women do not abort. Of those 12 percent of women who do not abort, 9 percent, 8 to 9 percent, of the children are born.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. COBURN) has expired.

(By unanimous consent, Mr. COBURN was allowed to proceed for 1 additional minute.)

Mr. COBURN. Mr. Chairman, of the 8 to 9 percent of the children that are born, 50 percent of those children, a large number, have microcephaly, which is a smaller-than-normal brain which leads to severe retardation, a large number have hydrocephaly, which means they have an inability to circulate the fluid around the brain.

So if, in fact, we want the Food and Drug Administration to be about consumer protection, then we in fact ought to ask them not to have anything to do in their charge with abortifacient drugs.

Mrs. LOWEY. Mr. Chairman, will the gentleman yield for the purpose of a question?

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. COBURN) has again expired.

(By unanimous consent, Mr. COBURN was allowed to proceed for 2 additional minutes.)

Mr. COBURN. Mr. Chairman, I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, does the gentleman's amendment mean that if the application is submitted to FDA without the term, without the term "chemical inducement of abortion" as its stated purpose, would the amendment apply?

Mr. COBURN. The amendment would not apply to any drug that is applied to the FDA that the primary purpose is not intended to be an abortifacient. For example, there is a drug that is presently on the market called Cytotec. The gentlewoman is familiar with that drug. If that drug were being applied for now, its primary intended use is for ulcer prevention and treatment. This amendment would not preclude the application of that NDA for that drug.

Mrs. LOWEY. So, if the gentleman would clarify once more for me, if the application does not include the specific term "chemical inducement of abortion," what would the gentleman expect the department to do?

Mr. COBURN. First of all, the department is much more knowledgeable than my colleague might give them credit for. They understand what drugs are used for, and they are scientists and very good at what they do. And if, in fact, some company is making application for a drug that the primary purpose is for something that fits the charge of the FDA, consumer safety, not death, not killing, but consumer safety, then I think they have very well the ability to figure out what the purpose of that application is. And they also have to very clearly state in their NDA what the purpose is for the drug.

Mrs. LOWEY. But then, if I can further ask for clarification again, if the application is submitted to the FDA without the specific term "chemical inducement of abortion" as its stated purpose, would the amendment apply?

Mr. COBURN. Again, I would give the gentlewoman the same answer:

If somebody applies for a drug that is intended to do chemical induced abortion, and that is what they are asking for an NDA for, then it would apply. If it is not intended for that, it would not apply. And so therefore any drug that has any other use that might be beneficial and under consumer protection, the charge of the FDA, would be recognized as a legitimate NDA application.

POINT OF ORDER

Mrs. LOWEY. May I proceed, Mr. Chairman, with my point of order?

The CHAIRMAN. The gentlewoman from New York will state her point of order.

Mrs. LOWEY. Mr. Chairman, the Coburn amendment violates clause 2 of rule XXI of the Rules of the House prohibiting authorization on an appropriations bill.

Under clause 2 of rule XXI a provision is authorizing in nature if it imposes a new duty on a Federal employee.

The Coburn amendment does just this by prohibiting the Food and Drug Administration from expending any funds on an activity for which it does not have a definition. Quote: "Drug for the chemical inducement of abortion," as the Coburn amendment is written, is not a term of art that is legally recognized by the FDA.

I have a memo from the Department of Health and Human Services, and will ask that it appear in the RECORD, stating that the term is one that is not recognized by the agency and would require interpretation. Requiring the agency to define this term unto the Coburn amendment means imposing a new duty on a Federal official.

This is clearly authorizing language.

Mr. Chairman, the memo goes on to say, and I quote: Under the statute's drug-approval scheme, sponsors propose to the Food and Drug Administration particular medical indications for which they seek to conduct research. Sponsors then seek FDA approval to market the drug for those proposed indications that the research demonstrates that the drug is safe and effective for these indication.

Since sponsors are free to propose any medical indication for their drugs and are unlikely to propose this precise language under this amendment, FDA would need to interpret each of these terms in the amendment in this context, chemical inducement and abortion, none of which are defined in the Federal Food, Drug and Cosmetic Act, and evaluate whether the proposed indication was subjected to the restriction.

I have a letter from the gentleman from California (Mr. WAXMAN) the former chairman and the ranking member of the Committee on Commerce Subcommittee on Health and the Environment, agreeing with the assessment that the Coburn amendment is authorizing in nature, and I will ask that this letter be included in the RECORD as well.

Mr. Chairman, I ask the Chair to sustain a point of order against this amendment. It is a clear violation of rule XXI, clause 2 of the Rules of the House.

One more point. The duty is they have to make a determination even if the exact words of the application are different from those in the gentleman's amendment. The FDA needs to determine the meaning of the applicant's words, and I would suggest that the gentleman from Oklahoma (Mr. COBURN) has conceded this point, and I thank the Chair, and again I ask the Chair to sustain a point of order against this amendment. It is a clear violation of rule XXI, clause 2 of the Rules of the House.

Mr. COBURN. Mr. Chairman, I would like to respond to the gentlewoman's point of order.

The CHAIRMAN. The Chair will hear the gentleman's response on the point of order.

Mr. COBURN. Mr. Chairman, this is an amendment based first on a limitation of funds. Number two, there is nothing in this amendment that requires anything additional by the FDA because every NDA that comes before the FDA today has to state the purpose for which the drug application is made. And then finally is that we would not agree to a stipulation, as the gentlewoman from New York pointed out, that would limit anybody's application for any drug and to apply this Rule of the House, we will happily concede, if we want to use the definition as she stated initially, in terms of abortifacient, if that is what she desires.

But the point is the actual functioning of the FDA, having brought drugs to the FDA, having filed NDAs, her statement is inaccurate, it does not follow the rules of the FDA, it is not a true statement to say that this will require any additional burden on the FDA.

Mr. Chairman, the FDA already requires every drug that has applied for it to state very specifically what its purpose is. If the purpose for the drug is not abortifacient, then there is no problem. If the purpose for the drug is it is, then the FDA would be limited.

This is a medical term under which the FDA already knows the definition. There is no question about what the definition is. There is no question in Federal law about what the definition is. So to confuse the issue under this rule is wrong.

Mrs. LOWEY. Mr. Chairman, may I ask the gentleman for further clarification?

The CHAIRMAN. The gentlewoman may proceed on her point of order.

Mrs. LOWEY. Mr. Chairman, I would like to ask the gentleman from Oklahoma if the application for RU-486 did not include the terms in the gentleman's amendment, how would the gentleman require the FDA to rule?

Mr. COBURN. What the gentlewoman from New York will have to tell me first to answer that is how was the RU-486 applied for.

Mrs. LOWEY. Mr. Chairman, I am asking the gentleman a question.

Mr. COBURN. The question is that the RU-486 was not applied for under that rule initially and is now.

Mrs. LOWEY. Yes, correct; or I am asking the gentleman, let us say if RU-486 did not apply for the application, would those terms expressed in the gentleman's amendment, how would the gentleman expect under his amendment the FDA to rule?

Mr. COBURN. Very easily. RU-486 is used for other things besides that. So, if they did not specify it, then that RU-486 would be approved for whatever it is specified for.

Very straightforward. Any drug that follows the guidelines of the FDA's NDA application process must state its intent. If RU-486 were applied for and it was not stated intent to accomplish what it in fact did, then it would be eligible for consideration under this rule.

The CHAIRMAN. Do other Members wish to be heard on the point of order?

Mr. WELDON of Florida. Mr. Chairman, I rise to speak in opposition to the gentlewoman's point of order, and I would just like to say that the point she is trying to make, I think, runs contrary to the whole tradition of what we do here in the House in these appropriations bills. It is the right and the prerogative of any Member to rise and put limitations or specifications on how money is going to be spent, and this man's amendment, the gentleman from Oklahoma, is very simple and straightforward.

We all know that abortion is a very controversial issue, it is controversial in this body, it is controversial with the American people, and the House of Representatives has repeatedly voted, for example, that no Federal dollars will be used for performing abortions. The so-called Hyde amendment language easily passes the House with overwhelming majorities, and I think the reason for this is obvious. Even though many Members may feel that they are personally pro-choice, they think it is totally appropriate not to be spending Federal dollars for performing abortions, and to ask that the Food and Drug Administration not use its funds for putting abortion drugs on the market I think is a very reasonable proposal.

Mr. Chairman, I would strongly recommend the Chair rule against the gentlewoman's point of order and that the gentleman's amendment be allowed to be debated and voted on according to the proceedings of the House.

□ 1300

The CHAIRMAN. Are there other Members that wish to be heard on the point of order?

Mr. WAXMAN. Mr. Chairman, I am a little confused, and I want some clarification. As I understand what the gentleman from Oklahoma (Mr. COBURN) told us, he expects the FDA to make some kind of interpretation of the primary intent of the drug.

Mr. COBURN. Mr. Chairman, if the gentleman will yield, every application made to the FDA has to have the primary intent of a drug, as the gentleman well knows. My objection to the point of order is we presented this just like every other limitation that has been placed in this Congress on the dispensing of funds, and we have followed that guidelines and made no new requirements on the part of the FDA.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, I am not asking the gentleman's conclusions on the point. I was trying to find out what he would ask FDA to do if a manufacturer came in and said the primary purpose of the drug was to be abortifacient. The gentleman would argue then that his amendment would apply, is that correct?

Mr. COBURN. Yes.

Mr. WAXMAN. If the manufacturer came in and asked for approval of a drug and it did not state that it was for that purpose, then the amendment would not apply?

Mr. COBURN. That is true.

Mr. WAXMAN. Now, my point, Mr. Chairman, is that FDA has to look at these words which are not words within the context of the FDA law. The chemical inducement of abortion is a new phrase. It has no precedent in FDA's statutory authority, it has no legal definition, no statutory reference, no regulatory guidance and no legislative history.

In other words, if this amendment were adopted, the head of the FDA would have to look at the application from a drug manufacturer. If the application said that the drug was being requested for approval for the purpose of a chemical inducement of abortion, then I would say this amendment would apply and there is no question about it.

But if the gentleman, as he stated earlier, would ask the FDA administrator to in some way make some judgment that really that is what they intend, even though they do not say it, then we are doing something beyond a limitation on the use of the funds.

Mr. COBURN. If the gentleman would yield further, the FDA makes a judgment on every drug application made to it.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) may speak on his point of order. When he is finished, the Chair will recognize other Members. There is no yielding back and forth. Is the gentleman finished?

Mr. WAXMAN. I did not realize there is no yielding back and forth.

The CHAIRMAN. There is not. If the gentleman wants to continue, he may.

Mr. WAXMAN. Mr. Chairman, if I may conclude, my point is if the FDA Commissioner has to make a judgment, then this amendment should not be permitted in order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mrs. LOWEY. Mr. Chairman, based on the gentleman's interpretation that unless the application for RU-486 contains the worlds "chemical induced abortion," the prohibition would not apply, I would withdraw my point of order.

The CHAIRMAN. The point of order is withdrawn.

Are there any Members who wish to speak on the amendment offered by the gentleman from Oklahoma (Mr. COBURN)?

Mrs. LINDA SMITH of Washington. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak in favor of this amendment. I think we need to go back to what the role of the Food and Drug Administration is, and that is the role of ensuring public safety and health, and that is by approving medically necessary drugs and devices, as well as ensuring food safety.

The amendment offered by the gentleman from Oklahoma (Mr. COBURN) is consistent with the mission of the FDA and simply bans funding for the testing, development or approval of any drug which causes a chemical abortion.

You see, women's health is really at stake. New evidence has indicated that abortions increase the chances of breast cancer. Presently breast cancer is the leading cause of cancer among middle-aged women. If protecting all members of society is the goal of the FDA, certainly we need to study this link exhaustively before we approve any drug that causes a chemical abortion. Make no mistake, the morning after pill which the FDA approved is not a contraceptive. It is an abortifacient, meaning it causes a chemical abortion.

In my home state of Washington, for example, pharmacists are permitted to dispense the "morning after" pill without a doctor's prescription. A doctor gives the general prescription to the pharmacist, the pharmacist interviews the woman, and then he decides or she decides whether or not the woman is eligible for this abortion. The protection of the doctor is then removed and the ramifications of the woman's health, whether physical or emotional, are not even discussed.

Additionally, our taxpayer dollars should not be used for the FDA to implement the abortion drug RU-486. The long-term effects of this abortive are still unknown. In U.S. clinical trials, four women nearly bled to death and required blood transfusions. Many women bled profusely and required hospitalization, and 68 percent of the women experienced such severe pain that medication was required.

It is unacceptable for the Federal Government through the vehicle of the FDA to promote a drug whose sole purpose is to destroy the life of another human being.

I think the goal of most lawmakers, whether Republican or Democrat, is to find alternatives to abortion. But with the increased accessibility of these abortion pills, unwanted pregnancies become the medical equivalent of a simple headache. Just pop a pill, and your problems all will go away. In our State it is as easy as calling the hot line number which appeared in my State paper, 1-888-NOT-2-LATE.

Mr. Chairman, in an age of increased personal responsibility, this is not a signal to be advertising to American women. It is not a signal to be advertising to American youth.

The job of the FDA is to protect and promote the health of all citizens. That includes the health of unborn children of America. The funds in the agriculture appropriation bill should not be used by the FDA to test, develop or approve any drug which substitutes abortives for self-discipline, causing abortions.

Mr. Chairman, I urge my colleagues to support the amendment offered by the gentleman from Oklahoma (Mr. COBURN).

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the gentleman's amendment. The Coburn amendment would stop the drug approval process in its tracks by placing unprecedented roadblocks in front of the FDA. It puts ideology ahead of science and compromises women's health.

This amendment would block final approval of a drug, RU-486, that the FDA has already declared to be safe and effective. I repeat, this amendment would block final approval of a drug that the FDA has already declared safe and effective when it is issued on approval letter for the drug.

This amendment would make FDA drug approval contingent not on science, but on politics. The FDA is charged with protecting the public's health, and they should not be subject to congressional interference.

Mr. Chairman, let us allow the FDA to do its job free from right wing intimidation. The American people do not want the Christian Coalition in charge of our Nation's drug approval process.

The amendment specifically bars the FDA from approving any drug for the chemical inducement of abortion. But what does that term mean? The FDA does not know. I have a letter here from their chief counsel that says they have no idea what it means. Doctors and scientists do not know what that phrase means either.

So in addition to stopping RU-486, this broad, vague amendment may also prohibit the development of new contraceptive methods, if you believe, as some do, that any form of hormonal contraception, like the pill, is tantamount to abortion.

What about other drugs that as a side effect may induce abortion, like many chemotherapy drugs and anti-ulcer medication? Will research be halted on these lifesaving drugs as well? This amendment may also prevent the FDA from preventing unsafe and unsupervised clinical trials.

So, Mr. Chairman, this amendment is about much more than RU-486; it is about whether the FDA will be free to test, develop and improve important medications without Congressional interference. It is about whether politics or science will govern our Nation's drug approval process. This amendment would tie the FDA's hands, rendering it absolutely helpless in its primary task to evaluate scientific data consistent with its mandate to protect the public health.

Since Roe v. Wade, unfortunately, the anti-choice minority has attempted to stymie contraceptive research and suppress advances in reproductive health. For example, there used to be 13 pharmaceutical companies engaged in contraceptive research. There are now four. Thankfully, despite the right wing's pressure tactics, scientists have made some important progress. Among the most significant is the development of RU-486.

RU-486 would make a dramatic difference in the options available to women facing unwanted pregnancies. It could make abortion, already one of the safest medical procedures performed in the United States, even safer. The drug would eliminate the need for surgery for women choosing to use it. This would present tremendous health benefits for some women.

RU-486 is also effective early in pregnancy. Women in France have been using RU-486 for a decade, and it is also available in Sweden and Great Britain. Over 400,000 women have had abortions using RU-486. The New England Medical Journal recently published clinical trials on RU-486 confirming its acceptability and effectiveness. RU-486 is safe and effective.

Mr. Chairman, RU-486 has another significant advantage over current abortion procedures. RU-486 can be given in the privacy of a physician's office, away from clinics blockaded by protestors, away from violence, harassment and intimidation. This change would give women greater freedom and security. This is a fact that terrifies so many.

What will the radical right do when RU-486 is approved? Will it picket every doctor's office in America? Will it harass every woman in the Nation? Thankfully, it cannot, and that is why it is fighting so hard to block the approval of this drug.

The gentleman from Oklahoma (Mr. COBURN) wants to turn the clock back, back on scientific advances, back all the way to the back-alley in the days of the wire hanger, back to the days when thousands of women died every year from unsafe, illegal abortions.

Well, we have news for the gentleman from Oklahoma (Mr. COBURN). We will not go back.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. LOWEY) has expired.

(By unanimous consent, Mrs. LOWEY was allowed to proceed for 1 additional minute.)

Mrs. LOWEY. Mr. Chairman, I would say to the gentleman from Oklahoma (Mr. COBURN) that I am a mother of three and a grandmother of two, and, frankly, I am sick and tired of debating abortion on this floor in the House of Representatives. Restriction after restriction, ban after ban, amendment after amendment. Enough.

If one really wants to reduce the number of abortions, work with us to increase funds for family planning, work with us to ensure that women have access to prescription contraceptives. I have been working to prevent unwanted pregnancies, to reduce the number of abortions. We need to make abortions less necessary, not more dangerous.

Mr. Chairman, I am very sorry that this amendment is being offered to an otherwise outstanding bill. Congress should not be ordering the FDA to suppress a drug that is safe and effective. This amendment flies in the face of sound science. It puts women's health in jeopardy, it sets a dangerous precedent, and it should be defeated.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Coburn amendment. I encourage all my colleagues on both sides of the aisle to vote in support of the Coburn amendment.

As the gentlewoman from New York alluded to, the issue of abortion is very controversial. The American people are very divided on this issue, and there are many people who feel, as I do, very strongly on the sanctity of human life.

The House of Representatives and the Senate have repeatedly voted to restrict the use of Federal dollars when it comes to this issue. The best example is the Hyde amendment, which prohibits the use of Federal dollars for performing abortions.

☐ 1315

We have a very simple amendment here. We ask the Food and Drug Administration not to get involved in this issue and not to get involved in administering or testing or approving drugs for the chemical inducement of abortion.

As to this issue that is being brought up that some of these drugs are safe and effective, I really want to speak to that point. As a physician, I took the Hippocratic oath. In the Hippocratic oath you do no harm. To say that these drugs are safe and effective, when in effect they are lethal for the unborn child growing in the womb of the woman, is a very deceptive and distorted use of the English language.

I would encourage all of my colleagues to seriously, those who are pro-life, obviously, those who take a pro-life position, but in particular those who may be personally pro-choice but may feel that it is appropriate to not be using Federal dollars for these kinds of purposes, consider that millions of Americans object to Federal dollars being used for these kinds of purposes.

I think it is a perfectly reasonable amendment. I think it is a well-thought-out amendment. I do not think there should be any confusion over there at the FDA as to what this is about, despite the claims by some that these words are somehow mysterious.

As to the claims of why there are so few pharmaceutical companies doing contraceptive research, that has nothing to do with these claims that it has some implication with those who oppose abortion. It is the trial attorneys and all the litigation. That is why there are a limited number of pharmaceutical companies doing research. It is very expensive. Then when you do put a product on the market, if anything goes wrong with those products, you get every lawyer in this country looking to draw up a lawsuit in the case.

I think this is a very good amendment. I would encourage all of my colleagues to vote yes.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. The gentleman from Florida acted as if this were a government subsidy for some abortion procedure. We are not talking about a government subsidy, we are talking about the Food and Drug Administration reviewing an application by a manufacturer who proposes to make a drug for a specific purpose that he wants to go out and sell, which is legal.

Whether Members like abortion or not, it is legal to have abortions in this country. Why should we stop the FDA from being able to consider a drug that might be used for an abortion that would be safer than other abortion procedures? Abortion is not going to stop. It is legal. Why should we now impose our judgment, saying that the FDA cannot even look at the science of what a manufacturer presents to it?

This amendment says we cannot test the substance, we cannot learn how it works, or judge if it has benefits over other procedures. Even if it became an approved drug, we could not manufacture it. This is the kind of an amendment that bars private actions in the free market. What the FDA does is not a subsidy. The FDA scrutinizes the science. They do not make judgments as to what products are brought before them, nor should they.

This amendment is wrong. It is certainly wrong to include it in an appropriation bill, where no one has examined the implication of this language for other FDA activities.

It is going to have a chill on manufacturers who want to deal with anything that may be considered unpopular. Today it may be unpopular to have an abortifacient, but a lot of manufacturers feel it might become unpopular to develop new contraceptive drugs. The FDA may be stopped from reviewing those drugs. This is a very wrong and offensive precedent. I would strongly urge my colleagues to oppose this amendment.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today I rise in support of the Coburn amendment. Last month myself and 14 of my colleagues sent a letter to the editor of the New England Journal of Medicine. We did that because we wanted to take issue with a report that they publicized.

In that report, they described the abortion drug RU-486 as "safe." This report is being cited as a landmark study by the advocates of RU-486 as proof of the safety and the effectiveness of the drug. Nothing could be further from the truth. As a matter of fact, that is a bizarre conclusion, given the facts.

The authors reported that RU-486 ". . . has been reported to be a teratogenic in humans." What does that mean? In plain English, it means the drug causes developmental malformations, or birth defects. Unfortunately, the authors mention this almost as an afterthought.

Given the possibility that this two-drug hit in RU-486 may cause birth defects unless drug-induced abortion occurs, the authors secured a commitment, they secured a commitment from all the participants to submit to a surgical abortion in the event the drugs fail.

The authors apparently sought to preempt the possibility of a participant having second thoughts after the administration of the drug, and their unborn child eventually being born with a skull deformity or some other birth defect.

There were 106 women who were administered the drugs, but they were not included in the final assessment phase of the study. The authors do not know, they do not know, whether any of these women who were administered the drug changed their minds and decided to carry their child to full term. The authors do not know whether a child or a number of children were born with a developmental malformation due to the administration of the drug, even though they stated that such a possibility may exist.

The authors claim that the two-drug regimen is effective in terminating pregnancies. This is a very selective choice of words, because what these drugs do is they are designed to kill human life. We are disappointed with the authors' insensitivity to the drug's full impact. At least 2,121 unborn children died because of the drugs administered during this study. The fact that this two-drug regimen was able to kill innocent human lives is nothing to celebrate.

We recognize the authors' intent in maintaining a narrow focus in their study, but when at least 4,242 people are involved in an experiment involving life or death, it would seem only appropriate that those executing the experiment assess the impact of the drugs on all of the study's participants, both the born and the unborn.

For these reasons, it is entirely inappropriate for the FDA to grant final approval for RU-486. For those reasons, it is also totally appropriate for my colleagues to support the Coburn amendment.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Coburn amendment. Make no mistake about it, this amendment is one more unwarranted intrusion to tell the Food and Drug Administration how to do its job. It is also one more time when Members of Congress step up here and act like they know more than the scientists and the experts, and they are going to tell scientists what their conclusions are before they even get there. And it is one more step in the far right's campaign against a woman's right for reproductive choice.

In 1993, following my election in 1992, I led the effort to bring RU-486 under FDA. I did that so that RU-486 would be tested here in the United States to ensure its safety and its effectiveness. My action and my concern was that women in the United States have access to a safe and effective method regarding unwanted pregnancies. I only wanted them to have access when it was deemed safe by the FDA.

Mr. Chairman, this amendment would set an alarming precedent by allowing the unwarranted interference in the FDA's decision-making process. It would prevent the FDA from testing, developing, or approving any drug such as RU-486 for the chemical inducement of abortion, no matter the wishes of the women in this country.

Let us get the FDA out of politics, let us get Members of Congress out of the rights of women in their reproductive choice, and let us let the FDA determine which drugs are safe, which drugs are effective, and which drugs are good public health.

Mr. Chairman, I yield to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. I thank the gentlewoman for yielding to me, Mr. Chairman.

I would like to make a point to the gentleman. The New England Journal of Medicine and the FDA has declared this safe and effective. Again, a Member of Congress should not be making this determination.

I just wanted to make one additional point. It seems to me many of us reluctantly have been debating on this floor over and over again for the past few years about late-term abortions, and how dangerous and how inappropriate late-term abortions are.

RU–486 is effective and can be a choice of women early on in pregnancy. Again, it is the choice of a woman. It is up to the FDA to determine if it is safe. The FDA has said that it is safe and effective, as has the New England Journal of Medicine.

Mr. PITTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment will bring us back to the original purpose of the Food and Drug Administration. I rise to support the Coburn amendment.

As originally intended, the FDA should make their priority ensuring the safety of food and developing medically necessary drugs. We simply must provide America with a system where life-saving drugs are made available to patients in a timely and effective manner.

Mr. Chairman, when was the FDA given the task of making abortion on demand easier and more accessible? How does this action correspond with the assertion of the liberals that abortion should be a rare occurrence? Does not the FDA's current role in expediting the approval of abortifacients, which destroy lives, stand in direct contradiction to its responsibility to save them?

Mr. Chairman, abortion pills make unwanted pregnancy the medical equivalent of a headache: pop a pill and it will go away. But there are serious consequences for women. New scientific evidence has indicated that abortion may increase the risk of breast cancer. This link should be carefully examined before any new forms of abortion are approved. But we cannot ensure the safety of women if the FDA is speeding abortion pills through the approval process.

For the sake of women, we need to adopt the Coburn amendment. Just consider these facts. Ten out of the 11 studies on American women report an increased risk of breast cancer after having an induced abortion. A metaanalysis in which all worldwide data were combined, published by Dr. Joel Brind and fellow researchers, reported that an induced abortion elevates a woman's risk of developing breast cancer by 30 percent. Currently, breast cancer is the leading form of cancer among middle-aged American women.

Mr. Chairman, it is time to send a message to the FDA: Return to the business of saving lives. If they truly care about the health of our Nation's women, Members will vote for the Coburn amendment and fight to keep women alive and well.

Ms. NORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak against the amendment. We are constrained to come to the floor once again to send out an alert to American women that once again, one of the perennial attempts to get around Roe versus Wade and to stop abortions when they are most safe is at hand.

The Coburn amendment has grave constitutional implications. Roe versus Wade says we may not regulate abortion in the first trimester. There is a reason for that, because that is when it is safest. If anything, we want to encourage whatever abortions are to be done to be done then or not at all. RU–486 is only for early abortions, and it perhaps may be used for emergency contraception up to 72 hours after intercourse; again, at the very earliest period when abortions are performed.

□ 1330

Moreover, this method may be the only method or the safest method that some women should use. And that clearly comes under Roe vs. Wade's concern with the health of the mother. Surgical abortion obviously poses more risk, the most risk, at least as far as we know. And at least given the kind of approval that RU–486 has thus far received, we do know this, that for most of us a nonsurgical procedure is in fact preferable.

We want to say to women who need abortions, while the rest of us for other procedures will use nonsurgical procedures, we want them to repair to surgical procedures, to invasive procedures only. For abortion we make a distinction between women and men that we do not otherwise make.

Mr. Chairman, if nonsurgical abortion is available, if it is the safest method, it must be allowed. Most of us would choose nonsurgical methods if they were available. Indeed, managed care requirements today in health care often require us to use nonsurgical methods because they are the least costly.

Why would we want to deny safe, nonsurgical approaches here? Why would the government want to turn toward the most invasive form of abortion? Why should the government not step back and say whatever method women use is something that the government is in no position to prescribe in the particular case?

Why is it not an absolute insult to women to deny them the right to choose the safest method, if any method at all must be chosen? Why is it not a risk to the health of women for whom more invasive methods would simply not be prescribed? Should we not welcome the fact that there is a choice for those women?

And why would this body want to engage in the know-nothing, nonscientific practice of, for the first time in this Chamber, saying what the FDA should approve and what it should not approve? That takes us back to the kind of ignorance I would hope this body had escaped long ago.

If this drug is safe, by denying the right to go through the approved channels we are welcoming back-channel, black market approaches to getting this drug. Surgical and invasive procedures are not preferable. Once again, we are invading the territory of a physician and his patient. Whenever we do that, we lose our way.

Let us stand back, even if we regard this as not the right way to go, and leave it to those who are in the best position to make this most personal of decisions, and that is the physician and the woman who has to decide what is safest for her.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me make it very clear, and I think we all more and more of us realize this, abortion is violence against children. Abortion is violence against children. It is not some benign act that benefits or nurtures. It kills babies.

Now that can be done by the hideous method that we have described called partial-birth abortion where the brains are literally sucked out of the body of a child. Or it can be done by dismemberment, by hooking up a powerful loop-shaped knife, a curette, to a suction machine 20 to 30 times more powerful than the average vacuum cleaner. Or it could be done by a myriad of chemical potions, salt solution that burns the baby to death.

The other side on this issue will defend that as choice. That is violence against children. Saline abortion is violence against children. RU–486, Mr. Chairman, is just the newest form of baby pesticide. A chemical that has no intention of nurturing, providing any benefit to the baby, just kill the baby. Make the child a deceased member of the human race.

Mr. Chairman, the FDA should be all about testing and helping to bring to market those drugs that save and nurture and heal. RU–486 does not heal, unless Members think that a baby is a disease or a wart or some other disposable appendage that has to be done away with.

The "choice" rhetoric is cheap. It denigrates human life. Unborn children are no different than my colleagues or I, except by reason of their immaturity and their developmental status in life. That is all. Nothing is added from the moment of fertilization until natural death.

When will we wake up and see that birth is an event that happens to each and every one of us. It is not the beginning of life. And an unborn child deserves at least the minimum respect of not having new drugs, new devices developed that kill them.

It is a new mouse trap. How can we better kill those kids? These are boys and girls that are being killed. Chemical abortions, RU-486, as we all know, usually has its operative effect at around the seventh week. Other chemical potions have it at other times during the pregnancy. But all of them do the same thing. They kill the baby.

Mr. Chairman, I ask my colleagues, support this very important amendment offered by the gentleman from Oklahoma (Mr. COBURN). I urge everyone to support it.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I would like to address a couple of points that have been made. When discussing 486, the words "safe" and "effective" have been used. I want us to think about what those words mean.

Safe and effective for whom? They are not safe for women. They cause tremendous pain, tremendous discomfort, tremendous risk for blood transfusion, tremendous risk for instrumentation, and tremendous risk to the remaining fetuses and children who will be born outside of that complication.

The other thing that was said, and words tell us a whole lot, what was said is if we cannot use this medical form of abortion, it is a limitation on contraception. That was made in an earlier statement, which tells us exactly what people mean.

Abortion is a method of contraception in this country. The taking of innocent human life is used as a method of contraception. I would make two points. The Supreme Court said they did not know when life began. But we know when life ends in this country, when there is not a heartbeat and there is not a brain wave.

Well, there is a brain wave at 41 days post-conception, and there is a heartbeat at 26 days post-conception, before most women know they are pregnant. There is no question, life is present when RU-486 will be applied. Should the government be in the business be of killing unborn babies? I think not.

Ms. DELAURO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand before my colleagues as a cancer survivor to strongly oppose this amendment. This amendment would not just block access and research to reproductive health drugs, although that in itself is enough reason to vote against it.

In an attempt to promote an anti-choice agenda, proponents of this amendment are risking the lives of millions of Americans, because this amendment would block the development of drugs that cure cancer and other kinds of medical treatment because some of those drugs can cause miscarriage, also known as spontaneous abortion.

Mr. Chairman, I am an ovarian cancer survivor. Millions of Americans suffer from cancer every year. Anyone who has undergone chemotherapy sessions in a desperate attempt to kill the cancer cells before they kill them knows the warnings given by the doctor. If a woman is pregnant, chemotherapy could endanger the pregnancy and induce miscarriage. I was fortunate that those circumstances did not apply to me. But if we pass this amendment, the development of new lifesaving drugs would be blocked.

If cancer patients wait while researchers draw closer and closer to a cure for cancer, this amendment would close the door in their faces. No more hope. No chance of developing a drug that could save their lives.

When I received my cancer diagnosis, it felt as if the world had stopped. The mind just cannot comprehend what is happening. And once it does sink in, all one thinks about is how am I going to beat this? What can I do to get my life back?

Let us make sure that patients who are faced with this difficult moment have access to the best science that is available; not science that is compromised by politics.

This amendment is a slap in the face to the women of America. It is a slap in the face to anyone who has survived a cancer diagnosis. It is a slap in the face to anyone who is fighting now to beat this deadly disease.

Mr. Chairman, I urge everyone in this House who cares about improving the health of Americans and the life of Americans to vote against this very dangerous amendment.

Mr. HOSTETTLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. HOSTETTLER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, first of all let me say to the gentlewoman from Connecticut (Ms. DELAURO), I am very thankful that she is a cancer survivor. This amendment in no way whatsoever will limit any drug research.

The other reason why I know that that is the case is because I too am a cancer survivor. I am 23 years out. I would never put forth an amendment on the floor of this House that would limit that. What this amendment does is have the FDA work on drugs that save life rather than take life.

Mr. HOSTETTLER. Mr. Chairman, reclaiming my time, I rise in strong support of this amendment from the gentleman from Oklahoma (Mr. COBURN). The Supreme Court has told us that we have to allow the killing of unborn children on demand. It has not, however, told us that government has an obligation to facilitate this service.

This amendment would help ensure that American taxpayers do not end up funding the approval of drugs that are designed to kill our unborn children. FDA's mission as it was created by this Congress should be to approve drugs that save lives, not end lives.

With all the illnesses we have to deal with, cancer, AIDS, heart disease, diabetes, the examples go on and on, why would we want to spend our hard-earned dollars on drugs designed to exterminate our most valued resource, our children?

There is a core principle at issue today: Whether the government is obligated to provide the people's money to research and test new and innovative ways to kill our children for a right pulled out of thin air by a majority of the Supreme Court.

□ 1345

Congress has the responsibility under our Constitution to ensure that the money we collect from hardworking and productive Americans is spent wisely.

Mr. Chairman, let us ensure the FDA uses America's resources to help us and not kill us.

I would simply add, Mr. Chairman, that today I have heard a lot of discussion with regard to the elevation of the science of the efficient extermination of human life almost to the extent of a virtue. I think we must be very careful in our rhetoric when we talk about that efficient extermination of human life, that we do not go to a very troubling time in our world's history, a time when Nazi Germany carried on the efficient extermination of human life. Where do we go from here with that argument? Do we go to the efficient extermination of life that cannot sustain itself, to the aged and to the infirm?

Mr. Chairman, in order that we do not start down that slippery slope or that we do not go further down that slippery slope, I urge a yes vote on this amendment.

Mrs. LOWEY. Mr. Chairman, will the gentleman yield?

Mr. HOSTETTLER. I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, I would like to respond to the gentleman that as a Jewish woman and one who knows many survivors of the Holocaust, I personally resent the comparison of this amendment to the Holocaust and the evils of the extermination that took place during that tragic time that we have to learn from and not make comparisons that perhaps are very inappropriate.

Mr. HOSTETTLER. Mr. Chairman, I go back to the words of Jeremiah the prophet, who said that he knew me in my mother's womb, and simply say that there are those of us that do believe that life does begin at conception and that we are indeed involved in the extermination of human life in this very day.

Mr. FAZIO of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sure that many who may be viewing these proceedings would be surprised to discover we are debating the agriculture appropriations bill. It has always been one of those bills that passes here with great support on a bipartisan basis. I regret very much that it today has been taken over by those who are, for want of a better term, pursuing what we call a wedge issue.

I would not be surprised that despite all the work that has been done by the gentleman from New Mexico (Mr. SKEEN) and the gentlewoman from Ohio (Ms. KAPTUR) to bring a very popular and broadly supported bill to the floor, it could well be vetoed if this language were adopted by the House today and remain in the bill through conference.

If it were somehow to become law, I believe it would be ultimately considered unconstitutional because it clearly flies in the face of the current Supreme Court view of a woman's right to choose in this country, and clearly Roe v. Wade remains the law of the land.

But I am most troubled by the fact that for the first time since the Food, Drug and Cosmetic Act was placed on the books, since 1962, in fact, we are attempting to legislate what we have until now wisely left up to a regulatory authority to decide, and that is whether a safe and effective drug should be brought to market.

Now, the gentleman from Oklahoma (Mr. COBURN) and others have said that this is an unsafe and ineffective drug. That is to be determined by the FDA. That is their charge. We would be, I think, in terrible error if we got in front of that decision and attempted to legislate it. It would be unprecedented and I think totally inappropriate.

It is a fact, however, that in France and Great Britain and Sweden, extensive clinical trials have demonstrated that it is safe and effective. But this FDA, known to the rest of the world as perhaps the bottom line gold standard for drug review systems, is being more cautious, and they should be. That is correct. It is right that they slow down this process of bringing RU–486 to the public because, in fact, they want to determine a number of things about it before it is made available to the general public.

The irony is, of course, as the gentleman from Oklahoma (Mr. COBURN) indicated in his colloquy with the gentleman from California (Mr. WAXMAN) and the gentlewoman from New York (Mrs. LOWEY) earlier on the point of order, it would be possible to bring RU–486 to the market for some other purpose. And I think it is important to point out that there are at least publicly reported uses for RU–486 that are unrelated to termination of pregnancy.

So under the interpretation we heard today and the one in which we are currently debating, we could have it on the market for other purposes and the public, should they be interested in taking it for termination of pregnancy, could well be exposed to an unsafe and ineffective product because the FDA, under this amendment, has not been allowed to make that determination to their satisfaction.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I would just say that we would not want any drug, no matter what its ill-use might be, if it has a positive use to ever be denied by the FDA. We know lots of drugs today that are approved by the FDA that have tremendously, terrible side effects. Thalidomide has a terrible side effect profile, but yet it has some tremendous positive benefits.

Mr. FAZIO of California. Reclaiming my time, the point I was making is that there are purposes for which RU–486 might be approved under the gentleman's interpretation that would make the public vulnerable, when it uses them to terminate a pregnancy, to the potential for the very unsafe and ineffective purposes that the gentleman ascribes to them. So I think the gentleman is being somewhat duplicitous when he indicates that he wants drugs to be made available for other purposes when in fact he may be knowingly exposing the public to problems.

I would underscore "may" because I think it is very likely that the FDA would determine otherwise and bring this to the market for a variety of purposes.

The public should have their regulatory agency, the one we all look to as the benchmark for drugs around the world, in a position to make this without a political decision made by this Congress. I would say to my colleagues that if this amendment is adopted we have opened unfortunately a new avenue to be involved in an area that we should best leave to science, to research.

We, as politicians with a variety of causes and beliefs, should not be getting in the way of what this agency has done very effectively since its founding and that is to bring scientific research to bear so that drugs can be taken when appropriate for the most safe and effective purposes.

There is no question, in my view, that for us to break the bounds that we have imposed on ourselves since 1962, to politicize this agency is to take a slippery slope we do not want to go down, even under the wedge issue arguments that we are hearing today about abortion.

I would hope that my colleagues, even those who consider themselves to be "pro-life" or "antiabortion," will think twice about using still one more mechanism to inject this abortion debate into the deliberations of this Congress. Vote no on the Coburn amendment.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong opposition to this amendment. It is sobering that Saint Thomas Aquinas defined life as beginning at conception. I mention that only to remind us that this difficult issue of when life begins is an issue on which great religious leaders of the world have differed, and so it is an issue on which a Nation that believes in freedom, that enshrines freedom of religion in our Constitution, must have the courage to allow our own people individually to decide.

I am a Republican in part because I take so seriously the issue of personal responsibility. I believe each of us has the responsibility to make wise choices, to support themselves, to contribute to their fellow citizens and their communities. And I believe family planning represents personal responsibility that is indeed one's obligation as a mature, free adult, to plan the number of children they have, the spacing between them. And so I believe contraceptives in general are very important to freedom in our Nation and to the health of women and the strength of families.

The issue before us today is whether we in a free Nation will have the knowledge to use our freedom wisely and to take personal responsibility for our lives. We cannot pass this amendment and not do damage to the concept of freedom and the belief in the power of knowledge as the essential foundation for a free society.

Many drugs, including chemotherapy and anti-ulcer medications, have the side effect of inducing abortion. Under this amendment, you could not do research on something, even if that was not its primary goal, because it might have the side effect of inducing abortion.

I would remind this body that we spent months talking about fetal tissue research because people did not want to use fetal tissue for critical research that could cure critical and terribly important diseases in America, and the goal was not to ultimately use fetal tissue, the goal was to learn enough about it from the research to be able to create the artificial substances or the substitute substances that would allow us to create, to produce the drugs en masse that we learned were necessary from fetal tissue research. And the issue here is to learn enough from some of the rather crude, in the sense of their mechanism, drugs like that that is the subject of this amendment so that we can in time develop something that you take right away that does not interfere with, that is not an abortifacient in your definition because it has its effect before there is even fertilization.

But we cannot get to that point if we do not allow science to move forward and we do not get better experience. Why should I, as an American woman, be told or my daughters be told that they must take contraceptive pills months and months and months, years of their life, when I believe, if we allow the research to go forward, we can provide something that will give them a much more direct control over whether or not conception takes place at implantation and the development of a fetus.

I do want to conclude my comments by saying that wherever you block the path of science, you block the development of knowledge and you compromise the opportunity that only a free society can give you. In freedom, we depend on knowledge to empower us to make the right decisions.

I trust the women of America and the men to whom they are married to make good decisions about whether or not to use one type of contraception over another. I do not believe that it is the government's responsibility to tell our citizens how or what mechanism they should use. We do not want HMOs to do that, and I do not want the government to do that.

So I would urge defeat of this amendment because I think it cuts off essential research.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. COBURN. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I would just again reemphasize, nothing in this amendment limits any drug whose primary purpose is not an abortifacient. There is no limitation on any research of any other drug if its primary purpose is not that of an abortifacient.

I thank the gentlewoman for yielding to me.

Mrs. MALONEY of New York. Mr. Chairman, I yield to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, that may be the gentleman's impression now or what his intent is, but we all know how these things work in government. Frankly, it will have such a dampening effect on research that it will affect research on things that have a dual purpose or that could be perceived as having a dual purpose. That is my concern about it.

Mrs. MALONEY of New York. Reclaiming my time, Mr. Chairman, I rise in opposition to the Coburn amendment, which will prohibit the FDA from testing, developing or approving any drug that has the chemical inducement of abortion connected to it.

Last time I looked, the Supreme Court ruled that abortion was legal. However, this Congress continues to attack a woman's right to choose. This is the 85th vote against reproductive rights since the beginning of the 104th Congress or maybe I should say since the beginning of the antiwoman Congress.

□ 1400

What might surprise some people is the fact that this vote is about much more than reproductive rights. As my colleague on the other side of the aisle, the gentlewoman from Connecticut (Mrs. JOHNSON) was pointing out. It is about biomedical research.

One of the drugs targeted by this amendment is used to treat a number of conditions, among them, uterine fibroids, certain breast cancers, and endometriosis. To my gentleman friends on the other side of the aisle, it is even used to treat conditions affecting men, like glaucoma, arthritis, AIDS, lupus, and some types of burns.

Blocking research and development of safe and effective drugs in the name of abortion politics is just plain wrong. My opponents called their position on reproductive rights pro-life and their position on this bill pro-life, but this amendment and their position is anything but. I urge a "no" vote on this amendment. Science should not be compromised by politics. It would be a dampening effect on research. I urge all of my colleagues to vote "no."

Mr. ADERHOLT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the amendment offered by the gentleman from Oklahoma (Mr. COBURN), an amendment that could literally save the lives of countless children throughout the United States.

Abortion creates several risks for women, it is well-known. Also, abortion drugs are often dispensed without a doctor's approval. Because of the numerous possible side effects associated with abortions, these drugs should not be administered without consultation and medical follow-up with the doctor.

The Food and Drug Administration has an ethical duty not to approve a drug that will be harmful to mothers taking the drug. The research on RU-486 is insufficient in regards to long-term effects, the linkage with breast cancer and medical complications.

I commend my colleague, the gentleman from Oklahoma, for taking steps to save children and to save their mothers from these life-endangering drugs. I would encourage my colleagues to support this amendment.

Mr. MCDERMOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a pretty amazing debate. I was sitting over in my office listening to it, and I could not help but think that this is yet another assault on women.

I am a physician also. In 1963, before there was abortion reform, before the Rowe v. Wade was decided in the Supreme Court, I was an intern in a hospital in New York State and stood next to the bed while two women died from back-alley abortions.

We have come a long way since 1963. One of those women left six children orphaned, and the other one left eight. We said as a society, our Supreme Court said, women have a right to choose.

Yet, this Congress, I understand, the Republican Party has a problem with women voters in this country. It is very clear. They assault them over and over again. As the last speaker, the gentlewoman from New York (Mrs. MALONEY) talked about, 85 times in this session this issue has come up.

It comes up on everything. It comes up on IMF funding. We will not fund the International Monetary Fund if somebody, somewhere, somehow is doing anything related to women's rights to choose. Military women cannot use their own money to take care of this problem in a military facility when they are assigned by this government to serve overseas.

We say, if you want an abortion, I do not care what the Supreme Court says, we the Congress say you cannot have one in a military hospital, even if you pay with your own money. That is the kind of assault we have.

Here today we have a new twist on it. I think the slippery slope of where we are going is really one to consider, because when we start standing out here and saying what is good science and what is bad science, and we choose this drug over that drug, what will be next in that list?

Here we have the Food and Drug Administration says that this drug is safe. They have done the tests. They are waiting for a pharmaceutical manufacturer to step up and say we want to produce it in this country. That is the only thing that stands between this particular pharmaceutical being on the counter and not.

What this bill does is put a threat out to the pharmaceutical industry, do not step up to produce this pharmaceutical, because if you do, you are going to get the wrath of a certain segment of this society.

My view is that when we start to threaten people and do not want to listen to the science, we are going down a long slippery slope. I feel like I am in Tennessee in the middle of the Scopes trial where it is religion versus science.

We have the FDA. We asked them to look at this, and they looked at it; and we say, well, we do not like the conclusion you came up with, so we will use a little technical way of preventing it ever being put on the counter.

I heard the gentlewoman from Washington come out here and mix this whole thing up more with the drug overall, which is in the State of Washington in the State legislature. They evaluated this, and it is not pro-life. They looked at the issue and said "We will give the pharmacy board the right to deal with that issue," and they do it.

Anybody who wants, they can go to a pharmacy. If they follow a protocol and they fit the protocol under the supervision of a doctor, they can get the drug. They do not just hand it out to anybody that comes into the drug store. I went and called the pharmacy board in the State of Washington to find out what goes on.

The fact is that what we are saying here is that we want women to use whatever antiquated way we have, not to have the best that science can produce.

One of the fascinating things about the last 3½ years around here, the bigger part of the assault on women is that we put on welfare reform. We said we are going to throw people off welfare. What that has done, in at least three States there has been an increase in abortions. The very people who say they do not want abortion buy the mechanism of driving people off welfare and giving women no way to feed their kids; we are then leading to more abortions.

They do not want to do it with a pill. They want to put them through surgery. I can understand why an obstetrician might want to do that if he was in the business of doing this. But I do not hear obstetricians who are in support of a woman's right to choose coming to this House and saying "Do not give them a pill because I want to make money doing abortions." What I hear is that the pharmaceutical that is there will do it just as effectively.

Mr. DICKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Chairman, the first point I would make is there are two obstetricians in this House, and neither of us would terminate a baby and take that life unless it depended on the life of the mother. There is no question. We know a lot about life. We get to see it. We get to see a lot of death. So to answer the gentleman, there are two obstetricians in this House, and we would not take the life of the baby any time unless there is a cause in the life of the mother at risk.

Number two, let us not confuse what this issue is about. This is about whether the Federal Government is going to spend money to figure out how to kill babies. That is what it is. It is not anything else. Should we be in the business of spending Federal tax dollars to facilitate the death of children? It is not any other than that. We can say it is, we can skirt around all the other issues, but this is about whether or not we are going to have an institution of this government which is charged with protecting life spend its resources to take life.

Mr. DICKEY. Mr. Chairman, I would like to say I am on this subcommittee of the Committee on Appropriations, and this issue did not come up for discussion.

We have in our laws the provision that no Federal funding will be made available for abortions, time and time again, both domestically and in foreign relations and in our appropriations for foreign countries. This is because people differ on this issue, but we mainly prohibit any Federal funding.

In this case we would have Federal funding because of an agency's decision and not because of a vote of this body. I am against that. I think abortion is wrong. That is my opinion. I think abortion is wrong. I do not think for sure that we ought to have Federal funding.

This is a way that we can avoid having this attempt for Federal funding for abortion when it is against the women of the people of America.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to point out, first of all, while I am very much in favor of this amendment, I would like to say to the physicians who choose not to do abortions, that is their choice. But when I was a young woman, prior to Rowe v. Wade, I did not get that choice. I was not allowed to make that choice. Neither was my physician husband allowed to make the choice of whether he would provide safe and legal abortions.

I do not think we should talk so broadly about choice. It is a woman's choice and her family's choice and her physician's choice we are talking about.

This has been, in my view, the most antichoice Congress that I have ever had the sadness to witness. It is also the most antiscience amendment that I have ever witnessed. But over and above that, it is an antiwoman amendment.

Why should American women not have the right to access to the same level of science as European women or British women? Why is this Congress, a few people who have certain ideas, why are they preventing American women access to good science?

I am asking the people of this body to understand that it is time for us to step forward, to vote "no" on antichoice legislation, to vote "no" on antiscience legislation, and above all, to vote "no" on antiwoman legislation.

We are 55 percent of the population of this country. We have a right to make those choices. We do not have to give up that right that the Supreme Court has stood for, that we have fought for. We are not going back to back-room abortions. We will not do that. The women of this country will not. If there is access to good science, let American women have that access. So I ask my colleagues to vote "no." Vote for women.

Mr. PAPPAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I urge my colleagues to vote for the amendment of the gentleman from Oklahoma (Mr. COBURN). As he spoke very eloquently just a few moments ago, this is not about a choice for an unborn baby.

The Federal Government or those within this administration, whether it is the FDA, they have their marching orders, no matter what their personal view is, from the administration to facilitate abortion on demand under any circumstance. That is not what the American people support. I certainly do not support that.

The gentleman from Oklahoma (Mr. COBURN) spoke a few minutes ago about how he, as a physician, would only in the case of the endangerment of the life of the mother take an unborn baby's life. If we recall what so many people throughout the history of this country have said, that we here in this body, I believe, are here to protect the vulnerable; and certainly the unborn baby in the mother's womb is among the most vulnerable that could ever exist.

I enthusiastically support the amendment of the gentleman from Oklahoma (Mr. COBURN) and certainly urge my colleagues to do the same.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong opposition to the Coburn amendment. Women in America have a right to choose. I believe it is the goal of all of us in this body to reduce the number of abortions and to make abortions safe, legal, and rare. It is on the subject of safe that I would like to address my remarks.

This amendment offered by the gentleman from Oklahoma (Mr. COBURN) would prohibit the expenditure by the Food and Drug Administration of funds for testing, development or approval, including approval of production, manufacturing or distribution, of any drug for the chemical inducement of abortion.

The RU-486, the chemical, the product in question, is a nonsurgical abortion, and it is one that is also medically safe.

□ 1415

Such a ban, as the gentleman from Oklahoma is proposing, would unconstitutionally restrict the right to choose. For some women for whom surgical abortion poses risks or is otherwise inappropriate, the Coburn amendment would unconstitutionally again restrict the right to choose. For others who live far from clinics, it would preclude the possibility of receiving RU-486 in their physician's office, thus burdening again the right to choose.

This option is an effective and nonsurgical method of early abortion that has been in use since 1981. The drug was approved for use in France, Great Britain and Sweden following extensive clinical trials that determined its effectiveness and its safety.

In September 1996, the FDA issued an approval letter for early abortion, but the agency is waiting for more information about its manufacturing and labeling before giving Mifepristone final approval and allow it to be prescribed to American women outside of clinical trials.

I know this is a very difficult issue for our colleagues to deal with. We have deep commitments in our point of view as to whether a woman has a right to choose, and I certainly respect my colleagues' views on the question of abortion. But the fact is that women do have a right to choose that option, in consultation with their family, their doctors, their God, and we should not make that decision a more dangerous one for them.

Again, in the interest of making abortions in our country rare, legal but safe when necessary, I urge my colleagues to vote against the Coburn amendment. It always interests me to see over and over again in this body how many times we vote against scientific research. By going forward with this, we can learn a lot about making these processes even safer for women. As Members of Congress who represent the people of our country, we have a responsibility to do that. For that reason, I urge my colleagues once again to vote "no" on the Coburn amendment.

Mr. COBURN. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Oklahoma.

Mr. COBURN. I would just say, to do research to take life, to do research to take life somehow does not smell right in this body; to spend our dollars. I agree, nobody wins in abortion.

Ms. PELOSI. Reclaiming my time, I appreciate the gentleman's point. As a Catholic and a mother of five children myself and one who comes from a family that is not always sympathetic to my point of view on this subject, I understand and respect the gentleman's beliefs. But I will say as a Catholic that I have done some of my own research on this and the gentleman's statement implies that he knows when life begins. I think that is really a mystery to all of us. St. Augustine himself when he was asked would a fetus before 3 months, would that entity go to the judgment day and be resurrected into heaven as a person, he said, "No, because before 3 months, it isn't a person." They made him a saint. He is a saint of the church. He has a different view from some of my colleagues on when life begins. We do not know. It is a mystery. So I do not know how my colleagues on the other side of the aisle can determine that this is taking a life. I do not view it that way, and I urge my colleagues to vote "no."

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wanted to say with all due respect to the gentleman from Oklahoma who is offering this amendment, I respect his sincerity and the ferver with which he approaches this. As someone who does not support Federal funding of abortion myself, I have studied his proposal carefully. I am opposing him for three reasons, and I ask my colleagues to give me forbearance on this.

The first is, as ranking member of this particular committee, number one, this issue never came before us. We have not had one hearing, certainly not at the subcommittee level. The FDA never referenced it in its testimony. Then when we went to the full committee, this was never considered. There have been absolutely no hearings on this matter, which is a very serious scientific and medical as well as moral issue, and I think it is inappropriate to try to attach it to this agriculture bill. We have never been faced with this on this subcommittee before.

Secondly, I really do not think that at this point in the deliberations in this Committee of the Whole that we are going to make the proper, objective scientific judgment. Congress has never, and I underline, never previously legislated the approval or disapproval of any particular drug over which the FDA has responsibility for review. These decisions on the appropriateness of medical devices and medications are based in the agency solely on the scientific evidence available. None of that has been presented to any single Member here, with perhaps the exception of the author of the amendment. I do not know. But we certainly have not had the benefit of that.

Thirdly, let me say that though the laws of our country say that abortion under certain circumstances is legal, certainly when the life of the mother is at stake, if this particular pill or medication or drug would somehow alleviate pain and suffering, there is no reason that we should in those circumstances disallow the FDA, with as little testimony as we have had on this and as little experience as we have had as a subcommittee and a full committee to deal with this, which actually should be in the authorizing committee, there is no reason that we should for any single life in this country deny that family the ability to have access to that medication if they would need it. But I really do not think that that should be the debate here today.

Based on the lack of hearings in our own committee, and with respect for the chairman of our committee with a desire to try to have decent scientific evidence, full hearings on the matter, and finally not to deny any family that might find this necessary as a way to alleviate pain and suffering of the mother, I think voting for the amendment would be ill-advised at this time.

Mrs. LOWEY. Mr. Chairman, if the gentlewoman will yield, the ranking member of this committee was so eloquent and she has done such a fine job on this bill.

Mr. GALLEGLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Oklahoma.

Mr. COBURN. I thank the gentleman from California for yielding.

Mr. Chairman, I would like to make three points. Number one, we can deny medical scientific fact. We have heard that argument a lot.

Scientific fact: Life is present at least at 26 days. We will recognize that in this country as a consequence of the logical recognition of when death is. Death is the absence of brain waves, death is the absence of a heartbeat, in all 50 States, also associated with the Federal code. We know at least life is present at 26 days. We are talking about using medicines to take life. We can deny it. But scientific fact has already proven that the heart is beating in a fetus at 26 days. Scientific fact, it has already been proven that the brain waves are functioning in a fetus at 41 days. Most women in this country have barely recognized conception by the time those two scientific facts have been made available.

Number two. This was offered to the committee. The committee chose not to put it in its mark. So it is not that we did not approach the committee, we did in good faith, attempting to put this in the committee's mark.

The gentlewoman makes a good point that there were not hearings on it. There do not need to be hearings on this issue in this country. We do not need to have a hearing, because the hearing is going to go back to the same issue, is it right to take an unborn life or not. Is it right? I mean, that is what it will all filter down to. My opinion, and that of a large number of this country and the majority of this body, is it is not right to take an unborn life. Scientific evidence now shows, without a doubt, that life is present at least at 41 days.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I just want to say for purposes of the record, this Member believes that life begins at conception. St. Augustine may not agree with me. The author of the amendment may not agree with me. We each make those decisions on our own. However, I would say to the gentleman that as far as the procedures we follow on committee, no one came to our staff, I as ranking member, and our legislative people, regarding this particular amendment. It is extremely complicated. Had I known, we would have asked for special hearings on this amendment. But I would say with all due respect to the gentleman, we were never afforded the opportunity to consider this. We did not know this was going to come up until just yesterday.

Mr. GALLEGLY. Reclaiming my time, Mr. Chairman, I would yield again to the gentleman from Oklahoma.

Mr. COBURN. To the gentlewoman from Ohio, I appreciate and I am sorry that she was not made aware of that. This was given to the committee, majority committee staff.

Finally, I too believe that life begins at conception. But I know what the Supreme Court said, is they do not know when life begins. But we know life is present at 26 days. We know it. There is no doubt about it. Science has proven that by our very definition of death in this country. We say that you are dead when you do not have brain waves and you do not have a heartbeat. If you are dead, then if you have those two things, you have got to be alive. Otherwise, the definition of death is out the window in this country.

Ms. JACKSON-LEE of Texas. Mr. Chairman, thank you for the opportunity to speak on this important issue. As an advocate for women's choice, I must strongly oppose this amendment. Mr. COBURN's amendment will prohibit the FDA from testing, developing, or approving any drug that induces an abortion. However, Mr. Chairman, this debate is not about Mifepristone or abortion. It is about the FDA's ability to test, research, and approve any drug based on sound scientific evidence. Reproductive health drugs should be subject to the FDA's strict science based requirements that any drug must meet before approval can be granted. These drugs should not be singled out simply because they are reproductive health drugs. Mifepristone, a drug which has been available to women in Europe for 20 years was found safe and effective for early medical abortion by the FDA in 1986. The search, however for an appropriate American manufacturer and distributor is being stymied by anti choice extremists whose opposition to abortion has led to a climate of intimidation and harassment. This amendment would not only prohibit development and testing of drugs to be used to provide women another safe and private reproductive choice, it also would target new contraceptive development. Mr. Chairman, I strongly oppose this amendment and I urge my colleagues to do the same.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. COBURN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. COBURN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 482, further proceedings on the amendment offered by the gentleman from Oklahoma (Mr. COBURN) will be postponed.

The point of no quorum is considered withdrawn.

Mr. SKEEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TIAHRT) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 2676, INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

Mr. ARCHER submitted the following conference report and statement on the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes:

CONFERENCE REPORT (H. REPT. 105-599)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; WAIVER OF ESTIMATED TAX PENALTIES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Internal Revenue Service Restructuring and Reform Act of 1998".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an installment required to be paid on or before the 30th day after the date of the enactment of this Act to the extent such underpayment was created or increased by any provision of this Act.

(d) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; waiver of estimated tax penalties; table of contents.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

Sec. 1001. Reorganization of the internal revenue service.
Sec. 1002. IRS mission to focus on taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

Sec. 1101. Internal Revenue Service Oversight Board.
Sec. 1102. Commissioner of Internal Revenue; other officials.
Sec. 1103. Treasury Inspector General for Tax Administration.
Sec. 1104.. Other personnel.
Sec. 1105. Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle C—Personnel Flexibilities

Sec. 1201. Improvements in personnel flexibilities.
Sec. 1202. Voluntary separation incentive payments.
Sec. 1203. Termination of employment for misconduct.
Sec. 1204. Basis for evaluation of Internal Revenue Service employees.
Sec. 1205. Employee training program.

TITLE II—ELECTRONIC FILING

Sec. 2001. Electronic filing of tax and information returns.
Sec. 2002. Due date for certain information returns.
Sec. 2003. Paperless electronic filing.
Sec. 2004. Return-free tax system.
Sec. 2005. Access to account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

Sec. 3000. Short title.

Subtitle A—Burden of Proof

Sec. 3001. Burden of proof.

Subtitle B—Proceedings by Taxpayers

Sec. 3101. Expansion of authority to award costs and certain fees.
Sec. 3102. Civil damages for collection actions.
Sec. 3103. Increase in size of cases permitted on small case calendar.
Sec. 3104. Actions for refund with respect to certain estates which have elected the installment method of payment.
Sec. 3105. Administrative appeal of adverse IRS determination of tax-exempt status of bond issue.

Sec. 3106. Civil action for release of erroneous lien.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

Sec. 3201. Relief from joint and several liability on joint return.
Sec. 3202. Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D—Provisions Relating to Interest and Penalties

Sec. 3301. Elimination of interest rate differential on overlapping periods of interest on tax overpayments and underpayments.
Sec. 3302. Increase in overpayment rate payable to taxpayers other than corporations.
Sec. 3303. Mitigation of penalty on individual's failure to pay for months during period of installment agreement.
Sec. 3304. Mitigation of failure to deposit penalty.
Sec. 3305. Suspension of interest and certain penalties where Secretary fails to contact individual taxpayer.
Sec. 3306. Procedural requirements for imposition of penalties and additions to tax.
Sec. 3307. Personal delivery of notice of penalty under section 6672.
Sec. 3308. Notice of interest charges.
Sec. 3309. Abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

PART I—DUE PROCESS

Sec. 3401. Due process in IRS collection actions.

PART II—EXAMINATION ACTIVITIES

Sec. 3411. Confidentiality privileges relating to taxpayer communications.
Sec. 3412. Limitation on financial status audit techniques.
Sec. 3413. Software trade secrets protection.
Sec. 3414. Threat of audit prohibited to coerce tip reporting alternative commitment agreements.
Sec. 3415. Taxpayers allowed motion to quash all third-party summonses.
Sec. 3416. Service of summonses to third-party recordkeepers permitted by mail.
Sec. 3417. Notice of IRS contact of third parties.

PART III—COLLECTION ACTIVITIES

SUBPART A—APPROVAL PROCESS

Sec. 3421. Approval process for liens, levies, and seizures.

SUBPART B—LIENS AND LEVIES

Sec. 3431. Modifications to certain levy exemption amounts.
Sec. 3432. Release of levy upon agreement that amount is uncollectible.
Sec. 3433. Levy prohibited during pendency of refund proceedings.
Sec. 3434. Approval required for jeopardy and termination assessments and jeopardy levies.
Sec. 3435. Increase in amount of certain property on which lien not valid.
Sec. 3436. Waiver of early withdrawal tax for IRS levies on employer-sponsored retirement plans or IRAs.

SUBPART C—SEIZURES

Sec. 3441. Prohibition of sales of seized property at less than minimum bid.
Sec. 3442. Accounting of sales of seized property.
Sec. 3443. Uniform asset disposal mechanism.
Sec. 3444. Codification of IRS administrative procedures for seizure of taxpayer's property.
Sec. 3445. Procedures for seizure of residences and businesses.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

Sec. 3461. Procedures relating to extensions of statute of limitations by agreement.
Sec. 3462. Offers-in-compromise.
Sec. 3463. Notice of deficiency to specify deadlines for filing Tax Court petition.
Sec. 3464. Refund or credit of overpayments before final determination.
Sec. 3465. IRS procedures relating to appeals of examinations and collections.
Sec. 3466. Application of certain fair debt collection procedures.
Sec. 3467. Guaranteed availability of installment agreements.
Sec. 3468. Prohibition on requests to taxpayers to give up rights to bring actions.

Subtitle F—Disclosures to Taxpayers

Sec. 3501. Explanation of joint and several liability.
Sec. 3502. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.
Sec. 3503. Disclosure of criteria for examination selection.
Sec. 3504. Explanations of appeals and collection process.
Sec. 3505. Explanation of reason for refund disallowance.
Sec. 3506. Statements regarding installment agreements.
Sec. 3507. Notification of change in tax matters partner.
Sec. 3508. Disclosure to taxpayers.
Sec. 3509. Disclosure of Chief Counsel advice.

Subtitle G—Low Income Taxpayer Clinics

Sec. 3601. Low income taxpayer clinics.

Subtitle H—Other Matters

Sec. 3701. Cataloging complaints.
Sec. 3702. Archive of records of Internal Revenue Service.
Sec. 3703. Payment of taxes.
Sec. 3704. Clarification of authority of Secretary relating to the making of elections.
Sec. 3705. IRS employee contacts.
Sec. 3706. Use of pseudonyms by IRS employees.
Sec. 3707. Illegal tax protester designation.
Sec. 3708. Provision of confidential information to Congress by whistleblowers.
Sec. 3709. Listing of local IRS telephone numbers and addresses.
Sec. 3710. Identification of return preparers.
Sec. 3711. Offset of past-due, legally enforceable State income tax obligations against overpayments.
Sec. 3712. Reporting requirements in connection with education tax credit.

Subtitle I—Studies

Sec. 3801. Administration of penalties and interest.
Sec. 3802. Confidentiality of tax return information.
Sec. 3803. Study of noncompliance with internal revenue laws by taxpayers.
Sec. 3804. Study of payments made for detection of underpayments and fraud.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

Sec. 4001. Expansion of duties of the Joint Committee on Taxation.
Sec. 4002. Coordinated oversight reports.

Subtitle B—Century Date Change

Sec. 4011. Century date change.

Subtitle C—Tax Law Complexity

Sec. 4021. Role of the Internal Revenue Service.
Sec. 4022. Tax law complexity analysis.

TITLE V—ADDITIONAL PROVISIONS

Sec. 5001. Lower capital gains rates to apply to property held more than 1 year.
Sec. 5002. Clarification of exclusion of meals for certain employees.
Sec. 5003. Clarification of designation of normal trade relations.

TITLE VI—TECHNICAL CORRECTIONS

Sec. 6001. Short title; coordination with other titles.
Sec. 6002. Definitions.
Sec. 6003. Amendments related to title I of 1997 Act.
Sec. 6004. Amendments related to title II of 1997 Act.
Sec. 6005. Amendments related to title III of 1997 Act.
Sec. 6006. Amendment related to title IV of 1997 Act.
Sec. 6007. Amendments related to title V of 1997 Act.
Sec. 6008. Amendments related to title VII of 1997 Act.
Sec. 6009. Amendments related to title IX of 1997 Act.
Sec. 6010. Amendments related to title X of 1997 Act.
Sec. 6011. Amendments related to title XI of 1997 Act.
Sec. 6012. Amendments related to title XII of 1997 Act.
Sec. 6013. Amendments related to title XIII of 1997 Act.
Sec. 6014. Amendments related to title XIV of 1997 Act.
Sec. 6015. Amendments related to title XV of 1997 Act.
Sec. 6016. Amendments related to title XVI of 1997 Act.
Sec. 6017. Amendment related to Transportation Equity Act for the 21st Century.
Sec. 6018. Amendments related to Small Business Job Protection Act of 1996.
Sec. 6019. Amendments related to Taxpayer Bill of Rights 2.
Sec. 6020. Amendment related to Omnibus Budget Reconciliation Act of 1993.
Sec. 6021. Amendment related to Revenue Reconciliation Act of 1990.
Sec. 6022. Amendment related to Tax Reform Act of 1986.
Sec. 6023. Miscellaneous clerical and deadwood changes.
Sec. 6024. Effective date.

TITLE VII—REVENUE PROVISIONS

Sec. 7001. Clarification of deduction for deferred compensation.
Sec. 7002. Termination of exception for certain real estate investment trusts from the treatment of stapled entities.
Sec. 7003. Certain customer receivables ineligible for mark-to-market treatment.
Sec. 7004. Modification of AGI limit for conversions to Roth IRAs.

TITLE VIII—IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO

Sec. 8001. Identification of limited tax benefits subject to line item veto.

TITLE IX—TECHNICAL CORRECTIONS TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Sec. 9001. Short title.
Sec. 9002. Authorization and program subtitle.
Sec. 9003. Restorations to general provisions subtitle.
Sec. 9004. Restorations to program streamlining and flexibility subtitle.
Sec. 9005. Restorations to safety subtitle.
Sec. 9006. Elimination of duplicate provisions.
Sec. 9007. Highway finance.

Sec. 9008. High priority projects technical corrections.
Sec. 9009. Federal Transit Administration programs.
Sec. 9010. Motor carrier safety technical correction.
Sec. 9011. Restorations to research title.
Sec. 9012. Automobile safety and information.
Sec. 9013. Technical corrections regarding subtitle A of title VIII.
Sec. 9014. Corrections to veterans subtitle.
Sec. 9015. Technical corrections regarding title IX.
Sec. 9016. Effective date.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

SEC. 1001. REORGANIZATION OF THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—

(1) supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;

(2) eliminate or substantially modify the existing organization of the Internal Revenue Service which is based on a national, regional, and district structure;

(3) establish organizational units serving particular groups of taxpayers with similar needs; and

(4) ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

(b) SAVINGS PROVISIONS.—

(1) PRESERVATION OF SPECIFIC TAX RIGHTS AND REMEDIES.—Nothing in the plan developed and implemented under subsection (a) shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

(2) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function transferred or affected by the reorganization of the Internal Revenue Service or any other administrative unit of the Department of the Treasury under this section, and

(B) which are in effect at the time this section takes effect, or were final before the effective date of this section and are to become effective on or after the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Treasury, the Commissioner of Internal Revenue, or other authorized official, a court of competent jurisdiction, or by operation of law.

(3) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) at the time this section takes effect, with respect to functions transferred or affected by the reorganization under this section but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(4) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(5) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service), or by or against any individual in the official capacity of such individual as an officer of the Department of the Treasury, shall abate by reason of the enactment of this section.

(6) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) relating to a function transferred or affected by the reorganization under this section may be continued by the Department of the Treasury through any appropriate administrative unit of the Department, including the Internal Revenue Service with the same effect as if this section had not been enacted.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 1002. IRS MISSION TO FOCUS ON TAXPAYERS' NEEDS.

The Internal Revenue Service shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

SEC. 1101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

"(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the 'Oversight Board').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Oversight Board shall be composed of 9 members, as follows:

"(A) 6 members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

"(B) 1 member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

"(C) 1 member shall be the Commissioner of Internal Revenue.

"(D) 1 member shall be an individual who is a full-time Federal employee or a representative of employees and who is appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS AND TERMS.—

"(A) QUALIFICATIONS.—Members of the Oversight Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in 1 or more of the following areas:

"(i) Management of large service organizations.

"(ii) Customer service.

"(iii) Federal tax laws, including tax administration and compliance.

"(iv) Information technology.

"(v) Organization development.

"(vi) The needs and concerns of taxpayers.

"(vii) The needs and concerns of small businesses.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

"(B) TERMS.—Each member who is described in subparagraph (A) or (D) of paragraph (1) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

"(i) 2 members shall be appointed for a term of 3 years,

"(ii) 2 members shall be appointed for a term of 4 years, and

"(iii) 2 members shall be appointed for a term of 5 years.

"(C) REAPPOINTMENT.—An individual who is described in subparagraph (A) or (D) of paragraph (1) may be appointed to no more than two 5-year terms on the Oversight Board.

"(D) VACANCY.—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

"(3) ETHICAL CONSIDERATIONS.—

"(A) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

"(B) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, United States Code, an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

"(C) MEMBERS WHO ARE SPECIAL GOVERNMENT EMPLOYEES.—If an individual appointed under subparagraph (A) or (D) of paragraph (1) is a special Government employee, the following additional rules apply for purposes of chapter 11 of title 18, United States Code:

"(i) RESTRICTION ON REPRESENTATION.—In addition to any restriction under section 205(c) of *title 18, United States Code, except as provided in subsections (d) through (i) of section 205 of such title, such individual (except in the proper discharge of official duties) shall not, with or without compensation, represent anyone to or before any officer or employee of—*

"(I) the Oversight Board or the Internal Revenue Service on any matter,

"(II) the Department of the Treasury on any matter involving the internal revenue laws or involving the management or operations of the Internal Revenue Service, or

"(III) the Department of Justice with respect to litigation involving a matter described in subclause (I) or (II).

"(ii) COMPENSATION FOR SERVICES PROVIDED BY ANOTHER.—For purposes of section 203 of such title—

"(I) such individual shall not be subject to the restrictions of subsection (a)(1) thereof for sharing in compensation earned by another for representations on matters covered by such section, and

"(II) a person shall not be subject to the restrictions of subsection (a)(2) thereof for sharing such compensation with such individual.

"(D) WAIVER.—The President may, only at the time the President nominates the member of the Oversight Board described in paragraph (1)(D), waive for the term of the member any appropriate provision of chapter 11 of title 18, United States Code, to the extent such waiver is necessary to allow such member to participate in the decisions of the Board while continuing to serve as a full-time Federal employee or a representative of employees. Any such waiver shall not be effective unless a written intent of waiver to exempt such member (and actual waiver language) is submitted to the Senate with the nomination of such member.

"(4) QUORUM.—5 members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

"(5) REMOVAL.—

"(A) IN GENERAL.—Any member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) may be removed at the will of the President.

"(B) SECRETARY AND COMMISSIONER.—An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of service in the office described in such subparagraph.

"(6) CLAIMS.—

"(A) IN GENERAL.—Members of the Oversight Board who are described in subparagraph (A) or (D) of paragraph (1) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member.

"(B) EFFECT ON OTHER LAW.—This paragraph shall not be construed—

"(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

"(ii) to affect any other right or remedy against the United States under applicable law, or

"(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

"(c) GENERAL RESPONSIBILITIES.—

"(1) OVERSIGHT.—

"(A) IN GENERAL.—The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

"(B) MISSION OF IRS.—As part of its oversight functions described in subparagraph (A), the Oversight Board shall ensure that the organization and operation of the Internal Revenue Service allows it to carry out its mission.

"(C) CONFIDENTIALITY.—The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

"(2) EXCEPTIONS.—The Oversight Board shall have no responsibilities or authority with respect to—

"(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

"(B) specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examinations, collection activities, and criminal investigations,

"(C) specific procurement activities of the Internal Revenue Service, or

"(D) except as provided in subsection (d)(3), specific personnel actions.

"(d) SPECIFIC RESPONSIBILITIES.—The Oversight Board shall have the following specific responsibilities:

"(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

"(A) mission and objectives, and standards of performance relative to either, and

"(B) annual and long-range strategic plans.

"(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

"(A) plans for modernization of the tax system,

"(B) plans for outsourcing or managed competition, and

"(C) plans for training and education.

"(3) MANAGEMENT.—To—

"(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

"(B) review the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service, and

"(C) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service.

"(4) BUDGET.—To—

"(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

"(B) submit such budget request to the Secretary of the Treasury, and

"(C) ensure that the budget request supports the annual and long-range strategic plans.

"(5) TAXPAYER PROTECTION.—To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

"(e) BOARD PERSONNEL MATTERS.—

"(1) COMPENSATION OF MEMBERS.—

"(A) IN GENERAL.—Each member of the Oversight Board who—

"(i) is described in subsection (b)(1)(A), or

"(ii) is described in subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be compensated at a rate of $30,000 per year. All other members shall serve without compensation for such service.

"(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate of $50,000 per year.

"(2) TRAVEL EXPENSES.—

"(A) IN GENERAL.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, to attend meetings of the Oversight Board and, with the advance approval of the Chairperson of the Oversight Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

"(B) REPORT.—The Oversight Board shall include in its annual report under subsection (f)(3)(A) information with respect to the travel expenses allowed for members of the Oversight Board under this paragraph.

"(3) STAFF.—

"(A) IN GENERAL.—The Chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

"(B) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson of the Oversight Board, a Federal agency shall detail a Federal Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

"(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(f) ADMINISTRATIVE MATTERS.—

"(1) CHAIR.—

"(A) TERM.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

"(B) POWERS.—Except as otherwise provided by a majority vote of the Oversight Board, the powers of the Chairperson shall include—

"(i) establishing committees,

"(ii) setting meeting places and times,

"(iii) establishing meeting agendas, and

"(iv) developing rules for the conduct of business.

"(2) MEETINGS.—The Oversight Board shall meet at least quarterly and at such other times as the Chairperson determines appropriate.

"(3) REPORTS.—

"(A) ANNUAL.—The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

"(B) ADDITIONAL REPORT.—Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.".

(b) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO OVERSIGHT BOARD MEMBERS.—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

"(5) INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with

the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

"(B) EXCEPTION FOR REPORTS TO THE BOARD.—If—

"(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties, and

"(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties,

such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties.".

(c) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended by striking "or" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", or", and by adding at the end the following new paragraph:

"(7) a member of the Internal Revenue Service Oversight Board.".

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Internal Revenue Service Oversight Board.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit the initial nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF OVERSIGHT BOARD.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Oversight Board.

SEC. 1102. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

"SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

"(a) COMMISSIONER OF INTERNAL REVENUE.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

"(B) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed only for the remainder of that term.

"(C) REMOVAL.—The Commissioner may be removed at the will of the President.

"(D) REAPPOINTMENT.—The Commissioner may be appointed to more than one 5-year term.

"(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

"(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party, and

"(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

"(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

"(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

"(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

"(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary, including the duty—

"(A) to be legal advisor to the Commissioner and the Commissioner's officers and employees,

"(B) to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice,

"(C) to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive orders relating to laws which affect the Internal Revenue Service,

"(D) to represent the Commissioner in cases before the Tax Court, and

"(E) to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

"(3) PERSONS TO WHOM CHIEF COUNSEL REPORTS.—The Chief Counsel shall report directly to the Commissioner of Internal Revenue, except that—

"(A) the Chief Counsel shall report to both the Commissioner and the General Counsel for the Department of the Treasury with respect to—

"(i) legal advice or interpretation of the tax law not relating solely to tax policy, and

"(ii) tax litigation, and

"(B) the Chief Counsel shall report to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy.

If there is any disagreement between the Commissioner and the General Counsel with respect to any matter jointly referred to them under subparagraph (A), such matter shall be submitted to the Secretary or Deputy Secretary for resolution.

"(4) CHIEF COUNSEL PERSONNEL.—All personnel in the Office of Chief Counsel shall report to the Chief Counsel.

"(c) OFFICE OF THE TAXPAYER ADVOCATE.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'.

"(B) NATIONAL TAXPAYER ADVOCATE.—

"(i) IN GENERAL.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the 'National Taxpayer Advocate'. The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title.

"(ii) APPOINTMENT.—The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

"(iii) QUALIFICATIONS.—An individual appointed under clause (ii) shall have—

"(I) a background in customer service as well as tax law, and

"(II) experience in representing individual taxpayers.

"(iv) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of the Office of the Taxpayer Advocate shall not be taken into account in applying this clause.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of the Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

"(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

"(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

"(XI) include such other information as the National Taxpayer Advocate may deem advisable.

"(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

"(iv) COORDINATION WITH REPORT OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

"(C) OTHER RESPONSIBILITIES.—The National Taxpayer Advocate shall—

"(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates,

"(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates,

"(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office, and

"(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

"(D) PERSONNEL ACTIONS.—

"(i) IN GENERAL.—The National Taxpayer Advocate shall have the responsibility and authority to—

"(I) appoint local taxpayer advocates and make available at least 1 such advocate for each State, and

"(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I).

"(ii) CONSULTATION.—The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.

"(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

"(4) OPERATION OF LOCAL OFFICES.—

"(A) IN GENERAL.—Each local taxpayer advocate—

"(i) shall report to the National Taxpayer Advocate or delegate thereof,

"(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate,

"(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate, and

"(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

"(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

"(d) ADDITIONAL DUTIES OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—

"(1) ANNUAL REPORTING.—The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978—

"(A) an evaluation of the compliance of the Internal Revenue Service with—

"(i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees,

"(ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted,

"(iii) required procedures under section 6320 upon the filing of a notice of a lien,

"(iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 regarding levies, and

"(v) restrictions under section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers,

"(B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return,

"(C) information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers regarding requests for such extension,

"(D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service,

"(E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998,

"(F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (3)(A), and

"(G) information regarding any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304, including—

"(i) a summary of such actions initiated since the date of the last report, and

"(ii) a summary of any judgments or awards granted as a result of such actions.

"(2) SEMIANNUAL REPORTS.—

"(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

"(i) the number of taxpayer complaints during the reporting period;

"(ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources;

"(iii) a summary of the status of such complaints and allegations; and

"(iv) a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

"(B) Clauses (iii) and (iv) of subparagraph (A) shall only apply to complaints and allegations of serious employee misconduct.

"(3) OTHER RESPONSIBILITIES.—The Treasury Inspector General for Tax Administration shall—

"(A) conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code, and

"(B) establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1).".

(b) NOTICE OF RIGHT TO CONTACT OFFICE INCLUDED IN NOTICE OF DEFICIENCY.—Section 6212(a) (relating to notice of deficiency) is amended by adding at the end the following new sentence: "Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.".

(c) EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.—Section 7811(a) (relating to taxpayer assistance orders) is amended to read as follows:

"(a) AUTHORITY TO ISSUE.—

"(1) IN GENERAL.—Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the National Taxpayer Advocate may issue a Taxpayer Assistance Order if—

"(A) the National Taxpayer Advocate determines the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary, or

"(B) the taxpayer meets such other requirements as are set forth in regulations prescribed by the Secretary.

"(2) DETERMINATION OF HARDSHIP.—For purposes of paragraph (1), a significant hardship shall include—

"(A) an immediate threat of adverse action,

"(B) a delay of more than 30 days in resolving taxpayer account problems,

"(C) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted, or

"(D) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

"(3) STANDARD WHERE ADMINISTRATIVE GUIDANCE NOT FOLLOWED.—In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a taxpayer assistance order in the manner most favorable to the taxpayer.".

(d) CONFORMING AMENDMENTS RELATING TO NATIONAL TAXPAYER ADVOCATE.—

(1) The following provisions are each amended by striking "Taxpayer Advocate" each place it appears and inserting "National Taxpayer Advocate":

(A) Section 6323(j)(1)(D) (relating to withdrawal of notice in certain circumstances).

(B) Section 6343(d)(2)(D) (relating to return of property in certain cases).

(C) Section 7811(b)(2)(D) (relating to terms of a Taxpayer Assistance Order).

(D) Section 7811(c) (relating to authority to modify or rescind).

(E) Section 7811(d)(2) (relating to suspension of running of period of limitation).

(F) Section 7811(e) (relating to independent action of Taxpayer Advocate).

(G) Section 7811(f) (relating to Taxpayer Advocate).

(2) Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by striking "Taxpayer Advocate's" and inserting "National Taxpayer Advocate's".

(3) The headings of subsections (e) and (f) of section 7811 are each amended by striking "TAXPAYER ADVOCATE" and inserting "NATIONAL TAXPAYER ADVOCATE".

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

"Sec. 7803. Commissioner of Internal Revenue; other officials.".

(2) Section 5109 of title 5, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(3) Section 7611(f)(1) (relating to restrictions on church tax inquiries and examinations) is amended by striking "Assistant Commissioner for Employee Plans and Exempt Organizations of the Internal Revenue Service" and inserting "Secretary".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CHIEF COUNSEL.—Section 7803(b)(3) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date that is 90 days after the date of the enactment of this Act.

(3) NATIONAL TAXPAYER ADVOCATE.—Notwithstanding section 7803(c)(1)(B)(iv) of such Code, as added by this section, in appointing the first National Taxpayer Advocate after the date of the enactment of this Act, the Secretary of the Treasury—

(A) shall not appoint any individual who was an officer or employee of the Internal Revenue Service at any time during the 2-year period ending on the date of appointment, and

(B) need not consult with the Internal Revenue Service Oversight Board if the Oversight Board has not been appointed.

(4) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of such Code, as added by this section, shall begin as of the date of such appointment.

(B) Clauses (ii), (iii), and (iv) of section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.

SEC. 1103. TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.

(a) ESTABLISHMENT OF 2 INSPECTORS GENERAL IN THE DEPARTMENT OF THE TREASURY.—Section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the matter following paragraph (3) and inserting the following:

"there is established—

"(A) in each of such establishments an office of Inspector General, subject to subparagraph (B); and

"(B) in the establishment of the Department of the Treasury—

"(i) an Office of Inspector General of the Department of the Treasury; and

"(ii) an Office of Treasury Inspector General for Tax Administration.".

(b) AMENDMENTS TO SECTION 8D OF THE INSPECTOR GENERAL ACT OF 1978.—

(1) LIMITATION ON AUTHORITY OF INSPECTOR GENERAL.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following new paragraph:

"(4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration.".

(2) DUTIES OF INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY; RELATIONSHIP TO THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D(b) of such Act is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration.

"(3) The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will—

"(A) determine how audits and investigations are allocated in cases of overlapping jurisdiction, and

"(B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations.".

(3) ACCESS TO RETURNS AND RETURN INFORMATION.—Section 8D(e) of such Act is amended—

(A) in paragraph (1), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration";

(B) in paragraph (2), by striking all beginning with "(2)" through subparagraph (B);

(C)(i) by redesignating subparagraph (C) of paragraph (2) as paragraph (2) of such subsection; and

(ii) in such redesignated paragraph (2), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration"; and

(D)(i) by redesignating subparagraph (D) of such paragraph as paragraph (3) of such subsection; and

(ii) in such redesignated paragraph (3), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration".

(4) EFFECT ON CERTAIN FINAL DECISIONS OF THE SECRETARY.—Section 8D(f) of such Act is amended by striking "Inspector General" and inserting "Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration".

(5) REPEAL OF LIMITATION ON REPORTS TO THE ATTORNEY GENERAL.—Section 8D of such Act is amended by striking subsection (g).

(6) TRANSMISSION OF REPORTS.—Section 8D(h) of such Act is amended—

(A) by striking "(h)" and inserting "(g)(1)";

(B) by striking "and the Committees on Government Operations and Ways and Means of the House of Representatives" and inserting "and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives"; and

(C) by adding at the end the following new paragraph:

"(2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue.".

(7) TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D of the Act is amended by adding at the end the following new subsections:

"(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration shall have sole authority under this Act to conduct an audit or investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service.

"(i) In addition to the requirements of the first sentence of section 3(a), the Treasury Inspector General for Tax Administration should have demonstrated ability to lead a large and complex organization.

"(j) An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1), the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(2), or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service—

"(1) during the 2-year period preceding the date of appointment to such position; or

"(2) during the 5-year period following the date such individual ends service in such position.

"(k)(1) In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration—

"(A) shall have the duty to enforce criminal provisions under section 7608(b) of the Internal Revenue Code of 1986;

"(B) in addition to the functions authorized under section 7608(b)(2) of such Code, may carry firearms;

"(C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service, but shall not be responsible for the conducting of background

checks and the providing of physical security; and

"(D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C).

"(2)(A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d).

"(B) In the administration of section 5(d) and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to—

"(i) the performance of a law enforcement function under paragraph (1); and

"(ii) sensitive information concerning matters under subsection (a)(1)(A) through (F).

"(3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provision specified in paragraph (1).

"(l)(1) The Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board may request, in writing, the Treasury Inspector General for Tax Administration to conduct an audit or investigation relating to the Internal Revenue Service. If the Treasury Inspector General for Tax Administration determines not to conduct such audit or investigation, the Inspector General shall timely provide a written explanation for such determination to the person making the request.

"(2)(A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board.

"(B) The Treasury Inspector General for Tax Administration shall periodically submit to the Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board.

"(C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1).".

(c) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in subparagraph (L)—

(A) by inserting "(i)" after "(L)";

(B) by inserting "and" after the semicolon; and

(C) by adding at the end the following new clause:

"(ii) of the Treasury Inspector General for Tax Administration, effective 180 days after the date of the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, the Office of Chief Inspector of the Internal Revenue Service;".

(2) TERMINATION OF OFFICE OF CHIEF INSPECTOR.—Effective upon the transfer of functions under the amendment made by paragraph (1), the Office of Chief Inspector of the Internal Revenue Service is terminated.

(3) RETENTION OF CERTAIN INTERNAL AUDIT PERSONNEL.—In making the transfer under the amendment made by paragraph (1), the Commissioner of Internal Revenue shall designate and retain an appropriate number (not in excess of 300) of internal audit full-time equivalent employee positions necessary for management relating to the Internal Revenue Service.

(4) ADDITIONAL PERSONNEL TRANSFERS.—Effective 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer 21 full-time equivalent positions from the Office of the Inspector General of the Department of the Treasury to the Office of the Treasury Inspector General for Tax Administration.

(d) AUDITS AND REPORTS OF AGENCY FINANCIAL STATEMENTS.—Subject to section 3521(g) of title 31, United States Code—

(1) the Inspector General of the Department of the Treasury shall, subject to paragraph (2)—

(A) audit each financial statement in accordance with section 3521(e) of such title; and

(B) prepare and submit each report required under section 3521(f) of such title; and

(2) the Treasury Inspector General for Tax Administration shall—

(A) audit that portion of each financial statement referred to under paragraph (1)(A) that relates to custodial and administrative accounts of the Internal Revenue Service; and

(B) prepare that portion of each report referred to under paragraph (1)(B) that relates to custodial and administrative accounts of the Internal Revenue Service.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TRANSFER OF FUNCTIONS.—Section 8D(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service".

(2) AMENDMENTS RELATING TO REFERENCES TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY.—

(A) LIMITATION ON AUTHORITY.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in the first sentence of paragraph (1), by inserting "of the Department of the Treasury" after "Inspector General";

(ii) in paragraph (2), by inserting "of the Department of the Treasury" after "prohibit the Inspector General"; and

(iii) in paragraph (3)—

(I) in the first sentence, by inserting "of the Department of the Treasury" after "notify the Inspector General"; and

(II) in the second sentence, by inserting "of the Department of the Treasury" after "notice, the Inspector General".

(B) DUTIES.—Section 8D(b) of such Act is amended in the second sentence by inserting "of the Department of the Treasury" after "Inspector General".

(C) AUDITS AND INVESTIGATIONS.—Section 8D (c) and (d) of such Act are amended by inserting "of the Department of the Treasury" after "Inspector General" each place it appears.

(3) REFERENCES.—The second section 8G of the Inspector General Act of 1978 (relating to rule of construction of special provisions) is amended—

(A) by striking "SEC. 8G" and inserting "SEC. 8H";

(B) by striking "or 8E" and inserting "8E or 8F"; and

(C) by striking "section 8F(a)" and inserting "section 8G(a)".

(4) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 7608(b)(1) is amended by striking "or of the Internal Security Division".

SEC. 1104. OTHER PERSONNEL.

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

"SEC. 7804. OTHER PERSONNEL.

"(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

"(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

"(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

"(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

"(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking "section 7803(d)" and inserting "section 7804(c)".

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

"Sec. 7804. Other personnel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1105. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7216 the following new section:

"SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

"(a) PROHIBITION.—It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

"(b) REPORTING REQUIREMENT.—Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Treasury Inspector General for Tax Administration.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to any written request made—

"(1) to an applicable person by or on behalf of the taxpayer and forwarded by such applicable person to the Internal Revenue Service,

"(2) by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section, or

"(3) by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

"(d) PENALTY.—Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

"(e) APPLICABLE PERSON.—For purposes of this section, the term 'applicable person' means—

"(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President, and

"(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 75 is amended by adding after the item relating to section 7216 the following new item:

"Sec. 7217. Prohibition on executive branch influence over taxpayer audits and other investigations.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

Subtitle C—Personnel Flexibilities

SEC. 1201. IMPROVEMENTS IN PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

"Subpart I—Miscellaneous

"CHAPTER 95—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

"Sec.
"9501. Internal Revenue Service personnel flexibilities.
"9502. Pay authority for critical positions.
"9503. Streamlined critical pay authority.
"9504. Recruitment, retention, relocation incentives, and relocation expenses.
"9505. Performance awards for senior executives.
"9506. Limited appointments to career reserved Senior Executive Service positions.
"9507. Streamlined demonstration project authority.
"9508. General workforce performance management system.
"9509. General workforce classification and pay.
"9510. General workforce staffing.

"§9501. Internal Revenue Service personnel flexibilities

"(a) Any flexibilities provided by sections 9502 through 9510 of this chapter shall be exercised in a manner consistent with—

"(1) chapter 23 (relating to merit system principles and prohibited personnel practices);

"(2) provisions relating to preference eligibles;

"(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

"(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

"(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Secretary of the Treasury under section 1104(a)(2).

"(b) The Secretary of the Treasury shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

"(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9507 through 9510 of this chapter unless the exclusive representative and the Internal Revenue Service have entered into a written agreement which specifically provides for the exercise of that flexibility. Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

"§9502. Pay authority for critical positions

"(a) When the Secretary of the Treasury seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Internal Revenue Service, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

"(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

"§9503. Streamlined critical pay authority

"(a) Notwithstanding section 9502, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Secretary of the Treasury may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Internal Revenue Service, if—

"(1) the positions—

"(A) require expertise of an extremely high level in an administrative, technical, or professional field; and

"(B) are critical to the Internal Revenue Service's successful accomplishment of an important mission;

"(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

"(3) the number of such positions does not exceed 40 at any one time;

"(4) designation of such positions are approved by the Secretary of the Treasury;

"(5) the terms of such appointments are limited to no more than 4 years;

"(6) appointees to such positions were not Internal Revenue Service employees prior to June 1, 1998;

"(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

"(8) all such positions are excluded from the collective bargaining unit.

"(b) Individuals appointed under this section shall not be considered to be employees for purposes of subchapter II of chapter 75.

"§9504. Recruitment, retention, relocation incentives, and relocation expenses

"(a) For a period of 10 years after the date of enactment of this section and subject to approval by the Office of Personnel Management, the Secretary of the Treasury may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

"(b) For a period of 10 years after the date of enactment of this section, the Secretary of the Treasury may pay from appropriations made to the Internal Revenue Service allowable relocation expenses under section 5724a for employees transferred or reemployed and allowable travel and transportation expenses under section 5723 for new appointees, for any new appointee appointed to a position for which pay is fixed under section 9502 or 9503 after June 1, 1998.

"§9505. Performance awards for senior executives

"(a) For a period of 10 years after the date of enactment of this section, Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Secretary of the Treasury finds such award warranted based on the executive's performance.

"(b) In evaluating an executive's performance for purposes of an award under this section, the Secretary of the Treasury shall take into account the executive's contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679), Revenue Procedure 64–22 (as in effect on July 30, 1997), taxpayer service surveys, and other performance metrics or plans established in consultation with the Internal Revenue Service Oversight Board.

"(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Secretary of the Treasury.

"(d) Notwithstanding section 5384(b)(3), the Secretary of the Treasury shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Internal Revenue Service. Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Internal Revenue Service during the preceding fiscal year. The Internal Revenue Service shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Treasury other than the Internal Revenue Service.

"(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.

"§9506. Limited appointments to career reserved Senior Executive Service positions

"(a) In the application of section 3132, a 'career reserved position' in the Internal Revenue Service means a position designated under section 3132(b) which may be filled only by—

"(1) a career appointee, or

"(2) a limited emergency appointee or a limited term appointee—

"(A) who, immediately upon entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

"(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

"(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

"(2) Notwithstanding section 3132—

"(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

"(B) such an appointee may serve—

"(i) 2 such terms; or

"(ii) 2 such terms in addition to any unexpired term applicable at the time of appointment.

"§9507. Streamlined demonstration project authority

"(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

"(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

"(1) section 4703(b)(1) shall be deemed to read as follows:

"'(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

"(2) section 4703(b)(3) shall not apply;

"(3) the 180-day notification period in section 4703(b)(4) shall be deemed to be a notification period of 30 days;

"(4) section 4703(b)(6) shall be deemed to read as follows:

"'(6) provides each House of Congress with the final version of the plan.';

"(5) section 4703(c)(1) shall be deemed to read as follows:

"'(1) subchapter V of chapter 63 or subpart G of part III of this title;';

"(6) the requirements of paragraphs (1)(A) and (2) of section 4703(d) shall not apply; and

"(7) notwithstanding section 4703(d)(1)(B), based on an evaluation as provided in section 4703(h), the Office of Personnel Management and the Secretary of the Treasury, except as otherwise provided by this subsection, may waive the termination date of a demonstration project under section 4703(d).

"(c) At least 90 days before waiving the termination date under subsection (b)(7), the Office of Personnel Management shall publish in the Federal Register a notice of its intention to waive the termination date and shall inform in writing both Houses of Congress of its intention.

"§9508. General workforce performance management system

"(a) In lieu of a performance appraisal system established under section 4302, the Secretary of the Treasury shall, within 1 year after the date of enactment of this section, establish for the Internal Revenue Service a performance management system that—

"(1) maintains individual accountability by—

"(A) establishing 1 or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

"(B) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

"(C) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increases in basic pay, promotions, and credit for performance under section 3502, and taking 1 or more of the following actions:

"(i) Reassignment.

"(ii) An action under chapter 43 or chapter 75 of this title.

"(iii) Any other appropriate action to resolve the performance problem; and

"(2) except as provided under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, strengthens the system's effectiveness by—

"(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the Internal Revenue Service's performance planning procedures, including those established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679), Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

"(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

"(C) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

"(b)(1) For purposes of subsection (a)(2), the term 'performance assessment' means a determination of whether or not retention standards established under subsection (a)(1)(A) are met, and any additional performance determination made on the basis of performance goals and objectives established under subsection (a)(2)(A).

"(2) For purposes of this title, the term 'unacceptable performance' with respect to an employee of the Internal Revenue Service covered by a performance management system established under this section means performance of the employee which fails to meet a retention standard established under this section.

"(c)(1) The Secretary of the Treasury may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this chapter by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

"(2) A cash award under subchapter I of chapter 45 may be granted to an employee of the Internal Revenue Service without the need for any approval under section 4502(b).

"(d)(1) In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '30 days' may be deemed to be '15 days'.

"(2) Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

"§9509. General workforce classification and pay

"(a) For purposes of this section, the term 'broad-banded system' means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established under chapter 51 and subchapter III of chapter 53 as a result of combining grades and related ranges of rates of pay in 1 or more occupational series.

"(b)(1)(A) The Secretary of the Treasury may, subject to criteria to be prescribed by the Office of Personnel Management, establish 1 or more broad-banded systems covering all or any portion of the Internal Revenue Service workforce.

"(B) With the approval of the Office of Personnel Management, a broad-banded system established under this section may either include or consist of positions that otherwise would be subject to subchapter IV of chapter 53 or section 5376.

"(2) The Office of Personnel Management may require the Secretary of the Treasury to submit information relating to broad-banded systems at the Internal Revenue Service.

"(3) Except as otherwise provided under this section, employees under a broad-banded system shall continue to be subject to the laws and regulations covering employees under the pay system that otherwise would apply to such employees.

"(4) The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

"(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

"(B) establish the minimum and maximum number of grades that may be combined into pay bands;

"(C) establish requirements for setting minimum and maximum rates of pay in a pay band;

"(D) establish requirements for adjusting the pay of an employee within a pay band;

"(E) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

"(F) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

"(c) With the approval of the Office of Personnel Management and in accordance with a plan for implementation submitted by the Secretary of the Treasury, the Secretary may, with respect to Internal Revenue Service employees who are covered by a broad-banded system established under this section, provide for variations from the provisions of subchapter VI of chapter 53.

"§9510. General workforce staffing

"(a)(1) Except as otherwise provided by this section, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures if—

"(A) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

"(B) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

"(C) the employee's performance under such term appointment or appointments met established retention standards, or, if not covered by a performance management system established under section 9508, was rated at the fully successful level or higher (or equivalent thereof); and

"(D) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

"(2) An appointment under this section may be made only to a position in the same line of work as a position to which the employee received a term appointment under competitive procedures.

"(b)(1) Notwithstanding subchapter I of chapter 33, the Secretary of the Treasury may establish category rating systems for evaluating applicants for Internal Revenue Service positions in the competitive service under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings.

"(2) Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the position to be filled.

"(3) Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and

professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

"(4) An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories.

"(5) Notwithstanding paragraph (4), the appointing authority may not pass over a preference eligible in the same or higher category from which selection is made unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(c) The Secretary of the Treasury may detail employees among the offices of the Internal Revenue Service without regard to the 120-day limitation in section 3341(b).

"(d) Notwithstanding any other provision of law, the Secretary of the Treasury may establish a probationary period under section 3321 of up to 3 years for Internal Revenue Service positions if the Secretary of the Treasury determines that the nature of the work is such that a shorter period is insufficient to demonstrate complete proficiency in the position.

"(e) Nothing in this section exempts the Secretary of the Treasury from—

"(1) any employment priority established under direction of the President for the placement of surplus or displaced employees; or

"(2) any obligation under a court order or decree relating to the employment practices of the Internal Revenue Service or the Department of the Treasury.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of title 5, United States Code, is amended by adding at the end the following new items:

"Subpart I—Miscellaneous

"95. Personnel flexibilities relating to the Internal Revenue Service .... 9501".

SEC. 1202. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITION.—In this section, the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Internal Revenue Service serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(5) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(6) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(7) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to reorganize the Internal Revenue Service under section 1001.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(c) ADDITIONAL INTERNAL REVENUE SERVICE CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Internal Revenue Service shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—In paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Internal Revenue Service.

(e) EFFECT ON INTERNAL REVENUE SERVICE EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Internal Revenue Service.

(2) USE OF VOLUNTARY SEPARATIONS.—The Internal Revenue Service may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

(a) IN GENERAL.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) ACTS OR OMISSIONS.—The acts or omissions referred to under subsection (a) are—

(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of—

(A) any right under the Constitution of the United States; or

(B) any civil right established under—

(i) title VI or VII of the Civil Rights Act of 1964;

(ii) title IX of the Education Amendments of 1972;

(iii) the Age Discrimination in Employment Act of 1967;

(iv) the Age Discrimination Act of 1975;

(v) section 501 or 504 of the Rehabilitation Act of 1973; or

(vi) title I of the Americans with Disabilities Act of 1990;

(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry,

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect,

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect, and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

(c) DETERMINATION OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) DEFINITION.—For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

SEC. 1204. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) IN GENERAL.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate employees; or

(2) to impose or suggest production quotas or goals with respect to such employees.

(b) TAXPAYER SERVICE.—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

(c) CERTIFICATION.—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 6231 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647; 102 Stat. 3734) is repealed.

(e) EFFECTIVE DATE.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 1205. EMPLOYEE TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(b) CONTENTS.—The plan submitted under subsection (a) shall—

(1) detail a comprehensive employee training program to ensure adequate customer service training;

(2) detail a schedule for training and the fiscal years during which the training will occur;

(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

(4) review the organizational design of customer service;

(5) provide for the implementation of a performance development system; and

(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.

TITLE II—ELECTRONIC FILING

SEC. 2001. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of Congress that—

(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns,

(2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007, and

(3) the Internal Revenue Service should cooperate with and encourage the private sector by encouraging competition to increase electronic filing of such returns.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PROMOTION OF ELECTRONIC FILING.—

"(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

"(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.".

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1998, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary of the Treasury, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, Government Reform and Oversight, and Small Business of the House of Representatives and the Committees on Finance, Appropriations, Governmental Affairs, and Small Business of the Senate on—

(1) the progress of the Internal Revenue Service in meeting the goal of receiving electronically 80 percent of tax and information returns by 2007;

(2) the status of the plan required by subsection (b);

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal; and

(4) the effects on small businesses and the self-employed of electronically filing tax and information returns.

SEC. 2002. DUE DATE FOR CERTAIN INFORMATION RETURNS.

(a) INFORMATION RETURNS FILED ELECTRONICALLY.—Section 6071 (relating to time for filing returns and other documents) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) ELECTRONICALLY FILED INFORMATION RETURNS.—Returns made under subparts B and C of part III of this subchapter which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate.".

(b) STUDY RELATING TO TIME FOR PROVIDING NOTICE TO RECIPIENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study evaluating the effect of extending the deadline for providing statements to persons with respect to whom information is required to be furnished under subparts B and C of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (other than section 6051 of such Code) from January 31 to February 15 of the year in which the return to which the statement relates is required to be filed.

(2) REPORT.—Not later than June 30, 1999, the Secretary of the Treasury shall submit a report on the study under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns required to be filed after December 31, 1999.

SEC. 2003. PAPERLESS ELECTRONIC FILING.

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking "Except as otherwise provided by" and inserting the following:

"(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and", and

(2) by adding at the end the following new subsection:

"(b) ELECTRONIC SIGNATURES.—

"(1) IN GENERAL.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may—

"(A) waive the requirement of a signature for, or

"(B) provide for alternative methods of signing or subscribing,

a particular type or class of return, declaration, statement, or other document required or permitted to be made or written under internal revenue laws and regulations.

"(2) TREATMENT OF ALTERNATIVE METHODS.—Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1)(B) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed or subscribed.

"(3) PUBLISHED GUIDANCE.—The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirements or any method adopted under paragraph (1).".

(b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—Section 7502(c) is amended to read as follows:

"(c) REGISTERED AND CERTIFIED MAILING; ELECTRONIC FILING.—

"(1) REGISTERED MAIL.—For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

"(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed, and

"(B) the date of registration shall be deemed the postmark date.

"(2) CERTIFIED MAIL; ELECTRONIC FILING.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing.".

(c) ESTABLISHMENT OF PROCEDURES FOR OTHER INFORMATION.—In the case of taxable periods beginning after December 31, 1999, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(d) INTERNET AVAILABILITY.—In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all tax forms, instructions, and publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database at approximately the same time such records are available to the public in paper form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database at approximately the same time such guidance is available to the public in paper form.

(e) Procedures for Authorizing Disclosure Electronically.—The Secretary shall establish procedures for any taxpayer to authorize, on an electronically filed return, the Secretary to disclose information under section 6103(c) of the Internal Revenue Code of 1986 to the preparer of the return.

(f) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2004. RETURN-FREE TAX SYSTEM.

(a) In General.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) Report.—Not later than June 30 of each calendar year after 1999, the Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) what additional resources the Internal Revenue Service would need to implement such a system,

(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system,

(3) the procedures developed pursuant to subsection (a), and

(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).

SEC. 2005. ACCESS TO ACCOUNT INFORMATION.

(a) In General.—Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

(b) Report.—Not later than December 31, 2003, the Secretary of the Treasury shall report on the progress the Secretary is making on the development of procedures under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 3000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 3".

Subtitle A—Burden of Proof

SEC. 3001. BURDEN OF PROOF.

(a) In General.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

"Subchapter E—Burden of Proof

"Sec. 7491. Burden of proof.

"SEC. 7491. BURDEN OF PROOF.

"(a) Burden Shifts Where Taxpayer Produces Credible Evidence.—

"(1) General rule.—If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.

"(2) Limitations.—Paragraph (1) shall apply with respect to an issue only if—

"(A) the taxpayer has complied with the requirements under this title to substantiate any item,

"(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews, and

"(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

"(3) Coordination.—Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

"(b) Use of Statistical Information on Unrelated Taxpayers.—In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

"(c) Penalties.—Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.".

(b) Conforming Amendment.—The table of subchapters for chapter 76 is amended by adding at the end the following new item:

"Subchapter E. Burden of proof.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act.

(2) Taxable periods or events after date of enactment.—In any case in which there is no examination, such amendments shall apply to court proceedings arising in connection with taxable periods or events beginning or occurring after such date of enactment.

Subtitle B—Proceedings by Taxpayers

SEC. 3101. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) Increase in Attorney's Fees.—

(1) Increase in hourly amount.—Clause (iii) of section 7430(c)(1)(B) (relating to reasonable litigation costs) is amended by striking "$110" and inserting "$125".

(2) Award of higher attorney's fees based on complexity of issues.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting "the difficulty of the issues presented in the case, or the local availability of tax expertise," before "justifies a higher rate".

(b) Award of Administrative Costs Incurred After 30-Day Letter.—Paragraph (2) of section 7430(c) is amended by striking the last sentence and inserting the following new flush sentence:

"Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.".

(c) Award of Fees for Certain Additional Services.—Paragraph (3) of section 7430(c) is amended to read as follows:

"(3) Attorneys fees.—

"(A) In general.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

"(B) Pro bono services.—The court may award reasonable attorneys fees under subsection (a) in excess of the attorneys fees paid or incurred if such fees are less than the reasonable attorneys fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This subparagraph shall apply only if such award is paid to such individual or such individual's employer.".

(d) Determination of Whether Position of United States Is Substantially Justified.—Subparagraph (B) of section 7430(c)(4) is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

"(iii) Effect of losing on substantially similar issues.—In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.".

(e) Taxpayer Treated as Prevailing If Judgment Is Less Than Taxpayer's Offer.—

(1) In general.—Section 7430(c)(4) (defining prevailing party) is amended by adding at the end the following new subparagraph:

"(E) Special rules where judgment less than taxpayer's offer.—

"(i) In general.—A party to a court proceeding meeting the requirements of subparagraph (A)(ii) shall be treated as the prevailing party if the liability of the taxpayer pursuant to the judgment in the proceeding (determined without regard to interest) is equal to or less than the liability of the taxpayer which would have been so determined if the United States had accepted a qualified offer of the party under subsection (g).

"(ii) Exceptions.—This subparagraph shall not apply to—

"(I) any judgment issued pursuant to a settlement, or

"(II) any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

"(iii) Special rules.—If this subparagraph applies to any court proceeding—

"(I) the determination under clause (i) shall be made by reference to the last qualified offer made with respect to the tax liability at issue in the proceeding, and

"(II) reasonable administrative and litigation costs shall only include costs incurred on and after the date of such offer.

"(iv) Coordination.—This subparagraph shall not apply to a party which is a prevailing party under any other provision of this paragraph.".

(2) Qualified offer.—Section 7430 is amended by adding at the end the following new subsection:

"(g) Qualified Offer.—For purposes of subsection (c)(4)—

"(1) In general.—The term 'qualified offer' means a written offer which—

"(A) is made by the taxpayer to the United States during the qualified offer period,

"(B) specifies the offered amount of the taxpayer's liability (determined without regard to interest),

"(C) is designated at the time it is made as a qualified offer for purposes of this section, and

"(D) remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.

"(2) Qualified offer period.—For purposes of this subsection, the term 'qualified offer period' means the period—

"(A) beginning on the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, and

"(B) ending on the date which is 30 days before the date the case is first set for trial.".

(f) Award of Attorneys Fees in Unauthorized Inspection and Disclosure Cases.—Section 7431(c) (relating to damages) is amended by striking the period at the end of paragraph (2) and inserting ", plus", and by adding at the end the following new paragraph:

"(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).".

(g) Effective Date.—The amendments made by this section shall apply to costs incurred (and, in the case of the amendment made by subsection (c), services performed) more than 180 days after the date of the enactment of this Act.

SEC. 3102. CIVIL DAMAGES FOR COLLECTION ACTIONS.

(a) Extension to Negligence Actions.—

(1) In general.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(A) in subsection (a), by inserting ", or by reason of negligence," after "recklessly or intentionally", and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting "($100,000, in the case of negligence)" after "$1,000,000", and

(ii) in paragraph (1), by inserting "or negligent" after "reckless or intentional".

(2) Requirement that administrative remedies be exhausted.—Paragraph (1) of section 7433(d) is amended to read as follows:

"(1) Requirement that administrative remedies be exhausted.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.".

(b) Damages Allowed in Civil Actions by Persons Other Than Taxpayers.—Section 7426 is amended by redesignating subsection (h) as subsection (i) and by adding after subsection (g) the following new subsection:

"(h) Recovery of Damages Permitted in Certain Cases.—

"(1) In general.—Notwithstanding subsection (b), if, in any action brought under this section, there is a finding that any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregarded any provision of this title the defendant shall be liable to the plaintiff in an amount equal to the lesser of $1,000,000 ($100,000 in the case of negligence) or the sum of—

"(A) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent disregard of any provision of this title by the officer or employee (reduced by any amount of such damages awarded under subsection (b)), and

"(B) the costs of the action.

"(2) Requirement that administrative remedies be exhausted; mitigation; period.—The rules of section 7433(d) shall apply for purposes of this subsection.

"(3) Payment authority.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.".

(c) Civil Damages for IRS Violations of Bankruptcy Procedures.—

(1) In general.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by adding at the end the following new subsection:

"(e) Actions for Violations of Certain Bankruptcy Procedures.—

"(1) In general.—If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service willfully violates any provision of section 362 (relating to automatic stay) or 524 (relating to effect of discharge) of title 11, United States Code (or any successor provision), or any regulation promulgated under such provision, such taxpayer may petition the bankruptcy court to recover damages against the United States.

"(2) Remedy to be exclusive.—

"(A) In general.—Except as provided in subparagraph (B), notwithstanding section 105 of such title 11, such petition shall be the exclusive remedy for recovering damages resulting from such actions.

"(B) Certain other actions permitted.—Subparagraph (A) shall not apply to an action under section 362(h) of such title 11 for a violation of a stay provided by section 362 of such title; except that—

"(i) administrative and litigation costs in connection with such an action may only be awarded under section 7430, and

"(ii) administrative costs may be awarded only if incurred on or after the date that the bankruptcy petition is filed.".

(2) Conforming amendment.—Subsection (b) of section 7433 is amended by inserting "or petition filed under subsection (e)" after "subsection (a)".

(d) Effective Date.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 3103. INCREASE IN SIZE OF CASES PERMITTED ON SMALL CASE CALENDAR.

(a) In General.—Section 7463 (relating to disputes involving $10,000 or less) is amended by striking "$10,000" each place it appears (including the section heading) and inserting "$50,000".

(b) Conforming Amendments.—

(1) Sections 7436(c)(1) and 7443A(b)(3) are each amended by striking "$10,000" and inserting "$50,000".

(2) The table of sections for part II of subchapter C of chapter 76 is amended by striking "$10,000" in the item relating to section 7463 and inserting "$50,000".

(c) Effective Date.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 3104. ACTIONS FOR REFUND WITH RESPECT TO CERTAIN ESTATES WHICH HAVE ELECTED THE INSTALLMENT METHOD OF PAYMENT.

(a) In General.—Section 7422 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Special Rule for Actions With Respect to Estates for Which an Election Under Section 6166 Is Made.—

"(1) In general.—The district courts of the United States and the United States Court of Federal Claims shall not fail to have jurisdiction over any action brought by the representative of an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) solely because the full amount of such liability has not been paid by reason of an election under section 6166 with respect to such estate.

"(2) Estates to which subsection applies.—This subsection shall apply to any estate if, as of the date the action is filed—

"(A) no portion of the installments payable under section 6166 have been accelerated,

"(B) all such installments the due date for which is on or before the date the action is filed have been paid,

"(C) there is no case pending in the Tax Court with respect to the tax imposed by section 2001 on the estate and, if a notice of deficiency under section 6212 with respect to such tax has been issued, the time for filing a petition with the Tax Court with respect to such notice has expired, and

"(D) no proceeding for declaratory judgment under section 7479 is pending.

"(3) Prohibition on collection of disallowed liability.—If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.".

(b) Extension of Time To File Refund Suit.—Section 7479 (relating to declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166) is amended by adding at the end the following new subsection:

"(c) Extension of Time To File Refund Suit.—The 2-year period in section 6532(a)(1) for filing suit for refund after disallowance of a claim shall be suspended during the 90-day period after the mailing of the notice referred to in subsection (b)(3) and, if a pleading has been filed with the Tax Court under this section, until the decision of the Tax Court has become final.".

(c) Effective Date.—The amendments made by this section shall apply to any claim for refund filed after the date of the enactment of this Act.

SEC. 3105. ADMINISTRATIVE APPEAL OF ADVERSE IRS DETERMINATION OF TAX-EXEMPT STATUS OF BOND ISSUE.

The Internal Revenue Service shall amend its administrative procedures to provide that if, upon examination, the Internal Revenue Service proposes to an issuer that interest on previously issued obligations of such issuer is not excludable from gross income under section 103(a) of the Internal Revenue Code of 1986, the issuer of such obligations shall have an administrative appeal of right to a senior officer of the Internal Revenue Service Office of Appeals.

SEC. 3106. CIVIL ACTION FOR RELEASE OF ERRONEOUS LIEN.

(a) Right of Substitution of Value.—Subsection (b) of section 6325 (relating to release of lien or discharge of property) is amended by adding at the end the following new paragraph:

"(4) Right of substitution of value.—

"(A) In general.—At the request of the owner of any property subject to any lien imposed by this chapter, the Secretary shall issue a certificate of discharge of such property if such owner—

"(i) deposits with the Secretary an amount of money equal to the value of the interest of the United States (as determined by the Secretary) in the property, or

"(ii) furnishes a bond acceptable to the Secretary in a like amount.

"(B) Refund of deposit with interest and release of bond.—The Secretary shall refund the amount so deposited (and shall pay interest

at the overpayment rate under section 6621), and shall release such bond, to the extent that the Secretary determines that—

"(i) the unsatisfied liability giving rise to the lien can be satisfied from a source other than such property, or

"(ii) the value of the interest of the United States in the property is less than the Secretary's prior determination of such value.

"(C) USE OF DEPOSIT, ETC., IF ACTION TO CONTEST LIEN NOT FILED.—If no action is filed under section 7426(a)(4) within the period prescribed therefor, the Secretary shall, within 60 days after the expiration of such period—

"(i) apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien, and

"(ii) refund (with interest as described in subparagraph (B)) any portion of the amount deposited which is not used to satisfy such liability.

"(D) EXCEPTION.—Subparagraph (A) shall not apply if the owner of the property is the person whose unsatisfied liability gave rise to the lien.".

(b) CIVIL ACTION TO RELEASE ERRONEOUS LIEN.—

(1) IN GENERAL.—Subsection (a) of section 7426 (relating to civil actions by persons other than taxpayers) is amended by adding at the end the following new paragraph:

"(4) SUBSTITUTION OF VALUE.—If a certificate of discharge is issued to any person under section 6325(b)(4) with respect to any property, such person may, within 120 days after the day on which such certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the Secretary. No other action may be brought by such person for such a determination.".

(2) FORM OF RELIEF.—

(A) IN GENERAL.—Subsection (b) of section 7426 is amended by adding at the end the following new paragraph:

"(5) SUBSTITUTION OF VALUE.—If the court determines that the Secretary's determination of the value of the interest of the United States in the property for purposes of section 6325(b)(4) exceeds the actual value of such interest, the court shall grant a judgment ordering a refund of the amount deposited, and a release of the bond, to the extent that the aggregate of the amounts thereof exceeds such value determined by the court.".

(B) INTEREST ALLOWED ON REFUND OF DEPOSIT.—Subsection (g) of section 7426 is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting "; and", and by adding at the end the following new paragraph:

"(3) in the case of a judgment pursuant to subsection (b)(5) which orders a refund of any amount, from the date the Secretary received such amount to the date of payment of such judgment.".

(3) SUSPENSION OF RUNNING OF STATUTE OF LIMITATION.—Subsection (f) of section 6503 is amended to read as follows:

"(f) WRONGFUL SEIZURE OF OR LIEN ON PROPERTY OF THIRD PARTY.—

"(1) WRONGFUL SEIZURE.—The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

"(2) WRONGFUL LIEN.—In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be suspended for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of—

"(A) the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released, or

"(B) the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

SEC. 3201. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 is amended by inserting after section 6014 the following new section:

"SEC. 6015. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

"(a) IN GENERAL.—Notwithstanding section 6013(d)(3)—

"(1) an individual who has made a joint return may elect to seek relief under the procedures prescribed under subsection (b), and

"(2) if such individual is eligible to elect the application of subsection (c), such individual may, in addition to any election under paragraph (1), elect to limit such individual's liability for any deficiency with respect to such joint return in the manner prescribed under subsection (c).

Any determination under this section shall be made without regard to community property laws.

"(b) PROCEDURES FOR RELIEF FROM LIABILITY APPLICABLE TO ALL JOINT FILERS.—

"(1) IN GENERAL.—Under procedures prescribed by the Secretary, if—

"(A) a joint return has been made for a taxable year,

"(B) on such return there is an understatement of tax attributable to erroneous items of 1 individual filing the joint return,

"(C) the other individual filing the joint return establishes that in signing the return he or she did not know, and had no reason to know, that there was such understatement,

"(D) taking into account all the facts and circumstances, it is inequitable to hold the other individual liable for the deficiency in tax for such taxable year attributable to such understatement, and

"(E) the other individual elects (in such form as the Secretary may prescribe) the benefits of this subsection not later than the date which is 2 years after the date the Secretary has begun collection activities with respect to the individual making the election,

then the other individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement.

"(2) APPORTIONMENT OF RELIEF.—If an individual who, but for paragraph (1)(C), would be relieved of liability under paragraph (1), establishes that in signing the return such individual did not know, and had no reason to know, the extent of such understatement, then such individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent that such liability is attributable to the portion of such understatement of which such individual did not know and had no reason to know.

"(3) UNDERSTATEMENT.—For purposes of this subsection, the term 'understatement' has the meaning given to such term by section 6662(d)(2)(A).

"(c) PROCEDURES TO LIMIT LIABILITY FOR TAXPAYERS NO LONGER MARRIED OR TAXPAYERS LEGALLY SEPARATED OR NOT LIVING TOGETHER.—

"(1) IN GENERAL.—Except as provided in this subsection, if an individual who has made a joint return for any taxable year elects the application of this subsection, the individual's liability for any deficiency which is assessed with respect to the return shall not exceed the portion of such deficiency properly allocable to the individual under subsection (d).

"(2) BURDEN OF PROOF.—Except as provided in subparagraph (A)(ii) or (C) of paragraph (3), each individual who elects the application of this subsection shall have the burden of proof with respect to establishing the portion of any deficiency allocable to such individual.

"(3) ELECTION.—

"(A) INDIVIDUALS ELIGIBLE TO MAKE ELECTION.—

"(i) IN GENERAL.—An individual shall only be eligible to elect the application of this subsection if—

"(I) at the time such election is filed, such individual is no longer married to, or is legally separated from, the individual with whom such individual filed the joint return to which the election relates, or

"(II) such individual was not a member of the same household as the individual with whom such joint return was filed at any time during the 12-month period ending on the date such election is filed.

"(ii) CERTAIN TAXPAYERS INELIGIBLE TO ELECT.—If the Secretary demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by such individuals, an election under this subsection by either individual shall be invalid (and section 6013(d)(3) shall apply to the joint return).

"(B) TIME FOR ELECTION.—An election under this subsection for any taxable year shall be made not later than 2 years after the date on which the Secretary has begun collection activities with respect to the individual making the election.

"(C) ELECTION NOT VALID WITH RESPECT TO CERTAIN DEFICIENCIES.—If the Secretary demonstrates that an individual making an election under this subsection had actual knowledge, at the time such individual signed the return, of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (d), such election shall not apply to such deficiency (or portion). This subparagraph shall not apply where the individual with actual knowledge establishes that such individual signed the return under duress.

"(4) LIABILITY INCREASED BY REASON OF TRANSFERS OF PROPERTY TO AVOID TAX.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the portion of the deficiency for which the individual electing the application of this subsection is liable (without regard to this paragraph) shall be increased by the value of any disqualified asset transferred to the individual.

"(B) DISQUALIFIED ASSET.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'disqualified asset' means any property or right to property transferred to an individual making the election under this subsection with respect to a joint return by the other individual filing such joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

"(ii) PRESUMPTION.—

"(I) IN GENERAL.—For purposes of clause (i), except as provided in subclause (II), any transfer which is made after the date which is 1 year before the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

"(II) EXCEPTIONS.—Subclause (I) shall not apply to any transfer pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree or to any transfer which an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

"(d) ALLOCATION OF DEFICIENCY.—For purposes of subsection (c)—

"(1) IN GENERAL.—The portion of any deficiency on a joint return allocated to an individual shall be the amount which bears the same ratio to such deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

"(2) SEPARATE TREATMENT OF CERTAIN ITEMS.—If a deficiency (or portion thereof) is attributable to—

"(A) the disallowance of a credit, or

"(B) any tax (other than tax imposed by section 1 or 55) required to be included with the joint return,

and such item is allocated to 1 individual under paragraph (3), such deficiency (or portion) shall be allocated to such individual. Any such item shall not be taken into account under paragraph (1).

"(3) ALLOCATION OF ITEMS GIVING RISE TO THE DEFICIENCY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in paragraphs (4) and (5), any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

"(B) EXCEPTION WHERE OTHER SPOUSE BENEFITS.—Under rules prescribed by the Secretary, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

"(C) EXCEPTION FOR FRAUD.—The Secretary may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Secretary establishes that such allocation is appropriate due to fraud of 1 or both individuals.

"(4) LIMITATIONS ON SEPARATE RETURNS DISREGARDED.—If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, such disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately. A similar rule shall apply for purposes of section 86.

"(5) CHILD'S LIABILITY.—If the liability of a child of a taxpayer is included on a joint return, such liability shall be disregarded in computing the separate liability of either spouse and such liability shall be allocated appropriately between the spouses.

"(e) PETITION FOR REVIEW BY TAX COURT.—

"(1) IN GENERAL.—In the case of an individual who elects to have subsection (b) or (c) apply—

"(A) IN GENERAL.—The individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed during the 90-day period beginning on the date on which the Secretary mails by certified or registered mail a notice to such individual of the Secretary's determination of relief available to the individual. Notwithstanding the preceding sentence, an individual may file such petition at any time after the date which is 6 months after the date such election is filed with the Secretary and before the close of such 90-day period.

"(B) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

"(i) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court shall be made, begun, or prosecuted against the individual making an election under subsection (b) or (c) for collection of any assessment to which such election relates until the expiration of the 90-day period described in subparagraph (A), or, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

"(ii) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of such levy or proceeding during the time the prohibition under clause (i) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under subparagraph (A) and then only in respect of the amount of the assessment to which the election under subsection (b) or (c) relates.

"(2) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (1)(B) from collecting by levy or a proceeding in court and for 60 days thereafter.

"(3) APPLICABLE RULES.—

"(A) ALLOWANCE OF CREDIT OR REFUND.—Except as provided in subparagraph (B), notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

"(B) RES JUDICATA.—In the case of any election under subsection (b) or (c), if a decision of the Tax Court in any prior proceeding for the same taxable year has become final, such decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in such proceeding. The exception contained in the preceding sentence shall not apply if the Tax Court determines that the individual participated meaningfully in such prior proceeding.

"(C) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either individual filing the joint return pursuant to section 6532—

"(i) the Tax Court shall lose jurisdiction of the individual's action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund, and

"(ii) the court acquiring jurisdiction shall have jurisdiction over the petition filed under this subsection.

"(4) NOTICE TO OTHER SPOUSE.—The Tax Court shall establish rules which provide the individual filing a joint return but not making the election under subsection (b) or (c) with adequate notice and an opportunity to become a party to a proceeding under either such subsection.

"(f) EQUITABLE RELIEF.—Under procedures prescribed by the Secretary, if—

"(1) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either), and

"(2) relief is not available to such individual under subsection (b) or (c),

the Secretary may relieve such individual of such liability.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this section, including—

"(1) regulations providing methods for allocation of items other than the methods under subsection (d)(3), and

"(2) regulations providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under subsection (b) or (c) by the other individual filing the joint return.".

(b) EQUITABLE RELIEF FOR INDIVIDUALS NOT FILING JOINT RETURN.—Section 66(c) (relating to spouse relieved of liability in certain other cases) is amended by adding at the end the following new sentence: "Under procedures prescribed by the Secretary, if, taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under the preceding sentence, the Secretary may relieve such individual of such liability.".

(c) SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall develop a separate form with instructions for use by taxpayers in applying for relief under section 6015(a) of the Internal Revenue Code of 1986, as added by this section.

(d) SEPARATE NOTICE TO EACH FILER.—The Secretary of the Treasury shall, wherever practicable, send any notice relating to a joint return under section 6013 of the Internal Revenue Code of 1986 separately to each individual filing the joint return.

(e) CONFORMING AMENDMENTS.—

(1) Section 6013 is amended by striking subsection (e).

(2) Subparagraph (A) of section 6230(c)(5) is amended by striking "section 6013(e)" and inserting "section 6015".

(3) Section 7421(a) is amended by inserting "6015(d)," after "sections".

(f) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6014 the following new item:

"Sec. 6015. Relief from joint and several liability on joint return.".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any liability for tax arising after the date of the enactment of this Act and any liability for tax arising on or before such date but remaining unpaid as of such date.

(2) 2-YEAR PERIOD.—The 2-year period under subsection (b)(1)(E) or (c)(3)(B) of section 6015 of the Internal Revenue Code of 1986 shall not expire before the date which is 2 years after the date of the first collection activity after the date of the enactment of this Act.

SEC. 3202. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY.—

"(1) IN GENERAL.—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

"(2) FINANCIALLY DISABLED.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of a medically determinable physical or mental impairment of the individual which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

"(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods of disability before, on, or after the date of the enactment of this Act but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of the date of the enactment of this Act.

Subtitle D—Provisions Relating to Interest and Penalties

SEC. 3301. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON TAX OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

"(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.".

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to the extent that section 6621(d) applies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section shall apply to interest for periods beginning after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by this section shall apply to interest for periods beginning before the date of the enactment of this Act if the taxpayer—

(A) reasonably identifies and establishes periods of such tax overpayments and underpayments for which the zero rate applies, and

(B) not later than December 31, 1999, requests the Secretary of the Treasury to apply section 6621(d) of the Internal Revenue Code of 1986, as added by subsection (a), to such periods.

SEC. 3302. INCREASE IN OVERPAYMENT RATE PAYABLE TO TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 6621(a)(1) (defining overpayment rate) is amended to read as follows:

"(B) 3 percentage points (2 percentage points in the case of a corporation).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest for the second and succeeding calendar quarters beginning after the date of the enactment of this Act.

SEC. 3303. MITIGATION OF PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(h) LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.—In the case of an individual who files a return of tax on or before the due date for the return (including extensions), paragraphs (2) and (3) of subsection (a) shall each be applied by substituting '0.25' for '0.5' each place it appears for purposes of determining the addition to tax for any month during which an installment agreement under section 6159 is in effect for the payment of such tax.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for purposes of determining additions to the tax for months beginning after December 31, 1999.

SEC. 3304. MITIGATION OF FAILURE TO DEPOSIT PENALTY.

(a) TAXPAYER MAY DESIGNATE PERIODS TO WHICH DEPOSITS APPLY.—Section 6656 (relating to underpayment of deposits) is amended by adding at the end the following new subsection:

"(e) DESIGNATION OF PERIODS TO WHICH DEPOSITS APPLY.—

"(1) IN GENERAL.—A person may, with respect to any deposit of tax to be reported on such person's return for a specified tax period, designate the period or periods within such specified tax period to which the deposit is to be applied for purposes of this section.

"(2) TIME FOR MAKING DESIGNATION.—A person may make a designation under paragraph (1) only during the 90-day period beginning on the date of a notice that a penalty under subsection (a) has been imposed for the specified tax period to which the deposit relates.".

(b) EXPANSION OF EXEMPTION FOR FIRST-TIME DEPOSITS.—

(1) IN GENERAL.—Paragraph (2) of section 6656(c) (relating to exemption for first-time depositors of employment taxes) is amended to read as follows:

"(2) such failure—

"(A) occurs during the 1st quarter that such person was required to deposit any employment tax, or

"(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and".

(c) PERIODS APPLY TO CURRENT LIABILITIES UNLESS DESIGNATED OTHERWISE.—Paragraph (1) of section 6656(e) (as added by subsection (a) of this section) is amended to read as follows:

"(e) DESIGNATION OF PERIODS TO WHICH DEPOSITS APPLY.—

"(1) IN GENERAL.—A deposit made under this section shall be applied to the most recent period or periods within the specified tax period to which the deposit relates, unless the person making such deposit designates a different period or periods to which such deposit is to be applied.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act.

(2) APPLICATION TO CURRENT LIABILITIES.—The amendment made by subsection (c) shall apply to deposits required to be made after December 31, 2001.

SEC. 3305. SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT INDIVIDUAL TAXPAYER.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.—

"(1) SUSPENSION.—

"(A) IN GENERAL.—In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice to the taxpayer specifically stating the taxpayer's liability and the basis for the liability before the close of the 1-year period (18-month period in the case of taxable years beginning before January 1, 2004) beginning on the later of—

"(i) the date on which the return is filed, or

"(ii) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

"(B) SEPARATE APPLICATION.—This paragraph shall be applied separately with respect to each item or adjustment.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any penalty imposed by section 6651,

"(B) any interest, penalty, addition to tax, or additional amount in a case involving fraud,

"(C) any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on the return, or

"(D) any criminal penalty.

"(3) SUSPENSION PERIOD.—For purposes of this subsection, the term 'suspension period' means the period—

"(A) beginning on the day after the close of the 1-year period (18-month period in the case of taxable years beginning before January 1, 2004) under paragraph (1), and

"(B) ending on the date which is 21 days after the date on which notice described in paragraph (1)(A) is provided by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 3306. PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PENALTIES AND ADDITIONS TO TAX.

(a) IN GENERAL.—Chapter 68 (relating to additions to the tax, additional amounts, and assessable penalties) is amended by adding at the end the following new subchapter:

"Subchapter C—Procedural Requirements

"Sec. 6751. Procedural requirements.

"SEC. 6751. PROCEDURAL REQUIREMENTS.

"(a) COMPUTATION OF PENALTY INCLUDED IN NOTICE.—The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

"(b) APPROVAL OF ASSESSMENT.—

"(1) IN GENERAL.—No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in *writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.*

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any addition to tax under section 6651, 6654, or 6655, or

"(B) any other penalty automatically calculated through electronic means.

"(c) PENALTIES.—For purposes of this section, the term 'penalty' includes any addition to tax or any additional amount.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 68 is amended by adding at the end the following new item:

"SUBCHAPTER C. Procedural requirements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued, and penalties assessed, after December 31, 2000.

SEC. 3307. PERSONAL DELIVERY OF NOTICE OF PENALTY UNDER SECTION 6672.

(a) IN GENERAL.—Paragraph (1) of section 6672(b) (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by inserting "or in person" after "section 6212(b)".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6672(b) is amended by inserting "(or, in the case of such a notice delivered in person, such delivery)" after "paragraph (1)".

(2) Paragraph (3) of section 6672(b) is amended by inserting "or delivered in person" after "mailed" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3308. NOTICE OF INTEREST CHARGES.

(a) IN GENERAL.—Chapter 67 (relating to interest) is amended by adding at the end the following new subchapter:

"Subchapter D—Notice requirements

"Sec. 6631. Notice requirements.

"SEC. 6631. NOTICE REQUIREMENTS.

"The Secretary shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 67 is amended by adding at the end the following new item:

"SUBCHAPTER D. Notice requirements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued after December 31, 2000.

SEC. 3309. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements), as amended by section 3305, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997.

(c) EMERGENCY DESIGNATION.—

(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act, Congress designates the provisions of this section as an emergency requirement.

(2) The amendments made by subsections (a) and (b) of this section shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

PART I—DUE PROCESS

SEC. 3401. DUE PROCESS IN IRS COLLECTION ACTIONS.

(a) NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting before the table of sections the following:

"Part I. Due process for liens.

"Part II. Liens.

"PART I—DUE PROCESS FOR LIENS

"Sec. 6320. Notice and opportunity for hearing upon filing of notice of lien.

"SEC. 6320. NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN.

"(a) REQUIREMENT OF NOTICE.—

"(1) IN GENERAL.—The Secretary shall notify in writing the person described in section 6321 of the filing of a notice of lien under section 6323.

"(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail to such person's last known address,

not more than 5 business days after the day of the filing of the notice of lien.

"(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

"(A) the amount of unpaid tax,

"(B) the right of the person to request a hearing during the 30-day period beginning on the day after the 5-day period described in paragraph (2),

"(C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals, and

"(D) the provisions of this title and procedures relating to the release of liens on property.

"(b) RIGHT TO FAIR HEARING.—

"(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

"(2) ONE HEARING PER PERIOD.—A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

"(3) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6330. A taxpayer may waive the requirement of this paragraph.

"(4) COORDINATION WITH SECTION 6330.—To the extent practicable, a hearing under this section shall be held in conjunction with a hearing under section 6330.

"(c) CONDUCT OF HEARING; REVIEW; SUSPENSIONS.—For purposes of this section, subsections (c), (d) (other than paragraph (2)(B) thereof), and (e) of section 6330 shall apply.

"PART II—LIENS".

(b) NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.—Subchapter D of chapter 64 (relating to seizure of property for collection of taxes) is amended by inserting before the table of sections the following:

"Part I. Due process for collections.

"Part II. Levy.

"PART I—DUE PROCESS FOR COLLECTIONS

"Sec. 6330. Notice and opportunity for hearing before levy.

"SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.

"(a) REQUIREMENT OF NOTICE BEFORE LEVY.—

"(1) IN GENERAL.—No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

"(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail, return receipt requested, to such person's last known address,

not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

"(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

"(A) the amount of unpaid tax,

"(B) the right of the person to request a hearing during the 30-day period under paragraph (2), and

"(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159), and

"(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

"(b) RIGHT TO FAIR HEARING.—

"(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

"(2) ONE HEARING PER PERIOD.—A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

"(3) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

"(c) MATTERS CONSIDERED AT HEARING.—In the case of any hearing conducted under this section—

"(1) REQUIREMENT OF INVESTIGATION.—The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

"(2) ISSUES AT HEARING.—

"(A) IN GENERAL.—The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

"(i) appropriate spousal defenses,

"(ii) challenges to the appropriateness of collection actions, and

"(iii) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

"(B) UNDERLYING LIABILITY.—The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

"(3) BASIS FOR THE DETERMINATION.—The determination by an appeals officer under this subsection shall take into consideration—

"(A) the verification presented under paragraph (1),

"(B) the issues raised under paragraph (2), and

"(C) whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

"(4) CERTAIN ISSUES PRECLUDED.—An issue may not be raised at the hearing if—

"(A) the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding, and

"(B) the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

"(d) PROCEEDING AFTER HEARING.—

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination—

"(A) to the Tax Court (and the Tax Court shall have jurisdiction to hear such matter), or

"(B) if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.

If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct court.

"(2) JURISDICTION RETAINED AT IRS OFFICE OF APPEALS.—The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

"(A) collection actions taken or proposed with respect to such determination, and

"(B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

"(e) SUSPENSION OF COLLECTIONS AND STATUTE OF LIMITATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing.

"(2) LEVY UPON APPEAL.—Paragraph (1) shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the Secretary has shown good cause not to suspend the levy.

"(f) JEOPARDY AND STATE REFUND COLLECTION.—If—

"(1) the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy, or

"(2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund,

this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

"PART II—LEVY".

(c) REVIEW BY SPECIAL TRIAL JUDGES ALLOWED.—

(1) IN GENERAL.—Section 7443(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) any proceeding under section 6320 or 6330, and".

(2) AUTHORITY TO MAKE DECISIONS.—Section 7443(c) (relating to authority to make court decisions) is amended by striking "or (3)" and inserting "(3), or (4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after the date which is 180 days after the date of the enactment of this Act.

PART II—EXAMINATION ACTIVITIES

SEC. 3411. CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7525. CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

"(a) UNIFORM APPLICATION TO TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.—

"(1) GENERAL RULE.—With respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

"(2) LIMITATIONS.—Paragraph (1) may only be asserted in—

"(A) any noncriminal tax matter before the Internal Revenue Service, and

"(B) any noncriminal tax proceeding in Federal court brought by or against the United States.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) FEDERALLY AUTHORIZED TAX PRACTITIONER.—The term 'federally authorized tax practitioner' means any individual who is authorized under Federal law to practice before the Internal Revenue Service if such practice is subject to Federal regulation under section 330 of title 31, United States Code.

"(B) TAX ADVICE.—The term 'tax advice' means advice given by an individual with respect to a matter which is within the scope of the individual's authority to practice described in subparagraph (A).

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING CORPORATE TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of such corporation in any tax shelter (as defined in section 6662(d)(2)(C)(iii)).".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter 77 is amended by adding at the end the following new item:

"Sec. 7525. Confidentiality privileges relating to taxpayer communications.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 3412. LIMITATION ON FINANCIAL STATUS AUDIT TECHNIQUES.

Section 7602 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

"(d) LIMITATION ON EXAMINATION ON UNREPORTED INCOME.—The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.".

SEC. 3413. SOFTWARE TRADE SECRETS PROTECTION.

(a) IN GENERAL.—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7612 as section 7613 and by inserting after 7611 the following new section:

"SEC. 7612. SPECIAL PROCEDURES FOR SUMMONSES FOR COMPUTER SOFTWARE.

"(a) GENERAL RULE.—For purposes of this title—

"(1) except as provided in subsection (b), no summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons to produce or analyze any tax-related computer software source code, and

"(2) any software and related materials which are provided to the Secretary under this title shall be subject to the safeguards under subsection (c).

"(b) CIRCUMSTANCES UNDER WHICH COMPUTER SOFTWARE SOURCE CODE MAY BE PROVIDED.—

"(1) IN GENERAL.—Subsection (a)(1) shall not apply to any portion, item, or component of tax-related computer software source code if—

"(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

"(i) the taxpayer's books, papers, records, or other data, or

"(ii) the computer software executable code (and any modifications thereof) to which such source code relates and any associated data which, when executed, produces the output to ascertain the correctness of the item,

"(B) the Secretary identifies with reasonable specificity the portion, item, or component of such source code needed to verify the correctness of such item on the return, and

"(C) the Secretary determines that the need for the portion, item, or component of such source code with respect to such item outweighs the risks of unauthorized disclosure of trade secrets.

"(2) EXCEPTIONS.—Subsection (a)(1) shall not apply to—

"(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,

"(B) any tax-related computer software source code acquired or developed by the taxpayer or a related person primarily for internal use by the taxpayer or such person rather than for commercial distribution,

"(C) any communications between the owner of the tax-related computer software source code and the taxpayer or related persons, or

"(D) any tax-related computer software source code which is required to be provided or made available pursuant to any other provision of this title.

"(3) Cooperation required.—For purposes of paragraph (1), the Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) of such paragraph if—

"(A) the Secretary determines that it is not feasible to determine the correctness of an item without access to the computer software executable code and associated data described in paragraph (1)(A)(ii),

"(B) the Secretary makes a formal request to the taxpayer for such code and data and to the owner of the computer software source code for such executable code, and

"(C) such code and data is not provided within 180 days of such request.

"(4) Right to contest summons.—In any proceeding brought under section 7604 to enforce a summons issued under the authority of this subsection, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of this subsection have been met.

"(c) Safeguards To Ensure Protection of Trade Secrets and Other Confidential Information.—

"(1) Entry of protective order.—In any court proceeding to enforce a summons for any portion of software, the court may receive evidence and issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such software, including requiring that any information be placed under seal to be opened only as directed by the court.

"(2) Protection of software.—Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer—

"(A) the software may be used only in connection with the examination of such taxpayer's return, any appeal by the taxpayer to the Internal Revenue Service Office of Appeals, any judicial proceeding (and any appeals therefrom), and any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,

"(B) the Secretary shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all individuals who will analyze or otherwise have access to the software,

"(C) the software shall be maintained in a secure area or place, and, in the case of computer software source code, shall not be removed from the owner's place of business unless the owner permits, or a court orders, such removal,

"(D) the software may not be copied except as necessary to perform such analysis, and the Secretary shall number all copies made and certify in writing that no other copies have been (or will be) made,

"(E) at the end of the period during which the software may be used under subparagraph (A)—

"(i) the software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on the hard drive of a machine or other mass storage device shall be permanently deleted, and

"(ii) the Secretary shall obtain from any person who analyzes or otherwise had access to such software a written certification under penalty of perjury that all copies and related materials have been returned and that no copies were made of them,

"(F) the software may not be decompiled or disassembled,

"(G) the Secretary shall provide to the taxpayer and the owner of any interest in such software, as the case may be, a written agreement, between the Secretary and any person who is not an officer or employee of the United States and who will analyze or otherwise have access to such software, which provides that such person agrees not to—

"(i) disclose such software to any person other than persons to whom such information could be disclosed for tax administration purposes under section 6103, or

"(ii) participate for 2 years in the development of software which is intended for a similar purpose as the software examined, and

"(H) the software shall be treated as return information for purposes of section 6103.

For purposes of subparagraph (C), the owner shall make available any necessary equipment or materials for analysis of computer software source code required to be conducted on the owner's premises. The owner of any interest in the software shall be considered a party to any agreement described in subparagraph (G).

"(d) Definitions.—For purposes of this section—

"(1) Software.—The term 'software' includes computer software source code and computer software executable code.

"(2) Computer software source code.—The term 'computer software source code' means—

"(A) the code written by a programmer using a programming language which is comprehensible to appropriately trained persons and is not capable of directly being used to give instructions to a computer,

"(B) related programmers' notes, design documents, memoranda, and similar documentation, and

"(C) related customer communications.

"(3) Computer software executable code.—The term 'computer software executable code' means—

"(A) any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions, and

"(B) any related user manuals.

"(4) Owner.—The term 'owner' shall, with respect to any software, include the developer of the software.

"(5) Related person.—A person shall be treated as related to another person if such persons are related persons under section 267 or 707(b).

"(6) Tax-related computer software source code.—The term 'tax-related computer software source code' means the computer source code for any computer software program intended for accounting, tax return preparation or compliance, or tax planning.".

(b) Unauthorized Disclosure of Software.—Section 7213 (relating to unauthorized disclosure of information) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Disclosure of Software.—Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.".

(c) Application of Special Procedures for Third-Party Summonses.—Paragraph (2) of section 7603(b), as amended by section 3416(a), is amended by striking "and" at the end of subparagraph (H), by striking a period at the end of subparagraph (I) and inserting ", and", and by adding at the end the following new subparagraph:

"(J) any owner or developer of a computer software source code (as defined in section 7612(d)(2)).

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which such source code relates.".

(d) Conforming Amendment.—The table of sections for subchapter A of chapter 78 is amended by striking the item relating to section 7612 and by inserting the following new item:

"Sec. 7612. Special procedures for summonses for computer software.

"Sec. 7613. Cross references.".

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to summonses issued, and software acquired, after the date of the enactment of this Act.

(2) Software protection.—In the case of any software acquired on or before such date of enactment, the requirements of section 7612(a)(2) of the Internal Revenue Code of 1986 (as added by such amendments) shall apply after the 90th day after such date. The preceding sentence shall not apply to the requirement under section 7612(c)(2)(G)(ii) of such Code (as so added).

SEC. 3414. THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING ALTERNATIVE COMMITMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.

SEC. 3415. TAXPAYERS ALLOWED MOTION TO QUASH ALL THIRD-PARTY SUMMONSES.

(a) In General.—Paragraph (1) of section 7609(a) (relating to summonses to which section applies) is amended by striking so much of such paragraph as precedes "notice of the summons" and inserting the following:

"(1) In general.—If any summons to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summons, then".

(b) Coordination With Other Authority.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end the following new subsection:

"(j) Use of Summons Not Required.—Nothing in this section shall be construed to limit the Secretary's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602.".

(c) Conforming Amendments.—

(1) Subsection (a) of section 7609 is amended by striking paragraphs (3) and (4), by redesignating paragraph (5) as paragraph (3), and by striking in paragraph (3) (as so redesignated) "subsection (c)(2)(B)" and inserting "subsection (c)(2)(D)".

(2) Subsection (c) of section 7609 is amended to read as follows:

"(c) SUMMONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7612.

"(2) EXCEPTIONS.—This section shall not apply to any summons—

"(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

"(B) issued to determine whether or not records of the business transactions or affairs of an identified person have been made or kept,

"(C) issued solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A),

"(D) issued in aid of the collection of—

"(i) an assessment made or judgment rendered against the person with respect to whose liability the summons is issued, or

"(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i),

"(E)(i) issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws, and

"(ii) served on any person who is not a third-party recordkeeper (as defined in section 7603(b)), or

"(F) described in subsection (f) or (g).

"(3) RECORDS.—For purposes of this section, the term 'records' includes books, papers, and other data.".

(3) Paragraph (2) of section 7609(e) is amended by striking "third-party recordkeeper's" and all that follows through "subsection (f)" and inserting "summoned party's response to the summons".

(4) Subsection (f) of section 7609 is amended—

(A) by striking "described in subsection (c)" and inserting "described in subsection (c)(1)", and

(B) by inserting "or testimony" after "records" in paragraph (3).

(5) Subsection (g) of section 7609 is amended by striking "In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if" and inserting "A summons is described in this subsection if".

(6)(A) Subsection (i) of section 7609 is amended by striking "THIRD-PARTY RECORDKEEPER AND" in the subsection heading.

(B) Paragraph (1) of section 7609(i) is amended by striking "described in subsection (c), the third-party recordkeeper" and inserting "to which this section applies for the production of records, the summoned party".

(C) Paragraph (2) of section 7609(i) is amended—

(i) by striking "RECORDKEEPER" in the heading and inserting "SUMMONED PARTY", and

(ii) by striking "the third-party recordkeeper" and inserting "the summoned party".

(D) Paragraph (3) of section 7609(i) is amended to read as follows:

"(3) PROTECTION FOR SUMMONED PARTY WHO DISCLOSES.—Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after the date of the enactment of this Act.

SEC. 3416. SERVICE OF SUMMONSES TO THIRD-PARTY RECORDKEEPERS PERMITTED BY MAIL.

(a) IN GENERAL.—Section 7603 (relating to service of summons) is amended by striking "A summons issued" and inserting "(a) IN GENERAL.—A summons issued" and by adding at the end the following new subsection:

"(b) SERVICE BY MAIL TO THIRD-PARTY RECORDKEEPERS.—

"(1) IN GENERAL.—A summons referred to in subsection (a) for the production of books, papers, records, or other data by a third-party recordkeeper may also be served by certified or registered mail to the last known address of such recordkeeper.

"(2) THIRD-PARTY RECORDKEEPER.—For purposes of paragraph (1), the term 'third-party recordkeeper' means—

"(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

"(B) any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

"(C) any person extending credit through the use of credit cards or similar devices;

"(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

"(E) any attorney;

"(F) any accountant;

"(G) any barter exchange (as defined in section 6045(c)(3));

"(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof, and

"(I) any enrolled agent.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to summonses served after the date of the enactment of this Act.

SEC. 3417. NOTICE OF IRS CONTACT OF THIRD PARTIES.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses), as amended by section 3412, is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) NOTICE OF CONTACT OF THIRD PARTIES.—

"(1) GENERAL NOTICE.—An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice in advance to the taxpayer that contacts with persons other than the taxpayer may be made.

"(2) NOTICE OF SPECIFIC CONTACTS.—The Secretary shall periodically provide to a taxpayer a record of persons contacted during such period by the Secretary with respect to the determination or collection of the tax liability of such taxpayer. Such record shall also be provided upon request of the taxpayer.

"(3) EXCEPTIONS.—This subsection shall not apply—

"(A) to any contact which the taxpayer has authorized,

"(B) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person, or

"(C) with respect to any pending criminal investigation.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contacts made after the 180th day after the date of the enactment of this Act.

PART III—COLLECTION ACTIVITIES

Subpart A—Approval Process

SEC. 3421. APPROVAL PROCESS FOR LIENS, LEVIES, AND SEIZURES.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement procedures under which—

(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken, and

(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

(b) REVIEW PROCESS.—The review process under subsection (a)(1) may include a certification that the employee has—

(1) reviewed the taxpayer's information,

(2) verified that a balance is due, and

(3) affirmed that the action proposed to be taken is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the date of the enactment of this Act.

(2) AUTOMATED COLLECTION SYSTEM ACTIONS.—In the case of any action under an automated collection system, this section shall apply to actions initiated after December 31, 2000.

Subpart B—Liens and Levies

SEC. 3431. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Section 6334(a)(2) (relating to fuel, provisions, furniture, and personal effects) is amended by striking "$2,500" and inserting "$6,250".

(b) BOOKS, ETC.—Section 6334(a)(3) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,250" and inserting "$3,125".

(c) CONFORMING AMENDMENT.—Section 6334(g)(1) (relating to inflation adjustment) is amended—

(1) by striking "1997" and inserting "1999", and

(2) by striking "1996" in subparagraph (B) and inserting "1998".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after the date of the enactment of this Act.

SEC. 3432. RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS UNCOLLECTIBLE.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(e) RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS NOT COLLECTIBLE.—In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall release such levy as soon as practicable.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies imposed after December 31, 1999.

SEC. 3433. LEVY PROHIBITED DURING PENDENCY OF REFUND PROCEEDINGS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) NO LEVY DURING PENDENCY OF PROCEEDINGS FOR REFUND OF DIVISIBLE TAX.—

"(1) IN GENERAL.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper Federal trial court for the recovery of any portion of such divisible tax which was paid by such person if—

"(A) the decision in such proceeding would be res judicata with respect to such unpaid tax, or

"(B) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

"(2) DIVISIBLE TAX.—For purposes of paragraph (1), the term 'divisible tax' means—

"(A) any tax imposed by subtitle C, and

"(B) the penalty imposed by section 6672 with respect to any such tax.

"(3) EXCEPTIONS.—

"(A) CERTAIN UNPAID TAXES.—This subsection shall not apply with respect to any unpaid tax if—

"(i) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax, or

"(ii) the Secretary finds that the collection of such tax is in jeopardy.

"(B) CERTAIN LEVIES.—This subsection shall not apply to—

"(i) any levy to carry out an offset under section 6402, and

"(ii) any levy which was first made before the date that the applicable proceeding under this subsection commenced.

"(4) LIMITATION ON COLLECTION ACTIVITY; AUTHORITY TO ENJOIN COLLECTION.—

"(A) LIMITATION ON COLLECTION.—No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to—

"(i) any counterclaim in a proceeding under such paragraph, or

"(ii) any proceeding relating to a proceeding under such paragraph.

"(B) AUTHORITY TO ENJOIN.—Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

"(5) SUSPENSION OF STATUTE OF LIMITATIONS ON COLLECTION.—The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.

"(6) PENDENCY OF PROCEEDING.—For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date that a final order or judgment from which an appeal may be taken is entered in such proceeding.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to unpaid tax attributable to taxable periods beginning after December 31, 1998.

SEC. 3434. APPROVAL REQUIRED FOR JEOPARDY AND TERMINATION ASSESSMENTS AND JEOPARDY LEVIES.

(a) IN GENERAL.—Paragraph (1) of section 7429(a) (relating to review of jeopardy levy or assessment procedures) is amended to read as follows:

"(1) ADMINISTRATIVE REVIEW.—

"(A) PRIOR APPROVAL REQUIRED.—No assessment may be made under section 6851(a), 6852(a), 6861(a), or 6862, and no levy may be made under section 6331(a) less than 30 days after notice and demand for payment is made, unless the Chief Counsel for the Internal Revenue Service (or such Counsel's delegate) personally approves (in writing) such assessment or levy.

"(B) INFORMATION TO TAXPAYER.—Within 5 days after the day on which such an assessment or levy is made, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relied in making such assessment or levy.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes assessed and levies made after the date of the enactment of this Act.

SEC. 3435. INCREASE IN AMOUNT OF CERTAIN PROPERTY ON WHICH LIEN NOT VALID.

(a) CERTAIN PROPERTY.—

(1) IN GENERAL.—Subsection (b) of section 6323 (relating to validity and priority against certain persons) is amended—

(A) by striking "$250" in paragraph (4) (relating to personal property purchased in casual sale) and inserting "$1,000", and

(B) by striking "$1,000" in paragraph (7) (relating to residential property subject to a mechanic's lien for certain repairs and improvements) and inserting "$5,000".

(2) INFLATION ADJUSTMENT.—Subsection (i) of section 6323 (relating to special rules) is amended by adding at the end the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of notices of liens imposed by section 6321 which are filed in any calendar year after 1998, each of the dollar amounts under paragraph (4) or (7) of subsection (b) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.".

(b) EXPANSION OF TREATMENT OF PASSBOOK LOANS.—Paragraph (10) of section 6323(b) is amended—

(1) by striking "PASSBOOK LOANS" in the heading and inserting "DEPOSIT-SECURED LOANS",

(2) by striking ", evidenced by a passbook,", and

(3) by striking all that follows "secured by such account" and inserting a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3436. WAIVER OF EARLY WITHDRAWAL TAX FOR IRS LEVIES ON EMPLOYER-SPONSORED RETIREMENT PLANS OR IRAS.

(a) IN GENERAL.—Section 72(t)(2)(A) (relating to subsection not to apply to certain distributions) is amended by striking "or" at the end of clauses (iv) and (v), by striking the period at the end of clause (vi) and inserting ", or", and by adding at the end the following new clause:

"(vii) made on account of a levy under section 6331 on the qualified retirement plan.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1999.

Subpart C—Seizures

SEC. 3441. PROHIBITION OF SALES OF SEIZED PROPERTY AT LESS THAN MINIMUM BID.

(a) IN GENERAL.—Section 6335(e)(1)(A)(i) (relating to determinations relating to minimum price) is amended by striking "a minimum price for which such property shall be sold" and inserting "a minimum price below which such property shall not be sold".

(b) REFERENCE TO PENALTY FOR VIOLATION.—Section 6335(e) is amended by adding at the end the following new paragraph:

"(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales made after the date of the enactment of this Act.

SEC. 3442. ACCOUNTING OF SALES OF SEIZED PROPERTY.

(a) IN GENERAL.—Section 6340 (relating to records of sale) is amended—

(1) in subsection (a)—

(A) by striking "real", and

(B) by inserting "or certificate of sale of personal property" after "deed", and

(2) by adding at the end the following new subsection:

"(c) ACCOUNTING TO TAXPAYER.—The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished—

"(1) the record under subsection (a) (other than the names of the purchasers),

"(2) the amount from such sale applied to the taxpayer's liability, and

"(3) the remaining balance of such liability.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to seizures occurring after the date of the enactment of this Act.

SEC. 3443. UNIFORM ASSET DISPOSAL MECHANISM.

Not later than the date which is 2 years after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall implement a uniform asset disposal mechanism for sales under section 6335 of the Internal Revenue Code of 1986. The mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.

SEC. 3444. CODIFICATION OF IRS ADMINISTRATIVE PROCEDURES FOR SEIZURE OF TAXPAYER'S PROPERTY.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint), as amended by section 3433, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) NO LEVY BEFORE INVESTIGATION OF STATUS OF PROPERTY.—

"(1) IN GENERAL.—For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property which is to be sold under section 6335 until a thorough investigation of the status of such property has been completed.

"(2) ELEMENTS IN INVESTIGATION.—For purposes of paragraph (1), an investigation of the status of any property shall include—

"(A) a verification of the taxpayer's liability,

"(B) the completion of an analysis under subsection (f),

"(C) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability, and

"(D) a thorough consideration of alternative collection methods.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3445. PROCEDURES FOR SEIZURE OF RESIDENCES AND BUSINESSES.

(a) IN GENERAL.—Section 6334(a)(13) (relating to property exempt from levy) is amended to read as follows:

"(13) RESIDENCES EXEMPT IN SMALL DEFICIENCY CASES AND PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—

"(A) RESIDENCES IN SMALL DEFICIENCY CASES.—If the amount of the levy does not exceed $5,000—

"(i) any real property used as a residence by the taxpayer, or

"(ii) any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

"(B) PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS.—Except to the extent provided in subsection (e)—

"(i) the principal residence of the taxpayer (within the meaning of section 121), and

"(ii) tangible personal property or real property (other than real property which is rented)

used in the trade or business of an individual taxpayer.''.

(b) Levy Allowed in Certain Circumstances.—Section 6334(e) is amended to read as follows:

''(e) Levy Allowed on Principal Residences and Certain Business Assets in Certain Circumstances.—

''(1) Principal residences.—

''(A) Approval required.—A principal residence shall not be exempt from levy if a judge or magistrate of a district court of the United States approves (in writing) the levy of such residence.

''(B) Jurisdiction.—The district courts of the United States shall have exclusive jurisdiction to approve a levy under subparagraph (A).

''(2) Certain business assets.—Property (other than a principal residence) described in subsection (a)(13)(B) shall not be exempt from levy if—

''(A) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

''(B) the Secretary finds that the collection of tax is in jeopardy.

An official may not approve a levy under subparagraph (A) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.''.

(c) State Fish and Wildlife Permits.—

(1) In general.—With respect to permits issued by a State and required under State law for the harvest of fish or wildlife in the trade or business of an individual taxpayer, the term ''other assets'' as used in section 6334(e)(2) of the Internal Revenue Code of 1986 shall include future income which may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

(2) Construction.—Paragraph (1) shall not be construed to invalidate or in any way prejudice any assertion that the privilege embodied in permits described in paragraph (1) is not property or a right to property under the Internal Revenue Code of 1986.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

SEC. 3461. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) Authority To Extend 10-Year Collection Period After Assessment.—Section 6502(a) (relating to length of period after collection) is amended—

(1) by striking paragraph (2) and inserting:

''(2) if—

''(A) there is an installment agreement between the taxpayer and the Secretary, prior to the date which is 90 days after the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer at the time the installment agreement was entered into, or

''(B) there is a release of levy under section 6343 after such 10-year period, prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.'', and

(2) by striking the first sentence in the matter following paragraph (2).

(b) Notice to Taxpayer of Right To Refuse or Limit Extension.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking ''Where'' and inserting the following:

''(A) In general.—Where'', and

(2) by adding at the end the following new subparagraph:

''(B) Notice to taxpayer of right to refuse or limit extension.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent.''.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to requests to extend the period of limitations made after December 31, 1999.

(2) Prior request.—If, in any request to extend the period of limitations made on or before December 31, 1999, a taxpayer agreed to extend such period beyond the 10-year period referred to in section 6502(a) of the Internal Revenue Code of 1986, such extension shall expire on the latest of—

(A) the last day of such 10-year period,

(B) December 31, 2002, or

(C) in the case of an extension in connection with an installment agreement, the 90th day after the end of the period of such extension.

SEC. 3462. OFFERS-IN-COMPROMISE.

(a) Standards for Evaluation of Offers-in-Compromise.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

''(c) Standards for Evaluation of Offers.—

''(1) In general.—The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute.

''(2) Allowances for basic living expenses.—

''(A) In general.—In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

''(B) Use of schedules.—The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

''(3) Special rules relating to treatment of offers.—The guidelines under paragraph (1) shall provide that—

''(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer, and

''(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

''(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information for verification of such liability, and

''(ii) the taxpayer shall not be required to provide a financial statement.''.

(b) Levy Prohibited While Offer-in-Compromise Pending or Installment Agreement Pending or in Effect.—Section 6331 (relating to levy and distraint), as amended by sections 3433 and 3444, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) No Levy While Certain Offers Pending or Installment Agreement Pending or in Effect.—

''(1) Offer-in-compromise pending.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

''(A) during the period that an offer-in-compromise by such person under section 7122 of such unpaid tax is pending with the Secretary, and

''(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

''(2) Installment agreements.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

''(A) during the period that an offer by such person for an installment agreement under section 6159 for payment of such unpaid tax is pending with the Secretary,

''(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending),

''(C) during the period that such an installment agreement for payment of such unpaid tax is in effect, and

''(D) if such agreement is terminated by the Secretary, during the 30 days thereafter (and, if an appeal of such termination is filed within such 30 days, during the period that such appeal is pending).

''(3) Certain rules to apply.—Rules similar to the rules of paragraphs (3), (4), and (5) of subsection (i) shall apply for purposes of this subsection.''.

(c) Review of Rejections of Offers-in-Compromise and Installment Agreements.—

(1) In general.—Section 7122 (relating to compromises), as amended by subsection (a), is amended by adding at the end the following new subsection:

''(d) Administrative Review.—The Secretary shall establish procedures—

''(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer, and

''(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Office of Appeals.''.

(2) Conforming Amendment.—Section 6159 (relating to installment agreements) is amended by adding at the end the following new subsection:

''(d) Cross Reference.—

"For rights to administrative review and appeal, see section 7122(d).".

(d) Preparation of Statement Relating to Offers-in-Compromise.—The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

(1) advise taxpayers who have entered into a compromise of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status,

(2) provide notice to taxpayers that in the case of a compromise terminated due to the actions of 1 spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such compromise with the spouse or former spouse who remains in compliance with such compromise, and

(3) provide notice to the taxpayer that the taxpayer may appeal the rejection of an offer-in-compromise to the Internal Revenue Service Office of Appeals.

(e) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to proposed offers-in-compromise and installment agreements submitted after the date of the enactment of this Act.

(2) Suspension of collection by levy.—The amendment made by subsection (b) shall apply to offers-in-compromise pending on or made after December 31, 1999.

SEC. 3463. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION.

(a) In General.—The Secretary of the Treasury or the Secretary's delegate shall include on each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.

(b) Later Filing Deadlines Specified on Notice of Deficiency To Be Binding.—Subsection (a) of section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by adding at the end the following new sentence: "Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.".

(c) Effective Date.—Subsection (a) and the amendment made by subsection (b) shall apply to notices mailed after December 31, 1998.

SEC. 3464. REFUND OR CREDIT OF OVERPAYMENTS BEFORE FINAL DETERMINATION.

(a) Tax Court Proceedings.—Subsection (a) of section 6213 is amended—

(1) by striking ", including the Tax Court." and inserting ", including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection.", and

(2) by striking "to enjoin any action or proceeding" and inserting "to enjoin any action or proceeding or order any refund".

(b) Other Proceedings.—Subsection (a) of section 6512 is amended by striking the period at the end of paragraph (4) and inserting ", and", and by inserting after paragraph (4) the following new paragraphs:

"(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

"(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).".

(c) Refund or Credit Pending Appeal.—Paragraph (1) of section 6512(b) is amended by adding at the end the following new sentence: "If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.".

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3465. IRS PROCEDURES RELATING TO APPEALS OF EXAMINATIONS AND COLLECTIONS.

(a) Dispute Resolution Procedures.—

(1) In general.—Chapter 74 (relating to closing agreements and compromises) is amended by redesignating section 7123 as section 7124 and by inserting after section 7122 the following new section:

"SEC. 7123. APPEALS DISPUTE RESOLUTION PROCEDURES.

"(a) Early Referral to Appeals Procedures.—The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Office of Appeals.

"(b) Alternative Dispute Resolution Procedures.—

"(1) Mediation.—The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

"(A) appeals procedures, or

"(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

"(2) Arbitration.—The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

"(A) appeals procedures, or

"(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.".

(2) Conforming amendment.—The table of sections for chapter 74 is amended by striking the item relating to section 7123 and inserting the following new items:

"Sec. 7123. Appeals dispute resolution procedures.

"Sec. 7124. Cross references.".

(b) Appeals Officers in Each State.—The Commissioner of Internal Revenue shall ensure that an appeals officer is regularly available within each State.

(c) Appeals Videoconferencing Alternative for Rural Areas.—The Commissioner of Internal Revenue shall consider the use of the videoconferencing of appeals conferences between appeals officers and taxpayers seeking appeals in rural or remote areas.

SEC. 3466. APPLICATION OF CERTAIN FAIR DEBT COLLECTION PROCEDURES.

(a) In General.—Subchapter A of chapter 64 (relating to collection) is amended by inserting after section 6303 the following new section:

"SEC. 6304. FAIR TAX COLLECTION PRACTICES.

"(a) Communication With the Taxpayer.—Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

"(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

"(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

"(3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.

"(b) Prohibition of Harassment and Abuse.—The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

"(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

"(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

"(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

"(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

"(c) Civil Action for Violations of Section.—

"For civil action for violations of this section, see section 7433.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 64 is amended by inserting after the item relating to section 6303 the following new item:

"Sec. 6304. Fair tax collection practices.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3467. GUARANTEED AVAILABILITY OF INSTALLMENT AGREEMENTS.

(a) In General.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Secretary Required To Enter Into Installment Agreements in Certain Cases.—In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

"(1) the aggregate amount of such liability (determined without regard to interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000,

"(2) the taxpayer (and, if such liability relates to a joint return, the taxpayer's spouse) has not, during any of the preceding 5 taxable years—

"(A) failed to file any return of tax imposed by subtitle A,

"(B) failed to pay any tax required to be shown on any such return, or

"(C) entered into an installment agreement under this section for payment of any tax imposed by subtitle A,

"(3) the Secretary determines that the taxpayer is financially unable to pay such liability in full when due (and the taxpayer submits such information as the Secretary may require to make such determination),

"(4) the agreement requires full payment of such liability within 3 years, and

"(5) the taxpayer agrees to comply with the provisions of this title for the period such agreement is in effect.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3468. PROHIBITION ON REQUESTS TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS.

(a) Prohibition.—No officer or employee of the United States may request a taxpayer to waive the taxpayer's right to bring a civil action against the United States or any officer or employee of the United States for any action taken in connection with the internal revenue laws.

(b) Exceptions.—Subsection (a) shall not apply in any case where—

(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily, or

(2) the request by the officer or employee is made in person and the taxpayer's attorney or

other federally authorized tax practitioner (within the meaning of section 7525(a)(3)(A) of the Internal Revenue Code of 1986) is present, or the request is made in writing to the taxpayer's attorney or other representative.

Subtitle F—Disclosures to Taxpayers

SEC. 3501. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

(b) RIGHT TO LIMIT LIABILITY.—The procedures under subsection (a) shall include requirements that notice of an individual's right to relief under section 6015 of the Internal Revenue Code of 1986 shall be included in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) and in any collection-related notices.

SEC. 3502. EXPLANATION OF TAXPAYERS' RIGHTS IN INTERVIEWS WITH THE INTERNAL REVENUE SERVICE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service, and

(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986.

SEC. 3503. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the same day.

SEC. 3504. EXPLANATIONS OF APPEALS AND COLLECTION PROCESS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, include with any 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the entire process from examination through collection with respect to such proposed deficiency, including the assistance available to the taxpayer from the National Taxpayer Advocate at various points in the process.

SEC. 3505. EXPLANATION OF REASON FOR REFUND DISALLOWANCE.

(a) IN GENERAL.—Section 6402 (relating to authority to make credits or refunds) is amended by adding at the end the following new subsection:

"(j) EXPLANATION OF REASON FOR REFUND DISALLOWANCE.—In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disallowances after the 180th day after the date of the enactment of this Act.

SEC. 3506. STATEMENTS REGARDING INSTALLMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall, beginning not later than July 1, 2000, provide each taxpayer who has an installment agreement in effect under section 6159 of the Internal Revenue Code of 1986 an annual statement setting forth the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.

SEC. 3507. NOTIFICATION OF CHANGE IN TAX MATTERS PARTNER.

(a) IN GENERAL.—Section 6231(a)(7) (defining tax matters partner) is amended by adding at the end the following new sentence: "The Secretary shall, within 30 days of selecting a tax matters partner under the preceding sentence, notify all partners required to receive notice under section 6223(a) of the name and address of the person selected.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to selections of tax matters partners made by the Secretary of the Treasury after the date of the enactment of this Act.

SEC. 3508. DISCLOSURE TO TAXPAYERS.

The Secretary of the Treasury or the Secretary's delegate shall ensure that any instructions booklet accompanying an individual Federal income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place, a concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof.

SEC. 3509. DISCLOSURE OF CHIEF COUNSEL ADVICE.

(a) IN GENERAL.—Section 6110(b)(1) (defining written determination) is amended by striking "or technical advice memorandum" and inserting "technical advice memorandum, or Chief Counsel advice".

(b) CHIEF COUNSEL ADVICE.—Section 6110 (relating to public inspection of written determinations) is amended by redesignating subsections (i), (j), (k), and (l) as subsections (j), (k), (l), and (m), respectively, and by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULES FOR DISCLOSURE OF CHIEF COUNSEL ADVICE.—

"(1) CHIEF COUNSEL ADVICE DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'Chief Counsel advice' means written advice or instruction, under whatever name or designation, prepared by any national office component of the Office of Chief Counsel which—

"(i) is issued to field or service center employees of the Service or regional or district employees of the Office of Chief Counsel, and

"(ii) conveys—

"(I) any legal interpretation of a revenue provision,

"(II) any Internal Revenue Service or Office of Chief Counsel position or policy concerning a revenue provision, or

"(III) any legal interpretation of State law, foreign law, or other Federal law relating to the assessment or collection of any liability under a revenue provision.

"(B) REVENUE PROVISION DEFINED.—For purposes of subparagraph (A), the term 'revenue provision' means any existing or former internal revenue law, regulation, revenue ruling, revenue procedure, other published or unpublished guidance, or tax treaty, either in general or as applied to specific taxpayers or groups of specific taxpayers.

"(2) ADDITIONAL DOCUMENTS TREATED AS CHIEF COUNSEL ADVICE.—The Secretary may by regulation provide that this section shall apply to any advice or instruction prepared and issued by the Office of Chief Counsel which is not described in paragraph (1).

"(3) DELETIONS FOR CHIEF COUNSEL ADVICE.—In the case of Chief Counsel advice open to public inspection pursuant to this section—

"(A) paragraphs (2) through (7) of subsection (c) shall not apply, but

"(B) the Secretary may make deletions of material in accordance with subsections (b) and (c) of section 552 of title 5, United States Code, except that in applying subsection (b)(3) of such section, no statutory provision of this title shall be taken into account.

"(4) NOTICE OF INTENTION TO DISCLOSE.—

"(A) NONTAXPAYER-SPECIFIC CHIEF COUNSEL ADVICE.—In the case of Chief Counsel advice which is written without reference to a specific taxpayer or group of specific taxpayers—

"(i) subsection (f)(1) shall not apply, and

"(ii) the Secretary shall, within 60 days after the issuance of the Chief Counsel advice, complete any deletions described in subsection (c)(1) or paragraph (3) and make the Chief Counsel advice, as so edited, open for public inspection.

"(B) TAXPAYER-SPECIFIC CHIEF COUNSEL ADVICE.—In the case of Chief Counsel advice which is written with respect to a specific taxpayer or group of specific taxpayers, the Secretary shall, within 60 days after the issuance of the Chief Counsel advice, mail the notice required by subsection (f)(1) to each such taxpayer. The notice shall include a copy of the Chief Counsel advice on which is indicated the information that the Secretary proposes to delete pursuant to subsection (c)(1). The Secretary may also delete from the copy of the text of the Chief Counsel advice any of the information described in paragraph (3), and shall delete the names, addresses, and other identifying details of taxpayers other than the person to whom the advice pertains, except that the Secretary shall not delete from the copy of the Chief Counsel advice that is furnished to the taxpayer any information of which that taxpayer was the source.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6110(f)(1) is amended by striking "The Secretary" and inserting "Except as otherwise provided by subsection (i), the Secretary".

(2) Paragraphs (1)(B) and (2) of section 6110(j)(1), as redesignated by this section, are amended by striking "subsection (g)" each place it appears and inserting "subsection (g) or (i)(4)(B)".

(3) Section 6110(k)(1)(B), as so redesignated, is amended by striking "subsection (c)" and inserting "subsection (c)(1) or (i)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any Chief Counsel advice issued more than 90 days after the date of the enactment of this Act.

(2) TRANSITION RULES.—The amendments made by this section shall apply to any Chief Counsel advice issued after December 31, 1985,

and before the 91st day after the date of the enactment of this Act by the offices of the associate chief counsel for domestic, employee benefits and exempt organizations, and international, except that any such Chief Counsel advice shall be treated as made available on a timely basis if such advice is made available for public inspection not later than the following dates:

(A) One year after the date of the enactment of this Act, in the case of all litigation guideline memoranda, service center advice, tax litigation bulletins, criminal tax bulletins, and general litigation bulletins.

(B) Eighteen months after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1994.

(C) Three years after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1992, and before January 1, 1994.

(D) Six years after such date of enactment, in the case of any other Chief Counsel advice issued after December 31, 1985.

(3) Documents treated as chief counsel advice.—If the Secretary of the Treasury by regulation provides pursuant to section 6110(i)(2) of the Internal Revenue Code of 1986, as added by this section, that any additional advice or instruction issued by the Office of Chief Counsel shall be treated as Chief Counsel advice, such additional advice or instruction shall be made available for public inspection pursuant to section 6110 of such Code, as amended by this section, only in accordance with the effective date set forth in such regulation.

(4) Chief counsel advice to be available electronically.—The Internal Revenue Service shall make any Chief Counsel advice issued more than 90 days after the date of the enactment of this Act and made available for public inspection pursuant to section 6110 of such Code, as amended by this section, also available by computer telecommunications within 1 year after issuance.

Subtitle G—Low Income Taxpayer Clinics

SEC. 3601. LOW INCOME TAXPAYER CLINICS.

(a) In General.—Chapter 77 (relating to miscellaneous provisions), as amended by section 3411, is amended by adding at the end the following new section:

"SEC. 7526. LOW INCOME TAXPAYER CLINICS.

"(a) In General.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

"(b) Definitions.—For purposes of this section—

"(1) Qualified low income taxpayer clinic.—

"(A) In general.—The term 'qualified low income taxpayer clinic' means a clinic that—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii)(I) represents low income taxpayers in controversies with the Internal Revenue Service, or

"(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title.

"(B) Representation of low income taxpayers.—A clinic meets the requirements of subparagraph (A)(ii)(I) if—

"(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

"(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

"(2) Clinic.—The term 'clinic' includes—

"(A) a clinical program at an accredited law, business, or accounting school in which students represent low income taxpayers in controversies arising under this title, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

"(3) Qualified representative.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

"(c) Special Rules and Limitations.—

"(1) Aggregate limitation.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $6,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) Limitation on annual grants to a clinic.—The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed $100,000.

"(3) Multi-year grants.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

"(4) Criteria for awards.—In determining whether to make a grant under this section, the Secretary shall consider—

"(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

"(B) the existence of other low income taxpayer clinics serving the same population,

"(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low income taxpayers, and

"(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

"(5) Requirement of matching funds.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

"(A) the salary (including fringe benefits) of individuals performing services for the clinic, and

"(B) the cost of equipment used in the clinic. Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.".

(b) Clerical Amendment.—The table of sections for chapter 77, as amended by section 3411, is amended by adding at the end the following new item:

"Sec. 7526. Low income taxpayer clinics.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle H—Other Matters

SEC. 3701. CATALOGING COMPLAINTS.

In collecting data for the report required under section 1211 of Taxpayer Bill of Rights 2 (Public Law 104-168), the Secretary of the Treasury or the Secretary's delegate shall, not later than January 1, 2000, maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.

SEC. 3702. ARCHIVE OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) In General.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(17) Disclosure to national archives and records administration.—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsections (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.".

(b) Conforming Amendments.—Section 6103(p) is amended—

(1) in paragraph (3)(A), by striking "or (16)" and inserting "(16), or (17)",

(2) in paragraph (4), by striking "or (14)" and inserting ", (14), or (17)" in the matter preceding subparagraph (A), and

(3) in paragraph (4)(F)(ii), by striking "or (15)" and inserting ", (15), or (17)".

(c) Effective Date.—The amendments made by this section shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act.

SEC. 3703. PAYMENT OF TAXES.

The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

SEC. 3704. CLARIFICATION OF AUTHORITY OF SECRETARY RELATING TO THE MAKING OF ELECTIONS.

Subsection (d) of section 7805 is amended by striking "by regulations or forms".

SEC. 3705. IRS EMPLOYEE CONTACTS.

(a) Notice.—The Secretary of the Treasury or the Secretary's delegate shall provide that—

(1) any manually generated correspondence received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence,

(2) any other correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner a telephone number that the taxpayer may contact, and

(3) an Internal Revenue Service employee shall give a taxpayer during a telephone or personal contact the employee's name and unique identifying number.

(b) Single Contact.—The Secretary of the Treasury or the Secretary's delegate shall develop a procedure under which, to the extent practicable and if advantageous to the taxpayer, one Internal Revenue Service employee shall be assigned to handle a taxpayer's matter until it is resolved.

(c) Telephone Helpline in Spanish.—The Secretary of the Treasury or the Secretary's delegate shall provide, in appropriate circumstances, that taxpayer questions on telephone helplines of the Internal Revenue Service are answered in Spanish.

(d) Other Telephone Helpline Options.—The Secretary of the Treasury or the Secretary's delegate shall provide, in appropriate circumstances, on telephone helplines of the Internal Revenue Service an option for any taxpayer to talk to an Internal Revenue Service employee during normal business hours. The person shall direct phone questions of the taxpayer to other

Internal Revenue Service personnel who can provide assistance to the taxpayer.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall take effect 60 days after the date of the enactment of this Act.

(2) SUBSECTION (c).—Subsection (c) shall take effect on January 1, 2000.

(3) SUBSECTION (d).—Subsection (d) shall take effect on January 1, 2000.

(4) UNIQUE IDENTIFYING NUMBER.—Any requirement under this section to provide a unique identifying number shall take effect 6 months after the date of the enactment of this Act.

SEC. 3706. USE OF PSEUDONYMS BY IRS EMPLOYEES.

(a) IN GENERAL.—Any employee of the Internal Revenue Service may use a pseudonym only if—

(1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety, and

(2) such use is approved by the employee's supervisor before the pseudonym is used.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act.

SEC. 3707. ILLEGAL TAX PROTESTER DESIGNATION.

(a) PROHIBITION.—The officers and employees of the Internal Revenue Service—

(1) shall not designate taxpayers as illegal tax protesters (or any similar designation), and

(2) in the case of any such designation made on or before the date of the enactment of this Act—

(A) shall remove such designation from the individual master file, and

(B) shall disregard any such designation not located in the individual master file.

(b) DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act, except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999.

SEC. 3708. PROVISION OF CONFIDENTIAL INFORMATION TO CONGRESS BY WHISTLEBLOWERS.

(a) IN GENERAL.—Section 6103(f) (relating to disclosure to committees of Congress) is amended by adding at the end the following new paragraph:

"(5) DISCLOSURE BY WHISTLEBLOWER.—Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a committee referred to in paragraph (1) or any individual authorized to receive or inspect information under paragraph (4)(A) if such person believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3709. LISTING OF LOCAL IRS TELEPHONE NUMBERS AND ADDRESSES.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, provide that the local telephone numbers and addresses of Internal Revenue Service offices located in any particular area be listed in a telephone book for that area.

SEC. 3710. IDENTIFICATION OF RETURN PREPARERS.

(a) IN GENERAL.—The last sentence of section 6109(a) (relating to identifying numbers) is amended by striking "For purposes of this subsection" and inserting "For purposes of paragraphs (1), (2), and (3)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3711. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS AGAINST OVERPAYMENTS.

(a) IN GENERAL.—Section 6402 (relating to authority to make credits or refunds), as amended by section 3505, is amended by redesignating subsections (e) through (j) as subsections (f) through (k), respectively, and by inserting after subsection (d) the following new subsection:

"(e) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.—

"(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

"(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

"(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

"(2) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

"(3) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

"(A) after such overpayment is reduced pursuant to—

"(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment,

"(ii) subsection (c) with respect to past-due support, and

"(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency, and

"(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from 1 or more agencies of the State of more than 1 debt subject to paragraph (1) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

"(A) notifies by certified mail with return receipt the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section,

"(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable,

"(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable, and

"(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

"(5) PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATION.—For purposes of this subsection, the term 'past-due, legally enforceable State income tax obligation' means a debt—

"(A)(i) which resulted from—

"(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due, or

"(II) a determination after an administrative hearing which has determined an amount of State income tax to be due, and

"(ii) which is no longer subject to judicial review, or

"(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term 'State income tax' includes any local income tax administered by the chief tax administration agency of the State.

"(6) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).".

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.—

(1) Paragraph (10) of section 6103(l) is amended by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)".

(2) The paragraph heading for such paragraph (10) is amended by striking "SECTION 6402(c) OR 6402(d)" and inserting "SUBSECTION (c), (d), OR (e) OF SECTION 6402".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 is amended by striking "(c) and (d)" and inserting "(c), (d), and (e)".

(2) Paragraph (2) of section 6402(d) is amended by striking "and before such overpayment" and inserting "and before such overpayment is reduced pursuant to subsection (e) and before such overpayment".

(3) Subsection (f) of section 6402, as redesignated by subsection (a), is amended—

(A) by striking "(c) or (d)" and inserting "(c), (d), or (e)", and

(B) by striking "Federal agency" and inserting "Federal agency or State".

(4) Subsection (h) of section 6402, as redesignated by subsection (a), is amended by striking "subsection (c)" and inserting "subsection (c) or (e)".

(d) EFFECTIVE DATE.—The amendments made by this section (other than subsection (d)) shall

apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1999.

SEC. 3712. REPORTING REQUIREMENTS IN CONNECTION WITH EDUCATION TAX CREDIT.

(a) AMOUNTS TO BE REPORTED.—Subparagraph (C) of section 6050S(b)(2) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

"(ii) the amount of any grant received by such individual for payment of costs of attendance and processed by the person making such return during such calendar year,",

(2) in clause (iii) (as so redesignated), by inserting "by the person making such return" after "year", and

(3) in clause (iv) (as so redesignated), by inserting "and" at the end.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6050S(d) is amended by striking "aggregate".

(2) Subsection (e) of section 6050S is amended by inserting "(without regard to subsection (g)(2) thereof)" after "section 25A".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed with respect to taxable years beginning after December 31, 1998.

Subtitle I—Studies

SEC. 3801. ADMINISTRATION OF PENALTIES AND INTEREST.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study—

(1) reviewing the administration and implementation by the Internal Revenue Service of the interest and penalty provisions of the Internal Revenue Code of 1986 (including the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989), and

(2) making any legislative and administrative recommendations the Committee or the Secretary deems appropriate to simplify penalty or interest administration and reduce taxpayer burden.

Such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of the enactment of this Act.

SEC. 3802. CONFIDENTIALITY OF TAX RETURN INFORMATION.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as the Committee or the Secretary deems appropriate, to the Congress not later than 18 months after the date of the enactment of this Act. Such study shall examine—

(1) the present protections for taxpayer privacy,

(2) any need for third parties to use tax return information,

(3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns,

(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 with such provisions in other Federal law, including section 552a of title 5, United States Code (commonly known as the "Freedom of Information Act"),

(5) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of State and local tax laws other than income tax laws, and including the impact on the taxpayer privacy intended to be protected at the Federal, State, and local levels under Public Law 105–35, the Taxpayer Browsing Protection Act of 1997, and

(6) whether the public interest would be served by greater disclosure of information relating to tax exempt organizations described in section 501 of the Internal Revenue Code of 1986.

SEC. 3803. STUDY OF NONCOMPLIANCE WITH INTERNAL REVENUE LAWS BY TAXPAYERS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury and the Commissioner of Internal Revenue shall conduct jointly a study, in consultation with the Joint Committee on Taxation, of the noncompliance with internal revenue laws by taxpayers (including willful noncompliance and noncompliance due to tax law complexity or other factors) and report the findings of such study to Congress.

SEC. 3804. STUDY OF PAYMENTS MADE FOR DETECTION OF UNDERPAYMENTS AND FRAUD.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986 including—

(1) an analysis of the present use of such section and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

SEC. 4001. EXPANSION OF DUTIES OF THE JOINT COMMITTEE ON TAXATION.

(a) IN GENERAL.—Section 8021 (relating to the powers of the Joint Committee on Taxation) is amended by adding at the end the following new subsections:

"(e) INVESTIGATIONS.—The Joint Committee shall review all requests (other than requests by the chairman or ranking member of a Committee or Subcommittee) for investigations of the Internal Revenue Service by the General Accounting Office, and approve such requests when appropriate, with a view towards eliminating overlapping investigations, ensuring that the General Accounting Office has the capacity to handle the investigation, and ensuring that investigations focus on areas of primary importance to tax administration.

"(f) RELATING TO JOINT REVIEWS.—

"(1) IN GENERAL.—The Chief of Staff, and the staff of the Joint Committee, shall provide such assistance as is required for joint reviews described in paragraph (2).

"(2) JOINT REVIEWS.—Before June 1 of each calendar year after 1998 and before 2004, there shall be a joint review of the strategic plans and budget for the Internal Revenue Service and such other matters as the Chairman of the Joint Committee deems appropriate. Such joint review shall be held at the call of the Chairman of the Joint Committee and shall include two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives.".

(b) EFFECTIVE DATES.—

(1) Subsection (e) of section 8021 of the Internal Revenue Code of 1986, as added by subsection (a) of this section, shall apply to requests made after the date of the enactment of this Act.

(2) Subsection (f) of such section shall take effect on the date of the enactment of this Act.

SEC. 4002. COORDINATED OVERSIGHT REPORTS.

(a) IN GENERAL.—Paragraph (3) of section 8022 (relating to the duties of the Joint Committee on Taxation) is amended to read as follows:

"(3) REPORTS.—

"(A) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

"(B) Subject to amounts specifically appropriated to carry out this subparagraph, to report, at least once each Congress, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

"(C) To report, for each calendar year after 1998 and before 2004, to the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, and to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, with respect to—

"(i) strategic and business plans for the Internal Revenue Service;

"(ii) progress of the Internal Revenue Service in meeting its objectives;

"(iii) the budget for the Internal Revenue Service and whether it supports its objectives;

"(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;

"(v) progress of the Internal Revenue Service on technology modernization; and

"(vi) the annual filing season.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Century Date Change

SEC. 4011. CENTURY DATE CHANGE.

It is the sense of Congress that—

(1) the Internal Revenue Service should place a high priority on resolving the century date change computing problems, and

(2) the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

Subtitle C—Tax Law Complexity

SEC. 4021. ROLE OF THE INTERNAL REVENUE SERVICE.

It is the sense of Congress that the Internal Revenue Service should provide Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

SEC. 4022. TAX LAW COMPLEXITY ANALYSIS.

(a) COMMISSIONER STUDY.—

(1) IN GENERAL.—The Commissioner of Internal Revenue shall conduct each year after 1998 an analysis of the sources of complexity in administration of the Federal tax laws. Such analysis may include an analysis of—

(A) questions frequently asked by taxpayers with respect to return filing,

(B) common errors made by taxpayers in filling out their returns,

(C) areas of law which frequently result in disagreements between taxpayers and the Internal Revenue Service,

(D) major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain,

(E) areas in which revenue officers make frequent errors interpreting or applying the law,

(F) the impact of recent legislation on complexity, and

(G) forms supplied by the Internal Revenue Service, including the time it takes for taxpayers to complete and review forms, the number of

taxpayers who use each form, and how recent legislation has affected the time it takes to complete and review forms.

(2) REPORT.—The Commissioner shall not later than March 1 of each year report the results of the analysis conducted under paragraph (1) for the preceding year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include any recommendations—

(A) for reducing the complexity of the administration of Federal tax laws, and

(B) for repeal or modification of any provision the Commissioner believes adds undue and unnecessary complexity to the administration of the Federal tax laws.

(b) ANALYSIS TO ACCOMPANY CERTAIN LEGISLATION.—

(1) IN GENERAL.—The Joint Committee on Taxation, in consultation with the Internal Revenue Service and the Department of the Treasury, shall include a tax complexity analysis in each report for legislation, or provide such analysis to members of the committee reporting the legislation as soon as practicable after the report is filed, if—

(A) such legislation is reported by the Committee on Finance in the Senate, the Committee on Ways and Means of the House of Representatives, or any committee of conference, and

(B) such legislation includes a provision which would directly or indirectly amend the Internal Revenue Code of 1986 and which has widespread applicability to individuals or small businesses.

(2) TAX COMPLEXITY ANALYSIS.—For purposes of this subsection, the term "tax complexity analysis" means, with respect to any legislation, a report on the complexity and administrative difficulties of each provision described in paragraph (1)(B) which—

(A) includes—

(i) an estimate of the number of taxpayers affected by the provision, and

(ii) if applicable, the income level of taxpayers affected by the provision, and

(B) should include (if determinable)—

(i) the extent to which tax forms supplied by the Internal Revenue Service would require revision and whether any new forms would be required,

(ii) the extent to which taxpayers would be required to keep additional records,

(iii) the estimated cost to taxpayers to comply with the provision,

(iv) the extent to which enactment of the provision would require the Internal Revenue Service to develop or modify regulatory guidance,

(v) the extent to which the provision may result in disagreements between taxpayers and the Internal Revenue Service, and

(vi) any expected impact on the Internal Revenue Service from the provision (including the impact on internal training, revision of the Internal Revenue Manual, reprogramming of computers, and the extent to which the Internal Revenue Service would be required to divert or redirect resources in response to the provision).

(3) LEGISLATION SUBJECT TO POINT OF ORDER IN HOUSE OF REPRESENTATIVES.—

(A) LEGISLATION REPORTED BY COMMITTEE ON WAYS AND MEANS.—Clause 2(l) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

"(8) The report of the Committee on Ways and Means on any bill or joint resolution containing any provision amending the Internal Revenue Code of 1986 shall include a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 unless the Committee on Ways an d Means causes to have such Analysis printed in the Congressional Record prior to the consideration of the bill or joint resolution.".

(B) CONFERENCE REPORTS.—Rule XXVIII of the Rules of the House of Representatives is amended by adding at the end the following new clause:

"7. It shall not be in order to consider the report of a committee of conference which contains any provision amending the Internal Revenue Code of 1986 unless—

"(a) the accompanying joint explanatory statement contains a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998, or

"(b) such Analysis is printed in the Congressional Record prior to the consideration of the report.".

(C) RULES OF HOUSE OF REPRESENTATIVES.—This paragraph is enacted by the House of Representatives—

(i) as an exercise of the rulemaking power of the House of Representatives, and as such it is deemed a part of the Rules of the House, and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of the House to change its rules at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(4) EFFECTIVE DATE.—This subsection shall apply to legislation considered on and after January 1, 1999.

TITLE V—ADDITIONAL PROVISIONS

SEC. 5001. LOWER CAPITAL GAINS RATES TO APPLY TO PROPERTY HELD MORE THAN 1 YEAR.

(a) GENERAL RULE.—

(1) Paragraph (5) of section 1(h) is amended to read as follows:

"(5) 28-PERCENT RATE GAIN.—For purposes of this subsection, the term '28-percent rate gain' means the excess (if any) of—

"(A) the sum of—

"(i) collectibles gain, and

"(ii) section 1202 gain, over

"(B) the sum of—

"(i) collectibles loss,

"(ii) the net short-term capital loss, and

"(iii) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.".

(2) Subparagraph (A) of section 1(h)(6) is amended by striking "18 months" and inserting "1 year".

(3) Clauses (i) and (ii) of section 1(h)(7)(A) are amended to read as follows:

"(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, over

"(ii) the excess (if any) of—

"(I) the amount described in paragraph (5)(B), over

"(II) the amount described in paragraph (5)(A).".

(4) So much of paragraph (13) of section 1(h) as precedes subparagraph (C) is amended to read as follows:

"(13) SPECIAL RULES.—

"(A) DETERMINATION OF 28-PERCENT RATE GAIN.—In applying paragraph (5)—

"(i) the amount determined under subparagraph (A) of paragraph (5) shall include long-term capital gain (not otherwise described in such subparagraph)—

"(I) which is properly taken into account for the portion of the taxable year before May 7, 1997, or

"(II) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998,

"(ii) the amount determined under subparagraph (B) of paragraph (5) shall include long-term capital loss (not otherwise described in such subparagraph)—

"(I) which is properly taken into account for the portion of the taxable year before May 7, 1997, or

"(II) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998, and

"(iii) subparagraph (B) of paragraph (5) (as in effect immediately before the enactment of this clause) shall apply to amounts properly taken into account before January 1, 1998.

"(B) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN.—The amount determined under paragraph (7)(A) shall not include gain—

"(i) which is properly taken into account for the portion of the taxable year before May 7, 1997, or

"(ii) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998.".

(5) Paragraphs (11) and (12) of section 1223, and section 1235(a), are each amended by striking "18 months" each place it appears and inserting "1 year".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after December 31, 1997.

(2) SUBSECTION (a)(5).—The amendments made by subsection (a)(5) shall take effect on January 1, 1998.

SEC. 5002. CLARIFICATION OF EXCLUSION OF MEALS FOR CERTAIN EMPLOYEES.

(a) IN GENERAL.—Subsection (b) of section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended by adding at the end the following new paragraph:

"(4) MEALS FURNISHED TO EMPLOYEES ON BUSINESS PREMISES WHERE MEALS OF MOST EMPLOYEES ARE OTHERWISE EXCLUDABLE.—All meals furnished on the business premises of an employer to such employer's employees shall be treated as furnished for the convenience of the employer if, without regard to this paragraph, more than half of the employees to whom such meals are furnished on such premises are furnished such meals for the convenience of the employer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 5003. CLARIFICATION OF DESIGNATION OF NORMAL TRADE RELATIONS.

(a) FINDINGS AND POLICY.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Since the 18th century, the principle of nondiscrimination among countries with which the United States has trade relations, commonly referred to as "most-favored-nation" treatment, has been a cornerstone of United States trade policy.

(B) Although the principle remains firmly in place as a fundamental concept in United States trade relations, the term "most-favored-nation" is a misnomer which has led to public misunderstanding.

(C) It is neither the purpose nor the effect of the most-favored-nation principle to treat any country as "most favored". To the contrary, the principle reflects the intention to confer on a country the same trade benefits that are conferred on any other country, that is, the intention not to discriminate among trading partners.

(D) The term "normal trade relations" is a more accurate description of the principle of

nondiscrimination as it applies to the tariffs applicable generally to imports from United States trading partners, that is, the general rates of duty set forth in column 1 of the Harmonized Tariff Schedule of the United States.

(2) POLICY.—It is the sense of the Congress that—

(A) the language used in United States laws, treaties, agreements, executive orders, directives, and regulations should more clearly and accurately reflect the underlying principles of United States trade policy; and

(B) accordingly, the term "normal trade relations" should, where appropriate, be substituted for the term "most-favored-nation".

(b) CHANGE IN TERMINOLOGY.—

(1) TRADE EXPANSION ACT OF 1962.—The heading for section 251 of the Trade Expansion Act of 1962 (19 U.S.C. 1881) is amended to read as follows: "**NORMAL TRADE RELATIONS**".

(2) TRADE ACT OF 1974.—(A) Section 402 of the Trade Act of 1974 (19 U.S.C. 2432) is amended by striking "(most-favored-nation treatment)" each place it appears and inserting "(normal trade relations)".

(B) Section 601(9) of the Trade Act of 1974 (19 U.S.C. 2481(9)) is amended by striking "most-favored-nation treatment" and inserting "trade treatment based on normal trade relations (known under international law as most-favored-nation treatment)".

(3) CFTA.—Section 302(a)(3)(C) of the United States Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking "the most-favored-nation rate of duty" each place it appears and inserting "the general subcolumn of the column 1 rate of duty set forth in the Harmonized Tariff Schedule of the United States".

(4) NAFTA.—Section 202(n) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332(n)) is amended by striking "most-favored-nation".

(5) URUGUAY ROUND AGREEMENTS ACT.—Section 135(a)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3555(a)(2)) is amended by striking "most-favored-nation" and inserting "normal trade relations".

(6) SEED ACT.—Section 2(c)(11) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401(c)(11)) is amended—

(A) by striking "(commonly referred to as 'most favored nation status')", and

(B) by striking "MOST FAVORED NATION TRADE STATUS" in the heading and inserting "NORMAL TRADE RELATIONS".

(7) UNITED STATES-HONG KONG POLICY ACT OF 1992.—Section 103(4) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(4)) is amended by striking "(commonly referred to as 'most-favored-nation status')".

(c) SAVINGS PROVISIONS.—Nothing in this section shall affect the meaning of any provision of law, Executive order, Presidential proclamation, rule, regulation, delegation of authority, other document, or treaty or other international agreement of the United States relating to the principle of "most-favored-nation" (or "most favored nation") treatment. Any Executive order, Presidential proclamation, rule, regulation, delegation of authority, other document, or treaty or other international agreement of the United States that has been issued, made, granted, or allowed to become effective and that is in effect on the effective date of this Act, or was to become effective on or after the effective date of this Act, shall continue in effect according to its terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

TITLE VI—TECHNICAL CORRECTIONS

SEC. 6001. SHORT TITLE; COORDINATION WITH OTHER TITLES.

(a) SHORT TITLE.—This title may be cited as the "Tax Technical Corrections Act of 1998".

(b) COORDINATION WITH OTHER TITLES.—For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

SEC. 6002. DEFINITIONS.

For purposes of this title—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) 1997 ACT.—The term "1997 Act" means the Taxpayer Relief Act of 1997.

SEC. 6003. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 101(a) OF 1997 ACT.—

(1) Subsection (d) of section 24 of the 1986 Code is amended—

(A) by striking paragraphs (3) and (4),

(B) by redesignating paragraph (5) as paragraph (3), and

(C) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) IN GENERAL.—In the case of a taxpayer with 3 or more qualifying children for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—

"(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

"(B) the amount by which the aggregate amount of credits allowed by this subpart (without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the excess (if any) of—

"(i) the taxpayer's social security taxes for the taxable year, over

"(ii) the credit allowed under section 32 (determined without regard to subsection (n)) for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

"(2) REDUCTION OF CREDIT TO TAXPAYER SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit determined under this subsection for the taxable year shall be reduced by the excess (if any) of—

"(A) the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year, over

"(B) the amount of the reduction under section 32(h) with respect to such taxpayer for such taxable year.".

(2) Paragraph (3) of section 24(d) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking "paragraph (3)" and inserting "paragraph (1)".

(b) AMENDMENTS RELATED TO SECTION 101(b) OF 1997 ACT.—

(1) The subsection (m) of section 32 of the 1986 Code added by section 101(b) of the 1997 Act is amended to read as follows:

"(n) SUPPLEMENTAL CHILD CREDIT.—

"(1) IN GENERAL.—In the case of a taxpayer with respect to whom a credit is allowed under section 24(a) for the taxable year, the credit otherwise allowable under this section shall be increased by the lesser of—

"(A) the excess of—

"(i) the credits allowed under subpart A (determined after the application of section 26 and without regard to this subsection), over

"(ii) the credits which would be allowed under subpart A after the application of section 26, determined without regard to section 24 and this subsection, or

"(B) the excess of—

"(i) the sum of the credits allowed under this part (determined without regard to sections 31, 33, and 34 and this subsection), over

"(ii) the sum of the regular tax and the social security taxes (as defined in section 24(d)).

The credit determined under this subsection shall be allowed without regard to any other provision of this section, including subsection (d).

"(2) COORDINATION WITH OTHER CREDITS.—The amount of the credit under this subsection shall reduce the amount of the credits otherwise allowable under subpart A for the taxable year (determined after the application of section 26), but the amount of the credit under this subsection (and such reduction) shall not be taken into account in determining the amount of any other credit allowable under this part.".

SEC. 6004. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF 1997 ACT.—

(1) The item relating to section 25A in the table of sections for subpart A of part IV of subchapter A of chapter 1 of the 1986 Code is amended to read as follows:

"Sec. 25A. Hope and Lifetime Learning credits.".

(2) Subsection (a) of section 6050S of the 1986 Code is amended to read as follows:

"(a) IN GENERAL.—Any person—

"(1) which is an eligible educational institution—

"(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

"(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses,

"(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses, or

"(3) except as provided in regulations, which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.".

(3) Subparagraph (A) of section 201(c)(2) of the 1997 Act is amended to read as follows:

"(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"'(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),'".

(b) AMENDMENTS RELATED TO SECTION 202 OF 1997 ACT.—

(1) Paragraph (1) of section 221(e) of the 1986 Code is amended by inserting "by the taxpayer solely" after "incurred" the first place it appears.

(2) Subsection (d) of section 221 of the 1986 Code is amended by adding at the end the following new sentence: "Such 60 months shall be determined in the manner prescribed by the Secretary in the case of multiple loans which are refinanced by, or serviced as, a single loan and in the case of loans incurred before the date of the enactment of this section.".

(c) AMENDMENTS RELATED TO SECTION 211 OF 1997 ACT.—

(1) Paragraph (3) of section 135(c) of the 1986 Code is amended to read as follows:

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).".

(2) Subparagraph (A) of section 529(c)(3) of the 1986 Code is amended by striking "section 72(b)" and inserting "section 72".

(3) Paragraph (2) of section 529(e) of the 1986 Code is amended to read as follows:

"(2) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any designated beneficiary—

"(A) the spouse of such beneficiary,

"(B) an individual who bears a relationship to such beneficiary which is described in paragraphs (1) through (8) of section 152(a), and

"(C) the spouse of any individual described in subparagraph (B).".

(d) AMENDMENTS RELATED TO SECTION 213 OF 1997 ACT.—

(1) Section 530(b)(1) of the 1986 Code (defining education individual retirement account) is amended by inserting "an individual who is" before "the designated beneficiary" in the material preceding subparagraph (A).

(2)(A) Section 530(b)(1)(E) of the 1986 Code (defining education individual retirement account) is amended to read as follows:

"(E) Except as provided in subsection (d)(7), any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death of such beneficiary.".

(B) Paragraph (7) of section 530(d) of the 1986 Code is amended by inserting at the end the following new sentence: "In applying the preceding sentence, members of the family (as so defined) of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8).".

(C) Subsection (d) of section 530 of the 1986 Code is amended by adding at the end the following new paragraph:

"(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.".

(3)(A) Paragraph (1) of section 530(d) of the 1986 Code is amended by striking "section 72(b)" and inserting "section 72".

(B) Subsection (e) of section 72 of the 1986 Code is amended by inserting after paragraph (8) the following new paragraph:

"(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.".

(4) Paragraph (2) of section 135(d) of the 1986 Code is amended to read as follows:

"(2) COORDINATION WITH OTHER HIGHER EDUCATION BENEFITS.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by—

"(A) the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses, and

"(B) the amount of such expenses which are taken into account in determining the exclusion under section 530(d)(2).".

(5) Section 530(d)(2) of the 1986 Code (relating to distributions for qualified higher education expenses) is amended by adding at the end the following new subparagraph:

"(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.".

(6) Section 530(d)(4)(B) of the 1986 Code (relating to exceptions) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end the following new clause:

"(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.".

(7) So much of section 530(d)(4)(C) of the 1986 Code as precedes clause (ii) thereof is amended to read as follows:

"(C) CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

"(i) such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year, and".

(8)(A) Paragraph (5) of section 530(d) of the 1986 Code is amended by striking the first sentence and inserting the following new sentence: "Paragraph (1) shall not apply to any amount paid or distributed from an education individual retirement account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into another education individual retirement account for the benefit of the same beneficiary or a member of the family (within the meaning of section 529(e)(2)) of such beneficiary who has not attained age 30 as of such date.".

(B) Paragraph (6) of section 530(d) of the 1986 Code is amended by inserting before the period "and has not attained age 30 as of the date of such change".

(9) Subparagraph (C) of section 135(c)(2) of the 1986 Code is amended—

(A) by inserting "AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS" in the heading after "PROGRAM", and

(B) by striking "section 529(c)(3)(A)" and inserting "section 72".

(10)(A) Paragraph (1) of section 4973(e) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of education individual retirement accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the sum of—

"(A) the amount by which the amount contributed for the taxable year to such accounts exceeds $500 (or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year),

"(B) if any amount is contributed (other than a contribution described in section 530(b)(2)(B)) during such year to a qualified State tuition program for the benefit of such beneficiary, any amount contributed to such accounts for such taxable year, and

"(C) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(i) the distributions out of the accounts for the taxable year (other than rollover distributions), and

"(ii) the excess (if any) of the maximum amount which may be contributed to the accounts for the taxable year over the amount contributed to the accounts for the taxable year.".

(B) Paragraph (2) of section 4973(e) of the 1986 Code is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(e) AMENDMENTS RELATED TO SECTION 224 OF 1997 ACT.—

(1) Clauses (vi) and (vii) of section 170(e)(6)(B) of the 1986 Code are each amended by striking "entity's" and inserting "donee's".

(2) Clause (iv) of section 170(e)(6)(B) of the 1986 Code is amended by striking "organization or entity" and inserting "donee".

(3) Subclause (I) of section 170(e)(6)(C)(ii) of the 1986 Code is amended by striking "an entity" and inserting "a donee".

(4) Section 170(e)(6)(F) of the 1986 Code (relating to termination) is amended by striking "1999" and inserting "2000".

(f) AMENDMENTS RELATED TO SECTION 225 OF 1997 ACT.—

(1) The last sentence of section 108(f)(2) of the 1986 Code is amended to read as follows:

"The term 'student loan' includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii).".

(2) Section 108(f)(3) of the 1986 Code is amended by striking "(or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D))".

(g) AMENDMENTS RELATED TO SECTION 226 OF 1997 ACT.—

(1) Section 226(a) of the 1997 Act is amended by striking "section 1397E" and inserting "section 1397D".

(2) Section 1397E(d)(4)(B) of the 1986 Code is amended by striking "local education agency as defined" and inserting "local educational agency as defined".

(3) Section 1397E is amended by adding at the end the following new subsection:

"(h) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.".

(4) Subsection (g) of section 1397E of the 1986 Code is amended by inserting "(determined without regard to subsection (c))" after "section".

(5) Subparagraph (D) of section 42(j)(4) of the 1986 Code is amended by striking "subpart A, B, D, or G of this part" and inserting "this chapter".

(6) Paragraph (4) of section 49(b) of the 1986 Code is amended by striking "subpart A, B, D, or G" and inserting "this chapter".

(7) Subparagraph (C) of section 50(a)(5) of the 1986 Code is amended by striking "subpart A, B, D, or G" and inserting "this chapter".

SEC. 6005. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF 1997 ACT.—

(1) Section 219(g) of the 1986 Code is amended—

(A) by inserting "or the individual's spouse" after "individual" in paragraph (1), and

(B) by striking paragraph (7) and inserting:

"(7) SPECIAL RULE FOR SPOUSES WHO ARE NOT ACTIVE PARTICIPANTS.—If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

"(A) the applicable dollar amount under paragraph (3)(B)(i) shall be $150,000, and

"(B) the amount applicable under paragraph (2)(A)(ii) shall be $10,000.".

(2) Paragraph (2) of section 301(a) of the 1997 Act is amended by inserting "after '$10,000'" before the period.

(b) AMENDMENTS RELATED TO SECTION 302 OF 1997 ACT.—

(1) Section 408A(c)(3)(A) of the 1986 Code is amended by striking "shall be reduced" and inserting "shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced".

(2) Section 408A(c)(3) of the 1986 Code (relating to limits based on modified adjusted gross income) is amended—

(A) by inserting "or a married individual filing a separate return" after "joint return" in subparagraph (A)(ii),

(B) in subparagraph (B)—

(i) by inserting ", for the taxable year of the distribution to which such contribution relates" after "if", and

(ii) by striking "for such taxable year" in clause (i), and

(C) by striking "and the deduction under section 219 shall be taken into account" in subparagraph (C)(i).

(3)(A) Section 408A(d)(2) of the 1986 Code (defining qualified distribution) is amended by striking subparagraph (B) and inserting the following new subparagraph:

"(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual.".

(B) Section 408A(d)(2) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(C) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution.".

(4) Section 408A(d)(3) of the 1986 Code (relating to rollovers from IRAs other than Roth IRAs) is amended—

(A) by striking clause (iii) of subparagraph (A) and inserting:

"(iii) unless the taxpayer elects not to have this clause apply for any taxable year, any amount required to be included in gross income for such taxable year by reason of this paragraph for any distribution before January 1, 1999, shall be so included ratably over the 4-taxable year period beginning with such taxable year.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year."; and

(B) by adding at the end the following new subparagraph:

"(F) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to a Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

"(i) ACCELERATION OF INCLUSION.—

"(I) IN GENERAL.—The amount required to be included in gross income for each of the first 3 taxable years in the 4-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

"(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 4-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

"(ii) DEATH OF DISTRIBUTEE.—

"(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

"(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the individual's entire interest in any Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date for the spouse's taxable year which includes the date of death.

"(G) SPECIAL RULE FOR APPLYING SECTION 72.—

"(i) IN GENERAL.—If—

"(I) any portion of a distribution from a Roth IRA is properly allocable to a qualified rollover contribution described in this paragraph, and

"(II) such distribution is made within the 5-taxable year period beginning with the taxable year in which such contribution was made,

then section 72(t) shall be applied as if such portion were includible in gross income.

"(ii) LIMITATION.—Clause (i) shall apply only to the extent of the amount of the qualified rollover contribution includible in gross income under subparagraph (A)(i).".

(5)(A) Section 408A(d)(4) of the 1986 Code is amended to read as follows:

"(4) AGGREGATION AND ORDERING RULES.—

"(A) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.

"(B) ORDERING RULES.—For purposes of applying this section and section 72 to any distribution from a Roth IRA, such distribution shall be treated as made—

"(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA, and

"(ii) from such contributions in the following order:

"(I) Contributions other than qualified rollover contributions to which paragraph (3) applies.

"(II) Qualified rollover contributions to which paragraph (3) applies on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under clause (ii)(II) shall be allocated first to the portion of such contribution required to be included in gross income.".

(B) Section 408A(d)(1) of the 1986 Code is amended to read as follows:

"(1) EXCLUSION.—Any qualified distribution from a Roth IRA shall not be includible in gross income.".

(6)(A) Section 408A(d) of the 1986 Code (relating to distribution rules) is amended by adding at the end the following new paragraph:

"(6) TAXPAYER MAY MAKE ADJUSTMENTS BEFORE DUE DATE.—

"(A) IN GENERAL.—Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

"(B) SPECIAL RULES.—

"(i) TRANSFER OF EARNINGS.—Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

"(ii) NO DEDUCTION.—Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.".

(B) Section 408A(d)(3) of the 1986 Code, as amended by this subsection, is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(7) Section 408A(d) of the 1986 Code, as amended by paragraph (6), is amended by adding at the end the following new paragraph:

"(7) DUE DATE.—For purposes of this subsection, the due date for any taxable year is the date prescribed by law (including extensions of time) for filing the taxpayer's return for such taxable year.".

(8)(A) Section 4973(f) of the 1986 Code is amended—

(i) by striking "such accounts" in paragraph (1)(A) and inserting "Roth IRAs", and

(ii) by striking "to the accounts" in paragraph (2)(B) and inserting "by the individual to all individual retirement plans".

(B) Section 4973(b) of the 1986 Code is amended—

(i) by inserting "a contribution to a Roth IRA or" after "other than" in paragraph (1)(A), and

(ii) by inserting "(including the amount contributed to a Roth IRA)" after "annuities" in paragraph (2)(C).

(C) Section 302(b) of the 1997 Act is amended by striking "Section 4973(b)" and inserting "Section 4973".

(9) Section 408A of the 1986 Code is amended by adding at the end the following new subsection:

"(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section—

"(1) a simplified employee pension or a simple retirement account may not be designated as a Roth IRA, and

"(2) contributions to any such pension or account shall not be taken into account for purposes of subsection (c)(2)(B).".

(c) AMENDMENTS RELATED TO SECTION 303 OF 1997 ACT.—

(1) Section 72(t)(8)(E) of the 1986 Code is amended—

(A) by striking "120 days" and inserting "120th day", and

(B) by striking "60 days" and inserting "60th day".

(2)(A) Section 402(c)(4) of the 1986 Code is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", by inserting at the end the following new subparagraph:

"(C) any hardship distribution described in section 401(k)(2)(B)(i)(IV).".

(B) Section 403(b)(8)(B) of the 1986 Code is amended by inserting "(including paragraph (4)(C) thereof)" after "section 402(c)".

(C) The amendments made by this paragraph shall apply to distributions after December 31, 1998.

(d) AMENDMENTS RELATED TO SECTION 311 OF 1997 ACT.—

(1) Subsection (h) of section 1 of the 1986 Code (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the net capital gain, or

"(ii) the lesser of—

"(I) the amount of taxable income taxed at a rate below 28 percent, or

"(II) taxable income reduced by the adjusted net capital gain,

"(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

"(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

"(ii) the taxable income reduced by the adjusted net capital gain,

"(C) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B),

"(D) 25 percent of the excess (if any) of—

"(i) the unrecaptured section 1250 gain (or, if less, the net capital gain), over

"(ii) the excess (if any) of—

"(I) the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

"(II) taxable income, and

"(E) 28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

"(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—

"(A) REDUCTION IN 10-PERCENT RATE.—In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

"(B) REDUCTION IN 20-PERCENT RATE.—The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of—

"(i) the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph, or

"(ii) the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

"(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain reduced (but not below zero) by the sum of—

"(A) unrecaptured section 1250 gain, and

"(B) 28-percent rate gain.

"(5) 28-PERCENT RATE GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term '28-percent rate gain' means the excess (if any) of—

"(i) the sum of—

"(I) the aggregate long-term capital gain from property held for more than 1 year but not more than 18 months,

"(II) collectibles gain, and

"(III) section 1202 gain, over

"(ii) the sum of—

"(I) the aggregate long-term capital loss (not described in subclause (IV)) from property referred to in clause (i)(I),

"(II) collectibles loss,

"(III) the net short-term capital loss, and

"(IV) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

"(B) SPECIAL RULES.—

"(i) SHORT SALE GAINS AND HOLDING PERIODS.—Rules similar to the rules of section 1233(b) shall apply where the substantially identical property has been held more than 1 year but not more than 18 months; except that, for purposes of such rules—

"(I) section 1233(b)(1) shall be applied by substituting '18 months' for '1 year' each place it appears, and

"(II) the holding period of such property shall be treated as being 1 year on the day before the earlier of the date of the closing of the short sale or the date such property is disposed of.

"(ii) LONG-TERM LOSSES.—Section 1233(d) shall be applied separately by substituting '18 months' for '1 year' each place it appears.

"(iii) OPTIONS.—A rule similar to the rule of section 1092(f) shall apply where the stock was held for more than 18 months.

"(iv) SECTION 1256 CONTRACTS.—Amounts treated as long-term capital gain or loss under section 1256(a)(3) shall be treated as attributable to property held for more than 18 months.

"(6) COLLECTIBLES GAIN AND LOSS.—For purposes of this subsection—

"(A) IN GENERAL.—The terms 'collectibles gain' and 'collectibles loss' mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 18 months but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

"(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

"(7) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'unrecaptured section 1250 gain' means the excess (if any) of—

"(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if—

"(I) section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, and

"(II) only gain from property held for more than 18 months were taken into account, over

"(ii) the excess (if any) of—

"(I) the amount described in paragraph (5)(A)(ii), over

"(II) the amount described in paragraph (5)(A)(i).

"(B) LIMITATION WITH RESPECT TO SECTION 1231 PROPERTY.—The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

"(8) SECTION 1202 GAIN.—For purposes of this subsection, the term 'section 1202 gain' means an amount equal to the gain excluded from gross income under section 1202(a).

"(9) QUALIFIED 5-YEAR GAIN.—For purposes of this subsection, the term 'qualified 5-year gain' means the aggregate long-term capital gain from property held for more than 5 years. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

"(10) COORDINATION WITH RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.—If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

"(11) REGULATIONS.—The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

"(12) PASS-THRU ENTITY DEFINED.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) a regulated investment company,

"(B) a real estate investment trust,

"(C) an S corporation,

"(D) a partnership,

"(E) an estate or trust,

"(F) a common trust fund,

"(G) a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247, and

"(H) a qualified electing fund (as defined in section 1295).

"(13) SPECIAL RULES FOR PERIODS DURING 1997.—

"(A) DETERMINATION OF 28-PERCENT RATE GAIN.—In applying paragraph (5)—

"(i) the amount determined under subclause (I) of paragraph (5)(A)(i) shall include long-term capital gain (not otherwise described in paragraph (5)(A)(i)) which is properly taken into account for the portion of the taxable year before May 7, 1997,

"(ii) the amounts determined under subclause (I) of paragraph (5)(A)(ii) shall include long-term capital loss (not otherwise described in paragraph (5)(A)(ii)) which is properly taken into account for the portion of the taxable year before May 7, 1997, and

"(iii) clauses (i)(I) and (ii)(I) of paragraph (5)(A) shall be applied by not taking into account any gain and loss on property held for more than 1 year but not more than 18 months which is properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

"(B) OTHER SPECIAL RULES.—

"(i) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN NOT TO INCLUDE PRE-MAY 7, 1997 GAIN.—The amount determined under paragraph (7)(A)(i) shall not include gain properly taken into account for the portion of the taxable year before May 7, 1997.

"(ii) OTHER TRANSITIONAL RULES FOR 18-MONTH HOLDING PERIOD.—Paragraphs (6)(A) and (7)(A)(i)(II) shall be applied by substituting '1 year' for '18 months' with respect to gain properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

"(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.".

(2) Paragraph (3) of section 55(b) of the 1986 Code is amended to read as follows:

"(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

"(A) the amount determined under such first sentence computed at the rates and in the same

manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of—

"(i) the net capital gain, or

"(ii) the sum of—

"(I) the adjusted net capital gain, plus

"(II) the unrecaptured section 1250 gain, plus

"(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

"(C) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

"(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.".

(3) Section 57(a)(7) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of stock the holding period of which begins after December 31, 2000 (determined with the application of the last sentence of section 1(h)(2)(B)), the preceding sentence shall be applied by substituting '28 percent' for '42 percent'.".

(4) Paragraphs (11) and (12) of section 1223, and section 1235(a), of the 1986 Code are each amended by striking "1 year" each place it appears and inserting "18 months".

(e) AMENDMENTS RELATED TO SECTION 312 OF 1997 ACT.—

(1) Paragraph (2) of section 121(b) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULES FOR JOINT RETURNS.—In the case of a husband and wife who make a joint return for the taxable year of the sale or exchange of the property—

"(A) $500,000 LIMITATION FOR CERTAIN JOINT RETURNS.—Paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if—

"(i) either spouse meets the ownership requirements of subsection (a) with respect to such property,

"(ii) both spouses meet the use requirements of subsection (a) with respect to such property, and

"(iii) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

"(B) OTHER JOINT RETURNS.—If such spouses do not meet the requirements of subparagraph (A), the limitation under paragraph (1) shall be the sum of the limitations under paragraph (1) to which each spouse would be entitled if such spouses had not been married. For purposes of the preceding sentence, each spouse shall be treated as owning the property during the period that either spouse owned the property.".

(2) Section 121(c)(1) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a), and subsection (b)(3), shall not apply; but the dollar limitation under paragraph (1) or (2) of subsection (b), whichever is applicable, shall be equal to—

"(A) the amount which bears the same ratio to such limitation (determined without regard to this paragraph) as

"(B)(i) the shorter of—

"(I) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

"(II) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange, bears to

"(ii) 2 years.".

(3) Section 312(d)(2) of the 1997 Act (relating to sales before date of the enactment) is amended by inserting "on or" before "before" each place it appears in the text and heading.

(f) AMENDMENTS RELATED TO SECTION 313 OF 1997 ACT.—

(1) Subsection (a) of section 1045 of such Code is amended—

(A) by striking "an individual" and inserting "a taxpayer other than a corporation", and

(B) by striking "such individual" and inserting "such taxpayer".

(2) Subsection (b) of section 1045 of the 1986 Code is amended by adding at the end the following new paragraph:

"(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (f), (g), (h), (i), (j), and (k) of section 1202 shall apply.".

SEC. 6006. AMENDMENT RELATED TO TITLE IV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 401 OF 1997 ACT.—Paragraph (1) of section 55(e) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—

"(A) $7,500,000 GROSS RECEIPTS TEST.—The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3-taxable-year periods ending before such taxable year does not exceed $7,500,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1993, shall be taken into account.

"(B) $5,000,000 GROSS RECEIPTS TEST FOR FIRST 3-YEAR PERIOD.—Subparagraph (A) shall be applied by substituting '$5,000,000' for '$7,500,000' for the first 3-taxable-year period (or portion thereof) of the corporation which is taken into account under subparagraph (A).

"(C) FIRST TAXABLE YEAR CORPORATION IN EXISTENCE.—If such taxable year is the first taxable year that such corporation is in existence, the tentative minimum tax of such corporation for such year shall be zero.

"(D) SPECIAL RULES.—For purposes of this paragraph, the rules of paragraphs (2) and (3) of section 448(c) shall apply.".

(b) AMENDMENT RELATED TO SECTION 402 OF 1997 ACT.—Subsection (c) of section 168 of the 1986 Code is amended—

(1) by striking paragraph (2), and

(2) by striking the portion of such subsection preceding the table in paragraph (1) and inserting the following:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:".

SEC. 6007. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF 1997 ACT.—

(1) Subsection (c) of section 2631 of the 1986 Code is amended to read as follows:

"(c) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1998, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(A) $1,000,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.

"(2) ALLOCATION OF INCREASE.—Any increase under paragraph (1) for any calendar year shall apply only to generation-skipping transfers made during or after such calendar year; except that no such increase for calendar years after the calendar year in which the transferor dies shall apply to transfers by such transferor.".

(2) Subsection (f) of section 501 of the 1997 Act is amended by inserting "(other than the amendment made by subsection (d))" after "this section".

(b) AMENDMENTS RELATED TO SECTION 502 OF 1997 ACT.—

(1)(A) Section 2033A of the 1986 Code is hereby moved to the end of part IV of subchapter A of chapter 11 of the 1986 Code and redesignated as section 2057.

(B) So much of such section 2057 (as so redesignated) as precedes subsection (b) thereof is amended to read as follows:

"SEC. 2057. FAMILY-OWNED BUSINESS INTERESTS.

"(a) GENERAL RULE.—

"(1) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the qualified family-owned business interests of the decedent which are described in subsection (b)(2).

"(2) MAXIMUM DEDUCTION.—The deduction allowed by this section shall not exceed $675,000.

"(3) COORDINATION WITH UNIFIED CREDIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if this section applies to an estate, the applicable exclusion amount under section 2010 shall be $625,000.

"(B) INCREASE IN UNIFIED CREDIT IF DEDUCTION IS LESS THAN $675,000.—If the deduction allowed by this section is less than $675,000, the amount of the applicable exclusion amount under section 2010 shall be increased (but not above the amount which would apply to the estate without regard to this section) by the excess of $675,000 over the amount of the deduction allowed.".

(C) Subparagraph (A) of section 2057(b)(2) of the 1986 Code (as so redesignated) is amended by striking "(without regard to this section)".

(D) Subsection (c) of section 2057 of the 1986 Code (as so redesignated) is amended by striking "(determined without regard to this section)".

(E) The table of sections for part III of subchapter A of chapter 11 of the 1986 Code is amended by striking the item relating to section 2033A.

(F) The table of sections for part IV of such subchapter is amended by adding at the end the following new item:

"Sec. 2057. Family-owned business interests.".

(2) Section 2057(b)(3) of the 1986 Code (as so redesignated) is amended to read as follows:

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the sum of—

"(A) the amount of such gifts from the decedent to members of the decedent's family taken into account under section 2001(b)(1)(B), plus

"(B) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death.".

(3)(A) Section 2057(e)(2)(C) of the 1986 Code (as so redesignated) is amended by striking "(as defined in section 543(a))" and inserting "(as defined in section 543(a) without regard to paragraph (2)(B) thereof) if such trade or business were a corporation".

(B) Clause (ii) of section 2057(e)(2)(D) of the 1986 Code (as so redesignated) is amended by

striking "income of which is described in section 543(a) or" and inserting "personal holding company income (as defined in subparagraph (C)) or income described".

(C) Paragraph (2) of section 2057(e) of the 1986 Code (as so redesignated) is amended by adding at the end the following new flush sentence:

"In the case of a lease of property on a net cash basis by the decedent to a member of the decedent's family, income from such lease shall not be treated as personal holding company income for purposes of subparagraph (C), and such property shall not be treated as an asset described in subparagraph (D)(ii), if such income and property would not be so treated if the lessor had engaged directly in the activities engaged in by the lessee with respect to such property.".

(4) Paragraph (2) of section 2057(f) of the 1986 Code (as so redesignated) is amended—

(A) by striking "(as determined under rules similar to the rules of section 2032A(c)(2)(B))", and

(B) by adding at the end the following new subparagraph:

"(C) ADJUSTED TAX DIFFERENCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The adjusted tax difference attributable to a qualified family-owned business interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under clause (ii)) as the value of such interest bears to the value of all qualified family-owned business interests described in subsection (b)(2).

"(ii) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of clause (i), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for the election under this section over the estate tax liability. For purposes of this clause, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.".

(5)(A) Paragraph (1) of section 2057(e) of the 1986 Code (as so redesignated) is amended by adding at the end the following new flush sentence:

"For purposes of the preceding sentence, a decedent shall be treated as engaged in a trade or business if any member of the decedent's family is engaged in such trade or business.".

(B) Subsection (f) of section 2057 of the 1986 Code (as so redesignated) is amended by adding at the end the following new paragraph:

"(3) USE IN TRADE OR BUSINESS BY FAMILY MEMBERS.—A qualified heir shall not be treated as disposing of an interest described in subsection (e)(1)(A) by reason of ceasing to be engaged in a trade or business so long as the property to which such interest relates is used in a trade or business by any member of such individual's family.".

(6) Paragraph (1) of section 2057(g) of the 1986 Code (as so redesignated) is amended by striking "or (M)".

(7) Paragraph (3) of section 2057(i) of the 1986 Code (as so redesignated) is amended by redesignating subparagraphs (L), (M), and (N) as subparagraphs (N), (O), and (P), respectively, and by inserting after subparagraph (K) the following new subparagraphs:

"(L) Section 2032A(g) (relating to application to interests in partnerships, corporations, and trusts).

"(M) Subsections (h) and (i) of section 2032A.".

(c) AMENDMENTS RELATED TO SECTION 503 OF THE 1997 ACT.—

(1) Clause (iii) of section 6166(b)(7)(A) of the 1986 Code is amended to read as follows:

"(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.".

(2) Clause (iii) of section 6166(b)(8)(A) of the 1986 Code is amended to read as follows:

"(iii) 2-PERCENT INTEREST RATE NOT TO APPLY.—For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.".

(d) AMENDMENT RELATED TO SECTION 505 OF THE 1997 ACT.—Paragraphs (1) and (2) of section 7479(a) of the 1986 Code are each amended by striking "an estate," and inserting "an estate (or with respect to any property included therein),".

(e) AMENDMENTS RELATED TO SECTION 506 OF THE 1997 ACT.—

(1) Paragraph (1) of section 506(e) of the 1997 Act is amended by striking "and (c)" and inserting ", (c), and (d)".

(2)(A) Paragraph (9) of section 6501(c) of the 1986 Code is amended by striking the last sentence.

(B) Subsection (f) of section 2001 of the 1986 Code is amended to read as follows:

"(f) VALUATION OF GIFTS.—

"(1) IN GENERAL—If the time has expired under section 6501 within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on—

"(A) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), or

"(B) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined for purposes of chapter 12.

"(2) FINAL DETERMINATION.—For purposes of paragraph (1), a value shall be treated as finally determined for purposes of chapter 12 if—

"(A) the value is shown on a return under such chapter and such value is not contested by the Secretary before the expiration of the time referred to in paragraph (1) with respect to such return,

"(B) in a case not described in subparagraph (A), the value is specified by the Secretary and such value is not timely contested by the taxpayer, or

"(C) the value is determined by a court or pursuant to a settlement agreement with the Secretary.".

(B) Subsection (c) of section 2504 of the 1986 Code is amended to read as follows:

"(c) VALUATION OF GIFTS.—If the time has expired under section 6501 within which a tax may be assessed under this chapter 12 (or under corresponding provisions of prior laws) on—

"(1) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), or

"(2) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined (within the meaning of section 2001(f)(2)) for purposes of this chapter.".

(f) AMENDMENTS RELATED TO SECTION 507 OF 1997 ACT.—

(1) Paragraph (3) of section 1(g) of the 1986 Code is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) Section 641 of the 1986 Code is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(3) Paragraph (4) of section 1361(e) of the 1986 Code is amended by striking "section 641(d)" and inserting "section 641(c)".

(4) Subparagraph (A) of section 6103(e)(1) of the 1986 Code is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(g) AMENDMENTS RELATED TO SECTION 508 OF 1997 ACT.—

(1) Subsection (c) of section 2031 of the 1986 Code is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.—In any case in which the qualified conservation easement is granted after the date of the decedent's death and on or before the due date (including extensions) for filing the return of tax imposed by section 2001, the deduction under section 2055(f) with respect to such easement shall be allowed to the estate but only if no charitable deduction is allowed under chapter 1 to any person with respect to the grant of such easement.".

(2) The first sentence of paragraph (6) of section 2031(c) of the 1986 Code is amended by striking all that follows "shall be made" and inserting "on or before the due date (including extensions) for filing the return of tax imposed by section 2001 and shall be made on such return.".

SEC. 6008. AMENDMENTS RELATED TO TITLE VII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1400 OF 1986 CODE.—Section 1400(b)(2)(B) of the 1986 Code is amended by inserting "as determined on the basis of the 1990 census" after "percent".

(b) AMENDMENT RELATED TO SECTION 1400A OF 1986 CODE.—Subsection (a) of section 1400A of the 1986 Code is amended by inserting before the period "and section 1394(b)(3)(B)(iii) shall be applied without regard to the employee residency requirement".

(c) AMENDMENTS RELATED TO SECTION 1400B OF 1986 CODE.—

(1) Section 1400B(b) of the 1986 Code is amended by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF DC ZONE TERMINATION.—The termination of the designation of the DC Zone shall be disregarded for purposes of determining whether any property is a DC Zone asset.".

(2) Paragraph (6) of section 1400B(b) of the 1986 Code is amended by striking "(4)(A)(ii)" and inserting "(4)(A)(i) or (ii)".

(3) Section 1400B(c) of the 1986 Code is amended by striking "entity which is an".

(4) Section 1400B(d)(2) of the 1986 Code is amended by inserting "as determined on the basis of the 1990 census" after "percent".

(d) AMENDMENTS RELATED TO SECTION 1400C OF 1986 CODE.—

(1) Paragraph (1) of section 1400C(b) of the 1986 Code is amended by inserting "and subsection (d)" after "this subsection".

(2) Paragraph (1) of section 1400C(c) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence in the District of Columbia during the 1-year period ending on the date of the purchase of the principal residence to which this section applies.".

(3) Subparagraph (B) of section 1400C(e)(2) of the 1986 Code is amended by inserting before the period "on the date the taxpayer first occupies such residence".

(4) Paragraph (3) of section 1400C(e) of the 1986 Code is amended by striking all that follows "principal residence" and inserting "on the date such residence is purchased.".

(5) Subsection (i) of section 1400C of the 1986 Code is amended to read as follows:

"(i) APPLICATION OF SECTION.—This section shall apply to property purchased after August 4, 1997, and before January 1, 2001.".

(6) Subsection (c) of section 23 of the 1986 Code is amended by inserting "and section 1400C" after "other than this section".

(7) Subparagraph (C) of section 25(e)(1) of the 1986 Code is amended by striking "section 23" and inserting "sections 23 and 1400C".

SEC. 6009. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 908 OF 1997 ACT.—Paragraph (6) of section 5041(b) of the 1986 Code is amended by inserting "which is a still wine" after "hard cider".

(b) AMENDMENT RELATED TO SECTION 964 OF 1997 ACT.—

(1) IN GENERAL.—Subparagraph (C) of section 7704(g)(3) of the 1986 Code is amended by striking the period at the end and inserting "and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A).".

(2) EFFECTIVE DATE.—The second sentence of section 7704(g)(3)(C) of the 1986 Code (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act.

(c) AMENDMENT RELATED TO SECTION 971 OF 1997 ACT.—Clause (ii) of section 280F(a)(1)(C) is amended by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)".

(d) AMENDMENT RELATED TO SECTION 976 OF 1997 ACT.—Section 6103(d)(5) of the 1986 Code is amended by striking "section 967 of the Taxpayer Relief Act of 1997." and inserting "section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

(e) AMENDMENT RELATED TO SECTION 977 OF 1997 ACT.—Paragraph (2) of section 977(e) of the 1997 Act is amended to read as follows:

"(2) NON-AMTRAK STATE.—The term 'non-Amtrak State' means any State which is not receiving intercity passenger rail service from the Corporation as of the date of the enactment of this Act.".

SEC. 6010. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1001 OF 1997 ACT.—

(1) Paragraph (2) of section 1259(b) of the 1986 Code is amended—

(A) by striking "debt" each place it appears in clauses (i), (ii), and (iii) of subparagraph (A) and inserting "position",

(B) by striking "and" at the end of subparagraph (A), and

(C) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) any hedge with respect to a position described in subparagraph (A), and".

(2) Section 1259(d)(1) of the 1986 Code is amended by inserting "(including cash)" after "property".

(3) Subparagraph (D) of section 475(f)(1) of the 1986 Code is amended by adding at the end the following new sentence: "Subsection (d)(3) shall not apply under the preceding sentence for purposes of applying sections 1402 and 7704.".

(4) Subparagraph (C) of section 1001(d)(3) of the 1997 Act is amended by striking "within the 30-day period beginning on" and inserting "before the close of the 30th day after".

(b) AMENDMENT RELATED TO SECTION 1011 OF 1997 ACT.—Paragraph (1) of section 1059(g) of the 1986 Code is amended by striking "and in the case of stock held by pass-thru entities" and inserting ", in the case of stock held by pass-thru entities, and in the case of consolidated groups".

(c) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (1) of section 1012(d) of the 1997 Act is amended by striking "1997, pursuant" and inserting "1997; except that the amendment made by subsection (a) shall apply to such distributions only if pursuant".

(2) Subparagraph (A) of section 355(e)(3) of the 1986 Code is amended—

(A) by striking "shall not be treated as described in" and inserting "shall not be taken into account in applying", and

(B) by striking clause (iv) and inserting the following new clause:

"(iv) The acquisition of stock in the distributing corporation or any controlled corporation to the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease.".

(3)(A) Subsection (c) of section 351 of the 1986 Code is amended to read as follows:

"(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—

"(1) IN GENERAL.—In determining control for purposes of this section, the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account.

"(2) SPECIAL RULE FOR SECTION 355.—If the requirements of section 355 (or so much of section 356 as relates to section 355) are met with respect to a distribution described in paragraph (1), then, solely for purposes of determining the tax treatment of the transfers of property to the controlled corporation by the distributing corporation, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account in determining control for purposes of this section.".

(B) Clause (ii) of section 368(a)(2)(H) of the 1986 Code is amended to read as follows:

"(ii) in the case of a transaction with respect to which the requirements of section 355 (or so much of section 356 as relates to section 355) are met, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account.".

(d) AMENDMENTS RELATED TO SECTION 1013 OF 1997 ACT.—

(1) Paragraph (5) of section 304(b) of the 1986 Code is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(2) Subsection (b) of section 304 of the 1986 Code is amended by adding at the end the following new paragraph:

"(6) AVOIDANCE OF MULTIPLE INCLUSIONS, ETC.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation or the issuing corporation is a foreign corporation, the Secretary shall prescribe such regulations as are appropriate in order to eliminate a multiple inclusion of any item in income by reason of this subpart and to provide appropriate basis adjustments (including modifications to the application of sections 959 and 961).".

(e) AMENDMENTS RELATED TO SECTION 1014 OF 1997 ACT.—

(1) Paragraph (1) of section 351(g) of the 1986 Code is amended by adding "and" at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) if (and only if) the transferor receives stock other than nonqualified preferred stock—

"(i) subsection (b) shall apply to such transferor, and

"(ii) such nonqualified preferred stock shall be treated as other property for purposes of applying subsection (b).".

(2) Clause (ii) of section 354(a)(2)(C) of 1986 Code is amended by adding at the end the following new subclause:

"(III) EXTENSION OF STATUTE OF LIMITATIONS.—The statutory period for the assessment of any deficiency attributable to a corporation failing to be a family-owned corporation shall not expire before the expiration of 3 years after the date the Secretary is notified by the corporation (in such manner as the Secretary may prescribe) of such failure, and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(f) AMENDMENT RELATED TO SECTION 1024 OF 1997 ACT.—Section 6331(h)(1) of the 1986 Code is amended by striking "The effect of a levy" and inserting "If the Secretary approves a levy under this subsection, the effect of such levy".

(g) AMENDMENTS RELATED TO SECTION 1031 OF 1997 ACT.—

(1) Subsection (l) of section 4041 of the 1986 Code is amended by striking "subsection (e) or (f)" and inserting "subsection (f) or (g)".

(2) Subsection (b) of section 9502 of the 1986 Code is amended by moving the sentence added at the end of paragraph (1) to the end of such subsection.

(3) Subsection (c) of section 6421 of the 1986 Code is amended—

(A) by striking "(2)(A)" and inserting "(2)", and

(B) by adding at the end the following sentence: "Subsection (a) shall not apply to gasoline to which this subsection applies.".

(h) AMENDMENTS RELATED TO SECTION 1032 OF 1997 ACT.—

(1) Section 1032(a) of the 1997 Act is amended by striking "Subsection (a) of section 4083" and inserting "Paragraph (1) of section 4083(a)".

(2) Section 1032(e)(12)(A) of the 1997 Act shall be applied as if "gasoline, diesel fuel," were the material proposed to be stricken.

(3) Paragraph (1) of section 4082(d) of the 1986 Code is amended to read as follows:

"(1) AVIATION-GRADE KEROSENE.—Subsection (a)(2) shall not apply to aviation-grade kerosene (as determined under regulations prescribed by the Secretary) which the Secretary determines is destined for use as a fuel in an aircraft.".

(4) Paragraph (3) of section 4082(d) of the 1986 Code is amended by striking "a removal, entry, or sale of kerosene to" and inserting "kerosene received by".

(5) Paragraph (1) of section 4101(e) of the 1986 Code is amended by striking "dyed diesel fuel and kerosene" and inserting "such fuel in a dyed form".

(i) AMENDMENT RELATED TO SECTION 1034 OF 1997 ACT.—Paragraph (3) of section 4251(d) of the 1986 Code is amended by striking "other similar arrangement" and inserting "any other similar arrangement".

(j) AMENDMENTS RELATED TO SECTION 1041 OF 1997 ACT.—

(1) Subparagraph (A) of section 512(b)(13) of the 1986 Code is amended by inserting "or accrues" after "receives".

(2) Subclause (I) of section 512(b)(13)(B)(i) of the 1986 Code is amended by striking "(as defined in section 513A(a)(5)(A))".

(3) Paragraph (2) of section 1041(b) of the 1997 Act is amended to read as follows:

"(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any amount received or accrued during the first 2 taxable years beginning on or after the date of the enactment of this Act if such amount is received or accrued pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such amount is received or accrued. The preceding sentence shall not apply to any amount which would (but for the exercise of an option to accelerate payment of such amount) be received or accrued after such 2 taxable years.".

(k) AMENDMENTS RELATED TO SECTION 1053 OF 1997 ACT.—

(1) Section 853 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF TAXES NOT ALLOWED AS A CREDIT UNDER SECTION 901(k).—This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of section 901(k).".

(2) Subsection (c) of section 853 of the 1986 Code is amended by striking the last sentence.

(3) Subparagraph (A) of section 901(k)(4) of the 1986 Code is amended by striking "securities business" and inserting "business as a securities dealer".

(l) AMENDMENT RELATED TO SECTION 1055 OF 1997 ACT.—Section 6611(g)(1) of the 1986 Code is amended by striking "(e), and (h)" and inserting "and (e)".

(m) AMENDMENT RELATED TO SECTION 1061 OF 1997 ACT.—Subsection (c) of section 751 of the 1986 Code is amended by striking "731" each place it appears and inserting "731, 732,".

(n) AMENDMENT RELATED TO SECTION 1083 OF 1997 ACT.—Section 1083(a)(2) of the 1997 Act is amended—

(1) by striking "21" and inserting "20", and

(2) by striking "22" and inserting "21".

(o) AMENDMENTS RELATED TO SECTION 1084 OF 1997 ACT.—

(1) Paragraph (3) of section 264(a) of the 1986 Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(2) Paragraph (4) of section 264(a) of the 1986 Code is amended by striking "subsection (d)" and inserting "subsection (e)".

(3)(A) Paragraph (4) of section 264(f) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(E) MASTER CONTRACTS.—If coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract for purposes of subparagraph (A). For purposes of the preceding sentence, the term 'master contract' shall not include any group life insurance contract (as defined in section 848(e)(2)).".

(B) The second sentence of section 1084(d) of the 1997 Act is amended by striking "but" and all that follows and inserting "except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of the Internal Revenue Code of 1986), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives.".

(4)(A) Clause (iv) of section 264(f)(5)(A) of the 1986 Code is amended by striking the second sentence.

(B) Subparagraph (B) of section 6724(d)(1) of the 1986 Code is amended by striking "or" at the end of clause (xv), by striking the period at the end of clause (xvi) and inserting ", or", and by adding at the end the following new clause:

"(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).".

(C) Paragraph (2) of section 6724(d) of the 1986 Code is amended by striking "or" at the end of subparagraph (Y), by striking the period at the end of subparagraph (Z) and inserting "or", and by adding at the end the following new subparagraph:

"(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).".

(5) Subparagraph (A) of section 264(f)(8) of the 1986 Code is amended by striking "subsection (d)(5)(B)" and inserting "subsection (e)(5)(B)".

(p) AMENDMENTS RELATED TO SECTION 1085 OF 1997 ACT.—

(1) Paragraph (5) of section 32(c) of the 1986 Code is amended—

(A) by inserting before the period at the end of subparagraph (A) "and increased by the amounts described in subparagraph (C)",

(B) by adding "or" at the end of clause (iii) of subparagraph (B), and

(C) by striking all that follows subclause (II) of subparagraph (B)(iv) and inserting the following:

"(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.

"(C) CERTAIN AMOUNTS INCLUDED.—An amount is described in this subparagraph if it is—

"(i) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, or

"(ii) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (ii) shall not include any amount which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.".

(2) Clause (v) of section 32(c)(2)(B) of the 1986 Code is amended by inserting "shall be taken into account" before ", but only".

(3) The text of paragraph (3) of section 1085(a) of the 1997 Act is amended to read as follows: "Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", and", and by inserting after subparagraph (J) the following new subparagraph:

"(K) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit).".

(q) AMENDMENT RELATED TO SECTION 1088 OF 1997 ACT.—Section 1088(b)(2)(C) of the 1997 Act is amended by inserting "more than 1 year" before "after".

(r) AMENDMENT RELATED TO SECTION 1089 OF 1997 ACT.—Paragraphs (1)(C) and (2)(C) of section 664(d) of the 1986 Code are each amended by adding ", and" at the end.

SEC. 6011. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1103 OF 1997 ACT.—The paragraph (3) of section 59(a) added by section 1103 of the 1997 Act is redesignated as paragraph (4).

(b) AMENDMENTS RELATED TO SECTION 1121 OF 1997 ACT.—

(1) Subsection (e) of section 1297 of the 1986 Code is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF HOLDERS OF OPTIONS.—Paragraph (1) shall not apply to stock treated as owned by a person by reason of section 1298(a)(4) (relating to the treatment of a person that has an option to acquire stock as owning such stock) unless such person establishes that such stock is owned (within the meaning of section 958(a)) by a United States shareholder (as defined in section 951(b)) who is not exempt from tax under this chapter.".

(2) Section 1298(a)(2)(B) of the 1986 Code is amended by adding at the end the following new sentence: "Section 1297(e) shall not apply in determining whether a corporation is a passive foreign investment company for purposes of this subparagraph.".

(c) AMENDMENTS RELATED TO SECTION 1122 OF 1997 ACT.—

(1) Section 672(f)(3)(B) of the 1986 Code is amended by striking "section 1296" and inserting "section 1297".

(2) Paragraph (1) of section 1291(d) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of stock which is marked to market under section 475 or any other provision of this chapter, this section shall not apply, except that rules similar to the rules of section 1296(j) shall apply.".

(3) Subsection (d) of section 1296 of the 1986 Code is amended by adding at the end the following new sentence: "In the case of a regulated investment company which elected to mark to market the stock held by such company as of the last day of the taxable year preceding such company's first taxable year for which such company elects the application of this section, the amount referred to in paragraph (1) shall include amounts included in gross income under such mark to market with respect to such stock for prior taxable years.".

(d) AMENDMENT RELATED TO SECTION 1123 OF 1997 ACT.—The subsection (e) of section 1297 of the 1986 Code added by section 1123 of the 1997 Act is redesignated as subsection (f).

(e) AMENDMENTS RELATED TO SECTION 1131 OF 1997 ACT.—

(1) Section 991 of the 1986 Code is amended by striking "except for the tax imposed by chapter 5".

(2) Section 6013 of the 1986 Code is amended by striking "chapters 1 and 5" each place it appears in paragraphs (1)(A) and (5) of subsection (g) and in subsection (h)(1) and inserting "chapter 1" .

(f) AMENDMENT RELATED TO SECTION 1142 OF 1997 ACT.—

(1) Paragraph (2) of section 6038(a) of the 1986 Code is amended by striking "by regulations".

(2) Paragraph (3) of section 6038(a) of the 1986 Code is amended by striking "such information" and all that follows through the period and inserting "the Secretary has prescribed the furnishing of such information on or before the first day of such annual accounting period.".

(3) Paragraph (4) of section 6038(e) of the 1986 Code is amended by striking "corporation" and inserting "foreign business entity" each place it appears.

(g) AMENDMENT RELATED TO SECTION 1144 OF 1997 ACT.—Paragraphs (1) and (2) of section 1144(c) of the 1997 Act are each amended by striking "6038B(b)" and inserting "6038B(c) (as redesignated by subsection (b))".

SEC. 6012. AMENDMENTS RELATED TO TITLE XII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1204 OF 1997 ACT.—The last sentence of section 162(a) of the 1986 Code is amended by striking "investigate" and all that follows and inserting "investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime.".

(b) AMENDMENTS RELATED TO SECTION 1205 OF 1997 ACT.—

(1) Section 6311(e)(1) of the 1986 Code is amended by striking "section 6103(k)(8)" and inserting "section 6103(k)(9)".

(2) Paragraph (8) of section 6103(k) of the 1986 Code (as added by section 1205(c)(1) of the 1997 Act) is redesignated as paragraph (9).

(3) The subsection (g) of section 7431 of the 1986 Code added by section 1205 of the 1997 Act is redesignated as subsection (h) and is amended by striking "(8)" in the heading and inserting "(9)".

(4) Section 1205(c)(3) of the 1997 Act shall be applied as if it read as follows:

"(3) Section 6103(p)(3)(A), as amended by section 1026(b)(1)(A) of the 1997 Act, is amended by striking "or (8)" and inserting "(8), or (9)".

(5) Section 1213(b) of the 1997 Act is amended by striking "section 6724(d)(1)(A)" and inserting "section 6724(d)(1)".

(c) AMENDMENT RELATED TO SECTION 1221 OF 1997 ACT.—Paragraph (2) of section 774(d) of the 1986 Code is amended by inserting before the period "or 857(b)(3)(D)".

(d) AMENDMENT RELATED TO SECTION 1223 OF 1997 ACT.—Subsection (c) of section 6724 of the 1986 Code is amended by inserting before the period "(more than 100 information returns in the case of a partnership having more than 100 partners)".

(e) AMENDMENT RELATED TO SECTION 1226 OF 1997 ACT.—Section 1226 of the 1997 Act is amended by striking "ending on or" and inserting "beginning".

(f) AMENDMENT RELATED TO SECTION 1231 OF 1997 ACT.—Subsection (c) of section 6211 of the 1986 Code is amended—

(1) by striking "SUBCHAPTER C" in the heading and inserting "SUBCHAPTERS C AND D", and

(2) by striking "subchapter C" in the text and inserting "subchapters C and D".

(g) AMENDMENT RELATED TO SECTION 1256 OF 1997 ACT.—Subparagraph (A) of section 857(d)(3) of the 1986 Code is amended by striking "earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies)" and inserting "earliest earnings and profits accumulated in any taxable year to which the provisions of this part did not apply".

(h) AMENDMENT RELATED TO SECTION 1285 OF 1997 ACT.—Section 7430(b) of the 1986 Code is amended by redesignating paragraph (5) as paragraph (4).

SEC. 6013. AMENDMENTS RELATED TO TITLE XIII OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1305 OF 1997 ACT.—

(1) Section 646 of the 1986 Code is redesignated as section 645.

(2) The item relating to section 646 in the table of sections for subpart A of part I of subchapter J of chapter 1 of the 1986 Code is amended by striking "Sec. 646" and inserting "Sec. 645".

(3) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking "section 646" and inserting "section 645".

(4)(A) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking the second sentence.

(B) Subsection (b) of section 2654 of the 1986 Code is amended by adding at the end the following new sentence: "For purposes of this subsection, a trust shall be treated as part of an estate during any period that the trust is so treated under section 645.".

(b) AMENDMENTS RELATED TO SECTION 1309 OF 1997 ACT.—

(1) Subsection (b) of section 685 of the 1986 Code is amended by adding at the end the following new flush sentence:

"A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death.".

(2) Subsection (f) of section 685 of the 1986 Code is amended by inserting before the period at the end "and of trusts terminated during the year".

SEC. 6014. AMENDMENTS RELATED TO TITLE XIV OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1421 OF 1997 ACT.—

(1) Paragraph (1) of section 5054(a) of the 1986 Code is amended—

(A) by inserting ", or imported into the United States and transferred to a brewery free of tax under section 5418," after "produced in the United States" in the text, and

(B) by inserting "; CERTAIN IMPORTED BEER" after "PRODUCED IN THE UNITED STATES" in the heading.

(2) Paragraph (2) of section 5054(a) of the 1986 Code is amended by inserting "and not transferred to a brewery free of tax under section 5418" after "United States".

(3) Section 5056 of the 1986 Code is amended by striking "produced in the United States" each place it appears and inserting "removed for consumption or sale".

(b) AMENDMENTS RELATED TO SECTION 1422 OF 1997 ACT.—

(1) Paragraph (2) of section 5043(a) of the 1986 Code is amended by inserting "which are not transferred to a bonded wine cellar free of tax under section 5364" after "foreign wines".

(2) Subsection (a) of section 5044 of the 1986 Code is amended by striking "produced in the United States" and inserting "removed from a bonded wine cellar".

(3) Section 5364 of the 1986 Code is amended by striking "Wine imported or brought into" and inserting "Natural wine (as defined in section 5381) imported or brought into".

(c) AMENDMENT RELATED TO SECTION 1434 OF 1997 ACT.—Paragraph (2) of section 4052(f) of the 1986 Code is amended by striking "this section" and inserting "such section".

(d) AMENDMENT RELATED TO SECTION 1436 OF 1997 ACT.—Paragraph (2) of section 4091(a) of the 1986 Code is amended by inserting "or on which tax has been credited or refunded" after "such paragraph".

(e) AMENDMENT RELATED TO SECTION 1453 OF 1997 ACT.—Subparagraph (D) of section 7430(c)(4) of the 1986 Code is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

SEC. 6015. AMENDMENTS RELATED TO TITLE XV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF 1997 ACT.—The paragraph (8) of section 408(p) of the 1986 Code added by section 1501(b) of the 1997 Act is redesignated as paragraph (9).

(b) AMENDMENT RELATED TO SECTION 1505 OF 1997 ACT.—Section 1505(d)(2) of the 1997 Act is amended by striking "(b)(12)" and inserting "(b)(12)(A)(i)".

(c) AMENDMENTS RELATED TO SECTION 1529 OF 1997 ACT.—

(1) Section 1529(a) of the 1997 Act is amended to read as follows:

"(a) GENERAL RULE.—Amounts to which this section applies which are received by an individual (or the survivors of the individual) as a result of hypertension or heart disease of the individual shall be excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986.".

(2) Section 1529(b)(1)(B) of the 1997 Act is amended to read as follows:

"(B) under—

"(i) a State law (as amended on May 19, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees hired before July 1, 1992, or

"(ii) any other statute, ordinance, labor agreement, or similar provision as a disability pension payment or in the nature of a disability pension payment attributable to employment as a police officer or fireman, but only if the individual is referred to in the State law described in clause (i); and".

(d) AMENDMENT RELATED TO SECTION 1530 OF 1997 ACT.—Subparagraph (C) of section 404(a)(9) of the 1986 Code (as added by section 1530 of the 1997 Act) is redesignated as subparagraph (D) and is amended by striking "A qualified" and inserting "QUALIFIED GRATUITOUS TRANSFERS.—A qualified".

(e) AMENDMENT RELATED TO SECTION 1531 OF 1997 ACT.—Subsection (f) of section 9811 of the 1986 Code (as added by section 1531 of the 1997 Act) is redesignated as subsection (e).

SEC. 6016. AMENDMENTS RELATED TO TITLE XVI OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1601(d) OF 1997 ACT.—

(1) AMENDMENTS RELATED TO SECTION 1601(d)(1)—

(A) Section 408(p)(2)(D)(i) of the 1986 Code is amended by striking "or (B)" in the last sentence.

(B) Section 408(p) of the 1986 Code is amended by adding at the end the following new paragraph:

"(10) SPECIAL RULES FOR ACQUISITIONS, DISPOSITIONS, AND SIMILAR TRANSACTIONS.—

"(A) IN GENERAL.—An employer which fails to meet any applicable requirement by reason of an acquisition, disposition, or similar transaction shall not be treated as failing to meet such requirement during the transition period if—

"(i) the employer satisfies requirements similar to the requirements of section 410(b)(6)(C)(i)(II), and

"(ii) the qualified salary reduction arrangement maintained by the employer would satisfy the requirements of this subsection after the transaction if the employer which maintained the arrangement before the transaction had remained a separate employer.

"(B) APPLICABLE REQUIREMENT.—For purposes of this paragraph, the term 'applicable requirement' means—

"(i) the requirement under paragraph (2)(A)(i) that an employer be an eligible employer,

"(ii) the requirement under paragraph (2)(D) that an arrangement be the only plan of an employer, and

"(iii) the participation requirements under paragraph (4).

"(C) TRANSITION PERIOD.—For purposes of this paragraph, the term 'transition period' means the period beginning on the date of any transaction described in subparagraph (A) and ending on the last day of the second calendar year following the calendar year in which such transaction occurs.".

(C) Section 408(p)(2) of the 1986 Code is amended—

(i) by striking "the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i)" in the last sentence of subparagraph (C)(i)(II) and inserting "the preceding sentence shall not apply", and

(ii) by striking clause (iii) of subparagraph (D).

(2) AMENDMENT TO SECTION 1601(d)(4).—Section 1601(d)(4)(A) of the 1997 Act is amended—

(A) by striking "Section 403(b)(11)" and inserting "Paragraphs (7)(A)(ii) and (11) of section 403(b)", and

(B) by striking "403(b)(1)" in clause (ii) and inserting "403(b)(10)".

(b) AMENDMENT RELATED TO SECTION 1601(f)(4) OF 1997 ACT.—Subsection (d) of section 6427 of the 1986 Code is amended—

(1) by striking "HELICOPTERS" in the heading and inserting "OTHER AIRCRAFT USES", and

(2) by inserting "or a fixed-wing aircraft" after "helicopter".

SEC. 6017. AMENDMENT RELATED TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.

(a) IN GENERAL.—Subparagraph (B) of section 6427(i)(2) of the 1986 Code is amended to read as follows:

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the 1st quarter following the last quarter included in the claim.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 9009 of the Transportation Equity Act for the 21st Century.

SEC. 6018. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENT RELATING TO SECTION 1116.—Subparagraph (C) of section 1116(b)(2) of the

Small Business Job Protection Act of 1996 is amended by striking "chapter 68" and inserting "chapter 61".

(b) AMENDMENT RELATING TO SECTION 1421.—Section 408(d)(7) of the 1986 Code is amended—

(1) by inserting "or 402(k)" after "section 402(h)" in subparagraph (B) thereof, and

(2) by inserting "OR SIMPLE RETIREMENT ACCOUNTS" after "PENSIONS" in the heading thereof.

(c) AMENDMENT RELATING TO SECTION 1431.—Subparagraph (E) of section 1431(c)(1) of the Small Business Job Protection Act of 1996 is amended to read as follows:

"(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking 'under paragraph (4) or the number of officers taken into account under paragraph (5)'".

(d) AMENDMENT RELATING TO SECTION 1604.—Paragraph (3) of section 1604(b) of such Act is amended—

(1) by striking "such Code" and inserting "the Internal Revenue Code of 1986", and

(2) by striking "such date of enactment" and inserting "the date of the enactment of this Act".

(e) AMENDMENT RELATING TO SECTION 1609.—Paragraph (1) of section 1609(h) of such Act is amended by striking "paragraph (3)(A)(i)" and inserting "paragraph (3)(A)".

(f) AMENDMENTS RELATING TO SECTION 1807.—

(1) Subparagraph (A) of section 23(b)(2) of the 1986 Code (relating to income limitation on credit for adoption expenses) is amended by inserting "(determined without regard to subsection (c))" after "for any taxable year".

(2) Paragraph (3) of section 1807(c) of the Small Business Job Protection Act of 1996 is amended by striking "Clause (i)" and inserting "Clause (ii)".

(g) AMENDMENT RELATING TO SECTION 1903.—Subsection (b) of section 1903 of such Act shall be applied as if "or" in the material proposed to be stricken were capitalized.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

SEC. 6019. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.

(a) IN GENERAL.—Subsection (b) of section 6104 of the 1986 Code is amended by adding at the end the following new sentence: "In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization.".

(b) PUBLIC INSPECTION.—Subparagraph (C) of section 6104(e)(1) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of an organization described in section 501(d), subparagraph (A) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.".

(c) DISCLOSURE TO AUTHORIZED REPRESENTATIVES OF THE TAXPAYER.—Paragraph (6) of section 6103(e) of the 1986 Code is amended by striking "or (5)" and inserting "(5), (8), or (9)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6020. AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.

(a) IN GENERAL.—Section 196(c) of the 1986 Code is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7), and insert ", and", and by adding at the end the following new paragraph:

"(8) the employer social security credit determined under section 45B(a).".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 6021. AMENDMENT RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) IDENTIFICATION REQUIREMENT FOR INDIVIDUALS ELIGIBLE FOR EARNED INCOME CREDIT.—Subparagraph (F) of section 32(c)(1) of the 1986 Code is amended by striking "The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—" and inserting "No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year—".

(b) IDENTIFICATION REQUIREMENT FOR QUALIFYING CHILDREN UNDER EARNED INCOME CREDIT.—

(1) IN GENERAL.—Clause (i) of section 32(c)(3)(D) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.".

(2) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—Paragraph (1) of section 32(c) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(G) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—No credit shall be allowed under this section to any eligible individual who has 1 or more qualifying children if no qualifying child of such individual is taken into account under subsection (b) by reason of paragraph (3)(D).".

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 32(c)(3) is amended by inserting "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

(c) EFFECTIVE DATES.—

(1) ELIGIBLE INDIVIDUALS.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 451 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) QUALIFYING CHILDREN.—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 11111 of Revenue Reconciliation Act of 1990.

SEC. 6022. AMENDMENT RELATED TO TAX REFORM ACT OF 1986.

(a) IN GENERAL.—Section 6401(b)(1) of the 1986 Code is amended by striking "and D" and inserting "D, and G".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986.

SEC. 6023. MISCELLANEOUS CLERICAL AND DEADWOOD CHANGES.

(1) The heading for subparagraph (B) of section 45A(b)(1) of the 1986 Code is amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

(2) The subsection heading for section 59(b) of the 1986 Code is amended by striking "SECTION 936 CREDIT" and inserting "CREDITS UNDER SECTION 30A OR 936".

(3) Subsection (n) of section 72 of the 1986 Code is amended by inserting "(as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996)" after "section 101(b)(2)(D)".

(4) Subparagraph (A) of section 72(t)(3) of the 1986 Code is amended by striking "(A)(v)," and inserting "(A)(v)".

(5) Clause (ii) of section 142(f)(3)(A) of the 1986 Code is amended by striking "1997, (" and inserting "1997(".

(6) The last sentence of paragraph (3) of section 501(n) of the 1986 Code is amended by striking "subparagraph (C)(ii)" and inserting "subparagraph (E)(ii)".

(7) Subsection (o) of section 501 of the 1986 Code is amended by striking "section 1853(e)" and inserting "section 1855(d)".

(8) The heading for subclause (II) of section 512(b)(17)(B)(ii) of the 1986 Code is amended by striking "RULE" and inserting "RULE".

(9) Clause (ii) of section 543(d)(5)(A) of the 1986 Code is amended by striking "section 563(c)" and inserting "section 563(d)".

(10) Subparagraph (B) of section 871(f)(2) of the 1986 Code is amended by striking "(19 U.S.C. 2462)" and inserting "19 U.S.C. 2461 et seq.)".

(11) Paragraph (2) of section 1017(a) of the 1986 Code is amended by striking "(b)(2)(D)" and inserting "(b)(2)(E)".

(12) Subparagraph (D) of section 1250(d)(4) of the 1986 Code is amended by striking "the last sentence of section 1033(b)" and inserting "section 1033(b)(2)".

(13) Paragraph (5) of section 3121(a) of the 1986 Code is amended—

(A) by striking the semicolon at the end of subparagraph (F) and inserting a comma,

(B) by striking "or" at the end of subparagraph (G), and

(C) by striking the period at the end of subparagraph (I) and inserting a semicolon.

(14) Paragraph (19) of section 3401(a) of the 1986 Code is amended by inserting "for" before "any benefit provided to".

(15) Paragraph (21) of section 3401(a) of the 1986 Code is amended by inserting "for" before "any payment made".

(16) Sections 4092(b) and 6427(q)(2) of the 1986 Code are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(17) Sections 4221(c) and 4222(d) of the 1986 Code are each amended by striking "4053(a)(6)" and inserting "4053(6)".

(18)(A) The heading of section 4973 of the 1986 Code is amended to read as follows:

"SEC. 4973. TAX ON EXCESS CONTRIBUTIONS TO CERTAIN TAX-FAVORED ACCOUNTS AND ANNUITIES.".

(B) The item relating to section 4973 in the table of sections for chapter 43 of the 1986 Code is amended to read as follows:

"Sec. 4973. Tax on excess contributions to certain tax-favored accounts and annuities.".

(19) Section 4975 of the 1986 Code is amended—

(A) in subsection (c)(3) by striking "exempt for the tax" and inserting "exempt from the tax", and

(B) in subsection (i) by striking "Secretary of Treasury" and inserting "Secretary of the Treasury".

(20) Paragraph (1) of section 6039(a) of the 1986 Code is amended by inserting "to any person" after "transfers".

(21) Subparagraph (A) of section 6050R(b)(2) of the 1986 Code is amended by striking the semicolon at the end thereof and inserting a comma.

(22) Subparagraph (A) of section 6103(h)(4) of the 1986 Code is amended by inserting "if" before "the taxpayer is a party to".

(23) Paragraph (5) of section 6416(b) of the 1986 Code is amended by striking "section 4216(e)(1)" each place it appears and inserting "section 4216(d)(1)".

(24)(A) Section 6421 of the 1986 Code is amended by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsection (b) of section 34 of the 1986 Code is amended by striking "section 6421(j)" and inserting "section 6421(i)".

(C) Subsections (a) and (b) of section 6421 of the 1986 Code are each amended by striking "subsection (j)" and inserting "subsection (i)".

(25) Paragraph (3) of section 6427(f) of the 1986 Code is amended by striking ", (e),".

(26)(A) Section 6427 of the 1986 Code, as amended by paragraph (16), is amended by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(B) Paragraphs (1) and (2)(A) of section 6427(i) of the 1986 Code are each amended by striking "(q)" and inserting "(o)".

(27) Subsection (m) of section 6501 of the 1986 Code is amended by striking "election under" and all that follows through "(or any" and inserting "election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any".

(28) The paragraph heading of paragraph (2) of section 7702B(e) of the 1986 Code is amended by inserting "SECTION" after "APPLICATION OF".

(29) Paragraph (3) of section 7434(b) of the 1986 Code is amended by striking "attorneys fees" and inserting "attorneys' fees".

(30) Subparagraph (B) of section 7872(f)(2) of the 1986 Code is amended by striking "foregone" and inserting "forgone".

(31) Subsection (e) of section 9502 of the 1986 Code is amended to read as follows:

"(e) CERTAIN TAXES ON ALCOHOL MIXTURES TO REMAIN IN GENERAL FUND.—For purposes of this section, the amounts which would (but for this subsection) be required to be appropriated under subparagraphs (A), (C), and (D) of subsection (b)(1) shall be reduced by—

"(1) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

"(2) 0.67 cent per gallon in the case of fuel used in producing a mixture described in paragraph (1).".

(32) The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6024. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

TITLE VII—REVENUE PROVISIONS

SEC. 7001. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Section 404(a) (relating to deduction for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

"(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—For purposes of determining under this section—

"(A) whether compensation of an employee is deferred compensation, and

"(B) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by subsection (a) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 3-taxable year period beginning with such first taxable year.

SEC. 7002. TERMINATION OF EXCEPTION FOR CERTAIN REAL ESTATE INVESTMENT TRUSTS FROM THE TREATMENT OF STAPLED ENTITIES.

(a) IN GENERAL.—Notwithstanding paragraph (3) of section 136(c) of the Tax Reform Act of 1984 (relating to stapled stock; stapled entities), the REIT gross income provisions shall be applied by treating the activities and gross income of members of the stapled REIT group properly allocable to any nonqualified real property interest held by the exempt REIT or any stapled entity which is a member of such group (or treated under subsection (c) as held by such REIT or stapled entity) as the activities and gross income of the exempt REIT in the same manner as if the exempt REIT and such group were 1 entity.

(b) NONQUALIFIED REAL PROPERTY INTEREST.—For purposes of this section—

(1) IN GENERAL.—The term "nonqualified real property interest" means, with respect to any exempt REIT, any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity.

(2) EXCEPTION FOR BINDING CONTRACTS, ETC.—Such term shall not include any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity if—

(A) the acquisition is pursuant to a written agreement (including a put option, buy-sell agreement, and an agreement relating to a third party default) which was binding on such date and at all times thereafter on such REIT or stapled entity, or

(B) the acquisition is described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) IMPROVEMENTS AND LEASES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term "nonqualified real property interest" shall not include—

(i) any improvement to land owned or leased by the exempt REIT or any member of the stapled REIT group, and

(ii) any repair to, or improvement of, any improvement owned or leased by the exempt REIT or any member of the stapled REIT group,

if such ownership or leasehold interest is a qualified real property interest.

(B) LEASES.—The term "nonqualified real property interest' shall not include—

(i) any lease of a qualified real property interest if such lease is not otherwise such an interest, or

(ii) any renewal of a lease which is a qualified real property interest,

but only if the rent on any lease referred to in clause (i) or any renewal referred to in clause (ii) does not exceed an arm's length rate.

(C) TERMINATION WHERE CHANGE IN USE.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to any improvement placed in service after December 31, 1999, which is part of a change in the use of the property to which such improvement relates unless the cost of such improvement does not exceed 200 percent of—

(I) the cost of such property, or

(II) if such property is substituted basis property (as defined in section 7701(a)(42) of the Internal Revenue Code of 1986), the fair market value of the property at the time of acquisition.

(ii) BINDING CONTRACTS.—For purposes of clause (i), an improvement shall be treated as placed in service before January 1, 2000, if such improvement is placed in service before January 1, 2004, pursuant to a binding contract in effect on December 31, 1999, and at all times thereafter.

(4) EXCEPTION FOR PERMITTED TRANSFERS, ETC.—The term "nonqualified real property interest" shall not include any interest in real property acquired solely as a result of a direct or indirect contribution, distribution, or other transfer of such interest from the exempt REIT or any member of the stapled REIT group to such REIT or any such member, but only to the extent the aggregate of the interests of the exempt REIT and all stapled entities in such interest in real property (determined in accordance with subsection (c)(1)) is not increased by reason of the transfer.

(5) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—Notwithstanding any other provision of this section, all interests in real property held by an exempt REIT or any stapled entity with respect to such REIT (or treated under subsection (c) as held by such REIT or stapled entity) shall be treated as nonqualified real property interests unless—

(A) such stapled entity was a stapled entity with respect to such REIT as of March 26, 1998, and at all times thereafter, and

(B) as of March 26, 1998, and at all times thereafter, such REIT was a real estate investment trust.

(6) QUALIFIED REAL PROPERTY INTEREST.—The term "qualified real property interest" means any interest in real property other than a nonqualified real property interest.

(c) TREATMENT OF PROPERTY HELD BY 10-PERCENT SUBSIDIARIES.—For purposes of this section—

(1) IN GENERAL.—Any exempt REIT and any stapled entity shall be treated as holding their proportionate shares of each interest in real property held by any 10-percent subsidiary entity of the exempt REIT or stapled entity, as the case may be.

(2) PROPERTY HELD BY 10-PERCENT SUBSIDIARIES TREATED AS NONQUALIFIED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any interest in real property held by a 10-percent subsidiary entity of an exempt REIT or stapled entity shall be treated as a nonqualified real property interest.

(B) EXCEPTION FOR INTERESTS IN REAL PROPERTY HELD ON MARCH 26, 1998, ETC.—In the case of an entity which was a 10-percent subsidiary entity of an exempt REIT or stapled entity on March 26, 1998, and at all times thereafter, an interest in real property held by such subsidiary entity shall be treated as a qualified real property interest if such interest would be so treated if held or acquired directly by the exempt REIT or the stapled entity.

(3) REDUCTION IN QUALIFIED REAL PROPERTY INTERESTS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—If, after March 26, 1998, an exempt REIT or stapled entity increases its ownership interest in a subsidiary entity to which paragraph (2)(B) applies above its ownership interest in such subsidiary entity as of such date, the additional portion of each interest in real property which is treated as held by the exempt REIT or stapled entity by reason of such increased ownership shall be treated as a nonqualified real property interest.

(4) SPECIAL RULES FOR DETERMINING OWNERSHIP.—For purposes of this subsection—

(A) percentage ownership of an entity shall be determined in accordance with subsection (e)(4),

(B) interests in the entity which are acquired by an exempt REIT or a member of the stapled REIT group in any acquisition described in an agreement, announcement, or filing described in subsection (b)(2) shall be treated as acquired on March 26, 1998, and

(C) except as provided in guidance prescribed by the Secretary, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes of stock shall not be taken into account.

(5) TREATMENT OF 60-PERCENT PARTNERSHIPS.—

(A) IN GENERAL.—If, as of March 26, 1998—

(i) an exempt REIT or stapled entity held directly or indirectly at least 60 percent of the capital or profits interest in a partnership, and *(ii) 90 percent or more of the capital interests and 90 percent or more of the profits interests in such partnership (other than interests held directly or indirectly by the exempt REIT or stapled entity) are, or will be, redeemable or exchangeable for consideration the amount of which is determined by reference to the value of shares of stock in the exempt REIT or stapled entity (or both),*

paragraph (3) shall not apply to such partnership, and such REIT or entity shall be treated for all purposes of this section as holding all of the capital and profits interests in such partnership.

(B) LIMITATION TO 1 PARTNERSHIP.—If, as of January 1, 1999, more than 1 partnership owned by any exempt REIT or stapled entity meets the requirements of subparagraph (A), only the largest such partnership on such date (determined by aggregate asset bases) shall be treated as meeting such requirements.

(C) MIRROR ENTITY.—For purposes of subparagraph (A), an interest in a partnership formed after March 26, 1998, shall be treated as held by an exempt REIT or stapled entity on March 26, 1998, if such partnership is formed to mirror the stapling of an exempt REIT and a stapled entity in connection with an acquisition agreed to or announced on or before March 26, 1998.

(d) TREATMENT OF PROPERTY SECURED BY MORTGAGE HELD BY EXEMPT REIT OR MEMBER OF STAPLED REIT GROUP.—

(1) IN GENERAL.—In the case of any nonqualified obligation held by an exempt REIT or any member of the stapled REIT group, the REIT gross income provisions shall be applied by treating the exempt REIT as having impermissible tenant service income equal to—

(A) the interest income from such obligation which is properly allocable to the property described in paragraph (2), and

(B) the income of any member of the stapled REIT group from services described in paragraph (2) with respect to such property.

If the income referred to in subparagraph (A) or (B) is of a 10-percent subsidiary entity, only the portion of such income which is properly allocable to the exempt REIT's or the stapled entity's interest in the subsidiary entity shall be taken into account.

(2) NONQUALIFIED OBLIGATION.—Except as otherwise provided in this subsection, the term "nonqualified obligation" means any obligation secured by a mortgage on an interest in real property if the income of any member of the stapled REIT group for services furnished with respect to such property would be impermissible tenant service income were such property held by the exempt REIT and such services furnished by the exempt REIT.

(3) EXCEPTION FOR CERTAIN MARKET RATE OBLIGATIONS.—Such term shall not include any obligation—

(A) payments under which would be treated as interest if received by a REIT, and

(B) the rate of interest on which does not exceed an arm's length rate.

(4) EXCEPTION FOR EXISTING OBLIGATIONS.—Such term shall not include any obligation—

(A) which is secured on March 26, 1998, by an interest in real property, and

(B) which is held on such date by the exempt REIT or any entity which is a member of the stapled REIT group on such date and at all times thereafter,

but only so long as such obligation is secured by such interest, and the interest payable on such obligation is not changed to a rate which exceeds an arm's length rate unless such change is pursuant to the terms of the obligation in effect on March 26, 1998. The preceding sentence shall not cease to apply by reason of the refinancing of the obligation if (immediately after the refinancing) the principal amount of the obligation resulting from the refinancing does not exceed the principal amount of the refinanced obligation (immediately before the refinancing) and the interest payable on such refinanced obligation does not exceed an arm's length rate.

(5) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—A rule similar to the rule of subsection (b)(5) shall apply for purposes of this subsection.

(6) INCREASE IN AMOUNT OF NONQUALIFIED OBLIGATIONS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—A rule similar to the rule of subsection (c)(3) shall apply for purposes of this subsection.

(7) COORDINATION WITH SUBSECTION (a).—This subsection shall not apply to the portion of any interest in real property that the exempt REIT or stapled entity holds or is treated as holding under this section without regard to this subsection.

(e) DEFINITIONS.—For purposes of this section—

(1) REIT GROSS INCOME PROVISIONS.—The term "REIT gross income provisions" means—

(A) paragraphs (2), (3), and (6) of section 856(c) of the Internal Revenue Code of 1986, and

(B) section 857(b)(5) of such Code.

(2) EXEMPT REIT.—The term "exempt REIT" means a real estate investment trust to which section 269B of the Internal Revenue Code of 1986 does not apply by reason of paragraph (3) of section 136(c) of the Tax Reform Act of 1984.

(3) STAPLED REIT GROUP.—The term "stapled REIT group" means, with respect to an exempt REIT, the group consisting of—

(A) all entities which are stapled entities with respect to the exempt REIT, and

(B) all entities which are 10-percent subsidiary entities of the exempt REIT or any such stapled entity.

(4) 10-PERCENT SUBSIDIARY ENTITY.—

(A) IN GENERAL.—The term "10-percent subsidiary entity" means, with respect to any exempt REIT or stapled entity, any entity in which the exempt REIT or stapled entity (as the case may be) directly or indirectly holds at least a 10-percent interest.

(B) EXCEPTION FOR CERTAIN C CORPORATION SUBSIDIARIES OF REITS.—A corporation which would, but for this subparagraph, be treated as a 10-percent subsidiary of an exempt REIT shall not be so treated if such corporation is taxable under section 11 of the Internal Revenue Code of 1986.

(C) 10-PERCENT INTEREST.—The term "10-percent interest" means—

(i) in the case of an interest in a corporation, ownership of 10 percent (by vote or value) of the stock in such corporation,

(ii) in the case of an interest in a partnership, ownership of 10 percent of the capital or profits interest in the partnership, and

(iii) in any other case, ownership of 10 percent of the beneficial interests in the entity.

(5) OTHER DEFINITIONS.—Terms used in this section which are used in section 269B or section 856 of such Code shall have the respective meanings given such terms by such section.

(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance to prevent the avoidance of such purposes and to prevent the double counting of income.

(g) EFFECTIVE DATE.—This section shall apply to taxable years ending after March 26, 1998.

SEC. 7003. CERTAIN CUSTOMER RECEIVABLES INELIGIBLE FOR MARK-TO-MARKET TREATMENT.

(a) CERTAIN RECEIVABLES NOT ELIGIBLE FOR MARK TO MARKET.—Section 475(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR CERTAIN RECEIVABLES.—

"(A) IN GENERAL.—Paragraph (2)(C) shall not include any nonfinancial customer paper.

"(B) NONFINANCIAL CUSTOMER PAPER.—For purposes of subparagraph (A), the term 'nonfinancial customer paper' means any receivable which—

"(i) is a note, bond, debenture, or other evidence of indebtedness,

"(ii) arises out of the sale of nonfinancial goods or services by a person the principal activity of which is the selling or providing of nonfinancial goods or services, and

"(iii) is held by such person (or a person who bears a relationship to such person described in section 267(b) or 707(b)) at all times since issue."

(b) REGULATIONS.—Section 475(g) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) to prevent the use by taxpayers of subsection (c)(4) to avoid the application of this section to a receivable that is inventory in the hands of the taxpayer (or a person who bears a relationship to the taxpayer described in sections 267(b) of 707(b)).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 7004. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAS.

(a) IN GENERAL.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

"(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

"(I) any amount included in gross income under subsection (d)(3) shall not be taken into account, and

"(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

TITLE VIII—IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO

SEC. 8001. IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO.

Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall only apply to—

(1) section 3105 (relating to administrative appeal of adverse IRS determination of tax-exempt status of bond issue), and

(2) section 3445(c) (relating to State fish and wildlife permits).

TITLE IX—TECHNICAL CORRECTIONS TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

SEC. 9001. SHORT TITLE.

This title may be cited as the "TEA 21 Restoration Act".

SEC. 9002. AUTHORIZATION AND PROGRAM SUBTITLE.

(a) Authorization of Appropriations.—Section 1101(a) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (13)—

(A) by striking "$1,025,695,000" and inserting "$1,029,583,500";

(B) by striking "$1,398,675,000" and inserting "$1,403,977,500";

(C) by striking "$1,678,410,000" the first place it appears and inserting "$1,684,773,000";

(D) by striking "$1,678,410,000" the second place it appears and inserting "$1,684,773,000";

(E) by striking "$1,771,655,000" the first place it appears and inserting "$1,778,371,500"; and

(F) by striking "$1,771,655,000" the second place it appears and inserting "$1,778,371,500"; and

(2) in paragraph (14)—

(A) by striking "1998" and inserting "1999"; and

(B) by inserting before "$5,000,000" the following: "$10,000,000 for fiscal year 1998".

(b) Obligation Limitations.—

(1) General limitation.—Section 1102(a) of such Act is amended—

(A) in paragraph (2) by striking "$25,431,000,000" and inserting "$25,511,000,000";

(B) in paragraph (3) by striking "$26,155,000,000" and inserting "$26,245,000,000";

(C) in paragraph (4) by striking "$26,651,000,000" and inserting "$26,761,000,000";

(D) in paragraph (5) by striking "$27,235,000,000" and inserting "$27,355,000,000"; and

(E) in paragraph (6) by striking "$27,681,000,000" and inserting "$27,811,000,000".

(2) Transportation research programs.—Section 1102(e) of such Act is amended—

(A) by striking "3" and inserting "5";

(B) by striking "VI" and inserting "V"; and

(C) by inserting before the period at the end the following: "; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years".

(3) Redistribution of certain authorized funds.—Section 1102(f) of such Act is amended by striking "(other than the program under section 160 of title 23, United States Code)".

(c) Apportionments.—Section 1103 of such Act is amended—

(1) in subsection (l) by adding at the end the following:

"(5) Section 150 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.";

(2) in subsection (n) by inserting "of title 23, United States Code" after "206"; and

(3) by adding at the end the following:

"(o) Technical Adjustments.—Section 104 of title 23, United States Code, is amended—

"(1) in subsection (a)(1) (as amended by subsection (a) of this section) by striking 'under section 103';

"(2) in subsection (b) (as amended by subsection (b) of this section)—

"(A) in paragraph (1)(A) by striking '1999 through 2003' and inserting '1998 through 2002'; and

"(B) in paragraph (4)(B)(i) by striking 'on lanes on Interstate System' and all that follows through 'in each State' and inserting 'on Interstate System routes open to traffic in each State'; and

"(3) in subsection (e)(2) (as added by subsection (d)(6) of this section) by striking '104, 144, or 157' and inserting '104, 105, or 144'.".

(d) Minimum Guarantee.—Section 1104 of such Act is amended by adding at the end the following:

"(c) Technical Adjustments.—Section 105 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

"(1) in subsection (a) by adding at the end the following: 'The minimum amount allocated to a State under this section for a fiscal year shall be $1,000,000.';

"(2) in subsection (c)(1) by striking '50 percent of';

"(3) in subsection (c)(1)(A) by inserting '(other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs)' after 'subsection (a)';

"(4) in subsection (c)(1)(B) by striking 'all States' and inserting 'each State';

"(5) in subsection (c)(2)—

"(A) by striking 'apportion' and inserting 'administer'; and

"(B) by striking 'apportioned' and inserting 'administered'; and

"(6) in subsection (f)—

"(A) by inserting 'percentage' before 'return' each place it appears;

"(B) in paragraph (2) by striking 'for the preceding fiscal year was equal to or less than' and inserting 'in the table in subsection (b) was equal to'; and

"(C) in paragraph (3)—

"(i) by inserting 'proportionately' before 'adjust';

"(ii) by striking 'set forth'; and

"(iii) by striking 'do not exceed' and inserting 'is equal to'.".

(e) Revenue Aligned Budget Authority.—Section 1105 of such Act is amended by adding at the end the following:

"(c) Technical Corrections.—Section 110 of such title (as amended by subsection (a)) is amended—

"(1) by striking subsection (a) and inserting the following:

'(a) In General.—

'(1) Allocation.—On October 15 of fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate for such fiscal year an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) if the amount determined pursuant to such section for such fiscal year is greater than zero.

'(2) Reduction.—If the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) for fiscal year 2000 or any fiscal year thereafter is less than zero, the Secretary on October 1 of the succeeding fiscal year shall reduce proportionately the amount of sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) by an aggregate amount equal to the amount determined pursuant to such section.';

"(2) in subsections (b)(2) and (b)(4) by striking 'subsection (a)' and inserting 'subsection (a)(1)'; and

"(3) in subsection (c) by striking 'Maintenance program, the' and inserting 'and'.".

(f) Interstate Maintenance Program.—Section 1107 of such Act is amended by adding at the end the following:

"(d) Technical Amendments.—Section 119 of such title (as amended by subsection (a)) is amended—

"(1) in subsection (b)—

"(A) by striking '104(b)(5)(B)' and inserting '104(b)(4)'; and

"(B) by striking '104(b)(5)(A)' each place it appears and inserting '104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century)'; and

"(2) in subsection (c) by striking '104(b)(5)(B)' each place it appears and inserting '104(b)(4)'.".

(g) Congestion Mitigation and Air Quality Improvement Program.—Section 1110(d)(2) of such Act is amended—

(1) by striking "149(c)" and inserting "149(e)"; and

(2) by striking "that reduce" and inserting "reduce".

(h) Highway Use Tax Evasion Projects.—Section 1114 of such Act is amended by adding at the end the following:

"(c) Technical Adjustments.—Section 143 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

"(1) in subsection (c)(1) by striking 'April 1' and inserting 'August 1';

"(2) in subsection (c)(3) by inserting 'PRIORITY' after 'FUNDING'; and

"(3) in subsection (c)(3) by inserting 'and prior to funding any other activity under this section,' after '2003,'.".

(i) Federal Lands Highways Program.—Section 1115 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(f) Conforming Amendments.—

"(1) Federal share.—Subsections (j) and (k) of section 120 of title 23, United States Code (as added by subsection (a) of this section), are redesignated as subsections (k) and (l), respectively.

"(2) Reservation of funds.—Section 202(d)(4)(B) of such title (as added by subsection (b)(4) of this section) is amended by striking 'to, apply sodium acetate/formate de-icer to,' and inserting ', sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions'.

"(3) Elimination of duplicative provision.—Section 144(g) of such title is amended by striking paragraph (4).".

(j) Woodrow Wilson Memorial Bridge Correction.—Section 1116 of such Act is amended by adding at the end the following:

"(e) Technical Correction.—Sections 404(5) and 407(c)(2)(C)(iii) of such Act (as amended by subsections (a)(2) and (b)(2), respectively) are amended by striking 'the record of decision' each place it appears and inserting 'a record of decision'.".

(k) Technical Correction.—Section 1117 of such Act is amended in subsections (a) and (b) by striking "section 102" each place it appears and inserting "section 1101(a)(6)".

SEC. 9003. RESTORATIONS TO GENERAL PROVISIONS SUBTITLE.

(a) In General.—Subtitle B of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1224. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

"(a) Historic Covered Bridge Defined.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) Historic Covered Bridge Preservation.—Subject to the availability of appropriations under subsection (d), the Secretary shall—

"(1) collect and disseminate information concerning historic covered bridges;

"(2) foster educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research, and study techniques, on protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) Direct Federal Assistance.—

"(1) In general.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) Types of project.—A grant under paragraph (1) may be made for a project—

"(A) to rehabilitate or repair a historic covered bridge; and

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) Authenticity.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) Federal share.—The Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) Funding.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1999 through 2003. Such funds shall remain available until expended.

"SEC. 1225. SUBSTITUTE PROJECT.

"(a) Approval of Project.—Notwithstanding any other provision of law, upon the request of the Mayor of the District of Columbia, the Secretary may approve substitute highway and transit projects under section 103(e)(4) of title 23, United States Code (as in effect on the day before the date of enactment of this Act), in lieu of construction of the Barney Circle Freeway project in the District of Columbia, as identified in the 1991 Interstate Cost Estimate.

"(b) Eligibility for Federal Assistance.—Upon approval of any substitute project or projects under subsection (a)—

"(1) the cost of construction of the Barney Circle Freeway Modification project shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956; and

"(2) substitute projects approved pursuant to this section shall be funded from interstate construction funds apportioned or allocated to the District of Columbia that are not expended and not subject to lapse on the date of enactment of this Act.

"(c) Federal Share.—The Federal share payable on account of a project or activity approved under this section shall be 85 percent of the cost thereof; except that the exception set forth in section 120(b)(2) of title 23, United States Code, shall apply.

"(d) Limitation on Eligibility.—Any substitute project approved pursuant to subsection (a) (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction, or construction must have commenced, before the last day of the 4-year period beginning on the date of enactment of this Act. If the substitute project is not under contract for construction, or construction has not commenced, by such last day, the Secretary shall withdraw approval of the substitute project.

"SEC. 1226. FISCAL, ADMINISTRATIVE, AND OTHER AMENDMENTS.

"(a) Advanced Construction.—Section 115 of title 23, United States Code, is amended—

"(1) in subsection (b)—

"(A) by moving the text of paragraph (1) (including subparagraphs (A) and (B)) 2 ems to the left;

"(B) by striking 'Projects' and all that follows through 'When a State' and inserting 'Projects.—When a State';

"(C) by striking paragraphs (2) and (3);

"(D) by striking '(A) prior' and inserting '(1) prior'; and

"(E) by striking '(B) the project' and inserting '(2) the project';

"(2) by striking subsection (c); and

"(3) by redesignating subsection (d) as subsection (c).

"(b) Availability of Funds.—Section 118 of such title is amended—

"(1) in the subsection heading of subsection (b) by striking '; Discretionary Projects'; and

"(2) by striking subsection (e) and inserting the following:

'(e) Effect of Release of Funds.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of the project agreement, shall be credited to the same program funding category previously apportioned to the State and shall be immediately available for expenditure.'.".

"(c) Advances to States.—Section 124 of such title is amended—

"(1) by striking '(a)' the first place it appears; and

"(2) by striking subsection (b).

"(d) Diversion.—Section 126 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1222 the following:

"Sec. 1223. Transportation assistance for Olympic cities.
"Sec. 1224. National historic covered bridge preservation.
"Sec. 1225. Substitute project.
"Sec. 1226. Fiscal, administrative, and other amendments.".

(c) Metropolitan Planning Technical Adjustment.—Section 1203 of such Act is amended by adding at the end the following:

"(o) Technical Adjustment.—Section 134(h)(5)(A) of title 23, United States Code (as amended by subsection (h) of this section), is amended by striking 'for implementation'.".

(d) Amendments to Prior Surface Transportation Laws.—Section 1211 of such Act is amended—

(1) in subsection (i)(3)(E) by striking "subparagraph (D)" and inserting "subparagraph (C)";

(2) in subsection (i) by adding at the end the following:

"(4) Technical amendments.—Section 1105(e)(5)(B)(i) of such Act (as amended by paragraph (3) of this subsection) is amended—

"(A) by striking 'subsection (c)(18)(B)(i)' and inserting 'subsection (c)(18)(D)(i)';

"(B) by striking 'subsection (c)(18)(B)(ii)' and inserting 'subsection (c)(18)(D)(ii)'; and

"(C) by adding at the end the following: 'The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I–86.'.";

(3) by striking subsection (j);

(4) in subsection (k)—

(A) by striking "along" in paragraph (1) and inserting "from"; and

(B) by adding at the end the following:

"(4) Texas state highway 99.—Texas State Highway 99 (also known as 'Grand Parkway') shall be considered as 1 option in the I–69 route studies performed by the Texas Department of Transportation for the designation of I–69 Bypass in Houston, Texas."; and

(5) by redesignating subsections (g) through (i) and (k) through (n) as subsections (f) through (h) and (i) through (l), respectively.

(e) Miscellaneous.—Section 1212 of such Act is amended—

(1) in the second sentence of subsection (q)(1) by striking "advance curriculum" and inserting "advanced curriculum";

(2) in subsection (r)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) $2,000,000 for fiscal year 1999 and $2,500,000 for fiscal year 2000.";

(3) in subsection (s)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) $23,000,000 for fiscal year 1999.";

(4) in subsection (u)—

(A) by inserting "the Secretary shall approve, and" before "the Commonwealth";

(B) by inserting a comma after "with"; and

(C) by inserting "(as redefined by this Act)" after "80"; and

(5) by redesignating subsections (k) through (z) as subsections (e) through (t), respectively.

(f) Puerto Rico Highway Program.—Section 1214(r) of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(3) Treatment of funds.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

"(A) For purposes of this subsection, such amounts shall be treated as being apportioned to Puerto Rico under sections 104(b), 144, and 206 of title 23, United States Code, for each program funded under such sections in an amount determined by multiplying—

"(i) the aggregate of such amounts for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(II) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(B) The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under such section for purposes of the imposition of any penalty provisions in titles 23 and 49, United States Code.

"(C) Subject to subparagraph (B), nothing in this subsection shall be construed as affecting any allocation under section 105 of title 23, United States Code, and any apportionment under sections 104 and 144 of such title.".

(g) Designated Transportation Enhancement Activities.—Section 1215 of such Act—

(1) is amended in each of subsections (d), (e), (f), and (g)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) Authorization of appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) the amounts specified in such paragraph for the fiscal years specified in such paragraph."; and

(2) in subsection (d)(1) by inserting "on Route 50" after "measures".

(h) ELIGIBILITY.—Section 1217 of such Act is amended—

(1) in subsection (d) by striking "104(b)(4)" and inserting "104(b)(5)(A)";

(2) in subsection (i) by striking "120(l)(1)" and inserting "120(j)(1)"; and

(3) in subsection (j) by adding at the end the following: "$3,000,000 of the amounts made available for item 164 of the table contained in section 1602 shall be made available on October 1, 1998, to the Pennsylvania Turnpike Commission to carry out this subsection.".

(i) MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.—Section 1218 of such Act is amended by adding at the end the following:

"(c) TECHNICAL AMENDMENTS.—Section 322 of title 23, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (a)(3) by striking 'or under 50 miles per hour';

"(2) in subsection (d)—

"(A) in paragraph (1) by striking 'or low-speed'; and

"(B) in paragraph (2)—

"(i) in subparagraph (A) by striking '(h)(1)(A)' and inserting '(h)(1)'; and

"(ii) in subparagraph (B) by striking '(h)(4)' and inserting '(h)(3)';

"(3) in subsection (h)(1)(B)(i) by inserting '(other than subsection (i))' after 'this section'; and

"(4) by adding at the end the following:

'(i) LOW-SPEED PROJECT.—

'(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, $5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

'(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

'(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

'(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

'(i) shall not be available in advance of an annual appropriation; and

'(ii) shall remain available until expended.'.".

(j) TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.—Section 1223(f) of such Act is amended by inserting before the period at the end the following: "or Special Olympics International".

SEC. 9004. RESTORATIONS TO PROGRAM STREAMLINING AND FLEXIBILITY SUBTITLE.

(a) IN GENERAL.—Subtitle C of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1311. DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS.

"(a) ESTABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for all discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account). To the extent practicable, such criteria shall conform to the Executive Order No. 12893 (relating to infrastructure investment).

"(b) SELECTION PROCESS.—

"(1) LIMITATION ON ACCEPTANCE OF APPLICATIONS.—Before accepting applications for grants under any discretionary program for which funds are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by this Act (including the amendments made by this Act), the Secretary shall publish the criteria established under subsection (a). Such publication shall identify all statutory criteria and any criteria established by regulation that will apply to the program.

"(2) EXPLANATION.—Not less often than quarterly, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of the projects selected under discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account) and an explanation of how the projects were selected based on the criteria established under subsection (a).

"(c) MINIMUM COVERED PROGRAMS.—At a minimum, the criteria established under subsection (a) and the selection process established by subsection (b) shall apply to the following programs:

"(1) The intelligent transportation system deployment program under title V.

"(2) The national corridor planning and development program.

"(3) The coordinated border infrastructure and safety program.

"(4) The construction of ferry boats and ferry terminal facilities.

"(5) The national scenic byways program.

"(6) The Interstate discretionary program.

"(7) The discretionary bridge program.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of such Act is amended—

(1) by striking the following:

"Sec. 1309. Major investment study integration.".

and inserting the following:

"Sec. 1308. Major investment study integration.";

and

(2) by inserting after the item relating to section 1310 the following:

"Sec. 1311. Discretionary grant selection criteria and process.".

(c) REVIEW PROCESS.—Section 1309 of the Transportation Equity Act for the 21st Century is amended—

(1) in subsection (a)(1) by inserting after "highway construction" the following: "and mass transit";

(2) in subsection (d) by inserting after "Code," the following: "or chapter 53 of title 49, United States Code,"; and

(3) in subsection (e)(1)—

(A) by inserting "or recipient" after "a State";

(B) by inserting after "provide funds" the following: "for a highway project"; and

(C) by inserting after "Code," the following: "or for a mass transit project made available under chapter 53 of title 49, United States Code,".

SEC. 9005. RESTORATIONS TO SAFETY SUBTITLE.

(a) IN GENERAL.—Subtitle D of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"SEC. 1405. OPEN CONTAINER LAWS.

"(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

'§ 154. Open container requirements

'(a) DEFINITIONS.—In this section, the following definitions apply:

'(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" has the meaning given the term in section 158(c).

'(2) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

'(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term "open alcoholic beverage container" means any bottle, can, or other receptacle—

'(A) that contains any amount of alcoholic beverage; and

'(B)(i) that is open or has a broken seal; or

'(ii) the contents of which are partially removed.

'(4) PASSENGER AREA.—The term "passenger area" shall have the meaning given the term by the Secretary by regulation.

'(b) OPEN CONTAINER LAWS.—

'(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

'(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

'(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or

'(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

'(c) TRANSFER OF FUNDS.—

'(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

'(A) to be used for alcohol-impaired driving countermeasures; or

'(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

'(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

'(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

'(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

'(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from 1 or more of the following:

'(A) The apportionment of the State under section 104(b)(1).

'(B) The apportionment of the State under section 104(b)(3).

'(C) The apportionment of the State under section 104(b)(4).

'(6) TRANSFER OF OBLIGATION AUTHORITY.—

'(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

'(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

'(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

'(ii) the ratio that—

'(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

'(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

'(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.'.

"(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 153 the following:

'154. Open container requirements.'.

"SEC. 1406. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

"(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

'§164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

'(a) DEFINITIONS.—In this section, the following definitions apply:

'(1) ALCOHOL CONCENTRATION.—The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

'(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

'(3) LICENSE SUSPENSION.—The term "license suspension" means the suspension of all driving privileges.

'(4) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

'(5) REPEAT INTOXICATED DRIVER LAW.—The term "repeat intoxicated driver law" means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

'(A) receive a driver's license suspension for not less than 1 year;

'(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;

'(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

'(D) receive—

'(i) in the case of the second offense—

'(I) an assignment of not less than 30 days of community service; or

'(II) not less than 5 days of imprisonment; and

'(ii) in the case of the third or subsequent offense—

'(I) an assignment of not less than 60 days of community service; or

'(II) not less than 10 days of imprisonment.

'(b) TRANSFER OF FUNDS.—

'(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

'(A) to be used for alcohol-impaired driving countermeasures; or

'(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

'(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

'(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

'(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

'(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from 1 or more of the following:

'(A) The apportionment of the State under section 104(b)(1).

'(B) The apportionment of the State under section 104(b)(3).

'(C) The apportionment of the State under section 104(b)(4).

'(6) TRANSFER OF OBLIGATION AUTHORITY.—

'(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

'(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

'(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

'(ii) the ratio that—

'(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

'(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

'(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.'.

"(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following:

'164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.'.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1403 the following:

"Sec. 1404. Safety incentives to prevent operation of motor vehicles by intoxicated persons.
"Sec. 1405. Open container laws.
"Sec. 1406. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

(c) ROADSIDE SAFETY TECHNOLOGIES.—Section 1402(a)(2) of such Act is amended by striking "directive" and inserting "redirective".

SEC. 9006. ELIMINATION OF DUPLICATE PROVISIONS.

(a) SAN MATEO COUNTY, CALIFORNIA.—Section 1113 of the Transportation Equity Act for the 21st Century is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (c) as subsection (d).

(b) VALUE PRICING PILOT PROGRAM.—Section 1216(a) of such Act is amended by adding at the end the following:

"(8) CONFORMING AMENDMENTS.—

"(A) Section 1012(b)(6) of such Act (as amended by paragraph (5) of this subsection) is amended by striking '146(c)' and inserting '102(a)'.

"(B) Section 1012(b)(8) of such Act (as added by paragraph (7) of this subsection) is amended—

"(i) in subparagraph (C) by striking 'under this subsection' and inserting 'to carry out this subsection';

"(ii) in subparagraph (D)—

"(I) by striking 'under this paragraph' and inserting 'to carry out this subsection'; and

"(II) by striking 'by this paragraph' and inserting 'to carry out this subsection';

"(iii) by striking subparagraph (A); and

"(iv) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.".

(c) NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.—Section 1214(e) of such Act is amended to read as follows:

"(e) MINNESOTA TRANSPORTATION HISTORY NETWORK.—

"(1) IN GENERAL.—The Secretary shall award a grant to the Minnesota Historical Society for the establishment of the Minnesota Transportation History Network to include major exhibits, interpretive programs at national historic landmark sites, and outreach programs with county and local historical organizations.

"(2) COORDINATION.—In carrying out subsection (a), the Secretary shall coordinate with officials of the Minnesota Historical Society.

."(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass

Transit Account) $1,000,000 for each of fiscal years 1998 through 2003 to carry out this subsection.

"(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.".

(d) ENTRANCE PAVING AT NINIGRET NATIONAL WILDLIFE REFUGE.—Section 1214(i) of such Act is amended by striking "$750,000" each place it appears and inserting "$75,000".

SEC. 9007. HIGHWAY FINANCE.

(a) IN GENERAL.—Section 1503 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(c) TECHNICAL AMENDMENTS.—Section 188 of title 23, United States Code (as added by subsection (a) of this section), is amended—

"(1) in subsection (a)(2) by striking '1998' and inserting '1999'; and

"(2) in subsection (c)—

"(A) by striking '1998' and inserting '1999'; and

"(B) by striking the table and inserting the following:

'Fiscal year:	Maximum amount of credit:
1999	$1,600,000,000
2000	$1,800,000,000
2001	$2,200,000,000
2002	$2,400,000,000
2003	$2,600,000,000.'.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in the item relating to section 1119 by striking "and safety"; and

(2) by striking the items relating to subtitle E of title I and inserting the following:

"Subtitle E—Finance

"CHAPTER 1—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

"Sec. 1501. Short title.
"Sec. 1502. Findings.
"Sec. 1503. Establishment of program.
"Sec. 1504. Duties of the Secretary.

"CHAPTER 2—STATE INFRASTRUCTURE BANK PILOT PROGRAM

"Sec. 1511. State infrastructure bank pilot program.".

SEC. 9008. HIGH PRIORITY PROJECTS TECHNICAL CORRECTIONS.

The table contained in section 1602 of the Transportation Equity Act for the 21st Century is amended—

(1) in item 1 by striking "1.275" and inserting "1.7";

(2) in item 82 by striking "30.675" and inserting "32.4";

(3) in item 107 by striking "1.125" and inserting "1.44";

(4) in item 121 by striking "10.5" and inserting "5.0";

(5) in item 140 by inserting "-VFHS Center" after "Park";

(6) in item 151 by striking "5.666" and inserting "8.666";

(7) in item 164—

(A) by inserting ", and $3,000,000 for the period of fiscal years 1998 and 1999 shall be made available to carry out section 1217(j)" after "Pennsylvania"; and

(B) by striking "25" and inserting "24.78";

(8) by striking item 166 and inserting the following:

"166.	Michigan	Improve Tenth Street, Port Huron	1.8";

(9) by striking item 242 and inserting the following:

"242.	Minnesota.	Construct Third Street North, CSAH 81, Waite Park and St. Cloud	1.0";

(10) by striking item 250 and inserting the following:

"250.	Indiana	Reconstruct Old Merridan Corridor from Pennsylvania Avenue to Gilford Road	1.35";

(11) in item 255 by striking "2.25" and inserting "3.0";

(12) in item 263 by striking "Upgrade Highway 99 between State Highway 70 and Lincoln Road, Sutter County" and inserting "Upgrade Highway 99, Sutter County";

(13) in item 288 by striking "3.75" and inserting "5.0";

(14) in item 290 by striking "3.5" and inserting "3.0";

(15) in item 345 by striking "8" and inserting "19.4";

(16) in item 418 by striking "2" and inserting "2.5";

(17) in item 421 by striking "11" and inserting "6";

(18) in item 508 by striking "1.8" and inserting "2.4";

(19) by striking item 525 and inserting the following:

"525.	Alaska	Construct Bradfield Canal Road	1";

(20) in item 540 by striking "1.5" and inserting "2.0";

(21) in item 576 by striking "0.52275" and inserting "0.69275";

(22) in item 588 by striking "2.5" and inserting "3.0";

(23) in item 591 by striking "10" and inserting "5";

(24) in item 635 by striking "1.875" and inserting "2.15";

(25) in item 669 by striking "3" and inserting "3.5";

(26) in item 702 by striking "10.5" and inserting "10";

(27) in item 746 by inserting ", and for the purchase of the Block House in Scott County, Virginia" after "Forest";

(28) in item 755 by striking "1.125" and inserting "1.5";

(29) in item 769 by striking "Construct new I-95 interchange with Highway 99W, Tehama County" and inserting "Construct new I–5 interchange with Highway 99W, Tehama County";

(30) in item 770 by striking "1.35" and inserting "1.0";

(31) in item 789 by striking "2.0625" and inserting "1.0";

(32) in item 803 by striking "Tomahark" and inserting "Tomahawk";

(33) in item 836 by striking "Construct" and all that follows through "for" and inserting "To the National Park Service for construction of the";

(34) in item 854 by striking "0.75" and inserting "1";

(35) in item 863 by striking "9" and inserting "4.75";

(36) in item 887 by striking "0.75" and inserting "3.21";

(37) in item 891 by striking "19.5" and inserting "25.0";

(38) in item 902 by striking "10.5" and inserting "14.0";

(39) by striking item 1065 and inserting the following:

"1065.	Texas	Construct a 4-lane divided highway on Artcraft Road from I–10 to Route 375 in El Paso	5";

(40) in item 1192 by striking "24.97725" and inserting "24.55725";

(41) in item 1200 by striking "Upgrade (all weather) on U.S. 2, U.S. 41, and M 35" and inserting "Upgrade (all weather) on Delta County's reroute of U.S. 2, U.S. 41, and M 35";

(42) in item 1245 by striking "3" and inserting "3.5";

(43) in item 1271 by striking "Spur" and all that follows through "U.S. 59" and inserting "rail-grade separations (Rosenberg Bypass) at U.S. 59(S)";

(44) in item 1278 by striking "28.18" and inserting "22.0";

(45) in item 1288 by inserting "30" after "U.S.";

(46) in item 1338 by striking "5.5" and inserting "3.5";

(47) in item 1383 by striking "0.525" and inserting "0.35";

(48) in item 1395 by striking "Construct" and all that follows through "Road" and inserting "Upgrade Route 219 between Meyersdale and Somerset";

(49) in item 1468 by striking "Reconstruct" and all that follows through "U.S. 23" and inserting "Conduct engineering and design and improve I–94 in Calhoun and Jackson Counties";

(50) in item 1474—

(A) by striking "in Euclid" and inserting "and London Road in Cleveland"; and

(B) by striking "3.75" and inserting "8.0";

(51) in item 1535 by striking "Stanford" and inserting "Stamford";

(52) in item 1538 by striking "and Winchester" and inserting ", Winchester, and Torrington";

(53) by striking item 1546 and inserting the following:

"1546.	Michigan.	Construct Bridge-to-Bay bike path, St. Clair County	0.450";

(54) by striking item 1549 and inserting the following:

"1549.	New York.	Center for Advanced Simulation and Technology, at Dowling College	0.6";

(55) in item 1663 by striking "26.5" and inserting "27.5";

(56) in item 1703 by striking "I–80" and inserting "I–180";

(57) in item 1726 by striking "I–179" and inserting "I–79";

(58) by striking item 1770 and inserting the following:

"1770.	Virginia	Operate and conduct research on the 'Smart Road' in Blacksburg	6.025";

(59) in item 1810 by striking "Construct Rio Rancho Highway" and inserting "Northwest Albuquerque/Rio Rancho high priority roads";

(60) in item 1815 by striking "High" and all that follows through "projects" and inserting "Highway and bridge projects that Delaware provides for by law";

(61) in item 1844 by striking "Prepare" and inserting "Repair";

(62) by striking item 1850 and inserting the following:

"1850.	Missouri	Resurface and maintain roads located in Missouri State parks	5";

(63) in item 661 by striking "SR 800" and inserting "SR 78";

(64) in item 1704 by inserting ", Pittsburgh," after "Road";

(65) in item 1710 by inserting ", Bethlehem" after "site"; and

(66) in item 1626 by striking "1" and inserting "2".

SEC. 9009. FEDERAL TRANSIT ADMINISTRATION PROGRAMS.

(a) DEFINITIONS.—Section 3003 of the Federal Transit Act of 1998 is amended—

(1) by inserting "(a) IN GENERAL.—" before "Section 5302"; and

(2) by adding at the end the following:

"(b) CONFORMING AMENDMENTS.—Section 5302 (as amended by subsection (a) of this section) is amended in subsection (a)(1)(G)(i) by striking 'daycare and' and inserting 'daycare or'.".

(b) METROPOLITAN PLANNING.—Section 3004 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking subparagraph (A) and inserting the following:

"(A) by striking 'general local government representing' and inserting 'general purpose local government that together represent'; and";

(B) in paragraph (3) by striking "and" at the end;

(C) in paragraph (4) by striking subparagraph (A) and inserting the following:

"(A) by striking 'general local government representing' and inserting 'general purpose local government that together represent'; and";

(D) by redesignating paragraph (4) as paragraph (5); and

(E) by inserting after paragraph (3) the following:

"(3) in paragraph (4)(A) by striking '(3)' and inserting '(5)'; and";

(2) in subsection (d) by striking the closing quotation marks and the final period at the end and inserting the following:

'(5) COORDINATION.—If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

'(6) LAKE TAHOE REGION.—

'(A) DEFINITION.—In this paragraph, the term "Lake Tahoe region" has the meaning given the term "region" in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

'(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

'(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

'(ii) coordinate the transportation planning process with the planning process required of State and local governments under this chapter and sections 134 and 135 of title 23.

'(C) INTERSTATE COMPACT.—

'(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

'(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

'(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

'(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of this chapter and under title 23, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

'(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

'(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

'(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.'."; and

(3) by adding at the end the following:

"(f) TECHNICAL ADJUSTMENTS.—Section 5303(f) is amended—

"(1) in paragraph (1) (as amended by subsection (e)(1) of this subsection)—

"(A) in subparagraph (C) by striking 'and' at the end;

"(B) in subparagraph (D) by striking the period at the end and inserting '; and';

"(C) by adding at the end the following:

'(E) the financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range plan if reasonable additional resources beyond those identified in the financial plan were available, except that, for the purpose of developing the long-range plan, the metropolitan planning organization and the State shall cooperatively develop estimates of funds that will be available to support plan implementation.'; and

"(2) by adding at the end the following:

'(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (1)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (1)(B).'.".

(c) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 3005 of the Federal Transit Act of 1998 is amended—

(1) in the section heading by inserting "**metropolitan**" before "**transportation**"; and

(2) by adding at the end the following:

"(d) TECHNICAL ADJUSTMENTS.—Section 5304 is amended—

"(1) in subsection (a) (as amended by subsection (a) of this section)—

"(A) by striking 'In cooperation with' and inserting the following:

'(1) IN GENERAL.—In cooperation with'; and

"(B) by adding at the end the following:

'(2) FUNDING ESTIMATE.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.';

"(2) in subsection (b)(2)—

"(A) in subparagraph (B) by striking 'and' at the end; and

"(B) in subparagraph (C) (as added by subsection (b) of this section) by striking 'strategies which may include' and inserting the following: 'strategies; and

'(D) may include'; and

"(3) in subsection (c) by striking paragraph (4) (as amended by subsection (c) of this section) and inserting the following:

'(4) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

'(A) IN GENERAL.—Notwithstanding subsection (b)(2)(D), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(D).

'(B) ACTION BY SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the plan under subsection (b)(2) for inclusion in an approved transportation improvement plan.'.".

(d) TRANSPORTATION MANAGEMENT AREAS.—Section 3006(d) of the Federal Transit Act of 1998 is amended to read as follows:

"(d) PROJECT SELECTION.—Section 5305(d)(1) is amended to read as follows: '(1)(A) All federally funded projects carried out within the boundaries of a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge and interstate maintenance program) or under this chapter shall be selected from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

'(B) Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the interstate maintenance program shall be selected from .the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.'.".

(e) URBANIZED AREA FORMULA GRANTS.—Section 3007 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(h) TECHNICAL ADJUSTMENTS.—

"(1) GENERAL AUTHORITY.—Section 5307(b) (as amended by subsection (c)(1)(B) of this section) is amended by adding at the end the following: 'The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.'.

"(2) REPORT.—Section 5307(k)(3) (as amended by subsection (f) of this section) is amended by inserting 'preceding' before 'fiscal year'.".

(f) CLEAN FUELS FORMULA GRANT PROGRAM.—Section 3008 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 5308(e)(2) (as added by subsection (a) of this section) is amended by striking '$50,000,000' and inserting '35 percent'.".

(g) CAPITAL INVESTMENT GRANTS AND LOANS.—Section 3009 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(k) TECHNICAL ADJUSTMENTS.—

"(1) CRITERIA.—Section 5309(e) (as amended by subsection (e) of this section) is amended—

"(A) in paragraph (3)(C) by striking 'urban' and inserting 'suburban';

"(B) in the second sentence of paragraph (6) by striking 'or not' and all that follows through ', based' and inserting 'or "not recommended", based'; and

"(C) in the last sentence of paragraph (6) by inserting 'of the' before 'criteria established'.

"(2) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—Section 5309(g) (as amended by subsection (f) of this section) is amended in paragraph (4) by striking '5338(a)' and all that follows through '2003' and inserting '5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems'.

"(3) ALLOCATING AMOUNTS.—Section 5309(m) (as amended by subsection (g) of this section) is amended—

"(A) in paragraph (1) by inserting '(b)' after '5338';

"(B) by striking paragraph (2) and inserting the following:

'(2) NEW FIXED GUIDEWAY GRANTS.—

'(A) LIMITATION ON AMOUNTS AVAILABLE FOR ACTIVITIES OTHER THAN FINAL DESIGN AND CONSTRUCTION.—Not more than 8 percent of the amounts made available in each fiscal year by paragraph (1)(B) shall be available for activities other than final design and construction.

'(B) FUNDING FOR FERRY BOAT SYSTEMS.—

'(i) AMOUNTS UNDER (1)(B).—Of the amounts made available under paragraph (1)(B), $10,400,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

'(ii) AMOUNTS UNDER 5338(H)(5).—Of the amounts appropriated under section 5338(h)(5), $3,600,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.';

"(C) by redesignating paragraph (4) as paragraph (3)(C);

"(D) in paragraph (3) by adding at the end the following:

'(D) OTHER THAN URBANIZED AREAS.—Of amounts made available by paragraph (1)(C), not less than 5.5 percent shall be available in each fiscal year for other than urbanized areas.';

"(E) by striking paragraph (5); and

"(F) by inserting after paragraph (3) the following:

'(4) ELIGIBILITY FOR ASSISTANCE FOR MULTIPLE PROJECTS.—A person applying for or receiving assistance for a project described in subparagraph (A), (B), or (C) of paragraph (1) may receive assistance for a project described in any other of such subparagraphs.'.".

(h) REFERENCES TO FULL FUNDING GRANT AGREEMENTS.—Section 3009(h)(3) of the Federal Transit Act of 1998 is amended—

(1) by striking "and" at the end of subparagraph (A)(ii);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following:

"(C) in section 5328(a)(4) by striking 'section 5309(m)(2) of this title' and inserting '5309(o)(1)'; and

"(D) in section 5309(n)(2) by striking 'in a way' and inserting 'in a manner'.".

(i) DOLLAR VALUE OF MOBILITY IMPROVEMENTS.—Section 3010(b)(2) of the Federal Transit Act of 1998 is amended by striking "Secretary" and inserting "Comptroller General".

(j) INTELLIGENT TRANSPORTATION SYSTEM APPLICATIONS.—Section 3012 of the Federal Transit Act of 1998 is amended by moving paragraph (3) of subsection (a) to the end of subsection (b) and by redesignating such paragraph (3) as paragraph (4).

(k) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c)(2) by adding at the end the following: "Financial assistance made available under this subsection and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code."; and

(2) by adding at the end the following:

"(d) TRAINING AND CURRICULUM DEVELOPMENT.—

"(1) IN GENERAL.—Any funds made available by section 5338(e)(2)(C)(iii) of title 49, United States Code, shall be available in equal amounts for transportation research, training, and curriculum development at institutions identified in subparagraphs (E) and (F) of section 5505(j)(3) of such title.

"(2) SPECIAL RULE.—If the institutions identified in paragraph (1) are selected pursuant to 5505(i)(3)(B) of such title in fiscal year 2002 or 2003, the funds made available to carry out this subsection shall be available to those institutions to carry out the activities required pursuant to section 5505(i)(3)(B) of such title for that fiscal year.".

(l) NATIONAL TRANSIT INSTITUTE.—Section 3017(a) of the Federal Transit Act of 1998 is amended to read as follows:

"(a) IN GENERAL.—Section 5315 is amended—

"(1) in the section heading by striking '**mass transportation** and inserting '**transit**';

"(2) in subsection (a)—

"(A) by striking 'mass transportation' in the first sentence and inserting 'transit';

"(B) in paragraph (5) by inserting 'and architectural design' before the semicolon at the end;

"(C) in paragraph (7) by striking 'carrying out' and inserting 'delivering';

"(D) in paragraph (11) by inserting ', construction management, insurance, and risk management' before the semicolon at the end;

"(E) in paragraph (13) by striking 'and' at the end;

"(F) in paragraph (14) by striking the period at the end and inserting a semicolon; and

"(G) by adding at the end the following:

'(15) innovative finance; and

'(16) workplace safety.'.".

(m) PILOT PROGRAM.—Section 3021(a) of the Federal Transit Act of 1998 is amended by inserting "single-State" before "pilot program".

(n) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—Section 3022 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(b) CONFORMING AMENDMENT.—Section 5325(b) (as redesignated by subsection (a)(2) of this section) is amended—

"(1) by inserting 'or requirement' after 'A contract'; and

"(2) by inserting before the last sentence the following: 'When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23.'.".

(o) CONFORMING AMENDMENT.—Section 3027 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c) by striking "600,000" each place it appears and inserting "900,000"; and

(2) by adding at the end the following:

"(d) CONFORMING AMENDMENT.—The item relating to section 5336 in the table of sections for chapter 53 is amended by striking 'block grants' and inserting 'formula grants'.".

(p) APPORTIONMENT FOR FIXED GUIDEWAY MODERNIZATION.—Section 3028 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) CONFORMING AMENDMENTS.—Section 5337(a) (as amended by subsection (a) of this section) is amended—

"(1) in paragraph (2)(B) by striking '(e)' and inserting '(e)(1)';

"(2) in paragraph (3)(D)—

"(A) by striking '(ii)'; and

"(B) by striking '(e)' and inserting '(e)(1)';

"(3) in paragraph (4) by striking '(e)' and inserting '(e)(1)';

"(4) in paragraph (5)(A) by striking '(e)' and inserting '(e)(2)';

"(5) in paragraph (5)(B) by striking '(e)' and inserting '(e)(2)';

"(6) in paragraph (6) by striking '(e)' each place it appears and inserting '(e)(2)'; and

"(7) in paragraph (7) by striking '(e)' each place it appears and inserting '(e)(2)'.".

(q) AUTHORIZATIONS.—Section 3029 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(c) TECHNICAL ADJUSTMENTS.—Section 5338 (as amended by subsection (a) of this section) is amended—

"(1) in subsection (c)(2)(A)(i) by striking '$43,200,000' and inserting '$42,200,000';

"(2) in subsection (c)(2)(A)(ii) by striking '$46,400,000' and inserting '$48,400,000';

"(3) in subsection (c)(2)(A)(iii) by striking '$51,200,000' and inserting '$50,200,000';

"(4) in subsection (c)(2)(A)(iv) by striking '$52,800,000' and inserting '$53,800,000';

"(5) in subsection (c)(2)(A)(v) by striking '$57,600,000' and inserting '$58,600,000';

"(6) in subsection (d)(2)(C)(iii) by inserting before the semicolon ', including not more than $1,000,000 shall be available to carry out section 5315(a)(16)';

"(7) in subsection (e)—

"(A) by striking '5317(b)' each place it appears and inserting '5505';

"(B) in paragraph (1) by striking 'There are' and inserting 'Subject to paragraph (2)(C), there are';

"(C) in paragraph (2)—

"(i) in subparagraph (A) by striking 'There shall' and inserting 'Subject to subparagraph (C), there shall';

"(ii) in subparagraph (B) by striking 'In addition' and inserting 'Subject to subparagraph (C), in addition'; and

"(iii) by adding at the end the following:

'(C) FUNDING OF CENTERS.—

'(i) Of the amounts made available under subparagraph (A) and paragraph (1) for each fiscal year—

'(I) $2,000,000 shall be available for the center identified in section 5505(j)(4)(A); and

'(II) $2,000,000 shall be available for the center identified in section 5505(j)(4)(F).

'(ii) For each of fiscal years 1998 through 2001, of the amounts made available under this paragraph and paragraph (1)—

'(I) $400,000 shall be available from amounts made available under subparagraph (A) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3); and

'(II) $350,000 shall be available from amounts made available under subparagraph (B) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3).

'(iii) Any amounts made available under this paragraph or paragraph (1) for any fiscal year that remain after distribution under clauses (i) and (ii), shall be available for the purposes identified in section 3015(d) of the Federal Transit Act of 1998.'; and

"(D) by adding at the end the following:

'(3) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.';

"(8) in subsection (g)(2) by striking '(c)(2)(B),' and all that follows through '(f)(2)(B),' and inserting '(c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B),';

"(9) in subsection (h) by inserting 'under the Transportation Discretionary Spending Guarantee for the Mass Transit Category' after 'through (f)'; and

"(10) in subsection (h)(5) by striking subparagraphs (A) through (E) and inserting the following:

'(A) for fiscal year 1999 $400,000,000;

'(B) for fiscal year 2000 $410,000,000;

'(C) for fiscal year 2001 $420,000,000;

'(D) for fiscal year 2002 $430,000,000; and

'(E) for fiscal year 2003 $430,000,000;'.".

(r) Projects for Fixed Guideway Systems.—Section 3030 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)—

(A) in paragraph (8) by inserting "North-" before "South";

(B) in paragraph (42) by striking "Maryland" and inserting "Baltimore";

(C) in paragraph (103) by striking "busway" and inserting "Boulevard transitway";

(D) in paragraph (106) by inserting "CTA" before "Douglas";

(E) by striking paragraph (108) and inserting the following:

"(108) Greater Albuquerque Mass Transit Project."; and

(F) by adding at the end the following:

"(109) Hartford City Light Rail Connection to Central Business District.

"(110) Providence-Boston Commuter Rail.

"(111) New York–St. George's Ferry Intermodal Terminal.

"(112) New York–Midtown West Ferry Terminal.

"(113) Pinellas County–Mobility Initiative Project.

"(114) Atlanta–MARTA Extension (S. De Kalb-Lindbergh).";

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

"(2) Sioux City–Light Rail.";

(B) by striking paragraph (40) and inserting the following:

"(40) Santa Fe–El Dorado Rail Link.";

(C) by striking paragraph (44) and inserting the following:

"(44) Albuquerque–High Capacity Corridor.";

(D) by striking paragraph (53) and inserting the following:

"(53) San Jacinto–Branch Line (Riverside County)."; and

(E) by adding at the end the following:

"(69) Chicago–Northwest Rail Transit Corridor.

"(70) Vermont–Burlington-Essex Commuter Rail."; and

(3) in subsection (c)—

(A) in paragraph (1)(A)—

(i) in the matter preceding clause (i) by inserting "(even if the project is not listed in subsection (a) or (b))" before the colon;

(ii) by striking clause (ii) and inserting the following:

"(ii) San Diego Mission Valley and Mid-Coast Corridor, $325,000,000.";

(iii) by striking clause (v) and inserting the following:

"(v) Hartford City Light Rail Connection to Central Business District, $33,000,000.";

(iv) by striking clause (xxiii) and inserting the following:

"(xxiii) Kansas City–I-35 Commuter Rail, $30,000,000.";

(v) in clause (xxxii) by striking "Whitehall Ferry Terminal" and inserting "Staten Island Ferry-Whitehall Intermodal Terminal";

(vi) by striking clause (xxxv) and inserting the following:

"(xxxv) New York–Midtown West Ferry Terminal, $16,300,000.";

(vii) in clause (xxxix) by striking "Allegheny County" and inserting "Pittsburgh";

(viii) by striking clause (xvi) and inserting the following:

"(xvi) Northeast Indianapolis Corridor, $10,000,000.";

(ix) by striking clause (xxix) and inserting the following:

"(xxix) Greater Albuquerque Mass Transit Project, $90,000,000.";

(x) by striking clause (xliii) and inserting the following:

"(xliii) Providence–Boston Commuter Rail, $10,000,000."; and

(xi) by striking clause (li) and inserting the following:

"(li) Dallas-Ft. Worth RAILTRAN (Phase-II), $12,000,000.";

(B) by striking the heading for subsection (c)(2) and inserting "ADDITIONAL AMOUNTS"; and

(C) in paragraph (3) by inserting after the first sentence the following: "The project shall also be exempted from all requirements relating to criteria for grants and loans for fixed guideway systems under section 5309(e) of such title and from regulations required under that section.".

(s) New Jersey Urban Core Project.—Section 3030(e) of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(4) Technical adjustment.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (as amended by paragraph (3)(B) of this subsection) is amended—

"(A) by striking 'of the West Shore Line' and inserting 'or the West Shore Line'; and

"(B) by striking 'directly connected to' and all that follows through 'Newark International Airport' the first place it appears.".

(t) Baltimore-Washington Transportation Improvements.—Section 3030 of the Federal Transit Act of 1998 is amended by adding at the end the following:

"(h) Technical Adjustment.—Section 3035(nn) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2134) (as amended by subsection (g)(1)(C) of this section) is amended by inserting after 'expenditure of' the following: 'section 5309 funds to the aggregate expenditure of'.".

(u) Bus Projects.—Section 3031 of the Federal Transit Act of 1998 is amended—

(1) in the table contained in subsection (a)—

(A) by striking item 64;

(B) in item 69 by striking "Rensslear" each place it appears and inserting "Rensselaer";

(C) in item 103 by striking "facilities and"; and

(D) by striking item 150;

(2) by striking the heading for subsection (b) and inserting "ADDITIONAL AMOUNTS";

(3) in subsection (b) by inserting after "2000" the first place it appears "with funds made available under section 5338(h)(6) of such title"; and

(4) in item 2 of the table contained in subsection (b) by striking "Rensslear" each place it appears and inserting "Rensselaer".

(v) Contracting Out Study.—Section 3032 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a) by striking "3" and inserting "6";

(2) in subsection (d) by striking "the Mass Transit Account of the Highway Trust Fund" and inserting "funds made available under section 5338(f)(2) of title 49, United States Code,";

(3) in subsection (d) by striking "1998" and inserting "1999"; and

(4) in subsection (e) by striking "subsection (c)" and inserting "subsection (d)".

(w) Job Access and Reverse Commute Grants.—Section 3037 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)(4)(A)—

(A) by inserting "designated recipients under section 5307(a)(2) of title 49, United States Code," after "from among"; and

(B) by inserting a comma after "and agencies";

(2) in subsection (b)(4)(B)—

(A) by striking "at least" and inserting "less than";

(B) by inserting "designated recipients under section 5307(a)(2) of title 49, United States Code," after "from among"; and

(C) by inserting "and agencies," after "authorities";

(3) in subsection (f)(2)—

(A) by striking "(including bicycling)"; and

(B) by inserting "(including bicycling)" after "additional services";

(4) in subsection (h)(2)(B) by striking "403(a)(5)(C)(ii)" and inserting "403(a)(5)(C)(vi)";

(5) in the heading for subsection (l)(1)(C) by striking "FROM THE GENERAL FUND";

(6) in subsection (l)(1)(C) by inserting "under the Transportation Discretionary Spending Guarantee for the Mass Transit Category" after "(B)"; and

(7) in subsection (l)(3)(B) by striking "at least" and inserting "less than".

(x) Rural Transportation Accessibility Incentive Program.—Section 3038 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)(1)(A) by inserting before the semicolon "or connecting 1 or more rural communities with an urban area not in close proximity";

(2) in subsection (g)(1)—

(A) by inserting "over-the-road buses used substantially or exclusively in" after "operators of"; and

(B) by inserting at the end the following: "Such sums shall remain available until expended."; and

(3) in subsection (g)(2)—

(A) by striking "each of"; and

(B) by adding at the end the following: "Such sums shall remain available until expended.".

(y) Study of Transit Needs in National Parks and Related Public Lands.—Section 3039(b) of the Federal Transit Act of 1998 is amended—

(1) in paragraph (1) by striking "in order to carry" and inserting "assist in carrying"; and

(2) by adding at the end the following:

"(3) Definition.—For purposes of this subsection, the term 'Federal land management agencies' means the National Park Service, the United States Fish and Wildlife Service, and the Bureau of Land Management.".

(z) Obligation Ceiling.—Section 3040 of the Federal Transit Act of 1998 is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) $5,797,000,000 in fiscal year 2000;"; and

(2) in paragraph (4) by striking "$6,746,000,000" and inserting "$6,747,000,000".

SEC. 9010. MOTOR CARRIER SAFETY TECHNICAL CORRECTION.

Section 4011 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

"(h) Technical Amendments.—Section 31314 (as amended by subsection (g) of this section) is amended—

"(1) in subsections (a) and (b) by striking '(3), and (5)' each place it appears and inserting '(3), and (4)'; and

"(2) by striking subsection (d).".

SEC. 9011. RESTORATIONS TO RESEARCH TITLE.

(a) University Transportation Research Funding.—Section 5001(a)(7) of the Transportation Equity Act for the 21st Century is amended—

(1) by striking "$31,150,000" each place it appears and inserting "$25,650,000";

(2) by striking "$32,750,000" each place it appears and inserting "$27,250,000"; and

(3) by striking "$32,000,000" each place it appears and inserting "$26,500,000".

(b) Obligation Ceiling.—Section 5002 of such Act is amended by striking "$403,150,000" and all that follows through "$468,000,000" and inserting "$397,650,000 for fiscal year 1998,

$403,650,000 for fiscal year 1999, $422,450,000 for fiscal year 2000, $437,250,000 for fiscal year 2001, $447,500,000 for fiscal year 2002, and $462,500,000''.

(c) Use of Funds for ITS.—Section 5210 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

''(d) Use of Innovative Financing.—

''(1) In general.—The Secretary may use up to 25 percent of the funds made available to carry out this subtitle to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this subtitle and that have significant intelligent transportation system elements.

''(2) Consistency with other law.—Credit assistance described in paragraph (1) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1998.''.

(d) University Transportation Research.—Section 5110 of such Act is amended by adding at the end the following:

''(d) Technical Adjustments.—Section 5505 of title 49, United States Code (as added by subsection (a) of this section), is amended—

''(1) in subsection (g)(2) by striking 'section 5506,' and inserting 'section 508 of title 23, United States Code,';

''(2) in subsection (i)—

''(A) by inserting 'Subject to section 5338(e):' after '(i) Number and Amount of Grants.—'; and

''(B) by striking 'institutions' each place it appears and inserting 'institutions or groups of institutions'; and

''(3) in subsection (j)(4)(B) by striking 'on behalf of' and all that follows before the period and inserting 'on behalf of a consortium which may also include West Virginia University Institute of Technology, the College of West Virginia, and Bluefield State College'.''.

(e) Technical Corrections.—Section 5115 of such Act is amended—

(1) in subsection (a) by striking ''Director'' and inserting ''Director of the Bureau of Transportation Statistics'';

(2) in subsection (b) by striking ''Bureau'' and inserting ''Bureau of Transportation Statistics,''; and

(3) in subsection (c) by striking ''paragraph (1)'' and inserting ''subsection (a)''.

(f) Corrections to Certain Oklahoma Projects.—Section 5116 of such Act is amended—

(1) in subsection (e)(2) by striking ''$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001'' and inserting ''$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year' 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002''; and

(2) in subsection (f)(2) by striking ''$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002'' and inserting ''$1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001''.

(g) Intelligent Transportation Infrastructure Reference.—Section 5117(b)(3)(B)(ii) of such Act is amended by striking ''local departments of transportation'' and inserting ''the Department of Transportation''.

(h) Fundamental Properties of Asphalts and Modified Asphalts.—Section 5117(b)(5)(B) of such Act is amended—

(1) by striking ''1999'' and inserting ''1998''; and

(2) by striking ''$3,000,000 per fiscal year'' and inserting ''$1,000,000 for fiscal year 1998 and $3,000,000 for each of fiscal years 1999 through 2003''.

SEC. 9012. AUTOMOBILE SAFETY AND INFORMATION.

(a) Reference.—Section 7104 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

''(c) Conforming Amendment.—Section 30105(a) of title 49, United States Code (as amended by subsection (a) of this section), is amended by inserting after 'Secretary' the following: 'for the National Highway Traffic Safety Administration'.''.

(b) Clean Vessel Act Funding.—Section 7403 of such Act is amended—

(1) by inserting ''(a) In General.—'' before ''Section 4(b)''; and

(2) by adding at the end the following:

''(b) Technical Amendment.—Section 4(b)(3)(B) of the 1950 Act (as amended by subsection (a) of this section) is amended by striking '6404(d)' and inserting '7404(d)'.''.

(c) Boating Infrastructure.—Section 7404(b) of such Act is amended by striking ''6402'' and inserting ''7402''.

SEC. 9013. TECHNICAL CORRECTIONS REGARDING SUBTITLE A OF TITLE VIII.

(a) Amendment to Offsetting Adjustment for Discretionary Spending Limit.—Section 8101(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (1) by striking ''$25,173,000,000'' and inserting ''$25,144,000,000''; and

(2) in paragraph (2) by striking ''$26,045,000,000'' and inserting ''$26,009,000,000''.

(b) Amendments for Highway Category.—Section 8101 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

''(f) Technical Amendments.—Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by subsection (c) of this Act) is amended—

''(1) by striking 'Century and' and inserting 'Century or';

''(2) by striking 'as amended by this section,' and inserting 'as amended by the Transportation Equity Act for the 21st Century,'; and

''(3) by adding at the end the following new flush sentence:

'Such term also refers to the Washington Metropolitan Transit Authority account (69-1128-0-1-401) only for fiscal year 1999 only for appropriations provided pursuant to authorizations contained in section 14 of Public Law 96–184 and Public Law 101–551.'.''.

(c) Technical Amendment.—Section 8102 of the Transportation Equity Act for the 21st Century is amended by inserting before the period at the end the following: ''or from section 1102 of this Act''.

SEC. 9014. CORRECTIONS TO VETERANS SUBTITLE.

(a) Tobacco-Related Illnesses in Veterans.—Section 8202 of the Transportation Equity Act for the 21st Century is amended to read as follows (and the amendments made by that section as originally enacted shall be treated for all purposes as not having been made):

''SEC. 8202. TREATMENT OF TOBACCO-RELATED ILLNESSES OF VETERANS.

''(a) In General.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

'§1103. Special provisions relating to claims based upon effects of tobacco products

'(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in the line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran's service.

'(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval, or air service or which became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.'.

''(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

'1103. Special provisions relating to claims based upon effects of tobacco products.'.

''(b) Effective Date.—Section 1103 of title 38, United States Code, as added by subsection (a), shall apply with respect to claims received by the Secretary of Veterans Affairs after the date of the enactment of this Act.''.

(b) GI Bill Educational Assistance for Survivors and Dependents of Veterans.—Subtitle B of title VIII of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new section:

''SEC. 8210. TWENTY PERCENT INCREASE IN RATES OF SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.

''(a) Survivors and Dependents Educational Assistance.—Section 3532 of title 38, United States Code, is amended—

''(1) in subsection (a)(1)—

''(A) by striking out '$404' and inserting in lieu thereof '$485';

''(B) by striking out '$304' and inserting in lieu thereof '$365'; and

''(C) by striking out '$202' and inserting in lieu thereof '$242';

''(2) in subsection (a)(2), by striking out '$404' and inserting in lieu thereof '$485';

''(3) in subsection (b), by striking out '$404' and inserting in lieu thereof '$485'; and

''(4) in subsection (c)(2)—

''(A) by striking out '$327' and inserting in lieu thereof '$392';

''(B) by striking out '$245' and inserting in lieu thereof '$294'; and

''(C) by striking out '$163' and inserting in lieu thereof '$196'.

''(b) Correspondence Course.—Section 3534(b) of such title is amended by striking out '$404' and inserting in lieu thereof '$485'.

''(c) Special Restorative Training.—Section 3542(a) of such title is amended—

''(1) by striking out '$404' and inserting in lieu thereof '$485';

''(2) by striking out '$127' each place it appears and inserting in lieu thereof '$152'; and

''(3) by striking out '$13.46' and inserting in lieu thereof '$16.16'.

''(d) Apprenticeship Training.—Section 3687(b)(2) of such title is amended—

''(1) by striking out '$294' and inserting in lieu thereof '$353';

''(2) by striking out '$220' and inserting in lieu thereof '$264';

''(3) by striking out '$146' and inserting in lieu thereof '$175'; and

''(4) by striking out '$73' and inserting in lieu thereof '$88'.

''(e) Effective Date.—The amendments made by this section shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998.''.

SEC. 9015. TECHNICAL CORRECTIONS REGARDING TITLE IX.

(a) Highway Trust Fund.—Subsection (f) of section 9002 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new paragraphs:

''(4) The last sentence of section 9503(c)(1), as amended by subsection (d), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(5) Paragraph (3) of section 9503(e), as amended by subsection (d), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.".

(b) BOAT SAFETY ACCOUNT AND SPORT FISH RESTORATION ACCOUNT.—Section 9005 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new subsection:

"(f) CLERICAL AMENDMENTS.—

"(1) Subparagraph (A) of section 9504(b)(2), as amended by subsection (b)(1), is amended by striking 'the date of the enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(2) Subparagraph (B) of section 9504(b)(2), as added by subsection (b)(3), is amended by striking 'such Act' and inserting 'the TEA 21 Restoration Act'.

"(3) Subparagraph (C) of section 9504(b)(2), as amended by subsection (b)(2) and redesignated by subsection (b)(3), is amended by striking 'the date of the enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.

"(4) Subsection (c) of section 9504, as amended by subsection (c)(2), is amended by striking 'the date of enactment of the Transportation Equity Act for the 21st Century' and inserting 'the date of the enactment of the TEA 21 Restoration Act'.".

SEC. 9016. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect simultaneously with the enactment of the Transportation Equity Act for the 21st Century. For purposes of all Federal laws, the amendments made by this title shall be treated as being included in the Transportation Equity Act for the 21st Century at the time of the enactment of such Act, and the provisions of such Act (including the amendments made by such Act) (as in effect on the day before the date of enactment of this Act) that are amended by this title shall be treated as not being enacted.

And the Senate agree to the same.

BILL ARCHER,
NANCY L. JOHNSON,
ROB PORTMAN,
CHARLES B. RANGEL,
WILLIAM J. COYNE,
Managers on the Part of the House.

BILL ROTH,
JOHN H. CHAFEE,
CHUCK GRASSLEY,
ORRIN HATCH,
FRANK H. MURKOWSKI,
DON NICKLES,
PHIL GRAMM,
DANIEL P. MOYNIHAN,
MAX BAUCUS,
BOB GRAHAM,
JOHN BREAUX,
BOB KERREY,

From the Committee on Governmental Affairs:

FRED THOMPSON,
SAM BROWNBACK,
THAD COCHRAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I. REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE IRS

A. IRS Restructuring and Creation of IRS Oversight Board

1. IRS mission and restructuring (secs. 1001 and 1002 of the Senate amendment)

Present Law

IRS mission statement

The IRS mission statement provides that: The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity and fairness.

IRS organizational plan

Under Reorganization Plan No. 1 of 1952, the Internal Revenue Service ("IRS") is organized into a 3-tier geographic structure with a multi-functional National Office, Regional Offices, and District Offices. A number of IRS reorganizations have occurred since then, but no major changes have been made to the basic 3-tier structure. Currently, as a result of a 1995 reorganization, there is a Regional Commissioner, a Regional Counsel and a Regional Director of Appeals for each of the following 4 regions: (1) the Northeast Region (headquartered in New York); (2) the Southeast Region (Atlanta); (3) the Midstates Region (Dallas); and (4) the Western Region (San Francisco). There are 33 District Offices, 10 service centers, and 3 computing centers.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, the IRS is directed to revise its mission statement to provide greater emphasis on serving the public and meeting the needs of taxpayers.

The IRS Commissioner is directed to restructure the IRS by eliminating or substantially modifying the present-law three-tier geographic structure and replacing it with an organizational structure that features operating units serving particular groups of taxpayers with similar needs. The plan is also required to ensure an independent appeals function within the IRS. As part of ensuring an independent appeals function, the reorganization plan is to prohibit ex parte communications between appeals officers and other IRS employees to the extent such communications appear to compromise the independence of the appeals officers. The legality of IRS actions will not be affected pending further appropriate statutory changes relating to such a reorganization (e.g., eliminating statutory references to obsolete positions).

Effective date.—The provision is effective on the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

Effective date.—The provision is effective on the date of enactment.

2. Establishment and duties of IRS Oversight Board (sec. 101 of the House bill and sec. 1101 of the Senate amendment)

Present Law

Under present law, the administration and enforcement of the internal revenue laws are performed by or under the supervision of the Secretary of the Treasury.[1] The Secretary has delegated the responsibility to administer and enforce the Internal Revenue laws to the Commissioner of Internal Revenue ("Commissioner"). The Commissioner has the final authority of the IRS concerning the substantive interpretation of the tax laws as reflected in legislative and regulatory proposals, revenue rulings, letter rulings, and technical advice memoranda. The duties of the Chief Counsel of the IRS are prescribed by the Secretary. The Secretary has delegated authority over the Chief Counsel to the General Counsel of the Treasury. The General Counsel has delegated authority to serve as the legal adviser to the Commissioner to the Chief Counsel.

Federal employees are subject to rules designed to prevent conflicts of interest or the appearance of conflicts of interest. The rules applicable to any particular employee depend in part on whether the employee is a regular, full-time Federal Government employee or a special government employee, the length of service of the employee, and the pay grade of the employee. A "special government employee" is, in general, an officer or employee of the executive or legislative branch of the U.S. government who is appointed or employed to perform (with or without compensation), for a period not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. Violations of the ethical conduct rules are generally punishable by imprisonment for up to 1 year (5 years in the case of wilful misconduct), a civil fine, or both. The amount of the civil fine with respect to each violation cannot exceed the greater of $50,000 or the compensation received by the employee in connection with the prohibited conduct.

Under the ethical conduct rules, all Federal Government employees (including special government employees) are precluded from participating in a matter in which the employee (or a related party) has a financial interest. In addition, special government employees cannot represent a party (whether or not for compensation) or receive compensation for representation of a party in relation to a particular matter involving specific parties (1) in which the employee has at any time participated personally and substantially, or (2) which is pending in the department or agency of the Government in which the special government employee is serving. In the case of a special government employee who has served in a department no more than 60 days during the immediately preceding 365 days, item (2) does not apply.[2]

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[1] Code sec. 7801(a).

[2] The prohibition on receipt of compensation applies regardless of whether the services are performed by the Federal employee or someone else. For example, it would preclude a Federal employee from sharing in the compensation received by a partner of the Federal employee for representations on covered matters.

Thus, for example, such an individual can receive compensation for representational services with respect to matters pending in the department in which the employee serves, as long as it is not a matter involving parties in which the employee personally and substantially participated.[3]

The conflict of interest rules also impose restrictions on what a Federal Government employee can do after leaving the Government. In general, senior level officers and employees (including special government employees) who served at least 60 days during the immediately preceding 1-year period cannot represent anyone other than the United States before the individual's former department or agency for 1 year after terminating employment. Whether an employee is a senior level officer or employee is determined by pay grade. The one-year post employment restriction does not apply to special government employees who serve less than 60 days during the immediately preceding 1-year period before termination of employment.[4]

Federal employees with pay grades (or pay rates) above certain levels (and who have at least 60 days of service) are required to file annually public financial disclosures.

House Bill

Duties, responsibilities, and powers of the IRS Oversight Board

General responsibilities of the Board

The House bill provides for the establishment within the Treasury Department of the Internal Revenue Service Oversight Board (the "Board"). The general responsibilities of the Board are to oversee the Internal Revenue Service (the "IRS") in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws. The Board has no responsibilities or authority with respect to: (1) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws; (2) law enforcement activities of the IRS, including compliance activities such as criminal investigations, examinations, and collection activities;[5] and (3) specific procurement activities of the IRS (e.g., selecting vendors or awarding contracts). The Board also has the authority to recommend candidates for IRS Commissioner to the President, and to recommend removal of the Commissioner.

Specific responsibilities of the Board

The Board has the following specific responsibilities: (1) to review and approve strategic plans of the IRS, including the establishment of mission and objectives (and standards of performance) and annual and long-range strategic plans; (2) to review the operational functions of the IRS, including plans for modernization of the tax system, outsourcing or managed competition, and training and education; (3) to provide for the review of the Commissioner's selection, evaluation and compensation of senior managers; and (4) to review and approve the Commissioner's plans for major reorganization of the IRS. It is intended that major reorganizations subject to the Board's review and approval are limited to major changes in organizational structure, such as the 1995 IRS reorganization that combined 7 regions into 4 and 63 districts into 33. In addition, the Board will review and approve the budget request of the IRS prepared by the Commissioner, submit such budget request to the Secretary, and ensure that the budget request supports the annual and long-range strategic plans of the IRS. The Secretary is required to submit the budget request approved by the Board to the President, who is required to submit such request, without revision, to the Congress together with the President's annual budget request for the IRS. The House bill does not affect the ability of the President to include, in addition, his own budget request relating to the IRS.

It is intended that the Board will reach a formal decision on all matters subject to its review. With respect to those matters over which the Board has approval authority, the Board's decisions are determinative. It is fully expected that, with respect to those matters over which the Board has approval authority (other than as relates to the development of the budget), the Secretary will exert his or her oversight responsibility over the IRS by working through and with the Board.[6]

The Board is required to report each year to the President and the Congress regarding the conduct of its responsibilities.

It is expected that the Treasury Department will no longer utilize the IRS Management Board once the new Board created by the bill is in place, as the functions of the IRS Management Board would be taken over by the new Board.

Composition of the Board

The Board is composed of 11 members. Eight of the members are so-called "private-life" members who are not Federal officers or employees. These private-life members will be appointed by the President, with the advice and consent of the Senate. The remaining members are (1) the Secretary of the Treasury (or, if the Secretary so designates, the Deputy Secretary of the Treasury), (2) a representative from an organization representing a substantial number of IRS employees, who will be appointed by the President with the advice and consent of the Senate, and[7] (3) the Commissioner of the IRS.

Qualifications of Board members

The private-life members of the Board are to be appointed based on their expertise in the following areas: management of large service organizations; customer service; the Federal tax laws, including administration and compliance; information technology; organization development; and the needs and concerns of taxpayers. In the aggregate, the members of the Board should collectively bring to bear expertise in all these enumerated areas.

Ethical standards for private-life members

Representational activities and compensation matters

The private-life members are considered special government employees during the entire period of their appointment. That is, they will be considered to be performing services as a special government employee on each day during their appointment, not just on those days on which they actually perform services. Thus, they will be subject to the ethical conduct rules applicable to special government employees who serve more than 60 days during any 365-day period. Thus, for example, private-life Board members would not be able to represent clients before the IRS on matters involving specific parties during their terms as Board members.

Post-employment restrictions

Private-life Board members are to be subject to the one-year post-employment restriction applicable to senior-level employees.

Financial disclosure reports

Private-life members are to be subject to the public financial disclosure rules generally applicable to special government employees above certain pay grades.

Administrative matters

Term of appointments

The 8 private-life Board members and the employee organization representative generally will be appointed for 5-year terms. The private-life members may serve no more than two 5-year terms. Each 5-year term begins upon appointment. Board member terms are staggered, as a result of a special rule providing that some private-life members first appointed to the Board will serve initial terms of less than 5 years. The members of the Board are to elect a chairperson from among the private-life Board members for a 2-year term. Any member of the Board can be removed at the will of the President. In addition, the Secretary of the Treasury (or, if so delegated, the Deputy Secretary) and the IRS Commissioner are removed from the Board upon termination of employment in such positions and the representative of IRS employees is removed from the Board upon termination of their employment, membership, or other affiliation with the organization representing IRS employees.

Meetings and quorum

The Board is required to meet at least once a month, and can meet at such other times as the Board determines appropriate. A quorum of 6 members is required in order for the Board to conduct business. Actions of the Board are taken by a majority vote of those members present and voting.

Staffing

The Board will not have its own permanent staff, but will have such staff as detailed by the Commissioner at the request of the Chair of the Board. The Chair can procure temporary and intermittent services under section 3109(b) of title 5 of the U.S. Code.

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[3] More stringent rules apply to regular Federal Government employees. Such employees cannot receive compensation for representational services (whether rendered by the individual or another) in matters in which the United States is a party or has a direct and substantial interest before any department, agency or court. In addition, a Federal Government employee cannot act as agent or attorney (whether or not for compensation) for prosecuting any claim against the United States or act as agent or attorney for anyone before any department, agency, or court in which the United States is a party or has a direct and substantial interest.

[4] All Executive branch employees are permanently prohibited from representing a party other than the government in connection with a particular matter (1) in which the government is a party or has an interest, (2) in which the individual participated personally and substantially, and (3) which involved a specific party or parties at the time of their participation. In addition, Federal employees cannot, within 2 years after terminating employment, represent any person other than the United States in connection with any matter (1) in which the government is a party or has a direct and substantial interest, (2) which the person knows or reasonably should know was actually pending under his or her official responsibility within one year before termination of employment, and (3) which involved a specific party or parties at the time it was pending.

[5] This provision is not intended to limit the Board's authority with respect to the review and approval of strategic plans and the budget of the Commissioner or to preclude the Board from review of IRS operations generally.

[6] The budget is excepted from this expectation because the bill provides a separate mechanism through which the Secretary may act. The procedures relating to the Board permit the President to submit his own budget in addition to that approved by the Board.

[7] In appointing the employee organization representative, the President is not constrained to choose an individual recommended by an organization covering IRS employees, but may choose whoever the President determines to be an appropriate representative of the organization.

Compensation and travel expenses

The private-life members of the Board will be compensated at a rate not to exceed $30,000 per year, except that the Chair will be compensated at a rate not to exceed $50,000 a year. Other members of the Board will receive no compensation for their services as Board members. The members of the Board will be entitled to travel expenses for purposes of attending meetings of the Board.

Reports

The Board is required to report each year regarding the conduct of its responsibilities. The annual report shall be provided to the President and Congress.

Effective date

The House bill provisions are effective on the date of enactment. The President is directed to submit nominations for Board members to the Senate within 6 months of the date of enactment.

Senate Amendment

Duties, responsibilities, and powers of the IRS Oversight Board

General responsibilities of the Board

The Senate amendment generally follows the House bill, except that under the Senate amendment, the Board has no authority (1) to intervene in specific taxpayer cases, including compliance activities involving specific taxpayers such as criminal investigations, examinations, and collection activities, and (2) to intervene in specific individual personnel matters. The Board does have authority with respect to general law enforcement matters, and it has the responsibility to ensure that the organization and operation of the IRS allows it to carry out its mission.

Specific responsibilities of the Board

Under the Senate amendment, the Board's specific responsibilities and budget responsibilities are the same as in the House bill, except that: (1) the Board's review and approval authority for the Commissioner's plans for major reorganization does not apply to the reorganization provided in the Senate amendment; (2) the Board, after taking into account the recommendations, if any, of the Commissioner, shall recommend to the Secretary 3 candidates for appointment as the National Taxpayer Advocate from individuals who have a background in customer service and tax law, and experience representing individual taxpayers (and to recommend the removal of the National Taxpayer Advocate); (3) the Board shall review procedures of the IRS relating to financial audits; (4) the Board is to review operations of the IRS in order to ensure the proper treatment of taxpayers; and (5) in exercising its duties, the members of the Board shall maintain appropriate confidentiality (e.g., regarding enforcement matters).

Composition of the Board

Under the Senate amendment, the Board is composed of 9 members. Six of the members are so-called "private-life" members who are not otherwise Federal officers or employees. These private-life members are appointed by the President, with the advice and consent of the Senate. The other members are: (1) the Secretary (or, if the Secretary so designates, the Deputy Secretary); (2) the Commissioner; and (3) a representative from an employee organization that represents a substantial number of IRS employees and who is appointed by the President, with the advice and consent of the Senate. In appointing the representative of an employee organization, the President is not required to choose an individual recommended by the employee organization, but may choose whoever the President determines to be an appropriate representative of the employee organization.

Section 6103 authority

Under the Senate amendment, Board members would have limited access to confidential tax return and return information under section 6103. This limited access would permit the Board to receive such information (i.e., information that has not been redacted to remove confidential tax return and return information) from the Treasury IG for Tax Administration or the Commissioner in connection with reports to the Board. This access to section 6103 information does not include the taxpayer's name, address, or taxpayer or employer identification number. The Board members are subject to the anti-browsing rules applicable to IRS employees under present law.[8]

Qualifications of Board members

Under the Senate amendment, the private-life members of the Board will be appointed without regard to political affiliation, and based solely on their expertise in the same areas as the House bill, except that the Senate amendment adds the further qualification that a private-life member have experience and expertise in the needs and concerns of small business.

Ethical standards for private-life members

Representational activities and compensation matters

Under the Senate amendment, the ethical conduct rules applicable to private-life Board members depend on whether or not such members are determined to be "special government employees" under current law. It is expected that they generally will be.[9] In that case, they will be subject, at a minimum, to the ethical conduct rules applicable to special government employees. In addition, during their term as a Board member, a private-life Board member cannot represent any party (whether or not for compensation) with respect to (1) any matter before the Board or the IRS, (2) any tax-related matter before the Treasury Department, or (3) any court proceeding with respect to a matter described in (1) or (2). Thus, for example, the day after appointment to the Board, a private-life Board member could not meet with representatives of the IRS or Treasury on behalf of a client or the Board member's corporate employer with respect to proposed tax regulations. On the other hand, the Board member could, for example, represent clients before the U.S. Customs Service. The special rules applicable to private-life Board members generally do not preclude the Board member from sharing in compensation from representation of clients by another person (e.g., a partner of the Board member) before the IRS or Treasury.[10]

Post-employment restrictions

Under the Senate amendment, private-life Board members are subject to the 1-year post employment restriction applicable to individuals above certain pay grades and who have served at least 60 days (whether or not the members are special government employees under the present-law rules).

Financial disclosure reports

Under the Senate amendment, the private-life Board members are subject to the public financial disclosure rules applicable to Federal Government employees above certain pay grades and who have at least 60 days of service. Thus, the private-life Board members are required to file a public financial disclosure report for purposes of confirmation, annually during their tenure on the Board, and upon termination of appointment.

Ethical standards for IRS employee organization representative

Waiver of conflict-of-interest laws

The Senate amendment provides that the IRS employee organization representative is subject to the same ethical conduct rules as the private-life Board members. However, the Senate amendment modifies the otherwise applicable ethical conduct rules so that they do not preclude the employee representative from carrying out his or her duties as a Board member and his or her duties with respect to the employee organization. In particular, the employee representative is not prohibited from (1) representing the interests of the employee organization before the Federal Government on any matter, or (2) acting on a Board matter because the employee organization has a financial interest in the matter. In addition, the employee representative can continue to receive his or her compensation from the employee organization.[11]

Post-employment restrictions

The employee representative is subject to the same 1-year post employment restriction applicable to the private-life Board members, except to the extent the representative is acting in his capacity as a representative of the employee organization.

Financial disclosure reports

The employee representative is subject to the same public financial disclosure rules as the private-life Board members. In addition, the employee organization is required to provide an annual financial report with the House Ways and Means Committee and the Senate Finance Committee. Such report is required to include the compensation paid to the individual serving on the Board, the compensation of individuals employed by the employee organization, and membership dues collected by the organization.

Administrative matters

Term of appointments

The 6 private-life Board members will be appointed for 5-year terms. The private-life members may serve no more than two 5-year terms. Board member terms will be staggered, as a result of a special rule providing that some private-life members first appointed to the Board would serve terms of less than 5 years. Under this rule, 2 members first appointed will have a term of 2 years, 2 for a term of 4 years, and 2 for a term of 5 years. The terms of the initial Board members will run from the date of appointment. Subsequent terms will run from expiration of the previous term. A Board member appointed to fill a vacancy before the expiration of a term will be appointed to the remainder of the term. Such a member could be appointed to a subsequent 5-year term.

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[8] The provision does not affect the Secretary's (or Deputy Secretary's) or the Commissioner's access to section 6103 information or the application of the anti-browsing rules to the Secretary (or Deputy Secretary) or the Commissioner.

[9] If the Board members are determined not to be special government employees under the present-law rules, then they will be subject to the ethical conduct rules relating to regular Federal Government employees.

[10] Certain limitations to this exception to the otherwise applicable ethical rules would apply. For example, this exception would not apply if the matter was one in which the Board member personally and substantially participated. Similarly, the Board member could not act with respect to a matter in which he or she has a personal financial interest, including the potential to receive a share in compensation as a result of another's representation.

[11] Certain limitations on this exception would apply. For example, the rules relating to bribery would continue to apply. In addition, the employee representative would be precluded from acting on a matter in which he or she has a financial interest.

A private-life Board member and the IRS employee representative Board member may be removed at the will of the President. In addition, the Secretary (or Deputy Secretary) and the IRS Commissioner are automatically removed from the Board upon his or her termination of employment as such.

Chair of the Board

The members of the Board are to elect a Chair from the private-life members for a 2-year term. Except as otherwise provided by a majority of the Board, the authority of the Chair includes the authority to hire appropriate staff, call meetings, establish committees, establish the agenda for meetings, and develop rules for the conduct of business.

Meetings and quorum

Under the Senate amendment, the Board is required to meet on a regular basis (as determined necessary by the Chair), but no less frequently than quarterly. The Board can meet privately, and is not subject to public disclosure laws. A quorum of 5 members is required in order for the Board to conduct business. Actions of the Board can be taken by a majority vote of those members present and voting.

Staffing

Under the Senate amendment, the Chair is authorized to hire (and terminate) such personnel as the Chair finds necessary to enable the Board to carry out its duties. In addition, the Board will have such staff as detailed by the Commissioner or from another Federal agency at the request of the Chair of the Board. The Chair can procure temporary and intermittent services under section 3109(b) of title 5 of the U.S. Code.

Compensation and travel expenses

Under the Senate amendment, the private-life members of the Board will be compensated at a rate of $30,000 per year, except that the Chair will be compensated at a rate of $50,000 a year. The other Board members will receive no compensation for their services as a Board member. In addition, members of the Board are entitled to travel expenses for purposes of attending Board meetings or other duties as a member of the Board.

Reports

Under the Senate amendment, the Board is required to report each year regarding the conduct of its responsibilities. The annual report shall be provided to the President and the House Committees on Ways and Means, Government Reform and Oversight, and Appropriations and the Senate Committees on Finance, Governmental Affairs, and Appropriations. In addition, the Board is required to report to the Ways and Means and Finance Committees if the IRS does not address problems identified by the Board.

Effective date

The provision is effective on the date of enactment. The President is directed to submit nominations for Board members to the Senate within 6 months of the date of enactment. The legality of the actions of the IRS are not affected pending appointment of the Board. Under the Senate amendment, the Board will sunset September 30, 2008.

Conference Agreement

Duties, responsibilities, and powers of the IRS Oversight Board

General responsibilities of the Board

The conference agreement follows the Senate amendment.

Specific responsibilities of the Board

Under the conference agreement, the specific responsibilities of the Board are the same as under the Senate amendment, except that they do not include the responsibility (1) to recommend to the Secretary (taking into account the recommendations, if any, of the Commissioner) 3 candidates for appointment as the National Taxpayer Advocate; or (2) to review procedures of the IRS relating to financial audits. However, the conferees intend that the Chairman of the Board will consider establishing a financial management subcommittee.

Consistent with the Board's responsibility to review and approve plans for major reorganizations, the conferees intend for the Board to have the authority to review and approve the reorganization plan that is contained in Title I of this legislation. However, to the extent that the Commissioner has already taken measures to develop and implement such a plan, the conferees do not want to impede such efforts. Thus, the conferees do not intend in any way that the Commissioner should be precluded from moving ahead with such planning and implementation prior to the appointment of the Board.

Composition of the Board

The conference agreement follows the Senate amendment, except that in lieu of a Board member who is a representative of an organization that represents a substantial number of IRS employees, the conference agreement provides for an individual who is a full-time Federal employee or a representative of employees ("employee representative").

Section 6103 authority

The conference agreement follows the Senate amendment.

Qualifications of Board members

The conference agreement follows the Senate amendment.

Ethical standards for private-life members

The conference agreement follows the Senate amendment with respect to the application of the ethics rules to the private-life Board members regarding representational activities and compensation matters, post-employment restrictions, and financial disclosure requirements.

Ethical standards for employee representative

Under the conference agreement, the same ethics rules applicable to the private-life members regarding the representational activities and compensation matters apply to the employee representative if the individual is a special Government employee (i.e., the individual is not already an officer or employee of the Federal Government). In addition, the same post-employment restrictions and the financial disclosure requirements applicable to the private-life members apply to the employee representative. The conference agreement does not include the Senate amendment requirement for filing annual financial reports that applies to the organization representing a substantial number of IRS employees, a representative of which is a Board member.

The conference agreement does not include the Senate amendment provision for waiver of the conflict-of-interest laws. Instead, the conference agreement grants the President the authority to waive, at the time the President nominates the employee representative to the Board, for the term of the member, any appropriate provisions of chapter 11 of title 18 of the United States Code, to the extent such waiver is necessary to allow such member to participate in the decisions of the Board while continuing to serve as an employee representative. Any such waiver is not effective unless a written intent of waiver to exempt the member (and the actual waiver language) is submitted to the Senate with the nomination of the member. It is not intended that waiver of the restrictions on post-employment provided under the conference agreement be necessary to allow such member to participate in the decisions of the Board while continuing to serve as an employee representative.

Administrative matters

Term of appointments

The conference agreement follows the Senate amendment, with modifications. First, the staggered term of the initial Board shall be as follows: 2 members first appointed will have a term of 3 years, 2 members shall have a term of 4 years, and 2 members shall have a term of 5 years. In addition, the limitation of the Senate amendment that private-life members may serve no more than two five-year terms also applies to the employee representative under the conference agreement.

Chair of the Board

The conference agreement follows the Senate amendment.

Meetings and quorum

The conference agreement follows the Senate amendment.

Staffing

The conference agreement follows the Senate amendment. However, the conferees intend that the size of the staff be limited to a small number, and the Board is encouraged to use outside consultants whenever necessary.

Compensation and travel expenses

The conference agreement follows the Senate amendment with respect to compensation of Board members, with a modification. The employee representative member of the Board will be compensated at a rate of $30,000 per year unless the individual is already an officer or employee of the Federal Government.

The conference agreement follows the House bill provision on travel expenses, with a modification. Travel expenses other than those incurred to attend Board meetings are allowed if approved in advance by the Chair, and the Board shall report annually to Congress the amount of travel expenditures incurred by the Board.

Reports

The conference agreement follows the Senate amendment, with a modification providing that the Board is to include in its annual report information on travel expenses allowed.

Effective date

The conference agreement follows the House bill. The conference agreement does not include the Senate amendment provision for termination of the Board on September 30, 2008. The conference agreement provides that the provisions relating to the Board are not to be construed to invalidate the actions and authority of the IRS prior to the appointment of members of the Board.

B. Appointment and Duties of IRS Commissioner and Chief Counsel and Other Personnel

1. IRS Commissioner and other personnel (secs. 102 and 103 of the House bill and secs. 1102(a) and 1104 of the Senate amendment)

Present Law

Within the Department of the Treasury is a Commissioner of Internal Revenue ("Commissioner"), who is appointed by the President, with the advice and consent of the Senate. The Commissioner has such duties and powers as may be prescribed by the Secretary.[12] The Secretary has delegated to the Commissioner the administration and enforcement of the internal revenue laws.[13] The Commissioner generally does not have authority with respect to tax policy matters.[14]

The Secretary is authorized to employ such persons as the Secretary deems appropriate for the administration and enforcement of the internal revenue laws and to assign posts of duty.

House Bill

As under present law, the House bill provides that Commissioner will be appointed by the President, with the advice and consent of the Senate, and can be removed at will by the President. The Commissioner will be appointed to a 5-year term, beginning with the date of appointment. The Board has the power to recommend candidates to the President for Commissioner. The Board has the authority to recommend the removal of the Commissioner. Although the President is not required to nominate for Commissioner a candidate recommended by the Board (or to remove a Commissioner when the Board so recommends), it is expected that the President will generally give deference to the Board's expertise and familiarity with the needs and functions of the IRS and will act in accordance with the Board's recommendations.

The Commissioner has such duties and powers as prescribed by the Secretary. Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party and to recommend to the President a candidate for Chief Counsel (and recommend the removal of the Chief Counsel). It is intended that the listed duties codify present delegations. However, if the Secretary changes such orders, they may be subject to the notice requirement of the bill, described below.

If the Secretary determines not to delegate the specified duties to the Commissioner, such determination will not take effect until 30 days after the Secretary notifies the House Committees on Ways and Means, Government Reform and Oversight, and Appropriations, the Senate Committees on Finance, Government Operations, and Appropriations, and the Joint Committee on Taxation.

This provision is not intended to alter the Secretary's existing authority to delegate to agencies other than the IRS the authority to administer and enforce certain portions of the internal revenue laws. For example, the Secretary currently has delegated to the Bureau of Alcohol, Tobacco and Firearms the authority to administer and enforce the taxes under section 4181 and chapters 51, 52, and 53 of the Internal Revenue Code (regarding excise and other taxes on alcohol, tobacco, firearms, and destructive devices).

The Commissioner is to consult with the Board on all matters within the Board's authority (other than the recommendation of candidates for Commissioner and the recommendation to remove the Commissioner). With respect to those matters within the Board's approval authority (other than with respect to the development of the budget), it is fully expected that the Secretary will exert his or her oversight responsibility over the IRS by working through and with the Board.[15]

Unless otherwise specified by the Secretary, the Commissioner is authorized to employ such persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws and would be required to issue all necessary directions, instructions, orders, and rules applicable to such persons. Unless otherwise provided by the Secretary, the Commissioner will determine and designate the posts of duty.

The Commissioner is compensated as under present law.

Effective date.—The provisions of the House bill relating to the Commissioner generally are effective on the date of enactment. The provision relating to the 5-year term of office applies to the Commissioner in office on the date of enactment. This 5-year term runs from the date of appointment.

Senate Amendment

As under present law, the Senate amendment provides that the Commissioner is appointed by the President, with the advice and consent of the Senate, and may be removed at will by the President. Under the provision, one of the qualifications of the Commissioner is demonstrated ability in management. The Commissioner is appointed to a 5-year term, beginning with the date of appointment. The Commissioner may be reappointed for more than one 5-year term. The Board recommends candidates to the President for the position of Commissioner; however, the President is not required to nominate for Commissioner a candidate recommended by the Board. The Board has the authority to recommend the removal of the Commissioner.

The Commissioner has such duties and powers as prescribed by the Secretary. Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party, to exercise the IRS' final authority concerning the substantive interpretation of the tax laws, to recommend to the President a candidate for Chief Counsel (and recommend the removal of the Chief Counsel), and to recommend candidates for the position of National Taxpayer Advocate to the IRS Board. If the Secretary determines not to delegate such specified duties to the Commissioner, such determination will not take effect until 30 days after the Secretary notifies the House Committees on Ways and Means, Government Reform and Oversight, and Appropriations, and the Senate Committees on Finance, Governmental Affairs, and Appropriations. The Commissioner is to consult with the Board on all matters within the Board's authority (other than the recommendation of candidates for Commissioner and the recommendation to remove the Commissioner).

Unless otherwise specified by the Secretary, the Commissioner is authorized to employ such persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws and is required to issue all necessary directions, instructions, orders, and rules applicable to such persons. Unless otherwise provided by the Secretary, the Commissioner will determine and designate the posts of duty.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment, with a modification. Instead of the Senate amendment provision relating to the duty of the Commissioner to recommend candidates for the position of National Taxpayer Advocate to the IRS Board, the conference agreement provides that the Treasury Secretary is to consult with the Commissioner and the Board before selecting the National Taxpayer Advocate.

Effective date.—The conference agreement follows the Senate amendment and the House bill.

2. IRS Chief Counsel (sec. 1102(a) of the Senate amendment)

Present Law

The President is authorized to appoint, by and with the consent of the Senate, an Assistant General Counsel of the Treasury, who is the Chief Counsel of the IRS. The Chief Counsel is the chief law officer for the IRS and has such duties as may be prescribed by the Secretary. The Secretary has delegated authority over the Chief Counsel to the Treasury General Counsel. The Chief Counsel does not report to the Commissioner, but to the Treasury General Counsel. As delegated by the Treasury General Counsel, the duties of the Chief Counsel include: (1) to be the legal advisor to the Commissioner and his or her officers and employees; (2) to furnish such legal opinions as may be required in the preparation and review of rulings and memoranda of technical advice and the performance of other duties delegated to the Chief Counsel; (3) to prepare, review, or assist in the preparation of proposed legislation, treaties, regulations and Executive Orders relating to laws affecting the IRS; (4) to represent the Commissioner in cases before the Tax Court; (5) to determine what civil actions should be brought in the courts under the laws affecting the IRS and to prepare recommendations to the Department of Justice for the commencement of such actions and to authorize or sanction commencement of such actions.

House Bill

No provision.

Senate Amendment

As under present law, the Senate amendment provides that the Chief Counsel is appointed by the President, with the advice and consent of the Senate. Under the Senate amendment, the Chief Counsel is not an Assistant General Counsel of the Treasury and reports directly to the Commissioner.

The Chief Counsel has such duties and powers as prescribed by the Secretary. Unless otherwise specified by the Secretary, these duties include the duties currently delegated to the Chief Counsel as described above. If the Secretary determined not to delegate such specified duties to the Chief Counsel, such determination is subject to the same notice requirement applicable to changes in the delegation of authority with respect to the Commissioner.

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[12] Code sec. 7802(a).

[13] Treasury Order 150-10 (April 22, 1982).

[14] See, e.g., Treasury Order 111-2 (March 16, 1981), which delegates to the Assistant Secretary (Tax Policy) the exclusive authority to make the final determination of the Treasury Department's position with respect to issues of tax policy arising in connection with regulations, published Revenue Rulings and Revenue Procedures, and tax return forms and to determine the time, form and manner for the public communication of such position.

[15] The budget is excepted from this expectation because the House bill provides a separate mechanism through which the Secretary may act.

Effective date.—The provision is generally effective on the date of enactment. The provision providing that the Chief Counsel reports directly to the Commissioner is effective 90 days after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, with modifications. Under the conference agreement, the Chief Counsel is to report directly to the Commissioner, with two exceptions.

First, the Chief Counsel is to report to both the Commissioner and the General Counsel of the Treasury Department with respect to (1) legal advice or interpretation of the tax law not relating solely to tax policy, and (2) tax litigation. Under this rule, the conferees intend that the Chief Counsel's dual reporting to the Commissioner and to the General Counsel include reporting with respect to legal advice or interpretation of the tax law set forth in regulations, revenue rulings and revenue procedures, technical advice and other similar memoranda, private letter rulings, and published guidance not described in the foregoing.

Second, the Chief Counsel is to report to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy. Under this rule, the conferees intend that the Chief Counsel's reporting to the General Counsel include proposed legislation and international tax treaties.

The conference agreement provides that if there is any disagreement between the Commissioner and the General Counsel with respect to any matter on which the Chief Counsel has dual reporting to both the Commissioner and the General Counsel, the matter is to be submitted to the Secretary or the Deputy Secretary of the Treasury for resolution.

The conferees intend that under the general rule, the Chief Counsel's reporting directly to the Commissioner include reporting with respect to budget, organizational structure and reorganizations, mission and strategic plans. In addition, the conferees intend that the Chief Counsel's reporting directly to the Commissioner include reporting with respect to all matters relating to the day-to-day operations of the IRS, such as management of the IRS and procurement.

The conference agreement provides that all personnel in the Office of the Chief Counsel are to report to the Chief Counsel (and not to any person at the IRS or elsewhere within the Treasury Department).

C. Structure and Funding of the Employee Plans and Exempt Organizations Division ("EP/EO") (sec. 1102 of the House bill and sec. 1101 of the Senate amendment)

Present Law

Prior to 1974, no one specific office in the IRS had primary responsibility for employee plans and tax-exempt organizations. As part of the reforms contained in the Employee Retirement Income Security Act of 1974 ("ERISA"), Congress statutorily created the Office of Employee Plans and Exempt Organizations ("EP/EO") under the direction of an Assistant Commissioner.[16] EP/EO was created to oversee deferred compensation plans governed by sections 401–414 of the Code and organizations exempt from tax under Code section 501(a).

In general, EP/EO was established in response to concern about the level of IRS resources devoted to oversight of employee plans and exempt organizations. The legislative history of Code section 7802(b) states that, with respect to administration of laws relating to employee plans and exempt organizations, "the natural tendency is for the Service to emphasize those areas that produce revenue rather than those areas primarily concerned with maintaining the integrity and carrying out the purposes of exemption provisions."[17]

To provide funding for the new EP/EO office, ERISA authorized the appropriation of an amount equal to the sum of the section 4940 excise tax on investment income of private foundations (assuming a rate of 2 percent) as would have been collected during the second preceding year plus the greater of the same amount or $30 million.[18] However, amounts raised by the section 4940 excise tax have never been dedicated to the administration of EP/EO, but are transferred instead to general revenues. Thus, the level of EP/EO funding, like that of the rest of the IRS, is dependent on annual Congressional appropriations to the Treasury Department.

House Bill

The House bill retains the Office of Employee Plans and Exempt Organizations under the supervision and direction of an Assistant Commissioner of the Internal Revenue. As under present law, EP/EO is responsible for carrying out functions and duties associated with organizations designed to be exempt from tax under section 501(a) of the Code and with respect to plans designed to be qualified under section 401(a). In addition, however, EP/EO's responsibilities are expanded to include nonqualified deferred compensation arrangements. The House bill also provides that the Assistant Commissioner shall report annually to the Commissioner on EP/EO operations.

In addition, the House bill repeals the funding mechanism for EP/EO set forth in section 7802(b). Thus, the appropriate level of funding for EP/EO is, consistent with current practice, subject to annual Congressional appropriations, as are other functions within the IRS.

Effective date.—The provision is effective on the date of enactment.

Senate Amendment

The Senate amendment eliminates the statutory requirement contained in section 7802(b) that there be an "Office of Employee Plans and Exempt Organizations" under the supervision and direction of an Assistant Commissioner. The legislative history expresses the Committee's intent that a comparable structure be created administratively to ensure that adequate resources within the IRS are devoted to oversight of the tax-exempt sector.

In addition, like the House bill, the Senate amendment repeals the funding mechanism for EP/EO set forth in section 7802(b).[19]

Effective date.—The provision is effective on the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

D. Taxpayer Advocate and Taxpayer Assistance Orders (secs. 102 and 342 of the House bill and secs. 1102(a), (c), and (d) of the Senate amendment)

Present Law

Taxpayer Advocate

In 1996, the Taxpayer Bill of Rights 2 ("TBOR 2") established the position of Taxpayer Advocate, which replaced the position of Taxpayer Ombudsman, created in 1979 by the IRS. The Taxpayer Advocate is appointed by and reports directly to the IRS Commissioner.

TBOR 2 also created the Office of the Taxpayer Advocate. The functions of the office are (1) to assist taxpayers in resolving problems with the IRS, (2) to identify areas in which taxpayers have problems in dealings with the IRS, (3) to propose changes (to the extent possible) in the administrative practices of the IRS that will mitigate those problems, and (4) to identify potential legislative changes that may mitigate those problems.

Taxpayer assistance orders

Taxpayers can request that the Taxpayer Advocate issue a taxpayer assistance order ("TAO") if the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered. A TAO may require the IRS to release property of the taxpayer that has been levied upon, or to cease any action, take any action as permitted by law, or refrain from taking any action with respect to the taxpayer.

Under present law, the direct point of contact for taxpayers seeking taxpayer assistance orders is a problem resolution officer appointed by a District Director or a Regional Director of Appeals. The Taxpayer Advocate has designated the authority to issue taxpayer assistance orders to the local and regional problem resolution officers.

Reports of the Taxpayer Advocate

The Taxpayer Advocate is required to report annually to the House Committee on Ways and Means and the Senate Finance Committee on the objectives of the Taxpayer Advocate for the up-coming fiscal year. This report is required to be provided no later than June 30 of each calendar year and is to contain full and substantive analysis, in addition to statistical information.

The Taxpayer Advocate is also required to report annually to the House Committee on Ways and Means and the Senate Finance Committee on the activities of the Taxpayer Advocate during the most recently ended fiscal year. This report is required to be provided no later than December 31 of each calendar year, and is to contain full and substantive analysis, in addition to statistical information. This report is also required to: (1) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and IRS responsiveness; (2) contain recommendations received from individuals with the authority to issue TAOs; (3) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems; (4) contain an inventory of the items described in (1), (2), and (3) for which action has been taken and the result of such action; (5) contain an inventory of the items described in (1), (2), and (3) for which action remains to be completed and the period during which each item has remained on such inventory; (6) contain an inventory of the items described in (1), (2) and (3) for which no action has been taken, the period during which the item has remained on the inventory, the reasons for the inaction, and identify any IRS official who is responsible for the inaction; (7) identify any TAO that was not honored by the IRS in a timely manner; (8) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers; (9) describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and (10) include such other information as the Taxpayer Advocate deems advisable.

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[16] Code section 7802(b).

[17] S. Rept. 93-383, 108 (1973). See also H. Rept. 93-807, 104 (1974).

[18] Code section 7802(b)(2).

[19] The legislative history of the provision states that it is not intended that the elimination of the statutory requirement contained in section 7802(b)(1) of the self-funding mechanism described in section 7802(b)(2) impede the implementation of certain self-correction programs and EP/EO's other programs and activities. Rather, the legislative history indicates that, given the magnitude of the sector EP/EO is charged with regulating, as well as the unique nature of its mandate, an adequately funded EP/EO is extremely important to the fair and efficient administration of the Federal tax system.

The reports of the Taxpayer Advocate are to be submitted directly to the Congressional Committees without prior review or comment from the Commissioner, Secretary, any other officer or employee of the Treasury, or the Office of Management and Budget.

House Bill

The House bill requires the Commissioner to obtain the approval of the IRS Oversight Board on the selection of the Taxpayer Advocate. A candidate for the Taxpayer Advocate must have either substantial experience representing taxpayers before the IRS or have substantial experience within the IRS. If the prospective Taxpayer Advocate was an officer or an employee of the IRS before being appointed as the Taxpayer Advocate, the individual is required to agree not to accept any employment with the IRS for at least 5 years after ceasing to be the Taxpayer Advocate.

The House bill modifies the information to be included in the December 31 report to the tax-writing committees. The report no longer needs to include information about the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers. The report identifies areas of the tax law that impose significant compliance burdens on taxpayers or the IRS, including specific recommendations for solving these problems. The Taxpayer Advocate also is required to work in conjunction with the National Director of Appeals to identify the 10 most litigated issues for each category of taxpayers, and include the list of issues and recommendations for mitigating such disputes in the report. Categories of taxpayers include, for example, individuals, self-employed individuals, small businesses, etc.

As under present law, the reports are submitted directly to the tax-writing committees, without review by the IRS Oversight Board, the Secretary of the Treasury, or any other officer or employee of the Department of the Treasury or the Office of Management and Budget.

In addition, the House bill imposes new responsibilities on the Taxpayer Advocate. The Taxpayer Advocate is requested to monitor the coverage and geographical allocation of problem resolution officers and develop guidance that outlines criteria to be used by IRS employees in referring taxpayer inquiries to problem resolution officers. In connection with these responsibilities, it is anticipated that the Taxpayer Advocate will work with the IRS District Offices to ensure convenient taxpayer access to the local problem resolution officer. For example, the local telephone number for the problem resolution officer in each district should be published and available to taxpayers.

It is intended that the Taxpayer Advocate will work with the Commissioner in developing career paths for local problem resolution officers, so that individuals can progress through the General Schedule in the same manner as examination employees, without having to leave the problem resolution system. In that regard, it is contemplated that the compensation levels of local and regional problem resolution officers should be the same as those of IRS personnel operating in other functional units. Under the current system, local problem resolution officers generally must return to an audit or collection function to achieve promotion. This lack of a career path within the problem resolution system reduces the independence of the system. It is contemplated that, to the extent feasible, regional problem resolution officers should be selected from the available pool of local problem resolution officers.

Effective date.—The House bill provision is effective on the date of enactment, except that the post-employment restrictions on the Taxpayer Advocate do not apply to an individual holding that position on the date of enactment.

Senate Amendment

National Taxpayer Advocate

The Senate amendment renames the Taxpayer Advocate the "National Taxpayer Advocate." The Senate amendment provides that the IRS Oversight Board is to recommend to the Secretary 3 candidates for National Taxpayer Advocate from among individuals with a background in customer service as well as tax law and with experience representing individual taxpayers. The Secretary is required to choose a National Taxpayer Advocate from among the individuals recommended by the Oversight Board. An individual may be appointed as the National Taxpayer Advocate only if the individual was not an officer or employee of the IRS during the 2-year period ending with such appointment and the individual agrees not to accept employment with the IRS for at least 5 years after ceasing to be the National Taxpayer Advocate.

The Senate amendment replaces the present-law problem resolution system with a system of local Taxpayer Advocates who report directly to the National Taxpayer Advocate and who will be employees of the Taxpayer Advocate's Office, independent from the IRS examination, collection, and appeals functions. The National Taxpayer Advocate has the responsibility to evaluate and take personnel actions (including dismissal) with respect to any local Taxpayer Advocate or any employee in the Office of the National Taxpayer Advocate. In conjunction with the Commissioner, the National Taxpayer Advocate is required to develop career paths for local Taxpayer Advocates.

The National Taxpayer Advocate is required to monitor the coverage and geographical allocation of the local Taxpayer Advocates, develop guidance to be distributed to all IRS officers and employees outlining the criteria for referral of taxpayer inquires to local taxpayer advocates, ensure that the local telephone number for the local taxpayer advocate is published and available to taxpayers.

Each local Taxpayer Advocate may consult with the appropriate supervisory personnel of the IRS regarding the daily operation of the office of the Taxpayer Advocate. At the initial meeting with any taxpayer seeking the assistance of the Office of the Taxpayer Advocate, the local taxpayer advocate is required to notify the taxpayer that the Office operated independently of any other IRS office and reports directly to Congress through the National Taxpayer Advocate. At the discretion of the local taxpayer advocate, the advocate shall not disclose to the IRS any contact with or information provided by the taxpayer. Each local office of the Taxpayer Advocate is to maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

The IRS would be required to publish the taxpayer's right to contact the local Taxpayer Advocate on the statutory notice of deficiency.

Under the Senate amendment, the National Taxpayer Advocate is to appoint a counsel in the Office of the Taxpayer Advocate to report directly to the National Taxpayer Advocate.

Taxpayer assistance orders

The provision expands the circumstances under which a TAO may be issued. The Senate amendment provides that a "significant hardship" is deemed to occur if one of the following four factors exists: (1) there is an immediate threat of adverse action; (2) there has been a delay of more than 30 days in resolving the taxpayer's account problems; (3) the taxpayer will have to pay significant costs (including fees for professional services) if relief is not granted; or (4) the taxpayer will suffer irreparable injury, or a long-term adverse impact, if relief is not granted. These factors are not an exclusive list of what constitutes a significant hardship; a TAO may also be issued in other circumstances in which it is determined that the taxpayer is or will suffer a significant hardship. The Taxpayer Advocate is also authorized to issue a TAO in any circumstances that the Taxpayer Advocate considers appropriate for the issuance of a TAO.

In determining whether to issue a TAO in cases in which the IRS failed to follow applicable published guidance (including procedures set forth in the Internal Revenue Manual), the Taxpayer Advocate is to construe the matter in a manner most favorable to the taxpayer.

Reports of the National Taxpayer Advocate

The provision requires the annual report regarding the activities of the National Taxpayer Advocate for the most recently ended fiscal year to (in addition to the information required under present law): (1) identify areas of the tax law that impose significant compliance burdens on taxpayers or the IRS, including specific recommendations for remedying such problems; and (2) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes.

Effective date

The Senate amendment provision is generally effective on the date of enactment. During the period before the appointment of the IRS Oversight Board, the National Taxpayer Advocate shall be appointed by the Secretary (taking into consideration individuals nominated by the Commissioner) from among individuals who have a background in customer service as well as tax law and experience in representing individual taxpayers. The provision providing that the Taxpayer Advocate reports directly to the Commissioner, the provision providing that the Taxpayer Advocate is appointed by the Secretary, and the restrictions on previous and subsequent employment of the Taxpayer Advocate do not apply to the individual serving as the Taxpayer Advocate on the date of enactment.

Conference Agreement

National Taxpayer Advocate

The conference agreement follows the Senate amendment, with modifications. The conference agreement does not include the Senate amendment provision that the IRS Oversight Board is to recommend to the Secretary 3 candidates for National Taxpayer Advocate; instead, the conference agreement provides that the National Taxpayer Advocate is appointed by the Secretary after consultation with the Commissioner and the Board (without regard to the provisions of Title 5 of the U.S. Code, relating to appointments in the competitive service or the Senior Executive Service). The conference agreement modifies the Senate amendment provision that an individual may be appointed as the National Taxpayer Advocate only if the individual was not an officer or employee of the IRS during the 2-year period ending with such appointment and the individual agrees not to accept employment with the IRS for at least 5 years after ceasing to be the National Taxpayer Advocate. The conference agreement provides that service as an officer or employee of the Office of the Taxpayer Advocate is not taken into account, for purposes of these 2-year and 5-year rules. The conference agreement also clarifies that the National Taxpayer Advocate's compensation is to be at the highest rate of basic pay established for the Senior Executive Service, or, if the Treasury Secretary so determines, at a rate fixed under 5 U.S.Code section 9503.

The conferees intend that the National Taxpayer Advocate's responsibility to appoint local taxpayer advocates and make available at least one local taxpayer advocate for each State means that a local taxpayer advocate will be available to taxpayers in each State.

The conference agreement does not include the Senate amendment provision that the National Taxpayer Advocate has the responsibility and authority to appoint a counsel in the Office of the Taxpayer Advocate to report directly to the National Taxpayer Advocate. The conferees intend that the National Taxpayer Advocate be able to hire and consult counsel as appropriate.

The conference agreement provides that each local taxpayer advocate reports to the National Taxpayer Advocate or his delegate. The committees intend that a delegate mean the taxpayer advocate for the appropriate organizational unit. It is not intended that a local taxpayer advocate report to a District Director of the IRS, for example. Providing reporting to a delegate of the National Taxpayer Advocate under the conference agreement is intended to provide reporting flexibility sufficient to take into account the necessities of any reorganization of the IRS.

Taxpayer assistance orders

The conference agreement follows the Senate amendment, except that the conference agreement does not include the Senate amendment provision that the Taxpayer Advocate is authorized to issue a TAO in any circumstances that the Taxpayer Advocate considers appropriate for the issuance of a TAO. Instead, the conference agreement provides that the National Taxpayer Advocate may issue a TAO if the taxpayer meets requirements set forth in regulations. It is intended that the circumstances set forth in regulations be based on considerations of equity.

Effective date

The conference agreement follows the Senate amendment, with modifications. Under the conference agreement, the provisions are effective on date of enactment, except that in appointing the first National Taxpayer Advocate after date of enactment, the Treasury Secretary may not appoint anyone who was an officer or employee of the IRS at any time during the 2-year period ending on the date of appointment, and the Treasury Secretary need not consult with the Board if the Board has not been appointed.

E. Treasury Office of Inspector General; IRS Office of the Chief Inspector (secs. 1102 and 1103 of the Senate amendment)

Present Law

Treasury Inspector General

The Treasury Office of Inspector General ("Treasury IG") was established in 1988 and charged with conducting independent audits, investigations and review to help the Department of Treasury accomplish its mission, improve its programs and operations, promote economy, efficiency and effectiveness, and prevent and detect fraud and abuse. The Treasury IG derives its statutory authority under the Inspector General Act of 1978, as amended ("IG Act of 1978").

Appointment and qualifications

The IG Act of 1978 provides that the Treasury IG is selected by the President, with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Treasury IG can be removed from office by the President. The President must communicate the reasons for such removal to both Houses of Congress.

Duties and responsibilities

The Treasury IG generally is authorized to conduct, supervise and coordinate internal audits and investigations relating to the programs and operations of the Treasury, including all of its bureaus and offices.[20] Special rules apply, however, with respect to the Treasury IG's jurisdiction over ATF, Customs, the Secret Service and the IRS—the four so-called "law enforcement bureaus." Upon its establishment, the Treasury IG assumed the internal audit functions previously performed by the offices of internal affairs of ATF, Customs and the Secret Service. Although the Treasury IG was granted oversight responsibility for the internal investigations performed by the Office of Internal Affairs of ATF, the Office of Internal Affairs of Customs, and the Office of Inspections of the Secret Service, the internal investigation or inspection functions of these offices remained with the respective bureaus. The Treasury IG did not assume responsibility for either the internal audit or inspection functions of the IRS Office of the Chief Inspector. However, it was directed to oversee the internal audits and internal investigations performed by the IRS Office of the Chief Inspector.

The Commissioner and the Treasury IG have entered into two Memorandums of Understanding ("MOUs")[21] to clarify the respective roles of the IRS Office of the Chief Inspector and the Treasury IG in two primary areas: (1) the investigation of allegations of wrongdoing by IRS executives and employees in situations where the independence of the Office of the Chief Inspector could be questioned, and (2) oversight by the Treasury IG of the IRS Office of the Chief Inspector.[22] Pursuant to the 1990 MOU, the Commissioner agreed to transfer 21 FTEs and $1.9 million from the IRS appropriation to the Treasury IG appropriation to be used for the following purposes: (1) oversight of the operations of the Office of the Chief Inspector; (2) conduct of special reviews of IRS operations; (3) investigation of allegations of misconduct concerning the Commissioner, the Senior Deputy Commissioner, and employees of the IRS Office of the Chief Inspector; and (4) investigation of allegations of misconduct where the independence of the IRS Office of the Chief Inspector might be questioned. With respect to item (4), the Commissioner and Treasury IG agreed that all allegations of misconduct involving IRS executives and managers (Grade 15 and above), as well as any other allegation involving "significant or notorious" matters were to be referred to the Treasury IG, and that investigations arising out of such referrals generally would be conducted by the Treasury IG.

In general, under the IG Act of 1978, Inspectors General are instructed to report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law. However, in matters involving criminal violations of the Internal Revenue Code, the Treasury IG may report to the Attorney General only those offenses under section 7214 of the Code (unlawful acts of revenue officers or agents, including extortion, bribery and fraud) without the consent of the Commissioner.

Authority

The Treasury IG reports to and is under the general supervision of the Secretary of Treasury, acting through the Deputy Secretary. In general, the Secretary cannot prevent or prohibit the Treasury IG from initiating, carrying out, or completing any audit or investigation or from issuing any subpoena during the course of any audit or investigation.

However, section 8D of the IG Act of 1978 grants the Secretary authority to prohibit audits or investigations by the Treasury IG under certain circumstances. In particular, the Treasury IG is under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning: (1) ongoing criminal investigations or proceedings; (2) undercover operations; (3) the identity of confidential sources, including protected witnesses; (4) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior; (5) intelligence or counterintelligence matters;

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[20] The Treasury Department organization includes the Departmental offices as well as the Bureau of Alcohol, Tobacco and Firearms ("ATF"), the Office of the Comptroller of the Currency ("OCC"), the U.S. Customs Service ("Customs"), the Bureau of Engraving and Printing, the Federal Law Enforcement Training Center, the Financial Management Service, the U.S. Mint, the Bureau of the Public Debt, the U.S. Secret Service ("Secret Service"), the Office of Thrift Supervision, and the IRS.

[21] The first MOU was entered into in 1990 and the second in 1994.

[22] Treasury Directive 40-01 (September 21, 1992) reiterates that the Treasury IG is responsible for investigating alleged misconduct on the part of IRS employees at the grade 15 level and above, all employees of the Office of the Chief Inspector. In addition, Treasury Directive 40-01 states that the Treasury IG is responsible for investigating alleged misconduct on the part of Office of Chief Counsel employees (excluding employees of the National Director, Office of Appeals).

(6) other matters the disclosure of which would constitute a serious threat to national security or to the protection of certain persons. With respect to audits, investigations or subpoenas that require access to the above-listed information, the Secretary may prohibit the Treasury IG from carrying out such audit, investigation or subpoena if the Secretary determines that such prohibition is necessary to prevent the disclosure of such information or to prevent significant impairment to the national interests of the United States. The Secretary must provide written notice of such a prohibition to the Treasury IG, who must, in turn, transmit a copy of such notice to the Committees on Government Reform and Oversight and Ways and Means of the House and the Committees on Governmental Affairs and Finance of the Senate.

Access to taxpayer returns and return information

The Treasury IG has access to taxpayer returns and return information under section 6103(h)(1) of the Code. However, such access is subject to certain special requirements, including the requirement that the Treasury IG notify the IRS Office of the Chief Inspector (or the Deputy Commissioner in certain circumstances) of its intent to access returns and return information.

Reporting requirements

Under the IG Act of 1978, the Treasury IG reports to the Congress semiannually on its activities. Reports from the Treasury IG are transmitted to the Committees on Government Reform and Oversight and Ways and Means of the House and the Committees on Governmental Affairs and Finance of the Senate.

Resources

For fiscal year 1997, the Treasury IG had 296 FTEs and total funding of $29.7 million. 174 FTEs were assigned to the Treasury IG's audit function and 61 were assigned to the investigative function. The remaining FTEs were divided among the following functions: evaluations, legal, program, technology and administrative support. Of the total Treasury IG FTEs, approximately 23 were used for IRS oversight activities in fiscal year 1997.

IRS Office of Chief Inspector

The IRS Office of the Chief Inspector (also known as the "Inspection Service") was established on October 1, 1951, in response to publicity revealing widespread corruption in the IRS. At the time of its creation, President Harry S. Truman stated, "A strong, vigorous inspection service will be established and will be made completely independent of the rest of the Internal Revenue Service."

Appointment of the Chief Inspector

In 1952, the Office of the Assistant Commissioner (Inspection) was established. The office was redesignated as the Office of the Chief Inspector on March 25, 1990. The Chief Inspector is appointed by the Commissioner. In this regard, pursuant to Treasury Director 40-01, the Commissioner must consult with the Treasury IG before selecting candidates for the position of Chief Inspector (and all other senior executive service ("SES") positions in the Office of the Chief Inspector). The Commissioner must also consult with the Treasury IG regarding annual performance appraisals for the Chief Inspector and other SES officials.

The Office of the Chief Inspector consists of a National Office and the offices of the Regional Inspectors. The offices of the Regional Inspectors are located in the same cities and have the same geographic boundaries as the offices of the four IRS Regional Commissioners. The Regional Inspectors report directly to the Chief Inspector.

Duties and responsibilities

The Office of the Chief Inspector generally is responsible for carrying out internal audits and investigations that: (1) promote the economic, efficient, and effective administration of the nation's tax laws; (2) detect and deter fraud and abuse in IRS programs and operations; and (3) protect the IRS against external attempts to corrupt or threaten its employees. The Chief Inspector reports directly to the Commissioner and Deputy Commissioner of the IRS.

The IRS Inspection Service is divided into three functions: Internal Security, Internal Audit, and Integrity Investigations and Activities. Internal Security's responsibilities include criminal investigations (employee conduct, bribery, assault and threat and investigations of non-IRS employees for acts such as impersonation, theft, enrolled agent misconduct, disclosure, and anti-domestic terrorism) investigative support activities (including forensic lab, computer investigative support, and maintenance of law enforcement equipment), protection, and background investigations.

Internal Audit is responsible for providing IRS management with independent reviews and appraisals of all IRS activities and operations. In addition, Internal Audit makes recommendations to improve the efficiency and effectiveness of programs and to assist IRS officials in carrying out their program and operational responsibilities. In this regard, Internal Audit generally conducts performance reviews (program audits, system development audits, internal control audits) and financial reviews (financial statement audits and financial related reviews).

Integrity Investigations and Activities are joint internal audit and internal security operations undertaken as a proactive effort to detect and deter fraud and abuse within the IRS. Integrity Investigations and Activities also includes the UNAX Central Case Development Center. The Center was developed in October, 1997, in response to the Taxpayer Browsing Protection Act of 1997. Its purpose is to detect unauthorized accesses to IRS computer systems by IRS employees and to refer such instances to Internal Security investigators for further investigation.

Authority

The Chief Inspector derives specific and general authority from delegation by the Commissioner and Deputy Commissioner. In addition, under section 7608(b) of the Code, the Chief Inspector is authorized to perform certain functions in connection with the duty of enforcing any of the criminal provisions of the Code, including executing and serving search and arrest warrants, serving subpoenas and summonses, making arrests without warrant, carrying firearms, and seizing property subject to forfeiture under the Code.

Access to taxpayer returns and return information

The Office of the Chief Inspector has full access to taxpayer returns and return information.

Reporting requirements

The Office of the Chief Inspector reports facts developed through its internal audit and internal security activities to IRS management officials, who are charged with the responsibility of reviewing IRS activities. The results of the Chief Inspector's internal audit and internal security activities also are reported to the Treasury IG and are included in the Treasury IG's semiannual reports to Congress.

Internal audit reports prepared by the Office of the Chief Inspector are provided monthly to the Government Accounting Office, as well as to the House and Senate Appropriations Committees. In addition, a monthly list of Internal Audit reports is provided to Treasury and the Office of Management and Budget. Reports of Investigation regarding criminal conduct are referred to the Department of Justice for prosecution.

Resources

The IRS Office of the Chief Inspector had 1,202 FTEs for 1997 and total funding of $100.1 million. Of these FTEs, approximately 442 performed Internal Audit functions, 511 performed Internal Security functions, and 94 performed Integrity Investigations and Activities. Of the remaining FTEs, approximately 95 were dedicated to information technology functions and 60 staffed the offices of the Chief Inspector and the Regional Inspectors.

House Bill

No provision.

Senate Amendment

In general

The Senate amendment establishes a new, independent, Treasury Inspector General for Tax Administration ("Treasury IG for Tax Administration") within the Department of Treasury. The IRS Office of the Chief Inspector is eliminated, and all of its powers and responsibilities are transferred to the Treasury IG for Tax Administration. The Treasury IG for Tax Administration has the powers and responsibilities generally granted to Inspectors General under the IG Act of 1978, without the limitations that currently apply to the Treasury IG under section D of the Act. The role of the existing Treasury IG is redefined to exclude responsibility for the IRS. The Treasury IG for Tax Administration is under the supervision of the Secretary of Treasury, with certain additional reporting to the Board and the Congress.

Appointment and qualifications of Treasury IG for Tax Administration

The Treasury IG for Tax Administration is selected by the President, with the advice and consent of the Senate. The Treasury IG for Tax Administration can be removed from office by the President. The President must communicate the reasons for such removal to both Houses of Congress.

The Treasury IG for Tax Administration must be selected without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. In addition, however, the Treasury IG for Tax Administration should have experience in tax administration and demonstrated ability to lead a large and complex organization. The Treasury IG for Tax Administration may not be employed by the IRS within the two years preceding and the five years following his or her appointment.

The Treasury IG for Tax Administration is required to appoint an Assistant Inspector General for Auditing and an Assistant Inspector for Inspections. Under the Senate amendment, such appointees, as well as any Deputy Inspector General(s) appointed by the Treasury IG for Tax Administration, may not be employed by the IRS within the two years preceding and the five years following their appointments.

Duties and responsibilities of Treasury IG for Tax Administration

The Treasury IG for Tax Administration has the present-law duties and responsibilities currently delegated to the Treasury IG with respect to the IRS. In addition, the Treasury IG for Tax Administration assumes all of the duties and responsibilities currently delegated to the IRS Office of the Chief Inspector. The Treasury IG for Tax Administration has jurisdiction over IRS matters, as well as matters involving the Board.

Accordingly, the Treasury IG for Tax Administration is charged with conducting audits, investigations, and evaluations of IRS programs and operations (including the Board) to promote the economic, efficient and effective administration of the nation's tax laws and to detect and deter fraud and abuse in IRS programs and operations. In this regard, the Treasury IG for Tax Administration specifically is directed to evaluate the adequacy and security of IRS technology on an ongoing basis. In addition, the Treasury IG for Tax Administration is responsible for protecting the IRS against external attempts to corrupt or threaten its employees. The Treasury IG for Tax Administration is charged with investigating allegations of criminal misconduct (e.g., Code sections 7212, 7213, 7214, 7216 and new section 7217), as well as administrative misconduct (e.g., violations of the Taxpayer Bill of Rights and the Taxpayer Bill of Rights 2, the Office of Government Ethics Standards of Ethical Conduct and the IRS Supplemental Standards of Ethical Conduct).

In addition, the Senate amendment directs the Treasury IG for Tax Administration to implement a program periodically to audit at least one percent of all determinations (identified through a random selection process) where the IRS has asserted either section 6103 (directly or in connection with the Freedom of Information Act or the Privacy Act) or law enforcement considerations (i.e., executive privilege) as a rationale for refusing to disclose requested information. The program must be implemented within 6 months after establishment of the Treasury IG for Tax Administration. The Treasury IG for Tax Administration is directed to report any findings of improper assertion of section 6103 or law enforcement considerations to the Board.

Further, the Treasury IG for Tax Administration is directed to establish a toll-free confidential telephone number for taxpayers to register complaints of misconduct by IRS employees and to publish the telephone number in IRS Publication 1.

There are no restrictions on the Treasury IG for Tax Administration's ability to refer matters to the Department of Justice. Thus, the Treasury IG for Tax Administration is required to report to the Attorney General whenever the Treasury IG for Tax Administration has reasonable grounds to believe that there has been a violation of Federal criminal law.

Authority of Treasury IG for Tax Administration

The Treasury IG for Tax Administration reports to and is under the general supervision of the Secretary of Treasury. Under the Senate amendment, the Secretary cannot prevent or prohibit the Treasury IG for Tax Administration from initiating, carrying out, or completing any audit or investigation or from issuing any subpoena during the course of any audit or investigation.

Under the Senate amendment, the Treasury IG for Tax Administration must provide to the Board all reports regarding IRS matters on a timely basis and conduct audits or investigations requested by the Board. The Treasury IG for Tax Administration also must, in a timely manner, conduct such audits or investigations and provide such reports as may be requested by the Commissioner.

In carrying out the duties and responsibilities described above, the Treasury IG for Tax Administration has the present-law authority generally granted to Inspectors General under the IG Act of 1978. The limitations on the authority of the Treasury IG under such Act do not apply to the Treasury IG for Tax Administration. In addition, the Treasury IG for Tax Administration has the authority granted to the IRS Office of the Chief Inspector under present-law Code section 7608, including the right to execute and serve search and arrest warrants, to serve subpoenas and summonses, to make arrests without warrant, to carry firearms, and to seize property subject to forfeiture under the Code.

Resources

To ensure that the Treasury IG for Tax Administration has sufficient resources to carry out his or her duties and responsibilities under the Senate amendment, all but 300 FTEs from the IRS Office of the Chief Inspector are transferred to the Treasury IG for Tax Administration. Such FTEs include all of the FTEs performing investigative functions in the Office of the Chief Inspector Internal Security and Integrity Investigations and Activities. In addition, the 21 FTEs previously transferred from Inspection to Treasury IG pursuant to the 1990 MOU to perform oversight of the IRS are transferred to the Treasury IG for Tax Administration.

The Commissioner will retain approximately 300 FTEs from the IRS Office of the Chief Inspector to staff an audit function (including support staff) for internal IRS management purposes. Like other IRS functions, however, this audit function is subject to oversight and review by the Treasury IG for Tax Administration.

Access to taxpayer returns and return information

Taxpayer returns and return information are available for inspection by the Treasury IG for Tax Administration pursuant to section 6103(h)(1). Thus, the Treasury IG for Tax Administration has the same access to taxpayer returns and return information as does the Chief Inspector under present law.

Reporting requirements

The Treasury IG for Tax Administration is subject to the semiannual reporting requirements set forth in section 5 of the IG Act of 1978. As under present law, reports are made to the Committees on Government Reform and Oversight and Ways and Means of the House and the Committees on Governmental Affairs and Finance of the Senate. The reports must contain the information that is required to be reported by the Treasury IG with respect to the IRS under present law, as well as information regarding the source, nature and status of taxpayer complaints and allegations of serious misconduct by IRS employees received by the IRS or by the Treasury IG for Tax Administration. In addition, the Treasury IG for Tax Administration is required to report annually on certain additional information (e.g., regarding the use of enforcement statistics in evaluating IRS employees, the implementation of various taxpayer rights protections, and IRS employee terminations and mitigations) required by the Senate amendment.

Treasury IG

The Treasury IG generally continues to have its present-law responsibilities and authority with respect to all Treasury functions other than the IRS and the Board. However, the Treasury IG generally does not have access to taxpayer returns and return information under section 6103 (unless the Secretary specifically authorizes such access).

The Treasury IG for Tax Administration operates independently of the Treasury IG. The Secretary of Treasury is directed to establish procedures pursuant to which the Treasury IG for Tax Administration and the Treasury IG shall coordinate audits and investigations in cases involving overlapping jurisdiction.

The Treasury IG continues to have responsibility for providing an opinion on the Department of Treasury's consolidated financial statement as required under the Chief Financial Officer Act. The Treasury IG for Tax Administration is responsible for rendering an opinion on the IRS custodial and administrative accounts (to the extent the Government Accounting Office does not exercise its option to preempt under the CFO Act).

Effective date.—The provision is effective 180 days after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except as follows. The conference agreement provides that experience in tax administration is not among the qualifications applicable to the Treasury IG for Tax Administration. With respect to the authority of the Treasury IG for Tax Administration, the conference agreement provides that the Commissioner or the Oversight Board may request the Treasury IG for Tax Administration to conduct an audit or investigation relating to the IRS. If the Treasury IG for Tax Administration determines not to conduct an audit or investigation requested by the Commissioner or the Oversight Board, the Treasury IG for Tax Administration shall timely provide the requesting party with a written explanation of its determination. In this regard, the conferees intend that the Treasury IG for Tax Administration shall make all reasonable efforts to be responsive to the requests of the Commissioner and the Oversight Board. In addition, the conference agreement modifies the duties and responsibilities of the Treasury IG for Tax Administration by providing that the responsibility for (1) protecting IRS employees and (2) investigating the backgrounds of prospective IRS employees shall not be transferred to the Treasury IG for Tax Administration, but rather shall remain with the IRS.

F. Prohibition on Executive Branch Influence Over Taxpayer Audits (sec. 104 of the House bill and sec. 1105 of the Senate amendment)

Present Law

There is no explicit prohibition in the Code on high-level Executive Branch influence over taxpayer audits and collection activity.

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).

House Bill

The House bill makes it unlawful for a specified person to request that any officer or employee of the IRS conduct or terminate an audit or otherwise investigate or terminate the investigation of any particular taxpayer with respect to the tax liability of that taxpayer. The prohibition applies to the President, the Vice President, and employees of the executive offices of either the President or Vice President, as well as any individual (except the Attorney General) serving in a position specified in section 5312 of Title 5 of the United States Code (these are generally Cabinet-level positions). The prohibition applies to both direct requests and requests made through an intermediary.

Any request made in violation of this rule must be reported by the IRS employee to whom the request was made to the Chief Inspector of the IRS, who has the authority to investigate such violations and to refer any violations to the Department of Justice for possible prosecution, as appropriate. Anyone convicted of violating this provision will be punished by imprisonment of not more than 5 years or a fine not exceeding $5,000 (or both).

The general prohibition does not apply (1) to a request made to a specified person by a taxpayer or a taxpayer's representative that is forwarded by the specified person to the IRS; (2) to requests for disclosure of returns or return information under section 6103 if the request is made in accordance with the requirements of section 6103; and (3) to requests made by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

Effective date.—The provision applies to violations occurring after the date of enactment.

Senate Amendment

Same as the House bill; in addition, the Senate amendment clarifies that the prohibition applies to direct or indirect requests.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment.

G. Review of Milwaukee and Waukesha IRS Offices (sec. 1106 of the Senate amendment)

Present Law

A task force was initiated in January, 1998, to conduct an investigation of the equal employment opportunity process in the IRS' Milwaukee and Waukesha, Wisconsin offices.

House Bill

No provision.

Senate Amendment

The Senate amendment directs the IRS Commissioner to appoint an independent expert in employment and personnel matters to review the investigation conducted by the task force and report to Congress with recommendations for action not later than July 1, 1999. The review should include a determination of the accuracy and validity of such investigation; and if determined necessary by the expert, a further investigation of such offices relating to: (1) the equal employment opportunity process; and (2) any alleged discriminatory employment-related actions, including any alleged violation of Federal law.

Effective date.—The Senate amendment provisions is effective on date of enactment.

Conference Agreement

The conference agreement follows the House bill. However, the conferees intend that the task force continue to its conclusion. The conferees intend that the General Accounting Office review the report of the task force and report to the House Committee on Ways and Means and the Senate Committee on Finance.

H. IRS Personnel Flexibilities (sec. 111 of the House bill and secs. 1201-1205 of the Senate amendment)

Present Law

The IRS is subject to the personnel rules and procedures set forth in title 5, United States Code, which regulate hiring, evaluating, promoting, and firing employees. Under these rules, IRS employees generally are classified under the General Schedule or the Senior Executive Service.

House Bill

In general

The House bill provides that the IRS exercise the personnel flexibilities consistently with existing rules relating to merit system principles, prohibited personnel practices, and preference eligibles. In those cases where the exercise of personnel flexibilities would affect members of the employees' union, such employees would not be subject to the exercise of any flexibility unless there is a written agreement between the IRS and the employees' union. The written agreement would not be a contract that could be appealed to the Federal Services Impasse Panel, or otherwise create additional appeal rights.

Performance management system

The House bill requires the IRS to establish a new performance management system within one year from the date of enactment. The performance management system would maintain individual accountability by: (1) establishing at least 2 standards of performance, the lowest of which would be the retention standard and would be equivalent to fully successful performance; (2) providing for periodic performance evaluations to determine whether employees are meeting all applicable retention standards; and (3) using the results of such employee's performance evaluation as a basis for adjustments in pay and other appropriate personnel actions. In addition, the performance management system would provide for: (1) establishing goals or objectives for individual, group or organizational performance and taxpayer service surveys; (2) communicating such goals or objectives to employees; and (3) using such goals or objectives to make performance distinctions among employees or groups of employees. It is intended that in no event would performance measures be used which rank employees or groups of employees based solely on enforcement results, establish dollar goals for assessments or collections, or otherwise undermine fair treatment of taxpayers.

Awards

The House bill addresses three types of awards. First, certain awards for superior accomplishments would continue to require certification to the Office of Personnel Management (OPM), but absent objection from OPM within 60 days, the Commissioner's recommendations for such awards would take effect. As with all awards, these awards would be made based on performance under the new performance management system, and in no case would awards be made (or performance measured) based solely or principally on tax enforcement results.

The second category of awards relates to the most senior managers in the IRS. The Commissioner has discretion, upon consultation with the IRS Oversight Board established under section 101 of the House bill, to make awards of up to 50 percent of salary to such manager, so long as the total compensation for an employee as a result of such award does not equal or exceed the annual rate of compensation for the Vice President for such calendar year. As with awards for superior accomplishments, OPM would have 60 days to object. The Commissioner would be required to prescribe regulations defining how determinations would be made as to whether an employee is eligible for such awards. In no case, however, would more than 8 employees be eligible to receive such awards in any calendar year.

The third category of awards would be based on savings and would encourage the practice of rewarding employees for developing more efficient methods of administration. A cash award under this category would not be based solely on tax enforcement results.

Streamlined procedures

The House bill streamlines the process of taking certain adverse actions for poor performance by (1) reducing the notice period for taking adverse actions from 30 days to 15 days, and (2) prohibiting appeals of the denial of a step increase to the Merit Systems Protections Board. Aggrieved employees could appeal such actions pursuant to internal agency procedures, including any procedures agreed to pursuant to collective bargaining agreements or pursuant to the written agreement authorizing the use of this flexibility.

Staffing flexibilities

The House bill provides the IRS with flexibility in filling certain permanent appointments in the competitive service by authorizing the IRS to fill such vacancies with either qualified veterans or qualified temporary employees. For purpose of this provision, a qualified veteran is an individual who is either a preference eligible or has been separated from the armed forces under honorable conditions after at least three years of active service, and who meets the minimum qualifications for the vacant position. A qualified temporary employee is defined under the bill as a temporary employee of the IRS with at least two years of continuous service, who has met all applicable retention standards and who meets the minimum qualifications for the vacant position.

The House bill authorizes the IRS to establish category rating systems for evaluating job applicants, under which qualified candidates are divided into two or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Managers would be authorized to select any candidate from the highest quality category, and would not be limited to the three highest ranked candidates. In administering these category rating systems, the IRS generally would be required to list preference eligibles ahead of other individuals within each quality category. The appointing authority, however, could select any candidate from the highest quality category, as long as existing requirements relating to passing over preference eligibles were satisfied.

The House bill authorizes the Commissioner to reassign or remove career appointees in the Senior Executive Service immediately upon taking office.

The House bill authorizes the Commissioner to establish probation periods for IRS employees of up to 3 years, when the Commissioner determines that a shorter period is not sufficient for an employee to demonstrate proficiency in a position.

Demonstration projects

The House bill authorizes the Commissioner to conduct 1 or more demonstration projects to (1) improve personnel management, (2) provide increased individual accountability, (3) eliminate obstacles to the removal or imposing any disciplinary action with respect to poor performers, subject to the requirements of due process, (4) expedite appeals from adverse actions or performance-based actions, and (5) promote pay based on performance.

The House bill maintains a number of the existing prohibitions on demonstration projects, including the prohibition on using demonstration projects to waive any requirement of title 5 relating to family and medical leave. The House bill requires the IRS to negotiate a written agreement with the employees' union to the extent that the implementation of a demonstration project affects such employees.

The House bill establishes a general time limitation of 5 years on the duration of any demonstration project. However, if the Commissioner and the Director of OPM concur, a demonstration project could be extended for an additional 2 years if necessary to validate the results of the project. Not later than 6 months prior to the termination of a project, the House bill would require the Commissioner to submit a legislative proposal to the Congress if the Commissioner determines that such project should be made permanent.

Effective date

The provision is effective on the date of enactment.

Senate Amendment

In general

The Senate amendment is the same as the House bill except that negotiation impasses between the IRS and the employees' union may be appealed to the Federal Services Impasse Panel.

Senior management and technical positions

Streamlined critical pay authority

The Senate amendment provides a streamlined process for the Secretary of the Treasury, or his delegate, to fix the compensation of, and appoint up to 40 individuals to, designated critical technical and professional positions, provided that: (1) the positions require expertise of an extremely high level in a technical, administrative or professional field and are critical to the IRS; (2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position; (3) designation of such positions is approved by the Secretary; (4) the terms of such appointments are limited to no more than four years; (5) appointees to such positions are not IRS employees immediately prior to such appointment; and (6) the total annual compensation for any position (including performance bonuses) does not exceed the rate of pay of the Vice President (currently, $175,400).

These appointments are not subject to the otherwise applicable requirements under title 5. All such appointments will be excluded from the collective bargaining unit and the appointments will not be subject to approval of the Office of Management and Budget ("OMB") or the Office of Personnel Management ("OPM").

The streamlined authority will be limited to a period of 10 years.

Critical pay authority

The Senate amendment provides OMB with authority to set the pay for certain critical pay positions requested by the Secretary under section 5377 of title 5 of the United States Code at levels higher than authorized under current law. These critical pay positions would be critical technical, administrative and professional positions other than those designated under the streamlined authority. The Senate amendment authorizes OMB to approve requests for critical position pay up to the rate of pay of the Vice President (currently, $175,400).

Recruitment, retention and relocation incentives

The Senate amendment authorizes the Secretary to vary from the existing provisions governing recruitment, retention and relocation incentives. The authority will be for a period of 10 years and will be subject to OPM approval.

Career-reserve Senior Executive Service ("SES") positions

The Senate amendment broadens the definition of a "career reserved position" in the SES to include a limited emergency appointee or a limited term appointee who, immediately upon entering the career-reserved position, was serving under a career or a career-conditional appointment outside the SES or whose limited emergency or limited term appointment is approved in advance by OPM. The number of appointments to these SES positions will be limited to up to 10 percent of the total number of SES positions available to the IRS. These positions will be limited to a 3-year term, with the option of extending the term for 2 more 3-year terms.

Performance management system

The Senate amendment is the same as the House bill except that (1) the Senate amendment does not require that the IRS establish the performance management system within one year from the date of enactment, and (2) the Senate amendment does not provide for the establishment of at least 2 standards of performance. The Senate amendment permits the IRS to establish one or more retention standards for each employee related to the work of the employee and expressed in terms of performance.

Awards

The Senate amendment is the same as the House bill except that the Senate amendment (1) provides that awards for superior accomplishments between $10,000 and $25,000 would not be subject to OPM approval, and (2) provides the Secretary with the authority to provide performance bonus awards to IRS senior executives of up to one-third of the individual's annual compensation. The bonus award would be based on meeting preset performance goals established by the IRS. An individual's total annual compensation, including the bonus, cannot exceed the rate of pay of the Vice President. The authority will not be subject to OPM approval. It is anticipated that the bonuses will not be available to more than 25 IRS senior executives annually.

Staffing flexibilities

The Senate amendment is the same as the House bill, except that the Senate amendment (1) does not include the requirement that the IRS fill vacancies with qualified veterans, and (2) does not authorize the Commissioner to reassign or remove career appointees in the Senior Executive Service immediately upon taking office. The current law rule which provides that career appointees may not be involuntarily removed within 120 days after the appointment of the head of the agency continues to apply.

The Senate amendment authorizes the Secretary to establish one or more broad band pay systems covering all or any portion of the IRS workforce, subject to OPM criteria.

The Senate amendment authorizes the IRS to use Voluntary Separation Incentive Pay ("buyouts") through December 31, 2002. The use of voluntary separation incentive is not intended to reduce the total number of Full-Time Equivalent ("FTE") positions in the IRS.

Demonstration projects

The Senate amendment is the same as the House bill except that the Senate amendment (1) does not include the prohibitions on demonstration projects, and (2) provides authority to the Secretary and OPM to waive the termination of a demonstration project, thereby making it permanent. At least 90 days prior to waiving the termination date OPM will be required to publish a notice of such intent in the Federal Register and inform the appropriate Committees (including the House Ways and Means Committee, the House Government Reform and Oversight Committee, the Senate Finance Committee and the Senate Governmental Affairs Committee) of both Houses of Congress in writing.

Mandatory employee terminations

The Senate amendment requires the IRS to terminate an employee for certain proven violations committed by the employee in connection with the performance of official duties. The violations include: (1) failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets; (2) providing a false statement under oath material to a matter involving a taxpayer; (3) falsifying or destroying documents to avoid uncovering mistakes made by the employee with respect to a matter involving a taxpayer; (4) assault or battery on a taxpayer or other IRS employee; (5) violation of the civil rights of a taxpayer or other IRS employee; (6) violations of the Internal Revenue Code, Treasury Regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating or harassing a taxpayer or other IRS employee; (7) willful misuse of section 6103 for the purpose of concealing data from a Congressional inquiry; (8) willful failure to file any tax return required under the Code on or before the due date (including extensions) unless failure is due to reasonable cause; (9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause; and (10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

The Senate amendment provides non-delegable authority to the Commissioner to determine that mitigating factors exist, that, in the Commissioner's sole discretion, mitigate against terminating the employee. The Senate amendment also provides that the Commissioner, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred for such a determination by the Commissioner. The Treasury IG is required to track employee terminations and terminations that would have occurred had the Commissioner not determined that there were mitigation factors and include such information in the IG's annual report.

IRS employee training program

The Senate amendment requires the IRS to place a high priority on employee training and to adequately fund employee training programs. The bill also requires the IRS to provide to the Congressional tax writing committees a comprehensive multi-year plan to: (1) ensure adequate customer service training; (2) review the organizational design of customer service; (3) implement a performance development system; and (4) provide for at least sixteen hours of conflict management training during 1999 for collection employees.

Effective date

The provision is effective on the date of enactment except that the IRS employee training program would be effective 90 days after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, with modifications. The conference agreement includes the House bill provision requiring the IRS to establish a new performance management system within one year from the date of enactment.

The conferees intend to give the IRS flexibility to establish a new performance management system. The conferees expect that this will refocus the IRS' personnel system on the overall mission of the IRS and how each employee's performance relates to that mission. Although the new performance standards are premised on the notion of retention, such standards should go beyond simply establishing a retention/non-retention or pass-fail performance system. At a minimum, the conferees believe that there should be at least one standard above the retention standard. This will enable managers to make meaningful distinctions among employees based on performance, to encourage employees to perform at a higher level and to reward superior performance.

The conference agreement permits the Secretary to appoint an individual, who was appointed an IRS employee on or after June 1, 1998, to a critical pay position under the streamlined critical pay authority.

The conference agreement also authorizes the IRS to pay certain relocation expenses for individuals appointed to critical pay positions after June 1, 1998. This authority is for a period of 10 years after the date of enactment.

The provision (in particular the written agreement requirement) is not intended to expand the jurisdiction of the Federal Service Impasses Panel.

With respect to mandatory terminations of employees for certain proven violations committed by the employee in connection with the performance of official duties, the conference agreement modifies the definitions of some of the violations. The definitions of the other violations are the same as the Senate amendment. The modified definitions are: (1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets; (2) assault or battery on a taxpayer or other IRS employee, but only if there is a criminal conviction or a final judgment by a court in a civil case, with respect to the assault or battery; (3) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative; and (4) with respect to a taxpayer, taxpayer representative, or other IRS employee, the violation of any right under the U.S. Constitution, or any civil right established under titles VI or VII of the Civil Rights Act of 1964, title IX of the Educational Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, sections 501 or 504 of the Rehabilitation Act of 1973 and title I of the Americans with Disabilities Act of 1990.

The conference agreement also provides that the Commissioner is to implement an employee training program no later than 180 days after enactment.

TITLE II. ELECTRONIC FILING

A. Electronic Filing of Tax and Information Returns (sec. 201 of the House bill and sec. 2001 of the Senate amendment)

Present Law

Treasury Regulations section 1.6012-5 provides that the Commissioner may authorize a taxpayer to elect to file a composite return in lieu of a paper return. An electronically filed return is a composite return consisting of electronically transmitted data and certain paper documents that cannot be electronically transmitted.

The IRS periodically publishes a list of the forms and schedules that may be electronically transmitted, as well as a list of forms, schedules, and other information that cannot be electronically filed.

During the 1997 tax filing season, the IRS received approximately 20 million individual income tax returns electronically.

House Bill

The House bill states that the policy of Congress is to promote paperless filing, with a long-range goal of providing for the filing of at least 80 percent of all tax returns in electronic form by the year 2007. The provision requires the Secretary of the Treasury to establish a strategic plan to eliminate barriers, provide incentives, and use competitive market forces to increase taxpayer use of electronic filing. The provision requires all returns prepared in electronic form but filed in paper form to be filed electronically, to the extent feasible, by the year 2002.

The provision requires the Secretary to promote electronic filing and to create an electronic commerce advisory group and to report annually to the Congress on electronic filing implementation issues.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill, except as follows. The Senate amendment also states that it is the policy of Congress that electronic filing should be a voluntary option for taxpayers. The Senate amendment also requires that the annual report discuss the effects on small businesses and the self-employed of electronically filing tax and information returns.

In addition, the Senate amendment states that the policy of Congress is that the IRS should cooperate with the private sector by encouraging competition to increase electronic filing.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement generally follows the Senate amendment, except that the provision in the Senate amendment that states that it is the policy of Congress that electronic filing should be a voluntary option for taxpayers is deleted.[1] The provision on private sector cooperation is clarified to provide that the IRS should cooperate with and encourage the private sector by encouraging competition to increase electronic filing of returns. The intent of the conferees with respect to this provision is for the IRS and Treasury to press for robust private sector competition. When disputes arise between the IRS and the private sector on the question of whether services offered by the IRS inhibit competition or are appropriate services not reasonably available to taxpayers or tax preparers, the Electronic Commerce Advisory Group shall recommend to the IRS Commissioner an appropriate course of action. Those recommendations shall also be made available to the Congress. Notwithstanding the previous sentence, the conferees also intend that the IRS should continue to offer and improve its Telefile program and make available a comparable program on the Internet.

B. Due Date for Certain Information Returns (sec. 202 of the House bill and sec. 2002 of the Senate amendment)

Present Law

Information such as the amount of dividends, partnership distributions, and interest paid during the calendar year must be supplied to taxpayers by the payors by January 31 of the following calendar year. The payors must file an information return with the IRS with the information by February 28 of the year following the calendar year for which the return must be filed. Under present law, the due date for filing information returns with the IRS is the same whether such returns are filed on paper, on magnetic media, or electronically. Most information returns are filed on magnetic media (such as computer tapes), which are physically shipped to the IRS.

House Bill

The House bill provides an incentive to filers of information returns to use electronic filing by extending the due date for filing such returns with the IRS from February 28 (under present law) to March 31 of the year following the calendar year to which the return relates.

Effective date.—Information returns required to be filed after December 31, 1999.

Senate Amendment

Same as the House bill except that the Senate amendment also requires the Treasury to issue a study evaluating the merits and disadvantages, if any, of extending the deadline for providing taxpayers with copies of information returns (other than Forms W-2) from January 31 to February 15.

Effective date.—Same as the House bill, except that the Treasury study is due by December 31, 1998.

Conference Agreement

The conference agreement follows the Senate amendment, except that the Treasury study is due by June 30, 1999.

C. Paperless Electronic Filing (sec. 203 of the House bill and sec. 2003 of the Senate amendment)

Present Law

Code section 6061 requires that tax forms be signed as required by the Secretary. The IRS will not accept an electronically filed return unless it has also received a Form 8453, which is a paper form that contains signature information of the filer.

A return generally is considered timely filed when it is received by the IRS on or before the due date of the return. If the requirements of Code section 7502 are met, timely mailing is treated as timely filing. If the return is mailed by registered mail, the dated registration statement is prima facie evidence of delivery.

The IRS periodically publishes a list of the forms and schedules that may be electronically transmitted, as well as a list of forms, schedules, and other information that cannot be electronically filed.

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[1] No inference is intended by this deletion. Present law (section 6011(e)(1) of the Code) already states that returns of any tax imposed by subtitle A (income taxes and self-employment taxes) on individuals, estates and trusts may not be required to be filed in any format (such as by electronic means) other than on paper forms supplied by the IRS.

House Bill

The House bill requires the Secretary to develop procedures that would eliminate the need to file a paper form relating to signature information. Until the procedures are in place, the provision authorizes the Secretary to provide for alternative methods of signing all returns, declarations, statements, or other documents or to waive the signature requirement. An alternative method of signature would be treated identically, for both civil and criminal purposes, as a signature on a paper form.

The provision also provides rules for determining when electronic returns are deemed filed and for authorization for return preparers to communicate with the IRS on matters included on electronically filed returns.

The provision requires the Secretary to establish procedures, to the extent practicable, to receive all forms electronically for taxable periods beginning after December 31, 1998.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill, with the following exceptions. (1) The Senate amendment deletes the provision permitting the Secretary to waive the signature requirement. (2) The Secretary of the Treasury must establish procedures for all tax forms, instructions, and publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. (3) The Secretary of the Treasury must, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form.

Effective date.—Generally effective on the date of enactment. The provision which relates to Internet access to IRS forms, instructions, publications, and guidance is effective for taxable periods beginning after December 31, 1998.

Conference Agreement

The conference agreement follows the Senate amendment, except as follows. The Secretary is permitted to waive the signature requirement, but only returns signed or subscribed under alternative methods prescribed by the Secretary (not including waiver) are entitled to be treated as though signed or subscribed. The provision that requires the Secretary, to the extent practicable, to receive all forms electronically applies to taxable periods after December 31, 1999. The provision relating to authorizing return preparers to communicate with the IRS on matters included on electronically filed returns is clarified.

D. Return-Free Tax System (sec. 204 of the House bill and sec. 2004 of the Senate amendment)

Present Law

Under present law, taxpayers generally are required to calculate their own tax liabilities and submit returns showing their calculations.

House Bill

The provision requires the Secretary or his delegate to study the feasibility of, and develop procedures for, the implementation of a return-free tax system for appropriate individuals for taxable years beginning after 2007. The Secretary is required annually to report to the tax-writing committees on the progress of the development of such system. The Secretary is required to make the first report on the development of the return-free tax system to the tax-writing committees by June 30, 2000.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

E. Access to Account Information (sec. 205 of the House bill and sec. 2005 of the Senate amendment)

Present Law

Taxpayers who file their returns electronically cannot review their accounts electronically.

House Bill

The House bill requires the Secretary to develop procedures not later than December 31, 2006, under which a taxpayer filing returns electronically (or the taxpayer's designee under section 6103(c)) could review the taxpayer's own account electronically, but only if all necessary privacy safeguards are in place by that date.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill, except that the Secretary is also required to issue an interim progress report to the tax-writing committees by December 31, 2003.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment.

TITLE III. TAXPAYER PROTECTION AND RIGHTS

A. Burden of Proof (sec. 301 of the House bill and sec. 3001 of the Senate amendment)

Present Law

Under present law, a rebuttable presumption exists that the Commissioner's determination of tax liability is correct. "This presumption in favor of the Commissioner is a procedural device that requires the plaintiff to go forward with prima facie evidence to support a finding contrary to the Commissioner's determination. Once this procedural burden is satisfied, the taxpayer must still carry the ultimate burden of proof or persuasion on the merits. Thus, the plaintiff not only has the burden of proof of establishing that the Commissioner's determination was incorrect, but also of establishing the merit of its claims by a preponderance of the evidence" (*Danville Plywood Corp.* v. *U.S.*, U.S. Cl. Ct., 63 AFTR 2d 89-1036, 1043 (1989)).

The general rebuttable presumption that the Commissioner's determination of tax liability is correct is a fundamental element of the structure of the Internal Revenue Code. Although this presumption is judicially based, rather than legislatively based, there is considerable evidence that the presumption has been repeatedly considered and approved by the Congress. This is the case because the Internal Revenue Code contains a number of civil provisions that explicitly place the burden of proof on the Commissioner in specifically designated circumstances.

House Bill

The House bill provides that the Secretary shall have the burden of proof in any court proceeding with respect to a factual issue if the taxpayer asserts a reasonable dispute with respect to any such issue relevant to ascertaining the taxpayer's income tax liability. Two conditions apply. First, the taxpayer must fully cooperate at all times with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer, as reasonably requested by the Secretary).[2] Full cooperation also includes providing reasonable assistance to the Secretary in obtaining access to and inspection of witnesses, information, or documents not within the control of the taxpayer (including any witnesses, information, or documents located in foreign countries).[3] A necessary element of fully cooperating with the Secretary is that the taxpayer must exhaust his or her administrative remedies (including any appeal rights provided by the IRS). The taxpayer is not required to agree to extend the statute of limitations to be considered to have fully cooperated with the Secretary. Second, certain taxpayers must meet the net worth limitations that apply for awarding attorney's fees. In general, corporations, trusts, and partnerships whose net worth exceeds $7 million are not eligible for the benefits of the provision. The taxpayer has the burden of proving that it meets each of these conditions, because they are necessary prerequisites to establishing that the burden of proof is on the Secretary.

The provision explicitly states that nothing in the provision shall be construed to override any requirement under the Code or regulations to substantiate any item. Accordingly, taxpayers must meet all applicable substantiation requirements, whether generally imposed or imposed[4] with respect to specific items, such as charitable contributions[5] or meals, entertainment, travel, and certain other expenses.[6] Substantiation requirements include any requirement of the Code or regulations that the taxpayer establish an item to the satisfaction of the Secretary.[7] Taxpayers who fail to substantiate any item in accordance with the legal requirement of substantiation will not have satisfied all of the legal conditions that are prerequisite to claiming the item on the taxpayer's tax return and will accordingly be unable to avail themselves of this provision regarding the burden of proof. Thus, if a taxpayer required to substantiate an item fails to do so in the manner required (or destroys the substantiation), this burden of proof provision is inapplicable.[8]

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[2] This requirement parallels the present-law provision relating to reasonable verification of informatin returns (sec. 6201(d)).

[3] Full cooperation also includes providing English translations, as reasonably requested by the Secretary.

[4] See e.g., Sec. 6001 and Treas. Reg. sec. 1.6001-1 requiring every person liable for any tax imposed by this Title to keep such records as the Secretary may from time to time prescribe, and secs. 6038 and 6038A requiring United States persons to furnish certain information the Secretary may prescribe with respect to foreign businesses controlled by the U.S. person.

[5] Sec. 170(a)(1) and (f)(8) and Treas. Reg. sec. 1.170A-13.

[6] Sec. 274(d) and Treas. Reg. sec. 1.274(d)-1, 1.274-5T, and 1.274-5A.

[7] For example, sec. 905(b) of the Code provides that foreign tax credits shall be allowed only if the taxpayer establishes to the satisfaction of the Secretary all information necessary for the verification and computation of the credit. Instructions for meeting that requirement are set forth in Treas. Reg. sec. 1.905-2.

[8] If, however, the taxpayer can demonstrate that he had maintained the required substantiation but that it was destroyed or lost through no fault of the taxpayer, such as by fire or flood, existing tax rules regarding reconstruction of those records would continue to apply.

Effective date.—The provision applies to court proceedings arising in connection with examinations commencing after the date of enactment.

Senate Amendment

The Senate amendment provides that the Secretary shall have the burden of proof in any court proceeding with respect to a factual issue if the taxpayer introduces credible evidence with respect to the factual issue relevant to ascertaining the taxpayer's income tax liability. Four conditions apply. First, the taxpayer must comply with the requirements of the Internal Revenue Code and the regulations issued thereunder to substantiate any item (as under present law). Second, the taxpayer must maintain records required by the Code and regulations (as under present law). Third, the taxpayer must cooperate with reasonable requests by the Secretary for meetings, interviews, witnesses, information, and documents (including providing, within a reasonable period of time, access to and inspection of witnesses, information, and documents within the control of the taxpayer, as reasonably requested by the Secretary). Cooperation also includes providing reasonable assistance to the Secretary in obtaining access to and inspection of witnesses, information, or documents not within the control of the taxpayer (including any witnesses, information, or documents located in foreign countries).[9] A necessary element of cooperating with the Secretary is that the taxpayer must exhaust his or her administrative remedies (including any appeal rights provided by the IRS). The taxpayer is not required to agree to extend the statute of limitations to be considered to have cooperated with the Secretary. Cooperating also means that the taxpayer must establish the applicability of any privilege. Fourth, taxpayers other than individuals must meet the net worth limitations that apply for awarding attorney's fees (accordingly, no net worth limitation would be applicable to individuals). Corporations, trusts, and partnerships whose net worth exceeds $7 million are not eligible for the benefits of the provision. The taxpayer has the burden of proving that it meets each of these conditions, because they are necessary prerequisites to establishing that the burden of proof is on the Secretary.

In the case of court proceedings arising in connection with examinations commencing six months after the date of enactment and before June 1, 2001, the provision applies to any tax liability of the taxpayer.

The burden will shift to the Secretary under this provision only if the taxpayer first introduces credible evidence with respect to a factual issue relevant to ascertaining the taxpayer's income tax liability. Credible evidence is the quality of evidence which, after critical analysis, the court would find sufficient upon which to base a decision on the issue if no contrary evidence were submitted (without regard to the judicial presumption of IRS correctness). A taxpayer has not produced credible evidence for these purposes if the taxpayer merely makes implausible factual assertions, frivolous claims, or tax protestor-type arguments. The introduction of evidence will not meet this standard if the court is not convinced that it is worthy of belief. If after evidence from both sides, the court believes that the evidence is equally balanced, the court shall find that the Secretary has not sustained his burden of proof.

Nothing in the provision shall be construed to override any requirement under the Code or regulations to substantiate any item. Accordingly, taxpayers must meet applicable substantiation requirements, whether generally imposed[10] or imposed with respect to specific items, such as charitable contributions[11] or meals, entertainment, travel, and certain other expenses.[12] Substantiation requirements include any requirement of the Code or regulations that the taxpayer establish an item to the satisfaction of the Secretary.[13] Taxpayers who fail to substantiate any item in accordance with the legal requirement of substantiation will not have satisfied the legal conditions that are prerequisite to claiming the item on the taxpayer's tax return and will accordingly be unable to avail themselves of this provision regarding the burden of proof. Thus, if a taxpayer required to substantiate an item fails to do so in the manner required (or destroys the substantiation), this burden of proof provision is inapplicable.[14]

In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

Further, the provision provides that, in any court proceeding, the Secretary must initially come forward with evidence that it is appropriate to apply a particular penalty to the taxpayer before the court can impose the penalty. This provision is not intended to require the Secretary to introduce evidence of elements such as reasonable cause or substantial authority. Rather, the Secretary must come forward initially with evidence regarding the appropriateness of applying a particular penalty to the taxpayer; if the taxpayer believes that, because of reasonable cause, substantial authority, or a similar provision, it is inappropriate to impose the penalty, it is the taxpayer's responsibility (and not the Secretary's obligation) to raise those issues.

Effective date.—The provision applies to court proceedings arising in connection with examinations commencing after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except as follows. The provision applies to income,[15] estate, gift, and generation-skipping transfer taxes, permanently (i.e., without the June 1, 2001 termination of some taxes as under the Senate amendment). The effective date is clarified by adding that in any case in which there is no examination, the provision applies to court proceedings arising in connection with taxable periods or events beginning or occurring after the date of enactment. An audit is not the only event that would be considered an examination for purposes of this provision. For example, the matching of an information return against amounts reported on a tax return is intended to be an examination for purposes of this provision. Similarly, the review of a claim for refund prior to issuing that refund is also intended to be an examination for purposes of this provision.

B. Proceedings by Taxpayers

1. Expansion of authority to award costs and certain fees (sec. 311 of the House bill and sec. 3101 of the Senate amendment)

Present Law

Any person who substantially prevails in any action by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding. Reasonable administrative costs are defined as (1) any administrative fees or similar charges imposed by the IRS and (2) expenses, costs and fees related to attorneys, expert witnesses, and studies or analyses necessary for preparation of the case, to the extent that such costs are incurred before the earlier of the date of the notice of decision by IRS Appeals or the notice of deficiency. Net worth limitations apply.

Reasonable litigation costs include reasonable fees paid or incurred for the services of attorneys, except that the attorney's fees will not be reimbursed at a rate in excess of $110 per hour (indexed for inflation) unless the court determines that a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

Rule 68 of the Federal Rules of Civil Procedure (FRCP) provides a procedure under which a party may recover costs if the party's offer for judgment was rejected and the subsequent court judgment was less favorable to the opposing party than the offer. The offering party's costs are limited to the costs (excluding attorney's fees) incurred after the offer was made. The FRCP generally apply to tax litigation in the district courts and the United States Court of Federal Claims.

Code section 7431 permits the award of civil damages for unauthorized inspection or disclosure of return information. The Federal appellate courts are split over whether a party who substantially prevails over the United States in an action under Code section 7431 is eligible for an award of fees and reasonable costs.

House Bill

The House bill:

(1) Moves the point in time after which reasonable administrative costs can be awarded to the date on which the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals is sent;

(2) Provides that the difficulty of the issues presented on the unavailability of local tax expertise can be used to justify an award of attorney's fees of more than the statutory limit of $110 per hour;

(3) Permits the award of reasonable attorney's fees to specified persons who represent for no more than a nominal fee a taxpayer who is a prevailing party; and

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[9] Cooperation also includes providing English translations, as reasonably requested by the Secretary.

[10] See e.g., Sec. 6001 and Treas. Reg. sec. 1.6001–1 requiring every person liable for any tax imposed by this Title to keep such records as the Secretary may from time to time prescribe, and secs. 6038 and 6038A requiring United States persons to furnish certain information the Secretary may prescribe with respect to foreign businesses controlled by the U.S. person.

[11] Sec. 170(a)(1) and (f)(8) and Treas. Reg. sec. 1.170A–13.

[12] Sec. 274(d) and Treas. Reg. sec. 1.274(d)–1, 1.274–5T, and 1.274–5A.

[13] For example, sec. 905(b) of the Code provides that foreign tax credits shall be allowed only if the taxpayer establishes to the satisfaction of the Secretary all information necessary for the verification and computation of the credit. Instructions for meeting that requirement are set forth in Treas. Reg. sec. 1.905–2.

[14] If, however, the taxpayer can demonstrate that he had maintained the required substantiation but that it was destroyed or lost through no fault of the taxpayer, such as by fire or flood, existing tax rules regarding reconstruction of those records would continue to apply.

[15] For this purpose, self-employment taxes are treated as income taxes.

(4) Provides that in determining whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in other courts of appeal on substantially similar issues.

Effective date.—Costs incurred and services performed more than 180 days after the date of enactment.

Senate Amendment

The Senate amendment:

(1) Is the same as the House bill;

(2) Permits awards of reasonable attorney's fees by deleting the hourly rate caps (and the exceptions to those caps);

(3) Is the same as the House bill; and

(4) Is the same as the House bill.

In addition, the Senate amendment:

(5) Provides that if a taxpayer makes an offer after the taxpayer has a right to administrative review in the IRS Office of Appeals, the IRS rejects the offer, and later the IRS obtains a judgment against the taxpayer in an amount that is equal to or less than the taxpayer's offer for the amount of the tax liability (excluding interest), reasonable costs and attorney's fees from the date of the offer would be awarded; and

(6) Clarifies that the award of attorney's fees is permitted in actions for civil damages for unauthorized inspection or disclosure of taxpayer returns and return information.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment, except that the conference agreement follows the House bill with respect to the hourly rate caps, with the following modification. The hourly rate is raised to $125 per hour, which parallels the rate utilized under the Equal Access to Justice Act (the statute that authorizes the awarding of attorney's fees in non-tax Federal cases). This new cap will continue to be indexed for inflation (as under present law). With respect to the award of attorney's fees in unauthorized inspection and disclosure cases, the conferees wish to clarify that fees are payable by the United States only when the United States is the defendant and the plaintiff is a prevailing party. Also, individual defendants (such as State employees or contractors) may be liable for attorneys' fees and costs in cases where the United States is not a party, whenever they are found to have made a wrongful disclosure.

2. Civil damages for collection actions (sec. 312 of the House bill and sec. 3102 of the Senate amendment)

Present Law

A taxpayer may sue the United States for up to $1 million of civil damages caused by an officer or employee of the IRS who recklessly or intentionally disregards provisions of the Internal Revenue Code or Treasury regulations in connection with the collection of Federal tax with respect to the taxpayer.

House Bill

The House bill permits up to $100,000 in civil damages caused by an officer or employee of the IRS who negligently disregards provisions of the Internal Revenue Code or Treasury regulations in connection with the collection of Federal tax with respect to the taxpayer.

Effective date.—Actions of officers or employees of the IRS occurring after the date of enactment.

Senate Amendment

Same as the House bill, except that the provision also permits up to $1 million in civil damages caused by an officer or employee of the IRS who willfully violates provisions of the Bankruptcy Code relating to automatic stays or discharges. The provision also provides that persons other than the taxpayer may sue for civil damages for unauthorized collection actions.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment.

3. Increase in size of cases permitted on small case calendar (sec. 313 of the House bill and sec. 3103 of the Senate amendment)

Present Law

Taxpayers may choose to contest many tax disputes in the Tax Court. Special small case procedures apply to disputes involving $10,000 or less, if the taxpayer chooses to utilize these procedures (and the Tax Court concurs). The IRS cannot require the taxpayer to use the small case procedures. The Tax Court generally concurs with the taxpayer's request to use the small case procedures, unless it decides that the case involves an issue that should be heard under the normal procedures. After the case has commenced, the Tax Court may order that the small case procedures should be discontinued only if (1) there is reason to believe that the amount in controversy will exceed $10,000 or (2) justice would require the change in procedure.

House Bill

The House bill increases the cap for small case treatment from $10,000 to $25,000.

Effective date.—Proceedings commenced after the date of enactment.

Senate Amendment

The Senate amendment increases the cap for small case treatment from $10,000 to $50,000.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment. The conferees recognize that an increase of this size may encompass a small number of cases of significant precedential value. Accordingly, the conferees anticipate that the Tax Court will carefully consider (1) IRS objections to small case treatment, such as objections based upon the potential precedential value of the case, as well as (2) the financial impact on the taxpayer, including additional legal fees and costs, of not utilizing small case treatment.

4. Expansion of Tax Court jurisdiction to responsible person penalties (sec. 3104 of the Senate amendment)

Present Law

In general, employers are required to withhold income taxes and social security taxes from their employee's wages. These withheld taxes constitute a trust in favor of the United States from the time that the employer deducts them from the employee's wages, and the employer is liable to the government for the payment of such taxes. All persons considered responsible for the withholding and payment of taxes are subject to a penalty equal to the amount of taxes due where the employer fails to turn over such funds to the government (the "responsible person" penalty, also known as the "100 percent" penalty). Generally, the determination of whether a person is a "responsible person" is a question of the person's status, duty, and authority in the context of the business which has failed to collect and pay over taxes required to be withheld. A responsible person penalty may also be imposed on a payroll lender.

The Tax Court has no jurisdiction over the determination of the correctness of the assessment of the responsible person penalty. Accordingly, as the Tax Court is the only pre-payment forum for the determination of tax liability, the imposition of the responsible person penalty can only be challenged in a refund suit in the appropriate district court or the U.S. Court of Federal Claims after payment of such penalty. The responsible person penalty is a divisible tax. Thus, unlike a refund suit for income taxes, a responsible person need not pay the full amount of the assessment to invoke the jurisdiction of the district court or the U.S. Court of Federal Claims. Instead, the alleged responsible person may commence a refund suit after payment of the portion of the penalty attributable to one employee for one quarter.

House Bill

No provision.

Senate Amendment

The Senate amendment provides Tax Court jurisdiction over the "responsible person" penalty. Accordingly, the responsible person does not have to make a payment before challenging the imposition of the penalty.

Effective date.—Penalties imposed after the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

5. Actions for refund with respect to certain estates which have elected the installment method of payment (sec. 371 of the House bill and 3105 of the Senate amendment)

Present Law

In general, the U.S. Court of Federal Claims and the U.S. district courts have jurisdiction over suits for the refund of taxes, as long as full payment of the assessed tax liability has been made. Under Code section 6166, if certain conditions are met, the executor of a decedent's estate may elect to pay the estate tax attributable to certain closely-held businesses over a 14-year period. Courts have held that U.S. district courts and the U.S. Court of Federal Claims do not have jurisdiction over claims for refunds by taxpayers deferring estate tax payments pursuant to section 6166 unless the entire estate tax liability has been paid. Under section 7479, the U.S. Tax Court has limited authority to provide declaratory judgments regarding initial or continuing eligibility for deferral under section 6166.

House Bill

The House bill grants the U.S. Court of Federal Claims and the U.S. district courts jurisdiction to determine the correct amount of estate tax liability (or refund) in actions brought by taxpayers deferring estate tax payments under section 6166, as long as certain conditions are met. In order to qualify for the provision: (1) the estate must have made an election pursuant to section 6166; (2) the estate must have fully paid each installment of principal and/or interest due (and all non-6166-related estate taxes due) before the date the suit is filed; (3) no portion of the payments due may have been accelerated; (4) there must be no suits for declaratory judgment pursuant to section 7479 pending; and (5) there must be no outstanding deficiency notices against the estate. In general, to the extent that a taxpayer has previously litigated its estate tax liability, the taxpayer would not be able to take advantage of this procedure under principles of res judicata. Taxpayers are not relieved of the liability to make any installment payments that become due during the pendency of the suit (i.e., failure to make such payments would subject the taxpayer to the existing provisions of section 6166(g)(3)).

The House bill further provides that once a final judgment has been entered by a district court or the U.S. Court of Federal Claims, the IRS is not permitted to collect any amount disallowed by the court, and any amounts paid by the taxpayer in excess of the amount the court finds to be currently due and payable are refunded to the taxpayer, with interest. Lastly, the provision provides that the two-year statute of limitations for filing a refund action is suspended during the pendency of any action brought by a taxpayer pursuant to section 7479 for a declaratory judgment as to an estate's eligibility for section 6166.

Effective date.—Claims for refunds filed after the date of enactment.

Senate Amendment

Generally same as the House bill, with technical modifications.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment.

6. Tax Court jurisdiction to review an adverse IRS determination of a bond issue's tax-exempt status (sec. 3106 of the Senate amendment)

Present Law

Interest on debt incurred by States or local governments generally is excluded from gross income if the proceeds of the borrowing are used to carry out governmental functions of those entities and the debt is repaid with governmental funds.

A State or local government that seeks to issue bonds, the interest on which is intended to be excludable from gross income, can request a ruling from the IRS regarding the eligibility of such bonds for tax-exemption. The prospective issuer can challenge the IRS's determination (or failure to make a timely determination) in a declaratory judgment proceeding in the Tax Court. Because bondholders, not issuers, are the parties whose tax liability is affected, issuers are not allowed to litigate the tax-exempt status of the bonds directly after the bonds are issued.

House Bill

No provision.

Senate Amendment

The Senate amendment expands the declaratory judgment procedures currently applicable to prospective bond issuers to allow issuers to litigate in the Tax Court issues related to the tax-exempt status of outstanding bonds. In such cases, the issuer must provide adequate notice to outstanding bondholders, and the bondholders are authorized to intervene in court proceedings brought under this provision. The statute of limitations on assessment and collection of the tax liability of the bondholders is suspended during the pendency of the proceeding.

Effective date.—Determinations of tax-exempt status made after the date of enactment. In the case of a determination under a technical advice memorandum the public release of which occurred within one year of the date of enactment, a pleading may be filed not later than 90 days after the date of enactment.

Conference Agreement

In lieu of the Senate amendment provision, the conference agreement directs the Internal Revenue Service to modify its administrative procedures to allow tax-exempt bond issuers examined by the IRS to appeal adverse examination determinations to the Appeals Division of the IRS as a matter of right. Because of the complexity of the issues involved, the IRS is directed to provide that these appeals will be heard by senior appeals officers having experience in resolving complex cases.

The conferees further express their intent that Congress will evaluate judicial remedies in future legislation once the IRS's tax-exempt bond examination program has developed more fully and the Congress is better able to ensure that any such future measure protects all parties in interest to these determinations (i.e., issuers, bondholders, conduit borrowers, and the Federal Government).

Effective date.—The direction to the IRS is effective on the date of enactment.

7. Civil action for release of erroneous lien (sec. 3107 of the Senate amendment)

Present Law

Prior to 1995, the provisions governing jurisdiction over refund suits had generally been interpreted to apply only if an action was brought by the taxpayer against whom tax was assessed. Remedies for third parties from whom tax was collected (rather than assessed) were found in other provisions of the Internal Revenue Code. The Supreme Court has held that a third party who paid another person's tax under protest to remove a lien on the third party's property could bring a refund suit, because she had no other adequate administrative or judicial remedy. The Supreme Court held that parties who are forced to pay another's tax under duress could bring a refund suit, because no other judicial remedy was adequate.

House Bill

No provision.

Senate Amendment

The Senate amendment creates an administrative procedure permitting a record owner of property against which a Federal tax lien has been filed to obtain a certificate of discharge of property from the lien as a matter of right. The third party is required to apply to the Secretary of the Treasury for such a certificate and either to deposit cash or to furnish a bond sufficient to protect the lien interest of the United States.

The Senate amendment also establishes a judicial cause of action for third parties challenging a lien. The period within which such an action must be commenced is 120 days after the date the certificate of discharge is issued to ensure an early resolution of the parties' interests.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

C. Relief for Innocent Spouses and for Taxpayers Unable to Manage Their Financial Affairs Due to Disabilities

1. Relief for innocent spouses (sec. 321 of the House bill and sec. 3201 of the Senate amendment)

Present Law

Under present law, relief from liability for tax, interest and penalties is available for "innocent spouses" in certain circumstances. To qualify for such relief, the innocent spouse must establish: (1) that a joint return was made; (2) that an understatement of tax, which exceeds the greater of $500 or a specified percentage of the innocent spouse's adjusted gross income for the preadjustment (most recent) year, is attributable to a grossly erroneous item of the other spouse; (3) that in signing the return, the innocent spouse did not know, and had no reason to know, that there was an understatement of tax; and (4) that taking into account all the facts and circumstances, it is inequitable to hold the innocent spouse liable for the deficiency in tax. The specified percentage of adjusted gross income is 10 percent if adjusted gross income is $20,000 or less. Otherwise, the specified percentage is 25 percent.

The proper forum for contesting the Secretary's denial of innocent spouse relief is determined by whether an underpayment is asserted or the taxpayer is seeking a refund of overpaid taxes. Accordingly, the Tax Court may not have jurisdiction to review all denials of innocent spouse relief.

House Bill

The House bill generally makes innocent spouse status easier to obtain. The bill eliminates all of the understatement thresholds and requires only that the understatement of tax be attributable to an erroneous (and not just a grossly erroneous) item of the other spouse.

The House bill provides that innocent spouse relief may be provided on an apportioned basis. A spouse may be relieved of liability for the portion of an understatement of tax even if the spouse knew or had reason to know of other understatements of tax on the same return.

The House bill specifically provides that the Tax Court has jurisdiction to review any denial of innocent spouse relief. Except for termination and jeopardy assessments, the Secretary may not levy or proceed in court to collect any tax from a taxpayer claiming innocent spouse status with regard to such tax until the expiration of the 90-day period in which such taxpayer may petition the Tax Court or, if the Tax Court considers such petition, before the decision of the Tax Court has become final. The running of the statute of limitations is suspended in such situations with respect to the spouse claiming innocent spouse status.

The House bill requires the Secretary of the Treasury to develop a separate form with instructions for taxpayers to use in applying for innocent spouse relief within 180 days from the date of enactment. An innocent spouse seeking relief under this provision must claim innocent spouse status with regard to any assessment not later than two years after the date of such assessment.

Effective date.—Understatements with respect to taxable years beginning after the date of enactment.

Senate Amendment

In general

The Senate amendment modifies the innocent spouse provisions to permit a spouse to elect to limit his or her liability for unpaid taxes on a joint return to the spouse's separate liability amount. In the case of a deficiency arising from a joint return, a spouse could elect to be liable only to the extent that items giving rise to the deficiency are allocable to the spouse. The separate liability election also applies in situations where the tax shown on a joint return is not paid with the return. In this case, the amount determined under the separate liability election equals the amount that would have been reported by the electing spouse on a separate return. However, if any item of credit or deduction would be disallowed solely because a separate return is filed, the item of credit or deduction will be computed without regard to such prohibition. Special rules apply to prevent the inappropriate use of the election. The separate liability election may not be used to create a refund, or to direct a refund to a particular spouse.

Items are generally allocated between spouses in the same manner as they would have been allocated had the spouses filed separate returns. The Secretary may prescribe other methods of allocation by regulation. The allocation of items is to be accomplished without regard to community property laws.

The election applies to all unpaid taxes under subtitle A of the Internal Revenue Code, including the income tax and the self-employment tax. The election may be made at any time not later than 2 years after collection activities begin with respect to the electing spouse. It is intended that the 2 year period not begin until collection activities have been undertaken against the electing spouse that have the effect of giving the spouse notice of the IRS' intention to collect the joint liability from such spouse. For example, garnishment of wages or a notice of intent to levy against the property of the electing spouse would constitute collection activity against the electing spouse. The mailing of a notice of deficiency and demand for payment to the last known address of the electing spouse, addressed to both spouses, would not.

The Tax Court has jurisdiction of disputes arising from the separate liability election. For example, a spouse who makes the separate liability election may petition the Tax Court to determine the limits on liability applicable under this provision. The Tax Court is authorized to establish rules that would allow the Secretary of the Treasury and the electing spouse to require, with adequate notice, the other spouse to become a party to any proceeding before the Tax Court. The Secretary of the Treasury is required to develop a separate form with instructions for taxpayers to use in electing to limit liability.

The Internal Revenue Service is required to notify all taxpayers who have filed joint returns of their rights to elect to limit their joint and several liability under this provision. It is expected that notice will appear in appropriate IRS publications, including IRS Publication 1, and in collection related notices sent to taxpayers. In addition, the Internal Revenue Service should, whenever practicable, send appropriate notifications separately to each spouses.

Effective date

The Senate amendment applies to any liability for tax arising after the date of enactment and any liability for tax arising on or before such date, but remaining unpaid as of such date.

The period in which an election may be made under the provision will not expire before the later of the date that is 2 years after the date of enactment or 2 years after the date of the first collection action that has the effect of giving the spouse notice of the IRS' intention to collect the joint liability from the spouse is undertaken after the date of enactment. This rule does not extend the statute of limitations.

An individual may elect under the provision without regard to whether such individual has previously been denied innocent spouse relief under present law.

Conference Agreement

In general

The conference agreement follows the Senate amendment with respect to deficiencies of a taxpayer who is no longer married to, is legally separated from, or has been living apart for at least 12 months from the person with whom the taxpayer originally filed the joint return. The conference agreement also includes the provision in the House bill expanding the circumstances in which innocent spouse relief is available. Taxpayers, whether or not eligible to make the separate liability election, may be granted innocent spouse relief where appropriate. In addition, the conference agreement authorizes the Secretary to provide equitable relief in appropriate situations. The conference agreement follows the House bill and the Senate amendment in establishing jurisdiction in the Tax Court over disputes arising in this area.

Deficiencies of certain taxpayers

The conference agreement follows the Senate amendment with respect to deficiencies of a taxpayer who, at the time of election, is no longer married[16] to, is legally separated from, or has been living apart for at least 12 months from the person with whom the taxpayer originally filed the joint return. Such taxpayers may elect to limit their liability for any deficiency limited to the portion of the deficiency that is attributable to items allocable to the taxpayer.

For example, a deficiency is assessed after IRS audit of a joint return. The deficiency relates to income earned by the husband that was not reported on the return. If the spouses who joined in the return are no longer married, are legally separated, or have lived apart for at least 12 months, either may elect limited liability under this provision. If the wife elects, she would owe none of the deficiency. The deficiency would be the sole responsibility of the husband whose income gave rise to the deficiency.

If the deficiency relates to the items of both spouses, the separate liability for the deficiency is allocated between the spouses in the same proportion as the net items taken into account in determining the deficiency. For example, a deficiency is assessed that is attributable to $70,000 of unreported income allocable to the husband and the disallowance of a $30,000 miscellaneous itemized deduction allocable to the wife. If the spouses who joined in the return are no longer married, are legally separated, or have lived apart for at least 12 months, either may elect limited liability under this provision. If either the husband and wife elect, the husband's liability would be limited to 70 percent of the deficiency (if he elects) and the wife's liability limited to 30 percent (if she elects). This would be the case even if a portion of the miscellaneous itemized deductions had been disallowed under section 67(a). The election is required in order to limit liability. If either spouse fails to elect, that spouse would be liable for the full amount of the deficiency, unless reduced by innocent spouse relief or pursuant to the grant of authority to the Secretary to provide equitable relief.

If the deficiency arises as a result of the denial of an item of deduction or credit, the amount of the deficiency allocated to the spouse to whom the item of deduction or credit is allocated is limited to the amount of income or tax allocated to such spouse that was offset by the deduction or credit. The remainder of the liability is allocated to the other spouse to reflect the fact that income or tax allocated to that spouse was originally offset by a portion of the disallowed deduction or credit.

For example, a married couple files a joint return with wage income of $100,000 allocable to the wife and $30,000 of self employment income allocable to the husband. On examination, a $20,000 deduction allocated to the husband is disallowed, resulting in a deficiency of $5,600. Under the provision, the liability is allocated in proportion to the items giving rise to the deficiency. Since the only item giving rise to the deficiency is allocable to the husband, and because he reported sufficient income to offset the item of deduction, the entire deficiency is allocated to the husband and the wife has no liability with regard to the deficiency, regardless of the ability of the IRS to collect the deficiency from the husband.

If the joint return had shown only $15,000 (instead of $30,000) of self employment income for the husband, the income offset limitation rule discussed above would apply. In this case, the disallowed $20,000 deduction entirely offsets the $15,000 of income of the husband, and $5,000 remains. This remaining $5,000 of the disallowed deduction offsets income of the wife. The liability for the deficiency is therefore divided in proportion to the amount of income offset for each spouse. In this example, the husband is liable for 3/4 of the deficiency ($4,200), and the wife is liable for the remaining 1/4 ($1,400).

Where a deficiency is attributable to the disallowance of a credit, or to any tax other than regular or alternative minimum income tax, the portion of the deficiency attributable to such credit or other tax is considered first. For example, on examination a deficiency of $10,000 ($2,800 of self-employment tax and $7,200 of income tax) is determined to be attributable to $20,000 of unreported self-employment income of the husband and a disallowed itemized deduction of $5,000 allocable to the wife. The $2,800 of deficient self-employment taxes is first allocated to the husband, and the remaining $7,200 of income tax deficiency is allocated 80 percent to the husband and 20 percent to the wife.

The special rules included in the Senate bill to prevent the inappropriate use of the election are included in the conference agreement.

First, if the IRS demonstrates that assets were transferred between the spouses in a fraudulent scheme joined in by both spouses, neither spouse is eligible to make the election under the provision (and consequently joint and several liability applies to both spouses).

Second, if the IRS proves that the electing spouse had actual knowledge that an item on a return is incorrect, the election will not apply to the extent any deficiency is attributable to such item. Such actual knowledge must be established by the evidence and shall not be inferred based on indications that the electing spouse had a reason to know.

The rule that the election will not apply to the extent any deficiency is attributable to an item the electing spouse had actual knowledge of is expected to be applied by treating the item as fully allocable to both spouses. For example a married couple files a joint return with wage income of $150,000 allocable to the wife and $30,000 of self employment income allocable to the husband. On examination, an additional $20,000 of the husband's self-employment income is discovered, resulting in a deficiency of $9,000. The IRS proves that the wife had actual knowledge that $5,000 of this additional self-employment income, but had no knowledge of the remaining $15,000. In this case, the husband would be liable for the full amount of the deficiency, since the item giving rise to the deficiency is fully allocable to him. In addition, the wife would be liable for the amount that would have been calculated as the deficiency based on the $5,000 of unreported income of which she had actual knowledge. The IRS would be allowed to collect that amount from either spouse, while the remainder of the deficiency could be collected from only the husband.

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[16] For the purpose of this rule, a taxpayer is no longer married if he or she is widowed.

Third, the portion of the deficiency for which the electing spouse is liable is increased by the value of any disqualified assets received from the other spouse. Disqualified assets include any property or right to property that was transferred to an electing spouse if the principle purpose of the transfer is the avoidance of tax (including the avoidance of payment of tax). A rebuttable presumption exists that a transfer is made for tax avoidance purposes if the transfer was made less than one year before the earlier of the payment due date or the date of the notice of proposed deficiency. The rebuttable presumption does not apply to transfers pursuant to a decree of divorce or separate maintenance. The presumption may be rebutted by a showing that the principal purpose of the transfer was not the avoidance of tax or the payment of tax.

Other deficiencies

The conference agreement also includes the provision in the House bill modifying innocent spouse relief. Taxpayers who do not make the separate liability election may be eligible for innocent spouse relief. For example, a taxpayer may be ineligible to make the separate liability election for a deficiency because he or she is not widowed, divorced, legally separated, or living apart (for at least 12 months) from the person with whom the taxpayer originally joined in filing the joint return. Such a taxpayer may apply for relief of any deficiency that is attributable to an erroneous item of the other spouse, provided he or she did not know or have reason to know of the understatement of tax and it would be inequitable to hold the taxpayer responsible for the deficiency. The election is required to be made no later than the date that is two years after the Secretary has begun collection actions with respect to the individual. The rule in the House bill allowing innocent spouse relief to be provided on an apportioned basis is included in the conference agreement.

Other circumstances, including tax shown on a return but not paid

The conference agreement does not include the portion of the Senate amendment that could provide relief in situations where tax was shown on a joint return, but not paid with the return. The conferees intend that the Secretary will consider using the grant of authority to provide equitable relief in appropriate situations to avoid the inequitable treatment of spouses in such situations. For example, the conferees intend that equitable relief be available to a spouse that does not know, and had no reason to know, that funds intended for the payment of tax were instead taken by the other spouse for such other spouse's benefit.

The conferees do not intend to limit the use of the Secretary's authority to provide equitable relief to situations where tax is shown on a return but not paid. The conferees intend that such authority be used where, taking into account all the facts and circumstances, it is inequitable to hold an individual liable for all or part of any unpaid tax or deficiency arising from a joint return. The conferees intend that relief be available where there is both an understatement and an underpayment of tax.

Procedural rules

The conference agreement follows the House bill and the Senate amendment with respect to procedural rules, including the jurisdiction of the Tax Court to review matters relating to this provision. The conference agreement also follows the Senate amendment in requiring the IRS to notify taxpayers of their rights under this provision, and, whenever practicable, to send notifications separately to each spouse.

Effective date

The conference agreement follows the Senate amendment. The separate liability election, expanded innocent spouse relief and authority to provide equitable relief all apply to liabilities for tax arising after the date of enactment, as well as any liability for tax arising on or before the date of enactment that remains unpaid on the date of enactment. The applicable 2-year election periods do not expire before the date that is two years after the first collection activity taken by the IRS after the date of enactment. The Secretary is required to develop a separate form for electing innocent spouse relief within 180 days after the date of enactment.

2. Suspension of statute of limitations on filing refund claims during periods of disability (sec. 322 of the House bill and sec. 3202 of the Senate amendment)

Present Law

In general, a taxpayer must file a refund claim within three years of the filing of the return or within two years of the payment of the tax, whichever period expires later (if no return is filed, the two-year limit applies) (sec. 6511(a)). A refund claim that is not filed within these time periods is rejected as untimely.

There is no explicit statutory rule providing for equitable tolling of the statute of limitations. The U.S. Supreme Court has held that Congress did not intend the equitable tolling doctrine to apply to the statutory limitations of section 6511 on the filing of tax refund claims.

House Bill

The House bill permits equitable tolling of the statute of limitations for refund claims of an individual taxpayer during any period of the individual's life in which he or she is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that can be expected to result in death or to last for a continuous period of not less than 12 months. Tolling does not apply during periods in which the taxpayer's spouse or another person is authorized to act on the taxpayer's behalf in financial matters.

Effective date.—The provision applies to periods of disability before, on, or after the date of enactment but does not apply to any claim for refund or credit that (without regard to the provision) is barred by the operation of any law, including the statute of limitations, as of January 1, 1998.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

Effective date.—The provision applies to periods of disability before, on, or after the date of enactment but does not apply to any claim for refund or credit that (without regard to the provision) is barred by the operation of any law, including the statute of limitations, as of the date of enactment.

D. Provisions Relating to Interest and Penalties

1. Elimination of interest differential on overlapping periods of interest on income tax overpayments and underpayments (sec. 331 of the House bill and sec. 3301 of the Senate amendment)

Present Law

A taxpayer that underpays its taxes is required to pay interest on the underpayment at a rate equal to the Federal short term interest rate plus three percentage points. A special "hot interest" rate equal to the Federal short term interest rate plus five percentage points applies in the case of certain large corporate underpayments.

A taxpayer that overpays its taxes receives interest on the overpayment at a rate equal to the Federal short term interest rate plus two percentage points. In the case of corporate overpayments in excess of $10,000, this is reduced to the Federal short term interest rate plus one-half of a percentage point.

If a taxpayer has an underpayment of tax from one year and an overpayment of tax from a different year that are outstanding at the same time, the IRS will typically offset the overpayment against the underpayment and apply the appropriate interest to the resulting net underpayment or overpayment. However, if either the underpayment or overpayment has been satisfied, the IRS will not typically offset the two amounts, but rather will assess or credit interest on the full underpayment or overpayment at the underpayment or overpayment rate. This has the effect of assessing the underpayment at the higher underpayment rate and crediting the overpayment at the lower overpayment rate. This results in the taxpayer being assessed a net interest charge, even if the amounts of the overpayment and underpayment are the same.

The Secretary has the authority to credit the amount of any overpayment against any liability under the Code. Congress has previously directed the Internal Revenue Service to implement procedures for "netting" overpayments and underpayments to the extent a portion of tax due is satisfied by a credit of an overpayment.

House Bill

The House bill establishes a net interest rate of zero where interest is payable and allowable on equivalent amounts of overpayment and underpayment of income tax that exist for any period. Each overpayment and underpayment is considered only once in determining whether equivalent amounts of overpayment and underpayment exist. The special rules that increase the interest rate paid on large corporate underpayments and decrease the interest rate received on corporate underpayments in excess of $10,000 do not prevent the application of the net zero rate. The provision applies to income taxes and self-employment taxes.

Effective date.—Interest for calendar quarters beginning after the date of enactment.

Senate Amendment

Generally same as the House bill, except that the Senate amendment applies where interest is payable and allowable on equivalent amounts of overpayment and underpayment of any taxes imposed by Title 26 (the Internal Revenue Code), and not only income taxes.

Effective date.—Same as the House bill. In addition, the provision applies to interest for periods beginning before the date of enactment if: (1) the statute of limitations has not expired with respect to either the underpayment or overpayment; (2) the taxpayer identifies the periods of underpayment and overpayment for which the zero rate applies; and (3) on or before December 31, 1999, the taxpayer asks the Secretary to apply the zero rate.

Conference Agreement

The conference agreement follows the Senate amendment. It is anticipated that the Secretary will take into account interest paid on previously determined deficiencies or refunds for the purpose of determining the rate of interest under this provision without regard to whether the underpayments or overpayments are currently outstanding. It is also anticipated that where interest is both payable from and allowable to an individual taxpayer for the same period, the Secretary will take all reasonable efforts to offset the liabilities, rather than process them separately using the net interest rate of zero. Where interest is payable and allowable on an equivalent amount of underpayment and overpayment that is attributable to a taxpayer's interest in a pass-thru entity (e.g., a partnership), the conferees intend that the benefits of the provision apply.

2. Increase in overpayment rate payable to taxpayers other than corporations (sec. 332 of the House bill and sec. 3302 of the Senate amendment)

Present Law

A taxpayer that underpays its taxes is required to pay interest on the underpayment at a rate equal to the Federal short-term interest rate (AFR) plus three percentage points. A taxpayer that overpays its taxes receives interest on the overpayment at a rate equal to the Federal short-term interest rate (AFR) plus two percentage points.

House Bill

The House bill provides that the overpayment interest rate will be AFR plus three percentage points, except that for corporations, the rate remains at AFR plus two percentage points.

Effective date.—Interest for calendar quarters beginning after the date of enactment.

Senate Amendment

Same as the House bill, except for the effective date.

Effective date.—Interest for the second and succeeding calendar quarters beginning after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

3. Mitigation of penalty for individual's failure to pay during period of installment agreement (sec. 376 of the House bill and sec. 3303 of the Senate amendment)

Present Law

Taxpayers who fail to pay their taxes are subject to a penalty of one-half percent per month on the unpaid amount, up to a maximum of 25 percent. If the liability is shown on the return, the penalty begins to accrue on the date prescribed for payment of the tax (with regard to extensions). If the liability should have been shown on the return but was not, the penalty generally begins to accrue after the date that is 21 days from the date of the IRS notice and demand for payment with respect to such liability. Taxpayers who make installment payments pursuant to an agreement with the IRS are also subject to this penalty.

House Bill

The House bill provides that the penalty for failure to pay taxes is not imposed with respect to the tax liability of an individual with respect to any month in which an installment payment agreement with the IRS is in effect to the extent that doing so would result in the cumulative penalty percentage exceeding 9.5 percent (instead of 25 percent).

Effective date.—Installment agreement payments made after the date of enactment.

Senate Amendment

The Senate amendment provides that the penalty for failure to pay taxes is not imposed with respect to the tax liability of an individual for any month in which an installment payment agreement with the IRS is in effect, provided that the individual filed the tax return in a timely manner (including extensions).

Effective date.—Installment agreement payments made after December 31, 1999.

Conference Agreement

The conference agreement follows the Senate amendment, except that the rate of the penalty is half the usual rate (0.25 percent instead of 0.5 percent) for any month in which an installment payment agreement with the IRS is in effect.

4. Mitigation of failure to deposit penalty (sec. 3304 of the Senate amendment)

Present Law

Deposits of payroll taxes are allocated to the earliest period for which such a deposit is due. If a taxpayer misses or makes an insufficient deposit, later deposits will first be applied to satisfy the shortfall for the earlier period; the remainder is then applied to satisfy the obligation for the current period. Cascading penalties may result as payments that would otherwise be sufficient to satisfy current liabilities are applied to satisfy earlier shortfalls. The Secretary may waive the failure to make deposit penalty for inadvertent failures by first-time depositors of employment taxes.

House Bill

No provision.

Senate Amendment

The Senate amendment allows the taxpayer to designate the period to which each deposit is applied. The designation must be made no later than 90 days after the related IRS penalty notice. The provision also extends the authorization to waive the failure to deposit penalty to the first deposit a taxpayer is required to make after the taxpayer is required to change the frequency of the taxpayer's deposits.

Effective date.—Deposits made more than 180 days after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, with technical modifications. Also, the designation must be made during the 90 days immediately following the sending of the related IRS penalty notice. The conference agreement also provides that, for deposits required to be made after December 31, 2001, any deposit is to be applied to the most recent period to which the deposit relates, unless the taxpayer explicitly designates otherwise.

5. Suspension of interest and certain penalties if Secretary fails to contact individual taxpayer (sec. 3305 of the Senate amendment)

Present Law

In general, interest and penalties accrue during periods for which taxes are unpaid without regard to whether the taxpayer is aware that there is tax due.

House Bill

No provision.

Senate Amendment

The Senate amendment suspends the accrual of penalties and interest after 1 year if the IRS has not sent the taxpayer a notice of deficiency within 1 year following the date which is the later of (1) the original due date of the return or (2) the date on which the individual taxpayer timely filed the return. The suspension only applies to taxpayers who file a timely tax return. The Senate amendment applies only to individuals and does not apply to the failure to pay penalty, in the case of fraud, or with respect to criminal penalties. Interest and penalties resume 21 days after the IRS sends a notice and demand for payment to the taxpayer.

Effective date.—Taxable years ending after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, with the following modifications. With respect to taxable years beginning before January 1, 2004, the 1-year period is increased to 18 months. Interest and penalties are suspended if the IRS fails to send a notice specifically stating the taxpayer's liability and the basis for the liability within the specified period. Interest and penalties resume 21 days after the IRS sends that notice to the taxpayer. The provision is applied separately with respect to each item or adjustment. The provision does not apply where a taxpayer has self-assessed the tax.

For example, if the IRS sends a math error notice to a taxpayer 2 months after the return is filed and also sends a notice of deficiency related to a different item 2 years later, the provision applies to the item reflected on the second notice (notwithstanding that the first notice was sent within the applicable time period).

6. Procedural requirements for imposition of penalties and additions to tax (sec. 3306 of the Senate amendment)

Present Law

Present law does not require the IRS to show how penalties are computed on the notice of penalty. In some cases, penalties may be imposed without supervisory approval.

House Bill

No provision.

Senate Amendment

The Senate amendment requires that each notice imposing a penalty include the name of the penalty, the code section imposing the penalty, and a computation of the penalty.

The Senate amendment also requires the specific approval of IRS management to assess all non-computer generated penalties unless excepted. This provision does not apply to failure to file penalties, failure to pay penalties, or to penalties for failure to pay estimated tax.

Effective date.—Notices issued, and penalties assessed, more than 180 days after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

Effective date.—Notices issued, and penalties assessed after December 31, 2000.

7. Personal delivery of notice of penalty under section 6672 (sec. 3307 of the Senate amendment)

Present Law

Any person who is required to collect, truthfully account for, and pay over any tax imposed by the Internal Revenue Code who willfully fails to do so is liable for a penalty equal to the amount of the tax. Before the IRS may assess any such "100-percent penalty," it must mail a written preliminary notice informing the person of the proposed penalty to that person's last known address. The mailing of such notice must precede any notice and demand for payment of the penalty by at least 60 days. The statute of limitations on assessments shall not expire before the date 90 days after the date on which the notice was mailed. These restrictions do not apply if the Secretary finds the collection of the penalty is in jeopardy.

House Bill

No provision.

Senate Amendment

The Senate amendment permits in person delivery, as an alternative to delivery by mail, of a preliminary notice that the IRS intends to assess a 100-percent penalty.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

8. Notice of interest charges (sec. 3308 of the Senate amendment)

Present Law

Taxpayer generally must pay interest on amounts due to the IRS.

House Bill

No provision.

Senate Amendment

The Senate amendment requires every IRS notice that includes an amount of interest required to be paid by the taxpayer that is sent to an individual taxpayer to include a detailed computation of the interest charged and a citation to the Code section under which such interest is imposed.

Effective date.—Notices issued after June 30, 2000.

Conference Agreement

The conference agreement follows the Senate amendment.

Effective date.—Notices issued after December 31, 2000.

9. Abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas (sec. 3309 of the Senate amendment)

Present Law

In the case of a Presidentially declared disaster, the Secretary of the Treasury has the authority to postpone some tax-related deadlines, but there is no authority to abate interest.

Under a provision of the Taxpayer Relief Act of 1997, if the Secretary of the Treasury extends the filing date of an individual tax return for individuals living in an area that has been declared a disaster area by the President during 1997, no interest is charged as a result of the failure of the individual taxpayer to file an individual tax return, or to pay the taxes shown on such return, during the extension.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that taxpayers located in a Presidentially declared disaster area do not have to pay interest on taxes due for the length of any extension for filing their tax returns granted by the Secretary of the Treasury.

Effective date.—Disasters declared after December 31, 1996, with respect to taxable years beginning after December 31, 1996.

Conference Agreement

The conference agreement follows the Senate amendment.

This provision is designated as emergency legislation under section 252(e) of the Balanced Budget and Emergency Deficit Control Act.

Effective date.—Disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997. The conferees have modified the effective date because section 915 of The Taxpayer Relief Act of 1997 already applies to 1997 disasters. The conferees intend that no gap between the two provisions exists.

E. Protections for Taxpayers Subject to Audit or Collection Activities

1. Due process in IRS collection actions (sec. 3401 of the Senate amendment)

Present Law

Levy is the IRS's administrative authority to seize a taxpayer's property to pay the taxpayer's tax liability. The IRS is entitled to seize a taxpayer's property by levy if the Federal tax lien has attached to such property. The Federal tax lien arises automatically where (1) a tax assessment has been made, (2) the taxpayer has been given notice of the assessment stating the amount and demanding payment, and (3) the taxpayer has failed to pay the amount assessed within 10 days after the notice and demand.

The IRS may collect taxes by levy upon a taxpayer's property or rights to property (including accrued salary and wages) if the taxpayer neglects or refuses to pay the tax within 10 days after notice and demand that the tax be paid. Notice of the IRS's intent to collect taxes by levy must be given no less than 30 days (90 days in the case of a life insurance contract) before the day of the levy. The notice of levy must describe the procedures that will be used, the administrative appeals available to the taxpayer and the procedures relating to such appeals, the alternatives available to the taxpayer that could prevent levy, and the procedures for redemption of property and release of liens.

The effect of a levy on salary or wages payable to or received by a taxpayer is continuous from the date the levy is first made until it is released.

If the IRS district director finds that the collection of any tax is in jeopardy, collection by levy may be made without regard to either notice period. A similar rule applies in the case of termination assessments.

House Bill

No provision.

Senate Amendment

The Senate amendment establishes formal procedures designed to insure due process where the IRS seeks to collect taxes by levy (including by seizure). The due process procedures also apply after the Federal tax lien attaches, but before the notice of the Federal tax lien has been given to the taxpayer.

As under present law, notice of the intent to levy must be given at least 30 days (90 days in the case of a life insurance contract) before property can be seized or salary and wages garnished. During the 30-day (90-day) notice period, the taxpayer may demand a hearing to take place before an appeals officer who has had no prior involvement in the taxpayer's case. If, within that period, the taxpayer demands a hearing, the proposed collection action may not proceed until the hearing has concluded and the appeals officer has issued his or her determination.

During the hearing, the IRS is required to verify that all statutory, regulatory, and administrative requirements for the proposed collection action have been met. IRS verifications are expected to include (but not be limited to) showings that:

(1) the revenue officer recommending the collection action has verified the taxpayer's liability;

(2) the estimated expenses of levy and sale will not exceed the value of the property to be seized;

(3) the revenue officer has determined that there is sufficient equity in the property to be seized to yield net proceeds from sale to apply to the unpaid tax liabilities; and

(4) with respect to the seizure of the assets of a going business, the revenue officer recommending the collection action has thoroughly considered the facts of the case, including the availability of alternative collection methods, before recommending the collection action.

The taxpayer (or affected third party) is allowed to raise any relevant issue at the hearing. Issues eligible to be raised include (but are not limited to):

(1) challenges to the underlying liability as to existence or amount;

(2) appropriate spousal defenses;

(3) challenges to the appropriateness of collection actions; and

(4) collection alternatives, which could include the posting of a bond, substitution of other assets, an installment agreement or an offer-in-compromise.

Once the taxpayer has had a hearing with respect to an issue, the taxpayer would not be permitted to raise the same issue in another hearing.

The determination of the appeals officer is to address whether the proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the taxpayer that the collection action be no more intrusive than necessary.

The taxpayer may contest the determination of the appellate officer in Tax Court by filing a petition within 30 days of the date of the determination. The IRS may not take any collection action pursuant to the determination during such 30-day period or while the taxpayer's contest is pending in Tax Court.

IRS Appeals would retain jurisdiction over its determinations. IRS Appeals could enter an order requiring the IRS collection division to adhere to the original determination. In addition, the taxpayer would be allowed to return to IRS Appeals to seek a modification of the original determination based on any change of circumstances.

In the case of a continuous levy, the due process procedures would apply to the original imposition of the levy.

This provision does not apply in the case of jeopardy and termination assessments. Jeopardy and termination assessments would be subject to post-seizure review as part of the Appeals determination hearing as well as through any existing judicial procedure. A jeopardy or termination assessment must be approved by the IRS District Counsel responsible for the case. Failure to obtain District Counsel approval would render the jeopardy or termination assessment void.

Effective date.—The due process procedures apply to collection actions initiated more than six months after the date of enactment.

Conference Agreement

Liens

The conference agreement generally follows the Senate amendment, except that taxpayers would have a right to a hearing after the Notice of Lien is filed. The IRS would be required to notify the taxpayer that a Notice of Lien had been filed within 5 days after filing. During the 30-day period beginning with the mailing or delivery of such notification, the taxpayer may demand a hearing before an appeals officer who has had no prior involvement with the taxpayer's case. In general, any issue relevant to the appropriateness of the proposed collection against the taxpayer can be raised at this hearing. For example, the taxpayer can request innocent spouse status, make an offer-in-compromise, request an installment agreement or suggest which assets should be used to satisfy the tax liability. However, the validity of the tax liability can be challenged only if the taxpayer did not actually receive the statutory notice of deficiency or has not otherwise had an opportunity to dispute the liability. This hearing right applies only after the first Notice of Lien with regard to each tax liability is filed.

Levies

The conference agreement includes a modified form of the Senate amendment. The IRS would be required to provide the taxpayer with a "Notice of Intent to Levy," formally stating its intention to collect a tax liability by levy against the taxpayer's property or rights to property. The conferees intend that the Secretary have the discretion to provide the Notice of Intent to Levy in combination with the notice required by present law under section 6331(d). Service by registered or certified mail, return receipt requested would be required. The Notice of Intent to Levy would not be required to itemize the property the Secretary seeks to levy on.

Subject to the exceptions noted below, no levy could occur within the 30-day period beginning with the mailing of the "Notice of Intent to Levy." During that 30-day period, the taxpayer may demand a hearing before an appeals officer who has had no prior involvement with the taxpayer's case, other than in connection with a hearing after the filing of a notice of tax lien. If a hearing is requested within the 30-day period, no levy could occur until a determination by the appeals officer is rendered. In general, any issue that is relevant to the appropriateness of the proposed collection against the taxpayer can be raised at the pre-levy hearing. For example, the taxpayer can request innocent spouse status, make an offer-in-compromise, request an installment agreement or suggest which assets should be used to satisfy the tax liability. However, the validity of the tax liability can be challenged only if the taxpayer did not actually receive the statutory notice of deficiency or has not otherwise had an opportunity to dispute the liability.

If a return receipt is not returned, the Secretary may proceed to levy on the taxpayer's property or rights to property 30 days after the Notice of Intent to Levy was mailed. The Secretary must provide a hearing equivalent to the pre-levy hearing if later requested by the taxpayer. However, the Secretary is not required to suspend the levy process pending the completion of a hearing that is not requested within 30 days of the mailing of the Notice. If the taxpayer did not receive the required notice and requests a hearing after collection activity has begun, then collection shall be suspended and a hearing provided to the taxpayer.

The conferees anticipate that the IRS will combine Notice of Intent to Levy and Notice of Lien hearings whenever possible. If multiple hearings are held, it is expected that, to the extent practicable, the same appellate officer will hear the taxpayer with regard to both lien and levy issues. If the taxpayer requests a hearing following receipt of a Notice of Lien or Notice of Intent to Levy and, prior to the date of the hearing, receives the other notice, the scheduled hearing will serve for both purposes and the taxpayer is obligated to raise all relevant issues at such hearing.

Judicial review

The conferees expect the appeals officer will prepare a written determination addressing the issues presented by the taxpayer and considered at the hearing. The determination of the appeals officer may be appealed to Tax Court or, where appropriate, the Federal district court. Where the validity of the tax liability was properly at issue in the hearing, and where the determination with regard to the tax liability is a part of the appeal, no levy may take place during the pendency of the appeal. The amount of the tax liability will in such cases be reviewed by the appropriate court on a de novo basis. Where the validity of the tax liability is not properly part of the appeal, the taxpayer may challenge the determination of the appeals officer for abuse of discretion. In such cases, the appeals officer's determination as to the appropriateness of collection activity will be reviewed using an abuse of discretion standard of review. Levies will not be suspended during the appeal if the Secretary shows good cause why the levy should be allowed to proceed.

No further hearings are provided under this provision as a matter of right. It is the responsibility of the taxpayer to raise all relevant issues at the time of the pre-levy hearing. A taxpayer could apply for consideration of new information, make an offer-in-compromise, request an installment agreement, or raise other considerations at any time before, during, or after the Notice of Intent to Levy hearing. However, after the 30 day period had expired, the IRS is not required to provide a hearing or delay any levy or sale of levied property. Nothing in this provision is intended to limit any remedy that is otherwise available under present law.

An exception to the general rule prohibiting levies during the 30-day period would apply in the case of state tax offset procedures, and in the case of jeopardy or termination assessments.

Prior judicial approval required for seizures of principal residences

No seizure of a dwelling that is the principal residence of the taxpayer or the taxpayer's spouse, former spouse, or minor child would be allowed without prior judicial approval. Notice of the judicial hearing must be provided to the taxpayer and family members residing in the property. At the judicial hearing, the Secretary would be required to demonstrate (1) that the requirements of any applicable law or administrative procedure relevant to the levy have been met, (2) that the liability is owed, and (3) that no reasonable alternative for the collection of the taxpayer's debt exists.

Effective date

The provision is effective for collection actions initiated more than 180 days after the date of enactment.

2. Examination activities

a. Uniform application of confidentiality privilege to taxpayer communications with federally authorized practitioners (sec. 341 of the House bill and sec. 3411 of the Senate amendment)

Present Law

A common law privilege of confidentiality exists for communications between an attorney and client with respect to the legal advice the attorney gives the client. Communications protected by the attorney-client privilege must be based on facts of which the attorney is informed by the taxpayer, for the purpose of securing the professional advice of the attorney. The privilege may not be claimed where the purpose of the communication is the commission of a crime or tort. The taxpayer must either be a client of the attorney or be seeking to become a client of the attorney.

The privilege of confidentiality applies only where the attorney is advising the client on legal matters. It does not apply in situations where the attorney is acting in other capacities. Thus, a taxpayer may not claim the benefits of the attorney-client privilege simply by hiring an attorney to perform some other function. For example, if an attorney is retained to prepare a tax return, the attorney-client privilege will not automatically apply to communications and documents generated in the course of preparing the return.

The privilege of confidentiality also does not apply where the communication is made for further communication to third parties. For example, information that is communicated to an attorney for inclusion in a tax return is not privileged because it is communicated for the purpose of disclosure. The privilege of confidentiality does not apply where an attorney is acting in another capacity, or where an attorney who is licensed to practice another profession is performing such other profession.

The attorney-client privilege is considered waived if the communication is voluntarily disclosed to anyone other than the attorney, the client or the agents of the client or the attorney.

The attorney-client privilege is limited to communications between taxpayers and attorneys. No equivalent privilege is provided for communications between taxpayers and other professionals authorized to practice before the Internal Revenue Service, such as accountants or enrolled agents.

House Bill

The House bill extends the present law attorney-client privilege of confidentiality to tax advice that is furnished by any individual who is authorized to practice before the Internal Revenue Service, acting in a manner consistent with State law for such individual's profession, to a client-taxpayer (or potential client-taxpayer) in any noncriminal proceeding before the Internal Revenue Service.

The House bill does not modify the attorney-client privilege. Accordingly, except for criminal proceedings, the privilege of confidentiality under this provision applies in the same manner and with the same limitations as the attorney-client privilege of present law.

Effective date.—The provision is effective with regard to communications made on or after the date of enactment.

Senate Amendment

The Senate amendment extends the present law attorney-client privilege of confidentiality to tax advice that is furnished to a client-taxpayer (or potential client-taxpayer) by any individual who is authorized under Federal law to practice before the IRS if such practice is subject to regulation under section 330 of Title 31, United States Code. Individuals subject to regulation under section 330 of Title 31, United States Code include attorneys, certified public accountants, enrolled agents and enrolled actuaries. Tax advice means advice that is within the scope of authority for such individual's practice with respect to matters under Title 26 (the Internal Revenue Code). The privilege of confidentiality may be asserted in any noncriminal tax proceeding before the IRS, as well as in noncriminal tax proceedings in the Federal Courts where the IRS is a party to the proceeding.

The provision allows taxpayers to consult with other qualified tax advisors in the same manner they currently may consult with tax advisors that are licensed to practice law. The provision does not modify the attorney-client privilege of confidentiality, other than to extend it to other authorized practitioners. The privilege established by the provision applies only to the extent that communications would be privileged if they were between a taxpayer and an attorney. Accordingly, the privilege does not apply to any communication between a certified public accountant, enrolled agent, or enrolled actuary and such individual's client (or prospective client) if the communication would not have been privileged between an attorney and the attorney's client or prospective client. For example, information disclosed to an attorney for the purpose of preparing a tax return is not privileged under present law. Such information would not be privileged under the provision whether it was disclosed to an attorney, certified public accountant, enrolled agent or enrolled actuary.

The privilege granted by the provision may only be asserted in noncriminal tax proceedings before the IRS and in the Federal Courts with regard to such noncriminal tax matters in proceedings where the IRS is a party. The privilege may not be asserted to prevent the disclosure of information to any regulatory body other than the IRS. The ability of any other regulatory body, including the Securities and Exchange Commission (SEC), to gain or compel information is unchanged by the provision. No privilege may be asserted under this provision by a taxpayer in dealings with such other regulatory bodies in an administrative or court proceeding.

Conference Agreement

The conference agreement follows the Senate amendment with a modification. The privilege of confidentiality created by this provision will not apply to any written communication between a federally authorized tax practitioner and any director, shareholder, officer, employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of such corporation in any tax shelter (as defined in section 6662(d)(2)(C)(iii)).

A tax shelter for this purpose is any partnership, entity, plan, or arrangement a significant purpose of which is the avoidance or evasion of income tax. Tax shelters for which no privilege of confidentiality will apply include, but are not limited to, those required to be registered as confidential corporate tax shelter arrangements under section 6111(d). The Conferees do not understand the promotion of tax shelters to be part of the routine relationship between a tax practitioner and a client. Accordingly, the Conferees do not anticipate that the tax shelter limitation will adversely affect such routine relationships.

The privilege created by this provision may be waived in the same manner as the attorney-client privilege. For example, if a taxpayer or federally authorized tax practitioner discloses to a third party the substance of a communication protected by the privilege, the privilege for that communication and any related communications is considered to be waived to the same extent and in the same manner as the privilege would be waived if the disclosure related to an attorney-client communication.

The conference agreement also clarifies that the privilege created by this provision may be asserted in noncriminal tax proceedings before the IRS and in the Federal courts with regard to a noncriminal tax proceeding where the United States is a party.

This provision relates only to matters of privileged communications. No inference is intended as to whether aspects of federal tax practice covered by the new privilege constitute the authorized or unauthorized practice of law under various State laws.

Effective date.—The provision is effective with regard to communications made on or after the date of enactment.

b. Limitation on financial status audit techniques (sec. 343 of the House bill and sec. 3412 of the Senate amendment)

Present Law

The Secretary is authorized and required to make the inquiries and determinations necessary to insure the assessment of Federal income taxes. For this purpose, any reasonable method may be used to determine the amount of Federal income tax owed. The courts have upheld the use of financial status and economic reality examination techniques to determine the existence of unreported income in appropriate circumstances.

House Bill

The provision prohibits the IRS from using financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the IRS has a reasonable indication that there is a likelihood of unreported income.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

c. Software trade secrets protection (sec. 344 of the House bill and sec. 3413 of the Senate amendment)

Present Law

The Secretary of the Treasury is authorized to examine any books, papers, records, or other data that may be relevant or material to an inquiry into the correctness of any Federal tax return. The Secretary may issue and serve summonses necessary to obtain such data, including summonses on certain third-party recordkeepers.

The Secretary is considered to have made a prima facie case for the enforcement of a summons if the so-called "Powell standards" are met.[17] The Powell standards require: (1) that the examination to which the summons relates is being conducted pursuant to a legitimate purpose; (2) that the summons seek information that may be relevant to such examination; (3) that the IRS not already be in possession of the information; and (4) that the administrative steps required by the Code have been followed. However, a summons will not be enforced if the burden it places on the summonsed party is out of proportion to the end sought.[18] Where the summons is issued against a third-party, particularly one that is a stranger to the taxpayer's affairs, the IRS has been required to show that the circumstances of the investigation indicate a realistic expectation, and not merely an idle hope, that something relevant to the investigation may be discovered in order to have the summons enforced.[19]

There are no specific statutory restrictions on the ability of the Secretary to demand the production of computer records, programs, source code or similar materials; whether held by the taxpayer or by a third-party.

House Bill

The House bill prohibits the Secretary from issuing (or beginning an action to enforce) a summons in a civil action for any portion of any third-party tax-related computer source code unless (1) the Secretary is unable to otherwise reasonably ascertain the correctness of an item on a return from the taxpayer's other books, papers, records, other data, or the computer software program and associated data itself and (2) the Secretary first identifies with reasonable specificity the portion of the computer source code to be used to verify the correctness of the item.

The Secretary is considered to have satisfied these requirements with regard to the identified portion of the source code if the Secretary makes a formal request for such materials to both the taxpayer and the owner or developer of the software that is not satisfied within 90 days.

The Secretary's determination that the identified portion of the third-party tax-related computer source code may be summoned may be contested in any proceeding to enforce the summons, by any person to whom the summons is addressed. For this purpose, the special procedures for third-party summonses will apply. In any such proceeding, the court may issue any order that is necessary to prevent the disclosure of trade secrets or other confidential information.

The prohibition on issuing summons for tax-related computer source code does not apply in connection with any inquiry into any offense connected with the administration or enforcement of the internal revenue laws. A computer software program will not be treated as tax advice for the purpose of the professional-client privilege contained in section 341 of the House bill.

Effective date.—Summonses issued more than 90 days after the date of enactment.

Senate Amendment

The Senate amendment expands the limitations in the House bill in the following manner:

(1) The prohibitions apply to all computer source code unless developed for the internal use of the taxpayer or a related person.

(2) In order to summons source code, the Secretary is required to determine that the need for the source code outweighs the risks of disclosure of the computer source code in addition to being unable to otherwise reasonably ascertain the correctness of an item on a taxpayer's return and identifying the portion of the Code with reasonable specificity.

(3) If the Secretary makes such a determination he will be considered to have satisfied the statutory requirements to summons source code if he (a) makes a good faith determination that it is not feasible to determine the correctness of the return item in question without access to the computer software program and associated data, (b) makes a formal request for such program and any data from the taxpayer and requests such program from the owner of the source code after reaching such determination, and (c) has not received such program and data within 180 days of making the formal request.

In addition to authorizing any court enforcing a subpoena to issue any order necessary to prevent the disclosure of confidential information, the Senate amendments establishes a number of specific protections against the disclosure and improper use of trade secrets and confidential information incident to the examination by the Secretary of any computer software program or source code that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer. These protections include the following:

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[17] See *Powell* v. *U.S.*, 379 U.S. 48 (1964).

[18] *Harrington* v. *U.S.*, 388 F. 2d 520 (2nd Cir. 1968).

[19] *Harrington*, supra.

(1) Such software or source code may be examined only in connection with the examination of the taxpayer's return with regard to which it was received.

(2) Such software or source code must be maintained in a secure area.

(3) Such source code may not be removed from the owner's place of business without the owner's consent unless such removal is pursuant to a court order.

(4) Such software or source code may not be decompiled or disassembled.

(5) Such software or source code may only be copied as necessary to perform the specific examination. The owner of the software must be informed of any copies that are made, such copies must be numbered, and at the conclusion of the examination and any related court proceedings, all such copies must be accounted for and returned to the owner, permanently deleted, or destroyed. The Secretary must provide the owner of such software or source code with the names of any individuals who will have access to such software or source code.

(6) If an individual who is not an officer or employee of the U.S. Government will examine the software or source code, such individual must enter into a written agreement with the Secretary that such individual will not disclose such software or source code to any person other than authorized employees or agents of the Secretary at any time, and that such individual will not participate in the development of software that is intended for a similar purpose as the summoned software for a period of two years.

(7) Criminal penalties are provided where any person willfully divulges or makes known software that was obtained (whether or not by summons) for the purpose of examining a taxpayer's return in violation of this provision.

Effective date.—Summons issued and software acquired after the date of enactment. In addition, 90 days after the date of enactment, the protections against the disclosure and improper use of trade secrets and confidential information added by the provision (except for the requirement that the Secretary provide a written agreement from non-U.S. government officers and employees) apply to software and source code acquired on or before the date of enactment.

Conference Agreement

The conference agreement generally follows the Senate amendment with regard to the safeguards for protection of computer software and source code that is obtained by the IRS in the course of the examination of a taxpayer's return. The conference agreement specifically provides that computer software or source code that is obtained by the IRS in the course of the examination of a taxpayer's return will be treated as return information for the purposes of section 6103. The conference agreement follows the Senate amendment with regard to the standards the Secretary must meet in order to summons certain types of computer source code. The conference agreement follows the House bill in limiting the higher standards for a summons to third-party tax-related computer source code.

Under the conference agreement, no summons may be issued for tax-related computer software source code unless (1) the Secretary is unable otherwise to ascertain the correctness of any item on a return from the taxpayer's books and records or the computer software program and associated data, (2) the Secretary identifies with reasonable specificity the portion of the computer source code needed to verify the correctness of the item and (3) the Secretary determines that the need for the source code outweighs the risk of unauthorized disclosure of trade secrets. The Secretary is considered to have satisfied the first two of these requirements if the Secretary makes a formal request for such materials to both the taxpayer and the owner of the software that is not satisfied within 180 days.

This limitation on the summons of tax-related computer software source code does not apply if the summons is issued in connection with an inquiry into any offense connected with the administration or enforcement of the internal revenue laws. The limitation also does not apply to a summons of computer software source code that was acquired or developed by the taxpayer or a related person primarily for internal use by the taxpayer or such person rather than for commercial distribution. A finding that computer software source code was developed for internal use, and thus not eligible for the limitation in summons authority in this provision, is not intended to be dispositive of whether such software was intended for internal use for any other purpose of this title.

Communications between the owner of the tax-related computer software source code and the taxpayer are not protected from summons by this provision. Communications between the owner of the tax-related source code and persons not related to the taxpayer that are related to the functioning and operation of the software may be treated as a part of the computer software source code.

The provision does not change or eliminate any other requirement of the Code. A summons for third-party tax-related computer source code that meets the standards established by the provision will not be enforced if it would not be enforced under present law. For example, if the Secretary's purpose in issuing the summons is shown to be improper, the summons would not be enforced, even if the Secretary otherwise met the standards for the summons of computer source code established by the provision. The limitations on the summons of tax-related computer software source code apply only with respect to computer software that is used for accounting tax return preparation, tax compliance or tax planning purposes. No inference is intended with respect to computer software used for all other purposes. In such cases, current law will continue to apply, subject to the protections against the disclosure and improper use of trade secrets and other confidential information added by this provision.

Software or source code that is required to be provided under present law must be provided without regard to this provision. For example, computer software or source code that is required to be provided in connection with the registration of a confidential corporate tax shelter arrangements under section 6111 would continue to be required to be provided without regard to this provision. Thus, the registration requirement of section 6111 cannot be avoided where the tax benefits of the shelter are discernible only from the operation of a computer program.

The conference agreement includes the protections against the disclosure and improper use of trade secrets and confidential information contained in the Senate amendment. The requirement that software or source code obtained by the Secretary in the course of an examination be used only in connection with that examination is intended to prevent the Secretary from using the software for the purpose of examining other, unrelated taxpayers. The requirement is not intended to prevent the Secretary from using knowledge it obtains in the course of the examination, so long as such use does not result in the disclosure of tax return information (including the software or source code) or the violation of any statutory protection or judicial order.

Effective date.—The conference agreement follows the Senate effective date.

d. Threat of audit prohibited to coerce tip reporting alternative commitment agreements (sec. 349 of the House bill and sec. 3414 of the Senate amendment)

Present Law

Restaurants may enter into Tip Reporting Alternative Commitment (TRAC) agreements. A restaurant entering into a TRAC agreement is obligated to educate its employees on their tip reporting obligations, to institute formal tip reporting procedures, to fulfill all filing and record keeping requirements, and to pay and deposit taxes. In return, the IRS agrees to base the restaurant's liability for employment taxes solely on reported tips and any unreported tips discovered during an IRS audit of an employee.

House Bill

The provision requires the IRS to instruct its employees that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer to enter into a TRAC agreement.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

e. Taxpayers allowed motion to quash all third-party summonses (sec. 3415 of the Senate amendment)

Present Law

When the IRS issues a summons to a "third-party recordkeeper" relating to the business transactions or affairs of a taxpayer, notice of the summons must be given to the taxpayer within three days by certified or registered mail. The taxpayer is thereafter given up to 23 days to begin a court proceeding to quash the summons. If the taxpayer does so, third-party recordkeepers are prohibited from complying with the summons until the court rules on the taxpayer's petition or motion to quash, but the statute of limitations for assessment and collection with respect to the taxpayer is stayed during the pendency of such a proceeding. Third-party recordkeepers are generally persons who hold financial information about the taxpayer, such as banks, brokers, attorneys, and accountants.

House Bill

No provision.

Senate Amendment

The Senate amendment generally expands the current "third-party recordkeeper" procedures to apply to summonses issued to persons other than the taxpayer. Thus, the taxpayer whose liability is being investigated receives notice of the summons and is entitled to bring an action in the appropriate

U.S. District Court to quash the summons. As under the current third-party recordkeeper provision, the statute of limitations on assessment and collection is stayed during the litigation, and certain kinds of summonses specified under present law are not subject to these requirements.

Effective date.—Summonses served after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment with a clarification that nothing in section 7609 of the Code (relating to special procedures for third-party summonses) shall be construed to limit the ability of the IRS to obtain information (other than by summons) through formal or informal procedures authorized by the Code.

f. Service of summonses to third-party recordkeepers permitted by mail (sec. 3416 of the Senate amendment)

Present Law

A summons must be served "by an attested copy delivered in hand to the person to whom it is directed or left at his last and usual place of abode." If a third-party recordkeeper summons is served, the IRS may give the taxpayer notice of the summons via certified or registered mail. The Federal Rules of Civil Procedure permits service of process by mail even in summons enforcement proceedings.

House Bill

No provision.

Senate Amendment

The Senate amendment allows the IRS the option of serving any summons either in person or by certified or registered mail.

Effective date.—Summonses served after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

g. Notice of IRS contact of third parties (sec. 3417 of the Senate amendment)

Present Law

Third parties may be contacted by the IRS in connection with the examination of a taxpayer or the collection of the tax liability of the taxpayer. The IRS has the right to summon third-party recordkeepers. In general, the taxpayer must be notified of the service of summons on a third party within three days of the date of service. The IRS also has the right to seize property of the taxpayer that is held in the hands of third parties. Except in jeopardy situations, the Internal Revenue Manual provides that IRS will personally contact the taxpayer and inform the taxpayer that seizure of the asset is planned.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to notify the taxpayer before contacting third parties regarding examination or collection activities (including summonses) with respect to the taxpayer. Contacts with government officials relating to matters such as the location of assets or the taxpayer's current address are not restricted by this provision. The provision does not apply to criminal tax matters, if the collection of the tax liability is in jeopardy, or if the taxpayer authorized the contact.

Effective date.—Contacts made after 180 days after the date of enactment.

Conference Agreement

The conference agreement provides that the IRS may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of the taxpayer without providing reasonable notice in advance to the taxpayer that the IRS may contact persons other than the taxpayer. It is intended that in general this notice will be provided as part of an existing IRS notice provided to taxpayers. The conference agreement also requires the IRS to provide periodically to the taxpayer a record of persons previously contacted during that period by the IRS with respect to the determination or collection of that taxpayer's tax liability. This record shall also be provided upon request of the taxpayer. The provision does not apply to criminal tax matters, if the collection of the tax liability is in jeopardy, if the Secretary determines for good cause shown that disclosure may involve reprisal against any person, or if the taxpayer authorized the contact.

Effective date.—Contacts made after 180 days after the date of enactment.

3. Collection activities

a. Approval process for liens, levies, and seizures (sec. 3421 of the Senate amendment)

Present Law

Supervisory approval of liens, levies or seizures is only required under certain circumstances. For example, a levy on a taxpayer's principal residence is only permitted upon the written approval of the District Director or Assistant District Director.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to implement an approval process under which any lien, levy or seizure would, where appropriate, be approved by a supervisor, who would review the taxpayer's information, verify that a balance is due, and affirm that a lien, levy or seizure is appropriate under the circumstances. Circumstances to be considered include the amount due and the value of the asset.

Effective date.—Collection actions commenced after date of enactment, except for automated collection system actions initiated before January 1, 2000.

Conference Agreement

The conference agreement follows the Senate amendment. The conferees intend that the Commissioner have discretion in promulgating the procedures required by this provision to determine the circumstances under which supervisory review of liens or levies issued by the automated collection system is or is not appropriate.

Effective date.—Collection actions commenced after date of enactment, except in the case of any action under the automated collection system, the provision applies to actions initiated after December 31, 2000.

b. Modifications to certain levy exemption amounts (sec. 3431 of the Senate amendment)

Present Law

IRS may levy on all non-exempt property of the taxpayer. Property exempt from levy includes up to $2,500 in value of fuel, provisions, furniture, and personal effects in the taxpayer's household and up to $1,250 in value of books and tools necessary for the trade, business or profession of the taxpayer.

House Bill

No provision.

Senate Amendment

The Senate amendment increases the value of personal effects exempt from levy to $10,000 and the value of books and tools exempt from levy to $5,000. These amounts are indexed for inflation.

Effective date.—Levies issued after date of enactment.

Conference Agreement

The conference agreement increases the value of personal effects exempt from levy to $6,250 and the value of books and tools exempt from levy to $3,125. These amounts are indexed for inflation.

Effective date.—Levies issued after date of enactment.

c. Release of levy upon agreement that amount is uncollectible (sec. 3432 of the Senate amendment)

Present Law

Some taxpayers have contended that the IRS does not release a wage levy immediately upon receipt of proof that the tax is not collectible. Instead, they claim, the IRS levies on one period's wage payment before releasing the levy.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to immediately release a wage levy upon agreement with the taxpayer that the tax is not collectible.

Effective date.—Levies imposed after December 31, 1999.

Conference Agreement

The conference agreement follows the Senate amendment, with a clarification that the release is to occur as soon as practicable. The IRS is not to intentionally delay until after one wage payment has been made and levied upon before releasing the levy.

d. Levy prohibited during pendency of refund proceedings (sec. 3433 of the Senate amendment)

Present Law

The IRS is prohibited from making a tax assessment (and thus prohibited from collecting payment) with respect to a tax liability while it is being contested in Tax Court. However, the IRS is permitted to assess and collect tax liabilities during the pendency of a refund suit relating to such tax liabilities, under the circumstances described below.

Generally, full payment of the tax at issue is a prerequisite to a refund suit. However, if the tax is divisible (such as employment taxes or the trust fund penalty under Code section 6672), the taxpayer need only pay the tax for the applicable period before filing a refund claim.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to withhold collection of liabilities that are the subject of a refund suit during the pendency of the litigation. This will only apply when refund suits can be brought without the full payment of the tax, i.e., in the case of divisible taxes. Collection by levy would be withheld unless jeopardy exists or the taxpayer waives the suspension of collection in writing (because collection will stop the running of interest and penalties on the tax liability). The Secretary could not commence a civil action to collect a liability except in a proceeding related to the initial refund proceeding. The statute of limitations on collection is stayed for the period during which the IRS is prohibited from collecting by levy or otherwise.

Effective date.—Unpaid tax attributable to taxable periods beginning after December 31, 1998.

Conference Agreement

The conference agreement follows the Senate amendment, with a technical modification. The conferees wish to clarify that proceedings related to a proceeding[20] under this provision include, but are not limited to, civil actions or third-party complaints initiated by the United States or another person with respect to the same kinds of tax (or related taxes or penalties) for the same (or overlapping) tax periods. For example, if a taxpayer brings a suit for a refund of a portion of a penalty that the taxpayer has paid under section 6672, the United States could, consistent with this provision, counterclaim against the taxpayer for the balance of the penalty or initiate related claims against other persons assessed penalties under section 6672 for the same employment taxes.

e. Approval required for jeopardy and termination assessments and jeopardy levies (sec. 3434 of the Senate amendment)

Present Law

In general, a 30-day waiting period is imposed after assessment of all types of taxes. In certain circumstances, the waiting period puts the collection of taxes at risk. The Code provides special procedures that allow the IRS to make jeopardy assessments or termination assessments in certain extraordinary circumstances, such as if the taxpayer is leaving or removing property from the United States, or if assessment or collection would be jeopardized by delay. In jeopardy or termination situations, a levy may be made without the 30-days' notice of intent to levy that is ordinarily required.

House Bill

No provision.

Senate Amendment

The Senate amendment requires IRS Counsel review and approval before the IRS can make a jeopardy assessment, a termination assessment, or a jeopardy levy. If Counsel's approval is not obtained, the taxpayer is entitled to obtain abatement of the assessment or release of the levy, and, if the IRS fails to offer such relief, to appeal first to IRS Appeals under the new due process procedure for IRS collections and then to court.

Effective date.—Taxes assessed and levies made after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

f. Increase in amount of certain property on which lien not valid (sec. 3435 of the Senate amendment)

Present Law

A Federal tax lien attaches to all property and rights in property of the taxpayer, if the taxpayer fails to pay the assessed tax liability after notice and demand. However, the Federal tax lien is not valid as to certain "superpriority" interests.

Two of these interests are limited by a specific dollar amount. Purchasers of personal property at a casual sale are presently protected against a Federal tax lien attached to such property to the extent the sale is for less than $250. In addition, present law provides protection to mechanic's lienors with respect to the repairs or improvements made to owner-occupied personal residences, but only to the extent that the contract for repair or improvement is for not more than $1,000.

In addition, a superpriority is granted to banks and building and loan associations which make passbook loans to their customers, provided that those institutions retain the passbooks in their possession until the loan is completely paid off.

House Bill

No provision.

Senate Amendment

The Senate amendment increases the dollar limit for purchasers at a casual sale from $250 to $1,000, and further increases the dollar limit from $1,000 to $5,000 for mechanics lienors providing home improvement work for owner-occupied personal residences. The Senate amendment indexes these amounts for inflation. The Senate amendment also clarifies the superpriority rules to reflect present banking practices, where a passbook-type loan may be made even though an actual passbook is not used.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

g. Waiver of early withdrawal tax for IRS levies on employer-sponsored retirement plans or IRAs (sec. 3436 of the Senate amendment)

Present Law

Under present law, a distribution of benefits from a employer-sponsored retirement plan or an Individual Retirement Arrangement ("IRA") generally is includible in gross income in the year it is paid or distributed, except to the extent the amount distributed represents the employee's after-tax contributions or investment in the contract (i.e., basis). Special rules apply to lump-sum distributions from qualified retirement plans, distributions rolled over to an IRA or employer-sponsored retirement plan, and distributions of employer securities.

Early distributions from qualified plans and IRAs includible in income generally are subject to a 10-percent early withdrawal tax, unless an exception to the tax applies. Includible amounts withdrawn prior to attainment of age 59½ are subject to the additional 10-percent early withdrawal tax, unless the withdrawal is due to death or disability, is made in the form of certain periodic payments, is used to pay medical expenses in excess of 7.5 percent of adjusted gross income ("AGI"), or is used to purchase health insurance of an unemployed individual. Certain additional exceptions to the tax apply separately to withdrawals from IRAs and qualified plans. Distributions from IRAs for education expenses and for up to $10,000 of first-time homebuyer expenses, or to unemployed individuals to purchase health insurance are not subject to the 10-percent early withdrawal tax. A distribution from a qualified plan made by an employee after separation from service after attainment of age 55 is not subject to the 10-percent early withdrawal tax.

Under present law, the IRS is authorized to levy on all non-exempt property of the taxpayer. Benefits under employer-sponsored retirement plans (including 403(b) and 457 plans) and IRAs are not exempt from levy by the IRS.

Distributions from employer-sponsored retirement plans or IRAs made on account of an IRS levy would be includible in the gross income of the individual, except to the extent the amount distributed represents after-tax contributions. In addition, the amount includible in income would be subject to the 10-percent early withdrawal tax, unless an exception described above applies.

House Bill

No provision.

Senate Amendment

The Senate amendment provides an exception from the 10-percent early withdrawal tax for amounts withdrawn from an employer-sponsored retirement plan or an IRA that are subject to a levy by the IRS. The exception applies only if the plan or IRA is levied; it does not apply, for example, if the taxpayer withdraws funds to pay taxes in the absence of a levy, in order to release a levy on other interests.

Effective date.—The provision is effective for withdrawals after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, with a modification to the effective date. The provision is effective for distributions after December 31, 1999.

h. Prohibition of sales of seized property at less than minimum bid (sec. 3441 of the Senate amendment)

Present Law

A minimum bid price must be established for seized property offered for sale. To conserve the taxpayer's equity, the minimum bid price should normally be computed at 80 percent or more of the forced sale value of the property less encumbrances having priority over the Federal tax lien. If the group manager concurs, the minimum sales price may be set at less than 80 percent. The taxpayer is to receive notice of the minimum bid price within 10 days of the sale. The taxpayer has the opportunity to challenge the minimum bid price, which cannot be more than the tax liability plus the expenses of sale. Present law does not contemplate a sale of the seized property at less than the minimum bid price. Rather, if no person offers the minimum bid price, the IRS may buy the property at the minimum bid price or the property may be released to the owner.

House Bill

No provision.

Senate Amendment

The Senate amendment prohibits the IRS from selling seized property for less than the minimum bid price. The Senate amendment provides that the sale of property for less than the minimum bid price would constitute an unauthorized collection action, which would permit an affected person to sue for civil damages.

Effective date.—Sales occurring after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

i. Accounting of sales of seized property (sec. 3442 of the Senate amendment)

Present Law

The IRS is authorized to seize and sell a taxpayer's property to satisfy an unpaid tax liability. The IRS is required to give written notice to the taxpayer before seizure of the property. The IRS must also give written notice to the taxpayer at least 10 days before the sale of the seized property.

The IRS is required to keep records of all sales of real property. The records must set forth all proceeds and expenses of the sale. The IRS is required to apply the proceeds first against the expenses of the sale, then against a specific tax liability on the seized property, if any, and finally against any unpaid tax liability of the taxpayer. Any surplus proceeds are credited to the taxpayer or persons legally entitled to the proceeds.

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[20] For purposes of new section 6331(i)(4)(A)(ii) of the Code.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to provide a written accounting of all sales of seized property, whether real or personal, to the taxpayer. The accounting must include a receipt for the amount credited to the taxpayer's account.

Effective date.—Seizures occurring after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

j. Uniform asset disposal mechanism (sec. 3443 of the Senate amendment)

Present Law

The IRS must sell property seized by levy either by public auction or by public sale under sealed bids. These are often conducted by the revenue officer charged with collecting the tax liability.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to implement a uniform asset disposal mechanism for sales of seized property. The disposal mechanism should be designed to remove any participation in the sale of seized assets by revenue officers. The provision authorizes the consideration of outsourcing of the disposal mechanism.

Effective date.—Requires a uniform asset disposal system to be implemented within two years from the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

k. Codification of IRS administrative procedures for seizure of taxpayer's property (sec. 3444 of the Senate amendment)

Present Law

The Internal Revenue Manual (IRM) provides general guidelines for seizure actions.

Prior to the levy action, the revenue officer must determine that there is sufficient equity in the property to be seized to yield net proceeds from the sale to apply to unpaid tax liabilities. If it is determined after seizure that the taxpayer's equity is insufficient to yield net proceeds from sale to apply to the unpaid tax, the revenue officer will immediately release the seized property.

House Bill

No provision.

Senate Amendment

The Senate amendment codifies the IRS administrative procedures which require the IRS to investigate the status of property prior to levy.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, with a technical modification applying the investigation requirement only to property to be sold pursuant to section 6335.

l. Procedures for seizure of residences and businesses (sec. 3445 of the Senate amendment)

Present Law

Subject to certain procedural rules and limitations, the Secretary may seize the property of the taxpayer who neglects or refuses to pay any tax within 10 days after notice and demand. The IRS may not levy on the personal residence of the taxpayer unless the District Director (or the assistant District Director) personally approves in writing or in cases of jeopardy. There are no special rules for property that is used as a residence by parties other than the taxpayer. IRS Policy Statement P-5-34 states that the facts of a case and alternative collection methods must be thoroughly considered before deciding to seize the assets of a going business.

House Bill

No provision.

Senate Amendment

The Senate amendment prohibits the IRS from seizing real property that is used as a residence (by the taxpayer or another person) to satisfy an unpaid liability of $5,000 or less, including penalties and interest.

The Senate amendment requires the IRS to exhaust all other payment options before seizing the taxpayer's business assets or principal residence. For this purpose, future income that may be derived by a taxpayer from the commercial sale of fish or wildlife under a specified State permit must be considered in evaluating other payment options before seizing the taxpayer's business assets. The provision does not apply in cases of jeopardy.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except as follows. The prohibition on seizing a residence to satisfy an unpaid liability of $5,000 or less is clarified to apply to any real property used as a residence by the taxpayer or any nonrental real property of the taxpayer used by any other individual as a residence. The definition of business assets is clarified to apply to tangible personal property or real property used in the trade or business of an individual taxpayer (other than real property that is rented). The conference agreement provides that a levy is permitted on a principal residence only if a judge or magistrate of a United States district court approves (in writing) of the levy.

4. Provisions relating to examination and collection activities

a. Procedures relating to extensions of statute of limitations by agreement (sec. 345 of the House bill and sec. 3461 of the Senate amendment)

Present Law

The statute of limitations within which the IRS may assess additional taxes is generally three years from the date a return is filed. Prior to the expiration of the statute of limitations, both the taxpayer and the IRS may agree in writing to extend the statute. An extension may be for either a specified period or an indefinite period. The statute of limitations within which a tax may be collected after assessment is 10 years after assessment. Prior to the expiration of the statute of limitations on collection, both the taxpayer and the IRS may agree in writing to extend the statute.

House Bill

The House bill requires that, on each occasion on which the taxpayer is requested by the IRS to extend the statute of limitations, the IRS must notify the taxpayer of the taxpayer's right to refuse to extend the statute of limitations or to limit the extension to particular issues.

Effective date.—Requests to extend the statute of limitations made after the date of enactment.

Senate Amendment

The Senate amendment eliminates the provision of present law that allows the statute of limitations on collections to be extended by agreement between the taxpayer and the IRS.

The Senate amendment also requires that, on each occasion on which the taxpayer is requested by the IRS to extend the statute of limitations on assessment, the IRS must notify the taxpayer of the taxpayer's right to refuse to extend the statute of limitations or to limit the extension to particular issues.

Effective date.—Requests to extend the statute of limitations made after December 31, 1999 and to all extensions of the statute of limitations on collection that are open on December 31, 1999.

Conference Agreement

The conference agreement follows the Senate amendment, except that extensions of the statute of limitations on collection may be made in connection with an installment agreement; the extension is only for the period for which the waiver of the statute of limitations entered in connection with the original written terms of the installment agreement extends beyond the end of the otherwise applicable 10-year period, plus 90 days.

Effective date. Requests to extend the statute of limitations made after December 31, 1999. If, in any request to extend the period of limitations made on or before December 31, 1999, a taxpayer agreed to extend that period beyond the 10-year statute of limitations on collection, that extension shall expire on the latest of: the last day of such 10-year period, December 31, 2002, or, in the case of an extension in connection with an installment agreement, the 90th day after the end of the period of such extension.

b. Offers-in-compromise (sec. 346 of the House bill and sec. 3462 of the Senate amendment)

Present Law

The Code permits the IRS to compromise a taxpayer's tax liability. An offer-in-compromise is an offer by the taxpayer to settle unpaid tax accounts for less than the full amount of the assessed balance due. An offer-in-compromise may be submitted for all types of taxes, as well as interest and penalties, arising under the Internal Revenue Code.

There are two bases on which an offer can be made: doubt as to liability for the amount owed and doubt as to ability to pay the amount owed.

A compromise agreement based on doubt as to ability to pay requires the taxpayer to file returns and pay taxes for five years from the date the IRS accepts the offer. Failure to do so permits the IRS to begin immediate collection actions for the original amount of the liability. The Internal Revenue Manual provides guidelines for revenue officers to determine whether an offer-in-compromise is adequate. An offer is adequate if it reasonably reflects collection potential. Although the revenue officer is instructed to consider the taxpayer's assets and future and present income, the IRM advises that rejection of an offer solely based on narrow asset and income evaluations should be avoided.

Pursuant to the IRM, collection normally is withheld during the period an offer-in-compromise is pending, unless it is determined that the offer is a delaying tactic and collection is in jeopardy.

House Bill

Rights of taxpayers entering into offers-in-compromise.—The House bill requires the IRS to develop and publish schedules of national and local allowances that will provide taxpayers entering into an offer-in-compromise with adequate means to provide for basic living expenses.

Suspend collection by levy while offer-in-compromise is pending.—No provision.

Procedures for reviews of rejections of offers-in-compromise and installment agreements.—No provision.

Publication of taxpayer's rights with respect to offers-in-compromise.—The House bill requires the IRS to publish guidance on the rights and obligations of taxpayers and the IRS relating to offers in compromise, including a compliant spouse's right to apply to reinstate an agreement that would otherwise be revoked due to the nonfiling or nonpayment of the other spouse, providing all payments required under the compromise agreement are current.

Liberal acceptance policy.—No provision.

Effective date.—Date of enactment.

Senate Amendment

Rights of taxpayers entering into offers-in-compromise.—Same as the House bill, except as follows. Under the Senate amendment, the IRS also is required to consider the facts and circumstances of a particular taxpayer's case in determining whether the national and local schedules are adequate for that particular taxpayer. If the facts indicate that use of scheduled allowances would be inadequate under the circumstances, the taxpayer is not limited by the national or local allowances.

The Senate amendment prohibits the IRS from rejecting an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer. The Senate amendment provides that, in the case of an offer-in-compromise submitted solely on the basis of doubt as to liability, the IRS may not reject the offer merely because the IRS cannot locate the taxpayer's file. The Senate amendment prohibits the IRS from requesting a financial statement if the taxpayer makes an offer-in-compromise based solely on doubt as to liability.

Suspend collection by levy while offer-in-compromise is pending.—The Senate amendment prohibits the IRS from collecting a tax liability by levy (1) during any period that a taxpayer's offer-in-compromise for that liability is being processed, (2) during the 30 days following rejection of an offer, and (3) during any period in which an appeal of the rejection of an offer is being considered. Taxpayers whose offers are rejected and who made good faith revisions of their offers and resubmitted them within 30 days of the rejection or return would be eligible for a continuous period of relief from collection by levy. This prohibition on collection by levy would not apply if the IRS determines that collection is in jeopardy or that the offer was submitted solely to delay collection. The Senate amendment provides that the statute of limitations on collection would be tolled for the period during which collection by levy is barred.

Procedures for reviews of rejections of offers-in-compromise and installment agreements.—The Senate amendment requires that the IRS implement procedures to review all proposed IRS rejections of taxpayer offers-in-compromise and requests for installment agreements prior to the rejection being communicated to the taxpayer. The Senate amendment requires the IRS to allow the taxpayer to appeal any rejection of such offer or agreement to the IRS Office of Appeals. The IRS must notify taxpayers of their right to have an appeals officer review a rejected offer-in-compromise on the application form for an offer-in-compromise.

Publication of taxpayer's rights with respect to offers-in-compromise.—Same as the House bill.

Liberal acceptance policy.—The Senate amendment provides that the IRS will adopt a liberal acceptance policy for offers-in-compromise to provide an incentive for taxpayers to continue to file tax returns and continue to pay their taxes.

Effective date.—Generally effective for offers-in-compromise submitted after the date of enactment. The provision suspending levy is effective with respect to offers-in-compromise pending on or made after December 31, 1999.

Conference Agreement

The conference agreement follows the Senate amendment, with the following additions. First, the provision suspending collection by levy while an offer-in-compromise is pending is also expanded to apply while an installment agreement is pending.

Second, the provision authorizes the Secretary to prescribe guidelines for the IRS to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute. Accordingly, the conferees expect that the present regulations will be expanded so as to permit the IRS, in certain circumstances, to consider additional factors (i.e., factors other than doubt as to liability or collectibility) in determining whether to compromise the income tax liabilities of individual taxpayers. For example, the conferees anticipate that the IRS will take into account factors such as equity, hardship, and public policy where a compromise of an individual taxpayer's income tax liability would promote effective tax administration. The conferees anticipate that, among other situations, the IRS may utilize this new authority to resolve longstanding cases by forgoing penalties and interest which have accumulated as a result of delay in determining the taxpayer's liability. The conferees believe that the ability to compromise tax liability and to make payments of tax liability by installment enhances taxpayer compliance. In addition, the conferees believe that the IRS should be flexible in finding ways to work with taxpayers who are sincerely trying to meet their obligations and remain in the tax system. Accordingly, the conferees believe that the IRS should make it easier for taxpayers to enter into offer-in-compromise agreements, and should do more to educate the taxpaying public about the availability of such agreements.

c. Notice of deficiency to specify deadlines for filing Tax Court petition (sec. 347 of the House bill and sec. 3463 of the Senate amendment)

Present Law

Taxpayers must file a petition with the Tax Court within 90 days after the deficiency notice is mailed (150 days if the person is outside the United States) (sec. 6213). If the petition is not filed within that time period, the Tax Court does not have jurisdiction to consider the petition.

House Bill

The provision requires the IRS to include on each deficiency notice the date determined by the IRS as the last day on which the taxpayer may file a petition with the Tax Court. The provision provides that a petition filed with the Tax Court by this date is treated as timely filed.

Effective date.—Notices mailed after December 31, 1998.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

d. Refund or credit of overpayments before final determination (sec. 348 of the House bill and sec. 3464 of the Senate amendment)

Present Law

Generally, the IRS may not take action to collect a deficiency during the period a taxpayer may petition the Tax Court, or if the taxpayer petitions the Tax Court, until the decision of the Tax Court becomes final. Actions to collect a deficiency attempted during this period may be enjoined, but there is no authority for ordering the refund of any amount collected by the IRS during the prohibited period.

If a taxpayer contests a deficiency in the Tax Court, no credit or refund of income tax for the contested taxable year generally may be made, except in accordance with a decision of the Tax Court that has become final. Where the Tax Court determines that an overpayment has been made and a refund is due the taxpayer, and a party appeals a portion of the decision of the Tax Court, no provision exists for the refund of any portion of any overpayment that is not contested in the appeal.

House Bill

The provision provides that a proper court (including the Tax Court) may order a refund of any amount that was collected within the period during which the Secretary is prohibited from collecting the deficiency by levy or other proceeding.

The provision also allows the refund of that portion of any overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

e. IRS procedures relating to appeal of examinations and collections (sec. 3465 of the Senate amendment)

Present Law

IRS Appeals operates through regional Appeals offices which are independent of the local District Director and Regional Commissioner's offices. In general, IRS Appeals offices have jurisdiction over both pre-assessment and post-assessment cases. The taxpayer generally has an opportunity to seek Appeals jurisdiction after failing to reach agreement with the Examination function and before filing a petition in Tax Court, after filing a petition in Tax Court (but before litigation), after assessment of certain penalties, after a claim for refund has been rejected by the District Director's office, and after a proposed rejection of an offer-in-compromise in a collection case.

In certain cases under Coordinated Examination Program procedures, the taxpayer has an opportunity to seek early Appeals jurisdiction over some issues while an examination is still pending on other issues. The early referral procedures also apply to employment tax issues on a limited basis.

In mediation or alternative dispute resolution (ADR) process is also available in certain cases. ADR is used at the end of the administrative process as a final attempt to resolve a dispute before litigation. ADR is currently only available for cases with more than $10 million in dispute. ADR processes are also available in bankruptcy cases and cases involving a competent authority determination.

In April 1996, the IRS implemented a Collections Appeals Program within the Appeals function, which allows taxpayers to appeal lien, levy, or seizure actions proposed by the IRS. In January 1997, appeals for installment agreements proposed for termination were added to the program.

House Bill

No provision.

Senate Amendment

The Senate amendment codifies existing IRS procedures with respect to early referrals to Appeals and the Collections Appeals Process. The Senate amendment also codifies the existing ADR procedures, as modified by eliminating the dollar threshold.

In addition, the IRS is required to establish a pilot program of binding arbitration for disputes of all sizes. Under the pilot program, binding arbitration must be agreed to by both the taxpayer and the IRS.

The Senate amendment requires the IRS to make Appeals officers available on a regular basis in each State, and consider videoconferencing of Appeals conferences for taxpayers seeking appeals in rural or remote areas.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

f. Application of certain fair debt collection practices (sec. 3466 of the Senate amendment)

Present Law

The Fair Debt Collection Practices Act provides a number of rules relating to debt collection practices. Among these are restrictions on communication with the consumer, such as a general prohibition on telephone calls outside the hours of 8:00 a.m. to 9:00 p.m. local time, and prohibitions on harassing or abusing the consumer. In general, these provisions do not apply to the Federal Government.

House Bill

No provision.

Senate Amendment

The Senate amendment applies the restrictions relating to communication with the taxpayer/debtor and the prohibitions on harassing or abusing the debtor to the IRS. The restrictions relating to communication with the taxpayer/debtor are not intended to hinder the ability of the IRS to respond to taxpayer inquiries (such as answering telephone calls from taxpayers).

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

g. Guaranteed availability of installment agreements (sec. 3467 of the Senate amendment)

Present Law

The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed. An installment agreement does not reduce the amount of taxes, interest, or penalties owed, but does provide for a longer period during which payments may be made during which other IRS enforcement actions (such as levies or seizures) are held in abeyance. The IRS in most instances readily approves these requests if the amounts involved are not large (in general, below $10,000) and if the taxpayer has filed tax returns on time in the past. Some taxpayers are required to submit background information to the IRS substantiating their application.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the Secretary to enter an installment agreement, at the taxpayer's option, if: (1) the liability is $10,000, or less (excluding penalties and interest); (2) within the previous 5 years, the taxpayer has not failed to file or to pay, nor entered an installment agreement under this provision; (3) if requested by the Secretary, the taxpayer submits financial statements, and the Secretary determines that the taxpayer is unable to pay the tax due in full; (4) the installment agreement provides for full payment of the liability within 3 years; and (5) the taxpayer agrees to continue to comply with the tax laws and the terms of the agreement for the period (up to 3 years) that the agreement is in place.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

h. Prohibition on requests to taxpayers to waive rights to bring actions (sec. 3468 of the Senate amendment)

Present Law

There is no restriction on the circumstances under which the Government may request a taxpayer to waive the taxpayer's right to sue the United States or one of its employees for any action taken in connection with the tax laws.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that the Government may not request a taxpayer to waive the taxpayer's right to sue the United States or one of its employees for any action taken in connection with the tax laws, unless (1) the taxpayer knowingly and voluntarily waives that right, or (2) the request is made to the taxpayer's attorney or other representative.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment. The conferees do not intend this provision to apply to the waiver of claims for attorneys' fees or costs or to the waiver of one or more claims brought in the same administrative or judicial proceeding with other claims that are being settled.

F. Disclosures to Taxpayers

1. Explanation of joint and several liability (sec. 351 of the House bill and sec. 3501 of the Senate amendment)

Present Law

In general, spouses who file a joint tax return are each fully responsible for the accuracy of the tax return and for the full liability. Spouses who wish to avoid such joint and several liability may file as married persons filing separately. Special rules apply in the case of innocent spouses.

House Bill

The House bill requires that the IRS establish procedures clearly to alert married taxpayers of their joint and several liability on all appropriate tax publications and instructions. The IRS will make an appropriate cross reference to these statements near the signature line on appropriate tax forms.

Effective date.—Requires that the procedures be established as soon as practicable, but no later than 180 days after the date of enactment.

Senate Amendment

Same as the House bill, except that the Senate amendment also requires notification of the availability of electing separate liability.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment, except that notification must be given of an individual's right to relief under new section 6015 of the Code.

2. Explanation of taxpayers' rights in interviews with the IRS (sec. 352 of the House bill and sec. 3502 of the Senate amendment)

Present Law

Prior to or at initial in-person audit interviews, the IRS must explain to taxpayers the audit process and taxpayers' rights under that process and the collection process and taxpayers' rights under that process. If a taxpayer clearly states during an interview with the IRS that the taxpayer wishes to consult with the taxpayer's representative, the interview must be suspended to afford the taxpayer a reasonable opportunity to consult with the representative.

House Bill

The House bill requires that the IRS rewrite Publication 1 ("Your Rights as a Taxpayer") to inform taxpayers more clearly of their rights (1) to be represented by a representative and (2) if the taxpayer is so represented, that the interview may not proceed without the presence of the representative unless the taxpayer consents.

Effective date.—The addition to Publication 1 must be made not later than 180 days after the date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

3. Disclosure of criteria for examination selection (sec. 353 of the House bill and sec. 3503 of the Senate amendment)

Present Law

The IRS examines Federal tax returns to determine the correct liability of taxpayers. The IRS selects returns to be audited in a number of ways, such as through a computerized classification system (the discriminant function ("DIF") system).

House Bill

The provision requires that IRS add to Publication 1 ("Your Rights as a Taxpayer") a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. The statement must not include any information the disclosure of which would be detrimental to law enforcement. The statement must specify the general procedures used by the IRS, including whether taxpayers are selected for examination on the basis of information in the media or from informants.

Effective date.—The addition to Publication 1 must be made not later than 180 days after the date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

4. Explanation of the appeals and collection process (sec. 354 of the House bill and sec. 3504 of the Senate amendment)

Present Law

There is no statutory requirement that specific notices be given to taxpayers with the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals.

House Bill

The House bill requires that an explanation of the appeals process and the collection process be provided with the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals.

Effective date.—Requires that the explanation be included as soon as practicable, but no later than 180 days after the date of enactment.

Senate Amendment

The Senate amendment requires that, no later than 180 days after the date of enactment, a description of the entire process from examination through collections, including the assistance available to taxpayers from the Taxpayer Advocate at various points in the process, be provided with the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment.

5. Explanation of reason for refund disallowance (sec. 3505 of the Senate amendment)

Present Law

The Examination Division of the IRS examines claims for refund submitted by taxpayers. The Internal Revenue Manual requires examination or other audit action on refund claims within 30 days after receipt of the claims. The refund claim is preliminarily examined to determine if it should be disallowed. The taxpayer will receive a form from the IRS stating that the claim for refund cannot be considered. Other cases will be examined as quickly as possible and the disposition of the case, including the reasons for the disallowance or partial disallowance of the refund claim, must be stated in the portion of the revenue agent's report that is sent to the taxpayer.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to notify the taxpayer of the specific reasons for the disallowance (or partial disallowance) of the refund claim.

Effective date.—180 days after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, with technical modifications.

6. Statements to taxpayers with installment agreements (sec. 3506 of the Senate amendment)

Present Law

A taxpayer entering into an installment agreement to pay tax liabilities due to the IRS must complete a Form 433-D which sets forth the installment amounts to be paid monthly and the total amount of tax due. The IRS does not provide the taxpayer with an annual statement reflecting the amounts paid and the amount due remaining.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to send every taxpayer in an installment agreement an annual statement of the initial balance owed, the payments made during the year, and the remaining balance.

Effective date.—No later than 180 days after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

Effective date.—July 1, 2000.

7. Notification of change in tax matters partner (sec. 3507 of the Senate amendment)

Present Law

In general, the tax treatment of items of partnership income, loss, deductions and credits are determined at the partnership level in a unified partnership proceeding rather than in separate proceedings with each partner. In providing notice to taxpayers with respect to partnership proceedings, the IRS relies on information furnished by a party designated as the tax matters partner (TMP) of the partnership. The TMP is required to keep each partner informed of all administrative and judicial proceedings with respect to the partnership. Under certain circumstances, the IRS may require the resignation of the incumbent TMP and designate another partner as the TMP of a partnership

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS to notify all partners of any resignation of the tax matters partner that is required by the IRS, and to notify the partners of any successor tax matters partner.

Effective date.—Selections of tax matters partners made by the Secretary after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

8. Conditions under which taxpayers' returns may be disclosed (sec. 3508 of the Senate amendment)

Present Law

There is no requirement that the general tax forms instruction booklets include a description of conditions under which tax return information may be disclosed outside the IRS (including to States).

House Bill

Senate Amendment

The Senate amendment requires that general tax forms instruction booklets include a description of conditions under which tax return information may be disclosed outside the IRS (including to States).

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment with technical modifications; the conferees consider the statement currently contained in the general tax forms instruction booklets to be sufficient to fulfill the requirements of this provision.

9. Disclosure of Chief Counsel advice

Present Law

Section 6110 of the Code provides for the public inspection of written determinations, i.e., rulings, determination letters, and technical advice memoranda. The IRS issues annual revenue procedures setting forth the procedures for requests for these various forms of written determinations and participation in the formulation of such determinations.[21] Under section 6110 and the regulations promulgated thereunder, the taxpayer who is the subject of a written determination can participate in the redaction of the documents to ensure that the taxpayer's privacy is protected and that sensitive private information is removed before the determination is publicly disclosed. In the event there is disagreement as to the information to be deleted, the section provides for litigation in the courts to resolve such disagreements.

One of the Office of Chief Counsel's major roles is to advise Internal Revenue Service personnel on legal matters at all stages of case development. The Office of Chief Counsel thus issues various forms of written legal advice to field agents of the IRS and to its own field attorneys that do not fall within the current definition of "written determination" under section 6110. Traditionally, field Counsel offices provided most of the assistance to the IRS, usually at IRS field offices, but since 1988, the National Office of Chief Counsel has been rendering more assistance to field Counsel and IRS offices. National Office of Chief Counsel assistance in taxpayer-specific cases is generally called "field service advice." The taxpayers who are the subject of field service advice generally do not participate in the process, leading some tax commentators to express concern that the field service advice process was displacing the technical advice process.

There has been controversy as to whether the Office of Chief Counsel must release forms of advice other than written determinations pursuant to the Freedom of Information Act (FOIA). In *Tax Analysts* v. *IRS*,[22] the D.C. Circuit held that the legal analysis portions of field service advice created in the context of specific taxpayers' cases are not "return information," as defined by section 6103(b)(2), and must be released under FOIA. The court also found that portions of field service advice issued in docketed cases may be withheld as privileged attorney work product. However, some issues remain outstanding. Although the extent to which such materials must be released is still in dispute, it is clear that they are not expressly covered by section 6110. As a consequence, there exists no mechanism by which taxpayers may participate in the administrative process of redacting their private information from such documents or to resolve disagreements in court.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

In general

The conferees believe that written documents issued by the National Office of Chief

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[21] See e.g., Rev. Procs. 98-1 and 98-2.

[22] 117 F.3d 607 (D.C. Cir. 1997).

Counsel to its field components and field agents of the IRS should be subject to public release in a manner similar to technical advice memoranda or other written determinations. In this way, all taxpayers can be assured of access to the "considered view of the Chief Counsel's national office on significant tax issues."[23] Creating a structured mechanism by which these types of legal memoranda are open to public inspection will increase the public's confidence that the tax system operates fairly and in an even-handed manner with respect to all taxpayers.

As part of making these documents public, however, the privacy of the taxpayer who is the subject of the advice must be protected. Any procedure for making such advice public must therefore include adequate safeguards for taxpayers whose privacy interests are implicated. There should be a mechanism for taxpayer participation in the deletion of any private information. There should also be a process whereby appropriate governmental privileges may be asserted by the IRS and contested by the public or the taxpayer.

The provision amends section 6110 of the Code, establishing a structured process by which the IRS will make certain work products, designated as "Chief Counsel Advice," open to public inspection on an ongoing basis. It is designed to protect taxpayer privacy while allowing the public inspection of these documents in a manner generally consistent with the mechanism of section 6110 for the public inspection of written determinations. In general, the provision operates by establishing that Chief Counsel Advice are written determinations subject to the public inspection provisions of section 6110.

Definition of Chief Counsel Advice

For purposes of this provision, Chief Counsel Advice is written advice or instruction prepared and issued by any national office component of the Office of Chief Counsel to field employees of the Service or the Office of Chief Counsel that convey certain legal interpretations or positions of the IRS or the Office of Chief Counsel concerning existing or former revenue provisions. For these purposes, the term "revenue provisions" includes, without limitation: the Internal Revenue Code itself; regulations, revenue rulings, revenue procedures, or other administrative interpretations or guidance, whether published or unpublished (including, for example, other Chief Counsel Advice); tax treaties; and court decisions and opinions. Chief Counsel Advice also includes legal interpretations of State law, foreign law, or other federal law relating to the assessment or collection of liabilities under revenue provisions.

Chief Counsel Advice may interpret or set forth policies concerning the internal revenue laws either in general or as applied to specific taxpayers or groups of specific taxpayers. The definition is, however, not meant to include advice written with respect to nontax matters, including but not limited to employment law, conflicts of interest, or procurement matters.

The new statutory category of written determination encompasses certain existing categories of advisory memoranda or instructions written by the National Office of Chief Counsel to field personnel of either the IRS or the Office of Chief Counsel. Specifically, Chief Counsel Advice includes field service advice, technical assistance to the field, service center advice, litigation guideline memoranda, tax litigation bulletins, general litigation bulletins, and criminal tax bulletins. The definition applies not only to the case-specific field service advice issued from the offices of the Associate Chief Counsel (International), Associate Chief Counsel (Employee Benefits and Exempt Organizations), and the Assistant Chief Counsel (Field Service), which were at issue in the Tax Analysts decision, but any case-specific or noncase-specific written advice or instructions issued by the National Office of Chief Counsel to field personnel of either the IRS or the Office of Chief Counsel.

Moreover, Chief Counsel Advice includes any documents created subsequent to the enactment of this provision that satisfy the general statutory definition, regardless of their name or designation. Chief Counsel Advice also includes any such advice or instruction even if the organizations currently issuing them are reorganized or reconstituted as part of any IRS restructuring.

The new subsection covers written advice "issued" to field personnel of either the IRS or the Office of Chief Counsel in its final form. With respect to Chief Counsel Advice, issuance occurs when the Chief Counsel Advice has been approved within the national office component of the office of Chief Counsel in which the Chief Counsel Advice was proposed, signed by the person authorized to do so (usually the Assistant Chief Counsel or a Branch Chief), and sent to the field. Chief Counsel Advice does not include written recordations of informal telephonic advice by the National Office of Chief Counsel to field personnel of either the IRS or the Office of Chief Counsel. Drafts of Chief Counsel Advice sent to the field for review, criticism, or comment prior to approval within the National Office also need not be made public. However, Chief Counsel Advice may be treated as issued even if supplemental advice is contemplated. The Secretary is expected to issue regulations to clarify the distinction between issuance as it applies to Chief Counsel Advice and as it applies to other documents disclosed under section 6110.

The provision also allows the Secretary to promulgate regulations providing that additional types of advice or instruction issued by the Office of Chief Counsel (or components of the Office of Chief Counsel, such as regional or local Counsel offices) will be treated as Chief Counsel Advice and subject to public inspection pursuant to this provision. No inference shall be drawn from the failure of the Secretary to treat additional types of advice or instruction as Chief Counsel Advice in determining whether such advice or instruction is to be disclosed under FOIA.

As with other written determinations, Chief Counsel Advice may not be used or cited as precedent, except as the Secretary otherwise establishes by regulation.

Redaction process

Under this provision, Chief Counsel Advice will be redacted prior to their public release in a manner similar to that provided for private letter rulings, technical advice memoranda, and determination letters. Specific taxpayers or groups of specific taxpayers who are the subject of Chief Counsel Advice will be afforded the opportunity to participate in the process of redacting the Chief Counsel Advice prior to their public release.

In addition, the new provision affords additional protection for certain governmental interests implicated by Chief Counsel Advice. Information may be redacted from Chief Counsel Advice under subsections (b) and (c) of the Freedom of Information Act, 5 U.S.C. sec. 552 (except, with respect to 5 U.S.C. sec. 552(b)(3), only material required to be withheld under a Federal statute, other than title 26, may be redacted), as those provisions have been, or shall be, interpreted by the courts of the United States. For those deletions that are discretionary, such as those under FOIA section 552(b)(5), it is expected that the Office of Chief Counsel and the IRS will apply any discretionary standards applicable to federal agencies in general or the Chief Counsel or the IRS in particular.[24]

Under new section 6110(i), as with current section 6110(c)(1), identifying details consisting of names, addresses, and any other information that the Secretary determines could identify any person, including the taxpayer's representative, will be redacted, after the participation of the taxpayer in the redaction process. In some situations, information included in a Chief Counsel Advice (other than a name or address) may not identify a person as of the time the advice is made open to public inspection, but that information, together with information that is expected to be disclosed by another source at a later date, will serve to identify a person. Consequently, in deciding whether a Chief Counsel Advice contains identifying information, the Secretary is to take into account information that is available to the public at the time that the advice is made open to public inspection as well as information that is expected to be publicly available from other sources within a reasonable time after the Chief Counsel Advice is made open to public inspection. Generally, it is intended that the standard the IRS is to use in determining whether information will identify a person is a standard of a reasonable person generally knowledgeable with respect to the appropriate community. The standard is not, however, to be one of a person with inside knowledge of the particular taxpayer.

As under current section 6110, taxpayers who are the subject of Chief Counsel Advice, as well as members of the public, will be afforded the opportunity to challenge judicially the redaction determinations by the Secretary.

Relation to present law

The public inspection of Chief Counsel Advice is to be accomplished only pursuant to the rules and procedures set forth in section 6110, as amended, and not under those of any other provision of law, such as FOIA. This provision is not intended to affect the disclosure under FOIA, or under any other provision of law, of any documents not included within the definition of Chief Counsel Advice in new sections 6110(i)(1) and (i)(2). The only FOIA exemption affected by this provision is 5 U.S.C. section 552(b)(3), to the extent that it incorporates section 6103 of the Code. The timetable and the manner in which existing Chief Counsel Advice may ultimately be open to public inspection shall be governed by this provision, except that the provision is inapplicable to Chief Counsel Advice that any federal district court has, prior to the date of enactment, ordered be disclosed. Disclosure of any documents that are subject to such a court order is to proceed pursuant to the order rather than this provision. Finally, no inference is intended with respect to the disclosure, under FOIA or any other provision of law, of any other documents produced by the Office of Chief Counsel that are not included in the definition of Chief Counsel Advice.

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[23] 117 F.3d at 617.

[24] The current standards for the exercise of such discretion are set forth in the Internal Revenue Manual (part 1230, section 293(2)) and the Attorney General's October 4, 1993, Memorandum for Heads of Departments and Agencies.

Effective date

The provision applies to Chief Counsel Advice issued more than ninety days after enactment. In addition, the provision contains certain rules governing disclosure of any document fitting the definition of Chief Counsel Advice issued after 1985 and before 90 days after the date of enactment by the offices of the associate chief counsel for domestic, employee benefits and exempt organizations, and international. It sets forth a schedule for the IRS to release such Chief Counsel Advice over a six year period after the date of enactment. Finally, additional advice or instruction that the Secretary determines by regulations to treat as Chief Counsel Advice shall be made public pursuant to this provision in accordance with the effective dates set forth in such regulations.

G. Low-Income Taxpayer Clinics (sec. 361 of the House bill and sec. 3601 of the Senate amendment)

Present Law

There are no provisions in present law providing for assistance to clinics that assist low-income taxpayers.

House Bill

The House bill provides that the Secretary is authorized to provide up to $3,000,000 per year in matching grants to certain low-income taxpayer clinics. No clinic could receive more than $100,000 per year. Eligible clinics would be those that charge no more than a nominal fee to either represent low-income taxpayers in controversies with the IRS or provide tax information to individuals for whom English is a second language.

A "clinic" includes (1) a clinical program at an accredited law school, in which students represent low-income taxpayers, or (2) an organization exempt from tax under Code section 501(c) which either represents low-income taxpayers or provides referral to qualified representatives.

Effective date.—Date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill, except that the Secretary is authorized to provide up to $6,000,000 per year in matching grants. A clinic also includes an accredited business school or an accredited accounting school. Grants can also be made to volunteer income tax assistance programs. Grants can also be made to training and technical assistance programs, up to 7.5 percent of total amount available for grants, and without regard to the $100,000 per clinic per year limitation.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the House bill, except that the overall limit is $6,000,000 and clinical programs at accredited business schools or accounting schools would be eligible for grants.

H. Other Provisions

1. Cataloging complaints (sec. 372 of the House bill and sec. 3701 of the Senate amendment)

Present Law

The IRS is required to make an annual report to the Congress, beginning in 1997, on all categories of instances involving allegations of misconduct by IRS employees, arising either from internally identified cases or from taxpayer or third-party initiated complaints. The report must identify the nature of the misconduct or complaint, the number of instances received by category, and the disposition of the complaints.

House Bill

The provision requires that, in collecting data for this report, records of taxpayer complaints of misconduct by IRS employees must be maintained on an individual employee basis. These individual records are not to be listed in the report.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

Effective date.—January 1, 2000.

2. Archive of records of Internal Revenue Service (sec. 373 of the House bill and sec. 3702 of the Senate amendment)

Present Law

The IRS is obligated to transfer agency records to the National Archives and Records Administration ("NARA") for retention or disposal. The IRS is also obligated to protect confidential taxpayer records from disclosure. These two obligations have created conflict between NARA and the IRS. Under present law, the IRS determines whether records contain taxpayer information. Once the IRS has made that determination, NARA is not permitted to examine those records. NARA has expressed concern that the IRS may be using the disclosure prohibition to improperly conceal agency records with historical significance.

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). Section 6103 does not authorize the disclosure of confidential return information to NARA.

House Bill

The House bill provides an exception to the disclosure rules to require IRS to disclose IRS records to officers or employees of NARA, upon written request from the U.S. Archivist, for purposes of the appraisal of such records for destruction or retention. The present-law prohibitions on and penalties for disclosure of tax information would generally apply to NARA.

Effective date.—Effective for requests made by the Archivist after the date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

3. Payment of taxes (sec. 374 of the House bill and sec. 3703 of the Senate amendment)

Present Law

The Code provides that it is lawful for the Secretary to accept checks or money orders as payment for taxes, to the extent and under the conditions provided in regulations prescribed by the Secretary (sec. 6311). Those regulations state that checks or money orders should be made payable to the Internal Revenue Service.

House Bill

The House bill requires the Secretary or his delegate to establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order to be made payable to the United States Treasury.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

4. Clarification of authority of Secretary relating to the making of elections (sec. 375 of the House bill and sec. 3704 of the Senate amendment)

Present Law

Except as otherwise provided, elections provided by the Code are to be made in such manner as the Secretary shall by regulations or forms prescribe.

House Bill

The provision clarifies that, except as otherwise provided, the Secretary may prescribe the manner of making of any election by any reasonable means.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

5. IRS employee contacts (sec. 3705 of the Senate amendment)

Present Law

The IRS sends many different notices to taxpayers. Some (but not all) of these notices contain a name and telephone number of an IRS employee whom the taxpayer may call if the taxpayer has any questions.

House Bill

No provision.

Senate Amendment

The Senate amendment requires that all IRS notices and correspondence contain a name and telephone number of an IRS employee whom the taxpayer may call. In addition, to the extent practicable and advantageous to the taxpayer, the IRS should assign one employee to handle a matter with respect to a taxpayer until that matter is resolved.

The Senate amendment also requires that all IRS telephone helplines provide an option for any taxpayer questions to be answered in Spanish.

Further, the Senate amendment requires that all IRS telephone helplines provide an option for any taxpayer to talk to a live person in addition to hearing a recorded message. That person can then direct the taxpayer to other IRS personnel who can provide understandable information to the taxpayer.

Effective date.—Effective January 1, 2000.

Conference Agreement

The conference agreement generally follows the Senate amendment, with modifications. Any manually generated correspondence received by a taxpayer from the IRS must include in a prominent manner the name, telephone number, and unique identifying number of an IRS employee the taxpayer may contact with respect to the correspondence. Any other correspondence or notice received by a taxpayer from the IRS must include in a prominent manner a telephone number that the taxpayer may contact. An IRS employee must give a taxpayer during a telephone or personal contact the employee's name and unique identifying number. The requirements pertaining to a unique identifying number are effective six months after the date of enactment.

6. Use of pseudonyms by IRS employees (sec. 3706 of the Senate amendment)

Present Law

The Federal Service Impasses Panel has ruled that if an employee believes that use of the employee's last name only will identify the employee due to the unique nature of the employee's last name, and/or nature of the office locale, then the employee may "register" a pseudonym with the employee's supervisor.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that an IRS employee may use a pseudonym only if (1) adequate justification, such as protecting personal safety, for using the pseudonym was provided by the employee as part of the employee's request, and (2) management has approved the request to use the pseudonym prior to its use.

Effective date.—Requests made after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

7. Conferences of right in the National Office of IRS (sec. 3707 of the Senate amendment)

Present Law

In any matter involving the submission of a substantive legal matter involving a specific taxpayer to the National Office of the IRS, the taxpayer is entitled to at least one conference (the "conference of right") at which it can explain its position.

House Bill

No provision.

Senate Amendment

The Senate amendment gives a taxpayer the right to limit participation in its conference of right to IRS national office personnel.

Effective date.—Requests made after the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

8. Illegal tax protester designations (sec. 3708 of the Senate amendment)

Present Law

The IRS designates individuals who meet certain criteria as "illegal tax protesters" in the IRS master file.

House Bill

No provision.

Senate Amendment

The Senate amendment prohibits the use by the IRS of the "illegal tax protester" designation. Any extant designation in the individual master file (the main computer file) must be removed and any other extant designation (such as on paper records that have been archived) must be disregarded. The IRS is, however, permitted to designate appropriate taxpayers as nonfilers. The IRS must remove the nonfiler designation once the taxpayer has filed valid tax returns for two consecutive years and paid all taxes shown on those returns.

Effective date.—Date of enactment, except that the removal of any designation from the master file, is not required to begin before January 1, 1999.

Conference Agreement

The conference agreement follows the Senate amendment. While this provision prohibits the use by the IRS of the "illegal tax protester" designation, it does allow the IRS to continue its current practice of tracking "potentially dangerous taxpayers." The conferees recognize the potential hazards connected with the assessment and collection of taxes, and this provision is not intended to jeopardize the safety of IRS employees. Accordingly, if the IRS needs to implement additional procedures, such as the maintenance of appropriate records, in connection with this provision so as to ensure IRS employees' safety, it has the authority to do so.

9. Provision of confidential information to Congress by whistleblowers (sec. 3709 of the Senate amendment)

Present Law

Tax return information generally may not be disclosed, except as specifically provided by statute. The Secretary of the Treasury may furnish tax return information to the Senate Committee on Finance, the House Committee on Ways and Means, and the Joint Committee on Taxation upon a written request from the chairmen of such committees. If the information can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, the information may be furnished to the committee only while sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

House Bill

No provision.

Senate Amendment

The Senate amendment allows any person who is (or was) authorized to receive confidential tax return information to disclose tax return information directly to the Chairman of the Senate Committee on Finance, the Chairman of the House Committee on Ways and Means, or the Chief of Staff of the Joint Committee on Taxation provided: (1) such disclosure is for the purpose of disclosing an incident of IRS employee or taxpayer abuse, and (2) the Chairman of the committee to which the information will be disclosed gives prior approval for the disclosure in writing.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement provides that any person (i.e., a whistleblower) who otherwise has or had access to any return or return information under section 6103 may disclose such return or return information to the House Ways and Means Committee, the Senate Finance Committee, or the Joint Committee on Taxation or to any individual authorized by one of those committees to receive or inspect any return or return information if such person (the whistleblower) believes such return or return information may relate to evidence of possible misconduct, maladministration, or taxpayer abuse. Disclosure to one of these committees could be made either to the Chairman or to the full committee (sitting in closed executive session), but would not be permitted to be made to an individual Member of Congress (unless explicitly authorized as an agent). No inference is intended that such whistleblower disclosures are not permitted under present law.

Effective date.—Date of enactment.

10. Listing of local IRS telephone numbers and addresses (sec. 3710 of the Senate amendment)

Present Law

The IRS is not statutorily required to publish the local telephone number or address of its local offices.

House Bill

No provision.

Senate Amendment

The Senate amendment requires the IRS, as soon as is practicable but no later than 180 days after the date of enactment, to publish addresses and local telephone numbers of local IRS offices in appropriate local telephone directories.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement generally follows the Senate amendment. The conferees intend that (1) the IRS not be required to publish in more than one directory in any local area and (2) publication in alternate language directories is permissible.

Effective date.—As soon as is practicable.

11. Identification of return preparers (sec. 3711 of the Senate amendment)

Present Law

Any return or claim for refund prepared by an income tax return preparer must bear the social security number of the return preparer, if such preparer is an individual.

House Bill

No provision.

Senate Amendment

The Senate amendment authorizes the IRS to approve alternatives to social security numbers to identify tax return preparers.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

12. Offset of past-due, legally enforceable State income tax obligations against overpayments (sec. 3712 of the Senate amendment)

Present Law

Overpayments of Federal tax may be used to pay past-due child support and debts owed to Federal agencies, without the consent of the taxpayer. Such amount for past-due child support may be paid directly to a State. Present law provides that offsets are made in the following priority: (1) child support and (2) other Federal debts, in the order in which such debts accrued.

House Bill

No provision.

Senate Amendment

The Senate amendment permits States to participate in the IRS refund offset program for specified past-due, legally enforceable State income tax debts, providing the person making the Federal tax overpayment has shown on the Federal return for the taxable year of the overpayment an address that is within the State seeking the tax offset. The offset applies after the offsets provided in present law for internal revenue tax liabilities, past-due support, and past-due, legally enforceable obligations owed a Federal agency. The offset occurs before the designation of any refund toward future Federal tax liability.

Effective date.—Federal income tax refunds payable after December 31, 1998.

Conference Agreement

The conference agreement follows the Senate amendment, with technical modifications. The provision permits the Secretary to prescribe additional conditions (pursuant to new section 6402(e)(4)(D)) to ensure that the determination is valid that the State or local income tax liability is past-due and legally enforceable. The conferees intend that this include consideration of questions that may arise as a result of the taxpayer being a Native American.

Effective date.—Federal income tax refunds payable after December 31, 1999.

13. Moratorium regarding regulations under Notice 98-11 (sec. 3713(a)(1) of the Senate amendment)

Present Law

Overview

U.S. citizens and residents and U.S. corporations are taxed currently by the United States on their worldwide income, subject to a credit against U.S. tax on foreign-source income for foreign income taxes paid with respect to such income. A foreign corporation generally is not subject to U.S. tax on its income from operations outside the United States.

Income of a foreign corporation generally is taxed by the United States when it is repatriated to the United States through payment to the corporation's U.S. shareholders, subject to a foreign tax credit. However, various regimes imposing current U.S. tax on income earned through a foreign corporation are reflected in the Code. One anti-deferral regime set forth in the Code is the controlled foreign corporation rules of subpart F (secs. 951-964).

A controlled foreign corporation ("CFC") is defined generally as any foreign corporation if U.S. persons own more than 50 percent of the corporation's stock (measured by vote or value), taking into account only those U.S. persons that own at least 10 percent of the stock (measured by vote only) (sec. 957). Stock ownership includes not only stock owned directly, but also stock owned indirectly or constructively (sec. 958).

The United States generally taxes the U.S. 10-percent shareholders of a CFC currently on their pro rata shares of certain income of the CFC (so-called "subpart F income") (sec. 951). In effect, the Code treats those shareholders as having received a current distribution out of the CFC's subpart F income. Such shareholders also are subject to current U.S. tax on their pro rata shares of the CFC's earnings invested in U.S. property (sec. 951). The foreign tax credit may reduce the U.S. tax on these amounts.

Subpart F income includes, among other items, foreign base company income (sec. 952). Foreign base company income, in turn, includes foreign personal holding company income, foreign base company sales income, foreign base company services income, foreign base company shipping income and foreign base company oil related income (sec. 954). Foreign personal holding company income includes, among other items, dividends, interest, rents, and royalties. An exception from foreign personal holding company income applies to certain dividends and interest received from a related person which is created or organized in the same country as the CFC and which has a substantial part of its assets in that country, and to certain rents and royalties received from a related person for the use of property in the same country in which the CFC was created or organized (the so-called "same-country exception").

Foreign base company sales income includes income derived by a CFC from certain related-party transactions, including the purchase of personal property from a related person and its sale to any person, the purchase of personal property from any person and its sale to a related person, and the purchase or sale of personal property on behalf of a related person, where the property which is purchased or sold is manufactured outside the country in which the CFC was created or organized and the property is purchased or sold for use or consumption outside such foreign country. A special branch rule applies for purposes of determining a CFC's foreign base company sales income. Under this rule, a branch of a CFC is treated as a separate corporation (only for purposes of determining the CFC's foreign base company sales income) where the activities of the CFC through the branch outside the CFC's country of incorporation have substantially the same effect as if such branch were a subsidiary.

Because of differences in U.S. and foreign laws, it is possible for a taxpayer to enter into transactions that are treated in one manner for U.S. tax purposes and in another manner for foreign tax purposes. These transactions are referred to as hybrid transactions. For example, a hybrid transaction may involve the use of an entity that is treated as a corporation for purposes of the tax law of one jurisdiction but is treated as a branch or partnership for purposes of the tax law of another jurisdiction.

Notice 98–11 and the regulations issued thereunder

Notice 98–11, issued on January 16, 1998, addressed the treatment of hybrid branches under the subpart F provisions of the Code. The Notice stated that the Treasury Department and the Internal Revenue Service have concluded that the use of certain arrangements involving hybrid branches is contrary to the policy and rules of subpart F. The hybrid branch arrangements identified in Notice 98–11 involve structures that are characterized for U.S. tax purposes as part of a CFC but are characterized for purposes of the tax law of the country in which the CFC is incorporated as a separate entity. The Notice stated that regulations will be issued to prevent the use of hybrid branch arrangements to reduce foreign tax while avoiding the corresponding creation of subpart F income. The Notice stated that such regulations will provide that the branch and the CFC will be treated as separate corporations for purposes of subpart F. The Notice also stated that similar issues raised under subpart F by certain partnership or trust arrangements will be addressed in separate regulation projects.

On March 23, 1998, temporary and proposed regulations were issued to address the issues raised in Notice 98–11 and to address certain partnership and other issues raised under subpart F. Under the regulations, certain payments between a CFC and its hybrid branch or between hybrid branches of the CFC (so-called "hybrid branch payments") are treated as giving rise to subpart F income. The regulations generally provide that non-subpart F income of the CFC, in the amount of the hybrid branch payment, is recharacterized as subpart F income of the CFC if: (1) the hybrid branch payment reduces the foreign tax of the payor, (2) the hybrid branch payment would have been foreign personal holding company income if made between separate CFCs, and (3) there is a disparity between the effective tax rate on the payment in the hands of the payee and the effective tax rate that would have applied if the income had been taxed in the hands of the payor. The regulations also apply to other hybrid branch arrangements involving a partnership, including a CFC's proportionate share of any hybrid branch payment made between a partnership in which the CFC is a partner and a hybrid branch of the partnership or between hybrid branches of such a partnership. Under the regulations, if a partnership is treated as fiscally transparent by the CFC's taxing jurisdiction, the recharacterization rules are applied by treating the hybrid branch payment as if it had been made directly between the CFC and the hybrid branch, or as if the hybrid branches of the partnership were hybrid branches of the CFC, as applicable. If the partnership is treated as a separate entity by the CFC's taxing jurisdiction, the recharacterization rules are applied to treat the partnership as if it were a CFC.

The regulations also address the application of the same-country exception to the foreign personal holding company income rules under subpart F in the case of certain hybrid branch arrangements. Under the regulations, the same-country exception applies to payments by a CFC to a hybrid branch of a related CFC only if the payment would have qualified for the exception if the hybrid branch had been a separate CFC incorporated in the jurisdiction in which the payment is subject to tax (other than a withholding tax). The regulations provide additional rules regarding the application of the same-country exception in the case of certain hybrid arrangements involving a partnership.

The regulations generally apply to amounts paid or accrued pursuant to hybrid branch arrangements entered into or substantially modified on or after January 16, 1998. As a result, the regulations generally do not apply to amounts paid or accrued pursuant to hybrid branch arrangements entered into before January 16, 1998 and not substantially modified on or after that date.

In the case of certain hybrid arrangements involving partnerships, the regulations generally apply to amounts paid or accrued pursuant to such arrangements entered into or substantially modified on or after March 23, 1998. As a result, the regulations generally do not apply to amounts paid or accrued pursuant to such arrangements entered into before March 23, 1998 and not substantially modified on or after that date.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that no temporary or final regulations with respect to Notice 98–11 may be implemented prior to six months after the date of enactment of this provision. This moratorium applies to the regulations with respect to hybrid branches and to the regulations with respect to hybrid arrangements involving partnerships. It is intended that the moratorium delaying implementation of the regulations would not require a modification to the effective dates of the regulations. No inference is intended regarding the authority of the Department of the Treasury or the Internal Revenue Service to issue the Notice or the regulations.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment. The conferees have agreed not to include the Senate amendment because the Department of the Treasury has withdrawn Notice 98–11 and has announced its intention to withdraw the temporary and proposed regulations issued under Notice 98–11, and to reissue regulations in proposed form to be finalized no earlier than January 1, 2000. See Notice 98–35, 1998–26 I.R.B. 1. The conferees expect that the Congress will consider the international tax policy issues relating to the treatment of hybrid transactions under the subpart F provisions of the Code, and will consider taking legislative action as deemed appropriate. In this regard, the conferees expect that the Congress will consider the impact of any legislation or administrative guidance in this area on affected taxpayers and industries. The conferees strongly recommend that the Department of the Treasury also take into account the impact of any administrative guidance in this area on affected taxpayers and industries. No inference is intended regarding the authority of the Department of the Treasury or the Internal Revenue Service to issue the Notice or the regulations, or to issue any other notice or regulation which reaches the same or similar results with respect to the treatment of hybrid transactions under subpart F.

14. Sense of the Senate regarding Notices 98-5 and 98-11 (secs. 3713(a)(2) and (b) of the Senate amendment)

Present Law

Overview

U.S. citizens and residents and U.S. corporations are taxed currently by the United States on their worldwide income. U.S. persons may credit foreign taxes against U.S. tax on foreign-source income. The amount of foreign tax credits that can be claimed in a year is subject to a limitation that prevents taxpayers from using foreign tax credits to offset U.S. tax on U.S.-source income. Separate limitations are applied to specific categories of income.

A foreign corporation generally is not subject to U.S. tax on its income from operations outside the United States. Income of a foreign corporation generally is taxed by the United States when it is repatriated to the United States through payment to the corporation's U.S. shareholders, subject to a foreign tax credit. However, various regimes imposing current U.S. tax on income earned through a foreign corporation are reflected in the Code. One anti-deferral regime set forth in the Code is the controlled foreign corporation rules of subpart F (secs. 951-964).

A controlled foreign corporation ("CFC") is defined generally as any foreign corporation if U.S. persons own more than 50 percent of the corporation's stock (measured by vote or value), taking into account only those U.S. persons that own at least 10 percent of the stock (measured by vote only) (sec. 957). Stock ownership includes not only stock owned directly, but also stock owned indirectly or constructively (sec. 958).

The United States generally taxes the U.S. 10-percent shareholders of a CFC currently on their pro rata shares of certain income of the CFC (so-called "subpart F income") (sec. 951). In effect, the Code treats those shareholders as having received a current distribution out of the CFC's subpart F income. Such shareholders also are subject to current U.S. tax on their pro rata shares of the CFC's earnings invested in U.S. property (sec. 951). The foreign tax credit may reduce the U.S. tax on these amounts.

Subpart F income includes, among other items, foreign base company income (sec. 952). Foreign base company income, in turn, includes foreign personal holding company income, foreign base company sales income, foreign base company services income, foreign base company shipping income and foreign base company oil related income (sec. 954). Foreign personal holding company income includes, among other items, dividends, interest, rents, and royalties. An exception from foreign personal holding company income applies to certain dividends and interest received from a related person which is created or organized in the same country as the CFC and which has a substantial part of its assets in that country, and to certain rents and royalties received from a related person for the use of property in the same country in which the CFC was created or organized (the so-called "same-country exception").

Foreign base company sales income includes income derived by a CFC from certain related-party transactions, including the purchase of personal property from a related person and its sale to any person, the purchase of personal property from any person and its sale to a related person, and the purchase or sale of personal property on behalf of a related person, where the property which is purchased or sold is manufactured outside the country in which the CFC was created or organized and the property is purchased or sold for use or consumption outside such foreign country. A special branch rule applies for purposes of determining a CFC's foreign base company sales income. Under this rule, a branch of a CFC is treated as a separate corporation (only for purposes of determining the CFC's foreign base company sales income) where the activities of the CFC through the branch outside the CFC's country of incorporation have substantially the same effect as if such branch were a subsidiary.

Because of differences in U.S. and foreign laws, it is possible for a taxpayer to enter into transactions that are treated in one manner for U.S. tax purposes and in another manner for foreign tax purposes. These transactions are referred to as hybrid transactions. For example, a hybrid transaction may involve the use of an entity that is treated as a corporation for purposes of the tax law of one jurisdiction but is treated as a branch or partnership for purposes of the tax law of another jurisdiction.

Notices 98-5 and 98-11

Notice 98-5, issued on December 23, 1997, addresses the treatment of certain types of transactions under the foreign tax credit provisions of the Code. The Notice states that the Treasury Department and the Internal Revenue Service have concluded that the use of certain transactions creates the potential for foreign tax credit abuse. The Notice states that such transactions typically involve either: (1) the acquisition of an asset that generates an income stream (e.g., royalties or interest) subject to a foreign withholding tax, or (2) the effective duplication of tax benefits through the use of certain structures designed to exploit inconsistencies between U.S. and foreign tax laws. The Notice includes five specific transactions as illustrations of arrangements creating the potential for foreign tax credit abuse. The Notice states that it is intended that regulations will be issued to disallow foreign tax credits for abusive transactions in cases where the reasonably expected economic profit from the transaction is insubstantial compared to the value of the foreign tax credits expected to be obtained as a result of the arrangement. The Notice further states that it is intended that regulations generally will apply with respect to such transactions for taxes paid or accrued on or after December 23, 1997. Regulations have not yet been issued under Notice 98-5.

Notice 98-11, issued on January 16, 1998, addressed the treatment of hybrid branches under the subpart F provisions of the Code. The Notice stated that the Treasury Department and the Internal Revenue Service have concluded that the use of certain arrangements involving hybrid branches is contrary to the policy and rules of subpart F. The hybrid branch arrangements identified in Notice 98-11 involve structures that are characterized for U.S. tax purposes as part of a CFC but are characterized for purposes of the tax law of the country in which the CFC is incorporated as a separate entity. The Notice stated that regulations will be issued to prevent the use of hybrid branch arrangements to reduce foreign tax while avoiding the corresponding creation of subpart F income. The Notice stated that such regulations will provide that the branch and the CFC will be treated as separate corporations for purposes of subpart F. The Notice also stated that similar issues raised under subpart F by certain partnership or trust arrangements will be addressed in separate regulation projects.

On March 23, 1998, temporary and proposed regulations were issued to address the issues raised in Notice 98-11 and to address certain partnership and other issues raised under subpart F. Under the regulations, certain payments between a CFC and its hybrid branch or between hybrid branches of the CFC (so-called "hybrid branch payments") are treated as giving rise to subpart F income. The regulations generally provide that non-subpart F income of the CFC, in the amount of the hybrid branch payment, is recharacterized as subpart F income of the CFC if: (1) the hybrid branch payment reduces the foreign tax of the payor, (2) the hybrid branch payment would have been foreign personal holding company income if made between separate CFCs, and (3) there is a disparity between the effective tax rate on the payment in the hands of the payee and the effective tax rate that would have applied if the income had been taxed in the hands of the payor. The regulations also apply to other hybrid branch arrangements involving a partnership, including a CFC's proportionate share of any hybrid branch payment made between a partnership in which the CFC is a partner and a hybrid branch of the partnership or between hybrid branches of such a partnership. Under the regulations, if a partnership is treated as fiscally transparent by the CFC's taxing jurisdiction, the recharacterization rules are applied by treating the hybrid branch payment as if it had been made directly between the CFC and the hybrid branch, or as if the hybrid branches of the partnership were hybrid branches of the CFC, as applicable. If the partnership is treated as a separate entity by the CFC's taxing jurisdiction, the recharacterization rules are applied to treat the partnership as if it were a CFC.

The regulations also address the application of the same-country exception to the foreign personal holding company income rules under subpart F in the case of certain hybrid branch arrangements. Under the regulations, the same-country exception applies to payments by a CFC to a hybrid branch of a related CFC only if the payment would have qualified for the exception if the hybrid branch had been a separate CFC incorporated in the jurisdiction in which the payment is subject to tax (other than a withholding tax). The regulations provide additional rules regarding the application of the same-country exception in the case of certain hybrid arrangements involving a partnership.

The regulations generally apply to amounts paid or accrued pursuant to hybrid branch arrangements entered into or substantially modified on or after January 16, 1998. As a result, the regulations generally do not apply to amounts paid or accrued pursuant to hybrid branch arrangements entered into before January 16, 1998 and not substantially modified on or after that date.

In the case of certain hybrid arrangements involving partnerships, the regulations generally apply to amounts paid or accrued pursuant to such arrangements entered into or substantially modified on or after March 23, 1998. As a result, the regulations generally do not apply to amounts paid or accrued pursuant to such arrangements entered into before March 23, 1998 and not substantially modified on or after that date.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that it is the sense of the Senate that the Department of the Treasury and the Internal Revenue Service should withdraw Notice 98–11 and the regulations issued thereunder, and that the Congress, and not the Department of the Treasury or the Internal Revenue Service, should determine the international tax policy issues relating to the treatment of hybrid transactions under the subpart F provisions of the Code.

The Senate amendment further provides that it is the sense of the Senate that the Department of the Treasury and the Internal Revenue Service should limit any regulations issued under Notice 98–5 to the specific transactions described therein. In addition, such regulations should: (a) not affect transactions undertaken in the ordinary course of business, (b) not have an effective date any earlier than the date of issuance of proposed regulations, and (c) be issued in accordance with normal regulatory procedures which include an opportunity for comment. Nothing in this sense of the Senate should be construed to limit the ability of the Department of the Treasury or the Internal Revenue Service to address abusive transactions.

Effective date.—Date of enactment.

Conference Agreement

Notices 98–5 and 98–11

The conference agreement does not include the Senate amendment. The conferees are aware that the Department of the Treasury has withdrawn Notice 98–11 and has announced its intention to withdraw the temporary and proposed regulations issued under Notice 98–11, and to reissue regulations in proposed form to be finalized no earlier than January 1, 2000. See Notice 98–35, 1998–26 I.R.B. 1. The conferees expect that the Congress will consider the international tax policy issues relating to the treatment of hybrid transactions under the subpart F provisions of the Code, and will consider taking legislative action as deemed appropriate. In this regard, the conferees expect that the Congress will consider the impact of any legislation or administrative guidance in this area on affected taxpayers and industries. The conferees strongly recommend that the Department of the Treasury also take into account the impact of any administrative guidance in this area on affected taxpayers and industries. No inference is intended regarding the authority of the Department of the Treasury or the Internal Revenue Service to issue the Notice or the regulations, or to issue any other notice or regulation which reaches the same or similar results with respect to the treatment of hybrid transactions under subpart F.

The conferees believe that regulations under Notice 98–5 should be issued in accordance with normal regulatory procedures which include an opportunity for public comment. The conferees acknowledge recent actions by the Department of the Treasury to address legitimate taxpayer concerns regarding Notice 98–5 without compromising the ability of the Department of the Treasury or the Internal Revenue Service to address abusive transactions.

The conferees are concerned about the potential disruptive effect of the issuance of an administrative notice that describes general principles to be reflected in regulations that will be issued in the future, but provides that such future regulations will be effective as of the date of issuance of the notice. The conferees strongly encourage the Department of the Treasury and the Internal Revenue Service to limit similar types of action in the future.

Other matters

The conferees are aware of the Department of the Treasury's commitment to withdraw temporary and proposed regulations issued on March 2, 1998, with respect to a special sourcing rule under the foreign sales corporation provisions, and to reinstate the rule contained in the prior temporary regulations. See Temp. Treas. Reg. sec. 1.927(e)-1T, T.D. 8764 (March 2, 1998). In good faith reliance on this commitment, the conferees are deferring action on this issue at this time.

15. Combined employment tax reporting demonstration project (sec. 3715 of the Senate amendment)

Present Law

Traditionally, Federal tax forms are filed with the Federal government and State tax forms are filed with individual States. This necessitates duplication of items common to both returns.

The Taxpayer Relief Act permitted implementation of a demonstration project to assess the feasibility and desirability of expanding combined reporting in the future. There are several limitations on the demonstration project. First, it is limited to the State of Montana and the IRS. Second, it is limited to employment tax reporting. Third, it is limited to disclosure of the name, address, TIN, and signature of the taxpayer, which is information common to both the Montana and Federal portions of the combined form. Fourth, it is limited to a period of five years.

House Bill

No provision.

Senate Amendment

The Senate amendment authorizes a parallel demonstration project with Iowa.

Effective date.—Effective on the date of enactment and will expire on the date five years after the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

16. Reporting requirements relating to education tax credits (sec. 3716 of the Senate amendment)

Present Law

Individual taxpayers are allowed to claim a nonrefundable HOPE credit against Federal income taxes up to $1,500 per student per year for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree program. A Lifetime Learning credit against Federal income taxes equal to 20 percent of qualified expenses (up to a maximum credit of $1,000 per taxpayer return for 1998 through 2002 and $2,000 per taxpayer return after 2002) is also available. Qualified tuition and related expenses do not include expenses covered by educational assistance that is not required to be included in the gross income of either the student or the taxpayer claiming the credit (e.g., scholarship or fellowship grants).

Code section 6050S requires information reporting by eligible educational institutions which receive payments for qualified tuition and related expenses, and certain other persons who make reimbursement or refunds of qualified tuition and related expenses, in order to assist students, their parents, and the IRS in calculating the amount of the HOPE and Lifetime Learning credits potentially available. Section 6050S(b) provides that the annual information report to the Secretary must be in the form prescribed by the Secretary and must contain the following: (1) the name, address, and taxpayer identification number (TIN) of the individual which respect to whom the qualified tuition and related expenses were received or the reimbursement or refund was paid; (2) the name, address, and TIN of any individual certified by the student as the taxpayer who will claim that student as a dependent for purposes of the deduction under section 151 for any taxable years ending with or within the year for which the information return is filed; (3) the aggregate amount of payments of qualified tuition and related expenses received by the eligible educational institution and the aggregate amount of reimbursements or refunds (or similar amounts) paid during the calendar year with respect to the student; and (4) such other information as the Secretary may prescribe. Under section 6050S(d), an educational institution also must provide to each person identified on the information return submitted to the Secretary (e.g., the student and his or her parent(s)) a written statement showing the name, address, and phone number of the reporting person's information contact, and the amounts set forth in (3) above.

On December 22, 1997, the Department of Treasury issued Notice 97–73 setting forth the information reporting requirements under section 6050S for 1998. Notice 97–73 describes who must report information and the nature of the information that must be reported for 1998. In general, the required reporting under Notice 97–73 is more limited than that which will ultimately be required under section 6050S upon the issuance of final regulations. Accordingly, for 1998, educational institutions must report the following information: (1) the name, address, and TIN of the educational institution; (2) the name, address, and TIN of the student with respect to whom payments of qualified tuition and related expenses were received during 1998; (3) an indication as to whether the student was enrolled for at least half the full-time academic workload during any academic period commencing in 1998; and (4) an indication as to whether the student was enrolled exclusively in a program or programs leading to a graduate-level degree, graduate-level certificate, or other recognized graduate-level educational credential. Educational institutions must provide to students the information listed above, as well as the phone number of the information contact at the school. Information returns must be provided to students by February 1, 1999 and filed with the IRS by March 1, 1999. Notice 97–73 states that until final regulations are adopted, no penalties will be imposed under sections 6721 and 6722 for failure to file correct information returns or to furnish correct statements to the individuals with respect to whom information reporting is required under section 6050S. In addition, Notice 97–73 states that, even after final regulations are adopted, no penalties will be imposed under sections 6721 and 6722 for 1998 if the institution made a good faith effort to file information returns and furnish statements in accordance with Notice 97–73.

House Bill

No provision.

Senate Amendment

The Senate amendment modifies the information reporting requirements under section

6050S. In addition to reporting the aggregate amount of payments for qualified tuition and related expenses received by the educational institution with respect to a student, the institution must report any grant amount received by the student and processed through the institution during the applicable calendar year. The institution is not required to report on grant aid that is paid directly to the student and is not processed through the institution. In addition, an educational institution is required to report only the aggregate amount of reimbursements or refunds paid to a student by the institution (and not by any other party).

Effective date.—The provision applies to returns required to be filed with respect to taxable years beginning after December 31, 1998.

Conference Agreement

The conference agreement follows the Senate amendment, but includes certain additional clarifications intended to minimize the reporting burdens imposed on educational institutions while preserving the ability of the IRS to monitor compliance with respect to the HOPE Scholarship and Lifetime Learning credits. In particular, the conference agreement clarifies that the definition of the term "qualified tuition and related expenses" shall be as set forth in section 25A, determined without regard to section 25A(g)(2) (which requires adjustments for certain scholarships). Eligible educational institutions that receive payments of qualified tuition and related expenses (or reimburse or refund such payments) are required separately to report the following items with respect to each student under section 6050S(b)(2)(C): (1) the aggregate amount of qualified tuition and related expenses (not including certain expenses relating to sports, games, or hobbies, or nonacademic fees); (2) any grant amount (whether or not excludable from income) received by such individual for payment of costs of attendance and processed through the institution during the applicable calendar year; and (3) the aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year by the institution.

The conferees understand that the Department of Treasury is in the process of issuing regulatory guidance with respect to the education credit reporting requirements. In developing such guidance, the conferees urge Treasury to minimize the reporting burdens imposed on educational institutions in connection with the HOPE Scholarship and Lifetime Learning credits. For example, section 472(1) of the Higher Education Act contains a definition of tuition and fees that is used in calculating a student's total "cost of attendance." The conferees urge Treasury to conform the definition of "qualified tuition and related expenses" for purposes of the HOPE Scholarship and Lifetime Learning credits to the definition set forth in section 472(1) to the extent possible, so as to minimize the additional reporting burden on educational institutions.

In general, the conferees expect that the regulatory guidance regarding the education credit reporting requirements will have an effective date that will provide educational institutions with sufficient time, after any notice and comment period, to implement additional required reporting. In addition, although the provision generally applies to taxable years beginning after December 31, 1998, the conferees intend that no reporting beyond the reporting currently required in Notice 97-73 would be required of educational institutions until such final regulatory guidance is available.

In furtherance of the objective of minimizing the reporting burden on educational institutions, the conferees note that, pursuant to the regulatory authority granted in section 25A(i), Treasury may exempt educational institutions from the reporting requirements with respect to certain categories of students, such as non-degree students enrolled in a course for which academic credit is not granted by the institution, provided that such exemptions do not undermine the overall compliance objectives of the provision. The conferees further expect that Treasury will provide clarification regarding the reasonable cause exception contained in section 6724(a) as it may apply to the education information reporting requirements. Finally, the conferees urge that any update and modernization of IRS computer systems incorporate the capacity to match a dependent's TIN with the return filed by the person claiming the individual as a dependent.

I. Studies

1. Administration of penalties and interest (sec. 381 of the House bill and sec. 3801 of the Senate amendment)

Present Law

The last major comprehensive revision of the overall penalty structure in the Internal Revenue Code was the "Improved Penalty Administration and Compliance Tax Act," enacted as part of the Omnibus Budget Reconciliation Act of 1989.

House Bill

The House bill requires the Joint Committee on Taxation to conduct a study reviewing the administration and implementation of the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989, and making any legislative and administrative recommendations it deems appropriate to simplify penalty administration and reduce taxpayer burden.

Effective date.—The report must be provided not later than nine months after the date of enactment.

Senate Amendment

The Senate amendment requires the Joint Committee on Taxation and the Treasury to each conduct a separate study reviewing the interest and penalty provisions of the Code, and making any legislative and administrative recommendations it deems appropriate to simplify penalty administration and reduce taxpayer burden.

Effective date.—The reports must be provided not later than nine months after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment. The conferees expect that the Joint Committee on Taxation and the Treasury Department studies will examine whether the current penalty and interest provisions encourage voluntary compliance. The studies should also consider whether the provisions operate fairly, whether they are effective deterrents to undesired behavior, and whether they are designed in a manner that promotes efficient and effective administration of the provisions by the IRS. The conferees expect that the Joint Committee on Taxation and the Treasury Department will consider comments from taxpayers and practitioners on issues relevant to the studies.

Effective date.—The reports must be provided not later than one year after the date of enactment.

2. Confidentiality of tax return information (sec. 382 of the House bill and sec. 3802 of the Senate amendment)

Present Law

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code. Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both. An action for civil damages also may be brought for unauthorized disclosure. No tax information may be furnished by the IRS to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives.

House Bill

The House bill requires the Joint Committee on Taxation to conduct a study on provisions regarding taxpayer confidentiality. The study is to examine:

(1) present-law protections of taxpayer privacy;

(2) the need for third parties to use tax return information; and

(3) the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to file tax returns but does not do so.

Effective date.—The findings of the study, along with any recommendations, are required to be reported to the Congress no later than one year after the date of enactment.

Senate Amendment

The Senate amendment requires the Joint Committee on Taxation and Treasury to each conduct a separate study on provisions regarding taxpayer confidentiality. The studies are to examine:

(1) present-law protections of taxpayer privacy;

(2) the need, if any, for third parties to use tax return information;

(3) whether greater levels of voluntary compliance can be achieved by allowing the public to know who is legally required to file tax returns but does not do so;

(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code with those elsewhere in the United States Code (such as the Freedom of Information Act);

(5) whether return information should be disclosed to a State unless the State has first notified personally in advance each person with respect to whom information has been requested; and

(6) the impact on taxpayer privacy of sharing tax information for the purposes of enforcing State and local tax laws (other than income tax laws).

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement generally follows the Senate amendment. The conference agreement adds to the study an examination of whether the public interest would be served by greater disclosure of information relating to tax-exempt organizations (described in section 501 of the Code). The conference agreement deletes from the study an examination of whether return information should be disclosed to a State unless the State has first notified personally in advance each person with respect to whom information has been requested.

Effective date.—The findings of the study, along with any recommendations, are required to be reported to the Congress no later than 18 months after the date of enactment.

3. Study of transfer pricing enforcement (sec. 3803 of the Senate amendment)

Present Law

Section 482 authorizes the Secretary of the Treasury to distribute, apportion or allocate gross income, deductions, credits or allowances between or among commonly controlled parties to prevent tax evasion or to clearly reflect income. Regulations under section 482 generally provide for certain transfer pricing methods that are used to determine whether prices for transactions between or among commonly controlled parties are based on arm's-length terms.

House Bill

No provision.

Senate Amendment

The Senate amendment directs the Internal Revenue Service Oversight Board to undertake a study on whether the Internal Revenue Service has the resources to prevent tax avoidance by companies using unlawful transfer pricing methods. The Senate amendment also directs the Internal Revenue Service to assist in the study by analyzing its enforcement of transfer pricing abuses, including the effectiveness of current enforcement tools used to ensure compliance with section 482 and the scope of nonpayment of U.S. taxes by reason of such abuses. The findings of the study, including recommendations to improve the Internal Revenue Service's enforcement tools to ensure that multinational companies doing business in the United States pay their fair share of U.S. taxes, are required to be reported to the Congress no later than one year after the date of enactment.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

4. Noncompliance with internal revenue laws by taxpayers (sec. 3804 of the Senate amendment)

Present Law

No provision.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that the Joint Committee on Taxation, the Secretary of the Treasury and the Commissioner of the Internal Revenue Service must jointly conduct a study of taxpayers' willful noncompliance with the tax law. The study must be reported to the Congress within one year of the date of enactment.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, with clarifications that the study is to examine noncompliance with the internal revenue laws by taxpayers (including willful noncompliance and noncompliance due to tax law complexity or other factors). Treasury and IRS are to conduct the study, in consultation with the Joint Committee on Taxation.

5. Payments for informants (sec. 3714 of the Senate amendment)

Present Law

Under present law, rewards may be paid for information relating to civil violations, as well as criminal violations. Present law also provides that the rewards are paid out of the proceeds of amounts (other than interest) collected by reason of the information provided. An annual report on the rewards program is required.

House Bill

No provision.

Senate Amendment

The Senate amendment requires a study and report by Treasury to the Congress (within one year of the date of enactment) of the present-law reward program (including results) and any legislative or administrative recommendations regarding the program and its application.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

TITLE IV. CONGRESSIONAL ACCOUNTABILITY FOR THE IRS

A. Review of Requests for GAO Investigations of the IRS (sec. 401 of the House bill)

Present Law

There is currently no specific statutory requirement that requests for investigations by the General Accounting Office ("GAO") relating to the IRS be reviewed by the Joint Committee on Taxation (the "Joint Committee"). However, some of the studies that GAO conducts relating to taxation and oversight of the IRS require access under section 6103 of the Code to confidential tax returns and return information. Under section 6103, the GAO may inform the Joint Committee of its initiation of an audit of the IRS and obtain access to confidential taxpayer information unless, within 30 days, $\frac{3}{5}$ths of the Members of the Joint Committee disapprove of the audit. This provision has not been utilized; the GAO generally seeks advance access to confidential taxpayer return information from the Joint Committee.

House Bill

Under the House bill, the Joint Committee on Taxation reviews all requests (other than requests by the chair or ranking member of a Committee or Subcommittee of the Congress) for investigations of the IRS by the GAO and approves such requests when appropriate. In reviewing such requests, the Joint Committee is to eliminate overlapping investigations, ensure that the GAO has the capacity to handle the investigation, and ensure that investigations focus on areas of primary importance to tax administration.

The provision does not change the present-law rules under section 6103.

Effective date.—The House bill provision is effective with respect to requests for GAO investigations made after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill. The conferees intend that the provision exclude requests made by the chairman or ranking member of a committee or subcommittee, investigations required by statute, and work initiated by GAO under its basic statutory authorities.

Effective date.—Same as the House bill.

B. Joint Congressional Hearings and Coordinated Oversight Reports (secs. 401 and 402 of the House bill)

Present Law

Under the present Congressional committee structure, a number of committees have jurisdiction with respect to IRS oversight. The committees most responsible for IRS oversight are the House Committees on Ways and Means, Appropriations, Government Reform and Oversight, the corresponding Senate Committees on Finance, Appropriations, and Governmental Affairs, and the Joint Committee on Taxation. While these Committees have a shared interest in IRS matters, they typically act independently, and have separate hearings and make separate investigations into IRS matters. Each committee also has jurisdiction over certain issues. For example, the House Ways and Means Committee and the Senate Finance Committee have exclusive jurisdiction over changes to the tax laws. Similarly, the House and Senate Appropriations Committees have exclusive jurisdiction over IRS annual appropriations. The Joint Committee does not have legislative jurisdiction, but has significant responsibilities with respect to tax matters and IRS oversight.

House Bill

Under the House bill, there will be two annual joint hearings of two majority and one minority members of each of the Senate Committees on Finance, Appropriations, and Governmental Affairs and the House Committees on Ways and Means, Appropriations, and Government Reform and Oversight. The first annual hearing is to take place before April 1 of each calendar year and is to review the strategic plans and budget for the IRS (including whether the budget supports IRS objectives). The second annual hearing is to be held after the conclusion of the annual tax filing season, and is to review the progress of the IRS in meeting its objectives under the strategic and business plans, the progress of the IRS in improving taxpayer service and compliance, progress of the IRS on technology modernization, and the annual filing season. The bill does not modify the existing jurisdiction of the Committees involved in the joint hearings.

The House bill provides that the Joint Committee is to make annual reports to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable. The Joint Committee also is to report annually to the Senate Committees on Finance, Appropriations, and Governmental Affairs and the House Committees on Ways and Means, Appropriations, and Government Reform and Oversight with respect to the matters that are the subject of the annual joint hearings of members of such Committees.

Effective date.—The House bill provision is effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with modifications. The conference agreement provides that there will be one annual joint hearing to review: (1) the progress of the IRS in meeting its objectives under the strategic and business plans; (2) the progress of the IRS in improving taxpayer service and compliance; (3) the progress of the IRS on technology modernization; and (4) the annual filing season. The joint review will be held at the call of the Chairman of the Joint Committee on Taxation, and is to take place before June 1 of each calendar year.

In addition, the conference agreement modifies the House bill provision requiring the Joint Committee on Taxation to report on the overall state of the Federal tax system to provide that such report shall be prepared once in each Congress, but only if amounts necessary to carry out this requirement are specifically appropriated to the Joint Committee on Taxation.

Effective date.—Same as House bill, except that the requirement for an annual joint review, and report by the Joint Committee on Taxation, shall apply only for calendar years 1999–2003.

C. Budget Matters

1. Funding for century date change (sec. 411 of the House bill and sec. 4001 of the Senate amendment)

Present Law

No specific provision.

House Bill

The House bill provides that it is the sense of the Congress that the IRS efforts to resolve the century date change computing problems should be fully funded to provide for certain resolution of such problems.

Effective date.—The House bill provision is effective on the date of enactment.

Senate Amendment

The Senate amendment provides that it is the sense of the Congress that the IRS should place resolving the century date change computing problems as a high priority. The Senate amendment also provides that the Commissioner shall expeditiously submit a report to the Congress on the overall impact of the Senate amendment on the ability of the IRS to resolve the century date change computing problems and on the provisions of the Senate amendment that will require significant amounts of computer programming changes prior to December 31, 1999, in order to carry out the provisions.

Effective date.—The Senate amendment provision is effective on the date of enactment.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment with respect to the Sense of the Congress with respect to resolving the century date change conversion problems. The conference agreement does not include the Senate amendment provision requiring the Commissioner to report to the Congress on the impact of the legislation on the ability of the IRS to resolve century date change problems.

Effective date.—Same as the House bill and Senate amendment.

2. Financial management advisory group (sec. 412 of the House bill)

Present Law

No provision.

House Bill

The House bill directs the Commissioner to convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues.

Effective date.—The House bill provision is effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provision. However, the conferees expect that the Chairman of the Oversight Board will consider establishing a financial management subcommittee to advise the Commissioner on financial management issues.

D. Tax Law Complexity Analysis (sec. 421 and 422 of the House bill, sec. 4002 of the Senate amendment)

Present Law

Present law does not require a formal complexity analysis with respect to changes to the tax laws.

House Bill

Role of the IRS.—The House bill provides that it is the sense of the Congress that the IRS should provide the Congress with an independent view of tax administration and that the tax-writing committees should hear from front-line technical experts at the IRS during the legislative process with respect to the administrability of pending amendments to the Internal Revenue Code.

Complexity analysis.—The House bill requires the staff of the Joint Committee on Taxation to provide a "Tax Complexity Analysis" for legislation reported by the Senate Committee on Finance and the House Committee on Ways and Means and conference reports amending the tax laws. The Tax Complexity Analysis is to identify those provisions in the bill or conference report that, as determined by the staff of the Joint Committee, add significant complexity to the tax laws, or provide significant simplification. The Complexity Analysis is required to include a discussion of the basis for the determination by the staff of the Joint Committee. It is expected that, in general, the Complexity Analysis will be limited to no more than 20 provisions. If the staff of the Joint Committee determines that a bill or conference report does not contain any provisions that add significant complexity or simplification to the tax laws, then the Complexity Analysis is to contain a statement to that effect.

Factors that may be taken into account by the staff of the Joint Committee in preparing the Complexity Analysis include the following: (1) whether the provision is new, modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the IRS provided input as to its administrability; (2) when the provision becomes effective and corresponding compliance requirements on taxpayers; (3) whether new IRS forms or worksheets are needed, whether existing forms or worksheets must be modified, and whether the effective date allows sufficient time for the IRS to prepare such forms and educate taxpayers; (4) necessity of additional interpretive guidance (e.g., regulations, rulings, notices); (5) the extent to which the proposal relies on concepts contained in existing law, including definitions; (6) effect on existing record keeping requirements and the activities of taxpayers, complexity of calculations and likely behavioral response, and standard business practices and resource requirements; (7) number, type, and sophistication of affected taxpayers; and (8) whether the proposal requires the IRS to assume responsibilities not directly related to raising revenue which could be handled through another Federal agency.

The House bill requires the Commissioner to provide the Joint Committee with such information as is necessary to prepare each required Tax Complexity Analysis.

A point of order arises with respect to the floor consideration of a bill or conference report that does not contain the required Complexity Analysis. The point of order may be waived by a majority vote.

Effective date.—The requirement of the House bill for a Tax Complexity Analysis is effective with respect to legislation considered on or after January 1, 1998.

Senate Amendment

Role of the IRS.—The IRS is to report to the House Ways and Means Committee and the Senate Finance Committee annually regarding sources of complexity in the administration of the Federal tax laws. Factors the IRS may take into account include: (1) frequently asked questions by taxpayers; (2) common errors made by taxpayers in filling out returns; (3) areas of the law that frequently result in disagreements between taxpayers and the IRS; (4) major areas in which there is no or incomplete published guidance or in which the law is uncertain; (5) areas in which revenue agents make frequent errors in interpreting or applying the law; (6) impact of recent legislation on complexity; (7) information regarding forms, including a listing of IRS forms, the time it takes for taxpayers to complete and review forms, the number of taxpayers who use each form, and how the time required changed as a result of recently enacted legislation; and (8) recommendations for reducing complexity in the administration of the Federal tax system.

Complexity analysis with respect to current legislation.—The Senate amendment requires the Joint Committee on Taxation (in consultation with the IRS and Treasury) to provide an analysis of complexity or administrability concerns raised by tax provisions of widespread applicability to individuals or small businesses. The analysis is to be included in any Committee Report of the House Ways and Means Committee or Senate Finance Committee or Conference Report containing tax provisions, or provided to the Members of the relevant Committee or Committees as soon as practicable after the report is filed. The analysis is to include: (1) an estimate of the number and type of taxpayers affected; and (2) if applicable, the income level of affected individual taxpayers. In addition, such analysis should include, if determinable, the following: (1) the extent to which existing tax forms would require revision and whether a new form or forms would be required; (2) whether and to what extent taxpayers would be required to keep additional records; (3) the estimated cost to taxpayers to comply with the provision; (4) the extent to which enactment of the provision would require the IRS to develop or modify regulatory guidance; (5) whether and to what extent the provision can be expected to lead to disputes between taxpayers and the IRS; and (6) how the IRS can be expected to respond to the provision (including the impact on internal training, whether the Internal Revenue Manual would require revision, whether the change would require reprogramming of computers, and the extent to which the IRS would be required to divert or redirect resources in response to the provision).

Effective date.—The provision of the Senate amendment requiring the Joint Committee on Taxation to provide a complexity analysis is effective with respect to legislation considered on or after January 1, 1999. The provision requiring the IRS to report on sources of complexity is effective on the date of enactment.

Conference Agreement

Role of the IRS.—The conference agreement follows the House bill and the Senate amendment. Under the conference agreement, the Commissioner's report on complexity is to be transmitted to the Congress not later than March 1 of each year.

Complexity analysis.—The conference agreement follows the Senate amendment with a modification to provide that a point of order arises in the House of Representatives with respect to the floor consideration of a bill or conference report if the required complexity analysis has not been completed. The point of order may be waived by a majority vote. The point of order is subject to the Constitutional right of each House of the Congress to establish its own rules and procedures; thus, such point of order may be changed at any time pursuant to the procedures of the House of Representatives.

The conferees intend that the complexity analysis be prepared by the staff of the Joint Committee on Taxation, and that it shall, to the extent feasible, be included in committee or conference committee reports.

Effective date.—The provisions of the conference agreement are effective for calendar years after 1998.

TITLE V. ADDITIONAL PROVISIONS

A. Elimination of 18-Month Holding Period for Capital Gains

Present Law

The Taxpayer Relief Act of 1997 Act ("the 1997 Act") provided lower capital gains rates for individuals. Generally, the 1997 Act reduced the maximum rate on the adjusted net capital gain of an individual from 28 percent to 20 percent and provided a 10-percent rate for the adjusted net capital gain otherwise taxed at a 15-percent rate. The "adjusted net capital gain" is the net capital gain determined without regard to certain gain for which the 1997 Act provided a higher maximum rate of tax. The 1997 Act retained the prior-law 28-percent maximum rate for net long-term capital gain attributable to the sale or exchange of collectibles, certain small business stock to the extent the gain is included in income, and property held more than one year but not more than 18 months. In addition, the 1997 Act provided a maximum rate of 25 percent for the long-term capital gain attributable to depreciation from real estate held more than 18 months. Beginning in 2001, lower rates of 8 and 18 percent will apply to the gain from certain property held more than five years.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

Under the conference agreement, property held more thân one year (rather than more than 18 months) will be eligible for the 10-, 20-, and 25-percent capital gain rates provided by the 1997 Act.

Effective date.—The conference agreement applies to amounts properly taken into account on or after January 1, 1998.

B. Deductibility of Meals Provided for the Convenience of the Employer

Present Law

In general, subject to several exceptions, only 50 percent of business meals and entertainment expenses are allowed as a deduction (sec. 274(n)). Under one exception, meals that are excludable from employees' incomes as a de minimis fringe benefit (sec. 132) are fully deductible by the employer.

In addition, the courts that have considered the issue have held that if substantially all of the meals are provided for the convenience of the employer pursuant to section 119, the cost of such meals is fully deductible because the employer is treated as operating a de minimis eating facility within the meaning of section 132(e)(2) (*Boyd Gaming Corp.* v. *Commissioner*[1] and *Gold Coast Hotel & Casino* v. *I.R.S.*[2]).

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The bill provides that all meals furnished to employees at a place of business for the convenience of the employer are treated as provided for the convenience of the employer under section 119 if more than one-half of employees to whom such meals are furnished on the premises are furnished such meals for the convenience of the employer under section 119. If these conditions are satisfied, the value of all such meals would be excludable from the employee's income and fully deductible to the employer. No inference is intended as to whether such meals are fully deductible under present law.

Effective date.—The provision is effective for taxable years beginning before, on, or after the date of enactment.

C. Normal Trade Relations

Present Law

In the context of U.S. tariff legislation, section 251 of the Trade Expansion Act of 1962 states the principle of "most-favored-nation" (MFN) treatment, requiring tariff treatment to be applied to all countries equally. Specifically, the products of a country given MFN treatment are subject to rates of duty found in column 1 of the Harmonized Tariff Schedule (HTS) of the United States. Products from countries not eligible for MFN treatment under U.S. law are subject to higher rates of duty (found in column 2 of the HTS). Under current U.S. law, only six countries are subject to column 2 treatment: Afghanistan, Cuba, Laos, North Korea, Serbia and Montenegro, and Vietnam. The remaining U.S. trading partners are subject to either conditional or unconditional MFN treatment, or to even more preferential rates than MFN under free trade agreements (Israel, Canada, and Mexico) and under unilateral grants of tariff preference (the Generalized System of Preferences, the Caribbean Basin Initiative, and the Andean Trade Preferences Act).

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The provision would change the terminology used in U.S. trade statutes from "most-favored-nation" (MFN) to "normal trade relations" (NTR) in order to reflect more accurately the nature of the trade relationship in question. The legislation would not change the tariff treatment received by any country.

The Committee has long been concerned that the term "most-favored-nation" is a misnomer and does not accurately reflect the nature of the trading relationship in question. The terminology implies that a country receiving MFN is somehow receiving treatment that is special or better than what a country would normally receive. In reality, however, a country receiving MFN receives nothing more than ordinary or normal treatment. Only six countries receive treatment that is less favorable than this normal treatment. In addition, three countries actually receive tariff treatment that is better than MFN because they participate in a free trade agreement with the United States and numerous others receive treatment more favorable than MFN under unilateral grants of trade preference signifying that the "most" favored terminology is misleading.

The Committee believes that the MFN terminology has led to confusion and a misunderstanding of Congressional and Presidential action concerning the trade statutes. Accordingly, the Subcommittee strongly believes that the terminology should be changed to reflect the true nature of the trading relationship: merely normal relations.

The Committee does not intend that the change in terminology from MFN to NTR have any affect whatsoever on the meaning of any existing U.S. law or practice. It would not change any procedures under existing law for granting or removing MFN status. Rather, the new term is to have the same meaning as MFN as is currently defined in domestic legislation and international agreements and would not change the tariff treatment granted by the United States to any of its trading partners.

TITLE VI. TAX TECHNICAL CORRECTIONS

House Bill

The House bill contains technical, clerical and conforming amendments to the Taxpayer Relief Act of 1997 (the "1997 Act") and other recently enacted legislation. The provisions generally are effective as if enacted in the original legislation to which each provision relates.[1]

Senate Amendment

The Senate amendment is the same as the House bill, with the following modifications, additions, and deletion:

1. Child Tax Credit Provisions of the 1997 Act

Treatment of a portion of the child credit as a supplemental child credit.—The Senate amendment modifies the provision of the House bill intended to clarify the treatment of a portion of the child credit as a supplemental child credit under the earned income credit and an offsetting reduction of the child credit. Specifically, the Senate amendment clarifies the computation of the amount of the child credit that is treated as a supplemental child credit. Both the House bill and the Senate amendment clarify that such treatment does not affect the total tax credits allowed to the taxpayer or any other tax credit available to the taxpayer.

2. Education Incentives of the 1997 Act

Education IRAs.—The Senate amendment adds provisions to: (1) provide that the excise tax of section 4973 applies to each year that an excess contribution remains in an education IRA; (2) clarify that a beneficiary of an education IRA must be a life-in-being; (3) clarify that the 10-percent excise tax provided under section 530(d)(4) will not be imposed in cases where a distribution from an education IRA is includable in gross income solely because the taxpayer elects the HOPE or Lifetime Learning credit with respect to the beneficiary; (4) clarify that, in the event of the death of the designated beneficiary, the balance remaining in an education IRA may be distributed to any other beneficiary or to the estate of the deceased designated beneficiary, and a tax-free rollover of the account will be allowed if any member of the family becomes the new beneficiary; and (5) provide that if expenses are taken into account in determining the amount of the exclusion under section 530 for a distribution from an education IRA, then no deduction, exclusion, or credit is allowed under the Code with respect to such expenses.

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[1] 106 T.C. No. 19 (May 23, 1996).

[2] U.S. D.C. Nev. CV-5-94-1146-HDM(LRL) (September 26, 1996).

[1] For a description of the House provisions, see H. Rept. 105-356 (H.R. 2645), October 29, 1997. The provisions of H.R. 2645, as reported by the House Committee on Ways and Means, were included as an amendment (Title VI) to H.R. 2676, as passed by the House on November 5, 1997.

Student loan interest.—The Senate amendment adds a provision to clarify that only a taxpayer who is required to make interest payments under the terms of the loan may deduct such payments as student loan interest.

Enhanced deduction for corporate donations of computers.—The Senate amendment adds a provision to clarify the requirements applicable to entities and organizations to which computers may be donated for purposes of the enhanced deduction.

Qualified State tuition programs.—The Senate amendment adds a provision that includes the original beneficiary's spouse within the definition of "member of the family."

Qualified zone academy bonds.—The Senate amendment adds a provision that clarifies the treatment of the credit for purposes of the estimated tax and overpayment rules.

3. Savings Incentives of the 1997 Act

Conversion of IRAs into Roth IRAs.—Under the Senate amendment, in the case of conversions of IRAs into Roth IRAs, the taxpayer is able to elect to have the amount converted includible in income in the year of the conversion (or the year of withdrawal if the conversion is accomplished through a rollover) rather than ratably over 4 years. The Senate amendment does not include the additional 10-percent recapture tax applicable to premature withdrawals of amounts to which the 4-year spread applies. Instead, under the Senate amendment, if an individual elects application of the 4-year spread and withdraws amounts before the entire amount of the conversion has been included in income, the amount withdrawn is includible in income (in addition to any amount required to be included under the 4-year spread). In no case will the amount includible under this provision exceed the amount converted. The Senate amendment does not include the rules in the House bill regarding separate accounts for converted amounts and instead includes ordering rules for determining the character of withdrawals from Roth IRAs.

Under the Senate amendment, a new 5-year holding period for determining whether distributions from a Roth IRA are qualified distributions does not apply to converted amounts. Thus, the 5-year holding period begins with the year for which a contribution (including a rollover contribution) was made.

The Senate amendment also clarifies calculation of adjusted gross income for purposes of applying the $100,000 adjusted gross income ("AGI") limit on individuals eligible to convert IRAs to Roth IRAs. Under the Senate amendment, the applicable AGI is AGI for the year of the distribution to which the conversion relates. In addition, under the Senate amendment, it is intended that in determining AGI, the conversion amount (to the extent otherwise includible in AGI) is subtracted from AGI for the year of the distribution.

Penalty-free distributions for education expenses and purchase of first homes.—The Senate amendment modifies the provision in the House bill intended to prevent avoidance of the 10-percent early withdrawal tax by providing that hardship distributions from qualified cash or deferred arrangements and tax-sheltered annuities are not eligible rollover distributions (and not subject to 20-percent withholding). The Senate amendment also modifies the effective date of the House bill provision. The Senate amendment is effective for distributions after December 31, 1998.

4. Capital Gains Provisions of the 1997 Act

The Senate amendment modifies two provisions of the House bill to: (1) clarify the provision relating to the holding period of positions in certain short sales and straddles; and (2) provide that new section 1045 (relating to rollovers of small business stock) applies to stock held by certain partnerships with trusts as partners. The Senate amendment adds a provision to clarify the amount of exclusion applicable to the sale of a principal residence by a married couple filing a joint return who do not qualify for the full $500,000 exclusion.

5. Alternative Minimum Tax Provisions of the 1997 Act

The Senate amendment adds provisions that: (1) conform the regular-tax election to use AMT depreciation to the changes made to AMT depreciation by the 1997 Act; and (2) clarify the eligibility of the small corporation exemption.

6. Estate and Gift Tax Provisions of the 1997 Act

The Senate amendment modifies the provisions of the House bill to: (1) clarify the effective date for the generation-skipping exemption; (2) coordinate the unified credit and the qualified family-owned business exclusion; and (3) clarify the rules governing revaluation of gifts. The Senate amendment also adds provisions that: (1) clarify the phaseout range for the 5-percent surtax to phase out the benefits of the unified credit and graduated rates; (2) clarify that interests eligible for the family-owned business exclusion must be passed to a qualified heir; (3) clarify the "trade or business" requirement for the family-owned business exclusion; (4) convert the family-owned business exclusion into a deduction; (5) make other technical changes to items cross-referenced in the family-owned business provision; and (6) clarify the treatment of post-mortem conservation contributions.

7. D.C. Zone Incentives of the 1997 Act

The Senate amendment adds provisions that clarify the definitions of businesses and property eligible for special incentives available with respect to the D.C. Zone. In addition, the Senate amendment provides that the income phase-out rules applicable to the D.C. first-time homebuyer credit apply only in the year the credit is generated and not in subsequent carryover years.

8. Miscellaneous Provisions of the 1997 Act

The Senate amendment adds provisions that: (1) clarify the qualification of the reduced rate of tax on hard ciders; (2) clarify the treatment of the tax paid by electing publicly treated partnerships; (3) modify the depreciation limitation of electric vehicles; and (4) modify the definition of "non-Amtrak State" for purposes of the Amtrak net operating loss provision.

9. Revenue-Increase Provisions of the 1997 Act

The Senate amendment adds provisions that: (1) clarify that the exception to the constructive sales rules for positions with respect to straight debt instruments does not apply to positions that are convertible into stock; (2) provide coordination between the basis adjustment rules relating to extraordinary dividends and similar rules applicable to consolidated returns; (3) clarify the interaction of section 355 and rules relating to certain divisive transactions involving asset contributions to a subsidiary; (4) clarify the application of section 304 to certain international transactions; (5) clarify the treatment of prepaid telephone cards for telephone excise tax purposes; (6) modify the unrelated business income tax rules applicable to second-tier subsidiaries; (7) modify the interaction between section 901(k) and the foreign tax credit flow-through rules for RICs; (8) clarify the treatment of additional covered lives under a master contract for purposes of the effective date of the provision relating to company owned life insurance; (9) make a clerical amendment to the definition of wages under the earned income credit; and (10) clarify the allocation of basis of properties distributed by a partnership.

10. Foreign Provisions of the 1997 Act

The Senate amendment adds provisions that: (1) clarify the treatment of PFIC option holders; (2) clarify the application of PFIC mark-to-market rules to RICs; and (3) clarify the interaction between the PFIC and other mark-to-market regimes.

11. Simplification Provisions of the 1997 Act

The Senate amendment adds a provision that provides that distributions from a REIT are deemed to first come from any non-REIT earnings.

12. Estate, Gift, and Trust Simplification Provisions of the 1997 Act

The Senate amendment adds provisions that: (1) clarify the treatment of revocable trusts for purposes of the generation-skipping transfer tax; and (2) provide regulatory authority for simplified reporting of funeral trusts terminated during the taxable year.

13. Excise Tax Simplification Provisions of the 1997 Act

The Senate amendment clarifies that the 1997 Act's provision liberalizing rules for bulk importation of wine applies only to alcohol that would qualify as a natural wine if produced in the United States.

14. Pension and Employee Benefits Provisions of the 1997 Act

The Senate amendment adds a clarification to the scope of the provision relating to the treatment of disability payments made to public safety employees.

15. Technical Corrections Relating to Other Legislation

Adoption credit.—The Senate amendment adds a provision that provides that the phase out rules applicable to the adoption credit are not applicable to credit carryovers.

Disclosure requirements of apostolic organizations.—The Senate amendment adds a provision that provides that section 501(d) apostolic organizations are not required to disclose Schedules K-1.

Earned income credit qualification.—The Senate amendment adds provisions that clarify the application of the taxpayer identification number rules for purposes of determining eligibility for the earned income credit.

Stapled REIT grandfather rule.—The Senate amendment does not include the provision of the House bill relating to the grandfather rule applicable to stapled REITs.

Conference Agreement

The conference agreement follows the Senate amendment, with the following modifications, additions, and deletions.

1. Education Incentives of the 1997 Act

Education IRAs.—The conference agreement clarifies that for purposes of the special rules regarding tax-free rollovers and changes of designated beneficiaries, the new beneficiary must be under the age of 30.

Deduction for student loan interest.—The conference agreement clarifies that a "qualified education loan" means any indebtedness incurred solely to pay qualified higher education expenses. Thus, revolving lines of credit generally would not constitute qualified education loans unless the borrower agreed to use the line of credit to pay only qualifying education expenses. The conference agreement further provides Treasury with authority to issue regulations regarding the calculation of the 60-month period in the case of consolidated loans, collapsed loans, and loans made before the date of enactment of the Taxpayer Relief Act of 1997 (August 5, 1997) for purposes of determining the deductibility of interest paid on such loans. In this regard, the conferees expect that such regulations would mirror the guidance contained in Notice 98–7 issued regarding the establishment of the 60-month period with respect to such loans for reporting purposes. The provision is effective for interest payments due and paid after December 31, 1997, on any qualified education loan.

2. Savings and Investment Incentives of the 1997 Act

Conversion of IRAs into Roth IRAs.—The conferees wish to clarify that for purposes of determining the $100,000 adjusted gross income ("AGI") limit on IRA conversions to Roth IRAs, the conversion amount is not taken into account. Thus, for this purpose, AGI (and all AGI-based phaseouts) are to be determined without taking into account the conversion amount. For purposes of computing taxable income, the conversion amount (to the extent otherwise includible in AGI) is to be taken into account in computing the AGI-based phaseout amounts. The conferees wish to clarify that the language of the Senate Finance committee report (appearing in connection with section 6005(b) of the Senate amendment) relating to calculation of AGI limit for conversions is superceded.

Small business stock rollover.—The conference agreement provides that rules similar to the rules contained in subsections (f) through (k) of section 1202 will apply for purposes of the rollover provision (sec. 1045). Under these rules, for example, the benefit of a tax-free rollover with respect to the sale of small business stock by a partnership will flow through to a partner who is not a corporation if the partner held its partnership interest at all times the partnership held the small business stock. A similar rule applies to S corporations. The conference agreement does not contain any provision limiting the types of partners or shareholders that a partnership or S corporation may have in order for the benefits of section 1045 to apply to a noncorporate partner or shareholder.

3. Estate and Gift Tax Provisions of the 1997 Act

Phaseout range for the 5-percent surtax to phase out the benefits of the unified credit and graduated rates.—The conference agreement does not include the provision in the Senate amendment clarifying the phaseout range for the 5-percent surtax to phase out the benefits of the unified credit and graduated rates.

Qualification for an estate tax deduction for qualified family-owned business interest in the case of cash leases by decedent to family member.—The conference agreement clarifies that an interest in property will not be disqualified, in whole or in part, as an interest in a family-owned business where the decedent leases that interest on a net cash basis to a member of the decedent's family who uses the leased property in an active business. The rental income derived by the decedent from the net cash lease in those circumstances is not treated as personal holding company income for purposes of Code section 2057.

4. Miscellaneous Provisions of the 1997 Act

Fuel excise tax provisions.—The conference agreement does not include the provisions in the Senate amendment relating to fuel excise taxes that were enacted in the Transportation Equity Act for the 21st Century.

5. Revenue Increase Provisions of the 1997 Act

Coordination between basis adjustment rules relating to extraordinary dividends and similar rules applicable to consolidated returns.—With respect to the Senate amendment regarding gain recognition for certain extraordinary dividends, the conference agreement clarifies that Congress intends that, except as provided in regulations to be issued, section 1059 does not cause current gain recognition to the extent that the consolidated return regulations require the creation or increase of an excess loss account with respect to a distribution. Thus, current Treas. Reg. sec. 1.1059(e)-1(a) does not result in gain recognition with respect to distributions within a consolidated group to the extent such distribution results in the creation or increase of an excess loss account under the consolidated return regulations.

Holding period requirement for claiming foreign tax credits with respect to dividends.—The 1997 Act added section 901(k), which denies a shareholder foreign tax credits normally available with respect to a dividend if the shareholder has not held the stock for a minimum period during which it is not protected from risk of loss. Section 901(k)(4), "Exception for certain taxes paid by securities dealers," provides an exception for foreign tax credits with respect to certain dividends received on stock held in the active conduct of a securities business in a foreign country. The Ways and Means and Finance committee reports provide that the exception is available only for dividends received on "stock which the shareholder holds in its capacity as a dealer in securities." H. Rept. 105–148, 105th Cong., 1st Sess. 546 (1997); S. Rept. 105–33, 105th Cong., 1st Sess 176 (1997). The conference agreement clarifies that the exception of section 901(k)(4) is available only for dividends received on stock that the shareholder holds in its capacity as a dealer in securities.

Extension of diesel fuel excise taxes to kerosene.—The conference agreement includes clarifications of the rules under which aviation grade kerosene may be removed for use as aviation fuel without payment of the highway excise taxes.

6. Individual and Business Simplification Provisions of the 1997 Act

Magnetic media returns for partnerships having more than 100 partners.—Present law, as amended by the 1997 Act, provides that the Treasury Secretary is to require partnerships with more than 100 partners to file returns on magnetic media (sec. 6011(e)). Present law also imposes a penalty in the case of failure to meet magnetic media requirements. The conference agreement clarifies that the penalty under section 6724(c) for failure to comply with the requirement of filing returns on magnetic media applies to the extent such a failure occurs with respect to more than 100 information returns, in the case of a partnership with more than 100 partners.

7. Foreign Tax Provisions of the 1997 Act

Information reporting with respect to certain foreign corporations and partnerships.—Present law, as amended by the 1997 Act, provides that reporting rules apply to controlled foreign corporations and foreign partnerships (sec. 6038). The conference agreement clarifies that guidance relating to the furnishing of required information is to be provided by the Secretary of the Treasury (not specifically through regulations), and conforms the use of the defined term, foreign business entity.

8. Excise Tax and Other Simplification Provisions of the 1997 Act

Refunds when wine returned to wineries or beer returned to breweries.—The 1997 Act added a provision that tax is refunded when tax-paid wine is returned to a winery or tax-paid beer is returned to a brewery (secs. 5044 and 5056). The Code provisions allowing these refunds speak of beverages produced in the United States. A separate provision of the 1997 Act provided that beer and wine imported "in bulk" would be taxed under the rules for domestically produced beverages. The conference agreement provides that the refund provisions are coordinated with the provision on tax treatment of bulk imports.

Transfers of bulk imports of wine to wineries or beer to breweries.—Prior to the 1997 Act, imported beer and wine always were taxed upon importation (secs. 5043 and 5054). The 1997 Act added provisions for non-tax-paid transfers of bulk imports to breweries and wineries (secs. 5364 and 5418). The conference agreement conforms the provisions imposing tax in all cases on importation to recognize these allowed transfers. Under the conference agreement, liability for tax payment shifts to the brewery or winery when bulk imports are transferred with payment of tax, just as those parties are liable for payment of tax on domestically produced beer and wine.

9. Taxpayer Bill of Rights 2 (1996)

Disclosure of returns and return information.—The rules regarding disclosure of returns and return information were amended in 1996 to permit certain disclosures in two additional circumstances. Present law provides that, in the case of a deficiency with respect to a joint return of individuals who are no longer married or no longer residing in the same household, the Treasury Secretary is permitted to disclose to one such individual whether there has been an attempt to collect the deficiency from the other individual, the general nature of such collection activities, and the amount collected (sec. 6103(e)(8)). Present law also provides that if the Treasury Secretary determines that a person is liable for a penalty for failure to collect and pay over tax, the Secretary is permitted to disclose to that person the name of any other person liable for that penalty, and whether there has been an attempt to collect the deficiency from the other individual, the general nature of such collection activities, and the amount collected (sec. 6103(e)(9)). The conference agreement clarifies that these disclosures, like certain other disclosures permitted under present law, may be made under section 6103(e)(6) to the duly authorized attorney in fact of the person making the disclosure request. The provision takes effect on date of enactment.

10. Transportation Equity Act for the 21st Century ("TEA 21") (1998)

Simplified refund provisions for tax on gasoline, diesel fuel and kerosene.—TEA 21 included a provision combining the Code refund provisions for gasoline, diesel fuel, and kerosene and reducing the minimum claim amount. Under TEA 21, claims may be filed once a $750 threshold is reached for gasoline, diesel fuel, and kerosene combined, and overpayments attributable to multiple calendar quarters may be aggregated in determining whether this threshold is met (rather than claims being filed only with respect to a single calendar quarter). The conference agreement adds a provision conforming a current Code timing provision to reflect the portion of the TEA 21 provision that allows aggregation of multiple calendar quarters into a single refund claim.

TITLE VII. REVENUE OFFSETS

A. Employer Deductions for Vacation and Severance Pay (sec. 501 of the House Bill and sec. 5001 of the Senate Amendment)

Present Law

For deduction purposes, any method or arrangement that has the effect of a plan deferring the receipt of compensation or other benefits for employees is treated as a deferred compensation plan (sec 404(b)). In general, contributions under a deferred compensation plan (other than certain pension, profit-sharing and similar plans) are deductible in the taxable year in which an amount attributable to the contribution is includible in income of the employee. However, vacation pay which is treated as deferred compensation is deductible for the taxable year of the employer in which the vacation pay is paid to the employee (sec. 404(a)(5)).

Temporary Treasury regulations provide that a plan, method, or arrangement defers the receipt of compensation or benefits to the extent it is one under which an employee receives compensation or benefits more than a brief period of time after the end of the employer's taxable year in which the services creating the right to such compensation or benefits are performed. A plan, method or arrangement is presumed to defer the receipt of compensation for more than a brief period of time after the end of an employer's taxable year to the extent that compensation is received after the 15th day of the 3rd calendar month after the end of the employer's taxable year in which the related services are rendered (the "2½ month" period). A plan, method or arrangement is not considered to defer the receipt of compensation or benefits for more than a brief period of time after the end of the employer's taxable year to the extent that compensation or benefits are received by the employee on or before the end of the applicable 2½ month period. (Temp. Treas. Reg. Sec. 1.404(b)-1T A-2).

The Tax Court recently addressed the issue of when vacation pay and severance pay are considered deferred compensation in *Schmidt Baking Co., Inc.*, 107 T.C. 271 (1996). In *Schmidt Baking*, the taxpayer was an accrual basis taxpayer with a fiscal year that ended December 28, 1991. The taxpayer funded its accrued vacation and severance pay liabilities for 1991 by purchasing an irrevocable letter of credit on March 13, 1992. The parties stipulated that the letter of credit represented a transfer of substantially vested interest in property to employees for purposes of section 83, and that the fair market value of such interest was includible in the employees' gross incomes for 1992 as a result of the transfer.[1] The Tax Court held that the purchase of the letter of credit, and the resulting income inclusion, constituted payment of the vacation and severance pay within the 2½ month period. Thus, the vacation and severance pay were treated as received by the employees within the 2½ month period and were not treated as deferred compensation. The vacation pay and severance pay were deductible by the taxpayer for its 1991 fiscal year pursuant to its normal accrual method of accounting.

House Bill

The House bill provides that, for purposes of determining whether an item of compensation (other than severance pay), is deferred compensation (under Code sec. 404), the compensation is not considered to be paid or received until actually received by the employee. In addition, an item of deferred compensation is not considered paid to an employee until actually received by the employee. The House bill is intended to overrule the result in *Schmidt Baking*. For example, with respect to the determination of whether vacation pay is deferred compensation, the fact that the value of the vacation pay is includible in the income of employees within the applicable 2½ month period is not relevant. Rather, the vacation pay must have been actually received by employees within the 2½ month period in order for the compensation not to be treated as deferred compensation.

It is intended that similar arrangements, in addition to the letter of credit approach used in *Schmidt Baking*, do not constitute actual receipt by the employee, even if there is an income inclusion. Thus, for example, actual receipt does not include the furnishing of a note or letter or other evidence of indebtedness of the taxpayer, whether or not the evidence is guaranteed by any other instrument or by any third party. As a further example, actual receipt does not include a promise of the taxpayer to provide service or property in the future (whether or not the promise is evidenced by a contract or other written agreement). In addition, actual receipt does not include an amount transferred as a loan, refundable deposit, or contingent payment. Amounts set aside in a trust for employees generally are not considered to be actually received by the employee.

Under the House bill, sick pay that is deferred compensation is treated the same as vacation pay that is deferred compensation, and is not deductible until paid to employees. The bill does not change the rule under which deferred compensation (other than vacation pay and sick pay and deferred compensation under qualified plans) is deductible in the year includible in the gross income of employees participating in the plan if separate accounts are maintained for each employee.

While *Schmidt Baking* involved only vacation pay and severance pay, there is concern that this type of arrangement may be tried to circumvent other provisions of the Code where payment is required in order for a deduction to occur. Thus, it is intended that the Secretary will prevent the use of similar arrangements. No inference is intended that the result in *Schmidt Baking* is present law beyond its immediate facts or that the use of similar arrangements is permitted under present law.

Effective date.—The provision is effective for taxable years ending after October 8, 1997. Any change in method of accounting required by the provision will be treated as initiated by the taxpayer with the consent of the Secretary of the Treasury. Any adjustment required by section 481 as a result of the change will be taken into account in the year of the change.

Senate Amendment

The Senate amendment is the same as the House bill, except that the provision also applies to severance pay as well as other types of compensation.

Effective date.—The provision is effective for taxable years ending after the date of enactment. With respect to the change in method of accounting, the Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment. As under the Senate amendment, the fact that an item of compensation is includible in employees' incomes or wages within the applicable 2½ month period is not relevant to determining whether an item of compensation is deferred compensation.

As under the Senate amendment, many arrangements in addition to the letter of credit approach used in *Schmidt Baking* do not constitute actual receipt by employees. For example, actual receipt does not include the furnishing of a note or letter or other evidence of indebtedness of the taxpayer, whether or not the evidence is guaranteed by any other instrument or by any third party. As a further example, actual receipt does not include a promise of the taxpayer to provide service or property in the future (whether or not the promise is evidenced by a contract or other written agreement). In addition, actual receipt does not include an amount transferred as a loan, refundable deposit, or contingent payment. Further, amounts set aside in a trust for employees are not considered to be actually received by the employee.

In light of the change being made and its effect on all cases involving this issue, the conferees ask the Secretary to consider whether, on a case-by-case basis, continued challenge of these arrangements for prior years represents the best use of litigation resources.

Effective date.—The provision is effective for taxable years ending after the date of enactment. Any change in method of accounting required by the provision will be treated as initiated by the taxpayer with the consent of the Secretary of the Treasury. Any adjustment required by section 481 as a result of the change will be taken into account over a three-year period beginning with the first year for which the provision is effective.

B. Modify Foreign Tax Credit Carryover Rules (sec. 5002 of the Senate amendment)

Present Law

U.S. persons may credit foreign taxes against U.S. tax on foreign-source income. The amount of foreign tax credits that can be claimed in a year is subject to a limitation that prevents taxpayers from using foreign tax credits to offset U.S. tax on U.S.-source income. Separate foreign tax credit limitations are applied to specific categories of income.

The amount of creditable taxes paid or accrued (or deemed paid) in any taxable year which exceeds the foreign tax credit limitation is permitted to be carried back two years and forward five years. The amount carried over may be used as a credit in a carryover year to the extent the taxpayer otherwise has excess foreign tax credit limitation for such year. The separate foreign tax credit limitations apply for purposes of the carryover rules.

House Bill

No provision.

Senate Amendment

The Senate amendment reduces the carryback period for excess foreign tax credits from two years to one year. The Senate amendment also extends the excess foreign tax credit carryforward period from five years to seven years.

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[1] While the rules of section 83 may govern the income inclusion, section 404 governs the deduction if the amount involved is deferred compensation.

Effective date.—The provision applies to foreign tax credits arising in taxable years beginning after December 31, 1998.

Conference Agreement

The conference agreement does not include the Senate amendment.

C. Clarify and Expand Mathematical Error Procedures (sec. 5003 of the Senate amendment)

Present Law

Taxpayer identification numbers ("TINs")

The IRS may deny a personal exemption for a taxpayer, the taxpayer's spouse or the taxpayer's dependents if the taxpayer fails to provide a correct TIN for each person for whom the taxpayer claims an exemption. This TIN requirement also indirectly effects other tax benefits currently conditioned on a taxpayer being able to claim a personal exemption for a dependent (e.g., head-of-household filing status and the dependent care credit). Other tax benefits, including the adoption credit, the child tax credit, the Hope Scholarship credit and Lifetime Learning credit, and the earned income credit also have TIN requirements. For most individuals, their TIN is their Social Security Number ("SSN"). The mathematical and clerical error procedure currently applies to the omission of a correct TIN for purposes of personal exemptions and all of the credits listed above except for the adoption credit.

Mathematical or clerical errors

The IRS may summarily assess additional tax due as a result of a mathematical or clerical error without sending the taxpayer a notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessment. The IRS may not proceed to collect the amount of the assessment until the taxpayer has agreed to it or has allowed the 60-day period for objecting to expire. If the taxpayer files a request for abatement of the assessment specified in the notice, the IRS must abate the assessment. Any reassessment of the abated amount is subject to the ordinary deficiency procedures. The request for abatement of the assessment is the only procedure a taxpayer may use prior to paying the assessed amount in order to contest an assessment arising out of a mathematical or clerical error. Once the assessment is satisfied, however, the taxpayer may file a claim for refund if he or she believes the assessment was made in error.

House Bill

No provision.

Senate Amendment

The Senate amendment provides in the application of the mathematical and clerical error procedure that a correct TIN is a TIN that was assigned by the Social Security Administration (or in certain limited cases, the IRS) to the individual identified on the return. For this purpose the IRS is authorized to determine that the individual identified on the tax return corresponds in every aspect (including, name, age, date of birth, and SSN) to the individual to whom the TIN is issued. The IRS also is authorized to use the mathematical and clerical error procedure to deny eligibility for the dependent care tax credit, the child tax credit, and the earned income credit even though a correct TIN has been supplied if the IRS determines that the statutory age restrictions for eligibility for any of the respective credits is not satisfied (e.g., the TIN issued for the child claimed as the basis of the child tax credit identifies the child as over the age of 17 at the end of the taxable year).

Effective date.—The provision is effective for taxable years ending after the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

D. Freeze Grandfather Status of Stapled REITs (sec. 5004 of the Senate amendment)

Present Law

A real estate investment trust ("REIT") is an entity that receives most of its income from passive real estate related investments and that essentially receives pass-through treatment for income that is distributed to shareholders. If an electing entity meets the qualifications for REIT status, the portion of its income that is distributed to the investors each year generally is taxed to the investors without being subjected to a tax at the REIT level. In general, a REIT must derive its income from passive sources and not engage in any active trade or business.

A REIT must satisfy a number of tests on a year-by-year basis that relate to the entity's: (1) organizational structure; (2) source of income; (3) nature of assets; and (4) distribution of income. Under the source-of-income tests, at least 95 percent of its gross income generally must be derived from rents, dividends, interest and certain other passive sources (the "95-percent test"). In addition, at least 75 percent of its income generally must be from real estate sources, including rents from real property and interest on mortgages secured by real property (the "75-percent test").

A REIT is permitted to have a wholly-owned subsidiary subject to certain restrictions (a "qualified REIT subsidiary"). All of the assets, liabilities, income, deductions and credits of a qualified REIT subsidiary are treated as attributes of the REIT.

In a stapled REIT structure, both the shares of a REIT and a C corporation may be traded, but are subject to a provision that they may not be sold separately. In the Deficit Reduction Act of 1984 (the "1984 Act"), Congress required that, in applying the tests for REIT status, all stapled entities are treated as one entity (sec. 269B(a)(3)). The 1984 Act included grandfather rules, one of which provided that certain then-existing stapled REITs were not subject to the new provision (sec. 136(c)(3) of the 1984 Act). That grandfather rule provided that the new provision did not apply to a REIT that was a part of a group of stapled entities if the group of entities was stapled on June 30, 1983, and included a REIT on that date.

House Bill

No provision.

Senate Amendment

The Senate amendment treats activities and gross income of a stapled REIT group with respect to real property interests acquired after March 26, 1998, by any member of a stapled REIT group (and not grandfathered under the rules described below) as activities and income of the REIT for certain purposes, including the 75-percent and 95-percent tests for REIT qualification. The stapled REIT group includes the existing stapled REIT, a stapled entity, or a subsidiary or partnership in which a 10-percent-or-greater interest is owned by an existing stapled REIT or stapled entity.

Under the Senate amendment, there is an exception to this treatment for certain grandfathered real property interests. Grandfathered interests include interests that had been acquired by a member of the REIT group on or before March 26, 1998. In addition, grandfathered real property interests include interests acquired by a member of the REIT group after March 26, 1998, pursuant to a binding written agreement in effect on March 26, 1998, or which were described in a public announcement or in a filing with the Securities and Exchange Commission ("SEC") on or before March 26, 1998.

In general, a grandfathered real property interest does not lose its grandfathered status by reason of a repair to, an improvement of, or a lease of, a grandfathered property. Thus, if a REIT owns a grandfathered real property interest that it leases to a stapled entity, the interest remains a grandfathered interest. Similarly, a renewal of the lease to the stapled entity would not cause the real property interest to lose its grandfather status, whether the renewal is pursuant to the terms of the lease or otherwise. However, an improvement of a grandfathered real property interest causes loss of grandfathered status and become a nonqualified real property interest in certain circumstances. Any expansion beyond the boundaries of the land of the otherwise grandfathered interest occurring after March 26, 1998, is treated as a non-qualified real property interest to the extent of such expansion. Moreover, any improvement of an otherwise grandfathered real property interest (within its land boundaries) that is placed in service after December 31, 1999, is treated as a separate nonqualified real property interest in certain circumstances. There is an exception for improvements placed in service before January 1, 2004, pursuant to a binding contract in effect on December 31, 1999, and at all times thereafter.

If a REIT or stapled entity owns, directly or indirectly, a 10-percent-or-greater interest in a corporate subsidiary or partnership (or other entity described below) that owns a real property interest, the above rules apply with respect to a proportionate part of the entity's real property interest, activities and gross income. Similar rules attributing the proportionate part of the subsidiary's or partnership's real property interests and gross income apply when a REIT or stapled entity acquires a 10-percent-or-greater interest (or in the case of a previously-owned entity, acquires an additional interest) after March 26, 1998, with exceptions for interests acquired pursuant to binding written agreements, public announcements, or SEC filings described above.

Special rules apply where a member of the stapled REIT group holds a mortgage (that is not an existing obligation under the rules described below) that is secured by an interest in real property, where either the REIT or a stapled entity engages in certain activities with respect to that property. In such cases, all interest on the mortgage and all gross income received by a member of the REIT group from the activity is treated as income of the REIT that is not qualifying income under the 75-percent or 95-percent tests, with the result that REIT status might be lost. An exception to these rules is provided for certain mortgages the interest on which does not exceed an arm's-length rate and which would be treated as interest for purposes of the REIT rules. An exception is also available for certain mortgages that are held on

March 26, 1998. The exception for existing mortgages ceases to apply if the mortgage is refinanced and the principal amount is increased in such refinancing.

For a corporate subsidiary owned by a stapled entity, the 10-percent ownership test is met if a stapled entity owns, directly or indirectly, 10 percent or more of the corporation's stock, by either vote or value. For interests in partnerships, the ownership test is met if either the REIT or a stapled entity owns, directly or indirectly, a 10-percent or greater interest in the partnership's assets or net profits.

Effective date.—The Senate amendment is effective for taxable years ending after March 26, 1998.

Conference Agreement

The conference agreement generally follows the Senate amendment with the following technical modifications. The conference agreement clarifies that a real property interest acquired pursuant to the exercise of a put option, buy-sell agreement or an agreement relating to a third party default that was binding on March 26, 1998, and at all times thereafter, is generally treated as a grandfathered real property interest. It is the intention of the conferees that this rule apply only to substantive economic arrangements that are outside of the control of the stapled REIT group. The conference agreement clarifies that a renewal of a lease of property from a third party to a member of the stapled REIT group, like a lease or renewal between group members, does not generally terminate grandfather status, whether the renewal is pursuant to the terms of the lease or otherwise.[2] However, renewal of a lease can cause loss of grandfather status if the property is improved to the extent that grandfather status would be lost under the improvement rules described above. Moreover, the conference agreement provides that, for leases and renewals entered into after March 26, 1998 (whether from members of the stapled REIT group or third parties), grandfather status is lost if the rent on the lease or renewal exceeds an arm's length rate.

The conference agreement makes certain changes to the rule attributing ownership of real property interests, mortgages and other items from a partnership or subsidiary in which the REIT or a stapled entity owns a 10-percent-or-greater interest, directly or indirectly. Under the conference agreement, the percentage ownership interest in a partnership is to be determined by the owner's share of capital or profits, whichever is larger. The conference agreement clarifies that an interest in real property acquired by a 10-percent-or-greater partnership or subsidiary pursuant to a binding written agreement, public announcement, SEC filing, put option, buy-sell agreement or agreement relating to a third-party default (a "qualified transaction") is treated as grandfathered if such interest would be a grandfathered interest if acquired directly by the REIT or stapled entity. The conference agreement also provides that the exception for 10-percent-or- greater interests in partnerships or subsidiaries acquired pursuant to a qualified transaction applies to interests acquired by any member of the stapled REIT group. The conferees also wish to clarify that all real property interests, mortgages, activities and gross income of a qualified REIT subsidiary are treated as attributes of the REIT for purposes of the provision.

The conference agreement adds a rule that provides that a transfer, direct or indirect, of a grandfathered real property interest between members of a stapled REIT group does not result in a loss of grandfather status if the total direct and indirect interests of both the exempt REIT and stapled entity in the real property interest does not increase as a result of the transfer. If the total direct and indirect interest of the exempt REIT and stapled entity increases, the transferred real property interest will be deemed to lose grandfather status only to the extent of such increase. The provision applies to all types of transfers of real property interests among group members, such as sales, contributions and distributions, whether taxable or tax-free. Moreover, the provision applies both to direct transfers of real property interests and transfers of such interests indirectly through transfer of interests in 10-percent-or-greater owned partnerships and subsidiaries. The application of the new provision is illustrated by the following examples. First, assume that an exempt REIT sells a portion of a grandfathered real property interest to a stapled entity. The real property interest remains grandfathered because there is no increase in the total interests of the REIT and the stapled entity (100 percent both before and after the transfer). Second, assume that a grandfathered real property interest is contributed by a stapled entity to a partnership or subsidiary in which the stapled entity owns a 10-percent-or-greater interest (either prior to, or as a result of, the contribution). The real property interest remains grandfathered because the previous total interests of the exempt REIT and stapled entity (the stapled entity's 100-percent interest) are not increased by the transfer.[3] Third, assume a REIT owns a 50-percent interest in a partnership that distributes a grandfathered real property interest to the REIT in complete liquidation of its interest. The 50-percent interest that was previously deemed owned by the REIT will continue to be grandfathered; the remaining 50-percent interest will become a non-grandfathered interest because it represents an increase in the total direct and indirect interests of the REIT and stapled entity in the real property interest. Fourth, assume that a partnership in which an exempt REIT or stapled entity owns a 10-percent or greater interest terminates as a result of a sale of 50 percent or more of the total partnership interests during a 12-month period that does not involve the REIT or a stapled entity (sec. 708(b)(1)(B)). Grandfather status of real property interests owned by the partnership is not lost in the transfer because, as a result of the termination, the partnership's assets are deemed contributed to a new partnership and interests in that partnership are deemed distributed to the purchasing and other partners in proportion to their interests (Treas. reg. sec. 1.708-1(b)(1)(iv)). Thus, there is no change in the total interest of the REIT and stapled entity in the partnership's assets.

The conference agreement adds a provision intended to deal with the special situation of so-called "UPREIT" partnerships (see Treas. reg. 1.701-2(d)(example 4)), which generally treats 100 percent of the real property interests, mortgages, activities and gross income of such partnerships as interests, activities and gross income of the REIT or stapled entity that owns a partnership interest. The provision applies where (i) an exempt REIT or stapled entity owned directly or indirectly) at least a 60-percent interest in a partnership as of March 26, 1998, (ii) 90 percent or more of the interests in the partnership (other than those held by the exempt REIT or stapled entity) are or will be redeemable or exchangeable for consideration with a value determined with reference to the stock of the REIT or stapled entity or both. The provision also applies to an interest in a partnership formed after March 26, 1998, which meets the provision's other requirements, where the partnership was formed to mirror the stapling of an exempt REIT and a stapled entity in connection with an acquisition agreed to or announced on or before March 26, 1998. If, as of January 1, 1999, more than one partnership owned (directly or indirectly) by either an exempt REIT or stapled entity meets the requirements of the provision, only the largest such partnership (determined by aggregate asset bases) is treated as meeting such requirements.

The conference agreement provides that, for purposes of the exception to the mortgage rules for mortgages held on March 26, 1998, an increase in interest payable on a mortgage (except pursuant to an interest arrangement, such as variable interest, under the mortgage's terms as of March 26, 1998), or an increase in interest payable as a result of a refinancing, causes the mortgage to cease to qualify for the exception unless the new interest rate meets an arm's-length standard.

The conferees also wish to clarify that in the event that a stapled REIT group ceases to be stapled, the rules treating assets, activities and gross income of members or the stapled REIT group as attributes of the REIT apply only to the portion of the year in which the group was a stapled REIT group. Similarly, where a REIT's or stapled entity's interest in a partnership or subsidiary changes during the year, the rules treating a proportionate part of the assets, activities and gross income of the partnership or subsidiary as attributes of the REIT or stapled entity also apply on a partial-year basis.

E. Make Certain Trade Receivables Ineligible for Mark-to-Market Treatment (sec. 5005 of the Senate amendment)

Present Law

In general, a dealer in securities is required to use a mark-to-market method of accounting for securities (sec. 475). A dealer in securities is a taxpayer who regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business, or who regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in certain types of securities with customers in the ordinary course of a trade or business. A security includes an evidence of indebtedness.

Treasury regulations provide that if a taxpayer would be a dealer in securities only because of its purchases and sales of debt instruments that, at the time of purchase or sale, are customer paper with respect to either the taxpayer or a corporation that is a member of the same consolidated group, the taxpayer will not normally be treated as a dealer in securities. However, the regulations allow such a taxpayer to elect out of this exception to dealer status.[4] For this purpose, a debt instrument is customer paper with respect to a person if: (1) the person's principal activity is selling nonfinancial goods or providing nonfinancial services; (2) the debt instrument was issued by the purchaser of the goods or services at the time of the purchase of those goods and services in order to finance the purchase; and (3) at all times since the debt instrument was issued, it has been held either by the person selling those goods or services or by a corporation that is a member of the same consolidated group as that person.

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[2] In the case of a lease from a third party, a renewal will not qualify if there is a significant time period between the two tenancies.

[3] Nevertheless, if the REIT's interest in the partnership or subsidirary increases as a result of the contribution, a portion of each of the entity's real property interests other than the interest contributed, reflecting the proportionate increase in the REIT's interest in the entity, will be treated as a non-grandfathered real property interest.

[4] Treas. reg. sec. 1.475(c)-1(b), issued December 23, 1996; the "customer paper election."

House Bill

No provision.

Senate Amendment

The Senate amendment provides that certain trade receivables are not eligible for mark-to-market treatment. A trade receivable is subject to the provision if it is a note, bond, debenture, or other evidence of indebtedness arising out of the sale of goods or services by a person the principal activity of which is selling or providing non-financial goods and services and it is held by such person (or a related person) at all times since it was issued.

Under the Senate amendment, a receivable meeting the above definition is not treated as a security for purposes of the mark-to-market rules (sec. 475). Thus, such a receivable is not marked-to-market, even if the taxpayer qualifies as a dealer in other securities. Because trade receivables cease to meet the above definition when they are disposed of (other than to a related person), a taxpayer who regularly sells trade receivables is treated as a dealer in securities as under present law, with the result that the taxpayer's other securities would be subject to mark-to-market treatment unless an exception applies.

Effective date.—The Senate amendment generally is effective for taxable years ending after the date of enactment. Adjustments required under section 481 as a result of the change in method of accounting generally are required to be taken into account ratably over the four-year period beginning in the first taxable year for which the provision is in effect. However, where the taxpayer terminates its existence or ceases to engage in the trade or business that generated the receivables (except as a result of a tax-free transfer), any remaining balance of the section 481 adjustment is taken into account entirely in the year of such cessation or termination (see sec. 5.04(3)(c) of Rev. Proc. 97-37, 1997-33 I.R.B. 18).

Conference Agreement

The conference agreement follows the Senate amendment with modifications. The conferees wish to clarify that the new provision applies to trade receivables arising from services performed by independent contractors, as well as employees. Thus, for example, if a taxpayer's principal activity is selling non-financial services and some or all of such services are performed by independent contractors, no receivables that the taxpayer accepts for services can be marked-to-market under the new provision. The conferees intend that, pursuant to the authority granted by section 475(g)(1), the Secretary of the Treasury is authorized to issue regulations to prevent abuse of the new exception, including through independent contractor arrangements.

The conference agreement provides that, to the extent provided in Treasury regulations, trade receivables that are held for sale to customers by the taxpayer or a related person may be treated as "securities" for purposes of the mark-to-market rules, and transactions in such receivables could result in a taxpayer being treated as a dealer in securities (sec. 475(c)(1)). It is the intention of the conferees that, unlike the Senate amendment, a taxpayer will not be treated as a dealer in securities based on sales to unrelated persons of receivables subject to the new provision unless the regulatory exception for receivables held for sale to customers applies.

It is the intention of the conferees that, for trade receivables that are excepted from the statutory mark-to-market rules (sec. 475) under the new provision, mark-to-market or lower-of-cost-or-market will not be treated as methods of accounting that clearly reflect income under general tax principles (see sec. 446(b)).

F. Add Vaccines Against Rotavirus Gastroenteritis to the List of Taxable Vaccines (sec. 5006 of the Senate amendment)

Present Law

A manufacturer's excise tax is imposed at the rate of 75 cents per dose on the following vaccines routinely recommended for administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, and varicella (chicken pox). Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund.

House Bill

No provision.

Senate Amendment

The Senate amendment adds any vaccine against rotavirus gastroenteritis to the list of taxable vaccines.

Effective date.—The provision is effective for vaccines sold by a manufacturer or importer after the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

G. Restrict Special Net Operating Loss Carryback Rules for Specified Liability Losses (sec. 5007 of the Senate amendment)

Present Law

Under present law, that portion of a net operating loss that qualifies as a "specified liability loss" may be carried back 10 years rather than being limited to the general two-year carryback period. A specified liability loss includes amounts allowable as a deduction with respect to product liability, and also certain liabilities that arise under Federal or State law or out of any tort of the taxpayer. In the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to the liability must occur at least 3 years before the beginning of the taxable year. In the case of a liability arising out of a tort, the liability must arise out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurred at least three years before the beginning of the taxable year. A specified liability loss cannot exceed the amount of the net operating loss, and is only available to taxpayers that used an accrual method of accounting throughout the period that the acts (or failures to act) occurred.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, specified liability losses are defined and limited to include (in addition to product liability losses) only amounts allowable as a deduction that are attributable to a liability under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workers' compensation, if the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year. As under current law, the redefined specified liability loss cannot exceed the amount of the net operating loss and is only available to taxpayers that used an accrual method of accounting throughout the period that the acts (or failures to act) giving rise to the liability occurred. No inference regarding the interpretation of the specified liability loss carryback rules under present law is intended.

Effective date.—The provision is effective for net operating losses arising in taxable years beginning after the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

H. Exclusion of Minimum Required Distributions from AGI for Roth IRA Conversions (Sec. 5008 of the Senate Amendment)

Present Law

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, individual retirement arrangements ("IRAs") other than Roth IRAs, and tax-sheltered annuities (sec 403(b)).

Under present law, distributions are required to begin no later than the individual's required beginning date (sec. 401(a)(9)). In the case of an IRA, the required beginning date, means the April 1 of the calendar year following the calendar year in which the IRA owner attains age 70½. The Internal Revenue Service has issued extensive Regulations for purposes of calculating minimum distributions. In general, minimum distributions are includible in gross income in the year of distribution. An excise tax equal to 50 percent of the required distribution applies to the extent a required distribution is not made.

Under present law, all or any part of amounts in a deductible or nondeductible IRA may be converted into a Roth IRA. Only taxpayers with adjusted gross income ("AGI") of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

House Bill

No provision.

Senate Amendment

The Senate amendment excludes minimum required distributions from IRAs from the definition of AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA. As under present law, the required minimum distribution would not be eligible for conversion and would be includible in gross income.

Effective date.—The provision is effective for taxable years beginning after December 31, 2004.

Conference Agreement

The conference agreement follows the Senate amendment.

Effective date.—Same as Senate amendment.

I. Extension of IRS User Fees (sec. 5009 of the Senate amendment)

Present Law

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes in the form of ruling letters, determination letters, opinion letters, and other similar rulings or determinations. The IRS is directed by statute to establish a user fee program with respect to such rulings and determinations. Pursuant to this statutory authorization, the IRS establishes a schedule of user fees. The statutory authorization for the IRS user fee program is in effect for requests made before October 1, 2003 (P.L. 104-117).

House Bill

No provision.

Senate Amendment

The Senate amendment extends the IRS user fee program for requests made before October 1, 2007.

Effective date.—The provision is effective on the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

J. Clarify Definition of "Subject to" Liabilities Under Section 357(c) (sec. 3301A of the Senate amendment)

Present Law

Present law provides that the transferor of property recognizes no gain or loss if the property is exchanged solely for qualified stock in a controlled corporation (sec. 351). Code section 357(c) provides that the transferor generally recognizes gain to the extent that the sum of the liabilities assumed by the controlled corporation and the liabilities to which the transferred property is subject exceeds the transferor's basis in the transferred property. If the transferred property is "subject to" a liability, Treasury regulations have indicated that the amount of the liability is included in the calculation regardless of whether the underlying liability is assumed by the controlled corporation. Treas. Reg. sec. 1.357-2(a).

The gain recognition rule of section 357(c) is applied separately to each transferor in a section 351 exchange.

The basis of the property in the hands of the controlled corporation equals the transferor's basis in such property, increased by the amount of gain recognized by the transferor, including section 357(c) gain.

Section 357(c) also applies to reorganizations described in section 368(a)(1)(D).

House Bill

No provision.

Senate Amendment

Under the Senate amendment, the distinction between the assumption of a liability and the acquisition of an asset subject to a liability is eliminated. A liability is treated as having been assumed to the extent that, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement). In the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee is treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability. No inference regarding the tax treatment under present law is intended.

Effective date.—The provision is effective for transfers after the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

TITLE VIII. LIMITED TAX BENEFITS UNDER THE LINE ITEM VETO ACT

Present Law

The Line Item Veto Act amended the Congressional Budget and Impoundment Act of 1974 to grant the President the limited authority to cancel specific dollar amounts of discretionary budget authority, certain new direct spending, and limited tax benefits. The Line Item Veto Act provides that the Joint Committee on Taxation is required to examine any revenue or reconciliation bill or joint resolution that amends the Internal Revenue Code of 1986 prior to its filing by a conference committee in order to determine whether or not the bill or joint resolution contains any "limited tax benefits," and to provide a statement to the conference committee that either (1) identifies each limited tax benefit contained in the bill or resolution, or (2) states that the bill or resolution contains no limited tax benefits. The conferees determine whether or not to include the Joint Committee on Taxation statement in the conference report. If the conference report includes the information from the Joint Committee on Taxation identifying provisions that are limited tax benefits, then the President may cancel one or more of those, but only those, provisions that have been identified. If such a conference report contains a statement from the Joint Committee on Taxation that none of the provisions in the conference report are limited tax benefits, then the President has no authority to cancel any of the specific tax provisions, because there are no tax provisions that are eligible for cancellation under the Line Item Veto Act. If the conference report contains no statement with respect to limited tax benefits, then the President may cancel any revenue provision in the conference report that he determines to be a limited tax benefit.

Conference Statement

The Joint Committee on Taxation has determined that H.R. 2676 contains the following provisions that constitute limited tax benefits within the meaning of the Line Item Veto Act:

Section 3105 (relating to administrative appeal of adverse IRS determination of tax-exempt status of bond issue)

Section 3445(c) (relating to State fish and wildlife permits)

TITLE IX. CORRECTIONS TO THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

The conference agreement includes corrections to the Transportation Equity Act for the 21st Century.

ESTIMATED BUDGET EFFECTS OF TITLES I—VIII OF THE CONFERENCE AGREEMENT RELATING TO H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998"

[Fiscal years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007	1998–2007
Title I. Reorganization of Structure and Management of the Internal Revenue Service		*No Revenue Effect*												
Title II. Electronic Filing		*No Revenue Effect*												
Title III. Taxpayer Protection and Rights:														
A. Burden of Proof—apply to only income, estate and gift taxes (permanent).	eca DOE	(1)	-231	-256	-269	-278	-297	-311	-327	-344	-360	-1,035	-1,639	-2,674
B. Proceedings by Taxpayers:														
1. Expansion of authority to award costs and certain fees at prevailing rate and rule 68 provision with net worth limitation (includes outlay effects); with modified hourly cap.	180da DOE	....	-11	-12	-13	-14	-16	-18	-19	-20	-22	-51	-95	-145
2. Civil damages with respect to unauthorized collection actions (includes outlay effects).	aoa DOE	-2	-15	-25	-50	-30	-25	-25	-25	-25	-25	-122	-125	-247
3. Increase size of cases permitted on small case calendar to $50,000.	pca DOE	*No Revenue Effect*												
4. Actions for refund with respect to certain estates which have elected the installment method of payment.	rfa DOE	*Negligible Revenue Effect*												
5. Extend IRS administrative appeals right to issuers of tax-exempt bonds.	DOE	(1)	-5	-2	-2	-2	-2	-2	-2	-2	-2	-11	-10	-21
6. Civil action for release of erroneous lien	DOE	*Negligible Revenue Effect*												
C. Relief for Innocent Spouses and for Taxpayers Unable to Manage Their Financial Affairs Due to Disabilities:														
1. Relief for innocent spouses who are no longer married, legally separated, or living apart for 12 consecutive months; House relief for other cases; Secretary of Treasury has authority to reach equitable result.	laa & ulb DOE	-10	-131	-92	-74	-86	-121	-157	-204	-243	-288	-393	-1,013	-1,406
2. Suspension of statute of limitations on filing refund claims during periods of disability.	tyoo/a DOE	-10	-70	-35	-15	-16	-17	-18	-19	-20	-21	-146	-95	-241
D. Provisions Relating to Interest and Penalties:														
1. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.	tyoo/a DOE	-26	-68	-58	-61	-56	-59	-62	-65	-68	-72	-267	-326	-593

ESTIMATED BUDGET EFFECTS OF TITLES I—VIII OF THE CONFERENCE AGREEMENT RELATING TO H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998"—Continued

[Fiscal years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007	1998–2007
2. Increase refund interest rate of Applicable Federal Rate ("AFR") +3 for individual's taxpayers [2].	2nd & scaqa DOE	....	−36	−54	−56	−59	−62	−65	−69	−72	−76	−205	−344	−549
3. Reduced penalty on individual's failure to pay during installment agreements.	iapma 12/31/99	....	....	−108	−136	−143	−152	−159	−167	−175	−185	−387	−838	−1,225
4. Mitigation of failure to deposit penalty	drma 180da DOE	....	−47	−64	−64	−65	−66	−66	−67	−68	−68	−240	−335	−575
5. Suspend accrual of interest and penalties if IRS fails to contact taxpayer within 12 months after a timely-filed return (except for fraud and criminal penalties); (1) for first 5 years, time period is 18 months (instead of 12 months); and (2) provide that termination with respect to specific additional tax liability occurs on earliest notice of such liability.	tyea DOE	....	....	−146	−174	−196	−209	−248	−431	−435	−439	−516	−1,762	−2,278
6. Procedural requirements for imposition of penalties and additions to tax.	nia & paa 12/31/00	*Negligible Revenue Effect*												
7. Permit personal delivery of section 6672 notices	DOE	*No Revenue Effect*												
8. Notice of interest charges	nia 12/31/00	*No Revenue Effect*												
E. Protections for Taxpayers Subject to Audit or Collection Activities:														
1. Due process for IRS collection actions	caia 180da DOE	....	−11	−7	−7	−7	−7	−7	−8	−8	−8	−32	−38	−70
2. Examination activities:														
a. Extend the attorney client privilege to accountants and other tax practitioners; with exception from both attorney/client privilege and tax practitioner/client privilege for communications relating to corporate tax shelters.	cmo/a DOE	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(4)	(4)	(5)
b. Limitation on financial status audits	DOE	*No Revenue Effect*												
c. Limitation on IRS authority to require production of computer source code and protections against improper disclosure.	sia & saa DOE	....	−13	−16	−20	−22	−26	−30	−33	−36	−37	−71	−162	−233
d. Prohibition on improper threat of audit activity for tip reporting.	DOE	*No Revenue Effect*												
e. Allow taxpayers to quash all third-party summonses.	ssa DOE	*Negligible Revenue Effect*												
f. Permit service of summonses by mail or in person.	ssa DOE	*No Revenue Effect*												
g. IRS must provide general notice and periodic reports to taxpayers before contacting third parties regarding IRS examination or collection activities with respect to the taxpayer.	180da DOE	....	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(4)	(4)	(5)
3. Collection activities:														
a. Approval process—IRS to implement approval process for liens, levies, or seizures; clarification of "appropriate".	(6)	*Negligible Revenue Effect*												
b. Increase the amount exempt from levy to $6,250 for personal property and $3,125 for books and tools of trade, indexed for inflation.	Lia DOE	(1)	−1	−1	−1	−1	−2	−2	−2	−2	−2	−6	−8	−13
c. Require the IRS to release a levy upon agreement that the amount is not collectible.	lia 12/31/99	*Negligible Revenue Effect*												
d. Suspend collection by levy during refund suit.	tyba 12/31/98	*Negligible Revenue Effect*												
e. Require District Counsel review of jeopardy and termination assessments and jeopardy levies.	taa & lma DOE	*Negligible Revenue Effect*												
f. Increase in amount of certain property on which lien not valid.	DOE	*Negligible Revenue Effect*												
g. Waive the 10% early withdrawal tax when IRA or qualified plan is levied.	wa 12/31/99	....	....	−1	−3	−4	−4	−5	−5	−5	−5	−9	−24	−33
h. Prohibit the IRS from selling taxpayer's property for less than the minimum bid.	Soa DOE	*No Revenue Effect*												
i. Require the IRS to provide an accounting and receipt to the taxpayer (including the amount credited to the taxpayer's account) for property seized and sold.	soa DOE	*Negligible Revenue Effect*												
J. Require the IRS to study and implement a uniform asset disposal mechanism for sales of seized property to prevent revenue officers from conducting sales.	DOE & 2 years	*No Revenue Effect*												
K. Codify IRS administrative procedures for seizure of taxpayer's property.	DOE	*No Revenue Effect*												
l. Procedures for seizure of residences and businesses.	DOE	(1)	−3	−3	−3	−3	−3	−3	−3	−3	−3	−12	−15	−27
4. Provisions relating to examination and collection activities:														
a. Prohibition on extension of statute of limitation for collection beyond 10 years with installment payment exception.	(7)	....	....	−9	−13	−16	−18	−19	−19	−21	−14	−38	−101	−139
b. Offers-in-compromise	generally DOE	−1	....	9	4	4	4	4	4	4	4	17	21	38
c. Notice of deficiency to specify deadlines for filing Tax Court petition.	nma12/13/98	*Negligible Revenue Effect*												
d. Refund or credit of overpayments before final determination.	DOE	*Negligible Revenue Effect*												
e. IRS procedures relating to appeal of examination and collections.	DOE	*No Revenue Effect*												
f. Codify certain fair debt collection procedures	DOE	*No Revenue Effect*												
g. Ensure availability of installment agreements.	DOE	*No Revenue Effect*												
h. Prohibit Federal Government officers and employees from requesting taxpayers to give up their rights to sue.	DOE	*No Revenue Effect*												
F. Disclosures to Taxpayers:														
1. Explanation of joint and several liability	180da DOE	*No Revenue Effect*												
2. Explanation of Taxpayers' rights in interviews with IRS.	180da DOE	....	−13	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(4)	(3)	(4)
3. Disclosure of criteria for examination selection ...	180da DOE	*No Revenue Effect*												
4. Explanations of appeals and collection process ...	180da DOE	*No Revenue Effect*												
5. Require IRS to explain reason for denial for refund.	180da DOE	*No Revenue Effect*												
6. Statement to taxpayers with installation agreements.	7/1/00	*No Revenue Effect*												

ESTIMATED BUDGET EFFECTS OF TITLES I—VIII OF THE CONFERENCE AGREEMENT RELATING TO H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998"—Continued

[Fiscal years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007	1998–2007
7. Require IRS to notify all partners of any resignation of the tax matters partner that is required by the IRS, and of the identity of any successor tax matters partnership who was appointed to fill the vacancy created by such resignation.	sotmpa DOE	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)	−1	−1	−2
8. Require information to taxpayers concerning disclosure of their income tax return information to parties outside the IRS.	DOE	*No Revenue Effect*												
9. Disclosure of Chief Counsel advice	ai 90da DOE	*No Revenue Effect*												
G. Low-Income Taxpayer Clinics	DOE	*No Revenue Effect*												
H. Other Provisions:														
1. Cataloging complaints of IRS employee misconduct.	1/1/00	*No Revenue Effect*												
2. Archive of records of Internal Revenue Service	DOE	*No Revenue Effect*												
3. Payment of taxes to the U.S. Treasury [2]	DOE	*No Revenue Effect*												
4. Clarification of authority of Secretary relating to the making of elections.	DOE	*No Revenue Effect*												
5. IRS employee contracts	6ma DOE	*No Revenue Effect*												
6. Require approval of use of pseudonyms by IRS employees.	DOE	*No Revenue Effect*												
7. Require the IRS to end the use of the illegal tax protestor label.	DOE & rdnrb 1/1/99	*No Revenue Effect*												
8. Modify section 6103 to allow the tax-writing committees to obtain data from IRS employees regarding employee and taxpayer abuse.	DOE	*No Revenue Effect*												
9. Publish telephone numbers for local IRS offices	DOE	*No Revenue Effect*												
10. Alternative to Social Security numbers for tax return preparers.	DOE	*No Revenue Effect*												
11. Authorize the Federal government to offset a Federal income tax refund to satisfy a past-due, legally owing State income tax debt.	rpa 12/31/99	....	....	2	3	3	3	3	4	4	4	8	18	26
12. Modify section 6050S to require educational institutions to report grant amounts processed through and refunds made by the institution, with clarifications regarding the definition of "qualified tuition and related expenses" and certain other educational institution reporting requirements.	tyba 12/31/98	*Negligible Revenue Effect*												
I. Studies:														
1. Administration of penalties and interest	1ya DOE	*No Revenue Effect*												
2. Confidentiality of tax return information	18ma DOE	*No Revenue Effect*												
3. Noncompliance with internal revenue laws by taxpayers.	1ya DOE	*No Revenue Effect*												
4. Payments for informants	1ya DOE	*No Revenue Effect*												
Subtotal, Taxpayer Protections and Rights		**−53**	**−661**	**−885**	**−961**	**−998**	**−1,085**	**−1,196**	**−1,463**	**−1,545**	**−1,635**	**−3,559**	**−6,925**	**−10,483**
Title IV. Congressional Accountability for the Internal Revenue Service.		*No Revenue Effect*												
Title V. Additional Provisions:														
A. Change the Holding Period for Long-Term Capital Gains to 12 months.	aptiao/a 1/1/98	35	611	−312	−335	−335	−337	−341	−347	−354	−362	−336	−1,741	−2,077
B. Deductibility of Means Provided for the Convenience of Employer on Employer's Premises.	tybbo/a DOE	....	−20	−33	−34	−35	−36	−38	−39	−40	−41	−122	−194	−316
C. Instead of Most Favored Nation Status Use Normal Trade Relations Terminology [2].		*No Revenue Effect*												
Subtotal, Additional Provisions		35	591	−345	−369	−370	−373	−379	−386	−394	−403	−458	−1,935	−2,393
Title VI. Tax Technical Corrections		*No Revenue Effect*												
Title VII. Revenue Offsets:														
A. Overrule *Schmidt Baking* with Respect to Vacation Pay and Severance and Other Types of Compensation With Spread.	tyea DOE	593	839	997	456	308	156	163	172	180	189	3,193	860	4,053
B. Freeze Grandfathered Status of Stapled or Paired—Share REITs.	tyea 3/26/98	(9)	1	3	6	10	14	19	26	35	45	20	139	159
C. Make Certain Trade Receivables Ineligible for Mark-to-Market Treatment.	tyea DOE	33	317	500	333	117	70	73	77	81	85	1,300	386	1,686
D. Disregard Minimum Distributions in Determining AGI for IRA Conversions to a Roth IRA.	tyba 12/31/04	....	....	....	....	....	....	....	2,362	2,854	2,812	....	8,028	8,028
Subtotal, Revenue Offsets		**626**	**1,157**	**1,500**	**795**	**435**	**240**	**255**	**2,637**	**3,150**	**3,131**	**4,513**	**9,413**	**13,926**
Title VIII. Limited Tax Benefits Under the Line Veto Act		*No Revenue Effect*												
Net Total (Reserved for Future Tax Reduction)		608	1,087	270	−535	−933	−1,218	−1,320	788	1,211	1,093	496	553	1,050
Revenue Effect From Emergency Legislation Per Section 252(e) of the Balanced Budget and Emergency Deficit Control Act:														
1. Abate interest on underpayments by taxpayers in Presidentially declared disaster areas.	dda 12/31/97	−8	−25	−25	−25	−25	−25	−25	−25	−25	−25	−108	−126	−234

[1] Loss of less than $1 million.
[2] Estimate provided by the Congressional Budget Office.
[3] Loss of less than $5 million.
[4] Loss of less than $25 million.
[5] Loss of less than $50 million.
[6] Generally effective for collection actions commencing after the date of enactment; collections at ACS sites effective for levies imposed after 12/31/00.
[7] Effective for requests to extend the statute of limitations made after 12/31/99 and to all extensions of the statute of limitations on collections that are open after 12/31/99.
[8] Loss of less than $500,000.
[9] Gain of less than $500,000.

Legend for "Effective" column: ai=advice issued; aoa=actions occurring after; aptiao/a=amounts properly taken into account on or after; caia=collection actions initiated after; cmo/a=communications made on or after; dda=disasters declared after; DOE=date of enactment; drma=deposits required to be made after; eca=examinations commencing after; iapma=installment agreement payments made after; laa=liability arising after; lia=levies imposed after; Lia=levies issued after; lma=levies made after; nia=notices issued after; nma=notices mailed after; paa=penalties assessed after; pca=proceedings commencing after; rdnrb=removal designation not required before; rfa=refunds filed after; rpa=refunds payable after; saa=software acquired after; scqa=succeeding calendar quarters beginning after; sia=summonses issued after; soa=seizures occurring after; Soa=sales occurring after; sotmpa=selections of tax matters partners after; ssa=summonses served after; taa=taxes assessed after; tyba=taxable years beginning after; tyea=taxable years ending after; tybbo/a=taxable years beginning before, on, or after; tyoo/a=taxable years open on or after; ulb=unpaid liability before; wa=withdrawals after; 1ya=1 year after; 6ma=6 months after; 18ma=18 months after; 60da=60 days after; 90da=90 days after; and 180da=180 days after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

BILL ARCHER,
NANCY L. JOHNSON,
ROB PORTMAN,

CHARLES B. RANGEL,
WILLIAM J. COYNE,
Managers on the Part of the House.

BILL ROTH,
JOHN H. CHAFEE,
CHUCK GRASSLEY,

ORRIN HATCH,
FRANK H. MURKOWSKI,
DON NICKLES,
PHIL GRAMM,
DANIEL P. MOYNIHAN,
MAX BAUCUS,
BOB GRAHAM,
JOHN BREAUX,
BOB KERREY,

From the Committee on Governmental Affairs:

FRED THOMPSON,
SAM BROWNBACK,
THAD COCHRAN,
Managers on the Part of the Senate.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 482 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4101.

☐ 1428

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, with Mr. LaHood in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the demand for a recorded vote on the amendment offered by the gentleman from Oklahoma (Mr. COBURN) had been postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 482, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentleman from Oklahoma (Mr. COBURN); the amendment offered by the gentleman from Florida (Mr. MILLER); and the amendment offered by the gentleman from California (Mr. ROYCE).

The Chair will reduce to 5 minutes the time for any electronic vote after the second vote in this series.

AMENDMENT OFFERED BY MR. COBURN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Oklahoma (Mr. COBURN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 202, not voting 8, as follows:

[Roll No. 260]

AYES—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Berry
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Borski
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Forbes
Fossella
Fox
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Poshard
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Traficant
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Foley
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Granger
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Klug
Kolbe
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
White
Wise
Woolsey
Wynn
Yates

NOT VOTING—8

Cannon
Dingell
Doyle
Gonzalez
Gordon
Hamilton
Markey
Slaughter

☐ 1449

Mr. PORTMAN and Mr. BONILLA changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote 260. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. MILLER) of Florida on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 258, answered "present" 1, not voting 7, as follows:

[Roll No. 261]

AYES—167

Allen
Andrews
Archer
Armey
Barr
Barrett (WI)
Bartlett
Bass
Berman
Bilirakis
Blagojevich
Blumenauer
Boehlert
Bono
Borski
Brady (PA)
Brown (OH)
Campbell
Capps
Cardin
Castle
Chabot
Coburn
Collins
Cook
Cox
Coyne
Crane
Davis (IL)
Davis (VA)
Deal
DeFazio
DeLay
Deutsch
Dickey
Doggett
Duncan
Dunn
Ehrlich
Engel
English
Ensign
Fawell
Forbes
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gekas
Gibbons
Gilchrest
Goodlatte
Goodling
Gordon
Goss

Greenwood
Gutierrez
Hall (OH)
Hansen
Hayworth
Hefley
Hilleary
Hinchey
Hobson
Hoekstra
Horn
Hostettler
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Jackson (IL)
Johnson (CT)
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kim
Kind (WI)
Kingston
Klug
Kolbe
Kucinich
LaFalce
Largent
LaTourette
Lazio
Linder
Lipinski
LoBiondo
Lowey
Maloney (CT)
Maloney (NY)
Manzullo
McCarthy (MO)
McCarthy (NY)
McDade
McHale
McHugh
McInnis
McIntosh
McKinney
McNulty
Meehan
Miller (CA)
Miller (FL)
Moran (VA)
Morella

Myrick
Nadler
Neumann
Ney
Northup
Olver
Owens
Pallone
Pappas
Pascrell
Paul
Peterson (PA)
Petri
Pitts
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Rogan
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Salmon
Sanford
Sawyer
Scarborough
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Skaggs
Smith (NJ)
Smith, Linda
Snowbarger
Souder
Sununu
Tauscher
Tierney
Upton
Velázquez
Visclosky
Wamp
Waxman
Weldon (PA)
White
Wolf
Yates
Young (FL)

NOES—258

Abercrombie
Ackerman
Aderholt
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barton
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bishop
Bliley
Blunt
Boehner

Bonilla
Bonior
Boswell
Boucher
Boyd
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carson
Chambliss
Chenoweth
Christensen

Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
DeGette
Delahunt
DeLauro
Diaz-Balart

Dicks
Dixon
Dooley
Doolittle
Dreier
Edwards
Ehlers
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Ford
Fowler
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gillmor
Gilman
Goode
Graham
Granger
Green
Gutknecht
Hall (TX)
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Herger
Hill
Hilliard
Hinojosa
Holden
Hooley
Houghton
Hunter
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kaptur
Kildee
Kilpatrick
King (NY)
Kleczka
Klink
Knollenberg
LaHood
Lampson

Lantos
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Livingston
Lofgren
Lucas
Luther
Manton
Martinez
Mascara
Matsui
McCollum
McCrery
McDermott
McGovern
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Neal
Nethercutt
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Pickering
Pickett
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Redmond
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers

Rothman
Roybal-Allard
Ryun
Sabo
Sanchez
Sanders
Sandlin
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Sherman
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Vento
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Woolsey
Wynn
Young (AK)

ANSWERED "PRESENT"—1

Sisisky

NOT VOTING—7

Cannon
Dingell
Doyle

Gonzalez
Hamilton
Markey

Slaughter

□ 1506

Mr. ISTOOK changed his vote from "aye" to "no."

Messrs. ARCHER, MALONEY of Connecticut, and BARTLETT of Maryland changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote 261. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. ROYCE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. ROYCE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 118, noes 307, not voting 8, as follows:

[Roll No. 262]

AYES—118

Andrews
Archer
Armey
Bachus
Barr
Barrett (WI)
Bass
Bilbray
Blagojevich
Boehlert
Borski
Brady (PA)
Brown (OH)
Callahan
Campbell
Castle
Chabot
Coburn
Collins
Cox
Coyne
Crane
Davis (VA)
DeFazio
DeLay
Doggett
Duncan
Ehlers
Ehrlich
English
Ensign
Fattah
Fawell
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Gejdenson
Gillmor

Goss
Hastert
Hayworth
Hefley
Hobson
Hoekstra
Horn
Hostettler
Hyde
Inglis
Istook
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kind (WI)
Kleczka
Klink
Kolbe
Kucinich
Largent
Linder
Lipinski
LoBiondo
Lowey
Luther
Maloney (CT)
Manzullo
Mascara
McCarthy (NY)
McCollum
McDade
McInnis
McKinney
McNulty
Meehan
Miller (FL)
Moran (VA)
Morella

Myrick
Nadler
Neal
Neumann
Ney
Olver
Pascrell
Paul
Petri
Porter
Portman
Pryce (OH)
Ramstad
Rivers
Rogan
Rohrabacher
Rothman
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Stark
Sununu
Taylor (MS)
Tierney
Vento
Visclosky
Wamp
Waxman
Weldon (PA)

NOES—307

Abercrombie
Ackerman
Aderholt
Allen
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Bliley
Blumenauer
Blunt

Boehner
Bonilla
Bonior
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Boswell
Boucher
Boyd
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
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Canady
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DeLauro
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Filner
Foley
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Gibbons
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Greenwood
Gutierrez
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Hall (OH)
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Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klug
Knollenberg
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
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Lewis (CA)
Lewis (GA)
Lewis (KY)
Livingston
Lofgren
Lucas
Maloney (NY)
Manton
Martinez
Matsui
McCarthy (MO)
McCrery
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
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Owens
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Paxon
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Price (NC)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sandlin
Sawyer
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Velázquez
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—8

Cannon
Dingell
Doyle
Gonzalez
Hamilton
Markey
Slaughter
Torres

☐ 1515

Mr. BOEHLERT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SANDERS:

Insert before the short title the following new section:

SEC. . The amounts otherwise provided by this Act are revised by adding an amount for programs included in Section 402 of PL 104–127 $10,000,000.

Mr. SANDERS. Mr. Chairman, I am proud to offer this bipartisan amendment with the gentleman from New Jersey (Mr. LOBIONDO) to increase nutrition programs for senior citizens by $10 million.

Last year, the gentleman from New Jersey and I offered a similar amendment which passed on the floor of this House, but which did not survive the conference committee. This year, we are going to do our best to see that it does survive the conference.

Mr. Chairman, the truth of the matter is that as a wealthy Nation we do not treat our senior citizens with the kind of respect that we should. Half of the seniors in this country have incomes of under $15,000 a year. Four million live in poverty, and 16 million in near poverty.

Most shamefully in this country today, which recently has seen a proliferation of millionaires and billionaires, tens and tens of thousands of senior citizens are malnourished and do not get the kind of nutritious diet they require. Sixteen percent of the people who receive food from emergency food banks are elderly people 65 years of age or older.

Studies conducted at the University of Florida found that over 66 percent of beneficiaries of senior nutrition programs are at moderate to high risk of malnutrition.

Mr. Chairman, that is not what should be going on in the United States of America. We must do better. And the gentleman from New Jersey (Mr. LOBIONDO) and I are trying to do that.

Mr. Chairman, this amendment funds senior commodity programs which provide grants, either food or cash, to States so that local organizations can prepare meals delivered to elderly persons in congregate settings or delivered to their homes through such programs as the Meals on Wheels program.

Senior nutrition programs are a cost-effective, intelligent program which provide nutritious meals to some of the most vulnerable citizens in our country, senior citizens who are too weak and too frail to prepare their own meals.

This program also provides funding to congregate meal sites where seniors not only get nutrition, but where they are able to get a chance to get out of their homes, to mingle with other senior citizens and to improve their quality of life. In Vermont and throughout this country, these are wonderful programs which work very, very well.

Mr. Chairman, this is an enormously cost-effective program. For every $1 spent on senior nutrition programs, $3 were saved from Medicare and Medicaid. It is obviously that if we keep seniors healthy, they need to go to the doctor less, they need to go to the hospital less, they need less for prescription drugs.

Mr. Chairman, the problem that we are facing is that 41 percent of the Meals on Wheels programs have a waiting list. That is part of the problem that the gentleman from New Jersey and I are addressing. This is an excellent program, but there are long waiting lists all over this country.

Mr. Chairman, this amendment increases funding in this program from $141 million to $151 million. This simply brings us back to where we were in fiscal year 1996. This money is offset by a $10 million cut already brought about in the Bass-DeFazio amendment on animal damage control that was passed yesterday.

The bottom line is that the needs of senior citizens are great. We have hungry seniors. That should not be the case in this country. This is a cost-effective program, and I urge support for this program.

Mr. LOBIONDO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the gentleman from Vermont (Mr. SANDERS) for his work on this issue last year and again this year.

I want to associate myself with the remarks that the gentleman from Vermont made about some of the aspects of this program that are so very important for my colleagues, for all of us to understand.

These are programs that make a difference. These are programs that are making a difference to people whose lives in many cases are very, very dark and shadowy. They are senior citizens who are shut-ins, who do not have the ability to get out on their own. In many cases this is the only social contact they have for a whole day. This is the only time they receive a hot meal and someone to check on them.

Mr. Chairman, I know that in my district I have taken the time to go out to see how some of these programs work firsthand, to actually be with volunteers who are delivering the meals. That is another aspect. In many cases there are volunteers who are giving of their own time to make a difference by participating in the program.

So when we combine all of these factors together, that it is cost-effective, that for every dollar we spend we are saving three, to combine this with the fact that for a senior citizen who may have a problem there is a volunteer who is going to be, on a daily basis, giving a physical check, how do we measure these benefits? They are far beyond the $10 million that we are asking for.

I am very appreciative that the gentleman from New Mexico (Chairman SKEEN) has agreed to consider this amendment, and I thank my colleague from Vermont.

Mr. SKEEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to tell the gentleman from Vermont (Mr. SANDERS) that we admire his tenacity, sagacity, endurance, and what a wonderful age to be that lively. And we are willing to accept the gentleman's amendment and hope that he gets some rest this evening.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from California.

Mr. FAZIO of California. I would just like to associate myself with the sagacity of the gentleman from New Mexico (Mr. SKEEN) in accepting this amendment, and indicate that I would hope we could accommodate the needs of the seniors as the gentleman has outlined them as we proceed with this bill down the road.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I thank the gentleman from New Mexico (Chairman SKEEN) very much for his acceptance of this amendment. It has been a long morning. I grant the gentleman that. But I think it is worth it, and I hope to work with him in conference so that we can stand up for senior citizens.

So many of them are really hurting, and I know that the gentleman agrees that this is an important program. I thank him very much.

Mr. SKEEN. Mr. Chairman, reclaiming my time, I could not ask for better company or a better neighborhood to operate.

Mr. SMITH of New Jersey. Mr. Chairman, I rise today in strong support of the amendment to HR 4101 offered today by my friend and colleague from New Jersey, Mr. LOBIONDO, and Mr. SANDERS of Vermont. The amendment will provide an additional $10 million for Senior Nutrition Programs, which support state and local efforts, offset with a minor reduction in overhead and salaries at the Food and Drug Administration. This amendment will restore funding for this vital senior program to its FY 1996 level of $150 million.

As we make the tough choices needed to keep our budget balanced, we cannot forget the needs of our senior citizens, most of whom live on fixed incomes and have limited means.

For many of these senior-citizens, the meals provided by these programs represent their main meal for the day. In 1996, the Mercer County, New Jersey Office on Aging reported that 1,483 persons received almost 119,839 nutritious meals provided in part under the Older Americans Act. In Ocean County, Phil Rubenstein, Executive Director of the Ocean County Office of Senior Services, has stated that approximately 600 individuals a day will eat a meal and enjoy the company of others at a congregate nutrition site. The situation in Burlington County and Monmouth County are very similar.

Senior Nutrition Programs are cost effective. According to the Department of Health and Human Services, for every $1 spent, nearly $3 is saved in other health care programs like Medicare and Medicaid, Mr. Speaker, this amendment should be a "no brainer," and I urge all of my colleagues to support the LoBiondo/Sanders amendment to HR 4101.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

Mr. ROEMER. Mr. Chairman, I rise to strike the last word.

Mr. Chairman, in this country, when we have a threat from a foreign government or foreign entity, we allocate or appropriate sufficient resources in the Defense Department to fight it. When we have a threat from disease, we allocate sufficient resources to the NIH, the National Institutes of Health, and through technology and science to fight it.

What I worry about, Mr. Chairman, in this bill is we have responsibility for the food safety of the American citizen, and I worry that we are not appropriating sufficient resources to protect the American people.

Mr. Chairman, I am not one as a conservative Democrat that wants to throw money at problems, so I do not come at this issue saying that we need to throw money at the food safety issue in America today. What I do say is we need to analyze the problem and allocate our resources accordingly.

First of all, with the allocation in this budget we are 82 percent less than the amount the administration requested. Eighty-two percent less than the administration requested.

Now, is that a concern, Mr. Chairman, at this time in America? I think we need to allocate more resources for three reasons.

One is we have a record number, a record number of imports of food into this country. A record number of food imports into America. Right now 9,000 Americans die and another 33 million become ill each year from food-borne pathogens. Nine thousand die, 33 million people will get sick in this country, the wealthiest country in the world.

Currently, less than two-tenths of 1 percent of all imported produce is being inspected for pathogen contamination. Let me repeat that to my colleagues. Less than two-tenths of 1 percent of all imported produce is being inspected for pathogen contamination. Now, I think that is a serious problem, Mr. Chairman. I think that is a serious concern to protect American citizens. That is the first reason we need to come up to the President's request.

The second is, it is going to cost a little money to start using science and technology instead of smelling and poking, the traditional method. We need to move from using the traditional method that we used before, that is antiquated and outdated, and move into the new century, the next century, and use the available technology that can protect the American citizen.

And lastly, Mr. Chairman, a compelling reason to allocate more resources, we have the largest outbreak of E. coli in the country's history today and last week, and last night. Four thousand Americans became sick in Illinois from E. coli. We have an outbreak on the East Coast in New England. We have an outbreak in Georgia where children are in the hospital on the critical list and potentially at risk of dying from E. coli.

☐ 1530

Mr. Chairman, this is a very significant problem. We are not a developing country. We are a superpower. When we have threats in defense, we meet them. When we have threats from disease, we meet them. When we have threats in food safety, Mr. Chairman, we better meet them.

This bill does not meet them with the threat out there in the three areas that I pointed out. I would hope that our chairman, our distinguished chairman and ranking member would work to address this very, very important issue for the safety of our children, for the food safety of our adults, for the 9,000 Americans that will die, for the 33 million Americans that will become sick, and for the lack of resources that we need to devote to science and technology at the current time.

Mr. Chairman, I strongly encourage this committee to revisit this issue and get more serious about allocating sufficient resources for the E. coli outbreak that we have, for the record imports that we have coming into this country, and for the need to protect our children.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to comment additionally on food safety. And I would like to point out what was done in terms of funding, what was done in the research authorization bill passed through the Committee on Agriculture and ultimately, law. Food safety was given a high priority. We designated in that legislation that food safety research should have a priority, both in the detection of food-borne pathogens and in reducing food-borne pathogens. In the effort to make sure that the food that America eats is healthy both the Research Authorization bill and this appropriation bill gives priority.

I would like to point out to my colleagues we included language in the authorization bill important in assuring coordination of the activities of the Department of Agriculture, the Centers for Disease Control and the Food and Drug Administration. We directed that those three agencies of government start working together now to coordinate their efforts in the event of a health risk from food-borne pathogens. A very important part of our food safety efforts must be preparedness. USDA has already designated food safety efforts as a priority. Food and Drug has already designated it as a priority, and the Centers for Disease Control has of course always had it as a priority. The coordination of efforts at the local, state and national level is important as is research and education.

I think most of us agree that this is a very important aspect of how we make sure that disease outbreaks from food-borne pathogens is minimized. As we become more and more dependent on additional food products coming in from the other countries, because of new regulations, and I might add amendments, that put our farmers at a competitive disadvantage, food safety will become an ever more important issue.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the indulgence of the House to talk about an agricultural problem. Actually, the jurisdiction for the solution to this problem lies within the U.S. Customs Service. But I went to the chairman of the Subcommittee on Treasury Postal Service, and General Government this morning and asked him to enter into a colloquy with me in order that I could explain this very serious problem that ironically is facing the tree growers and the lumber manufacturers of Arizona also.

His staff informed me that he did not want to have a colloquy with me. So, Mr. Chairman, with the indulgence of the Chair, I want to talk just a few minutes.

We have the Canadians subsidizing their lumber industry and shipping lumber to the United States of America against the U.S.-Canada softwood lumber agreement, and selling it cheaper than our lumber people, our tree growers, can get it out of the mill in South Alabama, in Maine, all over this country.

Those of us on the Forestry 2000 Task Force, which represents members of this Congress who have lumber interests in our district, are coming to this body to talk about this very serious problem.

We have an agreement with Canada. Canada agreed they would not unfairly subsidize their sawmills in Canada and put our sawmills at a tremendous disadvantage. Canada is violating the agreement. The Customs Service is aware of the fact that they are breaking the agreement, yet they refuse to police it. Until sufficient time as we recognize that we cannot tolerate the Canadians or anybody else violating agreements, then we are going to continue to have this problem.

I am notifying those managing the Treasury/Postal bill that when that bill comes to the floor, many of us are going to vote against it. Until such time as Customs recognizes that they are going to enforce the law of the land and that they are going to enforce these treaties, they are going to have trouble getting their money out of the Congress of the United States.

To those members of the Forestry 2000 Task Force, I encourage them to be prepared to talk on the Treasury/Postal bill. For those of you from Arizona who have the same problems as they have in Alabama and in Texas, I encourage you to do a little bit of research and let us emphasize, even to the point of a possible amendment reducing the ability of the Customs Department's to be effective; since they are already ineffective, we will just reduce their appropriations.

Mr. Chairman, I appreciate the Chair's tolerance and patience on this. I know that the jurisdiction for the policing of this trade agreement does not fall within the realm of the Department of Agriculture, but it is an agricultural problem because it impacts every farmer who grows a tree in the United States of America.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not plan on taking the full 5 minutes but only a moment. I would like to associate myself in part with the comments of the gentleman from Indiana (Mr. ROEMER).

I do not know how many Members have ever had food poisoning. I bet almost every Member here has had food poisoning at one time, not only from products but even from local problems that we have. We had in California a whole mess of strawberries with hepatitis come across from Mexico. It not only hurt people's sickness but our own local strawberry growers were hurt because people were afraid to buy strawberries. So there does need to be more control. I had a child in my district die of E. coli and the parents told me, "We prayed, we prayed for our child to die because they were in such agony."

I mean, if you think about that and the dollars that we put into research, especially for E. coli, this is a problem that is not going to go away. They keep telling us that this goes away. This is fecal matter that sets on beef or meat products and is not cleaned off before it goes to the consumer. We have got to get a handle on this.

I laud what the committee has done as far as focusing on the issue of food safety. But it is an area in conference that we need to address.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I appreciate the gentleman from California's comments. I just want to associate myself with his concern, especially for the children in this country that can potentially contract E. coli.

As the gentleman knows, children can get different strains. The strain in Illinois apparently is a less severe strain. The strain currently that has had the outbreak in Georgia is the much more severe strain that has a number of children in the hospital, that has the potential to shut down kidneys and the liver and potentially kill these children in Atlanta. And this is something that this committee and this Congress needs to do, not only for the children of the country, but for the safety of all Americans, where 9,000 people will die in this country because of this kind of threat and 33 million Americans will get sick. This is a particularly devastating, much more severe E. coli outbreak on children 5 and under.

I would strongly recommend that we take another look at the funding levels in conference with the Senate and that we do the duty that I know the chairman, our distinguished chairman from New Mexico and our ranking member from Ohio want to do, and that we do not wait for more children to get sick, and we try to come up to the President's level to protect the people in this country.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, I would say the President's budget, if we enacted the President's budget we are going to have billions of dollars in new taxes and billions of dollars in new spending. There are areas which I think we can add and this is one of them.

Ms. STABENOW. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like this afternoon to rise and associate myself with the remarks of my colleagues on both sides of the aisle who talked about food safety for a moment.

It happens that the strawberries that the gentleman mentioned that were brought in and eaten by children were eaten in my district in Trenton, Michigan, in southern Genesee County. In fact, my staff persons's daughter was one of the children that ate the strawberries. Fortunately, after monitoring her health, she did not get deathly sick, but this was a very, very serious issue for the families in my district.

I would applaud the subcommittee and the committee for putting together a budget that makes sense in a number of areas. I would only urge, as has been said, that we focus more strongly, as we move towards conference committee, on the issue of food safety. We have passed an agricultural research bill that we should all celebrate, that makes sense, that does put food safety at a top priority, that does create a crisis management team for USDA to move in when there is a crisis in a community and be able to respond working with local and State officials. But there is more to be done.

I have sponsored a safe food action plan, along with the chairman today who is presiding, to focus on food safety throughout the agricultural budget, particularly not only in research but in transferring that research into technology. If we develop faster E. coli testing, and in fact that is being done in my district in Michigan, we need to be able to transfer that to the private sector so we can get tools directly into the hands of farmers and producers.

I wanted to also indicate that we have one of the premier food safety research facilities at Michigan State University, the National Food Safety and Toxicology Center, where we just recently did a national conference with USDA to focus on the top research risk factors that we should be addressing through funding.

But without the necessary dollars to invest, we will not be able to follow through on all of the plans, the research bill, the efforts that have gone on in making food safety a priority. It happens if we make it a priority in terms of resources.

Again, I commend the committee, the subcommittee's work and ask that they continue to look for ways to add resources for a very, very critical issue for all of our families.

MODIFICATION TO AMENDMENT NO. 2 OFFERED BY MR. BASS

Mr. BASS. Mr. Chairman, I ask unanimous consent to modify the Bass amendment No. 2 previously agreed to.

The CHAIRMAN pro tempore (Mr. BLUNT). The Clerk will report the request.

The Clerk read as follows:

Mr. BASS of New Hampshire asks unanimous consent that in subsection (a) of the Bass amendment to H.R. 4101, previously adopted, after the word "Program", insert the word "operations."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. BASS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a technical correction that we have made to the amendment which the gentleman from Oregon (Mr. DEFAZIO) and I offered yesterday afternoon, which passed by a significant vote.

I just want to mention that since that time, many Members of Congress may have received calls from their State agriculture departments or their State aviation departments or their State fish and wildlife departments saying that in some form or fashion the Bass-DeFazio amendment would affect the funding for such programs as human health and crops and natural resources, forest and range and agriculture and so forth. That may have been the case had the unanimous consent that was just accepted not been accepted.

Unfortunately, legislative counsel made a minor drafting mistake which turned out to have a major impact on the interpretation of the amendment and now that this has been corrected, I want to assure my colleagues, each and every one of them, who have any concerns about the impact of this amendment that it will only affect the livestock protection matter which we debated yesterday.

□ 1545

I am not going to spend my time repeating the debate that we had yesterday only to point out that this is a very narrow program that affects a very few number of cattle and sheep ranchers in the West to eliminate predators at a significant cost to the Federal Government. We have been through these arguments yesterday.

I want to urge my colleagues, should there be a revote after we go out of the Committee of the Whole to support the amendment, it is the exact same vote that we had yesterday. This is an important amendment that is supported by a number of different environmental groups and taxpayers groups, including the League of Conservation Voters, the Sierra Club, Friends of the Earth, Taxpayers for Common Sense, Natural Resources Defense Council, Defenders of Wildlife, U.S. Public Interest Research Group, the Humane Society, and Wilderness Society.

Now that this amendment is corrected, I urge all of my colleagues, should we have another vote on it, to cast the same vote that they cast yesterday.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am glad that my two colleagues had the opportunity to correct their amendment from yesterday that would have cut $21 million or 53, percent of this program. We are now going to be discussing and revoting in the full House, the $10 million cut, which is 25 percent of the budget, of Wildlife Services.

In spite of the assurances of the gentleman from New Hampshire, each of my colleagues now have a letter from Secretary Glickman who is responsible for administering this program all over the United States, stating that it makes no difference whether it is $10 million, a 25-percent cut, or $21 million, a 53-percent cut, it will have a very devastating effect on other than nonlethal predator control. It is much more than that.

This is another example when Members attempt to do some very logical and, from their perspective, needed corrections to an agricultural appropriation bill. If you do not fully have knowledge of what is actually happening out in your various States, you will have unintended consequences.

Wildlife Services is a cooperative program where local entities partner with USDA and APHIS to jointly pay for wildlife management. Cooperating groups at the local level expend over, in some cases, more than 50 percent of the cost of these programs.

Slashing funding for Wildlife Services by 25 percent will result in across-the-board elimination of many important programs that protect human health. Much of this funding is also spent on efforts to develop nonlethal methods for livestock control.

Wildlife Services is much more than predator control. USDA's Wildlife Services Program provides critical assistance to public health and safety programs in every State. That is the reason why we have been hearing from our local States.

People are concerned because this is a program in which they multiply these dollars for local concern. The program provides help at more than 340 airports to prevent flocks of birds from interfering with passenger aircraft flights. That is serious.

It controls the spread of rabies in the North, East, Midwest, and the South. We have a very successful program going in all of these regions using bait in order to control rabies; coyote bait. It is a successful program.

We cannot have this amendment pass and continue that program, because the people that administer it have other duties. When we start making a 25-percent cut in a budget that is already as lean as the agricultural budget is, we will have additional nonintended consequences.

This program controls damage to fruit crops, grain, and fish farms by migratory birds such as blackbirds, saving American farmers hundreds of millions of dollars. It conducts research on humane control of animal populations that spread diseases, such as deer and rats.

It works to protect endangered species such as the Louisiana black bear and the Aleutian Canada goose, and I can go on and on.

The important thing for my colleagues to understand when we do revote this, this is not a program that can afford a 25-percent cut. The intention of the gentleman from new Hampshire and the gentleman from Oregon are really good. But it will have the unintended consequences.

I hope when we revote this in the full House that my colleagues will overwhelmingly vote no and look to another date in order to accomplish the goal which these two people are proposing with their amendment time.

Mr. SKEEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this was a bad amendment yesterday, and the new version is not much better. I appreciate what the two gentlemen are doing or trying to do, but I do not think they have a real grasp of exactly what the consequences are of what they are asking us to do.

I do have a letter from Secretary Glickman saying cutting Wildlife Services is wrong, whether the cut is yesterday's $21 million or today's $10 million. This is not about endangered species. This is about a severe cut to a program that provides essential public health and safety services to every State in the Union and Puerto Rico, Guam, and the Virgin Islands.

Many of the Members who voted for yesterday's amendment wrote to me, asking for Wildlife Services Programs at the same or increased level. This is just not possible with these proposed cuts.

If you want rabies control, programs to protect commercial aircraft from flocks of birds at 360 airports throughout the country, protection of grain and fruit crops from migratory birds, research into disease-carrying animals such as rats and deer to continue, and many other important programs, you must vote no on this amendment.

At this point I would like to include tables that reflect the bill as reported by the Committee.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4101)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - AGRICULTURAL PROGRAMS					
Production, Processing, and Marketing					
Office of the Secretary	3,379,000	2,941,000	2,941,000	-438,000	....
Executive Operations:					
Chief Economist	5,048,000	5,823,000	5,973,000	+925,000	+150,000
Commission on 21st Century Production Agriculture	....	350,000	....	....	-350,000
National Appeals Division	11,718,000	13,297,000	12,204,000	+486,000	-1,093,000
Office of Budget and Program Analysis	5,986,000	6,045,000	6,120,000	+134,000	+75,000
Office of the Chief Information Officer	4,773,000	7,222,000	5,551,000	+778,000	-1,671,000
Total, Executive Operations	27,525,000	32,737,000	29,848,000	+2,323,000	-2,889,000
Office of the Chief Financial Officer	4,283,000	4,562,000	4,283,000	....	-279,000
Office of the Assistant Secretary for Administration	613,000	636,000	636,000	+23,000	....
Agriculture buildings and facilities and rental payments	131,085,000	155,689,000	155,689,000	+24,604,000	....
Payments to GSA	(96,600,000)	(106,057,000)	(106,057,000)	(+9,457,000)	....
Building operations and maintenance	(24,785,000)	(24,127,000)	(24,127,000)	(-658,000)	....
Repairs, renovations, and construction	(5,000,000)	(23,505,000)	(23,505,000)	(+18,505,000)	....
Relocation expenses	(2,700,000)	....	....	(-2,700,000)	....
Hazardous waste management	15,700,000	15,700,000	15,700,000	....	....
Departmental administration	29,231,000	32,168,000	32,168,000	+2,937,000	....
Outreach for socially disadvantaged farmers	3,000,000	10,000,000	3,000,000	....	-7,000,000
Office of the Assistant Secretary for Congressional Relations	3,668,000	3,814,000	3,668,000	....	-146,000
Office of Communications	8,138,000	8,319,000	8,138,000	....	-181,000
Office of the Inspector General	63,128,000	87,689,000	67,178,000	+4,050,000	-20,511,000
Office of the General Counsel	28,759,000	30,446,000	30,396,000	+1,637,000	-50,000
Office of the Under Secretary for Research, Education and Economics	540,000	560,000	560,000	+20,000	....
Economic Research Service	71,604,000	55,839,000	67,282,000	-4,322,000	+11,443,000
National Agricultural Statistics Service	118,048,000	107,190,000	105,082,000	-12,966,000	-2,108,000
Census of Agriculture	(36,327,000)	(23,741,000)	(23,141,000)	(-13,186,000)	(-600,000)
Agricultural Research Service	744,382,000	776,828,000	755,816,000	+11,434,000	-21,012,000
Buildings and facilities	80,630,000	35,900,000	61,380,000	-19,250,000	+25,480,000
Total, Agricultural Research Service	825,012,000	812,728,000	817,196,000	-7,816,000	+4,468,000
Cooperative State Research, Education, and Extension Service:					
Research and education activities	431,410,000	412,589,000	431,125,000	-285,000	+18,536,000
Native American Institutions Endowment Fund	(4,600,000)	(4,600,000)	(4,600,000)	....	....
Extension activities	423,376,000	418,651,000	416,789,000	-6,587,000	-1,862,000
Total, Cooperative State Research, Education, and Extension Service	854,786,000	831,240,000	847,914,000	-6,872,000	+16,674,000
Office of the Assistant Secretary for Marketing and Regulatory Programs	618,000	642,000	642,000	+24,000	....
Animal and Plant Health Inspection Service:					
Salaries and expenses	425,932,000	417,752,000	424,500,000	-1,432,000	+6,748,000
AQI user fees	(88,000,000)	(100,000,000)	(88,000,000)	....	(-12,000,000)
Buildings and facilities	4,200,000	5,200,000	5,200,000	+1,000,000	....
Total, Animal and Plant Health Inspection Service	430,132,000	422,952,000	429,700,000	-432,000	+6,748,000
Agricultural Marketing Service:					
Marketing Services	46,567,000	58,469,000	46,567,000	....	-11,902,000
New user fees	(4,000,000)	(4,000,000)	(4,000,000)	....	....
(Limitation on administrative expenses, from fees collected)	(59,521,000)	(60,730,000)	(60,730,000)	(+1,209,000)	....
Funds for strengthening markets, income, and supply (transfer from section 32)	10,690,000	10,998,000	10,998,000	+308,000	....
Payments to states and possessions	1,200,000	1,200,000	1,200,000	....	....
Total, Agricultural Marketing Service	58,457,000	70,667,000	58,765,000	+308,000	-11,902,000
Grain Inspection, Packers and Stockyards Administration	25,390,000	11,797,000	29,042,000	+3,652,000	+17,245,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(43,092,000)	(42,557,000)	(42,557,000)	(-535,000)	....
Office of the Under Secretary for Food Safety	446,000	596,000	....	-446,000	-596,000
Food Safety and Inspection Service	588,761,000	149,566,000	609,250,000	+20,489,000	+459,684,000
Lab accreditation fees 1/	(1,000,000)	(1,000,000)	(1,000,000)	....	....
Total, Production, Processing, and Marketing	3,292,303,000	2,848,480,000	3,319,078,000	+26,775,000	+470,598,000
Office of the Under Secretary for Farm and Foreign Agricultural Services	572,000	597,000	597,000	+25,000	....
Farm Service Agency:					
Salaries and expenses	699,579,000	723,478,000	724,499,000	+24,920,000	+1,021,000
(Transfer from export loans)	(589,000)	(672,000)	(589,000)	....	(-83,000)
(Transfer from P.L. 480)	(815,000)	(845,000)	(815,000)	....	(-30,000)
(Transfer from ACIF)	(209,861,000)	(227,673,000)	(209,861,000)	....	(-17,812,000)
Total, salaries and expenses	(910,844,000)	(952,668,000)	(935,764,000)	(+24,920,000)	(-16,904,000)

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4101)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
State mediation grants	2,000,000	4,000,000	2,000,000		-2,000,000
Dairy indemnity program	550,000	450,000	450,000	-100,000	
Total, Farm Service Agency	702,129,000	727,828,000	726,949,000	+24,820,000	-879,000
Agricultural Credit Insurance Fund Program Account:					
Loan authorizations:					
Farm ownership loans:					
Direct	(78,320,000)	(85,000,000)	(75,000,000)	(-3,320,000)	(-10,000,000)
Guaranteed	(425,000,000)	(425,031,000)	(425,031,000)	(+31,000)	
Subtotal	(503,320,000)	(510,031,000)	(500,031,000)	(-3,289,000)	(-10,000,000)
Farm operating loans:					
Direct	(565,000,000)	(500,000,000)	(500,000,000)	(-65,000,000)	
Guaranteed unsubsidized	(992,906,000)	(1,700,000,000)	(1,276,000,000)	(+283,094,000)	(-424,000,000)
Guaranteed subsidized	(235,000,000)	(200,000,000)	(200,000,000)	(-35,000,000)	
Subtotal	(1,792,906,000)	(2,400,000,000)	(1,976,000,000)	(+183,094,000)	(-424,000,000)
Indian tribe land acquisition loans	(1,000,000)	(1,003,000)	(1,000,000)		(-3,000)
Emergency disaster loans	(25,000,000)	(25,000,000)	(25,000,000)		
Boll weevil eradication loans	(53,467,000)	(30,000,000)	(100,000,000)	(+46,533,000)	(+70,000,000)
Credit sales of acquired property	(25,000,000)	(25,000,000)	(25,000,000)		
Total, Loan authorizations	(2,400,693,000)	(2,991,034,000)	(2,627,031,000)	(+226,338,000)	(-364,003,000)
Loan subsidies:					
Farm ownership loans:					
Direct	8,329,000	12,725,000	11,228,000	+2,899,000	-1,497,000
Guaranteed	16,407,000	6,758,000	6,758,000	-9,649,000	
Subtotal	24,736,000	19,483,000	17,986,000	-6,750,000	-1,497,000
Farm operating loans:					
Direct	36,823,000	34,150,000	34,150,000	-2,673,000	
Guaranteed unsubsidized	11,617,000	19,720,000	11,000,000	-617,000	-8,720,000
Guaranteed subsidized	22,654,000	17,480,000	17,480,000	-5,174,000	
Subtotal	71,094,000	71,350,000	62,630,000	-8,464,000	-8,720,000
Indian tribe land acquisition	132,000	153,000	153,000	+21,000	
Emergency disaster loans	6,008,000	5,900,000	5,900,000	-108,000	
Boll weevil loans subsidy	472,000	432,000	1,440,000	+968,000	+1,008,000
Credit sales of acquired property	3,255,000	3,260,000	3,260,000	+5,000	
Total, Loan subsidies	105,697,000	100,578,000	91,369,000	-14,328,000	-9,209,000
ACIF expenses:					
Salaries and expense (transfer to FSA)	209,861,000	227,673,000	209,861,000		-17,812,000
Administrative expenses	10,000,000	10,000,000	10,000,000		
Total, ACIF expenses	219,861,000	237,673,000	219,861,000		-17,812,000
Total, Agricultural Credit Insurance Fund	325,558,000	338,251,000	311,230,000	-14,328,000	-27,021,000
(Loan authorization)	(2,400,693,000)	(2,991,034,000)	(2,627,031,000)	(+226,338,000)	(-364,003,000)
Total, Farm Service Agency	1,027,687,000	1,066,179,000	1,038,179,000	+10,492,000	-28,000,000
Risk Management Agency:					
Administrative and operating expenses	64,000,000	66,000,000	64,000,000		-2,000,000
Sales commission of agents	188,571,000			-188,571,000	
Total, Risk Management Agency	252,571,000	66,000,000	64,000,000	-188,571,000	-2,000,000
Total, Farm Assistance Programs	1,280,830,000	1,132,778,000	1,102,778,000	-178,054,000	-30,000,000
Corporations					
Federal Crop Insurance Corporation:					
Federal crop insurance corporation fund	1,584,135,000	1,504,036,000	1,504,036,000	-80,099,000	
Commodity Credit Corporation Fund:					
Reimbursement for net realized losses	783,507,000	8,439,000,000	8,439,000,000	+7,655,493,000	
Operations and maintenance for hazardous waste management (limitation on administrative expenses)	(5,000,000)	(5,000,000)	(5,000,000)		
Total, Corporations	2,367,642,000	9,943,036,000	9,943,036,000	+7,575,394,000	
Total, title I, Agricultural Programs	6,940,775,000	13,924,292,000	14,364,890,000	+7,424,115,000	+440,598,000
(By transfer)	(211,265,000)	(229,190,000)	(211,265,000)		(-17,925,000)
(Loan authorization)	(2,400,693,000)	(2,991,034,000)	(2,627,031,000)	(+226,338,000)	(-364,003,000)
(Limitation on administrative expenses)	(107,613,000)	(108,287,000)	(108,287,000)	(+674,000)	

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4101)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE II - CONSERVATION PROGRAMS					
Office of the Under Secretary for Natural Resources and Environment	693,000	719,000	719,000	+26,000	
Natural Resources Conservation Service:					
Conservation operations	632,853,000	742,231,000	641,243,000	+8,390,000	-100,988,000
Watershed surveys and planning 2/	11,190,000		9,545,000	-1,645,000	+9,545,000
Watershed and flood prevention operations 3/	101,036,000	49,000,000	97,850,000	-3,186,000	+48,850,000
Resource conservation and development	34,377,000	34,377,000	35,000,000	+623,000	+623,000
Forestry incentives program	6,325,000			-6,325,000	
Total, Natural Resources Conservation Service	785,781,000	825,608,000	783,638,000	-2,143,000	-41,970,000
Total, title II, Conservation Programs	786,474,000	826,327,000	784,357,000	-2,117,000	-41,970,000
TITLE III - RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS					
Office of the Under Secretary for Rural Development	588,000	611,000	611,000	+23,000	
Rural community advancement program	652,197,000	715,172,000	745,172,000	+92,975,000	+30,000,000
Delta region economic development program		26,000,000			-26,000,000
Rural Housing Service:					
Rural Housing Insurance Fund Program Account:					
Loan authorizations:					
Single family (sec. 502)	(1,000,000,000)	(1,000,000,000)	(930,600,000)	(-69,400,000)	(-69,400,000)
Unsubsidized guaranteed	(3,000,000,000)	(3,000,000,000)	(3,000,000,000)		
Housing repair (sec. 504)	(30,000,000)	(25,001,000)	(25,001,000)	(-4,999,000)	
Farm labor (sec. 514)	(15,000,000)	(32,108,000)	(20,000,000)	(+5,000,000)	(-12,108,000)
Rental housing (sec. 515)	(128,640,000)	(100,000,000)	(100,000,000)	(-28,640,000)	
Multifamily housing guarantees (sec. 538)	(19,700,000)	(150,000,000)	(125,000,000)	(+105,300,000)	(-25,000,000)
Site loans (sec. 524)	(600,000)	(5,000,000)	(5,000,000)	(+4,400,000)	
Credit sales of acquired property	(25,000,000)	(30,007,000)	(25,000,000)		(-5,007,000)
Self-help housing land development fund	(587,000)	(5,000,000)	(5,000,000)	(+4,413,000)	
Total, Loan authorizations	(4,219,527,000)	(4,347,116,000)	(4,235,601,000)	(+16,074,000)	(-111,515,000)
Loan subsidies:					
Single family (sec. 502)	128,100,000	118,200,000	110,000,000	-18,100,000	-8,200,000
Unsubsidized guaranteed	6,900,000	2,700,000	2,700,000	-4,200,000	
Housing repair (sec. 504)	10,300,000	8,808,000	8,808,000	-1,492,000	
Multifamily housing guarantees (sec. 538)	1,200,000	3,480,000	2,900,000	+1,700,000	-580,000
Farm labor (sec. 514)	7,388,000	16,706,000	10,406,000	+3,018,000	-6,300,000
Rental housing (sec. 515)	68,745,000	48,250,000	48,250,000	-20,495,000	
Site loans (sec. 524)		17,000	17,000	+17,000	
Credit sales of acquired property	3,492,000	4,672,000	3,492,000		-1,180,000
Self-help housing land development fund	17,000	282,000	282,000	+265,000	
Total, Loan subsidies	226,142,000	203,115,000	186,855,000	-39,287,000	-16,260,000
RHIF administrative expenses (transfer to RHS)	354,785,000	367,857,000	354,785,000		-13,072,000
Rental assistance program:					
(Sec. 521)	535,497,000	577,497,000	577,497,000	+42,000,000	
(Sec. 502(c)(5)(D))	5,900,000	5,900,000	5,900,000		
Total, Rental assistance program	541,397,000	583,397,000	583,397,000	+42,000,000	
Total, Rural Housing Insurance Fund	1,122,324,000	1,154,369,000	1,125,037,000	+2,713,000	-29,332,000
(Loan authorization)	(4,219,527,000)	(4,347,116,000)	(4,235,601,000)	(+16,074,000)	(-111,515,000)
Mutual and self-help housing grants	26,000,000	26,000,000	26,000,000		
Rural community fire protection grants	2,000,000			-2,000,000	
Rural housing assistance grants	45,720,000	46,900,000	41,000,000	-4,720,000	-5,900,000
Subtotal, grants and payments	73,720,000	72,900,000	67,000,000	-6,720,000	-5,900,000
RHS expenses:					
Salaries and expenses	57,958,000	60,978,000	57,958,000		-3,020,000
(Transfer from RHIF)	(354,785,000)	(367,857,000)	(354,785,000)		(-13,072,000)
Total, RHS expenses	(412,743,000)	(428,835,000)	(412,743,000)		(-16,092,000)
Total, Rural Housing Service	1,254,002,000	1,288,247,000	1,249,995,000	-4,007,000	-38,252,000
(Loan authorization)	(4,219,527,000)	(4,347,116,000)	(4,235,601,000)	(+16,074,000)	(-111,515,000)
Rural Business-Cooperative Service:					
Rural Development Loan Fund Program Account:					
(Loan authorization)	(35,000,000)	(35,000,000)	(35,000,000)		
Loan subsidy	16,888,000	17,622,000	17,622,000	+734,000	
Administrative expenses (transfer to RBCS)	3,482,000	3,547,000	3,499,000	+17,000	-48,000
Total, Rural Development Loan Fund	20,370,000	21,169,000	21,121,000	+751,000	-48,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4101)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Rural Economic Development Loans Program Account:					
(Loan authorization)	(25,000,000)	(15,000,000)	(15,000,000)	(-10,000,000)	
Direct subsidy	5,978,000	3,783,000	3,783,000	-2,195,000	
Alternative Agricultural Research and Commercialization Revolving Fund	7,000,000	10,000,000		-7,000,000	-10,000,000
Rural cooperative development grants	3,000,000	5,700,000	3,300,000	+300,000	-2,400,000
RBCS expenses:					
Salaries and expenses	25,680,000	26,396,000	25,680,000		-716,000
(Transfer from RDLFP)	(3,482,000)	(3,547,000)	(3,499,000)	(+17,000)	(-48,000)
Total, RBCS expenses	(29,162,000)	(29,943,000)	(29,179,000)	(+17,000)	(-764,000)
Total, Rural Business-Cooperative Service	62,028,000	67,048,000	53,884,000	-8,144,000	-13,164,000
(By transfer)	(3,482,000)	(3,547,000)	(3,499,000)	(+17,000)	(-48,000)
(Loan authorization)	(60,000,000)	(50,000,000)	(50,000,000)	(-10,000,000)	
Rural Utilities Service:					
Rural Electrification and Telecommunications Loans Program Account:					
Loan authorizations:					
Direct loans:					
Electric 5%	(125,000,000)	(55,000,000)	(71,500,000)	(-53,500,000)	(+16,500,000)
Telecommunications 5%	(75,000,000)	(50,000,000)	(75,000,000)		(+25,000,000)
Subtotal	(200,000,000)	(105,000,000)	(146,500,000)	(-53,500,000)	(+41,500,000)
Treasury rates: Telecommunications	(300,000,000)	(300,000,000)	(300,000,000)		
Muni-rate: Electric	(500,000,000)	(250,000,000)	(295,000,000)	(-205,000,000)	(+45,000,000)
FFB loans:					
Electric, regular	(300,000,000)	(300,000,000)	(700,000,000)	(+400,000,000)	(+400,000,000)
Telecommunications	(120,000,000)	(120,000,000)	(120,000,000)		
Subtotal	(420,000,000)	(420,000,000)	(820,000,000)	(+400,000,000)	(+400,000,000)
Total, Loan authorizations	(1,420,000,000)	(1,075,000,000)	(1,561,500,000)	(+141,500,000)	(+486,500,000)
Loan subsidies:					
Direct loans:					
Electric 5%	9,325,000	7,172,000	9,325,000		+2,153,000
Telecommunications 5%	2,940,000	4,895,000	7,342,000	+4,402,000	+2,447,000
Subtotal	12,265,000	12,067,000	16,667,000	+4,402,000	+4,600,000
Treasury rates: Telecommunications	60,000	810,000	810,000	+750,000	
Muni-rate: Electric	21,100,000	21,900,000	25,842,000	+4,742,000	+3,942,000
FFB loans: Electric, regular	2,760,000			-2,760,000	
Total, Loan subsidies	36,185,000	34,777,000	43,319,000	+7,134,000	+8,542,000
RETLP administrative expenses (transfer to RUS)	29,982,000	32,000,000	29,982,000		-2,018,000
Total, Rural Electrification and Telecommunications Loans Program Account	66,167,000	66,777,000	73,301,000	+7,134,000	+6,524,000
(Loan authorization)	(1,420,000,000)	(1,075,000,000)	(1,561,500,000)	(+141,500,000)	(+486,500,000)
Rural Telephone Bank Program Account:					
(Loan authorization)	(175,000,000)	(175,000,000)	(175,000,000)		
Direct loan subsidy	3,710,000	4,638,000	4,638,000	+928,000	
RTP administrative expenses (transfer to RUS)	3,000,000	3,000,000	3,000,000		
Total	6,710,000	7,638,000	7,638,000	+928,000	
Distance learning and telemedicine program:					
(Loan authorization)	(150,000,000)	(150,000,000)	(150,000,000)		
Direct loan subsidy	30,000	180,000	180,000	+150,000	
Grants	12,500,000	15,000,000	10,000,000	-2,500,000	-5,000,000
Total	12,530,000	15,180,000	10,180,000	-2,350,000	-5,000,000
RUS expenses:					
Salaries and expenses	33,000,000	33,445,000	33,000,000		-445,000
(Transfer from RETLP)	(29,982,000)	(32,000,000)	(29,982,000)		(-2,018,000)
(Transfer from RTP)	(3,000,000)	(3,000,000)	(3,000,000)		
Total, RUS expenses	(65,982,000)	(68,445,000)	(65,982,000)		(-2,463,000)
Total, Rural Utilities Service	118,407,000	123,040,000	124,119,000	+5,712,000	+1,079,000
(By transfer)	(32,982,000)	(35,000,000)	(32,982,000)		(-2,018,000)
(Loan authorization)	(1,745,000,000)	(1,400,000,000)	(1,886,500,000)	(+141,500,000)	(+486,500,000)

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4101)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Total, title III, Rural Economic and Community Development Programs	2,087,222,000	2,220,118,000	2,173,781,000	+86,559,000	-46,337,000
(By transfer)	(391,249,000)	(406,404,000)	(391,266,000)	(+17,000)	(-15,138,000)
(Loan authorization)	(6,024,527,000)	(5,797,116,000)	(6,172,101,000)	(+147,574,000)	(+374,985,000)
TITLE IV - DOMESTIC FOOD PROGRAMS					
Office of the Under Secretary for Food, Nutrition and Consumer Services	554,000	573,000		-554,000	-573,000
Food and Consumer Service:					
Child nutrition programs	2,612,675,000	3,887,703,000	4,166,747,000	+1,554,072,000	+279,044,000
Discretionary spending	3,750,000	10,000,000	3,750,000		-6,250,000
Transfer from section 32	5,151,391,000	5,332,194,000	5,048,150,000	-103,241,000	-284,044,000
Total, Child nutrition programs	7,767,816,000	9,229,897,000	9,218,647,000	+1,450,831,000	-11,250,000
Special supplemental nutrition program for women, infants, and children (WIC)	3,924,000,000	4,081,000,000	3,924,000,000		-157,000,000
Reserve		(20,000,000)			(-20,000,000)
Food stamp program:					
Expenses	23,736,479,000	22,365,806,000	21,165,806,000	-2,570,673,000	-1,200,000,000
Reserve	100,000,000	1,000,000,000	100,000,000		-900,000,000
Nutrition assistance for Puerto Rico	1,204,000,000	1,236,000,000	1,236,000,000	+32,000,000	
The emergency food assistance program	100,000,000	100,000,000	90,000,000	-10,000,000	-10,000,000
Total, Food stamp program	25,140,479,000	24,701,806,000	22,591,806,000	-2,548,673,000	-2,110,000,000
Commodity assistance program	141,000,000	317,061,000	131,000,000	-10,000,000	-186,061,000
Food donations programs for selected groups:					
Needy family program	1,165,000		1,081,000	-84,000	+1,081,000
Elderly feeding program	140,000,000		140,000,000		+140,000,000
Total, Food donations programs 4/	141,165,000		141,081,000	-84,000	+141,081,000
Food program administration	107,505,000	111,848,000	108,311,000	+806,000	-3,537,000
Total, Food and Consumer Service	37,221,965,000	38,441,612,000	36,114,845,000	-1,107,120,000	-2,326,767,000
Total, title IV, Domestic Food Programs	37,222,519,000	38,442,185,000	36,114,845,000	-1,107,674,000	-2,327,340,000
TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS					
Foreign Agricultural Service and General Sales Manager:					
Direct appropriation	131,295,000	141,087,000	131,295,000		-9,792,000
(Transfer from export loans)	(3,231,000)	(3,413,000)	(3,231,000)		(-182,000)
(Transfer from P.L. 480)	(1,035,000)	(1,093,000)	(1,035,000)		(-58,000)
Total, Program level	(135,561,000)	(145,593,000)	(135,561,000)		(-10,032,000)
Public Law 480 Program and Grant Accounts:					
Title I - Credit sales:					
Program level	(244,508,000)	(111,558,000)	(197,514,000)	(-46,994,000)	(+85,956,000)
Direct loans	(226,900,000)	(102,163,000)	(182,624,000)	(-44,276,000)	(+80,461,000)
Ocean freight differential	17,608,000	9,395,000	14,890,000	-2,718,000	+5,495,000
Title II - Commodities for disposition abroad:					
Program level	(837,000,000)	(837,000,000)	(837,000,000)		
Appropriation	837,000,000	837,000,000	837,000,000		
Title III - Commodity grants:					
Program level	(30,000,000)	(30,000,000)	(25,000,000)	(-5,000,000)	(-5,000,000)
Appropriation	30,000,000	30,000,000	25,000,000	-5,000,000	-5,000,000
Loan subsidies	176,596,000	88,667,000	158,499,000	-18,097,000	+69,832,000
Salaries and expenses:					
General Sales Manager (transfer to FAS)	1,035,000	1,093,000	1,035,000		-58,000
Farm Service Agency (transfer to FSA)	815,000	845,000	815,000		-30,000
Subtotal	1,850,000	1,938,000	1,850,000		-88,000
Total, Public Law 480:					
Program level	(1,111,508,000)	(978,558,000)	(1,059,514,000)	(-51,994,000)	(+80,956,000)
Appropriation	1,063,054,000	967,000,000	1,037,239,000	-25,815,000	+70,239,000
CCC Export Loans Program Account:					
Export credit: Loan subsidy	407,630,000	253,000,000	252,500,000	-155,130,000	-500,000
(Loan authorization)	(5,500,000,000)	(4,615,000,000)	(4,615,000,000)	(-885,000,000)	
Emerging markets export credit	(200,000,000)			(-200,000,000)	
Salaries and expenses (Export Loans):					
General Sales Manager (transfer to FAS)	3,231,000	3,413,000	3,231,000		-182,000
Farm Service Agency (transfer to FSA)	589,000	672,000	589,000		-83,000
Total, CCC Export Loans Program Account	411,450,000	257,085,000	256,320,000	-155,130,000	-765,000
Total, title V, Foreign Assistance and Related Programs	1,605,799,000	1,365,172,000	1,424,854,000	-180,945,000	+59,682,000
(By transfer)	(4,266,000)	(4,506,000)	(4,266,000)		(-240,000)

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1999 (H.R. 4101)—Continued

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE VI - RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION					
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Food and Drug Administration					
Salaries and expenses, direct appropriation	857,501,000	878,884,000	871,499,000	+13,998,000	-7,385,000
Prescription drug user fee act	(117,122,000)	(126,845,000)	(126,845,000)	(+9,723,000)	....
Mammography clinics user fee	(13,966,000)	(14,385,000)	(14,385,000)	(+419,000)	....
Subtotal, program level	(988,589,000)	(1,020,114,000)	(1,012,729,000)	(+24,140,000)	(-7,385,000)
Buildings and facilities	21,350,000	8,350,000	11,350,000	-10,000,000	+3,000,000
Rental payments (FDA)	46,294,000	82,866,000	82,866,000	+36,572,000	....
By transfer from PDUFA	....	(5,428,000)	(5,428,000)	(+5,428,000)	....
Subtotal, program level	(46,294,000)	(88,294,000)	(88,294,000)	(+42,000,000)	....
Total, Food and Drug Administration	925,145,000	970,100,000	965,715,000	+40,570,000	-4,385,000
DEPARTMENT OF THE TREASURY					
Financial Management Service: Payments to the Farm Credit System Financial Assistance Corporation	7,728,000	2,565,000	2,565,000	-5,163,000	....
INDEPENDENT AGENCIES					
Commodity Futures Trading Commission	58,101,000	63,360,000	62,140,000	+4,039,000	-1,220,000
Farm Credit Administration (limitation on administrative expenses).	(34,423,000)	(35,800,000)	(35,800,000)	(+1,377,000)	....
Total, title VI, Related Agencies and Food and Drug Administration	990,974,000	1,036,025,000	1,030,420,000	+39,446,000	-5,605,000
TITLE VII - EMERGENCY APPROPRIATIONS					
DEPARTMENT OF AGRICULTURE					
Farm Service Agency					
Emergency conservation program	34,000,000	....	....	-34,000,000	....
Tree assistance program	14,000,000	....	....	-14,000,000	....
Agricultural Credit Insurance Fund Program Account:					
Emergency insured loans:					
Loan subsidy	21,000,000	....	....	-21,000,000	....
(Loan authorization)	87,400,000	....	....	-87,400,000	....
Total, Farm Service Agency	69,000,000	....	....	-69,000,000	....
Commodity Credit Corporation					
Livestock disaster assistance fund	4,000,000	....	....	-4,000,000	....
Dairy production indemnity assistance program	6,800,000	....	....	-6,800,000	....
Total, Commodity Credit Corporation	10,800,000	....	....	-10,800,000	....
Natural Resources Conservation Service					
Watershed and flood prevention operations	80,000,000	....	....	-80,000,000	....
Total, title VII, Emergency appropriations	159,800,000	....	....	-159,800,000	....
Grand total:					
New budget (obligational) authority	49,793,563,000	57,814,139,000	55,893,147,000	+6,099,584,000	-1,920,992,000
Appropriations	(49,633,763,000)	(57,814,139,000)	(55,893,147,000)	(+6,259,384,000)	(-1,920,992,000)
Emergency appropriations	(159,800,000)	....	....	(-159,800,000)	....
(By transfer)	(806,780,000)	(840,100,000)	(806,797,000)	(+17,000)	(-33,303,000)
(Loan authorization)	(14,012,620,000)	(13,403,150,000)	(13,414,132,000)	(-598,488,000)	(+10,982,000)
(Limitation on administrative expenses)	(142,036,000)	(144,087,000)	(144,087,000)	(+2,051,000)	....
RECAPITULATION					
Title I - Agricultural programs	6,940,775,000	13,924,292,000	14,364,890,000	+7,424,115,000	+440,598,000
Title II - Conservation programs	786,474,000	826,327,000	784,357,000	-2,117,000	-41,970,000
Title III - Rural economic and community development programs	2,087,222,000	2,220,118,000	2,173,781,000	+86,559,000	-46,337,000
Title IV - Domestic food programs	37,222,519,000	38,442,205,000	36,114,845,000	-1,107,674,000	-2,327,360,000
Title V - Foreign assistance and related programs	1,605,799,000	1,365,172,000	1,424,854,000	-180,945,000	+59,682,000
Title VI - Related agencies and Food and Drug Administration	990,974,000	1,036,025,000	1,030,420,000	+39,446,000	-5,605,000
Title VII - Emergency appropriations	159,800,000	....	....	-159,800,000	....
Total, new budget (obligational) authority	49,793,563,000	57,814,139,000	55,893,147,000	+6,099,584,000	-1,920,992,000

1/ In addition to appropriation.

2/ Budget proposes to fund this account under Conservation Operations.

3/ Budget proposes to fund technical assistance for WFPO under Conservation Operations.

4/ Budget proposes to include funding for these programs under the Commodity Assistance Program in FY 1999.

Mr. DEUTSCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, today I rise to support the Bass-DeFazio amendment to H.R. 4101, a bipartisan amendment to eliminate wasteful spending and to protect wildlife and the environment.

This amendment makes a surgical cut from the operations of the Wildlife Services, known to many of us for years as the Animal Damage Control Program. Mr. Chairman, this is a program that the public holds in poor regard, because it reflects a callous attitude toward wildlife and the environment and amounts to corporate welfare in the West.

For decades, Wildlife Services and Animal Damage Control have taken a jaundiced view toward wildlife problems, relying on quick-fix lethal control strategies rather than lasting solutions. They have measured their success in terms of the number of animals killed rather than the amount of livestock damage mitigated.

Indeed, Mr. Chairman, the Los Angeles Times reported on September 9, 1997 "Each cycle of control only seems to beget more coyotes. They have been shot at, trapped, snared, clubbed, strangled by the millions. The Federal Government alone dispatched 82,261 coyotes last year, more than 638,000 since 1980. Yet, in the 100 years since livestock owners began the coyote war in the West, the resourceful predator has far surpassed the wolf, the grizzly, and the cougar, tripling its numbers and its range."

We are not winning the war against the coyote. We are wasting dollars in a futile exercise, a lethal control treadmill that leads us nowhere.

Indeed, ranchers need to protect their livestock, their investment. During the last two decades, there have been a variety of practical and effective nonlethal husbandry techniques developed and put into practical use: the use of guard animals, such as dogs, donkeys or llamas; the use of electronic sound and light devices; predator exclusion fencing; shed lambing; and night penning.

By deploying these techniques, ranchers can minimize the need for lethal responses to predators. An ounce of prevention is worth a pound of cure.

What we are advocating in supporting the Bass-DeFazio amendment is practical and workable. In fact, there is an excellent working model in the State of Kansas which has virtually no Animal Damage Control money or staff.

Instead the State Extension Service has worked with ranchers and other resource users and taught them how to deter coyote problems and how to selectively eliminate problem animals.

Kansas has spent less than $75,000 of Federal dollars in 27 years, while all other States in the West spent 8 to 50 times more. Take the case of Oklahoma which spent $1.3 million a year and maintained 28 damage control staff. In spite of the increase in spending labor, the reported wildlife problems are 20 times greater than in Kansas.

Mr. Chairman, there is a better way. The DeFazio-Bass amendment leads us in the right direction by reducing the full of dollars invested in failed and fruitless lethal predator control strategies.

I urge my colleagues to join with taxpayer defense groups and environmental and humane groups in supporting this sensible amendment to bring sanity to this program.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is no Member of this House that I have more respect for than my colleague, the gentleman from Oregon (Mr. DEFAZIO). I congratulate his efforts along with the gentleman from New Hampshire (Mr. BASS) to try to bring some additional attention in this particular program to some of the difficulties with lethal control methods that are used across this country on certain species.

However, I rise to oppose this particular amendment, as did I yesterday, because I really think that it may have consequences that the authors might not yet have anticipated.

First of all, there is a severe problem in this country with damage created by wildlife. It is not just in rural areas. We have lots of Members here, including myself, who represent major metropolitan airports where bird control is a very serious matter in order to try to preserve human life when people go into flight. In fact, a third of this particular appropriation is spent by that type of control around the country at these various facilities.

In fact, the Federal Aviation Administration admits that about $1 billion of all of the wildlife damage across this country relates to birds in flight close to airports. They do not really follow the human sonar in their flight paths. So this is not just about coyotes in the western part of the country.

Yesterday, after our debate here, Secretary Glickman at the Department of Agriculture did communicate with us, and I just want to read a portion of his letter into the record. It is important here, where he says: "A reduction of $10 million or more would constitute a serious cut, perhaps up to one-third of the program's budget, and lead to draconian reductions of personnel in this account across the country."

Since the program is largely cooperative and requires State and local matches, he is very concerned that what is going to happen is that the local shares will drop out. He says, "Faced with a cut of this size, we may have no option but to eliminate work to protect endangered and threatened species, which is another function of the office, to prevent bird strikes at airports," which I have talked about "and control animals that can transmit diseases to humans, such as rabies, plague, and lyme disease."

I continue to be amazed in my own district, the largest share of which is an urban district, to watch householders want to try to bring deer to wander into their country and feed them with their backyard feeders, with lyme disease spreading. Last year, we had sightings in eastern Ohio of rabies from raccoon.

So this is not something that is just out in the middle of Oklahoma or even New Mexico. But States like Ohio, which has more urban areas than any other in the country, are severely impacted.

Truly, State and local governments cannot deal with this problem alone. A lot of the research and so forth is Federal research that benefits every single State. A lot of the tracking that is done is Federal tracking of these animals.

Secretary Glickman advises us, we believe the President's budget proposal to gradually increase cost-sharing is a more reasoned reform than the amendment being offered and is consistent with the bill's report language.

Normally, I support my colleague, the gentleman from Oregon. But I think in this situation, where the Secretary of Agriculture does view this amendment as having difficulties and where we really feel that it is taking such a major share of funding that is necessary for animal control, wildlife control in different parts of the country, it really does not make sense, and it goes too far.

I do think that his emphasis on trying to get nonlethal means, where possible, of animal damage control is a very helpful suggestion and one I know that the department is working hard on and, in fact, needs this research money that is a part of this account to pursue.

I will tell you, when I see coyotes by the pack by our local metropolitan airport, which is located inside the city of Toledo, and we have coyotes running around the source systems of Los Angeles, we have a situation where this type of wild animal is breeding with dogs, and you do not produce a friendly animal as a result.

In some cases, you cannot have a nonlethal solution. So where we try to minimize the damage to animals and we try to be as humane as possible, sometimes it is just not possible in some of these situations.

With all due respect to my colleagues, the gentleman from Oregon and the gentleman from New Hampshire, I would say that the amendment goes too far, and I would urge Members to reject this amendment and follow the recommendations of our own Secretary of Agriculture.

□ 1600

Ms. FURSE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this amendment. I should say at the outset, I am a westerner and I am a farmer. In fact, we find that one of the greatest damages to our crops are mice, and the coyotes in the neighborhood keep that mice population down, so I think we need to be a little sophisticated when we think about coyotes.

In 1980, I ran a statewide ballot measure to ban leg-hold traps in Oregon. We did not win because the opposition said things about human health that were not true, and in fact we won a case against them, because in fact we found that a lot of the arguments they made, which are being made today, are not really true.

Let me tell my colleagues what is true about this program. It is cruel, it is wasteful, and it is a subsidy to corporate farmers. Those three things are true. It is cruel, because we are talking about lethal control. I do not know how many of my colleagues have seen a leg-hold trap. It is a steel trap. The animal put its foot into the trap, the trap snaps on the animal's foot, with tremendous pressure, and we have seen many, many examples of animals caught in these traps who have chewed their own legs off to get away from this agonizing situation.

The other uses are these poison lethal collars. Oh, they are very efficient. The only problem is that things like cougars chew on these when they see a dead sheep that has this collar on it. Lots of domestic dogs are killed by biting on these collars that are on these critters. Coyotes are not the only ones who like sheep, dead ones specially laid out for them. So they are lethal and they are wasteful.

They are wasteful in two ways: First of all they are wasteful because millions, literally millions of nontarget species die in these traps, die because of these lethal collars. Cougars. Our beautiful, beautiful bald eagle. There are many, many bald eagles which land, they see the trap, they see the food that is there in that trap, they get into it, it snaps on their foot and the wildlife is destroyed. So that is very wasteful. But it is a wasteful in a second way. It is incredibly wasteful of money. More money is spent in this program killing the predators than the value of the livestock that supposedly is being protected. It just does not make sense.

It is a corporate giveaway. Big farmers love this program. They can say that these dead sheep that died for some other reason, died because of predators, bring predator control in, you get the money from the program, it is great. But it is dreadful. It is a dreadful program. That is why the League of Conservation Voters, all the animal rights organizations, all of the large environmental organizations have said that this is a vote that they will count. It is not just them. It is not just the environmental organizations. It is the taxpayer organizations, also. They will score this vote. Because this vote is to end a program in the West that is cruel, is wasteful and is merely a subsidy. I ask my colleagues, if you voted yesterday for this amendment, vote again, and ignore all this thing you have heard that it is going to stop us getting slugs out of our garden. I do not know a slug that gets in a leg-hold trap, not one. There is a lot of nonsense about this issue. But the issue is, it is cruel, it is wasteful of our dollars and the nontarget species, and it should be ended.

I ask Members to vote with DEFAZIO and BASS on this very important amendment.

Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think we are reaching the end of this debate, and I appreciate the fact that the committee members allowed us to correct the drafting error by Legislative Counsel. That means we are going to have a straight up-or-down vote, the same vote that we took yesterday, the same issues, nothing has changed.

Let us get a few facts straight. I serve on the Subcommittee on Aviation. I am certainly very concerned about bird strikes. We are not touching the money that goes to bird strikes. You can say, yes, since it is an appropriations bill, we cannot target the cut at one particular program, but we can certainly indicate where we want it to come.

Ten million of the $28 million in this program is spent for livestock protection in 17 western States, including my own State who gets nearly half a million dollars from the Federal Government. So I am not just cutting in somebody else's backyard. I think this is a bad program, it is a waste of taxpayers' money. I do believe it constitutes a subsidy. It encourages the Federal Government, sends Federal employees on to private property to undertake lethal predator control, generally pretty indiscriminate lethal predator control efforts on private lands to theoretically protect those sheep or cattle from predation. Actually the losses due to lung disease, to birthing problems, to digestive problems are about 97 percent of the losses in the West. Three percent, according to our own animal damage control people, now called Wildlife Services, come from predation. So we are spending all this money for a few people on private lands to protect predation that is not really happening.

I am puzzled by Secretary Glickman. Kansas has the most progressive program in the country. They pretty much stopped this program 10 years ago and they have an incredibly successful program with higher concentrations of coyotes than their neighboring States with very, very, very little loss because they have moved away from the indiscriminate lethal controls and gone to more effective methods, without the Federal subsidy.

So why should the other 33 States and Members from the other 33 States pay for a subsidy to these western States, to these private interests in these States? I am puzzled by that. It is not public health and safety.

If you go through the budget, if you took out $10 million out of the budget, you are right, Secretary Glickman if he wanted could say, "Well, I'm going to teach them a lesson, I'm going to cut the money out of the airports and I'm going to put the money into the ineffective subsidized program on private lands." I do not believe they will do that. If we cut this $10 million, we will bring this wasteful program to an end.

The other programs are all categorized. We have here the program for property, for human health, for crop, for natural resources, for forest and range protection, and even for aquaculture protection. Those all within the administration's budget get separate little line items. Now we are going after one program and one program only, and the total amount of money that goes into that program, $10 million, $10 million spent to protect private property for private purposes with very little contribution. In my State, zero is contributed by the beneficiaries. It is paid for by State taxpayers and Federal taxpayers. That situation occurs in other States. In some States indeed there is a share paid by some of the ranchers. They can certainly continue those activities on their own or in cooperation with their State if their State legislatures want to put up general fund money for these activities. But the Federal Government has no business being involved in this.

Then to the issue of how many coyotes are running around the gentlewoman from Ohio's district or Los Angeles, that is true. This program has been going full bore for 60 years, and because they have not looked at the science and effective control methods, by going after and breaking up the alpha, killing the alphas and breaking up the packs, there are more coyotes now than there were 60 years ago before we spent hundreds of millions of dollars on these programs and hit a whole bunch of nontarget species. What we are doing is not working, it is time to admit it is not working. If the committee in its wisdom wanted to work through conference or something else and put this money totally into research or into more effective nonlethal methods, model the State program in Kansas, other things they could do, I would be supportive of that. But the point is this money is being wasted, it is ineffective, it does constitute a subsidy, and our colleagues should know that this will be the vote that will be scored, not the vote yesterday, this vote, the vote to reverse the vote.

I would hope that Members would not within a 24-hour period, given the fact that nothing has changed, reverse their vote and reverse their position.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am quoting from the USDA report and part of a letter that the Secretary sent up regarding this issue. I want to quote from a response by them:

> "The animal damage control specialists perform a variety of activities to protect agricultural resources, but also help protect public health and safety, natural resources and property. A budget reduction of $10 million would lead to a major reduction in ADC field personnel throughout the country and significantly affect the program's infrastructure."

Mr. Chairman, this is a misguided effort by those who do not like agriculture, and obviously we have seen the results of that. People here all day long and all day yesterday, who are the enemies of agriculture, are attacking this program from every point and every source.

By the way, there will be a scoring here. I have a new scoring program. Everybody scores, so I am going to start scoring for agriculture. Now, all you are out that I have heard. There are some that may be in, but we will see how they act and how they vote. So we are going to score.

Mr. Chairman, my colleagues have missed the point. They have attempted to attack agriculture, and they have really attacked the effort to manage wildlife in America. Because we have trained experts that we have in the services, in the wildlife services, and in the case of Oregon and in the case of your States wildlife specialists who have dedicated their lives to the balance of wildlife and the balance of nature. If this should pass, sure it will impact those people who raise domestic animals. But I want to re-emphasize to some Members who do not know about the predation in the West and around the country of deer and of antelope and of elk and of our wildlife. If we allow the imbalance to continue, we continue to ruin that side of our wildlife population. I do not suppose we want to do that. I doubt it. But I do not think we do. But that is exactly what we are doing if we vote for this amendment.

Now, one other thing. Let us assume that the gentleman from Oregon does not know what he is talking about and let us assume that I do not know what I am talking about, and we will let the gentleman from New Hampshire go on his own, so I will make a deal with you. If you will agree that we do not know what we are talking about, why do we not turn it over to the specialists, to the wildlife specialists in this country and in Oregon to manage our wildlife and to manage this situation. If you want to take my deal, you will vote against the amendment.

Mr. LUCAS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from Oklahoma.

Mr. LUCAS of Oklahoma. We have discussed the nature of coyotes. The gentleman having been involved in the livestock business a substantial part of his life, could he describe a moment to my colleagues the nature of coyotes and how they interact in certain times of the year and how they travel in packs and how they go after breeding stock and some of the other things that go along with this?

Mr. SMITH of Oregon. As the gentleman understands, there were those who I have dealt with in Oregon who believe that coyotes will never kill anything alive. I would submit to the gentleman from New Mexico (Mr. SKEEN) who runs sheep, we have been trying to get rid of them for some time in cattle country, and coyotes are helping, but it is awful what can happen with a pack of coyotes at certain times of the year, and in the spring of the year when calves are small and when sheep are producing to see the relentless enjoyment of just killing when packs of coyotes run together. That is the answer.

Mr. LUCAS of Oklahoma. That literally a cow or a sheep is defenseless from a pack when they are on the move together, a factor that we need to bear in mind.

The CHAIRMAN pro tempore (Mr. BLUNT). The Clerk will read the final lines of the bill.

The Clerk read as follows:

> This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999".

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to speak in favor of this bill, which appropriates funds for important Federal agriculture and social programs.

Our nation was founded by farmers, and they are still a vital part of our economy, and our identity as Americans. For the better part of the history of this nation, farmers were our pioneers, our philosophers, our engineers, and our statesmen. I hope that we do not turn our back on them as we move forward into the Age of Information.

This bill appropriates funds that will be used by farmers and other agriculture-oriented businesses across America. The bill increases last years appropriations by $6.4 billion, which amounts to a 13% increase. This amount is the minimum increase needed in order to assure that these federal programs are meaningful and worthwhile to the people that they are supposed to assist.

Many farmers need federal support to generate income and maintain their livelihood. Typically, federal assistance comes in the form of low-interest federal loans, which are not unlike those that we provide college and university students. Like education, these loans are an investment in something that will bring great rewards in the near future. Like university students, farmers need these loans in order to avoid highly cumbersome private loans which would negatively effect the way that they do their business. We must maintain these programs, so that American Farmers can feed themselves, and their families.

As a Member of the Congressional Black Caucus, I am also happy to report that this bill contains a provision which assists black farmers in their quest for fairness in the system. It does so by waiving certain statutes of limitation which have effectively barred many claims of racial discrimination that have remained unaddressed and unresolved by the proper authorities. I give my wholehearted thanks to the Rules Committee Members who allowed this provision to be made part of H.R. 4101.

As Founder and Chair of the Congressional Children's Caucus, and as a member of the Congressional Caucus for Women's Issues, I also support this bill because it contains funding for many programs which are relied upon by children and families everywhere. The most important of these programs is Food Stamps. This bill appropriates $22.6 billion for that program, which has become an important part of the lives of many low-income, single-parent, and minority families. By supporting this budget, we assure that thousands of innocent children will not know the meaning of hunger.

Two other programs important to our families and our future which are funded under this set of appropriations, are the Federal School Breakfast and Lunch programs. Private and public studies have shown the link between nutrition and effective learning, therefore, we must continue these programs in order to ensure that our investment in education will be realized by this Nation's children.

I appreciate the bipartisan effort which went into the drafting of this bill. United States agriculture feeds our Nation, and it is time to do our part to make sure that none of our citizens go hungry. I encourage you all to vote for this bill.

Mr. POMEROY. Mr. Chairman, I rise in strong support of the Market Access Program (MAP) and oppose any attempt to further debilitate the program's capacity to aid in the exportation of U.S. agricultural commodities. The Market Access Program boosts agriculture and international trade, and promotes small business and American-made products. Put simply, MAP helps develop foreign markets for U.S. exports. The MAP provides cost-share funds to nearly 800 U.S. businesses, cooperatives, and non-profit trade associations to promote their products overseas. The funding is limited to U.S. entities.

America's farmers are still adjusting to "Freedom to Farm," and it would be unwise and unfair to take away other underlying support programs like the MAP. I have said the same thing about research funding and funding for adequate revenue and crop insurance. Congress promised America's farmers certain fundamental support mechanisms as we moved to "Freedom to Farm." Although producers no longer can rely on the government to come through and pick up the tab when commodity prices are lower than target prices, they need to be able to depend on certain supplemental programs run by the Department of Agriculture that keep producers' heads above an already narrow margin.

American agriculture is continually threatened by subsidized foreign competition. The European Union and other foreign competitors maintain a 10 to 1 advantage over the U.S. in terms of export subsidies, and with that advantage they can expand their share of the world market at the expense of U.S. farmers and ranchers.

In my State of North Dakota, the USDA-Bureau of Census tells us the MAP contributes indirectly to the promotion of approximately $1.7 billion in exports, and 29,300 jobs. Specifically, farmer cooperative-members of the Minn-Dak sugarbeet growers, and North American Bison Cooperative benefit directly from MAP funding. These direct benefits, for instance, produce indirect benefits throughout many facets of the economy.

Rural income depends on—and is at the mercy of—many variables. Weather and domestic supply are examples. But the ability to export overseas and compete with foreign markets is another integral piece to maintaining rural income. The MAP offers one small opportunity for American farmers to compete in the international market—during a time when agriculture is our nation's most export-dependent industry and exports account for one-third of U.S. production. The elimination of MAP would represent unilateral disarmament in the face of continued subsidized foreign competition.

Oppose reductions to the MAP. Don't take away this important tool which provides access for U.S. farmers to assistance which knocks down foreign barriers and reduces the costs of competing in the world market.

Mr. POSHARD. Mr. Chairman, I rise today in favor of this appropriations measure, which is of such enormous importance to the 19th District of Illinois. I commend Chairman SKEEN and Congresswoman KAPTUR for their efforts in crafting a bill which will help farmers and rural communities across the country.

In addition, I am very pleased to note that H.R. 4101 includes $34 million in funding for implementation of the FDA's tobacco regulations, designed to combat teenage smoking. It is critical that this body demonstrate its support of the FDA's efforts to protect underage consumers from the dangers of tobacco, and I thank the members of the subcommittee for recognizing the importance of this issue.

Mr. Chairman, we must not relax our efforts where America's children are concerned. The time has come to take a stand against the devastating effect of tobacco on our nation's youth, and this bill will help us to do that. I urge my colleagues to support this measure and to continue to fight for the health and safety of our children.

The CHAIRMAN pro tempore. If there are no further amendments, under the rule the Committee now rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. BLUNT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 482, he reported the bill, as amended pursuant to that rule back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. SKEEN. Mr. Speaker, I demand a separate vote on the so-called Bass amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

□ 1615

The SPEAKER pro tempore (Mr. PEASE). The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Insert before the short title the following new section.

SEC. (a) LIMITATION ON USE OF FUNDS.—Not more than $18,800,000 of the funds made available in this Act may be used for the Wildlife Services Program operation under the heading "ANIMAL AND PLANT HEALTH INSPECTION SERVICE".

(b) CORRESPONDING REDUCTION IN FUNDS.—The amount otherwise provided by this Act for salaries and expenses under the heading "ANIMAL AND PLANT HEALTH INSPECTION SERVICE" is hereby reduced by $10,000,000.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Without objection, if no other record vote or debate intervenes before the question of passage, then the Chair will reduce to 5 minutes the minimum time for electronic voting on the question on passage.

There was no objection.

The vote was taken by electronic device, and there were—ayes 192, noes 232, not voting 9, as follows:

[Roll No. 263]

AYES—192

Ackerman
Allen
Andrews
Archer
Baldacci
Barrett (WI)
Bass
Becerra
Berman
Bilirakis
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Chabot
Clay
Clyburn
Conyers
Costello
Cox
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Duncan
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Fawell
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Goodling
Gordon
Goss
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Horn
Houghton
Inglis
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (WI)
Jones
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
Lantos
LaTourette
Lazio
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Moakley
Moran (VA)
Morella
Nadler
Neal
Neumann
Obey
Olver
Owens
Pallone
Pascrell
Paul
Payne
Pease
Pelosi
Petri
Porter
Poshard
Price (NC)
Ramstad
Rangel
Rivers
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schumer
Sensenbrenner
Shays
Sherman
Skaggs
Smith (NJ)
Smith, Adam
Stark
Stokes
Strickland
Sununu
Tauscher
Taylor (MS)
Tierney
Torres
Towns
Upton
Velázquez
Vento
Wamp
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Wolf
Woolsey
Wynn
Yates

NOES—232

Abercrombie
Aderholt
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Dickey
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehrlich
Emerson
Ensign
Etheridge
Everett
Ewing
Fazio
Foley
Fossella
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley

Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
John
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
Martinez
Mascara
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Minge
Mink
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paxon
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Rogers
Ryun
Salmon
Sanchez
Sandlin
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Visclosky
Walsh
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wise
Young (AK)
Young (FL)

NOT VOTING—9

Cannon
Dingell
Doyle
Gonzalez
Hamilton
Jackson-Lee (TX)
Markey
McDade
Slaughter

☐ 1638

Messrs. HOEKSTRA, EHRLICH and SNYDER and Ms. MEEK of Florida changed their vote from "aye" to "no."

Messrs. BRADY of Pennsylvania, GILMAN, LAZIO of New York, DICKS and TORRES changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPALANTION

Ms. JACKSON-LEE of Texas. Mr. Speaker, during rollcall vote No. 263, the Bass/DeFazio Amendment to Protect Wildlife, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote 263. Had I been present, I would have voted "yea."

The SPEAKER pro tempore (Mr. PEASE). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This will be a 5 minute vote.

The vote was taken by electronic device, and there were— yeas 373, nays 48, not voting 12, as follows:

[Roll No. 264]

YEAS—373

Abercrombie
Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Capps
Cardin
Carson
Castle
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—48

Andrews
Barr
Barrett (WI)
Berry
Campbell
Chabot
Chenoweth
Collins
Crane
Doggett
Dooley
Ensign
Frank (MA)
Franks (NJ)
Hall (TX)
Hefley
Johnson (WI)
Kind (WI)
Kleczka
Kucinich
Lofgren
Lowey
McDermott
Meehan
Menendez
Moran (VA)
Nadler
Oberstar
Obey
Paul
Petri
Portman
Ramstad
Roemer
Rohrabacher
Royce
Sabo
Salmon
Sanford
Scarborough
Sensenbrenner
Shadegg
Stark
Stearns
Stump
Sununu
Taylor (MS)
Tierney

NOT VOTING—12

Cannon
Dingell
Doyle
Emerson
Ford
Gonzalez
Hamilton
Markey
McDade
Miller (CA)
Northup
Slaughter

☐ 1647

Mr. BARR of Georgia changed his vote from "yea" to "nay."

Mr. BERMAN and Ms. LEE changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DOYLE. Mr. Speaker, due to the death of a family member, I was unavoidably absent on the afternoon of Wednesday, June 24, 1998, and as a result, missed rollcall votes 260 through 264.

Had I been present, I would have voted yes on rollcall 260, yes on rollcall 261, yes on rollcall 262, yes on rollcall 263, and yes on rollcall 264.

PERSONAL EXPLANATION

Mrs. NORTHUP. Mr. Speaker, on rollcall No. 264, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote 264. Had I been present, I would have voted "yea."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646) "An Act to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.".

PROVIDING FOR CONSIDERATION OF H.R. 4103, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 484 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 484

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4103) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI, clause 7 of rule XXI, or section 306 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 or 6 of rule XXI are waived. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. Consideration of section 8106 for amendment under the five-minute rule shall not exceed one hour. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the distinguished gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, Mr. Speaker, all time yielded is for purposes of debate only on this subject.

Mr. Speaker, House Resolution 484 is a modified open rule providing for the consideration of H.R. 4103, the FY99 defense appropriations bill. The rule waives points of order against consideration of the bill for failing to comply with clause 2(l)(6) of rule XI requiring a 3-day layover of the committee report, clause 7 of rule XXI requiring printed hearings and reports to be available for 3 days prior to consideration of a general appropriations bill, and section 306 of the Budget Act of 1974, prohibiting consideration of legislation within the jurisdiction of the Committee on the Budget unless reported by that committee.

This pertains to scoring provisions which have in the past been carried by the DOD bill, and which have been signed off on by the Committee on the Budget.

The rule provides for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule provides that amendments printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole.

Mr. Speaker, this is an important appropriations bill. This is a somewhat complicated rule. I am trying to explain it. I would appreciate the Members' attention.

The amendments about which I expect we will have significant debate throughout this hour, based on our conversations yesterday in the Committee on Rules, pertain to two distinct issues.

The first is an amendment brought forward by the gentleman from New York (Mr. SOLOMON), the distinguished chairman of the Committee on Rules, addressing a deplorable circumstance involving the sale by a contracting firm of the congressional Medal of Honor. We applaud the gentleman from New York (Mr. SOLOMON) for taking this on, and I note there is no disagreement with self-executing this provision into the legislation to take care of this matter.

The second issue addressed through this provision of the rule pertains to the year 2000 issue. The shorthand is Y2K. Members should get used to it, we are going to hear it a lot, the matter of preparing the Defense Department's computer systems to deal with the so-called millennium bug, which will occur as the year 2000 begins.

Our colleague, the gentleman from California (Mr. STEVE HORN) of the committee on Government Reform and Oversight has for some time, in fact, quite some time, been pushing the entire executive branch to become more aggressive in preparing for this problem, the Y2K problem. The gentleman from California (Mr. HORN) recently issued a report card on the progress being made by Federal agencies, a report card full of Cs and Fs that would cause any parent real alarm if it were brought home from school by their child.

The fact is that the administration has been woefully, if not negligently, slow in coming to grips with this Y2K problem. It has consistently underestimated the needs of all agencies in ensuring that mission critical computer systems across the board do not fail come January 1, 2000, and particularly those systems upon which our national security depends.

The truth is, no one can credibly say that they did not see this problem coming. Most of us have known for some time that the year 2000 will begin and that our computer-oriented society needs to prepare for the change. In fact, some of us have repeatedly engaged the administration on this issue as it applies to the intelligence field.

Likewise, the defense appropriators, frustrated by the fact that there were no additional funds requested for the DOD's FY99 budget to meet the Y2K need, sought to force the administration to face facts by including additional monies in this spending bill for the Y2K fix.

However, because the administration adopted what could be described as a head-in-the-sand approach to this problem and abdicated its responsibility to identify the true need and target a source for the necessary funds, the money as of now does not have an offset. In other words, there is a problem and no money to fix it.

While I strongly support efforts to boost the intensity with which we tackle the Y2K problem, I do not believe that poor planning and a lack of willingness on the part of the administration to face this problem head on should justify our abdication or any abdication of the principles of fiscal discipline.

For that reason, I have opposed using an emergency declaration in this bill to bail the administration out of the mess it has created. Therefore, what we are doing in this rule is striking that emergency declaration, with the knowledge that we fully intend to come back in the coming weeks with a separate bill, hopefully one that is paid for, to address the Y2K problem government-wide.

In addition to self-executing out this emergency provision for Y2K, the rule also removes the emergency designation for the $20 million allocation in the bill relating to the tragic cable car incident in Italy, leaving the funds intact and fully offset from the Navy operations and maintenance account.

Mr. Speaker, the rule waives points of order against provisions in the bill which do not comply with clause 2 of rule XXI prohibiting unauthorized or legislative appropriations in a general appropriations bill, and clause 6 of rule XXI, prohibiting reappropriations in a general appropriations bill. This is not unusual for an appropriations bill.

The rule provides priority in recognition for those amendments that have been previously printed in the Congressional Record, and it provides that the chairman of the Committee of the Whole may postpone recorded votes on any amendment, and may reduce voting time on postponed questions to 5 minutes, providing that the voting time on the first in a series of questions is not less than 15 minutes. Nothing new there.

The one provision of this rule that makes it a modified open rule, rather than a fully open rule, is that one which limits debate under the 5-minute rule on amendments to section 8106 of the bill to 1 hour. This debate centers on the highly controversial substantive issue of the War Powers Act, a matter of critical importance to all Members, but also one with the potential to become bogged down in extended debate. If memory serves me right, the author of this amendment agreed that an hour would be sufficient.

In the interest of ensuring that the underlying appropriations bill is not unnecessarily sidetracked, we have acceded to the request of the chairman of the Committee on Appropriations to limit debate on this one matter.

Lastly, Mr. Speaker, this rule provides for the traditional motion to recommit, with or without instructions. Mr. Speaker, as chairman of the House Permanent Select Committee on Intelligence, I would like to briefly extend my thanks to the gentleman from Florida (Mr. YOUNG) and the gentleman from Pennsylvania (Mr. MURTHA) for their efforts to rebuild our Nation's defense capabilities, including particularly the critical needs of the intelligence community.

The headlines in recent days and weeks have been full of instances where the eyes, ears, and brains of our intelligence capabilities have come under sharp focus. The truth is that we need good, timely, and well-analyzed intelligence now more than ever for our decision-makers as we grapple with the 21st century and the host of new threats and uncertainties confronting our national security, to say nothing of the technology we now face.

□ 1700

Now is not the time to become complacent and let down our guard. Good intelligence requires a long-term, steady commitment of attention, oversight and resources. The lesson we keep learning when something goes wrong in this arena is that we need to rebuild our capabilities to produce better and more focused intelligence, not further cut back on the tools in the tool box we make available to our policymakers.

Mr. Speaker, I urge support for this rule and for the underlying bill.

[From the Washington Post, May 21, 1998]

FOR GORE, LOW PROFILE ON A HIGH-TECH HEADACHE

(By Stephen Barr and Rajiv Chandrasekaban)

When it's time to talk technology, Vice President Gore never seems to be at a loss for words. Wiring schools to the Internet. Celebrating the virtues of electronic mail. Using computers to streamline government.

But when it comes to the Year 2000 computer glitch, arguably the nation's most pressing technological problem, Gore has been strikingly silent. There have been no public speeches, no "town hall" meetings, no photo ops with programmers.

For Gore, that may be because the Year 2000 glitch isn't just a technological worry, it's also a political one that could be potentially damaging to him, political analysts say. Industry experts contend that the federal government has been slow to address the issue, raising worries that crucial computer systems—from those that control airplane traffic to ones that process payments to schools, farmers and veterans—could grind to a halt on Jan. 1 2000. That's right when Gore might find himself campaigning across Iowa and New Hampshire, seeking the Democrat presidential nomination.

"It's very much a factor in his positioning for the 2000 race," suggested Andrew L. Shapiro, a fellow at the Berkman Center for Internet and Society at Harvard University. "Al doesn't want it to be Al's mess." Gore spokesman Lawrence Haas said the vice president receives regular briefings on the government's progress in fixing Year 2000 computer problems. Haas personally directed the Cabinet to make the fixes a high priority and has spoken about the potential crisis to the President's Management Council, a group of senior political appointees.

"He is not avoiding the issue," Haas said.

Asked to point out speeches in which Gore has talked about the so-called millennium bug, Haas could not identify one.

The Year 2000 problem stems from the fact that many computer systems use a two-digit dating system that assumes that 1 and 9 are the first two digits of the year. Without specialized reprogramming, the systems will recognize "00" not as 2000 but 1900, a glitch that could cause computers to either stop working or start generating erroneous data.

Virtually every Cabinet department and federal agency promises it will have fixed and tested its computer systems and links before the 2000 deadline, but any significant airline delay, power outage or telecommunications breakdown could give Gore's political opponents an opening to question his credibility or mock his efforts to "reinvent" government.

Republicans, in particular, appear ready to try to pin any problem on him. In a recent memo to "members of Congress and conservative leaders" on the Year 2000 problem, would be GOP presidential contender Steve Forbes recently asked, "What has the administration's technology point may, Vice President Al Gore, been doing for the past five years?"

Rep. Stephen Horn (R-Calif.), a House Government Reform subcommittee chairman who has held hearings on the Year 2000 problem since April 1996, said, "All of us have wondered where he is, since he is supposed to be the expert on all the good things in the 21st century—telecommunications, computers, technology."

Administration officials noted that President Clinton created a special White House council in February to lead the government's effort to prevent widespread computer problems in 2000 and said Gore was personally involved in recruiting John A. Koskinen, who has specialized in crisis management, to lead the council.

The vice president, Koskinen said, has "provided the support and leadership that we need at this stage. It doesn't do us a lot of good just to have people talking. My sense is to try to figure out the points of leverage, what are the issues that need to be raised and at what time."

Greg Simon, Gore's former chief domestic policy adviser and now a technology policy consultant in Washington, said public speeches by the vice president could "give out the impression that he's promising to fix everyone's [Year 2000] problem.

"It's more effective for him to work behind the scenes," Simon said.

Rep. Constance A. Morella (R-Md.), who called on the White House last year to designate a Year 2000 czar, said she hopes Koskinen can spur the government to work faster on computer fixes. Like some other lawmakers, she said the White House has not used its bully pulpit enough to educate the public about possible economic consequences or inconveniences.

"Ignoring this problem is a bigger risk than addressing it," Morella said.

Sen. Robert F. Bennett (R-Utah), who heads a special Senate committee and Senate Appropriations Committee Chairman Ted Stephens (R-Alaska) recently called for $2.25 billion to be set aside to deal with the computer fix.

White House officials said Clinton is doing his part too. The president is planning an address on the issue in the next month or so, aides said. Clinton raised the Year 2000 problem with Latin American leaders at their summit and worked with British Prime Minister Tony Blair to ensure that the communique issued at the end of the recent meeting of the Group of Eight major industrialized nations called attention to the computer challenge.

Asked about the Year 2000 problem at a Rose Garden event earlier this week, Clinton said the government plans to share information with other countries "and do everything we can do to make sure that when the new millennium starts, it's a happy event and not a cyberspace headache."

Gore is taking the issue seriously, Haas said.

"The other party has been quite open about its political strategy of tying any problems that occur specifically to the vice president," he said.

On the Year 2000 computer front, Haas said, "We have the right people in place, we have the right process in place and we do not expect major problems."

Year 2000 Quotes From National Journal

"Gore has said virtually nothing about it. Indeed, he has rejected pleas by industry leaders and legislators to play a larger role. Back in January, Morella buttonholed Gore at a White House photo-op and urged him to lead the nation's repair effort. But Gore balked, saying it would take too much of his time. Morella recounted. And then, according to Morella, 'he paused and said, 'maybe you should do it.'' Neil Munro, National Journal 6/20/98.

Executive Office of the President, Office of Management and Budget: Statement of Administration Policy, June 23, 1998

(This statement has been coordinated by OMB with the concerned agencies.)

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, FY 1999

(Sponsors: Livingston (R); Louisiana, Young (R); Florida.)

Year 2000 Reserve Funds

The Administration appreciates the emphasis that the Committee has placed on Year 2000 (Y2K) computer conversion activities. In the FY 1999 Budget, the President requested $364 million for Y2K computer conversion. We recognize, however, that ensuring DoD compliance may require the flexibility to respond to unanticipated requirements. As such, we would intend to employ the contingent reserve set aside by the Committee only to the extent necessary, in order to ensure funds are available to address emerging needs.

The Administration would strongly oppose efforts to strike the emergency contingency fund from this bill. The value of the emergency mechanism approved by the House Appropriations Committee is the flexibility it provides in the event that we determine that additional resources are required. We have only 556 days until January 1, 2000. We want to solve this problem as soon as possible. Be delaying approval of emergency funding and reopening the issue of the use of the emergency spending authority, the House will create controversy and delay. We hope the House will reconsider.

Executive Office of the President, Office of Management and Budget: Statement of Administration Policy, June 23, 1998

(This statement has been coordinated by OMB with the concerned agencies.)

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FY 1999

(Sponsors: Livingston (R); Louisiana, Kolbe (R); Arizona.)

Year 2000 Computer Conversion

The Administration appreciates the emphasis that the Committee has placed on year 2000 (Y2K) computer conversion activities. OMB will continue to assist all agencies in ensuring that adequate resources are available to address this critical issue. In the FY 1999 Budget, the President has requested more than $1 billion for Y2K computer conversion. In addition, the budget anticipated that additional requirements would emerge over the course of the year and included an allowance for emergencies and other unanticipated needs.

At this time, we believe that the resource levels included in the President's budget will fully address Y2K computer conversion requirements Government-wide. However, as we learn more about how to address this problem, we expect that ensuring Government-wide compliance will require flexibility to respond to unanticipated requirements. To the extent such unanticipated requirements are identified, it will be essential to make that funding available quickly. It will truly be emergency funding. The emergency mechanism recently approved by the House Appropriations Committee provides such flexibility.

It is our understanding that when the House Rules Committee meets today to take up the Defense and Treasury/General Government appropriations bills, it will consider rules that would strip the emergency funding mechanism from both bills. This regrettable action will not help agencies move forward in addressing this problem. We note that the Committee bill allocates funds from the emergency reserve for Treasury and other agency Year 2000 (Y2K) needs. If the emergency reserve is not funded, the Congress will need to find other ways to fund Treasury's critical Y2K needs.

The value of the emergency mechanism approved by the House Appropriations Committee is the flexibility it provides in the event that we determine that additional resources are required. We have only 556 days until January 1, 2000. We want to solve this problem as soon as possible. Delaying approval of emergency funding and reopening the issue of the use of the emergency spending authority would create controversy and delay. We hope that the House will reconsider.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a case here of Alice in Wonderland. The Republican Majority has decided that two wrongs do make a right. They do not like the fact that the administration has not asked for enough money for the year 2000, so they are not going to give the administration any money to fix the year 2000. This is an extraordinary result.

Mr. Speaker, let me state from the outset that it is my intention to oppose this rule. As my colleagues know, I am a consistent supporter of a strong national defense and it is not my practice to oppose rules dealing with defense matters. But in this case I must oppose this rule because I believe the Committee on Rules has made a very serious error, perhaps one of the most irresponsible actions they will ever take, by stripping all the funds for the year 2000 computer problem and for information systems security at the Department of Defense.

This is one of the most reckless actions my Republican colleagues have taken in the 3½ years that they have had control of this body. And for those of us who do concern ourselves with national security, the ramifications of this action are quite frankly very disturbing.

Mr. Speaker, the Committee on Appropriations said in the report to accompany this important bill that there are only 18 months remaining before we are faced with the possibility that our military may not be mission capable because of the year 2000 date change.

The report states, and I quote from the committee report:

> The committee believes it would be irresponsible not to make available as soon as possible additional funding which could be used during fiscal year 1999 to implement and test essential fixes to national security-related information systems, as well as to develop contingency plans to assure continuity of essential operations in the event needed fixes are not in place.

The Republican majority on the Committee on Appropriations did exactly the right thing by making available $1.6 billion for the year 2000 fix for the Department of Defense and intelligence agencies and by designating those funds as emergency spending.

But after the committee had reported this bill, the Republican leadership instructed the Republican majority on the Committee on Rules to strip this critical funding from the bill and, in doing so, ignore the importance of making these monies available as soon as possible.

Mr. Speaker, my Republican colleagues are going to say, and we just heard them say that they have removed these funds because the President did not request enough money, because they are budget-busting funds, and because we can come back later this year and consider a supplemental appropriation that will include money for the year 2000 fix.

My answer to the Republican majority is as follows: It does not matter if the President did not request enough money. We need these funds to fix the well over 2 million computers and over 25,000 distinct computer systems within the Department of Defense that are embedded in weapons systems, are integral parts of command and control systems, satellite systems, the Global Positioning System, and on and on.

So I would ask, how can this money be considered budget-busting? I think this money is needed to fund a true emergency that will address the critical issue of ensuring that the 2,800 mission-critical computer networks within the Department of Defense and the intelligence community that contain an estimated 30 billion program instructions are, in fact, fixed.

During the hearing on this rule yesterday, the chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON) announced that the funds for the Defense Department year 2000 fix, as well as year 2000 funds for every other department and agency of the Federal Government, would be included in a supplemental appropriation to be considered later in the year. He stated that those supplemental funds would be offset with domestic spending cuts.

Mr. Speaker, the plan announced by the gentleman from New York for addressing the year 2000 problem is a recipe for disaster.

First of all, Mr. Speaker, we may not be able to consider a supplemental appropriation at a later date, because the date is June 24 and we are adjourning tomorrow for 2 weeks, and we have for all intents and purposes only 30 days or so in which to complete all the business required of us before we go home to face the voters. I, for one, do not want to face the voters in my Congressional District having failed to address this issue.

Mr. Speaker, I want every Member to be perfectly clear what is going to happen because the Republican leadership has stripped year 2000 money from this bill and from the Treasury-Postal appropriations legislation. If such a supplemental as the gentleman from New York (Mr. SOLOMON) envisions ever sees the light of day, it should be understood that the money in the supplemental will not necessarily be designated as emergency spending. This is an important point because as nonemergency spending, year 2000 funds totaling $3.85 billion will have to be offset, and they will be offset from domestic spending.

What the gentleman from New York has offered is a no-win proposition, because $3.85 billion in additional domestic cuts cannot easily happen. The gentleman's plan, which I assume is the Republican leadership's plan, is a plan for failure. The Republican leadership is playing a dangerous game by stripping these funds from the Defense and Treasury-Postal appropriations bills, and for that reason, I intend to oppose this rule.

We have an opportunity in this rule to make the funds available now to the Department of Defense and to the intelligence community which will allow them to find the programmers that can be trusted to work on these systems so that we will know that we have done our part in protecting our national security as the clock ticks towards January 1, 2000. But we can only do so, Mr. Speaker, by restoring the funds to the bill under an emergency designation.

Mr. Speaker, I urge every Member of this body to act responsibly and to vote "no" on this rule.

The Republicans are telling this body, "Trust us. Trust us." Now, what we know as the Defense appropriations bill has to pass. We are not going to leave here without a Defense appropriations bill. We are not going to leave here without a Treasury appropriations bill. But we can leave here without a supplemental bill. There is no reason a supplemental bill has to pass prior to October 1, 1998. And there is no reason to believe that a supplemental bill constructed with additional domestic offsets is going to pass this Congress.

Mr. Speaker, excusing the expression, our colleagues on the other side are playing Russian roulette, Russian roulette with our national security, because they are not willing to fund in this bill the money to repair and to make sure that our computer systems are adequate and are ready for the year 2000.

Mr. Speaker, this is a good bill, otherwise. And it is one that deserves the support of every Member. We have a commitment to our military forces to ensure that they have the best equipment available today and that work proceeds to ensure that they will have the best available in the years to come. Equipment, pay raises, operation and management, planning and logistics are all part of this bill that is designed to ensure that our Nation is strong and that our Nation is secure.

Mr. Speaker, this bill does not do all of the job. By deleting the emergency funding for the year 2000 fix, my Republican colleagues have stuck their head in the sand. They may say the President has stuck his head in the sand, but he has got a Republican ostrich standing right next to him, deep, deep in the sand.

This bill will leave us exposed, and it is for that reason that I oppose this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am ready to concede that it is clear that the majority is a lot better at responsibility than it is at rhetoric. For that reason we are taking a fiscally responsive approach to this matter.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, New York (Mr. SOLOMON), chairman of the Committee on Rules, to demonstrate that point.

Mr. SOLOMON. Mr. Speaker, I seldom get upset, and even when I do, I smile about it. I am trying not to smile about it, because there is nothing more than politics being played here today.

Mr. Speaker, we have a problem with the computers in 2000. And, yes, it has to be dealt with and it has to be dealt with in a timely manner. But the truth is, after I hear the gentleman from Texas (Mr. FROST) my good friend, and my very good friend, stand up here and start blaming Republicans, turning this into some kind of a political debate over this issue, I just get terribly upset.

Now, if they were sincere on that side of the aisle, the President of the United States, whether we like him or do not like him, would have asked for this. And when we read the administration's position on this bill, they never asked for it because they know it is part of an ongoing process that we are putting together, not only with the Defense Department but with every other department of government where we have 25 million computers out there. So to stand up here and try to make it a political issue in my opinion is just irresponsible nonsense.

Now, the chairman of the Subcommittee on National Security of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), I see him over there, is one of the most outstanding and respected Members of this body who has done yeoman's work on this, one of the most important bills that will come before this Chamber in any given day in any given year.

Even though we are severely underfunded in the Defense appropriations bill, as we are in the Defense authorization bill this year, we are probably $40 billion a year short if we are going to provide adequate research and development and procurement for our young men and women who, God forbid, ever have to go into combat, we ought to give them the very best we can. And we are not doing that, and we should all be severely criticized for it. But under the budgetary constraints that the gentleman from Florida has to live with, this is a very, very important measure.

Let me also thank him for adopting and agreeing to have me self-execute into the bill a Solomon amendment which would prohibit the Department of Defense from contracting or subcontracting with people who have been convicted of unlawful manufacture of the sale of Congressional Medals of Honor.

That has been happening in this country. There has been an industry that is actually manufacturing and selling these to people who do not deserve them, and they are running around flashing their Congressional Medals of Honor around this country. That is outrageous.

The fact is that my amendment would prohibit that company and any other company which is convicted of manufacturing these medals and then selling them on the public market from doing any business with the Department of Defense over the next 15 years.

Right now, there is no law against it. There is a very, very minor fine. This particular industry was fined a very small amount, something like $5,000. Well, it ought to be a serious offense for doing that. And this amendment would prohibit it. I thank the gentleman for accepting my amendment.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, sometimes Members of the minority have to take time to spell out what the majority is doing, because it appears that the thought police in the majority caucus prevent many people on the majority side from expressing what it is that they are really doing, even those who disagree with what they are doing.

The committee originally decided that this computer 2000 problem was so severe that it justified being handled as an emergency, and they put the money in this bill and in the Treasury-Postal bill to deal with it. Now, because of an internal revolution once again in the Republican Caucus, this emergency money is being taken out and we are being told: "Well, do not worry, we are going to gather it all together in some supplemental bill. We will deal with it at some future time. We do not know how we will pay for it, but it will be out of mandatory programs."

They leave us wondering, number one, whether they will ever be able to pass that emergency legislation at all. Secondly, they leave us wondering if they do target mandatory programs, whether it will be Medicare or whether it will be Social Security or what programs they will go after in order to fund this emergency when they get around to feeling that it is really an emergency.

Mr. Speaker, I want to point out that there was a very good reason why the committee put this money in in the first place. It is a "little" problem if all of a sudden in the year 2000 our FAA computers go dark. I would not want to be in a plane flying around the country that day. It is going to be a "little bit" of a problem if Social Security cannot write its checks. It is going to be a "little bit" of a problem if the veterans all of a sudden do not get their checks. It is going to be a problem if the health care providers do not get their Medicare checks from the government.

And as far as the Defense Department is concerned, we are talking about missile-critical systems. The NORAD ballistic missile early-warning system relies on computers and they could have a serious problem. The Global Positioning System is another system that could be in trouble.

□ 1715

The military pay system could be in trouble. As Deputy Defense Secretary Hamre testified, "failure of a microchip in a critical, large or dangerous piece of machinery, loss of air pressure in an F-15 or submerged submarines can be devastating or even life threatening."

And I would ask, what happens about Russian concerns over the year Y2K problem? What happens if the Russians' early warning attack system goes haywire on January 1, 2000? How will they respond? Will they think that we caused the problem? Are their offensive nuclear systems safe from computer malfunction? Well, I tell my colleagues, we do not know. Because we do not know, this money should stay in this bill, and that is why the responsible vote for national security is to vote against this rule.

Mr. FROST. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Speaker, I thank the gentleman very much for yielding me the time.

When we get into the discussion of this bill, one provision that will come up for review, I think, is section 8106, which will limit the expenditure of funds in this bill for offensive military purposes except when taken in accordance with Article I, section 8 of the Constitution. Members probably realize this is the War Powers Clause, which vests in Congress the authority to decide when the United States commences, initiates offensive military action.

I believe the gentleman from Florida (Mr. GOSS) in his remarks suggested this section was referred to the War Powers Act. It is, in fact, the constitutional provision—the War Powers Clause.

I just wanted to take a minute on the rule to lay a bit of the groundwork for this in light of recent practices by Presidents of the United States.

Members have said, why do we need to do this? We are sort of restating the Constitution. I think it is very instructive about the need for this body and this Congress to reassert its position regarding war powers, if we review what this administration's and the preceding administration's positions have been with regard to the really unrestrained authority, as they see it, of the President of the United States to initiate military action in behalf of the Nation.

For example, when I pressed the Secretary of State during her appropriations hearing earlier in this year for an explanation of the authority that the administration believed it had then to initiate further attacks against Iraq, we were provided, finally, last week with the Secretary's explanation.

A very telling provision in that submission for the RECORD reads as follows:

> These provisions should be understood in the light of the President's constitutional authority as Commander in Chief to use armed forces to protect our national interests.

This is about as expansive a definition of presidential authority under the Constitution as is imaginable and, I suggest, is a very dangerous assertion by the executive, if left unchallenged by the legislative branch.

Yesterday we received a statement of administration policy threatening a veto of this bill if section 8106 remains in it. And in that statement of administration policy, the following statement appears. And I quote: "The President must be able to act decisively to protect U.S. national security and foreign policy interests."

In other words, the administration is asserting that it has authority to use the military forces of the United States according to its definitions of national security and foreign policy interests.

I think Members will understand that this runs afoul of the limitation on the Commander in Chief's powers and those war powers reserved to the Congress by the Constitution.

Finally, we cite frequently President Bush's actions before the Persian Gulf War, in coming to Congress and the vote that we took at that time. Then, President Bush said, and I quote, "I feel I have the authority to fully implement the U.N. resolutions."

As he signed the resolution authorizing the Persian Gulf War, he said,

> My request for congressional support did not, and my signing this resolution does not constitute any change in the longstanding positions on either the President's constitutional authority to use the armed forces to defend vital U.S. interests.

So this is a recurring problem. It is past time that the legislative branch reasserted its constitutional authority.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Greater San Dimas, California (Mr. DREIER), very distinguished vice chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend from Sanibel for yielding me this time.

I am very pleased that the chairman of the Committee on Rules is still here in the Chamber because I would like to rise in very strong support of this rule, because I think that if one were to look at the preamble of the U.S. Constitution, it is very clear that this appropriation bill that we are going to consider is the single most important appropriation bill that we will ever consider here.

Why? Because providing for the common defense, as stated in the preamble, is our top priority. We know that there are a wide range of issues with which we deal in this institution, ranging from health care, education, a wide range of things, all of which, all of which can be dealt with by local and State governments and individuals in many cases. But when it comes to our Nation's security, there is no level of government, city, county, State, and individuals cannot unilaterally provide for our common defense. So that is why the measure which the gentleman from Florida (Mr. YOUNG) will be bringing forward as this rule is passed is the single most important appropriation bill that the Congress considers.

Having said that, I believe that there are a number of things that need to be brought to light. I know that the gentleman from Florida (Mr. YOUNG), chairman, and the ranking minority member, the gentleman from Pennsylvania (Mr. MURTHA), have spent a great deal of time working, thoughtfully, in a bipartisan way on this. But I am one who believes that as we have looked at national security threats that have come to the forefront just over the past several months, whether it was the potential transfer of technology to the People's Republic of China, the nuclear proliferation and testing that has taken place in India and Pakistan, if we look at the very, very dangerous Korean peninsula, we look at developments in the Middle East, it is obvious that we need to do what we can to enhance our defense capabilities.

As was said by the ranking minority member of the subcommittee before the Committee on Rules, he has talked time and time again with the President. The President calls for the deployment of troops to deal with very serious situations throughout the world, and yet we do not always provide the necessary resources for those troops.

I was told not long ago that we have troops in 65 countries throughout the world. Yet since we have seen the demise of the Soviet Union, we have cut back, we have cut back dramatically.

We all are very pleased that the Soviet bear is now history, but we do still live in a very dangerous world. That is why I strongly support the work of the gentleman from Florida (Mr. YOUNG) and the gentleman from Pennsylvania (Mr. MURTHA) and then some.

I hope very much that we will recognize that we can do more. But as we look at this very important question that has come to the forefront on the so-called Y2K problem and the argument that was provided that funding that was necessary was going to be in the defense appropriations bill and the Treasury/postal appropriations bill, it is obvious that the problem is a very, very serious one.

If we look at the statement of administration policy that came out, first on the DOD appropriation bill, the chairman of the Intelligence Committee, the gentleman from Florida (Mr. GOSS) has provided me with this; it is very important in looking at the Y2K issue. The statement from the administration is: The administration appreciates the emphasis that the committee has placed on Year 2000, the Y2K computer conversion activities.

And so obviously there is recognition and support for that. But then when one looks at the Treasury and general government appropriations bill for fiscal year 1999, on this same issue the administration says: At this time we believe that the resource levels included in the President's budget will fully address Y2K computer conversion requirements governmentwide.

Well, Mr. Speaker, one of the reasons that we have made the decision that we want to do this in a supplemental is that most everyone has acknowledged that the governmentwide problem impacts all 13 of the appropriations bills. This is a very, very far-reaching issue. There are reports coming right now that a particular airline will in fact not fly any aircraft on the first day of the year 2000. There are reports that we could potentially see, we know all kinds of very dangerous things that could happen, but possibly we could see a blockage of the flow of fuel throughout this country and other parts of the world.

Then, of course, as came up during the discussion on the DOD appropriations bill in the Committee on Rules, the potential problem that could exist with computers in other parts of the world, in fact, with countries that have nuclear capability. This is a very, very serious and frightening issue, and that is why, while we see this statement made in the Treasury report of administration policy that they are satisfied with what was there in the administration's budget, we believe very strongly that this needs to be looked at governmentwide in an even more serious way and a more intense way.

Now, a statement was made earlier by one of my colleagues that it has been decided that funding for this will come from mandatory spending, that decision has not yet been made.

I will say that while the President has said that he wants every nickel of the budget surplus to be expended on Social Security, the thing that concerns us greatly is that some who are looking to deal with this issue simply want it to come from the surplus. We do not know exactly how it is going to be paid for yet, whether it is mandatory or discretionary. But it seems to me that we will be doing everything that we possibly can to deal as responsibly as possible with this.

I thank my friend for yielding me this time, and I urge support of this rule and the measure.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

I, of course, was quoting the chairman of the Committee on Rules when I said this was going to come out of mandatory spending. My friends over there, I guess, have adopted the ostrich as the official bird of the Republican Party because they want to stick their head in the sand. They do not want to appropriate any money for this problem. It is a very, very interesting position.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Mr. Speaker, I rise today to urge my colleagues to vote no on this DOD rule because of the serious omission of funding for the Year 2000 problem.

We cannot provide for our common defense if the DOD computers do not work on January 1, 2000. At the DOD, we have computers and microchips that operate everything from elevators to guided missiles. DOD relies on computers to do payroll processing, retirement benefits, operate weapons systems, order supplies, the list goes on and on. This is just in one important department. The list goes on throughout the Federal Government as well as the private sector.

If computer systems were to fail, it would not only compromise the DOD's ability to run its day-to-day operations but it would compromise the Nation's security as well.

DOD is currently on OMB's watch list of agencies which must do a better job in fixing their Y2K problem. This rule, this budget, without necessary funding, does not help.

We need to be focusing on tackling the problem instead of playing games. And I am very concerned. This issue affects each and every one of the men and women and children in this country. At this point in time, what we have are folks playing games on the issue and not being willing to address it.

□ 1730

This should not, Mr. Speaker, be a partisan issue. It is an issue that affects all of us. We will all suffer the consequences if we do not address it. It is irresponsible to proceed on this rule without the necessary funding for the year 2000 problem. I would urge very strongly a "no" vote on the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. HEFNER), a member of the Committee on Appropriations.

Mr. HEFNER. Mr. Chairman, unfortunately, we have got an excellent defense bill. Our chairman, the gentleman from Florida (Mr. YOUNG), and the gentleman from Pennsylvania (Mr. MURTHA), has done a tremendous job.

But the chairman of the Committee on Rules made a statement a while ago that we are playing politics with the Nation's defense, but this goes back beyond this bill. This goes back to when we were considering the budget. We had a rule that came in here on a budget, that there were two budgets that were offered, and they eliminated one of the budgets that could be offered because they were afraid it was going to pass.

Then we beat our chest and said we have balanced the budget. We have sent out press releases. We have finally accomplished a balanced budget.

Now here we are. We set caps. We put caps on this budget, and we are trying to find ways to break the caps. The gentleman from Wisconsin (Mr. NEUMANN) over here who is a strong supporter of the Kasich budget, they are trying to break the agreement that they made on the balanced budget and the Kasich budget.

If this is a problem that has to be fixed, it has to be fixed. It is something that is going to come. We do not know the exact day, but it is coming. My colleagues talk about playing politics with it. This is an unfortunate situation.

I plan to vote for the budget because I believe that this is a good bill. But we have played too many games with this budget, and it is going to come back to haunt us because we are not going to be able to maintain a balanced budget and stay within these caps unless you cut some of the programs that are so vital to the American people.

I do not believe that the American people want to cut Medicare. I do not believe they want to cut lunch programs for kids, and Medicaid. It is just not going to happen. We are going to find ourselves in a situation where we are either going to have to have a tremendous continuing resolution or close the government down.

Unfortunately, this debate has to come on this defense bill, but it is what you get into when you play games with big numbers. It is like the old saying goes: Figures do not lie, but liars figure.

Mr. GOSS. Mr. Speaker, may I inquire what the allowances of time might be for both sides.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) has 11 minutes remaining. The gentleman from Florida (Mr. GOSS) has 13 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to the rule. Striking the bill's provisions providing $1.6 billion in emergency funding for the year 2000 computer crisis is truly a very dangerous move. Unless corrected on time, the year 2000 date change will cause malfunctions or the total shutdown of the Pentagon's computer network, with devastating consequences.

The communications system linking United States forces together across the globe so that they can respond to threats to our security at any time that is at risk. The basic navigational system used by U.S. military and civilians around the world involved in commercial trade and travel are jeopardized. The payroll system that ensures that millions of soldiers and military retirees receive compensation for the sacrifices that they have made to protect our freedom, these are threatened.

The GAO reports said that at the current rate it will take 3½ years for the Pentagon to correct its year 2000 problems. But there are only 18 months until the first day of the year 2000. We need to speed up the progress.

This should not be a political issue. Once again, my Republican colleagues do not seem to get the message. Once again, they play politics with a deadly serious issue. To appease the right wing of their party, they are truly willing to compromise. Compromise on what? The future safety of the entire Nation.

Stop the games. Protect our Nation. I urge my colleagues to oppose the rule.

Mr. GOSS. Mr. Speaker, by way of introduction, I want to read a quote from the National Journal. And I am quoting. It may possibly be of interest to some of our guests in the room.

"Gore has said virtually nothing about it. Indeed, he has rejected pleas by industry leaders and legislators to play a larger role." We are talking about year 2000 here. "Back in January, Morella buttonholed Gore at a White House photo op and urged him to lead the Nation's repair effort, but Gore balked, saying it would take too much of his time, Morella recounted. And then, according to Morella, he paused and said 'Maybe you should do it.' "

Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I know the Vice President was joshing when he put it all in my hands. On the other hand, it has been well over 2 years that we in Congress, on two subcommittees in particular, have been having hearings.

When you take the number of hearings that we have had on the mother of all computer glitches, the year 2000 need for compliance in all of our computers, then with all of the committees that have had hearings, I think the total is something like 25 hearings.

In January I had the honor of giving the radio address in response to the President's address, in which I asked the President to use the bully pulpit, to issue an executive order to appoint a year 2000 computer czar. Finally, in February, John Koskinen was appointed. He started in March. He is trying very hard to spend his time getting government compliance as well as looking at the private sector, State and local government, as well as internationally.

But, my friends, we are moving too slowly. We have legislatively, in Congress, had on bills the idea of quarterly reports, a CIO, a national strategy, and now we are going to accelerate it with monthly reports. But the point is this has been in the offing. The President has not requested the money for this.

What will be happening is not that the year 2000 will be forgotten, because it cannot be. It is an unrelenting deadline that we are going to have to face. We are going to have to face it also with contingency plans.

So being crafted will be a supplemental appropriation to cover not only Department of Defense and its needs for compliance, which are very critical, but to cover all of the other agencies of government. We will be able to look at that and know that this is the money that is going to be going, probably $5 billion, to cover what is needed with all of the agencies.

One final point is that, when the original request of the agencies was made in terms of what will the cost be of putting us into compliance, $2.3 billion was the estimate; and now the estimate, my friends, is $5 billion. I will submit that that still is probably not going to cover the total costs.

So we need to move on it, but please do not think that Congress has not been there on the forefront time and time again, over and over again, urging that we face this problem and that we expeditiously lead the world in terms of going into compliance. It also is going to affect computer chips, which may mean high-rise buildings, elevators, security systems, as well as our major DoD systems, too.

So I would submit it is not forgotten. It will be coming up in a supplemental appropriations bill, and Congress can say we have been leading the way.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, this reminds me of the white rabbit in Alice in Wonderland. "I'm late. I'm late. I'm late for a very important date. Hello. Good-bye. Hello. Good-bye. I'm late." The Republicans are saying they are late, but they do not want to put any money in the bill to take care of the problem. This is extraordinary.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I rise in opposition to this rule which I do not think moves us forward, but in fact takes us a step backwards in addressing an issue that is vital to our national security.

The year 2000 problem is a far cry from some Orson Welles spoof. Rather, the inability of many government and in fact private sector computers to correctly recognize the date after the year 2000 is a problem that can have dramatic impacts on our financial markets, payments of Social Security, Medicare benefits, and certainly our national defense system.

The Committee on Appropriations wisely made the decision to provide $1.6 billion for the so-called Y2K reprogramming in this legislation for a very good reason. If the computer problems are not remedied, the change could cause total shutdown of many systems upon which the defense community relies.

There are approximately 2,800 critical computer networks and systems at DoD. So far, less than 30 percent of those systems have had the year 2000 problem fixed, including those that control the Global Positioning System, the ballistic missile attack early warning system. We have heard all of these before.

Some of my colleagues have suggested that we repackage these funds into a so-called emergency spending bill much like the one introduced earlier this year that, frankly, has been sitting untouched for 6 months. We cannot wait 6 months. We cannot wait 6 weeks. Frankly, Mr. Speaker, we need to address this problem now. The GAO estimates at current pace it will take more than 3½ years for DoD to fix the problem in the remainder of its systems.

I urge my colleagues to oppose this rule. We cannot wait. This critical problem needs to be addressed now. I urge a "no" vote on the rule.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. YOUNG), chairman of the subcommittee, who is going to perform on this and I hope to tell us the merits of this legislation.

Mr. YOUNG of Florida. Mr. Speaker, I appreciate this opportunity to address the issue of the rule. Following adoption of the rule, we are going to be debating a lot of the issues about the bill itself.

When we get into the bill itself shortly and, hopefully, my colleagues will hear from me and others that this is a good bill as far as it goes, but it does not go far enough. There are many, many requirements for our own national security effort that we are not meeting in this bill because of the lack of funds. But we need to get this rule adopted so that we can get to this bill, get it into conference, and do the best we can to provide for a strong national security.

I want to note with appreciation the gentleman on the minority side who has presented their case on this rule today, because he has always been a strong supporter of national defense. Some of those votes were fairly close on occasion. I appreciate that support.

But now to have this fuss on this rule about the Y2K problem I think is maybe just not "I'm late, I'm late, I'm late," as the gentleman from Texas said, but the fact is that maybe someone else is late, but not necessarily us.

When the subcommittee met, the gentleman from Pennsylvania (Mr. MURTHA) and I worked together for weeks and weeks and weeks to present a bill that we thought met the requirements of the national security requirements with the few dollars available.

We decided that the Y2K problem was important. We were, frankly, amazed that we had no requests from the administration for the Y2K solution. We do not know what the solution is today, but we know we better get started sooner rather than later, or we are really going to be "I'm late, I'm late, I'm late" as the gentleman from Texas (Mr. FROST) has suggested.

So we did this. The full committee agreed to this. There was some debate about it. The full committee agreed to it. But subsequently the Committee on Rules decided, along with the leadership of the majority party, that the Y2K problem in the Defense bill, and the Y2K problem provided for in the Treasury, Postal bill and other defense issues should be taken from the respective bills and put into one freestanding bill that would call attention to the fact that there was a serious problem with the Y2K issue. At the stroke of midnight on December 31, 1999, we are going to encounter a serious problem, if in fact we do not solve the problem prior to that time.

□ 1745

I listened to the speech of the gentleman from Wisconsin (Mr. OBEY). It was basically the same speech that I made in the committee and at the Committee on Rules and at other places, and I agree. The gentleman from Wisconsin and I do not agree all that often, but I agree with the things that he said, because he said the same things I had been saying.

I will make it a little more of a concern for Members. In the Defense Department, there are approximately 2 million computers. There are 25,000 computer systems in the Defense Department. Two thousand eight hundred of those computer systems are mission critical. Only about a third of those are able to deal with the Y2K problem. So we do have to move ahead and settle this issue. What we need to do is adopt this rule, get this bill passed in the House, get in the conference and make way for the freestanding bill that is going to provide the money for Y2K and other emergency issues.

Let us not make this a political football. This defense bill has not been political since I have been here, since the gentleman from Pennsylvania (Mr. MURTHA) was chairman, since I have been chairman. It has never been political. National defense, national security, and intelligence should never be political. The interest of the Nation has got to be above the interest of the politicians.

Mr. Speaker, I say, let us pass the previous question, let us pass the rule, let us get into the bill and let us move along so that we can then get to the freestanding bill that will provide for the emergency funding that we need to address this emergency issue.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, people watching this debate must be scratching their heads and saying, now, these people on the other side of the aisle, they say there is a big problem here, there is a real big problem but they do not want to vote any money to correct it. What is going on here? I sympathize with folks who are viewing this debate. There is something very missing. What is missing is money to solve this problem now that we all recognize.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. MURTHA), the ranking member on the Subcommittee on National Security and one of the true experts and champions of defense in this House.

Mr. MURTHA. Mr. Speaker, I appreciate the ability to address what I consider one of the serious problems that we face in defense. The chairman just said, and I agree with him completely, we are far short of the amount of money we need in order to address the tempo of operations that the President has set for this country. I agree with the fact that we have to deploy troops, that we have to lead throughout the world. But, on the other hand, I worry when we do not have enough money in order to fund the tempo of operations, and consequently our readiness is slipping. But we are even shorter than that. We are $10 billion short in procurement. Technology is what did so well in the Gulf War. We have trucks that are out of date, we have airplanes that are out of date, we have helicopters out of date. So we have real problems. But one of the most serious problems that we face today is the Y2K problem if we do not address this problem. We have, as the chairman just stated, 2,800 mission critical systems in the Defense Department. It would take them 3 years at the rate we are going in order to correct those problems. We sat down in subcommittee, and I do not believe we have had a vote for 5 years in that subcommittee. We have always worked it out, unanimously, so that everybody agreed. We listened to new members, we listened to members that had been there and we have always come to an agreement without a vote over the 5-year period. In this particular case, the President did not ask for this money, and I think he made a mistake. He should have asked for the money. But we believe, as we have many times in the past, that we not only need the money that is there, we need more money, and one of the things that has to be done is to fix this problem.

How do we fix the problem? We do not have any extra money. We could not take money out of recruiting. They are 7,000 short in the Navy. The Army is having trouble recruiting. They are paying a bonus to the Air Force of $100,000 now over a 5-year period in order to recruit. There is no money anyplace else. So we believe it was enough of an emergency that we should declare an emergency and make the request, as we have done in the 20 something years that we have been on the committee many, many times, we have made emergency decisions, declared emergencies and put extra money in because we felt it was important to the security of this great country. We unanimously agreed to that. We went to the full committee, and the full committee almost unanimously agreed.

What worries me is that if we pass this rule, we will then be in a position where we have to depend on somebody else later on solving the problem. I have heard it was not going to be offset and I have heard it is going to be offset.

I think we ought to have a freestanding vote, and I think we ought to let the Committee on Rules go back and give us a rule where we can vote on whether this should be an emergency, and I think we would find a majority of the Members in this House would agree, Republicans and Democrats, in a bipartisan manner would agree that this should be an emergency situation, that we should vote the almost $2 billion for Y2K and for computer security, both those being essential to the many mission critical systems that we have available in this country today.

Mr. Speaker, I would ask the Members of the House to think hard, to vote this rule down, to let the Committee on Rules go back and set up another rule and give us a vote, let us make a decision without voting this down and then later on having to depend on somebody else to maybe offset it from programs that we do not like so the Defense Department does not get what it wants and we offset things that are already cut to the bone. I would request the Members to vote this rule down, and then consider a separate vote on the extra money.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time. We have heard the very articulate statement of the ranking member of the Subcommittee on National Security, one of the truly bipartisan members when it comes to defense. It is a travesty, it is ridiculous that this bill does not include money to address the year 2000 problem. Republicans should join with Democrats in rejecting this rule. Vote "no" on the rule and fund the year 2000 problem now.

Mr. GOSS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would simply say that the ranking member has indeed made a point of view about the urgency of the need for dealing with the Y2K problem. In my opening remarks, I stated that we indeed have plans to provide dollars to deal with those issues despite the fact that the administration seems to have overlooked this matter. So I guess I would simply say that the lack of planning on the part of the administration should not precipitate a crisis on the majority side of the House, or in the House at all, and it will not. We have an orderly and fiscally responsible way to proceed to deal with Y2K, and I would daresay our track record on Y2K is a whole lot better than the administration's so far, and I think that that has been carefully articulated and accurately articulated by the distinguished chairman of the Committee on Rules, the vice chairman of the Committee on Rules reading from the administration's statement, and from the distinguished chairman of the appropriations subcommittee who is the coauthor of this legislation.

So it seems to me that we all agree that there is a need to deal with a problem that the administration has overlooked and we have indeed said that we are going to do it in a thoughtful, orderly and responsible way; and, therefore, there is no reason at all to vote against the rule.

There is, however, a problem. But the dime is not the problem. Getting off the dime is the problem. Those who would like to help the majority on this side might like to communicate with the White House about getting off the dime and helping us deal with Y2K, because indeed it is a serious problem. Behind all of the Y2K issue which has come up, we know that there is a very serious, necessary piece of legislation for this body, and that is appropriating sufficient funds for the defense of our Nation and our national security, and that includes our intelligence capabilities as well. This bill, I believe, does that well. I believe the rule is certainly an appropriate rule for the circumstances that we have that deal with the issue. I think that all parties have understood that we have a plan to deal with the money issue for the Y2K on a governmentwide basis that will solve not only the problem for the Defense Department but for those other computers that run those elevators and airplanes and other things that have been talked about.

All of this having been said, I believe that the right statement, that we cannot wait, is correct. We cannot wait. We should pass this rule right now, and get on with the debate, and then pass the defense appropriations bill. Therefore, I urge support for the rule.

Mr. RODRIGUEZ. Mr. Speaker, I rise to protest the political game this rule plays on this most crucial of deadlines: the Year 2000.

We can fix this problem. There is a winning solution. But we must address it today.

The American people have seen us hold emergency bills hostage, even shut down the government over certain disputes.

This is one area where America can no longer tolerate delay. This is a critical emergency, as important as any natural disaster. It is a matter of national security that we directly appropriate money to fix the Year 2000 problem.

In addition to the technical problems, we have a perception problem. If the American people think there is a problem, they will react accordingly and we could face a national panic.

I urge opposing this rule, unless we allow the immediate appropriation of funds to fix this problem as soon as we can. We are already almost out of time.

Mr. GOSS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 221, nays 201, not voting 11, as follows:

[Roll No. 265]

YEAS—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mink
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—201

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Baesler
Cannon
Dingell
Fawell
Gonzalez
Hamilton
Hutchinson
Markey
McDade
Slaughter
Solomon

□ 1814

Mr. MANZULLO and Mr. ABERCROMBIE changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote 265. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BLUNT). The Chair wishes to remind Members that in order to maintain decorum and dignity in the Hall of the House, proper dress for male Members should include the wearing of a coat and tie. The Chair encourages Members to adhere to this historic standard.

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4112, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–601) on the resolution (H. Res. 489) providing for the consideration of the bill (H.R. 4112) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2676, THE IRS RESTRUCTURING AND REFORM ACT OF 1998

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–602) on the resolution (H. Res. 490) waiving points of order against the conference report to accompany the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION FOR ADJOURNMENT OF HOUSE AND SENATE FOR INDEPENDENCE DAY DISTRICT WORK PERIOD

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–603) on the resolution (H. Res. 491) providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4103) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, and that I may be permitted to include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 484 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4103.

□ 1820

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4103) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida (Mr. YOUNG) and the gentleman from Pennsylvania (Mr. MURTHA) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are happy to present the defense appropriations bill for fiscal year 1999. I believe we can expedite the program this evening and be out of here before it gets too late. It is an important piece of legislation that I think most Members will want to support. There will be several amendments that we would anticipate, but I think we can move rather expeditiously.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, I made all my comments on the rule, and I am prepared to yield back at any time.

Mr. YOUNG of Florida. Mr. Chairman, reclaiming my time, I think we will be prepared to do that very shortly. I think it would be in order to advise the Members of some of the highlights of the bill.

Before I do that, I want to recognize two members of this subcommittee. This will be the last time that they will serve on this subcommittee and be part of this bill, and that is our colleagues the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from North Carolina (Mr. HEFNER).

Mr. Chairman, these two gentlemen have served on this subcommittee for a long, long time, and many things have happened during their time here. The Berlin Wall came down during the time they were here, and we are going to give them credit for helping to make that happen.

The gentleman from North Carolina (Mr. HEFNER) wanted to know if he was going to get anything special in this bill. I said no; we would get together and buy him a watch or something, but he was not going to get anything special in the bill just because he was leaving.

Mr. Chairman, both the gentleman from North Carolina (Mr. HEFNER) and the gentleman from Pennsylvania (Mr. McDADE) have been true patriots, they have been very strong on national defense, they have not been bashful in presenting their views on matters that came before the committee, and I think the House and their country owe a lot to the contributions they have made to the national security as members of this important subcommittee.

All of the members on this subcommittee, Mr. Chairman, have been extremely diligent and have worked many, many long hours, days and weeks, to prepare this bill, to go over the issues that we have to go over, the thousands of items that we have responsibility for.

Mr. Chairman, I would like to compliment the gentleman from Pennsylvania (Mr. MURTHA), the ranking member, and I want to say that as we present this bill, this is a bipartisan bill. It has been for many, many years, and it is for fiscal year 1999.

I would say to the Members that the gentleman from Pennsylvania (Mr. MURTHA) deserves a lot of credit as the leader on the minority side and former chairman. We have worked together in a partnership to make sure that the decisions that were made were in the interests of the security of our Nation, that they had a direct defense application and that there was a requirement for them.

So we bring a bill today that is slightly under the President's budget, and when we adjust for inflation, we are $2.5 billion under where we were for fiscal year 1998. But we have been able to go through the various accounts. I would encourage Members to take a look at this report.

Mr. Chairman, we have talked so many times about waste, fraud and abuse in Federal agencies. In this report you will find page after page, example after example, of where we have gone through every contract and every program and we have found places where there was waste that we eliminated; we have found places where we can save money because of contract slips, and we did that. Because we did that, we were able to provide most of the things that the President asked for in his budget, and, at the same time, we were able to make some additions.

Mr. Chairman, I would like to tell the House what those additions are. I would like to say that we did fund the pay raise for members of the military and the civilian workers in the Department of Defense. We have been able to increase substantially real property maintenance so that we could do something about the poor living conditions that some of our soldiers, sailors, Marines and airmen have to live in. We have provided additional money for the spare parts and flying hours so that we do not go directly to a hollow force.

But one thing we did not do, Mr. Chairman, we did not provide enough money to adequately provide for the security of this Nation today and in the years to come. We are on a down slope. This will be the 14th year in a row that our investment in our own national security has been less than it was the year before, when inflation is considered.

We have ships at sea that are undermanned. We have men and women who are deployed more often than they should be. The deployments are excessive, the OPTEMPO is excessive, and you just cannot continue to do more with less.

The worst part about this bill is it does not meet the requirements of the services. The services themselves and the Reserve components have identified approximately $12 billion in unbudgeted requirements for this year alone that they need to just maintain the infrastructure, not create some new weapons system, not to create something new and glamorous and dramatic, but just to do the day-to-day things that are required to keep the military functioning and to keep readiness up. So that is a major problem in this bill. It just does not have enough to take care of those problems.

Mr. Chairman, we will debate many of these issues as we go through some of the amendments. At this point, however, I would like to insert in the RECORD a table which summarizes the overall funding in this bill as it currently stands before the House.

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 1999 (H.R. 4103)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I					
MILITARY PERSONNEL					
Military Personnel, Army	20,452,057,000	21,002,051,000	20,908,851,000	+456,794,000	-93,200,000
Military Personnel, Navy	16,493,518,000	16,613,053,000	16,560,253,000	+66,735,000	-52,800,000
Military Personnel, Marine Corps	6,137,899,000	6,272,089,000	6,241,189,000	+103,290,000	-30,900,000
Military Personnel, Air Force	17,102,120,000	17,311,683,000	17,201,583,000	+99,463,000	-110,100,000
Reserve Personnel, Army	2,032,046,000	2,152,075,000	2,171,675,000	+139,629,000	+19,600,000
Reserve Personnel, Navy	1,376,601,000	1,387,379,000	1,427,979,000	+51,378,000	+40,600,000
Reserve Personnel, Marine Corps	391,770,000	401,888,000	403,513,000	+11,743,000	+1,625,000
Reserve Personnel, Air Force	815,915,000	856,176,000	850,576,000	+34,661,000	-5,600,000
National Guard Personnel, Army	3,333,867,000	3,404,595,000	3,413,195,000	+79,328,000	+8,600,000
National Guard Personnel, Air Force	1,334,712,000	1,376,097,000	1,372,997,000	+38,285,000	-3,100,000
Total, title I, Military Personnel	69,470,505,000	70,777,086,000	70,551,811,000	+1,081,306,000	-225,275,000
TITLE II					
OPERATION AND MAINTENANCE					
Operation and Maintenance, Army	16,754,306,000	17,223,063,000	16,936,503,000	+182,197,000	-286,560,000
(By transfer - National Defense Stockpile)	(50,000,000)	(50,000,000)	(50,000,000)		
Operation and Maintenance, Navy	21,617,766,000	21,877,202,000	21,638,999,000	+21,233,000	-238,203,000
(By transfer - National Defense Stockpile)	(50,000,000)	(50,000,000)	(50,000,000)		
Operation and Maintenance, Marine Corps	2,372,635,000	2,523,703,000	2,585,118,000	+212,483,000	+61,415,000
Operation and Maintenance, Air Force	18,492,883,000	19,127,004,000	19,024,233,000	+531,350,000	-102,771,000
(By transfer - National Defense Stockpile)	(50,000,000)	(50,000,000)	(50,000,000)		
Operation and Maintenance, Defense-Wide	10,369,740,000	10,750,601,000	10,804,542,000	+434,802,000	+53,941,000
Operation and Maintenance, Army Reserve	1,207,891,000	1,202,622,000	1,201,222,000	-6,669,000	-1,400,000
Operation and Maintenance, Navy Reserve	921,711,000	928,639,000	949,039,000	+27,328,000	+20,400,000
Operation and Maintenance, Marine Corps Reserve	116,366,000	114,593,000	119,093,000	+2,727,000	+4,500,000
Operation and Maintenance, Air Force Reserve	1,632,030,000	1,744,696,000	1,735,996,000	+103,966,000	-8,700,000
Operation and Maintenance, Army National Guard	2,419,632,000	2,436,815,000	2,570,315,000	+150,683,000	+133,500,000
Operation and Maintenance, Air National Guard	3,013,282,000	3,093,933,000	3,075,233,000	+61,951,000	-18,700,000
Overseas Contingency Operations Transfer Fund	1,884,000,000	746,900,000	746,900,000	-1,137,100,000	
United States Court of Appeals for the Armed Forces	6,952,000	7,324,000	7,324,000	+372,000	
Environmental Restoration, Army	375,337,000	377,640,000	342,640,000	-32,697,000	-35,000,000
Environmental Restoration, Navy	275,500,000	281,600,000	281,600,000	+6,100,000	
Environmental Restoration, Air Force	376,900,000	379,100,000	379,100,000	+2,200,000	
Environmental Restoration, Defense-Wide	26,900,000	26,091,000	26,091,000	-809,000	
Environmental Restoration, Formerly Used Defense Sites	242,300,000	195,000,000	195,000,000	-47,300,000	
Overseas Humanitarian, Disaster, and Civic Aid	47,130,000	63,311,000	56,111,000	+8,981,000	-7,200,000
Former Soviet Union Threat Reduction	382,200,000	442,400,000	417,400,000	+35,200,000	-25,000,000
Quality of Life Enhancements, Defense	360,000,000		850,000,000	+490,000,000	+850,000,000
Total, title II, Operation and maintenance	82,895,461,000	83,542,237,000	83,942,459,000	+1,046,998,000	+400,222,000
(By transfer)	(150,000,000)	(150,000,000)	(150,000,000)		
TITLE III					
PROCUREMENT					
Aircraft Procurement, Army	1,346,317,000	1,325,943,000	1,400,338,000	+54,021,000	+74,395,000
Missile Procurement, Army	762,409,000	1,205,768,000	1,140,623,000	+378,214,000	-65,145,000
Procurement of Weapons and Tracked Combat Vehicles, Army	1,298,707,000	1,433,608,000	1,513,540,000	+214,833,000	+79,932,000
Procurement of Ammunition, Army	1,037,202,000	1,008,855,000	1,099,155,000	+61,953,000	+90,300,000
Other Procurement, Army	2,679,130,000	3,198,811,000	3,101,130,000	+422,000,000	-97,681,000
Aircraft Procurement, Navy	6,535,444,000	7,466,734,000	7,599,968,000	+1,064,524,000	+133,234,000
Weapons Procurement, Navy	1,102,193,000	1,327,545,000	1,191,219,000	+89,026,000	-136,326,000
Procurement of Ammunition, Navy and Marine Corps	397,547,000	429,539,000	473,803,000	+76,256,000	+44,264,000
Shipbuilding and Conversion, Navy	8,235,591,000	6,252,672,000	5,973,452,000	-2,262,139,000	-279,220,000
Other Procurement, Navy	3,144,205,000	3,937,737,000	3,990,553,000	+846,348,000	+52,816,000
Procurement, Marine Corps	482,398,000	745,858,000	812,618,000	+330,220,000	+66,760,000
Aircraft Procurement, Air Force	6,480,983,000	7,756,475,000	8,384,735,000	+1,903,752,000	+628,260,000
Missile Procurement, Air Force	2,394,202,000	2,359,803,000	2,191,527,000	-202,675,000	-168,276,000
Procurement of Ammunition, Air Force	398,534,000	384,161,000	388,925,000	-9,609,000	+4,764,000
Other Procurement, Air Force	6,592,909,000	6,974,387,000	7,034,217,000	+441,308,000	+59,830,000
Procurement, Defense-Wide	2,106,444,000	2,041,650,000	2,055,432,000	-51,012,000	+13,782,000
National Guard and Reserve Equipment	653,000,000		120,000,000	-533,000,000	+120,000,000
Total, title III, Procurement	45,647,215,000	47,849,546,000	48,471,235,000	+2,824,020,000	+621,689,000
TITLE IV					
RESEARCH, DEVELOPMENT, TEST AND EVALUATION					
Research, Development, Test and Evaluation, Army	5,156,507,000	4,780,545,000	4,967,446,000	-189,061,000	+186,901,000
Research, Development, Test and Evaluation, Navy	8,115,686,000	8,108,923,000	8,297,986,000	+182,300,000	+189,063,000
Research, Development, Test and Evaluation, Air Force	14,507,804,000	13,598,093,000	13,577,441,000	-930,363,000	-20,652,000
Research, Development, Test and Evaluation, Defense-Wide	9,821,760,000	9,314,665,000	8,776,318,000	-1,045,442,000	-538,347,000
Developmental Test and Evaluation, Defense	258,183,000	251,106,000	263,606,000	+5,423,000	+12,500,000
Operational Test and Evaluation, Defense	31,384,000	25,245,000	35,245,000	+3,861,000	+10,000,000
Total, title IV, Research, Development, Test and Evaluation	37,891,324,000	36,078,577,000	35,918,042,000	-1,973,282,000	-160,535,000

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 1999 (H.R. 4103)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE V					
REVOLVING AND MANAGEMENT FUNDS					
Defense Working Capital Funds	971,952,000	94,500,000	94,500,000	-877,452,000	
Transfer stockpile balances to working capital fund		(350,000,000)	(350,000,000)	(+350,000,000)	
Reserve mobilization income insurance fund		37,000,000			-37,000,000
National Defense Sealift Fund:					
Ready Reserve Force	302,000,000	311,266,000	311,266,000	+9,266,000	
Acquisition	772,948,000	106,900,000	362,100,000	-410,848,000	+255,200,000
Transfer out			(28,800,000)	(+28,800,000)	(+28,800,000)
Total	1,074,948,000	418,166,000	673,366,000	-401,582,000	+255,200,000
Total, title V, Revolving and Management Funds	2,046,900,000	549,666,000	767,866,000	-1,279,034,000	+218,200,000
(By transfer)		(350,000,000)	(350,000,000)	(+350,000,000)	
TITLE VI					
OTHER DEPARTMENT OF DEFENSE PROGRAMS					
Defense Health Program:					
Operation and maintenance	10,095,007,000	9,653,435,000	9,725,235,000	-369,772,000	+71,800,000
Procurement	274,068,000	402,387,000	402,387,000	+128,319,000	
Total, Defense Health Program	10,369,075,000	10,055,822,000	10,127,622,000	-241,453,000	+71,800,000
Chemical Agents & Munitions Destruction, Army: 1/					
Operation and maintenance	462,200,000	531,650,000	508,650,000	+46,450,000	-23,000,000
Procurement	72,200,000	140,670,000	124,670,000	+52,470,000	-16,000,000
Research, development, test, and evaluation	66,300,000	182,780,000	162,780,000	+96,480,000	-20,000,000
Total, Chemical Agents	600,700,000	855,100,000	796,100,000	+195,400,000	-59,000,000
Drug Interdiction and Counter-Drug Activities, Defense	712,882,000	727,582,000	764,595,000	+51,713,000	+37,013,000
Office of the Inspector General	138,380,000	132,064,000	132,064,000	-6,316,000	
Total, title VI, Other Dept of Defense Programs	11,821,037,000	11,770,568,000	11,820,381,000	-656,000	+49,813,000
TITLE VII					
RELATED AGENCIES					
Central Intelligence Agency Retirement and Disability System Fund	196,900,000	201,500,000	201,500,000	+4,600,000	
Intelligence Community Management Account	121,080,000	136,623,000	136,123,000	+15,043,000	-2,500,000
Transfer to Dept of Justice	(27,000,000)	(27,000,000)	(27,000,000)		
Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund	35,000,000	15,000,000	15,000,000	-20,000,000	
National Security Education Trust Fund	2,000,000	5,000,000	3,000,000	+1,000,000	-2,000,000
Total, title VII, Related agencies	354,980,000	360,123,000	355,623,000	+643,000	-4,500,000
TITLE VIII					
GENERAL PROVISIONS					
Additional transfer authority (sec. 8005)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)		
Indian Financing Act Incentives (sec. 8024)	8,000,000	2,000,000	2,000,000	-6,000,000	
Disposal & lease of DOD real property (sec. 8040)	64,000,000	25,000,000	25,000,000	-39,000,000	
Overseas Military Fac Investment Recovery (sec. 8044)	30,000,000	38,000,000	38,000,000	+8,000,000	
Export loan guarantee PGM	1,000,000			-1,000,000	
Rescissions (sec. 8056)	-176,100,000		-268,370,000	-92,270,000	-268,370,000
Flying Hour/readiness offset	-1,253,000,000			+1,253,000,000	
FFRDC's/consultants (sec. 8034)	-71,800,000		-62,000,000	+9,800,000	-62,000,000
Advisory and assistance services	-300,000,000			+300,000,000	
RDT&E, Def-Wide dual-use program	2,000,000			-2,000,000	
Fisher Houses (sec. 8085)	1,000,000	1,000,000	1,000,000		
Travel Cards (sec. 8086)	5,000,000	5,000,000	5,000,000		
Warranties	-75,000,000			+75,000,000	
Excess Inventory	-100,000,000			+100,000,000	
National Missile Defense Offset	-474,000,000			+474,000,000	
Intrepid	13,000,000			-13,000,000	
Expiring Balances	-100,000,000			+100,000,000	
National Security Strategy Study Group	3,000,000			-3,000,000	
Lexington Bluegrass	4,000,000			-4,000,000	
Ship Transfers (sec. 8102)			-636,850,000	-636,850,000	-636,850,000
Inflation Savings (sec. 8101)			-204,100,000	-204,100,000	-204,100,000
Total, title VIII	-2,418,900,000	71,000,000	-1,100,320,000	+1,318,580,000	-1,171,320,000
EMERGENCY FUNDING					
Bosnia (Emergency Funding)		1,858,600,000			-1,858,600,000
Supplemental (P.L. 105-174) (emergency funding)	2,834,775,000			-2,834,775,000	
Total, Emergency funding	2,834,775,000	1,858,600,000		-2,834,775,000	-1,858,600,000

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 1999 (H.R. 4103)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
BUDGET SCOREKEEPING ADJUSTMENTS					
Adjustment for unapprop'd balance transfer (Stockpile)	150,000,000	150,000,000	150,000,000		
Stockpile collections (unappropriated)	-150,000,000	-150,000,000	-150,000,000		
Total adjustments					
Total, Department of Defense	247,708,522,000	250,998,803,000	250,727,097,000	+3,018,575,000	-271,706,000
Emergency funding	2,834,775,000	1,858,600,000		-2,834,775,000	-1,858,600,000
Grand total (including emergency funding)	250,543,297,000	252,857,403,000	250,727,097,000	+183,800,000	-2,130,306,000
Allocation recap (sec. 302b):					
Mandatory	196,900,000	201,500,000	201,500,000	+4,600,000	
Discretionary:					
Domestic	27,000,000	27,000,000	27,000,000		
Defense	250,319,397,000	252,828,903,000	250,498,597,000	+179,200,000	-2,130,306,000
Total discretionary	250,346,397,000	252,855,903,000	250,727,597,000	+179,200,000	-2,130,306,000
Grand total	250,543,297,000	252,857,403,000	250,727,097,000	+183,800,000	-2,130,306,000
RECAPITULATION					
Title I - Military Personnel	69,470,505,000	70,777,086,000	70,551,811,000	+1,081,306,000	-225,275,000
Title II - Operation and Maintenance	82,895,461,000	83,542,237,000	83,942,459,000	+1,046,998,000	+400,222,000
(By transfer)	(150,000,000)	(150,000,000)	(150,000,000)		
Title III - Procurement	45,647,215,000	47,849,546,000	48,471,235,000	+2,824,020,000	+621,689,000
Title IV - Research, Development, Test and Evaluation	37,891,324,000	36,078,577,000	35,918,042,000	-1,973,282,000	-160,535,000
Title V - Revolving and Management Funds	2,046,900,000	549,666,000	767,866,000	-1,279,034,000	+218,200,000
(By transfer)		(350,000,000)	(350,000,000)	(+350,000,000)	
Title VI - Other Department of Defense Programs	11,821,037,000	11,770,568,000	11,820,381,000	-656,000	+49,813,000
Title VII - Related agencies	354,980,000	360,123,000	355,823,000	+843,000	-4,500,000
Title VIII - General provisions	-2,418,900,000	71,000,000	-1,100,320,000	+1,318,580,000	-1,171,320,000
Total, Department of Defense	247,708,522,000	250,998,803,000	250,727,097,000	+3,018,575,000	-271,706,000
Emergency funding	2,834,775,000	1,858,600,000		-2,834,775,000	-1,858,600,000
Grand total (including emergency funding)	250,543,297,000	252,857,403,000	250,727,097,000	+183,800,000	-2,130,306,000

1/ Included in Budget under Procurement title.

Mr. Chairman, I yield two minutes to the gentleman from New York (Mr. GILMAN), the distinguished chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding me time for the purpose in engaging in a colloquy relating to a provision in this bill on naval vessel transfers.

Mr. Chairman, as the gentleman from Florida knows, I appeared before the Committee on Rules yesterday to oppose making in order section 8102 of this bill. Section 8102 authorizes the transfer of naval vessels to certain foreign nations. It directly concerns the Foreign Assistance Act and the Arms Export Control Act, and thus falls squarely within the jurisdiction of the Committee on International Relations. In addition, it constitutes an item of authorization that directly violates clause 2 of rule XXI of the House.

This section should be subject to a point of order on this bill, but it is not, because the Committee on Rules and the leadership of this house chose to protect the provision.

Section 8102 also establishes a new military foreign aid program for two countries that we graduated from foreign aid just last year, and also uses a budget maneuver to fund this new foreign aid program, while providing another $500 million in spending in this bill.

I would ask the gentleman from Florida (Mr. YOUNG) if it would be his intention to work with the Committee on International Relations and keep us fully informed during his conference with the Senate on the status of this provision?

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would be happy to respond to the gentleman that I would be pleased to keep the chairman of the Committee on International Relations fully informed about the status of this provision during our conference committee. The gentleman from New York (Mr. GILMAN) and I have discussed this, and we have an understanding with each other that we will certainly do that.

Mr. GILMAN. Mr. Chairman, reclaiming my time, I want to thank the gentleman from Florida. Let me ask the gentleman, would he further agree that he would support a modification to this provision in the conference committee to make certain that subsections 8102(f) and 8102(g) are deleted?

Mr. YOUNG of Florida. Mr. Chairman, if the gentleman would yield further, I would assure the gentleman that I will work with my House and Senate colleagues in conference to develop the appropriate modifications to these subsections, and will continue to work with the gentleman from New York to reach a mutually satisfactory outcome on this matter.

Mr. GILMAN. Mr. Chairman, reclaiming my time, I want to thank the gentleman from Florida for his assurance, and for yielding me time to engage in this colloquy.

□ 1830

Mr. YOUNG of Florida. Mr. Chairman, I yield myself 1 minute.

Mr. MANZULLO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Illinois.

Mr. MANZULLO. Mr. Chairman, I share the concern of my committee chairman. What we are doing is selling 48 ships for only $13 million apiece.

About 3 years ago in a hearing in the Committee on International Relations, which has original jurisdiction over the sale of surplus ships, there was a move to give away 10 ships, to which I objected, and Senator BROWNBACK from Kansas and I passed legislation, subsequently called the Manzullo amendment. Those 10 ships were then sold for $495 million.

Subsequent to that, every year that amendment has come up, and that money is kept back in the coffers in IR towards that bill. But this takes jurisdiction away from the Committee on International Relations. I do not know if this is a bargain sale or not, but I would like some type of assurance from whoever set this price at $637 million that the United States is not giving away billions of dollars worth of ships for which we should be fully compensated.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would respond to the gentleman by saying first that I have given my assurance to the chairman of his committee; second, we do not set the price for these ships; third, without these transfers, these ships are going to be mothballed or cut up into scraps. Finally, who they are going to would primarily be to NATO allies for their own defense.

Mr. MANZULLO. I would like whoever set the price to furnish that.

Mr. YOUNG of Florida. I do not set the price. We do not set the price.

Mr. MURTHA. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon, Mr. DEFAZIO.

Mr. DEFAZIO. Mr. Chairman, I would like to engage the chairman for a moment in two very important programs in which I know the chairman has a great interest.

The first is the DOD-VA medical research account. Last year the chairman graciously accepted my amendment on the floor to lift the amount of money invested in this program, a tremendous program dealing with Gulf War syndrome, traumatic nervous system injury, and other combat readiness and combat-related injuries to $15 million. Eleven million dollars is in the House bill.

I would like to know the chairman's intention, if we can be assured that in the conference the chairman will strive to make the program whole so we at least can maintain current services.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I hope the gentleman knows that we do support this program, despite the fact that it was not included in the President's budget. We did provide some $11 million for the program. We intend to support this program in conference.

Mr. DEFAZIO. Mr. Chairman, there is a second program, and this is a little bit personal to my district. There is a program which the gentleman is familiar with, the National Guard Youth Challenge Program. It actually operates in Oregon in the district of the gentleman from Oregon (Mr. BOB SMITH).

But if the gentleman is aware of the tragic shooting that took place in the high school near my home in Springfield, rather sadly, the father of that youth was attempting on the day that he was killed to enroll the youth into the National Guard Youth Challenge Program, because it has such an incredible reputation in our State. They have put more than 500 at-risk youth through that program, and Major General Reese told me that only 4 of those youths out of 500 have committed crimes after going through that program.

I realize that the administration only requested $28.5 million, and I certainly intend to put efforts into getting the administration to ask for more next year. I realize that the chairman has upped that by $10 million during the committee process.

It is my great hope that the chairman can strive to reach, at least in conference, the $50 million level, which would maintain the current services. There are States, including that of the gentleman from Pennsylvania (Mr. MURTHA) on the waiting list.

I would hope, I know the chairman supports the program, I would hope that we can strive to at least make the program whole and perhaps get to some of the States on the waiting list in the near future.

Mr. YOUNG of Florida. If the gentleman will yield, again I would respond in the affirmative that we do support this program and we did add money over and above the President's budget request.

We will do the best we can in conference, and I will be honest with my colleague and say that is the best commitment I can give him now. We will do the best we can. But understand that going into conference, we are going to be several billion dollars apart. We will do the very best we can to achieve what the gentleman would like to achieve.

Mr. DEFAZIO. I thank the gentleman. I would note that the Senate is at 62. If we did the usual sort of split the difference, we would come out a little over 50, which would make the program whole.

Mr. YOUNG of Florida. The gentleman is correct, and that happens a lot.

Mr. DEFAZIO. I thank the gentleman.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, Lyme disease is one of the Nation's fastest growing infectious diseases. This is an issue of great concern to military personnel and their families who serve and train in areas endemic for Lyme disease.

In New Jersey both Fort Dicks and Naval Weapons Station Earle have been indicated as having high levels of risk of Lyme disease during their latest known Lyme disease risk assessment.

As the chairman knows, as a result of an amendment that I had offered in 1994, the Department of Defense Lyme disease research programs ran out in February of 1997. According to the Army Surgeon General's office, a mere $600,000 would be needed each year to optimally maintain the tick-borne disease program and the Molecular Biology Laboratory.

Can the chairman assure me that the conference report on this bill will contain the $600,000 in funding that the U.S. Army needs to continue with this important work in the fight against Lyme disease, and tick-borne diseases?

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I agree with the gentleman from New Jersey that this important funding should and will be renewed. To that end, I will try to work during the conference and negotiations on this to ensure that it will contain the necessary resources to enable the Department of Defense, as well as the United States Army Center for Health Promotion and Preventative Medicine, to continue their work in the area of Lyme disease.

I also want to commend the gentleman for raising this issue with me and with the committee. The gentleman is correct that Lyme disease and tick-borne illnesses are a significant problem for our troops in many areas of our country. I want to make sure that we do everything we can to make sure American military personnel are protected against the risks of Lyme disease when they are deployed or training in endemic areas.

Mr. SMITH of New Jersey. I thank the distinguished chairman.

Mr. YOUNG of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the subcommittee.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding me the time.

What a good committee to serve on, Mr. Chairman. The gentleman from Pennsylvania (Mr. JACK MURTHA) has done nothing but been supportive and fought for the national security of this country. I would say that of every single subcommittee member on both sides of the aisle. There is no partisanship, it is for the national security of this country.

However, I would tell the Members, Mr. Chairman, that national defense, and I was a professional for 20 years, is at the lowest I have seen it in 30 years, the worst shape I have seen it in 30 years. We could survive with a low budget and a balanced budget amount that we put in, but what is killing national security are the deployments and the national security policy of the White House, 300 percent OP TEMPO deployments away from home above what we were in the Cold War. That money from Haiti and Somalia and Bosnia and all the other deployments comes out of defense budgets. It is killing us.

The effect is, it is driving our military out of the service. The gentleman from Pennsylvania (Mr. MURTHA) will agree. We only have 24 percent retention of our enlisted. That means our experience is going away. We are dealing with 1970s technologies in our F-14s, F-15s, F-16s.

There are only four up jets in Oceana today. They normally have 45 for training. Why is this? Because they are cannibalizing off the airplanes we have up and sending them to the front. Used parts on an old airplane with maintenance troops that are less and less qualified means that we are going to lose airplanes and air crew in massive numbers in the next 5 years, starting this year, Mr. Chairman. We have to do something about that.

Look at what the threat is. In my first chart, those that will come before this body and say the Cold War is over, this is what the threat is. All over the world, this is where the Fulcrum, the Flankers, and the enemy missiles are stationed. Our own President sent missile technology to China, and China has been shipping chemical and biological weapons and nuclear components to Iran, Iraq, Syria, and Pakistan; real threats to this country. The Cold War is not over.

I look at the next chart. This is just general equipment where the technology is above U.S. technology. I am alive today in combat because I had better training and better equipment. This edge is gone, Mr. Chairman.

This is the SA-5, this is the SA-11 surface-to-air missiles, this is the tanks, this is the quad and radar-directed fire. I can go on and on with how their technology—they are supposed to be broken, the Cold War is over, but take a look.

Look at this, Mr. Chairman. This is the AA-10 and AA-12 missile, that outranges our best missiles. Our pilots are going to die if they face Russian technology.

Mr. Chairman, look at the F-14, F-15, F-16, F-18, today. If they meet an SU-27, an SU-27 they are at parity with, but an SU-35 or 37, with their technology and these missiles on board, if we come head to head and they can see us before we see them, their missiles out-range us and are better, better than our American Ram. The technology of the F-22 and the F-18E/F puts the Stealth where we can close inside those technologies, yet we do not have the procurement. This committee had to cut 3 F-18s. We also need C130s for transportation.

I think in conference we will get all of them, but the threat is there. The Cold War is not over. I would ask my colleagues that want to continue to cut defense, there is a hollow force today, my colleagues. It is in the worst shape I have ever seen it in my entire life in service in the military.

Do not let it happen, because it is going to be our sons and our daughters and our grandchildren that we are going to ask to serve. Do not ask them to serve and come back in a body bag.

Mr. YOUNG of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. ROEMER) for a colloquy.

Mr. ROEMER. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, I want to commend the chairman and the ranking member of the Committee on National Security for their work on the defense appropriations bill for FY 1999. I want to especially thank the gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from Florida (Mr. YOUNG) for their help on the humvee and 2½ ton truck.

I am particularly grateful to the gentleman from Florida (Chairman YOUNG) for his sharing my concerns of the Navy's plans to procure a new target missile system. The current supply of Vandal missiles will run out in 2001, and the Navy must replace it with a new supersonic sea-skimming target missile.

Over 100 of my constituents work on the Sea Snake, and I am concerned about the potential willingness of the Navy to procure a Russian-made target missile to meet their long-term future needs. The Navy has spent a significant amount of foreign cooperative test program money developing the Russian

MA-31. Furthermore, the Navy, on June 8, announced its intent to award a firm, fixed-price solo source contract to procure the MA-31 for target shooting purposes.

In the view of the pending RFP due out later this month, I am concerned about the Navy's procuring the MA-31 at this time, as it is a competitor in an open and fair competition. It is difficult for me to believe that will in fact be a truly open or truly fair competition. I would like to ask my colleague, the distinguished chairman, if he is aware of this recent announcement, and if he shares my concern over this competition.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would respond to the gentleman and thank the chairman for raising this issue.

As he knows because of our numerous conversations about this, I want to assure him that we will do everything we can to guarantee that the Navy does what it is supposed to do and what the report of this subcommittee tells it to do, and that is to follow all the procedural requirements for an open and fair competition.

Mr. ROEMER. I thank the distinguished chairman. I thank my ranking member, the gentleman from Pennsylvania (Mr. MURTHA) for all his help, and I think both share in my puzzlement as to why the Navy would want to procure and rely upon a Russian-made target system at the expense of the only American-made source of target systems.

If the Navy continues on the present course American jobs could be lost, and the only source of target missiles will be lost as well.

Mr. MURTHA. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, I had intended to offer an amendment in the general provisions section of this bill limiting the Navy from being able to expend funds for the disposal of napalm, which is currently stockpiled in Southern California.

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Earlier this week, it came to my attention that the Navy's general contractor is very close to letting subcontracts to one or more disposal operations in Texas, including in my district in Deer Park, Texas, as well as San Leon, Texas, Port Arthur, Texas, and Andrews County, Texas.

My concern, and I think the concern of the regulators in my State, the Texas Natural Resource Conservation Commission, and the Governor of Texas, who was only notified yesterday, is that the Navy has not done a very adequate job of notifying the public of what their intention is. And this comes on the heels of their earlier intent to dispose in East Chicago.

If lieu of offering what would be a very broad amendment, in short order I am willing to withdraw it. But I would like to ask if the ranking member and the chairman of the subcommittee would help in encouraging the Navy, if they decide to go forward, to provide better notification.

Their intent is to award the contract July 6 through July 8 and start transporting product between July 15 and 16. This is the same time we have an incredible bottleneck in rail with the Union Pacific/Southern Pacific merger, more than 300,000 cars blocked in the greater Houston area.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, let me say to the gentleman from Texas (Mr. BENTSEN), the Navy has really handled this badly as far as keeping people informed and it is unfortunate. I think the gentleman has taken a very reasonable position that they have not consulted with him or talked to him, barely notified him as they were about to move things through.

Mr. Chairman, I can assure the gentleman from Texas that we will watch this carefully. Any amendment offered would make it even more difficult to solve this problem. As a matter of fact, a couple of people came to me with ideas about how to solve the problem and they sent them to the Navy. Hopefully, we will be able to solve this problem quickly.

It is a very big problem in California because it is starting to leech out, so we have to do something about it. I assure the gentleman we will work with him and try to do something.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I appreciate the gentleman from Texas (Mr. BENTSEN) yielding, and I deeply appreciate the gentleman not introducing his amendment.

Just to give a little background, the gentleman from Pennsylvania (Mr. MURTHA) has clearly outlined it, but for 25 years the napalm has been stored in my district at an ammunition depot. No one has been overly concerned about it until it started leaking out of the canisters into the soil and into the air, and then it became of great concern to the Navy and to some of the people in my district.

The Navy has carefully outlined a plan to recycle it. They have made no decision to this point as to what company they would offer a contract to. I know that Texas is being considered, but it is only one of the considerations.

But, Mr. Chairman, they have got to be able to process it and recycle it. It cannot stay the way it is. It would be a terrible hazard if it stayed the way it was. And so the gentleman's amendment would have really resulted in a situation that is unacceptable.

Mr. BENTSEN. Mr. Chairman, reclaiming my time, I appreciate the gentleman's response on that issue. The biggest concern we have, and yes, the Navy does have to do something with this, but they need to notify the public of this.

We are talking about, in the case of Deer Park, part of the third largest metropolitan area in the country, and we do have a lot of petrochemical industry. But to give us 2 weeks notification before it is transported, or 3 weeks, is insufficient.

Mr. PACKARD. Mr. Chairman, if the gentleman would continue to yield, I will do all I can to get the Navy to do a better job of communicating and working with us, but the fact is napalm under the plan is safer to ship than gasoline, and we ship gasoline on the streets of our communities all across America every day. But it is much safer than gasoline or many of the other products that they ship on a daily basis.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I have talked to the Navy and regarding the problem of the backup of railroad cars, they would bring it as far as Texas and then offload it onto trucks and bring it in. So it would not affect that kind of problem.

This was not a problem until the White House got involved with it in East Chicago, Indiana, and stopped it right just before the elections. Now AL GORE is going to Texas and all of a sudden it stopped because of the environmentalists.

Mr. Chairman, we will work hand-in-hand with the gentleman from Texas (Mr. BENTSEN), because there is no problem with it. As the gentleman from California (Mr. PACKARD) has said, this is safer than gas to ship. It will also be used to make cement. It is a useful product. The wood will be chewed up and go to Oklahoma and the metal, the aluminum, will be recycled. It is a win-win situation.

I agree the gentleman's constituents in Texas need to know what the positives are instead of the negatives.

Mr. BENTSEN. Mr. Chairman, again reclaiming my time, if the Navy can solve the rail problem, that would be a swift trick, but that is something they need to be concerned about.

I appreciate the comments of the gentleman from California and appreciate the help of the gentleman from Pennsylvania (Mr. MURTHA) on this issue.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I was going to offer an amendment. I will not be offering it. The lateness of the hour, frankly, makes me think it would not get the kind of attention that I would have hoped. But I do want to explain why I am going to vote against this bill.

Mr. Chairman, we are in a different situation post-Cold War, and I continue to be perplexed by those who argue that we are not safer. It seems to me people are denigrating the whole notion that we accomplished something significant by the dismantlement of the Soviet Union.

Yes, there are threats in the world today that exist other than the major threat we had in the Soviet Union. Those threats, of course many of them existed then as well. There is a quantitative difference. For 50 years, beginning with the rise of Hitler and the emergence of the Soviet Union, the physical existence of this country was at risk. We had evil people who hated democracy who had the ability substantially to inflict physical damage on us.

That has been substantially changed. We do face dangers in the world today, but they are not of the order that they were during the Hitler and the Stalin years and their successors, yet we continue to spend at very high levels.

Mr. Chairman, we are in a zero sum situation. Money we spend on the military cannot be spent on keeping cops on the streets, fighting drugs here at home, providing necessary housing for people, fighting environmental hazards. And there is a way that we could make savings that the administration of this Congress has failed to take advantage of.

We continue to subsidize our wealthy allies, particularly in Western Europe, far beyond what is logical. We continue to bear the burden of defending Western Europe disproportionately, despite the fact that the threat to Western Europe has decreased and our allies' ability to defend themselves has increased.

Until and unless we end this policy, it is the greatest welfare policy yet left and the recipients are our European allies. They continue to drain tens of billions of dollars from us. If they were prepared to take primary responsibility for the defense of Western Europe, we would still have the responsibility in South Korea, in the Middle East and elsewhere.

Mr. Chairman, we could save money with no cost to anybody's security and free up funds for necessary purposes that are going undone at home. For that reason, I will vote against this bill.

Mr. MURTHA. Mr. Chairman, I yield back the balance of my time.

(By unanimous consent, Mr. GILMAN was allowed to speak out of order for 1 minute.)

ANNOUNCEMENT OF THE DEATH OF PAUL O'DWYER

Mr. GILMAN. Mr. Chairman, it is my sad duty to report to this body the passing of an outstanding constituent who is one of the most respected elder statesmen in New York State.

Paul O'Dwyer passed away this morning at the great age of 90. A native of County Mayo, Ireland, he came to America in search of a new life in the wake of the "troubles" in Ireland earlier in this century.

He worked on the docks while working his way through St. John's Law School. He became a champion of civil rights and justice in his homeland, and of independence for Israel.

Paul O'Dwyer sought election to this Chamber in 1946, but was defeated by Jacob Javits. Ironically, 22 years later Paul was the Democratic nominee for the U.S. Senate in opposition to Senator Javits.

In between, Paul O'Dwyer served as Manhattan Councilman at Large and subsequently as President of the New York City Council. And in later years, Paul O'Dwyer remained a champion of peace and justice in the North of Ireland.

Although Paul and I were on opposite sides of the political aisle, I came to rely on his sage advice, his insightful knowledge and his distinguished concern for the future of our Nation.

Mr. Chairman, we extend our sympathies to Paul's widow, Pat, to his three sons, his daughter, his eight grandchildren and five great-grandchildren, and the many New Yorkers who for many years considered Paul O'Dwyer a hero.

Mr. WELDON of Florida. Mr. Chairman, I want to commend my colleague from Florida, the distinguished Chairman of the National Security Appropriations Subcommittee, for drafting a bill that maintains careful balance between our modernization priorities, our requirement for a trained and ready force, and the needs of our men and women in uniform and their families. This is no easy task. With each new crisis around the world, we ask for more and more from our fighting forces while the amount of money that we provide continues to shrink. So again, I applaud the Chairman of the National Security Appropriations Subcommittee for working hard to ensure that our military is prepared to meet ongoing and new challenges around the globe.

I would also like to commend the Department of Defense for working hard to put into place best business practices wherever possible to squeeze every penny out of its operations. Every penny saved by running the Defense Department better is a penny returned to much needed and underfunded modernization and readiness programs. In particular, I want to commend the National Reconnaissance Office (NRO) for its efforts to procure commercial-like launch services for the GeoLITE and NRO–1 satellite programs. By using existing commercial launch vehicles and commercial payload processing services, NRO can take advantage of cost savings and streamlined procurement schedules that are inherent to commercial purchases and operations.

I strongly encourage the NRO to continue and expand its outsourcing of commercial payload processing services. By lowering the costs while at the same time maintaining flexibility to implement its mission, the NRO is ensuring that it is ready to meet the great demands placed on it by our national security decision makers and our war fighting commanders in chief.

For several decades, even the initials N–R–O were classified and could not be used publicly. Now, with the end of the Cold War, not only can we talk about the once super secret NRO, we can give the agency credit for its activities, including its push to contract for services like commercial payload processing.

Mrs. FOWLER. Mr. Chairman, I rise to strongly support this amendment.

Yesterday, in a joint hearing by the National Security and International Relations Committees, we learned still more about efforts by China's People's Liberation Army to secure advanced military technology from the United States. This information included revelations that Chinese officials apparently stole circuit boards containing safeguarded technology from a crashed U.S.-built satellite, as well as reports I brought forward that the administration has approved the sale of equipment to help the PLA encrypt military messages sent via U.S.-built satellites.

Now we hear that the Defense Department is purchasing critical parts for some of our most advanced weapons from the U.S. subsidiary of a Chinese state-owned firm. This is intolerable.

This amendment complements legislation I sponsored last year which passed the House 405–10, requiring the Defense Department to maintain an active list of PLA-owned firms doing business here. I commend the gentleman and strongly urge passage of this measure.

Mr. NETHERCUTT. Mr. Chairman, I rise in support of H.R. 4103. I am proud to serve on the National Security Subcommittee on Appropriations and would like to first acknowledge the outstanding work of Chairman YOUNG and Mr. MURTHA in putting together this legislation that meets so many needs while still falling under our budget limitations. The subcommittee staff also deserves recognition, having worked long hours scrubbing this bill to maximize every defense dollar.

This bill devotes substantial resources to improving the working conditions for our men and women in uniform. Increased funding for maintenance and spare parts has been a priority for our subcommittee and this year was no different. The Administration consistently underfunds these accounts and the Services always identify requirements that exceed the request. I was pleased that we were able to add more than $200 million over the President's request for aviation spares, $300 million for real property maintenance, and $500 million for base operations and support.

This bill provides substantial funds for research and development which will rapidly move next generation technology into the field. Our combat forces will have a substantial edge over opponents in the future because of the investments this bill provides for weapons research as well as for medical research. Enhancing the survivability of those who serve should be our first priority, and I strongly support research which benefits this end. I am pleased that the Committee supported funding for promising ultrasound research, which may revolutionize trauma care by stopping battlefield hemorrhaging with ultrasound waves. The Committee also funded substantial research to address the growing threat posed by chemical and biological weapons. One innovative approach that is funded in this bill would utilize photoacoustic signatures to detect harmful toxins. I am proud that both of these projects will be conducted at the Spokane Intercollegiate Research and Technology Institute, an emerging regional leader in science and technology research.

Medical research also benefits military readiness and morale by ensuring that soldiers in the field stay healthy, while their families are taken care of at home. As the Co-Chair of the Congressional Diabetes Caucus, I support a research project in this bill which will contribute substantially to our understanding of diabetes. The legislation provides a $6.4 million for the second year of a 2-year pilot demonstration project [PE# 630002] with the Joslin Diabetes Center, a world leader in diabetes research. This joint project with the Army is pursuing critical research, and soldiers and their families will realize substantial benefits.

This Subcommittee has devoted significant attention to the issues of information security and the Year 2000 problem. The Administration has told the Services to take care of this problem out of hide and didn't request any additional funding, even though January 1, 2000 is only 17 months away. Despite optimistic projections from the services and reassurances from the Administration, reports from GAO, the Defense Science Board and Congressman STEVEN HORN have unanimously proclaimed that current progress is inadequate. Failure of defense systems could be catastrophic and I do believe that identifying funding for this situation is an emergency. But this bill also contains strong language which will contribute to a Y2K solution. No new funds can be spent on developing or modernizing any information technology system unless it is certified as Y2K compliant. The bill also requires the Department to develop contingency plans for Y2K failure and directs aggressive testing and simulation to ensure that we are ready in time.

This is an excellent bill, Mr. Chairman. While there are still many unfunded requirements facing our armed forces, this legislation does an outstanding job of addressing the highest priorities within the constraints of the Balanced Budget Agreement. I strongly urge my colleagues to support this legislation.

Mr. HARMAN. Mr. Chairman, I rise in support of this year's defense appropriations bill. It continues the trend of declining defense spending since the end of the Cold War, forcing the committee to make a lot of tough choices. As a member of the National Security Committee, I know that many of the choices in this bill reflect directions set in the authorization bill.

When I came to this House nearly 6 years ago, my district was reeling from defense cuts. Yet today it is thriving, and has recovered by using its expertise in commercial fields. California's 36th Congressional District demonstrates that there is life after defense downsizing.

Mr. Chairman, I fought to establish the Dual Use Science and Technology program so that we could build skills that would protect defense workers when defense spending shrinks. This is not just important for the defense industry and the workers in my district, but for the country and its defense industrial base. Commercial applications allow us to maintain critical technological expertise in the industrial base, so that we can call upon it in times of need. I was disappointed to see cuts made in dual-use programs in this bill. For the reasons I've just described, it's exactly the wrong thing to cut in a shrinking defense budget.

As defense spending ebbs, inefficiencies in the DoD also become more visible, and more harmful. Serious problems are emerging in modernization and readiness, but we still maintain excessive infrastructure. This House must tenaciously pursue cost-savings and eliminate bloated bureaucracies. We cannot afford to support waste when we have such urgent modernization and readiness needs.

Finally, let me raise one more efficiency issue. As our forces shrink, we must fully embrace women in the military—we need to fully utilize all military talent in order to field a ready force. Secretary Cohen and the Service Chiefs feel it is crucial to "train the way we fight" and strongly advocate gender-integrated training. I'd urge Members not to substitute Congressional judgment for their expertise. As we learned many years ago, separate but equal is anything but equal.

I urge support of the bill.

Mr. BENTSEN. Mr. Chairman, I rise today to express my strong support for the inclusion of full funding for the Disaster Relief and Emergency Medical Services (DREAMS) telemedicine project in H.R. 4103, the Department of Defense Appropriations legislation. I wish to thank Chairman YOUNG and Ranking Member Murtha for their support of this project. This project is a cooperative effort of the U.S. Army Medical Research and Materiel Command, the University of Texas-Houston Health Science Center, and Texas A&M University. As the Representative for the University of Texas-Houston Health Science Center, I am pleased that this legislation includes sufficient funding for this critical medical research project.

DREAMS is an advanced telecommunications project designed to improve and speed emergency treatment for injured patients, especially in military battlefield and civilian disaster settings. The project aims to utilize computer, telemedicine, and satellite navigation technology (Global Positioning System) to improve patient transport, as well as on-site and in-transit diagnosis and treatment. It also aims to improve detection, diagnosis, decontamination, and treatment for chemical and biological warfare agents, and to develop new diagnostic methods and therapies for shock and injuries. DREAMS originated in Houston because Houston has a high incidence rate for penetrating and blunt trauma, industrial accidents, floods, and hurricanes.

The DREAMS project will demonstrate, in both military and civilian sectors, how to save lives and reduce costs. This project includes three interrelated components: (1) emergency medical services; (2) chemical and biological warfare defense; and (3) diagnostic methods and therapies for shock injuries. The emergency medical services will test interactive telemedicine technologies and treat patients in both urban and rural settings. DREAMS will also do extensive research to develop chemical senors for on-site diagnosis of toxic substances and biological decontamination of chemical warfare agents. The third part of this project will research new treatments for patients who cannot get advanced care quickly and determine mechanisms to extend life beyond the "golden hour."

Congress provided $8 million for this cutting-edge research in Fiscal Year 1997. I am pleased that this bill, H.R. 4103, would provide an additional $9.985 million for this project. It is also important to note that the Senate Defense Appropriations legislation includes $10 million for this project.

This project will also increase the survivability of America's soldiers wounded on the battlefield, as well as civilians injured in industrial and natural disasters. I strongly urge my colleagues to support the DREAMS project as part of Fiscal Year 1999 Defense Appropriations legislation.

Mr. BONILLA. Mr. Chairman I rise in support of the fiscal year 1999 Defense Appropriations bill. This legislation provides essential funding for our military. Chairman Young has done a remarkable job addressing the most significant shortfalls confronting the armed services.

Today we are hearing criticism of this legislation from two quarters, the bean counters and the dreamers. The dreamers believe we live in an age when the lion lays down with the lamb and we should be the lamb. It is a beautiful vision, one we all wish was true. Unfortunately, the reality is that it is not. If we follow this path we will soon become the lamb chop and put our liberties at grave risk.

The bean counters keep telling us we can't afford to maintain our military. The bean counters tell us we can't afford weapons modernization, we can't afford to give our troops decent pay, we can't afford to maintain our bases. They couldn't be more wrong.

We can't afford not to provide for our defense. America's history tells us that the cost in lives of not being prepared is just too great. We are failing in our duty as congressmen if we fail to provide adequately for our military.

If there is any fault in this bill it is that we should do more. I hope some of you will work with me to fix our budget and insure the future security of our nation. The fact is we do not have sufficient resources to maintain short term and long term readiness. Please join me in supporting this excellent legislation and let's work together to increase the resources available to our military in the future.

Ms. GRANGER. Mr. Chairman, I rise today in strong support of this Defense Appropriations package. And let me publicly and personally thank Chairman BILL YOUNG for his hard work on this important National Defense bill.

It has been said that America will only remain the land of the free if it remains the home of the brave.

Mr. Chairman, a few weeks ago I saw some of our brave young soldiers who are defending American interests in faraway places like Bosnia. After talking to them, I am reaffirmed in my conviction that our soldiers and sailors are the best and the brightest in the world.

However, I believe that if we have the best troops, we should also have the best training, equipment, and benefits. After all, no first class nation can have a second class military.

Mr. Chairman, I do not believe that the budgetary constraints of last year's balanced budget provide the kind of support that our troops deserve and our interests demand.

When John F. Kennedy was President, 52 cents out of every Federal dollar spent was devoted to National Defense. Today, that number is 16 cents out of every dollar.

Now before I go any further, let me be perfectly clear—I support this bill even though I believe we must do much more to invest in our National Security. But at least this bill stops the ten-year decrease in defense spending. And it does so in large part because of the outstanding leadership of Chairman YOUNG.

In particular, I am pleased that this bill funds important priorities that are manufactured in my home district in Texas. Products like the F–16, the V–22, and the Kiowa Warrior are indispensable to our national security.

Mr. Chairman, these projects are important for my district. But they are vital for our country.

Once, again, I want to thank the Chairman for his hard work on this issue. And I look forward to working with all of my colleagues to do even more in the coming years for our national defense.

And I would close by responding to a perennial question that we hear so often during national security debates. We hear the question, "can we afford to pass this bill." Mr. Chairman, I would simply respond by saying, "we can't afford not to pass this bill."

Mr. VENTO. Mr. Chairman, the Republican led Appropriations Committee has once again produced a substantially increased military spending bill that reneges on the Balanced Budget Agreement of 1997. When all the accounting schemes are pushed aside, we find that it spends $4.4 billion more for fiscal year 1999 then called for under the carefully crafted budget outlay cap enacted by Congress less than a year ago.

This bill illustrates that the House Republican Leadership has chosen to ignore the professional judgement of the CBO on how to account for the spending in this bill. The result is to simply not count billions in military spending that the CBO determined should be counted. I will remind my Colleagues that just two-and-a-half years ago this same Republican leadership went so far as to shut down the government over its insistence that the President and the Congress use no other spending blueprints than those made by the CBO.

Furthermore, this bill is filled with projects selected more based on the district in which the money will be spent, rather than how the product will be used by our fighting forces.

One pet project is $432 million added in this bill for seven C–130J aircraft that were not even requested by the Pentagon. This continues past practices of adding substantial sums for these planes that are built in Georgia.

The unit cost of the C–130J is an alarming $60 million per plane. This is higher than the $48 million cost for a modern, state of the art F–15E fighter plane that is essential for our national security. Of the reported 28 C–130J aircraft on order by the U.S. military, not one has been delivered due to development and mechanical problems. I ask my Colleagues how this program evolved from what was supposed to be a routine upgrade to a major budget busting development effort. At a time when it is incumbent upon Congress to deal responsibly with the budget for our national defense, the addition of seven C–130J aircraft is a frustrating and fiscally irresponsible maneuver to add pork to specific congressional districts.

The recommended rule outlined for this year's Defense Appropriations strikes a provision which provides $1.6 billion in emergency funding for the Defense Department and the Intelligence Communities to handle the Year 2000 (Y2K) date change. The Y2K issue is a national security priority and should be addressed in this bill.

Similarly, the Department of Defense Appropriation measure provides no funding for the U.S. military role in Bosnia and ignores the Administration's request of $1.9 billion.

In this bill, the Republican Leadership has reneged on its own budget policies and has increased defense spending nearly $4.4 billion more than the total specified for 1999 under the Balanced Budget Act. Proponents of this bill apparently believe that our military is underfunded and unprepared to meet the challenges of the 21st Century. However, they should know that the President's defense budget is capped by the Balanced Budget Act most of them voted for less than a year ago. Members knew voting for the agreement meant there would be a continued reduction in defense spending through 2002.

In addition to the $4.4 billion, the $1.6 billion for the Y2K computer problem and the $1.9 billion for Bosnia, this total translates into a measure that is nearly $8 billion over the 1997 Balanced Budget Agreement.

Proponents of this bill argue that a quarter of a trillion dollars of defense spending is just not enough, I disagree. This military budget is already much too high. The current level is approximately 82 percent of what was spent during the Cold War. Now it is appropriate to have a significantly lower budget with the global threat so much smaller. I will point out that Iran's military budget is less than $5 billion. The new government in India recently raised its military budget 14 percent—to all of $9.9 billion. Moreover, the United States spends more than twice as much on the military as the next six or eight likely adversaries (China, Russia, Iran, Iraq, Syria, Libya, North Korea and Cuba combined).

Even though the Cold War is over, there are still massive amounts of wasteful, inefficient and totally unnecessary military spending that should be eliminated first before consideration is given to additional funding. We still see reports of the Pentagon's wasteful inefficient spending. For instance: the Pentagon is still paying $75 for 57-cent screws and $38,000 for $1,500 worth of aircraft springs and the military has far more infrastructure than it needs. Even after completion of several rounds of base closures, the Pentagon calculates that it still has a 23 percent excess base capacity, draining off billions in unnecessary expenditures.

Beyond the dramatic waste on common sense items is the loss of funds down the drain on the Ballistic Missile Defense Organization (BMDO) programs. Such programs are proven failures that are pegged for billions of dollars more than requested in this bill. Furthermore, four more New Generation Nuclear Attack Submarines that carry the D–5 missiles are appropriated. This represents yet another $10 billion expenditure towards no justified positive purpose.

The numerous programs in this bill raise many questions. The problem is that the Department of Defense is not being held accountable by the Congress or the Administration. Every new mission explodes into programs that cost billions of dollars. Instead of inventing new missions, we should focus on the basics.

As our economy is booming and democracy spreads globally, Congress should look to advance resources in people's programs. I support a strong, efficient and prepared military force, but there is still much work to be done in cutting wasteful and unnecessary defense spending. We should invest in our children through adequate health care and education, prepare for the baby boomers retirement by protecting the solvency of the Social Security and Medicare Trust Funds, provide affordable housing for low-income persons and the elderly and protect our earth's natural resources. I urge my Colleagues to oppose this bill.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise today in support of H.R. 4103, the Department of Defense Appropriations Bill for Fiscal Year 1999. I want to commend my colleague, the gentleman from Florida, Chairman BILL YOUNG, for all his hard work on this bill. He has made tough decisions in order to provide funding for our armed forces and for the equipment they need to protect our Nation. I also want commend the staff of the Defense Appropriations Subcommittee who assisted Chairman YOUNG in putting this legislation together.

According to both the Defense authorizing and appropriations committees, spending on defense has decreased for the 14th straight year, in real terms. Despite the end of the cold war earlier this decade, we still find American troops deployed across the globe, from Eastern Europe to Asia to Africa. In fact, I was recently told by one Army officer that there has been a 300 percent increase in deployments at the same time there has been a 40 percent shrinkage in the size of the Army. As a result, troops are deployed longer, maintenance and repair work is delayed, and research and development initiatives are taking a substantial hit.

American companies are learning to do more with less, and our military has become more cost-efficient as well. However, there is a point at which we can only do less with less. If the President keeps committing our troops to peacekeeping missions overseas, and continues to freeze funding for the Department of Defense, we could begin to compromise the safety and readiness of our armed forces.

When the President sends our military overseas, money is diverted from other important initiatives, including research and development. As we try to prepare and equip our troops for the battlefields of the future, countless engineers are working in government labs and research facilities to develop the weapons, the ammunition, the vehicles and the technology our armed forces need to defend the United States. The military's research and development is critical to keeping our men and women in uniform safe and well-equipped wherever they serve, whether home or abroad.

Further compromising the military's, and especially the Army's, ability to provide our troops with the tools they need on the battlefield are the cuts proposed under the Quadrennial Defense Review, or QDR. These QDR cuts threaten the very fabric of our research and defense infrastructure. Not only will they decimate the current corps of engineers working on sensitive mission-critical projects, they also hamper the Army's ability to recruit and train the future engineering "brain trust" needed to help develop the next generations of military hardware and equipment.

If these QDR cuts are implemented, it would have a detrimental effect on mission-critical projects such as the Crusader field Artillery System. This reach and development effort will provide the Army of the future with much-needed heavy artillery support. I am pleased that the Committee has provided full funding for this program which is located at Picatinny Arsenal in my district.

The Crusader system, which will consist of both a self-propelled, fully automated 155m Howitzer and a resupply vehicle, will provide efficient, accurate and reliable fire support to our troops on the battlefield. Unlike the existing Paladin tank, the Crusader will have a fully-automated loading capability. The Crusader will be faster than the Paladin, and its guns are more accurate at a much farther distance. In recent tests, the Crusader's gun was able to fire an impressive 10 rounds per minute for three to six minutes, without malfunctioning. And, furthermore, less military personnel are needed to man the Crusader.

I am especially pleased because much of the research and development work on the Crusader project is being done in the laboratories of Picatinny Arsenal in the 11th Congressional District. Since the Revolutionary War, Picatinny has been providing our armed forces with ammunition. Today, they may no longer manufacture conventional ammunition, but the dedicated and innovative workforce at Picatinny are developing other tools to meet the munition and firepower needs for both Army XXI and the Army After Next. From "smart ammunitions" to the soldiers' hand-held weapon of the future, Picatinny has been recognized and awarded for their research and development efforts and contributions to our military capabilities. I was recently told that Picatinny is responsible for 1400 of the 3400 weapons systems developed under TACOM, the Tank Automotive and Armaments Command which oversees much of the Army's research and development initiatives.

Another important research and development project funded in this bill is the soldiers' weapon of the future, the Objective Individual Combat Weapon, or OICW. The lightweight OICW can, in the near future, replace three existing, divergent weapons currently in use by the military: M16A2 rifles, M4 carbines and M203 grenade launchers. It will have the ability to accurately shoot both hidden and moving targets. With the flip of a switch, soldiers will be able to change from the munitions-firing weapon to a conventional rifle. The two weapons can be separated, and the lower barrel can be used as a stand-alone gun. This work is done at Picatinny using the most advanced techniques and technologies, hence these dollars will continue this development.

Mr. Chairman, every day our men and women in uniform put their lives on the line to defend us. They deserve to have the tools they need to protect us, and should be compensated for their work. We cannot forget our debt to them, and we must work to provide them with the supply they need to do their jobs. We owe them nothing less.

Those in the civilian work force at Picatinny, likewise, do their part to keep our young men and women safe wherever they are stationed, where wars may be fought, with the best equipment and technology possible.

Today we vote to provide funds, support our soldiers and all those who prepare and equip them. An affirmative vote assures that this critical work continues.

Mr. YOUNG of Florida. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule and the amendments printed in House Report 105-996 are adopted.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

Consideration of Section 8106 shall not exceed 1 hour. The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $20,908,851,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $16,560,253,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $6,241,189,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,201,583,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $2,171,675,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,427,979,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $403,513,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $850,576,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $3,413,195,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,372,997,000.

Mr. YOUNG of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to title I?

There being no amendments, the Clerk will read.

The Clerk read as follows:

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $16,936,503,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided*, That of the funds appropriated in this paragraph, $596,803,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $5,360,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $21,638,999,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $2,585,118,000: *Provided*, That of the funds appropriated in this paragraph, $45,415,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,968,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $19,024,233,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided*, That of the funds appropriated in this paragraph, $208,125,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $10,804,542,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $29,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That of the funds appropriated in this paragraph, $450,326,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,201,222,000: *Provided*, That of the funds appropriated in this paragraph, $3,600,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $949,039,000: *Provided*, That of the funds appropriated in this paragraph, $400,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $119,093,000: *Provided*, That of the funds appropriated in this paragraph, $2,100,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,735,996,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft);

$2,570,315,000: *Provided*, That not later than March 15, 1999, the Director of the Army National Guard shall provide a report to the congressional defense committees identifying the allocation, by installation and activity, of all base operations funds appropriated under this heading: *Provided further*, That of the funds appropriated in this paragraph, $105,500,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $3,075,233,000.

Overseas Contingency Operations Transfer Fund

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces; $746,900,000: *Provided*, That the Secretary of Defense may transfer these funds only to operation and maintenance accounts within this title, to the Defense Health Program, to procurement accounts, and to working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

United States Court of Appeals for the Armed Forces

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces; $7,324,000, of which not to exceed $2,500 can be used for official representation purposes.

Environmental Restoration, Army

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $342,640,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Navy

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $281,600,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Air Force

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $379,100,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $26,091,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Formerly Used Defense Sites

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $195,000,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Overseas Humanitarian, Disaster, and Civic Aid

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code); $56,111,000, to remain available until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph, $8,800,000 shall not be obligated or expended until authorized by law.

Former Soviet Union Threat Reduction

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; $417,400,000, to remain available until September 30, 2001.

Quality of Life Enhancements, Defense

For expenses, not otherwise provided for, resulting from unfunded shortfalls in the repair and maintenance of real property of the Department of Defense (including military housing and barracks); $850,000,000, for the maintenance of real property of the Department of Defense (including minor construction and major maintenance and repair), which shall remain available for obligation until September 30, 2000, as follows:

Army, $219,688,000;
Navy, $244,507,000;
Marine Corps, $48,901,000;
Air Force, $194,926,000;
Army Reserve, $47,579,000;
Navy Reserve, $21,055,000;
Marine Corps Reserve, $7,600,000;
Air Force Reserve, $9,871,000;
Army National Guard, $37,535,000; and
Air National Guard, $18,338,000:

Provided, That none of the funds appropriated in this paragraph shall be obligated or expended until authorized by law.

Mr. YOUNG of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to title II?

There being no amendments, the Clerk will read.

The Clerk read as follows:

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,400,338,000, to remain available for obligation until September 30, 2001.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,140,623,000, to remain available for obligation until September 30, 2001.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,513,540,000, to remain available for obligation until September 30, 2001: *Provided*, That of the funds appropriated in this paragraph, $5,902,000 shall not be obligated or expended until authorized by law.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,099,155,000, to remain available for obligation until September 30, 2001: *Provided*, That of the funds appropriated in this paragraph, $45,700,000 shall not be obligated or expended until authorized by law.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 37 passenger motor vehicles for replacement only; and the purchase of 54 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $230,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,101,130,000, to remain available for obligation until September 30, 2001.

Mr. YOUNG of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 23, line 7, be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $7,599,968,000, to remain available for obligation until September 30, 2001: *Provided*, That of the funds appropriated in this paragraph, $179,121,000 shall not be obligated or expended until authorized by law.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise at this point to discuss a ludicrous priority which I find in this bill, and let me put it in context.

Last year, even though the Speaker described our intelligence budget as being inadequate, nonetheless, a Republican-controlled Congress cut the intelligence budget further, to a lower point than the level that the Speaker described as being inadequate.

The Congress did that for a number of reasons. One of those reasons was to pay for an additional destroyer that the majority leader in the Senate wanted built in his State. And another reason was to fund a number of C–130s built in the State of Georgia, a matter of some interest to the Speaker.

This year, the top priority request of the Navy was to replace its aging F–14 airplanes with the next generation F–18A, E and F aircraft. Instead, this bill cut three of those aircraft in order to provide room for seven new C–130Js which the Pentagon did not ask for. Those C–130s happen to be built in the State of Georgia.

Mr. Chairman, the issue is not whether the C–130s, which would be going to various National Guard units by and large all around the country, the issue is not whether those planes are good planes. They are. The issue is not whether or not they would be used for good missions. They would be. The issue is whether or not giving the National Guard those seven additional planes, which were built by the contractor before anybody even asked them to build them, the issue is whether those planes are the best use of scarce taxpayers' dollars when we have an obligation to try to make certain that we spend those dollars in a way which will provide the greatest personal security for our military fighting personnel.

□ 1900

If this bill were responsible, it would use $35 million of the money that was used for those 7 C–130s, it would use $35 million to modernize some existing C–130s and give those to the National Guard units around the country, and then it would use the remaining dollars to provide the purchase of the replacements for the F–14s that the Pentagon asked for in the first place.

Now, replacing the F–14A is the Navy's number one priority for a very good reason. The F–14 has been involved in 138 class A flight problems in the last decade. Since 1991, 32 F–14s have gone down.

In my judgment, our front line flyers who use those planes are at risk. Even if we provided all of the funds that the Navy asked for for this plane, the first of these planes would not actually show up on carrier decks until the year 2002. So even with those funds, the Navy will need to live with their old F–14As for another 4 to 10 years minimum.

As the Navy said in its presentation, denying these three planes will, "have a direct negative impact on the warfighters in the fleet, hurting the fleet's operational capability, safety, readiness and maintainability."

Now, I had intended to offer an amendment today which would have eliminated these additional C–130s and moved that money back where it ought to be so that we can replace these aged F–14s.

The problem is that, under the rules, for technical reasons, that amendment would not be in order. And so I am not, under the rules of the House, in a position where I can offer that amendment and still respect the rules of the House. I am not going to offer it. But I would hope that the committee, when they go to conference, will recognize that this is a mistake, this is not where our dollars ought to go if we are going to do the best job possible of defending the physical security of our military personnel.

We do not need more pork. We need more teeth. And it seems to me that the committee has made a major mistake in putting the money where they have. I would hope that the committee would change its judgment when it goes to conference. I think that is the least that the Congress can do.

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Wisconsin, distinguished ranking member of the Committee on Appropriations, has raised an interesting point about abuse in this process. And I want to talk about an abuse to the American taxpayer that is a part of this bill.

When I do this, I absolve the chairman, distinguished Member from Florida, and the ranking member, distinguished Member from Pennsylvania, for the problem in this bill, because it is not of their doing.

I had an opportunity to vote against the rule, and I did that because it protects this provision that ought to be stricken here from a point of order. I am referring to the transfer of 50 Navy ships, 50 Navy ships. It is an opportunity to raise $637 million for the Defense Department, and I am in favor of that additional expenditure.

However, ordinarily when those ships are transferred, sold, leased, sold for a small amount of money, we are talking about 50 ships, $637 million, so my colleagues know we are not getting much money for those ships, that money goes back to the Treasury.

What has happened in this instance, well, that is not happening. It is, for example, going directly to DOD, not only bypassing the authorizing committee, where we looked last year at some very inappropriate transfers, inappropriate in that we were not getting the money back for the Treasury that we ought to get, but we will not have that opportunity unless the chairman has worked out something in a colloquy which took place, I know, a few minutes ago between the chairman of the Committee on International Relations and the chairman of the Appropriations subcommittee. For anything that is worked out there, I express my appreciation to the gentleman.

Let me tell you where these ships are going. One to Argentina, 3 to Brazil, 2 to Chile, 2 to Mexico, 1 to the Philippines, 1 to Portugal, 2 to Spain, 10 to Taiwan, 1 to Venezuela. I will come back to a couple more. Interestingly, one that is going to Spain is the *Harlan County*. The *Harlan County* was that ship that went down to Port-au-Prince. It ought to be bronzed as a recognition of the Clinton administration's policy with respect to national security, because Members may remember a few thugs on the docks in Port-au-Prince turned back the American forces, not because of lack of courage of those forces, because they were pulled back by the Pentagon at the direction of the administration. That one ought to be bronzed.

But that is not really the point I want to make. What really is, I think, very dangerous about this provision is that 14 ships are going to Turkey and 11 are going to Greece. If you have not followed what is going on in Cyprus lately, with both sides bringing high performance aircraft, with the Greek Cypriots apparently about to bring in missiles from Russia with Russian technicians, you would wonder why our two NATO allies are behaving this way, and you certainly would wonder about providing them more firepower.

Now, I noticed that one of those ships and perhaps as many as three or four are *Kidd* class guided missile destroyers. This is not an ancient piece of equipment. This is a very sophisticated set of weaponry, very expensive. And I really do not think that the conduct of Greece and Turkey, our two good NATO allies, justifies sending that kind of firepower to them at this moment.

You can blame one side or the other and undoubtedly blame goes on both sides, but for us to make this transfer at this time, bypassing all the normal procedures, is not only bad for the taxpayer, it is a reflection of the archaic and convoluted budget process we have around here that is forcing us to do these end runs to put the resources where we need to put them, but you are actually building a dangerous arms race between Greece and Turkey. And that ought not happen.

If I had an opportunity to raise a point of order, if the rule did not prevent me from doing that, I would do that.

I hope that the American news media and the American people are looking at this situation and saying this is not only disgraceful, this is not only abuse of the taxpayers funds, this is not only abuse of the process around here, this is feeding a dangerous arms race between Greece and Turkey.

I thank my colleagues for listening. I regret the fact that we are doing this. It is outrageous.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to say that I absolutely, totally agree with what the gentleman has just said. That is why I listed this as one of my concerns in the supplemental views that I filed with this bill.

Under the normal budget process, proceeds from the sale of an asset are not allowed to be spent again by an agency. They are credited to the general fund of the Treasury under normal circumstances to buy down the national debt. I think it is an incredibly ill-advised action to provide these ships to Turkey and Greece, given what is happening in the Aegean. I think it sends exactly the wrong signal to both sides.

I thank the gentleman for raising the point.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

I take the floor to say that more often than not I agree with my good friend, the gentleman from Nebraska (Mr. BEREUTER). But when the gentleman stands up and talks about this outrageous action, I just have to question him on that.

We are in a period of time in our government when things are changing. Our military budget today is underfunded by probably $30 or $40 billion a year. Not over 5 years or 10 years, $30 or $40 billion a year. And there are those of us in this Chamber right now that are doing everything we can to find every nickel we can to try to keep our military preparedness such that we can defend the strategic interests of this country around the world.

Now I heard my good friend, the gentleman from Nebraska (Mr. BEREUTER) saying this is an outrageous situation. But he is criticizing this because the Treasury is not going to get the money. The DOD is going to get the money, the defense, the Pentagon.

That is the whole idea behind this thing, Mr. Chairman. Yes, they are going to get it. And we are going to keep it that way. We are going to keep trying to build it up so that we can, when we are sending young men and women into harm's way, God forbid that that should happen, that they have the best state-of-the-art equipment that money can buy.

Let me tell my colleagues something else. It seems to me the list of countries that Mr. BEREUTER just read off, seems to me they are all friends of ours. They are all NATO allies or other friends in the Western Hemisphere or in the Asian-Pacific area.

Now, what is wrong with selling our friends this kind of military equipment? Would he rather have them buy it from China or would he rather have them buy it from Russia? We have enough problems now with people buying them from Russia. This is expendable equipment that we do not need, and we need to sell it to our friends and we need to maintain that money in the defense budget.

Now, I do not know what all this argument is about. I know we have had a colloquy with my good friend, the gentleman from New York (Mr. GILMAN) and with others, but the point is that time is of the essence here. And maybe there will be a colloquy with the chairman of the Committee on International Relations, who is an outstanding leader in this body, and maybe we will get some kind of understanding. But let us not try to scuttle this. We need this right now.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I do not know if the gentleman heard this when I first started my remarks, but I said I am perfectly willing to put an additional $600- to $700 million in the Defense Department appropriations. I am for that. I admitted that right up front.

Mr. SOLOMON. Reclaiming my time, we tried and we could not get it. A number of us who were going to vote against the budget because the caps are so low on defense spending now, we were going to do something that we never do. We were going to go against our party. We could not get it.

Finally we got a commitment from the Speaker that when we do go to conference that the Speaker will stick up for us and will get us money beyond the scope, beyond what we are talking in the Senate version, beyond what was offered in the House version. We cannot even get $200 million more, much less $600 million more.

Mr. BEREUTER. Mr. Chairman, if the gentleman will continue to yield, I referred to the arcane and unfortunate procedures we have to go through with the budget process around here, I would say to the gentleman. But the gentleman remembers, as a former member of the Committee on International Relations, we have an opportunity to look at those sales ordinarily. And last year we had an opportunity to look at some proposed transfers, and we dramatically increased the funds coming to our Treasury as a result of our review. The Navy was underpricing them. That was good for the taxpayers.

I would ask the gentleman, does he think it is good to send either to Greece or Turkey *Kidd* class guided missile destroyers at this stage?

Mr. SOLOMON. Mr. Chairman, yes, I do. I think we need a strong foreign policy that will say to two of the strongest allies that we have had over the history of this Nation, and that includes Turkey and that includes Greece, although Greece has sometimes been under some kind of Communist leadership with a leader that had some very nasty things to say about America, but by and large they are good allies. If we have a foreign policy, if we have a strong foreign policy, we have nothing to worry about with those two allies.

Mr. BEREUTER. Mr. Chairman, the gentleman recalls how I stand side by side with him in the North Atlantic Assembly and support Greece and Turkey, and sometimes we protect Turkey alone among some of those charges, the gentleman and I.

Mr. SOLOMON. That is correct.

Mr. BEREUTER. And I think they are tremendous allies. Unfortunately, they seem to be at each other's necks too much. That is not good for the alliance. So my concerns are what we are doing at the immediate point, when we have this high degree of intense concern in the Aegean, particularly centered around Cyprus.

Mr. SOLOMON. Mr. Chairman, I respect the gentleman.

Mr. MANZULLO. Mr. Chairman, I move to strike the last word.

I first of all I want to commend the gentleman from New York (Mr. SOLOMON) for his rigorous and correct defense of an underfunded defense bill.

What bothers me more than anything is the manner in which this occurred. The Committee on International Relations, every year since I have been here, which has been going on 6 years, will be presented with a petition from the Department of the Navy in the form of a bill for the sale or exchange or gift of ships. And about four years ago there was a hearing going on and somebody came from the Department of the Navy with a list of 10 ships that they were going to give away. And I asked the Navy, I said, have you ever thought about selling or leasing these ships? And they said, well, you know, that is a pretty good idea.

□ 1915

So the Navy pulled the bill. A couple months later, they were back before the Committee on International Relations, this time with a bill that would sell or lease 10 ships with a net to the American people of $485 million. That provision that occurred every year, I believe, in either the State Department authorization or the foreign ops bill became known as the Manzullo amendment.

The committee members would get together. They would take a look at these excess ships. Affix a value to them and show that as an accounting function in State Department authorization.

Though it is laudable that money be used to enhance our military, what bothers me is our committee was not allowed to have two hearings. The first hearing was on the advisability and the actual accounting methods and appraisal methods of the ships. The second hearing was on the advisability of the countries to whom they were sold under the present circumstances.

The government is selling 48 ships at an average price of $13 million. That seems to be an awful, terrible bargain. I do not know what procedure can be done at this point, but if the Navy is listening, I am going to be demanding in some way or the other tomorrow a full and complete accounting and an appraisal as to each and every ship so we can demonstrate to the American people whether or not these ships are being appraised.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I recently returned from Greece. And I met with the Prime Minister from Greece, and I also met with the Defense Minister. They bought German tanks. They have an alliance with Germany. It goes beyond what I think the gentleman is talking about, because, for us to sell U.S. product, for us to sell F–15s and the Strike Eagles to Greece and even F–18s, we had to throw into the package not only kits, but Corvettes as well, or they are going to buy other product.

So when you are talking about taxpayers, we are going to have people in St. Louis working because we are going to sell extra aircraft. Those aircraft that we can buy cheaper, the U.S. military is going to benefit from that.

I am not sure about the process with the gentleman's committee, but I am just letting him know that the reasons for it is, if we can have cheaper airplanes for our services and provide, I am a little different on the issue, I want the Turks out of Northern Cyprus. They invaded in 1974, and they ought to get their rear ends out, and the Greeks ought to kick them out if they do not move.

Mr. MANZULLO. Mr. Chairman, if I can reclaim my time, the gentleman may be very well correct and probably is as to the reason these ships were thrown in; but at the minimum, the Committee on International Relations deserve notice and opportunity to have, at the minimum, a joint hearing on this issue.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $1,191,219,000, to remain available for obligation until September 30, 2001.

Procurement of Ammunition, Navy and Marine Corps

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $473,803,000, to remain available for obligation until September 30, 2001: *Provided*, That of the funds appropriated in this paragraph, $21,835,000 shall not be obligated or expended until authorized by law.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; $5,973,452,000, to remain available for obligation until September 30, 2003: *Provided*, That additional obligations may be incurred after September 30, 2003, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 246 passenger motor vehicles for replacement only; and the purchase of one vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $225,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,990,553,000, to remain available for obligation until September 30, 2001: *Provided*, That of the funds appropriated in this paragraph, $21,046,000 shall not be obligated or expended until authorized by law.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 37 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; $812,618,000, to remain available for obligation until September 30, 2001: *Provided*, That of the funds appropriated in this paragraph, $120,750,000 shall not be obligated or expended until authorized by law.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $8,384,735,000, to remain available for obligation until September 30, 2001: *Provided*, That of the funds appropriated in this paragraph, $165,658,000 shall not be obligated or expended until authorized by law.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $2,191,527,000, to remain available for obligation until September 30, 2001.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $388,925,000, to remain available for obligation until September 30, 2001: *Provided*, That of the funds appropriated in this paragraph, $5,298,000 shall not be obligated or expended until authorized by law.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 267 passenger motor vehicles for replacement only; the purchase of one vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $240,000 per vehicle; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $7,034,217,000, to remain available for obligation until September 30, 2001.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 346 passenger motor vehicles for replacement only; the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $165,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $2,055,432,000, to remain available for obligation until September 30, 2001: *Provided*, That not less than $109,455,000 of the funds appropriated in this paragraph shall be made available only for the procurement of high performance computing hardware: *Provided further*, That of the funds appropriated in this paragraph, $92,566,000 shall not be obligated or expended until authorized by law.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $120,000,000, to remain available for obligation until September 30, 2001: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $4,967,446,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph, $175,449,000 shall not be obligated or expended until authorized by law: *Provided further*, That of the funds made available under this heading, $10,000,000 shall be available only to commence a live fire, side-by-side operational test and evaluation of the air-to-air Starstreak and air-to-air Stinger missiles fired from the AH–64D Apache helicopter: *Provided further*, That none of the funds specified in the preceding proviso may be obligated until the Secretary of the Army certifies the following, in writing, to the congressional defense committees:

(1) Engagement tests can be safely conducted with both Starstreak and Stinger missiles from the AH-64D helicopter at air speeds consistent with the normal operating limits of that aircraft;

(2) The Starstreak missiles utilized in the test will be provided at no cost to the United States Government;

(3) None of the $10,000,000 provided will be used to develop modifications to the Starstreak or the Stinger missiles; and

(4) Both the Starstreak and Stinger missiles can be fired from the AH-64D aircraft consistent with the survivability of the aircraft and missile performance standards contained in the Army's Air-to-Air Missile Capability Need Statement approved by the Department of the Army in January 1997.

Research, Development, Test and Evaluation, Navy

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $8,297,986,000, to remain available for obligation until September 30, 2000: *Provided*, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique requirements of the Special Operation Forces: *Provided further*, That notwithstanding 10 U.S.C. 2366, none of the funds made available under this heading may be used to conduct system-level live-fire shock tests on the SSN-21 class of submarines unless the Commander-in-Chief of the United States Atlantic Command certifies in writing to the congressional defense committees that such testing must be conducted to meet operational requirements for those submarines: *Provided further*, That not more than $50,000,000 of the funds made available under this heading for feasibility studies and component research and development for future aircraft carriers may be obligated until the Secretary of the Navy certifies in writing to the congressional defense committees that the Navy has a program in place to develop and install an infrared search and track device on CVN-77 upon its acceptance by the government: *Provided further*, That the restriction in the preceding proviso does not apply to funds requested in the fiscal year 1999 President's budget and provided in this Act for design of CVN-77: *Provided further*, That of the funds appropriated in title IV of Public Law 105-56 (Department of Defense Appropriations Act, 1998), $213,229,000 is only for research, development, test and evaluation of cooperative engagement capability.

Research, Development, Test and Evaluation, Air Force

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $13,577,441,000, to remain available for obligation until September 30, 2000.

Research, Development, Test and Evaluation, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment; $8,776,318,000, to remain available for obligation until September 30, 2000: *Provided*, That not less than $340,446,000 of the funds made available under this heading shall be made available only for the Sea-Based Wide Area Defense (Navy Upper-Tier) program: *Provided further*, That funding for the Sea-Based Wide Area Defense (Navy Upper-Tier) program in this or any other Act shall be used for research, development and deployment including, but not limited to, continuing ongoing risk reduction activities, initiating system engineering for an initial Block I capability, and deployment at the earliest feasible time following Aegis Lightweight Exoatmospheric Projectile (LEAP) intercept flight tests.

Developmental Test and Evaluation, Defense

For expenses, not otherwise provided for, of independent activities of the Director, Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $263,606,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph, $12,500,000 shall not be obligated or expended until authorized by law.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $35,245,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph, $6,000,000 shall not be obligated or expended until authorized by law.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

(INCLUDING TRANSFER OF FUNDS)

For the Defense Working Capital Funds; $94,500,000: *Provided*, That during the fiscal year 1999, in order to maintain adequate cash balances in the Defense Working Capital Funds, the Secretary of Defense may transfer up to $350,000,000 from the National Defense Stockpile Transaction Fund to the Defense Working Capital Funds: *Provided further*, That the total of amounts so transferred during the fiscal year shall be transferred back to the National Defense Stockpile Transaction Fund not later than September 30, 1999.

National Defense Sealift Fund

(INCLUDING TRANSFER OF FUNDS)

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744); $673,366,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That notwithstanding any other provision of law, of the funds available under this heading, $28,800,000 shall be transferred to "Alteration of Bridges": *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That of the funds appropriated in this paragraph, $3,800,000 shall not be obligated or expended until authorized by law.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; $10,127,622,000, of which $9,725,235,000 shall be for Operation and maintenance, of which not to exceed two per centum shall remain available until September 30, 2000, and of which $402,387,000, to remain available for obligation until September 30, 2001, shall be for Procurement: *Provided*, That of the funds appropriated in this paragraph, $62,200,000 shall not be obligated or expended until authorized by law.

Chemical Agents and Munitions Destruction, Army

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile; $796,100,000, of which $508,650,000 shall be for Operation and maintenance, $124,670,000 shall be for Procurement to remain available until September 30, 2001, and $162,780,000 shall be for Research, development, test and evaluation to remain available until September 30, 2000.

Drug Interdiction and Counter-Drug Activities, Defense

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $764,595,000: *Provided*, That the funds appropriated under this head shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further*, That of the funds appropriated in this paragraph, $37,013,000 shall not be obligated or expended until authorized by law.

Office of the Inspector General

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; $132,064,000, of which $130,764,000 shall be for Operation and maintenance, of which not to exceed $600,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which $1,300,000, to remain available until September 30, 2001, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $201,500,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account; $136,123,000, of which $30,290,000 for the Advanced Research and Development Committee shall remain available until September 30, 2000: *Provided*, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2001, and $3,000,000 for Research, development, test and evaluation shall remain available until September 30, 2000.

PAYMENT TO KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law; $15,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $3,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

AV–8B aircraft;

E–2C aircraft;

T–45 aircraft; and

Medium Tactical Vehicle Replacement (MTVR) vehicle.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 1999, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2000 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2000 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2000.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 3015(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 per centum Native American ownership.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 2000 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 per centum of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8022. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8023. A member of a reserve component whose unit or whose residence is located in a State which is not contiguous with another State is authorized to travel in a space required status on aircraft of the

Armed Forces between home and place of inactive duty training, or place of duty in lieu of unit training assembly, when there is no road or railroad transportation (or combination of road and railroad transportation between those locations): *Provided*, That a member traveling in that status on a military aircraft pursuant to the authority provided in this section is not authorized to receive travel, transportation, or per diem allowances in connection with that travel.

Sec. 8024. The unobligated balance of the amounts appropriated by section 8024 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56), shall remain available until September 30, 1999 for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That contractors participating in the test program established by section 834 of Public Law 101–189 (15 U.S.C. 637 note) shall be eligible for the program established by section 504 of the Indian Financing Act.

Sec. 8025. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave: *Provided*, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

Sec. 8026. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

Sec. 8027. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

Sec. 8028. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

Sec. 8029. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act.

Sec. 8030. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

Sec. 8031. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

Sec. 8032. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

Sec. 8033. Of the funds made available in this Act, not less than $28,300,000 shall be available for the Civil Air Patrol Corporation, of which $23,500,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $3,800,000 for the Civil Air Patrol counterdrug program: *Provided*, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

Sec. 8034. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) Limitation on Compensation-Federally Funded Research and Development Center (FFRDC).—No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, may be compensated for his or her services as a member of such entity, or as a paid consultant, except under the same conditions, and to the same extent, as members of the Defense Science Board: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 1999 may be used by a defense FFRDC, through a fee or other payment mechanism, for charitable contributions, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, or for absorption of contract overruns.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 1999, not more than 6,206 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,105 staff years may be funded for the defense studies and analysis FFRDCs.

(e) Notwithstanding any other provision of law, the Secretary of Defense shall control the total number of staff years to be performed by defense FFRDCs during fiscal year 1999 so as to reduce the total amounts appropriated in titles II, III, and IV of this Act by $62,000,000: *Provided*, That the total amounts appropriated in titles II, III, and IV of this Act are hereby reduced by $62,000,000 to reflect savings from the use of defense FFRDCs by the department.

(f) Within 60 days after enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report presenting the specific amounts of staff years of technical effort to be allocated by the department for each defense FFRDC during fiscal year 1999: *Provided*, That after the submission of the report required by this subsection, the department may not reallocate more than five per centum of an FFRDC's staff years among other defense FFRDCs until 30 days after a detailed justification for any such reallocation is submitted to the congressional defense committees.

(g) The Secretary of Defense shall, with the submission of the department's fiscal year 2000 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(h) No part of the reductions contained in subsection (e) of this section may be applied against any budget activity, activity group, subactivity group, line item, program element, program, project, subproject or activity which does not fund defense FFRDC activities within each appropriation account, and the reductions in subsection (e) shall be allocated on a proportional basis.

(i) Not later than 90 days after enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report listing the specific funding reductions allocated to each category listed in subsection (h) above pursuant to this section.

Sec. 8035. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply

Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 8036. For the purposes of this Act, the term "congressional defense committees" means the National Security Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on National Security of the Committee on Appropriations of the House of Representatives.

SEC. 8037. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8038. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1999. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8039. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8040. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8041. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: *Provided*, That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: *Provided further*, That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

SEC. 8042. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies.

SEC. 8043. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

SEC. 8044. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8045. Of the funds appropriated or otherwise made available by this Act, not more than $119,200,000 shall be available for payment of the operating costs of NATO Headquarters: *Provided*, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

SEC. 8046. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8047. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2000 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2000 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2000 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8048. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2000: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8049. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8050. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8051. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 8052. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8053. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work; or

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8054. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8055. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes.

(RESCISSIONS)

SEC. 8056. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"Missile Procurement, Army, 1998/2000", $13,300,000;

"Procurement of Weapons and Tracked Combat Vehicles, Army, 1998/2000", $6,700,000;

"Other Procurement, Army, 1998/2000", $24,000,000;

"Weapons Procurement, Navy, 1998/2000", $2,000,000;

"Procurement of Ammunition, Navy and Marine Corps, 1998/2000", $12,000,000;

"Other Procurement, Navy, 1998/2000", $28,500,000;

"Aircraft Procurement, Air Force, 1998/2000", $15,000,000;

"Missile Procurement, Air Force, 1998/2000", $19,840,000;

"Other Procurement, Air Force, 1998/2000", $4,160,000;

"Research, Development, Test and Evaluation, Army, 1998/1999", $18,000,000;

"Research, Development, Test and Evaluation, Navy, 1998/1999", $17,500,000;

"Research, Development, Test and Evaluation, Air Force, 1998/1999", $34,370,000; and

"Research, Development, Test and Evaluation, Defense-Wide, 1998/1999", $73,000,000.

SEC. 8057. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8058. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8059. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8060. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Unified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8061. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 1998 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8062. None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning, design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed $1,118,000,000.

SEC. 8063. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8064. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8065. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8066. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa: *Provided*, That notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8067. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8068. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8069. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8070. During the current fiscal year, the Army shall use the former George Air Force Base as the airhead for the National Training Center at Fort Irwin: *Provided*, That none of the funds in this Act shall be obligated or expended to transport Army personnel into Edwards Air Force Base for training rotations at the National Training Center.

SEC. 8071. (a) The Secretary of Defense shall submit, on a quarterly basis, a report to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting resolutions of the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, and humanitarian missions undertaken by the Department of Defense. The quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

SEC. 8072. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8073. None of the funds available to the Department of Defense shall be obligated or expended to make a financial contribution to the United Nations for the cost of an United Nations peacekeeping activity (whether pursuant to assessment or a voluntary contribution) or for payment of any United States arrearage to the United Nations.

SEC. 8074. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8075. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8076. None of the funds provided in title II of this Act for "Former Soviet Union Threat Reduction" may be obligated or expended to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8077. During the current fiscal year, no more than $7,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8078. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8079. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8080. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 1999 a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2000 budget request was reduced because Congress appropriated funds above the President's budget request for that specific activity for fiscal year 1999.

SEC. 8081. Funds appropriated in title II of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8082. The Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8083. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8084. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8085. During the current fiscal year, the amounts which are necessary for the operation and maintenance of the Fisher Houses administered by the Departments of the Army, the Navy, and the Air Force are hereby appropriated, to be derived from amounts which are available in the applicable Fisher House trust fund established under 10 U.S.C. 2221 for the Fisher Houses of each such department.

SEC. 8086. During the current fiscal year and hereafter, refunds attributable to the use of the Government travel card by military personnel and civilian employees of the Department of Defense and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8087. During the current fiscal year, not more than a total of $60,000,000 in withdrawal credits may be made by the Marine Corps Supply Management activity group of the Navy Working Capital Fund, Department of Defense Working Capital Funds, to the credit of current applicable appropriations of a Department of Defense activity in connection with the acquisition of critical low density repairables that are capitalized into the Navy Working Capital Fund.

SEC. 8088. Notwithstanding 31 U.S.C. 3902, during the current fiscal year interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8089. At the time the President submits his budget for fiscal year 2000 and any fiscal year thereafter, the Department of Defense shall transmit to the congressional defense committees a budget justification document for the active and reserve Military Personnel accounts, to be known as the "M-1", which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel in any budget request, or amended budget request, for that fiscal year.

SEC. 8090. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8091. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with a contractor that is subject to the reporting requirement set forth in subsection (d) of section 4212 of title 38, United States Code, but has not submitted the most recent report required by such subsection for 1998 or a subsequent year.

SEC. 8092. None of the funds made available in this Act may be used to approve or license the sale of the F-22 advanced tactical fighter to any foreign government.

SEC. 8093. None of the funds appropriated or otherwise made available by this Act may be made available for the United States Man and the Biosphere Program, or related projects.

SEC. 8094. Notwithstanding 31 U.S.C. 1552(a), of the funds provided in Department of Defense Appropriations Acts, not more than the specified amounts from the following accounts shall remain available for the payment of satellite on-orbit incentive fees until the fees are paid:

"Missile Procurement, Air Force, 1995/1997", $20,978,000;

"Missile Procurement, Air Force, 1996/1998", $16,782,400.

SEC. 8095. None of the funds in this or any other Act may be used by the National Imagery and Mapping Agency for any mapping, charting, and geodesy activities unless contracts for such services are awarded in accordance with the qualifications based selection process in 40 U.S.C. 541 et seq. and 10 U.S.C. 2855: *Provided*, That an exception shall be provided for such services that are critical to national security after a written notification has been submitted by the Deputy Secretary of Defense to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 8096. Funds made available to the Civil Air Patrol in this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense" may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for federal, state and local government agencies; for administrative costs, including the hiring of Civil Air Patrol Corporation employees; for travel and per diem expenses of Civil Air Patrol Corporation personnel in support of those missions; and for equipment needed for mission support or performance: *Provided*, That of these funds, $300,000 shall be made available to establish and operate a distance learning program: *Provided further*, That the Department of the Air Force should waive reimbursement from the Federal, State and local government agencies for the use of these funds.

SEC. 8097. The Secretary of Defense shall undertake a review of all distributed learning education and training programs in the Department of Defense and shall issue a plan to implement a department-wide, standardized, cost-effective Advanced Distributed Learning framework to achieve the goals of commonality, interoperability, and reuse: *Provided*, That the Secretary shall report to Congress on the results of this review and present a detailed implementation and budget plan no later than July 30, 1999.

SEC. 8098. None of the funds in this Act may be available for the purchase by the Department of Defense of cross deck pendants for arresting aircraft on U.S. Navy aircraft carriers unless such cross deck pendants are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8099. None of the funds in this or any other Act shall be available to any Reserve Component to establish new activities to perform depot level maintenance and remanufacture of any equipment in the Department of Defense inventory unless the Secretary of Defense first certifies to the Committees on Appropriations of the House of Representatives and the Senate, on a case-by-case basis, that (a) insufficient workload capacity is available at existing government or private sector depot maintenance facilities currently used by the Reserve Components for similar work; and (b) an in-depth analysis has been performed comparing the cost of any proposed expansion of depot facilities versus the cost of performing the same work at existing depot facilities or by the private sector.

SEC. 8100. Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 1998, may be extended for two years: *Provided*, That any such extension may only take place if the Secretary of Defense determines that it is in the best interest of the government: *Provided further*, That any contract extension shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the government: *Provided further*, That notwithstanding any other provision of law, all future TRICARE managed care support contracts replacing contracts in effect, or in the final stages of acquisition as of September 30, 1998, may include a base contract period for transition and up to seven one-year option periods.

SEC. 8101. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $204,100,000 to reflect savings from revised economic assumptions, to be distributed as follows:

"Aircraft Procurement, Army", $4,000,000;

"Missile Procurement, Army", $4,000,000;

"Procurement of Weapons and Tracked Combat Vehicles, Army", $4,000,000;

"Procurement of Ammunition, Army", $3,000,000;

"Other Procurement, Army", $9,000,000;

"Aircraft Procurement, Navy", $22,000,000;

"Weapons Procurement, Navy", $4,000,000;

"Procurement of Ammunition, Navy and Marine Corps", $1,000,000;

"Shipbuilding and Conversion, Navy", $18,000,000;

"Other Procurement, Navy", $12,000,000;

"Procurement, Marine Corps", $2,000,000;

"Aircraft Procurement, Air Force", $23,000,000;

"Missile Procurement, Air Force", $5,200,000;

"Procurement of Ammunition, Air Force", $1,000,000;

"Other Procurement, Air Force", $4,900,000;

"Procurement, Defense-Wide", $5,100,000;

"Chemical Agents and Munitions Destruction, Army", $3,000,000;

"Research, Development, Test and Evaluation, Army", $10,000,000;

"Research, Development, Test and Evaluation, Navy", $18,500,000;

"Research, Development, Test and Evaluation, Air Force", $26,300,000; and

"Research, Development, Test and Evaluation, Defense-Wide", $24,100,000:

Provided, That these reductions shall be applied proportionally to each budget activity, activity group and sub-activity group and each program, project, and activity within each appropriation account.

SEC. 8102. (a) TRANSFERS OF VESSELS BY GRANT.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) To the Government of Argentina, the NEWPORT class tank landing ship NEWPORT (LST 1179).

(2) To the Government of Greece—

(A) the KNOX class frigate HEPBURN (FF 1055); and

(B) the ADAMS class guided missile destroyers STRAUSS (DDG 16), SEMMS (DDG 18), and WADDELL (DDG 24).

(3) To the Government of Portugal, the STALWART class ocean surveillance ship ASSURANCE (T-AGOS 5).

(4) To the Government of Turkey, the KNOX class frigates PAUL (FF 1080), MILLER (FF 1091), and W.S. SIMMS (FF 1059).

(b) TRANSFERS OF VESSELS BY SALE.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) To the Government of Brazil, the NEWPORT class tank landing ships CAYUGA (LST 1186) and PEORIA (LST 1183).

(2) To the Government of Chile—

(A) the NEWPORT class tank landing ship SAN BERNARDINO (LST 1189); and

(B) the auxiliary repair dry dock WATERFORD (ARD 5).

(3) To the Government of Greece—

(A) the OAK RIDGE class medium dry dock ALAMAGORDO (ARDM 2); and

(B) the KNOX class frigates VREELAND (FF 1068) and TRIPPE (FF 1075).

(4) To the Government of Mexico—

(A) the auxiliary repair dock SAN ONOFRE (ARD 30); and

(B) the KNOX class frigate PHARRIS (FF 1094).

(5) To the Government of the Philippines, the STALWART class ocean surveillance ship TRIUMPH (T-AGOS 4).

(6) To the Government of Spain, the NEWPORT class tank landing ships HARLAN COUNTY (LST 1196) and BARNSTABLE COUNTY (LST 1197).

(7) To the Taipai Economic and Cultural Representative Office in the United States (the Taiwan instrumentality that is designated pursuant to section 10(a) of the Taiwan Relations Act)—

(A) the KNOX class frigates PEARY (FF 1073), JOSEPH HEWES (FF 1078), COOK (FF 1083), BREWTON (FF 1086), KIRK (FF 1987), and BARBEY (FF 1088);

(B) the NEWPORT class tank landing ships MANITOWOC (LST 1180) and SUMTER (LST 1181);

(C) the floating dry dock COMPETENT (AFDM 6); and

(D) the ANCHORAGE class dock landing ship PENSACOLA (LSD 38).

(8) To the Government of Turkey—

(A) the OLIVER HAZARD PERRY class guided missile frigates MAHLON S. TISDALE (FFG 27), REID (FFG 30), and DUNCAN (FFG 10); and

(B) the KNOX class frigates REASONER (FF 1063), FANNING (FF 1076), BOWEN (FF 1079), MCCANDLESS (FF 1084), DONALD BEARY (FF 1085), AINSWORTH (FF 1090), THOMAS C. HART (FF 1092), and CAPODANNO (FF 1093).

(9) To the Government of Venezuela, the medium auxiliary floating dry dock bearing hull number AFDM 2.

(c) TRANSFERS OF VESSELS ON A COMBINED LEASE-SALE BASIS.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a combined lease-sale basis under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796, 2761) and in accordance with subsection (d) as follows:

(1) To the Government of Brazil, the CIMARRON class oiler MERRIMACK (AO 179).

(2) To the Government of Greece, the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(d) CONDITIONS RELATING TO COMBINED LEASE-SALE TRANSFERS.—A transfer of a vessel on a combined lease-sale basis authorized by subsection (c) shall be made in accordance with the following provisions, which the Secretary shall include in the terms of any agreement with the recipient country for such transfer of the vessel:

(1) The Secretary may initially transfer the vessel by lease, with lease payments suspended for the term of the lease, while simultaneously entering into a foreign military sales agreement for the transfer of title to the vessel.

(2) The Secretary may not deliver title to the vessel until the purchase price of the vessel under such a sales agreement is paid in full.

(3) Upon payment of the purchase price in full under such a sales agreement and delivery of title to the recipient country, the Secretary shall terminate the lease.

(4) If the purchasing country fails to make full payment of the purchase price in accordance with the sales agreement—

(A) the sales agreement shall be immediately terminated;

(B) the suspension of lease payments under the lease shall be vacated; and

(C) the United States shall be entitled to retain funds received under the sales agreement in such amounts as necessary to cover the amount of lease payments due and payable under the lease and all other costs required by the lease to be paid as of the date of the sales agreement termination.

(5) If a sales agreement is terminated pursuant to paragraph (4), the United States shall not be required to pay any interest to the recipient country on any amount paid to the United States by the recipient country under the sales agreement and not retained by the United States under the lease.

(e) FUNDING FOR CERTAIN COSTS OF TRANSFERS.—There is established in the Treasury of the United States a special account to be known as the Defense Vessels Transfer Program Account. There is hereby appropriated into that account such sums as may be necessary for the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of the lease-sale transfers authorized by subsection (d). Funds in that account are available only for the purpose of covering those costs.

(f) WAIVER OF REQUIREMENTS FOR NOTIFICATION TO CONGRESS.—Section 516(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(f)), section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2412), and any similar, successor provision of law do not apply with respect to the transfers authorized by this section.

(g) INAPPLICABILITY OF AGGREGATE ANNUAL LIMITATION ON VALUE OF TRANSFERRED EXCESS DEFENSE ARTICLES.—In the case of the transfer of a vessel authorized by subsection (a) to be made by grant under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), the value of the vessel transferred shall not be included for purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(h) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient.

(i) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(j) EXPIRATION OF AUTHORITY.—The authority to transfer vessels under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 8103. None of the funds in this Act may be used to compensate an employee of the Department of Defense who initiates a new start program without notification to the Office of the Secretary of Defense and the congressional defense committees, as required by Department of Defense financial management regulations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8104. Of the funds made available under title II of this Act, the following amounts shall be transferred to the Defense Working Capital Funds for the purpose of funding operations of the Defense Commissary Agency:

"Operation and Maintenance, Army", $338,400,000;

"Operation and Maintenance, Navy", $255,000,000;

"Operation and Maintenance, Marine Corps", $86,600,000; and

"Operation and Maintenance, Air Force", $302,071,000:

Provided, That the transfer authority provided in this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8105. Of the amounts made available in title II of this Act under the heading "Operation and Maintenance, Navy", $20,000,000 is available only for emergency and extraordinary expenses associated with the accident involving a United States Marine Corps A–6 aircraft on February 3, 1998, near Cavalese, Italy: *Provided*, That these funds shall remain available until expended: *Provided further*, That notwithstanding any other provision of law, the funds made available by this section shall be available only for payments to persons, communities, or other entities in Italy only for reimbursement for damages resulting from the expenses associated with the accident involving a United States Marine Corps A–6 aircraft on February 3, 1998, near Cavalese, Italy: *Provided further*, That notwithstanding any other provision of law, funds made available under this section may be used to rebuild or replace the funicular system in Cavalese destroyed on February 3, 1998 by that aircraft: *Provided further*, That any amount paid to any individual or entity from the amount appropriated under this section shall be credited against any amount subsequently determined to be payable to that individual or entity under chapter 163 of title 10, United States Code, section 127 of that title, or any other authority provided by law for administrative settlement of claims against the United States with respect to damages arising from the accident described in this section: *Provided further*, That payment of an amount under this section shall not be considered to constitute a statement of legal liability on the part of the United States or otherwise to prejudge any judicial proceeding or investigation arising from the accident described in this section.

Mr. YOUNG of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 107, line 23, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 8106. No funds appropriated or otherwise made available by this Act may be used to initiate or conduct offensive military operations by United States Armed Forces except in accordance with the war powers clause of the Constitution (article 1, section 8), which vests in Congress the power to declare and authorize war and to take certain specified, related decisions.

The CHAIRMAN. Pursuant to House Resolution 484, consideration of this section under the 5-minute rule shall not exceed 1 hour.

Mr. SKAGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, section 8106 in the bill really depends upon section 8 of Article I of the Constitution. I would just like to refer my colleagues to that text which reads as follows:

> The Congress shall have Power . . . to declare War, grant letters of Marque and Reprisal, and make rules concerning Captures on Land and Water.

What this amendment does is merely to say that no funds appropriated in this bill may be used for military operations of the United States except in accordance with that provision of the Constitution. In other words, we are transforming, by including this language, the abstract constitutional concept of the Congress' war powers authority and turning it into a real and concrete requirement bearing on the way this Nation will decide on military engagements at least during fiscal 1999.

This amendment represents the very simple proposition that we follow the Constitution and impose the limitation that the Constitution states and show that we really mean it. The question, of course, is: If you are just restating a Constitution, why is this really necessary?

I made a few observations during the debate on the rule referring back to statements by this administration and by the Bush administration that take an extraordinarily expansive view of the inherent authority held by the President to essentially define the national interests of the United States and use military force to implement that presidential definition of the national interest, which I think should give us some real pause.

In the Constitution's provision which I quoted, I think we in Congress, the legislative branch, have been given unequivocally and exclusively the power to decide questions of war for this country, even limited war. The framers put that power in Congress because they saw it as really an essential part of our democracy, expressly rejecting the idea, given their recent experience with the King of England, that the President should have that kind of power.

The Constitution rightly, I think, expects us as the representatives of the people to decide on questions of war.

There is always a lot of confusion because of that arcane phrase in the Constitution about declaring war. Let me just say that usage and dictionaries at the time the Constitution was drafted made it pretty clear that "declare" in the understanding of the drafters also meant "commence."

That was clear, for instance, from Alexander Hamilton's commentary in Federalist No. 25, noting that nations at the time went to war without formal declaration. James Madison, the real father of the Constitution, and Elbridge Gerry, during the Constitutional Convention, succeeded in substituting the words "declare" for "make" to make it clear that the President would have "the power to repel sudden attacks."

Very early in our republic, Chief Justice Marshall, with an understanding of the contemporaneous thought of the drafters in a Supreme Court decision, made the following statement, and I quote:

> The whole powers of war being, by the Constitution of the United States, vested in Congress, et cetera.

So there really should be no confusion about where this power lies.

At the time of the founding, it is also useful to understand what the drafters were getting at by the phrase "letters of marque and reprisal." Essentially at that time, these were ways of settling disputes short of all-out war.

Then-Secretary of State Thomas Jefferson wrote, "The making of reprisal on a nation is a very serious thing that is considered an act of war." And he goes on, "The right of reprisal is expressly lodged with Congress by the Constitution and not with the executive."

I elaborate a little bit on that because the action the President contemplated last spring with regard to Iraq, the actions being considered now with regard to Kosovo and Yugoslavia would best be considered as limited war under the marque and reprisal clause.

The Constitution clearly gives the President a very powerful role as commander in chief and as the maker of U.S. foreign policy.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. SKAGGS) has expired.

(By unanimous consent, Mr. SKAGGS was allowed to proceed for 5 additional minutes.)

Mr. SKAGGS. Mr. Chairman, but in recent years, we have allowed the President to usurp Congress' power in this area and far exceed, I believe, what the Constitution contemplated.

I just wanted to offer to my colleagues' attention what I hope will be a graphic representation to help understand what we are talking about. That is the gray area that exists concededly between the Constitution's grant to the President of foreign policy and Commander in Chief powers and what the Constitution grants to this Congress under the war-making clause.

At one end of the spectrum, we all recognize the President has the inherent power to act to repel an attack, acts of defense of the Nation. At the other end of the spectrum of possible military operations, it is also pretty clear that we are given the power to determine whether or not this country would invade another country, a pure offensive action.

No one really knows exactly where our power ends under the Constitution, and our exclusive power, I might add, nor where the President's exclusive powers as Commander in Chief end. There is a gray area. But whatever Congress' power extends, all this amendment does is to say, to that extent, funds in the bill cannot be spent without complying with the Constitution.

That is important, I think, because for among other reasons, the antideficiency act gives real teeth, then, to this provision in restraining and informing the decisions that would be made by the executive, either to act on its own or more properly to come here and deal with Congress and in the way the Constitution intended.

I hear a lot of complaints around here about our not being consulted. Let me tell my colleagues, if they want to be consulted about these important decisions, make sure this stays in the bill, because this has gotten the administration's attention, as it should.

I mentioned during the debate on the rule the statement of administration policy which includes a veto threat on this provision. That would be, I think, comic if it were not so serious. The idea that the President would veto a bill because Congress asserts and reclaims its designated and exclusive constitutional responsibility under Article I, section 8, is a little dumbfounding. I cannot believe the President would really follow through on that, a veto because Congress says that it and the President should follow the Constitution. Give me a break.

I realize there is a practice that has been built up during the Cold War years in which we are very deferential to the President, but in reconsidering this, let me just call my colleagues' attention to one of the compelling statements that Madison made about this, and I quote:

> In no part of the Constitution is more wisdom to be found than in the clause which confides the question of war or peace to the legislature and not to the executive department. The trust and the temptation would be too great for one man.

I think that serves to demonstrate, again, the need for this provision. It underscores the wisdom of the founders, as Madison said.

My colleagues, if we do not stand up for our responsibilities and progresses under the Constitution, nobody else is going to. I think the American people have a right to expect us to do our job. If we are, indeed, tired of being ignored in these very important decisions about sending our Armed Forces into harm's way, I hope we will not only retain this provision in this bill tonight, but that my friends, the chairman and ranking member of the subcommittee will do their utmost to see that it is also retained in conference.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was very favorably impressed at the learning shared by our colleague, the gentleman from Colorado, emphasizing the importance of section 8106 in the defense appropriations bill. I wish to add my own strong endorsement of this language and emphasize an additional reason why we should insist upon it.

The record of the President taking the authority away from Congress is a disappointing one in this century. On one recent occasion, one of our colleagues, joined by others, brought a lawsuit. That was former Congressman Dellums who brought a lawsuit against former President Bush regarding his use of force.

The Court dismissed the case saying that the Congress itself had not spoken and that it required, in order for the case to be ripe, that the Congress speak.

It is my interpretation of section 8106 that it provides the ripeness for just such a challenge, should the President exercise the authority that he claims, to go to war without having an express approval in advance from the Congress of the United States. That, to me, is a very important purpose achieved here.

Secondly, the language refers to the War Resolution Authority, the authority to declare war in the Constitution. It does not in so many terms refer to the Commander in Chief authority.

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The power in the President vested as Commander in Chief includes the power to repel attacks, to respond to sudden attacks, and it is often that provision which is relied upon by Presidents when they choose to go to war without getting the approval of Congress, if they care to justify it at all. When we let that power slip from our fingers, we inch by inch approach tyranny, to give that much power to the President which our Founders wished not to see vested in a single person.

So this provision, in section 8106, does not refer to the Commander in Chief. I interpret the draftsperson's intention to be, and all of us who are discussing this tonight, that the President in exercising authority under this appropriation act is to exercise authority specifically as 8106 says, and, that is, in compliance with the provisions of the war declaration authority. It is constitutional for us to impose this condition. If the President does not like it he may veto it. Indeed that is apparently what my colleague from Colorado informs us he has threatened to do.

But I lay down this legislative marker. The President, if he chooses to use force, must find the justification under the declaration of war authority, or he is violating the terms of this appropriation act and violating the antideficiency act. I would also say he is violating the Constitution, but that is the second issue. The first, the most immediate one, this is legislation and he would be violating the legislation.

Lastly, I wish to speak on the Constitution. It is very important not to forget that the Founders wanted all wars to be decided by the people's representatives. The gentleman from South Carolina (Mr. SANFORD) said it so eloquently when we debated this question once before. He said, "The bodies come home to Charleston, they don't come home to Washington." That is why the Founders intended to have this authority in the People's House and in the other body. All wars.

Mr. Chairman, I would like to conclude my remarks by a quotation from "War and Responsibility" by Professor John Hart Ely, professor of constitutional law at Yale, then at Harvard, then dean of the Stanford Law School, now with the University of Miami.

"The power to declare war was constitutionally vested in Congress. The debates, and early practice, establish that this meant that all wars, big or small, declared in so many words or not—most weren't, even then—had to be legislatively authorized."

And in a footnote, Professor Ely then gives us the citations to Supreme Court cases at the time of the Founders from Justice Bushrod Washington:

"'The early cases insisted on congressional authorization without pausing to evaluate the size of the conflict," citing the 1800 opinion in Bas v. Tingy: "Every contention by force, between two nations, in external matters, under the authority of their respective governments, is not only war, but public war." And similarly the Supreme Court opinions in Talbot v. Seeman, 1801, and Little v. Barreme in 1804.

Mr. Chairman, I conclude by commending the gentleman from Colorado for his insistence throughout this appropriation process on the constitutional prerogatives of the House and the other body, not for the sake of any one of us but for the sake of the people whom we represent that war not be fought without the express up-front approval of the Congress.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 8107. (a) ENSURING YEAR 2000 COMPLIANCE OF INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS.—(1) None of the funds appropriated or otherwise made available by this Act may (except as provided in paragraph (2)) be obligated or expended on the development or modernization of any information technology or national security system of the Department of Defense in use by the Department of Defense (whether or not the system is a mission critical system) if that system does not meet certification level 1a, 1b, or 2 (as prescribed in the April 1997 publication of the Department of Defense entitled "Year 2000 Management Plan").

(2) The limitation in paragraph (1) does not apply to an obligation or expenditure—

(A) that is directly related to ensuring that a system achieves year 2000 compliance;

(B) for a system that is being developed and fielded to replace before January 1, 2000, a noncompliant system or a system to be terminated in accordance with the May 1998 Department of Defense quarterly report on the status of year 2000 compliance; or

(C) for a particular change that is specifically required by law or that is specifically directed by the Secretary of Defense.

(b) UNALLOCATED REDUCTIONS OF FUNDS NOT TO APPLY TO MISSION CRITICAL SYSTEMS.—Funds appropriated or otherwise made available by this Act for mission critical systems are not subject to any unallocated reduction of funds made by or otherwise applicable to funds provided in this Act.

(c) CURRENT SERVICES OPERATIONS NOT AFFECTED.—Subsection (a) does not prohibit the obligation or expenditure of funds for current services operations of information technology and national security systems.

(d) WAIVER AUTHORITY.—The Secretary of Defense may waive subsection (a) on a case-by-case basis with respect to an information technology or national security system if the Secretary provides the congressional defense committees with written notice of the waiver, including the reasons for the waiver and a timeline for the testing and certification of the system as year 2000 compliant.

(e) REQUIRED REPORT.—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report describing—

(A) an executable strategy to be used throughout the Department of Defense to test information technology and national security systems for year 2000 compliance (to include functional capability tests and military exercises);

(B) the plans of the Department of Defense for ensuring that adequate resources (such as testing facilities, tools, and personnel) are available to ensure that all mission critical systems achieve year 2000 compliance; and

(C) the criteria and process to be used to certify a system as year 2000 compliant.

(2) The report shall also include—

(A) an updated list of all mission critical systems; and

(B) guidelines for developing contingency plans for the functioning of each information technology or national security system in the event of a year 2000 problem in any such system.

(f) Capability Contingency Plans.—Not later than December 30, 1998, the Secretary of Defense shall have in place contingency plans to ensure continuity of operations for every critical mission or function of the Department of Defense that is dependent on an information technology or national security system.

(g) Inspector General Evaluation.—The Inspector General of the Department of Defense shall selectively audit information technology and national security systems certified as year 2000 compliant to evaluate the ability of systems to successfully operate during the actual year 2000, including the ability of the systems to access and transmit information from point of origin to point of termination.

(h) Definitions.—For purposes of this section:

(1) The term "information technology" has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term "national security system" has the meaning given that term in section 5142 of such Act (40 U.S.C. 1452).

(3) The term "development or modernization" has the meaning given that term in paragraph E of section 180203 of the Department of Defense Financial Management Regulation (DOD 7000.14–R), but does not include any matter covered by subparagraph 3 of that paragraph.

(4) The term "current services" has the meaning given that term in paragraph C of section 180203 of the Department of Defense Financial Management Regulation (DOD 7000.14–R).

(5) The term "mission critical system" means an information technology or national security system that is designated as mission critical in the May 1998 Department of Defense quarterly report on the status of year 2000 compliance.

Sec. 8108. (a) Plan for Simulation of Year 2000 in Military Exercises.—Not later than December 15, 1998, the Secretary of Defense shall submit to Congress a plan for the execution of a simulated year 2000 as part of military exercises described in subsection (c) in order to evaluate, in an operational environment, the extent to which information technology and national security systems involved in those exercises will successfully operate during the actual year 2000, including the ability of those systems to access and transmit information from point of origin to point of termination.

(b) Evaluation of Compliance in Selected Exercises.—In conducting the military exercises described in subsection (c), the Secretary of Defense shall ensure that at least 25 of those exercises (referred to in this section as "Year 2000 simulation exercises") are conducted so as to include a simulated year 2000 in accordance with the plan submitted under subsection (a). The Secretary of Defense shall ensure that at least two of those exercises are conducted by the commander of each unified or specified combatant command.

(c) Covered Military Exercises.—A military exercise referred to in subsections (a) and (b) is a military exercise conducted by the Department of Defense, during the period beginning on January 1, 1999, and ending on September 30, 1999—

(1) under the training exercises program known as the "CJCS Exercise Program";

(2) at the Naval Strike and Air Warfare Center, the Army National Training Center, or the Air Force Air Warfare Center; or

(3) as part of Naval Carrier Group fleet training or Marine Corps Expeditionary Unit training.

(d) Authority for Exclusion of Systems Not Capable of Performing Reliably in Year 2000 Simulation.—(1) In carrying out a Year 2000 simulation exercise, the Secretary of Defense may exclude a particular information technology or national security system from the year 2000 simulation phase of the exercise if the Secretary determines that the system would be incapable of performing reliably during the year 2000 simulation phase of the exercise. In such a case, the system excluded shall be replaced in accordance with the year 2000 contingency plan for the system.

(2) If the Secretary of Defense excludes an information technology or national security system from the year 2000 simulation phase of an exercise as provided in paragraph (1), the Secretary shall notify Congress of that exclusion not later than two weeks before commencing that exercise. The notice shall include a list of each information technology or national security system excluded from the exercise, a description of how the exercise will use the year 2000 contingency plan for each such system, and a description of the effect that continued year 2000 noncompliance of each such system would have on military readiness.

(3) An information technology or national security system with cryptological applications that is not capable of having its internal clock adjusted forward to a simulated later time is exempt from the year 2000 simulation phase of an exercise under this section.

(e) Definitions.—For the purposes of this section:

(1) The term "information technology" has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term "national security system" has the meaning given that term in section 5142 of such Act (40 U.S.C. 1452).

Sec. . During the current fiscal year and hereafter, no funds appropriated or otherwise available to the Department of Defense may be used to award a contract to, extend a contract with, or approve the award of a subcontract to any person who within the preceding 15 years has been convicted under section 704 of title 18, United States Code, of the unlawful manufacture or sale of the Congressional Medal of Honor.

Mr. YOUNG of Florida (during the reading.) Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 116, line 22, be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to that portion of the bill?

Mr. SANDERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had an amendment at the desk, but I am not going to offer that. Instead, I would like to enter into a colloquy with the gentleman from Florida (Mr. Young), chairman of the Subcommittee on National Security.

Mr. Chairman, as the gentleman is aware, the National Guard Starbase program, which has reached almost 200,000 children, is a community-based National Guard program that helps kids in grades 4 through 6 learn hands-on with Guard pilots and technicians. This public school outreach program boosts kids' learning and test scores in math, science, and technology applications. At the same time, Starbase stresses the prevention of drug abuse and builds understanding of self-esteem, goal-setting and teamwork. Unfortunately, as the gentleman is aware, this important project did not receive funding in the Defense appropriations bill.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I would say to the gentleman that yes, I am aware of the program, and the gentleman from Vermont is correct that the committee was not able to fund the Starbase program in this bill, due to the lack of authorization.

Mr. SANDERS. This in my view is very unfortunate, but I am hopeful that the gentleman will work to support the National Guard Starbase program in conference and bring the funding level to the $6 million appropriated in the other body.

Mr. YOUNG of Florida. If the gentleman will yield further, again I thank the gentleman from Vermont for his efforts to secure funding for this program and assure the gentleman that I will do my best to match the level appropriated in the Senate.

Mr. SANDERS. I thank the gentleman for his commitment. I see that the gentleman from South Dakota (Mr. Thune), a strong supporter of the Starbase program, is also on the floor.

I yield to the gentleman from South Dakota.

Mr. THUNE. Mr. Chairman, I thank the gentleman from Vermont for bringing this important matter forward. I would also like to thank the gentleman from Florida (Mr. Young), the chairman of the Subcommittee on National Security, for the excellent leadership that he and the Committee on Appropriations have taken in matters regarding our Nation's defense. Additionally, I would like to thank the gentleman from Florida for his willingness to work with the gentleman from Vermont and me to ensure this important National Guard program is funded. I would just simply ask a question of the distinguished chairman. Am I correct in restating that the gentleman is committed to match the level of funding found in the Senate Defense appropriations bill for the Starbase program?

Mr. YOUNG of Florida. If the gentleman from Vermont will yield further, I would respond to the gentleman from South Dakota and thank him for his interest in this program and say yes, I am committed to working with both gentlemen to secure funding for the program. I would also like to thank the gentleman from South Dakota for his attention to defense of our Nation and also for his efforts in working with the gentleman from Vermont to bring this matter to the attention of the committee.

Mr. THUNE. Again I thank the distinguished gentleman. As the gentleman knows, the National Guard Starbase program is an important initiative in my State of South Dakota. This program is strongly supported by the South Dakota National Guard and teachers all across my great State. It has impacted the lives of students and Guard personnel alike. We all recognize the importance of encouraging students to enter into the fields of science and math in our country. This program bolsters those efforts by reaching over 200,000 students across this country. The $6 million allocation would be a very small investment in a program that has shown great returns in the education of our Nation's youth. I am pleased that the gentleman from Florida and the gentleman from Vermont are working with me on this matter.

Mr. SANDERS. Mr. Chairman, I thank the gentleman from South Dakota for his comments.

Mr. Chairman, the Starbase program is a chance for Members in the House to support their National Guard and to fund an educational program that represents just the kind of policy initiatives we need in this country. It is endorsed by the National Guard Association of the United States and cosponsored by the gentleman from South Dakota (Mr. THUNE), the gentleman from Michigan (Mr. BONIOR) and the gentleman from Texas (Mr. BENTSEN). I would just conclude by thanking the gentleman from Florida very much and the other Members for their support for this important initiative.

AMENDMENT OFFERED BY MR. BENTSEN

Mr. BENTSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENTSEN:

At the end of the bill (preceding the short title), insert the following:

SEC. ____. None of the funds appropriated or otherwise made available by this Act may be used for the transportation into the United States of polychlorinated biphenyls manufactured outside the United States and owned by the Department of Defense except as provided for in section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

Mr. BENTSEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BENTSEN. Mr. Chairman, I rise to offer an amendment to ensure that the Department of Defense complies with all the rules and regulations of the Toxic Substances Control Act. This amendment prohibits the Defense Department from using any funds appropriated by this act to transport into the United States polychlorinated biphenyls manufactured outside the United States and owned by the Department of Defense, except as provided for in section 6(e) of the Toxic Substances Control Act.

This amendment is necessary because the Department of Defense (DoD) has had language inserted in the Senate Defense Authorization bill that would allow for the unfettered importation of PCBs into the United States. Similar language was initially inserted in the House version of the bill, but it was subsequently deleted. This amendment prohibits the DoD from turning our nation into the world's chemical wastebasket through the transportation of foreign-produced PCB waste into the United States for permanent disposal.

Because of serious environmental and public health hazards associated with PCBs, Congress in 1976 banned both their manufacture and importation under TSCA. PCBs are a dangerous class of chemicals that collect in the body and cause a range of adverse health effects including cancer, reproductive damage, and birth defects. When incinerated, PCBs release dioxin—one of the most toxic chemicals known. PCBs accumulate in the environment and move towards the top of the food chain, contaminating fish, birds, and ultimately humans. They are the only chemicals Congress designated for phase-out under TSCA.

The language in Section 321 of the Senate Defense Authorization bill, S. 2060, would overturn over twenty years of sound environmental law recently affirmed by the 9th Federal Circuit Court and jeopardize the health and safety of Americans by allowing the importation of foreign-produced PCBs. Further, this change has never been reviewed by the Commerce Committee, which has jurisdiction over TSCA. The DoD has demonstrated a clear lack of good environmental judgement as underscored by several recent articles in the Baltimore Sun documenting the hazardous and environmentally unsound techniques being used to dismantle decommissioned U.S. Navy ships. The DoD allowed unscrupulous salvage operators to dismantle U.S. Navy ships without proper environmental controls or worker protections. Asbestos was removed by workers who were not provided respirators and then disposed of by heaving it over the side of ship into the water. I believe it is unwise to allow the DoD to continue to make or alter environmental policy without proper oversight from Congress.

My amendment also reaffirms the unanimous 1997 ruling by the Ninth Circuit U.S. Court of Appeals that a similar attempt by EPA to allow the importation of PCBs had violated TSCA. Chief Judge Proctor Hug wrote, "EPA lacked the statutory authority to promulgate the Import Rule, which violates the PCB manufacture ban contained in the Toxic Substances Control Act."

It is important to note that current law already provides an exemption that allows the DoD to return PCB waste to the United States if such PCBs were purchased in the United States, shipped to an overseas military base, have been continuously under U.S. control, and now need to be returned for disposal. This exemption ensures that any PCBs exported from the United States to one of our military installations abroad can be returned.

Mr. Chairman, the DoD does not have any legitimate reasons for wanting to overturn the ban on the importation of PCBs. They are trying to slip in this change without prior Congressional review and approval. I urge my colleagues to support my amendment so that the House can express its position on this issue and the United States can be protected from becoming a toxic waste dump for the world.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we are anxious to accept the gentleman's amendment and appreciate his work in this area.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, we agree that the Department of Defense should follow the law and obey the law. We appreciate the gentleman calling this to the attention of the House. We accept the amendment.

Mr. BENTSEN. Mr. Chairman, I want to thank the chairman and the ranking member both for this and for their work on the DREAMS project which they have funded in this bill which is in my district.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BENTSEN).

The amendment was agreed to.

AMENDMENT NO. 1 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SANDERS:

At the end of title VIII (page , after line ____), insert the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used to enter into or renew a contract wit any company owned, or partially owned, by the People's Republic of China or the People's Liberation Army of the People's Republic of China.

Mr. SANDERS. Mr. Chairman, my amendment sponsored by the gentleman from New Jersey (Mr. SMITH), the gentleman from New York (Mr. HINCHEY) and the gentlewoman from Florida (Mrs. FOWLER) is very simple and straightforward. It bans the Department of Defense from buying products from Chinese state-owned companies as well as companies owned by the People's Liberation Army.

Mr. Chairman, I think that it might come as a surprise to many Members of this body that the Defense Department now builds the B-2 bomber with parts made by a company owned by the People's Republic of China.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, I know the gentleman has discussed this with me and a number of members of the subcommittee. We appreciate his bringing this to our attention. We certainly accept it on our side of the aisle.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I appreciate the fact that the gentleman discussed this amendment with me several days ago. We agree and accept the amendment.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I want to commend the gentleman, and I am proud to be a cosponsor of the amendment. We should have nothing to do with the oppressive PLA. Making them part of the defense procurement process in this country is patently absurd. I thank the gentleman for his amendment.

I would like to thank my good friend, Representative SANDERS, for taking the initiative in preparing this amendment, of which I am a proud cosponsor. This amendment simply requires that companies owned by the People's Republic of China and its People's Liberation Army not be allowed to profit from contracts with the United States Department of Defense.

Over the past several years, the Chinese dictatorship and its military enforcer, the People's Liberation Army, have begun turning a profit using a vast web of state-owned companies and surrogate entities. These commercial entities are involved with everything from arms sales to hotel management, and are an important source of clandestine revenue for the Beijing regime.

The billions of dollars and technological know-how gained by these commercial ventures are helping to underwrite a massive, surreptitious modernization of the Chinese armed forces. Although the Chinese government claims that it spent only $11 billion on its armed forces last year, the U.S. Arms Control and Disarmament Agency estimates that the actual figure is nearly six times that amount. Because the revenue generated by PRC and PLA-owned enterprises is not publicly disclosed or included in the Chinese government's declared budget, we cannot be certain of its extent. But responsible estimates by international experts reach into the billions of dollars.

The Sanders-Smith amendment is important to the struggle for human rights. The People's Republic of China and the PLA still defiantly refuse to face the truth about their massacre of hundreds of peaceful democracy advocates in Tiananmen Square nine years ago this month. The PLA is engaged in the brutal occupation of Tibet, the repression of religious free exercise, and the sale of human organs from executed prisoners. The Chinese government uses forced abortion and sterilization as an officially sanctioned component of its population control program. According to testimony provided by my Subcommittee on numerous occasions, state-owned entities are also exploiting slave labor in the Chinese loagai. Our Defense Department must not enrich and empower the repressive forces of the Chinese government.

The Sanders-Smith amendment is also justified by strategic concerns:

Chinese state-owned companies routinely engage in destabilizing activities, such as the sale of weapons—sometimes including weapons of mass destruction—to countries such as Iran, Burma, Pakistan, and Saudi Arabia. And PLA-owned companies have been caught smuggling weapons into the United States. A 1996 FBI sting operation intercepted 2,000 AK-47 machine guns apparently intended for use by terrorists or other violent criminals.

PLA and PRC-owned enterprises are also procuring cutting-edge technology—such as supercomputers and advanced telecommunications equipment—that can be put to military use. Because these companies ostensibly use such technology for commercial purposes, they are often not subject to the export controls that would be imposed on military transfers. An essay by Chinese General Ding Henggao [DING heng-GOW], translated by the Pentagon, confirms that China is actively pursuing "possible transfers from commercial technology to defense use."

Against this background, the Sanders-Smith amendment deserves universal, bipartisan support. It merely states that the United States Department of Defense must take care not to subsidize the Chinese military by awarding contracts to PLA and PRC-owned enterprises. American security and American ideals demand no less.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the final lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Department of Defense Appropriations Act, 1999".

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SMITH of New Jersey) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4103) making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 484, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 358, nays 61, not voting 14, as follows:

[Roll No. 266]

YEAS—358

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeGette
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lowey
Lucas

Maloney (CT)
Maloney (NY)
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wynn
Young (AK)
Young (FL)

NAYS—61

Barrett (WI)
Becerra
Berry
Brown (CA)
Brown (OH)
Campbell
Conyers
Coyne
Davis (IL)
DeFazio
Delahunt
Deutsch
Doggett
Ehlers
Fattah
Filner
Frank (MA)
Franks (NJ)
Furse
Gutierrez
Hinchey
Hoekstra
Hooley
Jackson (IL)
Johnson (WI)
Kind (WI)
Kleczka
Kucinich
Lee
Lofgren
Luther
McDermott
McGovern
McKinney
Meeks (NY)
Miller (CA)
Minge
Morella
Nadler
Oberstar
Obey
Olver
Owens
Paul
Payne
Petri
Rahall
Ramstad
Royce
Rush
Sanders
Sanford
Sensenbrenner
Shays
Stark
Towns
Upton
Velázquez
Vento
Watt (NC)
Woolsey

NOT VOTING—14

Baesler
Crane
Dingell
Frelinghuysen
Gonzalez
Hamilton
Kaptur
LaFalce
Lipinski
Manton
Markey
McDade
Wolf
Yates

□ 2007

Mr. HOEKSTRA changed his vote from "yea" to "nay."

Mr. PICKERING and Ms. RIVERS changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FRELINGHUYSEN. During the vote on final passage of H.R. 4103, the National Security Appropriations Act, I was on the floor and intended to vote but the machine failed to register my vote. Had it been registered, I would have voted yes on final passage of the bill.

APPOINTMENT AS MEMBERS TO COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) as amended by Section 2(d) of Public Law 102–586, the Chair announces the Speaker's appointment of the following members on the part of the House to the Coordinating Council on Juvenile Justice and Delinquency Prevention:

Mr. William Robert Byars, Jr., South Carolina, to a one year term;

Ms. Adele L. Grubbs, Georgia, to a three year term.

There was no objection.

APPOINTMENT AS MEMBERS TO NATIONAL SKILL STANDARDS BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of Section 503(b)(3) of Public Law 103–227, the Chair announces the Speaker's reappointment of the following members on the part of the House to the National Skills Standards Board for four year terms:

Mr. James D. Burge, Washington, D.C.;

Mr. Kenneth R. Edwards, Rockville, Maryland.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The Speaker pro tempore laid before the House the following resignation as a member of the Committee on Science:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 24, 1998.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR SPEAKER GINGRICH: I am writing to resign my position on the House Science Committee in exchange for a position on the House National Security Committee. Thank you for your assistance with this matter and please contact me if you have any questions.

Sincerely,

ELLEN O. TAUSCHER,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 24, 1998.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign as a member of the Committee on Small Business.

With kind regards, I am

Sincerely yours,

VIRGIL H. GOODE.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, at the direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 492) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 492

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on Banking and Financial Services, VIRGIL GOODE of Virginia.

To the Committee on National Security, ELLEN TAUSCHER of California, ROBERT BRADY of Pennsylvania.

To the Committee on Small Business, ROBERT BRADY of Pennsylvania.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND THEIR REMARKS IN THE CONGRESSIONAL RECORD ON THURSDAY, JUNE 25, 1998

Mr. McINNIS. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extension of Remarks" on Thursday, June 25, 1998.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ARTICLE REGARDING KENNETH W. STARR, INDEPENDENT COUNSEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I will place in the RECORD an article that begins to examine more carefully the question surrounding the Independent Counsel, Kenneth W. Starr, in connection with his off-the-record contacts with Members of the media. I ask that this material be included.

The material referred to is as follows:

[From Brill's Content, July/August 1998]

PRESSGATE

(By Steven Brill)

What makes the media's performance a true scandal, a true example of an institution being corrupted to its core, is that the competition for scoops so bewitched almost everyone that they let the man in power write the story—once Tripp and Goldberg put it together for him.

It began with high fives over the telephone. "It's breaking! It's breaking! We've done it," Lucianne Goldberg screamed into her phone in Manhattan to her son in Washington. It was 7:00 A.M., Wednesday, January 21.

"This was my mom's day," says Jonah Goldberg, 29, referring to the controversial New York literary agent who had now shepherded the Monica Lewinsky story into the world's headlines and onto Independent Counsel Kenneth Starr's radar screen. "Here was everything we'd done since the fall breaking right there on Good Morning America, with Sam Donaldson standing in front of the White House and George Stephanopoulos talking . . . impeachment."

"For five years I had had all kinds of Clinton stories that I had tried to peddle," Lucianne Goldberg recalled during a series of interviews. "Stories from the state troopers, from other women, you name it. And for five years I couldn't get myself arrested. Now I was watching this [and] I was lovin' it. Spikey and Linda and us had really done it." "Spikey" is Lucianne Goldberg's pet name for Michael Isikoff, the relentless Newsweek reporter whose stories about President Clinton's alleged sexual misconduct—from Paula Jones to Kathleen Willey and now to Monica Lewinsky—had led the way on this sometime lonely beat. "Linda" is Linda Tripp, the onetime White House secretary now known more for taping than typing. For four years she had been a frustrated client of Goldberg's, hoping to sell a White House scandal memoir.

As of this morning, Tripp, under Lucianne Goldbergs' tutelage, had constructed the material for Isikoff's greatest scoop—often according to his probably unwitting specifications. The two women had even steered it in a way that now allowed Ken Starr to hone in on the president and the intern. Then, by leaking the most damaging details of the investigation to a willing, eager press corps Starr was able to create an almost complete presumption of guilt. Indeed, the self-righteousness with which Starr approached his role—and the way he came to be able to count on the press's partnership in it—generated a hubris so great that, as detailed below, he himself will admit these leaks when asked.

The abuses that were Watergate spawned great reporting. The Lewinsky story has reversed the process. Here, an author in quest of material teamed up with a prosecutor in quest of a crime, and most of the press became a cheering section for the combination that followed. As such, the Lewinsky saga raises the question of whether the press has abandoned its Watergate glory of being a check on official abuse of power. For in this story the press seems to have become an enabler of Starr's abuse of power.

An examination of the Lewinsky story's origins and a day-by-day review of the first three weeks of the media coverage that followed, suggest that as it has careened from one badly sourced scoop to another in an ever more desperate need to feed its multimedia, 24-hour appetite, the press has abandoned its treasured role as a skeptical "fourth estate." This story marks such a fundamental change in the press's role that the issues it raises will loom long after we determine (if we ever do) whether the president is guilty of a sexual relationship with the intern, obstruction of justice, or both.

LOOKING FOR A TRUE CRIME STORY

It started with the 1993 death of Deputy White House Counsel Vincent Foster, Jr. In some anti-Clinton circles, Foster's suicide became what Lucianne Goldberg calls "the best true crime story out there. . . . I was interested in getting a book out about Foster's death, and Tony Snow [the conservative columnist and now—Fox newsman] suggested I talk to Linda Tripp."

A veteran government secretary, Tripp, then 43, had been assigned to work for White House Counsel Bernard Nussbaum. Tripp claimed to have been the last person to see Foster alive, and, as with many aspects of her jobs, she made more of this Jeopardy-like fact than it was worth.

Following Nussbaum's resignation in 1994, Tripp was moved to a job at the Pentagon. She got a rise, but, in terms of status, it was a comedown.

Goldberg was a good match for Tripp. A gravelly-voiced, chain-smoking 63 year-old with a self-described "big mouth," Goldberg is a West Side Manhattanite who takes delight in defying her neighborhood's liberal chic. She runs in conservative circles, makes no secret of her disdain for the president, and her acknowledged past includes doing dirty tricks for the Nixon campaign.

Yet the reception Tripp got from Goldberg was a letdown. "She had been the last person to see Vince Foster, and she hated the Clinton people and told me stories about the clothes they wore and how they f—ked around with each other. . . . But was that a book? Come on," says Goldberg.

"I kinda liked her," Goldberg continues. "So we kept in touch, and we did put a proposal together."

As The New Yorker reported in a February article by Jane Mayer that deserves credit for being the first to spot the Goldberg—book deal impetus for the Tripp-Lewinsky story, the proposal contained a purported but nonspecific chapter on sexual hijinks.

THE "PRETTY GIRL"

In May of 1996, Tripp told Goldberg about a former White House interim who had been transferred to the Pentagon and was working with Tripp in the public affairs office. "One day Linda called and told me about what she called "the pretty girl," who'd become "her friend," Goldberg recalls. "She said the pretty girl said she had a boyfriend in the White House. Linda was excited. This might be material."

"A few weeks later," says Goldberg, "Linda told me the pretty girl's name [Monica Lewinsky] and said the boyfriend was Clinton."

But, says Goldberg, "even with proof, which she didn't have, it was just another Clinton girlfriend story. Maybe the girlfriend could do a book, but not Linda."

"I remember for a while my mom thinking Linda could get us Monica as a client," says Jonah Goldberg, a television producer who also runs a Washington office for his mother.

Nonetheless, according to the two Goldbergs, Tripp repeatedly rebuffed their hints that they meet the former intern.

Although Tripp and Lucianne Goldberg kept up their relationship through 1996, Goldberg did not push the book idea. "It wasn't high on my list," says Goldberg. "No one seemed to care about this guy screwing everything in sight."

ON THE RADAR SCREEN

Perceptions about the president and sex changed markedly as 1997 began. In January, Newsweek published a cover story on the Paula Jones suit declaring that the case deserved to be taken seriously. The Newsweek story—along with the Supreme Court's hearing (also in January) of the Jones lawyers' appeal that their case not be delayed until after President Clinton had left office—suddenly made the president's alleged sexual misconduct and his resulting legal troubles topic A.

ISIKOFF ON THE HUNT

Newsweek now allowed Isikoff, its lead reporter on the Jones story, to add the Clinton sex allegations to a beat that already included not only Whitewater, but also the blossoming controversy surrounding the funding of the 1996 Democratic campaign.

A native New Yorker who grew up on Long Island, Isikoff, 46, started in journalism as a reporter for a Washington-based news service initially funded by Ralph Nader. "It was the Woodward and Bernstein era," he says. "Being a reporter was exciting."

For him, it still is. A journalist's version of Columbo, with a perpetually whiny voice and a awkward, nervous look. Isikoff instinctively distrusts power. Now, as he patrolled his expanded beat in early 1997, Isikoff got a tip from one of Jones's lawyers, who had heard that there was a volunteer White House worker who had been groped by the president in 1993 when she'd met with him seeking a job.

Isikoff eventually tracked down Kathleen Willey, and after he had pestered her over a period of several months, she talked about the incident but refused to be quoted. According to Isikoff, Willey suggested that he "go ask Linda Tripp" for confirmation, because Tripp had seen Willey after she'd left the Oval Office on the day of the alleged incident.

Yes, she had seen Willey emerge from the Oval Office disheveled, Tripp told Isikoff, according to his subsequent story. And yes, Willey claimed the president had kissed her and fondled her. But, no, Tripp declared, Willey was not upset; she seemed happy about the president's attention.

Isikoff says that he and his editors were reluctant to go with that confusing account, until they learned in late July that the Jones lawyers had subpoenaed Willey (but not Tripp, whom they did now know about). Now Newsweek had a hook—a legitimate more-than-just-sex hook—for the story.

The result, entitled "A Twist In Jones v. Clinton," was a tortured account of the potential role that a new but reluctant accuser, Kathleen Willey, might have in the Jones case. Isikoff quoted Tripp as confirming the incident but disputing whether Willey had seemed unhappy about it.

In the days that followed, Isikoff says, he was surprised that the rest of the press largely ignored the article, seeing it as just part of the detritus of the Smarmy Jones suit.

Linda Tripp did not ignore it.

"Linda tends to view her role in things as much more important than it is," says Jonah Goldberg. "And she was both thrilled and terrified by the play Isikoff gave her in this piece. She thought the whole world was now watching her. And she thought she also could now come to center stage with what she knew about Monica."

In fact, according to Isikoff, from the moment he had first talked to Tripp in March 1997 about Willey, "she was telling me that I had the right idea but that I was barking up the wrong tree with Kathleen Willey. She kind of steered me away from Willey."

At a meeting in a bar near the White House in April 1997, Tripp again pushed Isikoff to consider a better story, one about an intern and the president. But Isikoff remained focused on Willey. Why? Because, he says, he knew that there was a link from her to a story that was about more than sex: the Jones trial. He also says that he made no bones about the importance of that link to Tripp.

For Tripp, the motive for filling that need was unambiguous. "I always told Linda that for her to have a real book deal she had to get some of what she knew into a mainstream publication of some kind," recalls Goldberg. "I drummed that into her. Without that, she was just another kook."

According to Goldberg, it was soon after the Newsweek article appeared that Tripp—at Goldberg's urging—went to a Radio Shack store and bought a $100 tape recorder so that she could begin gathering her proof.

THE TAPES

In October, the Goldbergs tried to advance the story by getting Isikoff to listen to Tripp's tapes of Lewinsky talking to her about sex with Clinton. Saying she was Tripp's "media adviser," as Isikoff recalls it, Goldberg invited him to a meeting at Jonah Goldberg's apartment. She told him he wouldn't regret it.

According to all who were present (except Tripp, who would not comment for this article), Isikoff was told Lewinsky's name. Two tapes were on the coffee table. Lucianne offered to queue up the first one.

Isikoff declined.

"I knew that if I listened to these tapes I would become part of the process, because I knew the taping was ongoing," explains Isikoff, who also adds that he was in a hurry to get to CNBC, where he was a paid Clinton sex scandal pundit.

GET ME SOMETHING TANGIBLE

But Isikoff heard enough of a description of what was on the tape to request more. He wanted "a tangible way to check this out with some other source," recalls Jonah Goldberg. "And he needed more than just sex. He said he needed other sources and he needed for this to relate to something official." Isikoff confirms this conversation.

To Isikoff, he was simply musing aloud about what would make a legitimate Newsweek story. To the Goldbergs and Tripp, he was writing out specs. And by the end of October, Isikoff's hopes had been fulfilled on both counts.

First, they produced something tangible. Lewinsky began sending letters and one package to presidential secretary Betty Currie at the White House, allegedly so that Currie could pass them to the president. What was in that package? Tripp and Goldberg told Isikoff it contained a lurid sex tape. Goldberg then told Isikoff how to get copies of the receipts for those letters and the package. It was easy—because the courier service employed by Lewinsky is owned by Goldberg's brother's family.

"We told Linda to suggest that Monica use a courier service to send love letters to the president," says Lucianne Goldberg. "And we told her what courier service to use. Then we told Spikey [Isikoff] to call the service." (Isikoff says he later found out that the service was owned by Goldberg's brother's family, but that for him the only issue was the fact that Lewinsky had, indeed, sent the letters and, one case, a package that seemed like a tape, according to the courier who delivered it to the White House—and who was made available for Isikoff to interview by the eager-to-be-helpful courier service.)

As for something "official," Tripp and Lucianne Goldberg told Isikoff that Lewinsky, who was planning to move to New York with her mother, was going to get a job there working for U.N. ambassador Bill Richardson. In fact, Richardson himself was going to meet with the lowly former intern at the Watergate over breakfast in a few days to talk about the job, Tripp and Goldberg reported. In other words, they contended, the president was getting his girlfriend a government job.

"That was interesting enough that we sent a reporter—not me, because I was now recognizable from all my TV stuff—to stake out the Watergate for breakfast," says Isikoff.

Newsweek's Daniel Klaidman waited from 7:00 until 11:30 a.m., But Richardson and Lewinsky never appeared. "That really worried my editors. . . . We didn't know that Richardson had an apartment there and they were meeting there," says Isikoff.

It was at about this time—October 1997—that the new Paula Jones legal team started getting anonymous calls from a woman saying that Linda Tripp and Monica Lewinsky would be well worth subpoenas. Each of what one member of the Jones team estimates were three or four calls got increasingly less vague.

Who made those calls?

"My mom didn't do it," Jonah Goldberg says. "Linda did, but I can tell you that she didn't get the idea on her own."

Lucianne Goldberg says she isn't sure Linda called them, "but it wouldn't surprise me, and it made sense, didn't it?"

Did Lucianne encourage her to make the calls? "Do you think I had to?" asks Goldberg.

Did she encourage her? "Not exactly, but, hell, I guess you could say so."

What seems clear is that no one other than one of the Goldbergs or Tripp would have had the knowledge or the motive to have tipped off the Jones lawyers. And whoever made the calls, they were persuasive enough that by just before Christmas both Lewinsky and Tripp had been subpoenaed.

"That's when this heated up," says Isikoff. "When I found out they had been subpoenaed, I could see the perjury possibilities and everything else. It was starting to be a real story."

In short, the exact dynamic that had made the Willey tale a publishable story for Isikoff—that it was part of the Jones trial—had now apparently been engineered by the Goldberg-Tripp book-deal team. Moreover, those similarly orchestrated "receipts" from the courier service gave Isikoff the tangible proof he said he needed.

"I guess I'd like to think this was more a Goldberg conspiracy than a right-wing conspiracy," Jonah concludes when asked about this orchestration.

MONICA BECOMES HYSTERICAL

According to the Goldbergs' accounts of the Lewinsky-Tripp tapes and to Isikoff's account of the tapes he eventually heard, when Lewinsky got her subpoena in December she became hysterical. On the tapes her hysteria comes off as a fear of how to decide whether to rat on the president or risk perjury—a fear exacerbated by Tripp's declaration to her that she, Tripp, was going to tell the truth about what Lewinsky had told her about the relationship.

As 1997 drew to a close, Isikoff says he knew he'd be coming back from his Christmas vacation in January to what night be a major story.

'CLOWNS IN A CAR'

"That first week in January," recalls Lucianne Goldberg, "we were kind of panicked. You had [Lewinsky] on the phone to Linda . . . saying she didn't know what to do and that she was gonna sign an affidavit saying she had never had any sex with the president"—an affidavit that Lewsinsky did in fact sign on January 7. "And you had Linda worried about her own testimony and about what Isikoff was going to do."

Goldberg says the Tripp was now worried enough to consult Kirby Behre, the lawyer she had used when she had testified in the Whitewater hearings. But when Behre (who declined all public comment for this article) was told about the tapes, his suggestion, according to Goldberg, shocked Tripp and Goldberg: "He told her he was going to go to Bob Bennett"—the president's defense lawyer in the Jones case—". . . and get Bennett to settle the Jones case and avoid all this."

In fact, Tripp and the Goldbergs wanted anything but a settlement that would see Tripp's cameo role in history evaporate. They were headed in the opposite direction. What they had pushed from a tale about a presidential affair to a story about a new witness in a civil suit they now wanted to push to the next stop—a criminal case. "We wanted a [new] lawyer so that Linda could go to Ken Starr," explains Lucianne Goldberg.

By Friday, January 9, Goldberg had found James Moody, a relatively unknown Washington attorney who had been active in taxpayer rights and other conservative causes.

TRIPP GOES TO STARR

Why the rush for a new lawyer? "Because we wanted someone to get the tapes back from Behre so we could take them to Starr," says Lucianne Goldberg.

In fact, while Moody ended up getting the tapes back quickly (apparently by Monday, January 12), even that wasn't fast enough for Tripp. "Linda," says Jonah Goldberg, "was in a frenzy."

"I told her to call Starr Monday night," says Lucianne Goldberg. "She was afraid Isikoff was going to do a story and she wanted to make sure who got to Starr first . . . Neither of us wanted Starr to read about her in *Newsweek*. We wanted to be at the center of it."

But didn't her going to Starr also insure that Isikoff would have a story? "Yes, that's true, too," says Goldberg with a laugh. "We knew this would never *not* be a story for Spikey [Isikoff] once Starr had it."

"Linda called Starr's people Monday night," Goldberg continues. "And after a few minutes they asked her where she was, told her to stay there, and piled in a car and drove out to her house. She told me it was like that Charlie Chaplin movie or something with all those cops like clowns stuffed into a car coming out to see her . . . We never knew they would pounce like that."

Starr says that his staff spent that night and the next day, Tuesday, January 13, debriefing Tripp.

According to Goldberg—who was in contact with Tripp through Wednesday night, January 14—Starr's lawyers and FBI agents told Tripp that they needed more than was on her tapes to prove both the president's alleged effort to get Lewinsky to lie and Washington lawyer and Clinton friend Vernon Jordan's supposed obstruction of justice, via his help getting a job for Lewinsky. Their plan? They wanted Tripp to meet with Lewinsky and wear a wire while she walked Lewinsky through a conversation that they would script.

Getting more about Jordan on tape was crucial for Starr. Because his office had been established to investigate Whitewater, his people had already concluded that extending their jurisdiction to the Lewinsky affair required their arguing that Jordan's role with Lewinsky paralleled his suspected but unproven role in helping disgraced former Associate Attorney General Webster Hubbell obtain lucrative consulting assignments in exchange for Hubbell's remaining silent about the Clintons and Whitewater.

On Tuesday, Goldberg or Tripp (Goldberg and Isikoff won't say who) called Isikoff and told him that Tripp had gone to Starr and that Starr was planning to do his own taping of Lewinsky. "That call knocked my breath out," says Isikoff.

On Wednesday, Isikoff got a full report from Goldberg (according to both) and prepared to confront Starr's office the next day with what he knew.

THE STING

Later that night, says Goldberg, Tripp told her that "Starr's people were shutting her down . . . she was being moved and her phone number was being changed and all that."

Isikoff says that when he talked to Starr deputy Jackie Bennett, Jr., on Thursday, Bennett begged him to wait until Friday before tying to call Jordan, the White House, or Lewinsky about his story. Why? Because Starr was not only going to confront Lewinsky with the new tape his team had just recorded of her and Tripp as they met in a dining room at the Ritz-Carlton, Pentagon City (in Arlington); they were also going to try to get Lewinsky to wire herself and get Jordan and maybe even the president on tape obstructing-justice. Isikoff says he agreed to hold off in exchange for getting a full report on how the stings had gone. Bennett refuses to comment on any discussion he had with Isikoff, except to say that "what Isikoff knew put us in a difficult position."

Also on Thursday, Starr's deputies met in the afternoon with Deputy Attorney General Eric Holder to request that Attorney General Janet Reno expand Starr's authority beyond Whitewater to include charges of an attempt to cover up Lewinsky's affair with the president. Again, their hook to Whitewater was Jordan's supposed role, a role that was murky at best on the original Tripp tapes.

Now, according to Bennett and to a Justice Department official, the Starr people talked about their own tapes of Tripp and Lewinsky, though no tapes were played at the meeting with Holder.

According to the Justice Department source, while Starr deputy Bennett made much of Jordan's job hunt for Lewinsky, he failed to mention what he knew from the earlier Tripp tapes—that Jordan had begun offering that help at least a month before Lewinsky was subpoenaed in the Jones case. Bennett says he does not remember "if I mentioned that."

Bennett does confirm that he mentioned repeatedly that Newsweek was working on an article that would be public by Sunday. "This was meant as a way of explaining why we had to act fast," says a Justice Department participant. "But the way he said it and kept saying it, it also was clear to us that if we turned down the request, Newsweek would know about that, too. We had no choice."

Another reason that Reno was in a bind was that under the independent counsel law, Starr could have appealed a turndown to the mostly conservative three-judge panel that had appointed him in the first place. That probably would have meant that Starr would have gotten his jurisdiction after all, while Reno got a story in Newsweek saying she had rejected it.

On Friday afternoon, January 16, Reno approved the expansion of Starr's jurisdiction.

Also on Friday, Tripp met again with Lewinsky at the Ritz-Carlton in Arlington, where FBI agents and Starr deputies descended on the former intern. They stayed with her until late that night trying to get her—and later, her and her lawyer, William Ginsburg (who was conferring with them by telephone)—to agree to help them get Jordan and the president on tape in exchange for immunizing her from a perjury prosecution for having sworn in an affidavit in the Jones case that she and Clinton had not had a sexual relationship. No agreement was reached.

STARR BEGS NEWSWEEK

That snag in dealing with Lewinsky forced Starr's people to bet Isikoff to hold off until Saturday before trying to call anyone whom his story would implicate. Any call by Isikoff to the White House or to Jordan asking about the former intern would kill any chance of Jordan or the president being stung by her. "You want to report what you know," Isikoff says. "But you don't want to influence what happens." Isikoff agreed to wait until Saturday (his deadline was Saturday evening), but admits, "This was making me crazy. How was I gonna reach Jordan on a Saturday?"

It was also not clear on Friday that Newsweek was going to run any story at all. "New York was sounding like they thought this wasn't enough," says Isikoff, referring to Newsweek New York-based top editors.

"Friday night, Spikey called and told me there was some problems," Goldberg recalls. "But he said it looked like they would to with it."

Soon after that call, Isikoff finally hears some of the original tapes. According to Lucianne and Jonah Goldberg and one source at Newsweek in a position to know, at 12:30 a.m. on Saturday, Tripp's new lawyer, Moody, showed up at the Newseek offices with two tapes that he had selected because, he told the Newseek staffers, they most pertained to Jordan and a possible cover-up.

"I had to fight with Moody until the last minute to let Newsweek hear those tapes," says Goldberg. "He just didn't get it." Moody says he "never played any tapes for Newsweek," but declined to comment on the account by the Goldbergs or the Newsweek source that he made the tapes available for them to play.

Lucianne Goldberg says that at her direction, Moody selected the tapes that would most implicate Jordan and the president in obstructing justice, because they contained the non-sex material that Isikoff said he needed to publish a story.

Iskoff, along with Washington bureau chief Ann McDaniel, deputy bureau chief Evan Thomas, and investigative correspondent Daniel Klaidman, listened for four hours as Lewinsky talked and cried and complained about a man whom she called names like "the big creep," but who she clearly meant was the president. The sexual talk was explicit, and it did not seem contrived.

"We were all pretty convinced," says Thomas. "Within five or ten minutes it was clear to everybody that this was compelling stuff."

Nonetheless, Isikoff concedes that the material they had hoped for about Jordan or the president being complicit in an obstruction of justice just wasn't there.

"What we didn't have here was Monica saying, 'Clinton told me to lie,'" says Isikoff. "In fact there is one passage where Linda, knowing the tape is going, says, 'He knows you're going to lie; you've told him, haven't you?' She seems like she's trying to get Monica to say it. But Monica says no." That, concludes Isikoff, "made New York real queasy when we told them."

Unknown to Isikoff, while he was listening to the tapes, Tripp had been released by Starr's investigators so that she could go home. Waiting for her there were Jones's lawyers—who were scheduled to question President Clinton the next morning in a deposition. Starr would later tell me that he did not know why she was released from her extensive debriefing at that particular time.

Thus, the president's criminal inquisitors, having just finished with Tripp, had now made it possible for his civil case opponents to be given ammunition with which to question the president in his sworn testimony—from which Starr, in turn, might then be able to extract evidence of criminal perjury.

And we now know that the next morning President Clinton was questioned as closely about Monica Lewinsky as he was about Paula Jones.

On Saturday morning, Klaidman of Newsweek found out that Starr had gotten authorization from the Justice Department to expand his investigation to include Lewinsky. "That tipped me off the fence," says deputy Washington bureau chief Thomas. "Just that was a story."

Isikoff, Thomas, and Klaidman were now pushing New York to publish. Meantime, Starr's people again begged Isikoff to hold off, but for a few hours, then for another week.

"What followed," says Isikoff, "was an incredible seven-hour dialogue. It went back and forth. I couldn't believe we were still debating this when I've got to try to reach Vernon Jordan."

"SPIKED"

At about 5:00 p.m. Newsweek chairman and editor in chief Richard Smith decided to hold the story. Smith's decision, he says, was based on three factors: an uneasiness with what they had heard and not heard about Jordan on the tapes, their inability to question Lewinsky directly, and an inclination to take Starr up on his offer of waiting and not impeding the investigation while also getting a better story. "Hell, it's not like this was the Bay of Pigs," says Isikoff, who argued against delay. "We don't have any obligation to work with the government. This was as much a story about Starr as anything else. And we knew that part cold."

"We talked about just doing an item on the expanded investigation [without naming Lewinsky], but we thought we knew too much for that," says Smith. "It wouldn't have been leveling with our readers."

Goldberg says that she learned from Isikoff at about 6:00 that the story was killed. At

1:11 A.M. on Sunday, Internet gossip columnist Matt Drudge (who the prior summer had spilled the beans on his website when Isikoff's Willey story had been delayed) sent out a bulletin: Newsweek had spiked an Isikoff story about a presidential affairs with an intern.

Drudge's report made Lewinsky radioactive. She could no longer be used to sting Jordan or the president, and the immunity negotiations here lawyer was having that night with Starr abruptly ended.

Who leaked to Drudge? Although Lucianne Goldberg concedes readily that she took a call from Drudge that night and confirmed everything that Drudge knew, she adamantly denies being his original source and offers an elaborate recitation of the circumstance and time of her conversation with Drudge that evening.

"Besides," she adds, "what Drudge reported wasn't really complete; there was nothing about the sting."

Which is true, but it's also a giveaway, because if fact Goldberg had no way of knowing about the planned sting of the president and Jordan, which means that she seems a likely source. Asked about that, Goldberg laughs and says, "I'm sticking to my story."

As for Drudge, he supplied a similarly detailed explanation of why his source was not Goldberg.

"It would make sense for my mom to have talked to Drudge," says Jonah Goldberg. "She really was mad that Newsweek was killing it and she didn't believe [Newsweek] would print it the next week. So, she may . . . be afraid to admit it because the leak seemed to blow up in Starr's face even though she had not way of knowing that at the time."

Actually, the leak did work for Linda Tripp and the Goldbergs. For it assured that the Newsweek story would be anything but buried.

SUNDAY GOSSIP

At 10:30 Sunday morning, William Kristol, the editor and publisher of the conservative Weekly Standard (and Dan Quayle's former chief of staff), who is a regular panelist on ABC's Sunday morning show This Week with Sam Donaldson & Cokie Roberts, became the first person to mention the intern scandal on any outlet beyond Drudge. Toward the end of the program, Kristol said: "The story in Washington this morning is that *Newsweek* magazine was going to go with a big story based on tape-recorded conversations, which [involve] a woman who was a summer intern at the White House."

Former Clinton aide George Stephanopoulos, also an ABC pundit, interrupted and said, "And Bill, where did it come from—the Drudge Report?"

As Kristol began to answer, Sam Donaldson jumped in, with what would turn out to be one of the rare moments in the whole intern affair of a TV reporter exercising good on-air instincts: "I'm not an apologist for *Newsweek*," Donaldson said, drowning out Kristol with his trademark voice, "but if their editors decided they didn't have it cold enough to go with, I don't think we can here."

"I hadn't heard anything about Drudge or anything else about this story," Donaldson would later recall. "I just decided we shouldn't go on our air with a story that *Newsweek* had decided it couldn't go with."

But the story had now moved far beyond Drudge, and the race was on to get there first.

The principal contestants were Jackie Judd, a general assignment correspondent for ABC, and Susan Schmidt of the *Washington Post*, with *Time* and the *Los Angeles Times* also in the hunt. What Judd and Schmidt had in common with Isikoff was that they had been covering Whitewater—and Ken Starr and his deputies—for years, when almost everyone else was ignoring that beat. Schmidt recalls that the previous Friday she had "heard from sources in Starr's office something about Vernon Jordan and coaching a witness." The Drudge item, she says, gave her "more direction."

"By Tuesday mid-day, Sue Schmidt came to me with an outline of the story," recalls Washington Post executive editor Leonard Downie. "We still waited late into the afternoon and evening," he adds. "It wasn't anything we were missing as much as what would make us feel better. We have a high threshold on private lives around here."

Downie and the Post's top editors stayed through the evening, missing the deadline for the paper's first edition at about 9:00 because they still weren't comfortable. Then, says Downie, Peter Baker, Schmidt's reporting partner on this beat, "reached the wonderful Mr. Ginsburg, who gave us an on-the-record quote about the investigation, including the classic quote about the president either being a misogynist or Starr having ravaged Monica's life."

The article finally ran in the second edition, using the words "sources" or "sources" 11 times.

Citing "sources" who could only be people in Starr's office, the article's fifth paragraph said that Lewinsky can be heard on Tripp's tapes describing "Clinton and Jordan directing her to testify falsely."

That is exactly the material that had been missing from the tapes that Newsweek heard, which, in part, had caused the magazine to hold its story, as Isikoff concedes. And, remember, Tripp's lawyer had selected what he said were the most incriminating tapes for Newsweek to hear that night.

Which means that this damning material was either on the new tapes that Tripp had just made of Lewinsky for Starr the prior week, or it is the Starr side's extreme spin on the tapes Newsweek heard.

This is not a minor point: The charge that Lewinsky had been instructed to lie was not only the linchpin of Starr's expanded jurisdiction, but would also be the nub of any impeachment action against the president—and the premise of all of the front-page stories and hours of talk show dialogue that would follow that speculated about impeachment. That such charges would stem secondhand—from one person's talking on a tape about what other people had said to her—is weak enough. Weaker still is that the only tapes heard by any reporters clearly didn't say that. In fact, they seemed to say just the opposite. The tapes, if any, that do have Lewinsky claiming she had been told to lie were based on a script provided by prosecutors and not heard by any independent party to verify if Lewinsky had said so, or if she was led too far into saying it.

HAVE THAT SCOTCH

Lanny Davis, then a White House counsel in charge of dealing with press inquires related to the various investigations of the president, recalls that at about 9:00 that Tuesday night, January 20, he returned a call to the White House from Peter Baker of the Post: "I told him he was interrupting a good scotch. He said 'You're gonna need that scotch.' Then he laid it all out for me. It was breathtaking."

Davis drove back to the White House, where he and other top aides assembled in White House Counsel Charles Ruff's office and waited for a messenger to bring then the Post from its loading dock a few blocks away. By the time the Post came out on its website at 12:30 A.M., "all hell broke loose on my pager," Davis recalls. "It was surreal. Everyone was calling, and meanwhile Clinton is right below us in the Oval [Office] with [Israeli Prime Minister Benjamin] Netanyahu."

Over at ABC, Jackie Judd's story was ready for the 11:30 P.M. Nightline broadcast, which meant she would have beaten the Post. But Nightline host Ted Koppel, who was in Cuba doing a special on the Pope's visit, decided to hold it rather than shoehorn it in at the last minute.

Later that night, Judd managed to get the story onto the ABC radio network (as well as its overnight television news show and its website) and then led with it on Good Morning America the next morning—which is what caused Lucianne Goldberg to whoop into the phone on January 21.

From that point, says Bob Woodward, the Washington Post reporter who teamed up with Carl Bernstein in Watergate, there was "a frenzy unlike anything you ever saw in Watergate . . . We need to remember that for the first eight or nine months of Watergate, there were only six reporters working on it full time."

What follows is a log of the first—and most furious—three weeks of that frenzy. It should be read with one often-over-looked reality in mind: All of it—every bulletin, every hour of talk radio, every segment of cable news specials, every Jay Leno joke, every website page, every Congressional pronouncement—would be based on a woman looking for a book deal who had surreptitiously taped some of her conversations with a 23-year-old "friend" whom none of the reporters or pundits had talked to.

Day 1: Wednesday 1/21/98

THE SPECULATORS:

Jackie Judd's 7:00 A.M. Good Morning America report is a bombshell. Citing "a source," Judd says Lewinsky can be heard on a tape claiming the president told her to deny an affair and that Jordan "instructed her to lie." Again, those can't be the tapes Tripp made on her own, because Newsweek would have heard that.

Switching to the pundits, ABC's Stephanopoulos, the former Clinton aide, seconds a notion brought up five minutes earlier by Sam Donaldson, saying: "There's no question that . . . if [the allegations] are true . . . it could lead to impeachment proceedings." It has taken less than 70 minutes from the breaking of the story of an intern talking on the phone for the discussion to escalate to talk of impeachment.

At 7:30, the show's newscaster says that "two sources" have told ABC's Jackie Judd that both Jordan and the president "instructed her to lie under oath." Asked later what happened in that half hour to double her sources, Judd says, "I think I was trying to be extra-careful the first time. We actually had a lot of sources."

VISIT TO A MUSEUM, THEN PAYBACK TIME

For The New York Times, the intern story began the way Watergate had: The Washington Post had caught the Paper of Record asleep.

"Drudge was just not something on our radar screens," one Times Washington reporter recalls. And while some in the bureau had noticed Kristol's comment on This Week, they hadn't paid much attention to it, much less allowed it to mar the three-day Martin Luther King Day weekend.

Worse, when the Times people awoke on Wednesday and saw the front-page Post story or caught the news on Good Morning America, there was little they could do to get an early start on catching up. The office had arranged a special tour of a new exhibit of old Times front pages at Washington's Corcoran Gallery of Art, and two reporters would later recall that there was pressure on them to turn out in good numbers. So until about 10:00 that morning, most of the Time's talent was on a museum tour.

Not Jeff Gerth. He skipped the tour.

In terms of being a sleuth, Gerth is more Isikoff than Isikoff. Now 53, he has covered everything from organized crime, to global business regulation, to campaign finance, to food safety in his 21 years at the Times. And in 1992, he had broken the first Whitewater story.

Now, recalls another Times reporter, Gerth got "hold of his Ken Starr people and played a real guilt trip on them. They'd just made him look bad and he was Mr. Whitewater." (Gerth now refuses to comment on his sources, except to say that "you can imply what you want, but I always have multiple sources." He adds: "I didn't feel bad about missing this because I was never interested in touching the sex stories.")

Getting leaks from law enforcement officials—especially information about prospective or actual grand jury proceedings, where the leaks are illegal—is usually a cat-and-mouse process. The prosecutors know they are doing something wrong, and they worry about whom they can trust. You run a guess by someone. They answer vaguely but encouragingly. You push a little bit more, and they let on a bit more. Then you try someone else, again stretching what you think you know with a guess or two to see if that person will confirm your suspicion by saying something like, "You're not far off." Then you go back to the first person for confirmation. It's almost never as easy as it seems when a story is published or broadcast that says, "sources say."

But this morning, while he did not, he later asserted, simply call one "magic phone number" and get it all, Gerth had an easier, faster time of it. "By about midday, Jeff had a memo that was about as comprehensive as you could imagine, which he kept supplementing," recalls Michael Oreskes, the Times' Washington bureau chief. Gerth freely shared his memo with everyone in the office.

ALL MONICA ALL THE TIME

At 6:00 p.m. the MSNBC Internet news service, which beginning at 11:00 a.m. had headlined the Lewinsky story "A Presidential Denial," is now calling it "Crisis at the Top," with the sub-headline "Sex allegations threaten to consume White House." Meantime, MSNBC's sister cable-TV channel is talking about the intern allegations almost nonstop. For the next 100 days, the fledgling cable channel would become virtually all Monica, all the time.

NEWSWEEK GOES ON-LINE

The Post and ABC stories (plus a front-pager in the Los Angeles Times that has almost as much information as the Post) have now made a joke out of the idea that Isikoff's story can hold until next week. So, at about 7:00 p.m., Newsweek goes on-line.

Isikoff's furiously typed story loads up everything he knows. What's notable is that he now doesn't mention what he later says was a key exchange on the tapes he heard, the question-and-answer that had caused his editors to hold the story: the fact that on those tapes Lewinsky answer, "No," when Tripp asks, "He [the president] knows you're going to lie. You've told him, haven't you?"

LIVE FROM HAVANA

Each of the three broadcast network news anchors is live in Havana for the Pope's visit, but the headline for each show is Lewinsky—and the heart of all three reports features a correspondent who, citing anonymous sources, has clearly been given extensive information by Starr's office.

STARR AND LEAKS

On April 15, during a 90-minute interview with Starr, I am reminded of the kind of old-world straight arrow that he is. Starr is the opposite of slick—which in this case means he doesn't lie when asked a straight, if unexpected, question. After he expresses disappointment with my insistence that our conversation not be off the record or on background, I ask a series of question not about his investigation, but about discussions he or his deputies might have had with reporters. I make clear that these questions are based not only on the obvious fact that many of the stories about the investigation seem to have only been able to have come from his office, but also on what reporters or editors at six different news organizations have told me and, in three cases, on documents I have seen naming his office as a source for their reporting about the Lewinsky allegations.

Details of his answers are reported below. As a general matter, in response to an opening "Have you ever . . .?" question, Starr hesitates, then acknowledges that he has often talked to various reporters without allowing his name to be used and that his prime deputy, Jackie Bennett, Jr., has been actively involved in "briefing" reporters, especially after the Lewinsky story broke. "I have talked with reporters on background on some occasions," he says, "but Jackie has been the primary person involved in that. He has spent much of his time talking to individual reporters."

Starr maintains that there was "nothing improper" about him and his deputies speaking with reporters "because we never discussed grand jury proceedings."

If there was nothing improper, why hadn't he or Bennett ever been quoted by name on the record?

"You'd have to ask Jackie," Starr replies.

Aren't these apparent leaks violations of the federal law, commonly referred to as "rule 6-E," that prohibits prosecutors from revealing grand jury information?

"Well, it is definitely not grand jury information, if you are talking about what witnesses tell FBI agents or us before they testify before the grand jury or about related matters," he replies. "So, it's not 6-E."

In fact, there are court decisions, (including one in early May from the Washington, D.C., federal appeals court with jurisdiction over this Starr grand jury) that have ruled explicitly that leaking information about prospective witnesses who might testify at a grand jury, or about expected testimony, or about negotiations regarding immunity for testimony, or about the strategy of a grand jury proceeding all fall within the criminal prohibition. And Starr himself has been quoted on at least one occasion saying the same thing. On February 5, during one of his sidewalk press conferences, Starr refused to comment on the Lewinsky investigation's status. He couldn't talk, he said then on camera, "about the status of someone who might be a witness [because] that goes to the heart of the grand jury process."

Moreover, whether or not the criminal law applies to these discussions between reporters and Starr and his deputies, it is clearly a violation of both Justice Department prosecutorial guidelines and the bar's ethical code for prosecutors to leak substantive information about pending investigation to the press.

What about that? I ask Starr. Was he conceding unethical but not illegal leaks?

Perhaps realizing that he has already conceded too much, Starr reverts to a rationalization so stunning that two days later I called his just-hired spokesman, Charles Bakaly, who sat in on much of the Starr interview, to make sure I heard it correctly. (Bakaly said that I had.)

"That would be true," Starr says, "except in the case of a situation where what we are doing is countering misinformation that is being spread about our investigation in order to discredit our office and our dedicated career prosecutors. . . . I think it is our obligation to counter that kind of misinformation . . . and it is our obligation to engender public confidence in the work of this office. We have a duty to promote confidence in the work of this office."

In other words, Starr is claiming a free pass. For even assuming that his leaks are not illegal under 6-E—which, again, is a huge assumption—he's saying that they are not unethical either, because they are aimed at negating attacks and promoting confidence in the work of his office. Which, of course, could be said about any leak from any prosecutor that attempts to show that an investigation is making progress in going after the bad guys.

Asked two days after the Starr interview about this apparent loophole in the ethical prohibitions against leaks (again, even assuming they are not illegal), Starr's deputy, Bennett, says, "It is true that Ken's view is that . . . the public has a right to know about our work—to the extent that it does not violate legal requirements."

As for why, if all of this is proper, Starr or he had not been quoted by name on the record countering all this misinformation, Bennett says, "I think I have been quoted on occasion."

NEXIS check of all stories by major newspapers, magazines, and network news organizations concerning the first month of the Lewinsky story did not turn up any examples of Bennett being quoted by name talking about the progress or particulars of the investigation.

As for the comprehensive network reports about the Lewinsky investigation aired on the first night the story broke, Starr confirms in our interview that Bennett had spent "much of the day briefing the press." But he asserts again that Bennett had done nothing improper because his efforts were directed at countering the impression that Starr's office had improperly exceeded its jurisdiction or had mistreated Lewinsky. In none of these reports is Bennett quoted by name.

Asked if he had spoken to the network correspondents, or to Schmidt of the Post, or to Gerth of the Times, Bennett said, "Ken has said what he said . . . but I am not going to answer any questions about any particular conversations I had with any members of the press. . . . I don't think it's any of your business."

The reporters involved declined all comment on their sources—which, of course, is what they should do if they have promised their sources anonymity.

APPLYING THE PRESSURE

There is a purpose to these January 21 leaks beyond glorifying Starr and embarrassing the president. On this day, the day that the story breaks, Starr's people are again negotiating with Lewinsky's lawyer, William Ginsburg. "The more they can make me feel like they have a strong case without me," says Ginsburg, "the more pressure they figure I'll be under. And the same I guess is true for Vernon Jordan. They want him to flip, too."

The most laughably lapdog-like work comes from NBC's David Bloom who, throughout this story, would perform as a virtual stenographer for Starr. In a report lasting about two minutes, he uses the terms "sources say" five times and "law enforcement source" twice, ending ominously with this: "One law enforcement source put it this way, quote, 'We're going to dangle an indictment in front of her [Lewinsky] and see where that gets us.'" Bloom is clearly helping Starr fulfill his duty to "engender confidence in the work of" his office.

CBS's Dan Rather and the network's chief White house correspondent, Scott Pelley, are more circumspect. Rather characterizes Clinton's comments on National Public Radio and The NewsHour with Jim Lehrer as "flat-out" denials, and he repeatedly emphasizes that none of the allegations have been proven.

At ABC, Sam Donaldson dissects what he sees as the tentativeness of the president's denials. Then, Jackie Judd, citing a "source who has heard the tapes" that Tripp made at the Ritz-Carlton under the Starr people's direction (which means at this point that only Starr's office can possibly be the source), says that Lewinsky can be heard on the tapes saying that "Jordan instructed her to lie under oath." The Starr people are clearly using one of the three reporters they know best and trust the most (the other two being Isikoff and the Post's Susan Schmidt) "to engender public confidence" in their work—and to step up the pressure on Lewinsky and Jordan.

When asked specifically about these three reporters during our interview, Starr acknowledges that his deputy, Bennett, has talked "extensively" to each. He then refers me to Bennett for details. Bennett refuses to comment on any talks he had had with the favored three. In none of their reports is Bennett ever quoted by name.

FEEDING THE FURNACE

Twenty years ago a story of this scope would have had a chance to catch a breath after the network evening newscasts. The next round of coverage would not come until the morning papers. Now it is only after the networks' evening news that the story achieves maximum velocity. It's then that talk television gets to use it to fill its need for the news that is gold—the type that can generate ratings with inexpensive talking heads rather than expensive reporters in the field.

On CNN's Larry King Live, Evan Thomas of Newsweek leads off with his description of the Lewinsky tapes he had heard.

"Our PR department decided to do a blitz on television and get all of us out there," Thomas later explains. "It's something the newsweeklies always want to do nowadays—get mentioned and get noticed—and in this story we really wanted to be identified with it because it was our story. . . . You need to be careful about television," adds Thomas. "They try to lure you into saying more than you know, into saying something new. It's a trap, and after a few days I hated it."

Thomas tells a caller who asks how he can know the tapes are legitimate that one of the reasons that Newsweek did not run its story that weekend was that it could not authenticate the tapes. That's a new explanation, and, if sincere, it raises the question of why Newsweek went on-line today with its story; for the magazine certainly can't have authenticated the tapes since it heard them that Saturday morning because it did not get to keep copies.

Whatever these nits, King's show, which includes former Clinton aides James Carville and Dee Dee Myers as well as Ronald Reagan and George Bush press secretary Marlin Fitzwater, does provide a good, lively introduction to the story.

Geraldo Rivera, on CNBC's Rivera Live, provides quite a bit more. His guests include Paula Jones spokeswoman Susan Carpenter McMillan; William Ginsburg, who for this hour is in his "I-can't-say-anything" mode; a Newsweek editor named Jon Meacham (apparently one of Thomas's TV-blitz squad people), who had not heard the Lewinsky tapes but is on the show to talk about them anyway and does so happily; and one Dolly Browning, who has written a novel (agented by Lucianne Goldberg), which is described as a fictionalized version of her own long affair with Bill Clinton. Add three more lawyer-pundits and Rivera (who also has a law degree), and you have a kind of dinner party conversation from hell, in which any and all variety of truth, speculation, fiction, and ax-grinding are thrown together for the viewing public to sort out for themselves.

Over at MSNBC, we find The Big Show with Keith Olbermann, which features much the same mixture but with a more sarcastic and less intelligent host. The blitzing Newsweeker here is Howard Fineman, the magazine's chief political correspondent. According to Thomas and Isikoff, Fineman hadn't even known about the Lewinsky story until after Drudge leaked it, much less heard the tapes, a point Fineman later concedes to me.

"We have heard some of the tapes," Fineman begins, not telling his viewers how royal his use of "we" really is. After describing what everyone else by now has said is on them, he adds something new, revealing that "we" have "confirmed, apparently, the president's own voice on Monica Lewinsky's answering machine. We haven't heard that tape, but we know pretty authoritatively that apparently the president's voice is on her tape machine. . . . If true, how idiotic of the President of the United States," Fineman declares.

Nearly for months later, as of this writing, there is no confirmation of that tape, let alone confirmation that, if there is one, it incriminates the president in anything.

"Television is definitely more loosey-goosey than print," Fineman later explains. "And I have loosened up myself, sometimes to my detriment . . . and said things that were unfair or worse. . . . It's like you're doing your first draft with no layers of editors and no rewrites and it just goes out to millions of people."

Within a week, Fineman would become a regular on-air nighttime and weekend analyst for NBC, MSNBC, and CNBC for an annual fee that he says is "in the ballpark" of $65,000. That's about 40 percent of his day-job Newsweek salary for what he estimates to be 5 to 10 percent of the time he works for the magazine.

"We didn't let our reporters actively covering this go on television, except for Bob [Woodward], who essentially talked about Watergate," The Washington Post's Downie later says. "They're supposed to be reporters, not people giving spin or expressing a point of view. And if I were running Time or Newsweek I would have the same view."

"Len and I have a different view on that," counters Newsweek editor in chief Richard Smith, who also notes that "the people on our staff who were really in the know—Isikoff, McDaniel, Thomas—were among the most sober, thoughtful voices you heard. But you can find people in our organization or any organization that, given the voracious maw that electronic journalism has become, were tempted to say more than they knew."

Another Olbermann guest is the NBC colleague Tim Russert, the NBC Washington bureau chief and Meet The Press host. "One of his best friends told me today," says Russert, referring to the president, "if this is true, he has to get out of town.' . . Whether it will come to that, I don't know, and I don't think it's right or fair to be in the speculation game."

But talk TV is the speculation game. So, after taking a breath, Russert continues: "But I do not underestimate anything happening at this point. The next 48 to 72 hours are critical."

Olbermann's MSNBC show, which runs from 8:30 to 9:00 p.m. eastern time, debuted last October. A marquee newscaster at the ESPN cable sports network, Olbermann had been lured by big bucks and the promise of aggressive promotion that would put him and MSNBC—the Microsoft-NBC joint venture challenge to CNN—on the map. Now, as his show wraps on this first night of the scandal, his procedures are already talking among themselves in the control room about using the intern scandal to birth a whole new show called White House in Crisis. That show would debut at 11:00 on February 3. And MSNBC officials would later make no bones of the fact that with that show, and with Olbermann's 8:00 p.m. show and, indeed, with the entirety of their-talk-news daytime programming, they were hell-bent on using the intern scandal to do for their entire network what the Iranian hostage crisis had done for a half-hour ABC program called Nightline in 1979.

Indeed, MSNBC's use of the alleged intern scandal was endemic to how all-24 hour cable news networks and all talk radio had come to use such topics in the late 1990s. For these talk machines, the subject matter isn't simply a question of bumping circulation a bit for a day or a week, the way it is for traditional newspapers or magazines or of boosting ratings for a part of a half-hour show or an hour magazine program the way it is for network television. Rather it's a matter of igniting a rocket under the entire revenue structure of the enterprise.

Thus, while the three broadcast networks' evening news ratings increased a total of about six percent in the week beginning on this day (January 21), MSNBC's average rating for its entire 24-hour day—a day when almost all of its coverage was devoted to the intern scandal—increased by 131 percent. Which meant that its revenue from advertising (which is the only revenue that varies from week to week in cable television) would also jump 131 percent if it could sustain that increase.

Day 2: Thursday 1/22/98

NOT WATERGATE

The Times gets up off the mat with a comprehensive page-one report that leads with the president's denial—then details the material on the tapes. Most of the country's other newspapers use information from the

Times and The Associated Press, which publishes a less complete story.

What all the stories have in common is that none is based on firsthand reporting. It is all the prosecutors' or other lawyers' ("sources") rendition of what witnesses or potential witnesses have said, are saying, or might say.

"The big difference between this and Watergate," says Bob Woodward is that in Watergate, Carl [Bernstein] and I went out and talked to people whom the prosecutors were ignoring or didn't know about. . . . In fact, that's what Watergate was all about—the government not doing its job when it came to prosecuting this case. . . . And we were able to look these people in the eye and decide if they were credible and get the nuances of what they were saying. . . . Here, the reporting is all about lawyers telling reporters what to believe and write."

TODAY FIGHTS BACK

After being bested by Jackie Judd and Good Morning America yesterday, the Today show is fighting back. One advantage the show has is NBC's contract with Newsweek's Isikoff. Plus, they have snagged Drudge. But first we hear from Tim Russert, who declares: "I believe [impeachment] proceedings will begin on the Hill if there is not clarity given by the president over the next few weeks."

Then cohost Matt Lauer peppers Drudge with questions about his journalistic standards. Then he demands, "Are you at all concerned that you've made a mistake here?"

Drudge responds by hurling another sleaze ball: "Not at all. As a matter of fact, I have reported that there's a potential DNA trail that would tie Clinton to this young woman."

What Drudge is referring to is his report on the Web the day before about a semen-stained dress—which is something Lucianne Goldberg later told me she had heard about from Tripp and had passed on to Drudge and some other reporters.

Lauer asks for more. "You say Monica Lewinsky has a piece of clothing that might have the president's semen on it," he says. "What evidence do you have of that?"

"She has bragged . . . to Mrs. Tripp, who has told this to investigators, it's my understanding," says Drudge.

Next up is Isikoff (who has already appeared in the first half hour). Lauer can't let the dress story die. He demands to know if Isikoff "has heard anything" about the dress, or if he has any confirmation of its existence. Isikoff tries to brush him off: "I have not reported that, and I am not going to report that until I have evidence that it is, in fact, true."

Lauer doesn't let go. "You're not telling me whether you've ever heard it," he persists. "I've heard lots of wild things, as I am sure you have," Isikoff replies, clearly frustrated. "But you don't go on the air and blab them."

Asked later why he had given Drudge the opportunity to air any unconfirmed rumors live on national television, let alone pressed him about the most sordid one out there, Lauer says, "Because that story was out there. People were starting to talk about it." As for why he hectored Isikoff about Drudge's dress rumor, Lauer says, "I was really just trying to get him to debunk it, not substantiate it. That's all I was doing."

In a moment rich enough an irony for a remake of the movie Network, Katie Couric followed Lauer's semen interviews about an hour later with a segment featuring a child psychologist explaining how to help our children "make sense" of "the Clinton sex scandal."

Meanwhile, at ABC's Good Morning America, the pundits, including George Stephanopoulos and Sam Donaldson, bat around all manner of rumors and leaks—including a dress about which "there are all sorts of reports on the Internet" (Donaldson), sexually explicit tapes, and the fact that the president admitted to having "an affair" with Gennifer Flowers in his Paula Jones deposition (something also mentioned on NBC). The only guest who stays on the straight and narrow is legal analyst Jeffrey Toobin.

"I do have an m.o.," Toobin explains later. "These cases really come down to facts . . . and facts tend to be in short supply at the beginning of a story like this. So I just try to emphasize the variety of options based on the factual scenarios. . . . It's more about journalism than the law, because journalism [asks] about facts. . . . The problem," Toobin continues, "is that if, for example, you engage in a . . . long discussion about the legal elements of obstruction of justice, you are a presupposing that there was an obstruction of some kind. . . . A discussion about the elements of impeachment presupposes that there's some relevance to an impeachment discussion. Worst of all," he concludes, "all of the Lewinsky discussions were based on the one hundred percent certainty that they had a sexual relationship, and there is pressure in that direction because it makes the discussion interesting."

OUT OF HAVANA

The network evening newscasts have left Cuba and the Pope behind; the anchors are now reporting from Washington (NBC and CBS) or New York (ABC).

"First we heard that Brokaw was going back," recalls CBS's Dan Rather. "Then we heard Jennings was . . . clearing out . . . I truly wanted to stay there and report on the Pope, but I got the distinct impression [from his bosses in New York] that if I stayed another minute, I would have been there all alone and without a job. I might as well have just stayed here forever with Castro."

CBS'S SCOOP

For all of Rather's purported reluctance, CBS News now begins to emerge as a place for unexciting but important scoops. Tonight, White House correspondent Scott Pelley reports that the president's personal secretary has been subpoenaed to testify before the grand jury and that FBI agents had gone to her home last night. Pelley is also the first to report that Secret Service records indicate that Lewinsky visited the White House "as recently as last [December]."

'THE BIGGEST DAY IN THE CLINTON PRESIDENCY'

On the Nightly News, NBC White House correspondent Claire Shipman cites "mounting circumstantial evidence—messenger receipts [the ones created by Lucianne Goldberg's brother's family's courier service] . . . or reports of the president's voice on the answering machine of Lewinsky."

NBC caps its report with a discussion between Tom Brokaw and Tim Russert. "Tim, tomorrow [Friday, January 23] is the biggest day of the Clinton presidency," Brokaw declares. Whereupon Russert notes that the key event of the big day—Lewinsky's scheduled deposition in the Jones case—is now likely to be postponed, which it was.

NOW, IT'S 24–48 HOURS

Russert is nothing if not consistent. Yesterday he declared that the president had 48–72 hours to give their country a complete explanation. Now on NBC's sister network, CNBC, he tells Geraldo Rivera that the president "basically has the next 24 to 48 hours to . . . talk to the country, either through a press conference or a news interview and explain exactly what happened, what kind of relationship he had."

"I was only reporting the state of mind of people at the White House," Russert later contends. "Even the president, in those first few days, said he would provide answers sooner rather than later."

BRENDAN SULLIVAN TO THE RESCUE

Over at Larry King Live, Newsweek's Evan Thomas has apparently forgotten his own worry about reporters trying too hard to make news on television. "We understand Brendan Sullivan"—the famed Washington lawyer who represented Oliver North, among others, and is a partner at the firm where Clinton defense lawyer David Kendall is also a partner—"is masterminding a legal team" for the president, Thomas tells King. If so, as of this writing, he has never surfaced.

"That was just wrong," Thomas concedes later. "Brendan may have an informal role," he adds. "But how are you ever gonna prove it?"

Day 3: Friday 1/23/98

GENNIFER AND MONICA

The Washington Post publishes a story headlined "Flowers Feels Vindicated By Report; Similarities Seen in Relationships." The story is based on the false leak that the president has now acknowledged an "affair" with Flowers, rather than the one encounter that it turns out the president did admit to in his deposition. (This exaggeration of what the president actually admitted to—not of what might have actually happened—will pollute most subsequent accounts of the deposition.) The paper also runs an account of the continued sparring between Starr's office and Lewinsky lawyer William Ginsburg. It's full of anonymous sources from Starr's side and the on-the-record Ginsburg on Lewinsky's side. "They leak and I patch," Ginsburg asserts later.

'OUT THERE'

The St. Louis Post-Dispatch (which is a good barometer of mainstream city newspapers outside the media hothouses of Washington, New York, and Los Angeles) leads with a story, "From News Services," that—by definition in a situation like this—vacuums up every leak and rumor about the investigation and the Lewinsky-Starr negotiations.

Bob Woodward would later say that print had done a much better job with this story than television because "it has the time to check things out and get it right." He's generally right about papers with their own national reporters, like The Washington Post, the Los Angeles Times, the Chicago Tribune, USA Today, and The New York Times. But today, as on most days, the other papers—which now mostly use news services and wire reporters to disseminate national news—gobble up the confirmed and unconfirmed from everyplace else, print and television.

It is not a pretty picture.

And it's a major manifestation of the virus that will afflict this story: A rumor or poorly sourced and unconfirmed leak aired or printed in one national medium ricochets around the country until it becomes part of the national consciousness. In short, once it's "out there," it's really out there.

THE MISSOURI INTERNS

Today's Post-Distpatch rumor bazaar is supplemented by the one kind of national story that most newspapers still produce with their own reporters and with parody-like uniqueness: the classic "local angle." In this case, it's a piece headlined "Missouri, Illinois Interns Are Fully Briefed on Pitfalls of Job." It's about how interns at the two state legislatures are cautioned about being wowed by "people of influence and charisma."

INSIDE KEN STARR'S MIND

On the CBS Evening News with Dan Rather, Phil Jones reports that "two sources familiar with the independent counsel's investigation tell CBS News that Kenneth Starr is, quote, 'absolutely convinced that Monica Lewinsky was telling the truth when she was recorded by her friend Linda Tripp.'"

THE DRESS

ABC's Peter Jennings opens World News Tonight with this introduction: "Today, someone with specific knowledge of what it is that Monica Lewinsky says really took place between her and the president has been talking to ABC's Jackie Judd."

Following this buildup, Judd reports: "The source says Monica Lewinsky claims she would visit the White House for sex with Mr. Clinton in the early evening or early mornings on the weekends, when certain aides who would find her presence disturbing were not at the office. According to the source, Lewinsky says she saved, apparently as some kind of souvenir, a navy blue dress with the president's semen strain on it. If true, this could provide physical evidence of what really happened."

This source could be someone who has heard the tapes. It could even be Linda Tripp. But it's not. Although Judd would not comment on her source, Lucianne Goldberg told me that she herself is the source for this Jackie Judd report and for others that would follow. And she claims she heard all this from Linda Tripp, but is not sure that any of it is on a tape. (The *Newsweek* people who heard the tapes say it is not on what they heard.) In fact, Goldberg is not sure that Tripp said Lewinsky had talked about having saved a dress, as opposed to a dress simply having been stained. "I might have added the part about it being saved," Goldberg told me.

We can assume that Goldberg is telling the truth that she's the source because of what Judd reports next:

"ABC News has obtained documents that confirm that Lewinsky made efforts to stay in contact with the president after she left the White House. . . . These are bills, "she continues, holding some papers up to the camera, "from a courier service which Lewinsky used at least seven times between October 7 and December 8."

Yes, the courier service—the one owned by Goldberg's brother's family. How else but from Goldberg could Judd have obtained those handy records?

STOP US BEFORE WE KILL AGAIN

Every two or three days throughout the reporting of this alleged scandal, the press seems to stop, take a breath, and flagellate itself, as if to say to its audience, "Stop us before we kill again." Much of it, including a piece by ABC's Cynthia McFadden and a special on CNN moderated by Jeff Greenfield, would be quite good. Much of it would be quite the opposite.

For example, minutes after Judd's scoop, Jennings introduces Tom Rosensteil of the Pew Charitable Trusts' Project for Excellence in Journalism.

Jennings: "How do you think the media is doing, Tom?"

Rosensteil: "So much of what we have seen in the last three days is speculation, rumor, innuendo."

Jennings: "Let me say . . . that I think the press has been pretty good on saying repeatedly these are allegations. Would you have us ignore them?"

Rosensteil: "No. . . . But we have reporters go on and characterize secondhand what is on the tapes. . . . We've had reporters go on and say that the president has 48 hours to . . . put the scandal behind him."

Jennings: "Okay, Tom Rosensteil, thanks very much. Critical of the press. Part of his job."

A WEAKNESS FOR 24-YEAR-OLDS

Olbermann's Big Show at 8:00 features a guest who says, "Maybe if he stood . . . up there and said, 'I'm sorry. I have a weakness for 24-year-olds,' he might . . . survive it."

The expert: Watergate ex-con John Ehrlichman.

FOUR OTHER INTERNS

Geraldo Rivera hosts the usual melange, who trade all variety of wild theories. He calls them his "cast," and they include Gennifer Flowers, Paula Jones's lawyer, and some other lawyers, one of whom is Ann Coulter, a Rivera regular described as a conservative "constitutional law attorney." Asked by Rivera if she thinks it is "sleazy" that Lewinsky had been questioned for "eight to nine hours without an attorney present," Coulter counters matter-of-factly that it is not as bad as "the President of the United States using her to service him, along with four other interns."

What's curious about the Rivera show is the way it uses its NBC bloodline to combine this kind of rollicking garbage with the more serious contributions of the network's newspeople. Mixed in with the screaming and smearing from Coulter and the others are live reports from White House correspondent Shipman and even taped bites from Tom Brokaw.

It's a fascinating display of corporate synergy. Or perhaps it is a suicidal, long-term cheapening of a great brand name. True, the high-low mix helps ratings short-term; but if your business plan as a media organization is to be a cut above Drudge—and it has to be, because anyone can be Drudge—how can this be a good long-term business strategy?

Asked later if she minded being sandwiched in that night between Rivera, talking about the president's "alleged peccadilloes," and Coulter, talking about those "four other interns," Shipman says, "It's true that you get a different style on NBC with Brokaw than with Olbermann or Geraldo, but I think Geraldo does a pretty good job of separating out the rumor from the fact. He's very smart and I am not at all uncomfortable with his role at NBC."

Do the NBC and Brokaw brand names get hurt by mixing them with Geraldo? "Geraldo does what he does," Brokaw says. "He doesn't arrive in the guise of someone who is going to be a traditional mainstream reporter. . . . And the public is very good at telling the difference. They have a good filter on this stuff."

"In the case of Claire or Tom, they're being reporters on Nightly News and being reporters on Geraldo," says NBC News president Andrew Lack later. "The shows have different flavors, but as long as they don't change their acts, I'm not concerned."

Day 4: Saturday 1/24/98

THE SOUVENIR DRESS

The Lucianne Goldberg-Jackie Judd semen dress story is spreading. The front page of the New York Post blares, "Monica's Love Dress," with the declarative subhead "Exintern Kept Gown as Souvenir of Affair." The story quotes "sources."

"She Kept Dress," echoes the Daily News.

Some papers across the country also ran a United Press International wire service story, sent out the night before, saying that ABC has quoted an unnamed source saying, "Lewinsky saved a navy blue dress stained with President Clinton's semen." So now we have a source not saying that that is what Lewinsky says, but just plain stating it.

LEWINSKY NOT 'SQUEEZED'

Schmidt of The Washington Post does stenography for the prosecutors. Citing "sources close to Starr," she writes that Lewinsky's ten-hour session in Arlington with Starr's deputies and the FBI wasn't really a harrowing encounter, after all. It only took that long, Schmidt writes, because Lewinsky let it drag on.

This kind of leak from Starr's shop clearly falls under the category of what Starr later contends were "attempts by us to counter the spread of misinformation."

In fact, in our interview he even cites "correcting allegations about our mode of interrogating a particular witness" as an example of the kind of press briefing Bennett had undertaken. But as an attempt to affect public perception—and a potential jury's perception—it is also a clear violation of Justice Department guidelines and the lawyer's code of professional responsibility.

RESIGNATION

At 6:00 p.m. on this Saturday evening, CNN breaks into its regular programming with a bulletin. Wolf Blitzer, standing on the White House lawn, says, "Despite the president's public and carefully phrased public denials, several of his closest friends, and advisers, both in and out of the government, now tell CNN that they believe he almost certainly did have a sexual relation[ship] with . . . Lewinsky, and they're talking among themselves about the possibility of a resignation . . ." Mark this moment—about 6:00 p.m. on Saturday, January 24—as the height of the frenzy.

"Every one of us senior advisers were sitting there . . . in the White House having a meeting to prepare to go on the Sunday talk shows," Clinton aide Paul Begala later recalls, "and we heard Wolf outside saying we were talking about resignation . . . It was pure bullshit. And we all went out there and yelled at him."

But Blitzer had been careful to say he was referring to Clinton friends, in and out of the government, not just to the White House group Begala is talking about. And with all the media tornadoes swirling about concerning other women, a smoking gun—semen dress, and the like, it should have been no surprise that some of the president's friends, especially those outside the immediate White House group working on fighting the storm, would at least "talk about" resignation.

THE 'COME-HITHER LOOK'

Just after the Blitzer resignation-talk story, CNN produces a 10- or 12-second video clip from its archives that shows the president embracing Lewinsky. She is in a crowd at a White House lawn reception. It's the first picture of the two of them together, and it will be aired hundreds of times in the weeks to follow, usually in slow motion.

"I thought that showing it once was okay, but that after that we should have shown it in context," CNN/US president Richard Kaplan says later. "Clinton always embraces people and he must have embraced a hundred people just that way at that event . . . I told our people to show it in context."

So how come we still have only seen this isolated embrace? I ask Kaplan two months after it was first aired. "I don't know," he says. "I told them not do it. I just don't know."

Tomorrow, in its new issues, Newsweek will make even more of the picture. Evan Thomas will pen an article that tells readers to "look closely at those video clips. There is a flirty girl in a beret, gazing a little too adoringly at the president—who in turn gives her a hug that is just a bit too familiar."

"What Newsweek wrote was just bullshit," Kaplan asserts. "There's nothing special about the embrace."

"Any criticism of that is completely full of shit," counters Thomas. "All over Washington you could just feel people reacting to that picture. She had that come-hither look."

RATINGS HEAVEN

According to MSNBC communications director Maria Battaglia, the fledgling cable network scores its highest ever full-day rating (outside of its Princess Diana coverage) today. By her estimate, "ninety-five percent of our coverage was the scandal." The stars are Newsweek pundits Isikoff and Jonathan Alter, who has a contract with NBC and its cable networks to produce pieces and provide commentary.

Day 5: Sunday 1/25/98

'SPECIAL ASSISTANT TO THE PRESIDENT FOR B-- J---'???

At 6:00 a.m., Time magazine director of public affairs Diana Pearson reports for work. Pearson, who had recently been lured away from Newsweek, is one of a new breed of in-house magazine marketing people. Her job: to get Time mentioned. Her main tool: the press release she finishes at dawn every Sunday morning that touts the issue that went to press late the night before. She then faxes it to newspapers and television networks, making sure that it reaches the TV people in time to be talked about on the Sunday shows.

This morning she is working with what Time managing editor Walter Isaacson later tells me "is our crash effort to catch up to Newsweek."

She reads through Time's piece and decides, as she later puts it, that "the most catchy item, and one thing we had that seemed to be new," is an unsourced claim buried in Time's exhaustive report, in which Lewinsky reportedly told Tripp that if she ever moved back to the White House from the Pentagon, she would be "Special Assistant to the President for blow jobs." So, she makes it the headline of her press release.

"I have never seen this," Isaacson says when asked about this press release five weeks later. "But I have heard about it, and can tell you that that should not have been the headline. . . . We've now taken careful steps," he adds, "to make sure that all press releases are cleared by a top editorial person."

Five weeks after she penned the release, Pearson says that "in retrospect it probably wasn't representative of the story." She also says that "there has been no change in the press release procedure. No one sees them after I do them Sunday morning."

EXHAUSTIVE, BUT . . .

Time's package of stories is, indeed, not well represented by that tawdry press release. Fabulously written, particularly the main story by senior editor Nancy Gibbs, it raises questions from all sides and touches all bases—from Ken Starr's tactics, to Vernon Jordan's role, to Lewinsky's bio, to Linda Tripp's motives, to the relevant legal issues. It is all done in a better, more understandable form than any other publication, including, ironically, Newsweek, which still has so much to report from the tapes that its package seems overwhelmed and disorganized.

"You can cover a lot of sins and reporting gaps with Nancy Gibbs," Time Inc. editor in chief Norman Pearlstine explains later.

"A role of a newsweekly," continues Pearlstine, in what many of his more aggressive reporters would view as an obvious rationalization, "usually can't be to make news the way Newsweek did. . . . The more traditional role is that of synthesis, analysis, and writing. And for that I'll take a Nancy Gibbs over any investigative reporter in America. . . . Remember," he adds, "that in the beginning [Time founder] Henry Luce didn't even think we needed reporters, just writers who could synthesize what others were reporting . . . which for this story in particular is what I think readers really needed."

True enough. But one could argue that, instead of a filter, Time applied a shovel to reporting what was "out there" already.

About five weeks after the issue appeared, I asked Pearlstine to read the following lines of Gibbs's story:

"Monica Lewinsky's story was so tawdry, and so devastating, it was hard to know which was harder to believe: that she would make up such a story, or that it actually might have happened. Without proof, both possibilities were left to squirm side by side. . . . As each new tape surfaced, each new detail arose, of Secret Service logs showing late-night visits when Hillary was out of town; of presents sent by courier; of a dark dress saved as a souvenir, spattered with the president's DNA, the American public began stripping Bill Clinton of the benefit of the doubt."

Didn't that last sentence, for all its opening qualifiers, simply throw in a whole bunch of unproved allegations unfairly? I asked Pearlstine. "Yes, I do have a problem with it. It seems to have just taken everything out there and treated it as fact," he said, though he added that he wanted to confer with those who had worked on the story and get back to me.

Three days later, Pearlstine sent a letter attaching a longer letter from Time managing editor Walter Isaacson defending the paragraphs. Pearlstine said the Isaacson letter made him more comfortable than he had been when we spoke. Isaacson's letter, citing the qualifiers that preceded that final sentence, argued that "even in hindsight, I do not think we could have stated more clearly that these allegations which were . . . widely reported but also confirmed to us by investigators . . . were not proven and were part of a murky tale."

Of course what was "confirmed by us" were only the unsourced allegations by investigators. But Isaacson is right: The real problem is the swirling allegations and rumors, not Time's performance in summarizing them. And Isaacson's qualifiers in talking about them were a lot stronger than most.

SOFTENING STARR'S IMAGE

Susan Schmidt of The Washington Post begins this Sunday with another softening of Ken Starr's image. "[A] source close to the prosecutor insisted he never intended to eavesdrop on Jordan or Clinton," Schmidt reports.

ANGUISHED LINDA

On the Sunday Today show, Isikoff—now openly engaged in punditry and touting how "genuine" the taped conversations seem with a certainty that he would never be allowed to assert in print—refers to an anguished Monica Lewinsky being heard on Newsweek's newly released tape excerpts, along with "a similarly anguished Linda Tripp."

'IT'S 50–50 AT BEST'

Next up on the Sunday Today show is Tim Russert, who takes time out from preparing for Meet The Press to tell host Jack Ford that "one [friend] described [President Clinton] as near Houdini-like in his ability to escape these kind of scandals and crises. But they realize that it's 50–50 at best."

MEET THE DRUDGE

On his own show, Russert announces that among his Meet The Press guests is Matt Drudge.

Drudge seizes his moment. When Russert asks about reports on the tapes of the president and other women, Drudge declares, "There is talk all over this town [that] another White House staffer is going to come out from behind the curtains this week. . . . [T]here are hundreds—hundreds, according to Miss Lewinsky, quoting Clinton." At a later point, Drudge adds that if the Clinton side keeps denying the charges, "this upcoming week is going to be one of the worst weeks in the history of this country."

"Our Round Table is an op-ed page," Russert explains later. "And Matt Drudge was a big player—the big player—in breaking this story. . . . We can pretend that the seven to ten million Americans who were logging on to him don't have the right to see him, but I don't agree."

THE WITNESS

On ABC's This Week with Sam Donaldson—Cokie Roberts (where the alleged scandal got its first airing a week ago), ABC's Jackie Judd has what Cokie Roberts announces are "new revelations in the alleged affair."

Judd then declares: "ABC News has learned that Ken Starr's investigation has moved well beyond Monica Lewinsky's claims and taped conversations that she had an affair with President Clinton. Several sources have told us that in the spring of 1996, the president and Lewinsky were caught in an intimate encounter in a private area of the White House. It is not clear whether the witnesses were Secret Service agents or White House staff."

There are four things you need to know about that paragraph:

1. This report surfaces at the time that Starr's people are putting the most pressure on Ginsburg and his client to have Lewinsky testify that she had an affair with the president and that he pressured her to lie about it. "With leaks like that, they were just trying to scare me into thinking they had a smoking gun and didn't need Monica," Ginsburg asserts later. As if to make sure that the point isn't lost on Ginsburg, Judd's report concludes this way: "This development . . . underscores how Ken Starr is collecting evidence and witnesses to build a case against the president—a case that would not hinge entirely on the word of Monica Lewinsky."

2. On the night before (Saturday, January 24) ABC had televised a one-hour special on the alleged scandal, and according to anchor Peter Jennings, Judd had wanted to air her report then. But, says Jennings "I wanted to hold it . . . I was just not comfortable with the sourcing."

Asked later what happened between late Saturday night and early Sunday morning to make the story airworthy, Jennings says, "I wasn't there on Sunday, but I am told that Jackie worked on it more and was happy with the sourcing by Sunday. . . . She is a fabulous reporter, and I have no reason to doubt her. . . . She plays by the rules and her sourcing is always great,"

Judd later explains that "there was no start or stopping in this news cylce. So, yes, between Saturday night and Sunday there was new sources."

3. What can "several" sources mean? Webster's dictionary defines several as "more than two but fewer than many." Didn't Judd even know how many sources she had? Can there be any excuse for this imprecision other than that this was a figure of speech? "To me," Judd later explains, "it usually means a minimum of three. . . . I know it was at least three. Of course, I knew how many it was at the time, but I didn't think I needed to specify.

4. As of this writing, nearly four months after Judd's ABC "scoop," there is no sign of these independent witnesses.

Does ABC still think the story was right? I later ask Jennings. "We have not yet retracted it," he says, "and I am still happy she's had no reason to think we should retract it. . . . Overall, ABC has done a fabulous job. Our reporting on this has been exemplary, and I challenge anyone to find where it hasn't been."

"We have not had to retract a single thing," echoces Judd. "I still think there might be a potential witness," she adds.

Might be? A potential witness?

"Jackie Judd is a first-class reporter; she's no crackpot," says Richard Kaplan, who is president of CNN but until last year was a top news executive at ABC and used to supervise Judd. It's an assessment echoed by Judd's current colleagues, too. But a first-class reporter needs an editor—a questioner, someone who slows up on the accelerator at exactly the time that the reporter becomes certain that full speed ahead is the only speed.

This is especially true if the reporter is aggressive and has been covering a prosecutorial beat too long. For example, reporters who make their careers organized crime can become so inured to the badness of their targets and to the righteousness of the prosecutors on the other side that, after a while some believe almost anything the prosecutors tell them. There is an almost complete suspension of the skepticism that had made them want to be reporters in the first place.

That's what has happened to Jackie Judd this morning. And apparently there was no editor there to stop her. It was as if in the fabled scenes in the Watergate movie, All The President's Men, when Jason Robards, playing Washington Post executive editor Ben Bradlee, tells his "boys," Woodward and Bernstein, that they "need more," they shrug the old man off and take their stuff to the writing press.

And as with those organized crime reporters, it may be that Judd—and Schmidt and Isikoff, too—are right in general about President Clinton's allegiance to his marriage vows. Ditto Ken Starr. The issue here, though, is whether they're right about this particular allegation and are treating the president fairly in considering it. In short, whether there turns out to be a witness or not, how can Judd defend a January story declaring that there were witnesses by saying four months later that "there still might be a potential witness"?

THE WITNESS AS PREDICATED

Now that Judd's scoop has been aired, Sam Donaldson uses it as the predicate for much of his questioning of guests on This Week. They include Clinton aide Paul Begala, who attacks it as an unsubstantiated leak, and House Judiciary Committee Chairman Henry Hyde, who would preside over any initial impeachment hearings.

Donaldson begins with Hyde by saying, "Corroborating witnesses have been discovered . . . Mr. Chairman, what do you think of that?"

Hyde doesn't bite. "It's an allegation," he says. "We don't have any proof of it yet."

In their closing roundtable discussion, Donaldson tells co-anchor Cokie Roberts, "If he's not telling the truth, I think his presidency is numbered in days. . . . Mr. Clinton, if he's not telling the truth and the evidence shows that, will resign, perhaps this week."

"You have Sam Donaldson saying it's a matter of days, and Tim Russert talking about 72 hours—it's kinda crazy," Bob Woodward says later. "They seem to forget that it was April of 1974 when the tapes came out with Nixon saying, 'I want you to lie and it still took four months."

Three months later, Donaldson defends his prediction, saying. "I said, . . . "if there is evidence,' and I thought evidence would be presented before now. And I clearly meant evidence that it is persuasive."

RATCHETING UP THE STORY

At the end of his show, Donaldson takes Judd's report a step further. Instead of Judd's "several sources have told us" introduction, Donaldson closes the show by declaring that "corroborating witnesses have been found who caught the president and Miss Lewinsky in an intimate act in the White House."

"Someone in the control room asked me so summarize Jackie's report," Donaldson explains later. "And one of the dangers of an ad-lib situation is that you never say it as precisely as you would like." As for the bona fides of the story three months later, Donaldson says, "All I can say is that we believed it was accurate, but people changed their minds about what they would say."

FOUR SOURCES

By about 3:00 Sunday afternoon, *The New York Times* is drafting its own story about witnesses interrupting the president and Lewinisky. "When I saw the Judd report on ABC, I recognized it as a story we were working on," *Times* Washington bureau chief Michael Oreskes later recalls. "By the time I came in that afternoon, we had four sources. And we were preparing to lead the *Times* with it the next morning."

BULLETIN

At 4:42 eastern time, Tom Brokaw and Claire Shipman of NBC break into pre-Super Bowl programming with the following bulletin:

Brokaw: "There's an unconfirmed report that, at some point, someone caught the president and Ms. Lewinsky in an intimate moment. what do you know about that?"

Shipman: "Well, sources in Ken Starr's office tell us that they are investigating that possibility but that they haven't confirmed it."

"Our anchor and White House reporter come on the air and say, here's something that we don't know it true but we just thought we'd tell you anyway just for the hell of it, so we can say we reported it just in case it turns out to be true," a disgusted NBC reporter says later. "That's outrageous."

Asked three months later why he aired that kind of "bulletin," Brokaw says, "That's a good question. I guess it was because of ABC's report. Our only rationale could be that it's out there, so let's talk about it . . . But in retrospect we shouldn't have done it."

Of course, what Shipman did confirm in that report was the commission of one certain felony, though not one involving the president: The leak of material from Starr's office pertaining to a grand jury investigation. For she does tell us that her report comes form "sources in Ken Starr's office."

In our later interview, when asked about Shipman's report, Starr refers me to Bennett, who, again, refused to discuss any conversations with specific reporters.

STORY KILLED

At about 6:00, the *Times* kills its witness story. According to Oreskes, reporters Stephen Labaton and John Broder "came in to me and said 'guess what? We don't have it.' It turns out that they had felt uneasy, and when they tracked back our four sources [Broder and Labaton], concluded that they were only telling them what they'd all heard from the same person—who did not know it firsthand anyway.

"Sometimes, especially in this thing, the story you're proudest of is the story you don't run." Oreskes adds. "We were under enormous pressure on this one . . . People were beating us. But sometimes you just have to sit there and take it."

PULLING BACK

By the time ABC airs its evening news at 6:30, Jackie Judd is pulling back. In the morning. "several sources" had told her the president and Lewinsky was caught in the act. Now we hear from her only that "Starr is investigating claims" that a witness caught them in the act.

Day 6: Monday 1/26/98

CAUGHT IN THE ACT

Picking up on Judd's "scoop," both the Daily News and post in New York scream. "Caught In The Act" across their front pages this morning. Meanwhile, the St. Louis Post-Dispatch, in a story bylined "From News Services," reports (as do other newspapers using similar wire services) that "ABC News reported that the president and Lewinsky were caught in an intimate encounter.

'ALL THIS STUFF FLOATING AROUND'

One of the stranger pick-ups of Judd's witness story comes from the Chicago Tribune, a paper "shut out of getting our own scoops from Starr because we never invested in having our people cover him on Whitewater," according to Washington bureau Chief James Warren.

The Tribune reports what ABC reported, then says that it could not confirm the story independently: "I was against using it, but agreed to this as a compromise," Warren explains later.

Tribune associate managing editor for foreign and national news George de Lama says later, "We figured that our readers had seen it and had access to it. So we had to acknowledge that it existed, and we wanted to say we could not confirm it."

It is indeed a dilemma. Should a story become a news item that has to be repeated and talked about simply because it is broadcast the first time? Or should Chicago newspaper readers be shielded from it?

"In retrospect," de Lama later concedes, "I wish we had not published it.... It soon became clear to us that there's gonna be all kinds of stuff out there floating around and we should just publish what we know independently."

Which the *Tribune* later did, admirably, with a scoop interview of press secretary Mike McCurry musing about the possibility that the truth of the president's relationship with Lewinsky is "complicated," and with a story about money going to a legal defense fund for Paula Jones being used by Jones personally.

'DESPERATE TIMES'

Again, *Newsweek's* Evan Thomas has forgotten his own admonition about reporters mouthing off on television. On *Good Morning America* to promote *Newsweek's* new issue, he is asked, "Do the [president's] advisers think that the American people are going to draw some sort of distinction between sexual acts?" To which Thomas replies, as if he knows, "Desperate times call for desperate measures."

MORE PRESSURE ON LEWINSKY

On the NBC Nightly News, David Bloom, with his ever-helpful "sources," puts more pressure on Lewinsky and Ginsburg. "[S]ources also caution that if no deal is struck tonight, [Lewinsky] could be hauled before a . . . grand jury. . . as early as tomorrow." Four months later, there would still be no deal and no Lewinsky testimony.

MONICA AT THE GATES

On CBS's evening newscast, Scott Pelley reports that "sources" tell him that on January 3, Lewinsky was "denied entry at the [White House] gate" and "threw a fit, screaming, Don't you know who I am?'" It's a report that doesn't get picked up by the rest of the media, despite its apparent news value; if true, it would mean that during this exact week that the president was trying to get Lewinsky to participate in a cover-up, she was being turned away at the White House. But three months later Pelley maintains, "I know this story was true."

'THIS JUST IN': A SEVENTH-HAND STORY

Larry King Live seems to be going well for the president. This is the night of the day when the president forcefully denied having had sex with "that woman, Miss Lewinsky." Former campaign aide Mandy Grunwald and the Reverend Jesse Jackson (plus the ubiquitous Evan Thomas, Republican politico Ed Rollins, and former *Washington Post* executive editor Ben Bradlee) are engaged in a balanced, calm discussion for most of the show. Then, with a few minutes left, King returns from a commercial break with a bulletin:

"Panel, this just in from Associated Press, Washington: A Secret Service agent is reportedly ready to testify that he saw President Clinton and former White House intern Monica Lewinsky in a compromising position. The Dallas Morning News reports tonight [on its website] that it has talked to an unidentified lawyer familiar with the negotiations between the agency and the office of . . . Ken Starr. The paper quotes the lawyer as saying the agent is, quote, "now a government witness," end quote."

Reread that paragraph. At best, it's a fourth-hand report (though, as we'll see, it's actually seventh-hand). The Associated Press (1) is quoting The Dallas Morning News (2) as quoting an anonymous lawyer-source (3) as saying that a witness (4) will say something. Yet it punctures the "maybe-Clinton-will-survive" tone of the rest of the King show—as it does the remainder of Geraldo Rivera's show on CNBC, where he introduces the AP report as follows: "Uh-oh, hold it. Oh, hold it. Hold it, hold it, hold it. Bulletin, Bulletin, Bulletin. Associated Press, three minutes ago. . . ."

Ninety minutes later, The Dallas Morning News pulls the story, because, the News would later explain, its source called in to say they had gotten it wrong.

"You get handed something you read it," Larry King says later. "I didn't have to, but I kind of felt compelled to. . . . It wasn't the New York Post. It was the AP and The Dallas Morning News. It's a dilemma of live television. What do you do? You're at the mercy of what's handed to you."

CNN president Richard Kaplan says later that he had been asked earlier in the evening by CNN producers who had heard about the possible Dallas story whether they should use it if the Morning News indeed published it. He had said no. "But then Tom Johnson"—CNN's chairman and Kaplan's boss—"called into the control room," Kaplan says. "Tom knew these Dallas people well and he said they were reliable."

Johnson says that his go-ahead for CNN to report the Dallas Morning News story came only "after some producer just ripped it off the wire and had Larry read it; I then told them it was okay to do it on the ten o'clock news how, too." Still, Johnson confirms that "it's my fault. I called around to the Morning News people and to AP people, and they assured me on this story. . . . The Morning News people told me the source, who was some lawyer. . . . But I'm the one who made the decision."

Assoicated Press Washington bureau chief Jonathan Wollman explains later that AP uses its own judgment in deciding which stories from other news organizations to publish on its wire. He also notes that, soon after his organization filed the report that Larry King read, "we added something from our own people quoting Secret Service agents as being skeptical of the Morning News story. Then we added something form the White House disputing the story."

In fact, this story was a leak from a Washington lawyer named Joseph diGenova. He and his wife, Victoria Toensig, are former federal prosecutors who often appear on talk TV, defending Starr and making the case for the president's guilt.

According to Toensig, she had been approached by a "friend of someone who is a former worker in the White House." (Toensig will not say if the person's friend was a Secret Service agent or a White House steward.) The person who contacted Toensig told Toensig that this former White House employee had been told by a coworker at the White House that the coworker had, says Toensig, "seen the president and Lewinsky in a compromising position." Toensig was asked by the friend whether she might be willing to represent this secondhand witness if this person decided to go to Starr and talk about what the alleged firsthand witness (the coworker) had said.

DiGenova had overheard his wife discussing this possibility with this friend of the secondhand witness. Then, according to diGenova, after he had heard Jackie Judd's report of a witness on Sunday, he "mentioned" to Dallas Morning News reporter David Jackson that he'd "heard the same story that Judd had broadcast." Without telling Jackson, diGenova was thinking about what he had heard his wife discussing. However, by the time diGenova had mentioned this to Jackson, unbeknownst to him, the person who had approached his wife on behalf of this secondhand witness had broken off the discussions, and the secondhand had not come forward. According to Toensig, when Jackson called her on Monday and asked her about the story. "I told him, 'If Joe [her husband] told you that, he's wrong. Do not go with that story.' But I guess he didn't believe me."

According to Toensig, before her talks with the friend of the possible secondhand witness had broken off, she had mentioned the possibility of the witness to people in Starr's office—which means that when Jackson of the Morning News called Starr's office to get a second-source "confirmation," his second source was, in fact, no second source at all. It was just someone playing back diGenova's now-inoperative story, which diGenova's wife had tried to shoot down.

"When I saw Geraldo read the bulletin," Toensig recalls, "I figured they must have gotten it from someone else—not Joe and certainly not me. Then I got a call from [the Morning News] later that night and Jackson asked me to tell him again that he was right . . . and I immediately said, 'I told you you were wrong earlier to not go with it.'"

"This was a single-source story from me," diGenova concludes. "I thought they'd check it; all I did was give them a vague tip of what I had heard Vicki talking about on the phone." Jackson of The Dallas Morning News declines to comment on his conversations with diGenova or his sources for the story.

In short, this story of a "Secret Service" witness seems to have been a one-source story from a fifth-hand source: DiGenova (1) heard his wife (2) talking to a friend (3) of someone (4) who had talked to someone (5) who said he'd seen Lewinsky with Clinton. That makes CNN's report a seventh-hand story, because we have to add The Dallas Morning News and The Associated Press to the chain before we get to Larry King.

"As a result of the Morning News thing," CNN's president of global gathering and international networks, Eason Jordan, says later, "We instituted a new policy. At least two senior executives here have to give the okay before we go with anyone else's reporting on anything having to do with this story.. . . We've decided that it's a total cop-out to go with someone else's stuff and just attribute it to them. Once you put in on your air it's your responsibility."

"I can't tell you how much pressure we were under from our own bosses to report something like the Morning News reported," CBS's Dan Rather remembers, "that rumor was all over the place. But we just couldn't nail it. . . . It was a third-hand source and maybe a fourth-hand source."

"Without getting into details," adds Scott Pelley of CBS, "I can tell you that we just didn't like the sourcing. It was too suspect."

According to a journalist at ABC, and to two reporters working on the story that day at rival news organizations, Jackie Judd's sources for her report about a White House witness the night before were also people in Starr's office who had heard about the supposed secondhand witness, probably from Toensig. Which would make hers a fifth-hand report, too.

Jennings disputes this. "I have no doubt that we were on to a different story," he says, "because I know who our sources are." Could his sources, whom he declined to name, have been people who had simply talked to the Dallas paper's sources? "I'm fully satisfied that they weren't," he says.

Judd refuses all comment about "anything having to do with sources."

A GOOD DAY ON THE WEB

At MSNBC's ambitious website there have been 830,000 visits today, far more than for any other day, including the days following the death of Princess Diana.

Day 7: Tuesday 1/27/98

THE RETRACTED STORY LIVES

The St. Louis Post-Dispatch reports this morning that "The Dallas Morning News reported Monday night that a Secret Service agent was prepared to testify that he saw Clinton and Lewinsky in a compromising situation."

GOODBYE

Tonight is the night of the president's State of the Union message, and in The Washington Post, James Glassman writes a column saying that the president should say he's sorry and that he's resigning.

'RECKLESS IDIOT'

New York Times op-ed foreign affairs columnist Thomas Friedman writes about his feeling of personal betrayal: "I knew he was a charming rogue with an appealing agenda, but I didn't think he was a reckless idiot with an appealing agenda."

FOUR OPTIONS

On the Microsoft-owned and Michael Kinsley-edited Slate web magazine, Jacob Weisberg presents four options for the president with their chances of success: Brazen It Out: 20 percent; Contrition: 5 percent; Full Confession: 15 percent; and Wag the Dog: 2 percent.

CIRCULATION UP

The Washington Post reports that USA Today printed 20 percent more copies than usual for its weekend edition, that CNN's rating are up about 40 percent, and that Time added 100,000 copies to its usual newsstand distribution.

"LET'S NOT ASK ABOUT ANY RUMORS"

The event of the day is Hillary Clinton's morning appearance on the Today show, forcefully defending her husband. Matt Lauer interviews her, and does a terrific job.

"We found out over the weekend that she was going to go through with [the long-scheduled interview]," Lauer says. "On Monday afternoon I sat down with [various producers and NBC News president] Andy Lack to run through it for about two or three hours. . . . It wasn't so much about questions as about tone. . . . We talked about asking her about whether the president defines oral sex as sexual relations, but we decided that we were not going to ask the First Lady of the United States a question like that.

"Another thing we decided," Lauer says, "was that we were not going to ask a single question based on rumor or speculation."

Why was that standard used for Mrs. Clinton, but for no one else?

"Because we knew we'd run into a dead end because she'd say, 'that's based on rumor or a sealed document,' or something like that, 'and I'm not going to talk about it.'"

If only other Today guests had that discipline.

Day 8: Wednesday 1/28/98

DO AS WE SAY, NOT AS WE DO

The St. Louis Post-Dispatch greets its readers with an editorial that slams Jackie Judd's ABC report about a "witness" and the Dallas Morning News report about a "Secret Service witness" as examples of "rumor being reported as news. . . . The media would be best to stick with traditional conventions that require firsthand information and confirmation from multiple sources," says the paper.

Not mentioned is the fact that the Post-Dispatch had itself reported both stories in its own news columns. Why not? William Freivogel, who wrote the editorial for the Post-Dispatch, explains. "We don't in general criticize our own paper. . . . This was meant as a general commentary."

Day 9: Thursday 1/29/98

THE VANISHING DRESS

The CBS Evening News leads with a scoop. Scott Pelley reports that "no DNA evidence or stains have been found on a dress that belongs to Lewinsky."

"I'd much rather have our scoop about the semen dress than the scoop everyone else had," Pelley says later.

The next night, Jackie Judd will spin the no-dress story her way. She'll say "law enforcement sources . . . say a dress and other pieces of clothing were tested, but that they had all been dry-cleaned before the FBI picked them up from Lewinsky's apartment." In other words, the lack of evidence only proves how clever the criminals are.

Whether it turns out that Bill Clinton had sex with Monica Lewinsky or not (and whether it turns out that he stained one dress or 100 dresses) has nothing to do with the fact that Judd's every utterance is infected with the clear assumption that the president is guilty at a time when no reporter can know that.

Day 10: Friday 1/30/98

THOSE TERRIBLE PAPARAZZI

The Daily News leads with a story about Lewinsky being mobbed by the press when she went out to dinner in Washington the night before with Ginsburg. "The black car being pursued by the paparazzi echoed the scene just before the car crash that killed Princess Diana," the paper reports.

On the front page of the paper is the paparazzi shot of Lewinsky in the car.

Asked later why his own paper would help enhance the market for paparazzi misconduct by buying a photograph taken under circumstances that his paper described as so intimidating and dangerous. Daily News owner and copublisher Mortimer Zuckerman said he would have to call me back. He didn't.

THREE 'PRECIOUS WORDS'

Jeff Greenfield, who has just joined CNN from ABC, proves why he may be one of the smartest people on television. On Larry King Live, he's asked what he thinks of Linda Tripp having charged today that she was present at 2:00 a.m. in Lewinsky's apartment when the president called one night. His answer: "Well . . . since I was not in the room, have not talked to Linda Tripp, have not talked to Monica Lewinsky, have not heard the tape . . . I think the best course of action is for me to say, 'I don't know.' And, you know, I am beginning to think those might be the three most precious words that we all ought to . . . remember . . . This notion of guessing . . . what . . . do we think the president, if it was the president, might have said to Monica Lewinsky that Linda Tripp could conceivably have heard that I haven't talked to her about? I'll pass."

Day 11: Saturday 1/31/98

TRIPP SURFACES

The big story in the morning newspapers is that Linda Tripp has come out of hiding to issue the statement King asked Greenfield about the night before. Tripp charges, as the St. Louis Post-Dispatch dutifully reports in a widely circulated Associated Press story, that Lewinsky described "every detail of an alleged affair with Clinton during hundreds of hours of conversations over the last 15 months. In addition, I was present when she received a late night phone call from the president. I have also seen numerous gifts they exchanged and heard several of her tapes of him."

Another wire service story in the same edition of the Post-Dispatch says Lewinsky lawyer Ginsburg denies that Tripp "ever was 'privy to any conversation' between Lewinsky and President Bill Clinton."

What's most curious about Tripp's statement is that witnesses who are cooperating with prosecutors are routinely forbidden from making any public statements, in exchange for not being prosecuted themselves. (Tripp was potentially vulnerable under a Maryland law that prohibits taping telephone conversations without the consent of both parties.) "She made her own decision," Starr later contends. "You can't control the actions of an independent-minded human being."

Day 12: Sunday 2/1/98

MORE FROM THE FBI TAPES

Starr's people have obviously continued to make good on their promise to give Isikoff the best seat in the house as they continue to trickle out the alleged contents of the tapes they made of Tripp and Lewinsky. Now, in its new issue, Newsweek reports that Lewinsky told Tripp that she had told Vernon Jordan she would not sign the affidavit stating she did not have sex with the president until he got her a job.

In another article, Newsweek declares that the magazine "has learned that [in his Jones deposition] Clinton swore he never met alone with Lewinsky after she left the employ of the White House. . . . But Newsweek has confirmed that Clinton and Lewinsky did in fact meet last Dec. 28, and investigators are examining the possibility of several other occasions on which the two met alone."

When Clinton's deposition is revealed three weeks later, the premise of this scoop would turn out to be wrong; the president did not say he hadn't met alone with Lewinsky.

Day 13: Monday 2/2/98

AN ALL-TIME HIGH

Most of the nation's newspapers report that polls show the president's popularity to be at an all-time high. Meantime, Susan Schmidt and Bill McAllister of the Washington Post lead with Star saying "his investigation of the Monica Lewinsky matter is moving swiftly."

Day 14: Tuesday 2/3/98

NO SECRET SERVICE AGENT

On the Evening News, CBS's Pelley says he has "learned that the Secret Service has conducted an internal inquiry and now believes that no agents saw any liaison between the president and Monica Lewinsky."

"I liked that scoop better than Jackie Judd's," Pelley says later.

Day 15: Wednesday 2/4/98

THE JOURNAL PUSHES THE BUTTON

Just before 4:00 p.m. Wall Street Journal reporter Glenn Simpson tells White House deputy press secretary Joe Lockhart that the paper needs comment for a story charging that White House steward Bayani Nelvis has told a federal grand jury that he saw President Clinton and Lewinsky alone in a study next to the Oval Office, and that after the two left he recovered tissues with "lipstick and other stains" on them. Lockhart says he'll get back to Simpson quickly.

Fifteen minutes later, and without waiting for Lockhart, the Journal publishes the story on its Internet site.

"When I told [Journal Washington bureau chief Alan] Murray that Joe was going to get right back to me, Alan told me it was too late." Simpson says later. "He had already pushed the button."

"The White House had taken the position [in general] that it was not commenting," Murray says. "So I figured, why wait?"

Murray, who refuses comment on whether Starr's office was the source for the story except to say, "I can promise you we had sources outside of Starr's office," concedes that he had heard that ABC was also on the story and that he wanted to beat them. Murray, who is known around Washington as an especially careful, responsible journalist, also acknowledged that his paper had just completed a joint venture agreement with NBC to provide editorial content to its CNBC cable network (which offers financial news during the day and talk shows at night) and that, "yes, it was in my mind that we could impress them with this." However, Murray also points out that because the Journal has long operated a wire service, "making instant publishing decisions was not new to us."

"They got too excited and Alan rushed to get on television," asserts one veteran Journal reporter, who says he has knowledge of the decision to publish.

Indeed, Murray appears on CNBC minutes after he pushes the button on his website reciting the Nelvis story. Almost immediately, the White House press office denounces the story, and Nelvis's attorney, who seems to be cooperating with White House lawyers, calls the story "absolutely false and irresponsible."

By the time the actual newspaper would go to bed later that evening, the Journal would pull back. It will report that the steward described the incident in question to Secret Service personnel, not to the grand jury.

When the paper sees daylight on February 5, White House press secretary Mike McCurry will denounce the Journal's online story—and its failure to await comment from him—as "one of the sorriest episodes of journalism I've ever witnessed."

By Monday, February 9, the Journal would be forced to report that "White House steward Bayani Nelvis told a grand jury he didn't see President Clinton alone with Monica Lewinsky, contrary to a report in The Wall Street Journal last week." And Journal managing editor Paul Steiger would be quoted in the same story as saying, "We deeply regret our erroneous report of Mr. Nelvis's testimony."

Could it be that Judd's report on Sunday night about a "witness" catching the president in the act, and The Dallas Morning New's dead-wrong, one-sourced, fifth-hand report on Monday night about a Secret Service agent being ready to testify, and this report about Nelvis testifying or, as it later became, about Nelvis telling a Secret Service agent what he had seen, are all different versions of the same story? "Yes, I am sure it's all the same story," says Victoria Toensig (the lawyer whose conversations that her husband had overheard became the "source" for the Dallas Morning News story).

Of course, it could ultimately turn out that a credible witness claiming to have seen the president and Lewinsky in a compromising position—or claiming that Nelvis told him or her about that—does come forward. By late-May, rumors would persist that Starr would produce at least that much. But the point is that, in early February, when these stories are published, they are at best third-, fourth-, or fifth-hand claims and the reporting of them as breakthrough news is a scandal.

NO OTHER BITES

It's near 6:00 p.m. and the networks have to decide how to handle the Journal's scoop.

ABC goes halfway, saying Nelvis has been called as a witness and "he might have been in a position to observe Mr. Clinton without the president's knowledge."

At NBC, "[vice president of NBC News] Bill Wheatley, [Nightly New's executive producer] David Doss, and I were standing in a cubicle at 5:50 talking into a conference phone with Tim Russett," Tom Brokaw recalls. "The Journal's website story moving toward a full-blown story. But we decided, after talking to Tim, that it didn't have legs."

"We almost went with the Journal story," CNN's head of newsgathering, Eason Jordan, says. "But the rule we put in place after the Dallas Morning News screwup stopped us.

"The difference between this and Watergate," says Brokaw, "is what I call the Big Bang Theory of Journalism. There's been a Big Bang and the media have expanded exponentially. . . . Back then, you had no Nightline, no weekend Today or Good Morning America, no Internet, no magazine shows [except 60 Minutes], no C-Span, no real talk radio, and no CNN or MSNBC or Fox News doing news all day. . . . As a result of all that, the news process has accelerated greatly. . . . Something, some small piece of matter, maybe a rumor, can get pulled into the vacuum at night on a talk show or in the morning on Imus [the nationally syndicated radio show that is a bastion of smart, irreverent political conversation] and get talked about on radio or on CNN or MSNBC during the day and pick up some density, then get talked about some more or put on a website that afternoon and pick up more density, and by late afternoon I have to look at something that has not just shape and density but some real veneer—and I have to decide what to do with it. That's kind of what happened with this one."

Brokaw's description of the care he took in this instance of the unsubstantiated Wall Street Journal story is impressive. And his assessment of the way the new technology of 24-hour cable channels and websites has forever turned the old news cycle into a tornado is right on the money. But the often sorry performance of his own news organization—for example, in chasing Judd's ABC "scoop" by rushing on that Brokaw-Shipman "bulletin" the prior Sunday of an "unconfirmed report" of a witness, let alone NBC's airing on sister channels MSNBC and CNBC of any and all rumors—makes it impossible not to conclude that Brokaw is describing an out-of-control process that he and his colleagues are often part of. He's like the articulate alcoholic at an AA meeting.

Day 16: Thursday 2/5/98

NO 'JAM JOB':

The New York Times "bulldog" edition comes out tonight with a Friday morning story that punctures the revelry among those who hear about it at the White House state dinner for British Prime Minister Tony Blair. It's about Clinton secretary Betty Currie having not been at work for "several" days because she was with Starr's people. Among other things, says the Times, Currie has spoken of having retrieved some presidential gifts from Lewinsky, and about how she had been called into the Oval Office the day after President Clinton faced those surprise Lewinsky questions at his Jones deposition and was taken by the president through a series of rhetorical questions and answers.

The article, by Jeff Gerth, Stephen Labaton, and Don Van Natta, Jr., seems to be yet another relying on prosecutorial leaks rather than Watergate-like firsthand reports from witnesses. In fact, in our interview, Starr acknowledges that he personally had met with Labaton and Gerth about the story, although, he says, "My understanding was that they knew the substance of it . . . I only wanted to talk to them about its timing." Starr urges me to talk to his deputy, Bennett—who, he says, had "talked more extensively with the Times for the story." As for why he had not been quoted by name if the discussion was not improper, Starr says only that Bennett "knows about the ground rules."

But Bennett refuses to discuss the ground rules, while asserting that he was "in no way a source for the information in the Time's Betty Currie story." No one at the Times will discuss their sources for this or any other story, but one top Times editor points out that the reporters could not have cared about discussing the timing of the story with Starr because "we ran it in the next available paper" after that meeting.

Prepared over several days—"this was not some Sue Schmidt jam job," says one Times reporter—the Time's Currie story would stand out nearly four months later as the most damaging to the president—and the one whose basic facts had not been challenged. But although it is precisely written and careful not to draw conclusions, it will not be read by the rest of the press with the same precision.

COACHED

On Nightline, Ted Koppel scraps a planned show on the International Monetary Fund. He opens by announcing "a later-breaking story" that "the president's personal secretary is said to have told investigators that she was coached by President Clinton to say things she knew to be untrue."

"This was a breaking story, and the opening has to be written very quickly," Koppel later recalls. "But right after that I quoted the Time's language exactly. . . . Our opener is like a magazine cover or news headline; it frequently will use a grabbier verb or adjective than is used later on."

Nightline guest Sam Donaldson also repeats the word "coached," Only NPR's Nina Totenberg, another guest, is more careful: "This story . . . is fairly clearly a leak from the prosecutor's office and with the exception of [the gifts] . . . it is their characterization of what Betty Currie has said."

By the next morning, Currie's lawyer—who was quoted deep down in the original Times article saying that Currie was not "aware of any illegal or ethical impropriety by anyone"—would issue a statement declaring that it is "absolutely false" that his client believed that Clinton "tried to influence her recollection." The White House, meanwhile, offers its own spin on the Clinton session with Currie: The president was simply refreshing his own memory.

Whatever the full story, what matters is that the Times didn't spin it one way or the other, while the rest of the press did.

"Everyone said we said 'coaching,' but we didn't," Gerth recalls later. "There was a lot of deliberation here over what words went into that story. . . . The story as written, not as interpreted, was accurate."

"I still have no idea whether she was coached or not," says Times Washington bureau chief Oreskes. "We were acutely aware of the fact that we were dealing with descriptions and partial descriptions that were secondhand."

Day 17: Friday 2/6/98

COUNTERATTACK

The morning shows are filled with talk about the president "coaching" Betty Currie, as are the newspaper headlines. ("Prez Told Me To Lie," screams the New York Post.)

But by the afternoon, the White House has turned the day around. First there is the president's relaxed, effective performance at his afternoon joint press conference with Prime Minister Blair. Then there's a counterattack from his lawyer, David Kendall, who bashes Starr for alleged unlawful leaks and distributes a 15-page letter to Starr that claims to document them.

Kendall's slam works so well that the NBC, ABC, and CBS evening news shows lead with it. The only talk about the Times Betty Currie story—the stuff of the Nightline show the night before—comes by way of explaining that this is the latest leak that the Clinton lawyers are so angry about.

The reason it's working has to do with the dynamics of the media. True, the press loves a good crime investigation and loves reporting the leaks that trickle out. But even more, reporters love a one-on-one fight. It's more dramatic easier to understand—and it makes booking pro and con guests on the talk shows a breeze.

"We'd been talking about leaks since this started," says White House spin man Paul Begala. "But sometimes you just have to get up and scream it and start a food fight to get them to write about it."

"Because we decided not to get into specific denials of most of this stuff, we could not answer with facts," concedes former White House scandal counsel Lanny Davis. "So we answered with a fight about the process and the prosecutor."

SHOWING THEIR COLORS

Now it has become a Starr-Clinton food fight, the reporters on the talk shows are even more tempted to show their real colors. Rather than "analyze" what is happening in the investigation, tonight they are called upon to take sides. It is almost scary to watch people who sell themselves as unbiased reporters of fact by day become these kind of fierce advocates at night once the camera goes on.

A good example is Stuart Taylor, Jr., the serious, scrupulous, and brilliant senior writer for the National Journal who virtually started all of this with a groundreaking 1996 piece on the Paula Jones suit in The American Lawyer that, by Newsweek's own account, had inspired the Newsweek cover story about the case. Taylor has become the complete anti-Clinton partisan. He makes no bones about it, so much so that the one television show that prefers calm analysis to food fights—The NewsHour with Jim Lehrer on PBS—has already dropped him from his legal analyst perch. (I was the co-owner and editor of the American Lawyer when Taylor's Jones piece was published.)

Now, on Nightime, Taylor takes the absurd Starr position as his own—that if prosecutors leak material coming from their talks with witnesses as they prepare them for the grand jury, they are not committing a crime, because only leaks from actual grand jury testimony are crimes. That's not what the courts have ruled, and it's a quite a bit of legalistic derring-do, coming from someone who said 11 days earlier on Nightline, in referring to the president, that "innocent people with nothing to hide who tell the truth don't need to surround themselves with phalanxes of lawyers." (About six weeks after this appearance, Taylor would begin negotiating with Starr to take a job advising Starr and writing the independent counsel's report to the House of Representatives, but he would ultimately decide not to accept the offer.)

Day 18: Saturday 2/7/98

LEAKS? WHAT LEAKS?

The nation's newspapers generally highlight Kendall's leak charges. Many of those writing the stories, such as Schmidt and Baker of The Washington Post, know from their own experience the charges are true. But they can't and won't say it.

Two days later, media reporter Howard Kurtz of The Washington Post (who is also a contributor to this magazine) would write a story headlined "With Leaks, Reporters Go With The Flow." In the piece, Kurtz describes the "bizarre quality to the weekend coverage of White House charges that . . . Starr was illegally leaking. . . . At least some journalists at each major news organization know whether Starr's staff is in fact dishing on background, but the stories are written as though this were an impenetrable mystery."

Day 19: Sunday 2/8/98

WE CAN'T ASK

Time magazine is out this morning with a cover story entitled "Trial By Leaks." The story has a problem: It's produced by reporters, writers, and editors who know the truth but can't write it.

Even a wordsmith as skilled as Time senior editor Nancy Gibbs—who, as with the first Time Lewinsky cover story, pens the lead piece here—can't write around this problem. Describing leaks "so fast and steady" that they are "an undergound river," Gibbs proceeds over five pages simply to describe all the leaks—in essence republishing even the now-discredited ones. But nowhere does she confront the basic question the article raises: Aren't Starr's people leaking? Nowhere do we find a Time reporter asking Starr what any reporter would ask in any other story: whether he or Bennett or anyone else in the office has talked to specific reporters who are the obvious beneficiaries of leaks.

It's hardly an unimportant question. For in the entire Lewinsky story there is a lot more evidence of Starr and some of his deputies committing this felony than there is of the president or Vernon Jordan committing a felony. The problem is that the best witnesses—the witnesses with firsthand knowledge—are the reporters and editors covering the story.

"We can't ask Starr or Bennett if they have leaked to this or that reporter, because we are out there getting those leaks ourselves from them," Time managing editor Walter Isaacson later concedes.

TARRING THE TIMES

The White House spin people are out in force today. At noon, on CNN's Late Edition with Wolf Blitzer, top Clinton Advisor Rahm Emanuel charges that in both the case of the Wall Street Journal steward-witness story and the Time's Betty Currie story, "lawyers representing those individuals issued statements saying these stories are blatantly false."

Not true in terms of the Times. Currie's lawyer had simply stated that all of the coaching interpretations of that story—not the carefully written Times story itself—were false. In other words, Emanuel has skillfully, and cynically, used one bad story—the Journal's—to tar the Times story, the facts of which no one had disputed by that morning (and which no one has disputed as of this writing, and which remains, with its accounts of gifts retrieved and testimony reviewed, the single most damaging story for the president).

This raises a larger issue. Because so much of the reporting of the Lewinsky story would turn out to be discredited, the journalism that should not be discounted by the public will be. That's because the average reader or viewer, especially when pushed this way by the White House, will not be able to discern the difference.

Day 21: Tuesday 2/10/98

A MATTER OF HONOR

Geraldo asks cowboy lawyer Gerry Spence about a "powerful man of a certain age . . . who is accused of accepting sexual favors from an allegedly frisky young California girl. Gerry," Rivera says, "I believe you have some folk wisdom to impart?

Spence dives in: "Why hasn't he told the truth about this alleged peccadillo? . . . I was sitting in the little town of Newcastle the other day and talking to an old cowboy. And here's what he had to say about that. . . . 'Well,' he said, 'Here's to the heights of heaven and here's to the depths of hell, and here's to the dirty SOB who'd make love to a woman and tell.'"

Day 22: Wednesday 2/11/98

ALONE AT LAST

Susan Schmidt has another scoop, and it's a firsthand report, not a leak. This morning she writes that former uniformed Secret Service guard Lewis Fox says that he was posted outside the Oval Office one Saturday in the fall of 1995 and he saw the president meet alone with Lewinsky for 40 minutes in the early afternoon. Schmidt makes much of this. In her lead sentence, 40 minutes becomes "Monica S. Lewinsky spent part of a weekend afternoon in late 1995 alone with President Clinton. . . ." And that, she says, makes Fox "the first person to publicly say that he saw the president and Lewinsky alone together."

But there's less here than meets the eye. Strangely, Fox is paraphrased but not quoted in Schmidt's article because, she later asserts, "he refused to be quoted." It's a rate article that is wholly about an on the record interview with someone (and headlined as such) in which that person is not quoted at all.

But it turns out that Fox had been liberally quoted in his local Pennsylvania newspaper and on Pittsburgh television before Schmidt got to him, saying that, yes, he had seen the two alone, but that he doubted anything untoward could have happened because there are so many ways to see into the Oval Office and there is such a constant threat of interruption from people walking in.

Why didn't Schmidt ask Fox if the two could have been interrupted? "I wasn't interested in his opinion," she says later. "Who care about his opinion? Clinton testified that he was never alone with her, and this guy makes him a liar. Period."

In fact, when the president's deposition in the Jones case is made public soon after this interview with Schmidt, it turns out that Clinton did not testify that he was never alone with Lewinsky.

"This story was a perfect example of Sue Schmidt's attitude," says Clinton aide Emanuel. "Anyone who thinks the president could do something like that uninterrupted on a f—king Saturday is either in fantasy land or doesn't care about facts. We're all here on Saturday at 1:00. We live here, goddamnit."

THE GOOD, THE BAD, AND THE GERALDO

It is tempting to dismiss Geraldo Rivera as a sleazy peddler. But he is also one of the smartest, best-prepared newspeople out there.

And tonight, as with many nights of his Lewinsky circus, he shows it. Talking about Schmidt's Washington Post story on Secret Service officer Fox, Rivera says, "We note, however, for the record, that the agent's story has become . . . [in Schmidt's hands] far more damning since he first began talking about a week ago. Back then Fox told a local newspaper . . . that it would've been difficult for the two to have had a sexual encounter while in the Oval Office because of its many windows. . . . And we also note for the record that every allegation [about] purported eyewitness to the president and Monica's being alone, including last week's account of Mr. Nelvis in The Wall Street Journal, has so far proven erroneous."

CIRCUS OR TOWN MEETING

Rivera's show is emblematic of these first three weeks of coverage of the Lewinsky story. There was some good reporting and some sharp analysis. But it was mixed in with so many one-sided leaks and rumors that it was diluted into nothingness—so much so that many opinion polls showed that a majority of Americans believed the president to be guilty of something he adamantly denied and about which there is not yet nearly enough real evidence to know for sure, one way or the other.

Brokaw may be right: Americans may be good at filtering out the reliable from the nonreliable. It could also be argued that, in the old days, any town meeting would have had some crazies and gossips take the stage or whisper among the audience the way the crazies and prosecutor-fed gossips took to the printing presses and the electronic stage in the days following January 21.

But in the end that only euphemizes the appalling picture of the fourth estate presented by the first three weeks of this imbroglio.

Because it is episodic, the log presented above does not convey that overall picture, nor does the more subdued coverage of later weeks in this story.

But you can remember it.

It's a blizzard of newspaper front pages and magazine covers and every TV news show and pseudo-news show giving this story the kind of play that no story—none, not Princess Diana, not O.J., and certainly not Watergate—has ever gotten.

And so much of that coverage was rumors and speculation, that when a self-styled Committee of Concerned Journalists did a study examining 1,565 statements and allegations contained in the reporting by major television programs, newspapers, and magazines in the first six days of the circus, they found that 41 percent of the statements were not factual reporting at all, but were "analysis, opinion, speculation, or judgement"; that only 26 percent were based on named sources; and that 30 percent of all reporting "was effectively based on no sourcing at all by the news outlet publishing it."

It doesn't take Woodward and Bernstein to know that most of those anonymous sources were from Starr's office, spinning out stories to pressure Lewinsky or other witnesses and to create momentum and a presumption of guilt. I have personally seen internal memos from inside three news organizations that cite Starr's office as a source. And six different people who work at mainstream news organizations have told me about specific leaks.

Here's more specific, tangible, sourced proof of the obvious: For an internal publication circulated to *New York Times* employees in April, Washington editor Jill Abrahamson is quoted in a discussion about problems covering the Lewinsky story as saying, "[T]his story was very much driven in the beginning on sensitive information that was coming out of the prosecutor's office. And the [sourcing] had to be vague, because it was . . . given with the understanding that it would not be sourced."

And, as we have seen, Starr himself conceded to me that he talked to the *Times* about the Betty Currie story and often talked to other reporters, and he has all but fingered Bennett as 1988's Deep Throat. Moreover, his protestation that these leaks—or "briefings," as he calls them—do not violate the criminal law, and don't even violate Justice Department or ethical guidelines if they are intended to enhance confidence in his office or to correct the other side's "misinformation," is not only absurd, but concedes the leaks.

Worse still is the lack of skepticism with which the press by and large took these leaks and parroted them.

To be sure, that kind of leak-report dynamic is common in crime reporting, where reporters make lawmen look good and defendants look bad by publishing stories of mounting evidence in ongoing investigations.

Yet there's a difference here. In the typical criminal process, all that bad publicity historically hasn't outweighed the burden of proof and the ability of a jury to focus on the evidence actually presented at trial. Juries are famous for getting from "where there's smoke there's fire" to looking at specific evidence. But Bill Clinton is not going to have a trial with that kind of jury. If he gets any hearing at all, it will be an impeachment hearing—which is a political process, a process where all the bad effects of all the leaks could count. And absent an impeachment hearing, the president's continuing ability to do his job will depend in some part on his public standing.

Many now agree that it is hard to imagine that a powerful independent counsel under no real checks and balances is what the Founding Fathers had in mind when they wrote the Constitution. It is harder still to imagine that a press corps helping that prosecutor in his work by headlining whatever he leaks out—instead of remaining professionally suspicious of him and his power—is what the founders had in mind when they wrote the First Amendment. The press, after all, is the one institution that the Founding Fathers permanently protected so that reporters could be a check on the abuse of power.

And it is impossible to imagine that what the founders had in mind when they wrote the impeachment clause is that a president could be brought down by that prosecutor and by that press corps, all because a Linda Tripp had a Lucianne Goldberg got an intern to talk into a tapped phone about sex so they could put together a book deal.

So far, it seems that the American people understand this, even if the press doesn't.

So maybe it's the press that needs to draw lessons from Pressgate, not its customers. Or maybe the customers can force these lessons on the press by being more skeptical of the product that is peddled to them. I have three such lessons in mind:

First, consumers of the press should ignore all publications or newscasts that try to foist the term "sources" on them unaccompanied by any qualifiers or explanation. The number of sources should be specified (is it two or 20?) and the knowledge, perspective, and bias of those sources should be described, even if the source cannot be named. (Is it a cab driver or a cabinet officer, a defense lawyer or a prosecutor?)

Second, no one should read or listen to a media organization that reports on another news outlet's reporting of anything significant and negative without doing its own verification.

And, third, no one should read or listen to any media outlet that consistently shows that it is the lapdog of big, official power rather than a respectful skeptic.

The big power here is Ken Starr. Prosecutors usually are in crime stories, and the independent counsel's power is unprecedented.

This is what makes Pressgate—the media's performance in the lead-up to the Lewinsky story and in the first weeks of it—a true scandal, a true instance of an institution being corrupted to its core. For the competition for scoops to toss out into a frenzied, high-tech news cycle seems to have so bewitched almost everyone that the press eagerly let the man in power write the story—once Linda Tripp and Lucianne Goldberg put it together for him.

COLUMBIA JOURNALISM REVIEW ARTICLE "WHERE WE WENT WRONG . . . AND WHAT WE DO NOW"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, it is coincidental that my good friend, the gentleman from Michigan, was here just a few moments ago and entered into the RECORD the article by Stephen Brill which appeared in Brill's Content, the Independent Voice of the Information Age, which talks about Pressgate.

In that article, Mr. Brill says on the cover, "In Watergate, reporters checked abuse of power. In the Lewinsky affair, they enabled it; that is, the press enabled abuse of power by lapping up Ken Starr's leaks, which he now admits for the first time, the inside story day by day. Mr. CONYERS just entered that article into the RECORD.

I would like to take this opportunity to draw the attention of the Members of the House and anyone else who is interested in this issue to the March-April edition of Columbia Journalism Review. I do so because, unfortunately, Mr. Brill's article has been attacked. It has been attacked most vociferously by the Independent Counsel and the apologists for the Independent Counsel, Mr. Starr.

However, objective analysis of Mr. Brill's article shows that in spite of the attacks against it, the article stands up very well and reveals quite clearly the abuse of power engaged in by the Independent Counsel in this particular investigation.

The Independent Counsel, it appears, and it is shown by Mr. Brill's article, engaged in a conscious series of leaks of misinformation to the press over a prolonged period of time. Now, if additional substantiation is needed going beyond Mr. Brill's report, that additional substantiation can be found to a remarkable degree in that March-April edition of the Columbia Journalism Review.

The article in Columbia Journalism Review, and it is a cover story, is entitled "Where We Went Wrong," and it is an examination of the press coverage of the so-called events that the prosecutor is allegedly looking into.

I would like to read a few brief excerpts from the story in the Columbia Journalism Review and then enter the entire article in the RECORD.

The article says, in part, "But the explosive nature of the story, and the speed with which it burst upon the consciousness of the Nation, triggered in the early stages a Piranha-like frenzy in pursuit of the relatively few tidbits tossed into the journalistic waters—by whom," the story asks?

"That there were wholesale leaks from lawyers and investigators was evident, but either legal restraints or reportorial pledges of anonymity kept the public from knowing with any certainty the sources of key elements in the saga."

The story goes on: "Not just the volume but the methodology of the reporting came in for sharp criticism—often more rumor-mongering than fact-getting and fact-checking, and unattributed approbation of the work and speculation of others. The old yardstick said to have been applied by the Post in the Watergate story, that every revelation had to be confirmed by two sources before publication, was summarily abandoned by many news outlets," and no wonder, because they thought they were getting the information from the horse's mouth, from Mr. Starr and his investigators.

The story goes on: "As often as not, reports were published or broadcast without a single source named or mentioned in an attribution so vague as to be worthless. Readers and listeners were told repeatedly that this or that information came from "sources", a word that at best conveyed only the notion that the information was not pure fiction or fantasy. As leaks flew wildly from these unspecified sources, the American public was left, as seldom before in a major news event, to guess where stories came from and why.

"Readers and listeners were told what was reported to be included in affidavits and depositions . . . or presented to Independent Counsel Starr. Leakers were violating the rules while the public was left to guess about their identity and about the truth of what was passed on to them through the news media, often without the customary tests of validity."

Of course, the story goes on.

I include this article for the RECORD, Mr. Chairman. We will take other opportunities to talk more about this in the future.

The article referred to is as follows:

[From the Columbia Journalism Review, Mar./Apr. 1998]

WHERE WE WENT WRONG

(By Jules Witcover)

In the sex scandal story that has cast a cloud over the president, Bill Clinton does not stand to be the only loser. No matter how it turns out, another will be the American news media, whose reputation as truth-teller to the country has been besmirched by perceptions, in and out of the news business, about how the story has been reported.

The indictment is too sweeping. Many news outlets have acted with considerable responsibility, especially after the first few frantic days, considering the initial public pressure for information, the burden of obtaining much of it from sealed documents in legal proceedings and criminal investigations, and the stonewalling of President Clinton and his White House aides.

But the explosive nature of the story, and the speed with which it burst on the consciousness of the nation, triggered in the early stages a piranha-like frenzy in pursuit of the relatively few tidbits tossed into the journalistic waters by—whom? That there were wholesale leaks from lawyers and investigators was evident, but either legal restraints or reportorial pledges of anonymity kept the public from knowing with any certainty the sources of key elements in the saga.

Into the vacuum created by a scarcity of clear and credible attribution raced all manner of rumor, gossip, and, especially, hollow sourcing, making the reports of some mainstream outlets scarcely distinguishable from supermarket tabloids. The rush to be first or to be more sensational created a picture of irresponsibility seldom seen in the reporting of presidential affairs. Not until the story settled in a bit did much of the reporting again begin to resemble what has been expected of mainstream news organizations.

The Clinton White House, in full damage-control mode, seized on the leaks and weakly attributed stories to cast the news media as either a willing or unwitting collaborator of sorts with independent counsel Kenneth Starr's investigation of alleged wrongdoing by the president. Attacking the independent counsel and his office was a clear diversionary tactic, made more credible to many viewers and readers by suggesting that the overzealous news business, so suspect already in many quarters, was being used by Starr.

Unlike the Watergate scandal of twenty-five years ago, which trickled out over twenty-six months, this scandal broke like a thunderclap, with the direst predictions from the start. Whereas in the Watergate case the word impeachment was unthinkable and not uttered until much later in the game, the prospect of a premature end to the Clinton presidency was heard almost at once. "Is He Finished?" asked the cover line on *U.S. News & World Report*. Not to be outdone, *The Economist* of London commanded, "If It's True, Go."

ABC News' White House correspondent Sam Donaldson speculated on *This Week with Sam and Cokie* on January 25 that Clinton could resign before the next week was out. "If he's not telling the truth," Donaldson said, "I think his presidency is numbered in days. This isn't going to drag out. . . . Mr. Clinton, if he's not telling the truth and the evidence shows that, will resign, perhaps this week."

After Watergate, it was said that the president had been brought down by two reporters, Bob Woodward and Carl Bernstein, and their newspaper, The Washington Post, and they were widely commended for it. This time, after initial reporting by Michael Isikoff of Newsweek, there was a major piling-on by much of American print and electronic journalism, for which they have been widely castigated. A Washington Post poll taken ten days after the story broke found 56 percent of those surveyed believed the news media were treating Clinton unfairly, and 74 percent said they were giving the story "too much attention."

The advent of twenty-four-hour, all-news cable channels and the Internet assured the story of non-stop reportage and rumor, augmented by repeated break-ins of normal network programming and late-night rebashes. Viewing and listening audiences swelled, as did newspaper and magazine circulation, accommodated by special press runs.

Not just the volume but the methodology of the reporting came in for sharp criticism—often more rumor-mongering than fact-getting and fact-checking, and unattributed appropriation of the work and speculation of others. The old yardstick said to have been applied by the Post in the Watergate story—that every revelation had to be confirmed by two sources before publication—was summarily abandoned by many news outlets.

As often as not, reports were published or broadcast without a single source named, or mentioned in an attribution so vague as to be worthless. Readers and listeners were told repeatedly that this or that information came from "sources," a word that at best conveyed only the notion that the information was not pure fiction or fantasy. As leaks flew wildly from these unspecified sources, the American public was left as seldom before in a major news event to guess where stories came from and why.

Readers and listeners were told what was reported to be included in affidavits and depositions in the Paula Jones sexual harassment case—information that supposedly was protected by a federal judge's gag order—or presented to independent counsel Starr. Leakers were violating the rules while the public was left to guess about their identity, and about the truth of what was passed on to them through the news media, often without the customary tests of validity.

In retrospect, it was sadly appropriate that the first hint of the story really broke into public view not in Newsweek, whose investigative reporter, Isikoff, had been doggedly pursuing for more than a year Paula Jones's allegations that Clinton had made inappropriate sexual advances to her when he was governor of Arkansas.

Rather, it surfaced in the wildly irresponsible Internet site of Matt Drudge, a reckless trader in rumor and gossip who makes no pretense of checking on the accuracy of what he reports. ("Matt Drudge," says Jodie Allen, Washington editor for Bill Gates' online magazine Slate, "is the troll under the bridge of Internet journalism.")

Drudge learned that Newsweek on Saturday, January 17, with its deadline crowding in, had elected not to publish. According to a February 2 Newsweek report, prosecutors working for Starr had told the news-magazine they needed a little more time to persuade former White House intern Monica

Lewinsky to tell them about an alleged relationship she had with the president that had implications of criminal conduct.

Early Saturday morning, according to the same *Newsweek* report, the magazine "was given access to" a tape bearing conversations between Lewinsky and her friend Linda Tripp. But the *Newsweek* editors held off. Opting for caution of the sort that in earlier days was applauded, they waited.

The magazine also reported that publication was withheld because the tapes in themselves "neither confirmed nor disproved" obstruction of justice, because the magazine had "no independent confirmation of the basis for Starr's inquiry," and because its reporters had never seen or talked with Lewinsky "or done enough independent reporting to assess the young woman's credibility." If anything, such behavior if accurately described resonated with responsibility, although holding back also left *Newsweek* open to speculation by journalists that its action might have been a quid pro quo for information received.

Drudge, meanwhile, characteristically feeling no restraints, on Monday morning, January 19, jumped in and scooped *Newsweek* on its own story with a report that the newsmagazine had "spiked" it after a "screaming fight in the editors' offices" on the previous Saturday night. Isikoff later said "there was a vigorous discussion about what was the journalistically proper thing to do. There were no screaming matches."

Drudge was not without his defenders. Michael Kinsley, the editor of *Slate*, argued later that "the Internet beat TV and print to this story, and ultimately forced it on them, for one simple reason: lower standards . . . There is a case to be made, however, for lower standards. In this case, the lower standards were vindicated. Almost no one now denies there is a legitimate story here." Kinsley seemed to harbor the crazy belief that had Drudge not reported that *Newsweek* had the story, the newsmagazine never would have printed it the next week, and therefore the Internet could take credit for "forcing" the story on the mainstream news media.

Newsweek, not going to press again until the next Saturday, finally put the story on its America Online site on Wednesday, January 21, after *The Washington Post* had broken it on newsstands in its early Wednesday edition out Tuesday night, under the four-column banner atop page one CLINTON ACCUSED OF URGING AIDE TO LIE. The story was attributed to "sources close to the investigation." ABC News broadcast the gist of it on radio shortly after midnight Wednesday.

The *Los Angeles Times* also had the story in its Wednesday editions, but *The New York Times*, beaten badly by the *Post* on the Watergate story a quarter of a century earlier, was left at the gate again. The lead on its first story on Thursday, January 22, however, was a model of fact: "As an independent counsel issued a fresh wave of White House subpoenas, President Clinton today denied accusations of having had a sexual affair with a twenty-one-year-old White House intern and promised to cooperate with prosecutors investigating whether the president obstructed justice and sought to have the reported liaison covered up."

The story spread like an arsonist's handiwork. The Washington Post of Thursday reported from "sources familiar with the investigation" that the FBI had secretly taped Lewinsky by placing a "body wire" on Tripp and had got information that "helped persuade" Attorney General Janet Reno to ask for and receive from the three-judge panel overseeing the independent counsel authorization to expand the investigation.

On that same Thursday, the Times identified Lucianne Goldberg, the literary agent who later said she had advised Tripp to tape her conversations with Lewinsky. But The Washington Post continued to lead the way with more information apparently leaked by, but not attributed specifically to, lawyers in the case, and in the Paula Jones sexual harassment lawsuit that had caught Lewinsky in its web.

On network television on Friday, taste went out the window. ABC News correspondent Jackie Judd reported that "a source with direct knowledge of" Lewinsky's allegations said she "would visit the White House for sex with Clinton in the early evening or early mornings on the weekends, when certain aides who would find her presence disturbing were not at the office." Judd went on: "According to the source, Lewinsky says she saved, apparently as a kind of souvenir, a navy blue dress with the president's semen stain on it. If true, this could provide physical evidence of what really happened."

That phrase "if true" became a gate-opener for any rumor to make its way into the mainstream. Judd's report ignited a round of stories about a search for such a dress. Despite disavowals of its existence by Lewinsky's lawyer, William Ginsburg, stories soon appeared about a rumored test for tele-tale DNA by the FBI.

The New York Post, under the headline Monica kept sex dress as a souvenir, quoted "sources" as saying the dress really was "a black cocktail dress that Lewinsky never sent to the cleaners," adding that "a dress with semen on it could provide DNA evidence virtually proving the man's identity—evidence that could be admissible at trial." The newspaper also reported that "Ken Starr's investigators searched Lewinsky's Watergate apartment, reportedly with her consent and carried off a number of items, including some clothing," which Ginsburg subsequently confirmed. He later said that the president had given Lewinsky a long T-shirt, not a dress.

The Village Voice, in a scathing retracing of the path taken by the ABC News report of a semen-stained dress, labeled Judd's account hearsay and noted it had nevertheless been picked up by other news organizations as if such a dress existed. Six days after the original ABC story, CBS News reported that "no DNA evidence or stains have been found on a dress that belongs to Lewinsky" that was "seized by the FBI from Lewinsky's apartment" and tested by "the FBI lab."

ABC, the next day reported that "according to law enforcement sources, Starr so far has come up empty in a search for forensic evidence of a relationship between Mr. Clinton and Lewinsky. Sources say a dress and other pieces of clothing were tested, but they all had been dry cleaned before the FBI picked them up from Lewinsky's apartment." In this comment, ABC implied that there had been stains, and it quoted a ABC spokesperson as saying, "We stand by that initial report" of a semen-stained dress.

A close competitor for the sleaziest report award was the one regarding the president's alleged sexual preference. On Wednesday, January 21, the Scripps Howard News Service reported that one person who has listened to the Lewinsky-Tripp tapes said Lewinsky "described how Clinton allegedly first urged her to have oral sex, telling her that such acts were not technically adultery."

That night, on ABC News' *Nightline*, Ted Koppel advised viewers gravely that "the crisis in the White House" ultimately "may come down to the question of whether oral sex does or does not constitute adultery." The question, he insisted, was neither "inappropriate" nor "frivolous" because "it may bear directly on the precise language of the president's denials. What sounds, in other words, like a categorical denial may prove to be something altogether different."

Nightline correspondent Chris Bury noted Clinton's "careful use of words in the matter of sex" in the past. He recalled that in 1992, in one of Gennifer Flowers' taped conversations offered by Flowers in her allegations of a long affair with the then governor of Arkansas, she "is heard discussing oral sex with Clinton. Bury went on, "during this same time period, several Arkansas state troopers assigned to the governor's detail had said on the record that Clinton would tell them that oral sex is not adultery."

The distinction came amid much speculation about whether Clinton, in his flat denial of having had "sexual relations with that woman," might be engaging in the sort of semantic circumlocution for which he became notorious in his 1992 presidential campaign when asked about his alleged affair with Flowers, his draft status, smoking marijuana, and other matters.

The Washington Post on Sunday, January 25, reported on the basis of the Tripp tapes that "in more than 20 hours of conversations" with Tripp, "Lewinsky described an eighteen-month involvement that included late-night trysts at the White House featuring oral sex." The story noted in its second paragraph: "Few journalists have heard even a portion of these audio tapes, which include one made under the auspices of the FBI. Lewinsky herself has not commented on the tapes publicly. And yet they have been the subject of numerous news accounts and the fodder for widespread speculation." Nevertheless, it then added: "Following are descriptions of key discussions recorded on the tapes, information that The Washington Post has obtained from sources who have listened to portions of them."

The story went on to talk of "bouts of 'phone sex' over the lines between the White House and her apartment" and one comment to Tripp in which Lewinsky is alleged to have said she wanted to go back to the White House—as the newspaper rendered it—as "special assistant to the president for [oral sex]." The same story also reported that "Lewinsky tells Tripp that she has an article of clothing with Clinton's semen on it."

On television, these details led some anchors, such as Judy Woodruff of CNN, to preface some reports with the kind of unsuitable-for-children warning usually reserved for sex-and-violence shows like NYPD Blue. But comments on oral sex and semen may have been more jarring to older audiences, to whom such subjects have been taboo, than to viewers and readers from the baby boom and younger.

The tabloids were hard-pressed to outdo the mainstream, but they were up to the challenge. Borrowing from The Sun of London, the New York Post quoted Flowers in an interview saying "she reveals that Clinton once gave her his 'biblical' definition of oral sex: "It isn't 'real sex.'" The headline on the story helped preserve the Post's reputation: Gospel According to Bubba says oral sex isn't cheating.

Meanwhile, the search for an eyewitness to any sexual activity between Clinton and Lewinsky went on. On Sunday, January 25, Judd on ABC reported "several sources" as saying Starr was investigating claims that in the spring of 1996, the president and Lewinsky "were caught in an intimate encounter" by either Secret Service agents or White House staffers. The next morning, the front-page tabloid headlines of both the New York Post and the New York Daily News shouted, caught in the act, with the accompanying stories attributed to "sources."

Other newspapers' versions of basically the same story had various attributions: the Los Angeles Times: "people familiar with the investigation"; The Washington Post: "sources familiar with the probe"; The Wall Street Journal: "a law enforcement official" and "unsubstantiated reports." The Chicago Tribune attributed ABC News, using the lame disclaimer "if true" and adding that "attempts to confirm the report independently were unsuccessful." The New York Times, after considering publication, prudently decided against it.

Then on Monday night, January 26, The Dallas Morning News reported in the first edition of its Tuesday paper and on its Web site: "Independent counsel Kenneth Starr's staff has spoken with a Secret Service agent who is prepared to testify that he saw President Clinton and Monica Lewinsky in a compromising situation in the White House, sources said Monday." The story, taken off the Internet by The Associated Press and put on its wire and used that night on Nightline, was retracted within hours on the ground that its source had told the paper that the source had been mistaken (see box, page 21).

Then there was the case of the television talk show host, Larry King, referring to a New York Times story about a message from Clinton on Lewinsky's answering machine—when there was, in fact, no such story. Interviewing lawyer Ginsburg the night of January 28, King told his guest that the story would appear in the the next day's paper, only to report later in the show: "We have a clarification, I am told from our production staff. We may have jumped the gun on the fact that The New York Times will have a new report on the phone call from the president to Monica Lewinsky, the supposed phone call. We have no information on what The New York Times will be reporting tomorrow."

Beyond the breakdown in traditional sourcing of stories in this case, not to mention traditional good taste, was the manner in which a questionably sourced or totally unsourced account was assumed to be accurate when printed or aired, and was picked up as fact by other reporters without attempting to verify it.

For days, a report in *The Washington Post* of what was said to be in Clinton's secret deposition in the Paula Jones case was taken by the press as fact and used as the basis for concluding that Clinton had lied in 1992 in an interview on *60 Minutes*. Noting that Clinton had denied any sexual affair with Gennifer Flowers, the *Post* reported that in the deposition Clinton acknowledged the affair, "according to sources familiar with his testimony."

Loose attribution of sources abounded. One of the worst offenders was conservative columnist Arianna Huffington. She offered her view on the CNBC talk show *Equal Time* that Clinton had had an affair with Shelia Lawrence, the widow of the late ambassador whose body was exhumed from Arlington National Cemetery after it was revealed he had lied about his military record. Huffington, in reporting on the alleged affair, confessed that "we're not there yet in terms of proving it." So much for the application of journalistic ethics by journalistic amateurs.

With CNN and other twenty-four-hour cable outlets capable of breaking stories at any moment and Internet heist artists like Drudge poised to pounce on someone else's stories, it wasn't long before the Internet became the venue of first resort even for a daily newspaper. *The Wall Street Journal* on February 4, ready with a report that a White House steward had told a grand jury summoned by Starr that he had seen Clinton and Lewinsky alone in a study next to the Oval Office, posted the story on its World Wide Web site and its wire service rather than wait to break it the next morning in the *Journal*. In its haste, the newspaper did not wait for comment from the White House, leading deputy press secretary Joe Lockhart to complain that "the normal rules of checking or getting a response to a story seem to have given way to the technology of the Internet and the competitive pressure of getting it first."

The Web posting bore the attribution "two individuals familiar with" the steward's testimony. But his lawyer soon called the report "absolutely false and irresponsible." The *Journal* that night changed the posting to say the steward had made the assertion not to the grand jury but to "Secret Service personnel." The story ran in the paper the next day, also saying "one individual familiar with" the steward's story "said that he had told Secret Service personnel that he found and disposed of tissues with lipstick and other stains on them" after the Clinton-Lewinsky meeting. Once again, a juicy morsel was thrown out and pounced on by other news outlets without verification, and in spite of the firm denial of the *Journal* report from the steward's lawyer.

One of the authors of the story, Brian Duffy, later told *The Washington Post* the reason the paper didn't wait and print an exclusive the next morning was because "we heard footsteps from at least one other news organization and just didn't think it was going to hold in this crazy cycle we're in." In such manner did the race to be first take precedence over having a carefully checked story in the newspaper itself the next day.

White House press secretary Michael McCurry called the *Journal*'s performance "one of the sorriest episodes of journalism" he had ever witnessed, with "a daily newspaper reporting hour-by-hour" without giving the White House a chance to respond. *Journal* managing editor Paul Steiger replied in print that "we went with our original story when we felt it was ready" and "did not wait for a response from the White House" because "it had made it clear repeatedly" it wasn't going to respond to any questions about any aspect of the case.

Steiger said at that point that "we stand by our account" of what the steward had told the Secret Service. Three days later, however, the *Journal* reported that, contrary to its earlier story, the steward had not told the grand jury he had seen Clinton and Lewinsky alone. Steiger said "we deeply regret our erroneous report of the steward's testimony."

On a less salacious track, the more prominent mainstream dailies continued to compete for new breaks, relying on veiled sources. *The New York Times* contributed a report on February 6 that Clinton had called his personal secretary, Betty Currie, into his office and asked her "a series of leading questions such as: 'We were never alone, right?' " The source given was "lawyers familiar with her account."

The *Post*, "scrambling to catch up," as its media critic Howard Kurtz put it, shortly afterward confirmed the meeting "according in a person familiar with" Currie's account. Saying his own paper used "milder language" than the *Times* in hinting at a motivation of self-protection by the president, Kurtz quoted the *Post* story that said "Clinton probed her memories of his contacts with Lewinsky to see whether they matched his own." In any event, Currie's lawyer later said it was "absolutely false" that she believed Clinton "tried to influence her recollection."

The technology of delivery is not all that has changed in the reporting of the private lives of presidents and other high-ranking officeholders. The news media have traveled light years from World War II days and earlier, when the yardstick for such reporting was whether misconduct alleged or proved affected the carrying out of official duties.

In 1984, when talk circulated about alleged marital infidelity by presidential candidate Gary Hart, nothing was written or broadcast because there was no proof and no one willing talk. In 1987, however, a *Newsweek* profile reported that his marriage had been rocky and he had been haunted by rumors of womanizing. A tip to *The Miami Herald* triggered the stake out of his Washington townhouse from which he was seen leaving with Donna Rice. Only after that were photographs of the two on the island of Bimini displayed in the tabloid *National Enquirer* and Hart was forced from the race. Clearly, the old rule—that questions about a public figure's private life were taboo—no longer applied.

But the next time a Presidential candidate ran into trouble on allegations of sexual misconduct—Bill Clinton in 1992—the mainstream press was dragged into hot pursuit of the gossip tabloids that not too many years earlier had been treated like a pack of junkyard dogs by their supposedly ethical betters. The weekly supermarket tabloid, *Star*, printed a long, explicit first-person account of Flowers' alleged twelve-year affair with Clinton. Confronted with the story on the campaign trail in New Hampshire, Clinton denied it but went into extensive damage control, culminating in his celebrated *60 Minutes* interview.. With the allegations quickly becoming the centerpiece of his campaign, the mainstream press had no recourse but to report how he was dealing with it. Thus did the tail of responsible journalism come to wag the dog.

From then on, throughout Clinton's 1992 campaign and ever since, the once-firm line between rumor and truth, between gossip and verification, has been crumbling. The assault has been led by the trashy tabloids but increasingly accompanied by major newspapers and television, with copy-cat tabloid radio and TV talk shows piling on. The proliferation of such shows, their sensationalism, bias and lack of responsibility and taste have vastly increased the hit-and-run practice of what now goes under the name of journalism.

The practitioners with little pretense to truth-telling or ethics, and few if any credentials suggesting journalistic training in either area, now clutter the airwaves, on their own shows (Watergate felon G. Gordon Liddy, conspiracy-spinner Rush Limbaugh, Iran-Contra figure Oliver North) or as loud mouth hosts and guests on weekend talkfests (John McLaughlin, Matt Drudge).

In the print press and on the Internet as well, journalism pretenders and poseurs feed misinformation, speculation, and unverified accusations to the reading public. The measure of their success in polluting the journalism mainstream in the most recent Clinton scandal was the inclusion of Drudge, as a guest analyst on NBC News' *Meet the Press*. The program also included Isikoff, the veteran *Newsweek* investigative reporter.

Playing straight man to Drudge, moderator Tim Russert asked him about "reports" that there were "discussions" on the Lewinsky tapes "of other women, including other White House staffers, involved with the president." The professional gossip replied, dead-pan: "There is talk all over this town another White House staffer is going to come out from behind the curtains this week. If this is the case—and you couple this with the headline that the *New York Post* has, [that] there are hundreds, hundreds [of other women] according to Miss Lewinsky, quoting Clinton—we're in for a huge shock that goes beyond the specific episode. It's a whole psychosis taking place in the White House."

Drudge officiously took the opportunity to lecture the White House reporters for not doing their job. He expressed "shock and very much concern that there's been deception for years coming out of this White House. I mean, this intern relationship didn't happen last week. It happened over a course of year and a half, and I'm concerned. Also, there's a press corps that wasn't monitoring the situation close enough." Thus spoke the celebrated trash-peddler while Isikoff sat silently by.

Such mixing of journalistic pretenders side-by-side with established, proven professional practitioners gives the audience a deplorably disturbing picture of a news business that already struggles under public skepticism, cynicism, and disaffection based on valid criticism of mistakes, lapses, poor judgment, and bad taste. The press and television, like the Republic itself, will survive its shortcomings in the Lewinsky affair, whether or not President Clinton survives the debacle himself. The question is, has the performance been a mere lapse of standards in the heat of a fast-breaking, incredibly competitive story of major significance? A tapering off of the mad frenzy of the first week or so of the scandal gives hope that this is the case.

Or does it signal abandonment of the old in favor of a looser regard for the responsibility to tell readers and listeners where stories come from, and for standing behind the veracity of them? It is a question that goes to the heart of the practice of a trade that, for all its failings, should be a bulwark of a democracy that depends on an accurately informed public. Journalism in the late 1990s still should be guided by adherence to the same elemental rules that have always existed—report what you know as soon as you know it, not before. And if you're not sure wait and check it out yourself.

Those news organizations that abide by this simple edict, like a disappointed *Newsweek* in this instance, may find themselves run over by less scrupulous or less conscientious competitors from time to time. But in the long run they will maintain their own reputations, and uphold the reputation of a craft that is under mounting attack. To do otherwise is to surrender to the sensational, the trivial and the vulgar that is increasingly infecting the serious business of informing the nation.

WHAT WE DO NOW

(By the editors of CJR)

Regardless of who ultimately wins or loses, regardless of who is judged right or wrong, regardless of the fate of William Jefferson Clinton—or Monica Lewinsky or Kenneth Starr—what will matter mightily to journalists are the long-lasting lessons that we learn from this lamentable and depressing affair.

However the scandal turns out, the press stands to lose in the court of public opinion. In a Pew Research Center poll of 844 people taken from January 30 to February 2, nearly two-thirds said the media had done only a fair or poor job of carefully checking the facts before reporting this story; 60 percent said the media had done only a fair or poor job of being objective on the story and 54 percent thought the press put in another fair or poor performance in providing the right amount of coverage. "The rise of Clinton's popularity in the polls is in part a backlash against the press," said Andrew Glass, Cox Newspapers' senior correspondent. "One way the people can say that the press has been too critical is to tell the pollsters that they support Clinton."

If the president should fall, then those who jumped the gun, who ran with rumor and innuendo, who published or broadcast phony reports without eventual retraction, will falsely claim vindication and triumph. And if this president should persevere and prevail, many in the public will be convinced that the press and the independent counsel were in some unholy conspiracy to persecute him. Remember that the Clinton controversy is only the latest in a string of stories—Diana, O.J., Versace—that the press has been widely accused of exploiting. Says *Los Angeles Times* editor Michael Parks: "We're good at wretched excess, at piling on."

the preceding article targeted where parts of the press have gone wrong in reporting the White House crisis, and leads to these further conclusions:

Competition has become more brutal than ever and has spurred excess. TV newsmagazines are now viewed by traditional print newsmagazines as direct competitors. Thus, says Michael Elliott, editor of *Newsweek International*. "The proliferation of TV news shows makes it harder for us to delay the release of a story." With the spread of twenty-four-hour all-news cable channels—CNN, MSNBC, Fox—there's pressure to report news even when there isn't any. In a remarkably prescient statement last year to the Catto Conference on Journalism and Society, former TV newsman Robert MacNeil said: "I tremble a little for the next sizable crisis with three all-news channels, and scores of other cable and local broadcasters, fighting for a share of the action, each trying to make his twist on the crisis more dire than the next."

The Internet has speeded the process and lowered quality by giving currency to unreliable reports. When a story is posted on the Internet, it races around the globe almost instantly. But the Internet has no standards for accuracy. Web gossipist Matt Drudge once claimed only an 80 percent accuracy rate—wholly unacceptable under any journalistic standards. Technology, long the journalist's great and good friend, has turned out to be a dangerous mistress. "The Internet is a gun to the head of the responsible media," says Jonathan Fenby, editor of the *South China Morning Post* in Hong Kong. "If you choose not to report a story, the Internet will."

As journalism speeds up, there is less time to think, to ponder, to edit, to judge, to confirm, to reconsider. Never was there greater need for gatekeepers with sound and unimpassioned editorial judgment who refuse to be stampeded in the pressure of competition.

And never was there a better time to start examining what journalists can do, immediately, to improve and recapture public respect.

A major step, surely, would be to resolve to make abundantly clear in the reporting of every fast-breaking or controversial story what is known fact and what is mere speculation—or better yet, to swear off disseminating speculation at all except as it can be fully attributed to a knowledgeable source. And to forgo cannibalizing the stories of other news outfits—whether mainstream or tabloid—and to refrain from merely retransmitting them on their face value, without independent reporting.

Clearly, every news organization needs to establish its own written guidelines for almost every conceivable coverage situation. Many already have them. In Britain, the BBC has a thick book containing policies for everything from covering elections to interviewing terrorists to determining when the people's right know supersedes what may constitute invasion of privacy. The BBC's dedication to the two-source rule caused anchorman Nik Gowing to fill forty excruciating minutes of airtime last August—awaiting confirmation by a second source of Princess Diana's death—before broadcasting the news.

Journalists must more freely and fully admit—and quickly correct—their errors. More gross missteps were committed in the early stages of the Clinton scandal than in all of Watergate. Just one example: All of those "sightings" of the president in intimate situations with Ms. Lewinsky in the White House as reported, variously, by ABC News, The Dallas Morning News, and The Wall Street Journal. As cjr went to press, not one had been confirmed.

Newspersons must have the courage to stand up to their editors, news directors, and other bosses when the need arises—and refuse to take a story beyond where sound journalistic principles allow.

In short, the time has come for a thoughtful and uncompromising reappraisal—time to stand back and recall the fundamentals that once made the free press of America the envy of the world. We asked a sampling of journalists and media analysts for their views on what lessons the profession ought to learn from the Clinton scandal story, and where we go from here:

Walter Isaacson, managing editor, Time: We're in a set of rooms where we've never been before. It's murky, and we keep bumping into the furniture. But this is a very valid story of a strong-willed prosecutor and a president whose actions have been legitimately questioned. Reporters must be very careful to stick to known facts, but not be afraid to cover the story. A case involving sex can be a very legitimate story, but we can't let our journalistic standards lapse simply because the sexual element makes everybody over-excited. One lesson is, in the end, you're going to be judged on whether you got it right, not just on whether you got it first.

Richard Wald, senior vice president, ABC News: There are, at least, three lessons.

One: when you are dealing with the president and sex, you must be extremely precise in how you say what it is you think you know. When carefully phrased stories that we ran on ABC were picked up by other news organizations, nobody said: "ABC News reports they got the story from source A or source B." They simply reported it as fact. It then gets into the public vocabulary as fact rather than as allegation.

Two: People dislike the messenger but like the message. If you believe the polls, the public is annoyed with the media and doesn't want to hear about this story anymore. On the other hand, they're buying a lot of newspapers and driving up the ratings of twenty-four-hour news channels. If you believe surveys that ask people what they watch on TV, PBS is the highest rated network in the world. And ballet is huge.

Three: We all get tarred with the excesses of a few. Some TV news organizations rush onto the air with bulletins that don't mean anything. Some newspapers plaster stuff over page one that's really quite minor. Each tiny advance in the story is treated like a journalistic triumph. But the bulk of the reporting has been reasonable and in context.

Marvin Kalb, director, The Shorenstein Center on the Press, Politics and Public Policy, Harvard University: Check the coverage of the O.J. trials; the Versace/Cunanan saga, Princess Diana's tragic death. With each burst of excessive, shallow, intrusive, and hardly uplifting electronic herd journalism, there has been the promise that next time it would get better. The new technology and the new economics have combined to produce a new journalism, which has bright spots but is marked by murky questions about ethics, slipping standards, and quality.

James Fallows, editor, *U.S. News & World Report*: When this whole thing is over, we'll be wringing our hands in symposia and post-mortem critiques. The trick would be to keep some of that retrospective view in mind while we're in the middle of covering the story. A year from now people will be saying:

That we shouldn't have let this story blot out so much else of the news, as happened with O.J. and Diana and Flight 800.

That we should have avoided some of the flights of fancy that come with ever-escalating hypothetical questions. ("If it is proven that Monica Lewinsky killed Vince Foster, then . . .?")

That we should have been more skeptical about single-source anonymous reports—and made the possible motive of leakers clearer to our readers.

That we should have found some way to retain the proper function of editorial judgment, i.e., waiting to see when there is enough basis to publish a story—rather than just saying: "It's on the Internet, it's 'Out there.'"

That we should have recognized that we're in a morally complex situation when it comes to dealing with leaks—one where we really need consider the inherent rights and wrongs. The point is: why wait until next year before trying to let such concerns shape our coverage?

Anthony Lewis, columnist, *The New York Times*: The serious press has an obligation to stand back and warn the reader about how thin is the basis for many of these stories. It's a disgrace what the papers are doing in terms of sourcing.

The obsession of the press with sex and public officials is crazy. Still, after Linda Tripp went to the prosecutor, it became hard to say we shouldn't be covering this. My criticism is in the way it was covered. In general, the press started out rather gullible as regards the Starr operation, and has caught up. The public's been way ahead.

William Marimow, managing editor, the Baltimore *Sun*: When a story is sensitive and controversial, you don't go into print until you've done everything possible to interview people on both sides of the issue, until you understand their accounts of what happened. If you're going to report that "sources" said a White House butler saw the president and intern in a "compromising situation," you ought to go to the ends of the earth to get the point of view of the butler, the president, the intern, and their attorneys.

Geneva Overholser, ombudsman, The Washington Post: Again and again, readers complained about how much we in the press have been reporting from anonymous sources that just seems like gossip. And that is, in fact, inexcusable. We aren't clear enough [in our reports] about the possible motivations of these sources. It's not that we can't have anonymous sources, but each one costs us something in credibility.

And we're too loose with language. One story quoted a source as saying that in her written proffer Monica Lewinsky had "acknowledged" having sex with the president. But she may have "asserted" it rather than "acknowledged" it. We can't use language that hangs somebody before the facts are out.

The Washington Post conceded that one of its articles was based on sources who had heard the [Lewinsky-Tripp] tapes, not on a hearing of the tapes by the reporter. Yet there were quotes around the president's alleged words to Lewinsky—"You must deny this." Here's an anonymous source paraphrasing a woman who is characterizing the words of the president to her on tapes made without her knowledge.

Deni Elliott, director, Practical Ethics Center, University of Montana and professor in the university's philosophy and journalism departments: In the Monica Lewinsky stories in the February 16 Newsweek, there are at least thirty instances in which information is either not attributed, or attributed to anonymous sources, or attributed to other news organizations.

News organizations have not differentiated between different kinds of leaks. Leaks of grand jury testimony create information that ought not be disclosed unless it can be explained that the information is so important that the leak is justified. Grand juries have great latitude and are supposed to operate secretly because of that latitude. If information looks like grand jury testimony but is not, the reader should be informed, or readers will be led to believe you can't trust in grand jury secrecy.

Peter Prichard, president, Freedom Forum, former editor, USA Today: One big lesson: never let hypercompetition take precedence over good news judgment. And be alert to the possibility that you're being manipulated. Also: One anonymous source on any story is simply not enough. The speed of news cycles these days has resulted in errors, but generally the coverage has been good. Newspapers have done a better job than television.

Thomas E. Patterson, Bradlee Professor of Government and the Press, Harvard's John F. Kennedy School of Government: It's not hard to identify the standards we ought to have, it's just hard to get everybody on board. It's going to take real leadership—strong voices, editors, reporters who are willing to stand up to management.

There isn't much real self-criticism among journalists. There has been a flurry of it in the current scandal because so many stories were so outrageous. But where is the same kind of scrutiny the press gives everyone else—really hammering away? These flurries blow over and six months later they're forgotten. Journalists have to say, "Here's an example of the kinds of things we don't do"—and then don't do it. And if journalists do do it, someone must tell them. "You're violating the standards of your profession. Stop it."

Anthonty Marro, editor, Newsdays; Before self-examination moves into self-flagellation, let's look at the lessons here:

With the blur that results when television viewers can switch from the CBS Evening News to Hard Copy, Larry King Live, and Geraldo, it's more important than ever for journalists to sort out: What are unproven allegations and what are proven facts? Which facts are criminal and impeachable and which are merely embarrassing? And what information is coming from serious journalism and what is coming from entertainment programs that have some of the trappings of journalism but few of the standards?

All life is Rashomon, as we seen in early reports on the testimony of [Clinton's personal secretary] Betty Curries, in which two of the nation's very best newspapers produced two very different stories from pretty much the same bits of information. The New York Times gave something very much like a prosecutor's view of the incident (i.e., Clinton was coaching here to lie) while The Washington Post gave something very much like a defense lawyer's view (i.e., Clinton was just trying to refresh his memory about his meetings with Monica Lewinsky). Sorting this out can be both difficult and time-consuming and no one should expect the press even at its best to come up with quick and conclusive answers.

Reporters need to keep reminding themselves that just because sources say they've obtained information doesn't mean that they've obtained all of it, or that it's fully corroborated, or that it means precisely what they suggest it means.

James O'Shea, deputy managing editor news, Chicago Tribune: We're in a new world in terms of the way information flows to the nation. The days when you can decide not to print a story because it's not well enough sourced are long gone. When a story get into the public realm, as it did with the Drudge Report, then you have to characterize it, you have to tell your readers, "There is out there, you've probably been hearing about it on TV and the Internet. We have been unable to substantiate it independently." And then give them enough information to judge the validity of it.

Not reporting it all is the worst thing you can do because you create a vacuum in which people begin thinking a story is true and you're not reporting it because you're a backer of the president. One of the most popular things we did was run a big chart in our Sunday paper that told what's been reported, what is known, and what is not known. We delineated, trying to separate fact from fiction and readers responded very well. The trouble with not reporting anything at all until it's substantiated is that you're not distinguishing between fact and fiction, and then fiction wins.

AND WHAT WILL HISTORY SAY?

(By Lance Morrow)

It's fascinating, in all of this, to look at the trajectory of the Baby Boomers. In their experience, the presidency was enacted first as tragedy. Now it plays itself out as farce.

The sixties—the country that Bill Clinton came from, the culture that formed him and his generation—was a carnival of the tragic, with bodies every where. Clinton's Rose Garden hero, John Kennedy, was murdered in Dallas. Lyndon Johnson led the nation into the lost war that eventually killed 58,000 Americans and more than a million Vietnamese, that ruined the Great Society and tore America in two. Johnson collapsed upon the stage like King Lear in the fifth act, and six years later, Watergate (that is, scandals arising from the American civil war over Vietnam) forced Richard Nixon out of the White House as well. Large, Shakespearean themes: assassinations, war, usurpation of power.

In nineties America—the country over which the quintessential boomer presides—we see a good-times presidency brought to peril by . . . fellatio with an intern. A hilariously degrading spectacle, but at worst, perhaps a shame, in a society that is only incompletely vulnerable to shame.

Journalists should pay attention to an interesting theme that runs through the continuum from sixties to nineties. In both the tragedy and the farce, one notices the central, corrupting role of liars and lies (about Vietnam, about Watergate, about sex) and therefore a concomitant, sometimes illogical ebb and flow of public trust in the president, and in the media. In the sixties, Lyndon Johnson squandered the moral authority of the presidency. Looking at Clinton's astonishing approval ratings last month, it seemed to be the media that had at last exhausted their credibility.

Are Americans very good judges of character? Short-term, their verdicts naturally tend to be astigmatic. But Americans seemed to have decided that short-term media judgments are even worse: sensational and even hysterical. So citizens may let the president off by a process much like jury nullification.

Journalists cannot help speculating on what will be the ultimate verdict on Clinton. Close up, he seems to represent an oddly contemporary discontinuum of effective leadership and breezy squalor. But Americans disconnected their judgment of Clinton's moral behavior from their opinion of his job performance.

History is holistic only in the lives of the saints. Otherwise, the disconnects and ambiguities prevail. Perhaps we journalists should not ask, what place a president will occupy in history, but should try to anticipate the eventual range of ambiguity about him. How widely separated will be the good-bad spectrum of his reputation? As a people, our judgments, after all, run to extremes. Was Jefferson democracy's icon of Enlightenment? Or a slave-owning hypocrite?

Harry Truman: a squalid mediocrity? So he seemed close up. His approval rating in polls at the end of his presidency was 23 percent, an all-time low. Longer range, the second verdict prevailed: Truman as tough, spunky hero of plain folks, common sense, give-'em-hell underdog democracy.

Eisenhower: somnambulating geezer of good times, or historian Fred Greenstein's cunning "hidden hand" president, a kind of Zen hero of all the trouble that did not happen? Reagan the clueless? Reagan the visionary?

In early February, ABC's Sam Donaldson, wondering on-camera about Clinton's high ratings amid squalid charges, remembered the story of Lincoln's reaction when told that Ulysses Grant, his most effective general, was a drunk. Lincoln is said to have replied: "Find out what he drinks, and send my other generals a case of it." But of course, as Donaldson did not say, Ulysses Grant went on to preside over one of America's most corrupt administrations.

What will be the range of ambiguity in history's judgment of Clinton? Maybe he will be thought to be innocent of the sexual stories that are told about him. Maybe I am the queen of Rumania. Maybe the accusations don't matter anyway. Paul Johnson, a conservative author, thinks that history will remember Clinton as a mediocrity clinging to a rung just below Chester A. Arthur.

Or will Clinton be recalled by both journalists and historian as a brilliant politician and admirable president who worked hard, caringly, sensibly, to trim and tune post-ideological government and to preside over one of the most successful, prosperous eras of American history—the baby boomers' middle-aged payoff?

Someone may eventually fit all of this into a Unified Field Theory of Media. So far, we know this: the media in the hard markets of multicultural democratic pluralism, make their living on the excitements of discontinuous reality. At the low end that means the checkout-counter view of public lives (a view that is not necessarily inaccurate). The problem is that, dumbing down, we have too often abandoned the high end. A falling tide leaves all boats in the mud.

In the third week of February, as CJR went to press, the Clinton-Starr story was changing from day to day. One saw the possibility that it might lead to unendurable mess and resignation. Or alternatively, that the story might subside into chronic soap opera and eventually be canceled due to low ratings. A scandal must keep surpassing itself or lose its audience. A sunny presidency of denial might tootle on across the bridge to the twenty-first century.

FUMBLE IN DALLAS

(By Terry Anderson)

"We discovered through the unraveling of a source that we had messed up," laments Ralph Langer, editor of the Dallas Morning News. "We had a bad procedure for vetting sources out of the Washington bureau."

On Sunday, January 25, ABC News reported there had been a witness to an intimate encounter between President Clinton and Monica Lewinsky in the White House. On Monday, the Morning News reported a similar story, quoting both ABC and a "White House source." In the first edition of the Tuesday morning paper, the News fleshed out the story: A Secret Service agent had seen President Clinton and Lewinsky in a "compromising situation" in the White House, and the agent had agreed to cooperate with special prosecutor Kenneth Starr. "This person is now a government witness," the paper quoted its source. A second source confirmed the report.

Within minutes, The Associated Press picked up the story, adding the fruits of its own investigations. "We had been working on the ABC report all day Monday, but had no luck," says the AP's Washington bureau chief, Jonathan Wolman. "But we didn't just pick up the Morning News's story. We added quotes from senior officials of the Secret Service saying they'd investigated the report and had doubts about it. And we had David Kendall, the president's personal lawyer, calling it 'false and malicious.'"

The qualifications were appropriate. Even as the Dallas paper's first edition hit the streets, the primary source of the story called back saying he had got it wrong. In the ninety minutes between the first and second editions, Langer pulled the story. An urgent retraction was posted on the paper's Web site. The AP quickly issued the much-hated "Bulletin Kill" to its members, but that was too late. Many had already printed the piece, and had to wait for the next day to carry the AP's follow-up explanation.

The Morning News's blunder was easily identified. "We require two independent sources [on major stories]," Langer explained, "and an editor has to know who the sources are." So far, so good, While the Tuesday story quoted only one source, a "Washington lawyer familiar with the negotiations," the paper actually had another that it did not reveal, and even a third on a "tell me if I shouldn't print this" basis, according to Langer. When the primary source backed out, Langer checked the second source. He found that source had thought he was confirming the vaguer story the Morning News had carried on Monday, not the more specific Tuesday version.

As all this unfolded, the Monday editions of the New York Post and the New York Daily News splashed identical frontpage headlines, Caught in the Act. Each quoted only "sources," without further elaboration. The Washington Post and the Los Angeles Times ran similar reports from their own sources. The Wall Street Journal did the same. Of course, there is no way short of a public unmasking to tell if all these publications' sources were separate individuals or the same (busy) people talking to all of them. Meanwhile, on television newscasts, the story lost its qualifications, drifting toward a concreteness that still had not been justified.

The Morning News, strangely enough, later insisted that its original story was mainly correct, and that the mistakes involved only "nuances." "We thought we had two sources saying a Secret Service agent was negotiating for access to Starr, had gotten it and had talked to Starr's camp," Langer says. "Our source bailed out because it was a 'former or present agent'—a nuance, and, second, the negotiations to get this person to Starr were complex, and mediators were involved. The basic facts of a Secret Service agent, past or present, being put in touch with Starr was correct." But Langer also downgraded the "compromising situation" of Clinton and Lewinsky to an "ambiguous" one—a much more important shift.

Darrell Christian, AP managing editor, says the changes, especially the less damning description of the position Lewinsky and Clinton were caught in involved more than nuances. "When they [the Dallas Paper] withdrew the story and said those details were inaccurate, we thought we had no choice but to take it off the wire."

As CJR went to press, no news organization had been able to confirm any part of the story beyond doubt. No present or former agent had been named. No journalist had claimed direct contact with him or her.

So, Langer was asked, is the story true? "Tough questions. I can't personally answer. People in a position to know are saying it is true, and I don't think they're making it up."

A BREAKDOWN IN FARM COUNTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, when farmers breakdown in the field during harvest, they do not have the luxury of hauling their equipment to the shop to wait on time-consuming repairs. Instead, they use the tools they have available at the time, pliers, a hammer, baling wire, to get the equipment moving again and to get the crop in the bin.

Mr. Speaker, it is harvest time in Kansas, and our markets are having a breakdown. Farmers in Kansas and across America are facing tough times. The wheat harvest is well underway, and while the yields have been satisfactory, farmers are facing the lowest prices in recent memory, due in large part to lagging exports of U.S. commodities.

Projections by the U.S. Department of Agriculture forecast agricultural exports declining $5 billion this year. This decline is having a serious impact on the bottom line for Kansas farm families. Current wheat prices are $1 lower than those received during the last 2 years.

One of our best chances to lift commodity prices and breathe life into the farm economy is through an aggressive export policy. The House of Representatives today made a significant move in that direction. Today we passed the agricultural appropriation bill for 1999. Under this legislation, the P.L. 480 Food for Peace Program is fully funded at over $1 billion.

The Export Enhancement Program is fully funded at $550 million to help combat unfair export subsidies, and the General Sales Manager Program is funded at a level that makes available over $5 billion of credit guarantees for agricultural exports.

U.S. farmers are clearly the most efficient and can compete with farmers anywhere in the world. They cannot, however, compete with the treasuries of the European Union and other subsidizing countries. U.S. farmers continue to lose markets and market share due to foreign subsidies and unfair trading practices by our competitors. Still, the Clinton administration has refused to use the tools we have available to combat these subsidies and gain negotiating strength to push for that level playing field in future trade negotiations.

Today's action by Congress makes it clear, we are committed to an aggressive trade policy, committed to exports, and committed to American agriculture. Despite the current crisis, the administration has been reluctant to use the Export Enhancement Program for wheat or flour, citing criticism of the program, without offering alternatives or suggestions to make the program more effective.

The fact is that EEP is one of the few export promotion programs that is authorized, funded, and GATT legal. If changes need to be made to the program to make it more effective, these steps can and should be taken by the administration.

With the passage today of the agricultural appropriation bill, Congress, both the House and Senate, have acted to give USDA both the authority as well as the money to aggressively combat trade subsidies by our agriculture competitors.

Mr. Speaker, there is a breakdown in farm country, and it is time for this administration to use the tools, be that the pliers or the hammer or the baling wire, whatever it takes. Those tools are available. They need to be used, and we need to get our farmers up and running.

FOREIGN OPERATIONS FOR FISCAL YEAR 1999

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, the House of Representatives will soon be addressing the foreign operations appropriations bill for fiscal year 1999. Shortly after the July 4 recess members of the Subcommittee on Foreign Operations, Export Financing, and Related Programs will begin marking up this legislation, which determines to a major degree American engagement in a changing world.

I would like to take this opportunity to address an area where I believe American policies, assistance, and investment can make a critical difference in promoting our values of democracy, human rights, and free markets. That is, support for the Republics of Armenia and Nagorno Karabagh.

Mr. Speaker, I served as co-chairman with the gentleman from Illinois (Mr. PORTER) of the Congressional Caucus on Armenian Issues. Our Caucus has 64 members from both sides of the aisle, and I visited Armenia and Nagorno Karabagh, and can tell Members that the need for help is still great, and the potential of Armenia to be a long-term friend and partner of the United States is also great.

The Subcommittee on Foreign Operations, Export Financing, and Related deserves praise for many important provisions in the fiscal year 1998 foreign ops bill. That legislation provided for the first time direct U.S. humanitarian assistance to the people of Nagorno Karabagh. It also established a discretionary spending fund to restore infrastructure and promote regional integration in the Caucasus.

As in previous years, the legislation also earmarked direct aid to the Republic of Armenia. It maintained the section 907 ban on direct aid to Azerbaijan, albeit with some very big exemptions, until that country lifts its blockade of Armenia and Nagorno Karabagh. In order to build on the progress made last year, I hope my colleagues who serve on the Subcommittee on Foreign Operations, Export Financing, and Related Programs will consider the following proposals.

First, I urge an earmark of not less than $100 million to Armenia to promote economic development, trade, and increase U.S. investment. Because Armenia is largely cut off from the west due to the Turkish and Azerbaijani blockades, U.S. assistance has played a vital role in helping this small landlocked Nation to survive. Despite the hardships caused by the blockades, Armenia has registered strong economic growth, with the private sector accounting for a large and growing share of GDP.

Furthermore, aid to Armenia is strictly monitored and effectively implemented. Earlier this year Armenia's voters had successful presidential elections, further proof of the impressive development of a multi-party democracy.

I also urge the subcommittee to build upon its historic achievement in the fiscal year 1998 bill to earmark assistance to Nagorno Karabagh at $20 million. This mountainous Republic is indeed a functioning society, a fact attested to by members of the USAID team that visited Karabagh to conduct a needs assessment pursuant to the fiscal year 1998 bill.

Unfortunately, our State Department has apparently interpreted the provision of aid to the victims of the Karabagh conflict, contrary to the intent of the subcommittee, as referring also to expanding existing funds for Azerbaijan's needs.

I would urge the subcommittee to build on the fine precedent it established last year by increasing the earmark for Nagorno Karabagh, specifying that the funds are targeted for use within Nagorno Karabagh and further broadening the scope of assistance to Karabagh to include the reconstruction of infrastructure damaged during the war.

□ 2030

I also believe we must maintain, without any exemptions, Section 907 of the Freedom Support Act, which became law in 1992. We must not allow any weakening or other ways of getting around the requirements of Section 907.

In addition, I believe we should require the administration to report to Congress on what steps it is taking to ensure Azerbaijan's compliance with the conditions of Section 907.

Finally, Mr. Speaker, in keeping with this goal of attaching tough but fair conditions to the provision of U.S. aid, we should retain the Humanitarian Aid Corridor Act. This act became law in 1996, and I believe, as most Americans, that countries that block the delivery of U.S. humanitarian assistance to other countries should not themselves receive assistance from the United States.

While the Corridor Act provision does not single out any countries, it would clearly affect the Republic of Turkey, which has imposed a blockade on Armenia since April of 1993. Given Turkey's failure to abide by the requirements of the Corridor Act, I urge the subcommittee consider tightening the provisions by removing or at least strictly limiting the current broad discretion of the Presidential waiver.

CONGRATULATIONS TO NEW MEXICO'S NEW CONGRESSWOMAN, HEATHER WILSON

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Colorado (Mr. MCINNIS) is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, we have great news from the State of New Mexico. My district is in the State of Colorado and as many of us know, we lost our colleague Steve Schiff who represented very ably over the years the First Congressional District of the State of New Mexico.

After his passing, the Governor of the State called for a special election. And last night, the people of New Mexico made a very good, good decision. They are sending to Washington, DC a very capable, very competent, very energetic, very dedicated and very patriotic brand-new Congressman.

That Congressperson is Heather Wilson. Heather Wilson is the mother of three children, Joshua, Caitlin and Scott. Congresswoman Wilson is 37 years old. She will be sworn in tomorrow. She is married to an Albuquerque gentleman by the name of Jay Hone.

She is a distinguished graduate of the United States Air Force Academy. She is a Rhodes Scholar who earned her master's and doctoral degrees in Oxford University in England. Her dissertation, "International Law and the use of Force by National Liberation Movements," was published as a book and won the Paul Reuter Prize from the International Community of the Red Cross in Geneva, Switzerland.

For 7 years, Heather Wilson lived and worked in Europe. She was a negotiator and defense planning officer with the United States Air Force in England, where her work included negotiating all aspects of cruise missile deployment in Britain and managing to bring a $125 million construction project to completion on time and under budget.

She then went to the United States Mission of NATO in Belgium where her work included arms control negotiations. She was the acting representative of the Secretary of Defense at the Conventional Forces in Europe, CFE, and handled negotiations in Vienna, Austria.

After leaving the Air Force in 1989, Heather became the Director for European Defense Policy and Arms Control on the National Security Council staff at White House.

In 1991, Wilson founded Keystone International, Inc., in Albuquerque to work with senior executives and large American defense and scientific corporations with business development and program planning work in the United States and Russia.

Keystone's clients included McGraw-Hill, Martin-Marrietta and others. Heather has written for the Wall Street Journal and publications specializing in foreign policy and defense issues, and has been a spokesman on those issues at Harvard University, the Military Academy at West Point, the Center for Strategic and International Studies, and other organizations.

She has also appeared on national television programs including Firing Line and CNN's Crier and Company.

She is active in civic affairs. Heather is a licensed foster parent, a member of the Albuquerque Kiwanis Club, and Kiwanians throughout New Mexico ought to be proud of what she did yesterday and who is going to represent their State.

She is a strong advocate for improved public schools. She was a bronze medalist in the 1990 American Rowing Championships.

What is exciting about Heather is not only her background, which is fairly extensive as I read by this resume, but the excitement that she reflects. One can tell by just talking with Heather how thrilled and honored she is to represent the fine State of New Mexico.

So New Mexico, despite the fact that there were some people who ran a very, very negative nasty campaign against her, her positive attitude, her "can do" attitude, her personality, clearly her background is what prevailed in that election.

Mr. Speaker, it shows that negative elections do not prevail. We can tell just by talking to her, just how excited and how positive this person is. That is what this Congress is made up of, a lot of people. That is what is should be totally made of.

Mr. Speaker, I am very pleased to see that tomorrow New Mexico will have a new United States Congressman sworn in. They have a lot to be proud of. I can tell my friends in New Mexico, as their neighbor from the north in Colorado and on behalf of all of my colleagues, we are thrilled to see their new Congressman in Washington, DC.

REAUTHORIZATION OF THE OLDER AMERICANS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Oregon (Ms. HOOLEY) is recognized for 5 minutes.

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today in support of the reauthorization of the Older Americans Act and increased funding for the Older Americans Act programs.

These programs, like Meals on Wheels, Senior Employment Service, Elder Abuse Prevention, they work. They help meet a critical need in a cost-effective fashion. The OAA helps seniors help themselves and provides a host of necessary services.

Let us use Meals on Wheels for example. The last numbers we have are from 1995. They show that this program fed 2.4 million people 127 million meals, with about $470 million. What that works out to is less than $4 a meal. That is delivered to their home, and that is about half of that senior's daily food supply.

Mr. Speaker, 41 percent of Meals on Wheels programs have waiting lists, meaning a lot of seniors are not having their needs met with the current level of funding.

Without Meals on Wheels and the volunteers who help run it so cheaply and efficiently, millions of seniors would be forced to leave their own homes for nursing homes. That is not good for them and it is not good for us. Or worse, they would go hungry. But we do not need this as an example. We know this is a successful program.

I have worked with and talked to hundreds and hundreds of these volunteers who are out there volunteering every day helping other seniors. It is a program that works. It is a program that is so efficient, I cannot believe we have not increased the funding for this or reauthorized it.

We have thousands and thousands and thousands of volunteers across this country. Just in one senior center in one tiny part of my district, there are over 800 volunteers that work in programs that are authorized under the Older Americans Act. Multiply those in my district many times over, and then in the State, and across the Nation, and we have thousands.

But a successful program is one that is continually updated in order to work efficiently. We would not buy a car and never put gasoline in it. We would not buy a computer and not buy software for it. So why would we as a government allow a program like the Older Americans Act to go on and on without revising and improving its functions?

We knew in the last Congress there were some problems with the current act. We knew there were some programs that would work more effectively if streamlined and coordinated on the local level. We knew there was an increasing demand on this act to deal with the concerns of the expanding senior population. We knew it was in our best interest to continue to support the programs that successfully allow seniors to live independently, healthy and productive lives. We still know all of those things. Now it is time to act on that knowledge.

The longer we put off action on this matter, the more endangered those precious services become. An increase in the Older Americans Act funding is also essential in order to accommodate the additional individuals and responsibility that come under its care.

If we do not increase the funding now, we cripple OAA's ability to respond to our senior needs just as we enter these baby boom years. OAA funding has not even dealt with inflation nor the number of seniors coming or its expanding duties. Without an increase in funding, we cannot expect to continue to provide the services that we value in our communities in the years ahead.

We must look toward reauthorization as a chance to make needed changes in the Older Americans Act. It is a chance to streamline programs and make what is already government's most cost-effective programs even more efficient.

We can also direct the resources toward current and new programs that they desire most. These adjustments are critical. We cannot afford to wait any longer. We have a responsibility to the seniors of this Nation and to the communities that benefit from the programs like Meals on Wheels, long-term care advocates, and elder abuse prevention that the OAA provides.

Mr. Speaker, it is time to reauthorize the Older Americans Act and turn our knowledge into action.

INCREASING MAXIMUM ALLOWABLE CONTRIBUTION TO EDUCATION SAVINGS ACCOUNTS

The SPEAKER pro tempore (Mr. McInnis). Under a previous order of the House, the gentleman from Pennsylvania (Mr. Fox) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to address my colleagues to encourage them to be involved in what I consider one of the most important issues we face in the 105th Congress, and that is of higher education and education savings accounts, the expansion of that for our students, many of whom are graduates from high school and others who may be adults who, in fact, may need to move into a new field and, therefore, higher education will be in their future.

Mr. Speaker, last year in the historic Balanced Budget Act of 1997, the Congress wisely established education savings accounts to be used for higher education purposes. We all know that it is becoming increasingly necessary for the next generation of students to have a college education in order to make a liveable wage. With the cost of higher education continuing to spiral, the Congress needs to find effective ways of helping parents and students afford a college education.

Mr. Speaker, education savings accounts do just that. But under the Balanced Budget Act, the maximum contribution per year is only $500. Even over many years, it is hardly enough to make a dent in the cost for a college degree.

Mr. Speaker, I will introduce legislation tomorrow that will increase the maximum contribution to $5,000 per year. This will ensure that an adequate amount of funds will be available to defray the cost of higher education. We must give parents and students the access for college.

While local school districts, superintendents, principals, teachers, school boards, and parents are doing their best to help students be all they can be by encouraging achievements academically, athletically, and community service, the least we can do here in Congress is to make sure that education beyond college or technical school, junior college, community college, or university degree is possible. We can help that next generation unlock opportunities for a full education that leads to financial security, a rewarding career, and the opportunity to give back to society.

So I hope that my colleagues in the House will join me tomorrow in sponsoring the increase to $5,000 maximum contribution for the education savings accounts to help our students of tomorrow make sure they have the future they want for their children and their grandchildren.

GENERAL LEAVE

Mr. McGOVERN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the topic of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ON MEDICARE CUTS TO HOME HEALTH SERVICES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Massachusetts (Mr. McGovern) is recognized for 60 minutes as the designee of the minority leader.

Mr. McGOVERN. Mr. Speaker, tonight I join my House colleagues to discuss the home health care cuts contained in last year's Balanced Budget Act. While I have pushed this issue in Congress, and with the Clinton administration since November, time is running out.

□ 2045

If Congress is going to find the will to fix this problem, all sides are going to need to act quickly and move this issue forward and move it forward now.

Mr. Speaker, a hastily conceived and ill-considered provision in last year's Balanced Budget Act mandated deep cuts in the Federal Government's commitment to home health care. My colleagues and I take to the floor tonight to shed some light on this national crisis.

When the Balanced Budget Act of 1997 was passed into law, it cut Medicare by $115 billion over five years. Between $16 and $17 billion of the Medicare cuts came out of home health care through the institution of a per-beneficiary cap under an interim payment system. The new formula for home health care in the act will cap Medicare payments to home health care agencies based on costs from four or five years ago, regardless of how efficient or wasteful an agency was at that time.

Now, try going to your local car dealer and telling them that you are only willing to pay 1993 prices for your new car. Rightly so, they would laugh you off the lot. But that is exactly what the Balanced Budget Act does to home health care providers throughout this country in order to save money.

Further, agencies are caught in a Catch-22 under this act. They are forced to cut agency costs back to 1993 levels, but Federal law prevents them from cutting back on the care they provide today.

In addition, eligibility requirements for people to receive home care services have not changed at all. Those who qualified for home health care before the Balanced Budget Act qualify for home health care today, and under law, they must be treated.

How do agencies cut back their costs some 20 percent without cutting back care? Well, in Massachusetts they have been closing their doors to everyone and getting out of the home health care business altogether. The rationale for the cuts in the Balanced Budget Act was that costs in home health care were spiraling out of control because of waste, fraud and abuse. And while we are all against waste, fraud and abuse, the Balanced Budget Act that passed this Congress made no distinction between wasteful providers and efficient ones.

The fact that my home State of Massachusetts has been nationally recognized as a leader in providing efficient home health care was apparently lost on the budget negotiators. The Balanced Budget Act cut wasteful agencies and efficient agencies at nearly identical rates. In Massachusetts and many other States where there is very little fat to trim, these cuts are going right to the bone. And even in traditionally inefficient States, the providers that did the right thing and kept costs down are being punished for that action. It is as if this Congress is saying to these agencies, these efficient agencies, shame on you for being efficient. Shame on you for being cost-effective. Shame on you for putting patients first. It is crazy.

Waste was rewarded in the Balanced Budget Act, and fraud and waste and abuse were not attacked. In fact, HCFA's own statistical data for 1994 shows that Massachusetts has the fourth lowest cost per home health care visit of any State. Further, Massachusetts passed a State initiative to encourage the use of home health care, avoiding the more costly alternative of moving seniors to a nursing home and, thus, saving tax dollars. But under the Balanced Budget Act, we are being punished for our forethought.

I strongly support balancing the budget. I recognize the need to crack down on waste, fraud and abuse. But the version of the Balanced Budget Act that passed was an example of what happens when legislation is negotiated in back rooms and pushed through Congress without appropriate hearings, without committee oversight and without the opportunity for Members to examine closely the bill that they are about to vote on.

We are now beginning to see the effects of that provision, both in my home State of Massachusetts and across this Nation. Just a few months ago the Massachusetts legislature and the Governor of my home State worked together to investigate the impact of the Balanced Budget Act on the State.

In May the Commissioner of the Division of Health Care Finance and Policy in Massachusetts issued a report which stated that the Balanced Budget Act may result in, and I quote, "a large number of chronically ill patients being admitted to long-term care facilities at significantly greater cost to both the Medicare and Medicaid programs."

In essence, Congress passed an unfunded mandate on the States last year. By cutting home health care, seniors and the disabled will be placed in nursing homes. While the exact dollar cost to Massachusetts taxpayers is still unclear, I would like to commend my State's leaders for their efforts to shed more light on this issue and bring concrete information to the debate.

Attorneys General from across the Nation have also recognized the depth of the problem in home health care. Nineteen of them have endorsed H.R. 3205, a bill that I have introduced to fix the home health care crisis. At least three independent studies have assessed the impact of the interim payment system enacted in the Balanced Budget Act. The results are chilling. All the studies show that the interim payment system will most deeply harm patients with chronic, complex and incurable illnesses. The studies also show that the agencies that provide these services will be hurt.

According to the report by the Massachusetts Division of Health Care Finance and Policy, the Balanced Budget Act will result in a $111 million cut to Massachusetts citizens needing home health care, and some have estimated that the Balanced Budget Act is threatening 1.5 million doctor-prescribed home health care visits in Massachusetts this year alone.

While only one in 10 Medicare beneficiaries use home health care services, those who do are poorer, sicker, more often female, more likely to live alone and have more mobility problems than the Medicare population generally.

Approximately 25 percent of these, quote, frail elderly in Massachusetts are over the age of 85. These are the people who are currently at risk for premature institutionalization since the enactment of the Balanced Budget Act.

There is also an economic component to this issue. Last year the home health care industry employed 18,000 people and was one of the major employers in Massachusetts. This year the numbers will be far less. To date, in Massachusetts the home health care community has laid off well over 600 staff and these reductions in staffing levels, particularly direct care staff, dramatically decrease patient access to quality care. Many of the people losing jobs are women who are trying to stay off of welfare or who were on welfare at one time. This is a particularly hard time to turn these workers out, given Federal changes under welfare reform.

According to a survey by the Home & Health Care Association of Massachusetts, 60 percent of their member agencies anticipate staff reductions over the next fiscal year. But numbers, of course, do not tell the whole story. And there is an enormous human cost to this crisis.

There is the story of Massachusetts Easter Seals. Massachusetts Easter Seals provides critical assistance to some of my State's most frail residents, and they do a tremendous job. But because of what Congress passed, they are being forced to eliminate their home health care program which served patients suffering from multiple sclerosis, Alzheimers, cancer, as well as those who are disabled or suffer from serious medical problems.

Mr. Speaker, over 500 patients will now be thrust into a shrinking home health care industry. Because of the Balanced Budget Act, very few agencies are looking for new patients, especially those with chronic and severe illnesses or disabilities. And 120 employees are being laid off as a result of Massachusetts's Easter Seals home health care agency closing its doors.

Now we have another victim in Massachusetts. The Assabet Valley Home Health Care Association in Marlborough, Massachusetts was trying to merge with a local hospital because they could not survive under the Balanced Budget Act as a freestanding agency. Two and a half months ago they asked the Health Care Finance Administration for a determination of what their reimbursement level will be under the new formulas in the act.

Until the gentleman from Massachusetts (Mr. MEEHAN) and I intervened last week, they had not received an answer and the prospect of a merger was terminated. One hundred thirty people have lost their jobs. Over 400 people will have to find a new provider of home health care services. The same scenario is occurring all over this Nation, and the efficient nonprofits are repeatedly the first to go.

Mr. Speaker, many of my House colleagues have recognized and are responding to how these costly errors in the Balanced Budget Act are affecting home health care. Over 100 Members of the House from both parties have cosponsored legislation, sent letters to the administration or stood up for home health care in their communities. Several Members of the other body have also begun looking for a solution to this issue.

And this pressure is having an effect here in Congress. Many Members who were most opposed to changing the Balanced Budget Act and who believed that these cuts were necessary are now beginning to change.

In the House, we have seen motion on this issue. I want to commend my colleagues from both sides of the aisle who have pushed this issue forward.

At a Senate Finance Committee meeting in Washington on March, 12, Senators gathered to review the mistakes caused in the Balanced Budget Act as it relates to home health care. After months of pressure, I am pleased to tell you that at a meeting earlier this month, Christopher Jennings, Deputy Assistant to President Clinton for Health Policy, promised me that the White House will work with Congress to solve this crisis and will help move a bill through this Congress for passage.

I want to especially commend the grass roots efforts to solve this crisis for all they have done so far. Every day Members of Congress are hearing from senior citizens or patients in their district, from the medical community and from home health care providers. As an example, just today I received a letter from 22 national organizations that are members of the Consortium for Citizens with Disabilities, which I will enter in the CONGRESSIONAL RECORD.

They endorse my bill and they have asked Congress to change the home health care provisions of the Balanced Budget Act this year.

Clearly people across the Nation are becoming educated on this issue. Home health care is in critical condition. Time is running out. Our most vulnerable citizens are at risk. Congress must act now, if we are to keep people at home with their families.

I believe home health patients should be comfortable, at home, and should stay with their loved ones for as long as possible, not institutionalized in more expensive nursing homes. I believe that those are the family values that this Congress should stand for.

Mr. Speaker, Congress must act to resolve this crisis before we adjourn this year. People are being hurt now, and we cannot afford to wait. I call upon my colleagues and the leadership of this House, and I call upon Speaker GINGRICH to move quickly on this issue to allow us the opportunity to debate this issue on the floor, to bring this issue up so we can correct the mistakes that were made a year ago in this Congress.

Mr. Speaker, I yield to the gentlewoman from Michigan, (Ms. STABENOW), a leader in trying to correct the mistakes in the Balanced Budget Act, who has been very outspoken on behalf of home health care agencies in her district and across this country and somebody who has put patients first.

Ms. STABENOW. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MCGOVERN) for yielding to me.

I first want to thank him for very quickly moving, when this was brought to our attention, to put in his bill, H.R. 3205.

I was very pleased to be an original cosponsor with him to delay the interim payments system, as he has indicated there are other bills as well that change the formula.

The gentleman from New Jersey (Mr. PAPPAS) has a bill that also would right many of the wrongs, and there are certainly a number of options for us.

I rise also, coming from a State that is extremely efficient. We have, as a State, been serving people in their homes for a little over $3800 per user, which is less than the national average of a little over $4600, $3800 versus $4600. And we know that there are providers that are using as much as $9000 per user, per patient.

One of the difficulties with the way that the Health Care Finance Administration has begun to implement the changes in the balanced budget agreement is by doing it across the board, as opposed to looking at the high-user States or the high-user providers and addressing them.

Instead they are penalizing everyone. In States like Michigan, where we have very dedicated small businesses, nonprofits, visiting nurses associations, Easter Seals, that have been working very diligently to keep costs down and yet provide very high quality care, they are being penalized. We are going to see a reduction of some 27 percent, and we are looking at possibly as high as 80,000 people in my home State over the next 2 years that will not be able to receive service.

This is a critical issue. As you have indicated, this is one that needs to be addressed now. It needs to be addressed tomorrow. As soon as possible. We have changes taking place July 1 that will greatly impact these home health care providers, and we need to make this a top priority.

I want to speak for a moment, if I might, about the kinds of responses and the kinds of conversations I have had with families in my district, not just now around home health care but over the last 2 years representing the people of the 8th district.

□ 2100

When I first was campaigning 2 years ago, I was amazed at the number of homes as you walk down the street that had ramps on the front of their homes. The number of people that were asking me about home health care for their mother, their father, their husband, their wife, another loved one, this is one of the top issues on the minds of the people that I represent.

We all know of loved ones who need care. It is not only better for them and for the family to support them at home, but we know it saves tax dollars. So it is really amazing to me that we would be looking at these kinds of drastic cuts in something that saves money as well as providing quality care for families, for individuals. This just makes no sense at all.

I supported the balanced budget agreement. I want to have the budget balanced. I support going after fraud and abuse, but I can tell my colleagues, in Michigan, with my home care providers, they are not the folks that we ought to be focusing the attention on, because they are providing quality care at very low cost.

I did want to mention one other issue as well, and that is the whole issue of surety bonds. This is something that HCFA can address themselves right now if they choose to do that tomorrow morning. I would call on the administration of HCFA to do this.

We put in place a requirement to protect, for new home health agencies that were opening, requiring a surety bond of $50,000 or 15 percent. The maker of that amendment indicated that she meant whichever was less.

Instead, we are seeing efforts that have gone into place that are requiring people to go for a higher amount, whichever is more, 50,000 or 15 percent, whichever is more rather than whichever is less.

What does that mean? Right now, only 41 percent of the home health care agencies across our country have been able to get a surety bond. The rule regarding having to have a surety bond takes effect July 1.

Time is running out. We have got to see some kind of a response that is reasonable to those that are on the frontlines providing home health care. We have got to make sure that it is done in a timely manner.

So I join with the gentleman from Massachusetts (Mr. MCGOVERN) calling on the Speaker of the House. There are vehicles. We have the gentleman's bill. We have other bills. We do not care if it is a Republican bill. We do not care if it is a Democratic bill. We just need action now because the people at home are going to be feeling the effects. We are going to see businesses closing, home health care not provided. And this is one of the most critical issues facing our families.

So I am pleased to join with my colleagues tonight, calling for action.

Mr. McGOVERN. Mr. Speaker, I thank the gentlewoman for her comments, and she raises two points that I think deserve to be emphasized again; and that is that if we are truly trying to save money, and that is what one of the goals of the balanced budget act was about, this is not the way to do it.

You do not need to be a mathematician or an expert in health care to know that it is a lot cheaper to provide somebody good quality care at home than to have that person in a long-term nursing care facility or a nursing home.

The other thing that my colleague raises, which I think is very important, and that is this whole issue of how do you encourage efficiency and cost effectiveness. Massachusetts has some great home health care agencies, visiting nurse associations who have been very good, who have been very efficient.

But the way this whole thing has been put together, in essence, we are punishing those who have been good. It is almost as if we are saying to these people you should have been bad. You should have padded the books. You should not have been cost efficient and effective; because if you violated all of the things that we asked you to do, you would be okay right now, because you would only be trimming the fat.

It is the good agencies that are being put out of business. I think that is sad, and it goes against and it contradicts what this Congress is supposed to be all about. It contradicts what this administration says its goal is in health care.

So I commend the gentlewoman for her comments. We are going to make sure we work together; that something happens. We are all dedicated in this here. We need to convince our leadership in this Congress that this issue is important enough to have a vote now.

I sent a letter to Speaker Gingrich, which I would like to enter into the record now, saying maybe we can bring this up during the technical corrections billion. We need to do this quickly. Clearly, this issue is of such importance that I think it takes precedence even over some of the things we have been doing in this Congress. So I thank the gentlewoman for her comments.

Mr. Chairman, I yield to the gentleman from Rhode Island (Mr. WEYGAND) who has been an effective leader in this issue. I was with him at Warwick, Rhode Island in a health care agency, and it was a great rally with over 200 people all protesting these cutbacks and demanding that Congress fix it.

I yield to my colleague the gentleman from Rhode Island (Mr. WEYGAND).

Mr. WEYGAND. Mr. Speaker, I want to thank the gentleman from Massachusetts (Mr. MCGOVERN) for yielding me this time.

Mr. Speaker, the discussion we are embarking on is very important for a lot of reasons. Home health care is, indeed, without a question, a kind of health care system right now in deep peril.

A lot of times, people will look at the home health care system and think about just the numbers and the dollars and the cents. Something that we fail to recognize often unless you had a family member or friend who has been receiving home health care is that home health care providers provide a lot more than just simply the medical services.

They come into our homes, they come into our families, and they provide a friendship and a warmth and the kind of camaraderie that goes along with the health care system and the provisions that they are giving to our seniors, to our disabled.

They reduce the cost of health care tremendously, as we have heard from the gentlewoman from Michigan (Ms. STABENOW) and from the gentleman from Massachusetts (Mr. MCGOVERN).

The average cost throughout the country is only approximately $4,600 per year. Many States like the gentleman's State and my State have tremendously cut those costs. My State, in 1996, had a cost of approximately $4,000 per year per patient for home health care.

The wonderful thing about home health care is that it prevents many people from going into acute care facilities and long-term care facilities. But if we want to talk about dollars and cents, let us talk about them. Talk about what it costs for an average per patient cost per year: $4,600. In Massachusetts, it is $3,800 per year. In Rhode Island, it is $4,000. In Michigan, I think it is around $3,900 per year.

If that same person is forced into acute care facility or even a long-term care facility, the average cost on a national basis is around $40,000 per year for a Medicaid recipient. That is shared about 50 percent by the State government and 50 percent on the Federal Government. That means, on the Federal side, we would be spending $20,000 out of the Federal budget per year per patient.

It does not take much to determine that home health care is the far better bargain for the taxpayers and the Federal Government. We want to make sure that they stay in home health care versus a far more expensive acute care or nursing home facility. Granted, we have great facilities like that; and where they are needed, they are there for our patients. But it is far better to have someone at home.

At home, they get more assistance from home health care, but they also get assistance from family and friends. The unique thing about it is we are giving them a life of dignity and independence.

A lot of times, we talk about numbers and providers without seeing the faces of these people. The gentleman from Massachusetts (Mr. MCGOVERN), the gentlewoman from Michigan (Ms. STABENOW), and the gentleman from Maine (Mr. ALLEN) and I have all visited, as well as other people on the other side of the aisle, many different people in many different places to try and find out the real problem.

Let me tell you about a young lady that I visited with about a month and a half ago. Her name is Genevieve Weeser. Genevieve lives in Warwick, Rhode Island in the middle of the second congressional district in Rhode Island.

I went over and met with her. Genevieve is 98 years young. She is at home. She is in an apartment that she has, a Federally subsidized apartment unit, and she has friends who assist her. She is 98. She receives one nurse who comes in once a week to try to take care of her medications and monitor her various vital signs to be sure she is okay.

On top of that, she gets some small homemaker service. She has friends who come in and help her. She has family who comes in and helps her. But without that kind of activity, without that kind of home care, she would be, without a doubt, in a far more expensive acute care setting or nursing home.

Her care has been cut nearly in half now because of the IPS system. She is going to be receiving half the number of visits and half the care. Eventually what will happen is she will end up in the nursing home some place, costing the taxpayers of Rhode Island and the Federal Government far more money than what we would have had with home health care.

Last year, when we made that revision in the budget and we put in a system that we thought would, indeed, try to give us a transition into a new prospective payment system from home health care, it did a lot of things that we were not familiar with, and that is why we need to change it.

First of all, home health care only represents 9 percent of the entire Medicare budget. Yet, it was targeted for over 14 percent of the cuts. It took a large hit. On top of that, it was the manner in which, as we have all heard tonight, that home health care agencies were targeted. It was one swoop across the top.

We had in Rhode Island one VNA already go out of business. It had been in business for 87 years, a nonprofit agency providing quality home health care at a cost of less than $3,600 per year per patient. It had to close its door. Kent County VNA had to lay off 11 people. It cut most of its visits in half.

Do my colleagues know what? All of these good quality, very cost effective agencies have been driven to virtually close their doors, cut down on their employees. Yet, there is a unique part of the IPS system that many people do not know about, that if the gentleman or I started a new agency last year, and only had a 1-year track record and had costs of around $5,000 or $6,000 per year per patient, and we bought up those other agencies, those great cost effective agencies, acquire them somehow, we would now get, not the old rate that they are now required to keep, the 1993 rates or 1994 rates, but if I were a new agency buying up these older agencies, I would get a brand-new rate.

We are, in fact, saying to these new companies, gobble up the most cost effective companies and become fat and wasteful; but to the cost effective nonprofits and the ones that have been providing services for decades, we are closing the door on them. But more importantly, we are closing the door on patients.

Patients come first. It is not about jobs. It is not about agencies. It is about people. What we have done here is drastically wrong.

We have a bill, the McGovern-Weygand bill. We have other bills, the Pappas bill. There are a lot of bills out there that will help correct it. Just last month, in the Committee on the Budget hearing on the resolution on the budget, I was able to put in amendment to the budget, one of only two amendments that were allowed as a sense of Congress that said the following.

First, the interim payment system for home health care services was adversely affected and has adversely affected home health care agencies and particularly Medicare beneficiaries.

Second, if home health care is threatened and further reduced, the overall health care costs of our people are going to rise. As we push down on home health, the cost of acute care facilities and long-term care facilities is going to go up. It is only a matter of time when the cost for HCFA and Medicare are going to rise if we allow this system to stay in place.

Third, we have asked all the committees of jurisdiction, particularly the Committee on Ways and Means, to come up with a revision on the interim payment system this year in this Congress before we go home so that we can make revisions that are appropriate to take care of the people at home.

Lastly, on the overall picture, we must have in place a prospective payment system no later than October 1 of 1999.

It is going to take the requirements of both parties and particularly the leadership on the Republican side to make this occur. In the Committee on

Ways and Means, we need to have the chairman and the subcommittee chairman work with us on both sides of the aisle to come up with a revision.

It is not for us as Democrats or for them as Republicans. This is for people at home that need quality care at a cost effective way. We need to do it now.

I want to thank the gentleman from Massachusetts for having us this evening for this discussion. I particularly want to thank our friends on the other side of the aisle who have done a tremendous job to bring this to the forefront. We cannot let this go. We must provide the kind of dignity and independence that our people deserve.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for his comments and his leadership and for reminding this Congress that patients do come first and should come first.

The gentleman gave an example of somebody that he had visited. I had a similar situation. I went on a home health care visit with an agency in my district and visited a gentleman in Hopkinton, a retired fire chief in Hopkinton named Arthur Stewart.

This was in January, and it was a cold wintry day, and he was sitting by his fireplace. He said to me, "You know, a lot of things I want to do in life are right here, even if it is just poking this darn fire. I would be totally wiped out financially if I had to be in a nursing home or rehab. And I cannot say enough about what the visiting nurses are doing for me. And I just cannot see how shortsighted Congress can be."

It is people like Arthur Stewart, and there are hundreds, if not thousands, of Arthur Stewarts in Massachusetts and throughout the country who should compel this Congress to fix this mistake.

The gentlewoman from Michigan said it and the gentleman from Rhode Island said it that we need to act now. I mean, this needs to be done now. We cannot put this off until next year. If we do not do something now, the cuts are going to adversely impact these home health care agencies to the point where people are going to lose their care. They are going to be forced into nursing homes. Families are going to be devastated. I mean, this is just not right.

Mr. WEYGAND. Mr. Speaker, if the gentleman will yield just a minute, I know my friend, the gentleman from Maine, wants to speak on this subject as well. One of the things we have just seen come out of HCFA is that the rate of reimbursement that we have right now with this cut, HCFA and the people have acknowledged within Medicare that they are receiving far less, 93 percent actually is what they are receiving in terms of what they should be receiving. They are only receiving 93 cents on the dollar minimum. In many cases, they are cutting more.

□ 2115

The other matter is that the amount of surplus that we have seen generated from these massive cuts far exceeds what was estimated by CBO and everybody else. We are in fact cutting a system so drastically so that we can provide tax cuts to other people. That is the terrible shame that we have before us. We are taking people that are in dire need and we are cutting them to provide tax cuts to other people.

Mr. MCGOVERN. The other irony is that in this Chamber, not a day goes by when someone does not rise and talk about unfunded mandates on States. Ironically, this provision in the Balanced Budget Act is the biggest unfunded mandate on States that we have ever seen. This will be devastating to States if they have to pick up an increased cost of Medicaid to provide for long-term care. Every single governor has an interest in making sure this Congress acts on this issue and acts on it now.

Mr. Speaker, I yield to the gentleman from Maine Mr. ALLEN) who has been a leader on campaign finance reform, who has been a leader on this issue as well.

Mr. ALLEN. I thank the gentleman for yielding. I just want to say to the gentleman from Massachusetts Mr. MCGOVERN), the gentleman from Rhode Island Mr. WEYGAND), the gentlewoman from Michigan Ms. STABENOW) and the gentlewoman from Texas Ms. JACKSON-LEE) that what you are all doing in terms of home health care is very important, not just for the people in your district, for people all around the country. The gentleman from Rhode Island was right. This is at the end of the day not just about a few agencies and not just about the Federal Government. This is about some of our most vulnerable citizens.

I have been thinking about this issue a little bit and thinking of so many people that I run into in Maine. I have to say that of the people who come through my office, probably 25 percent of them are concerned in one way or another with health care. When I go out to seniors events or senior centers or talk to senior groups throughout the State of Maine, health care is always right at the top of their agenda. For most people that I talk to who are on that borderline, where the question is, can I continue to stay and live at home, or do I need to move into some sort of facility, almost all of them want to stay at home as long as they can. That seems to be an almost universal desire. The service that allows them to stay at home is some form of home health care. So I find, I believe, that not only is home health care critically important to how well we manage costs at the Federal budget level, but it is also critically important to all of those people, unlike us, for whom this is a real issue in terms of their health, their quality of life and their future.

Last year we took aggressive action to balance the Federal budget and through the Balanced Budget Act deal with the rapid growth and perceived fraud and abuse in Medicare's home health benefit.

I wanted to say a few words about some of the conversation that is going on. If we look back at the Balanced Budget Act, we were trying to get control of runaway costs in part of our health care system. It was not irrational to do that. We have to control fraud and abuse. We have to control the explosion of costs in our health care system. I want to go back and just look at what was going on. I think all of us have seen some figures about the growth of home health care in different States around the country. In every State, it has been significant. There has been significant growth. But the growth has varied dramatically from State to State. You can think about that growth in several ways.

First in terms of the number of home health care agencies. In just the last 4 years, in some States there has been a 20 percent increase or a 40 percent increase. But in some States, the increase has been several hundred percent in just 4 years, an explosion in the number of health care agencies. Second, you can look at the number of visits to an individual patient. In some States it is a fairly modest increase and in some States it is a very rapid increase. Third, you can look at the cost per visit. Again in some States it is fairly modest and in other States it is a dramatic increase in the cost of visits. So what the Congress did was to say, "Wait a minute, put the brakes on, let's try to deal with this, because if we can't get control of home health care costs, we are in big trouble in terms of what is happening to the Federal budget."

So we took some action. But that action has included unintended consequences for people who are receiving home health care benefits and for the agencies that provide that service. We have to weed out fraud and abuse in this system. We have to find ways to cut costs in the Medicare system. But it is wrong to make cuts at the expense of our most vulnerable citizens, our homebound seniors who are relying for health care services provided in their home.

I want to talk about three of those services right now, or three of the changes we made. First, the removal of blood drawing as a Medicare covered service, what is called venipuncture. That is one. Second, there is a requirement of surety bonds. The gentlewoman from Michigan referred to that. That is an added cost for home health care agencies. Sometimes it may be appropriate, but other times it is simply an added expense which is not covered. And, third, the new interim payment system. Those three, I believe, are changes we have made where we have really gone too far and we need to fine-tune those changes. That is really what the McGovern bill does and why I am a cosponsor.

I want you to think about Maine for a moment, not just because it is the State I represent but because it highlights some of the issues that we have here. If you are in Portland, Maine, you are closer to New York City than you are to the northern communities in Maine. If you drive an hour north to Augusta, the capital city, you are still closer to New York City than you are to the northern Maine towns of Mattawamkeag and Fort Kent. It is a very big State. It is a rural State, like so many in this country, and you cannot have a hospital on every corner. So what you have is home health care agencies across the State which have sprung up to provide services to seniors, many of them in rural areas, and for many of whom a trip to the hospital is quite a hike. So I think it is unreasonable to require seniors to take a one-hour or two-hour trip to a hospital just to have blood drawn once a week when you can have a home health care nurse moving through a community providing this kind of service to many people who need it. And for many people, the drawing of blood, the testing of that blood is essential to monitoring their medications. Really it is a very important health care service. It is too expensive for them. It is too inconvenient for them. I believe we need to support the restoration of venipuncture as a Medicare covered home health benefit.

The second issue, the gentleman from Rhode Island referred to it in particular, the new Interim Payment System, IPS, bases Medicare reimbursement rates on agency and regional costs in 1993. Let us look at that for a moment. We have, in Maine especially, nonprofit agencies which have been around for a long period of time which, of necessity, have had to hold their costs down. You look at the cost per visit or the number of visits of those agencies, and then compare them to some of the newer, for-profit agencies around the country, and there is a dramatic contrast. That dramatic contrast is one that represents a case where we should say to the nonprofit, well-established, low-cost agency, "You are doing a great job. Keep it up." But what have we said? No. We have said in 1998 through this IPS system, "You've got to go back to the cost you had in 1993 or 1994 and we're going to base what you get paid now on what your costs were then, not on what the costs are across the region, but on what your individual costs were back then." There is a problem there. Because if you have inflated costs, if you are a new agency, a for-profit agency or an agency which for whatever reason has inflated costs, you are going to get compensated for your current costs. If we are going to be cost-effective, what we need is a formula that will reward cost-efficient agencies, those agencies that provide quality care at an appropriate price. We need a formula that does that. That is why I support the McGovern bill, the Medicare Home Health Equity Act of 1998. It provides a fairer formula for reimbursement to efficient home health agencies.

I really believe that the bottom line is this. We have got to root out fraud and abuse in this system. We have got to contain costs, but we have to be smart about it. When it comes time, as it has, to look back at what we did last year and fine-tune that product and make it work better for home health care agencies and for seniors who are homebound, we need to do it. We have no business penalizing reputable providers and the seniors that their programs serve. That is why I am very glad to be here tonight with all my colleagues and to urge the Republican leadership in this House to bring this issue up, because time is a-wasting, our home health care agencies are hurting, our seniors need the assistance, there is no time to waste, we can do it now, we have got the time, and we should move ahead.

Ms. STABENOW. If the gentleman will yield. I just wanted to emphasize one point that the gentleman from Maine said so eloquently again, and that is the fact that we are talking about States and areas that have long-established, well-run home health providers who it does not make sense in my mind to be asking them to do a surety bond when they have a record of what they have been providing and what they have been receiving and billing for and so on, and it does not make sense when there has been an explosion in some areas, and certainly we need to be concerned about those explosions of areas as it relates to costs and number of visits and so on. Why do we not just focus on those? Let us focus on the problem areas and not in turn require everyone to have to take a cut when we know that some are doing an outstanding job operating well below the national average. I think it is just a point that we need to reemphasize over and over again. We want to go after waste, fraud and abuse, of course we want to do that, but let us do it in a way that makes sense. I am sure that in Texas as well, we are talking about a situation where we need to be focusing on those, in fact, who are abusing the system and not focusing on those who have been providing quality service at low cost.

Mr. McGOVERN. I could not agree with the gentlewoman more. In fact this, what we are talking about today, is not fraud, waste and abuse, because we all are in agreement that we need to crack down on these agencies that are engaged in fraud, waste and abuse. I do not think anybody in this Chamber is in favor of fraud, waste and abuse. Those agencies that abuse the system deserve to be held accountable. But as the gentlewoman points out in Michigan and the gentleman from Maine points out in Maine and in Massachusetts, we have some agencies that are models, that are cost effective, that put patients first, that are good. These agencies are being punished in essence for being good. That is not fair and that is not right, and a lot of people are going to suffer if we do not do something about it.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE) who has been a passionate spokesperson for so many issues impacting working families and senior citizens. I am delighted that she is here tonight.

Ms. JACKSON-LEE of Texas. I thank the gentleman from Massachusetts very much for yielding and for his leadership on this issue, recognizing the extreme importance of confronting the issue of health care in general and the home health care agencies.

Frankly I would like to speak on behalf of our neighbors, because that is what we are speaking about. We are speaking about the American people, but we are speaking about our neighbors that are in our neighborhoods, that own these home health care agencies in particular. It is extremely important that we recognize that we are doing damage to those people that we know, the small businesses, the people who take care of our neighbors. It is extremely important that your legislation comes quickly to the floor of the House.

We realize that Congress, as we all have stated, needed to take care of fraud, waste and abuse. When we began about the first Congress that I was here, the 104th Congress, we were talking about Medicare. Everyone was talking about fraud, waste and abuse. Those who wanted to completely overhaul Medicare wanted to do extremist type cutting to the Medicare system, when in fact the fraud, waste and abuse was a mere, or a simple $89 billion that we could have handled easily without totally remodeling the Medicare system. The same thing happens with the home health care agencies. We know that we have to take care of those issues. But does it mean that because there are rising costs, does it mean that the system is broken? Or does it mean that more people are availing themselves of home health services in an effort to stay in better health and remain with their families? That is the philosophical question that we should ask. If we are trying to make sure that we keep the good home health care agencies, so many of whom have come to my office, I have met with them, we visited at the Beale Senior Citizen Village when I gathered, home health care agencies from around the southern region where my district is located, people as far to the south as different areas and then well into Houston came to meet with me to talk about how they were being mistreated, if you will, and not being able to take care of their patients.

□ 2130

And they asked a real question:

Is the rising cost a basis of abuse or fraud, or is it because we have been doing such a good job that in fact we have been having rising costs because so many people are using it?

I do believe there are certain issues that we need to emphasize, and that is, as you have said, I say to the gentleman from Massachusetts (Mr. MCGOVERN), there are effective, safe and caring home health care agencies, and my concern is what do we do when we lose those facilities in our neighborhood, what about the teacher who comes home during the lunch hour, who comes home at dinner time, who stays up all night to take care of her elderly parent? What is going to happen to that person who at some point in time has been able to access a home health care professional? What happens when that working single parent with that elderly parent in their home has no resources, no sort of assistance from a home health care agency because the resources, the Medicare process, has totally torpedoed, if you will, those particular neighbors and small business out of the system?

You are very right that the poor, sicker and certainly those with less, the less ability to be mobile, are the ones that use the home health care system, and again I would like to emphasize these are our friends.

One of the issues that has been discussed with me, of course, is in whole question of the interim payment system, and I would like to just briefly explain what the difficulty is, as my other colleagues have already mentioned.

Prior to the Balanced Budget Amendment, the home health care agencies were reimbursed after services were provided. Beginning in October 1, 1999, the agencies will be paid before services are rendered and at a level significantly lower than that in place before the Balanced Budget Amendment.

The prospective payment system is a monumental change for the Medicare system. Setting aside temporarily the merits of the new payment system, a very logistical problem has developed. Congress enacted a 2-year interim payment system for home care that will be effective until the prospective payment system is implemented in October 1999.

Under the IPS, home health care agencies are reimbursed according to a new beneficiary limit. The problem is, as my colleague from Maine has already said, that home health care agencies have been provided with little or no guidance as to what this per beneficiary limit is. What the agencies do know is that the new limits do not accurately reflect the amount agencies spend to provide services.

In fact, as they have said to me, they are flying in the blind, and when you fly in the blind, you are apt to make mistakes. When you are apt to make mistakes, what happens? The regulatory agencies come down on you, our neighbors, the small business.

So, in fact we are in a catch 22. It is extremely important that we recognize that the new per beneficiary limits will reduce per-visit and per-patient costs, however patients' health may be compromised. We cannot establish unrealistic arbitrary cost-cutting measures without experiencing reduced quality and quantity in the home health system. At the same time again we are asking our friends, our neighbors, the small businesses, people who take care of our family members, we are asking them to make decisions and to make guesstimates and not do their work well.

Another point that I would like to mention that was a very strong point of discussion amongst my many agencies that visited with me on this issue, and that is why I am so grateful for this opportunity and your leadership, and that is the venipuncture, the removing of blood. Many people do not think of that as a serious element, if you will. Well, the recovering of blood gives all kinds of data to the physician, and the home bound person is in need of the ability for blood to be taken so that diagnosis can be made on whether their blood sugar level is up or down, what is going on with hypertension, what kind of infection they may be having, and necessarily that person is home bound and is in need of that service. The venipuncture service that was mentioned by my colleague is another one that was excluded from the availability of the home health agency.

And I received a call from a constituent whose mother is in her nineties, lives with him in Houston. She is home bound but happy that, thanks to her doctor's ability to monitor certain medication and blood levels through venipuncture she is able to remain at home with her son. She is not, if you will, incarcerated in the hospital. My good friends who run hospitals, you know that I respect you a great deal. But how many of our senior citizens say I want to be at home, I am well enough, I want to be at home?

Well, Mr. Speaker, this home bound, elderly person, their son called me and said because of the changes made by the Balanced Budget Amendment her venipuncture coverage was drastically reduced and her ability to remain at home may be compromised. We should do all that we can to encourage our seniors to stay at home, and if their families are capable of taking care of them with assistance from home health care agencies, removing this coverage, it just skews the whole system, takes away the independence that these senior citizens are enjoying, the comfort of their home and the low cost.

Another constituent called and said I am desperate, I will even pay for the service in order for them to be able to utilize it at home, and of course we know that when you interfere with the Medicare system and offer to pay, that will not work because these home health care agencies are related very closely to the Medicare structure and system.

So my concern is that we do move H.R. 3205, but more importantly that we emphasize how much home health care saves us as compared to the $40,000 a year we pay if you were home bound, not at home but in a nursing home.

I think the important as well is we care for our friends in the nursing homes, we respect them, but I cannot tell you how valuable the home health care professionals have been to our communities, how important it is to make sure that these agencies continue, and that they exist and that they continue to service in our neighborhoods.

I would hope that Speaker GINGRICH listens to the letter that you have sent and that we all join in pressing forward on both this legislation, the venipuncture legislation that we tried to reform the interim payment system that will be moving to the October 1, 1999, where we will be asking our home health care agencies to guess at what they will need and to take moneys ahead of time, which necessarily cuts down on the kind of treatment that the recipients need to get.

We need to thank those who brought health care costs down, and I do not think we are thanking them right now. We are putting a lot of burdens on them. In fact, they are frightened, they are fearful of closing their doors, they are fearful of having to lay off their employees, they are fearful of no longer being the kind of citizens that they have been by contributing to the community as businesses that are active at the partnerships and chambers. They are just plain fearful, and I, for one, want to see us do something about it.

And so I thank the gentleman from Massachusetts for his leadership on this, and hopefully we can push this after the district work recess that we will be venturing onto. I would like to see this done before we leave here in August, and hopefully we will have that opportunity.

Mr. MCGOVERN. Mr. Speaker, I appreciate the comments of my colleague from Texas. As always, they are right on target, and again I hope that we can press this issue to a vote shortly after the July 4th recess.

This is and should be a bipartisan issue. One of my chief cosponsors on this bill is the gentleman from Utah (Mr. COOK) a Republican who has been very helpful in advocating passage of this bill. This should not be a partisan issue, and I hope we can move on it very quickly.

Let me summarize my remarks today and what everybody has so patiently and so importantly said here today by saying that I think that this issue comes down to three important points:

One, we need to find ways to provide incentives for high quality and good quality home care. The fact of the matter is that the way the Balanced Budget Act was constructed and the way the provisions with regard to home health care have been constructed the opposite is true. We actually provide incentives for home health care agencies and visiting nurse associations to be bad, to not be cost efficient, to not be effective, to not put patients first. Well, that is wrong. I mean that goes against everything that all of us believe.

So we need to fix the Balanced Budget Act so that we turn that around, so that we reward and recognize the good agencies and we do not reward the bad agencies.

Secondly, I think the issue here is that we need to prevent another unfunded mandate on States. I mean, as I said before, every Governor in this country should be up in arms over what is about to be thrust on them. If we do not do something, then more and more patients in States all across this country, who right now enjoy good quality home health care, are going to be thrust prematurely into long-term nursing care. Nothing wrong with nursing homes and nursing care in this country, but it is much better, it is much better for the patient, it is much more cost effective for the taxpayers if we can keep them at home, if we can keep them with their families.

If we do not do something, there is going to be a greater cost that Medicaid is going to have to bear, and that means that States are going to have to contribute more, and again I would encourage all those Governors out there and all the State legislators to weigh in with their respective Members of Congress so we can get this bill passed quickly.

Thirdly, I think that this issue is about family values. I mean every time I turn on C-Span or every time I am on the floor, someone is getting up and talking about family values, how we have to put families first and how important it is to provide families with opportunities and security. Well, this is about family values, allowing a loved one to stay at home, you know, with their son or daughter. Allowing family units to stay together is important and is something we should try to preserve.

So, you know, this issue that we are talking about today is about saving money for taxpayers, it is about family values, it is about putting patients first, it is about what this Congress should stand for, and I hope that we can convince Speaker GINGRICH to make this one of his priorities. I hope that we can convince Speaker GINGRICH to put this on the schedule to direct the appropriate committees to act on this now. I mean I hope that we can convince Speaker GINGRICH and the Republican leadership in this Congress that this is not a partisan issue, that it is in their interests that we fix this mistake and we fix it now before anybody else in this country has to suffer.

And so I thank the gentlewoman from Texas for her comments, and I will yield to her.

Ms. JACKSON-LEE of Texas. Your passion has captured the real key. There is a massive constituency for this legislation, and it goes across party lines. It is to keep families together, it is to keep senior citizens and the disabled at home in a loving environment, and it is, of course, to applaud and respect the many small businesses like home health care agencies who go into neighborhoods knowing their neighbors, providing the service, providing the warmth, and the nurture, and good health care at a reasonable cost.

What more can we ask for? I think it is extremely important.

I appreciate the gentleman and his concepts of trying to get this to the floor very quickly.

Mr. McGOVERN. Mr. Speaker, I thank again my colleague from Texas for her remarks, and I would just conclude by saying that I am going to do everything I can, and I hope all those watching will do everything they can to urge this Congress to move quickly on this legislation. We cannot afford to let this year go by, this session go by without acting. If we do, then people are going to suffer, more and more home health care agencies and visiting nurse associations are going to close.

That is not what we want, that is not what we should stand for, and we need to redouble our efforts in the coming months to make sure that this legislation gets to the floor for a vote.

And again I would urge the Speaker, if he is listening, to please listen to what we are saying here today, to do the right thing and to move this issue and move it quickly.

I thank my colleague from Texas.

Mr. DELAHUNT. Mr. Speaker, I am pleased to join with my friend, Mr. McGOVERN, and our other colleagues in this special order on the home health care crisis.

The Balanced Budget Act has had a devastating effect on home health care programs in many parts of the country. But the impact has been especially severe in Massachusetts and other New England states, which already provide more visits, at a lower cost per visit, than agencies in other states.

In Massachusetts, the new per beneficiary limit means a loss this year alone of $100 million. That translates into 1.5 million fewer home visits for the elderly and disabled.

On April 30, the South Shore Visiting Nurses Association was forced to eliminate 50 positions as a direct result of the $4 million in cuts it was forced to absorb. Home care providers across our state are facing cuts this year of 25 percent.

What does all this mean for the people who need these services? Listen to some of the letters I have received:

From a woman in Quincy:

> I take care of my elderly mother. She has Alzheimer's Disease and has had several minor strokes. At the present time I am fortunate enough to have home health care for her three mornings a week through Quincy Visiting Nurses. Without this assistance, my mother would probably be in a nursing home. I cannot praise the nurses and aides that I have dealt with enough. My mother is unable to dress herself, take a shower by herself, or make her own breakfast. This is what her home health aide does three mornings a week. I do the same on the other four mornings. The release that I feel having three mornings of not having to do these deeds helps me keep my sanity. I am a full-time teacher in Quincy and I also work two other part-time jobs.

From a man in Harwich:

> My wife is 78 and has Alzheimer's Disease. I am also 78 years of age and have spinal stenosis. I am her care giver and wish to continue to care for her at home and not in a nursing home. . . . Presently we have the assistance of two [home health] aides, two hours in the morning and one hour in the afternoon which is covered by Medicare. . . . With over 100,000 Massachusetts residents with Alzheimer's Disease or related neurological disorders and other related elderly problems, we are not alone, but it feels that way with no future long term home health care.

From a husband and wife in Whitman:

> We read with dismay of the federal cuts affecting home health care. For those of us in our older years, being able to stay in our own home is the only bright light on the horizon. Anything else is unthinkable.

From a woman in Weymouth:

> I take care of my mother and have for the past eight years. The last four years have been 24 hours a day, seven days a week. We have [a home health care aide who] comes in twice a day for a total of four hours. . . . My mother has Progressive Supranuclear Palsy which is a devastating neurological disease. It takes everything but your mind. She is literally a prisoner in her own body. The rest of the family has chosen to give up on my mother, thinking the way a lot of people do, that she should be put in a nursing home. Congressman Delahunt, would you want to be put in a nursing home if the only people that understood your needs were the aide and your daughter? * * * My mother still wants to be alive and if she was to go into a nursing home she would die. She communicates with us sometimes by blinking * * * or breathing a certain way. Sometimes it takes a long time to figure out what she wants. In a nursing home they wouldn't do that. I promised her I would never put her in one, and I vow to keep that promise no matter what. I'm not well myself and these cutbacks might kill us both. * * * I appreciate you taking the time to read this letter and know you will do all you can to stop these cut-backs, for all those in need of home-care.

for someday we may all need to depend on this system for love, care, and support because we have no one else to turn to or that cares.

And finally, Mr. Speaker, one of the letters I have received from nurses and physicians. This one comes from an emergency physician from Hingham:

> As an emergency physician * * * I deal with the human side of health care financing decisions on a daily basis. * * * Most medical problems, recognized early enough, can be treated effectively in an outpatient setting. * * * At the present time * * * I am able to safely send elderly patients home with close nursing follow up rather than to admit to the hospital. I am afraid the proposed Medicare cuts will severely jeopardize this sensible medical option. There is also a human side to this issue. Frail, elderly patients do better in their own familiar home surroundings. I can attest by my own personal experience with my mother that her medical health and quality of life were markedly enhanced by having her medical care at home. Although she had multiple medical problems, she did not require a single hospital visit or admission in the last eight months of her life.

These are but a few of the letters I have received from my constituents about this situation. In addition, I ask unanimous consent, Mr. Speaker, to place in the RECORD a series of articles that appeared recently in the Mariner Community Newspapers based in Marshfield, Massachusetts, and a transcript of the calls from readers that were recorded on their response line.

Mr. Speaker, this testimony speaks far more eloquently than I can about the plight of those affected by this situation. But what is to be done about it?

I know that a number of bills have been introduced to try to fix this problem. I have cosponsored H.R. 3205, which was introduced by the gentleman from Massachusetts (Mr. MCGOVERN) and the gentleman from Utah (Mr. COOK), which would delay implementation of the per beneficiary limit for one year. The extra time would enable home health agencies to minimize disruptions in services by gradually reducing costs.

Mr. Speaker, I voted against the Balanced Budget Act, largely because of the cuts it inflicted on the Medicare program. I continue to believe that those cuts were a terrible mistake. The least we can do now is help cushion the blow.

[From the Weymouth (MA) News, June 10, 1998]

Losing Patients Over Home Health Care Cuts

(By Alison Cohen)

Millie and Mattie B. started their life-long love affair when she asked her aunt to see if Mattie would take her to the high school prom.

"I didn't have a date and there were four boys living across the street," Millie said. (The couple did not want their identities revealed.)

She watched from her front windows while her aunt dutifully went across the street.

"I could see him come to the window—he'd been shaving—and then I saw him nod his head yes, so I knew I was set," Millie said.

Mattie smiles and gives his take on the request.

"I had the only car on the street, a '34 Lafayette," he said. "That's why she asked me.

That was more than 50 years ago and their dancing days are behind them now. Mattie, who turned 77 last week, spends his days in a wheelchair, the result of 12 years battling Parkinson's disease.

Someone once said growing old isn't for sissies. Mattie and Millie are living proof. As Parkinson's progressively immobilizes Mattie's once-powerful body, it takes all his strength to get through what used to be the simplest tasks. It's only one of many medical problems that leave him weak and vulnerable.

Millie, 75, wears a weight-lifter's truss around her waist. The weight she lifts is Mattie.

More than once she's been forced to pick him up off the floor after he's fallen. Once she suffered a slipped disc in the process and permanently weakened her back. Every night she transfers him from his wheelchair to the bed. Now her spine curves and the discs along her lower back project out like ragged mountain peaks.

"I got this taking care of him," she says, as she shows the nurse her ravaged back.

Worse yet, Mattie's voice dwindled to a mere whisper about six months ago. By the end of the day, he's exhausted from trying to communicate and she's exhausted from trying to hear what he's saying.

"It's frustrating," he says.

Parkinson's is a chronic, progressive disease. Millie doesn't want to think what the future holds if she becomes too frail to help her husband get in and out of his wheelchair.

"I hate to think about it," she says. "I don't think about it."

Another challenge lurks in Mattie's near future. After four years serving his country in time of war and 37 years toiling to maintain Boston's schools, Mattie has discovered the federal government wants to balance Medicare's budget by imposing a cap on the amount of money home health care providers can receive for taking care of him and other patients.

The cost-containment method chosen by the Health Care Financing Administration (HCFA), a division of the U.S. Department of Health and Human Services, caps reimbursement for each patient at a percentage of the agency's 1993-94 budget. Although South Shore agencies have yet to receive official notification of their maximum reimbursement level per patient, similar agencies in other parts of the country have been told they must serve even the most challenging patients for no more than $1,500 to $4,000. (See related story.)

According to Meg Doherty, executive director of Norwell Visiting Nurse Association, some of the patients on her roster cost as much as $50,000 a year to maintain at home. And the fallout is already happening. On May 7, Easter Seals of Massachusetts announced it could not afford to provide home health care services with such unreasonable cuts.

Life, for Mattie, already has dwindled to the size of the small summer cottage on the South Shore they winterized and moved to four years ago when it become impossible for him to maneuver the stairs in their South Boston home. Getting outside is a production—Mattie must move from his wheelchair to a walker to traverse the step separating the dining room from the back entry and a shallow flight of stairs leading outdoors.

Getting to bed is an even greater challenge. Together they position his wheelchair near his bed. Millie struggles to push him up out of the chair as best she can.

"I fall right in," he says. "She straightens my legs out and covers me with the blankets."

Most of his days are spent watching television and talking with Millie. On weekends, he looks forward to spending time with the two of their six children who live nearby.

The man who once prided himself on his ability to "fix anything," now relies on a cadre of home health aides who come five days a week to assist him with the activities he once took for granted, things like showering, shaving and getting dressed. On the weekends, he must ask his son to handle that duty. A visiting nurse comes once a week to check his blood pressure and monitor his health.

It's hard to put a price tag on continuity of care. Sometimes symptoms are subtle. An older patient doesn't experience the crushing chest pain that alerts middle-aged men they are having a heart attack.

"I start to lose my breath," explains Adolph Wacker, 84, a home health care patient.

A visiting nurse checks Wacker once a week, looking for clues that would show whether trouble is looming.

Wacker had five heart attacks, including a cardiac arrest, within a 15-month span. He also has a pace maker to regulate his heart rhythm. The hands that once deftly wielded butcher's knives tremble uncontrollably from Parkinson's disease. Wacker also suffers from diabetes. He's tethered to an oxygen pump because of chronic obstructive lung disease that leaves him vulnerable to pneumonia.

His rapid decline made it necessary for Wacker and his now-deceased wife, Stephanie, to leave his Connecticut home and move in with their daughter, Barbara Steiglitz.

"It was obvious he couldn't go home and care for my mother any more," Steiglitz says.

Steiglitz couldn't do it alone, either. A registered nurse, Steiglitz works three days a week for a long-term care facility in Dorchester. Although her mother, who suffered from advanced Parkinson's disease, could be left alone for short periods of time at first, it didn't last long.

"She wandered," she said. "She would get to the end of the driveway and wouldn't know how to get back to the house—and there's a swamp across the street and conservation land goes almost to Norwell."

At the end, both Stephanie's mind and body failed badly.

"She needed total care," Steiglitz said. "She was in diapers, she was senile and she could barely walk."

Steiglitz put together a patchwork of family care, home health services and what Wacker himself calls "my private baby-sitter" to keep the two of them safe and healthy.

Stephanie Wacker died Sept. 27, just a week shy of their 59th wedding anniversary.

Wacker says they met when a fire alarm went off.

"She asked me what happened," he recollected. "We got to talking, I walked her home. We started dating and a year later we got married."

The two were very close, he says. It remains a marvel to him, perhaps because his father died when he was two, his mother when he was seven.

"My brothers and sisters took care of me until I was 16. Then I was on my own," he explains. "We got married when I was 24."

Wacker is a favorite with his caregivers.

Home Health Aide Anne Marie Foley comes two mornings a week. She helps Wacker get up and dressed, brings him downstairs and makes his breakfast. The two of them swap recipe tips.

"He's an incredible cook." Foley says. "His soups are wonderful. I'm trying to get him to write a cook book."

A male home health aide, Frank Serra, comes once a week to help Wacker shower. Although Wacker would like to have a shower more frequently, especially in the hot, humid season, Medicare won't cover the costs because he isn't incontinent.

The combination of lung disease and Parkinson's makes him increasingly frail.

"I try to walk up to the end of the driveway and back for exercise," he says. "I have to stop twice on the way up. And I can't talk and walk at the same time or I run out of breath."

Falling is an ever-present risk because Parkinson's disease affects both balance and gait.

"He fell in February and cracked his sternum," says his daughter. "I really have to hire someone to be here when I'm not home."

Wacker is philosophical about his own failing health.

"As long as you know your own capabilities, you get along pretty good. You have to accept the idea you can't do what you used to do. If you don't you go nuts and you end up in the hospital any way."

As Wacker's health inevitably deteriorates, his daughter promises to advocate for the services he needs, and as long as there is a Medicare certified home health care agency providing services in * * *, he'll continue to get what he needs.

That's the kicker.

Home health agencies aren't run on volunteer power. Without a realistic reimbursement schedule to pay the nurses, therapists and home health aides for services delivered those agencies say they cannot continue in business.

The U.S. Congressional delegation from Massachusetts hopes to derail the new system before it drives any more home health care agencies out of the business. Rep. James P. McGovern, D–Worcester, and Sen. Edward M. Kennedy have filed companion bills in the House and Senate to address the problem.

The bills will delay the effective date of the caps until Oct. 1, 1998, to allow time for agencies to adjust to the system. Additionally, the bills change the base year for calculating benefit limits from 1994 to 1995.

"This change means that payments will more accurately reflect the type of home care that is currently delivered," explains Kennedy.

In testifying about his bill, McGovern has said that the one in 10 Medicare beneficiaries who use home health care services are "poorer, sicker, more often female, more likely to live alone, and have more mobility problems than the Medicare population generally. Approximately 25 percent of these "frail elderly" in Massachusetts are over age 83."

[From the Scituate (MA) Mariner, June 18, 1998]

PAYING THE PRICE FOR MISMANAGEMENT

(By Alison Cohen)

According to many home health care providers and advocates, Medicare officials created a classic example of the law of unintended consequences when they embarked on their campaign to root out fraud, waste and overutilization in the home health care system.

The federal government decided large increases in home health care were caused by waste and fraud following a two-year investigation, known as Operation Restore Trust. That study focused on the five states that account for 40 percent of Medicare payments; California, New York, Florida, Texas and Illinois.

The subsequent report by the Office of the Inspector General of the U.S. Department of Health and Human Services said that one-fourth of home health agencies in those states received nearly half the Medicare payments for home health care. The report placed the blame on for-profit, closely held corporations where owners engaged in a web of interlocking companies that referred patients among themselves. Texas was cited as the biggest offender.

A similar study conducted in Massachusetts and Connecticut in 1997 uncovered no such pattern of fraud.

According to Julie Deschenes, legislative and public affairs coordinator for the Home & Health Care Association of Massachusetts, "No fraud was uncovered in the 20 Massachusetts agencies that were audited."

Deschenes said the worst that federal auditors could find were examples of technical billing errors, mostly stemming from failure of an attending physician to update medical records to reflect the need for the higher level of services patients were receiving and for which Medicare had been billed.

Rather than conducting audits to identify and penalize agencies guilty of intentional fraud or overutilization, Congress believed the solution to spiraling costs nationwide and wildly disparate costs among the states should be a standardized, flat rate according to diagnosis. This system, known as the "prospective payment system," is similar to the system Medicare uses in paying for hospital care.

When the federal Health Care Financing Administration (HCFA) said it couldn't develop the complex formula necessary to reward efficiency by providers as quickly as Congress wanted, the interim payment system based on per patient caps was set in motion. This payment plan—set to run through Oct. 1, 1999—basically freezes spending at 1993–94 levels, before Operation Restore Trust began.

The projected caps fall hardest on frugal, non-profit agencies and rewards those that spent lavishly at taxpayers' expense. Home health care agencies in Massachusetts consistently deliver care cheaper than the national average both in terms of Medicare's cost per visit and per patient. Relying on data provided by HCFA itself, The Wall Street Journal reported earlier this year that Massachusetts' home health care providers served 119,000 patients in 1995 at an average cost of $50 per visit, which was 19 percent below the national average of $62. The average annual cost per patient worked out to $4,730, or less than six percent above the national average of $4,473.

Across New England, the regional cost per visit undercut the national average by 15 percent and the annual average cost per patient was only $4,400.

Donna (who didn't want her last name used) has been a home health care worker for more than 20 years and says she can't understand with those kind of figures why Massachusetts people have to suffer. She says she's outraged by what's happening.

"We're the ones on the front lines and we're the ones who have to deal with the patients," she said. "Do you know what it's like when you have to tell them this is you're last day with them. Some of these people have been my clients for a long time."

Donna spoke of a 50-year-old patient she has been assisting. The man, a father of two young children, is primarily bed-ridden, he has to be fed and has come to rely on home health care workers to maintain some semi-balance of a normal life.

"I was overcome on my last day with him," she said. "I felt awful. It was so hard to tell him it would be my last day helping him. You feel so much guilt. What am I supposed to say, 'gee, good luck?' How could this be happening?"

If there is fraud and over-spending, Donna says she is all for fixing it. But if Massachusetts and several other states have been spending reasonably, she can't see why others can't pay the price.

HCFA identified the big spenders among the states as Louisiana, Oklahoma, Texas, Tennessee, Utah and Mississippi. On average, home health care providers in these states spent $5,488 per patient in 1995, or almost 23 percent more than the national average. The biggest offender was Louisiana with an average cost per patient of $7,867, almost 76 percent more than the national average.

Officials at the Texas Association of Home Care have justified their higher costs, saying they have a high rate of poor elderly who have never had proper health care.

Costs are driven up by the increasing number of Americans considered "frail" or the "old old"—those aged 85 or older. Additionally, medical technology has improved survival rates for individuals who survive head and spinal chord injuries and degenerative diseases such as Alzheimer's, Multiple Sclerosis, heart failure and severe diabetes.

The resulting "per beneficiary limit" guarantees, in HCFA's own words, that 90 percent of all home health agencies will be reimbursed at a rate below the cost of delivering services. Providers say it will put them on the road to financial ruin. How quickly they arrive at that destination depends on the number of high-cost patients an agency serves. These are the patients with degenerative, progressive diseases such as Multiple Sclerosis, Muscular Dystrophy, Parkinson's Disease, Alzheimer's Disease, advanced diabetes and other conditions that require intensive levels of care.

Apparently loathe to slash services to America's most vulnerable citizens, the frail elderly and persons with disabilities, Congress and HCFA announced to recipients of home health services and their advocates that no patient was to be denied services, terminated from care or have the level of care reduced unless medically justified. That puts home health care providers in a Catch-22 bind: they cannot reduce costs through reductions in services or cutbacks in direct care staff. Already several home health providers have chosen to abandon ship rather than risk bankruptcy.

Cynics might find this governmental "solution" to spiraling costs reminiscent of the village pacification campaign of the Vietnam War years. That official "solution" led to an American officer explaining, "It became necessary to destroy the town in order to save it."

According to Deschenes, home health care is being asked "to assume an unfair proportion of Medicare cuts." While home health care consumes only 9 percent of total Medicare expenditures, it is targeted to assume 14 percent of the total five-year cut and close to 18 percent of the provider cost enacted in the Balanced Budget Act of 1997. A recent HCFA forecast has increased the home health "savings" to $20 million, or 25 percent more than the original estimate by the Congressional Budget Office at the same time that the population of older Americans continues to grow.

Home health care providers and people who receive the care aren't buying this theory that no one will lose benefits. It just doesn't add up, they say.

Community Newspaper Company's Reader Response line was flooded with calls last week regarding the potential cuts in home care. More than half the calls came for people who were losing some form of care, or family members of those who were expected to lose their care.

A Marshfield resident told the story of her grandmother who has already been denied additional care. Her grandmother has been cut back to one visit per day from a home health aide and now the family is forced to provide care that was once handled by professionals. It is now up to grandchildren to come at night and put their grandmother to bed, change her and put her in diapers.

"It is devastating to her," the woman said in her call. "She cries every night when she sees us coming. She's so humiliated her grandchildren have to do this. It's a disgrace to see what these poor old people have to go through. These people have worked all their lives and this is what it has come down to. It's just ridiculous."

Experts say saving money in home health care may even be counter-productive. If home health services dry up, patients will be forced into more expensive nursing home placements or extended hospital stays. The pocket may change, but taxpayers will still be paying the bill.

While home health care isn't cheap, it certainly provides a cost-savings when compared to a year's stay in a nursing home which Deschenes estimates at $60,000 per year. More importantly, it allows older American and disabled citizens to remain linked to their families and their communities.

The importance of that connection to home, family and community can't be quantified, but it is of immeasurable value to all of us in determining our quality of life. That message came through loud and clear in the messages on the Reader Response line during the past week.

A number of callers said they feared they might be forced to put their mother, father or elderly relative in a nursing home. And they held out little hope for their "golden years," as one caller put it.

How can this be?" questioned a Weymouth resident. "I won't be able to care for my husband if we can't maintain the current level of care, that would be devastating to us, both financially and emotionally. We have been together for 55 years. I can't bear the thought of being separated like that. We are getting along fine at home right now, but that could all change. Please don't let it."

Edward J. Flynn, executive director of South Shore Elder Services, Inc., says if the current policy remains unchanged, its primary victims will be the nation's elders. In a recent newsletter, Flynn urged Congress and HCFA to reconsider the cuts and clarify eligibility criteria.

CALLS FROM CNC READER RESPONSE LINE

1. John Murphy, Weymouth. Why isn't Sen. Kerry speaking out loudly on what government is doing to cut reimbursement to health care providers? Where is the senator on this issue? He should be at the forefront of the battle to protect Medicare.

2. Louise Cipriano, Weymouth. I was informed by my healthcare, I have a home health aide now and my insurance pays for it, in September, I will be 65 and I'll be on Medicare and Medex and they said they wouldn't cover me because I'm a chronic patient. I'm unable to walk or stand, I have severe rheumatoid arthritis and osteoporosis. I can't even wash my face. I need a complete sponge bath. I can't get in the shower and my husband also is disabled with his hip. He had a serious operation and hip replacement. He would have to take care of me and they would not send anyone to give me personal care with this new Medicare thing. I am a chronic case they said and unless I need a nurse they cannot send me Medicare help. Please don't let this happen to us. It would be devastating. I don't think we could take it.

3. Nancy W. Clapp, Marshfield. I am adamantly opposed to the Medicare cuts and I would like to see the congressmen if necessary establish a fraud squad to sort out Medicare's problems which would quickly pay for itself and look for some other way to balance the budget and not on the backs of those who need help most.

4. Karen Ruginski, So. Weymouth. I work for ZNA Associates in the office and I see (health care) cuts on these patients and I also have a father-in-law who is very ill with lung cancer and can barely do anything on his own. I have a handicapped child and I need to go out and help my father in law, because he's so ill and no one else can who's home. So it's very difficult for us and if the home health care agencies could provide more care and get more benefits from Medicare and the other insurance carriers, this burden wouldn't be so difficult. I'm hoping they'll make changes to this. Home health care is definitely needed. They're discharged early from the hospital and they need care at home.

5. June Sutcliff, Weymouth. I'd like to add my voice saying Congress needs to find other ways to reduce expenses. Home care should be the last place they cut. Some of the pork barrel projects we read about should be eliminated first.

6. Thomas F. and Elaine Cahill, Pembroke. We totally object to cuts in home health care. Our own family has suffered on account of that and we are totally against it.

7. Lynn White, Hanover. My brief comment is that even if people get worse and deteriorate under this plan, the Medicare has made it that it will make no difference. The amount of money spent will be the same. So what this says is that the federal government doesn't care whether people deteriorate or not, because they've set their budget and locked in their cuts. Visiting nurses all these years have kept people stable, and now without them people will be unstable but it will make no difference as far as cost to the government.

8. Ann Martin, Braintree. I'm calling to protest Congress's attempt to cut Medicare's health care program. Please tell them not to do this. Because most of us can't afford outrageous home health care. 843–7325.

9. Joan Golden, Hanover. I'm calling with regard to the Healthcare cuts. My grandmother is 92 years old living in a nursing home and because of healthcare cuts she may be in jeopardy of being taken out of the nursing home, and they're saying she can be put into the community or in a lesser scaled facility. It's just disgraceful because she spent her whole life putting money into this system and now everthing she had is gone and we're depending on the system. I'm scared. I'm her granddaughter, I don't know what I'm going to do if she doesn't have that facility to depend on. It's a very scary thing, and like you said it's the people who need it the most. Thanks and I hope we can do something for the number of people who I'm sure are in the same predicament.

10. Mary S. McElroy, N. Weymouth. I would like to say to my congressmen—Have the courage to stop sending billions of dollars to the Middle East for Israel and Egypt. Spend the money on our senior citizens who have paid taxes in this country and deserve decent health care. We get nothing back from Egypt or Israel, take care of our own before we keep throwing our money away. Have some courage.

11. Lorraine McGrath, East Weymouth. I am a former supervisor of home health care services. My comment is briefly that the entire purpose of home care is to keep patients out of hospitals and nursing homes and at home as long as possible and to cut down on trips to emergency rooms etc. I wonder if the government has done any study on the cost of these patients being hospitalized and rehospitalized numerous times or placed in nursing homes. The cost of hospitalization and nursing home placement is far more than home care has ever been. I think they're putting the cart before the horse because while they think they're going to save money here, they're really going to pay more in the long run with more frequent hospitalizations and long term care placement.

12. Joan Kyler, Marshfield. I want to comment I have two elderly parents who are in a nursing home and it seems ridiculous to me that because of Medicare and Medicare cuts, and because they didn't have enough money to afford to stay in their home, the state is willing to pay $5,000 to $6,000 a month per person as opposed to keeping them in their own home, with home health care. I don't care how good a nursing home is, it's not a place I really want my parents to be. It's our future as well, and in another quarter century you and I may be in a nursing home. That's something I shudder to think of.

13. Sandra Sweetzer, Duxbury. In regard to cutting home health care aid to the elderly, I take care of my mother, she's a diabetic. She's had a heart attack. She's almost wheelchair bound now. She's on a walker, I have to learn now to give insulin shots and mix insulins. I'm not a nurse. I don't know how to take a blood pressure. I do the best I can and pretty soon the home health aid nurse who comes once a week said she won't be coming anymore and I think this is a crime. It'll force people into nursing homes who should still be at home. It's terrible.

14. Mary O'Neil, Scituate. I just read your article in the Scituate Mariner about the cutbacks and I think it's disgusting. I know of some people who have been hurt by it. I just wanted to let you know.

15. Ann Tarallo. My husband Joseph and I are really appalled at any cuts that are being made to home care and Medicare. I firmly believe there are other things that can be cut, so that these don't have to be.

16. Annabelle Burlinback. I'm replying to the response line against the ill-advised cuts in home health care.

17. Tina Degust, Marshfield. I read your article in the paper and I just wanted to let you know it's affecting two people I know. My grandmother who has the home health care and also my father-in-law. It's absolutely terrible what's happening, to see just the horrible things that are going on. My grandfather now only receives one aide during the day and in turn all the kids and grand-kids have to come at night to put my grandmother to bed. She actually cries every night to see us coming in because she has no legs and we have to change her. She's in diapers, and she's so humiliated by this. Not to

mention my father-in-law who now has two home health aides coming in also, who's cut back to absolutely nothing, will have nothing during the week and his wife (my mother-in-law) has only one kidney. Right now she needs a serious operation on the one kidney that she has because it's not functioning right, and they expect her to put him to bed. He's had a stroke and he's paralyzed on one side. It's absolutely devastating to see what these poor old people have to go through. It's affecting two sides of my family. Something really has to be done, these people shouldn't have to go through this, they've worked all their lives. My grandfather's a veteran. It's just ridiculous.

I guess what I'm trying to say is that these people shouldn't have to go to nursing homes, they should be able to live in their houses until whenever the time comes for them to go and they should be able to live in comfort and not have to worry about who's coming to change them and take care of them. They should be able to have the help they need and not have to worry about it every day who's going to be able to put them into bed and who's going to have to change them and the embarrassment. They should be able to leave the world with a little bit of dignity. They just worked too hard for their houses and everything they have. I think it's just absolutely devastating. I can't imagine how this is going to affect my family alone. I have my father-in-law and my grandmother. And my grandfather who has a colostomy and is 78 years old, he has to help lift my grandmother to put her into bed. It's just a matter of time before it takes its toll on him and then what's going to happen to my grandmother. It's just really sad and not fair.

19. Rev. STEVE HARVESTER, Church Hill United Methodist Church, Norwell. I'm calling to say the elderly and frail members of my congregation would, in most cases, rather die than be put in a nursing home. Home health care is their spiritual survival line and I hope and I pray that our congressmen will do everything in their power to keep home health care alive and well.

20. Louise Penny, Rockland. I think it's very necessary that they do not cut home health care.

21. Beverly Thomas, Marshfield. My husband is receiving a home health aide two times a day, seven days a week. It's about the only way we can manage and I certainly would encourage the legislators to do what they can to help people who need to receive this kind of assistance.

22. Jacqueline Harrington, Scituate. I am begging our congressmen to do something about these Medicare cuts to our most fragile people who need the care the most. I'm in the field so I know what I'm talking about. They can't be left out on the limb, there's got to be some other way to do it. Please find a way.

23. Mary Anne Spilache, Abington. I work for Home Health and Childcare in Brockton as a home health aide and I don't think it's right that they're making all these cuts on these poor elderly. They need so much of our help. That's all I've got to say.

24. Jo Duvall, Hingham. I'm calling in response to the article in the Hingham Journal yesterday and I wanted to definitely join you in speaking out against the ill-advised cuts in home health care. As a health care worker I'm finding this devastating to my patients and I certainly hope that something can be done about this as soon as possible because it's going to be very detrimental to our whole society.

25. Pat Peters, Abington. I'd like to express my opinion on the way the government is treating the elderly by cutting back on their services. I'm a home health aide and I don't understand if you leave elderly people who are sick and need services by themselves, and you don't provide them, ultimately they're going to fall or end up in nursing home and that's going to cost the government more. I think this is a real tragedy.

26. Joseph McCue, Hingham. How are senators acting on this question? Is it a feat a complete or do we send the information to the lady that has one the cutting?

27. Eunice and George Pope. We are now receiving home health care services that will be cut off shortly due to the Medicare cutback. I would like to speak to someone and complain further if someone would return my call. (781) 383–1928.

28. Gus Duffy, Scituate. I want to lend my support to people trying to get home health care and keep it from being cut, and express the opinion that without a Democratic congress, you're not going to have any luck, because they're going to balance the budget on the backs of the poor and serve the wealthy. Get the Republicans out and you'll be in good shape.

29. Dolores Murphy, Rockland. I read your article and I guess I could sum it up with "There but for the grace of God go I." And hopefully make an impact.

30. Bill Parr, Weymouth. I think cuts for home health care are despicable since there's so much government waste. They should look at their own inefficiencies to be cut versus home health care that's serving a wonderful service.

31. Elizabeth Greenwald-Centani, Hingham. The reason why I am especially interested in this article is that I am a home health worker, a nurse, and I also have an elderly mother who suffers from Alzheimer's. I've been impacted in both ways. And I was very pleased that your article brought up both situations, both scapegoating of home health agencies and the plight of the elderly.

32. Ralph and Polly Gosnick, Marshfield. We want to be recorded in favor of efforts you are putting forward, and want our congressmen to know that we are opposed to the cuts.

33. Mary Alice Flynn, Scituate. I think that the plan they have on cutting the budget back on the helpless people who are citizens and who have served our country so well over the years is reprehensible, and I feel it's imperative that it be turned around. I thank you for your efforts on this behalf.

34. Sophia Jackson, Weymouth. I think they should stop spending so much money on investigating sex scandals that make no difference to us and put the money where it belongs, for the elderly.

35. Christine Whitehouse, Marshfield. I have been affected by the Medicare cuts and I would be interested in what you hope to offer. I would like to write a letter as well, so any information you could be of assistance for I'd appreciate.

36. Suzanne Naustilius, Marshfield. I wanted to call after reading the article in the newspaper to say that I am very much opposed to cutting federal spending in the area of Medicare home health, and I would like you to add my name to any kind of letter or whatever kind of program you're going to undertake, to try to give this message to our congressmen and senators.

37. Dolores L. Johnson, Hanover. I've been a volunteer for the South Shore Visiting Nurses Association for several years. They've been forced to move to Braintree from Hanover. The whole thing disgusts me. I am writing today to my senators and representatives.

38. Dorothy R. Field, Kingston. Our seniors should come first. I work in a nursing home and some of our clients are devastated, having to leave their homes when all they need is a home health care worker to come by and see to their needs.

39. Alice and David Katema, Holbrook. We're very concerned about the possibility of cutting the budget by cutting Medicare home health programs. We feel that if you don't need them today you may need them tomorrow. Everybody's getting older and we're all so concerned that they may not be there when we need them. We also want to have the legislature think about the fact that if they don't spend at that level, they may need to spend more at another level which is hospital care.

40. Mary McDonald, Hingham. Thank you for the opportunity of leaving a message for the congressmen. I'm an RN who provides infusion therapy in the home. In have come across and my company has had to deny providing antibiotic therapy, just basic therapy, for these patients in their home because Medicare doesn't cover that cost. I just don't understand where the cost cutting comes in. We are hurting our most fragile population in that to send a nurse out to them to teach them how to do procedures themselves, a lot of times we can get them independent. To me that's a bigger cost-cutting measure than keeping them in the hospital and having them take up a bed. So, send that message to the congressmen. I appreciate that you afford us this opportunity. I would just like someone to explain how this is cutting costs by denying people benefits.

41. Marilyn Keegan, Holbrook. I am calling in response to Congress's attempt to balance the federal budget by cutting Medicare's home health care program. This is positively absurd. We pay taxes all our lives and then if we end up in the position where we need help, you are suggesting we are not able to receive it. My brother-in-law just died. He was bedridden with cancer of the legs along with other cancers. His wife died years ago, he had no children. He positively needed help with home health care and it was minimal. Along with anything friends and neighbors could do, this helped him to live as normal a life as he could. Would it have made more sense to put him in a nursing home and the government would have had to pay that expense rather than the much lesser expense of home health care. What Congress is proposing in the face of making these kinds of cuts is both inhumane and unnecessary. Many of these infirm and elderly have fought for their country and served their fellow man in many capacities. How can we turn our backs on them when they are in need. Please do not stop Medicare's home health care program. It is a real necessity.

42. Ruth Spiegel, Holbrook. My mother lives with me, she is 87 years old and handicapped. She's diabetic, she can't do anything for herself and for several years through Medicare the home health agency was taking care of her. They terminated her March 19 of this year and I would appreciate it if something could be done for her. Her name is Sally Barman.

43. Pam Bernard, Kingston. I'm very concerned about this. I have three elderly people who need this service. One is 95, one is 91. They've been cut back to five days, then to three days, then no days. Some of these people can't afford to have private duty care come in. Very concerned about it.

44. Mrs. Robert C. Wright, Hingham. I think it's unconscionable what Congress has done to cut Medicare to the bone. They just cut $17 billion more out, gave millions of dollars more than was asked for the road and bridge construction bill and they're balancing the budget on the backs of the poor and elderly and people who really need help. They will take care of other countries in all directions but don't take care of their own. I think something has got to be done about this because people are suffering.

Mr. MENENDEZ. Mr. Speaker, I want to thank Congressman MCGOVERN for reserving time this evening to afford us an opportunity to discuss a critical situation for many of our states' home health agencies.

As we all know, last year's Balanced Budget Amendment contained language which would move Medicare home health payments to a prospective payment system, effective October 1, 1999. Until that date an Interim Payment System (IPS) for the home health agencies was to be put into place.

Unfortunately, the formula which has been approved to implement this IPS has unfairly penalized those states, like New Jersey, who have been prudent with their funds. New Jersey ranks fourth nationwide in terms of visits per beneficiary, averaging just 43 visits per person, compared to the national average of 73.9 visits per person.

New Jersey's home health agencies provide support services for over 50,000 patients and families each year. The new iPS implemented by HCFA will cut Medicare reimbursement to most agencies in New Jersey anywhere from $500,000 to several million dollars per agency in 1998 alone. Cumulatively, Medicare home health payments to New Jersey's agencies in 1998 will be over $25 million less than in 1997. For patients in New Jersey, cuts of this magnitude will mean they will receive fewer visits.

Mr. Speaker, who are these patients who will suffer because of this formula? According to the Institute for Health Care Research and Policy at Georgetown University, home health patients are more likely to report fair or poor health. Twenty-five percent of users are 85 years of age or older, and 69% of all users of home health services have incomes below $15,000. These people are the among the neediest of our neighbors for whom a home health visit may well mean the difference between life and death.

The problem with the current IPS is that it singles out the most efficient providers and subjects them to the deepest cuts. This is neither fair nor prudent. Where is the equity in asking responsible agencies to accept deeper cuts than those states whose home health agencies have billed Medicare for more dollars? What is the sense in driving fiscally responsible home health agencies out of the provider market because of these inequitable cuts?

There are several bills which have been introduced to correct the IPS formula. I am a cosponsor of H.R. 3657, introduced by my colleague from New Jersey. The Medicare Home Health Equity Act of 1998 would level the playing field and recognize—not penalize—those home health agencies which have been prudent in their use of Medicare dollars.

We need to address this problem now. Many of our home health agencies are in critical condition while they wait and hope that Congress will treat them fairly. The agencies in my state are not asking for preferential treatment; they are merely asking for fairness.

Again, I thank the gentleman from Massachusetts for taking time tonight to focus attention on this very important issue.

Mr. FROST. Mr. Speaker, I rise to express my strong concern with the current situation of home health care agencies across the country, and particularly of those in the State of Texas. Last summer Congress passed the Balanced Budget Act of 1997 and in doing so reduced Medicare payments to home health agencies. While the intent was to curb waste and abuse within the home health industry, it has now become quite clear that the BBA is negatively affecting thousands of home health agencies and those who use their services.

I have serious concerns that these provisions affecting payment to home health agencies will force hundreds of agencies in the State of Texas out of business and thereby forcing patients into nursing homes and hospitals. It was reported in the Forth Worth Star Telegram on June 23, 1998 that half of Texas' home health care agencies will soon being filing bankruptcy. It is imperative that Congress fix the problem with the home health care payment system, before this story in a newspaper becomes a reality.

H.R. 3205, a bill introduced by my colleague from Massachusetts, Mr. MCGOVERN, will fix part of the problem by delaying the implementation of the interim payment system for home health agencies. I support this bill, and urge my colleagues to work for its passage.

The Texas Association for Home Care informed my office that in one day alone; twenty agencies reported to them that they were going out of business. This needs to stop. Congress needs to find solutions to the problems it created for this industry and for the thousands of people it serves.

Mr. MANTON. Mr. Speaker, I rise to voice my support for improving the already high quality home health care services for Medicare beneficiaries. I thank my colleague, Congressman MCGOVERN, for organizing this important and timely Special Order to address the need to fix a major formula issue for the home health care industry and those who rely on its services.

The Balanced Budget Act of 1997, signed into law last year, moved Medicare's home health benefit package payment system to a prospective payment system (PPS). Although this system has worked well in the past for hospitals, it has not yet been implemented into the home health care industry, in turn, an interim payment system (IPS) was put into play until the PPS was ready. The IPS formula has since created problems for home health care providers and patients by unfairly burdening and penalizing home health businesses who are most cost effective.

The impact this situation will have on home health in New York is astounding. Because providers in New York are currently having their 1998 reimbursements based on 1993 experience, it will be a tremendous blow to the services the New York home health care industry has delivered so well to its patients in the past. Should the IPS continue, New York home care providers would see a $130 million reduction in 1998 reimbursements.

To remedy this unfortunate situation, a number of pieces of legislation have been introduced, including H.R. 3651 and H.R. 3567. Introduced by my good friend and colleague, Congressman ENGEL, H.R. 3651, The Medicare Home Health Agency Efficiency Act of 1998 proposes to change the existing formula and make adjustments to the IPS which would treat efficient ag4ncies more fairly. In addition, H.R. 3567, The Medicare Home Health Equity Act of 1998, introduced by congressman McGovern, would help reinstate equitable reimbursements and allow home care agencies to make a less rocky transition the PPS.

Mr. Speaker, the Balanced Budget Act of 1997 did a fantastic job addressing the waste and abuse within the home health care industry. I encourage my colleagues in joining me by taking one more step in improving the quality services the home health care industry has provided for so many Medicare beneficiaries by cosponsoring these vital pieces of legislation.

Too many individuals rely on home health care for their livelihood. It would be devastating to both the home health care industry, the patients they serve, if the number of home care businesses continue to be unfairly burdened through the Interim Payment System contained in the Balanced Budget Act of 1997.

Once again, I would like to thank Congressman MCGOVERN and my other colleagues who have gone to great lengths to guarantee the Medicare beneficiaries of our nation receive the quality, affordable home health care services they deserve.

Mr. MCGOVERN. Mr. Speaker, I submit the following letter:

U.S. HOUSE OF REPRESENTATIVES,
CONGRESS OF THE UNITED STATES,
Washington, DC, May 20, 1998.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR SPEAKER GINGRICH: With the support of the administration, Congress worked to pass the Balanced Budget Act of 1997 (BBA) last summer and in doing so reduced Medicare payments to home health providers across the nation by over $16 billion. The expressed intent of these cuts was to curb waste and abuse within the home health industry. Sadly, it is now clear that the provisions in the Balanced Budget Act do not end such abuse, and actually punish non-wasteful home health providers across the nation. Because of a funding formula buried in the BBA, previously efficient and waste-free providers have been given a Medicare spending "cap" that is below financially manageable levels, and, as a result, many agencies in Massachusetts are facing insolvency.

One of the many examples of this phenomenon is Massachusetts Easter Seals, which has provided quality home health care to disabled citizens in my state for over fifteen years. In Massachusetts, Easter Seals is an acknowledged leader in devising and efficiently implementing coordinated treatment plans for people with disabilities and complex medical conditions. In fact, when audited by Operation Trust in 1997, Easter Seals, like most home health providers in Massachusetts, passed with flying colors.

Massachusetts Easter Seals will no longer offer home health services because of the Balanced Budget Act of 1997. Faced with a projected deficit in excess of one million dollars, the Board of Directors has chosen to exit home health care as of August 31, 1998. This means that over 500 individuals, the majority of whom have disabilities or chronic medical conditions, will be forced to seek care elsewhere in the Massachusetts home health market—which is already downsizing dramatically. In the future, individuals with disabilities or chronic conditions may well be unable to access appropriate home health services. The net result will be that many Massachusetts citizens will be institutionalized at high personal cost and greater expenditure of public funds.

Pressure to correct these unintended consequences is growing in Congress. At a recent Senate hearing, twelve Senators from both parties gathered to discuss the problems this law created for home health care. They agreed that a "mistake" had been made in the Balanced Budget Act and were prepared to look at ways to solve the crisis. I have called for a hearing in the House of Representatives, and on February 12, 1998, I introduced a bipartisan bill, H.R. 3205, "The IPS Technical Correction Act of 1998." This bill, which would ease the crisis in home health, currently has over 40 cosponsors from both parties. Senators Kennedy and Jeffords introduced the Senate companion, S. 1643, and support is growing in the Senate as well.

I would like to request that you include H.R. 3205 for the House Calendar on technical corrections day. Seniors, the disabled, and the medically complex individuals in our nation are paying for this poorly-drafted provision to cut waste and abuse in the home care industry. I support ending abuse and pledge to work with you toward this goal, but patients should never be the ones to suffer from such attempts. I look forward to working with you to provide needed and efficient home health care to our nation, and I thank you in advance for your attention to my request.

Sincerely,

JAMES P. MCGOVERN,
Member of Congress.

CONSTITUENTS' CONCERNS

The SPEAKER pro tempore (Mr. MCINNIS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Colorado (Mr. BOB SCHAFFER) is recognized for 60 minutes as the designee of the majority leader.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, first of all tonight, Wednesday night, is one of the nights that is a traditional night for the freshman class on the Republican side to take to the floor.

I, being the President of the class, reserve the hour for Members, so I would like to extend an invitation to anyone who might be monitoring tonight's proceedings, whether you are Republican freshman or any other member of the conference, to come on down if you have any items you would care to discuss tonight and any issues that you would care to raise this evening.

The invitation is open for at least another hour.

Let me say though tonight one of the things that I intend to speak about and some others who suggested they may be here to join us is the topic of obtaining constituent input from the people that we represent back home. Now many of us travel throughout our districts and hold a number of town meetings, and it was this topic that we were discussing just this afternoon at a freshman meeting.

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A couple of my colleagues were discussing some of the comments that they had received at recent town hall meetings, and it kind of occurred to us that many people really do not believe that Members of Congress listen, that Members of Congress are willing to take the time to listen to constituents, to any of the messages that come up at town meetings and other public forums and so on, that they are acted upon. I thought it might be a good idea to discuss how many of those conversations are in fact discussed and carried on in other meetings that we have here, as was the case of the meeting this afternoon.

I hold a number of town meetings throughout my district in Colorado. My district is 21 counties large. It is the entire eastern half of the state, and generally all the Great Plains on the eastern side of Colorado. It is a district that is a little bit larger than the State of Indiana.

In order to cover a lot of territory in that district, we do hold a lot of town meetings. We do hold a lot of gatherings at coffee shops, at restaurants, at city hall meetings, at schools, all kinds much places. Recently I also conducted a wheat tour with the Colorado Association of Wheat Growers, and many of the wheat growers out on the Eastern Plains. The Colorado Wheat Administrative Committee was the other organization that helped organize that event. We went through three different towns on that wheat tour. We went through Kiowa County on the Eastern Plains, we went through Cheyenne County and we also went through Kit Carson County, looking at wheat farms.

This is a very challenging time right now for wheat growers. One, many of these farms are dry land farms, and their wheat fields are not irrigated, so they are heavily reliant upon suitable weather conditions. It was a pretty good year so far to get the crop planted and to get a good start on this year's wheat crop. The wheat crop looked pretty good. But farmers were concerned about a number of issues.

One is getting enough moisture to put a good finish on the wheat harvest. Even though the crop is expected to be pretty suitable this year, the bigger issue is wheat prices. Right now farmers are looking at $2.40, maybe as low as $2.25, $2.35 a bushel on wheat costs. There is an estimated 40 percent carryover in wheat surpluses from last year. So the farmers that I spoke with were concerned about making sure that Congress put sufficient resources into efforts to expand export markets overseas.

I am delighted to say that as a result of those conversations and the message I was able to convey, along with many of my other colleagues from wheat producing states to the Committee on Agriculture and Committee on Appropriations, that earlier today we were successful in putting sufficient funding into the export enhancement program and other export-related programs that help our farmers expand markets overseas.

The real problem, however, has been that the Clinton Administration has not been aggressive, I should say, has not been aggressive at all in fighting hard for our farmers overseas and trying to expand markets where opportunities exist. In fact, because of many official policies of the administration, wheat producers are shut out of about 11 percent of the export markets in other countries, and they are thinking about that pretty frequently these days as they are looking at low wheat prices and willing purchasers throughout the world that we just need to reach.

What I want to share with those folks that I met on that particular tour and that particular series of town meetings is that I did listen, and there are many other of my colleagues here in Congress that have heard similar pleas from the other farmers and growers throughout the rest of the West and the rest of the country who have joined me and been fighting very hard here in Congress to expand export markets and trying to increase the prices of commodities, and to do this within the context of a thriving free market.

I also do a number of other types of visits. I do a number of radio call-in shows throughout my district. Again, being a rural district, many of the people on the Eastern Plains of Colorado listen routinely to talk radio shows. They get a lot of information over the radio, spend a lot of time in their farm vehicles or traveling the great distances they have to go to get from one town to another, so call-in shows on radio stations is a great way to reach people, and I received several comments about that.

People have brought up the topics of Social Security. They wanted to see their Congress find some way to try to rescue the Social Security System, and particularly address the declining returns that we have realized in the Social Security Trust Fund.

They always seem to bring up the issue of tax policy and trying to find ways to reduce the effective tax rates on the American people.

One of the things I also do back home in my district is I publish my home phone number, and do that pretty frequently. A lot of people do call me at home, which is okay. I think when you run for office, that you should not give up your neighbor status by any means. So I take a lot of phone calls at home. A lot of times I am here in Washington, but I take those messages off of the answering service. When I am there, we get to answer the phone and talk to a lot of people at home. So I encourage anyone concerned about issues taking place in Washington and Congress, anyplace at the Federal level, or even at a state or local level, to get hold of those elected officials that you have in fact have hired to represent you in Washington.

Well, one of the other things that I did, Mr. Speaker, just a few months ago, was sent out a public opinion survey with respect to the topic of education in the district. I received, oh, several thousand responses to that public opinion survey. I want to go through some of those today.

I am going to respect the anonymity of those who have written, because, with the exception of a few, these folks did not intend for their names to be mentioned before the whole Congress. But I do know that they feel very passionately about some of these topics that they have written about. I want to share those with the House tonight and with colleagues, and also suggest if others have constituent letters or constituent concerns that they have been hearing from back home, tonight would be a good night to join me on the floor and let folks know we are listening and responding and that we are letting people know back home that we are carrying their message forward for them.

Here is one, again, on this education survey. It says, "We live in Fort Collins and send our children to a private school in Fort Collins." It says, "Public school is not an option for us. I am an attorney here and my husband, a microbiologist. We moved here four years ago from Silver Spring, Maryland. Our children were in private school there as well. I think that it is appalling what the NEA," which is the National Education Association, "the Teachers Union and the Department of Education, have done to public schools. I saw the article recently regarding the amount of money spent per capita on children in the District of Columbia school system. It absolutely amazing. I can still remember driving to my office at 13th and K," not too far from here, "when we lived there, and see the rundown schools and kids on the street. I appreciate your efforts and the efforts of your staff. We will continue to support you." These are folks from Fort Collins.

Here are some other comments. This one was a particularly interesting one. Again, all these first few are on the topic of education. "Dear Congressman SCHAFFER, I would like to comment on your opinion survey. I would like to see money spent on education concentrated in the following areas. One, classroom basics, especially reading programs at all levels and for all needed learning styles of the individual student. If a student cannot read, they will never be successful. If assistance dollars are continued, 75 percent should be targeted toward the average working poor. It is the middle income taxpayer who supplies the money. They seldom are able to help their own children."

This writer, a woman, goes on to say, the third priority, she strongly supports increases in vocational and technology programs in junior high school and in high school as well as in two year community colleges.

"We are forgetting the constant losses of skilled tradespersons, plumbers, educators, electricians, auto repair, carpenters, seamstresses, et cetera, chefs, appliance repair, et cetera." This person did not excel at penmanship here apparently.

A "good reasonably priced washer repairman is hard to find, but continued support of welfare moms is still in place. Thank you for your time and interest." That is another person from Fort Collins, Colorado.

Here is one individual who sent a ratings list of what tuition costs in private schools in the area, and just wrote a brief note. "Congressman Schaffer, this is what we are paying for our son's schooling. Vouchers would be a great help. For one child to spend an entire year in a private school costs $2,375." This is in Loveland, Colorado, and this individual makes some other notations as to why it costs almost $6,000 per pupil at a public school, and it seems reasonable to this writer that individuals ought to be able to have an opportunity to take an education voucher and purchase a high quality education service at a lower cost when it is certainly available.

Here is an interesting one. It says, let's see, "I am retired from the Poudre School District," a school district in my hometown of Fort Collins, the district that my children currently attend.

"I am retired from the Poudre School District with 33 years experience in the classroom. I am not impressed with what goes on in schools today. Of course, kids can use a computer and do math with a calculator, but those I tutor are lacking in good old multiplication, facts and so on. They don't have the mechanics. Their geography and history is missing. They can fly to Hawaii, but they can't locate it on the globe. I am disturbed when a 9th grader can't write a paragraph, let alone spell the word he uses. The trouble as I, a 90-year-old see it, is teachers today are the generation that were cheated by the system in the first place. So now what can we expect when teachers do not have the old-fashioned foundation I had? It is true, I am a life member of the NEA," again, the National Education Association, or the teachers union.

"I thought the NEA would make me a better teacher. How naive I was. Their periodicals still arrive with little about better teaching methods, but much about teachers' rights, raises and salaries, more benefits, plus reports on cases of fired teachers and their legal problems. I am convinced NEA's money helped a great deal in electing Clinton in 1992. Teachers paid their union dues to elect that man. Thanks for listening. I hope the bill passes."

The bill she was speaking of was a piece of legislation that just came out of the Education Committee today that deals with trying to get more dollars to the classroom, and she makes a notation that too much of our education money is spent on administration.

I would like to let the woman know and others who are of a similar opinion that the House Committee on Education and the Workforce did in fact today act on that very issue, a measure designed to try to direct more of the money that is currently being spent to the classroom.

You see, today anywhere from 40 to 60 percent of the education dollars spent by the Federal Government is estimated to be soaked up by various administrative costs and other bureaucratic expenses associated with the United States Department of Education, sometimes the state administrations in various states, sometimes local communities as well. But we are making a very conscious and very bold effort here in Congress to try to direct those dollars to the classroom.

Unfortunately, Mr. Speaker, this has become a partisan issue. That bill passed primarily with Republican votes. In fact, I am not certain that there was a single Democrat vote for moving more dollars to the classroom. I am hopeful that by the time that measure comes to the floor, that we will see more folks on the left side of the aisle to join us on the Republican side in trying to make sure that the dollars that we spend actually help children and not help increase the comfort level of bureaucrats.

Here is another person who wrote in their opinion survey, it says, "This opinion survey is a great idea." It says, "Get the Federal Government out of our local schools, do away with tenure, give merit raises and give reviews for teachers regarding the ability to teach."

This person thinks it is important for us to go back to the basics and teach our children skills, not how to feel.

□ 2200

This woman wrote all over the place and in the margins. She said, "We need discipline back in the schools. We are pouring in more money now than ever, and we still have to fork over so much more money just to get kids registered. There is nothing provided, and the kids aren't learning anything. I am sick of the Federal Government running everything as we lose more and more of our freedom."

This is an individual who, just based on some of the other notations here in the column, it is very obvious she has some experience in education. She suggests that she cares very deeply about public education and want to see public schools thrive and succeed, and views the Federal regulations, the Federal mandates and the Federal red tape, as being a particularly burdensome impediment to educational progress.

These comments really do get at, I think, one of the dividing themes that separate the two prevailing camps of political taught with respect to the Federal involvement in public education. There is the side that believes that we ought to liberate schools and focus on the freedom to teach, to begin to treat teachers like real professionals in an environment where the truly great teachers are able to thrive and able to rise to the top, to be able to be paid on a professional basis, and with professional style contracts that reward success, that reward performance, and do away with this whole notion that the worst teacher in the district is paid the same as the best. That happens too often, and in fact is the case in most schools today.

What many of these writers have expressed is a real sense of trying to free up public education at the local level in a way that will guarantee excellence and guarantee success.

It is interesting, we really rally around many areas of our economy. There are many industries here in the United States that are the world's best, that are the world's best because they are competitive, because they define every day new heights with respect to quality. They are able to offer services and products at the lowest costs and with the greatest convenience.

In America we enjoy these attention routinely, and we expect those kinds of attributes because we live in a free market society, where competitiveness is, in the end, something that is of the greatest benefit to consumers. This is something that has been discovered throughout the world and has been proven throughout history, that free markets always work best. They work far better than a centrally controlled economy and a heavily regulated economy.

If we are willing to brag about our financial markets, if we are willing to brag about the goods and services and the manufactured products that are produced right here in the United States, if we are willing to brag about the professional services that exist, whether it is legal services, real estate services, insurance services, if we are willing to brag about these because of the level of competition, because of the high level of quality, the greatest advantages with respect to low costs, and the full amount of convenience, why is it that we are timid about applying these same characteristics to the public education system?

Why is it that we find so many here on the floor of the Congress, the floor of the House, who regard competitive models for education reform as somehow being negative when it comes to reforming public schools?

It does not make a lot of sense. If we cared as much about our schools as we do every other important industry in our country, every other industry that is a model of success, then we would begin to apply some of the most excellent characteristics of competition to education, as well.

We are beginning to see bits and pieces of that reform effort moving across the floor, and today's event in the Committee on Education and the WorkForce was another one of those milestones, being able to pass a bill to the floor that cuts out the education bureaucracy at the Federal level and moves real authority back to the States and to the local level.

Competition is another issue that the next writer writes about. This is on a different topic altogether. This is an individual that I have met down in Lamar, Colorado, a woman who runs a bus plant. There are only two original bus manufacturing facilities in the United States, one in Colorado and I think the other is in California.

From this woman, we extract her fuel taxes every time she hops in a motor vehicle and drives somewhere, take those fuel taxes, send them here to Washington, D.C., and many of those dollars are spent in mass transportation systems throughout the country.

Many of the cities and municipalities who purchase buses have an opportunity to, again, take advantage of the lowest cost, the greatest quality earnings, and the highest level of convenience. But unfortunately, there is an additional advantage to foreign competitors in the American market.

This woman simply wants a level playing field when it comes to competing right here within her own country, the ability to sell buses on fair and equitable terms. Laws apply to her that do not apply to some of other foreign competitors. They do not pay workers' compensation rates, unemployment insurance. They do not pay high taxes, have visits from the OSHA inspectors, the Occupational Safety and Health Administration. Her competitors do not have the EPA kicking the doors down and coming in and doing spot inspections and driving up the costs of her product.

Yet, when those foreign competitors bring their product across the American line, the costs of that product is far lower than what she is able to provide. What she writes about is simply demanding a level playing field, making sure that American producers are able to do well in the United States and not be faced with unfair competitive advantages for foreigners.

I see the gentleman from Florida is here and joining me, and I am glad that he is here tonight. I yield to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. I thank the gentleman for yielding, Mr. Speaker. I was sitting in my office going through some mail, and as well, I was listening to the gentleman's comments about education. That, of course, is a very important issue for me and the people of my district.

Indeed, it is a personal issue for me, as well. My mother was a schoolteacher, and some of the sentiments the gentleman was were sharing in the letter that he was reading were sentiments that my mother had shared with me; that though she was a member of the NEA when she taught, she thought that the NEA had lost its focus and had moved away from quality education, and simply had become a labor union pursuing the traditional goals of most labor unions, which is higher wages and benefits for their members and job security, and that quality education for children is a side issue for the NEA.

I think some of the things that we have seen going on in Washington, particularly regarding issues like dollars to the classroom, I want to thank the gentleman for his leadership on that issue and the work that he does to promote that issue. I think the people in the gentleman's district should be proud of freshmen like the gentleman, and the gentleman from Pennsylvania (Mr. JOE PITTS), who have been really trying to push that legislation through.

We spent here in Washington, I think we spent over $30 billion on education, but a disproportionately large amount of it does not end up in the classroom. It does not end up helping the kids. It gets sucked up by bureaucracy. This legislation I think is a piece of legislation that is long overdue, because it directs the dollars away from bureaucracy in Washington and in our State capitals and to the classrooms.

I do not know what the gentleman's experience has been in visiting his schools in his district or talking to his teachers, but my experience has been it is just very, very tight at the classroom level. We have a lot of classroom teachers in my district who use their personal monies, these are their post-tax dollars coming right out of their wallets, to buy things like supplies, papers, and special materials that are not offered by the school district. I really think that is a shame.

Let me furthermore add that the decline in education in the United States and the falloff in performance I think is a great tragedy. It is a testimony to the fact that Washington's involvement in education has not been helpful at all.

Specifically, SAT scores have declined over the past 30 years. Many colleges and universities have had to institute remedial courses, teaching their students the basics of composition and mathematics, arithmetic, because those subjects were not taught in school, and very often it is in the public school systems where the failures are the greatest.

Might I add also that I think one of the greatest tragedies is to see the National Education Association opposing any effort to implement school choice for parents. Specifically, we have tried repeatedly since I have been here in the Congress, and I know the gentleman has taken part in this debate, and I want to thank the gentleman for his help in this, to try to set up a school choice program in the District of Columbia.

There are many people who argue that we in the Federal Government have no role in setting up school choice programs out in the States and at the State level. I think those are legitimate arguments. I am from Florida, and I think what we are doing in Florida should be the responsibility primarily of parents and our county and local officials and the State officials, and the Federal Government should not be involved.

But we have jurisdiction over the District of Columbia. It is very clearly spelled out in the Constitution. To set up a school choice initiative in the District of Columbia to give parents, specifically low-income parents, I am talking about here, the ability to choose a school for their children I think is a very reasonable thing to do.

To see the NEA and to see so many of our colleagues on the Democrat side of the aisle opposing these initiatives year in and year out, I think the last proposal was 2,000 students. If the public school system in the District of Columbia was outstanding, you could perhaps make some legitimate arguments that this is not necessary. But in reality, it is one of the most expensive school districts, something like $8,000 a student, and yet the dropout rate is sky high. There is an extremely high number of students who cannot perform on basic, remedial testing. The system is failing.

The thing that bothers me the most about this issue is rich people have school choice. I used to practice medicine before I came here to the House, and all my doctor friends exercised school choice. Yes, some of them enrolled their kids in the public system, but some did not. Some enrolled their kids in private and parochial schools.

But it is those very low-income families in the inner cities of many of our cities in the United States, particularly here in Washington, those low-income families that have no choice, and those are the places where the schools are the worst; and to set up a pilot program, 2,000 students, give these low-income families the ability to choose an educational environment that will better serve their kids, and to see the NEA consistently opposing this, all I can conclude is that it is out of fear.

Because if school choice is not going to work, if the parents are not going to like it in the end and if it is not going to improve academic performance, why will they not let us find out? FDR said, "We have nothing to fear but fear itself." If school choice, a pilot school choice program for the District of Columbia, is so bad, why do they not let us test the hypothesis and see if it will work?

I would assert to the gentleman, my good friend, that the reason they do not want us to test it, it gets right back to what the gentleman was talking about 10 minutes ago, which is, they know it will work. They know if it works, there will be demand for more of it in the city of Washington, and then the city of Milwaukee will be demanding more, where they already have it; and then they will be demanding it in L.A., New York, and Philadelphia. The NEA is afraid of that. They are afraid that it is going to work. That is why they oppose it year in and year out.

Mr. BOB SCHAFFER of Colorado. School choice and a competitive approach to school reform really does threaten the union mentality that the National Education Association has come to represent.

At one time the NEA was a legitimate professional organization that was designed to try to assist teachers and to help them become more professional at their job, to help them to become more proficient, and to provide kind of a continuing education agent for its members.

Over time it really has evolved into a full and complete union. They file taxes as a labor union. They act as a labor union when they get involved in the political process. They act upon this Congress and State legislatures throughout the country on a political basis. Their goal really has become to preserve the status quo to the greatest extent possible, to preserve these union wage scales, where the worst teacher in the district receives the same pay as the best teacher in a district.

Within that context, it is hard to imagine that there are too many teachers who are able to, year after year after year, just bring their own energy and their own enthusiasm to the classroom to rise above that kind of system. Yet, remarkably, many of them do. But it is through a sense of altruism, a sense of compassion for their profession, a sense of real zeal to educate youngsters and realize that these children are the future of the country.

But successful, thriving teachers are not there by design of the system, by any means. They are only there because of the compassion that they carry with them in the door when they become new teachers.

□ 2215

Hopefully they will be able to hang on to it and sustain it for 4 or 5 or 6 years. Some manage to sustain it longer. But year after year after year, I have heard from teachers. They write letters. When I go to schools, I visit them and they speak to me and they tell me that after 10 or 15 years in a system, it becomes very clear that there are no greater rewards financially, professionally, or organizationally for those teachers who truly thrive.

And, again, my heart goes out and my hat goes off to those teachers who are truly great teachers, because we can find them throughout the country. We can find them in my school district and the school district of the gentleman from Florida, I presume. But I submit they are not there by design. They are there out of the passion for teaching that they bring with them.

We ought to reform schools so that we reward good teachers and treat them like professionals. I love the response I get back home when I say that I think teachers ought to be treated like physicians. They ought to be treated like basketball players and football players, the things that we care about, so that the truly great teachers can become wealthy if they are the best in their industry and craft. They have a huge line of potential customers outside their door who want to get in and receive their services. That teacher ought to be paid a heck of a lot more than the teacher who runs the classroom where people are trying to escape because they are not learning anything or because they are in a dangerous environment.

Yet in today's model, that kind of comparison does not exist. The worst teacher in the district under the NEA's union contract rules are treated exactly the same as the best teacher. That is not a model for success. That is what school choice allows us to get around, treating parents like customers to reform a system that looks more like every other great industry and every other great delivery system in our country.

Mr. WELDON of Florida. Mr. Speaker, if the gentleman would yield, I wanted to comment on the point, which is an excellent one, which is making education more of a free marketplace.

It is amazing that we here in the United States, the Nation that has championed the value of the free market and how the free market has the ability to do a better job than the government, and how the free market has the ability to provide better services than in a socialized system, indeed that was the great battle of the Cold

War which was whether a market system built on freedom was better for the common man, or a command and control, government-run economic system which, of course, was the Soviet, Marxist Leninist model. Yet in the United States, we have relegated education to the government sector exclusively.

Now, as I said earlier, that is not true in that wealthy people can exercise choice and, therefore, there is a limited market. But I am talking about the common working man.

Might I digress to say that I have met a lot of working class families in my district, families that are struggling to make ends meet, who specifically sacrifice personally to send their kids to private or parochial schools.

But one of the big arguments that the NEA and the left has made against school choice, which I think is an argument totally without merit, is that it will destroy public schools. We hear that over and over and over again that Republicans, because we want school choice, want to destroy the public school system.

They are the champions of the public school system and, therefore, their position is right; that school choice should not be allowed.

Well, first of all, I think this is about educating our kids and what is the best educational environment for our kids. I thought the debate was not about preserving a socialized public system run by the government, but about making sure our kids get the best education they need so that they can go on to make sure that the United States continues to be the greatest country in the world and continues to lead the world in science and technology and medicine. It is not preserving this institution because we have gotten used to it.

Now, I would assert that if we have school choice in the United States, that our public schools will survive. Indeed, I think our public schools will get better, because we will have a real competitive marketplace at that point and the public schools will have to compete with the private sector more effectively. They will no longer have a monopoly.

I think that some of the public schools in my district will succeed fabulously. One of the towns in my congressional district, Sebastian, has a brand-new high school with all the latest high-tech facilities and the greatest teachers we could ever find anywhere in the United States are in that high school.

I would wager that if we implemented school choice more broadly across the United States, and if it were implemented in my district, that Sebastian High School, Sebastian River High School would succeed fabulously. A public school. Why? Because I think they will be able to compete.

So let us not argue that implementing school choice is going to destroy public schools. Public schools are not that bad. I mean, to make that argument is almost to admit they are bad.

Now there will be some public schools that will not survive. But those are the public schools that should not survive. I am reminded of a speech NEWT GINGRICH gave this morning about New York City, about how last year in New York City there were 500 restaurants that closed and went out of business. Sounds ominous. Sounds bad. But there were 1,300 new restaurants that opened.

Now, I would wager that some of those 500 restaurants that closed, closed because they did not serve very good food. Most people would probably say they should have closed.

So if we institute school choice in America, yes, we will have some public schools that will close. But I would argue that those are the public schools that should close and those are the public schools that should close because they are not educating our kids. That is the core of the argument.

Most public schools in my district, and I would wager that most public schools in the gentleman from Colorado's district, will succeed and thrive and they will be able to be competitive and the people who will benefit from this will not be the people who occupy the NEA headquarters in Washington, D.C. And that is because that is not what this argument is about. It is about our kids and making sure our kids gets the best education.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, the failures that are exposed through choice, whether it is school choice or the choice of restaurants as in the case of the New York example, does not mean that the opportunity leaves, that there is not an eating establishment at that old restaurant or that the opportunity to learn will leave the neighborhood.

What we mean when we talk about bad schools being exposed and sometimes closing usually means that we have a changeover of management. That the old management is fired and a new team is brought in to try to meet the need of a neighborhood or a community. The need for education certainly does not go away.

As we know in the United States, whenever there is a high need for some service or some commodity, there is an entrepreneur waiting in the wings to fill it and to meet that need or provide that service. I believe that the same is true in education.

We really have not even broken the surface on unleashing the entrepreneurial instincts of teachers in America. They really have been suppressed by this mechanized union mentality that says if a student grows up in neighborhood or lives in neighborhood, that they are assigned to attend school which is in the neighborhood. Or if they move to another neighborhood, that they go to the school that is associated with that neighborhood. That is the model that we have today where nobody chooses, where nobody selects the curriculum they want, the management style they would prefer, or even some of the other ancillary benefits of a particular school site.

But I believe that if we are able to get beyond that, if we of able to allow teachers to compete on a professional basis, that we will see education in this country turn around and thrive like we can not even imagine today.

Again, we have a tremendous need in our Nation for a strong system of quality public education. Appealing to the entrepreneurial instincts of education professionals in my mind is the way to meet that demand. Those demands exist especially in inner city areas and poor neighborhoods where some believe that school choice will leave those children abandoned. I say that is nonsense. I think those are the areas where we will see the greatest challenge and I think we will see some of the best teachers moving into those particular opportunities to serve communities and to teacher.

So I am like the gentleman from Florida, I think those of us who I believe truly have a passion for improving public education, we do not look to the free market as a way to suppress educational growth and educational excellence. We look to free markets as a way to help schools thrive.

Mr. WELDON of Florida. Mr. Speaker, if the gentleman would again yield, I just wanted to add one more point. In talking to a lot of parents in my congressional district who have serious concerns about the quality of education in the United States, one of the big issues that I find comes up more and more is an area where I think a lot of our schools are failing, and that is it is not just in the academics. It is not just in the ABCs, but in the basic fundamentals of character development.

As many people know, we threw that issue out the school house door 30 years ago and we are reaping a lot of the benefits of that, or the negative benefits of that.

There is more to educating a kid than just teaching them how to read and write and to do arithmetic. There is more to being a good citizen. And that is really what it is about. We want to raise up people to be good citizens. We want them to be involved in their communities. We want them to be good parents. We want them to grow up to be hard-working people, people who will succeed in the marketplace.

Our schools, particularly many of our public schools, are failing in that element of education in the area of teaching character and virtue. And at least what I hear from a lot of parents, particularly some of our inner-city communities, is that they want school choice for that reason. They not only want to find a school that will better teach their kids academically, but they also want an educational environment where their kids will be positively influenced as citizens, as individuals, in areas of character and virtue.

That is one of the other big, big reasons why I would like to see a real marketplace. Now, how we go about doing that, we can debate this issue, whether it is through a tax credit or school voucher or something along those lines. But after all, is not it the people's money anyway?

We tax them, we take their money, property taxes, income taxes, and then we create this government-run system. And in many communities, that government-run system, we take the money from them, we set it up, but it is failing their kids. And the parents are saying I would like to take my money and go elsewhere. The way it works out is only the wealthy people who have the money to go elsewhere can go elsewhere. But many of the working families, poor families, they are locked into schools that are failing their kids.

So I am really happy the gentleman brought up this issue tonight. I think it is a critical issue. I think it is an issue that we as Republicans need to continue to push. Education in my opinion is going to be a more and more critical issue in the years ahead. We are moving from this industrial-based society to this information-based society which is very, very computer dependent. Where knowledge and ideas are going to be critical for success. And how we educate our kids in the areas of science and technology is going to be critical. We need an educational system for the 21st century.

A new age is dawning. We are leaving the 20th century and moving into the 21st century. Do we want to keep this educational system that has served us well up until now, and is not serving us well now, at least in many of our communities? Are we willing to be bold and to be brave and to move ahead and try something new?

So, I thank the gentleman for bringing this issue up and I have been very pleased to be able to join with the gentleman this evening to discuss this issue.

Mr. Speaker, being the son of a schoolteacher, it has always been an issue that has been very dear to me. My mom taught school and, indeed, we were talking about public schools for a while. I am a product of public school education. not only for elementary and secondary school, but as well for college. I went to a public college.

□ 2230

I think what we are talking about is improving education in America, helping our kids to be smarter, but, as well, helping our schools to be better. The best way to do that, the best way to do that is to create a real bona fide marketplace where we have competition.

Whenever anybody talks about competition in an environment where there is no competition, those who have the monopoly will always scream and yell and say no, no, no, we do not want that competition. It is going to hurt the system. It is going to make things worse.

I would assert that the fear of change is all we are seeing there. We need to harken back to the words of FDR: "We have nothing to fear but fear itself." If we are willing to make the changes necessary, we can see that we have an educational system that will carry our Nation boldly into the 21st Century so that we can continue to lead the world in the future.

I want to thank the gentleman for joining him in this special order. It has really been a pleasure for me to be here with him.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I thank the gentleman for joining me. My parents are teachers as well. retired. My father spent his whole career teaching in the Cincinnati public school system. My mother, as well, finished her career working in the Cincinnati public school system.

This issue tonight was raised because of the volume of letters. I just grabbed the six or seven that were on the top of the pile before I headed over here today. I did not really check to see what was in them. It was remarkable how similar they are in their criticism. But these letters are also long on suggestions as well, opportunities for improvement, commendations, too.

There are plenty of teachers who view themselves as professionals, who communicate with me, with the gentleman, and with other Members of the Congress; and I encourage them to continue to do more of the same. I am confident in saying that they are not well represented, professional teachers, that is, not well represented by this teachers union that we mentioned earlier.

The interests of the union are very, very different than the motivations of real professional teachers who care about children. This union is a large insurance conglomerate, for example. They profit handsomely from selling professional liability insurance policies to teachers. That is the reason many teachers joined the national union in the first place.

This particular union has the ability to offer a product that is lower in cost because of the volume in which they deal. So they offer low-cost professional liability insurance. Many teachers believe that they need to purchase that insurance from the union in order to teach in a classroom. That is not really the case.

I find that, just walking classroom to classroom in public schools in my district, as I frequently do, or when teachers show up at my town meetings, or there are several that live in my neighborhood as well, when they stop by, their attitudes and opinions and beliefs about where we need to go with education reform is very different than the union.

I ask them, well, why are you sending your money to Washington, D.C.? It is something like $400 a year or something along those lines just for the Federal dues. That is not even the local regiment of this national union that exists at the State and local level. You pay additional dues for those folks.

I ask them why they pay, why they keep forking over all the hundreds of dollars every year, which amounts to billions of dollars on a national level. Why do they keep sending their cash that way? They frequently say it is because of the professional liability insurance, but they do not really believe all that nonsense the union perpetuates out of Washington and tries to move forward.

But it really does matter, because this union is very powerful and persuasive here in the halls of Congress. They hand out millions of dollars in cash at campaign time for elected officials and candidates who wish to preserve the status quo and maintain that union model on the union's terms.

The unions do not like people like the gentleman and I who speak about free market approaches to public schooling, because it really does show the difference in fundamental beliefs on what education ought to be about nationally.

There are those on the union side that believe that we measure fairness by the relationship between one school building and another school building or maybe one school district and another school district or maybe even one State school system and another State school system.

But the gentleman and I and those who gravitate toward the free market have a very different belief, and that is that we measure fairness and education on the relationship between individual children.

We believe that wealthy children in America ought to have full opportunity to a great education. But poor children ought to also have that same opportunity. That is what school choice is all about. Whether it is vouchers or charter schools or tuition tax credits or school choice or all of the different mechanisms that we have explored and proposed and discussed are about is moving us in that direction of trying to provide broader opportunity, more liberal opportunity with respect to choice to all children, whether they are wealthy, whether they are poor, whether they live in a nice neighborhood, whether they live in a poor neighborhood. No matter what part of the country they happen to live in, we fundamentally believe that we, that they will have greater opportunity at a lower cost and higher quality by eliminating the waste when we move to a free market approach to education.

When we do that, we have a provider, a professional teacher who provides a service to a legitimate purchaser, somebody with purchasing power that is empowered by cutting bureaucracy and red tape.

When we can restore that relationship between provider and recipient and make that bond stronger, that is the way that we can allow educational services to be delivered more succinctly, more directly, with fewer impediments and intrusions from bureaucracies and so on.

This really is a debate about fairness and a debate about whether we want to see all children in America thrive and enjoy a higher quality education at the same right.

Mr. WELDON of Florida. Mr. Speaker, will the gentleman yield?

Mr. BOB SCHAFFER of Colorado. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Speaker, I certainly agree with everything the gentleman is saying. It is also a debate about empowering parents. I believe and I trust the gentleman believes the same way, that the person who is most concerned about the child and the child's education is the mom and dad.

It is not necessarily the bureaucracy here in Washington or the Members of this body or the National Education Association president located in Washington, D.C., but it is actually the mom and dad.

When you empower parents to be able to select an educational environment that is best for their kids, they will do that. I trust moms and dads to select the best education for their kids.

I think a certain amount of the opposition that comes from the left on this issue, this critical issue of school choice, is a lack of trust of parents. Do we trust the moms and dads of America to select the best educational environment for their children or do we not.

I would assert that, if we could overcome the obstacles of the education bureaucrats and the National Education Association and the left wing elements within the Congress of the United States and we could just learn to trust parents and give parents the power, the ability to select an educational environment for their kids that is best for them, they will do so. Academic performance will improve. SAT scores will go up because kids will be in a better academic environment.

As I said earlier, the place where this is most critical is in our poor communities. The place where it is most critical is in many of our minority communities. The place where it is most critical is in many of our inner city communities.

I dare say that, many of the communities that people like the gentleman and I represent, the public schools are good. But there are many communities in the United States where the public schools are failing, and they are failing miserably.

There are some people who would argue that they need more money. We have been hearing that for many years. But one of the most amazing facts is that the amount of money that goes into these schools correlates poorly with the quality of educational performance of the students.

Indeed, there is a considerable amount of data that some of the most poorly funded schools in the United States frequently have some of the best academic performance. Specifically what I am talking about is I have seen data out of places like South Dakota where I think they are one of the lowest levels of the Nation, but academic performance is extremely high.

Mr. BOB SCHAFFER of Colorado. Utah is another State.

Mr. WELDON of Florida. Utah as well. So it is not money. Of course, then, we can always just point to Washington, D.C. and the simple fact that it is one of the highest in the Nation, $8,000 a student. It has some of the worst schools with some of the worst academic performance that we can find anywhere in the United States.

It is not an issue of money. I reiterate, I come back to this essential point that we are debating or discussing here tonight, we are both on the same side of this debate, which is that if we can give parents that ability, and if the opposition will stop fighting this and it will allow us to try to test this hypothesis, I believe it will work very successfully.

Again, I want to thank the gentleman for bringing this issue up tonight. It is a critical issue. It is a very, very important issue.

There are lots of indicators out there that, in the United States, our kids are not able to compete as well as they should. We used to lead the world in education. Our kids were coming out of school the best educated in the world.

One of the interesting facts in all of this is that, at the college level, we continue to lead the world. At the university level, we are leading the world. But at the college and university level, we have a marketplace. We have choice. Everybody knows that.

Once you get to that stage in life, you select the environment you want and the place where you want your kids to go to school. But up until that point, for many parents, they are locked into a public system frequently because of financial issues.

So lo and behold where you have the marketplace in a higher education, we lead the world. I say if we can get a marketplace at the K through 12 level, we will again lead the world in education, and all of America will benefit for that. I believe the world will benefit for that because, when America leads, the whole world prospers.

Mr. BOB SCHAFFER of Colorado. Very well said. I appreciate the gentleman from Florida joining me tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DINGELL (at the request of Mr. GEPHARDT) for Wednesday, June 24 and Thursday, June 25, 1998, on account of official business.

Mr. DOYLE (at the request of Mr. GEPHARDT) for Wednesday, June 24 until 5:00 p.m. on account of a death in the family.

Ms. SLAUGHTER (at the request of Mr. GEPHARDT) for today before 6:30 p.m. on account of district business.

Mr. YATES (at the request of Mr. GEPHARDT) for after 7:00 p.m. on Wednesday, June 24, 1998, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCGOVERN) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. HOOLEY OF OREGON, for 5 minutes, today.

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today and on June 25.

Mr. MORAN OF KANSAS, for 5 minutes, today.

Mrs. MYRICK, for 5 minutes, on June 25.

Mr. PITTS, for 5 minutes, on June 25.

Mr. MCINNIS, for 5 minutes, today.

Mr. SANFORD, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONYERS, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,380.

(The following Members (at the request of Mr. MCGOVERN) and to include extraneous material:)

Mr. TOWNS.
Mr. KIND.
Ms. NORTON.
Mr. KLINK.
Mr. TIERNEY.
Mr. HAMILTON.
Mr. KANJORSKI.
Mr. HOYER.
Mr. KLECZKA.
Mr. SERRANO.
Mr. VISCLOSKY.
Ms. LOFGREN.
Mr. STOKES.
Mr. BAESLER.
Mr. FARR of California.
Mr. PAYNE.
Mr. STARK.
Mr. BENTSEN.

(The following Members (at the request of Mr. MCINNIS) and to include extraneous material:)

Mr. SOUDER.
Mr. BUNNING.
Mr. LEWIS of California.
Mr. PAUL.
Mr. OXLEY.
Mr. SMITH of Michigan.
Mr. RIGGS.
Mr. GALLEGLY.
Mr. TAYLOR of North Carolina.
Ms. DUNN.
Mr. CAMP.

(The following Members (at the request of Mr. BOB SCHAFFER of Colorado) and to include extraneous material:)

Mr. POMEROY.
Mr. MCINNIS.
Mr. BARCIA.
Mr. CONYERS.
Mr. GILLMOR.
Mr. WHITFIELD.
Mr. REDMOND.
Mr. GUTIERREZ.
Mr. MCGOVERN.
Mr. GOODLATTE.
Mr. WELDON of Florida.
Mr. ENGEL.
Ms. VELÁZQUEZ.
Mr. PACKARD.
Mr. COOK.

ADJOURNMENT

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Thursday, June 25, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9804. A letter from the Deputy Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Minimum Financial Requirements for Futures Commission Merchants [17 CFR Part 1] received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9805. A letter from the Deputy Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Final Rulemaking Permitting Futures-Style Margining of Commodity Options [17 CFR Parts 1 and 33] received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9806. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Apricots Grown in Designated Counties in Washington; Revision in Container Regulations [Docket No. FV98-922-1 IFR] received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9807. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate [Docket No. FV98-958-1 FR] received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9808. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Fludioxonil; Pesticide Tolerances for Emergency Exemptions [OPP-300676; FRL-5797-5] (RIN: 2070-AB78) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9809. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hydrogen Peroxide; Exemption From the Requirement of a Tolerance; Correction [OPP-300655A; FRL-5797-4] (RIN: 2070-AB78) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9810. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Peroxyacetic Acid; Exemption From the Requirement of a Tolerance; Correction [OPP-300654A; FRL-5797-3] (RIN: 2070-AB78) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9811. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Recodification of Certain Tolerance Regulations [OPP-300627; FRL-5777-7] (RIN: 2070-AB78) received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9812. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Benzoic Acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide [OPP-300675; FRL 5796-9] (RIN: 2070-AB78) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9813. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Recodification of Certain Tolerance Regulations [OPP-300638; FRL-5783-6] (RIN: 2070-AB78) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9814. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Buprofezin; Extension of Tolerances for Emergency Exemptions [OPP-300667; FRL-5794-7] (RIN: 2070-AB78) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9815. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Reporting Requirements For Risk/Benefit Information; Amendment and Correction [OPP-60010J; FRL-5792-2] (RIN: 2070-AB50) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9816. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Assessment and Apportionment of Administrative Expenses; Technical Change (RIN: 3052-AB83) received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9817. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Fiji, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

9818. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to the People's Republic of China, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

9819. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Fuels and Fuel Additives; Amendments to the Enforcement Exemptions for California Gasoline Refiners [FRL-6114-4] received June 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9820. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions for a Transportation Control Measure [GA—035-2 -9815a; FRL 6115-1] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9821. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Approval Under Section 112(1); State of Iowa [IA 048-1048a; FRL-6113-1] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9822. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans: Washington: Correcting Amendments [Docket # WA61-7136, WA64-7139; FRL-6110-7] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9823. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; San Diego County Air Pollution

Control District; San Joaquin Valley Unified Air Pollution Control District [CA 198–0077] [FRL—6112–5] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9824. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers [AD-FRL–6112–7] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9825. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Open Access Same-Time Information System and Standards of Conduct [Docket No. RM95–9–003] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9826. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Labeling of Drugs for Use in Milk-Producing Animals [Docket No. 96N–0007] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9827. A letter from the Director, Defense Security Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Singapore for defense articles and services (Transmittal No. 98–44), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9828. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 98–49), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9829. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

9830. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

9831. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

9832. A letter from the Secretary of Energy, transmitting the eighteenth Semiannual Reports to Congress prepared by the Department of Energy (DOE) and the DOE Office of Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9833. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 [Docket No. 971208297–8054–02; I.D. 061198A] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9834. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Final Rule for the Loligo Squid/Butterfish, Scup, Black Sea Bass, and Illex Squid Fisheries; Moratorium Vessel Permit Eligibility [Docket No. 980529141–8141–01; I.D. 052198A] (RIN: 0648–AL34) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9835. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Missouri Abandoned Mine Land Reclamation Plan [SPATS No. MO–034–FOR] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9836. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Mississippi Regulatory Program [SPATS No. MS–014–FOR] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9837. A letter from the Director, Office of Surface Mining Reclamation And Enforcement, transmitting the Office's final rule—Virginia Regulatory Program [VA–112–FOR] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9838. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Authorizing Suspension of Employment Authorization Requirements in Emergent Circumstances for Certain F–1 Students [INS No. 1914–98](RIN: 1115–AF15) received June 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9839. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Employment Authorization for Certain F–1 Nonimmigrant Students Whose Means of Financial Support Comes From Indonesia, South Korea, Malaysia, Thailand, or the Philippines [INS No. 1911–98] received June 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9840. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model [Docket No. 98–CE–13–AD; Amendment 39–10594; AD 98–13–06] (RIN: 2120–AA64) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9841. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Industrie Aeronautiche e Meccaniche Model Piaggio P–180 Airplanes [Docket No. 98–CE–21–AD; Amendment 39–10595; AD 98–13–07] (RIN: 2120–AA64) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9842. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model H.P. 137 Mk1, Jetstream Series 200, and Jetstream Model 3101 Airplanes [Docket No. 95–CE–53–AD; Amendment 39–10591; AD 98–13–03] (RIN: 2120–AA64) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9843. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737, 747, 757, 767, and 777 Series Airplanes [Docket No. 98–NM–156–AD; Amendment 39–10600; AD 98–13–12] (RIN: 2120–AA64) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9844. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Mitsubishi Heavy Industries Ltd. Model YS–11 and YS–11A Series Airplanes [Docket No. 97–NM–71–AD; Amendment 39–10601; AD 98–13–13] (RIN: 2120–AA64) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9845. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AlliedSignal Inc. (formerly Textron Lycoming) Model T5313B, T5317A, and T53 (Military) Turboshaft Engines [Docket No. 97–ANE–38–AD; Amendment 39–10610; AD 97–21–07 R1] (RIN: 2120–AA64) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9846. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 200, Fan Jet Falcon, and Mystere-Falcon 20 Series Airplanes [Docket No. 98–NM–25–AD; Amendment 39–10603; AD 98–13–15] (RIN: 2120–AA64) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9847. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CFM International CFM56–2, -2A, -2B, -3, -3B, and -3C Series TurboFan Engines [Docket No. 97–ANE–46–AD; Amendment 39–10585; AD 98–12–32] (RIN: 2120–AA64) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9848. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Daytona Beach, FL [Airspace Docket No. 98–ASO–6] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9849. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D Airspace; MacDill AFB, FL [Airspace Docket No. 98–ASO–4] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9850. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class D and Removal of Class E Airspace; Atlanta, GA [Airspace Docket No. 98–ASO–2] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9851. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 98–33] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9852. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Credit [Revenue Ruling 98–31] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9853. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Services's final rule—Treatment of Hybrid Arrangements under Subpart F [Notice 98-35] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9854. A letter from the Chief of Staff, Social Security Administration, transmitting the Commission's final rule—Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Extension of Expiration Dates for Several Body System Listings [Regulations No. 4] (RIN: 0960–AE83) received June 16, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3830. A bill to provide for the exchange of certain lands within the State of Utah (Rept. 105–598). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee of Conference. Conference report on H.R. 2676. A bill to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes (Rept. 105–599). Ordered to be printed.

Mr. LIVINGSTON: Committee on Appropriations. Report on the Revised Suballocation of Budget Totals for Fiscal Year 1999 (Rept. 105–600). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 489. Resolution providing for consideration of the bill (H.R. 4112) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–601). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 490. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes (Rept. 105–602). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 491. Resolution providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period (Rept. 105–603). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. WELLER:

H.R. 4123. A bill to provide for pension reform, and for other purposes; to the Committee on Ways and Means.

By Mr. COOK:

H.R. 4124. A bill to promote online commerce and communications, to protect consumers and service providers from the misuse of computer facilities by others sending unsolicited commercial electronic mail over such facilities, and for other purposes; to the Committee on Commerce.

By Mr. GINGRICH (for himself, Mr. Istook, Mr. Boehner, Mr. Hefley, Mr. Bliley, Mr. Everett, Mr. Collins, Mr. Wicker, Mr. Shays, Mr. Jenkins, Mr. Wamp, Mr. Lewis of Kentucky, Mr. Calvert, Mr. Shaw, Mr. Gallegly, Mr. Herger, Mr. Nethercutt, Mr. Chabot, Mr. Gilchrest, Mr. Bonilla, Mr. Goss, Mr. Tiahrt, Mr. Upton, Mr. Thornberry, Mr. Skeen, Mr. Hill, Mr. Cooksey, Mr. Peterson of Pennsylvania, Mr. Riley, Mr. Salmon, Mr. Watkins, Mr. Fox of Pennsylvania, Mr. Sununu, Mr. Porter, Mr. Sensenbrenner, Mr. Stump, Mr. Gilman, Mr. Hansen, Mrs. Kelly, Mr. Bunning of Kentucky, Mr. Royce, Mr. McCrery, Mr. Bilirakis, Mr. Rogers, Mr. Smith of Michigan, Mr. Hastings of Washington, Mrs. Fowler, Mr. Camp, Mr. Bob Schaffer, Ms. Dunn of Washington, Mr. Forbes, Mr. McInnis, Mr. Dickey, Mrs. Myrick, Mr. Mica, Mr. Franks of New Jersey, Mr. Frelinghuysen, Mr. Radanovich, Mr. Wolf, Mr. Weldon of Florida, Mr. Norwood, Mr. DeLay, Mr. Packard, Mr. Redmond, Mr. Metcalf, Mr. Hastert, Mr. Ewing, Mr. Pappas, Mr. Latham, Mr. Hutchinson, Mr. English of Pennsylvania, Mr. Coble, Mr. Barr of Georgia, Mr. Shadegg, Mr. Fossella, Mr. Lewis of California, Mr. Hayworth, Mr. Ryun, Mr. Kolbe, Mr. McCollum, Mr. Deal of Georgia, Mr. Souder, Mr. Hoekstra, Mr. Snowbarger, Mr. Ehrlich, Mr. Gillmor, Mr. Blunt, Mr. Manzullo, Mrs. Roukema, Mr. Regula, and Mr. Riggs):

H.R. 4125. A bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates; to the Committee on Ways and Means.

By Ms. DUNN of Washington:

H.R. 4126. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Ways and Means.

By Mr. GALLEGLY (for himself, Mr. Etheridge, Mr. Davis of Florida, and Mr. Olver):

H.R. 4127. A bill to give gifted and talented students the opportunity to develop their capabilities; to the Committee on Education and the Workforce.

By Mr. GOODLATTE:

H.R. 4128. A bill to amend the Soil Conservation and Domestic Allotment Act to ensure that States and local governments can quickly and safely remove flood debris so as to reduce the risk and severity of subsequent flooding; to the Committee on Agriculture.

By Mr. HASTINGS of Washington (for himself and Mr. Dicks):

H.R. 4129. A bill to transfer administrative jurisdiction over certain parcels of land in the State of Washington from the Secretary of the Interior to the Secretary of Energy and to transfer administrative jurisdiction over certain parcels of land in the State of Washington from the Secretary of Energy to the Secretary of the Interior; to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFNER (for himself, Mr. Murtha, and Mr. Gibbons):

H.R. 4130. A bill to amend the Generalized System of Preferences program to include unwrought titanium among the list of articles that may not be designated as eligible articles; to the Committee on Ways and Means.

By Ms. LOFGREN:

H.R. 4131. A bill to provide grants to local educational agencies that agree to begin school for secondary students after 9 in the morning; to the Committee on Education and the Workforce.

By Mr. MANZULLO (for himself, Mr. Crane, Mr. Weller, and Mr. Matsui):

H.R. 4132. A bill to amend the Internal Revenue Code of 1986 to allow physicians and dentists to use the cash basis of accounting for income tax purposes; to the Committee on Ways and Means.

By Mr. METCALF:

H.R. 4133. A bill to amend the Impact Aid program to provide for computation of payments to local educational agencies under that program based on eligible federally connected children living in military housing constructed pursuant to limited partnerships with private developers; to the Committee on Education and the Workforce.

By Mrs. THURMAN:

H.R. 4134. A bill to amend the Internal Revenue Code of 1986 to permit year 2000 computer conversion costs to be expensed by small businesses under section 179 and to provide a $20,000 increase in the limitation under section 179 for such costs; to the Committee on Ways and Means.

By Mr. TOWNS (for himself, Mr. Shays, Mr. Barrett of Wisconsin, Mr. Burton of Indiana, and Mr. Waxman):

H.R. 4135. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish a program for the collection of information relating to the use of children and individuals with mental disabilities as subjects in biomedical and behavioral research; to the Committee on Commerce.

By Mr. WISE (for himself, Mr. Ney, Mr. Oxley, Mr. Rahall, Mr. Mollohan, Mr. Goode, Mr. Boucher, Mr. Baesler, Mr. Spratt, Mr. Pickett, Mr. Boehner, Mr. Bachus, and Mr. Whitfield):

H.R. 4136. A bill to establish provisions regarding a proposed rulemaking under the Clean Air Act with respect to the transport, in the eastern portion of the United States, of ozone pollution and oxides of nitrogen and to amend the Clean Air Act to provide a 2-year period prior to the statutory reclassification of areas that fail to attain the national ambient air quality standard for ozone; to the Committee on Commerce.

By Mr. YOUNG of Alaska:

H.R. 4137. A bill to restore the second amendment rights of all Americans; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. Fox of Pennsylvania, Ms. Kaptur, Mr. Bob Schaffer, and Ms. Slaughter):

H. Con. Res. 295. Concurrent resolution expressing the sense of Congress that the 65th anniversary of the Ukrainian Famine of 1932–1933 should serve as a reminder of the brutality of the government of the former Soviet Union's repressive policies toward the Ukrainian people; to the Committee on International Relations.

By Ms. LOFGREN:

H. Con. Res. 296. Concurrent resolution expressing the sense of Congress that secondary schools should consider starting school after 9:00 a.m.; to the Committee on Education and the Workforce.

By Mr. FAZIO of California:

H. Res. 492. A resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. THORNBERRY:

H. Res. 493. A resolution expressing the sense of the House of Representatives that the Secretary of Agriculture should provide timely assistance to Texas farmers and livestock producers who are experiencing worsening drought conditions; to the Committee on Agriculture.

By Mr. UNDERWOOD (for himself, Mr. GINGRICH, Mr. GEPHARDT, Mr. YOUNG of Alaska, Mr. MILLER of California, Mr. ABERCROMBIE, Mr. BECERRA, Mr. BONIOR, Mrs. BONO, Mr. CLAY, Ms. CHRISTIAN-GREEN, Mr. CUNNINGHAM, Mr. DOOLEY of California, Mr. ENGLISH of Pennsylvania, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FROST, Mr. DEFAZIO, Mr. FILNER, Mr. GALLEGLY, Mr. GILCHREST, Mr. GILMAN, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLDEN, Mr. KENNEDY of Rhode Island, Mr. LAFALCE, Mr. LANTOS, Ms. JACKSON-LEE, Mr. JONES, Mr. MARKEY, Mr. MATSUI, Mr. MCGOVERN, Mr. MEEHAN, Mrs. MEEK of Florida, Mrs. MINK of Hawaii, Ms. NORTON, Mr. ORTIZ, Mr. PALLONE, Mr. PASTOR, Mr. POMBO, Mr. RADANOVICH, Mr. RANGEL, Mr. ROEMER, Mr. ROMERO-BARCELO, Ms. ROYBAL-ALLARD, Ms. SANCHEZ, Mr. SAXTON, Mr. SERRANO, Mr. SKELTON, Mr. STUMP, and Ms. STABENOW):

H. Res. 494. A resolution expressing the sense of the House of Representatives that the United States has enjoyed the loyalty of the United States citizens of Guam, and that the United States recognizes the centennial anniversary of the Spanish-American War as an opportune time for Congress to reaffirm its commitment to increase self-government consistent with self-determination for the people of Guam; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 774: Mr. ALLEN.

H.R. 866: Mr. LUTHER.

H.R. 979: Mr. QUINN, Mr. HULSHOF, Mr. HALL of Texas, Mr. SHUSTER, and Mr. EDWARDS.

H.R. 1166: Mr. HEFLEY.

H.R. 1231: Mr. NORWOOD.

H.R. 1320: Mr. PETERSON of Minnesota.

H.R. 1376: Ms. STABENOW and Mr. MEEKS of New York.

H.R. 1382: Mr. CONYERS, Mr. WEYGAND, Mr. ACKERMAN, Mr. HOLDEN, and Mr. GILMAN.

H.R. 1656: Mr. SNYDER.

H.R. 1828: Mr. LUTHER.

H.R. 1831: Mr. LUTHER.

H.R. 2021: Mr. PITTS.

H.R. 2023: Mr. MCDERMOTT and Ms. ROYBAL-ALLARD.

H.R. 2250: Mr. BOUCHER.

H.R. 2365: Mr. RANGEL.

H.R. 2524: Mr. MCGOVERN.

H.R. 2544: Mr. SENSENBRENNER, Mr. BROWN of California, Mr. BARCIA of Michigan, Mrs. TAUSCHER, and Mr. COOK.

H.R. 2593: Mr. GORDON and Mr. FORD.

H.R. 2623: Mr. PARKER, Mr. THOMPSON, Mr. WICKER, and Mr. PICKERING.

H.R. 2661: Mr. GOODE, Mr. CALVERT, and Mr. KNOLLENBERG.

H.R. 2821: Mr. SHAYS.

H.R. 2970: Mr. LOBIONDO.

H.R. 2971: Mr. BARCIA of Michigan.

H.R. 2995: Mr. NUSSLE, Mr. MATSUI, Mr. GREEN, Ms. KILPATRICK, Mr. FALEOMAVAEGA, Mr. WAXMAN, and Mr. FATTAH.

H.R. 3050: Mr. ENGEL.

H.R. 3081: Mr. HILLIARD.

H.R. 3125: Mr. HOBSON.

H.R. 3152: Mr. SAM JOHNSON.

H.R. 3262: Mr. DEFAZIO.

H.R. 3511: Mr. BROWN of Ohio, Mr. CRAMER, Mr. CHAMBLISS, Ms. KAPTUR, Mr. PAUL, and Ms. DEGETTE.

H.R. 3514: Mr. TOWNS.

H.R. 3523: Mr. BOSWELL, Mr. SNOWBARGER, Mr. FORD, and Mr. SOLOMON.

H.R. 3555: Mr. MCGOVERN.

H.R. 3567: Mr. FORBES.

H.R. 3605: Mr. BRADY of Pennsylvania and Mr. TRAFICANT.

H.R. 3632: Mr. EWING and Mr. PAPPAS.

H.R. 3636: Mr. PICKETT, Mr. NEAL of Massachusetts, Mr. CALVERT, Mr. TOWNS, Mr. MCGOVERN, Mr. PORTER, Mr. JEFFERSON, Mr. LIPINSKI, and Mr. HINOJOSA.

H.R. 3637: Ms. SANCHEZ, Mr. EDWARDS, Mr. BARRETT of Wisconsin, Ms. ROYBAL-ALLARD, Mrs. THURMAN, and Ms. BROWN of Florida.

H.R. 3795: Mr. HINCHEY.

H.R. 3807: Mrs. CUBIN and Mr. GOODE.

H.R. 3812: Mr. HUTCHINSON.

H.R. 3814: Mr. MCNULTY, Ms. LOFGREN, Mr. EHLERS, Mr. HASTERT, Mr. SCARBOROUGH, Mr. BERMAN, Mr. NADLER, Mr. WELLER, and Mr. LATOURETTE.

H.R. 3828: Mr. BOUCHER, Mr. DOOLEY of California, Mrs. BONO, Mr. PICKERING, and Mr. DAVIS of Illinois.

H.R. 3879: Mr. MCINTOSH, Mr. CALVERT, and Mr. BILBRAY.

H.R. 3888: Mr. EHRLICH.

H.R. 3890: Mr. MENENDEZ, Mr. MARKEY, Mr. TOWNS, Mr. ENGEL, Mr. LANTOS, Mrs. MORELLA, Mr. WAXMAN, and Mr. ABERCROMBIE.

H.R. 3945: Mr. PAPPAS, Mr. MCCOLLUM, Mr. MANZULLO, and Mr. SOUDER.

H.R. 4019: Mr. FALEOMAVAEGA.

H.R. 4022: Mrs. EMERSON.

H.R. 4056: Ms. DUNN of Washington.

H.R. 4070: Mr. ACKERMAN and Mr. MOAKLEY.

H.R. 4078: Ms. MILLENDER-MCDONALD.

H.R. 4086: Ms. NORTON, Ms. KILPATRICK, Ms. CHRISTIAN-GREEN, Mr. HILLIARD, Mr. GREEN, and Ms. WOOLSEY.

H.R. 4093: Ms. KILPATRICK and Ms. ROYBAL-ALLARD.

H.R. 4110: Mr. SMITH of New Jersey, Ms. BROWN of Florida, Mr. BILIRAKIS, Mr. REYES, Mr. EVERETT, Mr. SNYDER, Mr. HAYWORTH, Mr. RODRIGUEZ, and Mrs. CHENOWETH.

H.R. 4120: Mr. FORBES.

H.J. Res. 123: Mr. BUYER, Mr. BALDACCI, Mr. CONDIT, Ms. GRANGER, Mr. KANJORSKI, Mr. RAHALL, Mr. BOEHLERT, Mr. KIND of Wisconsin, and Mr. CLEMENT.

H. Con. Res. 126: Mr. MARKEY, Mr. ADAM SMITH of Washington, Mr. BILBRAY, and Mr. HEFLEY.

H. Con. Res. 249: Mr. SPRATT.

H. Con. Res. 274: Mr. SERRANO, Mr. SANDLIN, and Mr. WATTS of Oklahoma.

H. Con. Res. 290: Mr. GILLMOR, Mr. BEREUTER, Mr. SKELTON, Mr. THUNE, Mr. COMBEST, Mr. CANADY of Florida, and Mr. FOLEY.

H. Con. Res. 292: Mr. CHABOT.

H. Res. 333: Mr. MALONEY of Connecticut.

H. Res. 381: Mr. SALMON and Mr. DAVIS of Florida.

H. Res. 460: Mr. BURTON of Indiana, Mr. FILNER, Mr. HALL of Ohio, Mr. CUNNINGHAM, Mr. VENTO, Mr. FARR of California, Mr. FROST, and Mrs. KELLY.

H. Res. 479: Ms. HOOLEY of Oregon and Mr. MILLER of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4104

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 9: Page 53, beginning on line 23, strike section 409.

H.R. 4104

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 10: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds made available in this Act may be used to implement, administer, or enforce Executive Order 13087 of May 20, 1998 (63 Fed. Reg. 30097).

H.R. 4104

OFFERED BY: MR. TIAHRT

AMENDMENT NO. 11: Strike section 516 (relating to coverage under chapter 89 of title 5, United States Code, for contraceptive drugs, devices, and services).

SENATE—*Wednesday, June 24, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, whose presence is the source of strength for leaders, we join with the psalmist in affirming our trust in You. "I am continually with You. You hold me by my right hand. You guide me with Your counsel."—Psalm 73:23-24. This both comforts and challenges us. New assurance surges within us when we remember that You are always with us to give us wise guidance and counsel for our leadership and decisions. We are also alarmed by how often during the day we think we are in control and forget to seek Your wisdom.

Now, in the quiet of this moment, if there is a chip on our shoulder, we ask You to replace it with Your hand and to replenish our physical resources, our mental resiliency, and our spiritual responsiveness to You. Change our attitude from ho-hum acceptance of just another day to heightened expectation of a truly great day filled by surprises of Your interventions to help us succeed. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. LOTT. I thank the Chair.

APPRECIATION TO THE SENATE CHAPLAIN

Mr. LOTT. Mr. President, I express my appreciation, and I believe the appreciation of the Senate, to our Chaplain for his wonderful prayers for the Senators, for the Senate, and for the country.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will resume consideration of the Coverdell education conference report. Under the previous order, after the expiration or yielding back of debate time, the Senate will proceed to vote on the adoption of the conference report. That vote is expected to occur at approximately 11:30 a.m. Following that vote, the Senate will immediately resume consideration of the defense authorization bill.

It is my hope that the defense bill can be concluded soon, hopefully today, certainly tomorrow. In that vein, I want Senators to be on notice that we will plan on working into the night. I have tried very hard all year, and since I have been majority leader, to be sensitive to night sessions so that Members can be with their families, but we must get more work done. We must get this bill done. So Senators can expect a vote around 8 o'clock tonight. That may be moved a little bit one way or the other depending on how the debate is going, but we will have a vote on the defense authorization bill, an amendment, or on a judicial nomination tonight. So just make your plans to be here around 8 o'clock. If the committee wants to continue to work after that, they should do that also.

So Senators should be on notice that we could very well be in session late Thursday night, and they should be prepared to have votes Friday afternoon at around 2 o'clock. So if you have flights out of here Thursday night, cancel them unless you want to miss some votes. If you plan on leaving Friday morning, cancel it, unless you want to miss some votes. We will be voting as it now stands Friday afternoon. It may be on DOD, if we haven't completed it; it may be on a conference report. It could be on IRS reform and restructuring. I don't think any Senator would want to miss a vote on that conference report. If we could get some more cooperation around here, which we have not been getting, we could maybe not have to do that. But we are going to act on this authorization bill, we are going to move toward appropriations bills, we are going to do conference reports, and we are going to do nominations.

I asked the Senate to help me. The Senate has not been doing that. And so we will be voting tonight, Thursday night, and Friday afternoon. In fact, I don't have to leave until Saturday afternoon late so I would be delighted to stay here. This sword can be pointed both ways. But we have to go to work, and we have to cooperate with each other on behalf of the country. We are talking about defense authorization. Is there a more important bill we will do this year? We are developing a hollow military. We are not funding defense adequately, and yet we have military men and women steaming all over the world, stretched to the limit. It is ridiculous that we are here arguing over details when we ought to be acting on this very important bill.

If you have amendments, what are you waiting on? Get over here and offer them, because I have already heard, "Well, I haven't had my chance yet." This is the sixth day, I believe, we have been on this bill. If you have an amendment, come offer it. Otherwise, I would like to move to third reading and just let the chips fall where they will because enough is enough. If you have an amendment that is important, you should be over here at 11:30 to offer it as soon as we go back to that bill.

Rollcall votes should be expected throughout the day. We are still working to try to get an agreement on the Higher Education Act. There is a great deal of irresponsibility on that act; Senators are saying, oh, I have two, three, six amendments. This bill expires, the authorization expires July 1, and we are not going to have it passed in the Senate. I think that is a real problem also.

I mentioned the IRS reform conference report. We have at least four appropriations bills that are ready, and we would like to work with both sides to see if we could not clear some Executive Calendar nominations. For instance, the Amtrak board, if we don't approve the board by July 1, the Amtrak authorization expires. Now, anybody who wants their Amtrak efforts last year to be for naught better be thinking about it, because if we don't get the authorization, we don't get the reforms, we are not going to get the money in the future. I have been a supporter of Amtrak, but I said last year it is the last time. We are going to do it right or we are not going to get the money we need in the future.

In conclusion, Mr. President, I again thank Senator COVERDELL and his colleagues on both sides of the aisle who have worked on this very important education bill. I am excited, honestly excited, that we are about to pass one of the most important education bills that the Senate has acted on in years to encourage more savings for our children's education, for their needs. That is certainly worthwhile.

I particularly note that in addition to Senator COVERDELL, Senator TORRICELLI has been very helpful, sticking to his guns against a lot of opposition. It would encourage prepaid tuition. Twenty-one States have that program. My State has that program. It will be very helpful to get tax benefits of prepaid college tuition. Also, we should encourage employers to give employees benefits for pursuing higher education. This is a really great bill. I believe it will pass with a wide bipartisan margin, and I believe that education will benefit and children in America will be better off because of it.

So I thank those who have been involved. I think it will be one of the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

most important things that we have done this year. I hope the President will find it in his heart to sign this legislation.

I yield the floor, Mr. President.

(Mr. ALLARD assumed the Chair.)

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. LOTT. Mr. President, I would be glad to yield to the distinguished President pro tempore.

Mr. THURMOND. I thank the able majority leader for his remarks and his plan of action. It is the least we can do in the Senate to cooperate with him. He has outlined the procedure here to get results, and we all ought to help him all we can to go forward with this bill and other matters before the Senate.

Mr. LOTT. I thank the Senator.

I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EDUCATIONAL SAVINGS AND SCHOOL EXCELLENCE ACT OF 1996—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 2646, which the clerk will report.

The assistant legislative clerk read as follows:

> Conference Report on H.R. 2646 to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Massachusetts, Mr. KERRY, is recognized to speak up to 10 minutes.

Mr. KERRY. Mr. President, it is my understanding I have available some leadership time, so I yield myself additional time, if necessary, under the leadership time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I just heard the majority leader call this one of the most important bills for education that the Senate could pass, and he hoped that the President would sign it. I regret that I must disagree with the judgment of the majority leader. This could have been one of the most important bills that we pass. We had an opportunity in the Senate to be able to really deal with the broad issue of education reform and the education needs of our Nation, but this bill does not do it. What it does do, it does in a way that winds up being a perpetuation of the divisions in our country between those who have and those who do not, and a division between our school communities in what is available to our children to be able to get the best education in our country.

So I would not only say to the President don't sign it, I would say veto it. This is a bill that, in its current form, deserves to be vetoed. Why? The bill is definitely better than the bill that left the floor of the Senate. It is better because the Gorton amendment, which put all of our education assistance into a block grant, is gone. It is gone for good reason, because it would be an enormous mistake to make that judgment in the country where education is in such enormous need of help. Education now, obviously, is the most important focus of the Nation in terms of revitalizing our democracy, making a skilled labor pool available to all facets of our high value-added job base, to the technology future we know is coming, and to the management of information, all of which requires a first-rate elementary and secondary school system. This bill, regrettably, through the Gorton amendment, would have diminished our ability to achieve that.

The bill, also, in its current form, doesn't do any of that—and I will speak to that in a moment.

The second reason why it is better in its current form is that the bill no longer has a prohibition on the ability of people to implement testing standards. Obviously, at a time when our schools are struggling to be able to produce a verifiable and accountable product, it is critical for us not to deprive those schools of the ability to adhere to some kind of national measurement of what we are and are not achieving. Parents all across this Nation want to know that their children are, indeed, learning something. So it is important that we now have empowered the schools to be able to conduct some kind of a test that measures that, on a voluntary basis. It allows them to say, "Here is what they are accomplishing in California, here is what they are doing in Massachusetts, here is what they are doing in Georgia. Is there something that we are not doing in our State that maybe we ought to that would allow us to be able to do a better job?"

So that is why it is better. The answer to the question why this particular bill still deserves to be vetoed is very simple. I am in favor of a savings program for our parents to be able to send their kids to school, and particularly to a school of choice. This bill, in wisdom, says: Private, parochial, public—you choose. That is good. That is part of what this country is. But the basic choice that it is giving to those parents is, in my judgment—I say this respectfully to my friends who support it—fundamentally flawed because, according to the Treasury Department, 70 percent of the benefit of the savings account given in this bill will go to the top 20 percent income earners in America.

I know my colleague will try to refute that, but the facts are the facts. If you earn $45,000 or less in this country, the tax benefit to you through this bill is $2.50, on average. But if you are in the higher income-earning area, because of the benefit of a tax credit, you will get upwards of $96 or so. So what this bill does is comfort the comfortable and do very little to assist the problems of those who are in the most challenged areas of our school system in this Nation. And that is wrong.

I asked my colleagues how they can come to the floor of the U.S. Senate for the last 3½ weeks—the Senator from Texas, Senator GRAMM, the Senator from Missouri, Senator ASHCROFT—with this extraordinary concern for the working poor of America. By God, we weren't going to pass a tax bill in this Senate that somehow fell disproportionately on blue-collar, working-class people who went out and bought a pack of cigarettes. For weeks the Senate was subjected to the notion that our friends on the other side of the aisle really do care about working people and the burden that they bear. And the first bill to come along after that debate turns around and offers a classic Republican giveaway to those who are already earning the most in America.

The second reason why this bill, I think, deserves to be rejected is it really does not deal with the problems of our school system today. It just does not deal with them. It is all well and good to say to a parent: "We are going to give you this tiny little bit of savings. If you earn less than $45,000 a year, you are going to get $2.50." That is amazing. You are not going to be able to do much with that. And if you are even in the upper end, let's look at what they get. On an annual basis maybe in the $90 range, somewhere like that—$96.

What is lacking in our schools is far more profound than what this bill is ever going to address. All across this country we have secondary and elementary schools that are failing. We also have some extraordinarily successful public schools in the country. We designate some of them annually as blue ribbon schools, and the Department of Education singles them out and gives them an award for being a very special school.

I have taken some time to go into those schools to try to find out why is one school a blue ribbon school and another school, maybe 10 blocks away or two districts away, is failing. Almost invariably you will find in the school that is a success a hybrid relationship that has been built up between the school committee and the school board and the teachers and the principal. And absolutely without fail, in the school that is very successful you will find a principal who is extraordinarily capable, energized, very skilled in leadership capacity, who has worked out a very special relationship with the school board so they can move teachers who need to be moved who are not performing correctly, who has brought parents into the school, and who has created a dynamic in that school that makes it special.

In effect, what has happened is that in those successful schools, you have effectively created a kind of charter school. What I proposed last week in some public comments is the notion that what we really ought to be doing, if we are going to talk about education reform, is figure out how we stop talking past each other in the U.S. Senate, how we stop bringing these sort of Band-Aid, stop-gap measures to the floor, pretending that we are dealing with education reform in America with $2.50 to $96, when the real issue of education reform is how do you create accountability in a system that is imploding on itself? How do you create a system where teachers can be brought in, even from the liberal arts, rather than just from the education monopoly that we have created? How do you create a system where we are going to attract a whole new wave of principals with the capacity to offer the kind of leadership I have talked about? How do you create a system where you can move those teachers out of the system who are burnt out, or who are unwilling to improve sufficiently to raise our kids to the standards that we want? These are the real issues of education reform.

We are going to lose 2 million teachers in America in the next 10 years. We have to hire an additional 2 million teachers. If we are reduced to hiring from the current pool that is available, a pool where we know the SAT scores and the ACT scores are universally lower than in any other discipline that tests in the United States—that is the pool—and that we lose 40 percent of those teachers in the first 4 years, we are asking ourselves a set of very serious questions that are not being asked on the floor of the U.S. Senate. You cannot attract teachers out of most of the colleges that I represent in Massachusetts, whether it is the University of Massachusetts or BU or MIT or Boston College or any number of schools—Clark University, you name it. We have 136 of them in our State, one of the best networks of universities and colleges in America.

But when I go to those campuses, and I turn to the kids, and I say, "Are you thinking of teaching?" I might get one hand raised out of 150. And one of the primary reasons for that is, you cannot tell a kid who has $20,000 to $50,000 to $100,000 worth of student loans that it is of value to them to go teach when they are going to be fundamentally indentured servants for the rest of their lives. If they get a master's degree and maybe even a Ph.D., they can eke their way up into the high forties, fifties, sixties in some school systems, but their peers are going to be earning a lot more than that.

We do not value teaching in America. We pretend we do, but we do not value it. We have left our schools in a state of chaos, where they are competing with districts that have a lot more money, a lot more security, a lot more capacity to make ends meet. And then we wonder why things are imploding. This bill does not do anything to really help that, except, I might add, to encourage the flight from the school system that is already in trouble.

Mr. President, I have news for my friends in the U.S. Senate. There are not enough vouchers, there are not enough savings programs to go around to save the public school system, which is the place where 90 percent of the children of America go to school. So you give a few vouchers and you give a few savings plans, and a few kids are going to opt to go to a parochial school or somewhere else, but, meanwhile, what is happening to pull that other system back from the brink?

I have heard people make the argument, it is immoral to leave 1,000 kids in the Washington, DC system, for instance. And the answer is, yes, it is. But it is even more immoral to say that we are satisfied, as the richest Nation on the face of the Earth, to simply save the 1,000 and not do something for the other 4,000 that are left behind.

That is essentially what this bill says. It says that it is OK to come along and offer the wealthiest people in America, who already have the best school systems, a little more help to take their kids out of the system that most needs help today.

I think we ought to find ourselves in a middle ground. I believe the whole teacher certification process needs change. If we are going to attract 2 million new teachers of the quality that we want, we need desperately to change the way in which we have created this education monopoly within the teacher certification process. We need to be able to attract even liberal arts graduates, people out of government, people out of corporations, and bring them into the system and let them teach.

We need to liberate our principals from the layers of bureaucracy that are literally snuffing out creativity in too many of our schools. We need to encourage the capacity of teachers who have burnt out or do not want to pursue further skills and raise the standards of the schools. We need to find ways to encourage them, decently and in a humane way, to move to some other discipline or at least to raise the standard within that school. And we clearly need to provide principals the ability to be able to manage locally and make things work.

You look at what is happening out in Chicago with Mayor Daley who has instituted a tough system. If kids fail a class during the year, they take summer school. And if they fail the summer school, they repeat the grade. And the way he did it was by breaking through bureaucracy and breaking through the system and making certain that he was going to be able to institute that as the mayor, regardless of where the politics of the school board and everybody else were.

I believe that that is the kind of effort that the U.S. Senate ought to be encouraging broadly across this country. That is the kind of real reform that is going to make a difference in teacher tenure, which needs to be changed. Teacher certification needs to be changed. Teacher pay needs to be changed. Principals and accountability need to be changed. Recruiting of teachers across the country needs to be changed.

How much time have I used?

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. KERRY. I have used—

The PRESIDING OFFICER. You have used 5 minutes of leader time.

Mr. KERRY. So I used all the time available?

The PRESIDING OFFICER. That is correct.

Mr. KERRY. I simply say to my friend from Georgia, I hope the time will come that we will get both sides of the fence here talking about real, broad, systemic reform that will save the public school system of this country.

Mr. COVERDELL. Mr. President, I am going to yield 5 minutes to the distinguished Senator from Connecticut.

Before the Senator from Massachusetts leaves, I just have to make this point, that the families who are eligible to participate in these savings accounts are identical, the very same families and same criteria designed by the President for his savings accounts that we passed last year and celebrated on the White House lawn. There is not one comma different. We cannot celebrate it on the one hand, the President's savings accounts, and say this one is just for the wealthy. They are the same.

I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the President and thank my friend from Georgia.

Mr. President, as the remarks from my friend from Massachusetts indicate, there is a broad and shared concern about the quality of education in our country today that is felt by every Member of this Senate. And I think the question is, What do we do about it?

Can we go from that concern to making something happen that will improve the future of our children?

There is no cure-all here. The way to begin is with a simple, small, but potentially significant idea such as that involved in these education savings accounts. The question is, Will we break out of our own sense that our idea is the only idea that will work and listen to those who have a different idea or get together on common ground to allow 1,000 flowers to blossom, to allow doors to open up, to allow a host of reform ideas across this country to be tried?

That is exactly the spirit of the education savings account bill before us. This is not a bill that comforts the comforted. This is a bill that lightens the burden on the overburdened middle class families of this country who are struggling to enable their children to realize their dream of a better education and therefore a better life ahead of them.

As the Senator from Georgia says, the income limits in this bill are exactly what they were in the bill that we all voted for. It had strong bipartisan support last year. The Joint Tax Committee analysis of this bill says that 70 percent of the tax benefit from these expanded savings accounts will go to families with annual incomes of less than $75,000. That is the middle class—working, struggling, trying to find a way to get their kids to rise on the ladder of American life, and knowing that the way to do that is with a better education.

Mr. President, it is true, there are very few poor families who are going to be able to afford to take advantage of this bill. Some will. But I say to my colleagues who want to help the poorest families, support the school choice voucher scholarship bill that Senator COATS and I have put before this Senate and that we will offer as an amendment within the next month or two.

This is a small step forward to encourage parents to do exactly what the President and the Secretary of Education have asked them to do, which is to get more involved in the education of their children, to save—most of the benefit of this bill will be used by parents of kids in public schools. And the truth is, because the benefits of this bill go right on through college and graduate school, most of the savings will be used for college and graduate school.

Mr. President, I know the President of the United States has indicated that he will veto this bill. I appeal to him to reconsider that statement. This is a good bill that ought to be the basis of a broader agreement on how to give the parents and children and teachers and school administrators of our country some room to innovate reform and improve the quality of public education.

I urge the President not to use that veto pen, but instead to ask my colleague from Georgia and others who support this bill to come up to the White House. Let us sit down and reason together and see whether we can use this bill as the basis of a broader agreement on education improvement in our country.

The conference committee, the majority of whom were members of the Republican Party, took some steps in the direction of accommodation. They removed the school block grant and the testing amendments which were objectionable to most Democrats. That creates a spirit of compromise. I urge the President to respond to that by moving toward the sponsors of this bill and seeing if we can attach to it, in some fashion here legislatively, some of the school construction and reduction of school size proposals that are good proposals that the President has made.

The point is, this conference report offers us an opportunity. Let's not respond to it defensively and rigidly. Let's keep in mind not the status quo, those with a vested interest in the status quo of our education system, but the millions of our children who are not receiving a good education in our schools today. Let's give them the opportunity to dream and realize their dreams.

I thank my colleagues. I urge a vote for this conference report.

I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Idaho.

Mr. COVERDELL. Mr. President, I thank the Senator from Connecticut for his arduous efforts on behalf of education reform. I yield up to 10 minutes to the distinguished Senator from California.

Mrs. FEINSTEIN. I thank the Chair and I thank the Senator from Georgia.

Mr. President, when this bill was last before this body, I voted against it. I voted against it because it had some amendments to which I could not agree. Those amendments have been removed by the conference committee. I am very pleased to announce my support for this bill.

To some, this bill will not be politically correct. For me, it is time to try new initiatives in education and to be guided in the future not necessarily by what is politically correct, but by what works in the homes, in the families and in the schools all across this great country.

If this bill encourages savings for education, our country will be better for it. If it encourages parents, grandparents, aunts and uncles to help their families' children become educated, this will be a major achievement. I believe this bill will help. I am happy to support it. I, too, urge the President of the United States reconsider and to not veto it.

I have heard this bill called many things, but let's analyze for a moment what this bill does do. It increases the limit of contributions from $500 to $2,000 for an education savings account which is currently available for postsecondary education. Thus, families will be able to quadruple the annual contributions they can now make into education savings accounts. It allows families to spend the money from these accounts on elementary and secondary education, both public and private.

Of course, there is the rub. Some feel we should not provide anything for private education. I disagree. The bill enables people other than parents—grandparents, aunts, uncles—to contribute to a niece, nephew, or grandchild's education and to get a small tax deduction for so doing. It provides grants to States to implement teacher testing and merit pay programs at a time when everyone is concerned about education and sees that teaching is one of the most productive investments we can make to improve learning. It allows schools to use existing state school innovation funds (ESEA Title IV) funds to reward schools with grants when they demonstrate high achievement. It allows weapons brought to school to be admitted as evidence in any internal school disciplinary proceeding, the bill I introduced with Senator BYRON DORGAN.

Now, the key feature of this bill is that it creates incentives for people to save for education. Some have said this bill benefits the rich. I disagree. These accounts would be available to couples earning under $150,000 a year and to single people earning under $95,000 a year. This will help many Americans.

A major reason I support this bill is that Americans are not good savers. Our current savings rate has dropped from 4.3 percent in 1996 to 3.8 percent in 1997. Americans today save at one-third the rate that people save in Germany, at one-third the rate they save in France, and at one-third the rate they save in Italy.

If this bill encourages people to save for the education of their children—whether they use that in public education, in private education, in religious education—I am all for it. The point is, let's encourage America's families to save for education. If we fail to save for education, if we fail to place a value on education, we will sink as a first-class society. That is what I think is the overwhelming message of this bill—we value education.

As has been said, the Joint Tax Committee has estimated that 58 percent—that is nearly 60 percent—of the tax benefit would accrue to those taxpayers filing 10.8 million returns with children in public schools. In California, out of 13 million tax returns filed, 10.4 million or 78 percent of tax returns reflect earnings under $50,000. The average per capita income in California in 1998 is $28,500. One out of every four students lives with a single parent. This bill could, in fact, help many Californians.

Let's take the example of a family that earns less than $30,000 a year. And if you have a grandparent who could save and contribute, an aunt who could save and contribute, an uncle who could save and contribute, this bill gives them an incentive to save for their grandchild or niece or nephew. Plus, we are saying we value this kind of savings. After all, if we can authorize it for postsecondary education, why don't we authorize it for primary education? The reason is simple: Some people here say you shouldn't provide anything for private schooling. I say if a family can accumulate savings and thus have a choice of whatever school they want their youngster to go to, as long as that youngster receives a good education, is that not really what government is all about?

Mr. President, I am very happy to support this bill. I want to make one other comment. I am particularly pleased that the conferees accepted the Safer Schools Act of 1998. This provision is based upon a bill which Senator DORGAN and I introduced. It ensures that if a student brings a gun to school, the gun will be admissible as evidence in any school disciplinary hearing. As we are all acutely aware, we have seen a wave of tragedy in recent months involving students shooting other students. It goes without saying that schools should be safe places. Schools should be for books and learning, not guns and shooting. So I hope we will take comprehensive action to reduce these tragedies in the coming months. I would like to work with those who want to help do just that.

In the meantime, I am pleased that we are taking this common-sense step today to reduce the risk by ensuring that our schools can safely expel students who bring guns into their school.

In summary, again, to some this bill is simply not politically correct. To me, it encourages American families to save for what is the most vital aspect of American life and that is giving our youngsters a good education. People can put their money into an IRA and they can then use this money based on their own choice for public education, for tutoring, for books and tuition, for private education or for religious education. I believe the time has come to try new initiatives.

I thank Senator COVERDELL, Senator TORRICELLI, and those who have proposed and supported this legislation. I am happy to join with them.

I thank the Chair and I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield myself 5 minutes from the leader's time.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I will oppose the Coverdell education IRA bill. In my view, it provides precious little help to parents and even less help to schools. The IRA provisions of the bill do not provide any real opportunity for schools to improve themselves. In the debate we had here in the Senate, it was clear that most of the efforts to improve the bill and get to what I would refer to as core educational issues were rejected. And one key provision that was accepted has, of course, now been stripped out of the bill by the conference committee; that is, a provision that tries to address the very serious dropout crisis that we have in our schools.

I believe that a failure to give attention to this crisis is perhaps the best example of the limitations of this bill. Each day that there is school in this country, we have an average of 3,000 students between grades 7 and 12 who leave school and leave permanently before graduating. In many schools, the graduating class is half the size of the entering freshman class of 4 years before.

Unfortunately, a disproportionate number of the students who are dropping out are Hispanic. We see that problem in real terms in my home State where our Hispanic population is large. Those students often attend the most overcrowded and least well-equipped schools in the Nation. The vast majority of our dropouts are not Hispanic, though, and they are Anglo students—students from all ethnic and racial backgrounds who are bothered with watered-down classes. They are alienated from large schools where nobody seems to care about the work they do.

To address this problem, I proposed an amendment, along with Senator REED, which was the dropout prevention provision of the bill. The Senate adopted this proposal to provide $150 million in dropout prevention funds to authorize that funding by a vote of 74-26. So, clearly, there was strong support here in the Senate for this initiative.

With this $150 million, we could have provided funding to help schools that have the highest dropout rates, to reduce those dropout rates and transform their educational programs so that students would stay. With the $150 million, we could have taken the first concrete steps toward meeting the bipartisan goal that President Bush and the 50 Governors agreed to back in 1989 when they met in Charlottesville. The goal was that at least 90 percent of our students would complete high school. Despite the obvious need for this dropout prevention effort and the overwhelming support that we had here in the Senate for this amendment, the provision has been dropped from the bill that is before us today.

I believe that the House and Senate need to address these core educational issues. I hope very much that there is an opportunity in the appropriations bills that we consider to have a serious debate and hopefully do better to get the Federal Government on the side of addressing core educational issues.

This conference report that we are going to vote on does little, but it promises much. In that regard, I think the people of the country are being misled about the extent of the effort and extent of the accomplishment that we are talking about today. I was very proud to be with Senator REED, Congressman HINOJOSA, and well-known actress/entertainer Rita Moreno yesterday at a press conference where we talked about the importance of the dropout problem and the importance of getting Federal support to deal with that. I am disappointed that the conference report on this Coverdell bill does not include any provision to help address the crisis.

I intend to vote against the bill.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I yield 5 minutes to the Senator from Louisiana off our side's time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Senator.

Mr. President, I congratulate Senator COVERDELL for his work and Senator TORRICELLI, on our side, who has contributed so much to this debate. It gets down to basics: Are we interested in helping kids and families or helping buildings? I think the clear argument is that we should be helping students and helping families educate their children, wherever they attend school.

One of the arguments against this bill I have heard is that, well, it gives some type of Government assistance to private or parochial schools. I want to address that issue because I think it is not a legitimate concern. I have a book here that is put out by the Department of Education, our Federal department here in Washington. It is a book of all the programs that exist currently where Federal tax dollars are used to help students regardless of where they go to school, as long as it is a legitimate school. This book is full of programs. It has about 70 pages of Federal programs that go to children. If you are poor, if you are disadvantaged, or if you have a disability, you can use that assistance to go to the school you want to go to.

Now, the largest program we have in the Federal Government is Title I of the Elementary and Secondary Education Act. It has been federal law since 1965. Let me read where Title I funds go:

> Elementary and secondary education as originally passed by Congress in 1965. Under this legislation, private school students, private school teachers, private school other personnel are included in the program.

We do that already. We have done it since 1965. One in four schools in the country happen to be private or parochial. We are talking about helping the child get a better education, which is in the national interest. Yet, people say we are breaking a tradition of not helping private or parochial schools. We have bookloads of programs that do exactly that. This bill is consistent with that—completely and totally.

In addition to Title I, which goes to students, like this education savings account goes to the families and students, we have other programs in the book. I will mention one or two. Child nutrition programs—do we not help private/parochial students with child nutrition programs? Of course, we do. It is important. Students with disabilities also get help.

What about students who are not disadvantaged and do not have a disability? Are we going to ignore them? That is the largest group of people out there. I suggest this makes a great deal of sense.

Talk about consistent. Just last year, this Congress, this body, most Democrats, and Republicans as well, voted for the $500 IRA savings account for higher education. It has the same limits on income as this proposal. The only thing we have done is make this for students in K through 12, and parents can set aside a little private money to help the child go to the school that is in their best interest to go to. We are not talking about a voucher; we are talking about a family taking their own money and putting their own money in their own savings account to help educate their child.

It was very clear that the Taxpayer Relief Act of 1997—the President signed it and I congratulate him for participating and signing it—is the same program. It is just that it was for higher education. If you went to Saint Michael's College, you got a $500 savings account. Nobody thought that was an infringement on trying to give Federal aid to private/parochial schools. We all applauded that.

Let's do the same thing for the same families, with the same income limits. Let them, for K through 12, set aside a private savings account and draw interest on it and use it for school expenses for the child. All of a sudden, this is something that is novel, something we have never done before. Of course, we have. We did it last year. We have been aiding those students since 1965 with the largest Federal education in program, Title I of the Elementary and Secondary Education Act.

Students in Louisiana, when they are in a private or parochial school, get the same dollars, the same money, the same program benefits, the same child nutrition programs, and the same education for disabilities assistance. That is part of what our country is about—trying to help educate children. We are not talking about vouchers. We are not talking about doing anything other than help families help their children.

Why do we always ignore middle-income working families? If you are poor, we have a program. If you have a disability, we have a program. If you have other problems and special education needs, you have a program. But if you are middle income and struggling to make it and raise a family and keep the family together, we say no, that is an infringement.

It is time to encourage working middle-income Americans who are struggling, to help them to have more savings to invest in their children's education. Let's not encourage families to say, "I have no interest in it; let the government do it." We are saying let's create an incentive for families, middle-income working families, to help their children K through 12, and not be, I think, arguing that somehow we are breaking new ground, and saying "My God, what are we going to do?" We are doing what we have done consistently since the government has been involved in trying to help many families and help counties and parishes in my State improve the educational systems in their respective.

I commend this bill for our support.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President. I yield myself 5 minutes of leader time.

The PRESIDING OFFICER. Without objection.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, I am delighted that we are here today again to discuss education. It is probably the most critical issue that we have before us in this country. Parents know it. Community leaders know it. Our families across this country want all of us to address the important issues of education so that every child in America, no matter where they come from, have the opportunity to get the American dream in today's society.

Unfortunately, the bill before us—the Coverdell A+ bill, will only help those people who can afford to put away $2,000 a year. Unfortunately, that will not be a lot for parents out there who are worried about their child's education, or the children in our neighborhoods who we all worry about and whether or not they will get the skills they need to go out in the job market and to succeed.

Mr. President, there are ways that we can help every child in America get a good education. I have been on the floor many times to talk about the issue of class size, and how too many children are in overcrowded classrooms today and don't get the individual attention that they need in order to succeed. I have had many young people tell me that when they are in a math class with 35 students, they don't get the opportunity to ask their teacher for individual help when they don't understand. Yet, we sit on this floor and decry the fact that too many of our young children today don't get the skills they need in math and science, so they can go on and be competitive in tomorrow's world. We can make a difference if we reduce class size.

Mr. President, I ask unanimous consent to send a bill to the desk for purposes of introduction today that will address the fact of class size.

Mr. COVERDELL. Reserving the right to object, is the Senator sending a bill to the desk?

Mrs. MURRAY. Just for introduction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I thank the Chair.

Mr. President, the bill I sent to the desk on behalf of myself, Senator DASCHLE and many other Members, will add 100,000 teachers to our workforce across this country so that we can begin the process of making sure that every student has a well-qualified teacher in a class that has a number of students to whom that teacher can pay attention.

Mr. President, this is a beginning step that will make a difference for average children across our country. I think it is essential we address many of the issues I have heard my colleagues talk about.

Senator FEINSTEIN spoke for a moment about violence in school. I have had teachers tell me, I have had police officers tell me there are so many kids in our classes today that they don't get individual instructions. They feel anonymous in our neighborhoods and in our classrooms. And, as a result, we are seeing some of the impacts in our schools today, and we are reading about some of the headlines that we are seeing when violence hits our schools. Reducing class size so that children have individual attention when they need it so they don't feel anonymous makes a difference in addressing those issues.

I heard Senator BINGAMAN talk about dropout prevention. He has done an outstanding job. He has been a leader in our Nation in addressing this critical issue of class size reduction so that children get the attention they need, the help they need which will make a difference in dropout prevention.

Mr. President, I urge my colleagues today to reject the bill in front of us. It does little; it promises a lot. If we really focus on the issues that parents and students and teachers know will make a difference, we can change what is happening in our country today. We have a responsibility to do that.

Thank you, Mr. President.

I retain the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COVERDELL. Mr. President, I yield up to 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

I thank Senator COVERDELL for bringing some creativity into our public education system.

If you talk to parents and teachers in America, it is clear that many of them are frustrated, because they are not satisfied with the education children are getting in our public schools. So we can take one of two approaches to address this problem.

We can take the approach that we will continue to just go along as we have been year after year after year while the money spent on education goes up and up at the same time that test scores go down and our nation's children are increasingly unable to compete. We can do that. But we don't have to.

We have today an opportunity to bring some innovation into our public school system. We can give parents and their children more options and more opportunity at success. That is what the Coverdell bill does, and I thank the senator for his leadership in shepherding this bill through Congress.

This bill adds options—options for parents to give their kids a better chance at success. Under the Coverdell A+ bill, parents will be able to save after-tax dollars and use those funds on a tax-free basis for a whole variety of K-through-college education expenses. Even grandparents can contribute to these education savings accounts. As the cost of college in particular continues to climb, this added savings tool for parents will become essential for more and more American families. But in addition to enhancing the ability of families to save for college, the bill also addresses the need all parents have of supporting their children's elementary and high school education.

I heard Senator BINGAMAN talk about the dropout rate among Hispanics. I am alarmed at that statistic. But I don't understand, knowing that we have this problem, why we can't go forward and say what will take innovative steps to help make our kids more motivated and more able to succeed in school. What can we do?

The Coverdell bill gives families options they do not presently have. It allows parents to set aside an extra amount of money, up to $2,000 each year, to enhance their elementary and secondary education opportunities for their children. One option they will have is to then use that money, tax-free, for private or parochial school, if they feel that is the atmosphere that will be best for their children.

Parents would also have the option of adding tools to enhance their child's education in public school, like buying the child a computer. That would be allowed in the Coverdell bill, and buying a child extra books so that the child can go beyond just what is in the classroom and enhance his or her knowledge; even buying band uniforms, because we know that children who participate in extracurricular activities are the ones most likely to stay in school, to be interested and to do better in school. In fact, we have seen that children who have arts classes do better in the other classes as well. So buying school-related art supplies would be another option that is conceivably allowed under the Coverdell bill.

So as we witness the continued underperformance of our public school system, we are offering through this bill originality and creativity that will save children who might otherwise be lost in the present system.

I am particularly pleased that the conference committee kept my amendment that passed on the Senate floor by a 69 to 29 vote to allow the option of public, single-sex schools and classrooms.

This is not a mandate, of course. But many parents try to send their children to single-sex private schools because they think they will have a better chance in that environment. In fact, many studies show that for some children, single-sex education is their best chance at academic and life-long success. In a single-sex environment, hundreds of thousands of America's children have reported that they are allowed to excel, flourish, and grow, because they are not hampered by the distractions and disruptions that are found in many coed environments.

I am pleased that we have in our education budget an innovative education reform program. It is called title VI. Title VI funds a wide variety of education reform projects, almost anything a school, community, or state feels will be in the best interests of their children and will help improve students' academic performance. And the Department of Education can give grants for these innovative programs.

What my amendment and this bill will do is specifically include single-sex schools and classrooms as one of the innovative education approaches that can be funded under Title VI.

We have an example that has gotten wide notoriety of late. It is the Young Women's Leadership School in East Harlem, in the New York City public schools. This is an elementary school. This school has a 90-percent attendance rate, one of the highest in the New York City public schools. They are well above the average in test scores in both math and English. When interviewed, the girls who go to this school say they love going to school; they feel safe there. And they are excelling. This is a success story.

However, the bad news is the ACLU and the National Organization of Women are suing to close this school, and have filed a complaint with the U.S. Education Department to cut off all the school's federal funding. They say the school violates the constitutional equal protection clause and Title IX of the 1972 Education Amendments Act. In addition to the obvious question of why in the world anyone would want to close this school down when it does so much good for the young girls who attend it, these groups' legal arguments are absolutely wrong. Title IX and the equal protection clause were intended to be protection against discrimination, not against educational enhancements for students who choose to learn in an environment where they can excel. In fact, in the amendment that is in the bill before us, it specifically states that one can offer options of single-sex classes or schools only if comparable opportunities are given for the other sex. That standard is fair, and that standard will protect against any possible discrimination against one sex or the other. In fact, that is why the state of Virginia lost in its defense of the previously all-male Virginia Military Institute, because the state did not offer a comparable educational opportunity for women. Time after time we have seen the courts uphold single-sex schools.

What we want is for every parent in our country to have the same option that a parent who can afford a private school has. The parent who can afford a private school can choose among all the options—single-sex private schools, single-sex parochial schools, coeducation at parochial schools or private schools. They have these options. Parents of public school students do not. This bill and my amendment will allow every family to make these choices and do what is best for their children.

Mr. President, I am very proud that I am a product of public education. I think free, public education is what makes this country different from every other country in the world, because we open our educational system to every child. Why not offer even more opportunity to every child and thereby improve every child's chance to achieve the American dream?

That is what the bill before us does, and that is why I strongly support this bill. I hope it will pass by an overwhelming margin, and I hope the President will see that the bill's benefits to America's families are so great that he could not possibly veto this legislation and halt this historic opportunity to give parents and their children more and better education options.

I thank the Chair. I thank Senator COVERDELL.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from

New Jersey is recognized to speak up to 15 minutes.

Mr. TORRICELLI. I thank the Chair.

Mr. President, first let me say at the end of this long road how pleased I have been to work with the Senator from Georgia. He has reached across the aisle to Senator FEINSTEIN, Senator BREAUX, Senator GRAHAM, Senator LIEBERMAN, and others in making this a genuine bipartisan effort. I admire his leadership and appreciate very much his extended hand that has brought us to this day.

Mr. President, I want at the outset to begin, even at a moment of some personal satisfaction, by stating some considerable disappointment. The 105th Congress was to be the "Congress of education," the time in which America was going to finally face the reality that the great variable in American life is the quality of the education we are affording our children. Recognizing that with a quality education accorded to our children everything—at a time of global competition and rising technological standards—is possible and without it everything is in peril, the President challenged Congress to take leadership in the rebuilding of our schools, the raising of standards through voluntary testing, and the hiring of new teachers to reduce class size. Perhaps this was done because the President, like all of us, recognized that it is late. Forty percent of American fourth graders are failing to attain a basic level in reading; 40 percent of eighth graders are failing basic tests in mathematics. In math and science, America ranks 19th of 21 industrial nations.

Thomas Edison once noted that "discontent is the necessity of progress." Every Member of this Senate should feel discontent because in the year of education, the Congress that was to take up all of these challenges has failed in all but this one last chance.

The Senator from Georgia, Mr. COVERDELL, has worked in the last year to bring before this Congress a simple, a modest but nevertheless an important addition in the fabric of American education, the A+ savings account. This provision returns to the Senate floor from a conference committee without any of the objectionable amendments that I and my Democratic colleagues rightfully found both disconcerting and, indeed, contrary to the efforts to improve educational quality in America. All that remains is the simple and bipartisan effort to provide for working American families the chance to save their own money to educate their own children in the school of their choice.

It is simple, it is direct, but nevertheless it is important. Taken in its most basic form, this is an invitation for $12 billion of new money to enter American education. My colleagues, that cannot be bad. At a time when American schools struggle to pay teachers, to repair themselves, to improve curriculum, new money—without a dollar of taxpayers' contribution—all given voluntarily by American families, cannot be bad, and yet there are objections.

It is claimed that this will be, as you will hear on this floor in the debate to follow, a diversion of public resources, a threat to the public schools. My colleagues, not a dollar, not a dime of public money is being taken from the public schools—nothing. It is all private money. Whatever the public schools got yesterday, after this bill becomes law, they will get tomorrow.

Then it is argued, well, it may not be a diversion from the public schools, but it will help a privileged few.

Mr. President, on the contrary, this Senate last year argued, in establishing almost identical accounts to educate college students, that we should put a cap on this tax benefit—$90,000 for a single parent, $150,000 for a married couple. Under this proposal by the Senator from Georgia, we have adopted the identical income caps—not for the privileged few but for working-class families who want to contribute to the education of their own children.

Like the Senator from Louisiana, Mr. BREAUX, I make no apologies. How many Members of this Senate line up on the Senate floor to either have programs designed for the poor or the privileged few, tax benefits for the rich, or Government programs for the poor? Finally, there is a chance to stand on the floor of this Senate Chamber to help the education of working middle-income, middle-class Americans. And that cannot be bad.

Then it will be said, "Perhaps it doesn't help the privileged few, and perhaps it doesn't divert money from public education, but it doesn't help everybody." If Senators come to the floor to object to every piece of legislation because it doesn't help everybody, they will have a frustrating experience in this Senate. I learned a long time ago never to make the perfect the enemy of the good. We help as many people as we can in each instance when we can, and that is exactly what the Coverdell legislation does.

Mr. President, 70 percent of the families who will benefit from these tax-free savings accounts will be families who earn under $75,000 a year—70 percent. That is the vast majority of the American people. Does it include everybody? No. But the vast majority of Americans will have an opportunity to save under these A+ savings accounts.

Who are these families? And how will it help? In one of the great ironies of this legislation, 75 percent of those families who will benefit now have their students, their own children, in public schools. The greatest beneficiaries are public school students, simply because the overwhelming majority of American students go to the public schools. Under our legislation, the money in these savings accounts can go to buy a home computer, school uniform, and afterschool activity, a school band instrument, books, or—most important, in my judgment—the hiring of a public school teacher after school to be a tutor to a public school student struggling in math or science.

There was an article in the Washington Post a few weeks ago, quoting a young woman, Tiffany Johnson, a high-school senior in Maryland, who said, "It's totally impossible to function [in school] without a computer. . . . It's a big handicap not to have one at home."

Mr. President, 61 percent of all public school students in America today are doing their homework and their school work with no computer—unless they are a minority student. If they are black or Hispanic, 85 percent have no access to a home computer, creating a new stratum in American education that is potentially dangerous economically, educationally, and socially. It is not simply that the A+ savings accounts are the best idea to get computers in the hands of these students, it is not they are the best idea, it is the only such idea before this Congress, because these accounts will allow public school students to purchase that new tool of education.

Then there are those 10 percent of Americans who choose to send their children to private schools. There is a benefit here for them, too, in helping to ease the burden of tuition. In the great cities of America, from New York to Los Angeles to Chicago to Newark and Miami, the parochial private schools in America today almost uniformly are designed to help the working poor. Mr. President, 65 percent of the students in Newark and Camden in parochial schools are black and Hispanic. Their tuition is $1,500, $1,600, $1,800 a year. It cannot be bad that these middle-income, working-class families, struggling to pay these tuitions in these cities, who want an alternative to the public schools, get a chance to save their own money tax-free to pay that tuition.

It is no coincidence, in my judgment, in the last few years in the House of Representatives, the principal Democratic sponsor of this legislation was former Congressman Floyd Flake who, in the heart of Queens, took an African American church, built a school based on people's own savings in a struggling working-class neighborhood, and now says that this, and this singularly, could help those families pay this tuition bill. This is a community that asked for nothing from the Federal Government but to rebuild itself with its own resources. Mr. President, I come here today with the same belief—$12 billion in resources from working families to educate their own children, public and private.

But there is one more thing that is, to me, as exciting as any of these statistics, impacting any of these neighborhoods or communities, and it is this. I remember a time in America where the education of a child was a family responsibility. Communities rushed to choose school board members; parents came after school; grandparents were involved in the grades and the homework. Somehow, in the last generation of America, we decided that education was now the province of bureaucrats and unions and everybody but parents and families themselves.

Senator COVERDELL and I, I hope, if we create nothing else with this legislation, we have provided an invitation to get them back involved in American education, because from the birth of a child these savings accounts are available to grandparents at birthdays, aunts, uncles, churches, unions, employers, to put money in these accounts where everyone is involved, again, in preparing for a child's future. If that money is not used in high school or grade school, every dollar of it can be rolled into a savings account for college that we established last year in the Senate under the leadership of President Clinton.

I believe it is a compelling case. It is not a perfect answer. It does not solve every educational problem in America. But it is an important, if modest, beginning in a great debate.

I have a great hope for this Senate, a great hope, that in the next decade, Democrats, Republicans, liberals, and conservatives will be involved in a fierce competition for who has the best ideas to rebuild American education; who can challenge the American people to do the most for rising standards, greater access to opportunity; who can reach into the heart of our cities and challenge parents that I, and I alone, have the best idea for your child.

This is the beginning of that debate. From here, we can go to school construction, lowering class size, national testing, a host of ideas. And, in spite of my alliance with the Senator from Georgia on this issue so that we have made this bipartisan, I want my party to win that fight. And I believe we can. I think we have the most ideas. I think we have the best ideas. But this idea, nevertheless, is a good idea and it is a beginning. I hope when we vote in a short period of time, we can act together.

Oliver Wendell Holmes, Sr. once said ". . . the greatest thing in this world is not so much where we stand, as in what direction we are moving." This legislation, A+ savings accounts, has America moving, if modestly, in the right direction. I am enormously proud to have been part of this effort. I am grateful to the Senator from Georgia for his leadership and to my Democratic colleagues for participating in what has become this bipartisan effort. I urge my colleagues, by an overwhelming vote, to give their approval to the conference report.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida. Under the previous order, the Senator from Florida is recognized for up to 20 minutes.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent, first, that Mr. Mark Williams, a congressional fellow in my office, be allowed floor privileges for the balance of the debate on this conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Second, I ask unanimous consent that any of the time which I have been allocated but which will be unused will be returned to the minority floor leader of this legislation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I supported this bill when it passed the Senate several weeks ago. And I regretfully rise to oppose this conference report. As has been said by several of the speakers, there are many positive elements in this legislation. I am particularly supportive of those, for instance, which will make it easier for families to plan and prepare for the college/university education of their children and family members through things like the education savings account and the prepaid college tuition plans which Florida and several other States have established. Those are all positives.

When I face legislation at the final vote, there are two questions that I ask of myself. One is, Is this legislation better than the status quo? And, second, If it is better than the status quo, is it sufficiently an improvement to justify the investment of public attention, political energy, and the likelihood that, should this become law, it will be considered this Congress' final statement on this subject?

I find this bill, as it returned from the conference committee, to fail to meet that test. I think this bill is too minimalist in terms of its capacity to identify those major challenges that face this Nation, in terms of education, and to construct an appropriate Federal policy to move us forward in an area that will probably, more than any other, determine our Nation's status into the 21st century—the education of our people.

I believe that this legislation in the conference committee lost its focus. It did not return with the balance that it had when it left this Chamber. I am particularly concerned about the issue of school construction.

Admittedly, I come from a State which has experienced a dramatic increase both in new students entering our school system—40,000 to 50,000 new students every year entering the public schools of Florida—and a State which is reaching a point of maturity where many of its older schools are requiring substantial rehabilitation. And almost all of our schools require the new technologies to bring them up to current standards of educational modernity.

In this legislation, as it left the Senate several weeks ago, there was what I thought was a creative provision, which received broad support in the Senate, which would have encouraged public-private partnerships in the construction and rehabilitation of schools. It would have used a financing technique, called private facility bonds, which has been used effectively in areas such as water and sewer, transportation, and housing for public school construction.

Ironically, a provision almost identical in final impact to what was contained in the Senate version is now being used for private elementary and secondary construction. But for reasons which are inexplicable to me, the conference dropped that provision and therefore will deny, through the Federal Tax Code incentives, the opportunity for many school districts that are facing enormous pressures to be able to utilize that technique as a means of building and rehabilitating schools.

I hope that when we come back to this issue—and that hope is that we will return before this Congress adjourns—that the central role of adequate school facilities in achieving adequate education, and the role which the Federal Government can play creatively in helping us provide those adequate physical facilities, will be reexamined.

I am also concerned, Mr. President, as to a provision which was dropped at the front door but seems to have reentered at the back door relative to block grants for Federal education.

Since the 1960s, the Federal Government has focused its attention on education in three primary areas: One, civil rights; two, the at-risk student, whether that was a handicapped student, a student from a disadvantaged background, or other factors which made that student a greater educational risk and generally a more expensive student to educate than the general student population; and, third, access to higher education through a variety of Federal grants and loans.

There was a provision which many of us objected to which would have provided that those carefully crafted, long-standing pillars of Federal education policy would be collapsed into block grants. I am pleased that that attack through the front door was dropped. But I am concerned that there still is in this legislation an attack through the back door.

I bring your attention to page 12 of the report which outlines the legislation. And under the category of "State Incentives For Teacher Testing And Merit Pay," the first section talks about State incentives through a grant program for teacher testing and merit pay.

I would like to say, as an aside, personally, while I was a member of the Florida State legislature, and later as Governor, I supported concepts of teacher testing, both upon entry into the profession and while in the profession. And we established what we called a career ladder, which was a form of recognition of the superior teacher. So I am, as a matter of policy, inclined to support the principles.

But what concerns me is a provision that says, under paragraph (e), "Notwithstanding any other provision of law, a State may use Federal education funds—to carry out [these two purposes of teacher testing and establishing a merit pay program for teachers]."

As I read this, what we are saying is that we have returned to this concept of a block grant by saying that a State, without any other constraints, because "notwithstanding any other provision of law"—it is not limited to elementary, secondary funds, but all education funds—vocational funds, higher education funds, elementary, secondary funds, maybe even funds for specialized programs such as veterans educational benefits—that a State can collapse all of those funds into a block grant for the purposes of teacher testing and establishment of a merit pay plan. I think that is a very bad educational policy and, in and of itself, makes this conference report unacceptable.

So, Mr. President, I reluctantly will oppose this legislation. I do so in the hope that when the President has exercised his stated intention to veto this legislation, and we are back to ground zero with what should the Congress do relative to a Federal role in enhancing our Nation's educational opportunities for its children and for its adults, that we will come back to this task with a new spirit of bipartisanship, with a commitment to a clear diagnosis of what are the principal shortfalls in our education system, and what the Federal role should be in attempting to overcome those deficiencies.

There is no task more important to our Nation, as we face a new century, than a renewed commitment to education. It will be the key to our ability, in an increasingly globalized economy, to be able to maintain the American standard of living while we are also competitive in the world economy.

The only means by which we will do so will be to assure that each American is as fully prepared to be as productive and as contributing towards our total economy and our total society as they can be because we have given them the opportunity of the best possible education.

Mr. President, again, I regret that we are not able to move forward with this legislation today, but I commend the Senator from Georgia for his very genuine interest and his leadership in this area, and hope that leadership will soon be rewarded. Thank you.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I am sorry to hear that the Senator has come to the conclusion he cannot vote for it. As he knows, I did agree with him on the school construction component and was outvoted. I thought the Senator made a good contribution to the legislation. I yield up to 5 minutes from our side to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I rise today in strong support of the Education Savings and School Excellency Act that is embodied in the conference report which is before the Senate today. I take the opportunity to congratulate and commend Senator COVERDELL for his leadership and, indeed, a bipartisan leadership of Democrats and Republicans attempting to deal with the most important area that we face as a Nation, and that is improving the educational opportunities for our children. That is critical. This bill makes a great contribution to education in a number of areas.

First, it gets parents more involved in educational decisions by increasing the annual contribution limits into a child's education savings account. I can't think of anything better. There are some people who don't want to do that. I don't know why. Why wouldn't you want to give people of modest means the ability to provide for the educational choice that they decide is best for their child?

It increases those accounts from $500 to $2,000, and the bill allows a parent or a grandparent to really make an impact on a child's education. More parental involvement is an absolute critical piece of the educational puzzle. We must do everything we can to give parents more power in education, and that is what this bill does, because when parents have input into educational decisions, the children are winners. It seems all too often that we are worried about everybody but the children. That is what it comes down to. This bill helps parents and children.

In addition to more parental involvement, another critical education reform relates to teachers. We simply must make sure that all teachers are competent in the subjects they teach. Most teachers are, and, indeed, we have dedicated, great teachers who make magic in the classroom. That is why there are particular important provisions in this bill that give to States and will give to local school districts the ability to reward the great and the outstanding educators in the classroom by making merit pay available.

Why not give to the best and the brightest? And why not allow local school districts, working with their teachers, working with their local school boards the opportunity to design programs to do exactly that? Give the best and the brightest the compensation they are entitled to; reward them with merit pay.

Secondarily, why shouldn't we see to it that every teacher who teaches our children is competent and proficient in the subject matters that they are teaching? We can't pay the great teachers enough, but we should attempt to find a system that does reward them. In addition to that, outstanding performances should be recognized.

I am pleased to see that the conference included the merit amendment that Senator MACK and I offered. Indeed, one of our colleagues spoke to it just recently and indicated, wouldn't it be terrible if local school districts could actually draw revenues from other areas for this purpose. I think it is great. Why shouldn't they be able to make that decision? Why shouldn't they set up a system that rewards the competent teachers? Why shouldn't they set up a system where there is regular testing every 3 to 5 years to ascertain who is the best and who is the brightest and who is doing the work for our children?

When we look at reforming our public schools, one thing must always be kept foremost in our efforts: We must put our children first. Our children are the best and the brightest, and they are our most precious resource. A fight to reform our education system is a fight for America's future.

Our children are depending on us, and it is clear that parental involvement, merit pay, teacher competency testing are necessary if we are going to give the children the education they need. The time for talk is over; the time for action is now.

Again, I commend Senator COVERDELL for his outstanding leadership and his dedication to this process, because that is what this bill begins. It is not going to solve all the problems, but it really begins to make a difference and begins to address the area of increasing parental responsibility, giving them the opportunity to make resources available, and to also local districts and States, giving them the opportunity to provide those great teachers with the merit pay to which they are entitled. I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Virginia.

Mr. ROBB. Mr. President, I yield myself 3½ minutes off time chargeable to the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB. Mr. President, I rise in opposition to the conference report, but let me say to the distinguished Senator from Georgia and others that I appreciate the bipartisan effort and spirit that has gone into it in an attempt to formulate a bill that could receive bipartisan support. Indeed, it is evident on the floor today that it has some bipartisan support and will pass by a significant margin.

Let me say also, I agree with the concerns mentioned by the Senator from Florida with respect to some changes that took place in the conference. The Senator from Florida and I served as Governors of our respective States in the early eighties, along with the current President, the current Secretary of Education and others, and all of us had education as the very top priority in terms of things that we were doing.

Let me say with respect to this bill, though, it is, again, about priorities. It is not that this bill does bad things. I continue to support many of the things, and certainly encouraging parents to save for education, but if you only have $1.6 billion to spend in terms of the Federal participation, it seems to me it makes more sense than to spend it on a tax cut that would be about $7 per family to those who are in the public schools and $37 a family in private schools, to spend it where it is most needed.

If 90 percent of our public schools are either in need of repair or overcrowded, we ought to spend that money in terms of building or repairing schools. We ought to spend that money to hire more teachers, and if technology is as important in the world economy today as we know it to be—indeed, as we speak, the World Congress on Information Technology is concluding just across the river with nations throughout the world that are here to discuss information technology—we ought to be spending the money to try to assist schools in connecting to that information technology that is going to be so critical to their future.

I believe if we want to continue to support public education, which I believe is our principal responsibility, then we ought to spend it on those most critical needs, notwithstanding the fact that this bill, as it currently exists, does some good things for education, but it doesn't do the kind of things that, if we only have $1.6 billion to spend, I believe we ought to do.

With that, Mr. President, I yield whatever time I have remaining to the distinguished Senator from California.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, if I could ask a question, it is my understanding that Senator KENNEDY has 10 minutes of his own time.

Mr. KENNEDY. I will take 8 minutes.

Mrs. BOXER. I think I have 4 minutes.

Mr. KENNEDY. I will be glad to yield; if I could have 8 minutes, I yield the other 2 minutes.

Mrs. BOXER. That would be wonderful.

Would the Senator from Massachusetts like to go next?

Mr. KENNEDY. I am happy to have the Senator speak.

The PRESIDING OFFICER. The Senators have 12 minutes collectively.

Mrs. BOXER. Senator DASCHLE gave me 3 minutes of his leader time, so I have 3 minutes from him, the time remaining of the Senator from Virginia, and 2 minutes from the Senator from Massachusetts; what might that add up to?

The PRESIDING OFFICER. The Senator is recognized for up to 7 minutes.

Mrs. BOXER. Thank you very much.

Mr. President, we had such a golden moment in history here in the Senate to do something for our children. Finally, after both parties talked about how much we care about our kids, we had a chance to pass a bill that did something to help them. We had the opportunity to pass an education bill that addressed the real issues that face parents and children every single day. We know what those are.

Kids have nothing to do after school. They sometimes go home to an empty home. We know afterschool programs are critical for these children. We know they lift up those children. We know it improves their scores when they have afterschool programs. The police tell us it keeps them out of trouble at a time when the juvenile crime rate soars. So we did nothing about that. I offered an afterschool amendment on that on the Coverdell bill. We lost by two votes. The people on the other side who today say they are doing so much for education couldn't support afterschool for our kids.

We also know class sizes are too large. We could lower those class sizes. We had such an amendment to the Coverdell bill; down it went. And the amendments that did pass on school construction and dropout prevention, which were offered by people on our side of the aisle, were dropped in conference like a hot potato.

So what comes back to us today? A $7-a-year tax cut for people who send their kids to public school, a $37 tax cut for people who send their kids to private school. This leaves unaddressed issues that face parents and children.

I didn't come to the Senate to be able to go home and say I voted for an education bill just for the sake of saying I voted for an education bill. There is not anything to this bill. "There is no 'there, there,'" as someone once said. We can go home and claim we did something, but I wouldn't do that. I don't want to squander money on things that don't really make a difference in the lives of the people who I represent.

We need to fix up our schools. To hear my superintendent of public instruction back home talk about it, these kids are learning about gravity because the ceiling is falling down on their desk. They are not learning about it from a textbook. But we do nothing. We walk away.

I heard my friend from New Jersey, who is supporting this bill, talk about these issues. He made the best speech I ever heard on education, except nothing that he said is in this bill. What is the point in voting for a bill that takes over $1 billion away from funds we could use for education and gives so little benefit? It really seems to me it is a poor excuse for an education policy.

I am not going to vote for this bill today just to say I voted for something. Education is the No. 1 issue in my State. I came here to make a difference in the lives of the people of my State. If we are going to spend $1.6 billion; it better be on something that helps those children.

In the end I think the President is not going to support this bill. The President has been a very strong leader for really doing something for our children. He calls for tough national standards. That is not in this bill. He calls for afterschool programs. They are not in this bill. He calls for school construction. That is not in this bill. He calls for putting 100,000 new teachers in the classrooms. That is not in this bill.

Some say this is bipartisan. To some narrow extent, it may be but those supporting this bill did not really reach out and sit down with our President. When he was Governor, education was his No. 1 issue, and he tried some good things. We could have had a bill before us that he supported, that we supported, that could have become a good law. We could have had a bill where I could go home and look at kids' eyes in my State and say, "I just did something to make your life better, to give you a good quality education." I cannot do that today. I am extremely disappointed, extremely disappointed.

I hope I live to see the day that we have an action plan for our schools, an action plan for our families, an action plan for our children so I can go home and be proud that I really did something about education.

Mr. MOYNIHAN. Mr. President, President Clinton long ago announced his intention to veto the Education Savings and School Excellence Act. For reasons I will describe in a moment, I oppose this bill and agree with the President's decision to veto it.

However, apart from the merits of the legislation, I do want to thank Chairman ROTH for insisting that the appropriate place for initial consideration of the Coverdell legislation was in the Finance Committee, not on the floor. This legislation was reported by the Committee on February 10, 1998, by a vote of 11–8.

This is one of those infrequent occasions in which Chairman ROTH and I disagree on a policy matter. The good intentions of the proponents of expanding the availability of education individual retirement accounts are clear. However, in my view the proposed changes to the education IRA provisions, passed just last July and effective on January 1 of this year, are fraught with serious policy and technical defects. Secretaries Rubin and Riley have expressed strong opposition to the education IRA provisions in this bill, and President Clinton agrees with their recommendation that he veto this conference agreement.

In a letter to members of the Finance Committee dated February 9, 1998, the Secretaries of the Treasury and Education stated that the education IRA provisions in this bill would disproportionately benefit the most affluent families and provide little or no benefit to lower- and middle-income families. In addition, they indicated that the provisions "would create significant compliance problems." In a letter to Speaker GINGRICH dated June 16, 1998, President Clinton states "If the conference report on H.R. 2646 is presented to me, I will veto it because the A+ accounts that it would authorize are bad education policy and bad tax policy."

Treasury Department analyses conclude that 70 percent of the tax benefits from this provision would go to the top 20 percent of all income earners. In a memorandum of March 2, 1998, the staff of the Joint Committee on Taxation estimates that 52 percent of the tax benefits of the enhanced education IRA provision would to 7 percent of taxpayers: those with dependents already enrolled in private primary or secondary schools. The Joint Committee memorandum indicates that the per tax return benefit for taxpayers with children in private schools will be five times greater than the benefit to taxpayers with children in public schools.

This bill will not result in greater opportunity for middle and lower income families to send children to private schools, as supporters contend. Instead, it will merely provide new tax breaks to families already able to afford private schools for their children. If the proponents are truly concerned about the middle class, the tax benefits should be targeted there. In order to accomplish this, the income limits would have to lowered, and the ability to circumvent those limits would have to be prevented.

Nor will this legislation result in an increase in national savings. The expansion of the education IRA will provide further incentives for taxpayers to shift money to tax-favored accounts, and to spend funds that would otherwise be used for retirement.

Further, the additional complexity these new provisions would add to the Internal Revenue Code is of real concern. Taxpayers are just beginning to become aware of the hundreds of changes made in the 1997 tax bill. And now we are considering additional changes to a provision that became effective on January 1, 1998. More confusion for taxpayers; a boon for H&R Block.

A week after a vote in the House to terminate the Internal Revenue Code for among other things its mind-numbing complexity, we have before us a bill that would create a maze of rules in attempting to define what constitutes as "qualified elementary and secondary education expense." For example, the bill defines such expenses to include computers and related software and services, but how is the IRS to monitor whether a computer (or the use of the Internet) is used by a child for educational purposes or for entertainment, or by the child's parents for unrelated purposes?

Under this bill, the ability to contribute up to $2,000 per year in an account for elementary and secondary education expenses would sunset after 2002. However, money contributed through 2002 could still be used for such expenses. There will be different rules depending on whether contributions were made in 1998, 1999 to 2002, or post-2002. It will be up to the taxpayer to track—and the IRS to examine—when funds were contributed, the earnings on those funds, and whether they can be used for only higher education, or both elementary and secondary education and higher education. Who will understand these rules?

Mr. President, we are already spending enough on IRAs and other tax-advantaged savings vehicles. At a cost of $40 billion over 10 years, the Taxpayer Relief Act of 1997 created the Education IRA and the Roth IRA, and significantly expanded existing IRAs and the tax benefits of State-sponsored prepaid college tuition plans.

Having said all of that, I must also express continued bewilderment at the opposition by the House of applying the income exclusion for employer-provided educational assistance, which is section 127 of the Internal Revenue Code, to graduate students. The conference agreement extends the income exclusion for undergraduates, but once again fails to restore such treatment for graduate studies.

Section 127 is one of the most successful Federal education policies we have. A million persons per year are provided tax-free higher education by their employers; about a quarter of those are students enrolled in graduate-level education courses.

In a world of continuing education, section 127 permits an employer to send an employee to school to learn something new, get a degree, and bring the skills back into the workplace. The employee gets more income, and the Federal Treasury gets more tax revenue. This is a program that works, and it administers itself.

This is a repeat of what took place last year. The Senate version of the Taxpayer Relief Act of 1997 would have made this absolutely easy; it made section 127 permanent for both undergraduate and graduate study. For reasons I will never understand, the Senate language was dropped in conference.

Finally, I appreciate Chairman ROTH'S good faith efforts in working with members on both sides to try and come up with measures designed to address the issue of school infrastructure. Last year, Senators CAROL MOSELEY-BRAUN and BOB GRAHAM brought the issue of crumbling schools to our attention, and they continue to be the leaders in the effort to address this serious problem. Most of use would prefer not to address this issue via the Tax Code, but previous attempts at more direct solutions have been opposed. I am afraid that such opposition has resulted in the nominal tax provision we find in this bill to address a problem that is estimated to cost at least $112 billion—a figure that does not include the cost of building new schools.

Mr. MURKOWSKI. Mr. President, I rise to speak in favor of the conference report on the Education Savings and School Excellence Act.

Mr. President, whenever I return to Alaska, the one issue I consistently hear about is the state of public education. I think it is fair to say that Alaskans and all of the American people are extremely concerned that despite annually spending hundreds of billions of dollars at the federal, state and local level, our educational system is failing. The simple fact that 78 percent of all two- and four-year colleges offer remedial courses in math, reading and writing, suggests that many high school students are being shortchanged in their academic preparation for adulthood.

The conference report before us raises the amount that parents and grandparents can contribute to education savings accounts from $500 to $2,000. Most importantly, it allows parents to make the choice to withdraw these funds tax-free for use either in college or in grades K through 12.

Although modest in scope, these education savings accounts will give real choices to lower and middle income families who believe their children's best chance for the future lies in gaining an education in a private school.

Income limits insure that the benefit of these education savings accounts are focused on middle income families. Wealthy families most often do not need to use these education accounts because they can easily afford the cost of private K–12 tuition and because the tax base in wealthy communities often provides the best possible public education in the country.

But middle and lower income families don't have the same choices that the wealthy have when it comes to education because they don't have adequate resources to pay private tuition. Allowing these families the choice of using funds in an education savings account for K though 12 schooling, could enable families with modest incomes to send their children to the school where they believe their child will get the best preparation for college.

What's wrong with that, Mr. President? If educational savings accounts can be justified for college tuition, shouldn't they also be allowed for the education expenses that give a child the opportunity to apply to college?

Mr. President, this conference report contains an important provision that will benefit many families in Alaska. Under this measure, distributions from qualified state tuition programs, like Alaska's will be tax exempt if the proceeds are used for college or graduate school expenses.

Finally, Mr. President, I am pleased the bill extends until 2002 the $5,250 per year exclusion for employer-provided educational expenses. However, I would have preferred that this exclusion would have also applied to graduate student expenses.

Mr. President, I would hope that this win-win education bill will be signed by the President. It promotes greater choice for families in selecting their educational options for their children at a time when families are demanding greater accountability from all of their educational institutions.

Mr. KOHL. Mr. President, I rise today to express my intention to vote in favor of the conference report to the Coverdell education savings accounts legislation. I do not believe that this alone will save our nation's education system, and I realize that this bill will only provide limited help to a very small percentage of students. But I believe it is one small step we can take to help improve education in this country, and that it will open the door for a discussion of other new approaches.

Let me state unequivocally that I strongly support our public school system. I believe we should be doing much more to help States and local school districts address the challenges they face in improving public schools. Over 90% of our nation's children are educated in public schools, and we must not abandon our efforts to help educators, parents and communities provide the best education possible.

Unfortunately, it is becoming apparent that despite our best efforts, we are not doing the best we can for our children right now. Too many of our children are falling behind and performing below their potential. Too many schools are in need of repair or modernization. Too many students are bringing guns and drugs to school. Too few classrooms have access to technology, and too few teachers have the training necessary to help students succeed in an increasingly global, technology-based economy.

Clearly, it is time that we take a look at some new approaches to improving education. The status quo is unacceptable and we owe it to our children to do better. I initially opposed the Coverdell legislation in part because it included two amendments that I strongly oppose. Both amendments —one that would block grant one-third of Federal education programs, and another that prohibits the development of voluntary national tests—were dropped in conference. I am pleased that the conferees decided to omit these amendments, which I believe would have seriously undermined our commitment to public school students.

Now that these two troubling amendments have been dropped, I have decided to support the Coverdell legislation. While this legislation will not solve all of the problems in public schools, it provides limited assistance to families that choose to use their own money to decide what type of education their children receive. I realize that it will only help a small number of families, but limited doses of competition could help encourage all schools to strive to do a better job. In addition, this legislation sunsets after five years. If, at that time, it is clear that this approach has not worked or has harmed public education, Congress can decide not to reauthorize this program. But I believe that there are benefits to trying this new approach now to see if it might contribute to the overall improvement of education in our country.

We certainly do not want to abandon public education, and I believe there are better ways to help public schools address the many problems and challenges they face. During the course of this debate, I voted for many alternative education proposals that I felt would do a better job at improving public education. I am still hopeful that the Senate will make other education reform proposals a top priority during the remaining months of this session. But so far, our nation's education system has failed too many of our children—we cannot ignore that fact. It is time to look to new and innovative strategies to improve educational opportunties in America. The Coverdell legislation could be a small part of that effort, but it is certainly not the only step we should take. I will continue to support a strong investment in our nation's public school system, and I look forward to working with my colleagues to make sure that happens.

Mr. KERREY. Mr. President, I rise in opposition to this conference report for the same reasons that I objected to the legislation when we debated it here on the Senate floor in March. But I do not take this vote lightly. How we educate our kids better is a serious issue. I know that in regard to the legislation proposed by Senator COVERDELL, I have a different opinion than my Catholic schools friends in Nebraska, Jim Cunningham of the Nebraska Catholic Conference and Sister Pat Mulcahey, superintendent of the Omaha Archdiocese. But when it comes to the core issue of whether we want to provide a better education for America's young people, Jim, Sister Pat, and I are always on the same side: Yes, we do.

First of all, let me say that I am deeply appreciative and respectful of the mission of parochial schools in Nebraska and throughout the nation. But I am also, and always have been, a strong supporter of public schools. I would support legislation that truly helped the vast majority of public school and parochial school parents improve educational opportunities for their children. I do not believe that this legislation accomplishes that goal.

Granted, this legislation looks better than it did when it was originally passed in the Senate. But I believe it is still flawed. This education IRA bill for K–12 expenses will add significantly to the nearly $75 billion annually paid by taxpayers in an effort to comply with the tax code. It is also an example of how Congress passes tax law without considering the cost of administering this new tax law and its real impact on the American taxpayers it is supposed to help.

Furthermore, it makes no real investment in those areas of education that are crucial to the success of our young people as they prepare to enter the workforce. In order to help more of our children achieve the American Dream, we have to equip them with the skills to do so. Technology programs, Title 1, and vocational education are where we need to focus our efforts.

And so I would urge my colleagues, if we truly want to help America's children get a better education, let's invest in programs that produce results, and let's make sure all of our students have the opportunity to benefit from them.

Mr. DODD. Mr. President, I rise today to oppose the conference report for H.R. 2646, the Education Savings Account bill.

I regret that I cannot support this legislation because it contains several provisions that I do, in fact, support. In particular, I support the provision which would expand the tax benefits of qualified state-sponsored prepaid tuition plans to include tax-free withdrawals for qualified educational expenses. In fact, the Conference Agreement goes beyond the Senate bill, and would allow private educational institutions to establish tax-favored prepaid tuition plans beginning in 2006.

I was also pleased that the Conference Report extends by 30 months Section 127 of the tax code to allow the income exclusion for employer-provided educational assistance for undergraduates until December 31, 2002. This measure is critically important to improving the knowledge and skills of our work force.

These particular provisions were adopted in a spirit of bipartisanship and with an understanding that they would provide clear benefits to college-bound students. Unfortunately, these provisions are just a small part of a much larger package which marks a step in the wrong direction for federal education policy.

At the heart of this bill is a proposal to provide tax-free savings accounts, funds from which can be used to meet the educational needs of elementary and secondary school students. Under the guise of "increased choice," this proposal turns its back on our nation's long-standing commitment to our public schools.

These so-called education savings accounts would cost taxpayers $1.5 billion over ten years. In return for this significant expenditure, families will receive very little benefit. Families whose children attend public schools—which is to say 90 percent of all students—would receive just $7 annually. Families whose children attend private schools would receive just $37 per year.

Let me put that into context. In the Washington area, on average, one year of private school costs between $10,000 and $14,000. At those costs, this legislation provides very little assistance to the parents who would choose these schools for their children.

Clearly, we are in need of education reforms in this country that will create better educational opportunities for more children. But I don't believe that draining resources away from our public schools will advance the cause of reform one bit.

As we consider this legislation, I think that there is one important question that each member of this body should ask themselves. Aren't there better ways to spend $1.5 billion for our children's education than providing seven dollars a year to public school students? I believe that there are.

We could use that money to help hire new teachers and reduce class sizes across the country. If a teacher has 25, 30, or 35 students in his or her class, those students are not going to learn as well as they could in a class with a lower student-teacher ratio. If we can make these classes smaller, we can greatly increase the learning potential of our children. The Democratic leadership has proposed committing resources to help hire 100,000 new teachers for kindergarten through third grade. If we made this investment, it is estimated that every K through 3 classroom in this country would have no more than 18 students. Unfortunately, the conference report we consider today does absolutely nothing to help hire these teachers and significantly reduce class sizes in this country.

We could use this money to help local communities meet the rising costs of special education. In fact, I introduced an amendment during the Senate debate on this bill to redirect its $1.5 billion cost to help state and local school districts meet the costs of special education. When Congress passed the Individuals with Disabilities Education Act in 1975, the federal government committed to state and local school districts that it would contribute 40 percent of the funds needed for special education. However, the federal contribution has never risen above 10 percent. It is estimated that states now provide 56 percent of the financial support for special education programs and services, 36 percent comes from local sources, and only eight percent comes from the federal government. The burden on local taxpayers is increasing dramatically with each passing day, and it will continue to increase as long as we continue failing to meet the federal commitment to fairly share these costs. I have spoken with many mayors, school superintendents, and other local officials seeking relief and assistance in meeting the expenses associated with providing the valuable services required by children who have special needs. Unfortunately, my amendment was defeated and these local officials are still in search of relief.

We could, additionally, invest the resources used by this legislation in school construction so children who currently attend schools in dilapidated and sometimes unsafe buildings could have a quality learning environment. In the richest nation in the world, we have schools that are literally falling apart. We have schools with broken heaters, bursting pipes, and leaky roofs. And beyond basic repairs, schools are also lacking electrical and telephone capabilities necessary to install computers in our classrooms.

One-third of all students in this country go to school in buildings that are considered structurally inadequate, and 60 percent of American students attend school in buildings that are in need of repair. In fact, the General Accounting Office has estimated that more than $110 billion is needed to repair our schools. Clearly, this is an issue that should be addressed.

This legislation is little more than a policy sleight of hand. It creates the illusion of reform without its essence. It offers a hollow promise of greater choice, and it delivers negligible benefits to American parents. The bottom line is that this bill is bad education policy, and it is also bad tax policy.

I realize that this conference report will likely be adopted by this body and by the House of Representatives. But it is my hope that it will be vetoed. I appreciate that my colleagues are working to find solutions to create better educational opportunities for our children. Unfortunately, I believe that the proposal before us is a misguided one that creates false hopes instead of real opportunities. This legislation would have a devastating impact on our public schools, upon which 90 percent of American children rely on for their education, and it would mark a missed opportunity to seriously address the education needs of this nation. I hope that this conference report does not mark the end of our efforts this year to improve education in this country, and that the Senate will be willing to work in a bipartisan spirit to develop more substantial and innovative education reform policies that support our public schools.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I believe with the leader's time and the time available I have 10 minutes.

The PRESIDING OFFICER. The Senator has 11 minutes 20 seconds.

Mr. KENNEDY. I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, in just a few moments we will be voting on the Coverdell conference report. The President of the United States has indicated that he will veto this measure, and he is entirely wise to do so and to call on us, the House of Representatives and the Senate of the United States, to act on the sound recommendations that he has made to improve public schools. But these recommendations are not just ones from the President of the United States, but from educators across the country. They have said that these recommendations outlined by the Senator from California are absolutely essential if we are going to strengthen academic achievement and accomplishment for the young people of this country.

Now, you cannot isolate what we are doing here on the floor of the U.S. Senate this morning from what our Republican friends did yesterday in the House of Representatives on education. You can't just separate these. We have the House and the Senate, combined; we are dealing with education policy and we are together addressing the issue of education in our society.

Now, today we are discussing legislation will spend $1.6 billion over a 10-year period to help private schools. We have gone through repeatedly, and the Joint Tax Committee has pointed out, that 7 percent of the American families send their children to private schools, and 93 percent send their children to the public schools. The benefit of this program will go where? It will go primarily to the private schools.

Now, let us look at what happened yesterday in the House Appropriations subcommittee on education matters. While we are being asked here to demonstrate our great interest in the cause of improving education for the nation's young people today, yesterday in the House of Representatives, Republicans zeroed out the summer jobs program for youth across this country—zeroed it out; $871 million, gone. Find me an educator in this country who does not believe that funding those summer jobs is light-years more important than the Coverdell program that is about a potential savings that will go primarily to private schools. Find me a single educator who says knock out the summer jobs program. But that is what our Republican friends did just yesterday, just yesterday, in the House of Representatives. They will deny 530,000 teenagers the opportunity to gain valuable work experience during the summer months.

What else did they do? Did we not hear last night and this morning about the importance of helping American students learn math and science? What did Republicans do yesterday? They cut back significantly the Eisenhower Math and Science Program. What does that program do? It upgrades the skills of math and science teachers. Upgrading the skills of teachers in the public schools is one of the most important investments we can make to improve student learning. What did the Republicans do? Slashed the program, the tried and true Eisenhower program, named after an important President of this country.

What else did they do? They cut the title I program by $400 million below the President's level. By not investing in Title I, the Republicans are denying help for those needy children who are having difficulty in school and are falling behind. It is an enormously successful program. While we are over here on the U.S. Senate floor, saying how we are going to have a breakthrough new program that is going to provide these brilliant new ideas in education, Republicans in the House are cutting back on the title I program that has been a mainstay for needy children in this country, which has had bipartisan support, and they didn't stop there, Mr. President. They cut $137 million from the President's request for educational technology programs to try to help the public schools that are crying out for computers and computer training. There are few high schools in this country that are up to speed and on the Information Super Highway. And by denying extra support for training teachers so they can use those computers and tie them into the curriculum, we are saying to the young people that preparing for the modern workplace is not important

Mr. President, in these programs alone, Republicans slashed $1.8 billion yesterday of investment on tested, worthwhile programs. And Republicans today in the U.S. Senate are saying, "We are doing the most revolutionary thing that we can for our public school students. We are going to provide $160 million a year in tax breaks for families." Which families? The Joint Tax Committee says it is families who are sending their kids to private schools. Mr. President, if the President is ever-wise and ever-conscious about the importance of vetoing a piece of legislation, this is it.

I was here last night and I listened to Senators that rose in support of the Coverdell legislation and talked about the great study that was done under the Reagan administration in 1983 called, "A Nation At Risk." In listening to our colleagues who are supporting this legislation talk about "A Nation At Risk," I wondered what the Nation At Risk report recommended? The fact is that the Nation At Risk commission recommended raising standards for student performance, devoting more time to learning, improving the quality of teachers, holding educators and elected officials responsible for providing leadership necessary to implement these reforms, and strengthening graduation requirements.

Under the leadership of President Clinton in 1994, we took those recommendations and made them central to the hallmark Goals 2000 legislation. Under Goals 2000, over 90 percent of the funds go to the local community to implement standards-based reforms. What happened yesterday in the House of Representatives Appropriations Committee? They gutted the Goals 2000 program that is helping local schools implement the recommendations of "A Nation at Risk," that our colleagues have hailed as a call to action in education.

What hypocrisy, Mr. President. Over here, we are talking about how we are going to save our public school children, and over in the House of Representatives, the Education Appropriations Committee is gutting the essential programs that make a difference for schoolchildren.

Mr. President, we ought to see the Coverdell bill go to the President of the United States as rapidly as possible. He ought to veto it as fast as he can. He ought to go to the American people and say, if you are really interested and concerned about education, let us go ahead in a bipartisan way and strengthen public schools. Let's not just reject out of hand, as our Republican colleagues have done, every one of the recommendations of the President. One of the most important recommendations the President has championed came from the Senator from Illinois, CAROL MOSELEY-BRAUN, who understands the importance of having school facilities and buildings that are going to be worthy of teaching our children in.

Senator MOSELEY-BRAUN is here on the floor at the present time. She can speak to this issue. When we send our children to dilapidated schools, we are sending them a very important message: Education doesn't really count. We're saying that we don't really care if young people go to dilapidated schools because we grownups are not prepared to put the resources toward modernizing school facilities.

So, Mr. President, this is an absolute sham. The Coverdell bill is an absolute sham. People cannot in this body, given what has happened in the House of Representatives yesterday, stand up and say that this bill will really help solve our education problems and strengthen our public schools.

The PRESIDING OFFICER. I remind the Senator that he has used 10 minutes of his time.

Mr. KENNEDY. I yield myself 15 seconds more. They might have some credibility if they stood up and said we deplore that the President's proposals have been rejected, but we also want to fight for this one and we will fight to restore those funds. But there has been absolute silence on that.

Mr. President, I think this measure should be defeated. We don't have the votes to defeat it, but I certainly hope we try. Our goal should be to strengthen public schools, not abandon them.

I yield whatever time we have to the Senator from Illinois.

The PRESIDING OFFICER. One minute 20 seconds remain.

The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I thank the Senator from Massachusetts for his gracious remarks, as well as for yielding me this time.

The Federal Government funds less than 7 percent of the cost of elementary and secondary education. Most of the funding for it comes from your local property taxes or from your State. Now, the fact is that we are debating what to do with our paltry 7-percent contribution, and whether or not we can spread it out as Senator KENNEDY and others have discussed, or whether we should focus our resources on behalf of rebuilding schools, providing concrete assistance to help relieve property taxes. It is illogical to suggest that too few Federal dollars can be divided even further, and yet somehow produce greater results. The fable of the loaves and fishes is not a model for funding public education.

What we need to have is a partnership in which the Federal, State, and local governments come together to relieve the property-tax burden, to engage State support so that all of us, working together, can provide every child in this country with an opportunity for a quality education. This should not be a fight; this should not be finger pointing, and this should not be dissipating what little we have. We should bring our resources together so we can provide quality education. This legislation doesn't do it. I am happy that the President is going to veto this bill. I hope we can fix this problem here in the U.S. Congress.

So, Mr. President, I oppose this conference report. I hope all my colleagues will join me in opposition to this bad legislation, but I know that the future of this bill has already been determined. I have no doubt that this bill will pass the Senate on a near-party line vote, just as it passed the House last Thursday on a near-party line vote. I also have no doubt that President Clinton will follow through on his pledge to veto this bill as soon as it reaches his desk. I have a letter, in fact, from President Clinton, that begins, "If the conference report on H.R. 2646 is presented to me, I will veto it . . ."

Once that happens, we will be right back where we started. Our schools will be in no better shape than they were at the beginning of this Congress. Our children will have no greater opportunities than they did at the beginning of this Congress. Our country will be in no better position to compete in the 21st century economy that it was at the beginning of this Congress.

Perhaps the only thing we will accomplish is the further erosion of the confidence of the American people in our ability to address important issues. No issue is more important to our future—and no issue is more important to the American people, as they tell us in poll after poll after poll—than education. We ought to be ashamed of ourselves as a legislative body that this bill was the best effort we could muster.

We also ought to be ashamed of the process that was used to write this bill. I was supposed to be a member of the House/Senate conference committee that developed this final bill. I can tell you, Mr. President, that being a member of this conference committee meant nothing. There was no opportunity to help shape this legislation. There was no attempt made to bridge the ideological gap that has stalled any serious federal efforts to help our schools. It seems the sponsors of the bill are more interested in the political gain they expect to reap when the bill is vetoed than they are in trying to put together a bipartisan initiative to improve our schools.

I think the sponsors of this bill have made a mistake in underestimating the acuity of the American people in matters relating to their children's education. This bill is a truly bad idea, and I do not think most Americans will be fooled by the sponsors' rhetoric once they see the reality of the legislation.

The bill allows families to put up to $2,000 a year into special education IRAs, and withdraw the funds to meet the costs of attending public, private, or religious elementary and secondary schools. Contributions into these accounts would not be tax deductible, but interest income on the accounts would be tax free.

The bill represents bad savings policy. The purpose of IRAs—individual retirement accounts—is to encourage long-term savings. The benefits derived from IRAs are directly related to the length of time the funds remain in the accounts. By allowing withdrawals only a few years after contributions have started, this bill actually discourages long-term savings.

This bill is a waste of taxpayers' dollars. The benefits are so small as to make them irrelevant as a means of improving education. The average benefit to a family with a child in a public school would be only $7 per year, and only $37 per year for a family with a child in private school. Even though the benefits to families are so small, the scheme still manages to cost taxpayers $1.5 billion over a 10 year period, funds that could be used for real educational improvements.

The bill is bad education policy. Instead of addressing the real needs of our nation's schools, it drains support from public education in America. According to the Joint Committee on Taxation, more than half the benefits realized under this bill would flow to the seven percent of families whose children already attend private schools. Ensuring that all children have access to a high-quality education should be a priority for every American. Education is more than just a tool to improve the quality of life for individual students. It is a public good as well, as we all benefit from a well-educated citizenry. If some public schools are not up to the challenge of educating our children, then it is our responsibility to fix them, not abandon them.

Mr. President, we can do better than this bill. We must do better if we expect to retain our competitive edge in the 21st century economy. Earlier this year, the grades were posted on a set of international math and science tests. The results were profoundly disturbing. American students placed at or near the bottom on every one of the math and science tests offered—below counties like Cyprus, Slovenia, and Iceland. These results should serve as a clarion call to every policymaker at every level that we need to do more for our children's education. We need a new partnership to increase the educational opportunities available to all our children.

When this bill was being considered on the Senate floor, I offered an amendment that would have created such a partnership. The amendment would have provided tax credits to investors in school bonds, helping states and communities rebuild and modernize their crumbling school infrastructure. The amendment would have helped them modernize classrooms so that no child misses out on the information age. It would have helped them ease overcrowding, so that no child is forced to learn the principles of geometry in a gymnasium. It would have helped them patch leaky roofs, fix broken plumbing, and strengthen the facilities that provide the foundation for our children's education.

In his veto letter, President Clinton wrote, "The need for school construction and renovation has never been more compelling. . . . If we want our children to be prepared for the 21st century, they ought to have 21st century schools." Commenting on the ISTEA reauthorization bill he just signed, the President continued, "I have just signed into law major legislation that will provide more than $200 billion over six years to help build and repair our nation's highways, bridges, and other transportation infrastructure. Similarly, we have an obligation to invest in the infrastructure needs of our public schools. H.R. 2646 ignores that obligation."

Once this bill has been vetoed, I intend to again bring up my proposal to help states and communities rebuild and modernize our schools for the 21st century. Maybe by then the message that the American people have been sending to us—that they want us to work together, put our partisan differences aside, and pass real school improvement legislation—will have gotten through.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Georgia controls 24 minutes. The other side is out of time.

Mr. COVERDELL. Mr. President, I yield up to 10 minutes to my colleague, the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for up to 10 minutes.

Mr. ASHCROFT. Mr. President, I rise today to express my disappointment that the conference report which accompanies H.R. 2646, the Education Savings and School Excellency Act, does not contain the provisions banning Federal funding for the President's federalized, individualized testing proposal. This provision, which I authored, has been removed in conference because of the clearly communicated concern that the President would veto the legislation based on this issue.

The Senate and House have repeatedly given the administration a failing grade on respecting the role of parents, on local control of what is taught and how it is taught. The President has insisted on trying to promote federalized control of education. Federal testing would lead to a Federal curriculum.

This administration has a lamentable record of harming the interests of American schoolchildren.

For example, on school choice, the President wants to incarcerate America's most disadvantaged youngsters in dangerous, dysfunctional schools, rather than give them a choice of schools.

On block grants, he wants to keep plowing taxpayer money into the bureaucracy, instead of investing more in our classrooms.

Now, on school testing, he wants to cut the rug out from under the role of parents and communities—the most important factors in how well children do in schools.

The more Members of this body have learned about the President's national testing proposal, the less they have liked it. Over the past year, the number of Senators opposing national testing has grown to a majority.

When we first visited this issue last fall during debate on the Labor, HHS and educational appropriations bill, only 13 Senators voted against allowing the President's national testing proposal.

Only one month later, 36 other Senators joined with me to threaten to filibuster the Labor, HHS, and Education appropriations bill unless there was a ban on FY 1998 federal funding for the President's national testing proposal.

In April of this year, when I offered my testing ban as an amendment to the Coverdell A+ bill, the Senate passed the provision by a vote of 52–47.

Over in the House, Congressman BILL GOODLING, Chairman of the House Education and the Workforce Committee, has continued to provide leadership in the fight against national testing. His bill to prohibit funds for national testing passed by a vote of 242–174 in February of this year.

So it is clear that both Chambers of this Congress agree that national testing should be rejected. And the President of the United States wants to promote national testing, and does so, I believe, in an effort that would begin to nationalize the school system. Local control of schools is fundamentally important and should be protected. It is reflected in the understanding of the House and the Senate.

The Senate Majority Leader and the Speaker of the House have provided to Chairman GOODLING and me a written commitment that they will ensure that the text of the Labor/HHS/Education appropriations bill for 1999, and any supplemental or any other such legislation, will not leave Congress without a testing provision that Chairman GOODLING and I find to be satisfactory. That, of course, would be a provision allowing no funds to develop national tests. If the appropriations bill does not make it to the President's desk, they say, then every effort will be made to include this in a continuing resolution or any other must-pass legislation.

I appreciate this assurance from our leadership in both the House and Senate, and my colleagues can be sure that I will do everything in my power to hold them to their commitment.

Mr. President, I ask unanimous consent that the text of the letter from the Major Leader and the Speaker to Chairman GOODLING and me containing these assurances be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. ASHCROFT. Why am I opposed to national testing? Mr. President, we must remember that any movement toward national control of education savages principles that we as Americans hold dear: parental authority and control, teachers who are free to teach core subject matter and school boards that are responsive to their communities, not held captive by distant bureaucrats.

President Clinton's proposal for national testing of our children is an example of such an attempt at a federal power grab. The President wants to move power out of the hands of parents and school boards and into the hands of Washington bureaucrats.

America resists that for a number of important reasons, and these are the reasons to oppose federalized national tests.

Parental involvement is the most important factor in a child's educational success, and national tests would undermine the ability of parents to play a meaningful role in the educational decisions of their children.

During my time as Governor of Missouri, and through my work with the Education Commission of the States, learned that the single most operative condition in student educational achievement is the involvement of parents. Study after study has proven the significance of parental involvement in their child's education.

We should not disengage parents with a federalized national testing system. Experience has shown that local control is a key factor in educational success.

Experience has shown that local control is a key factor in educational success. As a former Governor who made education a top policy priority, I learned first-hand that local control is needed to create educational programs that respond to the needs of local communities and that stimulate success.

National tests will lead to a national curriculum. There is wide consensus among teachers, administrators, and education experts that "what gets tested is what gets taught."

So, if you determine a test, you determine the curriculum.

A national curriculum is detrimental because it eliminates the participation of parents and local schools—the key elements of success. It would do so inevitably. As a result, they key elements of success—parents, schoolteachers, and local decision-making—would be missing in our educational systems throughout the country.

Lynne Cheney, former Chairperson of the National Endowment for the Humanities, reminds us that previous attempts at federal standards have been disastrous.

She points to the politically correct federal history standards which were unanimously rejected in the Senate.

Cheney also points to the English/language arts standards, which were such an ill-considered muddle that even the Clinton Department of Education cut off funding for them after having invested more than $1 million.

The final exam on the Clinton plan for federally controlled testing will come on the Labor/OHS/Education appropriations bill. This Congress—and more importantly, the American people—will be watching very carefully to see how the Administration performs on this issue that affects the future of our children. I will do everything in my power to protect the ability of parents, teachers, and local schools to be involved in the education of their children by participating in the development of school curriculum, standards, and testing.

So I commend this bill to the President. This is an important bill. It would advance substantially the interests of our students. I thank the sponsors for their outstanding work.

I look forward to sending to the President an appropriations bill which would curtail the potential of any money being wasted at the Federal level by imposing inappropriate federalized tests upon local school districts. These tests would curtail the ability of local officials to make the kinds of decisions that are necessary for us to have the kind of school quality that we need in order to survive in the next century.

With that in mind, I thank the sponsor of this legislation and commend him for the outstanding work he has done by stepping forward for America's schoolchildren, and I look forward to the opportunity of working together again to make sure that as we protect the options of parents and local officials to educate their children, we best serve this great land and future generations.

I thank the Chair.

EXHIBIT 1

CONGRESS OF THE UNITED STATES,
Washington, DC, June 5, 1998.

Hon. BILL GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

Hon. JOHN ASHCROFT,
U.S. Senate, Washington, DC.

GENTLEMEN: We are grateful to the two of you for taking the lead on requiring that

> testing of students remain at the state and local level. The administration's proposal to control student testing at the federal level necessarily would result in government control of the curriculum. Stopping this central government control of student testing is a very important part of our Republican plan to return our schools to the control of the parents and teachers at the local level.
>
> We have worked with you and voted with you to pass a federal testing prohibition bill in the House and to add an amendment to H.R. 2646, the Education Savings Act for Public and Private Schools. Obviously, since this bill is under the threat of a veto by the administration and a filibuster by Senate Democrats, it does not serve our interests to pursue the ban on federal testing in this bill.
>
> Therefore, in order to ensure that Congress will pass and send to the President a ban on federal testing, you have our commitment to support inclusion of your testing prohibition language (H.R. 2846/Amendment 2300 to H.R. 2646) in the base test of the FY 1999 Labor, Health and Human Services, and Education Appropriations bill. This language will be maintained through floor action and the conference committee process. You have our commitment that this bill will not leave the Congress without a testing provision that you find to be satisfactory.
>
> If for some reason the Labor/HHS/Education Appropriations bill does not make it to the President's desk, then we will support efforts to include this provision in any Continuing Resolution(s), or other "must pass" legislation in both bodies. We appreciate your leadership over the past months on this most important issue and look forward to continuing to work closely with you.
>
> Sincerely,
>
> TRENT LOTT.
> NEWT GINGRICH.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I thank my colleague from Missouri for the contribution he has made in this debate and for the work he has expended on behalf of this legislation, and for his remarks.

Mr. President, many, many years ago, in my home city of Atlanta, and in campaigns, I met a woman who worked and still works in our inner city with many of the inner-city problems. She is now the chairperson of the City Wide Advisory Council on Public Housing. Her name is Louise Watley.

She recently wrote a letter to me and my colleague, Senator CLELAND from Georgia, and she said:

> As a resident of the Carver Homes Public Housing Community since 1955, I have witnessed generations of young African Americans grow up in one our Nation's poorest neighborhoods. In the 1980s, I fought the epidemic of crack cocaine among our youth by working to kick drug dealers out of our community. In the 1990s, I find myself fighting the epidemic of hopelessness that has resulted from the increasing failure of our public schools to educate poor, urban children. As the Chairperson of the City Wide Advisory Council on Public Housing ("CWAC") and on behalf of the thousands of Atlanta public housing residents the Council represents, I ask you to provide us with hope for improving the K-12 education of our children.
>
> By way of this letter, I urge both of you to continue this important trend of granting parents greater choice in the education of their children. Please avoid the temptation of sacrificing the poorest children in America in order to protect an education bureaucracy that seems to care more about money and job security than it does about helping children to read, to write and to recognize right from wrong.
>
> Please support the passage of the A+ Accounts for Public and Private Schools Act as well as stronger federal charter school legislation and demonstration public and private school choice projects.

I have not seen Louise in many, many years. But I am encouraged that she is still at work on behalf of our community.

I think she has in this letter crystallized the very severe problem we are having all across the country, for we are graduating students from all too many schools who do not have the basic skills to enjoy the full benefits of citizenship.

Earlier in the debate, the Senator from Virginia, who, while kind to this legislation, indicated he would vote against it on its scoring priorities, said this bill, or the education savings account, spends $1.5 billion in tax relief for families to open these savings accounts and that if we are going to spend $1.5 billion, we ought to do it on higher priorities.

The math doesn't work. The education savings account creates $1.5 billion of tax relief on the interest built up on savings that families put into savings accounts if they use it for education.

It does not spend $1.5 billion; it leaves $1.5 billion in those checking accounts of those families. And what do they do? They save $12 billion. So what we have done is, we have taken $1.5 billion, we have left it home all across the country, and we have built a resource eight times that size. So instead of looking at it as if it is $1.5 billion we did not ratchet out of somebody's checking account, you ought to look at it as if we have encouraged Americans to save $12 billion that would come to the aid of education. Where else can you invest $1.5 billion and store up $12 billion that would come to the support of children all across the land.

It is a plus. We are causing billions of new dollars to come to the aid of educators and education. It is just amazing; I heard several Senators on the other side view this as an expenditure because we left some money in the checking accounts of American families. It has always been amazing to me how little incentive it takes to make Americans do huge things. Boy, wouldn't we love it if every billion we invested here could generate $12 billion of value. It would be a remarkable achievement. So this is not setting $1.5 billion aside for building schools or doing something else. This is leaving $1.5 billion in checking accounts, and it causes them to pull together $12 billion. And that is the minimal estimate. I think it will be much more.

I think it is good in the closing minutes here to remind the Senate and anybody listening that this legislation has an enormous reach. Sometimes we forget to analyze or take a look at the total value. I just said this legislation will cause Americans to save at a minimum $12 billion. If nothing else, helping that would be great, considering the fact we have one of the lowest savings rates in the industrialized world. But this bill will make beneficiaries of half the school population wherever they go to school—public, private, or home—in the United States. Fourteen million families will open a savings account. We don't know how many million sponsors—grandparents, companies, unions and churches—will come to the aid of those accounts, because it allows sponsors, but 14 million families parenting over 20 million children—that is half the school population—will be beneficiaries if this bill passes and is signed by the President. One million students entering higher education will have a better chance of financing it because it gives tax relief to the 21 States that have prepaid tuition plans, and 17 new States are considering it.

Fourteen million families, 20 million children, 1 million students in higher education, 1 million employees seeking to improve their continuing education will be helped by the legislation. In other words, Mr. President, the reach of the bill that is before us, the bipartisan bill, is enormous and will have the effect of causing millions of families and millions of students across this land to enter into a new consciousness about improving their education, and it will be the smartest money that was ever accumulated because it will be guided like a missile system by the parents and relatives and friends of that child to the most urgent needs that child faces. If they have special education problems or health problems, if they have a deficiency in math or reading, it will end up paying for it, or a computer or tutor. And I might point out that over 80 percent of the students in inner-city schools do not have a computer. This can begin to take care of it.

Mr. President, this legislation reaches into every community at every level, and while it is not a cure-all it gives lots of people lots of new tools to go to work on turning this situation around in America. And if you want the next century to be an American century, you better be focused on grades kindergarten through high school. We need to get that job done.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Georgia has 6 minutes 5 seconds.

Mr. COVERDELL. Mr. President, I yield 3 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

Mr. GORTON. Mr. President, I am here to speak as eloquently as I possibly can in favor of this proposal. The genius and the persistence of the Senator from Georgia in bringing this major educational reform this far is to be commended highly.

I feel a particular attachment to this bill because with the help of the Senator from Georgia, while it was being debated before the Senate, there was added to it my own triple option, an opportunity to let each State decide whether or not it would continue to get its Federal aid to education in the present fashion, as a block grant to the State without Federal regulations, or as a block grant directly to school districts without either State or Federal regulations, trusting the people who provide education to their children—teachers, principals and elected school board members.

Because that is a relatively new idea and highly controversial, its inclusion in this bill would have frustrated our ability to pass this bill and send it to the President. It was, therefore, with my reluctant consent, dropped from the bill that is before us at the present time.

But the perfect should not ever be the enemy of the good, and the work that has gone into this proposal, the fact that it is highly bipartisan, the fact that there is a real opportunity that it should become law makes it one of the most important bills and the most important debates that we have engaged in in the State so far this year.

So I thank my friend from Georgia, congratulate him on his good work and commend to all of my colleagues, both Democrats and Republicans, this important educational reform.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I very much thank the Senator from Washington for his remarks.

I yield 1 minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend the able Senator from Georgia for the manner in which he has handled this bill. There is nothing more important than education. I started out my career as a schoolteacher. I taught school for 6 years in Edgefield and McCormick Counties and then went to the State senate and spent most of my time in the State senate on education matters. I believe we should do more in the field of education; that is the hope of the future. And I hope the Congress will pass this bill and do it promptly.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I thank the Senator from South Carolina.

I yield up to 2 minutes to my distinguished colleague from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will, believe it or not, take only 1 minute.

I compliment the Senator from Georgia. I am going to vote with him. I told him when he first introduced this legislation I would support it. In the meantime, it picked up some other amendments, Gorton and Ashcroft, and I announced at the time I voted against it with Ashcroft and Gorton as part of it, that if it came out of conference as it was originally constructed, I could support it.

I thank him for his fairness, the way he has dealt with this, the openness in the way he has dealt with this, and I compliment him on bringing back to this body a piece of legislation that I and I believe probably another half dozen or more Democrats will be able to support.

So I thank him very much for his courtesy.

Mr. COVERDELL. Mr. President, I thank my colleague from Delaware for his interest in this legislation and the fairness with which he has approached it. I appreciate very much his decision to vote for the legislation.

In closing, I thank the majority leader for his tenacity, all my cosponsors who worked so long and hard, nearly 2 years, and the conference committee for the extended work to reach out in a bipartisan effort.

At this time, I yield whatever remaining time there is.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired or has been yielded back.

The question now occurs on adoption of the conference report to accompany H.R. 2646, the Educational Savings and School Excellence Act of 1998.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 36, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—59

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Breaux
Brownback
Burns
Byrd
Campbell
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Enzi
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NAYS—36

Bingaman
Boxer
Bryan
Bumpers
Chafee
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Sarbanes
Wellstone
Wyden

NOT VOTING—5

Akaka
Baucus
Domenici
Rockefeller
Specter

The conference report was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2057, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 2975

(Purpose: To express the sense of Congress regarding continued participation of United States forces in operations in Bosnia and Herzegovina)

Mr. THURMOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from South Carolina [Mr. THURMOND], for himself, Mr. LEVIN and Mr. COATS, proposes an amendment numbered 2975.

Mr. THURMOND. Mr. President, the committee has worked very hard to achieve consensus on an amendment——

Mr. BYRD. Mr. President, will the distinguished Senator yield just briefly?

Mr. THURMOND. Yes.

Mr. BYRD. Mr. President, the clerk has not finished the reading of the amendment and there has been no unanimous consent request to ask that the reading of the amendment be waived.

The PRESIDING OFFICER. The clerk will report.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. SENSE OF CONGRESS REGARDING CONTINUED PARTICIPATION OF UNITED STATES FORCES IN OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The contributions of the people of the United States and other nations have, in large measure, resulted in the suspension of fighting and alleviated the suffering of the people of Bosnia and Herzegovina since December 1995.

(2) the people of the United States have expended approximately $9,500,000,000 in tax dollars between 1992 and mid-1998 just in support of the United States military operations in Bosnia to achieve those results.

(3) Efforts to restore the economy and political structure in Bosnia and Herzegovina have achieved some success in accordance with the Dayton Agreement.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) There is, however, no accurate estimate of the time needed to accomplish the civilian implementation tasks outlined in the Dayton Agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States ground combat forces should not remain in Bosnia and Herzegovina indefinitely in view of the world-wide commitments of the Armed Forces of the United States;

(2) the President should work with NATO allies and the other nations whose military forces are participating in the NATO-led Stabilization Force to withdraw United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the safety of those forces and the accomplishment of the Stabilization Force's military tasks;

(3) a NATO-led force without the participation of United States ground combat forces in Bosnia and Herzegovina might be suitable for a follow-on force for Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission;

(4) the United States may decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force for Bosnia and Herzegovina, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region;

(5) the President should inform the European NATO allies of this expression of the sense of Congress and should strongly urge them to undertake preparations for establishing a Western European Union-led or a NATO-led force as a follow-on force to the NATO-led Stabilization Force if needed to maintain peace and stability in Bosnia and Herzegovina; and

(6) the President should consult closely with the congressional leadership and the congressional defense committees with respect to the progress being made toward achieving a sustainable peace in Bosnia and Herzegovina and the progress being made toward a reduction and ultimate withdrawal of United States ground combat forces from Bosnia and Herzegovina.

(c) DAYTON AGREEMENT DEFINED.—In this section, the term "Dayton Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

Mr. THURMOND. Mr. President, the committee has worked very hard to achieve consensus on an amendment that would represent the majority views of the committee. Since May 13, at the request of several Members, the committee has met at least five times to discuss possible amendments on Bosnia that would be offered to the defense bill. The committee also conducted a hearing with Ambassador Robert Gelbard and General Wesley Clark to discuss the status of progress in implementing the Dayton Agreement.

Despite all meetings and discussions, the committee was not able to reach consensus on an amendment on Bosnia. However, following the committee's meeting on June 19, Senator COATS and Senator LEVIN, met, and, using a compromise amendment that I had proposed as a starting point, continued the effort to craft an amendment, which I support and which I believe the Senate can support.

While I am aware that there are Senators who would prefer to do more, I believe that this amendment represents the view of most Senators.

I am pleased to join Senators COATS and LEVIN, and I urge the Senate to adopt it. Let me emphasize, this amendment does not represent a committee amendment, it merely represents the tireless efforts of several Members.

This amendment would express the concerns of the Congress that U.S. ground combat forces should not be deployed indefinitely in Bosnia, and that efforts should be taken by the President to work with our Allies in Europe so that U.S. ground combat forces could withdraw in a safe and orderly fashion from Bosnia within a reasonable period of time. Additionally, the amendment would express our views that the European allies should take appropriate steps to develop forces to take on the responsibilities of the Stabilization Force in Bosnia, if necessary, to continue to implement the Dayton Agreement.

Mr. President, by December 1998, U.S. ground forces will have been deployed in Bosnia for three years, and the United States will have spent almost $9 billion dollars for its share of the operations. That is two years more than the President, Secretary Perry, Secretary Christopher and General Shalikashvili told us in 1995 that our forces would be in Bosnia, and $8.0 billion more than their original cost estimate.

I believe it is imperative that the United States make strong efforts to work with our NATO and European allies to provide a situation where U.S. ground combat forces can leave Bosnia. The United States has world-wide commitments, and the continued deployment of U.S. forces in Bosnia is starting to take a toll on the readiness of our military forces. The deployment in Bosnia along with our other commitments produces an operational tempo which impacts heavily on the morale of our forces and our ability to retain personnel.

I believe this amendment sends the message that we have been in Bosnia too long, and that we should begin working our way out. I also believe the amendment sends a message that our European allies should assume a more equitable leadership role on their borders, while at the same time ensuring some continued level of continued U.S. support.

I believe this is a good amendment, and urge its adoption.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, Senator LEVIN and I, along with the chairman and others, have worked long and hard attempting to fashion a way in which this Congress could express its dissatisfaction with the prospect of an indefinite troop commitment in Bosnia.

We now are going on the third year of that commitment at a cost that continues to escalate. I believe it is approaching, if it hasn't exceeded, $9 billion—this is despite the assurances of the administration that the troops would only be necessary to accomplish the military portion of the Dayton accords for 1 year.

The then-Chairman of the Joint Chiefs of Staff, General Shalikashvili, in testimony before our committee on October 18, 1995, said:

> NATO's plan will call for the implementation force to complete its mission in twelve months and to withdraw.

Secretary of State Warren Christopher, in testimony before the House National Security Committee on October 18, 1995, said:

> NATO's plan will call for the implementation force to complete its mission in twelve months and to withdraw.

Strobe Talbott, Deputy Secretary of State, said in a speech to the National Press Club on November 9, 1995:

> We believe that twelve months is a reasonable period of time for the implementation force to have accomplished its mission.

The President of the United States, President Clinton, in a letter to Speaker GINGRICH dated December 13, 1995, said:

> NATO and U.S. military commanders believe and I expect that the military mission can be accomplished in about a year. Twelve months will allow IFOR time to complete the military task assigned in the Dayton agreement and to establish a secure environment. Within 1 year we expect that the military provisions of the Dayton agreement will have been carried out, implementation of the civil aspects and economic reconstruction will have been firmly launched, free elections will have been held under international supervision, and a stable military balance will have been established.

Those words from the President of the United States. He was supported by Richard Holbrooke, former Assistant Secretary of State, who negotiated the Dayton agreement. Mr. Holbrooke said:

> The President has given a very clear commitment on the twelve months. That is our policy. It will remain our policy.

General Shalikashvili once again said, in an article, in an interview with the Washington Post of April 3, 1996:

> I'm absolutely convinced that America will not participate with military forces in Bosnia after the conclusion of this year.

On and on it goes. Yet it is now 1998. There is no indication of when our military forces will be removed from Bosnia. Their continued presence has come at considerable cost to the taxpayer—as I said, $9 billion-plus and counting—and no indications by the administration that forces will be withdrawn at any time soon.

There is little disagreement on this floor about the concern over the escalating costs and the indefinite commitment. The real question before the Senate is how we accomplish the goal of withdrawing those troops. It is clear that what was promised by the administration as a consequence of the Dayton accords has not been accomplished on the civil implementation.

Our armed forces have done a marvelous job in meeting the military obligations. In fact, the military tasks were essentially accomplished in that first year. A political decision was made, however, that forces needed to remain in Bosnia to provide a secure environment so that the civilian portion of Dayton could be accomplished.

I was one who voted against the use of our troops to enforce the Dayton accord. I did not provide that support. Senator LEVIN I believe, did provide that support. Yet today we are joining in attempting to send a message from the Congress to the President and to our allies that we do not want an indefinite commitment, that we believe the military mission has been successfully achieved—that it is time to begin the process of bringing our troops home. While there has been some progress in civil implementation, when I traveled last December with the President to Bosnia, I saw little evidence of successful civilian implementation.

It has taken 2 years and an extraordinary amount of outside pressure to get the three nations involved to agree on a common license plate and a common foreign currency—what is seemingly the most easily defined civilian implementation aspects of that accord. Yet, the parties, over a 2-year period of time, could not even agree on what the license plate would look like that each of them would put on their vehicles, or what the currency would look like, in order to establish a common currency for that one country.

So I stand here as one with grave concerns and deeply held doubts about whether or not we are ever going to accomplish what Dayton attempted and promised, and that is reunification of a country that appears to not want to reunify. Key issues such as resettlement of refugees; establishment of a civilian police force that, to date, has not been deemed effective in providing any kind of stability; establishment of judicial reforms that would provide a basis for enforcement of the law on an equal and fair basis. Resolution of many of these issues appear far down the road—if they are even achievable.

I come back to the central question, which is, now that our troops are there, who makes the determination and what is our obligation as Members of Congress relative to establishing the continued presence, limiting that presence, or requiring that withdrawal? I happen to believe strongly that our responsibility, as defined by the Constitution, is to determine the funding, whether or not we will financially support the commitment that has been made by our Commander in Chief.

Now, Senator LEVIN and I have wrestled with this question in terms of how we can best express a message to the President of the United States that we do not support an indefinite commitment, that we do believe that a transition should take place from an American presence to European support for whatever military forces are necessary to provide continued stability. But we do not believe that we are in a position; nor do we have the right to define a timetable or a troop level. We believe that is a decision that ought to be left to the military, ought to be left to the Commander in Chief, and that is where the responsibility lies. We do so because we don't believe we have the expertise to define what that troop level should be.

When the discussion was undertaken relative to our placing troops in Bosnia, virtually every individual who represented the military, from the Chairman of the Joint Chiefs, to the Secretary of Defense, to the commanders who were called forward to testify, said we need the flexibility to determine what is necessary to accomplish our message and to provide for the security for the forces that are deployed in Bosnia. We need to make that decision based on our military expertise and based on what we see as the threat and what is necessary to provide for the security of those forces.

This is not a decision that ought to be made by Congress, regardless of our own expertise or what expertise we think we might have, having served on the Armed Services Committee or learned through our association with the Department of Defense. We are not in a position to define that troop level number. This decision has to be left to the military commanders.

We learned, by tragic experience, how political intervention and policy can sacrifice lives and place our troops in jeopardy. All of us have freshly imprinted on our minds the tragedy in Somalia, as a request by the commander of our forces in Mogadishu for armored forces to provide the force protection was denied primarily for political reasons, because they wanted to avoid the perception that the U.S. was enlarging our presence in Somalia, but that we were drawing down. We drew down too far and we lost some great Americans because we were not able to provide them with sufficient protection. It is not our decision as to what that level of protection should be.

Secondly, Senator LEVIN and I—and he will speak for himself—believe that it is important that we not set an arbitrary timetable for accomplishment of the mission or for withdrawal of troops. That simply sends a signal to extremist forces and others who are intent on destabilizing the situation. All they have to do is wait until a certain date, pull back and give the appearance of stability, give the appearance of cooperation, knowing that when a certain date is reached, our troops will be withdrawn.

We want to keep that indefinite. It doesn't mean the decision can't be made to remove the troops tomorrow, or the President can't sit down with our allies and discuss what the future force should be. I believe an amendment will be offered—if not to this bill, to the defense appropriations bill—by the Senator from West Virginia and the Senator from Texas to establish a certain level and a certain timetable. It may be that that is what our military commanders decide is in the best interests of accomplishing our military mission and protecting our forces. But that ought to be their decision, not ours.

So those are the primary reasons—the protection of our forces, for a limited success, in stabilizing the war and to protect against the potential of extremist groups taking advantage of the knowledge they have of our force size and to protect against the concept that if we define a specific date through a statutory definition, that any hopes of accomplishing a mission that has been agreed to—as I said not by this Senator, but by the President and supported by a majority—can be realized.

To conclude, our amendment essentially expresses the sense of Congress that the U.S. ground combat forces should not remain in Bosnia indefinitely, in view of the worldwide commitments that we have, the impact on our forces, on our readiness, on our deployment, and on our ability to address other needs; that the President should work with our NATO allies, and other nations who have military forces participating in the stabilization force, to withdraw ground combat forces from Bosnia within a reasonable period of time. The difference here is reasonable. We allow a reasonable period of time, leaving it again to the discretion of our military, rather than the fixed time. Consistent with the safety of those forces and the accomplishment of the stabilization force's military task.

We think it is appropriate to define a way in which we can continue, when we withdraw ground combat forces, to continue to provide support for a follow-on European force, and to have a ready reaction or Ready Reserve force in the region—not in Bosnia, but in the region, available to help if necessary; that the President should inform our European allies of the will of the Congress, should this amendment be accepted; and that the President should consult very closely with congressional leadership with respect to the progress he is making in terms of achieving the goals of the Dayton accord.

That is the essence of our amendment. As Senator THURMOND said, this is not a committee amendment that was voted out of committee, though it is supported by a number of members on our committee. We think it is an important amendment to lay down. We think this debate is important. Following this, there is much about what is going to be said by those who may not support this and who want something different than what I am going to agree with.

Much of what they have put in their proposed amendment, which apparently will not be offered to this amendment and to this bill but at a later time, I am going to agree with.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. COATS. I would be happy to yield to the Senator.

Mr. BYRD. Mr. President, I have tried to carefully listen to the Senator's remarks, and I think I have heard the implication that Congress was somehow at fault in Somalia for the lack of supplying of heavy equipment.

Mr. COATS. I don't believe that is what I said.

Mr. BYRD. I didn't say you said that. I thought that it was implied.

Mr. COATS. I can assure the Senator from West Virginia that was not implied.

Mr. BYRD. It was not Congress' fault?

Mr. COATS. No; it was not. Congress had no role in that whatsoever. This Senator believes there is subsequent evidence in the reports that followed up on that tragedy which indicate that political decisions were made by people within the administration relative to the perception American people might have regarding our presence and involvement in Somalia, and the decision that was then made, either through the administration or at the Department of Defense, and to deny the request for additional force support.

Mr. BYRD. I thank the distinguished Senator. I incorrectly drew the wrong inference from what the Senator said.

Mr. COATS. I thank the Senator. I apologize if I left that inference. If I had. I am glad the Senator clarified that, because I didn't want to leave that impression.

Mr. BYRD. I thank the Senator.

Mr. COATS. Mr. President, I will conclude, so that my colleague, Senator LEVIN, may proceed, simply by saying that we asked for the Department of Defense response to this amendment. They reported back. The Department of Defense says:

> The Department has no objection to the proposed amendment in general.
>
> The Department is concerned that paragraph (2) under Sense of Congress could be misinterpreted as a weakening of US resolve and commitment to the process initiated under the Dayton Agreement. While the Department agrees that there should not be a permanent US presence in Bosnia, the timing and nature of discussions on withdrawal of the international coalition should be driven by our continued progress on the ground and not by artificial deadlines.

And The New York Times reported the following on June 13, 1996:

> There has been no change in the President's view of the current IFOR mission. It will last about a year.—*Michael McCurry, White House spokesman, New York Times, 6/13/96.*

The Washington Post reported on July 25, 1996 the following:

> There is no successor mission. . . . We're not anticipating any such thing.—*Vice President Albert Gore, Washington Post, 7/25/96.*

I agree in terms of their discussion about "artificial deadlines." But I want to point out that the Dayton agreement clearly stated that the presence of the military was necessary to accomplish the military task. And I believe that military task has been accomplished.

I think the debate on this floor, if there is to be a debate about our troop presence, should not be defining what the size of that presence should be and the timing of that presence. I think it should be on whether or not there ought to be a presence.

There is going to be a legitimate debate, I believe, as to whether or not we want to stay involved in Bosnia. And the will of the Congress ought to be expressed on that, or the appropriations ought to be defined in a way to support whatever is necessary, if we are going to be there, determined by the military, or zero if we determine they shouldn't be there.

That ought to be the debate, rather than defining what the mission should be, what the size of the force should be, and putting deadlines in terms of achieving those goals.

With that, I yield the floor.

Mr. WARNER. Mr. President, will the Senator take a question? Momentarily, I will follow the distinguished ranking member.

Mr. COATS. I will be glad to take a question from the Senator.

Mr. WARNER. I want to make sure.

First, I think the thrust of the amendment is one with which I agree. I was part of the deliberations over a period of time. I certainly want to acknowledge the participation by the distinguished senior Senator from West Virginia, and the Senator from Texas, and the work they have done.

But I want to make certain—I have read through this carefully a number of times—there is nothing in it that could be misinterpreted at this particularly sensitive point in time in the Kosovo negotiations with Ambassador Holbrooke—who is, I think, perhaps at this very moment trying to work with Milosevic—that nothing in this amendment indicates a lessened support of the United States, together with our principal allies, to try our very best to preclude a repetition in Kosovo of the tragedies that unfolded over the past years in Bosnia. It is my understanding that nothing in this amendment should be interpreted by Milosevic or anyone else that this is less than full support of the effort on behalf of the President and his designated Secretary of State and Ambassador to work on that problem.

Mr. COATS. The Senator, I believe, is correct. There is nothing in this amendment that I believe could be interpreted contrary to what the Senator has just stated.

Mr. WARNER. I thank the Senator.

Mr. COATS. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Indiana on his excellent remarks on this subject.

I now yield to the able ranking member of this committee, Senator LEVIN.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me thank the chairman, Senator COATS, and others who have worked on this amendment. It is a sense-of-the-Congress amendment regarding the continuation of United States forces and operations in Bosnia. We worked very hard on this amendment. The committee did not reach a consensus or, indeed, ever take a final vote on the various alternatives which were offered to us. I don't think anything should be said which would suggest that this is a committee amendment. Indeed, I believe that the chairman and Senator COATS made it clear that it was not. But it is an amendment which has a significant amount of bipartisan support. We offer it to the Senate on that basis.

I am wondering if at this point, Mr. President, I could ask for the yeas and nays on this amendment, so people know there will be a vote forthcoming.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, this amendment expresses the sense of the Congress on a number of aspects of our presence in Bosnia.

First, it says that our forces should not remain in Bosnia indefinitely. We do not simply want to authorize a significant amount of funds without any statement as to the length of time that our forces should remain in Bosnia.

As the Senator from Indiana very ably put it, we don't want to set a deadline. We don't want to mandate a certain force structure as of a certain time. We think that would diminish the safety of our forces. We think that would pull the rug out from under our forces.

On the other hand, we don't want to write a blank check. We don't want to simply say, here are billions of dollars for our presence in Bosnia, and not continue to make a statement about the necessity within a reasonable period of time to remove our combat forces from Bosnia. So this sense-of-the-Congress amendment is an effort to avoid both the blank check downside but also to avoid setting a mandated date for the removal of those forces.

First, I would note, Mr. President, for our colleagues, that the Secretary of Defense, Bill Cohen, and the Chairman of the Joint Chiefs of Staff, General Shelton, in their letter of May 21 wrote to Senator THURMOND and to me to express their concerns about some of the proposals that were being offered relating to Bosnia.

In that letter, they said the following:

> We write to express our concerns with any amendment that would legislate a date or schedule for withdrawal or reduction of U.S. forces from the NATO-led mission in Bosnia. Such amendments would make it more difficult to accomplish the mission, which has been remarkably successful to date.

Later on in that letter, Secretary Cohen and General Shelton said the following:

> We will conduct regular reviews of our force posture and progress towards the benchmarks we have established, and we expect further reductions will be possible, but that determination is best based on the actual situation on the ground, the military advice of our commanders in the field, and the approval of the NATO military and political authorities, not an arbitrary withdrawal or reduction date determined long in advance.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LEVIN. I would be happy to yield.

Mr. BYRD. The first reference to the Secretary's letter, would he read that again? He quoted the Secretary's letter.

Mr. LEVIN. Yes.

> We will conduct regular reviews of our force posture and progress towards the benchmarks we have established, and we expect further reductions will be possible but——

Mr. BYRD. The first. I believe something came before that.

Mr. LEVIN. I apologize. I started too late in the quote, and I will go back. The letter starts off with the quote that I gave before.

> We write to express our concerns with any amendment that would legislate a date or schedule for withdrawal or reduction of U.S. forces from the NATO-led mission in Bosnia. Such amendments would make it more difficult to accomplish the mission which has been remarkably successful to date.

Mr. BYRD. At that point does the Secretary state what "the mission" is?

Mr. LEVIN. There is nothing stated beyond that relative to the mission in this letter. Of course, we have other statements from them as to what their mission is, but this letter does not restate what their mission is.

Mr. BYRD. May I further interrupt the Senator? Mr. President, will the Senator yield further?

Mr. LEVIN. I will be happy to yield.

Mr. BYRD. That is one of the problems we have had with the administration. They have a changing mission. At the beginning, the mission was one thing. Then it changed. Then it changed, and it continues to change. Now, the Secretary, in his letter, according to the quotation by Senator LEVIN, references "the mission." Well, it is a moving target, that mission. That is one of the problems I have with this whole situation.

I just wanted to make that point. I thank the Senator.

Mr. LEVIN. I thank our good friend from West Virginia.

General Clark appeared on June 4th before the Armed Services Committee, and, of course, General Clark commands our U.S. and NATO forces in Europe, including Bosnia, and we asked him what effect the adoption of a legislatively mandated reduction of U.S. forces in Bosnia would have. And this was part of his response:

> I would not favor as a military professional a mandated limit because it would, I think, hinder our accomplishment of the mission on the ground.

Then he went on:

> In so doing, I think it could jeopardize force protection. I mean, one of the things that has kept our troops safe, and all of our NATO troops, it has been made very clear to those who might seek to do us harm that it will not be tolerated, that we will take action. We made that very clear personally and in many different statements. So if such a commitment were to be taken by those over there that this was some change in policy, that we were somehow less committed, that it somehow meant that we were not as firm in our resolve, then I would say that could pose a force protection threat.

And he went on a little later in his testimony as follows:

> I hope that we could move through and live with the benchmark approach that we were urged to adopt. We have some pretty specific benchmarks. We will take a look at how long it might take to achieve these. We will try to do all that we can to encourage those who are responsible for them other than SFOR to move as rapidly as possible on this. But they are not, there cannot be deadlines. There are too many intervening factors, and it will just have to be recognized as such.

Now, these are the benchmarks that were referred to by General Clark. This perhaps addresses the issue of our good friend from West Virginia.

> The goal of the military presence—

And now I am quoting from these benchmarks—

> is to establish the conditions under which the Dayton implementation can continue without the support of a major NATO-led military force.

And at this point the 10 specific benchmarks are set forth. And after those benchmarks are set forth the following statement is made:

> These benchmarks are concrete and achievable, and their achievement will enable the international community to rely largely on traditional diplomacy, international civil personnel, economic incentives and disincentives, confidence-building measures and negotiation to continue implementing the Dayton Accords over the longer term.

Mr. President, I ask unanimous consent that the entire document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1. The Dayton cease-fire remains in place, supported by mechanisms for military-to-military transparency and cooperation.
2. Police in both entities are restructured, re-integrated, re-trained and equipped in accordance with democratic standards.
3. An effective judicial reform program is in place.
4. Illegal pre-Dayton institutions (e.g. Herceg Bosnia, Strategic Reserve Office, Centreks and Selek Impeks) are dissolved and revenue and disbursement mechanisms under control of legitimately elected officials.
5. Media are regulated in accordance with democratic standards; independent/alternative media are available throughout B-H.
6. Elections are conducted in accordance with democratic standards, and results are implemented.
7. Free-market reforms (e.g. functioning privatization and banking laws) and an IMF program are in place, with formal barriers to inter-entity commerce eliminated.

8. A phased and orderly minority return process is functioning, with Sarajevo, Mostar, and Banja Luka having accepted significant returns.

9. In Brcko, the multi-ethnic administration functioning and a secure environment for returns is established.

10. The Parties are cooperating with ICTY in the arrest and prosecution of war criminals.

Mr. LEVIN. We on the committee pressed General Clark to give us some kind of timeline for the accomplishment of those benchmarks, and it is that timeline, for how long will it take to establish each of these benchmarks—to achieve, excuse me, each of these benchmarks that General Clark is referring to and he is going to be sending to the Congress within the next few months.

This amendment builds on an amendment to the 1998 supplemental appropriations bill that urged the President to seek concurrence among the NATO members on the benchmarks detailed in that March 3, 1998, report to Congress on estimated target dates for achieving the benchmarks and a process for NATO to review progress toward achieving the benchmarks. It required a report to be submitted, which was submitted semiannually thereafter on such progress.

NATO has now adopted those benchmarks and will use those benchmarks as it conducts its own 6-month reviews of the mission and the size of the NATO led stabilization force in Bosnia. Our amendment is designed to keep the pressure on our NATO allies, to continue the process where the United States is able to withdraw our ground combat forces from Bosnia, while our NATO allies and other nations maintain or increase their share of the stabilization forces, total force strength in Bosnia.

Again, the amendment does not mandate specific force levels. It does not mandate a specific withdrawal or reduction timetable because we do not believe it would be prudent to do so. Indeed, based on General Clark's testimony and on the letter from General Shelton and Secretary Cohen, we believe it could endanger our forces if we mandated a specific date for withdrawal or reduction.

The people who do not want those forces there would then know what our forces would be doing and when, when they would be leaving and in what numbers. And it is not to their safety, it is not to our advantage, it would jeopardize their well-being for us to state legislatively in advance that a certain number of troops are going to be leaving in a certain number of months or years, or to set forth a timetable for the reduction or removal or withdrawal of those ground combat forces.

Well, then, how do we keep the pressure on our European allies? How do we let them know we are not there for an indefinite period of time? How do we avoid writing that open-ended commitment or blank check? The answer is set forth in this resolution which attempts to let our allies know that we are not there indefinitely. At the same time, we do not in any way undermine the morale or the safety of our forces.

Finally, Mr. President, the NATO-led mission in Bosnia has been very successful. It has been able to carry out its military tasks without a single combat death. The civilian implementation of the Dayton accords has not proceeded as well as the military implementation, but some progress has been made in the last 6 months. The upcoming September election, which will involve virtually every elective office in Bosnia, will be a major event. If things go well, it could lead to a major reduction in the U.S. ground combat presence there.

I have been to Bosnia on a number of occasions, as have many of our colleagues. On each of my visits I have been struck by the high morale and the positive attitude of the men and women of the U.S. Armed Forces there. They feel, and I surely concur, that they are making a contribution to the maintenance of an enduring peace in Bosnia. Those who work with the Russian forces on joint patrols in the United States sector also feel that they are contributing to a better understanding of, and a closer relationship with, Russia.

But we have worldwide commitments, and our forces are stretched thin. We cannot remain in Bosnia indefinitely. This amendment—it is a bipartisan amendment with strong support—serves to pressure our European allies to redouble their efforts to bear more of the burden in Bosnia so that United States ground combat forces can be withdrawn within a reasonable period of time.

Finally, I will read from the mission statement that guides our forces, and then I will put the entire statement in the RECORD.

The mission and objectives of the U.S. military forces deployed in and around Bosnia are as follow:

> SFOR and the U.S. military forces participating in it will continue to deter a resumption of hostilities and provide support for civil implementation in a manner similar to the previous approach of SFOR.

So that is the very narrow mission of the military forces—to deter a resumption of hostilities and to provide support for civil implementation in the manner that was adopted by the previous force.

The objective of the current mission will be:

> . . . to consolidate the gains achieved to date while sustaining the current pace of civil implementation. This approach will encourage the implementation process to become progressively more self-sustaining without exceeding SFOR's current level of intensity and involvement.

The key military tasks to create that mission have been set forth as follows:

> Maintaining deterrence of renewed hostilities.
>
> Preventing removal of heavy or air defense weapons from cantonments.
>
> Maintaining the operation of the joint military commissions.
>
> Ensuring force protection, freedom of movement and continued compliance with the cease-fire and Zone of Separation.
>
> Monitoring the military components of the Dayton Accords and, if required, enforcing compliance.
>
> Controlling the airspace over Bosnia and Herzegovinia.
>
> Contributing, within means and capabilities and in a manner similar to the SFOR previous approach, to a secure environment within which civil implementation can continue.

Mr. President, I ask unanimous consent that that document setting forth the mission, setting forth the key military tasks, and then setting forth the key supporting tasks be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MISSION

SFOR and the U.S. military forces participating in it will continue to deter a resumption of hostilities and provide support for civil implementation in a manner similar to the current approach of SFOR. The objective of the follow-on mission will be consolidate the gains achieved to date while sustaining the current pace of civil implementation. This approach will encourage the implementation process to become progressively more self-sustaining without exceeding SFOR's current level of intensity and involvement. To this end, NATO has established the following tasks:

Key military tasks:

Maintaining deterrence of renewed hostilities.

Preventing removal of heavy or air defense weapons from cantonments.

Maintaining the operation of the Joint Military Commissions.

Ensuring force protection, freedom of movement and continued compliance with the cease-fire and Zone of Separation.

Monitoring the military components of the Dayton Accords and, if required, enforcing compliance.

Controlling the airspace over Bosnia and Herzegovina.

Contributing, within means and capabilities and in a manner similar to SFOR's current approach, to a secure environment within which civil implementation can continue.

Key supporting tasks, within means and capabilities and in a manner similar to SFOR's current approach:

Supporting the High Representative.

Supporting phased and orderly returns of refugees and displaced persons by contributing to a safe and secure environment, but not forcibly returning refugees or displaced persons or undertake to guard individual locations.

Supporting OHR and OSCE in the conduct of elections and the installation of elected officials.

Supporting the OHR and International Police Task Force (IPTF) in assisting local police by providing back-up support and a secure operating environment towards the creation of a restructured indigenous police force, but without undertaking civil police tasks.

Supporting OHR and OSCE in media reform efforts.

Supporting ICTY and efforts against war criminals.

Supporting the OSCE, on a case-by-case basis, in implementing Annex 1-B of the Dayton Peace Agreement.

Supporting the Supervisor in the implementation of the Brcko decisions presently in effect.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LEVIN. I will be happy to yield.

Mr. BYRD. Mr. President, the Senator referred earlier to certain benchmarks. What are we to understand with regard to the benchmarks, and what are they? The Senator put them in the RECORD. What are they?

Mr. LEVIN. There are 10 benchmarks that were referred to.

Mr. BYRD. Yes.

Mr. LEVIN. Perhaps I will just read them:

> 1. The Dayton cease-fire remains in place, supported by mechanisms for military-to-military transparency and cooperation.
>
> 2. Police in both entities are restructured, re-integrated, re-trained and equipped in accordance with democratic standards.

Mr. BYRD. What does that mean? What does that mean, "democratic standards"?

Mr. LEVIN. That means—what it means is, the civilian control over the police, and that the police will operate within the standards which are followed in democratic countries, which means a semblance, presumably, of process for its citizens, avoidance of physical violence against its citizens, and the kind of implementation of the law which democratic countries seek to achieve.

I may say to my good friend from West Virginia that it was because these benchmarks, in the judgment of many of us, including me, are not achievable within a reasonable period of time—that this involves too long a period, that this would require some significant restructuring—that we pressed General Clark, when he was here, for what would be the estimated timeline to achieve those kinds of goals.

This is not the military mission, by the way. This is the civil restructuring that mission seeks to support. That was what I just previously read from. The military mission is what I just read from a moment ago. These are the benchmarks which the Dayton implementation, hopefully, will follow and achieve.

But I must say, I agree with the Senator from West Virginia—at least as to what I believe he is driving at—that these benchmarks will take a significant period of time. That was the point that I made to General Clark. That is why I pressed him very hard to give us the timeline within which he believes these individual benchmarks could be achieved, because I expressed then, and I will express again: I do not believe these benchmarks can be achieved—that these goals, these civilian goals, can be achieved within years. I think this will take decades, in some instances, to achieve these.

So if I could just conclude, and I will be happy to yield further.

Mr. BYRD. I just wanted to say, Mr. President, I think the Senator has contributed an invaluable service in so questioning General Clark.

I did interrupt the Senator. Please proceed.

Mr. LEVIN. What I simply was saying was, for instance, benchmark No. 3, "An effective judicial reform program is in place." I said to the general, "My heavens, we are not going to be doing that in a matter of years. If it is highly successful, that could take a decade to achieve. But we cannot be there that long. We have to let the Europeans know in some way that we can only be there for a reasonable period of time, and then our ground forces must be removed, because we are stretched thin. We are all over the place, all over the world in many different ways, and our readiness is going to be jeopardized if we continue to have our forces in Bosnia for an unlimited period of time."

So what General Clark committed to do is to give us, within a matter of months, estimated time lines for achieving these benchmarks. That is what we are awaiting. I think it will be very helpful. I think all of us look forward to his estimates, as to how long would it take for an effective judicial program to be in place.

He said he is not going to give us a specific year. Then I said, "Can you give us a range as to how long it might take?" He said he will go through this, benchmark by benchmark, in order to give us that range.

So I think we are kind of after the same goal here, both making sure our mission is clear—and I just put that in the RECORD, making sure that our particular military tasks are clear, and I just put those in the RECORD. But as far as these benchmarks being accomplished, the best we are going to do, I think, is to get the time lines, the estimates on it, and then make the best judgment as to how long the forces can be there while these processes, hopefully, continue.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

Mr. BYRD. The Senator did not complete his reading of the benchmarks.

Mr. LEVIN. I will do that, and then I will be happy to yield the floor. There are 10 benchmarks. The third benchmark I just referred to: An effective judicial reform program being in place.

The fourth benchmark—again, this is for civil implementation, now, of Dayton. This is not our military mission. I want to be real clear, I read our military mission before. I read our military tasks before. This is the civil implementation side of Dayton.

> 4. Illegal pre-Dayton institutions . . . are dissolved . . .

And they specify which ones they are talking about. And I would be happy to give you a list. There are four of them: and revenue and disbursement mechanisms under control of legitimately elected officials.

> 5. Media are regulated in accordance with democratic standards; independent/alternative media are available throughout [Bosnia].
>
> 6. Elections are conducted in accordance with democratic standards, and results are implemented.
>
> 7. Free-market reforms (e.g. functioning privatization and banking laws) and an IMF program are in place, with formal barriers to inter-entity commerce eliminated.
>
> 8. A phased and orderly minority return process is functioning, with Sarajevo, Mostar, and Banja Luka having accepted significant returns.
>
> 9. In Brcko, the multi-ethnic administration functioning and a secure environment for returns is established.
>
> 10. The Parties are cooperating with [the International Criminal Tribunal] in the arrest and prosecution of war criminals.

Those are the 10.

Mr. COATS. Mr. President, may I ask the Senator to yield for a question?

Mr. LEVIN. I will be happy to yield.

Mr. COATS. Mr. President, I just want to make sure that it is understood by all concerned—and I am asking the Senator this question—that the benchmarks that were read are not a necessary precondition to our accomplishing the military mission; that the amendment that we are offering is an amendment that says our troops should not stay there indefinitely; that we should transition to a European-only-led force, supported by us but not with the use of U.S. ground combat troops.

I wouldn't want to leave the impression here that the request by the Senator from West Virginia, if I can have his attention, the establishment of those benchmarks are not necessary for the accomplishment of the military mission. I think where the Senator is going is the fact that some of those benchmarks may never be established. If that was a precondition to our troops staying on the ground in Bosnia, they might be there for another millennium.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. COATS. And I want to make sure that everyone understands that the amendment that is before the Senate, the sense of the Congress, does not address that question, is not meant to address that question.

Mr. LEVIN. I will be happy to respond to the comment. That is exactly what my point was. It is because it will take such a long time, in our judgment, for those kinds of civilian goals to be achieved that we must send a clear signal we cannot be there——

Mr. COATS. Exactly.

Mr. LEVIN. As long as it takes for those goals to be accomplished. It is because those goals, as important as they are—those are important goals; they could take decades, as I just said to the good Senator from West Virginia, they could take decades—may never be achieved. Those civilian goals may never be achieved. We hope they are, but we cannot be there militarily until those civilian goals are achieved, or benchmarks, and that is why this resolution is the signal, the statement that we must have our ground forces out of there within a reasonable period of time.

Mr. BYRD. Mr. President, will the distinguished Senator from Michigan yield on that point? Did not the President in his explanation for keeping our troops in Bosnia beyond December list these benchmarks in a report to the Congress? Did he not—I don't have them before me now, but it seems to me that I recall he sent a report to Congress.

Mrs. HUTCHISON. Will the Senator from West Virginia yield for 1 second? I do have the report, and I know exactly what he is trying to say. I would like to read him exactly what it says.

Mr. LEVIN. If I can respond first, I will be happy to yield in a moment. I just read the President's report.

Mr. BYRD. Wasn't the President saying, in essence, that our troops should stay there until these benchmarks have been achieved? In essence, wasn't he saying that?

Mrs. HUTCHISON. Will the Senator from West Virginia yield?

Mr. BYRD. He has the floor.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I will be happy just to yield for a question for the moment, but—we are going to get the exact wording—but it is my recollection that the President did not say until these benchmarks are achieved.

Mrs. HUTCHISON. Mr. President, reading from the report that the distinguished Senator from West Virginia refers to, in the report the President says:

> The exit strategy for U.S. troops engaged in such deployment—

And then he notes:

> The goal of the military presence is to establish the conditions under which Dayton implementation can continue without the support of a major NATO-led military force.

And begins to list the concrete benchmarks that the Senator from Michigan has just read. I don't exactly know how you can refer to them as concrete, because I think that they are not concrete. I think the police re-integration, the effective judicial reform, and media regulation is a giant leap, and I think the Senator from Michigan probably has already said that he also sees that these could be limitless. But, in fact, that is the exit strategy that has been put forward by the President, and that is exactly why I think the Senator from West Virginia is on point to question what is the exit strategy.

If these are clear benchmarks—the State of Texas doesn't have effective judicial reform yet—there are countries in the European Union that can't meet the economic test that is set out in this exit strategy for Bosnia.

I think the Senator from Indiana and the Senator from West Virginia and the Senator from Michigan are all beginning to agree that we are looking at an exit strategy from which there is not an exit in the foreseeable future, and I hope that we will be able to clarify this as we go down the road. Thank you, Mr. President.

Mr. LEVIN. Mr. President, if I can reclaim the floor for a final moment. Our resolution, it seems to me, clearly speaks for itself. People can try to interpret the President's statement in different ways, and I will read one line from it in a moment, but our resolution is very clear: Our forces cannot be there indefinitely. We want our forces out within a reasonable period of time.

It is our belief that it will take a long time for these kinds of civilian reforms to occur. If you want to read the President's report as saying that the forces cannot leave, in his judgment, until these are achieved, I think that is really stretching what the President has said, but I will read it, and then one can interpret it the way one wants:

> The goal of the military presence is to establish the conditions under which Dayton implementation can continue without the support of a major NATO-led military force.

That is what the President reports. He wants to establish the conditions under which progress can continue—"Dayton implementation can continue without the support of a major NATO-led military force."

The way I read that is that these do not need to be reality before the President intends to remove combat forces from Bosnia. If one wants to read that differently, one is free to do so. But however one reads the President's report, what our resolution makes clear is we are not going to be there. We don't believe we should be there for as long as it takes to achieve this. That is the point of our resolution.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LEVIN. I will be happy to yield.

Mr. BYRD. Mr. President, I agree with the distinguished Senator from Michigan as to his resolution. I agree with him on that. But from his reading of the benchmark items and the language that was in the President's report, it seems pretty clear to me that conditions that need to exist in order that we no longer keep our troops there are conditions that the President expects to be achieved before we remove our troops. And those conditions, as the distinguished Senator has pointed out, many of them are impossible within my lifetime, if I live to be as old as Abraham, that was 175 years; and if I live to be as old as Isaac, that is 180; if I live to be as old as Jacob, that is 147 years; if I live to be as old as Joseph, that is 110 years. So I have a pretty long while to go to make that. But sincerely, and seriously, I thank the distinguished Senator for his comments.

Mr. LEVIN. Mr. President, I want to just respond to that, because the words in the President's language is not "these need to be achieved." In fairness—and I do not consider this to be an abundantly clear document. That is the reason why I think we should speak as to what our own beliefs are, and that is why this resolution is introduced. But the document says, "conditions under which Dayton implementation can continue without the support of a major NATO-led military force."

Mrs. HUTCHISON. Will the Senator yield?

Mr. LEVIN. In a moment.

Mrs. HUTCHISON. Since we are on this point, I would like to add that the sentence above that, "The exit strategy for U.S. forces engaged in such deployment," that is the question that was asked by Congress for the President to respond to. In response to the question, What is the exit strategy? he lists these 10 benchmarks that we have been discussing. So——

Mr. LEVIN. But I think the Senator would need to then read what it is in entirety, which is to establish conditions under which implementation can continue without the support of major NATO-led military forces. But that could be argued to read as that implementation of this can continue—not that it has to be achieved before the force can leave—but that it could continue after a major—major; a qualification—NATO-led force can continue.

But I will simply repeat and then yield the floor. It is because we have our responsibility to state what we believe our policy should be in Bosnia that this bipartisan resolution has been introduced. We are trying to state we are not there indefinitely, in our judgment. And we want to let the Europeans know we will not be there indefinitely. We are not writing a blank check. We are not making an open-ended commitment. We are putting you on notice, we are there for a reasonable period of time.

Now, why don't we set a specific date? Why don't we then say how many troops, by what date? The answer is, because our top military leaders say that would undermine the safety of our troops. That will jeopardize the well-being of our troops. That will play into the hands of those that want us out of there by one means or another and that we will use force if necessary to get us out of there. That is because we want to support our troops as long as they are there and not harm them.

Setting a specific date or setting a specific reduction timetable would, in the judgment of General Clark and General Shelton and Secretary Cohen, jeopardize the well-being of our troops.

So what our resolution does is say we want to express ourselves, put everybody on notice that we are not there for an indefinite period of time. And by the way, we surely are not there until these goals are achieved. There is no way—no way —we are going to be there until these goals are achieved. But that is the expression of our opinion.

I would be happy to yield for a question or yield the floor.

Mrs. HUTCHISON. Well, I would like to ask the question, if the Senator will yield, and that is, I appreciate your interpretation of this because I certainly agree with you that these benchmarks are not achievable in a reasonable length of time. But I would just like to ask you the question, What is the next step? The President has said this is an exit strategy, that these 10 benchmarks could be—would be reached without the necessity of major support from the United States. That is what is on this page.

The Senator from Michigan has asked General Clark, What would be the timetable to achieve these 10 benchmarks, which I think we all now have a consensus are going to be very difficult to quantify? What is the next step? If General Clark comes back and says, well, effective judicial reform would be maybe 50 years, or 30 years, the civil Dayton goals, the reestablishment of minority homeowners in each area of Bosnia, the media regulation, these will take 60 years or 40 years or 25 years, what then is the next step?

If we have the benchmarks in a report from the President, which we are now asking, "OK, you, Mr. President, have said the exit strategy is that these will be achieved without the requirement of a major U.S. presence," we get the timetable back, we think it is unrealistic to have a major U.S. presence for 50 years, and do all of the other responsibilities of the U.S. military, what is the next step?

Mr. LEVIN. First, I think I want to just restate what the President's statement here is. It is not that these will be achieved before. That is not what this states. It is that "implementation can continue." I just want to again reiterate what this document says.

Mrs. HUTCHISON. Without the support of a major U.S. force.

Mr. LEVIN. Absolutely, without the support of a major NATO-led military force.

Mrs. HUTCHISON. That is the exit strategy for the United States.

Mr. LEVIN. That is the strategy, that implementation can continue without the support of a major military force. And what the next step is is for General Clark to submit to us, as he said he would, within 2 months of our hearing, which was early June, June 4—so that, hopefully, by the end of July we will then have his timelines for the achievement of the benchmarks. At that point we will take whatever action we think is appropriate.

This resolution is aimed at stating what our position is, again, relative to not having an unlimited commitment from ground combat forces in Bosnia. That is what this resolution says. We are not going to do that. We are going to say they are there for a reasonable time period. That is what this resolution does, which is what we think is the responsible thing to do at this time, without having more information as to what those estimated timelines are. But I would not want to tell you what action, if any, Congress would appropriately take after it receives estimates of timelines, perhaps ranges, from General Clark before we actually see his response. I don't think it would be responsible for us to project in advance what action, if any, we would think would be appropriate beyond adopting this resolution which states quite clearly that we intend that our ground forces only be there for a reasonable period of time.

Mr. COATS. Will the Senator yield?

Mr. LEVIN. I am happy to yield to the Senator from Indiana.

Mr. COATS. I thank my colleague.

I just want to make sure that I understand that what he is trying to say is that it is important, a discussion over what the benchmarks should be or could be or ought to be, or how it ought to be modified, and should not be confused with what we are attempting to do in this resolution.

Discussing benchmarks, I say to the Senator from Texas, is perfectly legitimate, but not as an objection to the resolution that is before us. It is partly, maybe even primarily, I would ask the Senator, because of the benchmarks, because we agree that they are indefinite, because we agree they are not achievable that we want this resolution.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. COATS. If I could finish my statement.

The only thing we do not want is for those of us in Congress to tell the military how to protect itself. But we want to send a message that we do not care what the President's interpretation is; we are dealing with what Congress wants to say.

What Congress wants to say is, Mr. President, I do not care what your exit strategy is, whether I agree with it or disagree with it. We believe that our troops should not be there indefinitely. We believe you should talk to our NATO allies and European allies and tell them that Congress does not support an indefinite troop commitment. We want our combat forces out of there. We want a European force—if you think it is necessary to stay there, you better tell the Europeans to put a European force together. If you want our support, logistics support, intelligence support, communications support, rapid reaction that might help you in a crisis, yes, we can consider that.

But we want those combat troops out of there. I just don't want to confuse the President's policies—exit strategy, benchmarks, General Clark's interpretation. That is not what we are about here. We are talking about Congress' resolution.

I ask the Senator if that is what we are up to?

Mr. LEVIN. The Senator from Indiana is the prime sponsor of this resolution and is exactly correct.

Further, in response to his question, I again state that this is our expression of what Congress intends, that we intend for Europeans to understand, and what we intend, of course, for the President to understand.

Part of this, paragraph 5, is that the President should inform the European NATO allies of this expression of the sense of the Congress, should strongly urge them to undertake preparations for establishing a Western/European Union-led or a NATO-led force as a follow-on force to the NATO-led stabilization force, if needed, to maintain peace. In other words, there may be a need—in my judgment there will be, by the way—for a long period of time for there to be an outside force in Bosnia.

But what this resolution is saying, it cannot have American combat forces as part of that force beyond a reasonable period of time and we are putting you on notice. Whether we understand your exit strategy, whether we agree with your exit strategy, Mr. President, whatever differences there are as to the interpretation of it, that is not the point. The point is this is what Congress is telling you and telling the Europeans. This is not an unlimited commitment. We are sending you a very clear statement that we are only going to support the presence of American combat forces there for a reasonable period of time. Plus, as long as they are there, we will support them. We are not going to harm them by setting a specific exit date or a specific reduction schedule. We are not going to jeopardize the well-being of our forces with a specific date for an exit, because our top military leaders have told us that is what the effect would be. We are not going to do that in this resolution, at least.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I simply wanted to say to the Senator from Indiana and the Senator from Michigan, I think I was the first to raise questions about benchmarks. In so doing, I did not mean to imply that I was against the amendment that Senator THURMOND has offered. I don't mean that at all. I just picked up on Senator LEVIN's reference to benchmarks and asked some questions about them. I intend to support the amendment.

As to the distinguished Senator's reference to the military leaders, our military leaders, in part, helped to get us right where we are now. We were misled by some of our military leaders at the very beginning of the discussions concerning Bosnia. I have great respect for our military leaders, but I don't accept their word as having come down from Mount Sinai, as being engraved in stone. They listen to the President. They say whatever the President thinks. They all do. And very seldom will they venture to say something that isn't in accordance with the administration's viewpoint.

I intend to say something about this subject matter later, but I wanted to wait to listen to what the distinguished Senator from Texas has to say first.

I yield the floor.

Mr. THURMOND. Mr. President, we have had a lot of talk here. It is about time for action now.

At this time, I yield to the able Senator from Virginia, Senator WARNER.

Incidentally, for the record, Senator WARNER served as a sailor in World War II. In his career he served in the Marines; he served as Secretary of the Navy. He is the ranking Republican on this committee. He has had vast military experience.

I am very pleased at this time to yield him such time as he desires.

Mr. WARNER. I thank my distinguished colleague. That was unexpected. I assure you that my very modest record of military service pales in comparison to yours, having been the only Member of the Senate to have landed on June 6, 1944, D-day.

Moving on, this is a very important debate, if for only the reason here we have some of the most intelligent persons debating documents which read with clear English language, yet we can't seem to come to an agreement. That signifies the desperate need for clarity to our policy. That clarity has to come from the President of the United States.

This debate was really fostered some months ago by the efforts of our distinguished colleague, the senior Senator from West Virginia, and the Senator from Texas, when they, consulting with members of the Armed Services Committee, and others, showed various proposals. Those proposals manifested, in my judgment, the unrest, certainly within the Senate and I think largely within the Congress, that we could not keep going on and going on as we have been, and that it was inflicting a very severe penalty upon research and development budgets, readiness budgets, procurement budgets, and that we must bring this debate to the floor of the Senate so that Senators can have expressions and perhaps pass a resolution and/or an amendment or, in whatever form, to manifest our great concern.

I wish to compliment the Senator from West Virginia and the Senator from Texas for their efforts. The Armed Services Committee took into consideration their views. As a result, we have this amendment today by the distinguished ranking member and the Senator from Indiana, which I intend to support.

My concern is that as I listen to this debate it is clear to this Senator that our American troops, particularly the combat troops, are simply hostage, I repeat hostage, to the uncertainty of what these goals are and what the time is within which they are achievable. As a consequence of this amendment, I am concerned that the President and others will take it into consideration and come back to the Congress with specificity and clarity.

It will be, in my judgment, impossible for this Congress in the few weeks remaining, to make a decision on this subject. My concern is that we really not make a definitive decision other than this amendment, for the following reasons: No. 1, as the Senator from Michigan said, in the course of General Clark's appearance before the Armed Services Committee, which was a hearing dedicated to the subject of Bosnia and at which we received one of the most profound and eloquent dissertations by the Senator from West Virginia, expressing the responsibilities of the Congress of the United States as being parallel and equal in every precedent to those of the President—an excellent statement.

But General Clark, when pressed—this Senator was particular in urging him to assess these goals, for General Clark to go back to the various individuals, government entities and the like, and to establish a timetable within which they could be achieved. Now, my understanding of his reply and my recollection was that he felt he could not provide the Congress, particularly the Senate, with that reply much before September. That was my recollection.

Now, also in September are a very important series of elections that will take place in Bosnia. Step one is the Clark report. Step two are the elections in Bosnia. Hopefully, those elections will again point in the direction towards greater achievement of the overall Dayton accords. Then we have to recognize that this Congress ends and a new Congress will come in the January-February timeframe, and that they—possibly new Members, possibly different views—they will then have their opportunity to express their views.

I think decisions by the Congress as to the future level of funding, which is pointed out by the Senator from Indiana, is our explicit authority here, will probably have to await until early next year. In that interim, we have called upon the President, subsequent to General Clark's announcement, to come forward no later than, I believe, December 31, of this calendar year and give us a detailed report.

We are beginning to lay the foundation now, expressing to the President, and indeed to our allies, the unrest that exists in the Congress, which unrest is reflective of the people across the United States. And that time is running out. We have made a significant contribution in terms of our men and women of the Armed Services Committee working with our allies. We have made a very significant financial commitment of $9.5 billion.

My concern at this particular moment is that we are walking something of a high wire, because as we are discussing, I think in a very responsible way, these issues, at the same time we have to take notice of the fact of the unrest in Kosovo. With all due respect for my colleague from Texas, I see there is a direct correlation between the actions we take in Bosnia and the possible consequences in Kosovo. I readily admit, as my colleague from Texas points out, the legalities—namely, that Kosovo is a sovereign part of the Serbian State and, as such, it is a civil war. But I say to my colleagues that if the continued criminal hardships being inflicted upon innocent people in Kosovo become portrayed in greater detail, and we experience greater and greater levels of suffering of those people, all those legalities go to the side. Once the pictures of the horror begin to emanate —and I hope they will not—in further amounts from Kosovo, everybody will recognize that there is a conflict that responsible nations of the world must participate in, in trying to bring about a cessation.

I urge my colleague from Indiana—and I am certain my colleague from Michigan heard—I hope nothing we do here today can in any way be utilized by those forces trying to continue the criminal acts being perpetrated in Kosovo to give them any encouragement to continue those acts. What we are doing today is an important debate, but it is not to be construed in any other way but that the United States will assume its responsible role, along with our allies, in trying to stem the crisis that is developing in Kosovo.

As we speak, the President has dispatched Mr. Holbrooke—soon, I hope, to be confirmed as our U.S. Representative to the United Nations—a man who had a great deal to do with reaching the accords in Dayton and who has had extensive experience in this area. It is our hope that he can bring about a strong message that will eventually bring stability in the Kosovo region. What we do today will have consequences, and it is walking the high wire that nothing be interpreted as lessening our intent to stop the killing, the rape, and so on taking place in Kosovo.

I will return to the debate. It is clear that these Dayton accords, as pointed out by the Senator from West Virginia, the Senator from Texas, and others, are holding hostage the need for troops. I agree with the Senator. He said they are not achievable unless there is a military force in place, and the part that we play or do not play remains to be seen, be it combat or support in that continuing military force, because I am sure that the Dayton accords—no matter what time within which we will require their ultimate achievement—would require a security force, and that security force must perform only military missions. They cannot perform the missions to directly achieve the accords. But only by their presence and the infrastructure that they maintain in place—namely, some semblance of law and order—can we hope to achieve any of the Dayton accords. So I commend my colleagues.

I intend to support this amendment. But I see a direct linkage between the problems in Bosnia and the developing problems in Kosovo. I hope that nothing as a consequence of this debate today will ever be construed by anyone as undermining the efforts of our Government, because I remember so well in the early debates—and this Senator was never in favor of sending in combat troops; the record is clear on that. But once that decision was made and once we have become a party and a partner—and I underline "partner"—with our allies and achieved the Dayton accords, then I feel we are there and we should not jeopardize the $9.5 billion and the personal sacrifices of our troops by doing something precipitous now that would undo the progress in Bosnia.

But there is a direct correlation between Bosnia and Kosovo. We used to argue that we have to contain Bosnia so it doesn't spill over into Kosovo. The opposite could happen now. The problems in Kosovo could spill over into Bosnia and begin to undermine the progress we made in Dayton. We have to proceed with great caution.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to ask a question of the Senator from West Virginia. I did not intend to speak before the distinguished Senator from West Virginia. If it is his desire to speak first, I am happy to wait.

Mr. BYRD. Mr. President, if the Senator will yield, I certainly do not wish to speak in advance of the Senator from Texas. I very much appreciate the courtesy, but I am very content to wait and listen to the Senator.

Mrs. HUTCHISON. Thank you.

Mr. President, first, let me say I thank the distinguished Senator from West Virginia, because he and I have worked together. We have introduced a bill—the Byrd-Hutchison bill—which would produce a downsizing of our commitment in Bosnia in, I think, a reasonable timeframe, taking into account the safety of our troops. I will talk about that in a few minutes. He has been a leader in this effort, and he is a member of the Armed Services Committee. He has provided a lot of input into this debate and certainly a background that none of us can match because of his years in the Senate and his scholarly pursuits in Senate history.

I also want to thank Senator THURMOND, Senator LEVIN, and Senator COATS for putting forward this amendment. I think this sense of the Senate is a good start. It certainly sends the signal to the President and the administration from Congress that Congress is very concerned about the policy. I think it is very clear from the recent debate that many of us do not consider that the exit strategy put forward, in response to our question, from the President is a serious exit strategy. It cannot be considered a serious exit strategy, because I think when General Clark comes back with a timetable, it is going to be totally unacceptable, and I think everybody on this floor agrees that it is too nebulous to be in any way dubbed a concrete and clear benchmark.

I want to respond because Senator BYRD and I have spoken on this subject and we feel, I think, very strongly about the role of Congress and the importance that Congress exercise its responsibility under the Constitution. That is why we have been active in this area and why I think it is important that we take this first step with the Thurmond-Levin-Coats amendment, and that we eventually go further in making sure that Congress is a part of any effort by the President to have a long-term commitment of our troops in a foreign land.

In fact, that is what the Constitution envisioned. It is very clear if you read the Federalist Papers, if you study the Constitution, if you read the debate, that our founders had an example. The example was a king, a monarchy—a monarchy in which the king not only declared war for his country, Great Britain, but the king also paid for it, implemented it, did the strategy. It was all a power of the monarch. As the founders of our country were debating what they wanted, they said they wanted it to be hard to declare war. In fact, in the debate, I will quote from James Wilson, the delegate from Pennsylvania, who said:

> We must have a system of checks and balances in this area that will not hurry us into war. It is calculated to guard against it. It will not be in the power of a single man or a single body of men to involve us in such distress, for the important power of declaring war is vested in the legislature at large.

Mr. President, we have a situation here in which there is no declaration of war. So we have a shift of power toward the President, putting our troops into combat positions, or into peacekeeping positions, certainly into harm's way—however you would like to describe it—unilaterally.

Congress has since World War II, I think it can be fairly said, continued to allow the President to encroach more and more on the responsibility that was clearly given in the Constitution to Congress, because, in fact, it should be hard to declare war. It should be hard to put our troops into harm's way except in an emergency, which I think all of us would agree is within the power of the President to address.

So now we have a situation where more and more the President is going forward on his own and Congress is stepping back and allowing the President to take the power without our input, and even when we disagree with the President, unfortunately, I think we have been timid about standing up.

I believe it was this timidity that caused the extended Vietnam war. I think we extended it by not exercising the responsibility of Congress, which clearly knew that this was not a war in which we should be, and most certainly not one in which so much American blood should have been shed.

Mr. President, here we are now with an exit strategy given to Congress by the President that is not realizable—an exit strategy that many States of the United States couldn't meet as benchmarks.

On the effect of the judicial reform program, police in both entities are restructured, retrained, and equipped in accordance with democratic standards; media-regulated in accordance with democratic standards; independent alternative media available; free market reforms; functioning privatization; banking laws; an IMF program in place.

Mr. President, these are worthy goals. They are worthy benchmarks, and I hope we work toward them. But this is not an exit strategy for U.S. forces.

I am pleased that so many Members of Congress agree with that, and are beginning to take first steps that would say to the President you don't have carte blanche to watch our military move into a dangerously hollow force while you are spending $10 billion of taxpayer money on this kind of effort with no exit strategy. That is what is happening.

I am pleased that we are going to begin to take the first steps to say to the President we want an exit strategy;

we want an exit strategy that is reasonable, and we want an exit strategy that is responsible as an ally.

Everything that Senator BYRD and I have done has been to try to work with our allies as a responsible ally, not to exit totally from Bosnia as a requirement, but to say we want to do our fair share, and we want our allies to work with us to allow us to continue to have a military that is capable of responding in the only way that America can respond, and that is with our unique capabilities, our unique technology, our unique modernized equipment, and our uniquely trained forces, which are the best in the world. We don't need our best fighting forces to do the peacekeeping mission that we are doing in Bosnia, which can ably be done by many other of our allies.

So my goal is going to be to support this very good beginning, but to say that we must be willing to stand up and force this issue because we are going in the wrong direction. We are allowing our military to become hollow because we are in unending missions. Our troop morale is suffering. We are losing experienced people, because they are gone from home so much on missions that they do not see as essential. If you talk to military people, as I have, that is what you will hear. They will be there when they see that it is a U.S. security interest. They have always been. But they do not understand continuous deployments when there is no emergency, as they see it, and when they see no exit strategy.

I am very pleased that the Senator from West Virginia made the specific point of trying to determine what the mission is. Is it a clear mission? He asked what the benchmarks for the exit strategy were. I think it became very clear to anyone who listened that the benchmarks are no exit strategy at all. They are worthy goals. But they will not be met in our lifetime. And, indeed, many countries of Europe do not meet them today.

I hope the Senate will take the first step. But I hope the Senate will not be timid about its responsibility under the Constitution, and take further steps along the way.

We are going to continue to have other amendments to other bills that will provide the United States an opportunity to speak to our allies to determine how we can work together to downsize the U.S. commitment, to help our allies in every possible way within the bounds of reason, because we do have other commitments. We must respond, if there is a real security threat to our country, or to any of our forces in the field, and we are losing our edge.

Mr. President, I hope that this is a first step, not a last step. I hope the President will hear what the Senate is saying with this sense-of-the-Senate resolution. It is a good resolution. The President should work with NATO allies to withdraw U.S. ground combat forces from Bosnia within a reasonable period of time.

That is the resolution. I agree with that—that a NATO-led force without the participation of the U.S. ground combat forces in Bosnia might be suitable for a follow-on; that we, the taxpayers of the United States, have spent $9.5 billion over the last 6 years at a time when our military is telling us that we are dropping in modernization; that we are dropping in our recruitment. We are losing experienced people. We must as responsible Members of the Senate question the priorities in spending for an operation that has no exit strategy.

We want to take this first step. I certainly do. But I want the U.S. Senate to remember our part of the Constitution. If we fail to keep our part of the Constitution working, we are failing in our duty and our responsibility to the people of our country, and most certainly to those combat forces who are putting their lives on the line every day.

We would never jeopardize troop safety in anything we do.

I want to say that Senator BYRD's and my two bills that have been put forward both exempt totally the troops that are necessary for the safety of the troops that are on the ground.

We want a responsible exit. We want to be responsible allies. We are not walking away from our responsibility to our allies. But we do not think it is fair for the United States to continue to bear the lion's share of the burden in Bosnia. We are now twice as many troops as our nearest ally, and I do not think that is a fair allocation.

So, Mr. President, I think this is a good first step. I think the United States is taking a necessary first step. I hope the President will listen to the concerns that have been raised in this very good resolution, and I hope the Senate will be willing to continue to work on legitimate, responsible parameters around this Bosnia mission.

And just one more response to the Senator from Virginia. I think that this must be separated from Kosovo for many reasons. One is Kosovo is an independent country and requires a different set of references. We have been in Bosnia for 6 years, really more. We have been working on the Bosnia issue. Kosovo, we have yet to take the definitive action, and I do support the President for getting his emissaries in and trying to bring these people to the peace table. I want to be shown to support that effort, and I hope that it works.

I think the Bosnia issue is much different, and I think we have worked toward coming to some sort of clear mission and clear exit strategy in Bosnia for many years, since I have been in Congress, and I think now is the time for us to exercise our responsibility under the Constitution and become more firm in how long we will be in a mission in which our troops will be engaged, will be in harm's way, and for which there is no congressional approval as I think is required by the Constitution in spirit if not in actual terms.

I thank the Chair.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. McCAIN addressed the Chair.

Mr. WARNER. Will the Senator yield for a question?

The PRESIDING OFFICER. Will the Senator yield?

Mrs. HUTCHISON. I will yield for a question.

Mr. McCAIN. Did the Senator just yield the floor? Parliamentary inquiry.

Mrs. HUTCHISON. I did not yield the floor.

The PRESIDING OFFICER. The Senator has yielded for a question.

Mr. WARNER. Let's clarify the question of the Senator from Arizona.

Mr. McCAIN. I thought I heard the Senator from Texas yield the floor. I was asking if that was the case.

The PRESIDING OFFICER. The Senator was asked if she will yield for a question, and she did yield for a question.

Mr. WARNER. My question would be, we have our differences on the legal—clearly, the Senator is correct about Kosovo—independent and the like. But it just has been my experience that once the television pictures and stories come back across the ocean as to the horror and pillage, and so forth, that could take place in greater porportion than now, then this whole thing blends together, and I do see a direct linkage between the turmoil in one geographic area and turmoil in another just a bare few miles away.

But my concern, and it goes to both my distinguished colleagues from West Virginia and Texas; I have followed and respect greatly their efforts here, but we are about to get a report from General Clark which will throw, I think, some very clear light on this otherwise unclear situation as the time within which the goals for Dayton can be achieved. We are about to experience the results of elections in Bosnia which we all hope, again, will move towards a more rapid resolution of the remaining problems in Bosnia.

The distinguished Senator from Arizona—and I have read through his amendment, which I support—is going to list, I think, some very important analysis from the President, Secretaries of Defense and State, and then we have the fact that a new Congress is coming in. So my concern is what can we hope to achieve now were we to move along the lines of the amendment which I have seen from the distinguished Senator from West Virginia and the Senator from Texas, given that so much remains to be done, and those actions—the Clark report, the elections, the fact that we are going to have a new Congress—in my judgment, all have a direct bearing on what we can achieve by way of reductions in the specific numbers of troops over this period. So I thank the Senator. If the Senator cares to reply, I would appreciate it.

Mrs. HUTCHISON. I thank the Senator.

I would just say to the distinguished Senator from Virginia that we have had benchmarks that are clearly not achievable in any lifetime that we are going to have. We have had deadlines that have failed to be met. I think it is time that Congress stand up and say we are looking at the facts. The facts are we are having a harder time recruiting for the military. We are having a harder time funding the modernization and the technology. We haven't even addressed missile defense systems. And yet we know now that two more countries have joined the nuclear club; that we are talking to troops—at least I am—who are very low in morale, and people who not only are not coming into the service, but our experienced people are leaving, and I think it is time that Congress take the responsibility to address these concerns. One of them is a mission with no exit strategy, which is, I think, an ill-defined mission, and no clear policy that shows our enemies or our allies where we would go in the future.

Kosovo is another issue. There are problems erupting in India and Pakistan. Certainly, Iraq is still on the horizon, not to mention Korea. The United States has the unique responsibility in the world to provide a security umbrella in a lot of places, and I want to make sure that we are going to be strong enough to respond when there is a threat to U.S. security. And if we continue to sit back and let deadline after deadline and benchmarks that do not hold water go forward, I think we are abdicating our responsibility.

Mr. WARNER. Mr. President, I thank the Senator, and I certainly associate myself with her concerns as to the overall posture of our own Armed Forces, which have been degraded, and I so stated in my opening comments, by the heavy expenditures associated with Bosnia. And you are quite correct; the India-Pakistan series of regrettable events has, I think, spurred other nations to look more and more to biological and chemical missilery and other weapons in the area of mass destruction and, indeed, we are all, I think, deeply concerned when we read the reports that, indeed, Iraq was preparing its weaponry to incorporate the biological material in its missile heads, and all the more reason to proceed with this missile defense program which for years the Senator from Texas, myself and others have been urging be adopted.

I yield floor.

Mrs. HUTCHISON. I thank the Senator from Virginia. I think when you look at these other potential necessary points of U.S. defense callings, we have to look at our budget, our defense dollars, our modernization, our technology and our will along with the morale of our troops, and we have got to say that there is a red flag out there, and if we do not do something about the priorities, we are going to have a hollow force at a time when we really need it. And I think that is the responsibility of this Senate to address and to make sure that it does not happen on our watch. I appreciate what the Senator from Virginia has said. I appreciate the leadership he has shown, along with Senator THURMOND and all of those. I think we all have the same goal. I just hope that we can all as a group of 100 independent operators come together and realize that because we are so diverse, we cannot allow ourselves to be inept in action, in doing the right thing that all of us, I think, are seeking to do. That is what happens in a legislative body. It is not an easy, clear direction that you can point a legislative body to. But nevertheless, I hope we can overcome the inherent problems in dealing in a legislative body and do something strong and courageous and decisive and fulfill our responsibility under the Constitution for our country, for those who are serving our country in the military, and for our future generations.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from Arizona, I believe, has an amendment. Does he wish to call that amendment up at this time?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. BYRD. No, no, I am recognized. I am not yielding the floor. I am merely asking the Senator from Arizona if he would like to call his amendment up.

Mr. McCAIN. Mr. President, I ask unanimous consent to be able to respond to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Without his losing the right of the floor.

Yes, I have a second-degree amendment, I say to the Senator from West Virginia, concerning this issue that is before us. I believe it is not controversial. The Senator from Virginia supports it, and others. It is concerning reports that are required about progress in our mission in Bosnia and certain benchmarks for us being able to determine how long we have to remain there.

Mr. BYRD. Mr. President, if the distinguished Senator is pressed for time right at the moment, I will be glad to yield to him for that purpose.

Let me say, before I do so, I congratulate the distinguished Senator from Texas on her statement and on the work that she has done in preparing legislation on this very issue that has been discussed. I also congratulate the distinguished Senator from Virginia for his work on the committee and I commend those who have prepared the amendment that has been offered by Mr. THURMOND, which I intend to support, and I hope it will be unanimously agreed to. I think it goes in our direction, but I don't think it goes far enough. But I think it is moving in the direction that Senator HUTCHISON and I favor.

Mr. President, I have waited 3 hours to address the Senate. I want to speak on the same subject. I have had my share of entries into the colloquy by interrupting others and asking questions. I am perfectly content to desist and await just a few minutes longer, if the distinguished Senator from Arizona wishes to call up his amendment.

Mr. WARNER. Mr. President, I urge the distinguished Senator from West Virginia to do that, and I thank him. I think it would be important because this amendment is germane to this debate and should be before the Senate. And then, of course, immediately after it is sent to the desk, the Senator from West Virginia would give us his important analysis of the debate.

Mr. BYRD. Mr. President, how much time would the distinguished Senator from Arizona need?

Mr. President, I yield the floor for not to exceed 5 minutes to the distinguished Senator from Arizona, and I ask unanimous consent that I may regain the floor at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 2977 TO AMENDMENT NO. 2975

(Purpose: To require the President to submit to Congress certain reports on the missions of United States forces in Bosnia and Herzegovina)

Mr. McCAIN. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 2977 to amendment No. 2974.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After subsection (b) of the amendment insert the following:

(c) ONE-TIME REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than September 30, 1998, a report containing a discussion of the likely impact on the security situation in Bosnia and

Herzegovina and on the prospects for establishing self-sustaining peace and stable local government there that would result from a phased reduction in the number of United States military personnel stationed in Bosnia and Herzegovina under the following alternatives:

(A) A phased reduction to 5,000 by February 2, 1999, to 3,500 by June 30, 1999, and to 2,500 by February 2, 2000.

(B) A phased reduction by February 2, 2000, to the number of personnel that is approximately equal to the mean average of—

(i) the number of military personnel of the United Kingdom that are stationed in Bosnia and Herzegovina on that date;

(ii) the number of military personnel of Germany that are stationed there on that date;

(iii) the number of military personnel of France that are stationed there on that date; and

(iv) the number of military personnel of Italy that are stationed there on that date.

(2) Not later than October 1, 1998, a report on the status of the NATO force of gendarmes or paramilitary police referred to in subsection (a)(1), including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

(d) REPORT TO ACCOMPANY EACH REQUEST FOR FUNDING.—(1) Each time that the President submits to Congress a proposal for funding continued operations of United States forces in Bosnia and Herzegovina, the President shall submit to Congress a report on the missions of United States forces there. The first report shall be submitted at the same time that the President submits the budget for fiscal year 2000 to Congress under section 1105(a) of title 31, United States Code.

(2) Each report under paragraph (1) shall include the following:

(A) The performance objectives and schedule for the implementation of the Dayton Agreement, including—

(i) the specific objectives for the reestablishment of a self-sustaining peace and a stable local government in Bosnia and Herzegovina, taking into account (I) each of the areas of implementation required by the Dayton Agreement, as well as other areas that are not covered specifically in the Dayton Agreement but are essential for reestablishing such a peace and local government and to permitting an orderly withdrawal of the international peace implementation force from Bosnia and Herzegovina, and (II) the benchmarks reported in the latest semiannual report submitted under section 7(b)(2) of the 1998 Supplemental Appropriations and Rescissions Act (revised as necessary to be current as of the date of the report submitted under this subsection); and

(ii) the schedule, specified by fiscal year, for achieving the objectives.

(B) The military and non-military missions that the President has directed for United States forces in Bosnia and Herzegovina in support of the objectives identified pursuant to paragraph (1), including a specific discussion of—

(i) the mission of the United States forces, if any, in connection with the pursuit and apprehension of war criminals;

(ii) the mission of the United States forces, if any, in connection with civilian police functions;

(iii) the mission of the United States forces, if any, in connection with the resettlement of refugees; and

(iv) the missions undertaken by the United States forces, if any, in support of international and local civilian authorities.

(C) An assessment of the risk for the United States forces in Bosnia and Herzegovina, including, for each mission identified pursuant to subparagraph (B), the assessment of the Chairman of the Joint Chiefs of Staff regarding the nature and level of risk of the mission for the safety and well-being of United States military personnel.

(D) An assessment of the cost to the United States, by fiscal year, of carrying out the missions identified pursuant to subparagraph (B) for the period indicated in the schedule provided pursuant to subparagraph (A).

(E) A joint assessment by the Secretary of Defense and the Secretary of State of the status of planning for—

(i) the assumption of all remaining military missions inside Bosnia and Herzegovina by European military and paramilitary forces; and

(ii) the establishment and support of forward-based United States rapid response force outside of Bosnia and Herzegovina that would be capable of deploying rapidly to defeat military threats to a European follow-on force inside Bosnia and Herzegovina, and of providing whatever logistical, intelligence, and air support is needed to ensure that a European follow-on force is fully capable of accomplishing its missions under the Dayton Agreement.

Redesignate subsection (c) of the amendment as subsection (e).

Mr. McCAIN. Mr. President, I understand I have 5 minutes. I thank the Senator from West Virginia for his courtesy.

Mr. President, I rise to offer an amendment concerning the continuing U.S. military presence in Bosnia. This is a second degree amendment to amendment No. 2975.

Mr. President, I believe everyone in this body knows that I have long had serious concerns about our mission in Bosnia. From the time the IFOR mission was first briefed to the Congress, I knew the job could not be completed in one year—nor against any arbitrary deadline. Instead, I urged the Administration to set concrete objectives and benchmarks for measuring success.

Now, as many members have pointed out, we are in an open-ended and ill-defined military commitment. The Administration has scrapped all the artificial deadlines. But no clear set of objectives and well-defined military missions has taken its place. We seem to drift in and out of going after war criminals, of using the military to resettle refugees, and of taking on a direct political role in parts of Bosnia in the name of supporting international civilian authorities. The role of our military has expanded, and there is no end in sight.

The answer to this problem, however, is not to go back and set new artificial deadlines. Bosnia is a long-term, complicated problem. It involves not only the warring factions, but has direct effects on Croatia and Serbia, including Kosovo, and threatens to spillover to the wider Balkan region. The credibility of NATO and especially the United States is tied up with finding a solution for the Bosnia crisis. It would be sheer irresponsibility, probably leading to renewed warfare, if we were to precipitously pull out of Bosnia after investing so much. It would be a betrayal of our commitment to cooperating with our Allies. And it could well lead to an even more costly and dangerous re-introduction of American forces to stop the renewed fighting.

Dealing with the Bosnia crisis—even if though our objective is to get American troops out of there—requires treating Bosnia as a serious long-term challenge. It is not an issue that lends itself to artificial deadlines for withdrawal. Nor is there any rationale to forcing the Congress to vote by some artificial deadline. Worse still would be a funding cut-off, which would only punish our troops for the failure of policymakers in Washington to craft a viable long-term policy.

Handling the Bosnia crisis requires us to look beyond just this fiscal year. It requires the United States to develop a multi-year strategy that sets out our objectives, the means for achieving these objectives, and a target timetable for getting us there—but no phony deadlines. For the sake of our troops, we need to set out clearly the military and non-military missions they are being asked to perform. "Creative ambiguity" may be useful in politics, but it is dangerous for soldiers. We need to be honest with ourselves about the risks we are asking our troops to face, and the costs to the taxpayers of continuing the mission.

I am convinced that the direction we should be taking is to move toward a force made up of European nations inside Bosnia, with U.S. forces just "over-the-horizon" outside of Bosnia—providing a rapid response capability to deter or defeat security threats, and providing logistical, intelligence, and air support to the European forces inside Bosnia. This step would free up U.S. forces to prepare for other contingencies.

But it is not possible to achieve this goal simply by setting arbitrary numbers and deadlines for troop withdrawals. Doing so could provoke a crisis with our Allies and could have the effect of simply setting a timetable for restoring violence to Bosnia. Instead, achieving this goal requires working together with our Allies and realistically taking account of the situation inside Bosnia.

Mr. President, my amendment seeks to do exactly these things. It expresses the sense of the Senate that we need to have a clearer picture of our objectives, timetable, missions assigned to our military, risks, and costs. It expresses the sense of the Senate that we should be moving toward a European force inside Bosnia, and a U.S. "over-the-horizon" capability outside Bosnia. It also says it is time to stop treating

Bosnia as an unplanned emergency and include funding for operations there as an addition to the defense budget.

My amendment also imposes a number of reporting requirements. Each time the Administration submits a budget request for funding military operations in Bosnia, the Administration must clearly state its best assessment of six items:

(1) Our overall objectives and multiyear timetable for achieving these objectives—taking account of the benchmarks already required under the supplemental appropriation passed earlier this year; (2) the military and nonmilitary missions the President has directed U.S. forces to carry out—including specific language on our policy on war criminals, returning refugees, police functions, and support for civil implementation; (3) the Chairman of the Joint Chiefs of Staff's assessment of the risks these missions present to U.S. military personnel; (4) the cost of carrying out our strategy over several fiscal years. (5) the status of plans to move toward a European force inside Bosnia with a U.S. force outside Bosnia that would deter threats and provide support to the European force; and (6) an assessment of the impact of reducing our forces according to the timetable proposed in the original Byrd-Hutchison amendment.

This may seem like a detailed and onerous reporting requirement, but it is nothing more than the kind of long-term planning the Administration should be doing anyway. And by requiring it in a report to Congress, we ensure that the Congress is operating off the same set of assumptions and plans as the Administration. This will give us an opportunity to look more thoughtfully at the real challenges in Bosnia and structure our decisions more appropriately. Instead of broad swipes through artificial deadlines or prohibitions on certain missions, we will be able to target our policy choices more effectively.

Finally, Mr. President, my amendment requires that if the Senate votes to discontinue funding for continued operations in Bosnia, the Administration must submit a withdrawal plan within 120 days. This language does not impose any artificial procedure or deadline on the Senate. Rather, it acknowledges that the Senate already has the right at any time to vote to discontinue funding for Bosnia operations. The question is whether the Senate chooses to exercise this right. If it does, and the vote is to pull out, then the Administration must present a withdrawal plan within 120 days.

Mr. President, no one is more frustrated than this Member; all of us are. The administration came over and said our troops would be out in a year. We knew that wasn't true at the time. Then they came over and said they would be out in a year and a half. We knew that wasn't true at the time. And the frustration that many of us felt as members of the Armed Services Committee during that period was enormous because we knew that there was no way that we could possibly have our troops exit on a date certain which was not an exit strategy. The purpose of this amendment is to try to force an exit strategy from the administration so we have expectations as to, No. 1, what our goals are and, No. 2, how they can be achieved.

I also am a student of the Constitution. I also understand the role of the U.S. Senate to advise and consent, and if the U.S. Senate wants the troops withdrawn from Bosnia, all we have to do is, on the Department of Defense appropriations bill, cut off all funding. That is all we have to do. We have that right —and that responsibility, in the view of some.

What we don't have the right to do, because we don't have the commensurate responsibility, is to devise a strategy for Bosnia. How in the world do we know what troop levels can be dictated so we will know that those young men and women are secure? That is why we have generals. That is why we have a Pentagon. That is why we have a Chairman of the Joint Chiefs of Staff. That is why we have a National Security Adviser and a Secretary of Defense.

Mr. President, we give them that responsibility that is not a legislative function, to set troop levels. If the Senator from Texas wants them out, get them out. I will be glad to debate and discuss an amendment that says no further funding as of whatever date she wants. But to say at some date there should be a certain level of troops—from whence does this information come? From whence does this judgment that 5,000 or 10,000 or 50,000 is the right number of troops?

Mr. President, occasionally I put myself in the role of a military commander, a position that I aspired to but never achieved. I cannot imagine—I cannot imagine, as a military commander, trying to meet a national security threat saying, "Wait a minute, I've got to be down to 5,000"—or 10,000 or 20,000 or whatever it is. I am the one who is supposed to decide that, along with the Commander in Chief. Then we come to the Congress for approval or disapproval. That is the way the system should work. We cannot have the Senate, the U.S. Senate, decide what number of troops are there.

So, I believe that this administration has failed in devising a strategy. They have failed in giving us an exit strategy. They have deceived, really, the Congress and the American people, when they first came over and said that they would be out by a certain date.

But at the same time, to set troop levels, I think, is very, very dangerous, not only for our troops and the men and women who are there, but is a dangerous precedent.

Mr. President, I thank the Senator from West Virginia. I appreciate his courtesy, as always, that he extends to every Member in this body in allowing me to propose this amendment and make it part of the debate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, if I might, just for purposes of management, seek recognition for a moment. Can the Senator from Arizona advise us with regard to the yeas and nays?

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

Mr. LEVIN. Will the Senator withhold the yeas and nays, because the yeas and nays have been ordered on the underlying amendment. I wonder whether or not the Senator might accept a voice vote on the second-degree amendment. I think it has strong support.

Mr. McCAIN. I withdraw my request for the yeas and nays.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia has the floor.

Mr. BYRD. Mr. President, the original amendment by Senator HUTCHISON and myself does not set troop levels.

The original amendment offered by Senator HUTCHISON and myself does not cut off money for the troops.

The original amendment by Senator HUTCHISON and myself does not withdraw troops from Bosnia.

The original amendment by Senator HUTCHISON and myself sets no termination date for withdrawal of American troops from Bosnia. It does not jerk the rug out from under our troops.

The amendment which the distinguished Senator from Texas, Mrs. HUTCHISON, and I, would have offered and may offer at another time on some bill provides that the President—the Commander in Chief, if you will—submit to Congress a report, a plan, no later than February 2, 1999, for reducing the military personnel of the United States in Bosnia to an average of the numbers of troops that Great Britain, France, Italy and Germany have in Bosnia, the other members of the contact group—an average—and that that reduction occur by February 2 of the year 2000.

That is not setting troop levels. That is not withdrawing American troops. We are saying, "We'll stay there with you; we'll stay there, but it's about time that the other members of NATO take on a greater part of the burden." After all, this situation has developed in their own backyard, not in ours.

We are not saying we are going to withdraw. We are not suggesting that the money be terminated. We are not suggesting that American troops get out lock, stock, and barrel. We are simply saying that we should at least be able to reduce our troops, now that there is stability in Bosnia, we should be able to reduce our troop level to an average, we would say, of the troop numbers that are involved from the other members of the contact group.

I think Great Britain has 5,000 involved. France has something like 2,500. Germany has something like 2,500. Italy has fewer. And we are saying to the President, "Now you submit us your plan—your plan. Submit us your plan, and you don't need to submit it tomorrow or the day after tomorrow or next month. Submit it by February 2 of next year, just the plan. Tell us how you, Mr. Commander in Chief"—that magic term, that all-encompassing, worshipful term, "Commander in Chief"—"you tell us how you can get our troop levels down to an average of those of Great Britain and Germany and France and Italy, and by February 2 of the year 2000."

What is wrong with that? Is there someone here who would say to me that the Congress under the Constitution doesn't have a right or doesn't have a duty even to submit such an amendment calling on the Commander in Chief to do that? "Just let us have your plan, Mr. President. You have lots of time now. We're putting our allies on notice that we want our troop levels to be down to an average of what theirs are. It doesn't have to be an exact average. Certainly, instead of 7,000, it could be 3,500 by then, but we'll still be there with you."

What got us into this situation, Mr. President, I have heard it said that our military leaders, our generals, our Commander in Chief, have to make these decisions as to troop levels. I don't quarrel with that, but these are the same people, these are the same individuals—there may have been some changes since 1995 and 1996, perhaps some changes in the identity of the personnel in those respective positions, but it is the same administration that got us where we are, the same administration that misled the Congress, misled us into the belief that our troops would be there no longer than 1 year, roughly a year.

We were told that. We were told that on the Armed Services Committee. The distinguished Senator from Indiana and the distinguished Senator from Michigan were there when the committee discussed this matter. That is what the administration told us, and the distinguished Senator from Indiana has set forth a litany of the dates and the things that were said in keeping with the idea that the United States would be involved there roughly only a year. He has done that for the record, and I consider that to be a service. That is what was there.

They are the very people who misled us in the beginning. That is why some of us feel that we haven't been dealt with fairly from the beginning, and that it is about time that the administration come forward and give us some reliable statements, give us some reliable data upon which we can depend and the American people can depend. I don't think I have voted at any point against the funding or any authorization of troops in Bosnia. I don't think I have. I am going to check to make sure, but I was misled along with everybody else.

I doubted, at the time, that the administration would have us out in a year. I was listening to the Commander in Chief through his Chairman of the Joint Chiefs of Staff, through his Secretary of Defense, in their appearances before the Armed Services Committee. I listened.

We took them at their word. You see where we are today. That was 1995, and now this is 1998. I just want to shed a little history for the record—for the record—not necessarily for all Senators. Some Senators probably know more about the record than I do. Certainly several of them are in a good position to remember as much about it as I can. But for the record, I want to state a little of the history of this situation.

To begin with, in a nationally televised address on November 27, 1995, President Clinton justified dispatching U.S. troops to Bosnia as part of IFOR by saying U.S. engagement was needed to stop the great suffering caused by the war, to bring stability in Europe, a region vital to U.S. interests, and to maintain U.S. leadership in NATO. President Clinton said that the deployment would last—and I quote—"about one year."

In subsequent statements, administration officials asserted that U.S. forces would be out of Bosnia by the end of 1996. President Clinton decided on April 30, 1996, to keep U.S. forces in IFOR at full strength through the Bosnian election on September 14 in order to support the election process. He said the United States would maintain a robust force in Bosnia until IFOR's 1-year mandate expired on December 20, 1996. However, administration officials continued to insist that U.S. forces planned to leave Bosnia within a few weeks after December 20, 1996.

On November 15, 1996, President Clinton said that the administration had agreed in principle to send U.S. troops to Bosnia as part of a new NATO-led peacekeeping force for Bosnia. President Clinton said the force would remain there until June 1998.

Now, let me read that again. On November 15, 1996, President Clinton said the administration had agreed—the administration had agreed; did not say that Congress had agreed; the administration had agreed—in principle to send U.S. troops to Bosnia as part of a new NATO-led peacekeeping force for Bosnia. President Clinton said the force would remain there until June 1998.

So there the administration had already changed their position. No longer was it said that we would be there about a year. Then it was said by the President that we would remain there until June 1998.

On December 18, 1997, President Clinton announced that he had agreed in principle that U.S. forces should participate in a Bosnian peacekeeping force after the mandate of the current SFOR expires in June 1998. He did not set a new departure deadline, but said the force would leave only when key peace implementation milestones have been achieved. This follow-on force has been unofficially dubbed "deterrent force" or DFOR by some observers. So it went from IFOR, which was "intervention force"; to SFOR, which was "stabilization force"; to DFOR, which was "deterrent force."

Mr. President, this is the administration. It was they who said, in the beginning, that American forces would be in Bosnia for about 1 year. We took them at their word. But then, as time went on, the administration, the President, the Commander in Chief, set new dates. After all, Congress sometimes is faced with a very difficult situation. And that is what we are faced with. Things are more complicated than they were in 1787 at the time the Constitution was written. Things are very complicated.

Here is what Congress is faced with. The administration uses the cloak "Commander in Chief" to put our men and women in foreign areas, in foreign countries where they are in danger; takes them away from their families, away from their loved ones, away from their hearthstones, away from their homes—puts them in foreign countries where they are in danger. They may never come back. They go, and they are there because the Commander in Chief sent them, whoever he is—it may be a Democrat or it may be a Republican.

I respect the Commander in Chief, whoever he is, be it Mr. Reagan, be it Mr. Bush, be it Mr. Clinton. I respect that office. But our troops are sent overseas. Congress did not vote to send them overseas. We are told they will be there about a year. The year comes and the year goes; they are still there. Then we are told they will be there until June 1998. It is now June 1998, and June is about gone.

Then we are faced, we in the Senate, we in the Congress are faced with the choice of providing money for the military that has been sent abroad. They did not ask to go abroad—these soldiers, sailors, airmen, and marines. They have been sent by the Commander in Chief. Then we are faced with the dilemma.

The administration knew that when it told the Congress that our men and women would be there about a year. The administration knew that once they were there, Congress would be faced with a dilemma. And, of course, Congress—we are going to support our military people wherever they are. The administration knows that. They knew that back in 1995. We had our doubts on whether we were deliberately misled, the administration knowing that they could not do this within a year. How am I to know?

Some of us are becoming aware of the fact that we have been dealt that hand more than once. We had the same hand dealt to us in Somalia—the same hand. And there have been other places as well.

But I think this is why the Senator from Texas, Mrs. HUTCHISON, and I, and others, are just becoming a little distrustful of what the administration says about these matters. And we want to have a hand at the end of the leash. We want that constitutional leash to be there. The power of the purse, of course, is the most fundamental, the most basic, the greatest power in Government—the power of the purse.

We want a hand at the end of the leash. We are not saying, you have to take the troops out. We are not saying, you have to set certain levels. We are just saying, as I indicated earlier, let us know by February 2, 1999, Mr. President, how you would suggest that we reduce those to a certain level that is more in keeping with what the other major parties are doing in Bosnia. And you reach that level by February 2, 2000.

Now let me lay the predicate by reading into the RECORD what the Constitution says. Now, how much responsibility, how much power, how much authority does the Commander in Chief have? After all, the framers had in mind making doubly sure that the Commander in Chief was a civilian, not a military officer; and that this civilian, the President, would have the authority over the military. The framers were determined that a civilian would have supreme authority over the military. They placed that authority in the President. He would be the Commander in Chief. He would be superior to the military. It would not be a military officer who would be Commander in Chief. It had to be a civilian officer, selected by the people through electors who, in turn, would elect a President. A civilian would be the Commander in Chief.

The framers were very jealous of that power. They knew the history of England. They knew that the King was the Commander in Chief and the admiral in chief and that the King in England raised armies and maintained navies, that the King in England declared war and declared peace, and that the King in England made the regulations for the governance of the Armed Forces. They were determined that no King would do that in this country. They were determined that no President would sit as a King in this country.

The President, a civilian, was to be the Commander in Chief.

Now, I want to read for the RECORD everything that is in this Constitution with respect to the powers of the President—the Commander in Chief—when it comes to the military.

So I look to Article II of the United States. Here it is, Article II of the Constitution of the United States. "The executive power shall be vested in a President of the United States of America."

That sentence vests the executive power in one person, the President of the United States. It is just that simple. There is your separation of powers.

Now, I want to read everything that is in this Constitution that has to do with the Commander in Chief and his power. Here we go. Section 2, Article II:

> The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States;

Now, who provides for the calling of the militia into the actual service of the United States? The Congress. I will read that a little later. The Congress provides for the actual calling of the militia into the service of the United States.

Then in the second paragraph of section 2:

> He [meaning the President, the Commander in Chief] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur;

In England, the king could make treaties, but the framers decided that that power in this country, under this Republic—it is not a democracy, it is a republic—under this Republic, would be shared between the President and the Senate.

Continuing to read:

> and he [the President, the Commander in Chief] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors . . . [and other public officers].

So, there again, the King in the motherland from whom most of the Members came either directly or by their ancestors, the King appointed the officers. But in this Republic, the President can appoint them by and with the consent of the Senate.

So that is a power that the framers decided to share.

Now, there is one more phrase.

Section 3, the President, the Commander in Chief, "shall Commission all the Officers of the United States."

Now, there it is, lock, stock, and barrel, every bit of it, all of it. There is the Commander in Chief's powers with respect to war. There it is. I have read all that the Constitution says regarding the Commander in Chief.

He shall be Commander and Chief of the Army and Navy of the United States and of the militia of the several States when called into the full service of the United States; he shall have power by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice of the Senate shall appoint, ambassadors; and, finally, he shall commission all the officers of the United States.

That is it. So the President is Commander in Chief. The Constitution doesn't say what his powers are as Commander in Chief. He is Commander in Chief of the Army and the Navy if Congress provides an Army and Navy for him to command.

So much for the Commander in Chief. Now, let's read what the war powers of the Congress are, according to the Constitution. Here they are with regard to warmaking:

> The Congress shall have power to lay and collect Taxes . . . to pay the Debts and provide for the common Defense. . .

Section 8, the very first sentence. I will go ahead:

> The Congress shall have Power To . . . borrow money . . .

The President doesn't have that power.

> The Congress shall have Power To . . . regulate Commerce with foreign nations . . .

That is a very important power in peace and in war.

Continuing, still, in section 8 of Article I of the Constitution:

> The Congress shall have Power To . . . define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations . . .

Continuing:

> The Congress shall have Power To . . . declare War, grant Letters of Marque and Reprisal and make Rules concerning Captures on Land and Water . . .
>
> The Congress shall have Power To . . . raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years . . .
>
> The Congress shall have Power To . . . provide and maintain a Navy.
>
> The Congress shall have Power To . . . make Rules for the Government and Regulation of the land and naval Forces . . .
>
> The Congress shall have Power To . . . provide for calling forth the Militia . . .
>
> The Congress shall have Power To . . . provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress . . .

Continuing in Article I, section 8;

> The Congress shall have Power To . . . exercise like Authority over all Places . . . for the Erection of Forts, Magazines, Arsenals, dock-Yards . . .
>
> The Congress shall have Power To . . . make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other

> Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Including the Department of Defense, or officers thereof, which includes the Secretary of Defense.

So there you are. Then in Article I, section 9:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . .

Congress makes the law. So I have taken the time of the Senate—and Senators have been very kind to listen—to read into the record that which any Member of the Congress, or any individual, can at any time he or she wishes to read for himself or herself from the Constitution of the United States. All of the authority of the Commander in Chief is there in the Constitution. That is all. And all of the authority is there in that Constitution for the Congress, when it comes to warmaking.

From my reading of those portions of the Constitution, it appears to me that Congress has the authority and the duty, on behalf of the people from whom all power comes, in whom all power resides, under this Constitution—Congress has the responsibility and the duty to ask questions and to make laws, and to make appropriations, and to draw lines in the sand. Yes; Congress has the authority there to decide overall troop levels. One will find that most of the lawmaking powers, most of the authority and the powers that deal with the military forces and with military actions, rest in the Congress of the United States. Don't blame me for that. You are not arguing with me, you are arguing with the Constitution. I have read the pertinent parts of the Constitution into the RECORD.

Mr. COATS. Will the Senator yield for a question on that point?

Mr. BYRD. Yes, I will.

Mr. COATS. The Senator certainly understands that the Senator from West Virginia has a much greater grasp of the Constitution than this Senator from Indiana. But I am having difficulty understanding how the power of Congress to regulate troop levels—and I understand that we set force levels. The Congress, through our committee, authorizes certain force levels for the Army, for the Navy, and the branches. But I don't understand how that would apply to the deployment of those forces or the utilization of those forces within a specific military exercise. I don't know that that is a power that is granted to the Congress. I don't see that here in the Constitution.

Mr. BYRD. I don't think that I said that.

Mr. COATS. Perhaps I misunderstood the Senator.

Mr. BYRD. Perhaps I didn't speak clearly. There are those who say that the Congress doesn't have authority to do this, Congress doesn't have authority to do that. If the Congress wanted to limit the troop levels in the war to 5,000 men, is the Senator telling me that Congress doesn't have the authority under the Constitution to say there will be 5,000 and no more in this theater or that?

Mr. COATS. I don't see what grants the Congress the power to do that.

Mr. BYRD. The Senator doesn't?

Mr. COATS. I don't. I wonder if the Senator could point out that portion of the constitutional powers that grants Congress that authority.

Mr. BYRD. Well——

Mr. COATS. I understand how Congress has the power to establish the level of the militia, the level of the Army, the number of individuals. I suppose if Congress said there shall be no more than 5,000 members in the U.S. Navy, that would impose a limit to how many troops could be deployed, and the maximum number you could deploy would be 5,000. But I don't see where once the level is established, and we have established a level of nearly 500,000 Active Army, for instance, I don't see how that would translate to Congress having the power to dictate how that 500,000 force level would be assigned.

Mr. BYRD. I don't, either. I don't think Congress would attempt to do that. But I think Congress has the power and has the authority to say there will be no more than 5,000.

Mr. COATS. Total.

Mr. BYRD. Total.

Is that the troop level?

Mr. COATS. Yes.

Perhaps I was extrapolating wrongly. I thought the Senator was indicating that power would be vested with the Congress relative to the Byrd-Hutchison amendment which sets a level—attempts to set, to dictate a process which would set a level for total number of troops that would be engaged. Perhaps this Senator—

Mr. BYRD. No. The Senator heard me. The Senator was in here earlier and heard me say that the Hutchison-Byrd amendment did not do that, did not dictate troop levels.

Mr. COATS. Would that amendment not lead to Congress making the decision on that?

Mr. BYRD. No. It states specifically that the President, the Commander in Chief, shall submit to the Congress the plan by February 2, 1999, which will bring the force levels of the United States in Bosnia down to a certain number which is more in keeping with the numbers that are provided by Germany, France, Italy and Great Britain.

Is there anything unfair about that?

We don't say it has to be 2,000, or 2,500, or anything like that.

Mr. COATS. But as a condition, that level is required; a level is required to be reached on the basis of an average of ground force levels of other NATO troops, specified troops from Great Britain, Germany, France, and Italy that arrives at a specific number.

Mr. BYRD. What is wrong with that? We are saying to the President, "You tell us how you would get it down to something which, in the eyes of the American people, who are paying the taxes to keep our forces over there, would be a fair level in view of the fact that we have carried most of the burden thus far. We have helped stabilize the situation. Why isn't it fair?" But let the President tell us how he would go about doing it and bring it down more in keeping with what the other leading countries of NATO are providing.

Mr. COATS. I would respectfully say to the Senator, my reading of the amendment indicates that it would do more than that. It doesn't just ask the President as Commander in Chief to tell us what the numbers shall be. It tells the President of the United States that he has to submit to us a number which is the average of four other countries' participation. That requires the President to tell us a specific number dictated by the decisions made by the King.

Mr. BYRD. Right.

Mr. COATS. Made by Great Britain, made by France, made by Italy.

Mr. BYRD. What is wrong with that?

Mr. COATS. I think there is a great distinction between asking the President, "What do you think the force should be? What, in your judgment as Commander in Chief, with the advice and consent and assistance of your military commanders, should the number be to perform a certain mission?"—there is a great distinction between that and a direction to the President of the United States saying, "You must give us a number based on an average of troops that are committed by nations outside Congress' control," and it cannot exceed that.

The President here couldn't have the discretion to say, "Well, we need whatever troops are necessary to protect, or complete our mission, or carry out our mission in this part of the world, or to protect our forces." The President is being dictated to arrive at a number, which the President may disagree with, or the Commander in Chief, or the Chairman of the Joint Chiefs of Staff disagrees with in terms of ability to carry out that mission.

That is my concern with the Byrd-Hutchison amendment.

Mr. BYRD. What is the Senator's question? Is he saying that, under the Constitution, Congress cannot ask the President to do this?

Mr. COATS. I do not understand where in the Constitution the power is vested in Congress to specify not the total force level but to specify military strategy.

Mr. BYRD. Where in the Constitution does it say that the Commander in Chief can do that? Where in the Constitution can the Senator point to me that the Constitution says the Commander in Chief can do that?

Mr. COATS. This Senator interprets the power given to the President to be the Commander in Chief of the Army and Navy of the United States. "Commander in Chief" implies that person is in charge. That person makes the decision.

Mr. BYRD. The Senator interprets that.

Suppose Congress doesn't raise and support any Army. Suppose Congress does not provide and maintain a Navy. Then what does the Commander in Chief command?

Mr. COATS. Nothing.

Mr. BYRD. He is Commander in Chief. But he has no Navy, and he has no Army to command.

Mr. COATS. I agree with the Senator. If the Congress does not choose to give the President the military force, he has nothing with which to command. But if the Congress does give him forces and raises an Army and a Navy, this Constitution designates that the President of the United States is commander of that Army.

Mr. BYRD. And that is all. Just that he is Commander in Chief.

Mr. COATS. The duties of Commander in Chief are to direct that Army, to deploy that Army when necessary to defend the United States.

Mr. BYRD. This doesn't say that. This Constitution doesn't say that.

Mr. COATS. Is the Senator saying those are the decisions to be made by this Congress?

Mr. BYRD. I am reading the Constitution.

Mr. COATS. So am I.

Mr. BYRD. Let me read it.

> The Congress shall have Powers . . . To make Rules for the Government and regulation of the land and naval Forces.

And:

> The Congress shall have . . . Power to provide for calling forth the Militia. . . .

It doesn't say the President has the power to call forth the militia. It doesn't say the President has the power to make rules for government and regulation of land and naval forces.

I am reading the Constitution, Senator. I am not interpreting it. I am reading it word for word.

Mr. COATS. I ask the Senator, what does the Senator believe the founders intended to be the powers of the President as Commander in Chief? What would be his duties as Commander? What does the word "commander" imply, or state, or mean?

Mr. BYRD. They saw the benefit in having one individual lead the military forces of this country.

Mr. COATS. How does that individual do that?

Mr. BYRD. If Congress declares war.

Mr. COATS. It only applies if Congress declares war.

Mr. BYRD. I see. The Senator wants to play games.

Mr. COATS. No. The Senator wants to understand the Constitution.

Mr. BYRD. This Senator cannot teach the Senator from Indiana how to understand the Constitution. I can only read the Constitution. And it is pretty clear.

Mr. COATS. This Senator is reading the Constitution. It says the President shall be Commander in Chief.

Mr. BYRD. Period. That is it. That is all.

Mr. COATS. If I am in charge of my office, I make decisions about how that office performs its duties. If the President is Commander in Chief of the military, he makes decisions about how the military performs its duties.

That is my understanding of the word "commander."

Mr. BYRD. The Constitution doesn't say anything about how the Senator would operate his office.

Mr. COATS. The Senator was using an analogy to try to illustrate the role of Commander.

Mr. BYRD. It is not a good analogy, if I may say so most respectfully.

Mr. COATS. Then I will go back to my first question, respectfully.

Mr. BYRD. Then I will go back to my first answer.

Mr. COATS. How are we to interpret the role and the meaning of the word "Commander in Chief"?

Mr. BYRD. In the first place, the courts might do the interpreting at some point.

Second place: Read the Constitution. Congress has power over the purse strings.

I hope the Court will decide that the Line Item Veto Act is unconstitutional. I hope it will do that before it goes out for its recess.

Congress having the power over the purse, Congress having the power to declare war, Congress having the power to raise and support armies, having the power to provide and maintain a navy, having the power to make rules for the Government and regulation of the land and naval forces, having the power to provide for calling forth the militia.

It would seem to me that a reading of the Constitution would indicate that the basic power, the power of the purse, is the basic, fundamental, rock bottom power in this Government. There is no greater power. There is no power as great as the power of the purse. That is vested here.

It would seem to me that a reading of this Constitution would indicate that Congress has more power and authority under the Constitution than many Senators are willing to admit.

Mr. COATS. I am not disagreeing with the Senator on that point whatsoever.

Mr. BYRD. All too many Senators appear to be thinking that the Commander in Chief can do this, the Commander in Chief can do that, and that we ought to follow along like the tail on a kite and do whatever the Commander in Chief decides should be done.

I am just saying that Congress has these powers in this Constitution and Congress should raise some questions. And Congress certainly has the authority to rein in the Commander in Chief if it sees fit.

Mr. COATS. I do not disagree with the Senator a bit on anything he has just said.

Mr. BYRD. I thank the Senator.

Mr. COATS. But the question I asked the Senator is whether that power extends to once that force is raised, once Congress determines to raise an army, once Congress appropriates funds for that army, once Congress establishes force levels and sets the rules, at what point does Congress, does that extend—I should add, does that extend to the actual utilization by the Commander in Chief of the power—does the Congress have the power to determine how those forces then should be deployed to protect and defend the interests of the United States?

Mr. BYRD. The distinguished Senator appears bent upon splitting hairs.

Mr. COATS. But that is the essential question.

Mr. BYRD. I am not interested in splitting hairs.

Mr. COATS. That is the essential question.

Mr. BYRD. The Senator says at what point does Congress have that. Congress before, before it provides for calling forth the militia, before it creates an army, before it creates a Navy, it certainly has the power and authority not to do those things; it has the power to issue regulations. I am not suggesting that the Congress ought to try to get into the nitty-gritty, teensy-weensy little details of this and that. Of course, there has to be one person who can command the military forces of this country.

Mr. COATS. That is the Senator's question.

Mr. BYRD. I am saying the Congress has not done its duty, and I am taking my responsibility along with others. We have not done our duty. Congress has the responsibility not to follow along after the President like my little dog Billy follows after me. The Commander in Chief is just a man like I am. I respect the Presidency. I respect the President of the United States. I have never served under any President—that is the way I look at being a Senator—but he puts his britches on just like I do, one leg at a time. No more. And he is there for 4 years, unless the House impeaches him. He can't impeach us, but the House can impeach and we can convict him and take him out of that office, and we can also provide that he can never again hold an office.

I am not one who bows down to the President, who bows down to any Commander in Chief. I am not one who believes we have to do what the Commander in Chief says, but I respect the Commander in Chief. I haven't cast a vote, I don't think, against our having personnel in Bosnia. I haven't done that. But I am certainly not one who says that Congress has to follow the Commander in Chief.

Now, if the Commander in Chief is ever a Republican again, I daresay there won't be as many people on that side who will stand up and challenge his powers as I stand up and challenge the powers of a Democratic President. As far as I am concerned, under this Constitution there is no Democrat; there is no Republican. He is the President of the United States. He is in there for 4 years, and that is it, unless he is reelected.

I have been here for 40 years. I hope to be here 40 years more, if the Good Lord lets me live that long. But don't look at this Senator and say I am picking on the President. I am not picking on the Commander in Chief. I am simply saying that we here in the Congress have not stood up to our duties under this Constitution. And I do not read under this Constitution where we have to follow any President lock, stock, and barrel, line, hook and sinker. We do not have to do that. We can set a line, and we can say "this far and no farther. If you want to keep our troops in Bosnia longer, come back, Mr. Commander in Chief, come back and we will decide whether or not we want to open the purse strings and provide more appropriations."

Mr. COATS. Well, in response—perhaps I should let the Senator finish and then I will respond on my own time.

Mr. BYRD. I hope the Senator doesn't think he has to respond.

Mr. COATS. The Senator feels that he should respond because——

Mr. BYRD. I am not challenging the Senator.

Mr. COATS. I am not challenging the Senator from West Virginia.

Mr. BYRD. I am talking about the Commander in Chief, in the abstract. I haven't said anything about the Senator from Indiana. He shouldn't feel he has to respond to me. He has a right to if he wishes, but I hope the Senator will know I haven't challenged him.

Mr. COATS. No, the Senator didn't take it that way at all. The Senator is simply trying to get an answer to his question as it applied to the language in the Byrd-Hutchison amendment which has been talked about today, and trying to understand the role of the Commander in Chief vis-a-vis the role of Congress in that specific, requiring that specific requirement of the President as Commander in Chief relative to that language in the Byrd-Hutchison amendment. I was just trying to clarify it.

Mr. BYRD. The Senator apparently doesn't believe the Congress has the authority to do what the Hutchison-Byrd amendment would require. I hope he does. I think it does.

Congress can limit troops by limiting funds for missions. No one questions that. There is great reluctance to placing limits on missions. But when we come to a place where an administration doesn't level with the Congress, then it is about time that the Congress thought about putting some limits on missions, and Congress has the constitutional authority to do it. Don't think it doesn't. I have been around here for 40 years in this Senate and 6 years in the other body, and as far as I am concerned I am getting a little tired of Presidents and Commanders in Chief and their administrations misleading Congresses. This isn't the first time it has been done. It has been done before.

Madam President, I think I have said about everything already that I have in my prepared remarks. I have read the pertinent parts of the Constitution that deal with the Commander in Chief's war powers and the war power and authority that rests with Congress. I do not say this disrespectfully towards our Commander in Chief. I would say the same if he were Republican. The Constitution is not partisan. I hope that we can be able to agree on some legislation—and it is extremely difficult under the circumstances—particularly in regard to the situation we have in the Balkans. And I agree with the distinguished Senator from Texas, Mrs. HUTCHISON. In my own mind, I can keep separate the circumstances and conditions that we face in regard to Bosnia from those which we might have to face in Kosovo.

I don't understand what our security interests are in relation to Bosnia. But I do understand what our security interests can be when it comes to Kosovo. I think Congress has to recognize it has a duty here, not just to let the administration do whatever it alone thinks best. And I think we owe the President that kind of consideration. I would hope that we could come out with some kind of proposal, certainly in the long run, that would clearly state what the exit strategy is or what the limitations are, what is the deadline, what are the phases by which we reduce our forces.

I do not have the magic bullet. I don't claim that the Hutchison-Byrd amendment has the magic bullet. I have taken the time at this point to quote the pertinent provisions of the Constitution for the record, Madam President. I don't claim to add to them or to subtract from them. Here they are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Madam President, first of all, I have great respect for the Senator from West Virginia. His knowledge of the Constitution certainly is far deeper than mine is, or perhaps will ever be. And I also share his deep concern about the duplicity of this administration in terms of its dealings with Congress on the issue of Bosnia. What was assured to the Congress by the President and his designees prior to deployment in order to secure congressional support and appropriations for that deployment is far from the picture that exists today. Many of us knew that, once in, it would be tough to get out, and that a year, probably, would be far insufficient to accomplish the mission that was there, that was outlined for us. This is the reason I voted against it in the first place.

As well-intended, as humanitarian, as compassionate as the decision was to try to stop the bloodshed in Bosnia, there was no realistic means by which that nation could be reborn into a nation of multi-ethnic harmony that would at least be accomplished within that 1-year period of time, or perhaps even a decade or more. So, many of us feared that, once in, we would have trouble getting out.

I certainly agree with the Senator from West Virginia when he says that the Constitution clearly gives Congress the responsibility for providing the funds for the first person in uniform, the first ship ever built, setting limits on how many ships we build or the size of our force. The question that the Senator from Indiana was trying to raise, and still doesn't feel he has the answer to, is whether or not the power extended to the Congress extends to defining how that force, once raised, is used in defense of the Nation, in defense of our vital interests. Which is the entity, the Congress or the President as Commander in Chief, that makes the decision establishing a process by which decisions are made, through his military commanders, about utilization of the forces that are raised after the Congress appropriates the funds to raise those forces? And it goes to the specific question of whether or not we have the authority, in Congress, to set specific limits to how those troops, once raised, within that category of troops—who has the power to do that.

But let's set that aside. Let's assume that the power given to the President as Commander in Chief is nothing more than titular. It is just simply a title. It is a phrase that means nothing. It grants no power. It just simply says the President of the United States is the titular head of the Army, but there are no powers that go with the title of "Commander," or the role of "Commander"—that all powers are vested in the Congress.

Let's say that the courts interpret the Constitution to clearly mean that Congress makes decisions on how troops are deployed, where they fight, whom they fight, how they fight, how many infantry are needed, how many tanks are needed—make the military strategy decisions. It is inconceivable to this Senator that our Founding Fathers thought that would be a power delegated to the Congress, but let's assume that it was. Would we want to do that? Would we want to put ourselves in the place of a military commander, with his training and years of experience, honed through hard experience in many cases, to make a decision about how we protect those forces and how we deploy those forces? It just seems it would be perhaps the most unwise thing Congress could ever do. Who would ever want to take on that responsibility? Which one of us would want to say that, for the protection of our forces deployed overseas in a hostile environment, we should be the ones to make the determination about how many troops are necessary to protect those forces, what weapons are necessary to protect those forces, what enablers are necessary to protect those forces? I am not sure any of us would want to do that, even if we did have the power.

But that is a debate that I think we will have again. The amendment before us is not the Byrd-Hutchison amendment, which this Senator supports parts of but not all of, because I think it dictates a specific force level inappropriately and I don't think that is something that we ought to do.

But the amendment that is before us is one that I think is supported by most Members. It simply says that we want to advise the President that we don't think an indefinite troop deployment in Bosnia. We want the President to understand, the Congress is not going to continue to support that policy. But the decision that vests with us is whether or not to pay for it. That is the power given to us under the Constitution. And, to echo the words of Senator McCAIN from Arizona, if you want the troops out of Bosnia, cut off the funds. That is our responsibility. But if you are going to appropriate the funds, let's let the Commander in Chief and the people he designates as leaders of those troops make decisions as to how those troops are deployed and at what levels they are deployed, and not have the Congress dictate force levels.

So, I agree with the Senator from West Virginia. We ought to follow our constitutional responsibility. That constitutional responsibility is to vote on the appropriations, yea or nay. That is the honest, straight-up vote. That is the debate we ought to be having. In the meantime, we would like to send a message to the President of the United States. That is what a sense of the Congress is. The message that we would like to send to the President of the United States is: Mr. President, we are concerned that we are looking at an indefinite troop deployment at considerable cost to the taxpayer in Bosnia, and we don't see the light at the end of the tunnel. Because of that, we are just giving you a warning flag.

We are not going to continue to appropriate funds for this unless we have some idea of how we are going to get out of this morass and whether or not this is achieving the goals that have been set out.

So, therefore, we would like you, understanding that message, to begin consultations with our NATO allies and European friends and begin the process of telling them, "You can't count on us indefinitely. We need to move toward a European force. Now, we will provide support for you, but we are not going to provide combat troops on the ground much longer. So let's move forward with this process."

That is the amendment that is before us. I think it is a message that needs to be sent. We can have debate on whether or not Congress has the power or whether or not it is even wise for Congress to get into the specifics of how troops are used once they are there. We will have that debate at another time.

Madam President, I don't know that there is any further debate on this particular amendment. It does not mean we can't further debate on Bosnia or another amendment, but if there is no further debate on this particular amendment, we need to voice vote the McCain second-degree amendment and then have a recorded vote on the underlying amendment. I do, however, see the Senator from New Hampshire on his feet, as well as the Senator from South Carolina.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Madam President, I ask unanimous consent that Senator REED from Rhode Island be added as a cosponsor to the Thurmond-Levin-Coats amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Madam President, just as an inquiry to the managers, I have an amendment that I would like to offer which will probably take 15 or 20 minutes for me to present at the most. I don't want to delay a vote, but it seems that we might be able to put the two votes together. We would have the voice vote on McCain, and then if I offer my amendment, we can have two votes together. Will that work for the Senator? I would at least like to debate and offer this amendment prior to the vote on your amendment.

Mr. THURMOND. Madam President, will the able Senator allow the other amendments to go forward before we take up his amendment?

Mr. SMITH of New Hampshire. My preference, I say to the Senator, is that I be allowed to debate this amendment, present it and allow——

Mr. THURMOND. After we finish this amendment.

Mr. SMITH of New Hampshire. No, I prefer to do it prior to this amendment, because it is on the same subject. It is Bosnia, and once you vote and that amendment is gone—my preference is to do it now if I can do it.

Mr. COATS. Will the Senator yield?

Mr. THURMOND. I will be glad to yield.

Mr. COATS. I say to the Senator, our vote will not preclude the Senator from offering an amendment on Bosnia. If the Senator's amendment is not a second-degree amendment to the underlying amendment, we strongly prefer to deal with our amendment as it stands and then have the Senator be recognized to offer an amendment on Bosnia.

Mr. SMITH of New Hampshire. All I am trying to do is to make it a little more convenient for Members. I was saying if I had 15 or 20 minutes to present my amendment, we can have both votes on the underlying amendment and my amendment at the same time. That is my point.

Mr. COATS. As I understand it—parliamentary inquiry—if the Senator's amendment is not a second degree, does it not require unanimous consent to set aside the underlying amendment before going to his amendment?

The PRESIDING OFFICER. The Senator is correct, unanimous consent is required.

Mr. SMITH of New Hampshire. I ask unanimous consent that the underlying amendment be set aside in order for me to offer my amendment and subsequently have a vote on both amendments.

Mr. COATS. Reserving the right to object, Madam President, and I am going to object. I don't think that is the procedure we ought to be following. I understand the Senator's desire to speak on his Bosnia amendment, and we will do that, but if an amendment is not being offered as a second degree to perfect or change or modify the underlying amendment—we have been working on this since noon. We would very much like to get to a vote. It is second degreed. We have an amendment. And on that basis, I object.

Mr. SMITH of New Hampshire. Further parliamentary inquiry. It is my understanding the tree is full with the McCain second degree; is that correct?

The PRESIDING OFFICER. The understanding of the Senator from New Hampshire is correct.

Mr. SMITH of New Hampshire. Thank you, Madam President.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, we have been on this amendment now for hours. It is time to vote and take some action. I urge adoption of the amendment.

Mr. CLELAND addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CLELAND. Madam President, I have remarks I would like to make in general on the subject of the amendments to the defense authorization bill regarding Bosnia. It will take about 5 minutes. I ask the tolerance of the distinguished chairman, if that is permissible.

Mr. THURMOND. Madam President, I yield to the Senator to speak for 5 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CLELAND. I thank the Chair.

Madam President, the debate on Bosnia has raised some fundamental questions regarding the conduct of our foreign policy particularly with respect to the deployment of U.S. military forces around the world. I will point out just a few of the questions that members have raised:

What is the mission of U.S. forces in Bosnia?

When can we expect to bring them home?

What should the role of the Congress be in the fulfillment of this mission?

How can we manage the cost of the Bosnia commitment in terms of dollars and the overall strain to our forces?

It is good that we debate these important issues here in the Senate today. But I feel it is important to say that I believe we should ask only one question:

SHOULD WE CONTINUE TO SUPPORT A U.S. TROOP PRESENCE IN BOSNIA?

That is a simple question. If the answer is yes, then I do not see anything we can do but to support the troops and insure that their mission is achievable.

If the answer is no, then we should bring them home today.

I support the mission. Let me take a few moments to explain why. I was very skeptical of the Bosnia mission before I was elected to the Senate. That is part of the reason why I made Bosnia one of the first places I visited on my first trip abroad as a U.S. Senator. On my journey in Bosnia, I had the opportunity to visit with our troops at Eagle Base and then at Camp Bedrock. I found them surprisingly cheerful and confident in their mission of peace-keeping in that war-weary countryside. I'm very proud of our forces. They are paying a personal price every day in risking their lives on our behalf. They are working in a tasking and demanding environment filled with diplomatic and military minefields. All of the men and women involved in this effort are a credit to the United States and the cause of human dignity and freedom in the Balkans. I am proud of them all.

The effort in Bosnia involves the largest alliance of nations ever to coalesce against a common enemy on the continent of Europe. I applaud all the members of the alliance for their contributions to peace and stability in Bosnia, particularly the NATO members, and especially the Russians, for coming together in a unified effort to prevent further bloodshed, enhance stability and pave a pathway for peace. I hope it is a harbinger of good things to come in the next century in terms of enhanced cooperation and communications among our countries for the betterment of mankind.

It was raining during the afternoon we were in Bosnia. By the time we were preparing to leave, the rain had ceased and the sun was coming out. As we boarded our airplane, I noticed a large rainbow forming in the sky. It was impossible to avoid the symbolism and be reminded of the covenant between God and mankind after the great flood. It was a symbol of hope, I think.

Today we are in a new era. No one has quite coined the term for it. Some call it the "New World Order," but I prefer to call it The Age of Democracy. What I find different and indeed magical about this new era is the fact that while it brings with it the spread of democracy and democratic principles around the world to places that have been burdened by tyranny, it is doing so not through the threat of force, but through the promise of peace. U.S. forces in Bosnia bring with them the promise of peace.

A few days after I visited Camp Bedrock, I was in Brussels. An American businessman approached me and asked me if I had "hope" about Bosnia. I had to reply, "Yes." I have hope because I believe Europe has learned some painful lessons over the last two centuries. One of those lessons is that alliances—whether against Napoleon, Hitler or Stalin—can win. Secondly, I have hope because Americans have learned some lessons about European history as well. Particularly, I think we've learned one of the lessons about American involvement on the European continent. The lesson is this: "Pay me now, or pay me later." In other words, we as a nation are involved in Europe—militarily, economically, culturally. Better to work through the European Alliance, in particular through NATO, to prevent a conflict than to risk that conflict turning into a greater confrontation or, even worse, war itself.

I do not know whether the Bosnia mission will ultimately prove to be successful, but I do believe we should try. We should not tie the hands of our troops.

In spite of my support for the Bosnia mission, however, I do not like the fact that it appears to be open-ended. I do not like the fact that it is placing a tremendous strain on our Armed Forces. I do not like the fact that we do not know when the mission will be completed. But we should have addressed these issues years ago before we ever sent our troops there. We have violated a fundamental principle about the deployment of military forces.

Clauswitz stated that in military matters you should not take the first step unless you know what your last step is going to be. Four years ago, we had no idea what our last step would be. That has led us to where we are today. Today we are deciding by amendment what our policy in Bosnia should be. You can't manage a military deployment that way.

It seems to me that we are in for a dime, in for a dollar. The question is should we stay in Bosnia, or should we leave? Once we decide to go in, we need to give our military commanders the resources and support they need to get the job done. We cannot change our mind every year with new amendments and new resolutions and new laws.

The Senate Armed Services Committee has debated this matter numerous times. We could not arrive at a consensus on the matter. The more we debated the issue, the more I became convinced that we should not do anything that would undermine the mission in Bosnia. I fear that all of the amendments that have been offered sent the wrong message to both our troops and our allies.

I was inclined to support a proposal by Senator LEVIN which would have established expedited voting procedures on the question of whether to continue authorization of funds for the Bosnia mission. I believe of all of the amendments, his is one of the better approaches. Many members of the Senate want to have a straight up or down vote on the Bosnia mission—in or out. Senator LEVIN's amendment would have provided a mechanism for that.

However, I would point that over the past 4 years, the Congress has given its consent and approval for the Bosnia mission dozens of times. The Congress has appropriated over $9.4 billion for this mission. The bottom line is that we have had the opportunity to weigh in on this matter. Enough is enough.

Now is the time to focus on ensuring that we do not allow a situation like the current situation with Bosnia to occur again. Before we get to the point of committing our service men and women, we must certainly determine if we have an appropriate military mission which can only be accomplished by military means. Once such a determination is made, we must provide our forces with sufficient resources, and clear and concise rules of engagement to get the job done.

In this day and age we must pick and choose our battles carefully. As we have learned so painfully in Vietnam, Somalia and now Bosnia, American troops cannot stay there forever. We have learned valuable lessons from these engagements and now realize that before approving funding for such missions, Congress must have a defined game plan and exit strategy. Senator SNOWE and I have offered an amendment to the defense authorization bill which would require the President to submit, along with a request for appropriations to support a military contingency involving 500 or more personnel, a strategic plan regarding the goals and objectives of the contingency and the conditions that define the success of that contingency. We needed this amendment 4 years ago when we first sent American troops into Bosnia, but we have learned from these important lessons. Congress, by approving such a plan would be in on the takeoff, as well as the landing.

Frankly, I think this is the most important amendment related to the deployment of forces in the entire bill. I am pleased that the Senate has approved it. I would only urge that we think twice before doing anything that would undermine U.S. forces after they have already been committed.

Madam President, I thank the Chair and yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, let me just thank the Senator from Georgia not just for his statement but also for the amendment which he and Senator SNOWE had offered in committee, which was adopted in committee. It is a very important amendment. It is based on his experience, the experience of so many others relative to the use of military force, and the importance of exercising exceeding care when that military force is utilized. And I think the Nation, again, is in his debt and Senator SNOWE's debt. I just thank him for it.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2977

Mr. THURMOND. I urge adoption of the McCain amendment No. 2977, which would amend the amendment offered by myself, Senator COATS, and Senator LEVIN that would require two reports on matters related to U.S. forces in Bosnia.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. Madam President, I understand that Senator BIDEN might be on his way over. I suggest the absence of a quorum for just one brief moment until we can ascertain that.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the McCain amendment?

Mr. THURMOND. I urge adoption of the McCain amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2977) was agreed to.

VOTE ON AMENDMENT NO. 2975, AS AMENDED

Mr. THURMOND. Madam President, I ask that we proceed to vote on the Thurmond, Levin, Coats amendment.

The PRESIDING OFFICER. The pending question is on agreeing to the Thurmond amendment, as amended.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 5, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—90

Abraham
Allard
Ashcroft
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—5

Biden
Cleland
Dodd
Lieberman
Robb

NOT VOTING—5

Akaka
Baucus
Domenici
Rockefeller
Specter

The amendment (No. 2975), as amended, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 2912

(Purpose: To limit the use of funds to support the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina pending a vote of Congress on the continuation of the deployment, and to require the President to submit to Congress a plan for withdrawing United States forces from Bosnia and Herzegovina if Congress does not so act by March 31, 1999)

Mr. SMITH of New Hampshire. Mr. President, I ask that my amendment No. 2912, which is at the desk, be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. SMITH) proposes an amendment numbered 2912.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. POLICY ON DEPLOYMENT OF UNITED STATES FORCES IN BOSNIA AND HERZEGOVINA.

(a) LIMITATION.—None of the funds authorized to be appropriated under this Act may be expended after March 31, 1999, to support the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina unless, on or before such date, each House of Congress votes on passage of legislation that, if adopted, would specifically authorize the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina.

(b) PLAN FOR WITHDRAWAL OF FORCES.—If legislation referred to in subsection (a) is not presented to the President on or before March 31, 1999, the President shall submit to Congress, not later than September 30, 1999, a plan that provides for the ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina to be withdrawn from Bosnia and Herzegovina in an orderly and safe manner.

(c) PROHIBITION.—

(1) USE OF FUNDS AFTER MARCH 31, 1999.—After March 31, 1999, none of the funds authorized to be appropriated by this or any other Act may be obligated or expended to support the continued deployment of United States ground combat forces in Bosnia and Herzegovina, except for the purpose of implementing the withdrawal plan.

(2) CONDITION.—The prohibition on use of funds in paragraph (1) shall not take effect if a joint resolution described in subsection (d)(1) is enacted on or before March 31, 1999.

(d) PROCEDURES FOR JOINT RESOLUTION OF APPROVAL.—

(1) CONTENT OF JOINT RESOLUTION.—For the purposes of subsection (c)(2), "joint resolution" means only a joint resolution that sets forth as the matter after the resolving clause only the following: "That the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina is authorized.".

(2) REFERRAL TO COMMITTEE.—A resolution described in paragraph (1) that is introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the Committee on National Security of the House of Representatives.

(3) DISCHARGE OF COMMITTEE.—If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 7 calendar days after its introduction, the committee shall be deemed to be discharged from further consideration of the resolution and the resolution shall be placed on the appropriate calendar of the House involved.

(4) FLOOR CONSIDERATION.—

(A) IN GENERAL.—When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) CONSIDERATION OF VETO.—

(A) ACTION UPON RECEIPT OF MESSAGE.—Upon receipt of a message from the President returning the joint resolution unsigned to the House of origin and setting forth his objections to the joint resolution, the House receiving the message shall immediately enter the objections at large on the journal of that House and the House shall proceed to the immediate reconsideration of the joint resolution the objections of the President to the contrary notwithstanding or of a motion to proceed to the immediate reconsideration of the joint resolution, or the joint resolution and objections shall lie on the table. Upon receipt of a message of a House transmitting the joint resolution and the objections of the President, the House receiving the message shall proceed to the immediate reconsideration of the joint resolution the objections of the President to the contrary notwithstanding or of a motion to proceed to the immediate reconsideration of the joint resolution, or the joint resolution and objections shall lie on the table. A motion to refer the joint resolution to a committee shall not be in order in either House.

(B) MOTION TO PROCEED.—After the receipt of a message by a House as described in subparagraph (A), it is at any time in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the reconsideration of the joint resolution the objections of the President to the contrary notwithstanding. The motion is highly privileged in the House of Representatives and is a question of highest privilege in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the reconsideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(C) DEBATE.—Debate on reconsideration of the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to notwithstanding the objections of the President or disagreed to is not in order.

(D) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on reconsideration of the resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on the question of passage, the objections of the President to the contrary notwithstanding, shall occur.

(7) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. THURMOND. Mr. President, will the able Senator allow me to get two people on the floor?

Mr. SMITH of New Hampshire. I am happy to yield.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that a military fellow on assignment to my staff, Major Joann Eberle, be permitted access to the Senate Chamber during the consideration of S. 2057, the FY-1999 defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Vaughn Ward, a fellow in Senator KEMPTHORNE's office, be permitted floor privileges during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Mr. President, it is not my intention to delay the Senate. I have a very serious amendment, and I have a few moments of time and would like to outline what it is. If there is not a lot of argument on the other side, I say to my colleagues, we could have a vote in a very few minutes.

The amendment is very simple. It just limits the use of funds to support the continued deployment of ground forces of the United States in Bosnia pending a vote of Congress on the continuation of deployment, and to require the President to submit a plan for withdrawal, if the Congress does not do so by March 31.

Very simply put, Mr. President—Mr. President, may I have order.

The PRESIDING OFFICER. Will Members of the Senate who are having discussions please retire to the Cloakroom.

Mr. SMITH of New Hampshire. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, this amendment is very simple. It simply says that we will have a vote, that the Congress will go on record one way or the other. It doesn't say we have to vote yes. It doesn't say we have to vote no. It just simply says that we exercise our opinion so that the Congress can speak, so that we will be on record one way or the other. Leaving forces in Bosnia, taking them out, whatever that vote turns out to be, that is all this amendment does. If the President decides to keep them there after that, then so be it. But we go on record as making a statement. This does not get into some of the other issues that have been gotten into.

I would just like to briefly go back a little bit to remind Senators, because we hear a lot of talk of frustration about the Bosnia operation, about why our troops are there, how long are they going to be there, people complaining about being misled by the President or not being told the truth by the President and all this. I am hearing all of these comments and here is our chance with this amendment to be heard. It just seems to me if we vote against this amendment, I don't see any reason why we should be complaining about the operation.

I remind my colleagues of some testimony. Secretary of Defense Perry on December 1, 1995, said the following:

> We believe the mission in Bosnia can be accomplished in 1 year. So we built our plan based on that time line. And this schedule is realistic because the specific military tasks in the agreement can be completed in the first 6 months and thereafter IFOR's role will be to maintain the climate of stability that will permit civil work to go forward. We expect these civil functions will be successfully initiated in 1 year, but even if some of them are not, we must not be drawn into a posture of indefinite garrison.

Further, on December 6, 1995, Assistant Secretary of State Holbrooke said:

> The military tasks are doable within 12 months. There isn't any question. The deeper question is whether the nonmilitary functions can be done in 12 months. That is the real question. But it is not the NATO or U.S. force responsibility to do that. It is us on the civilian side working with the Europeans. It is going to be tough. Should the military stick around until every refugee has gone home, until everything else in the civilian annex has been done?

No, that is not their mission. That is what Secretary Holbrooke said.

So, Mr. President, the mission to Bosnia has very strong advocates and strong detractors. We have heard that in the debate in these past few hours. My amendment does not seek to open that discussion nor to close it. It really has nothing to do with that. It simply asks that Members of Congress at some point between now and March 31 of next year, 1999, cast a vote on the wisdom of the United States-Bosnia policy. That is all it does.

Mr. INHOFE. Will the Senator yield for a question?

Mr. SMITH of New Hampshire. I will be happy to yield to the Senator from Oklahoma.

Mr. INHOFE. I would like to make a comment as to the genesis of this. I think there might be some misunderstanding. First of all, we did have a vote back in 1995. That was the resolution of disapproval. And I suggest that we only lost that by three votes. And at that time there was a guarantee it was going to be a 12-month operation, it would not exceed $1.2 billion, all of these things. So predicated on that, the vote took place.

Now we are over there, and, quite frankly, I would have preferred to have an amendment that would require a vote periodically, every 3 months or every 6 months, on approval of leaving them there, because I think that would be much stronger. I think we need to be on record.

But all the Senator is doing is just—he is not saying this is going to be a resolution of disapproval or approval that we are voting on; it is just a vote.

Mr. SMITH of New Hampshire. That is correct. And I would just say to the Senator, I agree with him. I would like to vote for and see passed a resolution of disapproval.

Mr. INHOFE. The only thing that the Senator would accomplish, if he will yield for one last question, is the fact that would give us all an opportunity to be on record.

Mr. SMITH of New Hampshire. On record.

Mr. INHOFE. So the people would have no doubt as to who wants to ultimately get out of there.

Mr. SMITH of New Hampshire. The Senator is exactly correct. It gives us the opportunity to go on record as saying, one, let's just keep going, doing what we are doing. If you vote against the resolution, you can do that, or if you want to get out. But the point is we vote. This says that we have to have a vote by March 31 before we spend the rest of the money for the 6 months of the fiscal year 1999.

That is all it says. Now, however we vote is another issue. Then Senators go on record one way or the other—get out, stay in, either one, but they will be on record instead of all the complaining that we hear around here about the Bosnia policy. Why would anybody object? This is not asking us to vote yes. It is not asking us to vote no. It is asking us to vote, have a vote.

Mr. INHOFE. One last comment. One last question. The reason I bring this up, there are still some Senators who may be thinking this was the stronger version in which I joined the Senator. I would have preferred to have this as the stronger version, but this is not that version. This is simply that vote to which the Senator is referring.

Mr. SMITH of New Hampshire. The Senator is correct. I would have preferred the stronger version myself, but given the fact that we didn't have the votes, I decided to step back and just say, look, let's go on record. Let's have the opportunity to go on record. It doesn't require that the vote be affirmative for the money to be released, only that a vote takes place.

So to require that a vote take place and to have that vote taken seriously, my amendment uses the constitutional power that Senator BYRD spoke so eloquently of an hour or so ago of Congress to restrict funds. The amendment holds back half the money authorized for Bosnia operations next year until a vote is held—not a vote to leave them there, not a vote to take them out—a vote on a resolution authorizing continued deployment of U.S. ground combat forces to Bosnia. If it fails, the only result is that the President is required to tell us how and when he intends to withdraw. The money is still released.

The purpose is simple and straightforward. It is to use a small amount of leverage, half of next year's money, to force Congress to express itself—that is all, to express itself—clearly on the Bosnia mission. The resolution may pass, it may fail, but at least Congress will have expressed itself.

As the Senator from West Virginia has said so eloquently a while ago, why would Congress want to step away from its constitutional responsibilities if it doesn't tell the President what to do? It doesn't restrict the President. It doesn't get into troop strength. It doesn't get into deployment. It doesn't get into any of that. It just simply says Congress will have a vote.

Let me just say this. Before we have a vote on this amendment, I would say to my colleagues that our constituents elected us to represent them. How can we represent them if we are afraid to just express ourselves on the Senate floor one way or the other? They expect us to stand and be counted on major foreign policy issues, and I can't think of any excuse that we would give our constituents that would justify refusing to even have a vote on the resolution on Bosnia.

So I would urge my colleagues to accept some responsibility for United States-Bosnia policy, stand up and be counted and to pass the amendment.

Let me be a little more specific, in summary, as to what the amendment does. It is going to withhold half of next year's funding for Bosnia until Congress votes on the issue. It doesn't require that the mission be approved, just that the vote is one way or the other. The purpose is to honor the very strong arguments and strong feelings on both sides of the issue—both sides of the issue—by requiring the debate and a vote. I hope my colleagues understand this amendment because I think there have been some expressions of misunderstanding.

As the Senator from West Virginia so eloquently said awhile back, the only leverage that Congress has is funding. That is our leverage. I think to use it in this manner is to use it responsibly. Unless we place some restriction on it, there will be no pressure to debate anything and no pressure to vote on anything, and the debate itself will not, in my view, ever be taken seriously. You know: sense of the Senate, sense of the House—these resolutions, they don't mean anything.

So, to try to get in the middle here so we can get some common ground, just to have a vote rather than go one way or the other, is my goal. I do not think that is asking that much, that the American people, through their elected representatives, declare either their support for or opposition to this.

Don't you think your constituents are entitled to know how you feel, on the record, not in some speech where it is easy to say something and then walk it back a little later, but on the record with a vote? I don't think that is unreasonable. I think it is in everyone's interests to have this vote. I have been trying to offer this amendment for a long, long time. I have been put off on certain other vehicles because it was not the appropriate place to do it, they said. I don't know what the appropriate place is.

I remember, as some of my colleagues will who are here on the floor with me, I remember similar debates on the floor of the Senate and the House of Representatives while people were dying every day in Vietnam. While those men and women were honorably serving their country, the debate raged on and nobody had the guts to do one thing or the other, either win the war or get out. I am not saying this is Vietnam, yet. But we do have a situation here where I believe Congress should go on record.

I happen to be a critic of the mission. I agree with Senator INHOFE and I supported Senator INHOFE in his mission here, if you will, to end the deployment. But that is not what I am trying to do here. If the Senators on both sides cannot force themselves to vote, take a public position, then I don't understand how they can continue to talk about it and complain about it and attack the President and say: "Oh, the President's going to do this," or, "We might get stuck in Bosnia," or, "We ought to do this," or, "We ought to do that." Here is your chance to say, one way or the other. I want to have a vote. That is all it says. No more complaining about costs. No more second-guessing the President. Just stand up and be counted. Yes, we will have a vote, and when we take that vote, we can decide one way or the other what we want to do.

I think I have made the case on this amendment. It uses funding leverage. It is an appropriate congressional tool. It does not micromanage the executive branch, as some people have expressed a lot of concern about. It does not do that. It doesn't tell the President how to conduct his operations. But it does say that we ought to have a vote, and I think it calls for a future vote. Don't wait until next year or the year after; let's have the vote. Let's let the American people know how we feel.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to oppose the amendment offered by my friend and colleague from New Hampshire. If I may respond in one sense directly to what the proponent of the amendment said about going on record, I want to make very clear that I oppose the amendment because I feel that America's involvement in the implementation force and in the stabilization force has been critically important to the return of peace to that region, has been critically important to American prestige and credibility militarily in the world, and has been critically important to the stature and force of NATO. That is about as unambivalently as I can express it.

I think American involvement in Bosnia has been a remarkably successful involvement at a time when it was very important to draw a line in Europe against aggression, against genocide, and to indicate—more than indicate, to make very clear at the end of the cold war that we were not going to stand idly by, that NATO was not going to stand back, idly by, and allow the disintegration of sections of Europe that could have led to a wider war.

So I am unambivalently proud of the involvement that has occurred there, am supportive of it, and do not want to send any mixed messages. I want to oppose the Senate sending any mixed messages to our allies, to those who were previous combatants in the war in Bosnia—indeed, and most important, to our own troops there—not to send any mixed messages to any of them about the support of the Congress of the United States for the mission that our troops are performing there.

Looking back to the early 1990s when this conflict broke out, it was my honor to work alongside the former majority leader, Senator Dole, first trying to urge an end to the arms embargo on the Bosnians who were being slaughtered and were the victims of genocide, and then to urge the United States to lead NATO into doing something to stop this conflict.

We have been involved in three wars in Europe in this century, two world wars and one long, costly, dangerous cold war. It seemed to many of us that the lessons from those conflicts were to act as early as possible to contain just the kind of conflict that was occurring in Bosnia from spreading. And we battled, Senator Dole and I and others in both parties—battled the administration, first the Bush administration and then more directly, as the conflict in Bosnia became more desperate, the Clinton administration, to get involved, to exercise leadership, to be at least fair with the Bosnians and give them arms.

Finally, the resolution to lift the arms embargo did pass in the early part of 1995, here, with bipartisan support. There was a significant Croatian offensive on the ground, which was making headway, which contributed to a changing strategic situation on the ground. And Srebrenica fell, with a disastrous loss of life which was exposed to the world. And then there were airstrikes on Serbian positions. The fear that we had was that this was an indomitable force, one that we could not stop. There were recollections of the futile attempts by the Nazis to suppress the Serbs. In this case, the power of NATO from the air had the effect of bringing the combatants to the peace table in Dayton, the State of the Presiding Officer, where a historic peace agreement was signed.

This implementation force, followed by the stabilization force, in which the United States contributed troops, has been critical to implementing that Dayton agreement. Our presence there has always been less than half. The majority of the effort has been provided by our European allies and others. And, as success has been attained, the number of troops has been scaled down again. And yet it goes down again—now, I believe, below 7,000, I think maybe closer to 6,500. As a result of the effort of these troops in IFOR and then followed on by SFOR, the conflict has ended, hostilities have ended, and there is a slow, steady implementation of the Dayton peace agreement, the military and the civilian components of that. IFOR and SFOR have been charged with carrying out that agreement.

The economy is up and beginning to flourish again. Elections have been held; common institutions are beginning to be developed. In the Serbian Republic, Srspka, an extraordinary turn of events has occurred as a result of, first and most important, I think, the desire of the Bosnian Serbs to have new leadership, not the leadership of indicted war criminals like Karadzic and Mladic, but to see new leadership. But that was assisted by some very aggressive, determined involvement by the SFOR, particularly by American leadership leading up right to the Supreme Allied Commander in Europe, General Wesley Clark, who has performed, in my opinion, with extraordinary skill and effectiveness in this arena of, first combat, and now peacemaking, followed by some very effective involvement by Ambassador Bob Gelbard in the political situation in Srspka, resulting in new leadership: President Plavsic now, Prime Minister Dodik, proud Serbian nationalists, but committed to the Dayton peace accord.

The progress goes on. Benchmarks have been provided, civilian benchmarks have been provided to us by the administration to determine progress as we go along, all of it leading to a hopeful withdrawal and an end date.

Mr. President, along the way, some mistakes have been made. The Senator from New Hampshire mentioned them; others have as well. As part of the earlier involvement, there were those in the administration who offered deadlines for withdrawal of American forces. I presume that some measure of the motivation for doing that was to reassure Congress that this involvement would be limited. But those deadlines were always, in my opinion, a mistake. They were a mistake because why would one want to state a date by which one would withdraw from an uncertain situation?

Traditional policy would be in a conflict or in a peacemaking situation, one withdraws when one achieves the goals of the involvement. So the deadline was always a mistake.

It was a mistake in another sense because it would send a message to those hostile to our involvement there in the first place, who want to reignite the conflict, that there is a date on which we are getting out. They could lay back and wait until NATO forces, IFOR and SFOR, including the U.S. leadership, left.

I feel that the proposal here for a vote and the more indirect references in the amendment that was just voted on for withdrawal, head back in the direction of the setting of deadlines, and they have some of the same deficiencies that I think were part of the deadline which the administration set, which most all of us in the Senate condemned and see now as a mistake.

My own feeling is that we are on the right course in Bosnia; that this is all moving in the right direction, both in terms of implementation of the Dayton accords and scaling back the number of American personnel who are there on the ground. I think if we now enter and say we are going to have a vote on whether to go forward, and if we don't vote to do so, in the middle of the next fiscal year, March 31, 1999, that we will withdraw, that puts a cloud over our involvement.

Mr. SMITH of New Hampshire. Will the Senator yield for a question?

Mr. LIEBERMAN. Yes, I will be glad to yield to my colleague.

Mr. SMITH of New Hampshire. With all due respect, the Senator misunderstands my amendment, because that is not what my amendment does. You just articulated the policy that you supported. Even if your side would lose in the debate that we would have in Congress—let's say we have the debate. If your side lost, the money would still be released. If my side loses —I happen to favor withdrawal—if I lost, the money would still be released.

All my amendment calls for is a vote. It doesn't say that if we vote to get out on March 31 that the money is not released. The money is still released.

This is on the Senator's time. He has been very generous. The only conclusion I can draw is the Senator just doesn't want a vote in the Congress at all.

Mr. LEVIN. Will the Senator yield?

Mr. LIEBERMAN. Yes, I yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, are we under any time limits?

The PRESIDING OFFICER. There are no limitations.

Mr. LEVIN. I wonder if the Senator will yield to me. Is it not true, I ask the Senator from Connecticut and the Senator from New Hampshire, obviously, as well, that the amendment says the following in paragraph (c)(1) that "after March 31, 1999, none of the funds"—none of the funds appropriated or authorized here or anywhere else can be used "to support the continued deployment of United States ground combat forces in Bosnia * * * except for" withdrawal. Is that not your amendment?

I guess since the Senator from Connecticut has the floor, let me ask the Senator from Connecticut, is that not the amendment before you.

Mr. LIEBERMAN. If I may say to the Senator from Michigan, that is exactly the understanding of the impact of the amendment offered by the Senator from New Hampshire, which is that if there was a negative vote by March 31 of next year on our American involvement in Bosnia, that the only thing funds would be available for would be to withdraw our personnel.

Mr. SMITH of New Hampshire. If I can respond to the Senator, I need to see if we are looking at the same draft, because that is not my intention, and if that is in the draft, I will amend that to change that because that is not the intention of the Senator's amendment. I yield back to the Senator his time and let me take a look at the draft.

Mr. LIEBERMAN. Fine, Mr. President. The statement Senator LEVIN made was exactly my understanding and was what I saw in the draft. The direct effect of a negative vote next March would be to terminate funding of our operations except to withdraw. I await clarification on that, but I must say again, because I support this involvement, I support the command overseeing it, and I support the soldiers in the field, I don't want to set a date down for this kind of vote on our involvement in Bosnia.

For those who are against it, they always have the option to try to eliminate funding for it through the appropriations process. I think to state a date by which we are going to vote next year on whether to remain involved in Bosnia or not hangs a sword of uncertainty in this case over the entire operation, over the American troops that are there, over our NATO allies who have said they will leave when we leave: "We went in together, we are going out together." That is what I have heard them say over and over again. Again, it raises the prospect in the minds and hearts of those who are waiting to resume this conflict that they may well have the opportunity come next spring, because the U.S. Senate may vote to terminate this involvement.

I do want to say about our troops there, I have had the occasion to be there now three times in the last year, as it happens: once last July in a delegation headed by Senator LOTT, and the distinguished occupant of the Chair was with us; once in December, right before Christmas, when we went over with President Clinton to visit the troops; and then again in February when I went with a delegation headed by Senator MCCAIN.

One thing that struck me was the very high morale of American troops that are part of this peacemaking mission in Bosnia. I have had the opportunity as a member of the Armed Services Committee—the honor, really—to visit American soldiers in the field around the world. I must tell you that I have never met a group of American soldiers who had a better, clearer, more positive feeling about why they were somewhere around the world.

It struck me as particularly interesting and encouraging, because right now they are not involved, certainly not involved in active combat. They are active, they are peacemaking, they are patrolling, but they are involved in a lot of civilian activity. They understand why they are there.

One of them said to me that once a month, he went into an orphanage, somewhere around Sarajevo, as some of the troops there do, and visited some children who were orphans as a result of the war in Bosnia. He said, "You know, when I go there, I understand why we are here. We are here to stop more children on all sides from becoming orphans; to keep people alive and to help this country to rebuild itself."

And I fear that any of these amendments we pass here that incline toward withdrawal or state the necessity for a vote on withdrawal by a date certain puts a cloud over the mission of our personnel in Bosnia and runs the risk of diminishing the morale, understandably, of our troops there as well as those who have led them so ably.

I do want to take just a moment, Mr. President, to explain, consistent with what I have said here, why I voted against the previous amendment offered by Senator THURMOND and Senator LEVIN, a worthy attempt to achieve consensus, and in fact it did achieve consensus since the vote was 90–5 on it. It was not an easy vote to vote against, to be one of the five.

But I was concerned about it because on page 3, beginning in paragraph (2), it does say that:

> The President should work with NATO allies and other nations * * * participating in the NATO-led Stabilization Force to withdraw United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the

safety of those forces and the accomplishment of the Stabilization Force's military tasks.

Well, it is not a direct withdrawal. It does condition it on the accomplishment of the stabilization force's military tasks, but, to me, it inclines toward withdrawal as a matter of policy. Because I am so proud of what has been accomplished as a result of the stabilization force that we have led, and because I am so committed to a withdrawal that occurs consistent with the achievement of the goals, the benchmarks that the administration and NATO have set down for this mission, I was troubled by that paragraph as well as the succeeding paragraphs which suggest the possibility that there might be a need for continued military presence there but that we should consider that it be a NATO-led force without the participation of U.S. ground combat forces.

I think once we begin to do that, once we begin to separate ourselves from NATO, we begin to diminish the unity of that greatest military alliance in history and we begin to diminish our leadership of NATO. And I do not think any one of those is in our national security interest. The fact also is, as I mentioned briefly a moment ago, our NATO allies—the Brits, the French, Germans—all of them have said, "We went in together. We're going out together. So when the United States departs from Bosnia, we're all leaving."

So on a practical ground, I do not think we have that option. I think the option is to hang in there together, continue what has been a remarkably successful mission, and we can see the end in sight. But let us not force it. Let us let it come naturally as we achieve the benchmarks.

So that is why I voted against the previous amendment No. 2975, and all the more so for the current amendment, because it puts us on a course to vote on withdrawal and sends a mixed signal.

One of my favorite expressions from the Bible in cases such as this is—I am not going to quote exactly—"If the sound of the trumpet be uncertain, who will follow into battle?" "If the sound of the trumpet be uncertain, who will follow into battle?" And I fear here that the sound from these amendments is uncertain and the effect will be to diminish the morale, the effectiveness, of the remarkably effective high-morale mission that American troops have carried out as part of IFOR and SFOR in Bosnia.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. If there is no further debate at this time, I was going to note the absence of a quorum because I do have some things I want to say about the amendment, but I want to get the amendment straightened out.

Mr. SMITH of New Hampshire. I say to my colleague, I have a modification, and I will have it ready in a moment. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, in light of the fact that the managers are working out an agreement on the amendment, I am wondering if I could simply address the bill itself for just a few moments.

Mr. President, I come to the floor today to register my opposition to the fiscal year 1999 Department of Defense Authorization Act. I have numerous concerns with the bill, especially the continued spending of billions of dollars on wasteful and unnecessary programs.

In a time when we are cutting programs and fighting for a truly balanced budget, we cannot really afford to insulate any department of our Government from scrutiny as we seek to reduce the Federal debt.

I think it is very ironic that programs like health care for veterans and social services were put on the chopping block to offset increased funding for our highways and transit systems but we did not have an attempt to use defense spending for transportation. It was not even considered.

The message we are clearly sending is that roads and overpriced weapons systems are more important than the people who are actually living in this country: We will give you roads and planes, but we will have to take away your health care and programs that serve ordinary human needs.

Mr. President, there are a number of provisions in the DOD bill that I oppose and I will continue to oppose. One is the subject of some of the discussion we have been having this afternoon. And that is the $1.9 billion "emergency" supplemental appropriations recently passed by the Congress.

The Congress has never developed firm rules on how we should define an emergency. Everybody assumes, I guess, that we will use common sense when deciding when to grant special emergency treatment to certain expenditures. And of course common sense tells us that things like floods and tornadoes clearly are unanticipated emergencies.

In my view, however, the mission in Bosnia is not. It is a substantial, long-term commitment. It is something the United States has, for better or worse, decided to do for quite a long term. If events there take an unexpected turn for the worse, of course, we could have some kind of emergency on our hands, but as we stand here today and debate this bill, the Bosnia situation is not really something you can call an emergency.

The line items in the law—military personnel, operations and maintenance, and contingency funds—are really standard military costs that would be part of any military mission. United States troops have been on the ground in Bosnia for more than 2 years. The change in designation from IFOR to SFOR was made more than a year ago and is scheduled to continue through June of this year. Then, last December, the President announced he would forgo imposing a deadline altogether and opted instead for a policy of benchmarks whose definitions remain open to interpretation.

Mr. President, how can Congress and the President possibly profess to the American people that the additional costs for the Bosnia mission constitute an emergency? On the contrary, it has been quite clear for a while now that the cost of this mission would rise continuously and substantially. And I would say, to me at least, that was really clear from the start. This was never going to be a temporary emergency situation.

Ironically, congressional appropriators and our military leaders have planned for many months, Mr. President, on obtaining these funds in this emergency spending bill. So that invites my next question: What are these funds doing in the bill? I just do not think you can equate the long-anticipated needs of the operation in Bosnia with the urgent, unexpected needs of the farmers in California or homeowners in Florida who have been devastated by natural disaster.

Another matter, Mr. President, in the bill, that concerns me is that $3.3 billion authorized for the Navy's F/A-18E/F Super Hornet program. It is no secret that I have some questions about this program. But I am also troubled by the activities of the Pentagon and the Navy in moving the Super Hornet airplane forward. And my concerns are not addressed in the least in this bill.

The current Hornet program has proven reliable and cost effective. Why do we want to replace the Hornet with a bloated, cost-prohibitive aircraft that offers only marginally greater benefits over the current reliable fighter?

Third, I am concerned that the DOD authorization bill shortchanges our National Guard by at least $594 million. The National Guard is an immense source of pride throughout the country, and especially in my State of Wisconsin. As I travel across the State, I frequently have the privilege of meeting the men and women who compose the Wisconsin Guard, and I have been very impressed with the tremendous degree of professionalism and proficiency with which they complete a wide range of missions.

They are well-trained, dedicated, professional soldiers who earn rave reviews from the Governor's office, down to the villages and municipalities who often are the principal beneficiaries in regard to assistance.

Since I arrived in the U.S. Senate more than 5 years ago, my driving objective has been to reduce the Federal deficit and achieve a balanced budget. We have made great progress in that regard. While we continue to run a deficit while using the Social Security trust fund to mask the deficit, we have almost overcome the hangover of our 1980 spending binge.

A large part of that success has been due to the willingness of both the Congress and the President to do more with less, to trim excessive spending wherever possible, and maintain important services but with fewer resources. And we have succeeded in almost every area of government to do this—in education, in health care, in veterans' care, in welfare benefits, and in environmental programs. We have succeeded virtually everywhere, except defense spending, where we continue to build destroyers the Navy does not ask for and we continue to build bombers the Air Force does not want.

Balancing the budget, as you well know, is about making difficult choices. Sure, the Navy would rather have a Super Hornet, and if we were in a radically different budgetary position I could possibly support giving them 300 of those airplanes instead of the 30 they are receiving in this legislation. But can we afford 30 of these new tactical fighters when a more affordable and equally effective alternative aircraft is readily available? How that question is answered is the difference, that is the difference between fiscal excess and fiscal responsibility.

So we have to make smart choices. A truly balanced Federal budget is almost, unbelievably, in sight for the first time in three decades. But we are not going to be able to get the balanced budget or maintain a balanced budget, let alone starting to bring down the Federal debt and protect Social Security, so long as we continue to commit to programs and force structures that are so blatantly unaffordable. We must continue to fight for further spending reductions until we achieve the most effective and cost-efficient military which serves our national security interests.

I thank the Chair.

The PRESIDING OFFICER. Mr. SMITH of New Hampshire.

AMENDMENT NO. 2912, AS MODIFIED

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent it be in order for me to modify my amendment with the text that I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2912), as modified, is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. POLICY ON DEPLOYMENT OF UNITED STATES FORCES IN BOSNIA AND HERZEGOVINA.

(a) LIMITATION.—None of the funds authorized to be appropriated under this Act may be expended after March 31, 1999, to support the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina unless, on or before such date, each House of Congress votes on passage of legislation that, if adopted, would specifically authorize the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina.

(b) PLAN FOR WITHDRAWAL OF FORCES.—If legislation referred to in subsection (a) is not presented to the President on or before March 31, 1999, the President shall submit to Congress, not later than September 30, 1999, a plan that provides for the ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina to be withdrawn from Bosnia and Herzegovina in an orderly and safe manner.

(c) PROHIBITION.—

(1) USE OF FUNDS AFTER MARCH 31, 1999.—After March 31, 1999, none of the funds authorized to be appropriated by this or any other Act may be obligated or expended to support the continued deployment of United States ground combat forces in Bosnia and Herzegovina, except for the purpose of implementing the withdrawal plan.

(2) CONDITION.—The prohibition on use of funds in paragraph (1) shall not take effect if a joint resolution described in subsection (d)(1) is acted upon on or before March 31, 1999.

(d) PROCEDURES FOR JOINT RESOLUTION OF APPROVAL.—

(1) CONTENT OF JOINT RESOLUTION.—For the purposes of subsection (c)(2), "joint resolution" means only a joint resolution that sets forth as the matter after the resolving clause only the following: "That the continued deployment of ground combat forces of the Armed Forces of the United States in Bosnia and Herzegovina is authorized.".

(2) REFERRAL TO COMMITTEE.—A resolution described in paragraph (1) that is introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the Committee on National Security of the House of Representatives.

(3) DISCHARGE OF COMMITTEE.—If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 7 calendar days after its introduction, the committee shall be deemed to be discharged from further consideration of the resolution and the resolution shall be placed on the appropriate calendar of the House involved.

(4) FLOOR CONSIDERATION.—

(A) IN GENERAL.—When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) CONSIDERATION OF VETO.—

(A) ACTION UPON RECEIPT OF MESSAGE.—Upon receipt of a message from the President returning the joint resolution unsigned to the House of origin and setting forth his objections to the joint resolution, the House receiving the message shall immediately enter the objections at large on the journal of that House and the House shall proceed to the immediate reconsideration of the joint resolution the objections of the President to the contrary notwithstanding or of a motion to proceed to the immediate reconsideration of the joint resolution, or the joint resolution and objections shall lie on the table. Upon receipt of a message of a House transmitting the joint resolution and the objections of the President, the House receiving the message shall proceed to the immediate reconsideration of the joint resolution the objections of the President to the contrary notwithstanding or of a motion to proceed to the immediate reconsideration of the joint resolution, or the joint resolution and objections shall lie on the table. A motion to refer the joint resolution to a committee shall not be in order in either House.

(B) MOTION TO PROCEED.—After the receipt of a message by a House as described in subparagraph (A), it is at any time in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the reconsideration of the joint resolution the objections of the President to the contrary notwithstanding. The motion is highly privileged in the House of Representatives and is a question of highest privilege in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the reconsideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(C) DEBATE.—Debate on reconsideration of the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to notwithstanding the objections of the President or disagreed to is not in order.

(D) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on reconsideration of the resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on the question of passage, the objections of the President to the contrary notwithstanding, shall occur.

(7) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. LEVIN. Mr. President, I take 1 minute because I understand the Senator from Arizona now is here to move to table.

This amendment, I believe, is seriously flawed. What it will do is keep our troops nervous and our commanders nervous, because if there is not a vote that occurs on March 31 next year, then no funds can be spent to support our troops.

So it really is the worst of all worlds. It attempts to guarantee there will be a vote. Of course, you never can tell what efforts will be made to thwart that. What this amendment says, if there is no vote by a certain date, the funding is cut, the troops must be withdrawn, the troops will not be supported—if there is no vote.

That is a "keep the troops and commanders nervous" approach. I think it is a terrible mistake. I hope our last vote, which was overwhelming in this body, will be considered the view of this Senate.

Mr. McCAIN. Mr. President, I make one remark before I move to table. We will be taking up the Department of Defense appropriations bill after this. I recommended that the Senator from New Hampshire propose a simple amendment which would cut off funding for further operations in Bosnia. That is a right, as part of our role as advice and consent—keeping with an earlier debate that we had—to somehow draw down and set troop levels in Bosnia.

Therefore, since among other things I am opposed to the amendment in principle, but also there is a parliamentary standpoint, I think it would be much more appropriate to propose an amendment on the Department of Defense appropriations bill that would give us all a chance to be on record as to whether we support funding or not.

I now move to table the Smith amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Ms. SNOWE). The question is on agreeing to the motion to table the amendment offered by the Senator from New Hampshire, Senator SMITH.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER), is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), and the Senator from West Virginia (Mr. ROCKEFELLER), are necessarily absent.

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—65

Abraham
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Enzi
Feinstein
Ford
Glenn
Gorton
Graham
Hagel
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roth
Sarbanes
Shelby
Stevens
Thurmond
Torricelli
Wellstone
Wyden

NAYS—31

Allard
Ashcroft
Bond
Brownback
Burns
Craig
Durbin
Faircloth
Feingold
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Lott
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Thomas
Thompson
Warner

NOT VOTING—4

Akaka
Baucus
Rockefeller
Specter

The motion to lay on the table the amendment (No. 2912), as modified, was agreed to.

Mr. THURMOND. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 2892

(Purpose: To provide a substitute for title XXIX, relating to the Juniper Butte Range, Idaho)

Mr. KEMPTHORNE. Madam President, I would call up amendment No. 2892 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE] proposes an amendment numbered 2892.

Mr. KEMPTHORNE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed in today's RECORD under "Amendments Submitted."

Mr. KEMPTHORNE. Madam President, in the defense bill we have language dealing with land withdrawal. This is a project that the Air Force has been working on for some years. The language that I have now proposed to the Senate is the perfecting language which has been provided to us.

Madam President, this concerns the 366th Composite Wing which is bedded down at Mountain Home Air Force Base in Idaho. This is a composite wing that consists of F-15s, F-16s, B-1 bombers, and C-135 tankers. This allows them to train as they fight. This is one of our rapid deployment Air Force units that would be called to respond anywhere in the world where we may have a terrible situation.

The current range that we have in place, there is only one direction—that is from the south—from which you can access that range. That worked when this was not a composite wing, but now that you have all of these different aircraft there, they need to have much greater ability for training purposes. This would allow us to maximize training for this situation.

After many, many months of a process, I will tell you that this is something that has been a high priority for the White House, for the Air Force, for the Department of the Interior, for BLM, for the Governor of the State of Idaho, and for the Idaho delegation.

With regard to the process, Madam President, this is a process that has taken 2½ years to get us to this point—2½ years. During those 2½ years, 16 different public hearings were held in three different States. Over 400 witnesses testified as to their thoughts, either pro or con, mitigations they would suggest. Over 1,000 different comments were recorded.

This is the Environmental Impact Statement that is the result of 2½ years of effort, three volumes. Included in the first volume is the reference that "The final EIS has been prepared in accordance with the National Environmental Policy Act," or NEPA. So, again, this is a process that has been in place, that has followed all of the guidelines. And really I think the Air Force and the Department of the Interior are to be commended for the process which they have utilized, and really the mitigations that have been put into place are some of the most significant the Air Force has ever had. Also, the Air Force had no less than 25 meetings with tribal representatives of the Shoshone-Paiute tribe. Their reservation is Duck Valley.

The particular site that was chosen, Madam President, 12,000 acres, is currently under ownership by the Bureau of Land Management. When we talk about land withdrawal, who are we withdrawing it from and who becomes its new landlord? Well, currently, because it is BLM, it is Federal land. It will remain Federal land. It is being withdrawn from the BLM to be put under the stewardship of the U.S. Air Force.

I would like to give you a sense of what this issue is about. In this particular area of the State, these are what are called the Owyhee Canyonlands. As you see, they are beautiful. You can see the streams going through there.

Currently, in this area, we have the Mountain Home Air Force Base, and under existing regulation those aircraft can fly at 100 feet above the canyon rim or 100 feet above ground level 365 days out of the year. With this proposal that is before the Senate, in this legislation that changes. For 3 months out of the year—April, May and June—those aircraft, instead of flying at 100 feet above the canyon rim, if they fly parallel to the canyon, would be at 5,000 feet, and that is 1 mile from the canyon either side. If they fly perpendicular, across the canyon, they would be at 1,000 feet—significant improvements. Also, during those months they would only fly Tuesday, Wednesday and Thursday—not 7 days a week. So for recreationalists, this is a real advantage that is gained by them.

Now, when we talk about 12,000 acres, is it this same sort of beautiful landscape as we see here? Let me show you.

This is a picture of the 12,000 acres. As you can see, it is sparse. It is flat. This is where for 100 years they have been grazing cattle. Folks out there work hard to make a living on this land. But this is the picture of the 12,000 acres that are out there now.

Also, when I mentioned the Shoshone-Paiute tribes, one of the things that was asked of our Native Americans—and this is the Duck Valley Reservation, which is in this southwest corner of the State of Idaho, and also in Nevada—but we asked them what areas of concern they would have, what geographic areas of concern that they would have for some of their sacred areas. They drew this line and said, anything in here we would certainly prefer that you not have this training facility in. And, therefore, Juniper Butte, which is the land in question, is right here. As you can see, it is a great deal outside the area of concern of the Native Americans.

The funds for the improvements and for land acquisition for this project have been provided by President Clinton in his defense bill that is before us. It is included in the Department of Defense authorization bill, so it is very logical and consistent for us to deal with this project in the same legislation that has the funding for this project. That is what is before us at this point.

The result of this is that there will be: A new, no-live-ordnance, 12,000-acre training range using land that has been grazed for over 100 years; the most extensive mitigation program in the history of the Air Force; new seasonal overflight restrictions of the canyons for recreationalists and sheep; an Air Force commitment to provide $430,000 over 4 years to monitor impacts on bighorn sheep and sage grouse; avoidance of the entire sacred site area identified by the Shoshone-Paiute Tribes at the start of the process and protection of existing sacred sites; Air Force agreement with ranching operation impacted by land withdrawal. The Juniper Butte Range is supported by letters from Defense Secretary Bill Cohen, Interior Secretary Bruce Babbitt, and Air Force Secretary—Acting Secretary Whitten Peters, and Idaho Governor Batt.

The Air Force, from the outset, said if, in the area that they ultimately chose as the approved site for this training range, there were people who might be adversely impacted, that the Air Force would compensate. This agreement would allow for compensation to be a result of the agreement negotiated between the Air Force and, in this case, a ranching family. We have a rancher who, for years, has been grazing his cattle on these 12,000 acres and has made a great many improvements with regard to the water lines and fencing. So as he moved those water lines and the fencing to a different location, again, he would be compensated for this and he would have those grazing areas realigned in a different location. So, again he would be leaving that area.

The language that we have before the Senate is language that was given to us by the Department of the Interior, by BLM, and by the U.S. Air Force.

I will tell you, Madam President, that there are a couple of items which have been added to the Kempthorne-Craig amendment which are a substitute for the language in the bill. Again, the language comes from the Department of the Interior and the Air Force, and there are four additional changes.

No. 1, the impacted rancher may continue to graze the withdrawn land until his agreement with the Air Force is fully implemented; that is, until rights-of-way are granted and new fences and water pipes are built.

We cleared this with Katie McGinty, who is the President's counsel on environmental quality. The White House is very comfortable with this language.

No. 2, to the maximum extent possible, Interior should use maps already bought and paid for in development of the EIS, just trying to avoid further costs of the project.

No. 3, we add Owyhee County to the development of the resource management plan for withdrawn lands and monitoring activities.

No. 4, we change water right language from the Air Force "may" not seek water rights to the Air Force "shall" not seek water rights.

The substitute amendment will result in development of the Juniper Butte Range. I think this is an important distinction. That is, that particular site was recommended by the Bureau of Land Management after a lengthy process, which I have outlined; the Air Force then concluded that was the best site. It was not a situation where the rancher came forward and said, is there any way that the Federal Government could somehow come and utilize this land? This was something that was driven by, No. 1, the Air Force wanting to have this enhanced training for the Composite Wing at the Air Force base, the Bureau of Land Management choosing the Juniper Butte site, the Air Force ultimately agreeing to it, and then a whole series of mitigations have been put in place.

The amendment sets no precedent on grazing rights, as is acknowledged by the Bureau of Land Management. I think that is an important distinction.

So this is perfecting language. It, again, is a process that has taken 2½ years, three volumes that are contained in the environmental impact statement following NEPA. It has the strong support of the President of the United States, the Acting Secretary of the Air Force, the Secretary of the Department of the Interior, the Director of the Bureau of Land Management, the Governor of the State of Idaho, the Idaho delegation.

Again, I appreciate all the cooperation we have had and the strong support from the administration on bringing this project, finally, to closure.

With that, I know the senior Senator from Idaho, Senator CRAIG, has some comments he would like to make on this amendment as well.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, first of all, I thank my colleague, Senator KEMPTHORNE, for the tremendous diligence with which he has approached this issue for national defense and for the citizens of the State of Idaho. What we are talking about this evening in the amendment that we bring before you is an issue of national defense and the appropriate allocation of natural resources, natural public resources in our country.

There is no question that it has been determined by the Air Force that Mountain Home Air Force Base needs additional capacity to train, to train the 366th Wing, the Composite Wing that my colleague has just spoken about—not only current training but future training. And of course out West, where the skies are blue and the horizons seem to be endless, you would think this would be an easy process. There is all of this public land. In fact, 63 percent of the State of Idaho is owned by the Federal Government. And you can just go anywhere and fly anywhere and train anywhere. That is not the case. We know that is not the case. And it should not be the case, because that public land is a valuable natural resources allocated for a variety of uses.

It is most important that where the Air Force should train, that training should be specific, well defined, and that is exactly what we are attempting to do. The Senator has outlined the process—well over 2½ years, 16 public hearings, thousands of inputs from the citizens of our State and from around the country for and against the expansion or the development of a new training range. We are now here, doing the necessary thing, and that is to reallocate public land, to take land which was once grazing land and wildlife habitat, but primarily used for grazing—it had been for well over 100 years—and saying no longer will this land be used for grazing, it will be used for training overflights.

But for the person who grazed that land, the family who has had the right to graze that land under BLM permit for nearly 100 years, we are saying, "You will no longer be able to graze there. We are going to take that land away from your use. We are going to allocate a new area, and you are going to be able to gain a permit to graze in the new area under the standard prescriptions of the BLM and the range management set forth by the Secretary of the Interior and the appropriate rules and regulations of the National Environmental Policy Act." As the Senator has just spoken, "You will be able to graze on your own range until such time as this agreement is worked out."

There is no special treatment. There is a recognition that in this process, we have two demands, and we ought to be able to meet both of them. We have the demand for expanded training range capability of the 366th, and we have what I think is a reasonable approach toward land use, and that is grazing. If we did not grant this rancher an opportunity to graze in other areas, we would destroy a 100-year-old family business and put them out of business. It is that plain, and it is that simple.

The Air Force understood that, BLM understood that, the President understands that, and through this give-and-take and negotiations, we have arrived at a settlement. Not everybody agrees with that settlement, but everybody has been treated fairly.

The Duck Valley Indian Reservation, Shoshone Paiute Tribe, Native Americans with substantial rights in that area have been treated fairly, have been allowed to be at the table to negotiate, as we should have treated them, and all considerations have been made—overflight levels not to disturb their solitude and the character of their lands, all the corridors of flight, all of those have been considered, because those pictures that the Senator just showed us show huge expanses of public lands and no fences and no lines and no roads. You would think, well, my goodness, fly anywhere. Not the case. There are land rights out there. There is private land, there is Indian land, and that is private by character of a separate nation, and there are private inholdings of citizens, and then, of course, there is the public land.

There is a criticism launched that somehow this particular rancher that we are dislodging from an area where he and his father and his grandfather grazed for over 100 years is getting special treatment. That is not the case. What we are saying to him as we take away from him the land under which he grazed, therefore, if we didn't offer new land to graze, under the standards of the current law, somehow we would be denying him his livelihood. We are saying there will be costs involved in bringing the new range into quality—quality grazing, availability of water, fences for rest rotation grazing, and that rancher should not have to sustain those costs. So there are costs in transition.

There are mitigating costs, and that is why we have worked hard; that is why Senator KEMPTHORNE has worked especially hard on his committee to make all of these things happen.

He twice—at least twice, maybe three times—has hosted meetings in his office that I have attended with all of the parties at the table to assure that everybody was talking and the fullest public process was met; that every "i" was dotted and every "t" was crossed under the National Environmental Policy Act to make sure that no stakeholder was left out.

There are some California sheep, wild sheep in the area of concern. There is money in here for the Idaho Department of Fish and Game to monitor the character of that herd so that in no way do we damage the environment or the wildlife at hand.

I think as a country, I hope that we as a Congress, have the ability to allocate resource and balance natural resource use and environmental needs along with our national defense. That is what this amendment does. It not only expands training range capability for Mountain Home Air Force Base and this new concept we call "composite wing," but it assures long-term ability to do that kind of training.

I say to my colleagues, you have just received a "Dear Colleague" letter from Senator KEMPTHORNE and myself outlining the pros and cons of this. I must tell you that this is not without opposition. There are some who still prefer that nothing be done. But a majority of Idahoans believe something should be done, and certainly as those who are caretakers of the national defense—and that is what we as Senators are—it is important that we assure the long-term capability for our national defense and optimum training conditions for the men and women who fly the aircraft of our country. That is what we believe we are doing here. At the same time, we are assuring that the traditional and legally prescribed uses of our public lands for grazing purposes can continue to go on.

I believe, Madam President, that what Senator KEMPTHORNE and I offer tonight is a win-win proposition. The Air Force wins; American citizens win because of enhanced capability for national defense training; and our public land users and the environment win, because we are now expanding the capability of grazing by improving its conditions, and those grazing conditions also improve the conditions for wildlife because of additional water in areas where there may not currently be water and will be in the future.

That is what we bring before you tonight. We appreciate your consideration of it. We hope you can agree with us, because, as Senator KEMPTHORNE has said, the Idaho delegation stands united, along with the Governor of our State and our State legislature. We appreciate having a military presence in our State. We appreciate Mountain Home Air Force Base for what it does for the country, but also what it does for the State of Idaho. We also appreciate the beauty of the great expanse of our Federal lands.

We also understand the importance of balanced and multiple uses. We think we bring all of those to the table in the amendment that we have offered, that the Senator has authored, and we hope that the Senate will concur with us in that amendment. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, the land withdrawal for enhanced military training in Idaho is a necessary element for varied, realistic training that is essential to enable the 366th Wing at Mountain Home Air Force Base to sustain combat readiness to meet the complex threats expected in the 21st century. The proponents of this provision have worked long and hard to resolve all of the stakeholders' interest related to this military land withdrawal and have put together a good provision.

I strongly support Senator KEMPTHORNE's substitute amendment to title XXIX of the National Defense Authorization Act for fiscal year 1999 and the continued efforts to secure enhanced military training in Idaho.

Madam President, we have both Senators from Idaho in accord on this matter. The Governor of Idaho is in accord on this matter. It appears to be highly desirable that the Senate adopt this amendment and accommodate the two Senators, the Governor and the people of Idaho. Thank you. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, the Senator from Idaho, Senator KEMPTHORNE, has done what he indicated in committee that he intended to do, which was to offer a modification of his previous language when this bill got to the floor. That is being carried out with the support of his good colleague from Idaho.

We have no objection to the modification in the language. My understanding is there is further discussion or debate relative to this subject which will be forthcoming at a later time, but I have no objection to this amendment.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Madam President, I thank the chairman of the Armed Services Committee, Senator THURMOND, for his comments and his strong support. I also thank Senator LEVIN for his comments. I enjoy greatly working with the ranking member.

We have fulfilled what we said we would do. Also, I point out to our ranking member that this language is the language provided to us by the administration.

And so I feel very comfortable with this.

I also, Madam President, would like to make part of the RECORD the letter from the Secretary of Defense, Bill Cohen; the letter from the Secretary of the Air Force, Acting Secretary Whitten Peters; and the letter is also signed by Secretary of the Interior Bruce Babbitt, in support of the project with the language, the news release by the Bureau of Land Management, which goes into details, and also the letter from Whitten Peters, Acting Secretary of the Air Force, where he affirms that the Air Force will provide $430,000 to monitor the impact on bighorn sheep and sage grouse over 4 years. I ask unanimous consent that those be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF DEFENSE,
1000 DEFENSE PENTAGON,
Washington, DC, October 21, 1997.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR DIRK: Thank you for your letter of September 8, 1997. I want to assure you nothing has changed regarding my enthusiasm for the Enhanced Training in Idaho (ETI) initiative.

The 366th Wing as Mountain Home Air Force Base (AFB) is an important component of our military capability. As one of the first units to deploy to a problem area, it has the responsibility to neutralize enemy forces. It must maintain peak readiness to respond rapidly and effectively to diverse situation and conflicts.

ETI balances realistic local training with careful consideration of environmental, cultural, and economic concerns. The elements of the ETI proposal, though designed to minimize environmental impacts, will simulate real world scenarios and allow the aircrews to plan and practice complex missions. In addition to providing realistic training, ETI's close proximity to Mountain Home AFB also will enable the Air Force to convert time currently spent in transit into actual training time. Thus, the ETI proposal allows Air Force crews to use limited flight training hours more efficiently.

I continue to give the ETI process my full support. It will provide our commanders with realistic training opportunities locally, while ensuring potential impacts to natural, cultural, social, and economic resources are identified, and where possible, cooperatively resolved. Your strong support for the ETI initiative is very important to us, and you may rely upon my continued interest and commitment.

I trust this information is useful.

Sincerely,

WILLIAM S. COHEN,
Secretary of Defense.

SECRETARY OF THE AIR FORCE,
Washington, DC, June 19, 1998.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: We are pleased to provide you with the attached legislation for the withdrawal of lands for the Enhanced Training in Idaho (ETI) project. As you know, this legislation represents three years of extensive work by the Bureau of Land Management (BLM), the Air Force, you and other representatives of the people of Idaho, and many others who care about the welfare of Idaho's environment and the effectiveness of the 366th Wing at Mountain Home Air Force Base.

ETI will increase the realism, flexibility, and quality of the Air Force's training. It permits the 366th Wing to train more efficiently and effectively for its important missions, thereby improving the aircrews' safety and mission performance. Implementation of ETI will substantially strengthen the 366th Wing's ability to ensure readiness to perform its assigned missions.

Importantly, however, the Air Force and BLM also worked very hard so that ETI would balance training needs with the concerns of the Shoshone-Paiute Tribes, the environment, and other public land uses. The Air Force and BLM actively solicited public and agency involvement throughout the development of the project. Participants in the process included the State of Idaho, environmental organizations, the Shoshone-Paiute Tribes, ranchers, recreational organizations, and other users of the public lands in Idaho.

The Air Force incorporated numerous mitigations in the design of the project to address public concerns and relocated facility sites during preparation of the environmental impact statement (EIS) to avoid various environmental concerns expressed by the Shoshone-Paiute Tribes and others. Following completion of the EIS and consideration of public comment the Air Force adopted further mitigation measures, including altitude and seasonal overflight restrictions that further address concerns of recreational users and protect the habitat of bighorn sheep. The NEPA process was a valuable tool in helping to identify these mitigations and resolve concerns.

We believe the attached legislation accommodates many issues that you and other representatives of the people of Idaho have raised throughout the process and is an important step forward for national security, for the environment, and for significant tribal interests.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the presentation of this report to Congress.

Sincerely,

BRUCE BABBITT,
Secretary of the Interior.
F. WHITTEN PETERS,
Acting Secretary of the Air Force.

AGREEMENT ON ENHANCED TRAINING IN IDAHO

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BRUNEAU-JARBIDGE RIVER SYSTEM

In general, for all major canyons in the Bruneau-Jarbidge River System, low-altitude training flights would be limited to 1,000 feet above ground level and would cross only perpendicular to the canyons. Additionally, parallel flights within one mile of the canyon rims would be limited to 5,000 feet above ground level (AGL).

Along the Bruneau River from the Bruneau-Jarbidge confluence to Clover Creek, no low-level overflights will occur within one mile of the canyon rim below 5,000 feet AGL from April 1 through June 30.

Along the Bruneau River from Clover Creek to Miller Water, no low-level overflights will occur within one mile of the canyon rim below 5,000 feet AGL from April 1 through June 30 on Fridays, Saturdays, Sundays, and Mondays.

To support composite wing exercises (includes fighters and bombers) from April 1 through June 30, the low-level flight restrictions over the Bruneau River will be relaxed during two days each month to allow exercises as low as 500 feet AGL. The Air Force will provide advance public notification of when these composite wing exercises will occur.

OWYHEE RIVER SYSTEM

In general, for all major canyons in the Owyhee River System, low-altitude training flights would be limited to 1,000 feet AGL and would cross only perpendicular to the canyons. Additionally, parallel flights within one mile of the canyon rims would be limited to 5,000 feet AGL.

Along the South Fork of the Owyhee River from the 45 Ranch to the confluence with the East Fork of the Owyhee River, no low-level overflights will occur within one mile of the canyon rim below 5,000 feet AGL from April 1 through June 30, subject to two composite wing training exercises per month.

Along the East Fork of the Owyhee River from the confluence of Dickshooter Creek to the confluence of the South Fork, no low-level overflights will occur within one mile of the canyon rim below 5,000 feet AGL from April 1 through June 30, subject to two composite wing training exercises per month.

Along the East Fork of the Owyhee River from the confluence of Battle Creek to the confluence of Dickshooter Creek, no low-level overflights will occur within one mile of the canyon rim below 5,000 feet AGL from April 1 through June 30 on Fridays, Saturdays, Sundays, and Mondays.

AIRSPACE EXPANSION OVER LITTLE JACKS CREEK

There will be no military training overflights below 5,000 feet AGL in the airspace over the Little Jacks Creek area during April, May, and June.

RECREATION STUDY

The BLM and Air Force will jointly fund a study on recreation use in the Little Jacks Creek area and the canyonlands of the Bruneau-Jarbidge and Owyhee River Systems.

Bureau of Land Management,
Office of Public Affairs,
Washington, DC, May 15, 1998.

BLM, Air Force Reach Agreement on Idaho Training Range Expansion

The Bureau of Land Management and the U.S. Air Force have reached an agreement that would accommodate military flights over public land in southwest Idaho while subjecting those flights to altitude and seasonal restrictions over key portions of the Owyhee and Bruneau river canyons, BLM Director Pat Shea announced today.

Under the agreement, which would withdraw 12,000 acres of BLM-managed public land for expanded military training, the Air Force would extend its airspace training over Little Jacks Creek, but its additional flights would be subject to altitude and seasonal restrictions. Under the agreement, the Air Force would continue its current use of about 7.5 million acres of airspace over BLM-managed land.

"This agreement reflects extensive public input on issues surrounding Enhanced Training in Idaho (ETI), and protects public land resources while accommodating vital U.S. military training," said Shea. "the agreement ensures that military flights would be limited to 5,000 feet above ground level in the airspace above Little Jacks Creek during April, May, and June, which addresses concerns raised by recreationists who hike in the area and raft down the Owyhee and Bruneau rivers. The altitude restriction is also aimed at protecting the habitat of bighorn sheep."

Shea said the agreement took into account public input from eight "scoping" meetings held by the Air Force and BLM in 1996 and seven public hearings held last year on the Air Force's Draft Environmental Impact Statement relating to expanded airspace training.

Below are the particulars of the BLM-Air Force agreement:

SEASONAL LOW-LEVEL FLIGHT RESTRICTIONS

The Air Force will institute seasonal low-level flight restrictions for all military users in the Jarbidge and Owyhee military operating areas to minimize conflicts with public land resources and uses.

Secretary of the Air Force,
Washington, DC, June 11, 1998.

Hon. Dirk Kempthorne,
U.S. Senate,
Washington DC.

Dear Senator Kempthorne: Thank you for your recent inquiry concerning Enhanced Training in Idaho (ETI). You have asked if the Air Force intends to monitor bighorn sheep and sage grouse populations further in conjunction with the ETI proposal.

The Air Force provided $100K in FY 1998 to determine the baseline populations of the two species in areas where ETI would cause surface and airspace changes with the implementation of ETI. Headquarters Air Combat Command has indicated that it intends to fully fund monitoring activities in subsequent years, assuming ETI is approved. They would then provide the State of Idaho $110K per year for the next three years for monitoring activities.

ETI will be a great asset for the composite wing based at Mountain Home AFB and will reflect our commitment to environmental stewardship. We appreciate your commitment to this important project.

Sincerely,

F. Whitten Peters,
Acting Secretary of the Air Force.

Mr. KEMPTHORNE. Madam President, I want to report that there are some members who believe the proposed substitute amendment #2892 sets a new standard for environmental remediation before the Air Force can relinquish the withdrawn lands back to the Bureau of Land Management. Like I did with the Department of Interior, the BLM and the Air Force regarding the new overflight restrictions of the canyons, I will convene a meeting with all of the interested parties and committees to try to reach a consensus on this issue before completion of the conference on this bill.

Madam President, I would just like to say, after months and months of due process, I think we are doing what is right by the environment, what is good for recreation, and certainly what is right for the pilots.

When we think of those pilots who have to climb into those aircraft, if we do have to send them into harm's way, let us make sure we provide them with not only the best aircraft in the world but the best training opportunities, so that when they go into harm's way, they can come back to their loved ones in good shape.

So I want to thank Senator Craig for his partnership. He has been a tremendous partner, as has Congresswoman Chenoweth, Congressman Crapo, Governor Batt. And, again, there are folks who do not like this—didn't like it from the outset, don't like the conclusion, don't like the answer. But the process has been fulfilled, and the conclusion, I believe, is right.

I just want to say to the family of the Bracketts, the ranchers who have been working with us on this, I appreciate their willingness to go through this process. Again, they did not come forward; they did not step up and say, "Boy, why don't you use this land." I think out of their belief in Idaho and their belief in the country, they are willing to go along with this. But in this very public process, unfortunately, some people lodge charges that bring into question the integrity of some individuals. I think that is just very unfortunate. That happens in the political process. Perhaps we get used to it a little more, but I hate to see it when it is leveled at a good family like this. So I appreciate the Brackett family.

Again, I appreciate the chairman and the ranking member's comments. And I believe, unless there is further debate, we are ready for a vote.

The PRESIDING OFFICER. The question is now on agreeing to the amendment offered by the Senator from Idaho.

The amendment (No. 2892) was agreed to.

Mr. KEMPTHORNE. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. I ask unanimous consent that a fellow in my office, Terry Bare, be able to sit in on the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2978

(Purpose: To require separate housing for male and female basic trainees, and to ensure after-hours privacy for basic trainees)

Mr. BROWNBACK. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 2978.

Mr. BROWNBACK. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 527, and insert in lieu thereof the following:

SEC. 527. REQUIREMENTS RELATING TO RECRUIT BASIC TRAINING.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Army shall require that access by drill sergeants and other training personnel to a barracks floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate housing and privacy for male and female recruits.".

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.
"6931. Recruit basic training: separate housing and privacy for male and female recruits.

"§6931. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a barracks floor on which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a dormitory floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate housing and privacy for male and female recruits.".

(d) IMPLEMENTATION.—(1) The Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force shall implement section 4319, 6931, or 9319, respectively, of title 10, United States Code (as added by this section), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(2)(A) If the Secretary of the military department concerned determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with the requirement for separate housing at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of the requirement with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with the requirement for separate housing.

(B) If the Secretary of a military department grants a waiver under subparagraph (A) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

(3) In this subsection:

(A) The term "requirement for separate housing" means—

(i) with respect to the Army, the requirement set forth in section 4319(a) of title 10, United States Code, as added by subsection (a);

(ii) with respect to the Navy and the Marine Corps, the requirement set forth in section 6931(a) of such title, as added by subsection (b); and

(iii) with respect to the Air Force, the requirement set forth in section 9319(a) of such title, as added by subsection (c).

(B) The term "basic training" means the initial entry training program of an armed force that constitutes the basic training of new recruits.

(e) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for the Department of Defense for fiscal year 1999 for actions necessary to carry out this section and the amendments made by this section, including military construction projects (which projects are hereby authorized), in the total amount of $166,000,000.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2979 TO AMENDMENT NO. 2978

(Purpose: To require a moratorium on changes to gender-related policies and practices)

Mr. LEVIN. Madam President, I send an amendment to the desk on behalf of Senators SNOWE and CLELAND and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. SNOWE, for herself and Mr. CLELAND, proposes an amendment numbered 2979 to amendment No. 2978.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President—

Mr. LEVIN. Will the Senator yield for two unanimous consent requests relative to staffs' presence on the floor?

Mr. BROWNBACK. Could I ask a parliamentary question?

The PRESIDING OFFICER. The clerk is still reading the amendment.

The assistant legislative clerk continued to read as follows:

Beginning on the first page, strike out all after SEC. and insert in lieu thereof the following:

. MORATORIUM ON CHANGES OF GENDER-RELATED POLICIES AND PRACTICES PENDING COMPLETION OF THE WORK OF THE COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

Notwithstanding any other provision of law, officials of the Department of Defense are prohibited from implementing any change of policy or official practice in the department regarding separation or integration of members of the Armed Forces on the basis of gender that is within the responsibility of the Commission on Military Training and Gender-Related Issues to review under subtitle F of title V of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1750), before the date on which the commission terminates under section 654 of such Act.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, if I could make a parliamentary inquiry. As I understood, I was putting forward an amendment to be considered and had the floor to speak concerning that amendment. Is that correct?

The PRESIDING OFFICER. The Senator lost the floor when he offered the amendment.

Mr. BROWNBACK. I would note that we would like to have and will get a debate on this issue at some point in time about separate barracks for the genders. And I had that as my understanding, that that was the debate that we were going to at the present time.

Mr. WARNER. If the Senator will yield, he can go ahead and debate on his amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The Senator is entitled to go ahead with his amendment.

Mr. BROWNBACK. Thank you very much.

Mr. LEVIN. Would the Senator yield for a unanimous consent for two staffs' presence on the floor?

Mr. BROWNBACK. Only for that, and I am not yielding the floor. The understanding is, I am not yielding the floor. Yes, I will, if I receive it back to consider my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. Mr. President, on behalf of my colleagues, Senator BINGAMAN, and Senator DOMENICI, I ask unanimous consent that the privileges of the floor be granted to Peter Lyons of his office during the pendency of S. 2057 and any votes thereon.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that, for the period of time the Department of Defense authorization bill is under consideration, Mark Tauber, a State Department Pearson Fellow on the Foreign Relations Committee staff, be granted floor access.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank my friend from Kansas.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise to discuss today the amendment I have offered that I put forward at the desk and will, at the appropriate time, be calling for the yeas and nays on that.

I have discussed my amendment with the distinguished chairman of the Subcommittee on Personnel of the Armed Services Committee, the distinguished Senator from Idaho, Senator KEMPTHORNE. And after my staff had briefings with the Pentagon, I decided the privacy of our new recruits, by mandating separate barracks, was extremely important and that this debate was necessary and needed at this point in time.

Mr. President, my amendment is common sense. It simply requires separate barracks for male and female recruits during basic training. Further, the amendment protects the privacy of recruits by limiting access to barracks after hours to those of the same gender.

I might note for the Senators that the House has considered much stronger language, and actually enacted in their bill, in the DOD authorization, the separation of genders during basic training. But we fall far short of that. This is just about barracks and housing during basic training.

I believe this is a sensible step in restoring privacy and dignity to the military basic training experience and will allow our young recruits to focus on the serious tasks before them.

This amendment helps to uphold the military standards of behavior and improves the quality of life for military members and spouses left at home while a loved one completes basic training.

The amendment will help train instructors to instill the basic core values of discipline, teamwork, unit cohesion, and values that will ultimately benefit the individual, the family, and the military. By adopting this amendment, we codify a unanimous recommendation of the bipartisan Kassebaum-Baker commission.

The Kassebaum-Baker Commission interviewed 2,000 recruits, 2,000 recruits, and their supervisors and found serious problems. Let me just articulate a few of them. The commission recognized that sexual relations take place inside of barracks where young men and women live together. Moral and unit cohesion were negatively affected. Thus, the commission recommended that male and female recruits sleep in separate barracks. Talk about common sense, that seems to be it.

To avoid cries that the cost is prohibitive, the Kassebaum Commission completed an analysis of the current structures at training installations which showed that the cost of this amendment is marginal. Mr. President, I will read the section of the Kassebaum Commission that says just that, quoting from page 15 of the study of the Kassebaum Commission:

> The committee has reviewed the layout and surge numbers of the training installation and believes this change can be accomplished at marginal cost, if any.

Available barracks exist and have already been converted to accommodate both male recruits. Thus, there are no physical constraints to having men and women recruits housed separately during basic training. Existing structures can be used. The Kassebaum panel was stunned to discover—and this is a direct quote—"high frequency" of sexual relations during basic training between male and female recruits in all branches of the services. High frequency.

Now, if you think about this, if you put young male and female recruits around the age of 18 in close proximity, in the same quarters, I think there is a possibility that a high frequency of this may happen. The amendment that I put forward simply says we should have separate barracks. It doesn't even go to wanting separate training. It says separate "barracks," to maybe reduce some of these incidents.

The same report said "some drill sergeants complained to the panel about the large amount of time they were spending investigating or disciplining male and female misconduct. It was found that the problem is exacerbated in mixed-gender barracks. This is after interviewing 2,000 recruits and sergeants. It is exacerbated in mixed-gender barracks, especially where men and women live on the same floor.

Just think about it again, in common-sense terms. Doesn't this just make sense that you will have more problems if you have mixed genders on same floor in the same barracks, and that you will then have to deal with that in basic training?

Listen to this. At one location at Fort Leonard Wood, MO, the panel was told that male and female fraternization was so frequent that drill instructors had to take the doors off of the barracks rooms so they could maintain order inside. It was that frequent. They had to take the doors off.

Secretary Cohen gave the services an opportunity to respond to the Kassebaum recommendations. Other than the marines, God bless 'em, they all came back and disagreed with the recommendation to establish separate living barracks. Despite this, I believe that there is no reason why male and female recruits should be sleeping on the same floors. This makes no sense.

I put it in personal terms, if I could, for my colleagues. Think about their daughters, if they are going into the military. I have two young daughters. What if they were going in. Would you feel safer and better about their security and about this issue of fraternization if, during basic training, they are in separate facilities, or would you feel better and safer about it if they are on the same floor with different genders? Just think about that for half a second. Wouldn't you feel a lot better about it if they are in separate barracks so that people can watch a little closer than if they are on the same floor with other recruits and you already have these instances taking place?

This is a common-sense proposal with minimal, if any, cost. This is about national security and ensuring our recruits make up the best, most disciplined force in the world. Just last month, we learned that five instructors at the Navy's boot camp have been accused of sexual misconduct and improper relations with women recruits. This is the Navy, not the Army; this is the Navy. One of the instructors at the Great Lakes Naval Training Center, a 30-year-old, was arrested on April 30 on charges of having an improper sexual relationship with an 18-year-old female recruit.

I want to read some of the press account that is out of this, from the Chicago Sun Times, June 6, 1998.

> A Navy petty officer was found guilty of sexual misconduct with female recruits and making false statements to Navy officers in a court-martial Friday at the Great Lakes Naval Base.
>
> After deliberating about 90 minutes, [90 minutes, not long.] a three-member jury made up of two male Navy officers and one female enlisted sailor found Machinists Mate 1st Class Gregg Peterson guilty of eight of nine charges against him.

They quoted in this article several of the sailors, some of the women sailors. One—and I will not give her name because I don't think that is appropriate—said she cried as the jury presided and read its decision of guilty. She said "I feel like I can breathe again now." She walked out of the Navy headquarters building where the court-marital was held. She stated—this is sad—"I didn't join the Navy to be laughed at." She had stated that this particular officer that was found guilty had stated lewd things towards her. Another recruit had said this person that was found guilty intimated to her he wanted to have sex with her, and she stated, "I'll feel better when he is punished. He was in charge of the way he made us feel."

Two other recruits testified they had sex with the same person that was found guilty after he threw a mattress on the floor in the barracks and told them to undress. This is a superior position telling these recruits to do this. This is one of the recruits who said, "The Navy is trying to cover up the fact that they let this guy wander through the barracks, intimidating recruits into having sex with them." That is a horror story for them. And another who had sex with this particular person found guilty said she couldn't have fought him off if she tried.

What is that about? This is terrible. This is disgusting that this took place at the Navy basic training facility, and you have several recruits testifying of what this person in a senior position forced them to do.

Our amendment is aimed at trying to get just at that, separate barracks. You cannot have a person of the other gender in the facility where the people of the opposite gender are except on emergency cases. What are we letting them do, just parade around and throw mattresses on the floor? He was court-martialled for this and found guilty of eight of nine charges. This is the press account from June 6th after the court-martial report came back. My goodness.

Now, what sort of solace, if you are an 18-year-old and your family is considering letting you go into the military service and you want to go into the military service and you are a female, and you are reading these sort of stories, what goes through your mind at that time? Do you want to go into the military then? Is this going to be an inhibition if you think you want to be a part of the Navy, of the proud tradition of the Navy, of the Army? You want to be part of that unit, but then you read this stuff about guys parading around in barracks and throwing mattresses on the floor. What does that do? And what does it do to the family? What does the family think about in that case?

A study of female recruits out last November found them particularly susceptible to unwanted pregnancies and assaults. The study found that "to many young female recruits, the basic training experience can be uniquely stressful with individuals often experiencing feelings of loneliness and isolation and the possibility that some individuals would turn to sexual relationships as a means of coping with the stress is great."

Let's go to another case we are all familiar with. We all remember what went on at the Aberdeen Proving Ground between instructor and trainee last year—rape and sex between drill instructors and trainees. Aberdeen is an example of what can happen in the pressurized training environment without proper supervision. Remember, basic trainees are even more susceptible, even more susceptible.

We must do what we can to remove these pressures. Again, I plead with my colleagues, think of your own 18-year-old daughters going into the military, or others that would be considering this. Is this really the sort of situation we want to put them in, that we are forcing them to go into, that we force them, if they want to be a part of the military. That is what they have to do; this is where they have to sleep.

I recognize that the services are already taking steps to ensure security and privacy of the current male and female living arrangements and I applaud the services for taking these steps. My amendment allows time for the services to accomplish the transition to separate barracks, which is where they have to get. It really is where they have to get. It sets October 1, 2001, as the effective date. If an installation has insufficient facilities, the amendment allows recruits to be housed in separate barrack floors with the proper access restrictions until 2001.

We are giving the military some lead time to build into this, to deal with this situation, and they are trying to deal with it. The bottom line is this: The primary function of the basic training is to properly induce young trainees into the Armed Forces, with minimal distractions. They are there to learn the skills that spell success or failure on the battlefield. I urge you to support Secretary Cohen's goal of "a basic training system which provides gender privacy and dignity and safe, secure living conditions." Safe, secure, and separate barracks is the best way to ensure a well-trained and disciplined force. At a minimum, I believe that we owe that to these recruits and their families.

Mr. President, I just ask you to think about this for a little while, because this really makes sense. I know the military is trying to get accomplish what we have mandated them to do on the mixed-gender training, and they are trying to do it in the close quarters that we have, and these have been the ways they have received pressure.

My goodness, I say to Senators, we have to look at the facts and what is taking place, ask ourselves a bit of common sense. These young 18-year-old men and women are in close quarters, in a pressurized situation at basic training. What do you think is going to happen in this situation if you provide a situation where they are in the same barracks and you have a common area for them to go into, or you have instructors that are superior in age and position and they are able to go into the same facilities?

The military is saying, "Look, we are trying to divide and partition the buildings, so that on the same floor you are going to have a plywood petition, and hopefully we will get to a permanent petition between the two genders on the floor." But you are still going to have common areas where the two can mix. Plus, you can still have and will still have your instructors going into the area of the opposite sex and being there. You are going to have, unfortunately, that situation like just happened up in the Navy basic training facility, if that occurs. If we leave the situation the way it is today, that is going to occur. Plus, you are still mixing a situation that just doesn't apply to us in common sense, if we think about it. This is going to lead to the problems we have.

I also want to add a personal Kansas story into this. My office in Kansas—I have not been a Senator a long time, but we regularly get requests from female recruits who get pregnant while in basic training, and they ask for discharges. One lady who contacted my office had a nervous breakdown. She has since separated from the Navy. I will not say her name; that would be inappropriate. But my note to colleagues is that everybody loses in this deal. Everybody loses in this deal. The Navy loses a highly qualified, motivated recruit, who falls into a pressurized environment and then gets demoralized and has a nervous breakdown.

This is a Kansas example I have, and only one. I have multiple ones that come into my office in Kansas. I am sure others have them, too. Check your records, check your services, and what you are being contacted about in your State. How many of you have the same situation—being contacted by female recruits who want out of the military because they have unwarranted sexual advances? My goodness, the Navy loses, we lose, and this particular recruit was demoralized and loses as well. This makes no sense.

I want to go through the report, if I may, of the Kassebaum commission. This is something I respect, coming from Nancy Kassebaum Baker from my home State of Kansas, who is as level-headed a person as you will ever find anywhere in the world. She is a wonderful lady. She is very thoughtful, and she doesn't go around tilting at different things and doesn't follow wildly different philosophies. She looks at things and applies a good Kansas common sense to it. I think she epitomizes that sense of common sense. A lot of my colleagues will remember her, and they know what I am saying is true. This is her commission's report:

> The committee observed that integrated housing is contributing to a higher rate of disciplinary problems. Both recruits and trainers, consequently, are distracted from their training objectives . . ..

What is our objective in basic training but to train? They are being distracted because of disciplinary problems they are having. This is a quote from the commission report on December 16, 1997. I want to show you a chart of this commission in a little bit. It was appointed by the Secretary of Defense, Secretary Cohen, and from the President, and they came out with these unanimous recommendations. It was bipartisan, and there were a number of people in this commission who served in the military themselves. This is a group that has considered it. Here is another quote from congressional testimony:

> We have reviewed the barracks structure at the training installations and believe that this can be achieved at minimal cost.

I am sensitive to the cost issue because we are not funding the military sufficiently. I have military bases in my State that are important and are not being funded sufficiently. They have studied this thoroughly. They said we can do this at minimal, if any, cost.

In my amendment, we do authorize money to be able to be used to do this. I think even if you are talking about recruits coming in, you have to provide some solace to the families that we are going to separate and do everything we can—and right now we are not—to prevent this sort of situation from happening. We still provide an authorization in the amendment that I have, and we can deal with the appropriation on another day.

This is the Army inspector general's special inspection from July 22, 1997:

> Many of the first sergeants interviewed indicated that trainee-trainee consensual sex occurred quite often, but felt the chain of command was reluctant to enforce the installation regulation.

To back up this even with my staff's investigation, the military requested—and they want to try to make this situation work—and they have been pushing our office and saying, "Don't do this." They said, "Send a couple of your staff members to Fort Jackson to look at the situation." We did. I had two staff members go there. They went and talked with some of the recruits, who told them about instances of sexual activity happening in the telephone booth and in the same barracks where you have mixed genders involved, and they told them how this was done, how the pressure is and the environment and how this occurs.

So rather than allaying my fears, which is what I hoped would happen, it just heightened them. Here we had my staff members being told by recruits, "Well, yes, this goes on. Here is how it happens in separate facilities." And we were shown how the barrier is built between the male and female genders on the same floor, with a piece of plywood put up and a Radio Shack alarm. Well, you are still putting males and females in close proximity, in common areas. My staff was supposed to be there being assured this was not going on, but we got just the opposite report of what was taking place.

This is the CRS issue brief of May 14, 1998. It is the third different study looking at this particular issue:

> At a number of Army facilities, investigations and court marshals are underway, or have been completed, concerning harassment, fraternization, assault and rape.

So I have the Kassebaum commission, the Army inspector general, and now the CRS issue brief. This isn't just one study; this is the third one. It is the same point that it makes.

Some of the people who have supported the military for a long time, the American Legion, submitted a report to the House Subcommittee on Military Personnel on March 17. It said:

> The American Legion advocates separate barracks for male and female recruits at basic training facilities.

This is also an American Legion statement:

> The mission in combat is to close with and destroy the enemy by fire and maneuver and/or close combat. Separate gender living conditions will better prepare the Armed Forces to fulfill this mission.

That is what the military is about, Mr. President. This is the overall commission's unanimous recommendation for separate barracks. Mr. President, I hope we can have a direct vote on this. I think we should have separate training for male and female, like what the House passed. I know a number of my colleagues actually support that as well—separate training altogether. We decided, let's take a narrower approach. Let's go on this narrower issue here, because this one I don't see how you disagree with.

Some of my colleagues will argue, and say, "Well, let's wait for another commission report. We have a congressional commission." Yes; we have a congressional commission. It has been appointed. It has a much broader requirement than just the issue of separate gender relations. Plus, I would point out again to you, now we are another year into the future. We are going to be on a second commission. We already have one conducted and led by a Member of this body, a highly respected Member of this body, who unanimously reported back. Now we are going to wait another year.

How many more of these situations like we had take place in the Navy are we going to have in the interim? How many more letters or contacts am I going to get by constituents in Kansas saying they had nervous breakdowns because of this situation? How many more of these will it take when we will not respond to common sense? This is just common sense.

I have deep respect for my colleagues who view this differently. Senator KEMPTHORNE and his committee has looked at this. But I don't think this makes any sense of where we are. I think this is a very narrow approach. It isn't about basic training; it is just about barracks. We can do it at minimal cost. If not, we have the authorization here to deal with this.

I plead with my colleagues that we do it. I hope we take a different tack on this.

Mr. WARNER. Mr. President, could I ask the Senator a question? I listened very carefully. I am supportive of his amendment.

Did the Senator from Kansas mention the Marine Corps?

Mr. BROWNBACK. Only briefly.

Mr. WARNER. Their experience has been considerably freer of the problems that the other two services have incurred as a consequence of that. Am I correct?

Mr. BROWNBACK. The Senator is absolutely correct. They, as a service, agree with what the Kassebaum Commission put forth. The other services have not.

Mr. WARNER. For those who may be following this debate outside of the Senate, so to speak, basic training is just 9 weeks in each of the services. So it is a relatively short period of time. It is a brief period from when they leave the home environment, school environment, and other structured environments in their communities across America to come and undertake this important first phase of their training of a military career.

It seems to me that what the Senator is asking is just the opportunity for the different sectors to go into this very intense period where the objective is to really transform them in many ways, as the Senator pointed out. First of all, it is a patriotic duty to be a member of the team. And all of the other important goals are in the first 9 weeks. To simply, at the end of the training, give them a little respite from all of the pressures which they are being subjected, give them a chance to kick back and rest on their own, among themselves, and then as soon as reveille the following morning, beginning with the mess facility, beginning the fallout, the grinder formation, as they march off to the rifle range, they are together, and it is joint in every respect. Am I not correct?

Mr. BROWNBACK. That is correct. The Senator from Virginia is correct.

Mr. WARNER. I thank the Senator very much.

Mr. BROWNBACK. Mr. President, I want to address further the issue of cost on this, because some will allege that is the reason we should block this, because it puts a cost figure of $166 million, $190 million. I am very sensitive to the cost issue, so I provide for the authorization.

But I also challenge my colleagues on this very point to think about this. Basic training for 9 weeks, pressurized environment. It is where you teach, train, build, and mold—9 weeks of a focused, intense time period that is taking place. You are putting somebody 18 years old, male and female, into that pressurized environment. Is this a place for us to cut costs in the military, saying because of that cost we have to force them onto the same floor and the same common area because we cannot afford the $166 million?

Mind you, the Kassebaum Commission says we can do this at zero to minimal cost. We can do this with minimal, if any, cost.

Let's say it does have some cost with it. I don't think it does. I don't support that notion. Anyway, if you are 18 years old looking at going into the military, isn't this a pretty minimal amount of cost? If you are the family of that 18-year-old considering going into the military, is that a cost that you want the Government to be putting forth and being a part of? My goodness, we have to make some sense out of this.

This is a very narrow amendment that we are asking for. I hope we have a direct vote on this. I hope we will be able to get to it. I will learn my lessons quickly. So I hope we can get to a vote on this particular issue.

Thank you, Mr. President.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BROWNBACK. Yes; I yield to the Senator.

Mr. BYRD. Mr. President, I support the Senator and commend him on his fine statement. I support the recommendations of the Kassebaum Commission. I think it is the right recommendation. I wonder if the Senator would add my name as a cosponsor of his amendment.

Mr. BROWNBACK. I am pleased to do so.

Mr. BYRD. I thank the Senator.

I ask unanimous consent that I be added as a cosponsor of the Brownback amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I will be asking for the yeas and nays at the appropriate time on this. I plead with my colleagues to really consider this.

I ask them really just one small, simple favor: Will they call their constituent services' offices to see how many recruits they have been contacted by back home during this past year asking for relief from military duty because they were sexually assaulted, got pregnant at basic training or at training, and see what the numbers are in their particular office? One is too many. But I would be interested to see how many of them have had multiple contacts in their office.

We shouldn't ignore this anymore. We should deal with it. This is a minor request we should be making.

With that, Mr. President, I will ask for the yeas and nays at the proper time.

I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Thank you, Mr. President.

I appreciate this opportunity to address this body on the subject of an important issue and what it means, I believe, to the future of our Armed Forces.

The participation of women in the armed services today is very important. As the Secretary of Defense said recently in reaffirming his support for gender-integrated training, and the recommendations of the services with respect to gender-integrated training, he said clearly that the military depends upon women.

Women now represent 14 percent of our armed services. So their role and their well-being is an essential ingredient to upholding the importance of certain standards with respect to our national security and performance of our Armed Forces and personnel.

I offered a second-degree amendment to the amendment offered by the Senator from Kansas, because it will reaffirm the judgment that was made first in the Armed Services Committee last year to the DOD 1998 authorization. The amendment that was offered created a congressional commission to examine many of the issues that were raised by the Senator from Kansas. Obviously, they are not new issues. They are ones in which we have been wrestling with time and time again, not only here in Congress but, of course, within the Defense Department.

There are no simple solutions. But what I find amazing in hearing the discussion with respect to women in the military and the gender-integrated training and the problems that have resulted from gender-integrated training, no one seems to raise the issue as to what about the responsibilities and the moral authority of those people who are in positions of leadership within our military?

I have had the opportunity to visit many installations, including Fort Jackson, the one which the Senator from Kansas referred to and that his staff visited. I also visited that facility. I well remember the facilities that are there that separate men and women. Men and women are separated within the Army, within the Air Force, within the Navy. They have separate entrances. They have separate wings, separate bays, separate bathrooms, separate alarms. They have security guards, security cameras. So there are certain security measures that are already in place. Now the question has arisen as to whether or not we should have separate barracks.

With all the misconduct and sexual harassment that has occurred that we have heard so much about over the last few years, much of it, interestingly enough, has occurred in advanced integrated training programs, not with basic training. But nevertheless, one of the critical areas that we must focus on is developing standards and upholding and enforcing those standards that are consistent with the well-being of both men and women who serve in our Armed Forces, the basic rights of all human beings, whether they are in the military or in the private sector.

And these questions have to be considered as proposed by the Senator from Kansas through a simple disposition of an amendment? We in the committee last year said no, and, frankly, I was prepared to debate and fight this issue in the Chamber with respect to gender-integrated training, whether or not to have separate barracks, and so on and so forth. But in the good judgment and the wisdom of the committee, we decided to create a consensus-based amendment that was offered by the chairman of the Subcommittee on Personnel, Senator KEMPTHORNE, Senator BYRD from West Virginia, and myself. We knew that the Department of Defense had already created its own commission to evaluate these questions and many more. We decided that it was also important to create a commission that was independent to evaluate these issues as well.

Now we have to decide in this Chamber whether or not we should subjugate the recommendations of the commission that will be coming forward next spring to the amendment that is offered by the Senator from Kansas. I say not. This is a major and fundamental issue. How we proceed is important, and that is why the Committee on Armed Services approved an amendment that was included in the 1998 authorization to create this commission that is now part of law, and it was approved in the Senate and approved by Congress. So now we have to decide whether or not we are going to allow the Senator from Kansas to override the judgment of the members of this commission that will come forward with recommendations next spring. There will be 10 members of this commission that are appointed by the chairman and ranking member of the House National Security Committee and the ranking member and the chairman of this Committee on Armed Services in the Senate with consultation with the majority and minority leaders in both bodies.

They represent a cross-section of experience, expertise on some of these critical issues—that is what we are welcoming—that is independent of the kind of decision that we can make here in an amendment that is offered by the Senator from Kansas without the examination and the evaluation of these issues.

We have represented on the commission a Marine Corps general who commanded a division during Operation Desert Storm; we have a former Assistant Secretary of Defense for Force Management; a former Assistant Secretary of the Navy for Manpower; a board member of the Virginia Military Institute; the Provost of the University of Michigan, two military sociologists, a former Marine Corps Deputy Chief of Staff for Manpower and Reserve Affairs and a retired sergeant major from the Training and Doctrine Command. The men and women in our commission have held these positions or are currently holding them. We should give them the opportunity to meet their responsibilities under law.

The proponents of the amendment that is offered by the Senator from Kansas would require by the year 2001 the construction of separate barracks. It basically will not allow any flexibility by the service chiefs with respect to the construction of those facilities; that, yes, will cost more than $167 million to construct. It will not permit trainees, instructors, commanders, to offer their own assessments of whether the way the recruits live supports the process for developing a soldier.

They should be in a position of making those decisions—in fact, have had the ability to accept the decision that was recommended by the Kassebaum-Baker Commission. In fact, the Secretary of Defense gave the service chiefs the opportunity to respond within 90 days to that recommendation as to how they wanted to proceed and to develop criteria on the basis on which they decide they would advance or implement those recommendations. The service chiefs responded. They all upheld their current status because they have made adjustments in the living quarters. They are separate. They are not in separate facilities, but they are in separate wings and bays, as I mentioned earlier, and they believe that the current process is working. They support gender-integrated training because they feel that this is the way in which you build a cohesive unit.

We have thousands and thousands of women who are currently serving in Bosnia without complaint. We have had thousands and thousands of women serving in the Persian Gulf without complaint. We have had more than 1,000 women who participated in our operations in Somalia, and we have had no complaints.

Are we now not saying that it is possible for men and women, on the day in which they begin their basic training, cannot work and train together as they will be required to do after their basic training, as they are required to do right now in Bosnia? We have over 5,000 women currently serving in Bosnia. In fact, the Washington Post had an in-depth story last year that described the circumstances under which both men and women were serving, and they were doing an extraordinary job without hindrance, without barriers, without complications under some most arduous of conditions. We had 41,000 women in the Persian Gulf. Did we hear of complaints? No. It is because they trained together. They understood the professionalism of their responsibilities, and they carried them out as we could expect them to do. They upheld the highest moral standards.

The amendment that I offer here today reinforces the recommendation that was made by the Armed Services Committee last year by the creation of this commission to examine many of the questions that have been raised. Frankly, I had my doubts as to whether or not it was necessary to create another commission, but I also personally had to recognize that, in fact, many here in this Chamber and elsewhere had concerns about basic training and about gender-integrated training, and that perhaps the best way to proceed was to create another commission that would represent a breadth of experience and professionalism and qualifications and skills that are necessary to make the kinds of decisions that we would expect of them.

Their mandate is substantial. We have more than 10 different areas with respect to gender-integrated training and all of the other dimensions to the question—the living conditions, the impact on readiness, on morale, on fitness standards, the rationale for the establishment or the disestablishment of gender-integrated or gender-segregated basic training, the rationale that was used at the time in which these decisions were made by the services to integrate training or to segregate in the case of the Marines, or assess whether or not the concept of training as you will fight is a valid rationale for gender-integrated basic training; identify the requirements that are unique to each of the services that could affect a decision by the Secretary considering adopting a gender-integrated or gender-segregated format for basic training; to examine all the facilities for feasibility or the implications of requiring drill inspectors to be of the same sex.

There are a number of issues that are embodied in this statute that was approved by the Congress last year to the authorization that will be examined by the men and women who are serving on this commission. So the question is, Should we adopt the amendment by the Senator from Kansas or should we adopt the amendment that I have offered as a second-degree to the amendment offered by the Senator from Kansas that will give this commission the opportunity to evaluate these questions so that we can make a reasoned, informed decision as to what approach should be taken by the military?

This amendment that I have offered is supported by the civilian, the officer, and the enlisted leadership of the Pentagon to retain the current training programs at each of the armed services until this Commission on Military Training and Gender-Related Issues files its final report in March of 1999. It reaffirms this decision. It reaffirms the bipartisanship and the consensus that was produced last year in the Senate Armed Services Committee and in the Congress on these difficult issues of obtaining the most comprehensive use of professionals and military leaders outside of Congress. And the charter stipulates very clearly the aspects that will be examined of the training practices and the policy directives and the regulations that enumerate the professional relationships between men and women in uniform. It also assigns the commission the obligation and responsibility to evaluate the findings of the Kassebaum-Baker panel on gender-integrated training and the Pentagon's rules regarding fraternization as well as adultery.

So we have to decide here whether we are going to approve my amendment that is supported by the Secretary of Defense and the service chiefs and many of the Members here in this body, or are we going to support the amendment offered by the Senator from Kansas that presumes to answer this in three pages this afternoon with a new regulation imposing a $167 million military construction cost on the Defense Department. I think we have an obligation to give the commission the opportunity to work its will as we have asked them to do.

I would like to read to you, Mr. President, some excerpts from the various letters and statements that have been made by the service chiefs and by the Secretary of Defense about the issues concerning gender-integrated training and separate barracks. The Secretary of Defense wrote to the chairman of our committee, Senator THURMOND:

> Training in the Air Force, Army, Navy and Marine Corps is a complex matter given each Service's unique mission, traditions and conditions of service. Each Service has their own approach in how they conduct basic training. This training must not be characterized by any one issue such as billeting or any one policy such as the extent of gender integrated training. We must, however, identify the right set of standards to produce a safe and secure environment for the rigorous training our young men and women need for military service.
>
> This is exactly what the Department is doing. We are making sure that we have the very best personnel to staff our training establishments and to serve as role models for our new recruits. . . .
>
> * * * * *
>
> I urge you not to tie the Department's hands by enacting legislative provisions that address one or two components of a far more complex force management issue.

I should remind Members of the Senate, there are about 30 recommendations that were made by the Kassebaum-Baker Commission back in December; 28 of those 30 recommendations were implemented by the Secretary of Defense—28 of the 30 recommendations. But let's hear from the United States Army, again, in a letter to the chairman of the committee, Chief of Staff, General Reimer. He says in his letter:

> Segregating their units into gender unique platoons for training and billeting the soldiers by gender in separate buildings will degrade the commander's ability to command and control his or her unit.

Admiral Johnson, Chief of Naval Operations, said in a letter to the chairman:

> During basic training, Navy's gender-integrated divisions perform at least as well as their all-male counterparts.
>
> * * * * *
>
> We agree wholeheartedly that Sailors in basic training must have safe, secure housing and living arrangements that promote effective training. But Sailors should also learn to live and work together from the first day of training. This is how they will serve at sea, as part of a gender-integrated unit.
>
> * * * * *
>
> I ask that you continue to allow Navy to build our gender-integrated team from the first day of basic training.

Admiral Pilling, who is the Vice Chief of Naval Operations, in his letter to the chairman of the committee:

> This experience builds effective teamwork and establishes Navy standards during the crucial transformation from civilian to Sailor. Roughly a third of all recruits and 40 percent of women report to the Fleet without follow-on advanced training. For these men and women, preparation for shipboard life is limited to boot camp and less than three weeks of Apprentice Training.
>
> * * * * *
>
> Learning about security, privacy, dignity and personal responsibility should not be a lesson left for the Fleet to teach. I ask that you continue to allow Navy to build our gender-integrated team from the first day of basic training.

And General Ryan of the Air Force. He said in his letter to the chairman:

> The training process in the Air Force has developed over the years, with changes along the way, to best support our mission. To place artificial barriers between men and women in basic training, such as those proposed in the current House bill [and basically embodied in some of the legislation offered by the Senator from Kansas], is counterproductive to our training philosophy and sends the wrong signal to our new recruits.
>
> * * * * *
>
> I respectfully request your support to allow the Air Force to keep training as we operate—together from the start.

Mr. COATS. Mr. President, I wonder if the Senator from Maine could just yield for a unanimous consent request. I believe it has been cleared. I want to make sure it is cleared with her staff.

Ms. SNOWE. I yield to the Senator.

Mr. COATS. I thank the Senator for yielding.

Mr. President, because Members are trying to get a fix on schedules for this evening, in consultation with the managers and the leaders, I would like to propound a unanimous consent request.

I ask unanimous consent that there be 1 hour of debate—an additional hour from this point forward—on the pending second-degree amendment, equally divided and controlled by Senator BROWNBACK and Senator SNOWE, with a vote to occur on the second-degree amendment not later than 8 p.m.

The reason for that is that many Senators had been told that there would be a vote at 8. They have planned their schedules accordingly. If we can agree to this now with an additional hour of debate equally controlled by the two Senators, we can then schedule that vote for 8 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. I thank the Senator for yielding and ask her pardon for the interruption.

Ms. SNOWE. I appreciate the Senator's unanimous consent agreement.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I would like to also quote a letter from the Senior Noncommissioned Officers of the Armed Forces of the United States, representing the Army, the Air Force, and the Navy. They said:

> As the Senior Noncommissioned Officers of the Armed Forces of the United States, we feel compelled to state our disagreement with a proposed amendment on recruit training that might be considered during the Senate's debate of the FY99 Defense Bill. A mandatory requirement to house recruits in completely separate barracks is unnecessary.
>
> Based on our experience, each Service is different and therefore has different needs in training its recruits to join operational units. The determination as to how to train recruits is best determined by the individual Services based on the specific needs of the Army, Navy, Air Force, and Marines. Any attempt to make a training policy that applies across all Services is not in the best interests of the nation and will impact the readiness of the total force.
>
> Their many successes in our gender-integrated all-volunteer force is a direct result of the training the Services currently provide.
>
> We are grateful for Secretary Cohen's support of the Services in determining how best to conduct recruit training. We respectfully request the same vote of confidence from you as the Senate considers the fiscal year 1999 defense authorization bill.

We also had a quote from the Army Research Institute study, and I think it is interesting to note, about the standards that have also been developed in this environment of basic training, so that there is no misunderstanding, unless there is any concern about the role that women are playing and their ability to perform during the course of basic training. I quote:

> Females trained in a gender-integrated environment improved their performance in all measures of physical fitness (push-ups, sit-ups, 2-mile run) and the males in gender-integrated training improved in two of three events. This has occurred without the Army fitness standards being changed or adjusted for gender-integrated training.

In the December report of the Federal Advisory Committee, which is, of course, the Kassebaum-Baker commission, it said:

> The committee believes that the increasing number of women in expanded roles is an important reason why the United States is able to maintain an effective and efficient volunteer military force.

Another letter, from the Secretary of the Army in 1997 to Congress. He said:

> Turning the clock back to gender segregated training will result in unrealistic training which degrades readiness.

I mention these quotes, Mr. President, because I think it is important that we remind ourselves of the role that women do play in our military and will play in our military, and as they have in the last 100 years. They represent 14 percent of armed services, and the armed services cannot perform without them.

I just believe it is important to make sure that we can ensure the stature and the well-being of all those who serve our country. That is why I believe we should follow the wisdom and the judgment of the Senate Armed Services Committee—indeed, the Congress last year, when we enacted a provision to create a congressional commission to examine all of these issues and to report back to the Congress next March.

I hope the Senate will not adopt the amendment offered by the Senator from Kansas that basically presumes to substitute for the operational conclusions thus far of the Secretary of Defense; the chiefs of the Army, Air Force, the Navy; the training commanders of the Army, the Air Force, and the Navy; the senior noncommissioned officers of the Army, the Air Force and the Navy; the president of the Association of the United States Army; and the tens of thousands of recruits who train and live in security on a daily basis.

I hope, Mr. President, that the Senate will adopt the amendment that has been offered by the Senator from Michigan, the ranking member of the Armed Services Committee, the Senator from Georgia, Senator CLELAND, and myself to reaffirm the judgment that has been rendered by the Congress last year in creating this commission.

The amendment that is offered by the Senator from Kansas mismatches a problem and a cure. Professional relationships and effective performance throughout the Armed Forces flow from a training world that overlaps with the real and the uncertain ones in which men and women will ultimately be deployed as we have seen in Bosnia, as we have seen in the Persian Gulf, as we have seen in Somalia over and over again.

I urge the adoption of the amendment that has been offered by myself, Senator CLELAND, and Senator LEVIN.

The PRESIDING OFFICER (Mr. ENZI). Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mr. BROWNBACK. I yield 5 minutes—and there are several of my colleagues who want to speak on this, but Senator COATS has been a leading voice on this, serving on the committee—I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I thank the Senator for yielding. I appreciate the opportunity to speak now. I have been off the floor, and I have another commitment, but I wanted to come and offer my support to his amendment.

I struggled with this issue when I was, first, ranking member and then chairman of the Personnel Subcommittee. I visited most of the training facilities for the various services around the country. I talked to those in charge. We held hearings on the issue. We heard from the experts. We talked to those who lived with the situation in their basic training. It is my inescapable conclusion that the Kassebaum commission did a good job in sorting this out and producing a report which called for separate facilities.

I, frankly, was surprised with the conclusion of the commission. I didn't think when it was constituted that the commission would come to that conclusion. It was something that I was strongly leaning toward, and all the visits that I made and the people I discussed this issue with seemed to indicate that separate barracks was the direction to go.

When the commission came forth with this recommendation after a more thorough look than I was able to give, I thought this added a lot of weight to the question. There is no doubt in my mind that effective training and effective gender integration of the armed services can be accomplished without the necessity of forcing the issue through gender integration within the living facilities.

Obviously, they are going to train together. Obviously, they are going to go to class together, they are going to go to the range together, they are going to train together. The essential functions that are attempting to be accomplished in basic training are going to be accomplished. The real question here is when the training day is done and you return to the barracks to unwind, to shower, to prepare in the evening for the next day and to sleep, is it best to do that in gender separate facilities? I believe it is. This is where the issue is.

I have talked to a lot of drill sergeants, men and women; I have talked to a lot of men and women soldiers, trainees; and the inescapable conclusion that I have reached, and I think most of them have reached, is that it would be much more comfortable without degrading the training, and it would eliminate a lot of the supervisory problems, management problems, and, frankly, the social problems that exist with living at too close quarters.

For that reason, I think the conclusions of the Kassebaum commission are correct. I think the amendment offered by the Senator from Kansas is the right way to go.

I was concerned about the costs. That is a legitimate question, as to whether or not separate facilities or separate barracks—in other words, taking a single entity and dividing it and controlling access, and so forth, to separate the sexes, versus separate buildings.

And I was really persuaded. I knew ultimately, based on my visit to Parris Island with the Marines who already do this, that separate housing was the right policy. At Parris Island, the women live in a separate compound. And virtually, to a person, they told me—including their drill instructors and their supervisors—they told me they strongly preferred that. They are able to identify with each other. And to identify with their female drill instructors was very important to them.

Many of them come from backgrounds where self-esteem is the casualty of their upbringing. They find that bonding with each other, the bonding that takes place with the drill instructors and their supervisors in those off-hours, the social interaction that takes place in those off-hours, is a very, very important part of their development, the character development, and a whole number of other areas.

And so I think this makes sense. I am convinced we have looked at the situation. I am convinced we can do this in a financially feasible way.

I see my time has expired. And I am happy to support the amendment of the Senator from Kansas.

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. I yield 10 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CLELAND. Mr. President, I thank the Chair and thank the distinguished Senator from Maine.

For those who are entering into this discussion, Mr. President, nowhere, as far as I can tell as a member of the Senate Armed Services Committee, in recruit training, in any service, do male and female recruits live in the same room or in the same squad bay. These conditions do not exist now and they did not exist when the incidents in Aberdeen took place.

Male and female recruits do live in the same buildings. In some cases male and female recruits live in separate wings or on separate floors, and in some cases they live on the same floors but are separated by fire-safe barrier walls. In every case, the male and female recruits have controlled entrances and exits to their sleeping areas and have segregated toilet and shower facilities. The services are in the process of alarming all doors, exits and walls.

The bottom line, Mr. President, is that in every case, in every service, although they might not live in separate buildings, male and female recruits live in physically safe, physically secure, and physically segregated living conditions.

But, Mr. President, in the wake of the terrible incidents of sexual misconduct and sexual harassment that took place in Advanced Training at Aberdeen Proving Grounds, the National Defense Authorization Act of the last year established a congressional Commission on Military Training and Gender-Related Issues to review the requirements regarding cross-gender relationships of members of the Armed Forces and to review the basic training programs of the Army, Navy, Air Force, and Marine Corps, and to make improvements on the programs.

The idea for the commission came from the distinguished senior Senator from West Virginia, Senator BYRD, who noted at the time:

> * * * there must be ways to thoroughly examine, review, and evaluate the reasons for the recent spate of scandals regarding sexual relations in training commands. Such a study should be made by an independent blue-ribbon body with unquestioned credentials—with no social agenda, but geared solely to the effect of gender integration at all levels of the military.

Earlier this year, the chairman and the ranking member of the Senate Armed Services Committee appointed five distinguished Americans to that commission. Their counterparts on the House National Security Committee also appointed five outstanding individuals.

The commissioners include two retired Marine Corps lieutenant generals, a retired Army command sergeant major, a former Assistant Secretary of Defense, a former Assistant Secretary of the Navy, three distinguished academics, a military historian/national security analyst, and an expert on legal issues concerning women in the military.

I have personally met with these commissioners and am convinced they understand the magnitude of the awesome task we have laid before them, and that they are eminently qualified and motivated to do the job.

Because of our commitment to doing the right thing—as opposed to doing something quickly—the Armed Services Committee in the Senate included in its markup a provision to provide for a moratorium on changes to policies or practices regarding segregation on the basis of gender.

The second-degree amendment Senator SNOWE and I have offered retains the moratorium on changes to policies or practices regarding segregation on the basis of gender. I believe this is a very reasonable approach. It does not seek to prejudge the outcome of the commission's work.

Additionally, it permits the commission to retain its independence. I believe this is an unwise course of action if we preempt the work of the commission. I know how I would feel if I responded to the call to serve on such a commission and was willing to dedicate my time for, say, a year of my life to study these complicated issues, only to find the same people—in this case, the Congress—who asked me to take on the issue, told me before I ever really got started in my work how they felt already.

I would wonder if they really wanted a thoughtful, professional analysis or if they only wanted the appearance of a study to support preconceived ideas and predetermined agendas. I do not believe this was the Senate's intention when it supported the bill authorizing the Defense Act last year.

We have established a process to review gender-related matters in their entirety. It does not make sense, to me, for us to separate out one or two aspects of this incredibly complex issue and to provide some piecemeal solution with little or no thought of the consequences our actions could have on the rest of the military—recruiting as well as training and retention.

I am aware that the recommendation for separate barracks for male and female recruits came from the Kassebaum committee appointed by the Secretary of Defense. I am also aware that the Secretary of Defense has decided not to implement that recommendation. And the uniformed leadership—the most senior officers and enlisted members of the Army, Navy, and Air Force—also oppose the recommendation.

For example, Mr. President, our committee received a letter from General Reimer, Chief of Staff of the Army, who said:

> Segregating their units into gender unique platoons for training and billeting the solders by gender in separate buildings will degrade the commander's ability to command and control his or her unit.

Admiral Johnson, Chief of Naval Operations:

> Sailors should learn to live and work together from the first day of training.

Admiral Pilling, Vice Chief of Naval Operations:

> Learning about security, privacy, dignity and personal responsibility should not be a lesson left for the fleet to teach.

General Ryan, Chief of Staff of the Air Force:

> The saying "train as we operate" is more than a catch phrase, it is an absolute necessity to ensure that team building begins on the first day our recruits report to basic training.

Senior enlisted members also commented on this issue as well.

> Any attempt [they said] to make a training policy that applies across all Services is not in the best interest of the nation and will impact the readiness of the total force.

Mr. President, in terms of the readiness of the force, I was recently in Bosnia a few weeks ago. And I did see on a fire base there women actively engaged in work on the fire base. But I noticed that their living quarters were separate, safe, and secure. It was an incredible demonstration to me that women and men can serve in this Nation's interests in foreign lands and do so extremely well.

I would also like to note that the Kassebaum report itself has actually been criticized by the GAO because of flawed methodology. According to GAO, the value of the Kassebaum committee's methodology is limited for making conclusions and recommendations, and the extent to which the committee's work supports its conclusions and recommendations cannot be determined.

When the Secretary of Defense, a former Member of this body, and the uniformed leadership of the military, officers and enlisted, oppose something, I certainly take time to listen.

Today, Mr. President, I urge my colleagues to listen to the leadership of the military and give the Senate a chance to listen to the commission which we actually created and appointed to help us make decisions to guide us in these complex matters.

Therefore, Mr. President, I support the Snowe amendment and urge my colleagues to adopt it.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I yield to the Senator from Alabama 5 minutes.

Mr. SESSIONS. Thank you, Mr. President.

Mr. President, I had 13 years in the Army Reserve and went through a basic training program. It was a very worthwhile experience for me. I played football. I have been to basic training, and basic training is worse and tougher. Anybody that survives that has my admiration.

I have had the opportunity through the years to serve with some outstanding women soldiers, the kind of soldiers that you respect and are capable and have great ability to contribute to the mission of the unit. It is something that I think is a major part of American military life and we should not be changing.

I understand there is a lot of talk about separation and use of the word "segregation" based on gender. But it seems to me that Senator BROWNBACK's amendment simply says that in basic training these soldiers, men and women, shouldn't be housed together. I think that is a reasonable approach and something that comports with my sense of what makes sense, my sense of what I understand the Senator to be saying, and I think it is the right idea.

Some might say it is the responsibility of the NCOs and the officers to maintain moral control over the soldiers. When they are in such a mixed environment, the officers and NCOs can't maintain control over these young people. They are in a circumstance that is a different world; it is a whole different environment they are in. Things that they would have thought to do under other circumstances may not be done under these circumstances.

I say we have separate barracks. It seems to me if we are going to separate the 14 percent of the soldiers that are women within existing barracks, it seems to me you are converting whole floors that would otherwise be half used. For example, most of the barracks I was in had 20 people on one floor and 20 on the next. So I suppose a few people would be on the second floor and the bottom floor would be full. That is the way they were traditionally done.

I don't see how it would be any cost to have separate housing for women in which women could have the support of their NCOs under those circumstances and men could have separate housing. I think both parties would benefit from that.

The commission did a lot of work. We have been talking about a new commission. I point out that we had one. Senator Nancy Kassebaum-Baker and others did a thorough job. They talked to over 1,000 trainees, 500 instructors, 300 first-term service members, and 275 supervisors. I don't know who the chiefs of staff and Secretary of Army is talking to. I don't know, maybe they are talking to too many people in the Pentagon. But those commissioned, the ones in power to make a decision, went out and talked to soldiers, trainees, 1,000, 500 instructors—the drill instructors out there with these men and women on a daily basis, and this commission unanimously reached a conclusion that separate housing would be preferable. They also concluded that separate training would be preferable.

As a matter of fact, I tend to agree with that based on my experience. But that is not before the Senate today. That is not what Senator BROWNBACK is calling on us to do today.

Senator BROWNBACK is suggesting that what we ought to do is have separate housing, a readily achievable thing, I suggest.

I agree with the commission based on my experience and the study I have done, that separate housing will decrease disciplinary problems, it will reduce distractions during the training process, and as the commission found, will be of marginal cost to the Department of Defense.

I am pleased to support this amendment. I think it is time that this body raised our concerns. There are many problems that are occurring. Senator BROWNBACK has eloquently discussed those. We hate to talk about the problems that are occurring, but they need to be discussed. I think it is the right thing.

I yield back my time to the Senator from Kansas, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Ms. SNOWE. Mr. President, I yield 5 minutes to the distinguished chairman of the Armed Services Committee.

Mr. THURMOND. I want to thank the able Senator from Maine for the excellent remarks she made on this subject.

Mr. President, I am sympathetic to the Brownback amendment, however, last year, the Congress established a commission to review the conduct of military training and gender-related issues, we should await the outcome of its findings. That commission is constituted and working. One of the areas which the commission must specifically address in its final report is a recommendation as to how to provide for a safe and secure living environment for young men and women in basic training. This amendment would preempt the work of the commission by establishing a statutory requirement that basic trainees be housed in separate barracks.

I join Senator BROWNBACK and others in insisting that the military services provide a safe and secure environment for all military personnel, but especially those in basic training who may be the most vulnerable.

On June 8, 1998, Secretary Cohen asked us not to legislate a specific solution as Senator BROWNBACK's amendment does. Secretary Cohen urged that we give the Service Chiefs the flexibility to house and train their personnel in the manner determined to be most effective for that service. We all recognize that each of the four services is unique. Each service has its own culture, history and traditions. I agree with Secretary Cohen that we should not legislate how they must house and train their personnel.

Mr. President, I could support an amendment that would require the Service Secretaries to provide for a safe and secure environment without specifically requiring a standard solution for three of the four services. Senator BROWNBACK's amendment goes beyond requiring a safe and secure environment and will require millions of dollars in military construction and renovation projects to make their barracks conform to the requirements in the amendment.

I prefer to allow the Congressional Commission to do its work and make its recommendations next March before we act. I urge my colleagues to oppose this amendment.

PRIVILEGE OF THE FLOOR

Mr. President, while I have the floor, I ask unanimous consent Mr. David Landfair, a military fellow in the Office of Senator MIKE DEWINE, be granted privilege of the floor during the pendency of S. 2057, the fiscal year 1999 Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I wonder if Senator SNOWE would yield 10 minutes to me?

How much time does the Senator from Maine have?

The PRESIDING OFFICER. The Senator from Maine has 13 minutes.

Mr. LEVIN. Will the Senator yield 8 minutes to me?

Ms. SNOWE. I was going to yield to the chairman of the Subcommittee on Personnel for 5 minutes, so the remainder of the time I yield to the Senator.

Mr. LEVIN. I ask that the Senator from Maine, then, yield 8 minutes to me.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. First of all, Mr. President, we have all read about some terrible incidents that occurred at the Aberdeen Proving Grounds that gave rise to much of the concern about recruit training. Those incidents did not occur in recruit training. They did not occur in recruit sleeping areas. They did not involve sexual misconduct among recruits. They took place in advanced individual training, which is a phase of training which takes place after an individual graduates from recruit training. The incidents that give rise to so much of this understandable concern did not occur in the recruit training area or phase which this first-degree amendment would address.

I want to emphasize something on which the chairman of the Armed Services Committee has just spoken. We appointed a committee or a commission, 10 citizens. These are distinguished citizens that were selected by the chairman, by me, by the chairman of our counterpart committee in the House, and by the ranking member in the House. This commission is underway. We picked 10 distinguished citizens.

We asked them to look at a particular agenda, a list of items. We set forth their duties and they are now fulfilling those duties.

This is what our law said, and this is something which had broad support in this body. The law said:

> The commission shall consider issues relating to personal relationships of members of the Armed Forces as follows: Review the laws, regulations, policies, directives and practices that govern personal relationships between men and women in the Armed Forces and personal relationships between members of the Armed Forces and nonmilitary personnel of the opposite sex. Assess the extent to which the laws, regulations, policies, directives and practices have been applied consistently throughout the Armed Forces, without regard to the Armed Forces, grade, rank or gender of the individuals involved.

Then comes the third thing we ask them to do. This was a knowing, conscious request—a statement to this commission, saying this is your duty:

> Duty No. 3: Assess the reports of the independent panel, the Department of Defense task force, and the review of existing guidance on fraternization and adultery that have been required by the Secretary of Defense.

Our good friend from Kansas has said that common sense dictates that since the Kassebaum Commission made this recommendation, we ought to follow it. No. Common sense dictates that when we appoint a commission with the explicit duty of assessing the Kassebaum Commission report—when we do that knowingly and openly, when we ask 10 distinguished citizens to give up part of their life to come here and assess the Kassebaum report, which is what we did in last year's law, that we not simply say, whoops, some of us liked the

Kassebaum report and we are now going to adopt that and bypass the very commission that we created. I mean, what is the point of the Senate of the United States and the House of Representatives unanimously tasking a group of citizens to look at the Kassebaum Commission report, among other things, and now once that report is issued, because some of us like the recommendation, we take that piece of the report and say that we are now going to put that into law and bypass our own commission? I think it makes a mockery of the process that we ourselves set into motion. We should not do that.

Now, since I have a couple more minutes, I want to state what some of the underlying facts are about the way in which the males and females live.

First, nowhere in recruit training in any service do male and female recruits live in the same room or in the same squad bay. These conditions do not exist now, and they did not exist when the incidents at Aberdeen took place. Male and female recruits do live in the same buildings, and in some cases, they live in separate wings or on separate floors. In some cases, they live on the same floors, but are separated by fire-safe barrier walls. But in every case, male and female recruits have controlled entrances and exits to their sleeping areas, and have segregated toilet and shower facilities.

Now, what have the services told us about this? The heads of the services have told us, "Do not change this now." The heads of the services have told us this. The chief professionals have told us this. The senior enlisted members of the Army, Navy and Air Force, have written to the committee opposing the amendment. These are the professionals that we rely on. When it comes to the matters affecting the safety, welfare, and well-being of the men and women in our military, these are the people we rely on. These are the professionals. They have asked us, "Do not enact this legislation." So on both counts—that our top military officials, uniform and civilian, have asked us to not enact this legislation, and the fact that we have appointed a commission that is going to give us a recommendation, which we put in place, in part, to review the Kassebaum Commission report—we should not take this action tonight.

Finally, the sergeant major of the Army, the master chief petty officer of the Navy, and the chief master sergeant of the Air Force have written us a letter, which was referred to by a number of my colleagues. I will not repeat the portions that they read. But I am going to quote one paragraph that I believe has not been read. This summarizes, to me, what the really critical point is, which was so well stated by the Senators from Maine and Georgia, and others. This is what they say:

> Each time our Nation has asked the Army, Navy, Air Force or Marines to do a job, it has been done. Men and women soldiers, sailors, airmen and marines accomplish the tasks asked of them every day in places like Bosnia, Haiti, Southwest Asia, and the Far East. Their many successes in our gender-integrated All-Volunteer force is a direct result of the training the services currently provide.

I hope that we will listen to these professionals.

These are the individuals who went to boot camp and have come up through the ranks to the highest position possible for an enlisted member. When it comes to matters affecting the safety, welfare, and well-being of the men and women in our military, these are the experts! And, they have asked us not to enact this legislation.

That leaves us with the question: Who wants this legislation and why? What problem will it solve?

Neither the military nor civilian leadership of the Department of Defense or of the Military Departments want it.

The senior enlisted members of the Army, Navy and Air Force see it as unnecessary.

Finally, it short-circuits the work of a Congressional Commission of distinguished citizens that this body voted into law less than one year ago.

The Armed Services Committee included in its mark-up a provision to provide for a moratorium on changes to policies or practices regarding segregation of integration on the basis of gender that is within the responsibility of the Commission appointed by the Congress, until that Commission terminates in March 1999.

I believe that it would be both shortsighted and very unfortunate for the Senate to adopt the Brownback amendment and to cause the Department of Defense to expend in excess of $150 million against the collective judgment—military and civilian—of DOD and before we have had the opportunity to benefit from the advice of our own Commission.

The second degree amendment Senators CLELAND and SNOWE have offered retains the moratorium on changes to policies or practices regarding segregation of integration on the basis of gender that is within the responsibility of the Commission appointed by the Congress, until that Commission terminates in March 1999.

I believe that this is a very reasonable approach. It would permit the Army, Navy, and Air Force to continue to conduct recruit training in the manner best suited to producing soldiers, sailors, and airmen ready to meet the challenges of our military. Uniformed Leadership of our military—leaders to whose appointments we have given our advice and consent—say it best:

General Reimer (Chief of Staff of the Army): "Segregating their units into gender unique platoons for training and billeting the soldiers by gender in separate buildings will degrade the commander's ability to command and control his or her unit."

Admiral Johnson (Chief of Naval Operations): "Sailors should learn to live and work together from the first day of training."

Admiral Pilling (Vice Chief of Naval Operations): "Learning about security, privacy, dignity and personal responsibility should not be a lesson left for the fleet to teach."

General Ryan (Chief of Staff of the Air Force) "The saying 'train as we operate' is more than a catch phrase, it is an absolute necessity to ensure that team building begins on the first day our recruits report to basic training."

Senior Enlisted Members "Any attempt to make a training policy that applies across all Services is not in the best interest of the nation and will impact the readiness of the total force."

I urge my colleagues to support the 2nd degree amendment and permit our Commission to complete the work we assigned to it and to report back to us before we direct any changes to recruit training.

The PRESIDING OFFICER. Who yields time?

Mr. BROWNBACK. Mr. President, I yield 5 minutes to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I was listening to the debate when the distinguished Senator from Alabama was relating to us his experiences in basic training, and I was thinking of my experiences in basic training. Quite frankly, I think I would have been for integration of the sexes when I was in basic training, but I am looking at it differently now than I did at that time.

I would like to respond to something that the Senator from Michigan said. I have so much respect for him, but I disagree with him in this respect. As chairman of the Senate Armed Services Committee, Subcommittee on Readiness, I spend a lot of time talking to officers in the field, talking to enlisted people in the field, as does the ranking member, the Senator from Virginia. I find a discrepancy in what you hear in the field and what you hear from the chiefs.

I am not saying this critically of the current chiefs, but I think the chiefs have always reflected the philosophy of the President. The President is the Commander in Chief. He is the guy responsible for their careers. So we hear different things from the chiefs here in Washington than I hear when I go out to the National Training Center, or to 29 Palms, or Fort Bragg, or to Camp Lejeune. They are very emphatic and supportive of that portion of the recommendations of the Kassebaum-Baker report having to do with housing.

Thirdly, three different Members, while I have been sitting here, have gone into detail as to the makeup of the committee that we have asked for from our committee, and it is a very distinguished panel. But I think that we have kind of lost sight of the fact that the committee that we refer to as the Kassebaum-Baker committee was actually appointed under the supervision of Secretary of Defense William Cohen. He put together a committee and, frankly, I probably would not have put together the same committee. I would want it stacked a little bit the other way. Real briefly, I will go over the committee.

They are: Richard Allen, retired vice admiral of the U.S. Navy; Robert Forman, retired lieutenant general, U.S. Army; Marcelite Harris, major general, retired, from the Air Force; Condoleezza Rice, a Stanford professor; Don Gardner, a retired major general from the Marine Corps; Deval Patrick, who was the Assistant Attorney General for Civil Rights, appointed by President Clinton. I mean, if there is anybody who would have a bias toward the administration, it would be this individual. Ginger Lee Simpson, retired U.S. Navy, and others.

I suggest to my fellow Senators that this committee of 11 had a majority of women. On this committee of 11, 5 of them were either retired generals or admirals.

I would hold up this committee to be certainly comparable to the committee that had been discussed on this floor. I think any time you have a committee like this reaching a unanimous decision—all of these retired women from all the services, along with the former Assistant Attorney General in charge of civil rights appointed by President Clinton—and it was unanimous; they all agreed. I think when you have this unanimity, I can't imagine that any other committee is going to come up with a different result.

What would happen is, it would delay the implementation of this by a year. If it is good now, and it is good a year from now, I think one year should make a tremendous difference in the morale of the services, which is certainly suffering at this time.

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Maine.

Ms. SNOWE. Mr. President, I yield 5 minutes of my time to the distinguished chairman of the Subcommittee on Personnel.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. I thank the Senator.

Mr. President, would you please notify me when I have consumed 4 minutes?

Mr. President, when you spoke so eloquently here, you said that Senator BROWNBACK's amendment could be summarized in that the men and women should not be housed together. I totally agree, 100 percent; men and women should not be housed together. I think that the Senator from Maine agrees with me. There is no argument here.

But when we talk about separate housing, I don't know that necessarily has to mean separate buildings, because when you look at the configuration of many of our structures out there—I agree with what Senator BROWNBACK said, which was very effective. This idea that somehow you are going to use a plywood partition to separate, that is wrong. It ought to be permanent. You ought to have separate entrances. You ought to have separate common areas. You ought to have that. We should have that.

But I believe that it is not necessary to go as far as Senator BROWNBACK at this point. I think that can be created with existing structures. If not, then let's go ahead with the separate. But, you see, we are presupposing here.

When we talk about the terrible incidents that have happened—and they are absolutely deplorable, deplorable. But I think in one of the cases that was referenced, a Navy drill instructor committed sexual misconduct with some of these individuals. But in none of those cases did the incidents take place in the sleeping bay of the barracks. It took place in the office of the drill instructor. It took place in the motel down the road. It is not in the bays.

The idea that we cannot allow a drill instructor—I don't know how far that goes. Can the commanding officer enter the drill bay to have a meeting with the recruits, if he is escorted by someone of the same sex, who are in the barracks? I think that should be allowed. But I don't know that it is allowed here.

I am just concerned that perhaps we have gone a little far.

We have talked about the Kassebaum-Baker Commission. Do you know that they did not look at the advanced training? They looked strictly at basic.

Why do I make that point? It is because it was at the advanced training at Aberdeen. That is where all of these incidents take place—advanced training.

We have put together a very effective group of commission members. It was a Kempthorne-Byrd amendment that created the commission. So I can't turn my back on that commission. That would be wrong. I am not going to turn my back on the Senator from Maine or the Senator from Georgia. That would be wrong. We created a commission in the Armed Services Committee.

You may have seen, Mr. President, a few weeks ago the commission was about ready to split. Four were going to walk. Congressman BUYER and I met with them and said, "Don't do this. Don't rule yourselves irrelevant. There is such a critical reason for this commission to exist. Stay together. Give us the answers." Now I am supposed to say to that commission, "Oh, by the way, thanks for staying together, but we don't need your conclusions, because we are going to go ahead with all of this legislation, because I believe there is an amendment ready to come forward that is going to be removing integrated training."

Mr. President, I am going to repeat what you said. Men and women should not be housed together. No argument. No argument. But I believe we can accomplish that in the existing structure.

I also think we have to support a commission that was put in place.

Again, I want to compliment the Senator from Kansas. He has brought a meaningful issue before us. He has been articulate about it. Senator BROWNBACK does a good job, but I think he has gone just a little far in this. Does separate housing mean you have to have separate housing and the cost that goes with that?

I know the Senator from Virginia, Senator ROBB, a member of the subcommittee, also would like to speak. I would like to turn my time over to him.

The PRESIDING OFFICER. The Senator has 25 seconds.

Mr. ROBB. Mr. President, in 25 seconds let me thank the Senator from Idaho. I agree with the points he has made.

I have visited the training in Fort Jackson and Parris Island and examined these specific issues. I have asked for some reports from the GAO. That is coming in. But we established the commission to give us specific information to help make these decisions.

I think the Senator from Maine has adopted the approach that makes sense. Let's wait for the commission to make its report and act on the basis of that information.

With that, Mr. President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas controls the remaining time, 15 minutes.

Mr. BROWNBACK. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Thank you, Mr. President.

Mr. President, I rise today to strongly endorse the amendment of my friend, the Senior Senator from Kansas. This amendment would simply require the housing of male and female recruits in separate barracks during recruit training.

It amazes me that this amendment is even necessary. Every attempt to return common sense to our military's recruit training policies has been obstructed by this administration—even those attempts initiated by the administration itself. Didn't the Secretary of Defense already convene a panel of distinguished military and civil rights experts to study this serious problem? Didn't this commission—the Kassebaum Commission—unanimously point out the critical importance of—among other things—giving each gender its own recruit housing? Hasn't the administration had over five years to make their misguided gender neutral policies work without success? Sadly and inexplicably, the answer to all these questions is yes.

Now we have another commission. Are we going to continue to appoint and pay for commissions until we reach an answer that we like? Are we going to find it easier to appoint a commission than to make a decision? I believe this tactic is called paralysis by analysis. I also believe that the appropriate time to criticize a commission is before they report, not after.

A few days of orientation for new recruits before they are kicked into the hormonal situation that we are putting them in would be helpful.

Mr. President, the administration's arguments in favor of their social engineering are misleading, contradictory and quite unprecedented. How are they misleading? The Secretary of Defense has tried to garner support for his gender neutral training policies on the grounds that the military simply cannot do without women. The fact, however, is that no one on any side of this debate is advocating that women be purged from our military, and it is patently offensive to me that he would indicate that we are. We fully understand the importance of women to the functioning of our military. All we are trying to do with this amendment is to give both genders a training environment in which they can realize their fullest potential.

How are the administration's arguments contradictory? They argue that the military must train as it fights. They argue that since men and women serve together, they must train together, and be housed together. Yet one of the things discovered by the Kassebaum commission is that while male recruits are required to throw a hand grenade 35 meters, female recruits are only required to throw it 25 meters. Is the Secretary of Defense implying that our military intends to make sure our female soldiers are always 10 meters closer to the enemy than our male soldiers? Though this amendment would not address issues of training such as this, this type of thinking is indicative of the contradictory quality which pervades all aspects of this administration's recruit training policies—to include housing.

How are the administration's arguments unprecedented? It is surely unprecedented to place a political agenda of social engineering above the simple requirements of national security. Five years of gender neutral training barracks have resulted only in lowered morale, one sex scandal after another, recruiting shortfalls for every branch but the Marine Corps which does not engage in this incredible practice, and a refusal of this administration to face these problems. It is noteworthy that eighteen months after the sex scandals at Aberdeen, the Kassebaum Commission found that the policies which precipitated them had still not been corrected. The Army, like the Navy and Air Force, have proven singularly unsuccessful in solving the problems associated with these misguided policies—policies which deny the existence of any emotional dynamics between young men and young women. This is less a reflection on the earnestness with which our military leaders have tried to implement these policies, than it is an indictment of these unworkable gender neutral policies themselves. Mr. President, this amendment represents a common sense step in the right direction. It is sorely needed and I encourage all members to support it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. May I inquire how much time remains?

The PRESIDING OFFICER. Ten minutes 40 seconds.

Mr. BROWNBACK. I thank the Chair. I would like to respond to a few things that have been stated here about what we are talking about and what we are not talking about in the final minutes that I have in this debate.

No. 1 is, what we are talking about is separate barracks during basic training—separate barracks during basic training. We are not talking about further training; we are not talking about deployment, any of those issues that are being raised as a smokescreen by others. We are not talking about separation. We are talking about the 9 weeks of basic training, separate barracks.

All right, that is No. 1. No. 2 is we are also talking about limited access by trainers of the opposite sex after hours. We have had instances—we have had court-martials. Even this month we have had a court-martial take place in the Navy involving that type of situation.

So what we are saying is if you are of the opposite gender, you can't go into the facility where the other gender is staying after hours other than in emergency cases.

Those are the two things we are talking about. Those are intimate issues and they have eminent common sense about them, plus I might add being backed up by the Kassebaum-Baker commission, the Army survey that I showed, the CRS study that I also cited earlier.

So I have three studies on this point as well as making what basically most people would say is pretty much common sense about this issue. We are not talking about separate training. Senator BYRD was going to have an amendment along that line, and I think he has some wisdom with it, but we are not talking about that sort of issue.

Some are saying, look, we don't have a problem. Well, I cited to you the court-martial that has taken place at the Great Lakes Navy basic training facility, and I read the quotes from some of the people involved in that horrible instance as to what took place there.

I would also cite to you some other problem areas. We did some surveying of the military on these issues. We asked them about official reprimands in instances in the last 12 months involving trainers and trainees. The Army gave us 53 that were involved in article 15s over the last 2 years involving trainers and trainees. That is a lot that were involved in this type of situation.

Also I want to cite—and there was one thing the Senator from Michigan cited saying that this isn't a particular problem. We have got those in that particular case, and the services do not want to do this. Well, the Army and Navy and the Air Force may not. The Marines think that separate training and separate barracks is the way to go and they are having fewer instances that they are reporting.

I want to cite another study. This is the Department of Defense 1995 sexual harassment study. This one is amazing if you look at it. They are talking about the progress taking place. In 1995, they surveyed their personnel and 55 percent of the women in the Army, 55 percent of the women surveyed in this Department of Defense study said they had some type of sexual harassment taking place within the last year. Listen to how this breaks down. Actual or attempted rape or assault, 4 percent of the women surveyed said that this had happened to them; pressure for sexual favors, 11 percent; touching or cornering, 29 percent.

This is the 1995 Department of Defense sexual harassment study. We don't have a problem? We have a significant problem taking place.

I have other studies to cite here, but what I want to get to with this is to say that we have a current and present problem and danger involved in this situation. We are talking about an amendment of very limited scope.

We can do studies until we find one that comes out the way we want it to come out, and I suppose if we keep appointing people that may happen. The commission that has been appointed has a much broader purview than this narrow issue of the barracks.

It says the duties of the commission shall be to:

> Review the current practices of the Armed Forces, relevant studies, and private sector training concepts pertaining to gender-integrated training.

OK, but it also says:

> Review the laws, regulations, policies, directives, and practices that govern personal relationships between men and women in the Armed Forces and personal relationships between members of the Armed Forces and nonmilitary personnel of the opposite sex.

That is broader than just the barracks during basic training we are talking about.

> Assess the extent to which the laws, regulations, policies, and directives have been applied consistently throughout the Armed Forces without regard to the Armed Force, grade, or rank of the individuals involved.

Whether or not everybody is being reviewed similarly:

> Examine the experiences, policies, and practices of the Armed Forces of other industrialized nations regarding gender-integrated training.

Training: We are not talking about training here. We are just talking about barracks during basic training.

My point is that some would say we have appointed this commission and to not let it go on through; by doing this, that we are overruling the commission. This is a very broad-based commission. We have a clear and present problem in basic training that just earlier this month on June 5 we have a court-martial taking place at the Navy training grounds, and we have got 53 instances being reported in the last 2 years by the Army—53 official reprimands.

I get calls to my office by people asking to be released from the military because of sexual harassment that has happened to them in basic training.

Do we need another year to study this? Do we need another year to contemplate this?

My own staff then goes down to Fort Jackson to look at the situation because there is an issue regarding the common area that is involved here: Let's just put them in the same facility, but we will put them on different floors or separate, different wings out here, but then we have a common area together.

My own staff was told about, well, there was sexual activities taking place, on the fire escape and in the telephone booth. Where there is a will there is a way, I guess. But my point is, if you are going to put young 18-year-old recruits in the same place in a pressurized environment and you are going to provide some chances, this is going to happen.

What we are saying is let's just put them in separate facilities by 2001. Let's give it some time, common sense, so we can get this put into place, and that is specifically and only what we are talking about. And let's limit the supervisors, the trainers being able to go into the trainees' facilities of the opposite sex after hours other than for emergency cases because we have had some really horrible instances taking place there.

So, Mr. President, I think if you look at the preponderance of evidence that is here with all the studies that have been done, we can do yet another one, and if this one doesn't come out the way we want, I suppose we may do yet another one, but we have enough. We have a real problem today—and this is going to really catch up with us—of recruits coming into the military.

This is a simple proposal, a simple matter. We don't need to put it off for another commission to study this. The evidence is overwhelming and the findings have been overwhelming to date.

So with that, Mr. President, I would ask my colleagues to vote against the Snowe amendment. Let us have a vote on this very simple issue of separate barracks and not having members of the opposite sex in the quarters after hours other than for emergency cases. That is all that we are asking for in this particular amendment.

So please vote no on the Snowe amendment so we can put the Kassebaum commission into place.

With that, Mr. President, I inquire how much time is remaining.

The PRESIDING OFFICER. Two-and-a-half minutes.

Mr. BROWNBACK. Mr. President, I would like to be very magnanimous and yield 2 minutes to somebody who absolutely disagrees with me on this amendment, who I think is absolutely wrong, but I want to be collegial with my colleagues and recognize and yield 2 minutes to the Senator from Michigan.

I would like 30 seconds at the end in case I need to say something.

Mr. KENNEDY. I think the Senator has used the 2 minutes, but I appreciate it. I will return the favor.

Mr. LEVIN. I thank our colleague from Kansas, and I yield the 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts has 2 minutes and the Senator from Kansas 30 seconds.

Mr. KENNEDY. Mr. President, one of the most important issues involving training in the military is the issue of gender integrated training.

Women have been serving with distinction in our military forces for decades, but their opportunities have grown immensely in the past decade. Unfortunately, the recent sexual harassment scandals in the military have been used by some to oppose the integrated training of men and women in the military and to urge a return to separate training. This approach would be a serious mistake.

In light of the expanded roles for women in the military it makes sense to continue to integrate all aspects of training except for direct combat training. The Services often cite "train as you fight" as one of their guidelines in preparation for war. Each service trains as it will fight. The Marines and Army direct ground combat units conduct gender segregated basic training. For all other non-direct ground combat roles, the services conduct gender integrated training. This is how they will fight.

Some ask, why should basic training be any different? But basic training is where new recruits learn basic military values. Integrated initial training makes sense. They will train and fight as an integrated force for their entire military careers. There is no reason why they should not begin to do so as early as possible. Doing so increases the readiness of all our military forces.

Opponents also argue for separate barracks for men and women during training. But, as anyone who has served in the military knows, military training does not end on the drill field or in the classroom. A great deal of unit cohesion is built during time spent in the barracks studying or preparing for the next day's training. Separate barracks would further complicate the commanders' task and make it more difficult to exercise the leadership that guarantees the readiness of the military unit.

The barracks now used in basic training by the services all have independent sleeping areas and restrooms for men and women. Each of these areas has separate entrances. There are alarms on doors and walls around living areas, which are locked at night. Moreover, there is around-the-clock supervision by the chain of command. There is no doubt that we have safe and secure barracks. Wasting over $150 million in new construction for separate barracks that are not needed and are no more secure makes no sense.

The critics of gender integrated training cite recent cases of sexual harassment as a demonstration of the need to segregate men and women during basic training. But almost none of the instances of sexual harassment or sexual misconduct were committed by recruits on recruits, but by drill instructors on recruits.

That kind of sexual harassment indicates poor leadership, not a gender integration problem in training. All of the Services acknowledge the importance of improving the quality of recruit training. Commanders and drill instructors will exercise closer supervision over all recruits. That is the best way to eliminate these abuses and ensure the high level of readiness required for our national defense.

We have come a long way toward full acceptance of women in the military. But more needs to be done to ensure that the progress goes forward in the coming years. Women will not continue to serve in a military which discriminates against them. I look forward to a day when more policies and programs affecting service members are implemented without regard to gender. Women in the military deserve no less.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Kansas has 30 seconds.

Mr. BROWNBACK. I wish to simply respond to the statements of the Senator from Michigan and the Senator from Massachusetts. They are simply not true. We have the June 5 case taking place at the Navy train facility, a court-martial because of fraternization, harassment, sexual activity by the trainer with trainees involved in this.

Separate barracks: Keep the trainers out afterhours. This makes sense, and I would ask my colleagues to vote against the Snowe amendment.

The PRESIDING OFFICER. All time has expired.

The question is on the second-degree amendment offered by the Senator from Maine.

Mr. BROWNBACK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment offered by the Senator from Maine.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Ohio (Mr. GLENN) are necessarily absent.

The result was announced—yeas 56, nays 37, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—56

Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Burns
Chafee
Cleland
Cochran
Collins
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Graham
Gregg
Hagel
Harkin
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Sarbanes
Smith (OR)
Snowe
Stevens
Thomas
Thurmond
Torricelli
Wellstone
Wyden

NAYS—37

Abraham
Allard
Ashcroft
Bond
Brownback
Byrd
Campbell
Coats
Conrad
Coverdell
Craig
DeWine
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Kyl
Lott
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Thompson
Warner

NOT VOTING—7

Akaka
Baucus
Glenn
Helms
Rockefeller
Roth
Specter

The amendment (No. 2979) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2978, AS AMENDED

The PRESIDING OFFICER (Mr. BROWNBACK). Is there further debate on the first-degree Brownback amendment numbered 2978, as amended? If not, the question is on agreeing to the amendment.

The amendment (No. 2978), as amended, was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I wish to engage in a colloquy with the Chairman of the Armed Services Committee, Senator THURMOND.

The report accompanying this legislation states that the committee has included $191.4 million for three "standard" C–130J aircraft (in addition to funding for two other C–130J variants). The Administration's budget request included funding for one standard C–130J for the active Air Force. Thus, the committee added two standard C–130Js to the budget.

The report further states that these two standard C–130J aircraft added by this bill are designated for Reserve Component Modernization. However, the report appears not to include a designation for the requested C–130J. I would like to ask the Chairman, does the committee intend that all three of the standard C–130J aircraft in this bill—not simply the two added to the request—are designated for the Air National Guard?

Mr. THURMOND. Yes, that is correct.

Mr. DOMENICI. Mr. President, I want to compliment the Chairman of the Armed Services Committee on his very skillful handling of this important legislation and for his statesmanlike approach to some serious and troubling budget issues in this year's defense budget.

This year the defense budget is once again confronted with a serious mismatch between the DoD/OMB and the CBO estimates of the outlays needed to execute the programs in the budget. CBO's estimate was $3.7 billion higher than OMB and DOD's estimate.

Because the President's proposed defense budget was right up against the discretionary spending caps adopted in the Bipartisan Budget Agreement, compensating for CBO scoring would require large reductions in manpower, procurement, or readiness, or all three. Cuts like that are simply not acceptable.

Thanks in large part to the cooperation we received from the Chairman of the Armed Services Committee and of the Appropriations Committee, from CBO and from OMB, we were able to devise a solution to much of the problem. The solution has three parts:

First, Congress would legislate policies recommended by the Administration to better manage cash in DOD's Working Capital Funds. This would lower fiscal year 1999 outlays by $1.3 billion.

Second, Congress would agree to changes in two classified accounts in the Air Force budget that would lower 1999 outlays by $700 million.

Third, .Congress would enact asset sales amounting to roughly $700 million.

The Chairmen of the Armed Services Committee and the Appropriations Committee have assured me that taken together these actions reduce the 1999 outlay shortage to manageable dimensions and help avoid the negative effect on readiness or modernization that was feared.

Mr. President, I have reviewed the text of the 1999 Defense Authorization bill, and I believe we are within reach of the solution. However, I have a concern.

The cash management provisions of DOD's Working Capital Funds contains a waiver clause for the Secretary of Defense that is very broad. I am concerned that some in the Department may find this waiver authority too tempting to resist and will use up the outlays intended to be left in the cash reserves of the Working Capital Funds. Unless there are truly extraordinary and compelling reasons that are not now apparent to us, I believe it would be a very serious mistake to use the available waiver authority. Doing so would certainly destroy the cooperation and trust that has been built up this year with the Defense Department and OMB as we worked together to address this outlay problem.

Assuming there is no unwarranted use of the waiver authority granted in the amendment, I believe we can say we have bridged this problem this year. Next year, I very strongly hope we will receive more accurate outlay estimates from those who have in the past tended to underestimate them. It is unacceptable to receive such miscounts of outlays and then to be told that for Congress to adopt more accurate estimates, the readiness and modernization of our Armed Forces must be reduced. I hope this is the last time we are forced to address this issue.

Mr. WARNER. Momentarily, as acting leader, I will address the Senate.

On behalf of Senator LOTT, I ask unanimous consent that Senator INHOFE now be recognized to offer an amendment relative to BRAC and there be 30 minutes equally divided for debate tonight. Following that debate, the amendment be laid aside. I further ask that Senator HARKIN then be recognized to offer an amendment relative to VA health care, and there be 1 hour of debate equally divided for debate tonight, and the amendment then be laid aside.

I further ask that, at 9:30 a.m. on Thursday, Senator WELLSTONE be recognized to offer an amendment relative to DOD schools and there be 30 minutes equally divided; following the conclusion or yielding back of time, the Senate proceed to vote on or in relation to the amendment, with no amendments in order prior to the vote.

I further ask that, following the disposition of the Wellstone amendment, the Senate resume the Inhofe amendment for 10 minutes of closing remarks, to be equally divided, and the vote then occur on or in relation to the Inhofe amendment, with no amendments in order prior to the vote.

I further ask that, following the vote on or in relation to the Inhofe amendment, there be 10 minutes of debate on the Harkin amendment, and the vote then occur on or in relation to the Harkin amendment, with no amendments in order prior to the vote.

Is there any objection?

Mr. LEVIN. Reserving the right to object.

Mr. HARKIN. Reserving the right to object, I didn't quite hear all that, but there has always been sort of a comity in the Senate where we alternate from side to side on amendments. It seems to me the last couple of amendments have been on the other side. It would seem to be only logical that the next amendment be on this side.

I ask the Senator if we couldn't do that. I only need about 15 minutes.

Mr. INHOFE. Will the Senator yield?

Mr. HARKIN. I am happy to yield to the Senator.

Mr. INHOFE. I ask the Senator to at least consider that the amendment I have to offer is not a Republican amendment. We have just as many Democrats as Republicans. I have been waiting for 6½ hours to take it up. It will be very short. We have agreed to a time agreement, and we will not even take that much time.

Mr. HARKIN. I have a time agreement also, and I have been waiting all day. I will take only about 15 minutes on mine.

Mr. INHOFE. I have been on the floor.

Mr. HARKIN. We usually go back and forth on these things.

Mr. WARNER. I wonder if at this point the two Senators could sort this out in such a way that we could proceed tonight. I understand the Senator from Arizona also desires some time, 5 minutes on the Inhofe amendment.

Mr. LEVIN. If we reduce both debates tonight to 20 minutes, that might resolve this problem.

Mr. INHOFE. If I can go first, I am agreeable to that.

Mr. HARKIN. That would put you on until just before 9 o'clock. That would put me up about 9 o'clock. I still don't know why we can't go back and forth like we have always done in the past.

Mr. WARNER. I have to say to the Senator, I was not in the chair as the manager at the time the agreement was drawn.

Mr. LEVIN. Reserving the right to object, I want to ask one clarification. I understand this unanimous consent would preclude second-degree amendments at any time?

Mr. WARNFR. Prior to the vote, that is correct.

Mr. LEVIN. At any time prior to?

Mr. WARNER. Any time prior to the vote.

Mr. President, I repeat the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I have a further announcement for Senators. For the information of all Senators, there will be no further votes tonight. Several Members have agreed to remain tonight to debate other amendments, and there will be three votes occurring at 10 a.m., with a few minutes debate between the second and third votes.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2981

(Purpose: To modify the restrictions on the general authority of the Department of Defense regarding the closure and realignment of military installations, to express the sense of the Congress on further rounds of such closures and realignments, and for other purposes)

Mr. INHOFE. I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself and Mr. DORGAN, Mr. DASCHLE, Mr. LOTT, Ms. SNOWE, Mr. BENNETT, Mr. SMITH of New Hampshire, Ms. COLLINS, Mr. SHELBY, Mr. SESSIONS, Mr. HATCH, Mr. DOMENICI, Mr. CONRAD and Mr. CLELAND, proposes an amendment numbered 2981.

Mr. INHOFE. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in Title XXVIII of the bill, insert the following:

SEC. . MODIFICATION OF LIMITATIONS ON GENERAL AUTHORITY RELATING TO BASE CLOSURES AND REALIGNMENTS.

(a) ACTIONS COVERED BY NOTICE AND WAIT PROCEDURES.—Subsection (a) of section 2687 of title 10, United States Code, is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs (1) and (2):

"(1) the closure of any military installation at which at least 225 civilian personal are authorized to be employed;

"(2) any realignment with respect to a military installation referred to in paragraph (1) if such realignment will result in an aggregate reduction in the number of civilian personnel authorized to be employed at such military installation during the fiscal year in which notice of such realignment is submitted to Congress under subsection (b) equal to or greater than—

"(A) 750 such civilian personnel; or

"(B) the number equal to 40 percent of the total number of civilian personnel authorized to be employed at such military installation at the beginning of such fiscal year; or".

(b) DEFINITIONS.—Subsection (e) of that section is amended—

(1) in paragraph (3), by inserting "(including a consolidation)" after "any action"; and

(2) by adding at the end the following:

"(5) The term 'closure' includes any action to inactivate or abandon a military installation or to transfer a military installation to caretaker status.".

SEC. . PROHIBITION ON CLOSURE OF A BASE WITHIN FOUR YEARS AFTER A REALIGNMENT OF THE BASE.

(a) PROHIBITION.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2687 the following:

§2688. Base closures and realignments: closure prohibited within four years after realignment in certain cases

"(a) PROHIBITION.—Notwithstanding any other provision of law, no action may be taken, and no funds appropriated or otherwise available to the Department of Defense may be obligated or expended, to effect or implement the closure of a military installation within 4 years after the completion of a realignment of the installation that, alone or with other causes, reduced the number of civilian personnel employed at that installation below 225.

"(b) DEFINITIONS.—In this section, the terms 'military installation', 'civilian personnel', and 'realignment' have the meanings given such terms in section 2687(e) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2687 the following:

"2688. Base closures and realignments: closure prohibited within four years after realignment in certain cases.".

(b) CONFORMING AMENDMENT.—Section 2687(a) of such title is amended by inserting "(other than section 2688 of this title)" after "Notwithstanding any other provision of law".

SEC. . SENSE OF THE SENATE ON FURTHER ROUNDS OF BASE CLOSURES.

(a) FINDINGS.—The Senate finds that—

(1) While the Department of Defense has proposed further rounds of base closures, there is no need to authorize in 1998 a new base closure commission that would not begin its work until three years from now, in 2001;

(2) While the Department of Defense has submitted a report to the Congress in response to Section 2824 of the National Defense Authorization Act for Fiscal Year 1998, that report—

(A) based its estimates of the costs and savings of previous base closure rounds on data that the General Accounting Office has described as "inconsistent", "unreliable" and "incomplete";

(B) failed to demonstrate that the Defense Department is working effectively to improve its ability to track base closure costs and savings resulting from the 1993 and 1995 base closure rounds, which are ongoing;

(C) modeled the savings to be achieved as a result of further base closure rounds on the 1993 and 1995 rounds, which are as yet incomplete and on which the Department's information is faulty; and

(D) projected that base closure rounds in 2001 and 2005 would not produce substantial savings until 2008, a decade after the federal government will have achieved unified budget balance, and 5 years beyond the planning period for the current congressional budget and Future Years Defense Plan;

(3) Section 2824 required that the Congressional Budget Office and the General Accounting Office review the Defense Department's report, and—

(A) The General Accounting Office stated on May 1 that "we are now conducting our analysis to be able to report any limitations that may exist in the required level of detail. . . . [W]e are awaiting some supporting documentation from the military services to help us finish assessing the report's information.";

(B) The Congressional Budget Office stated on May 1 that its review is ongoing, and that "it is important that CBO take the time necessary to provide a thoughtful and accurate evaluation of DoD's report, rather than issue a preliminary and potentially inaccurate assessment.";

(4) The Congressional Budget Office recommended that "The Congress could consider authorizing an additional round of base closures if the Department of Defense believes that there is a surplus of military capacity after all rounds of BRAC have been carried out. That consideration, however, should follow an interval during which DoD and independent analysts examine the actual impact of the measures that have been taken thus far."

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that:

(1) Congress should not authorize further rounds of base closures and realignments until all actions authorized by the Defense Base Closure and Realignment Act of 1990 are completed; and

(2) The Department of Defense should submit forthwith to the Congress the report required by Section 2815 of Public Law 103–337, analyzing the effects of base closures and realignments on the ability of the Armed Forces to remobilize, describing the military construction projects needed to facilitate such remobilization, and discussing the assets, such as air space, that would be difficult to reacquire in the event of such remobilization.

The PRESIDING OFFICER. It is the Chair's understanding that the time on both amendments has now been reduced to 20 minutes.

Mr. INHOFE. That is correct.

Mr. HARKIN. Mr. President, I did not agree to that. I am sorry, that had to do with something else. I still reserve the amount of time that was requested.

The PRESIDING OFFICER. Under the original order, the Senator from Oklahoma, Mr. INHOFE, gets 30 minutes, equally divided, and the Senator from Iowa, Senator HARKIN, gets 1 hour, equally divided. That is the original order.

The Senator from Oklahoma has the floor.

Mr. INHOFE. I think I probably will voluntarily cut this down. It depends on who shows up and wants to be heard.

Mr. President, as I have said in response to the comment by the Senator from Iowa, this is not really a Republican amendment. We have, certainly, Senator DASCHLE, Senator DORGAN, Senator CLELAND, Senator CONRAD, and many Democrats who are supporting this amendment.

The need for this amendment came up when several comments were made by members of the administration, primarily Acting Secretary Peters of the Air Force, making statements that, "We don't care whether or not we are authorized to have further BRAC rounds, we are going to go ahead and close bases anyway."

Later in this discussion, I will actually offer some of the quotes that were made. Right now, I will merely explain what this amendment does. It does essentially five things.

First of all, the current language, in order for a military facility to be closed without Congress' consent, has a threshold of 300 civilian employees. Let me stress, that is civilian employees, not military employees. This bill will reduce that number to 225.

Now, my original bill would have reduced it to 150. I still like that better. However, I was willing to accommodate the concerns of several Democrats and other people who wanted to have 225. The effect of this would mean that if they tried to close a military base, they could not do it without our consent unless that base had more than 225 civilian employees.

No. 2, in the event that realignment became the desire of the services—Department of Defense—that they could not do it if there were as many as 750 civilian positions or 40 percent of the total civilians authorized to be employed.

The current language has a threshold of 1,000 civilian employees at 50 percent of the total civilians authorized to be employed. So this again is dropping that down a modest amount, by approximately 25 percent.

No. 3, we clarify the definition of closure. The reason we feel this is necessary is that there have been statements made like, "We will just transfer it to a caretaker status, or a state of inaction or abandonment." What we are doing is expanding the definition in the law of closure to include these statements, so that someone cannot do this and circumvent the closure requirements by saying we are not closing, we are just abandoning or putting it into a state of inaction.

On this, I pause at this point and say, if you stop and think about every community in America that might have some type of a facility, they would not know, they would not be prepared in advance as to whether or not somebody is going to try to make it inactive or put it into caretaker status. We want to be straightforward and say if you are going to close it, you are going to close it—using those terms.

No. 4, we will add a provision that requires a waiting period of 4 years after a realignment before a base could be closed, if that realignment drops the civilian workforce below the new threshold of 225 civilians. Our concern here is that this can be circumvented and we could be left out of the loop as the U.S. Senate if they were able to take it one step at a time and say, fine, we are going to go ahead and realign, and next week we will come and realign some more and have the effect of closing a base entirely, regardless of the number of employees, if they are willing to do that. This would preclude that.

Lastly, it is the sense of the Senate that there is no need to reauthorize for the year 2001 in this 1998 authorization bill. There is no reason in the world that we can't have more time to consider this and to see how current law works and maybe address this again in the 1999 authorization bill. It would not make any difference at all; it would still be the year 2001.

These are essentially the changes in the current law that this amendment would offer.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. I don't have any requests for time on my side.

I retain the remainder of my time.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this amendment sends the wrong message to every single person in the Defense Department. That message is: Do as I say, not as I do. We are telling the Department of Defense to be more efficient, to adopt better business practices, to do more with less, to go faster in reshaping the military for the threats of the 21st century.

We are pushing the DOD to have their inventory maintained more efficiently, to cut acquisition personnel, cut headquarters personnel, cut the number of ships and aircraft and combat troops. But, apparently, the military forces of the future that some colleagues have in mind will cut equipment, people, and supplies, but leave all the empty buildings standing to impress people.

This amendment tells our soldiers that despite what we say, our real priority would be to protect our turf back home, instead of protecting the well-being of our future soldiers, sailors, airmen and marines. Every single top uniformed military and civilian military have told us that the reality is that the money we spend maintaining more bases than we need is money that we can't spend buying our troops the things that they do need.

You know, it is one thing not to authorize some more BRAC rounds, and it is something altogether different to make even an alignment that is currently possible without BRAC, to make that more difficult. This amendment takes us in exactly the wrong direction. It will make reductions more difficult than they are now.

I happen to support BRAC rounds, but that is not the issue here. The issue here isn't whether we add a round or two rounds of BRAC, as much as that may be necessary in the judgment of some of us; the issue here is whether or not we make it more difficult to realign facilities that are currently realignable without BRAC. This amendment will make it more difficult.

If this amendment is adopted, it is either going to kill this bill, or if the President does sign a bill that includes this provision—which is a very uncertain prospect—it is going to put a very large wrench into the Defense Department's gears and bring the Defense Department's efforts to make its base structure more rational and efficient to a grinding halt.

The Secretary and Deputy Secretary are trying to move the Defense Department into the 21st century. This amendment is trying to set the Defense Department in concrete.

This is what Secretary Cohen wrote to Chairman THURMOND and me on June 22:

> DEAR MR. CHAIRMAN: I am writing to express the Department of Defense's strong opposition to an amendment to the fiscal year 1999 Defense Authorization Bill that has been proposed by Senators Inhofe and Dorgan. If enacted, this amendment would further restrict the Department's already limited ability to adjust the size and composition of its base structure. The Department will have views on other provisions in the Authorization Bill as well, but I want to draw your attention to this particular amendment before the Senate completes consideration of your bill.
>
> The Department can undertake closures and realignments only after first complying with the requirements of 10 USC 2687. As a practical matter, section 2687 greatly restricts the Department for taking any action to reduce base capacity at installations with more than 300 civilians authorized. The amendment being proposed would extend the application of section 2687 to an even greater number of installations.
>
> This proposal would seriously undermine my capacity to manage the Department of Defense. Even after eight years of serious attention to the problem, we still have more infrastructure than we need to support our forces. Operating and maintaining a base structure that is larger than necessary has broad, adverse consequences for our military forces. It diverts resources that are critical to maintaining readiness and funding a robust modernization program. It spreads a limited amount of operation and maintenance funding too thinly across DoD's facilities, degrading the quality of life and operational support on which readiness depends. It prevents us from adapting our infrastructure to keep pace with the operational and technical innovations that are at the cornerstone of our strategy for the 21st century. In short, this amendment would be a step backward that would harm our long-term security by protecting unnecessary infrastructure.
>
> I urge you to oppose the Inhofe/Dorgan amendment during floor consideration of the Authorization Bill. Its passage would put the entire bill at risk. Congress has given me the responsibility to organize and manage the Department's operations efficiently. I need to preserve my existing authority to fulfill that responsibility.

Mr. President, I think all of us who are on the Armed Services Committee—including my friend who is proposing this amendment—are very sensitive to that question. We want an authorization bill, we want to get an authorization bill to the President, and we want him to sign an authorization bill. The Secretary of Defense is telling us in this letter, in his words, that passage of this amendment would "put the entire bill at risk."

There are many ways in which this amendment would make it more difficult for the Defense Department to realign bases that are currently realignable. It does that by changing, reducing the number of civilians at a base that would require notification to Congress, or would require realignment action by a base closing commission. This amendment lowers the threshold for any base with 300 people to a base with 225 civilians. Even though the current definition of 300 captures all of our major installations, this amendment would go deeper. This amendment would make it more difficult for the Secretary of Defense to make the kind of efficiencies that we are demanding everywhere else in the defense budget.

So I hope this amendment will be rejected. It is a step in the wrong direction. If we don't have what, in my judgment, is the courage to adopt an additional round or two rounds of BRAC—of Base Closing Commission—with the power to make a recommendation to us and the President, and a certainty that that would be voted on—if we don't have the courage to do that because it will put at risk facilities in each of our States, for heaven's sake, we should not go backwards, dig ourselves into a deeper hole, require lesser efficiencies instead of greater efficiencies. We should not set the Department of Defense in deeper concrete, thicker concrete than it already is in. So I hope that this amendment will be rejected.

I thank our colleague, Senator INHOFE, for a number of things.

One is his willingness to raise this amendment tonight, even though it means there will be less time tomorrow for us to debate this amendment. His willingness to offer this amendment tonight is very courteous to all of us who are trying to move this bill. I thank him for that courtesy, and many other courtesies which he has extended.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Michigan. It has been a very helpful step to enable us to keep moving here tonight.

Mr. THURMOND. Mr. President, the Senate Armed Services Committee expressed its views regarding base closure when it voted 10 to 8 against an amendment that would have authorized additional base closure rounds. I fully support that decision although I have an open mind on future legislation, especially if the Administration makes a better case for additional rounds and the rounds are scheduled after the current base closure activities are completed.

In regard to the amendment before us, I believe it will have little if any impact on whether or not we will close additional bases. The amendment is in reaction to the Department's threat to close bases by attriting personnel below the 300 threshold set by section 2687 of title 10. While I do not believe that this is an idle threat, reducing the threshold to 225 personnel will have little or no impact.

To close or realign bases under section 2687, the Department of Defense must notify Congress as part of its request for authorization of appropriations and must provide the Congress an evaluation of fiscal, local economic, budgetary, environmental, strategic, and operational consequences of proposed closures and realignments. One of the most important drawbacks to the section 2687 process is the requirement to complete a full environmental study under the provisions of the National Environmental Policy Act before a closure or realignment decision is made and sent to Congress. While such studies are under way, usually for a period of 12 to 18 months, litigation is likely to arise, effectively derailing the proposed closure and realignment. Additionally, individual actions can be thwarted by withholding the appropriation of funds to execute a closure or realignment. Section 2687 has effectively prevented DoD from reducing its infrastructure through closures or realignments at any of its significant facilities.

Mr. President, this legislation is unnecessary and I urge the Senate to reject the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the BENS Tail-to-Tooth Commission, and a letter from Taxpayers for Common Sense.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BENS TAIL-TO-TOOTH COMMISSION,
June 10, 1998.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR THURMOND: We are writing to express our strong opposition to the Dorgan-Inhofe Amendment to the FY1999 Defense Authorization bill. This amendment severely hampers the Pentagon's ability to rationally manage its military bases and personnel.

As members of the BENS Tail-to-Tooth Commission, we all share a commitment to reforming the Department of Defense so that we can invest savings in new procurement and enhancing the readiness of our military forces. the Senate is on record in support of these goals; yet, the Dorgan-Inhofe amendment moves us in the opposite direction. By locking in the status quo, this proposal prevents the Pentagon from making rational business decision that will save money, and most importantly, improve the support provided to service members.

Under this plan, the Pentagon is required to prepare costly and time consuming impact statements when it proposes to move as few as ten civilian employees. It also provides unfair protection to numerous facilities that would be declared off limits should the Base Closure and Realignment Commission be authorized in the future.

Passage of the Dorgan-Inhofe amendment would be a major blow to the cause of smart management. the cost to taxpayers, and most important, to the troops will be significant. We urge you to oppose this ill-conceived proposal.

Sincerely,

Admiral Stanley R. Arthur, USN (Ret.); Mr. Raphael Benaroya; Mr. Denis A. Bovin; the Honorable Howard H. Callaway; the Honorable Frank C. Carlucci; Ms. Maryles V. Casto; Mr. Michael S. Fields; the Honorable Sidney Harman; Dr. Anita K. Jones; the Honorable James R. Jones; Mr. James V. Kimsey; Admiral Wesley McDonald, USN (Ret.); Lt. Gen. Thomas McInerney, USAF (Ret.); Ms. Ann McLaughlin; General Merrill A. McPeak, USAF (Ret.); General Thomas Moorman, USAF (Ret.); Mr. John P. Morgridge; Mr. William F. Murdy; Admiral William A. Owens, USN (Ret.); the Honorable William J. Perry; Mr. William J. Rouhana, Jr.; Admiral William D. Smith, USN (Ret.); General Gordon R. Sullivan, USA (Ret.) and Mr. Josh S. Weston.

OPPOSE DORGAN/INHOFE AMENDMENT TO MAKE IT HARDER TO REALIGN SMALL MILITARY BASES

DEAR SENATOR: When the Senate considers S. 2057, the Fiscal Year 1999 Defense Authorization Bill, we urge you to vote against the Dorgan/Inhofe Amendment, which would make it more difficult to realign and consolidate small military installations. The amendment would require Department of Defense (DoD) to waste money that could otherwise be used to reduce overall defense spending or pay for improved readiness or weapons procurement. The amendment would be a disservice to both taxpayers and soldiers.

Currently, the law restricts DoD's ability to close bases that have authorizations for 300 or more civilians. The law also restricts realignments at installations with over 300 civilians authorized when the realignment involves the reduction or relocation of more than fifty percent of civilians authorized. The amendment expands the scope of the restrictions by decreasing the 300 person threshold to 225 and restricting realignments at all installations if such action affects 40 percent or more of the civilians authorized.

To illustrate, an installation as few as ten civilians could not realign more than three employee positions without: (1) notifying Congress of the proposed action as part of DoD's request for defense authorizations; (2) providing Congress with an evaluation of the fiscal, local economic, budgetary and environmental impact, strategic, and operational consequences of proposed closures and realignments; (3) conducting a full environmental study before the proposal is sent to Congress; and (4) then waiting 30 legislative days or 60 calendar after notifying Congress before executing the realignment.

There is no need to compel the DoD to maintain Cold War infrastructures now that the Cold War has ended. The proposed amendment would make it all but impossible for the DoD to reorganize, consolidate, or close unnecessary small bases. Every excessive base, airfield, depot and station undermines U.S. national security and wastes taxpayer money. We urge you to allow DoD to retain one of the tools it needs to provide the American people with the best possible defense our tax dollars can buy. Vote "NO" to the Dorgan/Inhofe Amendment.

Sincerely,

RALPH DEGENNARO,
Executive Director.

Mr. WARNER. Mr. President, I have a few comments.

Ironically, I was the author of the last base closure legislation. I saw right here just a day or so ago Senator DIXON of Illinois. He was my other principal author of that resolution.

I think it is absolutely essential that the United States reduce its infrastructure and enable the Secretary today and the Secretaries of Defense thereafter to husband those funds from the reduction as best they can and channel those needed dollars into readiness and modernization, and all types of things that have a much, much higher priority than so much of the excess that we now have in the military structure.

The last time we considered this BRAC concept in the committee, I voted against it simply because I was so disheartened by some of the procedures with regard to certain bases in California, and then subsequent revelation of letters from an individual in the Secretary of Defense's Office which clearly indicated to me a certain bias.

We just have to get politics out of this process someday. I am not sure when that will be. But as soon as we can come up with some system which guarantees elimination of politics, then you can count on the Senator from Virginia supporting the BRAC process going forward. In the meantime, I register my opposition against my good friend and fellow Member.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. INHOFE. Mr. President, I want to clarify the time of the minority leader.

The PRESIDING OFFICER. The Senator from Michigan controls 5 minutes 45 seconds. The Senator from Oklahoma has 10 minutes.

Mr. LEVIN. I would be happy to yield that 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. MCCAIN. Mr. President, I was looking at the amendment. I find it to be very interesting.

First of all, there is a very strongly worded letter from the Secretary of Defense:

> Congress has given me the responsibility to organize and manage the Department's operations efficiently. I need to preserve my existing authority to fulfill that responsibility.

I think Secretary Cohen's words are very important. We should keep them in mind.

Mr. President, I was looking at this amendment. There is a prohibition, and there is a sense-of-the-Senate part of the prohibition which says, "Notwithstanding any other provision of law, no action may be taken, and no funds appropriated, or otherwise available to the Department of Defense, may be obligated or expended to effect, or implement, the closure of a military installation within 4 years after the completion of a realignment of the installation."

That alone—". . . or with other causes, reduce the number of civilian personnel employed at that installation below 225."

I find that an astonishing clause. First of all, civilian employment seems to be the case here. Second of all, 4 years?

Suppose you had an installation—I ask the Senator from Oklahoma—that had 230 civilian employees, and a contract at the base at the Pentagon was canceled, therefore negating the need for the civilian workers, and reduce them by 6, down from 230, down to 224. Nothing can be done by the Secretary of Defense for 4 years? This is a very unusual restraint that we are attempting to impart on the Secretary of Defense.

Second of all, on the sort of findings here, there is one finding that should be leading of all in this; that is, base closures save money. That is something that we seem to avoid in this debate—that fact. If base closures didn't save money, Mr. President, we made a horrible mistake at the end of World War II. Do you know? We made a terrible mistake at the end of World War II, because there were thousands of bases around America. Do you know what? We closed them. I can't imagine how much that must have cost the taxpayer in order to close those thousands of bases.

I sit here and listen to arguments that closing bases costs money. Of course it costs money in the short term. You are cleaning up an installation. But everybody knows that in the long term it saves money. And, unless we do so, you cannot hope to fund the modernization of the force and all of the other requirements that we need to meet the challenges of the 21st century.

Mr. President, the Department of Defense estimates that they need to close about 50 major facilities and realign 25 others. That is so they can match infrastructure to force size and structure.

I hear many, many hours of debate on the base closing issue, but I don't hear the debate that I think is necessary on the floor of the Senate in order to maintain our national defense capability—the overall question. We are spending less and less on defense. We are putting more money into pork barrel projects, and we are allowing a base to close. The ultimate result is that you reduce the capability of the military force.

Not only did we turn back in committee. I was sorry that the Senator from Virginia chose to vote against the amendment in committee. Not only did we vote in committee against any base closing round anytime in the near future, but now we are going to restrict even the ability of the Secretary of Defense to move people around from one base to another in keeping with the changing mission.

I, frankly, first of all, don't understand the argument that somehow closing bases doesn't save money. As I say, if we did, we made a terrible mistake after World War II and after the Korean war and after the Vietnam war.

The other thing I don't understand is how we can worry about the Congressional Budget Office. The May 1 review is ongoing, and it is for the Congressional Budget Office to take the time necessary to provide a thoughtful and accurate evaluation of DOD's report rather than issue a preliminary and potentially inaccurate assessment.

The Congressional Budget Office, in a remarkable act of courage, says the Congressional Budget Office recommended the Congress could consider authorizing an additional round of base closing if the Department of Defense believes there is a surplus of military capacity.

Is there anybody who thinks that the Department of Defense doesn't believe there is a surplus of military capacity? After all, BRAC rounds have been carried out. This consideration, however, should follow an interval during which DOD and independent analysts examine the actual impact of the measures that have been taken thus far.

Mr. President, I oppose the amendment.

I ask for an additional minute from the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is out of time.

Mr. McCAIN. Mr. President, I hope someday that we will address the issues on this floor—like 11,100 military families on food stamps, like men and women who are leaving the military in droves because they do not have the equipment to fight with and operate with, like the incredible long deployments that we are sending these men and women on, like the fact that we are not prepared to meet the post-cold-war challenges in any reasonable and responsible way. Instead, we seem to spend our time arguing and fighting over a base closing. I think, frankly, it is something we ought to get resolved and behind us. If we never want to close a base, let's do that. But let's not go through this every single year.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I have so much respect for both the Senator from Arizona and the Senators from Michigan and Virginia. I have to say, I am sure the Senator from Arizona would agree that there is no stronger proponent for a strong national defense than I am. We work hard.

One of the big problems I have is that we need to look at the overall picture. All this talk about base closings is important. I support base closures. I made it very clear that we have time on this. If we do not have base closures until the year 2001, there is no reason to be addressing base closures in this bill.

Certainly—I also respond to the Senator from Arizona—what he referred to was a sense-of-the-Senate portion of this bill. It says, "Notwithstanding any other provision of the law," no action would be taken, and no funds appropriated, and so forth, as you read.

However, if we should authorize another BRAC process, that would have precedence over this and this would not be in effect.

It is my understanding that the Senator from Washington has a request for a couple, 3 minutes and I would like to yield to him, and then I will respond to the rest of the comments that have been made.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

Mr. GORTON. Mr. President, I do not believe that there has been any more successful and imaginative policy with respect to our military preparedness than the three base-closing rounds that were created by a law imagined by the now majority leader of the House of Representatives, a major contribution to a rational system—at least, Mr. President, a rational system until the last base closure round when, in spite of the fact that everyone felt that this issue had been taken out of politics, the President of the United States poisoned the well by totally politicizing the base-closure process.

The Senator from Virginia, I think, wisely voted against another base-closure process presided over by this President. I agreed with that proposition on the basis that once again it would become a part of the Presidential campaign in the year 2000, and I will not vote for another such process until we can be guaranteed that we will take it out of politics.

I am going to vote for the amendment from the Senator from Oklahoma perhaps for the same reason that the Senator from Virginia is going to vote against it. I am going to vote to emphasize even more forcefully that he has my bitter disappointment in the way in which this important process was politicized. And I think we need to send a message, yes, even to the Department of Defense that we will not permit that kind of thing to happen in the future. And this, it seems to me, is a pretty good way to send that message.

I wish I could have voted this year for another base-closing round. I cannot because of what happened during the course of the last Presidential election, and I will support the Senator from Oklahoma because I think he makes that point even more forcefully.

Mr. INHOFE. I thank the Senator from Washington. I would like to inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator from Oklahoma controls 6 minutes 30 seconds.

Mr. INHOFE. Mr. President, first of all, let me clarify something. I do support the process. It happens that I was elected to the other body in 1986, and that is when Representative DICK ARMEY from the State of Texas came out with the whole idea that we have got to close down some of the infrastructure that is no longer needed. We understand that. But we can't do it because of the politics that are there.

So he devised a system, and that system was devised to take the politics out of it, and it worked. If there were time, I would read the statement he made on the floor of the House of Representatives when he found out he had to do something that was bad for his State of Texas, and he was willing to do it to save the system, the integrity of the system that was designed to take politics out of it.

Now, as the Senator from Washington said, politics were reinserted, and when that happened I think several of us felt we had to ensure that did not happen again. And so some of the people, wisely perhaps, said that, well, we can do that by waiting until after this President is no longer in office, 2001.

My concern there is I don't know who is going to be the Republican nominee or who is going to be the Democratic nominee or who will ultimately be the next President of the United States. But if that President should be inclined to do so, it would be a tremendous temptation for him to use the same politics that President Clinton used, because if he doesn't do it, he is not using the full force of his office. That is a precedent that has been set. We are trying to stop that now.

I would like to respond to the distinguished Senator from Michigan. He made the statement about money being saved. I have supported every effort to increase our defense spending. For 15 consecutive years now we have actually reduced defense spending when many people a lot smarter than I am agreed with the statement that I have made when I said that I feel the threat that is facing America is greater today than it was even during the cold war because of the nonpredictability, the unpredictability of the threat that is out there, the proliferation of weapons of mass destruction, the fact there are missiles out there right now that can reach all the way to any city in the United States of America. And it has been recently disclosed by some newspapers that there are, in fact, some missiles, some CSS-4 missiles in China that are targeted at the United States.

Now, I anticipate the President will come back and say, I accomplished the retargeting of these things. However, if you remember the Anthony Lake hearings, we documented the fact that retargeting can take place in as short as 3 minutes.

So anyway, I would say this as far as money being saved by base closures. It is bleeding right now. We need to have as much money right now in order to try to help our defense system survive. Modernization, force strength, quality of life, all of these we are having very serious problems with. We have the lowest retention rate right now we have had in the history of some of the services, including the Air Force. It costs $6 million to put someone in the seat of an F-16 and yet we are losing the pilots. I heard an unofficial report today it is not a retention of 25 percent. It is now down below 20 percent. That is very serious.

But let's look at where we can really fund the services. The first thing I would do, if I were responding to the Senator from Michigan, is get us out of Bosnia. Right now, that was supposed to cost us some $1.2 billion. Now it is over $9 billion direct, and I suggest about twice that much money in reality.

I would also comment that as far as Senator Cohen's statement that this might draw a veto, I find it very difficult to believe that a bill that is supported by the number of Democrats that are supporting this bill, including the minority leader, TOM DASCHLE, is going to draw a veto. This is a threat that is always there. And I would also comment that Secretary Cohen, when he was Senator Cohen, would have been right up here with me supporting this amendment. And if anyone questions that, I can document that.

Thirdly, when you talk about the courage to do a BRAC, yes, we need to do it. We have to first protect the integrity of the system. That is what the Senator from Washington is saying, and that is exactly what I want to do. I want to reduce more infrastructure. I made that statement. I have said that we need to do it professionally and it needs to be done out of politics.

Lastly, when the Senator from Virginia talked about taking politics out of the process, I really think the distinguished Senator from Virginia gave a pretty good argument for my amendment. So I understand that tomorrow we are going to have—my time has expired, but we are going to have 10 minutes equally divided. Senator DORGAN and some other Senators who are not here tonight have asked to have that time, which I will yield to them tomorrow.

I yield back the remainder of my time and yield the floor.

Mr. WARNER. Mr. President, I think that concludes the number of speakers who desire to address this amendment. I would simply close by saying that I take very seriously the letter by our distinguished former colleague, the Secretary of Defense, William Cohen, and I put my bottom dollar on his integrity to see that this process would work without politics. I really do. I feel strongly about that. So for that reason I strongly oppose the amendment.

Now, Mr. President, I think we go to our distinguished colleague.

The PRESIDING OFFICER. Under the previous order, the Inhofe amendment 2981 is set aside until tomorrow.

Mr. WARNER. Set aside pursuant to the order.

The PRESIDING OFFICER. Pursuant to the order.

Mr. WARNER. I thank you, Mr. President.

The PRESIDING OFFICER. And the Senator from Iowa is recognized to present an amendment upon which there is 1 hour of debate equally divided.

AMENDMENT NO. 2982

(Purpose: To authorize a transfer of funds from the Department of Defense to the Department of Veterans Affairs for health care.)

Mr. HARKIN. Mr. President, I have an amendment I send to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. WELLSTONE, proposes an amendment numbered 2982.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle A of title X, add the following:

SEC. . TRANSFER TO DEPARTMENT OF VETERANS AFFAIRS.

(a) TRANSFER REQUIRED.—The Secretary of Defense is authorized to transfer to the Department of Veterans Affairs $329,000,000 of the amounts appropriated for the Department of Defense pursuant to the authorizations of appropriations in this Act. In the case of any such transfer, the Secretary shall select the funds for transfer, and shall transfer the funds, in a manner that causes the least significant harm to the readiness of the Armed Forces and the quality of life of military personnel and their families.

(b) USE OF TRANSFERRED FUNDS.—Funds transferred pursuant to subsection (a) shall be available for health care programs of the Department of Veterans Affairs.

Mr. HARKIN. Mr. President, for the benefit of colleagues, I do not intend to take anywhere near a half hour on this on my side, and hopefully will yield back a lot of time so we can get out of here at an early hour.

This amendment, pure and simple, is to take some money from the Department of Defense and put it into the medical account of the Department of Veterans Affairs. This amendment would transfer $329 million specifically from the Department of Defense budget to the medical accounts of the Department of Veterans Affairs. Let me be clear that what this amendment will do will not increase the amount of money, really, going to veterans' medical accounts. It will just keep it level in accordance with medical inflation.

Budgets are about priorities. Tight restrictions on discretionary spending over the past several years, and spending caps created last year to balance the budget, have forced some tough choices to be made. But I ask my colleagues, what greater priority can there be than to take care of those who have defended the very right of our country to exist? Our veterans have fulfilled the duty they had to serve their country. Now it is up to this Congress to fulfill our duty, our obligation, our solemn promise to provide for our veterans.

The needs of our veterans are clear. The aging veteran population, rising personnel costs and medical inflation, means that each dollar provided for veterans' health care benefits cannot be stretched as far as it used to be. The 5-year budget plan assumed no increases for the discretionary spending of Veterans Affairs. Let me say that again. The 5-year budget plan assumed no increases for VA discretionary spending; in other words, no taking into account the cost of inflation, and especially medical inflation. The well-being of our veterans must not be subject to second-class status. Veterans' funding deserves to be considered as more than just an afterthought.

My amendment is supported by many veterans and veterans groups. Mr. President, I ask unanimous consent to have printed in the RECORD letters of support for my amendment from the Vietnam Veterans of America, Incorporated; the Blinded Veterans Association and the Paralyzed Veterans of America.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

VIETNAM VETERANS OF AMERICA, INC.,
Washington, DC, May 15, 1998.

Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: On behalf of Vietnam Veterans of America (VVA) I want to convey our appreciation and support for your proposed amendment to S. 1812, the FY 1999 National Defense Authorization Act, aiming to transfer resources from the Department of Defense (DOD) to the Department of Veterans Affairs (VA) to supplement the medical care budget. VVA has long held the principle belief that the health care and benefits needs of veterans are an ongoing cost of our nation's defense. Your amendment will carry forward with assurance of the Nation's commitment to veterans military service related health care needs.

VA medical care, as you know, has been plagued by resource limitations for many years and is currently facing flatline budgets for the next several years. The financial wringer has already squeezed out any opportunities to achieve greater efficiencies. Despite promises from Congress and the Administration to the contrary, the ultimate effect is more restrictive access to medical care because of fewer appropriated dollars. Fewer dollars means fewer veterans will be served, pure and simple. The amendment you are offering would help to counter the effects of increasing medical inflation and personnel costs. Without these additional funds, the only possible effect is denial of services to veterans, many of whom are disabled due to their military service.

Some of your colleagues have argued that attrition of the veterans population through deaths of World War II veterans is an indication that VA needs less money to operate. However, this narrow perspective fails to take into account the rising costs of medical care and more importantly the current demographics of the veteran populations; VA health care users are older and sicker than the overall American public. Vietnam veterans now represent the largest group within the veterans population. Many of the Vietnam veterans and a growing population of Persian Gulf War veterans have complex problems relating to herbicide, chemical and other environmental exposures.

VVA strongly believes that Congress must commit an adequate annual appropriations to VA medical care programs. Your amendment is a very positive recognition of the current circumstances and needs of America's veterans. Thank you for your initiative to attempt redistributing some DOD funds toward VA medical care.

Sincerely,

KELLI WILLARD WEST,
Director of Government Relations.

BLINDED VETERANS ASSOCIATION,
Washington, DC, May 14, 1998.

Hon. TOM HARKIN,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Blinded Veterans Association (BVA) I am writing to support your proposed amendment to S. 1812, the National Defense Authorization Act for Fiscal Year 1999. This amendment would transfer resources from the Department of Defense to the Department of Veterans Affairs (VA) for medical care for veterans.

VA medical care is facing a crisis, resulting from the provision of inadequate resources. Appropriations for VA medical care are proposed to be frozen. The Administration's FY 1999 budget for VA medical care requests fewer appropriated dollars, and fewer resources. The amendment that you are offering, along with Senator Wellstone, would provide much needed additional resources, to help counter increases attributable to rising personnel costs and medical inflation. Without these additional dollars, these increases would have to be made up from dollars targeted for the health care needs of veterans.

The VA Health Care System has already been pared to the bone and we doubt there are any more efficiencies that can be realized to offset inadequate resources. VA Under Secretary for Health, Dr. Kenneth Kizer has recently acknowledged that without additional resources the VA Health Care System could soon "hit the wall." We must maintain this Nation's commitment to veterans, and your amendment is an important step forward in keeping this commitment.

Sincerely,

ELIZABETH R. CARR,
BVA National President.

PARALYZED VETERANS OF AMERICA,
Washington, DC, May 13, 1998.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Paralyzed Veterans of America (PVA) I am writing to support your proposed amendment to S. 1812, the National Defense Authorization Act for Fiscal Year 1999, which would transfer resources from the Department of Defense to the Department of Veterans Affairs (VA) for medical care for veterans.

VA medical care is facing a crisis, a crisis resulting from the provision of inadequate resources. Appropriations for VA medical care are proposed to be frozen. Indeed, the Administration's FY 1999 budget for VA medical care requests fewer appropriated dollars, and fewer resources. The amendment that you are offering, along with Senator Wellstone, would provide much-needed additional resources, resources to help counter increases attributable to rising personnel costs and medical inflation. Without these additional dollars, these increases would have to be made up from dollars targeted for the health care needs of veterans.

The VA health care system has already been pared to the bone and we doubt there are any more efficiencies that can be realized to offset inadequate resources. VA Under Secretary for Health Dr. Kenneth Kizer has recently acknowledged that without additional resources the VA health care system could soon "hit the wall." Unfortunately, when the system does hit the wall sick and disabled veterans will feel the effect of the collision. We must maintain this Nation's commitment to veterans, and your amendment is a step forward in keeping this commitment.

Sincerely,

KENNETH C. HUBER,
National President.

Mr. HARKIN. I might just quote here from the Vietnam Veterans of America:

> VVA has long held the principle belief that the health care and benefits needs of veterans are an ongoing cost of our Nation's defense.

I think that is the problem around here. We have a defense budget, then we have a veterans' affairs budget—as if somehow they are separate and distinct and have no connection with one another. I think this sentence really says it clearly:

> . . .the benefits needs of veterans are an ongoing cost of our nation's defense.

We cannot separate the two.

> Your amendment will carry forward with assurance of the Nation's commitment to veterans' military service-related health care needs.

The letter from the Vietnam Veterans of America, Incorporated, goes on and says:

> Some of your colleagues have argued that attrition of the veterans population through deaths of World War II veterans is an indication that VA needs less money to operate. However, this narrow perspective fails to take into account the rising costs of medical care, and more importantly, the current demographics of the veterans population. VA health care users are older and sicker than the overall American public. Vietnam veterans now represent the largest group within the veterans population. Many of the Vietnam veterans and a growing population of Persian Gulf war veterans have complex problems relating to herbicide, chemical and other environmental exposures.
>
> VVA strongly believes that Congress must commit an adequate annual appropriations to VA medical care programs. Your amendment is a very positive recognition of the current circumstances and needs of America's veterans. Thank you for your initiative to attempt redistributing some DOD funds towards VA medical care.
>
> Sincerely, Kelly Willard West, Director of Government Relations.

The same thing basically follows through on the Blinded Veterans Association and the Paralyzed Veterans Association of America. The Blinded Veterans Association says:

> The VA health care system has already been pared to the bone, and we doubt there are any more efficiencies that can be realized to offset inadequate resources.

Fewer dollars means fewer veterans will be served, pure and simple, and that is the truth. Fewer dollars means fewer veterans will be served.

Let me just, right now, refer to this chart for those who think that may be taking $329 million out of a $271 billion defense budget—think about that, $271 billion, and all we are asking for is $329 million, just to get veterans' health care benefits up to meet inflationary needs. If you look at this chart, it shows you how much we are spending on military of our discretionary budget. If you look at our discretionary spending, military consumes half of it. Half of all that we spend in this Congress goes to military spending—half, 50 cents out of every dollar. Out of the other 50 cents, we take agriculture and energy and Social Security, economic development, transportation, science and space, housing, foreign affairs, foreign aid, health, justice, education. We hear all this debate that we are spending too much on education—6 cents out of every dollar; 6 cents for education, 50 cents for military spending.

We are not talking about all these, we are talking about veterans' benefits. Out of this $1 that we spend here every year, how much goes for veterans' benefits? 3½ pennies—3½ pennies, to meet the medical needs of those who risked life and limb to preserve and protect and defend the Constitution of the United States.

I think that we can do a little bit better than 3½ pennies. I think the amendment we are offering brings that to just a little under 4 pennies, if I am not mistaken. Is that too much to ask? It is not too much to ask when we are taking 50 cents out for defense. I think the Vietnam Veterans of America had it right. We should not separate veterans' benefits out of defense. It is part of the ongoing costs of the defense of this country, and we should not separate the two out.

I believe we are meeting our commitments globally. I take a back seat to no one in saying that we are the world's most powerful nation, that we have a lot of commitments globally, that we have to meet those commitments. We are meeting those commitments and we will continue to meet them. And taking $329 million out of the defense budget is not going to harm that one little bit. But what will harm us, if we do not meet this commitment, is that many of our veterans, our Vietnam veterans, now today many of our Korean war veterans and even some of our World War II veterans, they are getting older—they are living longer, just as the demographics of our country are—they are living longer; they are sicker. There are leftover problems that they have that maybe were not indicated when they were in the military, such as herbicide and chemical poisoning and things like that, that now later on they are suffering from.

What happens if we do not meet their medical needs? Aside from the personal suffering and the personal hardship that they and their families have to undergo, what happens is that younger people in their families and their friends look upon them and they say, "Wait a minute. Here is someone who went to the Persian Gulf. Here is a veteran who fought in Vietnam. Maybe here is someone who was in Korea, and yet they are not being cared for? A lot of the funding has to come out of their own pockets to meet their medical needs?"

I would imagine a lot of younger people would say: Why would I ever want to go in the military? If we promised to meet their health care needs and later on we don't live up to that obligation, what does that say to our younger people who we want to enlist and become active duty members of our armed services?

I think our lack of spending adequate resources to keep up with at least inflation in veterans' health care benefits has a deleterious effect on the security of our Nation. I see this amendment as not just something helping the veterans and meeting the obligation that we have to our present-day veterans, but I see this amendment as really meeting the future security needs of our country by saying to those who come along next, who may be asked to go to some other place in the world to defend this country, to defend our vital national interest, it says to them, "When you are in that position, we're going to meet your obligations, too."

I just feel very strongly that this is something that we have to do as a society. I am not trying to goldplate anything. I am not trying to boost veterans' medical benefits' spending way pie high in the sky. I am simply saying at least we ought to keep up with inflation. We do that here. We kept up with inflation in energy and agriculture, national affairs, justice, education—we keep up basically with inflation. Why shouldn't we do this for our veterans, also?

As the Independent Budget Project of the veterans' groups have pointed out, tens of thousands of Americans who now stand in harm's way in Bosnia, the Persian Gulf, and other troubled spots around the world will be the veterans of tomorrow. It is worth noting that the veterans suffering from the complicated gulf war illnesses may end up being a greater financial strain on the system in the future. What are we going to say to them? Tough luck?

In other words, Mr. President, the demand for VA health care will not diminish in the foreseeable future. Just because there are fewer people doesn't mean we can spend fewer dollars. They are living longer, they are getting older, and they are sicker, and a lot of the illnesses they contracted haven't shown up. We can't just wish it away.

All we are asking is to provide the resources to meet the demand that is there. That is what this amendment does. I urge its adoption as the fair and equitable and the right thing for our country to do for the veterans who fought in World War II, Korea, the Persian Gulf, Vietnam and, yes, in Bosnia, too, and for those younger people who are going to be the veterans of tomorrow, we have to meet this obligation.

I will point out, I offered this amendment last year, and I didn't have all of the figures down—we do this year—keeping up with inflation. This amendment received 41 votes last year on a bipartisan basis. It is less money this year. We are actually asking for less money this year just to keep up with inflation. I am hopeful Senators on both sides can see fit to meet the obligation to our veterans.

I yield the floor and reserve the remainder of my time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is not easy to get up and first say to my good friend, who is a veteran, a naval aviator—he achieved distinction in the Navy which I never achieved. I was a simple radioman, but anyway, I sat in the backseat of some of those planes you flew around in on occasion.

Mr. HARKIN. If the Senator will yield, you were my boss at one time.

Mr. WARNER. I realize that. I am very humble about my small contribution to national security at the tail end of World War II and in Korea. But I was privileged, like so many others, to serve. My contribution was modest. The military did far more good for me than I was able to do in return. Therefore, throughout my career in the Senate, I have tried to look after the men and women in the Armed Forces and, indeed, the veterans, because I find as we grow a little older, we have friends who depart on a regular basis.

There are some 300,000 men and women who served in World War II who consistently die every month now. It is an alarming fact, considering. I would like to ask my good friend a question or two. I studied the amendment. Your first version of the amendment says:

> The Secretary of Defense shall transfer to the Department of Veterans Affairs $329 million.

The one that is before the Senate at this time appears to have been changed:

> The Secretary of Defense is authorized to transfer to the Department of Veterans Affairs $329 million.

I am curious as to one of the reasons the Senator changed from a clear statement that it would be shifted as a budget matter, to where it now——

Mr. HARKIN. I was informed—if the Senator will yield.

Mr. WARNER. Yes.

Mr. HARKIN. By using that former language, a point of order would have laid against the amendment. To avoid the point of order and, quite frankly, in all legitimacy, since this is an authorizing bill, it really ought to be authorizing language, too.

Mr. WARNER. If I read the amendment which is now before the Senate, and again I will read—"* * * the Secretary of Defense is authorized to transfer * * *"—you are leaving it entirely a discretionary matter with the Secretary of Defense.

Mr. HARKIN. If the Senator will yield.

Mr. WARNER. Mr. President, this is a colloquy. I am delighted to.

Mr. HARKIN. The Senator is right. It would be to the Secretary. However, I think the Secretary would look at how the Senate spoke and how the Congress spoke on this to decide what to do. Obviously, if the Senate voted to do this and it was a strong vote, then I think he would pay attention to it, he or she would pay attention to this.

Mr. WARNER. We place the Secretary, one of our very own for whom we have the absolute highest respect, in an awkward position that now these groups will petition him, and he is faced with the tough choice of deciding between those who once served with great honor and distinction should receive moneys which he feels very strongly today should go—every penny, every penny—to the quality of life, the modernization of weapons, the operational costs of those who are currently in uniform today. It puts the Secretary in a very difficult position. This concerns me.

Mr. HARKIN. There are priorities to be met and, quite frankly, in this $271 billion defense budget, it is my feeling—and I looked at it, I am on Defense Appropriations, I have looked at it and I, quite frankly, believe that the Secretary could find $329 million out of that. I don't think it would do any damage to our readiness, our capabilities overseas or anything else.

Quite frankly, I have some comments I was going to talk about—but I decided not to because the hour is late—in terms of what some of the IG offices found in terms of waste and inefficiencies in procurement, in warehousing and things within the Department of Defense. With a little bit more oversight and control on those, I think they can yield great dividends and can be used on this.

Mr. WARNER. Mr. President, in my 19 years, I have heard that argument of inefficiency and waste in the Department of Defense. All of us recognize that, and I am sure our Secretary, our former colleague, Bill Cohen, is doing his very best to try to bring about every kind of efficiency he can to generate funds.

Frankly, I say to my good friend, Secretary Cohen is desperate for money. So much of the funding that we have authorized for programs in the past has been diverted to take care of the fulfillment of military commitments as directed by President Clinton. Our military today has been deployed more times throughout the world than any other President has ever deployed them beyond our shores. The Bosnia commitment alone has absorbed some $9 billion.

I ask my friend, I listened very carefully to your statement, and I am deeply moved by it. I really think this problem should be addressed, and you are saying that we haven't even covered for the modest increase in inflation the various costs associated with the care of our veterans?

Mr. HARKIN. It is my understanding, I say to my very good friend—I want to make this clear at the outset that I have the highest regard and respect for the Senator from Virginia and his devotion to this country and his devotion to the readiness of our military and also his devotion to our veterans. I would not want anyone to misconstrue that I am saying the Senator from Michigan or the Senator from Virginia have shortchanged it.

I understand the obligations that you are under in terms of meeting our military commitments. I understand that. This amendment is meant only in good faith to try to meet, I think, another commitment that we have. And in some ways I hope to shed some light, hopefully, on one aspect of military spending that could be used for our veterans' affairs.

I say to the Senator that 2 years ago the comptroller general of the Pentagon concluded that the DOD could not account for over $13 billion in spending—just disappeared—$13 billion. Nobody knows where it went. Well, I have more examples of that. But if it is just $1 billion, only one-thirteenth of that, then $329 million is not that much, when you take into account that kind of waste.

Quite frankly, I must tell you that I think Secretary Cohen is doing a great job over there. And they are getting a better handle on this all the time. But there is still a long way to go. I think within the next year they could find some of that money and put that in veterans' benefits.

Now, lastly, I say to the Senator, I would say that the question had to do with, are we not meeting the obligations? And I am saying, when you take into account medical inflation, which is higher than CPI, no, we are not meeting them.

Mr. WARNER. Mr. President, I intend to study further the amendment by my distinguished friend. But I certainly agree with one thing you said, and that is, the manner in which the United States treats its veterans has a direct impact on whether successive generations will offer themselves to serve proudly in the uniform of our country. I know you are absolutely right about that. There are many, many cases where it is grandfather to father, father to son or daughter, as the case may be, that induces the current generation to proudly come forth and volunteer. That has really been the success of the All Volunteer Force.

And what you point out tonight is a very serious situation. And it impacts directly on that argument. I would have to say to my friend, being a member of the Appropriations Committee, and knowing the chairman of the committee himself is a very distinguished veteran of World War II, an air corps pilot, has my distinguished colleague brought this to his attention? In other words, within the appropriations could this sum of money be found?

My concern is that I am entrusted, and tonight representing the distinguished chairman of the committee, to manage this bill in such a way as we do not open up the opportunity for Senators to come in and take pieces of our authorized amount by the Budget Committee to spend and put it toward other accounts, because if we begin to do that—for instance, if we would accede here tonight to your request, I could anticipate a dozen colleagues coming to the floor tomorrow with requests which they conscientiously feel just as seriously about as you do about yours; and the next thing you know, it would be one after another, to take a piece here and a piece there, and suddenly it would become very significant—not that this isn't a significant sum of money.

We will have to look at this. But I would have to say that I am concerned that we could start a raid on the defense budget here tonight. But I hope that this matter can be addressed here in the Senate somewhere, be it the Appropriations Committee or the Veterans Committee. I commit to you that if you bring this up in another piece of legislation, I will conscientiously see whether or not I can support it.

Mr. HARKIN. Well, I feel for the position of my friend. And, you know, a lot of us, when we establish friendships, we do not like to put people in difficult positions. I do not like to do that.

Mr. WARNER. I do not find the position difficult. I feel very strongly about the defense budget. I support the budget process. Your committee, the Veterans Committee, went through the budget process. Our committee went through the budget process. We have our allocated funds. And I am entrusted by the chairman and other members of the committee to steadfastly defend that allocation given to us by the Budget Committee.

Mr. HARKIN. I understand the responsibility that the Senator has. I understand that responsibility. And I appreciate that. But, again, as the Senator knows, others of us feel that we also have other obligations to try to change some things here and to change some of these budget priorities.

In my opening comments, I said that our budget priorities are not allowing for this. I am trying to correct it. So I agree with the Senator. I do not like the way the budget priorities shortchange our veterans' medical benefits. But, again, I also say to my friend, I really believe in what the Vietnam Veterans of America said in their letter, that veterans' medical benefits ought to be considered an ongoing cost of military spending. They are not today.

I have always thought that was odd. I have always thought that was an odd approach we had on that. And they ought to be considered as part and parcel of our military budget. That is why I have offered this amendment, to transfer a small amount of money out of the total—small compared to the total—at least to keep up with medical inflation.

Mr. WARNER. Mr. President, I will conclude just with this observation of our very able staff director, Les Brownlee, who just handed me a note which indicates that the VA increase in the Senate budget process—that is, the account for the committee on veterans here in the Senate—for the fiscal year 1997 to 1998 was a 12.2 percent increase in your budget, and the DOD increase was less than 2.2 percent. So that is a fairly significant increase that this communication indicates to me and that your committee got.

Mr. THURMOND. Mr. President, I rise today to oppose the amendment offered by Senators HARKIN and WELLSTONE to reduce defense spending, and any amendment which lowers defense spending below the levels set in the budget agreement. When the Congress approved the budget agreement, the spending limits for each function were set. The Armed Services Committee's challenge was to develop a defense program, within the limits of the budget agreement, that not only supports the national security strategy, but balances the needs of short-term readiness with that of the modernization of our forces—all within the context of a foreign policy that drives an unprecedented frequency of military deployments.

The gap between our military capability and our commitments around the world continues to increase. The unprecedented frequency of deployments places hardships on our young service members and their families, producing serious retention and readiness problems. Contingency and ongoing operations, such as those in Bosnia and Iraq, continue to drain needed resources for future force modernization and the current readiness of our forces. Since 1996, the Department of Defense has been forced to offset almost $9.0 billion for such operations. The costs of these ongoing operations, in this fiscal year alone, are expected to exceed more than $4.1 billion. Therefore, I strongly believe—and I have stated this previously—that funding for Bosnia and Southwest Asia operations, and other emerging contingencies, must come from sources other than the defense budget. The funding of such activities should not be allowed to adversely affect modernization efforts or current force readiness.

In the past three years, the Congress has added more than $21 billion to defense budget requests. Even with these increases, defense spending has continued to decline in real terms. This fiscal year the defense request again represents, in real terms, a 1.1 percent decline. Defense spending as a percentage of GDP in fiscal year 1998 is expected to be 3.2 percent falling to 2.8 percent by fiscal year 2003—the lowest figures since 1940. The resource levels, as stated in the Budget Resolution, continue this decline in defense spending. While I continue to support the balanced budget agreement, I am concerned about our ability to modernize our forces and the effects of unbudgeted contingencies and ongoing operations on current readiness.

Testimony and recent visits to our units by both members and staff of the Armed Services Committee have revealed disturbing trends: personnel shortages, lack of spare parts, extremely high unit operating and personnel tempos, and retention problems—especially with our pilots. General Crouch, Vice Chief of Staff of the Army, testified to the Committee;

> In recent years, we have maintained readiness at the expense of our modernization accounts. That is no longer a viable strategy.

Mr. President, we have an obligation to adequately fund for our national security and ensure we provide our servicemen and women with the best equipment available. I grow increasingly concerned when the Armed Services Committee receives testimony from one of our Service Chiefs stating that his funding is inadequate. General Krulak, Commandant of the Marine Corps, has told the Committee:

> I state for the third year running that our budget request is not adequate to meet our needs.

He further stated in a letter to the Committee:

> . . . we are quite literally mortgaging today's health at the expense of tomorrow's wellness—and have been for at least the last eight years—in spite of the critically important congressionally mandated adds to our accounts in the last two years.

Mr. President, there is a price for freedom. There is the price for world leadership. As Secretary Cohen stated:

> Having highly ready forces that can go anywhere at any time really spells the difference between victory and defeat and it also spells the difference between being a superpower and not being one.

Mr. President, as a result of the budget agreement reached last year, non defense discretionary spending received significant increases while defense continued its downward spending trends—not even keeping pace with inflation. During the fiscal year 1998 appropriations process, the national security appropriations bill had the lowest percentage increase from fiscal year 1997 funding level than any other of the appropriations bills. In fact, military construction appropriations had a negative change over the fiscal year 1997 funding levels, making funding for national defense grow at one-fifth the rate of domestic spending increases.

Mr. President, I am not opposed to increasing the funding for Veterans' health care, but not at the cost of our national security, and I strongly urge all of my colleagues to oppose this amendment and not further aggravate a serious underfunding of our defense.

I thank the Chair and yield the floor.

Mr. WARNER. Mr. President, I yield back the remainder of our time.

Mr. HARKIN. Mr. President, I yield back the remainder of our time.

Mr. WARNER. I think it is important that the Chair state the pending UC order for the purpose of the RECORD here for those listening.

The PRESIDING OFFICER. All time is yielded back.

Mr. WARNER. Mr. President, if I understand it, does the Senator from Washington desire some time on this amendment?

Mr. GORTON. The Senator from Washington would like about 3 minutes as in morning business.

Mr. WARNER. On this amendment?

Mr. GORTON. Not on this amendment.

Mr. WARNER. Fine. At the conclusion of this amendment, and all time having been yielded back, I ask the Chair to recognize the Senator from Washington so that he might speak for 3 minutes.

The PRESIDING OFFICER. All time has been yielded back.

The Senator from Washington will be recognized for 3 minutes as in morning business.

Mr. WARNER. Mr. President, for the information of the Senate, my distinguished colleague, the ranking member of the committee, and I will clear some 20 amendments on behalf of the members of the Armed Services Committee and others, and then we will go into the routine wrapup on behalf of the majority leader and the distinguished Democratic leader.

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

MICROSOFT WINS APPEALS COURT DECISION, DOJ LOSES

Mr. GORTON. Mr. President, yesterday a three judge United States Appeals Court panel overturned the preliminary injunction issued against Microsoft last December by U.S. District Court Judge Thomas Penfield Jackson. This ruling by the Appeals Court is a major victory for Microsoft and its supporters. In fact, in my opinion, it is so significant as to make the

Department of Justice's current case against Microsoft even more dubious than it was at the time of filing.

The basic question before the panel was whether or not Microsoft violated antitrust law and a 1995 consent decree by integrating its web browser, Internet Explorer, into its Windows 95 operating system. The panel ruled that Microsoft's actions did not violate the consent decree and that Microsoft should indeed be allowed to integrate new and improved features into Windows because such integration benefits consumers.

The Department of Justice has just suffered a major defeat.

The ruling comes only a few weeks after the Antitrust Division of the Department of Justice filed a new case against Microsoft alleging anti-competitive behavior. The central point of the new case is Microsoft's integration of the Internet Explorer into Windows 98.

In the new case, the Department of Justice wants Microsoft either to remove Internet Explorer from Windows 98 or add a competing browser from rival Netscape into that Windows 98 program. Department of Justice lawyers claim that Internet Explorer is a separate product and that its integration into Windows 98 is a violation of antitrust law. Interestingly enough, there are other browser manufacturers, smaller than Netscape, who don't seem to have Department of Justice's ear or sponsorship.

But in the opinion issued yesterday by the Appeals Court panel, the judges ruled that Microsoft's product integration meets the court's requirement that product innovation bring benefits to consumers. The panel calls Microsoft's software design "genuine integration" and rules that the inclusion of Internet Explorer in Window's 95 is not a violation of the consent decree.

Further, the panel wrote that, "Antitrust scholars have long recognized the undesirability of having courts oversee product design, and any dampening of technological innovation would be at cross-purposes with antitrust law."

It is quite clear from this ruling that the U.S. Appeals Court for the District of Columbia believes that Microsoft is not violating the law by integrating Internet Explorer into its operating system software. That integration is beneficial to consumers and any attempt to stifle such innovations is harmful to consumers.

I see very little difference between the new case and the case just rejected by the Appeals Court. It is time for the Department of Justice to pick up its marbles and go home, Mr. President.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with consideration of the bill.

Mr. WARNER. Mr. President, it has been a long day. If you will bear with us for a minute—I appreciate the Presiding Officer. It has been a very good day, and the chairman of the committee, Mr. THURMOND, and ranking member and others, should be commended. I think we have handled the key issues that will require considerable time for debate. We had extensive debate on important matters. I am optimistic that this bill can be put in a status for final passage tomorrow. We are going to work hard, I say to my good friend.

Mr. LEVIN. I share your enthusiasm and hopefully your optimism, but at least your enthusiasm for completing this.

Mr. WARNER. It is very high at the moment.

Mr. LEVIN. We will have another full day in order to accomplish that.

AMENDMENT NO. 2985

(Purpose: To require a report on leasing and other alternative uses of non-excess military property by the military departments)

Mr. WARNER. Mr. President, I understand that my colleague and I will alternate, so I will start off with an amendment on behalf of Senator THURMOND. I offer an amendment which would require a report on leasing and other alternative uses of nonexcess military property by the military departments.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THURMOND, proposes an amendment numbered 2985.

Mr. WARNER. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 347, below line 23, add the following:

SEC. 2833. REPORT ON LEASING AND OTHER ALTERNATIVE USES OF NON-EXCESS MILITARY PROPERTY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense, with the support of the chiefs of staff of the Armed Forces, is calling for the closure of additional military installations in the United States as a means of eliminating excess capacity in such installations.

(2) Excess capacity in Department of Defense installations is a valuable asset, and the utilization of such capacity presents a potential economic benefit for the Department and the Nation.

(3) The experiences of the Department have demonstrated that the military departments and private businesses can carry out activities at the same military installation simultaneously.

(4) Section 2667 of title 10, United States Code, authorizes the Secretaries of the military departments to lease, upon terms that promote the national defense or are in the public interest, real property that is—

(A) under the control of such departments;

(B) not for the time needed for public use; and

(C) not excess to the requirements of the United States.

(b) REPORT.—Not later than February 1, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the following:

(1) The number and purpose of the leases entered into under section 2667 of title 10, United States Code, during the five-year period ending on the date of enactment of this Act.

(2) The types and amounts of payments received under the leases specified in paragraph (1).

(3) The costs, if any, foregone as a result of the leases specified in paragraph (1).

(4) A discussion of the positive and negative aspects of leasing real property and surplus capacity at military installations to the private sector, including the potential impact on force protection.

(5) A description of the current efforts of the Department of Defense to identify for the private sector any surplus capacity at military installations that could be leased or otherwise used by the private sector.

(6) A proposal for any legislation that the Secretary considers appropriate to enhance the ability of the Department to utilize surplus capacity in military installations in order to improve military readiness, achieve cost savings with respect to such installations, or decrease the cost of operating such installations.

(7) An estimate of the amount of income that could accrue to the Department as a result of the enhanced authority proposed under paragraph (6) during the five-year period beginning on the effective date of such enhanced authority.

(8) A discussion of the extent to which any such income should be reserved for the use of the installations exercising such authority and of the extent to which installations are likely to enter into such leases if they cannot retain such income.

Mr. THURMOND. Mr. President, I rise to introduce an amendment that would require the Secretary of Defense to submit a report on the Department of Defense's use of the authority provided by section 2667 of title 10, United States Code.

Mr. President, Secretary Cohen has recommended additional base closures citing 23 percent excess base capacity and the need to achieve savings that could be used for modernization. However, both the House and Senate, for various reasons, have not supported the request, although both acknowledge that there is excess capacity. My amendment suggests that the Department of Defense use its existing authority under section 2667 of title 10, United States Code, to put the excess capacity to beneficial use. Section 2667 permits the lease on non-excess real or personal property to the private sector for financial or in-kind compensation.

Since the Department does have the authority to close or eliminate its excess capacity, the leases authorized by section 2667 would use this capacity while providing some revenue and savings to the Department and the military installations. Additionally, since the property would be under a long-term lease, the services would have it available for future expansion or surge capacity.

Under section 2667, a service secretary may lease property to a lessee under such terms as he considers will promote the national defense or be in the public interest. Additionally, the funds collected from these leases are deposited in a special account in the Treasury. Sums deposited in this account will be available to the military department, as provided in appropriation Act, as follows:—50 percent of such amounts will be available for facility maintenance and repair or environmental restoration at the military installation where the leased property is located. 50 percent of such amounts will be available for facility maintenance and repair and environmental restoration by the military departments concerned.

Mr. President, my amendment would ask the Secretary to report on the following issues regarding the use of section 2667:

The number and purpose of leases entered under 2667; the types and amounts of payment received; the cost, if any, foregone as a result of the leases; the positive and negative aspects of leasing; the efforts to promote these type leases to the private sector; any legislative proposal to enhance the Department's capability to lease to the private sector; an estimate of income that could potentially be accrued because of enhanced leasing capability; and a discussion on retaining any income from these leases at the installation.

Mr. President, I believe the authority provided the service secretaries by section 2667 does not eliminate the need for base closure. It does provide the opportunity to use this property for the benefit of the military installations. I will carefully review the Secretary's report and, if required, include legislation in next year's defense authorization bill to maximize the use of this authority.

Mr. President, I urge the adoption of the amendment.

Mr. LEVIN. The amendment has been cleared.

Mr. WARNER. This amendment has been cleared. I urge passage.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2985) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2986

(Purpose: To require a plan for addressing problems in Department of Defense management of the department's inventories of in-transit secondary items)

Mr. LEVIN. Mr. President, on behalf of Senator HARKIN, I offer an amendment which would require the Department of Defense to develop a plan to address problems with the Department's inventories of in-transit secondary items.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. HARKIN, proposes an amendment numbered 2986.

Mr. LEVIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle E of title III, add the following:

SEC. 349. INVENTORY MANAGEMENT OF IN-TRANSIT SECONDARY ITEMS.

(a) REQUIREMENT FOR PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a plan to address problems with Department of Defense management of the department's inventories of in-transit secondary items as follows:

(1) The vulnerability of in-transit secondary items to loss through fraud, waste, and abuse.

(2) Loss of oversight of in-transit secondary items, including any loss of oversight when items are being transported by commercial carriers.

(3) Loss of accountability for in-transit secondary items due to either a delay of delivery of the items or a lack of notification of a delivery of the items.

(b) CONTENT OF PLAN.— The plan shall include, for each of the problems described in subsection (a), the following information:

(1) The actions to be taken to correct the problems.

(2) Statements of objectives.

(3) Performance measures and schedules.

(4) An identification of any resources that may be necessary for correcting the problem, together with an estimate of the annual costs.

(c) GAO REVIEWS.—(1) Not later than 60 days after the date on which the Secretary of Defense submits the plan to Congress, the Comptroller General shall review the plan and submit to Congress any comments that the Comptroller General considers appropriate regarding the plan.

(2) The Comptroller General shall monitor any implementation of the plan and, not later than one year after the date referred to in paragraph (1), submit to Congress an assessment of the extent to which the plan has been implemented.

Mr. WARNER. This amendment is cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2986) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2447, AS MODIFIED

(Purpose: To limit advance billings for working-capital funds of the Department of Defense)

Mr. WARNER. On behalf of Senator THURMOND, I call up amendment numbered 2447 and send a modification to this amendment to the desk. The amendment would require the Department of Defense to limit the practice of advance billings for working-capital funds.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THURMOND, proposes an amendment numbered 2447, as modified.

Mr. WARNER. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, line 7, strike out "(d)", and insert in lieu thereof the following:

(3) The waiver authority under paragraph (1) does not apply to the limitation in subsection (d) or the limitation in section 2208(*l*)(3) of title 10, United States Code (as added by subsection (e)).

(d) FISCAL YEAR 1999 LIMITATION ON ADVANCE BILLINGS.—(1) The total amount of the advance billings rendered or imposed for the working-capital funds of the Department of Defense and the Defense Business Operations Fund in fiscal year 1999—

(A) for the Department of the Navy, may not exceed $500,000,000; and

(B) for the Department of the Air Force, may not exceed $500,000,000.

(2) In paragraph (1), the term "advance billing" has the meaning given such term in section 2208(*l*) of title 10, United States Code.

(e) PERMANENT LIMITATION ON ADVANCE BILLINGS.—(1) Section 2208(*l*) of title 10, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed $1,000,000,000.".

(2) Section 2208(*l*)(3) of such title, as added by paragraph (1), applies to fiscal years after fiscal year 1999.

(f)

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2447), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2987

(Purpose: To provide for an assessment of the establishment of an independent entity to evaluate post-conflict illnesses among members of the Armed Forces and the health care provided by the Department of Defense and Department of Veterans Affairs both before and after the deployment of such members)

Mr. LEVIN. Mr. President, on behalf of Senator Rockefeller, I offer an amendment that would require the Secretary of Defense, in conjunction with the National Academy of Science, to assess the need for establishing a military post-conflict health center.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. Levin], for Mr. Rockefeller, proposes an amendment numbered 2987.

Mr. LEVIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, between lines 13 and 14, insert the following:

SEC. 708. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) Agreement for Assessment.—The Secretary of Defense shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) Assessment.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) Report.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(B) The Committee on National Security and the Committee on Veterans' Affairs of the House of Representatives.

Mr. ROCKEFELLER. Mr. President, as Ranking Member of the Senate Committee on Veterans' Affairs, I have an especially strong interest in the history of illnesses and health concerns that follow military deployments. We have all observed the effects of post-conflict illnesses among our Gulf War veterans who returned with poorly understood, undiagnosed illnesses, and our Vietnam veterans with health problems related to exposure to Agent Orange. This legacy is not just a problem of our most recent conflicts; our Atomic-era veterans are still fighting for recognition of health conditions related to radiation exposures they experienced in service to their country 50 years ago.

If there is any single lesson to be learned from this history, it is that the Department of Defense and the Department of Veterans Affairs have not always been aggressive enough in pursuing the immediate health consequences of military conflicts. Too many times our veterans have had to wait years before post-conflict illnesses are recognized as real problems that require firm commitments of research and treatment programs. These delays have come at a cost to the veterans who have had to fight for this recognition, and they have come at a cost to the government's credibility on this important issue.

I believe it is time to consider establishing an independent entity with the capacity to evaluate government efforts to monitor the health of servicemembers following military conflicts, and to evaluate whether servicemembers are being effectively treated for illnesses that occur following such deployments. There have been suggestions for the need for such an entity within DoD and VA, but I believe that important health expertise outside these agencies is required as well. Indeed, it may be that the best approach is one that pulls together expertise from VA, DoD, and health care professionals and researchers from centers of medical excellence in fields such as toxicology, occupational medicine, and other disciplines.

Therefore, I would like to propose an amendment to the Department of Defense Authorization to require the Secretary to enter into an agreement with the National Academy of Sciences to assess the feasibility of establishing, as an independent entity, a National Center for the Study of Military Health.

The proposed Center for the Study of Military Health would evaluate and monitor interagency coordination on issues relating to post-deployment health concerns of members of the Armed Forces, including outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities.

In addition, this center would evaluate the health care provided to members of the Armed Services both before and after their deployment on military operations. The proposed center would monitor and direct government efforts to evaluate the health of servicemembers upon their return from military deployments, for purposes of ensuring the rapid identification of any trends in diseases or injuries that result from such operations. Such an independent health center could also serve an important role in providing training of health care professionals in DoD and VA in the evaluation and treatment of post-conflict diseases and health conditions, including nonspecific and unexplained illnesses.

While some have argued that it is time to take some of these responsibilities away from existing agencies, I would suggest that this is a matter for careful study and thoughtful deliberation. Therefore, this amendment would require the National Academy of Sciences to assess the feasibility of such an independent health entity. In their report to the Secretary of Defense, the Academy should provide a recommendation of the feasibility of such an entity and justification for such a recommendation. If such a center is recommended by the Academy, their report should also provide recommendations regarding the organizational placement of the entity; the health and science expertise that would be necessary; the scope and nature of the activities and responsibilities of the entity; and mechanisms for ensuring that the recommendations of the entity are carried out by DoD and VA.

Mr. President, as Ranking Member of the Committee on Veterans' Affairs, there have been too many times when I have heard agency officials testify that poorly understood, unexplained illnesses are a common, inevitable occurrence of every military conflict. With the tremendous advances achieved elsewhere in medical and military technologies, I find the acceptance of these illnesses as an inevitability to be unacceptable. I hope that this amendment will offer an initial step to better prevention and treatment of these post-conflict illnesses.

Mr. WARNER. The amendment is cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2987) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2838

(Purpose: To establish a commission to assess the reliability, safety, and security of the United States nuclear deterrent)

Mr. WARNER. Mr. President, on behalf of Senator KYL, I call up amendment numbered 2838 which would establish a commission to assess the reliability, the safety, and security of U.S. nuclear deterrent and to prepare recommendations on these matters for the Secretaries of Defense and Energy.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. KYL, proposes an amendment numbered 2838.

Mr. WARNER. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. COMMISSION TO ASSESS THE RELIABILITY SAFETY AND SECURITY OF THE UNITED STATES NUCLEAR DETERRENT.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission for Assessment of the Reliability, Safety, and Security of the United States Nuclear Deterrent".

(b) COMPOSITION.—(1) The Commission shall be composed of six members who shall be appointed from among private citizens of the United States with knowledge and expertise in the technical aspects of design, maintenance, and deployment of nuclear weapons, as follows:

(A) Two members appointed by the Majority Leader of the Senate.

(B) One member appointed by the Minority Leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) One member appointed by the Minority Leader of the House of Representatives.

(2) The Senate Majority Leader and the Speaker of the House of Representatives shall each appoint one member to serve for five years and one member to serve for two years. The Minority Leaders of the Senate and House of Representatives shall each appoint one member to serve for five years. A member may be reappointed.

(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(4) All members of the Commission shall hold appropriate security clearances.

(2) The Comptroller General shall monitor any implementation of the plan and, not later than one year after the date referred to in paragraph (1), submit to Congress an assessment of the extent to which the plan has been implemented.

* * * * *

(2) For carrying out its duties, the Commission shall be provided full and timely cooperation by the Secretary of Energy, the Secretary of Defense, the Commander of United States Strategic Command, the Directors of the Los Alamos National Laboratory, the Lawrence Livermore National Laboratory, the Sandia National Laboratories, the Savannah River Site, the Y-12 Plant, the Pantex Facility, and the Kansas City Plant, and any other official of the United States that the Chairman determines as having information described in paragraph (1).

(3) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(f) COMMISSION PROCEDURES.—(1) The Commission shall meet at the call of the Chairman.

(2) Four members of the Commission shall constitute a quorum, except that the Commission may designate a lesser number of members as a quorum for the purpose of holding hearings. The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(3) Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this section.

(4) The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. Findings and conclusions of a panel of the Commission may not be considered findings and conclusions of the Commission unless approved by the Commission.

(5) The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out its duties, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(g) PERSONNEL MATTERS.—(1) A member of the Commission shall be compensated at the daily equivalent of the rate of basic pay established for level V of the Executive Schedule under 5316 of title 5, United States Code, for each day on which the member is engaged in any meeting, hearing, briefing, or other work in the performance of duties of the Commission.

(2) A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Commission.

(3) The Chairman of the Commission may, without regard to the provisions of the title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(5) The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule and under section 5316 of such title.

(h) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary of Defense and the Secretary of Energy shall furnish the Commission with any administrative and support services requested by the Commission and with office space within the Washington, District of Columbia, metropolitan area that is sufficient for the administrative offices of the Commission and for holding general meetings of Commission.

(i) FUNDING.—The Secretary of Defense and the Secretary of Energy shall each contribute 50 percent of the amount of funds that are necessary for the Commission to carry out its duties. Upon receiving from the Chairman of the Commission a written certification of the amount of funds that is necessary for funding the activities of the Commission for a period, the Secretaries shall promptly make available to the Commission funds in the total amount specified in the certification. Funds available for the Department of Defense for Defense-wide research, development, test, and evaluation shall be available for the Department of Defense contribution. Funds available for the Department of Energy for atomic energy defense activities shall be available for the Department of Energy contribution.

(j) TERMINATION OF THE COMMISSION.—The Commission shall terminate three years after the date of the appointment of the member designated as Chairman.

(k) INITIAL IMPLEMENTATION.—All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

Mr. WARNER. It is my understanding this amendment has been cleared on both sides.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2838) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2796

(Purpose: To state the sense of the Senate regarding the memoranda of understanding with the State of Oregon relating to Hanford)

Mr. LEVIN. Mr. President, on behalf of Senator WYDEN and Senator SMITH of Oregon, I call up amendment numbered 2796 which would express the sense of the Senate that the State of Oregon should continue to have access to appropriate information and cleanup activities at the Hanford site located in the State of Washington.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. WYDEN, for himself and Mr. SMITH of Oregon, proposes an amendment numbered 2796.

Mr. LEVIN. I ask unanimous consent that further reading of this amendment be dispensed with, and that further reading of all the amendments be dispensed with after the enumeration of the number by the clerk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. SENSE OF SENATE REGARDING MEMORANDA OF UNDERSTANDING WITH THE STATE OF OREGON RELATING TO HANFORD.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Energy and the State of Washington have entered into memoranda of understanding with the State of Oregon to provide the State of Oregon greater involvement in decisions regarding the Hanford Reservation.

(2) Hanford has an impact on the State of Oregon, and the State of Oregon has an interest in the decisions made regarding Hanford.

(3) The Department of Energy and the State of Washington are to be congratulated for entering into the memoranda of understanding with the State of Oregon regarding Hanford.

(b) SENSE OF SENATE.—It is the sense of the Senate to—

(1) encourage the Department of Energy and the State of Washington to implement the memoranda of understanding regarding Hanford in ways that result in continued involvement by the State of Oregon in decisions of concern to the State of Oregon regarding Hanford; and

(2) encourage the Department of Energy and the State of Washington to continue similar efforts to permit ongoing participation by the State of Oregon in the decisions regarding Hanford that may affect the environment or public health or safety of the citizens of the State of Oregon.

Mr. WYDEN. Mr. President, I have an amendment to encourage the Department of Energy to involve the State of Oregon in decisions about the cleanup of the Hanford Nuclear Reservation. This amendment is needed to protect Oregonians from the unusual and highly dangerous hazards that the Hanford Nuclear Reservation poses for the people of Oregon.

This amendment should be familiar to many members of the Senate because a version of this legislation previously passed the Senate as an amendment to the FY97 Defense Authorization Bill.

Mr. President, there is no other contaminated Federal property in the country that has caused the serious injuries to residents of another State that Hanford has already caused to citizens of Oregon. And no other Federal site currently poses anywhere near as serious a threat to the health and safety of citizens of another State as Hanford does to our citizens.

Because of this special situation, the State of Oregon needs to be involved in decisions about how DOE proposes to clean up the Hanford site.

I want to make clear that recognizing the unique conditions present at Hanford and the immediate danger they pose for Oregonians does not set a precedent for other Federal facilities besides Hanford. It will not turn every military base with a leaking gasoline tank into a multi-state cleanup issue.

Let me put to rest any concern that this amendment will be misconstrued in that way. First, there is simply no facility in this country—Federal or non-Federal—that compares to Hanford. In fact, Hanford is generally considered to be the most contaminated site in the Western hemisphere. You would have to go to the former Soviet Union to find a site as polluted as Hanford.

The extent of the environmental problems are mind boggling:

Over the years, 200 billion gallons of toxic and radioactive liquids from nuclear weapons production were dumped at the site. That's enough to cover Manhattan to a depth of 40 feet.

The Hanford site currently contains 56 million gallons of high-level radioactive wastes in 177 tanks. Some of these tanks are as big as the Capitol Dome. At least 54 of these tanks are known or suspected to be leaking or pose risks of explosion.

The site also is currently storing 2,300 metric tons of high-level nuclear fuel rods in leaking basins located only a quarter mile from the Columbia River.

And these are just a few of the problems that we know about.

Second, there is also no other site in the country that has affected the health and safety of residents in another state the way Hanford has affected the citizens of Oregon.

Oregonians living downwind from Hanford have suffered from thyroid cancers and other medical problems caused by airborne releases of radioactive iodine. Starting in the late 1940s and continuing through the 1950s, these releases average between 100 and 2,000 curies per month. To put that into perspective, the residents around Harrisburg, Pennsylvania were evacuated in 1979 when the Three Mile Island accident released 15–24 curies into the Pennsylvania countryside.

The airborne releases from Hanford were 10 to 100 times what were released from Three Mile Island, and these releases were occurring every month! Ongoing epidemiological studies have linked these releases to increased cases of thyroid cancer and other adverse health effects on Oregonians living near the site. Children drinking milk from farms in the area were the ones most harmed by these releases.

Hanford also poses a serious health threat to the more than 1 million Oregonians who live downstream from the site. Radioactive materials have been released into the Columbia River when water from the River was pumped through the sites nuclear reactors to cool them. Other hazardous and radioactive materials that were dumped at the site have and are continuing to seep into the River. A General Accounting Office report I released earlier this year documents that 900,000 gallons of radioactive wastes have leaked out of the Hanford tanks, contaminated the groundwater and this contaminated water is now heading toward the Columbia River.

The bottom line is many Oregonians are suffering adverse health effects from living near Hanford. And many more are at risk of future harm because of conditions at the site.

Finally, my amendment does not set a precedent for Federal facilities nationwide because it only encourages the Energy Department to continue existing efforts to involve Oregon in cleanup decisions. There is already in effect a Memorandum of Agreement between the State of Oregon and the Department of Energy concerning Oregon's participation in decisions about Hanford cleanup. The linkage to this agreement puts the site into a special category of Federal facility cleanups. It draws a bright line that divide Hanford from the hundreds of other contaminated Federal facilities around the country.

The unique factors involved in the Hanford cleanup justify granting the State of Oregon a greater role in decisions about clean up of the Hanford site.

I urge my colleagues to recognize how Hanford has harmed and continue to pose a serious hazard to the people of Oregon by giving our State the opportunity to play a greater role in cleanup decisions at the site.

Mr. SMITH of Oregon. Mr. President, I rise today to speak on behalf of Amendment No. 2796 to the Defense Authorization bill, a Sense of the Senate Resolution which was introduced by myself and Senator WYDEN. I want to thank the managers of the Defense Authorization bill for allowing us to bring this important amendment to the floor for consideration. This Sense of the Senate speaks to an issue that is a source of great concern to all Oregonians. But not only should it be of importance to citizens of my state, this Sense of the Senate should also be important to any American concerned about having a say in how the federal government handles nuclear waste and other environmental problems partially overseen by the Department of Energy. Simply put, radioactive waste seeping through the soil or being discharged into the air recognizes no state boundary.

Although such situations can be found in other parts of the country, the amendment before us today speaks specifically to the Hanford nuclear reservation, located in the southeastern part of Washington state. Hanford was operated by the federal government as a plutonium development facility for four decades. Today, this site is the worst Department of Energy environmental hazard in the country. Millions of gallons of radioactive waste sits at the Hanford facility, much of it stored in underground tanks that are leaking an unknown amount of material into the soil as I speak.

Currently, there are cleanup efforts underway, jointly operated by the Department of Energy, the Environmental Protection Agency, and the state of Washington. Every year the Congress appropriates money for this cleanup effort, and I am a strong supporter of this funding. However, as an Oregonian, I believe that my state should also be a part of this ongoing process. Although the Hanford site is in Washington state, it is just 35 miles north of Oregon, and it lies next to the mighty Columbia River, which forms much of the border between the two states. Any failure to clean up this facility adequately will be felt not only in Washington but in my state as well. Thousands of Oregonians live within 50 miles of this site. Thousands more live down the Columbia River, which is not only home to countless species of wildlife, but also a key transportation and recreation resource as well.

For these reasons, I am pleased that the Department of Energy and the state of Washington and Oregon entered into memoranda of understanding concerning Hanford last August. With the implementation of this agreement, Oregon will be a participant in the major decisions regarding Hanford that have potential repercussions for the health and safety of Oregonians. The amendment Senator WYDEN and I have introduced simply encourages the continuation of this kind of cooperative decisionmaking regarding the future of the Hanford site. As acknowledged by the Department of Energy and the state of Washington by the memoranda of agreement, Oregon has a huge stake in this process. It is a point worth reiterating, and I urge my colleagues to join me in supporting this important Sense of the Senate resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2796) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

AMENDMENT NO. 2812

(Purpose: To express the sense of Congress concerning the naming of an LPD–17 class amphibious vessel in honor of Lieutenant General Clifton B. Cates, the 19th Commandant of the Marine Corps)

Mr. WARNER. I send an amendment to the desk on behalf of Senator FRIST, numbered 2812 which would express the sense of the Congress that the Secretary of the Navy should remain an LPD–17 class amphibious ship in honor of the 19th Commandant of the Marine Corps, General Clifton B. Cates.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. FRIST, proposes an amendment numbered 2812.

Mr. LEVIN. The amendment has been cleared.

At the end of subtitle B of title X, add the following:

SEC. 1013. SENSE OF CONGRESS CONCERNING THE NAMING OF AN LPD–17 VESSEL.

It is the sense of Congress that, consistent with section 1018 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 425), the next unnamed vessel of the LPD–17 class of amphibious vessels should be named the U.S.S. Clifton B. Cates, in honor of Marine General Clifton B. Cates (1893–1970), a native of Tennessee whose distinguished career of service in the Marine Corps included combat service in World War I so heroic that he became the most decorated Marine Corps officer of World War I, included exemplary combat leadership from Guadalcanal to Tinian and Iwo Jima and beyond in the Pacific Theater during World War II, and culminated in Lieutenant General Cates being appointed the 19th Commandant of the Marine Corps, a position in which he led the Marine Corps' efficient and alacritous response to the invasion of the Republic of South Korea by Communist North Korea.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2812) was agreed to.

Mr. WARNER. I ask that at such place as may be necessary that the rank of General Clifton Cates be indicated as a full general. I happened to have served under him. I knew him very well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. A very distinguished man.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2988

(Purpose: To provide authority to waive the moratorium on the use of anti-personnel landmines scheduled to begin on February 12, 1999)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER), for Mr. THURMOND, proposes an amendment numbered 2988.

The amendment is as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. AUTHORITY FOR WAIVER OF MORATORIUM ON ARMED FORCES USE OF ANTIPERSONNEL LANDMINES.

Section 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 751) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) WAIVER AUTHORITY.—(1) The President may waive the moratorium set forth in subsection (a) if the President determines that the waiver is necessary in the national security interests of the United States.

"(2) The President shall notify the President pro tempore of the Senate and the Speaker of the House of Representatives of the exercise of the authority provided by paragraph (1).".

Mr. THURMOND. Mr. President, this past March, General Tilelli, Commander, of U.S. Forces in Korea, testified before the Committee on issues faced by his Command. One of the foremost concerns he expressed was the impact of the antipersonnel landmine moratorium that would be imposed on February 12, 1999. General Tilelli prevailed upon the Committee to provide legislative relief from this requirement.

On May 1, Secretary of Defense Cohen and General Shelton, Chairman of the Joint Chiefs, wrote asking the Committee to include a provision in the defense authorization bill that would allow the Secretary to waive the moratorium for national security interests.

Today, I offer an amendment that would provide the President authority to waive the moratorium on anti-personnel landmines that would go into effect on February 12, 1999.

The potential negative effect of this legislation on the ability of U.S. forces to fight and win battles and to defend U.S. forces and allies, if necessary, is unacceptable, and would not be in the national security interest of the United States.

I am concerned about the impact of this moratorium on the ability to undertake missions, such as the kind of mission that may have been necessary, had Iraq chosen to invade one of our allies in the Gulf, during the most recent standoff with Iraq over the arms control inspections.

I believe it is in the national security interests for U.S. forces to be able to employ self-destructing anti-personnel landmines and self-destructing mixed anti-tank systems to defend themselves and our allies, if necessary. It is for this reason, that I believe the President should have authority to waive the moratorium for national security reasons.

I urge the adoption of my amendment.

Mr. WARNER. Mr. President, this amendment will provide the President the authority to waive the one-year moratorium on the use of anti-personnel landmines by U.S. forces, which goes into effect February 12, 1999. It is my understanding that this amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2988) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2989

(Purpose: Relating to landmines)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. LEAHY, proposes an amendment numbered 2989.

The amendment is as follows:

On page 42, between lines 9 and 10, insert the following:

SEC. 232. LANDMINES.

(a) AVAILABILITY OF FUNDS.—(1) Of the amounts authorized to be appropriated in section 201, $17,200,000 shall be available for activities relating to the identification, adaptation, modification, research, and development of existing and new tactics, technologies, and operational concepts that—

(A) would provide a combat capability that is comparable to the combat capability provided by anti-personnel landmines, including anti-personnel landmines used in mixed mine systems; and

(B) comply with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) The amount available under paragraph (1) shall be derived as follows:

(A) $12,500,000 shall be available from amounts authorized to be appropriated by section 201(1).

(B) $4,700,000 shall be available from amounts authorized to be appropriated by section 201(4).

(b) STUDIES.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall enter into a contract with each of two appropriate scientific organizations for purposes of identifying existing and new tactics, technologies, and concepts referred to in subsection (a).

(2) Each contract shall require the organization concerned to submit a report to the Secretary and to Congress, not later than one year after the execution of such contract, describing the activities under such contract and including recommendations with respect to the adaptation, modification, and research and development of existing and new tactics, technologies, and concepts identified under such contract.

(3) Amounts available under subsection (a) shall be available for purposes of the contracts under this subsection.

(c) REPORTS.—Not later than April 1 of each of 1999 through 2001, the Secretary shall submit to the congressional defense committees a report describing the progress made in identifying and deploying tactics, technologies, and concepts referred to in subsection (a).

(d) DEFINITIONS.—In this section:

(1) ANTI-PERSONNEL LANDMINE.—The term "anti-personnel landmine" has the meaning given the term "anti-personnel mine" in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) MIXED MINE SYSTEM.—The term "mixed mine system" includes any system in which an anti-vehicle landmine or other munition is constructed with or used with one or more anti-personnel landmines, but does not include an anti-handling device as that term is defined in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

Mr. LEVIN. Mr. President, this amendment would provide legislative authority for the committee's recommendation to fully fund the budget request for alternatives to anti-personnel landmines, which would provide the Secretary of Defense authority to contract with scientific organizations to provide recommendations on research and development of tactics, technologies and concepts as alternatives to antipersonnel landmines.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2989) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, my amendment, which has been accepted by both sides, would authorize funding for the identification and development of alternatives to anti-personnel landmines, including those used in mixed mine systems. I want to thank Chairman THURMOND and Senator LEVIN for their invaluable assistance, patience and support in getting this amendment adopted.

This is a modest but important amendment. Contrary to what some misinformed people have suggested, it does not ban anti-personnel landmines. There is an International Convention that has been signed by 126 nations, including every one of our NATO allies except Turkey, which bans the use, stockpiling, production, and transfer of anti-personnel mines, but that is not this amendment. I mention it, though, because the White House recently committed the United States Government to sign that Convention when alternatives to anti-personnel mines are available, and to search aggressively for alternatives. They set a target date of 2006 for signing the Convention, and last September President Clinton announced that the United States will stop using anti-personnel mines outside Korea by 2003. It is my hope and expectation that by working together and with the resources to do the job, we can join the Convention by 2003. That is also about the same time that signatories to the Convention must have destroyed their stockpiles of anti-personnel mines, and when our NATO allies have said they want our mines removed from their territory. It is a logical deadline.

As I have said, when the White House announced that the United States will sign the Convention when alternatives are available, they also committed to "search aggressively" for alternative tactics, technologies and/or operational concepts to anti-personnel mines that are compliant with the Convention. This amendment simply authorizes the next year of funds to do that—a total of $17,200,000 for fiscal year 1999, and it calls for two separate studies to be done by independent scientific organizations. Although they are not named in the amendment, it is our intention and expectation that the Pentagon will initiate contracts with the National Academy of Sciences and the Rand Corporation to do the studies. Both are widely respected organizations that have done similar types of studies in the past. The National Academy estimates that such a study would take a year to complete and cost approximately $750,000. It is our hope that these studies will assist in steering the Pentagon in the right direction so rapid progress can be made in finding and deploying alternatives.

Mr. President, there are respected, retired military officers who believe that suitable alternatives already exist. They have done considerable research on existing weapons systems and are convinced that, since an effective minefield must be kept under constant observation, a combination of sensors and smart munitions that can destroy moving armored vehicles can provide a comparable combat capability to our mixed mine systems. Therefore, it may not be necessary to develop new technologies, because tactics, technologies and/or operational concepts may already exist that can be adapted, modified, or otherwise utilized with comparable effect. That is why the amendment refers explicitly to the "adaptation, modification, and research and development," of both "existing and new tactics, technologies, and operational concepts." It is important that the search for alternatives explore all possible options.

It is no secret that I had hoped that the United States would be among the first to sign the Convention when it was opened for signature in Ottawa last December. However, that was not to be, and since then I have sought to find a common approach so the United States could signal to the world our clear intention to join the Convention as soon as practicable. Over a period of months, General Ralston, the Vice Chairman of the Joint Chiefs of Staff, National Security Advisory Sandy Berger and I discussed a number of issues including a way for the United States to join the Convention in a manner that is acceptable to the Pentagon. We now have that commitment, and while it may be some years before the United States signs, there are interim steps we can take to support the Convention.

We should urge other governments that have not yet signed, including Russia and China, to declare their intention to do so as soon as practicable, as we have. They too should undertake to remove whatever obstacles are in the way. We can also use the framework of the Convention to share technology, disclose mine stockpiles, identify mined areas, and support demining and assistance for mine victims.

Mr. President, this has been a long time in coming. President Clinton first called on the Pentagon to search for alternatives to anti-personnel mines back in 1994, and then for two years nothing happened. Then in May 1996 and again last September, he directed the Pentagon to do so. A few million dollars have been spent, but there has not been anything resembling a serious program. The prevailing attitude at the Pentagon has been that there are better uses of time and money, so let's do as little as possible and say we tried.

Obviously, if the Pentagon wants to avoid finding alternatives to landmines they know how to do that. They can try to hold back the money for research, they can say they cannot find alternatives that do absolutely everything landmines do, and they can continue to overstate their need for landmines. This will be a test of their good faith. I would urge them to approach this with the kind of "can-do" attitude they like to be known for, and to look closely at the technologies they already have. As I have said before, if we can drive a rover on Mars from a laptop on Earth, we can do this. I am convinced that it is a matter of will and resources.

General Ralston and Sandy Berger have pledged to make every effort to get the job done. Former Chairman of the Joint Chiefs of Staff, General David Jones, accepted President Clinton's offer to monitor the Pentagon's progress in finding alternatives. These are men of their word and I have no doubt that they will do everything possible to see this through. I will support them in every way possible.

Again, I want to thank the managers of the bill, Chairman THURMOND and Senator LEVIN and their staffs.

AMENDMENT NO. 2990

(Purpose: To re-establish the initiative relating to fair trade in automotive parts)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 2990.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE FAIR TRADE IN AUTOMOTIVE PARTS

SEC. 01. SHORT TITLE.

This title may be cited as the "Fair Trade in Automotive Parts Act of 1998".

SEC. 02. DEFINITIONS.

In this title:

(1) JAPANESE MARKETS.—The term "Japanese markets" refers to markets, including markets in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

(2) JAPANESE AND OTHER ASIAN MARKETS.—The term "Japanese and other Asian markets" refers to markets, including markets in the United States, Japan, and other Asian countries, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese, American, or other Asian automobiles.

SEC. 03. RE-ESTABLISHMENT OF INITIATIVE ON AUTOMOTIVE PARTS SALES TO JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall re-establish the initiative to increase the sale of United States made automotive parts and accessories to Japanese markets.

(b) FUNCTIONS.—In carrying out this section, the Secretary shall—

(1) foster increased access for United States made automotive parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States automotive parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States automotive parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies or practices, whether public or private, that result in barriers to increased commerce between United States automotive parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made automotive parts in Japanese markets; and

(7) transmit to Congress the annual report prepared by the Special Advisory Committee under section 04(c)(5).

SEC. 04. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTOMOTIVE PARTS SALES IN JAPANESE AND OTHER ASIAN MARKETS.

(a) IN GENERAL.—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this title.

(b) ESTABLISHMENT OF COMMITTEE.—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this title.

(c) FUNCTIONS.—The Special Advisory Committee established under subsection (b) shall—

(1) report to the Secretary of Commerce on barriers to sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(2) review and consider data collected on sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(3) advise the Secretary of Commerce during consultations with other governments on issues concerning sales of United States-made automotive parts in Japanese and other Asian markets;

(4) assist in establishing priorities for the initiative established under section 03, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

(5) assist the Secretary in reporting to Congress by submitting an annual written report to the Secretary on the sale of United States-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to this title.

(d) AUTHORITY.—The Secretary of Commerce shall draw on existing budget authority in carrying out this title.

SEC. 05. EXPIRATION DATE.

The authority under this title shall expire on December 31, 2003.

Mr. LEVIN. Mr. President, this amendment would reauthorize a special advisory committee on U.S. trade.

The Auto Parts Advisory Committee (APAC) is an important private sector industry advisory group made up of American auto parts companies that advise the Commerce Department on auto parts trade negotiations with Japan and Asia.

APAC was established by the Fair Trade in Auto Parts Act included in the Omnibus Trade and Competitiveness Act of 1988. It was reauthorized in

1995. APAC's authorization will expire at the end of this year.

At a time of soaring U.S. trade deficits with Japan and the rest of Asia, continued market opening negotiations are critical to removing barriers and achieving deregulation in these automotive markets. The overall U.S. trade deficit with Japan can only be reduced if the automotive portion of that deficit—on average 60 percent of the total—is reduced. We must have the tools at our disposal to do this, including the cooperation and resolve of the private sector to present our trading partners with a united front to advance the U.S. negotiating position. Because of the unfair trade barriers U.S. automotive exports face in a number of Asian markets, this reauthorization language will expand APAC's parameters to allow it to advise the Administration on trade consultations in Japan and other Asian markets.

APAC has done much to focus the attention and will of the U.S. government on finding a results-oriented solution to the auto parts problem with Japan. It has also played an important role in organizing an industry that is made up of thousands of diverse companies, many of them small businesses, to speak more with one voice with regard to the trade debate. This industry directly employs over 700,000. If we can open up foreign markets to U.S. auto parts exports we can create more high paying American manufacturing jobs in the auto parts industry. This is good for American workers, its good for U.S.-based auto parts companies and its good for our economy.

APAC is able to provide our trade negotiators with insight on the U.S. auto parts industry and the specific barriers they confront in Japan and elsewhere in Asia. Often individual U.S. auto parts companies that are trying to enter these markets do not want to speak out individually about protectionist foreign trade barriers that they have encountered for fear that doing so could jeopardize potential business opportunities in the countries in question. That is an understandable concern and that is why the U.S. Government, with input from APAC advising the government as an industry, can and should speak up on behalf of American companies trying to break into foreign markets.

In addition to its advisory role to the Commerce Department, APAC has also issued a number of useful studies and reports on the competitiveness of the United States auto parts industry and on the barriers to trade faced in selling to Japan. It has also issued reports and recommendations to the Commerce Department and the U.S. Congress on what steps must be taken to open Japan's markets to U.S. auto parts.

The U.S. auto parts industry and the Administration support the extension of APAC so that it can continue its contribution to market opening efforts for the sale of U.S. auto parts in Japan and elsewhere in Asia.

We should reauthorize APAC without delay so that its members can continue their good work advising our trade negotiators on auto parts trade in Japan and Asia.

Mr. President, this amendment has been cleared on the other side, I believe.

Mr. WARNER. That is correct.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2990) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2991

(Purpose: To provide for accountability of the Director and Deputy Director of the Naval Home)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. LOTT, proposes an amendment numbered 2991.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE NAVAL HOME.

(a) APPOINTMENT AND QUALIFICATIONS OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (a) of section 1517 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 417) is amended—

(1) in paragraph (2)—

(A) by striking out "Each Director" and inserting in lieu thereof "The Director of the United States Soldiers' and Airmen's Home"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) meet the requirements of paragraph (4).";

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs (3) and (4):

"(3) The Director, and any Deputy Director, of the Naval Home shall be appointed by the Secretary of Defense from among persons recommended by the Secretaries of the military departments who—

"(A) in the case of the position of Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0–5;

"(B) in the case of the position of Deputy Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0–4; and

"(C) meet the requirements of paragraph (4).

"(4) Each Director shall have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and significant military background.".

(b) TERM OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (c) of such section is amended—

(1) by striking out "(c) TERM OF DIRECTOR.—" and all that follows through "A Director" in the second sentence and inserting in lieu thereof "(c) TERMS OF DIRECTORS.—(1) The term of office of the Director of the United States Soldiers' and Airmen's Home shall be five years. The Director"; and

(2) by adding at the end the following new paragraph:

"(2) The Director and the Deputy Director of the Naval Home shall serve at the pleasure of the Secretary of Defense.".

(c) DEFINITIONS.—Such section is further amended by adding at the end the following:

"(g) DEFINITIONS.—In this section:

"(1) The term 'United States Soldiers' and Airmen's Home' means the separate facility of the Retirement Home that is known as the United States Soldiers' and Airmen's Home.

"(2) The term 'Naval Home' means the separate facility of the Retirement Home that is known as the Naval Home.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

Mr. WARNER. Mr. President, this amendment would provide for the accountability of the director and deputy director of the Naval Home.

I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2991) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2992

(Purpose: To ensure continuity in the management of the program for assessing alternative technologies for the destruction of assembled chemical munitions, and to provide for the use of such technologies)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. FORD, for himself and Mr. MCCONNELL, proposes an amendment numbered 2992.

The amendment is as follows:

At the end of subtitle B of title I, insert the following:

SEC. 117. ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.

(a) PROGRAM MANAGEMENT.—The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to incineration. In performing such function, the program manager shall act independently of the program manager for the baseline chemical demilitarization program and shall report to the Under Secretary of Defense for Acquisition and Technology.

(b) POST-DEMONSTRATION ACTIVITIES.—(1) The program manager for the Assembled Chemical Weapons Assessment may undertake the activities that are necessary to ensure that an alternative technology for the destruction of lethal chemical munitions can be implemented immediately after—

(A) the technology has been demonstrated successful; and

(B) the Under Secretary of Defense for Acquisition and Technology has submitted a report on the demonstration to Congress.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than June 1, 1999.

(c) INDEPENDENT EVALUATION.—The Under Secretary of Defense for Acquisition and Technology shall provide for two evaluations of the cost and schedule of the Assembled Chemical Weapons Assessment to be performed, and for each such evaluation to be submitted to the Under Secretary, not later than September 30, 1999. One of the evaluations shall be performed by a nongovernmental organization qualified to make such an evaluation, and the other evaluation shall be performed separately by the Cost Analysis Improvement Group of the Department of Defense.

(d) PILOT FACILITIES CONTRACTS.—(1) The Under Secretary of Defense for Acquisition and Technology shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary—

(A) certifies in writing to Congress is—

(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction of the munitions under the Chemical Weapons Convention; and

(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

(4) In this subsection, the term "Chemical Weapons Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

(e) FUNDING.—(1) Of the total amount authorized to be appropriated under section 107, $18,000,000 shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

(B) Planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, including planning and preparation for—

(i) continued development of the technology leading to deployment of the technology for use;

(ii) satisfaction of requirements for environmental permits;

(iii) demonstration, testing, and evaluation;

(iv) initiation of actions to design a pilot plant;

(v) provision of support at the field office or depot level for deployment of the technology for use; and

(vi) educational outreach to the public to engender support for the deployment.

(C) The independent evaluation of cost and schedule required under subsection (c).

(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

(f) ASSEMBLED CHEMICAL WEAPONS ASSESSMENT DEFINED.—In this section, the term "Assembled Chemical Weapons Assessment" means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104-208; 110 Stat. 3009-101; 50 U.S.C. 1521 note).

Mr. FORD. Mr. President, on July 17, 1996, President Clinton supported legislative language establishing a two-year "pilot program" to identify and demonstrate a safe and cost-effective technology for the destruction of chemical weapon munitions stockpiles.

The language signed into law by the President directed the Under Secretary of Defense for Acquisition and Technology to designate a program and appoint an executive officer to carry out the pilot program who was not, nor had been, in direct or immediate control of the Army Baseline Chemical Incineration Demilitarization program.

The legislation further prohibited the obligation of funds at two chemical weapons stockpile sites—Lexington Blue Grass Army Depot in Kentucky and the Pueblo Depot in Colorado—pending the outcome of the two-year research program.

It is Senator McCONNELL's and my understanding that the Assembled Chemical Weapons Assessment (ACWA) program has been a success in its initial stages. The management team for ACWA has just completed selecting seven technology teams who will conduct further evaluations toward a possible demonstration phase later this year. Based on information received, I am encouraged that at least two of the non-incineration technologies will be available for full scale testing by fiscal year 2000.

I am also very impressed with the very effective "dialogue" process including local citizens, state regulators, environmental organizations, tribal representatives, and many others in building a consensus in the ACWA program. I'm hopeful this open exchange will help in the eventual deployment and operation of a non-incineration facility, ensuring the days of delay and distraction that have plagued the chemical demilitarization program will soon be over.

Because of this success, I believe the ACWA "dialogue" will continue as a central part of the decision-making and consensus building in the Chemical Weapons Destruction program.

Mr. President, the amendment we introduce today does many things in the area of chemical demilitarization. It directs that the ACWA program must continue its independence from the baseline incinerator program through the next phase of pilot and full scale development. This will prevent any break or pause in the ACWA program by disallowing any transfer of responsibility for the program while making sure it meets the Chemical Weapons Convention Treaty (CWC) deadlines.

The program will stay under the direct supervision of the Under Secretary of Defense for Acquisition and Technology. The ACWA program manager will continue to act independently of the program manager for the Baseline Chemical Demilitarization Program.

This amendment also provides $18 million additional dollars so the Program manager of ACWA can move forward to meet the CWC deadline of 2007, which can be expanded until the year 2012. The additional funds authorized for chemical demilitarization for fiscal year 1999 will not come from the funds for the alternative technologies "Bulk Pilot Program."

Mr. President, I want to thank the leadership of the Senate Armed Services Committee for accepting this amendment. I would also like to thank Ms. Monica Chavez and Mr. Richard Fieldhouse of the committee staff for working with my staff in developing this amendment. Also, Mr. Billy Piper, Senator McCONNELL's military legislative assistant, should be commended for a job well done.

Mr. McCONNELL. Mr. President, I rise today to join my colleague from Kentucky in support of an amendment to the Department of Defense Authorization Bill. I would like to thank the Senator for his support and assistance on this important initiative. In addition, I would like to thank the distinguished managers of the bill for their assistance.

In 1996, I offered and the Senate accepted an amendment to the Department of Defense Appropriations bill which created the Alternative Technology Program. The mission of the program is to study alternative to incineration for destruction of our chemical weapons stockpiles.

The amendment Senator FORD and I offer today continues this program, and ensures that it will remain independent and fully capable of carrying out its intended mission.

Typically, when Senators offer amendments they rise to inform the body what their intentions are—what will their proposals do. I would like to take the opposite tack today, and tell the Senate what our amendment will not do.

The Ford-McConnell amendment is not designed to delay or prevent the destruction of chemical weapons. The Senate ratified, and I supported, the chemical weapons convention which established a deadline by which all weapons must be destroyed. This amendment would not alter that agreement. In fact, the amendment says that alternative technologies must be able to complete the destruction in the same timeframe as incineration.

The Ford-McConnell amendment is not designed to scuttle the incineration program. Consistent with the legislation Congress passed in 1996, this measure continues the study and implementation of alternative technologies. At sites where incinerators are under construction or operating, that work will continue.

What, then, does this amendment accomplish?

First, it ensures that the Program Manager for the Assembled Chemical Weapons Assessment (ACWA) continues to operate independently of the incineration program, reporting directly to the Under Secretary of Defense for Acquisition and Technology. This is important in order to maintain the integrity of the program and protect the Program Manager's ability to make decisions in an efficient manner. To date, all involved have reported to both Senator FORD and me that ACWA has been successfully run. There has been a tremendous amount of citizen involvement. The result has been consensus not only on the direction the program is headed, but the methods it has employed.

Equally important, the amendment makes it clear that the Program Manager for ACWA can move toward implementation of technology which meets several clearly defined criteria. These criteria include that the technology selected is at least as safe and cost-effective as incineration. We have included a reporting requirement for both the Under Secretary for Technology and Acquisition as well as the Cost Analysis Improvement Group of the Department of Defense, to report to Congress on the cost and schedule of potential implementation.

As for the timing of the amendment, it clearly states that no alternative technology may be implemented unless it can be determined that it will lead to the destruction of stockpiles no later than the date by which incineration could do so. This is an important point, Mr. President. Senator FORD and I have no desire to prolong the schedule for destruction of our stockpiles, we merely ask that any alternatives to incineration be held to the same standards as are currently in place.

Mr. President, why have Senator FORD and I taken the Senate's time with this amendment? Quite simply, I remain disappointed with the Army's incineration program. It is grossly over budget and behind schedule. If it is possible to develop an alternative to incineration which is safe, and can accomplish the goals of our current program, then I believe Congress should support that endeavor.

Finally, and most importantly, Senator FORD and I rise on behalf of our constituents in central Kentucky. They live every day with the knowledge that thousands of rockets containing lethal nerve agents are stored just minutes from their homes. We owe it to these Kentuckians to exhaust every option in order to eliminate these weapons in the safest manner possible.

Mr. WARNER. Mr. President, this amendment would maintain the current program manager for the assembled chemical weapons assessment program, as well as provide authority for the ACWA program manager to undertake the necessary activities to conduct demonstrations and pilot-scale testing of alternative technologies for destruction of lethal chemical munitions. The amendment would also provide for valuations of the alternative technologies by nongovernmental organizations and would make available $18 million from funds authorized to the chemical demilitarization program.

I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2992) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2993

(Purpose: To authorize the President to advance Benjamin O. Davis, Jr., to the grade of general on the retired list of the Air Force)

Mr. WARNER. Mr. President, on behalf of Senators MCCAIN and LIEBERMAN, I offer an amendment that would authorize the President to promote Benjamin O. Davis, Jr., to the rank of general on the retired list.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN, Mr. LIEBERMAN, Mr. WARNER, and Mr. LEVIN, proposes an amendment numbered 2993.

The amendment is as follows:

At the end of subtitle C of title V, add the following:

SEC. 531 ADVANCEMENT OF BENJAMIN O. DAVIS, JUNIOR, TO GRADE OF GENERAL.

(a) AUTHORITY.—The President is authorized to advance Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force.

(b) ADDITIONAL BENEFITS NOT TO ACCRUE.—An advancement of Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force under subsection (a) shall not increase or change the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the said Benjamin O. Davis, Junior.

Mr. MCCAIN. Mr. President, today, we have a historic opportunity to honor one of America's truly heroic pioneers. Lieutenant General Benjamin O. Davis, Jr., United States Air Force (ret), has earned a hallowed place in the history of our armed forces, the history of our great nation, and arguably, the history of mankind.

Today, in order to pay a just and fitting tribute to the exceptional contributions of Lt. General Davis, I offer this amendment that would authorize the President of the United States to promote Benjamin O. Davis, Jr., to the rank of General on the retired list of the United States Air Force. This promotion would not entail any additional pay or benefits for General Davis or his family.

Lt. General Benjamin Davis's life has epitomized sustained superior performance in the face of singularly distinctive challenges. Though given the "silent treatment," he graduated 35th in a class of 276 as the first African American graduate of the 20th century from the United States Military Academy at West Point. He was the first African American officer in the Army Air Forces, and was a member of the first African American pilot training class held at Tuskegee Army Airfield, Alabama. He led the 99th Pursuit Squadron and 332nd Fighter Group—known as the Tuskegee Airmen—into air combat over many locations in the European Theater of Operations.

Following the integration of the Air Force, Colonel Davis held several significant commands. He was Commander of the 51st Fighter Interceptor Wing, Suwon, Korea. After promotion to Brigadier General in 1954, he served as director of operations and training at headquarters, Far East Air Forces, Tokyo, Japan. Brigadier General Davis was the first and only African American General Officer from 1954 through the 1970s.

General Davis was promoted to Major General in 1959 and Lieutenant General in 1965. Lt. General Davis retired from the active Air Force in 1970. He later served as Assistant Secretary of Transportation from 1971 to 1975.

Lt. General Davis holds five honorary doctorate degrees, has served on numerous public and private panels, and has been the deserving recipient of numerous other distinguished honors.

Though Lt. General Benjamin Davis's record is replete with laudable accomplishments, those accomplishments are all the more inspiring and significant when viewed against the backdrop of the time in America's history in which they occurred.

His perseverance against the prejudices of his day showed his great depth of character. His unqualified successes in the face of those prejudices not only were a credit to himself, but they served as catalysts for societal change—change that not only has directly impacted the life of every American, but change that has arguably affected the world. America owes him a great debt of gratitude.

Mr. President, the singularly distinctive accomplishments of Benjamin O. Davis Jr., make him uniquely qualified to receive this tremendous honor, an honor I do not propose lightly. I ask my colleagues' unanimous support for this amendment. There is no one more deserving, and no better way to express the gratitude of a grateful nation.

Mr. LEVIN. The amendment has been cleared on this side, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2993) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. I ask unanimous consent that I be added as a cosponsor on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I likewise wish to be added as a cosponsor to that amendment for the very distinguished officer in our military.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2994

(Purpose: To require a report regarding the savings and effect of personnel reductions in the Army Materiel Command)

Mr. LEVIN. Mr. President, on behalf of Senators TORRICELLI and LAUTENBERG, I offer an amendment which would require the Department of Defense to provide a report to Congress on the readiness impact of proposed personnel reductions of the Army Materiel Command.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. TORRICELLI and Mr. LAUTENBERG, proposes an amendment numbered 2994.

The amendment is as follows:

At the end of subtitle E of title III, add the following:

SEC. 350. PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.

Not later than March 31, 1998, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the Quadrennial Defense Review's proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the projected cost savings from such reductions and the manner in which such savings are expected to be achieved.

Mr. WARNER. This amendment has been cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2994) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2995

(Purpose: To authorize a land conveyance, Naval Air Reserve Center, Minneapolis, Minnesota)

Mr. WARNER. Mr. President, on behalf of Senators GRAMS and WELLSTONE, I offer an amendment which would authorize the land conveyance, without consideration from the Naval Air Reserve Center in Minneapolis, MN, to the Minneapolis-St. Paul Metropolitan Airports Commission.

I believe this has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRAMS and Mr. WELLSTONE, proposes an amendment numbered 2995.

The amendment is as follows:

On page 342, below line 22, add the following:

SEC. 2827. LAND CONVEYANCE, NAVAL AIR RESERVE CENTER, MINNEAPOLIS, MINNESOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without any consideration other than the consideration provided for under subsection (c), to the Minneapolis-St. Paul Metropolitan Airports Commission, Minnesota (in this section referred to as the "Commission"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 32 acres located in Minneapolis, Minnesota, and comprising the Naval Air Reserve Center, Minneapolis, Minnesota. The purpose of the conveyance is to facilitate expansion of the Minneapolis-St. Paul International Airport.

(b) ALTERNATIVE LEASE AUTHORITY.—(1) The Secretary may, in lieu of the conveyance authorized by subsection (a), elect to lease the property referred to in that subsection to the Commission if the Secretary determines that a lease of the property would better serve the interests of the United States.

(2) Notwithstanding any other provision of law, the term of the lease under this subsection may not exceed 99 years.

(3) The Secretary may not require any consideration as part of the lease under this subsection other than the consideration provided for under subsection (c).

(c) CONSIDERATION.—As consideration for the conveyance under subsection (a), or the lease under subsection (b), the Commission shall—

(1) provide for such facilities as the Secretary considers appropriate for the Naval Reserve to replace the facilities conveyed or leased under this section—

(A) by—

(i) conveying to the United States, without any consideration other than the consideration provided for under subsection (a), all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the conveyance authorized by subsection (a); or

(ii) leasing to the United States, for a term of 99 years and without any consideration other than the consideration provided for under subsection (b), a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the lease authorized by subsection (b); and

(B) assuming the costs of designing and constructing such facilities on the parcel conveyed or leased under subparagraph (A); and

(2) assume any reasonable costs incurred by the Secretary in relocating the operations of the Naval Air Reserve Center to the facilities constructed under paragraph (1)(B).

(d) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a), or enter into the lease authorized by subsection (b), until the facilities to be constructed under subsection (c) are available for the relocation of the operations of the Naval Air Reserve Center.

(e) AGREEMENT RELATING TO CONVEYANCE.—If the Secretary determines to proceed with the conveyance authorized by subsection (a), or the lease authorized by subsection (b), the Secretary and the Commission shall enter into an agreement specifying the terms and conditions under which the conveyance or lease will occur.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a), or leased under subsection (b), and to be conveyed or leased under subsection (c)(1)(A), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Commission.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a), or the lease under subsection (b), as the Secretary considers appropriate to protect the interests of the United States.

Mr. GRAMS. Mr. President, my amendment will accomplish two important goals. It will provide the Naval Air Reserve with new facilities to better meet its training needs and will facilitate the development of the Minneapolis/St. Paul International Airport to serve all Minnesotans.

This amendment authorizes the Secretary of the Navy to convey or lease a parcel of property which includes the current Naval Air Reserve Center to the Minnesota Airports Commission. In return, the Minnesota Airports Commission will assume the costs of designing and constructing facilities that the Secretary of the Navy considers appropriate for the Naval Air Reserve as well as any reasonable relocation expenses.

Mr. President, it is my understanding that the Navy, the Minnesota Airports Commission, and the Federal Aviation Administration support this amendment. This is a win-win proposition for the Navy and the traveling public.

Mr. LEVIN. The amendment has been cleared, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2995) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2996

(Purpose: To authorize a land conveyance, Army Reserve Center, Peoria, Illinois)

Mr. LEVIN. Mr. President, on behalf of Senator DURBIN, I offer an amendment which would convey, without consideration, a former Army Reserve Center in Peoria, IL, to the Peoria School District for educational purposes.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for Mr. DURBIN, proposes an amendment numbered 2996.

The amendment is as follows:

On page 342, below line 22, add the following:

SEC. 2827. LAND CONVEYANCE, ARMY RESERVE CENTER, PEORIA, ILLINOIS

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Peoria School District #150 of Peoria, Illinois (in this section referred to as the "School District"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) comprising the location of the Army Reserve Center located at 1429 Northmoor Road in Peoria, Illinois, for the purposes of staff, student and community education and training, additional maintenance and transportation facilities, and for other purposes.

(b) DESCRIPTION OF PROPERTY.—the exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(c) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with subsection (a), all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2996) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Let the record reflect the amendment was agreed to on both sides.

AMENDMENT NO. 2997

(Purpose: To authorize a land conveyance, Skaneateles, New York)

Mr. WARNER. Mr. President, on behalf of Senator D'AMATO, I offer an amendment which would convey as a public benefit conveyance of approximately 147 acres of excess property in the town of S-K-A-N-E-A-T-E-L-E-S, NY, for recreational use.

I believe this amendment has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for Mr. D'AMATO, proposes an amendment numbered 2997.

The amendment is as follows:

On page 342, below line 22, add the following:

SEC. 2827. LAND CONVEYANCE, SKANEATELES, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Town of Skaneateles, New York (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 147.10 acres in Skaneateles, New York, and commonly known as the "Federal Farm". The purpose of the conveyance is to permit the Town to develop the parcel for public benefit, including for recreational purposes.

(b) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used by the Town in accordance with that subsection, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

Mr. LEVIN. Mr. President, the amendment has been cleared.

On behalf of Senator D'AMATO, I will make an effort at pronouncing the town of Skaneateles.

Mr. WARNER. I thank my good friend and colleague.

Mr. LEVIN. I hope I didn't blow it.

Mr. WARNER. I will work diligently to try to get that proper pronunciation. I thought I would be of assistance to those taking down the notes if I spelled it out.

Mr. LEVIN. I think the reporter appreciated your effort a lot more than the folks in New York appreciated my efforts.

Mr. WARNER. That is correct. You got the votes. I will pick up what is left.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2997) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2874, AS MODIFIED

Mr. LEVIN. Mr. President, on behalf of Senator WYDEN, I call up an amendment No. 2874, as modified, which would require the General Accounting Office to report on methods used to calculate overhead costs at the Department of Energy cleanup sites.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for Mr. WYDEN, proposes an amendment numbered 2874, as modified.

The amendment is as follows:

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. REVIEW OF CALCULATION OF OVERHEAD COSTS OF CLEANUP AT DEPARTMENT OF ENERGY SITES.

(a) REVIEW.—(1) The Comptroller General shall—

(A) carry out a review of the methods currently used by the Department of Energy for calculating overhead costs (including direct overhead costs and indirect overhead costs) associated with the cleanup of Department sites; and

(B) pursuant to the review, identify how such costs are allocated among different program and budget accounts of the Department.

(2) The review shall include the following:

(A) All activities whose costs are spread across other accounts of a Department site or of any contractor performing work at a site.

(B) Support service overhead costs, including activities or services which are paid for on a per-unit-used basis.

(C) All fees, awards, and other profit on indirect and support service overhead costs or fees that are not attributed to performance on a single project.

(D) Any portion of contractor costs for which there is no competitive bid.

(E) All computer service and information management costs that have been previously reported as overhead costs.

(F) Any other costs that the Comptroller General considers appropriate to categorize as direct or indirect overhead costs.

(b) REPORT.—Not later than January 31, 1999, the Comptroller General shall submit to

Congress a report setting forth the findings of the Comptroller as a result of the review under subsection (a). The report shall include the recommendations of the Comptroller regarding means of standardizing the methods used by the Department for allocating and reporting overhead costs associated with the cleanup of Department sites.

Mr. WARNER. Mr. President, this amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2874), as modified, was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2998

(Purpose: To revise authorities relating to a Department of Defense officer designated as a member of the Panama Canal Commission supervisory board by the Secretary of Defense)

Mr. WARNER. Mr. President, on behalf of Senator COATS, I offer an amendment which provides authority to the Secretary of Defense to designate a Department of Defense official to be a Member of the Panama Canal Commission supervisory board.

I believe this amendment has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COATS, proposes an amendment numbered 2998.

The amendment is as follows:

At the end of title XXXV, add the following:

SEC. 3513. OFFICER OF THE DEPARTMENT OF DEFENSE DESIGNATED AS A MEMBER OF THE PANAMA CANAL COMMISSION SUPERVISORY BOARD.

(a) AUTHORITY.—Section 1102(a) (22 U.S.C. 3612(a)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Commission shall be supervised by a Board composed of nine members. An officer of the Department of Defense designated by the Secretary of Defense shall be one of the members of the Board."; and

(2) in the last sentence, by striking out "Secretary of Defense or a designee of the Secretary of Defense" and inserting in lieu thereof "the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 302 of Public Law 105-18 (111 Stat. 168) is repealed.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2998) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2809

(Purpose: To require an annual GAO review of the F/A-18E/F aircraft program)

Mr. LEVIN. Mr. President, on behalf of Senator FEINGOLD, I call up amendment 2809 which would require a study of the F/A-18E/F.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. FEINGOLD, proposes an amendment numbered 2809.

The amendment is as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. ANNUAL GAO REVIEW OF F/A-18E/F AIRCRAFT PROGRAM.

(a) REVIEW AND REPORT REQUIRED.—Not later than June 15 of each year, the Comptroller General shall review the F/A-18E/F aircraft program and submit to Congress a report on the results of the review. The Comptroller General shall also submit to Congress with each report a certification regarding whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(b) CONTENT OF REPORT.—The report submitted on the program each year shall include the following:

(1) The extent to which engineering and manufacturing development and operational test and evaluation under the program are meeting the goals established for engineering and manufacturing development and operational test and evaluation under the program, including the performance, cost, and schedule goals.

(2) The status of modifications expected to have a significant effect on the cost or performance of the F/A-18E/F aircraft.

(c) DURATION OF REQUIREMENT.—The Comptroller General shall submit the first report under this section not later than June 15, 1999. No report is required under this section after the full rate production contract is awarded under the program.

(d) REQUIREMENT TO SUPPORT ANNUAL GAO REVIEW.—The Secretary of Defense and the prime contractors under the F/A-18E/F aircraft program shall timely provide the Comptroller General with such information on the program, including information on program performance, as the Comptroller General considers necessary to carry out the responsibilities under this section.

Mr. COATS. Mr. President, the amendment from the Senator from Wisconsin directs a study of the F/A-18E/F program. I recommended that we accept his amendment as a courtesy, and to move the Defense Authorization Bill along. Accepting the amendment in no way diminishes the committee's support for the program and its demonstrated performance in over 2,900 hours of test flying.

Mr. President, the F/A-18E/F program has a history of providing audit agencies with unlimited access to all personnel and data required. The F/A-18E/F program is now entering its last year of Engineering and Manufacturing Development (EMD). The development program continues its unprecedented success: on schedule, on cost, and meeting or exceeding specified performance. Approximately 70% of the EMD flight test program is complete. Besides successful developmental tests, three successful Operational Testing periods were completed between January 1996 and March 1998.

The Department of Defense has a structured process for providing oversight on acquisition programs. The process includes Working Level Integrated Product Teams (WLIPTs), Integrated Integrating Product Teams (IIPT) and Overarching Integrated Product Teams (OIPTs). These teams, made up of members from the Navy, Joint Chiefs of Staff and Office of the Secretary of Defense staffs, have worked well to keep Defense Department leadership, as well as Congress, apprised of the progress.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2809) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. The record should reflect we concur, Mr. President.

AMENDMENT NO. 2826

(Purpose: To authorize the conveyance of the ex-U.S.S. *Lorain County* (LST-1177) to the Ohio War Memorial, Inc., Sandusky, Ohio)

Mr. WARNER. Mr. President, on behalf of Senators DEWINE and GLENN, I call up amendment 2826 which would authorize the Secretary of Transportation to convey at no cost to the Government a surplus National Defense Reserve Fleet Ship, the ex-U.S.S. *Lorain County*, to a nonprofit organization for use as a memorial to Ohio veterans.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DEWINE, for himself, and Mr. GLENN, proposes an amendment numbered 2826.

The amendment is as follows:

On page 204, below line 22, add the following:

SEC. 1014. CONVEYANCE OF NDRF VESSEL EX-USS LORAIN COUNTY.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-USS LORAIN COUNTY (LST-1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the "recipient"), for use as a memorial to Ohio veterans.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance of from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

Mr. DEWINE. Mr. President, I am pleased to join with my colleague from Ohio, Senator GLENN, to offer an amendment to restore a piece of history for our veterans. This may be the last opportunity we have to bring an Ohio-built ship back to the state of Ohio—where so many U.S. Navy ships were built. Our amendment would allow for the restoration of the tank landing ship, the U.S.S. *Lorain County* (LST-1177), so that it may be restored and serve as a memorial to Ohio veterans.

A number of individuals deserve credit for this initiative. First, I commend my friend and colleague Congressman PAUL GILLMOR. Congressman GILLMOR is a true friend of Ohio Veterans. He took the lead in adding similar legislation to the House of Representatives' version of the Defense Authorization Bill. Secondly, I would like to recognize the efforts of the members of Ohio War Memorial, Inc. Their patriotic devotion to this memorial is very worthwhile and highly admirable.

The U.S.S. *Lorain County* was built during the 1956–58 time period by Lorain County's American Shipbuilding Company. She spent 14 years on active duty as a part of the U.S. Navy's Amphibious Force in the Atlantic, Mediterranean, and the Caribbean. She completed distinguished service and was decommissioned in 1972.

The *Lorain County* is presently in Virginia and she is intact and in good condition. Without this amendment, she likely will be sold for scrap metal. So this is our last opportunity to save and utilize this ship as a memorial to all of those who not only built the mighty ships of the U.S. Navy, but to those dedicated veterans who served on them as well.

This amendment would not impose any cost to the Federal Government and would allow Ohio War Memorial, Inc., a private, nonprofit citizens group, enough time to raise the funds needed to return the ship to Ohio, renovate it, and turn it into a memorial that every veteran from, or visiting the state of Ohio would be proud to see.

Mr. President, I urge my colleagues to support this effort to save this piece of history.

Mr. LEVIN. The amendment has been cleared, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The Amendment (No. 2826) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2999

(Purpose: To guarantee the long-term national security of the United States by investing in a robust Defense Science and Technology Program)

Mr. LEVIN. Mr. President, on behalf of Senators BINGAMAN, SANTORUM, LIEBERMAN, LOTT and FRIST, I offer an amendment which would express the sense of the Senate there should be a 10-year objective for the Secretary of Defense for increasing funding for science and technology programs and a 10-year objective for the Secretary of Energy for increasing funding of nonproliferation science and technology programs.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BINGAMAN, for himself, Mr. SANTORUM, Mr. LIEBERMAN, Mr. LOTT and Mr. FRIST, proposes an amendment numbered 2999.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

"SEC. 1064. SENSE OF THE CONGRESS ON THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.

"(a) FUNDING REQUIREMENTS FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM BUDGET.—It is the sense of the Congress that for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Defense to increase the budget for the Defense Science and Technology Program for the fiscal year over the budget for that program for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

"(b) GUIDELINES FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.

"(1) RELATIONSHIP OF DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO UNIVERSITY RESEARCH.—It is the sense of the Congress that the following should be key objectives of the Defense Science and Technology Program—

"(A) the sustainment of research capabilities in scientific and engineering disciplines critical to the Department of Defense;

"(B) the education and training of the next generation of scientists and engineers in disciplines that are relevant to future Defense systems, particularly through the conduct of basic research; and

"(C) the continued support of the Defense Experimental Program to Stimulate Competitive Research and research programs at historically black colleges and universities and minority institutions.

"(2) RELATIONSHIP OF THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO COMMERCIAL RESEARCH AND TECHNOLOGY.

"(A) It is the sense of the Congress that in supporting projects within the Defense Science and Technology Program, the Secretary of Defense should attempt to leverage commercial research, technology, products, and processes for the benefit of the Department of Defense.

"(B) It is the sense of the Congress that funds made available for projects and programs of the Defense Science and Technology Program should be used only for the benefit of the Department of Defense, which includes—

"(i) the development of technology that has only military applications;

"(ii) the development of militarily useful, commercially viable technology; or

"(iii) the adaption of commercial technology, products, or processes for military purposes.

"(3) SYNERGISTIC MANAGEMENT OF RESEARCH AND DEVELOPMENT.—It is the sense of the Congress that the Secretary of Defense may allocate a combination of funds available for the Department of Defense for basic and applied research and for advanced development to support any individual project or program within the Defense Science and Technology Program. This flexibility is not intended to change the allocation of funds in any fiscal year among basic and applied research and advanced development.

"(c) DEFINITIONS.—In this section:

"(1) The term "Defense Science and Technology Program" means basic and applied research and advanced development.

"(2) The term "basic and applied research" means work funded in program elements for defense research and development under Department of Defense R&D Budget Activities 1 or 2.

"(3) The term "advanced development" means work funded in program elements for defense research and development under Department of Defense R&D Budget Activity 3.".

On page 398, between lines 9 and 10, insert the following:

"SEC. 3144. SENSE OF THE CONGRESS ON FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF ENERGY

"(a) FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES BUDGET.—It is the sense of the Congress that for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Energy to increase the budget for the nonproliferation science and technology activities for the fiscal year over the budget for those activities for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

"(b) NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES DEFINED.—In this section, the term "nonproliferation science and technology activities" means activities (including program direction activities) relating to preventing and countering the proliferation of weapons of mass destruction that are funded by the Department of Energy under the following programs and projects:

"(1) The Verification and Control Technology program within the Office of Nonproliferation and National Security;

"(2) Projects under the "Technology and Systems Development" element of the Nuclear Safeguards and Security program within the Office of Nonproliferation and National Security.

"(3) Projects relating to a national capability to assess the credibility of radiological and extortion threats, or to combat nuclear materials trafficking or terrorism, under the Emergency Management program within the Office of Nonproliferation and National Security.

"(4) Projects relating to the development or integration of new technology to respond to emergencies and threats involving the presence, or possible presence, of weapons of mass destruction, radiological emergencies, and related terrorist threats, under the Office of Defense Programs.".

Mr. WARNER. The amendment is cleared on this side. I urge its adoption.

The PRESIDING OFFICER. Without objection the amendment is agreed to.

The amendment (No. 2999) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2448, AS MODIFIED

(Purpose: To add disposal receipts objectives for three additional fiscal years; to clarify the authority relating to the disposal of chromium ferroalloy; to add a condition to the authority to dispose of certain strategic and critical materials in the National Defense Stockpile; and to authorize use of funds in the National Defense Stockpile Transaction Fund for certain environmental activities)

Mr. WARNER. Mr. President, on behalf of Senator THURMOND, I call up amendment 2448, and I send a modification to the desk which would require a deposit of revenues into the Treasury from the sales of materials from the National Defense Stockpile would be subject to appropriations. The modified amendment would also authorize the use of funds within the National Defense Stockpile Transaction Fund for environmental remediation if required by Federal law or agreement.

The clerk will report.

The Legislative Clerk read as follows:

The Senator from Virginia (Mr. WARNER) for Mr. THURMOND proposes an amendment No. 2448, as modified.

The amendment is as follows:

Beginning on page 400, line 10, strike out "$100,000,000" and all that follows through page 401, line 12, and insert in lieu thereof the following:

$103,000,000 by the end of fiscal year 1999 and $377,000,000 by the end of fiscal year 2003.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Beryllium Metal, vacuum cast	227 short tons
Chromium Metal—EL	8,511 short tons
Columbium Carbide Powder	21,372 pounds contained
Columbium Ferro	249,395 pounds contained
Columbium Concentrates	1,733,454 pounds contained
Chromium Ferroalloy	92,000 short tons
Diamond, Stones	3,000,000 carats
Germanium Metal	28,198 kilograms
Indium	14,248 troy ounces
Palladium	1,227,831 troy ounces
Platinum	439,887 troy ounces
Tantalum Carbide Powder	22,681 pounds contained
Tantalum Metal Powder	50,000 pounds contained
Tantalum Minerals	1,751,364 pounds contained
Tantalum Oxide	122,730 pounds contained
Tungsten Ferro	2,024,143 pounds
Tungsten Carbide Powder	2,032,954 pounds
Tungsten Metal Powder	1,898,009 pounds
Tungsten Ores & Concentrates	76,358,230 pounds.

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) AUTHORIZATION OF SALE.—The authority provided by this section to dispose of materials contained in the National Defense Stockpile so as to result in receipts of $100,000,000 of the amount specified for fiscal year 1999 in subsection (a) by the end of that fiscal year shall be effective only to the extent provided in advance in appropriation Acts.

SEC. 3304. USE OF STOCKPILE FUNDS FOR CERTAIN ENVIRONMENTAL REMEDIATION, RESTORATION, WASTE MANAGEMENT, AND COMPLIANCE ACTIVITIES.

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L), respectively; and

(2) by inserting after subparagraph (I) the following new subparagraph (J):

"(J) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the Government under an administrative decision or negotiated agreement.".

Mr. WARNER. I understand this amendment has been cleared. I urge its adoption.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The amendment, as modified, is agreed to.

The amendment (No. 2448) as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3000

(Purpose: To express the sense of Congress regarding the homeporting of the U.S.S. *Iowa* battleship at the Port of San Francisco)

Mr. LEVIN. Mr. President, on behalf of Senators FEINSTEIN and BOXER, I offer an amendment which would express the sense of Congress that the battleship, U.S.S. *Iowa*, should be homeported in the Port of San Francisco.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mrs. FEINSTEIN, for herself and Mrs. BOXER, proposes an amendment numbered 3000.

The amendment is as follows:

At the end of subtitle B of title X, add the following:

SEC. 1014. HOMEPORTING OF THE U.S.S. IOWA BATTLESHIP IN SAN FRANCISCO.

It is the sense of Congress that the U.S.S. Iowa should be homeported at the Port of San Francisco, California.

Mr. WARNER. The RECORD should reflect I concur in this amendment. I worked with these two Senators in developing this amendment, and I hope very much that the objective can be eventually achieved.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3000) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2822, AS MODIFIED

(Purpose: To improve the process for designating defense property for demilitarization and to further penalize acts involved in unlawful export of certain merchandise)

Mr. WARNER. On behalf of Senator GRASSLEY, I offer an amendment which would require the Secretary of Defense to assign demilitarization codes to DOD equipment to ensure that it is properly disposed of. The amendment would also make it a violation of criminal law to knowingly engage in the exportation of equipment, where the exportation of that equipment is restricted. I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRASSLEY, proposes an amendment numbered 2822, as modified.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. DEMILITARIZATION AND EXPORTATION OF DEFENSE PROPERTY.

(a) CENTRALIZED ASSIGNMENT OF DEMILITARIZATION CODES FOR DEFENSE PROPERTY.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2572 the following:

"§2573. Demilitarization codes for defense property

"(a) AUTHORITY.—The Secretary of Defense shall—

"(1) assign the demilitarization codes to the property (other than real property) of the Department of Defense; and

"(2) take any action that the Secretary considers necessary to ensure that the property assigned demilitarization codes is demilitarized in accordance with the assigned codes.

"(b) SUPREMACY OF CODES.—A demilitarization code assigned to an item of property by the Secretary of Defense under this section shall take precedence over any demilitarization code assigned to the item before the date of enactment of the National Defense Authorization Act for Fiscal Year 1999 by any other official in the Department of Defense.

"(c) ENFORCEMENT.—The Secretary of Defense shall commit the personnel and resources to the exercise of authority under subsection (a) that are necessary to ensure that—

"(1) appropriate demilitarization codes are assigned to property of the Department of Defense; and

"(2) property is demilitarized in accordance with the assigned codes.

"(d) REPORT.—The Secretary of Defense shall include in the annual reports submitted to Congress under section 113(c)(1) of this title in 1999 and 2000 a discussion of the following:

"(1) The exercise of the authority under this section during the fiscal year preceding the fiscal year in which the report is submitted.

"(2) Any changes in the exercise of the authority that are taking place in the fiscal year in which the report is submitted or are planned for that fiscal year or any subsequent fiscal year.

"(e) DEFINITIONS.—In this section:

"(1) The term 'demilitarization code', with respect to property, means a code that identifies the extent to which the property must be demilitarized before disposal.

"(2) The term 'demilitarize', with respect to property, means to destroy the military offensive or defensive advantages inherent in the property, by mutilation, cutting, crushing, scrapping, melting, burning, or altering the property so that the property cannot be used for the purpose for which it was originally made.".

(2) The table of sections at the beginning of such chapter 153 is amended by inserting after the item relating to section 2572 the following:

"2573. Demilitarization codes for defense property.".

(b) CRIMINAL OFFENSE.—(1) Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§554. Violations of regulated acts involving the exportation of United States property

"(a) Any person who—

"(1) fraudulently or knowingly exports or otherwise sends from the United States (as defined in section 545 of this title), or attempts to export or send from the United States any merchandise contrary to any law of the United States; or

"(2) receives, conceals, buys, sells, or in any manner facilitates, the transportation, concealment, or sale of any merchandise prior to exportation, knowing that the merchandise is intended for exportation in violation of Federal law;

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) The penalties under this section shall be in addition to any other applicable criminal penalty.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"554. Violations of regulated acts involving the exportation of United States property.".

Mr. GRASSLEY. Mr. President, I rise today to offer an amendment to this year's Defense bill to address the unexcusably lax procedures for disposing of surplus military equipment which currently exist. There have been several media reports indicating that these procedures are unacceptably loose. To examine this issue, I chaired a hearing on the proper disposal of military surplus before the Judiciary Subcommittee on Administrative Oversight and the Courts. I was alarmed at the ease with which hostile foreign nations like China can purchase classified military items from depots right here in America.

Mr. President, my amendment makes several much-needed reforms. First, the amendment requires the Secretary of Defense to assign codes to military equipment. These codes determine whether the equipment can later be resold to the public as surplus or if the equipment must be destroyed before it can be resold as surplus. Further, the amendment gives the Secretary of Defense the authority to take whatever steps he deems necessary to fulfill this responsibility. Finally, my amendment creates a new export control law which closes loopholes in current law which arms smugglers use to avoid prosecutions for exporting military surplus. Importantly, this new export control law has the support of the administration.

The problem of lax disposal procedures isn't new. The first congressional hearings on this topic were conducted in the early 1970s. At that time, Congress received testimony that the Pentagon's program for ensuring the proper disposal of surplus items was in shambles.

Mr. President, after my hearing, I can say that the disposal process is still badly in need or reform. My hearing showed that there is a cavalier attitude toward the disposal of surplus equipment that presents a real danger to our national security and to the safety of the American people. In one case, the Pentagon lost track of surplus equipment valued at 39 million dollars. That's a lot of stuff to lose in just one transaction.

It seems to me that disposing of tanks or missiles or classified military equipment in a way that keeps them out of the hands of hostile foreign nations or terrorists is really central to the military mission, and so I hope my colleagues will support this amendment.

Under current practice, the Pentagon has decided the answer to the question of what to do with surplus parts is to sell them to the highest bidder, with practically no controls in place. The few controls that are in place, which are supposed to make sure that military-grade surplus doesn't end up with terrorists or hostile nations, continue to be an abject failure by any reasonable standard.

Mr. President, the depots which sell sensitive military surplus have become thriving terrorist flea markets. In fact, the Pentagon even has a world wide web homepage to advertise military surplus for sale—some of it classified. Who knows, right now some of Saddam Hussein's henchmen could be browsing this homepage looking for spare parts or new weapons.

One way to measure whether an agency takes a problem seriously is to look at how that agency disciplines its own employees when their misconduct contributes to that problem in other words, how does the Pentagon react when one of its own employees breaks the rules on disposing of dangerous military surplus? By that standard, it appears to this Senator that the Defense Department doesn't take security breaches at military depots very seriously. For instance, it's my understanding that the chief of a depot in Crane, Indiana was not seriously reprimanded for allowing over 70 grenade launchers to be sold without being properly destroyed. To date, only about 30 of those launchers have been recovered. What's the result? Every once in a while, law enforcement seizes one of these missing grenade launchers from a gang of criminals. Pentagon sloppiness is making criminals even more dangerous and well-armed.

In another case which caused problems for law enforcement, the Justice Department had to drop illegal export charges against an arms smuggler who had tried to send armored personnel carrier parts to Iran. The Justice Department had to drop the charges because the defense logistics agency had assigned the wrong code to the equipment.

Another indication that the Pentagon doesn't take the issue of properly disposing of surplus very seriously is that no one from the office of the Secretary of Defense would come to testify at my hearing—despite repeated requests that someone appear who could speak for the Defense Department as a whole. That's why my amendment puts the responsibility for disposing of surplus in the office of the Secretary of Defense. Congress needs to have someone to look to if there is to be genuine accountability.

Finally, I'd like to sum up the situation we have here. Despite congressional oversight going back to Senator McLellan's 1972 hearings, nothing has really changed. Therefore, it's clearly time for Congress to step up to the plate and take action. That's why I am offering this amendment to the DOD authorizations bill to give law enforcement an enhanced ability to catch arms smugglers who are targeting military surplus.

But helping law enforcement is only part of the solution that's merely reactive. What we really need is for the Pentagon to get its house in order and prevent this problem from happening in the first place. So, my amendment requires the office of the Secretary of Defense to take control of the surplus issue.

I think it's fair to say that if classified or highly sensitive military technology is being sent to foreign nations and terrorists, we have a clear threat to national security. We have dangerous weapons going from our own military depots into the hands of criminals. My amendment would give law enforcement the tools they need and would hold the Department of Defense accountable for solving this problem. I urge my colleagues to vote for this amendment, and I yield the floor.

Mr. WARNER. Mr. President, I understand the amendment has been cleared. I urge its adoption.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2822), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2860

(Purpose: To prohibit evaluation of the merit of selling malt beverages and wine in commissary stores as exchange store merchandise)

Mr. LEVIN. Mr. President, on behalf of Senator BYRD, I offer an amendment that would prohibit the Secretary of Defense from conducting a survey to determine patron interest in having the commissary system sell malt beverages and wine; or, to conduct a demonstration project to evaluate the merit of selling malt beverages or wine in the commissary.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BYRD, proposes an amendment numbered 2860.

The amendment is as follows:

At the end of subtitle E of title III, add the following:

SEC. 349. PROHIBITIONS REGARDING EVALUATION OF MERIT OF SELLING MALT BEVERAGES AND WINE IN COMMISSARY STORES AS EXCHANGE SYSTEM MERCHANDISE.

Neither the Secretary of Defense nor any other official of the Department of Defense may—

(1) by contract or otherwise, conduct a survey of eligible patrons of the commissary store system to determine patron interest in having commissary stores sell malt beverages and wine as exchange store merchandise; or

(2) conduct a demonstration project to evaluate the merit of selling malt beverages and wine in commissary stores as exchange store merchandise.

Mr. WARNER. This amendment is cleared. I join the Senator in urging its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2860) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3001

(Purpose: To provide a substitute that clarifies that additional museums may be designated as "America's National Maritime Museum")

Mr. WARNER. Mr. President, on behalf of myself and Senator MOYNIHAN, I offer an amendment which designates the Mariner's Museum in Newport News, VA, and the South Street Seaport Museum in New York City as America's National Maritime Museum.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. MOYNIHAN, proposes an amendment numbered 3001.

The amendment is as follows:

At the appropriate place, insert:

SEC. 1064. DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.

(a) DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.—The Mariners' Museum building located at 100 Museum Drive, Newport News, Virginia, and the South Street Seaport Museum buildings located at 207 Front Street, New York, New York, shall be known and designated as "America's National Maritime Museum".

(b) REFERENCE TO AMERICA'S NATIONAL MARITIME MUSEUM.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the buildings referred to in subsection (a) shall be deemed to be a reference to America's National Maritime Museum.

(c) LATER ADDITIONS OF OTHER MUSEUMS NOT PRECLUDED.—The designation of museums named in subsection (a) as America's National Maritime Museum does not preclude the addition of any other museum to the group of museums covered by that designation.

(d) CRITERIA FOR LATER ADDITIONS.—A museum is appropriate for designation as a museum of America's National Maritime Museum if the museum—

(1) houses a collection of maritime artifacts clearly representing America's maritime heritage; and

(2) provides outreach programs to educate the public on America's maritime heritage.

Mr. WARNER. I believe this amendment has been cleared by the other side. I urge its adoption.

Mr. LEVIN. The amendment has been cleared on this side, Mr. President.

The PRESIDING OFFICER. The amendment is agreed to.

The amendment (No. 3001) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, at this time I would like to thank particularly Senator KENNEDY, the ranking member of the Seapower Subcommittee, for his assistance in developing this amendment, and other Senators who likewise concurred in the merits of the amendment.

Mr. LEVIN. Mr. President, I just want to thank my good friend from Virginia and congratulate him on that last amendment, and Senator MOYNIHAN, I know how hard he works on those matters. It is always a pleasure working with him.

I thank the Chair for his usual courtesies.

SKANEATELES, NEW YORK

Mr. WARNER. Mr. President, before we step down and proceed to do the closing business for the Senate—Senator ENZI, I think, will take over. But we are fortunate that one of our most valued senior staff members of the Armed Services Committee, a fine woman who has served many, many years in the Senate, is familiar with this particular town. And the proper pronunciation is—what is it? Phonetically, it is written out as Skaneateles. I think that is it.

How close your rendition was, I know not.

Mr. LEVIN. A lot closer than I feared. Apparently it is Skaneateles.

Mr. WARNER. Skaneateles.

Mr. LEVIN. We have reached another consensus in the U.S. Senate.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from the great State of Wyoming.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL NOMINEES DESERVE FAIR TREATMENT

Mr. DASCHLE. Mr. President, we are in the midst of a disturbing slowdown in the confirmation of judicial nominations, especially when the nominees are women or minorities. A few days ago, on June 22, the Senate finally confirmed, by a vote of 56 to 34, Susan Oki Mollway, a Japanese-American nominated by President Clinton almost 3 years ago to serve on the U.S. District Court for the District of Hawaii.

Ms. Mollway was first nominated in the 104th Congress and was renominated again in the 105th Congress. She was favorably reported out of the Judiciary Committee, not once but twice. It took 3 years for Republicans to bring her nomination to the Senate floor despite the fact that a judicial emergency was declared in her district.

I am particularly concerned about the lack of progress in the consideration of Hispanic judicial nominees before the Senate Judiciary Committee. Of the 36 judges confirmed in 1997, none were Latino, although six Latinos had been nominated. Thus far in 1998, 2 of the 26 judges confirmed were Latino and five are currently awaiting confirmation. It took the Senate 32 months to confirm Ms. Hilda Tagle, the only Hispanic woman the Senate confirmed this year. Why are the nominations of these qualified individuals taking so long? These nominees and the American people deserve an explanation.

The nominations of Emilio Cividanes, Richard Paez, Jorge Rangel, Annabelle Rodriguez, and Sonia Sotomayor have been pending before the Senate for months. Two of these 5 nominees had to be renominated this Congress because their nominations expired in the 104th Congress without Senate action.

Sonia Sotomayor, a nominee for Second Circuit Court of Appeals, was reported out of committee on March 5, 1998. Nominee Richard Paez for the Ninth Circuit was reported out of committee on March 19, 1998. No Senate action has been taken or scheduled on either nominee, and no explanation of the delay has been forthcoming. My colleague, XAVIER BECERRA, Chairman of the Congressional Hispanic Caucus, said it best when he stated, "This is a crisis. . . . Only two Latino judges have been confirmed this Congress out of a total of 62 confirmations."

The Ranking Member of the Judiciary Committee, Senator PATRICK LEAHY, has come to the floor 3 times in the past month to demand Senate Republican action. He pointed out that "We are having hearings at the rate of one a month, barely keeping up with attrition and hardly making a dent in the vacancies crisis . . . confronting the judiciary."

The Chief Justice of the Supreme Court, William Rehnquist, calls that "vacancy crisis" a "most serious problem." He warns that "vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary."

We cannot wait for the judicial system to collapse before the Senate acts. I call upon Senate Republicans to reject partisan politics and significantly accelerate the pace of scheduled judicial confirmations before the Senate adjourns in October.

COMMUNITY OPPORTUNITIES, ACCOUNTABILITY, TRAINING, (AND EDUCATION) SERVICES (COATS) ACT

Mr. WARNER. Mr. President, I rise today to pay tribute to a colleague who serves with me on the Senate Committee on Labor and Human Resources and on the Armed Services Committee. This morning, at the Labor Committee's mark-up of S. 2206, the Human Services Reauthorization Act of 1998, I offered an Amendment to rename the legislation after the author of the bill, Senator DAN COATS of Indiana, which the Committee approved unanimously. As you know, Senator COATS will retire at the end of this Congress after serving in the Senate since 1988. Senator KENNEDY, Senator DODD, and Senator JEFFORDS, Chairman of the Committee, joined me in offering the Amendment.

Senator JEFFORDS renamed the legislation the "COATS" Act—the Community Opportunities, Accountability, Training, (and Education) Services Act. S. 2206 reauthorizes and makes improvements to the Head Start program, the Community Services Block Grant program, the Low-Income Home Energy Assistance Program, and it creates the new Assets for Independence Act.

In the past, legislation has often been identified by "legislative shorthand"—identifying legislation by the author instead of by the title. This began in the late nineteenth century with tariff bills named after either the Chairman of the Senate Finance Committee or the Chairman of the House Ways and Means Committee, or whichever body would report and pass the legislation first. One example is the 1890 McKinley Tariff legislation, named after Congressman William McKinley, then Chairman of the House Ways and Means Committee and later President of the United States.

In the twentieth century, naming legislation after a Senator became more commonplace and lent legislative standing and prestige to both the bill and to its author. For instance, in 1935, the Wagner Labor Act was named after Senator Robert Wagner from New York. Another Labor bill in 1947, the Taft-Hartley Act, was named after Senator Robert Taft from Ohio.

Today, however, it is not as easy or as common to have a Senator's name formally placed on a bill. Only in cases of special recognition for service, or to honor an accomplishment is this done. Throughout his Senate career, Senator COATS has been recognized and identified as a leader on issues dealing with children and families. It is an honor for me along with Senator KENNEDY, Senator JEFFORDS, and Senator DODD to suggest renaming S. 2206 the COATS Act, and I am pleased the Labor Committee unanimously agreed. I cannot think of a finer Senator to name this legislation after than DAN COATS of Indiana who has worked so tirelessly on these issues.

Mr. JEFFORDS. Mr. President, as Chairman of the Senate Labor and Human Resources Committee, it is my pleasure to come to the floor of the Senate today to inform my colleagues of something very special that happened this morning during the committee's mark-up of S. 2206, the Human Services Reauthorization Act.

The Human Services Act, as many of my colleagues know, authorizes a number of important programs, such as Head Start and the various activities under the Community Services Block Grant that provide services to families and communities in need. For the past 30 years, the State, local and federal governments have worked jointly under this program to help lift our most vulnerable citizens out of poverty and into self-sufficiency—one of the most noble goals of a responsible government. Moreover, the programs in the Human Services Act has done this effectively, and with widespread community involvement.

In the Labor and Human Resources Committee, the Subcommittee on Children and Families—which is chaired by our colleague, Senator DAN COATS of Indiana—has been responsible for much of the heavy lifting that has to be done as these programs make their way through our committee for the fifth time in the last twenty years. The Human Services Act is a large and very important act, so its reauthorization is never an easy process, especially in a committee as diverse as ours. While broad bipartisan support for the reauthorization bill is always a desirable goal, it is never a given. And this year, Senator COATS worked overtime to make sure that his bill would not only responsibly reauthorize the Human Services Act, but would also do so in a way which accommodated the concerns and requests of members on both sides of the aisle. Consequently, the Labor and Human Resources Committee approved the reauthorization of the Human Services Act by a unanimous vote of 18 to 0.

But Mr. President, I am not here today to make my pitch for the reauthorization of the Human Services Act—that will come soon enough. Rather, I want to highlight Senator COATS' hard work on this legislation. It is yet another illustrative example of the years of service that Senator DAN COATS has committed to strengthening families, strengthening children, and strengthening communities. It is typical of Senator COATS that he does so in a manner that is always tenacious, but never brash. While he is always accommodating, he never loses sight of the ultimate goal of helping families and communities. And with his quiet demeanor and a wit that I think sometimes surprises even him, Senator COATS is always a pleasure to work with, especially when it is for a common goal, as it was in this morning's mark-up.

As we all know, Senator COATS has announced he will not be returning to this body when his term expires at the end of the 105th Congress. However, his departure does not mean his voice on behalf of children and families will be any quieter. Senator COATS will move into a new leadership role as President of Big Brothers/Big Sisters of the USA. This is a program that I know is very near to Senator COATS' heart, and the Senate's loss is clearly Big Brothers/Big Sisters' gain.

In the Labor Committee, and in the Senate as a whole, we will miss DAN COATS. We will miss his leadership, and we will miss his friendship. When someone who is such a good friend leaves, it is sometimes difficult to know just what to give that friend of yours as a token of your affection. Well, Mr. President, at this morning's mark-up of the Human Services reauthorization, we gave it a try.

It is with real pleasure that I inform the Senate that this morning the Labor and Human Resources Committee unanimously agreed to name the 1998 reauthorization of the Human Services Act as the "Community Opportunities, Accountability, Training and Educational Services Act," or, as we prefer to call it, the COATS Act. We did this in recognition of all that Senator COATS has done not only on this bill, but for children and families throughout his career.

Mr. President, I know there will be more time later to honor Senator COATS for all that he has done here in the Senate. But sometimes time gets away from us and we never let some of our colleagues know how much they mean to us. The action by the Labor Committee this morning is a modest gesture, but a sincere one. I think Senator COATS knows that it is from all of our hearts. We shall miss you, Senator.

DEATH OF A GREAT IRISH-AMERICAN—PAUL O'DWYER

Mr. KENNEDY. Mr. President, I was greatly saddened to learn of the death today of Paul O'Dwyer of New York City. To all of us who knew him and worked with him and loved him, he was a great friend, a great champion of democracy and civil rights, a great friend of working families, and a great friend of Ireland. He will be dearly missed.

Paul was born in County Mayo in Ireland, and immigrated to the United States in 1924 at the age of seventeen. He put himself through law school at night, and formed his lifelong commitment to the political and social causes which were so important to him and for which we all admired him.

He was a proud supporter of Ireland all his life. He was a hero to the people of Ireland and Northern Ireland, and to Irish Americans as well. At the same time, he recognized the importance of reaching out to the Protestant community in Northern Ireland to achieve peace and reconciliation in that troubled land, and he always insisted on meeting with Protestant leaders visiting this country.

Paul was elected to a number of offices in his long and brilliant career, including President of the New York City Council. Once, when asked about his decision to come to America as an immigrant, Paul said "I thought of going back, but something that grips you as an immigrant is the sense of freedom here." As few individuals have ever done, he worked hard and long and well to provide that freedom for all Americans. We will miss his leadership, and we will miss his friendship.

PASSAGE OF A+ SAVINGS ACCOUNT BILL

Mr. DOMENICI. Mr. President, I was necessarily absent this morning and I missed the vote on the Conference Report for H.R. 1882 the A+ Savings Account for Public and Private Schools.

I am pleased that this bill was approved by the Senate by a vote of 59–36. This legislation has my wholehearted support.

Several significant reforms in the bill are based, in part, on findings of a Senate Task Force on Education that I was privileged to be a part of. These include testing and merit pay incentives of teachers, and tax incentives for parents who save for their children's K–12 education needs.

The President should look at the merits of this bill and sign it into law. It is time that the federal government stops enabling an entrenched education bureaucracy that resists every attempt at exponential change.

New Mexicans, I believe, are ready to embrace such change, and this legislation is the vehicle to begin making our schools ready for the twenty-first century.

I am pleased this bill includes a provision to provide incentive funds to states that establish periodic assessments of elementary and secondary school teachers, including a merit pay system to reward teachers based on merit and proven performance. The provision permits the use of federal education dollars to establish and administer these programs.

Teacher testing and merit pay is an important philosophical shift. It is reasonable to expect teachers to know the subject matter they are responsible for imparting to our young people.

The centerpiece of the bill is the establishment of tax-free savings accounts that can be used for qualified education expenses from kindergarten through twelfth grade.

Main provisions in the bill, beyond the merit pay and block grant provisions, are:

A+ Savings Accounts.—These accounts are similar to the current Education IRA for college tuition. Under this bill, the annual contribution limit will be increased from $500 to $2,000 a year. This gives millions of famlies the opportunity to save tax-free for their children's education.

Extend employer-provided education benefits to 1 million employees—The bill extends this popular provision that allows employees to accept employer-provided education assistance without having to declare it as income (up to $5,250 a year). The tax exclusion will apply to assistance for undergraduate courses.

Allow 1 million students to benefit from tax-free state pre-paid tuition plans—Many states have established pre-paid tuition plans to make it more affordable to attend state colleges in the future, and to help families save for this important expenses. The bill goes a step beyond tax deferral of such savings as currently allowed—this bill makes such savings tax-free. (The New Mexico legislature is expected to consider a pre-paid tuition plan.)

School Construction: Assists local governments in issuing tax-exempt bonds for school construction by increasing the small-issuer exception from $10 million to $15 million, provided that at least $10 million of the bonds are issued to finance public schools.

Health Scholarships: Provides tax-free treatment for National Health Corps Scholarships. In addition, the conferees extended tax free treatment to Hebert Armed Forces Health Professions Scholarships.

Student Improvement Incentive Awards: Allows State education agencies to make awards to public schools that demonstrate a high level of academic achievement.

State Incentives for Teacher Testing and Merit Pay: Authorizes the Department of Education to provide awards to states that test their K–12 teachers every three to five years in the subjects they teach and that have a merit pay program.

Same Gender Schools and Classrooms: Allows federal funding for education reform projects that provide same-gender schools and classrooms, as long as comparable opportunities are afforded both sexes.

Reading Excellence: Authorizes a literacy program that focuses on training teachers to teach reading using scientifically proven methods such as phonics. The President supports the program and $210 million was appropriated by Congress last year to establish a literacy program.

Safer Schools: Includes language providing that weapons brought to school are admissible as evidence in any internal school disciplinary proceedings.

I genuinely hope that the President will sign this bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 23, 1998, the federal debt stood at $5,500,927,020,489.88 (Five trillion, five hundred billion, nine hundred twenty-seven million, twenty thousand, four hundred eighty-nine dollars and eighty-eight cents).

One year ago, June 23, 1997, the federal debt stood at $5,332,782,000,000 (Five trillion, three hundred thirty-two billion, seven hundred eighty-two million).

Five years ago, June 23, 1993, the federal debt stood at $4,302,429,000,000 (Four trillion, three hundred two billion, four hundred twenty-nine million).

Ten years ago, June 23, 1988, the federal debt stood at $2,527,068,000,000 (Two trillion, five hundred twenty-seven billion, sixty-eight million).

Fifteen years ago, June 23, 1983, the federal debt stood at $1,303,239,000,000 (One trillion, three hundred three billion, two hundred thirty-nine million) which reflects a debt increase of more than $4 trillion—$4,197,688,020,489.88 (Four trillion, one hundred ninety-seven billion, six hundred eighty-eight million, twenty thousand, four hundred eighty-nine dollars and eighty-eight cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3853. An act to promote drug-free workplace programs.

H.R. 4105. An act to establish a national policy against state and local interference with interstate commerce on the Internet, to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the internet, to establish a national policy against Federal and State regulation of Internet access and online services, and for other purposes.

The message also announced the House has passed the following bill, without amendment:

S. 2069. An act to permit the mineral leasing Indian land located within the Fort Berthold Indian Reservation in any case in which there is a consent from a majority interest in the parcel of land under consideration for lease.

MEASURES REFERRED

The following bill, previously received from the House of Representatives for the concurrence of the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 3824. An act amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft; to the Committee on Commerce, Science, and Transportation.

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3853. An act to promote drug-free workplace programs; to the Committee on Small Business.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times, and placed on the calendar:

H.R. 4105. An act to establish a national policy against state and local interference with interstate commerce on the Internet, to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, to establish a national policy against Federal and State regulation of Internet access and online services, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5671. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG-400 Gliders" (Docket 98-CE-13-AD) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5672. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Industrie Aeronautiche e Meccaniche Midel Piaggio P-180 Airplanes" (Docket 98-CE-21-AD) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5673. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace Model H.P. 137 Mkl, Jetstream Series 200, and Jetstream Model 3101 Airplanes" (Docket 95-CE-53-AD) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5674. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737, 747, 757, 767, and 777 Series Airplanes" (Docket 98-NM-156-AD) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5675. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Mitsubishi Heavy Industries Ltd. Model YS-11 and YS-11A Series Airplanes" (Docket 97-NM-71-AD) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5676. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Allied Signal Inc. (formerly Textron Lycoming) Model T5313B, T5317A, and T53 [Military) Turboshaft Engines" (Docket 97-ANE-38-AD) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5677. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dassault Model Mystere-Falcon 200, Fan Jet Falcon, and Mystere-Falcon 20 Series Airplanes" (Docket 98-NM-25-AD) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5678. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; CFM56-2, -2A, -2B, -3, -3B, and -3C Series Turbofan Engines" (Docket 98-ANE-46-AD) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5679. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Daytona Beach, FL" (Docket 98-ASO-6) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5680. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class D Airspace; MacDill AFB, FL" (Docket 98-

ASO-4) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5681. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Fernandina Beach, FL" (Docket 98-ASO-3) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5682. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D and Removal of Class E Airspace; Atlanta, GA" (Docket 98-ASO-2) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5683. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Hohenwald, TN" (Docket 98-ASO-1) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5684. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations and Related Reporting Requirements" (RIN1545-AP81; 1545-AI32) received on June 18, 1998; to the Committee on Finance.

EC-5685. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding the ruling practice under the expatriation tax provisions (Notice 98-34) received on June 22, 1998; to the Committee on Finance.

EC-5686. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding hospital provisions on organ donation and transplantation under Medicare and Medicaid (RIN0938-AI95) received on June 22, 1998; to the Committee on Finance.

EC-5687. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Open Access Same-Time Information System and Standards of Conduct" (Docket RM95-9-003) received on June 22, 1998; to the Committee on Energy and Natural Resources.

EC-5688. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding the development and administration of performance-based contracting concepts for major operating contracts (AL98-08) received on June 22, 1998; to the Committee on Energy and Natural Resources.

EC-5689. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding the establishment, operation, and management of the Department's advisory committees (DOE M 510.1-1) received on June 22, 1998; to the Committee on Energy and Natural Resources.

EC-5690. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Personnel Security Activities" (DOE O 472.1B) received on June 22, 1998; to the Committee on Energy and Natural Resources.

EC-5691. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation regarding the housing loan program for veterans; to the Committee on Veterans Affairs.

EC-5692. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule regarding educational-assistance and educational-benefit regulations of the Department of Veterans Affairs (RIN2900-AI88) received on June 22, 1998; to the Committee on Veterans Affairs.

EC-5693. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Criteria for Approving Flight Courses for Educational Assistance Programs" (RIN2900-AI76) received on June 22, 1998; to the Committee on Veterans Affairs.

EC-5694. A communication from the Assistant Secretary for Policy and Planning, Department of Veterans Affairs, transmitting, pursuant to law, the annual report of the Secretary for fiscal year 1997; to the Committee on Veterans Affairs.

EC-5695. A communication from the Deputy Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule regarding the receipt and disposition of foreign gifts and decorations received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5696. A communication from the Deputy Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Minimum Financial Requirements for Futures Commission Merchants" received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5697. A communication from the Deputy Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Final Rulemaking Permitting Futures-Style Margining of Commodity Options" received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5698. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "License Applications for Certain Items Containing Byproduct Material" (RIN3150-AF76) received on June 22, 1998; to the Committee on Environment and Public Works.

EC-5699. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the approval of revisions to a transportation control measure in Georgia (FRL6115-1) received on June 22, 1998; to the Committee on Environment and Public Works.

EC-5700. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the Iowa State Implementation Plans (FRL6113-1) received on June 22, 1998; to the Committee on Environment and Public Works.

EC-5701. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Implementation Plans: Washington; Correcting Amendments" (FRL6110-7) received on June 22, 1998; to the Committee on Environment and Public Works.

EC-5702. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Recodification of Certain Tolerance Regulations" (FRL5783-6) received on June 22, 1998; to the Committee on Environment and Public Works.

EC-5703. A communication from the Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Ooeanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Coastal Services Center Coastal Change Analysis Program" (RIN0648-ZA43) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5704. A communication from the Director of the Minority Business Development Agency, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding cost-share requirements and bonuses to operate Minority Business Development Centers (RIN0640-ZA03) received on June 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5705. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Southeastern States; Increased Assessment Rate" (Docket FV98-953-1 IFR) received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5706. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property'" (Rev. Rul. 98-33) received on June 18, 1998; to the Committee on Finance.

EC-5707. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 98-33) received on June 22, 1998; to the Committee on Finance.

EC-5708. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule regarding funding for rehabilitation research and training centers received on June 23, 1998; to the Committee on Labor and Human Resources.

EC-5709. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "A Study of Benefits for Head Start Employees"; to the Committee on Labor and Human Resources.

EC-5710. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5711. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Tribal Demonstration Program on Direct Billing For Medicare, Medicaid, and Other Third-Party Payors; to the Committee on Indian Affairs.

EC-5712. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Changes in Fees for Federal Meat Grading and Certification Services" (RIN0581-AB44) received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5713. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Apricots Grown in Designated Counties in Washington; Revision in Container Regulations" (Docket FV98–922–1 IFR) received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5714. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate" (Docket FV98–958–1 FR) received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5715. A communication from the Deputy Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule regarding records and information practice received on June 22, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–496. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

ASSEMBLY JOINT RESOLUTION NO. 61

Whereas, The attainment of United States citizenship is recognized by many legal immigrants as a key to full participation in civic life; and

Whereas, There presently exists a backlog of 700,000 naturalization applications in California awaiting processing—some for as long as two years; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California encourages the Commissioner of the Immigration and Naturalization Service, the President, and the Congress of the United States to ensure that available resources are directed, and any additional funds as needed are appropriated, in order to eliminate, within 10 months, the current backlog in naturalization applications; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the Commissioner of the Immigration and Naturalization Service, the President, and the Congress of the United States to ensure that, without harm to the integrity of the naturalization process, all future applicants for naturalization will receive a determination within six months of their date of application; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the Commissioner of the Immigration and Naturalization Service, the President, and the Congress of the United States to refrain from the consideration of any increase in naturalization fees until such time as the present backlog is eliminated and resources are committed to ensure that future applications will be processed within six months of their date of application; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Commissioner of the Immigration and Naturalization Service, the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999" (Rept. No. 105–221).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.J. Res. 54: A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

S.J. Res. 40: A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. DODD, Mr. DASCHLE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. LEVIN, Mr. ROBB, Mr. LIEBERMAN, Mr. REED, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. TORRICELLI, Mr. BRYAN, Mr. KERRY, Mr. AKAKA, Mr. GLENN, Mr. BINGAMAN, and Ms. MIKULSKI):

S. 2209. A bill to reduce class size in the early grades and to provide for teacher quality improvement; to the Committee on Labor and Human Resources.

By Mr. DURBIN:

S. 2210. A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas; to the Committee on the Judiciary.

By Mr. ASHCROFT:

S. 2211. A bill to amend title 5, United States Code, to provide for Congressional review of rules establishing or increasing taxes, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID (for himself and Mr. BRYAN):

S. 2212. A bill to amend title V of the Trade Act of 1974 to include unwrought titanium as an article that may not be designated as an eligible article under the Generalized System of Preferences; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. WYDEN, Mr. KERREY, Mr. DEWINE, Mr. GLENN, Mr. KEMPTHORNE, Mr. FORD, Mr. HELMS, Mr. GRASSLEY, Mr. ROTH, Ms. COLLINS, and Mr. SMITH of Oregon):

S. 2213. A bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act; to the Committee on Labor and Human Resources.

By Mr. LOTT (for himself, Mr. COVERDELL, Mr. CRAIG, Mr. THURMOND, Mr. COATS, Mr. INHOFE, Mr. STEVENS, Mr. GRAMM, Mr. MCCONNELL, Mr. THOMAS, Mr. KEMPTHORNE, Mr. BURNS, Mr. CAMPBELL, Mr. HUTCHINSON, Mr. KYL, Mr. ABRAHAM, Mr. ALLARD, Mr. COCHRAN, Mr. GREGG, Mr. SMITH of New Hampshire, Mr. GRAMS, Mr. ROBERTS, Mr. THOMPSON, Mr. ASHCROFT, Mr. MACK, Mr. HAGEL, Mr. D'AMATO, Mr. MCCAIN, Mr. BENNETT, Mr. FRIST, Mr. HATCH, Mr. GRASSLEY, Mr. MURKOWSKI, and Mr. SESSIONS):

S. 2214. A bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. AKAKA:

S. Res. 254. A resolution expressing the sense of the Senate that the United States has enjoyed the loyalty of the United States citizens of Guam, and that the United States recognizes the centennial anniversary of the Spanish-American War as an opportune time for Congress to reaffirm its commitment to increase self-government consistent with self-determination for the people of Guam; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. Con. Res. 105. A concurrent resolution expressing the sense of the Congress regarding the culpability of Slobodan Milosevic for war crimes, crimes against humanity, and genocide in the former Yugoslavia, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. DODD, Mr. DASCHLE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. LEVIN, Mr. ROBB, Mr. LIEBERMAN, Mr. REED, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. TORRICELLI, Mr. BRYAN, Mr. KERRY, Mr. AKAKA, Mr. GLENN, Mr. BINGAMAN and Ms. MIKULSKI):

S. 2209. A bill to reduce class size in the early grades and to provide for teacher quality improvement; to the Committee on Labor and Human Resources.

CLASS-SIZE REDUCTION AND TEACHER QUALITY ACT OF 1998

Mrs. MURRAY. Mr. President, today I send to the desk legislation to help school districts hire 100,000 well-prepared teachers to combat overcrowding in our nation's classrooms. Few issues are more important to the American family than the quality of our public schools. With challenges like illiteracy, poor work and study skills, and the threat of student violence, what we need are strategies that work to produce results for all students. Increasing the number of well-qualified teachers to reduce class size is an effort that works.

The research is clear, and the research only backs up what our school communities have long known, that class size reduction improves student achievement. Unlike vouchers and tax schemes that don't provide the benefits for schools or students that they claim—class size reduction works, and it benefits all students.

Public education is important to the American people, and has been since the beginning of our nation. The public school is one of the most effective self-betterment tools in the history of this country.

But this bastion of democracy is threatened when public expectation changes, and the public school is not allowed to follow the public will. There was a time not long ago when people with a high school diploma or people who had not graduated from high school could still participate meaningfully in our economy. Those times have changed.

Americans expect public schools to educate all students to a higher standard, and expect a high school diploma to be accurate assurance that a graduate knows and can do what it takes to succeed in higher education and in today's economy. Most teachers in most classrooms do a good job—and some are clearly gifted.

But many teachers, excellent in other ways, lack the training, preparation, and know-how to teach reading in ways that reflect the best research. Many otherwise skilled teachers need help to teach today's skills with today's technology. And any teacher has a difficult time getting youngsters ready for today's world when there are more than 30 children in a classroom.

So the class size reduction bill I'm introducing today puts the funds in the hands of local school districts to train teachers in effective practices, to get uncertified teachers up to certification standards, to provide mentor teachers for teachers who need it, and to improve teacher recruiting.

Improving class size is an investment in our future that we know will pay dividends. This proposal is still building momentum in Congress. Twice now, this class size proposal has been voted on this year, and the last time it was one vote away from passage. The public is aware that efforts such as the Coverdell IRA proposal do not provide results even for the few students they are targeted to help. Ask any parent or student, and they'll tell you class size reduction works for all students.

The President had originally talked about funding class size reduction with tobacco revenues, but class size improvement was left out of the bill that left the Commerce Committee.

With or without a tobacco bill, we can pass the class size improvement initiative and keep a balanced budget. In the President's budget request, there are still more than $20 billion in mandatory and tax offsets we have not yet used. There are several ways to fund a class size initiative, keep a balanced budget, and provide in one action real results for all students.

Also, as I've mentioned before, this really is an issue of priorities. Yesterday, the House Appropriations Committee took a meat cleaver to social programs, such as elimination of the summer jobs for teenagers, and winter heating assistance for elderly people in harsh winter climates. This year, thanks to the tough decisions I and others here made in 1993 and other factors, we are looking at a balanced budget.

Now more than ever, the American people's priorities are what matter, and they must be reflected in our funding decisions. These are their federal tax dollars we are investing, and education is a much higher priority to most Americans than the two percent of spending it currently holds.

We have been sending out and continue to send funds to communities so they can hire 100,000 police officers. The communities which have hired these officers have responded with enthusiasm. Allowing school districts to hire 100,000 teachers to school districts will do the same thing—invigorate both the local school district they affect, and the state governments who can fund class size improvement on a greater scale.

The American people want their national investments to be common sense solutions that work. They want to see national initiatives jump-start real improvements in their local school. They want better teachers, and smaller class sizes. They want to know that when their child goes to school next fall, they are going to get good answers to their perennial questions: "Who's your teacher, and how many kids are in your class?"

By Mr. DURBIN:

S. 2210. A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas; to the Committee on the Judiciary.

NURSING RELIEF FOR DISADVANTAGED AREAS ACT OF 1998

• Mr. DURBIN. Mr. President, today I introduce the Nursing Relief for Disadvantaged Areas Act of 1998. Today, some of our nation's poorest rural and inner-city communities face a crisis —they may soon have inadequate or no hospital health care because nurses are unwilling to work in these neighborhoods. The Nursing Relief Act will ensure that hospitals located in these desperately under served areas can continue to provide adequate health care to our most needy communities.

Hospitals located in underprivileged areas often experience severe difficulty in attracting nurses. These hospitals operate in the middle of some of the harshest poverty and crime in our country. The employees of these hospitals often treat the worst and most troubling cases.

And, the condition of the surrounding area imperils the ability of these hospitals to recruit and maintain an adequate nursing staff. These circumstances have pushed some hospitals into a financial crisis, threatening the quality of health care to those most in need.

For the past eight years, this problem has been addressed by the H(1)(a) visa program which has allowed these hospitals to hire nonimmigrant nurses. Unfortunately, the H(1)(a) visa program sunset last fall, and so once again such hospitals are in crisis. By replacing the H(1)(a) visa, the Nursing Relief Act will alleviate this crisis.

The true beneficiary of this program will not be the hospitals, but the underprivileged communities which rely on the hospitals' services. Let me tell you a story about the role that this program can play in the health of a community. The story is about St. Bernard hospital on the South Side of Chicago.

St. Bernard Hospital is the only remaining hospital in the Englewood community on the south side of Chicago, one of the poorest and most crime ridden neighborhoods in the country. Over the years, St. Bernard has become indispensable to its community. Even though it has not been designated as a trauma center, St. Bernard receives the second highest number of ambulance runs from the Chicago Fire Department. St. Bernard also provides free vision exams and free screening for blood pressure, cholesterol, diabetes, and sickle cell anemia. In addition, schoolchildren receive free physicals and inoculations, and the hospital sponsors numerous health fairs throughout the area.

St. Bernard also offers a great number of outreach and community services. A food pantry is stocked, and clothes are made available for patients in need. St. Bernard is sponsoring a project for affordable housing in the community. The hospital has opened four family clinics in Englewood to provide safe and easy access to health care for community residents. Physicians from St. Bernard visit senior housing facilities on a regular basis, and the hospital has been recognized by Catholic Charities for its work with senior housing and health care.

In addition, St. Bernard is the largest employer in the Englewood area. When the hospital faces a crisis, many jobs in the community are placed at risk.

Even though the health of Englewood relies on this hospital, St. Bernard almost had to close its doors in 1992.

Even after aggressive recruitment efforts, the hospital was unable to attract enough health care professionals to maintain its services. The hospital was especially in need of registered nurses.

The problem had been solved in part by hiring foreign nurses through the H(1)(a) visa program. The hospital had gone through great lengths to hire domestic nurses, and was using the h(1)(a) program only as a last alternative to closing its doors.

In the first half of 1997, for example, the hospital placed want ads in the Chicago Tribune and received approximately 200 responses. However, almost 75 percent of the respondents declined to interview when they learned where the hospital was located. St. Bernard has also tried to hire nurses through nurse registries. However, the rates of the registries would cost the hospital more than $2 million each year, an unsustainable expense for an already financially burdened hospital.

Clearly, the H(1)(a) visa program had been offering St. Bernard a way to maintain its service to the community when no other option was available. This past fall, even that option was eliminated.

My measure, the Nursing Relief Act, will ensure that hospitals like St. Bernard can keep their doors open to the public and continue to support their community. In addition, however, my bill has been designed to protect the jobs of domestic nurses and to ensure that hospitals use the visa program faithfully and only as a last resort solution.

I have therefore drafted the Nursing Relief Act to be more narrowly targeted than the old H(1)(a) visa program. My measure ensures that nurses can only be brought into the United States by hospitals that have no other alternative. In short, we have made every effort to ensure that no American nurse will lose his or her job as a result of my bill. While we want to assure that these hospitals have an adequate nursing staff, we must also guarantee that foreign nurses are not taking away jobs from domestic nurses.

Let me tell you what my bill does:

It establishes a nonimmigrant classification for nurses in health professional shortage areas. The program provides non-immigrant visas for 500 nurses each year to work in hospitals where there are severe nursing shortages.

The Nursing Relief Act protects the jobs of domestic nurses in three separate ways:

First, my measure requires that a hospital must certify that it has gone through great lengths to hire and retain domestic nurses before it can use this visa program to hire nonimmigrant nurses.

Second, my measure requires that nonimmigrant nurses must be paid the same wages and work under the same conditions as domestic nurses. In addition, nonimmigrant nurses cannot be hired in order to disrupt the activities of labor unions. These provisions ensure that hospitals cannot undercut the working conditions of domestic nurses.

And third, my measure limits the number of nonimmigrant nurses who may enter the United States in any given year. The Act provides spaces for only 500 nonimmigrants each year, and it caps the number of nurses who may enter each state.

In addition, the Nursing Relief Act provides for serious penalties for abuse, thus ensuring that hospitals will not misuse this new visa category. Moreover, my bill guarantees that hospitals use this program faithfully by narrowly defining the hospitals which are eligible. In order to hire nonimmigrant nurses through this visa program, hospitals must fulfill four strict requirements:

First, the hospital must be located in an area which has been defined by the Department of Health and Human Services as having a shortage of health care professionals.

Second, the hospital must have at least 190 acute care beds.

Third, the hospital must have at least 35 percent of its in-patient days reimbursed by Medicare.

Fourth, the hospital must have at least 28 percent of its in-patient days reimbursed by Medicaid.

All of these measures ensure that the Nursing Relief Act will serve as a relief to our communities rather than a loophole in the immigration laws.

Thank you, Mr. President, for the opportunity to introduce this important and very timely initiative. I hope that my colleagues will join me and support the Nursing Relief for Disadvantaged Areas Act of 1998 so that every hospital can maintain an adequate nursing staff regardless of its location.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Nursing Relief for Disadvantaged Areas Act of 1998".

SECTION 2. REQUIREMENTS FOR ADMISSION OF NON-IMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREA DURING 4-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "; or" at the end and inserting the following: ", or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or"

(b) REQUIREMENTS.—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

"(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to alien who is coming to the United States to perform nursing services for a facility, are that the alien—

"(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

"(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

"(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

"(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to a facility for which an alien will perform services, is an attestation as to the following:

"(i) The facility meets all the requirements of paragraph (6).

"(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

"(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

"(iv) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

"(v) There is not a strike or lockout in the course of a labor dispute, the facility has not laid off registered nurses within the previous year other than termination for cause, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

"(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

"(vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

"(viii) The facility will not, with respect to any alien issued a visa or otherwise provided non-immigrant status under section 101(a)(15)(H)(i)(c)—

"(I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

"(II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Health Professional Shortage Area Nursing Relief Act of 1998. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of the filing.

"(B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

"(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

"(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

"(iv) Providing adequate support services to free registered nurses from administrative and other non-nursing duties.

"(v) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv). Nothing in this subparagraph shall require a facility to take more than one step if the facility can demonstrate, and the Attorney General determines, that taking a second step is not reasonable.

"(C) Subject to subparagraph (E), an attestation under subparagraph (A)—

"(i) shall expire on the date that is the later of

"(I) the end of the one-year period beginning of the date of its filing with the Secretary of Labor; or

"(II) the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied (in accordance with clause (ii)); and

"(ii) shall apply to petitions filed during the one-year period beginning on the date of its filing with the Secretary of Labor if the facility states in each such petition that it continues to comply with the conditions in the attestation.

"(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

"(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

"(ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established under this clause, this subparagraph shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

"(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

"(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding $250.

"(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

"(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

"(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

"(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of petitions granted under section 101(a)(15)(H)(i)(c) for each State in each fiscal year shall not exceed the following:

"(A) For States with populations of less than 10,000,000 based upon the 1990 decennial census of population, 25 petitions.

"(B) For States with populations of 10,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

"(5) A facility that has filed a petition under section 101(a)(15)(H)(i)(c) to employ a nonimmigrant to perform nursing services for the facility.

"(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

"(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

"(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

"(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term 'facility' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements;

"(A) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

"(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

"(i) the hospital has not less than 190 licensed acute care beds;

"(ii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital's acute care inpatient days for such period; and

"(iii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital's acute care inpatient days for such period.".

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).

SEC. 3. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE.

Not later than the last day of the 4-year period described in section 2(e), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to the Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section 2(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered

nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section 2) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).•

By Mr. ASHCROFT:

S. 2211. A bill to amend title 5, United States Code, to provide for Congressional Review of rules establishing or increasing taxes, and for other purposes; to the Committee on Governmental Affairs.

TAXPAYER'S DEFENSE ACT

• Mr. ASHCROFT. Mr. President, today I introduce the Taxpayer's Defense Act. Quite simply, this bill prohibits any agency from establishing a tax on the American people.

Mr. President. As we all know, the United States was founded on one simple and fundamental principle—no taxation without representation.

"In the Second Treatise of Government," John Locke said, "if anyone shall claim a power to lay and levy taxes on the people . . . without . . . consent of the people, he thereby . . . subverts the end of government." According to Locke, consent required agreement by a majority of the people, "either by themselves or their representatives chosen by them." The Declaration of Independence listed, among the despotic acts of King George, his "imposing taxes on us without our consent."

The Boston Tea Party remains the symbol of Americans' opposition to taxation without representation. The Constitutional authority—given only to Congress—to establish federal taxes is clear. Its reasoning also is clear. It is the Congress that represents the people. Only Congress considers and weighs every issue that rises to national importance. While Federal agencies consider their own priorities to be paramount, only Congress can determine which goals merit a tax on the American people.

The modern era of restricted federal budgets, however, threatens to erode the essential principle of "no taxation without representation." In many subtle and often hidden ways, federal agencies are receiving from Congress the power to tax.

They tax by adding unnecessary charges to legitimate government user fees. They tax through federal mandates. These taxes pass the cost of government on to the American people—without their knowledge.

The worst example of administrative taxation is the Federal Communications Commission's Universal Service Tax. "Universal service" is the idea that everyone should have access to affordable telecommunications services. It originated at the beginning of the century when the first national telecommunications service was still being created. This idea was expanded in the Telecommunications Act of 1996, which allowed the FCC to extend universal service funds to provide "discount telecommunications services" to schools, libraries, and rural health care facilities.

Most importantly, the Act gave the FCC the power to decide the level of "contributions"—taxes—that telecommunications companies would have to pay to support universal service. The FCC now determines how much must be collected in taxes that subsidize a variety of 'universal service' spending programs. Long distance providers pass the costs on to consumers in the form of higher telephone bills. In the first half of 1998, the tax was $625 million, and the Clinton Administration's budget projects it will rise to $10 billion per year. This administrative tax is already out of control.

This is possible because Congress delegated its authority to tax. The FCC is able to collect taxpayer dollars at levels it sets—without approval from Congress or the people. The FCC can defy Congress and the people because it has the power to levy taxes.

Mr. President, some people thought the tax and spend liberals had left Washington. Not so. Washington interest groups who want to feed at this new federal trough already are geared up to accuse the Republican Congress of cutting funding for education and health care if any attempt is made to rein in the FCC. They will frame the issue as a matter of federal entitlements for sympathetic causes and groups.

The most sympathetic group is the American taxpayer, whose money is being taken, laundered through the Washington bureaucracy, and returned for purposes set by unelected Washington Bureaucrats. This is why the FCC must be required to get the approval of Congress before setting future tax rates.

Should tax dollars be used for federal universal service programs and what amounts or should Americans spend what they earn on their own, real, local priorities? Requiring Congress to review any administrative taxes would answer this question.

My bill would create a new section to the Congressional Review Act for mandatory review of certain agency rules. Any rule that establishes or raises a tax would have to be submitted to and receive the approval of Congress before taking effect. In essence, the Act would disable agencies from setting taxes, but would allow them to formulate proposals under existing rulemaking procedures.

Once submitted to Congress, a taxing regulation would be introduced in both the House and Senate by the Majority Leader. The rule would then be subject to expedited procedures, allowing a prompt decision on whether or not to approve a rule. The rule would have to be approved by both Houses and signed by the President.

Congress must not allow a federal agency—unelected and unaccountable federal bureaucrats—to determine the amount of taxes hardworking Americans must pay. The Taxpayer's Defense Act will require Congress to stand up and face the American people when it decides to tax. The cry of "no taxation without representation" has gone up in the land before, and today we are hearing it again. It is time that we respond.•

By Mr. FRIST (for himself, Mr. WYDEN, Mr. KERREY, Mr. DEWINE, Mr. GLENN, Mr. KEMPTHORNE, Mr. FORD, Mr. HELMS, Mr. GRASSLEY, Mr. ROTH, Ms. COLLINS, and Mr. SMITH of Oregon):

S. 2213. A bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act; to the Committee on Labor and Human Resources.

THE EDUCATION FLEXIBILITY AMENDMENTS OF 1998

• Mr. FRIST. Mr. President, today I introduce, with my colleague from Oregon, Senator WYDEN, the Education Flexibility Amendments of 1998. This bipartisan measure will expand the immensely popular and highly successful Ed-Flex program to all 50 states in the country. As you may know, Ed-Flex is currently a demonstration program, available only to 12 states. Under the Frist-Wyden bill, all states would be allowed to participate in the program and the 12 original states would be permitted to expand Ed-Flex waiver authority to include programs under the Adult Education and Technology for Education Acts.

As the Chairman of the Senate Budget Committee Task Force on Education, formed by Budget Chairman PETE DOMENICI, I heard first-hand accounts of the success of the Ed-Flex program and the need for flexibility for our states that are overburdened by federal requirements. The Commissioner of the Florida Department of Education, Frank Brogan, told the Task Force that it takes 297 state employees to oversee and administer $1 billion in federal funds. In contrast, only 374 employees oversee approximately $7 billion in state funds. Thus, it takes six times as many people to administer a federal dollar as a state dollar.

Brogan went on to say:

> We at the State and Local level feel the crushing burden caused by too many Federal regulations, procedures, and mandates. Florida spends millions of dollars every year to administer inflexible, categorical Federal programs that divert precious dollars away from raising student achievement.

This must change.

Secretary Riley told the Task Force that, "through our Ed-Flex demonstration initiative, we are giving State-level officials broad authority to waive federal requirements that present an obstacle to innovation in their schools." The Department of Education further notes, "Ed-Flex can help participating states and local school districts use federal funds in ways that provide maximum support for effective school reform based on challenging academic standards for all students."

The National Governors Association has expressed its strong support for the expansion of Ed-Flex. At the NGA Winter Meeting, the Governors expressed their interest in expanding Ed-Flex to all 50 states. At this same meeting, President Clinton also expressed his support for Ed-Flex expansion.

I pose the following question to my colleagues: who isn't for expanding Ed-Flex?

Numerous articles have highlighted the innovative reform efforts underway in the Chicago Public School System and have extolled its early successes. Illinois is an Ed-Flex state. Cozette Buckney of the Chicago School System attributes much of the Chicago success to flexibility—the very flexibility offered to states and localities by Ed-Flex. She pleaded, "Let us be accountable to you for getting the results, but give us the flexibility to do it the way that works best for us."

According to other Chicago officials:

> One of the frustrating things with Federal assistance that has come in through this process is we oftentimes find our way saying how can we do what we want to do and how can we use federal funding so that we can make sure that it is happening. Most of our initiatives are locally based, locally funded, locally developed by people who have been working in Chicago for many years. We know the system, and we believe we know the things that it needs to have happen in order to improve. So the more flexibility that we have with federal and states funds, the easier it is to make those changes.

During another Education Task Force hearing, we heard from Texas that they have granted over 4,000 waivers, largely to streamline the paperwork associated with administering and applying for the various federal programs. According to Texas Education Official Madeleine Manigold:

> Ed-Flex has allowed Texas to foster the coordination of programs and streamlining of administration of programs that are actually operated by the United States Department of Education, while maintaining the underlying purpose of the covered federal programs.

Rest assured, though I support the concept of block grants to states as a means to achieve even greater flexibility, Ed-Flex expansion is NOT a block grant proposal. States may NOT pool funds from various federal education programs, and they must ensure that the underlying purposes of the program in question will continue to be met. Ed-Flex simply allows states some relief from the burgeoning mass of bureaucratic federal regulations and requirements in administering designated federal education programs.

It's time to bring some common sense to education reform. Ed-Flex is a good first step toward granting states and localities more flexibility in using federal funds in the most effective and efficient way possible. Our states and localities are the engines of change—let's give all of our states the freedom and capability to meet the challenges of education with innovation and creativity.

Mr. President, I believe that passage of this legislation is a strong first step for improving our public education system. Let's give states and localities the flexibility that they need to address the many needs of our students. I strongly urge passage of this bill. Mr. President, I unanimous consent that a letter of support from the National Governors' Association be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL CONFERENCE OF STATE LEGISLATURES

June 18, 1998.

HON. BILL FRIST,
HON. RON WYDEN,
United States Senate, Washington, D.C.

DEAR SENATORS FRIST AND WYDEN: We write on behalf of the nation's Governors and state legislatures to express our strong support for your efforts in the Senate to expand the highly successful Ed-Flex demonstration program to all fifty states during this Congress. States that participate in Ed-Flex have found that this program has been helpful in moving education reform forward in the 12 states that currently participate. Under the Wyden-Frist proposal, states currently participating in Ed-Flex would receive additional waiver authority and the bill would permit all states to become Ed-Flex states. We strongly support the expansion of this successful program.

While Ed-Flex is perceived to be a positive program because it provides states with greater flexibility, some members of Congress have questioned whether there are immediate benefits that Ed-Flex can provide to states. Some members have suggested a delay in expanding the Ed-Flex program to all fifty states until Congress reauthorizes the elementary and secondary programs in the next Congress. We know that this program has helped states and schools by giving them some limited waiver authority. With experiences of the 12 current Ed-Flex states as evidence, we know that the adverse predictions made about the Ed-Flex program when it was originally created have not materialized. With the Secretary of Education's guidance, this program has helped states and school districts do a better job. We need Ed-Flex now.

By expanding Ed-Flex during this congress, all states would have the opportunity to identify and waive regulations, and in the process, identify aspects of the statutes and the regulations that need to be changed or eliminated when the elementary and secondary education bills are reauthorized next year.

We applaud your current efforts and look forward to working with you toward the enactment of this legislation.

Sincerely,

GOVERNOR GEORGE V. VOINOVICH,
Chair, National Governors' Association.
GOVERNOR THOMAS R. CARPER,
Vice Chair, National Governors' Association.
DONNA SYTEK,
Speaker, New Hampshire House of Representatives,
Chair, National Conference of State Legislatures Assembly on Federal Issues.
LINDA FURNEY,
Assistant Minority Leader, Ohio Senate
Chair, National Conference of State Legislatures Committee on Education, Labor and Job Training.●

● Mr. WYDEN. Mr. President, I join together with Senator FRIST and ten other colleagues today to introduce bipartisan education reform legislation, based on a simple proposition: the federal government should liberate schools from the federal government's mandated bureaucratic water torture in return for schools committing to improve student performance. This bill is an invitation to innovation, an opportunity to develop home grown, locally driven solutions to Americans biggest education challenges.

This legislation would empower states to get out from under burdensome federal education regulations, by expanding the enormously popular "Ed-Flex" demonstration program—in which 12 states already participate—into a nationwide effort. Ed-Flex is the program that allows states to waive out of certain federal regulations if they come up with a plan to show how they can do a better job. A State has to waive their own set of education regulations, develop high academic standards for their students and hold schools accountable for results.

Here is a brief example of how Ed-Flex works: In the past, federal funds have allowed schools to purchase computers for students with disabilities, but the rules prevented others from using the equipment when the students weren't using it. So in an Oregon school district, in return for committing to using the idle computers to improve adult education, the State got a waiver to use the computer for this extra use as well as for the disabled students.

Ohio uses a teacher training program that, without a waiver, can only be used to train teachers in math and science. Ohio wanted to use it where the greatest academic need is. They now have an Ed-Flex waiver and can tailor their teacher training program to the needs of the students, not to the needs of the federal government. In exchange, Ohio will have better prepared teachers in the classroom to help students improve in those areas.

My state also uses Ed-Flex to allow school districts to team up with community colleges to better prepare kids to go into the workforce. Using the Carl Perkins Vocational and Applied Technology Act program, Oregon students can earn college credit or learn a practical skill without worrying about whether a credit will transfer or if they have to file several different pieces of paperwork.

And even more kids will be able to benefit if we can expand Ed-Flex to allow school districts to streamline bureaucracies even further and eliminate waste. The bill Senator FRIST and I are introducing today will expand Ed-Flex from a pilot program in just a few states to every place from Maine to Honolulu. The bill will also provide a unique opportunity for current Ed-Flex states to experience more flexibility in their adult literacy and educational technology programs.

Let me give you an example of how the new flexibility will benefit my state. According to the National Adult Literacy Survey, Oregon has one of the highest literacy levels in the country. In fact, 75 percent of Oregonians have basic reading skills; that is, they can proficiently read, write and speak in English, whereas 55 percent of all adults in the nation achieved that level. Yet, for Oregonians, less than 100 percent is not good enough. We want all of our adults to have basic literacy skills. Under the Adult Education Act, a State can only use 20 percent of the funds to prepare people to make high school equivalency tests. That may work for a state that has a very low literacy level, but it does not work for Oregon.

Oregon would like to develop a waiver to use the funds to help all illiterate or semi-literate adults earn a GED (general education development) or other high school equivalency measure. The more people with a GED, the more valuable our workforce becomes. Under our Ed-Flex bill, Oregon would be eligible to apply for that waiver.

Mr. President, this bill grows out of the work of the Senate Budget Committee's Education Task Force, which Senator FRIST chaired, and on which I served. Together, in hearing after hearing, we listened to States tell us that they can do a better job. They said they could balance flexibility and accountability and they we ready to be judged by results, not process. We know as well that Ed-Flex has strong support from the Administration, and our bill has strong bipartisan support in the Senate and from the National Governors Association.

Oregon was the first state to participate in Ed-Flex, and people in Oregon are convinced that regulatory flexibility and school accountability work. It is time to expand that approach nationwide.●

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. DEWINE, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 1046

At the request of Mr. JEFFORDS, the names of the Senator from Kansas [Mr. BROWNBACK] and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of S. 1046, a bill to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

S. 1147

At the request of Mr. WELLSTONE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1147, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from Louisiana [Ms. LANDRIEU], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1734

At the request of Mrs. HUTCHISON, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1825

At the request of Mrs. MURRAY, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1825, a bill to amend title 10, United States Code, to provide sufficient funding to assure a minimum size for honor guard details at funerals of veterans of the Armed Forces, to establish the minimum size of such details, and for other purposes.

S. 1862

At the request of Mr. DEWINE, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1917

At the request of Mr. DURBIN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1917, a bill to prevent children from injuring themselves and others with firearms.

S. 1927

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1927, a bill to amend section 2007 of the Social Security Act to provide grant funding for 20 additional Empowerment Zones, and for other purposes.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1971

At the request of Mr. COCHRAN, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 1971, a bill to amend the American Folklife Preservation Act to permanently authorize the American Folklife Center of the Library of Congress.

S. 1976

At the request of Mr. DEWINE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1976, a bill to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2092

At the request of Mr. SMITH, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Maine [Ms. SNOWE], the Senator from Maine [Ms. COLLINS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Alabama [Mr. SESSIONS], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Connecticut [Mr. DODD], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2092, a bill to promote full equality at the United Nations for Israel.

S. 2130

At the request of Mr. GRAMS, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Missouri [Mr. ASHCROFT] were added as cosponsors of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2196

At the request of Mr. GORTON, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2196, a bill to amend the Public Health Service Act to provide for establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes.

S. 2204

At the request of Mr. KYL, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2204, a bill to provide for the wiaver of fees in the case of certain visas, to modify the schedule for implementation of certain border crossing restrictions, and for other purposes.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Georgia [Mr. COVERDELL], the Senator from Utah [Mr. BENNETT], and the Senator from Wyoming [Mr. ENZI] were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 210

At the request of Mr. WARNER, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Resolution 210, a resolution designating the week of June 22, 1998 through June 28, 1998 as "National Mosquito Control Awareness Week."

SENATE RESOLUTION 237

At the request of Mr. FEINGOLD, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Resolution 237, a resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

AMENDMENT NO. 2403

At the request of Mr. INHOFE the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Georgia [Mr. CLELAND] were added as cosponsors of amendment No. 2403 intended to be proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2793

At the request of Mr. REID the names of the Senator from Wisconsin [Mr. FEINGOLD] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of amendment No. 2793 intended to be proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2826

At the request of Mr. DEWINE the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of amendment No. 2826 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2934

At the request of Mr. REID the names of the Senator from Nevada [Mr. BRYAN], the Senator from Nebraska [Mr. KERREY], the Senator from Oregon [Mr. WYDEN], the Senator from Washington [Mrs. MURRAY], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Illinois [Mr. DURBIN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of amendment No. 2934 intended to be proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE CONCURRENT RESOLUTION 105—EXPRESSING THE SENSE OF CONGRESS REGARDING THE CULPABILITY OF SLOBODAN MILOSEVIC FOR WAR CRIMES IN THE FORMER YUGOSLAVIA

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 105

Whereas there is reason to mark the beginning of the conflict in the former Yugoslavia with Slobodan Milosevic's rise to power beginning in 1987, when he whipped up and exploited extreme nationalism among Serbs, and specifically in Kosovo, including support for violence against non-Serbs who were labeled as threats;

Whereas there is reason to believe that as President of Serbia, Slobodan Milosevic was responsible for the conception and direction of a war of aggression, the deaths of hundreds of thousands, the torture and rape of tens of thousands and the forced displacement of nearly 3,000,000 people, and that mass rape and forced impregnation were among the tools used to wage this war;

Whereas "ethnic cleansing" has been carried out in the former Yugoslavia in such a consistent and systematic way that it had to be directed by the senior political leadership in Serbia, and Slobodan Milosevic has held such power within Serbia that he is responsible for the conception and direction of this policy;

Whereas, as President of the Federal Republic of Yugoslavia (Serbia and Montenegro), Slobodan Milosevic is responsible for the conception and direction of assaults by Yugoslavian and Serbian military, security, special police, and other forces on innocent civilians in Kosovo which have so far resulted in an estimated 300 people dead or missing and the forced displacement of tens of thousands, and such assaults continue;

Whereas on May 25, 1993, United Nations Security Council Resolution 827 created the International Criminal Tribunal for the former Yugoslavia located in The Hague, the Netherlands (hereafter in this resolution referred to as the "Tribunal"), and gave it jurisdiction over all crimes arising out of the conflict in the former Yugoslavia;

Whereas this Tribunal has publicly indicted 60 people for war crimes or crimes against humanity arising out of the conflict in the former Yugoslavia and has issued a number of secret indictments that have only been made public upon the apprehension of the indicted persons;

Whereas it is incumbent upon the United States and all other nations to support the Tribunal, and the United States has done so by providing, since 1992, funding in the amount of $54,000,000 in assessed payments and more than $11,000,000 in voluntary and in-kind contributions to the Tribunal and the War Crimes Commission which preceded it, and by supplying information collected by the United States that can aid the Tribunal's investigations, prosecutions, and adjudications;

Whereas any lasting, peaceful solution to the conflict in the former Yugoslavia must be based upon justice for all, including the most senior officials of the government or governments responsible for conceiving, organizing, initiating, directing, and sustaining the Yugoslav conflict and whose forces have committed war crimes, crimes against humanity and genocide; and

Whereas Slobodan Milosevic has been the single person who has been in the highest government offices in an aggressor state since before the inception of the conflict in the former Yugoslavia, who has had the power to decide for peace and instead decided for war, who has had the power to minimize illegal actions by subordinates and allies and hold responsible those who committed such actions, but did not, and who is once again directing a campaign of ethnic cleansing against innocent civilians in Kosovo while treating with contempt international efforts to achieve a fair and peaceful settlement to the question of the future status of Kosovo: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should publicly declare that it considers that there is probable cause to believe that Slobodan Milosevic, President of the Federal Republic of Yugoslavia (Serbia and Montenegro), has committed war crimes, crimes against humanity and genocide;

(2) the United States should make collection of information that can be supplied to the Tribunal for use as evidence to support an indictment and trial of President Slobodan Milosevic for war crimes, crimes against humanity, and genocide a high priority;

(3) any such information concerning President Slobodan Milosevic already collected by the United States should be provided to the Tribunal as soon as possible;

(4) the United States should provide a fair share of any additional financial or personnel resources that may be required by the Tribunal in order to enable the Tribunal to adequately address preparation for, indictment of, prosecution of, and adjudication of allegations of war crimes and crimes against humanity posed against President Slobodan Milosevic and any other person arising from the conflict in the former Yugoslavia, including in Kosovo;

(5) the United States should engage with other members of the North Atlantic Treaty Organization and other interested states in a discussion of information any such state may hold relating to allegations of war crimes and crimes against humanity posed against President Slobodan Milosevic and any other person arising from the conflict in the former Yugoslavia, including in Kosovo, and press such states to promptly provide all such information to the Tribunal;

(6) the United States should engage with other members of the North Atlantic Treaty Organization and other interested states in a discussion of measures to be taken to apprehend indicted war criminals and persons indicted for crimes against humanity with the objective of concluding a plan of action that will result in these indictees' prompt delivery into the custody of the Tribunal;

(7) the United States should urge the Tribunal to promptly review all information relating to President Slobodan Milosevic's possible criminal culpability for conceiving, directing, and sustaining a variety of actions in the former Yugoslavia, including Kosovo, that have had the effect of genocide, of other crimes against humanity, or of war crimes, with a view toward prompt issuance of a public indictment of Milosevic; and

(8) upon issuance of an indictment of President Slobodan Milosevic for war crimes or crimes against humanity by the Tribunal, the United States should adopt a policy of having no dealings with President Milosevic at any level in any context other than as a defendant before the Tribunal, and should make every effort to support his immediate apprehension.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

● Mr. D'AMATO. Mr. President, today I submit a resolution that calls for President Slobodan Milosevic of the rump Federal Republic of Yugoslavia to be indicted publicly by the International Criminal Tribunal for the Former Yugoslavia (the War Crimes Tribunal), under its jurisdiction over war crimes, crimes against humanity and genocide committed on the territory of the former Yugoslavia on or after January 1, 1991. This step is long overdue.

As early as December 1992, then-Secretary of State Lawrence Eagleburger publicly identified Milosevic as one of several individuals who could and should be held personally accountable for war crimes. I am confident that Secretary Eagleburger, in making this serious charge, was fully informed of the underlying facts that would form the basis of a prima facie case against Milosevic and which could be used to support his indictment.

Still, there are some who have questioned whether a case against Milosevic can really be established. This issue was addressed in testimony before the Helsinki Commission in 1995 by Cherrif M. Bassiouni, who headed the U.N.'s Commission of Experts, the body first tasked with examining war crimes in the former Yugoslavia. Professor Bassiouni's work set the stage for the establishment of the International Criminal Tribunal for the Former Yugoslavia.

Professor Bassiouni's Commission had exhumed numerous mass grave sites, interviewed thousands of victims of rape and torture, and examined overwhelming quantities of other evidentiary materials. Based on this far-reaching study of the first two years of the Yugoslav conflict, Professor Bassiouni stated:

> At first, many thought that this was a sort of haphazard type of situation. We subsequently found that this was not haphazard, particularly in Bosnia, as you know, but also throughout most of the territory of the former Yugoslavia . . . there is no doubt that, in a large territorial expanse, over a significant period of time, the same patterns of behavior occurred, and the same administrative organization characterized the acts of ethnic cleansing—who did it, and how it was done . . . Particularly interesting is the way ethnic cleansing was done. It was done with plausible deniability in mind.

When Professor Bassiouni was explicitly questioned about the possibility of indicting Milosevic and Radovan Karadzic—Karadzic was also named by Eagleburger and has since been publicly indicted, not once but twice—Professor Bassiouni said "It is unlikely that a number of similar incidents occurring over long periods of time, which were so well-publicized, could not have been known to the senior political leadership as well." Since then, the evidence against Milosevic has only mounted, particularly as cases have proceeded before the Tribunal in The Hague.

In spite of the overwhelming evidence of war crimes in this conflict and the clear command responsibility of Milosvic for his agents, no public indictment against him has yet been issued. In fact, it has been suggested by some that Milosevic has been granted de facto immunity based on a misguided belief that he is necessary for the implementation of the Dayton Accords. Nothing could be further than the truth.

Under Milosevic's leadership, the situation in Kosovo has deteriorated dramatically, demonstrating the same fact pattern that we have already seen in Bosnia: systematic attacks against civilians, reported that rape is once again being used as a form of warfare, and mass displacement of men, women and children. Milosevic is not part of the solution, he is part of the problem. Significantly, the War Crimes Tribunal has made it clear that, under its statute, it also has responsibility for the war crimes in Kosovo.

Mr. President, we know that the War Crimes Tribunal has issued an unknown number of sealed indictments; in a few instances, the existence of these indictments have become public when the indictee has been arrested. Certainly, there are cases where it may facilitate the arrest of an individual if his indictment remains sealed. In the case of Milosevic, however, I can see no such benefits. Indeed, the failure to indict him publicly may have emboldened him in Kosovo. The time has come to indict Slobodan Milosevic for the atrocities that have been committed—and continue to be committed in Kosovo—under his leadership as head of the Federal Republic of Yugoslavia, and to issue that indictment publicly.

Accordingly, the resolution I am submitting today calls on the United States to collect and supply to the International Criminal Tribunal for the Former Yugoslavia, on a priority basis, evidence to support an indictment and trial of Slobodan Milosevic for war crimes, crimes against humanity, and genocide; calls on the United States to provide a fair share of any additional financial or personnel resources that may be required by the International Criminal Tribunal for the Former Yugoslavia in The Hague, the Netherlands, in order to enable the Tribunal to adequately address preparation for, indictment of, prosecution of, and adjudication of allegations of war crimes and crimes against humanity posed against Yugoslav President Slobodan Milosevic and any other person arising from the conflict in the Former Yugoslavia, including in Kosovo; calls on the United States to engage with our NATO allies and others in a discussion of measures to be taken to apprehend indicated war criminals and persons indicated for crimes against humanity with the objective of concluding a plan of action that will result in these indictees' prompt delivery into the custody of the International Criminal Tribunal for the Former Yugoslavia in The Hague, the Netherlands; calls on the United States to urge the International Criminal Tribunal for the Former Yugoslavia in The Hague, the Netherlands, to promptly review all information relating to Yugoslav President Slobodan Milosevic's possible criminal culpability for conceiving, directing, and sustaining a variety of actions in the Former Yugoslavia, including Kosovo, that have had the effect of genocide, of other crimes against humanity, or of war crimes, with a view toward prompt issuance of a public indictment of Milosevic; and calls upon the United States to adopt a policy of having no dealings with Milosevic at any level in any context other than as a defendant before the International Criminal Tribunal for the Former Yugoslavia in The Hague, the Netherlands and to make every effort to support his immediate apprehension.

Mr. President, I urge my colleagues to join me in this sense of the Senate resolution, to demonstrate once again that we are not blind to the suffering that Milosevic continues to inflict on innocent people in the Balkans, for no reason other than to secure his own political power. By supporting and seeking prompt enactment of this resolution, we will show that Milosevic cannot act with impunity, that the world will hold him accountable, and that the United States is prepared to take a leadership role in obtaining justice for those killed, maimed, or injured as this man pursues his political ambitions.●

SENATE RESOLUTION 254—EXPRESSING THE SENSE OF THE SENATE RECOGNIZING 100 YEARS OF GUAM'S LOYALTY AND SERVICE TO THE UNITED STATES

Mr. AKAKA submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 254

Whereas the Chamorro people have inhabited Guam and the Mariana Islands for at least 4,000 years and developed a unique and autonomous seafaring agrarian culture, governing themselves through their own form of district government;

Whereas in 1565 the Kingdom of Spain claimed the islands of the Chamorro people, which were named the Ladrones by Ferdinand Magellan in 1521 and renamed the Marianas by the Jesuit missionary Diego Luis de San Vitores in 1668, to secure the trans-Pacific route of the Manila-Acapulco Galleon Trade, then, upon San Vitores's death in 1672, the islands were placed under military governance;

Whereas in 1898 the United States defeated the Kingdom of Spain in the Spanish-American War and acquired Guam, Puerto Rico, and the Philippines by virtue of the Treaty of Paris;

Whereas in signing the treaty, the United States Government accepted responsibility for its new possessions and agreed that Congress would determine the civil rights and political status of the native inhabitants, as stated specifically in Article IX;

Whereas, President William McKinley, by Executive Order 108-A on December 23, 1898, placed the island of Guam under the administration of the United States Navy, which administered and governed the island, initially as a coaling station, then as a major supply depot at the end of World War II;

Whereas a series of rulings popularly known as the "Insular Cases", issued by the United States Supreme Court from 1901 to 1922, defined Guam as an "unincorporated territory" in which the United States Constitution was not fully applicable;

Whereas the United States Naval Government of Guam was forced to surrender the island of Guam to the invading forces of the Japanese Imperial Army on December 10, 1941, after which Japanese occupation and control of Guam lasted until the United States Forces recaptured the island in 1944;

Whereas Guam is the only remaining United States territory to have been occupied by Japanese forces during World War II, the occupation lasting for 32 months from 1941 to 1944;

Whereas the people of Guam remained loyal to the United States throughout the Japanese occupation, risked torture and death to help clothe and feed American soldiers hiding from enemy forces, and were subjected to forced labor, ruthless executions, and other brutalities for their support of the United States;

Whereas upon liberation of the people of Guam, the island was returned to United States Navy governance, which, like its prewar predecessor, limited the civil and political rights of the people, despite numerous appeals and petitions to higher authorities and Congress for the granting of United States citizenship and relief from military rule;

Whereas in 1945, upon establishment of the United Nations, the United States voluntarily listed Guam as a nonself-governing territory, pursuant to Article 73 of the United Nations Charter, and today Guam continues to be included in this list;

Whereas on March 6, 1949, the House of Assembly, the lower house of the popularly elected 9th Guam Congress, which was merely an advisory body to the Naval Governor of Guam, adjourned in protest over the limitation of its legislative rights granted to it by the United States Department of the Navy in 1947 and refused to reconvene until the United States Congress enacted an organic act for Guam;

Whereas the Organic Act of Guam (64 Stat. 384) passed by Congress and signed by President Truman on August 1, 1950, statutorily decreed Guam's status as an "unincorporated territory", established a three-branched civilian government patterned after the Federal model, and conferred United States citizenship upon the people of Guam;

Whereas since the granting of American citizenship, the people of Guam have greater participation in the American democratic processes and some measure of self-government;

Whereas the people of Guam, who strongly adhere to the belief that a government should derive power and right from the governed, successfully gathered enough support to push for the passage of the Elective Governor Act (Public Law 90-497) on September 11, 1968, and in which Congress granted the people of Guam the right to elect their own governor and lieutenant governor;

Whereas the Congress enacted the Guam-Virgin Islands Delegate bill on April 10, 1972, allowing for Guam to have a nonvoting delegate in the United States House of Representatives, and although the delegate is not accorded a vote on the floor of the House of Representatives, it is still one of the benchmarks in Guam's political evolution and heightens Guam's visibility in the national arena;

Whereas although Congress authorized in Public Law 94-584, the formation of a locally drafted constitution, the subsequent Guam Constitution, it was not ratified by Guam's electorate through a referendum on August 4, 1979;

Whereas concerns regarding Guam's political status led the Twelfth Guam Legislature to create the first political status commission in 1973, known as the Status Commission, the Thirteenth Guam Legislature in 1975 created another commission, known as the Second Political Status Commission, to address Guam's political status issue and explore alternative status options, and in 1980, the existing Guam Commission on Self-Determination (CSD) was created to identify and pursue the status choice of the people of Guam, and in 1996 the Twenty-Fourth Guam Legislature created the Commission on Decolonization to continue pursuing Guam's political status;

Whereas the CSD, after conducting studies on 5 Guam political status options, proceeded to conduct a public education campaign, which was followed by a status referendum on January 12, 1982 in which 49 percent of the people of Guam voted for Commonwealth, 26 percent for Statehood, 10 percent for Status Quo, 5 percent for Incorporated Status, 4 percent for Free Association, 4 percent Independence, and 2 percent for other options;

Whereas on September 4, 1982, a runoff was held between commonwealth and statehood, the top options from the January referendum, with the outcome of the runoff resulting in 27 percent voting for statehood and 73 percent of Guam's electorate casting their votes in favor of a close relationship with the United States through a Commonwealth of Guam structure for local self-government;

Whereas in 1988 the people of Guam first presented the Guam Commonwealth Act to Congress to meet the various aspirations of the people of Guam, which bill has been reintroduced by Guam's Congressional delegates since 1988 until the present;

Whereas Congress has continued to enact other measures to address the various aspirations of the people of Guam, while considering legislative approaches to advance self-government without precluding Guam's further right of self-determination, consistent with the national political climate that emphasizes decentralization of the decision making process from Washington to the local governments and a relationship with the Federal Government that is based on mutual respect and consent of the governed; and

Whereas the people of Guam are loyal citizens of the United States and have repeatedly demonstrated their commitment to the American ideals of democracy and civil rights, as well as to American leadership in times of peace as well as war, prosperity as well as want: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes 100 years of Guam's loyalty and service to the United States; and

(2) will use the centennial anniversary of the 1898 Spanish-American War to reaffirm its commitment to the United States citizens of Guam for increased self-government,

consistent with self-determination for the people of Guam.

• Mr. AKAKA. Mr. President, I submit a resolution to commemorate the centennial anniversary of U.S. relations with the territory of Guam, which was acquired by the United States as a result of the Spanish-American War in 1898. The Philippines and Puerto Rico were acquired at the same time under the terms of the Treaty of Paris, but the Philippines has since become an independent nation and Puerto Rico is a U.S. Commonwealth. The island of Guam remains an unincorporated U.S. territory and is geographically located in the western Pacific.

As we commemorate this historic moment in U.S.-Guam relations, I think it is fitting that we recognize the contributions and sacrifices that the people of Guam have made to our country, and the strategically significant role that Guam continues to play in the western Pacific. Guam is the only remaining U.S. territory that was occupied by Japan during World War II from 1941 to 1944, and served as a significant staging area for our military conflicts in World War II, the Korean War, the Vietnam War, and the Persian Gulf War. The people of Guam also served our Nation well in assisting our efforts to resettle thousands of refugees affected by these conflicts. The island continues to be used by the U.S. military as a strategic post in the Pacific. We need to commend the people of Guam for their loyalty and their sacrifice to our country.

Because of Guam's great distance from the continental United States and close proximity to Asia, it is often difficult for Americans to remember that Guam is even a part of the United States and her people are U.S. citizens. Moreover, given Guam's history, isolation and small size, it is not easy for Americans and Congressional policymakers to understand the aspirations of the people of Guam and the issues confronting her political leaders.

That is why I am pleased that President Clinton recently acknowledged that the Federal Government has a duty to fully consider the unique situation Guam faces on political status and land issues. I wholeheartedly agree with the President and urge that we engage the Government of Guam in a constructive discussion on Guam's quest for commonwealth status and the return of federal excess lands. One point I would like to make clear, however, is that I believe that federal excess land issues can be addressed separately from commonwealth negotiations. The resolution of Guam's political status should not hinder the Federal Government's efforts to redress longstanding land issues. In fact, last year the Senate passed S. 210, an omnibus territories bill, which includes a provision which provides for the transfer of certain federal excess lands in Guam. With one third of the land in Guam controlled by the Defense Department, I think that the people of Guam have more than shouldered their burden as part of U.S. national security in the Asia-Pacific region. The federal impact on land use planning is more evident if you consider that Guam is just 30 miles long and nine miles wide. Let's recognize this year's centennial by enacting S. 210 and show that we do care about Guam's needs.

Mr. President, for the past 100 years, the people of Guam have served as loyal citizens to our country. They have worked hard to develop a private sector to supplement the jobs created by the presence of our U.S. military bases. They have done their best to promote economic self-sufficiency. They have been there for us all these years and I think it is time that we recognize this and show our appreciation. I believe that the United States should take this opportunity to give back to the people of Guam by seriously engaging them in political status and land issues. It is the least we can do for all that Guam has done for our country.•

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

TORRICELLI (AND LAUTENBERG) AMENDMENT NO. 2973

(Ordered to lie on the table.)

Mr. TORRICELLI (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by them to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title III, add the following:

SEC. 350. PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.

Not later than March 31, 1999, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the Quadrennial Defense Review's proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the likelihood that the cost savings projected to occur from such reductions will actually be achieved.

DOMENICI (AND OTHERS) AMENDMENT NO. 2974

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. COCHRAN, Mrs. BOXER, and Mr. ROBERTS) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title II, add the following:

SEC. 219. SCORPIUS LOW COST LAUNCH DEVELOPMENT PROGRAM.

Of amounts authorized to be appropriated under section 201, $20,000,000 shall be available for the Scorpius Low Cost Launch Development program, as follows:

(1) Of the amount authorized to be appropriated by section 201(3) for the Air Space Technology program, $15,000,000.

(2) Of the amount authorized to be appropriated under section 201(4) for the Ballistic Missile Defense Organization Follow-on and Support Technology program, $5,000,000.

THURMOND (AND OTHERS) AMENDMENT NO. 2975

Mr. THURMOND (for himself, Mr. LEVIN, Mr. COATS, and Mr. REED) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. SENSE OF CONGRESS REGARDING CONTINUED PARTICIPATION OF UNITED STATES FORCES IN OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The contributions of the people of the United States and other nations have, in large measure, resulted in the suspension of fighting and alleviated the suffering of the people of Bosnia and Herzegovina since December 1995.

(2) the people of the United States have expended approximately $9,500,000,000 in tax dollars between 1992 and mid-1998 just in support of the United States military operations in Bosnia to achieve those results.

(3) Efforts to restore the economy and political structure in Bosnia and Herzegovina have achieved some success in accordance with the Dayton Agreement.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) There is, however, no accurate estimate of the time needed to accomplish the civilian implementation tasks outlined in the Dayton Agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States ground combat forces should not remain in Bosnia and Herzegovina indefinitely in view of the world-wide commitments of the Armed Forces of the United States;

(2) the President should work with NATO allies and the other nations whose military forces are participating in the NATO-led Stabilization Force to withdraw United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the safety of those forces and the accomplishment of the Stabilization Force's military tasks;

(3) a NATO-led force without the participation of United States ground combat forces in Bosnia and Herzegovina might be suitable for a follow-on force for Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission;

(4) the United States may decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force for Bosnia and Herzegovina, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region;

(5) the President should inform the European NATO allies of this expression of the sense of Congress and should strongly urge them to undertake preparations for establishing a Western European Union-led or a NATO-led force as a follow-on force to the NATO-led Stabilization Force if needed to maintain peace and stability in Bosnia and Herzegovina; and

(6) the President should consult closely with the congressional leadership and the congressional defense committees with respect to the progress being made toward achieving a sustainable peace in Bosnia and Herzegovina and the progress being made toward a reduction and ultimate withdrawal of United States ground combat forces from Bosnia and Herzegovina.

(c) DAYTON AGREEMENT DEFINED.—In this section, the term "Dayton Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

HUTCHINSON (AND OTHERS) AMENDMENT NO. 2976

(Ordered to lie on the table.)

Mr. HUTCHINSON (for himself, Mr. HELMS, and Mr. GRAMS) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

Add at the end the following new title:

TITLE —RADIO FREE ASIA

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radio Free Asia Act of 1997".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February of 1996 the "Interim Internet Management Rules", which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the Internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Radio Free Asia currently broadcasts only 7 hours a day in the Mandarin dialect, 2 hours a day in Tibetan, and 2 hours a day in Cantonese.

(6) Voice of America currently broadcasts only 10 hours a day in Mandarin, 2 hours a day in Tibetan, and 1 hour a day in Cantonese.

(7) Radio Free Asia and Voice of America should develop 24-hour-a-day service in Mandarin, Cantonese, and Tibetan, as well as further broadcasting capability in the dialects spoken in the People's Republic of China.

(8) Radio Free Asia and Voice of America, in working toward continuously broadcasting to the People's Republic of China in multiple languages, have the capability to immediately establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and Voice of America.

(9) Simultaneous broadcasting on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR RADIO FREE ASIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "Radio Free Asia" $30,000,000 for fiscal year 1998 and $22,000,000 for fiscal year 1999.

(2) LIMITATIONS.—

(A) Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $8,000,000 is authorized to be appropriated for one-time capital costs.

(B) Of the funds under paragraph (1), $700,000 is authorized to be appropriated for each such fiscal year for additional personnel to staff Cantonese language broadcasting.

(b) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA AND NORTH KOREA.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Activities" for fiscal years 1998 and 1999, there are authorized to be appropriated for "International Broadcasting Activities" $10,000,000 for fiscal year 1998 and $7,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China and North Korea.

(C) Of the funds under paragraph (1), $100,000 is authorized to be appropriated for each of the fiscal years 1998 and 1999 for additional personnel to staff Hmong language broadcasts.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.—

(1) AUTHORIZATON OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated for "Radio Construction" for fiscal years 1998 and 1999, there are authorized to be appropriated for "Radio Construction" $10,000,000 for fiscal year 1998 and $3,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China.

(2) LIMITATION.—Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $3,000,000 is authorized to be appropriated to facilitate the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

(d) ALLOCATION.—Of the amounts authorized to be appropriated for "International Broadcasting Activities", the Broadcasting Board of Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(e) ALLOCATION OF FUNDS FOR NORTH KOREA.—Of the funds under subsection (b), $2,000,000 is authorized to be appropriated for each fiscal year for additional personnel and broadcasting targeted at North Korea.

SEC. 4. REPORTING REQUIREMENT.

Not later than 90 days after the date of enactment of this Act, in consultation with the Broadcasting Board of Governors, the President shall prepare and transmit to Congress a report on a plan to achieve continuous broadcasting of Radio Free Asia and Voice of America to the People's Republic of China in multiple major dialects and languages.

SEC. 5. UTILIZATION OF UNITED STATES INTERNATIONAL BROADCASTING SERVICES FOR PUBLIC SERVICE ANNOUNCEMENTS REGARDING FUGITIVES FROM UNITED STATES JUSTICE.

The Voice of America shall produce and broadcast public service announcements, by radio, television, and Internet, regarding fugitives from the criminal justice system of the United States, including cases of international child abduction.

McCAIN AMENDMENT NO. 2977

Mr. McCAIN proposed an amendment to amendment No. 2975 proposed by Mr. THURMOND to the bill, S. 2057, supra; as follows:

After subsection (b) of the amendment insert the following:

(c) ONE-TIME REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than September 30, 1998, a report containing a discussion of the likely impact on the security situation in Bosnia and Herzegovina and on the prospects for establishing self-sustaining peace and stable local government there that would result from a phased reduction in the number of United States military personnel stationed in Bosnia and Herzegovina under the following alternatives:

(A) A phased reduction to 5,000 by February 2, 1999, to 3,500 by June 30, 1999, and to 2,500 by February 2, 2000.

(B) A phased reduction by February 2, 2000, to the number of personnel that is approximately equal to the mean average of—

(i) the number of military personnel of the United Kingdom that are stationed in Bosnia and Herzegovina on that date;

(ii) the number of military personnel of Germany that are stationed there on that date;

(iii) the number of military personnel of France that are stationed there on that date; and

(iv) the number of military personnel of Italy that are stationed there on that date.

(2) Not later than October 1, 1998, a report on the status of the NATO force of gendarmes or paramilitary police referred to in subsection (a)(1), including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

(d) REPORT TO ACCOMPANY EACH REQUEST FOR FUNDING.—(1) Each time that the President submits to Congress a proposal for funding continued operations of United States forces in Bosnia and Herzegovina, the President shall submit to Congress a report on the missions of United States forces there. The first report shall be submitted at the same time that the President submits the budget for fiscal year 2000 to Congress under section 1105(a) of title 31, United States Code.

(2) Each report under paragraph (1) shall include the following:

(A) The performance objectives and schedule for the implementation of the Dayton Agreement, including—

(i) the specific objectives for the reestablishment of a self-sustaining peace and a stable local government in Bosnia and Herzegovina, taking into account (I) each of the areas of implementation required by the Dayton Agreement, as well as other areas that are not covered specifically in the Dayton Agreement but are essential for reestablishing such a peace and local government and to permitting an orderly withdrawal of the international peace implementation force from Bosnia and Herzegovina, and (II) the benchmarks reported in the latest semiannual report submitted under section 7(b)(2) of the 1998 Supplemental Appropriations and Rescissions Act (revised as necessary to be current as of the date of the report submitted under this subsection); and

(ii) the schedule, specified by fiscal year, for achieving the objectives.

(B) The military and non-military missions that the President has directed for United States forces in Bosnia and Herzegovina in support of the objectives identified pursuant to paragraph (1), including a specific discussion of—

(i) the mission of the United States forces, if any, in connection with the pursuit and apprehension of war criminals;

(ii) the mission of the United States forces, if any, in connection with civilian police functions;

(iii) the mission of the United States forces, if any, in connection with the resettlement of refugees; and

(iv) the missions undertaken by the United States forces, if any, in support of international and local civilian authorities.

(C) An assessment of the risk for the United States forces in Bosnia and Herzegovina, including, for each mission identified pursuant to subparagraph (B), the assessment of the Chairman of the Joint Chiefs of Staff regarding the nature and level of risk of the mission for the safety and well-being of United States military personnel.

(D) An assessment of the cost to the United States, by fiscal year, of carrying out the missions identified pursuant to subparagraph (B) for the period indicated in the schedule provided pursuant to subparagraph (A).

(E) A joint assessment by the Secretary of Defense and the Secretary of State of the status of planning for—

(i) the assumption of all remaining military missions inside Bosnia and Herzegovina by European military and paramilitary forces; and

(ii) the establishment and support of forward-based United States rapid response force outside of Bosnia and Herzegovina that would be capable of deploying rapidly to defeat military threats to a European follow-on force inside Bosnia and Herzegovina, and of providing whatever logistical, intelligence, and air support is needed to ensure that a European follow-on force is fully capable of accomplishing its missions under the Dayton Agreement.

Redesignate subsection (c) of the amendment as subsection (e).

BROWNBACK (AND BYRD) AMENDMENT NO. 2978

Mr. BROWNBACK (for himself and Mr. BYRD) proposed an amendment to the bill, S. 2057, supra; as follows:

Strike out section 527, and insert in lieu thereof the following:

SEC. 527. REQUIREMENTS RELATING TO RECRUIT BASIC TRAINING.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Army shall require that access by drill sergeants and other training personnel to a barracks floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate housing and privacy for male and female recruits.".

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate housing and privacy for male and female recruits.

"§ 6931. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a barracks floor on which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a dormitory floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate housing and privacy for male and female recruits.".

(d) IMPLEMENTATION.—(1) The Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force shall implement section 4319, 6931, or 9319, respectively, of title 10, United States Code (as added by this section), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(2)(A) If the Secretary of the military department concerned determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with the requirement for separate housing at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of the requirement with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with the requirement for separate housing.

(B) If the Secretary of a military department grants a waiver under subparagraph (A) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

(3) In this subsection:

(A) The term "requirement for separate housing" means—

(i) with respect to the Army, the requirement set forth in section 4319(a) of title 10, United States Code, as added by subsection (a);

(ii) with respect to the Navy and the Marine Corps, the requirement set forth in section 6931(a) of such title, as added by subsection (b); and

(iii) with respect to the Air Force, the requirement set forth in section 9319(a) of such title, as added by subsection (c).

(B) The term "basic training" means the initial entry training program of an armed force that constitutes the basic training of new recruits.

(e) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for the Department of Defense for fiscal year 1999 for actions necessary to carry out this section and the amendments made by this section, including military construction projects (which projects are hereby authorized), in the total amount of $166,000,000.

SNOWE (AND CLELAND) AMENDMENT NO. 2979

Mr. LEVIN (for Ms. SNOWE for herself and Mr. CLELAND) proposed an amendment to amendment No. 2978 proposed by Mr. BROWNBACK to the bill, S. 2057, supra; as follows:

Beginning on the first page, strike out all after SEC. . and insert in lieu thereof the following:

MORATORIUM ON CHANGES OF GENDER-RELATED POLICIES AND PRACTICES PENDING COMPLETION OF THE WORK OF THE COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

Notwithstanding any other provision of law, no official of the Department of Defense are prohibited from implementing any change of policy or official practice in the department regarding separation or integration of members of the Armed Forces on the basis of gender that is within the responsibility of the Commission on Military Training and Gender-Related Issues to review under subtitle F of title V of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1750), before the date on which the commission terminates under section 564 of such Act.

HUTCHISON AMENDMENT NO. 2980

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title II, add the following:

SEC. 219. H–1 ROTARY WING AIRCRAFT UPGRADE.

(a) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In addition to the amount authorized to be appropriated under section 201(2), funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Navy for research, development, test, and evaluation in the additional total amount of $23,400,000.

(b) AMOUNT FOR UPGRADE.—Of the total amount authorized to be appropriated under section 201(2) and subsection (a), $121,942,000 shall be available for upgrade of H–1 rotary wing aircraft.

(c) OFFSET.—The total amount authorized to be appropriated under section 101(5), and, within such amount, the total amount authorized to be appropriated for the family of medium tactical vehicles, are each hereby reduced by $23,400,000.

INHOFE (AND OTHERS) AMENDMENT NO. 2981

Mr. INHOFE (for himself, Mr. DORGAN, Mr. DASCHLE, Mr. LOTT, Ms. SNOWE, Mr. BENNETT, Mr. SMITH of New Hampshire, Ms. COLLINS, Mr. SHELBY, Mr. SESSIONS, Mr. HATCH, Mr. DOMENICI, Mr. CONRAD, and Mr. CLELAND) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place in Title XXVIII of the bill, insert the following:

SEC. . MODIFICATION OF LIMITATIONS ON GENERAL AUTHORITY RELATING TO BASE CLOSURES AND REALIGNMENTS.

(a) ACTIONS COVERED BY NOTICE AND WAIT PROCEDURES.—Subsection (a) of section 2687 of title 10, United States Code, is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs (1) and (2):

"(1) the closure of any military installation at which at least 225 civilian personnel are authorized to be employed;

"(2) any realignment with respect to a military installation referred to in paragraph (1) if such realignment will result in an aggregate reduction in the number of civilian personnel authorized to be employed at such military installation during the fiscal year in which notice of such realignment is submitted to Congress under subsection (b) equal to or greater than—

"(A) 750 such civilian personnel; or

"(B) the number equal to 40 percent of the total number of civilian personnel authorized to be employed at such military installation at the beginning of such fiscal year; or".

(b) DEFINITIONS.—Subsection (e) of that section is amended—

(1) in paragraph (3), by inserting "(including a consolidation)" after "any action"; and

(2) by adding at the end the following:

"(5) The term 'closure' includes any action to inactivate or abandon a military installation or to transfer a military installation to caretaker status.".

SEC. . PROHIBITION ON CLOSURE OF A BASE WITHIN FOUR YEARS AFTER A REALIGNMENT OF THE BASE.

(a) PROHIBITION.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2687 the following:

"§ 2688. Base closures and realignments: closure prohibited within four years after realignment in certain cases

"(a) PROHIBITION.—Notwithstanding any other provision of law, no action may be taken, and no funds appropriated or otherwise available to the Department of Defense may be obligated or expended, to effect or implement the closure of a military installation within 4 years after the completion of a realignment of the installation that, alone or with other causes, reduced the number of civilian personnel employed at that installation below 225.

"(b) DEFINITIONS.—In this section, the terms 'military installation', 'civilian personnel', and 'realignment' have the meanings given such terms in section 2687(e) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2687 the following:

"2688. Base closures and realignments: closure prohibited within four years after realignment in certain cases.".

(b) CONFORMING AMENDMENT.—Section 2687(a) of such title is amended by inserting "(other than section 2688 of this title)" after "Notwithstanding any other provision of law".

SEC. . SENSE OF THE SENATE ON FURTHER ROUNDS OF BASE CLOSURES.

(a) FINDINGS.—The Senate finds that:—

(1) While the Department of Defense has proposed further rounds of base closures, there is no need to authorize in 1998 a new base closure commission that would not begin its work until three years from now, in 2001;

(2) While the Department of Defense has submitted a report to the Congress in response to Section 2824 of the National Defense Authorization Act for Fiscal Year 1998, that report—

(A) based its estimates of the costs and savings of previous base closure rounds on data that the General Accounting Office has described as "inconsistent", "unreliable" and "incomplete";

(B) failed to demonstrate that the Defense Department is working effectively to improve its ability to track base closure costs and savings resulting from the 1993 and 1995 base closure rounds, which are ongoing;

(C) modeled the savings to be achieved as a result of further base closure rounds on the 1993 and 1995 rounds, which are as yet incomplete and on which the Department's information is faulty; and

(D) projected that base closure rounds in 2001 and 2005 would not produce substantial savings until 2008, a decade after the federal government will have achieved unified budget balance, and 5 years beyond the planning period for the current congressional budget and Future Years Defense Plan;

(3) Section 2824 required that the Congressional Budget Office and the General Accounting Office review the Defense Department's report, and—

(A) The General Accounting Office stated on May 1 that "we are now conducting our analysis to be able to report any limitations that may exist in the required level of detail. . . . [W]e are awaiting some supporting documentation from the military services to help us finish documentation from the military services to help us finish assessing the report's information.";

(B) The Congressional Budget Office stated on May 1 than its review is ongoing, and that "it is important that CBO take the time necessary to provide a thoughtful and accurate evaluation of DoD's report, rather than issue a preliminary and potentially inaccurate assessment.";

(4) The Congressional Budget Office recommended that "The Congress could consider authorizing an additional round of base closures if the Department of Defense believes that there is a surplus of military capacity after all rounds of BRAC have been carried out. That consideration, however, should follow an interval during which DoD and independent analysts examine the actual impact of the measures that have been taken thus far."

(b) SENSE OF THE CONGRESS.—It is the Sense of Congress that:

(1) Congress should not authorize further rounds of base closures and realignments until all actions authorized by the Defense Base Closure and Realignment Act of 1990 are completed; and

(2) The Department of Defense should submit forthwith to the Congress the report required by Section 2815 of Public Law 103-337, analyzing the effects of base closures and realignments on the ability of the Armed Forces to remobilize, describing the military construction projects needed to facilitate such remobilization, and discussing the assets, such as air space, that would be difficult reacquire in the event of such remobilization.

HARKIN (AND WELLSTONE) AMENDMENT NO. 2982

Mr. HARKIN (for himself and Mr. WELLSTONE) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle A of title X, add the following:

SEC. . TRANSFER TO DEPARTMENT OF VETERANS AFFAIRS.

(a) TRANSFER REQUIRED.—The Secretary of Defense is authorized to transfer to the Department of Veterans Affairs $329,000,000 of the amounts appropriated for the Department of Defense pursuant to the authorizations of appropriations in this Act. In the case of any such transfer, the Secretary shall select the funds for transfer, and shall transfer the funds, in a manner that causes the least significant harm to the readiness of the Armed Forces and the quality of life of military personnel and their families.

(b) USE OF TRANSFERRED FUNDS.—Funds transferred pursuant to subsection (a) shall be available for health care programs of the Department of Veterans Affairs.

CLELAND AMENDMENT NO. 2983

Mr. CLELAND submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

On page 41, below line 23, add the following:

SEC. 219. PASSIVE MILLIMETER WAVE CAMERA.

(a) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by section 201(4), $4,000,000 shall be available for Special Operations Advanced Technology Development for activities relating to the Passive Millimeter Wave Camera.

(2) The amount available for Special Operations Advanced Technology Development under paragraph (1) is in addition to any other amounts available under this Act for Special Operations Advanced Technology Development.

(b) OFFSET.—The amount available under section 201(2) for S. 3 Weapons System Improvement is hereby reduced by $4,000,000.

KYL AMENDMENT NO. 2984

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the end of title IX, add the following:

SEC. 908. DEPUTY UNDER SECRETARY OF DEFENSE FOR TECHNOLOGY SECURITY POLICY.

(a) ESTABLISHMENT OF POSITION.—Section 134 of title 10, United States Code, is amended by adding at the end the following:

"(d)(1) There is a Deputy Under Secretary of Defense for Technology Security Policy in the Office of the Under Secretary. The Deputy Under Secretary serves as the Director of the Defense Security Technology Agency.

"(2) The Deputy Under Secretary has only the following duties:

"(A) To supervise activities of the Department of Defense relating to export controls.

"(B) To develop for the Department of Defense policies and positions regarding the appropriate export control policies and procedures that are necessary to protect the national security interests of the United States.

"(3) The Deputy Under Secretary may report directly to the Secretary of Defense on the matters that are within the duties of the Deputy Under Secretary.".

(b) IMPLEMENTATION.—The Secretary of Defense shall complete the actions necessary to implement section 134(d) of title 10, United States Code (as added by subsection (a)), not later than 45 days after the date of the enactment of this Act.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Secretary for implementing section 134(d) of title 10, United States Code, as added by subsection (a). The report shall include the following:

(1) A description of any organizational changes that are to be made within the Department of Defense to implement the provision.

(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after the provision is implemented, together with a discussion of how that role compares to the Chairman's role in those activities before the implementation of the provision.

(d) LIMITATION.—Unless specifically authorized and appropriated for such purpose, funds may not be obligated to relocate any office or personnel of the Defense Technology Security Administration.

THURMOND AMENDMENT NO. 2985

Mr. WARNER (for Mr. THURMOND) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 347, below line 23, add the following:

SEC. 2833. REPORT ON LEASING AND OTHER ALTERNATIVE USES OF NON-EXCESS MILITARY PROPERTY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense, with the support of the chiefs of staff of the Armed Forces, is calling for the closure of additional military installations in the United States as a means of eliminating excess capacity in such installations.

(2) Excess capacity in Department of Defense installations is a valuable asset, and the utilization of such capacity presents a potential economic benefit for the Department and the Nation.

(3) The experiences of the Department have demonstrated that the military departments and private businesses can carry out activities at the same military installation simultaneously.

(4) Section 2667 of title 10, United States Code, authorizes the Secretaries of the military departments to lease, upon terms that promote the national defense or are in the public interest, real property that is—

(A) under the control of such departments;

(B) not for the time needed for public use; and

(C) not excess to the requirements of the United States.

(b) REPORT.—Not later than February 1, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the following:

(1) The number and purpose of the leases entered into under section 2667 of title 10, United States Code, during the five-year period ending on the date of enactment of this Act.

(2) The types and amounts of payments received under the leases specified in paragraph (1).

(3) The costs, if any, foregone as a result of the leases specified in paragraph (1).

(4) A discussion of the positive and negative aspects of leasing real property and surplus capacity at military installations to the private sector, including the potential impact on force protection.

(5) A description of the current efforts of the Department of Defense to identify for the private sector any surplus capacity at military installations that could be leased or otherwise used by the private sector.

(6) A proposal for any legislation that the Secretary considers appropriate to enhance the ability of the Department to utilize surplus capacity in military installations in order to improve military readiness, achieve cost savings with respect to such installations, or decrease the cost of operating such installations.

(7) An estimate of the amount of income that could accrue to the Department as a result of the enhanced authority proposed under paragraph (6) during the five-year period beginning on the effective date of such enhanced authority.

(8) A discussion of the extent to which any such income should be reserved for the use of the installations exercising such authority and of the extent to which installations are likely to enter into such leases if they cannot retain such income.

HARKIN AMENDMENT NO. 2986

Mr. LEVIN (for Mr. HARKIN) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle E of title III, add the following:

SEC. 349. INVENTORY MANAGEMENT OF IN-TRANSIT SECONDARY ITEMS.

(a) REQUIREMENT FOR PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a plan to address problems with Department of Defense management of the department's inventories of in-transit secondary items as follows:

(1) The vulnerability of in-transit secondary items to loss through fraud, waste, and abuse.

(2) Loss of oversight of in-transit secondary items, including any loss of oversight when items are being transported by commercial carriers.

(3) Loss of accountability for in-transit secondary items due to either a delay of delivery of the items or a lack of notification of a delivery of the items.

(b) CONTENT OF PLAN.— The plan shall include, for each of the problems described in subsection (a), the following information:

(1) The actions to be taken to correct the problems.

(2) Statements of objectives.

(3) Performance measures and schedules.

(4) An identification of any resources that may be necessary for correcting the problem, together with an estimate of the annual costs.

(c) GAO REVIEWS.—(1) Not later than 60 days after the date on which the Secretary of Defense submits the plan to Congress, the Comptroller General shall review the plan and submit to Congress any comments that the Comptroller General considers appropriate regarding the plan.

(2) The Comptroller General shall monitor any implementation of the plan and, not later than one year after the date referred to in paragraph (1), submit to Congress an assessment of the extent to which the plan has been implemented.

ROCKEFELLER AMENDMENT NO. 2987

Mr. LEVIN (for Mr. ROCKEFELLER) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 157, between lines 13 and 14, insert the following:

SEC. 708. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) Agreement for Assessment.—The Secretary of Defense shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) Assessment.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) Report.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(B) The Committee on National Security and the Committee on Veterans' Affairs of the House of Representatives.

THURMOND AMENDMENT NO. 2988

Mr. WARNER (for Mr. Thurmond) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. AUTHORITY FOR WAIVER OF MORATORIUM ON ARMED FORCES USE OF ANTIPERSONNEL LANDMINES.

Section 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 751) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) Waiver Authority.—(1) The President may waive the moratorium set forth in subsection (a) if the President determines that the waiver is necessary in the national security interests of the United States.

"(2) The President shall notify the President pro tempore of the Senate and the Speaker of the House of Representatives of the exercise of the authority provided by paragraph (1).".

LEAHY AMENDMENT NO. 2989

Mr. LEVIN (for Mr. Leahy) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 42, between lines 9 and 10, insert the following:

SEC. 232. LANDMINES.

(a) Availability of Funds.—(1) Of the amounts authorized to be appropriated in section 201, $17,200,000 shall be available for activities relating to the identification, adaptation, modification, research, and development of existing and new tactics, technologies, and operational concepts that—

(A) would provide a combat capability that is comparable to the combat capability provided by anti-personnel landmines, including anti-personnel landmines used in mixed mine systems; and

(B) comply with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) The amount available under paragraph (1) shall be derived as follows:

(A) $12,500,000 shall be available from amounts authorized to be appropriated by section 201(1).

(B) $4,700,000 shall be available from amounts authorized to be appropriated by section 201(4).

(b) Studies.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall enter into a contract with each of two appropriate scientific organizations for purposes of identifying existing and new tactics, technologies, and concepts referred to in subsection (a).

(2) Each contract shall require the organization concerned to submit a report to the Secretary and to Congress, not later than one year after the execution of such contract, describing the activities under such contract and including recommendations with respect to the adaptation, modification, and research and development of existing and new tactics, technologies, and concepts identified under such contract.

(3) Amounts available under subsection (a) shall be available for purposes of the contracts under this subsection.

(c) Reports.—Not later than April 1 of each of 1999 through 2001, the Secretary shall submit to the congressional defense committees a report describing the progress made in identifying and deploying tactics, technologies, and concepts referred to in subsection (a).

(d) Definitions.—In this section:

(1) Anti-personnel landmine.—The term "anti-personnel landmine" has the meaning given the term "anti-personnel mine" in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) Mixed mine system.—The term "mixed mine system" includes any system in which an anti-vehicle landmine or other munition is constructed with or used with one or more anti-personnel landmines, but does not include an anti-handling device as that term is defined in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

LEVIN AMENDMENT NO. 2990

Mr. LEVIN proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place, insert the following new title:

TITLE FAIR TRADE IN AUTOMOTIVE PARTS

SEC. 01. SHORT TITLE.

This title may be cited as the "Fair Trade in Automotive Parts Act of 1998".

SEC. 02. DEFINITIONS.

In this title:

(1) Japanese markets.—The term "Japanese markets" refers to markets, including markets in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

(2) Japanese and other Asian markets.—The term "Japanese and other Asian markets" refers to markets, including markets in the United States, Japan, and other Asian countries, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese, American, or other Asian automobiles.

SEC. 03. RE-ESTABLISHMENT OF INITIATIVE ON AUTOMOTIVE PARTS SALES TO JAPAN.

(a) In General.—The Secretary of Commerce shall re-establish the initiative to increase the sale of United States made automotive parts and accessories to Japanese markets.

(b) Functions.—In carrying out this section, the Secretary shall—

(1) foster increased access for United States made automotive parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States automotive parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of

parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States automotive parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies or practices, whether public or private, that result in barriers to increased commerce between United States automotive parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made automotive parts in Japanese markets; and

(7) transmit to Congress the annual report prepared by the Special Advisory Committee under section 04(c)(5).

SEC. 04. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTOMOTIVE PARTS SALES IN JAPANESE AND OTHER ASIAN MARKETS.

(a) IN GENERAL.—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this title.

(b) ESTABLISHMENT OF COMMITTEE.—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this title.

(c) FUNCTIONS.—The Special Advisory Committee established under subsection (b) shall—

(1) report to the Secretary of Commerce on barriers to sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(2) review and consider data collected on sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(3) advise the Secretary of Commerce during consultations with other governments on issues concerning sales of United States-made automotive parts in Japanese and other Asian markets;

(4) assist in establishing priorities for the initiative established under section 03, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

(5) assist the Secretary in reporting to Congress by submitting an annual written report to the Secretary on the sale of United States-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to this title.

(d) AUTHORITY.—The Secretary of Commerce shall draw on existing budget authority in carrying out this title.

SEC. 05. EXPIRATION DATE.

The authority under this title shall expire on December 31, 2003.

LOTT AMENDMENT NO. 2991

Mr. WARNER (for Mr. LOTT) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE NAVAL HOME.

(a) APPOINTMENT AND QUALIFICATIONS OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (a) of section 1517 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 417) is amended—

(1) in paragraph (2)—

(A) by striking out "Each Director" and inserting in lieu thereof "The Director of the United States Soldiers' and Airmen's Home"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) meet the requirements of paragraph (4).";

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs (3) and (4):

"(3) The Director, and any Deputy Director, of the Naval Home shall be appointed by the Secretary of Defense from among persons recommended by the Secretaries of the military departments who—

"(A) in the case of the position of Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0–5;

"(B) in the case of the position of Deputy Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0–4; and

"(C) meet the requirements of paragraph (4).

"(4) Each Director shall have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and significant military background.".

(b) TERM OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (c) of such section is amended—

(1) by striking out "(c) TERM OF DIRECTOR.—" and all that follows through "A Director" in the second sentence and inserting in lieu thereof "(c) TERMS OF DIRECTORS.—(1) The term of office of the Director of the United States Soldiers' and Airmen's Home shall be five years. The Director"; and

(2) by adding at the end the following new paragraph:

"(2) The Director and the Deputy Director of the Naval Home shall serve at the pleasure of the Secretary of Defense.".

(c) DEFINITIONS.—Such section is further amended by adding at the end the following:

"(g) DEFINITIONS.—In this section:

"(1) The term 'United States Soldiers' and Airmen's Home' means the separate facility of the Retirement Home that is known as the United States Soldiers' and Airmen's Home.

"(2) The term 'Naval Home' means the separate facility of the Retirement Home that is known as the Naval Home.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

FORD (AND MCCONNELL) AMENDMENT NO. 2992

Mr. WARNER (for Mr. FORD for himself and Mr. MCCONNELL) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title I, insert the following:

SEC. 117. ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.

(a) PROGRAM MANAGEMENT.—The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to incineration. In performing such function, the program manager shall act independently of the program manager for the baseline chemical demilitarization program and shall report to the Under Secretary of Defense for Acquisition and Technology.

(b) POST-DEMONSTRATION ACTIVITIES.—(1) The program manager for the Assembled Chemical Weapons Assessment may undertake the activities that are necessary to ensure that an alternative technology for the destruction of lethal chemical munitions can be implemented immediately after—

(A) the technology has been demonstrated successful; and

(B) the Under Secretary of Defense for Acquisition and Technology has submitted a report on the demonstration to Congress.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than June 1, 1999.

(c) INDEPENDENT EVALUATION.—The Under Secretary of Defense for Acquisition and Technology shall provide for two evaluations of the cost and schedule of the Assembled Chemical Weapons Assessment to be performed, and for each such evaluation to be submitted to the Under Secretary, not later than September 30, 1999. One of the evaluations shall be performed by a nongovernmental organization qualified to make such an evaluation, and the other evaluation shall be performed separately by the Cost Analysis Improvement Group of the Department of Defense.

(d) PILOT FACILITIES CONTRACTS.—(1) The Under Secretary of Defense for Acquisition and Technology shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary—

(A) certifies in writing to Congress is—

(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction of the munitions under the Chemical Weapons Convention; and

(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

(4) In this subsection, the term "Chemical Weapons Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

(e) FUNDING.—(1) Of the total amount authorized to be appropriated under section 107, $18,000,000 shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

(B) Planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, including planning and preparation for—

(i) continued development of the technology leading to deployment of the technology for use;

(ii) satisfaction of requirements for environmental permits;

(iii) demonstration, testing, and evaluation;

(iv) initiation of actions to design a pilot plant;

(v) provision of support at the field office or depot level for deployment of the technology for use; and

(vi) educational outreach to the public to engender support for the deployment.

(C) The independent evaluation of cost and schedule required under subsection (c).

(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

(f) ASSEMBLED CHEMICAL WEAPONS ASSESSMENT DEFINED.—In this section, the term "Assembled Chemical Weapons Assessment" means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104-208; 110 Stat. 3009-101; 50 U.S.C. 1521 note).

McCAIN (AND OTHERS) AMENDMENT NO. 2993

Mr. WARNER (for Mr. McCAIN for himself, Mr. LIEBERMAN, Mr. LEVIN, and Mr. WARNER) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title V, add the following:

SEC. 531. ADVANCEMENT OF BENJAMIN O. DAVIS, JUNIOR, TO GRADE OF GENERAL.

(a) AUTHORITY.—The President is authorized to advance Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force.

(b) ADDITIONAL BENEFITS NOT TO ACCRUE.—An advancement of Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force under subsection (a) shall not increase or change the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the said Benjamin O. Davis, Junior.

TORRICELLI (AND LAUTENBERG) AMENDMENT NO. 2994

Mr. LEVIN (for Mr. TORRICELLI for himself and Mr. LAUTENBERG) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle E of title III, add the following:

SEC. 350. PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.

Not later than March 31, 1999, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the Quadrennial Defense Review's proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the projected cost savings from such reductions and the manner in which such savings are expected to be achieved.

GRAMS (AND WELLSTONE) AMENDMENT NO. 2995

Mr. WARNER (for Mr. GRAMS for himself and Mr. WELLSTONE) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. LAND CONVEYANCE, NAVAL AIR RESERVE CENTER, MINNEAPOLIS, MINNESOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without any consideration other than the consideration provided for under subsection (c), to the Minneapolis-St. Paul Metropolitan Airports Commission, Minnesota (in this section referred to as the "Commission"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 32 acres located in Minneapolis, Minnesota, and comprising the Naval Air Reserve Center, Minneapolis, Minnesota. The purpose of the conveyance is to facilitate expansion of the Minneapolis-St. Paul International Airport.

(b) ALTERNATIVE LEASE AUTHORITY.—(1) The Secretary may, in lieu of the conveyance authorized by subsection (a), elect to lease the property referred to in that subsection to the Commission if the Secretary determines that a lease of the property would better serve the interests of the United States.

(2) Notwithstanding any other provision of law, the term of the lease under this subsection may not exceed 99 years.

(3) The Secretary may not require any consideration as part of the lease under this subsection other than the consideration provided for under subsection (c).

(c) CONSIDERATION.—As consideration for the conveyance under subsection (a), or the lease under subsection (b), the Commission shall—

(1) provide for such facilities as the Secretary considers appropriate for the Naval Reserve to replace the facilities conveyed or leased under this section—

(A) by—

(i) conveying to the United States, without any consideration other than the consideration provided for under subsection (a), all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the conveyance authorized by subsection (a); or

(ii) leasing to the United States, for a term of 99 years and without any consideration other than the consideration provided for under subsection (b), a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the lease authorized by subsection (b); and

(B) assuming the costs of designing and constructing such facilities on the parcel conveyed or leased under subparagraph (A); and

(2) assume any reasonable costs incurred by the Secretary in relocating the operations of the Naval Air Reserve Center to the facilities constructed under paragraph (1)(B).

(d) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a), or enter into the lease authorized by subsection (b), until the facilities to be constructed under subsection (c) are available for the relocation of the operations of the Naval Air Reserve Center.

(e) AGREEMENT RELATING TO CONVEYANCE.—If the Secretary determines to proceed with the conveyance authorized by subsection (a), or the lease authorized by subsection (b), the Secretary and the Commission shall enter into an agreement specifying the terms and conditions under which the conveyance or lease will occur.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a), or leased under subsection (b), and to be conveyed or leased under subsection (c)(1)(A), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Commission.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a), or the lease under subsection (b), as the Secretary considers appropriate to protect the interests of the United States.

DURBIN AMENDMENT NO. 2996

Mr. LEVIN (for Mr. DURBIN) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. LAND CONVEYANCE, ARMY RESERVE CENTER, PEORIA, ILLINOIS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Peoria School District #150 of Peoria, Illinois (in this section referred to as the "School District"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) comprising the location of the Army Reserve Center located at 1429 Northmoor Road in Peoria, Illinois, for the purposes of staff, student and community education and training, additional maintenance and transportation facilities, and for other purposes.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(c) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with subsection (a), all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

D'AMATO AMENDMENT NO. 2997

Mr. WARNER (for Mr. D'AMATO) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. LAND CONVEYANCE, SKANEATELES, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Town of Skaneateles, New York (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 147.10 acres in Skaneateles, New York, and commonly known as the "Federal Farm". The purpose of the conveyance is to permit the Town to develop the parcel for public benefit, including for recreational purposes.

(b) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used by the Town in accordance with that subsection, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

COATS AMENDMENT NO. 2998

Mr. WARNER (for Mr. COATS) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of title XXXV, add the following:

SEC. 3513. OFFICER OF THE DEPARTMENT OF DEFENSE DESIGNATED AS A MEMBER OF THE PANAMA CANAL COMMISSION SUPERVISORY BOARD.

(a) AUTHORITY.—Section 1102(a) (22 U.S.C. 3612(a)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Commission shall be supervised by a Board composed of nine members. An officer of the Department of Defense designated by the Secretary of Defense shall be one of the members of the Board."; and

(2) in the last sentence, by striking out "Secretary of Defense or a designee of the Secretary of Defense" and inserting in lieu thereof "the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 302 of Public Law 105-18 (111 Stat. 168) is repealed.

BINGAMAN (AND OTHERS) AMENDMENT NO. 2999

Mr. LEVIN (for Mr. BINGAMAN for himself, Mr. SANTORUM, Mr. LIEBERMAN, Mr. LOTT, and Mr. FRIST) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

"SEC. 1064. SENSE OF THE CONGRESS ON THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.

"(a) FUNDING REQUIREMENTS FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM BUDGET.—It is the sense of the Congress that for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Defense to increase the budget for the Defense Science and Technology Program for the fiscal year over the budget for that program for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

"(b) GUIDELINES FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.—

"(1) RELATIONSHIP OF DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO UNIVERSITY RESEARCH.—It is the sense of the Congress that the following should be key objectives of the Defense Science and Technology Program—

"(A) the sustainment of research capabilities in scientific and engineering disciplines critical to the Department of Defense;

"(B) the education and training of the next generation of scientists and engineers in disciplines that are relevant to future Defense systems, particularly through the conduct of basic research; and

"(C) the continued support of the Defense Experimental Program to Stimulate Competitive Research and research programs at historically black colleges and university institutions.

"(2) RELATIONSHIP OF THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO COMMERCIAL RESEARCH AND TECHNOLOGY.—

"(A) It is the sense of the Congress that in supporting projects within the Defense Science and Technology Program, the Secretary of Defense should attempt to leverage commercial research, technology, products, and processes for the benefit of the Department of Defense.

"(B) It is the sense of the Congress that funds made available for projects and programs of the Defense Science and Technology Program should be used only for the benefit of the Department of Defense, which includes—

"(i) the development of technology that has only military applications;

"(ii) the development of military useful, commercially viable technology; or

"(iii) the adaption of commercial technology, products, or processes for military purposes.

"(3) SYNERGISTIC MANAGEMENT OF RESEARCH AND DEVELOPMENT.—It is the sense of the Congress that the Secretary of Defense may allocate a combination of funds available for the Department of Defense for basic and applied research and for advanced development to support any individual project or program within the Defense Science and Technology Program. This flexibility is not intended to change the allocation of funds in any fiscal year among basic and applied research and advanced development.

"(c) DEFINITIONS.—In this section:

"(1) The term "Defense Science and Technology Program" means basic and applied research and advanced development.

"(2) The term "basic and applied research" means work funded in program elements for defense research and development under Department of Defense R&D Budget Activities 1 or 2.

"(3) The term "advanced development" means work funded in program elements for defense research and development under Department of Defense R&D Budget Activity 3.".

On page 398, between lines 9 and 10, insert the following:

"SEC. 3144. SENSE OF THE CONGRESS ON FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF ENERGY

"(a) FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES BUDGET.—It is the sense of the Congress that for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Energy to increase the budget for the nonproliferation science and technology activities for the fiscal year over the budget for those activities for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

"(b) NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES DEFINED.—In this section, the term "nonproliferation science and technology activities" means activities (including program direction activities) relating to preventing and countering the proliferation of weapons of mass destruction that are funded by the Department of Energy under the following programs and projects:

"(1) The Verification and Control Technology program within the Office of Nonproliferation and National Security;

"(2) Projects under the "Technology and Systems Development" element of the Nuclear Safeguards and Security program within the Office of Nonproliferation and National Security.

"(3) Projects relating to a national capability to assess the credibility of radiological and extortion threats, or to combat nuclear materials trafficking or terrorism, under the Emergency Management program within the Office of Nonproliferation and National Security.

"(4) Projects relating to the development or integration of new technology to respond to emergencies and threats involving the presence, or possible presence, of weapons of mass destruction, radiological emergencies, and related terrorist threats, under the Office of Defense Programs.".

FEINSTEIN (AND BOXER) AMENDMENT NO. 3000

Mr. LEVIN (for Mrs. FEINSTEIN for herself and Mrs. BOXER) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title X, add the following:

SEC. 1014. HOMEPORTING OF THE U.S.S. IOWA BATTLESHIP IN SAN FRANCISCO.

It is the sense of Congress that the U.S.S. Iowa should be homeported at the Port of San Francisco, California.

WARNER (AND MOYNIHAN) AMENDMENT NO. 3001

Mr. WARNER (for himself and Mr. MOYNIHAN) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place, insert:

SEC. 1064. DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.

(a) DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.—The Mariners' Museum building located at 100 Museum Drive, Newport News, Virginia, and the South Street Seaport Museum buildings located at 207 Front Street, New York, New York, shall be known and designated as "America's National Maritime Museum".

(b) REFERENCE TO AMERICA'S NATIONAL MARITIME MUSEUM.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the buildings referred to in subsection (a) shall be deemed to be a reference to America's National Maritime Museum.

(c) LATER ADDITIONS OF OTHER MUSEUMS NOT PRECLUDED.—The designation of museums named in subsection (a) as America's National Maritime Museum does not preclude the addition of any other museum to the group of museums covered by that designation.

(d) CRITERIA FOR LATER ADDITIONS.—A museum is appropriate for designation as a museum of America's National Maritime Museum if the museum—

(1) houses a collection of maritime artifacts clearly representing America's maritime heritage; and

(2) provides outreach programs to educate the public on America's maritime heritage.

ABRAHAM AMENDMENT NO. 3002

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ADDITIONAL PROCEDURES FOR MAKING DOD RECOMMENDATIONS FOR BASE CLOSURE AND REALIGNMENTS

Section 2903(c)(2) of the Defense Base Closure and Realignment Act of 1990 (Part A of Title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by inserting after the first sentence, "Each recommendation shall also contain the written coordination of all DoD agencies (to include the National Guard) with organizations collocated at that installation, along with an analysis of the impact of the proposed closure or realignment upon that organization's ability to complete its assigned mission. Furthermore, each recommendation shall identify the most likely gaining installation(s) which will receive organizations not proposed for disestablishment as part of the closure or realignment proposal, the most likely facilities which will be utilized by the relocated organization at the new installation(s), and the estimated cost for the relocated organization to move to and operate at the new installation."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 24, 1998, to conduct a hearing on H.R. 10, the "Financial Services Act of 1998."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, June 24 for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 24, 1998 at 10:00 am and 4:00 pm to hold two hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THURMOND. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, June 24, 1998, at 10:00 a.m. for a hearing on Computer Security Vulnerabilities and the Threat to National Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, June 24, 1998 at 2:30 p.m. to conduct a business meeting to markup S. 1925, to make technical corrections to laws relating to Native Americans and; S. 1998, to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, to be followed immediately by a joint hearing with the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act and S. 1899, the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reservation Water Rights Settlement Act of 1998. The meeting/hearing will be held in room 628 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Wednesday, June 24, 1998, at 10:00 a.m., in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, June 24, 1998, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 24, 1998 at 10:00 a.m. and 2:30 p.m. to hold a closed hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Wednesday, June 24, 1998 at 2:00 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: "The H-2A Program: Is It Working?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. THURMOND. Mr. President, I ask unanimous consent that the Water and Power Subcommittee of the Committee on Energy and Natural Resources and the Committee on Indian Affairs be granted permission to meet during the session of the Senate on Wednesday, June 24, for purposes of conducting a joint committee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 1711, a bill to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and for other púrposes; and S. 1899, the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHILDREN'S SCHOLARSHIP FUND

• Mr. COVERDELL. Mr. President, I rise today to commend the recent actions of two businessman and philanthropists, Mr. Ted Forstmann and Mr. John Walton.

On Tuesday, June 9, 1998, the two men launched the Children's Scholarship fund with an initial contribution of one hundred million dollars. This fund is going to provide scholarships to help families of modest means send their children to private or parochial schools where they will face strong academic challenges.

As this body, indeed this nation, continues to debate the future of education, one fact is clear—a good education is the key to a promising future. The best way to help young people is to ensure that they have a solid education that challenges their minds and helps them reach their full potential. Mr. Forstmann and Mr. Walton are helping many children along the path by giving their hard-working parents a helping hand.

Through grass roots initiatives such as the Children's Scholarship Fund, we will we ensure that our country remains the world's leader.

I would like to wish the Children's Scholarship Fund the best of luck over the next several months as they look for people across America willing to serve as partners in this effort. The fund has already contacted more than 300 mayors and community leaders to seek their partnership with the fund and provide scholarships in their communities. Also, I would like to offer my assistance in contacting cities and other municipalities in my home state of Georgia.

Once again, Mr. Forstman and Mr. Walton should be commended for their commitment to the education of our nation's youth, and I thank them for their generosity.•

NOMINATION OF DR. JANE HENNEY FOR THE COMMISSIONER OF FOOD AND DRUGS

• Mr. DODD. Mr. President, I rise today in strong support of the nomination of Dr. Jane Henney for the Commissioner of Food and Drugs.

In November, 1997, President Clinton signed legislation charging the Food and Drug Administration with the responsibility for bringing lifesaving drugs and medical devices to the American people more quickly and efficiently, without compromising safety or effectiveness. This legislation requires the FDA to rethink many of its old models and to work collaboratively with the public and with drug and device manufacturers to improve the certainty of the product review process, to provide patients with better access to investigational therapies, and to encourage manufacturers to test the safety and efficacy of their products for children. Such responsibilities require strong, innovative leadership—leadership that Dr. Henney can clearly provide.

Dr. Henney is a distinguished physician, a cancer specialist, and a nationally recognized academic leader and public health administrator who has served in the Carter, Reagan, Bush, and Clinton Administrations. She served as Deputy Commissioner for Operations at the FDA from 1992 to 1994 and is thoroughly familiar with FDA's responsibilities, having managed the agency's daily activities and six operating centers.

Dr. Henney has also proven her ability to manage in a challenging environment. At the University of New Mexico, she led the Health Sciences Center to increase its efforts to stabilize local health care delivery systems and to engage in extensive reorganization initiatives. Earlier, as a Deputy Commissioner at the FDA, Dr. Henney reorganized and improved the efficiency of the FDA's centers, recruiting new directors for five of the six centers. She also played a principal role in the enactment of the Prescription Drug User Fee Act of 1992, which revitalized the agency's drug and biologics review system.

The position of Commissioner of Food and Drugs has been vacant for more than 14 months, leaving without leadership a federal agency that arguably has a more direct and significant impact on the lives of the American people than any other. The foods we serve our family, the medicines we take when we're sick, and even the drugs we give our pets, are all approved and monitored by the FDA. One quarter of every dollar spent by consumers goes to products regulated by the FDA. Jane Henney's innovative managing skills as well as her medical reputation make her the ideal candidate to shoulder the responsibility for leading the Food and Drug Administration into the next century. I encourage the Senate to act expeditiously and support Dr. Henney's well-deserved nomination.•

TRIBUTE TO FOSTER'S DAILY DEMOCRAT ON ITS 125TH BIRTHDAY

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Foster's Daily Democrat on its 125th birthday.

On June 18, 1873, Foster's first paper proclaimed, "We shall devote these columns mainly to the vital interests of Dover and vicinity. Whatever may tend to benefit this people and enhance their prosperity, will receive our warm and enthusiastic support."

Our nation and indeed the world has changed many times since that day 125 years ago when Foster's first made that commitment to its readers. Ulysses Grant was president and the United States had just gone through the most destructive and divisive war in its history. Since then, the United States has fought two world wars, an economic depression and the Cold War.

Yet in over 125 years, one thing has always stayed the same: Foster's commitment to truth, journalistic integrity and its readers. It is that unyielding commitment that has made Foster's Daily Democrat the nation's longest continuously managed and owned newspaper by direct family descendants of its founder in the United States. As the paper itself eloquently states, "When your family's name is at the top of every page, you try a lot harder."

Foster's has also been a leader in applying technological advancements to the field of newspaper publishing. In 1964, it became the first newspaper in New Hampshire to use offset printing as a way to produce brighter and sharper newspapers.

At a time in our nation's history when journalists and the media in general are often accused of fostering cynicism, the people at Foster's have been reporting news to the men and women of New Hampshire while never sacrificing the principles of Joshua Lane Foster, the paper's founder. Congratulations to current publisher Robert Foster and all the other hard working men and women at Foster's Daily Democrat on your 125th birthday. It is an honor to represent you in the United States Senate.•

COLONEL JAMES HANLEY

• Mr. INOUYE. Mr. President, today I have the sad duty of announcing to this chamber that America has lost a hero, and a friend who had a large impact on my life. On June 20, 1998, Col. James Hanley died in Palo Alto, California after living a life marked by service to his country and commitment to the ideals for which this nation stands.

I had the privilege of serving with Col. Hanley in battle during WWII. He was the Commanding Officer of the 2nd Battalion, 442nd Regimental Combat Team, of which I am proud to have been a member. Those trying days seem like yesterday and I can recall Col. Hanley being a source of strength for us. He was admired and respected by his men.

The story of the 442nd is rich and dramatic, but mostly it paints a picture of bravery and courage. When America learned of the news that Pearl Harbor had been bombed by the Empire of Japan on December 7, a widespread distrust of anyone of Japanese ancestry began to grow. Despite a prejudice which had many of them and their families incarcerated in concentration camps, brave Japanese American soldiers volunteered for military service following the attack. Those courageous volunteers were kept together and eventually became the 442nd Regimental Combat Team and Col. Hanley became one of its leaders.

To give you a flavor for Col. Hanley's leadership, sensitivity, and wisdom, I would like to read for the record a letter he wrote to a newspaper editor when that individual made ethnic slurs against the Japanese. Keep in mind that the letter is dated March 10, 1945, when the war with Japan was at its bloodiest.

> DEAR CHARLIE: Just received the Pioneer of Jan. 20 and noted the paragraph enclosed.
>
> Yes, Charlie, I know where there are some GOOD Japanese Americans—there are some 5,000 of them in this unit. They are American soldiers—and I know where some of them are buried. I wish I could show you some of them, Charlie. I remember one Japanese American. He was walking ahead of me in a forest in France. A German shell took the right side of his face off. I recall another boy, an 88 had been trying to get us for some time—finally got him. When they carried

him out on a stretcher, the bloody meat from the middle of his thighs hung down over the end of the stretcher and dragged in the dirt—the bone parts were gone.

I recall a sergeant—a Japanese American, if you will—who had his back blown in two—what was he doing? Why, he was lying on top of an officer who had been wounded, to protect him from the shell fragments during a barrage.

I recall one of my boys who stopped a German counterattack single handed. He fired all his BAR ammunition, picked up a German rifle, emptied that—used a German Lugar pistol he had taken from a prisoner.

I wish I could tell you the number of Japanese Americans who have died in this unit alone.

I wish I could tell you the number of wounded we have had, the sightless eyes, missing limbs, broken minds.

I wish I could tell you the decorations we have won.

I wish the boys in the "Lost Battalion" could tell you what they think of Japanese Americans.

I wish all the troops we have fought beside could tell you what they know.

The marvel is, Charlie, that these boys fight at all—they are good soldiers in spite of the type of racial prejudice shown by your paragraph.

I know it makes a good joke—but is the kind of joke that prejudice thrives upon. It shows a lack of faith in the American ideal. Our system is supposed to make good Americans out of anyone—it certainly has done so in the case of these boys.

You, the Hood River Legion Post, Hearst, and a few others make one wonder just what we are fighting for. I hope it isn't racial prejudice.

Come over here, Charlie, I'll show you where "some good Japanese Americans" are buried.

J.M. HANLEY,
Hq. 442nd Inf. APO 758.

Mr. President, in conclusion, I offer my deepest sympathy for Col. Hanley's family and his dear wife, Joan. I want them to know of my deepest admiration for him, as they reflect on his significant life.●

HONG KONG ONE YEAR LATER

● Mr. BAUCUS. Mr President, as the first chapter of the Analects of Confucius says, "is it not a great joy when friends come from far away?"

This week we have had the pleasure to welcome two good friends to Washington—President Kim Dae-jung of the Republic of Korea, and Chief Secretary Anson Chan of the Hong Kong Special Administrative Region.

And today, as President Clinton prepares to make the first visit of any sitting President to Hong Kong, I would like to offer some thoughts on the events of the past year in Hong Kong.

Let me begin with some context. When we speak about Hong Kong, we are really talking about three different Hong Kongs.

One Hong Kong is Hong Kong itself: a city of six million people on China's southern coast. It is a place of hard work, good humor and open debate; one of our major Asian trading partners; the site of $15 billion in direct American investment and the base for much of our business in China; a site for 60 Navy port calls a year; a place many of us have visited and where our country has many friends.

A second Hong Kong is part of China. This Hong Kong, emerging from 150 years as a Crown Colony to become the Hong Kong Special Administrative Region, can play a unique part in China's future history. It combines a living western intellectual and legal heritage with a Chinese identity, and as such offers Chinese reformers a model for the rule of law and an open society, as well as for economic and financial management. And of course Hong Kong also plays a unique part in our own broader relationship with China.

And a third Hong Kong is the financial and management hub of a vast productive region which extends from southern China to Southeast Asia. And so Hong Kong is also bound up with our economic and trade relationship with most of Asia—and in particular the financial crisis which afflicts so many Asian nations this year.

In summary, history has placed a very heavy responsibility on Hong Kong and its people—for the management of their own city; for China's future; and for Asia's prosperity.

How have they managed these responsibilities since the Union Jack went down and the Bauhinia went up last July 1st?

Here I will quote the very succinct view of an American businessman based in Hong Kong, who came to see me back in February:

"Everything we thought might be a problem is not a problem. Everything we assumed would be fine has become a problem."

He was referring, of course, to politics and economics. Last year at this time, many were worried about Hong Kong's political future, asking whether Chinese sovereignty would mean a controlled press and repression of political debate. Few saw any threat to its economic future. And what have we seen since?

Hong Kong residents retain and exercise their rights. The Hong Kong Alliance holds regular commemoration of the Tiananmen Square massacre. Han Dongfang's China Labor Bulletin and the Human Rights Monitor operate just as before. All are freely and widely covered in the Hong Kong press—as are American China policy debates, the recent interview given by the Chinese political reform advocate and former political prisoner Bao Tong, and much more.

Hong Kong's elections of May 24th went off more freely and its results were more interesting than anyone might have expected. Turnout rose from 35% in 1995 to 55% this year. The Democratic Party, along with the other parties which opted out of the Provisional Legislature, participated and did brilliantly. Equally interesting, the success of the Democratic Alliance for the Betterment of Hong Kong, traditionally identified as a "pro-Beijing" party, may point toward the eventual establishment of a two-party system in Hong Kong.

And China has, as far as I can tell, kept its promises to stay out of the Hong Kong government.

These facts, I believe, disprove two theories. After this election, nobody can now pretend that Hong Kong people are indifferent to political rights and elections and care only about money. Likewise, after the election, the view that China has malevolent intentions and will inevitably crack down on Hong Kong seems naive at best. And although one year is a short time in which to judge, the facts also tend to show that the one-country, two-systems idea may work. And it is a disappointment, but not a surprise, to see that none of last year's doomsayers have stepped up to the plate and admitted they sold Hong Kong—and China—short.

Unfortunately, what they should have been selling short was not Hong Kong—nor its government, nor its citizens, nor the Chinese government—but the Hang Seng Index. And those of us who were optimistic about Hong Kong's prospects last year should also admit that we didn't get it quite right. The things we felt would not be a problem—Hong Kong's economy—has become not only a problem but a crisis.

I last visited Hong Kong in May of 1997, as the last stop on a trip that also included Seoul, Pyongyang and Beijing. At that time, the Koreans were worrying about a slowdown in growth rates—maybe to 5.5% or 6%—and some scandals in the chaebols. And The Economist magazine ran a cover story on financial problems in Bangkok. And in Hong Kong, I asked a few people what might show that the transition was going wrong—and a few said that one clue might be a speculative boom in the Hong Kong markets. Not a single person I met—and that includes American diplomats, tycoons, civil servants, Chinese dissidents, legislators from the Democratic Party, the Citizens Party and the Liberal Party—predicted that the economy might go wrong.

What has happened since?

We need no longer worry about a speculative boom in the markets. The Hang Seng is down from nearly 16,000 then to below 8,000 this week.

Hong Kong is in its first recession ever, with growth at negative 2% so far this year. Some predict that the contraction could be 5% or worse.

Unemployment is already at 4% and will rise in the months ahead.

This, ironically enough, has overshadowed the political divisions in the new Legislative Council, to the point that the Democrats, the DAB, the Liberals and other parties have come together to criticize the government's budget and push for emergency economic relief.

Why has this happened? The answer is obvious. The problem is not the Hong Kong economy per se—its properties may have been overvalued, but the real problem is the crisis affecting every country around Hong Kong. When a typhoon blows, everyone feels the wind and rain.

In summary, Hong Kong is a territory whose politics are in better shape, and whose economy is in worse shape, than anyone guessed last year would be possible. And with that let me now turn from the lessons of the past year to the issues we must address, together with Hong Kong, in the next.

Our interest is clear: a prosperous, healthy Hong Kong whose politics are free and open, which integrates peacefully with China, and which continues to play its part as the center of a prosperous Asian economy. And to secure this interest, we need three things: first, a solution to the Asian financial crisis; second, a working relationship with China, especially in the field of economics and trade; and third, a continued good relationship with Hong Kong's government, political leaders and people.

And let me begin with the first of these. When a typhoon blows, people feel the wind and the rain. But they also tend to see, perhaps more than they might in easier times, that they need to work together. We see that in Hong Kong's Legislative Council today. And we see it on a larger scale, as the crisis has brought together the countries hardest hit by the crisis, Hong Kong and China, Japan, and we ourselves.

The affected countries—particularly Thailand and Korea—have acted with a great deal of courage and good sense. And as bad as the times may be, their approach is working. In the last few months their currencies have stabilized and capital flight ended. The task now is no longer stopping a panic, but restoring financial health, enduring recession and protecting the most vulnerable people. Indonesia, with an even more difficult economic situation and a weaker political system, thus far, has weathered an even more difficult situation with a weaker political without descending into violence.

China and the Hong Kong Special Administrative Region have responded admirably. Hong Kong's refusal to devalue the dollar last October did more than any single other action, anywhere in the world, to prevent the crisis in Southeast Asia and Korea from becoming a meltdown. And China's refusal to devalue the yuan since then has allowed markets to recover and begin acting more rationally. The proof is that the revolution in Indonesia, as earthshaking an event as that is, has not created a new currency panic. And continued commitment by China and Hong Kong will make sure that the worst-affected countries can get back on their feet.

This will impose tremendous strain on China in the months to come, because China is in no way immune to the crisis itself. The Central Bank Governor, Dai Xianglong, said yesterday that while China will stick to its commitment not to devalue:

"The economic adjustment in Southeast Asia and the sluggish Japanese economy, particularly the depreciation of the yen, have all produced a very negative impact on China's imports, exports and inflow of investment funds, and increased pressure on the restructuring of our country's economic system."

This points to the need for rapid action in Japan to pass its fiscal stimulus package and perhaps to go further to prevent recession. In this crisis, Japan should be importing and growing; if it slumps and devalues its currency we can expect the situation to worsen.

And we in the United States must act sensibly and seriously. Our open market is as important to recovery as the currency commitments by China and Hong Kong. So far, we have not given in to fears or temptations to reduce imports as our exports to Asia ;have fallen, and that should continue. We must pass our IMF replenishment, as the Senate has done. And we should give a strong endorsement to China's MFN status. As Ms. Chan said on arrival to the United States, revoking MFN status:

"[W]ould not only deal a devastating blow to business confidence in Hong Kong when we are grappling with the fallout from the regional turmoil, it would also undermine our ability to continue to play the role of firewall in the Asian financial crisis. Eventually it would take away a powerful line of defense in the economies of the region. None of us, including the United States, can afford another wave of uncertainty."

As this comment indicates, our annual debate over MFN status has become a pointless and essentially destructive affair. It does nothing to promote human rights, political reform or better security policies in China; instead it threatens jobs here and economic stability in Hong Kong and China. And that brings me to the second point: our economic relationship with China, and in particular to China's accession to the WTO.

As Governor Dai's comments indicate, China is by no means immune from this crisis. Its growth rate has fallen; its export growth rates dropped by nearly half; and foreign investment in China is off. These are some of the early warning signs we saw in Southeast Asia two years ago. And that should worry us—because today's China is not so different from yesterday's Southeast Asia.

China has some advantages that its neighbors lacked. It has more fixed investment, less short-term debt, and larger foreign currency reserves than its neighbors. But it also has many of the problems they had before the crisis. We see a level of bad debts about the same, or even higher, as Thailand had before a year ago. We see nepotism, corruption and intimate ties between big business and the state; politically directed loans to unnecessary industrial policy projects in fiber optics, semiconductors, autos, and other areas; property bubbles in the big cities; foreign investment dropping; and early signs of an economic slowdown that could worsen if the Asian crisis deepens. And all this is combined with a brittle political system, intolerant of opposition and with only a weakly developed rule of law, that in the event of crisis may not offer China the flexibility it needs to get through economic difficulties without a social upheaval.

Part of the answer must be political reform. China has a good example, inside its own political borders, with Hong Kong's strong rule of law and open society in a Chinese society; and when the one-country, two-systems formula comes to an end in 2047, political development in China may be its most important legacy. but in the short term, the economic reforms WTO accession will bring are equally crucial for China's economic health.

WTO accession, on the commercially meaningful basis we should expect, will reduce subsides and break the links between ministries and their semi-privatized profit-making offspring. Promote open competition at the expense of rigged markets. And strengthen the rule of law. This will produce a more rational economy which is more open to imports; has less interference by ministries in the market; which is run more by the rule of law than by informal connections; and offers more freedom for ordinary Chinese to determine their own future. And in the long run it will help ensure that China has a stable, sustainable economy.

So as President Clinton's state visit approaches—and in its aftermath if necessry—we should push as hard as we can to reach a commercial meaningful agreement. We must not accept less than we should; that would be unfair to our own country and it would mean little to China. But we should work hard to get the job done right. And of course, when it happens we should live up to our responsibilities by granting China permanent MFN status.

Finally, let me turn back to the first Hong Kong—the one that is simply a city.

A year after the transition, Hong King faces and extraordinary array of challenges. It is at the eye of an economic storm worse that any Asia has faced since the Vietnam War. It is adapting to a political role unique in China and probably unique in the world. And its own government and constitution are very new.

These challenges might bring a lesser city to its knees. But Hong Kong has handled them about as well as anyone could have. And beyond that—as far as I can tell from ten thousand miles away—it has grown because of them.

Last May's election, to me, indicates that the ordinary Hong Kong people understand how important a responsibility history has given them this year. The qualities we have always associated with Hong Kong—hard work, good humor, honest government—have been amplified by growing civic responsibility, democratic participation and political maturity.

In summary, a year after the transition, Hong Kong has defended its rights; acted to good effect in an economic crisis; and can look ahead with confidence. And as President Clinton prepares for the first visit any sitting American President has ever made to Hong Kong, he is going to a city whose future is bright.•

RETIREMENT OF GENERAL EUGENE E. HABIGER

• Mr. KERREY. Mr. President, the country has recently lost to retirement its commander in chief of the United States Strategic Command, General Eugene E. Habiger, USAF, and his wife, Barbara. General Habiger has taken the United States and the U.S. Strategic Command into a new world environment. With the end of the Cold War, two rivals were uncertain how to proceed. Under General Habiger's leadership, the former Soviet Union and United States strategic forces have developed a trusting, confident understanding of the other's capabilities and operations.

During his tenure, General Habiger's insightful leadership and visionary initiatives revolutionized the readiness and flexibility of the Nation's strategic deterrent force in support of the National Command Authorities and regional combatant commanders. He made major contributions to the national security of the United States by establishing parameters for future strategic forces; by leading a stable drawdown of nuclear forces; by fostering mutual understanding and cooperation with Russia; and by shaping the process by which the United States maintains the long-term safety and reliability of its nuclear weapons stockpile. New tools and concepts developed under General Habiger's leadership ensured strategic forces remained safe, effective, ready and responsive to changing world needs.

As stated in a letter from General Henry H. Shelton, Chairman, Joint Chiefs of Staff, General Habiger "helped Americans more fully appreciate the important strategic mission, improved the relationship with Russia, and molded future leaders who will ably take the USSTRATCOM mission into the 21st Century." From the early days as a student pilot at Williams Air Force Base, Arizona, to commander of the 325th Bombardment Squadron, General Habiger was an outstanding aviator and leader. A command pilot with more than 5,000 flying hours, he flew combat missions in support of ARC LIGHT operations in Southeast Asia from October 1969 to April 1970. The general's varied and vast contributions to the nation's strategic defense and his many critical command positions helped secure peace through strength and make the U.S. Air Force the world's best.

We also lose a tremendous supporter and friend in his wife, Barbara. Barbara's extraordinary voluntary contributions to the community of Omaha, Nebraska contributed to the well being of countless military and civilian families in the area. As an active member of the Salvation Army Advisory Board, her efforts touched thousands through dollars raised during the Tree of Lights and Bell Ringers programs. Her work with the Nebraska Council for Drug and Alcohol Abuse Prevention and the Western Heritage Museum helped ensure the effectiveness and success of these vital organizations. The Henry Doorly Zoo benefitted from Barbara's volunteerism, as she led efforts to help raise nearly one million dollars for the care and feeding of the zoo's animals.

General and Mrs. Habiger leave the military after a distinguished 39 year career serving their nation. The people of the United States salute General and Mrs. Habiger and wish them well as they begin their lives after military service.•

THE 150TH ANNIVERSARY OF THE CHURCH OF ST. JOSEPH-ST. THOMAS

• Mr. MOYNIHAN. Mr. President, I rise to offer my congratulations on the occasion of the 150th Anniversary of the oldest Catholic church in continuous existence on Staten Island, the Church of St. Joseph-St. Thomas. Evolving out of a small Catholic community in Rossville, the church has improved New York's quality of life for generations and is an integral part of the Staten Island community.

The impact this parish has had on its community is remarkable. Both in times of prosperity and in times of despair, the contributions of the pastors and congregants of St. Joseph-St. Thomas have profoundly affected the residents of Staten Island. The parish has provided education for children, held community gatherings and helped the disadvantaged.

The leaders of St. Joseph-St. Thomas have been responsible for much of this tradition of community involvement. Though I will not name all of the former pastors here, I would like to mention two. Father Edward A. Dunphy's established child-care programs for immigrants during the 19th century. These first Catholic child-care facilities helped maintain the devotion to Catholicism within Staten Island's immigrant community. During the Great Depression, Father Thomas S. Magrath cut church expenses to relieve parishioners' fiancial burdens. All the while, he developed projects and programs to feed and shelter the suffering.

Today this spirit of helping those in need lives on with Monsignor Peter G. Finn and the church's involvement in such programs as Project Hospitality and the St. Vincent De Paul Society.

With appreciation and admiration I extend my best wishes to the Church of St. Joseph-St. Thomas. Its 150th Anniversary is cause for much celebration and anticipation of even greater accomplishments to come.•

PRIVILEGE OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that my legislative assistant, Mr. Spear, be granted the privilege of the floor for the remainder of the evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION COMPLIANCE ASSISTANCE AUTHORIZATION ACT

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2864, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2864) to require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

The Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2864) was read the third time and passed.

OCCUPATIONAL SAFETY AND HEALTH ACT

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2877, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2877) to amend the Occupational Safety and Health Act of 1970.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I would like to ask my colleague from Wyoming to help me clarify the intent of H.R. 2877 as it relates to evaluating the performance of employees. Several States with OSHA-approved State plans have expressed concern that the language regarding "the results of enforcement activities" could prevent them from considering the quality of an enforcement officer's reports or recommendations; the percentage of cases which are upheld or overturned in legal proceedings; the timeliness of case completion; the comprehensiveness of evaluations; and other legitimate means of evaluating employee performance.

Contrary to this very broad interpretation, it is important to point out that the authors of the bill read much more narrowly the language prohibiting OSHA from evaluating employees based on "the results of enforcement activities, such as the number of citations issued or penalties assessed." When H.R. 2877 was originally introduced, it prohibited the Secretary of labor from establishing "any performance measures for any subordinate" within OSHA "with respect to the number of inspections conducted, citations issued, or penalties assessed." After the administration expressed concerns that the language could adversely impact the ability of OSHA supervisors to assign inspection work and ensure employee productivity and accountability, new language was negotiated. The intent of that language, which is contained in the version of H.R. 2877 that we are about to pass, was intended to prevent OSHA from establishing any quota or goal requiring OSHA inspectors to assess a specific number or amount of penalties. Clearly, Congress would not want to prevent OSHA from ensuring that the penalties actually assessed by its inspectors are legally valid, based on true and accurate information, and issued in a timely, professional manner.

Does the Senator agree with me that the "results" referred to in the legislation refer to whether an OSHA inspector is evaluated on a specific quota or goal regarding the number of citations issued or penalties assessed, rather than the other means I have outlined?

Mr. ENZI. Yes, I agree with the analysis of my colleague from Massachusetts.

Mr. KENNEDY. I would like to present my colleague with three examples to illustrate the intent of H.R. 2877. First, assume an OSHA inspector uses falsified inspection results to justify and recommend the issuance of citations and penalties against one or more employers. Does the language in H.R. 2877 allow OSHA to negatively evaluate the inspector and proceed to dismiss him or her?

Mr. ENZI. Absolutely. OSHA must have the right to discipline such an employee and evaluate him or her accordingly.

Mr. KENNEDY. What about an inspector who, in the course of a year, conducts one tenth of the inspections conducted by the average inspector? The inspector finds no violations in any of the inspections he or she conducts, leading the inspector's supervisor to suspect that the inspector may be failing to identify serious hazards in at least some of those workplaces. Does H.R. 2877 allow OSHA to examine these circumstances to ascertain whether the employee is adequately performing his or her duties?

Mr. ENZI. Yes, it does. Such evaluations are fundamental to measuring employee performance.

Mr. KENNEDY. If an inspector's citations and penalties are consistently being overturned in legal proceedings, would H.R. 2877 inhibit OSHA's ability to use that experience to evaluate how well that employee is doing his or her job?

Mr. ENZI. No, it would not, Senator.

Mr. KENNEDY. I thank the Senator.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2877) was read the third time and passed.

Mr. ENZI. Mr. President, the two bills just passed by the Senate were authored by my good friend, Congressman BALLENGER.

H.R. 2864, the Occupational Safety and Health Administration Compliance Assistance Authorization Act, and H.R. 2877, a bill to eliminate the imposition of quotas in the context of OSHA's enforcement activities, are intended to help increase the joint cooperation of employees, employers, and OSHA in the effort to ensure safe and healthful working conditions. These bills are the first in a series of efforts to modernize the Occupational Safety and Health Act of 1970, a law which has only been amended one time, in 1990, and that amendment was simply an effort to raise the amount of the fines. So this is the first substantial change in 27 years.

Since its inception, OSHA has consistently relied upon an adversarial approach rather than placing a greater emphasis on a collaborative strategy geared toward increasing worker safety and health. Agency officials have admitted that 95 percent of the employers in the country do their level best to try to voluntarily comply with the law. Unfortunately, OSHA inspectors still treat employers as adversaries, issuing them citations for what they haven't done and not assisting them in complying with regulations to make the workplace safer.

Positive changes in the relationship that exists between employers and OSHA are long overdue. It is not productive to threaten employers with fines for noncompliance when millions of safety-conscious employers don't know how they are supposed to comply. Nor is it effective to burden employers with more compliance materials than they can possibly digest or understand.

To achieve a new cooperative approach, the vast majority of employers who are concerned about worker safety and health must have compliance assistance programs made more accessible to them. Creating true partnerships between businesses and OSHA will ultimately empower the honest employers to improve worker safety while allowing OSHA to concentrate its enforcement efforts on the small number of employers who constitute the "bad actors." I firmly believe that H.R. 2864 is a good first step in accomplishing just that.

H.R. 2877 would eliminate enforcement quotas for OSHA compliance inspectors. This language would prohibit OSHA from establishing a specific number of citations issued or the amount of penalties collected. I believe that inspectors must not face institutional pressure to issue citations or to collect fines but, rather, they should work to identify potential hazards and assist the employer in abating them. OSHA's success must depend upon whether the Nation's workforce is safer and healthier and not upon meeting or surpassing goals for inspection citations or penalties.

Congress' approach to OSHA is different this session. During my tenure in the Senate, I have committed much of my time to the advancement of workplace safety and health. This commitment is shared by my House colleagues, Representatives BALLENGER and TALENT, who are both authors of other commonsense incremental legislation. It is our belief that OSHA has operated since its inception as a reactionary regulator, inspecting work sites primarily after a fatality or injury has occurred. In 1994 and early 1995 alone, three-quarters of the work sites in the United States that were the scene of serious accidents had never—had never—been inspected by OSHA during the decade. Even more troubling is that OSHA officials acknowledge that their inspectors do not investigate most lethal work sites until after accidents occur. Thus, a worker essentially has to get hurt or killed in order for OSHA to act.

We all want prevention. We don't want accidents. We don't even want near misses. A near miss is an accident about to happen.

While it is important for OSHA to retain its ability to enforce law and to respond to employee complaints in a timely fashion, the agency must begin to broaden its preventive initiatives in an effort to bring more workplaces into compliance before accidents and fatalities occur. These bills are the first of several rational, incremental steps in making OSHA a preventive regulator, not a reactionary regulator.

As the Senate author of S. 1237, the Safety Advancement for Employees Act, or SAFE Act, it is my hope that this important legislation will also be considered in the same sensible light. This bill was derived from the thoughts, suggestions, and good ideas of employees, employee representatives, employers, and certified safety and health professionals prior to even its original draft—comments that helped us keep out a number of past contentious provisions.

I listened carefully to these concerns, and, as a result, the SAFE Act was crafted to promote and enhance workplace safety and health rather than dismantle it. What is left out of that bill may be as important as what is in the bill.

The contentious parts from the past are not there. The two provisions that we passed tonight are there. The spirit of cooperation must overpower polarization if true improvements in occupational safety and health are to be achieved. It is essential that stereotypical rhetoric be set aside, with the understanding that an overwhelming majority of employers cherish their most valuable assets: their employees. Without the employee, management would ultimately have no production, no profits, and no business. It is logical to surmise that by promoting cooperation, good business will ultimately prevail. We cannot rest as long as there are injuries or deaths on the job. We need everyone involved in safety.

I urge my Senate colleagues to continue along this path. Much remains to be done in the area of workplace safety and health. There are currently 6.2 million American work sites being inspected by 2,451 Federal and State OSHA inspectors. Under these conditions, it will take OSHA 167 years to visit every workplace before an accident or fatality occurs. That is entirely unacceptable. We must continue to advocate cooperative compliance initiatives, incentives to the employers to look at the job before an accident happens, initiatives that are strictly in line with preventive regulation.

We must see that OSHA does not get an IRS image. We must see that everyone goes home whole. I will continue to advocate this type of an approach in the coming weeks when additional measures will be considered. I urge my colleagues to both note the change in attitude on the House side and the Senate side on the work being done on OSHA, and I urge my Senate colleagues to help us work on these bills.

I thank Senator FRIST, who is the subcommittee chairman, and Senator WELLSTONE, who is the subcommittee ranking member. I thank the chairman of the Labor Committee, Senator JEFFORDS, and the ranking member of the committee, Senator KENNEDY. I, in fact, thank all of the Labor Committee members on both sides of the aisle for the time and care and interest that they have shown in the OSHA issue.

I give special mention, of course, to Congressman TALENT, who has taken the SAFE Act on the House side and worked diligently on it and held hearings and just been a great promoter of the new attitude on improving workplace safety. I also congratulate Chairman BALLENGER on the first change in the OSHA Act in 27 years.

I would be remiss if, last but not least, I did not thank my excellent staff for the diligence, care, and persistence that they have put into all of the research and all of the meetings we have had with any group that was willing to meet with us across the entire country. That is what has resulted in being able to take this first step and what will result in future steps.

Thank you, Mr. President.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar, No. 654. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nomination appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

Louis Caldera, of California, to be Secretary of the Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL CHARACTER COUNTS WEEK

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 418, S. Res. 176.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 176) proclaiming the week of October 18 through October 24, 1998, as "National Character Counts Week".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ENZI. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and finally that any statements regarding the legislation appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 176) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 176

Whereas young people will be the stewards of our communities, Nation, and world in critical times, and the present and future well-being of our society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of the Nation;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions, and civic groups;

Whereas the character of a nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore, conscientious efforts must be made by institutions and individuals that influence youth to help young people develop the essential traits and characteristics that comprise good character;

Whereas, although character development is, first and foremost, an obligation of families, the efforts of faith communities, schools, and youth, civic, and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas the Senate encourages students, teachers, parents, youth, and community leaders to recognize the valuable role our youth play in the present and future of our Nation and to recognize that character is an important part of that future;

Whereas, in July 1992, the Aspen Declaration was written by an eminent group of educators, youth leaders, and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states, "Effective character education is based on core ethical values which form the foundation of democratic society.";

Whereas the core ethical values identified by the Aspen Declaration constitute the 6 core elements of character;

Whereas the 6 core elements of character are trustworthiness, respect, responsibility, fairness, caring, and citizenship;

Whereas the 6 core elements of character transcend cultural, religious, and socioeconomic differences;

Whereas the Aspen Declaration states, "The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.";

Whereas the Senate encourages individuals and organizations, especially those who have an interest in the education and training of our youth, to adopt the 6 core elements of character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas the Senate encourages communities, especially schools and youth organizations, to integrate the 6 core elements of character into programs serving students and children: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of October 18 through October 24, 1998, as "National Character Counts Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to embrace the 6 core elements of character and to observe the week with appropriate ceremonies and activities.

NATIONAL BONE MARROW REGISTRY REAUTHORIZATION ACT OF 1998

Mr. ENZI. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 2202, and further that the Senate precede to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be considered, read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2202) was considered, read the third time, and passed.

NATIONAL DROUGHT POLICY ACT OF 1998

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 416, H.R. 3035.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3035) to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. I ask unanimous consent that the bill be considered, read a third time, and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3035) was considered, read the third time, and passed.

Mr. DOMENICI. Mr. President, I am very pleased that the Senate today has passed the National Drought Policy Act of 1998. I introduced the National Drought Policy Act of 1997 a year and a half ago in response to the devastating drought suffered in New Mexico and the rest of the Southwest in 1996. The Senate passed that legislation, and Representative SKEEN introduced H.R. 3035. The time is indeed ripe to send this legislation now to the President, as once again the Southwest may face devastating drought conditions.

The drought of 1996 was a natural disaster that cost $5 billion in the Western United States. Already this year, drought conditions in Texas are parching farming and grazing lands that will cost an estimated $1.7 billion in crop and livestock losses. Drought conditions are also being reported in areas throughout the South. And the summer of 1998 has not yet officially begun.

Every region in the United States can be hit by these catastrophes. Yet, while drought is so pervasive and affects the economic and environmental well-being of the entire nation, the United States is poorly prepared to deal with serious drought emergencies. As a result of the hardships being suffered in every part of my state last year, I convened a special Multi-State Drought Task Force of federal, state, local, and tribal emergency management agencies to coordinate efforts to respond to the drought. The Task Force was ably headed up by the Federal Emergency Management Agency, and included every federal agency that has programs designed to deal with drought.

Unfortunately, what the Task Force found was this: although the federal government has numerous drought related programs on the books, we have no integrated, coordinated system of implementing those programs. Drought victims in this nation do not know who to turn to for help, and when they finally do find help, it is too late and totally inadequate. The gradual nature of drought devastation underscores the need for drought management rather than drought response.

This legislation will be the first step toward finally establishing a coherent, effective national drought policy. The House-passed bill only slightly modifies my original language which passed the Senate in November. The National Drought Policy Act of 1998 creates a commission comprised of representatives of those federal, state, local, and tribal agencies and organizations that are most involved with drought issues. S. 222 charges the commission with providing recommendations on a permanent and systematic Federal process to address this particular type of devastating natural disaster.

Unfortunately, drought conditions are a way of life in my region of the country. But better planning on our part, and with the recommendations of the Drought Commission established by this legislation, may limit some of the damage. I look forward to the President's prompt signing of this important legislation.

ORDERS FOR THURSDAY, JUNE 25, 1998

Mr. ENZI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, June 25. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 2057, the defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ENZI. Mr. President, for the information of all Senators, the Senate will reconvene on Thursday at 9:30 a.m. and resume consideration of the defense authorization bill. Under the previous order, Senator WELLSTONE will immediately be recognized to offer an amendment regarding DOD schools under a 30-minute time agreement. At the expiration of the debate time, the Senate will proceed to vote on or in relation to the Wellstone amendment.

Following that vote, there will be 10 minutes for closing remarks with respect to the Inhofe amendment regarding BRAC, with a vote occurring following the debate. There will then be 10 minutes for closing remarks with respect to the Harkin amendment relative to VA health care, followed by a vote in relation to that amendment.

Therefore, three votes will occur beginning at 10 a.m.

Mr. President, I now ask unanimous consent that the previously mentioned debate times be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, following those votes, it is hoped that the Members will come to the floor during Thursday's session to offer and debate amendments, with the understanding that the bill will be concluded during Thursday's session.

Also, the Senate could be asked to consider, under short time agreements, the clean needles bill, the reading excellence bill, the drug czar reauthorization bill, any available appropriations bills, and any other legislative or executive items that may be cleared for action.

Also, the Senate can be expected to consider, prior to the Independence Day recess, the higher education bill. Therefore, Members can expect a busy session Thursday and Friday of this week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ENZI. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:27 p.m., adjourned until Thursday, June 25, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 24, 1998:

THE JUDICIARY

BARRY P. GOODE, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CHARLES E. WIGGINS, RETIRED.

ROBERT BRUCE KING, OF WEST VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE KENNETH K. HALL, RESIGNED.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

THOMASINA V. ROGERS, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 27, 2001, VICE DANIEL GUTTMAN.

CONFIRMATION

Executive nomination confirmed by the Senate June 24, 1998:

DEPARTMENT OF DEFENSE

LOUIS CALDERA, OF CALIFORNIA, TO BE SECRETARY OF THE ARMY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message transmitted by the President to the Senate on June 24, 1998, withdrawing from further Senate consideration the following nomination:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

DANIEL GUTTMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2001, VICE EDWIN G. FOULKE, JR., TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 1997.

EXTENSIONS OF REMARKS

FT. BERTHOLD OIL AND GAS LEASING BILL, S. 2069

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. POMEROY. Mr. Speaker, I rise today in strong support for S. 2069. I want to thank Chairman YOUNG for his personal attention to this bill and for his assistance in bringing it to the floor for immediate consideration.

The Fort Berthold Indian Reservation has been working for years to develop partnerships with the oil industry to explore the development of oil and gas resources on its lands. The Fort Berthold Reservation covers about 1 million acres of land in the middle of the proven oil-rich Williston Basin. There has been active oil and gas exploration and development on the lands surrounding the reservation, but the tribe and its members have been able to participate in this activity in a very limited way. The tribal government is eager to explore oil and gas development on tribal lands and their prospects for receiving leasing activity are very good.

Economic development should be a top priority in Indian country. Unfortunately, our Federal policies hinder the creation of new economic development opportunities on our Nation's Indian reservations. The bill before us aims to address a provision in Federal law that unnecessarily hampers economic development efforts on the Ft. Berthold reservation in North Dakota.

Currently, Federal law requires that 100 percent of all tribal members with ownership in an allotment agree to the leasing of that allotment. Some of the allotted land tracts on the Ft. Berthold reservation are owned by up to 200 individuals. So if one of these owners will not sign the lease, the exploration cannot proceed. This requirement makes it virtually impossible for tribes and its members to pursue this type of economic development, even if a vast majority of allottees are supportive. The requirement shuts Indian oil development down cold.

The legislation would allow a leasing agreement to move forward if more than 50 percent of those with an interest in specific allotted lands agree. It is narrowly drawn so as to only apply to the Fort Berthold Reservation. The legislation is strongly supported by the tribal council and the Interior Department.

The economic implications of this legislation for the Ft. Berthold Reservation are enormous. This legislation will help Indian people on Fort Berthold achieve economic self-sufficiency. Additionally, I believe the legislation, which is so particularly important to the tribe at issue, may also serve as an example that we might follow later on. And so as we help the Fort Berthold Indian Reservation, I believe that we may be doing a favor for all Indian reservations that might be interested in exploring mineral leasing activity in the future. Mr. Speaker, again, I thank all in the majority and minority for helping us bring this matter forward.

HONORING THE WALT DISNEY COMPANY—THE 1998 MAYNARD JACKSON AWARD RECIPIENT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. TOWNS. Mr. Speaker, I rise today to call your attention to The Walt Disney Company for being honored by the National Association of Minority Contractors (NAMC) with the 1998 Maynard Jackson Award. The Walt Disney Company received this important award because of its work to ensure minority contractors equal access to contracting opportunities.

The NAMC is a non-profit trade association that was established in 1969 to address the needs and concerns of minority contractors. While membership is open to people of all races and ethnic backgrounds, the organization's mandate, "Building Bridges-Crossing Barriers," focuses on construction industry concerns common to African Americans, Asian Americans, Hispanics and Native Americans. The Association is active in 49 states, the District of Columbia and the Virgin Islands.

The Walt Disney Company's commitment to diversity in its contracting practices earned them this national honor. The company does business with more than 1500 minority-owned and women-owned businesses. Since Disney launched its Minority and Women Business Enterprise Program 16 years ago, it has increased spending with minority-owned and women-owned businesses fifty-fold.

Mr. Speaker, I ask that you and all of my colleagues, join me in applauding The Walt Disney Company for the work they have done to receive this prestigious award.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

SPEECH OF

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment, and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes:

Mr. HOYER. Mr. Chairman, I rise in support of this bill and would like to commend the work of both the Chairman, Mr. PACKARD, and the Ranking Member, Mr. HEFNER. Further, I would like to express my sincere appreciation for the work and friendship of Mr. HEFNER. He is truly one of our finest members and it has been my distinct honor to have served with him in this body. The Committee has done an outstanding job in crafting a bill which addresses both the military needs and quality of life concerns for the men and women in our armed services. Make no mistake, our military personnel deserve the best that we in Congress can offer, and this bill takes many of the necessary steps required to improve the quality of life for our military families. The focus this bill places on family housing, child development centers, medical facilities and treatment centers is critical if we are going to continually recruit and retain our best people. While this bill does not meet every deficiency in our military facilities, it continues the approach of budgeting for the highest priority needs of our armed services. Additionally, I believe it represents a firm commitment by this Congress to our men and women in uniform to continue our efforts to improve their living and working conditions.

Further, I would like to express my appreciation to the Committee for their quick response to fund the Continuous Processing Facility at Indian Head. As many of you know, an accidental explosion damaged a portion of this building in February. Although my funding request was unexpected, the Committee responded to this priority by providing funds for a facility which in the long run will be more efficient and flexible in meeting the Defense Department's energetics requirements. Lastly, I would like to thank the Committee for supporting the Administration's request for the replacement of the Annealing Ovens Facility at Indian Head. This new facility will function in a more efficient fashion and address important environmental concerns in my district. Again, I thank the Chairman and Ranking Member, and I urge my colleagues to support this bill.

HONORING GISELE AND HECTOR GOLDMAN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, I rise to celebrate the fiftieth wedding anniversary of Gisele and Hector Goldman, residents of Riverdale. They were married on March 28, 1948 and have given much to their community in their life together. They raised three children, sending them to local schools for their education. They are also founding members of the Riverdale Jewish Center. Every community needs people such as Gisele and Hector Goldman. What

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

they give is stability, a sense of the continuance of life from generation to generation and that while we as individuals may change, the community goes on, offering to its children a sense of belonging, of being part of something larger and nobler. I ask that all of us who believe in love join me in wishing Gisele and Hector congratulations on their first 50 years and many more years of love and togetherness.

FROM THE COMMUNITY THAT GOT HIM STARTED

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. BARCIA. Mr. Speaker, the success of local events is directly the result of the commitment of individuals who want to make sure that the events do succeed. The people of Bay City have been most fortunate to see the success of the annual Bay City Fireworks Festival, and this success is due in large part to the outstanding support the Festival has received from Thomas LaPorte.

In 1995, learning that the Bay City Fireworks Festival was in a grave financial condition and that the event might not go forward, Tom LaPorte came forward with more than $70,000 to insure that the event would take place in 1996. This was a wonderful act, but it was something the people of Bay City had come to expect from Tom. He has given money to accident victims, loan money to other small businesses facing difficult times, and providing emergency transport to stranded or hardship cases in his corporate plane. And throughout these efforts, he has also had the strong support of his wife Mary, and his sons, Jon and Patrick.

Tom LaPorte and his brother Larry ran their family shoe store for over twenty-five years in downtown Bay City. He started Mortgage America almost fifteen years ago in a small room in his home, and has now grown that operation to two buildings with 180 employees. They have been a major source of support and a force for growth of a significant number of local efforts, including the Logan Gaza Fund, the Bay Arts Council, the Bay City Clock Tower Committee, the Tri City Cyclist Club, the Downtown Management Board, the Bay Area Chamber of Commerce, the Kent Huber Scholarship Fund, Created for Caring, the Bay County Women's Center, and many, many more.

The Bay City Fireworks Festival has been restored to its former greatness by the continuing support from Tom LaPorte, including over $200,000 in cash and inkind gifts over the past three years, plus promotion of other fund raisers for the event.

People may wonder why an individual does so much. When he was asked about it one day, Tom LaPorte said "I want to give back to the City I love and the community that got me started." Mr. Speaker, that is an attitude that deserves to be applauded and emulated as often as possible. I urge you and all of our colleagues to join me in thanking and congratulating Tom LaPorte for his community spirit, his kind generosity and his enlightened leadership.

ANDRE NICHOLSON, DISTRICT OF COLUMBIA WINNER 1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Ms. NORTON. Mr. Speaker, the Veterans of Foreign Wars of the United States and its Ladies Auxiliary sponsor the Voice of Democracy audio-essay scholarship competition. The program is now in its 51st year and required high school student entrants to write and record a three to five minute essay on an announced patriotic theme. "My Voice in our Democracy" was this year's theme, and more than 100,000 students participated in the program nationwide.

Mr. Speaker, I am extremely proud to report to this body that Andre R. Nicholson, a senior at Ballou Senior High School has been named a National winner in the 1998 Voice of Democracy Program and recipient of the $1,000 Department of Nevada and its Ladies Auxiliary Scholarship Award. Andre is the son of Robin and Jane Nicholson and he plans a career in marketing. Andre participated in the program as a project of his government class. I am pleased to acknowledge his teacher, Paul Charles and his principal, Kenneth Jones, Ph.D.

Mr. Speaker, I submit for the reflections of the Members in this hallowed hall Andre Nicholson's award winning essay.

"MY VOICE IN OUR DEMOCRACY"

Good afternoon Honorable Judges and members of the Veterans of Foreign Wars (VFW).

As a young man in high school, it is an honor and pleasure for me to participate in the VFW Voice of Democracy Scholarship Program. I hope that not only my voice in our Democracy will be heard but other voices young and old, as we enter the twenty-first century.

In Abraham Lincoln's Gettysburg address he stated "that this government of the people, by the people and for the people shall not perish from the earth."

The basic premise of democracy cries out that each individual's worth and dignity must be recognized and respected by all of society at all times; regardless of race, religion, or station in life.

Dr. King once said he had a dream, and that dream was that one day this nation would live out the true meaning of its creed, we hold these truths to be self evident that all men are created equal.

The concepts of democracy go on to insist all men should be equal before the law and by way of opportunity; that the majority should rule restrained by minority rights. It also states that we must compromise to find a satisfactory solution and that the freedom of one individual should not infringe upon others.

This has been an experiment in government, and like all experiments it's been a trial and error process, good times and bad times, sunshine and rain.

However, if we the people of the United States are to form a more perfect union; we must be willing to grow along spiritual lines. On the back of one of our most prized possession (the dollar bill) is the statement "In God We Trust." If we would try more diligently to seek and do God's will, we as human beings would exhibit more God-like characteristics such as honesty, consideration, tolerance, forgiveness, faith, patience and concern for others.

By doing this I think the democratic process would run smoother and we would form a more perfect union.

Will my voice be heard in our Democracy? Yes, I believe that my voice, as well as other young adults will be heard. In order to have a unified democracy to improve our country, it is vital that the voices of the young and the old go together in order to make this a better world.

Too many individuals, such as George Washington, Thomas Jefferson and James Madison, put in countless hours of work in order for us to have a good constitution in a democratic society. We must continue and push hard. I know we can make it work.

CORRECTION OF OMISSIONS AND SPECIAL RECOGNITION TO LANCE FELLER

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. RIGGS. Mr. Speaker, after the class of House Pages from the Fall Semester of 1997 left Washington, the names of several Pages were omitted from the CONGRESSIONAL RECORD. I rise today to correct this unfortunate oversight.

Additionally, I would like to personally recognize Lance Feller of Del Norte County, California, in my Congressional District. Lance is an excellent student who recently exhibited his own leadership skills by winning election to the post of President of the California Association of Student Councils (CASC) Region 1 for the 1998/1999 school year. Region 1 includes 184 high schools and covers a land mass larger than several states.

Congressional Pages are an important part of the day-to-day operation of the United States House of Representatives. Many former pages now serve as Members of this House, while others have gone on to be leaders in business and other pursuits. Mr. Speaker, I expect that Lance Feller will put the skills and experiences learned in the Page program to good use, not just in the near future, but throughout his entire life.

I also would like to recognize some of the other Pages who served with Lance, but who were not recognized previously. They are: Brook Burns, Shayla Canty, Katie Crocker, Erin DiGiglia, William Haliburton, Anne Metz, Moremi Oladeinde, Aja Sims, Kimbrell Smith, Summer Smith, Colleen Deegan and Demarcus Ward. I am sure they will all take the lessons learned as Pages here in Washington, D.C. and apply them throughout their lives as they, too, strive to be leaders in their hometowns.

TRIBUTE TO FOSTER GRANDPARENTS

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor some wonderful foster grandparents in Lenawee County who recently received recognition for their fifteen years of service. It's my pleasure to offer my congratulations and best wishes to three foster grandparents in particular—Mickie Diebel, Theta Luscumb, and Marie Schwalm.

Since January 1983, Maxine (Mickie) Diebel has provided love and support for children with special needs. These youngsters, first at the Adrian Training School and currently at McKinley Elementary School, have flourished due in large part to Mickie's nurturing and guidance. Mickie has been a magnificent role model and mentor to the young girls who have looked to her for help and support. Mickie, thank you for your dedication so much of your time and effort to improving the lives of kids.

Theta Luscumb has been a foster grandparent since 1983. She began at Michener Elementary School but since 1991, Theta has worked at the Onstead Middle School. She is a wonderful source of advice and support to the children who have the privilege to look to her as a role model. An accomplished horsewoman, Theta shares that skill with her kids. Theta, I salute you for your dedication to area children.

Marie Schwalm has been a foster grandparent since 1993. At the Blissfield Elementary School, Marie has demonstrated commitment, compassion, and wisdom in her dealings with young people. Even though she has some trauma in her personal life, nothing has obstructed her determination to serve as a voice of support for kids. Marie, thanks for your dedication.

Those who make an extra effort to help nurture kids and nudge them in the right direction undertake a public service that benefits us all. We owe these women and the many other foster grandparents in Lenawee County and across the nation a debt of thanks.

HONORING BRUCE IRA LEVENBERG

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, the Association of Jewish Professionals is conferring a well-deserved Leadership in Education award on Bruce Ira Levenberg. Bruce has been a close friend since our days in college together and over the years he has garnered much praise. He has been honored by the American Red Cross and the N.A.A.C.P. He works as a volunteer with AJP Scholarship, the Assisi Project, Holocaust Generations, and is affiliated with Pi Lambda Phi Fraternity. He has been an educator at all levels of schooling and an advocate for children for 28 years. He has earned the praise being given him for his many achievements in education and for helping children. I join his parents, Irving and Sylvania, his wife, Barbara, and their children, David and Jessica in congratulating him.

150 YEARS OF INSPIRATION

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. BARCIA. Mr. Speaker, the strength, stability, and inspiration provided by one's church is one of the most reassuring things in our lives. The congregation of St. Paul Lutheran Church in Frankenlust Township have had the benefit of their church for the past 150 years, and will this Sunday observe their Sesquicentennial as part of their year-long celebration.

St. Paul Lutheran Church was founded by Rev. Ferdinand Sievers and fourteen Bavarian Lutheran immigrants on June 22, 1848 in the barn of Gerhard Dierker near what is now Saginaw. St. Paul was the first Lutheran congregation in present day Bay County. A log cabin church was dedicated on the present church cemetery site on Squaconning Creek in Frankenlust Township on November 21, 1849, until a frame church was dedicated on October 4, 1857. The present church was dedicated on December 17, 1905, and has undergone a major renovation in 1977, and significant repairs to the roof, steeple, and entrance following a fire caused by lightning in 1984. The church edifice and cemetery were listed in the Michigan Register of Historic Sites on June 5, 1997.

St. Paul Church has also operated its elementary school since 1848, when Pastor Sievers served as the teacher of five students. The current school, the third in the Church's history, has 101 students ranging from pre-school through the eighth grade.

Since 1848, St. Paul has been served by eleven pastors who have helped to bring the teachings of the church to thousands of people over the past 150 years. Many families have had the privilege of looking back at the importance of St. Paul at moments of joy and others of sadness to themselves and their families. The current pastor, the Rev. Paul D. Theiss, provides spiritual guidance to a baptized membership of one thousand, carrying on a history of sanctuary and encouragement.

Mr. Speaker, we should never underestimate the power of prayer or the influence of one's church. The sesquicentennial of St. Paul Lutheran Church is a special event, ad one we wish for so many other places of worship. I ask that you and all of our colleagues join me in wishing Rev. Theiss and the congregation of St. Paul the very best on this occasion, with our fond wishes for many more anniversaries to come.

HONORING CASEY SMITH AND NANCY STRIPPEL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. McINNIS. Mr. Speaker, I'd like to take a moment to recognize two young students from Colorado who best exemplify the spirit of learning and of academics that we pride ourselves upon on the Western Slope. Their names are Casey Smith and Nancy Strippel and they are both Presidential Scholars from Grand Junction, Colorado. They are the only two from our State, and both attend the same high school, Grand Junction High School, which makes their achievements all the more remarkable. They visited our nation's capital this week in order to receive their Presidential Scholar medallions which were presented to them by the Speaker of the House.

Mr. Speaker, as you also know, the United States Presidential Scholars Program was established in 1964, by Executive Order of the President, to recognize and honor some of our Nation's most distinguished graduating high school seniors. In 1970, the program was extended to recognize students who demonstrate exceptional talent in the visual, creative, and performing arts. Each year, up to 141 students are named as Presidential Scholars, one of the Nation's highest honors for high school students. The Scholars are chosen on the basis of their accomplishments in many areas—academic and artistic success, leadership, and involvement in school and the community. The Scholars represent excellence in education and the promise of greatness in young people. In honoring the Presidential Scholars, the President of the United States symbolically honors all graduating high school seniors of high potential.

The Presidential Scholars Program has honored over 3,700 Presidential Scholars for over 30 years. All these distinguished young people have demonstrated leadership, scholarship, contribution to school and community, and accomplishments in the arts, sciences, or other fields. The work of the Commission on Presidential Scholars reaffirms, on behalf of the President, the Nation's commitment to education that enables people to lead lives of challenge, accomplishment, and fullfilment.

I would also like to commend the work and dedication of Lorena Thompson, their teacher who deserves a great deal of credit for the success of these two scholars. Her devotion to teaching and evident ability to inspire the youth of Colorado, is truly what education is all about. I thank her for her labor on behalf of her students. I also want to congratulate the faculty and staff of Grand Junction High School who also deserve our thanks for the work they do.

Mr. Speaker, let me conclude by saying that I am very proud of the accomplishments of Nancy and Casey, and know that they will achieve even greater success in the next stages of their already remarkable lives.

CONGRATULATIONS TO JACK AND MARCHETA OWEN

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. RIGGS. Mr. Speaker, I want to tell the House of Representatives about two very special people from my Congressional District, Jack and Marcheta Owen of Del Norte County, California. It is especially appropriate to single them out for recognition today, as they approach a milestone in their lives: Jack and Marcheta will be celebrating their fiftieth wedding anniversary on July 11, 1998.

Fifty years can be a long time, but in their case it's just the blink of an eye. They are a busy couple. They have always taken an active interest in their home community of Gasquet and in the affairs of Del Norte County in general.

Del Norte County is a predominately rural region, hundreds of miles from the nearest major city. In communities like these, people rely more on their neighbors than elsewhere. The people of Gasquet and Del Norte County have come to see Jack and Marcheta Owen as people they can depend on to make a lasting and positive contribution. The North Coast of California is a much better place to live, work and raise a family because of Jack and Marcheta Owen. I know the many people whose lives they have touched join with me in wishing Jack and Marcheta well as they prepare to celebrate their 50th Wedding Anniversary.

Over the years, their advice to me personally has been invaluable and their friendship has been unwavering. On behalf of the United States House of Representatives, I am honored to wish them all the best on this very joyous occasion.

HONORING SEAN MANNION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, I rise to speak in praise of a man who came to the United States from Ireland and has in every way made his adopted country a better place for his coming.

Sean Mannion is being honored by his colleagues in the Riverdale Post of the American Legion for his four years of service as Commander of the Post.

Sean came to us from County Mayo in 1958. He served his new country in the army as a combat engineer from 1960 to 1962 in Camp McCoy, Wisconsin, Fort Sheridan, Illinois, Fort Leonard Wood, Missouri and Fort Dix, New Jersey, seeing more of the United States than most citizens born here. He was on a ship heading towards Cuba during that missile crisis when the Soviet ships pulled back

Sean's wife of almost 30 years, Marion, also comes from County Mayo. They have two children, Sean Jr. and Aundree. Sean and his family live in Riverdale where he has become part of the fabric of the community. At Saint Gabriel's Church he is a eucharistic minister and for ten years he has served on the Parish Council. He also gives his time to the Concourse House where he helps the homeless and the destitute.

Next year Sean will serve as County Commander of the American Legion in the Bronx. If the United States were to place ads for immigrants, Sean is the kind of person we would want to apply. He brings a sense of service, of giving, and of helping others.

I am proud to stand for him today for he epitomizes what America is and how its immigrants have made this country great.

SALUTING SIENA HEIGHTS COLLEGE

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor Siena Heights University in Adrian, Michigan.

On July 1, 1998, Siena Heights College will officially change its name to Siena Heights University. Siena Heights was founded in 1919 by the Adrian Dominican Sisters, and for nearly 80 years, has served the needs of southeast Michigan.

Currently Siena Heights has seven degree completion centers that stretch across southeast Michigan. It is a student-centered education facility that serves a wide range of students, from traditional students to adults seeking to complete their degrees. Siena Heights is also a mission-driven University that is always ready to respond to the changing needs of society. I know the faculty and student body share my belief that learning is a life-long experience.

On the first day of July, when the name change is official, I am certain that Siena Heights will continue to fulfill its great commitment to educational excellence.

I join our community in saluting this wonderful institution for its dedication to higher education and congratulate the university on its name change.

A TRIBUTE TO RICHARD F. TEERLINK

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to Richard F. Teerlink, Chairman of Milwaukee-based motorcycle manufacturer Harley-Davidson, Incorporated, who will be honored Wednesday, July 8, 1998, by the State of Israel Bonds organization at a National Corporate Tribute Dinner in Milwaukee. Rich will be presented with the prestigious Israel 50th Anniversary Award by the government of the State of Israel in recognition of his past and ongoing support of Israel's economic development, involvement in humanitarian causes and distinguished service to business and industry.

Rich Teerlink has served in a variety of positions since joining Harley-Davidson in 1981 as the firm's Chief Financial Officer. He skillfully guided the company's return to public ownership and its revitalization while in various leadership positions, as President, then Chief Executive Officer and later in his current role as Chairman of the Board. He also serves on the Board of Directors of several other successful Milwaukee-area businesses and organizations. Mr. Teerlink's efforts in our community are quite diverse, as reflected by the committee which organized the July 8th tribute dinner. it consists of elected officials—from both political parties—on the local, state and national level; corporate, business and financial types; leaders in the Jewish community, and education.

I came to know Rich Teerlink several years ago when I discovered that the police officers assigned to protect Capitol Hill were riding non-American made motorcycles. Knowing that Milwaukee-based Harley-Davidson is the largest provider of police motorcycles in the world, I found it disturbing that their cycles were not part of the standard uniform for the Capitol Hill police force. With help from other pro-American business Members of this body, I am proud to say that the Capitol police force today includes Harley-Davidson.

Again, I'm pleased to join in this well-deserved tribute to Richard Teerlink. Milwaukee thanks you for all your efforts.

PERSONAL EXPLANATION

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. SOUDER. Mr. Speaker, on June 16 on Rollcall No. 233, I was in the chamber and voted, but my vote for some reason was not recorded. I would have voted "yea" on House Resolution 401, expressing the sense of the House concerning promotions in American schools.

HONORING BRONX SHEPHERDS RESTORATION CORPORATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, a little more than a decade ago the Bronx Shepherds Restoration Corporation was organized by ministers and lay people to help save a borough that, while growing again, was in serious need of help. They decided that their goal would be to stimulate the physical, economic and social rehabilitation of their neighborhoods, while simultaneously providing spiritual sustenance and leadership.

The Bronx Shepherds, who come from throughout the Bronx, chose an area to help that had many public housing projects and a growing number of families on public assistance. They have worked in many areas to help these people, from weatherization and job training to renovating vacant buildings and sponsoring and marketing homes for low- to middle-income families. They also worked to complete a 267-unit condominium project in cooperation with the New York City Housing Partnership.

A large part of the effort by the Bronx Shepherds has gone to training young people for jobs and helping them complete their education. More than 300 young people got their high school equivalency diplomas and the Bronx Shepherds trained another 300 in housing maintenance and repair. They also have programs to move children under 6 who have tested positive for lead in their blood to safe homes and have initiated another program for the frail/elderly.

The Bronx Shepherds are a model of what a group can do to help the community and the people in it. I am honored to stand here today to praise their many good works and their persistence in accomplishing them.

EASTER IS OUTRAGEOUS

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. RIGGS. Mr. Speaker, I would like to bring to my colleagues' attention a sermon delivered on Easter Day (April 12, 1998) by the Very Reverend Pierce Klemmt, Rector of Christ Church in Alexandria, Virginia. I feel the sermon contains many concepts that we, as elected leaders, should keep in mind as we carry out the people's business on the House Floor.

EASTER IS OUTRAGEOUS

I have preached Easter morning for a quarter of a century. Year after year I would unravel the Easter miracle ... make it sound reasonable ... plausible ... accessible ... especially for the hard to budge agnostics and intellectuals whose families can only get them all dressed up and into church this one Sunday of the year. One way or another, I would argue the *reasonableness* of the resurrection. Appealing to the laws of natural theology, I can hear myself saying: "All you have to do, folks, especially evident in this glorious season of spring, for God's sake just look around you...See how living things spring forth from the remains of winter's death...see how new things constantly, cyclically rise from the dead and buried." From the tombs of winter to the resurrection of spring! A green-thumb parishioner actually recommended one year for me to submit my Easter sermon to *Home and Garden* for possible publication! This suggestion has irritated me ever since. It sent me to reflecting on how unreasonable Easter really is.

When you get right down and chew on it...think *hard* on the resurrection...open yourself to its persistent mystery...its pretty outrageous stuff. Say all you want about the new and living rising from the old and dead; Easter defies reason.

Madeleine L'Engle calls Easter "the most brilliant of all blessings." Easter, she says, "outrages" life on our terms. "It turns upside down our matter of fact, hi-tech, everything explainable world. It offends our sense of intellectual justice. It takes reason to the woodshed."

Thought of more as a relationship than something to prove, Easter truth, at its core, is a kind of *betrothing*. Easter is a betrothing. Easter gospel isn't working from only a coroner's ensemble of facts...the kind of cold facts Pilate wanted from Jesus when he interrogated: "What is truth? Give me the facts and I'll get you off the hook! What is your truth!"

Easter is the truth Pilate couldn't hear and we can't hear still. Pilate couldn't hear it because he was loyal to a power that was threatened by the truth standing in front of him. After all Jesus was the groom of God's betrothing...and unconditional love disturbs people with quid pro quo loyalties.

Easter truth is God's way of beckoning us to surrender old loyalties and begin anew...unconditionally.

Easter as betrothal begins by becoming supremely loyal...devoted to a Sunday community of people. And may I add for those of you who haven't been here since Christmas, a *Sunday after Sunday community people*. And then in time it is becoming loyal to God's family of people beyond our own scope of interest and need for admiration. It has to do with loyalty, fidelity, and communion with people who work more from love...from possibility and hope rather than fact, appraisal...caution. A bean encounter Easter does not make it. Easter pushes the stakes into the sand far beyond anyone's expected reach.

The resurrection outrageously challenges the habits of our hardened hearts, our limited horizons, our shortness of breath. Remember John Updike's series of *Rabbit* books? Near the end of *Rabbit at Rest* his hero, in an 11th hour effort, leaps furiously around a basketball court. His heart bursts and Updike writes, "The heart—it is tired and stiff and full of crud"...Of course, Updike's story was a parody of the typical American heart: Tired and stiff and full of crud. Easter is for opening the coronaries of our gasping and stuck hearts, delivering oxygen, to make us supremely loyal to God's people through Jesus Christ and therefore to each other, the whole human family. It is being open to God's truth; truth that human loyalties often ridicule.

If Easter is outrageous, then believing in Easter should make us outrageous people. Right? People whose hearts are tired and stiff and full of crud are poeple like the Apostle Peter in the Bible before Good Friday. Like Peter, we follow the Lord halfway to Calvary's cross, but forget about the other half. As for most of us, are we not like the crowd gathered on Good Friday, not there to cheer the crucifixion, but also not there to protest it? And so failing to realize that compassion without confrontation is hopelessly sentimental, the people went home beating their breasts, just as we do today, preferring guilt to be responsibility.

I believe Easter faith makes religiously outrageous people...often, unreasonable people. Not obstinate, just firm. We frequently talk about saints as the strong, quiet types. But Easter people I know are saints in another key. God brings them out when faced with "R" rated situations. Those saints are not the strong and silent, they are the foolish and brash . . . loud and long . . . loud and long alike . . . like . . . like well . . . Bella. (Remember Bella? Congresswoman from New York?) Say what you want about her politics and hats . . . it was truth that she was most open-minded about . . . truth about politicians, labor laws, racism, war . . . the truth about . . . church going people. I think if Bella had been around town during the Holy Week in Jerusalem with Jesus and his half-hearted disciples, she would have been kicking and screaming at the authorities all the way from Gethsemane to the foot of the cross. She would have been carrying posters of protest all the way up and down the Via Delosa!

There was a cartoon in the paper eulogizing Bella last week. Did you see it? A disagreeable looking Saint Peter is pictured holding the Big Book at the entrance to heaven. A rotund woman dragging two suitcases and sporting a floppy hat has just kicked down the pearly gates and is shown marching well on her way into heaven. St. Peter murmurs, "Come in, Ms. Abzug!"

Bella was an Easter person. Or take the Bishop Daniel Deng Bul, our partner in genocidal-ridden Sudan. Out of a God-given love for his drowning people, he stares down the governmental oppressors and says: "You have bulldozed down our churches and schools and clinics in Khartoum, but here, in my diocese, in this refugee camp, with my people, (he draws a line in the sand) your destruction stops here."

For Christmas, Easter betroths compassion with confrontation . . . marries compassion to confrontation. They become one flesh. Without confrontation, compassion is pathetically sentimental.

Easter is a betrothing. As such it is two sided. It represents a demand as well as a promise . . . a demand that we not simply sympathize with our tears the crucified Christ, but that we pledge our loyalty to the one risen beyond our deadlines. And, as Pam stated a few weeks ago, that means an end to all loyalties for people and institutions that crucify. For example, while we are enjoying our current economic bonanza and therefore asking less and less questions of justice and tolerating more and more bad behavior, and more and more spurious journalism about facts and rumors that don't count, how can we think the Risen Lord would applaud our economic system? A system that clearly reverses the priorities of his mother's Magnificat-filing the rich with good things while sending the poor empty away.

Loyalty to the Risen Lord stirs . . . nettles . . . compassion with confrontation. It is being outrageously loyal to God's people, not just to those whom we like and find agreeable.

Easter is being outspoken when people are separated from what God promises to all.

Easter is preferring responsibility to guilt . . . And this, my friends, is what makes Easter unreasonable, irrelevant to our lives, certainly not easy. Easter is not for just life after death. Easter, at its heart, is a bold conversion . . . every day you roll out of bed, you got to decide for it, saying, "I will not separate my compassion from the hard work of confrontation." At Christmas, God did the unthinkable. God came down and became human . . . dwelt among us full of grace and truth. But this is only going halfway . . . At Easter God did the outrageous . . . we are risen with Christ . . . we become like him in our deaths.

HONORING AMANDA RACHOR AND THE SPINOZA BUDDY BEAR PROJECT

HON. BILL REDMOND

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. REDMOND. Mr. Speaker, many of my colleagues may have heard tragic stories like the one I will now share * * * a little girl loses both her mother and her father before her ninth birthday, leaving her virtually alone. She is sent to live with relatives and must grow up without either of her parents.

Tragedies like this occur everyday in America, leaving thousands of children each year feeling scared and alone.

Eight-year-old Amanda Rachor of New Mexico has a story just like this. Amanda's mother died when she was 4, and her father died just last summer, leaving Amanda alone. She went to live with an aunt and uncle in a nearby town, but found it difficult to cope with her loss.

However, the American Legion Auxiliary Unit in Amanda's community presented her with Spinoza, a soft brown teddy bear programmed with words of encouragement and uplifting songs. Thanks to this bear, Amanda has learned to cope with her parents' death and is responding well to counseling. Spinoza has helped Amanda overcome her personal tragedy.

All of us know children like Amanda who could use Spinoza's encouragement, children who have lost loved ones or are themselves suffering from a terminal illness. This bear can reach out to each of them, as it has to Amanda, easing the fear and filling the loneliness with a friend.

In closing, I am pleased to commend the members of American Legion Auxiliary Unit 77 in Logan, NM, for using the "Spinoza Buddy Bear Project" to make a real difference in Amanda's life and in the lives of countless other children. In addition, I encourage my colleagues today to thoughtfully consider this project for their own communities.

END WEAPONS SALES TO IRAN

HON. SCOTTY BAESLER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. BAESLER. Mr. Speaker, I would like to express my disappointment in the Administration for its recent decision to veto the Iran Missile Proliferation Sanctions Act, H.R. 2709.

Russia has been a key source for selling weapons technology to Iran. Intelligence reports have confirmed that Iran already has a self-sufficient chemical weapons program. Their acquisition of missile technology would pose an increased threat to U.S. interests throughout the Middle East and the world. Developing weapons of mass destruction would allow Iran to produce missiles—nuclear, chemical or biological—with the capability to reach Israel, much of Europe, and, ironically, Russia.

Although a diplomatic solution to this situation has been sought and existing law requires the Administration to sanction Russian companies that are involved in technology transfers, further legislative action is needed. Such action will clearly demonstrate that this behavior is not acceptable to the United States. H.R. 2709 was introduced to end Russia's missile cooperation with Iran. It specifically targets companies known to be providing Iran with missile technology and sends a strong message to these companies that their activities threaten international security.

The Iran Missile Proliferation Sanctions Act passed by an overwhelming margin in both the House and the Senate. The vote in the House was 392 to 22, clearly enough to override the President's veto. I urge my colleagues to follow the majority of the House and vote to override the President's veto. It's time to end the transfer of weapons technology to Iran.

HONORING ELDER C. NATHAN EDWERS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, the strength of a community is oftentimes measured best by the caliber of those religious leaders who not only mediate the prayers of their flocks, but also are a part of the day-to-day life of their communities.

I rise in praise of one of those leaders, Elder C. Nathan Edwers, pastor of the Mount Vernon Friendship Unified Free Will Baptist Church. Elder Edwers is celebrating his ninth anniversary at the Friendship Church, where he was named pastor in 1989, coming from the Calvary U.F.W. Church in Brooklyn. He follows in the footsteps of his father, Bishop Collie Edwers, who has served his calling for 40 years.

Elder Edwers serves his community in many capacities; as police chaplain, as a District Leader of the Democratic City Committee, as a member of the Mount Vernon Planning Board and in the Kiwanis Club. He is the General Treasurer of the Unified Free Will Baptist Churches Denomination, President of the General Sunday School Convention and Administrative Assistant of the Mid-Atlantic Annual Conference. He received his Bachelor of Science degree from Nyack College and his Masters Degree from the Alliance Theology Seminary.

Elder Edwers is married and he and his wife Denise have two children, Sherri Denise, 9, and Eric Nathan, 8.

Elder Edwers is leading his congregation in a $1.3 million drive to build a new church for his congregation.

I join the community in saluting him for the leadership he has given his congregation.

HONORING ELENA SHAYNE UPON HER RETIREMENT

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Ms. LOFGREN. Mr. Speaker, I rise today to call attention to a special occasion for the people of Santa Clara County. On July 8th, Elena Shayne, the Washington Legislative Advocate of Santa Clara County, is retiring after 19 years of public service.

To many of us in this chamber, Elena is a familiar face, tirelessly promoting good and fair government. She has been a champion of Santa Clara County's abused children and an advocate for the "safety net" for those who are needy.

Elena began it all at Wellesley College in Massachusetts, where she completed her education as she would her career, with honors and distinction.

She demonstrated her dedication to the principles of democracy early. Almost 24 years ago, as the Executive Director for a not-for-profit organization, Elena rallied groups nationwide to bring basic civic rights to the overlooked residents of the District of Columbia. In 1978, Congress passed the fruits of her labor, a constitutional amendment which would have given District residents full voting representation in Congress.

From there, Elena brought her warm demeanor and sensible style to bear for Santa Clara County. I first met her in January of 1981, when I began my service as a member of the Santa Clara Board of Supervisors. We had a lot of work ahead of us. Santa Clara was beginning its march to become the information technology capital of the world it is today.

With a rare insight into the workings of Washington, Elena pressed relentlessly to help Santa Clara County's people and economy flourish. As its population boomed, she helped secure a number of critical public transit projects, including the twenty-mile light rail system on the Guadalupe Corridor.

For all her talents, it was her compassion that will leave the deepest imprint. I remember working closely with Elena to alleviate the plight of Southeast Asian refugees who came to California seeking political asylum. Through her efforts, a coalition of private and public agencies established job training and resettlement programs for thousands of immigrants and refugees.

When Elena Shayne leaves her office on July 8th, she will be closing the door on an era of warm, effective advocacy for the people of Santa Clara County, but I am sure that she will continue to advocate for those in need as an active citizen.

Thank you, Elena. We will miss you and wish you the best for the future.

TRIBUTE TO COLONEL ILA METEE-McCUTCHON

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. FARR of California. Mr. Speaker, I ask my colleagues to pay tribute to Colonel Ila Mettee-McCutchon, the Commander of the Defense Language Institute Foreign Language Center and Presidio of Monterey, and Commandant of DLIFLC, on the occasion of her retirement from the U.S. Army. Colonel Mettee-McCutchon has been an inspiration to all during her 26-year career in the armed forces, and her positions of successive command only further confirm her valued leadership within the Army and of the respect shown to her by the men and women serving under her command.

Colonel Mettee-McCutchon is herself an esteemed graduate of the Defense Language Institute Foreign Language Center. She first earned both B.A. and an M.S. in clinical psychology from Auburn University which prepared her well for her exceptional career in military intelligence. Later, she completed the WAC (Women's Army Corps) Officer Basic Course and the Military Intelligence Officer Advanced Course, and then graduated from the Command and General Staff College and the U.S. Army War College, true marks of distinction in the career of any military officer.

For the first three years following Colonel Mettee-McCutchon's commissioning in 1971, she served as a psychologist at the Presidio of San Francisco responsible for drug and alcohol abuse rehabilitation. After displaying compassion and savvy in that assignment, she was transferred in 1974 to the Military Intelligence Branch and appointed a Regular Army Officer of Military Intelligence, which was the beginning of her extraordinary career in the field of military intelligence. Colonel Mettee-McCutchon was initially a stractectic analyst at Fort Bragg; before moving up to the following posts: Commander, Headquarters and Operations Company, 525th Military Intelligence Brigade, Fort Bragg; Chief, Joint Intelligence Center, U.S. Southern Command Panama; Commander, 741st Military Intelligence Battalion, 704th Military Intelligence Brigade, Fort Meade; and Staffer in the Intelligence Division, International Military Staff of NATO, at NATO Headquarters, Brussels. Because of her superb record of accomplishment in these critical intelligence posts, she was chosen to be Commander of the Garrison at the Presidio of Monterey in October, 1994.

Colonel Mettee-McCutchon has earned numerous awards during her career including the Defense Superior Service Medal, the Defense Meritorious Service Medal and the Army Meritorious Service Medal with 4 Oak Leaf Clusters. She is married to John R. McCutchon, Lieutenant Colonel of Infantry (Retired), and has one child, Erin T. Mettee-McCutchon. I am sure everyone who knows Colonel Mettee-McCutchon joins me in recognizing her career of exemplary service to her country, and expressing heartfelt wishes for a happy retirement.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 25, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 7

10:00 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the future of covergence and consolidation in the entertainment and information industries.
SD–226

JULY 8

9:30 a.m.
Indian Affairs
To hold hearings on S. 1905, to provide for equitable compensation for the Cheyenne River Sioux Tribe, H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, S. 391, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and S. 1419, to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park.
SR–485

JULY 9

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine the adequacy of procedures and systems used by the Department of Agriculture Food Safety and Inspection Service and the Department of Health and Human Services Food and Drug Administration to oversee the safety of food imported into the United States, focusing on the outbreak of Cyclospora associated with fresh raspberries imported into the U.S. from Central America.
SD–342

JULY 14

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1515, to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, S. 2111, to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, and S. 2117, to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system.
SD–366

JULY 15

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review a recent concept release by the Commodity Futures Trading Commission on over-the-counter derivatives, and on related proposals by the Treasury Department, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission.
SR–332

9:30 a.m.
Indian Affairs
To hold hearings on S. 2097, to encourage and facilitate the resolution of conflicts involving Indian tribes.
SR–485

JULY 21

10:00 a.m.
Judiciary
To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.
SD–226

JULY 22

9:30 a.m.
Indian Affairs
To hold joint hearings with the House Resources Committee on S. 1770, to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, and to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and H.R. 3782, to compensate certain Indian tribes for known errors in their tribal trust fund accounts, and to establish a process for settling other disputes regarding tribal trust fund accounts.
SR–485

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building